

GOVERNMENT OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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VIRTUAL PUBLIC HEARING

+ + + + +

WEDNESDAY

MARCH 24, 2021

+ + + + +

The Virtual Public Hearing of the District of Columbia Board of Zoning Adjustment convened via Videoconference, pursuant to notice at 9:31 a.m. EDT, Lorna John, Vice Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

LORNA JOHN, Vice Chairperson - (Chairperson pro tempore)
CHRISHAUN SMITH, Board Member

ZONING COMMISSION MEMBER PRESENT:

ROBERT MILLER, Commissioner

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary
PAUL YOUNG, Zoning Data Specialist

OFFICE OF ZONING STAFF PRESENT:

MAXINE-BROWN ROBERTS
BRANDICE ELLIOTT
KAREN THOMAS
STEPHEN MORDFIN

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D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

JACK RICE, Esquire
ALEXANDRIA CAIN, Esquire

The transcript constitutes the minutes from the
Virtual Public Meeting held on March 24, 2021

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

Case No. 20348 - Application of 51 Friendship Development Partners, LLC - (Postponed) 9

Case No. 20427 - Application of Parcel 47E - (Postponed) . . . 9

Case No. 20307 - Application of Eckington Court, LLC. 10

Case No. 20422 - Application of Michael Hsu and Seema Gajwani. 30

Case No. 20430 - Application of 1501 Erie Street. 35

Case No. 20460 - Application of Emily and Wesley Raynor. . . 57

Case No. 20369 - Application of Emily and Wesley Raynor. . . 74

Case No. 20423 - Application of Philip J. Cross. 83

Case No. 20424 - Application of Shaw 927, LLC. 102

Case No. 20417 - Application of Narayanswarup, Inc. 124

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

2 (9:31 a.m.)

3 VICE CHAIR JOHN: Okay. I'll go ahead and start. The
4 hearing will please come to order.

5 Good morning, ladies and gentlemen. We are convening
6 and broadcasting this public hearing by videoconferencing. This
7 is the March 24th, 2021 public hearing of the Board of Zoning
8 Adjustment of the District of Columbia. My name is Lorna John,
9 Vice Chairperson. Joining me today is Chrishaun Smith, Board
10 Member; and representing the Zoning Commission is Rob Miller.

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

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

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

25 If you are experiencing difficulties accessing Webex

1 or with your telephone call-in or if you have forgotten to sign
2 up 24 hours prior to this hearing, then please call our OZ hotline
3 number at 202-727-5471 to sign up to testify and to receive Webex
4 login or call-in instructions.

5 All persons planning to testify either in favor or in
6 opposition should have signed up in advance. They will be called
7 by name to testify. By signing up to testify, all participants
8 completed the oath or affirmation, as required by Subtitle Y
9 408.7.

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

21 The order of procedure for special exceptions and
22 variances pursuant to Subtitle Y 409 will be as follows:
23 preliminary procedure on matters, statement of the applicant and
24 the applicant's witnesses, report and recommendation from the
25 D.C. Office of Planning, reports and recommendations from other

1 public agencies, reports and recommendations from the affected
2 Advisory Neighborhood Commission and the ANC witnesses, if any,
3 for the area within which the property is located, the parties
4 in support of the application, individuals and organization
5 representatives in support of the application, parties in
6 opposition to the application, individuals and organization
7 representatives in opposition to the application, individuals and
8 organization representatives who are undeclared with respect to
9 the application, rebuttal and closing arguments by the applicant.

10 Pursuant to Subsection Y 408.2 and 408.3, the following
11 time constraints shall be maintained: the applicant, appellant,
12 and all parties except an affected ANC in support, including
13 witnesses exclusive of cross-examination, maximum of 60 minutes,
14 collectively. The appellant, persons, and parties except an
15 affected ANC in opposition, collectively, have an amount time
16 equal to that of the applicant and parties in support, but in no
17 case more than 60 minutes collectively. Individuals shall have
18 a maximum of 3 minutes and organization representatives shall
19 have a maximum of 5 minutes.

20 These time constraints do not include cross-examination
21 and questions from the Board. Cross-examination of witnesses by
22 the applicant, both parties, including the ANC is permitted. The
23 ANC within which the party is located is automatically a party
24 in a special exception or a variance case.

25 Nothing prohibits the Board from placing reasonable

1 restrictions on cross-examination, including time limits and
2 limitation on the scope of cross-examination, pursuant to
3 Subtitle Y 408.5.

4 At the conclusion of each case an individual who was
5 unable to testify because of technical issues will file a request
6 for leave to file a written version of the planned testimony to
7 the record within 24 hours following the conclusion of public
8 testimony in the hearing.

9 If additional witness testimony is accepted, then
10 parties will be allowed a reasonable time to respond as determined
11 by the Board. The Board will then make its decision at its next
12 meeting but no earlier than 48 hours after the hearing.

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

18 The Board's agenda may include previous cases set for
19 decision. After the Board adjourns the hearing, the Office of
20 Zoning, in consultation with me, will determine -- with me or the
21 Chairman, will determine that a full or summary order may be
22 issued.

23 A full order is required when the decision it contains
24 is adverse to a party including an affected ANC. A full order
25 may also be needed if the Board's decision differs from the Office

1 of Planning's recommendation.

2 Although the Board favors the use of summary orders
3 whenever possible, an applicant may not request the Board to
4 issue such an order.

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

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

22 Mr. Secretary, do we have any preliminary matters that
23 the Board needs to address at this time?

24 MR. MOY: Thank you, Madam Chairperson. We do have two
25 items. The first one is in reference today's docket. Case

1 Application No. 20348 of 51 Friendship Development Partners, LLC
2 has been postponed and rescheduled to June 30th, 2021. As well
3 as Application No. 20427 of Parcel 47E, LLC and this case has
4 been rescheduled to March 31st, 2021.

5 Finally, my last item, Madam Chair, is that there was
6 an inadvertent error in our public notice requirements where the
7 number of days notice prior to hearing is required. Counsel has
8 advised that we can proceed with the hearing, but the Board cannot
9 vote until after the number of days notice is satisfied. So we
10 -- so this would continue to another hearing date where we could
11 finalize the hearing, as well adjudicating the case.

12 And after the hearing, of course, the staff will
13 contact each of the applicants after the hearing, so that's --
14 and I'll repeat this statement for each of the cases that's
15 called.

16 VICE CHAIR JOHN: Okay. Thank you. Thank you, Mr.
17 Moy. So we'll just go ahead and get started then and Mr. Young,
18 could you let the applicant (audio interference). I'm sorry, Mr.
19 Young, just the (audio interference).

20 MR. MOY: Shall I go ahead and read the case?

21 VICE CHAIR JOHN: Yes, thank you.

22 MR. MOY: Okay. So this would be case -- Application
23 No. 20307 of Eckington Court, LLC. This application has been
24 amended for special exception under Subtitle U, Section 601.19(f)
25 from the alley lot access requirements of Subtitle U, Section

1 601(f)(4)(d). This would permit the renovation of an existing
2 detached storage building into a principal dwelling unit in the
3 RF-1 Zone at premises 315 Rear W Street NE, Square 3562, Lot 60.
4 And participating on this continued hearing case is the Vice
5 Chair, Mr. Smith and Mr. Robert Miller. And this case -- you
6 can make a decision on this case, Madam Chair.

7 VICE CHAIR JOHN: Oh, okay. Very well. Thank you. So
8 can I ask --

9 COMMISSIONER MILLER: Madam Chair, this is Rob Miller.

10 VICE CHAIR JOHN: Yes.

11 COMMISSIONER MILLER: I just wanted to say that I have
12 reviewed the record, because I wasn't here -- I wasn't
13 participating when this hearing was first held, I believe, in
14 January, but I have reviewed the record, I've reviewed the video
15 and I'm prepared to deliberate and decide with you today if you
16 choose to do so.

17 VICE CHAIR JOHN: Thank you, Commissioner Miller. And
18 first we'll go to the applicant, I believe Ms. Morris is present.
19 Ms. Morris, can you --

20 MS. MORRIS: Yes. Yes, I'm -- my name is Emily Morris,
21 I'm counsel for Eckington Court, LLC. Is it adequate hearing?
22 Can you hear me?

23 VICE CHAIR JOHN: Yes, I can hear you.

24 MS. MORRIS: I believe the representative for the
25 applicant, Andre Jean, is on. Andre, are you on?

1 VICE CHAIR JOHN: Can you -- Mr. Young, can you let him
2 in, please? Is that Andre Jean?

3 MS. MORRIS: Yes.

4 VICE CHAIR JOHN: Okay. Mr. Young?

5 MR. JEAN: Yes. Good morning. Can you guys hear me?

6 VICE CHAIR JOHN: Yes. Can you introduce yourself for
7 the record, please?

8 MR. JEAN: Yes. My name is Andre Jean of 315 W Rear
9 Street and the owner of the lot that we're discussing this
10 morning.

11 VICE CHAIR JOHN: Okay. Thank you. So, Ms. Morris,
12 can you tell us what has happened since you were last here at
13 the meeting? I believe you might have a preliminary matter that
14 you would like the Board to address.

15 MS. MORRIS: Yes. I wasn't aware that we needed to
16 submit the conceptual drawings for a revised single principal
17 dwelling, because we were building it within the matter of right
18 setbacks and design. So Mr. Rose told me yesterday that I needed
19 to submit it. So I made a motion to the Board yesterday afternoon
20 asking to be allowed to upload the new conceptual design for the
21 Board's consideration today.

22 VICE CHAIR JOHN: Okay. If my Board members have no
23 objections, I'll go ahead and admit that to the record. Okay.
24 That's admitted. Would you --

25 MS. MORRIS: Yes. So we had a long discussion with the

1 Board on January 28th discussing having two units in this alley
2 lot in an RF-1 Zone. The Board seemed kind of hesitant to allow
3 that even though I think they agreed in concept to the idea of
4 two units, but it's just not allowed in the Regulations.

5 So we shifted our focus to allowing it to be one single-
6 family dwelling as allowed, however, as the Office of Planning
7 had pointed there was a point in the alley it narrows for a couple
8 feet to 12 feet instead of 15 feet, so there's a requirement that
9 you have 15 feet of access to the public space. So we're just
10 asking for relief for a couple feet within the alley width to
11 meet the alley width requirement.

12 We've had the support of Office of Planning, MPD, DDOT,
13 FVMS -- and Andre, is there anybody else?

14 MR. JEAN: I think we got MPD, Fire and Medical, right?
15 And then --

16 MS. MORRIS: Mr. Moy?

17 MR. MOY: Yes, Madam Vice Chair, I was just informed
18 by staff that if Mr. Jean intends on speaking that I would need
19 to administer the oath to him.

20 VICE CHAIR JOHN: Okay. Thank you. Mr. Jean, could
21 you take the oath as the secretary administers it, please.

22 MR. JEAN: Yes.

23 MR. MOY: Thank you.

24 Do you solemnly swear or affirm that the testimony
25 you're about to present in this proceeding is the truth, the

1 whole truth, and nothing but the truth?

2 MR. JEAN: Yes.

3 MR. MOY: Thank you, sir.

4 VICE CHAIR JOHN: So, were you finished with your
5 presentation?

6 MS. MORRIS: I believe so, yes.

7 VICE CHAIR JOHN: So the only question I had was whether
8 -- was how the application has no adverse impacts on the
9 neighboring property, which I did not see you address that.

10 MS. MORRIS: So it's -- you know, it's building within
11 the same footprint that's already there. We just have a cement
12 wall within the (audio interference) itself. It's being built
13 as a single-family dwelling as is required by the zoning. If
14 you deny the request, we will have no active use for the property
15 other than parking and it isn't blight to the neighborhood, it's
16 actually going to improve the neighborhood.

17 VICE CHAIR JOHN: And in terms of light and air and
18 privacy?

19 MS. MORRIS: It's going to be built within the matter
20 of right footprint, the height, two-stories as required by the
21 Rules and Regulations. So it will not have any adverse impact
22 any more than any other alley lot development.

23 VICE CHAIR JOHN: Okay. Does the Board have any -- oh,
24 I'm sorry, I saw your hand, Mr. Jean?

25 MR. JEAN: I was going to say, also too, the way the

1 block is built, 3rd Street and W, U and V Streets sit higher than
2 the property so, they all look down at the property, it's almost
3 as if we're in a valley and so, there isn't any light issues just
4 because it's so big, it's 3,000 plus square feet and it's going
5 to be, technically, lower than every building surrounding it. It
6 will be the lowest height building from the ground up, just
7 because, you know, we can only go 20 feet. Everyone else is a
8 minimum of 30 feet.

9 VICE CHAIR JOHN: Okay. Thank you. And does the Board
10 have any questions?

11 (Negative head shake.)

12 I'm going to go to the Office of Planning.

13 MS. MYERS: Hi, Crystal Myers with the Office of
14 Planning. We reviewed this case, according to the criteria of
15 the special exception and we feel that they have met the criteria.
16 So Office of Planning is recommending support and we can send the
17 record of the staff report.

18 VICE CHAIR JOHN: Thank you. Can you talk about how
19 the project would impact light and air and privacy with respect
20 to the neighbors?

21 MS. MYERS: Well, we look at this according to the set-
22 out criteria for the special exception and so it doesn't
23 specifically, mention light and air and privacy because what
24 they're doing is complying with all the development standards of
25 the zone except for the alley issue, the alley access issue,

1 | which is what they're asking for the special exception of.

2 | So for everything else it's complying with the zoning
3 | requirements, so that, in effect, does mean that they are meeting
4 | the light and air and privacy -- the requirements.

5 | VICE CHAIR JOHN: Okay. Does the Board have any
6 | questions?

7 | BOARD MEMBER SMITH: I have one question.

8 | Ms. Myers, could you speak to when this went out to
9 | public works, fire department, did they have any questions or
10 | concerns as it relates to the alley width?

11 | MS. MYERS: No, they didn't. And, specifically, we
12 | reached out to the Department of Fire and Rescue, because they
13 | have been a little bit of a challenge to get a hold of, I know
14 | the applicant had tried a few times, and Fire and Rescue reviewed
15 | it and said they have no objection to it. So it meets, I guess,
16 | their requirements. DDOT also reviewed this and also felt that
17 | there was no objection, so it meets their requirement.

18 | BOARD MEMBER SMITH: Okay. Thank you.

19 | VICE CHAIR JOHN: Does the applicant have any questions
20 | for the Office of Planning?

21 | MS. MORRIS: No.

22 | VICE CHAIR JOHN: Okay. Thank you. Is the ANC present
23 | today? Okay.

24 | Mr. Young, do we have any witnesses in support?

25 | MR. YOUNG: Not in support. We have one caller who is

1 calling in by phone, I believe, in opposition.

2 VICE CHAIR JOHN: Okay. Can you let the witness in
3 then?

4 MR. YOUNG: I will unmute them, and they're calling by
5 phone, and that's Mr. Ronald James.

6 VICE CHAIR JOHN: Thank you. Hello?

7 MR. JAMES: Good morning.

8 VICE CHAIR JOHN: Good morning, Mr. James. Can you
9 state your name and address for the record, please?

10 MR. JAMES: Yes, good morning to everyone. Ronald
11 James at 2117 3rd Street Northeast.

12 VICE CHAIR JOHN: And you're here to testify in
13 opposition to this case. You'll have 3 minutes to state your
14 objections.

15 MR. JAMES: Yes, ma'am. And thank you for hearing my
16 objections. First and foremost, I don't have a problem with
17 anybody trying to make a rational development for the community.
18 I don't feel that this was done in good common grounds of the
19 community. I don't think we were reached out to, to really find
20 out what the community needs. There's been so much development
21 here. I've been a lifelong resident of this area and there's been
22 so much development around here. Now you want to put homes in
23 the middle of an alley which will incite more probable incidents
24 no matter what the height is of the building that you're trying
25 to build. If you want to build anything -- like you said, the

1 | only thing it's probably suitable for is parking, that's what it
2 | was intentionally designed for back in the -- I don't know if it
3 | was the '30s or the '40s when it was built, it was a parking
4 | structure.

5 | With all of the influx of construction around this
6 | area, maybe the gentleman ought to consider doing just that,
7 | making another parking structure and make his funds that way.

8 | However, I'm not into his line of business, all I'm
9 | looking at is the community and children and folks in the
10 | neighborhood who ride their bikes and walk through the alley.
11 | And then you're going to add another -- you're trying to make a
12 | street which once was a parking lot.

13 | And it will be -- maybe the fire department and the
14 | Zoning Commission need to really come out and look at it
15 | physically as opposed to looking at pictures, because I don't
16 | think they get the real crux of the alleyway, that I live here.

17 | So that's my favorable objection to this, because I see
18 | it giving no purpose other than a few residents living in the
19 | middle of an alley and I don't see how that justifies this
20 | neighborhood. That's my opinion, and I thank you for listening
21 | to me.

22 | VICE CHAIR JOHN: Thank you for your testimony. Can
23 | you tell me again how close you live to this project?

24 | MR. JAMES: Within 16 feet of this project out my rear
25 | door or from my rear parking space, 15, 16 feet.

1 VICE CHAIR JOHN: So your residence is opposite the
2 lot?

3 MR. JAMES: My residence is directly -- along with my
4 neighbor next door, the parking garage and mine is an open parking
5 space directly -- I didn't measure it out exactly, but I would
6 figure it at least -- two cars can pass through right now, one
7 on either side if need be, and now he's asking for a couple more
8 feet to increase what he want to build for a few residents, I
9 don't see why.

10 VICE CHAIR JOHN: Okay. Thank you very much.

11 So I will go ahead and go to the Board at this time.
12 Does the Board have any questions of the witness? I can't see
13 your hand, so jump in if I don't respond.

14 So then I'll ask the applicant, does the applicant have
15 any questions of the witness?

16 MS. MORRIS: No questions. We'd like to respond, if
17 possible, but no questions.

18 VICE CHAIR JOHN: Okay. Sure, go ahead and respond.

19 MR. MORRIS: I believe that he's -- that Mr. Ronald, I
20 think is his name. He lives in one of the houses that's up above.
21 His actual house is way -- it's up on a hill above the lot, so
22 there really is no impact on his actual air and light. The
23 applicant is not seeking to change the width of the alley, it's
24 still going to be 15 feet, I believe, where he's speaking, it's
25 actually 15 feet and it will continue to be 15 feet. So we're

1 not asking for relief or going to be doing anything that's going
2 to change that. We're simply asking for access -- allowed to be
3 built on because of an issue with it narrowing to 12 feet on the
4 other side of the development.

5 VICE CHAIR JOHN: Okay. So, does the Board have any
6 questions? Would you like to make a final closing argument? I
7 take it your last comment might have been chosen.

8 MS. MORRIS: I believe so, unless Mr. Jean wants to
9 state something.

10 MR. JEAN: No, not at this time. Thank you.

11 VICE CHAIR JOHN: Okay. Thank you. So I'll go ahead
12 and close the record. And at this time, I think this is the case
13 that we're allowed to deliberate on, right, Mr. Moy? Hello?
14 Hello, Mr. Moy? Okay.

15 MR. MOY: Yes, Madam Chair, this is the one.

16 VICE CHAIR JOHN: Thank you very much, Mr. Moy. So
17 we'll go ahead and deliberate if the Board wants to deliberate.

18 I think I'll go ahead and start. I did not have a lot
19 of issues in the case. I think that the --

20 BOARD MEMBER SMITH: Madam Chair, I think we have to
21 dismiss the --

22 MR. MOY: I just got a note from the staff that we have
23 another individual who wishes to testify. He's on the telephone
24 now, if you wish to take him in.

25 VICE CHAIR JOHN: And what's that person's name, do we

1 know?

2 MR. MOY: I'll know in a second.

3 VICE CHAIR JOHN: And did he sign up before?

4 MR. MOY: No, he did not sign up before. I'm waiting
5 for the name to come up on my device. Michael Patterson.

6 VICE CHAIR JOHN: Thank you. Mr. Patterson, can you
7 hear us? Mr. Patterson, it seems you're muted.

8 MR. PATTERSON: Yes, thank you. Can you hear me?

9 VICE CHAIR JOHN: Yes, I can hear you. Can you state
10 your name for the record and provide your address as well?

11 MR. PATTERSON: Certainly. My name is Michael
12 Patterson. My address is 2115 3rd Street Northeast. I'm actually
13 the next-door neighbor of Mr. Ron James.

14 VICE CHAIR JOHN: Okay. Can you provide your testimony?
15 You have three minutes.

16 MR. PATTERSON: Sure. My concern is primarily for
17 safety. I understand the alleyway is a bit narrow at certain
18 points, narrower than the current regulations provide for. But
19 my real concern is that the alley -- with all the exits and
20 entrances to the alleyway are kind of blind turns. There really
21 aren't stop signs or anything like that and I've seen a number
22 of very close accidents where people pulling out of alleyways
23 from this particular backyard situation onto the main streets,
24 on W Street or V Street and on 3rd -- excuse me, on 4th Street
25 as well and there's simply -- there's no, necessarily, right of

1 way, no stop sign or anything like that, where people are kind
2 of pulling out of the alleyway. I'm concerned with, you know,
3 people moving back there permanently, and the reality is, you
4 really can't fit two vehicles side by side if someone is coming
5 into this alleyway at all. It just seems like a situation where
6 you might have -- where people are walking, it's not going to be
7 safe for them to walk.

8 The alleyway itself won't have any kind of leeway on
9 either side in terms of just general safety. But also the fact
10 that anyone living back there is going to have a day to day almost
11 roulette situation of pulling out of the alleyways and onto the
12 main streets, because there really aren't any kind of stop signs
13 or any kind of right of way in that situation. So you're
14 basically pulling out where you have cars with every single entry
15 to the alleyway are caught up pretty much up to the edge of the
16 alley on the outside streets. So you're, basically, inching your
17 car out every single day and hoping a car that is coming up or
18 coming down -- or up V Street or W Street doesn't take the front
19 end of your car off. It wasn't really designed to have anyone
20 live back there in that situation.

21 I agree with Mr. James in that it would be great to
22 have someone from Fire and Water come out and actually see the
23 alleyway itself and really get a real idea of what we're talking
24 about here. There is just no real safe way to move cars around
25 or a permanent household back there that I can see that would

1 allow or public safety to continue without endangering anyone
2 that lives either outside the alleyway or that uses the streets
3 frequenting the alleyway itself in any particular general
4 direction.

5 And the fact the alleyway is only 12 feet wide in some
6 places, means that, you know, I'm not sure if even fire or fire
7 emergency vehicles can get back there if someone (audio
8 interference) car, which people tend to do every now and then.
9 Anywhere in any of these alleyway sections, it isn't necessarily
10 permitted or necessarily allowed. This is like a nightmare
11 situation.

12 I'm also not sure if they can bring water back there
13 if there is a situation that really calls for it, in terms of
14 fire (audio interference). That's kind of where we stand at this
15 point. We haven't heard anything as far as direct contact from
16 the applicant or anything like that either, as far as any kind
17 of neighborhood feedback, I have (audio interference) myself.

18 And my concern, of course, as much as privacy, the
19 safety for the entire surrounding area where we allow people to
20 move into the alleyway itself without either, you know, putting
21 up stop signs, doing some kind of safety study or something of
22 that matter or along those lines.

23 VICE CHAIR JOHN: Okay. Thank you, Mr. Patterson.

24 Does the Board have any questions?

25 (Negative head shake.)

1 Does the applicant have questions? Okay. Go ahead and
2 ask your question, Mr. Jean.

3 MR. JEAN: May I respond or is this for just questions?

4 VICE CHAIR JOHN: Just for questions.

5 MR. JEAN: Okay.

6 VICE CHAIR JOHN: So if no one has any questions, you
7 are entitled to a conclusion.

8 MR. JEAN: Okay. I also own 2116 4th Street, which is
9 on the other side of the property and had lived there from 2014
10 to 2019 as a resident and I park two cars in a private parking
11 space on that property that's in the alley and every day drove
12 out of the alley safely, never with incident using three of the
13 five exits, so I think that -- and also I have three kids that
14 are 3, 7 and 8 and they grew up -- all of them were born in that
15 house on that -- in that property, in that neighborhood. We
16 walked (audio interference) on the block, through the alley, in
17 and out of the alley and around the block every morning for five
18 years and we've never felt -- there's safety issues for sure tied
19 to -- you know, just characters who are doing things in the alley
20 and that's part of why we want to build the space, is because
21 right now it's a dumping ground. People just throw things over
22 the wall and I think studies have proven, look, if -- it's kind
23 of the broken window theory. If you have areas that are being
24 used in a positive way and it's cleaned up, then you have less
25 crime related issues.

1 Secondly, we had a fire at our property, at 2116 and
2 there were six large fire trucks that came, three through the
3 alley and three on the front. They got in through the alley and
4 helped put out that fire fairly quickly without any issues. So
5 they were -- the fire trucks were able to navigate through the
6 alley from the V Street side and so, I think -- and I have
7 pictures of these fire trucks fitting through the alley and
8 garbage trucks go by there every week, completely around -- that's
9 where all the garbage is picked up.

10 So I think, you know, we've looked at this very closely
11 and we've made a determination that, you know, from a public
12 safety standpoint -- and I for one, you know, certainly resonate
13 with the children and with the cars and traffic. If it wasn't
14 something that could be done, we wouldn't be suggesting it.

15 And one final thing is that I think we reached out --
16 we went through a process for -- we've been going through this
17 for about two years. We started by talking through the ANC,
18 through the Eckington Neighborhood Association. We've reached
19 out to neighbors that were directly affected through the official
20 -- we have to provide everyone within 200 feet, I think,
21 notification. We've also attempted to reach out just really to
22 anyone -- and I know most of the people in the area and I've --
23 for the most part, anyone who has ever had a question or had a
24 concern reached out to me and we talk about it. Before COVID we
25 were planning on hosting a neighborhood -- just communication

1 session and that got -- that got muted. But, you know, we're -
2 - I'm happy to have conversations and communication with folks
3 as we move forward. But we've tried to very, very respectful of
4 just the neighborhood and of things. Yeah, and that's my comment.
5 Thank you.

6 VICE CHAIR JOHN: Thank you very much, Mr. Jean. So I
7 believe -- we have no more questions from the Board; am I right?
8 Okay. So thank you for reminding me, Mr. Smith, I will now close
9 the record.

10 Is the Board ready to deliberate?

11 BOARD MEMBER SMITH: Yes, Madam Chair.

12 VICE CHAIR JOHN: Yes. Okay. I'll go ahead and start
13 and please feel free to fill in wherever everyone wants.

14 So the applicant is seeking special exception relief for the
15 alley access. It's a matter of right building and I accept the
16 applicant's testimony as well as OP's testimony that there are
17 no adverse impacts in terms of light and air and privacy. But
18 the real issue is that the alley needs to be 15 feet for the
19 entire width and there's a section where the alley narrows to 12
20 feet. And, typically, that's 3 feet of relief -- and, typically,
21 we really on -- to a certain degree, on the recommendation of
22 the FEMS in terms of being able to access fire services and so
23 on.

24 The FEMS submitted a letter to the record stating that
25 they have no objections and I credit that recommendation. So

1 based on the fact that OP is -- oh, let me also say that I
2 appreciate the testimony of the witnesses in describing the
3 potential hazards of having cars in the alley, but I think the
4 applicant, Mr. Jean, stated he has lived in the neighborhood and
5 has seen the ability of FEMS to respond to fires and so on.

6 We also have testimony from DDOT and DDOT has no
7 objection. I believe we also have testimony from solid waste
8 -- so in terms of the public agencies I believe we have
9 recommendations from the ones that are most -- would have the
10 greater interest in this project.

11 So at this point I'll turn to Mr. -- Commissioner
12 Miller, if you would like to go ahead and add your comments.

13 COMMISSIONER MILLER: Thank you, Madam Chair. I share
14 in your -- I concur with all of your comments about the
15 application. I applaud the applicant for making the adjustment
16 since the original application to try to move this forward and
17 he's been working on it for a couple years. I applaud him for
18 finding -- for living in the neighborhood and trying to improve
19 the neighborhood.

20 The Zoning Regulations do permit the alley dwellings
21 if the access is -- if the alley access is appropriate and as
22 you have stated Madam Chair, Fire and EMS has said the access is
23 okay, the Solid Waste Division of the Department of Public Works
24 also agreed. DDOT had previously -- had reviewed the application
25 when it was two dwelling units and presumably more impact on

1 traffic and parking under a two-dwelling unit (audio
2 interference) and then the current one dwelling unit, so -- and
3 they had no objections.

4 So with all that, I think this is a good project that
5 meets the standards for relief in this case and hopefully Mr.
6 James and Mr. Patterson will see that it is an improvement, and
7 they can all be good neighbors with Mr. Jean as we move forward.
8 So I'm prepared to support this application, Madam Chair, thank
9 you.

10 VICE CHAIR JOHN: Thank you, Commissioner Miller. And
11 Board Member Smith?

12 BOARD MEMBER SMITH: I concur with your comments, Vice
13 Chair John and Commissioner Miller. I do applaud the applicant
14 for coming back and revising the proposal and investing within
15 their neighborhood. I was one of the people that were -- was on
16 the fence in January on whether the original proposal met the
17 qualifications for a variance. And the applicant (audio
18 interference) out and has come back to us with a proposal that
19 is by-right, in and of itself, except for the alley width.

20 To the comments that were raised by the adjacent
21 property owners. I hear your concerns and I appreciate your
22 concerns that you brought to us.

23 When it comes down to this alley width, it's not
24 uncommon in the District from applications that we've seen,
25 alleys that are less than 15 feet wide and the applicant has

1 sufficiently -- since he has lived here for some time or grew up
2 there, that you can sufficiently access the alley.

3 Also, I believe one of the concerns that was raised was
4 about exiting the alley onto the public streets. I haven't seen
5 situations where DDOT has required stop signs. I feel like that's
6 fairly rare, but that is a fairly valid point, but I don't think
7 that's something that we can condition the applicant to address.

8 In looking at this proposal, being that it is by- right
9 except the alley, I agree with Ms. John. The things that we
10 would be looking towards are to the D.C. agencies that would be
11 most affected by their accessing or providing their services
12 within the alley. And we did receive a letter from public safety,
13 and I won't reiterate. They don't have any major concerns.
14 Another agency is Waste Management. They have evaluated the
15 project and they have stated that the applicant has designed a
16 house in accordance with EPWS's requirements, so that would be
17 evaluated at the time of the building permit with DCRA.

18 So with that, I stand up on the record of OP's staff
19 report. I do believe that it would have very minimum adverse
20 impact to the surrounding property owners, and I will be in
21 support of the application.

22 VICE CHAIR JOHN: Thank you, Board Member Smith. I
23 forgot to mention that the ANC was in approval and had no issues
24 or concerns. With that I'm going to ask -- oh, I'm going to make
25 a motion to -- oh, I think we take the roll at this point, Mr.

1 Moy? Or do I make my motion first?

2 MR. MOY: You make your motion first. Make your motion.

3 VICE CHAIR JOHN: Thank you. Okay. You have to --
4 the new girl is -- has some -- the new girl has to get used to
5 this. So I would make a motion to approve Case No. 20307 of
6 Eckington Court, LLC as read and captioned by the secretary and
7 ask for a second of Mr. Smith?

8 BOARD MEMBER SMITH: Second.

9 VICE CHAIR JOHN: And Mr. Moy, if you could please take
10 a roll call?

11 MR. MOY: Yes, thank you, Madam Vice Chair, with
12 pleasure.

13 So when I call your name if you would please respond
14 with a yes, no, or abstain to the motion made by Vice Chair John
15 to approve the application for the relief requested. The motion
16 was seconded by Mr. Smith.

17 Zoning Commissioner Rob Miller?

18 COMMISSIONER MILLER: Yes.

19 MR. MOY: Mr. Smith?

20 BOARD MEMBER SMITH: Yes.

21 MR. MOY: Vice Chair John?

22 VICE CHAIR JOHN: Yes.

23 MR. MOY: We have a Board seat vacant, and we have a
24 member no present, not voting. Staff would record the vote as 3
25 to 0 to 2. And this is on the motion of Vice Chair John to

1 approve, the motion was seconded by Mr. Smith, also in support
2 in the motion to approve is Zoning Commissioner Rob Miller. The
3 motion carries 3 to 0 to 2.

4 VICE CHAIR JOHN: Thank you, Mr. Moy. So let's go
5 ahead and call the next case. The Case No. is 20422.

6 MR. MOY: Yes, thank you. This is Case Application No.
7 20422 of Michael Hsu H-S-U and Seema Gajwani G-A-J-W-A-N-I. This
8 application is captioned and advertised for a special exception
9 from the lot occupancy requirements of Subtitle E, Section 304.1.
10 This would construct a one-story rear addition to an existing
11 attached two-story principal dwelling unit in the RF-1 Zone.
12 This application is at premises 610 South Carolina Avenue SE,
13 Square 875, Lot 37.

14 And as I stated at the beginning of the hearing, Madam
15 Vice Chair, we learned that there was an inadvertent error in our
16 public notice requirements, which is the number of days notice
17 prior to a hearing that's required. Counsel has advised that we
18 can proceeding with hearing the application, but that the Board
19 would not be able to vote today. So -- and, of course, so --
20 I'll leave it at that and that the staff will be in contact with
21 the applicant after the hearing.

22 VICE CHAIR JOHN: Thank you, Mr. Moy. Can we have the
23 parties introduce themselves? I see Ms. Fowler and Mr. Hsu.
24 Okay. Go ahead and get started. Thank you, Ms. Fowler, I believe
25 you might be presenting. Oh, Mr. Fowler. Mr. Fowler, your mic

1 is muted.

2 MR. FOWLER: Sorry, can you hear me now?

3 VICE CHAIR JOHN: Yes, I can.

4 MR. FOWLER: Okay.

5 VICE CHAIR JOHN: Thank you.

6 MR. FOWLER: Hi. I'm Mike Fowler from Fowler
7 Architects, 1819 D Street Southeast, representing the homeowners
8 in this project.

9 VICE CHAIR JOHN: And do you have someone with you? Is
10 the owner, Mr. Hsu? Did I pronounce that correctly?

11 MR. HSU: Yes, you can pronounce it Hsu. I'm here and
12 if you need to see my wife, she's right there.

13 VICE CHAIR JOHN: Okay. Thank you. Can I ask you to
14 go ahead and describe your project? There's 15 minutes on the
15 board.

16 MR. FOWLER: Yes, I'll go ahead and do that. This is
17 a one-story rear addition, a screened porch. And we are asking
18 for relief for lot coverage. The existing coverage is at 53.4
19 percent and we'll be increasing to 66.7 percent, which is below
20 the 70 percent threshold. And no other aspects of this project
21 require relief.

22 We've reached out to the neighbors. We have support
23 from all adjacent neighbors and a few more on the alley, as well
24 as the ANC.

25 The project itself maintains the side court existing

1 access to the rear door at the cellar of the property and it,
2 basically extends or protects their outdoor space from
3 mosquitoes, so they can use it in summer more effectively.

4 So that's the reason behind the project is really just
5 to kind of gain a little more use of their outdoor space now that
6 they're spending a lot more time at home.

7 So I think that's it, unless you have any questions
8 regarding the design.

9 VICE CHAIR JOHN: No, I don't have any questions at the
10 moment. I'll go to the Board at this time. Does anyone have
11 questions?

12 BOARD MEMBER SMITH: I don't have any questions.

13 VICE CHAIR JOHN: Commissioner Miller?

14 COMMISSIONER MILLER: No, thank you.

15 VICE CHAIR JOHN: Okay. I'll go to the Office of
16 Planning next.

17 MS. ELLIOTT: Good morning, Madam Chair, Members of the
18 Board, I'm Brandice Elliott representing the Office of Planning
19 for the BZA Case 20422. The applicant has requested lot
20 occupancy. The Office of Planning supports the relief that's
21 been requested. We've provided the analysis in our report, so
22 I'll go ahead and stand on the record of our report, but I'm
23 happy to answer any questions that you have.

24 VICE CHAIR JOHN: I don't have any questions at the
25 moment. Does the Board have any questions?

1 BOARD MEMBER SMITH: I don't have any questions.

2 VICE CHAIR JOHN: Mr. Miller? Commissioner Miller?

3 COMMISSIONER MILLER: No questions. Thank you.

4 VICE CHAIR JOHN: Is the ANC here? I don't see anyone
5 from the ANC signed up to testify. So we'll go to witnesses.
6 Mr. Moy, -- I'm sorry, Mr. Young, do we have any witnesses signed
7 up?

8 MR. YOUNG: We do not.

9 VICE CHAIR JOHN: Okay. So then I'll go ahead, and
10 I'll close the record and, I believe, this case is one that has
11 the notice deficiency and so we're not allowed to deliberate at
12 this time; is that correct, Mr. Moy?

13 MR. MOY: Yes, ma'am.

14 VICE CHAIR JOHN: So we'll go ahead and close the record
15 and Mr. Moy will be in touch. I believe that's our process to
16 set a new date for deliberations and decision. And that would
17 be a meeting case with no testimony. Mr. Moy?

18 MR. MOY: Technically, the record would still need to
19 remain open, because the public notice requirement where we could
20 still receive letters of comment to the record. So, in effect,
21 it would be more or less a continued hearing. But on that date
22 when we come to it, of course, you could hear if there's any
23 (audio interference) of additional filings and then you could
24 adjudicate on that day as well.

25 VICE CHAIR JOHN: Okay. Thank you, Mr. Moy. Okay. So

1 we will continue this case for a continued hearing at a time --
2 at a date to be specified by Mr. Moy.

3 MR. MOY: Yes. For people to know, we'll, of course,
4 not only contact the applicants but we'll also submit an OZ memo
5 into the record that confirms the date.

6 VICE CHAIR JOHN: Okay. Thank you very much.

7 So the next case to be heard today, Application 20430
8 of 1501 Erie Street Construction. And I should state now, which
9 I forgot to do at the beginning, that we're going to follow the
10 agenda as it's stated and since we're not deliberating, we might
11 take a lunch break around 12, a short lunch break around 12,
12 depending on how quickly we're moving along.

13 Okay. Please call the next case, Mr. Moy.

14 MR. MOY: All right. So this would be Case Application
15 No. 20430 of 1501 Erie Street Construction. Captioned and
16 advertised for an area variance from a minimum lot area
17 requirement, Subtitle D, Section 302.1. This would construct a
18 new three-story detached principal dwelling unit in the R1-B
19 Zone. This is at premises 4269 Meade M-E-A-D-E Street Northeast,
20 Square 5099, Lot 806.

21 VICE CHAIR JOHN: I see that Mr. Sullivan is here. And
22 do you have anyone with you, Mr. Sullivan?

23 MR. SULLIVAN: Yes. Thank you, Madam Chair. Marty
24 Sullivan with Sullivan and Barros on behalf of the applicant.
25 The owner should be here, Paul Ijiti, and the architect Gayll

1 Worsley, if Mr. Young could let them in.

2 MR. YOUNG: I don't see the owner, but I do have the
3 architect. I will unmute them.

4 VICE CHAIR JOHN: Okay. Thank you. Mr. Sullivan, you
5 have 15 minutes on the board, if you could tell us about the
6 project and how your project meets the criteria.

7 MR. SULLIVAN: Yes. Thank you, Madam Chair. If Mr.
8 Young could load the PowerPoint presentation, please.

9 And while we're waiting, it's 4269 Meade Street,
10 Northeast. And the request is for relief from minimum lot area
11 to create a record lot. It's currently two record lots, as you
12 can see there, there's two record lots. There's an alley, so
13 the lot is isolated from the rest of the community up against
14 Kenilworth Avenue. Next slide, please.

15 This is the R-1-B Zone. We're proposing to combine the
16 two record lots and construct a detached single-family dwelling
17 that would otherwise meet all the zoning requirements for that
18 dwelling. We were not able to secure the support of ANC 7D.
19 They had concerns with the design, essentially, of the proposed
20 building. Although we're not specifically asking for relief for
21 the building itself, just to be able to combine the lots. We do
22 have the support of the Office of Planning and DDOT and we have
23 a couple letters of support from the block. The
24 existing lot area is 4,142.65 square feet, the minimum required
25 is 5,000 square feet. Even though we need this relief, the lot

1 is one of the larger lots in the surrounding neighborhood. Next
2 slide, please.

3 Here you see, for context, an overhead view. There's
4 Kenilworth Avenue there and the lot is up against that and
5 separated by an alley to the west, from the rest of the community.
6 Next slide, please.

7 Other photos of the property and adjacent homes. Next
8 slide, please.

9 So, here's a footprint showing the house. You'll see
10 there's two side yards, there's a rear yard and there's a building
11 restriction line, which pushes the house back. Both lots were
12 buildable as a matter of right and actually, as a result of recent
13 regulation entitled to seek special exception relief for zoning
14 requirements to build houses on each, but because of the BRL it
15 was impossible to build any structure on either one of the
16 existing record lots, and so we need to combine them, and this
17 is the proposed house. It has a lot occupancy under 24 percent.
18 It has two large side yards and is behind the BRL and also,
19 there's the 16-foot public valley as well before the closest
20 property to it. So it's about 40 feet away from the closest
21 neighbor. Next slide, please.

22 Here's floor plans for the proposed house. Next slide,
23 please.

24 Elevations. Next slide, please.

25 So variance test, we do have an extraordinary

1 | exceptional situation. The record lots were created between '56
2 | and '58 as a result of leftover land that was not used to widen
3 | Kenilworth. They are irregularly shaped; both are below the
4 | 5,000 square foot minimum. There is a 15-foot BRL as you saw in
5 | the one drawing which reduces the developable area of the existing
6 | lot 68, actually it -- basically, cuts that in half. And the
7 | other lot is already too narrow to accommodate any detached home.
8 | And it's interesting that if these were alley lots, they could
9 | be combined and built as a matter of right, because there's a
10 | provision for alley lots that says if you have existing record
11 | lots you can combine them as a matter of right, larger lot. The
12 | exceptional practical difficulties are essentially that it's not
13 | buildable. The property is not buildable as it is right now and
14 | then there's no way to increase that lot area because the lot is
15 | isolated and there's no neighboring properties from which we
16 | could possibly acquire additional land. Next slide, please.

17 | And we believe there's no substantial detriment to the
18 | public good or no substantial impairment to the intent, purpose
19 | and integrity of the zoning regulations. The minimum lot area
20 | along with the other development standards are intended to allow
21 | for the development of lots with detached houses, typically on
22 | large lots with significant setbacks. Allowing the development
23 | of this site would also allow the development of a vacant property
24 | in the community and would provide an additional residence to the
25 | housing stock. And the proposed house would still meet all other

1 development standards, including respecting the BRL, having a
2 quite low lot occupancy and generous side yards. Next slide,
3 please.

4 In response to comments from the ANC and Eastland
5 Gardens comments, point out some of the things I've mentioned
6 already. The lot occupancy proposed is quite small; the height
7 is smaller than the maximum proposed; the side yards are generous;
8 there's two parking spaces where one is required. And you can
9 see from -- if you could go to slide 2, please, briefly, Mr.
10 Young. Thank you. You'll see here, the lot is actually larger
11 than many of the lots on this block. If you could go back, Mr.
12 Young to I think it was 15 we were at -- 10, slide 10. And the
13 design considerations of the house itself are not part of this
14 variance test. And the Office of Planning has noted the lack of
15 impacts on light and air due to the 40- foot distance between
16 the house and the closest neighboring house. I believe that's
17 it. If there's any questions for myself or if the owner, Mr.
18 Ijiti has made it in or the architect, Gayll Worsley. Thank you.

19 VICE CHAIR JOHN: Thank you, Mr. Sullivan. Are there
20 any questions from the Board? Okay. Now I'll go and hear from
21 the Office of Planning.

22 MS. BROWN-ROBERTS: Good morning, Madam Chairman and
23 Members of the BZA, Maxine Brown-Roberts for BZA 20430 from the
24 Office of Planning.

25 The applicant has requested area variance relief from

1 Subtitle D, Section 302.1 for the lot area pursuant to Subtitle
2 X 1000.1.

3 The applicant is presented with a exceptional situation
4 in that the lot were left over from prior roadwork, irregular
5 shape compared to most of the rectangular lots nearby. Neither
6 of the lots by themselves or together would meet the minimum area
7 requirement and there is a 15-foot building restriction line on
8 the lot, which further reduces the developable area of the lot.

9 The applicant is presented with an exceptional
10 practical difficulty in developing the lots individually due to
11 the exceptional conditions noted above. These factors make it
12 practically difficult to develop individual properties with
13 single family dwellings that meet the R-1-B requirements.

14 Even when the lots are combined, the lot area continues
15 to be below the minimum 5,000 square feet lot area requirement.
16 The applicant is unable to increase the lot area to meet the
17 minimum requirement of the property surrounded by a public alley,
18 public streets and undeveloped public right of way, which
19 precludes the opportunity to expand or add additional property.
20 The applicant, therefore, cannot increase the lot area to meet
21 the minimum lot area requirement.

22 The property could be developed as a new house on each
23 of the existing lots, but that would also be practically difficult
24 due to the individual lot sizes and would likely require
25 additional zoning relief for such development.

1 The minimum lot area along with other development
2 standards are intended to allow for the development of lots with
3 detached houses, typically on lots with significant setbacks.

4 Although the area of the combined lots would not meet
5 the minimum requirement, the proposed structure would be
6 separated from the closest house to the west by a rear yard and
7 the alley; therefore, the proposed building should not affect the
8 light and air to the adjacent house.

9 Allowing for the development of this site would also
10 allow for development of a vacant property in the community and
11 would provide additional residence to the stock.

12 There's no substantial impairment to the intent,
13 purpose and integrity of the Zoning Regulation, as intent and
14 purpose of the R-1-B Zones provide areas predominantly developed
15 with detached houses and development standards to minimize
16 impacting adjacent properties.

17 The proposed combination of the two substandard lots
18 would result in one lot that is more consistent with the intent
19 of the Zoning Regulations of the current substandard record lots
20 and allow for its development with a single family attached house
21 consistent with the intent of the R-1-B Zone.

22 The resulting house would still meet all the
23 development standards including respecting of the building
24 restriction line.

25 The Office of Planning, therefore, recommends approval

1 of the requested variance relief. Thank you, Madam Chair, and
2 I'm available for questions.

3 VICE CHAIR JOHN: Thank you, Ms. Brown-Roberts. Does
4 the Board have any questions?

5 BOARD MEMBER SMITH: I have a clarifying question, Ms.
6 Brown-Roberts.

7 Being that there are three frontages here, what is the
8 setback requirement along Kenilworth and Meade?

9 MS. BROWN-ROBERTS: I think they're -- I think they're
10 15 feet.

11 BOARD MEMBER SMITH: They're both 15?

12 MS. BROWN-ROBERTS: Yes. Yes.

13 BOARD MEMBER SMITH: Which one is considered the front?

14 MS. BROWN-ROBERTS: Pardon me?

15 BOARD MEMBER SMITH: Which one is considered the front?

16 MS. BROWN-ROBERTS: The applicant is able to choose
17 where he wants to put the front of the house.

18 BOARD MEMBER SMITH: Okay. If this property was to
19 remain in its current configuration, they would have that
20 additional restriction, two front yards and the BRL?

21 MS. BROWN-ROBERTS: The two side yards and the (audio
22 interference), yes.

23 BOARD MEMBER SMITH: In addition to a rear for the
24 (audio interference).

25 MS. BROWN-ROBERTS: Well, if they're using Meade Street

1 | where the barrier is, the front yard can be -- the barrier can
2 | be included in the front yard. They don't have to do (audio
3 | interference).

4 | BOARD MEMBER SMITH: Got you. Okay. That was the only
5 | question that I had. Thank you.

6 | VICE CHAIR JOHN: Commissioner Miller?

7 | COMMISSIONER MILLER: No questions, Madam Chair, thank
8 | you.

9 | VICE CHAIR JOHN: Okay. Does the applicant have any
10 | questions for the Office of Planning?

11 | MR. SULLIVAN: No thank you.

12 | VICE CHAIR JOHN: And so, is the ANC here? Yes, I see
13 | Mr. Hasan. Can you hear me, Mr. Hasan?

14 | MR. HASAN: Yes, Madam Chair, I can hear you.

15 | VICE CHAIR JOHN: Okay. Can you state your name and
16 | address for the record, please?

17 | MR. HASAN: Yes. Good morning, my name is Sirraaj Hasan
18 | S-I-R-A-A-J, last name H-A-S-A-N. I am the chair for the Advisory
19 | Neighborhood Commission 7D and the Advisory Neighborhood
20 | Commissioner for this area, which is 7D02 Eastland Gardens, which
21 | is within the Single Member District.

22 | VICE CHAIR JOHN: So, you can go ahead and provide your
23 | testimony.

24 | MR. HASAN: Yes, Madam Chair. As noted in my letter
25 | that I provided, the ANC 7D Commission unanimously voted in

1 opposition to this application. Some of the primary concerns
2 that the Commission has, as well as myself, is that the
3 requirements for the land size, I think were put in place for a
4 reason.

5 The area for which the applicant is looking to build a
6 home is just simply not large enough. As stated in their
7 application, as quoted by the Office of Planning, they're
8 combining two record lots to combine them into one and still
9 there is not enough land to properly build within the restrictions
10 laid out by the requirements.

11 Also, when we look at the home that is being proposed
12 to be built on that property, we have very real concerns with
13 the style of home that is being put there. This is an old
14 neighborhood that has been around for many, many years and the
15 area that they're looking to build on is a piece of land that
16 was leftover due to the establishment of Kenilworth Avenue and,
17 you know, a three-story home being put on this area of land where
18 most of the homes are either one-story or two-story. The shape
19 of the home -- they're building a home, at least from the
20 architectural design to try and follow the flow of the way that
21 this awkwardly triangular shape of land is positioned. Again,
22 you know, it all just boils down to that the 5,000 square feet
23 of land area that is needed, it just does not exist here.

24 Again, there is an alley that cuts through that impedes
25 upon that and it just so happens that that's just the way that

1 | this land exists and so, unfortunately, the land is not large
2 | enough for building upon, in our opinion.

3 | So, again, the Commissioners have unanimously voted in
4 | opposition. The community has also voted in opposition to the
5 | applicant, and I am happy to answer any additional questions. I
6 | have provided a letter with some of the drawings and schematics
7 | that the applicant has provided, and I'll pause there just to see
8 | where we go from here.

9 | VICE CHAIR JOHN: Thank you very much, Mr. Hasan.

10 | MR. HASAN: Yes.

11 | VICE CHAIR JOHN: So, does the Board have any questions
12 | for the Commissioner? Mr. Miller? Mr. Smith?

13 | BOARD MEMBER SMITH: I don't have any questions.

14 | COMMISSIONER MILLER: No questions, Madam Chair.

15 | VICE CHAIR JOHN: Thank you. Does the applicant have
16 | any questions?

17 | MR. SULLIVAN: No questions, thank you.

18 | VICE CHAIR JOHN: Okay. Thank you very much. And so
19 | -- are there any parties in opposition, Mr. Young?

20 | MR. YOUNG: Yes, we do.

21 | VICE CHAIR JOHN: Okay. Can you let the first witness
22 | in?

23 | MR. HASAN: And Madam Chair, if I may, before going
24 | back on mute, our request as the Commissioner, the Chair of ANC
25 | 7D, our formal request to the Board is that you maintain the

1 minimum 5,000 square feet requirement for the land.

2 VICE CHAIR JOHN: Okay. Thank you very much --

3 MR. HASAN: Thank you.

4 VICE CHAIR JOHN: -- for your testimony.

5 COMMISSIONER MILLER: Madam Chair?

6 VICE CHAIR JOHN: Yes, Mr. Miller.

7 COMMISSIONER MILLER: Did you -- I may have missed
8 this, did you, Madam Chair, give the ANC an opportunity to ask
9 questions, if they had any, of the applicant --

10 VICE CHAIR JOHN: No.

11 COMMISSIONER MILLER: -- or the Office of Planning.

12 VICE CHAIR JOHN: Thank you, Commissioner Miller, I did
13 not. Do you have any questions, Commissioner Hasan of either the
14 Office of Planning or the applicant?

15 MR. HASAN: Thank you for the opportunity to ask, Madam
16 Chair, I do not. We did have a chance to meet with the applicant
17 at our public meeting a few weeks ago and were able to ask
18 questions and review their application at that time. So we do
19 not need to take up time and ask any of those questions. So
20 thank you for the opportunity.

21 VICE CHAIR JOHN: Thank you. It's the team support for
22 today.

23 MR. HASAN: That's right. Thank you. Thank you, Mr.
24 Miller, for acknowledging that.

25 VICE CHAIR JOHN: Thank you. Thank you. And so let's

1 | hear from the first witness, Mr. Young. Is that Ms. Jeffrey or
2 | Mr. Jeffrey?

3 | MS. JEFFREY: It's Ms. Jeffrey, Your Honor.

4 | VICE CHAIR JOHN: Thank you. Are you choosing not to
5 | use your video?

6 | MS. JEFFREY: I think my video is on, it should be.

7 | VICE CHAIR JOHN: Oh yes. I can see you now. Thank
8 | you. So you have 3 minutes to testify. Would you go ahead and
9 | state your name and address, for the record, please?

10 | MS. JEFFREY: Yes, ma'am. Good morning. My name is
11 | Junel Jeffrey. I live at 1224 42nd Place Northeast. I'm the
12 | president of the Eastland Gardens Civic Association and I live
13 | around the corner from the proposed site.

14 | VICE CHAIR JOHN: Okay. Thank you. I believe as the
15 | president of the organization -- are you authorized to speak on
16 | behalf of the organization today or are you speaking for yourself?

17 | MS. JEFFREY: I'm speaking on behalf of the
18 | organization and yes, I am authorized, ma'am.

19 | VICE CHAIR JOHN: Normally, Mr. Moy, I believe we have
20 | something in the record from the organization, but I'll go ahead
21 | and accept your testimony. You have up to 5 minutes.

22 | MS. JEFFREY: Thank you. So as Commissioner Hasan has
23 | already stated, we also wrote in and are appearing here today to
24 | officially oppose the construction of the house that is proposed
25 | based on its current design. Myself and members of the executive

1 board as well as the community members who were present on several
2 occasions and several meetings reviewed the concept and our
3 neighbors have several concerns with the home that is proposed.

4 Number 1, this is a residential area, of course, and
5 it's a very -- it's a historic area and neighborhood and the home
6 that is being proposed is categorically outside of the
7 characteristics of all of the other homes out -- all the other
8 surrounding homes and these homes that are already existing have
9 been in place for at least 85 years. And the home that's being
10 proposed, it doesn't meet the same characteristics in design.

11 Additionally, looking at the plans for the home, the
12 architectural designs for the home, they leave some safety
13 concerns as well. So that's one of the things that our neighbors
14 are concerned of. Again, this is a very close-knit neighborhood,
15 and we care about our neighbors, so that's actually one of the
16 first things that caused concern for us. And being that the home
17 is so large -- or the proposed home is large, we would ask that
18 you uphold the standard and deny the application.

19 VICE CHAIR JOHN: Okay. Thank you very much. Are
20 there any questions from the Board? Are there any questions from
21 the applicant?

22 MR. SULLIVAN: No, thank you.

23 VICE CHAIR JOHN: Okay. Thank you very much, Ms.
24 Jeffrey. Oh, I'm sorry, does the ANC have any questions for Ms.
25 Jeffrey?

1 MR. HASAN: I do not, Madam Chair. I support Ms.
2 Jeffrey as the president of the Eastland Gardens Civic
3 Association and we are in (audio interference) agreement with
4 upholding the opposition and again, look for your support with
5 that. Thank you.

6 VICE CHAIR JOHN: Thank you very much, Commissioner.
7 Mr. Young, do we have any other witnesses?

8 MR. YOUNG: Yes, we do.

9 VICE CHAIR JOHN: Okay. Could you let the next witness
10 in, please? Hello? Hello? Is this Mr. Sharma? Mr. Young,
11 what's the name of the witness, please?

12 MR. YOUNG: Yes, it's Mr. Sharma.

13 MR. SULLIVAN: Madam Chair, he's with us. And he was
14 part of the architect team. And I don't know that he needs to -
15 -

16 VICE CHAIR JOHN: No.

17 MR. SULLIVAN: -- present. But he's available for
18 questions.

19 VICE CHAIR JOHN: I agree. Mr. Moy, you had your hand
20 up?

21 MR. MOY: Yeah, I'm reminded by the staff, Madam Vice
22 Chair, that if there are any witnesses who are in support of the
23 application, I believe they have not been administered the oath.
24 So, Mr. Sullivan, if they plan to speak or if they're on part of
25 your team, I would need to administer the oath to them.

1 MR. SULLIVAN: Okay. Thank you. Unless there's
2 questions, I don't think -- I don't think we have any to speak
3 in support. We have a few people that are on the team if there
4 is any questions.

5 VICE CHAIR JOHN: Okay. I have no questions myself.
6 Mr. Sullivan, did I ask you if you had any questions of the
7 witness?

8 MR. SULLIVAN: Yes. No questions, thank you.

9 VICE CHAIR JOHN: And so this is normally where we ask
10 for closing statements from the applicant.

11 MR. SULLIVAN: Thank you, Madam Chair, and Members of
12 the Board. I think I've responded to the issues of the community.
13 I understand their concerns about the design, but it's not a
14 historic district and while the house is three stories, it is -
15 - the lot occupancy is quite small and there's no restrictions
16 on anybody else tearing down a house and building a three-story
17 house here on lots, most of which are much smaller. So the
18 specific relief is just to make this lot buildable, but the
19 proposal, which we'll be held to is the 23 -- or just under 24
20 percent lot occupancy.

21 Clarification on the front yard, the front yard is --
22 it's Kenilworth or 44th. Both on the -- whatever is on the east
23 side, we have two different plats, one says 44, one says
24 Kenilworth. And so the rear yard is where the parking spaces
25 are, and the side yards are north and south.

1 A question or a comment on the notice failure, the
2 Board, I believe, can waive the failure based on and under 402.11,
3 based on the nature and extent of actual notice received and
4 based also on attendance or lack thereof at the public hearing.
5 Since we've heard from the ANC and the community group that there
6 was extensive discussion and apparently full notice from
7 everybody, I would like the Board to consider waiving that, only
8 because I don't know -- if it was only one week, but it seems
9 kind of open-ended. We're being told that we'll find out after
10 this, so I don't know if that's 6 weeks or 1 week. If it's 1
11 one week then we're fine, but if it's longer than that, we would
12 suggest that the Board could consider waiving -- I believe, the
13 Board could consider waiving this defect in this case. Thank
14 you.

15 VICE CHAIR JOHN: Thank you, Mr. Sullivan. I believe
16 we have done this before, but I'm going to defer to Mr. Rice,
17 because I don't have the specifics of this case, when the actual
18 notice was sent out and I believe each case will be decided based
19 on when the actual notice was provided. Did you want to comment,
20 Mr. Rice?

21 MR. RICE: Yes, Vice Chair. So Mr. Sullivan is correct.
22 Typically, with a technical defect of the notice can be waived,
23 but those are notice defects that are created as a result of the
24 Board's own procedural roles.

25 In this instance, there's a defect of notice as a result

1 of the period -- the 51-day period in the ANC Act, which the
2 Board cannot waive. That is, unfortunately, D.C. Code and
3 although ANC 7D has filed its report so we can presume they
4 received sufficient notice, there was a notice sent to Single
5 Member District 7D02 and we have yet to hear from them. So, in
6 short, essentially, this is not a notice failure that the Board
7 can waive as it's out of D.C. Code, not the Zoning Regulations
8 and we are still waiting to hear back from at least one single
9 member district.

10 VICE CHAIR JOHN: Thank you very much, Mr. Rice. Mr.
11 Sullivan, did you want to comment?

12 MR. SULLIVAN: Do we know how long we're waiting?

13 MR. MOY: We do -- we do, Mr. Sullivan, if I can weigh
14 in Madam Vice Chair. I'm still working out the final details.
15 I'll know that by the end of the day. I'll know that by the end
16 of the day, so I'd rather not commit to something at the moment,
17 but as I said, by the end of the day, I'll know that date. And
18 as I said before, you know, I'll be in touch with all the
19 applicants.

20 VICE CHAIR JOHN: I saw Mr. Hasan's hand up.

21 MR. HASAN: Yes, Madam Chair, I just had a question.
22 The last gentleman that spoke had mentioned there wasn't a
23 response from 7D02, I am the Commissioner for 7D02. I am also
24 the Chair for 7D. So I provided a letter in opposition
25 representing both roles. I am the Chair of 7D; I'm also the

1 Commissioner for this SMD. I didn't understand what his comment
2 was related to.

3 VICE CHAIR JOHN: Thank you very much. I think Mr. Moy
4 was speaking to the issue of the waiver and the conditions under
5 which we could waive the notice defect, because it's a statutory
6 requirement applicable to the ANC. So the Board is not -- as I
7 understand it, as OAG said, able to waive that requirement on its
8 own accord. But I believe Mr. Moy has committed to scheduling
9 these cases for deliberation and decision at the first possible
10 date. So we're mindful of the inconvenience to the applicant.

11 MR. MOY: Yes, thank you, Madam Chair. Everything that
12 Mr. Rice said is correct. And as you say as well, I'm committed
13 to move this the first possible day possible. Is that good
14 English? Anyways, yeah.

15 VICE CHAIR JOHN: We got it.

16 MR. MOY: While I have the stage momentarily, on my
17 sheet of list of witnesses, Madam Chair, I have a Cindy Hamilton
18 who had signed up. I just want to be sure that she's not in the
19 loop and we're forgetting her. Mr. Young?

20 MR. YOUNG: I was advised that she will not be
21 testifying.

22 VICE CHAIR JOHN: Okay. All right. Thank you. So
23 I'm advised that we will not close the record at this time and
24 we will schedule this case for a continued hearing at a further
25 date to be decided in consultation with the parties; is that

1 correct, Mr. Moy, at a later date?

2 MR. MOY: Yes, ma'am.

3 VICE CHAIR JOHN: Thank you. And so we thank you, Mr.
4 Sullivan and Commissioner Hasan.

5 BOARD MEMBER SMITH: Could we entertain the question
6 that it looks like Mr. Hasan is attempting to raise?

7 VICE CHAIR JOHN: I'm sorry?

8 MR. HASAN: Yes, I'm sorry, Madam Chair, for the many
9 questions. I just wanted to understand and make sure that there
10 wasn't a requirement from Mr. Moy or the other gentleman that
11 they're waiting on something from ANC 7D02. I'm not clear on
12 what they're looking for as it relates to the waiver. Are you
13 looking for a response from ANC 7D02? You mentioned that he
14 hadn't received anything yet from ANC 7D02, I wanted to clarify.

15 MR. MOY: Yeah, I can take that Madam Vice Chair. We
16 understand the situation, we understand, but with respect to the
17 number of days required for public notice, that still exists, and
18 I can't alter that despite how many filings I get from all the
19 parties. I still have that critical number of days to meet. But
20 I understand the crux of the argument. But that's the advice
21 I've been taken from counsel.

22 VICE CHAIR JOHN: Mr. Sullivan, you had a question.

23 MR. SULLIVAN: I think I might clear it up. The comment
24 on 7D02 was made by Mr. Rice and he used that as a reason why a
25 waiver couldn't be granted, so I think that's the source of the

1 confusion for the Chair.

2 VICE CHAIR JOHN: Mr. Miller, are you trying to speak?

3 COMMISSIONER MILLER: Yes, Madam Chair, very perceptive
4 of you. I just wanted to ask the applicant, just for the record,
5 since -- well, just for the record, if you could respond -- if
6 the applicant could respond to the Eastland Gardens Civic
7 Association point, briefly, in their letter dated February 4th,
8 Exhibit No. 30, point number 2 was: "The current design does
9 not appear to meet code due to the risk of a fire hazard." And
10 point number -- well, a lot of the other points are dealing with
11 the out of character and size, but point number 7, specifically,
12 says: "Fencing and/or sound deadening material would be
13 necessary to protect inhabitants from roadway noise and damage."
14 I assume on the fire issue that would be a permit issue, building
15 permit issues, but not really in our purview and a permit wouldn't
16 be a granted for a house that doesn't meet fire code requirements.
17 And the fencing to protect from noise and damage, I don't know
18 if that would be partly a code issue and partly a marketing issue.
19 You would need to have a house that isn't going to be damaged.

20 But if you could just, briefly, address that, the
21 applicant, Mr. Sullivan, or someone could address those two
22 points, just for the record.

23 MR. SULLIVAN: Sure. Thank you. You're right, on
24 number 2, it's a code issue and if that for whatever reason those
25 plans, which were provided by an engineer, so I'm assuming they're

1 correct, but if for some reason they didn't meet code, they would
2 have to be changed and they could be changed, any of the internal
3 floor plan can be changed by the zoning administrator,
4 regardless.

5 And, number 7, that could be a good point and it's
6 certainly something we'll forward along to the owner to consider
7 in the design. I mean, it is set back from that -- from the
8 front more than it needs to be, I assume, for that purpose. But
9 it is something to consider; it is close to the highway, yes.

10 COMMISSIONER MILLER: Thank you, I appreciate that.

11 VICE CHAIR JOHN: Okay. Thank you very much. So the
12 record will remain open as we discussed, and Mr. Moy will set a
13 date for deliberations and decision. Okay. Thank you very much.

14 So can we take a five-minute break and be back at 11:07.
15 Thank you very much.

16 (Whereupon, there was a five-minute recess and the
17 matter reconvened at approximately 11:10 a.m.)

18 VICE CHAIR JOHN: Mr. Moy, can you call the next case?

19 MR. MOY: Yes, thank you, Madam Chair. The Board is
20 back in its hearing session and the time is at or about 11:10
21 a.m. So the next case application before the Board is 20460 of
22 Emily and Wesley Raynor R-A-Y-N-O-R, captioned and advertised for
23 a special exception from the penthouse apartment, Subtitle C,
24 Section 1500.4, which would construct a new attached three-story
25 flat with basement and penthouse in the RF-1 Zone. This is at

1 premises 909 I Street Northeast, Square 933, Lot 28.

2 VICE CHAIR JOHN: Thank you very much. Mr. Moy, I see
3 the parties -- I'm sorry, Mr. Young, the applicants -- is the
4 applicant, Ms. Raynor?

5 MS. RAYNOR: Yes, hi. Oh, getting some feedback there.
6 Okay. Hi, I'm here, along with my husband Wesley and our
7 architect Ricardo.

8 VICE CHAIR JOHN: Okay. Thank you all very much. And
9 who's presenting today?

10 MS. RAYNOR: Yes, my husband and I will be presenting
11 a very quick introduction and then we'll be turning it over to
12 Ricardo for the technical part.

13 VICE CHAIR JOHN: Okay. Can you state your name and
14 address, for the record, please? And you may begin your testimony
15 and you have 15 minutes. Thank you.

16 MS. RAYNOR: My name is Emily Raynor. My address is
17 3107 14th Street Northeast. I'm going to be giving a brief
18 introduction, my husband and myself. We also have the next case
19 as well and our introduction for both cases is the same, so we
20 won't repeat it again. And Ricardo will be going over the
21 technical specifications for each case separately since they're
22 a little bit different.

23 I just wanted to -- my husband and I wanted to just
24 give a little bit of background as to why we're doing this project
25 and how we went about it. I wanted to let everybody know that

1 we've gone through a quite lengthy process of working with the
2 neighbors, the ANC, kind of all of our people within our circle
3 here to get this project off the ground and hopefully get your
4 approval today.

5 We worked carefully with all of the neighbors and we
6 have gotten seven letters of support, which we've uploaded into
7 our case files. They're from all of our adjoining neighbors, the
8 ones on I Street, as well as the ones on 10th Street that would
9 back up to the back of this property.

10 We have not gotten opposition from any of the
11 neighbors. We've gone through, you know, air and light studies,
12 we've talked through any concerns that they had and we're, you
13 know, happy and proud that we've gotten everybody's support.

14 One of the reasons we're doing this project is that
15 three-bedroom units are in very short supply in D.C. We've been
16 landlords for quite awhile and also pulled some data, which is
17 uploaded into our case files and I would just like to highlight
18 that.

19 There are about 127 one-bedroom units to every three-
20 bedroom unit in the city when we did our research. And there
21 are approximately 75 two-bedroom units to every one three-bedroom
22 unit. So there's an inherent shortage of three-bedroom units.
23 And our project would help increase the supply, hopefully, if we
24 can get our project approved.

25 And I'd also like to turn it over to my husband, Wesley,

1 for a little bit more background as well.

2 MR. RAYNOR: Hello everyone. My name is Wesley Raynor,
3 currently residing at 3107 14th Street Northeast. Thanks for the
4 opportunity to speak here today.

5 My wife and I have been married for 16 years. 911 I
6 Street was our starter house. We bought 909, which is the one
7 we're talking about now directly from our neighbor. And we share
8 a lot of values, we have our love of family and we have our love
9 of community. We're not big developers, we're involved in the
10 community and have a lot of friends on the block. We have spent
11 time there, we have, you know, helped neighbors, even though we
12 live in a different part of the city now, we still go back to I
13 Street quite often.

14 We've been living in the District for the past 20 years.
15 We bought 911 in 2002. Eventually, when we retire, we want to
16 live in one of those properties, we want to live in one of the
17 units that we're going to talk about today. We'd like to have
18 the space for -- in the three-bedrooms for our daughter to visit
19 when she gets much, much older and if, you know, God willing, we
20 have grandchildren.

21 So it's very fitting for us that I Street will be the
22 start and eventually the finish of where we end up being. So
23 this project has a lot of personal importance to us. And I'll
24 introduce -- I'll turn it over to Ricardo. Thank you.

25 MR. HENDI: Hello. Hi everybody.

1 VICE CHAIR JOHN: I'm hearing someone's mic.

2 MR. HENDI: Yeah. I'm here, Ricardo, the architect.

3 VICE CHAIR JOHN: Thank you, Mr. Hendi. Could you go
4 ahead and state your name and address, for the record, please?

5 MR. HENDI: Yes. My name is Ricardo Hendi, I'm the
6 architect for the project and the address where I live is 116
7 East Rosemont Avenue, Alexandria, Virginia.

8 VICE CHAIR JOHN: Thank you very much. And can you
9 tell us how this project meets the criteria for relief under the
10 regulations?

11 MR. HENDI: The -- what we're asking is for the
12 penthouse relief requirements. We have worked with the BZA
13 reviewers extensively in order to make sure that we comply with
14 all of the prerequisites that are stated on the special exception,
15 the list of requirements, and make sure that we meet them all.

16 We have the setbacks. We complied with the setbacks.
17 We complied with the overhang of the penthouse and for -- as you
18 know, maybe not everybody knows that is listening, we have two
19 cases today. We have 909, which is the one that we're describing
20 know and the neighboring property immediately attached to it is
21 911, which is coming up on the next one, the next set of project
22 reviews for BZA. So both properties are, basically, mirror of
23 each other.

24 And for 909, which is the closest one to the corner,
25 those are the two special exceptions that I believe we're pursuing

1 today and -- which is a little bit different than 911, that is
2 coming down, there's an extra special exception we're pursuing
3 for 911.

4 So we maintain all the heights and the setbacks for the
5 penthouse relief, we're complying with all of those requirements.

6 I'm not sure if I can bring up a drawing if I share my
7 screen, or if you can put it up on your end, but I could bring
8 up a drawing and show you what I'm talking about.

9 VICE CHAIR JOHN: Sure. Can you tell Mr. Moy what
10 exhibit and what slide?

11 MR. HENDI: The latest revised drawings. I don't have
12 a list of exhibits in front of me to point out to you exactly
13 which one.

14 VICE CHAIR JOHN: I think -- just give us a second.

15 MR. HENDI: Sure.

16 VICE CHAIR JOHN: Does anyone on the Board have the
17 latest list of exhibits? I can't pull up the exhibits myself.

18 MR. HENDI: If you give me a moment, I'll try to get
19 in.

20 COMMISSIONER SMITH: Mr. Young, can you assist him with
21 that?

22 MR. YOUNG: Yeah, I need to know which exhibit it is,
23 because I didn't get anything in an email.

24 MR. HENDI: It's architectural plans and elevations,
25 that's the case documents. I'm at the zoning website right now.

1 MR. YOUNG: Is it 2?

2 MR. HENDI: It is exhibit number 2, yeah. I believe
3 that's it. Yes. There we go. So if we go to page -- if you
4 can forward to page -- I'm going to jump a little bit ahead here
5 in order to maintain the time. But that's a front view of the
6 proposed development.

7 If you can jump to page 22, which is A-125. That's the
8 roof showing the proposed penthouse. It's the one that has, you
9 know, the crosshatch in light blue. And in order to illustrate
10 that the setbacks are maintained and all of that, if you can turn
11 to page 26, it shows a cross section. On the left hand side of
12 the screen you can see the angles that we have from the penthouse.
13 Those dash lines and how we complied with the one-to-one setback
14 on the side and with the overhangs.

15 And if we go to page 27, A-130, we have a longitudinal
16 section which also shows compliance with the one- to-one setback
17 from the side. There's a dash line and there's a 45-degree angle
18 showing.

19 And that's -- I mean, I can stop right now if we want
20 to keep it short and sweet, and if you have any questions, I'd
21 be more than happy to answer, of course.

22 VICE CHAIR JOHN: So, Mr. Hendi if you could talk about
23 the solar panels as well?

24 MR. HENDI: Oh, so on that -- on this longitudinal
25 section, the solar panels are placed on the right hand side up

1 on the top where there's a little bit of an angled roof. So the
2 idea there was to incorporate the solar panels on top of this
3 angled roof, which is facing due south and they are within the
4 45-degree one-to-one setback compliance. And, basically, the
5 angle of the roof, we're trying to not go higher than the parapet
6 height. If you see there's -- if you zoom into the roof deck,
7 there's a little person standing there, so that -- anyhow, that's
8 the idea to make sure that the roof panels are not seen from
9 either the -- if you're standing on the roof terrace, you don't
10 see them and if you are in the alley, because of the angle of
11 viewing and all of that, they also kind of discreetly placed.
12 And we've killed two birds with one stone the way they are placed.

13 And if you want to go and see them on plan, if we can
14 go back to, I believe it's page 22, there. So the solar panels
15 are on the -- they're shown there, they're actually labeled solar
16 panels and they're shown with a black crosshatch, that's where
17 they will be placed.

18 VICE CHAIR JOHN: If you could explain why those panels
19 have to be placed at the edge of the roof, which is the
20 requirement. You are not allowed to place them at the edge of
21 the roof, so can you explain why they could not be extended (audio
22 interference).

23 MR. HENDI: Well, at first, we had them on top of the
24 penthouse roof and there was a comment that if, you know, they
25 were -- they were seen on the top of the penthouse roof at an

1 | angle. And even though they complied with the setbacks and all
2 | of that they weren't --

3 | VICE CHAIR JOHN: (Audio interference.)

4 | MR. HENDI: Yeah, they weren't -- BZA asked us to remove
5 | them from there and put them elsewhere. The idea of the roof
6 | terrace is to have the top apartment -- and by the way, the way
7 | the house is developed or we're proposing to develop is to have
8 | a basement on the ground floor as one apartment flat and then
9 | the second and the third floor, the second apartment flat with
10 | access to the terrace. So the top, the apartment, would have -
11 | - their outdoor area would be the roof terrace.

12 | And the reason why we put it in the location that is
13 | being proposed is because the roof terrace is already quite
14 | compressed and, you know, we don't have that much room. So if
15 | we start placing the solar panels on the roof terrace itself, it
16 | kind of defeats the purpose of giving the top apartment an outdoor
17 | area for them to, you know, have their kids be playing and stuff
18 | like that.

19 | So that seems to be the most practical location in
20 | order to maintain maximum availability of the roof -- of the
21 | already small roof terrace. And we angled it in a way that is
22 | the least conspicuous from every possible angle.

23 | MS. RAYNOR: I would just like to add that that was in
24 | consultation and at the request of the EDZ and the ANC, so that's
25 | not where we had it originally, that's what they wanted us to

1 do, so we were cooperating.

2 VICE CHAIR JOHN: Okay. Thank you. Any questions from
3 the Board?

4 BOARD MEMBER SMITH: I have a question. So the (audio
5 interference), they do show that there would be some significant
6 impacts to the properties at 829, 827, 825 9th Street. Have you
7 received letters of support from those particular residents along
8 that side property line there?

9 MS. RAYNOR: Yes, I can take that question, since I was
10 the (audio interference). So 829 and 827 are in full support of
11 our project. We do have letters uploaded in the file from them
12 and we've worked most closely with those --

13 BOARD MEMBER SMITH: (Audio interference).

14 MS. RAYNOR: To be honest, 27 -- can you guys hear me?

15 BOARD MEMBER SMITH: There's a lot of feedback, sorry.

16 VICE CHAIR JOHN: Mr. Hendi, could you mute, please?

17 MR. HENDI: -- mute.

18 MS. RAYNOR: Can you hear me?

19 VICE CHAIR JOHN: We can, but Mr. Hendi, can you mute
20 your mic, please?

21 MR. HENDI: Oh, mute it. Sorry about --

22 MS. RAYNOR: Can you guys hear me?

23 VICE CHAIR JOHN: There's an echo on our end.

24 MS. RAYNOR: Okay. What I was saying is that 827 and
25 829 were two of our biggest supporters. Those are our neighbors

1 on 10th Street. There are letters uploaded in support from both
2 of them. We have worked with them extensively so far sharing
3 the sun study, answering questions. They've been fantastic
4 neighbors. 827 is actually envisioning doing something like that
5 themselves at some point in time, so they're super supportive.
6 825, that's the third neighbor that you're asking about. We have
7 attempted to contact them six times, by email, Certified Mail and
8 through their tenants. They have never responded either positive
9 or negatively.

10 We have spoken to their tenant on numerous occasions
11 was in support of the project but, obviously, couldn't sign
12 anything, you know, saying they were in support. But these are
13 landlords. They live in Michigan, if I believe correctly, and
14 we sent Certified Mail and regular mail and emails and messages
15 through the tenant, messages through the property management
16 company, they just haven't responded. So we just have to imagine
17 that they're not that interested one way or the other.

18 I think those were the three addresses you asked about,
19 correct?

20 BOARD MEMBER SMITH: Yes, that's correct.

21 MS. RAYNOR: Can't hear you, by the way. Hello?

22 BOARD MEMBER SMITH: That's correct. Can you hear me
23 now?

24 MS. RAYNOR: Not hearing you.

25 VICE CHAIR JOHN: You're muted, Mr. Smith.

1 MS. RAYNOR: Got it.

2 BOARD MEMBER SMITH: Can you hear me now?

3 MS. RAYNOR: Yes. Sorry.

4 BOARD MEMBER SMITH: Okay. Those were the property
5 owners. Thank you.

6 MS. RAYNOR: No problem.

7 VICE CHAIR JOHN: And did you -- I guess we should ask
8 the architect, in terms of the sun studies, did you have any
9 comments from that in terms of the impact on the neighbors?

10 MR. HENDI: Yes. We had two neighbors inquire about
11 the sun studies and we did --

12 MS. RAYNOR: Same ones.

13 MR. HENDI: -- and they want -- there was another one
14 at the other corner, you know.

15 MS. RAYNOR: 827 and 829, those are the same ones we
16 have full letters of support from.

17 MR. HENDI: Okay. Sorry. And we, basically, responded
18 to them to -- we helped them understand what we were doing. They
19 understood the impact of the shadows and they were still in
20 support.

21 MS. RAYNOR: Because the shadows are minimal.

22 MR. HENDI: Yeah.

23 VICE CHAIR JOHN: Okay. Thank you.

24 BOARD MEMBER SMITH: So, I have one follow-up question.
25 So the sun studies show the impact of the penthouse, do you have

1 any information that will show the impact without the penthouse?
2 Is there a noticeable difference? (Audio interference) that
3 they're going up a third level on top of the existing rowhomes.
4 So is there a difference between a third level without that
5 penthouse and with the penthouse?

6 MR. HENDI: I don't have that specific study. The one
7 that I have on the study is on the very last page, page 138. And
8 I'm showing -- you know, they asked us to do an extra study and
9 that's the one. And you can see the existing conditions without
10 the extra story and then -- I don't know if it's up on screen.

11 BOARD MEMBER SMITH: I don't (audio interference).

12 VICE CHAIR JOHN: Yeah, I can see it. I can see it.

13 MR. HENDI: So you see in summer and you can see that
14 the wintertime existing up on top and then down below the proposed
15 extra story plus the penthouse. And then on the right hand side,
16 we can see the summer study with the existing up on the top and
17 down below we have the extra story plus the penthouse.

18 And I have it shown at 4 p.m., 5 p.m. winter and 6
19 p.m., 7 p.m. and 8 p.m. summertime. The shadows in the morning
20 going -- yeah, they go into the street, because we're due south,
21 the morning shadows spill onto the street. And I believe I have
22 that shown on A-137, the proposed sun study 1. If you go to the
23 summer and winter studies on the right hand side, you see the
24 morning shadows are, basically, out on the street. There is no
25 impact in the morning sun. Those are the studies we have.

1 BOARD MEMBER SMITH: Okay. It looks like -- thank you.
2 That's all I have.

3 VICE CHAIR JOHN: Mr. -- Commissioner Miller, do you
4 have a question?

5 COMMISSIONER MILLER: I just wanted to applaud the
6 applicant for designing two three-bedroom houses.

7 VICE CHAIR JOHN: Okay. Thank you. I'll go to the
8 Office of Planning. Mr. Mordfin?

9 MR. MORDFIN: Yes.

10 VICE CHAIR JOHN: Thank you. Can you introduce
11 yourself, please?

12 MR. MORDFIN: Yeah, I'm trying -- okay, yeah, the video
13 started. Yes, good morning. I'm Stephen Mordfin with the Office
14 of Planning and the Office of Planning is in support of this
15 application.

16 We do find that is it in conformance with the provisions
17 of the zoning regulations for the solar panels and also for the
18 penthouse and therefore, we recommend approval, and I'm available
19 for questions.

20 VICE CHAIR JOHN: Thank you, Mr. Mordfin. Did you want
21 to comment on how the penthouse meets the one-to-one setback
22 requirements and the solar panels issue?

23 MR. MORDFIN: Yeah, the penthouse -- I did submit a
24 copy of the drawings to the Zoning Administrator while reviewing
25 this to get his opinion on whether or not the redesign of the

1 penthouses were in conformance and the email that I received back
2 from the Zoning Administrator stated that he did find that the
3 design is in conformance so therefore, we found that to be
4 acceptable.

5 As for the solar panels, one of the criteria does speak
6 about, you know, a better design and we find that placing it on
7 the rear of the roof does result in a better design. It does
8 allow the roof to be used by the residents for outdoor space.
9 Additionally, because the back roof is sloped and the solar panels
10 are sloped the same way, we find that what this does is it
11 minimizes the appearance of those panels because they blend more
12 easily into the roof as opposed to looking like a structure on
13 the top of the roof. So therefore, we find that -- I can go
14 through all the criteria. We find that this is a better design
15 by bringing it this way rather than the other way.

16 Let's see, what else? There's also -- and it makes it
17 less visible, it's visually less intrusive because it does match
18 up with the sloped roof at the back. Operating difficulties, this
19 will help better -- the solar panels to operate better because
20 this is the south side of the building, it will be angled towards
21 the south, so this will maximize the efficiency of these panels
22 to get the most benefit out of them.

23 So therefore, we find that this is in conformance with
24 the criteria necessary for the construction of the penthouse --
25 I mean, for the solar panels. And if you have any questions

1 about that, please ask.

2 VICE CHAIR JOHN: Thank you. Are there any questions
3 from the Board for the Office of Planning?

4 (Negative head shake.)

5 Are there any questions from the applicant for the
6 Office of Planning.

7 MS. RAYNOR: No, thank you.

8 VICE CHAIR JOHN: Thank you, Mr. Mordfin.

9 Is the ANC here? Mr. Young, do you know if there's
10 anyone from the ANC? I believe that is --

11 COMMISSIONER MILLER: 6A

12 VICE CHAIR JOHN: 6A. Thank you very much.

13 MR. YOUNG: We do not.

14 VICE CHAIR JOHN: Let me ask the applicant, did you
15 testify that you received support from the ANC?

16 MS. RAYNOR: Yes. And the letter is uploaded in the
17 case file.

18 VICE CHAIR JOHN: Okay. Thank you very much.

19 MS. RAYNOR: It was actually unanimous support from
20 them, just for the record.

21 VICE CHAIR JOHN: Okay. Thank you very much. So, are
22 there any witnesses, Mr. Young?

23 MR. YOUNG: There is not.

24 VICE CHAIR JOHN: Okay. So do you have any closing
25 arguments -- I'm asking the applicant, Mr. or Mrs. Raynor.

1 MS. RAYNOR: Raynor.

2 VICE CHAIR JOHN: Thank you.

3 MS. RAYNOR: No, we don't have any closing arguments,
4 we just appreciate your time and looking forward to getting your
5 support, hopefully.

6 VICE CHAIR JOHN: Thank you. And Mr. Hendi, did you
7 have any closing comments?

8 MR. HENDI: No. No, I don't. Thank you very much,
9 Madam Chair.

10 VICE CHAIR JOHN: Thank you. Mr. Moy, did I forget
11 anything?

12 MR. MOY: I believe you've covered the procedural
13 steps, Madam Vice Chair.

14 VICE CHAIR JOHN: So as we stated earlier,
15 unfortunately, we're not able to deliberate and decide on this
16 case today because of a defect in the notice requirement that
17 affects notice to the ANC. And it's not a requirement that the
18 Board can waive on its own. And, so unfortunately, Mr. Moy will
19 have to contact you at a later date with the next date and time
20 for a continued hearing and that's just to comply with the statute
21 and to allow any parties who did not -- all the witnesses who
22 did not have a chance to respond, to do so.

23 So we hope to do this as expeditiously as possible, and
24 Mr. Moy will be in touch.

25 And thank you for the redesign and for staying true to

1 building a larger -- larger units. So, thank you. So thank you,
2 Mr. Moy.

3 So I guess we should just stay where we all are and
4 move to the next case, which is, Mr. Moy, I believe, 20369.

5 MR. MOY: Yes, thank you, Madam Vice Chair. So, again,
6 this is Case Application No. 20369 of Emily and Wesley Raynor,
7 captioned and advertised for special exceptions under Subtitle
8 C, Section 1500.4 from the penthouse requirements of Subtitle C,
9 Section 1500 and then under Subtitle E, Sections 205.5 and 5201
10 from the rear addition requirements, Subtitle E, Section 205.4,
11 this would construct a new attached three-story flat with a
12 penthouse in the RF-1 Zone at premises 911 I Street Northeast,
13 Square 933, Lot 29 and -- yes, that's it.

14 VICE CHAIR JOHN: So, thank you. If the parties could
15 introduce themselves, please, starting first with the Raynors,
16 name and address. Sorry, we have to do this all over again to
17 keep the record clean.

18 MS. RAYNOR: Emily Raynor, 3107 14th Street Northeast.

19 MR. RAYNOR: My name is Wesley Raynor, 3107 14th Street
20 Northeast.

21 VICE CHAIR JOHN: Thank you.

22 MS. RAYNOR: Our introduction is literally the same,
23 so I won't go through it again.

24 VICE CHAIR JOHN: Okay.

25 MS. RAYNOR: I just wanted to note that originally this

1 | was put in as one application and we had to break it into two
2 | applications. So everything we just presented remains the same
3 | for this application as well, with the exception of one additional
4 | criterion, which our architect Ricardo will talk about. But all
5 | of the questions you've already asked, all of the letters of
6 | support, all of the ANC support, it is exactly the same, so we
7 | won't bore you with the details for a second time.

8 | VICE CHAIR JOHN: Thank you for that, Ms. Raynor. So
9 | Mr. Hendi, can you focus then your presentation on the need for
10 | relief for the -- it's -- for the addition which is more than 10
11 | feet beyond what's allowed.

12 | MR. HENDI: Yeah, so as you can see from the drawings,
13 | it's a mirrored project, exactly the same. On 909, the one that
14 | we just discussed previously, the extra 10 feet exception doesn't
15 | apply because we are -- the corner units are a right angle, don't
16 | apply to that exception.

17 | And on this property, which is 911, right beside it,
18 | we're already proposing to go the full length. So 909, the one
19 | that we discussed previously, gets the benefit of us having going
20 | back on 911, on the property that we're discussing now. So on
21 | 909 we don't need the exception of the extra 9 feet, I think,
22 | we're going. For 911, the one that we're discussing now, we have
23 | to go for this special extension on extending to the maximum that
24 | we're allowed past the by-right 10 feet -- we're okay with 10
25 | feet extension past the neighbor's wall, but now we're requesting

1 to go an extra 9 feet, I believe, to the maximum 60 percent
2 occupancy for the property. And in this case, we're requesting
3 it so that we can match and mirror both properties exactly the
4 same way for the same similar arguments. Those extra 9 feet are
5 critical for us obtaining the extra third bedroom that we want
6 to achieve.

7 If you look at the drawings, if you want to bring them
8 up, look at -- let's see, let me find the page on my own -- if
9 you can go to page A-123 -- sorry, it's page -- number 20, I
10 believe, of the set. There you go.

11 So you can see that the very last bedroom on the left
12 hand side will be a junior bedroom. It's actually -- it's labeled
13 there as the extra nine feet that we want to achieve. And
14 basically, that's the reason why we want to, respectfully,
15 request this special exception.

16 VICE CHAIR JOHN: Thank you. Can you talk about the
17 shadow studies -- (audio interference) somebody needs to be
18 muted. Go ahead, Mr. Hendi.

19 MR. HENDI: Yeah, the shadows -- the sun shadow studies
20 are the exact same of what I presented a few minutes ago.
21 Everybody received them, all of the neighbors obtained the shadow
22 studies with the extra 10 feet (audio interference) on 911. For
23 the most part, everybody was in support of it. Everybody was in
24 support of it.

25 We did receive extra requests for extra studies, which

1 we showed them, they're in the set. There's two sun studies at
2 the end, I think. I neglected to mention that before, because
3 they wanted a little bit more info, and everybody is in support.

4 VICE CHAIR JOHN: Well, it's good that you have (audio
5 interference), but I think you maybe still have to show (audio
6 interference) that neighbor to the south, I believe it is.

7 MR. HENDI: Absolutely. Sure.

8 VICE CHAIR JOHN: Mr. Hendi, let me rephrase that. If
9 there's impact, why isn't it (audio interference).

10 MR. HENDI: Well, the impact on the -- what is it --
11 well, there is an impact. If you go to page 30, A-137 or rather
12 the last one, A-138, page 31, there. On the bottom drawings
13 where we're showing the proposed penthouse and the third floor,
14 the extra third floor and compare it with the existing drawings
15 up on top for the summer and the winter shadows with and without
16 the third floor. We have the -- by right we can go three stories
17 up and we can go 10 feet back. So the extra -- we're talking
18 about the extra 9 feet for the sun impact, right? The rest of
19 the shadows are -- we can have them by right, per se.

20 So the extra 9 feet of length of shadows in comparison
21 with the rest of the volume that we're achieving, if you already
22 take into account that 909 already goes the extra 9 feet, in the
23 summer -- in the afternoon shadows, which are the ones that impact
24 the neighbors the most, that would be the one that is being casted
25 and we're okay with it. So this one, basically, in fills to

1 match 909 and therefore, the extra amount of shadows that we are
2 casting are negligible and they're not -- you know, they're not
3 a lot more than what we already can have by right.

4 VICE CHAIR JOHN: Okay. Do you -- does the applicant
5 have anything else to add before I go to the Office of Planning?

6 MS. RAYNOR: I actually do -- sorry, have one more
7 thing to say. Sorry, about that. I have one more thing to say
8 which I did not mention. So in this one, we're having to ask
9 for the exception to build back farther with the extra 9 feet.
10 I just wanted to advise everybody that our immediate neighbor
11 which would be to the left of 911, which is 913, Nicholas, he's
12 in full support of our project, he has no problems with us
13 extending back farther, there's a letter of support uploaded in
14 the file. He's also envisioning doing something like this coming
15 up. He's been a neighbor of our since we bought that house in
16 2002. He was a young boy and we've grown up -- you know, he grew
17 up next to us and he's now the owner of the house and he's in
18 full support of it as well, so I just wanted to mention that.

19 VICE CHAIR JOHN: Thank you very much. So we'll go to
20 the Office of Planning next. Are you available, Mr. Mordfin?

21 MR. MORDFIN: Good morning. I'm Stephen Mordfin with
22 the Office of Planning. And the Office of Planning is also in
23 support of this application similar to the last one. This one
24 does have one additional area of relief and that is for the 10-
25 foot rule.

1 First, for the penthouses we do find that this one is
2 in conformance with the requirements and similar to the other
3 one. It was reviewed by the Zoning Administrator to make sure
4 that the revised drawings were in conformance and these were also
5 found to be in conformance.

6 As for the solar panels, again, we find them to be in
7 conformance with the requirement. It does result in a better
8 design just because of the slope of the roof at the back provides
9 for the slope of the solar panels without appearing to be a
10 structure on top of a roof, but more fitting into the design of
11 the house and therefore it makes it less intrusive.

12 So therefore, we find that this is a better solution
13 than to have not placed it at this location and put it on the
14 roof of the building.

15 As for the 10-foot rule, yes, this does go back more
16 than 10 feet from the adjoining property, but less than 10 feet
17 back is where the proposed rear part of the building goes back
18 is less than 10 feet where it's on the lot line and then it steps
19 back, approximately, 3-1/2 feet. The portion that has the
20 bedrooms has no windows facing into the adjoining property to the
21 east. On the other floor there is an enclosed porch, but we find
22 that even though it has screen that faces into that adjoining
23 property, it being set back 3-1/2 feet provides a layer of
24 protection for those residents of that property because it's not
25 right on the property line.

1 So therefore, we recommend approval of the applicant's
2 request to exceed the 10 foot -- at the rear of the building,
3 exceed 10 feet from the rear of the adjoining property.

4 So therefore, Office of Planning is in support of the
5 request for relief for this property also, and I'm available for
6 questions. Thank you.

7 VICE CHAIR JOHN: Thank you, Mr. Mordfin. Does the
8 Board have any questions? Mr. Smith? Board Member?

9 BOARD MEMBER SMITH: No questions.

10 VICE CHAIR JOHN: Thank you. Does the applicant have
11 any questions for the Office of Planning? Okay. Thank you very
12 much.

13 Is the ANC here? I don't see anyone signed up to
14 testify. Is that correct, Mr. Young?

15 MR. YOUNG: That's correct.

16 VICE CHAIR JOHN: Okay. So do we have any witnesses
17 in support?

18 MR. YOUNG: We do not.

19 VICE CHAIR JOHN: Any witnesses in opposition?

20 MR. YOUNG: We do not.

21 VICE CHAIR JOHN: Thank you very much. Do you have any
22 closing arguments, Mr. Hendi and/or Mr. and Mrs. Raynor?

23 MS. RAYNOR: Yes, I just wanted to note, again, the ANC
24 was in full support of our project, the letter is uploaded there.
25 It was also a unanimous decision. So I just wanted to note that

1 and also, my husband has one final question.

2 MR. RAYNOR: Madam Chair, you mentioned previously that
3 you can't deliberate today, and that Mr. Moy would probably get
4 back to us. What's a reasonable time frame that we should see
5 when that is?

6 MS. RAYNOR: When a decision would come.

7 VICE CHAIR JOHN: I believe Mr. Moy answered. We're
8 having this on a case-by-case basis, and I believe the timeline
9 is different for each case. So Mr. Moy is looking at all of the
10 cases today and he will be in touch with the parties to schedule
11 a continued hearing date; is that correct, Mr. Moy?

12 MR. MOY: Yeah, that's correct.

13 VICE CHAIR JOHN: All right.

14 MS. RAYNOR: I mean, we would come again to the hearing?
15 Just to make sure we understand what we need to do. We'll need
16 to come again, or it's just if somebody else wants to come and
17 say something and for you all to deliberate?

18 MR. MOY: My sense of it at the moment, Madam Chair,
19 is that it would be a continued hearing so that the applicant
20 would need to appear. But, quite obviously, we've heard most of
21 the present -- all of the presentation and most of the testimony.
22 So I envision it would be very quick.

23 MR. RAYNOR: And Mr. Moy, it's not that you have a
24 decision for one property versus the other? Both of them --
25 you'll just let us know both of them at the same time; is that

1 correct?

2 MR. MOY: Oh, absolutely. Yeah, I'll be back in touch
3 either later today or definitely by tomorrow.

4 MR. RAYNOR: Thank you.

5 MS. RAYNOR: Okay. Thank you.

6 VICE CHAIR JOHN: Okay. Thank you. So as discussed,
7 we will leave the record open and schedule this case for a
8 continued hearing at a time to be determined by Mr. Moy, who will
9 advise the parties of the date and time. Thank you. Mr. Young,
10 can you excuse everybody else.

11 So, I have a question for the Board. It is 11:55,
12 would you like to break for lunch now or try one more case? I
13 believe we have three cases left, Mr. Moy? So what's everyone's
14 preference? Take a lunch break now until 12:40 or try to do one
15 more case? I'm open.

16 BOARD MEMBER SMITH: Let me take a look at the cases.
17 I say, let's do one more case?

18 VICE CHAIR JOHN: Are you okay, Commissioner Miller?

19 COMMISSIONER MILLER: Yes.

20 VICE CHAIR JOHN: Okay. All right, Mr. Moy, let's call
21 the next case, which, I believe, is 20423.

22 MR. MOY: Yes, thank you. So this case before the
23 Board is Application No. 20423 of Philip J. Cross, captioned and
24 advertised for a special exception under the residential
25 conversion requirements, Subtitle U, Section 320.2, and from the

1 court requirements of Subtitle E, Section 203.1, and the rear
2 yard requirements Subtitle E, Section 205.4. This would
3 construct a two-story rear addition to an existing attached two-
4 story principal dwelling unit and to convert the principal
5 dwelling unit to a three-unit apartment house in the RF-1 Zone.
6 This is at premises 1219 Kenyon Street Northwest, Square 2844,
7 Lot 118. And -- that's all I have.

8 VICE CHAIR JOHN: Okay. Thank you, Mr. Moy. Are the
9 applicants -- I see Mr. Sullivan and Mr. Cross. Mr. Sullivan,
10 can you introduce yourself and let us know who else is with you?

11 MR. SULLIVAN: Yes. Thank you, Madam Chair, and Members
12 of the Board. Marty Sullivan with Sullivan and Barros on behalf
13 of the applicant. With me is the applicant, Philip Cross, and
14 the architect, Shawn Buehler.

15 VICE CHAIR JOHN: Okay. So I'm going to put 15 minutes
16 on the clock, and can you tell us about your project?

17 MR. SULLIVAN: Thank you. Mr. Young, if you could
18 please load the PowerPoint? It's 1219 Kenyon Street Northwest.
19 And if you could go to the next slide, please? This is the RF-
20 1 Zone. It's an existing three-story single-family row and
21 proposing to construct a three-story rear addition and convert
22 to three residential units. Three areas of relief are required.
23 One is under U-320.2 for the conversion itself. We're asking for
24 court relief so that we can provide a 5-foot- wide court in the
25 back on the addition, and then relief from the 10-foot rule.

1 So one thing I want to point out about these -- the
2 homes that you see here on this photo. The subject property is
3 the one to the right of these three homes. As you see it there,
4 it is currently three stories, and the properties to the west
5 have a third story addition. So the properties to the west have
6 four levels. Our building just has three levels but it's three
7 stories. Those additions to the west were constructed back when
8 it was possible to manipulate or to -- how do I say it -- prior
9 to a change in the regulations which made it impossible for us
10 to put an extra story on our building, and we're two inches short
11 of the lower level not being a story. It is a story and so
12 therefore, the three-story addition might view as a two-story
13 addition compared to these other two buildings. Thank you. Next
14 slide, please.

15 We do have unanimous support of the ANC and the Office
16 of Planning support as well as DDOT and support provided from one
17 neighbor on the street and no opposition that we know of. Now,
18 I'll turn it over to Mr. Buehler to take you through the project.
19 Next slide, please.

20 MR. BUEHLER: Thank you, Marty. My name is Shawn
21 Buehler from Bennett Frank McCarthy Architects, the architect for
22 the project.

23 As Marty explained, it's a rear addition. This slide
24 is showing the rear of the two buildings immediately to our west,
25 which are deeper than our building is now. You can go to the

1 next slide, please.

2 So the floor plans here show the three floors of our
3 building and the roof. The first floor you'll see to the left.
4 The building on our west is deeper than our building presently
5 and so our addition is designed to be 10 feet beyond their
6 building.

7 And then the building on the right, which is to our
8 east is much shallower, and so what we've proposed to do is go
9 back 10 feet and then pull in to make a 5-foot court to mitigate
10 the depth of our building relative to theirs.

11 So there's a first floor, which is -- as Marty mentioned
12 before, an inch or two away from really being a cellar and then
13 a second and third floor which are existing and they all have
14 the same addition footprint, with then a modest deck on the back.
15 Next slide, please.

16 The existing and proposed front elevations look the
17 same in drawing form, there really is no change to the front
18 elevation. The only real change is there are some exterior
19 mounted HVAC units that are going to be removed as part of the
20 project. Next slide, please.

21 The existing and proposed rear elevation will
22 demonstrate that the height of the building really isn't
23 changing. Its highest point is at the front of the street, we're
24 just extruding backward. Next slide, please.

25 This is a simple section that basically demonstrates

1 the existing floors of the building and we're just pulling back
2 with one long low-sloping roof and then some deck space beyond.
3 Next slide, please.

4 Let me pass this to go to the shadow study. There's
5 one more slide, please. Next slide.

6 MR. SULLIVAN: Page 12.

7 MR. BUEHLER: Keep going. One more. There we go. So
8 here are our shadow studies that are drawn to hopefully illustrate
9 the limited impact of the addition. The reality is, because the
10 buildings to our west are much taller than ours and already deeper
11 than ours, the impact of shadows are fairly minimal. The three
12 different shading on this diagram I'm about to show, gray is the
13 building as it would be built by right, in the light gray and
14 then the -- I'm sorry, the light gray is the existing shadow,
15 the darker gray is the shadow that would be built by right, and
16 then the red is the shadow that's -- that's as a result of the
17 relief that we're seeking.

18 And so in most of the cases that shadow is either --
19 or you can see in the winter solstice that shadow -- the red
20 shadow is only shown in the alley of our neighbor -- behind our
21 neighbor to the west or on our own lot, it doesn't show up at
22 all in the neighbor to the east, and then in the summer solstice
23 there's a modest shadow but it's well behind their building and
24 not actually on their current structure. Marty, I can pass it
25 back to you.

1 MR. SULLIVAN: Thank you, Shawn. Mr. Young, if we
2 could go to slide 9? I'm going to take the Board through the
3 criteria for approval. The general criteria granting relief will
4 be in harmony with the general purpose and intent of the RF-1
5 Zone, the Regs and the maps. The Zoning Regs permit conversion
6 of the single-family dwelling to three units by way of special
7 exception. And the proposed building is within the height, lot
8 occupancy and rear yard requirements. And the purpose of
9 extending back with the addition is, it does go about a little
10 less than 26 feet beyond the rear wall of the building to the
11 east, just a little more than 10 feet beyond going to the west.
12 However, we've provided the 5-foot court on east side to mitigate
13 impact there.

14 And also, as mentioned, the light and air is already
15 greatly impacted by the large additions to our west. Granting
16 relief will not tend to affect adversely the use of neighboring
17 property accordance with the Zoning Regs and Zoning Maps. The
18 apartment use in contemplated in the zone and the property's
19 north/south orientation should help minimize undue adverse
20 impacts of the natural light of the abutting residencies. And,
21 as I mentioned, the open court as well provides some additional
22 space and air between this and the property to the east. Next
23 slide, please.

24 The specific criteria, the property is in existence as
25 a residence. The applicant is only proposing three units, so the

1 IZ requirement doesn't apply. And we have more than 2,700 square
2 feet of lot area, so we meet the minimum lot area requirement.
3 Next slide, please.

4 Special exception conditions for the court -- light and
5 air. The applicant's design intends to minimize the shadow
6 impacts by providing a 5-foot-wide open court. No court was
7 required, of course, but we are providing this for that purpose,
8 so there's certainly no impact from the court itself from light
9 and air, it's a benefit. And the new windows will face the rear
10 yards as it currently exists and the windows facing east are set
11 back because of the court, so we don't believe there's any impact
12 on privacy. And the proposed addition or accessory structure
13 together with the original building as viewed from the street,
14 valley or public way does not substantially visually intrude upon
15 the character, scale, and pattern. There's no changes to the
16 front of the building in the rear, as you can see, will be much
17 lower than buildings to the west because we are limited by the
18 current configuration of the building and cannot add a story.
19 And I believe that's it, so if the Board has any questions --
20 also the owner is with us. We don't have any testimony from him,
21 but he's available to answer questions. Mr. Cross has owned the
22 property for many years and has decided to redevelop the property
23 now. And if you have any questions for him, he's here as well.
24 Thank you.

25 VICE CHAIR JOHN: So, Mr. Sullivan, a couple questions.

1 The first is, what is the impact of the balconies in terms of
2 privacy -- not so much light and air? If you could address that
3 and -- oh, outreach to the neighbors and the ANC.

4 MR. SULLIVAN: Sure. On the balconies -- and I'd like
5 to turn it over to Mr. Buehler to respond to this, but there are
6 large balconies extending out on the two properties to the west.
7 In regard to the property to the east, I believe the balconies
8 will be past the point in which -- they'll be looking into the
9 far rear yard of that property and actually of the other property
10 as well. So I think just because of where they're positioned,
11 they wouldn't have an impact on privacy. And I'm sorry, the
12 second question, Madam Chair?

13 BOARD MEMBER SMITH: Outreach to the adjacent property
14 homes.

15 MR. SULLIVAN: Oh, okay. I'll turn it over to Mr.
16 Cross. As far as the ANC, they're in unanimous support at this
17 point. I don't see Commissioner Wray or Boese here, but they
18 like the project because there's no changes to front. They
19 appreciated the -- and they noticed in their report the length
20 of the addition for being more than 25 feet and said that they
21 were still okay with that. So, I'll turn it over to Phil to talk
22 about neighbors. Thanks.

23 MR. CROSS: Thanks, Marty and good afternoon Board
24 Members. So the adjacent property to the west is 1221 Kenyon,
25 which I know 10 years ago was converted into three condos, but I

1 don't really know any of three owners of those three condos. But
2 I did mail them all of my architect, Shawn Buehler's plans and
3 had a letter explaining exactly what I wanted to do. I have not
4 heard from any of those three neighbors.

5 The neighbor to my east at 1217 Kenyon Street, I've
6 known him, his name is Dr. Adeboye, and I've known him for the
7 17 years that I've owned this house and so, I have a good
8 neighborly relationship with him, and I have his email address.
9 So unlike my neighbors to the west, to communicate with one over
10 to the east, Dr. Adeboye, I was emailing him and so I emailed
11 him an explanation of what I would like to do and provided all
12 of my architect, Shawn Buehler's plans. Then we had a zoning
13 subcommittee meeting of the ANC and by the time we got to that
14 zoning subcommittee meeting, I had no response from any of those
15 four adjacent neighbors and so, as a result at that zoning
16 committee of the -- zoning subcommittee of the ANC, I was asked
17 to continue to try to reach out to my neighbor to the east at
18 1217 Kenyon, Dr. Adeboye. So I reached out to Dr. Adeboye again
19 after that meeting and then we went out to the full ANC meeting
20 and by the time we got to the full ANC meeting and, in fact, this
21 continues to today, I've had no response from any of my four
22 immediate neighbors.

23 And let me just add, my neighbor to the east, Dr.
24 Adeboye, I've had a good neighborly relationship with him for the
25 17 years that I've owned the house and he's the sort of guy that

1 | if he has an issue about my property being touching his property,
2 | he will definitely reach out and notify me and I've yet to hear
3 | from him about this particular proposal, or indeed, from my three
4 | neighbors to the west.

5 | MR. SULLIVAN: And Mr. Cross, he doesn't reside in the
6 | property, right?

7 | MR. CROSS: Oh, yes, that's a good point. So, Dr.
8 | Adeboye has owned that house since 1978, I believe, and for the
9 | 17 years that I have owned my house, since 2004, he's never lived
10 | there, he's been renting it to tenants.

11 | MR. SULLIVAN: I just -- I bring that up not to say
12 | that that makes him any less important, but just to explain that
13 | there hasn't been any personal interaction while Mr. Cross was
14 | there on the property and that's why he had to email him, because
15 | if he resided in the property, he would have just knocked on the
16 | door as well.

17 | BOARD MEMBER SMITH: I have one additional question.
18 | The third -- the top balcony that looks like it's going to be a
19 | rooftop deck of some form, is that taller than the balcony on
20 | the properties to the west? Is that higher up in height? If
21 | anybody can address that.

22 | MR. SULLIVAN: You want to take that Shaun? I can
23 | answer it just as well.

24 | MR. BUEHLER: That's an interesting question. I don't
25 | believe it is, because, again, the buildings to our west are

1 pretty much a story taller than we are, so -- and they have a
2 parapet that's set from the front height of the building all the
3 way to the rear and so I can't possibly imagine that we're above
4 that parapet. I don't have a drawing of ours with theirs, but
5 our roof deck is shown under the height -- or at the height of
6 our front parapet. And so when I look at the pictures of the
7 front of the building, our front parapet is nowhere close to the
8 height of theirs. So I believe we're still under them even with
9 the roof access.

10 BOARD MEMBER SMITH: Okay. Another quick question,
11 that rooftop deck, is that for a third unit, or is that a rooftop
12 deck for the unit -- the same unit that has the second- floor
13 balcony?

14 MR. BUEHLER: I believe that will be for the -- the
15 second-floor unit will use that balcony exclusively, I believe.
16 Our intention is not to make that a public deck, it's just for
17 the second-floor unit; is that true?

18 MR. CROSS: Yes, that's correct, Shawn. So the rooftop
19 deck is going to just be for the top condo.

20 MR. BUEHLER: I'm sorry, I referred to it as second
21 floor, because I'm thinking basement, first and second, but it's
22 the third floor in this nomenclature, yes. The third- floor unit
23 that owns that upper deck.

24 BOARD MEMBER SMITH: Okay. Who will also have a second-
25 floor balcony?

1 MR. BUEHLER: Yeah, I believe that balcony will
2 primarily be to get them out of their unit and up to the roof.
3 By the time we configure the stair, it will probably -- they'll
4 probably use that more, that balcony, than --

5 BOARD MEMBER SMITH: Got you. Okay. Thank you.

6 Ms. John, you're on mute, but I do have one additional
7 question for Mr. Buehler.

8 Was there some consideration to putting in a larger
9 deck off the second floor as opposed to that rooftop deck?

10 MR. BUEHLER: You know --

11 BOARD MEMBER SMITH: To address privacy concerns, being
12 that you haven't heard anything back from the adjacent property
13 owners. And it may be more of a question to Mr. Cross.

14 MR. BUEHLER: I don't know if you want to weigh in on
15 that or not. I mean, I can tell you we didn't debate that at
16 length. The roof deck, obviously, gives us a lot more square
17 footage than we're going to get behind the building and so that's
18 certainly preferable from that standpoint. But --

19 MR. CROSS: Yeah, I can jump in Shawn. I was thinking
20 it would be nice to have that rooftop deck to be private access
21 for the top condo and yeah, I didn't really think too much about
22 any privacy concerns that might arise from that rooftop deck,
23 again, because we are a story below these two places to the west.
24 So I kind of thought that would be a nice thing to have and I
25 didn't really think there would be much of an issue with it and

1 Marty Sullivan and Shawn, I don't think thought about potential
2 issues with that either. So, yes, we never really debated whether
3 or not that would be the best way to provide outdoor space to
4 that third condo.

5 BOARD MEMBER SMITH: Okay. Thank you.

6 VICE CHAIR JOHN: Thank you. Commissioner Miller?

7 COMMISSIONER MILLER: No questions, Madam Chair. Thank
8 you.

9 VICE CHAIR JOHN: Thank you. So I'll go to the Office
10 of Planning next.

11 MS. THOMAS: Good day, Madam Chair, Members of the
12 Board. Karen Thomas for the Office of Planning for Case No.
13 20423.

14 We have recommended approval of this application; we
15 are in support of this conversion. As the proposed addition and
16 its desired -- including the addition of the non-required court.
17 We feel that would minimize the adverse affects on light and air
18 to the property to the east. And we believe that the applicant
19 has satisfied all the requirements in terms of bulk and yards,
20 other yards, and we will rest on the record of our report and
21 I'd be happy to take any questions. Thank you.

22 VICE CHAIR JOHN: Thank you. Does the Board have any
23 questions? No.

24 (Negative head shake.)

25 VICE CHAIR JOHN: Ms. Thomas, did you address the

1 special exception of requirements of 901; if you did, just correct
2 me. But in terms of light and air and privacy, particularly from
3 the 25-foot addition. Hello, Ms. Thomas, you're muted. Ms.
4 Thomas?

5 MS. THOMAS: I'm sorry.

6 VICE CHAIR JOHN: Okay. Just talk briefly about 901
7 in terms of light and air and privacy.

8 MS. THOMAS: Okay. Well, with respect to the addition,
9 the 25-foot addition, we see that they -- the project includes a
10 25-foot rear addition projecting beyond the rear wall adjacent
11 property to the east and 10-feet beyond the rear wall to the
12 west. So the properties to the west that are already developed,
13 they're condo units, the three-story condo units, we think -- we
14 believe it has minimal impact because 10 feet is permitted as a
15 matter of right and it just goes 7 inches beyond -- 10 feet, 7
16 inches beyond the rear wall of the adjoining property to the
17 west.

18 To the east the applicant -- we believe that the
19 applicant has tried to minimize the effect on the light and air
20 to that property to the east by providing the 5-foot court. So
21 we have, as the applicant showed, in the light study, you would
22 see minimal impact of that addition going on to -- shadows going
23 on to the property to the east, not as obvious as one would
24 anticipate if it were lot line to lot line. It is an unrequired
25 court and the applicant made adjustments to provide that

1 courtyard and so we believe that the property's north side
2 orientation to help minimize and deal (audio interference) to the
3 natural light that abut the residence, we don't see much impact
4 to the property -- property to the west as I mentioned before.

5 And with respect to privacy and use of enjoyment, new
6 windows were placed -- as currently exist for many of the homes
7 -- the abutting homes and windows facing the east would be set
8 back 5 feet from that shared property line.

9 We don't believe that the rear addition of the small
10 balconies because if -- the balconies project from the bedrooms,
11 we don't anticipate that to be one where, you know, a lot of
12 guests would be -- if you have guests over, they would be coming
13 through your bedroom to be go onto those balconies. So we
14 anticipate those balconies to be used as private recreation,
15 sitting out in the evening or something like that. So we don't
16 anticipate adverse impact to the privacy of the other residences.

17 Also, you can notice that the property to the west is
18 treed and there is a heavy brick wall around the property to the
19 property line to the east and I don't anticipate this project is
20 going to be removing that brick wall. And with that, I will be
21 happy to take any additional questions.

22 BOARD MEMBER SMITH: I have an additional question.
23 Ms. Thomas, so on the question of E-5201.4, privacy, use and
24 enjoyment, you had stated that the rear balconies, because they
25 would be used for, you know, privately by the owners of those

1 units. I would, you know, estimate that that is true, that the
2 majority of balconies that we see would be used -- you know,
3 multiple cases that we've seen, would be used by the property
4 owners, but my question is, do you feel the same or is it OP's
5 position that they feel the same way about the third floor or
6 the roof deck, which is fairly large in size and could accommodate
7 more than the residents of that unit? And especially concerned
8 with the impact to the east, not the west. So could you speak
9 to those property owners to the east?

10 MS. THOMAS: To the east, if you're on top of that deck
11 you will most likely be looking over the roof of the property to
12 the east. You will be looking at the roof, given the height of
13 that deck. And typically that's what you see in a lot of
14 rowhomes. If you put a roof on top of the deck, it is higher
15 than the housing, you're basically looking at a roof.

16 The use of that -- unless you cover over that deck on
17 top, the use of that roof deck would be -- I don't want to make
18 any proclamations, but, typically, you use those decks in the
19 evening or at night when it is less hot. Those types of roof
20 decks are not used year-round. The heat coming off those types
21 of roofs is tremendous, and they don't get that much use like
22 during the daytime. It's more, again, for private recreation and
23 evening time use. And again, you'd be looking over at the roof
24 next door to the east. So I don't -- unless there's rooftop
25 windows, skylights, I don't see an impact, typically, any impact

1 | in terms of enjoyment of that neighboring property.

2 | BOARD MEMBER SMITH: So, just one additional question.
3 | Is that rooftop deck located within the rear addition that is
4 | proposed and not on the existing structure?

5 | MS. THOMAS: It seems to be a new addition. I can have
6 | the architect verify that. It seems to be a standard rear
7 | addition.

8 | BOARD MEMBER SMITH: If that is correct, if it's on the
9 | rear addition then it would be -- if I look to my east, I would
10 | be looking into the rear yards of the apartments to the east. So
11 | I'd like to get some additional clarification on that.

12 | MR. BUEHLER: The roof deck as shown right now within
13 | the area that would have been allowed by the 10-foot rule and so
14 | it doesn't extend beyond where the open court starts. And so
15 | the open court to us is kind of the area where the relief takes
16 | over, the area inside the 10-foot rule is kind of -- because we
17 | want the roof deck to be (audio interference) of the building,
18 | so it kind of serves everybody to put it there.

19 | BOARD MEMBER SMITH: Okay. Thank you. I just need to
20 | know if it was within that 10-foot rule. All right. Thank you.

21 | VICE CHAIR JOHN: Commissioner Miller, do you have any
22 | questions?

23 | COMMISSIONER MILLER: No, thank you, Madam Chair.

24 | VICE CHAIR JOHN: Thank you. Mr. Sullivan, do you have
25 | any questions for the office of planning?

1 MR. SULLIVAN: No, thank you, Madam Chair.

2 VICE CHAIR JOHN: So, Mr. Young, do we have -- is the
3 ANC here?

4 MR. YOUNG: No.

5 VICE CHAIR JOHN: Okay. Do we have any witnesses signed
6 up to testify?

7 MR. YOUNG: We do not.

8 VICE CHAIR JOHN: No opposition or in support. So,
9 this is normally where we would -- oh, I'm sorry, Mr. Sullivan,
10 do you have closing comments?

11 MR. SULLIVAN: No, not really. I just want to
12 acknowledge Board Member Smith's questions about privacy of the
13 upper deck and then if he has any other questions about that for
14 Mr. Buehler, I'm happy to answer that. I was glad to hear --
15 because I wasn't sure that's it's within the 10-foot rule, so
16 it's a matter of right portion of the structure itself. But I
17 understand the comments and if there's any other concern about
18 that.

19 BOARD MEMBER SMITH: Mr. Sullivan, I still have that
20 same concern. Mr. Buehler, could you illustrate to me on one of
21 the diagrams that it's within the 10-foot rule?

22 MR. BUEHLER: Sure.

23 BOARD MEMBER SMITH: Mr. Young, if you could pull up
24 the diagram?

25 MR. BUEHLER: Page 5.

1 MR. SULLIVAN: (Audio interference) did one too, Shawn,
2 on page 3 of the PowerPoint.

3 MR. BUEHLER: Five will show it better. There you go.
4 So the added roof plan, which is the drawing on the far right,
5 shows the roof deck. And you can see -- we show the line that's
6 representative of where the 10-foot rule would apply to the
7 neighbor and where the court starts, and we show that the roof
8 deck is entirely forward of that line.

9 BOARD MEMBER SMITH: One second, sir. It's hard to
10 read on that, let me pull up my diagram.

11 MR. BUEHLER: That's fine. I mean, conceptually you
12 can see that the roof deck is forward of where the open court
13 is, and the open court is starting 10 feet behind our neighbor
14 to the east.

15 BOARD MEMBER SMITH: Okay. Yeah, I can confirm it now.
16 Thanks for the clarification.

17 MR. BUEHLER: Sure.

18 BOARD MEMBER SMITH: And Mr. Sullivan, that was the
19 only question that I had, so if you want to continue.

20 MR. SULLIVAN: Thank you. I'm sorry, I don't have
21 anything further. Thank you.

22 VICE CHAIR JOHN: Okay. Thank you very much. So this
23 is normally where we would close the record, but as we've stated
24 earlier, we will leave the record open for the required amount
25 of time to confirm that we're meeting the statutory requirement

1 of the notice.

2 So, Mr. Moy will be in touch to schedule the continued
3 hearing on this project, and he will try to do so expeditiously.
4 Okay.

5 All right. Thank you all very much and Mr. Moy, you
6 can excuse all of the witnesses.

7 So, question for the Board, it is now 12:30, so my
8 suggestion is that we reconvene at 1:15; is that enough time?
9 Too much time? Let's try for 1:15, okay. Thank you, Mr. Moy.

10 MR. MOY: Thank you.

11 VICE CHAIR JOHN: Thank you.

12 (Whereupon, there was a lunch recess and the matter
13 reconvened at approximately 1:23 p.m.)

14 VICE CHAIR JOHN: Mr. Moy, can you read us back in and
15 let me clarify something, do you need, let's see, Mr. Rice for
16 this case? You're on mute, Mr. Moy.

17 MR. MOY: Ms. Cain is on this one.

18 VICE CHAIR JOHN: And how many cases do we have left,
19 three or two?

20 MR. MOY: Two. Two.

21 VICE CHAIR JOHN: Okay. Thank you. Please go ahead
22 and read us back in.

23 MR. MOY: Okay. So the Board of Zoning Adjustment is
24 back in session after a lunch recess and the time is at or about
25 1:23 p.m.

1 So the case before the Board is Application No. 20424
2 of Shaw 927, LLC and this application is captioned and advertised
3 for a special exception from -- with four areas of relief -- or
4 rather five.

5 Apartment house requirements, Subtitle U, Section
6 301.4; lot occupancy restrictions, Subtitle E, Section 304.1;
7 rear yard requirements, Subtitle E, Section 306.1; minimum court
8 dimensions, Subtitle E, Section 203.1; side yard requirements,
9 Subtitle E, Section 207.4, as well as area variance from the
10 access requirements, Subtitle C, Section 711.7. This would
11 construct a three-story rear addition to and to renovate an
12 existing non-conforming three-story four-unit residential
13 building with cellar in the RF-1 Zone and this is at premises
14 927 N Street Northwest, Square 367, Lot 13. The ANC-2F did file
15 a letter in support a couple days ago in a vote of 5 to 0. And
16 that's it for me, Madam Chair.

17 VICE CHAIR JOHN: Thank you, Mr. Moy. Mr. Young, could
18 you let the applicants in? I see -- I don't see anyone for the
19 applicants yet.

20 MR. SULLIVAN: Hi, Madam Chair. This is Marty Sullivan,
21 I'm here.

22 VICE CHAIR JOHN: Hi, Mr. Sullivan. Thank you. Who
23 do you have with you today and will they be testifying?

24 MR. SULLIVAN: Yeah, thanks. Marty Sullivan with
25 Sullivan and Barros on behalf of the applicant. With us is a

1 representative of the owner is, Daniel Schmitt and from the
2 architect team is James Foster and Adam Crain. I believe Mr.
3 Foster will be the principal presenter along with me, and I think
4 that's it for our team.

5 VICE CHAIR JOHN: Okay. Mr. Foster, can you state your
6 name and address for the record, please?

7 MR. FOSTER: Yes, my name is James Foster F-O-S-T-E-R
8 from Arcadia Design.

9 VICE CHAIR JOHN: Thank you. And Mr. Schmitt, can you
10 state your name and address for the record, please?

11 MR. SCHMITT: Yes, ma'am. Daniel Schmitt and I'm at
12 527 Wilkes Street in Alexandria, Virginia 22314.

13 VICE CHAIR JOHN: Thank you. And who am I missing? Is
14 that it, Mr. Sullivan?

15 MR. SULLIVAN: Mr. Crain may -- is going to be available
16 for questions as well.

17 MR. CRAIN: Adam Crain, architect of record for 2Plys.

18 VICE CHAIR JOHN: Okay. Thank you. Oh, what is your
19 address, please?

20 MR. CRAIN: 43414 Mount Castle Drive in South Riding,
21 Virginia 20152.

22 VICE CHAIR JOHN: Thank you very much. So, Mr.
23 Sullivan, you have 15 minutes and as you make your presentation
24 would you focus on the criteria for the variance. Thank you.

25 MR. SULLIVAN: Thank you, Madam Chair, and Members of

1 the Board. If Mr. Young could please provide the presentation?

2 Thank you.

3 This is 927 N Street Northwest and we're proposing an
4 addition, it's a rear addition that goes all the way to the alley
5 line and the Historic Naylor Court alley.

6 And to get right to it on the variance, and I'll get
7 into more detail about this, but the -- there's a center alley
8 line setback for the garage. It's separate from the regular --
9 from the alley lot centerline setback or the accessory building
10 centerline setback and we don't meet that requirement, and the
11 HPRB staff report recommended the approval of this three-story
12 addition in the back with the specific addition that it not be
13 setback from the alley edge. So it was a specific requirement
14 of HPRB, that the building be placed right on the alley edge,
15 which prevents us from meeting that setback requirement. Next
16 slide, please.

17 This is the RF-1 Zone. This is an existing four-unit
18 building, has been four units since before 1958, proposing a rear
19 addition and we do have a letter in support from a neighbor to
20 the rear and we have unanimous ANC report. There is a relief to
21 include lot occupancy special exception, rear yard, side yard and
22 court special exception. And the special exception from the
23 prohibition against doing any physical expansion to a previously
24 converted building.

25 And as discussed, variance relief is requested from the

1 alley centerline setback. We have 10 feet, and the requirement
2 is 12 feet. Next slide, please. And I'll turn it over to Mr.
3 Foster to run through the project and the plans. Thank you.

4 MR. FOSTER: Okay. Thank you, Marty. Jim Foster
5 speaking. These pictures show the front of the building along N
6 Street. It's shorter than the two buildings on either side. The
7 building to the left is, I believe, a six-story apartment building
8 that occupies almost 100 percent of its lot. The building to
9 the right is also taller and it also occupies almost 100 percent
10 of its lot. So there are no rear yards abutting the rear of our
11 building. The pictures at the bottom show you the setback from
12 the alley to the existing building in the center in the photograph
13 to the left. And then in the two photographs to the right, you
14 can see the buildings on either side. We had originally
15 approached HPO staff with a design that would have had a more
16 typical rear addition on the back of this building to expand it
17 with probably four flats, if you will, in the building. The
18 staff were very adamant that they wanted the rear addition to
19 project all the way to the alley face. And, you know, basically
20 fill in the wall along the alley, which is more typical Naylor
21 Court and Blagden Alley. We were happy to do this, however, it
22 brings up the obvious zoning questions. But I also might add
23 that our original idea for the building addition would have
24 allowed for parking at grade opening out to the alley. So now
25 our building that we're proposing has to encompass the parking

1 as an interior space inside the building, which in order to
2 achieve our parity or our -- the building envelope that we were
3 hoping to obtain, the parking was taking away some of that square
4 footage, so we believe we lost some square footage by pushing the
5 building to the alley line. I think if you skip to the next
6 slide --

7 This shows, basically, some more photographs of the
8 space to give you more context and see the available space behind
9 the building. The buildings to the -- the photographs at the
10 bottom show a rear L weighing addition that projects off of
11 existing building, which we are proposing to remove. But we will
12 be keeping the main volume of the three-story front part of the
13 building. And then if you go to the next slide.

14 There's just an image of the front, which we're showing
15 that, basically, none of the additions are visible for public
16 space, which was a control point and a rule for HPO. And then
17 the next slide.

18 This is the alley elevation, of course, and as you can
19 see, we pushed the building all the way back to the edge of the
20 alley. We wanted to have a three-story addition, so we set the
21 third floor back from the alley partially based on advice and
22 comments from the staff at HPO and then, of course, the design
23 speaks for itself. There are two parking spaces and then an
24 access door to a common hallway to access all the units. If it
25 matters here, all trash and other uses for the building are

1 contained within the building as well, which we had to provide
2 interior instead of behind the building. Next slide.

3 There's just a couple of elevations of the same
4 drawings, you can skip ahead to the next slide.

5 This shows the existing on the left building with its
6 rear L addition and then on the right you can see the original
7 building toward the bottom of the page. The new -- which we'll
8 call a carriage house addition to the rear facing the alley and
9 then a connector -- meaningful connection, if you will,
10 connecting the front building to the rear addition.

11 And then the next slide, I believe are just some floor
12 plans that show you at the cellar level we've enlarged it to
13 occupy a little bit more of the lot below grade, but then at the
14 first floor it's just more or less a single hallway that goes
15 front to back. It's a little bit wider at each end for some
16 staircases that go up to the upper levels of the unit. And then
17 from the third -- the third second floor up, it's predominantly
18 two separate structures, one at the front and one at the alley.

19 And then if you go to the next slide -- oh, if I -- we
20 can show it from here as well. The front building has an existing
21 side yard that is only two and a half feet, I believe, so it
22 doesn't serve as a legal walkway, but then the rear of our
23 building, our new carriage house addition, occupies the full
24 width of the lot. You can see that the buildings on either side
25 have a little bit of openings in the center, but for the most

1 part they occupy, other than shallow courts and side yards, almost
2 100 percent of their lots.

3 And then if you go to the next slide, I'll kind of go
4 through, quickly, the rest, I think. Just some more floor plans.
5 Go to the next slide, this shows an axonometric of kind of what
6 you can see, the tall chunk in the middle is the building next
7 door and pretty much blocks most of our building as it's contained
8 within the lot.

9 And then if you go to the next slide. There's just
10 some building sections and elevations that show you the
11 relationship of the lots on either side with our connector and
12 our cellar level and then the interior elevations of the building.
13 The next slide.

14 Again, another section transverse front to back which
15 shows on the left -- I'm sorry, on the right is the building
16 facing N Street and on the left is the carriage house addition
17 in the back. And then the next slide.

18 Well, I guess that's everything that's on my list of
19 drawings. I just want to remind -- or reiterate that all of our
20 original submission to HPO was matter of right zoning that
21 required no variances or special exceptions. All of these issues
22 were brought up because of the HPO staff's request to have the
23 building project to the alley line. And I think that is
24 everything I have to add.

25 MR. SULLIVAN: Thank you, Jim. I'll take it from here

1 and go through the general requirements of the special exception
2 relief.

3 Granting relief will be in harmony with the general
4 purpose and intent of the RF-1 Zone regulations and zoning maps.
5 All requested areas of relief were specifically enumerated in the
6 Zoning Regulations and we believe that the application safely
7 meets that criteria. There's no increase in the number of units
8 and we think it's an excellent solution to a desire of HPO and
9 HPRB to fill in the gap on Naylor Court. And also to provide in
10 addition to a building at the time -- or presently has 24 percent
11 lot occupancy. So it's a very small building with four legally
12 non-conforming units.

13 Granting relief will not tend to affect adversely the
14 use of neighboring property. You can see how this building is
15 buttressed by two large buildings that take up -- one takes up
16 almost 100 percent of its lot with a building and just a small
17 space before it gets to its accessory building. The other one,
18 a single building, I think it's five stories -- five or six
19 stories, takes up the entire lot. Next slide, please. And we're
20 actually not blocking any windows in those buildings either.

21 Light and air available to neighboring properties shall
22 not be unduly affected. The building to the east is two stories
23 taller and extends to the rear lot line. The adjacent building
24 to the west is one story taller and their property includes the
25 two-story accessory building at the rear lot line, and we are

1 retaining the courtyard. And, again, there's no windows being
2 blocked by this addition -- or even by the connection.

3 Privacy, use and enjoyment of neighboring properties
4 will not be unduly affected. And the proposed addition or
5 accessory structure together with the original building shall not
6 substantially visually intrude upon character, scale, and pattern
7 of houses. And I would refer to the HPO report again, it
8 recommends that the Review Board find a concept for a three-story
9 addition -- rear addition to 927 N Street to be compatible with
10 the character of the historic district on the condition that it
11 not be set back from the alley edge. And so I would posit that
12 compatibility with the historic district would also mean that it
13 is -- does not substantially visually intrude upon character,
14 scale, and pattern of houses. Next slide, please.

15 Regarding U320.2, which we do need relief from because
16 we're expanding the building, although not expanding the number
17 of units. The building is in existence, we're not increasing the
18 number of units, so an IZ Unit wouldn't apply. And same with the
19 900-foot rule; not increasing, so it's legally non-conforming.
20 Next slide, please.

21 Regarding the variance, I think you've heard from the
22 architect and I've mentioned from the HPO staff report, the need
23 to have the building -- the addition go to the back property line
24 and that makes it impossible to meet the 12-foot setback; however,
25 we do have 10 feet and so we're just requesting variance relief

1 of 2 feet for that.

2 And as explained already on these other areas, we
3 believe there's no substantial detriment to the public good or
4 impairment to the intent, purpose, and integrity of the Zoning
5 Regulations.

6 And that is it. So if the Board has any questions for
7 myself, or for Mr. Foster or Mr. Schmitt.

8 VICE CHAIR JOHN: Thank you, Mr. Sullivan. So, Mr.
9 Foster, I'll just start and have the rest of the Board weigh in.
10 Do you have a photograph of all of the houses or buildings from
11 the rear of that property on the alley?

12 MR. FOSTER: Jim Foster speaking. The only photographs
13 we submitted were the ones that were presented just now, but it
14 is very -- if I'm assuming what your question is, it's very
15 typical in the alley for all of the buildings to go to the alley
16 line and not be set back. It's -- if not every building, it's
17 the vast majority of buildings. Their structures -- and usually
18 the carriage houses that are two-stories tall that sit right on
19 the edge of the alley.

20 VICE CHAIR JOHN: So I'm trying to establish what the
21 pattern is on that block. So how many structures are not set
22 back like this one? Thank you, Mr. Sullivan, you may respond.

23 MR. SULLIVAN: Exhibit 5 in the record has quite a few
24 photos from Naylor Court. I don't know if --

25 VICE CHAIR JOHN: Okay. Mr. Young, can you open Exhibit

1 5, please?

2 MR. YOUNG: Yeah, just give me a minute.

3 MR. SULLIVAN: Across the street is just almost one
4 entire building that takes up most of that block. I'm looking
5 at the -- photo 12 of Exhibit 5, it starts on 10 -- 10, 11, 12,
6 13 and 14, those photos from this exhibit take you through the
7 alley.

8 VICE CHAIR JOHN: Are you referring to the lots?

9 MR. SULLIVAN: Well yeah, I'm referring to the Naylor
10 Court alley. This is actually the only opening that I can see
11 on -- so, photo 9 is the subject property, photo 10 is another
12 angle of the subject property but looking to the west, and then
13 photo 11 looks the other direction and you can see the alley is
14 -- there's buildings on the alley, some three-stories, several
15 of them -- most of them at least two-stories. I don't think
16 there's any that's one-story. And there's no -- I don't believe
17 there's any other opening on the alley, other than the subject
18 property.

19 VICE CHAIR JOHN: Does anyone from the Board need to
20 see the photographs? Do I need to have Mr. Young pull it up?

21 BOARD MEMBER SMITH: That would great.

22 VICE CHAIR JOHN: Okay. Mr. Young.

23 MR. SULLIVAN: If I might add too, Madam Chair, I could
24 refer to the staff report, which is also in the record at Exhibit
25 29C. It says the concept design would be a welcome addition to

1 the Blagden Alley-Naylor Court Historic District, it is
2 compatible. Most crucially, the project would replace a yawning
3 gap in the Naylor Court Alley wall. So according to HPO this -
4 - it's a solid wall of buildings and actually you can see it.
5 And a good example is right here on this -- on this exhibit as
6 well.

7 VICE CHAIR JOHN: So between 9th and 10th Street, what
8 you're saying is, this is the only gap that presently exists?

9 MR. SULLIVAN: It's the only -- I mean, there -- I see
10 one other building on the right that doesn't have an addition
11 going all the way back and I see the building next to us has a
12 side yard all the way back. But other than that, that is correct.
13 And then across the alley is a solid wall.

14 VICE CHAIR JOHN: Okay. Does any other board member
15 have a question? Mr. -- Commissioner Miller, I can't -- I can't
16 see you.

17 COMMISSIONER MILLER: No, thank you, Madam.

18 VICE CHAIR JOHN: Board Member Smith?

19 BOARD MEMBER SMITH: No questions. Thank you. It
20 looks like there's a couple properties that have gaps. It's the
21 church parking lot, it's the building next to the church parking
22 lot and further down the -- that particular block to 9th Street.
23 So there's a couple properties that have gaps. It's a mixture.

24 VICE CHAIR JOHN: Can I hear from the Office of
25 Planning? Ms. Myers, can you introduce yourself?

1 MS. MYERS: Hi, Crystal Myers with the Office of
2 Planning. The Office of Planning is in support of this case. I
3 hear that there was a little discussion there that there are
4 other properties that do have a gap that don't go up to the alley,
5 so I'm glad you all -- that was stated, because I didn't want
6 you to be confused about that.

7 But our position is that in the immediate area it is -
8 - all of those developments are on the property line, which helps
9 the character. And when it comes to Naylor Court, it's kind of
10 a unique historic district. It has such an emphasis on the alley,
11 so we were in support of the variance, because this would be
12 filling in the gap when it comes to those immediate properties
13 and help, I guess, bring to fruition what Naylor Court is trying
14 to do. And when it comes to the applicant's requirement for
15 parking, Office of Planning can understand that in order to still
16 maintain the parking on the site as well as maintain the historic
17 district character, this is sort of an exceptional situation
18 resulting in a practical difficulty, so that's why we were in
19 support of the variance. And with the special exceptions, we are
20 in support of that as well, so I will stand on the record of the
21 staff report, and we'll be here for questions.

22 VICE CHAIR JOHN: Does the Board have any questions for
23 Ms. Myers, the Office of Planning? I don't see any hands up.
24 Does the applicant have any questions? I'm sorry, Board Member
25 Smith, do you have your hand up?

1 BOARD MEMBER SMITH: Yes. My question is to Ms. Myers.
2 Were you able to see the other designs that they presented to
3 HPRB? And would you say that it was practically difficult for
4 them to meet those design criteria and keep the spirit of what
5 you're saying, the historic district?

6 MS. MYERS: No, I mean, we only saw the design that was
7 submitted to the BZA file. And I know that they went to HPRB
8 before -- considerably before we got to this point.

9 So I actually listened in on the HPRB case to just sort
10 of, you know, keep aware of what was going on, because I knew
11 this case was scheduled and, you know, it was just approved. It
12 was approved, I believe, pretty quickly, so I've never had the
13 opportunity to really see what the designs were for HPRB.

14 BOARD MEMBER SMITH: Okay. Thank you. I'll reserve
15 that question to Mr. Sullivan and his team, if they can follow
16 up at some point.

17 VICE CHAIR JOHN: Thank you, Board Member Smith.
18 Commissioner Miller?

19 COMMISSIONER MILLER: I have no questions, Madam Chair.
20 Thank you.

21 VICE CHAIR JOHN: Okay. Thank you. Mr. Sullivan, do
22 you have questions for the Office of Planning?

23 MR. SULLIVAN: No, thank you.

24 VICE CHAIR JOHN: Okay. Thank you. Is the ANC here?

25 MR. YOUNG: No, they're not.

1 VICE CHAIR JOHN: Okay. Do we have any --

2 BOARD MEMBER SMITH: Chair, it looks like -- I see John
3 F. I'm assuming that might be John Fanning with the ANC.

4 MR. SULLIVAN: No, that's John Casey.

5 MR. CASEY: John F. Casey.

6 VICE CHAIR JOHN: Is that -- let me see, who is the
7 ANC Rep? Is that Mr. Casey? No.

8 MR. CASEY: No, I'm part of the development.

9 VICE CHAIR JOHN: Yeah. Thank you. I just checked my
10 cheat sheet. So let's see if there are any witnesses in support,
11 Mr. Young?

12 MR. YOUNG: We have none.

13 VICE CHAIR JOHN: And are there any witnesses in
14 opposition?

15 MR. YOUNG: We do not.

16 VICE CHAIR YOUNG: Okay. Thank you.

17 So Mr. Sullivan, I have a couple questions. So as you
18 know the issue we're having, what might you know, but you can
19 imagine, is that the justification for the first prong of the
20 variance test is based solely on the decision by HPRB that HPRB
21 will not approve the application unless the building is moved
22 back to the property line. And there's clearly case law from
23 the Court of Appeals that says that the BZA may not base its
24 decision solely on the building's designation by HPRB. It is a
25 fact that we can't rest exclusively on that. And as you know,

1 | it's the BZA's decision where a building is placed on a lot.

2 | In terms of what the project is, I'm very familiar, I
3 | need to disclose, with this area and how the buildings are
4 | situated on the property line and it's really a lovely area. But
5 | we still have to go with the regulations, and I realize that the
6 | relief you're asking for is de minimus, and so -- it's two feet,
7 | but I think from my perspective, I'd like to see some additional
8 | justification beyond relying solely on the HPRB
9 | decision/insistence that the building be pushed back.

10 | MR. SULLIVAN: Okay. Madam Chair, we're happy to pursue
11 | that idea and provide additional information. I think -- my
12 | reading of the Court of Appeals case is that they didn't say that
13 | all historic properties no longer have the ability to have a
14 | variance argument as a result of being historic, but that it has
15 | to be a specific -- a specific condition of the property in
16 | relation of to the historic requirement as opposed to just -- I
17 | mean, years ago it used to be, well, we need rear yard relief
18 | because every building in the historic district needs a setback.
19 | And that I understand is not unique and that's what in the -- I
20 | believe it was the church, the Dupont Circle Church, I can't
21 | remember the name of the case. But in that case, I believe, the
22 | position was, look, it still has to be unique, you can't just
23 | have a blanket, hey, we're a in historic, so we're entitled to
24 | the relief. I believe in this case we meet that case.

25 | I point out photo 14, which is probably the best photo

1 | where you don't see an opening anywhere along the wall on either
2 | side. There's an alley opening and then on the other side of
3 | the church building there's a side yard as I mentioned. I didn't
4 | say there were no openings, I said there were a couple of
5 | openings.

6 | So I think this condition is very specific, so I'd be
7 | happy to explore that further and -- I mean, the HPO staff report
8 | is on the record as specifically being a condition that -- and
9 | it's a condition that only applies to this particular property.
10 | We have a four-unit building -- there's some more criteria here.
11 | I think we have a four-unit building which is surrounded by
12 | larger, taller buildings, it's only 24 percent lot occupancy, yet
13 | it has the ability to be four units. And so it's just a practical
14 | difficulty. It doesn't have to be impossible, but it's a
15 | practical difficulty to do any addition because of that. And the
16 | HPRB reports flat out says it, on the condition that it not be
17 | set back from the alley edge. I mean, I've rarely seen it so
18 | specifically laid out that there's something required that we
19 | need to do that makes us not meet a regulation. This particular
20 | requirement, as far as practical difficulty, stops the project,
21 | because -- and we could get more input from HPO if that would
22 | satisfy the Board on that point, but I think I would like to
23 | distinguish this one from every -- any other HPRB case where
24 | we're just quoting the fact that we're in a historic district.
25 | I agree, just that fact alone does not make us unique. But I

1 think we have these other factors that end up applying
2 specifically to Naylor Court. Specifically to this, one of the
3 few openings and specifically to address what HPO calls a "yawning
4 gap" in Naylor Court.

5 I suppose we could ask for special exception relief for
6 parking as well. And that would be -- and then we wouldn't
7 provide the parking, but I think that's a practical difficulty
8 as well to not be able to have two parking spaces here in this
9 location.

10 VICE CHAIR JOHN: So I appreciate your willingness to
11 go back and look at Capitol Hill Restoration Society case. It's
12 534 A.2d 939, which I think you're familiar with as well. And
13 the case did say that the exceptional condition must uniquely
14 affect a single piece of property. So if you could look at that
15 and perhaps try to come up with some other condition to buttress
16 the HPRB recommendation. Because it is a recommendation to the
17 Board, it does not supersede the Board's jurisdiction, but we are
18 mindful of the HPRB's recommendation. And you're right, if we
19 didn't have that limitation then every single property in a
20 historic district may think that there's an exceptional
21 condition.

22 So I believe the Board -- my Board members, but I don't
23 know, I'll have them speak for themselves, but that's what my
24 suggestion would be.

25 Does anyone else have questions or comments?

1 Commissioner Miller? You're very silent, Commissioner Miller.

2 COMMISSIONER MILLER: It's because you're so thorough,
3 you and Mr. Smith. So I'm just taking advantage of your
4 thoroughness. Mr. Smith, do you have another question?

5 BOARD MEMBER SMITH: No, I share your same concerns and
6 you took the words right out of my mouth so eloquently, so no
7 further questions. I would like to see the information that you
8 requested.

9 VICE CHAIR JOHN: Mr. Sullivan or one from your team,
10 would you like to make closing arguments? It would be helpful
11 to talk about -- well, from my perspective, the alley and how
12 the alley is laid out and the (audio interference), the kind of
13 life and energy on the street. I don't know if that would help,
14 but it wouldn't hurt to have it in the record, I don't think.

15 MR. SULLIVAN: Well, yeah, we'd be happy to supplement
16 the record if the Board -- I assume we're subject to a continued
17 hearing, technically, anyway because of the notice provision.
18 I'm quite stunned actually by the feedback. If it's not a --
19 it's HPO's -- it's a not a suggestion to the BZA, it's a
20 requirement for us. And I guess we could eliminate the parking
21 spaces and then we would ask for special exception relief and say
22 that we're not allowed to have parking. But I can certainly --
23 it sounds like the Board needs more information on how this
24 particular property is unique and I'm sorry that that's not in
25 the record yet, but it seems like there's a lot of information

1 | in there on that point, but I'm certainly happy to supplement the
2 | record and I would look at 534 A.2d as well.

3 | Specifically on the comment about it uniquely affecting
4 | a single piece of property, the Board's position now is that
5 | there can be no other property with a similar situation, then I
6 | think that goes in conflict with some other Court of Appeals
7 | cases, so I would like to flesh that out.

8 | VICE CHAIR JOHN: Okay.

9 | MR. SULLIVAN: And it sounds like we have time because
10 | of the notice provision, so I'm happy to do that.

11 | VICE CHAIR JOHN: We're not trying to give you (audio
12 | interference). Because if you just read, you know, the words
13 | that's sort of what it says.

14 | MR. SULLIVAN: Right.

15 | VICE CHAIR JOHN: Okay.

16 | MR. SULLIVAN: You keep me on my toes. Appreciate it.

17 | VICE CHAIR JOHN: Keep us all on our toes, Mr. Sullivan.
18 | So at this point then I'll go ahead and close the hearing for
19 | now, but not close the record.

20 | COMMISSIONER MILLER: Madam Chair?

21 | VICE CHAIR JOHN: Yes, Mr. Miller? I thought you didn't
22 | have questions, Mr. Miller.

23 | COMMISSIONER MILLER: Well, you prompted me to try to
24 | ask something. So -- you may have covered this. Can you tell
25 | me -- I don't think there's an ANC report in the record. Was

1 the -- Mr. Sullivan, can you just say -- or anyone on the
2 applicant's team, if you could just describe quickly, what
3 outreach or action there was with the neighborhood? I assume
4 they were involved in the HPRB proceedings.

5 MR. SULLIVAN: We actually have unanimous support and
6 their letter made it into the file yesterday.

7 COMMISSIONER MILLER: I missed that. Thank you for the
8 answer to that.

9 MR. MOY: Yeah, Mr. Miller, it's under Exhibit 35.

10 COMMISSIONER MILLER: Thank you.

11 VICE CHAIR JOHN: Okay. Thank you, Mr. Sullivan. Thank
12 you everyone. Mr. Moy, we'll leave the record open for a
13 continued hearing.

14 MR. MOY: Yes, ma'am. And I suggest once we arrive at
15 a definitive date, I'd like to coordinate with you so we can work
16 out the timeline submissions. I can't do that now because I
17 don't know when the end date is going to be.

18 BOARD MEMBER SMITH: Madam Chair?

19 VICE CHAIR JOHN: Yes, Mr. Smith.

20 BOARD MEMBER SMITH: It would also be great if the
21 applicants could submit the other designs that it sounds like
22 HRPB saw as part of their record and that may also help.

23 MR. SULLIVAN: We can do that.

24 BOARD MEMBER SMITH: Thank you.

25 VICE CHAIR JOHN: Thank you. So Mr. Moy, can you call

1 our final case? Am I right in that? It's our last case for
2 today?

3 MR. MOY: Yes. You are correct. And that would be
4 Application No. 20417 of Narayanswarup, Inc. -- let me spell that
5 -- N-A-R-A-Y-A-N-S-W-A-R-U-P, Inc. and this is a request for use
6 variance from the use restrictions of Subtitle U, Section 201,
7 which would permit a commercial use of the first floor and
8 basement in an existing non-conforming two-story, with basement
9 building in the R-3 Zone. This is at premises 4914 through 4918
10 Central Avenue Northeast, Square 5190, Lot 28.

11 VICE CHAIR JOHN: Thank you, Mr. Moy. Will the parties
12 introduce themselves? I see Mr. Sullivan, Ms. Wilson and -- I
13 don't see the property owner.

14 MR. PATEL: I'm here. I'll be representing
15 Narayanswarup, Inc.

16 VICE CHAIR JOHN: So are you presenting, Ms. Wilson?

17 MS. WILSON: I am presenting, yes. And we also should
18 have Dr. Karishma Patel on here; she's also one of the property
19 owners.

20 VICE CHAIR JOHN: Okay. Is that Sheel Patel?

21 MS. WILSON: So, Sheel is here, he's, her brother.
22 It's Mr. Patel and then Dr. Karishma Patel is the other property
23 owner. I believe she signed up to testify and I do want her to
24 say a few words if we could pull her in at some point.

25 MR. YOUNG: I can only unmute her; I can't bring her

1 in as a panelist.

2 MS. WILSON: Okay. When the time comes then we can
3 just do that. Thank you.

4 My name is Alex Wilson, for the record, I'm from
5 Sullivan and Barros on behalf of the applicant and I am here with
6 Sheel Patel and Dr. Karishma Patel and their family owns the
7 property.

8 Would you like me to begin my presentation?

9 VICE CHAIR JOHN: I am sorry, I was shuffling papers,
10 Ms. Wilson. Yes.

11 MS. WILSON: No worries.

12 VICE CHAIR JOHN: You have 15 minutes. Go ahead.

13 MS. WILSON: Thank you. Mr. Young, could you please
14 pull up the presentation when you have a chance?

15 We are here requesting a use variance for the
16 commercial units. The Patel family has owned this property for
17 about 10 years and the property is made up of four different
18 commercial units, 4914, 4916 and 4918 Central Avenue Northeast
19 on the first floor and basement. And then the upper floor has
20 an Ames Street address and is occupied by Sheel's business, which
21 is ADP Group. It's a family-owned property with a family-owned
22 business currently one of the units, and we are looking to add
23 one more family-owned business to the 4914 unit, which will be a
24 pediatric dental office run by Dr. Karishma Patel. And we're
25 also seeking general office, retail and service uses for the

1 other two units.

2 Before I do get into the argument, I want to address
3 how we responded to some agency comments, as well as note that
4 the ANC resolution was submitted today, and it's Exhibit 46. I
5 see that Commissioner Holmes is here, so I won't speak for him,
6 I'll just note that we're amenable to all of the conditions listed
7 in the ANC resolution in the event that the Board wants to include
8 them. Next slide, please.

9 Regarding agency comments, OP is recommending approval
10 and DDOT has no objection but did have some comments, so we
11 submitted a supplemental filing on Monday responding to OP
12 requests and comments from DDOT. As a response to DDOT we
13 relocated the parking spaces into private property, which was the
14 biggest issue, that has been resolved with an updated plat showing
15 the 7 spaces. I communicated directly with the DDOT reviewer and
16 they were comfortable recommending that we continue to work with
17 them during permitting regarding the curb cuts. And I'll just
18 note that I also reached out to OP Public Space, including Chris
19 Shaheen, (audio interference) and then to (audio interference),
20 the public space manager to discuss next steps. So we are already
21 working with DDOT and Public Space, which was the request in
22 DDOT's report.

23 Regarding the OP request, OP requested we file
24 additional financial information regarding construction
25 estimates to convert to a residential use and we did do that

1 along with some comps in the area to support our argument about
2 why we can't convert the spaces to residential use. And I will
3 dig into that much more in detail in our presentation. Next
4 slide, please.

5 So, with that I will turn it over to Mr. Patel and then
6 Karishma Patel to introduce themselves.

7 MR. PATEL: Good afternoon, everybody. My name is
8 Sheel Patel. Alex kind of mentioned a brief background that
9 we've owned the building since 2012. My business is actually
10 located in the building itself, which is on unit 4917 Ames Street.
11 The company's name is ADP Group, we're an ADC firm. The -- we're
12 trying to lease out or occupy the three units which would be on
13 the Central Avenue side. Just a brief history of those units,
14 4914 used to be leased by a church prior to us purchasing the
15 building. The church did stay on and it was kind of like a
16 receivership where they eventually left, the pastor passed away.

17 This church did not have a C of O ever and it seems
18 like when we found -- looked into the records, the previous C of
19 O for that unit was a dry-cleaning business. There's also 4916
20 Central Avenue, this unit was previously a salon to our purchase,
21 and we've been actively trying to lease it out as a salon,
22 however, we just haven't had any luck -- you know, multiple tries,
23 things like that. There's actually a lot of salons in the area
24 and a lot of the tenants that -- you know, I guess they're
25 intimidated by that, can't really lease it out and we do have an

1 active C of O, but it's probably on the way of getting lapsed,
2 just because, you know, we don't have an active tenant at the
3 time.

4 The last unit, which is 4918 Central Avenue, that
5 previously used to be used as a braiding salon, that is also
6 vacant, and I believe the C of O is also expired for that unit.
7 With those units, you know, we've had a lot of interest from
8 community members who would like to lease the spaces; however,
9 they really don't want to go through the BZA process, so part of
10 this we actually, you know, as to the uses as Alex mentioned, to
11 get those into more formidable uses, you know, the community had,
12 I guess, requested and we worked with the community members to
13 figure out possible uses and that's what is presented in this,
14 so that way we can get these units active.

15 They are commercial storefront units, so like Alex
16 mentioned, it's really difficult to A, financially even convert
17 it, but even lease it out without -- I'll say BZA approval. So
18 we're going through that process right now.

19 MS. PATEL: And I just wanted to introduce myself. I
20 am Karishma Patel, I'm Sheel's sister, and I'm a pediatric
21 dentist. And so what brings me here today is just I would like
22 to open up a pediatric dental practice in this location. And a
23 little background about myself is just that I actually attended
24 dental school at Howard University right here in D.C., and while
25 I went to Howard University and of course did my dental education,

1 I actually lived in Ward 7.

2 So while I practice there, and just even in the past
3 couple of years as I practice in D.C., I noticed a large disparity
4 in providers that accept Medicaid Insurance. And so because of
5 that, you know, what it comes down to is just the compensation
6 is not as competitive as say, private insurance. And so to cover
7 the overhead cost it becomes a little despicable. But then that
8 leads to another issue that because there's such limited
9 providers that take that insurance, you have parents of pediatric
10 populations that is devastatingly underserved, so then the
11 parents now have to travel and take public transportation to get
12 their children basic dental needs. So my goal with this pediatric
13 dental office is to really cut down those barriers, bring up
14 service that is essential for the community, bring it closer to
15 home and serve this underserved community in a way and break down
16 those barriers with whether it be transportation or care or, you
17 know, anything that I can help with my career path.

18 MS. WILSON: Thank you so much Sheel and Karishma. Mr.
19 Young, could you please go to the next slide? This slide just
20 reiterates some of the project goals that Sheel and Karishma are
21 talking about and how they approached the community with their
22 request. The goal is to fill a need in the community with a
23 pediatric dental practice as there are none within walking
24 distance and the next closest is about three miles away. And
25 they also want to fill vacancies in their existing commercial

1 building. Next slide, please.

2 So even before we filed and then right after we filed,
3 the Patels did community outreach and we do have five others in
4 support. The stars are the letters in support from nearby
5 neighbors. We know that there was some concern submitted to the
6 record. The owner of Ames had concern about trash and parking.
7 Mr. Patel responded by sending a very detailed letter about his
8 interactions with the community, cleared up some
9 misunderstandings about the parking situation and clarified that
10 the adjacent liquor store is not affiliated with the project.
11 And, of course, there are the ANC resolution and conditions,
12 which we have agreed to, that address trash and traffic as well.
13 So earlier, Peace Lutheran Church had concerns about parking and
14 so we made it clear in our most recent submission that we are
15 providing seven parking spaces. Next slide please.

16 Sheel and Karishma also circulated this flyer to the
17 neighbors to clear up any confusion about what was being proposed
18 and offering their personal phone numbers. Could you skip to
19 slide 8, please.

20 The actual requested relief. The building is a
21 commercial building, but it is zoned residentially. It has been
22 used for commercial uses since the 1950s and has never been used
23 residentially. The Zoning Regulations let existing commercial
24 uses continue, but they don't allow for new commercial uses even
25 in existing commercial spaces. I think that used to be a little

1 different, it used to be permitted via special exception, but
2 with the 2016 regulations that changed.

3 So right now we have units 4914, 4916 and 4918 are
4 currently vacant and the Patels can never put a new commercial
5 use in any of the units without relief, which is why they've been
6 vacant for a very long time.

7 Regarding the proposed uses for 4914 Central, there's
8 a proposed pediatric dental office, but for 4916 and 4918, we are
9 asking for general retail, service, and office uses. This would
10 exclude fast-food uses. The community absolutely do not want
11 fast-food uses and the Patels agree, so we did note that in the
12 record and I believe it's in the OP report.

13 We need to ask for this relief because we do not have
14 any specific tenants identified at the moment for those two units.
15 And without the relief, the Patels would have to go through this
16 process every single time there was a new tenant. Most tenants
17 don't have time to wait around for BZA approval, it can take five
18 to six months. So it has really been impossible to rent out
19 these spaces without this type of approval, since no one will
20 wait around for the approval. And the relief would allow the
21 Patels to rent out to interested tenants relatively quickly with
22 community input, of course. And the Patels are seeking that
23 input as documented by letters in support from the neighbors and
24 responses to neighbors' concerns.

25 Essentially, the Patels are going through this process

1 on behalf of future tenants and have noted many times to the ANC
2 and the community and in the record, they want those tenants to
3 be local businesses that serve the community, similar to the
4 pediatric dental office, which is fulfilling a need in the
5 community. Next slide, please.

6 For some context, the property is located between Ames
7 Street and Central Avenue and it is zoned R-3. Next slide,
8 please.

9 It's a block and a half from East Capitol Street and
10 it's three-tenths of a mile from the Metro with the zoning changes
11 to MU-7. Next slide, please.

12 It is next door to a liquor convenience store, which
13 is not affiliated with the owners. It's a completely different
14 owner. There may have been some initial confusion on that point
15 with the community, so we wanted to have that very clear in the
16 record. Next slide, please.

17 This is the back of the unit. They have secure rear
18 entries and one video camera already. Security was a concern of
19 the ANC and so we're going to offer video cameras and security
20 system options to future tenants. Next slide please.

21 To note some non-conforming use regulations as it
22 relates to our use variance. When a non-conforming use is
23 discontinued for three years or more, any subsequent use has to
24 conform to the Regulations. This is just to say that because
25 the uses for 4914 and 18 were discontinued for three years or

1 more, the applicant has been unable to rent those spaces and now
2 any subsequent use has to conform or get a use variance.

3 Regarding 4916, the history is a little different since
4 there was technically an interested lessee in 2019. The Patels
5 actually built out a space for this tenant who then backed out
6 of the deal. So it wouldn't be accurate to say that the C of O
7 for that particular unit has lapsed yet since I think we could
8 argue to the Zoning Administrator about the efforts to build out
9 the space for the tenant would evidence intention to resume
10 activity, but we are getting close to the point of it lapsing,
11 since it's been impossible to find an interested hair salon
12 tenant. Next slide, please.

13 Regarding the first prong, the configuration of the
14 building on the land as well as a confluence factors can make up
15 an exceptional situation. In this case, the property is faced
16 with an exceptional condition related to its history of uses,
17 configuration as multiple commercial uses and location adjacent
18 to a liquor store. Next slide, please.

19 Sheel has already walked through this a bit, but
20 originally 4914 was used as a dry cleaner, from about 1955 to
21 before the Patels purchased the property. A church moved in
22 without the C of O and so at that point the C of O for the dry
23 cleaner already lapsed and now any subsequent use must conform,
24 or the unit will permanently remain vacant. And they've attempted
25 to get businesses to go through the BZA process to use that unit

1 unsuccessfully throughout the years.

2 For 4918, it's a similar background where they've
3 attempted to find a tenant who would be willing to go through
4 BZA, but since they haven't been able to do that the C of O also
5 lapsed, so again, at this point, any subsequent use must conform,
6 or the unit will remain vacant.

7 And then for 4916 there is a salon use and again,
8 they've been having -- it's been impossible to find a tenant for
9 that use. And so once the C of O lapses for that we would be
10 right back here asking for relief since any subsequent use must
11 conform to the Zoning Regulations, and in this case that is
12 residential use -- single-family dwelling use. Next slide,
13 please.

14 Regarding the existing configuration, the three units
15 have never been used residentially. The units are on the ground
16 floor, they have commercial entrances at grade, as well as large
17 (audio interference) windows and they are relatively small. Both
18 4914 and 4916 are 1,000 square feet and 4918 is 500 square feet.

19 At this point, I'd like to emphasize that the building
20 is not just unique because it's a commercially used property in
21 a residential zone, there are some other commercially used
22 properties in residential zones throughout the district, but it
23 is unique -- even more unique I guess we could say, because there
24 are four different and small commercial spaces with separate
25 commercial entrances and on top of that each space has

1 consistently been used for a different commercial purpose, none
2 of which can be expanded into the other units. And this relates
3 to us asking for the general relief for office and retail uses
4 because there is a line of BZA cases where those applicants have
5 only one commercial space that's been used commercially for years
6 and they're looking to change the use to retail, office or
7 something like that and the Board has approved a large number of
8 those case, but our case is even more unique with a greater
9 hardship because those types of cases only have to find one tenant
10 for one larger commercial space, whereas, the Patels could
11 potentially have to come to the Board four times, each time they
12 wanted to put a new unit -- or a new type of use in these units.
13 Next slide, please.

14 Regarding location it is a through lot fronting on Ames
15 Street and Central Avenue, only a few blocks from East Capitol
16 Street and the property is connected to a liquor store and that
17 really does add to the undue hardship as a matter of right
18 residential single-family dwelling use on the property, because
19 it would share a wall with the liquor store. Next slide, please.

20 An owner has an undue hardship if the building cannot
21 be reasonably adapted to a zoning compliant use. In this case,
22 single-family dwelling is the main matter were it used in the
23 zone, although I will discuss why other matter of right options
24 are not useful. The existing and historic uses, configuration
25 of the building and location of the property creates an exception

1 situation where the applicant will suffer an undue hardship if
2 the use variance is not granted. Next slide, please.

3 As I noted there are matter of right non-residential
4 uses, however, due to the size of the units those non-residential
5 uses cannot be reasonably located in the subject units.

6 For 4914 and 18 we see those have lapsed and, again,
7 for 4916 we do have a C of O for salon use, but it's been
8 impossible even though it's already set up as a salon and it's
9 been advertised as a salon for years and it's move in ready, so
10 market conditions related to the location have made it impossible
11 to rent that out as a salon and it could not be reasonably used
12 as a salon. And as I've mentioned a number of times, the C of O
13 is going to lapse soon and therefore, all three units would sit
14 vacant without relief since they could not be put to any zoning
15 compliant uses. Next slide, please.

16 We have provided evidence regarding the possibility of
17 losing the salon space. First, there are newer salons in the
18 area and the market is relatively saturated, plus the demand for
19 salon space. Sheel has also provided testimony on the record
20 about attempts to lease the salon space. We have provided (audio
21 interference) information in the pre-hearing statement; however
22 the fact that unit is still vacant despite being move-in ready
23 and the only income producing unit for the Patels evidences the
24 fact that attempts to lease this have been futile. Next slide
25 please.

1 As I noted earlier, we are asking for this general
2 office, retail, and service use because we do not have any
3 specific tenants identified at the moment for those units and
4 without the relief the Patels would have to go through this
5 process up to four times or three times for the three units and
6 it can take five to six months, so this relief would just allow
7 the Patels to rent out to interested tenants relatively quickly.
8 The fact that the Patels have been unable to successfully lease
9 the space is actively trying over the last number of years, also
10 goes to evidence the hardship of finding a tenant that is willing
11 to go through this process.

12 The issues created by vacancy coupled with identified
13 use for the 4914 unit has created the emphasis for relief at this
14 time. Next slide, please.

15 I already talked a little bit about the matter of non-
16 residential uses and why we are unable to convert the space to
17 those uses due to the small size of the units. Next slide,
18 please.

19 Regarding the conversion to residential use, the use
20 of the building as a single-family dwelling is the only matter
21 of right residential use. Exploring the options for residential
22 use, the applicant could use the existing building as a base or
23 construct a new building. Constructing a new building would be
24 an undue hardship for two reasons. They would lose the existing
25 permitted commercial use, the office use, which Sheel's company

1 has, and a new building would have to be a fraction of the size
2 of the existing building due to the lot occupancy limitations and
3 setbacks in this zone. So demolishing the building is not an
4 option. In that event, the applicant explored the cost of
5 renovating the existing building and converting it to residential
6 use. To convert the existing building to residential use, extreme
7 measures would need to be taken. The applicant would have to
8 demolish the walls which separate the ground floor units,
9 eliminate the large store-front windows, create residential
10 entrances that are secure and not at grade, bring the building
11 into compliance with the residential building code, including new
12 insulation, electric and plumbing among other things.

13 The cost of the work is, approximately \$725,000, which
14 is about \$300 a foot, a relatively reasonable estimate. And we
15 have provided that information in Exhibit 42A. So to break even,
16 the single-family dwelling would have to sell for over \$725,000.
17 Next slide, please.

18 We did a review of properties in the area which are
19 approximately the same size as the unit, it's 2,500 square feet
20 if we combined all of the units together. So there are no
21 properties within a half-mile radius even close to the break-
22 even point. The highest price for a similarly sized single-
23 family home is \$636,000. Next slide, please.

24 And this is the house which is valued around 636,000.
25 It's not even comparable as it is a renovated detached single-

1 family dwelling located in a single-family neighborhood and not
2 attached to a liquor store. Next slide, please.

3 These are a couple more photos of the houses on the
4 list. I just picked out the highest valued homes. This one was
5 estimated at 587,000 and, again, it's a new renovated detached
6 home on a larger lot directly adjacent to other residential
7 buildings. Next slide, please.

8 This property is also on a relatively large lot and has
9 five bedrooms, five baths, looks to be new construction and the
10 estimate is almost 200,000 less than what it would cost us to
11 renovate the building. Next slide, please.

12 This slide just points out the average price per square
13 foot in the area ranges between 201 and \$225,000. A conservative
14 estimate for the conversion of the building to residential is
15 about \$300 a square foot, which is a lot higher than what we
16 could sell for. Next slide, please.

17 So, again, in order to break even in a residential
18 conversion scenario, the applicant would have to do the
19 impossible, sell a single-family unit that shares a wall with a
20 liquor store and has existing office use on the second story for
21 \$725,000 in an area where the highest comp, which is for a new
22 detached single-family home is approximately \$100,000 less than
23 that break-even point. And all comps that exist in the area for
24 other single-family dwellings connected to a liquor store,
25 typically having an adjoining wall next to a liquor store does

1 not add value. Next slide, please.

2 So for the details on what we were proposing for each
3 space, this goes to the third prong of the variance test. I just
4 want to quickly walk through hours of operation for the dental
5 practice. Can you go to the next slide, please?

6 4914 Central is on the left hand side. Next slide,
7 please. So instead of a vacant space we are proposing a pediatric
8 dental office. The proposed hours of operation are the standard
9 9 a.m. to 6 p.m., 9 a.m. to 3 p.m. on select Saturday hours and
10 that would be for children and caregivers who can't take off on
11 the weekdays. We are proposing three parking spaces on the
12 property and there would be three to five employees to start.
13 The employees would be encouraged to Metro and Dr. Patel would
14 be the only dentist, so she would be able to schedule appointments
15 so that there would be no overflow parking into the street. And
16 based on our review of the area, there is a need for a pediatric
17 dental office. Next slide, please.

18 So the next closest pediatric dental office is 2.7
19 miles away. And this slide just goes into details about the
20 difficulties of getting to the next closest pediatric dental
21 locations. It requires multiple forms of public transportation
22 for one of them and then another one is over four miles away in
23 Ward 6. Next slide, please.

24 This is just the proposed layout of the dental office.
25 Next slide, please.

1 So these are the other units, which are also vacant
2 right now, 4916 and 4918. Next slide, please.

3 So the Certificate of Occupancy for 4918 has expired
4 and as I mentioned there are a number of salons in the area,
5 which makes 4916 impossible to rent out. Next slide, please.

6 And so we are proposing community serving uses or we
7 are intending to advertise for community serving uses, such as
8 an office for a small local business. Next slide, please.

9 You can see that the 4918 layout would be conducive to
10 a small office. Next slide, please.

11 Regarding the third prong, the building has been used
12 for commercial purposes since at least the 1950s and the applicant
13 is proposing to reestablish neighborhood serving commercial uses
14 in this space. The nature of the use and any future use, such
15 as a dental office or in the general retail service and office
16 uses, makes it less likely that the neighbors will be gone before
17 employees arrive -- or makes it more likely that the neighbors
18 will be gone before employees arrive and then the employees will
19 be gone for the day before neighbors arrive home and it's located
20 three-tenths of a mile from the Benning Road Metro Station.

21 The applicant anticipates that the majority of
22 employees and patients will arrive by public transportation
23 and/or will be located directly in the area in terms of serving
24 the neighborhood. Regardless, we are proposing seven available
25 parking spaces. Next slide, please.

1 Regarding the zone plan, the building is not something
2 unique because it is a commercially zoned -- sorry, a commercially
3 used property in the R-3 Zone, but because there are four
4 different and small commercial spaces all with different approved
5 uses, none of the uses can be expanded into other areas of the
6 building and the owner will have to seek BZA approval for every
7 change of use for any unit. Other factors including location,
8 continued uses and the size of the units creates an exceptional
9 condition, which is extremely unlikely to create a precedent
10 which can legitimately be cited as a basis for future use variance
11 approvals. Next slide, please.

12 So to summarize about relief, two spaces will remain
13 vacant and the third will also remain vacant as it's been
14 impossible to rent out and the C of O is about to lapse. The
15 pediatric dental office will benefit the area and the number of
16 patients can be controlled by Dr. Patel in scheduling and three
17 parking spaces have been dedicated to that use. And if we don't
18 get the other forms of relief, the applicant will have to go
19 through this process every time a new tenant is identified. And
20 the relief would allow the owners to rent out to interested
21 tenants right away with community input. The owners have
22 demonstrated the desire to be part of the community and help
23 revitalize the area. And OP is recommending approval and DDOT
24 has no objection. And with that, I'm completing my presentation.
25 Thank you all so much for your time listening to this all

1 relatively long presentation.

2 VICE CHAIR JOHN: Thank you, Ms. Wilson. I couldn't
3 see the clock, so I don't know if you ran over. I suspect you
4 did.

5 MS. WILSON: Maybe.

6 VICE CHAIR JOHN: You're the last case. So does the
7 Board have any questions? Commissioner Miller? Board Member
8 Smith?

9 BOARD MEMBER SMITH: I have one. And thank you Ms.
10 Wilson, for that very thorough presentation. I really appreciate
11 it. No, that was a good compliment.

12 So I have one question about -- and you kind of
13 addressed it, but not as detailed as the other prongs.

14 The other -- the third prong -- the second part of the
15 third prong, no substantial impairment to the zone plan. Could
16 you, again, go through your reasoning why allowing additional
17 commercial uses in a R-3 Zone, which only allows single-family,
18 rowhomes and single detached, would not impair the zone plan for
19 the R-3 Zone?

20 MS. WILSON: Absolutely. I think it goes to the level
21 of uniqueness, I know that's not an official term, but these are
22 four different commercial spaces. We looked to try to find any
23 comparable properties in the area and these have been
24 commercially used since the beginning of the establishment of the
25 building. So we're just looking to reestablish previously

1 existing commercial uses. So we're not looking to increase the
2 capacity that was already there. And then in terms of the zone
3 plan, I don't think this is going to set up a precedent for anyone
4 to come in and say, well you granted use variance relief in this
5 case, so I should be allowed to do the same thing, because of
6 the level of uniqueness, because there are four different small
7 commercial spaces in this building.

8 BOARD MEMBER SMITH: Thank you, Ms. Wilson. That's all
9 the questions I have for now.

10 VICE CHAIR JOHN: Commissioner Miller?

11 COMMISSIONER MILLER: Thank you, Madam Chair. And
12 thank you, Ms. Wilson, for that and the Patels for your
13 presentation. In general, I think, (audio interference) to try
14 to get a pediatric dental clinic into that space. Let me ask if
15 -- did you all consider any alternatives to accomplish what you
16 want to accomplish instead of the use variance? For example, did
17 you consider a zoning map amendment that might accommodate these
18 limited commercial uses for these properties? And if not, why
19 not?

20 MS. WILSON: Typically, we only recommend that an
21 applicant would do a map amendment if there were a group of
22 properties that would be interested, because the Office of
23 Planning -- and they're here, so I'll let Mr. Mordfin speak, they
24 don't want to support (audio interference) zoning. I'd have to
25 talk with them, the comp plan. I imagine that we looked into

1 it. I have a vague memory of looking into it and finding out it
2 wasn't consistent with them, but I'll double check.

3 COMMISSIONER MILLER: Okay, yeah -- yeah, it may, in
4 fact, low-density residential or even if it was not low-density
5 residential -- which commercial use is not consistent with that,
6 but, of course, the zoning requirement is predominant uses in an
7 area. And so -- yeah, we can -- we'll ask Office of Planning
8 about that too, in terms of the specific property and --

9 MS. WILSON: Mr. Sullivan just messaged me and said it
10 is low density residential, they checked that. So that's why we
11 did not pursue a map amendment.

12 COMMISSIONER MILLER: Right. Okay. Okay. Thank you
13 for that information. That's it, Madam Chair, for now. I think
14 you're on mute, Ms. John.

15 VICE CHAIR JOHN: Let's go to the Office of Planning.

16 MR. MORDFIN: Good afternoon, I'm Stephen Mordfin. And
17 for this case, which is a use variance application, so the Office
18 of Planning did review this application and found it to be in
19 conformance with their requirements.

20 First off, we do think that there's an extraordinary
21 exceptional situation in this case. There is an existing building
22 that was purposely built for commercial uses or for retail uses
23 on the first floor an office and on the second floor, it's not
24 built. On the ground floor, which is the portion of the property
25 that is under consideration today for residential uses.

1 Now, its conversion due to -- the way it's laid out,
2 you have the large windows on the Central Avenue side that are
3 right up against the sidewalk, with only little windows in the
4 back, which would make it kind of odd to convert this into
5 residential use, you don't have the windows offset by -- like
6 half a floor, like typically when you look at rowhouses within
7 Washington, you know, you have half a flight up before you have
8 windows and that prevents people from walking down the sidewalk
9 and actually looking in the windows. And this has them right up
10 at the front, more like maybe a motel or something, but that's
11 not conducive to residential use.

12 And that creates an exceptional and unusual situation
13 due to the size and due to the configuration of what is actually
14 existing there today.

15 We found that, you know, the practical difficulty is,
16 this building, you know, it predates the adoption of the zoning
17 in 1958 and to use it -- to not be able to use it for what it
18 was designed for -- because you can't really renovate it for
19 residential, I mean, you could -- I mean, theoretically, you
20 could do anything you want, but that doesn't mean that it's going
21 to work or that it's going to be proper. So we do think that it
22 would be a practical difficulty to convert this to residential
23 and that its use to be continued within a building as it was
24 built, with the exception of fast-food, which makes sense to us,
25 is a hardship on the applicant to be able to properly use the

1 property.

2 We don't think that there would be a substantial
3 detriment to the public good to use these spaces that way, they've
4 always been used that way, although they are vacant now. And
5 would continue to -- on a block which only has retail uses, with
6 the exception of the vacant property next door, so that's not
7 really being used for anything.

8 And to go to -- the other questions that were asked,
9 it is low-density residential. The Office of Planning was aware
10 of that, which is why we never even suggested to the applicant
11 did they want to consider a map amendment because (audio
12 interference) or support it, because the retail uses -- the zones
13 that permit that are not consistent with low-density residential.
14 So that would be no starter as an application.

15 We don't find that this would substantially impair the
16 intent of the Zoning Regulations, continuing to use a building
17 as it was intended. We would like -- having discussed this
18 application with the Office of the Attorney General, which is
19 that, you know, these -- if this is adopted by the Board, if they
20 approve this application, that these uses only be permitted on
21 this property so long as the existing building is there. Should
22 the existing building be demolished for whatever reason, we would
23 support that this -- the approval over this application, if
24 approved, would then cease, because at that point the applicant,
25 if building something new, would be able to build something in

1 conformance with the regulations and would not need this
2 variance, which is dependent upon what's already on the property,
3 which is what concerning the use of the property.

4 So the Office of Planning does support approval of this
5 application subject to that one condition that I mentioned, that
6 the use is only for the existing structure and should that
7 structure be demolished for whatever reason, that the use
8 variance would not continue for any new structures constructed
9 on the property.

10 So, the Office of Planning supports the application and
11 is available for any questions. Thank You.

12 VICE CHAIR JOHN: Thank you, Mr. Mordfin. Before I go
13 to the rest of the Board, I just have one quick question. The
14 second prong of the variance test, I believe, is undue hardship,
15 not practically difficult. So I believe the applicant has to
16 show that there's no other use that could be made of the property
17 if there is no (audio interference).

18 So can you talk about how the applicant meets the undue
19 hardship prong of this test?

20 MR. MORDFIN: Yes. We think it would be practically
21 difficult to convert this into any of the uses that are permitted
22 there. Many of the uses that are permitted, the spaces are not
23 large enough to actually fit in there, because you have 500 square
24 foot spaces, and it would be difficult to actually use them for
25 those things. And also the residential living space, those spaces

1 were not designed for that, they're not laid out for that, you
2 know, they're just square rectangular areas with little windows
3 in the back and a big window in the front, so it wouldn't work
4 for that.

5 And -- so those are the reasons why we thought that
6 those other uses that are permitted, like a daycare center would
7 not -- there's no space to do that, there's no -- if it were a
8 daycare center, there's no outdoor play area. That large vacant
9 lot on the side is not part of the property, all they have really
10 is a parking lot.

11 So we didn't find that any of the uses that are
12 permitted in the R-3 -- and R-3 is a much more restrictive zone
13 than some of the other zones -- would be appropriate and would
14 fit in to those spaces appropriately.

15 VICE CHAIR JOHN: Thank you, Mr. Mordfin. Does the
16 Board have any questions? Mr. Miller? Board Member Smith?

17 BOARD MEMBER SMITH: So I have one. Just for
18 clarification. So we're turning back to this question of the
19 zoning map. And I understand the concerns about spot zoning,
20 even though there are a fair number of areas within the District
21 where there are small portion on corners within the city composed
22 of three or four lots similar to this that are zoned contrary to
23 the surrounding property. Let's say it's commercial as opposed
24 to residential.

25 Given that that nature -- that particular character

1 | does exist within the District, given that are the same points
2 | that you also raised and Ms. Wilson raised, given that this is a
3 | building that has historically its entire life been a commercial
4 | structure and also given the support within the neighborhood for
5 | additional neighborhood serving commercial uses within the
6 | neighborhood, I'm still struggling to get to a point of why a
7 | zoning map amendment wouldn't be supported or couldn't be
8 | approved per OP. Could you elaborate on that a little bit more?

9 | MR. MORDFIN: Yeah. In order for the Zoning Commission
10 | to adopt a map amendment it has to be consistent with the future
11 | lands use map, the FLUM. In this case, this property is
12 | designated low-density residential. There are no commercial
13 | districts or mixed-use districts that fit into low- density
14 | residential, therefore, the Zoning Commission could approve --
15 | adopt a zone for this property that is inconsistent with the FLUM
16 | and OP would not recommend approval of anything that was then -
17 | - could not be adopted by the Zoning Commission would be
18 | inconsistent with the FLUM.

19 | The only thing that could -- the FLUM would have to be
20 | --

21 | BOARD MEMBER SMITH: Amended.

22 | MR. MORDFIN: -- changed. Yes, it would have to be
23 | amended prior to them being able to make this application.

24 | BOARD MEMBER SMITH: Okay. Thank you. Mr. Miller is
25 | set up, maybe he can -- maybe he has a follow-up question to

1 that.

2 COMMISSIONER MILLER: Yes. Thank you, Mr. Smith. My
3 leaning forward prompted that, to reach the mute button.

4 So, Mr. Mordfin, I guess I saw on a zoning map of the
5 area somewhere in the record that there are a couple clusters of
6 -- in addition to the R-3 Zone that this is in, there are a couple
7 clusters of MU-3, I think, low-density commercial clusters in the
8 neighborhood -- in the general neighborhood as well, I think, RA-
9 1, which is the lower density apartment zone that requires special
10 exception approval in all cases by the BZA.

11 I assume the uses that are being -- I assume you're
12 saying that MU-3 would be a mixed-use zone and would be
13 inconsistent -- a mixed use mapping zone would be inconsistent
14 with the future land use map comp plan designation as low- density
15 residential. So you're saying -- I mean, the mixed-use -- MU-3
16 would be inconsist -- would be not -- would be inconsistent with
17 the FLUM; is that correct?

18 MR. MORDFIN: Yes, sir.

19 COMMISSIONER MILLER: Would the RA-1 Zone or RA-2, the
20 lower density apartment zone, which as I understand at least
21 might allow as a matter of right as a permitted use, I think,
22 the family clinic -- the dental clinic. I think medical care
23 use is permitted in a RF -- an RF and higher zones, I believe.
24 But I might be wrong about that, you can correct me.

25 But would the RA-1 or RA-2 Zone also be inconsistent,

1 | in your view, with the -- would that be consistent with the --
2 | would that be not inconsistent with the future land use map? It
3 | may not permit the hair salon or the other non-residential use,
4 | but it might permit the dental clinic.

5 | MR. MORDFIN: It might permit it. I would have to look
6 | that up. But those are also apartment zones, that's what the RA
7 | stands for, residential apartment zones. Low-density is
8 | typically the areas of the city where you have similar family
9 | detached housing, not apartments. So semi-detached and stuff
10 | like that you could have in the low-density residential, but
11 | apartment buildings does not fit into the low density, so -- just
12 | putting in an apartment building there also would require a re-
13 | zoning and, you know, with the comp plan, with the future land
14 | use map, it wouldn't be consistent. So R-3 is one of the more
15 | restrictive residential zones in the city. R-1, obviously, being
16 | the most residential. But these are the lower ends of the
17 | residential density (audio interference), residential zones,
18 | where this property is located.

19 | COMMISSIONER MILLER: And the R-3 zoning that currently
20 | exists on the site, as I understand it, was -- this property,
21 | along with many other properties in the area, I think in this
22 | Ward actually, were re-zoned back in 2008 or something from a
23 | higher density residential zone, maybe R-5? Can you elaborate?

24 | MR. MORDFIN: I don't believe this was part of it. I
25 | think the applicant also included in his application that this

1 property was zoned R-3 or whatever it was called in 1958, which
2 I can't recall at the moment, in 1958. So it's been similarly
3 zoned since 1958, so this building has been non-conforming since
4 then.

5 COMMISSIONER MILLER: All right. Thank you very much.

6 BOARD MEMBER SMITH: You're on mute, Ms. John.

7 VICE CHAIR JOHN: So I didn't quite hear what you said.
8 This zoning has not been consistent, it's been changed. I believe
9 you're saying that the use has been consistent.

10 MR. MORDFIN: The zoning really didn't change. In 2016
11 we changed the terms of the different zones without really
12 changing the zones. So it's just the nomenclature that has
13 changed. So it became R-3 in 2016 from the equivalent in 1958
14 and I apologize, I don't remember what the equivalent was for
15 that. But it's really the same zone with a different name.

16 VICE CHAIR JOHN: Okay. Because that goes to the zone
17 plan, whether or not it would be harmful to zone plan to get this
18 use variance. But if it -- to allow this use variance, but if
19 the property wasn't down zoned, that takes away that argument, I
20 would think. So thank you for the clarification.

21 Let's see, does the applicant have any other responses?
22 Questions?

23 MS. WILSON: No, thank you.

24 VICE CHAIR JOHN: Okay. I'm going to turn to the ANC.
25 I see Mr. Holmes is here.

1 MR. HOLMES: Good afternoon.

2 VICE CHAIR JOHN: Good afternoon, Mr. Holmes. Thank
3 you for joining us. Did you have any questions of the Office of
4 Planning or the applicant?

5 MR. HOLMES: No. No, not at this time. Thank you.

6 VICE CHAIR JOHN: Okay. Well, you're allowed to make
7 a presentation Mr. Holmes, so if you would like to present to
8 the Board, that would be fine.

9 MR. HOLMES: Not a problem. So, again, the applicant
10 did come to ANC, so I'm assuming you all did receive our letter,
11 basically stating support. But we did want to make sure that we
12 outlined that we were concerned about the parking and trash.
13 Parking, traffic, trash, security cameras being a lot of the main
14 points that were being brought up in terms of the back and forth
15 that was going on in the community.

16 I know that the Capitol View Civic Association, which
17 is the most impacted civic association for that area has been
18 working with the applicant to make sure that they at least have
19 a (audio interference) supplement in the document, to make sure
20 that this gets done.

21 I have not, unfortunately, seen that latest document,
22 so that would be a question I would ask them, to say, has that
23 document moved forward because they want to make sure that they
24 are getting -- there's some PM-ing of this project, them getting
25 updates on what's happening, if this moves forward.

1 So I do need to know from the applicant and his and her
2 team, are they going to continue to keep working with the Capitol
3 View Civic Association to finish up that document?

4 MS. WILSON: Absolutely. And I see Sheel nodding as
5 well, yes, we're going to continue those talks, we just haven't
6 had a chance to discuss it. I think the latest edits were sent
7 yesterday at some point. So we're continuing those talks.

8 MR. HOLMES: Okay. Because that was the contingent
9 part of what we were discussing, so instead of just saying out
10 right no, because usually we would say no if it hadn't been done
11 yet, I had talked to the owner and he had told me that you all
12 were going to move forward with the document as well as, I
13 believe, the Capitol View Civic Association vice president, Mr.
14 Mandla (phonetic) and I see he's one of the attendees over here
15 as well, that you're going to move to keep working and move
16 forward with that site and an additional wrinkle is that, again,
17 one of the biggest complaints that the community heard about was
18 the liquor store next door and their license is up.

19 So we would like -- we would hope that the applicant
20 would work with us. So, again, those same complaints that they
21 were quick to say, that no, it's not us, it's the next guy, we
22 make sure that happens when we start talking about putting in a
23 -- working on a settlement agreement with the applicant, with the
24 liquor store next door to kind of take care of, people thinking
25 that those problems belong to you.

1 But if you're saying you're working with Capitol View
2 to keep going on the document and you know about the liquor store,
3 then ANC 7C would definitely be in support of this project.

4 The one thing we did want to know is that -- and DDOT's
5 not on this one, correct? This is just OP, correct?

6 VICE CHAIR JOHN: DDOT is always on.

7 MR. HOLMES: That's what I thought. Yeah, we were
8 getting a lot of emails and seeing a lot of tickets about a lot
9 of that traffic that happens right in front of that store. So
10 again, I believe, Ms. Wilson said in the beginning that the
11 applicant is willing to work with DDOT to go ahead and try to
12 get a lot of that traffic (audio interference) that needs to be
13 resolved that's happening in front of the shop.

14 VICE CHAIR JOHN: If I can respond quickly. DDOT did
15 submit a recommendation of no objection, but noted that the curb
16 cut should be closed, sidewalk installed, and all parking moved
17 on to private property. I believe the applicant has committed to
18 doing that.

19 So, Mr. Holmes, is there -- Commissioner Holmes, is
20 there something in the record from the ANC?

21 MR. HOLMES: Yes, ma'am.

22 VICE CHAIR JOHN: Okay. And what exhibit is that?

23 MS. WILSON: It's Exhibit 36.

24 VICE CHAIR JOHN: 36. Okay. Thank you very much. So
25 are there any questions on the ANC from the Board?

1 BOARD MEMBER SMITH: I have one.

2 VICE CHAIR JOHN: Okay. Go ahead.

3 BOARD MEMBER SMITH: Mr. Holmes, I was looking at the
4 conditions that you provided, and thanks for providing the
5 clarification about the curb cuts and it looks like there may be
6 a recommendation that we make, that they come from some of the
7 language that DDOT is recommending.

8 So my question is No. 2 -- No. 3 is fairly clear, but
9 No. 2, "security measures will be offered to individual tenants
10 to increase public safety." Could you elaborate on that a little
11 bit more on what the ANC meant by --

12 MR. HOLMES: Absolutely. So when we -- so as we see
13 all the commercial projects that happen in our area, what --
14 there are programs out there like, you know, D.C. Capture
15 (ph),(audio interference), et cetera, we like to make sure all
16 our businesses are having -- have the cameras available -- that's
17 a high traffic area and being able to make sure that those cameras
18 are connected and working with MPD allows for us to -- basically,
19 for us to make sure there is more public safety, there's better
20 public safety with things happening in those high traffic areas.
21 So as part of -- again, as the community will work with them and
22 complete that document, being able to make sure that there's a
23 sufficient amount of cameras on both sides of the building and
24 that that feed is available for MPD in case incidents occur around
25 the area, will help increase our public safety stance.

1 BOARD MEMBER SMITH: Okay. Was there any questions
2 that came up about lighting? Is there sufficient lighting out
3 there?

4 MR. HOLMES: Well, I mean, that kind of goes back with
5 -- you mean, just from the building or are you talking about from
6 the streetlights, et cetera?

7 BOARD MEMBER SMITH: (Audio interference), the reason
8 why I'm raising this is that that condition is fairly open- ended
9 and it may be fairly hard to enforce as written. So I was just
10 asking these questions to kind of tighten up if there ever was a
11 condition.

12 MR. HOLMES: Well, I would say the lighting is being
13 improved and I'm hoping the city is going to be addressing that
14 with the LED streetlights Smart Project.

15 As well as I've received complaints in the past about
16 the dimness around the area closer to the fire station, which is
17 right across the street from that area. I believe D.C. FEMS did
18 do something to strengthen the lighting over there. So -- but
19 lighting can always be improved.

20 BOARD MEMBER SMITH: Okay. That's all I have.
21 Beautiful diploma behind your head.

22 MR. HOLMES: Absolutely. "Wahoowa."

23 BOARD MEMBER SMITH: "Wahoowa."

24 MR. HOLMES: Uh-huh.

25 VICE CHAIR JOHN: Thank you, Board Member Smith. I

1 | just want to follow-up with Commissioner Holmes for one -- so the
2 | ANC is in support.

3 | MR. HOLMES: Yes, ma'am.

4 | VICE CHAIR JOHN: And the -- so the order should note
5 | that the ANC -- assuming we get to that point, the ANC is
6 | supportive of this request and the applicant has agreed to
7 | continue working (audio interference) specified in the ANC
8 | letter. I think that's fair enough if we get to that point.

9 | MR. HOLMES: Yes. And they're saying pretty much that
10 | they're going to finish working that letter with the community
11 | to make sure. And so far, everything has been done really well
12 | in good faith, so we look forward to them closing the loop on
13 | this with the community.

14 | VICE CHAIR JOHN: Okay. Does the applicant have any
15 | questions for the ANC?

16 | MS. WILSON: No questions, but I would like to add,
17 | "wahoowa" as well.

18 | VICE CHAIR JOHN: So, Ms. Wilson, I omitted to ask you
19 | to elaborate on the undue hardship issue and the owner submitted
20 | financial documents to demonstrate why, in their view, conversion
21 | to residential units would create an undue hardship. And if you
22 | could just focus on the undue hardship issue. Not practically
23 | difficult, but it has to be undue. Thank you.

24 | MS. WILSON: Yes, I noted that. So an owner is
25 | presented with an undue hardship when they're -- and I'm going

1 to quote from Palmer, "property cannot be put to any zoning-
2 compliant use for which it can be reasonably adapted." And then
3 from the D.C. Court of Appeals in Oakland, "economic harm to an
4 owner in converting a portion of their property into a zoning-
5 compliant use, coupled with significant limitations on the
6 utility of a building, constitutes an undue hardship necessary
7 to satisfy the second prong of the use variance test."

8 So in this case our property cannot reasonably be
9 adapted to a residential use and that, coupled with the economic
10 harm, in which it would cost \$725,000 to do a basic renovation
11 into a single-family home and the only adjacent -- and the only
12 comps in the area, which I wouldn't even consider comps because
13 they are detached single-family home in a single-family setting,
14 don't even come close to the threshold of breaking even. We've
15 submitted that to show that the highest housing price in the area
16 -- the highest value for a house of similar size is about \$600,000
17 and so it would be an economic harm to convert to residential
18 use, because they would essentially lose \$125,000.

19 So, I mean, I even asked the applicant yesterday, what
20 happens if we don't get the relief? They said it will sit vacant
21 and we'll have to sell the building, and it is an undue hardship,
22 I think, and cannot reasonably adapt the building to the only
23 matter of right use, which is residential use.

24 VICE CHAIR JOHN: Thank you, Ms. Wilson. And I have
25 to start requests again. Does the Board have any questions about

1 the economic hardship issue? Board Member Smith?

2 BOARD MEMBER SMITH: No, I don't have any additional
3 questions.

4 VICE CHAIR JOHN: Commissioner Holmes?

5 MR. HOLMES: No. No comments, thank you.

6 VICE CHAIR JOHN: All right. Thank you. Mr. Young,
7 do we have any witnesses in support or opposition?

8 MR. YOUNG: We do. We have one. Alicia Rucker.

9 MS. RUTGER: Good afternoon.

10 VICE CHAIR JOHN: Good afternoon. Can you state your
11 name and address, for the record, please?

12 MS. RUCKER: Sure. My name is Alicia Rucker. I am
13 the Chief Experiences Officer at Experiences in Relaxation, 1031
14 49 Street Northeast, Suite D, Washington, D.C. 20019. And before
15 I forget, I need to request that my written testimony that I
16 submitted earlier, be admitted into the record, please.

17 VICE CHAIR JOHN: Thank you. Mr. Moy will admit that
18 to the record.

19 MS. RUTGER: Thank you kindly.

20 VICE CHAIR JOHN: Thank you. And you have three minutes
21 to provide your testimony, so please go ahead and start.

22 MS. RUCKER: Well, I probably only need two seconds,
23 but I want to thank the Board for allowing me to speak. Here in
24 Washington, D.C., most people have been in their homes, if they
25 have a home, for about a year. Children have been homeschooled

1 | for about a year, probably eating lots of candy, drinking lots
2 | of sugary sweet drinks, going to bed without brushing their teeth.

3 | As a mother of six, a grandmother of one, I realize
4 | that dental health is the foundation of health, period. I welcome
5 | Dr. Patel into our community and her brother and their whole
6 | family because we need to make sure that dental health is
7 | respected as a specialty -- a pediatric dentist is a specialty.
8 | Most of the dentists in our area, because I've gone and taken my
9 | children, are general dentists, so they don't necessarily know
10 | everything that they need to know about pediatric dentistry. So
11 | I welcome that specialty in our area.

12 | In addition, as a business owner, I am aligned with the
13 | Patels because not being able to use a building that they own
14 | with a firehouse right across the street, with St. Luke's Catholic
15 | Church right across the street, a bustling liquor store right
16 | next door, I can only imagine the pain that they might have not
17 | being able to have -- not have, to put that building to use, so
18 | it can earn the income that they need to grow. I support them
19 | because I am a member of the community. I met them both during
20 | a community meeting that Commissioner Holmes held. My ears
21 | instantly perked up when I heard pediatric dentistry and I just
22 | fully support it, because we're in a healthcare crisis here in
23 | Ward 7 and Ward 8. Any little step that we can take to increase
24 | health with every level, starting with the babies, is very
25 | important.

1 And I also believe that Dr. Patel -- I believe that she
2 may be interested -- I know Howard University has a history of
3 interning and volunteering in the community, I'm sure if she
4 would be open to that, if it hasn't already been discussed. And,
5 again, I don't really want to be really specific, because all I
6 see is a vision of beautiful teeth and gums for this generation
7 and future generations to come.

8 And to me, as a healthcare provider, that is what is
9 needed in Ward 7 and Ward 8. I mean, if you look at your mouth
10 and everything that goes in it, guess what happens to it if it's
11 not clean? And if as babies and young mothers -- it seems like
12 our mothers and our parents are getting younger maybe I'm getting
13 older -- but teeth are so important. Teeth and gums equal the
14 standard of gold health and that's what we need in our community.

15 So that's why I really fully support this. And like
16 Commissioner Holmes said, I never knew who owned that property;
17 however, I've never really seen a lot of trash and I'm not downing
18 people who go to liquor stores or anything like that, but it just
19 seems like such a conundrum.

20 And I hope that we can bring the Patels into not only
21 owning that building, but maybe getting back the Patels some of
22 this money that the District seems to have a surplus of now
23 because of the money we received for the pandemic. I think that
24 would be very useful to help even get her set up with some funds.
25 And I hope Commissioner Holmes and whoever else is on the line

1 and has ears to hear can, you know, make some recommendations as
2 to how we can help this dentist set up in Ward 7 where we are a
3 healthcare desert, a pediatric healthcare desert at that.

4 And thank you for your time. If you have any questions,
5 I'd be happy to answer.

6 VICE CHAIR JOHN: Thank you, Ms. Rucker. Does the
7 Board have any questions for Ms. Rucker? Does the applicant have
8 any questions for Ms. Rucker?

9 MS. WILSON: No. But thank you so much for your time
10 and testimony.

11 MS. RUTGER: Oh, it's my pleasure to serve my community.

12 VICE CHAIR JOHN: Thank you, Ms. Rucker. Does
13 Commissioner Holmes have any questions for Ms. Rucker?

14 COMMISSIONER HOLMES: No. But I want to thank Ms.
15 Rucker for coming out. I am her Commissioner.

16 VICE CHAIR JOHN: Okay. Thank you very much. And I
17 appreciate your testimony about the pediatric practice and, you
18 know, as a grandmother I understand everything you say. It makes
19 a big difference when a child goes to a pediatric dentist and
20 they come out smiling. I don't know how they do it, but they
21 manage to take the fear out of going to the dentist. I think
22 some of them even have, you know, lots of kids' stuff to do while
23 they're at the dentist, so it becomes a destination. So anyway,
24 those are my two cents.

25 Mr. Young, do we have any other witnesses?

1 MR. YOUNG: We do not.

2 VICE CHAIR JOHN: Okay. So Mr. -- Ms. -- I'm losing
3 it here. Does the applicant have any closing comments?

4 MS. WILSON: No. Just thank you all for your time.

5 VICE CHAIR JOHN: Thank you, Ms. Wilson. And so I
6 think we're at the point where we will just continue this hearing
7 for another date, and Mr. Moy will be in touch when we find out
8 -- to let you know when the next hearing will be, which will be
9 a continued hearing.

10 BOARD MEMBER SMITH: Ms. John?

11 VICE CHAIR JOHN: Yes, Mr. --

12 BOARD MEMBER SMITH: Mr. Moy is --

13 VICE CHAIR JOHN: Mr. Moy?

14 MR. MOY: Yeah, before you go any further, Ms. John,
15 for clarity and for my own edification, are you asking for any
16 additional, supplemental information from the applicant or are
17 you clear for now, or at least until the next time we meet?

18 VICE CHAIR JOHN: I don't think anyone asked for any
19 information. Am I missing something? No. I don't think we
20 requested any information.

21 MR. MOY: Okay. I was just checking. Thank you.

22 VICE CHAIR JOHN: Ms. Wilson took 30 minutes to describe
23 her case. So -- which, sometimes it's a good thing when it's
24 the last case of the day and we're finishing early, and I hope
25 the Board is really mindful that it's now 3:14. Thank you.

1 So we're going to adjourn or continue this case for
2 another date and Mr. Moy will notify the parties of that date.
3 And I thank you all for your testimony, and I'll ask Mr. Young
4 to let the witnesses leave the room and I will talk to the Board.
5 Thank you.

6 So, do we have anything else before us today, Mr. Moy?

7 MR. MOY: No, I think I've done enough damage for the
8 Board; nothing else from the staff, Ma'am.

9 VICE CHAIR JOHN: Thank you very much, and I eagerly
10 await Chairman Hill's return next week, so I can return to my
11 usual status. So thank you all for your help, and I will see
12 you all next week.

13 (Whereupon, the above-entitled matter went off the
14 record at 3:14 p.m.)

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In the matter of: Public Hearing

Before: DCBZA

Date: 03-24-21

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