

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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REGULAR PUBLIC HEARING

+ + + + +

WEDNESDAY

APRIL 14, 2021

+ + + + +

The Regular Public Hearing of the District of Columbia Board of Zoning Adjustment convened via videoconference, pursuant to notice at 9:35 a.m. EDT, Frederick L. Hill, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

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

ZONING COMMISSION MEMBER PRESENT:

- MICHAEL TURNBILL, Commissioner
- ROB MILLER, Commissioner

OFFICE OF ZONING STAFF PRESENT:

- CLIFFORD MOY, Secretary
- PAUL YOUNG, Zoning Data Specialist

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OFFICE OF PLANNING STAFF PRESENT:

ELISE VITALE
MAXINE BROWN-ROBERTS
KAREN THOMAS
STEPHEN MORDFIN

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

JOHN K. RICE, Esquire
ALEXANDRA CAIN, Esquire

The transcript constitutes the minutes from the
Regular Public Hearing held on April 14, 2021

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

2 (9:35 a.m.)

3 CHAIRPERSON HILL: The meeting will please come to
4 order. Good morning, ladies and gentleman. We are convened and
5 broadcasting this decision meeting by video conference. This is
6 the April 14, 2021, public meeting session of the Board of Zoning
7 Adjustment for the District of Columbia. My name is Fred Hill,
8 Chairperson. Joining me today is Lorna John, Vice Chair, And
9 Board Member Carl Blake and Chrishaun Smith. And representing the
10 Zoning Commission is Rob Miller as well as Mike Turnbull.

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

15 The video of the webcast will be available on the Office
16 of Zoning website after today's meeting session. Accordingly,
17 everyone who is listening on Webex or by telephone will be muted
18 during the meeting. We do not take any public testimony at our
19 decision meetings. If you're experiencing difficulty accessing
20 Webex or with your telephone call in, then please call our OZ
21 number at (202) 727-5471. Once again, (202) 727-5471 to receive
22 Webex login or call in instructions. At the conclusion of this
23 meeting session I shall, in consultation with the Office of
24 Zoning, determine whether a full or summary order may be issued.
25 A full order is required when the decision it contains is adverse

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1 to a party, including the affected ANC. A full order may also be
2 needed if the Board's decision differs from the Office of
3 Planning's recommendation.

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

7 Preliminary matters are those which relate to whether a
8 case will or should be heard today, such as a request for a
9 postponement, continuance, or withdrawal, or that proper and
10 adequate notice of the meeting has been given.

11 Mr. Secretary, do we have any preliminary matters today?

12 MR. MOY: Good morning, Mr. Chairman, Members of the
13 Board. There are some preliminary matters, but staff would
14 suggest that the Board address those when I call the case.

15 CHAIRPERSON HILL: Okay, great. Let's see, Mr.
16 Turnbull, you're not on these next couple with myself as well.
17 It's just Commissioner Miller. We knew that you were having a
18 little bit of difficulty getting in. So we're going to go ahead
19 and do Commissioner Miller's first.

20 MR. TURNBULL: That's fine. Sorry I'm late. Microsoft
21 in its infinite wisdom decides to update computers at the
22 strangest times, and screws up your system for a while. So sorry
23 about that.

24 CHAIRPERSON HILL: No problem, Commissioner Turnbull.
25 No problem at all.

1 Then I guess, Ms. John, do you want to read or call your
2 cases?

3 VICE CHAIR JOHN: Thank you, Mr. Chairman. The next
4 case is case number 20460.

5 MR. MOY: Yes. So this is case application number 20460
6 of Emily and Wesley Raynor, R-A-Y-N-O-R. This application is
7 captioned and advertised for special exception from the penthouse
8 requirements, Subtitle C, Section 1500.4. And this would
9 construct a new attached three-story flat with basement and
10 penthouse in the RF-1 Zone. It is at premises 909 I Street,
11 Northeast, Square 933, Lot 28. If the Board will recall, this --
12 the Board heard this application at its hearing on March 24,
13 number one. Number two, there -- the applicant's team is on deck
14 if needed to be called on. There are no others signed up into the
15 hearing on this case. And finally, there are no submissions, no
16 new filings in the record.

17 VICE CHAIR JOHN: Thank you.

18 MR. MOY: And participating, of course, on this
19 application is Vice Chair John, Mr. Smith, and Zoning Commissioner
20 Rob Miller.

21 VICE CHAIR JOHN: Thank you, Mr. Moy. So based on the
22 statements of Mr. Moy, concerning the lack of any new information

1 in the record, I believe the Board is able to deliberate and vote.

2 So are we ready to deliberate?

3 (No response.)

4 VICE CHAIR JOHN: Okay. Hearing no negative responses,
5 I'll go ahead and start. So I don't have many concerns or any
6 concerns about this application. And I believe the record
7 demonstrates that the applicant meets the criteria for relief.

8 The applicants showed that the penthouse would be less
9 than 10 feet in height and have no more than one story, would
10 provide only stair access to the rooftop, and provide 30 feet of
11 storage. The applicant has also demonstrated why relief is
12 appropriate to place the solar panels adjacent to the edge of the
13 roof at the rear of the building. And in that location the
14 applicant is able to use the central part of the roof for outdoor
15 space. This also results in a more efficient design because the
16 panels would allow the downward slope of the roof, would follow
17 the downwards slope of the roof and visibility from the street
18 would be lessened.

19 The applicant also meets the general special exception
20 criteria for relief under X 901.2 because there are similar
21 properties with penthouses in the area, and the relief is
22 consistent with the zoning regulations and maps as shown in the
23 record and during the testimony.

1 I agree with OP's analysis and the recommendation and
2 give great weight to that analysis. DDOT does not object to the
3 relief. There are several neighbors in support of the application
4 and have submitted information to the record.

5 The ANC is in support, and that information is provided
6 in exhibit 34. And the ANC has no issues or concerns.

7 So I will go around the room, as the chairman does, and
8 ask Mr. Miller to go next. Commissioner Miller?

9 MR. MILLER: Thank you, Madam Chair. As usual, you are
10 very thorough in your presentation. And I concur with everything
11 that you said and am prepared to support the relief being
12 requested. Thank you.

13 VICE CHAIR JOHN: Thank you, Mr. Miller. Can we go to
14 Board Member Smith next?

15 MR. SMITH: Sure. Vice Chair John, I think as Mr.
16 Miller stated, I think you were very thorough in your analysis.
17 But I'll speak to it a little bit.

18 So I am in support of the requested special exceptions.
19 I believe that the applicant has sufficiently demonstrated that
20 the request meets the special exception criteria for penthouses as
21 stipulated in C 1500.4 for penthouse relief and the general
22 special exception standards in Section X 901.2.

1 I believe that the proposed penthouse would meet the
2 intent and purpose of the zoning ordinance and would not have a
3 substantial adverse impact to neighboring property owners, as
4 based on the sun study that was presented at the meeting back in
5 March, which shows that the majority of the properties are
6 currently already in shadow during the times when the bulk and
7 mass of the proposed penthouse would impact their properties. And
8 most of the additional shadowing is over the roof of the existing
9 dwellings units within the square.

10 And as you noted, the ANC is in support. And I rest on
11 the Office of Planning's thorough report. So with that, I will
12 support the special exceptions.

13 VICE CHAIR JOHN: Thank you, Board member Smith. And
14 Board Member Blake?

15 MR. BLAKE: I have not read into this case, so I will
16 not be participating. Not prepared to take action.

17 VICE CHAIR JOHN: Sorry about that. Sorry about that.
18 So I think that I agree with you in terms of the shadow studies.
19 And thank you for mentioning that, Board Member Smith. So I can
20 support the application, and I will ask Mr. Moy to take a vote.

21 MR. MOY: Vice Chair, I believe someone needs to make a
22 motion, and then I would need a second on the motion.

1 VICE CHAIR JOHN: Thank you for reminding me, Mr. Moy.
2 It's early. So thank you. So I will make a motion to approve
3 application number 20460 of Emily and Wesley Raynor. I ask that -
4 -

5 MR. SMITH: I second.

6 VICE CHAIR JOHN: Pardon?

7 MR. SMITH: Sorry. And I second. Sorry. But you
8 hadn't finished making your motion. Sorry.

9 VICE CHAIR JOHN: Oh, that's okay. -- as read and
10 captioned by the secretary, and ask for a second?

11 MR. SMITH: I second.

12 VICE CHAIR JOHN: Thank you. Now, Mr. Moy, can we have
13 a vote?

14 MR. MOY: With pleasure. When I call your name if you
15 would please respond with a yes, no, or abstain made to the motion
16 made by Vice Chair John to approve the application as captioned.
17 The motion was seconded by Mr. Smith. Zoning Commissioner Rob
18 Miller?

19 MR. MILLER: Yes.

20 MR. MOY: Mr. Smith?

21 MR. SMITH: Yes.

22 MR. MOY: Vice Chair John?

23 VICE CHAIR JOHN: Yes.

1 MR. MOY: We have the chair and Mr. Blake not
2 participating on this application. Staff would record the vote as
3 3 to 0 to 2. And this is on the motion made by Vice Chair John to
4 approve. The motion was seconded by Mr. Smith. Also in support
5 of the motion, Zoning Commissioner Rob Miller. And the motion
6 carries 3 to 0 to 2.

7 VICE CHAIR JOHN: Thank you, Mr. Moy. Can you call the
8 next case?

9 MR. MOY: Yes. The next case for decision is
10 application number 20369 of Emily and Wesley Raynor. The caption
11 advertised for special exceptions under Subtitle C, Section 1500.4
12 from penthouse requirements, Subtitle C, Section 1500, and under
13 Subtitle E, Sections 205.5 and 5201 from the rear addition
14 requirements, Subtitle E, Section 205.4, which would construct a
15 new, attached, three-story flat with a penthouse in the RF-1 Zone.
16 This is at premises 911 I Street, Northeast, Square 933, Lot 29
17 The -- this was last heard at the Board's last hearing on March
18 24, 2021. On deck, again, is the applicant's team if needed by
19 the Board. No one else has signed up to this hearing. And
20 finally, there are no new submissions in the record case.

21 VICE CHAIR JOHN: Thank you, Mr. Moy. So because there
22 are no new filings in the record, and no one has signed up to
23 speak, I'll go ahead and close the record. And so the Board is

1 now able to deliberate and vote. And so I'll start the
2 discussion.

3 The application for 911 I Street is a companion case to
4 the case we just heard, 20460. And they were originally filed as
5 one case. Then the applicant amended the application to file as
6 two separate cases and re-noticed this case. And as Mr. Moy said,
7 this case was also heard on March 24. Yes.

8 So for the March 24 hearing the applicant filed a
9 request to waive the notice deficiency for the tenants. However,
10 because of the postponement, I believe the tenants have had
11 sufficient notice. And so if the other Board members have no
12 objection, I'll go ahead and waive the notice requirements because
13 the issue is now moot. And just to clarify the record, I believe
14 that's appropriate. So does anyone have any objection?

15 (No response.)

16 VICE CHAIR JOHN: And I'll go ahead and start the
17 discussion and ask you to add anything that you might, you know,
18 want to contribute.

19 So the projects at 911 I Street and 909 I Street are
20 substantially the same. But as in this case, the applicant is
21 also seeking to construct a new attached three-story flat with a
22 penthouse, and requires a special exception approval under the
23 penthouse regulations of Subtitle C 1500.4. And in this case the

1 applicant is also seeking to permit solar panels adjacent to an
2 open court.

3 Because the record in this application is substantially
4 similar to the record in case number 20460, I will incorporate my
5 comments with respect to the penthouse relief in case number 20460
6 in deciding whether the penthouse relief is appropriate in this
7 case. However, there's a difference in this application because
8 the applicant is also seeking additional special exception relief
9 under Subtitle E 5201 for the rear yard, to extend the rear wall
10 more than the 10 feet allowed as a matter of right. And this
11 building shares a party wall with 909 I Street. And a rear wall
12 would extend approximately 18 feet beyond 909 I Street, which
13 would require the applicant to seek rear yard special exception
14 relief.

15 And I agree with OP's analysis, which is fairly straight
16 forward, concerning how the applicant qualifies for relief under E
17 5201. There are no windows on the sides of the addition that look
18 directly into neighboring properties. And in this case, because
19 of the additional eight feet, the applicant -- eight feet of the
20 rear wall, the applicant's shadow studies were more significant.
21 But I believe that the shadow studies do not appear to create any
22 undue impact on the neighboring property. I believe that property
23 is to the east.

1 There are also decks on the first and second levels, and
2 they would be set back about 3.5 feet from the property to the
3 east.

4 As in the former case, they applicant also needs relief
5 under X 901.2, those for solar panels and the rear yard relief.
6 And I believe that there are no adverse impacts to privacy, and
7 light and air as discussed in connection with E 5201 and as shown
8 by the shadow studies.

9 And so I am able to support this case. I'd also note
10 that DDOT has no objection. The ANC supports this case. And the
11 report, I believe, as I noted in the other case, at exhibit 34.
12 And so with that, I will ask Commissioner Miller to go next.

13 MR. MILLER: Thank you, Madam Chair. If you can hear
14 me, thank you. I think I had to turn my video off for you to hear
15 me. I concur with everything you've said, again, and support the
16 special exception relief for the penthouse and for the rear
17 addition, agreeing that there are no undue adverse impacts to
18 neighboring properties or anybody. So I'm prepared to support the
19 application, Madam Chair. Thank you.

20 VICE CHAIR JOHN: Thank you. Board Member Smith?

21 MR. SMITH: Yes. Madam Chair, for the same reasons that
22 you discussed very thoroughly, I am also in support of the special
23 exception. I find that it doesn't have any undue adverse impact

1 on the adjacent property owners, especially at 909 I Street, who
2 is the neighbor directly to the east of this particular property.
3 So I stand on OP's thorough analysis, give great weight to them,
4 and also the fact that the ANC and the adjacent property owners
5 that would be most unduly affected are in support of this request.
6 I will support the special exception.

7 VICE CHAIR JOHN: Thank you, Board Member Mr. Smith.
8 And so I will make a motion to approve application 20369 as read
9 and captioned by the secretary, and ask for a second?

10 MR. SMITH: Second.

11 VICE CHAIR JOHN: Mr. Moy, can you please call the roll?
12 (No response.)

13 VICE CHAIR JOHN: Mr. Moy?

14 MR. MOY: Yes. I'm fumbling with keys. My keys are
15 too small. They're too small. Okay. Let's see, where am I.
16 Yes. So when I call your name if you would please respond with a
17 yes, no, or abstain to the motion made by Vice Chair John to
18 approve the application for the relief requested. The motion was
19 seconded by Mr. Smith.

20 Zoning Commissioner Rob Miller?

21 MR. MILLER: Yes.

22 MR. MOY: Mr. Smith?

23 MR. SMITH: Yes.

1 MR. MOY: Vice Chair John?

2 VICE CHAIR JOHN: Yes.

3 MR. MOY: And we have the chair and Mr. Blake not
4 participating on this application. The resulting vote is 3 to 0
5 to 2 to approve the application. That was made by Vice Chair John
6 in the affirmative, seconded by Mr. Smith. Also in support of the
7 motion, Zoning Commissioner Rob Miller. The motion carries 3 to 0
8 to 2.

9 VICE CHAIR JOHN: Thank you, Mr. Moy. Mr. Chairman,
10 are you here?

11 CHAIRPERSON HILL: I'm back. Thank you. I guess,
12 Commissioner Miller, you can have a nice day.

13 VICE CHAIR JOHN: Bye, Mr. Miller.

14 CHAIRPERSON HILL: Commissioner Turnbull is with us.
15 Okay. Vice Chair John, that was great. If you ever want to take
16 over, you let me know.

17 VICE CHAIR JOHN: Thank you, Mr. Chairman. But I like
18 having you in that spot.

19 CHAIRPERSON HILL: I like having you in the other spot.
20 I was really enjoying all of it.

21 VICE CHAIR JOHN: Thank you.

22 CHAIRPERSON HILL: We should trade off on different
23 days.

1 All right. Let's see, Mr. Moy, do you want to go ahead
2 and call whichever one you have next in the lineup?

3 MR. MOY: Yes, sir. We have two applications in the --
4 I'm assuming we're going back to the two cases that we have in the
5 meeting session. And that first one is an expedited review case,
6 which is application number 20444 of Nicole Dillard. And this is
7 an application for special exception from the rear yard
8 requirements, Subtitle D, Section 306.1. And this will construct
9 a rear, second-story addition to an existing two-story with
10 basement, detached principal dwelling unit in the R-1-B Zone.
11 This is located at 4124 19th Street, Northeast, Square 4192, Lot
12 803.

13 CHAIRPERSON HILL: Okay, great. Thanks, Mr. Moy. I
14 guess in the future, Mr. Moy, maybe what we'll do is if we have
15 any kind -- so you know, everyone knows that we have some issues
16 with our notice filing. And so we can't actually decide this
17 until April 28th, just because of the notice issue. So I know
18 that Commissioner Turnbull went ahead and reviewed the case as I
19 did. And so he's going to now have to come back on the 28th
20 anyway. So if we get this again, there is no need for anybody to
21 -- if it's an expedited review, there's no need for anybody to
22 review it. We'll just leave whatever commissioner is on there for
23 that time. Right. However, we can, I guess -- I mean, we can't do

1 anything. We can't even deliberate, apparently. Like, so I guess
2 then, Mr. Moy, we'll go ahead and put this off until the 28th of
3 April. And, unfortunately, Commissioner Turnbull, I guess -- or
4 you can pass it off to the next commissioner if you'd like. But
5 we'll have this back before us on April 28th.

6 MR. TURNBULL: Mr. Chair?

7 CHAIRPERSON HILL: Yes, Mr. Turnbull?

8 MR. TURNBULL: Can we point out there might be something
9 in the record that might need to be at least addressed or
10 corrected for the next time we're at a meeting on this? The
11 question is, and I think OAG has pointed this out also, that the
12 ANC's report is a little bit confusing, the language. I think
13 they're in support, but the way it reads, you could mistake it at
14 some point that unless they retain 25 feet, they're opposed. But
15 it's just badly worded. I think if they could clarify their
16 report, it would just read better for everybody.

17 CHAIRPERSON HILL: Okay. All right, commissioner. I
18 guess, Mr. Moy, if you could reach out to the ANC and see if they
19 could clarify their report a little bit. And I guess since
20 Commissioner Turnbull has brought it up, I guess there are some
21 issues that may be on the Board's control, and concerning some of
22 the conditions. And I don't know whether the ANC is opposed if we

1 don't meet all those conditions. And I'm going to look it up real
2 quick here right now.

3 MR. TURNBULL: I mean, if you want, I can read the
4 section that's a little bit confusing.

5 CHAIRPERSON HILL: Sure. Go ahead. Go ahead, Mr.
6 Turnbull.

7 MR. TURNBULL: ANC 5B wants to confirm that the rear
8 yard space is the minimum of 25 feet to ensure the proposed
9 construction doesn't reduce the rear yard to less than projected
10 11 feet. If less than 25 feet ANC 5B oppose request. And then
11 they talk about the owner will stress to contractors the
12 importance of preserving the permeable alley. I think they mean
13 that they're okay with the 11-foot add-on. I guess maybe -- it
14 sounds like maybe they're just confirming that the existing yard
15 is 25 feet. If it's 25 feet, they're okay, and that they can
16 still go ahead and build the 11-foot add on. But you could read
17 it that -- it's confusing that it looks almost that it says that
18 if they don't keep 25 feet, we're opposed. So maybe it's just me
19 interpreting. I just think it's badly worded. If they could just
20 clarify that.

21 CHAIRPERSON HILL: Okay. Ok Mr. Moy can reach out to
22 the ANC. And then, again, I guess we can't condition the permeable
23 pavers, the permeable alley behind the house. So you could also,

1 I guess, clarify with the ANC that we can't -- if they have agreed
2 with that on their own, that's great. But we won't be able to put
3 that as a condition. And other than that, Mr. Moy, we'll go ahead
4 and put this off until April 28th, unless somebody else has
5 something to add?

6 (No response.)

7 CHAIRPERSON HILL: Okay, great. Mr. Moy, you can go
8 ahead and call our next one.

9 MOY: All right. This would be a request for a two-
10 year time extension in case application number 19932A of Jefferson
11 Parke. As captioned and advertised in the underlying case, it's a
12 project, or rather an application to extend for an additional two
13 years, BZA Order number 19932, for special exception under
14 Subtitle E, Sections 205.5 and 5201, from the rear addition
15 requirement; Subtitle E, Section 205.4, which would construct a
16 third story and a rear addition to a principal dwelling unit and
17 convert the dwelling into a flat in the RF-1 Zone. This is,
18 again, the time extension from BZA Order 19932 that was effective
19 March 22, 2019. The property is located at 1227 4th Street,
20 Northwest, Square 523, Lot 842.

21 CHAIRPERSON HILL: Okay, great. Thank you, Mr. Moy. So
22 we don't have any issues with this one, right? There's no -- we
23 can decide on this today?

1 (Nods head affirmatively.)

2 CHAIRPERSON HILL: Okay. All right. Everybody is
3 saying okay. All right. So after getting the case, I mean, I
4 didn't have any issues with the time extension. I think that the
5 explanation that the applicant is giving us pursuant to Y
6 705.1(c)3 concerning their good cause, with the issues of the
7 pandemic, I believe is valid.

8
9 And then also, the Office of Planning was in support.
10 The ANC did give their support. But I guess they didn't do so in
11 a way that we'd be able to give them great weight. However, it's
12 nice to see that they are in support of it. So I don't have any
13 issues. So I'm going to go ahead and be in support and approval
14 of this. Is there anything you'd like to add, Mr. Turnbull?

15 MR. TURNBULL: No, Mr. Chair. I agree with all of your
16 comments. And I would also be in support.

17 CHAIRPERSON HILL: Okay. Mr. Smith?

18 MR. SMITH: Sorry. I hit the wrong button. I agree
19 with Mr. Turnbull. I agree with all of your comments. And I
20 would be in support of it.

21 CHAIRPERSON HILL: Vice Chair John?

22 VICE CHAIR JOHN: I agree with all of the comments so
23 far, and I am in support.

1 CHAIRPERSON HILL: Mr. Blake?

2 MR. BLAKE: I too agree with the comments and am in
3 support. Thank you.

4 CHAIRPERSON HILL: Okay. I'll make a motion to approve
5 application number 19932A, as in apple, and ask for a second, Ms.
6 John?

7 VICE CHAIR JOHN: Second.

8 CHAIRPERSON HILL: Mr. Moy, could you please take a roll
9 call?

10 MR. MOY: Yes. When I call your name, if you would
11 please respond with a yes, no, or abstain to the motion made by
12 Chairman Hill to approve the request for a two-year time
13 extension. The motion was seconded by Vice Chair John. Zoning
14 Commissioner Michael Turnbull?

15 MR. TURNBULL: Yes.

16 MR. MOY: Mr. Smith?

17 MR. SMITH: Yes.

18 MR. MOY: Mr. Blake?

19 MR. BLAKE: Yes.

20 MR. MOY: Vice Chair John?

21 VICE CHAIR JOHN: Yes.

22 MR. MOY: Mr. Hill?

23 CHAIRPERSON HILL: Yes.

1 MR. MOY: Staff would record the vote as 5 to 0 to 0.
2 And this is on the motion made by Chairman Hill to approve the
3 request for a two-year time extension to application number
4 19932A. And the motion was seconded by Vice Chair John. Also
5 support of the motion is Mr. Blake, Mr. Smith, and Zoning
6 Commissioner Michael Turnbull. The motion carries on a vote of 5
7 to 0 to 0.

8 CHAIRPERSON HILL: Okay, great. Thank you, Mr. Moy.
9 All right, everybody, I'm going to read into our hearing session.
10 And so now the hearing will please come to order. Good morning,
11 ladies and gentlemen. We are convened and broadcasting this
12 public hearing by video conference. This is the April 14, 2021,
13 public hearing of the Board of Zoning Adjustment of the District
14 of Columbia. My name is Fred Hill, Chairperson. Joining me today
15 is Lorna John, Vice Chair, and Board members Carl Blake and
16 Chrishaun Smith. Representing the zoning commission will be
17 Michael Turnbull.

18 Today's hearing agenda is available to you on the
19 Office of Zoning website. Please be advised this proceeding is
20 being recorded by a court reporter and is also webcast live via
21 Webex and YouTube Live. The webcast video will be available on
22 the Office of Zoning website after today's hearing. Accordingly,
23 everyone here listening on Webex or by telephone will be muted

1 during the hearing, and only persons who have signed up to
2 participate or to testify will be unmuted at the appropriate time.

3 Please state your name and home address before providing
4 oral testimony or your presentation.

5 Oral presentations should be limited to a summary of
6 your most important points. When you're finished speaking, please
7 mute your audio so that we're not picking up sound or background
8 noise.

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10 with your telephone call in, or if you have forgotten to sign up
11 24 hours prior to this hearing, then please call our OZ hotline
12 number at (202) 727-5471. Once again (202) 727-5471 to sign up to
13 testify and to receive Webex login or call in instructions.

14 All persons planning to testify either in favor or
15 opposition should sign up in advance. They'll be called by name
16 to testify. If this is an appeal, only parties are allowed to
17 testify. By signing up to testify all participants will need to
18 be oath or affirmation as required by Subtitle Y 408.7. Request
19 to enter evidence at the time of online virtual hearing, such as
20 written testimony or additional supporting documents, other than
21 the live video, which may not be presented as part of the
22 testimony, may be allowed pursuant to Subtitle 5103.13, provided
23 that the person who is making request to enter an exhibit explain

1 | how the proposed exhibit is relevant. If due cause justifies
2 | allowing the exhibit into the record, including an explanation of
3 | why the requester did not file the exhibit prior to the hearing
4 | pursuant to Subtitle Y 206, and how proposed exhibit would not
5 | reasonably prejudice any parties.

6 | The other procedures of special exception and variance
7 | are pursuant to Y 409, the appeal agenda is in Subtitle Y 507. At
8 | the conclusion of each case an individual who is unable to testify
9 | because of technical issues may file a request for leave to file a
10 | written version of the planned testimony to the record within 24
11 | hours following the conclusion of testimony in the hearing. If
12 | additional written testimony is accepted, then parties will be
13 | allowed a reasonable time to respond as determined by the Board.

14 | The Board will then makes its decision at its next
15 | meeting, but no earlier than 48 hours after the hearing.
16 | Moreover, the Board may request additional specific information to
17 | complete the record.

18 | The Board will specify at the end of the hearing exactly
19 | what's expected and a date when person will submit the evidence to
20 | the Office of Zoning. No other information shall be accepted by
21 | the Board.

22 | The Board's agenda may include previous cases set for

1 decision. After the Board adjourns the hearing, the Office of
2 Zoning, in consultation with myself, will determine whether a full
3 or summary order may be issued. A full order is required when the
4 decision contains adverse to a party, including affected ANC. A
5 full order may also be needed if the Board's decision differs from
6 the Office of Planning's recommendation.

7 Although the Board favors the use of summary orders
8 whenever possible, an applicant may not request the Board to issue
9 such an order. The District of Columbia Administrative
10 Procedures Act requires that a public hearing on each case be held
11 in the open, before the public, pursuant to 405B and 406 of the
12 Act. The Board may, consistent with its rules of procedures and
13 the Act, enter into a closed meeting on a case for purposes of
14 seeking legal counsel on a case pursuant to DC Official Code
15 Section 2-575(b)4 and/or deliberate on a case pursuant to DC
16 Official Code Section 2-575(b)13, but only after providing the
17 necessary public notice. And in the case of emergency closed
18 meeting you have to take a roll call vote.

19 Preliminary matters are those which relate to whether a
20 case will or should be heard today, such as a request for
21 postponement, continuance, or withdrawal or other proper and
22 adequate notice of the hearing has been given.

1 Mr. Secretary, do we have any preliminary matters today?

2 MR. MOY: The Board does have preliminary matters, but
3 the staff would suggest that the Board address those on a case by
4 case basis. Thank you, Mr. Chairman.

5 CHAIRPERSON HILL: Okay. Great. Mr. Moy, if you'd like
6 to call our first case then. Oh, actually, Mr. Moy, do you know -
7 - and maybe you can take a look. There is. I think it's
8 application 20382. There might be some issues with that. And I
9 know that it's currently our second to last case. Maybe you can
10 find out if the applicant and the parties in opposition are all
11 around. And if so, we're going to try to deal with that issue a
12 little bit earlier. Okay? So that that leaves -- I'm sorry?

13 MR. MOY: No, no, no. Go ahead. I didn't know if you
14 wanted to hear this next or not.

15 CHAIRPERSON HILL: No. I'm saying I don't know whether
16 -- I know that the applicant is probably around, because they have
17 other cases with us. I don't know if those party opponents are
18 waiting until the end of the day. And so I'd rather kind of go
19 ahead and clear that up. Because I know there's some issues
20 concerning postponement that might be going on with that. So if
21 possible, I'd like to free them up. But I don't know if they're
22 around. Okay. So --

23 MR. MOY: Okay.

1 CHAIRPERSON HILL: So while we deal with this next case
2 maybe you can kind of put the staff on that and see. Okay?

3 MR. MOY: Yes, sir.

4 CHAIRPERSON HILL: So if you want to go ahead and call
5 20395.

6 MR. MOY: Okay. So let's see. Okay. Here we go. All
7 right. This is application number 20395 of 3200 13th Street, LLC.
8 This application is caption advertised and as amended for special
9 exception from the residential conversion requirements, Subtitle
10 U, Section 320.2; rear yard requirements, Subtitle E, Section
11 306.1; minimum parking requirements, Subtitle C, Section 701.5.
12 This would convert an existing semi-detached, three-story
13 commercial building into a three-unit apartment house with front,
14 side and rear additions in the RF-1 Zone. And the property is at
15 premises 3200 13th Street, Northwest, Square 2843, Lot 800. And
16 I believe, Mr. Chairman, that the applicant has asked for a waiver
17 for filing supplemental information. But I'd verify that with the
18 applicant.

19 CHAIRPERSON HILL: All right. Thank you, Mr. Moy. Ms.
20 Ferreira, could you introduce yourself for the record?

21 MS. FERREIRA: Good morning, Mr. Chair, members of the
22 Board. My name is Catarina Ferreira, and I am the architect and

1 agent on behalf of 3200 13th Street, LLC. And I will be glad to
2 walk you through the project.

3 CHAIRPERSON HILL: Okay. Ms. Ferreira, is there some
4 other people here with you?

5 MS. FERREIRA: I believe the property owner is on the
6 line. Although, he has said that he does not necessarily need to
7 make a statement unless --

8 CHAIRPERSON HILL: Okay. Okay. That's fine. I just
9 want to know. We'll see if we need him. And if so, we'll go
10 ahead and ask him questions. If you could go ahead. So you
11 needed a waiver. When is it that you filed?

12 MS. FERREIRA: It was filed last Friday. And the date -
13 -

14 CHAIRPERSON HILL: No. But why did you need the waiver;
15 what did you file?

16 MS. FERREIRA: Oh, I'm so sorry. It was the
17 supplemental information regarding how we met the criteria for
18 (audio inference) relief. Specifically regarding Section 5201.4.
19 And it was really just a more thorough explanation of how the
20 various conditions are met.

21 CHAIRPERSON HILL: Okay. Unless the Board has an
22 issue, I don't have any issue allowing that into the record. So

1 I'm going to go ahead and do so. If the Board has an issue,
2 please raise your hand.

3 (No response.)

4 CHAIRPERSON HILL: I don't see anybody raising their
5 hand. Okay. So we're going to go ahead and allow that into the
6 record. Ms. Ferreira, if you can go ahead and walk us
7 through your application and how you believe you're meeting all of
8 the criteria for us to grant the relief requested. Do you have a
9 PowerPoint or anything you want us to bring up, or no?

10 MS. FERREIRA: We could bring up the architectural
11 drawings. But first I will go to through these and explain how we
12 meet the criteria, and then I can also describe the project
13 briefly. So it's not important to do that at this moment. When
14 the time comes to take a look at the drawings we can do that.

15 CHAIRPERSON HILL: Okay, great.

16 MS. FERREIRA: One thing I would like to clarify is that
17 the building at 1300 13 Street, Northwest, was initially
18 constructed as a residential building. The relief request, as
19 stated by Secretary Moy, said that we are converting a commercial
20 building into an apartment house. And the relief we have applied
21 for is in fact for the conversion of a residential building to an
22 apartment house. So I just wanted to clarify that. The reason
23 being that, although it was used as the office for the newspaper,

1 American Newspaper Association for several years, it was
2 constructed as a residence and remained as a residence in terms of
3 certificate of occupancy as far as we know. There is no
4 certificate of occupancy for the building on record that we have
5 been able to locate. Therefore, the relief being sought is for
6 conversion from a residential building to an apartment house.

7 And to reiterate that, we are seeking relief pursuant to
8 Subtitle U, Section 220.2 for special exception from rear yard
9 requirements. Sorry, for relief from the number of dwellings in
10 RF-1. We are requesting relief from the rear yard requirements of
11 Subtitle E, Section 306. And we are requesting relief from
12 parking requirements for Subtitle C, Section 703.2.

13 The property is located at 3200 13th Street, Northwest,
14 which is at the intersection of Kenyon Street, Northwest, and it
15 is bordered on an adjoining building on Kenyon Street and by an
16 empty lot on 13th Street Northwest. It comprises 4,619 square
17 feet with a lot occupancy of 34.2 square feet. No VR currently
18 exists. So we are -- what we are proposing is to maintain the
19 existing condition, as the building not being raised. It is
20 simply being altered and added onto. It is three stories tall and
21 includes a one-story garage at the northern end of the lot.

1 There is a building restriction line along both sides of
2 the property, which DDOT has commented on. And there are several
3 apartment houses in the immediate vicinity.

4 The proposed project is renovate and convert the
5 building into a residential building, based on the land area
6 available of 4600 square feet, which exceeds the requirement of
7 900 square feet required for going beyond the two dwelling units
8 normally allowable in RF-1.

9 I will now go into how we meet the conditions for
10 converting the building and adding onto, and the various two other
11 relief sections requested. We meet the requirements of special
12 exception request of Subtitle (indiscernible) 220.2 as follow:
13 220.2(a). The building can be converted existence on the
14 property at the time the Department of Consumer Regulatory
15 Affairs accepts the building permit application for conversion or
16 inspection, which is a fact. Section 220.2(d), there is no fourth
17 dwelling unit. Therefore, the inclusion area zoning requirement
18 does not apply. Section 220.2(e), the minimum requirement of 900
19 square feet per unit is (audio inference). We also meet the
20 requirement of Subtitle E, Section title 301 as follows: 5201.1
21 proposal of (indiscernible) .2 percent far below the maximum of 70
22 percent allowable for all construction on the block. 5201.1,
23 relief from yard requirement is allowable to special exception

1 causes. 5201.1, relief from court requirements is not applicable,
2 as we are not requesting it. 5201.1(d), pervious surface
3 requirements will be exceeded.

4 We also meet the conditions for special exception
5 requirements of Subtitle C, 703.2 as follows: due to the physical
6 constraints of the property, the required parking spaces cannot be
7 provided either on the lot or within 600 square feet in accordance
8 with Subtitle C, Section 701.8. Section BB, the use or structure
9 is particularly well served by mass transit, (indiscernible) by
10 facilities. And Section C, land use for transportation purposes
11 of the neighborhood minimizes the required parking spaces. And
12 H, the property does not have access to an open public alley. As
13 I stated previously, what appears to be an alley to the north of
14 the property is in fact is in fact private property. It is tax
15 lot that is in the vacant space, but it's not a public alley.

16 In addition, and this is a supplemental document that I
17 have provided, we also qualify for the special exception for rear
18 yard requirements per Subtitle E, 5201.4 as follows: Section A,
19 pertains to light and air available to adjoining properties, not
20 being unduly affected. We meet this condition by the fact that
21 the only adjoining property that we have is on Kenyon Street,
22 Northwest. And the description of Kenyon Street Northwest. And
23 it has at risk windows located along the shared parking wall with

1 3200 13th Street, Northwest. As such, we are providing an open
2 area at the roof level, a piece of trellis through the deck to
3 maintain access to light and air for that property, even though
4 those are at risk windows. And that was done, you know, directly
5 in response to that condition (indiscernible).

6 As I mentioned previously, to the north there is a tax
7 lot, therefore, there is no abutting building at that location.
8 The next building over is at 3210 13th Street, Northwest, but
9 again there's separation. Therefore, there is no adverse impact
10 in that building either. Furthermore, additions at 3200 13th
11 Street, Northwest, do not exceed the height of the existing
12 building or its neighbors. And I should clarify that the proposed
13 height of the addition is to match the height of the existing
14 building, which is approximately 35 to the (indiscernible)
15 cornice line, and 37 feet or so to the midpoint of the roof.

16 We also meet the condition "B" of 5201.4 of Subtitle --
17 sorry, Subtitle U, 201.4, the privacy of use and enjoyment of
18 neighboring properties will not be compromised. This condition is
19 met by the fact that no windows are proposed on the northern
20 building wall of the building to which exists 3210 13th Street,
21 Northwest. And no occupied spaces look into the trellised roof
22 area that we are proposing between our building and Kenyon Street,
23 Northwest where the adverse windows are. There is one bathroom on

1 our building that looks onto that space. And window treatments
2 will be provided to ensure privacy is maintained. But there are
3 no other occupied spaces facing that space. And from the
4 neighboring buildings on the space that's facing that roof deck
5 area is a living room, not a bedroom or a bathroom. So it is a
6 space from where privacy is less of a concern, or should be.

7 Condition C of 5201.4, the proposed addition or
8 accessory structure together with the original building or
9 principal building or principal building as viewed from the
10 street, alley, and other public ways shall not (indiscernible)
11 character, scale up along the street or alley frontage. I believe
12 that this condition is met, given the fact that the addition has
13 the design and natural extension of the building with similar
14 materials and very, you know, carefully planned, compliment and
15 work like a natural extension of the existing building.

16 And finally, condition E, 5201.4, simply states that we shall
17 provide direct representation such as plans for the
18 (indiscernible) et cetera, which we have done.

19 And with that, we could flip through the drawings
20 briefly, just to walk everyone through the changes we propose.

21 CHAIRPERSON HILL: Ms. Ferreira, which exhibit are you
22 pulling up?

1 MS. FERREIRA: Thirty-four, I believe. Oh, pardon me.
2 Twenty-five is the architectural drawings. Would you like me to
3 share it on my end?

4 CHAIRPERSON HILL: No. Mr. Young can bring them up.
5 But I don't really -- let me just look real quick. Okay. I don't
6 have a lot of questions for you, Ms. Ferreira. So let me just
7 see, first, real quick, if the Board has any questions. Okay?

8 MR. TURNBULL: My only question is I would like -- I
9 wouldn't mind seeing the area that you're putting up to preserve
10 the windows or to, the, -- you said something about a trellis and
11 trying to preserve the windows of the neighboring building.

12 CHAIRPERSON HILL: If you could pull up, Mr. Young,
13 exhibit 25. And then tell me, Ms. Ferreira, just tell us which
14 slides you'd like to go through.

15 MS. FERREIRA: If we could go to slide number five,
16 please. So the area in question, Mr. Turnbull, is on the right-
17 hand side of the drawing, on the northern end of the building.
18 And it is identified on this site plan, new roof deck with
19 trellis.

20 MR. TURNBULL: I see it. I think I had missed new
21 trellis originally. Okay.

22 MS. FERREIRA: If we could just walk through the rest of
23 the slides briefly. So the main alterations to the building are

1 really the addition over the existing garage on the right side and
2 the bridge element connecting that addition to the rest of the
3 building.

4 MR. TURNBULL: My only question was, was the idea of
5 putting the trellis, was that at the request of the neighboring
6 properties?

7 MS. FERREIRA: No, it was not.

8 MR. TURNBULL: So that was just a voluntary effort on
9 your part?

10 MS. FERREIRA: That's correct.

11 MR. TURNBULL: Thank you.

12 CHAIRPERSON HILL: Does anyone else have any questions
13 for the applicant? And I'm going to -- let's scroll through. So
14 if so, please raise your hand. Because while the slide deck is
15 up I can't see anybody.

16 (No response.)

17 CHAIRPERSON HILL: Okay. All right. If you go ahead
18 and jot down the slide decks. Ms. Ferreira, could you -- and
19 maybe you spoke to this. But the general exception -- the general
20 special exception standards about harmonious, and purpose and
21 intent of the regs, and then no adverse impact on the use of
22 neighboring properties, can you just kind of speak to that a
23 little bit?

1 MS. FERREIRA: Sure. For that it might be helpful to
2 have the drawings back up. But, sure. I will just explain it
3 verbally. In terms of adverse impact, I walked through the light
4 and air criteria and how we are meeting that in terms of the
5 character, the harmonious character of the building. I think the
6 design is what would best illustrate how we are meeting that
7 criteria. So if we can pull up the drawings and flip through.
8 This step might be helpful, but really there's been great care
9 taken to propose an addition that's compatible with the building
10 architecturally, without looking like a replica, but that is
11 compatible in terms of design. I also do a lot of work in
12 historic districts. Even though this is not a historic district,
13 you know, sensitivity to older buildings is also, is always
14 something that I keep in mind. And that is very much in line with
15 the harmonious intent of, alluded to in the regulations.

16 If we could go to the next page, please. And I will
17 give you the slide number. If you could go to slide number 10.
18 So the building as exists is primarily what you see on the left of
19 this elevation drawing, where it looks like two towers with bridge
20 in between. What we are proposing is in fact a third tower with
21 another bridge in between. So, again, you know, harmony being the
22 intent there in terms of scale, in terms of character that is all
23 very much intentional.

1 Next slide please. Next slide please. And if we could
2 jump to number 14. And here you can see how that comes together
3 in three dimensions.

4 Next slide, please. There is a continuity of character
5 along Kenyon Street, which that is on the corner. And our
6 building is, or the addition to the building is really trying to
7 be a natural extension to that.

8 Next slide, please. Next. Does that sufficiently, I
9 don't know, answer your question.

10 CHAIRPERSON HILL: Yeah, Ms. Ferreira. I'm good. I'm
11 good. Thank you. All right. I'm going to turn to the Office of
12 Planning.

13 MS. VITALE: Good morning, Mr. Chair and members of the
14 Board. Elisa Vitale with the Office of Planning, for BZA Case
15 20395. The Office of Planning is recommending approval of the
16 requested special exception relief from the parking and rear yard
17 requirements. As noted by the applicant, the request is for a
18 special exception for the conversion of a residential building to
19 an apartment house, meeting the 900 square foot of land area per
20 unit requirement. OP wants to note that, you know, we analyzed
21 this application as a residential conversion, under 320.2, and are
22 also recommending approval of this conversion. I think, you know,
23 as noted in our report and also by the applicant, this property

1 has been used commercially for office use, but the applicant was
2 not able to obtain a certificate of occupancy for that commercial
3 office use, and so proceeded under the residential conversion.

4 We also checked DCRA records. Did not find a
5 certificate of occupancy. And would note that, you know, in the
6 records this is listed as a residential building. It was purpose
7 built for residential when it was originally constructed. And so
8 we were comfortable proceeding and analyzing this as a residential
9 conversion.

10 This concludes my report. I'm happy to answer any
11 questions that the Board might have at this time. Thank you.

12 CHAIRPERSON HILL: Okay, Ms. Vitale. Thank you. Does
13 anybody have any questions for the Office of Planning? And if so,
14 please raise your hand. I can't see you, Mr. Turnbull, so I don't
15 know if you have a question or not.

16 MR. TURNBULL: Mr. Chairman I don't have any questions
17 of the Office of Planning.

18 CHAIRPERSON HILL: Okay. Thank you. Ms. Ferreira, do
19 you have any questions for the Office of Planning?

20 MS. FERREIRA: I do not.

21 CHAIRPERSON HILL: Ms. Ferreira, I neglected to go over
22 this. DDOT has a comment that applicant shall obtain public space
23 permit and close existing curb track, remove existing paved

1 driveway on 13th Street, Northwest, and restore former driveway
2 and green space, subject to DDOT's approval; do you agree with
3 that?

4 MS. FERREIRA: Yes. Yes.

5 CHAIRPERSON HILL: Okay. All right. So that is going
6 to be a
7 possible addition. Mr. Young, do we have anybody here that wants
8 to speak?

9 MR. YOUNG: We do not.

10 CHAIRPERSON HILL: Okay. Ms. Ferreira, do you have
11 anything you would like to add at the end?

12 MS. FERREIRA: Sure. I would just go back to the DDOT
13 issue. We have filed a public space application, which we at the
14 same time, roughly, that we filed the application. That process
15 is ongoing. The removal of the curb cut has been a very
16 contentious issue. Of course the property owner would prefer to
17 keep the (indiscernible) in the parking space. And there is a
18 letter of opposition in the record regarding the elimination of
19 the parking space, or their main point of objection. And so that
20 is something that could certainly prompt the applicant's point of
21 view. It would have no issue maintaining the application that
22 DDOT has specifically requested that it be removed. And so just
23 for full transparency, that it's (indiscernible).

1 CHAIRPERSON HILL: I got it. But you are in agreement
2 with DDOT's condition removing the curb cut?

3 MS. FERREIRA: Uh, we are prepared to do so.

4 CHAIRPERSON HILL: Okay. All right. Okay. So let's
5 see, we, as you know, because of issues with our own notice, we
6 can't deliberate and decide on this until the 28th of April. So,
7 Ms. Ferreira, you're going to have to come back on the 28th of
8 April for a continued hearing; do you understand?

9 MS. FERREIRA: Understood.

10 CHAIRPERSON HILL: Okay. All right. Does anybody have
11 any final questions?

12 MR. TURNBULL: Yes, Mr. Chair, I just had one. Ms.
13 Ferreira, the existing building is stone with brick. Is the
14 brick, the brick, is that painted brick or is that natural gray
15 color brick?

16 MS. FERREIRA: I believe it's just, that's the natural
17 color of the brick.

18 MR. TURNBULL: So when you're adding on do you think --
19 you're looking to match that brick or try to get as close to it as
20 you can; is that it?

21 MS. FERREIRA: Yes. Yes. Obviously, an exact match will
22 be very difficult to achieve, but we're looking for compatibility.

23 MR. TURNBULL: And the same thing with the stone too?

1 MS. FERREIRA: Correct. Correct.

2 MR. TURNBULL: Okay. Thank you. Mr. Chairman, you're
3 muted.

4 CHAIRPERSON HILL: Thank you. We will see you back on
5 April 28th. All right, Ms. Ferreira. Okay. Thank you.

6 MS. FERREIRA: Thank you.

7 CHAIRPERSON HILL: Can you guys give me just 30 seconds?

8 (Whereupon, there was a brief pause.)

9 MR. TURNBULL: Mr. Moy?

10 MR. MOY: Yes, sir.

11 MR. TURNBULL: I just had a question. With the cases
12 being put back to, for continued hearings on the 28th, how does
13 that affect your rest of your calendar? I mean, I'm not out. I'm
14 going to be here. I'll be glad to show up. But how does that
15 affect your calendar for that day with these? Is that -- is the
16 28th going to be mainly a continued hearing day?

17 MR. MOY: Up to this point of what we've heard the past
18 two weeks, yeah. But after that there's been some substantial
19 changes. But I'll speak to you personally about any cases that
20 you participated on.

21 MR. TURNBULL: Yeah. Well, I'm more than willing on
22 showing up. But whatever.

1 MR. MOY: We're setting it at your convenience as well.
2 Thank you, sir.

3 CHAIRPERSON HILL: Okay. So I guess, Mr. Moy -- Mr.
4 Turnbull, I just caught the tail end of that. I mean, we're going
5 to do all of our continued hearings in the beginning. So if
6 you're up for a continued hearing, we're going to do all the
7 commissioners that do have a continued hearing at the beginning,
8 and then we're going to go into our day. So just to let you know.

9

10 MR. TURNBULL: Okay. That's fine. Great.

11 CHAIRPERSON HILL: Okay. Mr. Moy, do you want to go
12 ahead and call -- and just so the Board is aware, I just want to
13 take care of this other case first since everybody is here. There
14 might be a -- you know, there's an issue with postponement.
15 20382, I believe; is that the case, Mr. Moy?

16 MR. MOY: Yes, sir.

17 CHAIRPERSON HILL: Okay. If you could go ahead and call
18 that one, please.

19 MR. MOY: Okay. Before the Board, the next case
20 application is 20382 of Haider Haimus and Jessica, I'm going to
21 pronounce it Bachay, B-A-C-H-A-Y. I may be wrong, but that's the
22 spelling. This is an application as amended for special exception
23 from the lot occupancy requirement , Subtitle E, Section 304.1.

1 And this would construct a third-story addition and roof deck to
2 an existing two-story flat, and a second-story addition to an
3 accessory detached garage in the RF-1 Zone. This property is at
4 premises 308 11th Street, Northeast, Square 963, Lot 68. And as
5 the Chair has stated, there are preliminary matters to this, as
6 was, I believe, a request for a postponement.

7 CHAIRPERSON HILL: Okay. Great. Mr. Sullivan, could
8 you introduce yourself for the record, please?

9 MR. SULLIVAN: Yes. Thank you, Mr. Chairman and Board
10 members. Marty Sullivan on behalf of the applicant.

11 CHAIRPERSON HILL: Okay. Great. Thank you. Is it Mr.
12 Haimus?

13 MR. HAIMUS: Yes, sir. Haider Haimus.

14 CHAIRPERSON HILL: Could you state your name again,
15 please, for the record.

16 MR. HAIMUS: My name is Haider Haimus.

17 CHAIRPERSON HILL: Okay. And Mr. Haimus, which party
18 are you with?

19 MR. HAIMUS: I am the applicant.

20 CHAIRPERSON HILL: Oh. Mr. Moy, you said there was also
21 the parties in opposition?

1 MR. MOY: Yes. Yes. You have one, two, three, four,
2 five individual persons with party status. That was granted back
3 in -- I don't have that date in front of me.

4 CHAIRPERSON HILL: That's right. I think only four --
5 I think only four were granted. But nonetheless, let me see who
6 is here with us. And I'm going to try to figure this out. Mr.
7 Howell, are you there?

8 MS. HOWELL: yes, we are.

9 MR. HOWELL: Yeah. We're here.

10 CHAIRPERSON HILL: Okay. So Howell, and then Srinivasa?

11 MR. WILSON: Yes. This is Winfield Wilson and Veena
12 Srinivasa. Thank you.

13 CHAIRPERSON HILL: Okay. Great. Thank you. And then
14 Kerr is Kerr here? Mr. Stevak (phonetic)?

15 (No response.)

16 CHAIRPERSON HILL: No? Sharon and Harrison? I see
17 Harrison. Okay. Great. Perfect. I'm sorry. You were on mute,
18 but I can see you. So there's been a request for postponement.
19 Mr. Sullivan, can you clarify? I see some of it in terms of you
20 having an opportunity to speak to some of the inaccuracies in the
21 plans that the party put in, put forward. And then also, I think
22 as we were reviewing, there might be an issue with an area

1 variance need. Could you clarify that, Mr. Sullivan? And could
2 everybody else be on mute unless you're speaking. Thank you.

3 MR. SULLIVAN: Yes. Thank you, Mr. Chair. The party
4 opponents filed a fairly lengthy submission two days ago, and we
5 haven't really had a chance to review it. But for other reasons,
6 we have time. And I just think it would be a heck of a lot
7 cleaner for the Board and for everybody else if we go through
8 this, straighten it all out, separate what's relevant or not, if
9 anything needs corrected, we can correct it, and then get some
10 clarity on the comment that OAG has made to us as well, and track
11 that down as well. So I can't remember what date we asked for,
12 but it's -- we are thinking mid to late May gives us enough time.
13 And so I know -- I was told maybe April 28th, but that's too
14 short. I just think it will go, this will go a lot better if we
15 have the time we need to get it all straightened out.

16 CHAIRPERSON HILL: Okay. And just for clarification,
17 Mr. Sullivan. And I appreciate that. It's really kind of like
18 it's the Board that was kind of had some questions about the area,
19 the area variance issues, and not necessarily OAG. And then also
20 the Office of Planning as well some questions. I just want to be
21 clear on the record that it's not the Board is requesting this
22 clarification.

1 So the party status people, if you can hear me, I know
2 you can, there are a couple of issues that are going on with the
3 application. One of it is that, you know, I would also like to
4 have the applicant address your particular comments, right. The
5 other is that after we reviewed some things here internally, it
6 seems that the applicant could possibly need to be going through
7 an area variance. Okay. And if that's the case, then they'll have
8 to meet the standards for an area variance, right. So you might
9 be making a slightly different argument in terms of how they're
10 not meeting the criteria. Right. So when you're looking at the
11 regulations you basically have to determine in your argument is
12 that they're not meeting the standards in the regulations for us
13 to grant the relief requested. And so their relief might be
14 changing. And, therefore, you'll have more time to do that, take
15 an opportunity to make your argument. So I'm just letting you all
16 know that. I don't need to hear comments back from you, I'm just
17 letting you know.

18 So the Board is kind of asking for this information
19 also. They are going to postpone. And that's why I brought you
20 back up earlier. You were second to the last of the day. I
21 didn't want you to wait around to find out that you're going to
22 have to get postponed.

1 So Mr. Moy, can you tell me when we might be able to put
2 this back on the agenda. And then, if you could, please, take a
3 look at the calendar and make sure that whatever information we
4 get from the applicant the party status people have time to
5 respond to that information from the applicant.

6 MR. MOY: All right. Thank you, Mr. Chairman. I was
7 looking at my sheet for a moment. I believe Mr. Sullivan was
8 saying that he would need time to pull his materials together and
9 then, of course, provide responses from all the parties.

10 CHAIRPERSON HILL: So I don't know what you were going
11 to say, Mr. Sullivan. You'll need time to respond to the response
12 from the applicant, I mean the party status?

13 MR. SULLIVAN: So I was saying June. I think June is
14 probably better. All this time is going to fly I'm sure with the
15 filings back and forth. So we're fine with June.

16 MR. MOY: Yeah. Thank you. Because I was going to
17 mention that I thought that June might be a more realistic date.
18 We could do -- we can go, Mr. Chairman, to return to the Board
19 June 9th or June 16th. I'll have to move some things around to
20 make that happen. So let's -- for this exercise, let's say it's -
21 - let's say that it is June 9th that we return. Today is April
22 the 14th. And the applicant make his filings by, let's say give
23 you two weeks; is that adequate, sufficient? Because then that

1 would take us for the applicant to make their filing by April
2 28th. Or do you need more time, Mr. Sullivan?

3 MR. SULLIVAN: I think we need more time.

4 MR. MOY: Okay. So then we're --

5 MR. SULLIVAN: And we need very little time for a re-
6 sponse, if that's part of the equation.

7 MR. MOY: Yeah. I don't think -- this is a continued
8 hearing, but I'll leave that to the chairman. Do you need three
9 weeks or four weeks? Three weeks would take you to May 5th, three
10 weeks will take you to May 12th for your submission, supplemental?

11 MR. SULLIVAN: Yeah. Okay. That works.

12 MR. MOY: That works?

13 CHAIRPERSON HILL: Which one, the 5th or the 12th?

14 MR. SULLIVAN: The 12th. The 12th. If you could go to
15 this June 16th, could we do May 19?

16 CHAIRPERSON HILL: Give me a second, Mr. Sullivan. I'm
17 trying to just -- I'm trying to work out everybody to give the
18 same amount of time. And so, like attorneys, so it's not going to
19 take you as much time, right. So can you do it on the 5th?

20 MR. SULLIVAN: May 5th?

21 CHAIRPERSON HILL: Yeah.

22 MR. SULLIVAN: For a hearing on June 16?

1 CHAIRPERSON HILL: No, no, no, no. I'm just -- I
2 haven't worked backwards yet. I'm saying can you give us your
3 stuff by May 5?

4 MR. SULLIVAN: I'd like another week.

5 CHAIRPERSON HILL: Okay. Fine. The reason why I'm
6 saying that is that means that you get one, two, three, you're
7 getting a month. Okay. Right. And so, you know, I'd give them
8 at least three weeks then. So that gives me until June 2nd.
9 Okay. Right. And then you have to have your responses back by
10 June 9. That puts you on June 16. Okay. Fine. So then you've
11 got the 12th for your stuff, Mr. Sullivan. Okay. And the party
12 status opponents will have until June 2nd. So that gives you
13 three weeks. Okay. Then, Mr. Sullivan, you're going to have
14 your responses back from the whatever the parties -- I'm sorry,
15 the parties in opposition have to say by June 9th. And that puts
16 us back here on June 16th. Okay.

17 MR. SULLIVAN: Okay.

18 CHAIRPERSON HILL: Okay. I'm going to turn to the
19 parties -- Mr. Turnbull.

20 MR. TURNBULL: I just have one question for the
21 applicant. Would you be able to get it on the HPRB schedule in
22 that time, do you think?

1 MR. SULLIVAN: I think I -- I'll let Haider talk about
2 that. Haider is going to explain what's going on with HPRB.

3 MR. HAIMUS: I'm actually not sure about what the
4 specific next step is. I think what we're at a high level,
5 chairman. We wanted to conduct a flag test for the third floor
6 addition. And because there's a stop work order on the subject
7 property, you know, we can't do that. We have repeatedly asked
8 DCRA for permission to do a flag test so that HPRB can, you know,
9 make their assessment. And we haven't gotten any responses.

10 MR. SULLIVAN: So we've had several emails to DCRA
11 asking for a limited work authority, just to go up and do a flag
12 test. And we can't even get a response. So it's in limbo a
13 little bit with the HPRB, unfortunately.

14 MR. TURNBULL: So you -- have you -- you have -- have
15 you contacted HPRB at all?

16 MR. SULLIVAN: Oh, yeah. They've been involved. And
17 Jennifer Fowler is the architect working on this.

18 MR. TURNBULL: Okay. Well, we're familiar with her.
19 She's been -- she's done a lot of projects up there. So okay.
20 Thank you.

21 CHAIRPERSON HILL: Okay. Let's see. Okay. And Ms.
22 Harrison, you're the only person on the camera; can you hear me?

23 MS. HOWELL: I'm here.

1 CHAIRPERSON HILL: Okay. Gotcha, Ms. Howell. I got
2 you too. Ms. Harrison, do you understand what's going on?

3 MS. HARRISON: Absolutely. Yes.

4 CHAIRPERSON HILL: Okay. Ms. Howell, you had a
5 question, or Mr. Howell?

6 MS. HOWELL: I just have a really quick question. Is
7 it possible for us to sort of ask that when they submit their
8 information -- we hired a surveyor to get some of the information
9 so we could confirm some of the numbers. Is it possible that we
10 could request that when they submit it that they verify the
11 numbers we submit with the field run survey? Does that make
12 sense? I mean, it's a lot of information. It's at the building
13 permit and everywhere else.

14 CHAIRPERSON HILL: That's okay. So I think that they
15 have to -- Mr. Sullivan, you have to submit everything to them
16 that you submit into the record. Are there things that you can
17 submit to them ahead of time, to clarify what some of the
18 questions may be?

19 MR. SULLIVAN: That's the intention. I don't know that
20 -- I haven't read through their submission yet. But our intention
21 is to do and provide whatever it is that the Board needs and to,
22 of course, provide the opponents with that information in a timely
23 manner as well.

1 CHAIRPERSON HILL: Okay. So you guys will get that.
2 I'm sure if there's anything that the applicant is able to provide
3 that clarifies something, I'm sure they would clarify it. Because
4 then that takes that question off the table. Now, I can't see
5 anybody else, but does anybody else from the party status have
6 questions? And if so, can you either turn your camera on, raise
7 your hand, or speak up?

8 (No response.)

9 CHAIRPERSON HILL: Okay. I guess everybody
10 understands. Okay. All right. Well, then you guys, we will see
11 you back here on June 16th. Okay.

12 MR. MOY: Yeah. If I may run this by one more time, Mr.
13 Chairman. Although, you were very clear.

14 CHAIRPERSON HILL: Sure.

15 MR. MOY: The applicant and the parties will return for
16 a continued hearing on June 16th. The applicant will make their
17 supplemental filing by May the 12th. All the parties will have
18 the opportunity to respond to the applicant's filing by June 2nd.
19 And if needed. the applicant can respond to the party's response
20 by June 9th.

21 CHAIRPERSON HILL: Yes. Sorry. Okay. All right, you
22 guys. Thank you so much. We'll see you in June.

1 All right. Does the Board want to take a quick break
2 or does the Board want to keep going? Take a quick break? Okay.
3 All right. We're going to take a quick break. All right. See
4 you guys in a little bit.

5 MR. TURNBULL: Five minutes or what?

6 (Whereupon, there was a short recess.)

7 CHAIRPERSON HILL: Just to let you guys know, Mr. Moy,
8 do you want to call us back in and call our next case?

9 MR. MOY: Yes, sir. After a quick break, the Board is
10 back in its hearing session. And the time is at or about 11:16.
11 If I can take one moment, sir. I just want to mention that two of
12 the applications that were previously on today's docket were
13 granted their request for postponement. And those two cases are
14 20280 of VBS Community Builders, LLC, and 20440 of GREEN 2336,
15 LLC. And both of these two cases all though originally to June 9
16 because of a significant restructuring of the hearing dates, will
17 now be June 30th.

18 So other than that, the next case application for the
19 Board is 20437 of Datis, D-A-T-I-S, Properties, LLC. This is
20 captioned and advertised for a special exception under residential
21 conversion requirements, Subtitle U, Section 320.2; from the rear
22 addition requirements, Subtitle E, Section 205.4; upper floor
23 element requirements, Subtitle E, Section 206.1 as amended would

1 construct a third-story and a three-story rear addition and to
2 convert an existing two-story detached principal dwelling unit to
3 a three-story semi-detached three-unit residential building in
4 the RF-1 Zone. And this is at premises 1819 A, as in alpha,
5 Street, Southeast, Square 1111, Lot 96.

6 CHAIRPERSON HILL: Okay. Great. Thank you. Mr.
7 Sullivan, Could you please introduce yourself for the record?

8 MR. SULLIVAN: Thank you, Mr. Chairman, members of the
9 Board. Marty Sullivan on behalf of the applicant.

10 CHAIRPERSON HILL: All right. And, Mr. Sullivan, let's
11 just -- when we get to whoever you want to testify, let them
12 introduce themselves when they do start to speak. If you want to
13 go ahead, I put 15 minutes on the clock there. And you can go
14 ahead and begin whenever you'd like. I think there's a
15 PowerPoint?

16 MR. SULLIVAN: There should be a PowerPoint. Thank
17 you. So this is for 1819 A Street, Southeast. Next slide,
18 please.

19 This is the RF-1 Zone. It's an existing single-family
20 dwelling. It already extends 14 feet, five inches past the
21 building to the east. Across the alley is a very large apartment
22 building that's about, it's three stories and almost a hundred
23 percent lot occupancy. We're proposing a three-unit conversion

1 with a third-story addition and a rear addition which will take
2 the rear extension a total of 19 feet, five inches past the rear
3 wall of the immediate neighbor. And that's just on the third
4 floor. It's sort of cantilevered over two porches. The first and
5 second story remain as they are, and they're not being extended.

6 So part of this is driven by, as you'll see in the
7 plans, a need for a cut out to work around the chimney, for the
8 10-foot rule around the chimney. We do have the support of the
9 Office of Planning, DDOT, and ANC6B is also in unanimous support.

10 The areas of relief, we need relief from the 10-foot
11 rule and architectural elements because there is, despite it not
12 being a specific requirement in the regulations, there is an
13 interpretation of setting back the third floor from certain
14 architectural elements. We have asked for relief out of an
15 abundance of caution that we would be required to have a three-
16 foot setback from the cornice. And then asking for special
17 exception relief for the conversion of course under U 320.2. So
18 I'd like to turn it over to the project architect, Mr. Crain.
19 Next slide, please.

20 CHAIRPERSON HILL: Mr. Crain, if you could introduce
21 yourself for the record, please.

22 MR. CRAIN: Sure. Adam Crain, 2Plys project architect.
23 You see on the slide here, we've got the prospective view from the

1 front. As Marty mentioned, we're doing a third floor addition,
2 special exception for three units. 1850 A Street, across the
3 alley, under that green building, it's significantly deeper,
4 almost 100 percent lot occupancy. On one project on the property
5 that we share a party wall with, 1821 A, the rear yard currently
6 sits about 14-and-a-half feet past that. Next slide, please.

7 This is an alley view. The subject property is on the
8 right. The larger apartment building on the left-hand side. Next
9 slide.

10 This is a little bit clearer view from the alley. You
11 can see how much deeper the property across the alley sits. I
12 believe that's a 15-unit apartment building. Next slide, please.

13 This is the site plan showing our addition. You'll see
14 some stairs that are projecting beyond. And we're actually
15 providing four parking spots. I believe it's two in excess of
16 what's required and one in excess of the number of units we're
17 providing. I know that, you know, concern for parking units is
18 pretty common. So we tried to fit as many as we could here to
19 mitigate that concern. There's a (indiscernible) shown in the
20 rear yard. And this is a five-foot dimension. That's the third
21 floor. That will be extended past the 14-and-a-half feet,
22 totaling I think just under 19-and-a-half feet. The circular cut
23 out is the third floor addition being set back from the existing

1 chimney on the adjacent property. Mechanical code, if the
2 neighbor does not provide written agreement for us to extend that
3 above our third-floor addition, we have to keep 10 feet clear. So
4 that's being provided as a roof deck. Next slide.

5 These are some other perspective use, mostly to the
6 rear. You'll see that cut out I just mentioned around the
7 chimney. The third floor extending a little bit beyond the second
8 and first floor below. You know, as the square footage gets taken
9 out to respect that chimney, it's been provided at the rear as
10 part of that addition. And then we have stairs for the four
11 parking spaces to be accessed from the units. Next slide.

12 These are some of the floor plans. Just a quick
13 overview. Unit one occupies the cellar and the front of the first
14 floor. Unit two is actually a tri-level unit, occupying the rear
15 of the cellar, the rear of the first floor and a little bit above.
16 Next slide.

17 On the second floor you'll find the living and dining
18 areas for unit two that, again, will connect to the rear unit or
19 cellar and first floor. Unit three exists entirely on the third
20 floor with this entry down on the second floor. The two-deck cut
21 out I mentioned there is the roof deck and the chimney as well.
22 Next slide, please.

1 This is just a roof deck showing that we'll have a roof
2 terrace on the back, access from the stairway. Next slide, please.

3 These are front and rear elevations. We did make some
4 edits in response to concerns, mostly with the windows on the
5 third floor addition. We are keeping that (indiscernible) trim at
6 the top. I'm not sure if they're going to designate that as that
7 a rooftop element or not, so we're asking for an exception for
8 that, for the required setback. The existing front porch will
9 remain. Next slide, please.

10 The side elevation shown here with the third floor
11 addition. Again, that bump out at the third floor might be beyond
12 the existing extension of the first and second floor. Next slide,
13 please.

14 This is from a section looking through the adjacent
15 structure. It's a third floor addition, that cutout by the
16 chimney. And, again, the addition at the rear. Next slide,
17 please.

18 Just a section drawing clarifying that the unit is split
19 up. It's a bit of a tetras set up, kind of splitting the floor
20 plans between units. Next slide, please.

21 I think we're back to Marty now.

22 MR. SULLIVAN: And if we could go to the shadow study.
23 And if you could --

1 MR. CRAIN: Oh, yeah. Sure.

2 MR. SULLIVAN: -- just go over those. And then I'll
3 come back to this page. So if we could go to three slides ahead,
4 please.

5 MR. CRAIN: Yeah. I think it's 18, 19, and 20. Thank
6 you very much. So here we're showing the summer solstice. On the
7 following page we'll have the equinox and then the winter solstice
8 in the page after that. What we did is we kind of showed the
9 shadow difference with the red box I've kind of drawn around the
10 outline, as far as the difference between with the third floor
11 addition and not. So we presented this to the community. I don't
12 recall if there were any issues with it. But we try to make this
13 as explicit as possible. If you go to the next slide.

14 That will show the equinox. There's actually almost no
15 difference at all that we could highlight with our red box on this
16 one. If you go to the next slide, that will show the winter
17 solstice.

18 As you see, kind of on the bottom left one there, that
19 has a bit of an affect there, casting across several of the
20 properties. But I'd just also would like to point out that the
21 extremely deep apartment building across the alley also have a
22 significant shadow that was being cast as well. Marty?

1 MR. SULLIVAN: So the general special exception
2 requirements granting relief will be in harmony with the purpose
3 and intent of the RF-1 Zone, the zoning regulations, and the maps.
4 Zoning regulations permit the conversion of single-family
5 dwellings to three units. And the addition does satisfy the lot
6 area requirements. And also, it's not -- the max lot occupancy on
7 this is, for the proposed lot is just 49 percent, which is well
8 south of the maximum 60 percent. Granting relief will not tend to
9 affect adversely the use of neighboring properties, as you saw
10 from the shadow studies. I do have a slide at the end that talks
11 about the applicant's extensive outreach with the community. And
12 there is an immediate neighbor. There -- the affect on them is
13 mostly blunted by the existence already of the large building
14 across the alley. But the applicant and the ANC SMD made
15 extensive outreach to that neighbor. And while they did engage for
16 a little bit, they mostly went silent after a while. And that's
17 why we don't have a chimney agreement as well. And I think it is
18 evidenced by the unanimous support of the ANC, I think that
19 recognizes that the applicant did everything they could to engage
20 with that neighbor and other neighbors. Next slide, please.

21 So the specific special exception criteria for the
22 conversion. The property is existence right now as a residential
23 building, proposing three units. So IZ is not applicable. And

1 the lot area is 3,020 square feet. So we have plenty of room to
2 amend them. Next slide, please.

3 The specific criteria for the 10-rule on the
4 architectural elements are the same. Light and air available to
5 neighboring properties shall not be unduly affected. Privacy is
6 not affected. The proposed addition doesn't have any windows
7 facing the neighboring building to the east. And there is one
8 western facing window, but it's separated from the alley. The
9 building across the alley.

10 And then the adjacent property to the west, regarding
11 the character of scale and pattern, is a much larger building.
12 It's also three stories already. And as I mentioned, the lot
13 occupancy is well under the maximum. Next slide, please.

14 So those are the shadow studies. On the last slide, if
15 the Board has that before them, it's just a list of the dates of
16 outreach with the community. The applicant is here if the Board
17 has any questions for the applicant himself. And that's it for
18 our presentation. I'll be happy to answer any questions.

19 CHAIRPERSON HILL: Okay. I've got just a couple real
20 quick, Mr. Sullivan. The -- first of all, and I always find it
21 interesting that that cutout, so the 10 feet for the cutout, I
22 mean, obviously, you tried to reach the -- you just couldn't get
23 the chimney extension, correct?

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

2 CHAIRPERSON HILL: Right.

3 MR. SULLIVAN: That was the plan. I mean, that was the
4 desire at the beginning, of course.

5 CHAIRPERSON HILL: Right. And this is something more
6 for the Zoning Commission. And I don't think -- I mean, if
7 somebody doesn't want to raise the chimney, then they don't want
8 to raise their chimney. And I don't think that they should be
9 forced to do so. But then if now that property wanted to go up as
10 high, you'd have a closed court there? Or I always forget what
11 would happen. The next door neighbor, if they went up as high, you
12 --

13 MR. TURNBULL: I believe that would --

14 MR. SULLIVAN: It would be -- I think it's closed
15 already.

16 CHAIRPERSON HILL: But it's technically -- right.
17 Closed court now.

18 MR. SULLIVAN: Well, --

19 CHAIRPERSON HILL: That's all right. Never mind. I'll
20 find out later. Okay. That's fine.

21 Then the next is the three-foot setback. Like, --
22 that's all right. I'm going to ask -- okay. I don't have any
23 questions. I don't have any questions.

1 Does the Board have any questions, Commissioner
2 Turnbull?

3 MR. TURNBULL: Yeah. I -- my concern is looking at this,
4 to preserve the integrity of the neighborhood. And I'm really
5 concerned about this third-story addition the way it is. That's
6 why this -- we talk about this three-foot setback. I've got to
7 think that then you would see the whole two-story row house effect
8 going down the street. Now with this thing bumped up you have
9 this huge castle at the end of the block. And I would rather see
10 that this ought to have the three-foot setback. Maybe -- and what
11 I'd also like to know about is the materiality; what is the third
12 floor, the side, what is this new material that is being put on?
13 It just says siding.

14 MR. CRAIN: I think we're looking at some kind of metal
15 panel, possibly a Hardie plank. I don't think it's been finalized
16 yet.

17 MR. TURNBULL: You said metal panel?

18 MR. CRAIN: It could be a metal panel or Hardie panel.
19 I'm not sure that's been finalized or, especially in the terms of
20 the owner.

21 MR. TURNBULL: Well, look, you're talking about blending
22 in with the neighborhood and adding -- you want a lot of relief.
23 So I think there ought to be a significant, a very significant

1 attempt to try to blend whatever you're doing into the
2 neighborhood or at least be sympathetic to the neighborhood as
3 far as the materiality. And simply to say siding, oh, metal
4 siding maybe, or maybe Hardie plank. And this looks like
5 vertical, up and down, siding that goes -- could be wood, could be
6 anything. How is that relating to the neighborhood? How is that
7 relating to keeping in character with the neighborhood? I just
8 don't understand.

9 MR. SULLIVAN: I understand your concern. I'll
10 (indiscernible) to that. The relief being requested is for the
11 three feet, not for -- so I don't know what any standards are for
12 the design or the materials to the building.

13 MR. TURNBULL: Well, fine. Mr. Sullivan, well taken, Mr.
14 Sullivan. But let's talk then about the integrity of the
15 neighborhood. And I think that the three-foot setback would be
16 critical to keeping that row house look all the way down the
17 street, and not having the shingles straight up. That's my
18 feeling, Mr. Chair.

19 CHAIRPERSON HILL: Okay. All right, commissioner.
20 Let's see, Mr. Smith, do you have any questions of the applicant?

21 MR. SMITH: My question was Mr. Turnbull's question about
22 the three-foot setback. Other than that, he perfectly articulated
23 my concern with that.

1 CHAIRPERSON HILL: Okay. Vice Chair John, do you have
2 any questions?

3 VICE CHAIR JOHN: No, Mr. Chair.

4 CHAIRPERSON HILL: Okay. Mr. Blake, do you have any
5 questions?

6 MR. BLAKE: No, I do not. Thank you.

7 CHAIRPERSON HILL: All right. We'll turn to the Office
8 of Planning.

9 MS. THOMAS: Good morning, Mr. Chair, members of the
10 Board. Karen Thomas with the Office of Planning. The Office of
11 Planning is recommending approval of the special exception relief
12 as requested by the applicant in this case, 20437. The conversion
13 of the existing residential building as an apartment house with
14 respect to the rear addition extending further than 10 feet past
15 the rear wall of the additional properties to the east, and
16 special exception relief to permit the third floor without the
17 required three-feet setback, which is the zoning administrator's
18 interpretation.

19 So we believe that the applicant has satisfied the
20 criteria with respect to the area requirements for the conversion.
21 In addition, with respect to the rear addition extending up to 19
22 feet past the rear wall of the abutting property, we -- based on
23 the shadow study the applicant provided and the neighbors not

1 showing any great concern for what is happening, except that,
2 except for their chimney. And we understood that the applicant
3 made an attempt to address that situation by the design you see
4 there.

5 I understand your concern about the three-foot setback,
6 but they can ask for it because it's not a requirement of ours,
7 per se, but it's a zoning administrator's interpretation.

8 With respect to the neighborhood character, we've seen,
9 I have seen in this neighborhood in particular, three-story
10 addition that are not set back, like this one. So that's why I
11 made a determination that -- OP made a determination that it
12 wouldn't be a substantial, you know, a substantial visual
13 intrusion upon the character and feel in the neighborhood. So
14 with that, I will rest on my report. And I will be happy to take
15 any questions.

16 CHAIRPERSON HILL: Okay. Ms. Thomas, thanks. Ms.
17 Thomas, yeah, I mean, the question that I have here you kind of
18 answered it. It's really, again, about the three-foot setback.
19 And the -- as I'm looking at the regulations again, you know, the
20 special exception from the three-foot setback doesn't necessarily
21 speak to the character of the neighborhood. However, the general
22 special exception standards possibly are something that could.
23 You're saying that you thought the Office of Planning thought that

1 | they were in agreement with the three-foot setback relief due to
2 | other homes in that area already looking similar to this; is that
3 | correct?

4 | MS. THOMAS: Yes. That's a determination based on OP
5 | or my observation in the neighborhood looking around, particularly
6 | in that segment of area off of (indiscernible) have seen a
7 | substantial amount of -- let me just say substantial, but a fair
8 | amount of additions onto the third level that are not set back
9 | like that.

10 | CHAIRPERSON HILL: Okay.

11 | MS. THOMAS: I understand that will look different in
12 | this block, but not too far from this block you have, even to the
13 | rear of where there's -- this conversion is proposed, or the
14 | spaces. I think the other streets like Independence Avenue or
15 | something like that. But there are changes like that occurring
16 | without a setback.

17 | CHAIRPERSON HILL: Okay. So if this were the first
18 | one, you might not think that it would be something you would have
19 | approved?

20 | MS. THOMAS: I would be a little bit (indiscernible) in
21 | that. Yeah.

22 | CHAIRPERSON HILL: Okay. So, Mr. Sullivan, you might
23 | lose Mr. Turnbull, but you might get me. But I'm going to want to

1 see like the other homes that -- and Mr. Smith has a question too.

2 But I'm going to skip all of you. You all, we'll get to you all
3 as well. And -- but Mr. Sullivan, I am going to want to see what
4 these other ones are like, because I don't like it either. And
5 so, you know, -- but I don't know whether I get an opinion. Well,
6 I mean, I know I get a vote. But I'm going to have to figure out
7 what my opinion is supposed to be. But in any case, I'll come
8 back to you, Mr. Sullivan.

9 I'm sorry. Ms. Thomas, you had a question?

10 MS. THOMAS: Yeah. I would say also that to be just a
11 little bit clearer, the ones that are seen, they have a mansard
12 type roof. They're not the straight up type. Some of them are
13 straight up, but I think the issue that shows off this one a bit
14 is because it has two windows as opposed to three. And that's not
15 even. But, again, that's their design and we don't design the
16 project for them. And then just speaking to the elevation that's
17 coming straight up, they have some, and they have some that are
18 mansard that are not set back. And they look very high, just the
19 same way.

20 CHAIRPERSON HILL: Okay. So Mr. Sullivan, that might
21 be like -- and maybe the architect can speak to this. I think
22 we're going to go around the table. This is actually going to be
23 more of a discussion than I had anticipated. But I am curious as

1 to why there is not the third window. And maybe you guys can put
2 the third window. So -- and I'm going to, again, figure out just
3 exactly what the Board has in terms of design. I know we can have
4 argument as to what we're allowed to do. But still, we are the
5 ones who have to realize whether or not we're comfortable with the
6 regulations.

7 So Mr. -- Commissioner Turnbull, do you have any
8 questions for the Office of Planning?

9 MR. TURNBULL: Well, obviously, I don't agree with Ms.
10 Thomas' interpretation. I think just because you've seen one add
11 on similar to this, does not make it right. I don't know how that
12 other thing got built. And we don't know how these others got
13 built. And you're right, I've seen mansard that at which in one
14 way satisfy the attempt to at least to differentiate and make it
15 look less than what it is. I think the straight up and down look
16 of this thing is so stark compared to the rest of the block that
17 it really stands out and looks obtrusive. I just think that if we
18 keep letting these go we're going to destroy whole row house
19 blocks by doing this. And I think at some point we've got to
20 stand up and say, look, let's make these things look halfway
21 reasonable in the neighborhood, and let's do the three-foot
22 setback and make it work. You can do a mansard, whatever, but I
23 think you've got to do something to try to make the block stay the

1 way the block is. That's my inter -- I mean, that's the whole
2 thing of neighborhood context in the neighborhood. So I can't see
3 just putting something going straight up in the neighborhood and
4 saying, well, you know, it's okay. I can't do that. I mean, to
5 me, I think that the ZA also saw that and said, hey, you really do
6 need to have three feet back.

7 The other thing, Ms. Thomas, have you see the Capitol
8 Hill Restoration Society notice that they had in the -- the
9 Capitol Hill Restoration Society, it's an exhibit?

10 MS. THOMAS: I haven't seen that. Because I checked
11 the record last night. Did it come in after last night?

12 MR. TURNBULL: I'm not sure when. It's exhibit 38. I
13 don't know if that's the last one or what.

14 MS. THOMAS: Yeah. I --

15 MR. TURNBULL: They're not in support. They're upset
16 more about going 19-and-a-half feet back.

17 MS. THOMAS: Oh.

18 MR. TURNBULL: It's my understanding that it's already
19 14-and-a-half feet beyond. So it's already nonconforming.

20 MS. THOMAS: I -- okay. Yeah. This was -- this is
21 from yesterday or the day before. Yeah. I haven't seen that one.

22 MR. TURNBULL: All right. Well, they're just concerned
23 that the current footprint already exceeds the building by 14-and-

1 a-half feet. We would support the case if it was scaled back to
2 14-and-a-half feet and the applicant could produce a letter of
3 support from the adjacent neighbor who would be most affected by
4 the plan. Well, obviously, the next door neighbor is not talking
5 to these people for whatever reason, maybe they don't get along,
6 or they were, they just feel like they're being used. I'm not
7 sure. But that's not for me to figure out. But anyways, Capitol
8 Hill Restoration Society is opposed to this because of the
9 extended length going into the back yard. Do you have any comment
10 on that?

11 MS. THOMAS: Well, not -- well, I looked at the sun
12 study, and we based our, you know, determination off of the sun
13 study. No, I don't have any concerns about that.

14 MR. TURNBULL: Okay. All right. Mr. Chair, that's it.

15
16 CHAIRPERSON HILL: Okay. Mr. Smith?

17 MR. SMITH: Mr. Chair, as I was putting my hand up you
18 articulated my point, same as Mr. Turnbull. You know,
19 historically, and I don't want to beat up on the Office of
20 Planning. We commonly see these applications. And what I've
21 constantly heard is, you know, based on my observation. But your
22 observation isn't based -- is not backed up with any type of

1 attachment to explain your observations. SO I share the same
2 concerns as Mr. Turnbull.

3 Ms. Thomas, you're saying there are other taller
4 buildings within the neighborhood. And, you know, I'm not -- and
5 I can believe you on that, but in making these decisions it would
6 be great to see those observations that you have.

7 And I will also -- and I also push back on this question
8 of whether we can get into design. I do believe that in some way,
9 shape or form we can get into design because we are charged with
10 protecting the character of the neighborhood. So, you know, I can
11 see along the block that there are some mansard roofs, third-floor
12 additions along the block. And it would be great to have in this
13 package those examples, being that they probably went through DCRA
14 or went through this Board. It would be great to have the height
15 on the roofs, how far they're set back from the street, if they're
16 meeting their three-foot requirement, and a stronger articulation
17 within the staff report of the reasons why this proposal meets the
18 criteria set forth in 5207 A3 in order for us to grant the special
19 exception. To me, it's not fully fleshed out. It's just several
20 conversions in the immediate neighborhood have been observed with
21 similar third-floor additions, including without setback from the
22 front facade. I agree with Mr. Turnbull, just because they were
23 approved, that does not make it right. And I could probably say

1 that these were approved because we didn't have the technical
2 analysis of the reasoning why it met that character question.

3 So I would like to see from the applicant in the
4 intervening time frame that additional, some additional elevations
5 that would show that this proposed design meets the character
6 along the block and base that on height also, of the -- along the
7 block.

8 CHAIRPERSON HILL: Okay. Okay. All right, Mr. Smith.
9 Well, I guess I'll also, you know, just to comment upon your
10 comments. I disagree with some of the things you're saying, but
11 it is kind of like, you know, the Office of Planning, like, that
12 is what its next step usually happens. Like, if we don't have a
13 problem with the Office of Planning or their interpretation, then
14 they don't need to provide as much detail. However, if we do have
15 questions, then we end up asking for those questions. So I'm just
16 kind of throwing that out that way.

17 The next person in line is Ms. John. Do you have any
18 questions?

19 VICE CHAIR JOHN: I have no questions, Mr. Chairman.

20 CHAIRPERSON HILL: Mr. Blake?

21 MR. BLAKE: I have no questions, Mr. Chairman.

22 CHAIRPERSON HILL: Okay. Mr. Young, is there anyone
23 wishing to speak?

1 MR. YOUNG: We do not.

2 CHAIRPERSON HILL: Okay. So I don't know where we
3 are, Mr.

4 Sullivan. I guess to make me more comfortable, I'd like to see
5 what the rest of the block looks like. I mean, do you know if
6 there's anyone that's done this yet on the rest of the block?

7 MR. SULLIVAN: There are photos in the file, and we
8 have addressed this in our applicant, in the pre-hearing
9 statement, which is exhibit 5. Exhibit 5 has photos. I believe
10 page four shows -- page four of exhibit 5 shows a couple
11 buildings. And then all the photos, you know, show all of the
12 surrounding area. There's at least three on this -- there's one
13 on this block and then two on the block across the alley. And
14 just -- I mean, we'll -- you know, we have time, I know, because
15 we're --

16 CHAIRPERSON HILL: I'm just -- I'm just saying, Mr.
17 Sullivan, I'm looking at the photo that you have. And the only --
18 and I do see, and I guess there is one at the very, you know, the
19 second to the end of the block that seems to have already gone up.
20 And I don't know when they did go up, if they did go up before
21 the regulation changed or not. Right. But that's the only one
22 that I see. If there's another one -- and they did go straight
23 up. And they at least matched, the windows match. Right. I

1 still don't know if you're going to get Mr. Turnbull or not.
2 Right. And so I'm just trying to figure out what's the best way
3 to go about this, right. Like, whether or not we want to see a
4 design with the three-foot setback, right. And so I guess, you
5 know, the argument that you could make that you're not going to do
6 the three-foot setback is -- you can see get into the loss of
7 space, or the monetary value. I don't know. Like, I mean, Mr.
8 Turnbull and then Mr. Smith -- you've got to love it. I'm doing
9 math. Like you need three votes, Mr. Sullivan, as you know. And
10 so I don't know what Mr. Turnbull or Mr. Smith might want to see.

11

12 Mr. Smith, I'm going to go with you first. What would
13 you like to see from Mr. Sullivan before the next hearing?

14 MR. SMITH: I need to see the others along the block
15 face, including the heights of those other ones that he is
16 referencing along the block face.

17 CHAIRPERSON HILL: Okay. And to add onto that, Mr.
18 Sullivan, I want to see the ones that -- I mean, the height I'm
19 not as concerned about as the three-foot setback. So you do have
20 one on the block here that doesn't have the three-foot setback. I
21 don't see anybody else that doesn't have the three-foot setback.
22 So the height and the three-foot setback is what we're looking at.
23 And then nothing else, Mr. Smith?

1 MR. SMITH: No. That's it.

2 MR. TURNBULL: Obviously, I would agree with the
3 comments of Mr. Smith. I think the view that I'm looking at down
4 the street shows at the very end is like an, it looks like it's
5 like a semi mansard roof, not going straight up. It looks like
6 it's got a bit of a slope to it, like it's a semi-mansard. So I
7 definitely would like to see a three-foot setback. I mean, just -
8 - we're already -- they already want 19-and-a-half feet relief
9 going down the next door neighbor. That's a lot of relief.
10 You've got a footprint here of a building that they ought to be
11 able to do something with and make it work. Anyways, but I would
12 like to see -- I'm very much concerned with the affect of having,
13 at the end of this row, a building going straight up. And I think
14 it would look totally out of character. It's just, it's sad that
15 nobody can look at this and say, you know, let's step back and try
16 to do something with this addition and make it look like it makes
17 sense. And not just say, well, it's for our own commercial gain,
18 and we need to do it. I want to say, yeah. So we need to do it
19 and you have a right to add onto your building, but make it blend
20 into the neighborhood. Make it be part of the neighborhood.
21 Don't stick out like a sore thumb. Do something worthwhile. Be
22 a part of the neighborhood. Anyways, I would like to see something
23 to show me that they can attempt to do something better.

1 CHAIRPERSON HILL: Okay. So Mr. Sullivan, I'm going to
2 add onto Mr. Turnbull, then we're going to go around the table.
3 If you have -- I'm uncomfortable. Okay. And so, you know, and if
4 you -- you can come back with whatever you want to come back with.
5 I mean, as I'm looking down the block, you know, kind of this
6 semi- mansard roof with three windows on the front, you know, or
7 the three-foot setback. I mean, that might make me feel more
8 comfortable. I mean, I understand what the architect is also
9 saying or doing because it's kind of the, not the only one that
10 looks like that on the block. There's another one. But I just
11 don't -- and the fact that it just goes straight up is so weird.

12 MR. SULLIVAN: I'm sorry, Mr. Chair. The next photo
13 shows two others on the right side of the building. So not the
14 aerial photo.

15 CHAIRPERSON HILL: Got it. Right. And those have the,
16 what do you call it, Mr. Turnbull, the semi-mansard roof or what
17 have you, you know, and the dormers.

18 MR. TURNBULL: Yeah. It's kind of a modified mansard.

19
20 CHAIRPERSON HILL: Right. So I think you know where we
21 are, Mr. Sullivan. And you can kind of try to play around with it
22 a little bit.

1 MR. SULLIVAN: Okay. We'll take -- we'll, you know, go
2 back and talk to the team. And it's, for me, not being a design
3 professional, it's ambiguous. And, you know, maybe it's obvious
4 to the design professionals. And I don't like ambiguous. And so -
5 - but I gather from everything I've heard, that I'm sure we'll
6 come up with some sort of solution.

7 CHAIRPERSON HILL: Okay. That's fine. That's fine.
8 So we'll see what you get. We'll see what you get. You've got
9 Mr. Smith being concerned, you've got Mr. Turnbull being more than
10 concerned, and you have me being a little concerned. Right. So I
11 don't know, Ms. John, do you have any questions or concerns about
12 the three-foot setback?

13 VICE CHAIR JOHN: So Mr. Chairman, I'm -- I know
14 we're not
15 deliberating, but I am not entirely concerned because of the
16 design of the subject property, it matches the apartment building
17 to the right. It's, you know, it's sort of a little box. And so
18 they're just continuing the box. I'm not sure what the three-
19 foot setback would do in that context because looking at the first
20 or second photograph from the top, you're going to see that
21 addition wherever you go on the block. I just don't see it
22 hiding. I don't see the three-foot setback doing anything for it.
23 But I'm neutral. I can go either way at this point.

1 CHAIRPERSON HILL: Okay. That's fine. I know we're
2 not deliberating, Ms. John, but I appreciate your input. Mr.
3 Blake, do you have any questions about the three-foot setback or
4 do you have any questions for the applicant?

5 MR. BLAKE: I don't have any questions with regard to
6 the three-foot setback. And I do see the other units on the
7 building that appear not to have a three-foot setback with the
8 modified mansard. So that design is a little bit more attractive.
9 But I don't have any questions at this point.

10 CHAIRPERSON HILL: Okay. All right, Mr. Sullivan, do
11 you have any questions for anyone?

12 MR. SULLIVAN: No. Just -- I want to make sure that we
13 know what we need to do as best as possible, so that we can come
14 back with something. And I guess I'll note that CHRS did mention,
15 and that's what they focused on, Capitol Hill Restoration Society
16 focuses on design in those cases. And they, obviously, didn't
17 have a problem with it, with the setback.

18 Also, the setback is not even in the regs. This is
19 something that's always kind of troubled me a little bit, it was
20 concocted. And I get it in some cases, but it originally was just
21 for mansards to be three-foot back from a mansard or a turret,
22 because that would be seen as affecting that architectural
23 element. I'm not sure how it goes back from a cornice.

1 And I would also -- and now I'm really straining beyond
2 my expertise. But if the building is -- I don't know necessary
3 that a mansard or a half mansard would look right on this building
4 or not. And now we're talking about, really talking about design.

5 And I'm -- it is -- it's character scale and pattern of the
6 relief. Integrity is not a word, I believe, that's in the
7 criteria. And so that's what we're struggling with. If the three
8 feet makes that much of a difference, or if we can provide a
9 design that makes Commissioner Turnbull and Board Member Smith
10 comfortable with that, certainly we want to do that. But you, I
11 think the Board might understand, you know, how we struggle with,
12 it's not a moving target but it is a blurry target a little bit,
13 at least as I see it.

14 CHAIRPERSON HILL: Okay, Mr. Sullivan. Yeah, I don't
15 necessarily disagree with you. And I don't know how to spend this
16 much time on this because we have a day ahead of us. I mean, like
17 -- I mean, again, the missing third window, that seems weird to
18 me. Right. So, again, I don't know -- I mean, you guys come back
19 with whatever you -- you guys can go read the transcript, watch
20 the video, right, and come back and figure out how you're going to
21 get somebody to be more comfortable with this third-story
22 addition, right.

23 Ms. John, you had a comment?

1 VICE CHAIR JOHN: So thank you, Mr. Chairman. I was
2 going to mention the third, the missing third-floor window myself.
3 Because that looks really odd to me. But I'm not a design
4 professional. As a lay person looking at that addition going
5 straight up, it just doesn't match the building. Either -- so
6 that -- I'm sorry, not either. But the building to the right,
7 1815A, you know, that's more symmetrical. Just having two windows
8 at the top looks really very odd. But, again, that's a design
9 professional. I mean, that's a design issue. So that would be
10 my two cents.

11 CHAIRPERSON HILL: Okay. All right, Mr. Sullivan, are
12 you good?

13 MR. SULLIVAN: (Nods head affirmatively.)

14 CHAIRPERSON HILL: Okay. All right. Then now what are
15 we going to do? So it looks like we can come back for a continued
16 hearing on May 26th. Will that work for you, Mr. Sullivan, in
17 terms of getting your stuff together?

18 MR. SULLIVAN: Yes.

19 CHAIRPERSON HILL: Okay. So that means you'll give us
20 five things by -- the problem with this, right. You've got ANC
21 support. Well, we'll just see what happens. Basically, if you
22 get us whatever you think you need to get us by the 19th, does
23 that work, Mr. Moy? Or you tell me the deadlines. I mean, I just

1 want to make sure we have enough time, whether or not the ANC
2 needs to be able to respond.

3 MR. MOY: Yeah. I was going to suggest, Mr. Chairman,
4 that the applicant submit several memos, based on the discussion,
5 by May the 12th. And leave open for May 19th responses from any
6 of the parties, including the ANC, even though we know that
7 they're in support. And then come back on the 26th.

8 CHAIRPERSON HILL: Okay. I mean, Mr. Sullivan, if you
9 can get something from the ANC that says that they're comfortable
10 with whatever design you're now trying to, you know, propose, that
11 might be helpful. But it may be that they don't respond. And
12 maybe that's also fine. But we'll see what happens.

13 MR. SULLIVAN: I think at the very least there's an
14 authorized commissioner, authorized to represent the ANC if the
15 changes are not substantial. I'm not sure that we need --

16 CHAIRPERSON HILL: Okay. We'll see what happens.
17 Okay. We'll just see what happens. Okay. All right. So you've
18 got your dates, Mr. Sullivan?

19 MR. SULLIVAN: Yes. Thank you.

20 CHAIRPERSON HILL: Okay. Thank you. We'll see you on
21 May 26th.

22 Okay. Let's see. All right. I guess we shall -- all
23 right. Mr. Moy, you can call our next case.

1 MR. MOY: Okay. Thank you, Mr. Chairman. So this will
2 be case application number 20439 of Dawn to Dusk Child Development
3 Center, LLC. Captioned and advertised for a special exception
4 under the use provisions, Subtitle U, Section 203.1(n). This
5 would maintain a daytime care use in an existing, two-story,
6 detached building in the R-2 Zone. And this is located at
7 premises 2907 7th Street, Southeast, Square 5951, Lot 40. And
8 I'll stop there.

9 CHAIRPERSON HILL: Okay. Great. Thank you, Mr. Moy.
10 Ms. Brown, could you introduce yourself for the record, please.

11 MS. BROWN: Yes, sir. Good morning -- good afternoon.
12 Members of the Board, my name is Carolyn Brown. I'm with the law
13 firm, the Brown Law Firm, on behalf of the applicant Dawn to Dusk.
14 And I am joined by Ms. Sabrina McCraw, the executive director of
15 the child development center. And with her is one of our
16 neighbors in support. We don't anticipate any testimony, but I
17 wanted to introduce them. And I'm ready to proceed when you give
18 me the signal.

19 CHAIRPERSON HILL: Okay. Great. Ms. Brown, is this
20 the first time you're with us since the pandemic?

21 MS. BROWN: No, it is not.

22 CHAIRPERSON HILL: Oh, okay. All right. Well, anyway,
23 welcome back.

1 MS. BROWN: Thank you.

2 CHAIRPERSON HILL: Let's see, so I don't have a lot of
3 questions about this. And I'm trying to get through our day.
4 We've got a lot of stuff still kind of going on. I do have one
5 question real quick. There was a condition from the Office of
6 Planning enroll no more than 47 students, limit staff to no more
7 than ten persons, and hours shall be limited to 6 a.m. to 6 p.m.,
8 Monday through Friday. Was the applicant in agreement with those?

9 MS. BROWN: With one exception to the hours. I've just
10 recently been reminded that the hours are extended to 11:45 p.m.,
11 and that's because they accommodate children of essential workers
12 or families that work evening shifts. So that they do need the
13 extended hours until 11:45 p.m.

14 CHAIRPERSON HILL: And that's what they're doing now?

15 MS. BROWN: Yes. That's what the OSSE license allows
16 them to do. They're allowed to have up to 12 children. And right
17 now they have about six that are in the program.

18 CHAIRPERSON HILL: They're allowed to have 12 children
19 until the 11:45 p.m.?

20 MS. BROWN: That's correct.

21 CHAIRPERSON HILL: Okay. And that's what they've been
22 doing under the current situation?

23 MS. BROWN: Yes. Under their license. Yes.

1 CHAIRPERSON HILL: Okay. Okay. All right. I'm going
2 to turn to the Office of Planning to ask about that in a second.
3 And I see -- and so I'm just going to see where we are with the
4 Board. Like, I don't have a lot of questions. And so -- and I
5 see that Mr. Smith has his hand up. Mr. Smith, did you -- I'm
6 sorry, Ms. Brown?

7 MS. BROWN: Yeah. I'm sorry. Just before you leave.
8 I do have one request to waive the notice requirement for the ANC.
9 And I can address that now or later.

10 CHAIRPERSON HILL: Okay. That's fine. You can address
11 it now.

12 MS. BROWN: Thank you. While I understand from the
13 Office of Zoning staff that the ANC notice did not go out in the
14 requisite time to give them the 51-day notice under the emergency
15 health regulations. The ANC did have actual notice from me on
16 January 4th of the application. I spoke with the SMD on January
17 5th. They had their ANC meeting on February 3rd, and then
18 submitted their letter, it was on March 17th. So they have had
19 actual notice, and they're not prejudiced by us, you know, any
20 delay in deliberating on this. Or actually, if the Board chose to
21 deliberate on this today, they would not be prejudiced. And
22 there's case law to support it in *Kopff v. DC Board of Alcohol*,
23 the Alcoholic Beverage Control Board.

1 CHAIRPERSON HILL: Got it. Okay, Ms. Brown. I
2 appreciate you giving that analysis and argument. I'm still not
3 going to be able to change --

4 MS. BROWN: If I could -- I'm sorry. If I could just
5 add onto this. One of the reasons that we're asking, if you are
6 so inclined to approve this and find to deliberate early, they
7 have a temporary certificate of occupancy that expires on April
8 26th, Monday the 26th. And if they have to go in for another
9 temporary C of O until the Board actually renders a decision and
10 issues a decision, that means they have to go through yet again
11 another inspection process in the next week to get the temporary
12 approval again. And then once you approve it in final, they'll
13 have to go back for another full inspection, review and approval
14 process. So I'm just trying to short circuit that. And given
15 that there's no opposition, there is full support for this, and
16 ANC is not prejudiced by the notice issue, that's the rationale.
17 So now I'm finished. Thank you.

18 CHAIRPERSON HILL: No, that's fine, Ms. Brown. So then
19 what's the -- I just don't know if it's something I can get
20 around. But what is the -- is there costs involved or is it just
21 the timing thing? It's just, it's an inconvenience. How much is
22 involved?

1 MS. BROWN: Well, it is a cost issue as well, because
2 you have to pay for the additional C of O. But and getting the
3 inspectors out there and coordinating that. But it's also more of
4 issue if they don't have their C of O, you know, they get shut
5 down by the Licensing Board. So it's really critical that they
6 have this continuity and not this haphazard --

7 CHAIRPERSON HILL: I understand. I understand. I
8 mean, I don't think I can get around it. So -- but -

9 MS. BROWN: Well, actually, there is, like I said,
10 ample precedent in the court decisions that have said the
11 requirements of procedural due process are met --

12 CHAIRPERSON HILL: I understand. Okay.

13 MS. BROWN: So legally, yes, you're allowed to do it.

14 CHAIRPERSON HILL: Well, that's -- I -- you know, I've
15 had this argument already now with a bunch of other people. And
16 so, you know, I don't know whether I agree with you.

17 But Mr. -- I'm going to go -- everybody is -- I guess I
18 was trying -- I should have just gone with the regular way. But
19 Mr. Smith, what is it, did you have questions for the applicant?

20 MR. SMITH: Just really quickly, since there's a
21 requested change to the conditions for the time. Are they
22 operating Monday through Friday or are they operating within
23 weekends as well?

1 MS. BROWN: It's Monday through Friday.

2 MR. SMITH: Okay. Thank you. That's all I had.

3 CHAIRPERSON HILL: Ms. John?

4 VICE CHAIR JOHN: Ms. Brown, can you repeat that
5 citation for the case that allows the Board to waive the ANC
6 notice. And this was an ANC notice?

7 MS. BROWN: Yes. Specifically, -- yes, specifically an
8 ANC notice. And it's a old case that was when the ANC law was
9 first implemented. But it's Kopff, and that's K-O-P-F-F, versus
10 District of Columbia Alcoholic Beverage Control Board. And it's
11 381 A.2nd 1372. And the court noted that while it was an error
12 not to give the procedurally required notice to the ANC, they said
13 it was not reversible error. And the fact that the ANC had actual
14 notice of the hearing from various sources, and that they actively
15 participated in the process as we have here, we have a letter of
16 support, that the court concluded that we are satisfied that the
17 actual notice remedied the error. Now, there was other notice
18 problems in that case, but not on the ANC notice.

19 VICE CHAIR JOHN: Thank you. I just needed the cite.
20 Thanks.

21 MS. BROWN: Sorry.

22 CHAIRPERSON HILL: Okay. Mr. Turnbull, did I ask you
23 if you have any questions?

1 MR. TURNBULL: No, you did not. I don't have any
2 questions. Just a -- obviously, this childcare center is, it's
3 well-liked by the neighborhood. My only comment is that I don't
4 think I've ever been on a Board case where the applicant has asked
5 for no time limit given on approving the application. The
6 previous application for this childcare center was 10 years. And
7 if someone forgets to re-file, that's not up to the Board to say
8 that that's a good excuse just to have forever. I think the limit
9 is a checks and balances. It's part of the system. And I think
10 that I'm not in favor to no limit. I'm -- I don't think the --
11 I've never been on a Board case where you gave no limit. It's
12 always been, I think 10 years is an appropriate amount of time.
13 Again, maybe you guys have given no term limits to some
14 applications. But on any of the cases that I've sat on before,
15 it's never been carte blanche that it's an infinite time on
16 something. I'm more in favor of keeping it at 10 years. Other
17 than that, I think it's a good childcare center. It's well-liked.
18 But I think that part of the price of doing business is that
19 you've got to look at these things.

20 CHAIRPERSON HILL: Okay. And I don't mean to -- I
21 wish we were together, Mr. Turnbull. I could just lean over and
22 ask you this. But, like, I think we have done -- and this is
23 where OP and also Mr. Rice, like, once they've kind of proven

1 themselves there has or hasn't been a term limit. I'm not saying
2 it's always what we've done, but I'm unclear. I'm unclear. I'm
3 not in disagreement with you, I'm just unclear. And I'll let Ms.
4 Brown respond to that in a minute if you want to.

5 Mr. Blake, do you have any questions for the applicant?

6 MR. BLAKE: I have one quick question with regard to
7 the extended hours. Would you anticipate that continuing going
8 forward, as the application only requests, I think, the six to
9 six?

10 MS. BROWN: I'm not sure I understand the question. We
11 do want the hours 7 a.m., and that's a change. Because I think
12 it's 6 a.m. right now in the OP report. So it's 7 a.m. until
13 11:45 p.m. And that's what we would want to have now, because
14 that's what we're using at the moment.

15 MR. BLAKE: Okay. Thank you.

16 CHAIRPERSON HILL: Okay. I'm going to turn to the
17 Office of
18 Planning.

19 MS. BROWN-ROBERTS: Good morning, Mr. Chairman and
20 Members of the Commission. Maxine Brown-Roberts for the Office of
21 Planning, on BZA Case 20439. And basically I think I will expand
22 on the record just a few things. The subsequent report, we were
23 informed of hours of operation from 7 to 11:45 p.m., Monday

1 through Friday, to accommodate the parents who work shift hours.
2 OP does not have a concern about these hours. And, therefore,
3 we've actually made that change to our report. Again, as outlined
4 in the report, they have met all their requirements on the
5 Subtitle U for Section 201-1(h) and also met the requirements of
6 the general special exception.

7 Again, our recommendation is for approval for 47
8 students and 10 staff members, and the hours from 7 to 11:45 p.m.
9 We did not recommend a time limit. This childcare center has been
10 operating for approximately 14 years, and there is nothing that we
11 have seen that is impacting the neighbor or the neighborhood as a
12 whole. And, therefore, we didn't recommend a time, a time frame.
13 Thank you, Mr. Chairman. And I am available for questions.

14 CHAIRPERSON HILL: Okay. Does anyone have any
15 questions for the Office of Planning? I'm going to go around the
16 table. Commissioner Turnbull?

17 MR. TURNBULL: No. I'm good.

18 CHAIRPERSON HILL: All right. Mr. Smith?

19 MR. SMITH: Being that this facility is located right
20 across the alley from another CDC by the same name, and another at
21 Friendship Charter School, was OP conducting the analysis on
22 traffic impacts related to the operation of these three? And when
23 all three -- do all three let out at the same time?

1 MS. BROWN-ROBERTS: We did not, ourselves, do a traffic
2 impact. That's at DDOT's prerogative.

3 MR. SMITH: Right.

4 MS. BROWN-ROBERTS: I spoke to DDOT about it, and they
5 said they were not concerned because there is already assistant
6 there. They note at both childcare centers and how the drop-off
7 and times of operation and that sort of thing. And verbally they
8 told us that they didn't have a problem with them with that. I
9 guess they also state and say in their report also. But, no, we
10 didn't have a concern about that.

11 MR. SMITH: Okay. Thank you. That was the only
12 question I had.

13 CHAIRPERSON HILL: All right. I think we've gone
14 around what I need to do. But I'm going to ask OAG to take a look
15 at what Ms. Brown just asked and see if you can, what your
16 thoughts are. Just take a look. And then -- okay. So that was
17 Mr. Smith.

18 Ms. John, do you have any questions for the Office of
19 Planning?

20 VICE CHAIR JOHN: No, Mr. Chairman. But I was going to
21 ask the same thing that you just asked OAG to do. I'm just
22 looking at the case quickly online. And I don't know -- it's
23 possible OAG referred this case. It seems as if it was an

1 interpretation of the whole rule act as well as the ANC statute.
2 And I know there were changes to the ANC statute after this case
3 was decided. So it would be helpful to our process and schedule,
4 if it is possible, to waive where there's actual notice. So it
5 may be that we can't waive it at all. But we could at least take
6 a quick look to see if there's anything in this decision that
7 would help the Board. So I'm in agreement.

8 CHAIRPERSON HILL: Okay. I'm not going to get to you
9 just yet, Mr. Rice. You get to be the end. Okay.

10 Mr. Blake, do you have any questions for OAG, I mean OP?

11 MR. BLAKE: I do not.

12 CHAIRPERSON HILL: Okay. Mr. Young, is there anyone
13 here wishing to speak?

14 MR. YOUNG: We do not.

15 CHAIRPERSON HILL: Okay. Ms. Brown, did you have any
16 questions for the Office of Planning?

17 MS. BROWN: No, sir.

18 CHAIRPERSON HILL: Okay. All right. Mr. Rice, do you
19 have any comments on what we were asking about?

20 MR. RICE: I understand the position. I pulled the
21 case. The case is about 17 pages long. So it's going to take me
22 a little bit of time to go through it. But beyond that, I'll take
23 a look at it and see what I can find.

1 CHAIRPERSON HILL: Okay. So let's see. All right.
2 I'll tell
3 you what, Ms. Brown, we're going to go ahead and -- well, what's
4 your day like, Ms. Brown? Are you around, are you working, are
5 you staying there?

6 MS. BROWN: I can make myself available.

7 CHAIRPERSON HILL: No, no. I'm just saying like, we'll
8 come back later. Okay. And maybe we'll come back right after
9 lunch. We'll see. Or we'll kind of get you at the end of the
10 day. Because I am just curious as to what OAG's thoughts are and
11 what they can show, and what OAG can show the Board. Because what
12 I want to be very clear on, and I -- and whatever. I just want to
13 be clear on this. And then, like, OAG is just giving
14 recommendations to the Board. OAG is not deciding anything. And
15 so they're going to have to also prove it to us. And they're
16 going to have to be able to make us understand how we can actually
17 do this, right. So whether or not they will or won't be able to
18 explain it to us in a way that it's understandable, thankfully,
19 there are smarter people on the Board than me. So maybe we can
20 figure it out, right. Okay.

21 Okay. So that being the case, Ms. Brown, do you have
22 anything you'd like to add at the end?

1 MS. BROWN: No, sir. And to the extent that it's --
2 well, I'll leave alone the OAG issue.

3 CHAIRPERSON HILL: Make your case real quick again.
4 Because I'd like you to win.

5 MS. BROWN: Thank you. The only thing I would say that
6 mitigates in our favor on this particular case, because we do have
7 zero opposition. I testified to the actual notice. There is no
8 prejudice to anyone be deliberating and voting on this today
9 because there has been the actual notice given, all the dates that
10 I list, and I don't know if that's true for other cases that
11 you're faced with today. But I just wanted to point that out
12 again. So that's -- I conclude our presentation.

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

14 Okay. Then, Mr. Moy, we're going to continue this for
15 later in the day at some point, just so we can hear back with what
16 thoughts OAG might have, and whether or not we -- I don't want to
17 take an emergency closed meeting, you know, so, unless -- so Mr.
18 Moy, we'll just come back to this maybe first, right after lunch.
19 Unless -- can the Board hang on for one more case?

20 (Nods head affirmatively.)

21 CHAIRPERSON HILL: Okay. I'm seeing nods. So then
22 we'll go ahead and do one more case, then we'll take lunch, then

1 we'll come back after lunch with this. Okay, Mr. Moy? Okay. All
2 right.

3 All right. Ms. Brown, good to see you. We'll see you
4 after lunch.

5 And Mr. Moy, you can call the next one.

6 MR. MOY: Thank you, Mr. Chairman. So I believe we have
7 parties to the table to application number 20275 of Charles and
8 Dara Mooney. And this application is captioned and advertised for
9 special exception for the expansion of an existing apartment
10 house. This is under Subtitle U, Section 302.4. And the area
11 variance from the expansion of an existing apartment house not
12 meeting the 900 square foot per unit requirement, under Subtitle
13 U, Section 320.2). And this would convert the basement into a new
14 fifth apartment unit in the existing apartment house, in the RF-1
15 Zone. The property is at premises 1350 Queen Street, Northeast,
16 Square 4076W, Lots 57 and 58.

17 CHAIRPERSON HILL: Okay. Great. Ms. Brown, could you
18 introduce yourself for the record, please?

19 MS. BROWN: Hello. I am Jennifer Brown, the authorized
20 representative for this case, 20275.

21 CHAIRPERSON HILL: Okay, great. All right, Ms. Brown,
22 let's see. I do feel I'd like you to share, as you kind of are

1 going through your presentation is your outreach to the ANC. I
2 didn't see a letter from the ANC. So maybe you can go ahead --

3 MS. BROWN: It should be exhibit 83, I believe. Oh,
4 no, that's my presentation. It should be the very last exhibit.
5 They uploaded it last night.

6 CHAIRPERSON HILL: Oh, okay. Great. All right. So
7 then I'm going to put 15 minutes on the clock, Ms. Brown, for you
8 to give your presentation. If you need to take longer, don't
9 worry about it. We'll just see where we get. And I guess, Mr.
10 Young, if you could pull us exhibit 83, the PowerPoint. And you
11 can begin whenever you'd like.

12 MS. BROWN: Thank you so much. Okay. So this is for
13 a lot area variance relief. We can go to the next slide.

14 This is just a little time line. We've been at this for
15 a year, and I just wanted to thank the Board for your flexibility
16 during this time. Of course there were some delays due to COVID
17 and several (indiscernible) along the way. So thank you for your
18 flexibility. Next slide.

19 Okay. A little history about the homeowners. Actually,
20 they both lived on Queen Street, in the 60's and 70's as children
21 and teenagers. And when they married they knew they wanted to
22 come back to the neighborhood as business owners. So when the
23 apartment building become available in 2007 they jumped at the

1 opportunity to purchase it and have been providing affordable
2 housing to several tenants, countless tenants in the neighborhood
3 since that time. Next slide.

4 They have -- prior to this application they haven't made
5 any prior structural alterations to the apartment home, but of
6 course they have maintained it like their home, replacing windows,
7 and fixtures, and decor, and cabinets, and painting, and things of
8 that nature. Next slide.

9 So the nature of the relief sought. It is currently a
10 four-unit apartment home on two lots, 57 and 58. Each lot is
11 1,818 square feet. And we're requesting to add a fifth unit in
12 the basement level, which will not change the general purpose or
13 intent of the building. The requisite requires the 900 square
14 foot of lot space for each dwelling, which would make the
15 requirement for that 4,500 square feet. We currently have 3,636
16 square feet, which creates a variance of 864 square feet, which we
17 are required -- requesting relief for. Next slide.

18 A little background about the grant relief. There are
19 currently four units in the building. Each one is about 550
20 square feet. There's approximately a total of 1100 square feet in
21 the basement, 825 square feet of that space is pretty much idle,
22 because all of the other utilities, maintenance and electrical
23 could be put in a small corner. The property is on two lots, 57

1 and 58, which will be resized and remapped, remapped to account
2 for the load change, increasing the units from four units to five
3 units. We'll also be obtaining a new certificate of occupancy,
4 also amending it from four units to five units. And the official
5 plat will also be combining both the lots 57 and 58, which is
6 already underway with the Surveyor's Office. Next slide.

7 Of course you look at this neighborhood as a desirable
8 community with a very transit friendly and community friendly.
9 And we feel that it should provide affordable housing to as many
10 people as possible. Next slide.

11 So currently on left you see what currently is the
12 basement. It's just an empty, underutilized basement space. And
13 the proposed fifth unit in the basement, which I can show you
14 where these things are. On the bottom left and right would be the
15 two bedrooms. The center bottom would be the entry stairs that
16 would go from the first floor level and would now create a
17 staircase down into that basement unit. The middle right and left
18 are the two bathrooms. The one on the right has a shower. That's
19 part of the full bath. The one on the left has a tub and full
20 bath. The upper right is an "L" shaped eat-in kitchen area. And
21 then the upper left, the small box in the corner, is where all the
22 mechanicals and what little storage is necessary would be housed.
23 The center upper part is a washer and dryer area and access of the

1 door that you see at the very top, will access the building from
2 the rear parking spaces. It will also allow the other tenants to
3 enter that area to use the washer and dryer area. At the very,
4 very bottom on the right, the two indentations or protrusions you
5 see are the egress windows. Next slide.

6 This is the identical rendering, except on the right it
7 just gives a little bit more detail about the egress windows on
8 the left. Next slide.

9 So regarding the burden of proof, of course it's three
10 parts. And the first part says is the property affected by any
11 exceptional situation or condition? Well, first of all, the
12 property is an internal, conjoined building on a city block, and
13 there's no available space on the front or rear of the building to
14 be purchased. So acquiring an additional 864 square feet is very
15 difficult, let's say. Also, the building was constructed in 1940
16 and became legally nonconforming upon the adoption of the 1958
17 zoning regulations. So this makes strict application to this
18 portion extremely difficult. Next slide.

19 Strict application would result in practical difficulty
20 to the owners. So the applicant, in order to get 864 feet the
21 applicant would have to purchase property from the adjoining
22 property owners, which would potentially be a very lengthy
23 negotiation, and burdensome expense if they even agreed to it. It

1 would result in irregular property lines that would encroach into
2 neighboring yards. It would also be a potential security issue,
3 and be an attractive nuisance because of the visibility from the
4 alleyway of this vacant space in a attracted basement. So we are
5 requesting relief based on that. Next slide.

6 And no substantial detriment to the public or impairment
7 to the zone plan. So there's no compromise to the light, air,
8 privacy or enjoyment to the neighbors at all. They'll be no
9 alterations to the character, or scale, or pattern of any of the
10 neighboring buildings or adjoining homes. The general purpose and
11 intent of the property will not change. And the property
12 currently has four dedicated parking spaces in the rear of the
13 building, which exceeds the DCMR guidelines for a five- unit
14 property. And lastly, the front and adjoining sides and rear of
15 the building will remain unchanged in compliance with the existing
16 zoning regulations and maps. Next slide.

17 This is just the front of -- pictures of the front and
18 rear of the building. On the left, obviously the front. The
19 bottom two windows are where the egress windows will be placed.
20 The front would obviously be just, stairs would be installed and
21 that person could enter the building from the front of the
22 building to get down to the newly installed basement unit. In the
23 rear of the building you do see the four parking spaces in the

1 back. And there's a tiny little step dent, you'll see it, but
2 that is the rear entrance. And I'm pointing like you can see me.
3 That is the entrance into the second floor unit. Did you have a
4 question? No. Next slide.

5 Okay. We're just reinforcing that we're ensuring public
6 policy which states the expanding residential use of the property
7 will reinforce the importance of neighborhood character,
8 preservation of housing stock, and the overall housing mix and
9 health of the city, which is exactly what we're attempting to do.
10 Next slide.

11 We do have six tenant letters, and 11 owner and
12 neighborhood letters in support of the project. Next slide.

13 And the last two slides are just reference of two BZA
14 cases that are similar to ours. One was a case 19625 where they
15 wanted to add two units to an existing 21-unit apartment house.
16 The OP did recommend approval based on the fact that it would be
17 disruptive to a listing tenant to use that space to expand their
18 existing units. We are in the same situation. There was
19 discussion originally to add a bottom level to the existing first
20 floor unit. But once we looked at plans and everything it just
21 did not make sense because it really only resulted in about 275
22 feet of, square feet of actual living space. Once you add in
23 stairs, and walls and the tiny living space, and a bathroom, it

1 just was not an effective use of space. In addition to that, it
2 would have created undue expense to those two first floor tenants
3 that did not want this kind of expansion in the first place. Next
4 slide.

5 And lastly, case 19196, this applicant wanted to add a
6 fifth unit to a four-unit apartment home. And they were also
7 still using part of that area as storage. OP also recommended
8 approval, saying there is no other reasonable use for the space,
9 and retaining it as a vacant space presents practical difficulty
10 to the owner. We are identical. In fact, possibly even more so
11 because we're letting an 825 square feet space that will literally
12 just sit there and have no use, not even as storage. So, again,
13 we are requesting relief. And next and last slide.

14 So we are certainly available for questions. And we
15 would welcome the approval of the DC Board of Zoning Adjudication.
16 Thank you. I will add that we have received ANC full support as
17 well as the Office of Planning support. Those letters are
18 uploaded into ISIS. You will notice one abstention on the ANC
19 approval, and that was Mr. Steven Kalb. But that was -- I don't
20 know the details of it, but they said that it was just something
21 he had to abstain from because there was some conflict of interest
22 where he could not vote. So it wasn't that he was for or against,
23 he just was prevented, for some reason, from voting on it.

1 CHAIRPERSON HILL: Okay. Mr. Turnbull, do you
2 have any
3 questions for the applicant

4 MR. TURNBULL: No, Mr. Chairman, I do not.

5 CHAIRPERSON HILL: Ms. John, do you have any questions
6 for the applicant?

7 VICE CHAIR JOHN: Not right now, Mr. Chairman.

8 CHAIRPERSON HILL: Mr. Smith, do you have any questions
9 for the applicant?

10 MR. SMITH: Yes, I have a question. What is the total
11 square footage of the space within the basement that you are
12 looking to convert?

13 MS. BROWN: Eleven hundred square feet in total.

14 MR. SMITH: Okay. So you had stated that if you were to
15 convert the first floor units, well, combined the space in the
16 basement into the first floor units it would be only 275 square
17 feet for each additional unit. How is that -- you know, that --
18 275 square feet times two still leaves a lot of square footage
19 still in the basement. What is accounted for that difference?

20 MS. BROWN: Well, we -- the two areas that would have
21 been added, we tried to make them equal. So because of the area
22 in the back of the unit that would be on the left was going to be
23 a mechanical room, then they tried not to utilize that for the

1 other area on the back for the unit on the right. so that they
2 would just be identical in size, if that makes sense. So there is
3 an area that would become still unusable if it (audio inference)
4 upstairs where it extended downstairs. So you'd have two
5 identical sides, the mechanical room and then in the back right
6 side there would be still some unused space.

7 MR. SMITH: Okay. Another question that I have, and I
8 understand that they've converted, or in the renovation added some
9 additional storage space within the units. Have the applicants
10 taken a look at other uses they could potentially do that would
11 not require a variance, which is a very high hurdle. They're
12 operating a unit with profitability now, with the number of units
13 that they have. Have they explored other options that could mean
14 additional storage for bikes and what not, or for the tenants to
15 be able to store additional furniture. Has there been any other
16 exploration done?

17 MS. BROWN: Look, the best case scenario was to add
18 more space for washer and dryer units. What you just mentioned
19 for bicycle racks and that kind of thing. But concealing their
20 back, what do you call them, porch areas really just allowed for
21 all the space that they would need, and more security probably,
22 for bikes and things of that nature within their own property.
23 And so they really didn't need the space for storage and bikes,

1 and all of that. And they didn't want to run a laundromat. And
2 they felt like the one set of washer and dryers that they had
3 there was sufficiently servicing the building.

4 MR. SMITH: Okay. All right. Thank you, Mr. Chairman.
5 That's all the questions I have for now.

6 CHAIRPERSON HILL: Okay, thanks. I'm going to turn
7 to the
8 Office of Planning. Oh, I'm sorry. I forgot. I didn't go all
9 the way around the table. Ms. John, do you have any questions?

10 VICE CHAIR JOHN: No questions, Mr. Chairman.

11 CHAIRPERSON HILL: Mr. Blake, do you have any questions?

12 MR. BLAKE: One quick question for the applicant. How
13 significant would the expenses be to do the conversion that you're
14 discussing? Are there any load bearing walls that have to be
15 adjusted, any major plumbing changes, or anything like that?

16 MS. BROWN: No. No load bearing walls. There was,
17 early in the discussions with the architects, questions about
18 under painting and a variety of things. But based on the scope of
19 the project, those were not necessary. We did just reach back out
20 to the architect just to make sure we were understanding on that.
21 Because that had been a year since we had those discussions. So
22 we do have text messages and that communication that those under
23 painting and any other extreme renovations would not be necessary.

1 MR. SMITH: Mr. Chairman, one additional follow-up
2 question to Mr. Blake's. Has there been an analysis of that cost
3 question, vis-a-vis expanding the units on the first floor?

4 MS. BROWN: Explain a little bit more about your
5 question.

6 MR. SMITH: So, you know, his question was what the cost
7 of -- whether there was a substantial cost to convert the basement
8 into the units that you're requesting now. My question is what
9 was an analysis of the cost associated with converting or
10 incorporating the basement into the units on the first floor?

11 MS. BROWN: Well, let's say I don't, as part of this
12 presentation, have an analysis of cost. I can tell you that I'm
13 sure that there was an analysis of cost between the actual
14 applicants and the architect and the engineer. I don't have that
15 information. But the focus on the plan to make that happen was
16 safety first. So one of the components that the architect was
17 recommend -- and the engineer were recommending that were going to
18 be needed for the project. And cost was not the overarching
19 factor, it was how do we do this safely. And of course now we're
20 having to do it within the guidelines of zoning. But I don't have
21 the cost analysis for you.

22 MR. SMITH: Okay. Thank you.

23 MS. BROWN: You're welcome.

1 CHAIRPERSON HILL: Okay. Let's see, I got a little
2 lost. I'm sorry. Mr. Blake, did you have any questions?

3 MR. BLAKE: I'm fine. Thank you.

4 CHAIRPERSON HILL: Okay. I turn to the Office of
5 Planning.

6 MR. MORDFIN: Good afternoon. I'm Stephen Mordfin with
7 the Office of Planning. The Office of Planning is in support of
8 this application for the special exception and also for the
9 variance, the area variance to one of the specific criteria of
10 that special exception. And, therefore, you know, I'm available
11 for questions. Thank you.

12 MR. TURNBULL: Mr. Mordfin, could you go through the
13 three prongs and give us your analysis of how you went through it?

14 MR. MORDFIN: Yes, sir. So for the three prongs for the
15 area variance, the first one is what is the extraordinary
16 exceptional situation? And in this what we find is it's a
17 building that was built prior to the adoption of zoning
18 regulations and was four units. Uses of the basement for which it
19 was originally designed, storage space and utilities for each unit
20 is no longer necessary due to the tenant storage being relocated.
21 And also the utilities being consolidated in one corner of the
22 basement. And so as a result, what you end up with is a largely
23 vacant, unused area within this building its existing space, as

1 | this proposal does not require any building additions. They're
2 | just, you know, so there's no change in lot occupancy or anything
3 | like that.

4 | So what we find is then the exceptional practical
5 | difficulty or the exceptional undue hardship is what do you do
6 | with that space? As the applicant stated, they could increase the
7 | sizes of the units above, making them into large units, which
8 | would entail the construction of two sets of staircases and
9 | walls. And that is also, contributes to the smaller size of how,
10 | you know, the 275 square feet of space that would be added to each
11 | unit. Also, removing the existing first floor units from the
12 | market, because these would be converted into larger units, for
13 | which the existing tenants necessarily would not be able to
14 | afford. So that's the -- you don't want a vacant, unoccupied
15 | space. It can be an attractive nuisance. And by occupying the
16 | space, it increases the safety or security of the other residents
17 | of the building.

18 | And that gets into the no substantial detriment to the
19 | public good. You can't -- you will not be able to tell this much
20 | from the street, although, they do have to redo the windows, the
21 | building is not getting any larger, it will remain the same size
22 | as it is today. You know, they cannot increase the size of the
23 | lot. Even if somebody, if their neighbors would sell them land,

1 then they would need a zoning variance or an area variance,
2 because that would make them nonconformant. So that would be a
3 nonstarter.

4 And OP, also doesn't see any substantial increment --
5 impairment to the intent or purpose from zoning regulations. This
6 is an existing apartment building. It would remain an apartment
7 building. Use would not change, it would be an additional use.

8 There is sufficient parking at the rear of the property
9 to support the additional units, though they would not have any
10 issues providing adequate parking. And so, therefore, OP finds
11 that this application does meet the, or conform with the
12 requirements for the granting of an area variance or the expansion
13 of this apartment building.

14 MR. TURNBULL: Thank you. Would expanding down, adding
15 the two sets of stairs, make the units still -- would the building
16 still be under the 900 square feet, would they still be less than
17 what's required?

18 MR. MORDFIN: Well, if they did that, and they expanded
19 the units, they don't need any additional land area to expand
20 units. Right now the building is conforming at four units. If
21 they expanded down and made those two first floor units into
22 larger units, they would still have four units. So that equation

1 doesn't change. So they would be in conformance. They can do that
2 as a matter of right.

3 MR. TURNBULL: Okay. All right. Thank you.

4 CHAIRPERSON HILL: Okay. Anyone else for the Office
5 of Planning, and if so, raise your hand.

6 (No response.)

7 CHAIRPERSON HILL: Okay. Ms. Brown, do you have any
8 questions for the Office of Planning?

9 MS. BROWN: I don't. No.

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

12 MR. YOUNG: We do not.

13 CHAIRPERSON HILL: Okay. Does the Board have any final
14 questions for the applicant?

15 (No response.)

16 CHAIRPERSON HILL: Okay. Ms. Brown, do you have
17 anything you'd like to add in conclusion?

18 MS. BROWN: I don't.

19 CHAIRPERSON HILL: Okay. All right. Ms. Cain, can
20 you hear
21 me?

22 MS. CAIN: Yes.

1 CHAIRPERSON HILL: We can decide this today, right?
2 Proper notice has been given?

3 MS. CAIN: Yes. This does not apply to the notice
4 provision. So you are okay to move forward today.

5 CHAIRPERSON HILL: Okay. Great. Then I'm going to go
6 ahead and close the hearing. Thank you, Ms. Brown, for being with
7 us. I close the hearing and the record.

8 Is the Board ready to deliberate? Okay. I can begin.
9 I actually am comfortable with the argument that the applicant has
10 given. I also would agree with the analysis the Office of
11 Planning has provided. And that also of the ANC that we have in
12 there. I see how they're meeting both the special exception
13 criteria and the area variance criteria. So I will voting in
14 favor of this.

15 Mr. Turnbull, do you have anything you'd like to add?

16 MR. TURNBULL: No, Mr. Chair. I think I would agree
17 with your comments a hundred percent. I feel that they've met --
18 they're going to be below the limit of the 900 square feet, but I
19 think the case has been made that they meet the special exception
20 criteria and of the area variance criteria. And I would be voting
21 in favor of this also.

22 CHAIRPERSON HILL: Okay. Mr. Smith?

23 MR. SMITH: I'm struggling with the second -- the first

1 prong of practical difficulty. By the applicant's own admission,
2 they can expand the units down, the first floor units down into
3 the basement. And I asked the applicant have they, I think that
4 what the applicant presented as far as the first their practical -
5 - their practical difficulty, I'm having difficulty arriving at
6 all of those necessarily being a practical difficulty. Like one
7 of the practical difficulties that the applicant stated was that
8 it would be -- they would have to remove the -- the tenants that
9 are on the first-floor would be impacted because they would have
10 to be removed from their units during that particular time. I
11 believe in constructing these units will be impactful to all of
12 the tenants. So I don't really buy that argument as all that
13 strong.

14 From an economic standpoint, we don't have numbers to
15 show that there is a practical difficulty in expanding the units,
16 the first-floor units down into the basement. And it seems to me
17 that this is more of a discussion about a economic argument with
18 it, you get additional, an additional unit within the space.

19 I don't think that -- I do believe that this would be
20 contrary to the zoning plan, to be completely honest with you.
21 This question about usable space, this constantly comes up. You
22 know, last week we had a question about as technology has
23 advanced this issue of additional space that is within a house and

1 they want to use it for other uses. And I think this is going to
2 be something that is very recurring in nature. And this can, this
3 particular situation can occur along the entire block. So I think
4 this variance would be recurring in nature. And I don't believe
5 that it meets the criteria set forth in the first prong and the
6 last prong. So I'm not in support of the variance.

7 CHAIRPERSON HILL: Okay. We'll see if that argument
8 changed anybody's mind. But Ms. John, where are you?

9 VICE CHAIR JOHN: Do, Mr. Chairman, I'm taking a
10 slightly different approach from Board member Smith. And I agree
11 with the analysis put forth by the applicant and the Office of
12 Planning as to all three prongs of the variance test as to how the
13 applicant meets the special exception criteria. And I think that,
14 you know, I can support this application because I think the area
15 variance is not as stringent a requirement as the use variance.
16 And so having this large space remain vacant and unusable would
17 not be a good option in my view. And I think that relocating
18 tenants and installing two sets of stairs to accommodate joining
19 the first and the second floor, I think that's a major renovation,
20 certainly more than what would be required just to convert into
21 two apartments. Because you would be looking at the conversion
22 cost and the stairs, and then the cost of relocating tenants. And
23 I don't know how that's done, but moving tenants out during

1 reconstruction, during construction is quite an issue. So I
2 accept the applicant's representation as to the additional cost
3 and the burden of trying to convert this to, you know, to
4 incorporate the basement into the first floor. So I know I wasn't
5 going to say anything, but, you know, I started talking. So I'm
6 in support of the application for all of those reasons.

7 CHAIRPERSON HILL: That's great, Ms. John. Thank you.
8 I'm sure you've probably helped Mr. Blake one way or the other.
9 Mr. Blake, do you have anything you'd like to add?

10 MR. BLAKE: Yes, I do. It's interesting as I listen to
11 this case, I'm drawn in two different ways. And I completely --
12 well, I say 85 percent agree with Mr. Smith's analysis of the
13 situation. I don't see -- I don't believe that the practical
14 difficulty is demonstrated. I also question to some extent if
15 it's unique enough a situation. But I think that we feel
16 comfortable with that. But I have some questions with that as
17 well. I think there is an economic issue here that I can
18 appreciate. But I do not think it met that standard of, those,
19 the first or second prong. I do think it fits the third prong.
20 But I do not think that, from a practical difficulty standpoint or
21 unique enough situation that this is warranted. So I would not be
22 able to support it.

1 CHAIRPERSON HILL: Okay. So let's just see what
2 happens. Because I know where I am and I know where Ms. John is.
3 Let's see where Ms. -- oh, no. I've got OAG popping up. Ms.
4 Cain, is there something I need?

5 MS. CAIN: No. It's just a small technical correction.
6 In the caption that Mr. Moy read there was an erroneous referral
7 to Subtitle U, Section 302.4. That should actually be 301.4. So
8 that should just be corrected in whatever final action the Board
9 takes.

10 CHAIRPERSON HILL: Where do you see that? I don't see
11 it.

12 MS. CAIN: So that's the special exception for the
13 expansion of an existing apartment house. And in the caption that
14 was in the hearing agenda it was Subtitle U, Section 302.4. That
15 should actually be Subtitle U, 301.4. So just a little thing.

16 CHAIRPERSON HILL: Okay. Well, I hope I read this
17 right then. So then I have U 302.2.

18 MS. CAIN: It was Subtitle U, Section 301.4. And that's
19 pursuant to 320.2. So that's the section that allows relief. But
20 the section that the applicant is seeking relief from is 301.4.

21 CHAIRPERSON HILL: And that's for an area variance and
22 the special exception?

23 MS. CAIN: Uh-huh.

1 CHAIRPERSON HILL: Okay. I'm going to make a motion to
2 approve application number 20275 of Charles and Dara Mooney, from
3 U 301.4, pursuant to U 320.2, for a special exception and area
4 variance from the 900 square foot and U 320.2, ask for a second,
5 Ms. John?

6 VICE CHAIR JOHN: Second.

7 CHAIRPERSON HILL: A motion has been made and seconded.
8 Mr. Moy, can you please take a roll call?

9 MR. MOY: Yes. When I call your name if you would
10 please respond with a yes, or no, or abstain to motion made by
11 Chairman Hill to approve the application for the relief requested.
12 The motion was seconded by Vice Chair John. Zoning Commissioner
13 Michael Turnbull?

14 MR. TURNBULL: Yes.

15 MR. MOY: Vice Chair John?

16 VICE CHAIR JOHN: Yes.

17 MR. MOY: Chairman Hill?

18 CHAIRPERSON HILL: Yes.

19 MR. MOY: Mr. Blake?

20 MR. BLAKE: No.

21 MR. MOY: Mr. Smith?

22 MR. MOY: No.

1 MR. MOY: Staff would record the vote as 3 to 2 to 0.
2 This is on the motion made by Chairman Hill to approve. The
3 motion was seconded by Vice Chair John. Also in support of the
4 motion to approve is Zoning Commissioner Michael Turnbull. Mr.
5 Blake and Mr. Smith have voted in opposition to the motion. The
6 motion carries 3 to 2 to 0.

7 CHAIRPERSON HILL: Okay. Great. All right, thanks,
8 Mr. Moy. If Jack is there and he can hear us, I think he can,
9 what I'm going to propose is I know we're coming back for that one
10 discussion, or not discussion. I wanted to hear from the OAG
11 about that whole issue about whether we can or can't waive the --
12 oh, there's Jack. So Jack, I'm going to do an emergency closed
13 meeting because I don't want to have -- I just want to be able to
14 hear from OAG without having it be any kind of discussion with
15 anyone other than us. So, Mr. Moy, if you can send me that
16 emergency meeting stuff I have to read. And then we'll do that
17 when we get back. And then we'll also then talk to that one
18 applicant. And then we'll do the last two cases.

19 It's now 1:00. You want to say like 1:45; does that
20 sound fair? Okay. All right. Hold on. Did somebody have any
21 questions? Anybody have any questions?

22 (No response.)

1 CHAIRPERSON HILL: Okay. See you guys at 1:45. Thank
2 you. Bye-bye.

3 (Whereupon, at 12:58 p.m., there was a recess for
4 lunch.)

5 MR. MOY: The Board is back in public hearing session
6 after a lunch recess. And the time is at or about 1:52. The
7 Board is addressing or rather will vote addressing and returning
8 the application number 20439 of Dawn to Dusk Child Development
9 Center, LLC.

10 CHAIRPERSON HILL: Okay. Mr. Young, can you let
11 everybody back in, please, that is with 20439. Ms. Brown, can you
12 hear me?

13 MS. BROWN: Yes, sir, I can.

14 CHAIRPERSON HILL: Okay, great. So just so you know,
15 I'm going to go -- we're going to go into a closed meeting now.
16 But I wanted to first start this meeting so I can then go into
17 closed meeting. And then we'll come back to this meeting. Okay.

18 Can

19 you introduce yourself for the record though, please, Ms. Brown,
20 again?

21 MS. BROWN: Yes. Carolyn Brown on behalf of the
22 applicant Dawn to Dusk, from The Brown Law Firm.

1 CHAIRPERSON HILL: Thank you. All right. As
2 Chairperson of the Board of Zoning Adjustment for the District of
3 Columbia and in accordance with 407 of the District of Columbia
4 Administrative Procedures Act, I move that the Board of Zoning
5 Adjustment hold a closed meeting on April 14, around 1:53 p.m.,
6 for the purposes of case number 20439, seeking legal counsel for
7 our case 20439, on April 14, and/or deliberate upon but not vote
8 on April 14, for case 201439. Ms. John, can I ask you for a
9 second?

10 VICE CHAIR JOHN: Second.

11 CHAIRPERSON HILL: Mr. Moy, the motion has now been made
12 and seconded. Could you please take a roll call?

13 MR. MOY: Yes. Thank you, Mr. Chairman. This is a roll
14 call vote for a motion made by Chairman Hill for an emergency
15 closed meeting. And the motion was seconded by Vice Chair John.
16 So when I call your name if you would please respond with a yes,
17 no, or abstain to the motion made by the chairman. Zoning
18 Commissioner Michael Turnbull?

19 MR. TURNBULL: Yes.

20 MR. MOY: Mr. Smith?

21 MR. SMITH: Yes.

22 MR. MOY: Mr. Blake?

23 MR. BLAKE: Yes.

1 MR. MOY: Vice Chair John?

2 VICE CHAIR JOHN: Yes.

3 MR. MOY: Chairman Hill?

4 CHAIRPERSON HILL: Yes.

5 MR. MOY: Staff would record the vote as 5 to 0 to 0 in
6 the motion made by Chairman Hill for a closed, for an emergency
7 closed meeting, seconded by Vice Chair John. Also in support of
8 the motion is Mr. Blake, Mr. Smith and Zoning Commissioner Mike
9 Turnbull. Motion carries.

10 CHAIRPERSON HILL: Okay, guys. I'm going to go ahead
11 and leave this meeting. And I'll see you guys over in the
12 emergency session. Thank you.

13 (Whereupon, 1:56 p.m., the meeting was closed for
14 an emergency session.)

15 (Whereupon, at 2:07 p.m., the meeting was
16 reconvened.)

17 CHAIRPERSON HILL: So Ms. Brown, I appreciate your
18 argument. And, you know, we just had kind of like a little bit of
19 a quick discussion in there. And I personally am uncomfortable
20 with waiving the requirements. So I'm unable to waive the
21 requirements. So unless another Board member feels that they feel
22 comfortable waiving the requirement, and if so please raise your

1 hand and feel free to argue that point. If anybody does have
2 something to argue in that direction, please raise your hand.

3 (No response.)

4 CHAIRPERSON HILL: All right. So I guess we're all in
5 agreement. So, Ms. Brown, sorry about that. All right. So we
6 can't deliberate on this now until 5/12. Okay. And so where I
7 think we are is we've gone through the whole hearing. And so I
8 know the only reason why I want to ask if anyone has any questions
9 about anything since the Office of Planning is here. And I
10 actually don't have an issue with the time limit, but maybe Mr. --
11 and the reason why, again, is really -- and actually, I do have a
12 question for Ms. Brown Roberts. Is that I know that in the past
13 we put time limits, but then we've also lifted those time limits
14 because they've proven effective. And, Mr. Turnbull, I'm not
15 disagreeing with your point. Who knows when these deliberate. I
16 just wanted to be clear with the Office of Planning and Ms. Brown
17 Roberts. Ms. Brown Roberts, are you there? MS. BROWN

18 ROBERTS: Yes, Mr. Chairman.

19 CHAIRPERSON HILL: Because that's -- we have done that
20 in the past, right? We have like a five-year time limit or a ten-
21 year time limit. And once they've proven that it works, we lift
22 that time limit, correct? Or have.

23 MS. BROWN ROBERTS: Correct. Yeah.

1 CHAIRPERSON HILL: It's not always a fact. I mean, we
2 can leave the time limit. But we have done it in the past. So I
3 just wanted to get that clear for the record.

4 MS. BROWN-ROBERTS: Yes.

5 CHAIRPERSON HILL: And then - great. And then you were
6 fine
7 with the 7 a.m. to 11:45 p.m. And I think you said, Ms. Brown,
8 wasn't it -- it's still Monday through Friday, correct? I
9 remember something about Tuesday, no?

10 MS. BROWN: It's Monday through Friday.

11 CHAIRPERSON HILL: Monday through Friday. And then,
12 just to be clear for me, the number of people, the number of
13 children that can participate in the 11:45 p.m., that's decided by
14 OSSE, correct?

15 MS. BROWN: Yes, sir. That's correct.

16 CHAIRPERSON HILL: Right. So it's not all 47, it's
17 percentage I assume, something like that?

18 MS. BROWN: Correct. It's 12 that are licensed for the
19 evening shift, if you will.

20 CHAIRPERSON HILL: Gotcha. Okay. So that's something
21 that can be taken care of by OSSE. So then as far as the
22 condition in terms of room, no more than 47 students, no staff
23 more than 10 persons. Hours shall be limited to 7 a.m. to 11:45

1 p.m., Monday through Friday. Both the applicant and the Office of
2 Planning are in agreement with that discussion, correct? All you
3 have to do is nod your head yes.

4 (Nods head affirmatively.)

5 CHAIRPERSON HILL: Okay. You're both nodding your head
6 yes. Okay. All right. Does the Board have any further questions
7 for the applicant?

8 (No response.)

9 CHAIRPERSON HILL: Ms. Brown, do you have anybody -- oh,
10 sorry, Mr. Smith?

11 MR. SMITH: I don't have any questions for the
12 applicant, but did we want to hear from the ANC being that there's
13 a change in the condition or question about this time limit, to
14 see if there was any discussion about a time limit with the ANC?

15 CHAIRPERSON HILL: I guess, Ms. Brown, do you know if
16 there's -- I mean, the ANC right now has already -- they are
17 already -- you already are doing children until 11:45. But do you
18 think that you need to go back to them to get clarity on this
19 11:45 issue?

20 MS. BROWN: No, sir. They were extremely supportive.
21 And just for the record, they submitted a form 129, I think, for
22 the record. And I just uploaded to the website a more specific
23 letter, that they had provided me but did not submit to the

1 record, that talked about how much they liked this facility. It
2 did not address hours, but I do not think that there's any need to
3 go back to the ANC.

4 CHAIRPERSON HILL: Okay. Mr. Smith, I'm fine unless
5 you aren't.

6 MR. SMITH: I'm fine.

7 CHAIRPERSON HILL: All right. So in that case, I will
8 see you, Ms. Brown, for a continued hearing on 5/12. Okay.

9 MS. BROWN: Thank you very much. We'll be there.

10 CHAIRPERSON HILL: All right. Thank you guys. Bye-bye.

11

12 All right, Mr. Moy, can you call our next case?

13 MR. MOY: Yes. Thank you, Mr. Chairman. So this would
14 be case application number 20441 of Festival Center, Inc., caption
15 and advertised for a area variance from the FAR, or the floor area
16 ratio restrictions of Subtitle G, Section 402.2. This would
17 construct an executive meeting room and mezzanine on the first and
18 second floors and a non-residential addition to the third floor in
19 an existing three-story, semi-detached, non-residential building
20 in the MU-5-A Zone. This is located at premises 1640 Columbia
21 Road, Northwest, Square 2579, Lot 34.

22 Preliminary matters. I believe the applicant is
23 proffering four expert witnesses, three of which have not been

1 before the Board, to be granted expert witnesses. And what else?
2 I think that's it, unless you have anything else as preliminary
3 matters, Mr. Chairman.

4 CHAIRPERSON HILL: No, I don't. Okay. Let's see, is
5 it Mr. DeThomas?

6 MR. DETHOMAS: Yes, Mr. Chairman.

7 CHAIRPERSON HILL: Is that how you pronounce it?

8 MR. DETHOMAS: Yes, sir.

9 CHAIRPERSON HILL: Okay. Great. I just lost you.
10 Where did you go. Oh, there you are. Okay. So Mr. DeThomas, who
11 is here with you?

12 MR. DETHOMAS: So I am joined today -- good afternoon,
13 first of all, members of the Board. My name is Kyle DeThomas.
14 I'm here today joined by my colleagues from Ballard Spar, Jay
15 Newnan (phonetic) and David Getz (phonetic), and our firm
16 represents the applicant, Festival Center, Inc. Kyle Ballard Spar
17 and our firm Festival Center, Inc., which is requesting the area
18 variance relief from two provisions of Subtitle G, Section 402.2.
19 And in case you have questions, I am joined today by Shirley
20 Boubert-Rumble of Usource Construction, who is a general
21 contractor and owner's representative for this project. Terry P.
22 Averill of P. Averill Architects. He's our architect for the
23 project. Kevin Callway, of Ben Dyre Associates, who is our civil

1 engineer for the project. And Jami Milanovich, of Wells and
2 Associates, our traffic engineer. And the list of the witnesses
3 and their area of expertise was filed as exhibit 13 in the
4 application, and resumes of the witnesses were filed as exhibit 14
5 in the application.

6 CHAIRPERSON HILL: Okay. Normally I go through this
7 individually. And I don't know whether we're actually going to
8 need the testimony, Mr. DeThomas. I mean, I think what I'd like
9 to do, if it's okay with the Board, I have read through the expert
10 testimony. I don't have any questions for anybody. I'm
11 comfortable with them being allowed in as experts in what they
12 have been asked to appear as experts in. Does the Board have any
13 questions of the proposed experts? And if so, please raise your
14 hand. Mr. Turnbull?

15 MR. TURNBULL: I think four experts in a case like this
16 for an area variance is ridiculous. I mean, I guess the same
17 thing happens on the Zoning Commission where people come in and
18 expect the Board of the Zoning Commission to simply grant expert
19 status. I don't know why we need a civil engineer and a
20 construction manager to go through this process. The case is
21 fairly straight forward. I don't know, it's up to the rest of the
22 Board.

1 CHAIRPERSON HILL: Okay. So Mr. Turnbull seems to want
2 to go -- so let's do this, Mr. DeThomas. I don't have a strong
3 opinion one way or the other. And so if we do get to where you
4 want someone to testify, which is completely fine, we'll then go
5 ahead and like approve them or not approve them as an expert
6 witness. But in the meantime, why don't you go ahead and begin.
7 Right. So I'm not allowing or not allowing anybody to be an
8 expert. We'll just see how we get to it if you need them. Right.

9

10 MR. DETHOMAS: Understood.

11 CHAIRPERSON HILL: So unless anybody has a problem with
12 that, my fellow Board members, if so, raise your hand.

13 (No response.)

14 CHAIRPERSON HILL: I don't see anybody raising their
15 hand, for the record. So Mr. DeThomas, you can begin whenever
16 you'd like.

17 MR. DETHOMAS: Great. Can Mr. Young pull up the slide
18 show, please. So as Mr. Moy articulated earlier, TFC is
19 requesting an area variance to modernize and expand an existing
20 three-story office building at the property, what you see here.
21 Next slide, please, Mr. Young.

1 As I also mentioned, I'm joined today by our project
2 manager, architect, civil engineer and traffic engineer. Next
3 slide, please.

4 So as I mentioned, TFC is requesting an area variance to
5 allow --

6 CHAIRPERSON HILL: Mr. DeThomas, I'm sorry. Is your
7 slide deck in the -- you didn't submit it, right, in to the
8 record?

9 MR. DETHOMAS: I sent it to Mr. Young directly. I did
10 not upload it to IDIS.

11 CHAIRPERSON HILL: Okay. Can the staff -- Mr. Moy, can
12 you hear me? Mr. Moy?

13 MR. MOY: Yes, I can hear you.

14 CHAIRPERSON HILL: Okay. So on my own, can I go ahead
15 and ask that they allow the slide deck into their record, and can
16 the staff add it in, please?

17 MR. MOY: Yes, sir. Absolutely.

18 CHAIRPERSON HILL: Okay, great. Because I'd like to see
19 it. All right, Mr. DeThomas, you can begin again. Thank you.

20 MR. DETHOMAS: Thank you. So TFC is requesting an area
21 variance to allow one for the non-residential density of the
22 property to increase to 2.3 floor area ratio, or FAR, which is
23 approximately 15 percent more than what would otherwise be

1 permitted. And second, they're asking for continued non-
2 residential use of the third floor. Next slide, please.

3 As a reminder, the criteria for an area variance are
4 as follows: one, the property is affected by exceptional
5 situation or conditions; two, strict application of the zoning
6 regulations will result in practical difficulty to the applicant;
7 and three, the granting of a variance will not cause substantial
8 detriment to the public good or substantially impair the intent,
9 purpose, or integrity of the zoning plan. Note that under
10 applicable law exceptional situations or conditions may arise from
11 one factor or compliments of factors. And we're in the public
12 service or nonprofit organization has inadequate facilities, the
13 need to expand the existing building may in itself constitute the
14 kind of exceptional situation to justify its variance.

15 The testimony you'll hear today, together with materials
16 already on record, include the reports from the affected ANC, the
17 Office of Planning, in support of the project, will demonstrate
18 that the applicant has satisfied the criteria for the granting of
19 the area variance relief under Subtitle X, Chapter 10. Next
20 slide, please.

21 As Mr. Moy articulated, the property is located in the
22 MU-5-A Zone, which allows for a maximum non-residential FAR of 2.0
23 for existing buildings on lots with areas of less than 10,000

1 square feet or less, which is the case here, provided that non-
2 residential uses are located on the first two floors. The non-
3 residential FAR limit is significantly less than the density
4 permitted for all uses in the MU-5-A Zone, which is 3.5 FAR. Next
5 slide, please.

6 I had a graphic in there I thought. But before we dive
7 into the project, let me tell you a little bit about The Festival
8 Center and its mission. As you are aware, TFC is a nonprofit
9 organization. It's been serving the Adams Morgan community and DC
10 for more than 30 years. TFC is rooted in the Christian faith, but
11 provides these services to all residents of the District in need.
12 TFC's mission is to be in solidarity with God, each other, and all
13 creation. And TFC achieves its mission by providing a meeting
14 place that can foster equality, empowerment and the struggle for
15 common good. TFC is the sole owner of the property, and has owned
16 it since the building was constructed in 1989. And through its
17 operation and management of the property TFC manages -- sorry, TFC
18 provides direct access to working and meeting spaces, networking
19 opportunities, as well as vocational training and social and
20 spiritual development programs. TFC estimates that in order
21 between 100 and 300 individuals a week participate or otherwise
22 make use of the property, which they hope will grow on the new
23 project. Next slide, please.

1 I'm not seeing the graphic representation of the slides.
2 But I'll give you a description of the property itself, which is
3 small, as you discussed, less than 10,000 square feet. It's about
4 7900 square feet. It's irregularly shaped. It's on a corner lot,
5 bounded on three sides by public rights of way. You've got
6 Columbia Road, Northwest, to the north. On the east is Mozart
7 Place. And to the south is public alley. The property is located
8 on a major commercial corridor, which is characterized by high
9 density, non-residential use, consistent with the existing
10 (indiscernible) of the building. And the building's height is
11 equal to the maximum height permitted right now, 65 feet. The
12 building is located above underground parking garage, which has 15
13 spaces, and there are five additional surface lot spaces, for a
14 total of 20 at the property. And the building also shares a party
15 wall with the adjacent property to the west, which has a street
16 address of 1646 Columbia Road, Northwest.

17 The initial certificate of occupancy for the building,
18 which is exhibit 12 of the application, was issued in 1989, and
19 it permits all three floors to be used for office and accessory
20 uses. Right now the first and the second floors of the building
21 include approximately 5900 square feet of office and multipurpose
22 space. The lobby, the chapel and the kitchen are on the third --
23 and the third floor includes 2300 square foot of office space and

1 a conference room. So about half of that third floor is not
2 enclosed. The building has a total of 14,272 square feet, which
3 equates to a 1.8 FAR. There have been no major upgrades to
4 the building or systems since it was built. And as a result, the
5 building has a number of configuration accessibility issues, and
6 the systems are at or approaching the end of their useful life.
7 And they are very expensive to operate and maintain. In addition,
8 public health considerations involving work place trends and
9 growing engagement with social justice movement increases demand
10 for modern office space in the CBD, right where this property is
11 located. And this is especially true for TFC's nonprofit partners
12 which may have limited fiscal resources to pay their rent,
13 typically associated with comparable space. Next slide, please.

14 So these are pictures of the exterior of the building.
15 And right here is the view from Columbia Road, Northwest. Both
16 before -- or as we build from the building, let's talk about the
17 project. So consistent with its mission to promote social
18 progress through the operation of the property, TFC commissioned a
19 commercial energy audit and architectural (indiscernible) of the
20 building which laid the ground work for a subsequent iterative
21 design process with architects, contractors, engineers, and other
22 building design professional. And these design studies include
23 an extensive analysis of the existing conditions and integrated

1 TFC's goals and objectives for the continued use of the property.
2 And if approved, the project will enhance the usage and the rent
3 of the building while at the same time decreasing utility cost by
4 an estimated 50 percent. Next slide, please.

5 On the other hand, if the project is not improved the
6 inability to modernize and expand would limit TFC's ability to
7 provide the services and space that its nonprofit partners
8 require. In addition, TFC would be forced to continue incurring
9 inflated costs associated with inefficient utility use and manage
10 the aging system, which would deplete its limited resources over
11 time. These inadequate facilities are straining TFC's ability to
12 even exist and perspective users. And without the requested
13 relief the financial obligations associated with operating and
14 maintaining the aging facility are not really sustainable for a
15 nonprofit organization like TFC. Next slide, please.

16 That's the view from the intersection of Mozart and
17 Columbia. And this is the view from Mozart, to give you a view of
18 the back side of the building, where some of the surface lot
19 parking is. You can see that van is parked in one of the surface
20 spots. And you can see the access to the underground garage
21 there. So the building has some unique attributes. As I
22 mentioned, it's at the maximum height. It is built three stories
23 at the maximum height. But the project did not contemplate any

1 expansion of the existing building envelope, or an increase of the
2 height of the building, or lot occupancy. So it doesn't present
3 any issues with respect to light and air, and shadows. The
4 exterior materials that are in connection with the project. Can
5 you go to the next slide, please, Mr. Young.

6 I touched on this earlier. This is the slide that talks
7 about the reduction potential of energy savings from the project,
8 and gives you some of the idea of the sustainable measures that
9 are going to be worked into the project. And some of these are
10 taking advantage of the natural characteristics of the building.
11 There's really high ceilings in the building on the first floor.
12 So the new mezzanine will have 1,000 square feet of executive
13 meeting room space is going to be added in between the ground
14 level and the second floor of the building. Can you go to the
15 next slide, please, Mr. Young.

16 So here is your existing first floor floor plan. And
17 although the rooms are labeled rather small here, the circular
18 space is the chapel area. To the bottom left-hand corner is the
19 kitchen area. And as you can see that there's some meeting space
20 to the top of the screen. It's going to be reconfigured to look
21 like -- can you go to the next slide, please, Mr. Young.

22 The first floor is going to be reconfigured -- the X's
23 that you see here are gallery space that is going to be open for

1 local artists to display. The kitchen, on the bottom left, is
2 going to be upgraded to be a commercial kitchen with induction
3 counter tops, which will expand the vocational training for the
4 food services program. Can you go to the next slide, please, Mr.
5 Young.

6 This is a slide showing the footprint of where the
7 proposed mezzanine level would go. And this is going to, again,
8 create additional meeting space that's going to be taken from the
9 first floor to provide more of the gallery space and the kitchen
10 space. So we're moving that up into the mezzanine level. Can you
11 go to the next slide, Mr. Young.

12 This is the existing second floor floor plan. And this
13 space right now is very compartmentalized. And if you go to the
14 next slide, Mr. Young.

15 You can see now the project proposed in open concept.
16 In the middle to facilitate collaboration and networking between
17 the various nonprofit organizations that are working in the office
18 space. Can you go to the next slide, Mr. Young.

19 This is the existing third floor. You can see a large
20 percentage of it is unenclosed. There's a egress stairwell to
21 the west, on the left-hand of the slide, that's separated from the
22 existing enclosed areas of office space on the top floor, which
23 kind of means the exit, you know, emergency exit from the top

1 floor may require going across the unenclosed space and down the
2 egress stairwell. These are accessibility issues that are going
3 to be fixed with the project. Next slide, please, Mr. Young.

4 And so you see here, on the third floor, we're filling
5 in that unenclosed space, or the majority of it, with additional
6 office space, include meeting space. And we are also -- next
7 slide, please, Mr. Young.

8 By enclosing that space, creating a uniform horizontal
9 surface for the roof, which is presently discontinuous. That
10 uniform surface is going to allow us to (audio inference) on the
11 roof, which will not be visible from the pedestrian level near the
12 property, but which will allow us to achieve those sustainability
13 goals that I discussed earlier. Next slide, please.

14 CHAIRPERSON HILL: Mr. DeThomas?

15 MR. DETHOMAS: Yes, sir.

16 CHAIRPERSON HILL: You guys, the slide deck is in the
17 record now if anybody wants to look at it. Okay, Mr. DeThomas.
18 Thank you.

19 You can keep going.

20 MR. DETHOMAS: Next slide, Mr. Young.

21 So This is the elevation view. This is from Mozart. So
22 you can see both the side view of the building, where the brick
23 surface is not going to change. But there are going to be solar

1 awnings and louvers over the windows which will provide passive
2 and active energy efficiency measures. And those architectural
3 materials will be compatible and make the building actually look
4 more modern, and at the same time maintain the look and feel from
5 the street, from Columbia Road, Northwest. Next slide, please.

6 So this is a site layout that shows where the existing
7 parking is from the top down. And maybe it's more relevant now
8 because you didn't get that overview slide for the property. To
9 show you the configuration of the property contours, you can see
10 the public alley there at the bottom, and the Mozart and Columbia
11 Road intersection. With the irregular shape the adjacent party
12 wall is going to be to the left and to the west. The project,
13 because it's happening on the third floor, and because it's not
14 affecting anything on the grade level, won't be impacting things
15 like sediment, erosion, stormwater management, et cetera. Next
16 slide, Mr. Young.

17 And in addition, this is the site circulation plan shows
18 that there is adequate parking, both for vehicles and by schools.
19 And there will be after the project is done. And the project is
20 not, as an in-fill project, expected to materially affect
21 circulation area. Next slide, please, Mr. Young.

22 Well, that project support slide looks less impressive
23 than what has been submitted in the record. We have -- now I

1 think we're up to 15 letter of community support. As I discussed,
2 TFC has received reports in support of the project from the
3 effected ANC. That's exhibit 36 to the application; the Office of
4 Planning, that's exhibit 51 of the application; and the Department
5 of Transportation did not object to the requested variance, that's
6 exhibit 52 of the application. TFC is also -- conducted extensive
7 community outreach from the beginning of the project, and we have
8 here today members in support of the project, or members of the
9 public in support of the project. Mr. Jim Knight, from Jubilee
10 Housing, is signed up to talk about his support of the project.
11 He has been a part of and working with The Festival Center for a
12 long time and has some really interesting back story of the
13 project that may help the Board understand sort of the concept of
14 TFC and the community and, you know, the genesis of the nonprofit
15 ecosystem that is built around it. Next slide, Mr. Young.

16 As you've heard today, Board members, a confluence of a
17 factors have given rise to the exceptional situation or conditions
18 of the property. As you've also heard today, without the
19 requested relief strict compliance of the zoning regulations would
20 impose practical difficulties on the applicant now and in the
21 future. And relief can be granted here without substantial
22 detriment to the public good, and without impairing the intent and
23 purpose to create the zone plan. In fact, the project would

1 actually contribute to the public good in a number of ways, as
2 evidenced by letters of support from the community and reports
3 filed by various agencies.

4 And so for all these reasons the project meets the
5 applicable standards for area variance relief on the zoning
6 regulations, and the applicant respectfully requests that the
7 Board grant the requested relief.

8 I will now turn the mic back over to you, Mr. Chairman.
9 If you or any of your fellow Board members have any questions,
10 we're here to answer them.

11 CHAIRPERSON HILL: Okay. Great. Let's see, Mr.
12 Turnbull, -- I'm going to go around the table. Does anybody have
13 any questions for the applicant? Mr. Turnbull?

14 MR. TURNBULL: Mr. Chairman, I just need a
15 clarification. The applicant just presented a lot of different
16 factors involved with this building. They talked solar panels and
17 all these other things. I don't -- we're not reviewing those, as
18 far as I know. Aren't we simply reviewing the area variance for
19 the third floor, the extra space for office space and the
20 mezzanine? I thought that was the only thing that I'm looking at
21 that we're really reviewing here is the floor area and not
22 architectural elements beyond the scope of this. Maybe I didn't
23 read the whole description of the project. But can you clarify

1 for me what exactly -- are we looking at all these architectural
2 solar cells? We're not approving what he just talked about, the
3 whole kit and kaboodle as far as I understand. That's something
4 that -- that would be something they'd have to take up separately.

5

6 CHAIRPERSON HILL: Mr. Turnbull, -- I think, Mr.
7 DeThomas, I'll let you respond.

8 MR. DETHOMAS: Sure. Sure. So, yes. The variance
9 application has been requested for increasing the non-residential
10 FAR and the continued use of the first floor for non-residential
11 purposes. The description of the architectural features, the
12 solar panels, the project itself is really intended to explain the
13 impact or the lack thereof that the project will have on the
14 surrounding community in terms of detriment to light and air,
15 massing, you know, aesthetics, architectural compatibility. The
16 kind of things that might be considered a detriment by the project
17 are not present here. And that's why we spent a little bit of
18 time talking about them.

19 MR. TURNBULL: Okay. Well, I'm not criticizing your
20 presentation. It looks like it's going to be a significant
21 project, and something that's going to be well worth it for
22 everybody in the building. But I was just curious, when we were
23 still looking at the area variance for basically the third floor

1 and the mezzanine, I believe. So I just wanted to clarify that.
2 Those are my only questions.

3 CHAIRPERSON HILL: Okay. Thank you, Mr. Turnbull.
4 Vice Chair John, do you have any questions?

5 VICE CHAIR JOHN: Yes. What does the occupancy permit
6 state with respect to the third floor?

7 MR. DETHOMAS: So the certificate of occupancy permits
8 all three floors to be used for office and accessory uses. So the
9 third floor is permitted for office use by the certificate of
10 occupancy.

11 VICE CHAIR JOHN: And so my question is, why are you
12 requesting permission for continued use; what am I missing?

13 MR. DETHOMAS: So if you, Mr. Young, can pull up maybe
14 the slide. But the area variance or the section for Subtitle G,
15 402.2, says specifically that the buildings that meet the
16 characteristics of this building on lots of less than 10,000
17 square feet are allowed to have residential -- non-residential FAR
18 of 2.0 provided that those residential uses are on the first two
19 floors. Now, here we have -- we're increasing the FAR beyond 2.0
20 and we're using the third floor, which is already permitted. But
21 once we increase this, now we've gone, we've tripped the statute
22 that said you can only go up to 2.0 for non-residential use. So

1 | that's why we're also asking for a variance with respect to that
2 | use on the third floor. Does that make sense?

3 | VICE CHAIR JOHN: Yes. So it's the mezzanine that's
4 | causing the issue? Because shouldn't you already meet the FAR
5 | requirements with the third floor if it's authorized? What is
6 | tripping that --

7 | MR. DETHOMAS: The mezzanine is relevant because the
8 | mezzanine square footage, plus the square footage that's being
9 | added on the third floor gets us over the 2.0. If you backed up
10 | the mezzanine you wouldn't necessarily trip it, but then you
11 | wouldn't be able to get the efficiencies that you can on the first
12 | and second floor by creating that second level. And it's also
13 | relevant with respect to the way the building is actually
14 | designed. Because it's very difficult to condition all the air
15 | with the high ceilings from the different floors the way it's
16 | compartmentalized right now. But creating that second, that
17 | mezzanine floor will create a second space, its own zone, and it
18 | will contribute to both efficiency in terms of use, but also
19 | efficiency in terms of energy.

20 | VICE CHAIR JOHN: Okay. Thank you

21 | CHAIRPERSON HILL: Mr. Smith, do you have any
22 | questions?

23 | MR. SMITH: (No response.)

1 CHAIRPERSON HILL: You're on mute, Mr. Smith. I can't
2 hear you. Okay. All right. We'll pass.

3 Then, Mr. Blake, do you have any questions?

4 MR. BLAKE: Sure. I have a quick, couple of quick
5 questions. With regard to the programs that you're offering and
6 anticipate offering, you did mention the vocational service. What
7 other program might not be available if you weren't able to do
8 this expansion?

9 MR. DETHOMAS: Great question. And for that question
10 I will refer you to Shirley Boubert-Rumble, who is serving as the
11 owner's representative for the project, and has the best
12 understanding of all of that, the programming in the past and the
13 design for the future following the project. So Shirley, do you
14 want to weigh in on that?

15 MS. BOUBERT-RUMBLE: Sure. The -- let me flip my video
16 on so you can see. I want to say good afternoon, and thank you
17 for allowing me the opportunity to present this project today. In
18 response to your question, the school of liberation, the Wednesday
19 prayer time, in addition to other programs that are provided
20 coming from a vocational standpoint is one aspect. But they do a
21 lot of different services. For example, they have the meeting room
22 that is also utilized by local churches. And that's a very high

1 volume as far as that space being utilized by the residents and
2 the members of the community.

3 In addition to those programs, as we mentioned earlier,
4 there is the kitchen. Now, this kitchen is going to be undergoing
5 a full, extensive renovation that's going to make it really expand
6 its ability to provide culinary training. They're going to have a
7 conference component of that kitchen where they'll be able to
8 teach, engage and expand more so than what they're able to do
9 right now. And they also have other tenants, other partners in
10 this network with the Adams Morgan BID, the Little Bird Wellness.
11 And so without this expansion they -- with this expansion they're
12 able to. I'm hoping I'm answering your question. They're really
13 able to provide a lot more services. And with the expansion of
14 office offerings, you know, they'll be able to offer smaller
15 office spaces, so that you'll have start-up nonprofits or medium
16 size nonprofits have the opportunity to, you know, occupy this
17 building, expand their network. So it's really a ground up and a
18 full expansion. Not only from a physical building standpoint, but
19 from a network and social service standpoint. I hope I've
20 answered this for you.

21 MR. BLAKE: Yes, you did. Thank you very much.

22 MS. BOUBERT-RUMBLE: Sure.

1 MR. DETHOMAS: And I would also add, the art gallery
2 space that we talked about, the enclosed deck on the third floor.
3 We also believe that this is going to increase opportunities for,
4 you know, hosting events, networking events, philanthropic
5 events, things that can bring fundraising into the ambit of these
6 nonprofit partners and to increase their network. So in addition
7 to the training, it's going to open up the property to be host to
8 more networking and fundraising events.

9 CHAIRPERSON HILL: All right. Great. I'm going to go
10 ahead and turn to the Office of Planning.

11 MR. MORDFIN: Hi. Good afternoon. I'm Stephen Mordfin
12 with the Office of Planning. And the Office of Planning is in
13 support of this application. If you want I can go through our
14 report as to why we believe --

15 CHAIRPERSON HILL: Mr. Mordfin, I'm just going to cut to
16 the
17 chase. If you can just kind of go over the variance real quick
18 for us.

19 MR. MORDFIN: Yeah. So they do need an area variance
20 for the non-residential floor area. They do have existing non-
21 residential floor area on the third floor. That's grandfathered
22 in. So they don't need anything in order to continue to use that
23 as such. But what we find as the extraordinary, the exceptional

1 | situation is it's already a three-story building. It was built as
2 | a single-purpose building, as an office building, without any
3 | residential. And adding the residential to this building, at this
4 | time, we find that that creates an extraordinary situation because
5 | you would be mixing the uses together. You don't have separate
6 | entrances for the residential and the office, and access to the
7 | stairs and all. So that creates a building that wasn't meant to
8 | be used for two different uses. If this were a brand new building
9 | and they were starting from scratch and wanted to come in and do
10 | this, that would be completely different story. But that's not
11 | the case here. So what they're trying to do is adapt an existing
12 | building, modernize it to meet today's standards, to meet the
13 | additional needs that they need. And we find that that's an
14 | exceptional situation because they are limited in the FAR that
15 | they're at 2.0, and they only want to go up to 2.3. So while
16 | that is a variance, we find that it's not really increasing the
17 | size of the building much. It's already a three-story building in
18 | parts besides this. The footage of the building, the footprint,
19 | the FAR, the lot occupancy rather is not increasing.

20 | So the exceptional practical difficulty is that to bring
21 | it into conformance you would have to limit the office use to the
22 | first two floors only. And what the applicant is trying to do is
23 | better use the building, increase its energy efficiency. And that

1 -- there are some challenges of where the building is constructed,
2 which gets to Mr. Turnbull was saying, you know, with the solar
3 panels. So in order for them to bring it up to current standards
4 for energy efficiency and things like that, so it runs into
5 problems with the way the roof is designed. And also, for them to
6 be able to expand the variety of charitable uses that are in the
7 building, to expand space for them so that they can better serve
8 the community and the District as a whole, they are making this
9 request to increase the FAR in this building for offices uses to
10 continue these same uses. We don't find that there will be a
11 detriment to the public good. The building would still appear
12 more or less the same height as it is now. The total building
13 height will not be increasing. And there is adequate parking.
14 There's adequate bicycle parking and things like that. Within the
15 building they will be in conformance so that they don't need any
16 relief for those things. And then they will not have to find an
17 alternative location for the provision of these services to the
18 community that will have to go elsewhere, which potentially would
19 have an adverse effect on the delivery of the uses to the
20 community.

21 And lastly, no substantial detriment impairment rather,
22 to the intent or purpose or integrity of the zoning regulation.
23 Although you can no longer have the office space on the third

1 floor, the office space has always been on the third floor of this
2 building. So they're not introducing a new use of the third
3 floor, they're just expanding it within the existing footprint.
4 It's also going to be -- at 2.3 will be less than the maximum of
5 3.5 which you can have within U-5-A. Although, that is for mixed-
6 use buildings, but still, the building will not be larger than a
7 building otherwise could be constructed on the property if they
8 were to build a new building today. That was an issue building as
9 is permitted by the zoning regulations.

10 So for those reasons, the Office of Planning recommends
11 approval of this application. And I'm available for questions.
12 Thank you.

13 CHAIRPERSON HILL: Okay. Thank you, Mr. Mordfin. I'm
14 going to go around the table. Commissioner Turnbull, do you have
15 any questions for the Office of Planning?

16 MR. TURNBULL: Just maybe one or two. Thank you, again,
17 Mr. Mordfin, for the second time today. This zone that it's in is
18 MU-4 or is it MU-5?

19 MR. MORDFIN: MU-5-A.

20 MR. TURNBULL: MU-5-A. Which allows both residential
21 and commercial to be in it?

22 MR. MORDFIN: Yes.

1 MR. TURNBULL: But this building never had residential
2 from what I understand, from what I've heard. It was always
3 commercial?

4 MR. MORDFIN: It was built as a commercial building.
5 Apparently, for a short period of time they had some dormitories
6 on the second floor. The applicant has indicated. I don't know
7 the full extent of that, and then they converted it back to office
8 space. The applicant would have to provide more information on
9 that. But it was designed and built as an office building.

10 MR. TURNBULL: So basically we've got an unfortunate
11 situation where you've got a commercially designed building that
12 sits in the MU-5 Zone, is supposed to also have residential. So
13 basically we're looking trying to eliminate that and make it all
14 commercial., And so we need the area variance to do that, in very
15 simple terms.

16 MR. MORDFIN: Yes, sir.

17 MR. TURNBULL: Okay. Thank you.

18 CHAIRPERSON HILL: Okay. Mr. Smith, do you have any
19 questions?

20 MR. SMITH: No questions. Can you hear me now?

21 CHAIRPERSON HILL: Yes.

22 MR. SMITH: Okay.

1 CHAIRPERSON HILL: Vice Chair John, do you have any
2 questions?

3 VICE CHAIR JOHN: Just one quick question for the
4 applicant. So let's finish with the Office of Planning and then
5 I'll go back to the applicant.

6 CHAIRPERSON HILL: Okay. Do you have any questions for
7 the Office of Planning?

8 VICE CHAIR JOHN: No, I don't.

9 CHAIRPERSON HILL: Okay. Mr. Blake, do you have any
10 questions for the Office of Planning?

11 MR. BLAKE: No, I don't.

12 CHAIRPERSON HILL: Okay. Is there anybody -- I'll come
13 at the end, Ms. John, for a second back to the applicant. Mr.
14 Young, is there anyone here wishing to testify?

15 MR. YOUNG: Yeah, we have one witness.

16 CHAIRPERSON HILL: Okay. Could you please ask that
17 person to come forward.

18 MR. KNIGHT: I am Jim Knight. Apparently, I don't have
19 video capability today. So I apologize about that.

20 CHAIRPERSON HILL: That's fine. That's okay. Introduce
21 yourself for the record, Mr. Knight.

1 MR. KNIGHT: Absolutely. My name is Jim Knight. I
2 serve as president and CEO of Jubilee Housing, a nonprofit that is
3 also located in the neighborhood.

4 CHAIRPERSON HILL: Mr. Knight, you'll go ahead and have
5 three minutes to give your testimony. And you can begin whenever
6 you'd like.

7 MR. KNIGHT: I appreciate that. And greetings to members
8 of the Board, the staff, and other participants. I do appreciate
9 the opportunity to testify in full support of The Festival
10 Center's application today. I have been associated with the
11 applicant since 1994, when I first participated in a year-long
12 internship that it sponsored. The internship involved taking
13 classes at the leadership school there and being placed as a
14 volunteer in one of more than two dozen nonprofit partners that
15 grew out of The Church of the Savior. I was placed at a
16 nonprofit affordable housing organization called Jubilee Housing.
17 After a few years I had the opportunity to return to Jubilee as
18 its president and CEO, where I've now served for 20 years.

19 Jubilee has 14 properties and 420 units of deeply
20 affordable housing in operations in the immediate blocks around
21 The Festival Center. We were a tenant of the property for more
22 than a decade. And in that time we benefitted tremendously from
23 the mission environment that exists there. At the same time, the

1 age of the property had taken affect on its systems. There were
2 periods when the heat didn't come on in the winter or the AC in
3 the summer.

4 The work in this application will obviously address
5 those failing systems. But it's important for the Board to
6 understand that it will do much more than that. Delivering to
7 these new design features that will greatly enhance the tenant
8 experience and make the center an attractive and vibrant home,
9 for there's so many groups that use it, as we work together,
10 frankly, to stem the negative effects of gentrification in the
11 neighborhood.

12 Since opening three decades ago, The Festival Center has
13 hosted visiting groups from literally all over the world, who were
14 drawn to see the impact of a neighborhood based ecosystem of
15 nonprofits groups for affordable housing, job placement,
16 healthcare, after school programs, so many more. The Festival
17 Center is really the hub of this core group of partners. So the
18 relief requested here will enable the Festival Center to position
19 itself for another generation of similar impact, helping us offset
20 the negative effects of gentrification by promoting inclusion and
21 equity in Adams Morgan and beyond. I appreciate the opportunity
22 to testify.

1 CHAIRPERSON HILL: Okay. Mr. Knight, thank you. Does
2 the Board have any questions for the witness, and if so please
3 raise your hand?

4 (No response.)

5 CHAIRPERSON HILL: All right. Mr. DeThomas, do you
6 have any questions for the witness?

7 MR. DETHOMAS: No, I do not.

8 CHAIRPERSON HILL: Mr. Knight, can you hear me?

9 MR. KNIGHT: I can, sir.

10 CHAIRPERSON HILL: Mr. Knight, you guys do a great job.
11 You continue doing what you do, okay?

12 MR. KNIGHT: I appreciate that. And an affirmative
13 response here will make that even more possible.

14 CHAIRPERSON HILL: Okay. We'll try to do what we can.

15 All
16 right, Mr. Knight. Okay. Go ahead and let Mr. Knight go if you
17 would, Mr. Young. And Vice Chair John, you said you had a
18 question for the applicant?

19 VICE CHAIR JOHN: No, I've reconsidered.

20 CHAIRPERSON HILL: Okay. Let's see then, oh, Mr.
21 Smith?

22 MR. SMITH: I did have a question for the applicant.

23 CHAIRPERSON HILL: Go ahead.

1 MR. SMITH: So to the applicant. Could you explain to
2 me a little bit more thorough, other than I hear a lot about
3 energy efficiency, which I am -- you know, you had brought up a
4 slide to talk about various ways to increase the energy
5 efficiency. And I'm not quite yet sold that you need to have
6 another expansion to meet an energy efficiency requirement. So
7 could you expand, expand on that a little bit more. Explain how
8 the different options that you explored for the design of the
9 existing space and how -- did you explore a renovation or redesign
10 of the existing footprint in a way that would meet the necessary
11 needs of the mission of the nonprofit?

12 MR. DETHOMAS: Great question. And for the deep dive on
13 the sustainable features that were considered and were proposed, I
14 will turn that question over to our architect, Terry Averill if
15 he's on. Because he can speak to everything from, you know, the
16 roof line, creating the opportunity for solar, the way, you know,
17 air volume moves around the building and how changing the interior
18 Configuration affects energy efficiency measures, solar awnings,
19 et cetera. So Terry, I'll hand it over to you.

20 MR. AVERILL: Good afternoon, everyone. My name is
21 Terry Averill, as you heard I was introduced. I was brought in,
22 now it's many months ago, to look at the building initially, I
23 believe. And to your point, the energy was being considered with

1 regard to the whole building. Complete the inefficient, the bills
2 and the way that it works are completely outmoded over the line of
3 20, 25 years. And when that was first looked at the question came
4 up, if we're going to spend that kind of money and yet have a
5 layout that was not conducive to all the functional things that
6 the new building or the idea of The Festival Center and its all-
7 inclusive purpose was we thought, well, let's look at the spaces.
8 And one of the big key was a very expensive space, and it's the
9 existing kitchen and the bathrooms. Those were two of the really
10 expensive things that, "A," were inefficient, "B," did not serve
11 any use of what was projected forward. And once we looked at
12 those things the cost of all of those improvements, right, energy,
13 et cetera, it warranted looking at reconfiguring everything.
14 There wasn't enough space to incorporate like, for instance. The
15 first floor had over a 16-foot head height. I mean, it's huge in
16 terms of the volume of air that has to go through there. And the
17 system is completely inefficient. So the idea of using space
18 that's already there to create a mezzanine, it came kind of, to
19 me, an obvious choice if in that same area you're changing
20 potentially the kitchen and the bathrooms. Because the bathrooms
21 block access to the kitchen. The kitchen didn't have access to
22 everything else. They all became one kind of building hamping.
23 And when we looked at that, and then went upstairs and looked at

1 the way those offices, which were very traditional, very broad,
2 you know, spaces with wasted hallways. And the cost issue of
3 getting it to be more of what the new Festival Center wanted to
4 be, then coupled with these energy motives. And when we got up to
5 the third floor, which was very unusual. And I think that may
6 have had something to do with the original zoning, that it had two
7 towers. One was a stair tower, and then there was a small area of
8 office space on the third floor where that round -- the corner
9 building.

10 And of course getting out of the building to exit became
11 impossible. So now we have the ADA going on. How do you get
12 accessibility to all these things that don't have really good -- I
13 mean, the front door entrance is completely inaccessible. So what
14 we found happening was energy led to accessibility. Accessibility
15 led to all of the ideas that if you're going to do these things,
16 you have to address it across the entire building. And that's
17 where the idea of on the third floor to get some space that we
18 could then redo the second floor. We refer to it as kind of the
19 Wild West, where all these small little nonprofits, where very
20 little money can rent smaller spaces. And they have access to one
21 another, where they can all come together. Which, of course, by
22 doing that, that meant reconfiguring the bathrooms there. So it
23 was a kind of a one thing led to another. Because it was so

1 expensive to try and upgrade the energy on a building that was
2 spacially inefficient, one thing. And then accessibility wise was
3 not good.

4 So you had this kind of coupling of all of those things
5 that then led to this design that we're now talking about. And
6 that would serve The Festival Center for the next decade or more.

7 I hope that sort of gets at some of the issues.

8 MR. SMITH: It does get at it. I'm still struggling
9 with how energy efficiency led to that size of an extension on the
10 third floor. But I'll, you know, I think I will just struggle
11 with that.

12 Was there any consideration to reprogramming some of
13 the sizes of some of these rooms. Per, you know, what you
14 brought up about the second floor being the Wild Wild West. The
15 reconfiguration would result in a very large common area there.
16 Is there any consideration to reducing the size of that common
17 area, whereby some of these office spaces that you're putting into
18 sustain the third floor could be accommodated in that space? So,
19 you know, my question is, was there a driven purpose in looking at
20 a design that would not require a variance?

21 MR. AVERILL: We did not look at using the existing
22 space, other than the first floor more efficiently. In other
23 words, the first floor was really the one that became the more

1 efficient use of the volume that was already there. And that's
2 where the mezzanine came from. The second floor did not change
3 shape. It became more efficient in terms of smaller, tinier
4 office. That's what the new layout is really. What we talk about
5 with wild west was really something like what was there, meaning,
6 but they were all office suites, right, where one company, one
7 nonprofit would take over a whole area. And there were three or
8 four on the second floor. And that really needed to be
9 reconfigured, "A," because The Festival Center, and I think
10 Shirley can talk to this. Is that they really wanted more of the
11 smaller people to be able to come in there. A one and two person
12 nonprofit. And that really wasn't accounted on the second floor.
13 But at the same time, somebody like Jubilee Housing needed more
14 space and needed it in a suite. And so they particularly, between
15 that Little Bird, which was the kind of -- I don't exactly know.
16 I know they do a lot of healing type of things. And we moved them
17 to a different part of the building. So we had some existing
18 rental nonprofits that were already there, and we were trying to
19 accommodate this new program. So no, because the space, even with
20 the mezzanine, wasn't quite enough to accommodate all these
21 projected areas that they wanted to accommodate. That's, in a
22 nutshell, that's why it wasn't considered just what was there. It
23 just wasn't enough for what they projected forward in the future.

1 MR. SMITH: Okay. I have one additional question.

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

3 MR. SMITH: So in consideration of the design of this
4 space, and that includes this large common area on the second
5 floor, and the size of all these office spaces, would you say that
6 this current design is required for the institution of necessity,
7 like the operation of your nonprofit?

8 MR. AVERILL: Well, required is an odd word. One can
9 limit circumstances that aren't going to heal. Right. This is
10 trying to create a better situation, more accommodating both light
11 wise, energy wise, you know, commodiousness, you know, no. It
12 could be used as like it was. But I don't think The Festival
13 Center is able to upgrade the level of creating a better space,
14 really.

15 CHAIRPERSON HILL: I thought, correct me if I'm wrong,
16 Mr. Smith, that the question was (audio inference) programming as
17 well.

18 MR. DETHOMAS: So maybe Shirley can comment on that as
19 well.

20 MS. BOUBERT-RUMBLE: Can you hear me?

21 CHAIRPERSON HILL: We can hear you.

22 MS. BOUBERT-RUMBLE: I'm having some technical issues
23 with my camera. But you've seen me before. You know what I look

1 | like. So going back to your -- oh, there it goes. It's a little
2 | late. Going back to your question regarding whether just
3 | expansion. Can you just ask that again? I just want to make sure
4 | I get the question because Terry started answering it. I want to
5 | be able to respond.

6 | MR. SMITH: So your application is well, all the floor
7 | space that you're proposing to redesign. My question is based on
8 | what you're redesigning it to, and in recognition of the fact that
9 | I see this large common area on the second floor, where
10 | previously it was smaller offices there. My question is, is this
11 | one design, and I'm sure you went through other iterations of
12 | designs, is this necessary for the institutional necessity of your
13 | nonprofit?

14 | MS. BROWN-ROBERTS: I would say based on our time with
15 | the institution, TFC, and coming up with this design, it is a
16 | necessity based on where they're going. You know, based on the
17 | core mission of really expanding opportunities. And expanding
18 | opportunity starts with the advocate, right, who are advocating
19 | for the community. And so if there's a way that you can
20 | incorporate more advocates in this building, in this space, then
21 | obviously you have a larger umbrella, more outreach. And so when
22 | you look at that second floor and how it's configured or
23 | reconfigured, previously we had these very large, I would say it's

1 close to 400 square feet offices, which are humungous. You would
2 have one small desk in a 300 to 400-foot office space, which is a
3 horrible use of space if you just imagine that.

4 With this reconfiguration you have 100 square foot
5 office spaces, you have 300 square foot office spaces, you have 16
6 work stations, desks that, you know, somebody like maybe a start
7 up nonprofit can, for \$200 or even for some for no cost be able to
8 utilize this space, and not only utilize it but really gain and
9 grow from the network that they'll have access to. And so it's
10 night and day, actually. Because you're really expanding
11 opportunity, and you're creating a vast, a variety of offerings.
12 And so to that, I think should really bode well for them in their
13 overall vision.

14 MR. DETHOMAS: And also to add to that, I think this has
15 to be within the context of what's happening, you know, what the
16 alternatives are for these nonprofits. I mean, as rents, office
17 rents go up in DC, they have less alternatives. And so a place
18 like The Festival Center does have to expand to be a place for
19 them because there's nowhere else to go.

20 MS. BROWN-ROBERTS: Particularly in this market.

21 MR. DETHOMAS: That's right. Mr. Chairman, before we
22 move off of witnesses, I just want to make sure, since Terry spoke

1 and Shirley spoke, whether or not, especially if the architect
2 needed to be certified as an expert at this point.

3 CHAIRPERSON HILL: That's fine. Mr. Averill. I mean,
4 I don't think Ms. -- and I'm going to pronounce -- how do you say
5 her last name, Mr. --

6 MR. DETHOMAS: Boubert-Rumble.

7 CHAIRPERSON HILL: Boubert-Rumble.

8 MS. BOUBERT-RUMBLE: Rumble is a lot easier. You can
9 just say Rumble.

10 CHAIRPERSON HILL: That's all right. Ms. Boubert-
11 Rumble, have
12 you testified before us before? I thought you had.

13 MS. BOUBERT-RUMBLE: I have not. Today I had the honor,
14 first time meeting in front of you. It's a pleasure.

15 CHAIRPERSON HILL: Oh, that's sweet of you to say.
16 It's also a pleasure to have you with us as well. But you look
17 familiar to me.

18 MS. BOUBERT-RUMBLE: I spent many years as a public
19 servant.

20 CHAIRPERSON HILL: Okay. So then maybe that's it. So
21 I don't think you need to be an expert, necessarily. Mr. Averill,
22 I'm fine with Mr. Averill being an expert in architecture, if

1 that's fine with everyone here on the Board. And if not, please
2 raise your hand.

3 (No response.)

4 CHAIRPERSON HILL: SO that's fine, Mr. Averill, we'll
5 go ahead and admit you as an expert in architecture. And so does
6 anyone have anymore questions of anybody? And if so, please raise
7 your hand.

8 (No response.)

9 CHAIRPERSON HILL: Okay. Mr. DeThomas, do you have
10 anything else you'd like to add at the end?

11 MR. DETHOMAS: I just, I thank the Board for really, you
12 know, rolling up their sleeves and getting familiar with the
13 project, and the back story, and taking a look at, you know, the
14 unique aspects of this building, the unique aspects of The
15 Festival Center's operations, and how we can make Adams Morgan and
16 the DC community richer and a more inclusive community. I really
17 appreciate you taking the time to walk through this with us today
18 and understand what we're trying to do.

19 CHAIRPERSON HILL: Okay, great. Thank you, Mr.
20 DeThomas. All right. So, Mr. DeThomas, I'm sure that the
21 secretary has let you know, because of some filing issues on our
22 side, we're not able to deliberate on this until 5/26. And so
23 we're going to bring you back here on 5/26. And all I need

1 probably, Mr. DeThomas, is you or you can bring whoever you want.

2 It's COVID and everybody is at home anyway. Whatever you want to
3 do. And we're going to bring everybody back at the beginning of
4 the day. So all the continued cases are going to happen at the
5 beginning of the day. Mr. Moy will be able to help you if there's
6 any questions. Do you have any questions, Mr. DeThomas?

7 MR. DETHOMAS: So, sorry, 5/26 would be the -- we would
8 come back and then you would actually rule on the variance then?

9 I wasn't actually fully versed in -- CHAIRPERSON HILL:
10 That's okay. That's all right. That's all right. And I'm sorry
11 to give you the shorthand now, Mr. DeThomas, because I've had to
12 do this a lot know the past four weeks. There has been some
13 issues with our posting internally. And because of the ANC Act,
14 we didn't post the things correctly, in a certain way. And,
15 therefore, we can't deliberate or decide on certain cases until a
16 certain date. And you fall onto the 5/26 day. So that's the
17 soonest that we'd be able to get you back here. So what that
18 means is, yes, unless something happens, if somebody wants
19 something more, there will be no more testimony, there will be no
20 more questions from the Board, and we will just see where we go
21 and deliberate, and decide.

22 MR. DETHOMAS: Great. Thank you so much for the
23 explanation.

1 CHAIRPERSON HILL: All right. So 5/26 it is. We'll
2 see you back here 5:26.

3 And then let's go ahead -- if you'll excuse everyone,
4 Mr. Young. Thank you all very much, Mr. DeThomas. Thank you very
5 much. You have a nice afternoon.

6 And let's see, Mr. Moy, give me one second. Let
7 everybody leave. Okay. We've got one more -- let's see, we've
8 got one more case. It has a lot of opposition. So I say we take
9 a break and then we come back. Okay. So it is now 3:10. Let's
10 try to say 3:25. Let's take a 15-minute break, get a good
11 stretch. Okay. And we'll come back. Thank you.

12 (Whereupon, at 3:12 p.m., there was a short break.)

13 CHAIRPERSON HILL: Mr. Moy, you want to call us back in
14 and call our next case, please?

15 MR. MOY: The Board of Zoning Adjustment is back in its
16 public hearing session. And the time is at or about 3:34.

17 The next case before the Board is application number
18 20412 of 1515 Wisconsin Avenue, LLC. This application is
19 captioned advertised for special exception under the lot occupancy
20 requirement, Subtitle G, Section 404.1. This would construct a
21 two-story addition on the top of the first floor, at the rear
22 portion of the existing building, and to construct a three-story
23 rear addition to construct I believe six residential units in the

1 existing three-story building, in the MU-4 Zone. The property is
2 located at 1515 Wisconsin Avenue, Northwest, Square 1271, Lot 44.

3 Mr. Chairman, as a preliminary, there are three
4 attempted filings within the past 24 hours. Two of the filings
5 are comment letters in opposition from a Stephen Lintner and
6 Judith (indiscernible), as well as a filing that was requested and
7 filed by the applicant, also within the 24-hour period. So you
8 need to address that. And as a final reminder, Mr. Chairman,
9 there are parties in opposition, that was granted by the Board on
10 March the 17th.

11 CHAIRPERSON HILL: Okay. Mr. Sullivan, could you
12 please introduce yourself for the record?

13 MR. SULLIVAN: Yes. Thank you, Mr. Chair. Marty
14 Sullivan, with Sullivan and Beros, on behalf of the applicant.

15 CHAIRPERSON HILL: Okay. Great. Let's see, is it Mr.
16 Gronning?

17 MR. GRONNING: Yes, Mr. Chairman. Eric Gronning. I'm
18 the architect for the project.

19 CHAIRPERSON HILL: Okay. And Mr. Mattaghi?

20 MR. MATTAGHI: Correct. Yes, Mr. Chairman. How are
21 you.

22 CHAIRPERSON HILL: Good. Can you introduce yourself
23 for the

1 record?

2 MR. MATTAGHI: Yes. Steve Mattaghi, the owner of the
3 property, 1515 Wisconsin Avenue.

4 CHAIRPERSON HILL: Mr. Young, could you let in the
5 opposition, please.

6 MR. YOUNG: I have one of them that is calling in,
7 Matthew Bottleson (phonetic).

8 CHAIRPERSON HILL: Okay. Let me -- you said Bottleson?
9 I didn't catch it. Mr. Lechliter, can you hear me?

10 MR. LECHLITER: Yes, I can hear you.

11 CHAIRPERSON HILL: Could you introduce yourself for the
12 record, please?

13 MR. LECHLITER: Yes. My name is Michael Lechliter. I'm
14 a party in opposition.

15 CHAIRPERSON HILL: Great. Mr. Watkins, could you
16 introduce yourself for the record, please?

17 MR. WATKINS: Yes. Hello. My name is Tarleton Watkins,
18 and I'm a party in opposition.

19 CHAIRPERSON HILL: Great. And I see something Nicole.

20 MS. DECON: Can you see me and hear me?

21 CHAIRPERSON HILL: I can hear you. I can't see you.

22 MS. DECON: Trying to get on video now. Yep. Nicole Decon.
23 I'm at 1518 32nd Street.

1 CHAIRPERSON HILL: Okay, great. And now, I'm -- Ms.
2 Decon, I think I had asked you if you knew everybody. I mean, I
3 don't mind how this kind of plays out. I'm just trying to
4 understand who I'm going to be talking to first. Is it you?

5 MS. DECON: No. I think it's Michael who had -- because
6 last time you guys told us that we should have one person speak
7 for us, and we designated Michael.

8 CHAIRPERSON HILL: Okay. That's fine. And Mr.
9 Lechlitter?

10 MR. LECHLITER: Yes. Yes.

11 CHAIRPERSON HILL: If -- just so you -- I mean, if we
12 were actually in the hearing room you all would be sitting next to
13 each other. And so you also would be able to kind of converse and
14 easily ask questions all through you. So at some point if you do
15 have questions of your other people in opposition, or if they want
16 to testify, I mean, I'm not going to hold you to it just has to
17 come out of your mouth, right. But I'm just letting you know
18 that, again, the reason why I'm just going to kind of play a
19 little loose with this is that if you were in the hearing room
20 you'd be sitting next to each other. Okay.

21 So what's going to happen now, and I think I explained
22 it the last time, is the applicant is going to give their
23 presentation as to why they think they're meeting the standard for

1 us to grant the relief that they're requesting. Now, I've seen
2 your presentation. And I'm not trying to sway the way you're
3 giving it to us or anything, but just as you're listening to the
4 applicant's presentation again, they're here for lot occupancy
5 relief. Right. So they're going to go through that. And so I'm
6 just saying, that's what they're going to be arguing for. Right.

7 And so they're going to have their argument. And then you will
8 have an opportunity to ask questions of them. Right. Then you're
9 going to give your presentation. They'll have an opportunity to
10 ask questions of you. Then the Office of Planning will give their
11 presentation. You'll have a chance to ask questions. Everybody
12 is going to have a chance to ask questions of everybody. And then
13 at the end the applicant is going to have a chance for rebuttal.
14 Right. And then I'm probably going to have -- it's not in the
15 regulations that the party in opposition gets conclusions, but
16 unless this goes crazy wild long, then everybody will get a little
17 chance at a small conclusion, and the Board will ask questions.
18 And that's how this whole thing is going to happen. Okay.

19 MR. LECHLITER: Understood. Thank you.

20 CHAIRPERSON HILL: Mr. Sullivan, that being said -- oh,
21 no. Back to the -- so in terms of what to allow into the record,
22 I don't have any problem with waiving the 21-days, not only
23 because I want what is being asked to be put in the record, but

1 we're not going to be able to decide on this until 4/28 anyway.
2 So really, things are going to get in the record anyway. So
3 unless the Board has any issues with it, Mr. Moy, if you could
4 just please allow everything into the record. And let us know
5 when it's in the record so we can see it.

6 MR. MOY: You did, which appears the case, I would need
7 a waiver of the 21-day rule.

8 CHAIRPERSON HILL: Right. I'm sorry. I meant to
9 clarify. Thank you. The waiver of the 21-day rule is to accept
10 the amended plans, the shadow study, the existing and proposed,
11 the matter of right versus proposed, and then the applicant's
12 revised, I guess he revises all of this because of the Old
13 Georgetown Board feedback. So again, I'd like to see what is
14 going to actually be proposed. And so I am going to waive the
15 deadline, unless the Board has an issue with that. And, as I
16 said, in addition to that, we're not going to be able to do
17 anything until 4/28 anyway. So we're going to go ahead and waive
18 the deadline, Mr. Moy. And then, Mr. Turnbull?

19 MR. TURNBULL: Mr. Moy said there was also three items
20 that came in today, two by the opponents and one by Mr. Sullivan.

21 CHAIRPERSON HILL: I thought that -- right. So there
22 was some letters in opposition. And there were some other things

1 in opposition. Mr. Sullivan, am I missing one of the things that
2 you're trying to get in the record?

3 MR. TURNBULL: I think the OGB statements, Georgetown
4 Board remarks.

5 CHAIRPERSON HILL: Is that, Mr. Sullivan, what you're
6 trying to get in the record as well?

7 MR. SULLIVAN: Yes. And we were asked to provide that
8 by OAG. I think it was because notice maybe did not go to HPRB.
9 And then in order to have that waived, he just wanted to make sure
10 that we had been to OGB. That was my understanding of my
11 conversation with OAG.

12 CHAIRPERSON HILL: Okay. Okay. So nonetheless, we'll
13 go ahead and let that into the record. Right. And Mr. Moy,
14 again, if you can let me know if there is anything that's getting
15 uploaded, and when it gets uploaded. Okay.

16 Mr. Sullivan, is your PowerPoint still 43?

17 MR. SULLIVAN: I changed the PowerPoint. And we
18 weren't served with these late filings. So I guess they'll show
19 up online so we could take a look at them?

20 CHAIRPERSON HILL: Yeah. Give me a second. What are
21 the late filings again, Mr. Moy?

22 MR. MOY: All right. There are two letters in, two
23 comment letters in opposition, and it is from, what did I say, oh

1 | yeah, one from Stephen Lintner. The other is from Judith Bonnel
2 | (phonetic).

3 | CHAIRPERSON HILL: Okay. So now, Mr. Sullivan, you
4 | said you have additional PowerPoint?

5 | MR. SULLIVAN: No. We have the same PowerPoint that we
6 | presented. Or, no, we have a PowerPoint that, yes, that we
7 | submitted yesterday. Yes. Sorry.

8 | CHAIRPERSON HILL: Thanks. So you're not doing exhibit
9 | 43? That's the old PowerPoint.

10 | MR. SULLIVAN: Um, we were supposed to have submitted
11 | one yesterday.

12 | CHAIRPERSON HILL: Okay.

13 | MR. SULLIVAN: And I'm just told we didn't submit one.

14 | CHAIRPERSON HILL: That's okay. Give me a second. I
15 | want to see all this stuff anyway, because this is going to take
16 | however this is going to take.

17 | MR. SULLIVAN: But I think we can use the old one. I'm
18 | told that the old one didn't change.

19 | CHAIRPERSON HILL: Okay. The old one didn't change?

20 | MR. SULLIVAN: Yes.

21 | CHAIRPERSON HILL: So then -- because I was going to
22 | wait if you wanted me to have a different PowerPoint for you,
23 | because then you can take a look at the submissions that are going

1 to be in the record now, the two letters. If you're comfortable
2 moving forward and just seeing the letters after your
3 presentation, that's fine. Otherwise, we can wait and also get the
4 PowerPoint.

5 MR. SULLIVAN: Do you mean wait to another day or wait
6 10 minutes?

7 CHAIRPERSON HILL: No. Yeah, wait -- my proposal, --
8 I'm sorry, Mr. Sullivan. If your PowerPoint is the same in
9 exhibit 43, then if you want to you can just go ahead and do your
10 presentation. And during that time the two letters will get
11 uploaded. There are two letters in opposition. Right. So you
12 can take a look at that. Or if your PowerPoint is different we
13 can wait like five minutes and everything can get uploaded, if you
14 want to send in a new PowerPoint.

15 MR. SULLIVAN: (Audio inference) PowerPoint and I'm
16 happy to proceed without seeing the letters as well.

17 CHAIRPERSON HILL: Okay. Then go ahead, Mr. Young, and
18 pull exhibit 43, which is, I believe, the most recent PowerPoint.
19 And Mr. Young, if you can run the clock upwards so I know how
20 much time he's taking, I mean the applicant is taking. And just
21 so you know, Mr. Lechliter, you get the same amount of time as the
22 applicant. And so I'm not -- I'm also not a stickler about this,
23 because like you're not a professional. So we'll just see what

1 happens with your time as well. Meaning, you're not a land use
2 attorney. And then, Mr. Sullivan, you know, don't short change
3 yourself. We want to be able to hear what you're doing, right.

4 So Mr. Young and Mr. Sullivan, you can begin whenever
5 you like.

6 MR. SULLIVAN: Thank you, Mr. Chair and members of the
7 Board. Marty Sullivan with Sullivan and Beros, on behalf of the
8 applicant, 1515 Wisconsin Avenue, LLC. This is a proposal for lot
9 occupancy special exception relief to go to 81 percent lot
10 occupancy. The existing is 75 percent. Next slide, please.

11 This is the MU-4 Zone. We in Wisconsin Avenue, in
12 Georgetown. The building is currently used, it's with two
13 residential units and a commercial space. The commercial space
14 will remain, and there will be six units total now with this two-
15 story addition in the back. Some of the larger context of this --
16 well, the height of the building, the total building height is 37
17 feet. The addition itself is, I believe, 26 feet in height. And
18 the architect will go through that. The rear yard is almost 10
19 feet more than what is required. And the FAR is 1.92, which is
20 nearly a quarter less than the maximum permitted FAR, and that was
21 lowered in response to community concerns and ANC concerns after
22 the initial filing. Next slide, please.

1 And I'll turn it over to -- we do have ANC2E support and
2 the Office of Planning support. Next slide, please.

3 And I'll turn it over to Mr. Gronning to take you
4 through the project. Thank you.

5 MR. GRONNING: Good afternoon, Mr. Chairperson and Board
6 members. My name is Eric Gronning, the architect for the project.
7 Thank you for this opportunity to present. I think if you guys
8 could start on page seven, if you could please go to that sheet.
9 It's the site plan.

10 Okay. So on the screen is the existing site plan. The
11 existing building faces Wisconsin Avenue. That's to the left.
12 And it's three stories at Wisconsin Avenue. It steps down to two
13 stories in the center and then reduces to one story at the rear,
14 which is to the right. And as Marty Sullivan mentioned, it
15 occupies currently 75 percent of the lot. The existing buildings
16 to the north and south are shaded on this drawing. And the rear -
17 - the existing rear yard is right around 30 feet. Next slide,
18 please.

19 This is the proposed site plan. We are proposing to
20 extend the footprint to the rear just an additional five-foot-
21 four-and-a-quarter inches, and then add a two-story addition to
22 that first story. This five-foot-four-and-a-quarter dimension was
23 established by the Old Georgetown Board at our last hearing, and

1 | it has been approved by them for design concept. The
2 | (indiscernible) is highlighted in yellow. If you look forward,
3 | the rear, yellow shaded area, you can see a dash line. That
4 | represents where the existing building currently stops. We are
5 | only proposing addition at this location because if the (audio
6 | inference) allow any construction on the existing two and three-
7 | story portions of this building, which are in the center and
8 | toward Wisconsin Avenue to the left. Please go to page 10,
9 | please.

10 | Ok, this is the first floor. And the extension at the
11 | rear is shown in yellow. It just shows how minimal the impact is
12 | at the rear. Next slide, please.

13 | CHAIRPERSON HILL: Mr. Gronning, can you hear me?

14 | MR. GRONNING: Yes.

15 | CHAIRPERSON HILL: You guys, I think it's in the record
16 | now. Just for my fellow Board members.

17 | All right. Mr. Gronning, you can please continue.

18 | MR. GRONNING: Okay. Thank you. On the screen now is
19 | proposed second and third floor. And, again, the proposed
20 | addition is highlighted in yellow. The third floor is at the top
21 | of the screen. And you can see the roof of the existing two-story
22 | section in the center there -- I'm sorry, the third floor. You

1 can see that the second floor. It's the same size, yellow area is
2 our proposed addition. Next slide, please.

3 And this is simply the roof plan for the addition and
4 the existing. Next slide.

5 Okay. On the screen are the existing and proposed
6 sections. The existing building is shown at the top of this
7 image. It is highlighted in purple. The bottom section shows our
8 proposed addition, which is highlighted in yellow. So you can see
9 the size of this addition relative to the existing building. We
10 also are lowering this addition into the ground so that our
11 building height could be reduced to 25 feet in the rear. I think
12 Mr. Sullivan mentioned 26, but it's actually 25 from the rear
13 grade. We also cast the floor to ceiling heights at eight feet to
14 help minimize the height of this addition. Next slide, please.

15 On the screen now is proposed and existing elevations.
16 The current is at the top of the screen, the existing is to the
17 left and proposed to the right. We're not proposing any work to
18 the front of this building. And you cannot see the addition from
19 the street at this location. Below are the rear elevations. The
20 existing is on the left, and the proposed is on the right. You
21 can see that the height of the building is 25 feet in the lower,
22 right-hand proposed elevation. Next slide, please.

1 On the screen now are the proposed elevations facing
2 south. Here you can see the comparison between the addition and
3 the existing building as well. The proposed is at the bottom of
4 the screen, the existing is above. The outline of the neighboring
5 building at 1513, which is to the south, and not visible in this
6 screen, is dashed. You can see it as taller than our, the
7 proposed building in the center. You can see that dashed line in
8 the middle there. Next slide, please.

9 This is the opposite elevation to the north. The
10 neighboring building at 1517 is shown shaded. The existing is
11 above, proposed is below. And you can see a little area of our
12 proposed addition to the upper, left-hand corner of that shaded
13 area on the lower image. That's all that will be visible from
14 that view. And I believe Marty would like to say a couple words
15 at this point. Mr. Sullivan?

16 MR. SULLIVAN: If you could go to slide 20, please,
17 Paul. Thanks. And we can go over the shadow studies, either
18 myself or Mr. Gronning. As you might expect, the additional shade
19 is very limited. Next slide, please.

20 There are a few, a couple instances of very minor
21 sections of additional shade on the properties on 32nd Street for
22 just very limited times. In the summer it's, the additional shade
23 is proposed at 3 p.m. is on this property. And then you see a

1 little sliver at the rear of a property on 32nd Street at 5:00 in
2 the summer. Next slide, please.

3 Similar, there's one time, 3:00 p.m., where there's a
4 little bit of additional shade on a property at the rear of the
5 yard across the street. Next slide, please.

6 And similar, so very limited impact. So -- and I want
7 to explain. We -- this wasn't the simplest shadow study to figure
8 out. Because typically we have a matter of right building and
9 then you have the proposed building. And it's very clear what the
10 difference is between those two. In this case, because it's a
11 mixed-use zone, because we're doing residential where it's 60
12 percent lot occupancy. If we did commercial, there is no lot
13 occupancy limit, and there's just the 15-foot yard limit. So
14 technically a matter of right building has, it goes 10 feet
15 further towards the neighbors and five feet lower. So it could be
16 20 feet -- well, it would be two stories. It could be higher than
17 this. It could be at this distance or this height for another 10
18 feet, if it was commercial. But because it's residential it has a
19 different matter of right starting point.

20 The other thing that you can have involved is if you
21 have an OGB modified matter of right, we'll say. So while our
22 matter of right height is 50 feet, we're not using that number at
23 all as a starting point for the matter of right. Just because

1 | it's obvious that that wouldn't be -- first of all, it's not
2 | permitted because OGB has limited the height to the 25 feet. And
3 | second, that would obviously show no impact at all. So we think
4 | we were quite conservative. And this shows probably more impact
5 | than it would if it was matter of right versus proposed. So we
6 | thought the existing versus proposed was the most helpful. But in
7 | any event, it's very limited impact. If we could go back to
8 | slide 17, please.

9 | And I'll go through the special exception criteria,
10 | which are only the general special exception criteria. There's no
11 | specific criteria for this particular relief. It is a special
12 | exception. And the granting of a special exception in this case
13 | is in harmony with the general purpose and intent of the MU-4 Zone
14 | of the zoning regulations and the maps. This is the mixed-use
15 | zone. Our FAR proposed is 25 percent less than the maximum, it's
16 | just 1.92. And then the proposed addition is providing for
17 | additional dwelling units, something that the ANC noted
18 | specifically in their letter, also keeping commercial space, which
19 | is very important to the ANC in Georgetown these days. It fronts
20 | on Wisconsin Avenue. It's easily accessible to public transit.
21 | We meet all of the other development standards. And OGB, you
22 | know, has conceptually approved this project. Next slide, please.

1 Will not tend to affect adversely the use of neighboring
2 property in accordance with the zoning regulations and zoning
3 maps. I believe that -- I understand that the neighbors on 32nd
4 Street have concerns. I don't think those concerns legitimately
5 relate to the massing of a building. But perhaps more concerned
6 about construction or the use of the building itself. But as
7 noted, we will be more than 10 feet away from what is the rear
8 yard requirement, half the building height, permitted building
9 height. Essentially, as it's been reduced, after the initial
10 iteration, it's been reduced so substantially that to the point
11 where the massing of the building in the rear is lower than and
12 about as far away as you could have for a single-family detached
13 building in the R-1 Zone. And of course, this is the mixed-use,
14 MU Zone in Georgetown where the expectation would be that you
15 would have something more impactful than that. And that's our
16 presentation. If the Board has any questions. Thank you.

17 CHAIRPERSON HILL: Okay. Thank you, Mr. Sullivan. I'm
18 going to go around the table first to see if the Board has any
19 questions. Does the Board have any questions for the applicant?
20 Commissioner Turnbull?

21 MR. TURNBULL: I just had maybe a couple of questions.
22 It would appear that the proposed adds is similar in -- you're not
23 going past either side of the building on either side. It looks

1 | like they're sticking out farther than you do, and they're close
2 | in height to the, what you're adding on; is that correct?

3 | MR. GRONNING: That is correct, Mr. Turnbull.

4 | MR. TURNBULL: You show windows on the -- oh, yeah.

5 | MR. SULLIVAN: I'm sorry. We do -- I believe we go
6 | about a foot or a foot-and-a-half past one building and not past
7 | the other building; is that correct, Eric?

8 | MR. GRONNING: Yeah. Thanks for correcting me. That's
9 | correct. Yes. We're going past 1513 to the south a little bit,
10 | and we're not going as far as 1517 to the north. Right in
11 | between.

12 | MR. TURNBULL: Oh, okay. I was looking at that view
13 | at the rear. And -- but I forget there's a passageway on that
14 | site, on that one side. Your one neighbor, he's got a passageway.
15 | And you have windows on that side. Are they technically at risk
16 | then or --

17 | MR. GRONNING: Yes, sir. They're technically at risk.
18 | You know, in the permit process I guess we'll decide if we're
19 | granted them or not.

20 | MR. TURNBULL: And there are widows on the other side,
21 | off the end too, or on the other --

1 MR. GRONNING: I'm sorry. There are windows to the east
2 and there are a couple of windows to the west that overlooks the
3 two-story existing building. Yes.

4 MR. TURNBULL: Okay. All right. That's all the
5 questions I have right now, Mr. Chair.

6 CHAIRPERSON HILL: Okay. Thank you, Commissioner
7 Turnbull.

8 Mr. Smith, do you have any questions?

9 MR. SMITH: No questions.

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

11 VICE CHAIR JOHN: No questions.

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

14 MR. BLAKE: No questions.

15 CHAIRPERSON HILL: All right. Okay, Mr. Lechliter, do
16 you have any questions for the applicant?

17 MR. LECHLITER: I have just a couple questions. And
18 forgive me if some of them may be beyond the scope. You can
19 correct me. I'm just curious about a few things. The first is, I
20 believe the current occupancy is at 75 percent. So there's
21 already an exceedance. And I was wondering if the applicant knows
22 when that construction happened and whether there was an earlier
23 exception granted.

1 CHAIRPERSON HILL: Mr. Sullivan, do you know anything
2 about how you got the -- how the applicant originally got -- how
3 the building got the 75 percent?

4 MR. SULLIVAN: I don't personally have any information.
5 I don't know if the owner or architect know anything about that
6 history.

7 MR. MATTAGHI: I purchased the building as is. So I
8 really have no information.

9 CHAIRPERSON HILL: Okay. Mr. Lechliter, it doesn't seem
10 like they know how it got to there.

11 MR. MATTAGHI: Sorry about that.

12 CHAIRPERSON HILL: That's all right.

13 MR. LECHLITER: Fair enough. I couldn't figure it out
14 either. And I believe the applicant owned the building to the
15 south and to the north; is that correct? CHAIRPERSON

16 HILL: I don't know exactly what -- why are you asking that?

17 MR. LECHLITER: I'm asking that because -- and it goes
18 to a point I think Commissioner Turnbull raised, it's part of the
19 concern here about the occupancy exceedances there, leading to the
20 basis for having an occupancy exceedance on this property and what
21 I think may then lead to additional exceedances going forward. So
22 the idea that the rear wall will be, you know, one foot shorter or
23 one foot less to the two properties to the north and the south.

1 And the idea being that, well, look, that's within the existing
2 neighborhood. But those other properties are already grossly over
3 occupancy, based on the zoning regulations. And I'm trying to
4 figure out if after -- assuming this occupancy is granted, we end
5 up with a situation where there's another property owned by the
6 applicant that's going to the north there as well. And it's just
7 going to be a cascade where we keep hearing, well, it's consistent
8 with the neighborhood because we've already granted all these
9 exceedances. My concern is that I don't think two wrongs should
10 make a right. And the fact that --

11 CHAIRPERSON HILL: Okay. Mr. Lechliter, I'm sorry.
12 I'm just trying to get -- so -- and I understand. So you'll have
13 an opportunity to give your presentation on what you think may or
14 may not be happening. Unfortunately, you know, we only look at
15 what the case is that's before us. Like, we only look -- I don't
16 know. Even if he owns the two buildings on either side, I can't
17 start to, you know, imagine what might be happening. We're only
18 allowed to look at what's before us. So, I mean, I'm happy to
19 have the questions answered. I mean, Mr. Sullivan, does your
20 applicant, does your property owner, your client own both
21 properties on either side?

22 MR. SULLIVAN: My understanding is, connected to

1 ownership on both sides. And that the matter of right -- he's
2 mentioning exceedances, they're commercial buildings. And I think
3 the existing building was commercial on the first floor as well,
4 if I'm not mistaken, which would not be currently exceeding lot
5 occupancy for a commercial use, because there is no limit for
6 commercial use. There is a rear yard limit.

7 CHAIRPERSON HILL: I understand. I understand. I
8 understand. Mr. Lechliter, do you have another question from the
9 presentation?

10 MR. LECHLITER: Yes. Just for clarity. Are there also
11 residential properties on those two other properties, I mean
12 residential units? I'm trying -- I was a little confused what Mr.
13 Sullivan said, that those are just commercial. Maybe I
14 misunderstood.

15 CHAIRPERSON HILL: That's all right. Mr. Lechliter,
16 what Mr. Sullivan was saying is that if this were a commercial
17 building there wouldn't be a lot occupancy need, there would only
18 be the rear yard. Meaning, he could go back as far back as he
19 wanted to with the rear yard. Right. And so -- but I don't want
20 to talk about the other two properties on either side. I just
21 want to talk about this property and the presentation that Mr.
22 Sullivan just gave. Do you have any questions from his
23 presentation?

1 (No response.)

2 CHAIRPERSON HILL: And Mr. Lechliter, I'm not trying to
3 bully you. He didn't talk about any of the other two properties.
4 That's
5 why I'm just trying to stick to -- you're only supposed to be
6 asking questions about his presentation.

7 MR. LECHLITER: I'm sorry. And maybe I misunderstand.
8 But he did talk about the two properties and what those levels
9 were, what those height were. And Commissioner Turnbull asked a
10 question about those as well. So I was just trying to get more
11 information.

12 CHAIRPERSON HILL: Okay. Okay.

13 MR. LECHLITER: There's dashed lines on one of the
14 pages that were shown, which shows exactly where those properties
15 are, and they're using those as comparisons.

16 CHAIRPERSON HILL: Okay. And I'm sorry. They weren't
17 -- so let me clarify my comment. They weren't talking about the
18 residential uses of those other properties. They were using them
19 to compare what they're asking for in terms of relief. But I'm --
20 it just gets too confusing also, Mr. Lechliter. So go ahead and
21 just continue to ask your questions now.

1 MR. LECHLITER: I think the only other question I had -
2 - and if we can go back to the PowerPoint, please. Is it possible
3 to put that on the screen?

4 CHAIRPERSON HILL: Sure. Mr. Young. Do you remember
5 which slide maybe it was?

6 MR. LECHLITER: The shadow study slide, starting at
7 approximately page 22, I believe.

8 CHAIRPERSON HILL: Yeah. I think its 20 or 21.

9 MR. LECHLITER: Yes. And this is a question for
10 clarity, I believe. When looking at the permitted by matter of
11 right comparison, what I was uncertain about from Mr. Sullivan's
12 comments was whether that was based on a 50-foot height or some
13 other height?

14 CHAIRPERSON HILL: Mr. Sullivan, can you help clarify?

15 MR. SULLIVAN: Yes. This was based on the OGB approved
16 height at 60 percent lot occupancy.

17 CHAIRPERSON HILL: Do you know what the height is, Mr.
18 Sullivan?

19 MR. SULLIVAN: The height of the addition at his point?
20 Yes, 25 feet.

21 MR. LECHLITER: I'm sorry.

22 MR. SULLIVAN: Is that what you mean?

1 MR. LECHLITER: I was asking about the permitted by
2 matter of right slide, which I think is --

3 MR. SULLIVAN: Okay. I didn't go over those. They're
4 at the end of the presentation, if you want to look at those.
5 Yes, that was -- that's why I didn't go over those, because I
6 think they're not as helpful. You know, they're talking about a
7 50-foot building height. So I went with the more conservative of
8 the two.

9 MR. LECHLITER: Okay. I understand. I was a little
10 unclear about that. So I wanted to make sure I understood.

11 CHAIRPERSON HILL: Mr. Lechlitter, I think you're on
12 mute.

13 MR. LECHLITER: Sorry about that. I believe that's all
14 the questions I have.

15 CHAIRPERSON HILL: Okay.

16 MR. LECHLITER: Can you hear me?

17 CHAIRPERSON HILL: Yeah, I can hear you. Thank you.
18 All right, Mr. Lechlitter, you're on. And go ahead Mr. Young, if
19 you could reset the clock for me. And -- but Mr. Lechlitter, you
20 know, feel free to take your time.

21 MR. LECHLITER: Thank you. I appreciate the patience.
22 I will be concise. I think I have a fair understanding of the
23 process, but I do want to raise a number of points, which I do

1 believe go to the statute requirements and to the issue of use
2 here and the potential impact on our block. And briefly, just as
3 a point of context, do you understand the block, our opponent,
4 Hardy Homes (phonetic), on 32nd Street, consist of row homes.
5 They're relatively small, particularly for Georgetown, similar
6 shape and size. And to the rear of our properties, you know,
7 there is Wisconsin Avenue. But there's small back yards on our
8 side and then these larger properties facing Wisconsin Avenue.
9 And historically, the density an occupancy of those properties
10 seem to fit well within the historical nature of the neighborhood
11 and our residential homes to the east. But we're starting to see
12 some growing and alarming changes to the occupancies along
13 Wisconsin Avenue.

14 And here there is a proposal for an occupancy increase
15 to a property that's already at 75 percent, to go even further
16 occupancy. And we don't think the applicant has met its burden to
17 show no adverse impact on the use of properties. And that, for
18 the following reasons: the first is, is the shadows. And while
19 Mr. Sullivan noted that there was some ANC support for this
20 project expressed, the ANC also expressed concerns. And in the
21 ANC's letter, which I believe is exhibit 44, dated March 16, the
22 ANC noted that it remains concerned about the impact that the mass
23 of this proposed addition would have on the neighbors to the east

1 of the project (audio inference) investment to require the
2 production of the light study before it makes a decision and the
3 granting of the special exception to make sure that there is no
4 adverse impact on the neighbors during construction on this
5 project.

6 There has been a shadow study that we've seen now. I
7 guess there's been a few adjustments to the plan, but I don't know
8 how they call that adjusted, the shadow study, or whatever that
9 may be. But even with the existing study that we have in hand, we
10 despondently disagree with the assertion that there's no undue
11 impact. Seems to me what it is, there's no proof, there's no
12 talking to the neighbors to figure out if there's an undue impact.
13 It's just an assertion. And that's, in my mind, typically not how
14 one satisfies a burden.

15 We have small back yards. Many of us maintain gardens
16 in those yards, where natural light is at a premium. Many of us
17 have young children that love to spend time in those back yards
18 and get as much sun as we can. These additional shadows, while
19 they may not be constant, and may be seasonal, and may not be at
20 all times, they will impact the enjoyment and use of our
21 properties in those back yards. That's a real concern. It's a
22 concern the ANC expressed. And I hope that the Board gives great
23 weight to that concern.

1 The second thing, which goes to use, it goes to the
2 exact thing that I've been talking about here. The way artificial
3 light. And I don't think (audio inference) debate here that
4 (audio inference) as part of that.

5 CHAIRPERSON HILL: Mr. Lechliter?

6 MR. LECHLITER: Yes.

7 CHAIRPERSON HILL: You kind of broke up there for a
8 little while. Can you start back maybe a paragraph and lean
9 forward.

10 MR. LECHLITER: Yes. Let me try to get closer to my
11 computer. Can you hear me better?

12 CHAIRPERSON HILL: Yes.

13 MR. LECHLITER: I hope not to repeat too much. But I'll
14 go back a little bit to what I was talking about in terms of
15 shadows, because it's, I think one of the most important factors
16 here. Which is that given our small back yards, given the fact
17 that many of us maintain gardens in those yards where natural
18 light is very important to us, given the fact that many of us have
19 small children that play in those back yards, and that want to be
20 in the sun as much as possible in those back yards, that
21 additional shadows would cause an undue impact on that enjoyment
22 and use of our properties. And I don't think that the -- I don't
23 think the applicant has met its burden to show it will not. They

1 are producing a study to show that the shadows aren't all the time
2 or all encompassing. I think that's a real issue. It's a real
3 concern that we have. It's a concern the ANC expressed. And I
4 think it's a concern that the Board should give great weight to.
5 And it's concern that's addressed by the request for an occupancy
6 exception. And it's not going to -- the exception is the
7 exception. The fact that there could be some other matter of
8 right, you know, as Mr. Sullivan appropriately and candidly
9 admitted for some further height, is not realistic scenario. So
10 (audio inference) between the applicant and the Georgetown Board
11 to get to a point where they can. And this is where they're at.
12 And so that shadow study is, I think as good as it's going to get
13 for them in terms of height. They would like to go a lot higher.
14 So I wanted to make those points about shadows.

15 Second, by adding additional occupancy here there is
16 going to be a increase in noise, increase in (audio inference)
17 same ways I should say with the (audio inference) of our
18 properties in the back yard.

19 Third, there is going to be an impact on privacy here.
20 By increasing the occupancy there is going to be (audio inference)
21 structures built. It's going to go up further towards our homes.
22 There's going to be backward facing windows, closer to our
23 properties, higher than our fences. The privacy is going to be

1 adversely impacted. The applicant's response in once of its
2 letters implied, well, privacy is already impacted because, you
3 know, there are other properties back there. So, you know, too
4 bad, here's another one. Again, we don't think that's the right
5 way to look at things. And maybe go back to something you said,
6 Chairman, which is each case is judged on the merits, and it
7 should be judged on the merits and not because of something else
8 that exists. But we seem to be getting it from both sides there,
9 which I'll get into in a bit more, in a minute.

10 And the other points I wanted to make were really just
11 in response to the applicant's letter in opposition to ours, which
12 is exhibit 47 in the record. In there, particularly on page two,
13 there's a statement that furthermore, it is not inconsequential in
14 this analysis to consider that the subject property is located in
15 the MU-4 Zone, and that the opponents voluntarily (audio
16 inference)

17 CHAIRPERSON HILL: Mr. Lechliter?

18 MR. LECHLITER: Yes.

19 CHAIRPERSON HILL: I'm sorry. You just are breaking
20 up. And I got you -- where I started to lose you was when you
21 started to talk about the letter. And furthermore, it's not
22 inconsequential.

1 MR. LECHLITER: It may be because I have the letter in
2 front of my microphone. Is this better?

3 CHAIRPERSON HILL: You know, I think you're just
4 kind of
5 breaking up. I don't know if like --

6 MR. YOUNG: Mr. Chair?

7 CHAIRPERSON HILL: Yeah.

8 MR. YOUNG: I would suggest that maybe he turn his
9 camera off. Usually it's a little better with the cameras off.

10 CHAIRPERSON HILL: Okay. Let's try that, Mr.
11 Lechlitter.

12 MR. LECHLITER: Let me try that. Is that any better?

13 CHAIRPERSON HILL: We'll see. And if not, then you can
14 call -- if not, then you can call in maybe.

15 MR. LECHLITER: The other thing, if I could take 15
16 seconds, I'll also try to put in my headphones, which may help.

17 CHAIRPERSON HILL: Yeah. I don't think the headphones
18 are a problem. I can hear you. Just keep going. If not, we'll
19 try something else. But I left you off at furthermore.

20 MR. LECHLITER: Okay. I was just quoting the letter
21 from the applicant, dated March 29. Furthermore, it is not
22 inconsequential in this analysis to consider that the subject
23 property is located in the MU-4 Zone, and that the opponent

1 voluntarily reside in property which abut that zone. And that's
2 a point that I don't -- it does not make sense to me and doesn't
3 seem to me that can be right. Because it's the applicant that
4 needs the exception here from the Board. The applicant is the one
5 requesting the exception, it's not us. The applicant, who
6 voluntarily owns a property with certain occupancy restrictions
7 for the type of building it wants to build there, and that
8 building already exceeds by 15 percent. And it's the applicant
9 here who has the burden to show it's entitled to the exception.
10 So I don't think the fact that we neighbors live in a residential
11 unit next door is something that should factor against us.

12 And second, and this is really one of the last points.
13 But in our letter, and we discussed this briefly earlier, we did
14 raise a concern about precedent. And the applicant, as well as
15 you, Mr. Chairman, set apart that each application must be judged
16 on its own merits and precedent should have no impact on the
17 decision. But I want to clarify a few things here about what we
18 think is happening and why I think I'm not sure that's right. And
19 that's because the applicant's building is already over size in
20 terms of occupancy for the type of mixed-use building he wants to
21 develop here. And there are, you know, oversized buildings to the
22 north and to the south. And so what happens -- and to the north
23 and to the south where, you know, there is also mixed-use

1 buildings there. And what happens is that an applicant comes in
2 and says -- and it seems to me happened here, our addition would
3 be similar to the existing rear wall to the north and the south,
4 so we think it's consistent with the neighborhood, and it should
5 be granted. And, you know, unfortunately, for us opponents the
6 Office of Planning appears to have agreed with that, at least in
7 part, in its March 3 report, which I'm not going to read. But it
8 noted the same point, that the rear walls of the buildings to the
9 north and south would be in connection with this.

10 What I don't understand is how that works with zoning.
11 Because you've got an exceedance to the north and to the south of
12 those type of buildings. Why does that mean there should be even
13 more exceptions in between, or to keep going? That seems to me to
14 defeat really the entire purpose of what I understand zoning to
15 do. Because sooner than later, and very soon, the exceptions will
16 stop becoming exceptions. They need the exemptions anymore,
17 they're going to become the rule. And that block on Wisconsin
18 Avenue will no longer have, you know, a 60 percent occupancy
19 requirement for these type of properties. It's going to be 83
20 percent, or 85 percent, or 89 or 90 percent. And, therefore, the
21 zoning regulations don't really have any meaning there because
22 it's just one exception after another that became a rule. Then,
23 you know, I will say I take fiercely your earlier comments. So

1 I'm not going to expand on what I think is going to continue to
2 happen here in fact. But it is a concern. It is a very real
3 concern of ours. And I just wanted to make the Board aware of
4 that. Thank you for your time. I appreciate your patience with
5 my skills here.

6 CHAIRPERSON HILL: That's all right, Mr. Lechlitter.
7 What is it that you think is going to happen, Mr. Lechlitter?

8 MR. LECHLITER: I think that after -- assuming this is
9 granted, I think we're going to get another application for the
10 property just to the north, to build something similar.

11 CHAIRPERSON HILL: The same space?

12 MR. LECHLITER: What was that?

13 CHAIRPERSON HILL: The same space?

14 MR. LECHLITER: I'm sorry. The two properties to the
15 north. So not the 1519, not 1517, but 1519. That's going to be
16 the fourth in line. This will be the third. And then other
17 properties to the north of that are going to continue to expand,
18 and this zone is going to be completely different. I don't think
19 there's any real mystery there. You know, there's the, like the
20 saying a wolf in sheep's clothing. This is just the wolf. I
21 think the neighbors know what's coming.

22 CHAIRPERSON HILL: Okay. All right, Mr. Lechlitter.
23 Thank you for your presentation.

1 Does the Board have any questions for the party in
2 opposition? And I'm going to go around the table and begin with
3 you, Commissioner Turnbull.

4 MR. TURNBULL: Mr. Lechliter, thank you for your
5 presentation today. These hearings can be a little tricky at
6 times, working with the technical equipment, with all the
7 equipment and everything. And so we, we're patient. We've had
8 these before. So don't feel like you're -- I know you're
9 challenged at times by trying to present something like this. Are
10 you concerned about the windows at the back of the building
11 looking into your property more so than shadows? It sounds like -
12 - it looks like from the shadow presentation, looks like it would
13 be minimal as to what's already created. So I'm just concerned,
14 is that your major concern now, is the windows at the back,
15 looking over to your fences and everything?

16 MR. LECHLITER: I think it's both. It's the windows,
17 and the privacy, it's the noise, and it is the shadows. And
18 perhaps I can't speak for everyone, but gardening is very
19 important to some of us, having as much sunlight as possible for
20 our children is very important to some of us, and privacy is very
21 important.

22 MR. TURNBULL: If you say noise, the noise is generated
23 from where?

1 MR. LECHLITER: Well, the noise will be generated from
2 the additional occupancies and going to the back, rear of that
3 property. And that property is going to be closer extended to our
4 properties.

5 MR. TURNBULL: All right. Thank you.

6 CHAIRPERSON HILL: Mr. Smith, any questions?

7 MR. SMITH: No questions.

8 CHAIRPERSON HILL: Vice Chair John, do you have any
9 questions?

10 VICE CHAIR JOHN: No.

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

13 MR. BLAKE: No, I don't.

14 CHAIRPERSON HILL: All right. Mr. Sullivan, do you
15 have any questions?

16 MR. SULLIVAN: No. Thank you.

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

20 MR. MORDFIN: Good afternoon, Mr. Chair, members of the
21 Board. I'm Stephen Mordfin with the Office of Planning. And in
22 this application the Office of Planning did recommend approval of
23 this application. And it's a special exception for lot occupancy,

1 and only for the lot occupancy. The application for the rear yard
2 that's provided is in conformance with that. Also for building
3 height, it is in conformance with that also. So for those things
4 this application is in conformance with what is required by the
5 zoning and what is permitted as a matter of right.

6 What's not permitted as a matter of right is the lot
7 occupancy, which 60 percent. And I can go through the specific
8 criteria for this, detailing how we came to our conclusion. So
9 the first, is this in harmony with the general purpose and intent
10 of the zoning regulations? This is an expansion of an existing
11 building to provide for additional dwelling units. In other
12 words, it will continue to be a mixed-use building, it will just
13 have some more dwelling units in it. It does meet with the
14 provisions of the MU-4 Zone, which is that you would have a mixed-
15 use zone. I'm sorry, mixed-use buildings, accessible to transit,
16 which this is. The building fronts, and the access will be from
17 the front, on Wisconsin Avenue, which is a major commercial
18 district.

19 Now, would it intend to appear to adversely affect the
20 use of neighboring property? So that's really I think a lot of
21 what this discussion has been going towards. Now, from the front
22 you would see this addition because -- well, the construction is
23 lower. You would be able to see it from the rear, from the rear

1 yards across the way, for the houses fronting on 32nd Street.
2 However, the separation of the buildings, the separation, like I
3 said, is more or less similar to the other buildings which -- it's
4 -- we're not creating a new situation with that. However, you
5 know, I disagree with the assertion that if somebody has done it,
6 we've created a precedent and now more people can do it. Because,
7 first of all, the way they've designed the building, I think that
8 does make a difference with how they could have done it. If this
9 building had had, maybe in the sense of had a court yard or
10 something, perhaps they would have conformed to a lot occupancy
11 and could build this as a matter of right. You know, there's all
12 kinds of scenarios.

13 But what we have to do is look at what the applicant is
14 actually providing. And because this building is only about two
15 stories in height, 25 feet is more or less the height of this two-
16 story building. It provides the rear yard that is required within
17 this zone. In this case the rear yard is required to be a minimum
18 of 15 feet. The applicant is providing 24 feet, eight-and-a-half
19 inches. So it is more than that. So the building is not coming
20 as close to those neighbors as it otherwise could. So it does
21 provide them some additional privacy because of that.

22 So looking at those things, we don't think that this is

1 going to adversely affect the use of the neighboring properties.
2 They will still have their rear yards. Yes, there will be (audio
3 inference) the back, but these are urban neighborhoods. I think
4 there are windows that are facing out of all kinds of buildings
5 where you could see other windows. But that's not the point of
6 the windows. It would be looking in at other people's windows.
7 There are windows that are visible, but I don't see that when you
8 provided a much larger than required rear yard that this really
9 should be an issue.

10 So based on that, the Office of Planning recommended
11 approval of this application. And I'm available for questions.

12 CHAIRPERSON HILL: All right. Thank you, Mr. Mordfin.
13 Does the Board have any questions from the Office of Planning?
14 I'm going to go around the table and begin with you, Commissioner
15 Turnbull.

16 MR. TURNBULL: Mr. Mordfin, you're back again. You've
17 had a busy day.

18 MR. MORDFIN: Yes.

19 MR. TURNBULL: Question. I mean, you're right, it's a
20 very urban neighborhood and I believe we run into this all over
21 the city. When you talked to the applicant, when he was designing
22 this or when they were looking at building, did you get into
23 issues of changing the window format, angling them, or anything;

1 | did that come up in the process of trying to minimize the windows
2 | looking right directly across the alley?

3 | MR. MORDFIN: It did not.

4 | MR. TURNBULL: Okay. I mean, we've often done that on a
5 | lot of different projects where people have done something to try
6 | to mitigate the view or the lighting. I haven't really asked the
7 | applicant myself about what's going on in that back yard. Is
8 | there lights back there? I see that the door comes out and
9 | there's a sidewalk, and the sidewalk goes to the fence on the one
10 | side, which it looks like it exits right into the passageway of
11 | the house next door, which I guess he owns too. So there's these
12 | little quirky things that are going on in the back yard that I'll
13 | ask the applicant about. But did you talk about any of these
14 | things with the back yard, what goes on, privacy issues? He has a
15 | right to a back yard, but not to be obnoxious to his other
16 | neighbors.

17 | MR. MORDFIN: Right. And we have -- because this back
18 | yard is larger than what is required, it's larger than the
19 | minimum. It's larger than the 15 feet. And because of that, --

20 | MR. TURNBULL: Right.

21 | MR. MORDFIN: -- did not really get into -- if he wanted
22 | to make it smaller, that probably would have generated those types
23 | of questions.

1 MR. TURNBULL: Well, you were probably very thorough when
2 you were going through this. So thank you again.

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

5 MR. SMITH: I have no questions.

6 CHAIRPERSON HILL: Vice Chair John, do you have any
7 questions for the Office of Planning?

8 VICE CHAIR JOHN: No questions, Mr. Chairman.

9 CHAIRPERSON HILL: Mr. Blake, do you have any questions
10 for the Office of Planning?

11 MR. BLAKE: No, Mr. Chairman.

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

14 MR. SULLIVAN: No, thank you.

15 CHAIRPERSON HILL: Mr. Lechlitter, do you have any
16 questions for the Office of Planning?

17 MR. LECHLITER: I do not.

18 CHAIRPERSON HILL: Okay. Mr. Young, is there anyone
19 here that wishes to testify?

20 MR. YHOUNG: Yeah, we have two witnesses.

21 CHAIRPERSON HILL: Okay. Could you bring them in,
22 please. Is it Ms. Rutledge?

23 (No response.)

1 CHAIRPERSON HILL: Ms. Rutledge?

2 (No response.)

3 CHAIRPERSON HILL: Mr. Lintner?

4 (No response.)

5 CHAIRPERSON HILL: They both seem to be muted. You guys
6 both seem to be muted. I don't know if it's us or you. Mr.
7 Lintner?

8 (No response.)

9 CHAIRPERSON HILL: Ms. Rutledge?

10 (No response.)

11 CHAIRPERSON HILL: Mr. Lintner?

12 MS. RUTLEDGE: Yes. Thank you very much.

13 CHAIRPERSON HILL: Great. Ms. Rutledge, can you hear
14 me?

15 MS. RUTLEDGE: Can you hear me now?

16 CHAIRPERSON HILL: Yes. Could you introduce yourself
17 for the record?

18 MS. RUTLEDGE: Okay. I'll start. I should start now?

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

20 MS. RUTLEDGE: Yes. There's an echo.

21 CHAIRPERSON HILL: There's a loop going on.

22 MS. RUTLEDGE: Let me see if I can cancel some programs.

23 Maybe that will help. So my name is Susan Rutledge. I live at

1 1532 32nd Street, Northwest, which is on the same square as 1515
2 Wisconsin, and within 200 feet of the building. Can you hear me
3 okay?

4 CHAIRPERSON HILL: Yes. Thank you. You have three
5 minutes, Ms. Rutledge. And just continue on.

6 MS. RUTLEDGE: I'm not hearing you.

7 CHAIRPERSON HILL: You're okay. You're okay.

8 MS. RUTLEDGE: Should I continue?

9 CHAIRPERSON HILL: Yes. Keep going.

10 MS. RUTLEDGE: Should I continue?

11 CHAIRPERSON HILL: Yes.

12 MS. RUTLEDGE: I can't hear you.

13 CHAIRPERSON HILL: Keep going.

14 MS. RUTLEDGE: Yes, continue? Okay. Very good. Thank
15 you very much. And I appreciate the hand signs.

16 I oppose the proposed increase in lot occupancy.
17 Contrary to the opinion of the Office of Planning, I believe the
18 proposed addition will indeed create an undue adverse affect
19 on the use of the properties in this square. I speak from
20 experience. My property lies directly behind 1525 Wisconsin,
21 which is about the same height as the proposed addition, but with
22 a smaller setback. The size of that building prevents me from
23 properly using my back garden for two reasons. First, the air

1 conditioning unit. Although the AC unit at 1525 is new, the noise
2 of the AC is so great that it makes it uncomfortable to sit and
3 dine in my back garden. The proposed addition will likely need
4 something similar.

5 Second, the massing of the building. The building
6 dominates my garden, creating a sense of being closed in. I
7 should tell you I've spent thousands of dollars and hundreds of
8 hours to improve the garden, including planting a dogwood tree.
9 But the massing of my neighboring building impedes the full use of
10 my garden. Both of these are strong and undue adverse affects on
11 the use of my property. Even with the additional 10-feet of
12 setback as proposed by the applicant, would not be sufficient to
13 prevent such adverse affect. I also note, as Mr. Lechliter, that
14 the existing building at 1515 already exceeds the permitted lot
15 occupancy by 25 percent. It is not clear why it is necessary to
16 give an exception to allow a further increase in density, when
17 it's already gone from 60 percent to 75 percent. I thank you for
18 the opportunity to speak.

19 MR. LINTNER: This is Stephen Lintner, can you hear me
20 now?

21 CHAIRPERSON HILL: Yes. Can you hear me?

22 MR. LINTNER: I can hear you. I can hear Chairman Hill.

23

1 CHAIRPERSON HILL: Oh, great. Mr. Lintner, you don't
2 have the echo. Okay. Mr. Lintner, would you please introduce
3 yourself for the record?

4 MR. LINTNER: I am Stephen Lintner. I live at 3201 P
5 Street, Northwest, which adjoins 32nd Street. And my property is
6 on two lots. And the rear property is within 200 feet of the
7 proposed structure that is under discussion.

8 I have submitted written comments for the earlier
9 meeting in March, and I submitted comments which I understand have
10 been put into the record for this meeting. Should I continue?

11 CHAIRPERSON HILL: Yes, please.

12 MR. LINTNER: Given the presentations that have been
13 made on behalf of the concerned neighbors, I would just like to
14 highlight one issue which has not been covered yet, but I believe
15 is important for this discussion. And that is, given the density
16 of the area, and given our previous experience with the expansion
17 of 1511 and 1513 Wisconsin Avenue, where they went back further,
18 we would like to see that the -- that there be a construction
19 management plan. That we have the owner, Mr. Mattaghi, his
20 architect, his construction engineer contact the neighbors, and
21 that we reach an agreement as to how the construction will be done
22 in terms of hours, noise control, light control, this type of
23 thing, and how the waste is going to be managed. We also believe

1 | we could have a way to clearly contact someone if there are issues
2 | during the construction period so we're not dealing with a
3 | construction workers, we're actually dealing with a designated
4 | person who has authority to give instruction and to work with
5 | them.

6 | I'd like to note that one of the concerns we have is not
7 | just the density of the area, but we also have this concern where
8 | we have, in the immediately adjacent homes we have five young
9 | children. We have a newborn baby, two children under three years
10 | of age, and two more below eight years of age. So it's just not
11 | the older people of Georgetown having this problem, we basically
12 | have a series of young families who have children that are in the
13 | immediate vicinity of the construction area. So that is a request
14 | beyond the types of debate we're having in terms of the shadow
15 | impact. This is an immediate impact that will occur, and I
16 | believe could be successfully managed if we're able to have a
17 | serious discussion with the proponent of the project and get those
18 | features addressed. Thank you very much.

19 | CHAIRPERSON HILL: Thank you, Mr. Lintner. I saw your
20 | most recent letter, and I saw the one beforehand. Does the Board
21 | have any questions for either witness, and if so please raise your
22 | hand.

23 | (No response.)

1 CHAIRPERSON HILL: Okay. Mr. Lintner, -- okay. I
2 guess, do you -- have you ever reached out to Mr. Mattaghi before?

3 MR. LINTNER: Yes, I have had a meeting with him, Mr.
4 Mattaghi. And I would hope that after this hearing is done, and
5 the process is completed, that we could resume discussions. Yes,
6 I have been over to see him. I've been on his property. And he
7 very graciously gave me a tour.

8 CHAIRPERSON HILL: Mr. Mattaghi, can you hear me?

9 MR. MATTAGHI: Yes, sir.

10 CHAIRPERSON HILL: Do you have Mr. Lintner's contact
11 information?

12 MR. MATTAGHI: I have his contact. They have a
13 maintenance person that's 24/7. I've given him that number. If
14 they don't have it, I'll supply it again.

15 CHAIRPERSON HILL: Okay. I got you. I just want to
16 make sure you each got each individual's information. Okay. All
17 right. Mr. Lintner and Ms. Rutledge, thank you so much for your
18 testimony. I appreciate it. Bye-bye.

19 Okay. Let's see, so I've got a couple questions. First
20 of all -- did I lose the property owner? Oh, there he is. So
21 Mr. Mattaghi, I guess I am a little interested, and Mr. Sullivan,
22 we're not going to decide this today. But I am interested at
23 least -- I mean, not necessarily a construction management plan,

1 but some kind of agreement that we're going to put in there for a
2 condition or anything like that. But I would like to see
3 something like, you know, who is going to talk to whom, what
4 information is going to be put forward. You know, I saw the
5 letter from Mr., the most recent witness. And I would be
6 interested to just what kind of things you all might propose that
7 would be, again, to quote on the good neighbor policy. Right.
8 Okay. And that's one thing that I'd like to see, Mr. Sullivan.

9 Mr. Mordfin, can you hear me?

10 MR. MORDFIN: Yes, I can.

11 CHAIRPERSON HILL: So can you help clarify to the Board
12 a little bit this whole thing about, like the matter of right
13 commercial versus the residential? This is the first time that
14 I'm hearing it again that commercial gets more than the
15 residential. So I just want to hear from you that what I
16 understand is correct, which is what the applicant is saying, is
17 that if the applicant wanted to do commercial they could go back
18 farther, all the way up to the rear yard. Right. And I guess
19 what I'm confused about is what the height would be. And maybe
20 Mr. Sullivan could help. Because the OGB would only -- we're only
21 -- not that they get to decide, but they were like only willing to
22 go -- so I'm just trying to understand what the true commercial --
23 well, first I'm going to you, Mr. Sullivan. I mean, Mr. Mordfin.

1 Is that correct, that commercial they could have gone all the way
2 back to the rear yard?

3 MR. MORDFIN: I'm looking up all of the zoning regs
4 right now so that I don't miss --

5 CHAIRPERSON HILL: Okay. I'll turn to Mr. Sullivan
6 first. Mr. Sullivan, you're stating that if it was just
7 commercial you could go back farther and then how high could you
8 build? Because the shadow study you gave was as if you could go up
9 to 50 feet.

10 MR. SULLIVAN: Well, the second shadow study one. The
11 first one was just existing versus proposed. But, yeah, we --
12 well, there's no height limit, but there is an FAR limit. So
13 there's a commercial FAR limit of 2.0. So effectively, two
14 stories. And that's what we have back there now. So, you know,
15 yes, you could have higher stories if OGB would allow that. But,
16 you know, OGB has limited our stories to 25 feet. So two stories
17 of height. If it was all commercial it could go back, and there's
18 no lot occupancy limit, and it would be within 15 feet. And then
19 your residential floors is where the 60 percent lot occupancy
20 begins. It begins on the first floor on which you have a
21 residential unit.

22 CHAIRPERSON HILL: That's fine. So, again, it's 15
23 feet?

1 MR. SULLIVAN: Correct. Still subject to the rear yard
2 Yes.

3 CHAIRPERSON HILL: Right. Mr. Mordfin, is that
4 correct?

5 MR. MORDFIN: Yes, that is correct.

6 CHAIRPERSON HILL: Okay. All right. So then that's
7 that.

8 Okay. And then those windows in the back, Mr. Sullivan,
9 those just are windows for people's now living homes, correct?
10 The design that you have in the back of the property, those rear
11 windows now are so that people get light into the homes that
12 they're going to live in?

13 MR. SULLIVAN: Yes.

14 CHAIRPERSON HILL: Okay. All right. Okay. Does
15 anybody got any questions for anybody from the Board? Yep, Mr.
16 Turnbull?

17 MR. TURNBULL: Yeah. Thanks, Mr. Chair. I just had a
18 question. There's a -- in the back yard there is a door that
19 leads into the back yard, which I'm assuming is an exit. There
20 must be a hallway that goes back and serves as an exit for the
21 other, for the apartments in the building. I'm assuming that
22 there will be -- I mean, the drawing that I see of the back yard
23 is very idealistic. It shows all these little tress or plants.

1 But that's going to be where you're going to have trash cans; is
2 that correct? Would that be where the trash is, and the trash
3 gets taken out? Or does the trash go out in the front side of the
4 building? Does it get picked up in the alley?

5 MR. SULLIVAN: I'll defer to Mr. Mattaghi or Eric.

6 MR. MATTAGHI: The trash will be picked up from the
7 front.

8 MR. TURNBULL: The trash will get picked up in the
9 front. So you wheel it all the way through at night and leave it
10 out to get picked up?

11 MR. MATTAGHI: Well, it's two picks. And when those are
12 scheduled, yeah, the trash can be in the building until those two
13 pickups. Because it's Monday and Thursday mornings.

14 MR. TURNBULL: How do you see the back yard being used?

15 MR. MATTAGHI: The back yard really, from previous
16 experience, we do not allow our tenant to use it.

17 MR. TURNBULL: Oh, you don't.

18 MR. MATTAGHI: Out of respect to the neighbors.

19 MR. TURNBULL: Oh, they don't use it?

20 MR. MATTAGHI: No. You know, so there's no usage. And
21 these are single people that just -- I mean, we don't allow it.
22 And right now, no, nobody really uses our back yard.

1 MR. TURNBULL: So there's no grills back there or
2 anything like that?

3 MR. MATTAGHI: No. We don't allow that.

4 MR. TURNBULL: So you have a door going out, which it's
5 a second exit?

6 MR. MATTAGHI: Correct.

7 MR. TURNBULL: And it goes, it looks like it connects
8 over to your other property there, the little passageway to get
9 out?

10 MR. MATTAGHI: Right.

11 MR. TURNBULL: Okay. I was just curious. Thank you.

12 MR. MATTAGHI: No problem.

13 MR. TURNBULL: Oh, one quick. When you look at the back
14 windows, had you looked at trying to angle them, or change them,
15 or doing something to minimize the -- I'm looking at the architect
16 to see if there's -- how you got to --

17 MR. GRONNING: So this on, you know, deliberations with
18 the Old Georgetown Board is how we ended up at this scheme that we
19 have now.

20 MR. TURNBULL: Okay.

21 MR. GRONNING: So we're reducing the height and, you
22 know, we did have a different window configuration at one time.

1 And it's gone through, I don't know, four or five different
2 iterations. And we ended up where we are through the --

3 MR. TURNBULL: So the OGB basically was saying that this
4 was the preferred choice?

5 MR. GRONNING: Correct.

6 MR. TURNBULL: Okay. Thank you.

7 MR. SMITH: Mr. Chairman, just a quick follow up to
8 that. Have you gave some consideration to glazing the windows to
9 protect the privacy of the property owners to the east?

10 MR. GRONNING: I'm sorry, what type of glazing?

11 MR. SMITH: In some form of a glazing with some kind of
12 filmy glazing to address these privacy concerns?

13 MR. GRONNING: At this point we have not. I'm trying to
14 think of what, you know, what would be a possibility. You know,
15 we're going to have code compliant, energy compliant windows,
16 which are double panes. And, you know, the double panes help with
17 insulating sound. But they are operable, because they have to be
18 by code. We need emergency rescue out of that side of the
19 building.

20 MR. SMITH: Okay. Thank you.

21 MR. GRONNING: You're welcome. Thank you.

22 CHAIRPERSON HILL: Mr. Mattaghi?

23 MR. MATTAGHI: Yes, sir.

1 CHAIRPERSON HILL: I'm sorry. Now, don't get defensive
2 on this one. You're saying that you're not going to let anybody
3 use the back yard? I don't understand.

4 MR. MATTAGHI: It's not that we're not going to let
5 them, but nobody uses it. When we have building nobody uses the
6 building because we don't allow the grills. We don't allow any,
7 no chairs, nothing. There's a little bit of vegetation and so on.
8 It's just a garden.

9 CHAIRPERSON HILL: That's okay. I'm just saying, I
10 don't mind. I'm just trying to talk this through. COVID is
11 happening. Like, I think people are going to use the -- I think
12 people are going to use -- people are going to be in the back
13 yard, they're going to use the back yard. That's okay. I just
14 don't want you, on the record, saying that nobody is ever back
15 there.

16 MR. MATTAGHI: I understand your point. You have an
17 excellent point about COVID and stuff. Even with that, really, we
18 haven't had anybody to be in our back yards. I understand your
19 point. Yes, sir. Thank you for putting it on the record. Yeah.

20 CHAIRPERSON HILL: I'm just being realistic. People
21 are going to be back there. That's all I just want to understand.

22 MR. MATTAGHI: And I thank you. Thank you so much.
23 Yeah.

1 CHAIRPERSON HILL: Okay. Let's see, now that I'm
2 asking. How do people get back there; they get back there through
3 that door, correct?

4 MR. MATTAGHI: Through that exit door, yes.

5 CHAIRPERSON HILL: Right. Okay. All right. Let's
6 see. All right. So now, Mr. Lechliter, can you hear me?

7 MR. LECHLITER: Yes, I can hear you.

8 CHAIRPERSON HILL: Okay. So Mr. Sullivan is going to
9 get a chance for rebuttal. And then I'm going to come back to you
10 for a closing. And then also Mr. Sullivan will get a closing.

11 So, Mr. Sullivan, do you have any rebuttal?

12 MR. SULLIVAN: No, I don't. We would just reserve a
13 short closing. But we don't have any rebuttal.

14 CHAIRPERSON HILL: Okay. Mr. Lechliter, do you have a
15 closing?

16 MR. LECHLITER: Very, very briefly. Again, we do
17 appreciate the Board hearing our concern. We think they're real.
18 We think there are some impacts here. We don't think the
19 applicant has met the burden. We have experience with neighbors
20 on properties to the north and south, particularly to the south,
21 where people are outside. I know one of my neighbors has had
22 communications and complaints before. There's going to be people
23 outside I would think. That's going to happen.

1 But there's something, you know, that I wanted to just
2 raise one last point. Is I believe Mr. Sullivan said, you know,
3 this whole discussion about occupancy and as your as of right can
4 you go right up to the rear yard if it's all commercial? I
5 believe he stated that. That's true up until you get to the
6 residential level, which here would be level two and level three.
7 So that still would be well short of where the rear yards are
8 going to, as proposed here for two or three. Because commercial
9 level is only on that first floor. You wouldn't have the same
10 type of concerns because of fencing and blockage of noise. So
11 once you get to that level two, which is, you know, going to be
12 over 80 percent in the level, those upper levels, you're over the
13 exceedance there. I think everyone -- I'm not sure if Office of
14 Planning said the same thing. But everybody is looking at that.
15 That seems to be everyone's understanding. Sixty percent applies
16 to the residential level, and that section needs to be granted
17 here. And we don't think the burden has been met. But, again, we
18 appreciate everyone's patience and everyone hearing us out.

19 CHAIRPERSON HILL: Okay. Thank you, Mr. Lechliter.
20 Thank you for that clarification.

21 Mr. Sullivan?

22 MR. SULLIVAN: Thank you, Mr. Chair and members of the
23 Board. Just in closing, I just want to summarize how modest the

1 addition is. I mean, you had asked about how far back can we go
2 if it was commercial? That's sort of what we originally proposed.
3 We went to 2.5 FAR, and we were asking for back to the 15-foot
4 mark. And in response to the initial reaction we got, which we
5 didn't -- it wasn't a height reduction from OGB, it was some of
6 that, but it was mostly a retraction of the building, an
7 additional 10 feet back. So the building was pulled back 10 feet
8 to the point where the measure, the main measure of density is 25
9 percent less than the maximum now. And if this wasn't in a
10 historic district or wasn't subject to OGB, this type of massing
11 could have been further towards the front and further away.

12 Regarding questions about privacy. Just note too, the
13 specific -- there are no specific criteria for the approval, but
14 there is just a general criteria. But we're 10 feet away from
15 where it could be. And I think windows are permitted. I don't
16 think the windows are a function of the lot occupancy. Windows
17 are either there or not. I know this comes up a lot. And the
18 privacy is always a difficult issue with additions. I tend to
19 think it applies more for roof decks or balconies that look down
20 on something. And so I don't think there's any privacy concerns
21 there as well. But it only -- I think the key takeaway is, it's
22 only going a foot-and-a-half past the one building, and it's
23 within the line of the other building. So it fits in there.

1 I think what Mr. Lechliter was referring to, when I
2 talked about residential, is if you were in a R-1 district you
3 could have a building 25 feet away that's 40-feet high. So when
4 you compare it to that, and this is the MU-4 Zone, of course,
5 it's not undue impact. And I think you do need to compare it to
6 that and make that comparison as well.

7 So for all those reasons, and because of the shadow
8 study, I believe we've shown that there is no -- it does --
9 certainly does not adversely affect the use of any property. And
10 that's it. So if the Board has any final questions.

11 CHAIRPERSON HILL: Okay. Does the Board have any
12 final questions?

13 (No response.)

14 CHAIRPERSON HILL: Okay. So, Mr. Sullivan, as I said,
15 if you could put something into the record that shows about this
16 construction management agreement, just something as to how you're
17 going to be keeping everyone informed. Okay.

18 MR. SULLIVAN: Sure.

19 CHAIRPERSON HILL: Then Mr. Lechliter, can you hear me?

20 MR. LECHLITER: Yes, I can hear you.

21 CHAIRPERSON HILL: Okay. And Mr. Watkins and Ms.
22 Decon. It's so funny. Like, I totally know that street. And
23 it's such a cute little street. You are just jammed in there all

1 the way. You're just jammed in there anyway, you know, So, I
2 mean, but it's a cute little street. And I mean, you know, you've
3 got those things there. So okay. I'm saying that only because
4 I'm saying that I guess. And I'm trying to share things before we
5 go. And I don't want to forget that.

6 Mr. Lechliter, you mentioned the ANC. The ANC was in
7 support. The ANC wanted us to get shadow studies. I'm not having
8 a dialogue. I'm just trying to remember things so I don't forget
9 them by the time we come back again. I'm just letting you know
10 that that's what they said. And then we got the construction
11 management agreement. And then we'll be back here on 4/28. Is
12 that when we're back here, Mr. Moy?

13 MR. MOY: Yes, sir.

14 CHAIRPERSON HILL: Okay. So I don't need anything new
15 except for that CMA thing. And I guess, Mr. Sullivan, if you can
16 get that to us by, let me just pull up my calendar. Oh, gosh,
17 4/28 is only in two weeks. Wow, lucky you, Mr. Sullivan. I've
18 only seen these things, okay, go out for months. So okay. Then
19 that means, can you try to get us something in a week?

20 MR. SULLIVAN: And to be -- I just want to make sure I
21 have it clear, because sometimes the memo comes out and it sounds
22 a little different. But it's -- and we will inform the Board on
23 our construction management type, agreement type efforts, correct,

1 the kind of process we'll undertake, including communication and
2 exchange of information, just like that, for construction should
3 the Board end up approving this; is that correct?

4 CHAIRPERSON HILL: Yes. Yes. Like hours -- I mean, I
5 forget what -- I know you can't start until 7, whatever, normal
6 things. But you can at least put that down so everybody knows.
7 And then, you know, that, you know, the people on 32nd Street will
8 be given, including, you know, 3201, I guess he's 3201 P, I don't
9 know, you know, P Street up until -- you know, around -- the
10 neighbors in that little block will have access to whoever they
11 need to have access to. Mr. Sullivan, you've done a lot of these.
12 You know what I'm kind of looking for, just to give the Board
13 some confidence that something is going to happen. Right. So if
14 you give that to us by the 21st, then we'll let Mr. Moy -- we'll
15 let the parties respond to anything, if they want to, by maybe the
16 26th, which is Monday. That way we can come back here on the 28
17 for a continued hearing anyway. Does that sound fair? So Mr.
18 Lechlitter, can you hear me?

19 MR. LECHLITER: I can hear you.

20 CHAIRPERSON HILL: So basically, we've asked for -- we
21 haven't asked for anything from anybody except for this
22 construction management type memo. Right. And that's going to
23 come to us on the 21st. You will have until the 26th to respond

1 | to that. And then we're going to be back here on the 28 for a
2 | continued hearing. Whether we have any questions for anybody, I
3 | don't know. But that's when we'll be back here.

4 | MR. WATKINS: Chairman Hill, may I ask a question,
5 | please? This is Mr. Watkins.

6 | CHAIRPERSON HILL: Sure, Mr. Watkins. Go ahead.

7 | MR. WATKINS: The applicant noted that they were digging
8 | down about a foot to lower the overall height of the structure.
9 | And I wasn't sure if that had any material impact on the shadow
10 | studies that were originally commissioned for a different height
11 | of the structure. In other words, if they've changed the height
12 | overall of the building, what impact does that have on the shadow
13 | studies that were commissioned for a different height of the
14 | building?

15 | CHAIRPERSON HILL: Okay. So you're asking could I have
16 | a question. That's okay. I understand. I want clarity also.
17 | We'll just get -- so Mr. Sullivan, are you following this? Did
18 | you guys, if you lowered the height, and I would think -- I just
19 | want clarity. The shadow studies that we have are the shadow
20 | studies that are reflected on the building that's proposed; is
21 | that correct?

22 | MR. SULLIVAN: Correct.

1 CHAIRPERSON HILL: Okay. So Mr. Watkins, those are the
2 accurate shadow studies, on the accurate height of the building.

3

4 MR. WATKINS: Of the 25-foot height, which Mr. Sullivan
5 indicated that it was a 26-foot height, and Mr. Gronning indicated
6 that it was 25-foot height. So I just want to be very, very, very
7 clear.

8 CHAIRPERSON HILL: So what is it that is the height
9 of the
10 building, Mr. Sullivan?

11 MR. SULLIVAN: Mr. Gronning, the architect on that.

12 CHAIRPERSON HILL: Oh. Mr. Gronning, how height, what's
13 the height of the building?

14 MR. GRONNING: It's 25 feet above the rear grade. And
15 we are lowering the building 18 inches, not a foot.

16 CHAIRPERSON HILL: Okay. To get it to the 25 feet?

17 MR. GRONNING: Correct.

18 CHAIRPERSON HILL: Okay. And the shadow studies, to be
19 clear, as Mr. Sullivan has indicated, are showing that the shadow
20 studies of the 25-foot building that is proposed, correct?

21 MR. GRONNING: That is correct. We updated the shadow
22 studies to reflect 25 feet at rear grade.

1 CHAIRPERSON HILL: Okay. All right, great. Got it,
2 Mr. Watkins?

3 MR. WATKINS: I do. Thanks very much.

4 CHAIRPERSON HILL: Okay. All right. Okay. It kind of
5 sounds like Mr. Watkins believes that those are accurate. But, I
6 mean, I am assuming they're accurate, you know, and so --

7 MR. WATKINS: You would be correct, Chairman Hill.

8 CHAIRPERSON HILL: I'm going to look. I'm going to
9 look. We're going to take a look. Okay. Between now and the
10 28th. And Mr. Rice, -- actually, I'll just talk to you later, Mr.
11 Rice.

12 Okay. Is there anything else that anyone needs from the
13 Board?

14 MR. LECHLITER: I'm sorry, Chairperson Hill. Can I just
15 (audio inference) record I just want one thing. Again, I'm not
16 trying to get into a debate. But my point earlier website not
17 about ANC approval letter that says they remained concerned about
18 the impact of this project on the neighbor. I think it's that
19 concern that requires great weight. I just wanted to clarify for
20 the record.

21 CHAIRPERSON HILL: I got you, Mr. Lechlitter. And what
22 I was trying to confirm for the record -- and I'm sorry. I don't
23 mean to be -- is that the ANC approved the project, right. So

1 that's what we give great weight to. Right. And also we listen
2 to the ANC. And so we -- the ANC wanted a shadow study. They
3 were concerned about the project. I'm not trying to go back and
4 forth with you. Unfortunately, you, I'm sure went to the ANC
5 meeting, and you saw them vote in approval. So that's all I'm
6 trying to clarify.

7 MR. LECHLITER: No, I understand that point. I'm not
8 trying to argue with you. I may be simply pointing out that I
9 (audio inference) statute reads differently, and that there are
10 concerns and issues are to be given great weight and not just
11 their resolution. That's the only point I wanted to raise for the
12 record. The word here, concern, which I believe is the statutory
13 language.

14 CHAIRPERSON HILL: Right. I got you. It's so funny,
15 Mr. Lechlitter. I hate that they voted for you, right. It's like,
16 you know, we have to give their concerns great weight. We are
17 giving their concerns great weight. And also, their concerns led
18 to them approving the project. Right. So that's what I'm trying
19 to get at by, we are giving their concerns great weight. And
20 their concerns led to them approving the project.

21 MR. LECHLITER: Yeah. I understand the discrepancies
22 there. I just wanted to raise our point for the record.

1 CHAIRPERSON HILL: Okay. I understand. And what I'm
2 also clarifying for the record, just to go around in my brain
3 mentally, is that if we, the Board, raise concerns -- if we, the
4 Board, spoke to their concerns and then went against them -- oh,
5 never mind. It's too confusing. Forget it. Okay. So, but I
6 hear you, Mr. Lechliter.

7 Ms. John?

8 VICE CHAIR JOHN: So the ANC's concern was that we
9 would approve this without the new shadow study. And the
10 applicant submitted a revised shadow study based on the current
11 design. So that condition or concern should go away because the
12 Board did evaluate a new shadow study. And looking at the ANC
13 report again, I believe you're correct, Mr. Chairman. There is a
14 clear 8-0-0 vote to approve the project. And the concern is that
15 we would not make a decision without having a new shadow study.
16 So I just wanted to help you in your application.

17 CHAIRPERSON HILL: Thank you. I appreciate that. I've
18 been doing this since 9:30.

19 MR. LECHLITER: I will stop now. But I believe the
20 expression in the ANC's letter -- I'm looking at it right now --
21 it was concerns about the max. And then what it asked to be done
22 was a shadow study to make sure that there was no inverse impact
23 on the neighbors or the construction of this project. So it

1 wasn't simply that a shadow study would resolve the ANC's
2 concerns, it was that it needed that shadow study to be done in
3 order for the Board to be able to evaluate whether that adverse
4 impact is there. That's why I think it's a bit more -- it's not,
5 in my opinion, respectfully, it's not that their concern is to do
6 the shadow study, and that resolves our concern. I don't think
7 that can be read that way. And I'm done.

8 VICE CHAIR JOHN: So I'm sorry, but I can't resist. So
9 the ANC's -- the ANC making, stating that it has concerns doesn't
10 mean that the Board cannot decide. What the rule says is that the
11 Board has to consider the recommendations or the concerns of the
12 ANC. So we simply have to state that we read the concerns, we
13 understood them, we asked about them, and why we agreed or
14 disagreed. And so in this case we've given a lot of time to
15 discussing that concern, which is the massing as reflected by the
16 shadow study. And I think I'm going to be silent after this.

17 CHAIRPERSON HILL: Mr. Lechlitter?

18 MR. LECHLITER: Nothing further from me. Thank you very
19 much.

20 CHAIRPERSON HILL: Okay, you remind me of my father. My
21 father
22 -- I used to never stop talking back to my mother. And I'm going
23 to leave you with this funny story, that I think is funny. I

1 never stop talking back to my mother. My father said, you forget,
2 she's bigger than you. You know, but so Ms. John I guess is
3 bigger than you, Mr. Lechliter.

4 MR. LECHLITER: I -- never mind.

5 CHAIRPERSON HILL: Go ahead. It's all right, Mr.
6 Lechliter. I appreciate you humoring me as well. All right.
7 Okay, everybody. We'll see you back on 4/28. Okay. Thank you.
8 See you all later.

9 Okay. Gosh, it's so late. It's the end of the day.
10 Okay. Okay. I mean, the -- I did something that I didn't think I
11 was going to do, which is tell personal stories. I've got to stop
12 doing that. All right. Mr. Moy, you had a question?

13 MR. MOY: Actually, more of a comment to wrap up that
14 last case, just for the record. So the applicant will make those
15 filings by Wednesday, April 21st. The parties, including the ANC,
16 if they wish, can respond to the applicant's submission by Monday,
17 April 26th. And the Board will return and continue the hearing
18 and decision on April the 28th. There's no other request for
19 information in the record or any further testimony requested by
20 the Board.

21 CHAIRPERSON HILL: That's correct. Okay. Well, it was
22 lovely to see all of you. See you all next week. Bye-bye. We
23 stand adjourned.

1 (Whereupon, the above-entitled matter went off the
2 record at 5:12 p.m.)
3
4 adjourned.)
5

C E R T I F I C A T E

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This is to certify that the foregoing transcript

In the matter of: Public Hearing

Before: DCBZA

Date: 04-14-21

Place: Teleconference

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KATHLEEN A. COYLE