

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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REGULAR PUBLIC HEARING

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WEDNESDAY

FEBRUARY 2, 2022

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The Regular Public Hearing of the District of Columbia Board of Zoning Adjustment convened via Videoconference, pursuant to notice at 9:30 a.m. EST, Lorna John, Vice Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

LORNA JOHN, Vice Chairperson  
CARL BLAKE, Board Member  
CHRISHAUN SMITH, Board Member (NCPC)

ZONING COMMISSION MEMBERS PRESENT:

JOSEPH IMAMURA, Commissioner, Zoning Commission

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary  
PAUL YOUNG, Zoning Data Specialist

OFFICE OF PLANNING STAFF PRESENT:

ANNE FOTHERGILL  
CRYSTAL MYERS  
STEPHEN MORDFIN  
MAXINE BROWN-ROBERTS  
STEPHEN COCHRAN  
ELISA VITALE

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WASHINGTON, D.C. 20009-4309

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

MARY NAGELHOUT, ESQ.

The transcript constitutes the minutes from  
the Regular Public Hearing held on February 2, 2022.

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

10:40 a.m.

MR. MOY: The Board is back in its public hearing session at the time is at or about 10:40 a.m.

VICE CHAIR JOHN: Thank you, Mr. Moy. Will you please call the first hearing case?

MR. MOY: The first application before the Board is Application 18071E of 1247 ESE LLC. This is a request for a modification of significance for the use provisions to operate a restaurant on the first floor and cellar of BZA Order 18701-A, effective date March 9, 2014.

This is pursuant to Subtitle Y, Section 704. The project would include general retail service and office uses in addition to the restaurant use within an existing semi-detached with cellar apartment house in the R4 zone.

The property is located at premises 1247 E Street SE, Square 1019, Lot 0043.

VICE CHAIR JOHN: Thank you. Good morning, everyone, Mr. Sullivan, please introduce yourself for the record?

MR. SULLIVAN: Thank you, Madam Chair, Marty Sullivan from Sullivan and Barrows on behalf of the Applicant.

VICE CHAIR JOHN: Good morning, who else do we have here?

1 MR. SULLIVAN: I have the Applicant, property  
2 owner, with us, Mr. Hatem. If you could introduce yourself,  
3 please?

4 MR. HATEM: Good morning, everybody, my name is  
5 Hatem Hatem, I am the owner of the property located on 1247  
6 E Street SE. We've owned the property for nine years now.

7 VICE CHAIR JOHN: Is the ANC here?

8 MR. HOLMAN: Hi, yes, Commissioner Corey Holman  
9 representing ANC 6B.

10 VICE CHAIR JOHN: Thank you. Mr. Sullivan, would  
11 you like provide your statement now?

12 MR. SULLIVAN: Sure, thank you, Madam Chair. This  
13 is a modification of significance to a previously granted use  
14 variance as well as a request for a time extension on that  
15 approval. We do have a PowerPoint if Mr. Young could please  
16 load that.

17 VICE CHAIR JOHN: Before we continue with your  
18 PowerPoint, Mr. Sullivan, I noticed that on the application  
19 itself it mentioned the time extension but I didn't see a  
20 discussion of the time extension, and I didn't see any  
21 mentioned of Subtitle Y705.

22 So, please go ahead and discuss why you think the  
23 application meets the requirement for a time extension under  
24 the regulations. But also, I believe you might need to amend  
25 your application.

1 MR. SULLIVAN: Thank you, Madam Chair, I'll check  
2 and see if we have that in the record in the Applicant's  
3 statement. I'm going to print that out. So, if we could go  
4 to the next slide, please?

5 The Applicant obtained BZA approval for a use  
6 variance in 2014 originally and it's been time extended a  
7 couple times principally --

8 I'm sorry, one second, I have the Applicant's  
9 statement printing. So, it's been extended, this would be  
10 the third time of the time extension it's principally because  
11 of the difficulty in finding a tenant for the approved use,  
12 which was limited to just restaurant use.

13 And specifically, in the last two years, because  
14 of difficulty for the restaurant industry it's become that  
15 much more difficult. So, the modification was requested to  
16 expand the list of potential uses, not just because the  
17 restaurant use is so difficult.

18 But also because it's difficult to acquire a  
19 tenant for any other use because that tenant cannot commit  
20 to a lease knowing it's a six to twelve-month process to get  
21 a modification of the previous use variance.

22 And if we could go to the next slide I'll go over  
23 more of the facts and then I'll come back to the 10705. This  
24 is a commercial space, it's a block from Pennsylvania Avenue  
25 SE, 1247 E Street. It's part of a six-unit mixed use

1 building and it has five residential units above.

2           And the commercial space over the last 120 years  
3 has been used for a variety of commercial uses, including an  
4 office use at times, it was a private club at one time, but  
5 originally it was a grocery store originally built in the  
6 late 1800s, and was a candy store, chocolatier for most of  
7 its life in the 1900s.

8           So, the currently approved use is just restaurant  
9 use. What we're requesting here is to approve other uses  
10 which we believe are less intense than that use, with the  
11 same conditions that were originally approved.

12           The property is three-tenths of a mile from the  
13 Filmic Avenue Metro Rail Station and one thing that's  
14 important to note is because there's five residential units  
15 here, which obviously make up the bulk of the return for this  
16 particular Applicant, nobody is more invested in having a  
17 compatible and agreeable use for the neighborhood than this  
18 property owner and its five tenants.

19           Next slide, please. We have the support of the  
20 ANC, we even have the support of CHRS and DDOT and ANC 6B.  
21 With ANC 6B and Commissioner Holman's discussions with  
22 community members, we've devised a list of uses to remove  
23 from the permitted uses that we're asking for to prohibit.

24           And we agree to these along with the 12-year term  
25 limit that ANC 6B suggested. So, we agree with that. If you

1 could, Madam Chair, I'm going to go take a look at the  
2 Applicant's statement in Y705 if you want to move on to the  
3 Office of Planning?

4 VICE CHAIR JOHN: Sure, I looked at the initial  
5 application form and at the bottom it does mention time  
6 extension, but I didn't see a specific section mentioned.  
7 And it goes to notice to the ANC although the ANC is here.

8 So, I'll go to the Office of Planning then while  
9 you look at that? Is the Office of Planning here?

10 MR. MORDFIN: Hi, good morning, I'm Stephen  
11 Mordfin with the Office of Planning.

12 The Office of Planning is in support of this  
13 application both in terms of the time extension due to the  
14 pandemic and everything that's going on, and also to the  
15 expansion of uses to enable the Applicant to put the property  
16 to a use subject to the list of conditions we included in our  
17 report.

18 Therefore, we do support the application and I'm  
19 available for any questions. Thank you.

20 VICE CHAIR JOHN: I have a quick question, Mr.  
21 Mordfin. Do you understand the previous approval was for the  
22 seller as well as for the first floor, for the restaurant?

23 MR. MORDFIN: Yes, that was my understanding from  
24 the previous approval, that they could use both floors for  
25 the restaurant use.



1 VICE CHAIR JOHN: And how did you come to that  
2 determination? Was there a certificate of occupancy or  
3 something? Or was it a representation of the owner?

4 MR. MORDFIN: I have to look to see if there was  
5 a certificate of occupancy for that, I'm not sure there was.  
6 But a lot of it had to do with what are they going to do with  
7 that space, which is on top of, or rather below, a commercial  
8 use.

9 And they would relate to each other and the noise  
10 and whatever that comes from a retail or commercial use there  
11 kind of limits what you're going to do with the space below  
12 it. So, therefore, we recommended approval of that in the  
13 past applications, that they could use the basement.

14 So, the past applications mentioned the basement  
15 as well, the cellar, just confirming? I could go on, you can  
16 confirm, I can speak to the Applicant.

17 MR. MORDFIN: I would have to go back and look.  
18 My memory of it is that it did include the basement. To make  
19 absolutely sure I'd have to go back and look at the  
20 applications but that's what I recall.

21 VICE CHAIR JOHN: It would be incidental use to  
22 the restaurant?

23 MR. MORDFIN: Correct.

24 VICE CHAIR JOHN: Does the Board have any  
25 questions for Mr. Mordfin?

1 MEMBER SMITH: No questions.

2 MEMBER BLAKE: I don't have any questions for Mr.  
3 Mordfin yet but I do have a question for the Applicant and  
4 for the ANC. Would it be better to just do that after the  
5 ANC?

6 VICE CHAIR JOHN: Let's wait for Mr. Sullivan to  
7 come back. Mr. Sullivan, are you back?

8 MR. SULLIVAN: Yes, thank you, Madam Chair.

9 Regarding 705C1 and 2, 705.2C provides the  
10 requirement to demonstrate the sufficiency of our request for  
11 a time extension. And under C1A and 2 I think we would  
12 qualify, one, as an inability to obtain sufficient project  
13 financing due to economic and market conditions.

14 And that can be tied in I think to the inability  
15 to get a tenant, which would require that market financing,  
16 which would be required to obtain that market financing to  
17 build out the space.

18 And number two is more direct possibly, an  
19 inability to secure all required government agency approvals  
20 because we were unable to apply for those approvals due to  
21 not having a tenant for that space.

22 VICE CHAIR JOHN: And what about substantial  
23 change in any material facts?

24 MR. SULLIVAN: No, there is not any change in  
25 material facts.

1 VICE CHAIR JOHN: And so Mr. Sullivan, I'll ask  
2 you the same question I asked the Office of Planning with  
3 respect to the cellar.

4 So, I believe your application assumes that the  
5 cellar is involved but the caption of the project just  
6 relates to the types of uses permitted on the first floor.

7 The Office of Planning said that they thought  
8 prior approvals allowed incidental use of this cellar. So,  
9 we would need to confirm that before we could issue an  
10 opinion.

11 MR. SULLIVAN: In the BZA original record there  
12 were floor plans showing the cellar as part of the approved  
13 use. I regret that the order doesn't jump out at me  
14 specifically, because it was a summary order it didn't really  
15 state that.

16 But in the record of 18701 Exhibit 14 I think it  
17 is, there are floor plans for the proposed restaurant use  
18 including the cellar.

19 VICE CHAIR JOHN: Does the Board have any  
20 questions for Mr. Sullivan or for the Office of Planning?  
21 Mr. Blake, you had a question?

22 MEMBER BLAKE: Yes, I do, I have a quick question  
23 for Mr. Sullivan. The issue today with regards to the use  
24 of the property going forward, obviously, would you intend  
25 using this ultimately as a restaurant, or is that still

1 likely an event down the road?

2 MR. SULLIVAN: Mr. Hatem, do you want to answer  
3 that question?

4 MR. HATEM: The question is for me, okay. We do  
5 want to, it's possible, we are in discussions, prior  
6 discussions, with somebody who wants a restaurant use. It's  
7 still early on in the process.

8 So, our thought is, yes, in a neighborhood  
9 community food and beverage is a very desirable use for the  
10 neighborhood and for us and it's been tough, as everybody  
11 knows. So, the short answer to the question is yes, we do  
12 intend and that would be the ideal use.

13 However, given the current circumstances maybe,  
14 and because our depression, not depression, but because we  
15 do want to put the space to use, we understand the current  
16 economic conditions and uncertainty may linger for a while  
17 and for the industry to pick up again.

18 So, we may have to go a different route and that's  
19 why we're here. I do want to address the cellar  
20 clarification. The cellar is inaccessible from anywhere  
21 other than the first floor and this is how we bought the  
22 building, this is how the building was designed originally.

23 The cellar is support for the ground floor, this  
24 is where the storage floors are, this is where prep goes.  
25 If it was a grocery store, this is where the storage was and

1 the mechanical portions was.

2           And it's only accessible from that unit itself and  
3 we've always viewed and it's just one space. It cannot be  
4 divided. Our intent, and the plans that have been with the  
5 Board since the beginning and even previously, our previous  
6 BZA cases from previous Applicants, had always the cellar and  
7 the first floor as one inherent entity.

8           MEMBER BLAKE: So, my question related to the fact  
9 that the modification would apply for those areas but it  
10 would be for -- and in your case you talked about 10, 12  
11 years it would expire. It only would be for the restaurant  
12 thereafter, in which case you have to come back.

13           So, my question is are you looking at have it  
14 permanently expanded to include all these areas or only for  
15 the near term as a temporary stopgap measure?

16           MR. HATEM: Is this for me or for you?

17           MR. SULLIVAN: I'm not sure. The request just  
18 applies to the commercial space and it's always been  
19 commercial space. It's only half of the first floor and the  
20 basement, by the way, half of the first floor and the  
21 basement.

22           It's a large building because there's five  
23 residential tenants. So, it's always been a residential  
24 section and a commercial section. The commercial section has  
25 never been residential so we're only asking for this space.

1           We can't expand anywhere else, they're all fully  
2 owned, and I'm sorry if I'm not getting your question.

3           MEMBER BLAKE: My question was relating to the  
4 fact that the modification as we have it proposed today has  
5 a time limit on it. That modification would allow use  
6 variance to include the retail, office space, as well as for  
7 a period of time.

8           But ultimately, this variance is for a restaurant  
9 so my question was are his intentions to do this as a  
10 temporary stopgap measure for the other uses or is he  
11 intending to have a purpose long-term flexibility for the  
12 space?

13           MR. HATEM: Ideally, we would like long-term  
14 flexibility if the Board is comfortable with that. The ANC  
15 has been only comfortable with providing us with 12 years.

16           We are okay with 12 but we would obviously welcome  
17 a longer term because it's always going to be the case that,  
18 irrespective of whatever happens tomorrow, the marketing of  
19 a single use is always challenging, always challenging.

20           Because it's single use. We are happy with 12,  
21 we would like long term if the Board is willing to do it.

22           MR. SULLIVAN: And if I may add too, Mr. Blakely,  
23 it's not a stopgap measure as temporary, it's just the  
24 objective has always been to get a tenant. It's been vacant  
25 space since Mr. Hatam bought it, so eight or nine years now.

1           So, he checked it as what can I do to get a tenant  
2 that's compatible with the neighborhood, with my tenants, and  
3 works in this space, and that's what's been proving to be  
4 difficult. We think expanding the options might solve that  
5 vacancy finally.

6           MEMBER BLAKE: Is there a particular type of  
7 business that you think would fit in this space particularly?  
8 Those categories are fairly general. Are there any  
9 particular businesses that you think would fit there?

10           Obviously, you've got the negating factor of the  
11 size of the structure and the conditions of the original  
12 order but what types of businesses would actually fit in here  
13 which you would expect to market to?

14           MR. HATEM: We've had inquiries from different  
15 corners of the market. I personally do not want to market  
16 a single use. We've had fitness centers, we've had hair  
17 salons, we've had...what is it called, nurseries? We've had  
18 restaurants of all different forms and shapes.

19           By that I mean full-fledged restaurants versus a  
20 café. But ultimately, we've had multiple. To your question,  
21 I think we've got businesses that offer general services,  
22 we've had businesses which are yoga centers and hair salons.

23           We've had people in retail, we've had restaurants.  
24 But I don't want to go to market with this is what I believe  
25 is the best use for the property, and then I don't know it.

1 MEMBER BLAKE: Thank you.

2 MR. HATEM: So, in some ways we're not asking for  
3 a free pass here, we just want some elbow room so we can get  
4 this off of our shoulders. It also becomes a big part of the  
5 neighborhood.

6 VICE CHAIR JOHN: Thank you. Does any of the  
7 Board Members have questions? Let's go to the ANC, Mr.  
8 Holman you may ask questions now of the Applicant or the  
9 Office of Planning, or you may give your statement.

10 MR. HOLMAN: I will just give a short statement,  
11 I don't have any questions. But good morning, I just want  
12 to expand a bit on the ease restricts, which aren't really  
13 addressed here. To be honest, when the case was filed, I  
14 think myself and a lot of the neighbors weren't really in  
15 support of it.

16 Under the current interpretations of the zoning  
17 regs, retail use is incredibly broad. It includes many uses  
18 that quite frankly I would consider warehousing and  
19 distribution but BZA doesn't.

20 So, while we've been assured that we're not  
21 assumed this use here, we're nonetheless hesitant to grant  
22 that broad relief for retail and service uses.

23 However, after discussions with Mr. Hatam and the  
24 neighbors, we agree on a narrow set of uses that BZA would  
25 likely cost retail that would have a detrimental impact on



1 the neighborhood.

2 We used a lot of language from previous PUDs as  
3 well as our experiences to come up with a list. As stated  
4 in the letter, our support is conditional on including these  
5 restricts up to the point that's allowable by the zoning  
6 regulations.

7 With all these restrictions, we still felt it  
8 appropriate for a 12-year term limit so that's years for  
9 tenant and build-out and a 10-year lease. Again, it's a  
10 small property surrounded by residential uses with any sort  
11 of real access for loading.

12 So, it's one of those things that while we trust  
13 Mr. Hatam to have a good use for the neighborhood, a relief  
14 in perpetuity with the neighborhood felt like a bit too far.  
15 We've used term limits in the past. We felt they worked  
16 well.

17 We've been able to address issues when they came  
18 up.

19 So, our support is conditional on those two  
20 things, the 12-year term limit and including those use  
21 restrictions, assuming they're allowable by regulation and  
22 law. Mr. Hatam has been a fantastic property owner.

23 He restored a very difficult property and put it  
24 to productive use. He's maintained the property impeccably.  
25 We thank him for that and look forward to productive

1 partnership for the next 12 years.

2           Hopefully, my successors will have a productive  
3 relationship in perpetuity with the building and with his  
4 successors as well. Thank you.

5           VICE CHAIR JOHN: Thank you, Commissioner. Does  
6 the Applicant have any questions for the Commissioner?

7           MR. SULLIVAN: No.

8           VICE CHAIR JOHN: Does the Board have any  
9 questions for the Commissioner?

10           MEMBER BLAKE: I have a couple questions for the  
11 Commissioner. Commissioner, I understand I've agreed to it  
12 as a broad stroke with some of the retail businesses, which  
13 can tell us the issues and concerns that underlie the choices  
14 that you did make in the recommendations you gave the Board?

15           MR. HOLMAN: Let me pull them up real quick. The  
16 main concern is and always has been the amount not of traffic  
17 going to the business, we understand businesses generate  
18 traffic.

19           It would be traffic generated from delivery or  
20 last-mile delivery services, or even things like a UPS store  
21 or something to that effect, which have a lot of deliveries  
22 too.

23           A lot of the other ones are uses that again, we  
24 took a lot of the language from prior PUDs about I don't want  
25 to noxious uses but uses that had they come to the Board

1 seeking the variance with this use, our reaction would have  
2 been different.

3           We likely wouldn't have supported that particular  
4 use. We understand while retail is a broad brush, we're also  
5 painting a broad brush over here and saying you can't use  
6 these things either. But that's how we landed on those.

7           It's not great to have this production in  
8 hypotheticals or discussion of hypotheticals but in having  
9 this hypothetical discussion, this is where we landed.

10           Was there a specific one you had issues with?

11           MEMBER BLAKE: Specifically, the issue to me  
12 relates to the ability to enforce certain things.

13           For example, to the extent this was tied to  
14 specific regulations within the zone rules, it would be easy  
15 for, say, the zoning administrator to interpret what is  
16 permitted and what is not.

17           And therefore, when we follow a particular format  
18 so for example, if we said what are the permitted uses?

19           This is going to be a neighborhood-serving  
20 business, so to the extent we said a neighborhood-serving  
21 business with an NC zone of permitted uses, that would  
22 basically kind of give us a sense of what it is.

23           And if we can identify the specific issues d  
24 concerns that we're trying to address, we can then say an  
25 excluding lot to address these issues. The other thing,

1 though, is that the Applicant can also voluntarily exclude  
2 certain businesses.

3 But it would be helpful to have a contact as to  
4 the issues and concerns that are being addressed by these  
5 things.

6 MR. HOLMAN: I think that's fair. I think our  
7 conditional support does have the caveat up until the point  
8 that's allowable by regulations. So, if it's unenforceable  
9 by BZA, we understand it can't be included in the order and  
10 that would impinge our support for or against.

11 I assume that's a question for the Board's  
12 attorneys. But yes, that's the context, the context is  
13 looking at uses and looking at how uses have been addressed  
14 in PUDs in terms of specific sub-uses within retail.

15 These are not boilerplate language from the PUDs  
16 that have come through our ANC but it's pretty similar.  
17 Again, I think Mr. Hatam is contingent that he wouldn't want  
18 any of these uses either and wouldn't seek them out.

19 We believe him, we have the track record that's  
20 impeccable. But things that are tied to the property aren't  
21 tied to the person. So, whatever he said in person we wanted  
22 to codify down in the order.

23 I hope that gives more context, I know there's  
24 probably more to say but I don't want to take too much time.

25 VICE CHAIR JOHN: Does any other Board Member have

1 questions? Mr. Sullivan, do you have a comment on the  
2 discussion of the conditions?

3 MR. SULLIVAN: I do. So, the Board has on a  
4 couple of other occasions provided a decision that allows for  
5 a broader category of uses as part of the use variance. And  
6 the first one I'm thinking of in particular is 19180.

7 It was for 9th Street. I don't have the address  
8 here but there were conditions in that which pulled back, and  
9 ironically, it allowed for all retail and service uses except  
10 the restaurant.

11 So, in that sense, there's a precedent there, even  
12 though it was just that one prohibition for them approving  
13 the entire category minus X. And I think we're following  
14 that model.

15 VICE CHAIR JOHN: Thank you. Is there anyone  
16 wishing to testify, Mr. Young? I don't believe there is.

17 MR. YOUNG: We do not on this case.

18 VICE CHAIR JOHN: Mr. Sullivan, I can tell you  
19 what I'm thinking. Have you negotiated with the ANC in terms  
20 of potentially limiting the retail uses that could be allowed  
21 here? I agree that retail services is a little broad but  
22 what's a way to limit the uses?

23 Board Member Blake mentioned the NC zone and  
24 looking at the regulation, it says the following groups are  
25 permitted, animal care or animal boarding, arts design and

1 creation, eating and drinking establishments, entertainment  
2 and performing arts, financial and general services and  
3 retail.

4 So, even in the NC zone, there is no limit on the  
5 retail use. So, I wondered if you all had had any  
6 discussions. Go ahead, Mr. Sullivan.

7 MR. SULLIVAN: Yes, that's where the ANC's list  
8 of prohibited uses comes from, that discussion.

9 And like I said, it wasn't really much of the  
10 negotiation because we worked on these together, because any  
11 use that the ANC would not want or the neighbors would not  
12 want Mr. Hatam would also not want because he's got the five  
13 closest neighbors to this.

14 I don't know what percentage but the overwhelming  
15 majority of the income from this property comes from those  
16 five tenants, their quality units. And he's just trying to  
17 fill this last remaining space, which can't be a resident's,  
18 and it's always been commercial.

19 So, the answer is yes and we'd be open to  
20 expanding that list as well. These were all the uses that  
21 both of us came up with together, Commissioner Holman in his  
22 discussion with neighbors and his experience in the community  
23 and us, as what are the list of uses that might potentially  
24 be more impactful?

25 Although, I'd say the restaurant use is probably

1 what people think of as the most impactful in a situation  
2 like that. So, we're certainly not expanding on that, what  
3 we're doing we think starts with less than that and then  
4 pulling away from it as much as we can to give as much  
5 comfort as possible to the ANC.

6 VICE CHAIR JOHN: So, my inclination is to  
7 continue the case and allow you to amend the filing to,  
8 number one, clarify that the cellar is included so the  
9 question isn't asked again. And just include the time  
10 extension.

11 And then because we have lost a Board Member for  
12 the time being, he'll be back at 11:30 a.m., I would suggest  
13 that we decide the case at a later date. I hate to put  
14 anything off because the schedules are so tight.

15 But this one I think is a relatively easy fix and  
16 then perhaps the Applicant and the ANC could submit a joint  
17 statement or something to say that the Applicant and the ANC  
18 have agreed to these conditions.

19 And I believe the Board would be okay with that.

20 Did you have a comment?

21 MEMBER BLAKE: Madam Vice Chair I would ask if  
22 it's possible to create that list in the context of the NC6  
23 framework, I would refer to that as opposed to just going  
24 from retail to -- I understand what you're saying, Mr.  
25 Sullivan but to the extent that we can frame it within the

1 zoning regulations for the uses it would be helpful.

2           It would be ideal to have a neighborhood-serving-  
3 type business or operation. So, if it would be possible to  
4 do that I would appreciate it.

5           VICE CHAIR JOHN: Thank you. And I just want to  
6 add that retail is the last item in the NC zone so I think  
7 what we're trying to do is think of the retail uses that  
8 would be acceptable. So, it was in that context that I asked  
9 the Applicant to go back and talk to the ANC.

10           I believe they're in agreement but it didn't come  
11 across that way in the materials that were filed. So, that  
12 would be my suggestion.

13           Did I hear someone trying to --

14           ZC MEMBER IMAMURA: Yes, Madam Vice Chair, I just  
15 wanted to advocate, I don't know if Mr. Mordfin was looking  
16 for some air time or not, if that's permissible, but it  
17 looked like he had something additional to add. I don't  
18 know.

19           VICE CHAIR JOHN: Mr. Mordfin, were you trying to  
20 speak?

21           MR. MORDFIN: What I wanted to add is I went back  
22 and looked at the original application, which included the  
23 previous use and occupancy permits and they all said first  
24 and basement.

25           And then I read the OP report from the first one,



1 which was then extended several times by the Board. And it  
2 said first and basement, first floor and basement. So, I  
3 just wanted to add that, that that's what the original  
4 application was.

5 VICE CHAIR JOHN: Thank you. I believe then Mr.  
6 Sullivan would just have to amend the application to clarify  
7 that.

8 MR. SULLIVAN: Sure, we can do that, it's a good  
9 idea.

10 VICE CHAIR JOHN: So, if the Board Members are in  
11 agreement, I will then continue the case for maybe a couple  
12 weeks. Mr. Blake?

13 MEMBER BLAKE: Where that stands for us, to the  
14 extent that you can describe the businesses that you've  
15 excluded, if you can explain the issues and concerns that  
16 you're addressing in that I would appreciate that as well.

17 VICE CHAIR JOHN: Okay. Did you understand that,  
18 Mr. Sullivan?

19 MR. SULLIVAN: Yes.

20 VICE CHAIR JOHN: What we're looking for is a  
21 statement of agreed-upon conditions that reflect H101.2F,  
22 which is retail use, which is what we're trying to narrow.  
23 Mr. Holman, is your hand up?

24 MR. HOLMAN: I'm a little confused to the NC zones  
25 coming up in this discussion. How does that relate to the

1 MU zone? I maybe just need a clarification.

2 VICE CHAIR JOHN: This property is very close to  
3 that zone so it's useful to look to see what's approved for  
4 retail use because it's so close to that zone. So, this is  
5 just a way that the Board is trying to peg the conditions to  
6 regulations, that they're not pulled out of thin air.

7 Typically, the Board does not try to dictate the  
8 business decisions of any Applicant and so we try to make  
9 sure it's pegged to a regulation. So, we looked at what the  
10 possibilities are to allow the application to go forward.

11 So, Mr. Moy, what is our schedule like and when  
12 could we hear this again?

13 MR. MOY: From my edification, we're looking at  
14 a continued hearing?

15 VICE CHAIR JOHN: Thank you for that, it's a  
16 decision meeting because they're going to come up with a set  
17 of conditions that refine the conditions that were included  
18 in the ANC report.

19 And as I understand it now, the Applicant and the  
20 ANC are in agreement that these uses should be excluded.

21 MR. MOY: I follow.

22 VICE CHAIR JOHN: So, Mr. Sullivan, I think that's  
23 what we're looking for, a consensus on what types of retail  
24 uses should be excluded.

25 MR. SULLIVAN: We have that now. I thought about

1 filing a separate letter saying we agree with everything the  
2 ANC says, but for the record we do. I don't know, we'll take  
3 a look at NC6 but I think the question was the same, what  
4 kind of retail don't we want here?

5 I certainly understand the comment about providing  
6 reasons why the uses are prohibited and also, I do agree, I'd  
7 still like to supplement the record with the floor plan to  
8 make it very clear about the space.

9 So, I think we're on the same page.

10 VICE CHAIR JOHN: So, I think two weeks would be  
11 fine and because the application did mention time extension,  
12 I believe the ANC had appropriate notice and did respond to  
13 the question of a time extension as well.

14 So, we don't need to re-notice. So, Mr. Moy, what  
15 time did we have? When is the next date for decision?

16 MR. MOY: I was going to suggest March 2nd because  
17 the quantity of the cases would be not as impactful for the  
18 Board, but since this would be a decision-making case, I  
19 could do it the week earlier.

20 But the issue is we only have a special public  
21 hearing on February 23rd only for two appeals. But if you  
22 want to extend that to include this decision, we can make  
23 that for February 23rd.

24 If you want to go strictly on February 16th, then  
25 I would ask that the Applicant follow up with the

1 supplemental information, perhaps provide some of the  
2 Applicant --

3 I'm not sure when the Applicant can have the  
4 materials ready because we can either have it within a week,  
5 then the Board can then revisit this case on February 16th  
6 for decision.

7 If the Applicant can make their filing by let's  
8 say a week from today, which would be February 9th? If  
9 that's too restrictive then I would push it to the following  
10 week on February 23rd if the Board would allow one additional  
11 case. But it would be for a decision.

12 So, I know the Chairman is not here and you're the  
13 Chair now.

14 VICE CHAIR JOHN: That's fine, Mr. Sullivan, two  
15 weeks from today would be fine?

16 MR. SULLIVAN: that would be great, thank you.  
17 So, we can file by the 9th for sure.

18 VICE CHAIR JOHN: I'm going to amend the caption,  
19 that's important because it doesn't mention the time  
20 extension but it was discussed by the ANC, so I don't believe  
21 there is any harm to the ANC not having it re-noticed, and  
22 then the conditions, and then clarify the cellar is included  
23 as well.

24 MR. MOY: Also, Madam Vice Chair, I had mentioned  
25 a consensus for agreed upon conditions with the ANC I suspect

1 that for due diligence that the ANC be allowed to respond to  
2 the Applicant's filing by let's say Friday, February 11th if  
3 that's possible from the ANC.

4 MR. SULLIVAN: That works.

5 VICE CHAIR JOHN: We should have a joint  
6 statement, that's what we're looking for, a joint statement  
7 on the conditions by February 11th.

8 MR. MOY: That would work.

9 VICE CHAIR JOHN: All right, thank you, everyone  
10 and I will see you in two weeks. Thank you. Please call the  
11 next case, Mr. Moy?

12 MEMBER BLAKE: Is it possible we can take a 15-  
13 minute break? I apologize, just before we can get started on  
14 the next case?

15 VICE CHAIR JOHN: Sure, let's break for 15 minutes  
16 and return at 10:40 a.m.

17 MR. MOY: Yes, ma'am.

18 (Whereupon, the above-entitled matter went off the  
19 record at 11:25 a.m. and resumed at 11:52 a.m.)

20 MR. MOY: Thank you. The Board has returned to  
21 its hearing session after a quick recess, and the time is at  
22 or about 11:52 a.m.

23 VICE CHAIR JOHN: Thank you.

24 MR. MOY: Madam Vice Chair, before we begin with  
25 the next case application, may I take a step back to clarify

1 one of the items requested for supplemental information on  
2 that last case?

3 VICE CHAIR JOHN: Yes. Yes, go ahead, Mr. Moy.

4 MR. MOY: Okay, great. Thank you. So --

5 VICE CHAIR JOHN: You are going to --

6 MR. MOY: Yes. So for my own edification, there  
7 was a discussion and comment that was raised during the  
8 course of clarifying supplemental information from the  
9 applicant and the ANC, and their -- and what came about was  
10 a discussion about Subtitle Y, Section 1101.2.

11 And my understanding is that under that section  
12 is a description of neighborhood-serving uses. And that was  
13 meant, I believe, as an example that the applicant should  
14 review, because the really closest zones to the subject  
15 property is either an MU-4 or MU-25. So I just wanted to  
16 clear that for the -- clarify that. Or if I understood it  
17 differently, to explain that to me.

18 VICE CHAIR JOHN: Thank you, Mr. Moy. Yes, I was  
19 trying to explain that this is an example of the kind of uses  
20 allowed in a neighborhood-serving zone, which -- the  
21 applicant said they were trying to achieve uses that were,  
22 you know, consistent with neighborhood-serving, you know,  
23 projects, activity. So I hope we're clear on that.

24 MR. MOY: Yes, I am now. Thank you very much,  
25 Madam Vice Chair. And this is to Application Number 18701-E

1 of 1247 ESE, LLC, for the record. Thank you.

2 VICE CHAIR JOHN: Thank you. Okay. So please  
3 call the next case on the hearing agenda.

4 MR. MOY: Yes, with pleasure. And that would be  
5 -- this would be Application Number 20603, of Abdollah -- I  
6 believe it's pronounced Poozesh, P-O-O-Z-E-S-H. And this is  
7 a request for a special exception from the rear yard  
8 requirements of Subtitle G, Section 605.2, pursuant to  
9 Subtitle G, Section 609.1, Subtitle G, Section 1200, and  
10 Subtitle X, Section 901.2. This would construct a rear  
11 addition to an existing attached three-story with basement  
12 mixed-use building in the MU-18 zone. Property located at  
13 1709 17th Street Northwest, Square 178, Lot 87.

14 As the Board will recall, as to preliminary  
15 matters, there was a request for advanced party status --  
16 well, it's not so much advanced now, but -- from a Marwick  
17 Associates, LLC, under Exhibit 51. There was a response to  
18 that request for party status from the applicant, under  
19 Exhibit 59. And I believe the applicant has also requested  
20 to waive the filing deadline, to allow updated plans, which  
21 I believe are under Exhibits 59, 60, and 57. And I would ask  
22 the applicant for that confirmation. Other than that, that's  
23 all I have, Madam Vice Chair.

24 VICE CHAIR JOHN: Thank you, Mr. Moy. Mr.  
25 Sullivan, please introduce yourself for the record.

1 MR. SULLIVAN: Thank you, Madam Chair. Marty  
2 Sullivan with Sullivan & Barros, on behalf of the applicant.

3 VICE CHAIR JOHN: Thank you. Ms. Moldenhauer,  
4 please introduce yourself.

5 MS. MOLDENHAUER: Good morning, Members of the  
6 Board. Meridith Moldenhauer on behalf of Marwick Properties.

7 VICE CHAIR JOHN: Thank you. So Mr. Sullivan, you  
8 have filed a request to allow submission of your opposition  
9 to the request for party status, DCRA email concerning the  
10 BZA-approved plans at Exhibit 59D, and updated plans which  
11 show the relationship between your proposed -- the  
12 applicant's proposed addition and the BZA-approved plans.  
13 Is that correct?

14 MR. SULLIVAN: Yes, that's correct. We filed them  
15 two hours after midnight, and we didn't get confirmation  
16 about the status of the construction at the rear of 1641  
17 until a day or two before then. And so we were sort of  
18 pressed for time to get our response -- an accurate response  
19 together.

20 VICE CHAIR JOHN: Thank you. So if the Board has  
21 no objection, I'd like to allow that information into the  
22 record, because I'd like to see it.

23 MR. MOY: Madam Vice Chair?

24 VICE CHAIR JOHN: Yes?

25 MR. MOY: I neglected to also mention, because,



1 as the Board is aware, we have this 24-hour block prior to  
2 the Wednesday hearing, and there was a filing of a letter in  
3 opposition from a Tommy Sams. So that is not in the record,  
4 unless the Board allows it into the record. Thank you.

5 VICE CHAIR JOHN: Okay. So please allow that  
6 letter into the record. And I didn't hear an objection from  
7 the Board with respect to the previous discussion of the  
8 applicant's request for waiver of the filing deadline, so  
9 I'll go ahead and allow those into the record.

10 Next is the applicant's opposition to the request  
11 for party status. And I would like to go ahead and hear the  
12 applicant's argument on this. Typically, when there is a  
13 request for party status from an abutting neighbor, the Board  
14 routinely grants them. But this is a special circumstance.

15 So I would like to hear a brief -- very brief --  
16 argument from the party requesting -- I'm sorry. Ms.  
17 Moldenhauer, you're requesting party status on behalf of --  
18 I'm sorry. I've got my cases mixed up. So the proposed  
19 party in opposition is Marwick Associates, represented by Ms.  
20 Moldenhauer. Am I right with that?

21 MS. MOLDENHAUER: Correct. Yes.

22 VICE CHAIR JOHN: Okay. And you would like 30  
23 minutes to present your argument?

24 MS. MOLDENHAUER: We probably don't need that.  
25 Maybe ten, 15. Not even.

1 VICE CHAIR JOHN: Okay. Less if you can. And  
2 I'll hear from Mr. Sullivan, as well. Thank you. Please go  
3 ahead.

4 MS. MOLDENHAUER: So, Vice Chair John, we  
5 represent individuals who own 1637 and 1641 R Street, which  
6 is an abutting property. You know, they are uniquely  
7 affected. They are correcting errors, and are filing  
8 demolition plans. They are in the middle of construction,  
9 and we don't believe that, you know, an error which will be  
10 corrected and is in the process of being corrected should  
11 impact the ability for us to, you know, present concerns we  
12 have on this relief being requested.

13 VICE CHAIR JOHN: Okay. Mr. Sullivan?

14 MR. SULLIVAN: Thank you, Madam Chair. If the  
15 Board agrees with the Office of Planning's analysis of this  
16 case as being -- as considering the BZA-approved plans for  
17 1641 R, and as I think what Ms. Moldenhauer's saying is, they  
18 do intend to scale back their building to comply with the BZA  
19 plans, then I would withdraw the objection to the party  
20 status, and just leave it at that.

21 So our objection to the party status was based on  
22 the existence of illegal construction. If we're being  
23 assured that that construction is going to go away, and  
24 become compliant, then I would do what I would normally do,  
25 and just not oppose party status for an abutting neighbor.

1 VICE CHAIR JOHN: So Mr. Sullivan, even if there  
2 was no illegal construction -- alleged illegal construction,  
3 the abutting party, abutting neighbor, would have an interest  
4 in the construction by your client. Right? So it doesn't  
5 matter whether it's illegal or not. It's still the abutting  
6 neighbor, who would have an interest. And so I'm not  
7 inclined to agree with you.

8 MR. SULLIVAN: Okay. Well, I'll make it cleaner.  
9 We just withdraw the objection.

10 VICE CHAIR JOHN: Okay. Thank you.

11 MR. SULLIVAN: Thank you.

12 VICE CHAIR JOHN: All right. So let's then  
13 proceed with the case. And Mr. Sullivan, you may begin.

14 MR. SULLIVAN: Thank you, Madam Chair. And Mr.  
15 Young, if you could load the PowerPoint? With us is Mr.  
16 Aubrey Grant, the architect, and from the property owner,  
17 Rojyar Poozesh is here. He may have some things to say  
18 later, and he's available to answer questions. Next slide,  
19 please?

20 So this is for 1709 17th Street. The subject  
21 property is currently improved with a mixed-use building.  
22 The first floor is occupied by Picasso Gallery Custom  
23 Framing, and the upper floors consist of residential use.  
24 The applicant's proposing to construct a small addition over  
25 an existing paved area at the rear of the property, to be

1 used for interior space for the framing shop, and proposing  
2 to extend the addition to the rear lot line, and not  
3 providing a rear yard.

4           The area around here is characterized by  
5 commercial and residential uses which occupy large portions  
6 of their respective lots. The abutting property to the  
7 south, for instance, is at maximum FAR and 100 percent lot  
8 occupancy on all four levels. 1709 is at about 60 percent  
9 of its maximum FAR, currently.

10           So the relief requested is a special exception for  
11 rear yard in the MU-18 zone. The regulation is 15 feet. The  
12 existing rear yard is only 11 feet, currently. And proposing  
13 no rear yard, in the relief for special exception. I'll turn  
14 it over to Mr. Grant to go through plans, and -- if we could  
15 go to the next slide, please?

16           Oh, I wanted to mention, we do have some community  
17 support letters. And I also wanted to point out that there's  
18 a lot of form letters in opposition in the file, but as noted  
19 by the Office of Planning, it's unclear whether those people  
20 were basing their opinion on 1641's BZA-approved plans, or  
21 what 1641 had actually built in building their improvements  
22 all the way up to the property line. Next slide, please?  
23 And I'll turn it over to Mr. Grant. Thank you.

24           MR. GRANT: Thank you, Martin. Good afternoon,  
25 Madam Chair, members of the Board. My name is Aubrey Grant.

1 I am the architect for the applicant. This slide basically  
2 shows our subject property, in between 1641 to the south, and  
3 1635 to the east, and 1711 to the north. Next slide, please.

4 Again, this is just the street view showing the  
5 subject property in the middle, relative to 1641 and 1711.  
6 Next slide, please. And then this exhibit shows 1641 to the  
7 south. Actually, you can't actually see our subject property  
8 in this light. But it kind of gives you a context of the  
9 neighborhood. Next slide, please.

10 This exhibit is basically a site plan showing the  
11 subject property in the middle. And 1641 is to the south,  
12 highlighted -- the area highlighted in brown, currently, is  
13 what's approved by the BZA, and then it also kind of shows  
14 where the current wall is built, relative to the subject  
15 property. And then to the left -- to the right of that is  
16 1641. So this is just a site plan, giving you context of our  
17 subject property. Next slide, please.

18 This is just a first-floor plan, showing the  
19 extent of the commercial area -- the existing commercial  
20 area, which is in green, and red would be the proposed new  
21 construction. And to the south, you can see 1641, which  
22 actually takes up the full length of the lot at the  
23 first-floor level. Next slide, please.

24 This slide shows the first and second floor. The  
25 slide, at the bottom, basically shows the first-floor

1 mezzanine, which would extend -- the area that we would like  
2 to get in that extension, and then the second floor plan at  
3 the top basically just shows a roof plan of our extension,  
4 again, showing 1641 to the south, relative to what's approved  
5 by the BZA, versus what was built. What we don't show, for  
6 clarity, is the actual subject balconies, because then it  
7 would basically represent 100 percent lot occupancy, which  
8 -- that's not what we're presenting at the moment. Next  
9 slide, please.

10           This section just kind of gives you context,  
11 again, of the use of the building. So the area in green is  
12 the current commercial use. The area in grey above that is  
13 the current residential use. And then the area in red is the  
14 proposed new construction.

15           As you can see, on the first level, it is actually  
16 slightly depressed, because the rear yard is actually three  
17 feet from below the adjacent grade at the front, albeit it's  
18 actually five feet lower than the adjacent grade at 1711,  
19 against the alley side. And so it's showing basically an  
20 addition.

21           We're below the 25-foot height that's allowed --  
22 I shouldn't say allowed, but it's the 25-foot measuring  
23 point. We're well below the 25-foot measuring point. And  
24 we're actually 18 feet from the first floor to the roof of  
25 our subject property. Next slide, please.

1           Again, this is just for the visuals of the  
2 section. The long section's showing the extent of the  
3 existing commercial space in green, and red would be the  
4 addition. To the right is a section showing our addition  
5 relative to 1641 R. And again, in green is what we saw as  
6 the approved BZA plans, and what's in grey is what's  
7 currently built as of today. Next slide, please.

8           And then these are just some images of the  
9 conditions in the rear yard. Because of how tight the space  
10 is, it's very hard to kind of get full context. But the  
11 image to the left shows the adjacent grade, relative to the  
12 1711 and the alley. And it's actually taller than three  
13 feet. It's actually five feet in that location. The next  
14 image to the right just shows facing our -- the back of our  
15 property.

16           The next slide shows the soft property line. You  
17 can get a sense of the construction that's occurred. Okay.  
18 This slide shows our property, relative to -- sorry -- 1641  
19 R, showing different points -- actually, I can't point, so  
20 it's very hard to see. But it basically gives you a context  
21 of where the different levels are.

22           Where the wall stops would be the start of this  
23 second floor, around where the second floor starts. Then,  
24 next balcony that you see is actually the third-floor level,  
25 and that is actually where our building stops. And then the

1 next balcony would be the fourth floor.

2 MR. SULLIVAN: Mr. Grant, could I ask you a  
3 question about that, if you could? So the window that's --  
4 the window that's surrounded by black brick, that's on the  
5 applicant's property. Correct?

6 MR. GRANT: That is correct.

7 MR. SULLIVAN: So and then just to the left of  
8 that is the property line.

9 MR. GRANT: That is correct, yes.

10 MR. SULLIVAN: All right. And so the balconies  
11 that you see on the left, and the building you see on the  
12 left, is the 1641 R building abutting the common property  
13 line with 1709 17.

14 MR. GRANT: Correct.

15 MR. SULLIVAN: Correct? Thank you.

16 MR. GRANT: Next slide, please. And then this is  
17 an elevation view, pretty much just past our property line,  
18 if we cut a section, to show where our building is, relative  
19 to 1641, showing where we -- based on our measurements and  
20 our observations, where our building would lie, relative to  
21 their existing building, what's -- yeah. I think I'm going  
22 to leave it at that, because what's shown here is what we  
23 were able to get on our record, and it's not necessarily what  
24 we observed when we did our verification.

25 MR. SULLIVAN: So Mr. Grant, some clarification



1 on that. The portion of this elevation that shows the 1641  
2 R building, that came from the BZA-approved plan, north  
3 elevation, for 1641 R. Is that correct?

4 MR. GRANT: Correct. And so basically, what's in  
5 blue kind of highlights what we observed, in terms of where  
6 the balcony projects out, and where they had basically the  
7 window that's pretty much close to our property, that's all  
8 bricked in, as well. So it's basically just a solid,  
9 windowless wall at that location.

10 MR. SULLIVAN: And what does the dotted line  
11 represent, which is halfway between the purple line and the  
12 -- whatever color -- the building addition, halfway up the  
13 windows?

14 MR. GRANT: So that dotted line -- there was a  
15 I received correspondence. I think it's slightly -- it was  
16 hinted in the slight of a -- there was a blue tape that  
17 indicated that that was where 1641 thought our building was  
18 going to be -- the elevation at the top of our building was  
19 going to be at.

20 And so I just wanted to highlight that that is  
21 where the tape was, and what's in purple below is actually  
22 where it is. And that's after we field-verified that, after  
23 they -- after we got that exhibit. Next slide, please. I  
24 think that's it for architecture. Yeah.

25 MR. SULLIVAN: So I'd like to talk just a little

1 bit about our response to the party status. But I think I'll  
2 reserve these slides for rebuttal. Next slide, please. And  
3 next slide, please. Next slide, please. Next slide.

4           So the general requirements -- we meet the general  
5 requirements for special exception. Granting relief will be  
6 in harmony with the purpose and intent of the zoning  
7 regulations and map. Purpose and intent of the MU-18 zone  
8 is to permit medium-density mixed-use development, and this  
9 is -- the use is consistent with the MU-18 zone.

10           The building itself -- there's 100 percent lot  
11 occupancy at this level permitted. And rear yard special  
12 exception relief, under this provision, has been granted many  
13 times in this zone. And the proposed expansion, as OP noted  
14 -- the entire building continues to be within the maximum  
15 permitted development standards for lot occupancy building  
16 height and FAR for the MU-18 zone.

17           And the proposed rear addition would be for  
18 commercial, not for residential use, and would be in harmony  
19 with the purpose and intent of the zoning regulations, which  
20 allow for rear yard relief by special exception. Next slide,  
21 please.

22           I would briefly note -- not adversely affecting  
23 the use of neighboring properties. Per the BZA-approved  
24 plans, our proposed addition will be nearly nine feet away  
25 from two windows, on one level. For the first half of our

1 addition, vertically, we're adjacent to a brick wall with no  
2 windows or openings on 1641 R. On the second level, we're  
3 nine feet away from two windows. On the third level, those  
4 windows look out above the proposed addition.

5           The party opponent has stated, in their  
6 PowerPoint/filing response cover letter, that our addition  
7 eliminates the possibility of north-facing apartments on the  
8 second floor. And I'm not aware how a building nine feet  
9 away could eliminate the possibility. And they say,  
10 potentially eliminates it on the third floor. So I would say  
11 that's hyperbole at best.

12           Our building's to the north of their building, so  
13 we know there's no impact on sunlight. Nine feet in the  
14 mixed-use zone that has 100 percent lot occupancy on a  
15 perpendicular lot is not a restriction of air.

16           And in addition to that, as we've submitted to the  
17 record and we can talk about in response further, the 1641  
18 R has no vested right in views across our property, which the  
19 Board often states. And so essentially, at this point, their  
20 complaint is about that view from those two windows, only.

21           So the specific criteria are safely met. No  
22 apartment windows shall be located within 40 feet. The  
23 applicant's not proposing residential use in the proposed  
24 addition, nor windows. No office window shall be located  
25 within 30 feet. This is not going to be for office use. And

1 that's why we meet C, as well, because we're not proposing  
2 any windows.

3           Regarding service functions, the applicant's not  
4 required to provide any parking or loading for such small  
5 use. The trash is currently taken out through the front door  
6 and put in the trash bin around the corner. And a gallery  
7 receives a weekly delivery for supplies, which is also taken  
8 directly to the front of the building. We don't actually  
9 have access across the property to the north. There's no  
10 easement among the three properties facing 17th Street at  
11 this point. Next slide, please.

12           So that's all we have for our presentation, if the  
13 Board has any questions. Thank you.

14           VICE CHAIR JOHN: Thank you. Does the Board have  
15 any questions? Mr. Blake, do you have a question for the  
16 applicant? Mr. Smith, do you have a question for the  
17 applicant?

18           MEMBER SMITH: No.

19           VICE CHAIR JOHN: Dr. Imamura, do you have any  
20 questions for the applicant?

21           ZC MEMBER IMAMURA: Yes, Madam Vice Chair, I do.  
22 Just some additional clarity, if I could receive that from  
23 Mr. Grant. Obviously, the unique site characteristics or  
24 constraints here make it really difficult to capture what  
25 that volumetric space looks like.

1 I can certainly appreciate the three or five feet  
2 below grade, and trying to maximize the use of that space.  
3 And I just could use some help in understanding the way the  
4 plans have laid out. Is it possible for Mr. Young to pull  
5 up Schematic Design Slide 7? It says SD-7.

6 MR. GRANT: Page 13.

7 ZC MEMBER IMAMURA: Page 13. Okay. Thank you.  
8 Let's see. Maybe I've got the wrong slide, Mr. Young. Can  
9 you go up one slide, please? Maybe it's Page 12. Sorry, Mr.  
10 Young, to make you go back and forth. Maybe it's on Slide  
11 14. My apologies. Try up -- go to Slide 11. 10, maybe?  
12 Trying to see what the plan view is. Maybe 9. Sorry.

13 There we go. Thank you, Mr. Young. So just SD-3.  
14 I think in my mind it was a different slide. All right. So  
15 if we could zero in on or enlarge that screen, enlarge that  
16 page? I'm looking at the floor plan at the -- yeah, that's  
17 fine. Thank you, Mr. Young.

18 In terms of the buildout, I'm coming into this  
19 relatively new, here. So I see where -- your notation, Mr.  
20 Grant, for the edge of new construction as observed, and for  
21 the building per the BZA case, so I understand that that's  
22 Property 1641.

23 My question to you is, where it's sort of this  
24 mauve color, and then sort of the grey hatch, and then  
25 there's white or negative space between the edge of new

1 construction as observed, and probably the edge of the  
2 proposed construction, is that just a volumetric space that's  
3 just -- nothing's there? That's obviously on the property  
4 of 1641. Am I understanding that right? As you build this  
5 up, this creates sort of a bathtub, if you will?

6 MR. GRANT: So there's currently actually a  
7 balcony there. I did not add the note to say there is a  
8 balcony there, but it does create that space in that  
9 location, yes.

10 ZC MEMBER IMAMURA: So there's a balcony that  
11 occupies that space?

12 MR. GRANT: There is currently a balcony that  
13 occupies that space. So if you go --

14 ZC MEMBER IMAMURA: Where that cursor -- where Mr.  
15 Young's hand is, there's a balcony there?

16 MR. GRANT: Correct.

17 ZC MEMBER IMAMURA: It's an open balcony? And I  
18 think there -- is there a photograph of that somewhere?

19 MR. GRANT: It would be actually Slide 12 and  
20 Slide 13.

21 ZC MEMBER IMAMURA: I appreciate your patience  
22 with me as I get my bearings. It's awfully difficult to  
23 understand sort of the -- where these photographs are taken,  
24 just sort of the layout of all of this. So, all right.

25 MR. GRANT: Right. So the exhibit second from the

1 right that says Self-Property Line shows the balconies, and  
2 shows that basically five-foot wall -- or wall that's five  
3 feet from the property line, plus or minus.

4 ZC MEMBER IMAMURA: Okay. So does this addition  
5 go all the way up to where that -- where his handprint is,  
6 where the brick wall is? Is that where the proposed addition  
7 extends to?

8 MR. GRANT: Correct.

9 ZC MEMBER IMAMURA: Okay. So there's no space  
10 between the edge of your proposed wall and the edge of where  
11 that wall is now.

12 MR. SULLIVAN: If I may? I think where I see the  
13 hand is at the top of the first level. Our proposed addition  
14 will go higher than that, will go there.

15 ZC MEMBER IMAMURA: All right.

16 MR. SULLIVAN: About to that point. And this,  
17 what we're looking at here, with these balconies, is what the  
18 party opponent has said is going to be removed, and what DCRA  
19 has said is going to be removed. They're supposed -- that's  
20 where -- above that first level, where you just see brick --

21 ZC MEMBER IMAMURA: Right.

22 MR. SULLIVAN: -- that's where there's supposed  
23 to be the nine-foot gap that DCRA mentions in its email.

24 ZC MEMBER IMAMURA: Okay. So essentially, there's  
25 a -- so they will pull that wall back, but the proposed wall

1 essentially -- the proposed addition by the applicant,  
2 really, will touch what is now that brick wall there, from  
3 the adjacent or abutting property. So my point is, if and  
4 when that wall is removed, we have this void. Right? This  
5 volume of space, which is -- is that right? Where nothing  
6 will exist, other than the --

7 MR. SULLIVAN: Right, as I understand. It'll be  
8 the rear yard for 1641 R.

9 ZC MEMBER IMAMURA: It'll be the rear yard for

10 MR. SULLIVAN: The second, third, and four levels.  
11 Yeah. For Level 2 through 4. Yes.

12 ZC MEMBER IMAMURA: Okay.

13 MR. SULLIVAN: That's what the BZA plans approved  
14 for their BZA case.

15 ZC MEMBER IMAMURA: Right. Okay. So is there any  
16 way for me to get out of that rear yard?

17 MR. SULLIVAN: Well, there's no access across this  
18 property, anyway. It's not an alley. So there's no  
19 right-of-egress for anybody across anybody else's property  
20 back there. There are no easements. No. So there was no  
21 way to get out anyway.

22 ZC MEMBER IMAMURA: Okay. Right now, there is.  
23 Right? Because we haven't -- the proposed rear addition here  
24 hasn't been built. Right? So --

25 MR. SULLIVAN: Well, not legally. There's no



1 they have no legal access. So if DCRA was looking at  
2 building code issues and permits, they would not see this as  
3 egress.

4 ZC MEMBER IMAMURA: Sure.

5 MR. SULLIVAN: And I think, in their case, they  
6 can testify to this, in their BZA case, they testified that  
7 they have five other areas of egress for this building. But  
8 there's no -- there's no right of -- there's no automatic  
9 easements across any properties. And in fact, I mean, we  
10 struggle with this sometimes. A builder or a provider of  
11 unit has to be concerned about legal egress, and has no  
12 ability to use somebody else's property without their  
13 permission.

14 ZC MEMBER IMAMURA: Certainly understand that  
15 point. I'm just curious what kind of hazard we've created  
16 -- will be created in that volumetric space. So -- all  
17 right. That's exactly what I wanted to know, and I think I  
18 have a better understanding, and my bearings. So I  
19 appreciate, Mr. Sullivan, your help, and Mr. Grant, yours,  
20 as well, to better understand the way you've laid out these  
21 drawings and the photographs. So -- all right. Madam Vice  
22 Chair, those are just the questions that I have, just so that  
23 I can --

24 VICE CHAIR JOHN: Okay. Thank you.

25 ZC MEMBER IMAMURA: Thank you.

1 VICE CHAIR JOHN: Any other Board member have  
2 questions? I don't see any hands up. So I have one question,  
3 Mr. Sullivan. And I'm struggling, myself, to understand the  
4 relationship of the buildings. So could we put that slide  
5 back up? Mr. Young, could you put that last slide back up?  
6 Okay.

7 So if I understand it correctly, Mr. Sullivan --  
8 and let me go to my notes. So the first level has no  
9 windows. So is that the brick wall I'm looking at? That's  
10 the brick wall in the third from the left, at the top. Mr.  
11 Young, could you put your cursor at the bottom -- at the  
12 bottom? That's the applicant's building. Correct?

13 MR. GRANT: That is correct. And that wall is  
14 I believe it's 12 feet from adjacent grade.

15 VICE CHAIR JOHN: Okay. And if I could continue  
16 with you, Mr. Grant, your building is -- go ahead, Mr.  
17 Sullivan.

18 MR. SULLIVAN: I'm sorry. I think -- I'm looking  
19 at Mr. Young's hand on the 1641 R building. So I want to  
20 make sure we're talking -- it's not the applicant's building  
21 that we're looking at.

22 VICE CHAIR JOHN: Okay. Yes. I understand that.  
23 Okay. Thank you.

24 MR. SULLIVAN: Okay.

25 VICE CHAIR JOHN: So that's the applicant's

1 building. And your addition is nine feet from the two  
2 windows, without the balcony? I don't understand the  
3 relationship.

4 MR. SULLIVAN: So this, what we're looking at in  
5 the picture that says south property line new development  
6 with 100 percent lot occupancy, we're looking at the rear  
7 face-on line wall of 1641 R Street Northwest, not the  
8 applicant, but the party opponent.

9 VICE CHAIR JOHN: Yes. Right.

10 MR. SULLIVAN: And we're looking at balconies,  
11 enclosed balconies, and we're looking at the wall behind  
12 those balconies. That wall has extended four feet beyond  
13 approximately four feet beyond what was approved by BZA.  
14 And the balconies were added in addition to that. All that  
15 existed there before was just what you see in the lower  
16 brick, below the balconies.

17 So they were -- their building was at 100 percent  
18 lot occupancy on Level 1. Level 2, 3, and 4, they actually  
19 got lot occupancy relief to do much less than what they built  
20 here. Minor additions in lot occupancy. So they got a  
21 permit, then, which complied with the BZA-approved plans.

22 Then they applied for another permit. So it's not  
23 an error in construction. They applied for another permit  
24 to put balconies up. And then they proceeded to extend the  
25 building four feet past what the BZA approved, and then put

1 these balconies on, never receiving that permit, by the way,  
2 and they're not going to get that permit unless they go get  
3 BZA modification.

4           And so currently, they have a stop-work order, and  
5 DCRA has recognized -- and this is something that my client's  
6 told them about. We've told them about it for months. So  
7 it's not an error. Up until two weeks ago, they were calling  
8 us all liars for pointing this out.

9           So, but what that is -- OP, Office of Planning,  
10 is looking at this, and I think it makes sense to look at  
11 this, as if that doesn't exist. So we're asking -- I think  
12 everybody's asking the Board, even the party opponent, to  
13 look at the application as if 1641 R has corrected this  
14 situation, and built their building according to the  
15 BZA-approved plans. And so we don't actually have a photo  
16 of what that looks like. We just have the plans.

17           And we could -- I just looked. Exhibit 58A is  
18 supposed to have our plans. But it seems to have a -- 58A  
19 and 59B seem to both have the same plans. But actually, that  
20 might be helpful, to pull that up.

21           ZC MEMBER IMAMURA: I'm sorry. Mr. Sullivan, I  
22 don't mean to interrupt. Before we do pull that up, could  
23 I just interject real quick, and confirm with Mr. Grant,  
24 while -- where your cursor is, Mr. Young, just for Vice Chair  
25 John's and my understanding, the face of that wall is

1 essentially -- Mr. Young, if you move your hand to the image  
2 on the bottom right, there, with the red, there's a dashed  
3 line. I believe that's probably the face of that wall. Yes.  
4 Thank you, Mr. Young. Is that right, Mr. Grant?

5 MR. GRANT: Yes. It appears so.

6 ZC MEMBER IMAMURA: Okay. I'm sorry. Continue,  
7 Mr. Sullivan.

8 MR. GRANT: But to clarify, it's actually dashed  
9 because -- and that's the challenge with trying to do  
10 exhibits in this tight space. It's actually dashed because  
11 it's below the roofline of the fourth floor. So --

12 ZC MEMBER IMAMURA: Understood. I just wanted to  
13 --

14 MR. GRANT: Yeah.

15 ZC MEMBER IMAMURA: I understand. I just wanted  
16 to make sure that we all are understanding what the face of  
17 that property line is, and just the -- yeah, the face of that  
18 elevation property line. So --

19 MR. GRANT: Okay.

20 ZC MEMBER IMAMURA: Understood. Thank you.

21 VICE CHAIR JOHN: So Mr. Young, before we move  
22 from this slide, the window that would be covered up -- and  
23 Mr. Young, could you point to that first floor from the solid  
24 -- first window from the solid wall? Okay. So Mr. Sullivan,  
25 would that be the window that would be covered up by the

1 second floor of the addition?

2 MR. SULLIVAN: So those windows are going away,  
3 because that --

4 VICE CHAIR JOHN: I'm just trying to -- yeah, I'm  
5 just trying to understand the --

6 MR. SULLIVAN: Yeah. Yes, so there will be two  
7 windows. And if we look at the north elevation, which is  
8 it's around Slide 10 or 12. Sorry, Mr. Young. If you could  
9 get the north elevation, SD-8? Maybe this is helpful.  
10 Actually, the last slide. If you could go back one slide,  
11 please?

12 So the building section on the right, what's in  
13 grey, with the balconies, that's what exists. And what is  
14 the olive green, that's where it's going. And so on that  
15 first level, where there's nine feet between the proposed  
16 addition, right there, that's where the two windows are.

17 VICE CHAIR JOHN: Okay.

18 MR. SULLIVAN: And I know there's some dispute  
19 with the party opponent about how high our addition is,  
20 relative to their building, but I think it's relatively  
21 immaterial. At any rate, when you look out the windows of  
22 the floor above that, you're just going to see across our  
23 property, and not at the addition.

24 ZC MEMBER IMAMURA: You'll see across the roof of  
25 the proposed addition.

1 MR. SULLIVAN: Correct. Yes. Yes. You'll be  
2 looking at the roof.

3 ZC MEMBER IMAMURA: That was my point, where Mr.  
4 Young's hand is, if he moves to the left a little bit.  
5 That's that volume of space there, that there's literally no  
6 way out.

7 MR. SULLIVAN: But what's there on the first level  
8 was there already. At 1641 R, that existed historically.  
9 So that's not going away, at any rate.

10 ZC MEMBER IMAMURA: Okay.

11 MR. SULLIVAN: So there's no -- I don't think  
12 there's any access -- there's no egress anyway. They were  
13 just going to have windows, so -- and there's no fire escape  
14 from those windows onto that space or down to the ground.  
15 I mean, it's, like, 12 feet or so. Somebody would have to  
16 jump off that to escape from the building, anyway. So there  
17 was no physical egress ability before.

18 ZC MEMBER IMAMURA: Understood. I'm just  
19 thinking, you know, if something falls down there, how do we  
20 get it? How do we retrieve it? How do we -- a person falls  
21 down there, how do they get out? What's the way, you know  
22 -- yeah.

23 MR. SULLIVAN: Well, on the first floor, it's  
24 their deck. You know, that's the floor of their space.

25 ZC MEMBER IMAMURA: And their -- understood.

1 Yeah.

2 VICE CHAIR JOHN: Okay. So if I could finish up  
3 with this slide, back to my at-risk windows -- so Mr. Young,  
4 if you could put your cursor to the left of that same slide,  
5 go up above the top of the orange, then go across to the  
6 left, and those two floors.

7 So the third floor, then, would be the at-risk  
8 window, Mr. Sullivan? In your statement, you said that the  
9 third-level windows would look out above the addition. So  
10 I'm trying to find that on one of the diagrams. I think this  
11 is --

12 MR. SULLIVAN: So the north elevation -- the north  
13 elevation, which would be a couple slides down, I believe.

14 ZC MEMBER IMAMURA: 14.

15 MR. SULLIVAN: There. So there are windows --  
16 yeah. So there, we see windows. On the left side, you have  
17 two windows on the third level, two windows on their fourth  
18 level. And the two windows that are on the second level are  
19 nine feet behind this proposed addition.

20 VICE CHAIR JOHN: Okay.

21 MR. SULLIVAN: Or will be.

22 VICE CHAIR JOHN: All right. And the third level,  
23 is that the one that looks over at the addition?

24 MR. SULLIVAN: The third level's above -- the  
25 windows are above the top of the addition, yes.



1 VICE CHAIR JOHN: Okay. All right. Thank you.  
2 I don't have any other questions. Let's go to the Office of  
3 Planning.

4 MS. FOTHERGILL: Good afternoon, Madam Vice Chair  
5 John, and Members of the Board. I'm Anne Fothergill, for the  
6 Office of Planning. And as you saw in the record, initially,  
7 the Office of Planning filed, on January 21st, a report  
8 stating that OP couldn't make a recommendation at that time,  
9 because there wasn't sufficient information in the record for  
10 an analysis.

11 After that, the applicant provided additional  
12 information. But sort of a concern for Office of Planning  
13 is the DCRA status, in terms of the construction that has  
14 been built not in conformance with the BZA-approved plans,  
15 and what that does to the analysis for this case. And we  
16 tried to lay out in the OP report what was approved by the  
17 BZA, and what was currently constructed.

18 And then since the OP report, the adjacent  
19 property owner has said that they planned to do a partial  
20 demolition. But of concern, still, to the Office of  
21 Planning, is plans in the record show balconies, and there  
22 were not balconies on the BZA-approved plans.

23 And it's unclear if the adjacent property owner  
24 would then be applying for a modification to the BZA, to  
25 allow balconies on that north elevation, and, you know,

1 whether or not there's a nine-foot distance between the north  
2 elevation of the adjacent property and the subject property's  
3 addition, or whether their balconies within that space would  
4 be different. And it's a little unclear at this point,  
5 because of the pending stop-work order and the construction,  
6 what exactly is happening.

7 I mean, the OP report tried to lay it out so that  
8 the Board could understand what, to this point, OP  
9 understands. And OP did provide analysis based on the  
10 BZA-approved plans, but again, that is not the current  
11 conditions, and it's unclear if that's going to be the  
12 current conditions. And also, the BZA-approved plans didn't  
13 show floor plans, specifically, for those units, in terms of  
14 other windows and egress. And so that isn't part of the OP  
15 report at this time.

16 So I'm happy to go through the OP report, in terms  
17 of the BZA-approved plans, but we are concerned about the  
18 DCRA stop-work order, and what exactly is happening at the  
19 abutting property, and how that will sort of affect an  
20 analysis of this application.

21 VICE CHAIR JOHN: So does the Board have any  
22 questions for the Office of Planning? Mr. Blake?

23 MEMBER BLAKE: Yes. Ms. Fothergill, I would like  
24 to understand how you did determine that there was not going  
25 to be an adverse impact on the light and air to that, based

1 on the existing plans. It's not clear to me how you made  
2 that determination.

3 MS. FOTHERGILL: Sure. And I am happy to go  
4 through that. I wasn't sure, since it's all a little bit in  
5 flux, if you wanted to do that, since it's not clear if  
6 ultimately the BZA-approved plans are going to be constructed  
7 there.

8 But -- so the BZA-approved plans showed an 8'11"  
9 rear yard at that north side, to the property line of the  
10 subject property. And so the Office of Planning went through  
11 the general special exception criteria, as well as the  
12 specific special exception criteria for rear yard for the  
13 MU-18 zone.

14 And so the building, if they were to construct  
15 this rear addition that would be 22 feet tall, would have 100  
16 lot occupancy, which is allowed by the regulations, and zero  
17 rear yard. And it would continue to comply with building  
18 height and FAR and percentage of lot occupancy.

19 And then in terms of an adverse impact to the use  
20 of the neighboring property, if the building was constructed  
21 to the BZA-approved plans, there would be that nine-foot gap  
22 to windows on the north side. And that effectively is that  
23 property's rear yard, and that wouldn't impact the use of  
24 that property, to have a rear addition with 100 -- with a  
25 zero rear yard. You know, that building could still

1 function, those residential units could still be used as  
2 residential units with a nine-foot rear yard, per the  
3 BZA-approved plans.

4           And then in terms of the specific criteria for  
5 rear yard in Subtitle G, Section 1201.1, there are not --  
6 there aren't windows proposed on this building, so they're  
7 not -- so we went through all of those. You know, no  
8 apartment window, no office window. And then angles and  
9 sightlines -- there are no windows, so those aren't really  
10 applicable. And then there's the criteria about parking and  
11 loading, which -- there's no proposed change to that.

12           And so that was based on the BZA-approved plans.  
13 I think that there has been -- since OP filed that report,  
14 there have been plans entered into the record by the opponent  
15 that show a different section that what the applicant  
16 proposed, and show balconies on what they are proposing to  
17 revise to their plans.

18           And that analysis was not based on that -- and we  
19 currently have two different sections in the record, showing  
20 this proposed addition height at different heights. And, you  
21 know, one of them came in after the OP report from the  
22 opponent, and so that hasn't been analyzed, because it's  
23 unclear which one is the accurate plan.

24           MEMBER BLAKE: Thank you. Thank you.

25           VICE CHAIR JOHN: Thank you. Quick question, Ms.

1 Fothergill. So the rear of the applicant's property, looking  
2 at the plans in your report, is built right up to the  
3 property line of the party in opposition's property. Right?

4 MS. FOTHERGILL: It would be 100 percent lot  
5 occupancy at the lowest level, yes.

6 VICE CHAIR JOHN: Right. And 1641 is also at 100  
7 percent? Or not?

8 MS. FOTHERGILL: Currently -- their first floor  
9 is, yes, and that's an existing condition. Their recent  
10 construction that is currently underway -- they did receive  
11 lot occupancy relief from the Board for the upper stories,  
12 and they have exceeded that, currently, and are -- they will,  
13 I believe, say that they are going to be revising that. But  
14 it is not -- the rear wall of the building on R Street is  
15 about four feet or four to five feet from the property line,  
16 and then there are balconies, which do extend to the property  
17 line of the subject property, currently.

18 VICE CHAIR JOHN: Okay. That was a little  
19 confusing for me. So at the first-floor level, the two  
20 properties currently share a property line, and if the Board  
21 approves this application, both buildings would be on the  
22 property line, in both cases.

23 MS. FOTHERGILL: Not based on the BZA approval of  
24 the R Street property. Not -- right.

25 VICE CHAIR JOHN: I'm talking about the -- I'm

1 talking --

2 MS. FOTHERGILL: At the first-floor level, yes.

3 VICE CHAIR JOHN: The current condition at the  
4 first-floor level, both properties share -- well, are built  
5 up to the property line, on the first floor.

6 MS. FOTHERGILL: The architect for the applicant  
7 may need to weigh in. There may be, currently, a small  
8 court, but that is proposed to be filled in.

9 VICE CHAIR JOHN: So let's not talk about the  
10 proposed changes to 1641 R Street, because they're not before  
11 the Board. The Board only has what's there, what's been  
12 approved, the approved plans. We can't look at what may be  
13 approved or may not be approved, because it's too fluid. So  
14 the applicant deserves an answer. So what has been approved?  
15 And what's there? So what's there now is the -- 1641 is  
16 built up to the property line on the first floor.

17 MS. FOTHERGILL: Yes.

18 VICE CHAIR JOHN: Okay. All right. That's all  
19 I wanted to -- I should have asked Mr. Grant or the party  
20 opponent. Does the Board have any other questions?

21 Okay. Let's go then to the party opponent. Ms.  
22 Moldenhauer? Thank you, Ms. Fothergill. Ms. Moldenhauer,  
23 are you ready?

24 MS. MOLDENHAUER: Yes.

25 VICE CHAIR JOHN: Do you have any questions, first

1 of all?

2 MS. MOLDENHAUER: No questions for Office of  
3 Planning. Could Mr. Young bring up our PowerPoint, which is  
4 Exhibit 64? Thank you, Mr. Young. Next slide. Next slide.

5 Thank you for granting party status. These are  
6 images of the party in opposition -- their property. The  
7 property -- this is images prior to the current construction  
8 that is currently ongoing. But you can see here, in the  
9 picture on the left, how the first floor is recessed, which  
10 is different than the applicant property. So there are some  
11 grade changes.

12 And then you can see on the picture on the right,  
13 how that first floor, which is a commercial use, and is  
14 continuing to be a commercial use, is recessed. And you can  
15 see that there's stairs going up. That second, third, and  
16 fourth floor are all being converted to residential units.  
17 The units, obviously, are facing -- these sides have multiple  
18 windows, which is very different than the rear units. Next  
19 slide.

20 We had stated in the record, and it's also in a  
21 letter that comes up in two slides from now, that the  
22 property owners are in the middle of construction. They are  
23 filing for demolition plans to comply with the permit. But  
24 I think the image on your left is helpful, because it kind  
25 of understands what existed prior to construction.

1           And you can kind of see, at the bottom, underneath  
2 that mesh fence, the original first floor wall. That wall  
3 has been slightly increased on the righthand side. And then  
4 you would see, obviously, that the wall in the middle, on the  
5 lefthand image, is the distance that is the 8'11" from the  
6 property line. And we could go to the next slide.

7           This then shows the BZA approval. And you can see  
8 that there is a unit layout here, being shown, and that there  
9 is a proposed unit. It says Studio Unit, 510 square feet.  
10 But there's a unit that is proposed that would have its only  
11 access to light and air and natural sunlight for that  
12 habitable unit through this area.

13           Obviously, you know, you can see, on the righthand  
14 side, when the construction is complied with and demolition  
15 occurs, and the new wall exists, the wall will be with  
16 windows, kind of -- it's the bay window, as seen in the red  
17 image -- is just simply fleshed out into a straight line with  
18 the new windows on that.

19           But in the image on the right here, you can  
20 actually see where that original first-floor wall has always  
21 been, and the edge of the property line, which is the light  
22 grey portion of the parapet wall below. That is the 8'11"  
23 that would exist. And if there was a wall that would then  
24 continue up two stories, you can see how tight that would be,  
25 in regard to habitable space. Next slide?



1           This is a letter for the Board, in the record.  
2 Again, it's just acknowledging that construction is underway.  
3 No certificate of occupancy has been issued. I've advised  
4 my clients that they will not receive a certificate of  
5 occupancy unless they comply with the building permit and  
6 comply with the approved plan, which they will do.

7           They've worked with their architect, Bonstra  
8 Haresign, and actually, today I received notification that  
9 they got demo plans, those demo plans will be submitted, and  
10 they will work with DCRA to resolve this. And you know, I  
11 know it's confusing, and complicated, but we appreciate the  
12 Board giving us, you know, the opportunity to still move  
13 forward. Next slide?

14           These are -- again, one of the questions that I  
15 think has been difficult to understand -- and, you know, I  
16 still don't know if what Mr. Grant, the architect, has shown  
17 clarifies this, I think there's some questions of  
18 discrepancies -- is, the image in your left was the original  
19 Exhibit 33. And there were questions as to how my client's  
20 property was being depicted in regard to elevation. I showed  
21 those pictures of kind of how you walk down the stairs, for  
22 our client, the difference in elevation, and it still is kind  
23 of a question mark.

24           Bonstra Haresign put together this image, using  
25 the -- the red line is the existing grade at the site, based

1 on where -- the parking spaces for the abutting property  
2 owner, from the applicant. And you can see here, in the  
3 righthand image, the first dotted line is the property line.

4           The second dotted line is the existing condition,  
5 which is doing to be demolished, and then in the grey is the  
6 proposed windows. The party in opposition's concern is that,  
7 you know, if this was a single-story request for relief, that  
8 that would then potentially be in line with that parapet, and  
9 not create an adverse impact. But given the fact that  
10 they're requesting a two-story structure, it creates this  
11 three-walled environment, where it creates a really  
12 challenging issue.

13           And, you know, given the fact that it was brought  
14 up about northern-facing walls, and -- you know, I think that  
15 it actually is a point about substantial adverse impact. You  
16 know, northern-facing exposure already has a limited amount  
17 of exposure. You actually end up having indirect access to  
18 light. Having this wall, then, blocking even its indirect,  
19 reflective amount of light, I think creates a more  
20 substantial adverse impact on the abutting property.

21           And given the fact that buildings are required to  
22 have natural light for residential units, and the special  
23 exception standard has to do with adverse impact on an  
24 abutting property owner's use, the use here, as a unit, would  
25 have impact.

1           We also point out that, you know, the skylight  
2 being proposed along this property line, it could be moved  
3 to the other side, and have less of an impact on the abutting  
4 property owner. But its current location, it simply  
5 continues to extend the height of this proposed relief along  
6 this party wall. And then there is conditions that obviously  
7 -- there is a slight recess here, between the property line  
8 and the original wall, and so this would create, you know,  
9 maintenance concerns and construction concerns. Next slide?

10           This shows the windows on that second floor being  
11 blocked by the two-story proposed construction, and then the  
12 impact on that skylight, impacting at least half of that one  
13 window. Again, you know, if that was moved or, you know,  
14 relocated, that would change. And if this proposal was moved  
15 down to the red line, which would be even with the parapet  
16 that exists, we believe then that that would address concerns  
17 by our client -- by my client, and would then obviously, you  
18 know -- and again -- next slide?

19           We believe, under the special exception  
20 requirement, that this does adversely affect the use of a  
21 neighboring property. The rear addition would block  
22 substantially the light and air for the new residential  
23 units. We are not claiming a right to a view. We are simply  
24 claiming that light and air is required under building code  
25 for residential units, and that this would impact the ability

1 to use that unit for residential purposes.

2           We also submit that there is a public policy that  
3 obviously supports residential units, and to have these units  
4 be impacted by a storage space, which could be reduced -- if  
5 granted, the rear yard would obviously, you know, be  
6 enclosed, then, on all three sides. And kind of given the  
7 existing condition that there's already a wall on one side  
8 from an abutting property owner, this is -- our client's  
9 property, the corner lot, and that this would then kind of  
10 create that third, you know -- fourth wall along the  
11 property. Sorry, just looking at notes. Next slide?

12           That concludes our presentation. We just indicate  
13 that we think, you know, there's an opportunity for a  
14 reduction from a one-story -- sorry, two-story to a  
15 one-story, either confirming that there would be no windows,  
16 and that obviously, the use is storage, which would not then  
17 be, you know, converted to any other use down the road.  
18 Thank you for your time.

19           VICE CHAIR JOHN:     Okay.     Thank you, Ms.  
20 Moldenhauer. Does the Board have any questions? Mr. Blake?

21           MEMBER BLAKE:    Could you go back a couple slides  
22 from your presentation? I just want to clarify something for  
23 myself. Another. Yes, this one right here. In the right  
24 side -- I can't quite make it out. What is that? Is that  
25 a -- I still can't make it out. On the second level, there's

1 a line coming out from the building, a grey -- what is that?

2 MS. MOLDENHAUER: It's a --

3 MEMBER BLAKE: Yeah, the skylight on the  
4 applicant's property, and then just aside from that, there's  
5 a grey line that comes out.

6 MS. MOLDENHAUER: So there's a dotted line, which  
7 is showing the demolition of the balcony, and then there is  
8 -- what's showing is a balcony. That balcony is not approved  
9 by BZA. And, you know, that would be -- that is obviously  
10 not approved by BZA.

11 MEMBER BLAKE: Okay. So what we would be looking  
12 at is this section without that grey section in there.

13 MS. MOLDENHAUER: Correct.

14 MEMBER BLAKE: Without either one of those two  
15 balconies -- potential balconies would not be there.

16 MS. MOLDENHAUER: Yes. I mean, that's the  
17 BZA-approved.

18 MEMBER BLAKE: Okay. Thank you. Thank you.

19 VICE CHAIR JOHN: Thank you. Does any other Board  
20 member have questions?

21 ZC MEMBER IMAMURA: Yes, I do, Madam Vice Chair.  
22 Paul if you can pull that up again, please? That same image.  
23 Thank you, sir. And Ms. Moldenhauer, I just want to confirm,  
24 on the second floor, those are -- there is in fact intent to  
25 install those windows on the second floor. Is that right?

1 MS. MOLDENHAUER: Yes. Those windows were shown  
2 in the BZA application. Those windows have been the only,  
3 you know, windows for that residential unit.

4 ZC MEMBER IMAMURA: So if I were to go out onto  
5 that rear yard, or that deck, I would essentially be looking  
6 at a brick wall, if the proposed addition for the applicant  
7 was actually built. Is that right?

8 MS. MOLDENHAUER: Yes.

9 ZC MEMBER IMAMURA: All right. Thank you. That's  
10 what I wanted to confirm.

11 VICE CHAIR JOHN: Any other questions? Okay. So  
12 can we put that slide back up, please? Thank you. Okay.  
13 Thank you, Mr. Young. So not to beat a dead horse -- looking  
14 at the right image, with the balconies removed, there would  
15 be windows -- Mr. Moy, if you could -- Mr. Young, if you  
16 could just put your cursor next to the man on the second  
17 floor, and move it across, all the way over to the grey?

18 So as proposed by the BZA application that has  
19 been approved, there would be windows on that side of the  
20 applicant's building, but no balcony, and on the third floor,  
21 above that. Okay.

22 MS. MOLDENHAUER: Correct. Yes. It would be  
23 windows, and they would be similar to what's built now, but  
24 they would be pushed back to where those walls would be. And  
25 those would be windows for residential units.

1           VICE CHAIR JOHN:    Right.   And so I asked the  
2 Office of Planning this question, and I should ask it of the  
3 party in opposition, because you would be more familiar with  
4 the contours of your building. So the 1641 R Street building  
5 would be built up to the property line of the applicant's  
6 property. Right? Just looking at the diagram from the  
7 Office of Planning's report.

8           MS. MOLDENHAUER:   So if you -- the applicant's  
9 proposal is to build up to their full property line. Right  
10 now, part of the building has a shared party wall, and so it  
11 would literally be kind of, you know, touching that party  
12 wall, and then going up.

13          VICE CHAIR JOHN:    Okay. On the first floor.

14          MS. MOLDENHAUER:   On the first floor.

15          VICE CHAIR JOHN:    Okay. Thank you. Does anyone  
16 have questions for Ms. Moldenhauer?

17          ZC MEMBER IMAMURA:  Madam Vice Chair -- Mr. Young,  
18 if you could pull that back up again? I'm sorry. Ms.  
19 Moldenhauer, the party wall there, there's -- I regret to  
20 call it an interstitial space between the applicant's  
21 property line and you client's property line, but it doesn't  
22 -- there's no party wall here shown.

23          MS. MOLDENHAUER:   So there's -- and I don't know  
24 if you can go -- Mr. Young, can you go to Slide 5? Part of  
25 the problem is that there are two different walls. So Mr.

1 Young, if you can put your cursor, your little hand, maybe,  
2 on where it says -- over to the left. Sorry. And then where  
3 it says nine square feet, up -- yeah, right there.

4 ZC MEMBER IMAMURA: That's -- I understand.

5 MS. MOLDENHAUER: This is where I think it's hard  
6 to understand. So there is a -- the property has -- my  
7 client's property has zero rear yard. It's always a zero  
8 rear yard. There was a small court.

9 But that rear yard, or that zero wall rear yard,  
10 where the cursor, the little hand is, is a party wall. And  
11 there's currently a dogleg there that they had to close, and  
12 then fully build out. The retaining wall, or kind of parapet  
13 wall, is actually slightly recessed, and so there would be  
14 a gap between -- not a gap where Mr. Young's hand is, because  
15 that would be a party wall condition.

16 And Mr. Grant can confirm this or deny -- it's  
17 been hard to tell by the plans that were filed by the  
18 applicant. But this is what, you know, my client's architect  
19 was saying, that that would be a party wall condition, but  
20 then when it gets to this -- the concern of my client, which  
21 is this 8'9", it actually there -- that's slightly recessed,  
22 and there would be a gap between the structures.

23 ZC MEMBER IMAMURA: Okay. That helps. Thank you.

24 MS. MOLDENHAUER: Sorry, I hope that helps.

25 ZC MEMBER IMAMURA: No, that's great. I think



1 just in general, we all deal with, you know, plans and zoning  
2 in two-dimensional form, but in a case like this, axonometric  
3 drawings would be more helpful, to explain the situation, so  
4 -- by both parties. So -- but I think we have a good  
5 understanding in the description of sort of the court. So  
6 thank you, Ms. Moldenhauer.

7 VICE CHAIR JOHN: Thank you. Does the applicant  
8 have any questions?

9 MR. SULLIVAN: Thank you, Madam Chair. Ms.  
10 Moldenhauer, you said in the PowerPoint, in the cover letter  
11 slipped into the PowerPoint, that this will eliminate the  
12 possibility of a north-facing apartment on the second floor.  
13 So is that apartment going away?

14 MS. MOLDENHAUER: We don't know what the Board is  
15 going to do here. And, you know, the --

16 MR. SULLIVAN: Would DCRA prevent you from having  
17 a unit there? Is that what you're saying? There's no  
18 possibility of a unit there, because of the -- because  
19 there's a wall within nine feet? Is that --

20 MS. MOLDENHAUER: My clients are very concerned  
21 about the ability to market a space that has a reduction in  
22 light and air, given that fact that it would be the only  
23 window to that unit.

24 MR. SULLIVAN: Okay. Thank you. And then, you  
25 said light and air is required under building code.

1 Typically, does DCRA require a neighbor to forfeit property  
2 rights in order to provide that light and air? Or do they  
3 expect that an applicant that's asking for the residential  
4 unit provide that light and air? Otherwise, it's an at-risk  
5 window. Is that correct?

6 MS. MOLDENHAUER: Well, this isn't at-risk,  
7 because that would only be if you're building on a property  
8 line. But, you know, here, it's -- we're bringing this up  
9 because you're asking for special exception relief. If you  
10 were doing -- if you were building by right, that would be  
11 a different situation.

12 MR. SULLIVAN: Okay. We can argue about that  
13 later in my closing, but I was just saying, you said that  
14 light and air is required by building code. But the DCRA,  
15 when they require that, they would not require a neighbor and  
16 owner to keep their space open, in order to allow you to  
17 comply with that provision. Correct?

18 MS. MOLDENHAUER: The building code only looks at  
19 the property in question.

20 MR. SULLIVAN: Okay. Thank you. And regarding  
21 the balconies, it wasn't really clear. The balconies on your  
22 drawing, you said, yes, they weren't approved by BZA, but you  
23 didn't say that they wouldn't be there. So -- because that  
24 was the question. Will they be there? And you said yes.  
25 You said, they're not approved by BZA. So I'm wondering why

1 the balconies are there in your drawing.

2 MS. MOLDENHAUER: The architect sent me those  
3 plans.

4 MR. SULLIVAN: Okay, so that was just an error.  
5 They're not going to be there. Correct?

6 MS. MOLDENHAUER: They're not approved by the BZA.

7 MR. SULLIVAN: Okay, so they're not -- your  
8 client's not intending to construct balconies in that  
9 location. Correct?

10 MS. MOLDENHAUER: We're demolishing what currently  
11 exists, and we're building it back to -- and pulling those  
12 back, as proposed.

13 MR. SULLIVAN: Okay. So you're going to comply  
14 with the BZA-approved plans at this point. Correct?

15 MS. MOLDENHAUER: Correct.

16 MR. SULLIVAN: Thank you. I have no further  
17 questions. Thank you.

18 VICE CHAIR JOHN: Ms. Moldenhauer, I have one  
19 quick follow-up question. So your client could put windows  
20 there, and those windows would be separated from the  
21 applicant's property by nine feet. Do I get that right?

22 MS. MOLDENHAUER: Yes. Eight feet and 11 inches,  
23 which is right under nine feet, yeah.

24 VICE CHAIR JOHN: Okay. So there would be some  
25 light and air going into those windows. It would just not

1 be optimal, from your client's point of view.

2 MS. MOLDENHAUER: I mean, I think my client would  
3 probably disagree with the term optimal. I mean, I think  
4 that, you know, it's -- yes, there would be an opening of,  
5 you know, 8'11", but given the fact that there's an apartment  
6 building that already exists on the righthand side of the  
7 building, and then there's an existing wall on the lefthand  
8 side of the building, you know, this is -- they always  
9 understood that this was going to be an open rear yard, where  
10 the applicant is proposing.

11 VICE CHAIR JOHN: Okay. I have no other  
12 questions. Does any Board member have any other questions?

13 I don't see any hands up. Mr. Young, is there  
14 anyone wishing to testify?

15 MR. YOUNG: We do. We have six signed up in  
16 support, and two in opposition.

17 VICE CHAIR JOHN: Okay. Could you let in the  
18 first person in support?

19 MR. YOUNG: Yes.

20 MEMBER SMITH: Madam Chair? I do have one  
21 question for Ms. Moldenhauer, before you let your witness in.  
22 And it's a follow-up to Mr. Sullivan's question. You're able  
23 to hear me? I don't know if anybody can hear me.

24 VICE CHAIR JOHN: We can hear you. Go ahead,  
25 please, Mr. Smith.

1 MEMBER SMITH: Okay. Ms. Moldenhauer, just to  
2 follow up on his question about those balconies -- and I was  
3 looking at it, too, when we kept going back and forth,  
4 looking at these -- looking at the section that you pulled  
5 up. What is the point of keeping those overhangs? It looks  
6 like it's about four feet, when you cut back the balcony.  
7 What is the purpose of keeping them?

8 MS. MOLDENHAUER: So I think, again, it was -- am  
9 I on mute? I just --

10 MEMBER SMITH: No, I can hear you.

11 MS. MOLDENHAUER: Okay. Sorry, the blue box  
12 didn't, you know, pop up on my computer, so I didn't know if  
13 you could hear me talking.

14 I think it was my client's hope to get balconies  
15 there. They had filed building permits and, you know, bought  
16 -- you know, obviously, they now have to go and demolish  
17 that, and they have to obviously comply with the plans. And  
18 so I think that that was just a misunderstanding. Obviously,  
19 if they could get balconies, they'd love it, but they -- I  
20 told them that it's not permitted, per the plans and the BZA  
21 order.

22 MEMBER SMITH: Okay. My next question --

23 MS. MOLDENHAUER: I wanted to be completely clear.  
24 Like, that was -- again, I don't put together the plans.  
25 It's the architect, and I think that's where there was a

1 disconnect.

2 MEMBER SMITH: Okay. Because it also looks like,  
3 what you're describing as windows, they're about -- they  
4 start about two feet from the balcony, so they look like very  
5 large windows, coming down to the floor of that architectural  
6 projection, if you will.

7 So I do have some concerns about -- would they be  
8 moveable windows, to walk out to this projection? But, you  
9 know, that's neither here nor there, I guess. But we'll see  
10 what happens with your client, regarding this balconies. But  
11 I did notice that. So thank you.

12 MS. MOLDENHAUER: I hope that answers that.

13 MEMBER SMITH: That answers the question.

14 VICE CHAIR JOHN: Thank you, Mr. Smith. Mr.  
15 Young, you were going to let the first witness person --

16 ZC MEMBER IMAMURA: Madam Vice Chair, it looks  
17 like Board Member Blake is looking for more airtime. Is that  
18 right?

19 VICE CHAIR JOHN: Was your hand up, Board Member  
20 Blake?

21 MEMBER BLAKE: It was, Madam Chair, but I was --  
22 I had a question for the applicant which may or may not be  
23 appropriate for this moment. But I could -- if you indulge  
24 me, I would ask it.

25 VICE CHAIR JOHN: Please go ahead.

1 MEMBER BLAKE: The location of that skylight, is  
2 that critical for that particular spot?

3 MR. GRANT: No, it's not.

4 MEMBER BLAKE: Okay. Thank you.

5 VICE CHAIR JOHN: I'm sorry. What was the  
6 question? Is the skylight appropriate for that spot?

7 MEMBER BLAKE: The question was, was it critical  
8 for that particular location? Or was it something that could  
9 be relocated?

10 VICE CHAIR JOHN: Oh. And what was the answer,  
11 Mr. Grant?

12 MR. GRANT: We can relocate it.

13 VICE CHAIR JOHN: It can be relocated.

14 MR. GRANT: Yes.

15 VICE CHAIR JOHN: Okay. All right. So can we let  
16 the witness in, please? The first witness in support. Mr.  
17 Young?

18 MR. YOUNG: Yeah, that would be Mr. DelleDonne,  
19 who was in the --

20 VICE CHAIR JOHN: Okay. Thank you. I don't see  
21 him. Okay.

22 MR. DELLEDONNE: Thank you. My name is Nick  
23 DelleDonne. I am a resident on the alley. And I am the  
24 president of a civic association called Dupont East Civic  
25 Action Association.

1 VICE CHAIR JOHN: Thank you.

2 MR. DELLEDONNE: And I apologize for you not being  
3 able to see my face. My camera is not working.

4 VICE CHAIR JOHN: That's fine. Can you also give  
5 me your address?

6 MR. DELLEDONNE: 1622 Riggs Place Northwest.

7 VICE CHAIR JOHN: Thank you. And are you  
8 testifying on your own behalf, or on behalf of an  
9 organization? And do we have something in the record that  
10 says you're testifying on behalf of a --

11 MR. DELLEDONNE: I submitted my comments already,  
12 so you have them for the record.

13 VICE CHAIR JOHN: Right. If --

14 MR. DELLEDONNE: And I would like to -- I would  
15 like to say something on behalf of the association.

16 VICE CHAIR JOHN: If I could finish? If you're  
17 testifying for yourself, you have three minutes. If we have  
18 something in the record authorizing you to speak for the  
19 organization, you would have five minutes. I don't believe  
20 we have something from the organization. So --

21 MR. DELLEDONNE: Three minutes is fine.

22 VICE CHAIR JOHN: Please go ahead.

23 MR. DELLEDONNE: All right. The city has  
24 installed a protected bike lane on 17th Street, which has  
25 made difficult deliveries to the commercial establishments



1 there, including the applicant. And also, patron parking is,  
2 frankly, abolished. And the patrons are getting tickets, as  
3 a result. So our association had made it a point to oppose  
4 this, and to oppose others throughout the city. And I wanted  
5 you to be aware of that.

6           So we want to encourage commercial establishments  
7 like Picasso Gallery, because it is the framework for our  
8 livable, walkable community, and if the retail fails, we lose  
9 the livable, walkable community that is sought after, and  
10 makes our community desirable to live in.

11           We were impressed with the inspection from DCRA,  
12 that the construction for 1641 had exceeded its bounds, and  
13 that the -- we'd like to see Picasso Gallery be able to  
14 extend their property, in the encouragement of their  
15 commercial establishment.

16           I want to point something out. On one of the  
17 drawings, I noticed, on SD-5 of the applicant -- I want to  
18 make this clear, if we can see that. Can we see the drawing  
19 for SD-5 of the applicant?

20           VICE CHAIR JOHN: Mr. Young, could you please pull  
21 up that exhibit?

22           MR. DELLEDONNE: There we go. I want to point  
23 this out to you -- is that this is not a two-level extension.  
24 It is one level. On the extreme left, there's a dotted line  
25 at the ceiling of the first floor. And if you follow it all

1 the way across to the right, it appears to be two floors.  
2 It is not. It is one.

3 And if you follow that into the righthand-side  
4 drawing, that will show you where it falls on the balconies  
5 and so on. So it's partially submerged. But I think that's  
6 really critical. They are not asking for a two-level  
7 extension, but one level. Those are my remarks. Thank you  
8 for your time.

9 VICE CHAIR JOHN: Thank you. Does the Board have  
10 any questions? Does the applicant have any questions?

11 MR. SULLIVAN: No, thank you.

12 VICE CHAIR JOHN: Ms. Moldenhauer, do you have any  
13 questions?

14 MS. MOLDENHAUER: No questions.

15 VICE CHAIR JOHN: Mr. Young -- thank you. Thank  
16 you, sir. Thank you for your testimony. Mr. Young, can you  
17 please let the next witness in? What's the name of the  
18 witness?

19 MR. YOUNG: Lauren Collins.

20 VICE CHAIR JOHN: Thank you. I don't see -- here?  
21 Oh. Yes, I do. Ms. Collins, can you hear me?

22 MS. COLLINS: Hello, yes, I can. Can you hear me?

23 VICE CHAIR JOHN: Yes, I can. Would you state  
24 your name and address for the record, please?

25 MS. COLLINS: My name is Lauren Collins. My

1 address is 1814 Florida Avenue Northwest.

2 VICE CHAIR JOHN: Thank you.

3 MS. COLLINS: 20009.

4 VICE CHAIR JOHN: Thank you. You have three  
5 minutes for your testimony, so please start when you're  
6 ready.

7 MS. COLLINS: I am just in support of the  
8 applicant's business expansion. I agree with the comments  
9 of Mr. DelleDonne. The parking loss in the neighborhood has  
10 been really critical to, you know, losing retail, and I would  
11 like to see the retail stay in the neighborhood. And for  
12 that reason, I support Picasso Gallery's plans.

13 VICE CHAIR JOHN: Okay. Thank you. Does the  
14 Board have any questions? Does the applicant have any  
15 questions?

16 MR. SULLIVAN: No, thank you.

17 VICE CHAIR JOHN: Ms. Moldenhauer, do you have any  
18 questions?

19 MS. MOLDENHAUER: I just was -- I'm sorry, I was  
20 confused by your address. Can you just -- where do you live  
21 in relationship to the property?

22 MS. COLLINS: I live about five blocks away.

23 MS. MOLDENHAUER: Okay. Thank you.

24 VICE CHAIR JOHN: Thank you. Thank you for your  
25 testimony, Ms. Collins. And you're excused for now. Mr.

1 Young, can you let the next witness in?

2 MR. YOUNG: That is Robert Leordo.

3 VICE CHAIR JOHN: Thank you. I don't see him.  
4 Okay, I do. Will you please state your name and address for  
5 the record?

6 MR. LEORDO: Okay. My name is Robert Leordo. I'm  
7 co-chairman of TENAC, D.C. Tenants' Advocacy Coalition. I  
8 live currently at 3636 16th Street Northwest, which is not  
9 near the Picasso Gallery, but I'm a member of the board of  
10 the Dupont East Citizens Action Association, which is located  
11 right near there, and I have applied to move into, and am  
12 waiting to move into, 17th and Massachusetts. The Baystate  
13 apartment building at 1701 Mass Avenue Northwest is about  
14 three blocks from the Picasso Gallery.

15 VICE CHAIR JOHN: Okay. Thank you.

16 MR. LEORDO: And can I proceed?

17 VICE CHAIR JOHN: Well, with one clarification.

18 MR. LEORDO: Hello?

19 VICE CHAIR JOHN: Yes, with one clarification.  
20 Are you testifying on behalf of yourself, or the Dupont East  
21 Citizens Association?

22 MR. LEORDO: Oh, just for myself.

23 VICE CHAIR JOHN: Okay. So you will have three  
24 minutes --

25 MR. LEORDO: Just for myself now.

1 VICE CHAIR JOHN: Yes. You will have three  
2 minutes to give your testimony. So please go ahead.

3 MR. LEORDO: Okay. I've come before the Bureau  
4 of Zoning Adjustment today in support of Picasso Gallery's  
5 application for an addition to their building on their own  
6 land, as is their right.

7 The case is a simple one, as Picasso Gallery,  
8 herein referred to as Applicant or Picasso, simply wishes to  
9 add or extend a building on their own land, perhaps one to  
10 one and a half stories, as the law allows the applicants, for  
11 such additions, to do so.

12 The only real difficulty that has been introduced  
13 into this situation by 1641 R Street, herein referred to as  
14 Opponent or 1641, who wishes to encroach on Picasso Gallery's  
15 space and air rights by preventing the addition requested,  
16 by contending that they, 1641, has the right to a clear view  
17 through the airspace rights of Picasso Gallery, and so,  
18 Picasso cannot add construction on its own land.

19 1641 thus wants to use Picasso's space as a view,  
20 as a clear view through, which future tenants can enjoy, a  
21 view, as the reason Picasso should not be granted an  
22 addition. A clear, dark view of an alley, no less. However,  
23 Picasso has given neither the air and space rights away to  
24 1641, nor received compensation in exchange for them.

25 However, 1641 seems to assume that it may coopt

1 Picasso's air rights. It does so under color of a  
2 constructive workaround, that because they have already  
3 started construction on balconies -- the construction is in  
4 progress or completed, gives them the right to appropriate  
5 Picasso's air and space rights.

6 Notably, 1641 began construction and balconies  
7 purely at-risk, without any approval of such construction,  
8 and without any agreement by Picasso that 1641 could deprive  
9 Picasso of Picasso's air rights. Perhaps 1641 and developers  
10 in general -- we hope not -- wish to assume all construction  
11 by developers mean the deprivation of other landowners'  
12 rights, wherever and wherever developers wish.

13 Even worse, the presumption that 1641 is entitled  
14 to clear view by virtue of the construction of the windows  
15 overlooking Picasso land, or an apartment unit, is in  
16 flagrant violation of the law, which requires an express  
17 easement be granted for that clear view purpose. I believe  
18 it is an easement which neither exists nor is granted in this  
19 case. So all in all, we urge BZA to grant Picasso's  
20 application. Thank you.

21 VICE CHAIR JOHN: Thank you very much for your  
22 testimony. Does the Board have any questions?

23 Does the applicant have any questions? Does the  
24 party in opposition have any questions?

25 MR. SULLIVAN: No.

1 MS. MOLDENHAUER: No.

2 VICE CHAIR JOHN: Thank you, Mr. Sullivan. Okay.  
3 Thank you, Mr. Leordo. You are excused for today.

4 MR. LEORDO: Thank you.

5 VICE CHAIR JOHN: Thank you. Mr. Young, do we  
6 have another witness?

7 MR. YOUNG: Yes, we do. That is Michael Bebawy,  
8 who is calling in by phone, so I'm going to unmute him now.

9 VICE CHAIR JOHN: Thank you.

10 MR. BEBAWY: Hello. Yes. Thank you for your  
11 time.

12 VICE CHAIR JOHN: Yes, good afternoon, Mr. Bebawy.  
13 Could you state your --

14 MR. BEBAWY: Good afternoon.

15 VICE CHAIR JOHN: Good afternoon. Could you state  
16 your name and address for the record, please?

17 MR. BEBAWY: Sure. My name is Michael Bebawy, and  
18 it's 2222 12th Street Northwest, Washington, D.C. 20009.

19 VICE CHAIR JOHN: Thank you. Please go ahead.  
20 You have three minutes for your testimony.

21 MR. BEBAWY: Sure. Thank you. I definitely  
22 support the plans for Picasso Gallery. I've been a patron  
23 of the business for probably over ten years, maybe closer to  
24 12. And definitely, the retail businesses in Dupont, which,  
25 you know, is what makes the city and town thrive, is

1 definitely a necessity for the town.

2 I'm in full support of the plans for Picasso  
3 Gallery. Myself, being a small business owner, and dealing  
4 with COVID and all the issues that have, you know, come upon  
5 all of us in the last two years -- storage and being able to  
6 run your business efficiently is a huge thing for me. I can  
7 only imagine, you know, the tough issues that, you know, Mr.  
8 Poozesh and Picasso have been dealing with.

9 I think what they're doing is totally within  
10 reason, and, you know, we need to see more retail business  
11 continue and thrive, because if there's no retail, there's  
12 nothing in our city. I'm in full support of, you know, his  
13 plans and what they are planning to do there.

14 VICE CHAIR JOHN: Thank you. Thank you very much,  
15 Mr. Bebawy.

16 MR. BEBAWY: Right.

17 VICE CHAIR JOHN: So you're excused for today.

18 MR. BEBAWY: Thank you. I appreciate your time.

19 VICE CHAIR JOHN: I'm sorry. I'm sorry, Mr.  
20 Bebawy. Before I excuse you -- it's getting late.

21 MR. BEBAWY: Sure.

22 VICE CHAIR JOHN: Does the Board have any  
23 questions? Does the party -- does the applicant have any  
24 questions?

25 MR. SULLIVAN: No, thank you.



1 VICE CHAIR JOHN: Does the party in opposition  
2 have any questions?

3 MS. MOLDENHAUER: No, thank you.

4 VICE CHAIR JOHN: Okay. So thank you again, Mr.  
5 Bebawy.

6 MR. BEBAWY: You're welcome. Thank you for the  
7 time.

8 VICE CHAIR JOHN: You're welcome. Mr. Young, can  
9 you please let the next witness in?

10 MR. YOUNG: That is Robin Diener.

11 VICE CHAIR JOHN: Thank you. Ms. Diener, can you  
12 hear me?

13 MS. DIENER: Yes. I can. Just trying to turn on  
14 my video.

15 VICE CHAIR JOHN: That's okay. Can you state your  
16 address for the record, please?

17 MS. DIENER: My address, yes, is 1612 Corcoran  
18 Street, Northwest.

19 VICE CHAIR JOHN: Okay.

20 MS. DIENER: And I live about a block from the  
21 Poozeshes' residence, and a block and a half, I think, from  
22 their lovely business, Picasso Framing. I am speaking on my  
23 own behalf, as neighbor, but I will just put into this, for  
24 your own knowledge, that I had been, for some 12 years, off  
25 and on, president of the Dupont Circle Citizens Association,

1 so have come before you previously on other things, and very  
2 much appreciate your extremely complicated work. So thank  
3 you.

4 I agree with all the comments that have been said  
5 so far from supporters of the Poozeshes' Picasso Framing.  
6 They are lovely neighbors, by the way. They actually water  
7 the trees in front of both their home and their business.  
8 I have a small tree-watering program, so I'm happy to see  
9 people taking the initiative to help support the city's  
10 canopy efforts.

11 We're also happy to see the conversion of this R  
12 Street building to housing. So we welcome that, as well.  
13 We've had a longstanding history of fights in the  
14 neighborhood with clubs that have been in that location, so  
15 this will be a wonderful thing, to see this come to fruition.

16 I wouldn't want it to interfere with the Poozesh  
17 business, though, in any way, because it is a valued business  
18 in our neighborhood, in this particular little commercial  
19 strip, which others have described, and which is absolutely  
20 vital to the, you know, livability and walkability of our  
21 little neighborhood here.

22 I've lived in D.C. since I went to college, so  
23 it's been many decades, and I've lived in a number of  
24 buildings without views. And it's still -- you know, it's  
25 still exciting to live in the District of Columbia. And when

1 you're young, you don't have a lot of money, you know, you  
2 put up with whatever you have to.

3 But I would also note, as someone who now has a  
4 backyard, that the view from those proposed balconies, is  
5 ridiculously terrible. It just extends to a little alley,  
6 and then up against another brick wall of the building across  
7 the alley. And if I lived there, I would put up a screen and  
8 plant plants on it.

9 Also, the Poozeshes, I haven't spoken to them  
10 about this, but maybe they would want to put a little green  
11 roof or some bushes or something on top of the addition that  
12 they build, which would actually add greatly to the view,  
13 because I don't think there even is a tree within view of  
14 these balconies proposed, which -- it sounds like they may  
15 not come to fruition anyway. So, sorry, that's a lot of  
16 opinions. Thank you for hearing me out. And I thank you for  
17 your work that you do for the District.

18 VICE CHAIR JOHN: Thank you. Does the Board have  
19 any questions? Does the applicant have any questions?

20 MR. SULLIVAN: No, thank you.

21 VICE CHAIR JOHN: Thank you. Does the party in  
22 opposition have any questions?

23 MS. MOLDENHAUER: No, thank you.

24 VICE CHAIR JOHN: Okay. Well, thank you for your  
25 testimony, and you're excused today, Ms. Diener.

1 MS. DIENER: Thank you for hearing me.

2 VICE CHAIR JOHN: Thank you. Mr. Young, do we  
3 have any other witnesses?

4 MR. YOUNG: Yes, we do. We have two in  
5 opposition.

6 VICE CHAIR JOHN: Okay. Would you let the first  
7 witness in, please?

8 MR. YOUNG: Yes. That is Tommy Sams, and he's  
9 calling in by phone, so I'll unmute him now.

10 VICE CHAIR JOHN: Thank you. Good afternoon, Mr.  
11 Sams. Can you hear me?

12 MR. SAMS: Yes, I can, Vice Chair.

13 VICE CHAIR JOHN: Okay. Please state your name  
14 and address for the record. And you have three minutes to  
15 testify.

16 MR. SAMS: Thank you. My name is Tommy Sams, and  
17 I live at 1744 Riggs Place Northwest, which is about one  
18 block away from the property, Picasso Gallery.

19 VICE CHAIR JOHN: Okay. Please --

20 MR. SAMS: I'm calling in opposition to the  
21 proposal, mostly because I fear that it will cut off air and  
22 light from the adjacent building. And while some argue that  
23 it's not that much light, I think any light is good when  
24 you're living in a building, and regardless of the views.

25 What's at value here is that this is a project

1 that's being developed for housing, in a long-dilapidated,  
2 vacated building, which will add much to the neighborhood,  
3 and as much as I support small business, I think in this  
4 case, the value of this residential property makes much more  
5 sense. Thank you for your time. I did submit a statement  
6 of opposition for the record, and I hope you will take that  
7 into consideration during your deliberation. Thank you.

8 VICE CHAIR JOHN: Thank you very much. Does the  
9 Board have any questions? Does the applicant have any  
10 questions? Does the party in opposition have any questions?

11 MS. MOLDENHAUER: No questions.

12 VICE CHAIR JOHN: Thank you. So Mr. Sams, you're  
13 excused. And thank you for your testimony.

14 MR. SAMS: Thank you, Madam Vice Chair.

15 VICE CHAIR JOHN: Thank you. Mr. Young, would you  
16 let the last witness in, please? Mr. Landry?

17 MR. YOUNG: I actually had one more in support,  
18 who is calling in by phone.

19 VICE CHAIR JOHN: Okay. Please let Mr. Landry in.

20 MR. YOUNG: Did you want to hear from the support  
21 one first? He's calling in by phone.

22 VICE CHAIR JOHN: Okay. Go ahead.

23 MR. YOUNG: That's Marvin Asigbe (phonetic).

24 VICE CHAIR JOHN: Okay. Go ahead.

25 MR. ASIGBE: Yeah, hello?

1 VICE CHAIR JOHN: Hello?

2 MR. ASIGBE: Yes.

3 VICE CHAIR JOHN: Can you please state your name  
4 and address for the record?

5 MR. ASIGBE: Sure, yes. My name is Marvin Asigbe.  
6 My address is 320 Florida Avenue Northeast, Washington, D.C.

7 VICE CHAIR JOHN: Okay. Thank you. And you will  
8 have three minutes to give your testimony.

9 MR. ASIGBE: Okay. Great. Yeah, so what I want  
10 to say is that I'm in full support of all additional plans  
11 for, you know, Picasso Gallery. I've known Mr. Poozesh for  
12 -- let's see, I'd say the past five years. And even just  
13 seeing how he's operated through the pandemic, all I can say  
14 is that he has nothing but value to bring to the community.  
15 And so I'm all for it.

16 VICE CHAIR JOHN: Okay. Thank you for your  
17 testimony. Does the Board have any questions? Does the  
18 applicant have any questions? Does the party in opposition  
19 have any questions?

20 MS. MOLDENHAUER: No.

21 VICE CHAIR JOHN: Okay. Thank you, sir. And  
22 you're excused for today. Mr. Young, can you let the next  
23 witness in, please?

24 MR. YOUNG: That's Mr. Landry, who I just unmuted.

25 MR. LANDRY: Hello, can you hear me?

1 VICE CHAIR JOHN: Yes. Mr. Landry, please state  
2 your name and address for the record, please.

3 MR. LANDRY: Hi, my name is Aaron Landry, the  
4 owner of 1615 Q Street Northwest, Apartment 1203.

5 VICE CHAIR JOHN: Yes.

6 MR. LANDRY: So Vice Chair, Board, I'm Aaron  
7 Landry. I'm the former commissioner in 2B 04, where this  
8 property's located. I was also the chair of the Zoning  
9 Preservation and Development Committee for a couple years in  
10 that area.

11 And to be clear, I'm speaking as an individual.  
12 I'm no longer on the commission. But I do know the  
13 applicant. I know the block. I know both of the attorneys  
14 on both sides, and am pretty -- I know this area very well.  
15 In particular, I know 1637 R Street Northwest, as that was  
16 a BZA project that came before my commission.

17 And so I'm very well-versed with that area, and  
18 excited that at 1637, they have taken, as other people have  
19 testified, a property that was not in good condition, and  
20 working on a project that meets both the success in terms of  
21 historic preservation, but also in providing new housing in  
22 Dupont, which I know you all know is very difficult,  
23 especially in neighborhoods like Dupont.

24 I have a lot more to say, but I'll just sum it up  
25 by going to what I would do on the commission, which is to

1 look at what the law says about this property. And first,  
2 like, is this aligned with the intent of the zoning in the  
3 neighborhood?

4           And my answer is no. Like, there's no other place  
5 on this block where this would be appropriate. Like, this  
6 is something that I know would be opposed by neighbors, if  
7 they had a two-story commercial storage space put up against  
8 the entire rear lot of their neighbors. And I know every  
9 situation that you look at is unique, but I can tell you that  
10 this is not in alignment with the zoning of the neighborhood,  
11 nor the intention of it.

12           And then, does this have an adverse impact on  
13 neighboring properties? And the answer is that it clearly  
14 does have an impact on the neighbor property. And there's  
15 a lot of discussions that's like, well, were those supposed  
16 to be nine feet or eight foot or three feet? Or is there a  
17 balcony, or there's not?

18           I mean, the bottom line is, if you go out to the  
19 site and look at the property, it's clearly going to be  
20 putting up a brick law -- or a brick wall, excuse me, in  
21 front of residential units. And so I think it's very clear,  
22 regardless of which was you cut it, that this is going to  
23 have an adverse impact on neighboring properties. So I'm  
24 definitely speaking in opposition, and thank you for  
25 listening to my testimony.



1 VICE CHAIR JOHN: Okay. Thank you for your  
2 testimony, Mr. Landry. Does the Board have any questions?  
3 Does the applicant have any questions?

4 MR. SULLIVAN: I do, Madam Chair, if I may.

5 VICE CHAIR JOHN: Go ahead.

6 MR. SULLIVAN: Mr. Landry, you said that you did  
7 a site visit, but were you aware that what you were looking  
8 at is not going to be the situation going forward?

9 MR. LANDRY: I was confused at first by the  
10 different drawings that I had seen from the applicant, and  
11 I had been trying to -- looking at what was submitted to BZA,  
12 and then also talking with neighbors, trying to figure out  
13 exactly how it would look.

14 But then ultimately what it came down to be is  
15 that there's going to be a range of different scenarios that  
16 would happen, and different heights that it could be, and  
17 different distances between the proposed wall and the  
18 existing property. And I think that, either way you cut it,  
19 it's going to end up impacting the neighbor adversely.

20 MR. SULLIVAN: So I was mostly referring to the  
21 1641 R building, not the applicant's plans, because you said  
22 you did a site visit, so -- and you said you saw what was  
23 there and what was going to happen to 1641 R. Are you saying  
24 that -- are you not aware that that wall is going to be  
25 scaled back nine feet, in order to comply with the BZA- and

1 HPRB-approved plans?

2 MR. LANDRY: So I had heard recently that the  
3 confusion with the DCRA and the confusion with the permits  
4 that had existed -- but I don't have all of those facts  
5 straight. But even if it was exactly how the BZA initially  
6 approved 1637 or 1641 R Street, there would still be a  
7 negative impact to that property by putting up this wall.  
8 So --

9 MR. SULLIVAN: Okay. So you're confused now, and  
10 you're not sure what the facts are so -- but would you

11 MR. LANDRY: Well, I'm starting --

12 MR. SULLIVAN: Are you willing to retract your  
13 testimony that you submitted in writing, that states that it  
14 was very clear in the ANC 2B meetings that the applicant was  
15 flagrantly dishonest and derogatory of neighboring property  
16 owner, and that you were strongly interested in making sure  
17 the truth of this case is elevated? Are you satisfied now  
18 that the truth is elevated?

19 MR. LANDRY: Well, to be completely frank, I'm not  
20 sure if the truth has been fully elevated in this case yet,  
21 because I am further confused by some of the things that have  
22 been said.

23 But I think the bottom line is, like, even if this  
24 wasn't even modified -- like, let's say the building wasn't  
25 modified at all -- like, it would still be blocking the

1 second floor at a minimum. And so I think, like, the bottom  
2 line is, it's still going to be blocking it. And I  
3 appreciate you quoting me, but I definitely was, after  
4 attending the ANC meetings, disappointed in some of the  
5 rhetoric. So --

6 MR. SULLIVAN: Yeah, so -- we were, as well.  
7 Thank you.

8 MR. LANDRY: Thank you.

9 VICE CHAIR JOHN: Does the -- are you done, Mr.  
10 Sullivan?

11 MR. SULLIVAN: Yes, thank you.

12 VICE CHAIR JOHN: Thank you. Does the party in  
13 opposition have any questions? Ms. Moldenhauer?

14 MS. MOLDENHAUER: Sorry, it took me a while to  
15 unmute. No questions.

16 VICE CHAIR JOHN: Okay. Thank you. So Mr.  
17 Landry, thank you for your testimony. And you're excused for  
18 today.

19 MR. LANDRY: Thank you very much.

20 VICE CHAIR JOHN: You're welcome. So it's now  
21 1:45, and way past the lunch hour. So I'm going to try to  
22 finish this case before we go to lunch. So Mr. Sullivan, do  
23 you have any rebuttal?

24 MR. SULLIVAN: No, no rebuttal. Just a closing,  
25 if we may.

1 VICE CHAIR JOHN: All right. So please go ahead  
2 and --

3 MR. SULLIVAN: Or -- I'm sorry. I mean, maybe  
4 it's considered rebuttal, but rebuttal/closing. And I'd like  
5 to pull up the PowerPoint for the slides that I didn't go  
6 over before on the response to the party status.

7 VICE CHAIR JOHN: Please go ahead.

8 MR. SULLIVAN: Thank you. Mr. Young, if you could  
9 pull up our original PowerPoint? Thank you. Some context  
10 here, first of all. 1641 R is 100 percent lot occupancy,  
11 right now, on all four levels. It's over its permitted lot  
12 occupancy. It's at maximum FAR. It might be beyond it now,  
13 because it extended that wall four feet further than the BZA  
14 approved. On top of that, it put a full penthouse on top of  
15 that.

16 And actually, in doing the illegal construction  
17 at the back, it blocked windows that were facing east in one  
18 of its own units. So I'm not sure that its concerns about  
19 getting light into all their units is credible in that  
20 regard.

21 On the other side, my client wishes to get the  
22 minimal amount of space he needs to help him continue  
23 successfully operating his business. And he did it in a way  
24 where he buried a portion of it, and then he essentially put  
25 two floors into one. So they're not -- they're useful for

1 his business, but not useful for retail or residential. So  
2 he did that so that -- Mr. DelleDonne was right that it's one  
3 story. I'll call it two levels, but it's one story from the  
4 exterior. And then that lines up with that first story only.

5           So this was his compromise, because my client  
6 supported the BZA application for 1641 R. He granted access  
7 across his property for their construction, which turned out  
8 to be an illegal construction. And he's always cooperated  
9 with the neighbor, and he was continuing to cooperate with  
10 the neighbor in designing the smallest space possible for  
11 this.

12           So if we could go to the slides, Mr. Young, that  
13 says -- the first slide, it says, Response to Party Status.  
14 Thank you. I want to clear up any confusion, too, of what's  
15 happening. There's two windows. There's two windows that  
16 were at the furthest -- if you look at the north elevation,  
17 they were the easternmost windows, which will, yes, will now  
18 look at a wall, if you look straight. If you look up, you'll  
19 see the sky. And they are nine feet away.

20           The walls are also due north of those two windows.  
21 The sun does not go around the corner and come back to that  
22 building, so the difference in shade is negligible. There  
23 will be no difference in shade. The windows on the third and  
24 fourth levels are not affected at all, certainly not light  
25 and air. Maybe a tenant's puppy couldn't see out the window

1 because of the addition, but a person looking out that window  
2 is just going to see the roof of that addition, and have no  
3 impact on light and air.

4 I want to mention also, light and air's not  
5 actually up for consideration in the specific special  
6 exception criteria. This is about adversely affecting the  
7 use of neighboring properties. Next slide.

8 So they've stated this, that it will eliminate  
9 even the possibility of a north-facing apartment, although  
10 we're not sure if that's still their testimony or not. If  
11 that were the case, that would be because of a building code  
12 issue that they have, not because of anything that my client  
13 has done.

14 Air. Nearly nine feet -- I'm discussing light and  
15 air because it's been brought up, and it's possibly  
16 tangentially applicable to the general special exception  
17 criteria, although I do have some background on that, in the  
18 context of this particular relief. This Board has approved  
19 special exception relief for a rear yard that has blocked  
20 windows, closed windows.

21 In fact, in one case, there was special exception  
22 relief -- Case Number 19586, that blocked ten stories of  
23 windows, 30 windows, in an apartment building. And the Board  
24 ruled in that case that because they were at-risk windows,  
25 that was their choice, the neighbors' choice.

1           And then they also -- they did an analysis in that  
2 and some other cases about the percentage impact on these  
3 at-risk windows, and because there were 270 units in that  
4 apartment building, and only ten were going to have windows  
5 blocked, percentage-wise, that was not adversely affecting  
6 the use of that property.

7           Now, if we did that analysis here, we would say,  
8 these two windows are going to look at a wall. They're not  
9 really going to have any less sunlight. They're going to  
10 look at a wall. No other unit's affected by that whatsoever  
11 in this -- I think it's -- 18-unit building. So if you were  
12 going to do a percentage analysis, much, much less than  
13 19586.

14           The reason why I talk about at-risk windows -- an  
15 at-risk window isn't actually defined as a window that's on  
16 a property line. The Office of Planning's done a lot of  
17 research on this, because there were a couple cases where  
18 this was important, including 19586. Their report in that  
19 case, their supplemental report, was really helpful.

20           They stated, there is no official definition or  
21 clarification of an at-risk window in the zoning regulations.  
22 There's also no overt definition provided by the building  
23 code. Then they go on to explain the different building code  
24 provisions. It actually starts at about 20 feet distance.  
25 That's when your windows, or the amount of windows that you

1 can have, becomes somewhat restrictive. And then the closer  
2 you get to a property line -- not to a building, to a  
3 property line -- the amount of windows that you can have are  
4 less than that. So at less than ten feet, these could be  
5 considered windows at risk. Next slide, please.

6 Views. This is about views. This is, somebody  
7 doesn't want to look at a wall out their windows. They're  
8 still going to be able to use their apartment. They're still  
9 going to get about the same amount of light that they get  
10 otherwise. It's about views.

11 And this quote from 18787 -- in any event, this  
12 Board has found, on a number of occasions, that it is  
13 well-settled in the District of Columbia that a property  
14 owner is not entitled to a view across another person's  
15 property without an express easement.

16 A property owner -- and the Zoning Commission  
17 stated that a property owner is not entitled to a view,  
18 light, or air across another person's property without an  
19 express easement, and a property owner has no right to view  
20 across another person's property. The Commission finds that  
21 the viewsheds and property values of the opponents are not  
22 protected by any restrictive covenants or by the zoning  
23 regulations.

24 Ms. Moldenhauer mentioned that maybe this applies  
25 here, but not for a special exception case. The Board and



1 the Zoning Commission make no such distinction, and they  
2 shouldn't, because if my client has property rights that are  
3 not to be infringed on by a neighbor's choice to put an  
4 at-risk window on our common property line, then their right  
5 to seek special exception relief, and have that evaluated  
6 under the same criteria, should also not be infringed upon.

7           And that's how we were able to obtain 100 percent  
8 rear yard relief and block 30 stories of windows in that  
9 other case, because the Board saw it as -- if I make a choice  
10 to build on a property line, and expect you to grant me your  
11 air rights, I'm taking that risk that that air may not be  
12 there.

13           And that shouldn't stop somebody from being able  
14 to seek special exception, just like anybody else, or any  
15 other similarly-situated property. Essentially, I can't take  
16 away your rights by putting my at-risk window up. And the  
17 right to seek special exception relief is a right. Next  
18 slide, please.

19           This is just additional, what we said before, with  
20 the views. It's another BZA case, well-settled, that a  
21 property owner is not entitled to a view across property.  
22 This Board and the Zoning Commission have consistently found  
23 that a property owner has no right to a view across another  
24 person's property, and lists several BZA orders. Next slide,  
25 please. That's it for the slides. I don't have anything

1 else, I don't believe. I'm sorry, I'm just checking.

2 I think the party opponent has made some  
3 questionable comments that are maybe not credible, about all  
4 light and air being destroyed by this -- that's not true --  
5 that a unit's going away -- that apparently is not true. And  
6 so -- shown, and we think we have shown, that there's no  
7 adverse -- it has not adversely affected the use of 1641 R,  
8 and I don't think they've rebutted that claim at all. Thank  
9 you.

10 VICE CHAIR JOHN: Thank you, Mr. Sullivan. Ms.  
11 Moldenhauer, do you have any rebuttal closing statement?

12 MS. MOLDENHAUER: Yes. Thank you. If Mr. Young  
13 could pull up my PowerPoint, starting at Slide 5? We submit  
14 that the request for relief here obviously is not by right.  
15 And thus, the applicant has to satisfy their burden of proof  
16 to qualify under the special exception standard. And they  
17 have to show that there is no adverse impact on the abutting  
18 property owner's use. We believe that Mr. Sullivan has not  
19 met that burden.

20 His reference to windows, I think, you know, don't  
21 take into effect the existing condition. You can see the  
22 picture here. You know, this property, the opposition  
23 party's property, has had windows here for over 120 years.  
24 It's a historic property that contributes -- while those  
25 windows have been modified, when the opposing property owner

1 purchased the property and looked to convert what -- you  
2 heard testimony from individuals from the community, a  
3 long-derelect property to residential units, you know, they  
4 intended obviously to maintain and kind of expand on those  
5 windows.

6           The proposal here, you know, is asking for a  
7 two-story structure that we think, for storage purposes, you  
8 know, there's been no testimony that this is absolutely  
9 necessary to, you know, be of this size, of two stories, and  
10 that, you know, one story couldn't be sufficient. And so,  
11 you know, we think that the applicant hasn't met its burden  
12 to ask for the massing here.

13           As we said, you know, we would be very supportive  
14 -- and if Mr. Young could go three slides down -- of, you  
15 know, a proposed structure we think would give the applicant  
16 more than enough storage space, but it would be one story,  
17 at that red marker there, which would not create these  
18 adverse impacts to an abutting property owner. You know, we  
19 think that the, you know, positioning of the skylights would  
20 create an adverse impact, and the overall size of the  
21 structure, given this tight condition that is here.

22           Mr. Sullivan made references to a lot of other BZA  
23 cases. As we know, the Board takes every case under its  
24 individual and unique circumstances. And I think that in  
25 this case, you know, there are concerns about, you know, the

1 massing, and the relief being requested. That being said,  
2 we ask the Board to deny, or to ask the applicant to at least  
3 modify its application. Thank you.

4 VICE CHAIR JOHN: Thank you, Ms. Moldenhauer. Did  
5 I see your hand up, Mr. Sullivan?

6 MR. SULLIVAN: Yes, Madam Chair. If I could  
7 respond to that, briefly? Regarding their request to modify  
8 the application, Ms. Moldenhauer stated that we haven't shown  
9 that it's absolutely necessary to do this. And of course,  
10 that has nothing to do with the BZA special exception  
11 criteria.

12 And she also pointed out a bay structure on their  
13 property, on 1641 R, stating that those windows have been  
14 there for 120 years, it's a historic building. That's what  
15 they destroyed. That's what they completely knocked down,  
16 after the BZA and the HPRB approved a small addition to that  
17 structure. So they knocked that out. Those windows are no  
18 longer there. And there's going to be new windows there at  
19 some point.

20 But I just wanted to point that out, that the  
21 historic status of it has nothing to do with it, or how long  
22 the windows have existed. But they removed those windows and  
23 that entire structure, when they decided to blow past their  
24 BZA-approved plans and go to the property line. Thank you.

25 VICE CHAIR JOHN: Thank you, Mr. Sullivan. Okay.

1 I believe this concludes the hearing. And I'm going to close  
2 the record and turn to the Board members to decide where we  
3 will go from here. I want to thank Mr. Sullivan and Ms.  
4 Moldenhauer for their testimony. And we'll see what happens.

5 MR. SULLIVAN: Thank you.

6 VICE CHAIR JOHN: Thank you. You're welcome.  
7 Okay, so turning to the Board, I'm going to make a  
8 recommendation that we continue this case for a decision.  
9 And I believe I also made it clear that the record was  
10 closed. So we are not expecting any submissions. And if the  
11 Board approves of that recommendation, I would ask Mr. Moy  
12 to give us a date for the decision. Can I hear from the  
13 Board any questions? Raise your hand.

14 MEMBER SMITH: I don't have any questions, Madam  
15 Chair. I'm in support of continuing this for a decision, for  
16 us to deliberate over the information that we've received.

17 VICE CHAIR JOHN: Thank you. Okay, Mr. Moy.  
18 What's our first date?

19 MR. MOY: Okay, Madam Chair, I think -- let's see.  
20 I think we've already set a decision for one of the earlier  
21 cases, to February the 16th, I believe. So I think -- well,  
22 my first suggestion, Madam Vice Chair, would be to set this  
23 decision for next week, which would be February the 9th,  
24 regardless of the number of cases we have that day, since  
25 this is for a decision-making. So that would work well.

1 VICE CHAIR JOHN: Okay. That's fine.

2 MR. MOY: This would still be fresh in your mind.

3 VICE CHAIR JOHN: Yes. Thank you. Okay. So it's  
4 2:03 p.m., and we will break for lunch. And how much time  
5 do you all need? Forty minutes? Well, a little less.  
6 Thirty-five minutes, I suppose. We will reconvene at 2:40.  
7 Is that enough time --

8 ZC MEMBER IMAMURA: Ample time.

9 VICE CHAIR JOHN: -- to have a cup of coffee?  
10 Okay. Let's reconvene --

11 ZC MEMBER IMAMURA: More than enough.

12 VICE CHAIR JOHN: Let's reconvene at 2:40. And  
13 that's so that we're not here for dinner. It's not my plan  
14 to be here for dinner.

15 (Whereupon, the above-entitled matter went off the  
16 record at 2:03 p.m. and resumed at 2:51 p.m.)

17 MR. MOY: The Board of Zoning Adjustment is back  
18 in its public hearing session after a lunch recess. And the  
19 time is at or about 2:52 p.m.

20 VICE CHAIR JOHN: Thank you. So can you call the  
21 next case, which I believe is 20607?

22 MR. MOY: Yes. The next case application before  
23 the Board is Application No. 20607 of Max Pappas and Adel  
24 Pappas. This is a request for a special exception from the  
25 rooftop and upper floor requirements, Subtitle U Section

1 206.1 pursuant to Subtitle E Section 206.4, Subtitle E  
2 Section 520.7, and Subtitle X Section 902.1.

3 This would construct a third story addition to an  
4 existing attached two-story with cellar principle dwelling  
5 unit in the RF1 Zone. The property is located at 327  
6 Tennessee Avenue Northeast Square, 1032 Lot 53. And I  
7 believe -- Let's see. I believe that's all I have.

8 VICE CHAIR JOHN: Okay, thank you. Good  
9 afternoon, Mr. Sullivan.

10 MR. SULLIVAN: Good afternoon, Madam Chair.

11 VICE CHAIR JOHN: Thank you. Can you state your  
12 name for the record and let us know if you have anyone with  
13 you today?

14 MR. SULLIVAN: Yes, thank you. Marty Sullivan  
15 with Sullivan and Barros on behalf of the Applicant. And  
16 with us is Adel and Max Pappas. And the architect got -- I  
17 think he's not available at this time. He was available and  
18 then we lost him for a couple hours possibly. I wanted to  
19 ask the Board -- I think we can forward probably. And then  
20 if the Board has questions, maybe the Board could postpone  
21 us to the end to get the architect in. But I think  
22 everything's pretty straightforward, so we may not need the  
23 architect. But if the Board would like the architect to be  
24 there, then I would suggest you just put us at the end right  
25 now. And then we'll make sure he's available at that time.

1 VICE CHAIR JOHN: Thank you. Mr. Sullivan, let's  
2 see how far we get because I'm not sure if the -- the agents  
3 in the -- parties from the next case are available now. So  
4 let's just see how far we get. Thank you.

5 MR. SULLIVAN: Thank you.

6 VICE CHAIR JOHN: You can begin with your  
7 statement, Mr. Sullivan.

8 MR. SULLIVAN: Thank you, Madam Chair. If we  
9 could have the PowerPoint please, Mr. Young. Thank you.  
10 So the property is 327 Tennessee Avenue Northeast. Next  
11 slide please.

12 This is RF1 zone property. The subject property  
13 is improved with a two-story single family row building. The  
14 Applicant is proposing to construct a third story addition  
15 on top of the existing two-story portion of the building.  
16 And this includes removing an existing mansard rooftop and  
17 rebuilding it on the third floor. So accordingly, the  
18 Applicant requests special exception relief from E206.1 for  
19 architectural elements. We have seven support letters from  
20 neighbors, including all the immediate neighbors, including  
21 in the back alley and on both sides. And we have unanimous  
22 support of ANC 6A. Next slide please.

23 So here's an aerial photo of the location of the  
24 property. Next slide please. I wanted to ask Adel and Max  
25 if -- I just want to see if the architect here before I get



1 too far into this. Warren Wick is his name. Paul, do you  
2 know if he's signed on?

3 MR. YOUNG: I do not see him.

4 MR. SULLIVAN: Okay. Okay, so I'll just -- I'll  
5 continue. So subject property is here in the photo, 327  
6 Tennessee Avenue and the rest of the block on that side.  
7 Next slide please. And this is in the other direction. Next  
8 slide please. And this is looking at the property from the  
9 other side of the street. Subject property is the grey  
10 property at 327 Tennessee. Next slide please.

11 This is across the street showing one of the  
12 buildings. There's four other buildings that have a third  
13 story addition on this block. This is the one that's across  
14 the street. Next slide please. And here's a photo -- the  
15 best photo we could get. There's three homes at the end of  
16 this row that also have third story additions. Next slide.

17 These are the floor plans. I wasn't going to talk  
18 about these. But if you have any questions about them. Next  
19 slide please. Next slide. Next slide please. And next  
20 slide please. Next slide. Here's the front elevation  
21 showing the new mansard in the third row addition in the  
22 front. Next slide please. And here's the rendering of the  
23 proposed change to the architectural element and the third  
24 story addition. Next slide please.

25 The general special exception criteria granting

1 relief will be in harmony with the purpose and intent of the  
2 zoning regulations and maps. The zoning regulations  
3 specifically permit the requested special exception relief  
4 for architectural element alteration. And the addition meets  
5 all other development standards of the RF1 zone. And the use  
6 of single family row of course is in harmony with the intent  
7 and purpose of the RF1 zone. Granting relief will not tend  
8 to affect adversely the use of neighboring property. It's  
9 just the -- There's no impact on light and air or any other  
10 property. And we do have the support as mentioned of all the  
11 surrounding neighbors. Next slide please.

12           The specific criteria of the light and air,  
13 privacy, light and air's not impacted by this. It's just at  
14 the front of the building is where the relief is requested.  
15 So there's no impact on the light and air of any neighboring  
16 windows or yards. Same with privacy, there's no side-facing  
17 windows. Next slide please.

18           And then -- now this is where I would like the  
19 architect to be here, so if the Board has questions for the  
20 architect. But we do have this on the record that the -- and  
21 the Office of Planning has written a bit on this as well,  
22 talking about the diversity on the block -- diversity of  
23 designs. So the proposed construction as viewed from the  
24 street alley and other public way does not substantially  
25 visually intrude upon the character, scale, and pattern of

1 houses along the street or alley frontage. The adjacent  
2 property is a two-story building on both sides. We've got  
3 support from them. And forward facing mansard elements are  
4 not universally present on the block. Next slide please.  
5 Here's an example of some of the other third story additions  
6 on this block. Next slide please.

7 And so that's it for our presentation. If the  
8 Board, like I said, if there are questions for the architect,  
9 I would ask that we could postpone it and wait for him.

10 VICE CHAIR JOHN: Thank you. Does the Board --

11 MR. SULLIVAN: Thank you.

12 VICE CHAIR JOHN: Thank you. Does the Board have  
13 any questions for Mr. Sullivan or the architect?

14 MEMBER IMAMURA: Madam Vice Chair, I have  
15 questions for the architect.

16 VICE CHAIR JOHN: Okay. So maybe we can hear from  
17 the Office of Planning.

18 MR. SULLIVAN: Sure that would be fine.

19 VICE CHAIR JOHN: Okay, thank you. And then come  
20 back to the architect. Is that all right?

21 MR. SULLIVAN: That would be fine.

22 VICE CHAIR JOHN: Thank you. So I'll go to the  
23 office of Planning.

24 MS. VITALE: Good afternoon, Vice Chair John and  
25 members of the Board. Elisa Vitale with the Office of

1 Planning. This is for BZA Case 20607. The Office of  
2 Planning is recommending approval of the requested relief  
3 from the upper floor addition provisions of the regulations.  
4 And we'll rest on the record of the staff report. I'm happy  
5 to answer any questions at this time. This concludes my  
6 report. Thank you.

7 VICE CHAIR JOHN: Thank you, Ms. Vitale. So can  
8 you just briefly say how the application meets the  
9 requirement for relief?

10 MS. VITALE: Certainly. Let me pull up my report  
11 so I can walk through that with you. The relief requested  
12 is available via the 5207.1 special exception criteria. And  
13 that speaks to light and air. The Applicant is proposing to  
14 construct a new third story, so the existing two-story row  
15 building that has a mansard roof with a dormer window would,  
16 you know, have an additional floor added with a new mansard  
17 and dormer. The proposed addition complies with all the  
18 relevant development standards for the RF zones, including  
19 building height and number of stories, lot occupancy, and  
20 yards. Therefore we don't believe light and air to  
21 neighboring properties should be unduly affected.

22 The second criteria has to do with privacy of use  
23 and enjoyment. Again, this is, you know, zoning conforming  
24 addition. It just needs relief for, you know, rooftop  
25 architectural element. The Applicant is proposing to, you

1 know, replace an existing mansard roof with dormer with one  
2 -- you know, one additional floor higher. And so the views  
3 would be similar to the existing property. There would be  
4 views out from the front, two on Tennessee Avenue. There  
5 would be rears -- views to the rear over the subject  
6 property's rear yard that would be similar to existing views.  
7 So we don't believe that privacy of use and enjoyment would  
8 be impacted.

9           The Applicant is proposing a roof deck, it  
10 appears. But again, that would be protected by a parapet  
11 wall at the front and side elevations -- facades. And then  
12 again, views from the rear of the proposed roof deck would  
13 be the subject property's rear yard. And should not impact  
14 privacy and use and enjoyment.

15           With respect to the third criteria, that relates  
16 to the proposed construction and whether that would  
17 substantially visually intrude on the character, skill, and  
18 pattern of houses along the street or alley frontage. We did  
19 note that in our report that there is a row of seven two-  
20 story buildings on this block of Tennessee Avenue from 321  
21 to 333; however, there are a variety of architectural styles  
22 on this block face. And there are other properties that have  
23 constructed third floor additions. So we do not believe that  
24 the granting of the relief and the addition of the third  
25 story would visually intrude upon the character, skill, and

1 pattern of houses on Tennessee Avenue.

2           And then I think -- Yeah, framing, you know, the  
3 last two points. The Applicant has provided photos,  
4 elevations, renderings. So I believe they provided  
5 sufficient graspable representations to the record to  
6 demonstrate the relationship with the proposed construction  
7 to adjacent buildings. We're not recommending any special  
8 treatment at this time. So we did believe that the  
9 application met the 5207 criteria. The Applicant did submit  
10 the solar affidavit that's required per E206.3, so that's in  
11 the record. So that's a quick run through of the OP report  
12 and recommendation.

13           VICE CHAIR JOHN: Thank you. Does the Board have  
14 any questions?

15           MEMBER SMITH: I have one.

16           VICE CHAIR JOHN: Go ahead please, Mr. Smith.

17           MEMBER SMITH: Ms. Vitale, on that third point  
18 that you just raised referencing E5207.13B, I believe -- or  
19 3 -- Let's just say 3. In analyzing the architectural plans,  
20 what is the height of the building relative to the adjacent  
21 properties? With the third floor addition, what's the height  
22 differential?

23           MS. VITALE: I would have to pull up the plans.  
24 As I mentioned, the overall height is well within the 35 foot  
25 and three-story limit. Let me check my report just so I can

1 tell you the proposed height. The Applicant has indicated  
2 that with the third story addition, it would be 34.5 feet in  
3 three stories. Right now, the existing building is 25 feet  
4 in two stories. So it's less than ten feet. It's a new --  
5 you know, a new floor. But it's within that 35 foot height  
6 maximum that's permitted in the RF zone.

7 MEMBER SMITH: Okay. All right, thank you.

8 VICE CHAIR JOHN: Any other questions?

9 MEMBER IMAMURA: Yes, Madam Vice Chair. Ms.  
10 Vitale, thank you for your report. I appreciate that. I  
11 have a similar question to the third element there that Board  
12 Member Smith had raised in terms of the character, scale, and  
13 pattern. I think from the rendering, it's clear that the  
14 architect had made an intentional gesture to at least find  
15 a similar angle to the mansard roof. But the dormer; however  
16 is of a different scale certainly than the collection of  
17 homes to either side of it. In fact, I think it sits right  
18 in the middle of it. So I guess, did OP take that into  
19 consideration? I know there are other residences along that  
20 street that maybe have a different style, but also they're  
21 not in a collective group of similar-styled homes.

22 MS. VITALE: Certainly we did review the  
23 elevations and renderings. The criteria for the review in  
24 this instance isn't, you know, similar to a historic district  
25 design review criteria. It's not trying to ensure, you know,

1 consistency across different properties. I think it's a more  
2 general look at the proposal in light of the block face and  
3 the general character and scale of properties as viewed from  
4 that street or alley. So I think it takes a bit of a broader  
5 view. And given the variety of styles, the existence of  
6 other third floor additions along this block face, we felt  
7 that it was not out of character in this instance.

8 MEMBER IMAMURA: Thank you very much. I  
9 appreciate your response.

10 VICE CHAIR JOHN: Thank you. Any other questions?  
11 Okay. Mr. Sullivan, is the architect here?

12 MR. SULLIVAN: No, but the property owner is here  
13 and perhaps they can answer questions too about that. And  
14 my understanding is that we can have the architect here at  
15 some point, but he's not here yet now. I'm sorry.

16 VICE CHAIR JOHN: Okay.

17 MEMBER SMITH: Okay, I think I have one last  
18 question. I'm sorry. And it's to Ms. Vitale. And it's  
19 getting to Mr. Imamura's point or you know, just his  
20 question. How did OP conduct their analysis of the block?  
21 Was it more of a visual analysis to arrive at your position  
22 that you have or was it a technical analysis of the various  
23 types that you see along that block of buildings?

24 MS. VITALE: No, it was certainly a visual  
25 analysis. Without, you know, architectural plans provided



1 by -- for every other property, you know, along that block  
2 face. We would not have access to information to do that  
3 technical analysis to determine building heights for every  
4 other property, you know, within this square. So no, it was  
5 certainly a visual analysis, not a technical analysis.

6 MEMBER SMITH: Could you have requested of the  
7 Applicant to provide that additional information?

8 MS. VITALE: Certainly, but that's not something  
9 we generally would request in a situation like this. Again,  
10 because the proposal was within the height permitted within  
11 the zone, I didn't believe that was necessary in order to  
12 determine that it would be, you know, overall consistent.  
13 An adjoining property if they set the addition three feet  
14 back from their front facade and didn't touch the, you know,  
15 the existing roof line could go up to 35 feet and three  
16 stories, you know, potentially by pulling a building permit.  
17 So you know, this was within the zone-permitted height and  
18 we didn't feel that additional information was necessary.

19 MEMBER SMITH: Okay. You know, I'm not going to  
20 belabor it, but you know, I believe that the provision is  
21 probably there to protect -- the special exception criteria  
22 seems to allude to if we do grant a special exception. The  
23 question is would that pop top be in character with the  
24 adjacent properties? So in granting that, it would have  
25 been, you know, great going forward if there was some type

1 of a -- a little bit more of a technical analysis conducted  
2 because we do see this commonly -- commonly at the Board.  
3 And a lot of questions arise historically or as long as I've  
4 been here about the differential heights with these extra --  
5 if somebody goes up an extra third story or whatnot. So it  
6 would just be great to have that extra technical analysis.  
7 But I do understand that this is common in this area. But  
8 yeah, I'll just leave it at that.

9 VICE CHAIR JOHN: Okay. So I think we should  
10 break at this point since the architect is not here unless  
11 you'd like to hear from the owners, Mr. Sullivan. But it  
12 might be better to wait -- just wait until the architect is  
13 here.

14 MR. SULLIVAN: Yeah, that makes sense. Yeah, I  
15 don't want to waste the Board's time if we could do that.

16 VICE CHAIR JOHN: Okay.

17 MR. SULLIVAN: Thank you.

18 VICE CHAIR JOHN: So I'll ask Mr. Moy to call the  
19 case at a later time. So we'll go to -- thank you. Thank  
20 you for your testimony -- your statement. So let's go to --

21 MR. MOY: Madam Vice Chair?

22 VICE CHAIR JOHN: Yes, sir.

23 MR. MOY: Madam Vice Chair, I would ask if there's  
24 anybody here who is signed up to testify because those people  
25 may not be available later. So you may wish to hear them if

1 we have any at all.

2 VICE CHAIR JOHN: Thank you. Thank you. Mr.  
3 Young, has anyone signed up to testify?

4 MR. YOUNG: We do not.

5 VICE CHAIR JOHN: Okay. Thank you, Mr. Moy. So  
6 let's continue this case until we are notified that the  
7 architect is here. And Mr. Moy, can you please call the next  
8 case, which I believe is 20608?

9 MR. MOY: Okay. Okay, great. All right. Case  
10 Application No. 20608 of District of Columbia. This is a  
11 request for a special exception from the lot occupancy  
12 requirements, Subtitle C Section 1603.4 pursuant to Subtitle  
13 C Section 1610.2, Subtitle X Section 901.2. And area  
14 variance from the pervious surface requirements Subtitle E  
15 Section 204.1 pursuant to Subtitle X Section 1002. This will  
16 construct a below grade addition to an existing detached  
17 public library in the RF1 zone. And this is located at  
18 premises 403 7th Street SE, Square 875, Lot 1. And let me  
19 see, the only other thing I'd like to add, Madam Vice Chair,  
20 I believe the Applicant is asking for expert witness status  
21 from two professionals on her team. And I believe those CVs  
22 are located under Exhibit 19A.

23 VICE CHAIR JOHN: Thank you, Mr. Moy. Ms. Prince,  
24 are you presenting today?

25 MS. PRINCE: Meghan Hottel-Cox is presenting

1 today, but I'm here with her.

2 VICE CHAIR JOHN: Okay.

3 MS. HOTTEL-COX: Hi, Madam Chair.

4 VICE CHAIR JOHN: Hi. I couldn't see you there.  
5 I'm still not seeing you.

6 MS. HOTTEL-COX: Megan Hottel-Cox.

7 VICE CHAIR JOHN: Oh there you are, Ms. Hottel-  
8 Cox. I hope I'm pronouncing your name correctly. Please  
9 introduce yourself for the record.

10 MS. HOTTEL-COX: Meghan Hottel-Cox with Goulston  
11 and Storrs, counsel for DC Public Library, the Applicant in  
12 this case.

13 VICE CHAIR JOHN: Okay, thank you. And you're  
14 requesting party expert witness status for Mr. Charles Wray  
15 as an expert in architecture who is not in the witness book  
16 and Ms. Ponce De Leon -- hope I got that right -- who  
17 requests expert witness status in Civil Engineering. And so  
18 I looked at the resume of both of the requesters and I  
19 believe that in the case of Mr. Wray that he is -- he appears  
20 to be qualified and unless -- qualified in architecture. And  
21 unless the Board has any objections, I will admit Mr. Wray  
22 as an expert witness by consensus.

23 MEMBER IMAMURA: No objection.

24 VICE CHAIR JOHN: Thank you. And with respect to  
25 -- Before I go on, that was Board Member Smith. Did anyone

1 have an objection? No, okay. With respect to Ms. Ponce De  
2 Leon, I have reviewed her qualifications and I believe she's  
3 qualified as a civil engineer. And unless any Board Member  
4 objects, I will admit her as an expert.

5 MEMBER IMAMURA: No objections.

6 VICE CHAIR JOHN: Okay. So by consensus, Ms.  
7 Ponce De Leon has been accepted as an expert. So we can  
8 proceed now with Ms. Hottel-Cox.

9 MS. HOTTEL-COX: Thank you very much.

10 VICE CHAIR JOHN: If you could introduce yourself  
11 again and let us know who is with you today.

12 MS. HOTTEL-COX: Yeah, absolutely. Again, good  
13 afternoon. My name is Meghan Hottel-Cox and I along with my  
14 colleague, Allison Prince are with Goulston and Storrs  
15 representing DC Public Library, the Applicant in this case.  
16 Our team here today includes Jaspreet Pahwa with DC Public  
17 Libraries, Chuck Wray with Quinn Evans, the project  
18 architect, and Jessie Ponce De Leon with GordanDC, the  
19 project civil engineer.

20 We're very excited to be here today to present the  
21 library's proposal to modernize and make accessible the  
22 Southeast Branch Library, a critical community resource in  
23 the Capitol Hill neighborhood. This library is a historic  
24 landmark built in 1922 and one of only four Carnegie  
25 libraries in the District. As such, this modernization

1 project has been the subject of a myriad of different  
2 reviews, including a Historic Preservation Review Board,  
3 which approved the design you'll see today on November 18th,  
4 2021.

5           The project we are showing today is the result of  
6 significant engagement with District agencies and the  
7 community, as well as compromises and accommodations DCPL has  
8 made. We believe this project provides the best library  
9 facility for the community in a design minimizing impacts,  
10 both on neighbors and on the existing historic building.  
11 The project involves some creative thinking to ensure the  
12 library could provide the modernized facility and space  
13 needed to serve the community, mainly by focusing the  
14 expansion below grade and in the vault and public space below  
15 South Carolina Avenue, which the Public Space Committee has  
16 already approved.

17           In order to make the building accessible and  
18 provide updated mechanical systems however, the modernization  
19 does require an addition on the west side of the property to  
20 accommodate a building core that accesses all floors and  
21 mechanical equipment that will service the full building.  
22 With this design, we are requesting two different areas of  
23 relief today for the project.

24           First, we are seeking a special exception to  
25 exceed the lot occupancy requirements for a public library

1 in the RF1 zone under Subtitle C Section 1610.2. Covering  
2 65 percent of the lot, the existing library already exceeds  
3 the 40 percent lot occupancy allowed. And the project would  
4 require increasing that further to 92 percent as our  
5 architect will discuss in more detail. This increase in lot  
6 -- increase in lot occupancy is consistent with the overall  
7 zoning regulations in that and will not adversely affect  
8 neighboring properties, particularly because the property is  
9 located in the RF1 zone where construction to the lot line  
10 is common and due to the significant public space on three  
11 sides of the property.

12           Second, we are seeking an area variance from the  
13 pervious surface requirements in the RF1 zone. Of course the  
14 existing library was constructed before the pervious surface  
15 requirements were established and the existing site only  
16 provides 17 percent of the property as pervious, where 50  
17 percent would be required for new construction. At  
18 completion within the property lines, 4.4 percent of the  
19 property will be pervious. So as Jessie will detail, we are  
20 address storm water management and sustainability goals  
21 through creative solutions and improvements in public space.  
22 While we recognize that a variance is a higher burden on the  
23 special exception, the project here meets these standards.

24           As Jaspreet and Chuck will go into more detail in  
25 their presentation, the property is affected by exceptional

1 conditions, most notably its designation as a historic  
2 landmarks. That creates a practical difficulty in complying  
3 with the pervious surface requirement. However, I did want  
4 to reiterate something from our initial application. And  
5 that is that the Board and the Court of Appeals have  
6 repeatedly confirmed that the nature of the use of the  
7 property has an influence on the variant standard.  
8 Specifically where a nonprofit organizations meet the  
9 variance to meet a public need or serve the public interest,  
10 a variance can be granted by showing that the specific design  
11 constitutes an institutional necessity which Jaspreet will  
12 explain. And how the needed design feature requires this  
13 variant as Chuck will detail.

14 I'm happy to report that we are here today with  
15 the support of the Office of Planning and a report of no  
16 objection from the District Department of Transportation.  
17 We're also very pleased to have the unanimous support of the  
18 ANC, as well as a letter in support from the Capital Hill  
19 Restoration Society Zoning Committee. We recognize given the  
20 number of stake holders for this project that it is not  
21 possible to accommodate everyone's wishes for the project.  
22 And we are committed to continuing to work with the community  
23 moving forward.

24 With that, Paul, if you could please bring up the  
25 presentation we submitted and I will turn it over to



1 Jaspreet.

2 VICE CHAIR JOHN: Thank you. May I ask you to use  
3 last names please? That helps us to figure out who is  
4 testifying. Thank you, all.

5 MS. PAHWA: Good afternoon, Madam Chair and  
6 members of the Board. I'm Jaspreet Pahwa and I lead design  
7 and construction for DC Public Library. The library is a  
8 cherished institution with 25 neighborhood branches and a  
9 central library committed to strengthening its legacy as a  
10 vital community institution.

11 In addition to serving as a traditional repository  
12 for books, our libraries provide enriching experiences for  
13 all involved: infants, toddlers, youth, families, the self-  
14 employed, and so on. The Southeast Library is a much loved  
15 and heavily used branch. At just under 9,000 square feet,  
16 the existing building is less than half the size of a typical  
17 branch library and thus, underserves the community. The  
18 Story Time For Children, a very popular program, always has  
19 a waiting list due to lack of space. With advocacy from the  
20 community, the City Council has fully funded the project for  
21 a much needed expansion. Could I have the next slide please?  
22 Thank you.

23 As our attorney, Ms. Hottel-Cox will go over in  
24 detail, the zoning relief that the project is seeking for lot  
25 occupancy and pervious surfaces. The next slide please.

1 Interior renovations in the years past have not altered the  
2 historic facade, which is mostly intact. The historic  
3 context exhibited in these four guides in front of you has  
4 truly guided the design approach. The proposed design,  
5 historic entrance will be retained and would remain  
6 operational. The next slide please.

7           In words of the executive director, libraries need  
8 to provide catalysts for curiosity that engage the mind and  
9 uplift the spirit. And this very much informs the  
10 qualitative improvements integrated into this expansion. The  
11 proposed universal entrance on South Carolina Avenue will  
12 tremendously benefit the caregivers bringing children in  
13 strollers for Story Time. The design team has a very  
14 sensitive approach to preserve and rehabilitate the historic  
15 landmark, both at the building and the site level. The  
16 proposed design will also undertake upgrading all building  
17 systems to meet the District's sustainability, wellness, and  
18 resilience goals. Next please.

19           This is an at-a-glance summary of approvals to  
20 date. The project has received concept approval from  
21 Historic Preservation Review Board, DDOT Public Space  
22 Committee. The project has been presented for concept to  
23 Commission of Fine Arts. And NCPC has approved the project  
24 with delegated action. We're also very grateful for the  
25 formal support from the ANC and Capitol Hill Restoration

1 Society, both the Historic Preservation Committee, as well  
2 as the Zoning Committee. The next slide please.

3 In keeping with the strategic plan, the library's  
4 committed to customizing its programs and services at each  
5 of the neighborhood branches. With this guiding vision, the  
6 library, along with the design team, solicited and validated  
7 community needs and aspirations from the very beginning.  
8 Community input and feedback has and will continue to inform  
9 the project progress from schematic design into design  
10 development. The next slide please.

11 As you can see from this listing, the library has  
12 engaged broadly and deeply. To date, robust community  
13 engagement included focus groups, surveys, and multiple open  
14 community meetings. The takeaways from this engagement  
15 informed the library and enabled the design team to  
16 synthesize needs into the current design. Feedback from each  
17 committee event informed the design at the next event. For  
18 example, July 21st meeting was held to share the changes made  
19 to the design per the feedback received during the May  
20 meeting. And our architect can highlight those with visuals.

21 What's not noted here is on August 14, 2021  
22 meeting that was shepherded by the Library's wonderful  
23 committee engagement liaison, Martha Saccocio, a meeting with  
24 a neighbor on D Street and it was a very productive first  
25 conversation of many more to come. With that, I'll hand it

1 over to Chuck Wray, our architect from Quinn Evans. Thank  
2 you.

3 MR. WRAY: Good afternoon, Madam Chair and members  
4 of the Board. Next slide please. I'm Chuck Wray, principal  
5 in charge with Quinn Evans with this project. And I  
6 appreciate the opportunity to have this conversation with you  
7 today. I think as Ms. Hottel-Cox and Ms. Pahwa have  
8 indicated, there a lot of considerations at hand as we design  
9 this library. And our effort has always been to develop a  
10 sensitive solution that balances the needs of a variety of  
11 considerations.

12 It starts first and foremost with designing and  
13 inspiring the Imagine Library as Jaspreet Pahwa indicated  
14 just now. A beloved landmark, not just in terms of the  
15 library, but in terms of the building within the community.  
16 And preservation requirements of that landmark are fairly  
17 restrictive. The site is not generous and does offer as we  
18 will be talking in more detail, challenges, but also some  
19 opportunities we see. And various reviews and approvals we  
20 must seek in addition to yours that need to help us frame the  
21 design solution.

22 And lastly, I think as equally important is this  
23 overarching concern that this is a neighborhood library. And  
24 as such, that the design should support the neighborhood,  
25 should respond to the neighborhood, and should be sensitive

1 to those considerations. Inevitably the design solution here  
2 is about compromise -- sensitive, thoughtful, careful  
3 compromise. Next two slides please. Well, next slide  
4 please.

5           These are photographs on this slide and the next  
6 of giving you views of the current context. If you recall,  
7 Ms. Pahwa's slides of the historic photographs and  
8 renderings, this site was minimally landscaped originally.  
9 The landscaping was added at a later date and is in many  
10 cases grown up to completely obscure the library from public  
11 view. Next slide please. The views from South Carolina on  
12 the left and a view from 7th and D Street on the right. Next  
13 please.

14           The site plan, I think is a good place to  
15 summarize our design solution in some more detail. The red  
16 dash line represents the property limits within we're  
17 inclined to work. And we are proposing -- as Ms. Hottel-Cox  
18 outlined briefly -- an addition to the rear along South  
19 Carolina. That will provide a new building core that we'll  
20 provide on all three floors, a public stair and elevator,  
21 public restrooms, and support spaces for the building itself.

22           On that grand in design, it is a very workable  
23 solution that will serve the purposes of the library very  
24 well. The other major consideration of this addition is a  
25 service core to the rear. This is a grade level service area

1 with an elevated platform that aligns with the upper floor  
2 of the library on which our mechanical equipment is placed.  
3 And this core is enclosed on all sides and straight on the  
4 top. Next please.

5           There are four slides here that show the context  
6 in a little more detail. This is a -- This slide represents  
7 property limits, as well as the limits of existing building  
8 and the proposed addition. This is a view from South  
9 Carolina. Next please. This is a rendering of the addition.  
10 We worked closely with various agencies and staff in those  
11 agencies to develop a design which we think is compatible and  
12 responsive to a variety of issues at hand and I'll discuss  
13 that plan in more detail. But I think it's important to note  
14 here that the addition -- the roof of the addition, which is  
15 represented by those grey panelized wall system elements is  
16 below both the cornice of the historic library and below the  
17 top of the adjacent wall of the adjacent row house.

18           In the center of the building is an element that  
19 continues three floors up. It's streamered with some  
20 terracotta baguettes providing some relief along this wall  
21 of -- this curtain wall of glass. And begins to simulate or  
22 speak to the historic entrance where the pediment rises again  
23 up above the cornice. Next slide please.

24           This is the view from D Street. Next slide. And  
25 this is the D Street elevation. And one of the things we'll

1 show you is how we've restored the berm on the north side of  
2 the building and provided a minimal cut from emergency exit  
3 and staff entrance on the left and our narrowing the aperture  
4 of the existing service yard to the right. There was no berm  
5 that continued along D Street. There was a service court or  
6 yard behind the building. We are enclosing that again with  
7 the two-story element, solid on the bottom, screened on the  
8 top to provide ventilation so that the chemicals aren't in  
9 the platform. Next please.

10           The floor plans are a big help to put things in  
11 more context. So there's three floors to this library. Only  
12 two exist today. We are maintaining the upper floor, which  
13 is the historic Carnegie Library. It will be preserved and  
14 restored and used for the adult collection and for informal  
15 space for adult reading, study, and collaboration. As Ms.  
16 Hottel mentioned, here's the entrance and stairs, which are  
17 identified as character defining features of this historic  
18 Carnegie will remain. The entry sequence from the front door  
19 up into this upper floor will remain. And we will be  
20 restoring a historic laylight that is within the limits of  
21 those four columns that you see right inside the front door.

22           The addition is the same on each floor. So we  
23 have -- as I mentioned, a public stair, an elevator, two  
24 restrooms, and support facilities. And on this level, we  
25 have the raised mechanical platform in the service court for

1 our outdoor mechanical equipment. We have a very streamlined  
2 system. It's very energy efficient. It's an all-electric  
3 system to help us anticipate the District's sustainability  
4 goals as well as to avoiding burning the fossil fuels on  
5 site. We have a small air handler which will provide  
6 filtered, conditioned, tempered fresh air to the building.  
7 Some of that will be relieved to the exterior. We also have  
8 a series of condensing units arranged in variable refrigerant  
9 flow package to give us a small compact central plant to heat  
10 and cool the building.

11 We understand and knew that the design of this  
12 service right here was going to be a difficult and  
13 challenging aspect of the project to start with. It  
14 originally did not have the equipment up on the platform.  
15 But based on concerns that we identified and neighbors  
16 expressed as well about the considerations of this equipment,  
17 we elevated the systems up on this raised platform to get the  
18 equipment up in the air, to get the sound up in the air and  
19 away from the neighbors as much as possible. And while we  
20 are the interschematic design, we know there's a lot of  
21 detailed engineering work that will be done with our  
22 engineers and our consultants to make sure the equipment is  
23 dampened and the surrounding enclosure helps basically stifle  
24 the noise. The service court does not extend below the  
25 southeast corner of the adjacent neighbor on D Street. So



1 it is fully within the boundaries of the common wall and the  
2 library wall and the new wall of our addition. Next please.

3           This is the ground floor and it is a new ground  
4 floor. Currently the lower level of the library is about  
5 four feet above grade at sidewalk level. We are going to  
6 remove that floor. We're going to excavate below the  
7 building. Provide a new ground floor for the public. This  
8 will be that universally accessible entrance, but it's also  
9 there to provide universal experience for the public and the  
10 patrons. You can see the tower again. In this case, there's  
11 a small vestibule that projects beyond the property line.  
12 The ground floor houses -- will provide a meeting room, small  
13 subsidiaries, public computers, new books and holds for the  
14 public community. The service court here is on grade. There  
15 will be a place to screen and pull trash in recycling  
16 containers, but also a place for a large above grade storm  
17 retention tank that Ms. Ponce de Leon will discuss in her  
18 part of the presentation. Next please.

19           The new lower level is again, completely below the  
20 ground floor. So we are going down in the ground a story and  
21 a half to expand this library. In this case, the floor will  
22 be almost exclusively used for youth programs and children's  
23 programs. We do have some support spaces for the library  
24 staff, as well as building services represented in grey. And  
25 you can see the expansion projects the property line into

1 public space. We worked closely with DDOTs Public Space  
2 Committee to garner their approval of this fault.

3 VICE CHAIR JOHN: Mr. Wray, I hate to interrupt  
4 you. Can you discuss the project's surface requirement and  
5 why you're not able to comply with that?

6 MR. WRAY: I can. I have a slide that shows that.  
7 We'll refer on, Madam Chair if I can come back to that.

8 VICE CHAIR JOHN: Yes. Do you mind skipping to  
9 that --

10 MR. WRAY: Not at all.

11 VICE CHAIR JOHN: -- because you're requesting a  
12 variance relief for the project's surface.

13 MR. WRAY: Sure. We have to advance the slides  
14 to -- hold on -- No. 24.

15 VICE CHAIR JOHN: Thank you.

16 MR. WRAY: Sure, gladly. This graphic, I believe,  
17 which is in the Board package, it shows -- the next one  
18 please -- this shows the existing building on the left. The  
19 green areas that are shaded represent the existing pervious  
20 surface, which is approximately 17 percent of the site. The  
21 required percentage is 50 percent. And with the addition  
22 that is shown in the right graphic, we'd be reducing that to  
23 4.4 percent.

24 VICE CHAIR JOHN: Okay. So the question is why  
25 aren't you able to meet the requirement?

1 MR. WRAY: We have nowhere to expand the building  
2 above ground within the property lines.

3 VICE CHAIR JOHN: Okay. Ms. Hottel-Cox.

4 MS. HOTTEL-COX: Thank you. I think a couple of  
5 things -- I know Ms. Ponce de Leon will be speaking to this  
6 a little bit as well. But in terms of the, you know,  
7 exceptional condition, largely the historic landmark nature  
8 of the building and the fact that due to the historic  
9 building, as well as the slope of the roof, it's not feasible  
10 to put green roof on the building, which would allow for  
11 pervious surface.

12 And again, the addition being needed to provide  
13 that mechanical, as well as the full accessibility for the  
14 building to go through the new core, it's not feasible to  
15 have the pervious surface that is there. And given the  
16 constraints of the site because the existing library occupies  
17 so much of the -- of the buildable area of the site, it's not  
18 possible to have that pervious surface, except in those two  
19 areas at the front. And I know Ms. Ponce de Leon will be  
20 speaking to how we've been coordinating with DOEE on the  
21 intent of the zoning regulations on the last prong of the  
22 variance test to be addressing overall storm water  
23 management, which you know, pervious surface is directly  
24 related to.

25 The only other thing that I would want to mention

1 and I touched on this in my opening is because this is a  
2 public library, the Board and the Board of Appeals has noted  
3 that the variance test is a little bit more flexible for this  
4 kind of use because if the use is important to the public  
5 interest, which I believe Ms. Pahwa's testimony made very  
6 clear, that in that instance if it is something that serves  
7 the public interest, if it is needed for the institutions use  
8 and there is not a way to design that, you know, would allow  
9 the requirement to be met -- and I think Mr. Wray's testimony  
10 made that clear given the constraints of the site -- then the  
11 Board could grant a variance. So I just wanted to provide  
12 some of that context before Ms. Ponce de Leon discusses some  
13 of the storm water management.

14 VICE CHAIR JOHN: So thank you. I believe we've  
15 been going for about 15 minutes and this might be a good time  
16 to stop and see if the Board has any questions about the  
17 pervious surface requirement because that's what the --  
18 that's what the variance is focused on. The rest of the  
19 application is special exception relief. So let's do the  
20 harder part first. So does the Board have any questions at  
21 this time? Dr. Imamura, do you have any questions?

22 MEMBER IMAMURA: No, Madam Vice Chair. Not  
23 regarding the variance for the pervious --

24 VICE CHAIR JOHN: Pervious surface.

25 MEMBER IMAMURA: -- surface agreement.

1 VICE CHAIR JOHN: Okay. Any other board member?  
2 Okay. Ms. Hottel-Cox, could you then discuss the special  
3 exception criteria and if you'd like to go back over the  
4 burden of proof for the -- for the pervious surface, that  
5 would be fine. I'm trying to get to the heart of the  
6 application because we've read your submissions and we have  
7 an idea of what's presented in the record. But I for one  
8 needed clarification about why you could not comply with the  
9 regulations of the pervious surface. Okay, so please go  
10 ahead.

11 MS. HOTTEL-COX: Thank you, Chair John. Were you  
12 questions about the pervious surface, has that been addressed  
13 through what we just discussed?

14 VICE CHAIR JOHN: If you would like to add to it,  
15 you know, in terms of what the regulation requires and why  
16 you're not able to comply with the regulation. And then the  
17 special -- general special exception criteria on the X901.  
18 Okay, those two things.

19 MS. HOTTEL-COX: Sure. Sure. So I'll briefly  
20 touch on the lot occupancy piece and then that way, we can  
21 also get to Ms. Ponce de Leon's portion of the presentation  
22 which addresses the last prong of the variance test.

23 So I'll start with the lot occupancy piece. And  
24 there aren't -- this is a special exception for lot  
25 occupancy, specifically for a public library in the RF1 zone.

1 And there aren't any specific special exception criteria.  
2 It's just the general special exception criteria, which I  
3 know the Board is incredibly familiar with. And we believe  
4 that the project does meet the intent and purpose of the  
5 zoning regulations and the zoning map. And I believe that  
6 Ms. Pahwa and Mr. Wray's testimony really go to that to show  
7 how, you know, this has been very carefully designed, not  
8 only in a way that is consistent with the historic building,  
9 which of course zoning is very related to historic  
10 preservation, but also in the RF1 zone, as well as the fact  
11 that this has been very carefully designed to minimize  
12 impacts on adjacent properties and to avoid any adverse  
13 impacts on the neighboring properties, which of course is the  
14 second prong of that special exception test.

15           And then with respect to the pervious surface  
16 variant, I think, you know we trigger the pervious surface  
17 requirements because of the nature of the project, doing  
18 this, you know, kind of full construction at the property  
19 triggers pervious surface. But it would be, I would say  
20 impossible to meet the pervious surface requirements just  
21 given the existing improvements that are at the property.  
22 And those have to be respected under the historic  
23 preservation laws of the District. And so that creates that  
24 practical difficulty to comply with the pervious surface  
25 requirement. And in addition because of the incredible

1 public interest that the library serves and the need to  
2 modernize it so that it is accessible as Ms. Pahwa was  
3 explaining, to individuals within the community who are  
4 coming to the library, the need to create that additional  
5 core and surface court that would not allow additional  
6 pervious surface on site. And the inability to add a green  
7 room do create that practical difficulty to comply.

8           And I would like to turn it over to Ms. Ponce de  
9 Leon to talk a little bit about the storm water management  
10 because I think for the third prong of the variance test, the  
11 idea that what we are doing still doesn't harm the intent of  
12 the zoning regulations and the zoning map. The fact that  
13 there is significant public parking on three sides of this  
14 property and the storm water management efforts that we're  
15 doing both on the property, as well as in public space are  
16 an important component of that. So I'll turn it over to Ms.  
17 Ponce de Leon.

18           VICE CHAIR JOHN: So thank you for that, but storm  
19 water management is not part of -- not subject to the Board's  
20 jurisdiction. That's something, I believe with DDOT. So we  
21 want to focus on the area of relief that we can grant, which  
22 is the pervious surface requirement.

23           MS. HOTTEL-COX: Yes and just to make that -- Sure  
24 and just to make that connection, part of the pervious  
25 surface requirement is to ensure storm water management. And

1 in our conversations with the Office of Planning about the  
2 intent around the pervious surface regulations and what they  
3 were asking of us as part of this application was to meet  
4 with the Department of Energy and Environment to specifically  
5 discuss our storm water management proposals because those  
6 are so related to pervious surface and to go to that third  
7 prong of the variance test. So if the Board doesn't have  
8 questions on that or doesn't want any presentation on that,  
9 of course we can just let the record speak for itself in  
10 terms of what we've done. But since the Office of Planning  
11 had asked about it and thought the Board might be interested,  
12 I did want to touch on that.

13 VICE CHAIR JOHN: I appreciate that, so briefly  
14 since it's a request by the Office of Planning. We are going  
15 to go to the Office of Planning, but briefly. Thank you.

16 MS. HOTTEL-COX: Sure. Ms. Ponce de Leon, I'll  
17 turn it over to you for your brief discussion.

18 MS. PONCE DE LEON: Certainly. Good afternoon,  
19 everyone. Jessie Ponce de Leon with GordonDC. I'm the lead  
20 civil engineer for the application. As Ms. Hottel-Cox noted,  
21 as a request and for further backup from OP, we did meet with  
22 DOEE earlier in January and presented our application and  
23 discussed that we understood that our application would be  
24 subject to storm water management requirements, both for the  
25 on parcel property as well as the work within the public



1 right of way.

2           We explained the extraordinarily difficult site  
3 conditions and why we weren't able to accommodate very  
4 typical traditional practices that are used in the District  
5 specifically for pervious compliance. And that its green  
6 roof and because of the existing historic roof and the pitch  
7 of the roof, we could not accommodate that. And explained  
8 that our proposed approach to meet the regulatory requirement  
9 of DOEE, as well as the sustainability goals of both the  
10 District of Columbia and the DC public libraries that we  
11 would be implementing other green infrastructure and storm  
12 water management facilities to accommodate the requirement  
13 and goals. And that is going to be -- at this point, we're  
14 evaluating green water harvesting. And that is to irrigate  
15 areas small portions both onsite and if DDOT will allow us,  
16 potentially irrigate portions within the public right away.  
17 That's further discussed and coordinated with them.

18           As well as the two pervious areas that are to  
19 remain intact at the existing stairs along 7th Street. Those  
20 will remain landscaped areas. We're looking to enhance those  
21 areas perhaps with bioretention or other native plantings.  
22 So in combination with those --

23           VICE CHAIR JOHN: Let's stop there. Is there a  
24 slide that shows the landscaping and how all of that is being  
25 done?

1 MS. PONCE DE LEON: I believe that there is. I'll  
2 turn it back to Mr. Wray. Can we guide Mr. Young to which  
3 slide that is located?

4 MR. WRAY: Yes. I'm looking through my slide count  
5 here. I think 20 -- Slide 20 is a good place to start. The  
6 goal from a landscaper perspective -- and this remains  
7 somewhat conceptual -- is to restore the grading around the  
8 building to as close approximate as it was originally  
9 designed with slopes and terraces so you can restore the  
10 temple and the -- the temple and the hill view of the  
11 library.

12 We are working with Urban Forestry to develop a  
13 tree canopy requirement design solution. But where we do not  
14 have trees, we will have native and adapted plants that are  
15 low to the ground, mounding that would not grow up and  
16 obstruct the view. There will be no turf grass around the  
17 site and we'll use the plant materials to band in ways to  
18 help replicate the slopes and flat areas of the original  
19 site.

20 VICE CHAIR JOHN: Okay. And so since we're  
21 talking about DDOT, I wanted to ask you, Ms. Hottel-Cox, if  
22 the Applicant is in agreement with DDOT conditions to modify  
23 the entrances and other changes that are in the DDOT report?

24 MS. HOTTEL-COX: So Chair John, those were the  
25 specific conditions of the Public Space Committee --

1 VICE CHAIR JOHN: Yes, that's what I wanted to  
2 find out, if the Applicant is in agreement with that.

3 MS. HOTTEL-COX: So we are working with the Public  
4 Space Committee to address the conditions, I believe. And  
5 I know Mr. Wray can speak to this in more detail. There are  
6 some things that we are still coordinating with them. And  
7 we did request in our pre-hearing submission that we have the  
8 flexibility to work with the other agencies because it's a  
9 subject to so many different approvals, to make sure that we  
10 address any changes that are needed just given the ongoing  
11 process for all of the different agencies. And that would  
12 include the Public Space Committee conditions. So I'll let  
13 Mr. Wray speak in more detail to that. But in general, I  
14 know that we have been working with DDOT and the Public Space  
15 Committee on those. And we would -- you know, we plan to  
16 continue to do so. So I'll turn it over to Mr. Wray.

17 VICE CHAIR JOHN: Okay, thank you. Mr. Wray,  
18 briefly.

19 MR. WRAY: Yes, we have commentary from the Public  
20 Space Committee that is not at all different from commentary  
21 we've received from HPRB, as well as CFA. And most of that  
22 addresses the entrance along South Carolina and how we  
23 develop a design slightly differently. The primary issue,  
24 Madam Chair with public space is the fact that the vestibule  
25 as designed projects beyond the property line into public

1 space. And we have been asked by Public Space to study the  
2 possibility of pulling that vestibule back into the building  
3 or seeking a curb modification to eliminate it. We have not  
4 concluded the process on either of those yet. We expect to  
5 pick that up as we advance in the next phase of design.

6 VICE CHAIR JOHN: Okay. So basically there's no  
7 agreement with DDOT at the present time. You're continuing  
8 to work with DDOT.

9 (Simultaneous speaking.)

10 MR. WRAY: On the vestibule issue. They did  
11 approve the underground vault extension over the property  
12 line.

13 VICE CHAIR JOHN: Okay.

14 MS. HOTTEL-COX: And just to clarify, Chair John,  
15 we are in -- I mean I did not understand DDOTs report  
16 condition, their lack of objection to this application to be  
17 conditioned on the Public Space Committee conditions.  
18 Because I think, you know, based on the conversations with  
19 DDOT, DDOT understands we will continue working with them  
20 through the public space permitting process on those  
21 conditions. But that those were just the conditions for  
22 public space that they were noting given that DDOT is  
23 reviewing the project from both the zoning and public space  
24 perspectives.

25 VICE CHAIR JOHN: I get what you're saying. I'm

1 just looking at what the report says. Okay. So the  
2 Applicant for our purposes, you've not adopted those  
3 recommendations and they're not in the project design at the  
4 moment. And so you're requesting flexibility to make changes  
5 that don't require zoning approval if DDOT does not approve  
6 what's here.

7 MS. HOTTEL-COX: Correct.

8 VICE CHAIR JOHN: We're just trying to clarify.

9 MS. HOTTEL-COX: Absolutely.

10 VICE CHAIR JOHN: Okay. So let me go to the board  
11 members for a moment. Does any board member have any  
12 questions? No? I don't see any hands. Okay. Ms. Hottel-  
13 Cox, I'm going to stop here and go to the Office of Planning.

14 MS. HOTTEL-COX: Okay.

15 VICE CHAIR JOHN: And we may come back to you if  
16 there are any questions.

17 MS. HOTTEL-COX: Sure, thank you.

18 VICE CHAIR JOHN: Thank you. So who do we have  
19 today?

20 MS. MYERS: Crystal Myers --

21 VICE CHAIR JOHN: Ms. Myers.

22 MS. MYERS: -- for the Office of Planning.

23 VICE CHAIR JOHN: Thank you. Please go ahead.

24 I can't see everyone, so let me try to see --

25 MS. MYERS: No problem.

1 VICE CHAIR JOHN: Okay, there you are. Thank you.

2 MS. MYERS: Hi. So the Office of Planning reviewed  
3 this case and is recommending approval of the variance relief  
4 and the special exception relief. Just to be clear, we need  
5 this for pervious surface variance relief and for the lot  
6 occupancy special exception. And we concluded that it met  
7 the test for both of those and recommended approval. I can  
8 kind of go into it a little further or stay on the record.  
9 So I'll offer to stay on the record. I'm here for questions.  
10 But I'm willing to go into it further if you would like.

11 VICE CHAIR JOHN: Just briefly. Thank you, Ms.  
12 Myers. In particular the pervious surface requirement.

13 MS. MYERS: Understood. No problem. So for this case,  
14 the pervious surface requirement, the exceptional situation  
15 for the variance, we agreed with the Applicant that the fact  
16 that the existing library takes up a majority of the site and  
17 the pervious surface of the site -- the exiting pervious  
18 surface of the site is significantly less than the standard  
19 or the requirement because the library was built prior to  
20 zoning -- that zoning requirement, we did think that was one  
21 of the exceptional situations. Another aspect is that it is  
22 a landmark building.

23 In order to meet the requirements of the  
24 requirements of historic preservation -- Historic  
25 Preservation Review Board, they are very -- there is very

1 little flexibility that they have in the design. And then  
2 we also understood that there are no practical alternative  
3 options to preserve or increase the pervious surface on the  
4 site. As the Applicant has discussed, some of the ideas of  
5 perhaps doing a green roof or some of the other options on  
6 the existing building or on the proposed addition would not  
7 be -- would not work because of the design of the roof -- of  
8 existing roof. Number one, you can't do it because that roof  
9 is sloped. And on the proposed roof, the height of the roof  
10 on one side would be a problem. And on the other side, it  
11 would be just a challenge because of the mechanical  
12 equipment. So we understood all of those aspects to make it  
13 an exceptional situation to provide a pervious surface.

14           As the Applicant has noted, we did ask for the  
15 Applicant to discuss with DOEE, the storm water management  
16 strategy at this stage of the game. We don't usually ask for  
17 that at this point, but we did think in this case it was  
18 appropriate because one of the reasons for the pervious  
19 surface requirement is to allow for storm water management  
20 on the site. So we wanted to see if there was any issues  
21 with what they are proposing to do for the storm water  
22 management that could be sort of flushed out or discussed at  
23 this point to be aware of.

24           In order to meet the intent of the zoning  
25 regulations, we felt that the fact that they had a discussion

1 with DOEE and DOEE was satisfied with what they are proposing  
2 to do, we felt that this met the intent of the zoning  
3 regulations because we know at the building permit stage,  
4 they will meet the requirements of storm water management.  
5 And so that was sort of the key reasons why we felt that the  
6 variance relief was satisfied.

7           And as for public good, it is a library so it  
8 allows for the existing library to maintain -- to be  
9 continued on the property. And for the expansion, which is  
10 an expansion just for a limited amount of space necessary to  
11 facilitate ABA circulation and some necessary modernized  
12 equipment, we felt that, that does meet the public good  
13 because it allows the existing library to continue on the  
14 site.

15           And as for the lot occupancy, again because of the  
16 nonconforming situation of the building being -- taking up  
17 the majority of the property, you can't help but reduce the  
18 lot occupancy. So we thought it did make sense that it would  
19 need special exception relief. And when it comes to the  
20 impact on the neighboring properties, we felt that some of  
21 the mitigation that they're doing -- so they are -- I believe  
22 the mechanical equipment will be screened. And considering  
23 to reduce noise impacts, they also are doing some measures  
24 for the lighting. We thought that those things would help  
25 reduce their impact on the neighborhood. So we felt the



1 special exception, that test had meet as well. So that's  
2 all.

3 VICE CHAIR JOHN: Thank you, Ms. Myers. Does the  
4 Board have any questions for Ms. Myers? Does the Applicant  
5 have any questions for the Office of Planning?

6 MS. HOTTEL-COX: No questions. Thank you.

7 VICE CHAIR JOHN: Okay. So let's see, do we have  
8 anyone signed up to testify?

9 MR. YOUNG: We do.

10 VICE CHAIR JOHN: How many people do we have?

11 MR. YOUNG: Six people.

12 VICE CHAIR JOHN: Okay. Can you call the first  
13 witness please?

14 MR. YOUNG: First one is Tyson Woodby.

15 VICE CHAIR JOHN: Thank you. Mr. Woodby, can you  
16 hear me? Mr. Woodby, can you hear me?

17 MR. WOODBY: Can you hear me? Yes, I can hear  
18 you.

19 VICE CHAIR JOHN: I can hear you. Are you  
20 choosing not to use your video?

21 MR. WOODBY: No, I will use it. Hello.

22 VICE CHAIR JOHN: Thank you. Please state your  
23 name and address for the record please.

24 MR. WOODBY: Yes.

25 VICE CHAIR JOHN: And you will have three minutes

1 for your statement.

2 MR. WOODY: Hello. My name is Tyson Woodby. I'm  
3 a home owner at resident at 636 South Carolina Avenue  
4 Southeast. I'm a practicing registered architect in the  
5 District of Columbia for 20 years. And I'm representing the  
6 39 residents and home owners of the 600 Block of South  
7 Carolina Avenue and D Street Southeast that signed a petition  
8 on the exhibit in front of you. I believe Mr. Young can pull  
9 up the exhibit I submitted.

10 VICE CHAIR JOHN: What exhibit is that?

11 MR. WOODY: It didn't give me a number. I just  
12 submitted it to Mr. Young. There we go. So you can see  
13 here, this is a list of names -- Mr. Young, if you can  
14 forward to Page 5, you'll see several -- it lists several  
15 names of neighbors -- There we go. Thank you. Are we ready  
16 to begin?

17 VICE CHAIR JOHN: Yes, please go ahead.

18 MR. WOODY: Thank you. First, there is  
19 substantial impairment to the zoning regulations effecting  
20 the neighboring properties. Because South Carolina Avenue  
21 runs on a diagonal, the rear yards between South Carolina and  
22 D Street becomes pinches as it reaches the east end of the  
23 block, leaving about 20 feet between the houses. The library  
24 renovation proposes to construct a two-story wall enclosing  
25 the backyards, which will create a dead air pocket for the

1 home owners west of the library where the air cannot  
2 circulate. We use our backyards for entertaining, grilling,  
3 et cetera. Our kitchens and bedrooms face the rear yard.  
4 The proposed would impair the cross ventilation of our yards  
5 and houses for the free flow of fresh air.

6 Furthermore, closing off our backyards as proposed  
7 will impair our access to adequate daylight. If you can  
8 forward two pages to No. 7. If the library renovation is  
9 constructed as proposed, our backyards will be dark, humid,  
10 and poorly ventilated spaces, which is the recipe for poor  
11 air quality problems. The proposed library renovation is  
12 clearly a substantial impairment to our provision of adequate  
13 light and air as protected by Title 11 of the DCMR, Chapter  
14 1, Subsection 101.1. Please deny all special exceptions and  
15 enforce this provision.

16 Second, can you back up one page, Mr. Young?  
17 Thank you. Second, the library is zoned RF1. The proposed  
18 library renovation violates the rear yard setback requirement  
19 as correctly identified in the Office of Planning Memorandum  
20 of Exhibit 33 in this case. The lot is a triangular corner  
21 lot between D Street Southeast, 7th Street Southeast, and  
22 South Carolina Avenue. The DCMR defines a corner lot as a  
23 lot fronting on two or more streets at their juncture with  
24 the streets forming with each other an angle of 45, up to and  
25 including 135 degrees. Per the zoning regulations, the rear

1 yard setback is required to be 20 feet. See the zoning  
2 details provided on the lefthand side of the exhibit.

3           The proposed renovation violates this setback  
4 requirement mistakenly identified the lot as a through lot.  
5 But the zoning definitions in the DCMR are clear that a  
6 through lot is an interior lot and cannot be a corner lot or  
7 triangular lot. The Zoning Handbook clearly identifies how  
8 to measure the rear yard setback for a triangular or  
9 irregularly shaped lot. No special exception waiving this  
10 provision has been requested, nor should one be given.

11           Again, we ask the Board to deny all special  
12 exceptions and enforce the zoning regulations that require  
13 a 20-foot rear yard setback and protect our health, safety,  
14 and general welfare by protecting our right to adequate air  
15 and light. Thank you.

16           VICE CHAIR JOHN: Thank you. I have a quick  
17 question. Mr. Young, can you go back a couple slides? Okay,  
18 that one. So Mr. Woodby, where is your house in reference  
19 to the shade area in red?

20           MR. WOODBY: Yes, thank you. I am two houses on  
21 South Carolina -- two houses behind the library.

22           VICE CHAIR JOHN: Okay.

23           MR. WOODBY: Right there. Thank you.

24           VICE CHAIR JOHN: And your property fronts on  
25 South Carolina?

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

2 VICE CHAIR JOHN: And you have a backyard?

3 MR. WOODYBY: A small one, yes.

4 VICE CHAIR JOHN: Okay. That's the only question  
5 I wanted to ask. Thank you so much. Does the Board have any  
6 questions? Does the Applicant have any questions?

7 MS. HOTTEL-COX: No, thank you.

8 VICE CHAIR JOHN: Okay. Thank you, Mr. Woodby.  
9 That's all for now.

10 MR. WOODYBY: Thank you.

11 VICE CHAIR JOHN: Mr. Young, can you let in the  
12 next witness? I believe there's a Ms. Buffo.

13 MR. YOUNG: Yes. I'm going to unmute her now.

14 VICE CHAIR JOHN: Okay, thank you.

15 MS. BUFFO: Hi. Sorry. Can you hear me?

16 VICE CHAIR JOHN: Yes. Please state your name and  
17 address for the record. And you have three minutes to give  
18 your statement.

19 MS. BUFFO: Sure. Thank you, Madam Chair. My  
20 name is Laura Buffo. I am a home owner and resident of 646  
21 South Carolina and I'm speaking on behalf of myself, as well  
22 as the residents of South Carolina and D Street who signed  
23 the petition submitted.

24 VICE CHAIR JOHN: Okay, thank you. Can I stop  
25 you for now?

1 MS. BUFFO: Sure.

2 VICE CHAIR JOHN: You testify for yourself.  
3 Unless there's some letter of authorization authorizing you  
4 to speak on behalf of another individual, you can only speak  
5 about yourself. So please go ahead.

6 MS. BUFFO: Sure. So the proposed plan does harm  
7 to the safety and public welfare of the neighborhood by  
8 locating an additional entrance on the South Carolina side  
9 of the library. The current entrance has had a consistent  
10 history of people congregating on the library steps using and  
11 selling drugs. I myself have seen multiple drug sales go on  
12 in plain sight and violent fights, which we and other  
13 neighbors have heard from our houses. And some of the  
14 children, speaking for my own as well, are scared to walk by  
15 the library steps, and we for even older adults do their  
16 experiences. And certainly, not to mention, the trash, which  
17 is a constant ongoing concern. So adding a second entrance  
18 at the furthest point into the residential zone of the block  
19 will further exacerbate these problems and bring the illicit  
20 behavior from the public side on 7th Street directly into the  
21 less patrolled residential community.

22 The proposed plan requires also the additional of  
23 retaining walls, both on D Street and South Carolina to hold  
24 back the earth adjacent to the proposed entrance. This  
25 created a security concern by creating a blind spot for

1 anyone using the north side of the sidewalk and provides a  
2 deep secluded space for illicit activities, sleeping, and  
3 toilet use. Any lighting, including down lighting intended  
4 to address these issues at night would create light pollution  
5 that would have a negative impact on residents adjacent to  
6 and in the case of South Carolina across the street and would  
7 not adequately address our concerns, particularly in the  
8 daylight hours. We have raised these issues around security  
9 and public welfare with the library, as well as with the ANC  
10 who noted that they should be addressed if the library is  
11 built to make any significant adjustments to correct these  
12 issues.

13           So both entrances, we feel belong on the 7th side  
14 street. This would address our concerns in this situation  
15 and could create synergies between the library and the  
16 recently renovated Eastern Market Metro Plaza. We have  
17 included some renderings in the attached -- in the petition  
18 that we submitted, which demonstrates just one way that both  
19 of the entrances could be accommodated on the 7th Street  
20 public side. Thank you very much.

21           VICE CHAIR JOHN: Thank you. Thank you for your  
22 testimony. Does the --- there's an echo. Does the Board have  
23 any questions?

24           MEMBER SMITH: No questions.

25           VICE CHAIR JOHN: Does the Applicant have any

1 questions?

2 MS. HOTTEL-COX: No questions. Thank you.

3 VICE CHAIR JOHN: Okay. Thank you for your  
4 testimony, Ms. Buffo and you're excused for today. Mr.  
5 Young, can you let the next witness in please?

6 MR. YOUNG: Yeah, it's Claudia Louis and I am  
7 unmuting her now. She's calling in by phone.

8 VICE CHAIR JOHN: Thank you. Ms. Louis, can you  
9 state your -- can you hear me?

10 MS. LOUIS: Yes, I can. Can you hear me?

11 VICE CHAIR JOHN: Yes, I can. Would you please  
12 state your name and address for the record? And you have  
13 three minutes to give your testimony.

14 MS. LOUIS: I'm Claudia Louis, a longtime  
15 homeowner and resident of 638 South Carolina within 200 feet  
16 of the library -- the Landmark Library. Surprisingly, my  
17 name and address are not on your website list of homeowners  
18 within 200 feet of the library. However, my next-door  
19 neighbors on both sides, relatively newcomers, are listed.

20 When I heard about the proposal to construct an  
21 entrance on residential South Carolina, I had to become  
22 involved in this matter. I implore you to deny the  
23 redevelopment application for special zoning exemptions. My  
24 objections are based on personal safety and security  
25 concerns, as well as limitations on natural daylight and



1 fresh air circulation to adjacent residence. How appropriate  
2 that this hearing is being held on Groundhog Day. Like the  
3 movie, we are trapped in a personal time warp. Affected  
4 neighbors have shared their concerns with library  
5 representatives and ANC in Historic Preservation Hearings.  
6 However, no significant corrective actions have been taken.  
7 It's basically been radio silent. And some are saying, we  
8 approved the plan. So to show the strengths of the  
9 opposition, affected neighbors have taken another approach.

10           Fellow homeowners on the 600 block of South  
11 Carolina and D Street have developed and submitted the  
12 referenced petition. The petition contains constructive  
13 alternative to the library's proposal in three areas.  
14 Instead of a proposed entrance on residential South Carolina  
15 that you heard about, you can modify the current entrance on  
16 commercial 7th Street. It's conveniently across from the  
17 metro trains and busses. You just heard from Tyson Woodby --  
18 and he is a fellow South Carolina homeowner and architect --  
19 and his great concept attached to the petition is consistent  
20 with the library's historical structure. Again on commercial  
21 7th Street.

22           And number two, instead of locating a new story --  
23 a two-story mechanical court closing off the end of the alley  
24 from backyards and likely emergency vehicles, place the units  
25 on the library's roof, which most mechanical courts are on

1 the roof. And then rather than an overbuilding on the  
2 triangular lot to expand the children's section, again an  
3 alternative could be have the adult co-ops and meeting rooms  
4 at the Hill Center. And as we've mentioned proudly, 39  
5 strong of the most affected neighbors on the 600 block of  
6 South Carolina and D Street have signed the petition that you  
7 should have in front of you. And if it wasn't for COVID in  
8 part, we probably would have gotten more signatures. And I  
9 have to say that most the people on South Carolina, they were  
10 especially livid about this proposed new entrance on  
11 residential South Carolina.

12 So thank you so much for giving me this  
13 opportunity to speak. Thank you.

14 VICE CHAIR JOHN: Thank you, Ms. Louis. Does the  
15 Board have any questions? Does the Applicant have any  
16 questions?

17 MS. HOTTEL-COX: No questions. Thank you.

18 VICE CHAIR JOHN: Okay. Ms. Louis, you're excused  
19 for today and thank you for your testimony.

20 MS. LOUIS: Thank you.

21 VICE CHAIR JOHN: Mr. Young, I believe this is a  
22 Mr. DelToro. Mr. Young?

23 MR. YOUNG: Yes, I just brought him in.

24 VICE CHAIR JOHN: Okay, thank you. Mr. DelToro,  
25 if you can hear me, please identify yourself and give us your

1 address for the record.

2 MR. DELTORO: Sure. Can you hear me?

3 VICE CHAIR JOHN: Now I can. Let's see --

4 (Simultaneous speaking.)

5 VICE CHAIR JOHN: There you are. You have three  
6 minutes to testify.

7 MR. DELTORO: Okay. Thank you very much. My name  
8 is Peter DelToro. I'm a property owner of 648 South Carolina  
9 Avenue Southeast, which is one of the two abutting properties  
10 directly to the west of the library lot.

11 Thank you very much for this opportunity to talk.  
12 You know, I think we can say that they acknowledged the need  
13 for improvements in the library. As property owners and  
14 residents, we benefit from an improved library. But hearing  
15 the discussion today so far, I think there's -- you might  
16 recognize that there really is a bit of a disconnect -- two  
17 narratives coming out here.

18 Looking at the presentation from the library,  
19 there has been a lot of outreach. But as was said by a  
20 couple of the previous speakers, issues have been raised that  
21 have not been addressed. And in some cases, there's been I  
22 think, a bit of a mischaracterization in terms of the degree  
23 of outreach. For example, as an abutting neighbor and right  
24 next door, very impacted potentially by this IOE, talked with  
25 and received information from the library a couple of weeks

1 ago from folks there. And I noticed in reading their  
2 statement, the Applicant that they characterized this as  
3 coordinating -- they've been coordinating significantly with  
4 the community -- including the two property owners directly  
5 to the west -- about the project. That's just not the case  
6 in -- true in my case.

7           So what are our concerns? I think you've heard  
8 some of them already concerning the impact on fresh air, the  
9 impact on light, the potential impact on safety. Again let  
10 me say, this is not a situation where we don't think there's  
11 a need for an improvement in the library, at least for  
12 myself. I think there's -- you know, there's public good  
13 here. But what we'd like to do and what we're suggesting is  
14 that some adjustments be made so that there isn't a direct  
15 going to the edge and cutting off our light, potentially  
16 creating issues with sound in the back yards, potentially  
17 creating problems with mold and increasing humidity in the  
18 backyards. That really does impact on our quality of life.

19           And again as the test of adversely affecting the  
20 neighborhood properties, there really is an issue here. You  
21 have 39 people who are directly affected who are saying hey,  
22 wait a minute. Hear our voices. Put us into the mix. And  
23 again, I realize it's a balancing act, but since they are  
24 asking for a special exception and a variance here, we hope  
25 that you can help us have our concerns heard.

1           So with that, thank you for the opportunity to  
2 share our concerns. Thank you.

3           VICE CHAIR JOHN: Thank you, Mr. DelToro. Does  
4 the Board have any questions? Does the Applicant have any  
5 questions?

6           MS. HOTTEL-COX: No questions, thank you.

7           VICE CHAIR JOHN: Okay. Thank you for your  
8 testimony and you're excused for today. Thank you. Mr.  
9 Young -- Thank you -- can you please get to the next witness,  
10 Mr. Young? I believe that's Mr. Schwab.

11          MR. YOUNG: Okay.

12          MR. SCHWAB: Can you hear me?

13          VICE CHAIR JOHN: Yes, I can hear you. Please  
14 state your name and address for the record. And you have  
15 three minutes to give your statement.

16          MR. SCHWAB: Oh, shoot. I apologize.

17          VICE CHAIR JOHN: That's okay.

18          MR. SCHWAB: Okay. I'm not sure if you can see  
19 me, but I'll just proceed anyway. Good afternoon, Vice Chair  
20 John and Commissioners Blake, Smith, and Dr. Imamura. My  
21 name is John Schwab. I live at the 645 D Street (audio  
22 interference) of those affected by this plan. I've been an  
23 active member of the community and I deeply appreciate both  
24 the library as well as the work of my ANC Commissioners. So  
25 it's not to say I'm not a part of the community, I very much

1 view myself as one.

2           So I think -- I think the issues have already been  
3 raised, but while -- I think that it's fair to say that in  
4 all of those outreach efforts like my neighbors note, there  
5 have been concerns raised that have not yet been fully  
6 addressed. I note that there were two meetings in the  
7 Eastern Market building in recent years. I believe I have  
8 attended all the ANC meetings on this issue --

9           VICE CHAIR JOHN: Mr. Schwab? Hello. Mr. Schwab,  
10 do you mind turning off -- do you mind turning off your video  
11 to see if that will help the quality of your connection?

12           MR. SCHWAB: Okay. Is that better?

13           VICE CHAIR JOHN: Yes.

14           MR. SCHWAB: Okay. As Ms. Pahwa notes, I did meet  
15 with her and Mr. Wray and library officials (audio  
16 interference) but as Claudia offers, they've not fully  
17 addressed the concerns that my neighbors raised in all these  
18 meetings. In part, one thing I've noticed is that the design  
19 still evolves through these meetings and there's this common  
20 refrain of "We'll get back to you." In my concerns because  
21 it specifically impacts my house, is the mechanical court  
22 that will be housed immediately adjacent to my (audio  
23 interference) and to the point of my exterior wall, allowing  
24 them to plan for a facility that directly abuts my house.  
25 This raises questions about the physical nature of the

1 mechanical court that have not been fully addressed, or at  
2 least weren't in August because designers hadn't fully  
3 determined the capacity equipment, nor the design features  
4 to that court.

5           A concern still unaddressed includes size and  
6 capacity of the equipment, noise and vibration abatement  
7 necessary respective to the size of that equipment, and the  
8 handling of any offgas and exhaust that would be created  
9 within the court. I will note that elevating the mechanical  
10 court was in fact in due deference to our planner's response  
11 to our neighbors' concerns, but doing so effectively raises  
12 the court to the front door level of my house. That's closer  
13 to the rest of my living space. I had further questions  
14 about it that weren't addressed in our meeting on August  
15 25th, but I look forward to addressing those discussions  
16 offline with Mr. Wray and Ms. Pahwa.

17           Most concerning to me is, as others have noted  
18 though (audio interference) 1997, and my neighbors are  
19 absolutely accurate. Throughout that time I've lived here,  
20 I've noted that any hidden spaces in the envelope of the  
21 building give rise to significant safety and sanitation  
22 issues and this new entrance simply provides one more locus  
23 of that activity on the South Carolina side of the building,  
24 while still leaving hidden spaces on the D Street side.  
25 I've also noticed in having watched some of the hearings

1 already today, two issues that have been addressed in other  
2 hearings that I've never heard of were, number one, I'm not  
3 sure if there was a shadow study done of this project. And  
4 number two, the phrase "privacy of use and enjoyment" was  
5 never mentioned in our project.

6 Thank you for your time and I'll take any  
7 questions.

8 VICE CHAIR JOHN: Thank you. Does anyone from the  
9 Board have questions for Mr. Schwab?

10 MEMBER IMAMURA: No questions.

11 VICE CHAIR JOHN: Does the Applicant have any  
12 questions?

13 MS. HOTTEL-COX: No questions. Thank you.

14 VICE CHAIR JOHN: Okay. Thank you, Mr. Schwab.  
15 You're excused for today. Mr. Young, do we have any more  
16 witnesses in opposition?

17 MR. YOUNG: Yes, we have one more.

18 VICE CHAIR JOHN: And did that person sign up?

19 MR. YOUNG: Yeah, they signed up.

20 VICE CHAIR JOHN: Okay. Could you please let the  
21 witness in?

22 MR. YOUNG: Yes, they are in. Renu Schmoyer.

23 VICE CHAIR JOHN: Ms. Schmoyer?

24 MS. SCHMOYER: Yes. Can you hear me?

25 VICE CHAIR JOHN: Yes. Please state your name and



1 address for the record.

2 MS. SCHMOYER: My name is Renu Schmoyer. Sorry,  
3 I guess I have to look this way. I don't know. I'll just  
4 shut off my video. My name is Renu Schmoyer and my address  
5 is 606 South Carolina Avenue Southeast.

6 VICE CHAIR JOHN: Okay. You have three minutes  
7 for your statement.

8 MS. SCHMOYER: Okay. I'm just here similar to  
9 other neighbors. I mostly want to just support and echo the  
10 statements of the other neighbors. I think that they covered  
11 most of the points really well. That the residents have been  
12 raising concerns and our concerns have not been addressed.  
13 My primary concerns are similar to others around personal  
14 safety and security concerns. I also have concerns on why  
15 a new entrance is being proposed on a residential side when  
16 already two entrances for the library do in fact exist; one  
17 on 7th Street and an accessible entrance as well on D Street.  
18 So again, it seems very unnecessary to propose a whole other  
19 entrance and construction and cost and building associated  
20 with that.

21 Also when I joined this conversation, there was  
22 a question that you, Ms. John asked of -- regarding the  
23 pervious surfaces. And you asked regarding why a variance  
24 to the pervious surfaces was needed. And the response was  
25 because we need to expand the building. I really honestly

1 as a resident and as a member of the community question why  
2 do we need to expand the building? The building is a very  
3 large building. The building has existed for a long time.  
4 It has a lot of space. Of course it should be renovated and  
5 utilized most efficiently, but I don't -- already we live in  
6 a city that is very full of concrete. And removing pervious  
7 surfaces doesn't seem very useful to me or effective. So  
8 that is my other statement that I'd like to make.

9 And that's it. I thank you for your time. If  
10 anybody has any questions?

11 VICE CHAIR JOHN: Thank you. Does the Board have  
12 any questions? Does the Applicant have any questions?

13 MS. HOTTEL-COX: No questions. Thank you.

14 VICE CHAIR JOHN: Okay. Thank you, Ms. Schmoyer.  
15 You are excused for the day.

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

17 MR. YOUNG: No. That is everyone that is signed  
18 up.

19 VICE CHAIR JOHN: All right. Ms. Hottel-Cox, do  
20 you have any rebuttal?

21 MS. HOTTEL-COX: Chair John, we're happy to  
22 address some of the points that were raised in our  
23 conclusion. But if the Board has questions or would like us  
24 to address some of the specific points that were raised by  
25 the witnesses, we would be more than happy to do so.

1 I also know that it's almost 4:30 and we want to  
2 be respectful of the Board's time and what Board members are  
3 concerned about. But we do have responses to the different  
4 issues that were raised and want to acknowledge that we have  
5 had a lot of outreach with the community. But also recognize  
6 that given this project, as I think we noted in our  
7 presentation, there has had to be compromise on all fronts.

8 We do believe that we have good responses and good  
9 solutions to the issues that have been raised. We're happy  
10 to walk through those to explain all of that to the Board,  
11 but also happy to respect your time and just address them in  
12 our conclusion, if that's preferable.

13 VICE CHAIR JOHN: Let me go to the Board.

14 While I'm waiting for them to decide, I just want  
15 to say that at the Board we have a good neighbor policy. So  
16 one of the questions that I would pose is, I'm not sure why  
17 the neighbors that are adjacent to the library were not  
18 involved in discussions with the applicant.

19 MS. HOTTEL-COX: We can definitely address that.

20 VICE CHAIR JOHN: The one neighbor who testified  
21 that he's never had a discussion with the applicant.

22 MS. HOTTEL-COX: I would ask Jaspreet, if you  
23 could speak to that and to the efforts. My understanding is  
24 that we have been attempting to reach out to that neighbor  
25 for over a year now. So Jaspreet, Ms. Pahwa, could you

1 please speak to the library's outreach efforts to the  
2 immediate neighbors but specifically Mr. DelToro?

3 MS. PAHWA: Absolutely. Thank you.

4 Madam Chair, I think it's important to note that  
5 the property that Mr. DelToro owns has been vacant. Our  
6 community liaison has been trying to reach him for over a  
7 year. She did make contact most recently and has been  
8 waiting for days to hear back from Mr. DelToro to connect.  
9 He was also offered an opportunity to meet with us per VC and  
10 we did not hear back. So I think there's been sincere effort  
11 on part of the library to connect with Mr. DelToro.

12 On the D Street side, Mr. John Schwab noted in his  
13 testimony that we did meet with him in August 2021.

14 VICE CHAIR JOHN: Okay. What about the other  
15 neighbors? Sometimes the developers go door to door. I know  
16 the library's not a developer, but go door to door and leave  
17 flyers and leave a contact number, sometimes the date of a  
18 meeting. Was anything like that done?

19 MS. PAHWA: So yes, there has been a lot of  
20 outreach. We've been kind of spreading the word about all  
21 our committee meetings. Obviously the pandemic has had an  
22 impact on our ability to host physical meetings. Our  
23 meetings have been virtually hosted since the pandemic  
24 started. But we've tried. We've done flyers especially  
25 around the ANC meetings, and especially around the HPRB

1 meeting and the Zoning meeting. We've given letters and  
2 handouts to neighbors for sure.

3 MS. HOTTEL-COX: Just one thing that I would like  
4 to add, Vice Chair John. These neighbors and the  
5 presentation that they submitted, they also submitted that  
6 design concept to the Historic Preservation Review Board  
7 meeting, which was three months ago at this point. So they  
8 have been very aware of the application for a long time and  
9 of the library's outreach.

10 So I did just want to note that. This isn't brand  
11 new to us, these neighbors are definitely not brand new to  
12 our team, and we have been in communication with the  
13 community throughout this process, as Ms. Pahwa noted. But  
14 I just wanted to note that, that this presentation is very  
15 similar to the presentation that Mr. Woodby presented to the  
16 Historic Preservation Review Board.

17 VICE CHAIR JOHN: Okay. Thank you.

18 Could I ask Mr. Wray to address the issue of the  
19 second, the third entrance on the residential street?

20 MR. WRAY: Yes, ma'am, Madam Chair. May I just  
21 make one comment about the opponent's statements that the  
22 design has not been responsive to the feedback we've  
23 received? In the context of the timing of the project, we  
24 met with the community in June, heard some commentary from  
25 them, revised the design, met with them again a short while

1 later.

2           The design has not changed very much at all  
3 because since summer we have been working closely with all  
4 the various other agencies, and submitting the same design  
5 that we believe is the best compromise possible so we could  
6 receive commentary from all of the agencies and boards of the  
7 same design, as opposed to making a change here and  
8 submitting something to CFA that is different than what  
9 Public Space saw.

10           We felt it was in our best interests to gather all  
11 of that information. We've assembled a team of experts to  
12 deal with the acoustical considerations and the light  
13 trespass issues. All of that information, all those comments  
14 have been assimilated and are going to be addressed as we  
15 move forward. It's definitely in the spirit of the good  
16 neighbor policy.

17           VICE CHAIR JOHN: Mr. Wray, can you talk about the  
18 second entrance on the residential street?

19           MR. WRAY: Yes, ma'am. I certainly can.

20           First of all, it is completely unacceptable and  
21 impossible without sacrificing the historical designation of  
22 this library to do anything to the front entrance and the  
23 front stairs, as proposed by the opponents. That would  
24 jeopardize the historical designation of this building and  
25 this landmark, and it is inconsistent with general policies

1 of practice and design.

2           To that end, once we had determined and had the  
3 library system agree that that was definitely a character-  
4 defining feature that needed to stay, we looked at  
5 significant different options to put an entrance at each of  
6 the various corners on different sides of the library.

7           We looked at the north side of the building, so  
8 the north-east corner. The entry to the building is very  
9 constricted there. Entry flow and circulation would create  
10 problems from a security and serviceability point of view.

11           We looked at the north-west corner where the  
12 existing service yard is. That put these entrances very far  
13 apart and created the problem of, where are we going to put  
14 access to the building for servicing. If we can't service  
15 the building on the north-west corner, are we going to cut  
16 through the berm on the south-west side, on the southern side  
17 through South Carolina, and put a service yard off of South  
18 Carolina.

19           The answer to that was, and it was not just us,  
20 it was feedback from Commission of Fine Arts, NCPC, DDOT  
21 Public Space, HPRB that note the service areas, service  
22 point-of-access to the building needed to be on that north-  
23 west corner as it is now. So that gave us options to look  
24 at the southern side and edge.

25           Putting an entrance at the south-east corner up

1 near 7th Street would create a situation where we had to cut  
2 through the historic berm. That berm, that landscaping that  
3 runs around the building along South Carolina which is the  
4 front yard of all the neighbors down that street, is a  
5 significant historic feature of that boulevard that comes up  
6 to Metro Plaza.

7           The feedback, critique, requirements from the  
8 preservation agencies was that we not put the entrance there  
9 because it would destroy the view, the historical view of  
10 that building and that corner. So we were left with one  
11 option. That is to put a new entrance on the south-west  
12 corner of the site, further down the street.

13           It is our intent to make that entrance very wide,  
14 as wide as possible so that it's not a safe haven for  
15 undesirable behavior and activity. The library is very aware  
16 of the things that happen after night and is, in good  
17 neighbor policy, continuing to improve security measures.  
18 We will be monitoring the CCTV cameras at that entrance. We  
19 will be looking at ways in which we can provide low light  
20 level but motion-activated lighting to deter activity.

21           The render we presented to you, the walls that  
22 frame that aperture through the berm cascade down and come  
23 very low down to the sidewalk. So they are not tall walls  
24 at the edge of the sidewalk. In fact, many of the retaining  
25 walls along the properties on South Carolina where it steps



1 up into people's yards are very narrow and much more dark and  
2 constricted than what we're proposing.

3           The aperture of this berm cut has been something  
4 that's been a point of discussion with HPRB, with Planning,  
5 with DDOT. All the agencies have said you've got to have the  
6 right size but not too much because grading within public  
7 space, manipulating the topography within public space is not  
8 generally allowed by DDOT's Public Space Committee.

9           So we have received from them, short of the  
10 vestibule issue protecting that apartment, we have received  
11 from them an acknowledgment that we need to do that. Finding  
12 the right design response has been a careful balance.

13           There was one other comment, I think, about lights  
14 going out or something. I can address that later if you'd  
15 like, ma'am.

16           VICE CHAIR JOHN: Well, no. Can you address the  
17 placement of the mechanical units?

18           MR. WRAY: Yes, ma'am.

19           VICE CHAIR JOHN: Why they can't be placed on the  
20 roof, if not on the original roof then some other place?

21           MR. WRAY: Yes, ma'am. Two reasons it cannot go  
22 on the very small, flat roof of the original library. One,  
23 it would be in plain sight from the ground. Or two, if we  
24 screened it, it would be contrary to preservation practices.

25           And the surface area of that small roof is much

1 too small to accommodate the equipment. So we immediately  
2 knew that that was not an option. The roof of the addition  
3 is not large enough as well.

4 So we have done everything we can to minimize the  
5 size, the footprint of this equipment, and have raised it up  
6 on a platform. We'll do everything we can to address the  
7 neighbors' concerns about acoustical impact.

8 We don't believe there will be any issue of air  
9 pollution coming from that equipment. In fact, I can say  
10 with great confidence that the air discharge from that  
11 equipment will be more clean than the air along the streets.  
12 You can look at EPA's website and find out that our discharge  
13 air, which will be filtered going into the building, will be  
14 cleaner and have less pollutants in it than the air that's  
15 circulating on the streets of DC.

16 VICE CHAIR JOHN: Thank you, Mr. Wray.

17 Does the Board have any questions? Okay.

18 So I'll go back to --

19 ZC MEMBER IMAMURA: Madam Vice Chair?

20 VICE CHAIR JOHN: Yes.

21 ZC MEMBER IMAMURA: I do. I just have one quick  
22 question.

23 VICE CHAIR JOHN: Go ahead.

24 ZC MEMBER IMAMURA: I want to be mindful of time  
25 here.

1           Certainly this is a challenging project. I can  
2 appreciate the effort to put forward a consistent design  
3 through all the various agencies. It's a thoughtful  
4 solution, for sure. I think we can all appreciate the  
5 neighbors' point of view, especially the abutting residences  
6 and their concerns about safety.

7           I think Mr. Wray, you had addressed one of the  
8 questions that I wanted you to address, which was the  
9 character-defining feature of the entrance. As Ms. Hottel-  
10 Cox had mentioned, you all have seen their proposed design  
11 solution to put the entry on the 7th Street side. And I  
12 think, Mr. Wray, I'm sure in other forums you've put that to  
13 rest as well, that that would certainly disrupt the  
14 character-defining feature which makes this a landmark.

15           In terms of the safety, the question that I have  
16 about the south-west entrance there and certainly the berms,  
17 you all have put a great deal of thought into the landscape  
18 and bioretention. Did you also think about, as you cut into  
19 the berm, pulling the grading back as well in the other  
20 direction?

21           Obviously you've made a cut through the berm. But  
22 did you also address -- and maybe you did and there might be  
23 a good reason why you didn't do this. But to pull the  
24 grading back, which would be, at least on the south-west  
25 side, probably to the east, so it kind of wraps around the

1 corner and it steps in multiple directions.

2 MR. WRAY: Dr. Imamura, that's a great question.  
3 And that's something that's come to us recently based on  
4 conversations with the Commission of Fine Arts.

5 We had been asked to soften the edges of those  
6 walls, knowing that we have a very difficult way to mitigate  
7 the grade. We only have about five feet of space between --  
8 if you're looking at the new front entrance, to the left of  
9 it down South Carolina, there's only about five feet of  
10 distance between that wall and the parking lot. We'd rather  
11 match grades. That's a very challenging topographic issue.

12 But what has come to us as a result of  
13 conversations recently with CFA is the possibility of pushing  
14 that wall back. That is the wall that's on the east side of  
15 that aperture, creating a little bit tiering of maybe planter  
16 beds or landscaping there. We need to study that carefully  
17 in section because that is over top of that subterranean  
18 wall, which is that children's area space. But we talked  
19 about that as a team.

20 Once we got all the commentary back together, we  
21 had begun to develop a spreadsheet that lists all these  
22 comments from neighbors and from the agencies. I think that  
23 you'll see that next iteration of that entrance will be much  
24 softer. It will be terraced in a way that I think will be  
25 much more inviting.

1           One other comment, sir, is the wall along the  
2 perimeter of the building, originally there was about a six-  
3 inch curve, if you look, on the back of the sidewalk to where  
4 the grading is starting, which is higher now. I think in  
5 conversations with our team and especially with Public Space  
6 Committee, we hope to bring that back down to a six-inch high  
7 curve. So it will go back to a much more historical context  
8 and allow those walls to come down even closer to grade.

9           All of that is the intent to make it more  
10 historically appropriate, more friendly, more safe. That is  
11 our sincere desire. We do not design unsafe buildings. We  
12 do everything we can to make them good public amenities.

13           ZC MEMBER IMAMURA: Sure. I think the constraints  
14 here, I think everybody can be in agreement and the neighbors  
15 too, that the program requirements kind of define what that  
16 solution is. So we can make those refinements and design  
17 gestures to address some of those issues, and it sounds like  
18 you're working toward that end. I would just continue to  
19 encourage you to exercise the good neighbor policy.

20           I think all of us here in the room, if we were  
21 residing in Mr. Schwab's home we'd certainly have the same  
22 level of concern and interest in terms of mitigating sound  
23 and vibration from the air handling unit and the RVF system.  
24 So please continue to engage and find ways to mitigate that.  
25 Certainly you're constrained by the site itself and the roof

1 and all of these other aspects of it.

2           That's all that I have in terms of questions. I  
3 continue to encourage you to find those solutions that kind  
4 of temper some of these concerns from the neighbors.

5           MR. WRAY: Certainly, sir.

6           VICE CHAIR JOHN: Thank you. Thank you, Mr. Wray.

7           Ms. Hottel-Cox, are you prepared to do a closing  
8 statement/rebuttal?

9           MS. HOTTEL-COX: Yes.

10          VICE CHAIR JOHN: Okay. Please go ahead.

11          MS. HOTTEL-COX: First, I just want to thank the  
12 Board for the time today. I really appreciate the time to  
13 really fully go through this application and the different  
14 areas of relief as well as the overall design.

15                Just in terms of one final rebuttal point before  
16 I get into closing, I would note that Mr. Woodby focused on  
17 the rear yard and whether or not the proposal meets the  
18 required rear yard. Of course, this application is self-  
19 certified as to the relief that we require.

20                But I would just point the Board, in case there  
21 is an outstanding question on that, to Subtitle B § 318.8,  
22 which notes that a corner lot that fronts on three or more  
23 streets can measure the rear yard to the center line of the  
24 street at the rear. So in this case, we can measure our rear  
25 yard at the center line essentially of D Street. That 20-

1 foot rear yard is more than that because of the unique nature  
2 of the site. So I did just want to touch on that.

3 In conclusion, we definitely appreciate and  
4 understand the concerns that have been raised. We are  
5 committed, the library is very committed to being a good  
6 neighbor and to continue to meet with these neighbors and  
7 work on refinements to address concerns that they have.

8 As I mentioned and I would note again, the  
9 multiple reviewing bodies including the ANC have heard the  
10 concerns that these neighbors have raised and some of the  
11 larger overall objections to the project, and they weren't  
12 swayed. HPRB and the ANC that heard these concerns were not  
13 swayed and they were supportive of the project. And they  
14 felt that this project does represent a careful and  
15 thoughtful balance of the interests in this case. We  
16 continue to believe that the solution that we are proposing  
17 with this design as we've brought to the Board today does  
18 represent that balancing of interests.

19 As I noted, we are planning to continue to work  
20 with not only the neighbors but some of the agencies that we  
21 have to go to for final approval to be able to focus on any  
22 of those refinements that need to be made. But then also,  
23 to continue to engage in outreach and to move the project  
24 forward with the BZA areas of relief that were here today,  
25 specifically the lot occupancy and pervious service, that

1 those are going to be a constant.

2           So I think at this point, that covers what we  
3 wanted to make sure we addressed with the Board, unless there  
4 are other questions. We do feel that this project has been  
5 very well vetted and is in a very good place. We look  
6 forward to addressing any final questions. But other than  
7 that, that concludes our presentation. Thank you.

8           VICE CHAIR JOHN: Thank you.

9           I'm going to turn to the Board.

10           I was trying to see if this special exception  
11 criteria does apply. Yes, it does, X § 901. And you did  
12 address that in your burden of proof?

13           MS. HOTTEL-COX: Yes.

14           VICE CHAIR JOHN: I'm just confirming based on  
15 something you just said, just so we're all on the same page.  
16 Thank you, Ms. Hottel-Cox.

17           Let me turn to the Board. Does anyone have last  
18 questions before I close the hearing? Okay. All right.

19           Thank you, Ms. Hottel-Cox. Thank you for your  
20 testimony.

21           I'm going to ask Mr. Young to excuse all of the  
22 parties and the witnesses.

23           Okay. So turning to the Board, it's 4:45. It's  
24 been a long day and I wanted to know if you're prepared to  
25 deliberate?



1           Okay. I see heads nodding. Great.

2           MEMBER SMITH: Yes.

3           VICE CHAIR JOHN: All right. Board Member Smith,  
4 since you're eager to get started, would you mind starting?

5           MEMBER SMITH: Sure. The applicant is requesting  
6 an area variance from pervious service requirements, as well  
7 as a special exception from the lot occupancy requirements.  
8 I'll start my discussion with the requested variance.

9           I believe that the applicant has sufficiently  
10 demonstrated that they can meet the standards for us to be  
11 able to grant the variance. The property is a small,  
12 triangular-shaped piece of property due to the angle of  
13 avenues within the area. And the existing structure, it  
14 takes up the majority of the footprint of the lot.

15           I would just note, as Ms. Hottel-Cox stated, that  
16 the existing library now in its current configuration is not  
17 in conformance with the pervious service requirements because  
18 of the size of the lot and the size of the building. So in  
19 attempting to expand the library, there are no practical  
20 alternatives to expand the building without altering the  
21 integrity of this historic landmark.

22           For example, in the record it's stated it's  
23 difficult for them to put on a green roof because  
24 historically this building has a pitched roof. So in order  
25 to put on a green roof to meet those requirements, they would

1 have to put on a hip roof or something of that nature, and  
2 it would compromise the integrity of the historic landmark.

3 So, just going through each of the problems.

4 The strict application of the zoning regulations  
5 would result in a practical difficulty to use the property,  
6 as the proposed addition would bring the building into  
7 compliance with ADA standards by constructing that addition  
8 to the rear, the existing building, to give everyone access  
9 to this public amenity in Capitol Hill. And also, to  
10 mononize the mechanical systems within the building. There  
11 is no practical way to construct these necessary additions  
12 in compliance with the zoning regulations without, again,  
13 compromising the integrity of the existing building.

14 I also believe that there would not be a  
15 substantial detriment to the public good, as the proposed  
16 addition would be to expand the public amenity and the design  
17 will be in harmony with the scale and design of the  
18 respective surrounding community. I do understand the  
19 neighborhood. Many of the citizens came out and spoke about  
20 the size of the addition.

21 But the proposed addition is largely, from a  
22 height perspective, shorter than the adjacent rowhomes. I  
23 believe that, based on the size and scale of what they're  
24 proposing to build, it is largely in harmony with what we see  
25 within Capitol Hill, a community of dense rowhomes, very

1 small lots within this portion of the city.

2           Also, going to the third prong, granting this  
3 addition would not substantially impair the zoning  
4 regulations as the vast majority of the site is already  
5 developed with the existing library, and the applicant has  
6 proposed other options in their landscape design to retain  
7 as much stone wall on-site as possible. Which, I do believe  
8 is the intent of the imposition of stone border provisions  
9 within a zoning ordinance. So I do believe that their  
10 request for a variance meets our intents for us to be able  
11 to grant it.

12           On the matter of the special exception, I believe  
13 that the request for special exception of relief from lot  
14 occupancy would be in harmony with the intent of the zoning  
15 regulations. The site is located within a dense area of the  
16 District and the proposed addition would be in character with  
17 the surrounding community as designed. As I have previously  
18 stated, the size and scale of the proposed addition is such  
19 that I do not believe it would have an adverse impact on  
20 surrounding properties as designed.

21           So with that, I would support the variance and the  
22 special exception.

23           VICE CHAIR JOHN: Thank you, Board Member Smith.  
24           Board Member Blake?

25           MEMBER BLAKE: I would concur with Board Member

1 Smith's analysis of the variance situation as well as the  
2 special exception. Clearly, the confluence of factors of a  
3 historical landmark designation and the irregular-shaped lot  
4 creates a number of problems and constraints which make  
5 construction and expansion very difficult.

6 I would also note that in looking at the variance,  
7 you clearly have a situation with a non-for-profit  
8 organization being granted a little bit of flexibility in  
9 granting that variance. I don't think in this case, if you  
10 look at the amount of existing pervious surface, it's already  
11 under the limit and is only triggered because of the  
12 increased lot occupancy by more than 25 percent.

13 So in fact, it's an inevitable thing that has to  
14 be tested at this point. And it's unavoidable because you  
15 can't do anything to create more green space anywhere on the  
16 property to meet that requirement. So it would be almost  
17 impossible to get the project done.

18 Also, very much as you look at this project you're  
19 weighing a lot of factors and a lot of constituents'  
20 interests to kind of come up with a balance that works.  
21 Getting through the historical process is very challenging.  
22 I do acknowledge the fact that the library agrees to continue  
23 to work with the closest neighbors to try to reconcile some  
24 of these issues as they work through the final details of the  
25 project.

1           So with that, I do believe all of the conditions  
2 are met. And I would be prepared to support both the  
3 variance and the special exception.

4           VICE CHAIR JOHN: Thank you.

5           Dr. Imamura, do you have some comments?

6           ZC MEMBER IMAMURA: Thank you, Madam Vice Chair.  
7 I don't have anything more to add other than what's already  
8 been said by Board Member Smith and Board Member Blake. Just  
9 to reiterate what you shared earlier, Vice Chair John, this  
10 is really a focus on the pervious surface and lot occupancy,  
11 not a design review. So that's what's before the Board  
12 today.

13           I'm prepared to vote in favor.

14           VICE CHAIR JOHN: Thank you.

15           I agree with the comments so far. I wanted to  
16 have feedback from the applicant about the issues concerning  
17 the entrance and the mechanical equipment in terms of their  
18 potential adverse impact on the adjacent properties. I was  
19 satisfied with that explanation.

20           I'm also going to give great weight to the Office  
21 of Planning's analysis of how the application meets their  
22 requirement for relief, both with respect to the special  
23 exception and the area variance for the pervious surface.

24           I agree with all of the explanations about why,  
25 based on the historic status of the property and the other

1 limitations of building as situated on the property, the  
2 applicant is not able to increase the pervious surface  
3 requirement. And storm retention, even though related, is  
4 not something that's within the jurisdiction of the Board to  
5 change.

6           The applicant also asked for design flexibility.  
7 Assuming the Board grants the relief requested -- the  
8 specific request is to make refinements or revisions required  
9 by District and federal agencies, including the Historic  
10 Preservation Review Board, Commission of Fine Arts, National  
11 Capitol Planning Commission, or the Public Space Committee,  
12 to receive building permits and certificates of occupancy for  
13 the project provided no additional zoning relief is required.

14           So I am in agreement with granting the  
15 flexibility, subject to the condition that no additional  
16 zoning relief is required.

17           If everyone is in agreement, we can proceed to  
18 take a vote on the application. I want to reiterate again  
19 that the record is closed.

20           I'll make a motion then to approve Application No.  
21 20608 as captioned and read by the Secretary, and ask for a  
22 second.

23           Mr. Smith?

24           MEMBER SMITH: Second.

25           VICE CHAIR JOHN: Mr. Moy, would you take the

1 roll?

2 MR. MOY: Yes. Thank you, Madam Vice Chair.

3 When I call each of your names, if you would  
4 please respond with a yes, no, or abstain to the motion made  
5 by Vice Chair John to approve the application for the relief  
6 requested. The motion to approve was second by Mr. Smith.  
7 The motion also included language, the condition regarding  
8 flexibility, allowing for flexibility.

9 Mr. Blake?

10 MEMBER BLAKE: Yes.

11 MR. MOY: Mr. Smith?

12 MEMBER SMITH: Yes.

13 MR. MOY: Vice Chair John?

14 VICE CHAIR JOHN: Yes.

15 MR. MOY: Dr. Imamura?

16 ZC MEMBER IMAMURA: Yes.

17 MR. MOY: We have a Board member not present.

18 Staff would record the vote as 4-0-1. This is on  
19 the motion made by Vice Chair John to approve with the  
20 condition of flexibility language. The motion was second by  
21 Mr. Smith. Also in support of the motion to approve is Mr.  
22 Blake and Zoning Commissioner Dr. Imamura. So the motion  
23 carries on a vote of 4-0-1.

24 VICE CHAIR JOHN: Thank you, Mr. Moy. Would you  
25 mind recalling Application No. 20607?

1 MR. MOY: Okay. This is recalling for testimony  
2 Case Application No. 20607 of Max Pappas and Adel Pappas.

3 Again, for the record, this is a request for a  
4 special exception from the rooftop and upper floor  
5 requirements of Subtitle E § 206.1, pursuant to Subtitle E  
6 § 206.4, Subtitle E § 5207, Subtitle X § 902.1, to construct  
7 a third story addition to an existing, attached, two-story  
8 with cellar, principal dwelling unit in the RF-1 Zone,  
9 property located at 327 Tennessee Avenue Northeast, Square  
10 1032, Lot 53.

11 This was recalled to the hearing to hear from the  
12 applicant's architect.

13 VICE CHAIR JOHN: Thank you.

14 Mr. Sullivan, can you introduce yourself again  
15 please?

16 MR. SULLIVAN: Thank you, Madam Chair. Marty  
17 Sullivan with Sullivan and Barros, on behalf of the  
18 applicant.

19 VICE CHAIR JOHN: Thank you. Is your architect  
20 here, Mr. Sullivan?

21 MR. SULLIVAN: He is, yes, Mr. Wick.

22 VICE CHAIR JOHN: Okay. Mr. Wick, would you  
23 introduce yourself and give us your address? Mr. Wick? Can  
24 you hear me, Mr. Wick?

25 MR. WICK: Sorry about that. Can you hear me now?



1 VICE CHAIR JOHN: Yes. Please introduce yourself  
2 giving your street address.

3 MR. WICK: Yes. My name is Warren Wick. I'm an  
4 architect with Running Dog Architects. Our offices are  
5 located on 14280 Metropolitan Avenue in Kensington, Maryland.

6 VICE CHAIR JOHN: Thank you.

7 I'll ask Mr. Sullivan to pick up where we left  
8 off. I believe Dr. Imamura had a question for Mr. Wick.

9 ZC MEMBER IMAMURA: Yes. Thank you, Madam Vice  
10 Chair.

11 Mr. Nichols, if we're able to pull up that slide  
12 deck that shows the elevation or rendering of it.

13 And while Mr. Nichols does that, allow me to thank  
14 Mr. Sullivan and the applicant for waiting for us to complete  
15 the other hearings here. I understand that you waited just  
16 for my question here, so I appreciate that very much.

17 Mr. Wick --

18 Thank you, Mr. Nichols, for pulling that up.

19 I want to say that I recognize and acknowledge the  
20 design gesture to keep the angle of the mansard roof and the  
21 pediment there essentially of the dormer. But I guess my  
22 question is, what other solutions did you go through?

23 I have a little bit of heartburn, I'll be honest.  
24 I don't think that it is within the scale and character of  
25 the adjacent properties in terms of the rhythm and pattern

1 along that street. So I'm kind of curious how you arrived  
2 at this, if you could kind of walk me through what did and  
3 didn't work.

4 MR. WICK: Sure. I think, first and foremost, we  
5 were trying to respect the cornice line along the block or  
6 the wall of houses. We did look at multiple dormers in the  
7 actual mansard portion of the roof at the third floor.

8 Our clients were really stressing that they wanted  
9 as much light into the third floor front room there that you  
10 see, which kind of led to the development of a larger  
11 pediment. I do understand that it deviates a little bit from  
12 the pediments along the row. But we really strove to keep  
13 in character something that, while different, is still  
14 stylistically in line with the rest of the houses.

15 ZC MEMBER IMAMURA: It's certainly evident in your  
16 design solution. I figured that might be the answer there,  
17 that the applicant wanted as much light coming in.

18 If you're already deviating from the height, the  
19 height in and of itself is already a deviation. And as you  
20 expand the dormer there or the pediment, I'm curious if you  
21 tried any other options. At this point, you might as well  
22 look at other options to actually accentuate or just  
23 differentiate this unit, which happens to sit in the middle.  
24 There's three units to the right and three units to the left  
25 of the house that share sort of the same dormers, scale, and

1 material. Did you try any other solutions at all?

2 MR. WICK: Aside from the smaller dormers, we did  
3 try smaller dormers but then that was rejected by our client.  
4 Obviously I don't have those to show you. But to answer your  
5 question in short, we did look at other options.

6 ZC MEMBER IMAMURA: Can you walk through, Mr.  
7 Wick, color and materiality to the mansard roof in the dormer  
8 here and how it'll be in character with the other adjacent  
9 properties?

10 MR. WICK: Well, I can say that the actual  
11 mansard, we would choose a tile that is a charcoal color that  
12 is symbiotic with the rest of the block. The house is  
13 currently painted so we would respect the colors of the  
14 existing residence. The materials around the mansard would  
15 be a hardy panel or cement board, which is commonly used in  
16 this kind of construction.

17 ZC MEMBER IMAMURA: I recognize that in the record  
18 there's support from residents there, which is well and good  
19 and I think sort of practicing the good neighbor policy. I  
20 know they've all probably seen these elevations and  
21 renderings that you've provided. But in terms of, taking the  
22 entire street into character and context I think is a little  
23 different than --

24 MR. WICK: I think I understand your concerns.  
25 We really strove -- I mean, we did look at the whole block

1 as well as across the street. We certainly did not want to  
2 do something that, you know, was just very modern in  
3 expression. Again, the attempt here is to kind of allow a  
4 lot of natural light onto the third floor while keeping the  
5 character of the block.

6 ZC MEMBER IMAMURA: I appreciate that. I think  
7 by itself in this elevation it looks wonderful. But when you  
8 put it against the adjacent properties on both sides, I think  
9 the scale is further accentuated.

10 Those are the questions that I had. I appreciate,  
11 again, Mr. Sullivan and the applicant waiting around a bit  
12 longer to have these questions asked and answered.

13 Those are my questions, Vice Chair John.

14 Mr. Wick, thank you. I appreciate you responding  
15 to me.

16 MR. WICK: My pleasure.

17 VICE CHAIR JOHN: Thank you.

18 Does any Board member have any other questions?  
19 Board Member Smith, Board Member Blake?

20 MEMBER SMITH: No. I share the same questions as  
21 my fellow Board member. I think he asked all the questions  
22 that I wanted to have answered. So I do share his same  
23 concern. I respect that there are letters in support from  
24 the adjacent property owners but it is a little difficult for  
25 me. I'm a little torn.

1           Being that this is a near-block rowhome, would  
2 this substantially impact the character and scale that we see  
3 along the street?

4           MR. WICK: One thing, if I might add, we did try  
5 to very much minimize how much higher it was going to go.  
6 It's about 4'11" above the neighboring houses and we were  
7 able to get a full story in there. It was a little bit of  
8 work trying to make that work but we were trying to be very  
9 respectful to the height.

10          VICE CHAIR JOHN: So then Mr. Wick, I have a  
11 question. How are you able to get three levels in with only  
12 an additional four feet?

13          MR. WICK: Because the houses all have a very tall  
14 mansard roof that creates a little bit of an attic with some  
15 windows in there. Those windows on the neighboring  
16 properties look into little attic spaces. They're not big  
17 enough that you can stand up in fully. So that's the reason  
18 we were able to take advantage of that space, and to have a  
19 full walkable height, we were able to keep it as low as 4'11"  
20 above the neighbors. Hopefully that makes sense.

21          VICE CHAIR JOHN: Yes. As a follow-up, is there  
22 a slide that shows all of that?

23          MR. WICK: Maybe the perspective along the street.

24          VICE CHAIR JOHN: I mean, I didn't get that  
25 difference when I looked at the perspectives and the

1 architectural drawings showing the dimensions. So I didn't  
2 quite get that.

3 MR. WICK: Marty, is the presentation available?

4 MR. SULLIVAN: Yes, it should be, if Mr. Young  
5 could load the presentation.

6 MR. WICK: I think if you go maybe to the next  
7 slide. Okay.

8 So on the image on the right, you can see the  
9 angled roofs of both the neighbors and see how high they go  
10 up. And then they immediately go straight back and then a  
11 gentle slope towards the alley. From the peak of the  
12 neighbor's house to the railing there, like I said, is 4'11".  
13 Hopefully that illustrates your question or answers your  
14 question.

15 VICE CHAIR JOHN: I was looking more for, say, the  
16 building height measuring point. So if the roof next to it  
17 is, say, 25 feet, maybe 30, then this would be 34 feet from  
18 the roof of the neighboring property? Because it's not a  
19 flat roof so we would have to look at the top of the roof,  
20 the V part.

21 MR. WICK: Yes. The measurement I'm talking about  
22 is from the top of the mansards, the very top, not the roof  
23 proper as it slopes backwards. That was the measuring point.  
24 We might have a section. I believe we have a section as well  
25 in the presentation. But that doesn't show the adjacency to

1 the neighbor.

2 VICE CHAIR JOHN: I see. But the height of the  
3 building with the addition is how many feet?

4 MR. WICK: Maybe if we go to the next slide. I  
5 didn't commit that to memory, the exact dimension. We do  
6 have a section though. Maybe if you go back. Yes, go back  
7 one more.

8 VICE CHAIR JOHN: I think this slide might work.

9 MR. WICK: Maybe go forward two slides. We have  
10 some dimensions in there but it doesn't give the overall  
11 height. Okay, here. It's hard to read this.

12 Thirty-three feet, 11 inches is to the measuring  
13 point for the height of that building.

14 VICE CHAIR JOHN: Okay. All right. Thank you.  
15 Does any Board member have questions?

16 ZC MEMBER IMAMURA: Ms. John, Madam Vice Chair,  
17 just real quick, two things.

18 One, I think I mistakenly called out Mr. Nichols  
19 and really meant Mr. Young. So my apologies to Mr. Nichols  
20 and Mr. Young.

21 My question to Mr. Wick, this is going to be  
22 noticeable because it is mid-block. Any chance there might  
23 be another solution here that doesn't try to mirror, mimic,  
24 or replicate the vocabulary and actually just distinguishes  
25 itself differently enough from the other adjacent properties?

1 MR. WICK: If I understand your question, is there  
2 something that could be done that's more similar, smaller  
3 scale dormers kind of thing?

4 ZC MEMBER IMAMURA: Yes. Or entirely different,  
5 right, because that's what we are. This property here is  
6 mid-block, it's taller than all the other properties around  
7 it, so why not just call it out as being different? Why try  
8 to mimic, mirror, or replicate what's already there? Do you  
9 see what I'm saying?

10 MR. WICK: Yes. That's one thing they teach in  
11 architecture school. Either you kind of try to blend and be  
12 holistic with the context or you depart from the context.

13 ZC MEMBER IMAMURA: Right.

14 MR. WICK: The short answer is yes, but that  
15 wasn't the will or the wish of our client. We're always  
16 beholden to, you know, what their wishes are as well.

17 VICE CHAIR JOHN: Okay.

18 ZC MEMBER IMAMURA: All right. Thank you, Mr.  
19 Wick.

20 MR. SULLIVAN: Madam Chair, if I could to that?

21 VICE CHAIR JOHN: Yes.

22 MR. SULLIVAN: This might be a good time to say  
23 that the property owner may like to say a few words. Adel  
24 is here and also Max is an attendee, I think. I don't know  
25 if he can be promoted, Max Pappas.



1 MR. YOUNG: I can unmute him.

2 MR. SULLIVAN: Thank you.

3 I just want to add the context of how they're  
4 trying to design this. This is obviously a design-related  
5 restriction within the context of a Zoning hearing. I know  
6 the Office of Planning has stated several times the standards  
7 are supposed to be somewhat less than what HPRB would  
8 require, so it makes it difficult.

9 I would point out and remind that the ANC was  
10 pretty clear on this. They said the ANC believes that this  
11 development will not substantially visually intrude upon the  
12 character, scale, and pattern of houses in the neighborhood.

13 ANC 6A is probably the ANC that we deal with that  
14 is most focused on design. They have several architects on  
15 their committee and almost every time we go before them,  
16 whatever relief we're asking for, they're really concerned  
17 about the design. So for what that's worth, I hope that  
18 helps also.

19 Adel or Max, if you're in there, if you have  
20 anything you'd like to add?

21 MS. PAPPAS: Sure. This is Adel Pappas. Thank  
22 you for the time. I don't know if Max is on.

23 I will say just a note about design. When we  
24 started this project we took the time to speak to our  
25 neighbors. We wanted neighbor input. It was very important

1 to us because we are very committed to our community. We  
2 want to make our neighbors happy.

3 And when talking about design concepts with the  
4 neighbors and including members of the ANC, it was very clear  
5 that they preferred designs that mimicked the row of blocks  
6 that we were in. We talked with them about different  
7 concepts, and this concept was the one that won the most  
8 approval and that the neighbors supported the most. So  
9 that's sort of where we pushed in terms of design because we  
10 really wanted to keep everybody happy.

11 ZC MEMBER IMAMURA: I appreciate that, Ms. Pappas.

12 As you can see, the focus here really is, Mr.  
13 Sullivan, on the character, scale, and pattern. So I can  
14 certainly appreciate the ANC's point of view in terms of  
15 mirroring what is most familiar to them in the area.

16 VICE CHAIR JOHN: Okay.

17 ZC MEMBER IMAMURA: I don't have anything else.

18 VICE CHAIR JOHN: Okay. Thank you.

19 Are there any other questions from the Board  
20 members?

21 Mr. Sullivan, would you like to present your  
22 rebuttal/closing?

23 MR. SULLIVAN: I would, thank you.

24 Just to note, the character, scale, and pattern  
25 has been reviewed not as the same standard as compatibility

1 under the historic standard. And the Board members, while  
2 incidentally expert in architecture and in historic  
3 preservation as well probably, that was not thought or  
4 intended when the regulation was adopted.

5           And so I don't think character, scale, and pattern  
6 is to be so tightly interpreted in a way that it's difficult  
7 for an architect or a homeowner to understand what they can  
8 and can't do, and what they spend a tremendous amount of  
9 effort and money in pursuing only to find out that it doesn't  
10 pass muster. So, just saying that. It's very frustrating  
11 and it's very difficult to know.

12           Most Zoning activity is really concrete,  
13 straightforward, even the variance cases and the special  
14 exception cases. This is the least concrete of those and the  
15 most ambiguous. It's a real burden on a client and so they  
16 rely on past cases, which the Board knows. I could submit  
17 a lot of those.

18           I don't think that the regulation is intended to  
19 say, well, if you're not on the end of your block you can't  
20 go up, because it could say that if it would. It's not  
21 intended to be differential height because it could have said  
22 that in the regulations. It's not even intended to say you  
23 can't be the first one on the block, and we're not the first  
24 one on the block.

25           So if there's something that is needed in order

1 to satisfy three Board members, the homeowner would just  
2 really appreciate knowing what that is. Because I believe  
3 we meet the standard but that's just me. The Office of  
4 Planning believes we meet the standard. The ANC, which  
5 deserves great weight, believes we meet the standard. And  
6 seven neighbors do as well.

7           So I would just ask if we're not getting three  
8 votes that we get more feedback. Because obviously, they  
9 don't want to get a No and then not be able to adjust it or  
10 modify it. Thank you.

11           VICE CHAIR JOHN: Okay. I don't know where we  
12 are, Mr. Sullivan. I think I can just thank you for your  
13 statement and see where the Board is.

14           You probably know I have difficulty with this  
15 particular provision and the regulation. It's not the most  
16 precise. I agree that this is not a historic neighborhood,  
17 and so we don't apply those strict standards in a historic  
18 district in terms of changes to a dormer or a mansard roof.

19           I think I'll just go ahead and close the hearing  
20 for now and see where the Board members are. Thank you.

21           MR. SULLIVAN: Thank you.

22           VICE CHAIR JOHN: I will just throw out a couple  
23 of thoughts. I'm always torn with these cases because the  
24 applicant meets all of the development standards in terms of  
25 the height and is only seeking relief for the mansard roof.

1 And I agree, I don't know how you do an addition without  
2 altering the character, scale, and pattern of houses along  
3 the street. It's very difficult to do.

4           Maybe in some cases we've seen where the third  
5 floor is pushed back maybe, say, ten feet in the back. And  
6 then that means the addition has to push back into the rear  
7 yard. I don't know what the situation is in this case, how  
8 much rear yard there is. And then that extends the wall, you  
9 know, puts sometimes a wall next to the adjacent property  
10 that's too deep.

11           So I'm going to stop here. I'm not opposed to the  
12 application. I'd just like to hear what other people say.

13           Mr. Smith?

14           MEMBER SMITH: I felt that one coming.

15           As I stated, I am torn on this particular case.  
16 The reason why I'm torn, I do recognize, as you stated, Ms.  
17 John, that this type of special exception is a tough special  
18 exception, I think, to interpret a lot of times with many of  
19 these cases. And this isn't the first case that I think I've  
20 kind of raised some questions about whether it's in keeping  
21 with the character and scale of the neighborhood.

22           I will say that in order to conduct this analysis,  
23 I do believe that it would be great to get more information  
24 from the Office of Planning on how they arrive at these  
25 interpretations or how they analyze these particular cases

1 within their staff reports. I think I kind of raised it.  
2 It doesn't take much.

3 We have specific criteria that we would need to  
4 evaluate as well as the Office of Planning. I don't think  
5 it's difficult to ask an applicant to provide some additional  
6 information, contextual information about the heights of  
7 homes along the block, just to have a more robust analysis  
8 of the case at hand.

9 So I don't think it's difficult to ask an  
10 applicant to take a laser pointer, and they make very  
11 elaborate laser pointers now. They make architectural laser  
12 pointers where they can hold it at the HP and measure to the  
13 maximum height as described within the zoning regulations.  
14 I think that's something that's fairly easy to get in order  
15 for them, the Office of Planning, and for us to make an  
16 analysis of these particular cases.

17 I do have some concerns about this being mid-  
18 block. But given that we have the support of the adjacent  
19 property owners and the ANC, the people who would be most  
20 directly impacted by any height change, I will support the  
21 special exception. I'll leave it at that.

22 VICE CHAIR JOHN: Thank you.

23 Dr. Imamura, are you ready to go now or you'd like  
24 to go after Mr. Blake?

25 ZC MEMBER IMAMURA: I will yield my time to Board

1 Member Blake.

2 VICE CHAIR JOHN: Okay. Board Member Blake,  
3 you're on.

4 MEMBER BLAKE: Okay. I've witnessed this  
5 discussion on several occasions as it relates to these  
6 properties. We view things on a broad basis on occasion and  
7 we've looked at things narrowly.

8 Most recently I recall looking at a case where we  
9 looked at a very -- the immediately adjacent buildings and  
10 properties were the ones that we focused on the most. And  
11 there have been cases where the Board's been asked to look  
12 down the street in another zone, which is clearly not the  
13 case here and is certainly not applicable.

14 But when I look at this situation, there is some  
15 difference in it. I'm not an architect so I can't quite  
16 appreciate the nuances of it, but I do see the aesthetic  
17 difference. And I understand the applicant's objective to  
18 have more light.

19 All that said, I do agree with Board Member Smith  
20 that we could have some more objective criteria to make these  
21 assessments in neighborhoods that aren't governed so much by  
22 the historical requirements.

23 I do think that in this case -- and one other  
24 thing is too, what tends to be the first one on the block  
25 kind of establishes a pattern. In some instances we've seen

1 situations where the patterns have not been that attractive  
2 sometimes because they were done illegally and they set the  
3 wrong precedent, and then you match the other ones and it  
4 turns into a big mess.

5 But in this case it isn't terribly different from  
6 structure. I appreciate the mimic, mirror, and replicate and  
7 the thought about that, not being an architect. But I do  
8 understand how that could be different. It is a very  
9 different issue.

10 I do credit what the ANCs support in this as it  
11 is typically something that they focus on very heavily. And  
12 also the fact that the applicant engaged in discussions with  
13 the neighbors and that there have been other developments  
14 along the street that have changed this as well.

15 Frankly, every building on this row has the right  
16 to raise, increase its height an additional ten feet, because  
17 this is approximately 25 and according to the documents it's  
18 now 34.5. And of course from the street, if you look at it  
19 -- we don't use that as a measurement of building height.  
20 But if you look at that dormer peak, because of that false  
21 attic it does create not as bad an increase as it could be,  
22 and it is mirroring that.

23 So all that said, I do believe that the applicant  
24 has met the conditions for relief. I would be prepared to  
25 support it.



1 VICE CHAIR JOHN: Thank you, Mr. Blake.

2 That leaves you, Dr. Imamura.

3 ZC MEMBER IMAMURA: Thank you, Madam Vice Chair.

4 I can imagine the applicant, Mr. Sullivan, with  
5 bated breath in anticipation of what our decision is. I can  
6 certainly count that there are three members for it.

7 I would certainly agree that they have met the  
8 requirements for the special exception. Their modification  
9 could have been very different but it was generally pretty  
10 conservative. So that I'm mindful of.

11 I'm also mindful of the time, level of effort, and  
12 money that's already been spent to explore this by the  
13 homeowners, and certainly give great weight to the ANC as  
14 well as OP and the fact that they do have residents that are  
15 in support.

16 Again, I think this is what's most familiar to  
17 everybody, that vocabulary and that dormer shape and that  
18 sort of thing. But I think Mr. Wick had understood what I  
19 was trying to get at in terms of, if you're going to deviate  
20 then just deviate.

21 With that, I'm ready to be in support of this.

22 VICE CHAIR JOHN: Thank you.

23 I'd just add one thing. When I asked the question  
24 about, how are you able to get three floors and only add four  
25 feet, that sort of helped me get the perspective of how it

1 might look. And I'm not an architect so I'm sort of just  
2 pitching in the dark here. But that's my view of it.

3 Okay. Based on the discussion then, I will make  
4 a motion to approve Application No. 20607 as captioned and  
5 read by the Secretary and ask for a second.

6 Mr. Smith?

7 MEMBER SMITH: Second.

8 VICE CHAIR JOHN: Mr. Moy, would you please take  
9 the roll call? Are you with us, Mr. Moy?

10 MR. MOY: I was intently listening to the Board  
11 deliberate.

12 VICE CHAIR JOHN: Okay. Thank you.

13 MR. MOY: With great interest.

14 VICE CHAIR JOHN: Thank you.

15 MR. MOY: When I call each of your names, if you  
16 would each respond with a yes, no, or abstain to the motion  
17 made by Vice Chair John to approve the application for the  
18 relief requested. The motion was second by Mr. Smith.

19 Mr. Blake?

20 MEMBER BLAKE: Yes.

21 MR. MOY: Mr. Smith?

22 MEMBER SMITH: Yes.

23 MR. MOY: Vice Chair John?

24 VICE CHAIR JOHN: Yes.

25 MR. MOY: Dr. Imamura, Zoning Commissioner Dr.

1 Imamura?

2 ZC MEMBER IMAMURA: Yes. Thank you, Mr. Moy.

3 MR. MOY: We have a Board member not  
4 participating.

5 Staff would record the vote as 4-0-1. This is on  
6 the motion made by Vice Chair John to approve. The motion  
7 was second by Mr. Smith. Also in support of the motion to  
8 approve, Mr. Blake and Zoning Commissioner Dr. Joe Imamura.  
9 The motion carries on a vote of 4-0-1.

10 VICE CHAIR JOHN: Thank you, Mr. Moy.

11 Does anyone need a five-minute break? It would  
12 have to be five minutes because it's 5:30. No? Okay.

13 Mr. Moy, please call the next case, 20611.

14 MR. MOY: Okay. The next case application before  
15 the Board is Application No. 20611 of 1125 15th Street, LLC.

16 This is in request special exception from the rear  
17 yard requirements of Subtitle I § 205.1, pursuant to Subtitle  
18 I § 205.5 and Subtitle X § 902.1. This would convert an  
19 existing, semi-detached office building to a mixed-use  
20 building in the D-6 Zone. The property is located at 1125  
21 15th Street Northwest, Square 214, Lot 105.

22 VICE CHAIR JOHN: Okay. Thank you. Just a minute.

23 Are the parties in, Ms. Prince?

24 MS. SOLOMON: Lawrence Ferris will be presenting.

25 VICE CHAIR JOHN: Okay. I just see you alone.

1 Who is presenting?

2 MS. SOLOMON: Lawrence Ferris. He's having  
3 trouble with his video.

4 VICE CHAIR JOHN: I see him now.

5 MS. SOLOMON: Mr. Young needs to -- yes.

6 VICE CHAIR JOHN: Mr. Ferris, can you hear me?

7 MR. FERRIS: Good evening, Vice Chair John. Yes,  
8 I can hear you. Can everyone hear me?

9 VICE CHAIR JOHN: Yes, I can see you. Please  
10 introduce yourself for the record.

11 MR. FERRIS: Yes. My name is Lawrence Ferris.  
12 I'm with the law firm of Goulston and Storrs, legal counsel  
13 for the applicant.

14 VICE CHAIR JOHN: Thank you. And who is with you  
15 today?

16 MR. FERRIS: I have with me Ms. Allison Prince,  
17 a colleague, as well as Duncan Slidell of Lincoln Property  
18 Group, with the applicant, and Jeff Lockwood, our architect  
19 with Hickok Cole.

20 VICE CHAIR JOHN: Thank you. Are you seeking  
21 expert status for Mr. Lockwood?

22 MR. FERRIS: We are. His resume is Exhibit 18B.

23 VICE CHAIR JOHN: I've looked at his resume, at  
24 Mr. Lockwood's resume, and I believe he's qualified as an  
25 expert in design and architecture. So I am prepared to grant

1 expert status to Mr. Lockwood.

2 I'll just poll the Board to see if there are any  
3 objections. I don't see any hands raised.

4 I will admit Mr. Lockwood as an expert witness by  
5 consensus.

6 Okay. Mr. Ferris, would you please begin your  
7 presentation? You have 15 minutes and we'll see how we go  
8 from there.

9 MR. FERRIS: Yes. All right. Thank you.

10 Good evening, Vice Chair John and members of the  
11 Board. Again, my name is Lawrence Ferris with the law firm  
12 of Goulston and Storrs. We're here today for the property  
13 located at 1125 15th Street Northwest. The site is located  
14 Downtown.

15 And actually as I say that, Mr. Young, would it  
16 be possible to go ahead and pull up our -- perfect. You can  
17 go ahead and scan to the next slide please. Perfect. Thank  
18 you.

19 As you can see, the site is located Downtown, one  
20 block north of McPherson Square on the east side of 15th  
21 Street. It's directly across the street from the Fannie Mae  
22 Headquarters building at Midtown Center, which you may be  
23 familiar with.

24 The property is Zone D-6 and is currently improved  
25 with a 12-story commercial office building that dates to the

1 1970s. The project before you today will renovate the  
2 building to convert it to multi-family residential with  
3 approximately 264 units.

4 Our application today requests special exception  
5 approval pursuant to Subtitle I § 205.5 for the project's  
6 rear yard in order to add exterior balconies onto the  
7 existing east building wall. The regulations require a rear  
8 yard of approximately 25'4" from the height of the existing  
9 building, which is not changing.

10 The building currently provides a rear yard of  
11 25'9", which is measured to the center line of the 30-foot  
12 rear alley. Adding the balconies will reduce the rear yard  
13 by five feet. So that would put it at 4'7" below what is  
14 required, which is what triggers the need for the relief  
15 we're requesting.

16 Importantly, I think it's worth noting that the  
17 building wall itself is not actually being moved in this  
18 case. So the relief is just the balconies on that rear wall.

19 In addition, there will be no change or impact to  
20 the loading surfaces or parking access for the property. The  
21 loading will continue to be accessed from the rear alley and  
22 parking will still be off of 15th Street.

23 As I said before, with me today as my colleague,  
24 Allison Prince, as well as Duncan Slidell of Lincoln Property  
25 Group, who will give us a brief background on the project,

1 and Mr. Jeff Lockwood of Hickok Cole, who will walk us  
2 quickly through the project design.

3           Before we dive into our presentation, I would like  
4 to note that we have reports in support from the Office of  
5 Planning. That's at Exhibit 21. And from DDOT as well,  
6 Exhibit 22. We also presented the project to ANC 2F. First  
7 to the ANC's Community Development Committee, that was back  
8 in December, and then the project was reviewed by the full  
9 ANC at its regular public meeting in January. The ANC voted  
10 unanimously to support the project and the requested relief.  
11 The ANC's letter of support is at Exhibit 19.

12           With that, I will hand it over to Duncan Slidell  
13 from Lincoln Property. Thank you.

14           VICE CHAIR JOHN: Thank you.

15           Would you introduce yourself for the record,  
16 please?

17           MR. SLIDELL: Yes. Thank you. My name is Duncan  
18 Slidell. I'm here representing Lincoln Property Company.

19           VICE CHAIR JOHN: Thank you. Mr. Slidell, the  
20 request is only for the balconies?

21           MR. SLIDELL: Correct.

22           VICE CHAIR JOHN: In the interest of time could  
23 we --

24           MR. SLIDELL: Be brief?

25           VICE CHAIR JOHN: Focus the discussion, I prefer

1 to say focus the discussion, on the relief which is for the  
2 balconies. Because we've all looked at your documents online  
3 and I suppose if there are questions from Board members, they  
4 will pose the specific question. So let's talk about the  
5 effect of the balconies and how they reduce the rear yard.  
6 Thank you.

7 MR. SLIDELL: I'm happy to be brief if that's the  
8 right way to do it, which we can do.

9 First I want to thank you for the opportunity to  
10 speak today. This is our second investment in this Downtown  
11 DC neighborhood.

12 It's important to note our first BZA hearing that  
13 we had on the other property, 1313 L Street, the balconies  
14 actually came up as a comment. We did not at the time have  
15 the opportunity to include balconies. Both the ANC and the  
16 BZA pointed out that it would be great. If you're creating  
17 residential buildings in a Downtown neighborhood, you should  
18 really consider balconies. So that's exactly what we're  
19 doing here.

20 If you look at the building like we have in some  
21 detail, you're surrounded by other office buildings. So for  
22 one, to distinguish it as more of a residential feel to it  
23 and a residential apartment in general, you're going to want  
24 to create some outdoor space that everyone could enjoy. So  
25 that's the reason for balconies, that's the reason we're



1 here, and I just wanted to note that that was the comment  
2 that everybody made the last time we were here.

3 VICE CHAIR JOHN: Okay. Thank you.

4 Mr. Ferris?

5 MR. FERRIS: Yes. Next will be Mr. Lockwood, who  
6 can again focus the discussion specifically on the balconies  
7 to give the Board some context for the relief. And otherwise  
8 we'll just leave it for questions.

9 Mr. Lockwood, are you able to --

10 MR. LOCKWOOD: Sure. Can everybody hear me okay?

11 VICE CHAIR JOHN: Please introduce yourself.

12 MR. LOCKWOOD: Sure. My name is Jeff Lockwood.  
13 I'm a senior associate at Hickok Cole Architects in  
14 Washington, DC. I've been working with the applicant,  
15 Lawrence, and Allison Prince on this for a little bit. I'll  
16 just do a really quick -- I'll just focus on what you're  
17 really asking for.

18 If we could go forward a slide to page 3?

19 On the east/west section on the right-hand side,  
20 if you look at the right-most section diagram you can see  
21 those grey boxes hanging off the side of the building. Those  
22 are the balconies that we're adding to the east alley side  
23 of the building. So that building, the line, the face of the  
24 building itself as existing is not changing. We're just  
25 adding the balconies onto that face to give some outdoor

1 space for some of the units that face the alley.

2 If we can go forward another slide? Actually if  
3 we can go to page 8, please?

4 Starting on the fourth floor, you can see on the  
5 right-hand side, this is a typical floor plate, you can see  
6 four balconies that are hanging off the building facing the  
7 30-foot alley. These are, again, the ones that we're  
8 discussing. The property line is in the red dash there.

9 Then if you can skip all the way to sheet 12,  
10 please?

11 This is an elevation of the rear or the alley, the  
12 east face of the building where those balconies are located.  
13 Right now we're showing 31 balconies that are hanging from  
14 the building there. They kind of vary just because of the  
15 amassing of the building.

16 Again, all we're asking for is to have those in  
17 the rear yard. They do technically reduce the width of the  
18 rear yard we're providing at those balcony locations. But  
19 obviously, having the exterior space for the units would be  
20 a great thing for this residential project.

21 I can leave it there. If you guys have any  
22 questions about this or anything else with the project, I'm  
23 happy to answer those.

24 VICE CHAIR JOHN: Thank you.

25 Do you have other presenters, Mr. Ferris?

1 MR. FERRIS: We do not.

2 VICE CHAIR JOHN: Okay. Thank you.

3 Let me go to the Board. Does the Board have any  
4 questions? No? Let's see.

5 ZC MEMBER IMAMURA: Madam Vice Chair, I just have  
6 one question not related to the balconies, though that's the  
7 focus of the conversation on the east side.

8 But just on the west side, for Mr. Lockwood, those  
9 balconies -- in your plan it says, typical plan four through  
10 ten, but it looked like based on your elevation that it was  
11 just floors four through eight. So I just wanted to make  
12 sure.

13 MR. LOCKWOOD: Yes. I think it's because we  
14 didn't illustrate every single floor plan for this particular  
15 set. That is true. So some of the floors would not have the  
16 four across. Basically, that elevation is the more accurate  
17 depiction of generally what we're looking at.

18 ZC MEMBER IMAMURA: Thank you. I just wanted that  
19 for the record.

20 VICE CHAIR JOHN: I missed that. There's still  
21 31 balconies?

22 MR. LOCKWOOD: Yes. That's what we're showing.  
23 It's just four through eight. And then the 11th and 12th  
24 floors are slightly different than the other floors. We just  
25 didn't illustrate every single floor. So that's why there's

1 a little discrepancy if you were to truly literally look at  
2 each plan of the floor. But the elevation on sheet A19,  
3 which is the 12th page in the presentation, shows our  
4 intention.

5 VICE CHAIR JOHN: That was confusing. Do you or  
6 do you not have 31 balconies?

7 MR. LOCKWOOD: Yes. We are showing 31 balconies.

8 VICE CHAIR JOHN: Thank you.

9 MR. LOCKWOOD: Sorry.

10 VICE CHAIR JOHN: Okay. Let's go to the Office  
11 of Planning.

12 MEMBER BLAKE: I have a quick question, Vice Chair  
13 John.

14 Just to clarify, what were the dimensions on the  
15 balconies? You said they varied a little bit. Just on those  
16 on the alley.

17 MR. LOCKWOOD: Yes. They're all five feet deep.  
18 Five-by-eight is the rough size. As we get into the design  
19 we may play with that a little bit but we won't project more  
20 than five feet.

21 VICE CHAIR JOHN: Mr. Lockwood, that's a bit  
22 confusing again. Isn't this the final design?

23 MR. LOCKWOOD: Yes. It's just how we're  
24 structurally attaching. It could be 7'9" and not eight feet.  
25 We don't have the detail of the balcony connection to the

1 existing building yet. But the finished balcony size should  
2 be five-foot by eight-foot.

3 VICE CHAIR JOHN: If we approve five-by-eight,  
4 that's what the ZA will expect. The BZA approves  
5 applications as presented to the BZA. Right now you're  
6 showing five-by-eight balconies.

7 MR. LOCKWOOD: Yes. And that's what we intend to  
8 --

9 VICE CHAIR JOHN: Those are the outer parameters  
10 of the balconies.

11 MR. LOCKWOOD: Yes.

12 VICE CHAIR JOHN: You can go less than five-by-  
13 eight but five-by-eight is what we're approving.

14 MR. LOCKWOOD: Correct.

15 VICE CHAIR JOHN: Not more.

16 MR. LOCKWOOD: Not more.

17 VICE CHAIR JOHN: Okay. All right. Thank you.

18 I'll go to the Office of Planning.

19 MR. COCHRAN: Thank you, Madam Vice Chair and  
20 members of the Board. I'm Steve Cochran representing the  
21 Office of Planning on BZA Case No. 20611.

22 OP would be happy to stand on the record since the  
23 application meets the criteria in Subtitle I § 205.5 in the  
24 general special exception criteria. Of course, I'd be happy  
25 to answer any questions.

1 VICE CHAIR JOHN: Okay. Thank you.

2 Does the Board have any questions?

3 Does the applicant have any questions?

4 MR. FERRIS: No, thank you.

5 VICE CHAIR JOHN: Okay. Thank you.

6 Mr. Young, are there any witnesses wishing to  
7 testify?

8 MR. YOUNG: We do not.

9 VICE CHAIR JOHN: Mr. Ferris, do you have any  
10 closing arguments?

11 MR. FERRIS: Well, I had a very nice closing  
12 prepared. But out of respect for the Board's time and not  
13 to be redundant to our prior filings that the Board has  
14 already reviewed, I'll save my time. But thank you.

15 VICE CHAIR JOHN: You can speak for two minutes,  
16 Mr. Ferris.

17 MR. FERRIS: If you insist.

18 VICE CHAIR JOHN: I insist.

19 MR. FERRIS: Thank you again for your time this  
20 evening, Board.

21 In conclusion we would just say that we believe  
22 we meet the standard for approval under Subtitle I § 205.5.  
23 The relief requested to add the rear balconies will maintain  
24 the existing rear building wall at its current location and  
25 will provide a setback of up to 70 feet from the adjacent

1 building located across the alley.

2           The project will not alter or interfere with the  
3 property's parking, loading, or access, as I've stated  
4 previously. The parking will continue to be accessed from  
5 15th Street and loading will be from the 30-foot alley to the  
6 rear.

7           The project will further the intent of the zoning  
8 regulations by converting the property to residential use  
9 which is strongly supported under the site's D-6 zoning,  
10 which places no FAR limit on residential use.

11           The project will result in, we believe, more  
12 livable units for the new residents and will not result in  
13 any negative impacts on the surrounding properties. Again,  
14 the existing building wall is not being moved and the relief  
15 only pertains to the balconies that we're proposing to add.

16           We believe we meet the standards for approval of  
17 the requested relief and would ask that the Board approve the  
18 application. Thanks again for your time.

19           VICE CHAIR JOHN: Thank you, Mr. Ferris. I forgot  
20 to mention earlier that DDOT has comments. I expect you will  
21 continue to work with them?

22           MR. FERRIS: Certainly.

23           VICE CHAIR JOHN: Okay. Thank you.

24           I am going to close the record at this point and  
25 thank you for your testimony, Mr. Ferris, and thank all of

1 the witnesses. You'll be excused for now. Thank you.

2 Turning to the Board. Are we ready to deliberate?

3 ZC MEMBER IMAMURA: Yes.

4 VICE CHAIR JOHN: I'll just provide a couple of  
5 comments. I think this is fairly straightforward. I'm going  
6 to give great weight to the Office of Planning's report. I  
7 note that ANC 2F is in support of the application.

8 DDOT has no objections but has recommendations on  
9 continued design changes that could be made with respect to  
10 bicycle parking, especially the location of short-term  
11 bicycle parking. The applicant did not ask for relief from  
12 that criteria and only requested relief for the placement of  
13 the balconies. And this is a self-certified application.

14 So I'm in support of the application because I  
15 believe the applicant meets the criteria for relief. And I'd  
16 like to hear from other Board members.

17 Mr. Blake, would you like to start?

18 MEMBER BLAKE: Sure. The applicant meets the  
19 special exception criteria, certainly the specific criteria  
20 in I § 205.1, the most significant matter, probably because  
21 of the separation in the alley. The most significant thing  
22 I saw there for me was the 205.5, in the sense that the  
23 reduction in rear yard would not impact the functioning of  
24 the alley or the off-street functions of the parking,  
25 loading, and access.



1           The general conditions are also met and are in  
2 harmony. It creates residential space in a zone that's  
3 intended to support the development of residential space in  
4 a high-density, mixed-use neighborhood.

5           The relief requested is permitted within the  
6 project and is consistent with all other development  
7 standards, as you mentioned. You go through a guard to park  
8 and you actually included access parking. So I do not  
9 believe that granting relief would be detrimental to or  
10 impact the neighboring properties' light, air, or privacy or  
11 off-street functioning of the alley.

12           I give great weight to the Office of Planning  
13 report. And note also that ANC 2F recommends with no issues  
14 or concerns, and no objections raised by members of the  
15 community.

16           VICE CHAIR JOHN: Thank you, Mr. Blake.

17           Mr. Smith?

18           MEMBER SMITH: I agree with both of your analysis.  
19 I give great weight to OP's staff report and that they have  
20 met the criteria for us to be able to grant the special  
21 exception from Subtitle I 205.5, Subtitle X 902.1, and again  
22 note that they do have support of the ANC 2F.

23           So I will support the application.

24           VICE CHAIR JOHN: Thank you. Zoning Commissioner  
25 Dr. Imamura?

1 ZC MEMBER IMAMURA: Thank you, Madam Vice Chair.  
2 I concur with everything that's been said and have  
3 nothing.

4 VICE CHAIR JOHN: Thank you.

5 Based on the discussion, I will make a motion --  
6 I put away the document. I'm sorry. I'll make a motion to  
7 approve Application No. 20611 as captioned and read by the  
8 Secretary, and ask for a second.

9 Mr. Smith?

10 MEMBER SMITH: Second.

11 VICE CHAIR JOHN: Mr. Moy, would you please take  
12 the roll call?

13 MR. MOY: When I call each of your names, if you  
14 would please respond with a yes, no, or abstain to the motion  
15 made by Vice Chair John to approve the application for the  
16 relief requested. The motion to approve was second by Mr.  
17 Smith.

18 Mr. Blake?

19 MEMBER BLAKE: Yes.

20 MR. MOY: Mr. Smith?

21 MEMBER SMITH: Yes.

22 MR. MOY: Vice Chair John?

23 VICE CHAIR JOHN: Yes.

24 MR. MOY: Zoning Commissioner Dr. Imamura?

25 ZC MEMBER IMAMURA: Yes.

1 MR. MOY: We have a Board member not present.

2 Staff will record the vote as 4-0-1. This is on  
3 the motion made by Vice Chair John to approve. It was second  
4 by Mr. Smith to approve. Also in support of the motion to  
5 approve, Mr. Blake and Zoning Commissioner Dr. Imamura. The  
6 motion carries on a vote of 4-0-1.

7 VICE CHAIR JOHN: Thank you, Mr. Moy. And can you  
8 call the next case, which I believe is 20613?

9 MR. MOY: Yes. Case Application No. 20613 of Cory  
10 D. Randolph.

11 This application was captioned and advertised for  
12 special exception from the rear yard requirements of Subtitle  
13 D § 306.2, pursuant to Subtitle D § 5201, Subtitle X § 902.1  
14 to construct a rear enclosed porch and deck addition to an  
15 existing, detached, two-story with cellar, principal dwelling  
16 unit in the R-2 Zone.

17 The property is located at 1830 Woodmont Place  
18 Southeast, Square 5763, Lot 820.

19 VICE CHAIR JOHN: Thank you.

20 Mr. Randolph, can you hear me?

21 MR. RANDOLPH: Sorry, I was muted. Yes, I can,  
22 ma'am.

23 VICE CHAIR JOHN: Okay. Please introduce yourself  
24 and give us your address for the record.

25 MR. RANDOLPH: I am Cory Randolph. My address is

1 1830 Woodmont Place Southeast. I am a resident, owner, and  
2 a proponent party in this case.

3 VICE CHAIR JOHN: Thank you.

4 MR. RANDOLPH: 20613.

5 VICE CHAIR JOHN: Thank you. Can you tell us how  
6 your application meets the requirement for relief? And I'll  
7 put 15 minutes on the clock.

8 MR. RANDOLPH: Yes. Hopefully I can touch upon  
9 the salient points.

10 The Exhibit 20 is the Office of Planning report  
11 which recommends approval of relief. Exhibit 21 is DDOT's  
12 report with no objections. And Exhibit 22 is a letter in  
13 support from my immediate neighbor, Veronica Perry, located  
14 at 1836.

15 I've provided documentation and also reached out  
16 and invited ANC Chair Khadijah Watson to join. And I've  
17 previously provided and have routinely followed up to provide  
18 and coordinate with the ANC. I was hoping to see them in  
19 attendance today.

20 VICE CHAIR JOHN: That's okay, Mr. Randolph.

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

22 MS. BROWN-ROBERTS: Good evening, members of the  
23 BZA. Maxine Brown-Roberts representing the Office of  
24 Planning on BZA Case No. 20613 for special exception relief  
25 from the rear yard requirements pursuant to Subtitle D §

1 5201.

2 As outlined in our report and also demonstrated,  
3 the enclosed proposed porch and deck would not be adversely  
4 affecting the light and air or the privacy of the adjacent  
5 properties, nor would it intrude on the character and scale  
6 along Woodmont Place. The proposal would also be in harmony  
7 with the general purpose and intent of the zoning regulations  
8 and map, and should not tend to affect adversely the use of  
9 neighboring properties.

10 The Office of Planning therefore recommends  
11 approval of the requested special exception.

12 Thank you, Madam Chairman. And I'm available for  
13 questions.

14 VICE CHAIR JOHN: Thank you.

15 Does the Board have any questions?

16 Does the applicant have any questions?

17 MR. RANDOLPH: I have none. I stand ready to  
18 address any questions that either you may have, Madam Vice  
19 Chairwoman, or Commissioner, or any of the Board members.

20 VICE CHAIR JOHN: Thanks. I don't have any  
21 questions and I didn't see any hands raised by any Board  
22 member.

23 Mr. Young, do we have anyone signed up to testify?

24 MR. YOUNG: We do not.

25 VICE CHAIR JOHN: Okay. So back to you, Mr.

1 Randolph. Do you have any closing comments?

2 MR. RANDOLPH: One. I just want to say that I  
3 have every intent to continue to coordinate and follow all  
4 the laws in the District of Columbia, as well as to be a good  
5 neighbor. Also I just wanted to express, I had the  
6 opportunity as I was standing by to watch you all work, and  
7 just thank you for your diligence and commitment and time.

8 VICE CHAIR JOHN: Thank you.

9 MR. RANDOLPH: And considering my case.

10 VICE CHAIR JOHN: Thank you. I'm going to excuse  
11 you now, Mr. Randolph. Thanks for your testimony.

12 MR. RANDOLPH: Thank you all.

13 VICE CHAIR JOHN: Thank you.

14 I am now closing the record.

15 Board members, are we ready to deliberate and does  
16 anyone want to start?

17 Mr. Blake, would you like to start? You don't  
18 have to.

19 MEMBER BLAKE: No problem. In looking at this  
20 request to construct a rear -- excuse my voice, of course --  
21 enclosed porch and deck addition to an existing, detached,  
22 two-story with cellar, principal dwelling in the R-2 Zone,  
23 I do believe the applicant has met the standard and should  
24 be granted relief.

25 My one concern is that we did not have a report

1 from the ANC, but we do note that the BZA referral to the ANC  
2 was there in Exhibit 18. We did have an affidavit of  
3 posting, and acknowledge that the applicant did mention that  
4 he got in touch with the SMD and had attempted to connect  
5 with the ANC.

6 I give great weight to the Office of Planning  
7 report, which also goes through the specific conditions of  
8 Subtitle D 5201 and also the general standards of 902.1.

9 The applicant I think has met the burden of proof  
10 and should be granted special exception and the requested  
11 relief.

12 The property located to the west is undeveloped.  
13 The house to the east has a greater-than-eight-foot setback  
14 from the side yard. The porch is only one story and is set  
15 away from the property line, so it shouldn't have an impact  
16 on light and air available to neighboring properties,  
17 therefore covering 5201.4(a).

18 Also, the privacy and use of enjoyment should not  
19 be unduly compromised. Again you've got the wooded area to  
20 the north and the deck will be facing to the rear, not into  
21 the side. There also should be no visual intrusion because  
22 it's not visible from Woodmont Place in the front and there  
23 is no alley in the back. So for that reason, I think it's  
24 met the conditions of 5201.4 as well.

25 The general conditions, obviously the zoning

1 regulations allow for the reduction in rear yard and the  
2 applicant certainly has demonstrated the requirements of  
3 5201. Therefore it should be in harmony with the purpose and  
4 intent of the zoning regulations and maps. It should not,  
5 again, affect adversely the neighboring properties for the  
6 reasons discussed in the criteria, meeting D § 5201.

7           So for that reason, I believe that the applicant  
8 should be granted relief and I would be prepared to support,  
9 if I could say it.

10           VICE CHAIR JOHN: Thank you, Board Member Blake.  
11 I'm sorry to let you talk for so long. I didn't realize your  
12 voice was so bad.

13           Board Member Smith?

14           MEMBER SMITH: I concur with everything that Mr.  
15 Blake said and I would support the application.

16           VICE CHAIR JOHN: Thank you.

17           Zoning Commissioner Dr. Imamura, do you have  
18 comments?

19           ZC MEMBER IMAMURA: I agree with everything that  
20 Board Member Blake explained, and would encourage Board  
21 Member Blake to get a hot cup of tea and honey. I hope he  
22 feels better.

23           VICE CHAIR JOHN: Thank you, thank you.

24           Okay. Based on that discussion, I'm going to make  
25 a motion to approve Application No. 20613 as captioned and



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

2 Board Member Smith?

3 MEMBER SMITH: Second.

4 VICE CHAIR JOHN: Mr. Moy, would you please take  
5 the roll call?

6 MR. MOY: When I call each of your names, if you  
7 would please respond with a yes, no, or abstain to the motion  
8 made by Vice Chair John to approve the application for the  
9 relief requested. The motion to approve was second by Mr.  
10 Smith.

11 Mr. Blake?

12 MEMBER BLAKE: Yes.

13 MR. MOY: Mr. Smith?

14 MEMBER SMITH: Yes.

15 MR. MOY: Vice Chair John?

16 VICE CHAIR JOHN: Yes.

17 MR. MOY: Zoning Commissioner Dr. Imamura?

18 ZC MEMBER IMAMURA: Yes. And I strongly urge  
19 Member Blake to get a hot cup of tea.

20 MR. MOY: I second that, Doctor. Let's see, where  
21 was I?

22 We have a Board member not participating.

23 Staff would record the vote as 4-0-1. This is on  
24 the motion made by Vice Chair John to approve, second by Mr.  
25 Smith. Also in support of the motion to approve, Mr. Blake

1 and Zoning Commissioner Dr. Imamura. The motion carries on  
2 a vote of 4-0-1.

3 VICE CHAIR JOHN: Thank you, Mr. Moy. Would you  
4 please call our last and final -- that's the same thing,  
5 right -- our last case for the day?

6 MR. MOY: Yes, ma'am. That would be Case  
7 Application No. 20592 of John and Linda ReVeal.

8 VICE CHAIR JOHN: Thank you.

9 MR. MOY: That's R-E-V-E-A-L.

10 This application was captioned and advertised for  
11 special exception from the side yard requirements of Subtitle  
12 D § 206.2, pursuant to Subtitle D § 5201 and Subtitle X §  
13 901.2, and variance relief from the lot occupancy  
14 requirements of Subtitle D § 304.1, pursuant to Subtitle X  
15 § 1002, and the minimum lot area requirements of Subtitle D  
16 § 302.1, pursuant to Subtitle X § 1002.

17 This would construct a side addition to an  
18 existing, detached, two-story with basement, principal  
19 dwelling unit in the R-1-B Zone, property located at 4701  
20 Fessenden Street Northwest, Square 1541, Lot 800.

21 VICE CHAIR JOHN: Thank you, Mr. Moy.

22 Ms. Wilson, Mr. Sullivan? Please introduce  
23 yourself for the record.

24 MR. SULLIVAN: Thank you, Madam Chair. Marty  
25 Sullivan on behalf of the applicant.

1 VICE CHAIR JOHN: Okay. Thank you. You don't  
2 have anyone with you today, right?

3 MR. SULLIVAN: No. In fact, I wanted to ask for  
4 a postponement. This case was actually going to be handled  
5 by my associate, Alex Wilson, and she took ill today. I  
6 thought about trying to get up to speed on it but, as you  
7 probably imagine, I didn't really have time to do that today.  
8 And I think it's not the shortest case in the world, too,  
9 because we've got the Office of Planning with some  
10 differences of opinion on this. So we would like to request  
11 a postponement.

12 VICE CHAIR JOHN: Okay. I think the Chair can do  
13 this but I'll just briefly poll the other Board members.

14 MEMBER SMITH: Yes.

15 VICE CHAIR JOHN: Is anyone interested in staying  
16 until 8:00 tonight?

17 Mr. Sullivan, I am going to grant the continuance  
18 by consensus.

19 Mr. Moy, is there a time that we could hear this  
20 case?

21 MR. MOY: Yes, there is a time. And considering  
22 the upcoming hearing dockets, Madam Vice Chair, I think it'd  
23 be to the Board's advantage to reschedule this application  
24 considering the circumstances of this application as well.

25 I have two potential dates for you, Madam Vice

1 Chair. The earliest could be March 2nd where we currently  
2 have nine cases. Or the second option would be March 30th  
3 where we have five cases, two expedited, and one appeal. I  
4 think it could work at either of these two hearing dates.

5 MR. SULLIVAN: Excuse me. I can make that easier  
6 for you. My client will be out of town on the 2nd.

7 VICE CHAIR JOHN: It's March 30th with the one  
8 appeal?

9 MR. MOY: Yes, ma'am.

10 VICE CHAIR JOHN: And that would include six cases  
11 with this case?

12 MR. MOY: Yes, it would be.

13 VICE CHAIR JOHN: Okay.

14 MR. MOY: The premise, of course, is that Mr.  
15 Sullivan will have crossed his T's and dotted his I's.

16 VICE CHAIR JOHN: That's right. But he always  
17 does that.

18 MR. SULLIVAN: That's what I think, at least.  
19 Yes.

20 VICE CHAIR JOHN: Well, I'm so sorry Ms. Wilson  
21 is not feeling well but I'm really thrilled that we're not  
22 hearing this case today. So thank you and we'll continue the  
23 case until March 30th.

24 MR. SULLIVAN: Thank you very much.

25 VICE CHAIR JOHN: Thank you. Have a good evening.

1           Board members, that's it for today. I want to  
2 thank you all for your patience and your help. It is 6:08  
3 so there's still time for dinner. See you next week.

4           (Whereupon, the above-entitled matter went off the  
5 record at 6:08 p.m.)

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C E R T I F I C A T E

This is to certify that the foregoing transcript

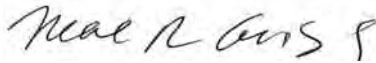
In the matter of: Public Hearing

Before: DC BZA

Date: 02-02-22

Place: teleconference

was duly recorded and accurately transcribed under  
my direction; further, that said transcript is a  
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Court Reporter

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