

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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REGULAR PUBLIC HEARING

+ + + + +

WEDNESDAY

SEPTEMBER 14, 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 10:27 a.m. EST, Lorna John, Vice Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

FREDERICK L. HILL, Chairperson  
LORNA JOHN, Vice Chairperson  
CARL BLAKE, Board Member  
CHRISHAUN SMITH, Board Member (NCPC)

ZONING COMMISSION MEMBER PRESENT:

ANTHONY HOOD, Chairperson

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary  
PAUL YOUNG, Zoning Data Specialist

OFFICE OF PLANNING STAFF PRESENT:

STEPHEN MORDFIN  
KAREN THOMAS  
MAXINE BROWN-ROBERTS  
STEPHEN COCHRAN  
MATT JESICK

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

MARY NAGELHOUT, ESQ.

The transcript constitutes the minutes from the  
Regular Public Hearing held on September 14, 2022.

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

2 10:27 a.m.

3 MR. MOY: The Board is now in its hearing session.  
4 The first case before the Board is Application No. 20781 of  
5 Judah and Anneben Levine.

6 This is a self-certified application pursuant to  
7 Subtitle X, Section 901.2, for special exception under  
8 Subtitle D, Section 5201, from the rear yard requirement of  
9 Subtitle D, Section 306.1. The property in the R1-B zone at  
10 3820 Reno Road Northwest, Square 1959, Lot 33.

11 That's it from me, Madam Vice Chair.

12 VICE CHAIR JOHN: Thank you, Mr. Moy. Mr.  
13 Young, could you let the parties in, please? Oh, they are  
14 here.

15 Good morning, Mr. Sullivan. You are here. Can  
16 you introduce yourself, please, and tell us who you have with  
17 you today?

18 MR. SULLIVAN: Yes. Good morning, Madam Chair.  
19 Thank you. Marty Sullivan with Sullivan & Barros. With us  
20 here is the architect, Michael Bruckwick, and property owner,  
21 Anneben Levine. Both of whom I don't intend to have any  
22 direct testimony, but they're here if you have questions  
23 during our presentation.

24 VICE CHAIR JOHN: Okay, excellent. So we can go  
25 ahead and get started with your presentation, and you have

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1 15 minutes to present your testimony.

2 MR. SULLIVAN: Thank you, Madam Chair, members of  
3 the Board. Mr. Young, if you could please load the  
4 PowerPoint presentation.

5 (Pause.)

6 MR. SULLIVAN: Next slide, please. It says 3820  
7 Reno Road. It's rear yard special exception. I'm starting  
8 with this because the yellow highlighted portion represents  
9 the area of the relief.

10 There's an existing non-conforming rear yard  
11 setback currently of about 20-feet. It's a 25-foot rear yard  
12 setback. And there's a one-story addition on this corner of  
13 the property where the highlight is. It's a total of about  
14 40 square feet, and it's just one-story.

15 Next slide, please. In the left lower corner of  
16 the property at 3820, and the -- we have letters of support  
17 from the neighbor to the west and the neighbor directly to  
18 the south as well.

19 Next slide, please. Here's a photo of the area  
20 of the building where the one-story addition will extend a  
21 few more feet out into the rear yard, and you see the  
22 adjacent property in the background. That's a neighbor that  
23 didn't support.

24 Next slide. We're in the R1-B district. It's a  
25 25-foot rear yard requirement, so we're asking special

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1 exception relief.

2 Next slide. We do have Office of Planning  
3 support. We have unanimous support from ANC 3F, and we have  
4 three letters of support including the two adjacents.

5 Next slide. I will go really quickly through the  
6 plans. This is similar to what we saw on Slide 2. This is  
7 part of a larger addition, but this is the only portion that  
8 extends into a setback.

9 Next slide, please. Next slide, please. That's  
10 the front elevation. This is the west elevation. On the  
11 right side of this, you'll see the area of the addition.  
12 It's a one-story addition.

13 Next slide, please. Next slide, please. Next  
14 slide, please. And next slide, please. These are all  
15 elevations of the plans, but they're not showing the area  
16 where the addition is. The addition is opposite this side  
17 of the east elevation.

18 Next slide, please. And that just shows the  
19 addition, again, from the east side. The area of relief is  
20 on the other side of this elevation.

21 Next slide, please. So proposal is clearly in  
22 harmony with the general purpose and intent of the  
23 regulations.

24 Next slide, please. Light and air available.  
25 It's just one-story. It's just a few feet in the rear yard,

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1 and there's good separation between this property and the  
2 neighboring property and building. And we have the support  
3 of that neighbor as well.

4 No impact on privacy for the same reasons, and the  
5 proposed addition does not reasonably intrude upon character,  
6 scale and pattern of house along this street or alley. This  
7 can't be seen actually from any street or alley frontage  
8 anywhere.

9 Next slide, please. That's it. If the Board has  
10 any questions for myself or for Mr. Bruckwick or the property  
11 owner. Thank you.

12 VICE CHAIR JOHN: Thank you.

13 Does the Board have any questions?

14 (Pause.)

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

17 (Pause.)

18 VICE CHAIR JOHN: Ms. Maxine Roberts?

19 (Pause.)

20 VICE CHAIR JOHN: Is the Office of Planning here?

21 (Pause.)

22 VICE CHAIR JOHN: There you are. Good morning --

23 MS. BROWN-ROBERTS: I'm sorry about that.

24 VICE CHAIR JOHN: That's okay. You were here, and  
25 then you disappeared. Good morning, Ms. Brown-Roberts.

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1 MS. BROWN-ROBERTS: Good morning, Madam Chair and  
2 members of the Board. I'm Maxine Brown-Roberts with the  
3 Office of Planning.

4 The applicant requested special exception review  
5 to reduce the required rear yard from the required 25-feet  
6 to 18-feet pursuant to Subtitle D 521.1 and Subtitle X 901.2.  
7 The property is a non-added lot, and the proposal for the  
8 addition is the principal building that produces the rear  
9 yard.

10 This is a one story addition is -- that is  
11 extended within the rear yard should not past any shadows or  
12 on the adjacent property or allow for any direct views into  
13 the delivering areas of the adjacent property and should  
14 therefore not unduly compromise the lighting, air and privacy  
15 of the adjacent properties. The addition would not be  
16 visible from the adjacent streets, and OP does not recommend  
17 a special treatment.

18 Regarding Subtitle X 901.2, the rear yard and  
19 other development parameters are intended to allow for  
20 adequate light, air and privacy between adjacent neighbors.  
21 A small portion of the building that intrudes into the rear  
22 yard should not result in a situation that would be contrary  
23 to these intent.

24 Similarly, the light and air privacy would not  
25 negatively affect the adjacent neighbor. The Office of

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1 Planning therefore recommends approval of the special  
2 exception. Thank you, Madam Chairman, and I'm available for  
3 questions.

4 VICE CHAIR JOHN: Thank you. Does the Board have  
5 any questions?

6 (Pause.)

7 VICE CHAIR JOHN: Mr. Sullivan, do you have any  
8 questions?

9 MR. SULLIVAN: No, thank you.

10 VICE CHAIR JOHN: Okay. Is the ANC here? I don't  
11 see any ANC representatives signed up.

12 So Mr. Young, is there anyone signed up to  
13 testify?

14 MR. YOUNG: We do not.

15 VICE CHAIR JOHN: Okay. Mr. Sullivan, do you  
16 have any closing comments?

17 MR. SULLIVAN: I do not. Thank you, Madam Chair.

18 VICE CHAIR JOHN: Thank you. Mr. Young, can you  
19 please excuse the parties?

20 (Pause.)

21 VICE CHAIR JOHN: Okay, I'm going to close the  
22 record in the hearing and ask if we're all ready to  
23 deliberate. I will start briefly and ask you all to continue  
24 the discussion.

25 So I thought this was a fairly straightforward

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1 application. I agree with the analysis of the Office of  
2 Planning. As the applicant described, this is a very small  
3 intrusion into the rear yard. And in terms of light and air  
4 and privacy, there should not be any significant impact on  
5 any adjacent neighbors. And so I'm in support of the  
6 application, but I'd like to hear from the rest of the Board.

7 Mr. Blake, would you like to start?

8 MEMBER BLAKE: Sure. I do agree with your  
9 analysis of the case. This property is a very large  
10 property, and there's a fair amount of space between it and  
11 the next property, the neighbor. And it should really  
12 mitigate any adverse impact on light and air and privacy or  
13 anything like that because of that.

14 In addition, I noticed that the windows in the  
15 proposed addition probably don't line with those on the  
16 adjacent property as well, so the privacy issue is also  
17 protected by that.

18 So considering those factors, I believe that the  
19 applicant has met the burden of proof to be granted relief.  
20 I too would give great weight to the Office of Planning's  
21 recommendation for approval and note DDOT has no objection.

22 And we know that ANC 3F is in support and it  
23 stated no issues of concern, and we received three letters  
24 of support, including adjacent neighbors to the west and  
25 south. So I'll be voting in favor of the application.

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1 VICE CHAIR JOHN: Thank you, Mr. Blake.

2 Board Member Smith?

3 MEMBER SMITH: I agree with both of you and Board  
4 Member Blake's analysis of this particular case. As Board  
5 Member Blake stated, this is a fairly large property, larger  
6 than the surrounding properties and it's heavily wooded.

7 And there is some topographical difference I think  
8 would alleviate some of the concerns, if there were any,  
9 concerns about privacy and light and air. As it stands, the  
10 addition would still be 22 feet from the property to the  
11 south of this property and 18 feet and 8 inches or so away  
12 from what I believe is the most impacted property to the  
13 west.

14 And we have a letter of support from that  
15 particular property owner that is most greatly affected. The  
16 proposed addition that would encroach is only one-story  
17 height, so that would have a negating impact on the proposed  
18 encroachment.

19 So with that, I do believe that the applicant has  
20 met the burden of proof for us to be able to grant this what  
21 I believe is a straightforward special exception, and I am  
22 also in support.

23 VICE CHAIR JOHN: Thank you. Commissioner Hood?

24 ZC CHAIR HOOD: Thank you, Madam Chair. I  
25 believe that the adverse impacts have been mitigated. It's

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1 very simple, I think, as already been mentioned. This is a  
2 large property as well as the views of the Reno Road and the  
3 different streets is not visible.

4 Mr. Blake has already mentioned about the windows  
5 not having direct view into the adjacent properties. And I  
6 appreciate the presentation by the applicant. It really  
7 spelled it out for me from the rear yard and the lessen of  
8 the impacts of the rear yard. So I will be voting in favor  
9 of this. Thank you, Madam Chair.

10 VICE CHAIR JOHN: Thank you, Commissioner Hood.

11 I am going to support the application as well.  
12 I will make a motion then to approve Application No. 20781  
13 as captioned and read by the secretary and ask for a second,  
14 Mr. Blake.

15 MEMBER BLAKE: Second.

16 VICE CHAIR JOHN: Mr. Moy, would you take the roll  
17 call please?

18 MR. MOY: Yes, thank you. When I call your name,  
19 if you would please respond. Mr. Smith?

20 MEMBER SMITH: Yes.

21 MR. MOY: Mr. Blake?

22 MEMBER BLAKE: Yes.

23 MR. MOY: Zone Commissioner Anthony Hood?

24 ZC CHAIR HOOD: Yes.

25 MR. MOY: Vice Chair John?

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1 VICE CHAIR JOHN: Yes.

2 MR. MOY: Staff would record the vote as 4 to 0  
3 to 1, and this is on the motion made by Vice Chair John to  
4 approve the application for the relief in question. The  
5 motion was second by Mr. Blake.

6 Also in support of the motion to approve is Mr.  
7 Smith and Zone Commission Chair Anthony Hood. And we have  
8 one Board member not participating. Again, the motion  
9 carries on the vote to 4 to 0 to 1.

10 VICE CHAIR JOHN: Thank you, Mr. Moy. When you're  
11 ready, please call the next case.

12 MR. MOY: All right. The next case is Application  
13 No. 20765 of 2727 Fairlawn Avenue Southeast by Trustee LLC.  
14 This is a self-certified application pursuant to Subtitle X,  
15 Section 901.2, for special exception under Subtitle U,  
16 Section 421, to allow a new residential development.

17 The property is located in the RA-1 zone at 2727  
18 Fairlawn Avenue Southeast, Square 5554, Lot 29. This  
19 application was last heard by the Board on July 13th, 2022.  
20 This is a continued hearing on the application with the Board  
21 having requested supplemental information for the record.

22 That's it, Madam Vice Chair.

23 VICE CHAIR JOHN: Thank you. Good morning, Mr.  
24 Brown.

25 MR. BROWN: Good morning, Vice Chairman John and

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1 members and Chairman Hood.

2 VICE CHAIR JOHN: Thank you. Can you introduce  
3 yourself and tell us who you have with you today?

4 MR. BROWN: Certainly. Patrick Brown from  
5 Greenstein DeLorme & Luchs. With me is our architect, Emilie  
6 Rottman, and Sandy Felty, the longtime property manager for  
7 this property.

8 VICE CHAIR JOHN: Okay, thank you. So you will  
9 have 15 minutes to give your presentation, and you may begin  
10 now.

11 MR. BROWN: Mr. Young, if you could pull up my  
12 presentation.

13 (Pause.)

14 MR. BROWN: Thank you. It's the last exhibit.  
15 If I could just briefly introduce. The hearing was continued  
16 for this specific purpose of the applicant going back and  
17 revisiting the configuration of the lower level focused in  
18 on tenant storage. At the same time, we looked at and were  
19 able to add bike storage, which didn't exist.

20 (Pause.)

21 MR. BROWN: If we could advance. Keeping going.

22 I'll just say that we were here in July, mid-July  
23 with the Board. It was a busy period. July 21st, we met and  
24 presented a preliminary plan to ANC 7B. We submitted our  
25 supplemental submission. It's a revised version of what was

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1 originally submitted to ANC.

2                   We met again with the ANC in September 1st. That  
3 produced a letter they have in the record of conditional  
4 support. Also requested by the ANC, we set the supplemental  
5 submission electronically to 35 of 39 tenants that we had  
6 active email addresses for. And then we followed up on the  
7 11th with an actual hard copy -- or the 12th, excuse me, to  
8 every tenant at their unit. So we attempted through various  
9 means to maintain community engagement.

10                  If we could go to the next slide. Just a brief  
11 view of the existing storage conditions. There were 40  
12 storage lockers with 8,000 cubic feet of capacity. Twenty-  
13 one of those lockers were entirely vacant. Only 19 of the  
14 storage lockers were assigned with the capacity being used --  
15 available of 3,800 cubic feet. Of the 19 occupied storage  
16 units, only 3,100 cubic feet were actually being used.

17                  There's been no charge historically for the tenant  
18 storage. The laundry facilities, which we'll show shortly,  
19 were replaced within the last six months include five  
20 washers, five dryers and a utility sink. And there were no  
21 bike storage facilities.

22                  Next slide, Mr. Young, please. What we've done  
23 is proposed 39 new storage lockers in the new location, 11  
24 single-tier lockers, 28 double-tier lockers. The commitment  
25 is that all existing tenants with assigned storage, and I

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1 include Ms. Harrison who was promised but never occupied  
2 storage that she be included. Storage will not be charged  
3 for these people. Laundry facilities will be maintained, and  
4 we have a new bike room with eight spots. No charge for the  
5 bike room.

6 Mr. Young, if we could go -- here, you can see the  
7 existing layout where the storage and what was utilized. And  
8 then the next slide depicts the storage facilities as they  
9 exist now. You can see many empty, partially used. And then  
10 at the corner of the existing laundry facilities, which you  
11 can tell are new and well-maintained.

12 Next slide, please. You can see here the new  
13 storage room with the combination with single and double-tier  
14 storage lockers. If you go to the laundry room, we carved  
15 out a space for the bike room. I'll show you that in the  
16 next slide.

17 Here is the type of storage we're proposing.  
18 You'll see the single-tier and double-tier metal lockers,  
19 which are modern, more secure and can be easily used by the  
20 tenants.

21 Next slide, please. Here is the bike room. DDOT  
22 had asked for two outdoor bike racks. That was not well-  
23 advised given geographic issues, so the alternative here is  
24 to have eight indoor bike storage being provided. Again, no  
25 charge to the tenants.

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1           I think that's it. One of the questions came up.  
2 The assignment of the new lockers will be, one, everybody who  
3 has a locker will get an equivalent amount of space either  
4 in single or two-tiered lockers. The new lockers will be  
5 assigned based on seniority of tenants that have lockers now.

6           After everybody who has a locker now, assigned  
7 locker, is satisfied, the additional lockers will be made  
8 available to other tenants. As you can see though, more than  
9 half of the tenants have not chosen to use existing lockers.

10           I think that's it for my presentation if you have  
11 any questions.

12           VICE CHAIR JOHN: Thank you, Mr. Brown.

13           Does the Board have any questions? Mr. Blake?

14           MEMBER BLAKE: Yes, just one question. Based on  
15 what you just said, that was pretty much with in line with  
16 the ANC's conditions. Does the applicant agree with the  
17 conditions that were laid out by the ANC's conditional  
18 approval?

19           MR. BROWN: Yes.

20           MEMBER BLAKE: Okay, thank you.

21           VICE CHAIR JOHN: Commissioner Hood?

22           ZC CHAIR HOOD: I have a quick question not  
23 necessarily related to zoning, but I was curious. I'm going  
24 to seize the moment. How did they get those -- sorry,  
25 Commissioner Mays (phonetic) is not here. How do they get

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1 those bikes on the top? I'm just curious. Do they lift them  
2 up, or is there a way to roll them up? I'm just curious.  
3 Since I saw it, I said I was going to ask the question.

4 MS. ROTTMAN: Hi, Commissioner Hood. Emilie  
5 Rottman from Square 134 Architect. The way that upper tier  
6 works, there's actually a track that's built into it that  
7 pulls out and leans at an angle, and then the bike gets  
8 attached to it and then you kind of lift and push it up.

9 ZC CHAIR HOOD: Okay, all right. Thank you.

10 VICE CHAIR JOHN: Thank you, Commissioner Hood.  
11 I see the ANC commissioner is here. Can you  
12 introduce yourself, please?

13 MR. SWANSON: Yes. My name is Travis Swanson,  
14 and I am ANC commissioner for 7B03, which currently does  
15 include 2727 Fairlawn Avenue.

16 VICE CHAIR JOHN: Thank you. Did you have any  
17 questions for the applicant?

18 MR. SWANSON: No. I just wanted to say that I  
19 really appreciate the applicant as well as going back to the  
20 drawing board on this issue because it was really important  
21 to the residents of this building, many of whom are seniors  
22 and have lived here for some several decades.

23 I also appreciate the Board, when I testified back  
24 in July when I recommended that I hope that the Board would  
25 delay making a decision so that this could happen, this

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1 process could happen, something could come up that was  
2 amenable to the residents of the building and the developer.  
3 And that seems to have happened.

4 I talked to several residents of the building who  
5 say that they're happy with the new drawings and that they  
6 feel that this is something that everybody could agree to.  
7 So I'm glad we decided to take that extra time rather than  
8 rushing it through a couple of months ago.

9 I think it's really important to make sure that  
10 the building and the residents are happy with the things are,  
11 especially when it's a group of primarily seniors who were  
12 having the issue. So really appreciate this Board for  
13 bringing this together and getting something that our senior  
14 residents of the building can agree on with the developer.  
15 So really appreciate everybody here.

16 VICE CHAIR JOHN: Okay, thank you very much. Does  
17 the Board have any questions for the ANC?

18 Commissioner Hood?

19 ZC CHAIR HOOD: I don't necessarily have a  
20 question, but I read most of the ANC letters in this case.  
21 I want to thank Commissioner Swanson and the ANC 7B for their  
22 thoughtfulness in looking out for the seniors. I just want  
23 to express that and continue to do the great work you're  
24 doing. So thank you.

25 MR. SWANSON: Thank you, Mr. Hood

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1 VICE CHAIR JOHN: Thank you. I also wanted to  
2 commend the applicant and the ANC for working together to  
3 come up with this additional information. Sometimes, the  
4 Board does entertain issues that are a little bit outside the  
5 scope of the zoning issue. But in this case, the question  
6 of storage was essential to the tenants that the Board  
7 thought it would be useful to allow time for additional  
8 discussion. So thank you all very much. I don't believe we  
9 have anyone signed up to testify, Mr. Young.

10 MR. YOUNG: We do not.

11 VICE CHAIR JOHN: And Mr. Swanson, I don't think  
12 you have another statement, right? That was your statement,  
13 what you just --

14 MR. SWANSON: Yes, that's correct. We submitted  
15 our letter of conditional approval, which it sounds like  
16 everybody read and it looks like all of those conditions were  
17 made, including the fourth condition of reaching out to the  
18 residents. The residents said they were happy with the  
19 outreach and to learn more about the project, and it sounds  
20 like everybody is on the same page now.

21 VICE CHAIR JOHN: Okay. So you no longer have a  
22 conditional approval. This is an approval.

23 MR. SWANSON: That's correct. It looks like all  
24 of the conditions were met. In the letter, we did actually  
25 put that we are withdrawing our past objection to the process

1 moving forward.

2 VICE CHAIR JOHN: Okay, I may have missed that.

3 Thank you very much.

4 Mr. Brown, do you have any closing comments?

5 MR. BROWN: No, I think the commissioner and the  
6 chair, Ms. Brown, we spent a fair amount of time working  
7 together and got to a good result. Thank them both.

8 VICE CHAIR JOHN: Okay, thank you. Thank you all  
9 for your testimony. I'm going to excuse you now and then  
10 close the record. Thanks for your testimony, and I'll ask  
11 Mr. Young to excuse everyone.

12 (Pause.)

13 VICE CHAIR JOHN: I'm going to close the hearing  
14 and the record. Are we all ready to deliberate?

15 (Pause.)

16 VICE CHAIR JOHN: Okay, would anyone like to  
17 start?

18 (Pause.)

19 VICE CHAIR JOHN: Okay. So I thought that in  
20 terms of the request for relief to add the additional  
21 dwelling units, I thought the application met the criteria  
22 for relief under Subtitle U 421 and 901.2. And there is no  
23 change in the footprint. The applicant is adding units in  
24 the basement.

25 The issue is complying with the bicycle rack

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1 requirement, moving it from outdoor to indoor as DDOT  
2 recommended. I thought that the issue of storage was very,  
3 very important to the tenants. And while not being a zoning  
4 issue in this particular case, important enough for the Board  
5 to allow the parties additional time to try to come to an  
6 agreement.

7                   Based on that discussion, the parties reached an  
8 agreement concerning how storage would be allocated in the  
9 future. Based on that discussion ANC 7B withdrew its  
10 opposition to the application.

11                   Other than that, I thought it was a fairly  
12 straightforward application. I would agree with the Office  
13 of Planning's analysis of how the application meets the  
14 criteria in terms of light and area and privacy, which are  
15 not really impacted because there's no external change to the  
16 footprint.

17                   With that, I'll go around the room and start with  
18 you, Mr. Blake.

19                   MEMBER BLAKE: Thank you, Madam Vice Chair. I  
20 agree with your analysis of the situation. I do believe the  
21 applicant has met the burden of proof to be granted relief.  
22 The only thing I'd point out is that initially the ANC had  
23 expressed some concerns that the building did not meet the  
24 requirements of the American Disabilities Act, which I agree  
25 is important, did not meet the -- it is not within the

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1 purview of the Board. I wanted to point that out.

2 I also note that we talked about the concerns that  
3 the residents had with the potential loss of storage and the  
4 laundry facilities and the lack of understanding. All of  
5 those issues were addressed as we pointed out previously.  
6 And they engaged with the ANC. They engaged with the  
7 tenants. And the supplemental filings and so forth do  
8 reflect all of that to greater detail on this other space and  
9 on the storage and bike and on the laundry facilities.

10 We also have confirmation from the ANC that the  
11 tenants are satisfied with the changes, which I think is  
12 good. Considering all these factors, I would think that this  
13 is a fairly straightforward case. I will be voting in favor  
14 of the application.

15 VICE CHAIR JOHN: Thank you. Mr. Smith?

16 MEMBER SMITH: I have very little in addition to  
17 add beyond what both of you added. As you stated, Chair  
18 John, the Board in this particular case I think we continued  
19 this case more so for questions and concerns that were raised  
20 by the ANC and the residents of this building regarding their  
21 amenities spaces that they have here.

22 And when we previously heard this case, how that  
23 amenities space would be treated with nebulous -- well, we  
24 didn't get very much information. With this hearing, we did  
25 get some additional information. It seems that the residents

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1 are on board with these particular changes given that these  
2 changes would provide them with some amenities that are  
3 comparable to what they currently have now.

4                   So with that, I do believe given these changes and  
5 the information that was presented by OP in their staff  
6 report and the information that's within the record, I do  
7 believe that the applicant has met the burden of proof for  
8 us to grant this special exception and will support the  
9 applications.

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

12                  ZC CHAIR HOOD: I would also agree. I think that  
13 all of these requirements under Subtitle U 421 are being met  
14 or mitigated. I really appreciate all the work that was put  
15 in place by both the Fairlawn community. I'm just going to  
16 say the Fairlawn community and leave it at that. I would be  
17 voting in favor. Thank you, Madam Chair.

18                  VICE CHAIR JOHN: Thank you. I'm also in support  
19 of the application as I noted earlier. So I'm going to make  
20 a motion to approve Application No. 20765 and ask for a  
21 second.

22                  Mr. Blake?

23                  MEMBER BLAKE: Second.

24                  VICE CHAIR JOHN: Thank you. Mr. Moy, would you  
25 take the roll call, please?

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1                   MR. MOY: Yes, thank you. When I call your name,  
2 if you will please respond.

3                   Zoning Commission Chair Anthony Hood?

4                   ZC CHAIR HOOD: Yes.

5                   MR. MOY: Mr. Smith?

6                   MEMBER SMITH: Yes.

7                   MR. MOY: Mr. Blake?

8                   MEMBER BLAKE: Yes.

9                   MR. MOY: Vice Chair John?

10                  VICE CHAIR JOHN: Yes.

11                  MR. MOY: We have a Board member not present, not  
12 participating. Staff would record the vote as 4 to 0 to 1.  
13 And this is on the motion made by Vice Chair John to approve  
14 the application for the relief requested. The motion to  
15 approve was second by Mr. Blake. Also in support of the  
16 motion to approve is Mr. Smith and Zoning Commission Chair  
17 Anthony Hood. Board member not present. Again, motion  
18 carries on the vote of 4 to 0 to 1.

19                  VICE CHAIR JOHN: Thank you.

20                  Before we call the next case, does anyone need a  
21 break?

22                  (Pause.)

23                  VICE CHAIR JOHN: Okay. So Mr. Moy, please go  
24 ahead and call the next case.

25                  MR. MOY: The next case is Application No. 20774

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1 of Mark and Anita Brown. This is a self-certified  
2 application pursuant to Subtitle X, Section 901.2, for  
3 special exception under Subtitle D, Section 520.1, from the  
4 side yard requirements of Subtitle D, Section 206.2.  
5 Property located in the R1-B Zone at 2011 30th Street  
6 Southeast, Square 5638, Lot 14.

7 That's all that I have for you, Madam Vice Chair.

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

9 Mr. Ballard?

10 (Pause.)

11 VICE CHAIR JOHN: Oh, there you are.

12 MR. BALLARD: Okay, there we go. I was muted,  
13 sorry.

14 VICE CHAIR JOHN: Okay, thank you. Please  
15 introduce yourself for the record and tell us who you have  
16 with you today?

17 MR. BALLARD: My name is Seth Ballard. I'm  
18 principal of Ballard + Mensua Architecture. And I have Mark  
19 and Anita Brown, the homeowners, are with me.

20 VICE CHAIR JOHN: Okay, thank you. Is the ANC  
21 here?

22 (Pause.)

23 VICE CHAIR JOHN: Oh, we can't hear you.

24 MS. BROWN-ROBERTS: Yes, I need to unmute. Yes,  
25 Tiffany Brown, ANC commissioner for 1702, also Chair of ANC

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1 7B.

2 VICE CHAIR JOHN: Okay, thank you very much.

3 Mr. Ballard, you have 15 minutes to give your  
4 testimony, and you may begin when you're ready.

5 MR. BALLARD: Okay. First of all, Mark Brown  
6 actually grew up in this house, so he's a longtime member of  
7 the neighborhood and then moved in after his parents. They  
8 retained our services to design a project that includes a  
9 rear addition that's by right and then also to replace a  
10 carport with an enclosed garage with a bedroom suite above  
11 it.

12 This project, the existing carport, is already  
13 within the required setback under Title 11, Subtitle D 206.2,  
14 side yard setback limitation of eight feet. And our proposed  
15 construction of the proposed two-story side addition requires  
16 a setback measuring four-foot eight inches on the north  
17 property line.

18 We are actually, as we stated in the document, we  
19 basically realized that in order to build the garage, this  
20 is really the minimum dimension that we could have an  
21 operable garage. And in addition, we have to make the  
22 project worthwhile. Note, there's a minimum dimension as  
23 well for the bedroom suite above.

24 The property is located where it's actually  
25 downhill in the backyard so the neighbors to the west are

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1 actually very much unaffected. There's actually a large  
2 amount of yard and swimming pool in between them on the west  
3 side.

4 The property on the east side actually uphill, and  
5 the neighbors are virtually unaffected by the addition. So  
6 the one neighbor that have that is affected is actually  
7 Michelle Dobbins (phonetic). She is actually was the only  
8 one that expressed any concern and asked for a basically  
9 solar study.

10 So we actually did a sun study that we're able to  
11 do on our sketchup software. And once we demonstrated that  
12 to her how the sun would hit her property, she's now in  
13 support of the project. So we have a letter of support from  
14 her as well as three other neighbors. And then we presented  
15 the ANC and actually had no opposition from them. In  
16 addition, DDOT has no opposition.

17 So we believe this addition is a nice design that  
18 is character with the neighborhood, does not adversely affect  
19 any of the neighbors and will solicit your support.

20 VICE CHAIR JOHN: Okay, thank you.

21 Does the Board have any questions?

22 (Pause.)

23 VICE CHAIR JOHN: Does the ANC have any questions?

24 MS. BROWN-ROBERTS: No, we have no questions.

25 VICE CHAIR JOHN: Thank you. I'll go to you, Ms.

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1 Thomas.

2 MS. THOMAS: Yes, hi. Good morning, Madam Chair,  
3 members of the Board. Karen Thomas with the Office of  
4 Planning. The Office of Planning is in support of this  
5 request for the two-story addition which would encroach into  
6 the side yard. We found that there were still be an  
7 effective separation between the two homes.

8 We decided with an effective separation of about  
9 13 feet, which should not have an adverse impact on the  
10 neighbor, Ms. Dobbins. We were happy that the applicant did  
11 provide a sun study to show that the addition would not  
12 prevent the applicant in the future from having solar panels  
13 on their roof. With that, we will rest in support of this  
14 application. Thank you.

15 VICE CHAIR JOHN: Thank you. Does the Board have  
16 any questions for the Office of Planning?

17 (Pause.)

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

20 MR. BALLARD: We'd just like to thank the Office  
21 of Planning as always for their efficiency and support.

22 VICE CHAIR JOHN: Thank you.

23 Does the ANC have any questions for the Office of  
24 Planning?

25 MS. BROWN-ROBERTS: No, ma'am.

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1 VICE CHAIR JOHN: Okay, thank you. Would you  
2 like to go ahead and give your comments now, Ms. Brown from  
3 the ANC?

4 MS. BROWN-ROBERTS: Sure. Thank you. I just  
5 wanted to say thank you all for this opportunity. We run  
6 this BZA Application on our agenda so the public was well-  
7 aware of it. And the applicants came in July to our meeting.  
8 We waited to vote on it at a special meeting in September  
9 because we wanted to see what the Office of Planning and also  
10 DDOT had to say.

11 We heard from Ms. Dawson (phonetic), and she was  
12 in support of it. For the ANC, we were approving it. So we  
13 just wanted to make sure all the other paperwork was in. We  
14 didn't want to approve something if OP or DDOT said something  
15 contrary that we needed to look at. So the ANC supports this  
16 application.

17 VICE CHAIR JOHN: Thank you, Ms. Brown.

18 Does the Board have any questions for the ANC?

19 (Pause.)

20 VICE CHAIR JOHN: Does the applicant have any  
21 questions for the ANC?

22 (Pause.)

23 VICE CHAIR JOHN: Mr. Young, is there anyone  
24 signed up to testify?

25 MR. YOUNG: Yes, we have one witness.

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1                   VICE CHAIR JOHN: Okay, thank you. Would you let  
2 the witness in, please?

3                   (Pause.)

4                   VICE CHAIR JOHN: Good morning. Is this Ms.  
5 Dobbins?

6                   MS. DOBBINS: Yes, it is.

7                   VICE CHAIR JOHN: Can you introduce yourself?  
8 Give your home address for the record, please. And you have  
9 three minutes to testify.

10                  MS. DOBBINS: This won't take long.

11                  Cheryl Dobbins. My home address is 2007 30th  
12 Street Southeast. I'm the next-door neighbor who would be  
13 most impacted by this construction. I was satisfied with the  
14 study that was conducted, and I am fully supporting of the  
15 changes that they're contemplating.

16                  VICE CHAIR JOHN: Okay, thank you very much.

17                  Does the Board have any questions for the witness?

18                  (Pause.)

19                  VICE CHAIR JOHN: Does the applicant have any  
20 questions for the witness?

21                  MR. BALLARD: Thank you for your time.

22                  VICE CHAIR JOHN: Thank you.

23                  Does the ANC have any questions for the witness?

24                  MS. BROWN-ROBERTS: None.

25                  VICE CHAIR JOHN: Okay, thank you. Does the

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1 applicant have any closing statements?

2 MR. BALLARD: No. Thank you.

3 VICE CHAIR JOHN: Okay, thank you. All right,  
4 so I'm going to thank everyone for their testimony. We're  
5 going to excuse you at this time.

6 MR. BALLARD: Thank you.

7 VICE CHAIR JOHN: Have a great day.

8 MR. BALLARD: You too.

9 VICE CHAIR JOHN: Thank you.

10 (Pause.)

11 VICE CHAIR JOHN: Okay, is the Board ready to  
12 deliberate?

13 Oh, before we deliberate, I need to close the  
14 record and the hearing. Does anyone want to start?

15 ZC CHAIR HOOD: I'll start, Madam Chair. I would  
16 just say that I think this case is pretty straightforward.  
17 Any impacts or any concerns obviously have been addressed,  
18 especially with the support of the adjacent closest neighbor.  
19 I would also say I believe from the Subtitle D -- all of  
20 Subtitle D and Subtitle X has been satisfied as required or  
21 also mitigated, and I will be supportive of this application.

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

23 MEMBER SMITH: I agree with Chairman Hood's  
24 analysis. I feel like it's a fairly straightforward request,  
25 especially given that the adjacent property owner that would

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1 be most impacted by this addition, and this is a two-story  
2 addition, that would be moving closer -- moving the home  
3 closer to her home.

4                   If she's fairly comfortable and does not believe  
5 that the property will have an undue impact, I'm also fairly  
6 comfortable with that. Also given what has been presented  
7 by the Office of Planning in their staff report and our own  
8 analysis of this case, I will also be in support of the  
9 application.

10                  VICE CHAIR JOHN: Thank you.

11                  MEMBER BLAKE: Yes, I agree that the applicant has  
12 met the burden of proof to be granted relief. With the  
13 effective separation of 13 feet and the location of the  
14 addition and design, the proposed addition shouldn't have  
15 adverse impact on the neighboring properties as it relates  
16 to the light, air, privacy or visual intrusion.

17                  I give great weight to the Office of Planning's  
18 report and recommendation. I note DDOT has no objection and  
19 ANC 7B is in support. I'll also note the support of the  
20 adjacent neighbors, so I will be voting in favor.

21                  VICE CHAIR JOHN: Thank you, Mr. Blake. I'm also  
22 in support of the application. I don't think that the  
23 reduction in the side yards of approximately three feet would  
24 create any adverse impact in terms of light, air and privacy.  
25 It's very good size property. It's 11,000 square feet with

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1 a lot occupancy of 18 percent and a rear yard of 82.9  
2 percent.

3 So in terms of the relief requested, the  
4 application is fairly straightforward, and I'm also in  
5 support. I think I said that already. At this point, I'll  
6 make a motion then to approve Application No. 20774 as  
7 captioned and read by the secretary and ask for a second, Mr.  
8 Blake.

9 MEMBER BLAKE: Second.

10 VICE CHAIR JOHN: Mr. Moy, would you take the roll  
11 call, please?

12 MR. MOY: Yes, thank you. When I call your name,  
13 if you'll please respond.

14 Zoning Commission Chair Anthony Hood?

15 ZC CHAIR HOOD: Yes.

16 MR. MOY: Mr. Smith?

17 MEMBER SMITH: Yes.

18 MR. MOY: Mr. Blake?

19 MEMBER BLAKE: Yes.

20 MR. MOY: Vice Chair John?

21 VICE CHAIR JOHN: Yes.

22 MR. MOY: We have a Board member not  
23 participating, not voting. Staff would record the vote as  
24 4 to 0 to 1, and this is on the motion made by Vice Chair  
25 John to approve the application for the relief requested.

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1 The motion to approve was second by Mr. Blake. Also in  
2 support of the motion to approve is Mr. Smith and Zoning  
3 Commission Chair Anthony Hood. Again, the motion carries on  
4 the vote of 4 to 0 to 1.

5 VICE CHAIR JOHN: Thank you, Mr. Moy.

6 Let's take a five-minute break, and then we'll go  
7 straight through to lunch, okay? So we'll be back at 11:19.

8 (Whereupon, the above-entitled matter went off the  
9 record at 11:14 a.m. and resumed at 11:26 a.m.)

10 MR. MOY: The Board has returned to its public  
11 hearing session after a very quick break. The time is at or  
12 about 11:27 a.m.

13 The next case before the Board is Application No.  
14 20776 of Matthew Christiansen and Cecilia Choy. This is a  
15 self-certified application pursuant to Subtitle X, Section  
16 901.2, for special exceptions. And there are four types of  
17 relief.

18 Under Subtitle E, Section 5201, the lot occupancy  
19 requirements of Subtitle E, Section 304.1, the building area  
20 requirements for an accessory structure, Subtitle E, Section  
21 5003.1. The rear yard requirements, Subtitle E, Section  
22 5004.1. And under Subtitle C, Section 711.11. This is the  
23 alley access requirements of Subtitle C, Section 711.7. The  
24 property is in the RF-1 zone at 1812 Park Road Northwest,  
25 Square 2606, Lot 70.

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1           That's all I have Madam Vice Chair.

2           VICE CHAIR JOHN: Thank you, Mr. Moy.

3           Mr. Sullivan, would you introduce yourself,  
4 please, and tell us who you have with you today?

5           MR. SULLIVAN: Yes, thank you, Madam Chair and  
6 members of the Board.

7           Marty Sullivan with Sullivan & Barros on behalf  
8 of the applicant. With us today is the project architect,  
9 Sahnur Bostan.

10          VICE CHAIR JOHN: Okay, thank you. So you have  
11 15 minutes for your presentation. Please begin when you're  
12 ready.

13          MR. SULLIVAN: Thank you.

14          Mr. Young, if you could please load the slides.

15          (Pause.)

16          MR. SULLIVAN: Thank you.

17          This is 1812 Park Road Northwest. This is for the  
18 construction of a new accessory building with a parking  
19 space, just one story.

20          Next slide, please. We're in the RF zone. The  
21 proposed accessory building will have a building area of 550  
22 square feet. About 450 is permitted as of right, so we're  
23 asking for 100 feet or relief there. The total lot occupancy  
24 being proposed is 70 percent, so that's another area of  
25 relief just to the accessory building.

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1                   The accessory building will be in the required  
2 rear yard. It will be 17 feet away. It would need to be 20  
3 feet away in order to avoid this relief, so we're essentially  
4 asking for three feet of relief there.

5                   And then there's the requirement that when you  
6 have a parking space in a building that it be set back 12  
7 feet required. This is a requirement that's separate from  
8 the requirement that was reduced to seven and a half feet,  
9 so it's still a 12-foot requirement. So we have ten feet  
10 provided because it is a fairly wide alley at 20 feet.

11                  Next slide, please. We have the Office of  
12 Planning support. We have the unanimous support from ANC 1D,  
13 and we do have support letters from both adjacent neighbors  
14 and the neighbor directly across the alley as well.

15                  Next slide, please. And I will turn it over to  
16 the project architect.

17                  MR. BOSTAN: Yes. This is Shahnur Bostan with  
18 Axis Architects. On this slide, you can see the subject  
19 property, 1812 Park Road, built upon immediately with a  
20 garage that's similar to the size of the proposed unit, maybe  
21 even bigger.

22                  Next slide, please. Next slide, please. And  
23 this is kind of the map of the alley. The reds are the  
24 houses with the garage and pretty much all of immediate  
25 surrounding townhouses have an enclosed garage similar to

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1 what we're proposing.

2 Next slide, please. This is, like I said, the  
3 immediate neighbors have a garage. The neighbor at 1814 Park  
4 Road has a trellis above the garage a little bit taller than  
5 what we're proposing.

6 Next slide, please. This is a site plan from an  
7 aerial view. We have the roof top deck with the stairs going  
8 from the patio between the house and the proposed garage.

9 Next slide, please. It's pretty simple. It's a  
10 garage. The first drawing is at the alley-level. The second  
11 drawing is at the patio-level. There's quite a great change.

12 Next slide, please. This is at the roof-level.  
13 And this section, too.

14 Next slide, please. We are in Historic District,  
15 so the garage we're proposing will be all brick and this is  
16 the size of the trellis comparing to the neighbor's trellis.  
17 Like I said, both neighbors have an enclosed garage already.

18 Next slide, please. Now, this is the view from  
19 the court from the inside.

20 Next slide, please. Maybe Marty can help this.

21 MR. SULLIVAN: Thank you, Shahnur. The project  
22 does meet the general requirements for special exception  
23 relief. It is in harmony with the general purpose and intent  
24 of the zoning regulations. We're in the RF-1 zone, which  
25 permits singles and flats. This will remain a single-family

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1 dwelling. And the proposed accessory building is consistent,  
2 as you can tell with the size and design of other accessory  
3 buildings on this block.

4 Next slide, please. So these criteria, the light  
5 and air, privacy, character, scale and pattern test apply to  
6 three areas of relief. The lot occupancy, the accessory  
7 building, building area, and the accessory building in a  
8 required rear yard.

9 It's a single-story accessory building. It's  
10 matching the adjacent accessory buildings and virtually in  
11 footprint and height. So there's no impact on light and air  
12 available to neighboring properties, and of course we do have  
13 the support of both adjacent neighbors. Similar argument for  
14 privacy of use and enjoyment.

15 There's a roof deck on the neighboring building  
16 as well. So this will be matching that. Again, it's only  
17 one story. And the building matches other accessory  
18 buildings in the alley, so it doesn't visually intrude upon  
19 the character, scale and pattern of houses if viewed from the  
20 alley.

21 Next slide, please. So there's a separate  
22 requirement, specific requirement, for the relief from C711.7  
23 for the 12-foot center alley line setback. The first one,  
24 we need to show a reasonable difficulty in providing the full  
25 size area, which would be moving the accessory building back

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1 two feet.

2                   This would put the accessory building out of  
3 alignment on both ends with other accessory buildings on the  
4 block, and it would put it two feet deeper into the yard to  
5 take away yard space.

6                   And then we also need to show the diagram. There  
7 was a slide -- I can't remember which slide it was. I may  
8 have it on the next slide again. Let me repeat it.

9                   Next slide, please. No. We could go back a few  
10 slides. There is a site plan that has the turning diagram  
11 with it on a site plan. Thank you, Mr. Young. There it is.

12                  So this is the turning diagram showing the turning  
13 radius to get in. It's just two feet of relief because it  
14 is a 20-foot wide alley. We believe for these reasons, we  
15 meet that special exception criteria as well.

16                  That's it for our presentation. Thank you.

17                  VICE CHAIR JOHN: Mr. Sullivan, I just have one  
18 quick question in terms of how shallow the garage would be  
19 if you were to meet that two-foot requirement. Maybe the  
20 architect can help with that, Mr. Bostan?

21                  MR. BOSTAN: Yes. Can I have the question again?

22                  VICE CHAIR JOHN: Yes. So the justification for  
23 the additional 100 feet or 100 square foot increase is that  
24 the garage would be too shallow to accommodate cars if you  
25 were to move it back two feet. And I just wanted some

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1 clarification of that.

2 MR. BOSTAN: Sure. The garage itself -- well, the  
3 inside is a 20-foot garage, which is pretty standard. If we  
4 have to shrink the garage, we would have an 18-foot garage.  
5 It will be very tight.

6 VICE CHAIR JOHN: Okay. That's it for me.

7 Does the Board have any questions?

8 (Pause.)

9 VICE CHAIR JOHN: Okay. I'll go to the Office of  
10 Planning. Mr. Jesick.

11 MR. JESICK: Yes, thank you, Madam Chair and  
12 members of the Board. My name is Matt Jesick, and I'll be  
13 presenting OP's testimony for this case. In our report, we  
14 analyzed the request against the relevant criteria of Section  
15 5201 and C711.11. We found that the application meets the  
16 relevant criteria of those sections. We're therefore able  
17 to recommend approval of the application. I'm happy to rest  
18 on the record for the rest of my testimony, but I can take  
19 any questions. Thank you.

20 VICE CHAIR JOHN: Thank you, Mr. Jesick.

21 Does the Board have any questions for the Office  
22 of Planning?

23 (Pause.)

24 VICE CHAIR JOHN: Mr. Sullivan, do you have  
25 questions for the Office of Planning?

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1 MR. SULLIVAN: No, I don't. Thank you.

2 VICE CHAIR JOHN: Mr. Young, is there anyone  
3 signed up to testify?

4 MR. YOUNG: We do have one witness, and I was told  
5 that he was logging on now. I don't see him yet.

6 VICE CHAIR JOHN: Okay.

7 (Pause.)

8 VICE CHAIR JOHN: Mr. Moy, is someone on your  
9 staff trying to reach the witness?

10 MR. MOY: Yes, I believe so.

11 VICE CHAIR JOHN: Okay, thank you.

12 (Pause.)

13 VICE CHAIR JOHN: I'm going to take a break for  
14 one minute. I'll be right back.

15 (Pause.)

16 VICE CHAIR JOHN: Okay, I'm back. Mr. Moy, are  
17 we any closer to getting this witness online?

18 MR. MOY: Okay, he should be in now. Mr. Jim  
19 Kowats.

20 VICE CHAIR JOHN: Okay. Mr. Kowats, can you hear  
21 me? Mr. Kowats?

22 MR. KOWATS: Yes, I can hear you.

23 VICE CHAIR JOHN: Okay.

24 MR. KOWATS: Thank you.

25 VICE CHAIR JOHN: Thank you. Can you state your

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1 name and your home address for the record, please?

2 MR. KOWATS: Sure. My name is Jim Kowats, and I  
3 live at 1822 Park Road, Northwest.

4 VICE CHAIR JOHN: Okay. You will have three  
5 minutes to give your testimony, and you may begin now.

6 (No response.)

7 VICE CHAIR JOHN: Can you hear me, Mr. Kowats?

8 (No response.)

9 VICE CHAIR JOHN: It seems as if you're frozen.

10 (No response.)

11 (Simultaneous speaking.)

12 VICE CHAIR JOHN: I can hear you. Can you give  
13 your testimony?

14 (Audio interference.)

15 VICE CHAIR JOHN: All right. Thank you for your  
16 testimony. Does the Board have any questions? Does the  
17 applicant have any questions?

18 MR. SULLIVAN: No, thank you.

19 VICE CHAIR JOHN: Thank you. Thank you, Mr.  
20 Kowats. Thank you for joining us. That's okay.

21 Mr. Sullivan, do you have any closing statements?

22 MR. SULLIVAN: No, I don't. Thank you, Madam  
23 Chair.

24 VICE CHAIR JOHN: Okay. I want to thank everyone  
25 for their testimony and ask Mr. Moy to excuse the witnesses.

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1 That was Mr. Young to excuse the witnesses.

2                   Okay, so are we ready to deliberate? I'll go  
3 ahead and start. This is really, really, very  
4 straightforward. It seems like there's a lot of relief  
5 requested. There's lot occupancy. The requirements for the  
6 accessory structure, the size of it. An increase from 450  
7 to 550 square feet. Reduction in the rear yard of three  
8 feet, as well as the vehicle entrance/exit requirement and  
9 the setback of at least 12 feet.

10                  I agree with the Office of Planning's analysis and  
11 was persuaded by Applicant's presentation as well as to how  
12 the application meets all of the criteria under the relevant  
13 sections of the regulations. I thought that the applicant  
14 offered a good explanation of why the additional space was  
15 needed for the garage, for the accessory structure.

16                  I also was persuaded by the exhibit showing the  
17 turning radius for the cars entering into the garage. I will  
18 note that the Office of Planning is in support, and I'm going  
19 to give great weight to the Office of Planning's  
20 recommendation and note that the HPRB also has provided  
21 conceptual approval to the application.

22                  DDOT also has no objection, which is important in  
23 terms of the ten-foot setback from the alley. And the ANC  
24 is in full support. Based on that, I will go ahead and  
25 support the application.

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1                   Does anybody have any additional comments? Mr.  
2 Blake?

3 MEMBER BLAKE: Thank you, Madam Chair. I believe  
4 this is a straightforward application. The applicant has met  
5 the burden of proof as I see it. A garage/deck and along  
6 this alley. The project has conceptual approval as you  
7 pointed out from HPRB. The adjacent neighbors have similar  
8 structures.

9                   And clearly light shouldn't be compromised on the  
10                  impact of property should not be considered undue in an urban  
11                  setting like this. I think when I look at the -- I think the  
12                  applicant, as you pointed out, has demonstrated a reasonable  
13                  difficulty in providing the required alley centerline setback  
14                  and provided evidence that the vehicle movement and safeties  
15                  of the alley by pedestrians will not be compromised.

16 I credit the testimony that the Office of Planning  
17 and DDOT has demonstrated a satisfaction of Criteria C11.11.  
18 I give great weight to the Office of Planning's  
19 recommendation for approval and note that DDOT has no  
20 objection. The ANC recommends approval and stated no issues  
21 or concerns. And I will also note the support of both  
22 adjacent neighbors and the one across the alley. I will be  
23 voting in favor of the application.

24 VICE CHAIR JOHN: Okay, thank you, Board Member  
25 Blake. Board Member Smith?

1 MEMBER SMITH: I don't have anything in addition  
2 to add beyond what both you and Board Member Blake have  
3 discussed. I do believe the applicant has met the burden of  
4 proof for us to be able to grant the special exception, for  
5 all of the special exceptions for the reasons that you  
6 stated.

7 I believe that the applicant has provided in their  
8 report a reasonable -- the main concern that I had was about  
9 that turning radius and that question regarding the special  
10 exception. I think the applicant did the job of explaining  
11 the turning radii in this very narrow here for us to be  
12 able to support that special exception. With that, I give  
13 support to all of the special exceptions for this particular  
14 project.

15 VICE CHAIR JOHN: Thank you, Board Member Smith.  
16 Commissioner Hood?

17 ZC CHAIR HOOD: I would agree, Madam Chair, with  
18 all three of my colleagues, all three of you. I don't have  
19 anything to add. I think it satisfies Subtitle -- well,  
20 satisfies -- especially Section Subtitle C 711 as well as  
21 5102. I'll be voting in support. Thank you.

22 VICE CHAIR JOHN: Thank you, Commissioner Hood.  
23 With that, I will make a motion to approve  
24 Application No. 20776 as captioned and read by the secretary  
25 and ask for a second, Mr. Blake.

1 MEMBER BLAKE: Second.

2 VICE CHAIR JOHN: Thank you. Mr. Moy, please take  
3 the roll call.

4 MR. MOY: Yes, thank you. When I call your name,  
5 if you would please respond to the motion made by Vice Chair  
6 John.

7 Zoning Commission Chair Anthony Hood?

8 ZC CHAIR HOOD: Yes.

9 MR. MOY: Mr. Smith?

10 MEMBER SMITH: Yes.

11 MR. MOY: Mr. Blake?

12 MEMBER BLAKE: Yes.

13 MR. MOY: Vice Chair John?

14 VICE CHAIR JOHN: Yes.

15 MR. MOY: We have one Board member not  
16 participating, not voting. Staff would record the vote as  
17 4 to 0 to 1. This is on the motion made by Vice Chair John  
18 to approve the application for the relief requested. The  
19 motion to approve was second by Mr. Blake. Also in support  
20 of the motion to approve, Mr. Smith and Zoning Commissioner  
21 Anthony Hood. The motion carries on the vote of 4 to 0 to  
22 1.

23 VICE CHAIR JOHN: Thank you, Mr. Moy.

24 MR. MOY: Okay. The next case before the Board  
25 is Application No. 20778 of Latoyta Nelson Kamdang. This is

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1 a self-certified application pursuant to Subtitle X, Section  
2 901.2, for special exception under Subtitle U, Section 320.2,  
3 to allow the conversion of an existing residential building  
4 principal dwelling to a three-unit apartment house. Property  
5 is located in the RF-1 zone at 739 Morton Street Northwest,  
6 Square 2894, Lot 51. That's all I have for the Board.

7 VICE CHAIR JOHN: Thank you, Mr. Moy.

8 Is the applicant here?

9 MS. SNOUFFER: I am here. Sarah Snouffer, the  
10 architect on the project.

11 VICE CHAIR JOHN: Okay, just a minute, 20778. Oh,  
12 I had the wrong case.

13 (Pause.)

14 VICE CHAIR JOHN: Okay, Ms. Snouffer?

15 MS. SNOUFFER: Yes.

16 VICE CHAIR JOHN: Okay. Please introduce yourself  
17 for the record. You may begin your presentation. You have  
18 15 minutes.

19 MS. SNOUFFER: Okay, thank you.

20 Hello, my name is Sarah Snouffer. I'm the  
21 principal at Third Street Architecture. I am representing  
22 my client, Latoya Nelson Kamdang. We are seeking special  
23 exception for converting this semi-attached rowhome from a  
24 single-family dwelling to a three-dwelling unit.

25 We will be adding a third story, but the perceived

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1 footprint of the building itself will not be changed. The  
2 overall height will just be increased by ten inches. Even  
3 though we are adding a third story, we are tucking it into  
4 the existing front gable and turret area so that that front  
5 architectural element will stay the same. And we are  
6 reversing the pitch of the roof of the third story to get  
7 snuck in there.

8 So from the front, you will not be able to see  
9 that third story. We meet all of the by-right requirement  
10 as far as lot occupancy, height. We are just seeking a  
11 special exception for converting from a single-family  
12 dwelling unit to a three-dwelling unit.

13 VICE CHAIR JOHN: Okay. Did you want to talk  
14 about how you meet the criteria under U 320.2 for this  
15 special exception?

16 MS. SNOUFFER: Yes. So the building was built in  
17 1905. It is a single-family dwelling unit. The neighbor  
18 adjacent to the property adjoining the properties at 741  
19 Morton Street already has received a special exception for  
20 converting to a three-unit, so that is immediately next door,  
21 has already received that approval.

22 There is no fourth dwelling unit, so the  
23 requirement for that are not applicable. And the requirement  
24 of there shall be a minimum of 900 square feet of land area  
25 for each unit. We exceed that with a total land area of

1 3,565, so that is above the 900 per unit. Additionally, it  
2 fits within the harmony and general purpose of the RF-1  
3 zoning, which is rowhomes, flats and apartment building.

4 We will not be adversely affecting the neighboring  
5 property. Like I said, previously the neighbor to the west  
6 at 741 Morton Street already received a three-unit approval.  
7 The neighbor to the right, we have a side yard there that we  
8 will be keeping as a side yard, so we will not be affecting  
9 them at all. Thank you.

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

12 (Pause.)

13 VICE CHAIR JOHN: Okay, I'll go to the Office of  
14 Planning.

15 Mr. Mordfin?

16 MR. MORDFIN: Thank you.

17 Good morning, I'm Stephen Mordfin from the Office  
18 of Planning. The Office of Planning does find this  
19 application conforms with our requirements for special  
20 exception to convert it to a multi-family building, and  
21 therefore is in support of the application. I'm available  
22 for any questions. Thank you.

23 VICE CHAIR JOHN: Thank you. Mr. Mordfin, I just  
24 didn't see any discussion of the general special exception  
25 criteria in your report. Can you talk about it briefly,

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1 please.

2 MR. MORDFIN: Yes. In general, this application  
3 meets all the requirements for a special exception for this  
4 specific use that they're going for. In light of that, what  
5 it does is -- it is in conformance with the special exception  
6 criteria because any of the specific criteria that are  
7 required when you convert to a multi-family building are  
8 including as a part of their application. They require no  
9 area variance, bulk height, or setback requirements.

10 Therefore, it should not adversely affect any  
11 neighboring properties. It's also in harmony with the  
12 general purpose and intent of the zoning regulations as it  
13 meets all of the specific criteria for this conversion that  
14 the applicant is requesting. For those reasons, the Office  
15 of Planning found that is in conformance with those criteria  
16 also.

17 VICE CHAIR JOHN: Thank you.

18 Does the Board have any questions for the Office  
19 of Planning?

20 (Pause.)

21 VICE CHAIR JOHN: Does the applicant have any  
22 questions for the Office of Planning?

23 (Pause.)

24 VICE CHAIR JOHN: Mr. Young, is there anyone  
25 signed up to testify?

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1 MR. YOUNG: We do not.

2 VICE CHAIR JOHN: Okay, thank you.

3 Ms. Snouffer, do you have any closing comments?

4 MS. SNOUFFER: Other than we received ANC approval  
5 at their July meeting.

6 VICE CHAIR JOHN: Okay, thank you.

7 Mr. Young, please excuse the applicants. I'd like  
8 to thank you for your testimony. You have a good day.

9 (Pause.)

10 VICE CHAIR JOHN: I'm going to close the record  
11 and the hearing. Are we ready to deliberate?

12 (Pause.)

13 VICE CHAIR JOHN: Board Member Smith, would you  
14 like to start?

15 MEMBER SMITH: Sure. I'll start this one out.

16 This one, I believe, is another fairly  
17 straightforward application. How is that for the season  
18 premiere of BZA, just straightforward applications.

19 So the request before us is to allow the  
20 conversion of existing residential building to a three-unit  
21 apartment house. Given what was presented today by the  
22 applicant as well as the Office of Planning, the application  
23 is by and large in keeping with the special exception  
24 criteria it listed under Subtitle U-320.

25 And also the general special exception standards.

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1 The request isn't -- the applicant isn't requesting any  
2 relief from side yard, rear yard, any of the state lot  
3 occupancy, any of the standard reliefs that we've come to  
4 expect even with apartment conversion if they're expansions.

5 So given that other than the fact that they have  
6 to get a special exception to convert this property to a  
7 three-unit house, it's not a question of relief. So  
8 therefore in essence, it wouldn't have any impacts on light  
9 and air affecting the adjacent properties. It does meet the  
10 general purpose and intent of the zoning regulations.

11 Given that this type of use is contemplated within  
12 the zone, and there are a number of conversions or units of  
13 this particular nature within this neighborhood and along the  
14 block as stated by the applicant, there's one easily adjacent  
15 to the left if you're looking at from this house that is  
16 going through this conversion process.

17 I believe that this proposal would not adversely  
18 affect the use of neighboring properties within the  
19 immediately adjacent area. I do not believe that we would  
20 need to impose any special conditions on this property. So  
21 with that, I agree with OP's analysis of this application.  
22 I will also note that the ANC is also in support of this  
23 application by the applicant, and DDOT does not have any  
24 objections. With that, I will support the special exception.

25 VICE CHAIR JOHN: Thank you, Board Member Smith.

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## 1 Board Member Blake?

2 MEMBER BLAKE: Yes. This is a fairly  
3 straightforward application, and I would agree with the  
4 analysis provided by Board Member Smith. I also give weight  
5 to the Office of Planning's recommendation for approval and  
6 also great weight to the report provided by ANC 1A seeing no  
7 issues with concern. I'll be voting in favor of the  
8 application.

9 VICE CHAIR JOHN: Thank you.

10 | Commissioner Hood?

11 ZC CHAIR HOOD: Yes, Madam Chair. I just want to  
12 say a comment about straightforward. I do not want to be  
13 mixed up when we say straightforward. Straightforward is  
14 presented to us because of the work that the applicant, the  
15 residents, everybody does. I just want to put that out there  
16 when we say straightforward. So a lot of the work is done  
17 as far as the regulations what we did here. Because I know  
18 with our oversight hearing will always say straightforward.  
19 And that's the way we get to straightforward.

20 So I wanted to put that on the record, and we'll  
21 probably even say that the whole entire hearing if it comes  
22 up. But I would agree with what both of my colleagues have  
23 mentioned about this case and under Subtitle U 320.2. I  
24 think this meets the conversion requirements, and I will vote  
25 in favor of this. I won't add anything on that. Thank you,

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1 Madam Chair.

2 VICE CHAIR JOHN: Thank you, Commissioner Hood.  
3 We have stated this on the record before, but it bears  
4 repeating that sometimes the process is very smooth because  
5 of all of the work that goes on before the case gets to us,  
6 both with the Office of Planning and with the ANC.

7 And it helps when the application such as this one  
8 doesn't really need any relief from any development standard.  
9 So just looking at this application, the lot area that's  
10 required is 1,800 square feet, and this one has an existing  
11 square footage of 3,563 square feet.

12 The lot occupancy is 34 percent, where 60 percent  
13 is allowed. The rear yard is 74 feet, where 20 feet is  
14 allowed. The side yard is seven feet, where five feet is  
15 allowed. And there is parking. The addition is under the  
16 required 35-foot maximum, and has a rear yard that's longer  
17 than what's required, which is 18 feet.

18 So this is what we mean when say it's  
19 straightforward, and it means that the applicant then just  
20 had to ask for relief to convert from the residential one-  
21 unit to a three-unit without any extension of the existing  
22 footprint. So that's what straightforward means.

23 I thank you for bringing this to our attention,  
24 Commissioner Hood. With that, I will then make a motion to  
25 approve Application No. 20778 as captioned and read by the

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1 secretary and ask for a second, Mr. Blake.

2 MEMBER BLAKE: Second.

3 VICE CHAIR JOHN: Mr. Moy, would you please take  
4 the roll call?

5 MR. MOY: Yes. When I call your name, if you  
6 would please respond.

7 Zoning Commissioner Anthony Hood?

8 ZC CHAIR HOOD: Yes.

9 MR. MOY: Mr. Smith?

10 MEMBER SMITH: Yes.

11 MR. MOY: Mr. Blake?

12 MEMBER BLAKE: Yes.

13 MR. MOY: Vice Chair John?

14 VICE CHAIR JOHN: Yes.

15 MR. MOY: We have a Board member not present, not  
16 voting. Staff would record the vote as 4 to 0 to 1. This  
17 is on the motion made by Vice chair John to approve the  
18 application for the relief that's requested. The motion was  
19 second by Mr. Blake. Also in support of the motion to  
20 approve is Zoning Commissioner Anthony Hood, Mr. Smith, and  
21 again no other Board members. The motion carries on a vote  
22 of 4 to 0 to 1.

23 VICE CHAIR JOHN: Thank you, Mr. Moy.

24 It's 12:00, and we have, I believe, three more  
25 cases. So my suggestion is that we take a 30-minute lunch

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1 break and resume at roughly 12:35, Mr. Commissioner hood?

2 ZC CHAIR HOOD: Yes. Madam Chair, I just want  
3 people to know the history why I say this, when we say  
4 straightforward because I was known for saying not in my  
5 jurisdiction. We have another colleague who looked at the  
6 color of rocks and go on and on. It's a long story to that,  
7 but I just wanted to make sure that people knew when we  
8 straightforward, exactly what you meant because we don't want  
9 to get tagged with all -- I always say is, not in our  
10 jurisdiction, another commissioner says this, another  
11 commissioner says that. And that's repeated. And then they  
12 adopt that, and then they always say that's all we do. But  
13 that's not the case, so thank you. Thank you for all for  
14 indulging me. If you didn't understand, you can see me later  
15 and I'll tell you.

16 VICE CHAIR JOHN: That's fine, Commissioner Hood.  
17 We do say this from time to time, and Chairman Hill at  
18 reminding the public that we look at the criteria for the  
19 regulations and how the applicant meets that criteria.  
20 Sometimes in the interest of time or we would be here for a  
21 very long time if each of us took the time to go through in  
22 detail why we believe the application meets the criteria.

23 And I've struggled with this since I've been on  
24 the Board how much do I give to each application in  
25 expressing why I think the application meets or does not meet

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1 the criteria. We could all be here all day. So in the  
2 interest of time, we try to make sure that we address the  
3 essential elements of the application.

4 So maybe saying it's straightforward is not a good  
5 idea. It might send the wrong message, but I think we'll be  
6 mindful of that, Commissioner Hood, and thank you for  
7 bringing it to our attention.

8 ZC CHAIR HOOD: Madam Chair, I don't want you to  
9 misunderstand what I'm saying. I'm not saying it's  
10 straightforward is not saying -- I'm saying that for the  
11 public. I'm going to say straightforward sometime, but I'm  
12 saying the reason it's straightforward is because of all the  
13 due diligence and all the work that everybody's doing, and  
14 I'll leave it alone with that. Thank you.

15 VICE CHAIR JOHN: Okay, thanks. I understood you  
16 perfectly. Thank you, Commissioner Hood.

17 ZC CHAIR HOOD: Thanks

18 VICE CHAIR JOHN: All right, so do we take a break  
19 now? Or I suggest that we take a lunch break. Is that okay?  
20 All right. Go ahead.

21 ZC CHAIR HOOD: I was going to ask you what time.  
22 I know the chairman, he's not here so I'll talk about him.  
23 He usually tells we come at 12:30, 12:35. So I don't know  
24 what you --

25 VICE CHAIR JOHN: So I'm going to say 12:40.

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1                   ZC CHAIR HOOD: Thank you.

2                   VICE CHAIR JOHN: That would be roughly 33  
3 minutes, Mr. Smith.

4                   (Whereupon, the above-entitled matter went off the  
5 record at 12:07 p.m. and resumed at 12:48 p.m.)

6                   MR. MOY: Yes, thank you. After a quick lunch,  
7 the Board has returned to its public hearing session. The  
8 time is at or about 12:48 p.m.

9                   The next case before the Board is Application No.  
10 20779 of 1224 Brentwood Road Northeast, LLC. This is a self-  
11 certified application pursuant to Subtitle X, Section 901.2,  
12 for special exceptions under Subtitle U, Section 421, to  
13 allow a new residential development, an apartment house. And  
14 under Subtitle C, Section 714.3, from the surface parking  
15 screening requirements of Subtitle C, Section 714. The  
16 property located in the RA-1 zone at 1224 Brentwood Road  
17 Northeast, Square 3938, Lot 29.

18                   Madam Vice Chair, we do have a reminder. An  
19 individual signed up to testify in opposition, and there is  
20 also a late letter in opposition that was filed within the  
21 24-hour block, so the Board should address that whether to  
22 allow that into the record. And I believe that's all I have  
23 for the moment.

24                   VICE CHAIR JOHN: Thank you, Mr. Moy.

25                   Good afternoon, everyone. Mr. Moy, I'll go

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1 ahead, if the Board has no objections, allow that letter of  
2 in opposition to be submitted in the record. Do you happen  
3 to know if that's the same person who signed up to testify?

4 Let's see.

5 MR. MOY: I don't recall because I haven't seen  
6 the letter myself, but that would have been my guess, too.  
7 But I can't verify that at the moment.

8 VICE CHAIR JOHN: Okay, thank you. We'll just  
9 adjust that when we get to it.

10 So Mr. Sullivan, can you introduce yourself for  
11 the record and tell us who you have with you today.

12 MR. SULLIVAN: Yes. Thank you, Madam Chair,  
13 members of the Board. Marty Sullivan with Sullivan & Barros  
14 on behalf of the applicant. And with me is the project  
15 architect, Rich Markus.

16 VICE CHAIR JOHN: Okay, thank you. Please go  
17 ahead and present your testimony, and you have 15 minutes to  
18 do that. I notice that there is a late filing for the  
19 PowerPoint. I received that, correct? Yes. But is in the  
20 record already? I think it is.

21 MR. SULLIVAN: I think it may have been the grading  
22 plan that was late as opposed to the PowerPoint. The reason  
23 for that is there was a miscommunication among our team on  
24 that. A lot of times on these cases, the grading plan is  
25 required and the applicant hasn't hired civil yet at that

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1 point, so it took them a while to do that. That's the main  
2 reason that we filed it within the 21-day period.

3 VICE CHAIR JOHN: Okay, thank you. So we'll go  
4 ahead and admit that in the record. You may begin when  
5 you're ready.

6 MR. SULLIVAN: Thank you, Madam Chair and members  
7 of the Board.

8 Mr. Young, if you could please load the PowerPoint  
9 presentation. So this is a RA-1 new residential development  
10 case under U 421. The proposed plan does meet all  
11 development standards. We are asking for special exception  
12 relief from a screening requirement for the parking area in  
13 the back.

14 Next slide, please. This is in the RA-1 district.  
15 Proposing to raise the existing building to construct a new  
16 four-unit residential building with four parking spaces. We  
17 need the U 421 relief, of course, and then asking for relief  
18 from C 714, which is a screening requirement for the parking  
19 area.

20 Next slide, please. We have the support of the  
21 Office of Planning. I provided the next slide for the  
22 board's identification on our efforts with the ANC, but I  
23 don't need to go into that in detail. So if we could just  
24 go to the next slide quickly. You'll see there's a lot of  
25 out reach.

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1                   Next slide. I didn't want to beat that to death.  
2 For whatever reason, the ANC didn't put us on an agenda. We  
3 tried really hard. We worked with this ANC a lot. We  
4 actually do a lot of RA-1 cases. I'd like to think maybe  
5 that this one was -- it's smaller and it's closer to multi-  
6 family across the street. It's in a little different area  
7 than the Bryant Street properties and Rhode Island properties  
8 that you've seen.

9                   And so maybe that's why there was less interest,  
10 but we haven't heard from them. At one point, they said we  
11 were going to be on the agenda, then we weren't. And then  
12 we asked to be on the special meeting in July, but they don't  
13 have July meetings, and we didn't get that either.

14                  Before I turn it over to Mr. Markus, I want to  
15 point out some things. I know these RA-1 cases tend to be  
16 cookie cutter sometimes, and there's not a lot of specific  
17 things to talk about. But I like to find things that  
18 distinguish a case favorably from some of the other cases,  
19 and in this one we have that, I think.

20                  As I mentioned, across the street is larger multi-  
21 family, so it's not as -- other than these six homes, one of  
22 which is another application coming for you. It's a more  
23 dense area, and we're still within walking distance to the  
24 Rhode Island Metro, of course. It's only four units. We  
25 have one-to-one parking. Lot occupancy is only 30 percent,

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1 and the height's 33.5.

2 I'll turn it over to Mr. Markus to take you  
3 through the plans. Thank you.

4 MR. MARKUS: Hi, my name is Rich Markus. I'm the  
5 architect for the project. You can see that house in the  
6 slide that's up, you can see the house. There's six houses  
7 on this block of similar -- and this one is one of two in the  
8 middle.

9 Next slide, please. This is the plat. You can  
10 see the four parking spaces and the footprint of the proposed  
11 building. The public alley connects to a public alley in the  
12 back and Brentwood Road on the front.

13 Next slide, please. This is the cover page  
14 showing vicinity map. You can see the six houses there on  
15 that block. On the smaller one, you can see a series of  
16 apartment buildings across Brentwood.

17 Next slide, please. It's another view of the  
18 survey of the original house.

19 Next slide, please. The proposed, again.

20 Next slide. This is proposed cellar on the left  
21 and first floor on the right. The three walls of the  
22 existing house are being kept. They're the shaded walls, the  
23 exterior shaded walls. You can see the rear wall is staying  
24 where it's at. The addition is moving forward on the lot.

25 The plan is very similar on each floor. One

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1 apartment on each floor, so there's a basement plus three  
2 stories, that's four units total. They're three bedroom  
3 units. You can see the cellar one on the left has its own  
4 entry, so there's a separate stair on the side going down to  
5 that unit.

6 On the right is the first floor. Again, you can  
7 see the separate stair going down the basement, and then  
8 there's a turnback stair on the top-right corner. That  
9 enters through the top units. This unit too also has its own  
10 door. But you can see the plans are the same. It's a single  
11 apartment with three bedrooms.

12 Next slide, please. The second and third story.  
13 The second story is on the left. The same layout as down  
14 below pretty much. And on the right is the third story.  
15 This one is very similar. Just has a spiral stair in the  
16 center that connects to a penthouse structure on the next  
17 story.

18 Next slide, please. You can see the small  
19 rectangular kind of a square penthouse with spiral stairs.  
20 And then it has the roof terrace around it. And there's a  
21 parapet surrounding that over top of the exterior walls to  
22 the right of the roof plan.

23 Next slide, please. Some elevations. Three story  
24 house. The existing house is two stories, so this is taller.  
25 But like Marty said, we're within all the criteria, the

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1 height. The lot occupancy is 30 percent. The rear yard.  
2 The side yards are existing to remain their extent. The rear  
3 yard is in the same place that it was, existing.

4 Next slide, please. More elevations.

5 Next slide. Section. You can see the penthouse  
6 is setback and is following all of the requirements.

7 Next slide, please. That's it. If there's any  
8 questions, I'm happy to answer.

9 VICE CHAIR JOHN: I have no questions.

10 Does the Board have any questions?

11 (Pause.)

12 VICE CHAIR JOHN: Commissioner Hood?

13 ZC CHAIR HOOD: Thank you, Madam Chair.

14 Mr. Sullivan, I heard you mention about the ANC.  
15 I'm very concerned because this isn't my ANC and I don't  
16 participate in this kind of stuff with my ANC.

17 It is a followup, so I'm not sure what other Board  
18 rooms are, but I want to hear what's going on. I do believe  
19 that we have learned, Commissioner -- I don't know if he's  
20 here for that or not on today. Let me ask you. Have you all  
21 had a conversation. I noticed that you're going to be  
22 sharing that back alley or whatever is going on back there  
23 with the Isle of Patmos Baptist Church, which is right across  
24 -- their parking lot is back there. Has there been any  
25 outreach to them as well, Mr. Sullivan?

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1 MR. SULLIVAN: No. I'm not aware of the owners of  
2 my client having any outreach to them. I have a text into  
3 them to ask them that question. If I get an update, I can  
4 let you know.

5 ZC CHAIR HOOD: I think from a lot perspective, I  
6 believe as was already stated, regarding the requirements.  
7 But I've always believed, and I'm not sure I've thought of  
8 these earlier ago, but on the commission. We go that far to  
9 make sure that we apprise the community, but I would be  
10 interested, and hopefully the ANC will have an opportunity  
11 to weigh in, as you mentioned, Bryant Street.

12 I'm not sure which Bryant Street are you talking  
13 about? The one near me or the one further down the other  
14 way, but either way I believe the ANC weighed in most cases.  
15 I don't know if those are your cases or not, but I think it's  
16 very important. But as far as the -- it is concerned how  
17 that's going to work in the back with the parking. I will  
18 wait to find if they've reached out to the church, and I'll  
19 go from there. Thank you, Madam Chair.

20 VICE CHAIR JOHN: Thank you, Commissioner Hood.

23 MR. SULLIVAN: Yes, I was just about to. I could  
24 go through how we meet the general criteria.

25 VICE CHAIR JOHN: Thank you.

1                   MR. SULLIVAN: Thank you.

2                   The project is in harmony with the purpose and  
3 intent of the zoning regs. The RA-1 zone provides for areas  
4 developed with low to moderate density development. We meet  
5 all the specific area standards as well subject to the relief  
6 of the screening requirement. One of the main reasons why  
7 we think this would not tend to adversely affect neighboring  
8 properties too is because we're providing one-to-one parking,  
9 and it's only four units.

10                  Next slide, please.

11                  Regarding the specific requirements, it has been  
12 referred to the relevant agencies.

13                  Next slide, please. I would refer to the Office  
14 of Planning report for their comments on this specific  
15 requirement and note that they're in support.

16                  Regarding the screening, the BZA may grant as a  
17 special exception a waiver of the screening requirement. The  
18 screening requirement is effectively -- what would be  
19 required here would be to put some type of essentially one-  
20 foot wide screen in the middle of the parking area or the  
21 entrance to the parking in the back so that the area on each  
22 side is 20 feet or less.

23                  You can have an opening of 20 feet without  
24 screening, and so sometimes that's what people do. They put  
25 a nominal fence up in the middle to break up the 20 feet.

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1 And we're asking for relief from that because it's a better  
2 design for the rear and think that we meet these requirements  
3 as well. State support (phonetic) may consider impacts on  
4 the pedestrian environments and parking at the rear of the  
5 property and doesn't intersect with any pedestrian  
6 environments. This is noted in the Office of Planning report  
7 as well.

8                   And it also meets 714.3B and C as well. It  
9 doesn't meet them, but in considering those points it should  
10 be acceptable for waiver by the Board. And same with D and  
11 E, the parking area is located to the rear of the property.  
12 The requested relief would not have any impact on traffic  
13 conditions in the alley and may improve the residents'  
14 ability to park their cars more efficiently.

15                   I think that's it. If the Board has any  
16 questions.

17                   VICE CHAIR JOHN: Thank you, Mr. Sullivan. Could  
18 you pull up the slide that shows the screening relief that  
19 would be required so we can get an idea of where that fence  
20 would be? If you were to put up a fence to --

21                   MR. SULLIVAN: I think the plat which is on or  
22 around Slides 4, 5 might be the best --

23                   VICE CHAIR JOHN: Mr. Young, can you go to Slide  
24 4.

25                   Next slide, please.

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1 (Pause.)

2 VICE CHAIR JOHN: Is it possible to enlarge that,  
3 Mr. Young?

4 (Pause.)

5 VICE CHAIR JOHN: Can you walk us through that,  
6 Mr. Sullivan.

7 MR. SULLIVAN: Yes, so the requirement is that the  
8 parking perimeter be screened, but they do allow for openings  
9 of no more than 20 feet so the cars can get through there.  
10 So sometimes what people do is they'll put a nominal fence  
11 in the middle of the rear of the lot to break up the 20 feet,  
12 and then you end up with less than 20 feet on both sides.

13 That's difficult here and would be restrictive  
14 because the lot's 45 feet wide. For a better configuration  
15 and efficiency with both the trash collection and the parking  
16 itself, it made more sense to ask for the relief and not have  
17 the screening, which would just be a, like I said, just a  
18 fence in the middle there.

19 VICE CHAIR JOHN: Okay, thank you.

20 MR. SULLIVAN: Thank you.

21 VICE CHAIR JOHN: Does the Board have any  
22 questions?

23 (Pause.)

24 VICE CHAIR JOHN: Okay, I'll go to the Office of  
25 Planning. Ms. Thomas?

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1 MS. THOMAS: Yes, good afternoon.

2 VICE CHAIR JOHN: Good afternoon.

3 MS. THOMAS: Good afternoon, Madam Chair. The  
4 applicant here is proposing to raise an existing single-story  
5 structure and construct a new three-story per cellar  
6 apartment house with four dwelling units, which would front  
7 on Brentwood Road.

8 Four parking spaces would be provided along the  
9 alley. New apartments in the RA-1 district requires relief  
10 from Section U 421. And in addition, relief is requested  
11 from the screening requirement for the surface parking  
12 proposed.

13 We submitted the OP report upon the applicant's  
14 filing of their required grading plan. And upon review of  
15 the entire application, we believe that a new development  
16 satisfy the criteria under Section 421 as outlined in our  
17 report.

18 There are several examples now of this type of  
19 development within the RA-1 zone along Rhode Island Avenue  
20 and Brentwood Road, which is near metro and accessible metro  
21 bus routes. Thereby providing more housing in accessible  
22 locations.

23 The proposed building would comply with the  
24 development standards of its own, providing required side and  
25 rear yards and compliant with the lot occupancy and height

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1 requirements. We believe that the request is in harmony with  
2 the general purpose and intent of the regulations and it  
3 would not appear to adversely affect the use of the  
4 neighboring property.

5 In addition, granting the waiver from the  
6 screening requirement as requested should not conflict with  
7 the general intent and purpose of the specific requirements  
8 of screening of the parking area. Such screening is not  
9 common in the neighborhood, and we typically don't really  
10 find it in the RA-1 zone as we've seen in many cases we've  
11 had before.

12 There's adequate existing fencing to address the  
13 intent of the provision as it relates to potential impacts  
14 on adjacent lots. It is not anticipated to have an adverse  
15 impact on the neighborhood as it relates to pedestrian  
16 vehicle contacts, and this should not impact traffic  
17 conditions at the rear of the alley. DDOT's report is in the  
18 record. With that, I'll be happy to take any questions.  
19 Thank you.

20 VICE CHAIR JOHN: Thank you, Ms. Thomas.

21 Does the Board have any questions for Ms. Thomas?  
22 (Pause.)

23 VICE CHAIR JOHN: Does the applicant have any  
24 questions?

25 MR. SULLIVAN: No, thank you.

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1 VICE CHAIR JOHN: Thank you.

2 Is the ANC here? Mr. Young?

3 MR. YOUNG: We did not have anyone from the ANC  
4 signed up for this case.

5 VICE CHAIR JOHN: Okay, thank you. Mr. Sullivan,  
6 do you have any closing comments? Sorry, I'm moving too  
7 quickly.

8 Mr. Young, do we have anyone signed up to testify?

9 MR. YOUNG: We had one person sign up; however,  
10 he reached out to staff, and he let them know that he wasn't  
11 going to testify. He just wanted to rest on his letter that  
12 he submitted to the record.

13 VICE CHAIR JOHN: Okay. Thank you.

14 MR. MOY: Madam Vice Chair, sorry to interrupt.  
15 You asked me earlier if the letter was from the same person  
16 who signed up to testify, and the answer is yes. I believe  
17 it was Michael Jackson.

18 VICE CHAIR JOHN: Okay, thank you.

19 What is the exhibit? Does anyone know with Mr.  
20 Jackson's testimony? I don't see it here.

21 (Pause.)

22 MR. MOY: It should be in the record.

23 VICE CHAIR JOHN: I don't see it.

24 (Simultaneous speaking.)

25 MR. MOY: I heard that. I got sent that from the

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1 staff.

2 VICE CHAIR JOHN: It could be that it's there but  
3 I just didn't see it.

4 MR. MOY: I just got note from the staff. It  
5 should be the momentarily.

6 VICE CHAIR JOHN: Okay.

7 MR. MOY: Staff, it was approved to be in the  
8 record.

9 (Pause.)

10 VICE CHAIR JOHN: Okay, it's Exhibit 25. I will  
11 allow it in the record if no Board member has an objection.  
12 Okay, so I'll take a quick look.

13 (Pause.)

14 VICE CHAIR JOHN: Okay, does the applicant have  
15 any closing statements and would you like to address the  
16 comments from the letter in opposition?

17 MR. SULLIVAN: Yes, I would. Regarding Mr.  
18 Jackson's comments, I noticed he does have concerns about the  
19 construction. The owner has informed me that they did speak  
20 to the neighbor on the other side and that neighbor was happy  
21 about the application, but they couldn't get a hold of Mr.  
22 Jackson.

23 They said they had tried to get a hold of him, so  
24 it's good to hear from him. I'll have my client reach out  
25 to him regarding construction issues. I think those are

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1 things which you can give some assurance and comfort on. We  
2 do have the meaningful side yards on this building and a low  
3 lot occupancy as well.

4                   So I think construction shouldn't be too much of  
5 a concern, but they know where to reach out now, and I'll  
6 have them do that. And they did tell me that they didn't  
7 direct -- I don't believe that they directly reached out to  
8 the church, no, Chairman Hood. They did try to get in touch  
9 with the two adjacent neighbors, and they have talked to one  
10 of them.

11                  VICE CHAIR JOHN: Okay, before I close the hearing  
12 and the record, Mr. Hood, did you want to hear from the ANC  
13 and the church?

14                  ZC CHAIR HOOD: I think it's possible that this  
15 could be a very good improvement for the community, but I do  
16 share Mr. Jackson's concerns about safety as mentioned by Mr.  
17 Sullivan. There's another case coming down. It's probably  
18 going to mirror something similar to this. I'm not sure if  
19 you're the person with that. I think this may be an  
20 improvement, maybe an update. I'll just leave it at that.  
21 If the Board is ready to move forward, 5C did not weigh in.  
22 Typically, I know the chair of the Board and myself and other  
23 Board members and commissioner are careful when the ANC  
24 hasn't weighed in, but I believe even though August they  
25 didn't meet, July and August, I believe they possibly had

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1 enough time. Is that a fair assessment, Mr. Sullivan?

2 MR. SULLIVAN: Yes. We tried to do it at one  
3 point the Chair mentioned, I guess maybe we'll see at a  
4 special meeting.

5 Because I was at the June meeting for a different  
6 matter. I've been working with this ANC a lot lately on  
7 these cases and other cases around there. But we asked a few  
8 times after that. We never did get a response on that.

9 ZC CHAIR HOOD: Okay. Unless others have a  
10 problem, I don't necessarily have a problem. I know Chairman  
11 and Mr. Montague, they had a problem we would have heard from  
12 them. I typically don't like moving forward, out of those,  
13 we usually hold off, but I think in this case we're good to  
14 go.

15 Thank you, Madam Chair.

16 VICE CHAIR JOHN: Thank you.

17 Mr. Blake, did you have a question? Was your hand  
18 up?

19 MEMBER BLAKE: I had some concerns about that only  
20 because he's not spoken to the church, only spoke to one  
21 adjacent neighbor and the ANC has not weighed in. I know  
22 this is a good project. It looks very attractive, certainly.  
23 Certainly smaller than the others. All positive things that  
24 Mr. Sullivan mentioned. And it is things that the ANC has  
25 historically cared very much about. But we have not heard --

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1 I'm not convinced that the community outreach has been  
2 sufficient in this case. But Chairman Hill is comfortable  
3 with it I can certainly -- that's just one opinion.

4 VICE CHAIR JOHN: Board Member Smith?

5 MEMBER SMITH: Given, and I understand that Mr.  
6 Sullivan and his team has done a large amount of outreach  
7 with with the civic association, with ANC and has done a lot  
8 of work with the ANC. But given the controversies that we've  
9 seen in the past along Bryant Street, and I fully respect  
10 where you may be coming from, Mr. Sullivan, on why the ANC  
11 isn't as vocal because this is a different context of the  
12 neighborhood than what was occurring on Bryant Street.

13 But I still would like to hear from the ANC in  
14 some way, shape or form. Some type of letter, even if they  
15 don't come to speak. At a potential future meeting, I would  
16 like to hear from them given some of their concerns that they  
17 weigh in about on Bryant. Because I think we heard two or  
18 three cases, probably more than that, on that side of the ANC  
19 along Rhode Island Avenue.

20 I would hesitate to vote on this given the level  
21 of concerns that were raised. Just to raise up one of the  
22 concerns that was raised in the past, and I think it's kind  
23 of alluded to in the letter of opposition from Mr. Jackson,  
24 is this question about compatibility.

25 Since I have you on the line, could you speak to

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1 how you arrived at the design of this building and how it may  
2 be compatible with what could be the remaining single-family  
3 houses. I understand that as you stated we will see another  
4 project of this nature here, but can you speak to the design  
5 and how you arrived at the design and how is it keeping with  
6 that block and what's across the street.

7 VICE CHAIR JOHN: Mr. Sullivan, that's for you or  
8 your architect.

9 MR. SULLIVAN: Yes. Yes, that would be for the  
10 architect.

11 Rich, if you want to --

12 MR. MARKUS: Yes, hey.

13 VICE CHAIR JOHN: Can you -- oh, you did introduce  
14 yourself. Sorry. Go ahead.

15 MR. MARKUS: Yes, Rich Markus.

16 VICE CHAIR JOHN: Go ahead.

17 MR. MARKUS: This is an interesting block because  
18 there's a series of these six houses on one side and then the  
19 multitude of apartment buildings across the street. So the  
20 scale of this is based on the size of the apartments across  
21 the street. So it's playing off of some of the proportions  
22 on the existing house and windows and fenestration. But  
23 because it's a taller structure, it's relating aesthetically  
24 more to the apartments across the street than the existing  
25 houses.

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1           Also, the intent is when you look at the  
2 elevations is that there's a couple different colors of the  
3 siding materials so it could articulate the façade in a way  
4 that breaks up the massing of it. It's intended to sit in  
5 the block as a whole when you look at the community of that  
6 area.

7           MEMBER SMITH: Really quickly, my fellow Board  
8 members correct me if I'm wrong. And you speak to the  
9 fenestration, design and the color and all of that. I don't  
10 see a color copy in our records here that shows the materials  
11 and whatnot. I understand that you're probably relating to  
12 across the street, but I think with previous cases that we  
13 heard along Rhode Island, along Bryant, and I get that each  
14 project stands alone.

15           But I think this is probably some of the concerns  
16 that you may hear from the ANC or you had heard from the ANC  
17 is how the projects respect the character of the existing  
18 neighborhood. I mean the ones on that side of the street.  
19 I recognize that these are single-family houses, but it would  
20 be great to understand were there any type of design language  
21 you pulled from those existing Craftsman single-family houses  
22 that may allay some of the concerns. Those apartments across  
23 the street are essentially concrete boxes. It would be great  
24 to hear a little bit more detail from you on how they may  
25 relate to those single houses that may remain. (Simultaneous

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1 speaking.)

2                   MR. MARKUS: Yes, just real quick. I think the  
3 buildings across the street, they're masonry exteriors. I  
4 think they're wood construction, not concrete at that size.  
5 But, the existing houses, we are also keeping the majority  
6 of the existing walls of the existing house. So part of that  
7 intent was to keep some of the fabric of the original house,  
8 but that's one comment.

9                   MEMBER SMITH: Okay. So, with that, I would like  
10 to hear more from the ANC about their concerns about the  
11 design, if they had any screening. So, I'm not prepared to  
12 vote on this now. I would like to hear more from the ANC.

13                   VICE CHAIR JOHN: Commissioner Hood?

14                   ZC CHAIR HOOD: Madam Chair, I'm actually glad to  
15 hear my colleague say that, because that's kind of what I  
16 wanted, but I didn't know what I was going do, but I  
17 appreciate Board Member Blake and Board Member Smith. I will  
18 tell you that I agree with both of my colleagues because I  
19 want to hear what the church is going to say, but I just  
20 thought that wasn't going to last.

21                   Let me ask you this, Mr. Markus. Did you look at  
22 -- you're talking about the street. Did you look at what is  
23 this now or what's been proposed? When you're doing  
24 architecture, we have to do from the future. Do you do what  
25 you see over there now, or did you look at the remnants of

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1 what's proposed which has been approved.

2                   MR. MARKUS: Both. When we look at the overall  
3 design, we kind of look at what's existing and try to relate  
4 and understand and have some respect for the existing  
5 structures but also try looking at what possible future  
6 projects could be. There's six houses. It is possible that  
7 all of these get renovated. We happen to be the first.

8                   The relationship is more towards the massing of  
9 the structures across the street rather than the existing  
10 houses to do a three-story structure rather than the two-  
11 story roof structures that you have there. Now, it's a  
12 little bit different feel. But I'm trying to keep some of  
13 the original fabric of the house with the walls. We are  
14 trying to relate to some of the existing but also take it  
15 another level and push it towards the future. It's a little  
16 of both.

17                  ZC CHAIR HOOD: Let me clarify my question because  
18 that answer definitely didn't go -- maybe my question didn't  
19 come across correctly. Across the street, there's a PUD  
20 that's been proposed. When you start martyring what you're  
21 doing on your side, not the six houses over there, would you  
22 take what's there now or did you also look at what the  
23 proposed, the remnants of what's being proposed across the  
24 street could be developed in the future? When you start  
25 looking at the materials you use on your side of the street.

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1 Did you encompass all of that?

2 (Pause.)

3 ZC CHAIR HOOD: The answer is probably no.

4 MR. MARKUS: Yes. We didn't take that. We're  
5 trying to create a building of its own aesthetic and creating  
6 one that sits on its own but also does relate. But right,  
7 we're not playing off of the new materials of the PUD that's  
8 on the other side of the street.

9 ZC CHAIR HOOD: But you're playing off -- okay.

10 Thank you, Mr. Markus.

11 MR. MARKUS: Yes.

12 ZC CHAIR HOOD: Madam Chair, I would agree. I  
13 really want to ask much more as Board Member Smith mentioned  
14 with the materials. I'd like to see the perspective on how  
15 it sits down in there. I'm not sure exactly what the Board  
16 always asks for. I get confused on that, but that's what I  
17 need to see. I wanted to see a -- I've seen the schematics,  
18 but I need to see exactly how it's going to sit in there.  
19 So that's all I have. Thank you, Madam Chair.

20 VICE CHAIR JOHN: Okay.

21 Mr. Sullivan, it looks like the Board would like  
22 to hear more from the ANC and from the church at the rear of  
23 this building.

24 Frankly, I am satisfied with the outreach to the  
25 ANC. I know I'm going to against everyone else, but the

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1 applicant reached out in May, and it's been three or four  
2 months. I think at some point we have -- I know everybody's  
3 busy and people are volunteers, but it is now September. And  
4 I'm aware that folks were out for the month of August. So,  
5 I would not put this off to hear from the ANC, but I'm going  
6 along with the Board. So I'll be the contrarian in this  
7 issue.

8 So, I'll leave the record open, then.

9 MR. SULLIVAN: Madam Chair, if I may?

10 VICE CHAIR JOHN: Yes, sorry. Go ahead, Mr.  
11 Sullivan.

12 MR. SULLIVAN: Thank you. I would just like to  
13 echo those comments. I don't know what we else we can do to  
14 get onto an agenda. I think it is telling that Commissioner  
15 Montague, Manning or Oliver isn't here. They usually do come  
16 to these, even when it's gotten to -- because it got to this  
17 point on a couple of applications. The first one we did two  
18 years ago, we had a similar situation.

19 Regarding the church, and I think one of the  
20 reasons why I probably didn't focus as much on the direct  
21 outreach is because Commissioner Oliver has usually gathered  
22 the community together when we do reach out to her because  
23 she has one or two SMD meetings, and then we go to the full  
24 ANC. We didn't get a chance to do any of that.

25 Regarding the design materials, I understand that.

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1 We could provide revised plans on that or more detail for the  
2 Board. But on the ANC, I would just request that any delay  
3 not be very long for the next meeting if that. But I'm not  
4 sure how we get on that agenda because I don't know what else  
5 to do to get on an agenda.

6 VICE CHAIR JOHN: Mr. Moy, do you happen to know  
7 when the next meeting of the ANC will be?

8 MR. MOY: According to their calendar, Madam Vice  
9 Chair, the ANC 5C meets September 21st. So if somehow the  
10 applicant can find a way to get on the agenda. I'll  
11 personally offer to contact the ANC 5C myself and they --  
12 at least provide something for the record that they have no  
13 comment. Maybe they have no comment, but I'd like to see  
14 that in the record as well.

15 VICE CHAIR JOHN: Okay. If we were to postpone  
16 this until after the applicant hopefully secures a meeting  
17 with the ANC, when could the case get back here?

18 MR. MOY: Well, you have some options. My first  
19 option would be October 19th. The Board has six cases on the  
20 19th of October. September -- well, we can't do September  
21 28th, but October 5th you have seven cases and one expedited  
22 case. If you're willing to add an eighth case to October  
23 5th, then we can do October 5th. Otherwise, it's October  
24 19th.

25 VICE CHAIR JOHN: Okay, Mr. Sullivan. I think

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1 October 19th might be a good bet, which should give you  
2 enough time, or we can do the 5th.

3 MR. SULLIVAN: The 5th would -- we could the  
4 materials then in plenty of time for the 5th. I hope that  
5 we would -- I assume we wouldn't add much time to the board's  
6 docket, but whatever the Board decides.

7 VICE CHAIR JOHN: now, for this ANC, is there a  
8 pre-meeting before you meet with the full ANC? Or do you go  
9 to the full ANC without meeting the zoning committee or  
10 whatever they call it in that ANC?

11 MR. SULLIVAN: Yes, they don't have a committee.  
12 We do the full ANC. The single-member district reps often  
13 have their own meetings, but I'm hoping we can forego that  
14 and just have the full presentation at the full meeting.  
15 Unless the SMD may be able to have a meeting before next week  
16 as well.

17 VICE CHAIR JOHN: Okay.

18 MR. MOY: Madam Chair, I don't know what this  
19 means, but on the calendar there is maybe a commissioner who  
20 can answer this. There a committee as a whole that meets  
21 tonight, September 14th. I don't know what that means.

22 VICE CHAIR JOHN: Mr. Sullivan, I'm inclined to  
23 say October 19th to make sure -- the difference between the  
24 5th and the 19th is two weeks. I think that gives you enough  
25 time.

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1                   MR. SULLIVAN: Okay. Thank you, Chair.

2                   VICE CHAIR JOHN: All right. Let's put this on  
3 for the October 19th date.

4                   Mr. Sullivan, I believe the Board is asking for  
5 two things. For some response from the ANC and outreach to  
6 the church specifically in terms of the impact of parking.

7                   Is that correct, Mr. Hood?

8                   ZC CHAIR HOOD: I'm sorry to keep being so  
9 roundabout, but I think the back of the church would be also  
10 -- need to be within the 200 feet, right?

11                  Is that correct, Mr. Sullivan?

12                  VICE CHAIR JOHN: Yes.

13                  ZC CHAIR HOOD: I just want to make sure the  
14 parking and how that's going to work back there with the four  
15 spaces. I'm just making sure that they are apprised to it  
16 like we do in other cases. Thank you, Madam Chair.

17                  VICE CHAIR JOHN: Okay, thank you.

18                  Mr. Moy, in that case, when do we need to have  
19 submissions to the Board?

20                  MR. MOY: Just a second. Let me pull up my  
21 calendar. I don't have that handy at the moment. So you  
22 said October 19th. I think -- there are meetings at -- I  
23 don't see any reason why -- if the applicant can make all  
24 their filings, that would include the ANC response, let's say  
25 by Monday, October 10th. That gives the staff time to

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1 process the data, process the documents.

2 VICE CHAIR JOHN: Okay. All right.

3 MR. MOY: This is a continued hearing, correct?

4 VICE CHAIR JOHN: It will be a continued hearing.

5 MR. MOY: Thank you.

6 VICE CHAIR JOHN: I wanted to thank the witnesses  
7 for their testimony, and we will see you here again on  
8 October 19th. Okay, thank you.

9 MR. SULLIVAN: Thank you.

10 VICE CHAIR JOHN: Okay, Mr. Moy. You can call the  
11 next case.

12 MR. MOY: Okay, let's see.

13 (Pause.)

14 MR. MOY: Oh, okay. So the next case before the  
15 Board is Application No. 20780 of Aaron and Lauren Eastlack.  
16 This is an application requesting special exception pursuant  
17 to Subtitle X, Section 901.2, and Subtitle F, Section 5201  
18 from the lot occupancy requirements of Subtitle F, Section  
19 304.1. Property located in the RA-1 zone at 1817 Irving  
20 Street Northeast, Square 4208, Lot 35. I believe that's all  
21 I have for the Board.

22 VICE CHAIR JOHN: Okay. Thank you, Mr. Moy  
23 will the applicant please introduce himself. I believe  
24 that's Mr. Eastlack?

25 MR. EASTLACK: Yes, good afternoon. Hi, my name

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1 is Aaron Eastlack, homeowner of 1817 Irving Street.

2 VICE CHAIR JOHN: Okay. You're representing  
3 yourself?

4 MR. EASTLACK: Yes.

5 VICE CHAIR JOHN: Okay, all right.

6 Is Mr. Montague here?

7 (Pause.)

8 VICE CHAIR JOHN: Okay, I'll get to the ANC later.

9 Please go ahead and begin your presentation, Mr. Eastlack.  
10 You have 15 minutes, and you may begin when you're ready.

11 MR. EASTLACK: Thank you so much to the Board  
12 members for your time and consideration. I also want to  
13 thank ANC-5C07 for the letter of support as well as the  
14 office of Planning for their recommendation for approval.  
15 As the homeowners, it's our intent is simply to repair and  
16 replace the existing second story deck in the original  
17 footprint with a safe, fully up-to-code structure.

18 The deck, we believe will be in harmony with the  
19 general purpose and intent of all zoning regulations. Our  
20 existing deck is original to the house, and our neighbors on  
21 both sides have very similar second story decks.

22 This proposal will be in harmony with their  
23 properties and have no undue impact on their use, light, air  
24 and privacy. Thank you again for your time. Please let me  
25 know if I can provide any additional information or answer

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1 any questions.

2 VICE CHAIR JOHN: Okay, thank you.

3 Does the Board have any questions?

4 (Pause.)

5 VICE CHAIR JOHN: No. I'll go to the office of  
6 Planning then. Ms. Myers?

7 MS. MYERS: Hello. Crystal Myers for the Office  
8 of Planning. The Office of Planning is recommending approval  
9 of this case, and we stand on the record of the staff report.

10 VICE CHAIR JOHN: Okay. Ms. Myers, can you please  
11 address briefly the general special exception requirements  
12 and how the application meets that criteria?

13 MS. MYERS: Certainly. The general special  
14 exception requirements. The first one is that will it be in  
15 harmony with the general purpose and intent of the zoning  
16 regulations. In this case, the deck would be in harmony.  
17 The zone allows for a range of low to moderate density  
18 residential development, which includes one dwelling, semi-  
19 detached houses such as this one.

20 The proposal would replace an existing deck and  
21 it would be the same size as the existing deck. It would  
22 maintain and improve the outdoor environment for the  
23 residents of this semi-detached house and would sufficiently  
24 address the relevant review criteria for relief.

25 And as for the second criteria of the general

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1 special exception criteria, which is will not tend to affect  
2 adversely the use of neighboring property in accordance with  
3 the zoning regulation. As we described in our report, the  
4 lot occupancy would not result or should not result in an  
5 undue impact to the use, light and air or privacy of the  
6 neighboring properties.

7 VICE CHAIR JOHN: Okay, thank you very much.

8 Does the Board have any questions for the Office  
9 of Planning?

10 (Pause.)

11 VICE CHAIR JOHN: Does the applicant have any  
12 questions for the Office of Planning?

13 (Pause.)

14 VICE CHAIR JOHN: I see that Mr. Montague has  
15 joined us. Can you introduce yourself for the record,  
16 please?

17 MR. MONTAGUE: Hello, Board members. My name is  
18 Jeremiah Montague Jr. I am commissioner for ANC 5C07 and in  
19 a limited capacity I'm going to represent ANC 5C. Given the  
20 last case that you just heard, can I offer an explanation,  
21 or is that inappropriate at this time?

22 VICE CHAIR JOHN: At this time, but I would like  
23 to hear after we have voted.

24 (Laughter.)

25 VICE CHAIR JOHN: No, just before we vote.

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1                   MR. MONTAGUE: Okay, thank you.

2                   VICE CHAIR JOHN: Go ahead and give your  
3 presentation with respect to this case.

4                   MR. MONTAGUE: Because of a change that occurred  
5 in our commission in January, the full commission meets late  
6 in the month. And so I submitted a letter of support on the  
7 record as a witness just -- not to trample on the authority  
8 of the ANC, so I did submit an official letter from the  
9 single-member district.

10                  Now, we are scheduled to meet our committee as a  
11 whole this evening. The single-member district has no  
12 objections to this application and sees it proper and did  
13 have a public hearing on it. It's the full commission that  
14 hasn't. So it's at the Board's leisure to accept the letter  
15 of support from the single-member district, even though we  
16 know we don't get great weight. It will still allow the  
17 public and the committee to have some say in what's going on.

18                  As far as, because I'm a very active commissioner,  
19 I've had a chance to go to the property to see what the  
20 effect would be. And it's basically an in-kind replacement.  
21 It got caught up in a regulatory issue between a pre-owner  
22 who apparently did not properly permit the deck and the  
23 current owner who's trying to do the right thing.

24                  As Ms. John always says about light, privacy, air,  
25 and this, that and the other. Because these are side-by-side

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1 houses, the adjacent neighbors already constructed a privacy  
2 fence on their deck. So this deck extension would not create  
3 any adverse impact on the light, air and privacy.

4 It would not cast shadows on other properties that  
5 would not be accustomed. This is consistent with the fabric  
6 and nature and character of those houses along that alleyway.  
7 So as far as the single-member district is concerned, there's  
8 no reason to object to this.

9 VICE CHAIR JOHN: Okay. Thank you so very much  
10 for coming and for giving this testimony.

11 MR. MONTAGUE: Thank you.

12 VICE CHAIR JOHN: Does the Board have any  
13 questions?

14 (Pause.)

15 VICE CHAIR JOHN: Does the applicant have any  
16 questions?

17 (Pause.)

18 VICE CHAIR JOHN: Is there anyone here to testify,  
19 Mr. Young?

20 MR. YOUNG: We do not.

21 VICE CHAIR JOHN: Okay. What's the name of the  
22 person?

23 MR. YOUNG: We do not have anyone.

24 VICE CHAIR JOHN: Oh, you do not. Okay. Thank  
25 you.

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1                   Mr. Eastlack, do you have any closing comments?

2                   MR. EASTLACK: No.

3                   VICE CHAIR JOHN: Okay.

4                   I'm going to close the hearing --

5                   Oh, does the Board want to hear from the full  
6 commission before I close the hearing?

7                   (Pause.)

8                   ZC CHAIR HOOD: I think this is pretty  
9 straightforward.

10                  (Laughter.)

11                  ZC CHAIR HOOD: I know the work of Mr. Montague.  
12 It is pretty straightforward. This is a deck. I mean, come  
13 on. Let's save the city some time.

14                  VICE CHAIR JOHN: Thank you, Commissioner Hood.  
15 Okay, so then I will close the hearing.

16                  MR. MONTAGUE: Ms. John?

17                  VICE CHAIR JOHN: Yes, sir?

18                  MR. MONTAGUE: You said I could clarify before you  
19 closed it, right?

20                  VICE CHAIR JOHN: In a minute. We don't need it  
21 on this case because it doesn't relate to this case, but I'd  
22 love to hear what happened at your ANC. I'm going to close  
23 the record on the hearing on this case. If you could stay  
24 around for a minute just to give the Board to give some  
25 information, not to provide testimony on the other case.

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1                   Okay, so I'm going to thank Mr. Eastlack for his  
2 testimony as well as Mr. Montague and close the hearing and  
3 the record on this case.

4 Now, before we deliberate and excuse Mr. Montague,  
5 if you'd like to tell us what happened with the ANC. Is  
6 there a changeover or something going on?

7 MR. MONTAGUE: As a matter of public record, and  
8 I'm walking a very tight line right now so that I don't get  
9 skewered tonight. We had a change in officers in January.  
10 And some of the difficulty that some of the applicants that  
11 have come before you are experiencing were connected to  
12 various single-member districts has been a challenge. I  
13 cannot speak for those single-member district commissioners  
14 or the full commission. I have seen in the emails going back  
15 and forth requesting whatever.

25 VICE CHAIR JOHN: Okay.

1                   MR. MONTAGUE: I will be a renegade of sorts  
2 between now and then. When cases come up, they affect  
3 privacy, I won't even sign up as a witness or commissioner,  
4 but the facts and the concerns will be heard.

5                   VICE CHAIR JOHN: Okay. Thank you for those  
6 comments and for the diplomacy of your delivery.

7                   Yes, Commissioner Hood, you had a comment?

8                   ZC CHAIR HOOD: I had one quick question for  
9 Commissioner Montague not necessarily related.

10                  Commissioner Montague, I thought that you were the  
11 -- are you still the chair of the planning zone or was that  
12 never gone?

13                  MR. MONTAGUE: That all stopped when they changed  
14 officers in January.

15                  ZC CHAIR HOOD: Okay. Thank you. I know that  
16 you're not serving anymore. At a later time, I will commend  
17 you on the work you've done. I know I've called you a number  
18 of times for constituents who come to me, and I'm ANC  
19 commissioner, so thank you for all you've done. I will  
20 elaborate on it at a later time.

21                  Thank you, Madam Chair.

22                  VICE CHAIR JOHN: Thank you.

23                  MR. MONTAGUE: Come January, get ready for a  
24 storm.

25                  VICE CHAIR JOHN: Okay, thank you, Commissioner

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1 Hood. Thank you for your testimony, Commissioner Montague.  
2 And I'm going to excuse you at this time. Have a great  
3 evening. Thank you.

4               Okay, so are we ready to deliberate? Does anyone  
5 want to start?

6               (Pause.)

7               VICE CHAIR JOHN: Board Member Blake, I thought  
8 I saw your hand up. You're on mute.

9               MEMBER BLAKE: I'm sorry. Let's see.

10               (Pause.)

11               VICE CHAIR JOHN: I can start if you'd like.

12               MEMBER BLAKE: Yes. Why don't you start. I have  
13 an opinion. There's one point I'm kind of not sure, and I'm  
14 not ready to -- actually, you know what, I can do it.

15               Based on the record, the testimony received today,  
16 I believe that the burden of proof has been met pursuant to  
17 Section 7201. I think the relief should be granted. The  
18 proposed one-story deck, it's basically the same size as the  
19 existing deck.

20               It would include a total taller privacy fence that  
21 would provide added privacy to the neighbors. They have a  
22 privacy sheet up right now as Commissioner Montague  
23 discussed. The proposed lot occupancy would not result in  
24 undue impact on use, light, air or privacy of neighboring  
25 properties. And decks off the main level of the house are

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1 common. The proposed deck should not be out of character.

2 In this case, we are righting a wrong. The  
3 initial person did it outside of the regulations. In this  
4 case, it's essentially putting it in the proper position it  
5 should be in. I believe that granting the relief will be in  
6 harmony and intent of the zoning regulations.

7 While there's no ANC 5C report to afford great  
8 weight, I do take into consideration the recommendation in  
9 support of from Commissioner Montague and the fact that there  
10 were no parties in opposition. While we could hold it off,  
11 the vote or something like that based on these factors, I  
12 don't think it's the case.

13 I also believe the analysis provided by the Office  
14 of Planning. I don't believe that the granting of relief  
15 will have an adverse impact on neighboring properties. I  
16 give great weight to the Office of Planning recommendation.  
17 Note that DDOT has no objection to the project, and I will  
18 be voting in favor of the project.

19 VICE CHAIR JOHN: Okay. Thank you, Board Member  
20 Blake.

21 Board Member Smith?

22 MEMBER SMITH: I agree with Mr. Blake's testimony  
23 on this particular case. It is a rear deck, and I do believe  
24 that based on the information within the record, they may  
25 have met the burden of proof for us to be able to grant

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1 special exception to Subtitle X 901.2. With that, I will  
2 support the application.

3 VICE CHAIR JOHN: Thank you. Commissioner Hood.

4 ZC CHAIR HOOD: Thank you, Madam Chair.

5 Without being repetitive, I would agree with  
6 everything that's said, and I'm looking forward to supporting  
7 this application.

8 VICE CHAIR JOHN: Okay, thank you.

9 I'm also in support of the application, and I  
10 appreciate the testimony of Commissioner Montague in  
11 describing the context of this deck in terms of what exists  
12 at the neighbor's property and note that as others have said,  
13 this deck is replacing an existing deck.

14 So there should not be any undue adverse impacts  
15 to the neighbor. I'm going to give great weight to the  
16 Office of Planning's analysis. As stated by my fellow Board  
17 members, there is no ANC report to give great weight to.  
18 With that, I'm going to make a motion to approve Application  
19 No. 20780 as captioned and read by the secretary and ask for  
20 a second.

21 Mr. Blake.

22 MEMBER BLAKE: Second.

23 VICE CHAIR JOHN: Thank you.

24 Mr. Moy, will you please take the roll call?

25 MR. MOY: When I call your name, if you would

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1 please respond.

2 Mr. Smith?

3 MEMBER SMITH: Yes.

4 MR. MOY: Mr. Blake?

5 MEMBER BLAKE: Yes.

6 MR. MOY: Zoning Commissioner Anthony Hood?

7 ZC CHAIR HOOD: Yes.

8 MR. MOY: Vice Chair John?

9 VICE CHAIR JOHN: Yes.

10 MR. MOY: We have a Board member not present, not  
11 voting. Staff would record the vote as 4 to 0 to 1. This  
12 is on the motion made by Vice Chair John to approve the  
13 application for the relief requested. The motion to approve  
14 was second by Mr. Blake. Also in support of the motion to  
15 approve, Mr. Smith and Zoning Commissioner Anthony Hood. The  
16 motion carries on a vote of 4 to 0 to 1.

17 VICE CHAIR JOHN: Thank you, Mr. Moy. When you're  
18 ready, please call our last case.

19 (Pause.)

20 MR. MOY: The last case before the Board is  
21 Application No. 20783 of 2504 41st Street Northwest, LLC.  
22 This is a self certified application.

23 VICE CHAIR JOHN: Thank you, Mr. Moy.

24 MR. MOY: I'm not finished. I took a long pause.

25 Pursuant to Subtitle X, Section 901.2, for special

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1 exception under Subtitle U, Section 421.1. Property located  
2 in the RA-1 zone at 2504 41st Street Northwest, Square 1708,  
3 Lot 5. This application that I have for you, Madam Vice  
4 Chair, is that the applicant filed a landscaping plan. They  
5 filed within that 24-hour block, so the Board would need to  
6 address that if you want to allow that into the record.

7 VICE CHAIR JOHN: Okay. Thank you.

8 Is the applicant here? Mr. Bello?

9 MR. BELLO: Good afternoon, Madam Chair, Board  
10 members. Olutoye Bello representing the applicant.

11 VICE CHAIR JOHN: Thank you. You have 15 minutes  
12 for your testimony, so you may begin when you're ready.

13 MR. BELLO: Thank you, Madam Chair. If you will,  
14 because I don't have a PowerPoint presentation, I'd like the  
15 architect to walk you through the architectural design plans,  
16 which is in Exhibit 31, to put the project in context, and  
17 I can come in behind that and speak to how the application  
18 meets the standards, if you will.

19 VICE CHAIR JOHN: Thank you.

20 Mr. Young, can you pull up Exhibit 31.

21 (Pause.)

22 MR. ALI: Good afternoon, Madam Chair and Board  
23 members. Can everybody hear me?

24 VICE CHAIR JOHN: Yes. Please introduce yourself.

25 MR. ALI: Yes. My name is Ramy Ali. I'm with RAM

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1 Design architect. I'll just have to walk you through the  
2 project so we can give you a good idea about the proposed  
3 scope of work.

4 2504 41st is an existing two-story plus cellar  
5 five years upon building. It's located on a very steep  
6 slope, sloping from 41st down to a private tier alley with  
7 a difference of approximately 15 feet. The reason I'm  
8 pointing out the steep slope as the first thing on the  
9 presentation is just to clarify the fact that we have two  
10 cellar levels.

11 And you see from the very first slide, we have the  
12 picture of the building in the front, first floor building  
13 entrance on the sidewalk, and then you see on the side we  
14 have the cellar level towards the side of photo which is  
15 completely above grade from the side yard and the rear yard.

16 This is basically the topography of the second.  
17 This is what allows this project to have two cellar levels.  
18 Due to the difference in grade and the cellar level  
19 identified -- the first Cellar 1 is the level right  
20 underneath the first floor. That's how I'm going to present  
21 it so I can eliminate any confusion.

22 Cellar 1 is the first cellar level below the first  
23 floor. Cellar 2 is the very last floor of the building. So  
24 Cellar 1 is fully above grade from the side yard and the rear  
25 yard. However, Cellar 2 is partially above grade from the

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1 side and the rear. So there is no current parking on this  
2 side, but it does have direct access --

3 MR. BELLO: Sorry about that. I think you want  
4 to tell Mr. Young when you need to flip the page.

5 MR. ALI: Oh, yes.

6 We can switch to A02, so this way we can see the  
7 existing site plan. A01 is basically only photos. A02,  
8 that's an exhibit to present the topography of the site, how  
9 it flows into the private alley. And there is no timed  
10 (phonetic) parking on the site right now.

11 If we go to the cover page, I just want to address  
12 the existing architecture a little bit, A01, where we have  
13 the photo. So the two levels of the building is of brick  
14 exterior throughout and topped with an existing mansard  
15 facing 41st Street in which all of this would remain.

16 The front façade also has an existing front  
17 landing, existing vertical front path and walkway, which all  
18 of this would remain undisturbed. Just basically a  
19 restoration or repairs as needed. Along with the exterior,  
20 we also have all the existing windows. They are double hung  
21 windows, which is all will be replaced with new to meet  
22 current energy code and also they're slightly enlarged so we  
23 can bring more daylight into the existing structure.

24 We can go to A004 just to have the exhibit for the  
25 front elevation just to see the master plan. Basically, the

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1 elevations are going to reflect the new window placement on  
2 the frontal side. There's an existing rear entrance. As you  
3 see on A004, with an existing two-story prefabricated metal  
4 stair that we are completely eliminating, and actually this  
5 also helps dropping down the existing lot occupancy and the  
6 FAR.

7 Existing landscaping as explained earlier, the  
8 rear yard slopes deeply towards the alley. There's not much  
9 of existing landscaping other than the grass that slopes down  
10 towards the back.

11 We are proposing to kind of level the first 20  
12 feet in the backyard and then pave a parking path towards the  
13 alley that would allow for five parking spaces. If you go  
14 up to A003, I believe that would give us an idea about -- so  
15 one more. No, A001.

16 (Pause.)

17 MR. ALI: One more. One more. And the site plan  
18 before that. One more page. Yes, there you go.

19 So the grading area that you see in orange or  
20 light red is the area we're proposing to regrade the existing  
21 site. So we'll try to have a leveled parking path with brick  
22 pavers that will be leveled with the alley. So this way,  
23 people can access the back. And we also have the trash  
24 compartments in the back.

25 This whole area will be screened with a mechanical

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1 rollout doors and six-foot high fences. This way, it's not  
2 visible to any of the public from the back. Continuing on  
3 the existing landscaping, we do have actually nicely done  
4 landscape at the front yard. We have the boxwood shrubs  
5 along the sidewalk, and they kind of turn into the entryway.  
6 This actually happens on every single one of those buildings  
7 on this whole street. We're keeping that in place.

8 We also have existing trees where they will  
9 remain. The rest is just basically flat grass that we have  
10 in the front. Also, we have a flat lawn area towards the  
11 sidewalk. That's basically what we're doing to the landscape  
12 on the site.

13 Front and the side, we're not doing much. It's  
14 nice as it is. We're just doing a bit of re-grading in the  
15 back to allow for accessible parking. Going inside of the  
16 building and the scope, we also utilize the existing two  
17 cellar levels in a more efficient way.

18 Right now, it's basically storage and utilities.  
19 We have a lot of unused square footage. We have utilized  
20 those two lower levels and increased the unit count from five  
21 units up to nine units.

22 We also were able to get additional square footage  
23 by adding a partial third floor that will give the top unit  
24 access to rooftop decks. And the partial third floor is  
25 basically serving as a master suite for the top three units.

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1 If you go through A0 -- to the plan, I think it's A003, you  
2 will see the top addition.

3 Next page, yes. This is basically the third floor  
4 plan. It's a small footprint that would give the top two  
5 units, Unit 8 and Unit 9 access to the rooftop deck. And all  
6 the exterior walls of that third floor addition is basically  
7 setback from all exterior wall, and it's also setback from  
8 the front a good dimension to keep the existing mansard in  
9 place and undisturbed and not really visible from the front.

10 If you go to the next page, A004, you will see the  
11 front elevation how the mansard completely -- joined on the  
12 right is the front elevation. How the existing architecture  
13 completely blocks the proposed partial third floor addition.  
14 Landscaping, I've addressed that.

15 Basically for the exterior brick, everything would  
16 have to stay in brick. Windows, we're certainly going to  
17 replace them. Not much has changed to the outside at all  
18 other than working on within the footprint and adding that  
19 third floor partial addition. I believe that's basically it.  
20 If there's any questions, I'll be more than happy to answer.

21 VICE CHAIR JOHN: Thank you. Mr. Bello.

22 MR. BELLO: Thank you, Madam Chair. To go  
23 through the compliance of the application for the special  
24 exception requested, the special exception is from Subtitle  
25 U, Section 421.1, to allow the increase in the number of

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1 dwelling units within an existing apartment building from  
2 four to nine as the architect indicated.

3 Going to the general provision for special  
4 exception. The first one being that the project needs to be  
5 in harmony with the general purpose and intent of the zoning  
6 regulations. The applicant makes the following points.

7 The RA-1 zone district is designated as a low to  
8 moderate residential apartment zone. The existing building  
9 is an apartment, a house with four units. The proposed  
10 increase of the number of dwelling units does not change the  
11 use category of a building as an apartment. It still remains  
12 the same use.

13 Subtitle X, Section 30011A (sic) says that the  
14 purpose of the RA-1 zone district is to commit all types of  
15 open residential development if they conform to the height,  
16 density and area requirements. This project does not request  
17 any other relief other than the relief to increase the number  
18 of units and complies with all those provisions.

19 The applicant believes that the application meets  
20 that first test based on those points. The second test will  
21 not tend to affect the use of neighboring property in  
22 accordance with the zoning regulations and maps. The  
23 property of the application adjoins only one building, which  
24 is of like use and of like architecture.

25 The proposed third floor is setback nine feet from

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1 the lot line, a common division wall this property shares  
2 with the only building that is adjoined. The property east  
3 of the subject property is Stoddert Elementary School which  
4 sits on 280,000 square feet of land area, and it's quite  
5 significant -- a substantial vegetation that tends to screen  
6 views from the property across the street.

7                   The neighborhood is characterized by a mix of  
8 apartment buildings of varying densities. This actually is  
9 one of the smaller of the apartment buildings in this  
10 neighborhood. The perimeter can provide private parking  
11 spaces which excess of the required number of parking spaces  
12 even if we were to this constructed building anew.

13                   The building, if viewed from the street retains  
14 the architectural façade element and the mansard roof. The  
15 modest third floor addition cannot be viewed from the street  
16 and doesn't have any visual impact on the street. The  
17 special provisions has the same condition that -- special  
18 conditions outlined in Section 421.2 through 421.4.

19                   Most of these provisions are by referrals to  
20 agencies, and those referrals were made. The Office of  
21 Planning is in support of the application. The ANC is in  
22 support of the application. With respect to 421.2A, existing  
23 elementary schools accommodate the number of students that  
24 can be expected to reside in the project.

25                   The project is only introducing four more units.

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1 We don't think that that is substantial enough to affect  
2 them, and certainly didn't get any other comments from any  
3 government agency to that effect. Being that the public  
4 streets, recreation and other areas tend to accommodate the  
5 children that can be expected to reside in the project.

6 The property is deemed very walkable in accordance  
7 with the walkability score of 78 and 100 walkability score  
8 by Google score 57, mostly flat, some bike lanes for the  
9 property. The property also has a good score of 50 out of  
10 a 100. I believe that concludes our presentation. I can  
11 believe that this application meets the standards to grant  
12 the wanted relief. I'll be glad to take any questions, thank  
13 you.

14 VICE CHAIR JOHN: Thank you, Mr. Bello. Your  
15 architect addressed 421.3, which is the site plan and the  
16 buildings. So we would just like to refer to that  
17 discussion.

18 MR. BELLO: Yes, ma'am.

19 VICE CHAIR JOHN: Okay, all right. Does the Board  
20 have any questions?

21 (Pause.)

22 VICE CHAIR JOHN: No? I'll go to the Office of  
23 Planning, then.

24 MR. COCHRAN: Thank you, Madam Chair. I'm Steve  
25 Cochran. I'm representing the Office of Planning in this

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1 case.

2 It's somewhat unusual for a U421.1 case in that  
3 there are no changes to the footprint of the building. The  
4 applicant is efficient and managed to find additional units  
5 within the same footprint, which certainly helps with an  
6 analysis of the site plan because it's pretty much the same  
7 as the existing site plan but for a four-foot retaining wall  
8 in the back for the parking spaces.

9 The schools within the area are pretty much at  
10 capacity. But they are required to accept in-boundary  
11 students, so they would be required to accept any in-boundary  
12 children if they might be from the five additional units.  
13 With respect to recreation, it would be difficult to find a  
14 better location for recreation.

15 It's right across the street from the Stoddert's  
16 school and playground, and it's a walk from Grover Archbold  
17 park. We talked about the site plan. Parking is providing  
18 more than the three spaces that would be required. It would  
19 be providing five units via that private driveway to the  
20 west.

21 Landscaping would be essentially what's there now.  
22 There should not be much of an impact, if any impact, on the  
23 existing trees simply because there wouldn't be new  
24 excavation near them. There would be no need for excavation  
25 in the front yard or that -- I believe it's an eight-foot

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1 retaining wall is on the north side of the front part of the  
2 building.

3 There are no public plans that would interfere  
4 with the ability of this project. It would be not  
5 inconsistent with any of the public plans that there are now.  
6 With respect to Subtitle X 901, it's -- excuse me, just a  
7 second.

8 (Pause.)

9 MR. COCHRAN: One of the disadvantages to working  
10 at home sometimes.

11 Okay, it's in the RA-1 zone. This is a moderate  
12 density zone for apartments. This is one of those, it's of  
13 moderate density. Based on the information provided by the  
14 applicant, it would fit within the FAR. Matter of fact,  
15 there would be no need for any additional dimensional or use  
16 relief.

17 So with respect to adverse effect on the use or  
18 enjoyment of neighboring property, again, it's within the  
19 existing space. The third floor addition is rather small.  
20 There would be no impact on light or air, no shadows  
21 generated by the property, and no impact on solar panels.  
22 The nearest one would be about 60 feet away. Talked about  
23 parking in the back and the recreation space. Overall, OP  
24 is happy to recommend approval of the project.

25 VICE CHAIR JOHN: Okay. Thank you. Does the

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1 Board have any questions for the Office of Planning?

2 (Pause.)

3 VICE CHAIR JOHN: Does the applicant have any  
4 questions for the Office of Planning?

5 MR. BELLO: No, Madam Chair.

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

7 MR. YOUNG: They are not.

8 VICE CHAIR JOHN: Okay. Was anyone signed up to  
9 testify?

10 MR. YOUNG: Yes, we have one witness signed up.

11 VICE CHAIR JOHN: Okay. Can you let the witness  
12 in, please. I believe that's Mr. Schmidt?

13 MR. YOUNG: Yes.

14 MR. MOY: Madam Vice Chair.

15 VICE CHAIR JOHN: Yes, Mr. Moy?

16 MR. MOY: The person who's signing up, could you  
17 or I ask the applicant -- it's about the clarity of the  
18 exhibits that's now in the record. This would now enter the  
19 landscape plan into record and there's some question from the  
20 staff as to whether or not if this is the same landscape plan  
21 that's now shown as Exhibit 38 same as the one that's shown  
22 under Exhibit 31. Same or different?

23 VICE CHAIR JOHN: Thank you.

24 Mr. Bello, did you hear the question? So the  
25 grading plan was submitted late. Is that what the issue is?

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1 Let me look at the record.

2 MR. ALI: Mr. Bello, I can clarify that.

3 VICE CHAIR JOHN: Okay, please go ahead.

4 MR. ALI: Yes, there's no change at all on the  
5 landscape that was submitted in the last 24 hours. We just  
6 had to point out the existing elements that we intend to  
7 retain on the site. There was a comment from the Office of  
8 Planning, I believe. Mr. Bello advised me about that.

9 We need to have a landscape plan. So we just  
10 basically used the same landscape plan that we had  
11 originally. It was called top plan, top view. This  
12 identified the existing shrubs in the front, the existing  
13 trees, but everything else has remained. There was no  
14 additional elements that's been added to the file that we  
15 just added recently.

16 VICE CHAIR JOHN: Okay (simultaneous speaking) --

17 MR. ALI: (Simultaneous speaking) notification.

18 VICE CHAIR JOHN: Okay. What's the -- Exhibit 31  
19 has the landscape plan in it as well? Revised architectural  
20 plans and elevations? In other words, what's the difference  
21 between 31 and 36?

22 MR. ALI: We added the existing shrubs on the plan  
23 and the existing trees. They were not shown previously.

24 VICE CHAIR JOHN: Okay. Did that plan show the  
25 grading in the back with the -- I don't remember.

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1                   MR. ALI: Yes, the grading was there for you to  
2 see.

3                   VICE CHAIR JOHN: It was there before. And the  
4 retaining wall was there as well.

5                   MR. ALI: All that was designed last year.

6                   VICE CHAIR JOHN: So we should have done this at  
7 the beginning of the hearing, but I am assuming that you're  
8 requesting that the Board waive the late filing based on the  
9 request from the Office of Planning?

10                  MR. BELLO: That's correct, Madam Chair.

11                  VICE CHAIR JOHN: Okay. In which case, we will  
12 admit this filing in the record.

13                  Okay, thank you, Mr. Moy, for closing the loop.

14                  MR. BELLO: Thank you.

15                  VICE CHAIR JOHN: Okay, now where were we? Were  
16 there any questions from the applicant, I believe, for the  
17 Office of Planning? Oh, we were supposed to have the  
18 witness.

19                  MR. SCHMIDT: Yes, I'm prepared to testify. You  
20 can hear me okay?

21                  VICE CHAIR JOHN: Yes. I can hear you Mr.  
22 Schmidt.

23                  MR. SCHMIDT: You are not seeing me because I was  
24 threatened by the contractors for the developer last year  
25 when I got a stop work order on the building.

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1           I am appearing here to encourage you to view with  
2 extreme skepticism any stipulations being made by this  
3 developer. It's Hyperfast Development. If you were to go  
4 to see the property, you'd see that they've done nothing to  
5 maintain it over the past year.

6           The people weren't able to see the notice of the  
7 pending hearing because, one, it was up on the front door  
8 where there was junk and garbage and broken tree limbs  
9 blocking access. The other was stuck in bushes in front of  
10 the place.

11           When I got the stop work order last year, they had  
12 -- the whole site was accessible as it is now, no fencing  
13 around it, currently kids are going in there and hanging  
14 around. They had cement trucks from all of their  
15 construction efforts in the city or various construction  
16 trucks using our alley as a staging area for all of their  
17 various activities.

18           They were found guilty of cleaning out the cement  
19 trucks and dumping effluents into the alley and down into the  
20 storm drains. It was a disaster, and anybody who sees the  
21 property right now will see their disregard for the  
22 neighborhood. I've sent the email to the involved parties  
23 with pictures of the place as it is right now.

24           Again, it was a stop work order last year. If you  
25 look at that, you'll see that it's just a company with

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1 disregard for the neighborhood, disregard for the law and  
2 city codes. So I would just urge you to be very, very  
3 skeptical. Look into the record of this company given that  
4 this thing was poorly noticed that no one could get to or see  
5 the signs announcing the hearing. Perhaps, even delay your  
6 vote.

7 VICE CHAIR JOHN: Thank you, Mr. Schmidt. Can you  
8 see the sign now?

9 MR. SCHMIDT: In front of the building? No.

10 VICE CHAIR JOHN: So the sign noticing the hearing  
11 is not --

12 MR. SCHMIDT: There was one stuck in the bushes,  
13 and there was one obstructed by -- everyone in the  
14 neighborhood, people and their kids next door even people who  
15 gotten kicked out had dumped stuff from their apartments in  
16 the front of the place. A pine tree limb that was really  
17 massive and a fire hazard had fallen down on it.

18 So no one was going to be able to walk off and see  
19 this thing on the front door. I sent you all pictures of  
20 this. The one that was hanging closer to the street was just  
21 basically hanging into the bushes. It was not well-noticed  
22 at all.

23 I know the people in the building behind me who  
24 have solar panels had extreme problems with this company and  
25 its dumping of effluents down into the storm drains. I don't

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1 think anybody in the neighborhood is happy with this project.

2                   The hearing is being held very late in the day so  
3 people would have had to hang in there a long time to be able  
4 to testify. But if this company is allowed to go forward,  
5 then zoning ordinances are just meaningless.

6                   VICE CHAIR JOHN: Okay. Thank you, Mr. Schmidt.

7                   Does the Board have any questions for the witness?

8                   Does the applicant have any questions for the  
9 witness?

10                  MR. ALI: I just have a quick question, if you  
11 don't mind.

12                  MR. BELLO: I feel we shouldn't need to respond  
13 to that.

14                  VICE CHAIR JOHN: Mr. Bello if you have question,  
15 you can ask it now. Then, you can respond in your closing  
16 statement.

17                  MR. BELLO: Thank you very much. Thank you, Mr.  
18 Schmidt. Are you aware that this application was presented  
19 to the ANC on the 8th?

20                  MR. SCHMIDT: I was not because it was so poorly  
21 noticed.

22                  MR. BELLO: Okay. Can you tell us what -- you  
23 don't need to tell us your address, but how far away are you  
24 from this property?

25                  MR. SCHMIDT: Immediately next door, 2510.

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1                   MR. BELLO:    Okay.  You did not receive the  
2 neighborhood outreach letter from the applicant?

3                   MR. SCHMIDT:  My mother died last week, and no,  
4 I did not receive your notice.

5                   MR. BELLO:  Sorry to hear about your loss.  Thank  
6 you very much.

7                   VICE CHAIR JOHN:  Okay, is there any other  
8 questions?  I saw --

9                   MR. ALI:  Yes.  Mr. Schmidt, I just wanted to ask  
10 you.  All of these activities of constructing and dumping,  
11 do you recall the dates on all of this activities?  Was it  
12 recent or was it --

13                  MR. SCHMIDT:  It would have been -- I think they  
14 suspended construction as of probably mid-summer of last  
15 year, so it would have been in the spring and summer of last  
16 year.

17                  MR. ALI:  Okay.  That's why I wanted to ask  
18 because the contractor was out there performing work for  
19 Hyperfast.  I remember that that they were struggling with  
20 the contractors they've been using last year, but everything  
21 has changed as of 3/3/2022.  That's why I wanted to ask about  
22 that particular date if any of these activities were recent  
23 or from last year.

24                  MR. SCHMIDT:  Hyperfast was put on notice about  
25 what their contractor was up to.  It's not something that was

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1 happening without their knowledge.

2 VICE CHAIR JOHN: Okay. Does the applicant have  
3 any other questions for the witness?

4 MR. BELLO: No, Madam Chair.

5 VICE CHAIR JOHN: Okay. Thank you, Mr. Schmidt.  
6 Thank you for testifying, and I hope you have a good  
7 afternoon.

8 MR. SCHMIDT: Thank you.

9 VICE CHAIR JOHN: Mr. Bello, do you have closing  
10 comments?

11 MR. BELLO: Yes, Madam Chair. It's essentially  
12 just to address Mr. Schmidt's testimony. This situation was  
13 brought to our attention by the ANC, the single-member  
14 district commissioner. We have informed the ANC that the  
15 contractor is no longer on this job. It's going to be a new  
16 contractor. We made the commitment to provide the ANC with  
17 a point of contact going forward with the new contractor  
18 should be there any kind of concerns or complaints about the  
19 behavior of the new contractor. That would be it. Thank you  
20 very much.

21 VICE CHAIR JOHN: Ty. Mr. Bello, it's the same  
22 owner?

23 MR. BELLO: It is the same owner, yes.

24 VICE CHAIR JOHN: Okay. Does the Board have any  
25 final questions for Mr. Bello or the architect?

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1 (Pause.)

2 VICE CHAIR JOHN: Okay. Mr. Bello, thank you for  
3 your presentation. We're going to excuse you now and close  
4 the hearing and the record.

5 MR. BELLO: Thank you.

6 MR. ALI: Thank you.

7 VICE CHAIR JOHN: Thank you. Okay. Who would  
8 like to go first? I'll start with the witness's statement  
9 to begin with.

10 I am going to accept the representation of the  
11 applicant and the witness that the issues with the trash  
12 collection and the condition of the property existed last  
13 year and that the owner has changed contractors and they're  
14 not having any further issues. With respect to the lack of  
15 notice, the witness stated he was not able to attend the ANC  
16 meeting, but I will accept the fact that it was noticed and  
17 there was an ANC meeting. With respect to the merits of the  
18 application, I think that there is no change in the footprint  
19 of the building. I think the applicant has done a good job  
20 of making use of two cellar levels to create new housing,  
21 which is definitely needed in the city. I thought that there  
22 was sufficient parking, and that the applicant has made use  
23 of the area next to the alley by regrading it to provide  
24 parking. I think the rollout door would provide security in  
25 the future so there shouldn't be any illegal dumping. I also

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1 thought that the Office of Planning did a very good job in  
2 explaining how the application meets the criteria for relief.  
3 With respect to the density, which one of the witnesses --  
4 I believe I saw something in the record. This is the RA-1  
5 zone, which allows that level of density. I'm going to  
6 credit OP's testimony with respect to the impact on the the  
7 public schools that they would be required to accept in-  
8 boundary students. I don't believe that there would be a  
9 significant impact from adding the, I think, five more  
10 apartments? How many are we adding? But I don't think that  
11 that would -- four. I don't think that that would be  
12 significant. The last thing is that in terms of the massing  
13 of the building, what's existing and there's no change, is  
14 that there's a 34 percent lot occupancy, 50-foot rear yard  
15 where there's 20 required, and there's a sufficient side  
16 yard. And the applicant also provides sufficient parking.  
17 So I'm in support of the application, and I'd love to hear  
18 the thoughts of the other Board members.

19                   Mr. Smith, would you like to start?

20                   MEMBER SMITH: Sure, I'll start. I really don't  
21 have anything to add, Ms. John. I completely agree with the  
22 analysis on this and also Planning's analysis on this  
23 proposed addition. As you stated, the existing building is  
24 five units in a two-story residential building, and the  
25 applicant is proposing to add a third story onto this

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1 building with a roof deck. And they're expanding this to  
2 four units. The applicant, as you stated as well as they  
3 stated in their writeup, they've taken advantage of some  
4 existing cellar space to put in this additional third story.  
5 And the way they had designed the roof of the third story,  
6 it really doesn't really doesn't read any taller from the  
7 street at least than what's already there. So I do believe  
8 that the applicant has been very meticulous in making sure  
9 that the design of the building as it reads from the street  
10 is in character with the surrounding neighborhood.

11           When it comes to down to density, questions raised  
12 about density. again, this is the RA-1 zone which does  
13 contemplate the level of density. Also, the property to the  
14 south is a larger apartment building. The property to the  
15 west facing the park is one of the largest apartment  
16 buildings. This particular style of residential at this  
17 density is not out of character with what's already there.  
18 The applicant meets all of the other general standards for  
19 us to be able to grant a special exception. The applicant  
20 also does have the required parking and meeting their parking  
21 requirement by including some parking along the alley. In  
22 analyzing this case, I do believe they met the burden of  
23 proof. I will great weight to OP's staff report and also  
24 note that the ANC does also support this application, and I  
25 do as well.

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1 VICE CHAIR JOHN: Thank you. Board Member Blake.  
2 (Simultaneous speaking.)

3 MEMBER BLAKE: Thank you for the promotion. I  
4 would agree with the analysis that Vice Chair John and Board  
5 Member Smith has put forth. It does capture the essence of  
6 the situation. The requirements for burden of proof has been  
7 met as I see it having been reviewed by all the appropriate  
8 agencies, et cetera. I give great weight to the Office of  
9 Planning's recommendation for approval and also DDOT has no  
10 objection. I also give great weight to the ANC 3B. I think  
11 they have done a good job of looking at this finding no  
12 issues or anything with project concerns. I would hope that  
13 the applicant keeps a nice, clean property going forward.  
14 That said, I will be in support of the application.

15 VICE CHAIR JOHN: Thank you, Board Member Blake.  
16 Commissioner Hood?

17 ZC CHAIR HOOD: Yes, Madam Chair. I would agree  
18 with all of what my colleagues mentioned. I do appreciate  
19 all of the work, and I appreciate the applicant for making  
20 the change when necessary the way I interpreted it when the  
21 previous group was not keeping up the property. With that,  
22 I would agree with everything. I think this merits and  
23 warrants our approval. Thank you, Madam Chair.

24 VICE CHAIR JOHN: Thank you, Commissioner Hood.  
25 With that, it looks as if we're all in agreement.

1 So I make a motion to approve Application No. 20783 as  
2 captioned and read by the secretary and ask for second, Mr.  
3 Blake.

4 MEMBER BLAKE: Second.

5 VICE CHAIR JOHN: Thank you. Mr. Moy, would you  
6 please take the roll call?

7 MR. MOY: Yes. When I call your name, if you'll  
8 please respond.

9 Zoning Commissioner Anthony Hood?

10 ZC CHAIR HOOD: Did you forget my name? No, I'm  
11 just kidding. Yes.

12 MR. MOY: I had a lapse of memory of what I was  
13 supposed to say next. I didn't want to have to confess that  
14 --

15 (Simultaneous speaking.)

16 (Laughter.)

17 VICE CHAIR JOHN: Welcome to my world.

18 MR. MOY: Oh, dear. Mr. Smith?

19 MEMBER SMITH: Yes.

20 MR. MOY: Mr. Blake?

21 MEMBER BLAKE: Yes.

22 MR. MOY: Vice Chair John?

23 VICE CHAIR JOHN: Yes.

24 MR. MOY: We have a Board member not present, not  
25 participating, not voting rather. Staff will record the vote

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1 as 4 to 0 to 1. This is on the motion made by Vice Chair  
2 John to approve the application for the relief that's  
3 requested. The motion to approve was second by Mr. Blake.  
4 Also in support of the motion to approve, Mr. Smith and  
5 Zoning Commissioner Anthony Hood. The motion carries on the  
6 vote to 4 to 0 to 1.

7 VICE CHAIR JOHN: Thank you, Mr. Moy. Mr. Moy,  
8 do we have anything else that the Board needs to take up  
9 today?

10 MR. MOY: No, ma'am, nothing from the staff.

11 VICE CHAIR JOHN: Okay. Well, thank you. I  
12 think we're adjourned until next week when Chairman Hill will  
13 be back. I want to thank you all as always for your help in  
14 getting through this day, including lapses of memory.

15 (Laughter.)

16 VICE CHAIR JOHN: Have a great week. Bye.

17 ZC CHAIR HOOD: Bye-bye.

18 (Whereupon, the above-entitled matter went off the  
19 record at 2:30 p.m.)

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In the matter of: Hearing

Before: BZA

Date: 09-14-22

Place: Videoconference

was duly recorded and accurately transcribed under my direction; further, that said transcript is a true and accurate record of the proceedings.

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