

GOVERNMENT OF  
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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PUBLIC HEARING

+ + + + +

WEDNESDAY

NOVEMBER 16, 2022

+ + + + +

The Public Hearing of the District of Columbia Board of Zoning Adjustment convened via videoconference, pursuant to notice, at 9:30 a.m. EDT, Frederick L. Hill, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

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

ZONING COMMISSION MEMBERS PRESENT:

PETER MAY, Commissioner

OFFICE OF ZONING STAFF PRESENT:

TRACEY ROSE, Senior Zoning Specialist  
PAUL YOUNG, Zoning Data Specialist

OFFICE OF PLANNING STAFF PRESENT:

STEPHEN MORDFIN, Development Review Specialist  
STEPHEN COCHRAN, Zoning and Special Project Planner  
KAREN THOMAS, Development Review Specialist

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D.C OFFICE OF THE ATTORNEY GENERAL PRESENT:

MARY NAGELHOUT, ESQUIRE

The transcript constitutes the minutes from the  
Public Hearing held on November 16, 2022.

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

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

(9:40 a.m.)

CHAIRPERSON HILL: Good morning, ladies and gentlemen. Board of Zoning Adjustment. Today's date is November 16th, 2022. This public hearing will please come to order. My name is Fred Hill. I'm the Chairperson of the District of Columbia Board of Zoning Adjustment. Joining me today are Vice Chair Lorna John, Board Member Chrishaun Smith, and Zoning Commissioner, Peter May.

Today's hearing agenda is available on the Office of Zoning's website. Please be advised that this proceeding is being recorded by a court reporter and is also webcast live via Webex and YouTube live. The video of the webcast will be available on the Office of Zoning's website after today's hearing. Accordingly, everyone who's listening on Webex or by telephone, will be muted during the hearing.

If you're experiencing difficulty accessing Webex or with your telephone call-in, then please call our OZ hotline number at 202-727-5471 to receive Webex call-in information. In today's hearing, everyone who is listening on the Webex or by telephone will be muted during the hearing. Only persons planning to participate -- who will sign up to participate at the appropriate time will be unmuted. Please state your name and home address before providing oral testimony or your presentation. Oral presentations should be limited to a summary of your most important points. When you're finished speaking,

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1 please mute your audio so that your microphone is no longer  
2 picking up sound or background noise. Once again, if you're  
3 experiencing difficulty accessing Webex or with your telephone  
4 call-in, or if you've forgotten to sign up 24 hours prior to the  
5 hearing, then please call our OZ hotline number at 202-727-  
6 5471.

7 All persons planning to testify either in favor or in  
8 opposition, should have signed up in advance. They'll be called  
9 by me to testify. If this is an appeal, only parties are allowed  
10 to testify. By signing up to testify, all participants will read  
11 the oath or affirmation as required by Subtitle Y, 408.7.

12 Requests to enter evidence at the time of an online  
13 virtual hearing, such as written testimony or additional  
14 supporting documents, other than live video, which may not be  
15 presented as prior testimony, may be allowed pursuant to  
16 Subtitle Y, 103.13, provided that the person making the request  
17 to enter an exhibit explain a) how the exhibit is relevant; (b)  
18 the good cause it justifies allowing the exhibit into the record,  
19 including an explanation of why the requester did not file the  
20 exhibit prior to the hearing pursuant to Subtitle Y, 206, and how  
21 the proposed exhibit would not unreasonably prejudice any  
22 parties. The order of procedures for special exception and  
23 variances are pursuant to Y, 409.

24 At the conclusion of each case, an individual who's  
25 unable to testify because of technical issues may file a request

1 for leave to file a written version of the planned testimony to  
2 the record within 24 hours following the conclusion of public  
3 testimony in the hearing. If additional written testimony is  
4 accepted, then parties will be allowed a reasonable time to  
5 respond as determined by the Board. The Board will then make  
6 its decision at its next meeting session, but no earlier than 48  
7 hours after the hearing. Moreover, the Board may request  
8 additional specific information to complete the record.

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

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

22 Finally, the District of Columbia Administrative  
23 Procedures Act requires that a public hearing on each case be  
24 held in the open before the public. However, pursuant to Section  
25 405(b) and 406 of that Act, the Board may, consistent with its

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

8 Ms. Rose, do we have any preliminary matters?

9 MS. ROSE: Yes. Good morning. Yes, we have one  
10 preliminary matter today, appeal number 20800 of Ayehu Berhe will  
11 not be heard today, because it's been rescheduled to April 12th,  
12 2023. And that's all we have.

13 CHAIRPERSON HILL: Okay, great. Thank you. I think -  
14 - give me one moment. I have to get some files ready. Just one  
15 moment, please?

16 There was an email that was sent that I'm trying to  
17 find about 20760. Do you recall who sent that, Ms. Rose?

18 MS. ROSE: Mr. Nicholas.

19 CHAIRPERSON HILL: That's what I thought too.

20 Okay, great. Okay, Ms. Rose, you can call our first  
21 one when you get a chance.

22 MR. ROSE: Yes. That would be Application No. 207 --  
23 20807 of Randy Creaser. This is for a special exception from  
24 the lot occupancy requirements of Subtitle F, Section 304,  
25 pursuant to Subtitle F, Section 5201 and Subtitle X,

1 Section 901.2 to construct a rear deck addition to an existing  
2 attached three-story with cellar principal dwelling unit in the  
3 RA-2 zone. And this is at premises 1420 Q Street, Northwest,  
4 Square 209, Lot 874.

5 CHAIRPERSON HILL: Okay. Let's see. Is the Applicant  
6 here, and if so, and can hear me, could you introduce yourself  
7 please, for the record?

8 MR. CREASER: Good morning, everyone. My name is Randy  
9 Creaser. I am the owner of 1420 Q Street and the Applicant who  
10 seeks this special exception relief to allow a new, one-story  
11 deck and stairs and replace an existing concrete parking pad and  
12 install a rollover door in place of the existing concrete pad and  
13 wooden garage door in the rear of my existing single dwelling  
14 unit in the RA-2 district.

15 The property's presently a three-story single-family  
16 dwelling, and I am located -- and please correct me. I'm -- I've  
17 never done this before, so if I say too much or say the wrong  
18 term, please correct me.

19 CHAIRPERSON HILL: You're doing fine, Mr. Creaser.

20 MR. CREASER: Okay. The property is in the midblock  
21 of the RA zone. It's a 2,150 square foot improved by a  
22 three-story brick townhouse, with a cellar constructed in 1880.  
23 It occupies 2,150 square feet of livable area covering 1,018  
24 square feet of the lot. For -- the dwelling is flanked to the  
25 east and west by townhouses very similar to mine. The length of

1 the block -- there's an alley in the block directly behind the  
2 house and multi-story residential buildings are on the alley lot  
3 line behind the house.

4 The house does sit on the front property line, so what  
5 I am proposing is this one story is really replacing an existing  
6 deck with a new one-story deck and stairs and the concrete pad.  
7 But given the existing conditions of the backyard, and where  
8 there is an existing 30-year-old cherry tree, I am asking for a  
9 6.14 percent increase in my lot coverage to make the deck not  
10 interfere with the root structure of the existing cherry tree.  
11 If I could direct the Board to an exhibit.

12 CHAIRPERSON HILL: Mr. Creaser, that's actually -- I  
13 pulled up all of your exhibits and everything, and so -- and I've  
14 also read your arguments as well as that of the Office of  
15 Planning. Let me go ahead and move over Mr. Creaser, to the  
16 Office of Planning.

17 MR. CREASER: Okay.

18 CHAIRPERSON HILL: Mr. Mordfin, are -- oh, great.

19 MR. MORDFIN: I'm Stephen Mordfin with the Office of  
20 Planning. And the Office of Planning is in support of this  
21 application, finding it that it's in conformance with all the  
22 criteria necessary for the granting of a special exception to  
23 increase the lot occupancy, and therefore recommends approval.  
24 And I'm available for any questions. Thank you.

25 CHAIRPERSON HILL: Okay, great.

1 Does the Board have any questions of the Office of  
2 Planning or the Applicant?

3 (No audible response.)

4 CHAIRPERSON HILL: Mr. Young, is there anyone here  
5 wishing to speak?

6 (No audible response.)

7 CHAIRPERSON HILL: Mr. Creaser, you went through the  
8 ANC, correct?

9 MR. CREASER: Correct.

10 CHAIRPERSON HILL: Oh, okay. And just for the record,  
11 this is my ANC, and so I don't have anything biased in any way,  
12 just to let you all know. It's my ANC --

13 MR. CREASER: It was approved unanimously.

14 CHAIRPERSON HILL: Okay. Great. Thank you, Mr. Creaser.

15 All right. I don't have anything else to add. Does  
16 the Board have anything else they'd like to add?

17 (No audible response.)

18 CHAIRPERSON HILL: All right, I'm going to go ahead and  
19 close the record of the hearing.

20 Mr. Creaser, thank you for your time, and I wish you  
21 the best.

22 MR. CREASER: Oh, okay. What's the next step?

23 CHAIRPERSON HILL: Mr. Creaser, we're going to vote.  
24 We're going to analyze your application and vote, so you can just  
25 sit and listen, okay?

1 MR. CREASER: Oh, okay.

2 CHAIRPERSON HILL: We're going to excuse you now. And  
3 then if this is passed, there would be a -- an order that will  
4 be issued, and you can move forward with your project. Okay?

5 MR. CREASER: Okay. I'll be right here.

6 CHAIRPERSON HILL: All right. Thanks, Mr. Creaser.  
7 We're going to go ahead and let everybody go.

8 I'm waiting for everybody to go. Okay. Everybody is  
9 gone.

10 I thought this was really very straightforward. I  
11 didn't have any issues with it. I thought it met all the criteria  
12 for us to grant the relief requested. I also was even more so  
13 interested in the fact that this is also kind of being driven by  
14 the root structure system on the cherry tree. And so that is  
15 something that I would be able to get behind, in addition to the  
16 fact that I don't think it's interfering with the regulations.  
17 So I'm going to be voting in favor of the application.

18 May I turn to you, Mr. Smith, for anything additional  
19 to add?

20 BOARD MEMBER SMITH: I don't have anything in addition  
21 to add. I agree with your analysis of this case. I believe that  
22 the Applicant has met the burden of proof as a great special  
23 exception, because I do believe that it meets all of the criteria  
24 under Subtitle 5201 for special exception relief for lot  
25 occupancy. So with that, I'll leave it at that and just note

1 that the ANC, as you noted, is in support of it. And rest on  
2 the record.

3 CHAIRPERSON HILL: Thank you, Commissioner May?

4 COMMISSIONER MAY: I don't really have anything to add.  
5 I agree with you both.

6 CHAIRPERSON HILL: Thank you.

7 Vice Chair John?

8 VICE CHAIR JOHN: I have nothing further to add. I  
9 believe the application meets all of the criteria for special  
10 exception relief.

11 CHAIRPERSON HILL: Okay, great. Thank you. I'm going  
12 to make a motion to approve Application No. 20807 as captioned  
13 and read by the secretary and ask for a second.

14 Ms. John?

15 VICE CHAIR JOHN: Second.

16 CHAIRPERSON HILL: The motion has been made and  
17 seconded.

18 Ms. Rose, if you could take a roll call.

19 MS. ROSE: Yes.

20 When I call your name, please respond.

21 Chairman Hill?

22 CHAIRPERSON HILL: Yes.

23 MS. ROSE: Vice Chair John?

24 VICE CHAIR JOHN: Yes.

25 MS. ROSE: Board Member Smith?

1 BOARD MEMBER SMITH: Yes.

2 MS. ROSE: Commissioner May?

3 COMMISSIONER MAY: Yes.

4 MS. ROSE: And we have one board member absent. Then  
5 staff would record the vote as four to zero to one to approve  
6 the application on a motion made by Mr. Hill, seconded by  
7 Ms. John, with Mr. Smith and Mr. May in support of the motion,  
8 Mr. Blake not present and not voting.

9 CHAIRPERSON HILL: Great. Thank you. Ms. Rose, you  
10 can call our next when you get the opportunity.

11 MS. ROSE: Yes, this is a case postponed from a hearing  
12 of October 5th, 2022. It is Application No. 20760 of SC Holdings  
13 Peabody, LLC, for a special exception from the matter of right  
14 uses of Subtitle U, Section 401, pursuant to Subtitle U, Section  
15 421, and Subtitle X, Section 901.2 to allow an additional dwelling  
16 unit to an existing semi-detached, three-story, four-unit  
17 apartment house in the RA-1 zone at premises 5912 9th Street,  
18 Northwest, Square 2986, Lot 25.

19 CHAIRPERSON HILL: Okay, great.

20 If the Applicant can hear me, could they introduce  
21 themselves for the record, please?

22 MS. BREEDLOVE: Good morning, this is Hannah Breedlove  
23 from Carballo Architecture.

24 CHAIRPERSON HILL: Okay, great. Ms. Breedlove, so  
25 unless you guys have put any -- you haven't put anything new in

1 the record, right?

2 MS. BREEDLOVE: That's correct. We'd like to postpone  
3 one more time, and after that, we would have to table this one.

4 CHAIRPERSON HILL: Okay. Right. So Ms. Breedlove, I  
5 mean, we were going to -- we were -- this has been kicked around  
6 for a while. And I understand it's gotten very complicated for  
7 your client as well as the other members in the condominium  
8 association. How long is it that you think you need?

9 MS. BREEDLOVE: Honestly, I am not entirely confident  
10 that a resolution will be reached. So that's -- that is kind of  
11 our situation right now.

12 CHAIRPERSON HILL: Right.

13 MS. BREEDLOVE: At least several months would be  
14 reasonable.

15 CHAIRPERSON HILL: Right.

16 MS. BREEDLOVE: Yeah.

17 CHAIRPERSON HILL: Right. So -- and I'm just kind of  
18 -- I don't want to get my fellow board members involved, or what  
19 have you. Like, this is -- and Ms. Breedlove, you know, I'm not  
20 criticizing you. I'm saying that, like, what this is, is we  
21 normally don't do it this way. Right?

22 MS. BREEDLOVE: I understand.

23 CHAIRPERSON HILL: And so, what normally would have  
24 happened by now, is this case would have been dismissed, and then  
25 the person would have had to start again, right? Okay. So rather

1 than deal with all that, what I'm going to go ahead and propose  
2 is there is an end of the line, okay.

3 And so, Ms. Rose, when are -- when is the next  
4 time -- when what is the last day that we're currently scheduling  
5 for?

6 MS. ROSE: I think that would be April 26th. The  
7 Secretary recommended placing it on April 12th.

8 CHAIRPERSON HILL: Okay. I mean, I don't really -- go  
9 ahead and put it on April 12th.

10 MS. ROSE: Okay.

11 CHAIRPERSON HILL: Now, Ms. Breedlove, where you're  
12 going to get into problems is I don't know, you're possibly going  
13 to have a new ANC by then. Well, I mean, I know you're going  
14 to, meaning you're going to have new commissioners. And I don't  
15 know -- actually, I think you're kind -- you'll have to look into  
16 it. I don't know, right. I think you're okay, now that I think  
17 about it. I think it's only if it were a new ANC. I don't know  
18 if you have to go back to the ANC or not, you know --

19 MS. BREEDLOVE: Okay.

20 CHAIRPERSON HILL: -- because you'll have new  
21 commissioners by then. But we're going to go ahead and put this  
22 on April 12, and by April 12th, if it's not done, we're just  
23 going to dismiss it.

24 MS. BREEDLOVE: That's perfectly fair.

25 CHAIRPERSON HILL: And we might pull it before that

1 anyway. Okay, April 12th, 2023. My gosh. Okay.

2 Does any board member have anything they want to say?  
3 If so, raise your hand.

4 Okay, go ahead, Ms. John.

5 VICE CHAIR JOHN: So I agree with you, Mr. Chairman,  
6 that if there is no resolution, and we don't have the information  
7 that the board requested on April 12th, then the case should be  
8 dismissed.

9 CHAIRPERSON HILL: Okay. Okay, great. Okay.

10 So there you go. That'll go to the very back of my  
11 file.

12 MS. BREEDLOVE: Thank you all.

13 CHAIRPERSON HILL: All right, Ms. Breedlove, you have  
14 a good day.

15 MS. BREEDLOVE: You too. Thank you.

16 CHAIRPERSON HILL: Okay. Ms. Rose, you can call our  
17 next one.

18 MS. ROSE: Application No. 20805 of Amy R. Alexander  
19 and Geoffrey H. Fettus. This is a special exception from the side  
20 yard requirements of Subtitle D, Section 206.2, pursuant to  
21 Subtitle D, Section 5201, and Subtitle X, Section 901.2 to  
22 construct a one-story side addition to an existing detached  
23 two-story with basement principal dwelling unit in the R-1-B zone  
24 at premises 1530 Kearny Street, Northeast, Square 4010, Lot 43.

25 CHAIRPERSON HILL: Great. Thank you.

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1           Mr. Sullivan, if you could hear me, if you can introduce  
2 yourself for the record.

3           MR. SULLIVAN: Yes. Thank you, Mr. Chair.  
4 Marty Sullivan with Sullivan & Barros here on behalf of the  
5 Applicant.

6           CHAIRPERSON HILL: Okay, Mr. Sullivan.

7           Ms. Rose, which number are we on again?

8           MS. ROSE: 20805.

9           CHAIRPERSON HILL: Okay, great.

10          MS. ROSE: Yes.

11          CHAIRPERSON HILL: Okay. Mr. Sullivan, if you want to  
12 go ahead and walk us through your client's application, and why  
13 you believe they're meeting the criteria for us to grant the  
14 relief requested. I'm going to put 15 minutes on the clock, so I  
15 know where we are. And you can begin whenever you like.

16          MR. SULLIVAN: Yes.

17          Mr. Young, if you could please load the PowerPoint.  
18 Thank you.

19          So you can see from the coversheet here, that the area  
20 that's being renovated is highlighted on the left.

21          Next slide, please.

22          Property is in the R-1-B. It's a detached house. The  
23 proposal is to do a one-story side addition in an area where  
24 there's already a side addition. It's expanding the massing of  
25 what's there now slightly. Current side yard is 2.65. That's

1 not changing. It's at times listed, and on the OP report, it's  
2 listed as 7 feet is the existing, and that's because in the  
3 two-step process we'll demolish the current addition and replace  
4 it with a new addition.

5 Next slide, please.

6 Also, I wanted to note that the owners are here with  
7 us as well. I don't think they'll need to testify, but if you  
8 have any questions for them. So ANC-5B supports it unanimously.  
9 The Office of Planning recommends approval. There is a petition  
10 in support in addition to a -- us -- a letter, a thoughtfully  
11 considered letter from the only adjacent neighbor to this.

12 Next slide, please?

13 Here you see for context an overhead photo and the map  
14 of the location of the house. The addition is to the left of  
15 the house. As you can see, it's somewhat obstructed by trees  
16 from the front street.

17 Next slide, please.

18 This is the current addition, so it's going to be  
19 similar to this, except it's going to extend a little further  
20 back towards the rear of the house.

21 Next slide.

22 So this -- I wanted to highlight this slide page first  
23 before going into all the slides or all the plans. I'll go  
24 through the plan pages very quickly, because I think this  
25 highlights for you the dotted lines. You can see what's existing

1 there now and what's proposed to be there, and you can see how  
2 it's extending back a little bit.

3 Next slide, please.

4 And not getting any closer to the side lot line, by the  
5 way. It's in harmony with the general requirements of 901.2. It  
6 is a single family detached dwelling and a very small addition.

7 Next slide, please.

8 It really has no impact on light and air to neighboring  
9 properties. It's essentially -- it's just one story, and it's not  
10 that wide, and it's already shadowed by the existing house. For  
11 the same reasons, it doesn't change the existing privacy  
12 situation and will not be very visible from the street as well.  
13 So it will not substantially visually intrude upon character,  
14 scale, and pattern.

15 Next slide, please.

16 So, it -- here's the plans. I don't think I need to  
17 go through all the plans. I think the plan page I showed you  
18 highlighted it, if you have any questions about these plans  
19 specifically. Other than that, that's it for our presentation.  
20 Thank you.

21 CHAIRPERSON HILL: Okay, thanks, Mr. Sullivan.

22 I'm actually going to turn to the Office of Planning  
23 first, if that's okay with my fellow board members and then hear  
24 questions.

25 If the Office of Planning can hear me, could they

1 introduce themselves for the record?

2 MR. COCHRAN: I'm Steve Cochran for the Office of  
3 Planning, and OP is recommending that you approve the special  
4 exception request. They've met all the criteria in Subtitle X,  
5 Chapter 9 and in Subtitle D, Section 5201 for that minor relief  
6 from the side yard with requirements of D206.4. Of course, I'm  
7 happy to answer any questions. Otherwise, that completes our  
8 testimony.

9 CHAIRPERSON HILL: Okay. Thank you, Mr. Cochran.

10 Mr. Young, is there anyone here wishing to speak?

11 MR. YOUNG: (No audible response.)

12 CHAIRPERSON HILL: Okay. Do my board members have any  
13 questions for the Applicant or the Office of Planning?

14 VICE CHAIR JOHN: Just one quick question for the  
15 Applicant to confirm something that I thought I read. Are the  
16 windows on the addition facing the neighbor's property?

17 MS. ALEXANDER: So in the existing addition, it's  
18 basically --

19 VICE CHAIR JOHN: Ms. Alexander, you'd have to  
20 introduce yourself for the record. I was really asking Mr.  
21 Sullivan.

22 MS. ALEXANDER: I'll let him answer.

23 MR. SULLIVAN: Ryan, if you want to go ahead and  
24 introduce yourself, you can answer that question.

25 MS. ALEXANDER: Sure. I'm Amy Ryan Alexander and along

1 with my husband, Geoffrey Fettus. We own the property that's  
2 seeking a special exception. And the existing addition that is  
3 on the side of where we're planning the improvement is a wall of  
4 windows. In the proposed renovation, there'll be a skylight, but  
5 there won't be any windows on the side of the house towards 1520.  
6 So we're going from having (audio interference) windows to no  
7 windows.

8 VICE CHAIR JOHN: Thank you.

9 CHAIRPERSON HILL: Thank you, Ms. John.

10 Anyone else?

11 (No audible response.)

12 CHAIRPERSON HILL: Okay, well, I'm glad, Ms. Alexander,  
13 you got a chance to say something since you waited all that time  
14 here with us today and gone through this process.

15 And let's see, Mr. Sullivan, you want to add anything  
16 at the end?

17 MR. SULLIVAN: No, thank you.

18 CHAIRPERSON HILL: Okay.

19 All right. I'm going to go ahead and close the hearing  
20 and the record. Thank you all very much.

21 Commissioner May, I'm working on my new office. I'm  
22 going to have all kinds of junk in the background too, like, you  
23 know, because, like, I noticed our Applicant had a bear in the  
24 background. So I know -- everybody's going to be able to see the  
25 background. I'm going to put up all kinds of things too.

1 All right. Let's see. in terms of this particular  
2 application, I don't have any issues with that. I mean, they're  
3 going from what they had -- they're not increasing the side yard  
4 or decreasing the side yard. It was at 2.65. It's remaining at  
5 2.65. The neighbor to the -- that is going to be the most  
6 affected neighbor, as Mr. Sullivan stated, had written a nice  
7 letter. And I think that the Applicant has gone through a very  
8 good amount of outreach for this project, which is, again, I  
9 think de minimis in nature. However, it's always good that they  
10 go through this process so that it's easier for the Board to at  
11 least understand what the parameters are of the neighborhood.

12 In addition to that, after going over the application  
13 with regard to the regulations, I believe they're meeting the  
14 regulations for me to feel comfortable granting the application,  
15 as well as the analysis that the Office of Planning has provided,  
16 I would agree with. So I'm going to be voting in favor of this  
17 application.

18 Mr. Smith, do anything you'd like to add?

19 BOARD MEMBER SMITH: I don't have anything to add. I  
20 agree with you -- with your position on this one. The Applicant  
21 is not proposing to reduce the side yard. They're going to stay  
22 in the same plane as the existing porch, portico type of addition  
23 that they had there on the side. And I'm also noting that, as  
24 Ms. John stated, the Applicant doesn't propose to have any windows  
25 along that side that would create any type of privacy issues for

1 the adjacent property. And I'm assuming that's the reason why  
2 the adjacent property owner is in support of this application  
3 from their neighbor. So I do agree that they have met the burden  
4 of proof for us to grant the special exemption as specified in  
5 Subtitle D, 5201, and Subtitle X, 901, and would support the  
6 application.

7 CHAIRPERSON HILL: Thank you.

8 Commissioner May?

9 COMMISSIONER MAY: I believe that Board Member Smith  
10 summarized things very well. I don't have anything to add. I'm  
11 fully in support.

12 CHAIRPERSON HILL: Thank you.

13 Vice Chair John?

14 VICE CHAIR JOHN: Thank you, Mr. Chairman. I'm also in  
15 support. I believe the application meets all of the criteria for  
16 relief, and I am -- I wanted to note also that the absence of  
17 windows on the addition ensures greater privacy for the  
18 neighbors. So I would support the application.

19 CHAIRPERSON HILL: Thank you.

20 Okay. I'm going to make a motion to approve Application  
21 No. 20805, as captioned and read by the secretary and ask for a  
22 second.

23 Ms. John?

24 VICE CHAIR JOHN: Second.

25 CHAIRPERSON HILL: Thank you. The motion has been made

1 and seconded.

2 Ms. Rose, if you could take a roll call?

3 MS. ROSE: Please respond.

4 Chairman Hill?

5 CHAIRPERSON HILL: Yes.

6 MS. ROSE: Vice Chair John.

7 VICE CHAIR JOHN: Yes.

8 MS. ROSE: Board Member Smith?

9 BOARD MEMBER SMITH: Yes.

10 MS. ROSE: Commissioner May?

11 COMMISSIONER MAY: (No audible response.)

12 MS. ROSE: We have one board member absent today. Staff  
13 would record the vote as four to zero to one to approve the  
14 application on a motion by Chairman Hill, seconded by Vice Chair  
15 John, with Mr. Smith and Commissioner May in support of the  
16 motion, and one, Mr. Blake, not participating today.

17 CHAIRPERSON HILL: Thank you.

18 Okay. I know that we're doing actually extremely well  
19 on time, and so if it's all right, I am going to take a quick  
20 break just because we're doing so well on time and come back in  
21 ten minutes. Thank you.

22 COMMISSIONER MAY: Thank you.

23 (Recess.)

24 CHAIRPERSON HILL: All right, Ms. Rose, you can call  
25 our last case when you get an opportunity.

1 MS. ROSE: The last case is Application No. 20806 of  
2 GOJO, Inc. This is for a special exception from the matter of  
3 right uses of Subtitle U, Section 401, pursuant to Subtitle U,  
4 Section 421 and Subtitle X, Section 901.2, to raze an existing  
5 structure and to construct a new detached three-story with cellar  
6 seven-unit apartment house in the RA-1 zone at premises 1016  
7 Rhode Island Avenue, Northeast, Square 3871, Lot 55.

8 CHAIRPERSON HILL: Thank you.

9 Ms. Wilson, if you can hear me, if you can introduce  
10 yourself for the record.

11 MS. WILSON: I'm Alex Wilson from Sullivan and Barros  
12 on behalf of the Applicant in this case.

13 CHAIRPERSON HILL: Okay. Ms. Wilson, I guess if you  
14 want to go ahead and walk us through your application as to why  
15 you believe your Applicant is meeting the criteria for us to  
16 grant the relief requested. I am going to put 15 minutes on the  
17 clock so I know where we are. And I know that there was some  
18 concerns from DDOT that we've all read about. And so that might  
19 be obviously something you're going to speak to. And you can  
20 begin whenever you like.

21 MS. WILSON: Okay. Thank you so much. Can you all  
22 hear me? I just got a message.

23 CHAIRPERSON HILL: Yes.

24 MS. WILSON: Okay. My volume was really low, so let  
25 me know. We do have a presentation if Mr. Young could bring that

1 up. Thank you. So -- if you'd go to the next slide, please.

2 The property is located in a RA-1 zoning district. The  
3 proposal is for a new seven-unit apartment building; therefore,  
4 the proposal requires relief for the new apartment use pursuant  
5 to U-421. The building envelope meets all development standards.  
6 OP is recommending approval. We've obtained unanimous ANC support  
7 and have a signed CMA with the ANC, and I believe they submitted  
8 that as part of their report. We've obtained multiple letters in  
9 support, including one from the next door owner of 1018 Rhode  
10 Island.

11 In terms of DDOT's report, our preference would be to  
12 move forward with the proposal as shown and have the opportunity  
13 to make our case to retain the curb cut to the Public Space  
14 Committee. They'll ultimately make that decision. We do  
15 understand DDOT's position, but at this point, no official  
16 decisions have been made. I mean if we asked for parking room  
17 now and proposed to close the curb cut on the plans, and then  
18 that's approved here, it effectively kills our opportunity to  
19 present a full case to the Public Space Committee and makes that  
20 decision that we shouldn't have the curb cut, and that will hurt  
21 our opportunity to make that case in front of Public Space.

22 Again, we understand DDOT's policy and are aware that  
23 we would have to come back to the Board if the curb cut renewal  
24 or reapproval were denied. And then I did see that there were  
25 concerns over trash and possibly impact on that tree if the curb

1 cut had to be brought up to standard -- modern standards. And so  
2 I believe that would either be worked out during Public Space,  
3 although we are happy to have conditions to the Order if this is  
4 approved regarding that trash collection to mitigate the  
5 concerns. And if at the end, the Board finds that it just cannot  
6 approve this without asking for parking special exception because  
7 of DDOT's report, we would just appreciate the opportunity to  
8 amend the application.

9 But again, our preference would be to move forward with  
10 this plan as that would give us an opportunity to actually present  
11 this in front of Public Space. Thank you.

12 Next slide, please.

13 Back to the case. The proposal meets the general  
14 special exception requirements as it is sufficiently set back  
15 from the neighboring buildings and fits the purpose of the RA-1  
16 zone, which is a residential apartment zone.

17 Next slide, please.

18 The proposal meets the specific requirements of  
19 U-421, as the proposal is limited to only seven residential units  
20 and the available infrastructure is sufficient for this addition.  
21 Even with or without the parking space -- spaces, I think these  
22 requirements would be met given the infrastructure surrounding  
23 the property.

24 Next slide, please.

25 We have the architect, Mr. Nyein here. I'm just going

1 to run through two slides that give an overview, but he is  
2 available for questions if there are any after. And this slide  
3 just shows the proposed elevations and materials. They won't be  
4 quite as vibrant, as you can see from the samples. It's just  
5 enhanced a bit here to distinguish the different materials.

6 Next slide, please.

7 And this is a copy of the site plan. And I just put  
8 this up there to show that the permeable pavers were added to  
9 address the ANC's concerns over stormwater management.

10 Next slide, please.

11 Thank you. That's it for the presentation. Again, I'm  
12 happy to address any questions or speak more about anything.

13 CHAIRPERSON HILL: Okay, great. Thank you. I'm just  
14 pulling up some of your application.

15 Does the Board have any questions of the Applicant?

16 BOARD MEMBER SMITH: I have some -- Oh, go ahead, Mr.  
17 May.

18 COMMISSIONER MAY: I just have one quick question about  
19 the ANC report which cites the stormwater concern, but I couldn't  
20 decipher the actual vote. Did they actually vote in favor of  
21 this?

22 MS. WILSON: Yes, by four to zero to zero.

23 COMMISSIONER MAY: Okay. I'm -- I've read through that  
24 report like three times. I didn't see that vote reflect. I mean  
25 I saw the vote reflected, but I didn't see what they were voting

1 for, other than that they had this concern.

2 MS. WILSON: I know. I saw that too. So I -- you  
3 know, on the record, we were there, and it was four to zero to  
4 zero in favor.

5 COMMISSIONER MAY: All right. Very good. Thank you.  
6 That's it for my question.

7 BOARD MEMBER SMITH: That was actually my question, so  
8 thank you.

9 CHAIRPERSON HILL: Okay.

10 Vice Chair John, do you have anything? No?

11 VICE CHAIR JOHN: No, Mr. Chairman.

12 CHAIRPERSON HILL: Okay. I'm going to turn to the Office  
13 of Planning.

14 MS. THOMAS: Yes, good morning, Mr. Chair, members of  
15 the Board. Karen Thomas with the Office of Planning, and the  
16 Office of Planning is in support of this application. The  
17 proposed apartment meets all the bulk rear yard requirements, and  
18 it's not unlike other new builds that are going up into -- along  
19 Rhode Island Avenue.

20 Where the Applicant expressed concerns with respect to  
21 DDOT's report, we are in support of the Applicant pursuing any  
22 remedies in the best interest of their client. And either way,  
23 we'll be in support of the application. If we have to write a  
24 supplemental for the future, we will be happy to do so.

25 And you were asking if -- about the ANC's report. I

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1 saw four to zero to zero. If you -- there's a little line at  
2 the bottom of the ANC's report where they indicate their support  
3 for the application, because I had that question myself, but I  
4 did see it. I could tell you where it is. It's --

5 COMMISSIONER MAY: Yeah.

6 MS. THOMAS: You see it?

7 BOARD MEMBER SMITH: Yeah, I see it now.

8 MS. THOMAS: All right. Yeah.

9 COMMISSIONER MAY: So where is it? Is it --

10 MS. THOMAS: It says authorization or at the bottom of  
11 the blue page. Yeah, you see it?

12 BOARD MEMBER SMITH: It's on the -- Mr. May, it's on  
13 the first page, you see ANC-5B, 5B written there?

14 CHAIRPERSON HILL: Yeah.

15 MS. THOMAS: Yeah, and it says recorded vote on the  
16 motion to adopt the report four to zero to zero. You see it?

17 VICE CHAIR JOHN: It's on the Form 129.

18 COMMISSIONER MAY: But not on the report?

19 VICE CHAIR FORM: No, Form 129.

20 MS. THOMAS: Form 129, yeah.

21 COMMISSIONER MAY: Yeah, I'm looking at Form 129.

22 MS. THOMAS: Okay. So go down to the bottom where it  
23 says -- at that dark band that says authorization.

24 COMMISSIONER MAY: Yeah.

25 MS. THOMAS: And it says ANC-5B. It says recorded vote

1 on the motion to adopt the report: four to zero to zero. Just  
2 before their signatures. Just above the signatures.

3 COMMISSIONER MAY: That's -- I saw that, but --

4 MS. THOMAS: Oh, okay.

5 COMMISSIONER MAY: -- the recommendation basically --  
6 I mean it -- the only attachment is the CMA. Oh. Oh, wait, the  
7 bottom? No. No.

8 VICE CHAIR JOHN: Oh. Oh, I see the issue.

9 MS. THOMAS: What is it?

10 COMMISSIONER MAY: The Construction Management  
11 Agreement.

12 MS. THOMAS: Okay.

13 COMMISSIONER MAY: And nothing on the blue page, the  
14 Form 129, that says that they support it. "The Commission  
15 incorporates by reference of the SMD 5B04 as part of its decision  
16 in this case (see attached CMA)."

17 MS. THOMAS: Oh, you mean it says with a recommendation,  
18 if any?

19 VICE CHAIR JOHN: Uh-huh.

20 COMMISSIONER MAY: Yes.

21 MS. THOMAS: Okay. That's where they should have put  
22 -- I think that might be a --

23 COMMISSIONER MAY: Yeah.

24 MS. THOAMS: -- you know, a misunderstanding on their  
25 part, yeah.

1 COMMISSIONER MAY: Yeah, that's why I asked the  
2 question. I mean, you know, we're supposed to give great weight  
3 to the concerns of the ANC. So the fact that we have a report,  
4 and it's duly noticed, and it's voted on --

5 MS. THOMAS: First (indiscernible).

6 COMMISSIONER MAY: -- it's -- we can still give great  
7 weight to the concerns that are noted, which is stormwater  
8 drainage, which the Applicant has addressed. But we just don't,  
9 you know, I was just trying to find out whether they were actually  
10 in support of this and had the stormwater drainage concern --

11 MS. THOMAS: I see.

12 COMMISSIONER MAY: -- or were they opposed because of  
13 stormwater. But now it's -- I mean I understand the situation  
14 now, but I didn't see a clear vote in support.

15 MS. THOMAS: I see that. I didn't see it before.

16 BOARD MEMBER SMITH: I have one more question for the  
17 Applicant.

18 CHAIRPERSON HILL: All right, Mr. Smith, go ahead and  
19 --

20 BOARD MEMBER SMITH: All right. Ms. Wilson, in light  
21 of, you know, some of this discussion about the support of the  
22 ANC. And what we have heard from this ANC in the past was  
23 concerns about parking, and it seems that they supported it. Was  
24 it -- I would say -- was their support of this because you're  
25 meeting the parking requirement, and would that potentially

1 change if, you know, in light of some of the concerns that DDOT  
2 raised about curb cut.

3 MS. WILSON: (Indiscernible) speculate. I have heard  
4 similar concerns in this area. I'll just say that. I absolutely  
5 don't want to speculate on what the ANC would do, but part of  
6 the reason we want to pursue this is it seemed like that was a  
7 benefit to the area to maintain the parking. And there's an  
8 existing curb cut. There's existing parking there, so it appeared  
9 to be an overall benefit. And then of course, if you read through  
10 the CMA, one of the things they requested we do is provide  
11 Bikeshare memberships for everybody moving into the building,  
12 something to that effect, so we agreed to that, and that was also  
13 part of it. So that was the discussion about transportation and  
14 parking.

15 BOARD MEMBER SMITH: You agreed to that in the  
16 Construction Management Agreement?

17 MS. WILSON: It is -- I believe, so. I mean it wasn't  
18 the exact language. But that was one of the requests. So it's  
19 our standard construction management agreement, and we added that  
20 in for them at their request.

21 BOARD MEMBER SMITH: Well, that's not just for the  
22 period of construction, that would be in perpetuity, am I right?

23 MS. WILSON: Right. That's just what they asked us to  
24 add in, you know, community agreement. Maybe I need to rename  
25 the agreement, but --

1 BOARD MEMBER SMITH: Yes. Yeah, probably want to rename  
2 that and so it's in perpetuity and not --

3 MS. WILSON: Yeah.

4 BOARD MEMBER SMITH: -- just subject to the period of  
5 construction.

6 MS. WILSON: Well, it's -- the agreement isn't just for  
7 the period of construction, it's just the title of the agreement.  
8 But the actual benefit that we're providing for just that first  
9 year of move-in, like a one-year --

10 BOARD MEMBER SMITH: Okay.

11 MS. WILSON: -- agreement so that it is in there, so.

12 BOARD MEMBER SMITH: Okay. All right. That's the only  
13 question that I had.

14 CHAIRPERSON HILL: Okay.

15 Mr. Young, is there anyone here wishing to speak?

16 MR. YOUNG: There's one in opposition.

17 CHAIRPERSON HILL: Okay. Could you please introduce  
18 that person to me, please?

19 MR. YOUNG: That is Louise Brodnitz.

20 MS. BRODNITZ: This is Louise Brodnitz. I didn't hear  
21 if I was introduced.

22 CHAIRPERSON HILL: Oh, okay. Ms. Brodnitz, if you --  
23 would you like to give your testimony?

24 MS. BRODNITZ: Yes.

25 CHAIRPERSON HILL: Okay. You'll have three minutes,

1 Ms. Brodnitz, and you can begin whenever you like.

2 MS. BRODNITZ: I am a resident of 1009 Douglas Street  
3 immediately to the rear of this property, and I want -- I don't  
4 think there's anything that's going to stop this train, but I  
5 want to show Zoning and Planning that this was an incredibly  
6 missed opportunity. My property is a rental, and I had contacted  
7 the previous owner who was stuck in probate. He and I were known  
8 to each other, and we had a very pleasant relationship, and --  
9 but she moved to Virginia. And so I called her every now and  
10 then to check on her progress, because I told her that I would  
11 pay market rate for her property. She then somehow got her arm  
12 twisted to sell to this company, and the problem isn't that I  
13 lost out on a deal. Whatever.

14 The problem is that this deal would have been much  
15 better for the City if we had combined the properties, and there  
16 would have been a larger footprint. There would be no need for a  
17 curb cut off of road -- busy Rhode Island Avenue Northeast,  
18 because mine has alley access. And also, mind you, the next-  
19 door neighbor did not complain, because they have a driveway, and  
20 they know that this if this was approved that they would get  
21 approved and of course they've been approve -- they're going to  
22 write a letter in support.

23 So the opportunity missed is for Zoning and Planning  
24 not to take a proactive view. They took instead reactive. I  
25 never was notified of -- by the owner of anything. I got a notice

1 from the City, but I contacted the owner looking up his address  
2 online and got no response. My contact was just to say, "if  
3 you're interested in discussing to call me," and he never did.

4 So DDOT's complaint that they have a curb cut where  
5 they don't want one is extremely valid. And it's so unfortunate,  
6 that not only did they not get that curb cut taken away, they'll  
7 have a second curb cut from the building next door. They lose  
8 out the option to have a bigger building with a more affordable  
9 housing option. And finally, my plan with development of this  
10 property was going to be to give the owners a share in the  
11 profits, and so that was missed too.

12 Anyway, I just hope that the Applicant respects my  
13 tenants in my building which backs up to theirs. They're going  
14 to endure a long time of construction disruption, and I -- I'm  
15 worried about that. But the main thing is I want DDOT -- sorry  
16 -- I want Zoning and Planning offices to take a long hard look  
17 at the idea that they just let these things sail through without  
18 any idea about neighbors offering solutions to something that the  
19 individual buyer has not looked into himself. I don't know if  
20 I'm making myself clear, but it's --

21 CHAIRPERSON HILL: Yeah, yeah.

22 MS. BRODNITZ: -- really, really unfortunate.

23 CHAIRPERSON HILL: Okay. You're making yourself clear,  
24 Ms. Brodnitz.

25 Does the Board have any questions of the witness?

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1 (No audible response.)

2 CHAIRPERSON HILL: Okay.

3 All right. Ms. Brodnitz. Thank you so much for your  
4 testimony.

5 MS. BRODNITZ: Thank you.

6 CHAIRPERSON HILL: Bye-bye.

7 Okay. Does the Board have any final questions of the  
8 Applicant?

9 (No audible response.)

10 CHAIRPERSON HILL: Okay.

11 Just for my two cents, I guess, I guess we are going  
12 to go ahead, Ms. Wilson, it looks like, and discuss your  
13 application the way it is. And to clarify, I guess, if you're  
14 going to need it -- depending upon how the deliberations go, if  
15 you are going to need to come back to us, then you're going to  
16 have to come back to us is what the current plan seems to be. So  
17 with that, Ms. Wilson, do you have anything else you'd like --

18 Oh, Ms. -- Vice Chair John, you have your hand up.

19 VICE CHAIR JOHN: So I just want some clarification.  
20 It's been some time since I looked at the plans. So the parking  
21 spaces are on the plans now. So if we approve -- but there is no  
22 request for parking relief. I just don't want to see us get in  
23 a situation where we approve plans that have parking on them, but  
24 there's no request for relief. I think in the past, we've asked  
25 the Applicants to remove the parking.

1 MS. WILSON: So right now we're not asking for any  
2 parking relief, because we are showing parking and no decision  
3 has been made for the curb cut. So technically, right now we  
4 still have the curb cut, and we're going to show parking. When  
5 we go to the Public Space Committee, they're going to make a  
6 decision to either reapprove that curb cut or not. At that time,  
7 if they decide that they are not allowed to have the curb cut,  
8 we'd have to come back here, and we'll remove all of that from  
9 the plan. But the other alternative is for us to amend this now  
10 and remove it as for parking relief, and then we can still go to  
11 Public Space Committee and possibly be approved and then do the  
12 same thing.

13 So this is just the path that we're choosing, which is  
14 to show what as of now, we can do by right, given that Public  
15 Space has not made a decision, and there is an existing curb cut.  
16 And we're taking a risk that Public Space denies it, at which  
17 point we will be back. That's a guarantee that we would be back  
18 for parking relief. So there wouldn't be any risk in approving  
19 the plan right now.

20 VICE CHAIR JOHN: Okay. I'm going to defer to the  
21 resident architect. So you're saying that right now, the plan,  
22 the -- because there's a curb cut shown, right, you could build  
23 in the parking. It just won't be approved when you get to the  
24 Public Service Committee, and you would have to remove it and  
25 then come back to the BZA for relief.

1 MS. WILSON: Correct.

2 VICE CHAIR JOHN: Okay. So I guess in that case, I  
3 would be fine with approving the application as shown on the  
4 plans, since as it is on the plan, there's no need for relief.  
5 It's just that the parking -- the space, you know, public space  
6 permit might be denied.

7 MS. WILSON: Right. We --

8 VICE CHAIR JOHN: Okay.

9 MS. WILSON: Yeah, that's just the risk.

10 VICE CHAIR JOHN: And I'm fine, Mr. Chairman.

11 CHAIRPERSON HILL: Okay. Thank you, Vice Chair John.

12 All right. Okay, Ms. Wilson, anything else?

13 MS. WILSON: No, thank you.

14 CHAIRPERSON HILL: All right.

15 I'm going to close the hearing and the record.

16 Okay. Does anybody else want to start the  
17 deliberations, because I've been talking a lot?

18 VICE CHAIR JOHN: I'll add a couple thoughts. I thought  
19 the presentation was straightforward in showing how the  
20 application meets the criteria for relief under the U-421, and I  
21 think that if we were to approve this application, we should add  
22 that the Applicant will return to the BZA to request relief if  
23 the parking space permit is denied. And I would just like to  
24 hear what others think about that recommendation. Otherwise, I  
25 think the application is fairly straightforward, and I will give

1 great weight to the -- OP's analysis.

2 CHAIRPERSON HILL: Mr. Smith?

3 BOARD MEMBER SMITH: I do you agree that I believe that  
4 the Applicant has met the burden of proof for us to grant the  
5 special exceptions here -- I mean, for this particular project  
6 insofar as the parking. You know, I think in other situations,  
7 I could go one way or the other and be, like, well, maybe we need  
8 to, you know, have them have more dialogue with DDOT. But I  
9 think in this particular instance, given the history of, you  
10 know, some of the concerns that we heard of the -- in this ANC  
11 about these types of developments that impacts the parking, I'm  
12 comfortable with going forward with the proposal as presented  
13 that shows the parking. And if the Applicant wants to incur the  
14 risk of going to DDOT and asking to keep this curb cut, which  
15 seems like it's probably a little bit more slim than the Applicant  
16 states, given that this is a major road, it's Rhode Island Avenue.  
17 I highly doubt that be that DDOT allow them to keep that curb  
18 cut. In that case, they maybe will come back to us and plead  
19 their case for parking reduction to zero. And just keep in mind  
20 that they're just required to have one, based on the zoning  
21 requirements because of its adjacency to the Metro.

22 In regards to the condition that you had stated, Ms.  
23 John, as far as that condition, it seems to me that if they are  
24 denied the curb cut, then their hand is forced to come back to  
25 us in the first place, because it wouldn't meet -- it -- they

1 wouldn't meet their -- the one space parking requirement, so they  
2 would have to come and get a parking reduction regardless. So  
3 they wouldn't be able to move forward. So I don't -- I'm not in  
4 favor of including that condition, but I am in favor of including  
5 a condition about the trash that would require them to, you know,  
6 craft some type of condition that requires trash to be picked up  
7 from the curb and not from some type of container that's to the  
8 rear of the parking lot. Regardless of how the situation goes  
9 with the curb cut, that will need to happen. All the trash will  
10 need to be wheeled to the curb to Rhode Island Avenue.

11 CHAIRPERSON HILL: Ms. John, are you okay with that?

12 VICE CHAIR JOHN: I'm just not -- I'm not totally okay  
13 with that. I just -- there are a few cases where we approve  
14 drawings that can't be built, and then, you know, someone at --  
15 in Zoning misses it and then, you know --

16 CHAIRPERSON HILL: That's fine. I mean, we -- I don't  
17 think it's a big deal to put a condition in there and they have  
18 to come back to us, you know, if they -- I mean, I think I will  
19 agree with both of you. Like, I don't think it matters one way  
20 or the other to be quite honest. Like, I think if they don't  
21 get the curb cut, they won't be able to provide the parking,  
22 they'll have to come back to us, and they won't be able to build  
23 it the way the plans are done. But I understand, Ms. John, if  
24 it makes you feel more comfortable putting the condition in there,  
25 because of things that have happened in the past with plans.

1 Commissioner May?

2 COMMISSIONER MAY: I don't think I have anything to  
3 add. Once again, everything has been discussed. I agree with  
4 everybody. And I agree with you agreeing with both sides of the  
5 argument that Vice Chair John and Board Member Smith proposed.  
6 I mean, I could, you know, I could go either way on whether or  
7 not we include the condition about having to come back for relief,  
8 because, again, it's covered in the regs, so. But I don't object  
9 to it, I'll put it that way. I certainly don't object to it.

10 CHAIRPERSON HILL: Mr. Smith, can you tell me what  
11 condition you're speaking, like, how you would like the condition  
12 crafted for the trash?

13 BOARD MEMBER SMITH: I don't --

14 VICE CHAIR JOHN: Under trash, I thought they had  
15 amended the drawings to show where the trash was going to be.

16 BOARD MEMBER SMITH: Let me take a look. Don't know.

17 VICE CHAIR JOHN: Well, they said that in their  
18 construction agreement. Am I thinking of the same case?

19 BOARD MEMBER SMITH: I know -- I think they did say it  
20 in the construction agreement, but I believe that the Applicants  
21 stated that they would be comfortable with putting some form of  
22 a condition in that speaks to DDOT's concerns about it. So you  
23 know, we could, you know, put in a requirement that trash shall  
24 be, you know, picked up in the form of curbside loading.

25 VICE CHAIR JOHN: Okay. Let's see what DDOT said since

1 that was -- it was in the DDOT report, so if anyone can get to  
2 it before me.

3 BOARD MEMBER SMITH: It's the last paragraph of -- in  
4 the loading section on page 2.

5 VICE CHAIR JOHN: Okay. I lost it.

6 CHAIRPERSON HILL: Yeah.

7 VICE CHAIR JOHN: I missed it.

8 CHAIRPERSON HILL: DDOT recommends curbside loading  
9 where trash bins are rolled to Rhode Island Avenue curb for  
10 collection. That would be the condition.

11 COMMISSIONER MAY: Yeah.

12 CHAIRPERSON HILL: Okay. Fine.

13 Okay. All right. So the only thing I want to mention,  
14 too, was I thought the witness, it was interesting in that I  
15 don't know how they would do that. Like, what's -- what the  
16 witness seemed to be saying was that the City could somehow figure  
17 out how to -- and I don't think it's such a bad idea, I just  
18 don't know how one would do it -- the City should figure out how  
19 to talk to adjacent properties to get better benefit prior to a  
20 project moving forward. And I think that would just be  
21 complicated. But I don't, you know, it sounds as though if there  
22 was some way to do that, that that seems like something that you  
23 would think that entrepreneurs in general and developers in  
24 general would try to go through that hoop to begin with, you  
25 know, be like, okay, how can we make more money? You know. But

1 I don't have an answer for that one, unfortunately.

2 Okay. I'm going to make a motion then to approve  
3 Application No. 20806 with the condition that if parking needs  
4 to be changed due to discussions with DDOT, the Applicant will  
5 come back to the BZA for relief, and that the curbside loading  
6 where trash bins are rolled to Rhode Island Avenue curb for  
7 collection will take place. And when I refer the legal counsel,  
8 when they're putting together the Order, as I mentioned about the  
9 returning test for the BZA relief, if parking is not the way it  
10 is in the plans, and then also it is on the third paragraph of  
11 the loading portion of the DDOT report, last -- second to last  
12 sentence and ask for a second.

13 Ms. John?

14 VICE CHAIR JOHN: Second.

15 CHAIRPERSON HILL: Thank you.

16 The motion has been made and seconded.

17 Ms. Rose, if you could take a roll call.

18 MS. ROSE: Please respond.

19 Chairman Hill?

20 CHAIRPERSON HILL: Yes.

21 MS. ROSE: Vice Chair John?

22 VICE CHAIR JOHN: Yes.

23 MS. ROSE: Board Member Smith?

24 MS. ROSE: Commissioner May?

25 COMMISSIONER MAY: Yes.

1 MS. ROSE: And I'll -- we have one board member absent.  
2 Staff would record the vote as four to zero to one to approve  
3 the application with two conditions. This is on a motion by  
4 Chairman Hill, seconded by Vice Chair John, with Mr. Smith and  
5 Mr. May in support of the motion, Mr. Blake not present and not  
6 voting.

7 CHAIRPERSON HILL: Well, I guess I didn't realize. I  
8 guess we had an appeal today, and that is what happened as to  
9 why we're brief. But I am comfortable with that. So if anyone  
10 has anything else to add, please raise your hand.

11 (No audible response.)

12 Okay, then we stand adjourned. Thank you so much. See  
13 you all next time.

14 VICE CHAIR JOHN: Thank you.

15 COMMISSIONER MAY: All right. Bye.

16 VICE CHAIR JOHN: Bye.

17 (Whereupon, the above-entitled matter went off the  
18 record at 10:49 p.m.)  
19  
20  
21

C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: Public Hearing

Before: DCBZA

Date: 11-16-22

Place: Teleconference

was duly recorded and accurately transcribed under my  
direction; further, that said transcript is a true and  
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