

GOVERNMENT OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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REGULAR PUBLIC MEETING & HEARING

+ + + + +

WEDNESDAY

FEBRUARY 8, 2023

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

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

FREDERICK HILL, Chairperson
LORNA JOHN, Vice Chairperson
CARL H. BLAKE, Commissioner
ROBERT MILLER, Zoning Commission Vice Chair

BOARD OF ZONING ADJUSTMENT STAFF PRESENT:

CLIFFORD MOY, Secretary
PAUL YOUNG, Data Specialist

BOARD OF ZONING ADJUSTMENT LEGAL COUNSEL:

MARY NAGELHOUT, Esquire

The transcript constitutes the minutes from the Regular Public Hearing held on February 8, 2023.

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

Case No. 20864

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

(9:30 a.m.)

CHAIRPERSON HILL: Good morning, ladies and gentlemen and the Board of Zoning Adjustment. Today's date is 02/08/2023. 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 is Vice Chair Lorna John, and Board Members Carl Blake and the Zoning Commissioner today will be Rob Miller.

Today's meeting and hearing agenda are available on the office of Zoning's website. Please be advised that this proceeding is being recorded by a court reporter, it's also webcast live via Webex and YouTube Live. The video of the webcast will be available on the Office of Zoning website after today's hearing. Accordingly, everyone who is listening on Webex or by telephone will be muted during the hearing. Also please be advised that we do not take any public testimony in our decision meeting sessions.

If you're having difficulty accessing Webex or with your telephone call-in, then please call our OZ hotline number at 202-727-5471, it's also listed on the screen.

At the conclusion of a decision meeting session, I shall, in consultation with the Office of Zoning, and/or a meeting session -- hearing session, determine whether a full or summary order may be issued. A full order is required when the decision

1 it contains is adverse to a party, including an affected ANC. A
2 full order may be also needed if the Board's decision differs
3 from the Office of Planning's recommendation. Although the Board
4 favors the use of summary orders whenever possible, an applicant
5 may not request the Board to issue such an order.

6 In today's hearing session, everyone who is listening
7 on Webex or by telephone will be muted during the hearing, and
8 only persons who have signed up to participate or testify will
9 be unmuted at the appropriate time. Please state your name and
10 home address before providing oral testimony or your
11 presentation. Oral presentations should be limited to a summary
12 of your most important points. When you're finished speaking,
13 please mute your audio so that your microphone is no longer
14 picking up sound or background noise. All persons planning to
15 testify either in favor or in opposition should have signed up
16 in advance. They'll be called by name to testify. If this is
17 an appeal, only parties are allowed to testify. By signing up
18 to testify, all participants completed the oath or affirmation
19 as required by Subtitle Y 408.7. Requests to enter evidence at
20 the time of an online virtual hearing, such as written testimony
21 or additional supporting documents, other than live video, which
22 may not be presented as part of the testimony, may be allowed
23 pursuant to Subtitle Y 103.13, provided that the person who's
24 making the request to enter an exhibit explain how the proposed
25 exhibit is relevant, the good cause that justifies allowing the

1 exhibit into the record, including an explanation of why the
2 requester did not file the exhibit prior to the hearing, pursuant
3 to Y 206, and how the proposed exhibit would not unreasonably
4 prejudice any parties.

5 The order of procedures for special exceptions and
6 variances are in Y 409.

7 At the conclusion of each case, an individual who was
8 unable to testify because of technical issues may file a request
9 for leave to file a written version of the planned testimony to
10 the record within 24 hours following the conclusion of public
11 testimony in the hearing. If additional written information is
12 accepted, then parties will be allowed a reasonable time to
13 respond, as determined by the Board. The Board will then make
14 its decision at its next meeting session, but no earlier than 48
15 hours after the hearing.

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

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

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

6 Mr. Secretary, do we have any preliminary matters?

7 MR. MOY: Good morning, Mr. Chairman and members of the
8 Board. I -- thank you. I only have a brief announcement with
9 regards to today's hearing docket Case Application No. 20785 of
10 Andy and Debbie Wilson, LLC has been postponed and continued to
11 a hearing date on May 10th, 2023. Other than that, we do have
12 some other preliminary matters, but I think it will be best that
13 I bring that to your attention when I call the case. Thank you,
14 sir.

15 CHAIRPERSON HILL: Okay. Great. Thank you.

16 Good morning, everyone.

17 Mr. Moy, you can go ahead and call our first case, if
18 you like.

19 MR. MOY: The first case before the Board in its public
20 hearing session is Application No. 20864 of Brenda Hunter. Mr.
21 Chairman, this is an application pursuant to Subtitle X, Section
22 901.2 for special exception under Subtitle D, Section 5201 from
23 the side yard requirements of Subtitle D, Section 206.2. The
24 property is located in the R-2 zone at 3614 Martin Luther King,
25 Jr. Avenue, S.E., Square 6090, Lot 15. The only other addition

1 I'd like to bring to your attention is that the Applicant filed
2 -- or attempted to file the affidavit of posting, and that was
3 within the 24-hour clock. So if you wish to have that in the
4 record, you would have to give your consent.

5 CHAIRPERSON HILL: Okay.

6 Unless the Board has an issue, I'd like to be able to
7 take a look at the affidavit of posting. So unless someone has
8 any issue, please speak up.

9 All right. Then we're going to go ahead and put that
10 into the record. Mr. Moy, if you could please ask the staff to
11 do so.

12 And then if the Applicant or the person who's going to
13 present can hear me, if they could please introduce themselves
14 for the record? Ms. Hunter, I guess you're muted if you're trying
15 to speak.

16 MS. HUNTER: Sorry. Good morning. My name's Brenda
17 Hunter. And I don't see my engineer here, but I'm here.

18 CHAIRPERSON HILL: Okay. I see someone from Bay
19 Structural Engineering perhaps?

20 MR. LEMMA: Yeah, I'm here.

21 MS. HUNTER: Oh, I'm sorry.

22 CHAIRPERSON HILL: Okay. If you could introduce
23 yourself for the record please?

24 MR. LEMMA: Me?

25 CHAIRPERSON HILL: Yes.

1 MR. LEMMA: I'm Tezera Lemma, and working for Bay
2 Structural Engineering.

3 CHAIRPERSON HILL: Okay. Great.

4 All right. Ms. Hunter, if you could go ahead and tell
5 us about your project and I guess how you believe you're meeting
6 the criteria for us to grant the relief requested? I'm going to
7 put 15 minutes on the clock just so I know where we are. I
8 realize you're probably not a zoning attorney, but you may be,
9 but if you could -- you're smiling I assume that's a no -- if
10 you could go ahead -- and again just tell us about your project
11 and the Board will have any questions for you as you walk us
12 through your presentation.

13 MS. HUNTER: Yes, sir. Good morning, everybody. Thank
14 you for having me and hearing my case. Again, my name's Brenda
15 Hunter. And the reason for this project is because my mother,
16 who's 79 years old, lived with my sister for many, many years.
17 My sister has since become handicapped herself. My mother is
18 currently bedridden. And so my sister sold her house, and so
19 I'm taking my mother into my home. And the addition would be
20 her place of residence. And where I live, currently live, there
21 was an issue with the side requirement of the house needing to
22 have five feet on both sides before I can add an addition to the
23 house. So I'm requesting the exception so that I can -- and my
24 neighbors, you know, have been asked and they are all in
25 agreement, they know my mother and love her. And I'm just, you

1 know, trying to, you know, give my mother -- continue to give my
2 mother her flowers while she's here and help take care of her.
3 And so that's the whole reason for my presence and the request
4 for the addition.

5 CHAIRPERSON HILL: Okay. Thanks, Ms. Hunter. I am
6 going through similar things with my parents and so I can
7 empathize. And so good luck to you. And I -- you're doing a
8 good thing (indiscernible). Yeah. So let's see, the only
9 questions I have, Ms. Hunter, and we can talk about this a little
10 bit with the Office of Planning, again there was some discussion
11 about the windows that were on the side and whether or not those
12 windows could look into your neighbor's property and if there was
13 -- are glazing on those. Do you know what the Office of Planning
14 was speaking about?

15 MS. HUNTER: Yes, it was something about the windows
16 on the north side of the house. And there's no windows currently
17 there now. So I don't have an issue with, you know, that to be
18 the case. You know, as the addition is being built, I don't need
19 a window there. And you know, if that's a requirement, I have
20 no issue with that.

21 CHAIRPERSON HILL: Okay. I'm just trying to look up
22 the architectural plans and understand where the Office of
23 Planning is speaking to you. But we can get more specificity
24 from the Office of Planning when we hear from them.

25 Does the Board have any questions of the Applicant

1 before I turn to the Office of Planning?

2 Go ahead, Mr. Blake.

3 COMMISSIONER BLAKE: Yeah, quick question. The windows
4 that we're talking about are located on -- in the bathroom,
5 correct.

6 MR. LEMMA: That's correct.

7 COMMISSIONER BLAKE: And there are two windows in each
8 bathroom?

9 MR. LEMMA: Yes, one upstairs, one downstairs, yes.

10 COMMISSIONER BLAKE: No, no. But is -- are there two
11 windows in each bathroom? I looked at the plans and it seemed
12 like there were two windows in each bathroom.

13 MR. LEMMA: On the elevation it shows one window. On
14 the -- if you have drawing A001, there is only one window.

15 COMMISSIONER BLAKE: Could you -- could we somehow pull
16 that up because I thought I saw two?

17 MR. LEMMA: Are you look at the floor plans?

18 COMMISSIONER BLAKE: I'm looking at the floor plans and
19 I'm also looking at your rear elevation.

20 MR. LEMMA: Oh, the rear elevation has -- it has two
21 windows, one for the -- you know, the bathroom, one the side it
22 has only one window.

23 COMMISSIONER BLAKE: Okay.

24 MR. LEMMA: One window -- there are two windows into
25 the bathroom, one is at the rear of the house. And the other

1 one is on the side, yes.

2 COMMISSIONER BLAKE: Okay. So the bathroom has two
3 windows -- each bathroom has two windows?

4 MR. LEMMA: Yes.

5 COMMISSIONER BLAKE: One window in the rear and one
6 window on the --

7 MR. LEMMA: Side.

8 COMMISSIONER BLAKE: -- the right side.

9 MR. LEMMA: On the north side.

10 COMMISSIONER BLAKE: Okay. So there's one on the north
11 side and one -- and how big are these bathrooms?

12 MR. LEMMA: The bathrooms -- hold on just a second.
13 It's about 14 -- the whole -- are 16 by 4 feet.

14 COMMISSIONER BLAKE: Okay. So my question was I guess
15 --

16 MR. LEMMA: So -- yeah.

17 COMMISSIONER BLAKE: -- I'm trying to understand why
18 you have two windows in a relatively small bathroom, one on the
19 north and one in the rear? The --

20 MR. LEMMA: I mean, yeah, just to give more light, but
21 we can get rid of the one on the north side.

22 COMMISSIONER BLAKE: Okay. Thank you.

23 MR. LEMMA: Yeah.

24 COMMISSIONER BLAKE: Thank you.

25 MR. LEMMA: We can get rid of that, yeah.

1 COMMISSIONER BLAKE: Thank you. That's all I have --

2 MR. LEMMA: I think that it was the windows are small,
3 you know, 24 inch, so that's why we made one on both sides, yeah.
4 But we can get rid of that one if there is a problem on that.

5 COMMISSIONER BLAKE: The only thing I'd say just at
6 this point is we don't have any elevations that show the -- that
7 actual side of the house. I mean, we have the other side, which
8 has no windows, the left side or south side, but the north side,
9 which is in question, we don't have any elevations to get an idea
10 of what that -- what it does look like. It is on your floor
11 plan, but in terms of our north-south rear elevations, we don't
12 have a picture of that. And also I looked at one photo of the
13 site and I was able to see the building next door and there's a
14 picture of the alleyway on the, again, on the south side, but
15 there's nothing that shows the relationship on the north side
16 except for one picture. And there seemed to be quite a few
17 windows in that corner on the adjacent house. So I'm just trying
18 to get a better understanding of kind of what's there. And I
19 -- because I wasn't able to get that from the drawings. But
20 thank you, I think you've answered my question.

21 MR. LEMMA: Oh, okay, okay, thank you. But on the
22 proposed right side elevation, which is the north side, which his
23 drawing 6A001, that's the side elevation showing the bathroom
24 window on the side. And 2A001, it's the roof side of -- the roof
25 side elevation showing the windows for, you know, the addition

1 and plus the possible (indiscernible) windows. So yeah, we can
2 get rid of those side windows on the north side.

3 COMMISSIONER BLAKE: Thank you.

4 MR. LEMMA: Thank you.

5 CHAIRPERSON HILL: Yeah. I don't know if we're talking
6 about getting rid of any windows just yet, so just let's just
7 see where we go. But I'm glad that we at least understand that
8 that's a possibility.

9 Ms. -- could I turn to the Office of Planning?

10 MS. HUNTER: We can't hear you.

11 MR. JESICK: Can you hear me, Mr. Chairman?

12 CHAIRPERSON HILL: Yes, go ahead, Mr. Jesick.

13 MR. JESICK: Okay. Thanks. Yes, thank you. Again,
14 my name is Matt Jesick, presenting OP's testimony in this case.
15 And OP is happy to recommend approval of the application. And
16 as the Board has alluded to, we did have the one recommended
17 condition. We don't have any problem with the windows as
18 proposed, but it is somewhat tight quarters there between the two
19 homes, so we recommended that the number of windows be limited
20 to what is shown on the plans on the north side, which is one
21 window on each floor in the addition. And that was again just
22 to help ensure compliance with the criteria of Section 5201,
23 which seeks to protect the privacy of adjacent neighbors. So I'm
24 happy to take any questions about that. Thank you.

25 CHAIRPERSON HILL: Mr. Jesick, which side is it again

1 that you're talking about, the window?

2 MR. JESICK: The north side.

3 CHAIRPERSON HILL: The north side. Okay, right. The
4 one that's at the rear obviously -- or I shouldn't say obviously,
5 there's no issue there?

6 MR. JESICK: We didn't have any concerns there.

7 CHAIRPERSON HILL: Okay. All right.

8 Does anybody have any questions of the Office of
9 Planning?

10 VICE CHAIR JOHN: Just one question. I'm looking at
11 Exhibit 23. And so the left side elevation is -- has no windows
12 on the proposed addition. And so I'm trying to find -- I guess
13 the right side is the north elevation? I don't see that in
14 Exhibit 23. So is there an exhibit that shows the issue with
15 the windows?

16 MR. JESICK: The exhibit I was referring to mostly was
17 Exhibit 10, which is --

18 VICE CHAIR JOHN: Exhibit 10, okay.

19 MR. JESICK: -- supplement to the plans which shows the
20 floor plans and shows the bathrooms there on -- one on each floor,
21 and then a window. And then if you also refer to our report,
22 you can see I put in an aerial photo which shows the relationship
23 of this house and the adjacent house, and this is somewhat close
24 there, so that's -- that was the genesis of our recommendation.

25 VICE CHAIR JOHN: Sure. Sure. I understand that. And

1 so to summarize, we're looking at one window on each floor of
2 the addition on one side of the house?

3 MR. JESICK: Correct.

4 VICE CHAIR JOHN: And on the rear, there are also
5 windows on both floors.

6 MR. JESICK: And then that's fine, yes.

7 VICE CHAIR JOHN: Okay. All right. Thank you.

8 CHAIRPERSON HILL: And I would -- and I'm still unclear
9 as to what the -- so Mr. -- and I'm sorry I don't have your name
10 -- the -- there are a set of plans that don't have that window
11 on the north side, is that what you're telling me or no?

12 MR. LEMMA: Are you talking to me?

13 CHAIRPERSON HILL: Yeah.

14 MR. LEMMA: Oh no, no, the original, which is -- we
15 submitted originally was -- has two windows on the north side -
16 - I mean, one window on each floor and also windows on the back
17 of the house, yes.

18 CHAIRPERSON HILL: Right. So that's the east side?

19 MR. JESICK: Yeah --

20 CHAIRPERSON HILL: The back one is east?

21 MR. LEMMA: Yes.

22 CHAIRPERSON HILL: Okay. And so --

23 MR. LEMMA: The bottom, yeah.

24 CHAIRPERSON HILL: -- Mr. Jesick, would the Office of
25 Planning -- if those windows on the south -- I'm sorry, on the

1 north were glazed, would that seem to rectify the situation?

2 Mr. JESICK: Well, we were just looking at the number
3 of windows. We didn't consider whether they were glazed or not.
4 Typically and of course in restrooms people like to have their
5 windows covered, whether it's blinds or glazing or what have you.
6 So we weren't really looking at that necessarily, but simply the
7 number of windows.

8 CHAIRPERSON HILL: That there are two? I just want to
9 make sure I'm looking at the right thing.

10 MR. JESICK: One per floor.

11 CHAIRPERSON HILL: Right. But I'm saying there's
12 currently in the design plans there's one on the north and there's
13 one on the east, correct.

14 MR. JESICK: Correct. But, yeah, we do not care about
15 the east.

16 CHAIRPERSON HILL: Right. And so if the windows on the
17 north were glazed, do you think that that would rectify the
18 situation concerning the regulations on adjacent properties'
19 privacy?

20 MR. JESICK: Well, that is shown on the plans currently
21 that they would be glazed. That's again in Exhibit 10. So we
22 were taking that into account when we made our recommendation.

23 CHAIRPERSON HILL: You'd just rather they're gone?

24 MR. JESICK: No, no, no. Our recommendation reads --
25 let me find the exact wording in our report. No, the

1 recommendation says "The addition shall on the north wall have
2 no more than one window per floor." That's from our report, page
3 one.

4 CHAIRPERSON HILL: It only has one window per floor
5 right now on the north side, correct?

6 MR. JESICK: Yes, but we just wanted to be sure that
7 when it gets to the time of building permits, that there are no
8 questions about, you know, some change in the design. We don't
9 think this Applicant would do that, frankly, but --

10 CHAIRPERSON HILL: No, no, guys, that's fine. So I'm
11 saying that the way it is with the window on the north side glazed
12 is what the Office of Planning is recommending, correct?

13 MR. JESICK: Correct.

14 CHAIRPERSON HILL: Okay. So the way it is in the plans
15 and it says that they're glazed, so they can keep the window, it
16 just needs to be glazed, correct.

17 MR. JESICK: Well, again, our condition didn't address
18 the glazing. We were just looking at the number of windows. But
19 if the Board wishes to include the glazing in the condition, I
20 think that has been done in the past, so.

21 CHAIRPERSON HILL: It has, I'm just trying to
22 understand, like the Office of Planning's recommendation doesn't
23 care whether it's glazed or not, they just want one window on
24 the north side?

25 MR. JESICK: Correct, one window per floor.

1 CHAIRPERSON HILL: So as far as the Office of -- I'm
2 just learning something for another time -- as far as the Office
3 of Planning's concerned, that window does not need to be glazed,
4 question mark?

5 MR. JESICK: We didn't feel that that would be a concern
6 here. You know, I think, again, most people would want to cover
7 their bathroom windows in some fashion, but we didn't feel that
8 was a concern.

9 CHAIRPERSON HILL: Okay. All right. So then -- right,
10 okay, that's good. Then at least the -- so Ms. Hunter, you
11 understand that that window's supposed to be glazed, correct?

12 MS. HUNTER: Okay. So I can keep the window, it just
13 needs to be glazed, meaning -- glazed meaning a frosty kind of
14 look or?

15 CHAIRPERSON HILL: Yeah.

16 MS. HUNTER: Okay. Yes, sir, as long -- yeah, if I
17 could keep the window, that would be fantastic 'cause I have
18 beautiful lighting in the back.

19 CHAIRPERSON HILL: Sure.

20 MS. HUNTER: Thank you.

21 CHAIRPERSON HILL: Okay. Okay. It'll be a little --
22 the lighting will be a little bit opaque because now it will be
23 glazed.

24 MS. HUNTER: That's fine.

25 CHAIRPERSON HILL: But at least your plans don't have

1 to change. If the Board -- like I'm fine -- I'm just -- to the
2 Board members, I'm fine with that satisfying the need for the
3 neighbors' privacy.

4 MS. HUNTER: Yes.

5 CHAIRPERSON HILL: But so let's see, all right. Does
6 any of my Board members have any questions for the Office of
7 Planning before I move on? Well, hold on, just think about it
8 for a second.

9 Is there any public testimony, Mr. Young?

10 MR. YOUNG: I do not.

11 CHAIRPERSON HILL: Okay. So I'm back to my Board.
12 Does the Board have any questions of anybody?

13 Okay. All right. There you go then.

14 All right. Ms. Hunter, you can go ahead and watch to
15 hear what we have to say, and I wish you the best of luck with
16 everything that's going on with your family.

17 MS. HUNTER: Yes, sir. You said I can watch to hear
18 what you have to say in terms of your decision or?

19 CHAIRPERSON HILL: Yes, ma'am. We're just going to
20 remove you from the hearing room now while we deliberate.

21 MS. HUNTER: Oh, yes, sir. Thank you.

22 CHAIRPERSON HILL: Okay. Thank you.

23 Okay. All right. I mean, I think it's a relatively
24 minor addition. And I think that the issue with the privacy of
25 the windows on the north, even that, to a certain extent I've

1 seen where we have had deliberations and discussion as to whether
2 or not even those kind of windows need to be addressed. However,
3 since the Applicant has agreed to the glazing of those windows
4 on the north side, and I think we can put that in a condition,
5 then I would also be in agreement with the Office of Planning's
6 recommendation and also their analysis for how they're meeting
7 the criteria in the regulations. I also see that the ANC had
8 voted in approval for this application. And -- give me one minute
9 please -- and even though the ANC mentioned it as a variance
10 because it's not a variance, I am comfortable with that they have
11 seen the application. Actually, I'm going to reopen the hearing
12 just for one second.

13 Again, Mr. Young, could you bring in Ms. Hunter? If
14 she's still there?

15 Ms. Hunter, I'm sorry if you can jump back on for a
16 second.

17 MS. HUNTER: Yes, sir.

18 CHAIRPERSON HILL: Okay, great. When you went to the
19 ANC, these are the plans that they saw with the two windows, one
20 on the north side, and that that one was going to be glazed; is
21 that correct?

22 MS. HUNTER: Yes, sir. You know, I don't know if the
23 glazing was shown on the windows, but yeah, those were the ones
24 the ANC commissioners saw.

25 CHAIRPERSON HILL: Okay. They saw those plans?

1 MS. HUNTER: Yes, sir.

2 CHAIRPERSON HILL: Okay.

3 MS. HUNTER: They haven't changed as far as I know.

4 CHAIRPERSON HILL: Okay.

5 I see Mr. Blake has his hand up.

6 COMMISSIONER BLAKE: I just want to clarify. When you
7 met with the ANC, when did you meet with the ANC?

8 MS. HUNTER: It was a long time ago. This is -- this
9 process has been ongoing, you know, you know, with the advent of
10 COVID and just a whole lot of snafus in this whole process. But
11 I have met with him. It was a couple years ago when I met with
12 him and he was, you know, in agreement with everything. But yes,
13 he saw the plans. And like I said, as far as I know, I'm not
14 technical, but as far as I know, they have not changed since the
15 beginning.

16 CHAIRPERSON HILL: Okay. All right. Great. I see Mr.
17 Blake seems satisfied.

18 All right. Anyone else before I excuse the Applicant?

19 All right. I'm going to go ahead and close the hearing
20 and the record. Thank you, Ms. Hunter. You may continue to
21 watch.

22 MS. HUNTER: Thank you.

23 CHAIRPERSON HILL: Mr. Young, if you could excuse --
24 thank you, Mr. Young.

25 All right. So as I started to say, I was just wanting

1 to clarify because the ANC mentions that it's a variance and it's
2 not, but that they had seen the original plans. And so as I had
3 mentioned before, I am comfortable with this application and also
4 the support of DDOT and I will be voting in favor.

5 Mr. Blake, do you have anything to add?

6 COMMISSIONER BLAKE: Not much, Mr. Chairman. I would
7 be voting in favor of the application as well. When I first
8 looked at it, I had some concerns about the documentation as to
9 show the actual issue with the window and fenestration of the
10 building adjacent and how it might impact that. But I'm more
11 comfortable with that now. I also question whether you needed
12 two windows in such a small bathroom. But that said, that's what
13 they want to have, and it does not seem to adversely impact the
14 neighbors from a privacy standpoint, which was the only issue
15 that arose in this discussion. I'm in favor of including the
16 condition for the glazing of the windows, which is reflected in
17 the plans, Exhibit 10. And I note DDOT has no objection. I did
18 note that ANC 8C did vote in favor of this, albeit a while ago.
19 And we also -- there's several persons in support, including the
20 adjacent property owners. So I'm in support and will be voting
21 in favor of this application.

22 CHAIRPERSON HILL: Thank you, Mr. Blake.

23 Vice Chair Miller?

24 ZC VICE CHAIR MILLER: I concur with all of my
25 colleague's comments. Thank you.

1 CHAIRPERSON HILL: Thank you.

2 Vice Chair John?

3 VICE CHAIR JOHN: Thank you, Mr. Chairman. I have no
4 additional comments. I'm in support of the application.

5 CHAIRPERSON HILL: All right. I'm going to make a
6 motion to approve the Application No. 20864 as captioned and read
7 by the secretary and ask for a second, Ms. John?

8 VICE CHAIR JOHN: Second.

9 CHAIRPERSON HILL: Motion's been made and seconded, Mr.
10 Moy, if you'd take a roll call please?

11 MR. MOY: Thank you, Mr. Chairman. Before I go through
12 the roll call, your motion was to approve the application --

13 CHAIRPERSON HILL: Oh, sorry, wait a minute, let me do
14 it again, let me do it again. Sorry. I'd like to make a motion
15 to approve Application No. 20864 as captioned and read by the
16 secretary, including a condition that the windows on the north
17 side of the building as shown in Exhibit 10 will be glazed on
18 both floors, and ask for a second, Ms. John?

19 VICE CHAIR JOHN: Second.

20 CHAIRPERSON HILL: Thank you. The motion's been made
21 and seconded, Mr. Moy, with the condition if you could please
22 take a roll call?

23 MR. MOY: Thank you, Mr. Chairman. So when I call your
24 name, if you'll please respond to the motion made by Chairman
25 Hill to approve the application along with the condition that the

1 windows on the north side of the addition are glazed on both
2 floors. The motion to approve was second by Vice Chair John.

3 ZC VICE CHAIR MILLER: Mr. Chairman?

4 CHAIRPERSON HILL: Yes, Vice Chair Miller?

5 ZC VICE CHAIR MILLER: I'm sorry to interrupt, but just
6 to clarify, your condition is that the windows on the north side
7 be glazed, did you also include the Office of Planning's
8 recommended condition that there be no more than one per floor
9 or are you just going with glazed?

10 CHAIRPERSON HILL: I did not. I can re-clarify just
11 to be concise. Again, I don't know how -- but as the Office --
12 anyway. So I'm going to go ahead and make a motion to approve
13 Application No. 20864 as captioned and read by the secretary
14 including the condition that the Office of Planning has put
15 forward that there only be one window on the north side of the
16 building in the bathroom on either floor -- on both floors, and
17 the Board is adding a condition that those windows should be
18 glazed, and ask for a second, Ms. John?

19 VICE CHAIR JOHN: Second.

20 CHAIRPERSON HILL: Thank you.

21 All right, Mr. Moy, motion's made and seconded.

22 MR. MOY: Right. Thank you, Mr. Chairman. So with
23 that, when I call your name.

24 Let's see, Mr. Blake?

25 COMMISSIONER BLAKE: Yes.

1 MR. MOY: Zoning Commissioner Rob Miller?

2 ZC VICE CHAIR MILLER: Yes.

3 MR. MOY: Vice Chair John?

4 VICE CHAIR JOHN: Yes.

5 MR. MOY: Chairman Hill?

6 CHAIRPERSON HILL: Yes.

7 MR. MOY: We have a Board member not present, not
8 participating, staff would record the vote as four to zero to one
9 and this is on the motion made by Chairman Hill to approve with
10 the one condition, as the Chair has cited. The motion was second
11 by Vice Chair John, who is also in support of the motion, along
12 with Mr. Blake, Zoning Commissioner Robin Miller, Chairman Hill,
13 and of course Vice Chair John. Motion carries, sir, four to zero
14 to one.

15 CHAIRPERSON HILL: Thanks, Mr. Moy. You can call our
16 next case.

17 MR. MOY: Before the Board -- the case before the Board
18 is Application No. 20865 of Brian J. Garback and Alison P.
19 Garback. This is a self-certified application pursuant to
20 Subtitle X, Section 901.2 for a special exemption under Subtitle
21 D, Section 1210.1 and 5201 from the rear yard requirements of
22 Subtitle D, Section 1206.2. Property is located in the R-20 zone
23 at 3636 T Street, N.W., Square 1306, Lot 71. And the only other
24 addition I have for you, Mr. Chairman, is that the Applicant
25 attempted to file additional documents, including revised self-

1 served, revised burden of proof, revised plans, 3D images,
2 revised surveyor's plat within our 24-hour block. So that's
3 something you should address. Other than that, that's it, Mr.
4 Chairman.

5 CHAIRPERSON HILL: Okay. That's a lot of stuff. So
6 let me see. I want to see everything and I want the Board to
7 have a chance to look at everything. So Mr. -- unless the Board
8 has any issues, I want to take a look at the plans. And so --
9 so we can have this hearing correctly. And does the Board have
10 any issues with that? If so, please speak up.

11 All right. Mr. Moy, can you just drop those into the
12 record? And I'm going to keep refreshing here until we get them.

13 MR. MOY: Yes, sir.

14 CHAIRPERSON HILL: And then we might take a couple
15 minutes. But while I do that, I'm going to let everybody
16 introduce themselves. Can the Applicant introduce themselves for
17 the record please?

18 MS. GARBACK: Sure. Hi, I'm Alison Garback. My
19 husband, Brian, is on as well.

20 CHAIRPERSON HILL: Okay. Great. Ms. Garback, are you
21 going to be presenting or is your architect?

22 MS. GARBACK: Eric, our architect will be presenting,
23 correct, Eric?

24 MR. TERAN: Good morning, Commissioners and members of
25 the Board. I'm the architect, Eric Teran. And the reason for

1 the last change, it's really -- it was a DDOT issue with our
2 front porch. In regards of what we're asking for a special
3 exception for in the rear yard, that has not changed. And this
4 was an issue where DDOT actually approved our plans about three
5 weeks ago, and Friday late afternoon they rescinded it and said
6 that they missed -- that the porch was too wide. So the new
7 plans are basically just showing the porch along T Street being
8 reduced.

9 CHAIRPERSON HILL: Okay. Mr. Garback, do you want to
10 introduce yourself for the record as well?

11 MR. GARBACK: Yeah. I'm Alison's husband. We live at
12 3636 T Street. We've been in Burleith like 10 years, lived in
13 this house 8 years. When we bought it, we had a baby, now we
14 have three kids that are big and we want to stay there and
15 beautify and improve the neighborhood and just, you know, love
16 Burleith even more. So we're excited to share the plans with
17 you guys. Eric's done a good job.

18 MS. GARBACK: And your name's Brian.

19 MR. GARBACK: Oh, well, yeah, I've got my name. He
20 called me by name, but yeah, I'll repeat that I'm Brian.

21 CHAIRPERSON HILL: Thank you, Mr. Garback.

22 All right. So okay. Well, then in this case Mr. Teran,
23 I'm pulling up everything here, and so why don't you go ahead
24 and walk us through your project and specify the criteria for the
25 relief you're requesting. And we're going to kind of get through

1 this and you can do it however you like. I'm going to put 15
2 minutes on the clock and you can begin whenever you like.

3 MR. TERAN: Okay. Is it possible for Mr. Young to
4 bring up the plans or the presentation?

5 CHAIRPERSON HILL: Sure. Mr. Young, I assume that 40.

6 MR. TERAN: Okay. So it's basically we're at the corner
7 of T Street and 36th Street right there as you can see by the
8 vicinity map. Next slide please?

9 Just is a closer up look of Lot 71, or 37th Street,
10 sorry about that. Next slide please?

11 So the first thing I believe we're going to view I
12 think these are the site photos. Next slide please?

13 So this will be the rear addition. You can see in
14 front of the truck is the existing accessory structure, which
15 we're --

16 CHAIRPERSON HILL: He, Mr. Teran, give me a second. Is
17 that -- that's not Exhibit 40?

18 MR. TERAN: This was a PDF I sent to Mr. Young yesterday
19 for the entire presentation.

20 CHAIRPERSON HILL: Got it. Got it.

21 Okay. Mr. Moy, is that something that can be put into
22 the record?

23 MR. MOY: Yes, yes, yes, it can, with your approval.

24 CHAIRPERSON HILL: Yes. And unless the Board has any
25 issues, I'd like to be able to flip through it. So if -- hearing

1 that the Board doesn't have any issues, if the staff could please
2 add that to the record as well?

3 And, Mr. Teran, you can continue.

4 Mr. TERAN: Thank you. So yes, there you can see the
5 original brick house to the right, and there's an addition which
6 has got the siding, and there's a deck. And we're proposing to
7 push the house towards the accessory structure. And this is
8 where we're requesting a reduction of the minimum rear yard
9 setback from 20 feet to be reduced to, I believe it's, 7 foot 3,
10 and one part is 7 foot 6 in the (indiscernible). Next slide
11 please?

12 Just a closer up look of the brick and the addition and
13 the deck and where we'd be extending to. Next slide please?

14 Just looking down the street, looking west. Next slide
15 please?

16 And this is on the corner and the addition would be at
17 the left side of the house. Next slide please?

18 This is from 37th Street. Next slide please?

19 And this is just some other homes in the vicinity that
20 have reduced setbacks similar to ours. Next slide please?

21 Once again, another house. (indiscernible) for the
22 back of the rear house -- rear house to the accessory structure
23 it's similar to ours. Next slide please?

24 Same feature again, as you can see from accessory
25 structure to the right, and this is a newer addition as well

1 probably about a block away on 36th, 36 S Street. Next slide
2 please?

3 Once again, just another house that has a similar
4 situation. Next slide please?

5 So those pictures that we were just showing -- and
6 there's a few other examples as well that I have on the statement
7 burden of proof just to show that we do meet the criteria being
8 the character of the neighborhood. This is the basement. The
9 solid gray walls are as what's existing and what we're proposing
10 on the right. You can see that's a 7 foot 11 from the detached
11 garage, and that's what we're reducing the rear yard. Next slide
12 please?

13 Once again, the family room is the addition and the
14 reduction that we're asking for is 7 foot 11 to office. And so
15 the you know what the difference is with these plans, if you see
16 the porch where the entry is, that used to go further left and
17 further right. And so this is what DDOT came back to and what
18 they missed was the combination of the porch and the bay window
19 has to be less than 29 foot and -- 29.6 feet. So we exceeded
20 that and they caught it after they approved the plans, but luckily
21 before construction began. And so this is what we reduced it to
22 and it's back in DDOT and we hope for it to be approved today or
23 tomorrow.

24 CHAIRPERSON HILL: The reduction -- the reduction that
25 DDOT requested, is that on the T Street side?

1 MR. TERAN: Yes, because that's within the building
2 restriction line. But then on the west side on 37th Street that's
3 still within the property line, it's not within the building
4 restriction line.

5 CHAIRPERSON HILL: Right. You're not asking for relief
6 on the front or the side?

7 MR. TERAN: No, no, it was just something DDOT noticed
8 that they got wrong, and so we --

9 CHAIRPERSON HILL: Okay. Mr. Teran, the staff is asking
10 me that you need to submit your presentation to the BZA
11 submissions.

12 MR. TERAN: Through the IZIS?

13 CHAIRPERSON HILL: Yeah.

14 Mr. Moy, is that correct?

15 MR. MOY: More specifically, Mr. Chairman, it's the
16 first picture that he started his presentation with, that rear
17 yard. We don't have it. So if he can send that picture simply
18 as a JPEG or a PDF to the BZA submission, then we can upload it
19 into the record.

20 CHAIRPERSON HILL: Okay. Do you got that?

21 MR. TERAN: The very first photo of this presentation?

22 MR. MOY: Yeah. Or not the table of contents, but you
23 had a picture of a corner of that rear yard, yes, we don't -- we
24 do not have that one, yeah.

25 MR. TERAN: Okay. It should be in the site photo

1 exhibit. I can do that. Do you want me to try to do that right
2 now or should I speak and then do it once I'm done presenting?

3 CHAIRPERSON HILL: Well, I'm just going to wait. Did
4 they put your presentation in, Mr. -- did they put the
5 presentation, Mr. Moy? Can you guys see the presentation?

6 MR. MOY: Okay. I'll have to pull that up and double
7 check. But you can all continue and if it's not there, then I'll
8 ask for that separate photograph.

9 MR. TERAN: Okay.

10 CHAIRPERSON HILL: Did the staff upload the
11 presentation?

12 MR. MOY: I believe they did because Mr. Young has it,
13 so that means we have it.

14 CHAIRPERSON HILL: No, I know. I just can't -- it's
15 not refreshing.

16 MR. MOY: Okay. Well, Mr. Teran, could you resubmit
17 that then?

18 MR. TERAN: Sure.

19 MR. MOY: Thank you, sir.

20 CHAIRPERSON HILL: All right. Go ahead, Mr. Teran.

21 MR. TERAN: Okay. So that's the DDOT issue that we're
22 dealing with. We're not asking for any public space hearing or
23 anything at this time. We're just conforming to what they're
24 requesting so we get the permit approved. Next slide please?

25 CHAIRPERSON HILL: Are those in your updated plans from

1 Exhibit 40.

2 MR. TERAN: Yeah, the latest thing that I sent, yes.
3 They should be showing what you see here.

4 CHAIRPERSON HILL: Yeah, I'm just making sure.

5 MR. TERAN: Okay.

6 CHAIRPERSON HILL: Can you go back up one slide, Mr.
7 Young? Thanks.

8 Okay. Go ahead, Mr. Teran if you want to go back to
9 the next slide, Mr. Young.

10 MR. TERAN: This is the second floor showing the
11 bedrooms, three bedrooms for their children and a guest bedroom
12 for the parents when they come visit. Next slide please?

13 And the primary bedroom with a bonus room at the top
14 on the third floor. Next slide please?

15 And roof deck and solar panels at the top. Next slide
16 please?

17 And here's some elevations. We'll go through them a
18 little bit quickly because we also have some 3D images. But you
19 can see on the left, that's the west elevation with the new porch
20 design per DDOT comments, and east elevation, which is from the
21 alley. You can't really notice the closeness yet from this one.
22 But when we look at the next slide please?

23 When we look through at T Street, you can see the 7
24 foot 11 separation. Next slide please?

25 And this is just from the neighbor, what they'd be

1 seeing with the addition. And they've also provided a letter of
2 support. Next slide please?

3 Just some sections. Next slide please?

4 Another section, you can see the 7 foot 11 rear yard
5 setback. Next slide please?

6 And just the demolition plans. So we kind of already
7 talked about what we were adding and what we were keeping. Next
8 slide please?

9 And the second floor demolition plan. Next slide
10 please?

11 I mean, these, I believe, will be the 3D images. Next
12 slide please?

13 So this is 37th Street with the new porch design. Next
14 slide please?

15 Now looking at the corner. So you can see the bay
16 window and the new porch designs. And then the extension that
17 we're asking for at the rear. Next slide please?

18 Once again along T Street and on the left with the bay
19 window and extending into the rear yard setback and reducing that
20 to 7 foot 11. Next slide please?

21 Once again the 7 foot 11 between the structures. And
22 I think even though they're close, I think they do have a lot of
23 different features where they don't seem like they're on top of
24 each other, which I think that helps articulate that they're
25 separate buildings and not just one big flat facade. Next slide

1 please?

2 And then just looking coming back from east to west and
3 you can see once again the separation between the two. Next
4 slide please?

5 And this is from the alley looking towards the addition
6 and accessory structure, and the neighboring house, which as I
7 mentioned, they provided a letter of support, as well I think we
8 got seven or either total letters of support. Next slide please?

9 These are the shadow studies. To the left is what is
10 being proposed and to the right is the (audio interference).
11 Luckily, we're at the north end of the block, so as you will see,
12 there really is not additional shadows or concern to anybody to
13 the south for light, air, or privacy. Next slide please?

14 Once again, no concerns to the neighbors. Next slide
15 please?

16 Same situation, maybe a little bit more shade in the
17 alley. Next slide please?

18 This is winter, so there'll be a little bit more shade
19 across the street, but doesn't really affect anybody on their
20 property. Next slide please?

21 Same situation at noon during winter solstice. Next
22 slide please?

23 And finally at 3 p.m., but once again there's no real
24 additional impact on any of the neighbors. And I believe that's
25 the end of the presentation. I'm happy to answer any questions.

1 CHAIRPERSON HILL: Mr. -- oh, never mind. I was going
2 to say, Mr. Young, just leave that up for a second, but that's
3 okay.

4 Let's just see what if my Board members have any
5 questions from the presentation?

6 I don't see any, I don't see any, I don't see any.
7 Okay.

8 Mr. Young -- oh, I'm sorry. Could I hear from the
9 Office of Planning please?

10 MR. KIRSCHENBAUM: Good morning, Chair Hill and members
11 of the Board of Zoning Adjustment, I'm Jonathan Kirschenbaum with
12 the Office of Planning and we recommend approval of the rear yard
13 special exception relief based on the newest plans that were just
14 shown to you. Please let me know if you have any questions.
15 Thank you.

16 CHAIRPERSON HILL: Okay. Thanks.

17 Mr. Teran, while we're going through this, if you want
18 to go ahead and send everything that needs to go into the record?

19 All right. Mr. Young, do we have anyone here wishing
20 to testify?

21 MR. YOUNG: We do not.

22 CHAIRPERSON HILL: And I'll come back to my Board
23 members about the Office of Planning in a moment.

24 MR. YOUNG: We do not.

25 CHAIRPERSON HILL: Okay. All right. So there's no one

1 here wishing to testify.

2 All right. I will note that there was some opposition;
3 however, upon reading the opposition, it seems as though it's
4 mainly about -- it doesn't pertain to the requests of relief from
5 the rear yard, whereas everything else is being done per the
6 regulations. Mr. Teran, can you speak to the ANC meeting that
7 you had?

8 MR. TERAN: Sure. It went really well. I presented
9 pretty quickly and they approved I think it was eight-zero, and
10 nobody was in opposition at that meeting either.

11 CHAIRPERSON HILL: Okay. Okay. All right. I see
12 Commissioner Putta is there also, which -- it's a good ANC,
13 they're very active.

14 All right. Let's see. Does the Board have any further
15 questions?

16 All right. Okay. Mr. Teran, do you have anything
17 you'd like to add at the end?

18 MR. TERAN: No, thank you.

19 CHAIRPERSON HILL: Ms. Garback, do you have anything
20 you'd like to add at the end?

21 MS. GARBACK: Nope, just that we appreciate --

22 CHAIRPERSON HILL: Mr. Garback, Ms. Garback. Okay.
23 Nobody has any -- all right.

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

25 Mr. Young, if you could please excuse everyone?

1 Would someone else like to give their analysis first?

2 Mr. Blake? There we go, perfect.

3 COMMISSIONER BLAKE: Absolutely. I'll be voting in
4 favor of the application. I mean, based on the evidence presented
5 in the record, I believe the Applicant has met the burden of
6 proof to be granted the requested rear yard relief pursuant to
7 conditions of D 5201 as well as the general standards of 901.2.
8 The Applicant provided a shadow study that demonstrated that any
9 new shadows cast by a proposed addition would not adversely affect
10 the light available to neighboring properties and accountably
11 abutting neighbor's large rear yard and because this is a corner
12 unit, the air flow to them probably should not also be unduly
13 affected. Privacy and enjoyment of neighboring properties should
14 not be unduly compromised as the proposed three-story addition
15 would not directly abut windows in the neighboring property to
16 the south and would contain -- not contain any windows along the
17 shared property line. The proposed height, scale, and design as
18 viewed from the street are in keeping with the intent of the
19 zoning regulations and prevailing residential character of the
20 block fronts, and therefore should not substantially visually
21 intrude. I believe the concerns raised by those in opposition,
22 which you mentioned, to the application are not relevant to the
23 matter before us today and I would concur with the ZA's
24 interpretations of front yard setbacks, et cetera. I give great
25 weight to the Office of Planning's recommendation for approval,

1 note that DDOT has no objection. I will also give great weight
2 to the report from ANC 2E which is in support of the project and
3 states no issues or concerns. And I also note that the letters
4 in support from the neighbors, including the abutting property
5 to the south. I'll be voting in favor of the application.

6 CHAIRPERSON HILL: Thank you, Mr. Blake.

7 Vice Chair Miller?

8 ZC VICE CHAIR MILLER: Thank you, Mr. Chairman. And
9 thank you, Mr. Blake, for a very comprehensive succinct analysis,
10 which I will agree with. And thank the Applicant for bringing
11 this case forward and reaching out to your neighbors. Thank you.

12 CHAIRPERSON HILL: Thank you.

13 Vice Chair John?

14 VICE CHAIR JOHN: Thank you, Chairman Hill. I also am
15 in support of the application. It meets all of the development
16 standards except for the rear yard relief requested. And based
17 on the sun studies, I think there's no impact on any adjacent
18 neighbor. The Applicant did not request lot occupancy relief,
19 which would be required for the 0.8 percent above the 40 percent
20 maximum allowed without a special exception. And Applicant notes
21 that that additional occupancy would be -- could be covered by
22 the ZA's 2 percent flexibility. So based on everything that's
23 been said and OP's analysis, I have no objection and will support
24 the application. Thank you.

25 CHAIRPERSON HILL: Thanks, Ms. John. Thanks, Vice

1 Chair John.

2 All right. I appreciate the analysis that my
3 colleagues have put forward, and I will agree with it. I don't
4 have anything really additional to add. I'm going to make a
5 motion to approve Application No. 20865 as captioned and read by
6 the secretary and ask for a second, Ms. John?

7 VICE CHAIR JOHN: Second.

8 CHAIRPERSON HILL: The motion's been made and seconded,
9 Mr. Moy, if you'd take a roll call please?

10 MR. MOY: Name. Thank you, sir. When I call your
11 name, if you'll please respond to the motion made by Chairman
12 Hill to approve the application for the relief requested. The
13 motion to approve was second by Vice Chair John.

14 Mr. Blake?

15 COMMISSIONER BLAKE: Yes.

16 MR. MOY: Zoning Commissioner Miller.

17 ZC VICE CHAIR MILLER: Yes.

18 MR. MOY: Vice Chair John?

19 VICE CHAIR JOHN: Yes.

20 MR. MOY: Chairman Hill?

21 CHAIRPERSON HILL: Yes.

22 MR. MOY: We have a Board member not present, not
23 participating, staff would record the vote as four to zero to
24 one. And this is on the motion made by Chairman Bill to approve
25 the relief requested. The motion to approve was second by Vice

1 Chair John, who is also in support of the motion, as well as
2 Zoning Commissioner Rob Miller, Mr. Blake, and again Vice Chair
3 John, and Chairman Hill. The motion carries, sir, four to zero
4 to one.

5 CHAIRPERSON HILL: Thank you.

6 All right, everyone, well, I hope you guys enjoy your
7 day and thank you all for your help and participation. And I
8 will see you guys next week. We stand adjourned. Thank you.

9 (Whereupon, the above-entitled hearing was adjourned.)
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C E R T I F I C A T I O N

This is to certify that the foregoing transcript

In the matter of: Public Meeting

Before: BZA

Date: 02-08-2023

Place: Teleconference

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

DONNA JENKINS