

GOVERNMENT OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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REGULAR PUBLIC HEARING

+ + + + +

WEDNESDAY

MAY 17, 2023

+ + + + +

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

ZONING COMMISSION MEMBERS PRESENT:

FREDERICK D. HILL, Chairperson
CHRISHAUN SMITH, Member
PETER MAY, Zoning Commissioner

OFFICE OF ZONING ADJUSTMENT STAFF PRESENT:

CLIFFORD MOY, Secretary
PAUL YOUNG, Data Specialist

OFFICE OF ZONING ADJUSTMENT LEGAL COUNSEL:

RYAN NICHOLAS, Esquire

The transcript constitutes the minutes from the Public Hearing held on May 17, 2023.

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

Case No. 20014B
Addisleigh Park Washington
Properties, LLC - withdrawn 6

Appeal No. 20889
Chukwema Ewelike - postponed. 6

Case No. 17944B
The Lab School of Washington. 6

Case No. 20857
Tamara Sperling. 10

Case No. 20886
Capitol Hill Day School. 16

Case No. 20888
Shahabeddin Toobaie. 30

Case No. 20892
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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, the Board of Zoning Adjustment. Today's date is 5/17/2023. This public meeting will please come to order. My name is Fred Hill, Chairperson of District of Columbia Board of Zoning Adjustment. Joining me today is Chrishaun Smith and Zoning Commissioner Peter May.

Today's meeting and hearing agenda are available on the Office of Zoning's website and this proceeding is being recorded by a court reporter and is also webcast, live via Webex and YouTube Live. The video of this webcast will be available on the Office of Zoning's website after today's hearing. Accordingly, everyone who's listening on the Webex or telephone will be muted during the hearing. Also, please be advised we do not take any public testimony at our decision meeting sessions. if you're having difficulty accessing Webex or speaking please call our OZ hotline number 202-727-5471, once again 202-727-5471. It's also listed on your screen.

At the conclusion of the decision meeting session, I shall in consultation with the Office of Zoning determine whether a full or summary order may issued. A full order is required when the decision it contains is adverse to a party, including an affected ANC. A full order may also be needed if the Board's

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1 decision differs from the Office of Planning's recommendation.
2 Although the Board favors the use of summary orders whenever
3 possible, an Applicant may not request the Board to issue such
4 an order.

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

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1 allowing the exhibit into the record, including an explanation
2 of why the requester did not file the exhibit prior to the hearing
3 pursuant to Y 206, and how the proposed exhibit would not
4 unreasonably prejudice any parties. The order of procedure for
5 special exceptions and variances are pursuant to Y 409.

6 At the conclusion of each case, any individual who was
7 unable to testify because of technical issues may file a request
8 for leave to file a written version of the planned testimony to
9 the record within 24 hours following the conclusion of public
10 testimony in the hearing. If additional written testimony is
11 accepted, then parties will be allowed a reasonable time to
12 respond as determined by the Board. The Board will then make
13 its decision at its next meeting session, but not earlier than
14 48 hours after the hearing. Moreover, the Board may request
15 additional specific information to complete the record. The
16 Board and the staff will specify at the end of the hearing exactly
17 what is expected and the date when persons must submit the
18 evidence to the Office of Zoning. No other information shall be
19 accepted by the Board.

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

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

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

8 MR. MOY: Good morning, Mr. Chairman, Members of the
9 Board. I do have a brief announcement regarding today's docket
10 regarding two cases. Application No. 20014B of Application of
11 Addisleigh Park Washington Properties, LLC. This was a
12 modification of significance. It has been withdrawn by the
13 Applicant, and appeal No. 20889 of Chukwema Ewelike has been
14 postponed and rescheduled to September 20th, 2023.

15 If, Mr. Chairman, there are any preliminary matters
16 I'll bring those to your attention when I call the case, and
17 that's all I have.

18 CHAIRPERSON HILL: Okay. Great. Thank you. Let's
19 see. Ms. Moy, if you can call our first meeting case, please,
20 or our only meeting case?

21 MR. MOY: This would be Application No. 17944B of the
22 Lab School of Washington. This is a request by the Applicant
23 pursuant to Subtitle Y § 703 for a modification of consequence
24 to change a condition adopted in Order 17944 to extend for an

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1 additional 15 years until August 1st, 2038. Appropriately
2 located in the R-1-B zone at 4470 Q Street, N.W., Square 1363,
3 Lot 980 and I think that's all I have for you, Mr. Chairman.

4 CHAIRPERSON HILL: Okay. All right. I'm sure you all
5 have read the case and I'm a little, well I'm uncomfortable. I
6 don't necessarily know whether this is a modification of
7 consequence or a modification of significance. I think that this
8 might be a new application. They're trying to get a 15 year term
9 it seems and I don't know, I'm definitely not comfortable with
10 doing this today and so what I think, depending upon what the
11 rest of my Board Members say, is ask the Applicant to come back
12 before us where we can actually ask some questions of them. But
13 my thought is leading toward this being a new application. So I
14 would like to hear my fellow Board Members' thoughts if I could.

15 Mr. Smith.

16 MR. SMITH: Chairman Hill, I completely agree with you
17 on this case. I believe that the original special exception was
18 granted with a term limit and because there was a term limit on
19 that, I believe that the most appropriate action here is to put
20 into being a new special exception that's in line with same
21 practice with special exceptions that have term limits. It's not
22 a modification of consequence. It's not a modification of
23 significance because of that term limit, they have to be in the
24 special exception.

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1 So I'm not comfortable with acting on this and will not
2 act on this because I do believe that it's the wrong application
3 for the Applicant and would request that the Applicant -- we
4 continue this. This gives the Applicant the chance to re-apply
5 for or change their request to a special exception and also gives
6 them the opportunity to it will give them the opportunity to re-
7 advertise because I do know the ANC does have some concerns and
8 some additional, you know, opportunity to meet with the ANC.

9 CHAIRPERSON HILL: Okay. Commissioner May, do you have
10 any thoughts?

11 COMMISSIONER MAY: I don't disagree with anything
12 that's been said so far. I do agree that it is not appropriate
13 for us to act on this today. I haven't looked myself closely at
14 the question of whether this could qualify as a modification of
15 consequence but I, you know, either way something that leads to
16 a hearing whether it's a modification of significance, sorry,
17 modification of significance or a new case. I don't think it
18 makes -- I don't really know that it makes that much of a
19 difference but my feeling is that we ought to have a hearing
20 about this no matter what, so.

21 CHAIRPERSON HILL: Okay. Mr. Moy, I'm trying to -- I
22 don't, you know, the Lab School has been around for a very long
23 time and, you know, they continue to do good work here in the
24 city so I'm trying to move this as officially as possible to

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1 whatever ends up happening and so what is our schedule like over
2 the next couple of weeks in terms of just bringing them in to
3 have a discussion about it being a modification or if this should
4 be a new order, or new application I should say, and if that is
5 the case also, you know, we would do our best to work this through
6 as officially as possible. What does next week and the week
7 thereafter look like?

8 MR. MOY: Okay. So if, as I understand you just now,
9 if you want to have a conversation with the Applicant regarding
10 continuing this as a modification or a new application, then
11 clearly you can bring them in next week which would be May 24th.
12 If your decision is that it should be a new application, I would
13 allow time for re-noticing. That would take us to the end of
14 June or early July. So those are the two options. So if it's a
15 new application then I'm looking at either June 28th or July
16 12th.

17 CHAIRPERSON HILL: Okay. I'm sure the Applicant is
18 watching and I think from what I'm hearing from my fellow Board
19 Members, the likelihood of it being a new application is more
20 likely than it continuing as a modification. However, we can
21 bring them in next week on the 24th and let's go ahead and hear
22 this first thing, and have an opportunity to ask some questions
23 of the Applicant.

24 MR. MOY: Okay. Then that would be first thing May the

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1 24th, sir.

2 CHAIRPEROSN HILL: Okay. Great. Okay. All right.
3 There's nothing more to speak about on that, so Mr. Moy, you can
4 go ahead and call our first hearing case.

5 MR. MOY: This would be Application No. 20857 of Tamara
6 Sperling. As amended, a self-certified application pursuant to
7 Subtitle X § 901.2 for special exceptions under Subtitle D §
8 5201, side yard requirements Subtitle D § 206.2, rear yard
9 requirements Subtitle D § 306.1, located in the R-1-B zone at
10 4607 Green Place, N.W., Square 1358, Lot 872.

11 CHAIRPERSON HILL: Mr. Holden, if you can hear me and
12 if you can introduce yourself into the record, please?

13 MR. HOLDEN: Mr. Moy, my name is Carl Holden. I am an
14 architect here in D.C., and I am on the -- helping the Applicant
15 get this through the process.

16 CHAIRPERSON HILL: Okay. Mr. Holden, you seem to be
17 on a delay but I can hear you and so I don't know, just to let
18 you know we'll see how it works with your connection. If you
19 want to go ahead and walk us through your client's application
20 as to why you believe they're meeting the criteria for us to
21 grant the relief requested, and I'm going to put 15 minutes on
22 the clock just so I know where we are, and you can begin whenever
23 you like.

24 MR. HOLDEN: Sounds good. I'm going to stop my video

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1 to see -- does that help at all?

2 CHAIRPERSON HILL: That's fine. I mean, we can hear
3 you clearly. There just seemed to be a delay on the video, so
4 either way is fine.

5 MR. HOLDEN: Okay. Yes, so we actually started with
6 three exceptions. We've got that down to two working with staff,
7 so yes, I think Mr. Moy called out the side yard and the rear
8 yard; correct?

9 CHAIRPERSON HILL: Yes.

10 MR. HOLDEN: So the degree of deviations are pretty
11 minimal here. Mrs. Sperling has a very compromised lot compared
12 to her neighbors. I'm not sure what happened in the '50s but
13 the subdivision process resulted in her being truncated on the
14 rear of the lot. So she's kind of wedged in between a whole
15 bunch of other properties and it's a little unfortunate for her.
16 So she is a couple of feet over on the rear yard and I think six
17 to nine inches over on the side yard on one side only. So I
18 think, I'm assuming you've got the drawing package there
19 somewhere. I don't see it on the screen.

20 CHAIRPERSON HILL: Yes. That's okay. Unless you want
21 us to pull up one of the exhibits, we do have the plans.

22 MR. HOLDEN: I'm happy to walk you through the plans
23 if that's helpful.

24 CHAIRPERSON HILL: Yes. Why don't you tell us a little

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1 bit about why you were needing the special exceptions.

2 MR. HOLDEN: So she wants to do a rear addition. The
3 rear addition is to replace current sun room, sun deck, which the
4 house had. It's originally 1950's construction. So to fit a
5 reasonable kitchen and maintain an outdoor porch space would not
6 fit within the current zoning envelope of that particular site.
7 So we can't -- she just doesn't have the space to do it with the
8 rear yard requirements, especially the shorter rear yard that she
9 has. So the purpose of the exceptions are to allow her to do a
10 second larger ensuite master bedroom and a kitchen that's larger
11 than seven by ten feet which is what she has currently.

12 CHAIRPERSON HILL: Okay. All right. I'm going to walk
13 us through the rest of this application and see whether my fellow
14 Board Members have any questions.

15 Can I turn to the Office of Planning, please?

16 MS. MYERS: Good morning. Crystal Myers with the Office
17 of Planning. We are in support of this case and we can stay on
18 the record with the staff report and of course answer your
19 questions.

20 CHAIRPERSON HILL: Right. Thank you. And Mr. Holden,
21 you did get a chance to go speak with the ANC?

22 MR. HOLDEN: We did. I think the ANC letter should
23 have been forwarded to you. They were in support at this past
24 week's meeting and I believe --

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1 CHAIRPERSON HILL: We've have the letter. We have the
2 letter.

3 MR. HOLDEN: You do? Okay. I'm not sure if it went
4 to you or OP, so.

5 CHAIRPERSON HILL: Yes. Okay. All right. Does the
6 Board have any questions of the Applicant or the Office of
7 Planning?

8 COMMISSIONER MAY: Yes, I have one.

9 CHAIRPERSON HILL: Sure. Commissioner May?

10 COMMISSIONER MAY: Yes. There are multiple neighbors,
11 I guess three that have property that abuts this. Have you -- I
12 did not see any indication in the record that they support or
13 oppose it but did you reach out to them directly and gotten any
14 feedback?

15 MR. HOLDEN: The owner was reaching out to both of
16 them. There was a conversation with the neighbor to the west.
17 She was totally in support of everything that Tamara is doing.
18 The neighbor to the east toward town, let's say towards the city,
19 it's a diagonal site, but that neighbor, his only concern was a
20 issue on the fence, but that wasn't related to the project, so.

21 COMMISSIONER MAY: Okay.

22 MR. HOLDEN: He's also in support of the project.

23 COMMISSIONER MAY: And whose property is that directly
24 behind the house?

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1 MR. HOLDEN: That is the -- it's the apartment building
2 on --

3 COMMISSIONER MAY: On Q Street.

4 MR. HOLDEN: Yes.

5 COMMISSIONER MAY: Yes. Okay. All right. I don't
6 have any more questions. Thank you.

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

9 MR. YOUNG: We do not.

10 CHAIRPERSON HILL: Okay. Mr. Holden, I don't think my
11 Board Members have many questions for you. Is there anything
12 else you'd like to add?

13 MR. HOLDEN: Not at this time, no.

14 CHAIRPERSON HILL: Okay. All right. I'm going to go
15 ahead and close the hearing and the record. Okay. I think it's
16 -- I mean, it's not necessarily a really, really odd lot but it's
17 somewhat of an odd lot and I think that per the regulations I
18 don't think there wouldn't be any adverse impact for the side
19 yard and rear yard relief and I would agree with the Office of
20 Planning's recommendations concerning light and air and privacy,
21 and also then would agree with the fact that the ANC has had an
22 opportunity to look at this and they are weighing in in favor,
23 and so I don't have any concerns and I'll be voting in favor of
24 this application.

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

2 MR. SMITH: (Indiscernible) this particular case and
3 rest on OP's standpoint, giving them great weight, recognizing
4 that the ANC is in support and will support the application.

5 CHAIRPERSON HILL: Thank you.

6 Commissioner May.

7 COMMISSIOENR MAY: Yes. I don't have anything else to
8 add. It's pretty straightforward. Thank you.

9 CHAIRPERSON HILL: Okay. I'm going to make a motion
10 to approve Application No. 20857 as captured and read by the
11 secretary and ask for a second. Mr. Smith?

12 MR. SMITH: Second.

13 CHAIRPERSON HILL: The motion was made and seconded.
14 Will you take a roll call, Mr. Moy.

15 MR. MOY: Yes. Thank you, Mr. Chairman. When I call
16 your name if you'll please respond to the motion made by Chairman
17 Hill to approve the application for the request for the relief
18 requested. The motion was second by Mr. Smith. Zoning
19 Commissioner Peter May?

20 ZC COMMISSIONER MAY: Yes.

21 MR. MOY: Mr. Smith?

22 MR. SMITH: Yes.

23 MR. MOY: Chairman Hill?

24 CHAIRPERSON HILL: Yes.

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1 MR. MOY: And we have no other Board Members
2 participating. Staff would record the vote as three to zero to
3 two, and this goes to the motion made by Chairman Hill to approve.
4 The motion to approve was second by Mr. Smith, who is also in
5 support of the motion to approve as well as a vote to approve
6 from Zoning Commissioner Peter May and, again, Mr. Smith and
7 Chairman Hill, motion carries, sir, three to zero to two.

8 CHAIRPERSON HILL: Thank you, Mr. Moy. If you can call
9 our next case, Mr. Moy.

10 MR. MOY: This case is Application No. 20886 of Capitol
11 Hill Day School. This is a self-certified application pursuant
12 to Subtitle X § 901.2 for special exception under Subtitle U §
13 320.1(a) and 203.1(n) and Subtitle E § 5202 to allow the expansion
14 of an existing private school use privately located in the RF-3
15 zone at 218 D Street, S.E., Square 763, Lot 2 and as to
16 preliminary matters, the Applicant is proffering an expert
17 witness in architecture who's currently not in our witness book
18 and also I believe, Mr. Chairman, the Applicant filed their
19 PowerPoint slides which currently is not in the record as it came
20 in within the 24 hour period.

21 CHAIRPERSON HILL: Okay. All right. Mr. Moy, unless
22 the Board has any issues if they can go ahead and put the
23 PowerPoint into the record please, your staff, so that we can
24 take a look at that and then, Ms. Moldenhauer, if you can hear

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1 me could you introduce yourself for the record, please.

2 MS. MOLDENHAUER: Good morning, Chairman Hill and
3 Members of the Board, Meridith Moldenhauer from Cozen O'Connor
4 here on behalf of the Applicant.

5 CHAIRPERSON HILL: Great. Thank you. I'm just looking
6 at your expert witness.

7 MS. MOLDENHAUER: We don't need an expert witness in
8 this case.

9 CHAIRPERSON HILL: Okay. All right. Then that was -
10 -- did they, the staff get it wrong or you're just pulling your
11 expert witness?

12 MS. MOLDENHAUER: This is a use case. There's really
13 not a lot of changes architecturally occurring here, so we don't
14 believe it's necessary.

15 CHAIRPERSON HILL: Okay. All right. I'm going to go
16 ahead and let you give your presentation, Ms. Moldenhauer, as to
17 why you believe your client is meeting the criteria for us to
18 grant the relief requested and I'm going to put 15 minutes on
19 the clock so I know where we are, and I know that there was some
20 questions about, you know, where exactly this is on the second
21 or third floor and I'm sure you'll speak to all that as you walk
22 us through your application, and you can begin whenever you like.

23 MS. MOLDENHAUER: Great. If Mr. Young can pull up our
24 PowerPoint presentation, that would be wonderful. Thank you.

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1 We are here today on behalf of Capitol Hill Day School.
2 I have with me today the head of the school, Jason Gray. He will
3 be giving a brief introduction. Looking at the building you can
4 see here the school currently operates on the third floor. There
5 is a time zone confusion because if you look at the picture that
6 we're looking at right now, the first floor is unoccupied. It
7 just has a drive-through and a stair that leads up to the first
8 occupiable floor is the second floor. That's the floor that we
9 are looking to expand into which was previously an office and the
10 third floor, as you can see here along with the mezzanine up in
11 the Mansour Group is currently being occupied. I thought the
12 image might help.

13 Next slide. The property is located in the RF-3 zone
14 and which leads to the need for the zoning relief and is located
15 on D Street, S.E.

16 Next slide. You can see here from this image that the
17 property is across from Folger Park and also caddy-corner to
18 Brent Elementary School. It is on a street that has obviously
19 only a one portion of the street or one half of the street on D
20 Street is actually occupied with structures given the Federal
21 park across the street. It also is -- on the corner of that
22 block is heavily commercial. There is a gymnasium or a gym to
23 the left which is the green dot there and the red dot is the
24 property and to the right is a non-residential use.

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1 I am now going to turn over the next slide please to
2 Mr. Gray to introduce himself and give a brief background on the
3 school. Thank you.

4 MR. GRAY: Good morning, Chairman Hill and Members of
5 the BZA. I appreciate your consideration of our application
6 today. As mentioned, my name is Jason Gray. I have been at
7 Capitol Day School for 26 years serving as Head of School for
8 the past 13 years.

9 I want to briefly talk about three topics. First, the
10 history of Capitol Day School. Second, our desire and motivation
11 for this expansion of our private school use and finally, our
12 engagement with the community through the process.

13 To begin, Capitol Day School is an independent co-
14 educational school for students and pre-kindergarten through 8th
15 grade. We were founded in 1968 with the merger of a pre-school
16 program at the Lutheran Church of the Reformation and an
17 elementary program at Christ Church. We started as a school
18 providing for pre-kindergarten through 4th grade students and
19 eventually expanded to serving 5th through 8th graders in 1980
20 at the current location of our main campus 210 South Carolina
21 Avenue, S.E. In 2018 we expanded to a second location at 218 D
22 Street, S.E., the property that is the subject of this
23 application.

24 Today Capitol Hill Day School is a school that

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1 continuously pursues our mission to deeply engage a diverse
2 community of students in connecting the classroom to the larger
3 world and supporting the development of confidence, compassion
4 and intellectual capacity of each student. The expansion of
5 private school use to the second floor of the 218 D Street
6 building will allow us to facilitate and accommodate the
7 programmatic needs of our school and our students. We are not
8 increasing the total school enrollment. This will simply be an
9 expansion of the space that Capitol Day School can utilize.

10 Capitol Day School engaged our community numerous times
11 throughout this process. We have formally presented to the ANC
12 6B Planning and Zoning Committee and received full ANC support
13 as well as other community members whose letters of support are
14 in the record.

15 We thank the ANC and the community for the time spent
16 considering this expansion and their support. At the end of our
17 whole presentation I'm happy to answer any questions that the
18 Board may have.

19 MS. MOLDENHAUER: Thank you, Mr. Gray. Mr. Young, next
20 slide.

21 So as Mr. Gray indicated, 218 D Street is being used
22 currently as -- since 2018 on the third and mezzanine level for
23 its middle school. That application was supported by OP and by
24 the ANC. It included conditions of 8 a.m., to 6 p.m., and no

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1 more than 90 students. We are here today to expand the school
2 into what was an existing office use on the second floor. This
3 will provide needed space and also would have no exterior
4 structural expansion of the existing historic building. It would
5 request an increase of 90 students to 120 students and to have
6 11 faculty and staff members at the D Street location. We are
7 also asking to modify the operational hours from 8 to 9 p.m., to
8 allow for time to time evening programs for the students. We
9 also have requested a pick-up and drop-off program on D Street.

10 Next slide. You can see here the property is outlined
11 in red. We have worked with DDOT to identify an area that is
12 also marked in red on the street for pick-up and drop-off location
13 for students. The majority of students do walk to school or bike
14 to school and live in the neighborhood but from time to time
15 having a location for students is helpful.

16 Next slide. We did work with DDOT to outline and put
17 into the record a pick-up and drop-off plan for the PUDO
18 operations which include many details but including replacing the
19 pay-to-park spaces in front of Capitol Day with pick-up and drop-
20 off, that there be no PUDO permission on 3rd Street, S.E. There
21 would be restricted hours similar to the property, the elementary
22 school across the street for the pick-up and drop-off and that
23 we would be communicating the different requirements to the
24 families via our handbook.

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1 Next slide. Under the zoning special exception relief
2 requested today under Subtitle U 320.1(a) and 203.1(n), we
3 believe we meet the special exception standards to expand the
4 private school use here. The private school use is in harmony
5 with the zone and it is compatible with the surrounding
6 neighborhood and community. As indicated, a large number of the
7 students do come from the surrounding neighborhood and community.
8 There'd be no adverse impact in regards to noise and parking.
9 The property has been operating at this location since the 2018
10 BZA Order and has had no issues or concerns regarding noise or
11 parking or issues with adverse impact.

12 Additionally, the special exceptions for this project
13 have been met and the project will not become objectionable to
14 adjacent or nearby properties and parking is not required for
15 this historic building, but the private school has operated
16 successfully here as currently identified.

17 Next slide. We have done a lot of community outreach
18 as the school is a very positive member of the community. The
19 ANC supported this application which is at Exhibit 24. Capitol
20 presented to the Capitol Hill Restoration Society who also
21 supported the application at Exhibit 28. We worked back and
22 forth with OP and DDOT and they are both supportive, and we have
23 some individual letters in the record from homeowners who live
24 on the square.

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1 So with that we will conclude our presentation. We are
2 available for any questions and we thank you for your time today.

3 CHAIRPERSON HILL: Thank you. Does my Board Members
4 have any questions for the Applicant?

5 I just want to be clear. Mr. Gray, your enrollment's
6 not going up, it's still at 230, you're just having accessibility
7 of more students to this facility; correct?

8 MR. GRAY: Correct.

9 MS. MOLDENHAUER: Let me just confirm. It's 255
10 students pursuant to the BZA Order 17541B.

11 CHAIRPERSON HILL: Okay. Thank you.

12 MS. MOLDENHAUER: Right.

13 CHAIRPERSON HILL: Thank you for that clarification.

14 MS. MOLDENHAUER: Yes.

15 CHAIRPERSON HILL: Okay. And your agreement concerning
16 the hours of operation from 8 a.m, to 9 p.m.? Ms. Moldenhauer
17 or Mr. Gray?

18 MS. MOLDENHAUER: Yes. That would be our requested
19 time.

20 MR. GRAY: Correct.

21 CHAIRPERSON HILL: Okay. And these are the times that
22 you went and submitted and spoke with the ANC concerning?

23 MS. MOLDENHAUER: Correct. Yes, we spoke with the ANC
24 about those specific times and Capitol Hill Restoration Society.

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1 CHAIRPERSON HILL: okay. Great. I'm going to go ahead
2 and turn to the Office of Planning.

3 MS. MYERS: Good morning. Crystal Myers with the Office
4 of Planning. We are in support of this case with the conditions
5 in our report which are that the hours of operation be limited
6 to 8 a.m., to 9 p.m. The second one being that the total number
7 of students be limited or not exceed 120 students at one time
8 and the last one is we are saying that for event parking we're
9 recommending a condition to direct event parking to their main
10 campus at 210 South Carolina Avenue seeing as how this is a
11 residential zone.

12 And with that, I will stand on the record of the Staff
13 report. Thank you.

14 CHAIRPERSON HILL: Okay. Does the Board have any
15 questions of the Office of Planning? Okay. Let's see.

16 Ms. Myers, it looks like in the previous order, and I
17 can't recall this case off the top of my head in the previous
18 Order, but that the Office of Planning did speak to event parking
19 and I guess the Board did not adopt that condition because it
20 seemed to pertain to parking other than the one at issue.

21 Can you speak to this or are you aware of that?

22 MS. MYERS: Yes, I'm aware of that. The original
23 condition that we had was that it's -- we were recommending that
24 it be required, I believe, like I have the old report here. Yes.

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1 We recommended that the event parking, all event parking at this
2 location shall be at the main campus.

3 What we're now recommending is that it just be
4 directed, so more of like a recommendation by the Applicant, you
5 know, to direct traffic or direct parking at the school but it's
6 not ordered, it's not it has to be. So we kind of, I guess,
7 reduced the intensity of that condition so to say, but I mean
8 obviously it's up to you the Board if you want to --

9 CHAIRPERSON HILL: No, I understand and I appreciate
10 that, Ms. Myers. I'm trying to understand what the Board may or
11 may not want to do with that condition. Ms. Moldenhauer and Mr.
12 Gray, your Applicant is aware of this directive or recommendation
13 and is comfortable with that? I see Mr. Gray nodding yes.

14 MS. MOLDENHAUER: Yes. I mean, we worked with Office
15 of Planning on the language and so we are comfortable with that.

16 CHAIRPERSON HILL: Okay. You worked with the Office
17 of Planning on the language? Okay. Let's see. And you're also
18 comfortable again with the PUDO that is in Exhibit 27A; correct?

19 MR. GRAY: Correct.

20 CHAIRPERSON HILL: Okay. All right. Mr. Young, is
21 there anyone wishing to speak?

22 MR. YOUNG: We do not.

23 CHAIRPERSON HILL: Okay. All right. Then does the
24 Board have anything else finally for the Applicant? Seeing none.

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1 All right. Well, thank you all very much for your time and I'm
2 going to go ahead and close the hearing. You all have a nice
3 day.

4 MS. MOLDENHAUER: Thank you very much.

5 MR. GRAY: Thank you.

6 CHAIRPERSON HILL: Okay. Commissioner May, as I kind
7 of get myself a little bit organized here would you mind starting
8 any deliberations?

9 COMMISSIONER MAY: Yes. I don't have a whole lot to
10 say about this. It seems like it's a pretty straightforward
11 expansion. It doesn't involve having more students overall. It
12 does involve putting more students at this location. It's kind
13 of a, I mean I'm familiar with the area. I live not far away,
14 and it is -- it can be kind of a congested area so I think having
15 the very carefully thought out PUDO plans worked out is I think
16 probably the most important aspect of this. The fact that it
17 has the support of the ANC and from neighbors I think is also
18 helpful. So I don't see any reason why we would not grant this
19 in this case.

20 CHAIRPERSON HILL: Okay. And would you use the PUDO
21 plan as a condition, Commissioner May?

22 COMMISSIONER MAY: Yes, absolutely.

23 CHAIRPERSON HILL: Okay. Mr. Smith.

24 MR. SMITH: I don't think I have anything to add more

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1 than Commissioner May had stated. I feel like it's a fairly
2 straightforward application and I am in support of the conditions
3 as specified by the Office of Planning and I do believe that
4 those conditions will help mitigate some of those impacts that
5 Commissioner May spoke of, congestion around the park over there
6 and Capitol Hill. So with that, I give OP's staff report great
7 weight and support the application.

8 CHAIRPERSON HILL: Okay. Great. Thank you. All right,
9 and I make the motion to approve Application No. 20886 as
10 captioned by the secretary including the conditions concerning
11 the hours of operation shall not exceed 8 a.m., to 9 p.m, and
12 the total number of students at the location shall not exceed 120
13 at any one time, and that the PUDO plan in Exhibit 27A be
14 encapsulated in the Order as well as the recommendation from the
15 Office of Planning that the Applicant be directed that event
16 parking will -- parking should be at their main campus, and ask
17 for a second. Mr. Smith.

18 MR. SMITH: Second.

19 CHAIRPERSON HILL: Motion made and second, Mr. Moy.
20 Could you take a roll call, please?

21 MR. MOY: When I call your name, if you'll please
22 respond to the motion made by Chairman Hill to approve the
23 application for the relief requested including the three
24 conditions as cited in the OP report as well as, I believe, Mr.

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1 Chairman you said Exhibit 27?

2 CHAIRPERSON HILL: 27A.

3 MR. MOY: Okay. Great. This motion was second by Mr.
4 Smith.

5 Zoning Commissioner Peter May?

6 COMMISSIONER MAY: Yes.

7 MR. MOY: Mr. Smith?

8 MR. SMITH: Yes.

9 MR. MOY: Chairman Hill?

10 CHAIRPERSON HILL: Yes.

11 MR. MOY: We have no other Board Members participating.
12 The Staff would record the vote as three to zero to two and this
13 is on the motion made by Chairman Hill to approve with the
14 conditions as cited in its motion. The motion to approve was
15 second by Mr. Smith who is also in support of the application to
16 approve, as well as approval from Zoning Commissioner Peter May.
17 So, again, Peter May, Mr. Smith, Chairman Hill. The motion
18 carries three to zero to two.

19 CHAIRPERSON HILL: Okay. Thank you. Let's see. Mr.
20 Moy, is 20888 next?

21 MR. MOY: Yes, sir.

22 CHAIRPERSON HILL: If it's okay can we do 20892 next
23 and then we'll take a quick break, if that's okay with everybody?
24 If people are in the hearing room.

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1 Mr. Moy, if you don't mind calling 20892 and see if
2 we've got people here.

3 MR. MOY: Okay.

4 CHAIRPERSON HILL: Sorry to mix you up there.

5 MR. MOY: Yes. The only -- let me check something. I
6 want to check to see if people have signed up for 20892 since
7 you're moving it out of order here.

8 CHAIRPERSON HILL: No, I want to see -- if that's the
9 case, I mean, we can take a quick break now. I just wanted to
10 see.

11 MR. MOY: (Indiscernible).

12 CHAIRPERSON HILL: Okay. I'll tell you what, never
13 mind. If you guys don't mind can we just take a quick break now
14 and we'll keep the order that we have? Okay, thanks. I'll be
15 right back. Thank you.

16 MR. MOY: Yes. There are people signed up. Thank you,
17 sir.

18 CHAIRPERSON HILL: All right, Mr. Moy. Yes, let's just
19 keep the order the way it is. So we'll hear 20888 next and then
20 20892. Thank you.

21 Whereupon, there was a brief recess.)

22 CHAIRPERSON HILL: Could you call the next case,
23 please?

24 MR. MOY: Yes, sir. Thank you, Mr. Chairman. After a
25

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1 very brief recess the Board is back in its public hearing session
2 and the time is now at or about 10:27 in the morning.

3 The next case before the Board is application No. 20888
4 Shahabeddin Toobaie T-O-O-B-A-I-E and this is as amended a self-
5 certified application pursuant to Subtitle X § 901.2 for special
6 exceptions to the following: Subtitle U § 320.2 which would
7 allow the conversion of an existing residential building to an
8 apartment house, Subtitle E § 205.5 which would allow the rear
9 wall of a semi-detached building to extend farther than ten feet
10 beyond the farthest rear wall of a principal residential
11 building, Subtitle E § 206.4 and Subtitle E § 5207 from the
12 rooftop and upper floor requirements, Subtitle E § 206.1,
13 Subtitle C § 703.2 minimum vehicle parking requirements, Subtitle
14 C § 701 and Subtitle C § 1501.1(c) from the penthouse height
15 requirements of Subtitle C § 1501.1(b)(2). Property is located
16 in the RF-1 zone at 447 Park Road, N.W., Square 3036, Lot 27,
17 and finally I just want to double check here, we have or rather
18 the Board has witnesses who have signed up to testify, three
19 individuals, Mr. Parison (phonetic), a Ms. Prince and a Mr.
20 Palmer, and that's it for me I believe, Mr. Chairman.

21 CHAIRPERSON HILL: Okay. Great. Thank you. If the
22 Applicant can hear me if they can introduce themselves for the
23 record, please?

24 MR. SHIRAZI: Hi, good morning. This is Hamid Shirazi

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1 with Datis Properties, LLC. We've been hired by the owner to
2 develop this property. I'll be talking on behalf of the
3 Applicant.

4 CHAIRPERSON SMITH: Okay. All right, Mr. Shirazi. If
5 you want to go ahead and walk us through your client's application
6 and why you believe they're meeting the criteria for us to grant
7 the relief requested. I'm going to put 15 minutes on the clock
8 so I know where we are, but I see your PowerPoint in the record
9 and you can go ahead and begin whenever you are ready.

10 MR. SHIRAZI: Thank you, sir. Mr. Young, if you could
11 share my PowerPoint. Okay. Thank you very much.

12 So again, talking about 447 Park Road, N.W. I'm Hamid
13 Shirazi with Datis Properties, LLC contracted by the owner Mr.
14 Toobaie to develop this property into condominiums and the
15 architects of the record are Axis Architects. Mr. Anthony Pizzo
16 is also here with us.

17 Next slide, please. High level overview of the
18 project. Existing building is currently three stories tall. We
19 are adjoining to the building on the west and we are detached
20 from our neighbor to the east and we currently extend four feet
21 three inches past the rear of the adjoining neighbor.

22 We are proposing to add a rear addition to the property
23 and a side addition to the property and to convert this into a
24 three unit apartment. The property is in RF-1 zone with just

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1 about 4,000 square feet lot area and it's 32 feet wide.

2 So in summary, the zoning requirements that the current
3 lot occupancy is at 27.7. The new building is going to extend
4 that to 46.5 percent. The rear yard is at 43.6 feet and we're
5 proposing to extend to 25 feet from the lot line in the back.
6 The existing height is 35 feet, they're remaining at 35 feet.
7 It's currently a single family house converting to three units.
8 There are no parking currently and they're proposing to remain
9 with that condition.

10 Next, please. A summary of the relief that we are
11 requesting Subtitle U § 301. This is RF-1 matter-of-right. It's
12 two unit. We are requesting three unit conversion. Subtitle E
13 § 205.4 is the ten foot rule. We are requesting eight feet above
14 the matter-of-right extension on the back. § 206.1 is about
15 architectural elements. We are requesting to replace the
16 existing porch roof with one that would be equal to width of the
17 proposed structure and increase the size of the existing dormer
18 window and extend cornice to the width of the proposed structure.

19 Next, please. § 701 of Subtitle C is about the parking.
20 They're requesting the parking exception and then § 1501.1(b)(2)
21 is about penthouse habitable space. It's just that it should -
22 - it's permitted if it's within the matter-of-right height of the
23 building. They're requesting really from the height of the
24 penthouse.

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1 With that I turn it over to our architect, Anthony.

2 MR. PIZZO: Hello. Next slide, please.

3 So just a quick look at the vicinity map you can see
4 on our slide which is highlighted in this sort of blue rectangle.
5 We're basically mid-block off of Park Road and it's kind of a
6 unique block in the city because there's not really a service
7 alley that cuts through the block so what you end up with are
8 these really wide deep backyards that these homes have. So you
9 can see Manor Place to the north of us. Water Street is to the
10 west and Park Place to the east and we're about four or five
11 blocks north of the McMillan Reservoir.

12 Next slide, please. So a quick look at the existing
13 site plan. This is rotated clockwise 90 degrees to fit on this
14 slide. So you basically have Park Road page left and the rear
15 of the property page right. Currently the side yard is 12 feet
16 and that pitches down to 7.9 feet with that two story bump out
17 that happens towards the rear of the building. The rear yard is
18 43 feet. There is a mansard roof on the third floor in the front
19 of the building which is a pretty common architectural element
20 in the neighborhood with a single dormer and then a porch that's
21 covered on the first floor that has stairs down to the front yard
22 and then another set of stairs down to the sidewalk.

23 Next slide. So looking at our proposed site plan you
24 can see the red dash line is the extent of the existing footprint.

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1 So what we're proposing here is expanding or widening the existing
2 footprint towards the side property line but still maintaining
3 that minimum side yard requirement of five feet. We're also
4 asking for relief to bump the back of the building out towards
5 the rear property line so that we're 18 feet beyond the adjoining
6 neighbor's home.

7 You can see that we have some private rooftop decks
8 here on the roof that are accessed by this sort of T-shaped stair
9 pop-up. We are maintaining that mansard roof reading at the
10 front but we're widening the dormer there so that it fits more
11 proportional with the wider façade and just to allow more light
12 and air into that third floor unit and we're also maintaining the
13 existing porch of the first floor but we're widening that as
14 well.

15 Next slide. So just looking at the front elevation
16 here you can see that the neighborhood has a very strong
17 architectural reading which is basically a two story brick
18 townhome. The third floor is basically composed of this sort of
19 shallow sloped mansard roof that has a dormer window and a porch
20 that's covered on the first floor. So we're maintaining that
21 architectural language, again we're just widening the front
22 façade. You can see that red line again to the extent of what's
23 existing. We're also widening that front porch so it fits
24 proportionately to the wider façade as well as the dormer, but

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1 the mansard roof the height of that stays the same. The slope
2 of the mansard roof stays the same and we're also extending that
3 cornice line.

4 Next slide. Just a view of the rear façade. So you
5 can see we're adding some balconies at the back on the third and
6 second floor and then a stair down to the area way to give access
7 to the cellar unit back there.

8 Next slide. And looking at the west elevation, so this
9 is basically our side façade and the intent is really for this
10 not to read as side façade because it's the main entry for two
11 out of the three units in this building. You can see through
12 that little recessed portal on the first floor. So we're carrying
13 the brick from the front down the side of the building so it has
14 a high quality material. We're doing some nice detailing around
15 the windows and we've established this nice symmetrical window
16 composition.

17 Next slide. This is just a longitudinal section
18 through the project so you can, again, you can see the rear
19 expansion, the rooftop decks with the stair pop-up and then the
20 area ways in the front and the rear.

21 Next slide. A bird's-eye view of the project. Again,
22 you can see how we're carrying that brick around the side, the
23 window fenestration and how we're just contextually we're trying
24 to retain the architecture of the neighborhood.

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1 Next slide. And this is a view basically from the
2 breeze-way between our lot and the adjacent property looking
3 towards the back of the building. So as I mentioned before,
4 these homes had the benefit of these really nice sort of lush
5 backyards, so the idea is that we're trying to retain that. Some
6 of this greenery is existing. We're going to be adding some more
7 vegetation and things like that just to create sort of an oasis
8 and amenity space back there.

9 Next slide. I think we can turn this back over to
10 Hamid.

11 MR. SHIRAZI: Thank you. So how we meet the
12 requirements for the special exceptions for Subtitle U § 320.2
13 converting from one to three units. The first one says that the
14 building has to exist and our building actually is there built
15 in 1907. The second criteria about the fourth unit. We're not
16 doing the fourth unit, we're just proposing three units, that
17 doesn't apply, and the third requirement is about having 900
18 square feet of area, land area per unit and we meet and actually
19 exceed that by about 1,000 square feet.

20 Next, please. Requirements for the ten foot, over the
21 ten foot matter-of-right extension in the back. We've done some
22 sun studies, shadow studies and the results from the study shows
23 that the impact on our neighboring properties as a result of the
24 eight foot extra expansion in the back is not significant. There

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1 is some impact particularly to our neighboring property to the
2 west that's adjoining but it does not rise to the level of undue
3 given the findings from the shadow study.

4 Next, please. We think we meet the requirements for §
5 E 5201.4(b) and 5207.1(a)(2) talking about the privacy. The
6 pictures at the bottom show the existing layout of these two
7 buildings, our property on the left and then the property on the
8 east side to us. There are currently 18 windows on both
9 properties facing each other. We're not proposing any new windows
10 facing to the west and, again, going back to the property on the
11 east side, after our plan is built we are still going to be
12 separated from the building to the east by 17 feet allowing the
13 side wall and 12 feet from the bay window that we see in the
14 picture, so there's quite a distance between the two buildings.

15 Furthermore, per our neighbor's request we are setting
16 up railings on the roof to set back from the building line by an
17 extra four feet to provide further privacy for our neighbor to
18 the east as a result of that.

19 Next, please. Requirements of § E-5201.4(c) and
20 5207.1(a)(3) talking about the fact that we are maintaining the
21 rectilinear shape of existing building and adjacent buildings.
22 So the shape of the building will be in harmony with the
23 neighbors. This block is a mix of two and three story buildings.
24 We are remaining a three story high building and our proposed

1 changes to the rooftop elements will have minimal impact on the
2 visual experience of the building. To the left you see our
3 project building with its neighbors and then to the right it's
4 this new construction building is just across the street from us
5 looking very similar to what we are proposing to do in our
6 project.

7 Next, please. They meet the requirements for § 703.1.
8 This is about the parking. As Anthony mentioned, this property
9 is landlocked. It does not have any alley access and very close
10 proximity to Georgia Avenue and just about half a mile to the
11 metro station and a variety of transportation options, and then
12 the other criteria I think we meet that because in our original
13 proposal to the neighbors, and actually to BZA, we had recommended
14 the driveway for this property to provide free parking in the
15 back of the building. That proposal was met fiercely with
16 neighbors on both sides on Park Road and actually our neighbors
17 in the back on Manor Road. So after, you know, having spent
18 hours talking with neighbors and also getting input from DDOT,
19 we have decided to remove the driveway option and request relief
20 from the parking requirement.

21 Another point of concern was that providing those
22 parking in the back of this building would have required a new
23 curb cut in Park Road and there were, you know, safety concerns,
24 noise concerns with providing a driveway that would lead to

1 parking in the back of the building from the community and from
2 DDOT.

3 Next, please. Requirements of the penthouse height.
4 This is about the penthouse use is subject to C-1501.1(b)(2). It
5 basically says that for a habitable penthouse the height of the
6 penthouse should be entirely within the matter-of-right permitted
7 for the building. Our penthouse however is not really habitable.
8 It's just the stair towers that gives access to the roof area.
9 We believe that this is not applicable to our case, however our
10 zoning counsel actually suggested strongly to include this in our
11 case. It seems like the Office of Zoning's interpretation of
12 these cases actually have recently changed and even though we
13 think that this is a mechanical, you know, penthouse, it's not a
14 habitable penthouse and shouldn't be subject to the height
15 restriction laid out, we decided to actually include that as a
16 part of our case.

17 Next, please. On the community outreach, we had a very
18 strong engagement with our neighbors and community for this
19 project. We invited more than 30 neighbors on Park Road and
20 Manor Place to participate in the development of these plans,
21 knocked on doors, inviting neighbors to participate in community
22 meetings. As a result, we held two meetings. More than nine
23 neighboring families participated. In addition, we had 13 one-
24 on-one meetings with the neighbors who engaged and actually

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1 shared their opinion and feedback with different aspects of the
2 project. As a result of those conversations, we made significant
3 adjustments to our original plans and, you know, what's actually
4 in front of you is what's incorporating all those changes that
5 we've made. As a result of this community outreach, we have
6 received unanimous support from ANC, Office of Planning and also
7 DDOT.

8 Next, please. That's all we have. We can answer any
9 questions that you may have.

10 CHAIRPERSON HILL: All right. Great. Thank you. Do
11 my fellow Board Members have any questions of the Applicant?

12 Commissioner May.

13 COMMISSIONER MAY: Yes. So I saw on the plans a
14 notation for a dimension string indicating that the addition is
15 only 16 and a half feet. Is that an error or did I read something
16 incorrectly? Maybe it's just a glitch between one set of
17 dimensions and another.

18 MR. PIZZO: Are we able to pull up the PowerPoint again
19 so we can refer to that site plan? Is it the site plan you're
20 talking about?

21 COMMISSIONER MAY: No, no, no, it's on the plans. It's
22 Exhibit 25 and unless, is the second floor not set back as far
23 as the first floor because the first floor is shown as 18 feet
24 beyond adjacent property and then the second floor is shown as

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1 16 and a half on Exhibit 25.

2 MR. PIZZO: Let me see.

3 COMMISSIONER MAY: Okay.

4 (Pause.)

5 COMMISSIONER MAY: You see what I'm saying? The
6 dimension, the 16 foot dimension is on page four --

7 MR. PIZZO: Okay. Let me --

8 COMMISSIONER MAY: -- of Exhibit 25.

9 MR. PIZZO: It's freezing up on me here, 16 and a half.
10 So I'm looking at the proposed floor plans. Is that what --

11 COMMISSIONER MAY: Yes.

12 MR. PIZZO: Okay. Which floor plan exactly are you
13 looking at? The second floor?

14 COMMISSIONER MAY: Second floor proposed plan on page
15 four.

16 MR. PIZZO: Page four. Okay. Okay, yes. That's
17 because if you look at, well, we don't have this included in the
18 BZA package but that existing site plan I shared with you in the
19 PowerPoint, the existing building basically wedding cakes from
20 top down. So the second floor -- the first floor is the farthest
21 out and the second floor shrinks back and the third floor shrinks
22 back, it kind of wedding cakes up. So that's why it's less, you
23 have less depth on the second floor than you do on the first
24 floor.

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1 COMMISSIONER MAY: Oh, so it's the house next door where
2 the dimensions change?

3 MR. PIZZO: Right.

4 COMMISSIONER MAY: Okay. I'll have to look at that
5 more carefully.

6 So in the presentation you said that the penthouse is
7 not visible from the street. Is there a drawing that shows that?
8 Do you have a sightline drawing of the street section?

9 MR. PIZZO: No, we did not include that but that's
10 something we can put together for you.

11 COMMISSIONER MAY: Okay. Well, I mean, if you're going
12 to make that statement I think it's important to actually have
13 evidence of that.

14 How is it possible that you could have put in a driveway
15 to begin with? I don't understand that because it looks like
16 the side yard is not big enough for a driveway.

17 MR. SHIRAZI: Commissioner May, it's actually a part
18 of our presentation. Mr. Young, if you could share that
19 PowerPoint again. We have a few mutations of the parking that
20 we went through with the neighbors that's there. Further down,
21 please. No, now actually the other way. Yes. Okay.

22 So this was the original site plan that was submitted.
23 It shows a shared driveway with our neighbor to the east.

24 COMMISSIONER MAY: All right. So that's the answer.

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1 You were going to share it with the property to the east. So to
2 that, do you own that property?

3 MR. SHIRAZI: We do not own that property. This plan
4 was based on a misconstrued actually conversation with the
5 neighbor that the owners actually had originally -- the
6 understanding was that the neighbor was open to constructing a
7 shared driveway for this project. After the project was developed
8 and we shared this with all neighbors, including our neighbor to
9 the east, we understood that this is not meeting their
10 requirements. So we removed that from our actually package and
11 if you go to the next slide, please.

12 This shows another mutation of a driveway. This was
13 our second option, private driveway entirely on our lot. We
14 actually shared this with neighbors in those, you know, community
15 outreach conversations and this was fiercely actually pushed back
16 by not only our neighbor to the east but also the neighbor at
17 the back.

18 COMMISSIONER MAY: But I'm just asking how it was
19 possible. I heard the story. So it was possible because you
20 did not make the building, your enlargement as wide. You would
21 --

22 MR. SHIRAZI: Correct.

23 COMMISSIONER MAY: -- have reduced the enlargement.
24 Okay. That's what I was trying to get to. All right. The

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1 property that you cite nearby that has a very similar treatment.
2 Does that also extend 18 feet beyond its abutting neighbor?

3 MR. SHIRAZI: That's almost as wide as ours and it's
4 also a three unit conversion. They don't have as big of a lot
5 as ours. I'm not -- I haven't looked at the specifics of how
6 far back they go from their neighboring property.

7 COMMISSIONER MAY: Okay.

8 MR. SHIRAZI: We can provide you with that answer as
9 well.

10 COMMISSIONER MAY: No, that's okay. I'm just curious,
11 you know, what you know about it.

12 The -- so I'm curious as to why you picked this as a
13 five unit conversion, I'm sorry, a three unit conversion, not a
14 five unit conversion because you're showing units A and B as
15 having separate apartments on the cellar level. Are those not
16 separate apartments? I mean, I know it calls it a kitchenette
17 and you've got a living room and a dining room and a bedroom and
18 a sink and refrigerator. You're just a stove short of having a
19 separate apartment. Why is that not a separate apartment? Why
20 isn't this a conversion for more than three units?

21 MR. SHIRAZI: So if I may -- Mr. Anthony, Mr. Pizzo -
22 - so this was one of the requirements of the owners. They wanted
23 to maintain the townhome-style for two of the units and wanted
24 to have a separate cellar level that could be used as a family

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1 room area for both units A and B. It is not intended to serve
2 as a separate unit for this building and it's basically going to
3 serve as an extra family room space that they can use.

4 COMMISSIONER MAY: Yes. I'm not buying it. You drew
5 an apartment; right? You drew it like it's an apartment. It's
6 not necessarily going to be a family room, it might be just an
7 Airbnb or something like that but I wouldn't be surprised if it
8 was not rented as another unit, illegally but it's there. I
9 mean, you're designing it and you're building it as if it's a
10 separate unit. All right.

11 Yes. I don't have any questions about the
12 architectural treatment. I think that's done reasonably well and
13 I don't have an objection to the widening of the building or any
14 questions about that. There are other aspects of this that I
15 think are problematic though. That's it for me, Mr. Chairman.

16 CHAIRPERSON HILL: Okay. Mr. Smith. I'm sorry. Mr.
17 Smith, did you have any questions? I didn't see.

18 MR. SMITH: Sorry. I think I was still on mute. I
19 don't have any questions.

20 CHAIRPERSON HILL: Okay. Could I turn to the Office
21 of Planning, please?

22 MS. BROWN-ROBERTS: Okay. Good morning, Mr. Chairman
23 and Members of the BZA. I'm Maxine Brown-Roberts from the Office
24 of Planning on BZA Case 20888 in which the Applicant proposes to

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1 convert a three story plus cellar and semi-detached building into
2 three unit apartment and with three story side and rear addition.

3 The Office of Planning will stand on the record since
4 in our analysis we found that the privacy of the two adjacent
5 residents and also like in the rear (phonetic) should not be
6 unduly affected. Regarding we are also supportive of not having
7 the parking spaces and also the penthouse height where they're
8 actually -- the penthouse height is about the height of the
9 building.

10 I would just like to piggyback on Mr. May's question
11 about having that unit in the basement and we were also concerned
12 about that and spoke to the Applicant about it and I think what
13 they had said that in the permit they would certify that that
14 would not be an additional unit. So I also spoke to the persons
15 at the Building Department and they said that that is something
16 that can be done.

17 So based on that the Office of Planning recommends
18 approval of all the special exceptions. Thank you, Mr. Chairman,
19 and I'm available for questions.

20 CHAIRPERSON HILL: Okay. Sure. Commissioner May, go
21 ahead.

22 COMMISSIONER MAY: Ms. Brown-Roberts, so I'm glad you
23 inquired about this issue of the basement apartments and I recall
24 that there was a previous BZA case where something like this came

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1 up and I think the units were actually, I think it was a -- they
2 were trying to sell them as flats but they had included a third
3 unit over the garage with a fully equipped kitchen and, you know,
4 I think in the end the requested relief was never granted. But
5 I'm really curious as to like how do you -- how does the
6 Department of Buildings make sure that this is not being used as
7 a separate apartment because, you know, the District has a long
8 history of apartments, separate apartments, like this being
9 rented out even if they're not necessarily they don't have the
10 same outboard (phonetic).

11 MS. BROWN-ROBERTS: Yes. I think when they're doing
12 their inspections they look for, you know, if there are gas lines
13 or stuff like that but I don't know the full details of what they
14 look for or, you know, how to prevent that from happening.

15 COMMISSIONER MAY: Uh-huh. Okay. Not sure where this
16 is going but I'd be curious to know more about that because the
17 kitchen and the sink, it's the, you know, the stove -- is there
18 a stove, is there a dishwasher? Those sorts of questions --

19 MS. BROWN-ROBERTS: Yes.

20 COMMISSIONER MAY: -- might come up that make this the
21 potential for an independent apartment.

22 MS. BROWN-ROBERTS: Unit.

23 COMMISSIONER MAY: And it's, I mean, it's not just --
24 it's a concern for two aspects of this. One is that it's

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1 bypassing the 900 foot rule and it's also a concern because the
2 fourth unit and, you know, as you're going to do a conversion,
3 would have to be an IZ unit. So we were, you know, they're
4 bypassing that requirement as well and I can easily see that as
5 a motivation on the part of the Applicant to avoid, you know,
6 those issues, you know, max out the building envelope here in
7 terms of the number of units and not have to, you know, contribute
8 an inclusionary unit, so.

9 All right. Thank you.

10 MS. BROWN-ROBERTS: Uh-huh.

11 CHAIRPERSON HILL: Okay. Mr. Smith. I'm just looking
12 at the architectural plans a little more closely that Mr. May had
13 pointed out. Maybe the architect, Mr. Pizzo, how are -- how's
14 that basement connected to the -- can you clarify again for me
15 how the basement is connected to the upper units?

16 MR. PIZZO: Yes, sure. If you look at the cellar floor
17 plan there's an internal stair shown on the basement level and
18 that takes you up to the first floor there's a little sort of
19 door access that leads you to the first floor. So there's the
20 ability to close that off if you have guests over but there is
21 that internal connection and then each cellar unit has its own
22 exterior connection from the front and back with area ways and
23 stairs down.

24 CHAIRPERSON HILL: Yes. Thank you. Okay. I'm sorry,

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1 guys. Just give me one minute again. I'll be right back.

2 (Whereupon, there was a brief recess.)

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

5 MR. SMITH: Chairman Hill?

6 CHAIRPERSON HILL: Yes.

7 MR. SMITH: I do have a question; okay. This is in
8 light of Commissioner May's concerns. I'm glad that he brought
9 this up. So the cellar space, is the only way to access unit A
10 and unit B through the cellar or the first floor? Or is there
11 two ways to access those units?

12 MR. PIZZO: The main -- so unit A which is the front
13 unit, the main entry is through that front porch off the first
14 floor and then for unit B which is the first floor unit at the
15 back, the entry for that would be off the side yard through that
16 side façade. But there are also secondary entrance points through
17 the cellar where you can hit internal stair and connect back up
18 to the first floor as a secondary means of entry.

19 MR. SMITH: Well, I do share those same concerns because
20 the way that this is designed it can be accessed as an accessory
21 dwelling unit and it's not meeting the building code purposes.
22 My recommendation is to remove the entrance off the basement
23 floor. So one of the -- choose the entrance to remove, but remove
24 one of the two entrances because he is exactly correct. This

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1 is, you know, a site designed for, you know, a back door
2 conversion to an accessory dwelling unit for somebody that may
3 buy one of these units as their condo and rent out one of the
4 floors.

5 So, that's my recommendation.

6 CHAIRPERSON HILL: All right. Let's get through this
7 here. Mr. Shirazi and Mr. Pizzo, I know this is probably a hiccup
8 in your presentation but let me go ahead and get through the
9 remainder of this hearing and see where we get.

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

11 MR. YOUNG: Yes, we do.

12 CHAIRPERSON HILL: Okay. Could you please give me
13 their names as you bring them in?

14 MR. YOUNG: Yes. We just have two witnesses and that
15 is Mr. Palmer and Ms. Prince.

16 CHAIRPERSON HILL: Okay. Great. Mr. Palmer, can you
17 hear me?

18 MR. PALMER: Good morning. I can.

19 CHAIRPERSON HILL: Good morning. Could you please
20 introduce yourself for the record?

21 MR. PALMER: Good morning. I'm George Palmer and I
22 reside at 445 Park Road. I'm the neighbor adjacent property to
23 the east.

24 CHAIRPERSON HILL: Okay. Mr. Palmer, you can go ahead.

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1 You have three minutes to give your presentation and unless no,
2 and please begin whenever you like.

3 MR. PALMER: Okay. So I will say that the developers
4 have reached out to try to make adjustment but I still have one
5 firm objection to the development as it's currently designed.

6 The Zoning Code sort of has this I guess standard of
7 does it unduly impact light and air of available properties and
8 is the privacy or enjoyment unduly compromised. I think that,
9 yes, that's one of the standard but I think that the way that
10 they assess whether it's unduly impacting the property is simply
11 relying on sun studies. I see nowhere, and maybe I'm missing
12 somewhere, where they take a point of view as to say what's the
13 impact of the field of view from the property that is potentially
14 being impacted; right?

15 As I sit in my dining room or bedroom on the second
16 floor looking out the window that's slightly facing to the
17 northwest, the amount of light that will be coming in if we
18 construct as requested will be impacted. Now I will see more of
19 a structure, you know, as I currently see from all my windows
20 that are facing to the west; right?

21 I would ask that you really reconsider approving this
22 as designed because I'd really prefer not to have to just look
23 out at just bricks; right? I have no other options in terms of
24 windows except the ones facing to the north and to the south but

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1 all rooms within the home does not have that opportunity.

2 I also make a quick comment in that I think between the
3 ANC and the Office of Zoning and Planning, I would recommend that
4 they get out into these neighborhoods and kind of take a look at
5 some of these properties and impacted instead of just relying on
6 studies to say what is undue impact to the neighbors in any
7 other direction. It's just relying on studies it just seems to
8 me allowing for what is now more of a yes, we request an
9 exception, but it's really becoming just a formality and we're
10 requesting and summarily granting those access.

11 I think we will be unduly impacted and I guess I'm just
12 about at my time. Thank you for your time and listening to me
13 this morning.

14 CHAIRPERSON HILLI: Okay. Thanks, Mr. Palmer.

15 Yes, the criteria as to what is considered undue is
16 something that the Board has to grapple with all the time and
17 really, you know, kind of -- and I'm just kind of commenting that
18 to kind of give some explanation to your testimony being that you
19 are the adjacent property and, you know, what the Board tends to
20 look at, again, is the shadow studies, the light and air and
21 really what it often times looks at is the difference between the
22 proposed and the matter-of-right meaning that I don't whether
23 you've had a chance to look at the slide decks that show the sun
24 studies as the difference between the ten feet rear addition

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1 which is a matter-of-right rear addition, and 18 foot rear
2 addition which goes back those additional eight feet. Did you
3 have a chance to look at the difference between the ten foot and
4 the eighteen feet?

5 MR. PALMER: I have.

6 CHAIRPERSON HILL: Okay. And so that 18 feet, that
7 additional eight feet, that's what you're speaking of when you
8 speak of the light being affected?

9 MR. PALMER: Yes.

10 CHAIRPERSON HILL: Okay. All right. Okay. Does the
11 Board have any questions of Mr. Palmer? All right.

12 Ms. Prince, can you hear me?

13 MS. PRINCE: I can hear you. I think I'm going to take
14 you all on a field trip. I'm outside and hopefully you can hear
15 me.

16 CHAIRPERSON HILL: Yes. Ms. Prince, I don't mind --
17 yes, please go ahead and give us your testimony. We can't
18 necessarily see anything. You're not allowed to show us anything.

19 MS. PRINCE: That's fine.

20 CHAIRPERSON HILL: You're welcome --

21 MS. PRINCE: But --

22 CHAIRPERSON HILL: -- to tell us all the testimony you
23 have.

24 MS. PRINCE: That's fine, and I appreciate it and I

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1 think you heard from me last week on 451.

2 CHAIRPERSON HILL: Just for the record, Ms. Prince,
3 where are you located?

4 MS. PRINCE: 445 Park Road.

5 CHAIRPERSON HILL: Okay. Thank you. Go ahead.

6 MS. PRINCE: So I am in agreement with Mr. May on that
7 on the basement units. They can say it's a cellar but I see it
8 when I initially looked at the plans I saw apartments.

9 I agree with my husband on unduly, you know, impacted.
10 I think I placed a letter in for opposition concerning the sun
11 study. There is no way possible that you're going to say that
12 we're not going to be affected by that sun study. An additional
13 eight feet will compromise nearly every window on the back side
14 of our home, not to mention when you come over an additional four
15 feet towards the property line it will also hamper the light in
16 our living room and everything else.

17 So, you know, when they initially came to the ANC Board,
18 the neighbors weren't even notified on this and yes, the owners
19 reached out to my husband while he was outside saying how do you
20 feel about a driveway. They misrepresented themselves and my
21 husband never really agreed to a driveway. You know, it was
22 always insinuated by them that, you know, they were going to use
23 -- they want to build out additional four feet and then take four
24 feet of our yard and we were like no, that did not make sense at

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1 all.

2 So therefore, I am in opposition of this all the way
3 because there's going to be no privacy at all. Again, I am in
4 agreement with my husband. You know, sometimes come out and
5 really look at this and don't depend on what they're presenting
6 because they have deep pockets whereas the neighbors in the
7 neighborhood may not have deep pockets in order to get the right
8 representation in these types of meetings and things like that.
9 So we have to rally for ourselves and speaking out against some
10 of these things, and I appreciate you hearing me.

11 CHAIRPERSON HILL: Thanks, Ms. Prince, and yes, it is
12 a new thing for neighbors to understand this process. I do think
13 that it is nice that your husband at least knew and your husband
14 seemed to at least kind of understand which is good. But I do
15 appreciate your comments as well as the letters that are in the
16 record indicating even more clearly that you understand the
17 regulations as well as the additional eight feet that's being
18 requested.

19 Does the Board have any questions of Ms. Prince? Okay.
20 Just to be clear, Ms. Prince, you and your husband, you were also
21 against the -- I don't think you're going to get a curb cut or
22 DDOT's not very good with the curb cut, but the driveway was not
23 something that you all were interested in; correct?

24 MS. PRINCE: No, we're not because when we initially

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1 asked for a curb cut, what two, three years ago, they graciously
2 told us no, flat out no because D.C. is pristine for their street
3 parking and, you know, you back of the driveway and you hit
4 somebody on the driveway or you're driving to your backyard and
5 you won't get to know your neighbors. We beg to differ because
6 I know a lot of my neighbors. So, yes.

7 CHAIRPERSON HILL: Okay. All right. Thanks. Ms.
8 Prince.

9 MS. PRINCE: You're welcome.

10 CHAIRPERSON HILL: All right. Anyone else? Okay. Ms.
11 Prince, Mr. Palmer, thank you so much for your testimony. Mr.
12 Young, if you can please excuse the witnesses.

13 COMMISSIONER MAY: Mr. Chairman.

14 CHAIRPERSON HILL: Yes.

15 COMMISSIONER MAY: Can I ask another question of the
16 Applicant?

17 CHAIRPERSON HILL: Sure. Go ahead.

18 COMMISSIONER MAY: So we've heard from the residents
19 at 445 who are across that side yard from your property. What
20 about the residents at 449? Have you heard from them, have you
21 contacted them?

22 MR. SHIRAZI: Yes. We have been in conversation with
23 our neighbor at 449. They are fully aware of our proposed plans.
24 They also objected to having the parking in the back and aside

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1 from that, there was no other actually other concerns with our
2 neighbors on the other side, the adjoining neighbor.

3 COMMISSIONER MAY: And when you met with them did you
4 explain to them the relief that you were seeking, that you were
5 seeking to go 18 feet back as opposed to the matter-of-right ten
6 feet?

7 MR. SHIRAZI: Yes, sir. With all the neighbors, we
8 actually kept the same PowerPoint for orientation of the people
9 that actually who did all the special exceptions that we are
10 asking for.

11 COMMISSIONER MAY: Okay. Thank you.

12 CHAIRPERSON HILL: Okay. All right. I don't know
13 where we are insofar as what my fellow Board Members would like
14 to see. I guess there is some concern as to whether or not this
15 is or would be a three unit property and I hear that at least
16 one of my fellow Board Members is uncomfortable with there being
17 a door going out in the lower level.

18 Commissioner May, do you have thoughts?

19 COMMISSIONER MAY: Yes. I'm not sure what to say at
20 this point. I do not believe that the case has been made to
21 grant the relief and I do have these concerns about the apartment
22 units or the cellars appearing to be separate apartments. It
23 seems like that's part of the justification for going, you know,
24 making these units as big as they are, as deep as they are.

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1 I'm also not supportive of the penthouse relief because
2 I'm just generally not supportive of that. I feel like it has
3 to be an extraordinary case, like you're next to a taller building
4 or something like that where it's really not that visible because
5 I've seen these things all over the city and they just -- they
6 don't look good, so I don't know. I'm not supportive at the
7 moment of all this relief and I'm not sure what could make me
8 supportive of it. So I'm not sure what else I would need.

9 If we do decide to continue the case, the very least I
10 think seeing a street section with a line of sight diagram showing
11 where the, you know, the visibility of the penthouse from the
12 street, not just from the sidewalk in front of the house but from
13 across the street, that would help me. But the, you know, the
14 separate unit thing, again, I feel like the separate unit thing
15 is -- they're side stepping the regulations that require 900 feet
16 per unit and they're side stepping the requirement for an IZ unit
17 and they're in effect creating a five unit building here the way
18 it has been designed. Maybe they can modify the design, make it
19 seem like it's just, you know, a downstairs -- the downstairs is
20 just a rec room or something like that.

21 But I feel like they're pushing too many of the limits
22 here and I'm not sure what they can do with it to get me on board.

23 CHAIRPERSON HILL: So Mr., and I'll let my fellow
24 Board Member Mr. Smith also comment, but Mr. Shirazi and Mr.

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1 Pizzo, I mean I, given that we've seen a lot of this, I mean I
2 have some suggestions I suppose. I don't know, you know, you
3 can go back to your client and talk about the hearing and the
4 testimony that you've heard and I know that the penthouse relief
5 in the past, we've also seen those hatches where there's like
6 hatch that people can go up there rather than requesting the
7 penthouse relief. I don't know how, I mean I would think that,
8 you know, I have one Board Member who is asking for -- everyone's
9 just concerned about the fact that whether or not that could turn
10 into, you know, additional units and I don't think it's much of
11 a stretch to understand that that would be the Board's concern.
12 They both have, you know, very easy accessibility from the
13 basement, I'm sorry, from the outside doors and, you know, they
14 have windows and seem to be made which actually is expensive to
15 do.

16 So I guess maybe if you want to provide other, another
17 design that is done in a way that makes the Board more comfortable
18 with those basement rooms not being, that they're actually just
19 bonus rooms, that they're rec rooms, they're not actually going
20 to possibly be an Airbnb or a rental.

21 As you've heard Commissioner May, I mean, you're
22 getting not only concern for the light and air of the penthouse
23 but also the, you know, the work around if you will for the idea
24 the fourth unit is an IZ unit and so, you know, that's what some

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1 of the concerns are and I'll let Mr. Smith express his thoughts
2 before Mr. Shirazi and Mr. Pizzo ask any clarifying questions
3 because I think we're going to come back. At this point it
4 doesn't sound like I'm going to have three votes.

5 So, Mr. Smith, do you have any other thoughts?

6 MR. SMITH: Yes, and I'm going to expand on what
7 Commissioner May said. I completely agree with Commissioner May
8 and all of his statements regarding the level of relief that is
9 being requested by the Applicant.

10 I do believe that this is -- I agree with him regarding
11 the penthouse height. This is a substantial penthouse that you're
12 putting on the top of this building and it would have major, to
13 me, unless you show differently as Commissioner May stated, given
14 the scale and height of the penthouse including the penthouse
15 stair overruns it would have a substantial visual effect along
16 Park Road. Along Park Road and also relative to the visual impact
17 on the visual west, it would have a substantial visual impact and
18 we do not have a letter from that Applicant that speaks one way
19 or the other their positions on, you know, your proposed
20 extension.

21 Regarding light and air, you would have the most impact
22 on that particular unit regarding light and air. You're extending
23 more than ten feet out from the rear of the building and that,
24 you know, it's something historically that this Board has heavily

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1 scrutinized that light and air on an adjacent property,
2 especially if it's an attached duplex. I could name a number of
3 cases that we've heard that we've, you know, had some
4 (indiscernible) or we've asked for additional information of the
5 Applicant for the justification for the special exception. I
6 don't believe that based on the testimony here that you have
7 sufficiently demonstrated to me that you would not have a negative
8 adverse impact on the light and air of that particular property.

9 Regarding privacy, that is the question that was raised
10 with the penthouse special exception and also the general case
11 of special exception standards regarding, as Ms. Prince and Mr.
12 Palmer have stated, because they're extending back further than
13 ten feet there is some additional scrutiny regarding the adverse
14 impact on those properties and given the level of extension, we
15 do have a large amount of windows. Not only a large amount of
16 windows but also a juliet balcony or a very short balcony off
17 the rear of the property that I do believe would have an adverse
18 impact on the adjacent property. So I do not believe that you've
19 essentially demonstrated to me that you have met the requirements
20 for that particular special exception.

21 Also regarding the lower, the cellar level it is to me
22 very obvious that they can be very easily converted. Another way
23 that is very obvious is that you have a washer and dryer, space
24 for a washer and dryer down in the cellar as well as on the third

1 floor of units A and B. That is very obvious that the intent is
2 to convert or allow for some form of conversion of the cellar
3 units into an accessory dwelling. You have to make that blatantly
4 obvious and I'm not going to sugarcoat that. You insult the
5 intelligence of me with that.

6 There are, if your intent is to have additional units,
7 there are provisions within the zoning regulations now that would
8 grant some level of relief for what you're requesting here.
9 You're requesting a large amount of special exception relief and
10 some of this could be alleviated if you went the IZ route. I
11 can't force you to do that but if that is the intent is to
12 maximize the density, that is an option before you but that
13 doesn't necessarily satisfy my other concerns that were raised.
14 So I've shared, you know, the concerns that were raised by
15 Commissioner May. I don't know if what you have presented can
16 pass me in any way, shape or form in this configuration. So I'm
17 not sure what I can ask for you to modify, so my vote is the way
18 my vote is right now.

19 CHAIRPERSON HILL: Okay. So I know that Commissioner,
20 I think you're back with us on June 7th, if that sounds correct?

21 MR. SHIRAZI: It is correct, yes.

22 CHAIRPERSON HILL: No, no, no, no, Commissioner May.

23 COMMISSIONER MAY: I honestly don't know. I haven't
24 heard when I'm here.

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1 CHAIRPERSON HILL: I think you're back with us on June
2 7th is what I understand and so I guess, Mr. Shirazi and Mr.
3 Pizzo, you know, there seems to be a lot of concern and I think
4 that if I were making, you know, I'm just trying to get to
5 wherever this may or may not be.

6 I mean, you know, if you wanted to go back to the Office
7 of Planning and try to discuss, you know, an IZ unit or an
8 additional IZ unit, that might be one route. Another route is
9 to remove the accessibility to the basement and also, you know,
10 I don't know where the washer and dryer is, just that make it
11 more clear that they're just bonus space and then also the
12 penthouse making that a hatch of some kind, you know, or removing
13 the penthouse requirements all together. I mean, you've kind
14 of got to go back to your client now and see what they may or
15 may not want to do. I mean, you know, if you're even going to,
16 you know, if you need the additional eight feet even now, you
17 know, if you don't do this much -- ask for this much relief.

18 I actually am kind of curious. Ms. Brown-Roberts, can
19 you hear me?

20 MS. BROWN-ROBERTS: Yes, Mr. Chairman.

21 CHAIRPERSON HILL: I mean, I can hear, you know, I'm
22 trying to help facilitate my Board and so, you know, you've heard
23 a lot of their questions and thoughts and does the Office of
24 Planning have any comments on all the comments that I've heard

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1 from my fellow Board Members?

2 MS. BROWN-ROBERTS: No. We can work with the Applicant
3 to, you know, to make revisions that we think may answer some of
4 the questions. But I think that's it.

5 CHAIRPERSON HILL: Okay. I was just curious. And
6 then, you know, again that, I mean for me now for whatever it's
7 worth I don't have a lot of problems with the rear balconies.
8 You know, the side juliet balconies whether or not that may or
9 may not be an issue to, you know, the privacy or not I actually
10 don't really I guess have any issues with that. But I am still
11 trying to work with my fellow Board Members to get your client
12 to a place where they might qualify under the regulations for
13 what I'm hearing from my Board.

14 Mr. Shirazi or Mr. Pizzo, do you have any questions or
15 thoughts?

16 COMMISSIONER MAY: Mr. Chairman, before we turn it over
17 to the Applicant I just wanted to add a couple of points.

18 CHAIRPERSON HILL: Sure.

19 COMMISSIONER MAY: One is that I do think that you
20 mitigate some of the impact on the neighbors at 445 if those
21 juliet balconies are eliminated. They don't seem to be critical.
22 You already have a balcony and then you're trying to do the
23 rooftop deck as well for that top unit.

24 But I would also just add that the, you know, the major

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1 impact of the extra eight feet is on the adjoining property at
2 449 and if that property owner has no objection to this I think
3 that your case would be well served by having a letter in the
4 record saying that they have no objection to it. I do understand
5 the impacts on 445 but I think that they are less significant
6 than those on 449 and if 449 has no objection, again I think that
7 really helps you make your case and then I would agree with
8 everything else that the Chairman has suggested as things that
9 you could look at to make this an approvable case.

10 CHAIRPERSON HILL: So it sounds like I throw it back
11 to the Applicant, you know, and I'm just echoing, repeating what
12 my Board has said so that we can get to wherever we get to is
13 that, you know, the juliet balconies seem to be of a concern.
14 The additional eight feet does not seem to be of concern. If
15 there is more feedback concerning the light and air from the
16 adjacent, the immediate adjacent property, the hatch rather than
17 the penthouse relief seems to be one avenue, and then constructing
18 this in a way that there's no accessibility or making it clear
19 that it's, you know, I mean you're only going to -- this can
20 continue to get kicked on down the road or get a vote of no, so
21 I'm trying to help your case as best as possible. You know,
22 removal of the washer/dryer and the access to the units below
23 seem to be what I'm hearing.

24 If I've missed any of that -- oh, I'm sorry. Mr. Smith.

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1 MR. SMITH: Just to expand on that because I don't want
2 to miss what Commissioner May brought up with that. That could
3 entail a redesign of the cellar unit to more clearly articulate
4 that this is integrated space with the rest of units A and B. So
5 how that works, you figure that out. You understand what we're
6 saying so redesign that space and also removing the access.

7 CHAIRPERSON HILL: Yes. And it sounds like again and
8 you're hearing us, this is going on longer than I thought on this
9 particular case, but if you come back with something that just
10 seems like reworking it to convince us that it's still the same
11 thing but in a different fashion, you know, it might also then
12 concern the Board.

13 So, do you have any questions, Mr. Pizzo and/or Mr.
14 Shirazi?

15 MR. SHIRAZI: We're certainly thanking for sharing your
16 feedback. Obviously we have quite a bit to work to make sure
17 that we address, you know, these comments. We'll look into the
18 codes to see what would it take to assure the Board that the
19 basement areas won't be, you know, used as separate units. I
20 know this is not the intent of the owners but I can see how this
21 could be used as a rental unit. We'll look into codes to see if
22 there is anything that could be done to alleviate that concern
23 from the Board Members including what you're suggesting to us
24 today, and we'll come back to the Board with, you know, revisions

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1 that hopefully will meet these comments.

2 CHAIRPERSON HILL: Okay. Thanks. And Mr. Shirazi, I
3 guess part of it is like we don't know who the owners are going
4 to be; right? I mean, you're just talking to the people that
5 are (indiscernible) and so, you know, we don't know what people
6 are going to do after they buy them.

7 MR. SHIRAZI: If I may speak to that, Mr. Chair. The
8 owners are specifically looking to occupy the two units, the
9 front and back units for their family. Also they haven't
10 committed to that use, so that's why I have a level of certainty
11 that those units, well the basements were not intended to be used
12 as, you know, rentals but, you know, they haven't committed to
13 occupying the space and they may sell down the road and the new
14 owners may actually use it in a different fashion.

15 So let us rework the plans and see what we can do to,
16 you know, alleviate the concern.

17 CHAIRPERSON HILL: Yes. And I appreciate that. I
18 appreciate that you're being sincere, Mr. Shirazi, again, what
19 the current Applicant's intentions are but, again, these could
20 be sold five years, ten years, you know, we don't know what will
21 happen and so, all right.

22 COMMISSIONER MAY: If I could just make the point, you
23 know, that's not the first time this happens. You know, it is -
24 - I don't know exactly how it works but I've heard from small

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1 property developers that one of the strategies for avoiding some
2 of the taxes you have to pay is to live in one of the units for
3 three years before you sell it. So, you know, what you're
4 describing is a common scenario and it is basically a way to
5 avoid taxes.

6 I'm not saying that's what the owner is intending here
7 but, you know, that's not news. If there were -- if we were
8 dealing with something that was very clearly going to owner
9 occupied, it may be the case that it would be different. But
10 this just doesn't, it doesn't -- it's not adding up completely.

11 So I appreciate your willingness to make some changes.

12 CHAIRPERSON HILL: Okay. All right. So, we will come
13 back here then on June 7th, Mr. Moy, because that will be when
14 Commissioner May is with us again and we'll have a continued
15 hearing on all of the items that were spoken about. We're not
16 necessarily needing to go back over every, well, we're going back
17 over pretty much everything. But a continued hearing, Mr. Moy.

18 MR. MOY: All right. So that would be a return on June
19 7th. Do you have an intent for the Applicant to have a deadline
20 for further submissions if there are going to be any? If so, I
21 suppose I would recommend a deadline of May the 31st at the
22 latest.

23 CHAIRPERSON HILL: Okay. So May 31st gentlemen for
24 your filings, and then that'll give time for any of the parties,

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1 meaning the ANC or if the Office of Planning wanted to submit
2 another report and Ms. Brown-Roberts, I don't know, I guess maybe
3 would it be convenient or would it be possible to have another
4 report? You're on mute, Ms. Brown-Roberts. I know, I mean you
5 basically approved this one so I don't know.

6 MS. BROWN-ROBERTS: Yes. Yes, we'll work with the
7 Applicant and get another supplemental to you.

8 CHAIRPERSON HILL: Okay. Because it would be nice to
9 hear what you guys have to say.

10 MS. BROWN-ROBERTS: Yes.

11 CHAIRPERSON HILL: Okay. All right. Is that it? If
12 not, everybody have a nice or raise your hand if you have any
13 questions further. Seeing no one raising their hand, all right.
14 I'm going to close the hearing and the record and you all have a
15 nice day.

16 Okay. I think this last one there are some issues with
17 it so maybe we can just -- are you guys okay just going ahead
18 and moving on to the next one? Okay.

19 Mr. Moy, if you can call up 20892.

20 MR. MOY: Thank you, Mr. Chairman. So the next
21 application is 20892 of DC-120 Taussigplne, LLC. This is an
22 application pursuant to Subtitle X § 901.2, special exception
23 under Subtitle U § 421 to allow new residential development and
24 the property is located in the RA-1 zone at 120 Taussig Place,

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1 N.E., Square 3665, Lot 77 and let me check one other thing, Mr.
2 Chairman, and I believe we're clear on the filings and as to the
3 case we do have one individual signed up to give testimony that
4 I'm aware of. Thank you, sir.

5 CHAIRPERSON HILL: Okay. Thank you. Can the Applicant
6 hear me and if so, can you introduce yourself for the record?

7 MS. AKINSAN: Good morning, Members of the Board. My
8 name is Olivia Akinsan. I work at D + O INC., Designs by Olivia
9 and I am the designer and agent of this project.

10 CHAIRPERSON HILL: Okay. Thanks, Ms. Akinsan. I
11 think that there seems to be an issue with the ANC and who you
12 need to present to. Are you aware of this issue?

13 MS. AKINSAN: Yes. At one point I guess I contacted
14 the incorrect party for the ANC and when it finally figured out
15 who it was the seat was vacant. I did however meet with
16 Commissioner, Mr. Boston, and he is aware of the project. He
17 said he might join today and he has agreed to put us on the agenda
18 for next month.

19 CHAIRPERSON HILL: Okay. When you say next month,
20 which day is that?

21 MS. AKINSAN: He hasn't given me a day and I just
22 assumed since he said he'd be attending today that --

23 CHAIRPERSON HILL: Okay. Is it Commissioner Boston,
24 is that what you said?

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1 MS. AKINSAN: Correct.

2 CHAIRPERSON HILL: Mr. Young, is there a Mr. Boston in
3 the hearing room?

4 MR. YOUNG: He had noted to Staff that he was actually
5 unable to testify today.

6 CHAIRPERSON HILL: Okay. Okay. All right. So that's
7 one, all right. I guess, Ms. Akinsan, you don't know when --
8 it's some time in June obviously, the hearing.

9 MS. AKINSAN: Yes. I believe it might be the third
10 week in June, the third Wednesday or something like that.

11 CHAIRPERSON HILL: Okay. The third Wednesday, so the
12 21st of June perhaps?

13 MS. AKINSAN: Perhaps, correct.

14 CHAIRPERSON HILL: And then that would give a week for
15 the people here, so like the 5th. We're off on the 5th, Mr. Moy,
16 of July; is that correct? You're on mute, Mr. Moy.

17 MR. MOY: Oh, boy. Okay. Well, you're correct. I
18 mean, of course July 4th is a holiday. No hearing the next day
19 so which would mean the next hearing would be July the 12th.

20 CHAIRPERSON HILL: Right. How many people do we have
21 on the 12th now for hearings or Applicants?

22 MR. MOY: It's not bad. It's eight cases and one
23 appeal.

24 CHAIRPERSON HILL: Oh, my gosh, are you kidding? Oh,

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1 my gosh, look at Commissioner May laugh. Okay. So the third
2 week is the 21st. What about the 28th of June? What does that
3 look like?

4 MR. MOY: A little bit better. We only have eight
5 cases.

6 CHAIRPERSON HILL: Okay. Let's go ahead and see what
7 happens, Ms. Akinsan, on the -- trying to get you back here on
8 the 28th of June.

9 MS. AKINSAN: All right.

10 CHAIRPERSON HILL: That means that you have to go ahead
11 and have the hearing with your ANC and then we'll get - we'll
12 try to get you back here on 6/28. Okay? And we're just
13 rescheduling here.

14 MS. AKINSAN: Okay. I'm not presenting today at all?

15 CHAIRPERSON HILL: No.

16 MS. AKINSAN: All right.

17 CHAIRPERSON HILL: But I'm going to ask and see if Ms.
18 Childs is with us? Mr. Young? Ms. Childs, can you hear us?

19 MS. CHILDS: I can hear you.

20 CHAIRPERSON HILL: Okay. Great. Could you introduce
21 yourself for the record, please?

22 MS. CHILDS: Okay. My name is Barbara Childs and I
23 live at 118 Taussig Place, N.E., next door to 120.

24 CHAIRPERSON HILL: Okay. So, Ms. Childs, I'm sorry.

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1 What's happened is that they haven't presented to the correct ANC
2 yet. Are you aware of the ANC and the meetings and all that,
3 how that takes place?

4 MS. CHILDS: I am aware, yes I am.

5 CHAIRPERSON HILL: Okay. So they, the Applicant is
6 going to try and get on your ANC's calendar for June 21st.

7 MS. CHILDS: Okay.

8 CHAIRPERSON HILL: Okay. And so if I were you I would
9 reach out to your Single Member District and then also your ANC
10 and try to, you know, attend the 21st and give testimony.

11 MS. CHILDS: Okay.

12 CHAIRPERSON HILL: Okay?

13 MS. CHILDS: Thank you. I'll do that.

14 CHAIRPERSON HILL: And then we'll be back here again
15 on the 28th so that you can again give your testimony at that
16 time.

17 MS. CHILDS: Okay. Okay.

18 CHAIRPERSON HILL: Okay?

19 MS. CHILDS: Thank you.

20 CHAIRPERSON HILL: Thanks, Ms. Childs.

21 MS. CHILDS: Okay. Thank you.

22 CHAIRPERSON HILL: Thank you.

23 MS. CHILDS: Have a great day.

24 CHAIRPERSON HILL: Have a great day. Bye bye.

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1 All right, Ms. Akinsan. We'll see you on the 28th.

2 MS. AKINSAN: All right, then. Thank you.

3 CHAIRPERSON HILL: Okay. Thank you. I'm going to
4 close the hearing, and we're going to note here on the 28th.

5 Let's see. Okay. Is there anything else from the
6 Board, Mr. Moy?

7 MR. MOY: Nothing from the Staff, sir. Thank you.

8 CHAIRPERSON HILL: Okay. Great. All right, you all.
9 Thank you all so much. You guys have a nice day. Bye bye. The
10 hearing is adjourned.

11 (Whereupon the above-entitled hearing was adjourned.)

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In the matter of: Public Meeting

Before: BZA

Date: 05-17-2023

Place: Teleconference

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

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