

GOVERNMENT OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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REGULAR PUBLIC HEARING

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WEDNESDAY

OCTOBER 25, 2023

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

ZONING COMMISSION MEMBERS PRESENT:

FREDERICK D. HILL, Chairperson
LORNA JOHN, Vice Chairperson
CHRISHAUN SMITH, Board Member
JOSEPH IMAMURA, Zoning Commissioner

OFFICE OF ZONING ADJUSTMENT STAFF PRESENT:

CLIFFORD MOY, Secretary
PAUL YOUNG, Data Specialist

OFFICE OF ZONING ADJUSTMENT LEGAL COUNSEL:

SARA BAJAJ, Esquire

The transcript constitutes the minutes from the Regular Public Hearing held on October 25, 2023.

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(9:30 a.m.)

CHAIRPERSON HILL: Good morning, ladies and gentlemen. The Board of Zoning Adjustment. Today's date is 10/25/2023. This public hearing will please come to order. My name is Fred Hill, Chairman of the District of Columbia Board of Zoning Adjustment. Joining me today is Vice Chair Lorna John and Board Member Chrishaun Smith and Zoning Commissioner Dr. Imamura.

Today's meeting and hearing agenda are available on the Office of Zoning's website. Please be advised 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 Webex or by 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 experiencing difficulty accessing Webex or with your telephone call-in number then please call our OZ hotline number 202-727-5471 to receive Webex login or call-in instructions.

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

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 or 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 complete the Oath or Affirmation as
18 required by Subtitle Y, 408.7.

19 Requests to enter evidence at the time of an online
20 virtual hearing, such as written testimony or additional
21 supporting documents other than live video, which may not be
22 presented as part of the testimony, may be allowed pursuant to
23 Subtitle Y 103.13, provided that the persons making the request
24 to enter an exhibit and explain, a) how the proposed exhibit is
25 relevant, b) if the good cause justifies allowing the exhibit

1 into the record, including an explanation of why the requester
2 did not file the exhibit prior to the hearing pursuant to Subtitle
3 Y 206, and see how the proposed exhibit would not unreasonably
4 prejudice any parties. The order of procedure for special
5 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 into
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 no earlier than 48
14 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 a closed meeting on
25 a case for purposes of seeking legal counsel on a case pursuant

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

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

7 MR. MOY: Morning, Mr. Chairman and members of the
8 Board. We do but before my brief announcement I'd like to first
9 go over the cases on today's docket that have been rescheduled.

10 The first is case application No. 20768 of District
11 Properties.com, Inc., has been postponed and rescheduled to
12 January 24th, 2024 as well as Application No. 20769 of District
13 Properties.com, Inc., also postponed and rescheduled to January
14 24th, 2024. The third case is Application No. 20953 of Jackson
15 Place, LLC, postponed and rescheduled also to January 24th, 2024.

16 Finally, Mr. Chairman, as a preliminary there are two
17 cases on today's docket where the Applicant filed a Motion to
18 Continue and those two motions were submitted within the 24 hour
19 block. The first is Application No. 20946 of 4885 MacArthur
20 Boulevard, LLC. The second motion is to case Application No.
21 20824 of Rupsha 2011, LLC. That motion also was filed within
22 the 24 hour block.

23 There are other preliminary matters too with regard to
24 late filings but I think it's best I'll bring that to your
25 attention when I call the case. Thank you.

1 CHAIRPERSON HILL: Okay. Thanks, Mr. Moy. Let met
2 see, we're going to do those preliminary matters I think, Mr.
3 Moy, after this first public meeting question and I want to say,
4 did we have, Mr. Moy, do you know if our last case do we have
5 20966?

6 MR. MOY: Are you referring to the last case for the
7 day?

8 CHAIRPERSON HILL: Yes. Is that the one that you have
9 as our final case today?

10 MR. MOY: What I have on my list of file cases, you're
11 correct, 20966.

12 CHAIRPERSON HILL: Okay, great. Okay. Because I want
13 (indiscernible) preliminary matters for postponments ahead of
14 time. Unless the Board has any issues with this, there's a couple
15 of people I guess that are trying to ask for a postponement or a
16 continuance and we will hear from those individuals as to why
17 they would like the postponement and the continuance. I would
18 like to allow those into the record so we can take a look at them
19 and unless my fellow Board members have any issues, let me know.
20 Okay. So we'll go ahead and drop those into the record. Mr.
21 Moy, if you could please ask staff to do so and then also I want
22 to do the preliminary matters first just in case people are
23 waiting around to testify for those cases.

24 MR. MOY: (Indiscernible).

25 CHAIRPERSON HILL: So that -- go ahead, Mr. Moy.

1 MR. MOY: Yes. I should mention that, and I didn't
2 mention it earlier because the Applicant did not make his filing
3 of the motion. I suspect he's going to do that orally when we
4 call the case and that would be 20913 of Dereje Mesfin. So I
5 just want to note that for the record for you.

6 CHAIRPERSON HILL: Thank you. But they're not asking
7 for a continuance; correct:

8 MR. MOY: There's nothing in the record to that effect
9 but indications were leaning towards that, but we could probably
10 take that as the way the cases are lined up.

11 CHAIRPERSON HILL: Which number was that again, Mr.
12 Moy?

13 MR. MOY: 20913 of Dereje Mesfin.

14 CHAIRPERSON HILL: All right. Now I'm going to ask
15 you. So you're saying that as far as you think you don't know
16 for sure, but what you think is that 20913 and 20946 and 20824
17 all could be asking for continuances or postponments. Is that
18 what you believe?

19 MR. MOY: Yes. The last two for sure because they made
20 a filing to that effect.

21 CHAIRPERSON HILL: Okay. So we're going to hear - so
22 then we're going to do 20913 also as that group that are asking
23 for postponments or continuances because I don't want people
24 waiting around and they're waiting around to testify. The people
25 that are asking for continuances, we'll see and so whether the

1 Board wants to grant these or not we'll see what happens. But
2 at least we will process those sooner rather than later. So just
3 follow my lead, Mr. Moy. I'll tell you what case we're going to
4 go with; okay?

5 MR. MOY: Yes, sir. I always follow your lead.

6 CHAIRPERSON HILL: Thank you. So let's go ahead. If
7 you want to call 21015, please.

8 MR. MOY: All right. For our review this is the only
9 case in the Board's public meeting session and it is case
10 Application No. 21015 of Elizabeth Kidder and Danial Spurlock.
11 This is a request for advanced party status. This application
12 is the hearing on the merits, is scheduled for December 20th,
13 2023. The project is located in the RF-1/CAP zone, address 425
14 4th Street, N.E., Square 812, Lot 51, and I think that's all I
15 need to say. I believe the attorney representing the group of
16 neighbors asking for party status is in the room. I believe her
17 name should be --

18 CHAIRPERSON HILL: Right, Ms. Themak.

19 MR. MOY: Themak. Thank you.

20 CHAIRPERSON HILL: Okay. Mr. Young, could you allow
21 Ms. Themak into the room, please, and Ms. Themak, if you can hear
22 me if you could introduce yourself for the record.

23 MS. THEMAK: Hi, Tracy Themak. We represent the
24 requesting party in opposition.

25 CHAIRPERSON HILL: Okay. Ms. Themak, I see your filing

1 and I know that two of them are the adjacent property owners;
2 correct?

3 MS. THEMAK: Correct.

4 CHAIRPERSON HILL: And the Carbury School, are they
5 across the street?

6 MS. THEMAK: Yes. The Carbury condominiums are located
7 at 410 5th Street. So there is a street between the Carbury
8 School. It faces the rear of 425 4th Street and, I'm sorry,
9 fronts on 5th street but the Carbury condominiums also look out
10 over the street that passes through that block at the rear of
11 the subject property.

12 CHAIRPERSON HILL: Got it. Can you give me the address
13 of that again, please?

14 MS. THEMAK: It's 410 5th Street, N.E. So they're
15 essentially directly behind the project.

16 CHAIRPERSON HILL: Oh, I see. It's a condominium?

17 MS. THEMAK: Yes.

18 CHAIRPERSON HILL: Okay. And, all right. Okay. Oh,
19 right. That Carbury Place, N.E., is that what separates?

20 MS. THEMAK: Yes.

21 CHAIRPERSON HILL: Okay. Okay. All right. I don't
22 have any questions for the party in opposition. I think that
23 they're meeting the criteria for us to grant the status. Does
24 the Board have any questions for the attorney? Okay.

25 All right, Ms. Themak. I'm going to let you go.

1 MS. THEMAK: Okay.

2 CHAIRPERSON HILL: Or actually excuse you, and Ms.
3 Themak, I guess you know that -- I know you've been with us before
4 and I'm sure you are in touch with the Applicant's
5 representatives; correct?

6 MS. THEMAK: Yes.

7 CHAIRPERSON HILL: Okay. All right, Ms. Themak. Then
8 we will see you at the hearing probably. Okay?

9 MS. THEMAK: Great. Thank you so much.

10 CHAIRPERSON HILL: Thank you. All right. Unless the
11 Board has any issues, again I think they're meeting the criteria
12 for us to grant party status based on the proximity and them
13 being a group represented by Ms. Themak will be most efficient
14 for the Board. So I was just going to make a motion unless
15 anybody has, I don't even think I have to make a motion, I think
16 I can just do it. But does anybody want to say anything? If
17 so, raise your hand. Okay. Seeing no one raising their hand,
18 I'm going to go ahead and make a motion to allow party status,
19 advanced party status and ask for a second. Ms. John, I guess?

20 VICE CHAIR JOHN: Second.

21 CHAIRPERSON HILL: Mr. Moy, the roll call please.

22 MR. MOY: Yes. Thank you, sir. When I call your name
23 if you'll please respond to the motion made by Chairman Hill to
24 grant party status to the neighbors in opposition, I believe
25 that's what they're called now for a name. The motion to grant

1 was second by Vice Chair John.

2 Zoning Commissioner Dr. Joe Imamura?

3 ZC COMMISSIONER IMAMURA: Yes.

4 MR. MOY: Mr. Smith?

5 COMISSIONER SMITH: Yes.

6 MR. MOY: Vice Chair John?

7 VICE CHAIR JOHN: Yes.

8 MR. MOY: Chairman Hill?

9 CHAIRPERSON HILL: Yes.

10 MR. MOY: And we have one member not participating, but
11 we don't, we actually have an empty slot. I should say that.
12 But staff would record the vote as four to zero to one and this
13 is on the motion of Chairman Hill to grant. The motion to grant
14 was second by Vice Chair John. Also in support for granting the
15 motion for party status is Dr. Imamura, Zoning Commissioner Dr.
16 Imamura, Mr. Smith, Vice Chair John and Chairman Hill. Motion
17 carries, sir.

18 CHAIRPERSON HILL: Thank you. Let's see. Oh, what is
19 the date of that hearing, Mr. Moy? Do you know?

20 MR. MOY: December 20th. Five days before the holiday.

21 CHAIRPERSON HILL: Okay, great. There you go. All
22 right, looking forward to the holidays. All right. Why don't
23 you go ahead and call 20913, Mr. Moy.

24 MR. MOY: Okay. Before the Board is case Application
25 No. 20913 of Dereje Mesfin. This is a self-certified application

1 pursuant to Subtitle X, § 901.2 for special exception Under
2 Subtitle F, § 5201 from the lot occupancy requirements of Subtitle
3 F, § 210.1. Property located in the RA-1 zone at 5814 9th Street,
4 N.W., Square 2986, Lot 31 and we believe the Applicant is going
5 to be asking for a continuance. That filing is not in the record
6 so, Mr. Chairman, you may want to establish that first otherwise
7 this goes back into the queue, and I think that's all I need to
8 say.

9 Thank you.

10 CHAIRPERSON HILL: Okay. Is the Applicant here and if
11 so, can you hear me and introduce yourself for the record? Can
12 you hear me? Can you repeat yourself, please?

13 MR. MESFIN: Dereje Mesfin.

14 CHAIRPERSON HILL: Okay, Mr. Mesfin. Are you able to
15 use your camera?

16 MR. MESFIN: I think so, yes.

17 CHAIRPERSON HILL: Oh, great. Okay. Mr. Mesfin, so
18 what is it that you are trying to ask now, the Board?

19 MR. MESFIN: My lawyer should be on the panel.

20 CHAIRPERSON HILL: Oh, what's the name of your lawyer?

21 MR. BHATIA: Good morning, Mr. Chairman, members of the
22 Board. My apologies, I was muted. Vikrant Bhatia.

23 CHAIRPERSON HILL: Okay, great. Mr. Bhatia, what is
24 it that your client is requesting?

25 MR. BHATIA: So, Mr. Chairman, we are requesting a

1 postponement of the proceedings simply so that we may amend the
2 burden of proof to include relief under Subtitle U, 421 and we've
3 spoken to the Office of Planning and the Office of Zoning and
4 sort of coordinated with them in terms of what they're looking
5 to see and I think we've pretty much completed that process.
6 It's just a matter of getting the updated amended burden of proof
7 into the record, forwarding it to obviously the ANC and then
8 given that relief under U, 421 requires a couple of other of
9 District agencies to conduct review obviously to have those
10 agencies have the statutorily authorized time to review and then
11 for the Board to hopefully, if possible reschedule the full
12 hearing on this matter for some time later this year, if possible.

13 CHAIRPERSON HILL: Okay. So you haven't gone to the
14 ANC yet?

15 MR. BHATIA: Not with the, well I reached out to Mr.
16 Gilligan, the ANC last week, to discuss this update. I did not
17 hear back from him but I have reached out to the ANC to inform
18 them that we intend to amend the burden of proof to include relief
19 under U, 421 and then I intend to send a copy of the updated
20 amended burden of proof to him for the ANC obviously review and
21 consideration.

22 CHAIRPERSON HILL: So how much time do you think you
23 need, Mr. Bhatia?

24 MR. BHATIA: Well, in terms of actually getting the
25 fling done probably not more than a few days. Frankly at this

1 point it's mostly finished and I think at that point I'd be able
2 to send it over to the ANC and obviously upload the amended burden
3 of proof to the BZA on the IDAA system.

4 CHAIRPERSON HILL: Okay. So my question to you is
5 like, and this is, I guess your client is here also, but like
6 you guys started this process in June; right?

7 MR. BHATIA: Yes. I think, and I think the architect
8 is on the line as well I believe. I think as far as I understand
9 it, Mr. Chairman, that I think there was a little bit of confusion
10 or miscommunication I think between ourselves and I think the
11 Office of Planning and the Office of Zoning and I think we had
12 perhaps understood that a submission or filing that was made to
13 OP and the Office of Zoning I think that they had reviewed that
14 and that we were I think in good standing with them in advance
15 of today's hearing, but I guess we received communication about
16 a week and a half, two weeks ago, that in fact that was not the
17 case so we were sort of scrambling I think at that point to make
18 sure that we were able to get this into the record.

19 But given what we were told from the Office of Planning
20 during our conversation with them, we sort of made the decision
21 that instead of putting together a bit of a haphazard filing --

22 CHAIRPERSON HILL: Okay. Let me interrupt -- let me
23 interrupt you, I'm sorry. What is there now? What is on the
24 property now? Just an apartment building?

25 MR. BHATIA: That's my understanding, yes.

1 CHAIRPERSON HILL: Okay. And, Mr. Mesfin, are you
2 taking care of that property now?

3 MR. MESFIN: Yes.

4 CHAIRPERSON HILL: Okay. So it's being looked after.
5 You're cleaning the yard and everything seems to be, you're taking
6 care of the property; correct?

7 MR. MESFIN: Yes. It's on a working condition right
8 now.

9 CHAIRPERSON HILL: Okay. Mr. Moy, so we're kind --
10 there are like three cases that are getting moved today so I
11 don't know, I know that we're -- I don't even know where to put
12 them actually, these three cases. Do you kind of know?

13 MR. MOY: It's funny you should ask. I do. But for
14 this particular one, Mr. Chairman, because of the relief under U
15 421 that's going to trigger OZ to send a referral notice to OSSE
16 and the Department of or DPR and of course, as you know, this
17 Board's aware those referrals are at least 40 days.

18 So I would suggest, because of the timing of that of
19 setting or continuing this application so that we get those
20 comments from the other two sister District agencies for, set
21 this for December 20th.

22 CHAIRPERSON HILL: I mean, I'll be here sticking it on
23 to January, but like if you -- how many is on December 20th?

24 MR. MOY: Okay. Right now December 20th your docket
25 contains six cases.

1 CHAIRPERSON HILL: Okay.

2 MR. MOY: That's at the moment as we speak.

3 CHAIRPERSON HILL: Okay. I guess, Mr. Moy, what I'm
4 trying to understand again is that if while we're going through
5 this process you can think about where these cases, if we do
6 decide to allow the postponement, where they might go; okay? And
7 so if somebody, because these guys have been waiting around since
8 June and so they're the ones, you know, that might be the best
9 people to go out until January because I don't know if everybody's
10 going to be able to make it this year. But I guess, you know,
11 this is the way this works and I will follow your lead if you
12 think these guys are better -- like there's nobody on the other
13 two that you're going to try to kick into next year, you don't
14 know yet?

15 MR. MOY: I don't know yet. That's a discussion that
16 I still have to hold with you when we call those other two cases.

17 CHAIRPERSON HILL: Okay. All right. Okay. The, Mr.
18 Bhatia, we're going to -- you guys are going to come back here
19 on 12/20.

20 MR. BHATIA: Okay.

21 CHAIRPERSON HILL: Okay? Unless my fellow Board
22 members have any questions. No, don't see anybody raising their
23 hand. All right. We'll see you guys on 12/20; okay?

24 MR. BHATIA: All right. Thank you.

25 MR. MESFIN: Thank you very much.

1 CHAIRPERSON HILL: Oh, wait. Hold on one second. Mr.
2 Young, is there anyone here that was wishing to speak to this
3 case?

4 MR. YOUNG: No, we do not.

5 CHAIRPERSON HILL: Okay. All right. Thank you. All
6 right, everybody we'll see you on 12/20.

7 MR. MESFIN: All right. Thank you.

8 MR. BHATIA: Thank you very much. Bye bye.

9 CHAIRPERSON HILL: Yes, Mr. Young, that's what I'm
10 going to be asking. I just wanted to see if anybody's here that
11 had wanted to speak if any of these things get postponed. Mr. M
12 oy, you can go ahead and call 20946.

13 MR. MOY: All right. Case Application No. 20946 of
14 4885 MacArthur Boulevard, LLC. This is, for the record this is
15 an amended self-certified application pursuant to Subtitle X, §
16 901.2 for special exceptions. The following special exceptions
17 Subtitle C, § 710.3 vehicle parking location restrictions, of
18 Subtitle C, § 710.2(b). Subtitle C, § 909.2 from the loading
19 requirements of Subtitle C, § 901.1 and Subtitle G, § 207.14 from
20 the rear yard requirements of Subtitle G, § 207.6. Property is
21 located in the MU-4 zone at 4885 MacArthur Boulevard, N.W., Square
22 1389, Lot 28 and along with the filed motion for a continuance
23 which was submitted within the 24 hour block. You might want to
24 address that first, sir, and the Applicant, if the Board wants
25 to take this up now, the Applicant was also proffering expert

1 witnesses to architecture and two individuals for transportation
2 engineering. That's all I have for this, Mr. Chairman.

3 CHAIRPERSON HILL: Okay. Can the Applicant hear me and
4 if so, can they introduce themselves for the record?

5 MS. TEMPLIN: Yes. Good morning, Chair Hill and members
6 of the Board. My name is Lee Templin with Goulston & Storrs on
7 behalf of the Applicant.

8 CHAIRPERSON HILL: Okay. Hi, Ms. Templin. So, and I
9 see Commissioner Duncan here. Commissioner, you want to
10 introduce yourself for the record?

11 ANC COMMISSIONER DUNCAN: Tricia Duncan. I'm here
12 representing ANC 3D.

13 CHAIRPERSON HILL: Okay. Thank you, Commissioner, for
14 joining us. Okay. Why is it that you're asking for a continuance
15 please, Ms. Templin?

16 MS. TEMPLIN: Yes. So we want to request a postponement
17 of the hearing because we received a determination letter
18 yesterday from the Acting Zoning Administrator, Kathleen Beeton,
19 reversing the decision by the prior Zoning Administrator Matt
20 LeGrand.

21 As background, we have received a determination from
22 the prior Zoning Administrator that the 2016 zoning regulations
23 should apply to the project as a whole. This new determination
24 applies the 1958 zoning regulations to the ground floor of the
25 project, as such we need additional time to understand how this

1 analysis applies to the project.

2 Our initial hearing was schedule for September 27th.
3 We had requested a postponement previously based on a request
4 from the ANC for more time for community dialogue. We continued
5 to work diligently with the ANC during this past month and we
6 were very happy to receive their support. We were expecting
7 today to be a rather straightforward hearing with ANC, OP and
8 DDOT support. Unfortunately with this last minute Zoning
9 Administrator reversal we need some time to reevaluate.

10 We would strongly prefer not to delay this hearing for
11 much longer than it's already been delayed. We'd like to request
12 a new hearing date of either December 13th or December 20th if
13 at all possible. We've spent a lot of time already over the
14 course of almost a year working with the community to come to
15 you with their support which we had accomplished.

16 As outlined in the ANC report at Exhibit 33 of the
17 record, the Applicant had agreed to four conditions with the ANC.
18 In addition, we made a number of changes to the project based on
19 community feedback and we were very much looking forward to
20 sharing with you just how much of a group effort this project
21 has been. Unfortunately, this last minute determination or
22 reversal is entirely unforeseen and we just need a little bit of
23 time to grasp it. As with any delay, this delay comes with added
24 expense to the Applicant so we're really hoping the postponement
25 can be sooner than the new year to avoid further loss to the

1 project.

2 CHAIRPERSON HILL: Okay. I got you, Ms. Templin. Give
3 me one second. Mr. Moy, if you would please allow staff to drop
4 the request for a postponement into the record. I think if they
5 got a new determination letter from our new Zoning Administrator
6 I would understand how that needs to be addressed. Let's see.
7 Give me one second. Okay.

8 Commissioner, do you have something to add since you're
9 here?

10 ANC COMMISSIONER DUNCAN: Yes. I wanted to agree with
11 everything Ms. Templin had said, however this determination
12 letter has now put to the forefront the number one issue in our
13 neighborhood which is parking. So we are in full support of this
14 continuance because our neighborhood here thought that additional
15 parking relief was off the table and was not something the BZA
16 was going to consider. This was a very close vote on our ANC
17 and we have been working really, really hard on this.

18 So we'd like a continuance, and this is another
19 wrinkle. Our ANC doesn't generally meet in December and our
20 November meeting is next Wednesday on November 1st. Ideally, I
21 would like this hearing after January 10th so that my
22 Commissioners don't have to meet in December, but I will leave
23 this up to your schedule, you're much busier than we are but we
24 have had two special meetings on this project and it's probably
25 the most important thing before our ANC right now and I don't

1 know, my colleagues on the ANC has some special meeting fatigue.

2 CHAIRPERSON HILL: No, I appreciate that and
3 unfortunately, Commissioner Duncan, I guess what I'm also trying
4 to do is kind of keep to our docket --

5 ANC COMMISSIONER DUNCAN: Uh-huh.

6 CHAIRPERSON HILL: -- and what we're able to do and
7 what we're able to do with the Applicant.

8 Ms. Templin, when did you start this application
9 process?

10 MS. TEMPLIN: I believe we filed in April of, let me
11 double check real quick. It was on May 2nd is when we filed the
12 application.

13 CHAIRPERSON HILL: Oh, so it's been a little while
14 already. So your client, if we put them in January, how would
15 it harm you guys?

16 MS. TEMPLIN: Just that, you know, with any delay there
17 is added expense. This project is also going to add much needed
18 housing including affordable units to ward 3. As a side note,
19 since 2015 Ward 3 has only had 53 affordable units delivered
20 which is the lowest of anywhere in the District so we're really
21 hoping to move forward with the project as soon as possible so
22 these new residential units can help ease the housing burden in
23 the area. But we also --

24 CHAIRPERSON HILL: What -- I'm sorry?

25 MS. TEMPLIN: Sorry. Go ahead.

1 CHAIRPERSON HILL: What is it that you would need to
2 submit to the ANC?

3 MS. TEMPLIN: So we are, since this determination
4 letter just came in yesterday, we're really not sure. We're
5 reevaluating how to (indiscernible) the project.

6 CHAIRPERSON HILL: Okay. Well, Ms. Templin, let me do
7 this. Mr. Moy, what's the 20th, oh, so now we got -- this will
8 be our eighth case on the 20th of December; correct?

9 MR. MOY: That's correct. This would make it eight
10 cases.

11 CHAIRPERSON HILL: And then how many on the 19th?

12 MR. MOY: On which date, sir?

13 CHAIRPERSON HILL: The 19th of December.

14 MR. MOY: 19th? I'm sorry.

15 CHAIRPERSON HILL: Yes.

16 MR. MOY: Oh, you mean the 13th of December.

17 CHAIRPERSON HILL: Sorry.

18 MR. MOY: No, that's all right. So on December 13th
19 we have one expedited case, one mod and six cases.

20 CHAIRPERSON HILL: Okay. Ms. Duncan, so you guys meet
21 next week in November?

22 ANC COMMISSIONER DUNCAN: If you picked that December
23 date we would make it work. We meet next week. I don't see us
24 taking this up next week. We posted our agenda today. This has
25 taken so much time. We would probably have a meeting in December

1 | if you picked that December date.

2 | CHAIRPERSON HILL: Right. So I'm, I mean, Ms. Duncan,
3 | I'm just also trying to figure this out. Like, you know, I have
4 | the -- it's whether or not you guys think you can get together.
5 | Like, when do you think, Ms. Templin, you can have stuff to get
6 | to the ANC?

7 | MS. TEMPLIN: I think definitely by the beginning of
8 | December, probably by the end of November.

9 | CHAIRPERSON HILL: And then thereby you would know
10 | what's going on and be able to get stuff for that. So that means,
11 | right, unfortunately Ms. Duncan you guys would have to meet in
12 | December.

13 | ANC COMMISSIONER DUNCAN: Like I said, this is the most
14 | important thing and this issue had sort of circled previously,
15 | so the Commissioners are all aware of what has happened here.

16 | CHAIRPERSON HILL: Okay. So if I put them on the 20th,
17 | when would you be able to meet with them or have to have a
18 | actually --

19 | ANC COMMISSIONER DUNCAN: We would meet the first
20 | Wednesday in December at our normal meeting time, so December
21 | 6th.

22 | CHAIRPERSON HILL: Got it.

23 | ANC COMMISSIONER DUNCAN: I think that's what it is,
24 | December 6th.

25 | CHAIRPERSON HILL: Okay. So, Ms. Templin, you can hear

1 | that the Commission is trying to do their best now, because I
2 | was going to kick you into January but I also don't want to,
3 | since this process has started in May you said; right? It's
4 | already been quite some time and I know that since the
5 | Commissioner already knows what's going on and all the
6 | Commissioners kind of know, then that is helpful for all parties.

7 | Okay. And Commissioner, like some of the things that
8 | you guys, I know you know probably a little bit, but like some
9 | of the stuff that the ANC's work with the Applicant about, they're
10 | not necessarily in the Board's purview but, you know, it is to
11 | the benefit of the Applicant to also weigh what they can and
12 | can't do versus the ANC not voting in favor. So all parties have
13 | some skin in the game.

14 | But I say all that saying I'm sorry, you guys are going
15 | to have to meet in December and we'll bring that back on December
16 | 20th. Okay? Mr. Moy, that makes eight cases on 12/20 and that's
17 | our last hearing before the holiday? Yes, I would think so.

18 | MR. MOY: Yes, sir.

19 | CHAIRPERSON HILL: All right. Well, let's add them to
20 | 12/20, okay, and I will send my Board all kinds of cookies and
21 | stuff because it's going to be a long day before the holiday. So
22 | plan your vacations now. I'm now mentally planning now. I'm
23 | going away.

24 | But, okay. We will see you guys when we see you . Thank
25 | you, Commissioner, for joining us.

1 ANC COMMISSIONER DUNCAN: Thank you very much.
2 Appreciate it.

3 CHAIRPERSON HILL: All right, Mr. Moy. If you could
4 please call 20824. This is all administrative stuff. Like, you
5 guys could have just stayed home and like come back a little bit
6 later, you know.

7 MR. MOY: Okay. So before the Board now is Application
8 NO. 20824 of Rupsha 2011, LLC. For the record, I'm going to read
9 the relief. This is an amended self-certified application for
10 the following special exceptions. Subtitle X, § 901.2 under
11 Subtitle U, § 421 to allow a new residential development under
12 Subtitle F, § 5201 from the alley lot minimum side yard
13 requirements of Subtitle F, § 5100.1(c) and under Subtitle C, §
14 710.3 from the parking space location requirements of Subtitle
15 C, §710.2(c) and finally pursuant to Subtitle X, § 1002 area
16 variance from the new LA record lot requirements, Subtitle C, §
17 306.1 and let's see.

18 Yes, I'm going to leave it at that. Property is located
19 in RA-1 zone at 4226 Rear 6th Street, S.E., Square 6208, Lot 823
20 and this is the other application, Mr. Chairman, where there was
21 a filing for a Motion for Continuance that was filed within the
22 24 hour block.

23 CHAIRPERSON HILL: Okay. Unless the Board has any
24 issues, if the staff could please drop in the Motion for
25 Continuance into the record so that we all might be able to take

1 a look at it. I'm going to, well, okay, if the Applicant can
2 hear me if they could please introduce themselves for the record.

3 MR. SULLIVAN: Marty Sullivan, counsel for the
4 Applicant.

5 CHAIRPERSON HILL: Okay. Mr. Sullivan, why do you guys
6 need the postponement?

7 MR. SULLIVAN: So we've been working with both the ANC
8 and the Office of Planning specifically on the variance portion
9 of this application and we need to pull together some more
10 information as requested by the Office of Planning. We're very
11 close on that. We're just receiving the information this morning
12 actually, but it was -- OP hasn't written a report as a result
13 and we just need a little bit more time to pull the information
14 together and give the Board and the Office of Planning time to
15 digest this information, and then also ANC filed a letter,
16 conditional letter of support yesterday. I don't -- we'd also
17 like to look at that. I don't know if we can meet their condition
18 or not but we'd like to talk to them about that as well.

19 CHAIRPERSON HILL: Okay. Thanks. So your client
20 started this December 14th, 2022?

21 MR. SULLIVAN: Yes. We came on board midway through
22 the process and it was changed significantly at one point so
23 essentially was a different application at some point once we
24 came on board. But we're --

25 CHAIRPERSON HILL: Okay.

1 MR. SULLIVAN: -- I think we're close and we're still
2 working with the Office of Planning on it.

3 CHAIRPERSON HILL: Okay. Mr. Moy, can you hear me?

4 MR. MOY: I'm here.

5 CHAIRPERSON HILL: When's our first January case? I'm
6 sorry, our first January hearing is what I meant.

7 MR. MOY: Well, the Board returns after the holiday
8 with its first hearing on January the 17th but I would add, Mr.
9 Chairman, not to step on your toes we do have sort of a opening
10 on November 8th because we do have one case on that day where
11 the Applicant's asking for a postponement which you have not --
12 which you are still pending action on because of the seven day
13 response period.

14 CHAIRPERSON HILL: The same Applicant?

15 MR. MOY: Different Applicant.

16 CHAIRPERSON HILL: Okay. So November the 8th is when
17 you think this might work out best for the Board. Is that what
18 you're suggesting, Mr. Moy?

19 MR. MOY: Well, I think concerning what Mr. Sullivan
20 is saying if the material is just a matter of just --

21 CHAIRPERSON HILL: Okay. All right. Mr. Sullivan,
22 we'll come back with you on November, I'm sorry, when, Mr. Moy,
23 when are you -- I'm sorry, now I'm lost again.

24 MR. MOY: November 8th. That's two weeks from now.

25 CHAIRPERSON HILL: Oh, Mr. Sullivan, are you going to

1 be ready in two weeks?

2 MR. SULLIVAN: Yes, we should be. I have the
3 information. I didn't want to throw it at the Board last minute
4 because we just got it.

5 CHAIRPERSON HILL: Okay. And, Mr. Moy, you think
6 there's a slot? Okay. All right then. We'll come back, I mean,
7 all right. So 11/8, Mr. Sullivan.

8 MR. SULLIVAN: Thank you.

9 CHAIRPERSON HILL: Okay. All right. We'll see you
10 guys on November 8th. All right. Mr. Young, if you could please
11 excuse the Applicants.

12 Okay. So we've done all of the paperwork. Do you all
13 want to take a break or do you want to take a break?

14 ZC COMMISSIONER IMAMURA: Let's get on to it, Mr.
15 Chairman.

16 CHAIRPERSON HILL: Okay. There you go.

17 All right. Mr. Moy, you can call, I think we're at
18 20948.

19 MR. MOY: Okay. All right. Sorry for that pause. I
20 had to reshuffle my paperwork.

21 CHAIRPERSON HILL: Sure.

22 MR. MOY: Okay. We're at the top of the order here.
23 So if we can have parties to the table to case Application No.
24 20948 of Second New Saint Paul's Baptist Church. This is a self-
25 certified application for the following area variances pursuant

1 to Subtitle X, § 1002, the non-conforming use of restrictions of
2 Subtitle C, § 204.1, height requirements of Subtitle D, § 203 and
3 pursuant to Subtitle X, § 901.2 special exceptions under Subtitle
4 C, § 1506 from the penthouse setback requirements of Subtitle C,
5 § 1504.1, the penthouse enclosing wall requirements Subtitle C,
6 § 1503.4. Property in the R1-A zone at 2412 Franklin Street,
7 N.E., Square 4286, Lot 20.

8 The preliminary matter is the Applicants are offering
9 an expert witness by the name of Marc Feinstein for architecture
10 and I want to check one other thing, if I may, Mr. Chairman.
11 Okay. The Applicant has 13 signed up and there are no additional
12 new filings. All right. That's it, Mr. Chairman.

13 CHAIRPERSON HILL: All right. Thanks, Mr. Moy. If the
14 Applicant can hear me could you please introduce yourself for the
15 record.

16 MR. WALLACE: Good morning to the Board, I'm Derick
17 Wallace with Goulston & Storres on behalf of the Applicant in
18 this case.

19 CHAIRPERSON HILL: All right, Mr. Wallace. You are
20 trying to get an architect, right, which I think, Mr. Feinstein,
21 has worked with us before, I believe. Is that correct?

22 MR. WALLACE: Yes.

23 CHAIRPERSON HILL: Okay. Just looking up. Okay. I
24 don't have any issues with Mr. Feinstein being taken as an expert
25 in architecture. Do any of my fellow Board members have any

1 | issues with that?

2 | ZC COMMISSIONER IMAMURA: I do not.

3 | CHAIRPERSON HILL: Okay. Thank you, Dr. Imamura. All
4 | right. Mr. Wallace, I'm going to go ahead and let you allow,
5 | please give me your prse3ntation as to why you believe your client
6 | is meeting the criteria for us to grant the relief requested.
7 | I'm going to put 15 minutes on the clock so I know where we are
8 | and you can begin whenever you like.

9 | MR. WALLACE: Okay. Great. Thank you, Mr. Chairman.
10 | Paul, we have a presentation so if you could pull that up it
11 | would be great.

12 | Good morning to the members of the Board. For the
13 | record, again my name is Derick Wallace with Goulston & Storrs
14 | and I am here on behalf of the Applicant, Second New Saint Paul's
15 | Baptist Church and I'm joined by my colleague at Goulston &
16 | Storrs, Cary Kadlecek.

17 | Today we are here to request two variances from the
18 | non-conforming use requirements of Subtitle C, § 204.1 and the
19 | maximum height requirements of Subtitle D, § 303.1.
20 | Additionally, we are requesting special exception relief from the
21 | penthouse setback and enclosing wall requirements of Subtitle C,
22 | § 1504.1 and 1503.4. All four requests will facilitate the
23 | modernization of an existing 100 unit all affordable apartment
24 | building in the R1-D zone.

25 | Before going into how the application satisfies the

1 standards of relief, I would like to introduce Kenneth Lurie and
2 Caroline McCollum, both of whom can speak to the church's mission
3 and need for a modernized and accessible apartment facility.

4 Thank you.

5 MR. LURIE: Mr. Chairman and members of the Board, my
6 name is Ken Lurie. I just want to make sure that everybody can
7 hear me. Can you hear me?

8 CHAIRPERSON HILL: Yes, thank you.

9 MR. LURIE: All right. Thank you. I am a principle
10 of the Orlean company. Caroline McCollum is joining me, the Vice
11 President of Second New Saint Paul and Marc Feinstein, our
12 architect and Kerry Thomas (phonetic), I believe, Leslie Borns
13 (phonetic), our Secretary, the Secretary of the Board of Second
14 New Saint Paul is also joining us and other staff, Devon
15 Palmowski, Director of Operations for Orlean and ABC Management.

16 The proposed rehabilitation of Green Valley apartment
17 building will be a six story building with 100 units spanning
18 about 50,000 square feet. There will be 25 small efficiency
19 units, 55 large efficiency units, two small one bedrooms, one
20 bathroom unit and 17 large one bedroom, one bathroom units and
21 three one bedroom units. The rehab will consist of fully updated
22 apartment units, updated building infrastructure including
23 without limitation new elevators, roof boilers, piping, HVAC,
24 chilling system, upgraded existing common areas that will better
25 meet the residents' needs by providing improved social services

1 spaces, amenity spaces, community rooms and other amenities to
2 enable there idents to gather and socialize.

3 This building was built in 1972. The mission of Green
4 Valley apartments is to provide housing for the elderly or
5 physically disabled families and persons and provide related
6 facilities and services, especially designed to meet the
7 physical, social and psychological needs of the aged and
8 physically disabled to contribute to their health, security and
9 happiness and usefulness and longer living and as further the
10 purpose to provide all such services at as little cost as possible
11 to the physically disabled and to the aged. The community of
12 residents have been served since 1971.

13 Green Valley is a senior housing complex located in
14 D.C.'s Ward 5. The building was developed under the HUD 202
15 program in 1972 by Second New Saint Paul housing and the land
16 adjacent to the Second New Saint Paul Church. In August of this
17 year, the mortgage has reached maturity. The property serves a
18 very low income senior and disabled residents. After several
19 years of planning, Second New Saint Paul housing and the Orlean
20 Company have formed a joint venture to recapitalize the property
21 with Orlean serving as the developer and guarantor. Second New
22 Saint Paul housing will maintain the majority ownership and
23 control the property to ensure that it is preserved as an
24 affordable housing resource.

25 Marc, our architect, would you like to go over the

1 plans for the new vestibule and for the need for the new elevator?

2 MR. FEINSTEIN: I can do that. Good morning, everybody.
3 If you would go to the next slide, please.

4 CHAIRPERSON HILL: Could you introduce yourself for the
5 record, sir?

6 MR. FEINSTEIN: Oh, I'm sorry. For the record I'm Marc
7 Feinstein with Miner Feinstein Architects.

8 CHAIRPERSON HILL: Okay, great. Thank you.

9 MR. FEINSTEIN: We're the architect on the property.
10 So you see on this slide, this is the existing vestibule is on
11 the left. The proposed vestibule is on the right. The extension
12 of the vestibule is actually the same distance projecting out
13 from the building. We're just expanding the width of it to
14 basically the extent of the glassed area on the building face in
15 order to provide a larger area of lobby to the apartment building.

16 The primary purpose of this is for a functional purpose
17 with the standards for the mail specifically requiring much
18 larger package spaces as well as much larger mail boxes in
19 general. The lobby as it currently stood would primarily be a
20 mailroom, so in order to create, you know, a fully functional
21 lobby space for the residents we were trying to minimize the
22 expansion but do something that's actually creating that
23 vestibule with something that's functional, something that could
24 be utilized for a small sitting space and also create a larger
25 space for a lobby behind there so it's not just serving as a

1 vestibule and a package room.

2 Essentially, we're limited -- if you go to the next
3 slide -- we're limited, as you can see on the existing floor plan
4 above, we're limited by the amount of overall space in this
5 building. The building was highly efficient when it was
6 originally laid out so there's apartment units throughout that
7 first floor with a minimal community space as well as an office
8 space. So by expanding it out in that minimal nature that we're
9 doing, it allows for a, you know, that lobby to become a usable
10 space. So that's the first portion of the renovation that expands
11 beyond the footprint that we're proposing.

12 The second is, as you can see on the same slide, at the
13 top of the screen you'll see the loading dock and trash room that
14 currently exists and we're proposing to expand the building out
15 on to that area where the loading dock currently stands in order
16 to house a new elevator and we're going to propose for the
17 building. The current elevators that, there's two current
18 elevators for this 100 unit building. Both of them are too small
19 to be accessible or to house a gurney so any time, and it's a
20 senior building, any time there's a resident that requires
21 medical assistance it's very challenging for the fire and rescue
22 to get up there with the EMTs and if someone has, they have to
23 contort the gurney in such a way to be able to fit on the elevator
24 in a way that's not really comfortable for the resident. So
25 we're trying to alleviate that and make a real gurney sized

1 elevator and the only way to really do this on a concrete building
2 as this building is structurally, it's concrete slab concrete
3 structure, is to expand out.

4 So, as you can see on the bottom of the screen on that
5 floor plan on the right adjacent to the existing two elevators
6 we're proposing this new elevator to be located as part of a new
7 expansion to the building and then adjacent to that on this level
8 you see the trash room but that trash room will also be a new
9 trash chute that will lead down to the trash room to a new
10 compactor because in order to get that elevator to fit we're
11 taking away the old trash chute as well.

12 So if we go to the next slide. This is the rear
13 elevation and as you see that we're proposing the expansion will
14 only go about approximately six feet above the existing parapet
15 wall which is much lower than the chiller that you see on top
16 that is existing, that's 13 foot six above the existing parapet.
17 So the proposed expansion really doesn't impact that much in
18 terms of the overall, you know, the overall look and feel of the
19 loading. It'll be clad in masonry as well. It will kind of work
20 with the prevailing architecture of the building but will allow
21 for this critical need that the residents really, it's important
22 for them to have that access to a gurney-sized elevator.

23 So next slide, please. As you can see here this is
24 from either side view. So you'll see the expansion and the width
25 of the expansion is the existing width of the first floor trash

1 room, so we're not expanding beyond that, we're just raising it
2 up vertically and then if you look at the next slide.

3 This actually is the existing rear of the building. So
4 as you can see this is how it looks now and there's landscaping
5 trees and this is kind of an artificial view of it. They can't
6 really be seen, and then if we go to the final slide this is the
7 proposed expansion elevator. So you can see it's very minimally
8 impacting the look and feel of the building.

9 So with that I'll turn it back over.

10 MR. LURIE: Thank you, Marc, for that. The other thing
11 that I'm not sure if I mentioned, this is part of a \$22 million
12 renovation and that we have already, we met with the ANC back in
13 May and got their approval and now we're coming to you for your
14 approval.

15 CHAIRPERSON HILL: Okay. Thank you, Mr. Lurie. I'm
16 just trying to, Mr. Wallace, I mean there's -- you guys have a
17 lot of architectural slides in your slide deck and I do appreciate
18 those architectural slides as well as the work that Mr. Lurie is
19 doing with this organization. But, Mr. Wallace, can you speak a
20 little bit more to the area variance and the special exception
21 criteria that the Board has to consider?

22 MR. WALLACE: Yes, definitely. Hello again to the
23 Board. My name is Derrick Wallace for the record and thank you
24 to Ken and Marc for going into kind of the background and the
25 mission of the church.

1 Now we'll give a high level explanation of how the
2 application meets the standards of relief. In this case generally
3 the Applicant must meet three criteria for an area variance.
4 First, that the property is affected by an exceptional or
5 extraordinary situation or condition, second that the strict
6 application of the zoning regulations will result in a practical
7 difficulty to the Applicant and third, the granting of the
8 variance will not cause substantial detriment to the public good
9 nor substantially impair the intent, purpose or the integrity of
10 the zone plans.

11 CHAIRPERSON HILL: Mr. Wallace?

12 MR. WALLACE: Yes.

13 CHAIRPERSON HILL: I'm just confused. I'm sorry. I
14 thought you guys were arguing for a use variance, no?

15 MR. WALLACE: Yes. Yes, so we in our initial filing
16 we argued for an area variance. In our prehearing submission we
17 argued for a use variance as well. We're confident that the
18 application meets the criteria in both instances.

19 CHAIRPERSON HILL: Okay.

20 MR. WALLACE: (Indiscernible), yes.

21 CHAIRPERSON HILL: You can continue.

22 MR. WALLACE: Okay, great. A use variance must meet
23 the undue hardship standard instead of the practical difficulty
24 test which is a higher standard and the other two criteria are
25 the same. Lastly, because the Applicant is a church it is

1 eligible for the public good flexibility which requires the
2 organization to show the specific design it wants to build,
3 constitutes an institutional necessity and how the needed design
4 features require the specific variance.

5 Here, because the building is the only multi-family
6 apartment building in a multi-block radius and the use is no
7 longer allowed in the R1-B zone, the property is affected by an
8 exceptional condition. Both the proposed third elevator and
9 entry vestibule are institutional necessities because of the
10 senior population and increased accessibility needs. The
11 practical difficulty stems from the church's desire to renovate
12 the apartments and accommodate larger and larger elevator size
13 and more functional mail boxes. For a use variance the undue
14 burden test is satisfied because the building's location in the
15 zone no longer allows development of apartment housing.
16 Therefore, the church must decide between seeking the current
17 variances or relocating the entire senior population to a new
18 zone that allows for development of apartment buildings.

19 Finally, the variance request will not cause
20 substantial detriment to the public good or substantially impair
21 the zone plans because the vast majority of the proposed
22 improvements are internal. Outside the addition of the third
23 elevator and modest expansion of the entry vestibule, the
24 building will remain virtually the same from the outside.
25 Furthermore, the amount of square footage added is minimal and

1 will not increase the current use's intensity. Both special
2 exception requests from the penthouse setback and enclosing wall
3 requirements derive from the addition of the third elevator. The
4 Applicant considered alternative designs and could not find a
5 penthouse design that did not require an internal redesign of the
6 building or elimination of the third elevator.

7 Compliance with Chapter 15 of Subtitle C will lead to
8 a significant cost for a non-profit organization and the
9 inefficiency in the building floor plan. Nonetheless, the
10 building penthouse design will be in harmony with the zoning
11 regulations because the design will not create a noticeably
12 different visual impact and not adversely affect neighboring
13 properties.

14 Before closing, I want to note that we have a letter
15 of support from ANC 5C and approval from OP in all four areas of
16 relief which can be found in the record at Exhibits 22 and 26
17 respectively. The architects are available to answer any
18 technical questions and I'm happy to answer any questions related
19 to the satisfaction of the standards in this case.

20 Thank you.

21 CHAIRPERSON HILL: All right. I'm going to turn real
22 quick to the Office of Planning. Oh, I see the ANC's here. Let
23 me hear from the Office of Planning first.

24 MR. JESICK: Good morning, Mr. Chairman and members of
25 the Board. My name is Matt Jesick.

1 The Office of Planning is happy to rest on the record
2 in support of this case but I can take any questions that the
3 Board may have about specific areas of relief.

4 Thank you.

5 CHAIRPERSON HILL: Thank you. Does the Board have any
6 questions for the Office of Planning and/or the Applicant?

7 Go ahead, Dr. Imamura.

8 ZC COMMISSIONER IMAMURA: Thank you, Mr. Chairman.
9 This questions is for Mr. Feinstein.

10 I just wanted to clarify from the rendering in your
11 comment that you made that the vestibule would not extend any
12 further than it's already projected than the existing vestibule.
13 Is that right?

14 MR. FEINSTEIN: A bit out from the building face it
15 extends the same depth. Width-wise it expands.

16 ZC COMMISSIONER IMAMURA: Understood. And the width-
17 wise that's not shown on the plan here as you described it and
18 actually I think it's a nice vestibule. It's well designed,
19 certainly in terms of matching. I'm looing at an image now of
20 the existing vestibule and you said essentially it's just a
21 volumetric space, right, that matches the existing sort of
22 panelized windows that are there now. Is that right?

23 MR. FEINSTEIN: That is correct. Yes, we're just
24 basically if you remember those panelized windows expanding out
25 --

1 ZC COMMISSIONER IMAMURA: Right.

2 MR. FEINSTEIN: -- (Indiscernible).

3 ZC COMMISSIONER IMAMURA: So what's not shown on the
4 drawing is the path leading up to the entrance of the vestibule
5 in the drawing. So I just wanted to clarify that your intent is
6 to add a concrete or expand the concrete walk there and that this
7 is sort of driven by ADA. I imagine that'll be about five feet
8 wide. Is that right?

9 MR. FEINSTEIN: That's correct. The actual accessible
10 parking for this building is actually, if you're facing the
11 building it's to the left of the building. So by relocating the
12 entrance kind of on the parking lot side which we're doing
13 (indiscernible) the vestibule, if you're looking at the rendering
14 you'll see the entrance currently is like on the side of it.
15 We're relocating the entrance to allow for easier access for the
16 handicapped parking. It actually will minimize their need to
17 have to go around the vestibule to get in.

18 ZC COMMISSIONER IMAMURA: Right. Okay.

19 MR. FEINSTEIN: So there won't be some accessible
20 concrete walkways that are modified. There's an existing
21 accessible, or there's an existing route I should say, it's not
22 an accessible route. It's not compliant. We're going to be
23 making a compliant route to get to the entrance.

24 ZC COMMISSIONER IMAMURA: Okay. Let me take a look at
25 --

1 MR. FEINSTEIN: I don't know if we have an image of the
2 site plan.

3 ZC COMMISSIONER IMAMURA: The renderings of the
4 vestibule doesn't include sort of the turf that's on, I mean if
5 you're looking at the vestibule straight on. There appears to
6 be some trees off-site so it's that where the concrete pad would
7 go.

8 MR. FEINSTEIN: It will go -

9 ZC COMMISSIONER IMAMURA: -- (indiscernible).

10 MR. FEINSTEIN: It will work around that and basically
11 follows that same pathway. That one ornamental tree may be
12 relocated. We haven't fully worked that out yet but then it
13 won't be along, the rendering's a little misleading in terms of
14 its not, that whole area's not going to be concrete.

15 ZC COMMISSIONER IMAMURA: It is a little misleading.
16 That was my point. So in the drawings, while it's again a nice
17 vestibule, I would have liked to have seen the complete set of
18 -- a more complete plan there with the accessible
19 (indiscernible). So, all right. Those are the questions that I
20 have, Mr. Chairman, and if it's possible to include that in the
21 record I would be appreciative, especially this is driven by
22 (indiscernible).

23 CHAIRPERSON HILL: Dr. Imamura, what are you trying to
24 get in the record again?

25 ZC COMMISSIONER IMAMURA: I'd just like to see a more

1 complete site plan there with the accessible path. The rendering,
2 as Mr. Feinstein noted, is a little misleading and the plans, the
3 floor plans there don't really show the accessible route or the
4 accessible sidewalk there leading into the vestibule. So it just
5 shows the vestibule itself.

6 MR. FEINSTEIN: We can provide that.

7 ZC COMMISSIONER IMAMURA: If you could just add the
8 sidewalk there, yes.

9 MR. FEINSTEIN: We can provide a site plan, an existing
10 proposed site plan, if that's what is needed then we have that.
11 We just didn't include that in the presentation.

12 ZC COMMISSIONER IMAMURA: All right.

13 CHAIRPERSON HILL: How long would it take you -- how
14 long would it take you, Mr. Feinstein, to get it in the record?

15 MR. FEINSTEIN: It's already drawn so it's just a matter
16 of --

17 CHAIRPERSON HILL: Sending it in to staff.

18 MR. FEINSTEIN: Yes.

19 CHAIRPERSON HILL: Could you send it to staff, please?

20 MR. FEINSTEIN: Sure.

21 CHAIRPERSON HILL: And, Mr. Moy, if you could please
22 ask staff to drop that into the record?

23 MR. MOY: Yes, sir.

24 CHAIRPERSON HILL: Thank you. Commissioner, can you
25 hear me and if so, would you introduce yourself for the record?

1 ANC COMMISSIOENR KAPUR: Are you speaking to me?

2 CHAIRPERSON HILL: Yes.

3 ANC COMMISSIONER KAPUR: Commissioner VJ Kapur, ANC
4 5C07 and I represent ANC 5C in this matter for Exhibit 22.

5 CHAIRPERSON HILL: Okay, Commissioner Kapur. Well,
6 thank you for joining us. Did you have some testimony that you'd
7 like to give the Board?

8 ANC COMMISSIONER KAPUR: Sure. I'll speak briefly.
9 The Green Valley apartments is currently home to about five
10 percent of my constituency as it has 100 homes that are fully
11 occupied and so my top priority in factfinding outreach on this
12 case has been the wellbeing of the folks in the building and on
13 that point we discussed this on the May 24th SMD meeting. We
14 discussed it at the June 21st 5C meeting and I've had discussions
15 with residents in the building, a few residents around the
16 building and with the Applicant and I think we're all on the same
17 page. I feel satisfied that nobody's going to be displaced from
18 this project, that everyone's going to be taken care of.
19 Everyone's excited about the modernization.

20 On the specific zoning relief sought the visual impacts
21 on some of the neighbors on the rear of the building, everybody
22 understands the need and is supportive, neutral to supportive on
23 that point. So for that reason I support this project, the ANC
24 5C supports this project. I will briefly congratulate the
25 Applicant, Second Saint Paul's Baptist Church on their centennial

1 anniversary this month. May they serve the community for another
2 100 years and may the Green Valley apartments continue to provide
3 high quality affordable senior homes with the support on this
4 application.

5 Thank you. Happy to take questions.

6 MR. LURIE: Thank you.

7 CHAIRPERSON HILL: All right, Commissioner. Well,
8 thanks so much for joining us. Thank you for taking the time
9 and thank you for serving your community.

10 Let's see. Does the Board have any questions of anyone
11 at this point? Mr. Young, is there anyone here wishing to speak?

12 MR. YOUNG: I wasn't sure if Ms. McCollum was a part
13 of the Applicant team but if she is, then we do not have anyone.

14 CHAIRPERSON HILL: Mr. Lurie, is Ms. McCollum part of
15 your Applicant team?

16 MS. MCCOLLUM: I am. I'm here.

17 CHAIRPERSON HILL: Could you introduce -- Ms., are you?
18 Mr. Wallace, is Ms. McCollum part of the Applicant team or is
19 she a --

20 MR. WALLACE: She's a part of the Applicant team.

21 CHAIRPERSON HILL: Okay. Got it. All right. So, Mr.
22 Wallace, do you have anything you'd like to add in conclusion?

23 MR. WALLACE: Nothing significant. We would just, in
24 light of this being an affordable project we would hope that the
25 vote is not delayed in this case and we're happy to provide those

1 renderings to office staff by end of day today. No other rebuttal
2 and we're happy to be here and we thank you for your time.

3 CHAIRPERSON HILL: Okay, great. Well, I believe, Mr.
4 Feinstein, did you already send that to the staff?

5 MR. FEINSTEIN: We're just doing that right now. We're
6 sending it through Mr. Wallace so it should be coming shortly.

7 CHAIRPERSON HILL: Okay. I'm going to hold up the vote
8 until we get that from you, and so that's not something that I'm
9 -- yes. Mr. Feinstein, why don't you go ahead and do this? Why
10 don't you go ahead and get that to staff. I want to make sure
11 it's in the record and then we'll do one case and then we'll come
12 back to this case; okay? I don't know if I need anybody.

13 MR. FEINSTEIN: Okay.

14 CHAIRPERSON HILL: I can go ahead and, let me just
15 think.

16 ZC COMMISSIONER IMAMURA: Mr. Chairman?

17 CHAIRPERSON HIL: Yes. Go ahead, Dr. Imamura.

18 ZC COMMISSIONER IMAMURA: If I may, I'm comfortable,
19 given my exchange with Mr. Feinstein I'm comfortable with the
20 fact that I'm sure the product that they're providing will satisfy
21 my request, so if the Board is interested I'm happy to move into
22 deliberations

23 CHAIRPERSON HILL: No, Dr. Imamura, I appreciate that.
24 I mean, I don't think, I think in this particular case it's not
25 going to be a hold up but so what I'm going to do is I'm going

1 to close the hearing and the record except for the one item that
2 we're going to wait for and then we'll just, Mr. Moy, we can just
3 come back and have a vote; right? I don't have to have anything.
4 We can just deliberate; correct?

5 MR. MOY: Right, right. So long as my understanding
6 is that we receive the, I want to call it the updated site plan
7 showing that circulation, and once we have that in hand then we
8 can move forward as you're proposing, Mr. Chairman.

9 CHAIRPERSON HILL: Okay. So you guys, you guys don't
10 need to come back. We'll go ahead and if we have any questions
11 or if there's something we need from your team, Mr. Wallace,
12 we'll reach out to you but I believe you guys are currently
13 finished at this point and the reason why we tend to not act on
14 anything until the record is completely full is that people say
15 they're going to give us something and they don't necessarily do.
16 In your case, Mr. Feinstein, I'm sure you would be doing it but
17 I get my hands slapped if I don't do it the way that we do it
18 now.

19 So I'm going to go ahead. Mr. Lurie, good luck to you.
20 Really it sounds just like a lovely project. You guys have really
21 taken the time to work with the community and obviously it's
22 something that is in great need. So --

23 MR. LURIE: (Indiscernible).

24 CHAIRPERSON HILL: Does anybody have anything to add
25 from my Board members? Okay. All right. I'm going to go ahead

1 and close the hearing and the record except for that one item
2 that's being requested and then, Mr. Moy, when staff has that and
3 drops that into the record, let us know and we can come back for
4 a vote. Okay?

5 MR. MOY: Most definitely. Thank you, sir.

6 CHAIRPERSON HILL: Thank you.

7 MR. LURIE: Thank you for your time.

8 CHAIRPERSON HILL: Thank you, Mr. Lurie. All right.
9 Nowe we will take a break; okay? Let's just take a quick ten
10 minutes. They might even drop it in the record in those ten
11 minutes. But either that, we'll come back for our next hearing.
12 Thank you.

13 (Break.)

14 MR. MOY: Mr. Chairman, just to let you know the Vice
15 Chair has to take care of another task and she'll be returning
16 to the Board probably within a half hour.

17 CHAIRPERSON HILL: Okay. Sounds good. Okay. We will
18 go ahead and move forward. You may call our next case, Mr. Moy.

19 MR. MOY: All right. The Board has returned to its
20 public hearing session and the time is at or about 11:06 a.m.
21 The next case before the Board is Application No. 20958 of 851
22 Yuma, LLC. This is a self-certified application pursuant to
23 Subtitle X, § 901.2 for special exception under Subtitle U, § 421
24 that would allow a new residential development. Property is
25 locate din the RA-1 zone at 851 Yuma Street, S.E., Square 6157,

1 Lot 833 and I believe, Mr. Chairman, the ANC is in the room as
2 well as the Applicant's team.

3 CHAIRPERSON HILL: Thank you, Mr. Moy. If the Applicant
4 can hear us, if they could please introduce themselves for the
5 record.

6 MR. TERAN: Good morning. My name is Eric Teran and
7 I'm the architect for the owner.

8 CHAIRPERSON HILL: All right, Mr. Teran. Is the
9 Commissioner here and if so could they introduce themselves for
10 the record?

11 ANC COMMISSIONER WILLIAMS: Good morning, Mr. Chairman.
12 Kelly Mikel Williams, ANC Chair 8E.

13 CHAIRPERSON HILL: Hi, Commissioner Williams.
14 Pleasure, pleasure meeting you.

15 CHAIRPERSON HILL: You, too. You as well. Thank you,
16 sir.

17 Al right. Mr. Teran, if you could go ahead and walk
18 us through your application and why you believe your client is
19 meeting the criteria for us to grant the relief requested. I'm
20 going to put 15 minutes on the clock so I know where we are and
21 you can begin whenever you like.

22 MR. TERAN: Thank you. Mr. Young, if you could please
23 pull up the presentation. Thank you.

24 So here, this is the subject lot. It's an existing
25 apartment building. It's been vacant for many years. I believe

1 the site photos are first.

2 Next slide, please. So this is looking on the side at
3 existing hardscape where we will maintain the parking and provide
4 an area for trash. As you can see, it's three stories from the
5 street and four stories on the back. Right now, there's the
6 existing 12 units, four on each floor and the basement used to
7 be four units I believe about ten or 15 years ago. For some
8 reason they converted them to offices and now my client who
9 purchased the building wants to turn them back into four units.

10 Next slide, please. So this is just the rear of the
11 property. As you can see, there's already doors and windows that
12 will all be replaced.

13 Next slide, please. Just looking at the rear again.
14 Two units on the bottom there. They were units. For some reason
15 they converted them to offices.

16 Next slide, please. And that's the front of the
17 building. So you can see that's three stories on the front, four
18 on the back.

19 Next slide, please. Just looking at the front again.

20 Next slide, please. Just looking down the street, just
21 so you have some context.

22 Next slide, please. And then one more on the side.

23 Next slide, please. So here are the plans.

24 Next slide, please. And once again the site plan. We
25 are not proposing any addition. It's all internal.

1 Next slide, please. Here is the general landscape plan
2 that's there now just describing it. We're not planning on taking
3 any trees down and that's the existing hardscape and the required
4 parking for the 16 units and the area for the trash bins.

5 Next slide, please. So here, this is what's existing.
6 You can see the offices look exactly like units. They just
7 changed it in Certificate of Occupancy for some reason to be
8 called support offices rather than the units.

9 Next slide, please. So here are the units now, A, B,
10 C, and D. I believe they are two bedroom units, two and three
11 bedroom units. As you can see the existing staying, structural
12 walls are staying as well. It's just interior renovation.

13 Next slide, please. And just an up close look at half
14 of the building that's basically mirrored on the other half for
15 unit A and B providing three bedroom units.

16 Next slide, please. That's another side.

17 Next slide, please. All right. This is the rest of
18 the units for the first, second and third floor. Those are all
19 existing. I believe the owner's new plan on now obviously going
20 to focus on electrical, drywall, painting, do that type of work
21 but we're not planning on doing any remodeling, just finishes.

22 Next slide, please. And I think that's it. So I think,
23 as you can see, we're just proposing to turn those offices back
24 to units and I'm happy to answer any questions.

25 CHAIRPERSON HILL: Okay, Mr. Teran. Give me a second.

1 I'm going to work through some of this. Commissioner, I see your
2 guys' letter in the record. Would you like to give us your
3 testimony, Commissioner?

4 ANC COMMISSIONER WILLIAMS: Sure. Thank you very much,
5 Mr. Chairman. Kelly Mikel Williams, ANC 8E Chair.

6 The Commission heard testimony from Mr. Teran and his
7 client, Mr. Amit, and the Commission's biggest concern was that
8 they had 16 units and none of those units were they going to
9 provide any type of affordability. In Ward 8 housing is a crisis
10 and affordability 8s even more of a crisis and so we wanted to
11 work with them on that. Unfortunately, I don't think we have
12 been able to meet and discuss or talk about that and so the
13 Commission did not want to just allow them to renovate the units
14 and not provide any type of opportunity for the people in the
15 community to actually be able to afford the units that they're
16 going to put in there.

17 They are over the inclusionary zone limits of ten and
18 while speaking to the IZ Department because I think they were
19 existing units, it may or may have not applied to them but we
20 wanted to, and certainly investigate that and understand if it
21 did apply that it would be imposed in this case because they have
22 16 units and if it did not apply, that the owner would recognize
23 that property in the area of which they're moving into to try to
24 provide some type of affordability and our request was to at
25 least provide two units of affordability while they can still

1 maintain the rest of it at market rate and we just have not been
2 able to discuss that with the ownership.

3 CHAIRPERSON HILL: Okay, Commissioner. Yes,
4 Commissioner, I wanted to hear, have an opportunity for you to
5 give your testimony to the Board concerning this issue which I
6 don't think anyone would disagree with your letter that is on the
7 record. At least I know my fellow Board members would not.

8 Some of this stuff would not fall within our purview
9 perhaps and that's what I'm also trying to clarify which you did
10 ask that question and now I wanted to kind of go to the Office
11 of Planning, if I could. Oh, Mr. Lawson is with us?

12 MR. LAWSON: Good morning, Mr. Chair. Joel Lawson with
13 the Office of Planning.

14 CHAIRPERSON HILL: Hi, Mr. Lawson. Would you like to
15 give us your report I guess and if you heard the question from
16 the Commissioner, give your understanding of the regulation.

17 MR. LAWSON: Of course. OP of course filed a report
18 recommending approval of this application. They met the
19 standards for review for this particular case.

20 I really appreciate the Commissioner's comments and
21 concerns so I took a look at the inclusionary zoning regulation
22 and kind of came to the same conclusion that the IZ regulations
23 were not required in this case, the provision of affordable units
24 as part of this proposal. So, and of course the Board of Zoning
25 Adjustment doesn't typically condition approval on a proffer

1 (phonetic) by the Applicant.

2 So I guess with that we would remain in support of the
3 application and if you have any additional questions I'd be happy
4 to take them.

5 CHAIRPERSON HILL: Right. And, Mr. Lawson, I always,
6 I wanted to just clarify again. It's after ten it triggers one
7 IZ?

8 MR. LAWSON: It's not quite that straightforward but
9 typically IZ doesn't apply, at least the mandatory IZ program
10 doesn't apply unless there are at least ten new units being
11 provided as part of the development. In this case there are four
12 being provided and so typical IZ would not apply.

13 CHAIRPERSON HILL: And what, and this is what I always
14 sometimes get confused, is it the eleventh unit that's the IZ
15 unit?

16 MR. LAWSON: Well, you know, again it's a bit more
17 complicated because IZ is, actually for the requirement in square
18 footage, not a particular unit. But typically after there are
19 ten units IZ would trigger because this is an 11 unit building
20 that would typically be one IZ unit but the, you know, once we
21 get into a larger number of units the exact number of units is
22 based on square footage, not on number of units.

23 CHAIRPERSON HILL: Okay. I understand. So, Mr. Teran,
24 did you guys talk to your Applicant and just consider whether
25 there was a possibility to provide IZ or even, and I don't even

1 know if there was any bonus density possible, but then again I
2 guess you're just converting, right, the basement from office
3 into apartment, you know, whether there was any opportunity to
4 provide IZ or even if some bonus density, I mean, probably not.
5 There wasn't any bonus density that you could get for
6 participating in the program, but did you guys look at that?

7 MR. TERAN: As specifically, no, just because we were
8 converting it, like the existing offices into rental. But I'll
9 let Mr. Amit, the owner, he's on as well, if he could speak about
10 the rental.

11 CHAIRPERSON HILL: Mr. Amit, can you hear me?

12 MR. VORA: Yes, I can. Hello, Board. How are you guys
13 doing?

14 CHAIRPERSON HILL: Hi. Can you introduce yourself for
15 the record?

16 MR. VORA: Sure. My name is Amit Vora and I am part
17 of the Applicant team at 851 Yuma, LLC.

18 CHAIRPERSON HILL: Okay. Did you guys look into the -
19 - did you run the numbers? I was just curious if you looked at
20 any kind of possibility of providing affordable housing?

21 MR. VORA: We did a brief just look at it and we were
22 doing for a larger development, maybe adding square footage to
23 it to, adding square footage to it. We looked at just briefly
24 how that would look but we did not do any in depth research
25 because we were not looking at any square footage for this

1 project.

2 CHAIRPERSON HILL: Right. Okay. All right. And I
3 guess I asked this also that, you know, currently the ANC is in
4 opposition so, you know, that will, yes, the ANC's in opposition
5 and you have, you are aware of this. Correct?

6 MR. VORA: Correct.

7 CHAIRPERSON HILL: Okay. All right. Because sometimes
8 that lengthens the Board's process and so I didn't know if you
9 did not think that there was an opportunity, it's not something
10 that factored into you all's math when you were like doing this
11 project is what you're telling me. Correct?

12 MR. VORA: correct, and I think when we did have a
13 meeting at the ANC they sent over, you know, I guess something
14 that they wanted us to contribute, something that's economically
15 not feasible but I think it was like \$150,000 to a local non-
16 profit to, and some of that was just economically unfeasible. So
17 we kind of understand their position and respect their position
18 but our request is kind of a narrow request so we proceeded to,
19 you know, we're here today.

20 CHAIRPERSON HILL: Okay. Let's see. Mr. Young, is
21 there anyone here wishing to speak?

22 MR. YOUNG: We do not.

23 CHAIRPERSON HILL: Okay. Commissioner Williams, I
24 guess as I understand the regulations on what the Board is capable
25 of doing again is, as you are now hearing and understanding, is

1 they're only adding four units and so that's not triggering the
2 Office of Planning's square footage for the IZ and so it's not
3 something that's within our purview. But I just wanted to make
4 sure that you understood that and had an opportunity to speak
5 with the Office of Planning if you had any questions, as is the
6 right of the ANCs when they're here in this hearing environment.

7 ANC COMMISSIONER WILLIAMS: Yes, Mr. Chairman. I did
8 speak to, well I didn't speak to actually the Office of Planning.
9 I was speaking with the IZ department or Mr. Jean (phonetic) and
10 speak with him about what the process was and what could happen
11 in terms of the number of units.

12 We understood that they were converting four units but
13 certainly my fellow Commissioners were looking at the totality
14 of the building as opposed to just what was being converted
15 because we understood that they were renovating all of the units
16 because the building has been vacant for so many years, that
17 there was going to be a renovation with all of them. So we
18 understood, and looked at that as a, while it was adding new
19 development it was going to be in some form some new construction
20 throughout the renovation of all the 16 units and that's why we
21 were approaching it the way we were given the understanding that
22 it may not trigger the actual IZ because it was considered actual
23 new construction from the ground up as opposed to just a
24 renovation and so the Commissioners in our discussion was, you
25 know, can we get one unit where it could be affordable and our

1 | proposal to them was there is a homeless shelter that is right
2 | down the street and maybe we could use that one unit to support
3 | and help get one of those families out of the homeless shelter
4 | and put them into the unit and not take away from the rest of
5 | the units there.

6 | So we were trying to open up that window of discussion
7 | so that we can do that where they can still have all the market
8 | units that they wanted but certainly taking one or two of those
9 | units and providing, giving something back to the community.

10 | We also understand that the BZA does not follow the
11 | same process as the Zoning Commission itself when it comes to
12 | community benefit agreements and while we feel that when
13 | developers and entities come into the community, especially when
14 | they have a matter-of-right sometimes to be able to do what they
15 | want to do, that's usually what happens and the benefit of the
16 | community is always discounted, and so we were looking at it from
17 | a standpoint of you're still going to profit off of this operation
18 | and we want to make sure that there is some community benefit to
19 | the actual residents in the community as opposed to just putting
20 | everything market rate and let the gentrification just continue
21 | to go throughout Ward 8 in the rampant fashion that it is.

22 | We wanted to at least get someone out of the homeless
23 | shelter or someone that's in a meager position to be able to be
24 | upgraded by the development that Mr. Amit and his team are going
25 | to do to try to elevate what's going on in the community. So we

1 | understood some of the aspects. We weren't fully versed in all
2 | of them. So in my communications with the Department of Housing
3 | and IZ we were able to gather some additional knowledge but
4 | certainly we felt that our request, while monetarily may have
5 | been out of reach, certainly in terms of the one unit we did not
6 | feel that that was too much to ask.

7 | CHAIRPERSON HILL: Okay. No, Commissioner, thanks. I
8 | mean, you know, again it sounds as though you have done things
9 | before the Zoning Commission. Is that correct?

10 | ANC COMMISSIONER WILLIAMS. I'm sorry. Say that again?

11 | CHAIRPERSON HILL: Have you gone before the Zoning
12 | Commission?

13 | ANC COMMISSIONER WILLIAMS: No, sir. This is my first
14 | visit with you.

15 | CHAIRPERSON HILL: Oh, okay. We're the Board of Zoning
16 | Adjustment.

17 | ANC COMMISSIONER WILLIAMS: Right.

18 | CHAIRPERSON HILL: The Zoning Commission, they're the
19 | ones that get to do more community agreements.

20 | ANC COMMISSIOENR WILLIAMS: Correct.

21 | CHAIRPERSON HILL: And you kind of get to negotiate a
22 | little bit more. We have our hands tied in certain ways as to
23 | what we can do, but it does sound as though your group, I'm sorry,
24 | your ANC's quite active and that's great to kind of like be
25 | engaged in your community that you are and you can always try,

1 | you know, and just work with the developers as they come. I
2 | mean, the Board of Zoning Adjustment, I mean they're only doing
3 | four units and it doesn't trigger, so there's nothing that I can
4 | necessarily do. Right?

5 | ANC COMMISSIONER WILLIAMS: Right.

6 | CHAIRPERSON HILL: But you as a Commissioner and as an
7 | ANC can work with the developers to see if there's something that
8 | you may or may not be able to help with or come to an agreement
9 | on within your community right there. That then gives the
10 | developer an approval from the ANC which is helpful for their
11 | process --

12 | ANC COMMISSIONER WILLIAMS: Exactly.

13 | CHAIRPERSON HILL: -- and in the long run can also help
14 | the developer because it might shorten up the timeframe that they
15 | have to wait for orders and different things that go through our
16 | office and so that's why it also is to the developer's -- helpful
17 | to the developer to also get an approval from the ANC; right? So
18 | that's why I'm also curious as to whether or not, you know, the
19 | developer has thought about this and it sounds as though they did
20 | do at least some of the math.

21 | So, okay. Commissioner (indiscernible) --

22 | ANC COMMISSIONER WILLIAMS: We're open to speak with
23 | them and whatever, try to work out something for that. We have
24 | not closed that door.

25 | CHAIRPERSON HILL: Well, hopefully the developer will

1 continue to work with you and also hopefully you'll get something
2 that works for your community because even if they're at market
3 rate, I guess there will be that hopefully new neighbors and,
4 you know, a vibrancy that will help kind of that area there, and
5 so ,but I really appreciate you coming in Commissioner. You were
6 about to say something, I'm sorry?

7 ANC COMMISSIONER WILLIAMS: No, no, no. I just lost
8 my screen, that's all.

9 CHAIRPERSON HILL: Oh, okay. Does the Board have
10 anything they'd like to ask of anybody before I close the hearing?
11 Okay. I'm going to go ahead and close the hearing and the record.
12 Thank you all for joining us.

13 ANC COMMISSIONER WILLIAMS: Thank you.

14 CHAIRPERSON HILL: Thank you. Okay.

15 So as far as the special exception under Subtitle X
16 901.2, Subtitle U, 421 for the new residential development I
17 believe they're meeting the criteria that we're supposed to look
18 at. They're just adding four units to the basement that was
19 office. They're not changing the envelope. There's nothing else
20 happening to the building, so there's really not a whole lot to
21 discuss I think as far as meeting the special exception and
22 however it is good to see the Commissioner and the ANC trying to
23 provide what they can for their community and people that are in
24 need, and we would like the developers to be able to do whatever
25 they can but then they do whatever they can do for the

1 regulations, either they're pushing their hand in one way, and
2 you never know how the numbers work. The numbers might not work
3 out for the project if there was even one unit being an IZ unit.
4 I just don't know, but regardless it's not within the Board's
5 purview in this area.

6 Mr. Smith, do you have anything -- so I'm going to vote
7 to approve. Mr. Smith, do you have anything you'd like to add?

8 COMMISSIONER SMITH: No, I don't have anything to add.
9 I believe this is a fairly straightforward application,
10 especially given that the Applicant has provided the site plan
11 revisions requested by the Office of Planning to show that they
12 would be in compliance with the parking requirements and also
13 indicating where trash pick-up would be located on the site.

14 I really don't have anything to add on this particular
15 case. I believe they've met the burden of proof for us to grant
16 the special exceptions they requested. So I will vote to support.

17 CHAIRPERSON HILL: Okay. Dr. Imamura?

18 ZC COMMISSIONER IMAMURA: Thank you, Mr. Chairman. I
19 just want to thank Board member Smith for bringing up, for
20 highlighting the parking and trash and I agree with your summary,
21 Mr. Chairman. I also appreciated Commissioner Williams and the
22 ANC's math strategy on this. It is in severe disrepair and so I
23 appreciate the point of view and perspective of the 16 units that
24 hopefully could trigger IZ but, as you stated, they're really
25 (indiscernible).

1 So I'm prepared to vote in support.

2 CHAIRPERSON HILL: Thank you.

3 All right. I'm going to go ahead and make a motion to
4 approve Application No. 20958 as captioned and read by the
5 Secretary and ask for a second. Mr. Smith?

6 COMMISSIONER SMITH: Second.

7 CHAIRPERSON HILL: Motion made and seconded. Mr. Moy,
8 can you take a roll call?

9 MR. MOY: Yes. Thank you, Mr. Chairman. When I call
10 your name if you'll please respond to the motion made by Chairman
11 Hill to approve the application for the relief requested. The
12 motion to approve was second by Mr. Smith.

13 Zoning Commissioner Dr. Imamura?

14 ZC COMMISSIONER IMAMURA: Yes.

15 MR. MOY: Mr. Smith?

16 COMMISSIONER SMITH: Yes.

17 MR. MOY: Chairman Hill?

18 CHAIRPERSON HILL: Yes.

19 MR. MOY: We have two members not participating. Staff
20 would record the vote as three to zero to two and this is on the
21 motion made by Chairman Hill to approve. The motion to approve
22 was second by Mr. Smith. Others voting to approve the application
23 is Zoning Commissioner Joe Imamura, Mr. Smith and Chairman Hill.
24 The motion carries, sir, on a vote of three to zero to two.

25 CHAIRPERSON HILL: Thank you, Mr. Moy. All right, Mr.

1 Moy. You may call our next case.

2 MR. MOY: The next case before the Board is Application
3 No. 20965 of, I guess it's pronounced [Bee-dree] B-E-A-U-D-R-E
4 Barnes and Alison Shean. This is a self-certified application
5 pursuant to Subtitle X, § 901.2 for a special exception under
6 Subtitle D, § 5201 from the accessory building location
7 requirements of Subtitle D, § 5004.1(a). Property located in the
8 R-1B zone at 4709 45th Street, N.W., Square 1586, Lot 12, and
9 that's all I have for you, Mr. Chairman. I believe the
10 Applicant's team is in the room. Thank you.

11 CHAIRPERSON HILL: Thank you, Mr. Moy. If the Applicant
12 could hear me, could they please introduce themselves for the
13 record?

14 MR. SULLIVAN: Yes. Thank you, Mr. Chairman, and
15 members of the Board. This is Marty Sullivan, counsel for the
16 Applicant.

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

22 MR. SULLIVAN: Thank you, Mr. Chairman. Also with me
23 is the project architect, Avneet Luthra.

24 CHAIRPERSON HILL: Okay, great.

25 MR. SULLIVAN: Mr. Barnes may or may not be here. He

1 had an appointment, if there's any questions.

2 CHAIRPERSON HILL: Do you have Mr. Richardson here with
3 you also?

4 MR. SULLIVAN: Yes. He's a project manager
5 (indiscernible) --

6 CHAIRPERSON HILL: Okay, great. Just checking.

7 MR. SULLIVAN: -- as well. All right.

8 CHAIRPERSON HILL: Okay, MR. Sullivan, you can begin.

9 MR. SULLIVAN: thank you, Mr. Chairman. Next slide,
10 please.

11 This is 4209 45th Street. The property is in R1-B.
12 The Applicant's proposing a two story rear addition to the
13 principal building and as a result of this expansion the area of
14 the required rear yard is extended back towards the property line
15 which then puts the existing accessory building within the
16 required rear yard which is then not-compliant with D, 5004.1(a)
17 which states that you can have an accessory building in a rear
18 yard as long as it's not in the required rear yard which is
19 measured from the rear line of the house back.

20 So the rear yard setback is actually 42 and a half
21 feet. The accessory building is within that. This requirement
22 ends up prospectively being like a distance requirement between
23 the house and the accessory building and so the addition to the
24 house has prompted the need for relief from the accessory building
25 requirements.

1 Next slide, please. The ANC has voted unanimously.
2 The Office of Planning is in support and we have four letters of
3 support from surrounding neighbors including both adjacent
4 neighbors.

5 Next slide, please, and I believe we'll be into the
6 plans and I'll turn it over to Ms. Luthra to take you through
7 the plans. Thank you.

8 CHAIRPERSNO HILL: Thank you. Ms. Luthra, when you
9 speak could you just introduce yourself for the record, please.

10 MS. LUTHRA: Sure. Good morning. This is Avneet Luthra,
11 architect with Case Design & Remodeling presenting the plans for
12 4709 45th Street.

13 If we can move to the next slide, please. This is the
14 project data which shows the area requirements and the setback
15 requirements.

16 Next slide, please. As you can see this is the site
17 plan. On the right side of the screen is the proposed plan, site
18 plan. We are proposing a two story addition which is touching
19 by 28, 20 (phonetic) feet by 28 and then a covered porch which
20 will be in the required setback, and that's the special exception.

21 If we can please go to the next slide. These are the
22 existing plans. We are demoing the exterior (phonetic) wall and
23 adding more space.

24 Next slide, please.

25 Next slide, please. This was the second floor plan.

1 This is the main floor plan where this is the addition and the
2 covered porch and we are requesting relief for our addition to
3 be in the required rear yard setback. That's where the distance
4 between the accessory garage unit and the addition will be less
5 than 25 feet.

6 Next slide, please. This is the second floor plans
7 which includes the bedroom and bathroom. Again, this will be in
8 the required rear yard setback and if we can move to the next
9 slide, please.

10 This is the demo plan. We are demoing the existing
11 covered porch and building new addition.

12 Next slide please. This is the proposed two story
13 addition and the covered porch that will be finished with siding
14 PVC which is consistent with all other additions to the
15 neighborhood. The proposed addition does not affect light, air
16 available to any other neighboring property or their
17 (indiscernible).

18 I think that should be the last slide. I'm happy to
19 answer any questions.

20 MR. SULLIVAN: Thank you, Ms. Luthra. The project
21 meets the general requirements of properties in the R1-B. It's
22 a single family house and we do have a rear yard setback of 42
23 and a half feet, as mentioned.

24 Next slide, please. For the specific requirements,
25 it's the light and air, privacy, character, scale and pattern

1 test. The light and air available in the neighboring properties
2 should not be unduly affected so there's no impact on either side
3 either from the addition or from the accessory building and we
4 do have the support of both neighbors. The inclusion of the
5 existing accessory building within the RRY has no impact on
6 privacy and shall not unduly compromise the privacy, use and
7 enjoyment of neighboring properties and the addition will not be
8 visible from 45th Street and the rear yard setback itself as
9 noted is 42 and a half feet so there's no -- it doesn't visually
10 intrude on character, scale and pattern as viewed from the alley
11 as well, and I think that's it for our presentation.

12 Thank you.

13 CHAIRPERSON HILL: Thank you, Mr. Sullivan. All right.
14 If I could just turn to the Office of Planning first.

15 MS. THOMAS: Good morning, Mr. Chair, members of the
16 Board. Karen Thomas for the Office of Planning and we believe
17 that the application has met the criteria with little to no impact
18 on neighboring properties and rest on the record of our report.

19 Thank you.

20 CHAIRPERSON HILL: Thank you, Ms. Thomas. Let's see.
21 Does the Board have any questions for either the Applicant or the
22 Office of Planning? All right.

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

24 MR. YOUNG: We do not.

25 CHAIRPERSON HILL: Okay, great. Thank you.

1 Mr. Sullivan, is there anything you'd like to add at
2 the end?

3 MR. SULLIVAN: No, thank you.

4 CHAIRPERSON HILL: Okay, thank you. All right. I'm
5 going to go ahead and close the hearing and the record. I should
6 have said this at the beginning. Mr. Smith or Dr. Imamura, would
7 somebody else like to talk?

8 ZC COMMISSIONER IMAMURA: I'll defer to Board member
9 Smith first.

10 COMMISSIONER SMITH: Okay. I'll speak on this one. So
11 I feel like this is another straightforward application. The
12 request before us is necessitated by the addition of the, the
13 proposed addition by the Applicant to the rear of their house.
14 In that proposal we changed the location of the accessory
15 structure which I believe should be 15 feet away from the rear
16 addition that they're proposing to construct and zoning
17 requirements require at least 25 feet.

18 Given the nature of this request I believe that the
19 Applicant has met the burden of proof for us to grant the special
20 exception. While there would be less open space between the
21 accessory structure and the principle structure, there is some
22 measurable open space between the two buildings in question and
23 I believe that that is sufficient for light and air and for public
24 safety purposes which is the intent of those setback
25 requirements.

1 So with that, I believe that the Applicant has met the
2 burden of proof for Subtitle X, 901 and I will support the special
3 exception request.

4 CHAIRPERSON HILL: Thank you, MR. Smith. Dr. Imamura?

5 ZC COMMISSIONER IMAMURA: Thank you, Mr. Chairman.
6 Board member Smith, excellent summary sir. I don't have anything
7 more to add. I think this is straightforward as well and I'm
8 prepared to vote.

9 CHAIRPERSON HILL: I know. I think Dr., I mean, Dr.
10 Smith, I'm going to call you Dr. Smith. I think Mr. Smith should
11 just like do all like, I'll do the first part, you, Mr. Smith,
12 do the second part (indiscernible). All right. I have nothing
13 to add. I'm going to, I appreciate Mr. Smith's thorough analysis.

14 I'll go ahead and make a motion to approve Application
15 20965 as captioned and read by the Secretary and ask for a second.
16 Mr. Smith?

17 COMMISSIONER SMITH: Second.

18 CHAIRPERSON HILL: Motion made and seconded. Mr. Moy,
19 could you take a roll call?

20 MR. MOY: Thank you, Mr. Chairman. When I call your
21 name if you'll please respond to the motion made by Chairman Hill
22 to approve the application for the relief requested.

23 Zoning Commissioner Dr. Imamura?

24 ZC COMMISSIONER IMAMURA: Yes.

25 MR. MOY: Mr. Smith?

1 COMMISSIONER SMITH: Yes.

2 MR. MOY: Chairman Hill?

3 CHAIRPERSON HILL: Yes.

4 MR. MOY: With no others participating, staff would
5 record the vote as three to zero to two and this is on the motion
6 made by Chairman Hill to approve. The motion to approve was
7 second by Mr. Smith. Those voting to approve Zoning Commissioner
8 Dr. Imamura, Mr. Smtih, Chairman Hill. The motion carries sir,
9 on a vote of three to zero to two.

10 CHAIRPERSON HILL: Thank you, Mr. Moy. Mr. Moy, you
11 may call our next case when you have an opportunity.

12 MR. MOY: The next case before the Board is Application
13 No. 20999 of The Mark G. Tornillo Second Amended and Restated
14 Revocable Inter Vivos Trust. This is a self-certified
15 application pursuant to Subtitle X, § 901.2 for the following
16 special exceptions. Under Subtitle C, § 711.11 for the
17 requirements of Subtitle C, § 711.7 for parking spaces provided
18 within a building or structure, vehicle entry/entrance/exit
19 setback at least 12 feet from the centerline of the adjacent
20 alley and under Subtitle D, § 5201.2. This is from the lot
21 occupancy requirements of Subtitle D, § 210.1. Property located
22 in the R-3/GT. Property at 3315 N Street, N.W., Square 1229,
23 Lot 128.

24 The only thing I have for you, Mr. Chairman, is that
25 the Applicant attempted to file her PowerPoint slides within the

1 24 hour block and also I believe there is an expert witness in
2 architecture by the name of Christian Zapatka and that's all I
3 have, sir. Thank you.

4 CHAIRPERSON IHLL: Okay. Thank you. If the Applicant
5 can hear me, if they can please introduce themselves for the
6 record. I think you're on mute perhaps, Ms. Brown. No, now
7 you're on. Try it now. No. Yes.

8 MS. BROWN: Good. Thank you for indulging me. For the
9 record, I'm Caroline Brown of the Brown Law Firm and I'm here on
10 behalf of Mark Tornillo, the owner of the property at 3315 N
11 Street through his revocable trust. I was three minutes late
12 getting the PowerPoint in for this so I hope you will be gracious
13 to waive the requirement and allow me to present my slides.

14 CHAIRPERSON HILL: That's fine, Ms. Brown. Yes, the
15 slides often times when we were live it would just show up with
16 their slides and so if the staff, unless the Board has any
17 problems -- I don't think they do -- if the staff could please
18 swallow Ms. Brown's slides into the record so we may also view
19 them as we go through the presentation.

20 Ms. Brown, if you could walk us through your client's
21 application and why you believe they're meeting the criteria for
22 us to grant the relief requested. There was some questions I
23 guess or something you'd asked about flexibility of design and
24 if you want to point that out why or where you need it the Board
25 could kind of contemplate that. In most cases, unless it's very

1 specific, as you know, the Board doesn't tend to like granting
2 flexibility of design because we want to see what is getting
3 built, but why don't you go ahead and walk us through your
4 presentation. Mr. Young probably has the slides, and you can
5 walk us through them while we wait for them to be uploaded into
6 the record and you can begin whenever you like. Oh, they're in
7 the record already.

8 MS. BROWN: Yes. So if Mr. Young could bring those up
9 and in the meantime there was the question of whether or not they
10 were going to have an expert witness. I think this case is very
11 straightforward. I think I can get through the slides in a couple
12 of minutes so we don't need, so I'll just be making the
13 presentation myself.

14 If you could go to the next slide, please. We were
15 requesting essentially three areas of relief. One is the lot
16 occupancy. We're increasing from the matter-of-right, permitted
17 matter-of-right lot occupancy of 60 percent to 70 percent. The
18 actual numbers, the current lot occupancy is 53.7 percent, we'll
19 take it up to 69 percent.

20 Secondly, their alley access requirements. We're
21 requesting to lower the entrance height from the required ten
22 feet to seven feet and we are secondly, or in the third areas of
23 relief but the second of the access requirements is to lessen the
24 alley centerline distance from 12 feet to eight feet.

25 Next slide, please. For the lot occupancy standard of

1 review, as you know we must demonstrate that the light and air
2 available to neighboring property shall not be unduly affected.
3 Here the proposed two story garage will be located at the rear
4 of the property at the alley which minimizes the potential effect
5 on light and air to neighboring properties.

6 We note in the record there are three letters of support
7 from neighbors and the neighbor to the east is in support. The
8 neighbor to the west had multiple discussions with the Applicant,
9 didn't submit a letter but has no problem with it. Second, under
10 the standard of review the privacy and use and enjoyment of
11 neighboring property shall not be unduly compromised. Here the
12 garage will abut neighbors' parking pads and other garages and
13 the garage will be used solely for vehicle and other storage.
14 There will not be any accessory dwelling unit in the second floor
15 so there's no opportunity to have any effect on the enjoyment and
16 use of neighboring properties.

17 Finally, the proposed accessory structure together with
18 the original building when viewed from the street, alley or other
19 public ways shall not substantially visually intrude upon the
20 character, scale and pattern of houses along the street. We know
21 that this is in the Georgetown historic district and the design
22 was approved by the Old Georgetown Board and the proposal is
23 comparable in height, scale and design with other one and two
24 story garages along the alley.

25 Next slide, please. With respect to the access relief

1 for the alley centerline setback, the standard of review is that
2 there's a reasonable difficulty in providing the full sized
3 driveway with or alley centerline setback. Here, if we were to
4 comply with a 12 foot setback, we would compromise the useful
5 open space of the property owner's rear yard. It would
6 potentially create a place for debris and litter to accumulate
7 on the alley side of the setback and it could also present safety
8 concerns for hiding places along the alley and know that that has
9 been a concern in other cases.

10 Second, we need to demonstrate the vehicle movement and
11 turning diagram that the proposed relief would allow safe access
12 for vehicles of average dimensions to and from the parking space
13 and, b) that the use of the straighter alley and by pedestrian
14 vehicles is not being compromised. Son the right you'll se the
15 turning diagram. This is an unusually wide alley in Georgetown
16 and 16 feet wide (indiscernible) roughly ten feet so there's
17 ample space to not only accommodate a car turning but other
18 vehicles and, you know, the trash removal. Pedestrians don't use
19 the alley that much but it does allow safe passage.

20 Next slide, please. With respect to the garage
21 entrance height, there's no specific standard under Subtitle C,
22 711.7 for entrance height, but the proposal would allow access
23 for vehicles of average dimensions to and from the parking spaces.
24 The Old Georgetown Board had us reduce the overall height of the
25 garage from 22 feet down to 18 feet which then allows only an

1 eight foot ceiling height so that the entrance lip of the entrance
2 height has to be about seven feet to allow them for the eight
3 foot ceiling height inside the garage. It can still accommodate
4 the average vehicle height, sedan height is approximately four
5 and a half to 5.2 feet and the height of an SUV is roughly 5.2
6 to 6.5 feet so there will be enough clearance for a vehicle to
7 get into this and frankly I think that these access requirements
8 are really designed for commercial garage structures that are not
9 intended for garages for single family houses. So I just note
10 that for the record and there will not be any impact to pedestrian
11 or vehicle use of the alley.

12 Next slide, please. We meet the general special
13 exception standards that the relief will be in harmony with the
14 general purposes and intent of the zoning regulations and zoning
15 map and the relief will not tend to adversely affect the use of
16 neighboring properties, as detailed on the right hand side of the
17 slide.

18 Next slide, please. Just a quick view of the property.
19 Here's the front of the house in white on the left side. The
20 location of the house on the block in plan view on the right hand
21 side.

22 Next slide. Here's a view of the alley. On the upper
23 portion of the slide you'll see a notation of where the existing
24 parking pad is and the lower image is the view across from the
25 parking pad. So it shows the variety of one and two story garages

1 in the alley.

2 Next slide, please. Again, here's the plan. The one
3 on the left shows the existing footprint. The proposed is on
4 the right showing the proposed garage at the alley line.

5 Next slide. Here's a sectional view. The above is the
6 existing site section. The lower portion shows the proposed
7 garage and its height.

8 Next slide. And here is an elevation. The lower left
9 portion of the slide where it says north proposed elevation, that
10 is what would be seen from the alley.

11 Next slide. So that represents --

12 CHAIRPERSON HILL: Ms. Brown? Ms. Brown?

13 MS. BROWN: Yes.

14 CHAIRPERSON HILL: Was there flexibility of design that
15 you all were asking for?

16 MS. BROWN: Well, only to make sure that when we go
17 back for the final permit review and it has to get checked off
18 by the Old Georgetown Board again and it's just to make sure that
19 we can get through that process. We are not proposing any changes
20 to the design. We don't anticipate having any tweaks made by
21 the Old Georgetown Board but --

22 CHAIRPERSON HILL: Yes.

23 MS. BROWN: -- that's the only reason if you --

24 CHAIRPERSON HILL: No. I appreciate it, Ms. Brown.

25 You guys have to come back because I don't know what it is that

1 | you're asking for the flexibility of --

2 | MS. BROWN: That's fine.

3 | CHAIRPERSON HILL: -- design for.

4 | MS. BROWN: That's fine. But as I said I don't
5 | anticipate anything.

6 | CHAIRPERSON HILL: Okay.

7 | MS. BROWN: But I understand what you're saying.

8 | CHAIRPERSON HILL: It would be something that could
9 | easily be done with us in terms of, you know, a modification if
10 | you had to come back.

11 | MS. BROWN: Well, thank you. I appreciate that. So
12 | that concludes the presentation and we're very pleased to have
13 | the support, as I said, of several neighbors and those letters
14 | are in the record at Exhibits 20, 21 and 22. ANC 2E also supports
15 | the proposal. That's at Exhibit 23, and as we'll hear from the
16 | Office of Planning hope they're recommending approval and that's
17 | at Exhibit 25 and we also have the support of DDOT at Exhibit
18 | 26.

19 | So with that, I believe we've demonstrated how we meet
20 | the burden of proof for approval of this accessory garage
21 | structure and we respectfully ask that you grant the application.

22 | Thank you.

23 | CHAIRPERSON HILL: Okay. Thanks, Ms. Brown. Mr. Moy,
24 | can you hear me?

25 | MR. MOY: Yes, sir.

1 CHAIRPERSON HILL: I might have asked this before but
2 for our next training, or at least when we talk, you and I, next
3 time, in terms of this flexibility in design if we can talk about
4 it with, you know, the Legal Department as well as whomever else
5 we might want to talk about it with to see what types of
6 flexibility of design we could offer, whether or not, you know,
7 we have in the past and sometimes offered some flexibility of
8 design within a very limited scope as long as it doesn't change
9 the requested relief, and so that's something I know we've done
10 but we haven't necessarily had generalized flexibility of relief
11 and so maybe something, Mr. Moy, we can talk about at next
12 training. Okay?

13 MR. MOY: I understand. Will do. Thank you, sir.

14 MS. BROWN: And Mr. Hill, just to follow up, Chair
15 Hill, I just to follow up on that. In years past we have asked
16 for this type of flexibility and I think since ZR 16 there are
17 very specific items where the Zoning Administrator has the two
18 percent flexibility as long as it doesn't violate any condition
19 in the order and these orders are usually conditioned on approval
20 of the plans and that's where we sometimes get hung up because
21 there are minor tweaks. So that's just the basis for it.

22 CHAIRPERSON HILL: No, I appreciate it and I guess what
23 I'm trying to say, Ms. Brown, is that, you know, we've come into
24 this request a lot, like it's not a new request --

25 MS. BROWN: Right.

1 CHAIRPERSON HILL: -- and we've given requests, like
2 if we're, you know, the size of a window or something, you know,
3 there was something very specific that the applicant had asked
4 from flexibility upon and then we might or we may or may not
5 have, I mean it really depends, it's a case by case basis whether
6 or not we do allow the flexibility. But when it's this
7 generalized in terms of like it kind is throwing our
8 responsibility on to the Old Georgetown Board which is really
9 where we get stuck, right, like now they're the ones being the
10 final say; right? So that's not really why, it's why it doesn't
11 work out. So --

12 MS. BROWN: Understood.

13 CHAIRPERSON HILL: Sure.

14 MS. BROWN: Understood. Thank you.

15 CHAIRPERSON HILL: But can I turn to the Office of
16 Planning?

17 MR. KIRSCHENBAUM: Good afternoon, Chair Hill and
18 members of the Board of Zoning Adjustment. I'm Jonathan
19 Kirschenbaum with the Office of Planning and we recommend
20 approval of the special exceptions and we rest on the record.
21 Please let me know if you have any questions.

22 Thank you.

23 CHAIRPERSON HILL: Thank you, Mr. Kirschenbaum. Does
24 anybody have any questions for the Applicant or the Office of
25 Planning? Go ahead, Dr. Imamura.

1 ZC COMMISSIONER IMAMURA: Thank you for your
2 indulgence, Mr. Chairman.'

3 Ms. Brown, you had mentioned the Old Georgetown Board
4 had requested a reduction in height, I think it's from 22 to 18
5 feet, or 20 feet to 18 feet?

6 MS. BROWN: Yes.

7 ZC COMMISSIONER IMAMURA: And so in general though in
8 terms of the plans, is this the general design that went before
9 the Old Georgetown Board with the same set of materials, brick,
10 a brick structure?

11 MS. BROWN: Yes. This is exactly, these are the set
12 of drawings that the Old Georgetown reviewed and approved.

13 ZC COMMISSIONER IMAMURA: So it's just the height is
14 what they asked for clarification on?

15 MS. BROWN: I believe it went to Old Georgetown Board
16 twice. The architect obviously would have more details on this
17 because I did not participate but they did have some comments on
18 refining the exterior elements and fenestration perhaps, but what
19 you see now is what they approved.

20 ZC COMMISSIONER IMAMURA: Okay. I was just trying to
21 narrow down what kind of latitude or design flexibility instead
22 of generalized flexibility.

23 MS. BROWN: I appreciate that.

24 ZC COMMISSIONER IMAMURA: Yes. So, all right. Thank
25 you, Ms. Brown. I appreciate it. That's all I have, Mr.

1 Chairman.

2 CHAIRPERSON HILL: Thank you, Dr. Imamura. Anyone
3 else? All right. Ms. Brown, anything you'd like to add at the
4 end?

5 MS. BROWN: No, sir. Thank you.

6 CHAIRPERSON HILL: Okay, great. Thank you.

7 All right. I'm going to go ahead and close the hearing
8 and the record.

9 MR. YOUNG: I don't know if you asked for public
10 (indiscernible).

11 CHAIRPERSON HILL: Oh, sorry. I'm sorry, Mr. Young, I
12 did not. Was there anyone here wishing to speak?

13 MR. YOUNG: We do not.

14 CHAIRPERSON HILL: Thank you. Thank you, Mr. Young,
15 for reminding me.

16 Okay. I'm going to go ahead and close the hearing and
17 the record. Okay. I didn't have any particular concerns or
18 issues with this application. I would agree with the Applicant's
19 presentation and their argument as whether meeting the
20 requirements for us to grant this relief that's being requested.

21 I will also agree with the analysis that has been put
22 forward by the Office of Planning. I am glad to see that the
23 ANC 2E there was also in support and it seemed straightforward
24 to me, so I will be voting in favor.

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

1 COMMISSIOENR SMITH: No, I don't have anything to add.
2 I agree with your analysis and would support the application.

3 CHAIRPERSON HILL: Thank you. Dr. Imamura?

4 ZC COMMISSIONER IMAMURA: Thank you, Mr. Chairman.
5 Nothing further to add. I think it's actually a rather nice
6 design, so.

7 CHAIRPERSON HILL: Thank you. Vice Chair John, are you
8 on this one with us?

9 VICE CHAIR JOHN: Yes. I joined just as the Applicant
10 was stating, going over the burden of proof and the slides and I
11 agree this is a straightforward application. The Applicant did
12 a good job of showing how the application meets the criteria for
13 relief as you stated, and I'm going to give great weight to the
14 Office of Planning's report and I'm happy that the ANC is in
15 support. So I'm in support of the application.

16 CHAIRPERSON HILL: Thank you.

17 All right. I'm going to go ahead and make a motion to
18 approve Application No. 20999 as captioned and read by the
19 Secretary and ask for a second. Ms. John?

20 VICE CHAIR JOHN: Second.

21 CHAIRPERSON HILL: The motion made and seconded. Mr.
22 Moy, could you take a roll call?

23 MR. MOY: Yes. Thank you, sir. When I call your name
24 if you'll please respond to the motion made by Chairman Hill to
25 approve the application for the relief requested. The motion to

1 approve was second by Vice Chair John.

2 Zoning Commissioner Dr. Imamura?

3 ZC COMMISSIONER IMAMURA: Yes.

4 MR. MOY: Mr. Smith?

5 COMMISSIONER SMITH: Yes.

6 MR. MOY: Vice Chair John?

7 VICE CHAIR JOHN: Yes.

8 MR. MOY: Chairman Hill?

9 CHAIRPERSON HILL: Yes.

10 MR. MOY: No others participating. Staff would record
11 the vote as four to zero to one and this is on the motion by
12 Chairman Hill to approve. The motion to approve was second by
13 Vice Chair John. Also in support of approving the application
14 is Zoning Commissioner Dr. Imamura, Mr. Smith, Vice Chair John
15 and Chairman Hill. Motion carries, sir, four to zero to one.

16 CHAIRPERSON HILL: Thank you, Mr. Moy.

17 All right. Mr. Moy, you can call our next one when you
18 get an opportunity. Oh, Mr. Moy, actually did they get, did that
19 one filing come in?

20 MR. MOY: Yes, it did, sir. It should be in the case
21 log now if you pull up the case record.

22 CHAIRPERSON HILL: Okay. Actually, let's go ahead and
23 you want to call that back to us now, 20948?

24 MR. MOY: Okay. So the Board is returning for a vote
25 decision on case Application No. 20948 of Second New Saint Paul's

1 Baptist Church. I'm not going to re-read the relief that's being
2 requested unless you ask me to do that, Mr. Chairman, although I
3 would like to add for correction my understanding that now the
4 Board is looking at the change or amendment to that area variance
5 to non-confirming use restriction and now is being addressed as
6 a use variance which then would be pursuant to X-1001.4(c) and
7 Subtitle C, § 204. So that's all I have, sir.

8 CHAIRPERSON HILL: Okay. All right. I'm just opening
9 the record and looking at that latest exhibit. Dr. Imamura, is
10 that what you're looking for?

11 ZC COMMISSIONER IMAMURA: Yes, it was, Mr. Chairman.
12 I'm satisfied.

13 CHAIRPERSON HILL: Okay. All right. Give me a moment
14 then. Okay. All right.

15 Okay. I would agree with the Applicant's argument in
16 terms of how they're meeting the criteria for a use variance.
17 Again, so if they have the ability to expand a non-conforming use
18 for the vestibule and I would agree with their argument for undue
19 hardship because of their inability to expand, and I'm referring
20 back to their argument in Exhibit 28 I believe.

21 So I will agree with the Applicant's argument, again.
22 I will also agree with the Applicant's argument for the special
23 exceptions concerning the penthouse setback and the penthouse
24 enclosing wall requirements and also how the Office of Planning
25 has addressed these items in their report, and I'm happy to see

1 that the ANC is also in agreement in approval with this
2 application.

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

4 COMMISSIONER SMITH: No, Chairman Hill. I agree with
5 your assessment of this case. I agree with their arguments and
6 the Office of Planning's arguments on how they meet the criteria
7 for granting the use variance in this particular case. Again,
8 another rare case that we found has grounds, or in my opinion
9 has grounds for a use variance given the constraints to do a
10 reasonable expansion from a utility standpoint and access
11 standpoint for the residents of this non-conforming apartment
12 building.

13 So I do agree with your assessment of this case and
14 will support the application.

15 CHAIRPERSON HILL: Thank you. Dr. Imamura?

16 ZC COMMISSIONER IMAMURA: Thank you, Mr. Chairman. I
17 agree with both of you and appreciate the Applicant's attempt to
18 use sort of belt and suspenders to make an argument both for a
19 use variance and an area variance, but I agree that this a use
20 variance (indiscernible). I think this is pretty straightforward
21 (indiscernible).

22 CHAIRPERSON HILL: Thank you. Vice Chair John?

23 VICE CHAIR JOHN: Thank you, Mr. Chairman. I agree
24 with everything that's been said so far. I think it's a fairly
25 straightforward case in terms of the variance to expand a non-

1 conforming use. This is an existing non-conforming apartment
2 building in the R1-B zone. The Applicant is seeking to expand
3 the vestibule and provide a new elevator shaft and all of this
4 is to help with the meeting ADA requirements, the new requirements
5 for mail box size and efficiency.

6 So I believe the Applicant has met the burden of proof
7 for the variance, use variance, and the special exception request
8 is fairly straightforward so I'm in support of the application
9 and I'll give great weight to the Office of Planning's report.

10 Thank you.

11 CHAIRPERSON HILL: Thank you, Ms. John. Yes, I don't
12 know if I was particularly articulate so I will rest on the Office
13 of Planning's record actually in terms of helping articulate the
14 argument for the use variance.

15 I'm going to go ahead and make a motion to approve
16 Application No. 20948 for a use variance pursuant to X 1002 from
17 the non-conforming use restrictions of Subtitle C, 204.1, the
18 height requirements of Subtitle E, 203 and special exceptions
19 under C, 1506 from the penthouse setback requirements of C, 1501.4
20 and the penthouse enclosure wall requirements of C, 1503.4, and
21 ask for a second. Ms. John?

22 VICE CHAIR JOHN: Mr. Chairman, I would be happy to
23 except that I would suggest that the correct caption should be
24 use variance pursuant to Subtitle X, 1001.4(c) which is a use
25 variance citation.

1 CHAIRPERSON HILL: Okay. I appreciate that. And then
2 ask for a second, Ms. John?

3 VICE CHAIR JOHN: Second.

4 CHAIRPERSON HILL: The motion is made and seconded.
5 Mr. Moy, could you take a roll call?

6 MR. MOY: When I call your name if you'll please respond
7 to the motion made by Chairman Hill to approve the request for
8 the amended relief being requested. The motion to approve was
9 second by Vice Chair John.

10 Zoning Commissioner Joe Imamura?

11 ZC COMMISSIONER IMAMURA: Yes, to the motion and yes
12 to Vice Chair John's friendly amendment.

13 MR. MOY: Thank you. Mr. Smith?

14 COMMISSIONER SMITH: Yes, and yes to the friendly
15 amendment.

16 MR. MOY: Vice Chair John?

17 VICE CHAIR JOHN: Yes.

18 MR. MOY: Chairman Hill?

19 CHAIRPERSON HILL: Yes.

20 MR. MOY: There are no other members participating.
21 Staff would record the vote as four to zero to zone and this is
22 on the motion made by Chairman Hill to approve. The motion to
23 approve was second by Vice Chair John. Those voting to approve
24 the application Zoning Commissioner Joe Imamura, Mr. Smith, Vice
25 Chair John and Chairman Hill. Motion carries, sir, four to zero

1 to one.

2 CHAIRPERSON HILL: Thank you, Mr. Moy. All right, Mr.
3 Moy. You can call our next case.

4 MR. MOY: All right. So the next case is Application
5 No. 20937 of 40th Street or 40th ST Heights, LLC. This is a
6 self-certified application pursuant to Subtitle X, § 901.2 for
7 the following special exceptions. Subtitle U, § 421 to allow a
8 new residential development, Subtitle C, § 714.3 from the
9 screening requirements for surface parking under Subtitle C, §
10 714.2. Property located in the RA-1 zone at 2236 40th Street,
11 N.W., Square 1317, Lot 14 and I'd like to check one other thing,
12 sir, and that's all I have, sir.

13 Thank you.

14 CHAIRPERSON HILL: All right. Thank you, Mr. Moy. If
15 the Applicant can hear me, if they could introduce themselves for
16 the record, please.

17 MR. SULLIVAN: Thank you, Mr. Chairman and members of
18 the Board. Marty Sullivan with Sullivan & Barros here on behalf
19 of the Applicant and with me as well is Dave Bloom, the architect
20 and Mr. Chuloo Bengari (phonetic) with the ownership entity.

21 CHAIRPERSON HILL: Okay. Thank you, Mr. Sullivan. I'm
22 just pulling up the record here. Mr. Sullivan, if you could
23 please walk us through your client's application and why you
24 believe they're meeting the criteria for us to grant the relief
25 requested. I'm going to put 15 minutes on the clock so I know

1 | where we are and you can begin whenever you like.

2 | MR. SULLIVAN: Thank you, Mr. Chair. If Mr. Young
3 | could please load the PowerPoint.

4 | The property address is 2236 40th Street, N.W.

5 | Next slide, please. So this is an RA-1, U 421 case in
6 | addition to a request for relief from the parking screening
7 | requirement. The Applicant is proposing to construct a third
8 | floor addition and a three story rear addition to the existing
9 | four unit apartment building proposing to add two units for a
10 | total of six residential units and it's the addition of units
11 | that requires us to come before the Board under U, 421. Also
12 | requesting relief from the parking screening requirements of C,
13 | 714.2 and the proposal otherwise complies with all relevant
14 | standards as shown in this chart.

15 | Next slide, please. The ANC 3B has voted unanimously
16 | in support of the application. The Office of Planning recommends
17 | approval. DDOT has no objection and in the background here is
18 | that the Applicant has reached an agreement with the immediate
19 | neighbor who was previously a party in opposition. The Glover
20 | Parker Condominium, and that's not a typo, it's the Glover Parker
21 | Condominium Association and they are the condo owners at 2240
22 | 40th Street next door. So they've withdrawn their opposition in
23 | response to the agreement that we've reached with them.

24 | Next slide, please. I'll turn it over to Mr. Bloom to
25 | take you through the project. Thank you.

1 MR. BLOOM: Thanks, Marty. So here you can see the
2 subject property, 2236.

3 Next slide, please. We have the existing and proposed
4 site plan. As Marty mentioned, there is a rear addition that
5 mostly replaces an existing wood frame rear addition plus a
6 partial third floor addition with some window wells, added
7 parking in the rear and landscape elements to meet the GAR
8 requirement.

9 Next slide, please. Here we have some floor plans.
10 There's two units in the basement. One's accessed from the front,
11 one's from the rear. On the first floor there's also two units,
12 again one accessed in the front, one from the rear. There is
13 also a door to the left of the front façade that gives you access
14 to the two second floor units.

15 If you go to the next slide. So second floor, two
16 units. The unit in the front is a duplex and that goes up to
17 the partial third floor with a roof deck.

18 Next slide, please. Just the roof plan.

19 Next slide. Here you have the front elevation showing
20 the existing center entrance and then the new side entrance to
21 the left that gets you to the second floor. You can also see
22 the third floor addition popping up above the existing mansard
23 roof and then the side elevation showing the existing brick wall
24 and then the third floor and rear addition.

25 Next slide. And here you have the rear addition of

1 the, I'm sorry, the rear façade of the rear addition.

2 Next slide. And then these are our GAR plans just
3 showing that we meet the GAR requirement.

4 Next slide. There's more specific information on the
5 plantings.

6 Next slide. And I'll hand it back to Marty.

7 MR. SULLIVAN: Thank you, David. So the project meets
8 the general requirements of 901.2. It will be in harmony with
9 the general purpose and intent of the zoning regulations and the
10 zoning maps and will not tend to affect adversely the use of
11 neighboring property. The RA-1 zone provides for areas
12 predominantly developed with low to moderate density development
13 including multi-family residential buildings.

14 This project includes only six dwelling units and just
15 adding two and the design is sensitive to the existing homes and
16 the surrounding neighborhood. Accordingly, the granting of the
17 special exception will not tend to adversely affect the use of
18 neighboring properties. The biggest concern for the immediate
19 neighbor was they didn't like the fact that we originally proposed
20 a side entrance and so the Applicant moved that entrance and
21 reconfigured the inside of the building away from the side.

22 Next slide, please. Specific requirements regarding
23 the parking screen relief. Now the Board has seen these before
24 a lot in our RA-1 cases and there is a way to meet the requirement.
25 It would be to put just a one foot wide fence in the middle of

1 the property to break up the 20 foot requirement but then would
2 take space away from trash and from the parking space width, and
3 so we preferred to ask for the relief. We do meet the specific
4 conditions here. I've shown that to the Board but I don't think
5 I need to read through all of them, but we do meet these
6 conditions, one of which we need to meet in order to get the
7 requested relief.

8 Next slide, please. For the specific requirements for
9 U, 421, regarding number of students can be expected to reside
10 in the project, it is expected that OSSE would not have an issue
11 with the increase in residents from two additional units. It's
12 also expected that DDOT and other relevant D.C. agencies will
13 find that the surrounding public streets, recreation and other
14 services are adequate to accommodate residents from an additional
15 two units and then regarding 421.3, we defer to the Office of
16 Planning's report which went through in great detail in its
17 recommendation on the site plan arrangement of buildings and
18 structures, provisions of light and air, et cetera, and I think
19 that's it.

20 Next slide, please. Yes, that's it. That's the last
21 slide. So if the Board has any questions, thank you.

22 ZC COMMISSIONER IMAMURA: Mr. Chairman, you're on mute.

23 CHAIRPERSON HILL: I asked whether the Board had any
24 questions of the Applicant? All right. Can I hear from the
25 Office of Planning?

1 MS. BROWN-ROBERTS: Good afternoon, Mr. Chairman, and
2 members of the BZA. For the record I'm Maxine Brown-Roberts from
3 the Office of Planning on BZA case 20937. As outlined in our
4 report, the Applicant meets all the requirements regarding the
5 addition of the two units and also regarding the relief from the
6 screening and therefore the Office of Planning recommends
7 approval again and I'm available for questions.

8 Thank you, Mr. Chairman.

9 CHAIRPERSON HILL: Okay. Does anybody have any
10 questions for the Office of Planning? Mr. Young, is there anyone
11 here wishing to speak?

12 MR. YOUNG: We do not.

13 CHAIRPERSON HILL: Mr. Sullivan, is there anything
14 you'd like to add at the end?

15 MR. SULLIVAN: No. Thank you, Mr. Chairman.

16 CHAIRPERSON HILL: Okay. Thank you. I'm going to
17 close the hearing and the record. Thank you all very much.

18 Okay. I will, as with this Applicant their PowerPoints
19 tend to be pretty helpful on how they present the information and
20 the regulations. I do see how they are meeting the different
21 criteria within the general requirements of 901.2 and those also
22 in C, 714.3, also in U, 421 and U, 421.3 and they spoke about
23 the screening relief and how it was going to change the width of
24 the parking spaces, wouldn't disturb (phonetic) the trash area,
25 as to why they were asking for that relief. I do believe the

1 criteria for us to grant the relief requested and will also agree
2 with the analysis of the Office of Planning has provided, and
3 that we do have now the support of the ANC is definitely helpful.

4 It is also helpful that the Applicant was able to work
5 with the party in opposition in terms of moving the door so that
6 the party in opposition could get behind this application as I
7 also believe it is relatively straightforward. I am going to be
8 voting in favor.

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

10 COMMISSIONER SMITH: I have nothing to add. I agree
11 with your assessment and support the application as well.

12 CHAIRPERSON HILL: Thank you. Dr. Imamura?

13 ZC COMMISSIONER IMAMURA: Nothing further to add to
14 your summary. I'm prepared to vote and support.

15 CHAIRPERSON HILL: Thank you. Vice Chair John?

16 VICE CHAIR JOHN: Thank you, Mr. Chairman. I have
17 nothing to add. I'm in support of the application as well.

18 CHAIRPERSON HILL: Thank you. I'm going to make a
19 motion to approve Application No. 20937 as captioned and read by
20 the Secretary, and ask for a second. Ms. John?

21 VICE CHAIR JOHN: Second.

22 CHAIRPERSON HILL: Motion made and seconded. Mr. Moy,
23 could you take a roll call?

24 MR. MOY: Thank you, sir. When I call your name if
25 you'll please respond to the motion made by Chairman Hill to

1 approve the application for the relief that's been requested.

2 The motion to approve was second by Vice Chair John.

3 Zoning Commissioner Dr. Imamura?

4 ZC COMMISSIONER IMAMURA: Yes.

5 MR. MOY: Mr. Smith?

6 COMMISSIONER SMITH: Yes.

7 MR. MOY: Vice Chair John?

8 VICE CHAIR JOHN: Yes.

9 MR. MOY: Chairman Hill?

10 CHAIRPERSON HILL: Yes.

11 MR. MOY: With no others participating, staff would
12 record the vote as four to zero to one and this is on the motion
13 made by Chairman Hill to approve. The motion to approve was
14 second by Vice Chair John. Those voting to approve Zoning
15 Commissioner Dr. Imamura, of course Mr. Smith, Vice Chair John
16 and Chairman Hill. The motion carries, sir, four to zero to one.

17 CHAIRPERSON HILL: Thank you, Mr. Moy. Could you call
18 our last case when you get a chance?

19 MR. MOY: This would be Application No. 20966 of Michael
20 Worden and Molly Branson. This is a self-certified Application
21 pursuant to Subtitle X, § 901.2 for special exceptions under the
22 rear addition requirements, Subtitle E, § 207.5 and Subtitle U,
23 § 320.2. Property located in the RF-1 zone at 318 Webster Street,
24 N.W., Square 3310, Lot 69. Thank you, sir.

25 CHAIRPERSON HILL: Thank you. If the Applicant can

1 | hear me, if they could please introduce themselves for the record.

2 | MR. WILLIAMS: Yes. Good afternoon, Chairman Hill.
3 | This is Zach Williams, land use attorney with Venable
4 | representing the Applicant today.

5 | CHAIRPERSON HILL: Hello, Mr. Williams. How are you?

6 | MR. WILLIAMS: I'm well. Thank you.

7 | CHAIRPERSON HILL: Good. Mr. Williams, if you'd like
8 | to go ahead and walk us through your client's application and why
9 | you believe that they are meeting the criteria for us to grant
10 | the relief requested. I'm going to put 15 minutes on the clock
11 | so I know where we are and you can begin whenever you like.

12 | MR. WILLIAMS: Thank you, and while Mr. Young is pulling
13 | up the presentation I just want to introduce with me today is
14 | the owner, Mrs. Molly Branson Worden as well as her architect,
15 | Leith Almashal. They're here today as well at the hearing.

16 | CHAIRPERSON HILL: Okay. Ms. Branson, can you hear me.
17 | Would you like to introduce yourself for the record?

18 | MS. BRANSON WORDEN: I can hear you, yes, and nice to
19 | meet you all. This is Molly Branson-Worden and looking forward
20 | to this, yes.

21 | CHAIRPERSON HILL: Thank you. Thank you for joining
22 | us. And your architect, Mr. Williams, is who again?

23 | MR. WILLIAMS: Leith Almashal.

24 | CHAIRPERSON HILL: Mr. Almashal, would you like to
25 | introduce yourself for the record?

1 MR. ALMASHAL: Yes. Hello everyone. This is Leith
2 Almashal, I'm the architect and looking forward to this as well.

3 CHAIRPERSON HILL: Okay, great. Thank you. All right,
4 Mr. Williams, you may begin when you like.

5 MR. WILLIAMS: Great, thank you.

6 This is a project at 318 Webster Street, N.W.

7 Next slide, please. As you can see on the zoning map
8 here, this is a rowhome property in the RF-1 zone at the
9 intersection of Webster Street and 3rd Street, N.W.

10 Next slide, please. There is a survey on the current
11 property. It's currently a two story rowhome and with access in
12 the alley and the rear at Webster Street in the front. It's a
13 2,800 square foot lot land area-wise, zoned RF-1 as I mentioned
14 and it's a rowhome with party walls on both sides with adjacent
15 rowhomes.

16 Next slide, please. Here's some photos of current
17 conditions. On the left you can see the subject property in the
18 middle there with the brown brick on the front porch and in the
19 rear the subject property is not the large massing that you see
20 there, the black building, but it's the building just to the
21 right of it. But that's important to note because that is the
22 adjacent property at 320 Webster Street which was the subject of
23 a BZA hearing a couple of years back for a three unit condo
24 conversion which obviously was approved.

25 Next slide, please. This is the proposed project. The

1 idea here is really to match almost exactly the massing of that
2 project that was approved just next door at 320 Webster and so
3 we're really looking to do exactly what they did in terms of what
4 that massing allows. So you can see the front there, the addition
5 on the third story will be just barely visible from the street.
6 It will be set back just like the one on 320 Webster Street and
7 then on the right is just a cross-section view of the project.
8 Again, this will be an addition, the rear addition third story
9 accommodating the three units that we're proposing.

10 Next slide, please. The relief that we're requesting
11 here, there's two special exceptions. One is to establish a
12 three unit apartment house in the RF-1 zone. It's currently a
13 single family. The second special exception is to extend a rear
14 addition beyond ten feet from the farthest rear wall of the
15 adjacent property which is 316 Webster Street. (Indiscernible)
16 320 Webster Street's already had that addition approved. At 316
17 (indiscernible) has not and shares the same rear wall as the
18 subject property. We're proposing to built the rear extension
19 back 16 foot nine inches, again which matches the massing at 320
20 Webster, so that would six foot nine inches beyond the ten foot
21 requirement which triggers a special exception. Everything else
22 would be by-right.

23 Next slide. Walking through the special exception
24 standards here which the Board is familiar with of course. The
25 relief must be in harmony with general purpose and intent of the

1 zoning regulations which I'll walk through how we believe we're
2 meeting that standard.

3 As the Board knows apartment house conversions are
4 permitted in RF-1 for structures older than 1958 which is the
5 case here. We have 933 square feet of land area per unit, 900
6 square feet is required. As I mentioned, this is a 2,800 square
7 foot lot and we'll mirror the attached rowhome. We're really
8 seeking to make sure that we don't impact the neighborhood any
9 more than was already impacted by the adjacent property which was
10 approved a few years back in 2017.

11 Of course we'll be providing additional housing options
12 for the neighborhood as well. A two bedroom unit in the basement,
13 a two bedroom unit on the first and second floor and a three
14 bedroom unit on the second and third floor.

15 Next slide. The second general special exception
16 standard the Board's familiar with is that the relief should not
17 adversely affect neighboring properties. We've talked a little
18 bit about 320 Webster Street. Obviously we'll be matching what
19 they did, as I mentioned, a few times so we don't believe we'll
20 be impacting that property. We'll be providing two parking spaces
21 at the rear, at the rear alley. We have also provided shadow
22 studies which show very little impact to neighboring properties.

23 As for that property at 316 Webster, what's interesting
24 about these lots is they have very, very deep rear yards and back
25 90 foot rear yard currently on the subject property as well as

1 316 Webster. After this addition is built the subject property
2 will have a rear yard of 74 feet so there's quite a bit of light
3 and air that will still be available to 316 Webster, even after
4 this project is built and as I mentioned, other than the rear
5 addition, everything else about the project is going to be by-
6 right.

7 Next slide. So we talked a little bit about 320 Webster
8 Street. I just wanted to provide some more detail on that. BZA
9 case No. 19304 that was approved on May 25th, 2017, same relief
10 was requested to convert a three unit apartment house and as I
11 said, we are matching those plans that were approved, the massing
12 at least as part of that project.

13 Next slide, please. We received unanimous support from
14 ANC 4C. We presented at the ANC a month or so ago and we've
15 received no opposition from neighbors. Neighbors have been in
16 support of the project. OP, as you will hear, is also in support
17 but I will conclude my presentation here and turn it over, back
18 over to the Board.

19 Thank you.

20 CHAIRPERSON HILL: All right. Thank you, Mr. Williams.
21 Can I hear from the Office of Planning, please?

22 MS. MYERS: Good afternoon. Crystal Myers with the
23 Office of Planning.

24 The Office of Planning is recommending support in this
25 case so I can stand on the record of the staff report. But of

1 course I'm here if you have any questions.

2 Thank you.

3 CHAIRPERSON HILL: Thank you, Ms. Myers. Does the
4 Board have any questions for the Applicant or the office of
5 Planning? Ms. John?

6 VICE CHAIR JOHN: Yes. Thank you, Mr. Chairman.

7 So what was the outreach to the neighbor at 316, Mr.
8 Williams?

9 MR. WILLIAMS: Yes. So we made sure to meet with the
10 neighbor before we filed this application and the owner, Ms.
11 Branson Worden, had that meeting so I'd like to turn it over to
12 her and she can tell you directly that she had with the neighbor.

13 MS. BRANSON-WORDEN: Yes. So I'm currently actually
14 living in 318 Webster and so I do see my neighbor quite a bit
15 and a few months ago I let her know about my intentions with the
16 property and she told me that, you know, she thinks it's overall
17 a good thing for the neighborhood in terms of property values,
18 so.

19 VICE CHAIR JOHN: Okay. Thank you.

20 MS. BRANSON WORDEN: Uh-huh.

21 CHAIRPERSON HILL: Okay, great. Anyone else? All
22 right. Mr. Young, is there anyone here wishing to speak?

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

24 CHAIRPERSON HILL: Okay, great. Can you please tell
25 me their names as they come in?

1 MR. YOUNG: It is Ms. Owens.

2 CHAIRPERSON HILL: Okay, great. Ms. Owens, can you
3 hear me?

4 MS. OWENS: Yes, I can.

5 CHAIRPERSON HILL: Great. Could you introduce yourself
6 for the record.

7 MS. OWENS: Sure. Hello, my name is Keisha Owens and
8 I live at 316 Northwest which is located next door to the property
9 being discussed at 318.

10 CHAIRPERSON HILL: You're at 316?

11 MS. OWENS: I am at 316 directly next door to the
12 property being discussed here today.

13 CHAIRPERSON HILL: Okay. All right, Ms. Owens. You
14 as a member of the public have three minutes to give your
15 testimony and you can begin whenever you like.

16 MS. OWENS: Sure. I'm testifying today actually in
17 opposition of the zoning request for 318 Webster. When I
18 purchased the home three years ago I fell in love with rowhome
19 architecture, the quiet tree lined street and the long backyard.
20 Couldn't believe I found all this so close to the City.

21 So when we talk about the rear expansion, yes I will
22 still have 74 feet of yard but I will be -- it will be reduced
23 by 16 feet and what that means to me is that my backyard, my
24 deck, my beautiful Crepe Myrtle, the light to my bedroom, master
25 bedroom, will be partially facing a wall and, you know, I'll be

1 reduced with the natural light which matters.

2 In addition, as you heard earlier, on the same side of
3 the street at 320 there is the massive three unit dwelling. At
4 314 there's a two unit dwelling, so if 318 is converted to a
5 three unit dwelling, I'm essentially placed in the middle of
6 condominiums; right?

7 So my ask today is that, you know, we consider my
8 concerns as a private home owner but the impact that this
9 property's expansion will have on the density of the area that
10 was essentially intended to be single family homes.

11 CHAIRPERSON HILL: Okay, Ms. Owens. Ms. Owens, did you
12 go to your ANC meeting?

13 MS. OWENS: I did not.

14 CHAIRPERSON HILL: Okay. Did you know about your ANC
15 meeting?

16 MS. OWENS: I did not know about the ANC meeting.

17 CHAIRPERSON HILL: Okay. Let's see. And then have you
18 had an opportunity to look through the shadow studies and the
19 different items that the Applicant has put forward?

20 MS. OWENS: I have not looked at the shadow studies.
21 Molly did come over a few months ago and let me know about what
22 the expansion and what she was planning at that time and it did
23 take me some time to process what that actually meant to my house
24 and to, you know, affect my yard, the lighting and the
25 neighborhood overall. But to answer your question, I have not

1 | seen the shadow studies.

2 | CHAIRPERSON HILL: Okay. I think, Mr. Williams, are
3 | they in Exhibit 20? Where are your shadow studies? Are they in
4 | Exhibit 18?

5 | MR. WILLIAMS: They're in Exhibit 18 and they're at the
6 | back of the architectural package, last page I believe.

7 | CHAIRPERSON HILL: Right. And the architect is here;
8 | right?

9 | MR. WILLIAMS: That's correct.

10 | CHAIRPERSON HILL: Okay. Give me a moment, please.
11 | Ms. Owens, as you face 318 you're the property to the left?

12 | MS. OWENS: Yes, I'm the property to the left. The
13 | property to the right is the one that's already been expanded.
14 | I'm the smaller home that's to the left.

15 | CHAIRPERSON HILL: Yes. You're to the left at 318.

16 | MS. OWENS: Yes, facing the property.

17 | CHAIRPERSON HILL: Okay. Ms. Myers, can you hear me?

18 | MS. MYERS: Yes, I can.

19 | CHAIRPERSON HILL: You guys looked at, I'm looking
20 | through the shadow studies here of the -- that the Applicant is
21 | supporting in a little bit more as it applies to Ms. Owens' home.
22 | You guys did look at the effects of the shadow studies on the
23 | immediate property to the left; correct?

24 | MS. MYERS: Correct. And just a reminder the standard
25 | is that it not have an undue impact, not to say that there

1 wouldn't be some impact but we did not feel that the impact shown
2 in the shadow study was to a level to the undue level, or be
3 substantial impact.

4 CHAIRPERSON HILL: Okay.

5 MS. OWENS: May I ask a question? No?

6 CHAIRPERSON HILL: Sure, Ms. Owens. I'll let you ask
7 a question, of what? The Office of Planning?

8 MS. OWENS: Yes, the Office of Planning. Yes.

9 CHAIRPERSON HILL: Go ahead, Ms. Owens.

10 MS. OWENS: What is defined as substantial impact?

11 MS. MYERS: It would have to be usually something that's
12 pretty much a pretty substantial part of your yard for a long
13 duration of time. Like an example, I mean often times if there
14 does show a bit of an impact we look at the fact that an hour
15 later it's gone, but the shadow may be there for a portion of
16 time. But then, you know, another short portion of time it'll
17 be gone. So we would look at it from that perspective.

18 So it's more weighing out the fact that, you know,
19 there could be, I mean, when you do a development next to another
20 property you will in all likelihood have some level of an impact
21 but it's really that measurement of is it to a, you know, a level
22 that it's a major hardship on the neighbor and we didn't think
23 that this sun study showed it to that level.

24 CHAIRPERSON HILL: Okay. Thank you, Ms. Myers. All
25 right.

1 Does the Board have any questions for the witness? Ms.
2 John?

3 VICE CHAIR JOHN: Sorry. Just for the architect to go
4 over these shadow studies to help the witness understand what the
5 impact is on 316 and, you know, these shadow studies could be a
6 little confusing, especially when existing and proposed and not
7 showing side by side, that you've got to scroll down and go back
8 and forth. So maybe the architect could do that.

9 CHAIRPERSON HILL: Okay. Mr. Young, can you pull up
10 Exhibit 18, please, I think it is, and can the architect hear
11 me?

12 MR. ALMASHAL: Yes, I can hear you.

13 CHAIRPERSON HILL: Okay. And it's Mr. Almashal?

14 MR. ALMASHAL: That's correct.

15 CHAIRPERSON HILL: That's correct. Mr. Almashal, did
16 you introduce yourself for the record already?

17 MR. ALMASHAL: I did.

18 CHAIRPERSON HILL: Okay. I guess, Mr. Almashal, and
19 I'm pulling up this exhibit, and Ms. Owens, do you have a computer
20 available to you? I know you're on one but I mean, I guess if,
21 so well anyway, they're going to pull this up. Yes.

22 So, Mr. Almashal, where should we zoom in?

23 MR. ALMASHAL: Okay . Let's see. So we're at A600 and
24 the sheet after that is A601. If you look at A600 the top right
25 corner is the proposed and the top, the bottom right corner is

1 existing.

2 One thing I would like to add just to clarify things.
3 In terms of massing and height of the building, the only portion
4 that's added on this project would be six foot nine inches to
5 the rear. So it is approximately 15 feet for the whole project
6 but the portion that we're asking additional permission for is
7 only six feet beyond the acceptable ten foot. So that might
8 help.

9 CHAIRPERSON HILL: Right. That's helpful. So as you're
10 going through this, give me one second. Ms. Owens? Just to
11 clarify, they are -- what's allowed by-right is to go back ten
12 feet, right, and so what the additional shadowing to your property
13 is that additional six feet that they're going back; right?

14 MR. ALMASHAL: That's right.

15 CHAIRPERSON HILL: And sometimes what we ask for is
16 like a difference between matter-of-right shadowing and the
17 proposed shadowing and so some of the shadowing that you're
18 looking at you would have had anyway with a matter-of-right
19 shadowing. But, Mr. Almashal, if you can point out the, or, you
20 know, explain the sun study that'll be helpful.

21 MR. ALMASHAL: Okay. So the top of the page is
22 proposed, bottom is existing. The top shows hours of the day.
23 From left to right you'll see the shadow going from morning to
24 evening and it shows the Summer solstice periods and the Winter
25 solstice periods. The bottom is the same times of day for the

1 existing conditions on A600. 601 shows the by-right scenario of
2 the same hours per day so the parts of the day where this impacts
3 the neighbor's property, Ms. Owens, is mostly in the afternoon.
4 As you can see on the top right corner that's when the shadows
5 start to cast towards your property and if you head over to the
6 next sheet 601, the top right corner shows the by-right condition.
7 So you'll see during the afternoon it's a matter of a couple of
8 feet, if that, during only that part of the day.

9 So when we're talking about the significance of the
10 shadow compared to what they're allowed to build versus the
11 additional six feet they're asking for, it's very little shadow
12 that'll be casted additionally to your property.

13 CHAIRPERSON HILL: Okay, Mr., I'm sorry.

14 MR. ALMASHAL: No, I was going to say if you have any
15 specific questions about these shadows that I haven't clarified,
16 I'd be happy to answer.

17 CHAIRPERSON HILL: Ms. John? You had asked this
18 question of the shadow study in the hopes of helping Ms. Owens,
19 but did you have any other questions about that?

20 VICE CHAIR JOHN: I didn't have any other questions.
21 As a general rule I like to see existing and proposed side-by-
22 side, not one on top of the other because it's easier to see any
23 potential differences. But that's my only comment, not a
24 question.

25 MR. ALMASHAL: But just to clarify, they are on the

1 same page, the existing and the proposed.

2 VICE CHAIR JOHN: Yes. But I have to look at the
3 diagram at the top and then scroll down to the diagram at the
4 bottom and then try to remember what I saw at the top. Sometimes
5 architects will identify any increases in shadowing between
6 existing and proposed, it's just my soapbox.

7 MR. ALMASHAL: Okay.

8 VICE CHAIR JOHN: So if you come back and I'm here,
9 then you know that I would be looking for something that has
10 existing and proposed side-by-side for the different times
11 because it's easier on a non-architect to understand.

12 MR. ALMASHAL: Understood.

13 VICE CHAIR JOHN: Okay. But this is, I mean this is
14 well done. It's just that if you're not an architect and you
15 don't do shadow studies for a living, it's easier to review.
16 Thank you though.

17 COMMISSIONER SMITH: I have a question.

18 CHAIRPERSON HILL: Go ahead, Mr. Smith.

19 COMMISSIONER SMITH: You know, just to piggyback on
20 what Ms. John was saying, I think it's also a question of labeling
21 because you have labeled the matter-of-right concepts and you're
22 not holding that as a concept per se, you're just using that for
23 comparison purposes. You're labeling it proposed when it's not
24 the actual proposed. So I think the juxtaposition is a little
25 confusing, so it may be an issue -- I agree with Ms. John that,

1 yes, it would be better to have rearranged that diagram but also
2 a change of labeling.

3 So also I have a question. I'll ask you the question,
4 then I'll go to the Office of Planning. Under some of your
5 proposals a quarter of the house is shadowed by 2 p.m. So can I
6 surmise that there will be full shadowing of Ms. Owens' house
7 from 2 p.m., through to dusk at some point?

8 MR. ALMASHAL: I'm sorry. Could you repeat the last
9 part?

10 COMMISSIONER SMITH: Can I surmise that with your
11 proposal that's going back six additional feet beyond the matter-
12 of-right ten feet, it looks like a quarter of the house is in
13 shadow in the, I want to say Summer solstice?

14 MR. ALMASHAL: And you're asking about the proposed
15 massing; correct?

16 COMMISSIONER SMITH: Yes, yes. So is it --

17 MR. ALMASHAL: At least --

18 COMMISSIONER SMITH: -- would the house be in shadow
19 from 2 to dusk from the (indiscernible)?

20 MR. ALMASHAL: So at 2 p.m., the proposed -- sorry, can
21 you hear me?

22 COMMISSIONER SMITH: Yes, I can hear you.

23 MR. ALMASHAL: Yes. At 2 p.m., the proposed, I'm
24 approximating. It's a little bit less than half of the house in
25 the proposed conditions.

1 COMMISSIONER SMITH: Less than half the house?

2 MR. ALMASHAL: Yes. So if we're looking at A600 it's
3 showing the existing conditions and the proposed conditions for
4 what we would like to design and what we're asking for. Just to
5 clarify, 601 is also showing the existing conditions and proposed
6 conditions of if we were to go by-right just so we can compare
7 what, how much additional shadow is being casted.

8 So on 601 when you look at it, the shadow is about a
9 third of the way at a by-right scenario, and then on 600 with
10 our proposed additional six foot nine inches it's about half way,
11 from about a third to a half way to the neighbor's rear façade.

12 COMMISSIONER SMITH: Okay. Thank you, Mr. Almashal.
13 The Office, Ms. Myers? Sorry, and this is going back to this
14 question that was raised by Ms. Owens on what the Office of
15 Planning considers undue.

16 So at what level when the Office of Planning does these
17 types of evaluations, what percentage of the house would be
18 considered undue being shadowed and is it based on the amount of
19 duration of the shadowing? Could you elaborate on the Office of
20 Planning's analysis of what is undue and what is, you know,
21 hardship?

22 MS. MYERS: I forgot to mention the by-right scenario
23 and that's a big part of it too. We compare the proposed with
24 the by-right scenario and look and see if there's any drastic
25 difference between the two if what's being proposed has the

1 significantly more of a shadow than what would be done by-right
2 and in this case we did not think that the by-right scenario was
3 drastically different than the proposed scenario. Again, there's
4 always some level of, you know, some kind of impact but when
5 looking at proposed and by-right we didn't think this was to an
6 undue level.

7 Now as for percentage, we don't have like a percentage
8 number. I mean, I remember I had a case years ago that was
9 casting a shadow, the project was casting a shadow over the
10 neighbor's rear yard, the whole entire rear yard, and that was
11 something that was considered a, you know, a substantial impact
12 that we actually recommended against. But that's a pretty rare
13 situation and this one is nowhere near that kind of situation.
14 So we're just, you know, why in this case when looking at the
15 by-right and the proposed, we felt it was -- it met the test for
16 the light impact.

17 COMMISSIONER SMITH: Okay. All right. Thank you.

18 CHAIRPERSON HILL: Thank you, Mr. Smith. All right.
19 Do my fellow Board members have anything else of anyone? All
20 right.

21 Well, Ms. Branson, can you hear me?

22 MS. BRANSON WORDEN: Yes, I can.

23 CHAIRPERSON HILL: I assume, what we tried to do also
24 is that I assume that you will please keep in contact with your
25 neighbor, Ms. Owens, and let her know about, you know, if this

1 were to move forward construction, when things will start, what
2 might be going on and do your best to keep your neighbor informed
3 of anything that might inconvenience them.

4 MS. BRANSON-WORDEN: Absolutely.

5 CHAIRPERSON HILL: Okay. All right. Ms. Owens, do you
6 have anything you'd like to add?

7 MS. OWENS: I do not.

8 CHAIRPERSON HILL: Okay. Thank you, Ms. Owens. All
9 right. Mr. Young, was there anyone else?

10 MR. YOUNG: That was it.

11 CHAIRPERSON HILL: Okay. Mr. Williams, would you like
12 to add anything at the end?

13 MR. WILLIAMS: No, nothing for me.

14 CHAIRPERSON HILL: Okay. I'm going to close the hearing
15 and the record.

16 Okay. So within the criteria of X, 901.2 special
17 exception standards in terms of the general harmony standards, I
18 do believe that they are meeting the requirements for us to grant
19 that section. In the area of whether it will adversely affect
20 the neighboring properties, again it turns to what the Office of
21 Planning that is before us all the time although, you know, the
22 only time anybody comes to see any of these hearings is when
23 there's something going on next door to your house, but we are
24 taking a look at undue impact and I did find it actually helpful
25 t hat the Office of Planning explained a little bit more in terms

1 of what shadowing was and what they believe undue was and we've
2 had over the years many, many situations where we have rejected
3 things also actually because of different shadowing, but in this
4 particular case given the shadow studies that I've seen I thought
5 that it was also helpful for the Office of Planning to explain
6 things like, you know, the shadowing, how long is the shadowing
7 there for and how much more shadowing is cast upon the property
8 from whatever the matter-of-right was versus whatever the
9 proposed was and to Ms. John's comments, we have asked before and
10 we've sent people back before it to actually have like a red line
11 or a different color in the shading that is on the same diagram
12 which is the shading between what's proposed by-right versus what
13 is being asked under special exception and special exception
14 means, again, for those on this particular case is that it's in
15 the zoning regulations as something that's allowed if it's meets
16 particular criteria which is the criteria that we're looking at
17 and so I think that the shadowing is not to a point where I would
18 be uncomfortable with this. I think the, I suppose if this
19 property were sandwiching a property, that might turn into more
20 of -- and that has actually happened in the past -- that might
21 turn into more of a discussion where still we're looking at the
22 difference between matter-of-right and proposed.

23 I will again mention that I've mentioned before in
24 terms of when an Applicant comes forward and argues about their
25 matter-of-right, sometimes that isn't necessarily even accurate

1 meaning the matter-of-right might not be financially feasible or
2 possible, like you wouldn't necessarily even do the project if
3 you could only get the matter-of-right. So that's where else I
4 have a little bit of difficulty between the matter-of-right and
5 the proposed. The matter-of-right might not actually be
6 feasible. Like, no one would ever do the matter-of-right. So I
7 sometimes get a little bit torn in how we view that shadowing as
8 well.

9 However, in this particular case given the fact also
10 that one property has already been converted to this, I think
11 that it is, again, not undue shadowing for that neighbor. So
12 that particular section of the special exception criteria we'll
13 be looking at I am also comfortable with. It is unfortunate that
14 the neighbor is concerned about the shadowing, and I can
15 understand that. I definitely can understand that.

16 I mean, the other thing however I always sometimes say
17 like this now also means that that neighbor can maybe do what
18 their neighbor is doing and it just kind of continues on down
19 the block, and so it does make for a value add in some situations
20 to these blocks as they transition. All that being said, I would
21 agree with the Applicant and the Office of Planning and the ANC,
22 and vote in favor of this application. Mr. Smith?

23 COMMISSIONER SMITH: So, Chairman Hill, I'll be honest
24 with you. I'm struggling with this one because, you know, I
25 recognize that we see a lot of these cases. We see a lot of

1 cases where the proposal is to do these bump-outs to the rear
2 and extend, you know, to the rear of the property and I will note
3 my, you know, some of my observations with this one.

4 So the existing property is flesh (phonetic) with the
5 adjacent property in question that was raised by the owner of the
6 property at 316. So they're proposing to bump this out beyond
7 the matter-of-right addition beyond ten feet an addition six
8 feet. So have some heartburn when the Applicant is saying, or
9 the architect for the Applicant is saying that it's only six
10 feet. The way that the zoning regulations has been structured
11 is for this gradual step in additions over time and I believe
12 that what we're attempting to do with that regulation is to
13 protect light and air to adjacent properties.

14 I do believe that during the Winter solstice there is
15 undue impact. Under the matter-of-right addition, the rear of
16 the neighboring property, about 25 percent of the neighbor's
17 property is shadowed. With the special exception proposal half
18 of it is shadowed by 2 p.m., by 2 p.m., and only gradually gets
19 worse from there. If you look at the alley, if you pull up Google
20 maps and you look at the alley of this property, there are window
21 -- all of these properties within that block have windows, if I'm
22 looking from the alley to the left, so those windows will be
23 shaded. The neighboring properties' windows will be shaded by
24 noon, by noon obviously and from noon through to the end of the
25 day, through to dusk and I understand with these, the graphics,

1 the terms that were chosen it can make it a little tricky. But
2 based on the location of the neighbor's windows, they will begin
3 to be shadowed by noon and they will be in perpetual shadow
4 through dusk.

5 So I do find that the proposed addition has an undue
6 impact. I understand what you had just said about the feasibility
7 of doing a matter-of-right addition, the financial feasibility,
8 but I will note that the Applicant is doing the third floor
9 addition and an additional unit to this property and also adding
10 additional square footage to the existing units that are there.
11 So I do not believe that if they would have to do a matter-of-
12 right addition, that it wouldn't be financially feasible because
13 you still could get that extra unit, they just want to be able
14 to (indiscernible). But you're still getting an additional unit.

15 So with that, I do not believe that they have satisfied
16 from my standpoint that the proposed addition would be undue and
17 I will not support the application.

18 CHAIRPERSON HILL: So, Mr. Smith, can I ask you a
19 question because you're really good at this; right? So what
20 about that building that's already done; right? Like, so that
21 one's already been done. That's there, right, and when we
22 approved that one, I'll have to go back and take a look; right?
23 What I'm trying to understand, and I'm not giving you pushback
24 per se, I'm just trying to understand this, like I don't know
25 what happened. You know, I don't know if -- what I'm trying to

1 get -- like, you have two, like let's say that that building was
2 approved, that big building that we approved, right, and nobody
3 had any complaints about it or nobody knew what was going on or
4 whatever; right? So we approved the shadowing the way it was,
5 right, and so maybe -- so what I'm trying to understand really
6 is, you know, is this coming into a, you know, if someone on the
7 block does have an issue with the shadowing or is it us that's
8 actually determining whether or not we think the shadowing is
9 undue --

10 COMMISSIONER SMITH: Undue?

11 CHAIRPERSON HILL: -- you know, like, and I'm not trying
12 to pick on the zones. I'm saying, like let's say that, whenever
13 that big building got built, right, I'd have to go back and look.
14 I don't know if, you know, because we usually look at the property
15 next door, right, we might not look at the property two doors
16 down; right? So I guess what my question is to you is what do
17 you think of the fact that that other building is already there?

18 COMMISSIONER SMITH: I believe that was probably, based
19 on the images I've seen when that was under construction in 2017,
20 that was probably approved under ZR 58 when we didn't have these
21 types of regulations.

22 CHAIRPERSON HILL: Okay.

23 COMMISSIONER SMITH: This (indiscernible).

24 CHAIRPERSON HILL: So, I got you. So let's see where
25 we are with this. I guess I'll go to Dr. Imamura.

1 ZC COMMISSIONER IMAMURA: Thank you, Mr. Chairman.
2 Appreciate Board member Smith's point of view and Ms. Owens'
3 concern for her Crepe Myrtle. Based on my reading of the shadow
4 studies, it's really after 12 o'clock, and the Winter solstice
5 will be the most impactful on the property, 2 o'clock certainly
6 onward, but her Crepe Myrtle will still receive sunlight all the
7 way about through morning up until one or 2 o'clock in the
8 afternoon both Summer and in the Winter.

9 I also noted, I'm glad Board member Smith brought up
10 Google because it appears, you know, from Google street view
11 there that Ms. Owens' yard there's also sort of a tent if you
12 will or it looks like a table there providing some shade to what
13 would be presumably a window there perhaps leading to the kitchen
14 or a nook providing some shade in the afternoon. So one might
15 argue that the extension of this building adjacent to her home
16 would provide that shade.

17 Board member Smith is right that there will be some
18 shadow shade into the upper story floor of Ms. Owens' property
19 there after in the afternoon, late afternoon, mid to late
20 afternoon. You know, I think that, again, that's primarily going
21 to be a concern mostly in the Winter time (indiscernible). I
22 don't think light and air here, she still has indirect light,
23 there's still air, so I don't think this particularly proposed
24 project will pose any issues to light or air. I'm prepared, I
25 certainly can appreciate Ms. Owens' point of view and concern.

1 Mr. Chairman, you brought up a good point about matter-of-right
2 and whether that's feasible and if that pencils out for some
3 particular projects.

4 I also want to compliment Vice Chair John for taking
5 an architect to task. So let all architects stand on notice here
6 that they could do a better job at conveying information about
7 these shadow studies, about proposed matter-of-right and
8 existing. Delineate that in a much better way and preferably on
9 one sheet and also be mindful that we're all looking at these on
10 computer screens so many of us have different computer screens,
11 many of us have to scroll down as Vice Chair John had commented.
12 So try to fit that on one sheet and either that or articulate in
13 a better way and delineate what is proposed and what is matter-
14 of-right (indiscernible).

15 You know, I think I'm prepared to vote in support, Mr.
16 Chairman. I think Board member Smith is right that there's a
17 tendency to, you know, building creep (phonetic) here around the
18 block. You know, that's kind of the nature of the BZA and these
19 bump-outs, as Board member Smith (indiscernible). You know,
20 these are things we wrestle with, Ms. Owens. Please note that
21 if you're still on line, these are things we wrestle with and
22 take very seriously. But I think based on the merits of the
23 case, I give great weight to OP, the ANC and am prepared to vote
24 in support.

25 Thank you, Mr. Chairman.

1 CHAIRPERSON HILL: Thank you. Vice Chair John?

2 VICE CHAIR JOHN: So I'm going to take a little
3 different approach from Board member Smith and I always value his
4 analysis, but on balance in this case I don't think the shadowing
5 would be undue. A lot of it is in the Winter months. A lot of
6 the excess shadow is in the Winter months and so I appreciate
7 OP's analysis on what is considered undue impact from the
8 shadowing and we're only looking at six feet nine inches that's
9 beyond what would be allowed in a matter-of-right situation.

10 So I would lean towards supporting the application and
11 I do appreciate how this might look to Ms. Owens that, you know,
12 right now there is no wall directly beside her house and all of
13 that will change and as the Chairman said, the regulations allow
14 this expansion and so it's not something that's prohibited where
15 the Applicant would need a variance. This is a special exception
16 which applicants do get relief from regulations when they, you
17 know, the particular action is allowed if the applicant comes
18 before the Board and in this case the standard of proof is there
19 can't be any adverse impact on adjacent properties, and the
20 standard here in terms of the shadowing is that the shadowing
21 would be undue.

22 I hope I haven't confused the whole analysis but I say
23 all of that to say that we've seen some very large additions in
24 zones like this which is an RF-1 zone and this zone allows two
25 unit buildings so I think that on balance, as I said before, I'm

1 in support of the application. I going to give great weight to
2 the Office of Planning's analysis and I don't believe we have a
3 report from the ANC, at least I didn't see one when I looked at
4 the file.

5 So thank you, Mr. Chairman.

6 CHAIRPERSON HILL: Thank you.

7 VICE CHAIR JOHN: Actually, there's an ANC report. I'm
8 sorry.

9 CHAIRPERSON HILL: Yes. The ANC had voted to support.

10 VICE CHAIR JOHN: Support, yes.

11 CHAIRPERSON HILL: They had no issues or concerns.

12 VICE CHAIR JOHN: Yes.

13 CHAIRPERSON HILL: So just to kind of tack on to this
14 a little bit. What Vice Chair John sometimes had pointed out to
15 me that this is kind of a little bit of a deep lot. You know,
16 it's a relatively deep lot and so there is more space available
17 beyond the area that might be shadowed and so, you know, the
18 person could take advantage of their yard and sunlight, just
19 farther down their yard and I guess why I'm continuing to discuss
20 this a little bit more is when it is that we might think that
21 things are actually undue.

22 Now, Mr. Smith has gotten to the point where he thinks
23 things are undue, right, and everything is on a case-by-case
24 basis. But it does get, and we've seen, I mean the block just
25 turns, you know. I mean, it just goes one by the other and

1 everybody, you know, makes their apartments, makes their condos,
2 they, you know, they're making extra money or they're, you know,
3 doing whatever they need to do or want to do and those blocks do
4 shift. But even when I started here eight years ago, I always
5 thought that it was difficult to have this kind of discussion
6 sometimes knowing that the block is probably going to shift like,
7 you know, where it just kind of, you know, it's less likely you're
8 going to say no because of the undue impact because the impact
9 is just kind of slowly moving down the block.

10 I don't know what I'm saying now actually either in
11 terms of I'm just discussing with my fellow Board members. I'm
12 already to the point where I don't think there's undue shadowing
13 on this particular application. I'm just having a discussion
14 with my Board members as to we see this stuff a lot. I can't
15 figure out where you actually say no, right, I mean, where the
16 undue impact is, right, and this is what makes this job a little
17 bit difficult and confusing is we get input from the Office of
18 Planning just so people are listening and watching and the Office
19 of Planning is, again, apparently, you know, they have a whole
20 office that just helps you understand the regulations and give
21 their opinion. Now, we don't have to agree with their opinion
22 and often times we don't but they're supposedly the experts that
23 are helping us understand the regulations. Then you have the ANC
24 that we're supposed to also give great weight towards.

25 Now the ANC doesn't necessarily speak to the

1 regulations. They're just speaking as to whether or not they
2 want the project to happen. Usually sometimes (indiscernible)
3 it all depends on the ANC and some ANCs try to get other things
4 out of the applicant.

5 A longer, longer story as I'm just looking at my Board
6 members knowing that I get to serve with you all for a little
7 while longer. Dr. Imamura, you're just getting the benefit of
8 whatever this discussion is because we can't go talk to each
9 other now after this hearing and talk about the regulations
10 because this is all on fricking computer and you push the button
11 and everybody disappears and so I'm still voting in favor. Does
12 anybody have anything they'd like to add before I make a motion?

13 Okay. I'm going to make a motion to approve Application
14 No. 20966 as captioned and read by the Secretary, and ask for a
15 second. Ms. John?

16 VICE CHAIR JOHN: Second.

17 CHAIRPERSON HILL: Motion made and seconded. Mr. Moy,
18 if you could take a roll call, please?

19 MR. MOY: Thank you, sir. When I call your name if
20 you'll please respond to the motion made by Chairman Hill to
21 approve this application for special exception relief. The
22 motion to approve was second by Vice Chair John.

23 Zoning Commissioner Joe Imamura?

24 ZC COMMISSIONER IMAMURA: Yes.

25 MR. MOY: Mr. Smith?

1 COMMISSIONER SMITH: No.

2 MR. MOY: vice Chair John?

3 VICE CHAIR JOHN: Yes.

4 MR. MOY: Chairman Hill?

5 CHAIRPERSON HILL: Yes.

6 MR. MOY: With no others participating, staff would
7 record the vote as three to one to one and this is on the motion
8 made by Chairman Hill to approve. The motion to approve was
9 second by Vice Chair John. Others voting to approve the
10 application is Dr. Joe Imamura, of course Vice Chair John,
11 Chairman Hill. Opposed to the motion is Mr. Smith. Again, the
12 vote is three to one to one. The motion carries, sir.

13 CHAIRPERSON HILL: Okay. Thank you, Mr. Moy, and I'm
14 not looking for feedback but I just am making a point. This is
15 a weird thing, this zoom thing, this electronic world, it's just
16 really weird; right? Like now I'm just going to click my little
17 button and all you people are going to go away and I can't talk
18 to you again, I can't talk to you about this unless I physically
19 make an effort to go find where you are in this universe and sit
20 down and have a discussion. I'm going to click my little button
21 and you all are going to disappear.

22 VICE CHAIR JOHN: That's right. Let's just disappear,
23 Mr. Chairman.

24 CHAIRPERSON HILL: All right. Okay. That was telling
25 me to either --

1 VICE CHAIR JOHN: Until next week.

2 CHAIRPERSON HILL: Right. Okay. You all have a good
3 day.

4 VICE CHAIR JOHN: Same place, same time.

5 CHAIRPERSON HILL: Thank you all.

6 VICE CHAIR JOHN: Thank you, Mr. Chairman. Bye
7 everybody.

8 (Whereupon, at 1:20 p.m., the above-entitled
9 hearing was adjourned.)

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C E R T I F I C A T I O N

This is to certify that the foregoing transcript

In the matter of: Public Meeting

Before: BZA

Date: 10-25-2023

Place: Teleconference

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

JULIE SOUZA