

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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REGULAR PUBLIC HEARING

+ + + + +

WEDNESDAY
FEBRUARY 28, 2024

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

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

FREDERICK L. HILL, Chairperson
LORNA L. JOHN, Vice-Chairperson
CHRISHAUN S. SMITH, NCPC Designee
CARL H. BLAKE, Member

ZONING COMMISSION MEMBERS PRESENT:

ANTHONY J. HOOD, Chairperson

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary
PAUL YOUNG, A/V Production Specialist

OFFICE OF PLANNING STAFF PRESENT:

RON BARRON
SHEPARD BEAMON
MATT JESICK
MIKE JURKOVIC
CRYSTAL MYERS

OFFICE OF ZONING ATTORNEY ADVISORS PRESENT:

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SARAH BAJAJ, ESQ.
COMETRIA COOPER, ESQ.
CARISSA DEMARE, ESQ.
RYAN NICHOLAS, ESQ.

The transcript constitutes the minutes from
the Regular Public Hearing held on February 28, 2024.

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

(10:17 a.m.)

BZA CHAIR HILL: All right. Mr. Moy, if you want to read our next one.

MR. MOY: Okay. So the Board now has returned from a brief break. The time is now 10:17 a.m. in the morning. The Board is now in its public hearing session, and I believe we are beginning with Appeal Number 21020 of Matthew Fay, Justin Oliver, Monica Shimamura, and Veronika Shime, S-H-I-M-E.

This is an appeal pursuant to Subtitle X Section 1100 challenging the decision made on January 30th, 2023, by the Department of Buildings' Zoning Administrator to issue Building Permit Number B, as in bravo, 2106817. And this is a conversion of a principle dwelling to a seven-unit apartment house approved in BZA case 20290. Property is located in the RF-1 zone at 421 T Street, Northwest, Square 3090, Lot 42.

As a preliminary for you, Mr. Chairman and the Board, we have in the record the Department of Buildings' motion to dismiss under Exhibit 16. The property owner's motion to dismiss under Exhibit 10 and Exhibit 10A. And I believe also the appellant's response to -- in opposition to the property owner's motion under Exhibit 11. So that's the quick of what I have in my notes that's before

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1 the Board. Thank you, sir.

2 BZA CHAIR HILL: Okay. Great. Thank you.
3 Before I get to introductions, I just want to go over for
4 the Board again the order of procedures for appeal
5 applications. This is pursuant to Y4 -- 507. Y507. So,
6 one, we address preliminary and procedural matters. Two,
7 is statements of the appellant and the appellant's
8 witnesses. Three, the respective cases of the parties or
9 intervenors in support of the appeal in the following
10 order: A, the owner, lessees, operators, or contractor
11 purchasers of the property involved if not the appellant;
12 B, the affected ANC if not the appellant; and, C, any
13 other party permitted to intervene in the proceeding in
14 support of the appeal.

15 Four, the statement of the administrative
16 office appellee of the case. Five, the respective cases
17 where the parties are intervenors in opposition to the
18 appeal in the following order. Oops. I lost it. One
19 second. A, the owner, lessee, operator, or contractor
20 purchaser of the property involved; B, the affected ANC;
21 and C, any other party permitted to intervene in the
22 proceeding in opposition to the appeal.

23 Then there would be rebuttal evidence from the
24 appellant followed by rebuttal evidence from the parties
25 in support of the appeal in the order indicated in

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1 Subparagraph 3 that I've just read. And then closing
2 arguments in the order established again in Paragraph 2
3 through 5 of the section. All right. So just wanted to
4 go over that. Let me see. Mr. Brown, could you introduce
5 yourself for the record please?

6 MR. BROWN: Good morning, Chairman Hill and
7 members of the Board. David Brown for the appellants in
8 this case. I should also mention, if you see me on the
9 screen with a rather prominent black eye, I haven't been
10 in a bar fight or a domestic dispute. I took advantage of
11 the warm weather to go jogging yesterday and tripped up on
12 the sidewalk. But I'm ready, willing, and able to proceed
13 today.

14 BZA CHAIR HILL: Thank you, Mr. Brown. Thank
15 you for being with us. Thank you for being brave enough
16 to use your camera. Many people would have not chosen
17 that one. And I do appreciate the explanation as
18 sometimes people just don't have an opportunity to use
19 their camera, so thank you for participating, and I hope
20 you heal well. Who's with you here, Mr. Brown, today?

21 MR. BROWN: Mr. Fay is here. He's the only one
22 that is linked in.

23 BZA CHAIR HILL: Okay. Great. Mr. Fay, could
24 you introduce yourself for the record please?

25 MR. FAY: Mr. Chairman and members of the

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1 Board, Matthew Fay residing at 416 U Street Northwest
2 which is on the same block as the property in question.

3 BZA CHAIR HILL: Okay. Great. Can Department
4 of Buildings introduce them self for the record please? I
5 thought I hear somebody. Mr. Cox, are you with DOB today?

6 MR. COX: Yeah. I am. That's Brian Lambert.
7 I'm Eric Cox with DCDOB. Brian Lambert's having audio
8 problems, and Kathleen Beeton is the ANC here as well.

9 BZA CHAIR HILL: Okay. I'm sorry. Did you say
10 Ms. Beeton is with -- is the ANC?

11 MR. COX: No, she's the zoning administrator.

12 BZA CHAIR HILL: Oh, got you. Oh, wow. Hello
13 Ms. Beeton. This is the first time we're seeing you.
14 Nice to meet you virtually. All right.

15 MR. LAMPERT: Can anybody hear me?

16 BZA CHAIR HILL: Lampert, can you hear me?

17 MR. LAMPERT: I can hear you. Can you hear me?

18 BZA CHAIR HILL: Great. Could you introduce
19 yourself for the record?

20 MR. LAMPERT: Excellent. Brian Lampert,
21 assistant general counsel on behalf of Department of
22 Buildings.

23 BZA CHAIR HILL: Great. Zoning Administrator
24 Beeton, could you introduce yourself for the record?
25 You're on mute I'm afraid, Ms. Beeton.

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1 MEMBER SMITH: You're still on mute.

2 BZA CHAIR HILL: Well, let's see. We'll give
3 you a chance. Just keep trying to figure it out.

4 (Simultaneous speaking)

5 MR. COX: -- come to my office and take my
6 chair? Do that? Let me get the door.

7 BZA CHAIR HILL: Okay. All right. Well,
8 anyway. Okay. All right. So, Mr. Cox -- oh, I'm sorry.
9 Mr. Sullivan, could you introduce yourself for the record?

10 MR. SULLIVAN: Marty Sullivan on behalf of the
11 property owner.

12 BZA CHAIR HILL: Okay. Great. So there are a
13 few of -- well, there are preliminary matters, and the
14 first being the motion to dismiss as untimely. Mr. Cox or
15 Mr. Lampert, could you explain DOB's position as to why
16 this is untimely and we should dismiss?

17 MR. LAMPERT: Of course, Chairman Hill. Well,
18 so this appeal should be dismissed as untimely because it
19 wasn't filed in the 60-day appeal period, and also because
20 the appellants have not demonstrated exceptional
21 circumstances outside their control that they reasonably
22 couldn't anticipate that substantially impaired their
23 ability to file a zoning appeal under 11Y DCMR Section
24 302.6.

25 I'd just like to make a few preliminary points.

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1 On the first page of the appellant's opposition to their
2 motion, they concede that they were aware of the 60-day
3 appeal period. Didn't file in that period. And that
4 they're not disputing that. So that's not before the
5 Board. The issue is solely whether they demonstrated
6 exceptional circumstances.

7 And I also just want to note, before I get into
8 that, that in our briefing, we said that relying on a
9 zoning council's erroneous legal advice to wait to appeal
10 or waiting to appeal to avoid costs are not exceptional
11 circumstances. The appellants in their most recent
12 filing, Exhibit 18, expressly state they're not advancing
13 that argument either. So the only thing that the Board
14 needs to consider as far as the circumstance is what was
15 the effect of BZA order number 20290 being appealed to the
16 D.C. court of appeals. So I'll address that for the
17 Board.

18 It's the Department's position that the
19 appellants have not demonstrated that that court of
20 appeals case should extend their deadline to appeal in
21 this case. First, again, going back to 302.6, the
22 standard is whether the appellants can demonstrate
23 exceptional circumstances outside of their control that
24 they could not reasonably anticipate and that
25 substantially impaired their ability to file a timely

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1 zoning appeal to this Board.

2 So, first, the existence of that appeal was not
3 something that was outside of their control. Appellant
4 Fay is the one who filed that appeal. Appellant zoning
5 counsel for this case is the one that litigated that
6 appeal. So that the genesis of that appeal arose out of
7 the appellants.

8 Second, it was within the appellant's control
9 to mitigate any kind of awkwardness that might exist by
10 filing a timely appeal here while that appeal was going
11 on. For example, the appellants could have moved to the
12 Board to stay the effectiveness of the final order, that
13 they grant a special exception relief under 11Y DCMR
14 Section 701.2. Or while they were at the court of
15 appeals, they could have the court of appeals to stay the
16 effectiveness of the order under Appellant Rule 18. And
17 had they done that, and had that been granted, then the
18 building permit would have never issued. But they didn't
19 even try.

20 And they could have also just filed a timely
21 appeal to the Board, and then moved the Board to postpone
22 hearing the appeal under 11Y DCMR Section 505 until after
23 the D.C. court of appeals case had gotten resolved. And
24 that would require them to demonstrate good cause why the
25 case should be postponed, but since they're here now

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1 essentially arguing that all these circumstances are good
2 cause for after the fact extending the deadline, surely,
3 they could have attempted particularly good cause earlier.

4 Doing that would put everybody on notice of
5 their intent to appeal, and litigate the side yard and
6 rear wall issues when the D.C. court of appeals inevitably
7 dismissed their appeal because that was a self-certified
8 application. The Appellants say they were entitled to
9 wait, but the point of a deadline is to provide a period
10 after which the permittee knows that he can proceed
11 safely. And allowing an appellant to just lie and wait
12 and then file a belated appeal when things don't go their
13 way would defeat that objective.

14 Third, the appellants haven't shown that the
15 existence of that case impaired their ability to file a
16 zoning appeal, let alone substantially impair their
17 ability. They try to rewrite the rule to say, well, all
18 you have to do is consider was it reasonable. But the
19 Board's rules as written and as adopted say that whatever
20 the circumstance is, it has to be outside your control, it
21 has to not be reasonably anticipated, and it must
22 substantially impair your ability to file. Now they
23 concede that they knew that the building permit had
24 issued. They concede they knew that during the original
25 60-day appeal period. But they just elected not to

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1 appeal. And there's no statute, regulation, rule, or case
2 law anywhere that says --

3 BZA CHAIR HILL: Okay.

4 MR. LAMPERT: -- in these circumstances they
5 weren't allowed to appeal. They could have. They should
6 have. But they did not.

7 BZA CHAIR HILL: Okay, Mr. Lambert. I'm just
8 trying to get through this preliminary matter, and if we
9 get to the appeal, my God, it's going to be long, right?
10 But I appreciate your articulate explanation of DOB's
11 position. And if you all, you know, do whatever you
12 needed to do later, please let Director Hanlon know that
13 we accommodated you all in terms of your time, right?
14 Okay.

15 MR. LAMPERT: And we appreciate that.

16 BZA CHAIR HILL: And as did the appellant. Let
17 me get the zoning administrator to introduce herself for
18 the record please.

19 MS. BEETON: My name is Kathleen Beeton.

20 BZA CHAIR HILL: Okay. Great. Welcome,
21 Administrator Beeton. Mr. Sullivan, can you hear me?

22 MR. SULLIVAN: Yes, I can.

23 BZA CHAIR HILL: Did you want to add anything
24 to that discussion that -- yeah, discussion that Mr.
25 Lambert put forward?

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1 MR. SULLIVAN: I would like to briefly -- not
2 without repeating it, we obviously have the same position.
3 But I would just like to point out a couple things.
4 302.6(a) is what's required. The Board has to find that
5 302.6(a) is present in order to extend. The Board can't
6 extend without that. And although it's just one sentence,
7 there's actually four elements to that. One, it's
8 exceptional circumstances.

9 Before I get into that, I'll note that the
10 appellant has actually stipulated that they don't meet any
11 of these four requirements. They don't meet any of the
12 four elements. Instead, they've provided a substitute
13 explanation that they say the Board should consider
14 instead. Exceptional circumstances, they haven't argued
15 that, and certainly a court of appeals appeal is not an
16 exceptional circumstance.

17 Outside of appellant's control, everything has
18 been inside appellant's control on this including the
19 original filing of the court of appeals appeal. Could not
20 have been reasonably anticipated. Again, they have to
21 meet all these elements. How could they not have
22 reasonably anticipated the filing of their own appeal?
23 And four, substantially impaired the appellant's ability
24 to file. And again, they haven't argued that they were
25 impaired. They've just argued that it was reasonable not

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1 to file it.

2 So, instead, they've presented this substitute
3 argument, and the case law is very clear on this from
4 Waste Management and Woodly Park that if an appellant
5 chooses to concentrate on avenues outside of filing the
6 appeal timely, then that does not excuse their delay.

7 And, also, I would note they have been arguing
8 the cases on the merits for years now starting with the
9 BZA and then going to the court of appeals. So if they
10 really believed that they were impaired from filing until
11 June, whatever date it was that the Court of Appeals'
12 decision was issued, which was about 80 days before they
13 filed the appeal itself, they could have filed the appeal
14 within a week after the court of appeals case was over
15 because they had the arguments ready. They've been using
16 the arguments.

17 So I actually think the timing is suspect. I
18 don't know what other reason they would have for waiting
19 so long other than possibly prejudicing the owner, the
20 property owner. And I do have the property owner
21 available to speak if the Board wants to hear from him.
22 He would testify on the fact that the project began
23 immediately after the building permit was issued on
24 January 30th, was diligently pursued. And he's eight
25 months into it before the appeal is filed. That's

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1 prejudicial on its face, but if the Board would like to
2 hear more testimony on that --

3 BZA CHAIR HILL: Okay.

4 MR. LAMPERT: -- the property owner is here
5 with us as well. Thank you.

6 BZA CHAIR HILL: Okay, Mr. Sullivan. All
7 right. Thanks, Mr. Sullivan. Mr. Brown, can you hear me?
8 Okay. Mr. Brown, can you give us your explanation?

9 MR. BROWN: Yes. The first thing I want to
10 emphasize is the reasonableness of our expectation that
11 the issues that we presented to the court of appeals would
12 be resolved in that court rather than have to be resolved
13 in a subsequent building permit appeal. I just want to go
14 to the Board's -- to the Board's order in case number
15 20290 and quote briefly from it. I did not include this
16 as an exhibit. But I'm sure this is readily available to
17 the Board.

18 I'm looking at Page 7. And it says, "The
19 project will also be in conformance with the development
20 standards of Subtitle E Chapter 3 including height of the
21 addition, lot occupancy, rear yard, and side yard." The
22 rear yard and side yard compliance issues are what we
23 appealed.

24 The opinion goes on. "The project will
25 preserve the original house constructed in 1876, and the

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1 addition will require no zoning relief under Subtitle E.
2 Conformance with these development standards ensures that
3 the project will be in harmony with the general purpose
4 and intent of the zoning regulations." And that
5 observation is repeated again later in the opinion. And
6 when we filed the appeal, both my client and I were, what
7 I think, to be under the reasonable expectation that we
8 would get this matter resolved in that court one way or
9 the other. But that's not what happened.

10 Mr. Sullivan argued to that court, and this is
11 as far as I'm aware the first time that this argument has
12 ever been successful that the issue of the compliance with
13 the rear yard and the side yard were not properly before
14 the Court for adjudication because he had not claimed any
15 need for zoning relief with respect to either of those
16 issues.

17 We argued to the court we raised these issues
18 before the Board and the Board found that the project was
19 in compliance with the rear yard and the side yard. So
20 how can -- how could it possibly not be proper for us to
21 present these issues to the court?

22 The court agreed with Mr. Sullivan, and said
23 you have the opportunity -- and this is right there in the
24 opinion and that opinion is included in the material that
25 I provided to the court -- to the Board, and it says that,

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1 "Mr. Fay argues that the BZA erroneously approved non-
2 conforming side yards and a non-conforming rear wall. We
3 take Mr. Fay's point to be that the BZA order contains
4 some statements along these lines in its conclusions of
5 law and opinion. But this order did not definitively
6 determine that Vitis did not need to seek relief from
7 those requirements." And basically, they said that we
8 could go to the zoning administrator and relitigate these
9 matters there.

10 So we didn't get a decision one way or the
11 other, and this is the first time when my -- that I have
12 ever heard of in the course of appellate litigation of
13 cases from this Board where the court said that just on
14 the basis of the self-certification by the applicant, you
15 have to go back through this whole administrative process
16 again.

17 And of course, we -- that decision was very
18 much a surprise to us because we just didn't think it was
19 defensible under the law. And it was I think the first
20 time I've ever filed a motion for a reconsideration for a
21 court opinion. But that motion for reconsideration was
22 promptly denied.

23 Now we had argued this case on the briefs in
24 October, and we were trying to figure out -- I'm watching
25 when the building permit was issued. The building permit

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1 was issued the following January 30th. I talked to my
2 client. At that point we had no decision from the court
3 of appeals. And I said to my client, and my client said
4 to me how does it make sense for us to try to pursue an
5 administrative remedy through the zoning process when we
6 already have this case ready and keyed up for a decision
7 on the merits in a case in which Mr. Sullivan was actively
8 participating.

9 And so we simply waited until we got a decision
10 from the court, and we got this, essentially, a surprise
11 decision that they would not decide the matter, and we had
12 to go to the Board. But, of course, by that time when we
13 got the final judgment from that court on July 10th, it
14 was way too late to go to the zoning administrator and ask
15 them not to issue the permit. The permit was already
16 issued at the end of January.

17 And so I told my clients if you want to file a
18 building permit appeal, we have to explain to the Board
19 why it's taking so long to get there. In addition, we
20 have to put together our entire case and submit our entire
21 case in arguments, and any additional appellants who want
22 to participate in that process.

23 So we got busy, put together the appeal and
24 filed it within the 60 days after the time we got the
25 final decision from the court of appeals. And I also

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1 filed along with that timeliness statement an explanation
2 of our perception of what was going on on the property
3 during that entire time. And we submitted to you
4 photographs showing that there had been no construction
5 work in the area of these -- of the permits up to that
6 time.

7 So we felt that there -- that under these
8 circumstances it was truly exceptional for us to be in
9 this situation. And the brief that I filed on Monday,
10 which I don't know whether you've had a chance to read it
11 or not, it does address the issues in the context of the
12 actual criteria that are stated in Section 302.6(a).

13 And we argue that this is not a case like --
14 this is not a case where we have sprung something unaware
15 upon the -- on the permit -- on the permittee that's some
16 kind of an unwelcome surprise. We have been -- we were
17 actively litigating this case all along, and we have made
18 no claims in the building permit appeal that are any
19 different from the claims that we were seeking a final
20 resolution on in the Board of appeals.

21 We were not in control of when that court would
22 issue its decision. And if they had issued the decision
23 within this 60-day timeframe that is required under the
24 rule, we certainly would have been able to do that or come
25 very, very close. And I think we've made a plausible and

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1 reasonable case that the situation that we were basically
2 stuck in and being told that you have to start all over
3 again and litigate this matter all over again is not
4 something that was reasonably anticipated in light of
5 prior precedent from the D.C. Court of Appeals.

6 And for all those reasons, and additional
7 reasons that are spelled out in greater detail in the
8 brief that -- in the brief that I filed on Monday and as
9 well as having anticipated this argument and making our
10 filing back in September, for all of those reasons we
11 think that you should use your discretion to grant the
12 motion.

13 The case law that Mr. Sullivan is referring to,
14 as we've described in our brief, were circumstances where
15 there was much -- there was much longer delay than has
16 been occasioned here, and there were efforts to -- there
17 were efforts between the parties to settle the case that
18 didn't result in a settlement, and the court said that
19 settlement negotiations don't excuse a delay. And there
20 were efforts to seek alternative remedies outside of the
21 very framework that the issues were litigated.

22 The delays occasioned here are strictly within
23 the framework of litigating these particular items, not in
24 pursuing some alternative remedy. And for all these
25 reasons, we think it would be reasonable for the Board to

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1 conclude, not only that Mr. Fay has acted reasonably, but
2 that he should be -- he should be granted the delay that's
3 been requested.

4 One final point I will make, and Mr. Lampert
5 makes more of a point of it here today than he did in his
6 brief, is that somehow we should have sought a stay. But
7 the requirements for getting a stay are extremely onerous,
8 and I never thought that we had any chance of getting
9 stay. And from my point of view, the fact that we might
10 have filed a stay and found that the stay was denied would
11 not have deterred in any way the applicant from filing for
12 his building permit and getting the building permit
13 because as far as the zoning administrator was concerned,
14 this matter had been finally decided by a Board decision
15 in which the Board said there's no problem with the side
16 or the rear yard compliance.

17 So I don't think that in order for us to have
18 met the standard of reasonableness that is inherent in the
19 statute, that it was necessary for us to apply for a stay
20 or to file and ask the Board to hold up action on the
21 building permit when we were actually expecting some time
22 later that that issue would be decided by the court of
23 appeals. Thank you.

24 BZA CHAIR HILL: Thank you, Mr. Brown. Does my
25 fellow board members have any questions for anyone? Do my

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1 fellow board members have any questions for anyone? Okay.
2 Then what I suggest is we're going to go ahead and, Mr.
3 Young, excuse the group, and we're going to deliberate on
4 the timeliness issue. I see Vice Chairman John's hand up.

5 VICE CHAIR JOHN: Was there an issue of
6 standing as well, Mr. Chairman?

7 BZA CHAIR HILL: I don't remember that one.

8 VICE CHAIR JOHN: I believe someone raised an
9 argument that --

10 BZA CHAIR HILL: Oh, it's the appellant, the
11 lack of standing. I think -- why don't we just figure out
12 whether or not we can do the timeliness issue unless you
13 have where they --

14 VICE CHAIR JOHN: I think you should hear --
15 (Simultaneous speaking)

16 BZA CHAIR HILL: -- or you can hear the
17 argument.

18 VICE CHAIR JOHN: Yes, we should hear the
19 arguments. Thank you.

20 BZA CHAIR HILL: Okay. Okay.

21 MEMBER SMITH: Agreed.

22 BZA CHAIR HILL: Mr. Sullivan. Mr. Sullivan,
23 you have an argument that the appellants have not been
24 aggrieved and have a lack of standing. Would you like to
25 make your argument?

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1 MR. SULLIVAN: Very brief.

2 BZA CHAIR HILL: I can't hear you, Mr.
3 Sullivan. Sorry.

4 MR. SULLIVAN: Can you hear me now?

5 BZA CHAIR HILL: Yes.

6 VICE CHAIR JOHN: Yes.

7 MR. SULLIVAN: Okay. Sorry. I'll be very
8 brief. The issues complained of are 10-foot rule, which
9 only applies to any adjoining building that the adjoining
10 building property owner is not an appellant. They haven't
11 filed the appeal. The only person that could possibly be
12 impacted by that rule, which is a contextual zoning rule
13 meant to protect the adjoining building property.

14 The other thing, side yard, they're arguing
15 that the difference of 1 foot of a side yard on either
16 side aggrieves them. The closest appellant is two doors
17 down. The argument is that their sunlight is affected by
18 that, which is completely impossible from the context of
19 the two properties for the rear addition. And the 10-foot
20 rule doesn't apply to them anyway.

21 And I filed something, and we put a map in the
22 case file. Mr. Fay in particular is three door -- three
23 properties away on the other side of the block, so. And
24 from their claims itself, none of them have claimed that
25 they're aggrieved by the side yard. They've claimed

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1 they're aggrieved by other aspect of this IZ project like
2 trash, number of bedrooms, noise, traffic, other things
3 completely unrelated to the only two issues on merit.

4 So that's all I have on that. I would like to
5 request to respond briefly to Mr. Brown, if that's
6 allowed, either for myself or Mr. Lampert.

7 BZA CHAIR HILL: Give me one second, Mr.
8 Sullivan. I'm looking up something. So, OZLD, if you can
9 hear me, I can't remember how rebuttal works off the top
10 of my head in terms of if the -- I guess the appellant --
11 I'm sorry. I guess there are motions in front of us to
12 dismiss. There has been an argument made how that is not
13 necessary, and then I guess they oppose. There's
14 opposition. And I guess there's rebuttal to that
15 opposition.

16 I'll let OZ think about for a second as I go to
17 DOB and Mr. Lambert and see if you have any further
18 comments about Mr. Sullivan's comment that the appellants
19 are not aggrieved.

20 MR. LAMPERT: Mr. Chairman, DOB's not taking a
21 position one way or another on that. We think that on
22 timeliness, the case should be dismissed and that's
23 sufficient.

24 BZA CHAIR HILL: Okay. Mr. Brown, do you have
25 any response to the property owner's argument that the

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1 appellants are not aggrieved?

2 MR. BROWN: This was not -- this was discussed
3 in our initial filing, and also discussed on Page 9 and 10
4 of our reply brief -- on our reply to the motion. And in
5 our view, the motion, which was not backed by the citation
6 of any prior decision of the court or the Board with
7 regard to standing misapplies the law standing not only
8 with respect to how standing is determined in the court by
9 even -- also by the more relaxed standard of standing
10 before an administrative agency.

11 I am not aware of any standing requirement
12 before an administrative agency that the particular
13 grievances that one has have to be the source of the
14 aggrievement. For example, if Mr. Fay is disturbed by the
15 possibility that this much enlarged building is going to
16 greatly -- is going to greatly enlarge the problem of
17 trash on the property, if he doesn't have a legal argument
18 with regard to trash, he has to find some other legal
19 argument which would hopefully make the project go away.
20 And that's exactly what he's done in this case.

21 If you live within 200 feet of the property and
22 you don't want to see your neighborhood radically altered
23 with a much larger building, your job is to find some
24 legal reason why the building should not be erected, and
25 the special exception should be denied. There doesn't

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1 have to be a close connection between what it is that you
2 are aggrieved by and the legal claim that you made. You
3 just have to have standing to make the claim. And you
4 have standing if you're a nearby property owner and you
5 don't want to see this project.

6 And I'm not aware of any case law that requires
7 the particular issue to be the issue that -- a particular
8 aggrievement has to be the basis of standing. But even if
9 that were the case, the argument with that has been
10 presented with regard to the 10-foot rule would mean if it
11 were accepted and the merits of that -- the merits of that
12 argument are whether that argument is correct or not is
13 not the basis for standing. The question is whether or
14 not if the argument were given credence by the Board, it
15 would relieve the -- it would relieve the aggrievement.

16 In this case, all of my appellants are
17 aggrieved by the fact that this building is going to be
18 twice as large as it is today, and the largest thing on
19 the block as Commissioner Hood described it in dissenting
20 from the original approval. So I just think there's just
21 no merit to the notion that there's no standing in this
22 case by property owners who live relatively close by the
23 property.

24 BZA CHAIR HILL: Okay. All right. Thanks, Mr.
25 Brown. I'm going to come back to the property owner's

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1 attorney, as well as DOB if they have any rebuttal to the
2 appellant's response to the timeliness issue. Before I do
3 that, does the Board have any questions of the property
4 owner or the appellant concerning the issue of a
5 grievance? Okay. All right. Mr. Sullivan, you have some
6 rebuttal?

7 MR. SULLIVAN: Thank you, Mr. Chair. Mr. Brown
8 said a lot on the timeliness issue, and none of it even
9 hinted at this appellant meeting 302.6(a). He has
10 inserted his own standard. He says there's a standard of
11 reasonableness inherent in the statute. The
12 reasonableness is not the standard. It's not in 302.6(a).
13 He said he was surprised, which would go to, I guess, his
14 estimation of likelihood of approval or likelihood of
15 winning an appeal at the court of appeals on a self-
16 certification issue. But yet, the final decision of that
17 court was on June 22nd. It wasn't on July 10th. That was
18 80 days before he filed. Surely, he wasn't surprised that
19 his request for a rehearing was denied.

20 Not that that matters because this is really
21 simple. He has not even -- he's essentially stipulated
22 that there's no extraordinary circumstances beyond his
23 control that impaired his ability to file the appeal. And
24 that's it.

25 BZA CHAIR HILL: Okay.

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1 MR. SULLIVAN: Thank you.

2 BZA CHAIR HILL: Okay. So now -- I'm just
3 trying to remember now. So, OZLD, is there rebuttal on
4 rebuttal?

5 MS. NAGELHOUT: You might want to give DOB an
6 opportunity to respond, and then I think you're done
7 unless you want to hear more.

8 BZA CHAIR HILL: Okay. DOB, do you have
9 anything you'd like to add?

10 MR. LAMPERT: Just on the issue of prejudice
11 because the appellant's raised it, and Mr. Sullivan
12 suggested that he has his witness here who can testify as
13 to what work has happened, which would go towards
14 prejudice if the Board was inclined to allow the
15 extension. I think that Mr. Sullivan should have his
16 witness testify as to what the prejudice is because the
17 Board has to find -- make a finding of no prejudice. But
18 that's all I've got to say.

19 BZA CHAIR HILL: Okay. All right. Okay. Does
20 the Board have any final questions of anybody? Okay. I'm
21 going to go ahead and ask Mr. Young to excuse everyone.
22 We're going to deliberate on the two preliminary matters,
23 and then we'll see whether we're coming back or not.
24 Okay? Thank you, all, for participating and we'll see
25 what happens. Mr. Brown, we hope you recover.

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1 Okay. I've earned my salary. I've earned my
2 little dollarly [sic] amount over these past couple hours.
3 So somebody else can start. Raise your hand whenever you
4 want because I'm going to wait. Go ahead, Vice Chair
5 John.

6 VICE CHAIR JOHN: So I'm just going to say a
7 couple words so that folks can gather themselves and join
8 in. So on the issue of standing, I think that that's much
9 clearer and straight forward because the Board adopts a
10 very relaxed view of standing. And I don't agree with Mr.
11 Sullivan that because the issue is the 10-foot rule and
12 the side yard, that that automatically means that no other
13 neighbor would have standing to file a claim. So I will
14 dismiss that.

15 The issue of timeliness I think requires a
16 little more thought, but in the end, I would dismiss on
17 the basis of lack of timeliness. And that I appreciate
18 Mr. Brown's discussion of why the general rule should not
19 be applied. But in this case, looking at the timeline and
20 when the DOB issued the building permit, that was June 30
21 of 2023.

22 The appellants live close to the building, and
23 should have seen that permit. That was sort of like their
24 last chance to know that something was happening. And so
25 they would have 60 days from then to file an appeal to the

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1 BZA.

2 So there's a long line of cases, both at the
3 D.C. -- at the BZA and the court of appeals that basically
4 say you cannot have an extension of time if you're
5 negotiating with DOB or DCRA, the previous, you know,
6 which was formerly the DCRA. Even if you're negotiating,
7 you have to preserve your appeal rights, and so the 60
8 days is fairly certain except for situations that are not
9 under the control of the applicant. And I can't find that
10 there was anything here beyond the control of the
11 applicant except that they believed that the court of
12 appeals case would resolve all of the issues, and then
13 they would have been successful.

14 I just note that this was a self-certified
15 application, and the Board -- the applicant assumes the
16 risk that the applicant will need additional approval from
17 the BZA if the applicant goes to DOB and DOB says you will
18 need more -- you will need more relief. So I think that
19 approving this case and granting this extension,
20 especially after the applicant had so many chances to file
21 an appeal, I don't think that that would be consistent
22 with either the Board's practice or the case law. So I
23 would dismiss the appeal. No. Deny the appeal.

24 BZA CHAIR HILL: Dismiss the appeal?

25 VICE CHAIR JOHN: Dismiss. Dismiss.

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1 BZA CHAIR HILL: Dismiss.

2 VICE CHAIR JOHN: Okay.

3 BZA CHAIR HILL: Thank you.

4 VICE CHAIR JOHN: I need coffee.

5 BZA CHAIR HILL: Thank you. That's all right.

6 We're going to get some pretty soon. Mr. Smith?

7 MEMBER SMITH: I, if I can, get kudos to Ms.
8 John for eloquently stating the exact same position that I
9 have on both of these -- the questions of standing and
10 also on timeliness. And thank you, Ms. John, for pushing
11 for Mr. Sullivan to provide details about his argument
12 about standing.

13 And I wholeheartedly agree with you that the
14 Board has traditionally taken a very relaxed stance on
15 standing, and often times we have granted standing to
16 residents that may not be directly adjacent to the
17 property. They may be, you know, within 1,000 feet of the
18 property. And if they had demonstrated that they may be
19 aggrieved in some way -- aggrieved or have some type of --
20 there will be some type of impact on their property as a
21 result of a zoning approval that we granted or the zoning
22 administrator has approved, it was an administrative
23 building permit, we have typically granted them the
24 ability to appeal and to hear their case.

25 Now that doesn't mean that their arguments

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1 would mean that we will grant the appeal, but we would at
2 least hear their appeal. So I do agree that Mr.
3 Sullivan's argument about standing is outside the
4 character of this Board. So I would dismiss that
5 particular argument and agree with Mr. Brown's argument
6 that he stated.

7 Now regarding timeliness, again, I agree with
8 Ms. John. Looking at 3 -- I mean Y302.6 and the arguments
9 stated by the appellants as well as the property owners,
10 and DOB, the -- I mean the appellant did not have an
11 exceptional circumstance that he couldn't file for an
12 appeal. And as Ms. John stated, it would behoove the
13 appellants to reserve their appeal right by filing an
14 appeal, a timely appeal after the building permit was
15 issued June 30th.

16 We have regularly seen appeals before this
17 Board where -- that were submitted, that we ended up
18 staying in some way, shape, or form because there was an
19 appeal winding through the court of appeals. And if that
20 was requested by the appellants and they put forth an
21 argument for why it needs to be stayed, I disagree with
22 Mr. Brown that I think that this Board may have stayed it.
23 We've done it before. We've had a history of that.

24 So I completely disagree with Mr. Brown's
25 argument on that. Maybe it was some -- him being

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1 misinformed on something. But completely disagree with
2 that argument. So based on what -- based on the record,
3 it seems to me that this is fairly straight forward, that
4 this appeal is untimely, and I would vote to dismiss.

5 BZA CHAIR HILL: Thank you. Mr. Blake.

6 MEMBER BLAKE: Thank you all very much. I
7 first of all say I would agree and was persuaded by the
8 Department of Buildings' argument with regard to the
9 appropriateness of Y203.6(a), which was also supported by
10 the analysis done by Vice Chair John and Board Member
11 Smith.

12 With regard to the issue of -- let's see,
13 standing, I do believe we have had a more relaxed view to
14 that, although we have made sure we kept on point with
15 regard to the issues at the time of discussion. I do
16 think that the ability to have some flexibility in
17 granting that has been fairly flexible. So, that said, I
18 would be in support of where we -- dismissal.

19 BZA CHAIR HILL: Okay. Thank you. I guess I
20 would ask -- not right now, but OZLD or the staff to add
21 possibly standing to our next training because I'd be a
22 little curious about -- I mean the property owner's
23 argument in that I know we have had, right, a relaxed
24 standard for standing.

25 I do think that I would be in agreement with

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1 everything that everyone has said in terms of that
2 granting the fact that the appellants were not aggrieved
3 to dismiss the appeal is not appropriate because we have
4 had -- I mean we've had people that like have brought
5 appeals to us, they're like blocks and blocks away from
6 the property, right? And so -- but now suddenly I'm like
7 going, hmm, that sounds like an interesting argument. Why
8 is it that they have.

9 And so now I have to go back through the
10 regulations or ask OZLD to help me understand again why a
11 standing works the way it works. But I agree that in the
12 past and as per the regulations I assume, you know,
13 standing is something that it's not necessarily just the
14 affected properties concerning an appeal from the zoning
15 administrator. So I would also be in agreement that we
16 would dismiss that argument that the appellant are not
17 aggrieved that's being brought forward by the property
18 owner.

19 In terms of the timeliness motion, I mean I'll
20 agree with everyone, the votes are already there for the
21 timeliness to dismiss. But, you know, like I didn't see
22 the argument that they're meeting the criteria under
23 302.6(a) for us to waive the requirements of the 60 days.
24 I mean it was basically seven to eight months after the
25 permit was issued. I mean you can't wait -- people have

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1 to forward with their applications.

2 I mean they've already gone through all of the
3 work and now they have the permit, so they're going to
4 start doing work on it whether that -- if that just means
5 getting financing together, or that means getting, you
6 know, all of the appropriate people in place to start the
7 work, you're starting to do the work. You might wait the
8 60 days after the permits are issued to see whether or not
9 anything else comes up, but then after the 60 days, you're
10 trying to -- you're spending money.

11 So I would agree with all of you that this
12 should be dismissed as not timely. So I'm first going to
13 make a motion to dismiss the property owner's argument
14 that the appellant is not aggrieved and has lack of
15 standing that was in Exhibit 10B, and ask for a second,
16 Ms. John.

17 VICE CHAIR JOHN: Second.

18 BZA CHAIR HILL: Okay. So that one's been made
19 and seconded, Mr. Moy. If you can go ahead and make a
20 motion on that motion, please.

21 MR. MOY: Thank you, sir. When I call your
22 name, if you'll please respond to the motion made by
23 Chairman Hill to dismiss on standing. What was the
24 citation again, Mr. Chair?

25 BZA CHAIR HILL: I was just saying that I am

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1 making a motion to dismiss the property owner's argument
2 that the appellants are not aggrieved and have lack of
3 standing, and I asked for a second by Ms. John.

4 MR. MOY: Okay. Great.

5 VICE CHAIR JOHN: I --

6 MR. MOY: Thank you, sir.

7 VICE CHAIR JOHN: And I seconded, so now we're
8 just voting.

9 BZA CHAIR HILL: Right.

10 MR. MOY: Yes. And this motion was seconded by
11 Vice Chair John. And Mr. Smith?

12 MEMBER SMITH: Yes.

13 MR. MOY: Mr. Blake?

14 MEMBER BLAKE: Yes.

15 MR. MOY: Vice Chair John?

16 VICE CHAIR JOHN: Yes.

17 MR. MOY: Chairman Hill?

18 BZA CHAIR HILL: Yes.

19 MR. MOY: Staff move to record the vote as 4 to
20 0 to 1, and this is for the motion made by Chairman Hill.
21 The motion was seconded by Vice Chair John who also voted
22 to dismiss on this motion as well as voted to dismiss on
23 this motion by Mr. Smith, Mr. Blake, Vice Chair John, and
24 Chairman Hill. Motion carries 4 to 0 to 1.

25 BZA CHAIR HILL: Next motion I'm going to make

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1 is the motion to dismiss the application as untimely that
2 were motions that were brought before us by the Department
3 of Buildings and the property owner, and ask for a second,
4 Ms. John.

5 VICE CHAIR JOHN: Second.

6 MR. MOY: When I call your name, if you'll
7 please reply to the -- respond to the motion made by
8 Chairman Hill to dismiss on -- to dismiss the appeal on
9 untimeliness. The motion was seconded by Vice Chair John.
10 Mr. Smith.

11 MEMBER SMITH: Yes.

12 MR. MOY: Mr. Blake?

13 MEMBER BLAKE: Yes.

14 MR. MOY: Vice Chair John?

15 VICE CHAIR JOHN: Yes.

16 MR. MOY: Chairman Hill?

17 BZA CHAIR HILL: Yes.

18 MR. MOY: Staff would record the vote as 4 to 0
19 to 1, and this is on the motion made by Chairman Hill.
20 The motion was seconded by Vice Chair John who voted to
21 dismiss on untimeliness as well as dismissal on
22 untimeliness from Mr. Smith, Mr. Blake, and, of course,
23 Vice Chair John and Chairman Hill. No other board member
24 participating. Motion carries 4 to 0 to 1.

25 BZA CHAIR HILL: Okay. You all want to get a

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1 cup of coffee, and we'll start back real quick? Let's
2 just take ten minutes, grab a cup of coffee. Thank you.

3 (Whereupon, the above-entitled matter went off
4 the record at 11:11 a.m., and resumed at 11:19 a.m.)

5 BZA CHAIR HILL: Mr. Moy, go ahead and call our
6 next case.

7 MR. MOY: Thank you, sir. After a quick break,
8 the Board has returned to its public hearing session, and
9 the time is now at or about 11:29 a.m. in the morning.
10 The next case in the Board's public hearing session is
11 application number 21044 of Theresa Roosevelt and Robert
12 O'Loughlin. This is a self-certified application pursuant
13 to Subtitle X Section 901.2, specific exception under
14 Subtitle D Section 207.5 that would allow the rear wall of
15 a semi-detached building to extend further than 10 feet
16 beyond the farthest rear wall of any adjoining principle
17 residential building. The property's located in the R-2
18 zone at 2918 Upton Street Northwest, Square 2235, Lot 86.

19 It is a preliminary matter here, as you know,
20 Mr. Chairman. There is two requests for party status in
21 opposition from a James Gasser and an Adam and Linday
22 Darrow. And I would ask you, sir, that when you call Adam
23 Darrow to describe the content of his filing that was
24 submitted this morning, and that's all I have for you.
25 Thank you.

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1 BZA CHAIR HILL: Okay. Thanks, Mr. Moy. Can
2 the applicant hear me, and if so, could they introduce
3 themselves for the record?

4 MS. ROOSEVELT: Yeah. I can hear you. And I
5 apologize, I don't think you can see me. I assure you I
6 did put on a suit for this. But my video doesn't seem to
7 be working correctly unless that's wrong and you see me.

8 BZA CHAIR HILL: Could you introduce yourself
9 for the record?

10 MS. ROOSEVELT: Yes. My name is Theresa
11 Roosevelt, and along with my husband, Robert O'Loughlin, I
12 am the applicant in this case.

13 BZA CHAIR HILL: Okay. Ms. Roosevelt, yeah, I
14 -- it's not even so much the camara as much. I can't hear
15 you very well. Maybe turn off your camera because it
16 looks like it's trying, and let's see if that improves the
17 sound.

18 MS. ROOSEVELT: Does that improve the sound?

19 BZA CHAIR HILL: No, not much.

20 MS. ROOSEVELT: Does this help? I'm switching
21 to my other device.

22 BZA CHAIR HILL: That's -- say something now
23 again.

24 MS. ROOSEVELT: Does this improve the sound?

25 BZA CHAIR HILL: A little bit more.

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1 MS. ROOSEVELT: I'll try it again. Try the
2 other device. I actually think they're not letting me use
3 the other device. I don't know if they see me on my cell
4 phone and would be able to use that one instead.

5 BZA CHAIR HILL: Mr. Young, if you see another
6 Theresa Roosevelt in there, I guess. Ms. Roosevelt, why
7 don't you try to figure it out?

8 MS. ROOSEVELT: I can --

9 BZA CHAIR HILL: And we have a couple of
10 preliminary matters regardless.

11 MS. ROOSEVELT: Okay. Great.

12 BZA CHAIR HILL: Mr. Gasser, can you hear me?
13 Mr. James Gasser, you're maybe on mute. We see Ms.
14 Roosevelt now. Mr. Gasser, can you hear me? Okay. Mr.
15 or Ms. Darrow, can you hear me? Can you all hear me?

16 MS. ROOSEVELT: Yes.

17 BZA CHAIR HILL: Okay.

18 MS. ROOSEVELT: And, Commissioner Hill, can you
19 hear me now?

20 BZA CHAIR HILL: Yep. I got you. Go ahead,
21 Ms. Roosevelt, and put yourself on mute for a second.

22 MS. ROOSEVELT: Okay.

23 BZA CHAIR HILL: Who just started to speak?

24 MR. DARROW: This is Adam Darrow. I'm trying
25 to get the video up as well.

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1 BZA CHAIR HILL: Yep. Okay. Great, Mr.
2 Darrow.

3 MR. DARROW: You got me there?

4 (Simultaneous speaking.)

5 BZA CHAIR HILL: No, I don't have you on video
6 yet.

7 MR. DARROW: Okay.

8 BZA CHAIR HILL: Keep trying.

9 MR. DARROW: I see. I'm stuck on a device in a
10 car. My apologies. I think we're there, but -- yes, I'm
11 online and I've sent my --

12 (Simultaneous speaking.)

13 BZA CHAIR HILL: If I can hear you -- if I can
14 hear you, that's all right, Mr. Darrow, for now.

15 MR. DARROW: Perfect. Thank you.

16 BZA CHAIR HILL: Ms. Gasser, can you hear me?
17 That's a problem.

18 MR. GASSER: Wait a minute. Can you hear me
19 now?

20 BZA CHAIR HILL: Yeah, yeah. I can hear you.
21 Great.

22 MR. GASSER: Well, your system wasn't working
23 very well.

24 BZA CHAIR HILL: Okay. No problem. Can you
25 try your camera? If not, Mr. Gasser, that's okay as long

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1 as I can hear you. Can you respond for a moment?

2 MR. GASSER: Yes.

3 BZA CHAIR HILL: Okay. Great. Could you
4 introduce yourself for the record, Mr. Gasser?

5 MR. GASSER: Yes. My name is James Gasser.
6 I'm at 2922 Upton Street Northwest.

7 BZA CHAIR HILL: Okay. All right. And, Mr.
8 Gasser, you're the immediately adjacent property, correct?

9 MR. GASSER: No. That's the Darrows. I am one
10 property over.

11 BZA CHAIR HILL: Okay. Mr. Darrow, can you
12 hear me, and if so, could you introduce yourself for the
13 record?

14 MR. GASSER: Yes. My name is Adam Darrow. My
15 wife and I live at 2920 Upton Street, the immediately
16 joining property to the west of the applicant.

17 BZA CHAIR HILL: Okay. I got a little confused
18 by the drawings. Are you actually connected, or are you
19 separated by an alley?

20 MR. DARROW: Neither. We are not -- it's not
21 an alley. There is a break in buildings. Ours is a
22 Wardman style townhouse that ended in a party wall that
23 Ms. Roosevelt owns half of. There's a small walkway
24 between the Roosevelts and our property on -- that they
25 own.

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1 BZA CHAIR HILL: Got it. But I mean there is a
2 gap there.

3 MR. DARROW: Yes. Approximately 8 feet between
4 the buildings, give or take.

5 BZA CHAIR HILL: Got it. And, Ms. Roosevelt --
6 oh, never mind, I'll get back to that. So, Mr. Gasser,
7 can you hear me?

8 MR. GASSER: Yes, I can.

9 BZA CHAIR HILL: Why do you believe that the
10 Board should grant you party status? Why do you think
11 that you're uniquely qualified?

12 MR. GASSER: Because I've lived here for 27
13 years, and that the building that is being proposed to add
14 on to, 2918, will cause a shadow to be thrown on to my
15 property.

16 BZA CHAIR HILL: So your property is the
17 property next to 2920?

18 MR. GASSER: Correct.

19 BZA CHAIR HILL: Correct?

20 MR. GASSER: Correct.

21 BZA CHAIR HILL: Okay. All right. Does the
22 Board have any questions for either party status people?
23 Go ahead, Ms. John.

24 VICE CHAIR JOHN: I didn't hear Gasser, he is
25 two properties over?

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1 MR. GASSER: No, ma'am. I am one property
2 over. The Darrows are next, and then my property.

3 VICE CHAIR JOHN: Okay.

4 BZA CHAIR HILL: Right. So as I recall, Ms.
5 John, there is the applicant. Then there's this walkway.
6 Then there's Mr. Darrow. And then Mr. Darrow -- and next
7 to Mr. Darrow, connected to, sharing a wall, right, is Mr.
8 Gasser, correct?

9 MR. GASSER: Correct.

10 BZA CHAIR HILL: Okay. So I mean I don't have
11 an issue with Mr. Darrow. I'm speaking to my Board. I'm
12 just not so clear as to whether I think Mr. Gasser meets
13 the criteria within the regulations. But I'll let my
14 Board think about that for a minute. And if you, Mr.
15 Darrow and Mr. Gasser, wouldn't mind putting yourselves on
16 mute just so I can hear from my board members. I mean Mr.
17 Darrow, I think again, he's not even -- he's not adjacent
18 per say, but he's right next to that little walkway, and
19 so I can understand how he's more uniquely affected than
20 the general public.

21 And Mr. Gasser being one home past that, and
22 this being a 5-foot extension past the 10-foot limit, I
23 don't know if Mr. Gasser is necessarily any more uniquely
24 qualified than somebody that would have been two doors
25 down the other direction if this was a complete row. I

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1 don't know.

2 Do my fellow board members have any thoughts on
3 Mr. Gasser? I mean, obviously, he can participate as a
4 member of the public, but I wondered if my board members
5 have any thoughts.

6 VICE CHAIR JOHN: So, Mr. Chairman, I think Mr.
7 Gasser is sort of borderline. He complains of the shadow,
8 and he is -- I mean I am kind of inclined to grant party
9 status. I would like to see if anybody disagrees with me.

10 BZA CHAIR HILL: Okay. That's fine. I mean
11 I'm just -- I think Ms. Gasser, again, is borderline as
12 well. But like I don't know. Mr. Smith?

13 MEMBER SMITH: I'm inclined to grant. Like you
14 say, it is borderline, but he is within I think a
15 reasonable distance where you could make an argument that
16 he could be affected by light and air, especially given
17 the orientation of where this addition is. It'll be to
18 the east of his property.

19 BZA CHAIR HILL: Okay. All right. We got a
20 long day, so that's two right there. So that's fine --
21 it's good enough for me. Ms. Roosevelt, so what we're
22 going to do here is I guess the Board is going to grant
23 party status to Mr. Darrow and Mr. Gasser, and had you all
24 been in the hearing room together, had we been live, Mr.
25 Darrow, I would have asked you to have spoken with Mr.

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1 Gasser to kind of combine your testimony or at least make
2 it efficient for the Board. You understand? So you all
3 don't need to repeat whatever you all talk about. Okay?
4 But, you know, each one of you can give your points for
5 the case.

6 (Simultaneous speaking.)

7 BZA CHAIR HILL: Good, Mr. Gasser. Wonderful.
8 So what is going to happen here now is I'm going to make a
9 motion, and you're both going to get party status. And
10 then Ms. Roosevelt will go ahead and make her case as to
11 why she believes she is meeting the criteria for us to
12 grant the relief requested.

13 You, Mr. Darrow, will go first since you're
14 closest. You'll have an opportunity to give your
15 testimony as to why you believe that this relief should
16 not be granted. And then Mr. Gasser, you'd have the same
17 opportunity. We will then hear from the Office of
18 Planning. The Office of Planning will give their opinion,
19 and I don't think there's an ANC representative here. Is
20 there? Okay. And so --

21 MS. ROOSEVELT: An ANC submitted a report with
22 great weight, but I don't think they're here.

23 BZA CHAIR HILL: I got that. Thank you.

24 MS. ROOSEVELT: Thank you.

25 BZA CHAIR HILL: So then you, Mr. Darrow and

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1 Mr. Gasser, and Ms. Roosevelt will have an opportunity to
2 ask questions of each other about all the testimony that
3 was given as well as the Office of Planning as it pertains
4 to the regulations. And I'll try to steer you in the
5 direction of the regulations. And then we'll have a
6 conclusion in reverse order. I usually let the party
7 status say at least something brief, although it's not in
8 the regulations. And then the applicant gives their
9 conclusion.

10 So that being the case -- Mr. Darrow, were you
11 trying to say something? No. Okay. So, Mr. Darrow, this
12 is going to take a while. You might want to pull over.
13 And so, Ms. Roosevelt, if you want to go ahead and give
14 your testimony, and you can begin whenever. Like I got 15
15 minutes on the clock there so I know where we are. But
16 please begin whenever you like.

17 MS. ROOSEVELT: Thanks very much. My name is
18 Theresa Roosevelt. Like I said, I'm at 2918 Upton Street
19 Northwest. I live here with my husband and two small
20 children. This is a request for a special exception to
21 build an addition to the rear yard of our house at 2918
22 Upton Street. It would extend 15 feet, which is 10 feet
23 longer than we are able to do -- excuse me. Sorry. It is
24 5 feet longer than we are entitled to as a matter of
25 right.

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1 And so this special exception is really about
2 those 5 feet, which is an exception from Subtitle D
3 Section 207. And it's also about our ability to
4 coordinate this build with our attached neighbor at 2916
5 Upton Street. They have already received this same
6 special exception, and under the law, once they build, we
7 would be able to do this same build. In fact, we'd be
8 able to go out even further. We'd be able to go 25 rather
9 than 15 feet because we could go 10 feet beyond them. But
10 we have coordinated carefully with them, and we would like
11 to work with them. We also have the support of 22 of our
12 neighbors. And at this point, I would like to turn to our
13 slides. You can see the first slide.

14 BZA CHAIR HILL: Which slide are you pulling up
15 here?

16 MS. ROOSEVELT: So the first slide is a picture
17 of where the addition would be.

18 BZA CHAIR HILL: Which exhibit please?

19 MS. ROOSEVELT: It's Exhibit 5 in the record.

20 BZA CHAIR HILL: Okay. Mr. Young, if you could
21 pull Exhibit 5.

22 MS. ROOSEVELT: And I submitted a PowerPoint to
23 Mr. Young.

24 BZA CHAIR HILL: Is the PowerPoint in the
25 record?

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1 MS. ROOSEVELT: It should be. I submitted it
2 in time to him.

3 BZA CHAIR HILL: Okay.

4 MS. ROOSEVELT: Great. And so this is my
5 introductory slide, and then you'll go to --

6 BZA CHAIR HILL: Okay. Great.

7 MS. ROOSEVELT: -- the second slide right here.
8 Great. That shows you where the addition will go on the
9 back of our house. It is within the area of the current
10 covered patio, and then extends 4 feet beyond that since
11 that covered patio extends 11 feet. So for a total of 15
12 feet, and then a 10-foot deck.

13 And like I said, you can see to the right-hand
14 side our attached neighbor's deck, and they have the
15 special exception and have been granted a two-year renewal
16 of that on January 31, 2024, in case number 20618A.

17 What we're requesting is a very incremental
18 increase of 5 feet beyond what we could do as a matter of
19 right. It will have a minimal impact on our neighbors. I
20 know the standard has to do with the impact on our
21 attached or adjacent neighbor, or our adjoining or
22 adjacent neighbor. As you noted, neither of the objectors
23 are adjacent or adjoining, and you can actually see that 8
24 foot, 9 inch pathway between our houses in the image that
25 I'm showing right now. We could go to the next slide

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1 please.

2 BZA CHAIR HILL: That 8 foot, you're not
3 filling in that 8 feet, correct?

4 MS. ROOSEVELT: No, not at all. The --

5 BZA CHAIR HILL: Okay.

6 MS. ROOSEVELT: The addition will match exactly
7 with our house.

8 BZA CHAIR HILL: That's fine. And just so you
9 know, it doesn't matter whether they're adjacent or
10 adjoining or not.

11 MS. ROOSEVELT: Okay. That's fine. I'm still
12 going to --

13 (Simultaneous speaking.)

14 MS. ROOSEVELT: -- show with the solar study
15 requested by the Board of the -- what --

16 BZA CHAIR HILL: Yep.

17 MS. ROOSEVELT: That there's no impact. So as
18 you can see here, yes, we have the consent of our attached
19 neighbor who we'd do the project with. The ANC 3F has
20 recommended approval. And the Board of Planning also
21 recommends approval. I've submitted letters from 22
22 neighbors of support. In fact, I have talked to any
23 neighbor who would talk to me and gotten overwhelming
24 support from my neighbors in addition to the ANC. I also
25 have tried to reach out to the two neighbors who have

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1 objected. My outreach is filed into the record, and I
2 regret that I haven't been able to come to agreement with
3 them.

4 I also wanted to point out that the rear yard
5 is currently 88.5 feet, and with the proposed addition, it
6 will still be at 63.5 feet, which is a lot occupancy of 28
7 percent. The regulation requires not more than 40
8 percent, so this is well below that. We can continue on
9 to the next slide if you would like.

10 The full plans are available in Exhibit 6.
11 This is a A108 from those plans. And you'll see here the
12 rear addition, both from the back and then also the side
13 façade. You can see the windows and that it is made of
14 siding.

15 In conclusion, per Subtitle D, Section 5201.4,
16 we have demonstrated that the proposed addition shall not
17 have a substantially adverse effect on the use or
18 enjoyment of any abutting or adjacent dwelling or
19 property. The proposed special exception meets the burden
20 of proof because -- if you want to go to the next slide
21 please, A, the light and air available to neighboring
22 properties is not duly affected because the height of the
23 addition would be proportional to the principle structure
24 and side yards, and there is a considerable rear yard that
25 will be retained, so the proposed addition is unlikely to

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1 affect available air flow.

2 The shadow studies that I have submitted into
3 the record show that there will be no impact on the
4 adjacent properties, and minimal impact on the attached
5 property that has agreed to this and wants to do the
6 project with us.

7 B, the privacy of use and enjoyment of
8 neighboring properties shall not be unduly compromised.
9 As the Board of Planning explained, the windows should not
10 result in an undue impact on privacy of the adjacent
11 property, if you can call Mr. Darrow's property adjacent,
12 like you've talked about already. In addition, they would
13 not be substantially more -- the windows would not be
14 substantially more intrusive than what would be allowable
15 by right since we could do 10 feet by right. And just to
16 be clear, Mr. Darrow's property has a 10-foot addition
17 itself, and this would -- so even if we went out 10 feet,
18 the windows he's talking about would be covered by that.
19 The views created by the windows and deck are mitigated by
20 the size of the rear yard and substantial tree coverage.

21 C, the proposed addition does not
22 substantially, visually intrude upon the character, scale,
23 and pattern of houses along the street or alley frontage.
24 It would not be highly visible from the street. While it
25 is visible from the alley, it would remain well back due

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1 to the deep rear yard. It also is not inconsistent with
2 other buildings along the alleyway, and would be partially
3 screened by existing fencing and vegetation.

4 Finally, D, we have provided graphical
5 representations addressing the criteria. The Board of
6 planning suggested we provide an additional shadow study
7 comparing the difference between a 10 foot and 15-foot
8 addition when they recommended approval. And we filed
9 that into the record, and also have provided it on the
10 next slides.

11 At this point, I'd like to ask my architectural
12 designer, Eric Gelman, to join the discussion and talk
13 about those shadow studies and what they show about the
14 light, and in particular, as it relates to 2920 and 2922
15 Upton Street Northwest. And you can move to the next
16 slide if you would like where the shadow study is -- where
17 the first of the shadow study exists. And then, Mr.
18 Gelman, are you there?

19 MR. GELMAN: I'm here.

20 MS. ROOSEVELT: Great.

21 MR. GELMAN: Sure. So we conducted a series of
22 shadow studies taken from March, June, and December. So
23 June and December were taken strategically because that's
24 where the solstices occur during the year, so to give you
25 the two most extreme scenarios. And then March was chosen

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1 because it falls in between June and December.

2 So, obviously, from what you can see here, and
3 this was all modeled 3D in the sketch up, is that at no
4 point during any of these times, either morning or night
5 on these most extreme conditions does it appear that the
6 rear addition has any major impact on the neighbor to the
7 west.

8 MS. ROOSEVELT: Thank you. And then should we
9 go through the slides, so do you want to go to the next
10 one? This showed -- the first one showed the 15 feet rear
11 addition. The second one is a comparison with the 10 feet
12 rear addition as suggested by the Board of Planning. And,
13 Mr. Gelman, will you just talk about this again?

14 MR. GELMAN: Sure. So, obviously, from this
15 you can tell that the impact, when scaled back to 10 feet,
16 is lesser, but not necessarily all that noticeable in
17 terms of the shadow that's cast on the neighbors.

18 MS. ROOSEVELT: Great. And then can we go to
19 the next slide as well? And --

20 MR. GELMAN: So this is just a 3D
21 representation from a perspective. You know, really in my
22 3D model from the view that's taken here, the majority of
23 the shadow is being cast on the alleyway. Maybe a bit on
24 the side façade of the immediate neighbor at 2920. But as
25 you can tell here, there's no significant impact on the

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1 neighbors.

2 MS. ROOSEVELT: Great.

3 MR. GELMAN: And, again, this is all modeled in
4 SketchUp.

5 BZA CHAIR HILL: Eric, I only see the first
6 name. Could you introduce yourself for the record?

7 MR. GELMAN: My name's Eric Gelman. I'm an
8 architectural designer, worked in D.C. for many years for
9 Bonstra Haresign Architects.

10 BZA CHAIR HILL: Got it. Okay. And what
11 software did you use for the shadowing?

12 MR. GELMAN: SketchUp.

13 BZA CHAIR HILL: Okay. All right. Okay.
14 Please continue.

15 MS. ROOSEVELT: And so you were talking there
16 about the 15 feet, and you say that it could -- if there's
17 any shadow, it's on the alley and it doesn't fall on even
18 the 10 foot addition of Mr. Darrow, the closest property.

19 MR. GELMAN: I'll refer to it as the walkway --

20 MS. ROOSEVELT: Okay.

21 MR. GELMAN: -- just to make sure that we're --

22 MS. ROOSEVELT: Yeah.

23 MR. GELMAN: -- consistent because --

24 MS. ROOSEVELT: Thank you.

25 MR. GELMAN: -- it's technically not an alley.

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1 MS. ROOSEVELT: Yeah.

2 MR. GELMAN: No. From the view that was taken,
3 and I'll also mention that I used the same 3D model
4 because I was actually the 3D designer on the adjacent
5 property at 2916. So this was submitted to the BZA and
6 approved, so these are the same visuals that were
7 previously submitted to your Board. So all I've done is
8 added the addition at 2918, and really, I don't see any
9 sort of impact on the neighbors.

10 MS. ROOSEVELT: Thank you. And then lastly,
11 just so we've done everything the Board of Planning
12 requested, can we just show the final slide which will
13 show you if it were at 10 feet rather than 15 feet. And,
14 of course, that's even less of an impact, but let's hear
15 from you, Mr. Gelman.

16 MR. GELMAN: Sure. I would say you are more
17 impacted at 2918 by a 10-foot rear addition because once
18 your neighbor at 2916 builds their addition, that will
19 cast a shadow on you. As everyone knows, sun rises in the
20 east, sets in the west. So in the morning, your
21 neighbor's 15-foot rear addition, which is to be built,
22 will cast a shadow on you given that you're adjoining.

23 MS. ROOSEVELT: Thank you. And, again, I have
24 consented to that. Thanks very much. Thank you, Mr.
25 Gelman. That concludes my presentation.

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1 BZA CHAIR HILL: Okay.

2 MS. ROOSEVELT: Happy to answer any questions.

3 BZA CHAIR HILL: Okay. Thank you. All right.

4 I'm going to go through the hearing first-ish, and then

5 let everyone ask questions, including my Board. Mr.

6 Darrow, can you hear me?

7 MR. DARROW: Do you have me audio and video?

8 BZA CHAIR HILL: I got your audio. I don't

9 have video.

10 MR. DARROW: All right. Give me 4 seconds.

11 You got me now?

12 MR. GASSER: No. Now we do.

13 BZA CHAIR HILL: Now I got you. Now I got you.

14 Okay. Mister --

15 MR. DARROW: Thank you.

16 BZA CHAIR HILL: Sure. You want to go ahead

17 and give us your testimony?

18 MR. DARROW: Absolutely. And if I can, I'd

19 actually like to start, I'm about to lose the one

20 gentleman I have asked to join us today, Mr. Mike Marti.

21 I'm not sure if he's still on the call. He had filed a

22 notice to appear. And the preliminary matter that it

23 submitted this morning was an update to witness questions

24 adding Mr. Marti, a registered architect, as an expert on

25 my side. So, Mike, if you're online, do we have you?

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1 BZA CHAIR HILL: Mr. Young, do you have Mr.
2 Mike Marti?

3 MS. ROOSEVELT: And, Commissioner Hill, I'll
4 just add for the record that I wasn't given any notice
5 that there (audio interference) of any plans.

6 BZA CHAIR HILL: Okay. Mr. Marti, can you hear
7 me?

8 MR. MARTI: Yeah. I'm here.

9 BZA CHAIR HILL: Okay, great. Can you
10 introduce yourself for the record?

11 MR. MARTI: Sure. Michael Marti. I'm a
12 registered architect.

13 BZA CHAIR HILL: Okay. Mr. Darrow, go ahead
14 and give your presentation.

15 MR. DARROW: Thank you. Okay. So
16 understanding, Mr. Marti, that I'm about to lose you, I
17 would like to principally start with, before I get into
18 some of the other issues, on basis of time out of respect
19 for the Board, Mike, if you could please, from your
20 architectural perspective, talk a little bit about the
21 impacts of the proposal by my neighbor.

22 MR. MARTI: Sure. It seems like there's a few
23 slides on the presentation where there is a little bit of
24 an overlap on the shadow, especially in June really
25 affecting the sunroom. So it seems like eastern in the

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1 morning, light is going to be reduced throughout the year
2 in this original sunroom which is used frequently. And
3 even though the addition is pulled slightly back, there's
4 still light, airflow, and privacy that's being reduced on
5 the second floors and the outdoor space of the Darrow
6 residence.

7 Additions like this can potentially reduce the
8 neighboring property values when it overly encloses the
9 view and minimizes light transmission and privacy, and
10 doesn't follow the established neighborhood character and
11 design language precedent. And at a quick glance, it
12 seems like the addition itself was not in keeping with the
13 existing architectural style of the original house it's
14 attaching to.

15 It looks like the mirror image is a great
16 response to the 2916 property, but not necessarily
17 responding to the existing conditions of the Darrow
18 property specifically. I would ask if there's other
19 schemes were considered, even schemes that were studied
20 and failed to meet the client's needs. Sometimes these
21 alternative schemes can kind of give a direction on a new
22 solution that really bridges the gaps between the client
23 requests and the existing conditions of the neighbor.

24 Also, when you look at the street view of this
25 specific block, the historic buildings utilize available

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1 height to gain additional space and square footage.

2 Adding an additional story could be a good route to kind
3 of check and see if that would be a good option. And not
4 only does that give them more square footage potentially,
5 but also responds to the street scape and the street
6 enclosure on the block, and so it's getting back to the
7 local neighborhood in the block itself.

8 We do have a little bit of space offset from
9 the property, but maybe going a little bit farther could
10 kind of help bridge that gap and be an intermediate
11 solution to make sure that not as much light, privacy is
12 reduced for the Darrow residence. And a final option
13 could be to consider minimizing the height of the
14 addition, maybe do one less story or relooking at the roof
15 pitch. It moves outward and gets higher as it goes to the
16 back of the property, and that's where it seems like it's
17 really going to affect the light and air coming through to
18 the Darrow residence.

19 BZA CHAIR HILL: Okay. Great.

20 MR. DARROW: Thank you very much, Mike. I
21 appreciate your time, and I understand you have another
22 commitment. Let us know if you want off.

23 BZA CHAIR HILL: Wait one second. Wait one
24 second, Mr. Marti. And I got to -- I got to --

25 MR. MARTI: Sure.

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1 BZA CHAIR HILL: Everybody's going to get a
2 chance to ask you questions. So --

3 MR. DARROW: Please do.

4 BZA CHAIR HILL: Yeah. Hold on a second. Let
5 me see if my Board has any questions of the architect.

6 MR. MARTI: Absolutely.

7 BZA CHAIR HILL: Yeah. I got you, Ms.
8 Roosevelt. Okay. Let me start with Ms. John, Vice Chair
9 John.

10 VICE CHAIR JOHN: Yes. Is there a slide that
11 would show the impact on Mr. Darrow's property? And does
12 he have a 10-foot extension as well?

13 MR. DARROW: I can clarify that, ma'am. I do
14 not. My house was built, and it is in the same format as
15 all of the other Wardman properties on the street. The
16 10-foot extension that Ms. Roosevelt mentioned was
17 original. It was actually -- it's a sleeping porch and
18 breakfast room on an end unit. And it mirrors every other
19 one as it was built in 1912. So, no, ma'am.

20 VICE CHAIR JOHN: Yeah. Where is the sleeping
21 porch, on who's unit?

22 MR. DARROW: On these properties, there is an
23 elevated porch, and I believe if you look at the
24 attachment that I submitted to the Board with the party
25 status request, one of the last sets of pictures I think

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1 illustrates that well. I'm sorry, I don't have the
2 exhibit in front of me.

3 VICE CHAIR JOHN: Okay.

4 MR. DARROW: The second from the back, the
5 second story, and there's a third story bump out that is
6 approximately 10 feet, 8 feet of interior space that has
7 windows on all three -- pardon me, all three sides. That
8 ground story is a breakfast room. The second story is --
9 it was designed and constructed as a sleeping porch.

10 BZA CHAIR HILL: Let me interrupt, Mr. Darrow,
11 real quick. Mr. Marti, when do you have to leave?

12 MR. MARTI: In a minute, but I can go over by a
13 few minutes if needed.

14 BZA CHAIR HILL: Okay. Then let me let the
15 applicant really quick ask any questions. Ms. Roosevelt,
16 do you have any questions of Mr. Marti?

17 MS. ROOSEVELT: Just one or two. So he talked
18 about the character, and I just wanted to point out that
19 what he said was that the character isn't in keeping with
20 my attached neighbor, and that the character of the much
21 larger one was -- or is quite different. So I just wanted
22 to ask him a little clarification on that, and then --

23 BZA CHAIR HILL: What's your question, Ms.
24 Roosevelt? I'm just trying to make it happen.

25 (Simultaneous speaking.)

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1 BZA CHAIR HILL: You'll be able to get
2 rebuttal.

3 MS. ROOSEVELT: Sure. Sure. My question is
4 just what he means about the character not being in
5 keeping.

6 BZA CHAIR HILL: Yeah. What do you mean about
7 the character not being in keeping, Mr. Marti?

8 (Simultaneous speaking.)

9 MS. ROOSEVELT: -- with a much larger Wardmans?

10 MR. MARTI: It doesn't seem that -- the roof
11 attachment is probably the biggest thing, the shed roof
12 sloping outward from the property doesn't seem to be in
13 meeting with kind of the existing roof and that
14 connection. And I think that's really bumping up the
15 scale of the addition where it does take up more light and
16 kind of blocking a little bit more of the Darrow property.

17 BZA CHAIR HILL: Okay.

18 MS. ROOSEVELT: Okay. Second question, and
19 then I know I'll get to talk about the roof later. But my
20 second question is just you talked about the impact on the
21 sunroom, and my understanding is that impact is exactly
22 the same at 10 and 15 feet because the sunroom is 10 feet
23 long. And so I just wanted him to clarify that that is
24 what he means, that any addition would impact the sunroom.
25 Is that correct?

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1 MR. MARTI: I think the way the roof is set up
2 at 15 feet impacts it quite a bit more than the 10-foot
3 setback. So if that got pulled back or the roof pitch
4 changed, I think it would be a different conversation
5 there.

6 BZA CHAIR HILL: Okay. Ms. Roosevelt, any
7 final questions?

8 MS. ROOSEVELT: No, sir. Thank you.

9 BZA CHAIR HILL: Okay. Great. All right. All
10 right. Does the Board have any questions of Mr. Marti?

11 ZC CHAIR HOOD: This is Anthony Hood. Very
12 quick, Mr. Marti, you said you're registered. Are you
13 registered in the District?

14 MR. MARTI: I'm registered in the State of
15 Florida and New York. My office does stuff here, but not
16 specifically.

17 ZC CHAIR HOOD: Okay.

18 MR. MARTI: I just moved to D.C. a year ago, so
19 I'm working on that. But I am certified.

20 ZC CHAIR HOOD: You just said you were a
21 registered architect. I wanted to know if you have
22 District registration. Thank you. Thank you, Mr.
23 Chairman.

24 BZA CHAIR HILL: Okay. Thank you. All right.
25 Mister -- oh, Mr. Gasser, do you have any questions of Mr.

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1 Marti?

2 MR. GASSER: No, sir.

3 BZA CHAIR HILL: Okay. All right. Mr. Marti,
4 you're free to go.

5 MR. MARTI: All right. Thanks, everyone. Take
6 care.

7 BZA CHAIR HILL: Okay.

8 MS. ROOSEVELT: I mentioned that Mr. Gelman
9 also has to leave, and so if anyone wanted to ask any
10 questions of him, maybe we could do the same for him as
11 for --

12 BZA CHAIR HILL: Hang on.

13 MS. ROOSEVELT: -- the others.

14 BZA CHAIR HILL: Mr. Gelman, can you hear me?

15 MR. GELMAN: I am here.

16 BZA CHAIR HILL: All right. Let me start with
17 Mr. Darrow. Mr. Darrow, do you have any questions of Mr.
18 Gelman?

19 MR. DARROW: Sure. Just to make sure I have
20 the name and the roles correct. Mr. Gelman, were you the
21 architect that did the solar studies?

22 MR. GELMAN: I'm not an architect.

23 MR. DARROW: Okay. So CAD professional?

24 MR. GELMAN: I would refer to myself as an
25 architectural designer.

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1 MR. DARROW: Fair enough. Thank you. My only
2 question was twofold. One is at what time, when you said
3 it's a morning light, what time of morning, what time of
4 day was that projected?

5 MR. GELMAN: Approximately 10:30 a.m., I would
6 have to double check the model. But --

7 MR. DARROW: Got you. And is it just as easy
8 to project that at --

9 (Simultaneous speaking.)

10 MR. GELMAN: -- the anticipated to give a bit
11 more --

12 MR. DARROW: Is that just as easy to project at
13 early morning because that is I think what we're saying is
14 not at that mid to late morning that there's massive
15 impact, but it certainly would be from sunrise until
16 midmorning. Would you not agree?

17 MR. GELMAN: No. I think the intention of the
18 3D studies is to give a fair representation from various
19 points, so that why we do morning and afternoon. So I
20 would say mid-morning, mid-afternoon, you know, giving the
21 solstices, which are the two most extreme, and then giving
22 the mid-point which is March. So just trying to be as
23 egalitarian as --

24 (Simultaneous speaking.)

25 MR. DARROW: I know we're showing -- I know

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1 we're showing the dates. But I do take issue with the
2 timing, and I find it not fully representative. I'll
3 discuss that in rebuttal. Thank you.

4 BZA CHAIR HILL: Okay. Yeah. Okay. All
5 right. Mr. Gasser, do you have any questions of Mister --
6 is it Gelman? I lost your last name, Eric. Sorry.

7 MR. GELMAN: Yeah. It's Eric Gelman.

8 BZA CHAIR HILL: Okay.

9 MR. GASSER: No, I do not. Thank you.

10 BZA CHAIR HILL: Okay. All right. Mister --
11 does the Board have any questions of Mr. Gelman? Okay.
12 All right. Ms. Roosevelt, I'm going to excuse Mr. Gelman.

13 MR. GELMAN: Great. Thank you.

14 BZA CHAIR HILL: All right, Mr. Gelman. So,
15 Mr. Darrow, we were with you, and you had to get your
16 witness freed. So your witness got freed. So now please
17 continue with your discussion. And just so you know,
18 everybody kind of gets around the same amount of time. So
19 please continue.

20 MR. DARROW: I will endeavor to be brief, sir.
21 Thank you. And I appreciate the flexibility with the,
22 maybe, unorthodox order of events. And really appreciate
23 being a part of this discussion. I learned a lot this
24 morning. And thank you all for your service. I know it's
25 a bit of a thankless job dealing with all sorts of issues.

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1 So thank you, all, for your time.

2 I have really only three things. First off is
3 I would love to support this application. I am not -- my
4 wife and I are not against development. And as I've
5 previously written to Ms. Roosevelt, I love the fact that
6 they're engaged in the property, looking to expand their
7 family and stay put, and the block is turning over. So we
8 are in support of intelligent growth.

9 I take issue with a representation that 22
10 neighbors are in support. Many of those folks are
11 impacted, as you might expect, quite differently. So
12 there's folks as far as a block away that have written
13 those letters in support. And I would just call the
14 Board's attention to the fact that I would also be in
15 support were I not impacted. So much so that when our
16 neighbor to their side, the Delanos (phonetic) at 2916
17 requested a special exception, we didn't object and we
18 have no issue with either growth or otherwise improving
19 your property. So our bias is in favor of trying to find
20 a way to make this work.

21 Point number 2, the other issue -- the other
22 item that I submitted to the Board this morning late, and
23 would ask the Board's consideration for acceptance into
24 the record, is a copy of the email that I was extremely
25 difficult for me to dig out to send -- that was my

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1 response to Ms. Roosevelt's request. She said that she
2 engaged with me in April of 2023. That is true. She sent
3 me one email in 2023, said they were proposing to do
4 something in line with an expansion. We wrote some
5 questions back and we never heard anything back.

6 The context behind this, sir, is I was
7 currently stationed in Germany, so we were living abroad
8 and would not have heard of this addition had we not PCS'd
9 back literally five weeks ago. Our first notice, other
10 than that email from last April to which I never received
11 a response, was the posting of the notice for this
12 hearing. So over the last two weeks has been affectively
13 my notice of this hearing, of this process, and of this
14 application.

15 I would that it would have been longer, and had
16 there been an earlier outreach, I would love to get to a
17 spot of compromise. Point being, Lindsay and I don't wish
18 to be unreasonable. We don't wish to make enemies of
19 neighbors. And we wish to be good neighbors. I feel
20 like, you know, that is our -- last ten years on the
21 block, that has been kind of our approach.

22 So item number 3, what do we have concerns
23 with. Principally, I find that the solar study
24 misrepresents the impact on our property. And would just
25 call attention to the Board, and perhaps ask for a deeper

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1 and more clear understanding in that space, and what other
2 design accommodations could be made.

3 By adding 15 feet off the back of their current
4 property, it will extremely diminish our utility, light,
5 air, and enjoyment of what is the best and nicest part of
6 our house in existence. I am sure that something can be
7 remedied, and that there probably is a way forward here
8 that would support the Roosevelt's desire to grow their
9 family and their house.

10 The issues that are most impacted per the
11 statute with respect to light and air. It is an east/west
12 street, meaning the property is due east. And as I
13 believe someone noted earlier, we all know the sun rises
14 in the east. So a representation that shows and projects
15 kind of a different azimuth for the sun will show a
16 diminished impact. I would say that from sunrise at all
17 times of the year, through mid-morning, it will
18 effectively block all light that we -- and I saw this this
19 morning as I sat and had a cup of coffee in my breakfast
20 room looking east and watched the sunrise. That would be
21 replaced with a wall.

22 From an air standpoint, the sleeping porch is
23 designed for natural breezes that come out of Rock Creek
24 Park. It was originally designed to be the precursor to
25 air conditioning such that the cool air from the park

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1 would come up, get sucked up through the light well and
2 the ventilation in the house, and not require air
3 conditioning in 1912. We still use it as such in summer
4 months, spring, and fall. So three seasons a year, I
5 would now have a now sided wall with my neighbor's windows
6 looking in to what is now -- what is my sleeping porch.

7 Privacy. The addition of the 15 feet, not only
8 does it put windows staring into my existing breakfast
9 room and sleeping porch, but it proposes the expansion of
10 another 10 to 12 feet of deck out the back. And what that
11 does from an alignment standpoint is people on that deck
12 and people in those windows are then staring effectively
13 back into the rear of my house. That is not consistent
14 with any other property on the street or any expansions or
15 extensions that have been approved, and wholeheartedly
16 changes the nature and use of our house.

17 And finally, I would call attention to my
18 architect's note that this is not in keeping with the
19 pattern of development along the street. I understand the
20 desire to continue to grow the neighborhood, and I fully
21 support that. I just feel like there are probably better
22 alternatives that have not been pursued. And I believe
23 that the reason they have not been pursued is I was singly
24 not reached out and contacted beyond one email. And I
25 believe that to be because knowing that we would be

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1 greatly impacted.

2 Ms. Roosevelt and her husband were not
3 interested in our opinion, and were not interested in
4 finding a resolution. Had they been, some greater effort
5 would have been made. A, my mailing address never
6 changed. I never received a notice. B, I responded to
7 the email and have submitted that to the Board, and never
8 received a response that this was serious beyond kind of
9 their fantasy of proposing it. And, C, upon our return,
10 the only piece I got is, oh, gee, we should come over and
11 we should see it, at which point they were on vacation for
12 the last week. Again, I'm willing to find compromise. I
13 don't wish to be unreasonable. And with a little longer
14 lead notice or engagement, would gladly have been able to
15 do more.

16 BZA CHAIR HILL: Okay. All right. Thanks, Mr.
17 Darrow.

18 MR. DARROW: For two weeks, I had no notice. I
19 literally had one day to two days' notice to pursue party
20 status. And so I apologize for taking the Board's time.

21 BZA CHAIR HILL: No. Mr. Darrow --

22 MR. DARROW: But that's where we're at.

23 BZA CHAIR HILL: You're okay. You got party
24 status. You're well within your rights to provide an
25 argument. Okay. I'm going to keep tugging along here

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1 before I get to questions. And, Ms. Gasser, what would
2 you like to add?

3 MR. GASSER: I'd like to add that as a 75-year-
4 old with arthritis and a hip replacement, that my outdoor
5 recreation is really my back deck. And so my viewshed
6 would be impacted along with probably the airflow in that
7 back deck area.

8 When my husband was alive, we used to spend
9 breakfast, lunch, and dinner on that deck, and often
10 noticed that we were the only ones on the whole block that
11 used the deck that much. So consequently, now that I am
12 more arthritic and do not get out, I go out on my deck and
13 enjoy breakfast, lunch, and dinner by myself, and do a lot
14 of reading and recreating in that area. And I think this
15 addition is going to directly damage the impact that I
16 currently have.

17 I've been in this house for 27 years, and I
18 have to say that no one has ever proposed these mini-
19 mansion additions except these two neighbors, and one
20 doesn't even know whether they're going to build it or
21 not. So I'm not sure that this is sort of the way the
22 neighborhood would like to go. I mean my other
23 suggestion, and I've suggested it to Ms. Roosevelt, and I
24 don't know whether she really looked into it or not, but
25 my whole thing is build up, not out.

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1 BZA CHAIR HILL: Okay. Okay. Thank you, Mr.
2 Gasser. Okay. I'm going to have the Office of Planning
3 present. And then I'm going to have the applicant ask
4 questions of -- well, no, how am I going to do this? I'll
5 have the party status people ask questions of the
6 applicant. Then I'll have the applicant ask questions of
7 the party status people. Then I will the party status
8 people ask questions of the Office of Planning. And the
9 applicant ask questions of the Office of Planning. And
10 then the Board can ask whoever they want, whenever they
11 want. So that's starting. I'm going to ask the Office --
12 Ms. Roosevelt, you have your hand up?

13 MS. ROOSEVELT: Yeah. Sorry. I apologize for
14 interjecting. I just wanted to ask for context that the
15 photo of Mr. Gasser's deck that I provided this morning be
16 shown since he has been admitted as a party to the case
17 because I think it provides some context on the type of
18 light he's getting from the side of the deck.

19 BZA CHAIR HILL: I think those things were all
20 added into the record.

21 MS. ROOSEVELT: Okay. It shows a privacy
22 screen that prohibits light from entering his deck from
23 the side regardless. So - but, I understand. I just
24 thought it'd be helpful context.

25 BZA CHAIR HILL: Okay. Let's see. Can I hear

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1 from the Office of Planning, please?

2 MR. BARRON: Hi. Good afternoon. My name is
3 Ron Barron, development review specialist at the D.C.
4 Office of Planning. The Office of Planning recommends
5 approval of the requested special exception to construct a
6 two-story rear addition with cellar as requested by the
7 applicant.

8 The requested relief would be in harmony with
9 the intent and purpose of the zoning regulations, and
10 approval of the requested relief would not unduly affect
11 the light, air, or use of neighboring properties beyond
12 what would be allowable as a matter of right. The Office
13 of Planning is content to rest on the record, and I'm
14 available to answer any questions you may have. Thank
15 you.

16 BZA CHAIR HILL: All right. Since the Office
17 of Planning is fresh on the minds of everyone, Ms.
18 Roosevelt, do you have any questions for the Office of
19 Planning?

20 MS. ROOSEVELT: No, sir, I don't.

21 BZA CHAIR HILL: Okay. Mr. Darrow, do you have
22 any questions for the Office of Planning?

23 MR. DARROW: I do not.

24 BZA CHAIR HILL: Mr. Gasser, do you have any
25 questions for the Office of Planning?

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1 MR. GASSER: No, I do not.

2 BZA CHAIR HILL: Okay. Ms. Roosevelt -- I'm
3 sorry. Mr. Darrow, and I'm sorry if I'm pronouncing that
4 wrong, but Darrow, Darrow. Darrow.

5 MR. DARROW: Darrow.

6 BZA CHAIR HILL: Thank you. Mr. Darrow, based
7 -- well, do you have any questions for Ms. Roosevelt?
8 And, basically, I'm trying to understand the questions
9 that you have pertaining to the regulations. But do you
10 have any questions of Ms. Roosevelt?

11 MR. DARROW: No. I think two questions I would
12 have for Ms. Roosevelt is, one, did you all do an
13 alternative analysis, or did you just adopt what was being
14 done by your neighbors?

15 BZA CHAIR HILL: Ms. Roosevelt?

16 MS. ROOSEVELT: Hi. I'm back on. So we didn't
17 do an alternative analysis. We weren't -- there's no
18 standard requiring us to do alternative analyses. In
19 terms of the roof, in particular what Mr. Darrow talked
20 about, that was what was recommended by our neighbors at
21 2916's architect. And so we were happy to coordinate with
22 them. And --

23 BZA CHAIR HILL: Okay. All right.

24 (Simultaneous speaking.)

25 BZA CHAIR HILL: Okay. Okay. That was the

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1 answer. Mr. Darrow, what's your next question?

2 MR. DARROW: Is it correct then to understand
3 that by adopting that plan, it was an effort to save time,
4 impact on the neighborhood, construction costs, and did
5 not consider impact to us?

6 MS. ROOSEVELT: No.

7 BZA CHAIR HILL: Ms. Roosevelt?

8 MS. ROOSEVELT: No.

9 BZA CHAIR HILL: Okay. The answer's no. All
10 right. Mr. Gasser, do you have any questions of the
11 applicant?

12 MR. GASSER: Other than I just would like to
13 get a confirmation that actually they did consider going
14 up and not out.

15 BZA CHAIR HILL: Did you, Ms. Roosevelt,
16 consider going up and not out?

17 MS. ROOSEVELT: Yes.

18 MR. GASSER: Right. And ran the figures.

19 MS. ROOSEVELT: Yes, we actually did. I wrote
20 this in email to Mr. Darrow because he actually wanted to
21 --

22 BZA CHAIR HILL: That's okay. That's all the
23 answer was. You did consider it.

24 MS. ROOSEVELT: Okay. We considered that. We
25 also considered -- Mr. Gasser asked if we had considered

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1 moving in his objection, and he suggested we buy the house
2 at 2928 Upton Street Northwest. He --

3 (Simultaneous speaking.)

4 BZA CHAIR HILL: Okay. Hey, hey, Ms.
5 Roosevelt. He didn't ask you a question about that.

6 MS. ROOSEVELT: Okay. That's fine. I --

7 BZA CHAIR HILL: Okay. All right.

8 MS. ROOSEVELT: All right. Okay. So fine.

9 BZA CHAIR HILL: So -- all right. Let's see.
10 Okay. So those questions happened there. Ms. Roosevelt,
11 did you have any questions of Mr. Darrow?

12 MS. ROOSEVELT: I have some comments. Do you
13 want me to hold off on those comments and just ask --

14 BZA CHAIR HILL: Your comments can be rebuttal,
15 I guess. I have to figure out how the rebuttal works.

16 MS. ROOSEVELT: Okay. I think --

17 BZA CHAIR HILL: Do you have any questions?
18 No.

19 MS. ROOSEVELT: I think I had preferred --

20 BZA CHAIR HILL: Do you have any questions of
21 Mr. Gasser?

22 MS. ROOSEVELT: I guess my only question for
23 Mr. Darrow was that I didn't receive the email he's
24 talking about that I asked him to file in the record, and
25 so did he send that to me again? What, you know, did he

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1 just send that into the Board. Where is that April
2 response? But I don't think it's an issue since he has
3 notice regardless.

4 BZA CHAIR HILL: Okay. I guess Mr. Darrow, Ms.
5 Roosevelt is asking, the email that you referred to, did
6 you send it to her?

7 MR. DARROW: Yes. It was originally sent on
8 April 30th of 2023.

9 (Simultaneous speaking.)

10 MS. ROOSEVELT: Today? No?

11 BZA CHAIR HILL: Okay. What?

12 MS. ROOSEVELT: Did he send it to me today?
13 No, right?

14 MR. DARROW: No.

15 BZA CHAIR HILL: No. He said he sent it to
16 you --

17 MS. ROOSEVELT: Okay.

18 BZA CHAIR HILL: -- on April 30th.

19 MS. ROOSEVELT: But I didn't receive it.

20 MR. GASSER: Last year.

21 MS. ROOSEVELT: Okay.

22 BZA CHAIR HILL: Okay. Okay. Mr. Gasser --
23 oh, sorry, Ms. Roosevelt, do you have any questions for
24 Mr. Gasser?

25 MS. ROOSEVELT: No.

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1 BZA CHAIR HILL: Okay. All right. I did that.
2 Okay. OZLD, can you hear me? Ms. Cooper, I assume that's
3 you.

4 MS. COOPER: Hi. It's me. Cometria Cooper.
5 We also have --

6 BZA CHAIR HILL: Okay. Great. Thanks, Ms.
7 Cooper. And you can -- the order -- I can't remember.
8 Rebuttal just happens from the applicant, correct?

9 MS. COOPER: The --

10 BZA CHAIR HILL: And then the -- and then the
11 party in the oppositions can ask questions of the
12 rebuttal, correct?

13 MS. COOPER: That's my understanding.

14 BZA CHAIR HILL: Okay. So that's what I was
15 trying to understand. So -- all right. So, Ms.
16 Roosevelt, I'm going to -- I'm going to actually do this.
17 Never mind. I'll start -- I'll let my Board answer
18 questions in case there's any rebuttal from any of these
19 questions. Do any of my Board members have questions for
20 anyone? Mr. Blake had his hand up first.

21 MEMBER BLAKE: Yeah. Just a quick question for
22 the Office of Planning. The question is when Mister --

23 BZA CHAIR HILL: Mr. Barrons, can you hear us?
24 Barron, sorry.

25 MR. BARRON: Yes, I can. Sorry. Couldn't find

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1 my mouse. Go ahead.

2 MEMBER BLAKE: I think the initial comment in
3 your report was to the effect that they wanted to get an
4 updated shadow study. We've gotten that. Did that affirm
5 your conclusion from earlier, or does it change in any
6 way? Just to get a sense of that.

7 MR. BARRON: No. That did support the original
8 conclusion that the impact would not be substantially
9 different from a 10 foot versus 15 foot.

10 MEMBER BLAKE: Okay. Thank you. That's my
11 only question.

12 BZA CHAIR HILL: Chairman Hood.

13 ZC CHAIR HOOD: Mr. Darrow, I was trying to
14 understand your three points. Not necessarily focus on
15 the first two, but your third point, you kept saying
16 you're not against it, but you need -- it sounded like you
17 said you needed more time. And what do you mean, more
18 time to change the design? Or I didn't follow that.

19 MR. DARROW: Yes, sir. Happy to elaborate.
20 Again, this is not branch (phonetic), so I don't know what
21 the constraints are. So if I'm out of turn, please let me
22 know. What I'm saying is I think with further time, I'd
23 be happy to sit down with Ms. Roosevelt and her architect
24 and see if there are any design alternatives that would
25 meet their intent and to minimize impacts on our property.

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1 That's all I'm getting at.

2 ZC CHAIR HOOD: Okay. I got it. So in other
3 words, you'll still be in opposition if the design didn't
4 change. So I got it. Thank you. Thank you, Mr. Chair.

5 BZA CHAIR HILL: Anyone else have questions?
6 Vice Chair John?

7 VICE CHAIR JOHN: Yes. Ms. Roosevelt, is there
8 a slide that shows the relationship between 2018, 2020,
9 and 2022. Is there a context photo that shows that?

10 MS. ROOSEVELT: A context photo, so like you
11 can see it in the solar studies, if that's helpful. Do
12 you mean something beyond that?

13 VICE CHAIR JOHN: That's -- yeah. No. I don't
14 remember if there was a photograph front or back.

15 MS. ROOSEVELT: Yep.

16 VICE CHAIR JOHN: Just in the shadow study?
17 Okay.

18 MS. ROOSEVELT: You can see in the shadow
19 study, and then you can see a street view from the front
20 in the plans that I initially submitted into the record.
21 If you go to those, there are --

22 VICE CHAIR JOHN: Okay.

23 MS. ROOSEVELT: Excuse me. No, there's not a
24 street view there. Trying to think of if there is another
25 beyond the shadow studies that would show this.

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1 VICE CHAIR JOHN: Okay. But we're going to
2 east to west, right?

3 MS. ROOSEVELT: We are going -- because we're
4 looking at the back, so from the back, north is straight
5 ahead. To the east is my attached neighbor who's
6 consented. And then these two houses are to the west.
7 And so if you were to look at Google Images, you would see
8 that they are a series of large Wardman townhouses. Mr.
9 Darrow has a big pool in the back. And then you would see
10 that there is a break between our houses where this
11 pathway is on my property, and that then there's a series
12 of very small townhouses. And my attached neighbor and I
13 are the smaller townhouses trying to put additions on that
14 still make our house approximately I'd say about 1,000
15 feet less than the Wardman townhouses like Mr. Darrow's
16 and Mr. Gasser's.

17 VICE CHAIR JOHN: I see. One follow up
18 question. Now which neighbor do you share a wall with?

19 MS. ROOSEVELT: I share a wall with the
20 neighbors at 2916 Upton Street. They are the ones that
21 have already received the special exception from the BZA
22 in case 20618, renewed in case 20618A. They have also
23 submitted a letter of support in this application, and
24 they contacted me just this past weekend about --

25 VICE CHAIR JOHN: That's fine.

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1 MS. ROOSEVELT: Okay.

2 VICE CHAIR JOHN: I just need quick answers.

3 MS. ROOSEVELT: Of course. Great.

4 VICE CHAIR JOHN: And between you and Mr.
5 Darrow there's an 8-foot walkway?

6 MS. ROOSEVELT: 8 feet, 9 inches.

7 VICE CHAIR JOHN: Okay. Let's see, there was
8 one other thing. Now your architect, I think he was not
9 an architect, but he was an architectural designer?

10 MS. ROOSEVELT: Correct.

11 VICE CHAIR JOHN: Okay.

12 (Simultaneous speaking.)

13 VICE CHAIR JOHN: And he said -- he testified
14 that because this is an east to west orientation, then the
15 shadows from 2916 would be cast on 2918, and I'm assuming
16 then that 2918 would cast shadows on 2920.

17 MS. ROOSEVELT: He said that that would not be
18 the case. That if the -- the very, very minimal bit of a
19 shadow could be into the alley, and he showed in his solar
20 studies that there was no shadow that actually got on to
21 2920. He also told me that the representation here from
22 east to west is very standard, and that it's well known
23 that a southern exposure like we have here does --

24 VICE CHAIR JOHN: Okay.

25 MS. ROOSEVELT: -- not lead to a shadow.

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1 VICE CHAIR JOHN: Yes. But he did acknowledge
2 that there would be shadow being cast -- being generated
3 from east to west. But what I missed was the 8 foot, 9
4 inch walkway between the applicant and Mr. Darrow, between
5 you --

6 MS. ROOSEVELT: Okay.

7 VICE CHAIR JOHN: -- and Mr. Darrow. Okay.
8 All right. Thank you.

9 MS. ROOSEVELT: Thank you.

10 BZA CHAIR HILL: Okay. Do my board members
11 have any other questions?

12 MEMBER SMITH: I just have one.

13 BZA CHAIR HILL: Okay. Mr. Smith.

14 MEMBER SMITH: And it was just prompted by Ms.
15 Roosevelt's description of the size of her property after
16 the addition versus the Wardmans. Do you know what the
17 height differential would be between the Wardman townhomes
18 to your west and yours with the addition?

19 MS. ROOSEVELT: Yes. My understanding is that
20 the Wardmans extend the full allowed 40 feet, and that our
21 addition, even with the roof that was recommended by my
22 neighbor's architect at 35 feet would still be 5 feet less
23 than theirs.

24 MEMBER SMITH: Okay. All right. Thank you.

25 MS. ROOSEVELT: Thanks.

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1 BZA CHAIR HILL: Okay. Anyone else for the --
2 okay. Go ahead, Ms. John.

3 VICE CHAIR JOHN: So, Mr. Darrow, what's the
4 length of your rear yard? Do you know?

5 MR. DARROW: Ma'am, I do not know off the top
6 of my head. They end at the exact same spot, so I would
7 say it is approximately the same distance as Ms.
8 Roosevelt's.

9 VICE CHAIR JOHN: Okay. That answers the
10 question.

11 MR. DARROW: And would be less after the
12 addition.

13 VICE CHAIR JOHN: Okay. That answers the
14 question. Mr. Gasser, is that the same for you as well?
15 You're --

16 MR. GASSER: We should have probably started
17 out with a little history lesson for you all.

18 VICE CHAIR JOHN: That's okay, Mr. Gasser. I
19 just need to know if your rear yard is approximate -- ends
20 approximately in the same location as Mr. Darrow.

21 MR. GASSER: Yes.

22 VICE CHAIR JOHN: Okay. That's all I need to
23 know. Thank you.

24 BZA CHAIR HILL: Okay. Does my Board have any
25 other questions? All right. Mr. Young, is there anyone

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1 here wishing to testify?

2 MR. YOUNG: We do not.

3 BZA CHAIR HILL: Okay. All right. Okay. Ms.
4 Roosevelt, so are you guys putting on a deck behind your
5 house once it's done if this gets done?

6 MS. ROOSEVELT: Yes. In our proposal, we have
7 asked to put on a 10-foot deck. I'm happy to negotiate
8 over that and put on less if that's the recommendation.

9 BZA CHAIR HILL: Okay. What is that neighbor
10 doing, the one that supposedly, if they get the -- and if
11 they do build it, what are they --

12 MS. ROOSEVELT: Yep.

13 BZA CHAIR HILL: -- proposing?

14 MS. ROOSEVELT: They've proposed 4 feet.

15 BZA CHAIR HILL: Okay. Thank you for being
16 honest.

17 MS. ROOSEVELT: Of course.

18 BZA CHAIR HILL: Okay. All right. Let me see.
19 Okay. Do you, Ms. Roosevelt, have any rebuttal?

20 MS. ROOSEVELT: Yes. I don't know if you want
21 me to speak about the notice. I can just mention briefly
22 that I never received --

23 BZA CHAIR HILL: I don't think you need to talk
24 about the notice.

25 MS. ROOSEVELT: Okay. Great. Roof pitch

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1 aligning with the neighbor, we've already covered that.
2 That was suggested by their architect who I also tried to
3 work with, but unfortunately, she passed away during the
4 process. The studies we already talked about. The light
5 and the shadow studies, I wanted to point out that this is
6 not a historic district as Mr. Darrow referred to it as,
7 but it is not technically a historic district which is why
8 we don't have that end point here.

9 Also, the reason I entered the photo of Mr.
10 Gasser's property into the record is because you can see
11 that the side he is talking about has a privacy shield, so
12 there's actually no light coming from my side of the
13 property on to his deck anyways.

14 And then I just -- as Mr. Darrow noted, both of
15 these neighbors affirmatively consented orally to 2916's
16 extension. It's just mine that they're having an issue
17 with. One objection Mr. Darrow's is to covering -- it's
18 covering windows that would be covered by the 10 foot
19 addition regardless. And the second objection is about
20 the enjoyment of his deck, which the shadow studies have
21 demonstrated, first no impact, and secondly, like he said,
22 his major issue is with the view. And as we know under
23 D.C. law, there is no right to a view.

24 Going back to Mr. Darrow's objection at 2920,
25 he focuses on the covering of the windows that would be

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1 covered anyways with a 10-foot objection, and also on
2 there being a concrete wall. As you can see from my
3 plans, there is not a concrete wall. There's siding with
4 windows. And his objection really is not relevant to the
5 5 feet that I am requesting here.

6 I've gone over again and again about the shadow
7 studies, so I won't belabor that. But I just wanted to
8 conclude that on the first one that his objection does not
9 meet the standard. And I can go back and go over that.

10 BZA CHAIR HILL: Okay. That's all right, Ms.
11 Roosevelt.

12 (Simultaneous speaking.)

13 BZA CHAIR HILL: So I'm just trying to figure
14 out what's rebuttal and -- okay.

15 MS. ROOSEVELT: Sure.

16 BZA CHAIR HILL: So, Mr. Gasser, did you have
17 any questions? Not statements. Did you have any
18 questions about anything Ms. Roosevelt said in rebuttal?

19 MS. ROOSEVELT: Sorry. That was just to Mr.
20 Darrow. Do you want me to talk about Mr. Gasser briefly?

21 BZA CHAIR HILL: Yeah. Sure. Go ahead, Ms.
22 Roosevelt.

23 MS. ROOSEVELT: Okay. So Mr. Gasser, yes, when
24 I tried to negotiate with him responded that he wants me
25 to build up or to move to 2928 Upton Street Northwest,

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1 which is another property. But I was, unfortunately,
2 priced out of it. It's a large house like theirs. And
3 building up, I talked about with an architect, but would
4 cost much more money.

5 His objection focuses on the use of his back
6 deck and the sun on that deck which is 36 feet from my
7 house. He discussed his view from that deck, which I've
8 already talked about. I wanted to show that photo because
9 you could see how this really does not affect the light or
10 the air, and the 3D solar study makes clear that he is not
11 impacted.

12 Mr. Darrow was at the time they submitted their
13 objections, according to what Mr. Darrow told me in person
14 when I was trying to talk to him about the plans, he was
15 staying at Mr. Gasser's house because he had just returned
16 from Germany, and so to me these are really the same
17 objection, just two bites of the apple.

18 BZA CHAIR HILL: Okay. All right. Mr. Darrow,
19 do you have any questions about anything -- any questions
20 about any of the stuff that Ms. Roosevelt just said?

21 MR. DARROW: Ms. Roosevelt, would you be open
22 to a continuance here to have an ongoing discussion that's
23 not as time pressured?

24 MS. ROOSEVELT: No, I would not. I sent Mr.
25 Darrow an email ten days ago which I filed into the record

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1 asking him to speak with me on the phone about his
2 objection, and he didn't respond to it.

3 BZA CHAIR HILL: Okay. All right. Mr. Darrow,
4 do you have any another question?

5 MR. DARROW: No, sir. Thank you.

6 BZA CHAIR HILL: Okay. Mr. Gasser, do you have
7 any questions about what Ms. Roosevelt just said?

8 MR. GASSER: Questioning what she means by my
9 screening. I have vertical slats that are two inches
10 apart that allow breeze to come through.

11 (Simultaneous speaking.)

12 BZA CHAIR HILL: Ms. Roosevelt is making a
13 statement. Ms. Roosevelt is making a statement that she
14 doesn't think that because of those vertical slats she's
15 having any impact on your light and air. And that's
16 actually going to be up to the Board, not Ms. Roosevelt,
17 so. But do you have any questions? I meant that's a
18 question. I guess you're asking Ms. Roosevelt if that's
19 what you're saying.

20 MR. GASSER: Correct.

21 BZA CHAIR HILL: Ms. Roosevelt, is that what
22 you're saying?

23 MS. ROOSEVELT: Yes. Plus the solar study
24 demonstrating no impact.

25 BZA CHAIR HILL: Okay. Well, we'll see, again,

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1 whether or not we believe that the solar study doesn't
2 show any impact. Mr. Gasser, do you have any further
3 questions?

4 MR. GASSER: No. No.

5 BZA CHAIR HILL: Okay. All right. Let's see.
6 Okay. There's apparent -- so there's another -- so I
7 don't know. I'm looking at my board members here a little
8 bit. We have a relatively full day. I kind of -- I got
9 to -- I got to admit I had a little bit of a snack at our
10 last break. So I don't know if we're going to -- I'm just
11 talking to my board members about our next case because
12 that's also one that has party status. I think it's going
13 to take a little bit of time. But if we can, I'd like to
14 power through it. Maybe we can have a little break and
15 then power through it just because it's going to be a long
16 day. That's something I'm throwing out there.

17 The other thing now that I'm throwing out is
18 I'm actually a little interested in seeing from the
19 applicant these windows that are over on the -- whatever
20 the other person's -- I'm trying to look -- Mr. Darrow's
21 property, right? So, Ms. Roosevelt, I don't know if
22 there's anything in the record that shows these windows.

23 MS. ROOSEVELT: There is. The windows are
24 shown in Mr. Darrow's objection.

25 BZA CHAIR HILL: In Mister -- and are your

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1 windows shown somewhere?

2 MS. ROOSEVELT: In my plans. The windows that
3 we plan to put in are shown in my plans in the -- you can
4 see them in the PowerPoint I showed them. But they are
5 also in the plans, and I'll tell you the exhibit number in
6 one second. You can see them in Exhibit 6.

7 BZA CHAIR HILL: Okay. Give me one second
8 please now.

9 MS. ROOSEVELT: Okay.

10 VICE CHAIR JOHN: Mr. Young, could you please
11 pull up Exhibit 6?

12 MEMBER SMITH: Page 4 when you pull it up.

13 VICE CHAIR JOHN: I'm also using one screen,
14 Mr. Chairman.

15 BZA CHAIR HILL: So Page 4, I see a brick wall
16 and then I see a home. Is the brick -- oh, got you. And
17 then there's Mr. Darrow's windows in the sleeping porch,
18 correct?

19 MS. ROOSEVELT: I'm talking about the plans
20 actually. So I was talking about the next page after this
21 one where you see -- are you talking about my real-life
22 windows or are you talking about the --

23 BZA CHAIR HILL: Are you in A -- are you in
24 A107?

25 MS. ROOSEVELT: A107, so if you go to the next

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1 page. Sorry. The next page.

2 BZA CHAIR HILL: A108.

3 MS. ROOSEVELT: Yep. It's A108.

4 BZA CHAIR HILL: Right. So the extension is
5 the one, again, that has the extension, right?

6 MS. ROOSEVELT: Mm-hmm.

7 BZA CHAIR HILL: And that's the 15 feet. And
8 those are the windows there, those four or five windows,
9 correct?

10 MS. ROOSEVELT: Those five windows. That's
11 correct.

12 BZA CHAIR HILL: Okay. And those five windows,
13 you don't know how they line up with the applicant's
14 sunporch, do you?

15 MS. ROOSEVELT: No, because that wasn't his
16 complaint. But I am happy to align them however he
17 suggests with his sunporch.

18 BZA CHAIR HILL: Okay.

19 MR. DARROW: No, I did raise that as an issue,
20 for the record.

21 BZA CHAIR HILL: That's all right. I'm talking
22 to privacy is my own currently question, and by the way,
23 that's not --

24 (Simultaneous speaking.)

25 MR. DARROW: Yes, sir.

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1 BZA CHAIR HILL: Okay. Now -- oh, I got you
2 here. Okay. It's pulled up. I don't know. So I got --
3 so from the applicant -- I'm looking at my Board. I don't
4 know exactly what to do if I want anything or not. I
5 think I'm going to need time to think anyway just because
6 it's been -- it's kind of been a long hearing, and I see
7 Mr. Blake's hand up.

8 So the only thing I'd be kind of interested in
9 hearing -- and I know we've done like, you know, glazing
10 before on windows, and I know there was some discussion
11 about the porch and whether or not that may or may not be
12 something that is even within the Board's purview. But
13 I'm not really -- I guess it kind of has something in
14 play. So I don't know if the Board needs to see anything
15 or not. And I'm looking for my fellow board members. Go
16 ahead, Mr. Blake.

17 MEMBER BLAKE: The two windows you had, the
18 lower level, there's a privacy fence there, so that's not
19 necessarily exposed to the property. It's the second
20 level of windows that looks into the sun -- well, a
21 sleeping porch. Is that correct, Mr. Darrow?

22 MR. DARROW: Second and third floor would be
23 the objection, sir.

24 MS. ROOSEVELT: The upper level or the -- I'm
25 not really sure what the question is. The one that would

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1 align would be those two windows there.

2 MEMBER BLAKE: At the porch level would be the
3 ones that are --

4 MS. ROOSEVELT: Yes. Those --

5 (Simultaneous speaking.)

6 MEMBER BLAKE: -- with the question.

7 MS. ROOSEVELT: -- porch level ones would be
8 the same as his sleeping porch. And at the moment, I
9 think the one to the right will probably go a little past
10 the 10 feet to the 5 feet we're talking about. I would be
11 -- I would, you know, I could restrict it to the -- within
12 the 10 feet and keep windows only there. But I think that
13 would actually like be the opposite of what you would like
14 because you're talking about more privacy.

15 I also, in addition, I think in Mr. Darrow's
16 written complaint he was complaining about having a
17 concrete wall there. It seems like now we're saying it'd
18 be better if there were no windows so there was something
19 more like a wall there. I think the windows could
20 actually help him because they would allow more light to
21 pass through.

22 MEMBER BLAKE: Okay. And that would be a
23 family room that's in that location?

24 MS. ROOSEVELT: That's correct.

25 MEMBER BLAKE: Okay. Thank you very much.

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1 Thank you.

2 MS. ROOSEVELT: Thank you.

3 MEMBER SMITH: I have one more question.

4 BZA CHAIR HILL: Go ahead, Mr. Smith.

5 MEMBER SMITH: What is the distance -- it's
6 hard for me to judge this because I don't see it on the
7 plans either. What is the distance between your
8 perspective wall -- the two side walls, what's the
9 distance? Do you know?

10 MS. ROOSEVELT: Yes. It's 8 feet, 9 inches.

11 MEMBER SMITH: 8 feet, 9 inches. Okay.

12 MS. ROOSEVELT: Department of Planning note
13 that in their approval.

14 MEMBER SMITH: Okay. Maybe I missed that.

15 Okay. All right. Thank you.

16 MS. ROOSEVELT: Great.

17 BZA CHAIR HILL: Okay.

18 MEMBER BLAKE: One last question, sir.

19 BZA CHAIR HILL: Sure. Go ahead, Mr. Blake,

20 MEMBER BLAKE: Yeah. Those windows that are
21 proposed on that level, what size are they?

22 MS. ROOSEVELT: Just standard sized windows.

23 Again, I'd be happy to make them, you know, smaller if
24 that's better. Or larger if that's preferred for more
25 light. I'm just -- I'm not sure which direction Mr.

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1 Darrow wants me to go in.

2 MEMBER BLAKE: Well -- okay. All right. I'm
3 just curious to know the -- the issue there that I'm
4 looking at is there is a privacy issue to some extent, and
5 there are a lot of different types of windows you can
6 design. It depends upon what your goal is in that space.
7 So there is a -- there may be something there if you chose
8 to do that. But --

9 MS. ROOSEVELT: Sure.

10 MEMBER BLAKE: -- there may be something there.
11 Okay. Thank you.

12 MS. ROOSEVELT: The goal was to allow more
13 light, but again, I'm happy to have any suggestions. And
14 if those needed to be glazed windows, I would, again, even
15 though it's within the 10 feet, I'd be willing to do that.

16 BZA CHAIR HILL: Yeah. Ms. Roosevelt, I'm just
17 going to make -- like whether it's in the 10 feet or not -
18 -

19 MS. ROOSEVELT: Doesn't matter. Okay.

20 BZA CHAIR HILL: Yeah.

21 MS. ROOSEVELT: Okay.

22 BZA CHAIR HILL: It doesn't matter because like
23 I'm just going to -- I just want to clarify it just so you
24 know. You're here now for the whole project, right?

25 MS. ROOSEVELT: Okay.

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1 BZA CHAIR HILL: The fact that you're asking
2 for relief means that all of it now is a discussion,
3 right?

4 MS. ROOSEVELT: Okay. Perfect.

5 BZA CHAIR HILL: And the part that I'm -- and
6 now I'm looking at my fellow board members, the part that
7 I often get confused by, and I was going to ask OZLD to
8 help clarify this, but if I'm waiting to decide on this
9 next week, I can get my answer, is that -- Mr. Darrow is
10 not actually connected, right? So I don't know if, again,
11 you know, how that plays out in terms of the 10-foot rule,
12 right, with the one who's adjacent.

13 And Mr. Hood, Chairman Hood who does the zoning
14 commission, I always thought that 10-foot rule was a
15 little interesting in that -- and I know you know -- I
16 know what you know about the 10-foot rule, Chairman Hood.
17 But like, you know, the 10 foot, then the 5 foot, then the
18 10 foot past the 15 foot, that's what I got a little
19 squirrely with sometimes. And so, that all being said, I
20 need to think before I vote. And I might need more
21 information after it's all over. And Ms. John has her
22 hand up.

23 VICE CHAIR JOHN: So in the interest of time
24 and the fact that we have a very full day, I was going to
25 suggest, Mr. Chairman, that we might want to continue this

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1 case because it seems as if Ms. Roosevelt is willing to
2 have a discussion. Where that discussion leads, I don't
3 know. I'm not recommending anything in particular, but it
4 seems as if the parties would like to have a discussion
5 and return to the Board. And I think that might not be a
6 bad idea.

7 BZA CHAIR HILL: Ms. Roosevelt, you had your
8 hand up.

9 MS. ROOSEVELT: I already said this before, but
10 I've tried to multiple times to talk to Mr. Darrow, most
11 recently in my email ten days ago that he didn't write
12 back to and he hasn't talked to me. So I can't make him
13 negotiate with me. I'd ask that we go forward because of
14 that. But --

15 BZA CHAIR HILL: It's okay. Ms. Roosevelt,
16 you're not getting a vote today. I'm just --

17 MS. ROOSEVELT: Yep.

18 BZA CHAIR HILL: -- letting you know. That's
19 what I'm trying to figure out.

20 MS. ROOSEVELT: Okay.

21 BZA CHAIR HILL: And, Mr. Darrow, also in terms
22 of your -- like, you know, the negotiation, I don't know
23 what the negotiation, but like it's 2 and 1/2 feet versus
24 5 feet. I mean I don't know what, you know, that is all
25 about. So I mean, you know, what Ms. John is saying is

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1 that you all try to talk, and we'll come back and see if
2 any talking has happened.

3 MS. ROOSEVELT: That sounds great. Yes.

4 VICE CHAIR JOHN: And can I just say what I was
5 saying?

6 MS. ROOSEVELT: Wait --

7 VICE CHAIR JOHN: Ms. Roosevelt said she would
8 be willing to talk about the windows, and you did not
9 explore the pitch of the roof. Is that correct?

10 MS. ROOSEVELT: No, I actually did explore the
11 pitch of the roof.

12 VICE CHAIR JOHN: You did explore. Okay. So
13 we're back to the windows.

14 (Simultaneous speaking.)

15 MS. ROOSEVELT: -- had made that
16 recommendation.

17 VICE CHAIR JOHN: Right. So we're back to the
18 windows, which is what you said you would be willing to
19 have a discussion about.

20 MS. ROOSEVELT: Yes.

21 VICE CHAIR JOHN: That's what I was referring
22 to, Mr. Chairman.

23 MS. ROOSEVELT: Thank you.

24 BZA CHAIR HILL: Okay. Then I say we do this,
25 I guess. Let's go ahead and put this back on for a

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1 continued in two weeks. Mr. Moy, what do we look like in
2 two weeks?

3 VICE CHAIR JOHN: A limited hearing, Mr.
4 Chairman.

5 BZA CHAIR HILL: Thank you. Limited hearing
6 on --

7 VICE CHAIR JOHN: The windows.
8 (Simultaneous speaking.)

9 BZA CHAIR HILL: Well, excuse me. Only
10 discussions that might have taken place between now and
11 then, and if the applicant has any thoughts on my
12 questions about privacy for those windows.

13 VICE CHAIR JOHN: Just to report back on what
14 happened.

15 BZA CHAIR HILL: Yes. What do we have, Mr.
16 Moy, in two weeks?

17 MR. MOY: Mr. Chairman, this is what I would
18 suggest for your consideration. That we, the Board, hold
19 a continued hearing on March 20th. And that the applicant
20 make any, I'm going to say, any final filings into the
21 record by Friday, March 8th. And any responses to the
22 applicant's filings from all the parties by Wednesday,
23 March 13th.

24 So, once again, the applicant, any filings, she
25 would file them into the record Friday, March 8th.

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1 Responses from all the parties to the applicant's filing
2 by Wednesday, March 13th in a limited-scope hearing on
3 Wednesday, March 20th.

4 BZA CHAIR HILL: Okay. All right. Does
5 anybody have any questions? Okay. Then we're coming back
6 here March 20th, Mr. Moy, for a limited-scope hearing on,
7 again, any conversations that might be taking place
8 between the applicant and those in party status. And --
9 yeah. And then -- okay. All right. Does anybody have
10 any final questions? All right. Okay. We'll see -- you
11 look like you were about to say something, Ms. Roosevelt.

12 MS. ROOSEVELT: Thanks for your time. I really
13 appreciate it.

14 BZA CHAIR HILL: Okay. Great. All right.
15 Then we will see everybody back here on 3-20. Thank you.

16 MS. ROOSEVELT: Great.

17 BZA CHAIR HILL: Bye-bye.

18 MS. ROOSEVELT: Bye.

19 MR. DARROW: Thank you, all.

20 BZA CHAIR HILL: Okay. So this is our problem
21 -- or not problem. There's party status in the next two
22 cases, so if we can do -- I'd love to just kind of power
23 through, and if you all -- like I said, I already had a
24 snack. So do you all want to have a snack and then we'll
25 come back? Or you just want to come back -- or just want

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1 to do the next one now? Nobody's saying anything.

2 VICE CHAIR JOHN: Well, it's 1:00 o'clock,
3 which is lunch time.

4 MEMBER SMITH: I'd say let's get the snack.

5 BZA CHAIR HILL: All right. Let's have a
6 snack.

7 VICE CHAIR JOHN: Some people don't have any
8 snacks.

9 BZA CHAIR HILL: Oh, that's a problem. All
10 right.

11 VICE CHAIR JOHN: How long will --

12 BZA CHAIR HILL: Then we'll come --

13 VICE CHAIR JOHN: We'll do the snack, Mr.
14 Chairman. Some people will find snacks.

15 BZA CHAIR HILL: Okay. Let's find a snack.
16 Okay? And let's try to come back in 20 minutes. Okay?

17 VICE CHAIR JOHN: Thank you, Mr. Chairman.

18 BZA CHAIR HILL: All right. Thank you. Bye-
19 bye.

20 (Whereupon, the above-entitled matter went off
21 the record at 12:49 p.m. and resumed at 1:28 p.m.)

22 BZA CHAIR HILL: Okay. Mr. Moy, can you hear
23 us?

24 MR. MOY: Yes, I can, sir.

25 BZA CHAIR HILL: Thank you. Mr. Blake, can you

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1 hear me?

2 MEMBER BLAKE: Yes, sir.

3 BZA CHAIR HILL: Okay. Great. I know that Ms.
4 John is having some technical issues. So, Mr. Moy, Ms.
5 John is with us, but Ms. John, can you hear me?

6 VICE CHAIR JOHN: Yes, I can hear you, Mr.
7 Chairman.

8 BZA CHAIR HILL: Okay. So Ms. John's just
9 going to be joining us by voice for now. And so if you
10 want to call our next case, Mr. Moy.

11 VICE CHAIR JOHN: Thank you.

12 MR. MOY: Yes. Thank you, sir. After another
13 quick break from the Board, the Board has returned to its
14 public hearing session. And the time is now at or about
15 1:29 p.m. in the afternoon. The next case in the Board's
16 public hearing session is application number 21048 of
17 Keshar Israel Congregation of Georgetown, self-certified
18 application for a special exception under Subtitle X
19 Section 901.2, Subtitle C Section 1506.1 from the
20 penthouse setback requirements of Subtitle C Section
21 1504.1. And area variances pursuant to Subtitle X Section
22 1002 from the rear yard requirements, Subtitle D Section
23 207.1. And lot occupancy requirements, Subtitle D Section
24 210.1. Property located in the R-3/GT zone. The property
25 at 2801 through 2803 N Street Northwest and 1308 28th

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1 Street Northwest Square 1235 Lots 161, 163, and 800.

2 Preliminary matters, Mr. Chairman, as you know,
3 the applicants proffered expert witnesses. The first
4 three are not in the witness book. They are Stephen
5 Kleinrock for architecture, Kenneth Hill for structural
6 engineering, and also for structural engineering for a
7 Chris Ruiz. Of course, Shane Dettman is already in the
8 book.

9 Other than that, there are requests for party
10 status, Mr. Chairman. The first is from a Ambassador Lou
11 DeBaca retired. Under Exhibit 22 the addendum to that I
12 believe is that there's a letter -- a recent letter of
13 authorization in the case record now that authorizes Ms.
14 Jennifer Arndt, A-R-N-T, to speak on his behalf. And I
15 think also in the party status request, there is indicated
16 that a witness speak on behalf of this party status under
17 the name of Lorena Chambers.

18 Other than that, finally, Mr. Chairman,
19 Jennifer Arndt has in the record originally requested
20 party status, and I was told within the past hour that she
21 has withdrawn that, but I think, of course, when you call
22 her, she should clarify her position on her request for
23 party status. And I think that's all I have. If I missed
24 anything, then I'll come back for you. Thank you, sir.

25 BZA CHAIR HILL: Okay. Thank you. If the

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1 applicant can hear me, if they could please introduce
2 themselves for the record.

3 MS. PRINCE: Allison Prince of Goulston and
4 Storrs here on behalf of Kesher.

5 BZA CHAIR HILL: Hi, Ms. Prince. Let's see,
6 Ms. Prince. Who's with you here today?

7 MS. PRINCE: Shane Dettman, our expert in land
8 planning. We also have an expert in structural
9 engineering, Ken Hill. We have an expert in architecture,
10 Steve Kleinrock. We have the rabbi who represents Kesher.
11 And Aaron Tessler, who has effectively been operating as
12 an -- represented Kesher through the whole entitlement
13 process. He's a congregant.

14 BZA CHAIR HILL: Okay. So you need expert
15 party status for three of your people?

16 MS. PRINCE: We do. I think Shane is already
17 recognized as an expert. Steve Kleinrock's resume is in
18 the record at Exhibit 11. He has over 40 years of
19 experience. I'm sure he's been qualified as an expert
20 before, perhaps not recently. And then in structural
21 engineering, we have Ken Hill who's got 15 years of
22 experience in work on landmarks like the Smithsonian. His
23 expert witness resume is 21B in the record.

24 BZA CHAIR HILL: Okay. I'm going to pull these
25 up, and as I mentioned before, I only have one screen. So

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1 I'm just going to also -- right. So Kleinrock or Mister -
2 - is it Mr. Kleinrock?

3 MS. PRINCE: Kleinrock is an expert in
4 architecture.

5 BZA CHAIR HILL: Architecture. And then the
6 other gentleman was for --

7 MS. PRINCE: Ken Hill, an expert in structural
8 engineering. You'll see from his resume that he's worked
9 on Smithsonian, Carnegie Library. And --

10 (Simultaneous speaking.)

11 BZA CHAIR HILL: And then, I'm sorry, Ms.
12 Prince. Chris Ruiz, was that another person?

13 MS. PRINCE: He was an alternative. But Ken
14 will be speaking today.

15 BZA CHAIR HILL: Okay.

16 MS. PRINCE: Ken is in direct contact with the
17 abutting property owners, so we thought it best to have
18 him speak today.

19 BZA CHAIR HILL: Okay. But not as an expert in
20 anything?

21 MS. PRINCE: He's an expert in structural
22 engineering, Ken Hill.

23 BZA CHAIR HILL: Oh, no, no, no. Chris Ruiz,
24 right? I'm sorry. He's not listed --

25 MS. PRINCE: Oh, Chris Ruiz. No, he won't be

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1 speaking today.

2 BZA CHAIR HILL: All right. Unless my fellow
3 board members have any issues, we'll go ahead and allow
4 the expert in architecture and structural engineering into
5 the record. I don't see my board members raising their
6 hand or speaking up, so that's one thing. Then the next
7 is -- is Jennifer Arndt with us?

8 MS. ARNDT: Yes.

9 BZA CHAIR HILL: Okay.

10 MS. ARNDT: Jennifer Arndt --

11 BZA CHAIR HILL: Ms. Arndt, you're representing
12 Ambassador DeBaca?

13 MS. ARNDT: In the case that he wasn't able to
14 connect with the Board.

15 BZA CHAIR HILL: Okay. Is Ambassador DeBaca
16 here?

17 MR. DEBACA: Yes.

18 BZA CHAIR HILL: Okay. Mr. Ambassador, can you
19 please introduce yourself for the record?

20 MR. DEBACA: Hi. My name's Louis DeBaca.

21 BZA CHAIR HILL: Okay. And were --

22 MR. DEBACA: And we're the property owners at
23 1310 Northwest -- or 1310 28th Street ,Northwest.

24 BZA CHAIR HILL: Okay. I just want to make
25 sure I'm also addressing you properly. Were you an

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1 ambassador? Would you like to be addressed as ambassador
2 or Mr. DeBaca? How would you want to be addressed as?

3 MR. DEBACA: Ambassador DeBaca's fine.

4 BZA CHAIR HILL: Okay. Great. Where did you
5 serve, Mr. Ambassador?

6 MR. DEBACA: I was one of the global envoys.
7 There's the three ambassadors at large for war crimes,
8 women's issues, and slavery, and I was President Obama's
9 anti-slavery ambassador.

10 BZA CHAIR HILL: Okay. Well, all right. All
11 right. Let's see. Okay. You're located at the adjoining
12 property, correct, Ambassador DeBaca?

13 MR. DEBACA: We're in the abutting property,
14 the shared building at 1308 and 1310. That's a shared
15 building with two -- a party wall with two rows of bricks.

16 BZA CHAIR HILL: Okay.

17 MR. DEBACA: Ms. Arndt is in the adjoining
18 property.

19 BZA CHAIR HILL: Right. But, anyway, you're
20 the one who's going to be given party status, and so you
21 guys can organize your discussion I suppose because, Ms.
22 Arndt, you said that you removed your request for party
23 status. Is that correct?

24 MS. ARNDT: No, I don't know where that comes
25 from. I first submitted for party status on February

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1 12th, and that somehow didn't register. And then I
2 resubmitted for status today.

3 BZA CHAIR HILL: Oh, you had a problem. You're
4 the one that had the problem, right?

5 MS. ARNDT: Right. I've had a lot --

6 BZA CHAIR HILL: You're saying you submitted.
7 Okay. So where are -- well, Miss -- let me start with
8 you, Ambassador DeBaca. Where are you in relationship to
9 the applicant's property?

10 MR. DEBACA: We share a building.

11 BZA CHAIR HILL: You share a building.

12 MR. DEBACA: 1308 and 1310 28th Street,
13 Northwest is one building with two units in it. It's, I
14 guess, what you call a Georgetown townhouse. And it is
15 what is proposed to be linked to the sanctuary by the
16 infill. And so our property line, 1308 and 1310 is, I
17 guess, through that two-brick party wall.

18 BZA CHAIR HILL: Okay. And you, Ms. Arndt, how
19 do you pronounce your name? I'm sorry.

20 MS. ARNDT: Yeah. You're pronouncing it
21 correctly.

22 BZA CHAIR HILL: Thanks. How are you in
23 relationship to the applicant?

24 MS. ARNDT: I am adjacent to the property on N
25 street, and abutting the property on 28th Street. So my

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1 back yard and house cover all of the property that's going
2 to be developed.

3 BZA CHAIR HILL: Okay. Mr. Smith, can you hear
4 me? Yeah. Mr. Smith --

5 MEMBER SMITH: Yeah.

6 BZA CHAIR HILL: -- Mr. Blake, like I got the
7 one screen, and so it's too much for me to try to figure
8 out and manage. Do you see where everybody is, and do you
9 have any questions concerning the party status? I mean is
10 Ambassador DeBaca -- well, first of all, let me quick with
11 Ms. Prince. Ms. Prince, do you have any objection to
12 either one being admitted as party status?

13 MS. PRINCE: I have no objection. I just
14 wanted to clarify. I understand that Ambassador DeBaca
15 and his wife are parties in opposition. Perhaps Ms. Arndt
16 could clarify her party status.

17 BZA CHAIR HILL: Okay. Ms. Arndt, I assume
18 you're in opposition?

19 MS. ARNDT: I'm in support on the condition
20 that the list of conditions submitted by our ANC
21 representative are adopted into the approval of the --

22 BZA CHAIR HILL: Okay. I haven't seen all of
23 the conditions. But, Ms. Arndt, just to let you know,
24 oftentimes the ANCs put conditions in there that aren't
25 within the purview of the Board. So we can't include all

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1 of them into the record, right? I mean -- I'm sorry.

2 If it's not something that is within the
3 regulations and that is something that we could actually
4 enforce, that is something that we would or would not -- a
5 lot of times the ANC's conditions are things that we can't
6 put into the order. However, the applicant oftentimes
7 agrees to them anyway, and then they, on their own merit,
8 have to be honorable to adhere to those conditions. So
9 how should I ask this again? So you can think about, I
10 guess, whether or not you're in opposition or in support.

11 MS. ARNDT: I guess then I'd like to keep it as
12 in support on the condition that all of the points in the
13 list of conditions that can possibly be adopted are
14 incorporated into the application.

15 BZA CHAIR HILL: Okay. That's --

16 (Simultaneous speaking.)

17 BZA CHAIR HILL: That's fine.

18 (Simultaneous speaking.)

19 BZA CHAIR HILL: That's a fair statement. I'll
20 figure out how to deal with that in the order later. So,
21 Mr. Smith and Mr. Blake, and Chairman Hood, because I need
22 you all's help, I assume they're both adjoining.

23 MEMBER SMITH: Yes.

24 BZA CHAIR HILL: Okay. So then let's -- so
25 does anybody from my Board have any issues with Ambassador

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1 DeBaca or Ms. Arndt being admitted as parties in party
2 status?

3 VICE CHAIR JOHN: Mr. Chairman, I apologize for
4 my video being off.

5 BZA CHAIR HILL: Sure.

6 VICE CHAIR JOHN: But when I looked at the
7 file, it seemed to me that this would be two townhouses
8 separated by a party wall. And that one of them, I
9 believe, is 1308 is closer to the applicant's building.
10 Or did I mix that up?

11 BZA CHAIR HILL: Is that correct, Ms. Prince?

12 MS. PRINCE: The two structures that are
13 connected, 1310 is the northern one, Ambassador DeBaca and
14 his wife's house. The one to the south is already owned
15 by Kesher and used for synagogue purposes. That's 1308.)

16 VICE CHAIR JOHN: Which one has the party wall?
17 I'm confused by the party wall because I'm seeing it as
18 two distinct -- they're two buildings, but two distinct
19 principle residences.

20 MS. PRINCE: They are two distinct residences.
21 That's a good way to characterize it. Like many other
22 rowhouse structures in Georgetown, they were connected as
23 part of a row of two. Half of it is owned by Kesher and
24 has been for years. The northern half is owned by
25 Ambassador DeBaca and his wife.

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1 VICE CHAIR JOHN: Okay. And the closest one
2 would be 1310 or 1308?

3 MS. PRINCE: Well, 1308 is owned by Kesher.

4 VICE CHAIR JOHN: Yes.

5 MS. PRINCE: And that's being integrated into
6 the project so that the three properties owned by Kesher
7 will all be fully integrated into one structure. And then
8 Ambassador DeBaca's residence will be maintained as a
9 separate structure.

10 VICE CHAIR JOHN: And that would be what
11 number?

12 MS. PRINCE: 1310.

13 VICE CHAIR JOHN: 10.

14 MS. PRINCE: The northern. The northern.

15 VICE CHAIR JOHN: Okay. It was very confusing,
16 the description of one building with two apartments
17 because in terms of the adverse impact, we would have to
18 consider 1310 apart from 1308. So 1310 shares an
19 adjoining wall, a partition with 1308 which is owned by
20 the synagogue?

21 MS. PRINCE: Correct.

22 VICE CHAIR JOHN: Okay. Thank you.

23 MS. PRINCE: And then on the south side of 1308
24 will be the infill addition. So it's removed from 1310,
25 the infill addition is removed from 1310 by 1308. It's

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1 sort of in between the two. I understand it's very
2 confusing. We --

3 VICE CHAIR JOHN: That is what I'm trying to
4 get. So if I were to look at this, it would be the infill
5 addition, then 1308 on one side of the party wall, and
6 then 1310?

7 MS. PRINCE: You've got it.

8 VICE CHAIR JOHN: Okay.

9 MR. DEBACA: And just to clarify the infill
10 addition is not separate from 1308. It is integrating
11 1308. So, effectively, the application as we understand
12 it is running from N Street all the way to the building
13 that we share with 1308.

14 MS. PRINCE: The application includes 1308.
15 That's absolutely correct, Ambassador DeBaca.

16 VICE CHAIR JOHN: Okay. Thank you.

17 ZC CHAIR HOOD: Mr. Chairman.

18 BZA CHAIR HILL: Chairman Hood.

19 ZC CHAIR HOOD: I have to go back. I have a
20 quick question. I was trying to understand the party
21 status, so forgive me. Ms. Arndt seems to be in support
22 with conditions, and Ambassador DeBaca seems to be in
23 opposition. Is that correct?

24 MR. DEBACA: Yes. I think that we are pretty
25 much standing in the same place. But I think that what

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1 we're labeling where we're standing might be a little bit
2 different. I think in that we -- frankly, when I filled
3 out your form, it had two things on it, it was a binary
4 choice. And support is not something that we are
5 necessarily in as far as this is concerned.

6 We're in discussions and continued
7 conversations with our neighbors at the synagogue. It's a
8 relationship that we care very much about. And so we are
9 not in -- we're not the hardest over. But we kind of had
10 two choices here and I think that for us, we saw it as
11 that we needed to be able to reserve -- much as the
12 discussion with the Chairman just now with Ms. Arndt, as
13 far as reserving those concerns as we go forward.

14 ZC CHAIR HOOD: I get that, Ambassador DeBaca.
15 With all due respect though, I heard Ms. Arndt to say she
16 was in support with conditions, and I heard you in
17 opposition. I'm just trying to get clear so I can put my
18 framework. And then we also have a caveat for undeclared.
19 But I'll let the chairman run this, and I'll mind my
20 business on the commission. Thank you.

21 MR. DEBACA: Thank you, Mr. Hood.

22 BZA CHAIR HILL: Ms. Arndt, where are you
23 located again?

24 MS. ARNDT: 2809 N street which is next to the
25 28 -- it's adjacent to 2803 N Street, which is the

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1 property -- one of the properties being involved in the
2 development.

3 BZA CHAIR HILL: Okay. Great. Thanks. All
4 right. So I'm back to my Board, I think we're going to
5 allow party status for both people. Then what's going to
6 happen is we're going to hear from everybody. And so,
7 again, I guess you all might have watched the one before,
8 I don't know. But the applicant will give the
9 presentation. The party in opposition will give their
10 presentation. The party in support will give their
11 presentation.

12 Then we're going to have questions of --
13 actually, I'll go through the normal way so I don't have
14 to get too confused. Ms. Prince will speak. Then you
15 guys can ask questions of Ms. Prince. Then whoever's
16 going to speak next, and somebody will ask questions of
17 that person, we'll just go -- everybody has to get their
18 chance to be heard and ask questions, the Office of
19 Planning, the whole thing.

20 So that, coming back to the beginning here, Ms.
21 Prince, I'm going to put 15 minutes on the clock even
22 though it's an ambitious 15 minutes, I'm going to put it
23 on the clock. And if you would please walk us through
24 your client's application and why you believe they're
25 meeting the criteria for us to grant the relief requested.

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1 Looks like -- hold on. Ms. Arndt, you're going to speak?

2 MS. ARNDT: No, I'm fine.

3 BZA CHAIR HILL: Okay. Great. All right, Ms.
4 Prince.

5 MS. PRINCE: Thank you, Chairman Hill. And I
6 don't want to disappoint you from the outset, but we
7 really do need about 30 minutes for our presentation start
8 to finish to allow for the expert testimony. I'll keep my
9 opening brief.

10 BZA CHAIR HILL: Sure, Ms. Prince.

11 MS. PRINCE: Thank you. I was going to say
12 good morning, but now I'm going to say good afternoon,
13 Chairman Hill and members of the Board. I'm Allison
14 Prince with Goulston and Storrs, and I'm here on behalf of
15 Keshet Israel.

16 The century old congregation has worshipped in
17 Georgetown continuously since 1911, and in the subject
18 building since 1932. It's an integral and cherished part
19 of the Georgetown community. It has a quiet but important
20 presence supported by a devoted neighbor congregation who
21 treasure their way of life. Its rich history is captured
22 in books by Herman Wouk and others. I urge you to Google
23 Keshet Israel. It's a fascinating history.

24 The sole purpose of the project, which requires
25 both special exception and variance relief, is to bring

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1 the aging buildings up to current standards. In its
2 nearly 100-year history, it has never undergone a major
3 renovation. And as you'll hear today, the deficiencies
4 are severe, extremely severe. The most basic
5 institutional needs are not met. And despite the extreme
6 deficiencies, the congregation has persevered, but this is
7 not an acceptable situation that can be continued.

8 Both the special exception and variance burdens
9 of proof are clearly satisfied. The special exception is
10 required to accommodate an elevator in a location that
11 does not create a domino effect on the other accessibility
12 upgrades. And as for the variance, the site is truly
13 unique. Our land planner, Shane Dettman, will address
14 that there are a panoply of practical difficulties that
15 would result from the strict application of the regs.
16 And, finally, modernizing a cornerstone of the Georgetown
17 community is highly consistent with the zone plan.

18 As you'll hear from Aaron Tessler, who's a
19 congregant on behalf of the synagogue, the community
20 outreach has been extensive. I'm going to let him address
21 that in the interest of time, and I'm glad that you're
22 aware that we fully support party status for both
23 neighbors. Our relationships with our neighbors are
24 incredibly important to us, and we want them to be able to
25 discuss any issues or concerns they have.

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1 We have three experts, our architect Steve
2 Kleinrock, who you've qualified already. He's a veteran.
3 And we've got Shane Dettman from my firm who's been
4 qualified before. And Ken Hill who's a structural
5 engineer, and we've asked him to testify directly because
6 some structural issues have been raised. Even though
7 that's not really within your jurisdiction, I thought it
8 might give you comfort to hear from a structural engineer.
9 And our first witness is Rabbi Shafner of Kesher, then
10 Aaron, then the architect, then Shane, then Ken.

11 I do want to note that just to say it right up
12 front, whether or not you adopt all of the ANC's
13 conditions, Kesher is fully committed to honoring all of
14 those conditions. We have made that representation to the
15 ANC, to any neighbor who wants to hear it, and I want to
16 put that on the record before you today.

17 And finally, I know that several congregants
18 are anxious to testify. We've lost some along the way,
19 but please don't take that for a lack of enthusiasm. This
20 is an incredibly committed group of congregants, all of
21 whom are neighbors, Georgetown neighbors because of the
22 walkability of the site. So with no further delay, we can
23 move on to Rabbi Shafner.

24 RABBI SHAFNER: Hi. Thank you very much.
25 Great to be with all of you. Can you hear me okay?

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1 BZA CHAIR HILL: Yeah. Rabbi, if you could
2 introduce yourself for the record. And welcome.

3 RABBI SHAFNER: Sure. Sure. I'm Rabbi Hyim
4 Shafner. I'm the rabbi of Kesher Israel, and this is my
5 sixth year as the rabbi there.

6 BZA CHAIR HILL: Got you.

7 RABBI SHAFNER: And, you know, I'll take you
8 back 100 years. A hundred years ago, there was a thriving
9 community of synagogues in downtown D.C., and in the last
10 100 years, due to space constraints and other things, all
11 of those synagogues except for one have moved to the
12 Maryland suburbs or the very, very far reaches of the
13 borders of D.C. And the only one that's left in its
14 original place is Kesher Israel, the Georgetown synagogue.
15 And I think that really gives a sense of how important
16 community is to Kesher Israel, and how strong its
17 dedication is to being in downtown D.C.

18 It was built by Jewish immigrants who had
19 stores on M Street in the early part of the century, and
20 some of their -- some of their progeny, some of their
21 children, and grandchildren, and great grandchildren are
22 still members of Kesher Israel.

23 It plays a unique role not only in the city,
24 but also in the whole world. It is the only regular
25 orthodox prayer service. It's the only daily prayer

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1 service downtown. And as such, if there are visiting
2 dignitaries from around the world who are orthodox, if
3 there are individuals who, you know, are working on the
4 Hill, or politicians, ambassadors, or regular folks who
5 just live in downtown D.C. and are lawyers and
6 consultants, and orthodox Jews pray three times a day, and
7 it's preferable to pray in a synagogue. The only place to
8 do that on the average weekday is at Keshet Israel. And
9 so we have -- we really serve a wide array of people. And
10 as will be mentioned, our community is actually very close
11 to its building for certain religious reasons.

12 Unfortunately, you know, when it was built in
13 1931, obviously, it was a wonderful building. It has two
14 rooms. It has a sanctuary to pray in, and it has a social
15 hall where people gather after prayer. And probably for
16 the last 50 years that has not really been sufficient.
17 The social hall after prayer is shoulder to shoulder. I
18 make no exaggeration. It is truly packed.

19 And there's no accessibility. As Ms. Prince
20 mentioned, we have a 15-year-old girl who is in a
21 wheelchair who has to be carried up the stairs by her
22 mother every Saturday in order to go to services. We have
23 members who have been members of the synagogue for 60, 70
24 years since they were in their 20s and they came to
25 Washington D.C. to be a part of the government, and

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1 they're having trouble getting up the stairs because
2 they're getting older.

3 And so, you know, that combined with recent
4 bouts of anti-Semitism after October 7th and our building
5 being a building that you enter and, boom, you're in the
6 building. There is no security vestibule. There's no way
7 to scan people for who they are before they get in. It's,
8 you know, we -- this is America, it's a place where in
9 order to be able to worship, that's so foundational to who
10 we are, and we wouldn't want the building to continue to
11 stand in the way of certain people being able to worship.

12 For the first time in about 50 years since
13 they've been trying to build onto the synagogue, we have
14 the ability to do it. Partly because we were able with
15 some fundraising to buy the house next door. Without
16 that, it would have been impossible to build on, and to
17 have accessibility, and to have enough room to be
18 functional. And now we have that land. We raised a few
19 gifts, and we were able to buy the land.

20 So for the first time in history it actually
21 has the land to build on, and really, you know, passing
22 the Old Georgetown Board, which we did. And now our
23 thanks to you for being able to appear in front of you,
24 this is essentially clearing the way for a project that I
25 would say that's been under way for five decades.

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1 BZA CHAIR HILL: Thank you, Rabbi.

2 MS. PRINCE: We can now proceed with -- unless
3 you have questions for the Rabbi, we have Aaron Tessler
4 next, who's a congregant and has been responsible for the
5 day-to-day logistics of the entitlement process on top of
6 his full-time job.

7 MR. TESSLER: Ms. Prince, I appreciate it.
8 Hopefully everybody can hear me. To introduce myself for
9 the record, my name is Aaron Tessler. As mentioned, I
10 live at 2475 Virginia Avenue Northwest, just a short 12-
11 minute walk from the synagogue itself. I'm a congregant,
12 a regular attendee, and currently the vice president of
13 Keshar Israel's board of directors.

14 And thank you, Chairman Hill, and other members
15 of the board for your time and consideration on this
16 important matter today. Like the Rabbi did, I want to
17 take you a little bit back, maybe not 100 years, but to
18 ten as I was searching for a community in which to start
19 my career after college. I chose to live in downtown D.C.
20 adjacent to Georgetown, and that choice would have been
21 impossible without the existence of Keshar Israel in its
22 historic location.

23 It is absolutely critical to note, as the Rabbi
24 alluded to, that orthodox Jews in our practice are
25 prohibited from using any type of vehicle on our weekly

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1 Sabbath. That includes public transit like the Metro,
2 Ubers, cars, bicycles, you name it. And our congregates
3 are required to walk to and from the synagogue, rain,
4 sleet, snow, or shine.

5 This practice restricts the prospects of those
6 communities that many, like myself, have to those that
7 include a full service orthodox synagogue. And Kesher's
8 location downtown puts D.C. on an already short list of
9 communities nationwide in which orthodox Jews like myself
10 may move and not required to choose between a religious
11 community and professional aspirations.

12 Over 80 percent of Kesher's members live within
13 a 20-minute walk of our physical building, and because of
14 this unique reality, it is absolutely no exaggeration to
15 say that a vibrant community from students to senators
16 have literally built their lives around Kesher's exact
17 location including choosing where they study, where they
18 work, their careers, purchasing homes, and raising their
19 families.

20 A synagogue cannot function without a
21 community, and a community would not exist without a
22 synagogue. This intertwinement between the synagogue
23 building and the community around it cannot be overstated.
24 Were Kesher forced to relocate due to an inability to
25 address some of the critical and long-overdue facility

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1 needs that rabbi mentioned, Kesher would lose its
2 membership and ceased to function. And the members left
3 behind would lose their house of worship and the center of
4 community that brought them here in the first place.

5 As Kesher's vice president, as Ms. Prince
6 mentioned, I'm also the primary project manager for this
7 initiative overseeing all aspects of design entitlement
8 and also neighbor engagement.

9 Starting nine months ago in close coordination
10 with the ANC under Commissioner Lohse's leadership, we
11 hosted multiple open houses for our neighbors, not just
12 immediate, but the broader neighbors, followed by numerous
13 follow-up phone calls, virtual meetings, in-person
14 meetings to address specific and ongoing concerns and
15 questions. We are absolutely honored as a community to
16 have the support of the ANC, the Citizens Association of
17 Georgetown, and many of our neighboring homeowner's
18 institutions, all of which have been submitted into the
19 record.

20 Special attention has been paid through this
21 process to our immediate neighbors, that's Ms. Arndt as
22 well as Ambassador DeBaca and his wife Dr. Chambers, whose
23 lots abut our own, and whose homes would be undoubtedly
24 and uniquely impacted by this project. We have met with
25 them numerous times, included bringing in members of our

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1 own structural engineering team and other technical
2 experts, and we've commissioned additional acoustic
3 landscape and structural studies and reports, and even
4 used those reports to adjust our plans where it possible
5 to mitigate their concerns.

6 We have reached out proactively for months
7 prior to this hearing, and that of the OGB a few months
8 ago, and have endeavored to maintain open lines of
9 communication throughout the process, and continuing
10 forward.

11 On behalf of the entire Keshet Israel
12 community, I want to thank all of you for your time, and
13 implore you to grant us the variances needed to ensure
14 that our synagogue, the beloved Keshet Israel, the
15 Georgetown synagogue, can continue to serve its unique and
16 indispensable purpose in its historic location in
17 Georgetown for yet another century. Thank you.

18 MS. PRINCE: Thank you, Aaron. Chairman Hill,
19 if you don't have questions for Aaron, we can proceed with
20 Steve Kleinrock, the architect.

21 BZA CHAIR HILL: Yeah. Ms. Prince, the only
22 thing I got to point out to you is I was going through
23 your slide deck, and I think your slide deck's very
24 helpful as to how it's addressing the regulations. There
25 is a hard stop for us at 3:00 o'clock that is going to

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1 take a break. So if you want to get this -- I'm just
2 letting you know, at 3:00 o'clock, there's a stop. And I
3 know you're with us also in another thing for today, so
4 just letting you know. So please. Thank you.

5 MS. PRINCE: Thank you. Steve.

6 MR. KLEINROCK: Good afternoon. Is it possible
7 for you to put up our drawings?

8 BZA CHAIR HILL: Which -- first of all, could
9 you introduce yourself, Mr. Kleinrock?

10 MR. KLEINROCK: I'm Steven Kleinrock, an
11 architect. I've been an architect in Washington, D.C. --

12 BZA CHAIR HILL: Yep.

13 MR. KLEINROCK: -- for nearly 45 years.

14 BZA CHAIR HILL: I'm sure you've done a lot of
15 stuff in the city, Mr. Kleinrock. So, go ahead and please
16 begin. I'm sorry.

17 MR. KLEINROCK: I want to make sure that this
18 is the right one. So I've been an architect in D.C. for
19 45 years. I've been really fortunate and blessed to work
20 on some really amazing projects, most of them are civic
21 and college university buildings.

22 We always talk about building community.
23 What's unique about this project is we're not building a
24 community. We're actually trying to preserve a community.
25 And the building is an integral part of that. We started

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1 the project by interviewing and having focus groups with
2 the congregation. We talked to a wide, a vast cross
3 section of the congregation to find out what the needs
4 are. In going through this project, it's really clear
5 that we can't accomplish everything given the limited --
6 and the restrictions of the site and the complexity of
7 knitting together three historic buildings.

8 So the three things that we learned, a couple
9 things that we learned that, obviously, this is a very
10 vibrant community with deep historical roots in
11 Georgetown. The building is integral to that. Without
12 the building, the community doesn't exist, and so that's
13 incredibly important. And that building is the center of
14 Jewish life in Washington, D.C.

15 So this building is really important, and the
16 modifications to the building and which the building has
17 many, many deficiencies. Upgrading the building so that
18 it accomplishes and fulfills these deficiencies is
19 fundamental to allowing this community to stay in its
20 historic location.

21 And the other thing that's really important,
22 and the Rabbi alluded to this, the building is frozen in
23 time. While the congregation has changed dramatically
24 over 100 years to be more family focused than it was
25 originally, the building hasn't changed in a way that

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1 accommodates that kind of -- the change in the community.

2 So I'd like to go to the next slide.

3 So you can see there are probably in the East
4 Village alone there are 11 or 12 religious communities,
5 and Keshet Israel, which is at the corner of 28th and N
6 Street, is really the center of life, and most of the
7 congregants, as Aaron mentioned, live within 20 minutes, a
8 20-minute walking distance of the synagogue. Next slide.

9 Just to take a look at the context, 28th street
10 is pretty eclectic architecturally with federal stone
11 buildings dating from 1801 to the synagogue building which
12 was built in 1930. Next slide. So image number 1 in the
13 red -- I put these red numbers on here so it'd be easy to
14 follow since I can't point. This is the location of the
15 side yard which we would like to make into the entry
16 sequence into the addition into the building. Number two
17 is the view of the infill, the location of the infill
18 between the synagogue building and 1308 28th St. Next
19 slide.

20 So as Aaron mentioned, there are a huge number
21 of deficiencies, and we'll start with the drawing on the
22 top. The big red dashed line is the extent of the
23 existing synagogue building. The entry -- oops. Go back.
24 The asterisk at the front door, the front door is at grade
25 unlike every other religious institution in Georgetown,

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1 I've walked by every one of them. They're all elevated
2 off of the street, so with a built-in security buffer. We
3 do not have that.

4 Now the lobby is 125 square feet, and I'll show
5 you in the next photographs, it's used as the coat room,
6 the electric closet, an open stair, and access to the
7 bathrooms. No part of this building is handicap
8 accessible except the social hall.

9 On the image on the bottom, the dashed line
10 represents the proposed infill. We keep all three
11 historic buildings fully intact for the most part. And
12 then this infill is used to knit the buildings together to
13 make a single hall. Next.

14 Image 1 of the stairs, it's an open stair.
15 Does not meet handicap requirements, and it does not meet
16 life safety. Two is an image of -- a photograph of the
17 lobby, 125 square feet. Those are the entrances into the
18 bathroom. Number 3 is a view of the sanctuary. The seats
19 are too close together and they don't meet code. Another
20 view of the lobby, you can see the front door and the
21 electric closet. And then the social hall which is around
22 900 square feet, and it does not begin to accommodate any
23 event that happens after services on Saturday. Next.

24 So this slide really is the beginning of the
25 proposed -- one second. I want to use this slide now to

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1 explain what's happening at the first floor. Number one
2 is the -- you can see is the limit of the proposed infill,
3 the three historic buildings remain mostly intact. So you
4 can see that most of it is used for circulation and
5 egress, and a lobby, which the building doesn't have.

6 If you look at number two, that's the entry
7 courtyard. There are three checkpoints for security. So
8 there's one at the front gate. This one as an entrance
9 into the vestibule. And then another security checkpoint
10 when you enter into the building lobby. Number 3 is the
11 secure vestibule, which the congregation does not have
12 now. It's critically important for people's life and
13 safety.

14 So that arrangement -- number four shows the
15 two egress stairs and an elevator, and those are all
16 located after many, many, many studies strategically to
17 provide access to the Rabbi's office, which is in 2803,
18 and to the administrative office. The floor height from
19 the synagogue is off by about 7 feet. And then stair
20 number 4 is another enclosed stair. And I don't know if
21 you noticed in the first drawing of the existent
22 condition, their second means of egress is outside.

23 BZA CHAIR HILL: Mr. Kleinrock?

24 MR. KLEINROCK: Yes.

25 BZA CHAIR HILL: Which exhibit are you in? Do

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1 you know?

2 MR. KLEINROCK: Facing the proposed first floor
3 plan.

4 BZA CHAIR HILL: No. Ms. Prince is about to
5 tell me which exhibit you're in.

6 MS. PRINCE: 39.

7 BZA CHAIR HILL: 39. Okay. Mr. Kleinrock, go
8 ahead.

9 MR. KLEINROCK: So the purpose of this addition
10 is to knit these three buildings together to maximize
11 their use. And, again, when I say maximize their use,
12 based on our original programming studies, we're not
13 getting everything that the congregation really needs.
14 But we're getting enough that makes this building function
15 for them and will help, you know, this community stay in
16 its location. So the lobby is 330 square feet. It's
17 circulation space. It allows these three egress stairs to
18 --

19 BZA CHAIR HILL: Mr. Kleinrock, let me
20 interrupt you a second. Ms. Prince, it's not 39.

21 MS. PRINCE: It's 30 --

22 BZA CHAIR HILL: 39's your PowerPoint.

23 MS. PRINCE: Right. It was 38. I guess it was
24 split up somehow.

25 BZA CHAIR HILL: Okay. Sorry. Okay. Go

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1 ahead, Mr. Kleinrock.

2 MS. PRINCE: Apologies.

3 MR. KLEINROCK: Okay. So we've designed this
4 infill to be able to connect all the pieces of the
5 building together and make it work seamlessly. And the
6 location is the elevators, the stairs are all designed to
7 facilitate safe egress out of the building.

8 Number six is the social hall, and right now
9 it's 950 square feet. We're adding about 500 square feet
10 to the social hall. Number 7 is the trash room. Small
11 detail, but in order to, you know, make sure that the
12 building functions properly and is not a burden on the
13 neighborhood, we have an internal trash room. And then
14 there's a residential style kitchen. So this kitchen is
15 really used for outreach for baking bread and meals for
16 the community. Most social gatherings that happen in the
17 social hall are actually catered events.

18 And lastly, is nine. So we are very aware that
19 we share a party wall with 1310. Programmatically, we
20 have located all the spaces that are adjacent to the party
21 wall in such a way to not impact in terms of noise. So
22 there's a lot of noise separation and sound isolation that
23 will be installed along the party wall. And then the
24 functions that happen in those spaces are actually quite
25 quiet. Next slide.

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1 This is the lower level. Not a need to spend a
2 lot of time on this, but it has all of our mechanical
3 space, additional restrooms so that we can meet code. If
4 we can go to the next slide.

5 So the second floor starting with number one,
6 that's the location of an open stair, and in order to meet
7 the current code, since we're renovating the building, we
8 have to space the seats further apart which means that
9 there was a net loss of seating, which is really not
10 something that we can do to accommodate the needs of the
11 community. So we have a limit, we're going to fill that
12 in, we're going to reorganize the seats so that it meets
13 code.

14 The second means of egress is number 2 which
15 pokes through into the 2803, and then exits downstairs
16 into the lobby. You can see that, again, there's a lobby.
17 It's about 300 square feet, and it's really mostly for
18 egress. It's a place for people to go right before they
19 go up to services and to have a brief exit when they
20 leave. It also then organizes the three circulation
21 points.

22 We are adding one new program space in the
23 entire building which is a chapel, you know like most
24 churches, most synagogues have more than one prayer space.

25 BZA CHAIR HILL: Mr. Kleinrock, can I interrupt

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1 you real quick?

2 MR. KLEINROCK: Sure.

3 BZA CHAIR HILL: I mean I only have one screen,
4 so I can't do what I want to do here. Can you go to slide
5 3, Mr. Young, and tell me when you're there? Are you
6 there?

7 MR. KLEINROCK: Yeah. This is Slide 3.

8 (Simultaneous speaking.)

9 BZA CHAIR HILL: Yeah. So I'm just trying real
10 quick, Mr. Kleinrock, and then I'm going to ask, actually,
11 because, as I said, I got to get through the two party
12 status individuals, the Office of Planning, and try to
13 hear every questions from my Board by 3:00 o'clock. The
14 people that are having party status or that asked for
15 party status, I see that little diagram down in the bottom
16 right corner. Can you tell me where the party status
17 people are?

18 MR. KLEINROCK: Sure. Jennie is at 2809 N
19 Street. That's number eight. And Ambassador DeBaca is
20 number three, which is 1310 28th Street.

21 BZA CHAIR HILL: Got it. That's very helpful.
22 Thank you.

23 MR. KLEINROCK: Sure.

24 BZA CHAIR HILL: Okay. All right. You were on
25 which slide when we left you?

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1 MR. KLEINROCK: 9.

2 BZA CHAIR HILL: Okay.

3 MR. KLEINROCK: So, briefly, you know, because
4 we're losing seats in the sanctuary, it's important to
5 have some capacity for overflow. But most importantly,
6 the synagogue doesn't have a second prayer space, so this
7 second prayer space is really integral to their community.
8 It allows separate services for youth and for a daily
9 minyan which meets three times a day.

10 BZA CHAIR HILL: Got it.

11 MR. KLEINROCK: The capacity of that space is
12 30 people or 30 --

13 BZA CHAIR HILL: Mr. Kleinrock, let me
14 interrupt you again and turn to Ms. Prince. Ms. Prince, I
15 would, if we could, get to your slide deck so we can talk
16 through the regulations a little bit more.

17 MS. PRINCE: Yeah. I think that's a good use
18 of time. So I think --

19 (Simultaneous speaking.)

20 BZA CHAIR HILL: Mr. Kleinrock, I've got to
21 interrupt you one second. If were the ANC and I had --
22 I'd love to hear everything. I want to hear about the
23 history, the hundred years. It's so wonderful to hear.
24 But, unfortunately, I just got to get to the regulations.

25 MR. KLEINROCK: That's fine.

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1 MS. PRINCE: I think we're going to just jump
2 right to Shane Dettman who will go through the entire
3 burden of proof.

4 BZA CHAIR HILL: Go ahead, Mr. Dettman.

5 (Simultaneous speaking.)

6 MS. PRINCE: Because that seems like what you
7 need to hear. All right.

8 MR. DETTMAN: One second.

9 BZA CHAIR HILL: I can't hear Mr. Dettman. Mr.
10 Young --

11 VICE CHAIR JOHN: On mute?

12 BZA CHAIR HILL: Can we bring down your volume?

13 MR. DETTMAN: How's that? One second. How is
14 that? Is that better? Can you hear me?

15 BZA CHAIR HILL: Yes. Yes.

16 MR. DETTMAN: Okay. Apologies. Good
17 afternoon, Mr. Chairman, members of the Board. Mr. Young,
18 can we move to Slide 20?

19 BZA CHAIR HILL: In Exhibit 39, Mr. Young, I
20 think, right?

21 MR. DETTMAN: No, I sent a -- I sent a compiled
22 set of slides to Mr. Young. So we're good. This is
23 perfect. Good afternoon, again. I'll walk the Board --
24 and I'll try to make up some time here. I will walk the
25 Board through the standard of review for the requested

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1 special exception and variance relief. Just to make sure
2 we're all oriented here, this diagram shows the subject
3 property --

4 BZA CHAIR HILL: Is your slide deck in the
5 record, Mr. Dettman?

6 MR. DETTMAN: It is. So my slide deck is
7 actually Exhibit 39.

8 BZA CHAIR HILL: Okay. Great.

9 MR. DETTMAN: I don't know what happened that
10 it somehow --

11 BZA CHAIR HILL: That's okay. Just want to
12 know where to pull it up.

13 (Simultaneous speaking.)

14 BZA CHAIR HILL: But go ahead.

15 MR. DETTMAN: So Exhibit 39 should be showing
16 this slide, maybe one cover slide. So the diagram showing
17 here is the subject property. It's rotated, so north is
18 actually to the right. But you can see the red outline is
19 the subject property with the three existing historic
20 structures that are on the property. You see 1308
21 identified there.

22 And so to the right of that is 1310. That's
23 Ambassador DeBaca's property. And then along N Street,
24 you can see a building on the property identified as 2803
25 N Street. Immediately to the west or page north on the

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1 opposite side of that red line is Ms. Arndt's property.
2 So just wanted to orient the Board and walk through
3 quickly what areas of relief we're requesting . Next
4 slide, Mr. Young, please.

5 So we're requesting a special exception from
6 the penthouse setback requirements of C1504.1. On the
7 diagram now you can see the red outline of the infill
8 addition. The box that's identified as Number 1, that's
9 the footprint of the elevator override. And the box
10 that's identified as number 2, that's the egress stair.
11 But those are the two components of the new construction
12 that are subject to the penthouse setback relief. Next
13 slide.

14 We're also requesting two area variances, the
15 rear yard variance under D207.1 where there's a minimum
16 required rear yard in this zone of 20 feet. And on the
17 diagram, you can see the west lot line is our rear lot
18 line. And so the black hatched area represents what would
19 be a required minimum rear yard on the property for the
20 project.

21 We're proposing a rear yard that varies. At
22 its narrowest, adjacent to the vestibule, is 3 foot 10.
23 Although, other than the vestibule, it does -- it's around
24 14 feet. And again, our minimum required is 20 feet.
25 We're also requesting a lot occupancy area variance from

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1 D210.1. We have an existing lot occupancy of 53 percent.
2 The zone permits a maximum of 60 percent. We're proposing
3 79. Next slide.

4 So before walking the Board through the
5 relevant standards of review, I wanted to just very
6 quickly summarize what is referred to as the public good
7 flexibility doctrine since it was discussed at length in
8 our statement. As you know, it allows the Board to
9 exercise a degree of flexibility in its application of
10 these special exception in variance standards for certain
11 types of applicants.

12 The doctrine was first established in the
13 Monaco case where the court said a commercial user may not
14 be able to establish a uniqueness in a particular site's
15 exceptional profit making potential, but the Board may be
16 more flexible when it assesses a nonprofit organization
17 which is a well-established element of the governmental
18 system. The Board most recently relied upon this standard
19 in the McDonald case, that was the Sunrise Assisted Living
20 Wisconsin Avenue Baptist Church case that also went to
21 court and was upheld.

22 But the public good flexibility standard has
23 evolved since the Monaco case back in 1979, and it's
24 articulated -- how it has evolved was discussed thoroughly
25 by the court in its decision in the McDonald case. The

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1 standard has evolved in that it has moved beyond just an
2 application to a government adjacent entity. It's been
3 applied to a variety of applicants including houses of
4 worship. It doesn't only apply when an organization is
5 seeking to expand its facilities. It also includes
6 expansions of program.

7 An applicant -- this is important, an applicant
8 must show that the proposed design constituents an
9 institutional need, and we address this in our statement,
10 and specifically how the needed design features require
11 the specific variances being sought.

12 Finally, the public good flexibility doctrine
13 can be both applied to the first prong of the variance
14 test as well as the second prong of the variance test.
15 And so I believe the applicant strongly meets the special
16 exception to variance standards even without application
17 of the public good flexibility doctrine, but I just wanted
18 to provide that summary to remind the Board that it
19 exists, and that it can be applied in this case. Next
20 slide.

21 So looking specifically at the special
22 exception, again, it's from the one-to-one penthouse
23 setback requirement, and we are requesting that under
24 Subtitle X901.2, which authorizes the Board to grant
25 special exceptions where the special exception would be in

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1 harmony with the general purpose and intent of the regs,
2 would not tend to adversely the use the neighboring
3 property in accordance with the regs. And then would meet
4 any special conditions that are set forth in the
5 regulations. And we do have special conditions in this
6 case. Those are under the penthouse regulations under
7 C1503. I'll address those first. Next slide.

8 So in terms of the special conditions, we
9 needed to demonstrate that the applicant has made a
10 reasonable effort to satisfy the one-to-one setback
11 requirement in this case. And the diagram shows the roof
12 elevation -- or the roof plan that's included as sheet 22
13 in the proposed plans. You can see identified as number
14 one the elevator override, and number two is the egress
15 stair that are the subject of the special exception we
16 have requested.

17 There's lots of other mechanical equipment
18 that's being proposed in this project. And the architect,
19 Mr. Kleinrock, has done a great job of actually
20 positioning that mechanical equipment in a way that has
21 reduced its height, and it all meets the one-to-one
22 setback requirement. So, again, it's really limited to
23 just the elevator override and the egress stair, and even
24 the extent of the relief has been minimized. The
25 override, the extent of the setback relief is only 5 foot,

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1 2 inches. And the stair is only 3 foot, 7 inches in terms
2 of how much they would have to be set back to meet the one
3 to one. Next slide.

4 Next, we need to demonstrate that we satisfy at
5 least one of the following criteria, the criteria that are
6 identified in 1506.1(c) 1 through 4, and then we actually
7 meet two of them. The two that we satisfy is to show that
8 the strict application of the regulations would result in
9 construction that's unduly restrictive, costly, or
10 unreasonable, or is inconsistent with the building codes.
11 And also that as a result of the strict application, we
12 would experience operating difficulties in meeting the
13 D.C. construction code specifically when it comes to
14 stairwell separation and elevator stack locations to
15 achieve reasonable efficiencies.

16 You can see in the diagram, you can see the
17 elevator override. And what I've done is I've drawn a red
18 box, and shown where the elevator core would have to get
19 shifted into the envelope of the building in order to meet
20 the one-to-one setback. You can see it's got a shift to
21 the east.

22 And then the next slide, you can see in plan
23 view -- next slide please. You can see in plan view how
24 shifting the elevator core into the envelope of the
25 building comprises all sorts of things. It actually

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1 comprises the west wall of the synagogue. It also would
2 cut off the egress stair that is required under the
3 building code in order to access the upper floors of the
4 synagogue.

5 As Mr. Kleinrock mentioned, we trigger various
6 accessibility and code requirements with this project
7 including, you know, the need to provide two means of
8 egress. You can see the egress stair on the northern
9 portion of the site. But there's also the second one that
10 would be completely cut off if we had to meet the one-to-
11 one setback with the elevator core.

12 What that also is showing in this diagram is
13 that long, sort of horizontal rectangle. That's the
14 footprint of the egress stair. It's identified as number
15 two . And if we had to shift that away from the north
16 façade, you can see how those hatched areas, which are the
17 landings for the stair, actually get shifted where we
18 would actually have to compromise sort of the penetrations
19 that are necessary into the wall of the synagogue in order
20 to provide that access. Next slide.

21 This just shows kind of how the requested
22 special exception is in harmony with the zone plan, and
23 will not adversely affect the use of neighboring
24 properties. You know, the purpose of the setback
25 requirement largely has to do with aesthetics and views,

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1 architectural harmony. It impacts the light.

2 You can see on the bottom diagram that the
3 egress stair will only pop up above the existing historic
4 parapet of the N Street building by about 1 foot 6 inches.
5 You'll never see it from the street level. And so really
6 the extent of that relief is really de minimis.

7 With respect to the elevator core, you know,
8 it's been designed, you know, in consultation with OGB,
9 but it's been designed to harmonize with the rest of the
10 infill development. It's going to be clad in the same
11 material. And again, through the applicant's -- or the
12 architect's choice of the mechanical system that'll power
13 the elevator, it actually really has reduced the amount of
14 setback relief that we need. Next slide.

15 And then finally on the special exception, you
16 know, while the impact under the standard of review does
17 focus on the use of neighboring properties, I just wanted
18 to point out with this diagram showing the view of the
19 project from the balcony of Ambassador DeBaca's property
20 at 1310 28th Street, you'll see that even with the
21 elevator override, and you can see it kind of protruding
22 out just slightly there, that the view from the balcony is
23 not, you know, substantially impacted. This is the view
24 looking from the balcony towards N Street. It's very
25 open. It still has a view N Street, and there'll be a lot

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1 of improvements at the ground level as well. Next slide.
2 So I believe we do meet the special exception standard for
3 penthouse.

4 Finally, just looking at the area variance
5 standard, and as you know, it's a three-pronged test where
6 the subject property has to be affected by an exceptional
7 situation or condition, that as a result of said
8 conditions, the strict application of the regs would give
9 rise to practical difficulties to the applicant. And
10 provided those first two prongs are met, the variances can
11 be granted without causing substantial determinant to the
12 public good, and without substantially impairing the
13 intent, purpose, and integrity of the zone plane. Next
14 slide.

15 So the uniqueness of the property is thoroughly
16 described in our statement, and I would say that the
17 subject property is affected by, you know, a whole host of
18 exceptional and extraordinary conditions First, as Rabbi
19 Shafner mentioned, Keshet is the oldest continuously
20 operating orthodox synagogue in Washington, D.C. Mr.
21 Tessler mentioned the unique institutional customs of
22 orthodox Judaism that require congregants to walk to
23 services during sabbath and holidays.

24 The property contains also three outdated,
25 inadequately-sized, and disconnected historic resources

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1 which present significant constraints to achieving the
2 accessibility and programmatic needs of Kesher that Mr.
3 Kleinrock touched upon. The entrance to the main
4 synagogue is directly accessible from the sidewalk right
5 along N Street. So as Mr. Shafner mentioned, you know,
6 right now, even baseline security needs cannot be met at
7 the synagogue.

8 The sanctuary is located on the second floor,
9 which is unique to synagogues as well as other houses of
10 worship. And the second floor location of the main
11 sanctuary really exacerbates the accessibility issues that
12 Mr. Shafner touched upon.

13 Allison mentioned the NEP systems, and the
14 accessibility of the main synagogue has not been fully
15 modernized to current codes and requirements since being
16 constructed in the 1930s.

17 And finally, the property is an exceptionally
18 small corner lot. And in order to demonstrate that point,
19 we've looked at all houses of worship within a half mile
20 radius of Kesher. Next slide. And this is a table from
21 our statement, and in looking at the houses of worship
22 with a half mile of Kesher, you'll see that, you know,
23 those properties, those other houses of worship have an
24 average lot area of 13,300 square feet, and at less than
25 half of that, Kesher's lot size is exceedingly small at

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1 just over 6,000 square feet. Next slide.

2 If we look at synagogues throughout the
3 District, and as Rabbi Shafner mentioned, you know, over
4 the course of 100 years, the number of synagogues in the
5 District has diminished. And those other than Keshet,
6 those that do remain in the District have gone -- are
7 located in the far reaches of the District, largely in
8 northeast and in -- kind of in the East End of the
9 District.

10 But if we look at the land areas of synagogues
11 in the District, those have an average lot area of about,
12 you know, 63,000 square feet, and again Keshet is 6,000
13 square feet. I think that clearly demonstrates that the
14 property is affected by a confluence of exceptional
15 conditions that are unique to the property and are not in
16 any way reflective of the general condition of the
17 neighborhood. Next slide.

18 So because of those exceptional conditions,
19 they give rise to a number of practical difficulties, and
20 I'll go through these next few slides very quickly. This
21 is showing the plan of the first floor of the proposed
22 project with those blue shaded areas showing the existing
23 historic structures that present all those constraints,
24 and that we have to have a light touch on as a result of
25 the project.

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1 And the diagram on the left shows what would
2 happen to the project, the infill construction as well as
3 the existing historic structures, if the rear yard
4 requirement was strictly imposed. And you can see how it
5 -- we would have to demolish portions of the historic
6 structures, which we obviously can't.

7 And it also largely just eliminates the
8 important security vestibule that's being proposed as well
9 as a very big portion of the proposed lobby which is an
10 institutional need. It's been sized to the expected load
11 -- or the occupancy load of the project. You can also see
12 that we would have to move the elevator core and a
13 required egress stair completely out of that red hatched
14 area.

15 But that's not enough. Just the required rear
16 yard, the remaining lot area is still not available to us
17 fully because we have to strictly apply the lot occupancy
18 requirement. You can see that on the right diagram. So
19 all that red hatched area is areas that is essentially off
20 limits if you strictly apply the required rear yard and
21 the required lot occupancy of the site. You can see the
22 only area that we would have to meet our programmatic need
23 as well as our accessibility requirements is that little
24 unshaded, white area of the property. Clearly there are
25 practical difficulties here. Next slide.

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1 This is just showing the same thing but at the
2 second floor. You can see how the strict application of
3 the rear yard and lot occupancy requirements present
4 significant practical difficulties that come about as a
5 result of, you know, the exceptional conditions of the
6 property. Next slide. Just some other practical
7 difficulties. It was already talked about how Kesher
8 really is optimally located in order to serve the needs of
9 orthodox Jews in this part of the District. It's located
10 in close proximity to two universities for students that
11 might want to worship at Kesher. It's also located in
12 proximity to, you know, multifamily housing for, say,
13 young professionals, or not young professionals, or adult
14 professionals that wish to live in a multifamily
15 neighborhood. And then for those that wish, you know,
16 more home ownership --

17 BZA CHAIR HILL: Hey, Mr. Dettman.

18 MR. DETTMAN: -- condition. Yes, sir.

19 BZA CHAIR HILL: I'm flipping through your
20 slides. Is there a way to move forward a little bit?

21 MR. DETTMAN: Yeah.

22 BZA CHAIR HILL: Thanks.

23 MR. DETTMAN: Sure. So the practical
24 difficulties in terms of having to potentially relocate
25 out of the District or potentially cease existence. Next

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1 slide. There are more practical difficulties in terms of
2 our inability to upgrade the facilities that have been not
3 updated since Kesher was originally built. It's been
4 inadequate for nearly six decades. Next slide. Next
5 slide.

6 So the two -- these are just three more slides.
7 So the two areas of variance can be granted without
8 causing substantial detriment to the public good. The
9 retention of Kesher in Georgetown will continue to have
10 positive social and spiritual impacts on the community.
11 The project will not result in substantial increase in
12 Kesher's current congregation or intensity of use or
13 frequency of programming.

14 There are no impacts to transportation. It
15 doesn't have any onsite parking. It doesn't propose any
16 onsite parking. And as Mr. Tessler mentioned, you know, a
17 foundational principle of orthodox Judaism is having to
18 locate within close proximity.

19 There's also no undue impact to light, air, and
20 privacy. The height of the infill is lower than the
21 synagogue. Views of the infill are substantially blocked
22 by existing historic buildings. And the properties to the
23 north and west do not have windows that directly face the
24 property or the infill addition. Next slide.

25 This just shows, in terms of lot occupancy,

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1 that we're not overcrowding the site. As I mentioned, of
2 the 15 houses of worship that are within a half mile of
3 Keshar, Keshar has the third smallest lot area of those
4 houses of worship. But despite that extremely small lot
5 area, the proposed lot occupancy is still right there with
6 the average lot occupancy of all of those 15 houses of
7 worship. That's that gray dotted line. You can see we're
8 right there with average lot occupancy despite our really
9 small size. Next slide. This is just showing more
10 substantially, you know, lack of substantial detriment to
11 the public good and impairment to the zone plan. So next
12 slide is my conclusion.

13 So I would just say in conclusion that Keshar
14 qualifies for flexibility under the public good
15 flexibility standard established by Monaco. And then
16 establishes -- it satisfies the applicable criteria for
17 the special exception for penthouse. Next slide. And it
18 also satisfies the three-prong test of the variance tests
19 for the lot occupancy and the rear yard relief. And I'll
20 stop there, Mr. Chairman. I appreciate your time.

21 BZA CHAIR HILL: Thank you. Okay. Ms. Prince,
22 is that it?

23 MS. PRINCE: Yes. Chairman Hill, in the
24 interest time, we're going to -- sorry for the echo. We
25 have the echoing laptops. We're going to reserve Ken

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1 Hill, our structural witness, as a rebuttal witness should
2 he be needed.

3 BZA CHAIR HILL: Okay. Great.

4 MS. PRINCE: So that concludes our
5 presentation.

6 BZA CHAIR HILL: Thank you. Ambassador Debaca,
7 can you hear me?

8 MR. DEBACA: Yes, I can.

9 BZA CHAIR HILL: Would you like to give us your
10 testimony?

11 MR. DEBACA: Certainly. And I'll be doing it
12 alone. Lorena, I think in the interest of time, is not
13 going to testify as I think it would be not necessarily
14 separate.

15 Several concerns that we have, I'll just hop
16 right in. This notion of the variance, the request of the
17 lot coverage, going all the way up to almost 80 percent, a
18 very, very dramatic shift here as that extra purchase I
19 guess seems to have allowed some extra land to bring into
20 those percentages.

21 For us, what we see then, and it's reflected on
22 the photograph that you saw, the rendering on their Slide
23 number 29 in the applicant's exhibit, the rendering of the
24 back alleyway, the backyard as it would stand under this
25 application basically now replaces what had been a tree-

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1 filled courtyard that has light and air coming through,
2 morning sun coming through in the early part of the day,
3 et cetera, with a massive high, cliff-like wall that
4 reaches down that entire western side from the 1308
5 property now all the way to N Street. And so we are
6 concerned about not only the lot coverage, but the massive
7 building that's going to be put on to that lot if this is
8 granted.

9 It is connected all the way through , and as
10 we've talked about earlier when we were talking about
11 party status, that is connected to our building. Right
12 now, the building that we share with the synagogue, which
13 by the way, we bought from the synagogue. We bought our
14 half of it from them. Our understanding is that they had
15 it at some point for a planned expansion whether -- I
16 think it was maybe for a school or something like that.
17 We bought it from them, and it is a kind of traditional
18 Georgetown double townhouse.

19 It will now be, as Steve Kleinrock testified,
20 it will be knit together to create a single whole. And
21 though, there is a property line in the middle of it, to
22 the outside world, to the eye as far as what it is going
23 to appear like from 28th Street or to the west, it is
24 going to be one long building.

25 We are concerned with that as far as not only

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1 the aesthetics and the lot coverage, but we're also
2 concerned about it as far as the change in character and
3 kind of our building, our part of the building. And the
4 value of our property as it is now no longer going to be a
5 -- part of a traditional Georgetown townhouse, but is
6 rather going to be the north end of a very large building.

7 That is, frankly as the rabbi said, now even
8 more of a security risk. This is something that we're as
9 upset with as anyone that this kind of antisemitic risk is
10 coming to our neighbors and to our neighborhood. And yet,
11 I think also as we look at this, and this is something
12 that we started talk to with Aaron and others about is
13 that unlike anyone else in the community, we are, as a
14 conjoined building, we are going to have to be thought of
15 as part of the security risk, the security planning,
16 whatever security has to be built in, which we understand
17 we may all be back in front of you at some point on other
18 applications as far as security on that block.

19 We've also raised the structural concerns,
20 that's one of the other things that underlies our stance
21 on this. And as far as the conversations that we've had
22 with Ken and others, we're glad that that's being taken
23 into account at this point. It is of concern, especially
24 as we say, because this is now being conjoined into this
25 large structure.

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1 And so it's something that, you know, when we
2 think of the lot coverage, you know, here it is, you know,
3 effecting things that are to the north of that boundary
4 line on 1308. It's effecting Jennifer Arndt's retaining
5 wall which goes past that property line. And we share
6 that retaining wall with her. And that's a retaining wall
7 that she shares with the synagogue property now at this
8 point.

9 And so I think that one of the things that we
10 just wanted to get out there for you is, again, this
11 combination of, you know, if we're looking at such a --
12 it's such a large percentage that is going to be covered,
13 if the ask here is very much based on -- for the variance
14 on public good and flexibility, that that level of
15 flexibility take into account just how big of a building
16 we are now being attached to.

17 This is not something that we knew about until
18 the ANC sent things out. This was something that I think
19 that we've had, as I said, good conversations in the last
20 couple of months. But this train had very much left the
21 station at the time, and I think that that's one of the
22 things that we're seeing here as far as the community
23 outreach is concerned.

24 I think that's it for the moment. I'm
25 certainly interested in hearing what Ken has come up. I

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1 know that he's been doing more work on the structural side
2 since we got together. And finally, I'd like to again
3 urge to the extent possible, and I certainly urge, Mr.
4 Chairman, that you think capaciously about just how much
5 of what the ANC's conditions have been on this and whether
6 -- and to what extent they can be incorporated into any
7 order that might result if you move forward to approve
8 this.

9 BZA CHAIR HILL: Okay. Thanks, Ambassador.
10 Ms. Arndt, do you have anything to add? You're on mute I
11 think, Ms. Arndt.

12 UNIDENTIFIED PARTICIPANT: You're on mute.

13 BZA CHAIR HILL: You're still on mute.

14 MS. ARNDT: Can you hear me now?

15 BZA CHAIR HILL: Yes. Thank you.

16 MS. ARNDT: I just want to put on the record
17 that the development, the variance and the zoning to
18 occupy more space will directly threaten the structure of
19 my home because it's going to have -- they're putting a
20 basement at a distance of 4 feet from the edge of my
21 property and 10 feet below my foundation. And as they
22 acknowledge, it will require remedial actions to ensure
23 that my structure not to be threatened as well as the
24 retaining wall.

25 I've changed my position because I was -- they

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1 explained to me that they are going to put in a structural
2 containing wall, I'm not sure exactly how it's described,
3 that will remove the threat to my house through the change
4 in the pressure and shear.

5 As the list of the conditions that I mentioned
6 before address also the change to my personal -- our
7 privacy because the new addition looks over -- faces my
8 house and looks over my back yard directly. And so unless
9 we plant some kind of landscaping in between, I'm going to
10 -- I'm going to have three levels of windows looking into
11 my back yard now where I have an empty green space.

12 And then the last thing is the noise, which is
13 going to be changed dramatically, the noise level given
14 that my building is only -- has only one brick depth and
15 some plaster, and doesn't have any insulation. And Keshner
16 has agreed to work to soundproof my autistic son's window
17 in order to ameliorate the increase in noise during
18 construction. So as I said, with the promises made by
19 Keshner and the changes stipulated in the list of
20 conditions, I'm able to give my approval to the exception.

21 BZA CHAIR HILL: Okay. Thank you, Ms. Arndt.
22 I'm just pointing out to my board members here again real
23 quick. I'm the person that has to leave at 3:00 o'clock,
24 and so I'm going to let Vice Chair John take over for me,
25 and then if you all think that you need me or not for the

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1 vote, then that's up to you all.

2 One thing that I would mention before I -- and
3 I'll reiterate it again before I leave is that, you know,
4 one thing, Ambassador Debaca and Ms. Arndt, and then Ms.
5 Prince, you know, if there was like a construction
6 management agreement or something that might stipulate all
7 these concerns that Mr. DeBaca -- Ambassador Debaca and
8 Ms. Arndt might have, and if there could be some way --
9 some exhibit that I could look at it in one place, that
10 might be helpful if you all decide to carry this on to a
11 different day for a vote.

12 It sounds to me -- I guess Ambassador Debaca, I
13 know that you've listened to the application. Their
14 program is what's driving all this, right? And so they
15 are asking for what they're asking for because it's what
16 their program is driving, and they believe that they're
17 meeting the criteria for us to grant that relief. The
18 Office of Planning also agrees that they're meeting the
19 criteria for us to grant that relief. We're the last step
20 to decide whether we agree with the Office of Planning and
21 the ANCs.

22 The ANC's great weight has given conditions
23 that I don't think we're going to be able to adopt because
24 they don't fall within our purview, right? However, the
25 applicant, in their construction management agreement or

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1 in an agreement with you all individually, might say
2 something in the record that says they're going to adhere
3 to these conditions that might make you feel more
4 comfortable with what might happen. I'm just throwing
5 that out there as I move on next to the Office of
6 Planning. May I hear from the Office of Planning please?

7 MR. BEAMON: All right. Good afternoon. For
8 the record, Shepard Beamon with the Office of Planning.
9 We've reviewed the special exception application and
10 recommend approval of the requested relief to allow the
11 proposed infill addition.

12 OP finds that the requested relief should not
13 adversely impact the quality of light, air, or privacy on
14 the adjacent properties. The proposed 3 foot, 10 inch
15 rear yard created by the 1 story vestibule spans a short
16 segment of the rear yard, and will still provide adequate
17 access to maintain the remainder of the rear yard.

18 With the exception of the proposed vestibule,
19 the building will maintain between 10 to 14 feet of
20 separation from the rear lot line. The applicant does not
21 propose major exterior alterations to the existing
22 buildings, and the additions should not significantly
23 detract from historic character of the surrounding
24 neighborhood.

25 Granting the requested relief would allow for

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1 the expansion of the use to meet the accessibility and
2 programmatic needs of the applicant. Also OP has no
3 issues with the conditions proposed by the ANC in Exhibit
4 20. Therefore, we are in support of the request and stand
5 on the record. Available for any questions.

6 BZA CHAIR HILL: Okay. Thank you. Does the
7 Board have any questions of the Office of Planning? Ms.
8 Prince, do you have any questions for the Office of
9 Planning?

10 MS. PRINCE: No questions.

11 BZA CHAIR HILL: Ambassador Debaca, do you have
12 any questions for the Office of Planning?

13 MR. DEBACA: No. Thank you, Mr. Chairman.

14 BZA CHAIR HILL: Ms. Arndt, do you have any
15 questions for the Office of Planning?

16 MS. ARNDT: No thank you.

17 BZA CHAIR HILL: Okay. All right. Mr. Young,
18 how many people do we have waiting to testify?

19 MR. YOUNG: We have three people signed up, and
20 you have the ANC commissioner on as well.

21 BZA CHAIR HILL: When did the ANC commissioner
22 join us?

23 MS. LOHSE: I've been on the whole time. Hi.
24 Gwendolyn Lohse.

25 BZA CHAIR HILL: I'm sorry.

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1 MS. LOHSE: Chair of ANC 2E.

2 BZA CHAIR HILL: Can you introduce yourself for
3 the record please, Commissioner?

4 MS. LOHSE: Yeah. Absolutely. Gwendolyn
5 Lohse, chair of ANC 2E. And I've --

6 BZA CHAIR HILL: Got it.

7 MS. LOHSE: -- been on since the call started
8 this morning.

9 BZA CHAIR HILL: Thank you, Ms. Lohse.

10 MS. LOHSE: And I feel for you all, and I want
11 to keep this very brief.

12 BZA CHAIR HILL: Please, go ahead.

13 MS. LOHSE: So ANC 2E has been working with
14 Keshar for several years on the concept of this. And then
15 within the community we brought out the concept about a
16 year and a half ago. There's been interest and support
17 from the community given the importance of Keshar to
18 Georgetown, and the desire for them to stay in Georgetown.

19 And I want to point out that they're not
20 expanding. They're actually going to support their
21 current congregation. So there's accessibility, and I
22 think you heard about that earlier, there's some more
23 family focus, and there's security. So this is not an
24 expansion, but this is just sort of what exists today in a
25 more modernized way.

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1 When we worked with the community and we've had
2 several meetings with the surrounding residents, because
3 it is in a residential area, and you'll see there's some
4 letters of support from several of the surrounding
5 residents. And we've obviously focused in on the
6 Ambassador and Ms. Arndt, who are on the call today,
7 because they're the most impacted.

8 And as a result of those conversations, we
9 drafted up six conditions that are attached to the ANC's
10 letter of support. And you'll see those six conditions
11 speak to the need for greenery, and the need for noise
12 control, and also the timing of any events. And then as
13 importantly, they speak to the structural needs, and the
14 need for a construction management plan.

15 And I want to highlight the point both on the
16 need for a construction management plan as well as the
17 need for further conversations among the structural
18 engineers. With regard to the construction management
19 plan, that is going to impact not only the immediate
20 residents, but the whole surrounding area. And we've had
21 fantastic conversations with Kesher about their commitment
22 to work with us, so it's detailed what we hope to have in
23 that plan.

24 And then second, with regard to the structural
25 engineers, Ms. Arndt and the Ambassador and his wife have

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1 both had visits and conversations with structural
2 engineers from Kesher's project, and those conversations
3 are committed to, within the conditions, to continue to
4 ensure that their buildings are secure.

5 And that is those six conditions, and I heard
6 you say some of them might not be applicable, are
7 essential to our community to have support for this. And
8 I think you heard from Kesher, from their attorney that
9 they're committed to those conditions whether the Board
10 commits to them or not. And we have a very solid
11 relationship with Kesher, and I'm glad to see the Rabbi on
12 today. He has great relationships in the community, and
13 we know Kesher will keep its commitments.

14 And we look forward to working with the Board
15 to ensure anything that can't be addressed in the
16 conditions we've already laid out as the ANC are addressed
17 elsewhere. I kept it short. I hope that was helpful.
18 I'm happy to take questions. And I know I went fast, but
19 I hope it was clear.

20 BZA CHAIR HILL: No, Commissioner, that's
21 great. Thank you. No, the -- I mean some of the
22 conditions could be argued about privacy or even the
23 noise, I guess. And that's where, you know, some of the -
24 - that would be kind of among us board members to try to
25 figure out whether or not it is kind of within the

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1 regulations within our purview.

2 However, we come across this, and I'm sure
3 you've seen this before now, where many times the
4 applicant will agree to things that aren't within the
5 purview of the BZA, but the applicant and the ANC, or the
6 applicant and the party status might come up together to
7 agree with something.

8 MS. LOHSE: Absolutely. And just so you know,
9 I did -- we're well aware of the three exceptions being
10 sought by the applicant, and I did look at other
11 conditions. And so those conditions that we wrote out
12 incorporate lessons learned from other projects. So I
13 appreciate -- whether it's the time, the landscape buffer,
14 the construction management terms, they've all been
15 identified in other conditions. So I took advantage of
16 what was available to look at.

17 BZA CHAIR HILL: No, I appreciate that. And,
18 you know, I'm learning all the time. And so, you know,
19 I'll let my fellow board members also discuss some of
20 those different items. Also, you know, as the ANC, and as
21 you know, you know, whenever you guys can kind of work
22 with the applicant to alleviate the concerns of your
23 community, that's also helpful at an ANC level even
24 whether it's, again, within our area or not.

25 MS. LOHSE: Yeah. And we had about all the

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1 residents that surround, both on 28th Street -- you'll see
2 Keshner's on a corner, both on the actual 28 -- the main
3 street as well as the side streets, were involved in this
4 condition dialogue and reviewing the conditions. So
5 you're aware that we went to that extent.

6 BZA CHAIR HILL: No. Thank you. This is a
7 very big project, and, you know, with an organization that
8 obviously has deep roots within the community.

9 Vice Chair John, I'm going to turn it over to
10 you rather than bring in the witnesses, and let you go
11 ahead and run that portion. I will come back. And I
12 think maybe, Vice Chair John, if you end this hearing
13 maybe wait, and I'll start the next one. I shouldn't be
14 more than 20, 30 minutes. And I appreciate the help. And
15 I appreciate everyone's time here. And I hope I'll see
16 you or I won't see you. We'll see what happens. Okay.
17 All right. Thank you all very much.

18 MS. LOHSE: Thank you.

19 VICE CHAIR JOHN: Thank you, Mr. Chairman.

20 MS. LOHSE: Thank you, Chairman.

21 VICE CHAIR JOHN: Thanks. So I wanted to stop
22 and find out if the Board has any questions for anyone.
23 Okay. Ms. Prince, do you --

24 MEMBER BLAKE: I have one quick question.

25 VICE CHAIR JOHN: Oh, I'm sorry. I didn't see

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1 your hand, Mr. Blake.

2 MEMBER BLAKE: That's okay. I have one quick
3 question, Ms. Prince. Clearly there's a meeting of the
4 minds in terms of what needs to be done, and as the
5 Chairman pointed out, the importance of trying to
6 negotiate something in agreement with the parties in
7 opposition, or the opposing parties. Have you tried to do
8 that or just a separate agreement between those parties to
9 hit all these issues?

10 MS. PRINCE: Not any kind of -- what we've done
11 is negotiated with the ANC a set of conditions that we
12 think encompass the commentary that we've gotten from the
13 neighbors in general, but also the most effected
14 neighbors.

15 And I did want to state, I have an idea. Since
16 I believe that some of the conditions won't make it into
17 the order, and you need some kind of -- you need to know
18 that we're going to be bound by the conditions. And the
19 conditions include things like an obligation to reach a
20 commercially reasonable construction management agreement.

21 So what I would suggest, because we have an
22 excellent working relationship with the ANC, and not to
23 put the Chairman on the spot, but we would be willing to
24 put in writing an agreement with the ANC that we are bound
25 by those conditions regardless of the action of this Board

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1 so that you have something in your record, that even
2 though it's not going to make it into the order, it's --
3 you know that there's a separate freestanding obligation
4 on the part of Kesher to be bound by conditions, like
5 construction related conditions that you're not
6 comfortable putting in the order.

7 VICE CHAIR JOHN: Okay. That works for me, Ms.
8 Prince, because just looking at some of the conditions, I
9 know I would not recommend including them in the order.
10 Some of them go to the internal operations of the
11 synagogue, so that would not be appropriate. So that
12 makes sense to me. And in the order, the Board would
13 simply state that there is an existing construction
14 management agreement with the ANC.

15 MS. PRINCE: Yeah. The agreement with the ANC
16 I think will acknowledge that -- it will just memorialize
17 the conditions, that we agreed to enter into a
18 commercially reasonable -- we're not going to negotiate
19 the construction management agreement in the next,
20 whatever, week.

21 VICE CHAIR JOHN: You won't reinvent the wheel.
22 You'll just --

23 MS. PRINCE: Right.

24 VICE CHAIR JOHN: -- point to these conditions.

25 MS. PRINCE: We'll point to the conditions.

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1 Exactly.

2 VICE CHAIR JOHN: Thank you. So --

3 ZC CHAIR HOOD: Vice Chair John?

4 VICE CHAIR JOHN: Yes. Go ahead, Chairman
5 Hood.

6 ZC CHAIR HOOD: A quick question. I just want
7 to -- I wanted to ask this, but I was curious.
8 Commissioner Lohse -- how you --

9 MS. LOHSE: Lohse. Lohse. Yep.

10 ZC CHAIR HOOD: Okay. Commissioner Lohse,
11 first, let me commend the ANC for doing exactly that. I
12 looked at your -- while sometime it may not be the purview
13 of the BZA, but some of this does go to the zone. I'm
14 just curious, who's docket did you look at to come up with
15 some of these conditions? Was it the BZA or was it the
16 Zoning Commission?

17 MS. LOHSE: Both. This is, obviously, a very
18 big project, right? And it's requiring three different
19 variances. And I felt that it was an extremely important
20 project for the community to have it successfully worked
21 through. And it's going to be a long project, so it's
22 important to work with the community that we reduce the
23 impact to the community as this goes on. So I did a few
24 different things. One, I looked through other conditions
25 that are posted with zoning applications --

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1 ZC CHAIR HOOD: Okay.

2 MS. LOHSE: -- from your board. I also talked
3 to some of the other ANC chairs and other ANCs about
4 conditions they've worked with. And we have a few lawyers
5 in Georgetown, surprisingly, as you can imagine, and I
6 talked to some of my constituents who are zoning
7 attorneys, and then I worked very closely with Kesher's
8 attorneys as well. So I used a number of different
9 sources that I thought would be applicable to this, and
10 some of which you have used before as a commission or as a
11 zoning board.

12 ZC CHAIR HOOD: Okay. All right. Well, thank
13 you very much. I appreciate all the work you all have
14 done, and I agree with the path that the Vice Chair has
15 just mentioned about making sure that agreement happens in
16 that fashion.

17 Ambassador Debaca, let me ask, do those
18 conditions and that agreement, the latest one, does that
19 satisfy your -- still your -- some of your issues as well?

20 MR. DEBACA: It certainly satisfies a number of
21 our issues as far as the construction as far as how we
22 think things will go forward with the structural issues,
23 et cetera. I think that it doesn't necessarily move us
24 off the dime as far as how we want to be characterized,
25 vis-a-vis, this process. But I think that you can read

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1 into what we've come in with and how we're approaching
2 this as far as kind of the depth of that opposition.

3 But I think that we still as far as the status
4 as a party I think that we still want to be considered a
5 party in opposition. But with the idea that we want to
6 thank Allison for that good solution, and obviously, the
7 work that the commissioner and our neighbors at the
8 synagogue as well as Jenny have put into this. It's
9 something that we're very committed to and will continue
10 to work with them on.

11 ZC CHAIR HOOD: All right. Thank you very
12 much. And thank you, Madam Chair. Thank you.

13 VICE CHAIR JOHN: Thank you. Ms. Prince, I had
14 another question. So did you consider glazing any of
15 those windows that face I believe it's Ms. Arndt's
16 property and the ambassador's residence? Do I have that
17 right?

18 MS. PRINCE: We don't really --

19 (Simultaneous speaking.)

20 MS. PRINCE: Yeah. We don't really have any
21 windows facing the ambassador's residence.

22 VICE CHAIR JOHN: Okay.

23 MS. PRINCE: As for Ms. Arndt, I don't believe
24 we looked into glazing those windows. The architect can
25 address that, but I don't believe that was requested. The

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1 soundproofing of a window was requested, and we agreed to
2 that. Steve, did we ever look into glazing those windows
3 that confront Ms. Arndt's?

4 MR. KLEINROCK: I'm not sure. Glazing the
5 windows in the addition?

6 MS. PRINCE: Yes.

7 VICE CHAIR JOHN: On the addition. Yes.

8 MR. KLEINROCK: Well, they're -- I mean they're
9 all double-glazed windows, and they only open 4 inches.
10 So if you look at the elevation, I didn't get to the
11 elevation, there are three windows on each floor. Each of
12 those windows are the size of the windows that are in the
13 existing -- that'll be in 2803 and the adjacent house. So
14 they're residential in scale. We can triple glaze them,
15 you know, if that helps. But our acoustic engineer didn't
16 indicate that they needed to be triple glazed, but we're
17 happy to look at that.

18 VICE CHAIR JOHN: Okay. I was responding to
19 the concern that there was a loss of privacy from the
20 windows on the addition. And so that was the point of the
21 question.

22 Okay. Does anyone else have a question for
23 either the ambassador or Ms. Prince, anyone before we move
24 on to the witnesses?

25 Okay. Mr. Young, can you bring in the

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1 witnesses, please? And can you let me know who they are?

2 MS. PRINCE: And could I just ask, because I've
3 gotten a little lost on the order here. So, we didn't
4 really cover organizations. So, we have CAG that would
5 like to testify, and they typically would go ahead of the
6 persons in support, but in terms of persons in support,
7 we've got a lot of complicated schedules.

8 There's a Samantha Rosenthal I believe that
9 would like to be first, and I might have the last name
10 wrong, and then Shari, who's a physician in between
11 appointments, but she's a critical witness, and Yishai.
12 So I don't know, Mr. Young, if you can work with that
13 order.

14 VICE CHAIR JOHN: So, Ms. Prince, are these you
15 witnesses, or just persons in the community that signed up
16 --

17 MS. PRINCE: These are persons in support, yes.

18 VICE CHAIR JOHN: Okay. So who are those
19 people, Mr. Young?

20 MR. YOUNG: So, first I have Brittany Sawyer.

21 VICE CHAIR JOHN: Mm-hmm. Thank you.

22 MR. YOUNG: I have Shari Diamond.

23 MS. PRINCE: Great. Excellent.

24 MR. YOUNG: Yishai Schwartz.

25 VICE CHAIR JOHN: Okay.

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1 MR. YOUNG: And, Ms. Prince, I think you said
2 one name that I didn't have on my lists?

3 MS. PRINCE: Samantha Rosenthal, I think is her
4 name.

5 MR. YOUNG: So I think she just needs to
6 confirm that she was signed up and had took the oath.

7 MS. PRINCE: Okay. That's great.

8 VICE CHAIR JOHN: Okay. And did you say you
9 had a preference in how these witnesses would testify, Ms.
10 Young -- Ms. Sawyer --

11 MS. PRINCE: I believe the one who's most time-
12 sensitive is the physician, who is literally in between
13 appointments, Shari Diamond, if she is on.

14 VICE CHAIR JOHN: Ms. Diamond, are you here?

15 MR. TESSLER: We may need to put Ms. Rosenthal
16 right before Dr. Diamond, as she logs on between physician
17 appointments, if that's okay.

18 VICE CHAIR JOHN: I don't have Ms. Rosenthal
19 signed up.

20 MS. PRINCE: I -- I see her on the screen.

21 MS. ROSENTHAL: I took the -- I'm here. I took
22 the oath and signed up late last week. Do you need me to
23 resubmit any paperwork?

24 VICE CHAIR JOHN: No. Mr. Young, do you have
25 that information?

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1 MR. YOUNG: I will check with staff and make
2 sure.

3 VICE CHAIR JOHN: Okay. So we'll go ahead and
4 take your testimony at this point, Ms. Rosenthal. Please
5 introduce yourself, for the record, and you have three
6 minutes.

7 MS. ROSENTHAL: My name is Samantha Rosenthal
8 and I'm -- I've been a Keshet member since 2016. Just a
9 little bit about myself and how important Keshet has been
10 to me. I moved to D.C. right after -- right out of
11 college in 2016, specifically because of Keshet.

12 I am an Orthodox Jew and I was seeking a
13 vibrant Orthodox community. I actually met my husband at
14 Keshet, and his parents also met at Keshet almost 40 years
15 ago, so the importance of the synagogue and its Georgetown
16 location have been really a huge part of my life.

17 My husband and I live about a five-minute walk
18 away, on 25th and M Street, with our one-year-old son, so
19 yes, there's a little bit about me. And I know we talked
20 a lot about today, already, about the reasons for the
21 synagogue renovation, and so I just wanted to give a few
22 examples that hit close to home for me and why I think
23 it's so important.

24 And the first one is -- I mean, we've already
25 enumerated the reasons that, you know, the synagogue's not

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1 meeting the expectations for the modern people, but, for
2 me, as a new mother, there are no places in the synagogue
3 to breastfeed, at least, like, comfortably. I'm
4 personally not comfortable with myself publicly
5 breastfeeding, and so when I had a son -- my son, I
6 actually stayed home for six months from synagogue, which
7 was really a huge shame for me, because I -- like, the
8 community, it's really critical and a huge part of my
9 life.

10 And I -- it's not like, oh, there's not, like,
11 a private room; there's, like, literally, not, like, a
12 couch, an area for a couch, because we're so crammed. So
13 that's something that's really important to me and is in
14 the renovation project.

15 Similarly, the bathrooms are really small. I
16 can't tell you how many times I've been hit in the face
17 with the door, but, even more importantly, there's no
18 place to comfortably change a diaper in the bathroom, and
19 more importantly than that, is that it's really just not
20 accessible.

21 This doesn't impact me, because I think it
22 impacts all of our dignity and humanity, as people with
23 mobility issues, disabilities, elderly, cannot comfortably
24 get into the synagogue, they cannot access our synagogue
25 space -- you know, access our synagogue space.

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1 Then, it's really just a shame, and so I think
2 it's really, really important, and I'll let others
3 elaborate on that more, but it's really important that we
4 are able to renovate, because if we are not, the synagogue
5 has to move. We just can't keep going on like this.

6 And so those are just a few of the many reasons
7 I think it's really important and I just think it would be
8 a huge shame -- I mean, you can hear it from me, the
9 synagogue has been a huge part of my life. I think it's
10 been a huge part of the Georgetown community, it's a
11 really vibrant religious congregation, especially in the
12 age of growing secularism, it's -- I think it's amazing to
13 see a vibrant synagogue in Downtown D.C. When I tell
14 people that I live in Downtown D.C., as an Orthodox Jew,
15 they're like, well, really, that's a thing, and people get
16 so excited about it.

17 And just, the last point I'll make is that I
18 think there's been a really amazing synergy between
19 Georgetown and Kesher. I volunteered at a Georgetown
20 ministry for many years, serving food to the homeless at
21 various churches within Georgetown.

22 And so I just think that Georgetown and Kesher
23 are inextricably linked, and as much as being in
24 Georgetown, the beautiful historic community is part of
25 Kesher, Kesher is also a really important part of

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1 Georgetown.

2 And I have forged many amazing relationships
3 with locals in my time here, and with other faith
4 organizations in Georgetown, and so, again, I think it
5 would be a real shame for the community to move. So I'm
6 trying to keep it short, because I know we we're short on
7 time, but --

8 VICE CHAIR JOHN: Yes, your three minutes are
9 up, Ms. Rosenthal. Can you wrap it up, please?

10 MS. ROSENTHAL: Okay. Thank you, guys, so
11 much.

12 VICE CHAIR JOHN: Okay. Thank you very much.
13 Ms. Prince, do you have any questions for the witness?

14 MS. PRINCE: No questions.

15 VICE CHAIR JOHN: Ambassador, do you have any
16 questions?

17 (No audible response.)

18 VICE CHAIR JOHN: Okay. Ms. Arndt, do you have
19 any questions?

20 MS. ARNDT: No, I have no questions.

21 VICE CHAIR JOHN: Ms. Lohse, do you have any
22 questions?

23 (No audible response.)

24 VICE CHAIR JOHN: Does the Board have any
25 questions?

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1 (No audible response.)

2 VICE CHAIR JOHN: Okay. Moving on. Mr. Young,
3 who's our next witness?

4 MR. YOUNG: I believe Ms. Diamond.

5 VICE CHAIR JOHN: Ms. Diamond, can you hear me?

6 MS. DIAMOND: Can you hear me okay?

7 VICE CHAIR JOHN: Yes. Would you please
8 introduce yourself for the record?

9 MS. DIAMOND: Yes. My name is Shari Diamond.
10 I am a resident of Georgetown and a member of Keshet
11 Israel. And I am a physician, a rheumatologist, in the
12 community. My husband and I moved to Georgetown over 20
13 years ago when I finished medical school to start my
14 training here.

15 And we chose Georgetown because of the vibrant
16 Orthodox Jewish community surrounding Keshet Israel. We
17 settled our roots here. So we bought a house, and then we
18 bought another house in Georgetown, surrounding Keshet
19 Israel. We moved here with no kids, and now, 20 years
20 later, I have three daughters who have grown up in
21 Georgetown, in particular, in Keshet Israel.

22 It's not just our synagogue; it's the center of
23 our life. We walk to synagogue every Saturday. I've been
24 on the Board, I ran the children's programming for many
25 years and it has been really -- my kids all grew up here

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1 and it's been a very special part of our lives.

2 My youngest daughter, who's now 16, was born
3 with a physical disability and she uses a wheelchair, and
4 because of that she, physically, cannot get up a flight of
5 stairs. And so every Saturday, we go to synagogue and I,
6 physically, myself, carry my daughter up two flights of
7 stairs.

8 And, you know, for anyone with a disability,
9 they can tell you that, you want to be able to participate
10 in everything, but it's, you know, really dehumanizing and
11 demeaning when you're 16 years old to have to have someone
12 physically carry you up the stairs.

13 But it is that important to our lives and my
14 daughter doesn't want to be excluded from her Jewish life
15 that we still do it, every week. And I will tell you, it's
16 not because the people in the synagogue aren't warm and
17 welcoming.

18 My daughter, Hannah, has a beautiful life
19 there, but she physically cannot get up to go to services
20 at the synagogue, and so for us, it -- it's really that
21 critical that we be able to do these renovations, because
22 she's not the only one, who, you know, who's barred from
23 being able to participate in a humanizing, fully regular
24 kind of way that having an accessible building would
25 allow.

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1 VICE CHAIR JOHN: Okay. Thank you.

2 MS. DIAMOND: Thank you.

3 VICE CHAIR JOHN: And, Mr. Young, who is -- oh.
4 I'm sorry. Does anyone have any questions of Ms. Diamond?
5 That would be Ms. Prince.

6 (No audible response.)

7 VICE CHAIR JOHN: I'll just go around the room.
8 Ms. Lohse?

9 (No audible response.)

10 VICE CHAIR JOHN: Ambassador?

11 (No audible response.)

12 VICE CHAIR JOHN: And who did I miss?

13 PARTICIPANT: Yes, I have no questions.

14 VICE CHAIR JOHN: Okay. Thank you. So who's
15 the next witness, Mr. Young?

16 (No audible response.)

17 MS. DIAMOND: Thank you.

18 VICE CHAIR JOHN: Oh, I'm sorry. Thank you
19 for your testimony.

20 MS. DIAMOND: Sorry.

21 (Laughter.)

22 VICE CHAIR JOHN: Mr. Young?

23 MR. YOUNG: Mr. Schwartz.

24 VICE CHAIR JOHN: Okay. Mr. Schwartz, can you
25 hear me?

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1 MR. SCHWARTZ: I can hear you, yes. Can you
2 hear me?

3 VICE CHAIR JOHN: Very faint. Can you try
4 again?

5 MR. SCHWARTZ: Can you hear me now?

6 VICE CHAIR JOHN: Yes, I can. Would you
7 introduce yourself, for the record, please?

8 MR. SCHWARTZ: Sure. My name is Yishai
9 Schwartz. I live at 2500 U Street. That's just, again, a
10 couple of blocks from Keshet Israel. I -- my wife and I
11 moved back here about three years ago. I also lived here
12 almost a decade ago, between college and law school, I
13 moved here kind of after law school, to work in the
14 government for a year, and now I'm a lawyer in private
15 practice and I work a 20-minute walk from my home in
16 Keshet Israel.

17 Keshet is the center of our lives here, as
18 you've -- as you've heard before. My wife laughs at when
19 we -- when we moved here, I used, like, on Zillow, I drew
20 a circle and, you know, a 15-minute radius around Keshet
21 Israel, so I said that's where we're -- we're going to
22 live around here. So -- and that's where we live, it's
23 the center of our lives.

24 And so I wanted to just kind of touch on,
25 again, similar things to what Samantha said. My wife and

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1 I are the parents of a 2-year-old who loves going to
2 synagogue. I take her, certainly, every Sabbath. I
3 actually take her most -- many mornings, and identifying
4 as a couple of barriers to doing that. First is, as you
5 heard from Samantha, when she was very little, especially,
6 there's no place to nurse in the synagogue.

7 And so one memory I have is running back and
8 forth between the main synagogue and the offices next
9 door, in the cold, with my wife and baby, trying to find a
10 room, an office room, so they could sit and nurse during
11 the services and change diapers in there. And so running
12 back and forth trying to find somebody with a key to the
13 office, the offices next door, so creating a unified space
14 would, obviously, help with that. Changing diapers has
15 been a very -- sorry -- it's a similar issue.

16 And, last, I'll say, along those same lines, is
17 stroller storage, it's been a huge problem, especially
18 given that there's no place to put a stroller. When it --
19 and when it's raining outside that's a particularly big
20 issue. But we can leave it outside when it's nice
21 outside, but when it's cold or raining that becomes an
22 issue. And the last thing I'll say is, one thing my wife
23 and I do really worry about is the security of the
24 building.

25 There have been, I don't know, a number of

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1 incidents over the years at many synagogues, including at
2 Keshet, and so the lack of easy emergency egress is
3 something we worry about, especially raising a daughter in
4 the community. So I think that granting a variance would
5 solve many of those problems and we really appreciate the
6 opportunity to speak today. Thanks.

7 VICE CHAIR JOHN: Thank you. Thank you for
8 your testimony. So I'll go around the room, again. Ms.
9 Prince, do you have any questions?

10 (No audible response.)

11 VICE CHAIR JOHN: Thank you. Ambassador, do
12 you have any questions?

13 MR. DEBACA: No. Thank you.

14 VICE CHAIR JOHN: Ms. Arndt, do you have any
15 questions?

16 MS. ARNDT: No. Thank you.

17 VICE CHAIR JOHN: Ms. Lohse, do you have any
18 questions?

19 (No audible response.)

20 VICE CHAIR JOHN: Okay. Does the Board have
21 any questions of any witness?

22 (No audible response.)

23 VICE CHAIR JOHN: Okay. Thank you, again, for
24 your testimony. So let me check the Board again, do you
25 all have any questions?

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1 MR. YOUNG: Ms. John, you have -- there's one
2 more witness, sorry.

3 VICE CHAIR JOHN: Oh. Okay. Sorry about that.
4 Please, have her --

5 MR. YOUNG: That's Ms. Sawyer.)

6 VICE CHAIR JOHN: Ms. Sawyer. Ms. Sawyer, can
7 you hear me? Ms. Sawyer?

8 (No audible response.)

9 MS. LOHSE: Is CAG on, just to emphasize
10 whoever speaking on behalf of CAG, which is our citizens
11 association?

12 MS. LOHSE: Oh. This is ANC-2E's chair,
13 Gwendolyn Lohse, just to -- for the Board. I, obviously,
14 as the chair of ANC-2E, and this synagogue, actually,
15 happens to be within my specific SMD, as well. I have
16 spoken with our citizens association, which has membership
17 throughout Georgetown, and they have been involved in the
18 review of all the initial plans, and the plan has evolved
19 and changed. And in response to the residents' and the
20 community's input --

21 VICE CHAIR JOHN: Thank you, Ms. Lohse --

22 MS. LOHSE: -- over the last year-and-a-half --

23 VICE CHAIR JOHN: Ms. Lohse, I think I see Ms.
24 Sawyer online, if you can hear us?

25 (Simultaneous speaking.)

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1 MS. LOHSE: Okay. I just want to make sure we
2 have their input, because they have been very supportive.

3 VICE CHAIR JOHN: Right. I'm not sure you can
4 testify for them. I believe they might have something in
5 the record, as well.

6 MS. LOHSE: They do. I --

7 VICE CHAIR JOHN: Okay.

8 (Simultaneous speaking.)

9 MS. LOHSE: I'm giving them time to speak up,
10 but also speaking to their support.

11 VICE CHAIR JOHN: Does --

12 MS. LOHSE: Brittany, are you on? You're on
13 mute.

14 (No audible response.)

15 MS. LOHSE: I know I can't speak on behalf of
16 them, but I do want the Board to know they are very
17 supportive.

18 VICE CHAIR JOHN: I believe there's a letter of
19 support, let me just --

20 MS. LOHSE: There is.

21 VICE CHAIR JOHN: Okay. Well --

22 MS. LOHSE: And they wrote a letter of support
23 to -- with -- to the Old Georgetown Board, as well.

24 VICE CHAIR JOHN: Yes. That's --

25 MS. LOHSE: And I'm not a member of Kesher,

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1 just to emphasize. I've been working between Keshner and
2 the community, and I've seen the support from CAG.

3 VICE CHAIR JOHN: Okay. Fair enough.

4 MS. LOHSE: Yes.

5 VICE CHAIR JOHN: Okay. Thank you --

6 MR. SCHWARTZ: I do have a copy of the letter
7 that was submitted on behalf of CAG that, if allowed, I'm
8 happy to read out loud for the record, but it was
9 submitted written -- a written copy, as well.

10 VICE CHAIR JOHN: Thank you. The Board will
11 read it, if it's in the record.

12 MR. SCHWARTZ: Fantastic.

13 VICE CHAIR JOHN: All right. Thank you. So I
14 think I'll just go ahead and move to closing arguments, if
15 the Board has no other questions. May I start with you,
16 Ms. Prince? Hello? Ms. Prince?

17 MS. PRINCE: I'm sorry, I didn't -- I don't
18 have questions.

19 VICE CHAIR JOHN: All right. Did you have
20 closing arguments that you'd like to make?

21 MS. PRINCE: Oh. I'm sorry. I lost track
22 here. Thank you.

23 VICE CHAIR JOHN: We're all losing track.

24 (Laughter.)

25 MS. PRINCE: Oh gosh. All right. Well thank

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1 you for your time today. We had a rebuttal witness, a
2 structural expert. We're happy to have him make a brief
3 statement. It doesn't seem like the Board is asking a lot
4 of questions about structure and you're leaving that to
5 building process -- building permit process, which I
6 welcome, but I did want you to know that we have him here.

7 VICE CHAIR JOHN: Thank you.

8 MS. PRINCE: As I think you've heard from the
9 witnesses, Kesher is the community. The community and the
10 building are integrally related and they need a functional
11 building. The kinds of issues that have been outlined by
12 the witnesses today are an institutional necessity. As
13 Shane laid out, there's a flexible standard, when applying
14 the variant standard in a situation like this, we clearly
15 meet the variant standard, with or without the
16 institutional necessity piece, because the -- the site is
17 so truly unique and the practical difficulties are pretty
18 overwhelming.

19 And, also, as I said at the outset, the domino
20 effect of having to relocate the elevator really helps us
21 meet that special exception standard. There's been
22 extensive neighbor outreach.

23 There was an open house in June that I believe,
24 at least, Ambassador DeBaca attended. There's been a
25 long, long-standing dialogue. We've done the best we can

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1 to address the issues, as they've arisen.

2 I've got to give, like, triple credit to Gwen,
3 who has been the most involved ANC chairman, with whom I
4 have ever dealt. She has dug into every issue, every
5 effected neighbor, highly communicative and -- and that's
6 why we're really happy with the conditions and we're
7 committing to them.

8 So I will do a free-standing agreement with the
9 ANC, whatever you need to see in the record, to know that
10 we're committing to them, because I understand that you
11 won't be putting some of them in the order. But, if there
12 are no further questions, I think we'll close out here,
13 unless you have additional final questions for our team.

14 VICE CHAIR JOHN: No, I don't have any. Does
15 the Board have any questions for Ms. --

16 (Simultaneous speaking.)

17 ZC CHAIR HOOD: Madam Vice Chair, I just have
18 to say this, and I don't -- I know this is taking a lot of
19 time, but Ms. Prince has been around a while, and I don't
20 mean to date her, but to say that about a commissioner,
21 Commissioner, keep doing what you're doing. That's a big
22 compliment, as far as I'm concerned. So, thank you, Vice
23 Chair.

24 VICE CHAIR JOHN: Thank you, Mr. Hood. So,
25 Ambassador, do you have any closing statements?

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1 MR. DEBACA: And we appreciate the time that
2 you've all taken today and the opportunity to come in, as
3 a party on this matter, simply, as to reiterate, we feel
4 that going from 53 percent to 79 percent block coverage is
5 a major and massive expansion.

6 And, as I had indicated earlier, we feel like
7 we're a bit dragged along in this entire process, as we
8 are going to be joined to such a large building going
9 forward. We want to thank, as well, Commissioner Lohse,
10 for all of the hard work that she's put into this and the
11 honest broker that she's been for all of us.

12 Aaron, and the other folks from the synagogue,
13 itself, is good partners and we look forward to working
14 with Ms. Prince and her team going forward on the
15 agreements that she proposed today. I think that's a --
16 an elegant solution that we very much want to work with
17 them on.

18 VICE CHAIR JOHN: Okay. Thank you. Ms. Arndt?

19 MS. ARNDT: I think Mr. DeBaca said it well and
20 I'm -- I feel the same way. And thank you, everybody, for
21 taking the time to review this matter in such detail.

22 VICE CHAIR JOHN: Thank you. Ms. Lohse?

23 (No audible response.)

24 VICE CHAIR JOHN: Okay. All right. So if
25 there's nothing else, I will excuse everyone, and thank

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1 you for your testimony and your time today. I'm going to
2 speak with the Board members now and I believe that
3 Chairman Hill is back. Thank you.

4 MS. LOHSE: Thank you to the Board for taking
5 the time today. A long meeting; I know you have more.

6 VICE CHAIR JOHN: Yes, very long day.
7 (Simultaneous speaking.)

8 MS. LOHSE: Yes. Have a good one. Thank you.

9 VICE CHAIR JOHN: Thank you. And, Chairman
10 Hill, you're back.

11 BZA CHAIR HILL: I'm going to follow along with
12 whatever you all ended up doing, because I missed the last
13 --

14 VICE CHAIR JOHN: We haven't done anything,
15 yet, Chairman Hill. We just excused all of the parties
16 and the witnesses, and so you may resume whatever you
17 wanted to do.

18 BZA CHAIR HILL: I guess I'll turn to whoever
19 wants to speak to this, if there was anything additional
20 that you all needed, or are you all prepared to deliberate
21 now?

22 VICE CHAIR JOHN: So, for myself, I would like
23 to have some time to think about this, but I am flexible.
24 I'll defer to the Board. We didn't ask for anything. We
25 discussed glazing, and I believe that the architect said

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1 they would move to triple glazing on the windows, you
2 know, on the addition.

3 BZA CHAIR HILL: Okay. If you -- I mean, we
4 can just put it off for decision for next week, then. And
5 then that case, I can listen in to the last little piece
6 that I missed, and then I can also participate, if that
7 would work with everybody?

8 VICE CHAIR JOHN: It's fine with me.

9 BZA CHAIR HILL: Okay. Then, Mr. Moy, we'll
10 put this on for decision for next week.

11 MR. MOY: I have a question for the Board,
12 though.

13 BZA CHAIR HILL: Certainly.

14 MR. MOY: If I may. I believe, during the
15 Board's Q&A with the applicant, Allison Prince, there was
16 some mention about her memorializing the agreements with
17 the community, and I'd suspect it may include the glazing
18 of the windows and the soundproofing of the -- of Ms.
19 Arndt's home, in that room. So is that something you
20 wanted for the record or not, so that I have some clarity
21 on that?

22 (Simultaneous speaking.)

23 BZA CHAIR HILL: Sorry.

24 VICE CHAIR JOHN: The soundproofing is already
25 included in the list of conditions, as I recall. The

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1 triple glazing, it's up to the Board. There's already
2 double glazing, so I would defer to the -- I don't see a
3 need to ask for triple glazing. I would like to hear from
4 other Board Members.

5 MEMBER SMITH: And I'll speak to the question
6 about noise. It seems like the discussion about noise,
7 yes, it was a condition, but it was more related to the
8 construction.

9 As far as glazing, I'm also not necessarily
10 inclined for a triple glazing, if they've stated there
11 will double glazing, you know, to me that may be enough to
12 minimize privacy concerns, raised by the adjacent property
13 owner at -- on N Street.

14 So I don't think I need to see anything, but if
15 we want it on the record so that we see it -- but,
16 honestly, I don't think I need it on the record, because
17 it's not something that this Board or this Administrator
18 would enforce. It would be something that would be
19 enforced by the ANC, going forward, for me, so I don't
20 think I need to see anything.

21 BZA CHAIR HILL: Unless -- and the applicant's
22 not here for this part. Unless an additional week is
23 going to cause a big problem, what I would've liked to
24 have seen is, is some kind of a summary as to everything
25 that was discussed today in terms of what the applicant

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1 hopes to put forward to alleviate the concerns of the two
2 party status individuals, as well as, I guess, tie in
3 everything into one document that we can take a look at.
4 That's something that I would be interested in. Is that
5 something that you all would be interested in?

6 VICE CHAIR JOHN: That's fine,- if you need
7 it.

8 BZA CHAIR HILL: Okay. There you go. Or, I
9 should say, or does anybody care? So if that's the case,
10 then, Mr. Moy, if we had one submission and then comments
11 on that one submission, when could we come back here for a
12 decision?

13 MR. MOY: I would think then it would be the
14 same timeline that I gave on the other case. I'm assuming
15 this would be for decision-making, or just --

16 BZA CHAIR HILL: Yes.

17 MR. MOY: Okay. Okay, wait a minute, then I
18 could do it sooner. I was trying to accommodate Zoning
19 Commission Chairman Hood. Then, on the 9th?

20 ZC CHAIR HOOD: I appreciate that, because it
21 seems like it's every week now, so thank -- I really
22 appreciate that.

23 MR. MOY: Well, that's on -- on the order I was
24 given by Chairman Hill.

25 BZA CHAIR HILL: Well, it was continued hearing

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1 for the last one; this one's a decision.

2 MR. MOY: I understand. Okay. So, in that
3 case, then, let's see, today's February 28th, let's say
4 the applicant make their filing next week, which would be
5 March 6th, and then the Board can make its decision on
6 this case the following week, which would be March 13th.
7 How does that sound?

8 BZA CHAIR HILL: Yes. Can you just say, so the
9 applicant will put forward anything they want to concern -
10 - well, I should say the applicant will put forward
11 whatever they think the Board is looking for.

12 And I'm going to summarize what I'm looking
13 for: a document that states all of the different
14 conditions and discussions that have gone on with the ANC
15 and the two party status people in one place, by the 6th.
16 And then the ANC, or anybody who wants to respond to that,
17 could have until the 11th, Mr. Moy?

18 MR. MOY: Okay, that would be Monday the 11th.

19 BZA CHAIR HILL: Monday the 11th, to respond to
20 whatever gets put into the record on the 6th. If they're
21 -- if everything -- if everybody's in agreement, there'll
22 be no response.

23 VICE CHAIR JOHN: Mr. Chairman, while you were
24 away, Ms. Prince said that she would simply adopt the
25 ANC's conditions. She would do, basically, a short

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1 paragraph saying that the applicant agreed to those
2 conditions. But these conditions would not be part of the
3 record; we would just simply point to it in the order.

4 BZA CHAIR HILL: Yes, I'm -- they'll be part of
5 the record, but they won't be in the -- well, there won't
6 be conditions in the order.

7 VICE CHAIR JOHN: There won't be conditions in
8 the order, but she would state in one paragraph that these
9 are the conditions that the applicant agreed to, so it's
10 not just the conditions from the ANC, but an indication
11 from Ms. Prince that the applicant does agree to those
12 conditions, without redoing the entire thing.

13 BZA CHAIR HILL: Got it. I agree.

14 MR. MOY: Well, in that case, then, maybe we
15 can shorten that time frame, Mr. Chairman, and today's the
16 28th, if we get the applicant to make their submission by
17 Monday, March 4th, and then allow to -- any responses, by
18 -- I'm trying to get to the 13 -- I might -- that might
19 not be able to work, I may have to go to the 20th, if
20 we're going to allow responses from the parties.

21 BZA CHAIR HILL: Why can't they submit on the
22 6th, and then any responses by the 11th? Do I have to
23 give everybody a week?

24 MR. MOY: No, you don't.

25 BZA CHAIR HILL: Yes, so they can submit on the

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1 6th, any responses by the 11th, and we'll decide on the
2 13th.

3 MR. MOY: Okay.

4 BZA CHAIR HILL: I mean, we can bring in Ms.
5 Prince, really quick, just to see if that's a problem with
6 her calendar.

7 MR. MOY: Okay. So, right now, then, Ms.
8 Prince/applicant filed by March 6th, responses by March
9 11th, and then decision-making on March 13.

10 BZA CHAIR HILL: Yeah, I don't think -- I think
11 the finances will be fine for a couple of weeks.

12 MR. MOY: Okay.

13 BZA CHAIR HILL: And if the applicant wants to
14 let us know if there's a difference of need, then please
15 let us know.

16 MR. MOY: Okay.

17 BZA CHAIR HILL: Okay. Thanks, Vice Chair
18 John, for taking over for me. I should've just stayed
19 away. All right.

20 Okay. All right. So are we just plowing
21 along? Yes? Okay. All right, then we can go to our next
22 case, Mr. -- or, do you all need a break, or are we going?
23 Okay. We're going. All right, Mr. Moy, call our next
24 case.

25 MR. MOY: Here we go. So the next case before

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1 the Board is Application No. 21053 of Kevin Jones, self-
2 certified application for special exception, pursuant to
3 Subtitle X, Section 901.2, under Subtitle E, Section
4 5201.1, from Lot occupancy requirements, Subtitle E,
5 Section 210.1, property located in the RF-1/DC Zone, at
6 1529 S Street, NW, Square 191, Lot 15.

7 A preliminary matter here, Mr. Chairman, as you
8 know, is a request for party status from a David Aberle,
9 under Exhibit 39 and 39A. And I believe that's all I
10 have, unless I'm missing something. But, anyways, there
11 you are, sir.

12 BZA CHAIR HILL: Okay. Great. Thank you. If
13 the applicant could hear me, if they could, introduce
14 themselves for the record, please?

15 MR. JONES: My name is Kevin Jones.

16 MS. JONES: Hello, I'm Cathleen Jones.

17 MR. JONES: We are the applicants and the
18 owners of 1529 S Street.

19 BZA CHAIR HILL: Okay. Great. Thank you.
20 Who's here with you, Mr. and Ms. Jones?

21 MR. JONES: We're joined by Fowlkes Studio
22 Architects' Martin Locraft, as well as hopefully --

23 MR. LOCRAFT: Yes.

24 MR. JONES: -- Ms. Leslie Ellis is another
25 neighbor, who will be joining us.

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1 BZA CHAIR HILL: Okay. Mr. Locraft, can you
2 hear me?

3 MR. LOCRAFT: Yes.

4 BZA CHAIR HILL: Could you introduce yourself,
5 for the record?

6 MR. LOCRAFT: Yes. I'm -- I'm actually the one
7 that filed the application on behalf of Kevin and Cate.
8 We are -- I'm here with my colleague, V.W. Fowlkes, who
9 was also signed up as a party to this conversation. And
10 we work in the same office, so there's two people on the
11 screen. We're both -- I will be the primary conversant
12 about this project.

13 BZA CHAIR HILL: Got you. Okay. Got you.

14 MR. LOCRAFT: And we're the -- we're the
15 architects.

16 BZA CHAIR HILL: Got you. Ms. Themak, can you
17 hear me? And, if so, could you introduce yourself for the
18 record?

19 MS. THEMAK: Tracy Themak for David Aberle, the
20 pending party status request.

21 BZA CHAIR HILL: Got it. Ms. Themak, can you
22 tell us why you believe your client should be granted
23 party status?

24 MS. THEMAK: He's the adjoining neighbor
25 directly and he's the most impacted by the proposed

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1 project. Mr. Aberle is -- was late in filing the party
2 status request, he tried to do so without counsel, and
3 then once he retained us, we submitted as soon as we were
4 formally retained. So that's the background.

5 BZA CHAIR HILL: How late was it, Ms. Themak?

6 MS. THEMAK: I believe he -- and I know I had
7 talked to Mr. Reed (phonetic) about this -- I believe he
8 filed a party status request two weeks out, and I believe
9 we filed formally to revise that party -- request for
10 party status a week out, the same week that he retained
11 us.

12 BZA CHAIR HILL: Got it. Okay. Mr. Aberle,
13 can you hear me?

14 MS. THEMAK: Aberle.

15 BZA CHAIR HILL: Aberle, thank you.

16 MR. ABERLE: Yes, it's Aberle. I can hear you.

17 BZA CHAIR HILL: Okay. Could you introduce
18 yourself for the record?

19 MR. ABERLE: Yes. David Aberle, 1527 S Street.

20 BZA CHAIR HILL: Got you. Mr. Aberle, can you
21 use your camera?

22 MR. ABERLE: I can.

23 BZA CHAIR HILL: Okay. Great. Thank you. All
24 right. So unless the Board has any issues, I believe that
25 Mr. Aberle is uniquely qualified. Or -- I'm sorry. Meets

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1 the regulation for us to grant party status to Mr. Aberle,
2 being represented by Ms. Themak, who has been with us
3 before and, unless the Board has any issues, I would go
4 ahead and grant that party status. If the Board has any
5 issues, please speak up.

6 (No audible response.)

7 BZA CHAIR HILL: All right. So, Ms. Themak,
8 you know, this is our third party status case of the day,
9 and so, you know, we're going to have presentations,
10 you're going to give presentations, everybody's going to
11 ask questions of everybody, Office of Planning, and we
12 shall see where we get, okay?

13 Mr. Locraft, if you want to go ahead and walk
14 us through your client's application and why you believe
15 they're meeting the criteria for us to grant the leave
16 requested.

17 I'm going to put 15 minutes on the clock, just
18 because it hasn't seemed to bother anybody so far.

19 MR. LOCRAFT: Okay.

20 BZA CHAIR HILL: I'll throw it up there, but,
21 you know, please walk us through your application.

22 MR. LOCRAFT: Yes. And it's not possible for
23 us to share our screen, so I can control going back and
24 forth between slides, is it, or --

25 BZA CHAIR HILL: Unfortunately, it can't. If

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1 you tell us what exhibit, we can open it up in the record.

2 MR. LOCRAFT: 41.

3 BZA CHAIR HILL: 41, okay.

4 MR. LOCRAFT: And if you could, also, I've been
5 noticing how the other presentations have gone, and I
6 would actually like to start on Page 17. That's going to
7 be kind of the introduction. If you could go there that
8 would be great, please.

9 So to begin the conversation today, we'd like
10 to go back ---- just try to be as brief as possible about
11 the history of this project and how we got to the drawings
12 that you're going to be seeing shortly.

13 When Kevin and Cate approached us to consider a
14 design for this house, the first thing that we did was, we
15 looked at the context of this building. We are the two-
16 story red brick rowhouse, effectively the center of the
17 frame. To our -- directly to our west is an almost
18 identical two-story plus basement. We have a carriage
19 house in the back. They have a carriage house in the
20 back.

21 Across about 16-foot alley/parking area, for a
22 seven-story apartment building, multi-family apartment
23 building that abuts 16th Street, NW, and then, directly to
24 the east of us, at 1527, is a three-story rowhouse that
25 projects further back than ours, which you will see in

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1 subsequent drawings.

2 BZA CHAIR HILL: Your client ---

3 (Simultaneous speaking.)

4 BZA CHAIR HILL: Your client is in the middle
5 and the house to the -- and the house to the left is the
6 blue one?

7 MR. LOCRAFT: Correct.

8 BZA CHAIR HILL: Okay.

9 MR. LOCRAFT: Yes. So the first thing that we
10 did, actually, was reach out to HPO, the Historic
11 Preservation, and said -- we sent them a picture similar
12 to the one that you're looking at, and we said, given the
13 context of this site, is it theoretically possible that we
14 could do what the adjacent neighbors did and go straight
15 up?

16 Not surprisingly, they said, no, you cannot do
17 that, we have very specific regulations about the views
18 from the public space, maintaining the character of the
19 neighbor, all of the things that we've all come to
20 appreciate about the historic fabric of Washington.

21 So, when we received that information, we
22 scheduled and conducted a flag test with Historic
23 Preservation, which is what you're seeing on the right.
24 That's my colleague, V.W., here, standing on the roof,
25 holding up a flag. I'm with Imania Price, from Historic,

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1 on the street. We're having a conversation via our
2 phones, identifying what is visible from the public way.
3 We established parameters based on that information, how
4 tall we could put -- we could construct an addition on
5 this house that would still maintain those historic
6 requirements.

7 We came up with a design that our clients were
8 very happy with. We, at that point, actually, initially
9 filed for a BZA application, knowing that it takes a while
10 to go through the system and we would ultimately update it
11 based on how the conversations went with all other
12 parties.

13 So we filed the application. We met with the
14 neighbors. First, we met -- both, V.W. and I met with the
15 owners of 1520 -- I'm sorry -- 1531 S, Street, the blue
16 rowhouse, discussed the project.

17 Ultimately, they were ready to support our
18 project, even with a third story addition, a partial third
19 story addition. Two weeks later, I was on vacation, but
20 V.W. met with the owners of 1527, the building to the
21 right that's three stories.

22 The thing that was made immediately apparent,
23 in that meeting, was the presence of a roof deck that's
24 actually behind the third story that you're seeing here,
25 so it's three stories back to a certain point, and then

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1 it's two stories with a roof deck that looks into our
2 yard, effectively.

3 Once we learned of that view, we immediately
4 took a step back and said, we have no intentions of
5 blocking that view. We do not want to be the neighbor
6 that crushes somebody else's amenity.

7 And -- if, actually, you could go to the next
8 slide. This is getting a little bit ahead of ourselves,
9 in terms of the project that we are proposing, but I want
10 to give you a little bit of context for the -- for what I
11 just said. If you could go to the next slide, please?

12 So this is the view from the roof deck. This
13 was taken during that initial conversation with the
14 neighbor. When I saw this picture when I got back from my
15 vacation, I had the same reaction. That's great. We
16 appreciate that view. It's a beautiful building.

17 We don't want to do something that's going to
18 kill that view. So we went back and we -- and we worked
19 with Kevin and Cate and we came up with a design that
20 significantly lowered the addition, which has serious
21 sacrifices to the amount of space that we're proposing.

22 It changes the program of the building. It
23 changes the ability to do certain things with the design
24 to satisfy the requirements of Kevin and Cate and their
25 three children.

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1 So we did that, we put together a design that
2 was -- that was, we thought, was very respectful to the
3 conditions that we were dealing with, and we then went
4 back to the neighbor. The reaction to that set of
5 drawings was -- and then -- and the outline that you're
6 seeing here is the current set of drawings. This
7 represents the current scope of the project.

8 When we presented the drawings for this idea,
9 to the neighbor, and said, hey, more than happy to have a
10 conversation about, you know, your thoughts on this, the
11 first reaction was, we are concerned that, if this project
12 is approved with this current proposal, somebody can
13 easily come back and add a third floor to it.

14 And my response to that was, if somebody were
15 to do this theoretical project in the future that adds a
16 third floor, they would have to go through the same
17 process that we're having to go through right now. They
18 would have to go to Historic, they would have to go
19 through the BZA, presumably, because it's a -- it's over
20 lot occupancy and you -- you wouldn't wake up one day and
21 you have a third floor next to your house.

22 We did not get a response to that email, so we
23 -- with a clean, kind of, conscience and feeling
24 comfortable with where we were, we pursued the next steps.
25 We went to the ANC, presented it to them, received

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1 unanimous approval. The Office of Planning, we had
2 multiple conversations with them, we received approval
3 from them.

4 We did learn, subsequently, in the late fall,
5 that the owners of 1527 reached out to the ANC and said
6 that they felt that they were kind of kept in the dark on
7 our proposal and were -- and were surprised that this was
8 presented and approved without their knowledge.

9 The ANC rep then reached out to me and said, I
10 received this correspondence, is there anything that you
11 can do to make this project more amenable? And I frankly
12 said, I think we've already done that. I think we've done
13 what we can. We've significantly altered this project to
14 be respectful of the concerns that the neighbor had, and -
15 - and I said -- and then I followed up with the ANC Single
16 Member rep about two weeks ago, and I said, just to make
17 sure that we're kind of all on the same page here, given
18 the correspondence that you've had with the neighbor and
19 my response, do you intend to change or withdraw your
20 support -- your letter of support from the record? And he
21 said no.

22 So that's just a background. I'd then like to
23 just walk through with you the actual relief that we're
24 seeking and a quick overview of the drawings. So if you
25 could actually go back two slides, please? I'm sorry.

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1 Yes. Yes, right here, please.

2 Just a little bit of context for the project.
3 On the left is just a closer view of our subject property.
4 The top picture, in the middle, is the existing rear of
5 the house. We have a one-story appendage in the back of
6 the house that is -- it's like a breakfast room. You'll
7 see on the left, that's the neighbor to the east, which is
8 the -- you see a -- if you look closely, you can see a
9 little section of rail, kind of in the top left of the
10 picture. That's the roof deck that we took the picture
11 from before.

12 Then, beyond and above that, is the third floor
13 of the adjacent neighbor, and then you can see that their
14 -- you can see it in the top, middle, and the picture on
15 the right that their two-story -- that the bulk of their
16 building is actually much deeper than our project, or --
17 or than the existing conditions and the proposed
18 conditions.

19 And then, at the bottom center, is a picture of
20 the existing carriage house that's in the back of our
21 property that is likely to come up later, but that -- we
22 do not intend to do anything with that building. That's
23 going to remain as is. So I'm -- yes -- I'm sorry to jump
24 around a little bit, but we're going to go back to the
25 very beginning and then I'll walk you through the drawings

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1 pretty quickly.

2 So Page 2, next, please. So this is a diagram.
3 We are seeking relief from the allowable lot occupancy.
4 The current condition, which is shown on the top of the
5 page, our house is the one that's got the most detail,
6 it's the one in the center. The existing one-story
7 appendage is to the right of the deck area, which is the
8 area that does not have any cross-hatching, or anything
9 like that. The current condition is non-conforming.
10 We're at 64.2 percent.

11 Our proposal is to effectively get rid of that
12 one-story appendage and then take the bulk of the house
13 and stretch it back to the requested relief, which is 69.4
14 percent, which is shown on the drawing below.

15 On that drawing, below, you can see that our --
16 the rear wall of our house would still be about five feet,
17 eight inches short of their -- of the property to the
18 east, 1527. And then it's actually -- there's a dogleg to
19 the west, those are the neighbors that have expressed
20 their support. There's a dogleg to the west that we --
21 our project doesn't extend back as far as theirs, either.

22 So if you could go to the next page, please?
23 I'm sorry. You can actually skip -- these were demo plans
24 that were originally sent for Historic. They don't really
25 have much to say here. So if you can forward one, two --

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1 next one. Next one. And one more.

2 So, just a very brief overview of the plans.
3 This page is actually significantly important, if this
4 comes up at a later time. Right now, the use of this
5 property is a two-family. There's actually no connection
6 on the interior of the existing building between the
7 basement and the upper floors. So right now it's a rental
8 unit. We have a lot of experience with DOB/DCRA, and
9 changing the use of a building and permitting a separate
10 dwelling unit in the basement, it's very complicated.

11 We think it's a lot easier to permit a project
12 with its current use than the alternative, which would be,
13 let's -- going to -- let's include this part of the
14 basement. And then, if we want to rent it later, we'd have
15 to go through all these -- all this paperwork. I don't
16 know if that makes sense to anybody else, but there's a
17 reason that we're showing a kitchen on this basement plan.

18 We do not -- we're going to rough that in. We
19 do not intend to install a kitchen in the basement. We --
20 that's going to be a part of the construction of the
21 house. It's going to be -- so the proposed project is
22 going to be all -- all three floors are going to be a
23 single-family residence.

24 It may be irrelevant, but I just wanted to make
25 that clear. So basement, guest bedroom, mud room entry

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1 from the -- from anybody that comes in through the
2 carriage house, bathroom, living area in the front, and
3 then stairs.

4 If you can go to the next slide, please? First
5 floor, pretty standard layout. Living area in the front,
6 stairs in the middle that split that house, and then a
7 kitchen and a dining area in the back.

8 Off of the back of that is a deck that actually
9 is kind of in between the basement level and the first
10 floor level, to ease the grade difference. And there's an
11 area way below that allows light into the basement and
12 allows a separate entrance down there, for dirty, you
13 know, sports gear and things like that.

14 Next slide, please. This is, effectively, the
15 crux of why we did what we did with the height, which I'll
16 explain a little bit further. So we've got a -- the
17 layout of this house is such that there's really no great
18 way to get multiple bedrooms in the width of this house,
19 as every bedroom needs egress, you need to be -- they need
20 to be a certain size, so we've got a primary suite in the
21 front of the house.

22 In the back of the house we've got a very
23 unique scenario where we've got a kind of communal
24 bathroom for the children that you walk through to get to
25 each bedroom, and part of each of those bedrooms is a loft

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1 space above, which is why we've extended the ceiling
2 height, just in the back of the house up to a certain
3 point.

4 If you can go to the next slide, please? So
5 these are these loft spaces. So the idea is that you can
6 have kind of a normal bedroom, kind of slash kids living
7 area on the second floor, and then just above that, you
8 will have the, you know, sleeping areas for the said
9 bedrooms.

10 Next slide, please. Front elevation; existing
11 on the left, proposed on the right. There's actually no
12 change from the public perception. The top of our
13 proposed addition is actually, basically, in line with the
14 top of our parapet, at the front, given the slope of the
15 house.

16 Next slide, please. This is the back. So on
17 the left is the -- is a graphic representation of the
18 picture that you saw previously. To the left of that, you
19 see this outline. That's the railing of the adjacent roof
20 deck. So then, on the right, is our proposed structure.
21 And, again, you will see that our idea is, to maintain the
22 view from that roof deck and be respectful to the
23 conditions of the site, our proposal is to have the top of
24 our building align with the top of that railing.

25 Next slide, please. Then you can see that

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1 again, here. This is actually a view from the dogleg of
2 1531. They will actually see the projected portion of our
3 building, which they actually thought this was kind of a
4 nice -- those are not windows, they are actually just
5 relief in the brick, so that you would not be staring at a
6 straight brick wall.

7 And then you'll -- the arrow that's -- the text
8 there that you probably can't read, the arrow is pointing
9 to the existing extent of the second floor at 1527, the
10 adjacent neighbor. And then you can see above. That's
11 the third floor of the adjacent neighbor to the east. And
12 then you can see a section of the existing roof deck
13 railing.

14 Next section, please. Or next slide, please.
15 So this is the existing building section. You'll see the
16 aforementioned three-story building to the east, the roof
17 deck condition, our -- the lower portion of our roof slope
18 effectively hits where that roof section starts.

19 I'm assuming that all of these rowhouses were
20 the same, once upon a time, and so their roof was just
21 like our roof, and then they added the additional space
22 and that's why we have this condition now. You see the
23 one-story piece of our breakfast area.

24 Next slide, please. So this is what we're
25 proposing. This is a section through the proposed

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1 structure. You see that the rear wall of our building
2 does not go as far back as the rear wall of the adjacent -
3 - again, you can see that the top of our proposed
4 structure is aligned with the top of their railing.

5 It's a relatively compact structure, all things
6 considered, and the -- we're very sensitive to what impact
7 this has and we think that this is a pretty, pretty great
8 solution to a) get the space that our clients need and
9 want, and b) satisfy the concerns of the neighbors.

10 Next slide, please. So you've seen these.
11 Next slide. You've seen this. Next slide, please. This
12 is an image that I think is really -- it just speaks a lot
13 to what we're trying to do, and you've seen it already so
14 I'm not going to dwell too much on it.

15 Actually, one thing that I will say about this
16 and -- which I'll elaborate on in just a second, this
17 picture was taken in August, at 11:30 a.m. in the morning.
18 You can see that the third story, next door, to the east
19 of us, is actually casting significant shadows on our
20 property.

21 So just -- I know that's something that's going
22 to come up, so I'd like to just point out that we are in
23 shadow from a lot of this, for a considerable amount of
24 time.

25 Next slide, please. And then this is not super

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1 important for this conversation, but we wanted to show
2 kind of how this addition relates from the opposite side.
3 This is not a view that anybody's going to have, but that
4 just shows the outline of our proposed building. This was
5 taken during that flag test.

6 Next slide, please. And then, this is just a -
7 - what -- I saw the earlier presentations of the sun
8 diagrams and I was very impressed by those. I don't think
9 we need to do that here, unless it's something that is --
10 that is really important for everybody to see. But we're
11 very lucky to have a very north/south direct access, or
12 access for this property, so it wasn't too complicated to
13 put this together. The arc that you're seeing dashed that
14 was the sun path from earlier this week, just to give some
15 context.

16 On the right, is the east, that's where the sun
17 rises. That heavy dash line in the center of the page
18 that's our property, just to right of that is the three-
19 story building, just to the left of that is a two-story
20 building, across that parking area is a seven-story
21 building.

22 So as the sun is rising, we're actually in
23 shadow, from that third-floor building, for a good portion
24 of the day. Once the sun is at its peak and is directly
25 south of us, that's when the shortest shadows are cast and

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1 that's when it's actually casting shadows onto our own
2 property.

3 The further it gets in the day, there is a
4 slight -- there is a very small portion that the light
5 will be casting towards the property to the east, but
6 again, our project is actually short of that, by almost
7 six feet, so any shadow that's going to be cast is
8 actually going to be hitting that existing two-story brick
9 wall.

10 And then, once it gets -- once the sun gets to
11 a certain point, which is mid-afternoon, approximately,
12 we're all in shadow, from that seven-story building, and I
13 think that's very important to understand.

14 So that is the gist of our project. We think
15 that we've been very amenable. We think that we've made
16 actually a considerable sacrifice, considering we had an
17 initial design that had received some positive reactions
18 from multiple parties.

19 But, once we learned of that roof deck
20 condition, Kevin and Cate made very clear with them, when
21 they first engaged with us, they do not want to be
22 neighbors that are -- you know, they want to live in this
23 house, they want to have their kids, you know, be members
24 of the community. They do not want to move into this
25 house and have an immediate, you know, kind of,

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1 confrontation or contention, based on this project that
2 nobody wants to see happen.

3 So we think that our solution is a very elegant
4 and respectful one, and I -- we don't think that it
5 impacts the sun or the light, given the context, given the
6 depth of the project, given the height of it, given the
7 extension that we are still short of, we think that we
8 really hit all the boxes and we're excited and we're
9 anxious to hear what everybody else has to say about this.
10 Thank you.

11 BZA CHAIR HILL: Thank you. Mr. Locraft, how
12 did it go with the ANC, again?

13 MR. LOCRAFT: So we presented -- I presented to
14 them. I explained -- during that presentation, they asked
15 me if we'd -- if I had met with the neighbors, I said,
16 yes, we met with one, they were -- they were not prepared
17 to object to the project.

18 We met with the other, had this conversation,
19 revised our drawings, got rid of the third floor, lowered
20 the roof line, gave those drawings to them, told them
21 about their reaction, which was the concern about adding a
22 third floor in the future. And, again, we didn't get a
23 response to that email, so we felt that we had done our
24 due diligence and -- and I explained all of this to them
25 and I shared --

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1 BZA CHAIR HILL: No, that's okay, Mr. Locraft.

2 No, I appreciate it. I was just trying to figure out --

3 MR. LOCRAFT: Yes.

4 BZA CHAIR HILL: So anyway. It's okay. All
5 right. Ms. Themak, can you hear me?

6 MS. THEMAK: Yes.

7 BZA CHAIR HILL: You want to go ahead and give
8 us your presentation?

9 MS. THEMAK: Sure. I think we're going to be
10 significantly more brief, so -- it's been a long day. I
11 think we have a PowerPoint of, I believe, it's Exhibit 43
12 that my client and David prepared, and I'm going to take
13 you through that. If Mr. Young could bring that up?

14 (Pause.)

15 MS. THEMAK: That's great. If you could go to
16 the next slide? Basically, I'm going to take you through
17 the perspectives from 1527, so we'll take you through the
18 standards, which you are familiar with, and some views,
19 both from the rooftop deck and some of the rooms inside,
20 as well as the carriage house that the applicants'
21 architect brought up earlier.

22 Next slide, please, Mr. Young. The two
23 criteria in 1501.4 that we're looking at, specifically
24 here, as the adjoining property owner, are the light and
25 air and the privacy of use and enjoyment from the rooftop

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1 deck. I know you're well-versed with this language, so we
2 can move on to the next slide. But the following photos
3 really demonstrate the impacts that we anticipate from the
4 increased height of the roof next door. If you could move
5 to Slide No. 4?

6 There's several -- if you could go back a
7 slide, Mr. Young? Slide No. 4.

8 If -- even though, there won't be an entire
9 third floor on the proposed structure, it is going to
10 greatly impact the flow of air and access to light from
11 several different angles, both, from within the home and
12 from the rooftop deck, which is one of the most shared
13 spots for the Aberle family.

14 Next slide, please. Where they now have an
15 open rail on their property, there will be a block of the
16 view. That rail was specifically designed so that it
17 wouldn't hamper the view across and to -- across and over.

18 They also have children, and so while an adult
19 standing there might be able to see it, those sitting, or
20 those at a child's height will not be able to have the
21 same view that was intended, when this rooftop deck was
22 installed. Next slide, please.

23 The same view is blocked here, where you see
24 views of between their home, the adjoining property, and
25 the neighboring property, between this and the seven-story

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1 apartment building, it's going to block a significant view
2 of the trees that are there and, again, for those sitting
3 on the rooftop deck it significantly impacts the -- the
4 view. Next slide, please.

5 In the backyard we'll shortly see the carriage
6 house that was in the applicants' slide presentation, but
7 it will create -- it will lessen the light and air that is
8 accessed in the backyard, which is really the -- my
9 client's only outdoor space to enjoy, so it does have
10 impacts to light and air in that area.

11 Next slide, please. This is another view from
12 the interior of the home. This is the upstairs bedroom,
13 which will no longer look down on the trees, but will view
14 the -- the brick enclosure of the increased roof of the
15 second floor, the proposed addition.

16 Next slide, please. This is another view from
17 the upstairs bathroom, it is similar, but again, it's a
18 substantial change from what is there now and
19 significantly impacts the light and air available to this
20 portion of the rooftop deck.

21 Next slide, please. There is also, you saw in
22 the applicant's slide presentation, there's an existing
23 carriage house, and so this carriage house is two -- it's
24 two stories and it's already impacting light and air
25 available to the backyard.

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1 Additionally, the carriage house sits, it
2 encroaches upon my client's property, at a little under a
3 foot and more over a -- approximately over a foot, as you
4 move back towards the public alley. So, really, the
5 proposed addition, the bricking in of that side view from
6 the roof deck is just a compounding factor, which again, I
7 think, the architects spoke to trying to preserve the
8 neighbor relationship here and that's my client's intent,
9 too.

10 But, at some point, I think, with the two
11 structures and the impacts they have in combination, that
12 really does begin to limit the light and air to this
13 particular backyard. They haven't made an issue of it,
14 because they've had accessibility to the light and air
15 from the rooftop deck and then also to the backyard,
16 without the brick wall and the increased roof height, but
17 it now becomes an even greater issue, because now they're
18 looking at two structures that will impact the light and
19 air to, both, the rooftop deck and the backyard.

20 Next slide, please. I think, again, we want to
21 echo here that, Mr. Aberle does not want to prevent the
22 project, they think there is a solution here. I think we
23 have looked into asking if they could lower that loft area
24 by, roughly, three feet, so that the view from the deck
25 isn't hampered.

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1 It would be a -- I would love to see if that
2 room could be reduced, without the loft, there seems to be
3 a space for the two bedrooms that are required. And,
4 again, Mr. Aberle understands the need for children, he
5 has his own.

6 We're trying to come up with a compromise here,
7 in the spirit of neighbor negotiations, but right now, we
8 just feel that the impacts are too much to go without
9 objection. We appreciate the Board's time.

10 We also, as you know, my client is here, if you
11 have specific questions on the vantage points, but I will
12 leave you to -- to see if you need more from him.

13 BZA CHAIR HILL: Okay. Thanks, Ms. Themak.
14 Before I go around with questions that anyone might have,
15 can I hear from the Office of Planning?

16 MS. MYERS: Good afternoon. Crystal Myers for
17 the Office of Planning. The Office of Planning is
18 recommending approval of this case, but I will walk
19 through our report for you. When I -- in regards to the
20 general special exception criteria, we feel that the
21 project will be in harmony with the general purpose and
22 intent of the regulations. It supports a use that is
23 allowed in the zone, which is a rowhouse flat.

24 The proposal would not result in a building
25 that is inconsistent with the intent of the zone, in terms

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1 of use, bulk, or height, in regards to it will not affect,
2 or it will not tend to affect adversely the use of
3 neighboring property.

4 We feel that it meets the criteria of E-5201,
5 so it satisfies that general requirement, by satisfying
6 those -- the 5201 requirements, and would not unduly
7 impact either neighbor's privacy, or access to light, or
8 air.

9 As to the specific criteria 5201, for light and
10 air, as has been discussed, we looked at this and noted
11 the fact that the property to the east is a taller
12 property and then two stories, or two houses down, there
13 is a seven-story building, so it -- we determined that the
14 sun impacts, or shadow impacts are more greater from those
15 than from what is being proposed here.

16 In regards to privacy to either neighbor, or
17 use of enjoyment of their properties, there are no windows
18 being proposed on either side of this addition, and again,
19 the neighbor to the east has a larger, taller building, so
20 again, we do not feel that there would be an undue impact
21 to privacy, or use of property.

22 And I'll also note here that, Zoning does not
23 regard preservation of -- of views, so that's not
24 something that we really take into account when we look at
25 these criteria, and again, in the RF-1 Zone, there are no

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1 side yard requirements, so you can build up to your
2 property line.

3 And in regards to visual character on the
4 street, or alley, it would not be visible from either,
5 because of the carriage house in the back on the alley.
6 So we felt that this met the criteria and we recommend
7 approval. Thanks.

8 BZA CHAIR HILL: Thanks, Ms. Myers. The
9 question I had for you, real quick, was -- and I'm trying
10 to understand if -- I'm trying to just understand the
11 design a little bit, meaning, if someone else wanted to
12 come up and do a third story on top of what is being
13 proposed, do you know if the FAR, or -- would be a
14 problem, or -- do you know what I'm trying to ask? Like -
15 -

16 MR. LOCRAFT: Yes. I think what -- when we
17 first filed the BZA application, we were actually seeking
18 relief from two different statutes, or two different
19 sections of the Zoning Code. One was the one that we're
20 still seeking relief for, which is lot occupancy, the
21 other was height. There's a max 35 to get normal, you
22 know, comfortable ceiling heights, we would've actually
23 been at about 37-and-a-half feet.

24 So there would've been two relief requests, if
25 we, presumably, get the relief for lot occupancy now, I --

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1 it doesn't seem possible that somebody would be able to do
2 a third floor, without anybody being aware of that
3 application.

4 BZA CHAIR HILL: Yes, it's not that anybody
5 would be aware of that application or not, I'm just not
6 sure whether or not they would even be able to ask for it,
7 like, right? That's what I was trying to get from the
8 Office of Planning, but I don't know if that's too
9 hypothetical a question for the Office of Planning, and/or
10 I -- Mr. Smith might have an answer for me, Mr. Smith?

11 MEMBER SMITH: Yes, I saw you, but I just want
12 to dive deeper into that particular question that you
13 asked. Mr. Locraft, you had stated comfortable ceiling
14 heights, and I know that everyone wants more than a seven,
15 eight, nine-foot ceiling height, but that's not
16 necessarily, I think, Chairman Hill's question.

17 Yes, everyone wants higher than the minimum
18 that the Building Code would -- higher than the minimum
19 Building Code height. The question is, can you get a
20 third floor in there, with the minimum height, which is
21 probably seven feet, and still meet the height limit?

22 MR. LOCRAFT: The answer to that is yes. Of
23 course, we wouldn't be -- in that scenario, we would have
24 to take into account the previous exercise of the flag
25 test, to make sure that the extent of that third floor

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1 would not be visible from the street. But yes, in theory,
2 you could do a third floor on this property, without
3 getting height relief. So, yes.

4 MEMBER SMITH: Okay.

5 BZA CHAIR HILL: And how far would that setback
6 have to be?

7 MR. LOCRAFT: I -- that was a previous
8 application. I think it was like 18 feet from the front
9 edge of the building. So we're -- like, in our drawings,
10 and I -- I don't think it's necessary to open them up
11 again, but the -- where our stairs are, that's, basically,
12 where that third floor would -- that's the closest to S
13 Street as our third floor could project.

14 BZA CHAIR HILL: Got it. Okay. All right.
15 And --

16 MR. LOCRAFT: So it would -- let's call it,
17 like, you know, it's because --

18 (Simultaneous speaking.)

19 BZA CHAIR HILL: Okay. Because the HPRB is out
20 -- it is HPRB's flag test that got you back that far?

21 MR. LOCRAFT: Exactly.

22 BZA CHAIR HILL: Okay. That's fine. Okay.
23 Does it -- does the Board have any questions for the
24 Office of Planning?

25 (No audible response.)

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1 BZA CHAIR HILL: Does the applicant have any
2 questions for the Office of Planning?

3 MR. LOCRAFT: Do not.

4 BZA CHAIR HILL: Ms. Themak, do you have any
5 questions for the Office of Planning?

6 MS. THEMAK: I do not.

7 BZA CHAIR HILL: Okay. Ms. Themak, do you have
8 any questions of the applicant?

9 MS. THEMAK: I guess, I -- yes, I do, if --
10 just one. Really, the reason for the loft, if you could
11 give me a little bit more detail on why the space couldn't
12 be utilized, perhaps, without -- I guess, in the drawings
13 it's a couch shown and queen-sized beds, why those -- that
14 back area of the house couldn't be split into two rooms,
15 without the extended ceiling?

16 MR. LOCRAFT: The dimension of- the overall
17 width of the rowhouse, if we did have twin bedrooms, not
18 twin beds, as you would normally hear it, but kind of,
19 side to side bedrooms on the backside of the house, they
20 are each about eight-and-a-half feet in width.

21 And it -- that's like, I think the code minimum
22 for a dimension of a bedroom is seven feet, so that's like
23 the bare minimum. Getting three children in two eight-
24 foot by 12-foot bedrooms is just not -- it wouldn't be
25 realistic 20 years ago, and it wouldn't be realistic in

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1 2024. It's -- they'd be on top of each other --

2 BZA CHAIR HILL: It's a program --

3 (Simultaneous speaking.)

4 BZA CHAIR HILL: So, Mr. Locraft, got --

5 MR. LOCRAFT: It's a program question,
6 absolutely.

7 (Simultaneous speaking.)

8 BZA CHAIR HILL: That's okay. You answered it.
9 Ms. Themak, do you have another one?

10 MS. THEMAK: No.

11 BZA CHAIR HILL: Okay. Mr. Locraft, do you
12 have any questions for the party status in opposition?

13 MR. LOCRAFT: I don't have any questions. I
14 mean, I do have some specific reactions to their
15 presentation, which, you know, there are things that, I
16 think, were included in that presentation that are
17 grasping at straws a little bit, to be frank. A view of
18 the seven-story building that's there, like, that doesn't
19 -- first of all, I don't -- to --

20 BZA CHAIR HILL: Okay, stop one second, give me
21 a second.

22 MR. LOCRAFT: Yes.

23 BZA CHAIR HILL: You'll have a chance at
24 rebuttal, okay?

25 MR. LOCRAFT: Okay.

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1 BZA CHAIR HILL: But then, and this did bring
2 up a question --

3 MR. LOCRAFT: I don't have any questions.

4 BZA CHAIR HILL: Okay. Thank you. This did
5 bring up a question that I had for you, as an architect,
6 like, the slide deck that the party status in opposition
7 showed, showed this brick wall, right?

8 MR. LOCRAFT: Yes.

9 BZA CHAIR HILL: And is that an architecturally
10 accurate depiction?

11 MR. LOCRAFT: Oh, in their presentation?

12 BZA CHAIR HILL: Yes.

13 MR. LOCRAFT: I mean, graphically, it's pretty
14 crude.

15 (Simultaneous speaking.)

16 BZA CHAIR HILL: No, no, but is it -- is that
17 the height that it might go up?

18 MR. LOCRAFT: It would be the height that --
19 there were multiple views. One view, the view from their
20 backyard, looking, kind of, southwest, I don't think that
21 was accurate at all. The ones from the roof deck, I
22 think, were slightly more accurate, but they were -- I
23 think they were exaggerated, and -- and I will say that,
24 the picture that was in our presentation of somebody
25 standing from the roof deck, looking back towards the

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1 Masonic Temple.

2 The picture that was included in the
3 opposition's packet, was taken like from a, you know, 18
4 inches off the ground, right up against the railing,
5 which, just as a human being, I don't think that's a
6 super-realistic vantage point to judge something like
7 this.

8 BZA CHAIR HILL: Okay. I think I kind of
9 understand what you're saying. All right. Does anybody
10 have any questions for anybody, before I check about the
11 public?

12 (No audible response.)

13 BZA CHAIR HILL: Okay. Mr. Young, is there
14 anyone here wishing to speak?

15 (Simultaneous speaking.)

16 MR. YOUNG: -- has signed up.

17 BZA CHAIR HILL: Okay. Can you give me their
18 name, please?

19 MR. YOUNG: Leslie Ellis.

20 BZA CHAIR HILL: Ms. Ellis, can you hear me?

21 MS. ELLIS: I can, yes.

22 BZA CHAIR HILL: Could you introduce yourself
23 for the record?

24 MS. ELLIS: Sure. Sure. My name is Leslie
25 Ellis and my husband I live, we're in the blue house, on

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1 the other side of the Joneses, at 1531 S Street.

2 BZA CHAIR HILL: Got it. Okay, Ms. Ellis,
3 you'll have three minutes to give your testimony and you
4 can begin whenever you like.

5 MS. ELLIS: Sure. Sure. And I'm just now
6 realizing that I probably could've applied to be a party.
7 I didn't realize that; I've never had to do anything with
8 BZA before. We are -- we are next door. We are in
9 support of the project. We think it's a good project.

10 I feel like I am going to be very impacted by
11 the project, as well. I'm not sure if you noticed in any
12 of the pictures, in the little dogleg on the back of our
13 house, there's a window. That is my office, my home
14 office, and I work here every day, and right now I have
15 lots of light that comes in and I look across the top of
16 the second floor of the Joneses' house, the first floor of
17 the kitchen, into the brick wall of the house, at -- on
18 the other side.

19 Once they put their addition up, I'm going to
20 have this wall that I'm staring at, and it's actually
21 going to block quite a lot of the light into my office.
22 That said, we're not opposing the project, because I think
23 there are other really great benefits to the renovation
24 that they have in mind. There are lots of renters on the
25 block, some renters on the block. There are lots of

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1 houses on the block that are in desperate need of
2 renovation. I was in the Joneses' house when it was on
3 the market, before they purchased it, and we knew the
4 previous owners.

5 It's got a slightly odd layout and it's,
6 frankly, slightly big for one or two people, but it's
7 definitely too small for a family, and we feel like it's
8 only a matter of time before it will get renovated. The
9 Joneses have been very accommodating and cooperative and
10 open and communicative about how they want to do this
11 project, in response of -- to our concerns. We feel like
12 we would much rather have them do what, we think, is an
13 inevitable renovation to a small house in a popular area,
14 than someone who we might not have as good a relationship
15 with.

16 And we feel like it will dramatically -- well,
17 not dramatically -- it will increase the property values
18 on the block, because we have a number of houses that have
19 been done and done quite well, much like the Aberles, at
20 1527. They had a big project that took a long time and
21 combined, I think, two units into one, to make a nice
22 family home that was beautifully done, and we would like
23 the Joneses to have the opportunity to do the same, and we
24 want someone who wants to be in the neighborhood and cares
25 about the neighborhood to do that renovation and not

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1 somebody else.

2 And we think more houses that have been redone
3 on the block will benefit us greatly, and benefit everyone
4 else on the streets, and so that's why I'm supportive of
5 it, even though I'm going to have no light in my office
6 now.

7 And so to sort of follow up on the point that I
8 think Martin Locraft made earlier, because of the seven-
9 story building, we all have walls on either side of our
10 yards and we all have, pretty much, up and down the block,
11 quite big trees in our backyard. We get virtually no
12 light in our backyard, anyway. I don't love that. I wish
13 we didn't have a seven-story building right next to us,
14 but that's the way it works. And so I just wanted to sort
15 of comment on the fact that we have limited light in our
16 yard, as well. And so -- that's it. That's -- my three
17 minutes are up. Thank you.

18 BZA CHAIR HILL: Okay. Thanks, Ms. Ellis,
19 Ellis?

20 MS. ELLIS: Oh, Ellis. Ellis.

21 BZA CHAIR HILL: Okay.

22 MS. ELLIS: I also did want to mention, I don't
23 know if this is allowed or not -- it might not be, because
24 it wouldn't be in the record -- because I'm in my home
25 office, I have a webcam, if anybody wants to see the

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1 views, I'm happy to move my webcam. But you have lots of
2 photos that I just saw, so I'm not sure if that's
3 necessary, or even permitted.

4 BZA CHAIR HILL: I appreciate it. Yes, it's
5 not allowed. Okay. Does anybody have any questions for
6 the witness?

7 (No audible response.)

8 BZA CHAIR HILL: Okay. I think I looked at
9 your house before you bought it. I think it was like --

10 MS. ELLIS: Oh, yes? It could've been.

11 BZA CHAIR HILL: -- I like it, and I can't
12 remember --

13 MS. ELLIS: About 12 years ago, 12 or 13 years
14 ago?

15 (Simultaneous speaking.)

16 BZA CHAIR HILL: Yes, it might have been that,
17 yes.

18 MS. ELLIS: Okay.

19 BZA CHAIR HILL: It was before the big project,
20 across the street.

21 MR. JONES: Right.

22 MS. ELLIS: Yes. Yes.

23 BZA CHAIR HILL: Okay.

24 MS. ELLIS: And it was a weird taupe color
25 then. We painted it blue a couple of years ago.

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1 BZA CHAIR HILL: I liked the color.

2 (Laughter.)

3 BZA CHAIR HILL: So -- all right. Okay. All
4 right. Thank you so much.

5 MS. ELLIS: Yes, thank you.

6 BZA CHAIR HILL: All right. There we go.
7 Okay. All right. Does anybody -- oh. Let's see. Mr.
8 Locraft, you had some rebuttal?

9 MR. LOCRAFT: I -- when I first started saying
10 it, you interrupted me and then we got into something else
11 and then I basically, react -- the reactions that I had
12 were --

13 BZA CHAIR HILL: If you don't have any
14 rebuttal, I'm -- that's fine.

15 (Simultaneous speaking.)

16 MR. LOCRAFT: Okay. No, we're good.

17 BZA CHAIR HILL: Okay. All right. Ms. Themak,
18 do you have anything you'd like to add in conclusion?

19 MS. THEMAK: No.

20 BZA CHAIR HILL: Okay. Mr. Locraft, do you
21 have anything you would like to add in conclusion?

22 MR. LOCRAFT: No, thank you.

23 BZA CHAIR HILL: Okay. All right. Then I am
24 going to -- I'm going to close the hearing and the record.
25 And I really do wish the applicant and the neighbor the

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1 best, regardless of what goes forward, and it's a lovely
2 neighborhood. So you all have a nice day. Bye-bye.

3 (Pause.)

4 BZA CHAIR HILL: Okay. This is turning into a
5 long day, people. Okay, and we still have a little bit to
6 go. I feel like you all are my friends, this little
7 Hollywood Squares, or whatever it is.

8 But, Mr. Smith, Mr. Blake, you all -- I mean,
9 you know, you all want to -- you guys want to start,
10 anyone want to start, because Vice Chair John, she had to
11 work a little bit earlier, too?

12 MEMBER SMITH: I do believe that -- so, the
13 request before us is for a two-story rear addition to an
14 existing two-story attached residential building in the
15 RF-1 Zone. Based on the testimony that was provided by
16 the applicant and, also, information I -- I would say,
17 provided by the party in opposition, and everything that
18 was in the record provided by the Office of Planning, the
19 applicant, I do believe that the applicant has met the
20 burden of proof for us to grant the special exceptions.

21 And I would just note that, you know, one of
22 the primary topics, topic points in the -- for the party
23 of opposition, primarily related to views, and, again, as
24 stated by Ms. Myer, the Zoning Regulations do not protect
25 the right to a view.

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1 This is a rowhome, within a very dense
2 neighborhood, matter of fact, next to, again, as stated by
3 Ms. Ellis, next to a seven-story residential building. So
4 we are in a very dense -- a very dense environment within
5 this neighborhood.

6 And I do believe that the applicant's proposed
7 addition is within the character of development within the
8 neighborhood and will not have a substantial impact on
9 light and air to the adjacent properties, given the -- as
10 even presented by the diagrams provided by Ms. Themak,
11 that there will not be a substantial impairment of light
12 and air, beyond what currently exists now, being that it's
13 next to a seven-story residential building.

14 I do believe that the proposal is in harmony
15 with the general purpose and intent of the Zoning
16 Regulations, this type of addition is contemplated within
17 the Zoning Regulations for that particular zone and,
18 again, it would not adversely affect the use of
19 neighboring properties.

20 And I do not believe that we need to impose any
21 special conditions as part of the -- granting this
22 particular special exception. I will note that the ANC is
23 also in support. And I -- and the adjacent neighbor at
24 1531 S Street is also in support. I will rest on OP's
25 staff report, giving it great weight, and will support the

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1 application.

2 BZA CHAIR HILL: Thank you, Mr. Smith. Mr.
3 Blake?

4 MEMBER BLAKE: Yes. Thank you, Mr. Chairman.
5 That was a very good, thorough analysis of that situation.
6 I agree with you and your assessment. I felt that,
7 initially, without the sun study report, it would be a
8 little bit difficult to see this, but given the direction,
9 the location of the property and how we did actually walk
10 through that, it came pretty clear that it was not the
11 issue.

12 And discussion of the view issue was clear
13 that, as we said, we do not -- Zoning does not protect the
14 views. I -- therefore, I thought that everything was --
15 what -- we did meet the conditions for approval, based on
16 E-5201, and I would give great weight to OP's
17 recommendation for approval and would be in support of
18 this application.

19 BZA CHAIR HILL: Thank you. Chairman Hood?

20 ZC CHAIR HOOD: I agree with my colleagues and,
21 also, you know, I did hear the view issue, and not only do
22 our regulations not point to it, but the Supreme Court has
23 said it, and not just in the District of Columbia, but
24 everywhere, you don't buy a view. A lot of it's de
25 minimis, as there's some things that are still conforming,

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1 and I -- I just -- so while I know the person who lives
2 close by may feel more impact, and I agree, but I think
3 that it could be mitigated. Well, it has to.

4 And I think it meets the regulations to be able
5 to develop, especially with the young lady who was on
6 there -- in the blue house that you are looked at, who
7 acknowledges -- she knows that something's going to happen
8 there and she's acceptable to moving forward with this.
9 And I would also stand on the record that Office of
10 Planning and the ANC, as well. Thank you, Mr. Chairman.

11 BZA CHAIR HILL: Thank you. Vice Chair John?

12 VICE CHAIR JOHN: Thank you, Mr. Chairman. I
13 agree with all of the comments so far. The only thing I
14 would add is that the party in opposition's house is five
15 feet longer than the applicant's, and also one story
16 higher, so I would just factor that into the evaluation of
17 the potential adverse impact on the applicant's project.

18 And I also think that the applicant spent a lot
19 of time trying to accommodate the party in opposition's
20 concerns, and came up with a design that would serve their
21 needs, while trying to preserve their view, which, as
22 everyone has said, it's not protected under the
23 regulations. So I would be in support of the application.

24 BZA CHAIR HILL: Great. Thank you, Vice Chair
25 John. The only thing, right, to add, I appreciate, is

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1 that -- the point that was made is that that third story,
2 if there were ever be -- I don't even know if a third
3 story could be built, like, I -- I'm not sure if it would
4 definitely need to come before us, but I don't know if --

5 (Simultaneous speaking.)

6 BZA CHAIR HILL: Yes, I don't think it would be
7 something that would be an issue that would just happen as
8 a matter of right. I could be wrong, but I don't think
9 that's correct. And then I do appreciate that the
10 applicant has tried to think of the neighbors when trying
11 to work within their program. And they seem to have come
12 up with a solution, as you, Chairman Hood, has mentioned,
13 again, you know, views are not a protected right and they
14 could've, I guess, somehow, might've even gotten blocked
15 out and they do have a view now.

16 And, hopefully, whatever that brick is that
17 gets put up there, maybe it will be attractive brick, or
18 something, there that's in that area that the neighbor
19 would be looking at from their roof deck. But they're --
20 I do think that the light and air issues are not something
21 that I find meets the criteria for us to deny this
22 application.

23 I'm going to make a motion to approve
24 Application No. 21053, as captioned and read by the
25 Secretary, and ask for a second, Ms. John?

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1 VICE CHAIR JOHN: Second.

2 BZA CHAIR HILL: Motion made and seconded. Mr.
3 Moy, if you'd take a roll call.

4 MR. MOY: When I call your name, if you'll
5 please respond to the motion made by Chairman Hill to
6 approve the application for the relief requested. Motion
7 to approve was seconded by Vice Chair John.

8 Zoning Commission Chair Anthony Hood?

9 ZC CHAIR HOOD: Yes.

10 MR. MOY: Mr. Smith?

11 (No audible response.)

12 MR. MOY: Mr. Blake?

13 MR. BLAKE: Yes.

14 MR. MOY: Vice Chair John?

15 VICE CHAIR JOHN: Yes.

16 MR. MOY: Chairman Hill?

17 (No audible response.)

18 MR. MOY: Staff would record the vote as five
19 to zero to zero, and this is on the motion made by
20 Chairman Hill to approve the motion to approve, which was
21 seconded by Vice Chair John, who also voted to approve the
22 application, as well as the following voting to approve
23 the application: Zoning Commission Chair Hood, Mr. Smith,
24 Mr. Blake, Vice Chair John, and Chairman Hill. The motion
25 carries, sir, five to zero to zero.

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1 BZA CHAIR HILL: Thank you, Mr. Moy. Okay. So
2 I've been requested to take a break now, which I also
3 agree. We did not take a break for a lunch. This, I
4 guess, is dinner. Do we want to try to come back in 30
5 minutes, is that fair?

6 (No audible response.)

7 BZA CHAIR HILL: Okay. Let's try to come back
8 in 30 minutes. I actually have to go get something, so
9 I'm going to try to come back in 30 minutes, okay? Bye-
10 bye.

11 (Whereupon, the above-entitled matter went off
12 the record at 4:28 p.m. and resumed at 5:17 p.m.)

13 BZA CHAIR HILL: All right, Mr. Moy, you can
14 call our next one.

15 MR. MOY: After a scheduled -- I guess I should
16 say, unscheduled late lunch, the Board has returned to its
17 Public Hearing session and the time is now at, or about,
18 5:18 p.m. in the afternoon.

19 So the next case before the Board is
20 Application No. 20983 of the House of Ruth. This is a
21 self-certified application, pursuant Subtitle X Section
22 901.2, for special exceptions under Subtitle C Section
23 703.2 from minimum vehicle parking requirements, Subtitle
24 C Section 701, Subtitle C Section 1506.1, from penthouse
25 setback requirements of Subtitle C Section 1504.1. The

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1 property's located in the RA-2 zone, at 1815 and 1819
2 Minnesota Avenue, SE, Parcel 0218/0138 and 0218/0139.

3 Just a reminder, the Board last heard this case
4 on January 31st, 2024, to address the ANC 8A's motion for
5 a continuance that was granted and the -- we are here
6 today for February 28th, and I believe, Mr. Chairman, the
7 ANC Commissioner is signed up to testify.

8 BZA CHAIR HILL: Okay. Great. Thank you, Mr.
9 Moy. If the applicant can hear me, if they can please
10 introduce themselves, for the record?

11 Ms. Milanovich, can you hear me?

12 MS. MILANOVICH: I can, yes.

13 BZA CHAIR HILL: I -- who is it that -- is it
14 Ms. Prince?

15 MS. MILANOVICH: Yes, Allison Prince is the
16 attorney. And I don't see her. Oh, there she is.

17 BZA CHAIR HILL: Oh, here we go. Okay. Ms.
18 Prince, if you can hear me, if you can introduce yourself,
19 for the record?

20 MS. PRINCE: Sure. Allison Prince. Hang on.
21 I had to get on a different laptop, because mine wasn't
22 working. Hang on.

23 BZA CHAIR HILL: Sure.

24 (Pause.)

25 MS. PRINCE: Here we go. I'm going to -- good

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1 evening, members of the Board. Allison Prince, with
2 Goulston & Storrs, back again. I'm here on behalf of the
3 House of Ruth. House of Ruth started in 1976 and --

4 BZA CHAIR HILL: Ms. Prince, can I interrupt
5 you one second? I'm sorry. So who else is here with you?

6 MS. PRINCE: Jami Milanovich is our traffic
7 engineer, she's our first expert witness. And then Sandra
8 Jackson, who is from House of Ruth. And then Kami Wilwol
9 from Stoiber Architects is the architect. And we have a
10 very tight presentation, because I think you guys are
11 exhausted.

12 BZA CHAIR HILL: Okay. But -- so is Mr.
13 Stoiber, is that --

14 MS. PRINCE: He's not speaking, Jack -- Kami is
15 presenting on behalf of the architect, He's here, but Kami
16 is going to be presenting.

17 BZA CHAIR HILL: Okay. No, I just want -- I
18 just want to know who's going to -- okay, who's -- and
19 then, is the Commissioner here, the ANC Commissioner? And
20 if so, if he -- introduce yourself for the record?

21 MS. MUHAMMAD: Yes, I'm here. Commissioner
22 Holly Muhammad.

23 BZA CHAIR HILL: Okay, Commissioner Muhammad,
24 is there anybody here with you, or are you -- is that just
25 you?

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1 MS. MUHAMMAD: No, I'm here to represent the
2 ANC 8A.

3 BZA CHAIR HILL: Okay. Great. Okay, Ms.
4 Prince, if you want to go ahead and walk us through your
5 client's application and, why you believe they're meeting
6 the criteria for us to grant the relief requested.

7 I'm going to put 15 minutes on the clock,
8 again, just so I know where we are, and you can begin,
9 whenever you'd like.

10 MS. PRINCE: Sure. Today we're here to request
11 special exception relief from the minimum vehicle parking
12 requirements of Section C-703.2 and the penthouse setback
13 requirements of C-1504.1. Both areas of relief will
14 facilitate the construction of a single, new 40-unit, all-
15 affordable apartment house that will replace two low-rise
16 apartment houses that are there on the site now.

17 The site is RA-2, so the use is permitted, so
18 it's just these two areas of relief we need. I just did
19 want to update the Board, you postponed us last time for a
20 reason, you wanted more community outreach, and that has
21 happened.

22 So I actually thank you for postponing us,
23 because it's been very productive. Since the January 31st
24 postponement, we solicited feedback from multiple
25 neighbors. We attended ANC 8A's meeting. Ms. Muhammad is

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1 here tonight to report on that. We attended the Fairlawn
2 Citizens Association monthly meeting on February 20th. At
3 both meetings we gave detailed presentations, including an
4 overview of the transportation study and the plans and
5 answered questions.

6 The ANC did not vote to support the project.
7 The Fairlawn Citizens Association did. Their support is
8 found in Exhibit 41 of the record. I don't believe
9 there's an ANC report in the record, so Ms. Muhammad can
10 discuss the ANC's position.

11 And then we reached out to multiple neighbors
12 and the -- there's a petition that's in the record that
13 shows the door-to-door outreach that actually happened. I
14 am going to ask Sandra Jackson to speak, to talk about
15 what House of Ruth does and why they want to replace the
16 existing building.

17 Then we're going to go straight to Jami
18 Milanovich to talk about the parking relief, and then the
19 architect will walk through the penthouse setback relief.
20 And that's all I have.

21 BZA CHAIR HILL: Okay. Great. Thank you. Ms.
22 Jackson, if you want to introduce yourself for the record,
23 before you give your testimony?

24 MS. JACKSON: Yes. Sandra Jackson, I'm the
25 President and CEO for House of Ruth, in Washington, D.C.

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1 BZA CHAIR HILL: Hello, Ms. Jackson.

2 MS. JACKSON: Thank you. I am very happy to be
3 able to speak tonight and to talk about House of Ruth that
4 has been around for 47 years in Washington, D.C. We
5 provide services to women, children, and family, who are
6 fleeing domestic violence and have experienced a long term
7 of being unhoused.

8 We have been operating in the Ward 8 area, in
9 particular, for almost -- almost 30 years, and we have a
10 number of programs. As a matter of fact, we have 13
11 housing programs and a child development center, as well
12 as a mental health services counseling program for women.

13 In the Ward 8 community, in the Fairlawn area,
14 which is where one of our buildings was already, where we
15 were providing housing, program housing, we purchased last
16 year the building next door that we did not own, and we
17 worked with our architect, who will be talking later,
18 about how to redevelop those buildings, that space for
19 affordable housing.

20 What happens is, when our women and children
21 are ready to leave us, because of the great work that
22 they've been able to do in their lives and get back on
23 their feet, they are often unable to find affordable
24 housing in the District of Columbia and, particularly, in
25 the Ward 8 and other communities where they have lived,

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1 where their kids are going to school, and where they're
2 connected to community resources.

3 So, as a result of that assessment by the
4 architect, it was deemed more appropriate to level both of
5 the buildings and to raise up a new structure, which would
6 allow us to have more affordable housing units for the
7 families and with the amenities that many of the families
8 have asked to have inside of those -- of their spaces.

9 The buildings that are there now are very old.
10 They were built back in the '30s and '40s, so they're
11 small units, they don't allow for families with multiple
12 children, a play space inside, or any of those kinds of
13 things. It's very -- it's a very small building.

14 So the new building, of course, would allow for
15 more space, two and three-bedroom units, as well as play
16 space internally, community space, a career center inside,
17 with computers and, you know, all of the things that, you
18 know, our families really could take advantage of, as well
19 as washer and dryers, which is a very big thing that
20 families wanted inside their units, as opposed to having
21 to go outside to do laundry.

22 So that is why we were embarking on this
23 initiative, And as all of you know, affordable housing in
24 the District of Columbia is very hard to come by and,
25 especially, for our families who are often making less

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1 than \$40,000, \$50,000. So to be able to have facilities
2 that they can afford that's decent, that's safe, and that
3 will support their long-term independence and support for
4 their children, is really critical.

5 So we are very happy to be able to bring this
6 online in Ward 8, where we have -- where we have been
7 operating all along, we are community residents there, our
8 current residents who live in our building are very
9 excited about this project and support this project.

10 And, as the attorney indicated, we have done a
11 tremendous amount of outreach. Obviously, we didn't do it
12 early enough, because we thought that we were doing it in
13 a different way, but we did finally do the outreach that
14 needed to be done. We heard from the community and, you
15 know, there was general support. Some of the things that
16 folks brought up were things that, you know, obviously,
17 all of us deal with, they were concerned about crime, they
18 were concerned about not having a grocery store in the
19 area. They were concerned about parking and we talked
20 about the parking report that you're going to hear about
21 today. But a lot of things, they were not about,
22 necessarily, the building itself, but it was about some
23 other things they were concerned about.

24 Lack of response to calls when there have been
25 reports of crime and, as -- again a lot of the things that

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1 -- that building, it didn't have necessarily anything to
2 do with the building in itself, but, in fact, some of the
3 other areas of community concerns that we understood. So,
4 again, I'm happy to share any more, if you have any
5 questions for me.

6 BZA CHAIR HILL: Thank you, Ms. Jackson. Ms.
7 Prince, is it Ms. Milanovich now?

8 MS. PRINCE: It's Ms. Milanovich.

9 MS. MILANOVICH: Yes.

10 BZA CHAIR HILL: Go ahead, Ms. Milanovich.

11 MS. MILANOVICH: Mr. Young, if you could pull
12 up our presentation? And while he's doing that, just for
13 the record, Jami Milanovich, with Wells and Associates.
14 We are the traffic and parking consultant for this
15 project. Next slide, please.

16 Just an orientation, by way of transportation
17 options that are available for the future residents of
18 this site. The site itself is shown in the -- with the
19 yellow star. We are bordered by Minnesota Avenue on the
20 northwest, R Street on the south, and 19th Street on the
21 east.

22 We are within about a quarter mile of two
23 priority Metrobus routes. We're within a half-block of
24 bus stops serving three other Metrobus routes, within a
25 half-mile of five Zipcars, and within a half block of the

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1 nearest Capital Bikeshare station. So a number of
2 alternative transportation options other than needing a
3 private automobile to get around.

4 Next slide, please. There are also a number of
5 amenities within walking distance, including restaurants,
6 food markets, pharmacies, schools, a public library, and a
7 number of others that you see on the screen before you.
8 And what that means is that residents of this site would
9 not need an automobile to conduct daily errands.

10 Next slide, please. This slide shows the site
11 layout. The main pedestrian access will be from Minnesota
12 Avenue, as designated by the blue arrow. The trash will
13 be moved inside to the lower level.

14 There will also be a bicycle room at the lower
15 level, and you can see access to those rooms, via the red
16 and the orange arrow. So those would be accessed, via a
17 ramp, from the sidewalk on R Street, they -- the trash
18 carts and the bikes can be wheeled down the ramps into the
19 lower level, again, as shown with the red and orange
20 arrows.

21 Next slide, please. In terms of the
22 anticipated trip generation for this site, this table
23 reflects the trip generation for the 40 residential units.
24 We conducted this analysis in accordance with standard
25 DDOT methodology.

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1 You can see, in the grey-shaded rows, how we
2 broke the trip generation down by mode of transportation.
3 So 40 percent auto, 60 percent non-auto modes, and those
4 percentages actually came from Census data for this
5 specific area. So those mode splits are specific to this
6 area and what's currently happening for existing residents
7 in the area. And then the bottom row shows the resulting
8 vehicular trip generation, so we're anticipating just
9 three a.m. peak hour vehicle trips and just six p.m. peak
10 hour vehicle trips.

11 Next slide, please. In terms of the parking
12 requirements, the Zoning Regulations do require a minimum
13 of 12 vehicular parking spaces for the 40 residents with
14 units. Because of the triangular shape of the lot, we
15 don't have a sufficient width in the lot to get below
16 grade deep enough.

17 So if you take into account the required
18 spacing that DDOT requires for curb cuts, the maximum
19 slope we're allowed to have on garage ramps, we simply
20 don't have enough width in the site to get far enough
21 below grade to be able to have adequate turning maneuvers
22 and still be able to provide 12 parking spaces. So the
23 House of Ruth is requesting relief from those 12 parking
24 spaces and, as such, DDOT did require us to conduct a
25 parking evaluation for the site. Next slide, please.

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1 We did scope the study with DDOT before we
2 began. DDOT required that we conduct a parking inventory
3 and an on-street parking occupancy study within a roughly
4 two-block radius of the site. The parking occupancy
5 counts were conducted on a typical weekday. We did ours
6 spring of this past year. Because this area is primarily
7 residential, the counts were conducted in the evening,
8 from 6:00 p.m. to 10:00 p.m.

9 That time was selected because that's when a
10 lot of residents are returning home from work. The
11 parking occupancy tends to be higher in residential areas
12 in the evening and overnight. But, also, it overlaps with
13 some of the commercial or retail uses in the area where
14 they might also be generating a parking demand in those
15 evening hours.

16 I do want to note that there are currently ten
17 units onsite that are currently occupied, so as we look at
18 the parking impact, the net effect on the neighborhood
19 would really result from the net increase of 30 units.
20 Three of the ten families that currently live onsite have
21 cars, and we would expect that trend to continue, and so
22 with a net increase of 30 units, we would expect an
23 additional nine vehicles for the proposed development.

24 Next slide, please. This graphic shows the
25 roughly two-block study area. There's a total of 282

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1 total spaces, within -- on-street spaces, within the study
2 area. The segments that are highlighted in blue are
3 simply unrestricted spaces.

4 So there's no residential parking restrictions,
5 no time restrictions of any type, the one block that's
6 highlighted in orange, is in front of a church and it's
7 signed no parking Sundays from 9:00 a.m. to 2:00 p.m., and
8 the one block that is highlighted in red is signed as no
9 parking anytime.

10 Next slide, please. This diagram summarizes
11 the parking occupancy for the study area, and so the
12 blocks you see shaded in green represent blocks that had a
13 peak parking occupancy of less than 50 percent. Yellow
14 had a peak parking occupancy of 50 to 75 percent. The
15 orange highlighted blocks had a peak occupancy of 75 to 95
16 percent, and the red had a peak occupancy of 95 percent.

17 And I do just want to point out that the two
18 streets abutting our site, so the north side of R Street
19 adjacent to our site, during our four-hour count window
20 had, at most, one vehicle parked there, and there's 12
21 available spaces on that block.

22 So during the entire count window, there were
23 at least 11 spaces unoccupied, and on 19th Street, on the
24 west side, again, abutting our property, the number of
25 vehicles parked on that block ranged from zero to three

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1 spaces, there's a total of seven spaces on that side of
2 the street.

3 And so, you know, during the count window,
4 there were no fewer than four spaces available on that
5 block. So, you know, we would anticipate that residents
6 of this building would be able to fill their need to park
7 on the street, in the blocks immediately adjacent to the
8 property, and would not have to extend out beyond the
9 immediate vicinity of the site.

10 Next slide, please. Now this graph simply
11 summarizes the parking occupancy by time of day, so each
12 of the blue bars represents the number of vehicles that
13 were parked within the entire study area for that
14 particular hour. The red horizontal line represents the
15 total on-street capacity of 282 spaces, and you can see
16 that we had a peak occupancy of about 55 percent at 10:00
17 p.m. Next slide, please.

18 We are required by DDOT to implement a
19 transportation demand management plan. I don't want to go
20 through all of these, I'll just highlight a couple that
21 the House of Ruth will be providing a SmarTrip Card and a
22 complementary Capital Bikeshare coupon at the time of the
23 initial building occupancy.

24 Next slide, please. I did want to point out
25 that, in DDOT's report, they ask us to clarify that we

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1 would be providing the 20 long-term bicycle spaces, and we
2 are, as well as two short-term bicycle parking spaces.

3 And then there's some reporting requirements
4 DDOT requires, but the last bullet I'll highlight is that
5 there is currently no sidewalk along our street frontage
6 between Minnesota Avenue and 19th Street, and so as part
7 of this project, we will be constructing that missing
8 sidewalk.

9 So, with that, I'm going to turn it over to
10 Kami to talk about the other areas, I believe. And, Mr.
11 Young, if you could advance three slides, I think that
12 will get into Kami's presentation.

13 MS. WILWOL: I'm Kami Wilwol, partner with
14 Stoiber & Associates Architects, I'm the project manager
15 for this project. I know it's been a very long day. You
16 have all the supporting photos and drawings on record, so
17 if it's okay with you, we can cut right to the roof
18 diagram on Sheet BZA 6, if you can advance to that slide,
19 please.

20 Okay. So if -- I think this is okay. What
21 you're seeing here is the roof plan of the building, and
22 what we've done is we've tried to diagrammatically show
23 the relief that we're requesting. The dashed lines
24 indicate the one-to-one setback requirement based on the
25 height of the roof elements as they relate to the exterior

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1 wall of the building below, and the red hashed areas are
2 the portion of those roof elements that we're requesting
3 the relief for.

4 So in the center of the building where you see
5 the double square where the building turns 90 degrees,
6 that's the roof of the elevator shaft, which does extend a
7 little bit higher up than the roof of the structure below
8 it.

9 So you can see the penthouse structure follows
10 the setback line, the dash line does, for the elevator
11 shaft, is inward of that and it does overlap the shaft,
12 but just the corner.

13 And I'll just make mention, briefly, of the
14 design efforts we made to try to minimize the relief
15 request. We did look at multiple locations for the
16 elevator in the building, and as you can see, we
17 successfully got the majority of the shaft into
18 compliance. But due to the restrictions on the interior,
19 clearance is needed to get stretchers and bikes in and out
20 of the elevator, and interior dimensions of the units, we
21 just weren't able to quite get the entire shaft into
22 compliance.

23 But what we did do, and you'll notice it's
24 different from the perspective that was shown on the front
25 sheet of our presentation, is we reconfigured the lower

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1 portion of the roof structure that does meet the setback
2 requirement to try to minimize the visual impact of the
3 taller elevator shaft.

4 So if you look up at the perspective, up above,
5 you'll see just that top corner of the elevator shaft
6 peeking out over the lower roof structure, so that's just
7 the portion of the elevator shaft we're requesting relief
8 for.

9 Similarly, at each end of the building is a
10 stairwell. They both are necessary to provide two means
11 of egress from the roof, but we've done is we've sloped
12 the top of the shaft with the stair in order to keep it as
13 low as possible and propose only what's necessary to
14 achieve, you know, the required head height clearances for
15 that stairwell, to try to keep that relief request as
16 minimal as possible, as well.

17 Additionally, we propose that the vertical
18 sides of these shafts all have green living walls, which
19 we hope will also help to reduce their impact even
20 further.

21 I'm happy to go through any of the other
22 drawings, but, Allison, unless you think it's necessary,
23 I'll leave it at that.

24 BZA CHAIR HILL: No, that's fine. I don't know
25 if the Board's got any questions. Just -- I mean, how far

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1 does that penthouse -- the elevator shaft? It's only like
2 -- it looks like it's like, like, two feet, or something.

3 MS. WILWOL: Yes, it's about three feet higher
4 than the roof. I don't know if it's possible to zoom in
5 on that part of --

6 BZA CHAIR HILL: I can see the corner that
7 you're talking about. Okay.

8 MS. WILWOL: Yes, it's about 18 inches of
9 relief we're asking for.

10 BZA CHAIR HILL: Okay. All right. Please
11 continue, Ms. Prince.

12 MS. PRINCE: That completes our presentation.

13 BZA CHAIR HILL: Okay. All right. Does the
14 Board have any questions of the applicant?

15 (No audible response.)

16 BZA CHAIR HILL: Okay. Commissioner Muhammad,
17 can you hear me?

18 MS. MUHAMMAD: Yes.

19 BZA CHAIR HILL: Would you like to go in and --
20 would you like to go ahead and give your testimony?

21 MS. MUHAMMAD: Yes. I'm sorry.

22 BZA CHAIR HILL: It's all right.

23 MS. MUHAMMAD: Thanks. I first want to start
24 out by saying thank you for giving us this additional time
25 to be able to get residents fully aware of what's going to

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1 take place where they live, which often, here in Ward 8,
2 we're the last to know what's going to happen in our
3 neighborhoods.

4 I do -- I'm going to give this testimony. We
5 do have a written report, but it has not been signed by
6 the chair, so I would like to be able to submit that
7 tomorrow. Is that going to be an issue?

8 BZA CHAIR HILL: Sure. No, we'll leave the
9 record open for it.

10 COMMISSIONER MUHAMMAD: Okay. So on February
11 the 6th, at our duly noticed meeting, ANC 8A voted
12 unanimously, 7-0-0, to oppose BZA 20983. Can you hear me?

13 BZA CHAIR HILL: Yes.

14 COMMISSIONER MUHAMMAD: Oh, okay. To oppose
15 BZA 20983, request for relief from setback and height
16 restrictions and relief from the required 12 parking
17 spaces. Many of the concerns began with the applicant did
18 not utilize the Zoning Commission Racial Equity Tool at
19 all, and when questioned about it, was not even familiar
20 with it.

21 Then, also, the project does not follow the
22 guidelines in the Far Northeast/Southeast Small Area Plan
23 issued by the Office of Planning, which actually calls for
24 the renovation and rehabilitation of the housing and staff
25 as a priority, especially for the aging apartment

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1 complexes and for developments with affordable units.

2 So the ANC voted on behalf of the residents,
3 and I think one thing that is misunderstood about the ANC
4 is that, we're broken up into single-member districts, so
5 that we can provide representation for the affected
6 residents.

7 So if you live five, six blocks away, yes, you
8 can't support the project because it's not going to affect
9 your life, but if you live right here across the street,
10 around the corner, half-a-block down Minnesota, it's going
11 to affect your life, not just the development, but also
12 the construction.

13 So the mechanical penthouse is unsightly, it's
14 not necessary for the building. It's a rooftop amenity.
15 It's not required. And so that burden -- the applicant
16 wants that burden on the community for their convenience,
17 and it's just unjust.

18 Then, the parking situation was really starting
19 be opposed by the residents, because already, I don't know
20 where the presenter lives, but I know where we live, and I
21 come home after 6 o'clock, I have to drive around the
22 corner three, four times, many times, to even find a place
23 on my street, let alone around the corner.

24 So I don't know where they're getting their
25 quote-unquote statistics, but that's not the reality. The

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1 reality is that we have long-time homeowners and residents
2 in this community that have been parking near their homes,
3 in front of their homes, for years, and for them to have
4 to lose that for someone else's convenience is unfair.

5 Now they're saying, with an additional 30
6 units, there's only going to be an additional nine cars,
7 and that's not the reality. We already have some other
8 buildings that have come up in this community and you
9 can't -- that's why you can't find parking anywhere,
10 because they're getting relief from the parking.

11 It's required, so require them to provide it.
12 Require them to provide it. The community should not be
13 burdened. The part of the standards for granting a
14 special exception is for it to not have any adverse effect
15 on neighboring properties, for it not to become -- to
16 cause an undue burden on the neighboring properties.

17 So I'm asking that the Board, the Commission,
18 require the parking and require the setback. If you own a
19 home there and this setback relief is granted, it's
20 unsightly and you may decide you want to sell your home.
21 Well, then that becomes an issue, because when people are
22 looking for homes, they take everything into consideration
23 in the neighborhood of where they're purchasing.

24 And then, if there's no parking, also that's
25 another issue, so you're talking about having -- going

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1 from ten units to 40, but you're expecting us to believe
2 that's only going to increase by nine vehicles, and that's
3 not the reality. Because the reality is, when she talked
4 about these amenities that's walkable, there's no walkable
5 amenities in this community that we need, necessities,
6 there's no grocery store we can walk to, no pharmacy, no
7 hardware store, no retail, no dry cleaner.

8 Yes, we can walk down the street to carry-out
9 and get some fried chicken, but that's not a necessity.
10 Necessity is for us to maintain our lives. We have to get
11 in our cars and drive to other wards to get them. That is
12 the reality that we live in, and everyone in the city
13 knows it, the Office of Planning knows it, DDOT knows it,
14 but they keep trying to push this culture on us, to
15 eliminate vehicles, when we need these vehicles in order
16 to maintain our daily lives.

17 So we need the vehicle. We need somewhere to
18 park it when we live here. And to cause the burden on us,
19 you're going to bring in 30 more units, which more than
20 likely, in this area, is going to be at least 25 more
21 cars, because we drive in Southeast, because we have to.
22 So you're going to add those additional cars and they're
23 saying, oh, they can park on the neighboring streets,
24 well, people are already parking on the neighboring
25 streets, because people live on the neighboring streets.

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1 People live on the main street. They're
2 parking on the main street. We need this parking. And so
3 I'm asking the Board not to give relief for this parking,
4 to require this parking, so that there will not be any
5 more hardship on this community.

6 So, yes, I know about the petition they were
7 walking around, and I know where they were getting it, and
8 they were nowhere near where they're building their
9 project, because the residents know me. I've been a
10 Commissioner a long time. They call me. So I know what
11 parts of the neighborhood they were in and it was nowhere
12 near where this development is. None of the people that
13 are going to be directly affected are in line with this
14 relief for parking, they all oppose it, because they know
15 they're going to lose their parking.

16 Some of them have already lost it with -- with
17 the design that DDOT has set out here on Minnesota Avenue,
18 just half-a-block from where she's talking about. So
19 there's no parking there already, because they're drawing
20 lines and putting up posts, so you can't park, you know,
21 your two cars from the corner now.

22 So there's two parking spaces. You can't park
23 there, unless you get a ticket, now, but that wasn't there
24 before, and so they're talking about causing more hardship
25 and this is an older community, as I've said.

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1 We have a lot of seniors. They've lived here.
2 They've done their time. They've worked, they've retired,
3 they own their homes, they're not going anywhere, they
4 should not be burdened like this. They come in and out of
5 their homes. They can't walk three and four blocks to get
6 to their car. They're parking now where their homes are.
7 We've been fighting with DDOT, because they keep coming
8 out here talking about doing something to Minnesota
9 Avenue, and we -- if they put bike lanes and bus lanes and
10 all of that out there, it removes the parking.

11 So we've been fighting that. We're constantly
12 fighting to try to keep our way of life that we've been
13 forced into by this system. So I'm asking the Board not
14 to grant this relief for parking, not to grant this relief
15 for that setback, it's not required.

16 That setback is -- is going to be unsightly and
17 it's not necessary. It's just a convenience for the
18 applicant. So I will submit our report, in writing, but
19 that is basically what's going to be in the report.

20 As I said, a lot of people don't understand how
21 the ANC is set up, but it's set up for us to represent the
22 effected community and that's why single-member districts
23 are small. So whatever happens in that single-member
24 district, it's affecting those residents right around that
25 project and we, too, try to get their feedback. We know

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1 what's happening, because we live here.

2 And I want to make sure that -- and I know you
3 guys already know, but the ANC gets great weight and we
4 really need to see it. We need to see it. So those are
5 my concerns. And one of my major concerns is that we have
6 this Small Area Plan, we have this Racial Equity Tool, but
7 nobody's using it. So -- I mean, - what's the use, if
8 you've got developers that don't even know about the Small
9 Area Plan. I mean, I don't understand that, how can they
10 even come before you and they -- they're not familiar with
11 it.

12 It has guidelines. It doesn't talk about
13 tearing down and rebuilding mass and height. It talks
14 about renovation and rehabilitation of these older
15 apartment buildings, which is what exist right at 1815
16 Minnesota. One of them is vacant right now and
17 dilapidated. The other one is not even up to code. They
18 said that in our meeting. So these are two buildings that
19 could've been renovated and rehabbed for these families,
20 but that's not what they want to do. Because everybody is
21 on this craze with this mass and this house and the green
22 rooftops so we can entertain and look over the city, but
23 that's -- that's a burden on us, while you're enjoying
24 your convenience.

25 It's not fair. So I'm just asking the Board to

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1 please give great weight to the ANC on this. We worked
2 hard to try to represent our residents. We've got newer
3 residents and we got the older ones, but the ones that
4 have been here, they've been through the fire, they stayed
5 here, they own their homes, they own their condos. We got
6 even renters that's been here a long time. We want them
7 to not be burdened constantly, over and over, because of
8 this new development coming.

9 And, as I said, it doesn't even follow the
10 guidelines of what should be happening, and I don't
11 understand how that can even come before the Board. One
12 of the requirements should be for them to have to at least
13 be familiar with the Small Area Plan and what the
14 guidelines are in the plan.

15 So that's, basically, all I wanted to say.
16 Thank you for the opportunity and the ANC looks forward to
17 seeing your response.

18 BZA CHAIR HILL: Okay. Thanks, Commissioner,
19 thanks for your testimony. I thought you were well -- you
20 know, you said everything well, you even know what you're
21 talking about with the zoning, you know what you're
22 talking about with the relief, and I appreciate the time
23 that you put forward, and -- yes.

24 I don't know, we'll see what's going to happen
25 here now. Let's see, does the Board have any questions

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1 for the Commissioner?

2 Go ahead, Chairman Hood.

3 ZC CHAIR HOOD: Yes. Good evening,
4 Commissioner Muhammad.

5 MS. MUHAMMAD: Good evening.

6 ZC CHAIR HOOD: Let me ask you this. I saw in
7 the record, and I may have it wrong, but I think I saw in
8 the record where you all had mentioned to the applicant
9 about trying to have a discussion, I think with someone
10 who has been successful. I'm trying to think -- another
11 developer who has been successful, I think that was what I
12 saw. Am I characterizing that correctly?

13 MS. MUHAMMAD: Right. I asked -- I mean, we
14 were talking with the applicant, and they just weren't
15 hearing us. And, I mean, it just was like -- they felt
16 like, you know, they had some experience somewhere else,
17 and they felt like they didn't even understand why we were
18 asking questions. I sent questions by email. And I got a
19 very disrespectful response from the architect. And so I
20 asked another developer who has experience over here, who
21 has built a relationship with the community.

22 And actually we have another one that recently
23 did a really good job with community engagement that is
24 going to be building down there at 1234 Marion Barry. I
25 asked them to meet with him to see -- we were talking

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1 about -- the two buildings right now are garden style.

2 ZC CHAIR HOOD: Right.

3 MS. MUHAMMAD: So we were asking if they could
4 remain that way.

5 ZC CHAIR HOOD: So let me cut to the chase. So
6 I feel the issue is more -- and you let me know if one is
7 more than the other. I heard you say about the setback,
8 but what about the 12 parking spaces, I think it is,
9 that's going to zero? Is that the major issue?

10 MS. MUHAMMAD: The major issue is that -- the
11 major issue is the mass and height of the building and the
12 parking. But --

13 (Simultaneous speaking.)

14 ZC CHAIR HOOD: Help me -- slow down. Help me
15 out. Does one --

16 MS. MUHAMMAD: There is no one more important
17 than --

18 ZC CHAIR HOOD: Okay. Got you.

19 MS. MUHAMMAD: I'm sorry.

20 ZC CHAIR HOOD: You answered my question.
21 Neither one of them is more important than the other. All
22 right.

23 MS. MUHAMMAD: I mean, community is just
24 against this. I mean, you know our community. You've
25 been over here.

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1 ZC CHAIR HOOD: Yes, I have.

2 MS. MUHAMMAD: So, you know, you got a
3 residential neighborhood here. We don't have any five,
4 six story buildings and then you got this penthouse on top
5 that's going to be blocking. You got houses directly
6 across the street, you know, that's going to affect their
7 homes. Then you don't want to have the setback so you
8 want it right up -- the botanical penthouse right up on
9 front? No.

10 ZC CHAIR HOOD: So let me ask this. With all
11 the work that House of -- I know sometimes it's an
12 inconvenience. And I'm just talking this out. I haven't
13 made my decision.

14 MS. MUHAMMAD: Yes, sir.

15 ZC CHAIR HOOD: I hear you with the parking
16 issues for me. But anyway, that's a heavy lift. I'll let
17 my colleagues go over that now. But with all of the work
18 that House of Ruth -- sometime in this city, even
19 residents, we give a little because of the work that's
20 going to happen to help our community. Is that one --
21 would you say that may be a case with the other things,
22 policies and things that House of Ruth does, would that
23 help lessen the impact, I guess is what I want to say?
24 Would that help lessen the impact with the parking and the
25 penthouse setback?

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1 MS. MUHAMMAD: So it has nothing to do with
2 their work. I know they've been here a long time. But on
3 the other hand, we've got prostitutes roaming up and down
4 the street, all kind of mental health issues during the
5 day where they are having to call the police, residents
6 are calling us because there's someone that has mental
7 health issues that's in a crisis. You know, we're getting
8 these calls all the time.

9 And so that was some of the questions that went
10 out to her at our meeting. You know, well, you've been
11 there, but we still have these issues. And actually,
12 they're worse than what they have been over the years, you
13 know?

14 So to me expanding the program, yes, if you're
15 helping clean up the community, that's wonderful. But
16 still that can happen without the design that they have
17 for that development.

18 ZC CHAIR HOOD: Okay.

19 MS. MUHAMMAD: They said at our meeting that,
20 oh, well, we can't provide the parking with this design.
21 Well, you decided on that design before even coming to the
22 community to find out what the concerns were.

23 ZC CHAIR HOOD: I get it, Commissioner.

24 MS. MUHAMMAD: So the whole burden shouldn't be
25 put on us.

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1 ZC CHAIR HOOD: I get it. And I will just say,
2 and then I will leave it alone, but thank you for all the
3 work that you and the Commission do. But I think this
4 Board does not use our racial equity tools because they're
5 not bound by the comprehensive plan like the Zoning
6 Commission is. So I will stand and be corrected if I'm
7 wrong, but I tried to get the Board to do it, and we did
8 it. But I don't believe they're bound. I'm just sharing
9 that with you. So I will leave it at that. So thank you,
10 Mr. Chairman.

11 MS. MUHAMMAD: Thank you. And can I share this
12 with you, sir?

13 ZC CHAIR HOOD: Sure.

14 MS. MUHAMMAD: Since I'm talking to the zoning
15 experts in the city, they are bound. Anyone who comes
16 before BZA or zoning is bound to that racial equity tool.

17 ZC CHAIR HOOD: Okay. I will research it
18 again. But I'm pretty sure. But anyway, let me let that
19 go and we'll move on. Thank you.

20 MS. MUHAMMAD: Thank you, sir.

21 BZA CHAIR HILL: All right. Thanks,
22 Commissioner. Let's see. Can I hear from the Office of
23 Planning? Sure. I'll get you, Mr. Smith. Can I hear
24 from the Office of Planning first?

25 MR. JESICK: Thank you.

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1 BZA CHAIR HILL: Hold on, Office of Planning --
2 I mean, Mr. Jesick. Mr. Smith, go ahead.

3 MEMBER SMITH: I think I may have gotten my
4 answer to this. But I will ask it again just in case I
5 didn't. This is to Ms. Muhammad. And this question -- my
6 question is in relation to an answer that you gave
7 Chairman Hood regarding the concerns of the ANC. This
8 request before us is for -- is regarding parking relief
9 and penthouse setback.

10 And I heard, you know, the ANC is concerned
11 about the size of the apartment building, the height. And
12 just to reiterate, and I think we had some discussion of
13 this the last time we heard this, the height of it -- and
14 this being a four-story apartment building is not before
15 us. That is by right. They can build a four-story
16 apartment building by right. They can go and redesign
17 this and lop off the penthouse. And they can still build
18 an apartment building. That is not what was before us
19 now and again that's a matter of right. If they can
20 figure out how lop off the penthouse, they can get a
21 building permit.

22 So I just want to make sure because we have to
23 give the -- you know, we are trying to give the ANC -- and
24 we typically give the ANC great weight. But what is the
25 primary concern and issue that was raised by the ANC that

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1 directly relate to the matter before the Board tonight?

2 Was it tucking? Was it density and height?

3 MS. MUHAMMAD: I'm sorry. What?

4 MR. SMITH: You had said to Chairman Hood that
5 when the applicant went before your ANC that what was
6 raised was that they were building an apartment building
7 that was four stories tall, and you were concerned about
8 the design. And I'm saying, and I will say it again, that
9 what is before us has nothing to do with the height. It
10 has nothing to do with a four-story building. It's about
11 the penthouse and the parking.

12 MS. MUHAMMAD: I understand that, sir, but let
13 me say this. At our meeting, she discussed relief from
14 the height restriction. And when I questioned it, she
15 said it was in there. So we voted against it also.

16 If the building was -- I'm sorry?

17 MR. SMITH: Okay. No, I'm listening.

18 MS. MUHAMMAD: That was how it was presented at
19 our ANC so that's how we voted. And if the building was
20 not the height that it is, they wouldn't need a penthouse
21 setback. They don't have one now with the garden style
22 buildings.

23 And I understand you're trying to keep this
24 specific to the relief, but I want to make sure that we're
25 addressing what she said in our meeting. And since she

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1 said it, I questioned it. She still stood by it so that's
2 how we voted to make sure that we were covered.

3 So as I said, we opposed unanimously, 7-0-0,
4 with all seven commissioners present to the relief for the
5 setback and to the relief for the parking.

6 MEMBER SMITH: Okay.

7 MS. MUHAMMAD: As I said, the setback is not
8 required. It's unsightly. It's an amenity. It's not
9 required. It's for their convenience. So that's not in
10 line with the standards for granting a special exception
11 because it's not supposed to be for somebody's
12 convenience. It should not have an adverse effect on
13 neighboring properties. And that is also the same request
14 that we're making for the parking. There is no parking
15 here. I don't know what extra spaces they're claiming
16 there are. But we live here, and we know that there's no
17 parking.

18 We've already got a building down the street.
19 People are parking on side streets, and they live on
20 Minnesota Avenue because they can't park there anymore.
21 And so then the people that live on the side streets, now
22 they got to find somewhere else to park. Do you see what
23 I'm saying?

24 MEMBER SMITH: Yes, I do.

25 MS. MUHAMMAD: Yeah. So that's already

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1 happening. So what's going to happen with you bringing 30
2 more units, and you're we're not going to provide parking.
3 It's unacceptable. It's going to cause an undue hardship
4 on people who are already suffering undue hardships.

5 MEMBER SMITH: Okay. Thank you, Ms. Muhammad.
6 I think we probably may have some questions to the Office
7 of Planning regarding some of the concerns of the ANC.

8 MS. MUHAMMAD: Thank you.

9 BZA CHAIR HILL: Thanks, Commissioner. Okay.
10 Can I hear from the Office of Planning?

11 MR. JESICK: Thank you, Mr. Chairman and
12 members of the Board. My name is Matt Jesick. I am
13 representing the Office of Planning in this case. And OP
14 can rest on the record of our written staff report
15 recommending approval of the application. But I'd be
16 happy to take any questions. Thank you.

17 BZA CHAIR HILL: Okay. Does the Board have any
18 questions for the Office of Planning? Ms. John, you're on
19 mute.

20 VICE CHAIR JOHN: Can you discuss the parking
21 relief and how the Office of Planning looked at whether
22 or not the relief should be granted for parking? And I
23 think that's C1504 -- no, C703.2. You might not have it
24 in front of you. But how did you evaluate the parking
25 relief request?

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1 MEMBER SMITH: Yes, certainly. As you stated,
2 we looked at Section C703.2 that says that a full or
3 partial reduction in the number of parking spaces can be
4 granted by the Board if the applicant proves one of the
5 following factors. And there is a variety of factors that
6 the regulations go through. And we feel that this project
7 qualifies on a number of them where only one is required.

8 One, and you heard the testimony this evening,
9 Ms. Milanovich, just physically the property is too small
10 to accommodate an underground garage. So when you take
11 into account the ramps and the need for spacing from
12 intersections, there is not enough room on this site to
13 get to a below grade garage to accommodate onsite parking.

14 We've also seen evidence in the record and
15 heard testimony this evening about the transit access on
16 this site and access to other modes of travel such as
17 bicycle access and car share. There are some amenities
18 within walking distance of the site, and also the
19 applicant examined the parking counts in the neighborhood
20 as we heard this evening and found there was adequate on-
21 street parking to serve this use.

22 I cannot speak for DDOT, but DDOT has also
23 submitted a report to the record stating no objections to
24 the requested relief. So we felt that the applicant met
25 the requirements for relief from the parking standard, and

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1 that's why we recommended approval.

2 VICE CHAIR JOHN: Okay. Thank you. And while
3 you were speaking, Mr. Jesick, I had a question for Ms.
4 Milanovich. And I wanted to ask, is there parking at the
5 site now? There's none with the garden style apartments
6 now?

7 MS. MILANOVICH: That's correct.

8 VICE CHAIR JOHN: Could any be provided with
9 the current configuration of the two buildings? Could
10 parking be provided that would not violate any
11 regulations?

12 MS. MILANOVICH: We have not looked in detail,
13 but my guess is no. It would be surface parking, which
14 would require screening. There's setback lines that we
15 have to stay behind, I believe, on both our end, Minnesota
16 Avenue. So, again, we have not done a layout of the
17 existing site, but just knowing how that site is
18 configured and what would be required, I think it is very
19 unlikely that 12 regulation spaces would be able to be
20 provided on the current site.

21 VICE CHAIR JOHN: Thank you. And then there
22 was an allegation that the streets where the parking
23 survey was conducted were not close by or relevant to the
24 location of the proposed project.

25 MS. MILANOVICH: Yeah. I heard the same thing,

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1 and I'm not sure where that's coming from. I mean, I
2 showed in my presentation the map of the area that we
3 studied. And, you know, the center of our study area was
4 the block that our site is on and then we went out about
5 two blocks from that. So it was very narrowly focused on
6 this specific area.

7 And as I said, our analysis showed the two
8 blocks abutting our site had more than enough parking
9 spaces available to accommodate the anticipated demand
10 from this particular site.

11 VICE CHAIR JOHN: Okay. Thank you.

12 MS. MUHAMMAD: Can I ask a question?

13 BZA CHAIR HILL: I'll let you, Commissioner,
14 ask a question. Just let me get through the questions
15 with the Board first.

16 MS. MUHAMMAD: Okay.

17 VICE CHAIR JOHN: I don't have any other
18 questions.

19 BZA CHAIR HILL: Okay. Does the Board have any
20 other questions of the Office of Planning? Mr. Smith, did
21 you raise your hand?

22 MEMBER SMITH: Ms. Milanovich, the same line of
23 questioning, but my question is under the current
24 programming of the building and considering -- under the
25 current programming of the building was there a survey

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1 done of how many of the residents of the existing building
2 or percentage of the number of units drive or, you know,
3 own a vehicle?

4 MS. MILANOVICH: Yeah. So Ms. Jackson provided
5 that information to us. And she had reported that of the
6 10 families that are currently living onsite, only three
7 of those families own cars.

8 MEMBER SMITH: Okay. And your transportation
9 and your parking analysis was based on that there would be
10 a percentage of -- I'm assuming, what, it would be 30
11 percent of the number of residents that would be in a new
12 building would potentially park?

13 MS. MILANOVICH: Correct. Correct.

14 MEMBER SMITH: Okay.

15 MS. MILANOVICH: So when you look at the net
16 increase of 30 units, that would be another nine vehicles
17 we would be talking about that would need parking on the
18 street.

19 MEMBER SMITH: Okay. I think my last question
20 is probably just a history of programming the site. Was
21 there -- on this particular site is it -- you're not
22 proposing any curb cuts, right, so there wouldn't be any
23 type of turnaround? Okay.

24 MS. MILANOVICH: Correct. There are actually
25 two existing curb cuts now, one on 19th, one on R. They

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1 are very narrow. I think the intention is for trash carts
2 to be wheeled in and out.

3 MEMBER SMITH: Okay.

4 MS. MILANOVICH: I don't believe they are even
5 wide enough to accommodate a car, but those will both be
6 closed as a part of this project.

7 MEMBER SMITH: And was that pushed by DDOT?

8 MS. MILANOVICH: I mean, certainly it was
9 looked on favorably by DDOT. But I think we had initially
10 proposed that just because of the trash being moved below
11 grade and not stored outdoors so there wasn't really a
12 need to have both of those curb cuts.

13 So when we proposed it to DDOT, like I said,
14 they looked on that very favorably.

15 MEMBER SMITH: Okay. Okay. I think that's all
16 the questions I had. Thank you.

17 BZA CHAIR HILL: Chairman Hood?

18 ZC CHAIRMAN HOOD: Let me go back to Mr.
19 Jesick. Mr. Jesick, you mentioned that I think the
20 regulations say if the applicant satisfy one of the 703.2.
21 Do you know right off which ones -- how many of those, I
22 think it's A through G or is it A through -- okay, A
23 through J, yeah, how many of those would you say they did
24 not satisfy versus how many they satisfied?

25 MR. JESICK: Mr. Chairman, we counted five of

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1 those criteria that they did satisfy. So I don't know off
2 the top of my head what number letter J is but.

3 ZC CHAIRMAN HOOD: But it's in your report?

4 MR. JESICK: Yes.

5 ZC CHAIRMAN HOOD: Okay. I'll look through it
6 again.

7 MR. JESICK: Okay.

8 ZC CHAIRMAN HOOD: I'll find it. Thank you,
9 Mr. Chairman.

10 BZA CHAIR HILL: Thank you, Chairman Hood.
11 Commissioner Muhammad, can you hear me? You had a
12 question for Ms. Milanovich?

13 MS. MUHAMMAD: Yeah. I wanted to know what
14 time of day they did this "parking" -- put together their
15 parking plan. What time of day was this? Because --

16 (Simultaneous speaking.)

17 MS. MUHAMMAD: Go ahead. I'm sorry.

18 MS. MILANOVICH: As I indicated during my
19 presentation, we were required to do the parking counts
20 where we actually physically went out and counted the
21 number of cars that were parked on each block within the
22 study area between 6:00 p.m. and 10:00 p.m. And, again,
23 the reason, the rationale for those times is that it's
24 primarily a residential area. And parking tends to be
25 highest in the evening hours when people are returning

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1 home from work. And then also there is some retail, some
2 commercial development in the area. And so to the extent
3 that those are generating parking demands, the evening
4 hours, it overlaps with the peak hours from the
5 residential.

6 MS. MUHAMMAD: Well, then I can absolutely deny
7 that that is correct. And the retail that you talk about
8 is all the way down on Marion Barry Avenue. There is no
9 retail in this particular area where these two apartment
10 buildings are.

11 This is all a residential area. The only thing
12 we have is a corner store down at 22nd Street. So there's
13 no retail. There's no retail for us to walk to. Yes,
14 there's bicycles everywhere, but this is a community of
15 families, in a community that does not have access to
16 amenities that are necessary for your day-to-day living.

17 We don't get on a bicycle with our children,
18 grandchildren, husband, whatever to go to the grocery
19 store. We get in a car. And car share, I don't know how
20 accessible it is now. It was down towards Pennsylvania
21 Avenue. But car share is much more expensive to utilize
22 than driving your own car.

23 So they say there's three people in the current
24 building that have vehicles out of the 10. And I can tell
25 you right now the only reason the other families don't

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1 have a vehicle is because they can't get one because we
2 have to have a vehicle to live in this community.

3 So bicycle access is not working for people
4 with families and children. You can't put two and three
5 children on a bicycle. You can't put your husband on a
6 bicycle with you with your children. Car share is
7 expensive.

8 And as I said, and if you did your survey
9 between 6:00 and 10:00 at night, I know that's inaccurate
10 because I normally get home between 6:30 and 8 o'clock in
11 the evening, and I can never find a parking space. And I
12 drive right by where the House of Ruth is now when I'm
13 circling the block looking for somewhere to park so I know
14 that's inaccurate. And anyone in this immediate
15 neighborhood that's affected by this proposed development
16 will tell you the same.

17 BZA CHAIR HILL: Okay, Commissioner. Okay.
18 Yeah, no, I'm not getting on a bicycle with my wife. So
19 just give me a sec. Does anybody have any more questions
20 for anybody before I -- first of all, is there anybody who
21 wants to give public testimony, Mr. Young?

22 MR. YOUNG: One witness signed up.

23 BZA CHAIR HILL: Okay. Great. Do you want to
24 please put that person forward?

25 MR. YOUNG: That's Graylin Presbury.

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1 BZA CHAIR HILL: Mr. Presbury, can you hear me?

2 MR. PRESBURY: Yes.

3 BZA CHAIR HILL: Great. Mr. Presbury, could
4 you introduce yourself for the record, including where you
5 live, and then you will have three minutes to give your
6 testimony.

7 MR. PRESBURY: Okay. My name is Graylin
8 Presbury. I live at 1331 Ridge Place Southeast. I'm the
9 President of the Fairlawn Citizens Association and have
10 been since around 2010. I've been a resident of this
11 neighborhood in this house for 36 years.

12 We own this property. And at our last meeting
13 we had a very expensive presentation from the House of
14 Ruth. I've also attended the ANC meeting. And I attended
15 a meeting that the House of Ruth at the public library.
16 So I've heard about the proposed development on more than
17 one occasion.

18 Our neighborhood association voted in favor of
19 the House of Ruth. We have a lot of development going on
20 around us. We want more affordable housing. I don't
21 understand the opposition of the ANC.

22 Ms. Muhammad's single member district includes
23 this property at the very corner of her SMD. Across the
24 street, across Minnesota Avenue, is a different SMD. And
25 if you cross 18th Street, the other corner, it's yet

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1 another SMD.

2 Immediately behind this property on our street,
3 there is a small apartment building, maybe eight units.
4 And next to it is a DC Water pumping station. It's an old
5 house and a pumping station. Virtually no one parks in
6 that block.

7 At present, there's a tractor trailer parked
8 there, which is probably not legal, you know. And there
9 is a RV type trailer that's probably been abandoned.

10 If you go around the corner onto 18th Street
11 across from the pumping station, there is a Verizon
12 switching station, I guess it's called.

13 So, again, you know, that block of 18th Street
14 is virtually -- anyone ever parking there. And I know
15 because I drive through that area to avoid going through
16 the busier intersection down at Minnesota and Pennsylvania
17 Avenue.

18 MS. MUHAMMAD: And that's not true.

19 BZA CHAIR HILL: Ms. Muhammad, give him some
20 space. He's giving his testimony.

21 MR. PRESBURY: At the ANC meeting when the
22 House of Ruth tried to give their presentation, there was
23 a lot of badgering just as, you know, we just heard. It
24 was that type of environment. My letter from the
25 association has been submitted and should be a matter of

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1 record. That's all I got to say.

2 BZA CHAIR HILL: All right. Thank you, Mr.
3 Presbury. Yeah, your letter is in the record.

4 Does anybody have any questions for Mr.
5 Presbury? Go ahead, Chairman Hood.

6 MS. MUHAMMAD: I do.

7 BZA CHAIR HILL: I'll get to you, Commissioner
8 Muhammad.

9 ZC CHAIR HOOD: I thank you for all you do, not
10 just in your local association, but what you have been
11 doing over the years in the federation as well.

12 So you've heard some of my questions. And one
13 of them in particular sometimes there's only -- we have to
14 get a little to get what we need. Do you think, in your
15 opinion, kind of the same questions I asked the
16 Commissioner, do you think the tradeoff for allowing what
17 we have in front of us on the penthouse and the relief
18 from parking benefits the community with the work that the
19 House of Ruth does?

20 MR. PRESBURY: Yes. The penthouse is not a
21 living unit. It's more of a community room that's sort of
22 wrapped around the elevator shaft. It's not a living
23 unit.

24 BZA CHAIR HOOD: Okay. Well, I guess my
25 question is -- do you think -- and I'm trying to really

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1 help me.

2 MR. PRESBURY: Okay.

3 BZA CHAIR HOOD: Do you think that's a tradeoff
4 the community will be willing to sacrifice some of the
5 adverse impacts -- since this is a special exception
6 that's what I'm looking at -- with what services and what
7 benefits will come with this facility, with the House of
8 Ruth?

9 MR. PRESBURY: The tradeoff is well worth it.
10 We're talking about -- okay, affordable housing.

11 BZA CHAIR HOOD: Okay. I got it. That's what
12 I wanted to find out, your point of view. Thank you.
13 Thank you, Mr. Chairman.

14 BZA CHAIR HILL: Okay. Thanks, Chairman Hood.
15 Commissioner Muhammad, you had a question?

16 MS. MUHAMMAD: I had a question for Mr.
17 Presbury, but I'm not going to do that. I just want to
18 say that when we're representing the affected residents,
19 he said he lives on Ridge Place. He's not an affected
20 resident. When we are talking about the affected
21 residents, they oppose the project.

22 There was no badgering. There was hard
23 questioning, just like I did tonight. There was hard
24 questioning because these questions, I don't understand
25 how a developer can come before you and not be familiar

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1 with the small area plan. I don't understand that.

2 BZA CHAIR HILL: Okay.

3 MS. MUHAMMAD: So the residents are familiar
4 with the program. This is not about her program. But her
5 program has been here for years. And as I said, we still
6 have homeless people. We still have people with mental
7 health issues wandering up and down the street, police
8 calls every day. Prostitutes out here wandering up and
9 down Minnesota Avenue.

10 So, yes, her program has been here, but the
11 residents are not willing to tradeoff losing their parking
12 for this project because of her program because we haven't
13 seen where it has benefitted our community in these years.

14 BZA CHAIR HILL: Okay. Okay. Thanks,
15 Commissioner.

16 MS. MUHAMMAD: Thank you.

17 BZA CHAIR HILL: I'm sorry. Thanks,
18 Commissioner. I'm just trying to get through the
19 questions for the witness. Ms. Prince, you don't have any
20 questions for Mr. Presbury do you? Okay. All right.
21 Okay. Mr. Presbury, thank you for your time and patience
22 waiting this long. And I hope you have a nice evening.

23 MR. PRESBURY: Thank you. Goodbye.

24 BZA CHAIR HILL: Goodbye. And also,
25 Commissioner Muhammad, thank you for your time in waiting

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1 this long.

2 Okay. All right. Right now, and I don't know,
3 I guess, Ms. Prince, I can ask this of you. Right now,
4 how many units are there again?

5 MS. PRINCE: Twenty-seven.

6 BZA CHAIR HILL: It's 27 units.

7 MS. PRINCE: There's a net increase of 13
8 units. There's been some confusion about that. What
9 Sandra Jackson is mentioning, there are 10 families that
10 live there today, but there 27 units. And there have been
11 27 units there for decades.

12 BZA CHAIR HILL: Okay.

13 MS. PRINCE: So there's only a net increase of
14 13.

15 BZA CHAIR HILL: Okay. Twenty-seven units.
16 Let's see, so 27 units.

17 MS. MUHAMMAD: And on that --

18 BZA CHAIR HILL: Give me a second, Commissioner
19 Muhammad. So 27 units and then -- right. And there's 10
20 families there now? And this is again, House of Ruth.
21 Right, okay. Ms. Muhammad, I'm just asking --
22 Commissioner Muhammad, I'm just asking some questions.
23 You had a comment?

24 MS. MUHAMMAD: Yes. Because she said there's
25 27 units there, but the one building is vacant because it

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1 was not owned by House of Ruth. She only owned the one
2 building that has the 10 units in it. That other building
3 was just a regular apartment building. It's vacant now.
4 So there's no one in that other building.

5 BZA CHAIR HILL: I got it.

6 MS. PRINCE: The point is the two buildings
7 contain 27 units. There have been two buildings with 27
8 units on this site for decades. That is my point, with no
9 parking.

10 BZA CHAIR HILL: Right. But of the 27 units,
11 there is only 10 people that are there? Ten units are
12 occupied now?

13 MS. PRINCE: Today, correct.

14 BZA CHAIR HILL: Today, right. Okay. That's
15 all I want to know. All right. Okay. Does anybody have
16 any further questions?

17 Okay. All right. Commissioner Muhammad, thank
18 you so much for staying with us the whole evening. And
19 Ms. Prince, thank you for your team. And I am going to
20 let everyone have a nice evening.

21 MS. PRINCE: Can I please make some closing
22 remarks?

23 BZA CHAIR HILL: Oh, sorry, sorry. It's been a
24 long --

25 MS. PRINCE: It's been a long day. I've been

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1 hanging with you all day.

2 BZA CHAIR HILL: That's okay. Then in fact,
3 Ms. Prince, you will have rebuttal. And if you give
4 rebuttal, then there's questions on rebuttal.

5 MS. PRINCE: I'm not giving any rebuttal. I'm
6 just doing my closing statement.

7 BZA CHAIR HILL: Your closing statement, okay.
8 Go ahead.

9 MS. PRINCE: So as you've heard tonight, House
10 of Ruth is already in Ward 8 quietly operating without
11 incident including on this site providing incredibly
12 important services. It's hard to identify which area of
13 relief is more significant for the community, but it
14 emerges to me that parking is the more significant
15 concern.

16 And as Chairman Hood noted or maybe you did,
17 perhaps, Chairman Hill, there are multiple ways that one
18 can provide a basis for parking relief. The rights list
19 10 ways. You need to meet 1 of the 10. We meet 5 of the
20 10.

21 We don't have a curb cut that would provide
22 access. We couldn't get to a below grade garage anyway.
23 You can't park within 20 feet of a street facing lot line.
24 We can't get the parking on the site.

25 So then when we look at actual impacts, that's

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1 why we have Jami, an expert traffic consultant who has
2 done the actual accounts. And you have to give more
3 deference to an expert in traffic engineering than you do
4 to an anecdotal statement from a non-expert.

5 We are pleased to have support from the
6 Fairlawn
7 Community Association. And, you know, we are happy to
8 hear Ms. Muhammad's input, but we really have to disagree.
9 We feel strongly we meet the burden of proof for parking
10 and certainly for the penthouse relief as well, which is
11 very, very minor, penthouse structure relief. As was
12 noted, it is unduly restrictive to require us to comply
13 with what is really a very minor technical area of relief.

14 So with that in mind, I ask that you approve
15 the application before you so this important project can
16 go forward. Thank you.

17 BZA CHAIR HILL: Okay. Thank you, Ms. Prince.

18 MS. MUHAMMAD: Can I do my closing?

19 BZA CHAIR HILL: No, Chairman Muhammad, the --
20 Commissioner -- oh my God -- Commissioner Muhammad, the
21 applicant gets the last word.

22 MS. MUHAMMAD: Yes, sir.

23 BZA CHAIR HILL: They get the conclusion.

24 But go ahead, Chairman Hood.

25 ZC CHAIR HOOD: I have a question because I'm

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1 really grappling. And as Ms. Milanovich knows, always,
2 when I think about traffic, I tell all the traffic
3 experts, I think about them when I'm sitting there, and I
4 can't find a parking place.

5 But, Ms. Prince, and I'm not joking about it
6 because this is reality. I heard you say anecdotal versus
7 an expert traffic witness. But isn't somebody who lives
8 the real life situation, who is in that situation -- the
9 expert may not live in the neighborhood or may not be
10 there -- but isn't it true that somebody who actually has
11 to deal with the exact application carries just as much
12 weight?

13 MS. PRINCE: Well, the legal answer is no. The
14 expert testimony is always entitled to greater weight.

15 I have so much confidence in Jami. You know, I
16 work with her all the time. I see her getting challenged
17 all the time. But I also see our cases getting upheld all
18 the time. She is a very valued expert, and I trust the
19 way she approaches traffic counts. And I trust the counts
20 that she does otherwise she wouldn't have the reputation
21 she has.

22 This is not to say that the opinions of local
23 residents who are affected don't matter. You know, we
24 obviously value the opinion of local residents. But, no,
25 the expert is always entitled to greater weight.

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1 ZC CHAIR HOOD: Okay. I appreciate it. That's
2 why I'm not lawyer. And I do respect Ms. Milanovich.
3 I've known her for years. So thank you, Mr. Chairman.

4 BZA CHAIR HILL: Okay. Well, since I get the
5 last word, so as all my Board members know, we get to give
6 the ANC great weight. And so we're going to give the ANC
7 great weight. The ANC Commissioner is here, the SMD of
8 the ANC, and we are giving her the great weight that she
9 is giving.

10 And the Board is the one that finally gets to
11 determine whether or not the regulations are being met.
12 And so that's what we're supposed to do otherwise we
13 wouldn't have to do any of this. Go ahead, Vice Chair
14 John.

15 VICE CHAIR JOHN: I would just like to make a
16 public service announcement. It is only to the legally
17 relevant issues and concerns.

18 So I would just want to add to your statement
19 that we are required to give great weight to the legally
20 relevant issues and concerns --

21 BZA CHAIR HILL: Okay. Thank you.

22 VICE CHAIR JOHN: -- that are raised in the
23 application. That are raised in the application.

24 So there was a lot of discussion tonight about
25 things that are relevant to the relief requested. So the

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1 relief requested is parking and the one-to-one setback.

2 So that's my public service announcement.

3 BZA CHAIR HILL: I appreciate it.

4 VICE CHAIR JOHN: Everyone else was --

5 BZA CHAIR HILL: I appreciate it. And I'm
6 going to end up calling somebody else a chairman or a
7 commissioner or somebody, but we still got two cases.

8 VICE CHAIR JOHN: I know. I just want to make
9 one more public service announcement because it has --

10 BZA CHAIR HILL: Go ahead, Vice Chair John.

11 VICE CHAIR JOHN: -- come up. The Board is
12 obligated to follow the regulations. And if they meet the
13 requirement for special exception, the Board should
14 ordinarily grant the relief.

15 So the comp plan is not something that this
16 Board follows. The principles of the comp plan are
17 already included in the regulations that this Board
18 follows. So I just want to make that other public service
19 announcement. Because from time to time people say this
20 Board is not paying attention to the comp plan but in fact
21 we are because the regulations incorporate some of the
22 policies and principles of the comp plan.

23 But Chairman Hood, however, because he makes --
24 he is responsible, partly for the regulations -- right,
25 Chairman Hood?

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1 ZC CHAIRMAN HOOD: You are correct. And I want
2 to add to that because the racial equity lens is not used
3 by the BZA. I checked my legal counsel just now. I was
4 not going to argue -- even though I will tell you, I
5 wanted it to be added. I think Ms. Prince probably
6 followed it. I've been trying to get the BZA to do it. I
7 talked to the Chairman of the City Council, but it's not
8 in front of your property. So I will just leave that
9 alone. Thank you.

10 MS. MUHAMMAD: Well, we'll talk to the Chairman
11 of the City Council. But I just wanted to say in my
12 parting words, I understand that the Board is here to
13 consider the special exception. And I would just like to
14 reiterate that part of the standards for granting relief
15 is that it has no adverse effect on the neighboring
16 properties. And --

17 BZA CHAIR HILL: Commissioner --

18 MS. MUHAMMAD: -- I look forward to your great
19 weight decision.

20 BZA CHAIR HILL: Okay.

21 MS. MUHAMMAD: Thank you.

22 BZA CHAIR HILL: That's all right. So, Ms.
23 Prince, do you have anything to add at the end because you
24 have the last word?

25 MS. PRINCE: I have just one question. As you

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1 know --

2 BZA CHAIR HILL: You can ask me the question
3 now, Ms. Prince.

4 MS. PRINCE: Oh, I'm not asking -- oh, I guess
5 I'm asking a question of the Board.

6 BZA CHAIR HILL: Okay.

7 MS. PRINCE: As you know, only the written
8 report of the ANC is entitled to great weight and not the
9 oral testimony under the Levandusky case, which we
10 handled. And for that reason, if the ANC is going -- if
11 you're not going to decide the case today, if the ANC is
12 going to support its report late, then I would like the
13 right to respond to that report in writing since that is
14 the only document entitled to great weight.

15 BZA CHAIR HILL: No problem. I appreciate you
16 pointing that out. I was going to give you all -- you
17 guys, we always leave the record open usually for the ANC.
18 And we always let the applicant respond to the report
19 that's given by the ANC.

20 VICE CHAIR JOHN: Mr. Chairman, if I could
21 supplement your statement again?

22 BZA CHAIR HILL: Okey doke. Go ahead, please,
23 Vice Chair John.

24 VICE CHAIR JOHN: We have been waiting to get
25 everything in the record before we -- that's my

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1 recollection. Maybe my other Board members can correct
2 me. I know we've gone back and forth, but I think we
3 settled on the notion that the record is not complete
4 unless everything that's necessary for the decision is in
5 the record.

6 So in this case, I don't think it's going to
7 matter too much with the applicant that we wait for the
8 ANC to submit the letter because, you know, it's a
9 contested application. So it is what it is.

10 Now it will waste the Board's time to have to
11 wait another seven days to decide. But I think that's
12 sort of where we are. And my Board members can correct me
13 if I'm -- ONC D, yeah, can chime in if I'm misstating, but
14 I think that's where we settled.

15 BZA CHAIR HILL: Okay. So, Mr. Moy, what I
16 think we're going to do then is we're going to wait --
17 Commissioner, when do you guys think you can get in your
18 report?

19 MS. MUHAMMAD: Today is Wednesday. What's
20 today -- can you give us until Friday close of business?

21 BZA CHAIR HILL: Sure.

22 MS. MUHAMMAD: Okay.

23 BZA CHAIR HILL: Okay. So Friday COB, then Mr.
24 Moy they would have a week, the applicant that is, and
25 then we're back here for a decision. I've lost my screen.

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1 MR. MOY: So this Friday would be -- today is
2 the 28th -- would be March the 1st, Friday, March the 1st
3 for the ANC filing of the ANC report. And let's say a
4 reply or a response from the applicant, I would like to
5 make that March the 6th so that the Board can consider it
6 at its decision on the 13th. Is that possible?

7 BZA CHAIR HILL: Okay.

8 MR. MOY: And the Board will decide this on
9 March 13, decision?

10 BZA CHAIR HILL: Okay.

11 MR. MOY: So decision, March 13. The applicant
12 to reply or respond to the ANC report, Wednesday, March 6.
13 ANC to file their final report this Friday, March the 1st.

14 BZA CHAIR HILL: Okay. Does anybody have any
15 questions on the deadlines? Okay. All right. Well,
16 thank you again everyone for being here, and I'm going to
17 close the hearing and the record except for the items that
18 we're leaving open for the record.

19 MS. MUHAMMAD: Thank you.

20 BZA CHAIR HILL: Good night.

21 MS. MUHAMMAD: Good night.

22 BZA CHAIR HILL: Good night. All right. We
23 have two more, I think.

24 MR. MOY: Yes.

25 BZA CHAIR HILL: Okay. Go ahead, Mr. Moy.

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1 MR. MOY: The next case before the Board is
2 Application Number 21055 of King Aris, A-R-I-S. This is
3 an application pursuant to Subtitle X, Section 901.2,
4 special exception under Subtitle D, Section 5201.1 from
5 the rear yard requirements of Subtitle D, Section 207.1,
6 property located in the R-2 zone at 729 Delafield Street
7 Northeast, Square 3789, Lot 22.

8 And I believe, yeah, that's it. So it's just
9 the applicant and their team.

10 BZA CHAIR HILL: Okay. If the applicant can
11 hear me, if they could please introduce themselves for the
12 record?

13 MR. KING: Yes. Good afternoon, councilmen and
14 commissioners. My name is Aris King, and I live at the
15 residence at 729 Delafield Street, Northeast, Washington,
16 DC. And asking to be granted a special exception on an
17 addition, a two-story addition, that has been on a stop
18 work order for a year and eight months.

19 BZA CHAIR HILL: Okay. Mr. King are you here
20 with anybody or are you here by yourself.

21 MR. KING: I'm here by myself.

22 BZA CHAIR HILL: Okay. Let me do this. I
23 don't know whether the Office of Planning got everything
24 they needed. Is the Office of Planning here?

25 MR. JURKOVIC: This is Mike Jurkovic from the

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1 Office of Planning.

2 BZA CHAIR HILL: Welcome to your first late
3 night session. Can you tell us what is the position of
4 the Office of Planning?

5 MR. JURKOVIC: As stated in our report, we do
6 support approval of the relief, the rear yard relief as
7 requested by the applicant. However, we would advise the
8 Board -- we asked the applicant to provide, I believe it
9 was, the western elevations, which would be the elevation
10 facing the adjoining semi-detached dwelling.

11 BZA CHAIR HILL: Okay. And do you need the
12 elevation for your report?

13 MR. JURKOVIC: I do not need the elevation
14 specifically for my report. But that was the -- what we
15 decided to go with as a recommendation of our approval.
16 Ultimately, it's up to you all. Specifically, we
17 mentioned to confirm that there would not be any windows
18 facing that neighboring property directly from that
19 elevation. So that was the specific item that we were the
20 most worried.

21 BZA CHAIR HILL: Mr. King, are there windows on
22 that side?

23 MR. KING: No, there's not, Commissioner.
24 There's no windows on that side.

25 BZA CHAIR HILL: And that's in the plans?

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1 That's in the plans?

2 MR. KING: That's in the plans, no windows on
3 that side.

4 And also I have a document from a meeting, an
5 ANC meeting on January 24 that they approve. My next door
6 neighbor who was highly helpful to definitely let everyone
7 know that -- I only have one neighbor, and that's him.
8 I'm going to court a lot. He spoke highly of letting us
9 approve. He didn't have no issue with the elevation, the
10 shade, the air.

11 BZA CHAIR HILL: Mr. King, when did you present
12 in front of the ANC?

13 MR. KING: This was Wednesday, January 24,
14 2024.

15 BZA CHAIR HILL: January 24. Do you know why
16 the ANC hasn't submitted a report yet?

17 MR. KING: I submitted into the documents. I
18 sent it on Monday.

19 BZA CHAIR HILL: Is it in there?

20 ZC CHAIR HOOD: Yeah.

21 BZA CHAIR HILL: Okay. I missed it when I
22 reviewed. Give me a second.

23 ZC CHAIR HOOD: Unless I'm in the wrong case, I
24 saw 5A. It's in the record.

25 BZA CHAIR HILL: Give me one moment. One

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1 second, please.

2 VICE CHAIR JOHN: It's a resolution. Yeah,
3 it's 5 --

4 ZC CHAIR HOOD: 5A, Exhibit 20.

5 VICE CHAIR JOHN: But I didn't see where it
6 says that -- how many commissioners were present. Oh,
7 they say unanimously. Okay.

8 ZC CHAIR HOOD: Unanimous, right.

9 VICE CHAIR JOHN: Thank you.

10 ZC CHAIR HOOD: Mr. King, did you tell ANC 5A
11 that some of us are over 50, we can't see that small
12 print?

13 MR. KING: I'm sorry. I'm sorry.

14 ZC CHAIR HOOD: That's all right. I will tell
15 them.

16 MR. KING: I will let them know. Believe me, I
17 will let them know.

18 BZA CHAIR HILL: All right. Okay. All right.
19 Does the Board have any questions for the applicant?

20 VICE CHAIR JOHN: I was looking for the
21 drawings that show the side next to the neighbor. Mr.
22 King, do you know where they are?

23 MR. KING: Drawings beside the neighbor --

24 VICE CHAIR JOHN: That show no windows.

25 MR. KING: -- I just had the street view

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1 because on that side, that's the only view. But I did
2 send some pictures actually in my neighbor's yard that
3 shows the actual structure and the frame as of right now
4 with no windows. I don't know, Mr. Young, I sent it. I
5 don't know if he has it on file.

6 VICE CHAIR JOHN: So you're showing -- you're
7 saying that the current construction that's subject to the
8 stop work order is what you intend to build?

9 MR. KING: Yes, there's nothing extra.
10 Right, exactly.

11 VICE CHAIR JOHN: Okay.

12 BZA CHAIR HILL: Mr. Jurkovic, can you confirm
13 that there are no windows in the plans? Because the
14 gentleman has to build what is in the plans. I don't want
15 to hold this up on an elevation that I don't have right
16 now because it's 7:45 at night or 6:45 at night.

17 MR. JURKOVIC: So from all the exhibits that --
18 even the most recent exhibits, I do not see a specific
19 western elevation. But as the applicant has stated of
20 what's currently constructed, there are no windows cut out
21 of that framing. But like I said, and like I stated in my
22 report, there is no specific western elevation shown. The
23 eastern and southern elevations are shown. The western
24 one is not provided in the original architecture
25 submitted.

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1 BZA CHAIR HILL: Mr. King, do you have a
2 western elevation somewhere?

3 MR. KING: Of the drawings? A western
4 elevation of the drawings? I'm trying to understand.

5 BZA CHAIR HILL: Yeah, so am I.

6 MR. KING: No, I don't. This is the second
7 pair of drawings. And that was never the issue of showing
8 that.

9 BZA CHAIR HILL: Okay. So we can put a
10 condition in -- someone has just suggested this to me --
11 that there is no windows on the western side of the home.
12 Is that what we're trying to say?

13 VICE CHAIR JOHN: Yeah.

14 MR. KING: Yes, that's correct.

15 BZA CHAIR HILL: Okay. All right. So we can
16 put that in as a condition, just to clarify, and that will
17 probably fix this, correct? I'm just looking at my fellow
18 Board members. Okay.

19 VICE CHAIR JOHN: Yes. That will fix it.

20 BZA CHAIR HILL: Okay. All right. Mr. Smith
21 has a question.

22 MEMBER SMITH: No, we can do that or we could
23 just tie it to the -- the elevations there aren't any
24 windows. So we could just tie it to the exhibit.

25 BZA CHAIR HILL: Okay.

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1 MEMBER SMITH: That's essentially -- it doesn't
2 matter, either one.

3 BZA CHAIR HILL: Whoever wants to make a
4 motion, I'm down. Okay? So does anybody else need
5 anything else right now otherwise I'm going to close it.
6 Mr. Young, is there anyone here who wishes to speak?

7 MR. YOUNG: We do not.

8 BZA CHAIR HILL: Does anybody have any
9 questions for the applicant? Okay. I'm going to close
10 the hearing and the record. Good night, gentlemen. Okay.
11 Who thinks they would like to make an argument and a
12 motion because I'm tired?

13 MEMBER SMITH: I will lay it on the Vice Chair.

14 VICE CHAIR JOHN: Oh, my. This is a very
15 straightforward application to approve an as-built
16 structure at the -- of a semi-detached principal dwelling.
17 The addition would be a two-story addition to an existing
18 three-story building.

19 And I think the application is fairly
20 straightforward. The Office of Planning is in support and
21 noted for the Board that the applicant needs to clarify
22 that there will be no windows in the side of the addition
23 facing the neighbor.

24 And so DDOT has no objection, but noted that
25 the applicant has an existing over height fence that

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1 should be brought into compliance because the maximum is
2 42 inches. And I think the applicant just needs to go
3 down to DOB and put in a request for an over height fence.

4 So I am in support of the application and
5 that's it.

6 BZA CHAIR HILL: There's something going on at
7 the end of the night that maybe might, you know -- well,
8 that didn't make any sense.

9 VICE CHAIR JOHN: Being late focuses the mind.

10 BZA CHAIR HILL: But you'll note late -- you'll
11 know at the end what I'm -- you'll see what's happening at
12 the very end of this whole day. You don't know yet.

13 All right. Okay. I'm going to make a -- so
14 what are we tying this thing to? Nobody made a motion.

15 VICE CHAIR JOHN: The condition would be that
16 the applicant -- the as-built structure will not have any
17 windows on the side facing the neighbor, the one neighbor
18 --

19 BZA CHAIR HILL: To the west.

20 MEMBER SMITH: On the western facade.

21 VICE CHAIR JOHN: On the western facade. Thank
22 you, Mr. Smith.

23 MEMBER SMITH: Mm-hmm.

24 BZA CHAIR HILL: Okay. I make a motion to
25 approve Application Number 21055 as captioned and read by

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1 the Secretary with the condition that no windows be on the
2 western facade and ask for a second. Ms. John?

3 VICE CHAIR JOHN: Second.

4 BZA CHAIR HILL: The motion is made and
5 seconded. Mr. Moy, if you could take roll call, please?

6 MR. MOY: When I call your name, would you
7 please respond to the motion made by Chairman Hill to
8 approve the application for the special attachment relief
9 requested along with the condition that there are no
10 windows on the west elevation or facade of the building.
11 The motion was seconded by Vice Chair John.

12 Zoning Commission Chair Anthony Hood?

13 ZC CHAIR HOOD: Yes.

14 MR. MOY: Mr. Smith?

15 MEMBER SMITH: Yes.

16 MR. MOY: Mr. Blake?

17 MEMBER BLAKE: Yes.

18 MR. MOY: Vice Chair John?

19 VICE CHAIR JOHN: Yes.

20 MR. MOY: Chairman Hill?

21 BZA CHAIR HILL: Yes.

22 MR. MOY: The staff would record the vote as 5-
23 0-0. And this is on the motion made by Chairman Hill to
24 approve. The motion to approve was second by Vice Chair
25 John, who also voted to approve the application with the

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1 condition as cited in the motion. Voting to approve the
2 application are Zoning Commission Chair Anthony Hood, Mr.
3 Smith, Mr. Blake, Vice Chair John and Chairman Hill. The
4 motion carries, 5-0-0.

5 BZA CHAIR HILL: Thank you, Mr. Moy. Could you
6 call our last case, Mr. Moy?

7 MR. MOY: The last case is Application Number
8 20931 of Layla Bonnot, as amended, an application pursuant
9 to Subtitle X, Section 901.2 for a special exception under
10 Subtitle E, Section 204.4, from requirements of the
11 rooftop or upper floor additions of Subtitle E, Section
12 204.1, that allows a railing around the perimeter of an
13 existing front porch roof. The property is located in the
14 RF-1 zone at 1434 Parkwood Place Northwest, Square 2688,
15 Lot 76.

16 BZA CHAIR HILL: Okay. Great. If the
17 applicant can hear me and if they could introduce
18 themselves for the record?

19 MS. BONNOT: Me?

20 BZA CHAIR HILL: Yes.

21 MS. BONNOT: My name is Layla Bonnot. And I'm
22 the homeowner at 1434 Parkwood Place Northwest and the
23 applicant in this case.

24 BZA CHAIR HILL: Thank you, Ms. Bonnot. I
25 think we have a pretty clear record at this point. I'm

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1 just going to see if I can process -- or, I'm sorry, I
2 just want to walk through this and see if my Board members
3 have any questions. First I'm going to go to Mr. Jesick
4 from the Office of Planning.

5 MR. JESICK: Thank you, Mr. Chairman. Matt
6 Jesick representing the Office of Planning on this case.
7 And we're happy to rest on the record in support of the
8 application.

9 BZA CHAIR HILL: Okay. Great. The only
10 question I had, Ms. Bonnot -- I don't know if I'm
11 pronouncing that right -- is the ANC saw the new plans,
12 correct?

13 MS. BONNOT: Yes, that's correct. I have a new
14 letter of support based on their February 20 meeting. I'm
15 not sure if that's made it into the record coming out of
16 that meeting.

17 BZA CHAIR HILL: I will tell you what. Why
18 don't you make sure it gets added -- Mr. Moy, do you know
19 if that's in the record or not?

20 MR. MOY: I missed that.

21 BZA CHAIR HILL: It's okay. It's a letter from
22 which, the February 13?

23 MS. BONNOT: No, the February 20 ANC 1D as in
24 delta meeting.

25 BZA CHAIR HILL: Oh, that didn't come in

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1 probably -- the February 20 meeting.

2 MR. JESICK: Mr. Chairman, it looks like it's
3 at Exhibit 45.

4 BZA CHAIR HILL: Oh, thanks, Mr. Jesick. I
5 don't have access to another screen. So I'm going to
6 trust that somebody can tell me if the ANC approved?

7 MR. MOY: Yeah, that's correct. Mr. Jesick is
8 correct. It's Exhibit 45.

9 BZA CHAIR HILL: Okay. Great. Mr. Young, is
10 there anyone here wishing to speak? Okay. All right. Ms.
11 Bonnot, do you have anything to add at the end?

12 MS. BONNOT: No. I think it's been a long day
13 for you all and happy to be back here with this updated
14 case.

15 BZA CHAIR HILL: Okay. Thanks, Ms. Bonnot.
16 Thanks for sticking around. I am going to close the
17 hearing and the record.

18 I will rest on the record with the analysis
19 that the Office of Planning has provided as well as the
20 support of the ANC based upon the new plans. And I will
21 be voting in favor. Mr. Smith, do you have anything you
22 would like to add?

23 MEMBER SMITH: Nothing to add.

24 BZA CHAIR HILL: Mr. Blake, would you like to
25 add anything?

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1 MEMBER BLAKE: I also acknowledge the support
2 of the adjacent neighbors.

3 BZA CHAIR HILL: Thank you, Mr. Blake.

4 Chairman Hood, do you have anything to add?

5 VC CHAIR HOOD: No, I would agree with
6 everything I have heard. I will be voting in support.

7 BZA CHAIR HILL: Thank you. Vice Chair John?

8 VICE CHAIR JOHN: I have nothing to add, Mr.
9 Chairman.

10 BZA CHAIR HILL: Thank you. I'm going to make
11 a motion to approve Application Number 20931 as captioned
12 and read by the Secretary and ask for a second. Ms. John?

13 VICE CHAIR JOHN: Second.

14 BZA CHAIR HILL: The motion is made and
15 seconded. Mr. Moy?

16 MR. MOY: Would you please respond to the
17 motion made by Chairman Hill to approve the special
18 exception relief requested by the applicant. The motion
19 was second by Vice Chair John.

20 Zoning Commission Chair Anthony Hood?

21 ZC CHAIR HOOD: Yes.

22 MR. MOY: Mr. Smith?

23 MEMBER SMITH: Yes.

24 MR. MOY: Mr. Blake?

25 MEMBER BLAKE: Yes.

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1 MR. MOY: Vice Chair John?

2 VICE CHAIR JOHN: Yes.

3 MR. MOY: Chairman Hill?

4 BZA CHAIR HILL: Yes.

5 MR. MOY: The staff would record the vote as 5-
6 0-0. And this is on the motion made by Chairman Hill to
7 approve. The motion to approve second by Vice Chair John,
8 who also voted to approve the application as well as
9 approval voting to approve from Zoning Commission Chair
10 Anthony Hood, Mr. Smith, Mr. Blake, Vice Chair John and
11 Chairman Hill. The motion carries on a vote of 5-0-0.

12 BZA CHAIR HILL: Thank you. All right. There
13 is one other item that we have to attend to. And before I
14 mention that item, I neglected to thank all of the people
15 on the call from the Office of Zoning Legal Division as
16 well as all of the people that stay on at the Office of
17 Planning when we have late hearings. And I would also
18 like to thank all of my fellow Board members.

19 What I have been told is we have to have
20 elections, so elections for Board positions. So I don't
21 even know exactly how to do this because I haven't done
22 this exactly this way before because it's late.

23 But what I'd like to do is unless there is --
24 well, what I'd like to do is this. I'd like to make a
25 nomination for Ms. Lorna John to continue to be our Vice

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1 Chair. I think she does a wonderful job. In fact, if she
2 wanted to trade, we might -- or if there is anyone else
3 who has anything else they'd like to voice during this
4 time, that might be appropriate. Chairman Hood has his
5 hand up.

6 VC CHAIR HOOD: I know I'm not a regular BZA
7 member but I would move, if it's appropriate that we keep
8 Chairman Hill and Vice Chair John in those respective
9 offices going forward, and I would ask for a second.

10 MEMBER SMITH: Second.

11 VC CHAIR HOOD: It has been moved and properly
12 seconded, any further discussion? Not hearing any, Mr.
13 Moy, I've never done this. Mr. Moy, could you do a roll
14 call vote, please?

15 MR. MOY: Before I do that, there were three
16 voices who second. Can I pick one of the three who second
17 first?

18 VC CHAIR HOOD: Put them all down.

19 MR. MOY: Okay. All right. So when I call
20 your name, if you will please respond to the motion made
21 by Zoning Commission Chair to vote for Chairman Mr. Hill
22 and Vice Chair Ms. John, that's a combo motion. And this
23 motion, I am going to say, was second by Mr. Smith.

24 All right. Mr. Blake?

25 MEMBER BLAKE: Yes.

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1 MR. MOY: Mr. Smith?

2 MEMBER SMITH: Yes.

3 MR. MOY: Vice Chair John?

4 VICE CHAIR JOHN: I guess, yes.

5 MR. MOY: Yeah, you can vote for yourself.

6 Zoning Commission Chair Hood?

7 VC CHAIR HOOD: Yes.

8 MR. MOY: And finally Chairman Hill?

9 BZA CHAIR HILL: Yes.

10 MR. MOY: The staff would record the vote as 5-
11 0-0. And on behalf of the staff, congratulations to both
12 the chair and the vice chair.

13 BZA CHAIR HILL: Thank you. It was very kind
14 of you all to continue to have faith.

15 VICE CHAIR JOHN: Thank you.

16 BZA CHAIR HILL: All right. Okay, everybody,
17 are we good? Mr. Moy, is that it?

18 VICE CHAIR JOHN: Bye.

19 MR. MOY: Nothing from the staff, sir.

20 BZA CHAIR HILL: Bye-bye.

21 VICE CHAIR JOHN: Bye.

22 ZC CHAIR HOOD: Thank you, everyone.

23 (Whereupon, the above-entitled matter went off
24 the record at 7:04 p.m.)

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C E R T I F I C A T E

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In the matter of: Public Hearing

Before: DC BZA

Date: 02-28-24

Place: teleconference

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