

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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REGULAR PUBLIC HEARING

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WEDNESDAY

APRIL 10, 2024

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

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

FREDERICK L. HILL, Chairperson
CARL BLAKE, Member
CHRISHAUN S. SMITH, NCPC Designee

ZONING COMMISSION MEMBERS PRESENT:

ANTHONY J. HOOD, Chairperson
ROBERT MILLER, Vice-Chairperson
JOSEPH S. IMAMURA, PhD, AOC Designee

OFFICE OF ZONING STAFF PRESENT:

KEARA MEHLERT, Secretary
ROBERT REID, Zoning Specialist
PAUL YOUNG, A/V Production Specialist

OFFICE OF PLANNING DEVELOPMENT REVIEW STAFF PRESENT:

JOEL LAWSON, Associate Director
RON BARRON
SHEPARD BEAMON
MAXINE BROWN-ROBERTS
MICHAEL JURKOVIC
KAREN THOMAS

OFFICE OF ZONING ATTORNEY ADVISORS PRESENT:

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

The transcript constitutes the minutes from
the Regular Public Hearing held on April 10, 2024.

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

2 10:15 a.m.

3 MS. MEHLERT: So the next case, the Board is
4 actually going to be in the public hearing session. This is
5 Application No. 21065 of Thirteenth 202, LLC, the
6 self-certified application pursuant to Subtitle X, Section
7 901.2 for a special exception under Subtitle U, Section 421
8 to allow a new residential development.

9 This is for a new third-story and side and rear
10 additions to an existing two-story detached principal
11 building for use as a 9-unit apartment house. The project
12 is located in the RA-1 zone at 6108 13th Street, NW, Square
13 2790, Lot 57.

14 The Board granted party status in opposition to
15 Gayle Petersen, Donna Marie Alexander on March 13th, and then
16 heard this case on March 20th. But at the hearing, the Board
17 requested additional information and scheduled a continued
18 hearing. And participating are Chairman Hill, Mr. Blake, Mr.
19 Smith, and Chairman Hood.

20 BZA CHAIR HILL: Okay, great. Let's see, if the
21 Applicant can hear me, if they could please introduce
22 themselves for the record?

23 MR. CRAIN: I'm the architect with 2Plys. And I
24 should be joined by my client Ethan.

25 BZA CHAIR HILL: Okay, great. Thank you. Okay,

1 let's see. Before I get to your client, Ms. Petersen, are
2 you there, and if so, can you hear me? Ms. Petersen?

3 MS. PETERSEN: Can you hear me, can you see me?

4 BZA CHAIR HILL: I can't see you, but I can hear
5 you.

6 MS. PETERSEN: I don't know why the video is not
7 working.

8 BZA CHAIR HILL: That's all right. Do you want
9 to go ahead and introduce yourself again for the record?

10 MS. PETERSEN: Uh-huh. My name is Gayle Petersen,
11 I live at 1320 Rittenhouse Street, Northwest. I live
12 directly behind 6108 13th Street, Northwest.

13 BZA CHAIR HILL: Okay. Ms. Alexander, can you
14 hear me?

15 MS. ALEXANDER: Yes, I can hear you.

16 BZA CHAIR HILL: Great, could you introduce
17 yourself for the record?

18 MS. ALEXANDER: My name is Donna Alexander. I
19 live at 6104 13th Street, Northwest.

20 BZA CHAIR HILL: Okay. And Ms. Alexander, you had
21 an attorney with you the last time, is that person here with
22 you again or no?

23 MS. ALEXANDER: I saw him, there, you go.

24 BZA CHAIR HILL: Okay, great. Mr. Crickman, can
25 you introduce yourself for the record?

1 MR. CRICKMAN: I'm here. This is Kenneth Crickman
2 representing Donna Marie Alexander.

3 BZA CHAIR HILL: Okay, great. Okay, oh, and is
4 the ANC Commissioner here?

5 MS. PATTERSON: This is Kim Patterson.

6 BZA CHAIR HILL: All right, Commissioner
7 Patterson, could you introduce -- could you introduce
8 yourself again for the record?

9 MS. PATTERSON: Yes. This is Commissioner Kim
10 Patterson, INA for OPA.

11 BZA CHAIR HILL: Okay, great, thank you. All
12 right, Ms. --

13 MS. PATTERSON: -- the same to it.

14 BZA CHAIR HILL: That's all right, Commissioner.

15 MS. PATTERSON: Thank you.

16 BZA CHAIR HILL: You're welcome. Okay, you guys,
17 so this is a limited scope hearing, we had a long hearing the
18 last time. And I know that we asked, the Board asked, some
19 questions and information of the Applicant. And so what I'm
20 planning on doing is letting the Applicant explain what has
21 happened since the last time.

22 We're going to get again, an opportunity for any
23 questions of the Applicant, based on again, the limited
24 scope/nature of the hearing. And then hear from the people
25 and party status as well as the ANC Commissioner. And so,

1 Mr. Crain, if you want to go ahead and tell us what happened
2 since the last time you were here?

3 MR. CRAIN: Sure. There were five items that we
4 were requested to address since the last hearing. Three of
5 those were to provide security measures, rodent mitigation,
6 and a construction management plan. My client provided those
7 and those were uploaded to the case record.

8 The other two had to do really with the building
9 design and drawings. Those two items were the views from the
10 proposed balconies and a potential redesign to address
11 concerns with adjacent neighbors. And context for adjacent
12 properties are really from across the alley looking at it.

13 So we provided the context and additional 3D views
14 from across the alley. And to address the privacy concerns,
15 the balconies that occur, were the only balconies that occur
16 on the rear and the north side.

17 We provided kind of a semi-enclosed platting,
18 which is going to cut off a significant amount of views. So
19 those are, if we can pull up the updated Architectural Plan,
20 some of the 3D views would show that. But what it does, is
21 it

22 BZA CHAIR HILL: I have to interrupt again, Mr.
23 Young, I think it's, is it 67?

24 MR. CRAIN: This would be 67.

25 BZA CHAIR HILL: It looks like 67, six seven, Mr.

1 Young. And I did see the fencing and the enclosed balconies.
2 But go ahead, Mr. Young.

3 MR. CRAIN: Yes. And we also provided fence,
4 six-foot fencing or fencing around the perimeter. And then
5 working with OP, in addition to that, on the south side where
6 that shared access way is, we've provided a row of trees.
7 So you've kind of got two layers of a buffer zone there, the
8 trees and the fencing between the shared access way.

9 BZA CHAIR HILL: Where are the trees?

10 MR. CRAIN: That would be on one of the site
11 plans.

12 BZA CHAIR HILL: Is it in this deck?

13 MR. CRAIN: Yes, it is. I don't know -- page
14 five.

15 BZA CHAIR HILL: I see it, great. Okay. And I'm
16 sorry, Mr. Crain, it was the rodent, tell me again, the
17 rodent plan?

18 MR. CRAIN: It's a rodent mitigation plan, a
19 construction management plan, and a plan for security
20 management.

21 BZA CHAIR HILL: Can you tell me a little bit
22 about all three of those?

23 MR. CRAIN: Actually, I would have Ethan, the
24 developer, come on and discuss those, as you put it.

25 BZA CHAIR HILL: Okay.

1 MR. ARNHEIM: So, Ethan Arnheim. So the
2 construction, the construction management plan, basically
3 talks that how we plan to communicate with the community
4 during the entirety of the construction process, it also
5 talks about some of the safeguards we have in place.

6 How we intend to warn with all the work/fire
7 regulations around erosion sediment control, and how we're
8 going to respect the sort of eight-foot buffer zone between
9 any of the improvements that are going to take place on the
10 property and the neighbors' property line. There's a lot of
11 concerns that neighbors have around the alley and they also
12 speak to that.

13 The rodent mitigation plan, it's some of the
14 approaches that we've used on other projects to make sure
15 that this does not contribute to the problem of rodents in
16 the community. And it talks about how we're going to have
17 ongoing treatment and how we're also going to prevent it
18 through various landscaping measures.

19 The security management plan speaks to measures
20 that we are going to implement to try and make sure that the
21 tenants do not disturb neighbors. We do plan to try and
22 monitor access as best we can. We should know when any
23 resident enters or exits the building. We're going to use
24 WHATWALK system, that's a primary measure. We also various
25 lighting, lighting sets that work that we hope will make sure

1 that nobody enters the property but at the same time, we want
2 to make sure that the lighting does not disturb anyone.

3 BZA CHAIR HILL: Okay, great, thank you. All
4 right, Mr. Crain, the, I think even I understand what you
5 did. Okay. All right, Mr. Young, if you could you drop that
6 slide deck? Okay. I'm going to first turn to members of my
7 Board. I can barely see you, Chairman Hood. Go ahead, Mr.
8 Smith?

9 MEMBER SMITH: Okay. Thank you. Mr. Crain, there
10 was some concerns raised at the last hearing about privacy
11 concerns. Were you able to go about, I don't see a change
12 from the balconies, so can you speak to that?

13 MR. CRAIN: Oh, sure. Do you mind if I request
14 to bring the slide deck back up.

15 BZA CHAIR HILL: Go ahead.

16 MEMBER SMITH: Maybe I'm seeing something.

17 BZA CHAIR HILL: It's in 67, Mr. Smith.

18 MR. CRAIN: Yes, 67 and probably Page 4 is going
19 to be the most evident one. There we go. So if you're
20 looking, what we're looking at here, is kind of the bump on
21 the back and the bump on the side, those are the balconies.
22 What we've done is provide, I'm calling them semi-enclosed.

23 So they're still open air, but the majority of
24 those balconies are closed in and the openings are reduced
25 from being wide open to what could really be called kind of

1 a window opening without a window. So what the purpose of
2 that's going to do is to cut off a lot of sight lines out and
3 in. So now you've got a more opaque façade there rather than
4 just a wide open three level deck.

5 And again, these openings could be reduced or
6 changed as we want, but what we are doing is adding kind of
7 an open air cladding in to create, I guess privacy for the
8 people inside and to cut off views from any neighboring
9 houses.

10 MEMBER SMITH: Okay. What would you say changed,
11 would you, are you saying changes to the building --

12 MR. CRAIN: I'm sorry, I don't know if it's my
13 audio or yours, but I had trouble hearing.

14 MEMBER SMITH: It could be me. You had said, you
15 know, change as you want, but are you saying as part of this
16 -- right now?

17 MR. CRAIN: What I'm saying, what we've provided,
18 definitely, I believe, addresses your issues, but, I mean,
19 the openings could be reduced or changed as needed or as you
20 guys see fit to maybe --

21 BZA CHAIR HILL: Mr. Crain, where, I'm just trying
22 to look at the previous plans, where are the ones that, they
23 were in a, were they in your PowerPoint?

24 MR. CRAIN: They should, they should be in the
25 previous PowerPoint, yes. That would be about 60, let me see

1 which page. Yeah, if you pull up, oh, no, it's not --

2 BZA CHAIR HILL: Mr. Young, it's No. 60, Slide 8.

3 MR. CRAIN: Eight, yes, that would, that would
4 show it.

5 BZA CHAIR HILL: All right. So, Mr. Smith,
6 they've enclosed all those balconies.

7 MEMBER SMITH: Yes, okay. I was looking at
8 Exhibit, which one was it, 65, I was thinking it was the one
9 that we heard in the hearing. It looks like you made some
10 changes, and had to have been given twice on the level.

11 MR. CRAIN: Yes.

12 MEMBER SMITH: Thank you for that.

13 MR. CRAIN: We're again, working with OP.

14 MEMBER SMITH: Okay, thank you. That's a
15 substantial change then?

16 MR. CRAIN: Yes.

17 BZA CHAIR HILL: Thank you. Mr. Young, can you
18 drop that? All right. Does anybody else have questions for
19 the Applicant?

20 MEMBER BLAKE: Chair, this is Mr. Blake. Are
21 there any other changes that we could talk about that you
22 could actually walk through us. I think some of the parties
23 who has some concerns with this felt that it wasn't quite
24 clear from the materials, the context exactly what had taken
25 place.

1 I think that what you just demonstrated just now
2 with the balconies was very helpful to understand the
3 magnitude of the adjustment. The other issues that were
4 brought up, it would also be helpful as well. The one thing
5 I also want to point out with this, is it does adjust the
6 privacy at the building, certainly.

7 I'm curious about the line of sight to the
8 backyards, which was an issue from the alley properties. And
9 I couldn't get a sense of what that view would look like and
10 how much into the backyards you would be looking. And also,
11 what's the distance between the back of those back alleys,
12 the backyard, and the primary dwellings across the alley?

13 MR. CRAIN: Sure. I guess I will address the,
14 which image has it. So if we can pull up, I think it's the
15 latest architectural plans, that would be 67 again, sorry to
16 make you keep pulling these up, and go to Slide, PDF Slide
17 4. That's going to be the kind of what we showed as a view
18 from across the alley. Because it kind of gives me context,
19 there, you can see the roll-up garage doors that we've
20 provided.

21 Again, this lot is kind of bent, so that's why the
22 roll-up doors aren't aligned. You see the fencing that we've
23 provided here. And if we can go forward one slide. This
24 will show us the site plan and on the south side you can see
25 the row of seven trees or so that are creating that buffer,

1 so that's the other change that we've shown on here. We
2 provide some trees along the north side as well.

3 So those trees were there to separate that main,
4 the access way, the shared access way, to cut off views,
5 noise, everything, along with the fence that are adjacent to
6 the house.

7 I'd say as far as the distance, I think we've got
8 40 to 50 feet from the rear of our building to the alley, the
9 alley's another 16 feet. But I don't have a dimension or a
10 site plan for the property across. I'm guessing it's maybe
11 30, so it might be between 90 and 100 feet between the backs
12 of the two buildings with an alley in the middle and the
13 garage door. So it's a significant distance, so it's, I
14 wouldn't say they're right up against each other. So I think
15 what we've done with the semi-enclosure, the balconies goes
16 a long way, along with the already significant distance
17 between the buildings.

18 MEMBER BLAKE: Well, the line of site between the
19 first, second, and third floors is fairly significantly
20 different I suspect. How does -- and that's what the third
21 floor would have the most significant visual with the privacy
22 impact of all the three. How significantly different is that
23 between the second and third floors?

24 MR. CRAIN: Do you mean between the iterations of
25 the plans?

1 MEMBER BLAKE: No, I'm talking about the, if I was
2 sitting in that balcony, I was looking across the alley into
3 the yard, and I would, of the neighbor to the rear, I suspect
4 the first floor is not an issue because you've got, it's the
5 height. The second floor would be less of an issue because,
6 again, it's not that high, I think that would be the same
7 dynamic. The third floor is the only one that could create
8 a significant one, of course, if there's a rooftop deck, that
9 would create a far greater potential. But I'm curious to
10 know what that line of, the difference between the line of
11 sight between the third and second floors might be?

12 MR. CRAIN: So actually, we did the same enclosure
13 in terms of providing the same openings on both sides, but
14 both of them have been reduced, I don't know the calculation,
15 but I would say roughly about half semi-enclosed.

16 And again, you know, we can -- we can adjust and
17 reduce those if the Board feels that, you know, more privacy
18 or more lines of sight need to be cut off. But let me, at
19 the same time we're having to balance, still giving some
20 outdoor recreation space to the new unit. So we're trying
21 to comply as much as possible without reducing the enjoyment
22 of the new tenants or owners.

23 BZA CHAIR HILL: Okay.

24 MEMBER BLAKE: I have a question that I can ask?

25 BZA CHAIR HILL: Oh, sorry, who is speaking?

1 MEMBER BLAKE: This is Mr. Blake, real quick. I
2 understand from the comments on the record that you had met
3 with the neighbor across the yard and talked a little bit
4 about the line of sight into the yard and the impact it had.
5 I think he had a point of something, got less comfortable
6 with it. Could you kind of give me a sense of what, I'm
7 trying to get the visual of what, where that impact really
8 is.

9 MR. CRAIN: Ethan, if you could please discuss
10 that?

11 MR. ARNHEIM: Yes, so I did speak with the
12 neighbor who lives at 6112. We had a long call on March 27th
13 and we discussed the alley, the balconies, the general unit
14 sizes, community resistivity. She didn't feel like the
15 cladding really changed things very much, but she did not at
16 that time say the codes and balconies, and there was no
17 interest in reviewing the security management plan or
18 construction management plan as well as the mitigation plan.

19 She then emailed several days later to say that
20 she did in fact think that the balconies would be disruptive.
21 She didn't have any concerns about the alley facing
22 balconies, but was more concerned, but was concerned and
23 opposed to the back in the alleys, the balconies that were
24 facing her property.

25 I had suggested some alternatives that might make

1 her a little more comfortable. These included additional
2 treeing, maybe more tree plantings, or possibly discussion
3 of the balconies in the context of the security plan. And
4 maybe requiring some kind of acknowledgement from the tenants
5 that they use the balconies in a responsible manner. And I
6 didn't, I didn't receive any response to that.

7 MEMBER BLAKE: Okay. Thank you.

8 BZA CHAIR HILL: Go ahead, Mr. Smith?

9 MEMBER SMITH: Since we're on this slide, I think
10 a lot of questioning came up, and this is probably to Mr.
11 Crain, that came up at our last hearing was the architectural
12 treatment on the side of the building facing these alley
13 units.

14 Can you speak to that, was there any changes done
15 to the exterior or for whatnot that would try to lend more
16 character to those, to those, the rear of those buildings
17 that's facing the alley?

18 BZA CHAIR HILL: Mr. Crain? You're on mute, Mr.
19 Crain.

20 MR. CRAIN: Sorry about that. I would say go back
21 to Slide 4 again to address that. The majority of the
22 massing that is facing the alleys was these balconies. So
23 in doing this platting, we provided an alternate material.

24 In here it's shown kind of as a white material
25 versus a grey or dark material with the main massing behind

1 it, so that in itself did make that architectural change.
2 When I guess, with the mass of the square footage of that
3 facade being changed with the balconies being enclosed, did
4 provide some, some structurization.

5 MEMBER SMITH: Okay. So it would be some kind of
6 grey cladding? Is it the same color as what's on the other
7 side of the building?

8 MR. CRAIN: I believe so, yes.

9 MEMBER SMITH: But we didn't get it, oh, I do see
10 it from the front of the building, so I'm just wondering,
11 verify if that's the same type of material?

12 MR. CRAIN: Yes. The front's going to be kind of
13 completely different because it's got the existing brick, and
14 then like a vertical.

15 MEMBER SMITH: But not the front, the south, so
16 in looking at the rendering of the front, called the CMV, the
17 material of the south side of the building. So I was just
18 wondering is that matching the north?

19 MR. CRAIN: Yes. We did have that, which it's
20 like a dark-paneled cladding, and then we have some offsets
21 with the window boxing, but they're different material
22 between them.

23 MEMBER SMITH: Okay. The next one, can you turn
24 to the page that you were just on, I guess was Page 5? Page
25 5. Okay. So the landscaping, the tree landscaping, they're

1 either to put to the, that you're providing to the south of
2 the building now, was there some discussion, because again,
3 concerning, it's about privacy, was there some consideration
4 to extend that tree line further to the west?

5 MR. CRAIN: Actually, what you are seeing was the
6 result of discussion with OP. And we added a couple trees
7 in and they asked us to add a few more. So this is, and I
8 think the purpose of that is that main cluster, one it
9 extends almost to the entire distance of the adjacent house.

10 But two, it's also centered on where the main
11 ingress and egress point is with that central stair. So it
12 kind of sits at the most effective point of, that would have
13 the most issue in terms of people coming in and out.

14 MEMBER SMITH: I'm with you, okay. I think I
15 would have liked to see more consideration to extend that
16 even further, because there probably is some privacy concerns
17 regarding the windows that are on the other floors of the
18 building that you're proposing, just my recommendation. But
19 I --

20 MR. CRAIN: If we want to pull up that and sorry
21 to go against you on that, but just if we want to pull up
22 that elevation, there's not too many windows on that. All
23 the windows are pushed towards the rear.

24 So in terms of privacy from windows, they would
25 actually be effective if we added them, ineffective if we

1 continue to add them, other than maybe putting one in front
2 of the actual windows which are almost to the rear of the
3 building.

4 MEMBER SMITH: Can we go to the image of the
5 front?

6 MR. CRAIN: Yes, that would be at Slide 18, I
7 believe. Yes, on the left hand side there.

8 MEMBER SMITH: Okay.

9 MR. CRAIN: Yes, so the windows are justified
10 left.

11 MEMBER SMITH: Okay. I see it, okay, thank you.

12 BZA CHAIR HILL: Thanks, Mr. Smith. Chairman
13 Hood, I can't see each other, do you have any questions?

14 ZC CHAIR HOOD: I'm having some challenges. Can
15 you hear me?

16 BZA CHAIR HILL: Yes.

17 ZC CHAIR HOOD: Okay, I'm just waiting to hear
18 from the others. I'm just curious, Mr. Crain, if you have
19 exhausted all you could put to mitigate some of the concerns.
20 That's kind of where I am. I really want to hear from those
21 in the neighborhood, so I'll just leave it at that.

22 But Mr. Crain, I want to make sure as the
23 discussion that I heard, you had with Board Member Smith and
24 Board Member Blake, that you have exhausted all you could do
25 to relieve some of the issues that, not necessarily get rid

1 of them, but relieve some of the issues that the community
2 has had as well. So let me, let me give some time and just
3 wait to hear from others. So thank you, Mr. Crain, thank
4 you. Mr. Chair.

5 BZA CHAIR HILL: Okay. Thank you. Mr. Young, you
6 can drop that slide deck. Mr. Young, if you want to drop
7 that slide deck, I'm sorry if I, thank you. Okay.

8 Commissioner Patterson can you hear me? Yes. So
9 just so everyone's clear, what we're now doing is we're
10 asking questions based upon the limited scope hearing
11 testimony that we're taking, not what happened in the
12 previous testimony, I'm sorry, the previous hearing.
13 Commissioner, do you have any questions on any of the
14 information that the Applicant just presented?

15 MS. PATTERSON: Yes, thank you. What we received
16 was the deck that we're looking at, of the drawings. And we
17 also received the (audio difficulties) disruption. Is it
18 difficult as an architect --

19 MEMBER SMITH: You're really low.

20 MS. PATTERSON: Okay. I hope this is a little
21 better, is it?

22 BZA CHAIR HILL: I can hear you.

23 MS. PATTERSON: Okay.

24 BZA CHAIR HILL: But go ahead, just waiting for
25 your question.

1 MS. PATTERSON: Okay. The question is the
2 redesign of the balcony, I do not see, and I want to know,
3 how does that answer the concerns of the neighbors when it
4 comes to privacy? There are still balconies. There are
5 still open --

6 CHAIR HOOD: Mr. Chair, I'm sorry. I know I'm in
7 a different spot, but I cannot hear her and I think it's
8 important.

9 BZA CHAIR HILL: Okay --

10 CHAIR HOOD: I think it's important for the public
11 to be able to hear too, because you don't want that to come
12 back on us, so she needs to bring it up or somebody needs to
13 help her bring it up.

14 MS. PATTERSON: So my volume is as high as it can
15 go, can you not hear me?

16 BZA CHAIR HILL: I can hear you. I can repeat
17 your question, I think. And so let me just see what I --

18 CHAIR HOOD: Let me ask this, Mr. Chairman, if
19 she's sitting close, are you sitting close to your device?

20 MS. PATTERSON: I'm extremely close to the device.

21 CHAIR HOOD: All right. Well, it seems like --

22 MS. PATTERSON: My video's not working and now it
23 seems like my audio is not working. I don't know if Mr. Reed
24 wants to call me.

25 BZA CHAIR HILL: That right there, whatever you

1 just did right there, that is louder.

2 MS. PATTERSON: All right. You can hear me better
3 now?

4 MR. CRICKMAN: That's much better.

5 MS. PATTERSON: I'm sorry. So I'm holding my
6 laptop up in my hand, so. Okay so I would like to know, my
7 question is, the redesign of the balconies, I would like to
8 know from the architect and the developer, how does that
9 resolve the issues of privacy for the abutting and nearby
10 neighbors? They're still balconies.

11 BZA CHAIR HILL: Okay. Commissioner, let him
12 answer your question.

13 MS. PATTERSON: Okay. Thank you.

14 MR. CRAIN: Sure. It simply cuts off the sights
15 of line or sight lines.

16 MS. PATTERSON: How does it do that?

17 MR. CRAIN: I'm happy to explain. So in keeping,
18 with the balconies we put a semi-enclosed, basically cladding
19 around. So instead of being wide open to both sides and when
20 you come out to the front, we put cladding on to semi-enclose
21 it to reduce them to openings. So sight lines both in and
22 out are blocked significantly.

23 MS. PATTERSON: Could we go to the deck, please,

24 Page 4?

25 BZA CHAIR HILL: Commissioner if you, Mr. Young,

1 if you want to pull up, I think it's the plans and then pull
2 up Page 4. Great, what's your question, Commissioner?

3 MS. PATTERSON: So my question is, I am looking
4 at the windows on the balconies, and right next to them, you
5 can see two homes, one on the left, one on the right. I
6 don't see how any privacy concerns are resolved. Can you
7 please explain the sight lines.

8 BZA CHAIR HILL: So you're question, I'm sorry.

9 Go ahead, Mr. Crain, if you want to repeat what you said?

10 MR. CRAIN: Yes, we, so I guess I am basically
11 repeating it. So in enclosing the balconies, a significant
12 amount of the openness has been reduced to what we can call
13 like case opening or I guess, a window opening without a
14 window. So instead of a wide open balcony, these are
15 semi-enclosed, which reduces a significant amount of the
16 sight lines in and out of the balconies.

17 MS. PATTERSON: Okay, that's it?

18 BZA CHAIR HILL: That's the answer, Commissioner.

19 MS. PATTERSON: Okay. So the neighbors don't feel
20 that it provides privacy that they are seeking. And it's
21 concerning because this issue of privacy has not been
22 resolved in the eyes of the neighbors.

23 BZA CHAIR HILL: Okay. What's your question,
24 Commissioner?

25 MS. PATTERSON: I did ask my question, and the

1 architect answered it. He says that the sight lines are
2 reduced. I'm saying that they are not reduced to prevent
3 tenants from looking into the homes that are right next door
4 as you can see --

5 BZA CHAIR HILL: I understand.

6 MS. PATTERSON: -- the residences. So to me, the
7 privacy issue has not been addressed or resolved for the
8 neighbors. I also want to ask a question to the Developer,
9 Adam, he mentioned Elizabeth, who lives at 6112 13th Street,
10 she's a neighbor, her house is right there on the left.
11 Elizabeth Falcon submitted a timeline of conversations to the
12 BZA Commission about the conversation that Adam described.
13 He got a lot of it incorrect.

14 She is opposed to this, she is opposed to this
15 redesign. She does not feel that it protects her privacy in
16 any way. And that was submitted BZA, and I hope that
17 everyone is reading all the submissions that have been
18 entered into the file.

19 BZA CHAIR HILL: All right, Commissioner. Do you
20 have another question?

21 MS. PATTERSON: I have a question about the
22 security. I am concerned, I did read the statement from Adam
23 about what he is planning for security measures. I find that
24 they are faulty and that they don't provide a sense of
25 security for the neighbors. Cameras break, cameras are just

1 not reliable for 26 tenants plus their visitors.

2 So I would like to know, my question is, have you
3 done all you can do to provide security for this building?
4 And I would like to know, why can't there be an on-site
5 property manager and/or security?

6 BZA CHAIR HILL: Okay. Mr. Crain?

7 MR. CRAIN: I think when she was saying Adam, she
8 meant Ethan, Ethan will respond to that.

9 BZA CHAIR HILL: By the developer, okay.
10 Apologize, sir, what's your last name again?

11 MR. ARNHEIM: Ethan Arnheim.

12 BZA CHAIR HILL: Okay. Mr. Arnheim, can you go
13 ahead and respond to that, please?

14 MR. ARNHEIM: Yes. So just on the first point,
15 I want to clarify before if people left with the impression
16 that I was characterizing Elizabeth Falcon's position as
17 supporting this, that was totally not the case.

18 I think that as I said before, we had a
19 conversation, it seemed like she did monitor and did
20 approach, so I think that I want to make sure that I was
21 misunderstood and felt like I was -- position.

22 But specifically to security, you know, cameras
23 are not the only measure. We do plan on coordinating with
24 MPD, I want a regular contact with MPD. I hope we will never
25 have to contact MPD.

1 As far as the request for on-site management, what
2 I have done on other properties is kind of make a, sort of
3 a tenant, a tenant chair, kind of leader and that person in
4 return for reduced rent becomes a, takes on additional
5 responsibilities.

6 So they're the ones that make sure that the trash
7 is picked up, that, you know, if the landscaper missed
8 something, that that's addressed. They really become kind
9 of the eyes for the tenants, and of course, and communicate
10 to me issues immediately as they come up. So they serve a
11 lot of the functions as an on-site manager, even if they're
12 not labeled as such.

13 And of course, cameras will be installed at all
14 the entrances, they're accessible by phone. And, you know,
15 I am open to other measures that anybody might suggest that
16 can improve security, I really don't.

17 BZA CHAIR HILL: Okay, Mr. Arnheim. Commissioner
18 do you have another question?

19 MS. PATTERSON: I would like to know the type of
20 trees that will be planted and their height?

21 BZA CHAIR HILL: Mr. Crain, Mr. Arnheim, do you
22 know that?

23 MR. CRAIN: Crepe Myrtles and the height will vary
24 based on how old it is.

25 BZA CHAIR HILL: So do you have a rough idea of

1 how high they would be?

2 MR. CRAIN: I don't.

3 BZA CHAIR HILL: They obviously grow.

4 MR. CRAIN: Yes, they obviously grow. I guess we
5 didn't specify the height but I'm not, I don't think we're
6 putting in saplings, I think we'll have to put in something
7 that's as high or a little higher than the fence to start
8 with, and obviously year after year, they are getting better.

9 BZA CHAIR HILL: Okay.

10 MS. PATTERSON: Crepe Myrtles are not evergreen,
11 in the winter they are completely bare. How does that help
12 the privacy issue?

13 BZA CHAIR HILL: Mr. Crain, I guess the question
14 was how did you decide on Crepe Myrtles versus evergreen?

15 MR. CRAIN: We discussed it. OP gave us a list
16 and that's what was chosen, but I could alter it if we want.

17 BZA CHAIR HILL: Okay.

18 MS. PATTERSON: And I'm not clear on exactly how
19 many trees are going to be planted and where, and what
20 privacy issues will they resolve? It's not clear from the
21 diagram. Can you explain in more detail?

22 MR. CRAIN: The number and location is on the site
23 plan, on the F8 Architectural Plans on the record. So I
24 guess PDF maybe, if we've got the slides.

25 BZA CHAIR HILL: If you go to Number 5, Mr. Young,

1 the next slide, I think. Commissioner, those trees are the
2 circles at the bottom right, one, two, three, four, six
3 trees.

4 MS. PATTERSON: And they seem to be along the
5 alley. Is that correct?

6 MR. CRAIN: No. They're on the side of Ms.
7 Alexander.

8 MS. PATTERSON: Okay. I'm just having issues just
9 trying to figure out the drawing. So the trees, Adam, you're
10 saying are going to be planted near the fence that is
11 opposite of Ms. Alexander's home?

12 MR. CRAIN: Yes, we show a portion of her home
13 along the bottom there.

14 MS. PATTERSON: Okay, it's just hard, I'm not an
15 architect, I'm trying to read these plans. Okay. And
16 they're going to be, okay, the Crepe Myrtles. Okay. Then
17 --

18 BZA CHAIR HILL: Commissioner, how many questions
19 do you have?

20 MS. PATTERSON: I have another question about,
21 general questions about the statute and the zoning
22 regulations and how the developer thinks that he meets the
23 requirements of privacy and enjoyment of the homes.

24 BZA CHAIR HILL: Okay, so Commissioner, I
25 understand that you guys disagree with the project. And so

1 I'm just trying to understand again, the question that you
2 have based upon the things that the Board has tried to do to
3 help alleviate some of the concerns of the project.

4 I don't think that they're going to, you know, the
5 Board is charged with determining the criteria, and that is
6 something that we, the Board, are going to have to figure
7 out. The Applicant has put forward their case as to why they
8 believe they've met the criteria, and that's what we did at
9 the last hearing. So I'm just trying again, get questions
10 answered and I still have to go through the two people in
11 opposition.

12 MS. PATTERSON: Yes.

13 BZA CHAIR HILL: Do you have any more questions
14 about what they've done since the last time they were here?

15 MS. PATTERSON: I answered, I did ask the main
16 questions that I was concerned about which was about the
17 balconies and privacy issues. I do have a question about the
18 fence.

19 In the report that was submitted, the fence
20 states, well, the document states that the fence will be
21 between three and six feet. So I would like to know what is
22 the height of the entire fence? Is it elevated, is it three
23 feet, or is it six feet?

24 BZA CHAIR HILL: I understand the Mr. Crain said
25 six feet, but go ahead, Mr. Crain?

1 MS. PATTERSON: And does that surround the entire
2 property, and it's six feet continually around the property?

3 MR. CRAIN: Yes, six feet continually, and that's
4 the maximum we're allowed to do by right.

5 MS. PATTERSON: Okay. I just noticed that it did
6 say three to six, so I needed clarification. Thank you.

7 BZA CHAIR HILL: Okay. Thank you, Commissioner.

8 Ms. Alexander or Mr. Crickman, can you hear me? Yes, Mr.
9 Crickman, you didn't get sworn in apparently. So Madam
10 Secretary, could you swear in Mr. Crickman, please?

11 MS. MEHLERT: Yes, if he would raise his right
12 hand.

13 (Mr. Crickman was sworn in.)

14 MS. MEHLERT: You will consider yourself under
15 oath, thank you.

16 MR. CRICKMAN: Thank you.

17 BZA CHAIR HILL: Thank you, Mr. Crickman. All
18 right, Mr. Crickman, does your client have any questions
19 about anything that was put forward today?

20 MR. CRICKMAN: I would just like to ask one
21 question about the views from the balconies. How does
22 enclosing the balconies change the views into my client's
23 neighboring property?

24 BZA CHAIR HILL: Mr. Crain?

25 MR. CRAIN: Yes, we cladded the previously open

1 balconies, they were open on three sides, and we provided a
2 semi-enclosed cladding that significantly reduces sight lines
3 in and out. So rather than having wide open, they've kind
4 of reduced them to what you can call windows or portals,
5 which is going to cut off a lot of view angles on all levels.

6 MR. CRICKMAN: All right. Well, I don't
7 understand that. I will defer to my client.

8 MS. ALEXANDER: So you're not saying that they
9 can't see out into my property, you're not addressing that?

10 BZA CHAIR HILL: They've limited the views of the
11 balconies, I mean, I'm just trying to be clear if they're
12 made known.

13 MS. ALEXANDER: I get that, but the question is
14 he says he's changed the sight line. But he's not saying
15 they can't look into my property. My question, can they look
16 into my property?

17 BZA CHAIR HILL: Mr. Crain?

18 MR. CRAIN: If someone wanted to look into your
19 property from that balcony, they could find a way to do it,
20 but the goal here is in the building design to significantly
21 reduce it.

22 MS. ALEXANDER: My second question, help me
23 understand how the trees change the noise that I'm going to
24 have to experience, because since you have the entrance to
25 this massive apartment complex on my side, my house. So how

1 does the trees stop noise that the foot traffic is going to
2 bring?

3 BZA CHAIR HILL: Mr. Crain, the questions is will
4 the trees stop any noise?

5 MR. CRAIN: They'll reduce it. It's impossible
6 to completely eliminate all noise without having a fully
7 soundproof enclosure. But what we've done here is provide
8 a six-foot tall privacy fence that will stop noise and sight
9 lines. And then in addition to that, add a second layer of
10 buffer with multiple trees, I think we show six in front.

11 Well, as much as we can do in terms of blocking
12 that, you know, visually with the fence, it's going to be
13 taller than, not going to be too many people taller than six
14 feet that will be able to look over there, and then fences
15 beyond that, so we're providing a vegetative buffer.

16 BZA CHAIR HILL: Mr. Crain, oh, sorry. Go ahead.
17 That's okay, you had your hand up?

18 MS. ALEXANDER: I just, the other thing is, is
19 that this massive apartment complex is going to be three
20 stories high. What are you going to do about the fact that
21 I use my backyard, I barbecue in it with the fact that this
22 complex is going to be way higher than my house, and I'm
23 going to be out in my backyard. So how is that going to be
24 dealt with?

25 MR. CRAIN: Well, the mass of this building is

1 actually several feet shorter than what the by right zoning
2 allows. We're also providing a full side yard setback on the
3 side of your house to the south, so there's at least a
4 separation of eight feet there along the whole property line.

5 MS. ALEXANDER: I don't want to be difficult, but
6 when you say, you don't answer my question. Because what the
7 City allows is not the issue, the issue when I'm in my
8 backyard and you have this three-story building complex, how
9 am I going to have my privacy in my backyard?

10 BZA CHAIR HILL: Ms. Alexander, I guess again, I'm
11 trying to get questions based upon the changes they made.
12 I don't think that you guys are going to be in support of
13 this project. And so we're just trying to figure out how we
14 can somehow alleviate some of the concerns.

15 I mean, I think that, unfortunately, unless that
16 building isn't even there, they're trying to alleviate some
17 of the sight lines by enclosing that balcony. And then also
18 adhering to the zoning regulations that we have to kind of
19 conform with. So that's I guess, where we're at kind of an
20 impasse, is that they're going to try to do this building,
21 and we're trying to help alleviate some of the concerns.

22 But they are going to be able to look into your
23 backyard. And there is that balcony right there that they're
24 trying to make less obtrusive by enclosing it so that some
25 of the sight lines are removed, meaning that if they were

1 sitting down, now that they're looking out the window, you
2 know, they are no longer are looking out on a balcony, they
3 might look on the siding of the -- of the balcony. So that's
4 the best way that I could try to explain that.

5 Let's see, Ms. Patterson, can you hear me?

6 MS. PETERSEN: Ms. Petersen?

7 BZA CHAIR HILL: Oh, Petersen, sorry.

8 MS. PETERSEN: All right.

9 BZA CHAIR HILL: Ms. Petersen, do you have any
10 questions about what's been presented?

11 MS. PETERSEN: Yes, I have a question for you,
12 actually.

13 BZA CHAIR HILL: Okay.

14 MS. PETERSEN: As was stated earlier, there's a
15 three-pronged test. And I want to talk about B, because the
16 Applicant has to satisfy the three-pronged test. And if --

17 BZA CHAIR HILL: Ms. Petersen, this is not an
18 event.

19 MS. PETERSEN: I just want to ask -- I just want
20 to ask, the privacy of use and enjoyment of neighboring
21 properties shall not be unduly compromised. I don't see how
22 you get around that.

23 BZA CHAIR HILL: Mr. Smith?

24 MEMBER SMITH: You are speaking to a three-pronged
25 test, this isn't a variance. Are you nuancing a special

1 exception class here?

2 MS. PETERSEN: Yes.

3 MEMBER SMITH: Okay. But that will, that question
4 will be answered in deliberation. We're still in a situation
5 where we're asking questions about how this, the changes that
6 the Applicant has made to the project.

7 MS. PETERSEN: Okay, I want to --

8 MEMBER SMITH: That's not going to be a question
9 that will be answered right away.

10 MS. PETERSEN: Okay. I understand that. I have
11 another question about the context with adjacent properties
12 and row homes across the rear alley, specifically, height in
13 rear of proposed building. How was that fixed or adjusted
14 or addressed? I don't understand. So I'm asking Ethan
15 Arnheim or Adam Crain to answer now.

16 BZA CHAIR HILL: I guess maybe I can answer or
17 have the Office of Planning explain a little bit more about
18 the regulations. And so that's something we can get to when
19 we get back to the Office of Planning again. What did you
20 have a question about what their latest design is?

21 MS. PETERSEN: How did they, in this submission,
22 address the context, because this is what you guys asked them
23 to do. You asked them to address the context, one of the
24 things, the context with adjacent properties and row homes
25 across rear alley, specifically height in rear of proposed

1 building. I want to know, where in the submission that was
2 addressed because I don't see it.

3 BZA CHAIR HILL: I think you're speaking to the
4 criteria of the regulation, that again --

5 MS. PETERSEN: Did you ask them to fix something?

6 BZA CHAIR HILL: No, we asked them to --

7 MS. PETERSEN: In your letter -- in your letter,
8 you asked them to provide the view from proposed balconies,
9 context with adjacent properties and row homes across rear
10 alley, specifically height in rear of proposed building. I
11 don't see where that was addressed and I want to be educated
12 about how that was addressed.

13 BZA CHAIR HILL: I understand. So the Board asked
14 about the balconies, okay --

15 MS. PETERSEN: Yes, we heard that -- I heard that,
16 I understood that, but they still can see us if they want to.
17 But I'm asking about context with adjacent properties?

18 BZA CHAIR HILL: And the context of adjacent
19 properties is what the Board and the Office of Planning will
20 be analyzing in terms of the drawings that they gave us. So
21 they gave us the drawings on the back of that, what they're
22 proposing. And then the Board will determine whether or not
23 we think they are within the context of the regulations. So
24 they did give us what we asked.

25 MS. PETERSEN: Well, I didn't understand those

1 drawings, I mean I didn't see, I mean.

2 BZA CHAIR HILL: Go ahead --

3 MS. PETERSEN: He's been talking --

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

5 MEMBER SMITH: So I believe the question that Ms.
6 Petersen was raising was raised by me at the last hearing.
7 And it wasn't in relation to the height. This is a RA-1
8 zone, this building is shorter than what can be built. So
9 it wasn't a question about how, the question was about the
10 materiality that was raised by some of the residents along
11 there in relation to how this building would look in context
12 to the rear of their homes.

13 MS. PETERSEN: Yes.

14 MEMBER SMITH: I did ask that particular question
15 probably about 20 minutes ago, and Mr. Crain stated that the
16 material will be grey cladding, a grey cladding type of
17 material. If you look to Slide 3 in the deck, you see the
18 front of this building, but you can also see the design of
19 the south side of this building facing Ms. Alexander's home.
20 Mr. Crain indicated that the design of the north side of this
21 building will be very similar, the architecture, the
22 materials, will be very similar to what you see on the south
23 side. I hope that answers your question, Ms. Petersen.

24 MS. PETERSEN: Okay.

25 BZA CHAIR HILL: All right. I'm going to get some

1 testimony now from everybody that is also -- oh, go ahead
2 Commissioner, I mean Chairman Hood?

3 ZC CHAIR HOOD: The same, and Mr. Crain, you may
4 have already done this, I've been trying, I'm going to go
5 back, so everybody indulge me. Mr. Crain, the limiting the
6 sight lines, and I get that, they kind of obscure a little
7 bit, can you repeat for me again, what you did to limit the
8 sight, I already know you will be able to see one way or the
9 other, the issue is decreasing the amount of being able to
10 see, can you go back over that with me right quick, what you
11 did?

12 MR. CRAIN: It may be easiest to do a before and
13 after. And just let me find the exhibit that would be the
14 before.

15 ZC CHAIR HOOD: I really just want you to talk
16 through it, because I think --

17 MR. CRAIN: Okay.

18 ZC CHAIR HOOD: I, this is you straight up, we
19 know they're going to be able to see, but when you talk about
20 changing the sight lines, what you do is you lessen what
21 people are able to view. So I think that's where we're
22 getting lost.

23 I think, there is no, it's not going to ever
24 happen that they're not going to be able to see, right. I
25 get that. But if you could explain again what you did to

1 lessen as much as they can see, like if I wanted to see the
2 whole room, and if I wanted to see a --

3 MR. CRAIN: Sure.

4 ZC CHAIR HOOD: -- entire room, and I wanted to
5 see less of that room, can you tell what you've done to see
6 less of that space?

7 MR. CRAIN: Yes. So previously the balconies were
8 wide open, right, open on the sides, open on the front. You
9 could see through the railings into windows and doors that
10 access the balconies.

11 What we've done now, is all the balconies have
12 been semi-enclosed with cladding. So we've significantly,
13 basically, it saved maybe 50, 60 percent of the available
14 sight lines have been cut off by the opaque cladding. So
15 people aren't going to be able to see in as much, people
16 aren't going to see out as much.

17 So people from inside, it will kind of look like
18 a bit of an outdoor room that's enclosed, rather than wide
19 open to adjacent houses. So it's really just trying to cut
20 off as many direct views as possible. Yes, if people go out
21 on the balconies and lean over and look, they can see
22 everything.

23 But all the passive views, right, with people
24 walking by or driving by from other houses, we've cut off a
25 lot of those.

1 ZC CHAIR HOOD: Would this be a fair assessment,
2 I'm really going through this exercise for the public and
3 myself, too. Would it be a fair assessment to say that the
4 views have been, well, they're actually obscured. So here's
5 the thing, the way you had it previously, I could see all the
6 time. But what you've got now, I would have to be like in
7 a certain position or certain area to see it, so you're
8 cutting off my all the time view to a sometime view? Is that
9 a correct assessment?

10 MR. CRAIN: Sometime and certain angles.

11 ZC CHAIR HOOD: Okay, got you. All right. Thank
12 you, Mr. Chair.

13 BZA CHAIR HILL: Okay. I'm actually going to
14 leave -- Commissioner?

15 MS. PATTERSON: Kim Patterson, Commissioner. I'm
16 sorry, I have a quick question. Adam and Ethan, why not
17 eliminate the balconies, why do we still have balconies?

18 BZA CHAIR HILL: Mr. Crain?

19 MR. CRAIN: Because new tenants or new owners also
20 have the right to the use and enjoyment of outdoor space for
21 their units, that's what these are provided for.

22 MS. PATTERSON: Why can't they go outside?

23 BZA CHAIR HILL: Commissioner, you got your
24 question answered, and now you're going to get a chance to
25 give your testimony, okay. I mean, you guys, I mean, I

1 understand, you would like them to get rid of the balconies.

2 MS. PATTERSON: Not me, the entire neighborhood.

3 BZA CHAIR HILL: So Commissioner, if you would
4 like to go ahead and give us your testimony on what the new
5 changes are to the project, please?

6 MS. PATTERSON: I'm sorry, could you repeat that,
7 you're asking me?

8 BZA CHAIR HILL: Sure, so they are here for a
9 limited scope hearing, all right, on all of the changes that
10 they've made based upon the last hearing that we had. And
11 now, as a ANC party, the Board would like to hear your
12 testimony as well as the other people who are here as parties
13 for the changes that have been made since the last time we
14 were here.

15 MS. PATTERSON: Okay.

16 BZA CHAIR HILL: That's what I'm trying to ask.

17 MS. PATTERSON: So I have submitted my written
18 testimony, I will highlight the main issues of concern which
19 we have spoke of. The scope of the privacy is a major issue
20 for the community. The balconies, whether they're enclosed
21 or not, violate the neighbors' privacy and we would like to
22 see that the balconies are removed.

23 I am strictly trying to make sure that the
24 abutting neighbors and the neighbors do not have the quiet
25 enjoyment of their property destroyed. And I would like to

1 see more drawings and hear details about the sight lines.
2 To me, it's just very unclear, it's sketchy, and I don't see
3 how it benefits the neighborhood. I think it is still an
4 invasion of their privacy and it is a detrimental effect.

5 My other issues of concern are security. I know
6 that Ethan is, you know, he's prepared to install cameras,
7 but it is just not adequate, this is an apartment building
8 with 24 people, maybe 26, depending. They all have visitors
9 and guests, it is a constant back and forth of transient
10 people.

11 Tenants do not live in properties for a long time,
12 maybe a year, maybe a little longer, maybe a little less.
13 For Ms. Alexander, who is right next door, and the door, the
14 main door to this apartment building is basically a couple
15 feet away from her house. It provides a security issue for
16 her and to the other neighbors, but mainly to Ms. Alexander.

17 There's a constant movement of unknown people all
18 the time. And that is very concerning to me, as an ANC, I
19 deal with a lot of security issues. And this building is a
20 concern. I just don't feel that the developer is taking the
21 neighbors' security seriously, and I would like the security
22 measures to be increased.

23 The rodent issue -- the rodent issue in the Fort
24 Stevens, Rittenhouse, 13th Street alley is a major issue.
25 It's been documented through the Department of Health and the

1 Department of Public Works. There are, you know, thousands
2 of rats there and that's documented.

3 I am concerned that we're adding another dumpster,
4 maybe one or two, a commercial dumpster for 26-people and
5 friends and family. I did read the rodent plan that Ethan
6 submitted, and I do thank him for that. But I just think
7 that it will add to the problem in the alley. It certainly
8 will not help it.

9 And even though we do have commercial dumpsters
10 in the current alley, they are not well maintained, they are
11 not regularly picked up. And as an ANC, I am constantly
12 working with the Department of Public Works all the time to
13 get the landlords to empty these dumpsters. The rodents are
14 now in homeowners' properties, they are in their cars.

15 And I don't feel that in another apartment
16 building in this location, is going to benefit the community.
17 I don't know if there is going to be any more correspondence
18 with the Office of Planning. I really have not received a
19 lot of information from them although I have reached out to
20 them.

21 And I'm just wondering if I will be able to get
22 more information on the Office of Planning's report. Because
23 the report that they submitted, to me just didn't really seem
24 to get into the weeds of this development. I asked them to
25 come out and to look at the space, and they refused to do so.

1 The documents and the drawings that the architect
2 has presented are very hard to visualize if you don't know
3 the property. Even for the Board to look at these drawings,
4 there's homes, the homes that surround the apartment building
5 are very closely next to it.

6 The drawings appear that they are further away.
7 But they're really not, and the sight lines are a main issue,
8 especially for the neighbors that are in the alley. The
9 height of the building gives access to their windows and to
10 their back yards.

11 My last issue I would like to raise is the front
12 door of the building. On 13th Street, the homes that are
13 there, there's four of them, five including this development,
14 the front door is on 13th Street. That's normal, that's
15 where it should be. I would like to see the front door
16 redesigned and make it an actual front door. The front door
17 in the drawings, only gives access to one apartment.
18 Everyone else, all 25, 26 people are going traipse around the
19 side next to Ms. Alexander's house to get into the building,
20 in and out all day.

21 And I find that completely unacceptable, it's a
22 safety issue, and it destroys Ms. Alexander's privacy. And
23 I would like to see the front door of the building be the
24 front door of the building. Thank you.

25 BZA CHAIR HILL: Thank you, Commissioner. Mr.

1 Crickman, do you have any testimony to give from your client
2 and/or would your client like to give testimony?

3 MR. CRICKMAN: I would just like to comment that
4 just sort of stepping back, that we have a block of five
5 residential houses and we all know they've been there for
6 more than 50 years, and they existed as such. And this
7 apartment complex will not be in any way in the harmony with
8 the existing neighborhood and will definitely adversely
9 affect the adjacent neighbors. If my client would like to
10 add to that, please do, Ms. Alexander.

11 MS. ALEXANDER: My understanding, I'm only
12 supposed to respond to the changes, not to, so I guess what
13 I said last time, you all still have that information,
14 there's nothing changed about that. The impact it has on my
15 life is tremendous.

16 But the fact that they have made changes, to me
17 is not adequate. The fact that they have the entrance on my
18 side of the property, why would you put it on my side of the
19 property, that just feels, unfair, I don't know. It doesn't
20 even make sense.

21 The fact that somehow they telling me that somehow
22 changes is going to provide me privacy and no noise, doesn't
23 tell me that. Trees don't stop people from yelling,
24 fighting, and all that kind of stuff, it happens when people
25 go in and out of the building.

1 People hang outside an apartment building and just
2 hang out, they put chairs up, they put whatever, and they
3 just hang out. And so that's the entrance, so no, the fact
4 that only dealing with the adjustments and changes to me are
5 not adequate. It just doesn't meet it, on top of all the
6 other stuff that I talked about last time I did my testimony.

7 BZA CHAIR HILL: Thank you, Ms. Alexander. Ms.
8 Petersen?

9 MS. PETERSEN: Well, I would just like to say I
10 agree with everything everybody said. And some of the
11 concerns about security are unaddressed and I think that we
12 kind of feel like this building might need wrap around
13 security.

14 And my concerns about privacy are the same, until
15 you guys come here and look and see what we see and see how
16 close this building is to us and see how close people can
17 look into each other's houses, because it's just that way,
18 I mean it's a very big building.

19 And our buildings are tall, but their building
20 that they're planning is, you know, three stories high. And
21 I don't see how anything has changed, I still will no longer
22 feel, you know, like my privacy, my privacy is going to be
23 violated. I will never want to sunbath, meditate, garden,
24 or anything without feeling paranoid that somebody's looking
25 at me. I won't -- I won't open my bedrooms windows anymore

1 to get fresh air, because they face the back, some of the
2 bedrooms.

3 And the design of the project is plain on its face
4 and not of the character, scale, pattern, or plan of the
5 neighboring properties. And I'm opposed as you know, and I
6 don't see anything that they have done that made anything
7 better, the height, the mass.

8 The building is just too big, it's just too big.
9 It doesn't belong between single family homes or in a single
10 family environment, and there's no way around that. But you
11 guys are trying to do what you can to mitigate something
12 that's impossible to mitigate because the building is just
13 too big. And that's my statement.

14 BZA CHAIR HILL: Okay. Thank you, Ms. Petersen.
15 All right. Let's see, does anyone have any questions for the
16 parties, for my Board, for the Applicant? Mr. Blake?

17 MEMBER BLAKE: To Ms. Petersen, the question about
18 the added security measures, what exactly, I think you
19 mentioned something about an on-site person or something like
20 that, is that the magnitude of what you're talking about for
21 security? Or is there some other things that you would,
22 would make you comfortable that? Ms. Alexander, that would
23 be a question for you as well?

24 MS. PATTERSON: I can answer as an ANC. Yes,
25 there are concerns in many of our apartment buildings that

1 do not have an on-site manager. I would like to see on-site
2 manager or on-site security, I'm not asking for both. I'm
3 asking for one or the other. Things happen quickly. If
4 there's a criminal activity, dispute, domestic, whatever it
5 may be, calling the police, they're not going to be here
6 instantly. And it's just a lot to manage. And I would like
7 to see, yes, on-site security or on-site management.

8 MS. ALEXANDER: I can agree to that.

9 BZA CHAIR HILL: Okay. All right. All right,
10 that's it. Okay, Mr. Crain, do you have anything to add at
11 the end?

12 ZC CHAIR HOOD: Mr. Chairman, let me ask Ms.
13 Alexander if she wants to, and Ms. Petersen, and also
14 Commissioner Patterson, what is it, I hear what you're
15 saying. But as the Chairman said a couple times we have
16 regulations, what is it that other than the privacy and the
17 sight lines, let me just put it out there, basically you all
18 don't want anything there at all, is that safe to say?
19 Because what we're trying to do is mitigate, I'm trying to
20 mitigate.

21 MS. PATTERSON: Mr. Hood, I have asked the
22 developer multiple times, please build a single family home
23 and sell it for \$1.3 million, which those are the comps in
24 the neighborhood. He bought it for \$660,000, why can't he
25 do that? I would love to see a beautiful home there for a

1 family.

2 ZC CHAIR HOOD: Okay, okay. I get it, either that
3 or redesign. Ms. Patterson, I'm trying to figure out, and
4 this is, it's not just going on here, this is going on all
5 over the City, especially in RA-1 zone.

6 But I think this was the case when you heard me
7 mention that we need to do another analysis on RA-1, and I've
8 been asking for that for a while, which obviously the
9 planners have showed me that that's going to happen but won't
10 help this situation.

11 And I think what Board Member Blake is trying to
12 get to is trying to make sure as we do our deliberations and
13 when we do it, because I don't know about you, Mr. Chairman,
14 I'm not really satisfied right now, I've got to think on this
15 some more.

16 But if and when we do it, what can we help bring
17 to the table for the community, that's what we're trying to
18 get out of this, at least that's what I'm trying to get out
19 of this.

20 BZA CHAIR HILL: Ms. Petersen?

21 MS. PETERSEN: Okay. So here's the thing, it is
22 too much, it's just too much. Somebody asked in the previous
23 meeting can this be, have you considered just building a
24 condo? I mean, single family home would be fine or a condo
25 would also be fine, like four units, but 26 beds and a nine

1 it's a lot for us to digest. It's, we're not ready for
2 this kind of thing in this area. I mean, it's just
3 overwhelming, the amount of people and the breadth, the
4 scope, the height. It's a massive structure that's going to
5 be plopped down in our universe and we're just like shocked.
6 We're kind of shocked.

7 ZC CHAIR HOOD: I got you, I got you.

8 MS. PETERSEN: Let me say this. We know that the
9 RA-1 thing is real, right.

10 ZC CHAIR HOOD: Right.

11 MS. PETERSEN: But to get all the way to ten, can
12 we just stay at a five? They want to go all the way to ten,
13 moderation.

14 ZC CHAIR HOOD: Okay. Ms. Petersen, I think I've
15 got it. I got you, Ms. Petersen. In fact, let me just say
16 this, the reason that we can't do site visits, that's a long
17 history that the regulations and the statutes and the courts
18 have said that we have to do what's in the merits of the
19 record, we cannot do site visits, and I will leave it at
20 that. Thank you, Mr. Chairman.

21 BZA CHAIR HILL: Okay. Thank you, Chairman Hood.
22 Okay. Mr. Crain, you get the last word as the Applicant and
23 then I'm going to close the hearing. Do you have anything
24 to add?

25 MR. CRAIN: I would just add that, you know, we

1 feel we've complied with all OP and requests with any edits
2 concerning privacy with the balconies, the trees, the
3 fencing, so you know, we have confidence that, you know,
4 we've provided what's been asked for. Appreciate everyone's
5 time.

6 BZA CHAIR HILL: Okay. Thank you, Mr. Crain. All
7 right. I'm going to go ahead and close the hearing and the
8 record. Mr. Young, if you could please excuse everyone.
9 Thank you all very much for your time. Okay. So I know that
10 Chairman Hood said that he wanted to chew on it. I am again
11 not here for the next two weeks. I'm back on May 1st, I'm
12 just trying to figure out, I'll know by now, oh never mind.
13 I'm just trying to figure out -- yes, go ahead?

14 MS. MEHLERT: I don't -- I don't know if we heard
15 from the Office of Planning?

16 BZA CHAIR HILL: They submitted a supplemental.

17 MS. MEHLERT: Okay, just wanted to check.

18 BZA CHAIR HILL: Thank you. All right. So we'll
19 come back for a decision on May 5th, I'm sorry, May 1st.
20 Okay. All right, Chairman Hood, is that it for you today?

21 ZC CHAIR HOOD: One more case.

22 BZA CHAIR HILL: Oh, okay. So let's go ahead and
23 take --

24 ZC CHAIR HOOD: For me today.

25 BZA CHAIR HILL: Okay. Well, that's the end of

1 commit on pack. Mr. Smith -- Mr. Smith, you have a nice day.

2 ZC CHAIR HOOD: Have a good day, hopefully it's
3 before me.

4 MEMBER SMITH: Peace and blessings today, peace
5 and blessings.

6 BZA CHAIR HILL: Okay. Let's go ahead and take
7 a break then. Let's take a break, it's 11:25, let's try to
8 come back in ten minutes.

9 ZC CHAIR HOOD: Chairman, I have a hard stop at
10 1 o'clock.

11 BZA CHAIR HILL: Oh, God, Chairman Hood, if we get
12 that late, then you just send in my resignation right now.
13 Because we have, we have ten cases after you at least.

14 ZC CHAIR HOOD: Okay, I got you.

15 BZA CHAIR HILL: Thank you.

16 (Whereupon, the foregoing matter went off the
17 record at 11:24 a.m. and went back on the record at 11:40
18 a.m.)

19 BZA CHAIR HILL: Okay, Madam Secretary, do you
20 want call us back and call our next case?

21 MS. MEHLERT: The Board has returned to its public
22 hearing session. The next case is Application No. 21037 of
23 Nathaniel and Patricia Robb. This is an application pursuant
24 to Subtitle X, Section 901.2 for Special Exceptions under
25 Subtitle E, Section 5201.1 from the lot occupancy

1 requirements Subtitle E, Section 210.1 and the rear yard
2 requirements of Subtitle E Section 207.1.

3 So it's to construct a rear deck addition to an
4 existing three-story attached building, this is a two-unit
5 flat. It's located in the RF-1 zone at 1361 Oak Street,
6 Northwest (Square 2835, Lot 73).

7 This hearing began on March 20th and then the
8 Board requested additional information and scheduled a
9 continued hearing, participating are Chairman Hill, Mr.
10 Blake, Mr. Smith, and Chairman Hood.

11 A couple preliminary matters, there is a request
12 for party status in opposition from Tim Hampton, which also
13 includes a request to accept an untimely filing. And then
14 there was also a recent late filing, a letter in opposition
15 from Molly Feldman and Noah Carnahan, if you would like to
16 allow that into the record.

17 BZA CHAIR HILL: Okay. Madam Secretary, do you
18 want to allow into the record what had been just put forward
19 to allow the Board to be able to see that. If the Applicant
20 can hear me, if they could please introduce themselves for
21 the record.

22 MS. ROBB: Yes, hi, good morning. I'm Patricia
23 Robb.

24 MR. ROBB: And I'm Nathaniel Robb.

25 MS. ROBB: And we have Ronald Alvarenga and our

1 Contractor Marshall, you asked for information from him. And
2 we also have Delaunte Allen if there are questions that he
3 needs to answer. So please admit them at this time.

4 BZA CHAIR HILL: Okay. Give me one second, Ms.
5 Robb. So all right, so there is that, that I think, who is
6 the contractor again, Ms. Robb?

7 MS. ROBB: Ronald Alvarenga.

8 BZA CHAIR HILL: Alvarenga, Ronald Alvarenga.

9 MEMBER BLAKE: If you could spell it out.

10 BZA CHAIR HILL: I'm sorry, Mr. Young, if you can
11 find it.

12 MS. ROBB: And Marshall, Contractor Marshall works
13 with him.

14 BZA CHAIR HILL: Oh, okay. Mr. Marshall, can you
15 hear me?

16 MR. MARSHALL: Yes, sir. Good morning.

17 BZA CHAIR HILL: Okay. Good morning. Oh great,
18 okay, Mr. Marshall, I remember you. All right, let's see.
19 Mr. Hampton, can you hear me?

20 MR. HAMPTON: (No audible response)

21 BZA CHAIR HILL: So Mr. Hampton, why do you
22 believe that we should grant your late filing as well as your
23 party status?

24 MR. HAMPTON: I'm just putting myself at the mercy
25 of the Board. I didn't understand this process at all from

1 the beginning. I thought, I got a letter a long time ago
2 about a hearing, but then I heard the hearing was, I thought,
3 canceled, I guess moved.

4 I didn't understand the process. And I live, I'm
5 looking at the building right now, it's directly behind me
6 about, I think it's directly across the alley 15 feet away.
7 So I hope that I could express, you know -- I have
8 (crosstalk) party status.

9 BZA CHAIR HILL: I can't remember, did you get to
10 testify at the last hearing?

11 MR. HAMPTON: I did.

12 BZA CHAIR HILL: Okay.

13 MR. HAMPTON: I had three minutes, but no
14 rebuttals or any questions.

15 BZA CHAIR HILL: Right. Okay, well. Anyways, so
16 let me first see that, I'm looking at my fellow Board
17 members, I mean, Mr. Hampton, unfortunately like you're
18 really late, you're like, you know, like we've already had
19 a hearing. And so I wouldn't even be able to go beyond, I
20 mean like, we've already had a hearing.

21 So like there's really no way that we can, I
22 think, approve the time, the lateness of your application.
23 So I'm looking at my fellow Board members. I think it's just
24 the time, at the very least it's a timeliness issue, so I
25 would not be in favor of party status. Does any of my Board

1 members have anything to add, and if so, please raise your
2 hand?

3 Okay. So, Mr. Hampton, you will have an
4 opportunity to continue to participate as a member of the
5 public. During that portion of the testimony, we will be
6 able to come back to you. And I'm sorry that we weren't able
7 to look at your party status, but again, it was so late, that
8 it really would just be, you know, put the Applicant in a,
9 an unfair position.

10 MR. HAMPTON: Thank you for considering it.

11 BZA CHAIR HILL: Thank you, Mr. Hampton. Okay,
12 Mr. Young, if you could please excuse Mr. Hampton. Okay.
13 Now, Mr. Marshall, can you hear me?

14 MR. MARSHALL: Yes, sir.

15 BZA CHAIR HILL: The Board asked for plans of the
16 third floor. Weren't you supposed to submit that?

17 MR. MARSHALL: Those were submitted.

18 BZA CHAIR HILL: Because I didn't see anything on
19 those third floor plans. Which exhibit are they in?

20 MR. MARSHALL: I submitted it as an additional
21 document to the BZA case, and it was titled 1345, or it was
22 titled, the PDF was titled "Interior Plans." I submitted
23 that --

24 BZA CHAIR HILL: I will ask my fellow Board
25 members if you know which exhibit it is, because I remember

1 looking at it when I reviewed the file. Mr. Blake, do you
2 happen to know?

3 MEMBER BLAKE: It is Exhibit 25.

4 BZA CHAIR HILL: Thank you. Right, so Mr.
5 Marshall, that third floor plan is just blank?

6 MR. MARSHALL: Yes, sir. That is because that
7 third floor is a open area used for like recreation, so it's
8 not a like a living, or it's like a living space, it's not
9 like a bedroom or anything like that, it's like a, it's a
10 recreation area is what the Robbs use that area for.

11 BZA CHAIR HILL: So there's nothing on that third
12 floor, you're telling me?

13 MR. MARSHALL: As far as I'm concerned, it's a
14 open -- it's a open room.

15 BZA CHAIR HILL: What do you mean as far as you're
16 concerned? What is on the third floor?

17 MR. MARSHALL: There's like a, there's a table,
18 and like a area for gathering.

19 BZA CHAIR HILL: So there's no bathroom, there's
20 no kitchen?

21 MS. ROBB: I can describe the third floor to you.
22 As Mr. Marshall said, it is the family gathering place for
23 Thanksgiving, Christmas, holiday meals because there is no
24 other place within the property where the family can gather.
25 So there is a bar, a 17-foot bar and televisions, there is

1 a bathroom.

2 And those are the only, well, the bathroom is the
3 only contained area. And Mr. Marshall is correct, it's just
4 a open space with tables and chairs, and the bar itself is
5 there. And like I said, the bar is 17-feet.

6 BZA CHAIR HILL: Okay. So there's a bathroom up
7 there?

8 MS. ROBB: Yes, it is.

9 BZA CHAIR HILL: And there's no kitchen, there's
10 no --

11 MS. ROBB: There's no kitchen, there is a
12 refrigerator because when we have family gatherings, you have
13 to put the food in to save it. But other than that, there
14 is no stove or what you would consider. There is a sink
15 where we wash the dishes.

16 BZA CHAIR HILL: Okay. So go ahead, Mr. Hood?

17 ZC CHAIR HOOD: Ms. Robb, did you say there was
18 a bar up there, maybe I'm not hearing it right.

19 MS. ROBB: It's what, we has seven grandchildren
20 and four children, so it's a 17-foot bar where they sit on
21 the stools and they eat while they watch the television, the
22 big screen television.

23 ZC CHAIR HOOD: Okay. So it's a bar, you have a
24 bar up there?

25 MS. ROBB: It is a bar the way, you know, we see

1 it. That's why we call it a bar.

2 ZC CHAIR HOOD: Okay, okay. Thank you.

3 MS. ROBB: Okay. Thank you.

4 BZA CHAIR HILL: Okay. Ms. Robb, what else did
5 the Board ask of you after the last hearing?

6 MS. ROBB: Okay. So the Board asked for the
7 plans, asked for additional pictures, and asked for a
8 technical measurement. That data would come from Mr.
9 Marshall as to how the deck, what the deck measurement is
10 from the property. So those were the things on my list.

11 BZA CHAIR HILL: Where did you put the pictures
12 and the measurement?

13 MR. MARSHALL: Those were all uploaded at the same
14 time.

15 BZA CHAIR HILL: Okay. I see the pictures now.

16 MR. MARSHALL: Yes, sir. That day I added
17 pictures of the adjacent properties, the interior plans, a
18 letter of support that was given to me by Ms. Robert Ronald,
19 and then a blueprint detailing the measurement clarifications
20 for the staircase and how it extended towards the alley.

21 BZA CHAIR HILL: How far back, I think I remember,
22 I was trying to understand, from that elevator shaft to the
23 end of the deck?

24 MR. MARSHALL: Yes, sir.

25 BZA CHAIR HILL: How far back was it?

1 MR. MARSHALL: Existing or the proposed?

2 BZA CHAIR HILL: Proposed?

3 MR. MARSHALL: The proposed final staircase would
4 extend nine foot, nine inches towards the alley. The
5 existing --

6 BZA CHAIR HILL: From the back of the elevator
7 shaft?

8 MR. MARSHALL: Yes, sir. And you can see the red
9 line drawings in the measurement clarifications that we
10 uploaded as detailed there. And just for the record, the
11 existing staircase, as it stands right now, extends 13 foot
12 1 inch towards the alley. So the new staircase will actually
13 come out less than what is currently existing.

14 BZA CHAIR HILL: I don't see what current
15 staircase you are speaking of?

16 MR. MARSHALL: In that same PDF, Note 2 is the
17 existing first floor deck plan.

18 BZA CHAIR HILL: Right, right. But what you have
19 on, there is no decks on the second floor, and there is not
20 Juliets, but like, you know, French doors that just open to
21 a railing on the third floor? Correct?

22 MR. MARSHALL: Yes, sir.

23 BZA CHAIR HILL: Where are these at?

24 MR. MARSHALL: That's what currently is there.

25 BZA CHAIR HILL: Okay. All right. Let's see.

1 Go ahead Mr. Blake?

2 MEMBER BLAKE: I have just one question for you.
3 Could you just describe for me how that third floor is
4 accessed currently. It's a little bit confusing. I didn't
5 know, yes, just explain how that actually is accessed, if you
6 would be able to explain that?

7 MS. ROBB: Okay. I can explain it. It is,
8 there's a stairway going from the unit up to the third floor,
9 and there is the elevator itself. So that's, the elevator,
10 when it's inoperable, there's only one way up to the third
11 floor and that's how it's accessed.

12 MEMBER BLAKE: What unit is the, is the staircase
13 from?

14 MS. ROBB: The left side of the property, Unit 1.

15 MEMBER BLAKE: All right. Can you explain the
16 left side?

17 MS. ROBB: There, okay. If you're facing the
18 property, it's the left side unit, and it's Unit 1 that goes
19 up to the third floor.

20 MEMBER BLAKE: And Unit 1 accesses, has half of
21 the first floor, the entire second floor and the third floor
22 as part of that unit?

23 MS. ROBB: Yes.

24 MEMBER BLAKE: Okay. And it's from Unit 1 that
25 you access the third floor. Does the elevator --

1 MS. ROBB: Wait a minute, I can't --

2 MEMBER BLAKE: -- on the second floor or does it
3 you can't? I'm sorry. Does the elevator terminate on the
4 second floor or the third floor?

5 MS. ROBB: The third floor.

6 BZA CHAIR HILL: I'm sorry, Mr. Blake, you kind
7 of broke up for me.

8 Ms. Robb, the elevators are on the first, second,
9 and third floor. Correct?

10 MS. ROBB: It's basically on the first floor and
11 up to the third floor. But there is an access, but that
12 access was closed off on the second floor.

13 BZA CHAIR HILL: So it just goes from the first
14 floor to the third floor?

15 MS. ROBB: Yes.

16 BZA CHAIR HILL: And then there's no way to go
17 from the second floor to the third floor?

18 MS. ROBB: The stairs.

19 BZA CHAIR HILL: From the second floor to the
20 third floor?

21 MS. ROBB: Yes, mm-hmm.

22 MEMBER BLAKE: Ms. Robb, which apartment has
23 access to the first floor?

24 MS. ROBB: Unit 1, there's only one access to the
25 elevator, and that is Unit 1.

1 MEMBER BLAKE: Okay, thank you.

2 BZA CHAIR HILL: Okay. Ms. Robb, do you know if
3 just Mr. Marshall is here?

4 MS. ROBB: I thought Ronald was on as well, there
5 is.

6 BZA CHAIR HILL: Okay. So just the one, okay,
7 that's what I'm just trying to understand. Because I see a
8 variety of other people in the hearing room. Oh, Ronald's
9 with Mr. Marshall.

10 MS. ROBB: Yes.

11 BZA CHAIR HILL: Who is Delaunte Allen?

12 MS. ROBB: Delaunte Allen is our grandson.

13 BZA CHAIR HILL: Okay. And he is here for what
14 reason?

15 MS. ROBB: Well, if there are any questions, you
16 know, he takes care of our business on Oak Street, because
17 we are unable to do that due to our age and health. So he's
18 the, one of the heirs to the property and he assists us with
19 all the lawn care and all of that.

20 BZA CHAIR HILL: Okay. Okay. Can you explain to
21 me then, Mr. Marshall and/or Ms. Robb, the size of the deck,
22 the only thing I'm going to, honestly I'm going to ask the
23 Office of Planning also, is like I've seen like decks, the
24 elevator shaft, is pretty deep to me.

25 And so can you explain why you can't just put

1 decks on either side of the elevator shaft on the first and
2 second floor? Why does it have to be one continuous deck?

3 MR. MARSHALL: Are you talking about from either
4 side of the elevator shaft?

5 BZA CHAIR HILL: Yes, like I've seen it where they
6 just have decks on either side of the elevator shaft. It was
7 just -- oops, two decks on the third floor and two decks on
8 the second floor on either side of the elevator shaft, can
9 you tell me why that doesn't fit your program?

10 MR. ALVARENGA: The reason is, the width of that
11 deck is only ten foot, okay, and so we have 20-foot by
12 23-foot long. And then so if we install the staircase in the
13 center, so then we have a spacing for parking the car.
14 That's the reason why we have it designed like that, so we
15 can -- we can still use the parking lot, the parking for two
16 cars inside of the stairs.

17 BZA CHAIR HILL: I see, for the upper units?

18 MR. ALVARENGA: Yes.

19 BZA CHAIR HILL: All right. So they access, so
20 they can somehow access the car?

21 MR. ALVARENGA: That's correct.

22 BZA CHAIR HILL: Okay. So then again, Ms. Robb,
23 there's two units there, right?

24 MS. ROBB: Yes.

25 BZA CHAIR HILL: And so one unit, and this is

1 where I get a little lost. Can you explain to me, so because
2 I'm having trouble with the architectural plan. How do you
3 get to the first unit and how do you get to the second unit?

4 MS. ROBB: Okay. All right. Okay. So you're
5 facing the house, and for the first unit, you go to the left.
6 For the second unit, you go to the right. They are both on
7 the same level.

8 BZA CHAIR HILL: Okay. And then the second, the
9 first unit has part of the first floor and part of the second
10 floor?

11 MS. ROBB: The first unit, yes. The first unit
12 has all of the second floor and the second unit actually has
13 the basement, it's the basement unit.

14 BZA CHAIR HILL: Okay. And then who has access
15 to the third floor, which unit?

16 MS. ROBB: Unit 1 has access to the third floor.

17 BZA CHAIR HILL: Okay. All right. Does anybody
18 have any questions, maybe my Board members?

19 MEMBER BLAKE: Yes, just one question with regard
20 to, you were supposed to contact your next door neighbor and
21 discuss the project with them. You did provide a letter from
22 a neighbor, but it wasn't the next door neighbor. Could you
23 discuss the conversations you had with that next door
24 neighbor?

25 MS. ROBB: The next door neighbor, and I called

1 him Pastor Mack the last time, has been a long-term neighbor
2 of ours. And I did go to his home several times. From what
3 I understand he spent some time with his children. So I know
4 that Delaunte had an opportunity to speak with him when he
5 did come back home.

6 And so, while I was there, since my husband grew
7 up in the home since he was a little boy, we wanted to make
8 sure that we contacted those neighbors who were familiar with
9 us and his mother, and the grandkids.

10 And so the neighbor that submitted the letter, was
11 one of the long-term people who also grew up on the street,
12 and knew all of the same community members as my husband and
13 my family, so that she was willing to sign the letter in
14 support of what we wanted to do. She also brought us up to
15 date as to the changing values and attitudes within the
16 community.

17 When my husband and our family grew up, it was a
18 all African-American community. And now it has changed
19 significantly, because most of the generation that purchased
20 a home, and for us it's been almost 80 years ago, have passed
21 away.

22 So then it was for us, a legacy property. And my
23 husband and I have maintained that property for our children
24 and our grandchildren. Now, as far as people in the
25 community, when I was there, there was a gentleman that land

1 -- well not -- he was fast-paced, and he approached me. And
2 you know, and I mentioned to him who I was and so he said he
3 was with the other group.

4 So I think if he is somebody, you know, who has
5 just moved in in the last few years, he is renovating the
6 carpeting, and so I don't know who else we could talk to.
7 Other than it -- yes.

8 BZA CHAIR HILL: Okay. So with regard to this
9 Pastor Mack?

10 MS. ROBB: Yes.

11 BZA CHAIR HILL: You were not able to get in touch
12 with him, you had said?

13 MS. ROBB: Can we, Delaunte, is Delaunte admitted
14 on the line?

15 BZA CHAIR HILL: Another adjacent neighbor on the
16 other side, were you able to contact that person?

17 MS. ROBB: The neighbors to the left, the
18 neighbors to the left of our property are in the armed forces
19 and they are, the units, and I think it's like a rooming kind
20 of thing. Because they were not there, the owners were not
21 there. I don't know if they're stationed out of the country,
22 but I know that they are military. So they were not, you
23 know, physically there.

24 BZA CHAIR HILL: All right. Can you --

25 MS. ROBB: So Delaunte is on now, so Delaunte can

1
2 BZA CHAIR HILL: Mr. Allen, if you could introduce
3 yourself for the record, please?

4 MR. ALLEN: Yes, I'm Delaunte. I'm Nat and
5 Patricia's grandson. And I can attest to what they were
6 saying about obtaining the letters. I myself have tried to
7 contact Pastor Mack over the past couple of weeks for this
8 letter and an opportunity to discuss with him what was going
9 on.

10 And yesterday, actually was the first day I had
11 seen him in a while and got to talk to him. And essentially
12 I mentioned kind of like what was going on like as far as the
13 project and our plans and, you know, I wanted to list out any
14 concerns that he had, like list arose and kind of address it
15 if I could.

16 However, when I went to go to obtain the letter
17 and come back, I don't know this lady's relationship towards
18 him, she actually lived with him. She had said that someone
19 had already approached them and said that, you know, I mean
20 that while they should be in opposition, and so that's what
21 she said.

22 When I called the Pastor back he was okay with it,
23 you know, but I don't know what their relationship is, but
24 she kind of I guess, persuaded him that they were in
25 opposition, so we did not obtain that letter. And he owns

1 the houses, I believe he owns 59 and 57, so the two next door
2 houses. But someone had gone around the neighborhood and
3 mentioned, you know, I guess, reasons for opposition.

4 MEMBER BLAKE: And you were saying he did not, he
5 was not willing to sign a letter of support?

6 MR. ALLEN: That is correct.

7 MEMBER BLAKE: And did you also try to get in
8 touch with people on the other side?

9 MR. ALLEN: I did, I did talk to, hold on one
10 second, the neighbor that is directly behind us, Ms. Tania
11 Renjean, and we had a nice conversation. Kind of mentioned
12 like the same thing, like she's only heard one position,
13 which is the opposition. And it was a good conversation, she
14 took the letter, she was going to, she said she needed time
15 to go over her decision, so she did not sign it yet, but she
16 does currently have a letter.

17 And we had a good productive conversation about
18 her concerns, which was pretty much the size of the deck.
19 And she was, it was explained to her that it would go all,
20 extend out into the alley, not stop at the alley line, which
21 I directed her was incorrect.

22 And also, he mentioned like about parking, which
23 I told her I'm not sure how parking will be impacted because
24 her unit is directly behind 1361. And I said as soon as I
25 found out more information, you know I'll be more than happy

1 to tell her or accommodate her.

2 The alley, you have two ways of accessing it, and
3 they are currently working on a project on 14th Street, and
4 the way that they have the alley blocked off is, it's not the
5 main runway, so they have one of the sides so you can still
6 enter and exit the alley through one side. It's not the, how
7 do I say it, I guess, I don't think it's the best solution,
8 but it seems to be working for everyone that lives between
9 Oak Street and Otis Street. It's just, I guess, what has to
10 be done for the construction project so --

11 MEMBER BLAKE: Okay, thank you. One question for
12 Mr. Marshall, just to clarify, the reason that the deck has
13 to be the size it is, is because it facilitates parking
14 beneath, is that kind of what, a smaller deck, it would not?
15 Is that correct?

16 MR. ALVARENGA: I'm sorry, could you repeat one
17 more time, the question, please?

18 MEMBER BLAKE: Okay. I apologize if you can't
19 hear me. The deck size as shown is fairly large, and it had
20 a recreational element to it which suggested that there would
21 be a lot of time spent on top of the deck hanging out, which
22 would be an issue of privacy for the neighbors, which is one
23 of the main issues that has come up.

24 What from, if it's an access perspective, it seems
25 that the deck could be smaller and on one side versus both

1 sides and I would making sure that you are representing that
2 the reason of that, to maintain the parking element, was that
3 clear or is that not the case?

4 MR. ALVARENGA: It is not the case and yes, yes,
5 mm-hmm. If the deck is smaller, so then we won't have enough
6 space for walking next to the elevator, so yes, that's
7 correct.

8 MS. ROBB: So I want to clarify an issue, you
9 know, I want to make sure we all understand, this is a family
10 situation. It is not for hanging out, we just don't live
11 that kind of lifestyle. And so I'm a little bit, you know,
12 hesitant to go into additional details like barbecue or any
13 of that kind of stuff. But we are not hanging out, this is
14 for access.

15 MR. ROBB: Only for access.

16 MS. ROBB: And family enjoyment. Our concern is
17 safety. We want to make sure that there is a safety egress
18 for our family.

19 BZA CHAIR HILL: Okay. Mr. Blake, Mr. Hood, have
20 you got any more questions?

21 MEMBER BLAKE: No, thank you.

22 BZA CHAIR HILL: Ms. Mehlert, was Mr. Smith on
23 this at one point?

24 MS. MEHLERT: Yes.

25 BZA CHAIR HILL: Okay. All right. Let's see, is

1 the Office of Planning here?

2 MR. BARRON: Good afternoon Commissioners. For
3 the record, my name is Ron Barron with the DC Office of
4 Planning. I'm available to answer any questions you might
5 have.

6 BZA CHAIR HILL: Mr. Barron, I'm a little bit
7 confused, and I'll also look for my Board members to help me.
8 I mean, to me it seems like also a large deck. And I'm
9 trying to understand why, do you, the Office of Planning,
10 know kind of the architectural reasoning behind it, like why
11 they just couldn't put two, maybe I'm just, I'm not
12 understanding.

13 Like why they just couldn't put two decks on
14 either side of it and then it still has access, maybe one of
15 those sides has a spiral stair that has access to the
16 parking. Did the Office of Planning go through that exercise
17 or no?

18 MR. BARRON: We did not, no. The only thing we
19 looked at was the plans that were provided to us. We didn't,
20 I didn't discuss with the -- with the owner whether or not
21 it could be smaller, the reasons why it had to be the size
22 that it is.

23 BZA CHAIR HILL: Okay. Does anybody have any
24 questions for the Office of Planning, meaning my fellow Board
25 members. Okay. Mr., oh, I'm sorry, go ahead Mr. Blake.

1 MEMBER BLAKE: Hello, and I apologize, because I
2 know we covered it here, could you just again refresh me with
3 the relationship with the ANC and how that dialogue happens,
4 Ms. Robb?

5 MS. ROBB: Yes, I've been in contact with the ANC
6 for more than a year and we were in the meeting and discussed
7 our proposal. And we were told that there was no reason why,
8 you know, they would not have our support. And so then they
9 had a follow-up meeting to get the letters signed to come
10 over to BZA.

11 And that's when the person that was provided
12 testimony last time, objected. And so, no, I've been in
13 correspondence with them, and they just could not see any
14 reason why we would not receive a positive letter in support.
15 And that's when Jeremy --

16 MEMBER BLAKE: What was the dialogue at the
17 meeting, was it we're good to go, but there's an issue, was
18 there an issue at the meeting?

19 MS. ROBB: They said they were good to go, they
20 were going to take, go back with the big body, the large body
21 and get a letter of support for us. But when they went back
22 to the larger group, and I think it was part of that, you
23 know, what was happening with me when I was in the community
24 with that gentleman, you know.

25 So it was clear that the gentleman that testified

1 the first time and that guy were somehow deciding what they
2 wanted for this community. They do not want a change in this
3 community.

4 MEMBER BLAKE: Did you present to the larger
5 Board, the larger Committee?

6 MS. ROBB: I did not, I did not. My husband was
7 in the hospital at the time and I could not attend, so you
8 know.

9 MR. MARSHALL: May I speak?

10 MS. ROBB: Yes.

11 MR. MARSHALL: I attended that meeting as it was
12 run virtually for the ANC after it was sent to them from your
13 guys' office. And they had no opposition to it --

14 MS. ROBB: Yes.

15 MR. MARSHALL: -- whatsoever. They, if I remember
16 correctly, they're ruling was that they felt as though the
17 decision should come from you guys, but they had no
18 opposition to it.

19 BZA CHAIR HILL: Okay. Let's see. Mr. Young,
20 does anyone here wish to speak?

21 MR. YOUNG: Yes, there is.

22 BZA CHAIR HILL: Okay. If you could tell me their
23 names and put them forward, please?

24 MR. YOUNG: It is Tim Hampton and Daniel Hayes,
25 he was on earlier but I don't see him, so I asked staff to

1 reach out.

2 BZA CHAIR HILL: Okay, thank you. Mr. Hampton,
3 can you hear me?

4 MR. HAMPTON: Yes, I can.

5 BZA CHAIR HILL: Just introduce yourself again for
6 the record.

7 MR. HAMPTON: My name is Tim Hampton. I'm across
8 the alley in question at 1360 Otis Place, Northwest, owner.

9 BZA CHAIR HILL: Mr. Hampton, you will have again
10 three minutes to give your testimony and you can begin
11 whenever you like.

12 MR. HAMPTON: Okay. Thank you. I've got seven
13 points, I'll try, I'll try. I oppose this, Number 1, the
14 Applicant has not fully provided the information that the BZA
15 requested to be submitted by 4/2/24. They have not submitted
16 any letters from adjacent neighbors in support or updated
17 their discussions with adjacent neighbors. Pastor Mack is
18 not an adjacent neighbor. By the way, Pastor Mack has
19 submitted a letter opposing the project. All right.

20 Number 2, even now at this point in the process,
21 we don't know how exactly, how close the project comes to the
22 alley. This is critical to understanding it, and we don't
23 know it and no one up to this point who has considered this
24 project has known it.

25 The distance is not the distance from the edge of

1 the house because they already got a Special Exception to
2 build into the 20-foot with the existing building. So we
3 actually need to see the actual line. I will skip Number 3
4 for now, Number 4, I think the Office of Planning's decision
5 to support the project is built on incorrect foundation.

6 For example, their report says that only four foot
7 of zoning area is being requested, which is not accurate, and
8 uses from photos from buildings in a different zone to
9 justify the project. And also those photos don't have any
10 encroachment into the rear setback area.

11 So to me, they support opposing the project, not
12 approving it. And remember, the OP's report, which is
13 incorrect, is what others have seen prior in the process.
14 Number 5, there's a lot of opposition to this project. I
15 count a single letter of support within a 200-foot radius,
16 and I think 17 letters of opposition, including a letter of
17 opposition from the next door neighbor, which they kind of
18 skipped over, but he's against it, and it's in the record.

19 Number 6, the top floor of this building, it's
20 called the third floor, I would call it, from the back it
21 looks like the fourth floor. Anyway, it already exists,
22 exceeds the D.C. building code for egress in case of fire.
23 For a bedroom, which has the highest standards, you only need
24 one stairway down and one exterior window.

25 This space has one stairway down, plus four

1 exterior windows, plus two double-sided sets of exterior
2 doors that can be accessed by the fire department. And the
3 fire station is two blocks away. If they want, this already
4 has higher than needed fire safety for a bedroom, and it's
5 not even a bedroom so you're probably not going to fall
6 asleep in there, so you don't even need bedroom level safety.
7 But it's higher than safety for a bedroom.

8 So if they want to increase the safety above
9 what's already far above the needed safety, I think they
10 should do it from their own by right building envelope and
11 not have adverse community impacts.

12 Finally, there's been a pattern of incomplete and
13 inaccurate information all throughout this process. And it
14 hasn't been a good process. And I didn't know, for instance
15 that there was no, that there was a bathroom on that floor,
16 the plans that they submitted -- oh, I didn't mention, they
17 are outdated incorrect plans.

18 There is a bathroom, the windows and doors were
19 all wrong, it, the elevator shaft isn't there, it's just
20 they're not the plans that were requested. The existing
21 staircase that they say extends 13 feet from the building is
22 only one foot above the ground at that point, so it's not
23 fair to argue, oh, it's less, it goes out less far because
24 this is a structure, three-foot, three-story tall structure.

25 So anyway, because of the incomplete and

1 inaccurate information, for instance, they say, they certify
2 that there's no solar panels on the next door house. There
3 are solar panels on the next door house. They haven't talked
4 to their next door neighbor at 1359, he's against it, his
5 letter is in the record. He wanted to be here, but he
6 couldn't. There's too much opposition and so I hope the
7 Board is not going to go over and above the community well
8 on this. Thank you very much.

9 BZA CHAIR HILL: Thanks, Mr. Hampton. Okay. Does
10 the Board have any questions of Mr. Hampton, or the witness,
11 I should say?

12 ZC CHAIR HOOD: Yes, Mr. Hampton -- oh, I'm sorry.
13 Board Member Blake.

14 BZA CHAIR HILL: Go ahead, Chairman Hood?

22 Other than the ANC, I'm a little taken aback, I'm
23 not sure what the ANC really meant, they didn't take no
24 action, they voted to take no action. So maybe that's the
25 signal you were trying to send to us?

1 MR. HAMPTON: Well, the ANC is supposed to be
2 neutral, I can talk more about that if you want. But I'm
3 saying that I counted 17 letters of opposition in the record
4 and one letter of support.

5 So to me, and I think in talking with people in
6 the community, I find overwhelming opposition, so I think
7 those 17 is representative of the wider community in that
8 200-foot radius in the neighborhood.

9 I think a lot of people just don't know about it
10 and as the process is going on, there is more and more
11 opposition. So that's, and also opposition from next door
12 neighbors and there's no support from next door neighbors
13 either.

14 When you asked if they did outreach to the next
15 door neighbors, they mentioned Machias, which was their next
16 door neighbor who opposed it, who wrote a letter opposing it,
17 who actually, it's in there under two, I can find it if
18 necessary.

19 ZC CHAIR HOOD: So if I have it, I'm pretty sure
20 of their discussion. So basically what I hear you saying is
21 that it needs to be cleaned up, you need to get the correct
22 information? Is that a fair assessment? I'm not, I didn't
23 name all, but just to name a few.

24 MR. HAMPTON: I mean, I'm, I think those are
25 important points, but with community, with 17 members

1 opposed, can they come up with 17 community members
2 supporting.

3 MEMBER BLAKE: It's not a popularity contest, what
4 I'm trying to say is what I heard from you is they are not
5 giving correct information. Maybe those 17 or whoever wants
6 to be involved, has not gotten the correct information, I
7 think that may be a lot of the disconnect. Not saying
8 they're going to support it, but that may be some of the
9 disconnect, is that a fair assessment?

10 MR. HAMPTON: I don't know. Are you saying the
11 people who are opposed to it maybe would support it if they
12 had better information?

13 ZC CHAIR HOOD: I would never say that, I've been
14 in the city too long, doing this too long to say that. What
15 I'm saying is, what I heard from your comment is there's
16 inaccurate information. Let's go there first.

17 MR. HAMPTON: I agree with that.

18 ZC CHAIR HOOD: Okay, so any time you have
19 inaccurate, and I'm not sure if the information is
20 inaccurate, I think it needs to be cleaned up, so I can
21 understand and that's just where I am. I did understand some
22 of what Ms. Robb said today.

23 But what I think, again, you know what, let me
24 just see how this goes, I hear what you're saying and I
25 appreciate it, so thank you. Thank you for your time, thank

1 you Mr. Chairman.

2 BZA CHAIR HILL: Thank you, Chairman Hood. Mr.
3 Smith, you had your hand up? I'm sorry, Mr. Blake?

4 MEMBER BLAKE: Did you present to the ANC at the
5 full meeting?

6 BZA CHAIR HILL: Mr. Hampton, Mr. Blake asked if
7 you presented to the ANC at the full meeting?

8 MR. HAMPTON: No, I didn't know about and I mean,
9 you know, it's on us for not checking what's going on with
10 our ANC, but I did not present at the full meeting. Most
11 everybody in this 200-foot radius didn't know about this
12 happening at that time, they weren't at the subcommittee
13 meeting and they weren't at the full meeting, and it's kind
14 of new news recently.

15 BZA CHAIR HILL: Did you go to the full meeting,
16 Mr. Hampton?

17 MR. HAMPTON: No, I didn't even know it was, I
18 didn't know about it until neighbors came to me telling me
19 that it was happening, I don't know, maybe a few weeks ago.

20 BZA CHAIR HILL: Go ahead Mr. Blake?

21 MEMBER BLAKE: I'm just asking him did he receive
22 notice for the meeting though?

23 MR. HAMPTON: About the ANC meeting?

24 MEMBER BLAKE: Did you receive notice about the
25 action, the request from BZA?

1 MR. HAMPTON: Yes, I did. And months ago I got
2 a letter saying there was going to be a quick hearing, a
3 summary hearing, I don't know what it's called, but then I
4 later heard that that had been canceled and that there wasn't
5 going to be that. I didn't know about the, I guess, the new
6 hearing.

7 I'm not saying it wasn't communicated to me, but
8 I am not aware of it, of some knowledge about the new
9 hearing, before hearing. You know, I know something's posted
10 on the property, but it's really hard to see unless you are
11 like basically trespass up onto the --

12 BZA CHAIR HILL: Okay. Thank you. Thank you, Mr.
13 Hampton. All right. Ms. Robb, you will have an opportunity
14 to rebut anything that any of the witnesses said or anything
15 like that, but do you have any questions of the witness?

16 MS. ROBB: I do know where the witness lives and
17 I did walk down the street, Otis Place, and there were many
18 people outside, so I did not go in.

19 BZA CHAIR HILL: I'm sorry, Ms. Robb, just real
20 quick, because you'll get a chance, I said. Do you have a
21 question.

22 MS. ROBB: Okay.

23 MR. ROBB: I have a question. I have not heard
24 any valid issues, only personal attacks for the project.

25 BZA CHAIR HILL: Okay, that's not a question,

1 that's a statement.

2 MR. ROBB: It is a statement.

3 BZA CHAIR HILL: That's okay, you'll get a chance
4 to have a statement. So I'm sorry, you don't have any
5 questions.

6 MR. ROBB: No questions.

7 MS. ROBB: No questions for Mr. Hamilton (sic).

8 BZA CHAIR HILL: All right, thanks Mr. Hampton,
9 we'll keep you around just kind of continue to watch.

10 MR. HAMPTON: Okay, thank you.

11 BZA CHAIR HILL: Ms. Robb, I have a question.

12 MS. ROBB: Okay.

13 BZA CHAIR HILL: You guys, like I'm a little
14 confused, like are you all living at the property?

15 MS. ROBB: My husband and I do not live in the
16 property.

17 BZA CHAIR HILL: Okay. Because you talked about
18 like family gatherings and things like this, I don't
19 understand?

20 MR. ROBB: Not holidays.

21 MS. ROBB: Yes, well my grandson is on the
22 property at this time.

23 BZA CHAIR HILL: He lives at the property?

24 MS. ROBB: Yes.

25 BZA CHAIR HILL: And so he lives at the property

1 and is using that third floor is what you are saying?

2 MS. ROBB: Yes.

3 BZA CHAIR HILL: All right. Okay. Do you have,
4 I guess, I'm going to have still some things I would like to
5 hear from, I would like to see. But before I do all that,
6 is there any rebuttal you would like to offer on anything
7 that's been said?

8 MS. ROBB: Well, I, well, yes, I would. And what
9 my husband is said, this is some type of personal attack.
10 The only thing we have heard is that our property caught on
11 fire, seven, well, it actually was 2009.

12 And the person who made the testimony, the first
13 time we met was Daniel Hayes, and he has taken it upon
14 himself since 2009, he said seven years, the seven years, to
15 punish us because the property burned down. It is a personal
16 attack. The fire department did not find out who did it.
17 There was one person that was punished because of some
18 proximity or some other issue.

19 And so we do not understand why this has continued
20 to be a personal attack for all of these years. The neighbor
21 that wrote the letter explained to us that there is a change
22 in the climate of the community.

23 It has changed from an African American community
24 to one of, I would say Caucasian members who are now trying
25 to make sure that the community changes the way they want it

1 to change. So that is what the neighbor said. I do not have
2 any data on that. All we have tried to do is to maintain our
3 property.

4 Now, Mr. Hamilton (sic) does not live in back of
5 our property, he lives one house over. And when you look at
6 his property, there's a lot of trees and debris in his yard,
7 so he can't even have a clear vision to our property. So
8 that was some of the issues he was talking about, our
9 property coming out to the alley.

10 The property is not, the deck is not. It is
11 actually smaller, but because we have to install a spiral
12 staircase instead of a straight staircase to ensure our
13 parking. So what else did he say, honey, that you want us
14 to talk about?

15 MR. ROBB: It's the purposes, the expense.

16 MS. ROBB: Right.

17 MR. ROBB: That's the purpose.

18 MS. ROBB: Right.

19 MR. ROBB: Only for access.

20 MS. ROBB: So we want to make sure that, you know,
21 we have the appropriate access for ourselves and anyone else
22 who lives in the property.

23 MR. ROBB: In case the elevator isn't working, we
24 need access.

25 MS. ROBB: Yes.

1 BZA CHAIR HILL: This is where I get a little
2 confused when you guys are talking about that.

3 MS. ROBB: Yes.

4 BZA CHAIR HILL: If the elevator isn't working,
5 there's still a stairwell. Correct?

6 MS. ROBB: Yes.

7 BZA CHAIR HILL: There's still a, so that's if the
8 elevator isn't working, there's a stairwell, the interior
9 stairwell from the third floor to the second floor. Correct?

10 MS. ROBB: From the second floor to the third
11 floor, correct, yes. But my husband is 87 years old. We
12 have family members who cannot, you know, go up those stairs.

13 BZA CHAIR HILL: That's okay, Ms. Robb, I was just
14 trying to understand.

15 MS. ROBB: I know, so I'm trying to let, you know,
16 make everybody aware that this is a multi-generational family
17 at this point, so --

18 BZA CHAIR HILL: Okay. All right. Does anybody
19 have any questions? I mean, I'm confused. I got to admit,
20 a little bit with the Office of Planning as to what, I want
21 the Office of Planning to kind of like help me out. The
22 Office of Planning also talked about screening on the third
23 deck.

24 Can I hear from the Office of Planning for a
25 second? So, Mr. Barron, did you all get the plans that you

1 had asked for for the third floor, because I still don't
2 really understand the third floor plan. I mean, I agree
3 that, when I -- when you even first started this hearing, I
4 was confused by the third floor plan, and now I'm confused
5 even more because I don't see the elevator in the third floor
6 plan. Did the Office of Planning ever get third floor plans
7 to be able to look at what was there?

8 MR. BARRON: So the only thing we have seen is
9 what is in the record. Once we received that, I did contact
10 Mr. Allen to ask about the elevator access issue. Because
11 I did note that it wasn't on the plans. And he described
12 what the Applicant described on the record to me in the phone
13 call.

14 BZA CHAIR HILL: Okay, because what I'd like to
15 see is that there's actual plans that are reflecting of
16 what's there, and I'm looking at my fellow board members
17 also, reflecting plans that's actually there on the third
18 floor.

19 And then I guess if the Office of Planning can see
20 if there's a way that the deck can be -- I mean, to me it
21 seems like it doesn't need to be that big to accomplish what
22 the Applicant is looking for. But at the same time, I'm not
23 saying I'm opposed to this, because the lot occupancy is so
24 minimal, or de minimis, in terms of, like, what they're
25 asking for.

1 It's really just the actual, you know -- and we
2 just had a whole thing about privacy and decks on a previous
3 case that went on for an hour and a half as well. And so,
4 you know, the Office of Planning's analysis on any kind of
5 privacy issue, and I lost the Office of Planning, Mr. Barron,
6 any kind of privacy issues with that third floor.

7 MR. BARRON: So the only privacy issues that we
8 noted were, I believe they were in the initial report that
9 we submitted. And the concern was that -- there was a minor
10 concern because a few of the neighbors along the alley way
11 do appear to have recreational space in the rear yards.
12 Though the majority of the units that we saw were using the
13 rear yards primarily for vehicle storage. But there were a
14 couple that appeared to be using their yards.

15 Now obviously we didn't go into the yards to see
16 how they were being used, this is just what we could see from
17 publicly available records. So that was what that
18 recommendation was based on.

19 BZA CHAIR HILL: Okay.

20 MR. BARRON: But beyond that we didn't see any
21 additional privacy issues.

22 BZA CHAIR HILL: Okay. Mr. Blake, do you need
23 anything?

24 MEMBER BLAKE: No, Mr. Chair. I think that it
25 would be nice to have, like you say, clean docs that just

1 laid out what they said verbally today. It would be very
2 helpful just to see that.

3 And that would be -- and also the information from
4 -- the ability to accomplish the goal could be done, it seems
5 like with a small deck. But I go back to the issue with the
6 structure making sense if it is to facilitate parking and the
7 layout with the HVAC system, from what I recall. But I just
8 need to make sure that it all works together.

9 The privacy issue is resolved by a smaller deck.
10 But given the level of relief that you're talking about, that
11 may not be necessary in this case, given the fact that the
12 privacy matters could not be impaired. So I think having to
13 drawings would be helpful, yes.

14 MR. ALLEN: I'll do it real quick if that's okay.

15 BZA CHAIR HILL: Go ahead.

16 MR. ALLEN: So actually on 1354 Oak Street there
17 is a home that has a rooftop unit. So I'm sure that there's,
18 like, lights, and tables, and stuff out there. So I'm sure
19 that they do stuff during the summer time. And that actually
20 has the most view capabilities on Oak Street looking on the
21 even number sides, or odd number sides, I'm sorry.

22 So from that house, which is fairly close to Mr.
23 Haynes' house, they have the most access or view you can see.
24 And that has already been approved. It's something that's
25 there, part of an existence, and being utilized.

1 MS. ROBB: Yes, and I'd like add another point.
2 If you look at the pictures, almost every house in back, in
3 the alley, comes all the way out with a garage. It's either
4 a permanent garage, or it is one of those roll-up garages,
5 so almost every property if you look at the pictures straight
6 down the back of Otis and Oak. So our property is one of the
7 few that will not extend all the way out to the alley. So
8 the size --

9 (Simultaneous speaking.)

10 BZA CHAIR HILL: Mr. Young?

11 MS. ROBB: Excuse me.

12 BZA CHAIR HILL: Go ahead, Ms. Robb, sorry.

13 MS. ROBB: So when we talk about the size of the
14 deck, and it will actually not come out as far as the one
15 that is pre-existing, it's a little confusing how the deck
16 could be so big. It's not that large.

17 BZA CHAIR HILL: Mr. Young, can you hear me?

18 MR. YOUNG: Yes, I can.

19 BZA CHAIR HILL: Can you pull up the architectural
20 plans in Exhibit 3, please.

21 MR. YOUNG: Yes.

22 BZA CHAIR HILL: And go to Slide 4.

23 (Pause.)

24 BZA CHAIR HILL: Thanks. Mr. Marshall, can you
25 hear me? This is the deck that's being built, correct?

1 MR. MARSHALL: Yes, sir, that's the proposal.

2 BZA CHAIR HILL: Right, that's the proposal. And
3 the only thing that's missing from this is the elevator
4 shaft, in terms of the drawings on the left.

5 MR. MARSHALL: In terms of the drawings on the
6 left --

7 BZA CHAIR HILL: I don't see the outline of the
8 elevator shaft. And that's where you're saying the elevator
9 shaft probably comes out past the middle of that. Because
10 you said it was nine feet from the end of the elevator shaft
11 to the end of the stairwell, correct?

12 MR. MARSHALL: From the end of the elevator shaft
13 to the end of the stairwell is, like, nine foot nine, I
14 believe it was.

15 BZA CHAIR HILL: Right. So that's the size of the
16 deck though. I mean, anyway, those are the plans you
17 submitted, so those are the architectural drawings. That's
18 the size of the deck, correct?

19 MR. MARSHALL: Yes, sir.

20 BZA CHAIR HILL: Okay. All right, does the Board
21 have any questions before I drop this slide?

22 Mr. Blake?

23 MEMBER BLAKE: I do, I don't see the -- is that
24 the chimney, the elevator shaft there on the other side, or
25 is that the building? It is inconsistent, is that right?

1 MR. MARSHALL: The elevator shaft is shown on the
2 right-hand side, not the left.

3 (Simultaneous speaking.)

4 BZA CHAIR HILL: All right, there's no elevator
5 shaft --

6 (Simultaneous speaking.)

7 BZA CHAIR HILL: -- sorry. There's no elevator
8 shaft on the left hand side shown, correct?

9 MR. MARSHALL: It appears not to be shown.

10 BZA CHAIR HILL: Okay. Mr. Blake?

11 MEMBER BLAKE: Yes, there is a little bit missing.
12 It would be nice to get this kind of stuff just cleaned up,
13 just so we have a good depiction of what the project is. I
14 do think the one on the right shows it accurately. But it
15 gives us different information just to those measurements and
16 so forth.

17 BZA CHAIR HILL: So, Mr. Marshall, if you can
18 submit a drawing that outlines the elevator shaft on these
19 plans to the left.

20 MR. MARSHALL: Okay.

21 BZA CHAIR HILL: Okay?

22 MR. MARSHALL: Sure.

23 BZA CHAIR HILL: Can I drop this slide deck, my
24 fellow Board members?

25 Okay. Mr. Young, can you drop that?

1 So that's one thing, Mr. Marshall, okay? And the
2 other, I guess, is actual plans of the third floor, okay?

3 MR. MARSHALL: Understood.

4 BZA CHAIR HILL: And then, you know, because what
5 you gave us again, right, it doesn't have what's actually
6 there. And it doesn't have the elevator shaft, and it
7 doesn't have the Juliet, not Juliet, but the French doors,
8 okay?

9 MR. MARSHALL: Okay.

10 BZA CHAIR HILL: And then I don't know if the
11 Office of Planning -- Mr. Barron, can you hear me?

12 MR. BARRON: Yes, I can, thank you.

13 BZA CHAIR HILL: I mean, I don't know if you want
14 to look at this again. I mean, I'm completely understanding
15 and happy if the Applicant can get the program that they want
16 done. To me, like, this is a larger deck than we normally
17 approve. And that's why I'm a little bit uncomfortable. I'm
18 not saying I'm not going to vote in favor, but right now I'm
19 just a little uncomfortable.

20 Do you know if the Office of Planning would have
21 a different idea that might work for this? I guess you don't
22 do it that way, never mind.

23 I'm trying to figure out whether it's worth the
24 Applicant going back and talking to you, Mr. Barron, that's
25 what I'm trying to figure out.

1 MR. ALVARENGA: Can I speak?

2 BZA CHAIR HILL: Yes, sure. Go ahead.

3 MR. ALVARENGA: Yes. So what happen --

4 BZA CHAIR HILL: No, no, I was talking to Mr.
5 Barron.

6 MR. ALVARENGA: Okay, I'm sorry.

7 BZA CHAIR HILL: That's all right.

8 MR. BARRON: So all I was going to say is that we
9 would be happy to continue working with the Applicant between
10 now and any other meeting that you may have. We don't have
11 a specific program that we may be able to recommend, but I'm
12 happy to continue working with them.

13 BZA CHAIR HILL: Okay.

14 Go ahead, Mr. Marshall. It's not Mr. Marshall,
15 I guess. I don't know the --

16 MR. MARSHALL: I believe Mr. Alvarenga wanted to
17 speak.

18 MR. ALVARENGA: Yes, sir.

19 (Simultaneous speaking.)

20 BZA CHAIR HILL: Would you introduce yourself
21 again for the record, sir.

22 MR. ALVARENGA: Yes, I'm Ronald Alverange.

23 BZA CHAIR HILL: Okay, great. Go ahead, Mr.
24 Alvarenga.

25 MR. ALVARENGA: Okay. So when we cut the section,

1 so what we're trying to explain, there are sections to the
2 left elevation. We're trying to explain how we're going to
3 tie the deck into the existing house. So that's why you
4 don't see.

5 When we cut the section into the drawings, you
6 don't see the elevator there, okay. Because it's when we cut
7 the section. Now when we cut the section into the back, so
8 you can see the elevator there. So that's the two
9 difference.

10 BZA CHAIR HILL: Okay. It's just helpful if we
11 can see to the elevator shaft there to know how far back that
12 elevator shaft comes out.

13 MR. ALVARENGA: Yes, but we show you the drawings,
14 how many feet going from -- right now we have our deck only
15 ten feet, okay. And then the elevators go -- give me one
16 second.

17 MR. MARSHALL: Were you saying it was in the
18 drawings that we recently submitted by the April 2nd
19 deadline? Those clearly show the dimensions of the elevator
20 shaft with the position in the building and deck structure.

21 BZA CHAIR HILL: Which exhibit are you in, sir?

22 MR. MARSHALL: I believe you guys had said it was,
23 like, 45. It was the -- I might be mistaken, I'm not sure,
24 but it was the --

25 BZA CHAIR HILL: The interior plans. The interior

1 plans, I don't see an elevator.

2 MR. MARSHALL: If you look at the PDF file titled
3 measurement clarification, it has the elevator shaft
4 dimensions clearly outlined in that section.

5 BZA CHAIR HILL: Not in Exhibit 45.

6 MR. MARSHALL: I might be mistaken. I don't
7 remember exactly which number. It was part of the
8 supplemental info that you had asked for in the last hearing.

9 MS. MEHLERT: Ten, for the record.

10 BZA CHAIR HILL: Thank you.

11 Okay, all right. Mr. Blake, do you need anything
12 else?

13 MEMBER BLAKE: I get what's he's saying between
14 all the different exhibits. The only one that's inconsistent
15 is the one that shows the interior spacing connection between
16 the properties with the different floor, with the elevator
17 shaft incorporated in it. So everything else does piece
18 together. But that -- but it would be helpful just to have
19 that issue and the --

20 (Audio interference.)

21 MEMBER BLAKE: -- as it relates to this. And the
22 privacy issue, we talked about the ways that would actually
23 address that. If there is actually a privacy issue, then the
24 size of --

25 (Audio interference.)

1 MEMBER BLAKE: -- that may not be that much of an
2 issue. What is the easiest way to address it is to have a
3 smaller deck. But we should discuss it. Yes, I'd like to
4 just see the drawings just to be clear about that and so
5 forth.

6 BZA CHAIR HILL: All right, so if you could -- so
7 what we're going to do, Ms. Robb, is we've asked Mr. Marshall
8 to go ahead and submit accurate drawings for the third floor,
9 okay?

10 MS. ROBB: Okay.

11 BZA CHAIR HILL: And then was that it? I think
12 that was it, right?

13 Mr. Blake, Chairman Hood?

14 (Simultaneous speaking.)

15 MEMBER BLAKE: Ms. Robb, I have a question for
16 you.

17 MS. ROBB: What is it?

18 MEMBER BLAKE: The elevator, was that put on after
19 the plans for the actual building, or at what point did that
20 come on in? Did it need any relief for that?

21 MS. ROBB: Okay, the elevator was built the same
22 time. And what they asked us for, DCRA asked the architect
23 to do, the elevator is the bump-out. That's why you don't
24 see it. And so once you see it, and you should have the
25 elevation plans from the outside, so that should be there.

1 And you see the third floor.

2 I don't know what exhibit that is, but that's what
3 was approved by DCRA. They took great effort in coming out
4 and telling us what the regulations, codes and regulations
5 were for the elevator. And they actually would not allow us
6 to have the elevator stop on that second level. And that's
7 why we had to change that. There was some rule or something.

8 But if you look at those elevation plans, do you
9 -- Mr. Marshall, were those elevation plans where you see
10 the bump out on the third floor in the records, do they have
11 that along with the plans? I think there were three sheets,
12 right?

13 MR. MARSHALL: The document that I have does not
14 show the elevator shaft on the third floor.

15 MS. ROBB: Okay. Ronald, do you have the one
16 where the elevator is -- the elevation for the elevator?

17 MR. ALVARENGA: No. They're looking for the
18 plans. I don't have it. I don't have it --

19 MS. ROBB: Right.

20 MR. ALVARENGA: Yes. So the only plans I have is
21 where they show without elevator. If you can give me two
22 minutes, I can upload, but I don't have it.

23 MS. ROBB: Right, okay. So what -- okay, because
24 the elevator is the bump out, what do you want as far as the
25 drawings are concerned?

1 BZA CHAIR HILL: Yes. So I think Mr. Marshall
2 knows we're asking for the plans of the third floor --

3 MS. ROBB: Okay.

4 BZA CHAIR HILL: -- as they are with the elevator,
5 with the elevator access.

6 MR. MARSHALL: Okay.

7 BZA CHAIR HILL: Okay? And then I get a little
8 confused. The elevator is not accessible by the second
9 floor, is that what you're saying?

10 MS. ROBB: It's not accessible by the second
11 units, because DCRA wanted it just for one unit.

12 BZA CHAIR HILL: Okay. But there's a door there.
13 I mean, there is a door.

14 MS. ROBB: We did close the door, yes.

15 BZA CHAIR HILL: All right, but there's a door on
16 every floor.

17 MS. ROBB: There's a door on the lower level, and
18 then the third floor, and second level. There is one on the
19 -- I, okay.

20 MR. ROBB: The second level is not used.

21 MS. ROBB: Right, the second level is the one
22 that's not used.

23 MEMBER BLAKE: Ms. Robb, do you ever come to the
24 plans for the elevator?

25 MS. ROBB: We have the elevator plans.

1 MEMBER BLAKE: Well, maybe that would show how the
2 various doors open. That might suffice as well.

3 MS. ROBB: Okay.

4 BZA CHAIR HILL: Okay, great. So --

5 MS. ROBB: All right. So what you're asking for
6 are the plans with the elevator, okay, right?

7 BZA CHAIR HILL: Yes.

8 MS. ROBB: Okay. All right.

9 BZA CHAIR HILL: And the elevator plans, I guess,
10 that show where they open and close.

11 MS. ROBB: Okay.

12 BZA CHAIR HILL: I mean, basically whatever the
13 plans are that got approved --

14 MS. ROBB: Right.

15 BZA CHAIR HILL: -- that's all we need to see.
16 And you can show them for every floor. They had to have
17 gotten approved by DCRA.

18 MS. ROBB: Well, I will go down to DCRA and make
19 sure we have what plans they approved.

20 BZA CHAIR HILL: Okay.

21 MS. ROBB: Because I, you know, we do -- what you
22 have in the record are the plans that we do have showing each
23 floor. And so we will do that. And we will provide whatever
24 DCRA approved.

25 BZA CHAIR HILL: Okay. Mr. Blake, do you have

1 anything else?

2 MEMBER BLAKE: Yes, Ms. Robb, one last question.
3 When you came before the Board for your original special
4 exception, it was after -- the building had already been
5 built, the deck was in place. And you came back because you
6 discovered the measurement was slightly off. That's how that
7 happened, correct?

8 MS. ROBB: No. I don't understand what you're
9 asking about the measurement.

10 MEMBER BLAKE: This project has been before the
11 Board before, correct?

12 MS. ROBB: Yes, yes.

13 MEMBER BLAKE: Okay. And it came before the Board
14 post-construction. Is that right?

15 MS. ROBB: Post construction of the house or the
16 -- what?

17 MEMBER BLAKE: Yes.

18 MS. ROBB: Yes.

19 MEMBER BLAKE: After construction of the house?

20 MS. ROBB: Yes.

21 MEMBER BLAKE: For approval for the occupancy and
22 rear drawing, correct?

23 MS. ROBB: Okay, you have to put it to me another
24 way. Because I don't understand what you mean. The house
25 was built, and the elevator and everything was there. And

1 so what we would -- we came before the Board before because
2 of the lower deck, right, the lower deck. And it was
3 approved. Is that what you're asking us?

4 MEMBER BLAKE: That's fine, thank you.

5 MS. ROBB: Okay.

6 BZA CHAIR HILL: Okay. Sorry, Mr. Blake, you're
7 kind of breaking up in and out. Maybe at this next break if
8 you want to try to jump of and jump back on.

9 Okay. So, Mr. Marshall, we're looking for actual
10 plans of whatever the third floor actually is, right,
11 bathroom, bar, whatever, right, whatever the third floor
12 plans are, with the elevator, okay?

13 MR. MARSHALL: Okay.

14 BZA CHAIR HILL: And that's, I think, all I need.
15 And then, I think -- was there anything else from you, Mr.
16 Blake?

17 Okay. Then I guess also, if you could just -- if
18 there was something, Mr. Blake had mentioned the elevator
19 plans which show, I guess, where the elevator is in relation
20 to the other floors.

21 MR. MARSHALL: Okay.

22 BZA CHAIR HILL: Show us that, okay?

23 MR. MARSHALL: All right.

24 BZA CHAIR HILL: And then if you can get us that
25 into the record by the 24th of April --

1 MR. MARSHALL: Okay.

2 BZA CHAIR HILL: -- okay, then we can come back
3 here for a decision on the first of May. And everything's
4 happening on the first of May, it looks like.

5 MR. MARSHALL: All right. Can you repeat the
6 deadline to submit the information one time, please?

7 BZA CHAIR HILL: By April 24th.

8 MR. MARSHALL: April 24th, okay.

9 BZA CHAIR HILL: Okay?

10 MR. MARSHALL: Sure, thank you.

11 BZA CHAIR HILL: Okay. Ms. Robb, do you
12 understand?

13 MS. ROBB: Yes, I do.

14 BZA CHAIR HILL: Okay. All right, does anybody
15 need anything else?

16 MR. MARSHALL: No, sir.

17 BZA CHAIR HILL: Okay. All right, then I'm going
18 to go ahead and close the hearing in the record.

19 (Pause.)

20 Chairman Hood, is that it for you?

21 ZC CHAIR HOOD: Have a great day.

22 BZA CHAIR HILL: Okay. Got you, it's just you and
23 I, Mr. Blake.

24 And then now we have Commissioner Miller.

25 MR. SULLIVAN: Yes, after the break.

1 BZA CHAIR HILL: Okay. It's 1 o'clock. Let's go
2 ahead and have a quick lunch. Do you think we can come back
3 here in 20 minutes, 30 minutes?

4 All right. Let's come back in 30 minutes. All
5 right, thank you all. We'll see you back in 30 minutes.

6 (Whereupon, the above-entitled matter went off the
7 record at 12:56 p.m. and resumed at 1:36 p.m.)

8 BZA CHAIR HILL: Hello, everybody. Madam
9 Secretary, are you there?

10 MS. MEHLERT: I'm here.

11 BZA CHAIR HILL: Okay, if you can call our next
12 one, please?

13 MS. MEHLERT: Yes, the Board has returned from a
14 lunch recess. The next case in the hearing session is
15 Application Number 20920 of Florence Olajide. This is
16 self-certified application pursuant to Subtitle X, Section
17 901.2 for a special exception under Subtitle U, Section 421,
18 to allow new residential development.

19 This project is located in RA-1 zone at 1326 Fort
20 Stevens Drive NW, PAR 0870/0570. The Board last heard this
21 case on March 13th, at which the Board requested additional
22 information and scheduled a continued hearing. Participating
23 are Chairman Hill, Ms. John, Mr. Smith, Mr. Blake, and
24 Commissioner Miller.

25 There is also a request for party status in

1 opposition filed by Charlene Evans which also includes a
2 request to accept an untimely filing.

3 BZA CHAIR HILL: Okay, great. If the Applicant
4 can hear me, if they could please introduce themselves for
5 the record?

6 MR. BELLO: Mr. Chairman, Board members, Toye
7 Bello, representing the Applicant.

8 BZA CHAIR HILL: Okay, great. Thank you, Mr.
9 Bello.

10 And, oh, there we go, Ms. Evans?

11 MS. EVANS: Yes.

12 BZA CHAIR HILL: Could you give us your address,
13 please?

14 MS. EVANS: 1328 Fort Stevens Drive.

15 BZA CHAIR HILL: Okay. Are you represented by
16 someone, Ms. Evans?

17 MS. EVANS: Yes, I am.

18 BZA CHAIR HILL: Okay. Could your representative
19 please speak up?

20 MR. BLANCHARD: Good afternoon, Chairman Hill, and
21 members of the Board, and Commissioner Miller. My name is
22 Lyle Blanchard, Greenstein DeLorme and Luchs. I'm
23 representing Ms. Evans.

24 BZA CHAIR HILL: All right, Mr. Blanchard. Mr.
25 Blanchard, you guys, I mean, either of you heard, well, you

1 had --

2 MR. BLANCHARD: I did.

3 BZA CHAIR HILL: -- requested for party status.
4 And unfortunately we've already had a hearing. And so you
5 guys are extremely late for your party status. And so I
6 would not be able to be in favor of your party status because
7 of the untimely nature.

8 However, you will have an opportunity to testify
9 during the public hearing portion of the hearing. And so
10 unless my fellow Board members have anything else to add, and
11 if so please raise your hand, I'm unfortunately going to have
12 to dismiss this as untimely. Because we've already had a
13 hearing. And so therefore it would prejudice the parties,
14 I'm sorry, the Applicant.

15 (Simultaneous speaking.)

16 MR. BLANCHARD: And so, Mr. Hill, I mean
17 Chairperson Hill?

18 BZA CHAIR HILL: Sure, go ahead.

19 MR. BLANCHARD: I understand that. But I'd just
20 like to say my client, you know, did not have notice of the
21 original hearing, and it was postponed two times, which he
22 testified. At the March 13th hearing, she said on the record
23 that she hadn't had notice.

24 So I understand the dismissal of the party status
25 request, but I'd ask that the untimely filings of the

1 statement that was submitted, which is Exhibits 44 and 44A,
2 and the supplemental documents that were filed yesterday,
3 Exhibit 46, be allowed into the record.

4 BZA CHAIR HILL: Okay. Mr. Blanchard, I'll go
5 ahead and allow those into the record.

6 MR. BLANCHARD: Thank you.

7 BZA CHAIR HILL: I will, however, Mr. Blanchard,
8 I would like to get on the record by saying I'm not agreeing
9 or disagreeing with the assertion about notice.

10 MR. BLANCHARD: Understood.

11 BZA CHAIR HILL: You know, that's something that
12 -- well, no, I'm just saying you're saying that you're giving
13 an argument that your client didn't have notice of this. And
14 so I'm not ruling one way or the other on that. I just want
15 to put that on the record.

16 MR. BLANCHARD: Thank you.

17 BZA CHAIR HILL: Because we didn't go into that
18 discussion.

19 All right. So Ms. Evans, we'll see you during the
20 public testimony portion, okay?

21 Okay. Mr. Young, if you could excuse the party
22 status in opposition.

23 Okay, Mr. Bello, can you hear me?

24 MR. BELLO: Yes, Mr. Chairman.

25 BZA CHAIR HILL: Could you please tell us what

1 happened since the last time you were here?

2 MR. BELLO: Yes. So the Board gave an itemized
3 list of five issues to address. Those five issues are on
4 Exhibit 37. So we did meet with the neighbors over again,
5 and also presented one more time with the ANC.

6 But that hasn't changed the position of the ANC
7 or the neighbors. So what I'd like to do is have the
8 architect walk through those revisions that address those
9 five itemized issues.

10 BZA CHAIR HILL: Okay, great. Go ahead. If your
11 architect could please introduce himself for the record.

12 MR. ALI: Good afternoon, Ramy Ali with RAM Design
13 Architects.

14 BZA CHAIR HILL: Okay, Mr. Ali. I'm trying to
15 look up your case file here. If you want to go ahead and
16 walk us through your testimony.

17 MR. ALI: Yes. So the revised architectural set
18 is Exhibit Number 38. That also will summarize the changes
19 that were made point by point. And there's also Exhibit
20 Number 37. It's the summary of the revisions. And I can
21 just go through them point by point.

22 BZA CHAIR HILL: Is it 37A or 37?

23 MR. ALI: Thirty-seven.

24 BZA CHAIR HILL: Okay. Do you want us to pull up
25 the drawings?

1 MR. ALI: Sure --

2 (Simultaneous speaking.)

3 BZA CHAIR HILL: I just want to go through the --
4 whatever you think would be most helpful to the Board, Mr.
5 Ali.

6 (Simultaneous speaking.)

7 MR. BELLO: I think we want to start with Exhibit
8 38. And then the Exhibit 37A is only the site line
9 illustration for 1324 Fort Stevens. That's because the
10 owner, also in our last meeting, indicated that they believed
11 that her privacy was being impacted. So those would be the
12 two documents, Exhibits 38 and 37A.

13 BZA CHAIR HILL: Okay, Mr. Young, if you want to
14 pull up 38.

15 (Pause.)

16 MR. ALI: Yes. So the cover -- I hear an echo.
17 I don't know if everyone has it, but --

18 BZA CHAIR HILL: If everyone could mute unless
19 you're speaking.

20 Go ahead, Mr. Ali.

21 MR. ALI: Yes. So the cover page, basically the
22 main change is the actual rendering has been updated to
23 reflect the red brick and the vinyl siding throughout the
24 whole exterior facade. Also it will reflect the window
25 sizes. It eliminated the full height, floor to ceiling

1 windows, to six-foot high casement windows.

2 The unit matrix on the right-hand side, there were
3 no changes. But I think a few questions came up to confirm
4 the unit numbers, it's 1204 units, and the unit types, three
5 bedrooms and two bedroom units.

6 Next page, please. These are only the area views.
7 There were no changes to that.

8 Next please. Existing site plans, there was no
9 change to that.

10 Next please? The floor plans, they were flipped
11 completely from the east side to the west side, so we can
12 eliminate all the windows facing the single family house on
13 the east side. So this layout changes, flipping all the
14 layouts.

15 And you see also the window wells in the center
16 level were also flipped to the adjoined side.

17 Next, please. Same thing, flipping the floor
18 plans on the second and third floor.

19 Next, please. The second was also revised by
20 flipping the rooftop decks as well to the one side. And we
21 also included a fence along the rear deck as a new constraint
22 that was brought up on our last meeting with the neighbors.
23 And we also provided the GR showing compliance with the GR
24 as well.

25 Next, please. These are the revised elevations

1 to reflect the exterior finish updates and the new window
2 sizes on the side facade and the front facade.

3 Next, please. Also the site elevation is the
4 updated facade facing the single family house reflecting no
5 windows whatsoever on that particular face to comply with the
6 privacy concern that they had.

7 Next, please. Building section, there were no
8 particular changes on that particular drawing, other than
9 the roof deck has been shifted further back in response to
10 the neighbor to the front, a privacy concern as well. So we
11 have set back these roof decks from both sides in response
12 to the privacy for both neighbors.

13 Next, please. The site view by the staff were
14 requested on our last meeting. This is an exhibit showing
15 a person on the rooftop deck, set back from the parapet for
16 the new layouts, and the site lines showing that it's not
17 possible to view into the side yards or any of the window
18 openings on that facade. The lower site line basically hits
19 the ridge of that single family house. So it's not possible
20 for them to see at any point below that site line.

21
22 Next, please. And that's also a site line in
23 response to the recent concern about the neighbor in the
24 front. We also have provided that A07A section to respond
25 to that privacy concern showing that the lower site line

1 will also miss overlooking into any window openings or the
2 yards. It just hits the roof of that building.

3 Next, please. A08 was updated to highlight the
4 easement that we were confused about on our last hearing.
5 If you look at the lower right photo, aerial view, I'm sorry,
6 we highlighted the easement in light green from the back of
7 our site all the way to the rear street. I don't know if we
8 can zoom in so as to be able to give --

9 BZA CHAIR HILL: That's okay, we can see them, Mr.
10 Ali, I think. That easement then, so there's no parked cars
11 on that easement, correct?

12 MR. ALI: No.

13 BZA CHAIR HILL: Right? Your parking would be in
14 front of that easement?

15 MR. ALI: Will be parking on our lot, yes.

16 BZA CHAIR HILL: Okay.

17 MR. ALI: Access through that easement.

18 BZA CHAIR HILL: Okay.

19 MR. ALI: And as you see how it turns 90 degrees
20 towards the end, that would be the access to the next-door
21 neighbor. This is the only change on that exhibit.

22 Next, please?

23 The building plat was, of course, updated to
24 capture the changes such as the rooftop deck, the window
25 wells, and the rear deck fence. And that's basically all the

1 changes.

2 BZA CHAIR HILL: Okay, thank you. All right, does
3 the Board have any questions of the Applicant?

4 MEMBER BLAKE: I have one question for the
5 applicant. In looking at the easement, is there anything
6 that would be at all in the actual easement that would
7 potentially interfere with the access of the neighbor to the
8 neighboring property with their vehicle?

9 MR. BELLO: Not at all, Board Member. The
10 easement, by its very nature cannot be impeded by any party
11 to it, not even the owners of the property. So the easement
12 language is very clear that it has to be unimpeded at all
13 times, granting access to those who are party to the
14 easement.

15 MEMBER BLAKE: Mr. Bello is that easement, it is
16 in the record, correct?

17 MR. BELLO: That's correct, sir.

18 MEMBER BLAKE: Thank you. What exhibit is that?

19 MR. BELLO: Let me check it.

20 MEMBER BLAKE: Twenty-nine, is that right? It's
21 29, correct?

22 MR. BELLO: That's correct, sir.

23 MEMBER BLAKE: Okay, thank you.

24 BZA CHAIR HILL: Vice Chair Miller?

25 MR. SULLIVAN: Thank you, Mr. Chairman. Well, I

1 just wanted to thank the Applicant for providing the
2 information that's been provided, particularly the changes
3 to the plan, the removal of the windows from the west facade
4 to try to address privacy concerns as well as the
5 reorientation of the roof deck away from that side and the
6 different facade material to make it more compatible with the
7 brick in the neighborhood.

8 I may have some questions, I will have some
9 questions probably for the Applicant after the opposition
10 neighbor testifies. But I think I don't have any questions
11 at this time, Mr. Chairman.

12 BZA CHAIR HILL: Thank you, Vice Chair Miller.
13 Okay, could I hear from the Office of Planning again, real
14 quick?

15 MS. THOMAS: Yes, Mr. Chair. Good afternoon, this
16 is Karen Thomas for the Office of Planning. We remain in
17 support of the Applicant's submission including the revised
18 plans of Exhibit 38 which changed the facade treatment. And
19 we believe this better reflects the character of the
20 surrounding four-story brick apartments and without changing
21 the boat and yard requirements in the plans.

22 We also are happy with addressing the
23 neighborhood's concerns with respect to the site lines and
24 views into their property by removal of the windows and
25 focusing it on to the other side which is focused more into

1 a driveway.

2 So I take that the Applicant has demonstrated some
3 of the concerns expressed by the neighbors and would sign on
4 in support on the record of a supplemental. Thank you.

5 BZA CHAIR HILL: Thank you, Ms. Thomas. Does
6 anybody have any questions for the Office of Planning?

7 Okay, Mr. Young, can you please let in those who
8 wish to testify?

9 MR. YOUNG: Yes, I also just wanted to note that
10 the ANC Commissioner is on as well.

11 BZA CHAIR HILL: Oh, great. Commissioner, can you
12 hear me?

13 MS. NELSON: Yes, I can.

14 BZA CHAIR HILL: Could you introduce yourself for
15 the record?

16 MS. NELSON: Hi, good afternoon, everyone. This
17 is Candace Tiana Nelson. I serve as the ANC Commissioner for
18 Single Member District 4A06, which is where this parcel is
19 located, as well as I am the Chair of Advisory Neighborhood
20 Commission 4A.

21 BZA CHAIR HILL: Okay, Commissioner. Would you
22 like to give us your testimony on the updated plans.

23 MS. NELSON: Sure. First of all, I would just
24 like to thank the community as well as Mr. Bello, who is the
25 agent of the owners, Mr. Olawane and Ms. Florence. Olajide.

1 I think that everyone tried to work together as best as
2 possible to come to a conclusion, and I believe that each
3 side has worked diligently to do so.

4 Unfortunately, the community and the Commission
5 supporting the community still oppose the project. Even given
6 the strides that they have made in removing of windows and,
7 you know, placing bricks, and so forth.

8

9 The rooftop is still an issue for the community
10 as it pertains to privacy. I think it needs to be made clear
11 that Judith Anderson is the owner of the building that is
12 directly in front of the property. She is an occupant as
13 well as an owner. So I believe that's called owner-occupant.

14 And so I don't think a lot of her opinions we're
15 taken in. You know, luckily Ms. Evans has been able to be
16 heard and has gotten an attorney to represent her. But I
17 would like to ensure that the same type of consideration is
18 given to Ms. Anderson as well, since she is a property owner
19 also. And the rooftop does appear to be going into -- you
20 can view Ms. Anderson's building, and especially into the
21 unit where she herself resides. And then Ms. Evans, I'm
22 sure, can speak, you know, to all of her concerns.

23 Collectively, the community has come together in
24 opposition, and the ANC has supported it, as well as Council
25 Member Louis George's office. If they haven't submitted

1 their letter already, I know that they have a letter to
2 submit that is in opposition. And I think that's all that
3 I have to say at this time.

4 If anybody has questions for me, that's fine. I'd
5 like to stay on in case I have questions myself later. But
6 thank you for your time and your service.

7 BZA CHAIR HILL: Thanks Commissioner Nelson.
8 That's so kind of you to say. Thank you for your service as
9 well, my goodness.

10 MS. NELSON: Yes, yes. This has been a long day
11 for you.

12 BZA CHAIR HILL: Okay. Well, I mean, it is what
13 it is. But it's going to go way longer than this. Let's
14 see, oh, okay --

15 Mr. Chair, a quick question for the Commissioner.

16 BZA CHAIR HILL: Sure, go ahead, Mr. Blake.

17 MEMBER BLAKE: Yes, Commissioner, could you tell
18 me, you said that they work together. But we haven't been
19 able to come together. And the main issues that would be
20 stopping it at this point are -- is this the rooftop?

21 MS. NELSON: Well, that is a, that is a main
22 concern. You will also hear concerns about the easement as
23 well, which I think you heard a little bit of that, and just,
24 you know, the security and the safety of folks getting in and
25 out of the building. You know, some folks in the community,

1 they're just not convinced that people will be interested in
2 living there.

3 Anyway, because of the parking issues, because of
4 the entrance of -- clearly how they have it designed now,
5 folks, how they would be going in and out of the building,
6 it just doesn't seem, safe, secure, convenient, all of the
7 above.

8 MEMBER BLAKE: Okay, but the issues for the
9 community are primarily the privacy issues that come from the
10 rooftop deck at this point. I just want to make sure. And
11 there are some safety issues with -- it sounded like those
12 issues were more or less, or the new property owner, and that
13 would be reflected in the value of the property, I would
14 think, and the demand for product. So that wouldn't be --
15 the security for the residents, is that an area of concern
16 as well or -- and you mentioned the easement. Explain why
17 the easement's a problem?

18 MS. NELSON: And also the windows that are on the
19 second and third floor. Those are the ones that I was
20 talking about that will go into and directly kind of impact
21 the privacy of the building in front which is owned by Ms.
22 Judith Anderson. And I think she's, you know, on deck to
23 testify.

24 But those windows are also an issue. So you've
25 got the rooftop, the windows on the second and third floor,

1 you've got the access issues. And then you've already heard,
2 you know, just basically the property line and easement
3 discrepancies, I will say. I think that that's for the
4 experts to lay out. So maybe you guys can weigh it on that
5 or know the appropriate people to do so. But that is all of
6 the feedback that I have received.

7 MEMBER BLAKE: Good, thank you very much.

8 MS. NELSON: You're welcome.

9 BZA CHAIR HILL: Okay. All right, Mr. Young, who
10 did you say I had again, a Ms. Anderson?

11 MR. YOUNG: No. I have Ms. Evans and Mr.
12 Blanchard.

13 BZA CHAIR HILL: Okay, great. Okay, let me think
14 how to do this. Mr. Blanchard, are you speaking on behalf
15 of Ms. Evans?

16 MR. BLANCHARD: Chairperson Hill, I'd like Ms.
17 Evans to present testimony. And a majority of -- so how does
18 the Board want to handle my representation and her testimony?
19 I can speak very briefly at the beginning and make a closing
20 remark or just --

21 BZA CHAIR HILL: That's fine, just to make this
22 as efficient as possible for the Board --

23 MR. BLANCHARD: Right.

24 BZA CHAIR HILL: -- you can go ahead and set up
25 the testimony. Ms. Evans can give her testimony, and then

1 I guess you can summarize the testimony, and then if we have
2 any questions.

3 MR. BLANCHARD: Terrific.

4 BZA CHAIR HILL: So, Ms. Evans, can you hear me?
5 Ms. Evans?

6 MS. EVANS: I apologize.

7 BZA CHAIR HILL: That's all right. Could you
8 introduce yourself for the record, please?

9 MS. EVANS: My name is Charlene Evans. I live at
10 1328 Fort Stevens Drive NW, Washington, D.C.

11 BZA CHAIR HILL: Got it. Mr. Blanchard, can you
12 introduce yourself for the record?

13 MR. BLANCHARD: Yes. Good afternoon, my name is
14 Lyle Blanchard. I'm an attorney with Greenstein DeLorme and
15 Luchs. I'm representing Ms. Evans. And if you'd like I can
16 just briefly summarize and then turn it over to her.

17 BZA CHAIR HILL: That'd be wonderful. Thank you,
18 Mr. Blanchard.

19 MR. BLANCHARD: Okay, thank you. So we are aware
20 of the additional filings by the Applicant, Exhibits 37, 37A,
21 38, and 45, which was the revised landscape plan. There are
22 a couple of points that Ms. Evans still has concerns about.
23 Those include privacy from the roof deck, rodent control,
24 which is actually back to Exhibit 31, might be insufficient,
25 especially during construction, the paving, the parking and

1 driveway easement, just want to make sure that's unimpeded
2 access to her. There also is no drive aisle for the parking
3 spaces. I don't know if that's required in this context or
4 not.

5 The concrete sidewalk easement area us actually
6 Parcel 88, Lot 240, that's owned by Ms. Evans. And there is
7 a small issue with that regarding sewer line access to her
8 property, and then safety concerns because of criminal
9 activity in the past, Ms. Evans would like locking gates
10 front and rear, and then finally a construction management
11 plan would be helpful so that there's onsite monitoring and
12 relationship.

13 And I'll turn it over to Ms. Evans.

14 MS. NELSON: I'm just going to read off my
15 comments.

16 Despite the application of moving the windows from
17 the building, Exhibit 38, I still have concerns regarding
18 security, I mean, privacy as well as security.

19 The picture is just a facade. All a person has
20 to do is walk to the end and they can see into my home or see
21 into my property, period. I have built my property so that
22 most of my activities are outside. With that being said, the
23 rodent control, he has rodent control once a month where I
24 had to spend quite a bit of money to prevent rodent control.

25 Parking, there is an issue with parking. And it's

1 in an Exhibit, which was not given, were parking was an issue
2 here. And it's in Exhibit 46 towards the end. It's a
3 parking spot that's there that the residents own and park
4 there. And that wasn't addressed. So if you look at the
5 picture, you could see that it's not enough room.

6 The cement walkway, he wants to break it up as
7 well as extend the property line or property to approximately
8 3 feet from the fence of Ms. Johnson, which she'll speak to.

9 There's a security concern, given that I am part
10 of the military as well as a disabled Vet, I have issues with
11 the top of the roof, because that's a perfect example of
12 where anybody, if they're doing any type of illegal activity,
13 all they have to do is go up on a roof. And you could see
14 all the way around. So that hasn't been addressed in terms
15 of security.

16 And of course construction management, where are
17 all the construction materials going to be left at? You
18 cannot get in with the construction trucks if you look at my
19 picture that shows a car parked there, trash in the area,
20 there's several trash bins, now we're going to add another
21 trash bin which will also have rodent activity.

22 I have spent a lot of money trying to prevent
23 rodents coming onto my property. Also the display of my
24 property makes it look like it's a destitute. If you look at
25 some of the pictures, it is not a destitute. It is quite an

1 interesting home that I built myself.

2 And as a disabled vet, I thought I had a little
3 peace, but now I have to fight for my peace. So I really
4 have an issue for a lot of the things that are being said.
5 I apologize if I ran over.

6 BZA CHAIR HILL: You're okay, Ms. Evans. Go
7 ahead, Mr. Blanchard.

8 MR. BLANCHARD: Yes, so just a couple of minor
9 points. There in Exhibit -- we did file the -- Ms. Evans has
10 a driveway easement as well. And I just wanted to make the
11 Board aware of that. That is Exhibit E to the statement that
12 we filed as Exhibit 44A. It has a copy of that easement from
13 1979. And I don't know if Mr. Young can raise that up or
14 not. But it's, as Mr. Bello testified, the driveway easement
15 areas overlap. So that's fine just as long as she is assured
16 of unimpeded access to her property.

17 And then on the - Mr. Ali talked about, I think
18 it was his Exhibit 38, Plan AO7 with the site lines. It
19 would be helpful, I think, to address my client's concerns
20 about privacy. The roof decks appear to be set back from
21 here property, but if some kind of screening panel, like the
22 one that they added on the rear deck, could be added to the
23 top of that set back so that it prevents somebody from really
24 looking over both front and rear, I'm sorry, to the north and
25 to the west to Ms. Evan's property.

1 BZA CHAIR HILL: Okay. Thank you, Mr. Blanchard.

2 MR. BLANCHARD: Thank you.

3 BZA CHAIR HILL: All right, let me hear from the
4 other witness first now. Ms. Anderson, can you hear me? If
5 you could go ahead and give a, sorry, introduce yourself for
6 the record first.

7 MS. ANDERSON: My name is Judith Anderson, and I
8 am the owner occupant of 1324 Fort Stevens Drive NW.

9 BZA CHAIR HILL: Okay. Ms. Anderson, did you want
10 to go ahead and give us your testimony? And you'll have
11 three minutes, and you can begin whenever you like.

12 MS. ANDERSON: Okay. My issues are that according
13 to the roof plans that they submitted, which was A03 on the
14 site study, that they show the project is located three feet
15 within the property line of the rear fence.

16 What they fail to recognize is while they talked
17 about the roof deck, but from the second, the third, and the
18 floors you can look out the window. And you can look right
19 over across.

20 So you can look, A, down into the yard, the actual
21 grass yard. You can look up into the side yard. You can
22 look onto the porches, both floors. And you can look into
23 the bedroom windows.

24 Somewhere, Mr. Blanchard might be able to tell you
25 where, because I don't, can't pull up and talk to you at the

1 same time, where the exhibits are. But I actually had
2 someone go and put in the dimensions of the building and
3 draw, so that you're able to see the back of the building,
4 to see where the windows are, to see where the porches are
5 and you can look down.

6 There's another in the last filing I guess that
7 they put together. There's a thing that shows the property
8 line. And it's an arcing property line, where my property
9 line, Ms. Evans', and the other, the applicant's property
10 lines all come together.

11 Where they're proposing to put their walkway and
12 their, the entrance to their home leaves two feet between my
13 fence and their front walkway. So that every time someone
14 goes past to go in they'll be basically almost right up on
15 my fence.

16 So I don't know where they think that they,
17 there's no visible anything. Because you can stand on,
18 you'll be able to stand on the walkway and look in. There's
19 no other way to get around that.

20 My other issues are, I guess I should preface this
21 by saying that I am a retired Metropolitan Police lieutenant.
22 I policed in high crime areas. I could write a crime frame
23 in my sleep.

24 I can tell you this. There are a number of things
25 that they need to do. They need to secure their property.

1 Because they're going, the walkway is long. The issues we've
2 had with the walkway are that people come, they smoke
3 marijuana, they drink, and do whatever, and hang out on
4 there, on that walkway.

5 They need to have locking sensors or gates so that
6 people can't, because otherwise it's going to be a robbery
7 issue for the applicants, whoever lives in that building, A.
8 But more importantly, they also need to secure their site.

9 Because there are no neighbors, there's nobody
10 really right on that site, someone could drive right up there
11 and take all the stuff. So they need to secure their
12 property.

13 They also, and then finally, I'd like to see some
14 screening. Because while I'm not necessarily opposed to
15 development, I don't really want to see them. I would like
16 to be able to use my yard. I put up a fence, and did
17 whatever, and had landscape plans so that I could use my
18 yard. I'm not going to be able to use my yard, nor open my
19 windows the way everything is currently planned.

20 BZA CHAIR HILL: Okay. Thank you, Ms. Anderson.
21 Does the Board have any questions for the witnesses? Does
22 the applicant have any questions for the witnesses?

23 MR. BELLO: Yes, Mr. Chairman.

24 BZA CHAIR HILL: What question do you have, Mr.
25 Bello?

1 MR. BELLO: I wanted to refer to the applicant's
2 submission in Exhibit 44A.

3 BZA CHAIR HILL: Is this a question, Mr. Bello?
4 Or is this rebuttal?

5 MR. BELLO: It's a question.

6 BZA CHAIR HILL: Okay, 44A.

7 MR. BELLO: I believe it's Page 27. In Item
8 number 3, Ms. Evans, have you read that article of easement?
9 Let me just cut to the chase and read that article. The
10 article says, the easement shall benefit the grantees set
11 forth above and their respective invitees, licensees or
12 visitors.

13 The grantors agree that neither shall erect
14 barriers which would in any way restrict vehicular and/or
15 pedestrian flow.

16 BZA CHAIR HILL: What are you asking, Mr. Bello?

17 MR. BELLO: I'm asking if Ms. Anderson, Evans is
18 aware of that article.

19 MS. EVANS: Yes. I'm very aware of it. Are you
20 aware of it as well? Because if you look at the picture, I
21 have a picture in here that shows exactly what you're talking
22 about, where it will interrupt, that you can't park there.

23 Plus, you don't even have a way to get out. You
24 have three parking spots in the rear. How is the third
25 person, the first person that enters that particular property

1 going to get out? You've got three parking spaces.

2 So you're, and also, that parking slab, I took
3 some pictures where it shows that, how are you going to get
4 anybody in there, and how are they going to get out? Because
5 there is parking there for the tenants that own 1323. And
6 you fail to acknowledge that.

7 BZA CHAIR HILL: Okay. All right, Mr. Bello, any
8 other questions?

9 MR. BELLO: For Ms. Anderson. Ms. Anderson, of
10 the, the rear of your property that shows some screen
11 porches, do you have an idea of the distance separating the
12 front of the proposed building and the rear of those screen
13 porches?

14 MS. ANDERSON: Sixteen feet, something like that.

15 MR. BELLO: Okay. Well, I don't want to rebut.
16 But it's much greater than that. That's all the questions
17 --

18 MS. ANDERSON: I mean, you are right up on the
19 property. You're right on, your sidewalk comes right up on
20 the property line. I mean, you don't have to be Stevie
21 Wonder.

22 Because I went out there and, we went outside and
23 stood. And you can in fact, my daughter waved from the
24 bedroom window. You can see it clearly, which means that we
25 never can open or leave the light on, or do any of those

1 things.

2 You basically have to put up a blind or you have
3 to put up screens on the, additional screens on the porch.
4 Because you won't, I mean, you won't be able to just go out
5 there. Because anybody that's out there or walking past will
6 be able to like clearly see in there.

7 BZA CHAIR HILL: Okay. Let me see. Mr. Miller,
8 I thought, did you have a question?

9 MEMBER MILLER: Did you call my name?

10 BZA CHAIR HILL: Yes.

11 MEMBER MILLER: Okay. Thank you, Mr. Chairman.
12 Yes, I had a couple of questions for Mr. Bello, based on the
13 opposition neighbors' submission at Exhibit 44A, the updated
14 statement of the opposition, Ms. Evans. Did, you're aware
15 of that submission, Mr. Bello?

16 MR. BELLO: Yes, I am, sir.

17 MEMBER MILLER: So I just wanted to ask for your
18 comments on the conditions if the Board were to approve this
19 application, that the opponent is asking for to address
20 concerns about privacy, on the one hand, the easement
21 secondly, and the construction related concerns.

22 So on the easement, I mean, on the privacy issue,
23 Ms. Evans, I'll just read. And then you can just tell me
24 what your response is, if you don't mind, Mr. Chairman. To
25 protect her privacy Ms. Evans' request is a condition, I'm

1 reading from Page 2 of Exhibit 44A, statement by Ms. Evans.

2 Ms. Evans requests as a condition of any approval
3 that the Board include in the Board's order a condition that
4 requires the applicant to revise the landscaping and building
5 plans to include fencing and a landscape buffer of evergreen
6 trees or tall evergreen, which is screening of at least six
7 feet in height along the property lines to the north and
8 west, but set back at least three feet to not disturb the
9 existing fence to the west.

10 Also that the applicant is required to maintain
11 the trees and bushes, and replace within one month any tree
12 or bush that dies or becomes diseased. Fencing and screening
13 of the same six feet height will be included along with the
14 landscape buffer on any roof deck or rear deck, or patio, to
15 likewise protect the privacy of the neighbors and mitigate
16 noise from the occupants of the proposed apartment building.

17 Further that the condition include, the applicant
18 include locking gates and rear, locking gates at the front
19 and rear to prevent unauthorized, uninvited persons from
20 entering the property, citing security concerns thereafter.

21 So on that, on those privacy and security
22 landscaping, screening, and security provisions of a
23 condition, can you provide me whether the applicant would be
24 opposed to including such a condition, or what your comments
25 are on it?

1 MR. BELLO: The applicant is not necessarily
2 opposed. I think the only thing missing out of those
3 requests are the landscape evergreens that the applicant
4 asked. The architect has actually included a six foot screen
5 on the rear deck.

6 There is proposed already a fence along the
7 property line of the applicant. And also, Ms. Evans has a
8 fence on her side. So there are two fences already there.
9 Other than that the only thing missing is the landscape
10 shrubbery. The applicant is not opposed to that.

11 MEMBER MILLER: Okay. Well, I thank you for that.
12 Where is, your landscaping plan is shown at what exhibit?

13 MR. BELLO: That would be Exhibit 38.

14 MEMBER MILLER: Exhibit 38. Okay. So you, maybe
15 with a reference to Exhibit 38, you would not, correct me if
16 I'm wrong. You're saying you would not necessarily oppose
17 the conditions that Ms. Evans has proposed on landscaping,
18 screening, and locking of the gates?

19 MR. BELLO: The rear property line already has an
20 overhead garage. So that rear is not accessible. It is
21 secure for vehicular entrances through the easement. There
22 is a fence at this point. I believe that fence on the
23 property line shared with Ms. Evans, who also has constructed
24 a fence on her own side.

25 I'm not sure what the necessity for setting back

1 three feet into the property line is. But a fence is
2 proposed right next to her fence as well.

3 MEMBER MILLER: Okay. So let me ask you about a
4 second issue, on the easement. On, reading from her
5 statement Ms. Evans has, on Page 2 again. Ms. Evans has
6 serious concerns about being able to access her parking area
7 both during and after construction.

8 Therefore, she requests as a condition of any
9 approval that the Board include in the Board's order a
10 condition that requires the applicant not to impede access
11 to her property by blocking her easement area at any time.
12 Do you have any comments on that condition that's being
13 suggested by Ms. Evans?

14 MR. BELLO: Well, we're not. To me it's an
15 exercise in redundancy. Because that factor is already
16 inherent in the easement. But it's not a deal killer for the
17 applicant. That's fine. No problem.

18 MEMBER MILLER: Okay. Well, I appreciate that.
19 Sometimes people like to see redundant practices, or plans
20 repeated and/or emphasized. So let me ask you about the
21 third issue, which is the construction related concerns.

22 We don't, the Board nor the Zoning Commission
23 includes construction management agreements as part of zoning
24 approval orders. It's not something that's enforceable by
25 Zoning. It's enforceable by another, construction related

1 concerns are enforceable by another agency of the Government
2 that don't relate to zoning.

3 But she, have you made any progress on working on,
4 I think we had asked that you try to continue a dialogue with
5 your neighbors if this were to proceed, to try to reach an
6 agreement, even though we wouldn't include it in the order.

7 Sometimes we do note that if an agreement or a
8 draft agreement even has been submitted to us in the record,
9 we sometimes just note it in the order that it's been
10 submitted. But just as a finding, but not as a condition of
11 the order, or any part of the order.

12 Have you made any progress on, since the last
13 hearing on working out any of these construction related
14 issues with your neighbors?

15 MR. BELLO: Well, since the last hearing we did
16 meet with the neighbors, arranged by the ANC, and had broad
17 discussions about their concerns. Construction management
18 agreement was not mentioned. So the issue of construction
19 management arrangement was just mentioned in the submissions
20 of Ms. Evans.

21 We also went back to the ANC. So I think that the
22 applicant has demonstrated that they're willing to continue
23 to engage the neighbors and will continue to do so, even with
24 respect to coming to terms with how that construction
25 activity unfolds.

1 MEMBER MILLER: Okay. Well, I would encourage you
2 to continue those discussions and dialogue. And if you're
3 able to work out something between, amongst the neighbors
4 ahead of time, if this were to proceed, I think that would
5 be in line with what we generally call the good neighbor
6 policy here at the zoning, in our zoning world.

7 Okay. Thank you very much for your efforts thus
8 far. And thank you, Mr. Chairman. That's all I have at this
9 time.

10 MR. BELLO: Thank you.

11 BZA CHAIR HILL: Thank you, Mr. Miller. Who's
12 speaking? Oh, Ms. Evans?

13 MS. EVANS: This is Charlene, yes.

14 BZA CHAIR HILL: Go ahead, Ms. Evans.

15 MS. EVANS: If you go to Exhibit 44, excuse me,
16 Exhibit 46, and view the last couple of pictures regarding
17 easement, you can see that there's not enough room at all for
18 another car.

19 There's a car parked there where 1333 parking
20 space. But the other one that says no parking is same width.
21 So they're both about I think ten feet. Because I talked to
22 Mr. Reynold, who is the Vice President of the Co-op.

23 So he's saying he has enough room to get through
24 there, okay. I just parked, so I could show you how the
25 parking is. How is he going to get construction material or

1 trucks, or anything else through there? That's my first
2 question.

3 Also, I want to show the condition of the home
4 that he, Exhibit 44, how he treats his property. I am
5 seriously worried about, if you look at 44 it's --

6 BZA CHAIR HILL: Okay.

7 MS. EVANS: Or excuse me, it's 44A. This is what
8 I'm dealing with.

9 BZA CHAIR HILL: Okay.

10 MS. EVANS: 44A, if you go down and start looking
11 at Exhibit A, this is what I'm literally dealing with. So
12 what's going to change? I don't know if you guys have seen
13 these photos. But this is my house. It's going to devalue
14 my house. And this is what I'm dealing with, with someone
15 who says that they care. There's a road issue.

16 BZA CHAIR HILL: Okay. All right. Back to the
17 zones.

18 MS. EVANS: I know. But I'm just saying.

19 BZA CHAIR HILL: We see them in the record, Ms.
20 Evans. I'm just trying to let you provide a little bit more
21 testimony.

22 MS. EVANS: I understand.

23 BZA CHAIR HILL: Well hopefully, if this were to
24 happen, Ms. Evans, you'd get a clean property there.

25 MS. EVANS: That's his property. That is the,

1 that property that I'm showing you is his property. The
2 white house is my property.

3 BZA CHAIR HILL: No, I understand.

4 MS. EVANS: Okay.

5 BZA CHAIR HILL: What I'm saying is that they will
6 be developing that space.

7 MS. EVANS: No. They cannot develop that space
8 because I own 8240. That walkway belongs to me. So, and
9 there's piping, my sewer line goes through that area in which
10 he's trying to redo.

11 BZA CHAIR HILL: Okay.

12 MS. EVANS: My sewer line goes through there. So
13 you cannot do that. I have serious concerns about --

14 BZA CHAIR HILL: Okay.

15 MS. EVANS: -- everything.

16 BZA CHAIR HILL: Mr. Blanchard. You're on mute,
17 Mr. Blanchard.

18 MR. BLANCHARD: Just one point.

19 BZA CHAIR HILL: The only thing I saw you, Mr.
20 Blanchard, that I didn't understand that you had mentioned
21 was there was something about, there was screening that they
22 put at the back of the deck. And you were talking about
23 screening again on one side of the roof deck.

24 MR. BLANCHARD: Correct. They did add screening
25 nets on their filing, which is Exhibit 45, the revised

1 landscape plan. They added a six foot, I'm sorry, trying to
2 hold it up so I can see it. Maybe if Mr. Young can pull that
3 up?

4 BZA CHAIR HILL: Which exhibit, 45?

5 MR. BLANCHARD: Exhibit 45. It's the applicant's
6 revised landscape plan. It was filed a few days ago, on the
7 8th.

8 BZA CHAIR HILL: Yes. I see it.

9 MR. BLANCHARD: Okay.

10 BZA CHAIR HILL: So right. The --

11 MR. BLANCHARD: So there is, where it says deck
12 below, I don't know if Mr. Young could pull it up, it would
13 make is easier for all of us. But in the rear here where it
14 says deck below they've added a six foot high fence, which
15 is great.

16 Yes, there we go. Yes. Right. So where the
17 stairs go down in the rear there's a dark line there just
18 below deck below, where --

19 BZA CHAIR HILL: Yes.

20 MR. BLANCHARD: -- a six foot screening fence has
21 been added. That's great. On the roof however, they're
22 reoriented the two roof decks to face away from my client's
23 property, face them --

24 (Simultaneous speaking)

25 MR. BLANCHARD: And there's some blocks there that

1 say roof hatch. So I'm assuming that's how persons get up
2 onto the roof deck. But we'd like some screening along that
3 side, along the west side, so that people can't look up over
4 the roof hatch, or whatever, down onto my client's property.

5 BZA CHAIR HILL: Okay. Mr. Ali, can you hear me?

6 MR. BLANCHARD: And then one final point, Mr.
7 Hill, before we --

8 BZA CHAIR HILL: Okay.

9 MR. BLANCHARD: -- before I jump off. In the
10 corner, the northwest corner of the lot it shows a proposed
11 emerald green tree. Just below that big trash receptacle.

12 BZA CHAIR HILL: Yes.

13 MR. BLANCHARD: Right. So that green tree
14 actually will sit right on top of an existing paved sidewalk
15 that my client currently uses to access her property. And
16 under that sidewalk, which is not hers. She'll have to put
17 in a new sidewalk somewhere else, maybe in cooperation with
18 Ms. Anderson.

19 But that tree, because the water and sewer lines
20 go under that tree to get to her house, we'd like that tree
21 to be relocated like five feet away, so that when the
22 applicant tears up that little portion of sidewalk, which
23 they've said they're going to do, that it doesn't damage the
24 sewer lines there.

25 And that they don't plant a tree there later on,

1 when the tree roots would grow and damage the sewer lines in
2 the future. Thank you.

3 BZA CHAIR HILL: Okay. All right, Mr. Young,
4 we're going to drop that. Okay, great. Does the Board have
5 any further questions for the witnesses? Okay. All right.

6 MS. ANDERSON: I have a, excuse me, I have a
7 comment.

8 BZA CHAIR HILL: Who's that?

9 MS. ANDERSON: Judith Anderson. I think there's
10 some confusion. I'm not asking him to put up a fence. I'm
11 asking him to put up some bushes, some something right there.
12 That's all. I want him to put a gate so that he makes it so
13 that his tenants are less likely to be robbed.

14 And I would like to have some bushes in that
15 little three foot area, something that grows tall, so that
16 we have some level of privacy across that fence line. That's
17 what I'm asking.

18 BZA CHAIR HILL: Where that evergreen tree is?

19 MS. ANDERSON: No. Can we, can you --

20 BZA CHAIR HILL: Just tell me about it. I'm
21 looking at it.

22 MS. ANDERSON: I'm not sure what you're looking
23 at.

24 BZA CHAIR HILL: I'm looking at that same diagram
25 that we were just looking at.

1 MS. ANDERSON: It's, actually there's a triangle.
2 You see where the stairs are in the front?

3 BZA CHAIR HILL: Yes.

4 MS. ANDERSON: And you see that there's, like
5 there's a triangular shape there, like right at that step.

6 BZA CHAIR HILL: Yes.

7 MS. ANDERSON: Okay. Right above that should be
8 where my fence line is.

9 BZA CHAIR HILL: Okay.

10 MS. ANDERSON: So the, that sidewalk is elevated.
11 When they built that sidewalk, for whatever the reason they
12 elevated it. So it's up higher at that point then my yard.
13 So that if you stand on that sidewalk, anybody that stands
14 on that sidewalk and that corner, they look down into the
15 yard.

16 BZA CHAIR HILL: Okay. Okay.

17 MS. ANDERSON: So that's where part of the
18 confusion is. All of that area when they developed in there,
19 when they were renovating Ms. Evans' house, raised the
20 sidewalk in all of the area right there.

21 And so because of that, that right through there
22 and that corner, that L of that sidewalk is raised. So they,
23 anybody that comes right to that point is standing above the
24 yard, not below, not even with it.

25 BZA CHAIR HILL: Okay. Mr. Blanchard, I'm sorry.

1 You're on mute. But we can see what you're trying to hold
2 up.

3 MR. BLANCHARD: Sorry. I was just, for the
4 Board's benefit, this is the photos, the first photo in
5 Exhibit C --

6 BZA CHAIR HILL: Okay.

7 MR. BLANCHARD: -- of Exhibit 44A.

8 BZA CHAIR HILL: Okay.

9 MR. BLANCHARD: That's a great shot that shows Ms.
10 Anderson's fence, the corner of my client's property, and a
11 little sidewalk strip with arrows on it. The sidewalk strip
12 there is the L that Ms. Anderson was referring to. That's
13 on the applicant's property.

14 Ms. Evans will have to reorient her door to face
15 Ms. Anderson's property this way. But there's sewer lines
16 under here. And Ms. Anderson is asking for plantings along
17 there I guess.

18 MS. ANDERSON: May I --

19 BZA CHAIR HILL: No wait. Give me a second now.
20 I'm sorry. Go ahead.

21 MS. ANDERSON: Sorry.

22 BZA CHAIR HILL: Go ahead. That's all right. Go
23 ahead.

24 MS. ANDERSON: Are you talking about me?

25 BZA CHAIR HILL: Yes. Go ahead, Ms. Anderson.

1 MS. ANDERSON: Oh. It's --

2 BZA CHAIR HILL: Just finish your statement.

3 MS. ANDERSON: That area he just showed you to the
4 corner, and then just to the left when you get to the edge.

5 BZA CHAIR HILL: Okay. Okay. All right. I'm
6 going to, now you guys, just to let you guys know, you guys
7 were providing testimony as witnesses. And this has turned
8 into a little bit of people just speaking up as we kind of
9 go along. So just, please don't speak up right now.

10 MS. ANDERSON: So sorry.

11 BZA CHAIR HILL: Otherwise I'm going to excuse
12 everybody from the witness room. So, I'm unclear as to what
13 my Board was trying to get from the applicant. I would like
14 to state, Mr. Bello, I see you, and we haven't been, I mean,
15 you guys have done a lot since the last time you were with
16 us.

17 Okay. You got rid of all the windows on one side.
18 You flipped the orientation of the building. You flipped the
19 orientation of the decks. You've created I believe sight
20 lines that I don't even see how you're going to see into
21 anybody's yard from those decks, okay, on that one side,
22 right.

23 This design has changed a tremendous amount from
24 the last time that you were here with us. I don't know what
25 other things my Board Members might like to have, if

1 anything, which is completely fine if they would like to have
2 something in order for us to make a decision.

3 Everything seems to be getting kicked to the first
4 of May. And so, I can go ahead and, you know, kick this to
5 the first of May if there's other things that my Board would
6 like to see.

7 And the only thing I can think of, Mr. Bello, is
8 if you want to try to, you know, it seems like there are a
9 variety of somewhat, you know, good neighbor policy. I love
10 that that's not a term of art. But, you know, talking to
11 your neighbors and trying to figure out whether the bush goes
12 here or the bush goes there or you know, those type of
13 things.

14 I don't know, I'm looking at my Board Members.
15 Do you all want anything? And the only thing I can think of
16 is asking the applicant to talk about these, what could be
17 minor issues, and have them comment one way or the other on
18 all these minor issues. And then we can have a decision on
19 the first of May. Does that sound reasonable to my Board
20 Members?

21 MEMBER MILLER: I was, I thought Mr. Blake was
22 going to speak. But I'll go ahead, unless he was ready to
23 speak.

24 (Audio interference)

25 MEMBER MILLER: So I appreciate what you said, Mr.

1 Chairman. If we're going to wait for a comment on those
2 issues I'd like to see Mr. Bello, the applicant maybe
3 redrafted conditions addressing the easement and privacy,
4 security concerns.

5 He said that it's somewhat redundant from what
6 they're already doing, or what the plans already show. He
7 can, I might want to see a draft of that condition to
8 possibly be included in the order as drafted by the
9 applicant, that references the existing plans and/or rephrase
10 it any way he wants.

11 But just tries to incorporate the concept that the
12 position statement was presenting, which he seemed to not
13 have a major objection to, because it was already being done,
14 or that it will be done. So, or that it's a matter of law
15 in terms of the way the easement operates.

16 But if they could draft those conditions in a way
17 that references what they want to reference, that might be
18 what I, that might be the only thing I want to see, in
19 addition to encouraging them to continue to have dialogue on
20 the construction related issues, and reach whatever agreement
21 they can reach, apart from our zoning process.

22 BZA CHAIR HILL: Okay. Mr. Bello, can you hear
23 me? Did you understand what Commissioner Miller was asking
24 for?

25 MR. BELLO: Not completely. My understanding

1 would be that the outstanding issues would be, you know,
2 where the neighbors want the shrubbery to go. That's one.

3 I think that there's a problem with trying to have
4 a screening on the roof deck, because the zoning
5 administrator considers that a roof structure, which would
6 throw in an additional relief if that roof structure is above
7 four feet. So that's problematic from a zoning standpoint.

8 Then the only other clarification that I need is
9 whether Board Member Miller is asking us to draft or present
10 some kind of construction management agreement for the
11 Board's consideration.

12 BZA CHAIR HILL: I think he was mentioning, what
13 I understood, some kind of, it's just really a discussion
14 again. Because as you know the Board does not condition
15 construction management plans.

16 If you wanted to submit something to the Board
17 that would be something that you had discussed with the
18 neighbors about a construction management plan, so we could
19 just see what the discussion was.

20 You're now understanding I think the bush issue.
21 That's one issue, right. You said that the screening doesn't
22 work. And I can agree with you and understand why. That is
23 something you could have cited in your summary.

24 And then what Mr. Miller seems to be saying is
25 that some kind of a condition about the easement. That, you

1 know, it will remain open, you know. Something that restates
2 what, as you said was obvious, which is the whole point of
3 easement. But restating what the easement states, I suppose
4 is what Commissioner Miller was asking for. Does that make
5 sense, Mr. Bello?

6 MR. BELLO: Understood.

7 BZA CHAIR HILL: Go ahead, Mr. Miller. Sorry.

8 MEMBER MILLER: Yes, thank you. Thank you for
9 clarifying.

10 BZA CHAIR HILL: Okay. So then, Mr. Blake, do you
11 need anything?

12 MEMBER BLAKE: No, Mr. Chair. I think that the
13 applicant has gone a long way to meeting the requirements,
14 to make this, you know, less zoning adverse effects for the
15 neighbors. I'd like to keep, the direction we're going at
16 is absolutely perfect in my opinion. So, I don't need
17 anything other than what we've just talked about.

18 I would like to see the additional agreements that
19 we kind of made as this thing has gone along, that they've
20 agreed to, you know, written. And that would be all I need.
21 Thank you.

22 BZA CHAIR HILL: Okay. Mr. Bello, so by the 24th
23 if you, literally it would be one page, right. You know,
24 what, restate the easement, right, as you understand it,
25 okay, which would allow the easement to be in effect at all

1 times, right.

2 Speak with, I guess you can go ahead and reach out
3 to both of the parties here, not parties, both of the people
4 that are, you know, abutting property owners, right. And
5 just reach out to them.

6 And just, please don't forget any of the things
7 that we're kind of mentioning. Because I don't want to have
8 to bring you back. Like, you know, you can address the bush
9 issue, right. Address the, you can even write in the record
10 why you can't put a screening at that roof hatch, right.

11 Just address everything that has been said, so
12 that the Board will be able to get to a decision for you on
13 the 1st, and does not have to call you back. Okay?

14 MR. BELLO: Noted, sir.

15 BZA CHAIR HILL: All right, Mr. Bello. So if you
16 give that to us by the 24th. Go ahead, Mr. Blanchard.
17 You're on mute.

18 MR. BLANCHARD: Yes. I'm unmuted. Thank you,
19 Chairman Hill. I think these are all great suggestions for
20 the Board. I appreciate it on behalf of my client. We will,
21 will Ms. Evans be able to submit something in response to Mr.
22 Bello's filing? Just in case there's anything --

23 BZA CHAIR HILL: We don't, if, it, I keep getting
24 asked this. It has to end somehow, right.

25 MR. BLANCHARD: No. I understand.

1 BZA CHAIR HILL: In some way, right. I guess
2 actually you can both submit. If everybody wants to submit
3 something by the 24th, okay. Now wait a minute. Then that
4 -- I guess if your client wants to submit something by the
5 17th, okay. And then, Ms. Anderson, you need to submit
6 something by the 17th.

7 Then Mr. Bello will be able to submit something
8 by the 24th responding to what was being submitted by the
9 17th. And then that will be the end.

10 MR. BLANCHARD: We appreciate that opportunity.
11 Thank you.

12 BZA CHAIR HILL: Okay. Mr. Bello, are you good?

13 MR. BELLO: Thank you, Mr. Chair.

14 BZA CHAIR HILL: Okay.

15 MR. BELLO: Yes.

16 BZA CHAIR HILL: All right. Unless my Board
17 Members raise their hand I'm going to close this hearing and,
18 I'm going to close the hearing except for the things we asked
19 for, for the record. Okay. I'm closing the hearing except
20 for the things you asked for by the record.

21 Before everybody goes, Madame Secretary, is there
22 anything confusing on your part?

23 MS. MEHLERT: NO, I don't think so. It's due by
24 the 17th, any comments from the neighbors. And then due by
25 the 24th those items that you listed from the applicant.

1 Scheduled for decision on May 1st.

2 BZA CHAIR HILL: Great. Thank you. Everything's
3 going to May 1st. Okay. All right. We'll see you all
4 later. Bye, bye. Or we won't see you al later. Okay. I
5 love it.

6 All I've done is move all my paperwork from this
7 pile to this pile. Okay. None of it has gone into the
8 circular file. Okay. Commissioner Miller, is that it for
9 you?

10 MEMBER MILLER: That's it for today with you all.
11 Thank you very much.

12 BZA CHAIR HILL: Great. Thank you.

13 MEMBER MILLER: Good luck with the rest of your
14 day.

15 BZA CHAIR HILL: Thank you. All right. Rounding
16 out our cast of characters we have the last and final Zoning
17 Commissioner, the astute Professor, or Dr. Imamura.

18 MEMBER IMAMURA: You weren't wrong, Chairman Hill.
19 Professor I was for some time.

20 BZA CHAIR HILL: Yes. Okay. I got that.
21 Decision, decision, decision.

22 MEMBER IMAMURA: Exactly what though, I bring good
23 luck. I hope the rest of the cases --

24 BZA CHAIR HILL: Oh, you said it out loud.

25 MEMBER IMAMURA: I did. I'm putting it out there.

1 We're going to be great.

2 (Whereupon, the above-entitled matter went off the
3 record at 2:48 p.m. and resumed at 2:51 p.m.)

4 BZA CHAIR HILL: Okay. Madame Secretary, you may
5 call our next one.

6 MS. MEHLERT: Going back into the public hearing
7 session again, the next application is Case number 20824 of
8 Rupsha 2011, LLC. As amended this is a self certified
9 application for special exceptions pursuant to Subtitle X,
10 Section 901.2.

11 Under Subtitle U, 421 to allow a new residential
12 development. Under Subtitle C, Section 710.3 from the
13 parking space location requirements of Subtitle C 710.2(c)
14 and pursuant to Subtitle X 1002 for area.

15 Variances from the new alley record lot
16 requirements of Subtitle C, Section 306.1. And to subdivide
17 an existing tax lot into nine new record alley lots to allow
18 nine new two story principle dwellings. The project is
19 located in the RA-1 Zone at 4226 Rear 6th Street Southeast,
20 Square 6208, Lot 823.

21 The hearing for this case began on February 14th.
22 And the Board requested additional information, special
23 continued hearing. Participating are Chairman Hill, Ms.
24 Bajaj, Mr. Smith, and Mr. Imamura.

25 BZA CHAIR HILL: Great. I guess, if applicant

1 could hear me, if they could please introduce themselves for
2 the record?

3 MS. WILSON: I'm from Sullivan and Barros on
4 behalf of the applicant in this case, and architect Michael
5 Blake is here if there are any questions on the updated
6 plans.

7 BZA CHAIR HILL: Okay. So, Madame Secretary, can
8 you hear me?

9 MS. MEHLERT: Yes.

10 BZA CHAIR HILL: I was just notified again that
11 my other Board Member was not originally on this case. And
12 so, I'm not clear what to do next.

13 MS. MEHLERT: I was just not as well.

14 BZA CHAIR HILL: So what I, if, and I'll let OZLD
15 let me know, right. So we could hear this, as we're all
16 here. And then the Commissioner, I'm sorry, the Board Member
17 that needs to read in can go ahead and watch the hearing.

18 And then if we are set for a decision, or a
19 continued hearing, whatever, we can do that again on 5/1.
20 OZLD, can I do that?

21 MS. BAJAJ: I believe that should be okay.

22 BZA CHAIR HILL: Okay. Ms. Wilson, you were about
23 to say something?

24 MS. WILSON: That would be great for us. Because
25 I think the ANC might put us on the May agenda. And we could

1 potentially get a vote to support now that we've come to an
2 agreement with the daycare. So could be a win win, I guess.

3 BZA CHAIR HILL: When, is the ANC Commissioner
4 here?

5 MS. WILSON: I don't see him. I thought he was
6 going to show up.

7 BZA CHAIR HILL: Okay.

8 MS. WILSON: But I can see --

9 BZA CHAIR HILL: When is their meeting, Ms.
10 Wilson? Do you know?

11 MS. WILSON: I am looking now. It's typically the
12 first week of the month. I think it was on April 1st this
13 month. So let me see.

14 (Simultaneous speaking)

15 MS. MEHLERT: I believe the ANC was supposed to
16 vote on this on May 6th, at their May 6th meeting.

17 MS. WILSON: Okay. That would be --

18 BZA CHAIR HILL: Mr. Young, are there people here
19 wishing to speak? Okay.

20 MS. WILSON: I have a very brief update. And --

21 BZA CHAIR HILL: Yes. Ms. Wilson, I mean, you
22 might as well wait. Like, it would be better than, I mean,
23 because now, I mean, to put you in a situation where you
24 might have some questions anyway, even if it is a brief
25 update, I don't have all of my Commissioners.

1 MS. WILSON: I understand.

2 BZA CHAIR HILL: Who is Mr. Blake?

3 MS. WILSON: The architect.

4 BZA CHAIR HILL: Oh, okay. All right. Okay. So
5 why don't I do this. You guys are going to go back before
6 the ANC on the 6th, right? What does the 8th look like, Ms.
7 Mehlert?

8 MS. MEHLERT: The 8th there are currently eight
9 hearing cases, and potentially one or two decision cases,
10 meeting cases.

11 BZA CHAIR HILL: Okay. Do you know, you don't
12 know, Ms. Wilson, whether or not, well I guess you will go,
13 you're going to the 6th, the ANC hearing?

14 MS. WILSON: I have not been the contact for the
15 ANC. But we're in discussions with, we're hoping to --

16 BZA CHAIR HILL: I just want to know if you'll be,
17 what have we got on the 15th, Ms. Mehlert, of May?

18 MS. MEHLERT: On the 15th there are three hearing
19 cases and one appeal. And then four meeting cases.

20 BZA CHAIR HILL: Okay. So well I guess, Ms.
21 Wilson I can ask you. Do you want to come back on the 8th
22 or the 15th?

23 MS. WILSON: Let me look.

24 BZA CHAIR HILL: The reason why I ask is that if
25 you're on the 8th you might not actually be able to tell me

1 anything, right. And on the 15th, this project's gone on for
2 a while. Like, I remember it.

3 MS. WILSON: Yes.

4 BZA CHAIR HILL: You just closed on the lots, so
5 now you got a side yard, right. And so, you know, we're
6 aware of the project.

7 MS. WILSON: The 15th is fine.

8 BZA CHAIR HILL: Okay.

9 MS. WILSON: That would be better for me. I have
10 another matter that day.

11 BZA CHAIR HILL: Okay. So let's do 5/15, okay.
12 And it will be a continued hearing. And hopefully you'll
13 have something to report from the ANC.

14 MS. WILSON: That would be great.

15 BZA CHAIR HILL: Okay.

16 MS. WILSON: Okay.

17 BZA CHAIR HILL: All right. I'm going to close
18 this portion of the hearing in the record. Thank you all.
19 Good bye.

20 MS. WILSON: Thank you.

21 BZA CHAIR HILL: Dr. Imamura, I don't want to say
22 it out loud. But maybe really you are a lucky rabbit's foot,
23 right. Okay. I don't know whether it's good or bad luck
24 that everything's getting pushed away. But I did have a 6
25 o'clock I was hoping to get to. So it's starting to look

1 better.

2 Okay. Hold on. I'm still moving everything from
3 one pile to another pile. We can call our next, is Mr. Blake
4 with us on the next one? Okay. I got Mr. Blake back. All
5 right. Okay, Ms. Mehlert, you can call the next one.

6 MS. MEHLERT: The next case for the Board is
7 Application number 21081, of Alexandra E. Chavalier, as
8 amended. This is a self certified application pursuant to
9 Subtitle X, Section 901.2 for special exceptions under
10 Subtitle U, Section 320.2, to allow conversion of an existing
11 residential building to an apartment house.

12 Under Subtitle C, Section 703.2 from the minimum
13 parking requirements of Subtitle C, Section 701.5, and under
14 Subtitle E, Section 5201 from the rear yard requirements of
15 Subtitle E, Section 207.1.

16 And pursuant to Subtitle X, Section 1002 for area
17 variances from the lot occupancy requirements of Subtitle E,
18 Section 210.1, and from the lot area requirements of Subtitle
19 U, Section 320.2(c).

20 And this is the conversion of an existing two
21 story attached residential building to a three unit apartment
22 house with a rear addition. The project is located in the
23 RF-1 Zone at 3721 9th Street Northwest, Square 2900, Lot 31.

24 BZA CHAIR HILL: Okay. Let's see. If the
25 applicant could hear me, if they could please introduce

1 themselves for the record.

2 MS. CHEVALIER: Yes, hi. I'm Alexandra Chevalier,
3 I hope you can hear me. I'm represented by Sullivan Barros.
4 Martin Sullivan should be on the call. And the attorney,
5 sorry, the architect Meghan Kiel should also be online
6 hopefully.

7 BZA CHAIR HILL: Okay, great. Mr. Sullivan, could
8 you introduce yourself for the record, please.

9 MR. SULLIVAN: Yes. Thank you, Mr. Chair. Marty
10 Sullivan with Sullivan Barros on behalf of the applicant.

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

16 MR. SULLIVAN: Thank you very much. If Mr. Young
17 could please load the presentation. Thank you. So, next
18 slide, please. This is 3721 9th Street Northwest. The
19 property is currently improved with a three story, three unit
20 road dwelling located in RF-1 Zone.

21 The applicant purchased the property, I think I'm
22 going to get, yes. I'll go through this slide, and then I'm
23 going to turn it over to Alexandra. The applicant purchased
24 the property in 2021 when it was already configured and
25 advertised as a three unit building.

1 And then they discovered that there was no
2 certificate of occupancy for the existing third unit. And
3 they're now seeking relief to make that third unit legal in
4 order to obtain the C of O.

5 The applicant's not proposing any changes to the
6 layout of the units. And there's only minor change to the
7 building, is the construction of a stair at the rear. It's
8 required under the Building Code.

9 The property has 1,429 square feet of land area.
10 Therefore, we need relief from the 900 foot rule. And
11 accordingly, the applicant is requesting three special
12 exceptions.

13 One is for the conversion itself under U 320.
14 One's for a rear yard relief for the stairs. Parking space,
15 because adding a unit requires the addition of a parking
16 space. And requesting variance relief from the 900 foot rule
17 as stated before.

18 ANC 4-C is unanimously in support. And the Office
19 of Planning has recommended approval as well. Now I'd like
20 to turn it over to Alexandra. And she can take the Board
21 through her ordeal with this property. Thank you.

22 MS. CHEVALIER: Yes. So we bought the house in
23 2021 from Sandra Bartrell and Jackson Handy. And at the
24 time, well, the property was listed as having three units.
25 And when we visited it there was nothing leading us to

1 understand that it would have been otherwise.

2 Because there were three panels, three HVAC
3 systems, three kitchens, three bathrooms, three separate
4 entrances. So in other words, it really looked like a three
5 unit property.

6 We did have an inspection report. And in fact,
7 sorry, before I move ahead. There were tenants in the top
8 floor and the basement. The top floor tenant, from what she
9 later explained, well, the property was already configured
10 into three different units when she first started renting.
11 And she's been there for 12 years already.

12 We have a, well, the basement tenants left in
13 summer 2021. And that's when we started renovating to
14 address some of the issues that were flagged in the
15 inspection report, from the time we had bought the property.

16 Some were deemed safety hazards. There was some
17 mold, some moisture issues, termites, and an electricity
18 panel that was located, well it was in accessible. It was
19 in a closet. So anyway we started trying to address all
20 these issues.

21 And to do that we pulled postcard permits, because
22 of course those were all replacements in kind. We became
23 aware of the zoning issue later in 2023, when we engaged a
24 fire safety expert. And at that time we understood that we
25 had to install sprinklers.

1 And when we applied for the permit to install the
2 sprinklers, sorry, that's when the permit bounced because we
3 didn't have the construction permit. So once we became aware
4 of that towards the end of 2023, we engaged Sullivan Barros
5 to start working on the zoning variance. So that brings us
6 to today basically.

7 MR. SULLIVAN: Thank you, Alexandra. Next slide
8 please. And I won't read through all of this because a lot
9 of this just mirrors what Alexandra just relayed to the
10 Board, but we did want to include it in the PowerPoint
11 presentation. Next slide please.

12 Some points that we'll bring up. The applicant
13 commissioned two separate home inspectors to inspect the
14 property and they found safety hazards such as moisture and
15 leaking in the basement, old age facts, termite damage and
16 water damage, mold and fire hazards related to failed dryer
17 vents and the three electrical panels. And next slide
18 please.

19 BZA CHAIR HILL: Mr. Sullivan? Can I interrupt
20 you --

21 MR. SULLIVAN: Yes.

22 BZA CHAIR HILL: -- one second? You guys aren't
23 changing the envelope. Correct?

24 MR. SULLIVAN: Correct. Well, just, no not the
25 envelope. But adding exterior stairs at the back as required

1 for egress under the code.

2 BZA CHAIR HILL: I understand. Okay.

3 MR. SULLIVAN: And the architect is here as well
4 if you have any questions for her.

5 BZA CHAIR HILL: Okay. All right, you know, Mr.
6 Sullivan, you can skip right to your argument if you want to.

7 MR. SULLIVAN: Okay, let's do that. If you could
8 go a couple of slides, Mr. Young until you hit the words
9 again. And I have a lot in the argument too so I'll try to
10 zip through that --

11 BZA CHAIR HILL: No, no, no.

12 MR. SULLIVAN: -- or abbreviate that.

13 BZA CHAIR HILL: Because I mean it's, the lot,
14 sorry the 900 square feet is the part that I'm just kind of
15 getting a little hung up on.

16 MR. SULLIVAN: Right.

17 BZA CHAIR HILL: So go ahead.

18 MR. SULLIVAN: Okay, so the general requirements,
19 the Board is authorized to grant special exception and here
20 we have the conversion relief, parking and rear-yard relief
21 is in harmony with the purpose and intent of the zoning
22 regulations.

23 And zoning maps because multi-family is permitted
24 by special exception in this case with the variance in the
25 RF zone. And it's just three units and it was already

1 existing for the last 12 years. Next slide please.

2 So the special exception requirements for a
3 conversion, of course, they're very simple, the building is
4 in existence, there's not a fourth dwelling unit so there's
5 no IZ requirement and then we're asking for variance relief
6 from 320.2C. Next slide please.

7 Special exception for rear yard, the proposed
8 stairs shall not impact the light and air available to
9 neighboring properties along the street effectively
10 overshadowed by mixed-use building the east fronting on
11 Georgia Avenue.

12 And the stairs shall not unduly compromise the
13 privacy of use and enjoyment of neighboring properties. We
14 do have the support of neighbors and full support of the ANC.
15 The stair connects the existing decks and does not add any
16 additional outdoor recreational space.

17 And the stair will not be visible from Ninth
18 Street. It will be visible from the alley, but as there are
19 other stairs along the alley and all of the rears of the
20 building are overshadowed by the rear of the mixed-use
21 building to the East, it should not substantially visually
22 intrude upon character, scale and pattern of houses if viewed
23 from the alley. Next slide please.

24 Parking, not able to get a second parking space
25 on their property is well served by various forms of public

1 transportation. It's located 250 feet from the Georgia
2 Avenue Petworth Metro Station. So it's a three-minute walk.

3 And we believe that meets one of the criteria
4 that's necessary for the parking relief. So next slide
5 please. For the area variance, so the property is faced with
6 an exceptional condition due to its existing configuration
7 and condition. This has been a three-unit building since at
8 least 2010.

9 The property was advertised as having three
10 separate units and this is mentioned twice in the Long &
11 Foster listing. It's in the record. The applicant walked
12 the property prior to purchase which at the time she noted
13 that the building had three separate residential units, three
14 kitchens. Each unit had a bedroom and a bathroom.

15 There were also three separate HVAC systems. One
16 of the tenants submitted a letter speaking to his long time
17 residency in the building and the owner lives in the first
18 floor unit and uses the rent to offset the costs of the
19 mortgage, the strategy advertised in the Long & Foster
20 listing.

21 So Alexandra and her partner live in the, are
22 residents of the building. They're owner residents. So the
23 requiring two of the units to be combined would be a
24 disruption to both of the tenants and become an increased
25 expense to the owner.

1 The estimate from a contractor speaks to the cost
2 of combining two of the units into a single unit. Contractor
3 estimates the cost to \$155,000. The estimate specifically
4 notes that the owner will provide all finishes, plumbing
5 fixtures, bathroom accessories, cabinets and hardware,
6 countertops and appliances, toilets and hardware.

7 And the stair insulation by others so accordingly
8 while there will be some minor overlap in the drywall and
9 flooring scope, the bathroom scope demo insulation and
10 framing as to the combination do not overlap with the scope
11 of the BZA plans meaning that there is work being done
12 regardless with the three units of renovation.

13 But the 155 is additional work that would be a
14 result of having to combine the two units. And these units
15 were combined, were made into three units by the previous
16 owner, not by this owner which was, well two previous owners
17 I believe it was. Next slide please.

18 So while there are still some updates, the
19 applicant intends to make, the BZA scope is much smaller,
20 possible replacement and upgrade of appliances and a new
21 staircase for egress.

22 In addition to the cost of unit removal, there
23 would be moving costs and relocation costs for the existing
24 tenant. Additionally, the owner would still be expected to
25 pay the mortgage. At the end she would be spending money to

1 lose a unit which could otherwise provide rental income.

2 So accordingly, without the relief, the only
3 option is to convert the building to either one or two units
4 which cannot be done without considerable expense and will
5 ultimately result in the loss of one unit and at least one
6 rental income.

7 So the cost, in addition to the loss of income,
8 loss of a unit, or housing and generally reconfiguring the
9 house by at a minimum tearing out a kitchen together create
10 the practical difficulties. Next slide please.

Moreover, the proposed use is a permitted use via special exception and the 900-foot row is a restriction based on land area, not the use so this is an area variance, not a use variance.

15 The applicant has a land area of 1,429 square feet
16 shy of the requirement by about 1,271 square feet. Given
17 that the properties on either side are each equipped with an
18 existing building, the applicant does not have the ability
19 to purchase additional land to expand to 2,700 square feet.

20 And the applicant would still be required to
21 remove the unit as only three units would be permitted and
22 the total count would increase to four units if the building
23 is combined with one of the next door buildings.

24 This would clearly be a practical difficulty for
25 the applicant as it would require extreme costs, renovation,

1 and the loss of the unit. Accordingly, purchasing land to
2 meet the land area requirement is not a feasible option.

3 Regarding the stairs and the lot occupancy relief
4 a compliant means of egress is a code requirement from the
5 third-floor unit. Originally the applicant proposed a spiral
6 stair as a space saver and cost effective solution, however,
7 the code clearly does not permit a spiral stair as a legal
8 means of egress.

9 And a straight staircase is not an option as it
10 would be too long for the rear yard and several feet of it
11 would need to be located in the alley to meet code.
12 Accordingly, the applicant is now required to provide a full
13 switchback stair for means of egress increasing the lot
14 occupancy to 82 percent.

15 And the architect, again, is here with us I
16 believe if you have any questions for her. Next slide
17 please. So substantial detriment to the public good, the
18 applicant is requesting relief based on the unique
19 circumstances affecting this property namely the previous
20 illegal conversion, advertisement and subsequent inheritance
21 of an existing nonconforming condition with respect to the
22 three units.

23 And the proposal is not to increase the size of
24 the units nor the existing building, but rather maintain the
25 status quo and bring the building into compliance with the

1 applicable zoning and building codes.

2 And the proposal will facilitate improvements to
3 the building and maintain three long-standing and relatively
4 affordable housing units as mentioned. The applicant
5 inherited the condition and did not create the existing
6 conditions.

7 And in fact, she's doing everything to make sure
8 that these units can be safely and legally occupied unlike
9 the previous owners. Further, the use itself is permitted
10 in the RF-1 zone via conversion and the applicant's not
11 seeking relief related to use but rather an area restriction.

12 And of course, the location is very close to
13 public transport and a major thoroughfare, Georgia Avenue.
14 So it takes this density without creating additional
15 congestion or traffic. Next slide please.

16 And that's it so if the Board has any questions
17 for myself or the owner or the architect, thank you.

18 MS. CHEVALIER: If I may, before we move on if
19 there are any questions for Megan, I think we haven't really
20 insisted on the fact that also we were already above the lot
21 occupancy.

22 So we would have needed that relief anyway because
23 an addition had been built by the previous owners as well as
24 the deck. So just to clarify that.

25 BZA CHAIR HILL: Okay, thanks Ms. Chevalier.

1 Okay, before I hear from the Board, can I turn to the Office
2 of Planning?

3 MR. JURKOVIC: Good afternoon, Members of the
4 Board. This is Michael Jurkovic with the Office of Planning.
5 OP recommends approval of the relief requested by the
6 applicant to allow the retention of a three-unit apartment
7 house and stands on the record of the report. I am here to
8 answer any questions. Thank you.

9 BZA CHAIR HILL: Thank you. Mr. Young, is there
10 anyone who wishes to speak?

11 MR. YOUNG: We do not.

12 BZA CHAIR HILL: Okay. Does the Board have any
13 questions of the Office of Planning or the applicant?

14 (No audible response)

15 BZA CHAIR HILL: Okay. All right. Okay, Mr.
16 Sullivan, you got anything at the end?

17 (No audible response)

18 BZA CHAIR HILL: Okay, great. I am going to close
19 the hearing and the record. Okay, the applicant's lucky.
20 The applicant like hired an attorney that works with us all
21 the time, knows the system, knows what's going on, that's
22 great number one.

23 Number two, I mean, I think that, you know, it is
24 a big change in from 900 square feet to the 400 some odd
25 square feet. However, I will agree with the argument that

1 the applicant is putting forward as well as the attorneys
2 concerning the area variance.

3 I do think that they bought it the way it was
4 thinking that it was the way it was that, you know, to change
5 it would be, you know, practically, you know, impractical,
6 impractical difficulties. I do agree with the first prong.

7 I agree with the second prong. And I agree with
8 the third prong. I think that I will also agree with the
9 Office of Planning's report and I will also agree with the
10 ANC's position.

11 I am going to be voting in favor of this
12 application. Mr. Blake, do you have anything you'd like to
13 add?

14 MEMBER BLAKE: No, Mr. Chair. I agree with the
15 assessment. I too believe this is a straightforward case.
16 There are several levels of relief that are being requested,
17 but all in all, it makes sense.

18 And I think the Office of Planning has done a
19 great analysis as to why the various criteria has been met
20 to the three special exceptions and the three other
21 variances. I also give great weight to the Office of
22 Planning's recommendation for approval.

23 And great weight to ANC in support of the
24 application stating no issues or concerns. I'll be voting
25 in favor of the application.

1 BZA CHAIR HILL: Thank you. With that, Dr.
2 Imamura.

3 MEMBER IMAMURA: I have nothing further to add,
4 Mr. Chairman. I agree with your assessment and evaluation
5 as well as Board Member Blake and prepare to vote in support.

6 BZA CHAIR HILL: Okay. I am going to make a
7 motion to approve Application No. 21081 as caption read by
8 the Secretary and ask for a second. Mr. Blake?

9 MEMBER BLAKE: Second.

10 BZA CHAIR HILL: The motion is made and Secretary,
11 motion has been made and seconded. Ms. Mehlert, if you could
12 please take a roll call.

13 MS. MEHLERT: Please respond to the Chair's Motion
14 to Approve the application. Chairman Hill?

15 BZA CHAIR HILL: Yes.

16 MS. MEHLERT: Mr. Blake?

17 MEMBER BLAKE: Yes.

18 MS. MEHLERT: And Dr. Imamura?

19 MEMBER IMAMURA: Yes.

20 MS. MEHLERT: Staff would record the vote as three
21 to zero to two to approve Application 21081 on the motion
22 made by Chairman Hill and seconded by Mr. Blake with two
23 Board Members not participating.

24 BZA CHAIR HILL: Thank you. Ms. Mehlert, if you
25 can call our next one please.

1 MS. MEHLERT: And the next application is Number
2 21086 of DES Properties, LLC. This is a self-certified
3 application pursuant to Subtitle X 901.2 for a special
4 exception under Subtitle U, Section 203.1K to allow accessory
5 parking elsewhere than on the same lot as the principle use.

6 This is located in the R-2 zone at 3820, 3826
7 McKinley Street Northwest, it's for 1859 Lots 49, 50, 51 and
8 92.

9 BZA CHAIR HILL: Okay, if the applicant can hear
10 me, if they could please introduce themselves for the record.

11 MR. SULLIVAN: Okay, Marty Sullivan with Sullivan
12 & Barros on behalf of the applicant.

13 BZA CHAIR HILL: Okay, Mr. Sullivan. If you could
14 walk us through your client's application and what they're
15 trying to do. Really, if you could speak to I understand the
16 argument that's being made about this particular application
17 and these kinds of applications.

18 If you would like to discuss how you believe this
19 is grandfathered in, that's one avenue. I don't know what
20 you were planning on doing. I'm pulling up your file right
21 now. And if you could also speak to Subtitle C, Chapter 7
22 and how you believe you're meeting those requirements and I
23 will let you turn it over to you.

24 MR. SULLIVAN: Thank you, Mr. Chair. If Mr. Young
25 could please load the presentation. So the request is for

1 the extension of the use of a parking lot. Next slide
2 please. The property is in the R-2 zone and it's currently
3 used as a parking lot with 41 spaces.

4 The property was first approved and established
5 in 1953. And that approval has been renewed at least ten
6 times since then with the most recent approval in 2014. And
7 so this application is effectively a continuation of BZA
8 Order 18753 which was approved with a ten-year term.

9 And the applicant is requesting approval to just
10 continue the operation of the accessory parking spaces under
11 the same conditions under which the use was most recently
12 approved apart from the ten-year limit.

13 Now, we were requesting that there be no time
14 limit and I believe the Office of Planning has agreed with
15 that in their recommendation. The ANC has asked for a
16 five-year time limit.

17 I think their request was based not on the
18 operation of the parking lot, but broader, broader strategic
19 concerns or issues they have long term about parking in other
20 lots. And I think that's reflected also in the submission
21 that you got from one of the individual commissioners.

22 Nevertheless, we would defer to the Board on the
23 time limit. I'm not going to push back hard on the no time
24 limit if it's ten again, fine. We, it's been going for 70
25 years now.

1 But and I know some of these that are going a long
2 time, the Board has removed the time limit, but you know, I
3 think five is way too short. So we would have a problem with
4 that. But if the Board was going to propose ten as the other
5 individual commissioner suggested, we would not oppose that.

6 Next slide please. So the use of the property was
7 first approve. Originally it was 32 spaces in 1953. Since
8 then there have been ten further BZA approvals at least
9 granted with various conditions.

10 And the conditions that we ended up with on the
11 last approval in 2014, number of spaces 41, no trash
12 dumpsters located on the portion of the lot zoned residential
13 there is a dumpster, but it's in the commercial zone which
14 is up against the CVS and Chevy Chase Wine.

15 The parking lot landscaping shall be properly
16 maintained or replaced as needed. Snow and ice shall be
17 promptly removed from the parking lot and removed from the
18 sidewalk located between the parking lot and McKinley Street.

19 And there will be a liaison with the ANC. Now the
20 property is owned by an extended family. It's not an active
21 ownership, but the -- so the parking lot is over seen by Mr.
22 Singh.

23 He was going to join today, but I'm not sure if
24 he's on here or not. Mr. Singh is the owner of Chevy Chase
25 Wine and so he takes responsibility for the parking lot on

1 behalf of the owner. Next slide please.

2 So ANC did vote in support of the application
3 requesting the five-year term limit. Office of Planning
4 recommended approval and is not opposed to the termination
5 of the ten-year time limit and DDOT has no objection. Next
6 slide please.

7 Here's a photograph of the parking lot. You see
8 the CVS top right and Chevy Chase Wine is next to the CVS in
9 between that and Bread & Chocolate. It's just the spaces
10 that you see in that square and the entrance to it is from
11 McKinley Street. Next slide please.

12 This is the floor plan with the spaces. Next
13 slide please. Request is in harmony with the purpose and
14 intent of the zoning regulations, uses that are permitted by
15 special exception are deemed compatible with other uses
16 permitted in that particular zoning classification provided
17 certain requirements are met.

18 Accordingly the granting of a special exception
19 will be in harmony with the general purpose and intent of the
20 zoning regulations and of course this is a much-valued
21 parking lot that has been around for 70 years. Next slide
22 please.

23 Now the specific requirements, there's no parking
24 garage so Requirement 1 doesn't apply. Parking shall meet
25 the conditions of C7. We certify that or represent that they

1 do as they have in 2014 and every year previous to this.

2 A condition of the 2014 approval was to prepare
3 a site plan and that was a requirement of that, the permanent
4 application in 2014. And that was successfully done and
5 there's a CPO for the property. So that hasn't changed and
6 the regulations in regard to that have not changed.

7 There's no commercial signs proposed. So parking
8 service shall be pervious pavement. It's an existing paved
9 parking lot. So we believe that this is grandfathered in,
10 this particular requirement.

11 And there's no requirement to tear up an existing
12 paved parking lot to make it pervious pavement and the Board
13 has found that in other parking lot approval cases and we've
14 worked with the Office of Planning on this question and
15 that's the answer that we got from the Office of Planning as
16 well.

17 The parking is not principle use, it's accessory
18 to the commercial spaces on Connecticut Avenue. And the
19 applicant has not received any complaints about the operation
20 of the parking lot since the last approval in 2014.

21 Traffic pattern conveniently moved traffic from
22 the entrance on McKinley. The parking lot has separate lanes
23 for the entrance and exit to the main portion of the lot.
24 One way circulation around the lot and the egress through the
25 alley to Morrison Street to the south.

1 So the property is well buffered from the adjacent
2 residential zone by wooden fencing, a public alley and mature
3 trees at the rear of the residential properties and the
4 parking spaces have been used for at least 70 years and
5 provide a valuable parking resources for CVS, Chevy Chase
6 Wine and the other commercial uses.

7 The parking lot serves providing an outlet for
8 cars to keep them from parking in the adjacent residential
9 neighborhood. Next slide please. Those rules for accessory
10 parking -- all of the spaces are within 200 feet of the
11 commercial uses that they serve. And it is contiguous.

12 There's no alley. The lots butt up against the
13 lots that CVS is on. BZA did not provide any conditions
14 under No. 9 in the 2014 Order. The property is not in the
15 GT zones.

16 And DDOT has provided a satisfactory report as
17 well. Next slide please. I think that's it. Yes. So I
18 don't know if that, if my presentation answered your specific
19 questions, Mr. Chair, or not.

20 BZA CHAIR HILL: Yes, they did, Mr. Sullivan.
21 Okay. Could I have the Office of Planning please.

22 MS. BROWN-ROBERTS: Good afternoon, Mr. Chairman
23 and Members of the BZA. Maxine Brown-Roberts on BZA Case
24 21086 for a special exception to continue the use as an
25 accessory parking lot at 3820 to 3826 McKinley Street

1 Northwest.

2 I sent in a report, the proposal meets the
3 requirement of Subtitle U 203.1(k) and pursuant to X 901.
4 The Office of Planning is supportive of the conditions except
5 for No. 7 as it, as we think it's no longer necessary as a
6 site plan is a part of BZA Order and would have to be
7 submitted to the Zoning Administrator in order to obtain
8 their certificate of occupancy.

9 And therefore we think it's not necessary.
10 Moving, agnostic on the time limit and we leave that up to
11 the, the BZA. The Office of Planning therefore recommends
12 approval with the conditions applied by the BZA. Thank you,
13 Mr. Chairman.

14 BZA CHAIR HILL: Thank you. Before I turn to my
15 fellow Board Members, Mr. Young, is there anyone here wishing
16 to speak?

17 (No audible response)

18 BZA CHAIR HILL: Okay. Do my Board Members have
19 any questions for the Office of Planning or the applicant?
20 Go ahead, Mr. Blake.

21 MEMBER BLAKE: One quick question for you, Mr.
22 Sullivan. This parking lot, did it pre-exist 1953? That's
23 the first BZA order, but did they just prior to that?

24 MR. SULLIVAN: I don't know the answer to that
25 question actually.

1 MEMBER BLAKE: Okay. Thank you.

2 BZA CHAIR HILL: Okay.

3 MEMBER BLAKE: That's all I have, Mr. Chair.

4 BZA CHAIR HILL: Okay, thanks, Mr. Blake. Anyone
5 else? Okay. So just before Mr. Sullivan goes, I mean, just
6 to, what is it? Take the ANC into consideration, I would be
7 fine with a ten-year I suppose.

8 It seems as though that's what's been going on and
9 so I don't think it's a huge burden for the applicant in ten
10 years and the ten years, heaven forbid I'm still here, we can
11 talk about not having a repeat thing. Okay?

12 So all right, does the Board have anything to say?
13 Otherwise, I'm going to let everybody go. Okay, Mr.
14 Sullivan, again, you have anything to say at the end?

15 MR. SULLIVAN: I do not. Thank you, Mr. Chair.

16 BZA CHAIR HILL: Okay, going to close the hearing
17 and the record. I mean, it is funny, like this parking lot's
18 been there forever. Right? So the, I would agree with the
19 argument that the applicant is putting forward as to how
20 they're meeting the criteria for us to grant this particular
21 relief.

22 I would agree with, you know, even their argument
23 about the previous surfaces and how tearing it up would be,
24 doesn't make sense. Right? And so, you know, I think that
25 this may be something that could further discussion from our

1 part.

2 But in this particular case, I'm going to go ahead
3 and vote in approval with the conditions that were set forth
4 including a ten-year term so that the ANC had some questions
5 about, you know, future needs and so I think that would be
6 a way to also give great weight to the ANC.

7 I'm going to be voting in favor of. Mr. Blake,
8 would you have anything you would like to add?

9 MEMBER BLAKE: Yes, Mr. Chair, I'll be voting in
10 favor of the application. I do believe the applicant has met
11 the burden of proof as was outlined by the Office of
12 Planning.

13 The one condition I would like to slightly edit
14 is No. 4. Snow and ice shall be promptly removed from the
15 parking lot, including the entrance/exit. There were some
16 concerns that the ANC had with regard to the thoroughness of
17 the removal.

18 And that seems to be to that end I put it to that.
19 That would be it. And I agree with a ten-year term. It
20 would be appropriate given the fact that things do change and
21 the reasons that the ANC cited for wanting to have a term are
22 legitimate.

23 I think the timeframe, the short timeframe would
24 be financially burdensome though on the owner and so I think
25 a ten-year term I think would be most appropriate. I will

1 be voting in favor of also.

2 BZA CHAIR HILL: Thank you, Mr. Blake. Dr.
3 Imamura?

4 MEMBER IMAMURA: Thank you, Mr. Chairman. I have
5 some heartburn over this. A little bit in the sense that the
6 application was filed after the prior approval expired and
7 you know, it is important that we bring these types of
8 projects into compliance with ZR-16, however, in
9 architecture, they say the most sustainable building is the
10 one that's already built.

11 So as much as I would like to see impervious
12 paving, rather pervious paving here, I do agree with the
13 applicant's argument that the construction debris it had
14 mentioned embodied carbon already, but it would be a
15 disruption to the tenant and surrounding neighborhoods so.

16 And it has been here for a while. Although I'm
17 not sure that there's a strong argument I think in my opinion
18 for the grandfathering of this, but I am willing to be
19 persuaded and vote in support.

20 BZA CHAIR HILL: Okay, thank you, Dr. Imamura.
21 All right, I'm going to make a motion to approve Application
22 No. 21086 as captioned and read by the Secretary including
23 the conditions that are in OP's report in Exhibit 20 except
24 for removing No. 7 and adding to No. 4, the comma includes
25 the entrance and exit.

1 Snow and ice shall be promptly removed from the
2 parking lot comma, including the entrance and exits and
3 including a ten-year term and ask for a second, Mr. Blake?
4 You're on mute.

5 MEMBER BLAKE: Oh. One thing before I get stuck.
6 Actually the owner indicated that the lot approval had
7 expired, it did not expire. It expired May 16th, 2024.

8 MR. SULLIVAN: All right. Thanks for the
9 clarification, Board Member.

10 MEMBER BLAKE: All right, second.

11 BZA CHAIR HILL: Motion made and seconded. Madame
12 Secretary, would you take a roll call please?

13 MS. MEHLERT: Please respond to the Chair's motion
14 to approve the application with the conditions cited by the
15 Chair. Chairman Hill?

16 BZA CHAIR HILL: Yes.

17 MS. MEHLERT: Mr. Blake?

18 MEMBER BLAKE: Yes.

19 MS. MEHLERT: Dr. Imamura?

20 MEMBER IMAMURA: Yes.

21 MS. MEHLERT: Staff records the vote as three to
22 zero to two to approve Application 21086 with conditions on
23 the motion made by Chairman Hill and seconded by Mr. Blake
24 with two Board Members not participating.

25 BZA CHAIR HILL: Thank you. Okay, the next one

1 please, Ms. Mehlert.

2 MS. MEHLERT: Next is Application No. 21087 of
3 Redhead Laugh, Learn and Play childcare. This is an
4 application pursuant to Subtitle X 901.2 for a special
5 exception under the home occupation leases requirements of
6 Subtitle U, Section 251.1(b(3)) to allow the expansion of an
7 existing child development home for up to 12 children 15
8 years of age or less in a three-story attached principle
9 dwelling.

10 The project is located in the RA-1 zone at 5041
11 Kimi Gray Court Southeast, Square 5318, Lot 211. Oh and
12 there is a late email from the ANC Chair that clarifies the
13 ANC's position if you want to allow that into the record.

14 BZA CHAIR HILL: Yes, please. If you could, just
15 let so the Board can take a look at that. Is the applicant
16 here and can they hear me?

17 (No audible response)

18 BZA CHAIR HILL: Can the applicant hear me?

19 (No audible response)

20 BZA CHAIR HILL: Can the applicant hear me?

21 (No audible response)

22 BZA CHAIR HILL: Can you all hear me?

23 (No audible response)

24 BZA CHAIR HILL: Mr. Young, have you seen the
25 applicant?

1 MR. YOUNG: They're on mute.

2 BZA CHAIR HILL: Is --

3 MR. YOUNG: It's Ms. Cotton.

4 BZA CHAIR HILL: Ms. Cotton, if you want to push
5 your button at the bottom of the screen maybe that says
6 mute/unmute, that may be one thing. Ms. Cotton, can you hear
7 me?

8 (No audible response)

9 BZA CHAIR HILL: Ms. Cotton?

10 (No audible response)

11 BZA CHAIR HILL: Well, I don't know what to do.
12 Ms. Cotton, maybe if you can try calling.

13 MALE PARTICIPANT: We have staff, we have staff
14 reaching out to her right now.

15 BZA CHAIR HILL: Okay. All right, I'm going to
16 then push this one off, you guys. Go ahead and see if they
17 can get in touch with Ms. Cotton. Mr. Young, if you could
18 please excuse everyone and if you could call our next one.
19 Ms. Mehlert?

20 MS. MEHLERT: Sure, the next case is Application
21 No. 21092 of Elizabeth Burden and Rachel Barek, this is a
22 self-certified application pursuant to Subtitle X and 1.2 for
23 a special exception under Subtitle D 5201 from the rear-yard
24 requirements of Subtitle D 207.1.

25 And this is to construct a one-story screened

1 porch rear addition to an existing detached principle
2 dwelling in the R-1-B zone. This is located at 6100 33rd
3 Street Northwest Square 2009, Lot 8.

4 BZA CHAIR HILL: Okay, if the applicant can hear
5 me if they could please introduce themselves for the record.

6 MR. PUTNAM: Hello, this is Bill Putnam from
7 Putnam Architects.

8 MS. BURDEN: And this --

9 BZA CHAIR HILL: Okay.

10 MS. BURDEN: -- is Elizabeth Burden. I'm one of
11 the owners.

12 BZA CHAIR HILL: Okay, great. Mr. Putnam, are you
13 going to be presenting to us?

14 MR. PUTNAM:: Yes.

15 BZA CHAIR HILL: Okay, great. If you would go
16 ahead please and walk us through your client's application
17 and why you believe they're meeting the criteria for us to
18 grant the relief requested.

19 And I'm going to put 15 minutes on the clock just
20 so I know where we are and you can begin whenever you like.

21 MR. PUTNAM:: Okay, thank you. The owners,
22 Elizabeth Burden and Rachel Barek are seeking zoning relief
23 for the rear-yard requirement, Subtitle D, 306.1 for a
24 one-story addition in the rear yard.

25 The existing condition is a non-conforming rear

1 yard with a setback of 19.4 feet. The proposed work, if we
2 go to the site plan, I'm sorry. If you can bring up the site
3 plans. The proposed work will decrease the rear yard by
4 eight feet so it will go down to 11.4 feet.

5 We have support from the neighbors across the
6 alley and we have verbal support from the neighbors on
7 Rittenhouse, the adjacent neighbors of Rittenhouse and
8 support from the ANC as well.

9 BZA CHAIR HILL: Okay, before I turn to my Board,
10 could I hear from the Office of Planning please?

11 MS. THOMAS: Good afternoon, Mr. Chair and Members
12 of the Board. Karen Thomas for the Office of Planning and
13 we are on the record in support of this application. Thank
14 you.

15 BZA CHAIR HILL: Thank you. Is there anyone here
16 wishing to speak, Mr. Young?

17 (No audible response)

18 BZA CHAIR HILL: Okay, does the Board have any
19 questions of anybody?

20 (No audible response)

21 BZA CHAIR HILL: All right, I'm going to go ahead
22 and close the hearing and the record. Thank you all for your
23 time. Okay, if I could let one of you all, do you guys want,
24 do you want to talk for a minute?

25 MEMBER BLAKE: Having reviewed this application,

1 the applicant's statement plus the Planning Board plans for
2 as well as the testimony presented today, I could believe
3 that the applicant has met the burden of proof to grant the
4 requested relief, the conditions pursuant to the conditions
5 of D 5201 as well as the special exception standards of X
6 901.2.

7 Given the degree of separation between the
8 neighboring properties, the structure should not have a
9 building effect on light and air. A tall privacy fence
10 should limit the amount potential in fact of a privacy use
11 of the joint, of the adjoining neighbors.

12 And the site being a closed lot because of the
13 location of the addition and because it is complimentary
14 design, the addition should not substantially intrude upon
15 the character-scale pattern of houses along the street,
16 front, or alley.

17 I give great weight to the recommendations of the
18 Office of Planning for approval. I also give weight of the
19 ANC's 34G in support which issues of post-spatial issues
20 would make sense.

21 And I also note that persons support in for the
22 neighboring property owner. I will be voting in favor of the
23 application.

24 BZA CHAIR HILL: Thank you. Dr. Imamura?

25 MEMBER IMAMURA: I'm in support of the application

1 and agree with Board Member Blake on his evaluation and have
2 nothing further to add, Mr. Chairman.

3 BZA CHAIR HILL: Thank you. I appreciate Board
4 Member Blake's analysis and his reasoning. I'm going to
5 agree with him as well as the Office of Planning and the
6 great weight that we are afforded the ANC. I will also be
7 voting in favor.

8 I'm going to make a motion to approve Application
9 No. 21092 as captioned and read by the Secretary and ask for
10 a second, Mr. Blake?

11 MEMBER BLAKE: Second.

12 BZA CHAIR HILL: Motion made and seconded. Madame
13 Secretary, if you could take a roll call please.

14 MS. MEHLERT: -- Chair's motion to approve the
15 application. Chairman Hill?

16 BZA CHAIR HILL: Yes.

17 MS. MEHLERT: Mr. Blake?

18 MEMBER BLAKE: Yes.

19 MS. MEHLERT: And Dr. Imamura?

20 MEMBER IMAMURA: Yes.

21 MS. MEHLERT: The staff will report the vote as
22 three to zero to two to approve Application 21092 on the
23 motion made by Chairman Hill and seconded by Mr. Blake with
24 two Board Members not participating.

25 BZA CHAIR HILL: Thank you. Rather than, can you

1 do our last case, Ms. Mehlert, 21096? And then we'll come
2 back to that other one.

3 MS. MEHLERT: Sure. The next is Application No.
4 21096 of 1127 Orren Street Northeast LLC. This is a
5 self-certified application pursuant to Subtitle X, 901.2 for
6 special exceptions under Subtitle E 320.2 to allow conversion
7 of an existing residential building to an apartment house in
8 Subtitle E to incorporate work on the rooftop, rooftop
9 architectural element requirements as Subtitle E to a 4.1 to
10 allow modification of the existing element.

11 And this project is to convert to a three-unit
12 apartment house and construct a third story and rear
13 additions in an existing two-story semi-detached principle
14 dwelling. It is located in mark 1 zoned at 1127 Orren Street
15 Northeast Square 4068 Lot 44.

16 BZA CHAIR HILL: Thank you. Can the applicant
17 hear me and if so, if they could introduce themselves for the
18 record.

19 MR. DeBEAR: Good morning, Chairman Hill. Eric
20 DeBear, main use counsel for the applicant from Cozen
21 O'Connor.

22 BZA CHAIR HILL: Okay, great, Mr. DeBear. If you
23 could please walk us through your client's application and
24 why you believe they're meeting the criteria for us to grant
25 the relief requested.

1 I'm going to put 15 minutes on the clock so I know
2 where we are. And you can begin whenever you like.

3 MR. DeBEAR: Great, thank you. If Mr. Young could
4 bring up our presentation filed in the record, that would be
5 great. Thank you. You can go to the next slide, Mr. Young.
6 So the property is in the RF-1 zone at the corner of Orren
7 Street and Morse Street. It is a block from Florida Avenue
8 to the North and a few blocks to the north of the H Street
9 corridor. Next slide please.

10 You can see here the existing home, again, it's
11 two stories plus the cellar level. Not much else to add on
12 this slide. Next slide please. The proposal will be to
13 convert that existing single-family home to a three-unit
14 building.

15 This proposal entails a structural addition of a
16 third story as well as a nine and a half foot rear addition.
17 There will be two parking spaces provided, a new bay
18 projections facing Morse Street and a new balcony over the
19 existing front porch.

20 Other than the relief, which is primarily use
21 based, the project complies with the RF-1 development
22 standards. It's less than 35 feet. It's providing the 20
23 foot rear yard and it is well under the 60 percent max or lot
24 occupancy in part due to an existing building restriction
25 line along Morse Street.

1 And the property is not in an historic district.
2 Next slide please. In terms of community and agency
3 outreach, ANC 5D is in support of and I know Commission
4 Roblin is here. We did work with the only abutting neighbor.

5 This property is semi-detached so there's only one
6 directly abutting neighbor. Primarily on construction
7 issues, but we did come to a resolution on his concerns
8 which, again, were not zoning related, but either way, I'm
9 happy to say that he has submitted a letter of support in the
10 case record which you can see at Exhibit 26.

11 And then the Office of Planning is also in
12 support. Next slide please. This is the sight plan
13 comparison. On the left you see existing, on the right you
14 can see the proposed structural changes which are the two
15 bays you see on the left side of the screen and then the rear
16 addition.

17 You can also see the two parking spaces that are
18 accessible at the rear from the alley. Next slide please.
19 We can zoom through these floor plans unless the Board has
20 questions. Next slide. Next slide. Here are the
21 elevations.

22 You can see the existing home hatched in kind of
23 a yellowish color on the side and front elevations. One
24 thing I would point out to the Board while we are requesting
25 special exception relief to alter rooftop architectural

1 elements, that relief only pertains to adding the railings
2 over the first floor porch.

3 The third floor addition is set back. I believe
4 it's four or five feet to provide space from that existing
5 dormer and mansard roof that will be maintained and renovated
6 to a better condition than what is currently there. Next
7 slide please. Here you can see the section.

8 You can also see the condition I just spoke about.
9 Next slide please. So the special exception relief this
10 applicant is seeking would be to convert the existing
11 residential building to the multi-unit apartment house under
12 U 320.2 as well as to alter that existing rooftop
13 architecture element.

14 Again, all that's being done in that respect is
15 adding the balcony above the front porch. Next slide please.
16 We believe we've met the general special exception standard
17 in terms of being harmonious with the purpose and intent of
18 the regulations.

19 We are compliant with the density restriction of
20 900 square feet per unit. This is increasing housing stock
21 from the existing single-family home in a highly monetized
22 area that's approximate to public transportation.

23 It maintains the architectural rhythm of the homes
24 on Orren Street. Again, there's that third-floor setback to
25 respect that existing mansard and dormer and again, to the

1 prior two points, several of the nearby homes have a third
2 story and front porch balconies just like what's being
3 proposed here. Next slide please.

4 In terms of adverse impacts, again, this is a
5 large corner lot with a semi-detached home so we only have
6 one directly abutting neighbor. Nonetheless, the addition
7 is consistent with the physical development standards of the
8 RF-1, there will be no southern facing windows toward those,
9 that row of homes to our south.

10 The rear yard plus the adjacent 15-foot wide alley
11 provides a buffer from other homes to the east and then
12 again, the two parking spaces meets the zoning. Next slide
13 please.

14 There are some conditions to the conversion on how
15 to walk through these should the Board have any questions I
16 think they're fairly self-explanatory. Next slide please.
17 And then the conditions for the rooftop architectural or,
18 excuse me, rooftop architectural alteration are set forth on
19 this slide.

20 Again, we've already talked about light, air and
21 privacy and we don't believe we're unduly affecting those due
22 to the factors I've spoken about, but I did want to note
23 again that the third condition being that the construction
24 does not substantially visually intrude upon the character,
25 scale and pattern of homes.

1 Again, the only change here is that new balcony
2 railings which would have a limited impact in terms of
3 aesthetics, nonetheless, there are other homes in the area
4 that have existing balconies over the front porch including
5 the property actually directly across from this property on
6 Orren Street.

7 And we are largely actually mimicking the
8 architectural elements on that property. Next slide please.
9 And with that, I will open it up to any questions the Board
10 might have.

11 BZA CHAIR HILL: Thank you. Let's see, before I
12 turn it over to my Board Members, may I hear from the Office
13 of Planning?

14 MR. BARRON: Good afternoon, Commissioners. For
15 the record, my name is Ron Barron, Development Refuse
16 Specialist with the D.C. Office of Planning. OP recommends
17 approval of the requested special exceptions.

18 The proposed addition will be in harmony of the
19 general purpose and intent of the RF-1 zone and would
20 unlikely to affect adversely the use and privacy of
21 neighboring properties.

22 OP is content to rest on our report in the record
23 and I am happy to answer any questions you may have at this
24 time.

25 BZA CHAIR HILL: Thank you. Mr. Young, is there

1 anyone here wishing to speak?

2 MR. YOUNG: Ms. Roblin is on.

3 BZA CHAIR HILL: Oh, okay, great. The ANC
4 Commissioner. Commissioner Roblin, can you hear me?

5 MS. ROBLIN: Yes, hi. Thank you so much. Hi,
6 everybody.

7 BZA CHAIR HILL: Hi, how are you?

8 MS. ROBLIN: Good, how are you doing?

9 BZA CHAIR HILL: Good.

10 MS. ROBLIN: Good.

11 BZA CHAIR HILL: If you could go ahead and give
12 us your testimony please.

13 MS. ROBLIN: Yes, the ANC supports this project.
14 The only issues that we had was that some construction issues
15 needed to be worked out with the abutting neighbor, James
16 Lagroom, but that was worked out. So we really appreciate
17 that and ANC supports.

18 BZA CHAIR HILL: Okay, great. Thank you,
19 Commissioner. Thank you for taking the time to be with us
20 today.

21 MS. ROBLIN: Thank you so much.

22 BZA CHAIR HILL: It's been a late day. If, does
23 anybody have any questions for the Commissioner?

24 (No audible response)

25 BZA CHAIR HILL: Okay, does anybody have any

1 questions for anyone?

2 (No audible response)

3 BZA CHAIR HILL: Okay, Mr. DeBear, do you have
4 anything you'd like to add at the end?

5 MR. DeBEAR: I do not. I appreciate the Board's
6 time. Thank you.

7 BZA CHAIR HILL: Thank you. All right, I'm going
8 to close the hearing and the record. Okay. Although this
9 was -- I don't want to say a big project, but it was one that
10 I kind of was talking a little bit of a look at. I would
11 agree with the applicant in terms of the rooftop
12 architectural elements.

13 Also, I didn't think that the balcony with the
14 railings was necessarily going to be an issue. I do
15 appreciate the set back that they have there. I do think
16 that it would also be in harmony with what the character and
17 scale and pattern of the front and surrounding neighborhood.

18 And I would also agree with the analysis the
19 Office of Planning has put forward as well as the time that
20 the ANC has taken also to be with us. I do really appreciate
21 the Commissioner being with us here this late in the day.

22 And I'm going to be voting in favor. Mr. Blake,
23 do you have anything you would like to add?

24 MEMBER BLAKE: I agree with your analysis. I do
25 think the burden of proof for both the rooftop for elements

1 as well as the special exception for the 900 square foot rule
2 has been met and it is amply enough space with 962 square
3 feet per dwelling unit.

4 Yes, the Office of Planning report I give great
5 weight. The recommendation, I also note that DDOT has no
6 objection. ANC finds reason in support as we talk about this
7 now and I was happy to see that the support of the only
8 adjacent neighbor. I'll be voting in favor as well.

9 BZA CHAIR HILL: Thank you. Dr. Imamura, do you
10 have anything you would like to add?

11 MEMBER IMAMURA: Nothing further. I thank you,
12 Mr. Chairman. You and Board Member Blake covered and I am
13 comfortable with the architectural level and to this prepare
14 to vote in support.

15 BZA CHAIR HILL: Okay, great. Thank you, Dr.
16 Imamura. All right, I'm going to make a motion to approve
17 Application No. 21096 as caption read by the Secretary and
18 ask for a second. Mr. Blake?

19 MEMBER BLAKE: Second.

20 BZA CHAIR HILL: The motion is made and seconded.
21 Ms. Mehlert, if you could take a roll call please.

22 MS. MEHLERT: When I call your name, please
23 respond to the Chair's motion to approve the application.
24 Chairman Hill?

25 BZA CHAIR HILL: Yes.

1 MS. MEHLERT: Mr. Blake?

2 MEMBER BLAKE: Yes.

3 MS. MEHLERT: Dr. Imamura?

4 MEMBER IMAMURA: Yes.

5 MS. MEHLERT: Staff records the vote as three to
6 zero to two to approve Application 21096 on the motion made
7 by Chairman Hill and seconded by Mr. Blake with two Board
8 Members not participating.

9 BZA CHAIR HILL: Okay. Great. Thank you. Mr.
10 Young, were you guys able to find the applicant?

11 (No audible response)

12 BZA CHAIR HILL: Okay, then let's take a quick
13 five-minute break if that's okay, five or a few minutes, just
14 take a quick break and we'll come right back. Thank you.

15 (Whereupon, the above-entitled matter went off the
16 Record at 3:57 p.m. and resumed at 4:03 p.m.)

17 BZA CHAIR HILL: All right, Ms. Mehlert, you can
18 call that other case back please.

19 MS. MEHLERT: Sure. So the last case I'll read
20 the caption, again, it's Application No. 21087 of Redhead
21 Laugh, Learn and Play Childcare. This is an application
22 pursuant to Subtitle X, 901.2 for a special exception under
23 the home occupation use requirements of Subtitle U
24 251.1(b(3)) to allow the expansion of an existing child
25 development home for up to 12 children, 15 years of age or

1 less in a three-story attached principle dwelling.

2 The project is located in the RA-1 zone at 5041
3 Kimi Gray Court Southeast Square 5318 Lot 211.

4 BZA CHAIR HILL: Great. Ms. Cotton, can you hear
5 us?

6 (No audible response)

7 BZA CHAIR HILL: Ms. Cotton?

8 (No audible response)

9 BZA CHAIR HILL: Can you all hear me?

10 (No audible response)

11 BZA CHAIR HILL: Okay, all right.

12 MALE PARTICIPANT: I can, yes.

13 FEMALE PARTICIPANT: Hello.

14 BZA CHAIR HILL: Ms. Cotton, can you hear us?

15 MS. COTTON: Hello, how are you doing? Hello.

16 BZA CHAIR HILL: Yes, Ms. Cotton, turn off your
17 other line, the line on the computer.

18 MS. COTTON: Okay. So I do apologize. It's been
19 a long Wednesday. I've been here since 9:00 a.m. this
20 morning and my card froze. I'm not for sure why so.

21 BZA CHAIR HILL: That's okay. Let's see. Okay,
22 Ms. Cotton, could you please first introduce yourself for the
23 record?

24 MS. COTTON: My name is Latasha Cotton. And I am
25 the owner of Redhead Laugh, Learn and Play Childcare.

1 BZA CHAIR HILL: Okay. All right. Do you want
2 to go ahead and walk us through your application and why you
3 believe you're meeting the criteria for us to grant the
4 relief requested? And you can begin whenever you like.

5 MS. COTTON: Okay, so my name is Latasha Cotton
6 and I am the owner here at Redhead Laugh, Learn and Play
7 Childcare. I am asking the BZA for, to grant me the relief
8 of special exception to open three more spots to accommodate
9 three more families in my community who have been on our
10 waiting list for urgent child care services.

11 I believe I'm meeting the requirements and the
12 guidelines because 85 percent of my parents are neighbors or
13 they walk and they don't drive. So that's one relief. As
14 far as it's located in the back of my home so we always put
15 the trash can out Monday, a day before the trash supposedly
16 dumps and they'll dump Tuesday morning.

17 Also, I need the relief due to financial hardship.
18 When I opened in 2020 I took a big loss due to the pandemic
19 from the permits, licensing, equipments and staff wages. I
20 only enrolled 30 percent of children in 2022 to 2023 because
21 the majority of the parents stayed at home or worked from
22 home.

23 So I still financially had to maintain my day care
24 costs monthly so the special exceptions will help me recover
25 from the pandemic due to COVID. You have any other questions

1 I can answer?

2 BZA CHAIR HILL: Okay. We'll see, Ms. Cotton, as
3 we kind of go through this process what questions we may
4 have. Could I hear from the Office of Planning?

5 MR. BEAMON: Good afternoon, Shepard Beamon with
6 the Office of Planning. I've reviewed the special exception
7 application to expand the existing childcare development home
8 to allow up to 12 children and recommend approval with the
9 proposed conditions that were agreed upon by the applicant.

10 We find that the request meets the criteria for
11 Subtitles U and X. And the applicant has indicated that they
12 will be able to provide a minimum of 3,500 square feet of
13 floor area per individual pursuant to Subtitle U. Therefore,
14 we stand on the record and we're open for any questions.

15 BZA CHAIR HILL: What was the conditions, Mr.
16 Beamon?

17 MR. BEAMON: So the environment shall not exceed
18 12 children, and --

19 BZA CHAIR HILL: Well are you in your report, Mr.
20 Beamon?

21 MR. BEAMON: Yes, sir.

22 BZA CHAIR HILL: Okay, give me a second. You're
23 on Page 5 of your report?

24 MR. BEAMON: Page 1, the first page.

25 BZA CHAIR HILL: Okay, got it. Okay, and then

1 they're just going from 9 to 12 children. Is that correct,
2 Mr. Beamon?

3 MR. BEAMON: Yes, that's correct.

4 BZA CHAIR HILL: Okay. One second please. Okay,
5 does the Board have any questions at this time for the
6 applicant or the Office of Planning?

7 (No audible response)

8 BZA CHAIR HILL: Okay, Mr. Young, is there anyone
9 here wishing to speak?

10 MR. YOUNG: We do.

11 BZA CHAIR HILL: Okay. If you could go ahead and
12 pull that screen up and bring that person forward please and
13 give me the name please.

14 MR. YOUNG: Yes, the first is Cornell Johnston.
15 And then we have Destiny Cotton. We have Harry Christian.
16 We have Francine Cropp who is also with Lynese Wallace. And
17 we have Shavon McLeod. And I believe that's it.

18 BZA CHAIR HILL: Okay. So everyone, I'm going to
19 go through this process and what you'll have to do please is
20 introduce yourself for the record and give your home address
21 and then you'll have three minutes to testify as members of
22 the public.

23 I'm going to just read them off as I got them from
24 Mr. Young. Ms. Johnston, can you hear me?

25 (No audible response)

1 BZA CHAIR HILL: Oh, Mr. Johnston. I'm sorry.
2 Mr. Johnston, if you could go ahead and introduce yourself
3 for the record and then give us your testimony please. The
4 clock is on the screen.

5 MR. JOHNSTON: Okay. My name is Cornell Johnston.
6 And I live at 5054 Kimi Gray Court Southeast, Washington,
7 D.C. Not too far from Ms. Cotton's establishment. I
8 enrolled my daughter briefly there. She's been there for
9 maybe two years. She has learned so much.

10 I mean, she's offered a tremendous amount of
11 service to myself and other people in the community. Being
12 a law enforcement officer, she's a lifesaver because what I
13 do sometimes I do need assistance with my daycare.

14 And she has stepped up and helped me and in so
15 many ways so. Hello, can you hear me?

16 BZA CHAIR HILL: Yes. Yes, I heard you Officer
17 Johnston. Go ahead.

18 MR. JOHNSTON: She's just a credit to the
19 community and I don't know what I would do without her.

20 BZA CHAIR HILL: Okay. All right, great. Thank
21 you, Officer Johnston and thank you for your service, sir.

22 MR. JOHNSTON: Thank you.

23 BZA CHAIR HILL: All right, Ms. Destiny Cotton,
24 can you hear me?

25 MS. COTTON: Yes, I can hear you.

1 BZA CHAIR HILL: Okay, go ahead Ms. Cotton. Could
2 you introduce yourself and then give your testimony?

3 MS. COTTON: My name is Destiny Cotton. And I
4 would like to say that I support this project. I started off
5 as summer youth worker to step into the child care field.
6 As Ms. T gave me the opportunity.

7 I am so thankful for that position because it has
8 now led me to my life-long career in early childhood
9 education. This job has helped me so much to be able to take
10 care of my children and family.

11 I also would like to thank Ms. T for believing and
12 trusting in me and giving the youth in the SYEP job program
13 an opportunity to keep the youth out of trouble. So she has
14 really helped me and helped me gain a job and be able to
15 develop in the early childhood education.

16 BZA CHAIR HILL: Wonderful. Okay, thank you Ms.
17 Cotton. Mr. Christian, can you hear me?

18 (No audible response)

19 BZA CHAIR HILL: Mr. Christian? Okay.

20 MR. CHRISTIAN: Okay, yes, I can hear you.

21 BZA CHAIR HILL: Yes, if you could introduce
22 yourself for the record and then give your testimony.

23 MR. CHRISTIAN: Hello, Harry Christian, III. I
24 am the Vice President of the HOA Community, Glenncrest
25 Residential Association. And I am against having a daycare

1 within our community.

2 One, this does not having a brick and mortar
3 business goes against our CCNR or our HOA. Also, there is
4 a big concern with many other residents as it relates to this
5 daycare being in the area already.

6 One with parking, two with traffic, three with
7 blocking of driveways, so I do believe that increasing the
8 amount of children for this townhouse, what it is a
9 townhouse, does not serve our community.

10 We don't, it's not allowed based off of the HOA.
11 It was this business was not approved by the HOA. We just
12 got wind of it probably last year or so to find out that
13 there is, you know, a business, particularly a daycare that
14 violates our covenants and restrictions is really a problem
15 for us.

16 BZA CHAIR HILL: Okay, thank you, Mr. Christian.
17 The next one is Ms. Cropp. Ms. Cropp, can you hear me?

18 MS. CROPP: Yes, I can hear you. Thank you, Mr.
19 Chair. I'm, my name is Francine Cropp for the record. And
20 I'm also the property manager for the Glenncrest Residents
21 Association. And I'm also speaking for the Board.

22 The Board is not in favor of this expansion. This
23 residence, Ms. Cotton's residence is located in a circular
24 drive lane that includes four homeowners in addition to her.
25 Kimi Gray Court basically is a high congestive street due to

1 the way that the homes were built.

2 There's no spaces that are allocated for parking.
3 With this expansion, especially during pickup and drop-off
4 hours of her customers, this is going to cause a more impact
5 on the congestion.

6 Driveways are going to be blocked which will
7 cause, you know, the issue of safety to come into play not
8 only for the existing home owners, but also for the community
9 with the children that will be entering and exiting her
10 business.

11 With that being said, this is also a
12 high-pressure, can cause a high-pressure situation to have
13 parking enforcement coming in because then our -- we'll be
14 receiving calls and complaints with regards to that issue.

15 Just to bring into play, we recently had a DDOT
16 project here for two weeks where they did sidewalk repairs
17 on Kimi Gray Court and that was basically a disaster. Ms.
18 Cotton called me and she emailed me regarding the parking of
19 vehicles near her residence.

20 You know, blocking her entrance and exits so
21 basically I'm questioning the fact that she wants to have an
22 expansion for child care when wouldn't that be the same
23 scenario wherein her customers would be blocking and not
24 allowing homeowners to exit and enter their homes.

25 Also, the addition of eight to 12 children will

1 also create a noise factor in that area when they're outside
2 playing. We have a lot of remote worker people that are
3 remote working remotely and of course, yes, everyone loves
4 and enjoys children play, however, when you're trying to
5 work, if an addition of 12 children ages 15 and down are
6 outside playing at her residence. Right?

7 Her business, that could also cause a disturbance
8 factor. So the Board is really not and they're really
9 opposing this factor and that's all I have to say.

10 BZA CHAIR HILL: Thank you, Ms. Cropp. Ms.
11 Wallace, can you hear me?

12 MS. WALLACE: Yes, I can hear you.

13 BZA CHAIR HILL: Okay. Could you introduce
14 yourself for the record please?

15 MS. WALLACE: Hi, my name is Lynese Wallace and
16 I am the president of the Home Association of Glenncrest
17 Communities. I do live in the Glenncrest 592 Kimi Gray Court
18 Southeast.

19 BZA CHAIR HILL: Okay. Do you want to go ahead
20 and give us your testimony?

21 MS. WALLACE: I am opposed of her extension to
22 extend her daycare and as you heard Ms. Cropp and Mr.
23 Christian, they've already laid out the framework. I just
24 want to add to the situation is that we're in a community
25 that is limited of curb space. There is no curb space.

1 When the developer built these homes so you have
2 homes that have more than two cars which can impede on
3 certain ramifications as far as parking in our community so
4 therefore we have residents that may have this, their house
5 here, but they also have another house in another state such
6 as Maryland or Virginia.

7 And they travel back and forth whereas if parking
8 enforcement do, in the zoning it is parking enforcement do
9 come in, they there are going to be, you know, subject to
10 ticket and fines or also having the pressure of having their
11 tags and registration to DMV.

12 So again, you know, the Board does oppose for the
13 extension for Mrs. Cotton and Mrs. Cotton's requests.

14 BZA CHAIR HILL: Okay, thank you, Ms. Wallace.
15 Is there a Mr. McLeod? Did I write that down right?

16 MS. McLEOD: Yes, Ms. McLeod.

17 BZA CHAIR HILL: Okay.

18 MS. McLEOD: So I am also a homeowner in the
19 Glenncrest Community 5063 Kimi Gray Court. And as Ms.
20 Francine and Ms. Wallace has already stated, there is tight
21 space. We're already having a problem with traffic.

22 Not only traffic, but cars speeding up and down
23 our streets and as they go through that curve, there is no,
24 you have to be very, very careful because it is packed around
25 there with cars so that would be I will also be saying that

1 will be my reason to oppose additional children.

2 BZA CHAIR HILL: Okay, thank you, Ms. McLeod.

3 Does the Board have any questions for any of the witnesses?

4 Go ahead, Mr. Blake.

5 MEMBER BLAKE: So for the Homeowners Association
6 President and also the property manager are all home
7 occupation uses prohibited in the community or just child
8 care? Or is it not prohibited? Please explain to me exactly
9 what that prohibition is.

10 FEMALE PARTICIPANT: Wait.

11 MS. WALLACE: Yes, so according to our
12 regulations, covenants and restrictions, pretty much the
13 homes is basically for residential only. And in our
14 covenants, hold on let me get to that, I can read it off for
15 you.

16 Is this it? Here we go. So according to SCCR's
17 lot restriction A states that the lot shall be used for
18 residential purposes only. And no structure or any kind
19 whatsoever be directed, offered, or maintained therein except
20 the private dwelling house for sole purposes.

21 So that's that and that we, the association
22 requirement shall prevail any DCMRA requirements.

23 MR. BLAKE: Does that prohibit home occupations
24 in general because you said a lot of people work from home
25 so it sounds like that's what they do. And people are doing

1 it from home, they have home occupations. And the D.C. Board
2 does allow --

3 FEMALE PARTICIPANT: Most work and home occupation
4 is two different things.

5 MS. WALLACE: I said most people are working home
6 remotely. Like teleworking so you know if you're working --

7 MEMBER BLAKE: Okay. I hear what you're saying
8 so you're saying that you don't think anybody else has a home
9 occupation within the community? Okay, and I think if --

10 MS. WALLACE: We're not aware of that unless it
11 is brought to our attention.

12 MEMBER BLAKE: Yes, okay.

13 MS. WALLACE: For home businesses such as daycare
14 or it was also brought to our attention of a person with a
15 pizza place, but we don't know that until it is brought to
16 our attention because people are wanting to complain about
17 the business.

18 MEMBER BLAKE: Yes, okay. All right, thank you.
19 Thank you very much.

20 BZA CHAIR HILL: Okay, does anyone else have any
21 questions for the witnesses?

22 (No audible response)

23 BZA CHAIR HILL: All right, Mr. Young, if you
24 could please excuse everyone. Thank you all very much for
25 your testimony and taking the time to be here so late in the

1 day.

2 MS. WALLACE: Thank you.

3 MS. CROPP: Thank you.

4 BZA CHAIR HILL: Okay, Ms. Cotton, can you hear
5 me?

6 (No audible response)

7 BZA CHAIR HILL: Ms. Cotton, can you hear me?

8 MS. COTTON: Yes, I can hear you, sir.

9 BZA CHAIR HILL: Okay, can you mute your computer
10 again?

11 MS. COTTON: Okay.

12 BZA CHAIR HILL: Okay, so Ms. Cotton, first a
13 couple of things. You have talked with the Office of
14 Planning and you know the conditions that they've put
15 forward. Correct?

16 MS. COTTON: Yes.

17 BZA CHAIR HILL: And those conditions I'm going
18 to repeat them are enrollment shall not exceed 12 children
19 age 15 years or less.

20 MS. COTTON: Yes.

21 BZA CHAIR HILL: You agree? The second --

22 MS. COTTON: Yes.

23 BZA CHAIR HILL: -- shall have a maximum of three
24 staff. You agree?

25 MS. COTTON: Yes.

1 BZA CHAIR HILL: The drop-off hours shall be
2 between 7:00 a.m. and 8:15 a.m. You agree?

3 MS. COTTON: Yes, sir.

4 BZA CHAIR HILL: The pickup hours shall be between
5 5:00 p.m. and 6:30 p.m. You agree?

6 MS. COTTON: Yes.

7 BZA CHAIR HILL: There will be one parking space
8 reserved for use by staff on site. You agree?

9 MS. COTTON: Yes.

10 BZA CHAIR HILL: And then trash collection shall
11 be scheduled for at least once a week. You agree?

12 MS. COTTON: Yes.

13 BZA CHAIR HILL: Okay. So now there's been some
14 discussion as you've seen here where testimony that is
15 concerning about like pickup and drop off and parking and
16 blocking driveways and such.

17 How do you propose handling those things if we go
18 from nine to 12 children?

19 MS. COTTON: Okay. I would like to respond for
20 this. The Board is aware of this, I mean, they are aware of
21 this daycare opened in 2020 and the reason I say that a Board
22 Member's child was enrolled in my daycare. That's how they
23 found out about me. Again, it was no issue at all.

24 The second thing is, as far as parking again, 85
25 percent of my parents are neighbors. I have a neighbor next

1 door to me whose child is enrolled in my daycare and she
2 hasn't complained.

3 So I don't understand when they say people are
4 coming to them to complain.

5 BZA CHAIR HILL: Ms. Cotton? Ms. Cotton? Ms.
6 Cotton? It's okay. I'm just trying to understand how you
7 are managing your traffic, your pickup and drop off. Like
8 how are you managing it now?

9 Are people, are you explaining things to the
10 parents at the right time as to when the pickup is and when
11 the drop off is? Like how are you managing that now?

12 (No audible response)

13 BZA CHAIR HILL: Ms. Cotton?

14 (No audible response)

15 BZA CHAIR HILL: Can you hear me?

16 (No audible response)

17 BZA CHAIR HILL: Hello. Ms. Cotton, can you hear
18 me?

19 (No audible response)

20 MR. REID: Did she drop off?

21 BZA CHAIR HILL: Who is that who just spoke?

22 MR. YOUNG: That's our staff, Mr. Reid. He had
23 bridged her in.

24 BZA CHAIR HILL: Okay.

25 MR. YOUNG: So maybe he needs to call her back.

1 BZA CHAIR HILL: Yes, go ahead, Mr. Reid, and try
2 to reach the applicant again.

3 MS. COTTON: And I'm not for sure what happened.
4 Mr. Reid had me on his phone.

5 BZA CHAIR HILL: That's all right.

6 MS. COTTON: So --

7 BZA CHAIR HILL: I can hear you now. So --

8 MS. COTTON: Okay, and --

9 BZA CHAIR HILL: -- my question was, Ms. Cotton,
10 again, not you know, is how are you currently handling pickup
11 and drop off? Are you instructing the parents on how to do
12 it in a way that is best for your facility? Can you please
13 explain that to me?

14 MS. COTTON: Sure, sir. So the way pickups and
15 drop-offs go, I own a two-pavement driveway in front of my
16 house. There is the space is available the clients, they
17 come and drop off, pick up and then they're gone.

18 Also, street parking on the street and if space
19 is available in the morning at 6:00 a.m. to 7:00 a.m. the
20 parents are pulling up to the doors. I open at 7:00 a.m.
21 A lot of the neighbors are at work.

22 So it's parking available, so they'll park, drop
23 the child off and then they leave so nobody is actually
24 parking their vehicle here all day. So the issue was never
25 with parking, no blocking on driveway.

1 My parents come, if there's not a space available,
2 they'll park where they can, then they'll bring their child,
3 drop their child off and then they'll leave. The same way
4 with pickup.

5 BZA CHAIR HILL: All right.

6 MS. COTTON: There's never a parking issue from
7 me.

8 BZA CHAIR HILL: Ms. Cotton, when you say they
9 park where they can, did you inform them not to block off any
10 driveways?

11 MS. COTTON: Yes, that's stated in the parent, the
12 daycare parent handbook so it's in there. My parents do not
13 block anyone's driveway because in the morning, we have a
14 safe open door that we receive the child so --

15 BZA CHAIR HILL: Okay, --

16 MS. COTTON: -- I would --

17 BZA CHAIR HILL: Ms. Cotton, Ms. --

18 MS. COTTON: -- reject the idea --

19 BZA CHAIR HILL: -- Cotton, Ms. Cotton. That's
20 great. So you have a parent pickup and drop-off handbook
21 that you let people know about?

22 MS. COTTON: No, the daycare parent handbook is
23 what they receive before the child is enrolled and they sign
24 agreeing to follow the rules and regulations or their child
25 will be terminated.

1 And this is why I'm saying they know, they're
2 aware and not to block anybody's driveway.

3 BZA CHAIR HILL: I understand. That's what I'm
4 trying to understand. So that's in your handbook?

5 MS. COTTON: Yes.

6 BZA CHAIR HILL: Okay. All right. Okay. All
7 right. Does the Board have any questions of the applicant?

8 (No audible response)

9 BZA CHAIR HILL: Mr. Blake, do you have any
10 questions?

11 MEMBER BLAKE: I just wanted to make sure that I
12 understood the hours of operations for the daycare center.

13 MS. COTTON: The hours of the operation were 7:00
14 a.m. because we offer before care and that's when you drop
15 the child off. The door will be locked at 8:15 a.m. and then
16 pickup is at 5:00 p.m.

17 Anything after 5:00 p.m. is considered late, but
18 5:00 p.m. is the pickup time.

19 MEMBER BLAKE: Okay, so your hours of operation
20 are really 7:00 a.m. to 6:30 p.m. then?

21 MS. COTTON: Yes.

22 MEMBER BLAKE: Okay, I just wanted to clarify it,
23 thank you.

24 BZA CHAIR HILL: Okay, great. All right, Ms.
25 Cotton, thank you so much for your time. Is there anything

1 you'd like to add at the end?

2 MS. COTTON: Oh, yes, I would like to add
3 something in response to what the HOA stated about the home
4 being a business. I actually live here so when they said the
5 house is only for living purposes, that's why it is a home
6 daycare because I do reside here. I do live here.

7 Also, in reference to both of them other
8 businesses since they brought that up, I asked them to show me
9 that in their declarations of providence and they were not
10 able to locate it for me.

11 Also, when I emailed them several times, they
12 didn't respond. So I do have a lawyer with them because it's
13 other issues I'm dealing with them so also loud music,
14 trusting, drinking alcohol, all of that stuff goes on in a
15 daily basis in this neighborhood.

16 So the least concern would be the children. If
17 you ask me, the Board is aware. A lot of neighbors
18 complained on that and they told them to call MPD so I feel
19 like if anybody complained on me, it would have been the
20 police and we never had a report done as far as my daycare.

21 Let me see, I wrote down some things I wanted to
22 say and I'm sorry.

23 BZA CHAIR HILL: That's all right.

24 MS. COTTON: As far as blocking driveways and the
25 parking issue, I don't want to be a negative to Nancy, but

1 neighbors do that already. It's not because of my daycare
2 business because as Ms. Cropp stated with HOA, the management
3 manager it was a neighbor when they was doing construction.

4 DDOT did construction on my side of the street.
5 A neighbor blocked me in and I couldn't get out so I had to
6 contact them so she did state that for the record and I want
7 to use that as evidence as well that all of the issues with
8 parking and congestion does not have anything to do with my
9 business.

10 BZA CHAIR HILL: Okay.

11 MS. COTTON: Yes.

12 BZA CHAIR HILL: All right, thank you, Ms. Cotton.
13 Okay.

14 MS. COTTON: No problem, thank you.

15 BZA CHAIR HILL: I'm going to go ahead and close
16 the hearing and the record. Mr. Young, if you could please
17 excuse the applicant. Okay, so I'm going to refer back to
18 the Office of Planning's report firstly.

19 And I'm going to speak to their conditions. I
20 think that those conditions, again, we're going up three
21 children. Right? We're going up from nine children to 12
22 children.

23 This daycare has already been there and this is
24 not something that is approved or not approved by the HOA.
25 This is something that is approved or not approved by the

1 City. And so, you know, part of that process of approval is
2 this BZA hearing.

3 And so this is something that is allowed here that
4 is zoned for here and that we, as a Board, are allowed to
5 approve as a special exception. They're going from nine to
6 12 children. I don't believe that the additional three
7 children are going to cause much more of a concern given the
8 fact that the applicant has a stated process with which
9 pickup and drop off are supposed to take place.

10 They are agreeing to the time perimeters that are
11 put forth by the Office of Planning for this pickup and
12 drop-off. Further, we've had support testimony in support
13 of this from a few people that are I guess using Officer
14 Johnston for one, using the service.

15 And it is providing a value to the community as
16 well as others who have had an opportunity to work there.
17 I do take into account the opposition that their testimony
18 is put forward and it sounds like these criteria that the
19 Office of Planning is putting forth in terms of conditions
20 I think should mitigate any type of adverse impact for the
21 additional three children.

22 So I'm going to be voting in favor of this
23 application. Mr. Blake, do you have anything you'd like to
24 add?

25 MR. BLAKE: Yes, I do, Mr. Chair. I think having

1 reviewed the application, the applicant's statement and the
2 Office of Planning's report, it does appear the applicant has
3 met the burden of proof to be granted the relief to operate
4 the home occupational therefore the expanse of the existing
5 child care facility but by three students.

6 I think that we do not have the ability to enforce
7 HOA's guidelines, but we are charged with the responsibility
8 of the City zoning regulations which is what this is and we
9 would therefore I think be in a position to approve this
10 application. So I will be voting in favor of the
11 application.

12 BZA CHAIR HILL: Thank you. Dr. Imamura?

13 (No audible response)

14 BZA CHAIR HILL: Maybe you're on mute Dr. Imamura.
15 You're still on mute. Oh, no, I've lost Dr. Imamura. I
16 guess we'll wait for Dr. Imamura. Mr. Blake, can you hear
17 me?

18 (No audible response)

19 BZA CHAIR HILL: Just as a side note, there's a
20 deck going up right outside my window right here and it's a
21 big deck and they can look right in on my --. You know.

22 MEMBER BLAKE: It must be a matter of right.

23 BZA CHAIR HILL: I can always appeal. I see two
24 Dr. Imamuras.

25 MEMBER IMAMURA: There we go. Sorry about that.

1 BZA CHAIR HILL: Great.

2 MEMBER IMAMURA: Yes, my connectivity and
3 computers just is tired. I don't have anything further to
4 add, Mr. Chairman. I'm in agreement with your assessment as
5 well as Board Member Blake.

6 BZA CHAIR HILL: Okay, thank you. All right, I'm
7 going to make a motion then to approve Application No. 21087
8 as captioned read by the Secretary including the Office of
9 Planning's conditions one through six on Page 1 of their
10 report in Exhibit 33 and ask for a second, Mr. Blake?

11 MEMBER BLAKE: Second.

12 BZA CHAIR HILL: Motion made and seconded. Madame
13 Secretary, if you gave a roll call please.

14 MS. MEHLERT: Please respond to the Chair's motion
15 to approve the application with the conditions and in the OP
16 report in Exhibit 33. Chairman Hill?

17 BZA CHAIR HILL: yes.

18 MS. MEHLERT: Mr. Blake?

19 MEMBER BLAKE: Yes.

20 MS. MEHLERT: And Dr. Imamura?

21 MEMBER IMAMURA: Yes.

22 MS. MEHLERT: Staff would report the vote is three
23 to zero to two to approve Application 21087 with conditions
24 on the motion made by Chairman Hill and seconded by Mr. Blake
25 with two Board Members not present or participating.

1 BZA CHAIR HILL: Thank you. All right, can
2 anybody here, I mean, sorry. Madame Secretary, do we have
3 anything else before the Board today?

4 MS. MEHLERT: We do not.

5 BZA CHAIR HILL: Okay. Well, Dr. Imamura, you
6 actually were a lucky foot. So you all have a good day,
7 afternoon.

8 (Whereupon, the above-entitled matter went off the
9 record at 4:39 p.m.)

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C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: Public Hearing

Before: DC BZA

Date: 04-10-24

Place: teleconference

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

Neal R. Gross
Court Reporter

NEAL R. GROSS

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1716 14TH ST., N.W., STE. 200

WASHINGTON, D.C. 20009-7831

(202) 234-4433

www.nealrgross.com