

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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REGULAR PUBLIC HEARING

+ + + + +

WEDNESDAY

JUNE 26, 2024

+ + + + +

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, Lorna L. John, Vice-Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

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

ZONING COMMISSION MEMBER PRESENT:

TAMMY STIDHAM, NPS Designee

OFFICE OF ZONING STAFF PRESENT:

KEARA MEHLERT, Secretary  
PAUL YOUNG, A/V Production Specialist

OFFICE OF PLANNING DEVELOPMENT REVIEW STAFF PRESENT:

JOEL LAWSON, Associate Director  
SHEPARD BEAMON  
MAXINE BROWN-ROBERTS  
MICHAEL JURKOVIC

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OFFICE OF ZONING ATTORNEY ADVISORS PRESENT:

SARAH BAJAJ, ESQ.  
CARISSA DEMARE, ESQ.

The transcript constitutes the minutes from the  
Regular Public Hearing held on June 26, 2024.

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

(10:33 a.m.)

BZA VICE CHAIR JOHN: When you're ready, please call the first hearing case.

MS. MEHLERT: The first case in the Board's hearing session is Application No. 21031 of CP 4th Street, S.E., LLC.

As amended, this is a self-certified application pursuant to Subtitle X Section 901.2 for special exceptions under Subtitle C Section 710.3 from the vehicle parking location restrictions of Subtitle C Section 710.2(c)(2) for all lots, under Subtitle D Section 202.4 from the minimum lot area requirements of Subtitle D Section 202.1 for Lot 820 for voluntary inclusionary development, under Subtitle D Section 5201 from the rear yard requirements of Subtitle D Section 207.1 for lot 820, and the alley lot side yard requirements of Subtitle D 5100.1(d) for lots 818 and 819, and pursuant to Subtitle X Section 1002 for an area variance from the front setback requirements of Subtitle D Section 206.2 for Lot 820.

This project is to construct five new two-story attached principal dwellings on an unimproved lot to be subdivided as four alley record lots and one street-facing record lot in a voluntary IZ development.

Project is located in the R-3 Zone at 3931 through 3939 4th Street, S.E., Square 6153, Lots 816, 817, 818, 819

1 and 820.

2 The public hearing was originally scheduled for  
3 March 6th. It was postponed at the Applicant's request to  
4 April 10th.

5 The application was amended on March 20th and the  
6 hearing was administratively rescheduled to today. The  
7 merits have not been heard.

8 BZA VICE CHAIR JOHN: Thank you, Ms. Mehlert.

9 Good morning, Ms. Moldenhauer.

10 MS. MOLDENHAUER: Good morning, Vice Chair John  
11 and members of the Board. My name is Meridith Moldenhauer,  
12 zoning counsel for the Applicant.

13 I am joined today by the Applicant and our  
14 architect. I'd like them to introduce themselves if that's  
15 okay.

16 BZA VICE CHAIR JOHN: Sure. Go ahead.

17 MR. EGOEGONWA: Hello. I'm Manny Egoegonwa,  
18 managing partner here with Cubed Partners. Thank you for  
19 having us.

20 BZA VICE CHAIR JOHN: Thank you.

21 MR. EGOEGONWA: Andrew?

22 MR. RASHID: Andrew Rashid with Rashid Architects.

23 BZA VICE CHAIR JOHN: Thank you. So, please go  
24 ahead, Ms. Moldenhauer. Tell us why you're here and how your  
25 application meets the requirements for approval.

1 MS. MOLDENHAUER: Absolutely. If Mr. Young could  
2 pull up our PowerPoint, which is at Exhibit 32 in the record,  
3 we can walk through a brief review of the application and be  
4 happy to answer questions.

5 Next slide. Next slide. Introduced ourselves  
6 already. You can see here this is a grouping of tax lots  
7 that front on 4th Street and have alley access all located  
8 in the R-3 Zone.

9 Next slide. Here is an existing condition image  
10 of the property. You can see on the image on your right-hand  
11 side, the metal stair that kind of goes down to the grade of  
12 the site. And you can see the existing trees on the site  
13 both in the right image and the left image.

14 Next slide. I'll now turn it over to Manny to  
15 introduce himself and a little bit about the project.

16 MR. EGOEGONWA: Absolutely. Thanks, Meridith.

17 Once again, Manny Egoegonwa, managing partner with  
18 Cubed Partners. Cubed Partners is a minority-led boutique  
19 real estate firm focused in the Washington area delivering  
20 quality affordable Aa housing within the District and also  
21 within difficult developed areas.

22 And we've been around for a few years now and  
23 we're looking to continuous work on solving the housing  
24 issues within the city.

25 Next slide, please. So, we're here today and

1 Meridith and Andrew will talk more about it, but we're here  
2 to develop the -- to talk about and seeking approval on the  
3 five lots that you saw earlier in the presentation.

4           They are subdivided for five single-family homes,  
5 four of which are alley-facing and one facing the main  
6 street, which is 4th Street, S.E.

7           There is a build out paper alley that we're also  
8 developing which is also a part of the dedication that we're  
9 going through.

10           And as is noted on the presentation there, that's  
11 Lot 821 and we are looking into creating a 24-foot wide  
12 public alley that will consist of an actual roadway, sidewalk  
13 and greenspace area as we've discussed with DDOT.

14           And with that, I will turn it back to Meridith and  
15 happy to answer questions as we go along.

16           BZA VICE CHAIR JOHN: Thank you.

17           MS. MOLDENHAUER: Great. Next slide. I'll turn  
18 it over to Andrew to walk through some of the architectural  
19 plans and then I'll walk through the relief.

20           Andrew, you're muted.

21           MR. RASHID: I always do that. Sorry, everyone.

22           (Laughter.)

23           MR. RASHID: We were tasked with designing these  
24 affordable units. As we took this on, this project, we  
25 didn't think of them that way. We thought of them as doing

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1 quality design work. These are three-bedroom, 2-1/2-bath  
2 units, two-story units.

3 As you can see, it creates a kind of a community  
4 for these families on this alley facade. We have one parking  
5 space per unit, which has been worked out with DDOT, in the  
6 public space. And that is defined by curbs, as you will see  
7 later in the renderings. We have a link to 4th Street on the  
8 right side with a sidewalk that walks down the whole site.

9 Next slide. You can see it's quite a bit of a  
10 slope down this site. We are limited to a 20-foot height in  
11 this area because of the alley. And this is a very modern  
12 architecture that we are designing to.

13 Next slide. You can see the renderings. We're  
14 using a fiber cement material as the siding for these  
15 facades. We've tried to articulate the entries and give a  
16 variety of materials.

17 You can see these aren't very imposing on the  
18 neighborhood due to their 20-foot height, but they're three  
19 different -- two different unit types. There are three of  
20 the same, two of a more rectangular oblong shape.

21 The next slide. As you can see in the slide, the  
22 sidewalk coming from 4th Street on the right, the curbs that  
23 delineate the parking spaces so that we don't have the whole  
24 site parked and the stepping down along the site and the  
25 quality of the design and the materials.

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1 Meridith?

2 MS. MOLDENHAUER: Thank you very much. Next  
3 slide. So, we're here today to discuss variance relief from  
4 the front yard setback requirement, special exception relief  
5 for the location of the surface parking spaces as they're  
6 located between the front facade and the front property line,  
7 side yard relief for two lots, rear yard relief for one lot,  
8 and minimum lot area requirements for one lot.

9 Next slide. The variance relief is from the front  
10 setback requirement. We're proposing a 25.5-foot front  
11 setback. We've outlined how we satisfied the variance  
12 standard.

13 Next slide. We've outlined and identified that  
14 there is a confluence of factors here pertaining to multiple,  
15 different and unique conditions that are associated with this  
16 front street-facing lot.

17 One, preservation of a front yard tree that was  
18 identified in our discussions with DDOT and OP. We will  
19 continue to work with the D.C. arborists to preserve that  
20 tree, as identified in the report.

21 As shown both in the existing conditions and the  
22 architectural plans, the public walkway that gets you down  
23 the sloping topography of the site from 4th Street down to  
24 the facade, as well as the paper alley, these confluence of  
25 factors contribute to the difficulty of complying with the

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1 front setback requirement and create practical difficulties  
2 for that compliance.

3           There is no substantial detriment to the public  
4 good or impairment of the zone plan as this does create all-  
5 affordable, townhome-style, single-family homes for family-  
6 style units that will have less visibility on 4th Street and  
7 is also obviously consistent with the desire to have more  
8 residential homes in the R-3 Zone.

9           Next slide. We are seeking special exception  
10 relief to the location of the surface parking spaces. You  
11 can see, in blue here, it's only for these four lots because  
12 the farthest lot is a street-facing lot.

13           And so, that parking space is actually going to  
14 be located on the side of the lot and does not have the same  
15 issue of area of relief from the front facade to the front  
16 lot line as these four blue circles show. So, we're seeking  
17 the ability to have a special exception relief from that  
18 location requirement.

19           Next slide. We are also seeking special exception  
20 relief from the side yard. In an alley lot, you must have  
21 a five-foot side yard from any and all non-alley lots.

22           You can see that the first lot that we are  
23 developing is a non-alley lot because it has 4th Street  
24 facing. The abutting apartment building that the Applicant  
25 owns as well is a non-alley lot.

1           And so, the two circles are areas where we would  
2 have a required five-foot side yard, but we are seeking  
3 relief as we are proposing zero.

4           Next slide. We are seeking special exception  
5 relief from the rear yard requirement as this is a front-  
6 facing lot.

7           You can see we have the front facade. We have our  
8 two side yards that we are proposing a zero rear yard here  
9 for our street-facing lot to be consistent with the design  
10 concept and to create, as Andrew said, this community feel  
11 and it's a very well-designed concept. So, we're seeking  
12 rear yard relief on that front-facing street lot.

13          Next slide. Last, we are seeking special  
14 exception relief pursuant to the IZ -- opt-in IZ requirement  
15 for this street-facing lot as we are not able to provide a  
16 4,000 square foot lot; but, under the special exception  
17 permission for opting into IZ, we are allowed to provide a  
18 lot of 3,000 feet.

19          And so, we're asking for that special exception  
20 for the minimum lot area requirement going from the 4,000  
21 required for a detached home to 3,348 square feet.

22          Next slide. All of these special exception  
23 reliefs I have identified, the parking, the side yards, rear  
24 yard and the minimum lot, we believe satisfy the special  
25 exception requirement as it is in harmony with the purpose

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1 and intent of the zone plan.

2           The project proposes five family-size affordable  
3 homes that will add to the D.C. housing stock. It will not  
4 tend to adversely affect the neighboring properties as it  
5 does create a community that is less visible from 4th Street,  
6 given the topography, but also creates a consistent character  
7 that is compliant with the design requirements of the  
8 surrounding neighborhood.

9           Next slide. There are special conditions for  
10 seeking the special exception relief to surface parking. We  
11 have satisfied that.

12           It is not practical to locate the parking in  
13 another location, it is more efficient use of the land, and  
14 that we have provided buffering and appropriate greenspace.  
15 We have located this in order to not create an interior  
16 garage space, which would have lost habitable space, in order  
17 to provide these family-style units.

18           We have proposed a location that we believe is  
19 consistent with creating a well-designed landscaped  
20 streetscape.

21           And we also, as we noted in OP and DDOT's  
22 comments, there is appropriate curbs. That way it limits the  
23 ability to park only in that parking space and nowhere else  
24 on that front area of the facade. The Board obviously may  
25 impose additional restrictions as they find appropriate.

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1           Next slide. We have had numerous meetings where  
2 the Applicant has gone and presented to the ANC. The ANC did  
3 formally vote on this and had a unanimous vote in support in  
4 February.

5           We have communicated with the ANC to request their  
6 resolution be placed into the record on numerous times;  
7 however, they have not done that, but we did present to them  
8 both regarding the alley closing.

9           They did submit a resolution to the D.C. Council  
10 in connection with the alley naming and that is currently  
11 pending as a billable for D.C. Council. And then we also  
12 presented to them outlining all of these zoning issues.

13           DDOT has also issued their letter in support or  
14 their no objection at Exhibit 22 in which we understand we  
15 will be working with them in connection with public space  
16 review and continuing to work with them for the alley  
17 dedication and public space approval for that improvement.

18           And OP has issued a letter of support at Exhibit  
19 30, which, again, we consent to those conditions they  
20 outlined in that report.

21           Next slide. The conditions. OP has outlined that  
22 obviously we must obtain the alley approval for the alley  
23 dedication. We understand that and are pursuing that.

24           That pursuant to the minimum lot requirement, that  
25 one of the units be designated as IZ, which we are

1 voluntarily opting into the IZ program.

2           The resolution that any potential heritage or  
3 special trees on the property be preserved and comply with  
4 law, obviously the Board is aware that we must and will  
5 comply with all heritage tree and tree laws as required.

6           That we maintain and design the parking pads  
7 unless tress require minimum shifting, obviously we will work  
8 and if there's minor modifications of shifting those, we will  
9 coordinate with DDOT and public space.

10           That we preserve the front yard tree that is part  
11 of our contributing factor for the variance for the street-  
12 facing lot and we agreed to do that.

13           DDOT conditions that compliance with DDOT  
14 standards on the alley design, construction, and dedication  
15 and we acknowledge and will work with them during the public  
16 space review process.

17           Next slide. That concludes our presentation. We  
18 thank you for your time and are available for any questions.

19           BZA VICE CHAIR JOHN: Thank you, Ms. Moldenhauer.

20           Does the Board have any questions?

21           MEMBER BLAKE: I have one question for Ms.  
22 Moldenhauer. You mentioned the ANC. I assume you're talking  
23 about ANC 8D.

24           MR. EGOEGONWA: That's correct.

25           MEMBER BLAKE: Could you elaborate a little bit

1 on the interaction with ANC 8E?

2 MR. EGOEGONWA: Sure.

3 MS. MOLDENHAUER: I'll let my client do that.  
4 Yeah, thank you.

5 MR. EGOEGONWA: Absolutely. And I've been directly  
6 involved in all the presentation. I made all the  
7 presentations to the ANCs.

8 The last meeting, which I believe was in February,  
9 as noted, was met -- we met at the library and, like I said,  
10 overwhelming support for the development.

11 I had several conversations with our single member  
12 district -- what's her name? Lakesha Williams -- and she,  
13 you know, told me she was going to send resolution over. And  
14 that was not received, but she has been very supportive of  
15 the development. She has expressed support and also  
16 expressed her support even at the broader ANC.

17 MEMBER BLAKE: Have you met with ANC 8E?

18 MR. EGOEGONWA: No.

19 MEMBER BLAKE: Okay. I believe they are across the  
20 street and we should have given notification; is that right,  
21 Ms. Moldenhauer?

22 MR. EGOEGONWA: We can confirm that.

23 I think when we started this process right before  
24 the -- there was a bit of a redistrict then. We -- I believe  
25 we started -- I don't know why -- you're saying, 8E, and I'm

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1 thinking what it was prior before it became 8D.

2           And we had -- this was back in early '23 or even  
3 late '22 and we had met with that particular -- this is when  
4 Salim was the ANC commissioner of single member district for  
5 whatever that ANC was.

6           So, I don't recall now if it was 8E, but we had  
7 had our initial conversation back then. And then only to  
8 find out that the lines had changed and we were now 8D. So,  
9 we started our conversation with 8D and where Commissioner  
10 Williams became the point of contact there.

11           MEMBER BLAKE: All right. Thank you.

12           BZA VICE CHAIR JOHN: Thank you. Just to clarify,  
13 you met with both ANC's at some point?

14           MR. EGOEGONWA: So, I'm trying to recall what the  
15 ANC used to be that we were in, as I go back through my  
16 emails, okay, when -- I believe the name is Commissioner  
17 Salim. He was the ANC commissioner at the time before there  
18 was a redistricting done and we became an 8D.

19           So, what I'm trying to say here is today we have  
20 inserted some email or connection note, as I note here, to  
21 8E in particular today, but I 'm -- but we've been very  
22 focused on 8D.

23           But I'm noting for the Board here that we had some  
24 conversations in our prior work -- prior district -- a  
25 onetime conversation at the beginning of this process before

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1 we were told that we did not belong to that ANC in  
2 particular. So, I apologize that I don't have that  
3 particular ANC location here as I look for it in my emails.

4 BZA VICE CHAIR JOHN: Okay. And while you do  
5 that, does any other board member have a question for the  
6 Applicant?

7 Go ahead, Commissioner Stidham.

8 MEMBER STIDHAM: Ms. Moldenhauer, could you  
9 explain why you can't meet the side yard requirements that  
10 you're asking relief for? Maybe you said it in your  
11 presentation and I missed it.

12 MS. MOLDENHAUER: So, obviously, given that it is  
13 a special exception, we don't have to -- for side yards and  
14 for rear yards you don't have to describe -- actually, it's  
15 on a variance you don't have to say why we can't meet it.  
16 All we have to -- we have to satisfy the special exception  
17 requirements to be able to seek relief from it.

18 And so, we believe that we do satisfy the special  
19 exception standards to seek relief both from the side yard  
20 and the rear yard, and the parking lot, based on the fact  
21 that we have proposed a design that we think is more in  
22 harmony with the overall plan and the zone plan and that  
23 there's no adverse impact to the zone plan or any abutting  
24 neighbors.

25 MEMBER STIDHAM: Okay. Thank you.

1 BZA VICE CHAIR JOHN: Board Member Smith -- so,  
2 before I go to the Office of Planning, Ms. Moldenhauer, can  
3 you put up the slide that shows the walkway to Fourth Street?

4 MS. MOLDENHAUER: Sure. Mr. Young, if you can put  
5 up Slide No. 4, that would be great.

6 BZA VICE CHAIR JOHN: Thank you. There's  
7 background noise in somebody's phone. Thank you.

8 MS. MOLDENHAUER: So, if you look at the right-  
9 hand image here, you can see kind of between the two trees  
10 that are there to the right of that white pole. You can see  
11 a metal railing and then there's an opening that goes down.  
12 That's the current stair that goes down.

13 And I don't know if Mr. Young can see that and can  
14 circle that, but it's on the right-hand photo image. That's  
15 the existing condition.

16 BZA VICE CHAIR JOHN: Um-hm.

17 MS. MOLDENHAUER: Is that what you're asking for,  
18 Ms. John, to kind of understand where that is now?

19 BZA VICE CHAIR JOHN: I'm trying to understand the  
20 variance. I think I understand it, but I wasn't quite sure.  
21 So, that's where you can't pull the building forward because  
22 of that walkway. Is that what you said?

23 MS. MOLDENHAUER: Yes, because of the walkway. And  
24 then if we can also -- and because of the tree.

25 BZA VICE CHAIR JOHN: Yeah.

1 MS. MOLDENHAUER: So, the tree is located in the  
2 front yard. And in order to then be able to preserve both  
3 the walking path, have privacy from the side of the facade  
4 of the home -- even though it's deemed to be the front of the  
5 home, it's really kind of the side and it's where we have  
6 windows into the kitchen.

7 BZA VICE CHAIR JOHN: Um-hm.

8 MS. MOLDENHAUER: And so, to have a distance that  
9 provides, you know, kind of privacy from that walkway as well  
10 as preserving the tree in the front on the property, we need  
11 to set back from that critical tree root.

12 And that is part of the confluence of factors for  
13 why we're asking to be built back farther than the front yard  
14 range on the block, but I would note that it is consistent  
15 with the square.

16 There are other properties on the square that are  
17 within the range we're asking for.

18 BZA VICE CHAIR JOHN: Um-hm. Okay. Thank you.  
19 Thank you, Mr. Young. So, if there's no more questions from  
20 the Board, I'll go to the Office of Planning.

21 MR. LAWSON: Hi. Good morning, Madam Chair and  
22 members of the Board. I'm Joel Lawson --

23 BZA VICE CHAIR JOHN: Good morning.

24 MR. LAWSON: -- Joel Lawson of the Office of  
25 Planning. Very briefly, as the Applicant mentioned, the

1 Office of Planning has recommended approval of this  
2 application.

3           There's a fair amount of relief being requested,  
4 but we think that the Applicant has adequately addressed the  
5 relevant tests for each aspect of that relief.

6           I can go through that in more detail if you'd  
7 like, but for now I'll just say that we're standing on the  
8 record of our report.

9           BZA VICE CHAIR JOHN: Okay. Thank you. Does the  
10 Board have any questions of the Office of Planning?

11           Okay.

12           MR. LAWSON: Excuse me, Madam Chair. I should  
13 note -- I should have noted this earlier. There are a number  
14 of conditions attached to OP's recommendation.

15           All of those are intended to help mitigate  
16 potential impacts and to help justify the relief that is  
17 being requested. The Applicant has agreed to each one of  
18 those conditions.

19           I would just note that the Applicant's  
20 presentation mentioned the resolution of DDOT issues with the  
21 improvements and they have agreed to address DDOT's  
22 conditions as well.

23           One of those relates to the resolution of heritage  
24 and special tree issues (audio interference) --

25           BZA VICE CHAIR JOHN: Mr. Lawson, we're having

1 difficulty hearing you.

2 MR. LAWSON: I'm sorry.

3 BZA VICE CHAIR JOHN: Can you maybe turn your mic  
4 up or something?

5 MR. LAWSON: Yeah. Is this better?

6 BZA VICE CHAIR JOHN: A little better. Thank you.  
7 Yes.

8 MR. LAWSON: Okay. I'll just speak louder. I  
9 think my mic is already turned up.

10 BZA VICE CHAIR JOHN: Yeah.

11 MR. LAWSON: Sorry. So, I just wanted to note  
12 that DDOT's condition that we agree with regarding resolution  
13 of heritage and special trees extends a little bit further  
14 than beyond -- further beyond the Applicant's property.

15 It includes trees that could be impacted by this  
16 proposal, which could include areas of the alley that will  
17 need to be installed to service this site by the Applicant.

18 So, I just want to make it clear that that  
19 condition is a little bit broader than the Applicant's  
20 property, but the Applicant has agreed to those conditions.  
21 Thank you.

22 BZA VICE CHAIR JOHN: Okay. Thanks. I had just  
23 one question about the IZ condition because the Applicant is  
24 seeking relief under the IZ regulations.

25 So, if that relief is granted, it would be a

1 requirement. I'm not quite sure why it would be a condition.  
2 Are you just seeking to highlight it or --

3 MR. LAWSON: That's exactly right, Madam Chair.

4 BZA VICE CHAIR JOHN: Okay.

5 MR. LAWSON: It is a bit of an unusual form of  
6 relief and we want to make sure that, as they go through the  
7 permitting process, that the need for that inclusionary  
8 zoning unit remains very clear and obvious to people through  
9 the permitting process.

10 BZA VICE CHAIR JOHN: Okay. Thank you. So, we'll  
11 maybe see how the lawyers can properly address that in  
12 writing the order because it's captioned as one of the areas  
13 seeking relief.

14 Mr. Blake, I saw your hand up.

15 MEMBER BLAKE: Sure. Mr. Lawson, could you please  
16 address the -- Condition No. 4 for me and how that  
17 requirement -- that condition is appropriate relative to the  
18 relief request?

19 MR. LAWSON: Yeah. For the sake of brevity,  
20 Condition 4 relates to the parking pads. I believe that's  
21 the one you're referring to. And OP has proposed that  
22 parking pads can be no larger than what is shown on the  
23 drawings.

24 We just want to, again, make sure that the parking  
25 pads that are already a little bit larger than we would

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1 normally anticipate for a single-car parking spot not get any  
2 larger.

3           However, I do think it's appropriate, or OP felt  
4 it was appropriate, to provide a little bit of flexibility  
5 regarding those parking pads if some adjustments to the  
6 parking pads are needed to ensure the preservation of one of  
7 the trees either on the property or directly adjacent to the  
8 property.

9           So, it provides that little bit of flexibility,  
10 but not to make the parking pads larger than is shown on the  
11 drawing.

12           MEMBER BLAKE: Okay. Thank you.

13           BZA VICE CHAIR JOHN: Okay. So, the plan now, Ms.  
14 Moldenhauer, requires 12-foot parking -- 12-foot parking  
15 pads?

16           MS. MOLDENHAUER: The parking shows a 15 by 20  
17 parking pad.

18           BZA VICE CHAIR JOHN: 15 by 20. Okay. Did I see  
19 Board Member Smith's hand up? Board Member Smith?

20           MEMBER SMITH: You did, but my question was in  
21 relation to the same that Mr. Blake asked.

22           BZA VICE CHAIR JOHN: Okay. Thank you.

23           Commissioner Stidham, did you have any questions?

24           MEMBER STIDHAM: No. No, ma'am.

25           BZA VICE CHAIR JOHN: Thank you. Mr. Young, is

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1 there anyone signed up to testify?

2 MR. YOUNG: We do not.

3 BZA VICE CHAIR JOHN: Thank you. Do you have your  
4 hand up, Board Member Blake?

5 MEMBER BLAKE: I do. I wanted to ask the Office  
6 of Planning one last question if Mr. Lawson is still there.  
7 You had mentioned some issue about potential surface parking  
8 conflicts at the rear of the property.

9 Can you discuss that briefly?

10 MR. LAWSON: Yeah. It's an issue that I know that  
11 the Applicant has been discussing with DDOT. There is some  
12 current surface parking kind of in behind the Applicant's --  
13 behind the subject site. That parking seems to be at least  
14 partly within the area where the new alley would have to go  
15 through.

16 So, it's essentially -- so, it's not legal parking  
17 because it's not on private property, but we feel it's  
18 appropriate that the Applicant resolve and make sure that the  
19 owners of -- or the people who use those parking spaces are  
20 aware of that conflict and address the concerns that they may  
21 have.

22 BZA VICE CHAIR JOHN: Okay.

23 MEMBER BLAKE: Thank you.

24 BZA VICE CHAIR JOHN: Thank you. Any other  
25 questions?



1           So, Ms. Moldenhauer, do you have any closing  
2 comments?

3           MS. MOLDENHAUER: So, I would just indicate that  
4 we have had extensive conversations with OP and DDOT. We  
5 area aware of the various points that were made and have been  
6 in touch with abutting property owners as well as are aware  
7 of the need to obviously be able to build out the alley in  
8 order to provide access to the project and understand that  
9 there may be additional work that we will have to do to  
10 comply, as we said, with the D.C. arborists and requirements  
11 under the D.C. Tree Preservation laws.

12           We are aware of those and we will work out those  
13 issues, obviously, as we continue down this path. We are  
14 excited for this project.

15           We did note that we would -- given that there was  
16 this redistricting and the point regarding the ANC, we would  
17 obviously request to close the record, but to simply send  
18 formal notification to the abutting ANC and provide maybe 30  
19 days for them to follow up. We think that that would be  
20 appropriate.

21           We have had conversations back in December of  
22 2022. As I said, this project has been going on for a very  
23 long time because of the complicated nature of the alley  
24 dedication and other factors that the Applicant has had  
25 extensive communication with many of the ANC members and

1 community members prior to the redistricting this past year.

2 And so, we feel as though community outreach has  
3 been substantial, but we do want to ensure that we comply.  
4 So, we would be happy to send a notification and leave the  
5 record open for that purpose.

6 MR. EGOEGONWA: And then just to clarify, it was  
7 8C that --

8 MS. MOLDENHAUER: Previously 8C.

9 MR. EGOEGONWA: 8C.

10 BZA VICE CHAIR JOHN: Okay. Thank you.

11 So, Ms. Moldenhauer, we have been following this  
12 new policy where we don't deliberate until we have all of the  
13 information in the record.

14 And because notice to the affected ANCs is a  
15 statutory requirement, I'm inclined to agree with you that  
16 the case needs to be continued. I don't know if the time is  
17 30 days.

18 Madam Chairwoman, Ms. Mehlert, are we looking at  
19 the 30-day notice period or should it be longer?

20 MS. MEHLERT: So, I'll note that the application  
21 was noticed from the Office of Zoning to ANC 8E. I think  
22 it's just the Applicant is saying that they didn't serve it  
23 to 8E, but we formally noticed to them in terms of meeting  
24 the requirements.

25 BZA VICE CHAIR JOHN: Okay. So, they had actual

1 notice from the Office of Zoning?

2 MS. MEHLERT: Correct.

3 BZA VICE CHAIR JOHN: Okay. Well, then I have to  
4 reverse what I just said. So, unless I hear from the lawyers  
5 in the next five minutes, or less, I'm going to close the  
6 record and the hearing based on the fact that there was  
7 actual notice to the ANCs and I guess one of the lawyers can  
8 chime in if I'm not correct.

9 So, thank you, Ms. Moldenhauer, and I just want  
10 to commend you on your slide presentation because there's so  
11 many areas of relief. It was very easy to track through the  
12 requests that you're seeking.

13 So, with that, I'll thank you for your  
14 presentation and excuse the other witnesses.

15 MS. MOLDENHAUER: Thank you all for your time.

16 MR. EGOEGONWA: Thank you. Thank you.

17 BZA VICE CHAIR JOHN: Okay. So, are we ready to  
18 deliberate? I think I'll go ahead and get started.

19 Mr. Young, if you could put up those conditions?  
20 I believe there was a slide with all of the conditions toward  
21 the end. And while you look for it, I'll begin.

22 I thought that the only question I had about the  
23 application was in terms of the variance request and the --  
24 whether the application met the standard for a confluence of  
25 factors and I thought that that requirement was met primarily

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1 because of the difficulty with the walkway.

2 And as to the special exception requirements, I  
3 thought they were fairly straightforward. And I think, given  
4 the topography that they were working with, that it's a good  
5 design.

6 I think the requirement for the IZ development  
7 should be stated in the order itself, not as a condition,  
8 since the Applicant did request relief from Subtitle D 202.4.  
9 And that is with respect to Lot 820, which would be -- I  
10 believe that would be the IZ unit, but the lawyers can make  
11 that correction in the order if I'm incorrect.

12 I thought aside from that, the Office of Planning  
13 did a good job in analyzing each of the different areas of  
14 relief.

15 I did not think that there would be any impact to  
16 light and air and privacy based on the layout of all of the  
17 units and how the slope is sort of -- how the units are built  
18 into the slope. I thought that was really quite effective.

19 In terms of the DDOT conditions, now, typically  
20 the Board does not include DDOT's conditions because that  
21 would be outsourcing the Board's authority over zoning to  
22 DDOT, or vice versa, giving DDOT a veto over the Board's  
23 authority for zoning.

24 So, while all of those conditions are quite worthy  
25 and the Board would support them, it would not be something

1 that the Board would include as a condition.

2 Then the paper alley, taping over the paper alley,  
3 and that would be something the Applicant would have to work  
4 out with DDOT; however, as the Applicant, I'm sure,  
5 understands, the Applicant has to meet the requirement for  
6 the 24-foot alley at permitting.

7 In terms of the tree issues, I would make the same  
8 comment. And, let's see, the dedication, which is clearly  
9 not something the Board would concern itself with.

10 The issue of the parking pads, I think either the  
11 plan should reflect 12-foot parking pads or not and I don't  
12 think the record should be unclear as to what the Applicant  
13 is actually going to build. And so, I would not accept OP's  
14 condition.

15 And apparently it's required to the pervious  
16 surface requirement, but that would be something that could  
17 be addressed at permitting.

18 Similarly, I think I discussed the preservation  
19 of the trees, but that's also something that is beyond the  
20 scope of the Board's authority. It's not a zoning issue and  
21 neither is stormwater management.

22 Although they are all appropriate and something  
23 that, in my opinion, should be done, they are not within the  
24 scope of the Board's authority.

25 So, the only condition which is not a condition

1 that I think should be included is the -- a clear statement  
2 in the order that this is an IZ project and there must be one  
3 unit dedicated to an IZ unit -- an IZ purpose. And it might  
4 be Lot 820, but that, I believe, can be clarified.

5 So, with that, I'm going to ask my board members  
6 if they would like to add any comments. Thank you, Mr.  
7 Young.

8 Board Member Smith?

9 MEMBER SMITH: Thank you, Vice Chair John. I  
10 think all of your comments were fairly spot on on the  
11 conditions.

12 Given everything that has been presented just  
13 looking at the request on special exceptions, I do believe  
14 they've met the burden of proof for us to grant the special  
15 exceptions from the vehicle parking requirements, the rear  
16 yard requirements, side yard requirements, as well as the  
17 area variance from the front setback requirements.

18 Given the constraints -- the zoning constraints  
19 on this particular property and the nature of how these lots  
20 are laid out, to me, was more of a question about some of the  
21 conditions that were proposed by the Office of Planning.

22 I think they have gone through them cautiously and  
23 that they point by point are the reasons why they should be  
24 included specifically as conditions.

25 I do support your approach to OP's recommended

1 condition by the IZ unit. I think it could be something that  
2 could be memorialized or more clearly stated within the  
3 order, but it's not something that we would necessarily need  
4 to condition given that it is already a zone requirement at  
5 this point.

6 I do agree that I believe that the other  
7 conditions are noble and they're worthy, but they do not have  
8 a direct rational nexus to specifically even the trees, the  
9 tree conditions, to the proposed special exceptions and area  
10 variance at hand.

11 And some of those, I believe, such as condition  
12 proposed by the Office of Planning, Condition 5, preservation  
13 of existing trees in the front yard area and preservation of  
14 adequate fending during construction, would be evaluated at  
15 the time of any rating permit that would result as well as  
16 the overall building permit. So, that would be captured  
17 through the DOB process, I believe.

18 So, I'm going to agree with your assessment and  
19 I agree with the Office of Planning's assessment on the  
20 reasons why they have met the burden of proof.

21 I would not recommend including any other  
22 conditions, but only memorializing Condition 2 as it relates  
23 to the IZ -- the voluntary IZ unit into the order. So, with  
24 that, I will support the application.

25 BZA VICE CHAIR JOHN: Thank you, Board Member

1 Smith.

2 Board Member Blake?

3 MEMBER BLAKE: Thank you, Vice Chair and Board  
4 Member Smith. I basically -- it's a very complicated yet  
5 simple project. It's very attractive and I appreciate the  
6 information and I will not spend a lot of time on it.

7 I will say I agree with the Office of Planning's  
8 report. I agree with the assessment you made, Vice Chair  
9 John, not to include the conditions as I do think there is  
10 an issue with that.

11 In the initial request, I do believe there was  
12 parking relief requested for all five. So, that may have to  
13 be amended because there's just four for the parking relief  
14 in the front yard.

15 I believe it's only for four as opposed to all  
16 five units. I think 820 does not need that, as Ms.  
17 Moldenhauer pointed out today, but I believe the initial  
18 request was for all five.

19 I was just looking at the Applicant's statement.  
20 It may have been revised. I did not see that, but that's the  
21 only thing that I would point out. Otherwise, I think that  
22 I'm in support of the application. I think the variance test  
23 was adequately met.

24 And it would have been nice to see some -- the  
25 rest of, you know, the street context, but I'm comfortable



1 that this is an attractive way to develop a challenging  
2 property.

3 BZA VICE CHAIR JOHN: Thank you.

4 Commissioner Stidham?

5 MEMBER STIDHAM: Thank you. I think you all spoke  
6 well of the analysis and I agree with what you've all already  
7 said, including what is included in OP's report.

8 And I also concur that the addition of the IZ  
9 requirement in the order is appropriate and should be  
10 included.

11 And that they have met the requirements of the  
12 special exception, as pointed out in OP's report, and I'm  
13 prepared to support.

14 BZA VICE CHAIR JOHN: Okay. Thank you,  
15 Commissioner Stidham.

16 Thank you, Board Member Blake, for pointing out  
17 the issue of the vehicle parking for all lots, which is  
18 mentioned in the caption.

19 And so, we -- let's see. I would suggest that we  
20 change it to -- and specify the lots that were presented in  
21 the Applicant's -- let me see if it's in the Applicant's  
22 prehearing statement.

23 It is in the Applicant's PowerPoint presentation.  
24 Let's see if there's any clarification in the prehearing  
25 statement.

1           So the -- I think it's appropriate to point out  
2 that the Applicant's PowerPoint presentation -- Mr. Young,  
3 I hate to bother you again, but would you please put up that  
4 slide that shows the parking relief in the PowerPoint  
5 presentation?

6           And I'll try to find it. It would be slide --  
7 it's towards the end. Okay. Slide -- they're not numbered.  
8 It's 14. Slide 14. Okay. And note in the order that  
9 parking relief is requested for lots 816, 817, 818 and 819.

10           Okay. So, based on the testimony, I believe it's  
11 appropriate to make that notation in the caption -- or in the  
12 order, and I will then make a motion to approve Application  
13 No. 21031 as captioned and read by the Secretary and as  
14 amended pursuant to the Board's order for clarification  
15 purposes and ask for a second, Mr. Blake.

16           MEMBER BLAKE: Second.

17           BZA VICE CHAIR JOHN: Ms. Mehlert, would you  
18 please take a roll call?

19           MS. MEHLERT: Please respond to the Chair's motion  
20 to approve the application noting the amended relief for the  
21 vehicle parking location requirements of Subtitle C Section  
22 710.2©. It's for Lots 816, 817, 818 and 819.

23           Vice Chair John?

24           BZA VICE CHAIR JOHN: Yes.

25           MS. MEHLERT: Member Smith?

1 MEMBER SMITH: Yes.

2 MS. MEHLERT: Mr. Blake?

3 MEMBER BLAKE: Yes.

4 MS. MEHLERT: Commissioner Stidham?

5 MEMBER STIDHAM: Yes.

6 MS. MEHLERT: Staff would record the vote is 4 to  
7 0 to 1 to approve application 21031 on the motion made by  
8 Vice Chair John and seconded by Mr. Blake with one board  
9 member not participating.

10 BZA VICE CHAIR JOHN: Thank you. So, we spent  
11 quite a bit of time on this case and I think we can take a  
12 quick ten-minute break. And then we can make a decision at  
13 some point whether we want to work through lunch, okay?

14 Let's take a ten-minute break, Ms. Mehlert. Thank  
15 you.

16 (Whereupon, the above-entitled matter went off the  
17 record at 11:23 a.m. and resumed at 11:42 a.m.)

18 BZA VICE CHAIR JOHN: Ms. Mehlert, would you  
19 please call us back in?

20 MS. MEHLERT: The Board is back from a quick break  
21 and the next case in the hearing agenda is Application No.  
22 21133 of Arel Properties, LLC.

23 This is a self-certified application pursuant to  
24 Subtitle X Section 901.2 for special exceptions under  
25 Subtitle D Section 5201 from the side yard requirement of

1 Subtitle D Section 208.3 and the lot occupancy requirements  
2 of Subtitle D Section 210.1.

3 This is to construct a new semi-detached, three-  
4 story principal dwelling located in the R-2 Zone at 1119 48th  
5 Place, N.E., Square 5158, Lot 10.

6 BZA VICE CHAIR JOHN: Thank you. Would the  
7 Applicants please introduce themselves? I believe that's Mr.  
8 Freeman.

9 MS. DAVIS: This is Beth Davis and I'm here on  
10 behalf of the Applicant, Arel Properties. With me today is  
11 Mr. Mark Freeman, the architect on the project.

12 BZA VICE CHAIR JOHN: Okay. Just a minute.

13 And did you sign up to testify, Ms. Davis?

14 MS. DAVIS: I did. I signed up this morning.

15 BZA VICE CHAIR JOHN: Okay. All right.

16 MS. DAVIS: And I certified and I -- I can't think  
17 of what it's called. I swore myself in.

18 BZA VICE CHAIR JOHN: Thank you. Are you choosing  
19 not to use your camera?

20 MS. DAVIS: Yeah. There's something wrong. Even  
21 when I turn my camera on, all you'll see is, like, red  
22 static.

23 So, I'm not sure what's going on with my computer,  
24 but Mr. Freeman is going to be doing most of the  
25 presentation. I'm just here in an administrative capacity.

1 BZA VICE CHAIR JOHN: Okay. All right.

2 MS. DAVIS: Thank you so much.

3 BZA VICE CHAIR JOHN: Okay. Please tell us why  
4 you're here and how your application meets the criteria for  
5 approval.

6 MS. DAVIS: Mark, you're muted.

7 MR. FREEMAN: Can you hear me now?

8 BZA VICE CHAIR JOHN: Yes. Please introduce  
9 yourself for the record. Give your name and home address.

10 MR. FREEMAN: My name is Mark Freeman. I am with  
11 Aggregate Architecture. The -- my office address is 1308 9th  
12 Street, N.W., Suite 200 in Washington, D.C. My home address  
13 is 1610 Jackson Street, N.E., in Washington, D.C.

14 I am the architect representing Mr. Rick Leavey  
15 of Arel Properties and the -- as Ms. Miller noted, we are  
16 asking for a special exception to construct a semi-detached,  
17 single-family home in the R-2 Zone.

18 And the special exceptions that we are  
19 specifically asking relief from are Subtitle D 208.3. In any  
20 of the R-2 zones one side yard, a minimum of eight feet in  
21 width, shall be provided for all semi-detached buildings, and  
22 in Subtitle D 210.1, except as provided elsewhere in this  
23 title, the maximum permitted lot occupancy shall be set forth  
24 in the following table, Table D 210.1, which allows for, in  
25 R-2, all other structures to be a maximum of 40 percent lot

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1 occupancy.

2 Per Subtitle D 5201.1 for a principal residential  
3 building on a substandard non-alley record lot described in  
4 Subtitle C 301.1, the Board of Zoning Adjustment may grant  
5 relief from the following development standards.

6 These standards include A, lot occupancy for a  
7 maximum of 50 percent in the R zones, and C, yards, including  
8 alley centerline setbacks.

9 If I may ask for Exhibit 8 to be put up so I can  
10 walk through the presentation of the architectural drawings?

11 BZA VICE CHAIR JOHN: Would you put that up,  
12 please, Mr. Young.

13 MR. FREEMAN: May we scroll down to the second  
14 page, please. This is our site plan. What we are noting is  
15 we are Lot 10. We are specifically adjacent to Lot 11, which  
16 is also a semi-detached structure.

17 The address is 1128 48th Place, N.E. This was  
18 previously approved for a side yard setback relief in a  
19 previous BZA case and was also granted similar relief to  
20 build within a side yard. We are asking for similar relief  
21 from our end from the other side.

22 The lot directly to our south, which is Lot 815,  
23 is owned by Ms. Trina Campbell and Greg Davis. That is a  
24 10.33 wide lot before their lot of 20.33 wide is directly to  
25 the south and that is Lot 816. These two lots are used for

1 them and 815 is specifically used as their side yard.

2           If I could have page 9 brought up of our drawings,  
3 this illustrates the existing condition in our pictures.  
4 Keep going. Page 9, sir, please.

5           So what we have here is our existing condition  
6 pictures. You will note that the lot to the north, which I  
7 noted as 1121, that is the building that is currently under  
8 construction to the left on the left side of the left  
9 picture.

10           The building on the right, which can also be  
11 better seen in Picture No. 3 in the center bottom, that is  
12 the principal dwelling of Trina Campbell and Greg Davis.

13           The area in between is our lot, Lot 10, as well  
14 as Lot 815. So, there is approximately 30.66 feet separating  
15 the left side of 1121 and the side of the detached home.

16           We are going to infill. And when we construct our  
17 structure and have 3.33 left, a combined separation between  
18 this home and our structure will be 13.66 feet or 13 feet 8  
19 inches.

20           Okay. if you can scroll down two more pages,  
21 please, sir? So the program for the structure -- and, as you  
22 can see here, we have the red shaded area. That is the are  
23 of the structure that will be extended into the side yard.

24           We have a program of a family room and study along  
25 with a bedroom and bath on the first level. We then have an

1 open floor plan concept of a living room, dining room and  
2 kitchen on the second level.

3           The area shaded in blue is a rear deck. This is  
4 the area which we are asking for relief to have an additional  
5 ten percent lot occupancy. This includes a balcony off of  
6 the primary suite at the rear on the third level.

7           And if you could also go to the next page, sir,  
8 please? And then this is, again, to continue with the  
9 program, we are presenting a three-bedroom plus -- or  
10 actually it's a four-bedroom, 3-1/2-bath residence semi-  
11 detached. The top floor has three bedrooms; a primary suite  
12 and two bedrooms.

13           The anticipated purchaser for this development  
14 would be a single family. By allowing the additional relief  
15 into the side yard, we would be able to construct just under  
16 a 2400 square foot residence.

17           If we were to construct by right and maintain an  
18 eight-foot side yard, the actual gross square footage would  
19 be 1700 or just under.

20           So, we have presented to the ANC and the Deanwood  
21 Citizens Association and discussed the -- because of the  
22 substandard lot and the R-2 Zone, the minimum lot width is  
23 meant to be or determined as 40 feet and we are just over  
24 half of that in width.

25           We believe if we were to build on a standard lot,



1 we would not be asking for relief for both the size, the  
2 setback or the square footage. But because of the lot  
3 constrictions, we are here.

4 But, nevertheless, we believe the larger square  
5 footage and the larger footprint provides for a more ample  
6 and sizeable single-family unit that would help for this  
7 neighborhood.

8 If I could have you now go to page 3, please.  
9 Scroll back up.

10 Thank you, sir. So, this is axonometric. On the  
11 left illustrates what the single-family home or semi-detached  
12 structure would look like if it were to be built by right.

13 And then on the right with the additional red  
14 shaded, that illustrates it with the special exception  
15 relief.

16 We believe, through the relief from the request,  
17 that it provides for a more aesthetically pleasing structure.  
18 It's not tall and thin.

19 And also as I just walked you through the plans  
20 and the program, that it would provide for more ample spaces  
21 for bedrooms and living space for the single family.

22 If I could have you zoom down -- or scroll down  
23 one more, please? These are perspective views. Again, this  
24 illustrates the massing within the specific properties  
25 adjacent to it.

1           We believe that, through this presentation, we are  
2 showing that we meet the criteria of Subtitle D 5210.4 that  
3 we are not affecting light and air, that we are not affecting  
4 adjacent privacy, and the proposed building does not  
5 substantially visually intrude upon the character, scale or  
6 pattern of other houses or 48th Place frontage.

7           If I can go to the next -- so, what we show here  
8 is our shading analysis. This is shown in -- during the  
9 summer solstice.

10           We believe -- what we are showing in the bottom  
11 left corner is the area in red where there is an increased  
12 shading. You can see that that is primarily out in the  
13 street. It does not necessarily affect any adjacent  
14 neighbor. The other time frames do not show.

15           And if you look -- and what we are illustrating  
16 here is -- the two rectangles on the top are the by right.  
17 The two rectangles on the bottom are with the special  
18 exception relief.

19           And then if you can scroll down one more page,  
20 please, sir? You will see again up on the top this is the  
21 existing condition, would be by right. But then down below  
22 you will see that the shading analysis specifically the  
23 bottom left around three o'clock would be -- the shade would  
24 be primarily on our property. And then towards the 6:00 p.m.  
25 hour you will note that it is across the alley to the bottom

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1 right.

2           We believe that these increased shadings do not  
3 adversely affect properties other than what is currently  
4 there and would be minimally realized or minimally  
5 understood.

6           If you can just scroll down one more page, please,  
7 you will now see the presentation of the winter solstice.  
8 I think the most extreme here is at 12 o'clock, which is the  
9 bottom right.

10           You will note that there is an increased shading  
11 there on the property directly to the north and -- two  
12 properties to the north, but, again, we do not believe it is  
13 -- would be maximally felt. It is more of a minimal increase  
14 and so, therefore, we meet the burden.

15           BZA VICE CHAIR JOHN: Thank you, Mr. Freeman. Did  
16 you have anything else?

17           MR. FREEMAN: No, I'm sorry. My computer was just  
18 having a little trouble.

19           I believe, based on our presentation and based on  
20 our discussions and discourse with ANC 7C, who also provided  
21 us with unanimous support -- we also presented in front of  
22 the Deanwood Citizens Association, which provided us their  
23 letter of support.

24           Mr. Rick Leavey signed and executed a construction  
25 agreement, which was part of a requirement from the Deanwood

1 Citizens Association. He was unable to be here. He was not  
2 able to reschedule a medical appointment. So, unfortunately,  
3 it is just me today and he sends his sincere apology for not  
4 attending.

5 But other than that, we -- he has presented and  
6 discussed with both of those agencies his outreach in  
7 community outreach. He canvassed the neighborhood. He  
8 knocked on specifically the two neighboring structures --  
9 well, the one that's under construction, he didn't knock on  
10 that one, but the one to the south.

11 And then we were able to receive some letters of  
12 support. We were able to receive the support from the  
13 neighbor to the north.

14 The one to the south, Ms. Campbell and Mr. Davis,  
15 we have certified letters noting delivery of the plans. We  
16 also have his knocking on the door. And during the ANC and  
17 the DCA, discussed our outreach with that neighbor  
18 specifically.

19 To date, we have not heard from them unless they  
20 are here and present to speak on their behalf. We have  
21 reached out to them multiple times, but have not received  
22 support or any indication of any concern about any of the  
23 issues that would be raised as a part of a special exception  
24 -- request for special exception.

25 That concludes my presentation. I appreciate the

1 Board's consideration of our request and I thank you for your  
2 time this morning.

3 BZA VICE CHAIR JOHN: Thank you, Mr. Freeman.  
4 That was very clear and I appreciated your shadow studies  
5 that stepped us through all of the conditions, including that  
6 notation in red showing any changed conditions. It's a pet  
7 peeve of mine. So, I didn't have to mention that to you  
8 today. So, I'm grateful.

9 Does the Board have any questions?

10 Okay. Let's go to the Office of Planning.

11 MR. JURKOVIC: Good afternoon, Vice Chair John and  
12 members of the Board. This is Mike Jurkovic, Development and  
13 Review Specialist with the Office of Planning.

14 OP recommends approval of the requested special  
15 exception relief to the minimum side yard and maximum lot  
16 occupancy requirements for the proposed semi-detached  
17 dwelling.

18 I am here to answer any questions. Thank you.

19 BZA VICE CHAIR JOHN: Thank you. Does the Board  
20 have any questions for the Office of Planning?

21 Okay. Thank you, Mr. Jurkovic.

22 Is there anyone signed up to testify, Mr. Young?

23 MR. YOUNG: Yes, we do.

24 BZA VICE CHAIR JOHN: Okay. Could you bring them  
25 in, please.

1 MR. YOUNG: You have Greg Davis, Trina Campbell,  
2 and also the ANC commissioner, Antawan Holmes, is on.

3 BZA VICE CHAIR JOHN: Thank you. Good morning,  
4 Mr. Holmes. Commissioner Holmes, please identify yourself.

5 MR. HOLMES: Yes. Can you hear me?

6 BZA VICE CHAIR JOHN: Yes. Are you choosing not  
7 to use your camera?

8 MR. HOLMES: I'm using my phone because I'm en  
9 route.

10 BZA VICE CHAIR JOHN: Okay.

11 MR. HOLMES: So, if you can hear me now, this is  
12 Commissioner Antawan Holmes --

13 BZA VICE CHAIR JOHN: Yes.

14 MR. HOLMES: -- 7C07 chair just calling. And,  
15 again, we were -- this is about the testimony that we  
16 submitted before for Case 21133.

17 BZA VICE CHAIR JOHN: Okay. So, you have written  
18 testimony. Are you saying that you're going to just rely on  
19 the written testimony?

20 MR. HOLMES: There was testimony, it would be the  
21 same to say, yes, ANC7C did meet with the Applicant to  
22 discuss the project -- the proposed project at 1119 48th  
23 Place, N.E.

24 And they did go through all of the paperwork and  
25 discussions with the community in terms of giving a

1 presentation and doing a community maintenance agreement or  
2 discussing it.

3           There was, again, that one issue about the  
4 neighbors, but they said they had certified mail to the  
5 residents at 1117 and had not heard anything from them.

6           And so, we went ahead and, on our previous meeting  
7 back in June, we approved them and you have the letter.

8           BZA VICE CHAIR JOHN: Okay. Thank you. Does the  
9 Board -- I'm sorry, does the Applicant have any questions for  
10 Commissioner Holmes?

11           MR. FREEMAN: No, ma'am.

12           BZA VICE CHAIR JOHN: Thank you. Does the Board  
13 have any questions for Commissioner Holmes?

14           Okay. Thank you. Well, thank you, Mr. Holmes.

15           MR. HOLMES: Thank you.

16           BZA VICE CHAIR JOHN: Thank you. And who is your  
17 next witness? Is that Mr. Davis?

18           Can you hear me, Mr. Davis?

19           MR. DAVIS: Yes, ma'am. Good morning.

20           BZA VICE CHAIR JOHN: Good morning. Please  
21 introduce yourself for the record and give us your home  
22 address.

23           MR. DAVIS: Hello. My name is Gregory Davis. I  
24 live at 1117 48th Place.

25           BZA VICE CHAIR JOHN: Okay. Please give us your

1 testimony. You have three minutes.

2 MR. DAVIS: Yes, ma'am. As far as meeting with  
3 the ANC, I have not -- he has not reached out to me. So,  
4 that's one thing that's not true.

5 The builder has not reached out to me. That's  
6 another thing that's not true. The approximation to my  
7 property, it would be privacy -- it would be privacy and air  
8 as well.

9 You have to excuse me if I can't articulate my  
10 words as well as you all educated people. I have a high  
11 school education. That's all. Excuse me.

12 But I've lived here since 2011. I've maintained  
13 both properties on both sides -- both lots on both sides of  
14 my house as -- when I purchased the home, they said it was  
15 built on two lots and it turns out it was built on four. I  
16 came home one day from work and I had notes on my fence  
17 stating that it's been sold in a tax sale.

18 I have cut grass, watered grass, fertilized it,  
19 removed leaves, paid people to remove downed trees and  
20 everything on this property and I just feel that it's a  
21 monstrosity.

22 It's going to be just towering over my house and  
23 I fear for the foundation of my home as well for the  
24 proximity of the structure itself as far as the foundation  
25 on -- what they would have to provide to support that size

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1 house that close to my house. I have serious concerns about  
2 that.

3 BZA VICE CHAIR JOHN: So, Mr. --

4 MR. DAVIS: And I --

5 BZA VICE CHAIR JOHN: Go ahead.

6 MR. DAVIS: Yes, ma'am.

7 BZA VICE CHAIR JOHN: No, when you're finished.  
8 You're doing fine so far. So, were you finished with your  
9 testimony?

10 MR. DAVIS: Yes, ma'am.

11 BZA VICE CHAIR JOHN: Okay. I just want to be  
12 clear. Your house is a single-family house that's right next  
13 to this property?

14 MR. DAVIS: Yes, ma'am. Right next to the  
15 proposed property where they would like to build. I think  
16 I'm within three to five feet between my house and the marked  
17 property lines where they had the grounds -- the property  
18 surveyed.

19 BZA VICE CHAIR JOHN: Okay.

20 MR. DAVIS: Yes, ma'am, and it's dangerously  
21 close.

22 BZA VICE CHAIR JOHN: And how big is your side  
23 yard? Were they accurate in saying that the side yard is at  
24 least 10 to 13 feet away from the property line?

25 MR. DAVIS: No. That's not accurate at all.

1 Actually, from my house to the adjacent house where they're  
2 under construction with right now as we speak, it's 25 to 30  
3 feet.

4           So, if they would have build the house which would  
5 -- I don't know what the footprint of their house would be,  
6 but that's apparently why they're requesting an extension so  
7 that it could be built closer to my house.

8           The documentation and the pictures and the  
9 presentation that he gave shows a fence where they -- a  
10 privacy fence. That would have to be up against the adjacent  
11 house in order for me to -- in order for it to be ten feet  
12 between my house and the house they propose to build. It's  
13 just -- it's just not true.

14           BZA VICE CHAIR JOHN: Okay. Does the Board have  
15 any questions -- I'm sorry, does the Applicant have any  
16 questions for Mr. Davis?

17           MR. FREEMAN: Well, nice to meet you, Mr. Davis,  
18 and I sincerely apologize that our outreach did not get to  
19 you. We definitely tried and I'm glad that you're here so  
20 that we may speak and address your concerns.

21           One thing that we do not have in the case file is  
22 our existing survey that was done. If I could share that or  
23 share my screen -- I don't know if that's possible. But if  
24 not, I can make sure that that is added to the record.

25           But the survey that was provided to us, his

1 particular property -- he is correct. He has two properties.  
2 He has Lot 816 and Lot 815. This specific house is on 816  
3 and is actually right on the property line between 815 and  
4 816.

5 So, technically, his single-family doesn't -- his  
6 single-family dwelling does not have a side yard by the way  
7 that his lot is subdivided and broken down.

8 He does own -- him and his wife own 815, which is  
9 in between his structure and our property and there is 10.33  
10 feet of width in lot 815.

11 And actually the Office of Planning, their report  
12 illustrates this in Exhibit No. 22. Towards the end of the  
13 report there is a site map from the zoning map, and it  
14 illustrates and it puts the dot on our lot. And there is a  
15 lot in between his lot and our lot.

16 When we build -- so, our lot is 20.33 feet wide.  
17 When we leave a 3.33-foot separation or side yard and then  
18 there is Lot 815, which is 10.33, we would have a combined  
19 separation of his lot, 815, and our remaining side yard, of  
20 13.66 feet.

21 BZA VICE CHAIR JOHN: Thank you. So, Lot 815,  
22 which is a 10-foot wide lot; is that correct?

23 MR. FREEMAN: It is 10.33 feet wide.

24 BZA VICE CHAIR JOHN: Okay.

25 MS. DAVIS: And just to note in Exhibit 22 that Mr.

1 Freeman referenced --

2 BZA VICE CHAIR JOHN: Who is speaking?

3 MS. DAVIS: This is Beth Davis. I apologize. I  
4 believe that the dot that Mr. Freeman is referencing is  
5 actually on the neighboring lot; is that correct, or is that  
6 dot on their lot?

7 BZA VICE CHAIR JOHN: I don't think that's correct.  
8 I think the dot, based on the Office of Planning report, is  
9 on the subject property.

10 MS. DAVIS: Okay. I just wanted to verify because  
11 when I looked at it --

12 MR. FREEMAN: No, that is -- and Beth is correct.  
13 It's on the wrong dot. It's our -- well, interestingly  
14 enough --

15 MS. DAVIS: It doesn't appear that the map is  
16 accurate in that.

17 MR. FREEMAN: No. And I would say that that is  
18 correct as well. Because the survey that we have -- and  
19 unfortunately I did not realize it was needed. I should have  
20 given this to you, but the lot -- because we have Lot 11 is  
21 1121, which is the current semi-detached home that's under  
22 construction.

23 We have Lot 10, which is directly to the south.  
24 Then there is an intermediate lot at 815. And then his  
25 property is on 816 -- or his home is on 816. So, there is

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1 a lot in between these two.

2 MR. DAVIS: May I say something?

3 BZA VICE CHAIR JOHN: Who is speaking?

4 MR. DAVIS: This is Gregory Davis.

5 BZA VICE CHAIR JOHN: Okay. Go ahead, Mr. Davis.

6 MR. DAVIS: Sorry for the interruption. The lots  
7 that they are pertaining to, the two lots that they say they  
8 own on one side of my house -- on the far south side of my  
9 house there is another lot that they attained in a tax sale.  
10 And then on the side that they want to build on, that's the  
11 side that they attained.

12 So, the combination of the property, the space in  
13 between the house, he's adding the lot on the other side of  
14 my house, which is not the side that they want to build to  
15 the lot on the side that they want to build.

16 So, he's adding space between the house from one  
17 side of my house to the other side to combine it as -- and  
18 make that to say that he has that much space in between my  
19 house and the new construction.

20 So, that's just -- I mean, that's not true. That  
21 should be on a map where he should show you the lot numbers  
22 and their proximity to my house because it's one lot on one  
23 side of my house that they own, and it's another lot where  
24 they want to build that on one side of my home.

25 So, that's the space I'm guessing he's trying to

1 combine. And if I'm wrong, you can correct me. Sorry for  
2 the interruption, ma'am.

3 MS. DAVIS: May I speak on what is currently  
4 showing up in D.C.'s Property Quest system?

5 BZA VICE CHAIR JOHN: Who is speaking?

6 MS. DAVIS: This is Beth Davis. My apologies.

7 BZA VICE CHAIR JOHN: Ms. Davis, I'm going to go  
8 to the Office of Planning and ask Mr. Young to pull up  
9 Exhibit -- the Office of Planning's report and pull up  
10 Exhibit 5.

11 MS. DAVIS: Okay.

12 BZA VICE CHAIR JOHN: Let's wait for Mr. Young to  
13 pull that up.

14 MS. DAVIS: Not a problem.

15 BZA VICE CHAIR JOHN: And then I'll ask Mr.  
16 Jurkovic to speak on this plan.

17 Mr. Young?

18 Can you go to page 5, which is the Office of  
19 Planning exhibit? Please scroll down. Okay. Can you  
20 enlarge that a bit?

21 Okay. Mr. Jurkovic, can you describe what is  
22 happening there? It seems to me that the house has  
23 additional land close to the lot line where this house is  
24 going to be built. And it appears that there's a vacant lot.  
25 I don't see a structure there.

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1           Is that the house that we see in the picture which  
2 is brown, the half-finished house, or is that a different  
3 lot?

4           MR. JURKOVIC: Yeah. So, the lot lines shown here  
5 are the record lots based on the GIS information that was  
6 available to me when I created this map.

7           The highlighted lot is the subject property in  
8 question where the dot is shown. I believe the -- and then  
9 obviously, just as you said, the currently under  
10 construction, semi-detached dwelling to the north is not  
11 shown as I do not have that information ready for me to place  
12 into this map.

13          To the south, I believe that is the existing  
14 record lot of the neighbor, which, yes, is comprised of three  
15 separate tax lots, to my understanding.

16          So, this map shows the subject property for the  
17 application in blue. And the extent of all the neighbors'  
18 properties to the south are that one entire lot shown.

19          And my understanding is the closest tax lot to the  
20 subject property encompasses a portion of I believe what is  
21 a shed on the property to the south and does end on the  
22 northern wall of the detached single-family dwelling on that  
23 property.

24          BZA VICE CHAIR JOHN: Okay. All right. Were you  
25 able to see that, Mr. Davis?

1 MR. DAVIS: I'm sorry, I'm -- so, the highlighted  
2 one is actually where you say you want to build, correct?

3 BZA VICE CHAIR JOHN: Well, you can speak to me.  
4 The one with the dot is --

5 MR. DAVIS: Yes, ma'am.

6 BZA VICE CHAIR JOHN: -- is where the Applicant  
7 is proposing to build a house. The one to the north of that  
8 is the property under construction.

9 And the one to the south, you can see it's a large  
10 lot with a single-family house and a shed at the back. That  
11 would be your lot, which the Office of Planning says is three  
12 tax lots.

13 So, I believe the record is correct as we have it.

14 MS. DAVIS: Just to clarify, it's one record lot  
15 and two --

16 BZA VICE CHAIR JOHN: Please identify yourself.

17 MS. DAVIS: This is Beth Davis. I just want to  
18 clarify with the Office of Planning that the lot directly to  
19 the south that's being shown all as one lot encompasses three  
20 separate lots; two of them being tax lots and one of them  
21 being a record lot. And that encompasses Lot 815, Lot 816  
22 and Lot 007, which doesn't appear to be correct.

23 Because if you're telling me that that's three  
24 separate lots, it would only include Lot 815 and Lot 816  
25 because the property directly to the south, which is Lot 7,

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1 does not belong to Mr. Davis.

2 BZA VICE CHAIR JOHN: I don't believe anybody is  
3 saying that it does.

4 MS. DAVIS: Okay. I just want to make sure that  
5 we're clarifying because you said -- somebody said three lots  
6 and it appears only to be two.

7 BZA VICE CHAIR JOHN: I said based on the Office  
8 of Planning's report, and, for now, that's the only official  
9 report in the record --

10 MS. DAVIS: Correct. And I just want to make sure  
11 that the lot that's there to the south is what Mr. Jurkovic  
12 is saying is that that is two lots; one record lot and one  
13 tax lot, not three.

14 BZA VICE CHAIR JOHN: Well, it's not necessary for  
15 clarification for our purposes. What's important to us is  
16 the size of that lot and the distance between the property  
17 line for the subject property and the single-family dwelling,  
18 which is Mr. Davis' dwelling to the south. So, thank you  
19 very much.

20 And just to address Mr. Davis again, Mr. Davis,  
21 I think -- and I thank you for your testimony, but I think  
22 what the record shows is that there is approximately -- well,  
23 I'm not going to clarify it, but based on the Office of  
24 Planning's report there is a lot in between your house and  
25 the subject property.

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1 Does that clarify it for you? In other words,  
2 they're not building on your lot.

3 MR. DAVIS: I understand. I understand. I was  
4 thinking about the proximity, how close it is to the home.

5 BZA VICE CHAIR JOHN: Okay.

6 MR. DAVIS: I'm concerned about the structure of  
7 my house being damaged with the construction of this big  
8 house -- the big house they plan on putting right here.

9 BZA VICE CHAIR JOHN: Okay. All right. Thank you.  
10 Does the Applicant have any other questions?

11 MEMBER BLAKE: I have a question.

12 BZA VICE CHAIR JOHN: Okay. Mr. Blake?

13 MEMBER BLAKE: Yeah, I'm looking at this and I  
14 think that lot 815 is really not depicted well in that table  
15 that I see on the Office of Planning's report.

16 815 is not clear because I see the shed  
17 overlapping on 815, which is the adjacent lot to 10, which  
18 I believe is where the Applicant is building.

19 So, I do see where 816 and 815 are a shared lot  
20 and it does look like -- it's not the same -- depicted the  
21 same on the Office of Planning's report.

22 And I think Ms. Campbell is also on the line.  
23 That actually is titled in her name. I'd like to -- maybe  
24 she can also chime in. I appreciate it. Thank you.

25 BZA VICE CHAIR JOHN: Ms. Campbell, please

1 introduce yourself for the record.

2 MS. CAMPBELL: My name is Ms. Campbell and I agree  
3 with pretty much what Mr. Davis said.

4 BZA VICE CHAIR JOHN: Ms. Campbell, where do you  
5 live?

6 MS. CAMPBELL: 1117 48th Place, N.E.

7 BZA VICE CHAIR JOHN: Okay. Thank you.

8 MS. CAMPBELL: And I'm concerned about the lot  
9 being built even, you know, rats coming when they start  
10 digging up. I don't know if they do abatement or not.

11 And if it overshadows our house, you know,  
12 creating some issues with, you know, us seeing certain  
13 things.

14 And I just want to pretty much agree with what he  
15 said. I don't want the building too close to our house or  
16 in our house.

17 BZA VICE CHAIR JOHN: Okay.

18 MS. CAMPBELL: And we would like to be compensated  
19 for caring for that lot, building the trees -- a few trees  
20 on the lot. Will that be torn down?

21 BZA VICE CHAIR JOHN: I don't know. I think the  
22 issue of compensation is not something that the Board could  
23 decide. It's not within the scope of our authority.

24 Neither is the construction agreement which the  
25 Deanwood Citizens Association did submit to the record and

1 that should offer some protections.

2 Now, Mr. Davis and Ms. Campbell, did you all go  
3 to the ANC meetings?

4 MS. CAMPBELL: We weren't aware of the ANC  
5 meetings. And we live around the corner from the ANC  
6 commissioner and he's never reached out to us and even said  
7 that he signed off on anything, that some changes will be  
8 made.

9 And I personally pretty much didn't understand --  
10 they sent something in the mail saying this what they were  
11 building and we could come to the hearing.

12 That -- and I also saw them knocking on individual  
13 doors in my neighborhood and they walked past me. They  
14 didn't knock on my door to explain anything to me, but I did  
15 get something in the mail.

16 And I saw them knock on my neighbor's door. My  
17 neighbor said, oh, yeah, this is about the property next-door  
18 to you.

19 So, I don't feel like we were informed enough to  
20 understand this whole process.

21 MR. DAVIS: Excuse me. This is Gregory Davis.  
22 May I say something, ma'am?

23 BZA VICE CHAIR JOHN: Yes, sir.

24 MR. DAVIS: It's just been a lot of -- they haven't  
25 been very transparent, ma'am, about the whole ordeal. That's

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1 pretty much the issue along with the proximity to that  
2 building next to this house. That's pretty much it. I don't  
3 want to start to repeat myself.

4 BZA VICE CHAIR JOHN: Okay. All right. Okay. So,  
5 thank you for your testimony. I think we have figured out  
6 where the lots are and hopefully you can understand what's  
7 in the record and what it shows.

8 And the only relevance -- well, the most important  
9 issue is how close is their lot, their structure to your  
10 structure in terms of what the regulation requires, which is  
11 whether there's impact to any light and privacy -- light and  
12 air or any issues with privacy. And that's what the Board  
13 will decide.

14 And this is a special exception. So, generally  
15 if they meet that requirement, the Board will grant the  
16 relief or is authorized to grant that relief. So, the Board  
17 will take into consideration your testimony.

18 MS. CAMPBELL: Thank you.

19 BZA VICE CHAIR JOHN: Thank you.

20 MR. DAVIS: Thank you.

21 BZA VICE CHAIR JOHN: Thank you.

22 Are there any other witnesses, Mr. Young?

23 MR. YOUNG: No, that was it.

24 BZA VICE CHAIR JOHN: Thank you. So, I'll go back  
25 to the Applicant.

1 Do you have any closing statements?

2 MR. FREEMAN: At this time I believe our main  
3 concern is being fair and reasonable to all neighbors. I  
4 believe it's unfortunate that there's been a misunderstanding  
5 or miscommunication about our outreach and I want that on the  
6 record. We definitely tried. Commissioner Holmes was aware  
7 of this as well.

8 At the end of the day if the Board of Zoning  
9 Adjustment feels that additional discussion needs to occur  
10 with Mr. Campbell -- sorry, Mr. Davis and Ms. Campbell, we,  
11 as the Applicant, are willing to do that.

12 We do believe that we have illustrated and shown  
13 our -- and met the burden of proof from and within the zoning  
14 regulations, but, again, we are more than willing  
15 participants.

16 We live in and are residents of D.C. and respect  
17 all residents and understand their position and are willing  
18 to discuss this further, as necessary, if the Board of Zoning  
19 Adjustment requires such. Thank you.

20 BZA VICE CHAIR JOHN: Thank you, Mr. Freeman, and  
21 thank you for your testimony.

22 So, at this point I'm going to excuse all of the  
23 witnesses and address the Board. Thank you, Mr. Freeman.

24 Okay. So, I would like to go to the Board to find  
25 out how we should proceed. I'm a little concerned that the

1 owners of the property to the south were not very involved  
2 as of now.

3           On the other hand, in terms of what the regulation  
4 requires, there is, as is shown in the record and in the OP  
5 report, there is about at least ten feet of distance between  
6 the structure on the subject property and Mr. Davis' house.

7           So, I would like to find out how the Board  
8 recommends that we proceed. I'm not quite sure.

9           Board Member Smith?

10           MEMBER SMITH: I also share the same concern that  
11 you have. It does look like in the record, and I'm looking  
12 completely at the record of the list of names and mailing  
13 addresses of properties that were notified. It does look  
14 like the Davises were notified.

15           Mr. Davis' information is within the record, but  
16 I am concerned that it doesn't seem like that there was much  
17 dialog.

18           And also the Applicant stated -- I do remember him  
19 saying, nice to meet you. So, it sounds like there hasn't  
20 been any direct dialog with Mr. Davis being that he is the  
21 adjacent property owner, he and his wife.

22           So, I am more comfortable with giving the  
23 Applicant some additional time to give them the ability to  
24 speak directly with those -- with the adjacent property  
25 owners, the Davises, about their project and how it may --

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1 how close their building is to the Davis' property and have  
2 more discussion with them about the development process.

3 Mr. Davis and Ms. Campbell, some of those  
4 questions that were raised about -- questions about  
5 structural integrity to your house and rodent abatement,  
6 things of that particular nature, those are addressed not at  
7 this board. They're addressed as the building permit  
8 process.

9 So, I think it would be beneficial to the -- to  
10 both parties here that that dialog would occur. So, I would  
11 prefer to defer this decision to allow some additional dialog  
12 between the Applicant and the adjacent property.

13 BZA VICE CHAIR JOHN: Thank you.

14 Board Member Blake?

15 MEMBER BLAKE: Yes. And, as a good neighbor, I  
16 would like to see that because Ms. Campbell and Mr. Davis do  
17 have to live with this and I do think it would be very good  
18 neighborly to have them have a dialog with the developer.

19 And I understand that there's been some  
20 miscommunication, it seems, all over the place, but I think  
21 it would be very helpful to have a dialog established between  
22 the two of them.

23 And if they could work out some of the issues that  
24 are relevant to our decision, the legally relevant issues,  
25 that would be great. There may be some others, but they

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1 should certainly have an opportunity to establish a dialog  
2 given the fact of the proximity of their property. And they  
3 are the most affected of all the people in this project. So,  
4 I would encourage that.

5 Hell, if it weren't for the fact that they weren't  
6 aware, they could have potentially got party status.

7 So, I think it's fair to have a reasonable dialog  
8 with them prior to our making a decision.

9 BZA VICE CHAIR JOHN: Thank you, Board Member  
10 Blake.

11 Commissioner Stidham?

12 MEMBER STIDHAM: I'm in complete agreement. Some  
13 additional -- some dialog with the adjacent property owner  
14 to help them understand what is being proposed, how it  
15 affects their property, is really an important step that  
16 needs to take place and encourage the Applicant to take those  
17 steps to talk with them and meet with them directly.

18 BZA VICE CHAIR JOHN: Okay. All right. So, I'm  
19 also in agreement. I think it's never a good idea when the  
20 adjacent owner has not had an opportunity to have a  
21 discussion to find out what impact would be on their property  
22 even if the application is otherwise supported in the record.

23 So, Ms. Mehlert, what would be a good time to  
24 continue this case?

25 MS. MEHLERT: So, Commissioner Stidham is back on

1 July 17th. I don't know if that's too soon in terms of  
2 giving the Applicant and the neighbor time to meet.

3 BZA VICE CHAIR JOHN: I think that should be fine.  
4 Let me bring the Applicant back in. Mr. Freeman?

5 MR. FREEMAN: Yes, Vice Chair John.

6 BZA VICE CHAIR JOHN: Thank you. Are you available  
7 to meet with Mr. Davis before July 17th?

8 MR. FREEMAN: Yes, ma'am. We will make every and  
9 all opportunities to meet with them. I will send my contact  
10 information to Commissioner Holmes. It seems that is the  
11 best, direct communication effort with them.

12 I do know that through the certified letter and  
13 the drawings, our information is on those. We welcome Ms.  
14 Campbell and Mr. Davis to please reach out to us at their  
15 earliest convenience and we will make sure to meet with them  
16 and walk through them all of these issues.

17 I also believe with this additional time we can  
18 upload some additional information such as the existing  
19 survey and some other clarifying documents that I think would  
20 help in this discussion, but we appreciate and welcome this  
21 opportunity and thank you for allowing it.

22 BZA VICE CHAIR JOHN: Okay. Thank you, Mr.  
23 Freeman. Have a good day.

24 Okay. So, Ms. Mehlert, we'll continue the case  
25 until July 17th. And if the Applicant -- well, if the

1 Applicant submits additional information, we should put a  
2 time for that submission and a response from the ANC.

3 MS. MEHLERT: The Applicant could submit something  
4 by July 8th and the ANC could have until the 15th to respond.

5 BZA VICE CHAIR JOHN: Okay.

6 MS. MEHLERT: That works?

7 BZA VICE CHAIR JOHN: Yes. All right.

8 MS. MEHLERT: This is for a limited scope continued  
9 hearing?

10 BZA VICE CHAIR JOHN: Yes, yes, thank you. Limited  
11 scope.

12 Okay. So, we have continued the case to July 15th  
13 for a limited scope hearing with the ANC to submit any  
14 response to the Applicant's filing by July 15th and the  
15 Applicant to submit clarifying documents by July 8th.

16 Okay. Thank you. So, when you are ready, you can  
17 call the next case.

18 MS. MEHLERT: The next case is Application No.  
19 21134 of Frederick and Ruth Elliott. As amended, this is a  
20 self-certified application pursuant to the special exception  
21 --

22 BZA VICE CHAIR JOHN: Ms. Mehlert, you're breaking  
23 up.

24 MS. MEHLERT: Can you hear me okay now?

25 BZA VICE CHAIR JOHN: Now, I can.

1 MS. MEHLERT: Okay. As amended, a self-certified  
2 application pursuant to Subtitle X Section 901.2 for special  
3 exception --

4 BZA VICE CHAIR JOHN: You're breaking up again, Ms.  
5 Mehlert. Lots of gremlins today.

6 MS. MEHLERT: I'll just keep trying.

7 BZA VICE CHAIR JOHN: Yeah, okay.

8 MS. MEHLERT: So, special exceptions under Subtitle  
9 D 5201 and the rear yard requirement of Subtitle D Section  
10 2071.1, the side yard requirements of Subtitle D Section  
11 208.7, and the lot occupancy requirements of Subtitle D  
12 section 210.1.

13 This is to construct a one-story rear addition to  
14 an existing, detached, two-story principal dwelling located  
15 in the R-1B Zone at 3800 25th Place, N.E., Square 4296, Lot  
16 1.

17 And there is a request to postpone the hearing  
18 from ANC 5B.

19 BZA VICE CHAIR JOHN: Thank you. Are the parties  
20 here? Mr. Gooden?

21 MR. GOODEN: Yes. Good afternoon, Vice Chair John.  
22 Thank you very much for this opportunity. My name is Mario  
23 Gooden. I'm director of Mario Gooden Architect, PLLC, based  
24 in New York.

25 My address is 333 West 39th Street, Suite 904, New

1 York, New York 10001. I am here with my associate Alonso  
2 Ortega, and Mr. and Mrs. Frederick Elliott, who reside at  
3 3800 25th Place, N.E., are also here.

4 BZA VICE CHAIR JOHN: Okay. Let me go to the ANC.  
5 Is the ANC here?

6 MS. MEHLERT: The ANC is not here. They did sign  
7 up, but we're unable to get in touch with them. Staff has  
8 been trying to reach out.

9 BZA VICE CHAIR JOHN: So, the ANC is requesting a  
10 continuance; is that correct, which the Applicant proposes?

11 MR. GOODEN: Which we oppose, yes, that is correct,  
12 on behalf of Mr. and Mrs. Elliott.

13 BZA VICE CHAIR JOHN: Okay. So, if the ANC is not  
14 here -- did they sign up, Ms. Mehlert?

15 MS. MEHLERT: Yes. Yeah. So, the staff has been  
16 trying to reach out, but we have not seen them join the call.

17 BZA VICE CHAIR JOHN: Okay. Mr. Gooden, can you  
18 tell me what your outreach to the ANC was?

19 MR. GOODEN: Yes, certainly. We first made contact  
20 with the ANC in October of 2023 to notify them and to share  
21 with them drawings for the addition project for Mr. and Mrs.  
22 Elliott and also for the ANC to feel free to contact us at  
23 any time if they have any questions.

24 On May 26 of this year the ANC chair met with Mr.  
25 Elliott at 6:30 p.m. on the evening of the 26th at -- on

1 their property at the site.

2           Unfortunately, I was not able to attend that  
3 meeting in person because I was out of the country and six  
4 hours ahead. However, I was available by telephone standing  
5 by in the event that there were any questions from the ANC.

6           Attending that meeting were Ms. Gail Brevard, the  
7 ANC commissioner, and Ms. Shirley Rivens Smith, who is the  
8 president of the neighborhood association and past  
9 commissioner.

10           Mr. Elliott did inform me that neither Ms. Brevard  
11 nor Ms. Smith had any questions when he shared with them the  
12 footprint and drawings for the proposed project.

13           We then had another email correspondence to Ms. --  
14 to the ANC notifying them of some slight changes to the  
15 drawings -- this was maybe two or three weeks ago -- again  
16 with the statement to please do not hesitate to contact us  
17 if you have any questions as we'll be happy to answer your  
18 questions.

19           BZA VICE CHAIR JOHN: Okay. So, there was never  
20 a full meeting of the ANC?

21           MR. GOODEN: Not that I am aware of --

22           BZA VICE CHAIR JOHN: Um-hm.

23           MR. GOODEN: -- as the ANC chair did not invite  
24 us to a full meeting. We understood, from the ANC Chair,  
25 that there might have been neighbors that would have attended

1 the site meeting, but there were no neighbors that attended  
2 the site meeting. It was just the ANC chair and Ms. Rivens  
3 Smith.

4 BZA VICE CHAIR JOHN: Okay. And what contact have  
5 you had with the neighbors on either side of the project?

6 MR. GOODEN: As required by BZA, we submitted 200  
7 names and labels for drawings to be sent to the neighbors.  
8 The neighbors immediately to the west of Mr. and Mrs.  
9 Elliott, that is a rental property. Mr. and Mrs. Elliott  
10 have resided at 3800 25th Place, N.E., for the past 50 years.

11 And then they have neighbors who are across the  
12 alley and we have not had contact with them as this project  
13 would not directly affect -- is not directly adjacent to  
14 their property.

15 This property is on the corner of Perry Street and  
16 25th Place, N.E., which makes it, you know, an atypical lot,  
17 which is why we're seeking special exceptions.

18 BZA VICE CHAIR JOHN: Okay. So, if my board is in  
19 agreement, and I want to hear from you, I think we -- because  
20 the ANC is not here and they are requesting the postponement,  
21 I think we should go ahead and hear the case and leave the  
22 record open for the ANC to submit a response or arrange to  
23 meet with the Applicant.

24 And I would like to hear from the Board starting  
25 with you, Mr. Smith -- Board Member Smith.

1 MEMBER SMITH: I agree with your approach, Chair  
2 John.

3 BZA VICE CHAIR JOHN: Thank you. Board Member  
4 Blake?

5 Thank you. Commissioner Stidham?

6 MEMBER STIDHAM: I agree as well.

7 BSA VICE CHAIR JOHN: Okay. And so, what we will  
8 do, Ms. Mehlert, is continue the case for a limited scope  
9 hearing based on anything that the ANC chooses to submit.  
10 Thank you.

11 Okay. So, Mr. Gooden, please tell us how your  
12 application meets the criteria for relief and we'll go ahead  
13 and put 15 minutes on the clock.

14 MR. GOODEN: Okay. Thank you. We are seeking  
15 special exception from the rear yard requirement of Subtitle  
16 D Section 207.1 pursuant to Subtitle D Section 5201.1 and  
17 Subtitle X 901.2; special exception for side yard  
18 requirements of Subtitle D Section 208.7; and special  
19 exception from the lot occupancy requirements of Subtitle D  
20 210.1.

21 If we could pull up our PDF presentation which I  
22 believe is Exhibit No. 51 or 52? Thank you. So, we will  
23 begin, just to give you an overview, with this rendering.  
24 The existing house, which is a two-story, detached, single-  
25 family house.



1           We are looking to have a one-story addition which  
2 would comprise of a bedroom suite with bathroom. And this  
3 is to make the Elliott's house all accessible at one level.

4           Mr. and Mrs. Elliott, as I have mentioned, have  
5 resided here for 50 years and they are both retirees from the  
6 federal government.

7           Mrs. Elliott often uses a wheelchair. And so,  
8 it's necessary that they can occupy their house all on one  
9 level as they desire to remain in the District. Otherwise,  
10 they would be forced to move out of the District in order to  
11 have a house that they could have accessible all at one  
12 level.

13           We can go to the next slide, please. And the next  
14 slide. These are photographs -- or this is a photograph of  
15 the existing condition.

16           As I mentioned, it is at the corner of Perry  
17 Street and 25th Place, N.E. We are looking from 25th Place,  
18 N.E., towards the entry of the existing house. I'd also like  
19 to note here that the existing house is only 12 feet wide.

20           We can go to the next slide. This is looking from  
21 the northeast from the alley towards the existing house and  
22 towards the open area where we'd like to construct the  
23 addition.

24           If we go to the next slide -- and I don't know if  
25 we can zoom in or not, but, if we could, that would be

1 helpful.

2 I'd like to point out that there are two things  
3 which primarily make this lot somewhat difficult not only  
4 being a corner lot, but we have the building restriction line  
5 on the south side of the property where you see it says,  
6 front, and the building restriction line on the east side of  
7 the property which is 15 feet, and those two requirements  
8 would make it such that the addition that we are seeking to  
9 add would need to be 12 feet wide.

10 However, to make this more accommodating and to  
11 satisfy their needs, including ADA accessibility, we are  
12 seeking the special relief to what is now, for the sake of  
13 this conversation and for the sake of zoning, a side yard  
14 which is a nonconforming condition which is -- existing  
15 condition is 5 foot 4.

16 We are seeking to not go all the way to the  
17 property line, but to come within 1 foot 8 of the property  
18 line in order to make this addition more workable.

19 The other special exception that we are seeking  
20 is that the rear, as you see it labeled there, rear, what is  
21 actually now the side to the alley, but for the sake of  
22 zoning it is being labeled as the rear yard, that has a  
23 requirement of a 25-foot setback and we are at 23 feet. So,  
24 just a two-foot difference.

25 And then thirdly, there's the requirement of a 40

1 percent occupancy with our addition -- site occupancy with  
2 our addition. We're actually at 40.21, I believe, percent.  
3 So, just, you know, slightly, slightly over the 40 percent.

4           We can go to the next slide. So, the shaded shows  
5 the addition in relationship to the property to the house  
6 which is directly adjacent to the west, and also showing that  
7 because of the orientation this will have no adverse effects  
8 in terms of light and air on that property.

9           We can go to the next slide, please. The addition  
10 will have a basement which will connect to the existing  
11 basement.

12           We can go to the -- and this is the basement plan.  
13 The principal floor plan is the next slide. So, here we're  
14 showing the bedroom, the main sleeping area, the bathroom  
15 with a connection through to the existing house through what  
16 is now a window. So, we'll be cutting that window down to  
17 make it a doorway, a closet.

18           The Elliotts wish to be able to come directly into  
19 the house from the outside and then come up the steps, but  
20 we also have a chair lift -- a wheelchair lift for Ms.  
21 Elliott such that they are coming into a secure area and then  
22 moving up to the first floor.

23           And so, all of this is happening within the  
24 footprint that you saw in the shaded drawing on the previous  
25 slide.

1           We can go to the next one. That's just the roof  
2 plan which gives you the footprint. And to the next slide.  
3 So, the elevations, this is a one-story elevation really  
4 keeping it with a bay window projection so we are able to get  
5 some area in terms of the bay window.

6           And we've worked with the Office of Planning and  
7 also DDOT. Office of Planning suggests approval for the  
8 project. DDOT has no objections to the project and it does  
9 not impact the public right-of-way. So, we see that we have  
10 two large windows in this bay window facing 25th Place, N.E.

11           The exterior of the addition will be of a brick  
12 that is complementary to the brick of the existing house.  
13 And we'll go back to that other rendering in a second, but  
14 first we'll go to the next elevation.

15           The rear elevation. This is facing the neighbor's  
16 yard to the west. We have a window which will be of  
17 translucent glass so that we get daylight -- or frosted  
18 glass, I should say, which will get daylight, but not  
19 visible. So, there's no visual intrusion to the neighbor's  
20 yards in terms of privacy. And you see the existing two-  
21 story house there to the right side of this drawing.

22           We can go to the next slide. And then this  
23 rendering just kind of shows the disposition. The  
24 neighborhood has houses of various styles. This is a very  
25 simple, modern addition that we feel is, you know, somewhat

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1 modest and, again, keeping in the spirit of the existing  
2 house and really trying to make this really kind of workable  
3 and livable so that the Elliott's can, you know, can maintain  
4 their residency within the District.

5           And this may be the last slide, but we'll see if  
6 there's another. Yes. So, to summarize, we are seeking the  
7 three special exceptions, one to the rear yard in order to  
8 make this new bedroom suite sort of workable and not be  
9 minimized by the 12-foot width of the existing house.

10           The rear yard, which requires a 25-foot setback,  
11 we have 23 feet. So, it's just a two-foot difference. And  
12 so, we believe that we've met both of those special  
13 exceptions.

14           And then the occupancy, which is -- 40 percent is  
15 the requirement and we are at 40.21 percent -- or 40.12  
16 percent. So, again, very minimal in terms of impact.

17           And, again, the Office of Planning in their very  
18 thorough report, and we've worked very closely with them,  
19 support the project.

20           And DDOT, we've met with them and they have no  
21 oppositions to the project. So, thank you for your time and  
22 I hope that I stayed within my 15 minutes.

23           BZA VICE CHAIR JOHN: It's okay. Does the Board  
24 have any questions for Mr. Gooden?

25           Mr. Smith?

1           MEMBER SMITH: Really quickly. And the ANC is not  
2 here, but it seems like the reason for their opposition is  
3 there were some iterative changes to the project that kept  
4 occurring and they hadn't seen it.

5           Could you walk through -- can you, you know,  
6 state the changes that have occurred to this design over  
7 time? The last, you know, two or three redesigns that have  
8 occurred, can you speak to that? What is the substantive  
9 change?

10          MR. GOODEN: Certainly, Mr. Smith. There's only  
11 been one, let's call it, redesign. When we began this  
12 project working with the Elliotts last year, they also wanted  
13 to have a porch addition to the south side and a garage  
14 addition to the north side.

15          So, the significant change is that the porch and  
16 the garage are not part of the design at this point, but  
17 those changes, I believe, were made back in April or so.

18          The last, if you could even sort of call them  
19 changes, was just a change from one large window in the bay  
20 window projection to two windows.

21          MEMBER SMITH: Okay. Thank you for that. And  
22 those fairly substantive changes that you made with the porch  
23 and the garage, was that done more at the behest of your  
24 Applicant -- or your client, anyway, or was that part of  
25 discussions with the ANC?

1 MR. GOODEN: Those were actually part of the  
2 discussions with DDOT because we were -- the -- in order to  
3 make the porch that Mr. and Mrs. Elliott wanted, to make that  
4 workable, it was going to encroach about one foot into the  
5 building restriction line on the south side.

6 And on the east side of the property, which has  
7 a building restriction line which is 15 feet, we had to push  
8 the addition back so that it is within the building  
9 restriction line.

10 So, we pushed it back. I believe it was 2-1/2 to  
11 3 feet, but it was not a substantial change in terms of the  
12 design or the layout of the floor plan.

13 MEMBER SMITH: Okay. So, at the, I guess, the SMD  
14 meeting that they're referencing, what was -- the bed was in  
15 front of this house? What were the plans that were submitted  
16 at that time?

17 MR. GOODEN: Those were the plans and they had  
18 already been submitted -- or subsequently they were  
19 submitted, I think, maybe the day later, but the ANC saw  
20 them. Those were the plans without the garage and without  
21 the -- and without the porch.

22 MEMBER SMITH: Okay. But it was the smaller  
23 windows, not the larger one window that you're proposing?  
24 That's what you said?

25 MR. GOODEN: It was one large window and we

1 contacted the ANC, I think, within a week or maybe it was  
2 less of May 26th saying we want to alert you to this change  
3 in terms of the windows.

4 And this is, again, the window which doesn't  
5 affect the neighbors. It's actually the windows that are on  
6 25th Place, N.E.

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

8 No more questions, Chair John. Thank you.

9 BZA VICE CHAIR JOHN: Thank you. Thank you.

10 Mr. Blake?

11 MEMBER BLAKE: I don't have any questions right  
12 now. Thank you.

13 BZA VICE CHAIR JOHN: Commissioner Stidham?

14 MEMBER STIDHAM: No questions from me either.

15 BZA VICE CHAIR JOHN: Thank you. So, I'll go to  
16 the Office of Planning.

17 MR. BEAMON: Good afternoon, board members.  
18 Shepard Beamon with the Office of Planning. And we've  
19 reviewed the application of the proposed one-story rear  
20 addition and have found that the most recent submission met  
21 the special exception criteria for Subtitles D and X for the  
22 rear and side yard relief and lot occupancy.

23 Therefore, OP is recommending approval as stated  
24 in the report in the record. And with that, I will conclude  
25 and take any questions.



1 BZA VICE CHAIR JOHN: Thank you. Does the Board  
2 have any questions for the Office of Planning?

3 Okay. Does the Applicant have any questions for  
4 the Office of Planning?

5 MR. GOODEN: No. I do not have any questions for  
6 the Office of Planning. We've had some correspondence with  
7 Mr. Beamon who has been very helpful through this process.

8 BZA VICE CHAIR JOHN: Okay. Thank you.

9 Mr. Young, is there anyone signed up to testify?

10 MR. YOUNG: We do not.

11 BZA VICE CHAIR JOHN: All right. So, Mr. Gooden,  
12 do you have any closing statements that you'd like to make?

13 MR. GOODEN: Thank you. Thank you, Ms. John.  
14 Just to, again, advocate for our client Mr. and Mrs.  
15 Frederick Elliott who, as I said at the outset, have resided  
16 here for over 50 years and they very much want to remain in  
17 the District and to be able to build on their property to  
18 have it accessible at one level. Otherwise, they would, in  
19 fact, be forced to relocate, you know, in order to sort of  
20 have a, you know, a livable house.

21 And I think that we've worked very, very closely  
22 with them that, you know, this design satisfies their needs  
23 and we seek your approval.

24 BZA VICE CHAIR JOHN: Thank you. All right. I  
25 want to thank you for your testimony then. And so, we'll

1 close the record and the hearing.

2           So, I'll go ahead and start the deliberation. I  
3 have a few comments. First of all, I thought that the  
4 Applicant made an effort to communicate with the ANC and  
5 actually met with the ANC chair.

6           And even though the ANC requested to have the case  
7 postponed, the ANC was not responsive to the Office of  
8 Zoning's phone calls and did not appear at the hearing.

9           And so, I consider that motion waived or moot and  
10 the lawyers will correct me as to the right characterization  
11 of that.

12           In terms of the merits of the application, I think  
13 it's fairly straightforward. The relief that's being  
14 requested is nominal; rear yard relief of two feet, side yard  
15 of 1.8 inches -- 1 foot 8 inches and 42 percent lot occupancy  
16 relief.

17           And I guess that relief is just outside of what's  
18 authorized in the two percent discretionary authority of the  
19 zoning administrator, but, anyway, this is a self-certified  
20 application and I believe, based on the testimony and the  
21 record, that the Applicant meets -- the application meets the  
22 requirement for relief for both the rear yard, side yard and  
23 lot occupancy.

24           And note that this relief is necessary because of  
25 the building restriction issues and the need to move the

1 front of the building, you know, switched around to comply  
2 with the building restriction line so that -- building  
3 restriction requirements so that now the front yard is  
4 switched.

5 And so, I didn't think that the -- I didn't think  
6 that the changes were so significant that the ANC would be  
7 prejudice by not having, you know, been able to have a full  
8 ANC meeting.

9 and I'd like to hear what the other board members  
10 think. I'd also notice that Office of Planning is in support  
11 and has worked with the Applicant to come up with a solution  
12 for all of these architectural challenges and that DDOT has  
13 no objection. And, as we said before, there's no report from  
14 the ANC.

15 So, I'll turn to you, Board Member Smith.

16 MEMBER SMITH: Vice Chair John, I, by and large,  
17 agree with your statement so far. I do believe that the  
18 Applicant has done their due diligence to speak with the --  
19 as much as possible to speak with the adjacent property  
20 owners and the ANC and the SMD regarding this one-story  
21 addition to the rear of their home.

22 Based on what was presented, I do believe that the  
23 requested relief is fairly, I wouldn't say, minimal, but I  
24 do believe that they -- how they have designed it, I believe,  
25 is in context with the neighborhood and in context with the

1 statements for us to grant approval.

2 I do believe it would be in harmony with the  
3 general purpose and intent of the zoning regulations for this  
4 addition. This is an addition to a single-family home.

5 The, which I think is probably the bigger issue  
6 for the SMD and the ANC right now, and I don't think it's  
7 that they are opposed to it, I think they are erring on the  
8 side of caution.

9 The question of will it adversely affect the use  
10 of neighboring properties in accordance with the zoning  
11 regulations and zoning maps, I do not believe that it does  
12 given the scale and scope of what is proposed.

13 I think a porch and a garage would probably have  
14 a bigger impact, but the Applicant has removed those at the  
15 behest of DDOT given some regulatory constraints that they  
16 will face there.

17 I believe that the design changes that have  
18 occurred do not have or materialistically change the nature  
19 of this application given the relief that is being requested  
20 by the Applicant.

21 So, I will state that I am comfortable with what  
22 has been presented to us by the Office of Planning and the  
23 reasons why they meet the burden of proof for us to grant  
24 these special exceptions for this rear addition and would  
25 also support the application for all three of the special

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1 exceptions.

2 BZA VICE CHAIR JOHN: Thank you, Board Member  
3 Smith.

4 Board Member Blake?

5 MEMBER BLAKE: Vice Chair John, I agree with the  
6 comments made by you and Board Member Smith. I will be in  
7 support of the application. I have nothing else to add.

8 BZA VICE CHAIR JOHN: Thank you, Board Member  
9 Blake.

10 Commissioner Stidham?

11 MEMBER STIDHAM: I am also in agreement with Board  
12 Member Smith and your comments, Vice Chair John, and have  
13 nothing to add either and am able to support as well.

14 BZA VICE CHAIR JOHN: Okay. Thank you. And with  
15 that, I will make a motion to approve Application No. 21134  
16 as captioned and read by the Secretary and ask for a second.

17 Board Member Blake?

18 MEMBER BLAKE: Second.

19 BZA VICE CHAIR JOHN: Ms. Mehlert, would you take  
20 the roll call?

21 MS. MEHLERT: Please respond to the Vice Chair's  
22 motion to approve the application.

23 Vice Chair John?

24 BZA VICE CHAIR JOHN: Yes.

25 MS. MEHLERT: Mr. Smith?

1 MEMBER SMITH: Yes.

2 MS. MEHLERT: Mr. Blake?

3 MEMBER BLAKE: Yes.

4 MS. MEHLERT: Commissioner Stidham?

5 MEMBER STIDHAM: Yes.

6 MS. MEHLERT: Staff will record the vote as 4 to  
7 0 to 1 to approve Application 21134 on the motion made by  
8 Vice Chair John and seconded by Mr. Blake with one board  
9 member not participating.

10 BZA VICE CHAIR JOHN: Thank you. Okay. so, it's  
11 1:06. We have one case left, I believe. Would you like to  
12 have lunch or a coffee break? Lunch? Coffee break?

13 MEMBER SMITH: Coffee break.

14 MEMBER STIDHAM: Coffee break.

15 BZA VICE CHAIR JOHN: Great. So, shall we take a  
16 15-minute break, stretch our legs and have coffee? Okay.  
17 Let's be back at 1:21.

18 MS. MEHLERT: Madam Vice Chair, just to let you  
19 know, it sounds like OP had to evacuate their building for  
20 a fire drill.

21 So, I'm not sure what the timing will look like,  
22 but if they're going to be available in 15 minutes or not,  
23 but just an FYI.

24 BZA VICE CHAIR JOHN: Okay.

25 MS. MEHLERT: I'll keep you posted.

1 BZA VICE CHAIR JOHN: Okay. Thank you.

2 MS. MEHLERT: All right.

3 (Whereupon, the above-entitled matter went off the  
4 record at 1:06 p.m. and resumed at 1:28 p.m.)

5 BZA VICE CHAIR JOHN: Okay. Ms. Mehlert, can you  
6 call us back in, please.

7 MS. MEHLERT: Yes. The Board has returned from  
8 another quick break and the last case is Application No.  
9 21139 of the Family Place Public Charter School.

10 This is a self-certified application pursuant to  
11 Subtitle X Section 901.2 for a special exception under  
12 Subtitle F Section 4910.1 from the density requirements for  
13 a public school under Subtitle F Section 4902.1 and the lot  
14 dimension requirements for a public school under Subtitle F  
15 Section 4903.1.

16 This is for the use of an existing three-story  
17 attached building as public charter school. It is located  
18 in the RA-2 Zone at 1501 Park Road, N.W., Square 2676, Lot  
19 808.

20 And the Applicant has requested expert witness  
21 status for Jeff Stoiber who is not in the witness book.

22 BZA VICE CHAIR JOHN: Okay. Thank you, Ms.  
23 Mehlert. Let's see.

24 Who is representing us today?

25 MS. WIGGINS: Good afternoon, Vice Chair John.

1 BZA VICE CHAIR JOHN: Okay. Thank you, Ms.  
2 Wiggins.

3 Okay. Please introduce yourself for the record,  
4 please. You'll have 15 minutes to start.

5 MS. TEMPLIN: Sure. I can go ahead and start. My  
6 name is Lee Templin with the law firm of Goulston & Storrs  
7 on behalf of the Applicant, The family Place.

8 I'll let Hailey Wiggins, executive director, and  
9 Jeff Stoiber, projects architect of Stoiber & Associates, go  
10 ahead and introduce themselves.

11 BZA VICE CHAIR JOHN: Okay. Ms. Wiggins, you  
12 first.

13 MS. WIGGINS: Hi. Good afternoon. I am Hailey  
14 Wiggins and I am the executive director of The Family Place  
15 and The Family Place Public Charter School, and thank you for  
16 allowing us to be here today.

17 BZA VICE CHAIR JOHN: Thank you. Mr. Kadlecek?

18 MR. KADLECEK: Hi. Cary Kadlecek from the law firm  
19 of Goulston & Storrs. Lee is in the capable hands of guiding  
20 this one today.

21 BZA VICE CHAIR JOHN: Okay. Thank you. And, Mr.  
22 Stoiber, did I say that correctly? You're muted. Your mic  
23 isn't on.

24 MR. STOIBER: Can you hear me now?

25 BZA VICE CHAIR JOHN: Yes, I can hear you.



1 MR. STOIBER: Okay. Sorry. I'm very sorry about  
2 that.

3 BZA VICE CHAIR JOHN: It's okay.

4 MR. STOIBER: My name is Jeff Stoiber. I'm a  
5 registered architect in Washington, D.C., and the president  
6 of Stoiber & Associates Architects, an architectural firm I  
7 started here in the District 41 years ago.

8 And I apologize, but I did sign up to be a  
9 witness. I think it was said that I was not in the witness  
10 book, but I did sign up.

11 BZA VICE CHAIR JOHN: Thank you, Mr. Stoiber. I  
12 looked at your resume and I am satisfied that you are an  
13 expert in architecture and we will include you in the witness  
14 book.

15 MR. STOIBER: Thank you, Vice Chair John.

16 BZA VICE CHAIR JOHN: Okay. Thank you. So, Ms.  
17 Templin, would you go ahead and walk us through the project?

18 MS. TEMPLIN: Yes. Thank you.

19 Mr. Young, could you please pull up the  
20 presentation? It's at Exhibit 27 of the record.

21 Great. Thank you. So, we are pleased to be here  
22 today to present BZA Application No. 21139 which seeks  
23 special exception relief from the minimum lot area and lot  
24 width requirements for public schools in the RA-2 Zone and  
25 for the maximum permitted FAR for public schools in the RA-2

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1 Zone.

2           These special exceptions will facilitate the  
3 Applicant's use of the property as an adult public charter  
4 school and child development center.

5           The Office of Planning recommends approval of the  
6 application found at Exhibit 24 of the record. DDOT has no  
7 objection. Their report is at Exhibit 25.

8           And ANC 1A has submitted a resolution in support  
9 of the application at Exhibit 19. No letters of opposition  
10 have been submitted into the record.

11           I'll now turn it over to Hailey Wiggins to give  
12 a brief overview of the Applicant and the project.

13           MS. WIGGINS: Yes. Good afternoon, everyone.  
14 Again, thanks so much for allowing us to present before you  
15 today.

16           My name is Hailey Wiggins and I am the executive  
17 director of The Family Place and The Family Place Public  
18 Charter School.

19           The Family Place is located in Columbia Heights,  
20 3309 16th Street, N.W. And we have been there since '86 in  
21 that location and we've been serving low-income D.C.  
22 residents since 1980. So, we're going on our 45th year of  
23 operations.

24           We're very excited. In 2018 we expanded our  
25 services to open an adult public charter school. And we're

1 currently operating out of the building that we've been in  
2 since '86, but we have outgrown the space.

3 And so, we have purchased the new facility at 1501  
4 Park Road. The main purpose will be to continue providing  
5 our adult education services to D.C. residents.

6 Part of our model is a two-generation approach to  
7 education. So, while we teach English and workforce  
8 development and other skills to adult learners, we also  
9 provide education and support for their children.

10 So, when a mom comes to learn English, she can  
11 bring her kids with her and we will watch them in our early  
12 childhood classroom.

13 So, we do -- we are planning on having an  
14 auxiliary use of an early childhood center in the basement  
15 of the new location and -- but the primary use will be for  
16 our adult education, our adult public charter school.

17 And we do -- we have met various times with the  
18 ANC and I believe that Commissioner Kenny is on the line as  
19 well, but we have -- we met with the ANC, the overall general  
20 meeting in April and May, as well as one of their committee  
21 meetings and have received their support.

22 MS. TEMPLIN: Great. Thanks so much, Hailey. Now,  
23 I'll turn it over to Jeff Stoiber to briefly walk through the  
24 plans.

25 MR. STOIBER: Good afternoon, everyone, and thank

1 you for the opportunity to present. Mr. Young, if you would  
2 go to the floor plans?

3 BZA VICE CHAIR JOHN: What page would that be?

4 MR. STOIBER: I apologize. I don't have that. My  
5 copy is underneath here.

6 MS. TEMPLIN: I believe it should be the next page,  
7 maybe.

8 MR. STOIBER: I think so, too. Okay. Great. So,  
9 first of all, let me point out that we are really not  
10 expanding the condition space of the building and the  
11 building envelope even though we technically have additional  
12 FAR.

13 The additional FAR results from us adding a ramp  
14 at the front of the building. This ramp will both provide --  
15 it's a switchback ramp because we've got about 4-1/2 feet of  
16 grade change to traverse.

17 And this ramp is not only for ADA accessibility  
18 to the building, but it's also because we have an early  
19 childhood space and that space is located on the lower level.

20 We have a requirement to be able to take infants  
21 out of the space in their cribs or in specialized chairs that  
22 have to roll to street level. So, we are required to have  
23 this ramp. A lift would not have worked.

24 And, again, because the grade level at the front  
25 of the building and the sidewalk level is approximately

1 halfway between our lower level and first floor, we needed  
2 to put a fairly extensive ramp -- what you see in the first  
3 drawing to your left, the lower level, and then you see it  
4 again on the first floor plan, the second plan -- to get the  
5 students down there.

6           The added bonus of that is we get more natural  
7 light into the lower level space for the early childhood  
8 development. We all know how important daylight is for  
9 development of children.

10           And so, the reason that that becomes additional  
11 FAR is it goes from cellar space to basement space and is now  
12 counted in the FAR, which it wasn't before, but the space --  
13 the condition, the envelope space of the building has not  
14 changed.

15           The only other significant modification that we  
16 have made is to add a deck terrace at the second-floor level  
17 at the back of the building.

18           I will have -- some more parking will extend  
19 underneath that and that's simply to provide some outdoor  
20 space for all the students and staff to be able to get  
21 outside because we had to eat up a fair amount of the front  
22 yard with the ramp.

23           Some outdoor space where they can have outdoor  
24 learning experiences, outdoor staff experiences and just be  
25 able to get some fresh air, but it doesn't impact the FAR.

1           So, again, we're working with an existing lot at  
2 which, again, we're asking for relief for because it's lower  
3 than the minimum standard as is the lot width.

4           MS. TEMPLIN: Great. Thank you, Jeff.

5           Mr. Young, if you could go to slide 7, which I  
6 believe is two slides after this? Great. Thank you.

7           So, as mentioned, we are here today to request two  
8 areas of special exception relief. First, from the minimum  
9 lot area and lot width requirements for public schools in the  
10 RA-2 Zone and, second, from the maximum permitted FAR for  
11 public schools in this zone and we believe we meet the  
12 standards for relief.

13           First, with respect to the minimum lot area and  
14 lot width requirements, the relief is in harmony with the  
15 intent and purposes of the zoning regulations and zoning maps  
16 because the project does not alter the existing lot area or  
17 width. Rather, the new public charter school use increases  
18 the requirements.

19           The relief will facilitate the much-needed  
20 nonprofit work of The Family Place in providing education and  
21 support to low-income families of the District.

22           The relief will not adversely affect neighboring  
23 properties because the adult public charter school will not  
24 operate like a typical school.

25           Unlike traditional schools with much larger

1 populations, the current student enrollment is approximately  
2 200 students and class times are staggered such that  
3 concentration of the students is spread out throughout the  
4 day.

5 In addition, the school currently operates just  
6 a few doors down at 3309 16th Street and is already very  
7 well-known in the neighborhood without having any adverse  
8 impacts.

9 Next slide, please. Second, with respect to the  
10 FAR, we are requesting only very minor relief of 0.1 FAR over  
11 the maximum permitted 1.8. The relief is in harmony with the  
12 intent and purposes of the zoning regulations and zoning  
13 maps.

14 The Applicant does not propose to expand the  
15 building itself, as Mr. Stoiber explained. Rather, the grade  
16 at the front facade will be lowered to accommodate  
17 accessibility such that a portion of what was previously  
18 counted as cellar space now contributes to the FAR  
19 calculation and a rear balcony will also be provided.

20 The relief will not adversely affect neighboring  
21 properties because the de minimis addition of 0.1 FAR above  
22 the maximum permitted will have minimal impact.

23 The addition of a rear balcony will be unenclosed  
24 and, therefore, will have little to no impact on shade and  
25 the lowering of the grade at the front is to accommodate

1 accessibility and will not impact neighboring properties.

2           So, with that, we will conclude our presentation  
3 and we're happy to answer any questions.

4           BZA VICE CHAIR JOHN: Okay. Thank you very much.

5           Does the Board have any questions for the  
6 Applicant?

7           Is the ANC here?

8           MR. KENNY: Yes, I'm here. I am the ANC.

9           BZA VICE CHAIR JOHN: Okay.

10          MR. KENNY: Yes.

11          BZA VICE CHAIR JOHN: So, the commissioner is here?

12          MR. KENNY: Yes.

13          BZA VICE CHAIR JOHN: Oh, I'm sorry. I didn't see  
14 you. Okay. You can go ahead and give your presentation now.

15          MR. KENNY: Great. So, yeah, The Family Place,  
16 their current location on 16th Street as well as this new  
17 location on Park Road are both within my single member  
18 district 1A-05.

19          So, I have been working very closely with The  
20 Family Place prior to this application just as a valued  
21 community institution and through this application.

22          So, I'll, you know, read a portion of the letter  
23 that we submitted and then add some comments of my own. This  
24 letter has been voted and approved by ANC 1A.

25          So, at a duly noticed public meeting held on May



1 8th, 2024, with a quorum of eight out of ten commissioners  
2 present, Advisory Neighborhood Commission 1A voted 8 to 0 to  
3 0 unanimously to support BZA Case No. 21139.

4 So, that's, you know, we were unanimous in our  
5 support. And I will add that this came after a thorough  
6 review at ANC 1A's housing justice and zoning committee after  
7 which -- during which we brought forward a number of concerns  
8 that some owners of adjacent properties have and the -- I and  
9 the members of that committee were satisfied that the  
10 Applicants more than -- provided more than satisfactory  
11 answers to those questions, many of which were  
12 misunderstanding the nature of the application and that  
13 committee unanimously approved the application as well.

14 I'll say that, you know, as they noted, for over  
15 40 years The Family Place has provided educational, medical,  
16 nutritional and childcare support to the families of Columbia  
17 Heights and Mt. Pleasant with wide reach across many other  
18 nearby communities as well.

19 Columbia Heights has some of the largest Spanish-  
20 speaking communities and some of the highest rates of food  
21 insecurity in the District of Columbia.

22 The Family Place is a critical support system for  
23 these and other groups providing them with education, food,  
24 access to childcare and medical care and compassion.

25 This great success of their programming has driven

1 an ever-increasing demand in our community for their  
2 services.

3 Last year ANC 1A voted unanimously to support  
4 their enrollment ceiling increase request to the D.C. Public  
5 Charter School Board to increase enrollment from 183 to 225  
6 for the 2024 to 2025 school year. And then to 275 starting  
7 in the 2026-2027 school year. The D.C. Public Charter School  
8 Board approved The Family Place's application on August 21st  
9 of last year.

10 The proposed second facility at 1501 Park Road,  
11 which we are considering here today, will accommodate the  
12 previously approved growth and future growth as The Family  
13 Place continues to attract new clients for their services.

14 So, you know, we have a pretty clearly  
15 demonstrated need for this facility. We are overjoyed that  
16 this additional facility for The Family Place will remain in  
17 ANC 1A in Columbia Heights to be local to the community and  
18 populations that it serves.

19 And so, I, as a commissioner, in addition to a  
20 unanimous vote of my fellow commissioners in ANC 1A lend our  
21 enthusiastic support to this application.

22 BZA VICE CHAIR JOHN: Thank you, Commissioner.

23 Does the Applicant have any questions for  
24 Commissioner Kenny?

25 MS. TEMPLIN: No questions. We just -- we greatly

1 appreciate all of the collaboration and engagement with ANC  
2 1A and particularly Commissioner Kenny. So, thanks very  
3 much.

4 BZA VICE CHAIR JOHN: Thank you. Does the Board  
5 have any questions for Commissioner Kenny?

6 Okay. Is the Office of Planning available?

7 MS. BROWN-ROBERTS: Yes, Madam Chair.

8 BZA VICE CHAIR JOHN: Good afternoon, Ms. Brown-  
9 Roberts.

10 MS. BROWN-ROBERTS: Hi. Good afternoon, Madam  
11 Chairman and members of the BZA. For the record, I'm Maxine  
12 Brown-Roberts from the Office of Planning on the request to  
13 allow a public charter school for adults on a lot that does  
14 not meet the minimum lot area and lot width, and the building  
15 would exceed the allowed FAR.

16 The special exception relief is allowed pursuant  
17 to Subtitle X 901 and the proposal would meet the intent of  
18 the zoning regulations and would not unduly affect the light,  
19 air and use on adjacent properties.

20 The Office of Planning, therefore, recommends  
21 approval of the requested special exception. Thank you,  
22 Madam Chairman, and I'm available for questions.

23 BZA VICE CHAIR JOHN: Thank you, Ms. Brown-  
24 Roberts.

25 Does the Applicant have any questions for the

1 Office of Planning?

2 MS. TEMPLIN: No questions. Thanks very much, Ms.  
3 Brown Roberts.

4 BZA VICE CHAIR JOHN: Thank you. Does the Board  
5 have any questions?

6 Okay. Thank you. Mr. Young, has anyone signed  
7 up to testify?

8 MR. YOUNG: No.

9 BZA VICE CHAIR JOHN: Thank you. Does the  
10 Applicant have any closing statements?

11 MS. TEMPLIN: No closing statements. Just, in  
12 closing, we believe the application meets the special  
13 exception standards for the requested relief and we greatly  
14 appreciate the Board's time today.

15 BZA VICE CHAIR JOHN: Thank you very much. So,  
16 with that, I'll go ahead and close the record and the hearing  
17 and thank you all for your testimony and your presentations  
18 today.

19 Okay. Does anyone want to start the discussion?

20 Okay. I didn't see any hands. I will start. I  
21 thought that the project is fairly straightforward and the  
22 relief requested is minimal.

23 An increase of 0.1 percent FAR and the lot  
24 dimensions are 40 feet, which is not something that they can  
25 change.

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1           The need to obtain relief is primarily driven by  
2 the fact that the Applicant is trying to make improvements  
3 to comply with the code and for ADA requirements specifically  
4 by having to create this switchback ramp, as the architect  
5 explained, to accommodate the steep slope at the front of the  
6 building as well as the need to provide proper space for the  
7 children, meaning that the Applicant had to raise the ceiling  
8 or dig down to create the proper ceiling height to meet the  
9 requirements for housing children in that area.

10           So, in terms of light and air and privacy, I don't  
11 believe these minor changes would create any adverse impact  
12 on the residents -- on the neighboring properties.

13           And the application has been in existence -- I'm  
14 sorry, the Applicant has been operating for some time. So,  
15 in terms of adverse impact from noise or other potentially,  
16 you know, adverse impacts from noise, I don't believe that  
17 that would apply in this case.

18           So, the ANC is in support and gave a very strong  
19 presentation in supporting the Applicant's continued  
20 existence in that neighborhood. And I'm going to give great  
21 weight to the ANC's recommendations. There were no issues  
22 or concerns. Actually, there were no issues and concerns in  
23 the ANC report.

24           And with respect to the Office of Planning, I'm  
25 going to give great weight to the Office of Planning's

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1 analysis and the recommendations that DDOT is also in support  
2 with no objection.

3 And I would like to hear from the rest of the  
4 Board starting with Board Member Smith.

5 MEMBER SMITH: I wholeheartedly agree with  
6 everything you stated here. I agree that the application is  
7 fairly straightforward. The requested relief is from the FAR  
8 requirements, an additional 0.1 above what is permitted in  
9 the zone.

10 And I believe that given the scale of the  
11 renovations, I feel that it's a fairly straightforward  
12 application when it comes down to this increase.

13 In addition to the second special exception  
14 requested, I believe that the two special exceptions would  
15 be in harmony with the general purpose and intent of the  
16 zoning regulations.

17 This particular zone does allow for reuse as  
18 contemplated. So, I believe these uses -- the relevant  
19 standards are online with -- if this was a larger public  
20 school. So, this situation with the zoning regulations are  
21 a little -- probably a little rigid for this particular type  
22 of school. So, I believe the use is -- meets the general  
23 purpose and intent of the zoning regulations.

24 I do not believe what is proposed would adversely  
25 affect any of the surrounding properties. The ANC is on

1 record as being in support of the application and that this  
2 particular use has been a great neighbor and an asset to the  
3 surrounding community and those special conditions I would  
4 recommend.

5           So, with that, I give OP's staff report great  
6 weight noting, again, that the ANC is in support of it and  
7 DDOT has no objection to this level of support that the  
8 neighbors support it.

9           BZA VICE CHAIR JOHN: Thank you, Board Member  
10 Smith.

11           Can I go to you next, Board Member Blake?

12           MEMBER BLAKE: Vice Chair John, thank you very  
13 much. I agree with all the statements that you and Board  
14 Member Smith have made. I'm in support of the application  
15 and I will be voting in favor.

16           BZA VICE CHAIR JOHN: Thank you, Board Member  
17 Blake.

18           Commissioner Stidham?

19           MEMBER STIDHAM: Thank you. I am in agreement with  
20 what has already been noted and prepare to support as well.

21           BZA VICE CHAIR JOHN: Thank you. And with that,  
22 I will make a motion to approve Application No. 21139 and ask  
23 for a second from you, Board Member Blake?

24           MEMBER BLAKE: Second.

25           BZA VICE CHAIR JOHN: Ms. Mehlert, would you please

1 take the roll call?

2 MS. MEHLERT: Please respond to the vice chair's  
3 motion to approve the application.

4 Vice Chair John?

5 BZA VICE CHAIR JOHN: Yes.

6 MS. MEHLERT: Mr. Smith?

7 MEMBER SMITH: Yes.

8 MS. MEHLERT: Mr. Blake?

9 MEMBER BLAKE: Yes.

10 MS. MEHLERT: Commissioner Stidham?

11 MEMBER STIDHAM: Yes.

12 MS. MEHLERT: Staff will report the vote as 4 to  
13 0 to 1 to approve Application 21139 on the motion made by  
14 Vice Chair John and seconded by Mr. Blake with one board  
15 member not participating.

16 BZA VICE CHAIR JOHN: Do we have anything else  
17 before us, Ms. Mehlert?

18 MS. MEHLERT: There's nothing else.

19 BZA VICE CHAIR JOHN: Okay. So, thank you all for  
20 your help today and I will see you next week when the  
21 chairman will be back. Bye.

22 (Whereupon, the above-entitled matter went off the  
23 record at 1:55 p.m.)

24

25



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: 06-26-24

Place: telenconference

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