

GOVERNMENT OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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REGULAR PUBLIC HEARING

+ + + + +

WEDNESDAY

NOVEMBER 6, 2024

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The Public Hearing of the District of Columbia Board of Zoning Adjustment convened via teleconference, pursuant to notice at 9:39 a.m. EDT, Frederick L. Hill, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

FREDERICK L. HILL, Chairperson
CHRISHAUN SMITH, Commissioner
CARL H. BLAKE, Commissioner
ANTHONY J. HOOD, Zoning Commission Chairperson

BOARD OF ZONING ADJUSTMENT STAFF COUNSEL:

KEARA MEHLERT, Zoning Data Specialist

The transcript constitutes the minutes from the Regular Public Hearing held on November 6, 2024.

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(9:39 a.m.)

CHAIRPERSON HILL: Good morning, ladies and gentlemen.
The Board of Zoning Adjustment's November 6, 2024's public
hearing will please come to order.

My name is Fred Hill, Chairman of the District of
Columbia Board of Zoning Adjustment. Joining me today are Board
members Carl Blake, Chrishaun Smith, and Zoning Commissioners
Tammy Stidham and Anthony Hood.

Today's meeting and hearing agenda are available on the
Office of Zoning's website. Please be advised that this
proceeding is being recorded by a court reporter and is also
webcast live via Webex and YouTube Live. The video of the webcast
will be available on the Office of Zoning's website after today's
hearing. Accordingly, everyone who is listening on Webex or by
telephone will be muted during the hearing. Also, please be
advised that we do not take any public testimony during our
decision meeting sessions.

If you're experiencing difficulty accessing Webex or
with your telephone call-in then please call the OZ hotline number
at (202) 727-5471 to receive Webex login or call-in instructions.

At the conclusion of the decision meeting session, I
shall, in consultation with the Office of Zoning, determine
whether a full or summary order may be issued. A full order is

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1 required when the decision it contains is adverse to a party,
2 including an affected ANC. A full order may also be needed if
3 the Board's decision differs from the Office of Planning's
4 recommendation. Although the Board favors the use of summary
5 orders whenever possible, an Applicant may not request the Board
6 to issue such an order.

7 In today's hearing session, everyone who is listening
8 on Webex or by telephone will be muted during the hearing, and
9 only persons who have signed up to participate or testify will
10 be unmuted at the appropriate time. Please state your name and
11 home address before providing oral testimony or your
12 presentation. Oral presentations should be limited to your
13 summary of your most important points. When you are finished
14 speaking, please mute your audio so that your microphone is no
15 longer picking up sound or background noise.

16 Once again, if you're experiencing difficulty accessing
17 Webex or with your telephone call-in, or if you have forgotten
18 to sign in twenty-four hours prior to hear, then call the OZ
19 hotline number that's listed on the screen, (202) 727-5471.

20 All persons planning to testify either in favor or
21 opposition should have signed up in advance. They will be called
22 by name to testify. If this is an appeal, only parties are
23 allowed to testify. By signing up to testify, all participants
24 completed the Oath or Affirmation as required in Y 408.7.

25 Requests to enter evidence at the time of an online

1 virtual hearing, such as written testimony or additional
2 supporting documents other than live video, which may not be
3 presented as part of the testimony, may be allowed pursuant to Y
4 103.13, provided that the person making the request to enter an
5 exhibit explain, a) how the proposed exhibit is relevant, b) if
6 the good cause justifies allowing the exhibit into the record,
7 including an explanation of why the requester did not file the
8 exhibit prior to the hearing pursuant to Y 206 and how the
9 proposed exhibit would not unreasonably prejudice any parties.

10 The order of procedures for special exception and
11 variances are pursuant to Y 409. Appeals are pursuant to Y 507.
12 At the conclusion of each case, an individual who is unable to
13 testify because of technical issues may file a request for leave
14 to file a written version of the planned testify to the record
15 within 24 hours following the conclusion of public testimony in
16 the hearing. If additional written testimony is accepted, then
17 parties will be allowed a reasonable time to respond as determined
18 by the Board.

19 The Board will then make its decision at the next
20 meeting session, but no earlier than 48 hours after the hearing.
21 Moreover, the Board may request specifical additional information
22 to the record. The Board and staff will specify at the end of
23 the hearing what exactly is expected and the date when a person
24 must submit the evidence to the Office of Zoning. No other
25 information shall be accepted by the Board.

1 Finally, the District of Columbia Administrative
2 Procedures Act requires that the public hearing on each case be
3 held in the open before the public. However, pursuant to 405(b)
4 and 406 of that Act, the Board may, consistent with its rules
5 and procedures and the Act, enter into a closed meeting on a case
6 for purposes of seeking legal counsel on a case pursuant to D.C.
7 Official Code § 2-575(b)(4) and/or deliberate on a case pursuant
8 to D.C. Official Code § 2-575(b)(13), but only after providing
9 the necessary public notice and in the case of an emergency closed
10 meeting after taking a roll call vote.

11 Madam Secretary, do we have any preliminary matters?

12 MS. MEHLERT: There's one scheduling change for today.
13 It's Application No. 21163 of Kaely Michels-Gualtieri. It's been
14 postponed to December 18th, 2024.

15 Also, with late filings, the Chairman has reviewed and
16 granted waivers to allow late filings into the applicable case
17 record pursuant to Subtitle Y § 206.7 and § 103.13. Any other
18 late filings during the course of today's live hearing should be
19 presented before the Board by the Applicant or parties or
20 witnesses after the case is called.

21 Any other preliminary matters will be noted when the
22 case is called.

23 CHAIRPERSON HILL: Okay. Thank you, Madam Secretary.

24 Good morning, everyone.

25 Madam Secretary, if you could please go ahead and call

1 our first item of business.

2 MS. MEHLERT: The first in the Board's meeting session
3 is Appeal No. 21107 of DeLorean 88, LLC. This is an appeal
4 pursuant to Subtitle X, § 1100, a new decision made on November
5 9th, 2023, by the Director of the Office of Zoning regarding the
6 location of the zone boundary line at the property located at
7 Square 1244, Lot 854 at 30 -- 3219 O Street, NW and 3246 P Street,
8 NW.

9 This hearing began on September 25th and was completed
10 on October 30th. And participating are Chairman Hill, Board
11 members Smith and Blake, and Commissioner Stidham.

12 CHAIRPERSON HILL: Great. Thank you.

13 I appreciate you all being here this morning. And
14 Commissioner Stidham, I appreciate that you were going to, I
15 believe, begin this discussion. And so if you would like to
16 begin this discussion, that would be very kind of you.

17 COMMISSIONER STIDHAM: Sure. Absolutely. So just to
18 go over a little bit what we heard and -- and so what we were
19 hearing is the appellant argued that the school property was dual
20 zoned and by the zoning administrator's change of the digitized
21 line they were changing -- she was changing the zone thereby
22 disqualifying the property from having the cannabis store on the
23 location.

24 think it ends up being a very straightforward case.
25 Both the Appellant and the OZ director showed a number of -- and

1 | there are a number of maps in the record related to O zoning that
2 | consistently showed the property line being the end of the zone
3 | and that the school was never intended to be dual zoned and that
4 | this was merely a result of a digitization error, which I think
5 | we see a lot. It happens when old maps and new things are being
6 | converted.

7 | I think the 70 feet or any measurement is not material
8 | in this conversation because it was really always coincident with
9 | the property line throughout history. So I don't believe that
10 | it was ever dual zoned. I think that the zoning for R-3/GT is
11 | the correct zone for the property and that the administrator did
12 | not make any change.

13 | CHAIRPERSON HILL: Okay. Thank you.

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

15 | COMMISSIONER SMITH: I have nothing to add.
16 | Commissioner Stidham, I think, has -- has summed up this
17 | particular case very succinctly and I think it's very
18 | straightforward. These digitization errors are very, very common
19 | and I think that the Office of Zoning has presented thoroughly,
20 | as Commissioner Stidham stated, a series of maps -- historical
21 | maps going all the way back to the Barres map, that clearly showed
22 | that the end of the -- the zoning boundary was the property
23 | line -- that particular property line.

24 | And through multiple iterations of maps the only
25 | difference was the width of that zone from the alley to that

1 particular property line. And the Office of Zoning has the clear
2 authority, given that it's only a one-foot -- a one-foot
3 difference between -- as measured from the Barres map to now with
4 more accurate information showcasing the true distance from the
5 alley to the property line, they had the clear authority to make
6 the adjustment.

7 So I agree with what Commissioner Stidham has stated.
8 The Office of Zoning did not err and they were correct in their
9 determination that this is within R-3/GT zone.

10 CHAIRPERSON HILL: Thank you.

11 Mr. Blake?

12 COMMISSIONER BLAKE: Sure. Thank you, Mr. Chair. I
13 think -- I agree with the statements that were made by the other
14 Board members at this point. I appreciate the input from
15 Commissioner Stidham.

16 First, I want to say with regard to the measuring point,
17 I concur with the methodology that's employed by the Office of
18 Zoning, reviewing the historical maps and looking at the zoning
19 regulations and other documents like the C of O. And based on
20 that information it's pretty clear that the correct location of
21 the zoning boundary for the line between MU-4 and R-3/GT zone is
22 that the property is approximately 78 feet width of the public
23 alley to the east of the school, and it runs concurrent with the
24 northeastern lot line of the school property.

25 Now, based on review of multiple maps it appears that

1 the line has always been concurrent with the property line, which
2 is consistent with the zoning regulations and provision A-206.3,
3 which intends for the zoning boundary lines to coincide with the
4 property lot lines. A review of historical zoning records, which
5 indicate the property has never been split zone, has also been --
6 it's always been entirely residentially zoned, and is currently
7 R-3/GT only.

8 The measurement between the atlas and the current GI's
9 measurement differs by .42 feet, or 6.96 inches. And I agree
10 with the -- the Appellant's argument is that the difference
11 between the 78 feet in historical maps is the big difference
12 here. The accuracy of the GIS technology is presumed to be more
13 accurate than historical surveys. In addition, it's not clear
14 that the measurement points are the same between the GI -- between
15 the device -- the initial atlas and the current surveys and
16 there's no record of official surveys being done to confirm or
17 refute the measurement.

18 So I agree that the intent of the 70-foot addition
19 distance is de minimis -- the difference is de minimis, and it
20 doesn't override the zoning regulation's intent for the zoning
21 boundary line to run coincident with the property line. So the
22 adjustment is consistent therefore with the A-206.3, the one-
23 foot rule. And in conclusion, I think the OZ did not decide
24 which zones to map where, but rather took action to accurately
25 reflect what the ZA decided when the property was zoned, as it

1 is authorized to do.

2 So I would deny the appeal.

3 CHAIRPERSON HILL: Okay. Thank you, Mr. Blake.

4 Thank you, everybody. And thank you, Commissioner
5 Stidham for starting the discussion. I agree with everything
6 that was said. I really don't have anything additional to add.

7 Going to make a motion to deny the appeal of No. 21007
8 (sic) as captioned and read by the secretary, and ask for a
9 second, Mr. Blake?

10 COMMISSIONER BLAKE: Second.

11 CHAIRPERSON HILL: The motion is made and seconded.
12 Madam Secretary, if you'd take a roll call?

13 MS. MEHLERT: Please respond to the Chair's motion to
14 deny the appeal. Chairman Hill?

15 CHAIRPERSON HILL: Yes.

16 MS. MEHLERT: Board Member Smith?

17 COMMISSIONER SMITH: Yes.

18 MS. MEHLERT: Board Member Blake?

19 COMMISSIONER BLAKE: Yes.

20 MS. MEHLERT: Commissioner Stidham?

21 COMMISSIONER STIDHAM: Yes.

22 MS. MEHLERT: Staff would report the vote is four to
23 zero to one to deny appeal 21107 on the motion made by Chairman
24 Hill and seconded by Board Member Blake, with Vice-Chair John not
25 participating.

1 CHAIRPERSON HILL: Okay. Great.
2 Commissioner Stidham, thank you for your help today.
3 COMMISSIONER STIDHAM: Have a good day.
4 CHAIRPERSON HILL: Take care.
5 Okay. Madam Secretary --
6 Oh, good morning, Chairman Hood.
7 ZC CHAIRPERSON HOOD: Everyone, good morning.
8 CHAIRPERSON HILL: Yeah. Okay. If you can call the
9 next item of business, Madam Secretary.
10 MS. MEHLERT: Next is Appeal No. 21221 of West End DC
11 Community Association. This is an appeal pursuant to Subtitle X
12 § 1100, from the decision made on August 8th, 2024 by the
13 Department of Buildings to issue building permit number B201624
14 authorizing an apartment house use. It is located in the R-A/5
15 zone at 1129 New Hampshire Avenue, NW, Square 72, Lot 7. And
16 before the Board today is an emergency motion for stay and request
17 for expedited hearing filed by the Appellant. And I'll note that
18 this has been scheduled for the January 29, 2025 public hearing
19 already.
20 CHAIRPERSON HILL: Okay. Great. Thank you.
21 I think, as I understand what the Board has to kind of
22 process here, before we get to whether we believe the motion for
23 stay should be granted, we first have to decide whether or not
24 we have the ability to grant this motion to stay. And I had a
25 question for the Department of Buildings. If the Department of

1 Buildings could please introduce -- well, let's see who's here.

2 Let's first see if the Department of Buildings can
3 introduce themselves for the record, please.

4 MR. COX: Good morning, I'm Erik Cox, the Deputy General
5 Counsel for Department of Buildings.

6 MR. LAMPERT: And I'm Brian Lampert, the Assistant
7 General Counsel.

8 CHAIRPERSON HILL: Great. And who else -- whoever else
9 is here, could you please turn on your camera so I can recognize
10 you?

11 Mr. Heath, can you hear me?

12 MR. HEATH: Good morning. My name is Brendan Heath.
13 I'm with the Office of the Attorney General for the District of
14 Columbia and I'm representing the property owner in this matter,
15 which is the District of Columbia through its Department of
16 General Services and Department of Human Services.

17 CHAIRPERSON HILL: Thank you. Okay. Great.

18 And Ms. Patel, is that you? Can you introduce yourself?

19 MS. PATEL: Good morning, Chairperson Fred Hill. My
20 name is Trupti Patel. I go by she/her pronouns. I am the
21 chairperson of ANC today. Good morning.

22 CHAIRPERSON HILL: Okay. Hi, commissioner.

23 And Mr. McGuire, could you introduce yourself for the
24 record?

25 MR. MCGUIRE: Sure. Good morning, Mr. Chairman. This

1 is Nick McGuire. I'm an attorney for the Appellant, West End DC
2 Community Association. With me is my colleague Scott Morrison.

3 CHAIRPERSON HILL: I don't see Mr. Morrison.

4 MR. MCGUIRE: Mr. Morrison is in the room with me.

5 CHAIRPERSON HILL: Ah, okay. Okay. Great.

6 All right. So really all I'm trying to figure out --
7 and I'll see if the Board has any other questions -- is again --
8 so under DC official code 6-641.07(g)(4) it says, "In exercising
9 the above-mentioned powers, the Board of Adjustment may, in
10 conformity with the provisions of this subchapter, reverse or
11 affirm, wholly or partly, or may modify the order, requirement,
12 decision, determination, or refusal of appeal for -- from or may
13 make such order as may be necessary to carry out its decisions
14 or authorization, and to that end shall have all the powers of
15 the officer or body from whom the appeal is taken."

16 So the question I have for the Department of Buildings
17 is do you all have the ability to remove a certificate of
18 occupancy in some capacity?

19 MR. LAMPERT: To remove, it's --

20 MR. COX: Yes, we do. We have the ability to propose
21 revoking it. It's a proposed revocation. And there's a 60-day
22 clock under which the party being proposed to be revoked can
23 appeal to this body, BZA.

24 CHAIRPERSON HILL: Okay. So I'm just saying, so you
25 could revoke a certificate of occupancy?

1 MR. LAMPERT: We can't. We can propose it. Under the
2 code, though, there's a 60-day period before it takes effect.
3 And then also under the code, if the certificate holder appeals
4 the revocation, enforcement is stayed until the BZA hears the
5 appeal on the merits.

6 CHAIRPERSON HILL: Okay. All right. Does the Board
7 have any questions of anybody?

8 COMMISSIONER SMITH: So just for clarification, you
9 can't -- you can't administratively stay it short of an appeal
10 to this Board?

11 MR. LAMPERT: That's right, Member Smith. We can
12 propose to revoke, and the certificate holder has a due process
13 right to a hearing before the Board. And if they exercise their
14 option to appeal a revocation, they can continue to operate under
15 the certificate of occupancy until the Board issues a decision
16 on whether or not to revoke.

17 COMMISSIONER SMITH: Okay. All right. Thank you.
18 That was all the questions I had.

19 MR. COX: If I may add one more thing to that? Whether
20 the zoning administrator proposes to revoke a C of O or not, it's
21 a discretionary enforcement action. Under Y-3 2.1 those are not
22 appealable or hearable by this Board. So what's being asked is
23 for the Board to substitute their discretion for that that is
24 given to the zoning administrator, which is not appealable to
25 this Board. So we would, obviously as our papers say, oppose

1 that.

2 CHAIRPERSON HILL: Okay. Does anybody have any other
3 questions?

4 Go ahead, Mr. Blake.

5 COMMISSIONER BLAKE: I have a question for the
6 Department of Buildings. Is there criteria that you would put --
7 that you have to review in order to determine to revoke or let's
8 say -- the term we're using is stay, but is there a way that you
9 have to -- a process you have to do to get to that point to even
10 begin to say I am going to revoke or propose revoking or stay
11 this?

12 MR. LAMPERT: Yes, Member Blake. So the notice of
13 revocation, it's on the basis of administrative error, which
14 essentially means we've taken a -- you know, we reexamined the
15 file and we determined that the certificate should not have issued
16 because some -- you know, some provision in the construction code
17 or the zoning regulations was not filed -- was not followed.

18 COMMISSIONER BLAKE: So there is some degree of
19 investigation that takes place before you make that
20 determination, or would you just make that determination because
21 it came up as a complaint?

22 MR. LAMPERT: We would never --

23 MR. COX: There are several --

24 MR. LAMPERT: Go ahead, Erik.

25 MR. COX: Well, there are several reasons under the

1 construction codes under which we are -- allowed to propose to
2 revoke a permit or C of O. Whether it's for construction code
3 stuff, which is not this Board, or for zoning things, which is
4 this Board and gets appealed to this Board.

5 We do not -- we investigate every claim. And if we --
6 if it comes internally through internal processes or through
7 external processes, we always have an internal file and basis to
8 support a proposed revocation, because if it gets appealed we
9 need to be able to support it and justify it to this Board. So
10 there will always be some sort of internal investigation that
11 gives us the backstop for our enforcement action that's in our
12 discretion.

13 COMMISSIONER BLAKE: Is it possible to stay the C of O
14 before or during that proposed revocation period?

15 MR. COX: No, it is not. And in fact, as I said, the
16 code specifically says that the enforcement of the notice to
17 revoke is stayed, so the C of O continues in operation until
18 after the Board has made a final decision whether it should be
19 revoked or not.

20 COMMISSIONER BLAKE: Great. Thank you very much.

21 CHAIRPERSON HILL: Okay. Anyone else from my Board?

22 ZC CHAIRPERSON HOOD: Maybe you can tell me this, Mr.
23 Chairman. The secretary said there's a scheduled hearing, what,
24 in January, I believe? Or is it February? January?

25 CHAIRPERSON HILL: January 29th.

1 ZC CHAIRPERSON HOOD: January 29th. Okay. All right.
2 Thank you, Mr. Chairman.

3 CHAIRPERSON HILL: Thank you.

4 All right. Mr. Young, if you could excuse all the
5 people here. I don't think the Board has any questions of anyone
6 else. Thank you all for coming.

7 Okay. I think this is properly before us. I mean, I
8 think that, you know, we could determine whether or not -- like,
9 we've had motions for stay before, and so I'm perfectly happy --
10 or not happy, I'm willing to look through the four prongs that
11 are necessary to determine whether a stay can be issued. And
12 then also there was a motion for an expedited hearing. Do you
13 guys have anything to say before I start talking about the
14 motions? Okay.

15 I think that -- so the four prongs, again, are that --
16 that they are likely to prevail on the merits of the appeal,
17 there is irreparable harm to the Appellant absent a stay, little
18 or no harm if there is a stay, and then public interest favors a
19 stay. I read through the arguments concerning whether or not the
20 Applicant is likely to prevail. I was not convinced whether or
21 not they are likely to prevail. I don't think that, at this
22 point, I could say that I would be comfortable saying that they
23 would prevail.

24 I mean, I think the whole -- you know, the appeal is
25 going to be heard on the 29th of January, which I don't think is

1 particularly that far away. And we have a pretty full calendar
2 getting to that point. I think that there would be harm if the
3 stay was, at this point, issued because there has been a
4 certificate of occupancy issued. And that I think that it is
5 really kind of the -- at the risk of the person who has the
6 certificate of occupancy, in this case being the District
7 government, to continue moving forward knowing an appeal is in
8 process and that, you know, they're on their own risk currently,
9 because if the appeal was upheld they'll have to, you know,
10 reverse what they're trying to do there at that location.

11 So I'm not in favor of granting a stay at this point.
12 And as far as expediting the hearing, I think it's actually not
13 that far away and I think there's really -- I don't think I'd be
14 able to figure out how to get it on the calendar in order to
15 expedite it. So I wouldn't be in favor of either one of these
16 motions. And I look forward to hearing the appeal when we have
17 an opportunity, because I do think that there are some questions
18 about, you know, how the District government got to this point.
19 But we can hear about it at that time during the appeal.

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

21 COMMISSIONER SMITH: No. I agree with your assessment
22 on the stay, especially considering they have to meet all of the
23 four prongs, and specifically B, C and D, I don't think that the
24 Applicant has met. I don't think that it would be exactly
25 irreparable injury if the stay is denied. The -- as you stated,

1 the appeal is in January. It's not that far away. And I don't
2 think, given the scale of what this building permit is for, it
3 would cause some irreparable injury.

4 Same -- I do believe that there may be some harm to
5 granting this particular stay to -- to BGS in this particular
6 case. And I don't believe that it's met the -- the burden -- I
7 mean, the burden of proof for the four prongs as well. So I
8 agree with your assessment, Chairman Hill. I welcome the appeal
9 that we will hear in January. It's not that far away. It's only
10 two months. So I will not be in favor of granting a stay.

11 CHAIRPERSON HILL: Thank you.

12 Mr. Blake?

13 COMMISSIONER BLAKE: Thank you, Mr. Chair. I agree
14 with the comments that you guys -- you've made to this point. My
15 largest concern is with the second prong, the danger of
16 irreparable harm to the Appellant. It was -- I -- from that
17 perspective I could not for the life of me figure out -- certainly
18 from the documents provided -- how that harm would be to the
19 Appellant and it being irreparable. So for that reason, not
20 meeting the three prongs -- the four prongs I would not be
21 comfortable supporting a stay.

22 CHAIRPERSON HILL: Thank you.

23 Chairman Hood?

24 ZC CHAIRPERSON HOOD: Thank you, Mr. Chairman. I would
25 agree with everything I've heard. At first I was trying to

1 understand if you were supporting the stay or not. I did not
2 support the stay. I think this is typically a normal process.
3 While the other cases that I know about may look a little
4 different, they still proceed the same way. So I'm not in favor
5 of a stay in this case as well. Thank you.

6 CHAIRPERSON HILL: Thank you.

7 All right. I'm going to make a motion to deny the
8 motion for an expedited hearing and also deny the motion for a
9 stay on Appeal No. 21221 and ask for a second, Mr. Blake.

10 COMMISSIONER BLAKE: Second.

11 CHAIRPERSON HILL: The motion is made and seconded.
12 Madam Chair, if you could take a roll call, please?

13 MS. MEHLERT: Please respond to the Chair's motion to
14 deny the emergency motion for a expedited hearing and motion for
15 stay. Chairman Hill?

16 CHAIRPERSON HILL: Yes.

17 MS. MEHLERT: Board Member Smith?

18 COMMISSIONER SMITH: Yes.

19 MS. MEHLERT: Board Member Blake?

20 COMMISSIONER BLAKE: Yes.

21 MS. MEHLERT: Chairman Hood?

22 ZC CHAIRPERSON HOOD: Yes.

23 MS. MEHLERT: Staff would record the vote as four to
24 zero to one to deny the motion to stay and request for an
25 expedited hearing in Appeal No. 21221 on the motion made by

1 Chairman Hill and seconded by Board Member Blake, with Vice-Chair
2 John not participating.

3 CHAIRPERSON HILL: Thank you. And this appeal, Madam
4 Secretary, again, is scheduled for 1/29; is that correct?

5 MS. MEHLERT: Correct.

6 CHAIRPERSON HILL: Okay. Chairman Hood, would you be
7 willing to come back for that?

8 ZC CHAIRPERSON HOOD: Sure. So that started off. I
9 will come back on the 29th of -- of January, right?

10 CHAIRPERSON HILL: Yes, sir.

11 ZC CHAIRPERSON HOOD: Okay. Yes. Yes, I will.

12 CHAIRPERSON HILL: Okay. Great.

13 And Madam Secretary, we'll see how that schedule runs.
14 If Chairman Hood is not the person who is assigned to that --
15 well, unfortunately, gosh, if we all -- Chairman Hood, we'll see
16 how it works with your schedule.

17 ZC CHAIRPERSON HOOD: That's all right. It doesn't
18 matter. I'll come back for this one.

19 CHAIRPERSON HILL: Okay. All right. Great. Okay.
20 All right. Thank you.

21 All right, let's see. Therefore, Madam Secretary, you
22 may call our next item.

23 MS. MEHLERT: The last case on the Board's meeting
24 agenda is Application No. 20302-A of 512 Taylor, LLC. This is a
25 request pursuant to subtitle Y, § 703 for a modification without

1 hearing to plans approved by the order issued in Application No.
2 20302 to extend the rear deck addition across the full width of
3 the building on each floor, add one additional vehicle parking
4 space in the rear yard, correct the rear yard setback
5 measurements, and enclose space under the existing front porch.

6 This project is the conversion of an existing two-story
7 semi-detached principal dwelling with a new three-story rear
8 addition to a three-unit apartment house located in RF-1 zone at
9 512 Taylor Street, NW, Square 3231, Lot 98.

10 CHAIRPERSON HILL: Okay. Give me a second. I'm just
11 trying to pull up the record.

12 Okay. I had a chance to review the record and the only
13 thing that I was kind of a little bit -- I would have maybe wanted
14 some more detail on was the decks going all the way across, but
15 I was able to kind of figure it out and so I'm more comfortable
16 with them now.

17 And then in terms of, like, the -- the lot occupancy
18 relief, I thought it was -- it was kind of de minimis and so I
19 wasn't terribly concerned about that. And that they're
20 increasing the parking spaces, I thought, you know, that's
21 something that is more helpful, usually, than not. And so I
22 didn't see any reason why this couldn't be a modification without
23 a hearing.

24 I also would note that I would agree with the analysis
25 that the Office of Planning has put forward. And then do note

1 that the Applicant had reached out to the ANC but had not heard
2 anything back from them. And so I assume that if the ANC had
3 wanted some kind of participation on this, they would have done
4 so. So I'm comfortable moving forward and approving this
5 application.

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

7 COMMISSIONER SMITH: I have nothing to add, Chairman
8 Hill. I'm comfortable with the Office of Planning's analysis of
9 this particular case, all of the special exception requests --
10 or the modification requests, sorry, and would support the
11 application as well.

12 CHAIRPERSON HILL: Thank you.

13 Mr. Blake?

14 COMMISSIONER BLAKE: Mr. Chairman, in support of the
15 application. I have nothing to add.

16 CHAIRPERSON HILL: Thank you.

17 Chairman Hood?

18 ZC CHAIRPERSON HOOD: Mr. Chairman, nothing to add.
19 Thank you.

20 CHAIRPERSON HILL: Thank you. Thank you.

21 All right. I'm going to go ahead and make a motion
22 then to approve Application No. 20302-A, as in apple, as captioned
23 and read by the secretary and ask for a second, Mr. Blake?

24 COMMISSIONER BLAKE: Second.

25 CHAIRPERSON HILL: The motion is made and seconded.

1 Madam Secretary, if you would take a roll call, please?

2 MS. MEHLERT: Motion to approve the application.
3 Chairman Hill?

4 CHAIRPERSON HILL: Yes.

5 MS. MEHLERT: Board Member Smith?

6 COMMISSIONER SMITH: Yes.

7 MS. MEHLERT: Board Member Blake?

8 COMMISSIONER BLAKE: Yes.

9 MS. MEHLERT: Chairman Hood?

10 ZC CHAIRPERSON HOOD: Yes.

11 MS. MEHLERT: Staff will record the vote as four to
12 zero one to approve Application 20302-A on the motion made by
13 Chairman Hill and seconded by Board Member Blake, and Vice-Chair
14 John not participating.

15 CHAIRPERSON HILL: Thank you.

16 You know, before we start our hearings if we could just
17 take a quick break. My computer system seems to be acting kind
18 of funny. So I'm going to try to address it. Why don't we come
19 back in, like, 15 minutes, if that's okay? Thank you. I
20 appreciate it.

21 (Whereupon, there was a brief recess.)

22 CHAIRPERSON HILL: Madam Secretary, could you call our
23 next case when you get an opportunity?

24 MS. MEHLERT: Next in the Board's hearing session is
25 Application No. 20280-A of Nathaniel Lewis, as amended. This is

1 a self-certified request pursuant to Subtitle Y, § 704 for a
2 modification with a hearing to modify the order issued on July
3 15th, 2022 in Application No. 20280, to add an area variance
4 pursuant to Subtitle X § 1002, from the street frontage
5 requirements of Subtitle C § 303.4.

6 This is for the enlargement of an existing residential
7 building and conversion to a three-unit apartment house on a new
8 record lot. It's located in RF-1 zone at 622 I Street, NE, Square
9 857, Lots 32 and 113.

10 The Applicant's original request for a minor
11 modification was placed on the meeting agenda on July 17th.
12 However, because the request involved a new request for relief,
13 the Board scheduled the application for a hearing as a
14 modification with hearing.

15 And I'll note that ANC 6C submitted their report in
16 Exhibit 26 early yesterday.

17 CHAIRPERSON HILL: Great. Thank you.

18 If the Applicant can hear me, if they could introduce
19 themselves for the record?

20 MR. BELLO: Good morning Board members. Olutoye Bello
21 representing the Applicant.

22 CHAIRPERSON HILL: Okay. Mr. Bello, is your camera
23 working?

24 MR. BELLO: I seem to be having a problem with it.

25 CHAIRPERSON HILL: I'll give you a second to try to

1 figure it out.

2 Good morning, Commissioner. Could you introduce
3 yourself for the record?

4 COMMISSIONER ECHENWILER: Hello, Mr. Chairman. Mark
5 Echenwiler on behalf of ANC 60. And Mr. Chairman, I did want to
6 note at the appropriate time, I'd like to raise a preliminary
7 matter that would streamline this hearing.

8 CHAIRPERSON HILL: Okay. Let's wait for Mr. Bello.

9 Mr. Bello, can you hear me?

10 MR. BELLO: Yes, I can hear you, sir.

11 CHAIRPERSON HILL: Okay. Why don't you play with your
12 camera there for a second?

13 Commissioner Echenwiler, what is it that you think
14 might streamline this hearing?

15 COMMISSIONER ECHENWILER: ANC 60 objects to the
16 Applicant presenting any testimony under § 704.2(d) and (e). The
17 Applicant was required to provide a list of -- well, a summary
18 of all witness testimony. If there was to be an expert witness
19 offered, the resume and obviously, therefore, the identification
20 of that person, was to be included. None of that is in the
21 application.

22 CHAIRPERSON HILL: Okay. So you want us to postpone
23 this?

24 COMMISSIONER ECHENWILER: No.

25 CHAIRPERSON HILL: What is it, Commissioner

1 Echenwiler -- all right. I'm going to have a meeting now with
2 my counselors. Great.

3 So Mr. Bello, do you have witnesses?

4 MR. BELLO: I have no witnesses, Mr. Chairman. And I'm
5 representing the Applicant; I'm not presenting myself as an
6 expert in this.

7 CHAIRPERSON HILL: Okay. So to clarify, Commissioner,
8 your -- can you again repeat your preliminary matter?

9 COMMISSIONER ECHENWILER: Yes. ANC objects to the
10 presentation of testimony by any witnesses, including Mr. Bello,
11 even as a nonexpert witness. And it is failure to comply with §
12 Y 704.2. In this case it would be E. D relates to expert
13 witnesses. So it's just subsection E, like echo.

14 CHAIRPERSON HILL: Okay. All right. Let me read my
15 little thing here.

16 Mr. Bello, do you have any response to this preliminary
17 matter?

18 MR. BELLO: Mr. Echenwiler seems to be pointing to the
19 section that requires that the applicant submit a list of expert
20 witnesses, but I have no expert witness here.

21 CHAIRPERSON HILL: Okay. All right.

22 COMMISSIONER ECHENWILER: I'm happy to clarify, Mr.
23 Chairman, that is not what I am saying.

24 CHAIRPERSON HILL: What are you saying, Commissioner
25 Echenwiler?

1 COMMISSIONER ECHENWILER: Under § 704.2(e) -- let's
2 forget about (d) because obviously I had no idea whether or not
3 there were going to be expert witnesses. Mr. Bello has now
4 clarified that point. But he's still proposing to testify as a
5 witness. And under 704.2(e), a summary of his testimony was
6 required to be included as part of this application, and it is
7 not present anywhere in the record.

8 CHAIRPERSON HILL: Okay. Commissioner Echenwiler, I'm
9 really not sure, but I'll find out in a minute, what -- you're
10 requesting we don't have the hearing?

11 COMMISSIONER ECHENWILER: Yes. ANC 6C would ask for
12 the Board -- certainly I have testimony to present, but I would
13 have no objection if the Board were simply to decide this case
14 on the written record as it exists now, and we would oppose
15 postponing this case in order to allow the Applicant to submit a
16 list of witnesses, supplement the record, or do anything else.
17 The case is ripe for decision after today.

18 CHAIRPERSON HILL: Okay. This is the first time I've
19 ever heard this being offered, and so I will find out from my
20 counsel what they have to respond with, and we will get back.

21 ZC CHAIRPERSON HOOD: Mr. Chairman?

22 CHAIRPERSON HILL: Yes. Go ahead.

23 ZC CHAIRPERSON HOOD: Commissioner Echenwiler, what was
24 the statute again? I'm sorry. 704 what?

25 COMMISSIONER ECHENWILER: Y 704.2(e) -- subsection E,

1 | like echo.

2 | ZC CHAIRPERSON HOOD: Gotcha. Thank you.

3 | Thank you, Mr. Chairman.

4 | CHAIRPERSON HILL: Okay. Thanks. All right. Let's
5 | see. Let me open this up.

6 | As chairperson of Board of Zoning Adjustment of the
7 | District of Columbia, in accordance with 407 of the District of
8 | Columbia Administrative Procedures Act, I move that the Board of
9 | Zoning Adjustment hold a closed emergency meeting on 11/6/2024
10 | to seek legal advice from our counsel on this preliminary motion
11 | that was just put forward for 20280-A and/or deliberate upon, but
12 | not vote on, 20280-A. Is there a second, Mr. Blake?

13 | COMMISSIONER BLAKE: Second.

14 | CHAIRPERSON HILL: Okay. The motion is made and
15 | seconded.

16 | Madam Secretary, if you'd take a roll call, please?

17 | MS. MEHLERT: Please respond to the Chair's motion to
18 | hold an emergency closed meeting with legal counsel. Chairman
19 | Hill?

20 | CHAIRPERSON HILL: Yes.

21 | MS. MEHLERT: Board Member Smith?

22 | COMMISSIONER SMITH: Yes.

23 | MS. MEHLERT: Board Member Blake?

24 | COMMISSIONER BLAKE: Yes.

25 | MS. MEHLERT: Chairman Hood?

1 ZC CHAIRPERSON HOOD: Yes.

2 MS. MEHLERT: Staff would record the vote is four to
3 zero to one to hold an emergency closed meeting with legal
4 counsel.

5 CHAIRPERSON HILL: Okay. All right.

6 Mr. Bello, see if you can make your camera work and we
7 will be back.

8 (Whereupon, there was a brief recess.)

9 MS. MEHLERT: The Board is returning to Application No.
10 20280-A after a closed meeting with OZ legal counsel.

11 CHAIRPERSON HILL: Great. Thanks. I'm going to wait
12 for Mr. Smith to rejoin us, but I just want to get everybody to
13 reintroduce themselves.

14 Could the Applicant please reintroduce themselves?

15 MR. BELLO: Olutoye Bello representing the owner of the
16 property.

17 CHAIRPERSON HILL: Okay. Great. Mr. Bello, there's
18 kind of some background noise. I assume you were not able to
19 get your camera running; is that correct?

20 MR. BELLO: That's correct.

21 CHAIRPERSON HILL: Okay. Great.

22 Commissioner, could you reintroduce yourself for the
23 record?

24 COMMISSIONER ECHENWILER: Mark Echenwiler for ANC 6C.

25 CHAIRPERSON HILL: Okay. I'm going to just wait for

1 my other Board member to rejoin.

2 Mr. Smith, you there?

3 COMMISSIONER SMITH: Yes.

4 CHAIRPERSON HILL: Okay. Great. Thanks.

5 So we just had a meeting with OZ legal and concerning
6 704.2(e), I guess there's a bunch of ways we can kind of look at
7 this, meaning the Board has the written testimony that came in
8 from the Applicant prior with the slide deck. And then what the
9 Board has the ability to do is determine whether or not, you
10 know, we have enough in the record to base the testimony that's
11 about to happen before us. And also, I guess under Y 101.9 we
12 have the ability to waive a lot of these provisions so that we
13 can go ahead and have our hearing.

14 So I'm going to -- and the other thing is, like, the
15 preliminary matter was not a proper motion, it was just something
16 that was brought up now. But I'm still, you know, happy to think
17 about it as a preliminary matter. So I'm not in favor of granting
18 this preliminary matter and I'm in favor of having the hearing.
19 And so I'm going to, you know, make a motion to deny the
20 preliminary matter. And I'm going to see if any of my fellow
21 Board members have anything they'd like to add.

22 Okay. I'm going to make a motion to deny the
23 preliminary matter concerning -- that was brought up from the ANC
24 about Y 704.2(e) and ask for a second, Mr. Blake.

25 Motion made and seconded.

1 Madam Secretary, take a roll call.

2 MS. MEHLERT: Please respond to the Chair's motion to
3 deny ANC 6C's preliminary matter. Chairman Hill?

4 CHAIRPERSON HILL: Yes.

5 MS. MEHLERT: Board Member Blake?

6 COMMISSIONER BLAKE: Yes.

7 MS. MEHLERT: Board Member Smith?

8 COMMISSIONER SMITH: Yes.

9 MS. MEHLERT: And Chairman Hood?

10 ZC CHAIRPERSON HOOD: Yes.

11 MS. MEHLERT: Staff would report the vote is four to
12 zero to one to deny the preliminary matter on the motion made by
13 Chairman Hill and seconded by Board Member Blake.

14 CHAIRPERSON HILL: Okay. Mr. Bello, can you hear me?

15 MR. BELLO: Yes, sir. Clearly.

16 CHAIRPERSON HILL: So you cannot get your camera to
17 work, correct?

18 MR. BELLO: I have not been able to.

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

24 MR. BELLO: Yes, sir. If I can bring up the PowerPoint
25 presentation, I think summarizes what the case is about.

1 CHAIRPERSON HILL: Can you see the screen, Mr. Bello?
2 MR. BELLO: Yes, I can.
3 CHAIRPERSON HILL: Okay. I think it's pulled up.
4 MR. BELLO: Okay. So this is the application of
5 Nathaniel Lewis, BZA No. 20280-A.
6 Next slide, please.
7 The nature of the relief sought here is a request for
8 modification of significance of the prior BZA order, number
9 20280, pursuant to Subtitle Y § 704.1. The application is brought
10 in response to notice of intent to revoke the building permit
11 that was issued on the basis of the prior BZA order that's in
12 Exhibit 7. And the purpose of this application is to seek area
13 variance relief from 11C DCMR 303.4 regarding the street frontage
14 requirements for each new lot being created to be used and
15 occupied as an apartment house.
16 Next slide, please.
17 Key background information. BZA order number 20280
18 approved a project for a three-unit conversion to establish an
19 apartment house used on this premises. The application under BZA
20 20280 was self-certified under a previous ownership. Building
21 permit issued by BOB in accordance with the approved BZA order.
22 The new owner received a notice of notification -- notification
23 of revocation because the prior applicants, according to the ZA,
24 should have filed for a variance under C 303.4.
25 Property ownership change. My client, Mr. Lewis,

1 bought the property from the previous applicant with the BZA
2 order and duly applied for building permit that was issued, that
3 is now the subject of revocation.

4 Next slide, please. Subtitle X 1001.1, the Board of
5 Zoning Adjustment is authorized to grant area variances as
6 provided in this title where a property demonstrates three
7 characteristic elements, exceptional physical characteristics of
8 a property or exceptional situation of conditional property is
9 the first. The second --

10 Next slide, please.

11 -- that the physical characteristics or extraordinary
12 or exceptional situational condition of property makes a strict
13 application of zoning regulations result in peculiar and
14 exceptional practical difficulties to the owner of the property.

15 Next slide, please.

16 And the third prong is that the application, if
17 granted, will be in harmony with the general purpose and intent
18 of the zoning regulations and would not tend to substantially
19 adversely impact neighboring properties.

20 Next slide, please.

21 In compliance with the burden of proof, Lot 0032 is 20
22 feet wide at the street frontage and has been since prior to May
23 12, 1958. Lot 32 is flanked on the adjacent properties by road
24 dwellings with existing structures that have been built prior to
25 May 12, 1958. Lot 113 is a regularly shaped alley lot with no

1 street frontage, over 40 feet at its widest point, the bottom of
2 30-foot-wide alley.

3 Subdivision or configuration of two lots into
4 compliance with 11C 303.4 is not feasible due to the existing
5 development and fiscal constraints. The adjacent road dwellings
6 and alley configuration makes it impossible to create a 30-foot
7 street frontage on the subject property.

8 Next slide, please.

9 Exceptional fiscal characteristic. The subject
10 property's narrowness and irregular lot shape create practical
11 difficulties. The practical difficulties with the strict
12 application of the zoning regulations would result in practical
13 difficulties upon the property owner.

14 Next slide, please.

15 Adverse effect on surrounding properties, impact on
16 neighbors. This application incorporates the conclusions from
17 BZA order number 20280, where the same application was properly
18 vetted and approved by the BZA in the previous owner. There be
19 no change whatsoever to what the Board approved and no adverse
20 impact on the use or enjoyment of neighboring properties as the
21 Board found in previous case.

22 Next slide, please.

23 This is a comparative. The evidence of the plat that
24 was approved by the BZA and the plat that was approved by --
25 under the building permit was essentially no change whatsoever

1 to the location, surroundings, or any other part of the property
2 as previously seen by the BZA.

3 Next slide, please.

4 These are just flow plans showing the layout of the
5 property.

6 Next slide, please.

7 Additional floor plans. There are the floors.

8 Next slide, please.

9 Elevation of the property as approved by the BZA.

10 Next slide, please.

11 Side elevations of the same property.

12 Next slide, please.

13 This would be the elevation from the courtyard.

14 Next slide, please.

15 The Applicant respectfully requests that the BZA grants
16 the requested modification of BZA Order No. 20280. The
17 modification would allow for the variance relief needed for
18 compliance with 11C 303.4. The project remains consistent with
19 the original approval and will not adversely affect neighboring
20 properties, consistent with the applicable findings of fact in
21 BZA No. 20280.

22 I believe that's my presentation.

23 CHAIRPERSON HILL: All right. Thank you, Mr. Bello.

24 If it's okay with my fellow Board members what I would
25 like to do is hear from everybody and then we'll go ahead and

1 have questions. I'm going to go in the order that's in Y 409.
2 And the next person up is the Office of Planning.

3 MR. JESICK: Thank you, Mr. Chairman and Members of the
4 Board. My name is Matt Jesick for the Office of Planning, and
5 the Office of Planning recommends approval of the requested
6 relief. We found that the property is encumbered by an
7 exceptional situation which results in a practical difficulty to
8 the Applicant. We found that, consistent with the Board's
9 previous findings, that the project wouldn't -- and granting the
10 relief would not result in any detriment to the public good or
11 impairment of the intent of the zoning regulations. So again,
12 we are recommending approval. I'm happy to take any questions.
13 Thank you.

14 CHAIRPERSON HILL: Okay. Great. Thank you.

15 All right. Next up is the ANC. Commissioner, would
16 you like to give us your testimony?

17 COMMISSIONER ECHENWILER: I would.

18 If Mr. Young can bring up my slides, please. Next
19 slide.

20 So Mr. Bello has already accurately summarized the
21 nature of the relief sought, so we can skip this slide.

22 The factors that the Board should consider in analyzing
23 this application are these five, whether there is an exceptional
24 condition present or not present, whether compliance with the
25 regulations imposes practical difficulties that are unnecessarily

1 burdensome, the extent or severity of the relief sought, where
2 the burden and difficulties faced are self-imposed, and as has
3 already been mentioned, whether granting relief would impair the
4 intent and purpose of the zoning regulations and the plan. This
5 application fails because all of these factors in this case
6 militate against approval.

7 Next slide, please.

8 So on the first foundational issue of whether or not
9 there is an exceptional condition, the Court of Appeals has said
10 that this exceptional condition has to affect a single property.
11 And last year in the McDonald case, the court went on to make
12 that even more explicit that it affects only a single property
13 rather -- quote, "rather than exist as part of the general
14 conditions in the neighborhood", unquote. In this square alone,
15 there are at least 20 street-facing lots that abut a separate
16 alley property.

17 Next slide. This is taken from our letter which
18 details, you know, further -- in brief, this is a map of all the
19 record lots in this square. I took this from the official DC
20 Atlas Plus. That's the District's GIS atlas. And I have circled
21 there all of -- other than the lot involved in this application
22 I circled all the properties, many of them never recorded as
23 record lots, that exist in this square and abut a street-facing
24 lot. You're welcome to count them for yourself, but my count is
25 there's at least 20 of them depending on how you like to count.

1 Perhaps more. So there is definitely no uniqueness. This is a
2 general condition -- literally a general condition in the
3 neighborhood as described by the Court of Appeals in McDonald.

4 Next slide, please.

5 And just to amplify, the simplest way to show lot width
6 for these street-facing lots, the vast majority of which have not
7 changed. I just pulled this from the 1919-based real estate
8 atlas. And if you zoom in -- I think it's easier to read in our
9 letter -- you can see that like this property these lots are
10 almost universally either 20 feet wide or 16 feet wide. And
11 therefore, these lots that are abutting these alley properties
12 would not have sufficient street frontage to meet the
13 requirements of the provision the Applicant is seeking relief
14 from.

15 So just to summarize here. From the outset the
16 Applicant doesn't have an exceptional condition. It's not
17 exceptional. There's a lot of it going on just in this square.

18 Next slide, please.

19 But moving on then to practical difficulties. As you
20 know, the Applicant bears the burden here. It's important to
21 keep in mind that not every inconvenience amounts to practical
22 difficulties within the meaning of the regulations.
23 Conspicuously, the Applicant has offered zero -- and this is no
24 exaggeration -- there was zero evidence here of any economic
25 harm, financial feasibility or infeasibility, or the like. Not

1 one word about that.

2 There are some conclusory statements in the Office of
3 Planning report. But again, those -- those cite to nothing -- I
4 repeat, nothing in the record. The record is completely bare of
5 any evidence showing that there is a practical difficulty that
6 result in some sort of substantial harm that would qualify the
7 application to be granted.

8 And in fact, OP's report quite helpfully points out
9 that these two different lots can be used to create three dwelling
10 units. OP says today they can have two units on one of the lots
11 and one unit on the other one. So just to be clear, this is not
12 one of those cases where someone has a lot that simply cannot be
13 put to beneficial economic use and zoning relief is the only way
14 to get to some relief. That would be an arguable practical
15 difficulty and it's the opposite of the case here. This owner
16 already has two lots. OP says, you can put them to use today
17 and have the same number of dwelling units. And so there's --
18 there's simply no evidence here of a burden other than, you know,
19 a conclusory assertion. There's no actual factual evidence of
20 it whatsoever.

21 Next slide.

22 Addressing the extent or severity of relief. The
23 regulation requires 30 feet of street frontage. That's 50 percent
24 more than the 20 feet provided, and that's a pretty high degree
25 of relief here to subtract their weight against granting the

1 application.

2 Next slide.

3 This goes back -- the fact that the practical
4 difficulties here are entirely self-imposed. We've already got
5 two lots. OP says the owner can put them to beneficial economic
6 use today and it's -- the -- the hardship here is being created.
7 It's the Applicant's insistence on building a particular building
8 and the -- that's not a hardship. Wanting to do something that
9 the zoning regulations don't allow you to do in and of itself is
10 not an economic hardship, not a practical difficulty. So any
11 insufficiency here -- any basis for, you know, seeking the
12 variance is entirely self-created.

13 Next slide.

14 Granting relief would, in fact, substantially impair
15 the purpose of the regulations. The OP report is quite
16 extraordinary. It asserts that lot 113, simply because it is an
17 alley lot, is -- you know, that in and of itself creates an
18 exceptional condition. I want the Board to kind of marinate in
19 that thought, that, you know, if every alley lot creates an
20 exceptional condition just by being an alley lot and that that
21 justifies the granting of a variance.

22 But as I've pointed out already, you know, relying on
23 the District's own real property records, we've got lots of
24 street-facing lots in this square alone that abut alley property.
25 So we've got lots of alley properties. We've got lot of street-

1 facing lots, almost none of which are 30 feet wide, abutting
2 those alley properties. And so if you grant relief here you open
3 the flood gates. You basically gut the 30-foot requirement.

4 And that, Mr. Chairman, I believe is my last slide.
5 I'm happy to take your questions.

6 Oh, actually, no, I think there's one -- I apologize.
7 I have one more, just to summarize. So every single factor that
8 I've gone through weighs against the application. No exceptional
9 condition. The Applicant has utterly failed to carry his burden
10 of proof to show that there are practical difficulties. The
11 relief is excessive in scope. The burdens and difficulties here,
12 to the extent they can be claimed to exist at all, are self-
13 created. And as I said in my last point, granting relief would
14 impair the intent and purpose of the zoning regulations. And
15 that does conclude my presentation. Thank you.

16 CHAIRPERSON HILL: Okay. Thank you, Commissioner.

17 Let me see. I'm just going to hear from everybody. Is
18 there anybody wishing to speak, Mr. Young?

19 MR. YOUNG: Two witnesses signed up.

20 CHAIRPERSON HILL: Okay. Great. Could you bring them
21 in, please?

22 Is it Ms. Hagen? All right. Ms. Hagen, if you can go
23 ahead and introduce yourself for the record and then you'll have
24 three minutes to give your testimony. And you can begin whenever
25 you like.

1 MS. HAGEN: Sure. My name is Danielle Hagen, and I am
2 the owner of 624 I Street, the property right next to 622. First
3 I'd like to say that our neighborhood is supportive of development
4 of this property, but we are vehemently against this current
5 design. We believe that we can work with the owner under a new
6 plan that adheres to the zoning laws that protect our home
7 ownership.

8 The duty of the Washington D.C. government and this
9 committee is to ensure that new construction does not adversely
10 impact homeowners and that builders meet the standards and
11 ordinances set by the D.C. government.

12 The ANC and the neighborhood has been against this
13 project from the beginning. On our own time and dollar, we have
14 consulted experts, legal, real estate, zoning, city planning and
15 engineering and what we have found is that the experts have called
16 this a Frankenstein proposal, a pay-to-play plan, a development
17 that will negatively impact the surrounding neighborhood, and
18 most recently, the immediate reduction of home value by
19 approximately 20 percent of our home. I want to say that again.
20 That was not provided by a blind estimate. That was provided by
21 an experienced, licensed real estate professional in the
22 District. A reduction of 20 percent of our home value.

23 Allowing this current plan will breach the duty that
24 the D.C. government and this Committee promises to its residents,
25 that you should not develop a property that infringes heavily on

1 | privacy, permanently and adversely changes the neighborhood, and
2 | materially impacts the enjoyment of our property and the
3 | surrounding ones.

4 | From the experts that we've consulted, the impact of
5 | this plan will be too great for the extreme loss to our home
6 | value. We will be forced reluctantly to sell our home. If this
7 | pattern continues it's inevitable that single-family residents
8 | will ultimately be squeezed out and each and every parcel will
9 | be eventually converted into multi-unit properties attracting
10 | short-term rentals and transient residents. Enjoyment of our
11 | neighborhoods, the long-term residents, and those that invest in
12 | their properties in their neighborhoods would cease to exist.
13 | Zoning laws are not meant to discourage development, they are to
14 | encourage development, which everybody in the community thrives.

15 | So today, like many of our neighbors, we've invested
16 | in our home because we understood and followed the zoning laws
17 | of our neighborhood. We want nothing more than to work with the
18 | owner to create a plan that respects our neighborhood and all
19 | that we've put in it. Our property is evidence that smart and
20 | healthy development is possible within the laws and regulations
21 | that presently exist. The hardship is on those impacted by this
22 | development not the owner. Allowance of this project will further
23 | open the door to future developers to do this everywhere, not
24 | just in select incidents. And therefore, we respectfully and
25 | vehemently ask for the BZA to reject this proposal.

1 CHAIRPERSON HILL: Thank you, Ms. Hagen. Thanks for
2 your testimony.

3 Is it Ms. Robinson?

4 MS. ROBINSON: Yes, it is.

5 CHAIRPERSON HILL: Hi.

6 MS. ROBINSON: And I don't know, my camera's pretty
7 dark this morning. Some --

8 CHAIRPERSON HILL: So --

9 MS. ROBINSON: Sorry.

10 CHAIRPERSON HILL: Could you introduce yourself for the
11 record, Ms. Robinson? And then you'll have also three minutes
12 to give your testimony. And you can begin when you like.

13 MS. ROBINSON: Yes. My name is Danika Robinson. My
14 mother is the proud owner of 620 I Street, NE. My mother has
15 owned that home since 1987. She purchased that home for the
16 enjoyment of herself as well as her family, and she also has a
17 back yard.

18 So I also express all of the sentiments that Danielle
19 expressed because we've been in collaboration together on this
20 project. But most importantly, also in reference to this project,
21 my mother would have no privacy. In the privacy of her backyard,
22 she will not be able to be afforded that privacy anymore, as well
23 as the way her backyard is set up, that new development that they
24 want to put into place directly impacts her backyard. So she
25 will not have a reasonable expectation to the egress which leads

1 to the alleyway, which means the way her house is settled now,
2 as well as the steps, once that development is done she won't be
3 able to get to the alleyway. So if there's a fire, she won't
4 have that expectation to be able to be safely out of her back
5 yard.

6 Also, that project does affect her back yard -- does
7 affect her because it's directly behind her home. So the levels
8 that they want to take that property up, those persons will be
9 able to now see into my mom's, not just her back yard but into
10 her bedroom space, as well as her bathroom space. So now she's
11 lost that reasonable expectation of privacy. So therefore we are
12 strongly in opposition to this development, especially when it
13 comes to her expectation of privacy and the safety of her with
14 being able to get to the alleyway. Thank you.

15 CHAIRPERSON HILL: Thank you, Ms. Robinson. Thank you
16 for your testimony.

17 Before I release the witnesses, does the Board have any
18 question of the witnesses?

19 Mr. Bello, does the Applicant have any questions of the
20 witnesses? Mr. Bello? You're on mute maybe, Mr. Bello.

21 MR. BELLO: I don't.

22 CHAIRPERSON HILL: Thank you.

23 Commissioner Echenwiler, does the ANC have any
24 questions of the witnesses?

25 COMMISSIONER ECHENWILER: No questions, Mr. Chairman.

1 CHAIRPERSON HILL: Thank you, Mr. Echenwiler --
2 Commissioner Echenwiler.

3 Okay. You guys, thanks for coming in. You all try to
4 enjoy your day.

5 ZC CHAIRPERSON HOOD: Can I ask Mr. Echenwiler right
6 quick?

7 CHAIRPERSON HILL: Sure. Go ahead.

8 ZC CHAIRPERSON HOOD: Mr. Echenwiler, help me
9 understand again, because when I heard the witnesses -- I'm
10 trying to put it all together. Help me understand the self-
11 created issue here, because you mentioned self-created.

12 COMMISSIONER ECHENWILER: It's self-created -- that
13 means, the -- the request itself is not to cure a problematic
14 condition, the request is simply creating its own problem by
15 saying, oh, well, I'd like to build an apartment house here. I
16 don't have 30 feet of street frontage, you should let me build
17 an apartment house. But that's not how variances are supposed
18 to work, right? You need to have an exceptional conditions
19 lacking here. There needs to be a practical difficulty. There's
20 been zero -- I really cannot emphasize this enough -- zero
21 evidence put forward on this record that there is any practical
22 difficulty with the way things are right now. And so that's why
23 what we have here is this self-imposed hardship of wanting to
24 build a particular thing that simply doesn't comport with the
25 zoning regulations.

1 ZC CHAIRPERSON HOOD: Okay. All right. Thank you.

2 Thank you, Mr. Chairman.

3 Thank you, Commissioner Echenwiler.

4 CHAIRPERSON HILL: Okay. Well, that brings a segue to
5 questions. Does the Board have questions of anyone?

6 Sure. Go ahead, Mr. Blake.

7 COMMISSIONER BLAKE: Yeah, a couple questions. This
8 question, first, is to the Office of Planning. I'm struggling,
9 certainly, with the extraordinary acceptance situation leading
10 to a practical difficulty. And when I looked at the case records
11 of this 202.80 in -- I -- if we look back at the original Office
12 of Planning report, Exhibit 75, page 3 and 4, the Office of
13 Planning clearly states that there's no exceptional condition
14 with this property in fairly extensive detail. Could you please
15 reconcile your comments in this current report with that?

16 MR. JESICK: I was not the project manager on that
17 original application, so I -- I don't know that I could adequately
18 resolve any differences between the two applications. But based
19 on the current information in the current record, we did come to
20 the conclusion that there's an exceptional condition.

21 COMMISSIONER BLAKE: Okay. I will continue to struggle
22 with that then. Thank you.

23 CHAIRPERSON HILL: Yeah, go ahead, Mr. Smith.

24 COMMISSIONER SMITH: So I also struggle with the
25 exceptional situation because it seems they -- that there can be

1 | some manner of construction of a residential building without
2 | combining these lots. But my question is -- and you know, this
3 | is as clear as mud; I may have another question about that. But
4 | my question is about the intent and the purpose of the zoning
5 | regulations. So within the zoning -- within the zoning
6 | regulations, it does require that, when creating a new record lot
7 | for a multi-family building, that it has to be 30 feet. Can you
8 | speak to the reason why that -- what's the reason for that intent
9 | of 30 feet?

10 | MR. JESICK: I don't know the original reason. One can
11 | presume it was put in place to have an adequate size for a new
12 | apartment building. You know, I think that is somewhat in
13 | conflict with the intent of U 320.2, which anticipates the
14 | conversion of row houses to apartments. And of course it's very
15 | rare to have a 30-foot-wide row house. So we -- we do feel that
16 | this is consistent with the intent of U 320.2.

17 | It would also -- this application would also result in
18 | a lot of more conforming lot area. The present street-facing lot
19 | is 1,320 square feet. Of course the minimum is 1,800. The
20 | consolidated lot, while it would not have adequate frontage on I
21 | Street, would have a lot area exceeding 1,800 square feet at over
22 | 4,400 square feet. So we also felt in that instance -- or in
23 | that regard, the lot would -- or the relief would result in a
24 | more conforming lot that met the intent of the zoning regulations
25 | for lot area.

1 COMMISSIONER SMITH: Okay. And you also spoke that --
2 and what did you say was unusual -- what was unusual? An
3 apartment building that own a 20-foot wide -- a lot that's 20-
4 foot wide? Is that what you stated, that you felt that that's
5 unusual?

6 MR. JESICK: Well, I think we can assume that the 30-
7 foot requirement was put in place to have adequate, you know, lot
8 width for a new apartment building. Where that is maybe somewhat
9 in conflict with another part of the regulations is U 320.2,
10 which anticipates the conversion of row houses to apartment
11 buildings. And you know, we don't really see row houses that
12 wide. So I'm not sure that those two sections were ever fully
13 reconciled. But we do feel that this application would meet the
14 intent of U 320.2.

15 COMMISSIONER SMITH: Okay. But you're saying that you
16 don't see -- when you say that you usually don't see row houses
17 that wide, is that based on the line pattern in this particular
18 neighborhood? Can you back that up with some additional data?

19 MR. JESICK: Well, just the standard size of a row
20 house in the District is -- would not be 30 feet wide. We could
21 probably come up with that data. But of course in the RF-1 zone,
22 the standard minimum lot width would be 18 feet. When you move
23 up to other row house zones, you wouldn't be looking at lot widths
24 of 30 feet wide. You don't get to that lot width until you have
25 a -- you know, a lower density zone, such as the R-1 zones.

1 COMMISSIONER SMITH: Okay. All right. Thank you, Mr.
2 Jesick.

3 Mr. Echenwiler?

4 COMMISSIONER ECHENWILER: Yes. Thank you, Mr. Smith.

5 I -- if you're now giving me an opportunity to respond
6 to Mr. Jesick, I'd like to do so. Or do you have a question for
7 me?

8 COMMISSIONER SMITH: Well, not a response. I thought
9 you -- I thought you had a question to me.

10 COMMISSIONER ECHENWILER: No, I -- I have a -- I'd like
11 to respond briefly to the point Mr. Jesick just made, if I may?

12 CHAIRPERSON HILL: You'll have a chance to ask
13 questions and so they can answer your question then of the Office
14 of Planning, just because I know we're -- just let us get through
15 the questions of the Board real quick and then I'll do your
16 questions also.

17 Does anybody have any questions? I mean, I got another
18 question, but --

19 So Mr. Jesick -- I mean, I'm still with -- can you
20 repeat again what is the extraordinary or exceptional situation
21 to me? Can you just kind of say it one more time?

22 MR. JESICK: Yes. And I think this is, you know, highly
23 parallel to case 20951-A, which the Board approved a couple months
24 ago, with a very similar lot configuration. That case -- it was
25 a summary order so there wasn't much to glean from the order.

1 But there actually wasn't much discussion in the transcript
2 either. But the Board, in their brief discussion, indicated that
3 the inability to expand the width of the frontage of the lot did
4 constitute a practical difficulty.

5 I think in this case we're making even a slightly
6 different argument, which was that the configuration of the lots
7 of this particular site are exceptional on this square, whereas
8 most of the other lots on this square extend from the street
9 entirely to the alley. This site is comprised of two righted
10 lots. Of course one on I street one facing the alley. So we --
11 that was what we relied on in this particular case as an
12 exceptional condition affecting this property.

13 CHAIRPERSON HILL: Okay. One second, please.

14 MR. BELLO: I have a question, Mr. Chairman, when
15 you get --

16 CHAIRPERSON HILL: Mr. Bello -- yeah, I'll get to you,
17 Mr. Bello.

18 MR. BELLO: Yes, sir.

19 CHAIRPERSON HILL: I'm just getting through the Board
20 members.

21 Okay. Does the Board have any questions still of
22 anybody? I mean, obviously if you think of them, just let me
23 know. Okay.

24 All right. I'm going to go in the order that I believe
25 I'm supposed to go in. So Commissioner Echenwiler, do you have

1 any questions for -- you were starting to -- you were responding.
2 You can ask the question, whatever it is, of the ANC -- I'm sorry,
3 of the Office of Planning and then I'll go the Applicant. Do
4 you have any questions of the Office of Planning?

5 COMMISSIONER ECHENWILER: Sure. I just want to ask Mr.
6 Jesick a couple questions.

7 Mr. Jesick, U 320.2 doesn't require the creation of a
8 new lot does it?

9 MR. JESICK: It does not require the creation of a new
10 lot, correct.

11 COMMISSIONER ECHENWILER: And U 320.2 also requires --
12 in order to convert a single-family or a flat to an apartment
13 house -- requires 900 square feet of land per proposed unit
14 thereby requiring, you know, pretty substantial amount of land
15 area, and in many cases implicitly a fair lot width as part of
16 the bargain, correct?

17 MR. JESICK: Yes, you're correct. It requires 900
18 square feet per unit.

19 COMMISSIONER ECHENWILER: Okay. Are you also aware
20 that having 2,700 square feet or more is extraordinarily common
21 on many squares in the RF-1 zone, especially on Capitol Hill? In
22 fact, the case that was to be heard today, 21163, involves a
23 requested conversion of a property that has well over 2,700 square
24 feet, and that property is in no way unusual on that block. Are
25 you aware of that?

1 MR. JESICK: I don't have that data at my fingertips.
2 I'll take your word on it regarding the lot area.

3 COMMISSIONER ECHENWILER: Okay. And finally, I just
4 want to probe a little bit. You said that the inability to expand
5 the lot width is a practical difficulty. Isn't it true for every
6 lot on this square and pretty much every lot on every square in
7 and around Capitol Hill and near Northeast?

8 MR. JESICK: I think I -- I didn't catch the end of
9 your question there. But what I was saying actually was a -- in
10 the other case that I cited, 20951-A, the Board, in their
11 discussion, indicated that the inability to expand the lot
12 frontage was a practical difficulty. That was not our argument.

13 COMMISSIONER ECHENWILER: No, that's not my question.
14 That's not my question though.

15 MR. JESICK: What was your question? I'm sorry.

16 COMMISSIONER ECHENWILER: Okay. Is it unusual -- let
17 me see if I can come at this a different way. Does the Office
18 of Planning believe it is unusual and therefore an exceptional
19 condition for a property in a -- let's say in the RF-1 zone, to
20 be unable to expand the width of their lot?

21 MR. JESICK: We did not make that argument in this
22 application, so that is not what I am saying.

23 COMMISSIONER ECHENWILER: But didn't you -- you said
24 that earlier, did you not?

25 MR. JESICK: No.

1 CHAIRPERSON HILL: He said that -- he said that the
2 Board in that previous case -- and I have to go back and look.
3 We're the ones that said that it was exceptional that they
4 couldn't expand the lot width.

5 COMMISSIONER ECHENWILER: But I understand Mr. Jesick
6 to be advancing that as OP's position here as well and I'm just
7 trying to probe that. I think, Mr. Chairman, I -- I think it
8 was you. Someone certainly asked the question, you know, what --
9 what is the, you know, exceptional condition here and that's
10 where Mr. Jesick went. But I -- I think I've made the point. I
11 don't have any further questions for Mr. Jesick. Thank you.

12 CHAIRPERSON HILL: Okay. Thanks, Commissioner
13 Echenwiler.

14 Okay. Let's see, Commissioner Echenwiler, do you have
15 any questions for the Applicant?

16 COMMISSIONER ECHENWILER: No questions.

17 CHAIRPERSON HILL: Okay. Does the Applicant have any
18 questions of the Office of Planning?

19 MR. BELLO: Yes, sir.

20 Mr. Jesick, the -- as -- with respect to the first
21 prong of the burden of proof, the Applicant's assertion is that
22 the property is not only unique in its physical characteristics
23 but that it also demonstrates an extraordinary condition of
24 situation of property. Now, the zoning history of a property can
25 form -- can be deemed an extraordinary condition of situation of

1 property. Now, the previous BZA approval would form a zoning
2 history of this property; would you agree?

3 MR. JESICK: I agree that there is a zoning history to
4 this property.

5 MR. BELLO: All right. So -- and that zoning history
6 is unique to this property in this square, to the best of
7 everybody's knowledge?

8 MR. JESICK: I would have to check if it is actually
9 unique. And I also don't know if that type of uniqueness would
10 qualify for, you know, a variance argument. I would have to
11 investigate that further.

12 MR. BELLO: Okay. There actually is case law to that,
13 that the zoning history of a property can constitute an
14 extraordinary situation of conditional property.

15 Now, to the best of your knowledge, a building permit
16 having been granted on these two lots combined technically, to --
17 to repurpose this property as the ANC and the opposition is
18 suggesting would require a resubdivision of the property. And
19 to the best of my knowledge, I do not believe that Lot 32 meets
20 the minimum lot area requirement.

21 MR. JESICK: Lot 32 as it exists --

22 MR. BELLO: Previous lot 32, yes. The front lot.

23 MR. JESICK: It would not meet the lot area requirement
24 of 1,800 square feet.

25 MR. BELLO: Okay. Thank you. So it may not be approved

1 by the zoning administrator. Not only that, it will result in a
2 loss of one unit for -- for -- that was already approved by the
3 BZA, correct?

4 MR. JESICK: We would have to look at, you know, all
5 the development scenarios that could occur, because the
6 Commissioner mentioned in our report, we identified one potential
7 development scenario where there could be a flat perhaps on the
8 front lot. And we'd have to look at the alley regulations, but
9 perhaps a single-family dwelling on the alley lot. But I think
10 there are a lot of ways you could slice and dice it.

11 MR. BELLO: Okay. So the language of 303.4
12 specifically, which I emphasized on my presentation, states that
13 each new lot being created, right? Each new lot being created.
14 Do you consider the combination of two existing regular lots new
15 lots are being created?

16 MR. JESICK: I believe that's the way the zoning
17 administrator has interpreted it, that combining these two record
18 lots would result in a new -- a new lot with the intent that it
19 would house a multi-family dwelling.

20 MR. BELLO: Fair enough. Thank you. One last question.
21 The ANC has been -- the ANC Commissioner has been alluding to a
22 hardship. In the application for area variances is a hardship --
23 is that a test for granting a variance or -- or the need for
24 economic argument which is usually associated with new variances?

25 MR. JESICK: Well, I'm not quite sure what you're

1 asking, but I think, you know, for an area variance the -- the
2 test is actually is there a practical difficulty to the owner
3 rather than is there an undue hardship, which would be the test
4 for a use variance.

5 MR. BELLO: Okay. One last question then. If this
6 were a single lot, the front lot, Lot 32, and -- and the lot met
7 the 2,700 square feet, just for discussion sake, and there was a
8 tax lot, if -- if you're going through a subdivision to convert
9 that tax lot into a record lot, would that be a creation of a
10 new lot?

11 MR. JESICK: That's a hypothetical I would have to just
12 defer on, because it depends on what the underlying record lot
13 is, if there is even an underlying record lot, which is not always
14 the case. So I think there are a lot of variables there that we
15 can't get into.

16 MR. BELLO: Thank you.

17 CHAIRPERSON HILL: Okay. Thank you, Mr. Bello.

18 All right. Mr. Bello, do you have any rebuttal?

19 MR. BELLO: Yes, I do. Mr. Echenwiler is an attorney,
20 I'm not, but I do believe that there's case law. I mean, might
21 be Gilmartin, that asserts that an extraordinary situation or
22 condition of property can be its zoning history. The Applicant
23 submits here that this property already has a zoning history
24 having been before the Board of Zoning Adjustments for special
25 exception.

1 Now, it would seem to me that the only two areas of
2 interrogation would be the uniqueness of the property and the
3 practical difficulty imposed on -- on the owner, the third prong
4 having been vetted very copiously in the special exception
5 application. So our submission is that that history forms an
6 extraordinary situation of condition of property, particularly
7 when viewed in the context of the situation of the current owner
8 who bought a property with BZA approval and proceeded to apply
9 for a building permit.

10 I think it is also worth interrogation the -- the
11 history or the antecedence of 303.4, which, in my opinion, is
12 intended to be applicable to zone district RA-2 where a newly
13 created lot would be subdivided out with a larger lot in order
14 to establish an apartment house use. As you're all aware, the
15 apartment house use requires special exception also in the -- in
16 the RA-1-2 -- RA-1/2 zone.

17 And I also agree with the Office of Planning opinion
18 that this provision is in conflict with the conversion rule which
19 allows row houses to convert into an apartment house use. So I
20 disagree somehow with the position of the ANC that this -- this
21 practical difficulty is self-imposed. There simply isn't any
22 practical way that the owner can expand this property to be 30
23 feet wide because of the condition of the front lot. That will
24 be my closing argument.

25 CHAIRPERSON HILL: Okay. All right. Thanks, Mr. Bello.

1 I was also actually asking if there was any rebuttal because when
2 people ask questions concerning rebuttal, the person who is going
3 to see -- does my -- it sounds like you're concluding; is that
4 correct, Mr. Bello?

5 MR. BELLO: Yes, sir.

6 CHAIRPERSON HILL: Okay. Does -- I don't know if there
7 was rebuttal in there or not, but do my fellow Board members have
8 any questions concerning the rebuttal from the Applicant?

9 ZC CHAIRPERSON HOOD: I'm not sure what -- what -- how
10 we're going to proceed, but if -- if we continue and proceed at
11 a later date, I would like to hear -- you mentioned Gilmartin.
12 I've heard that a few times being cited as case law pertaining
13 to this case. I would like for him to provide that, because I
14 know a lot of times he'll mention -- Mr. Bello mentioned case
15 law, and I'd like to get that so I can look at it, or however we
16 need to do, depending upon how the BZA moves. Thank you, Mr.
17 Chairman. That's all.

18 CHAIRPERSON HILL: Did you say Gilmartin, Chairman
19 Hood?

20 ZC CHAIRPERSON HOOD: Gilmartin. That's -- that was a
21 case. I believe there's case law out there -- a case in front
22 of BZA. I'm not sure what year it was. Was it 2019? 2015? But
23 I've been hearing that for a while.

24 Mr. Echenwiler, can you shed some light on that for me?

25 COMMISSIONER ECHENWILER: Sure. It's cited at the

1 bottom of the first page of our submission, which I believe is
2 Exhibit 21.

3 ZC CHAIRPERSON HOOD: Did you also cite --

4 COMMISSIONER ECHENWILER: Maybe Exhibit 26. It -- I'm
5 sorry. See Exhibit 26, the very bottom of the first page, there
6 is a citation to Gilmartin. It's actually a slightly more
7 venerable decision from 1990. But it is frequently cited in
8 court of appeals decisions of law on BZA appeals.

9 ZC CHAIRPERSON HOOD: Yeah, it's been mentioned
10 quite -- I know I've been hearing it forever, so. You say it's
11 on the first page of your PowerPoint. Okay. All right.

12 COMMISSIONER ECHENWILER: Yes, at the very -- the very
13 bottom, the last two lines contain a citation to Gilmartin.

14 ZC CHAIRPERSON HOOD: Okay. I see it.

15 COMMISSIONER ECHENWILER: And I do just want to -- I
16 apologize for interjecting here, but I just want to be very, very
17 clear with the Board. I am not appearing before the Board as an
18 attorney. I am here as a representative of the ANC. I am not
19 practicing law while I'm here. I am representing the Commission
20 which I chair. And so I -- just I -- it's important for me to
21 have that on the record. Thank you.

22 CHAIRPERSON HILL: Thank you, Commissioner.

23 ZC CHAIRPERSON HOOD: Thank you.

24 COMMISSIONER ECHENWILER: Thank you, Mr. Chair.

25 CHAIRPERSON HILL: Okay. Oh, Commissioner, do you have

1 any questions on what might have been rebuttal, I'm not really
2 sure, of the Applicant?

3 COMMISSIONER ECHENWILER: Just one question I think for
4 Mr. Bello.

5 Mr. Bello, you -- you made a statement that it's not
6 like you were offering an expert opinion there about what § 303.4
7 was supposed to be doing. Can you actually point to anything in
8 the history of that regulation that supports your argument about
9 why it's there?

10 MR. BELLO: Well, it's the -- the precursor provision
11 to the 1958 regulation. If they are carefully read in tandem --
12 and this is in my statement of burden of proof -- I think it's
13 not unreasonable to conclude that the intent of this provision --

14 COMMISSIONER ECHENWILER: I'm not -- I'm not -- I'm
15 sorry, Mr. Bello. My question is whether there's anything in the
16 historical record. I'm not asking you to speculate. I'm not
17 asking you to draw inferences. I'm saying, are there any words
18 on a page existing today that support your argument that you can
19 point to?

20 MR. BELLO: Well, the fact that numerous zoning
21 administrators have never applied this section this way I think
22 is indicative of its antecedence and what its intent is. This
23 is the first time in -- and I've been a zoning administrator --
24 I work 15 years at DCRA -- that this provision is being looked
25 in this way. And many, many conversions have included the

1 creation or combination of more than one lot that did not have
2 to comply with this.

3 So my position is --

4 COMMISSIONER ECHENWILER: So in -- in short -- in short
5 you're really not able to point to anything in the historical
6 record, right?

7 MR. BELLO: Well, the decisions of previous zoning
8 administrators is historical, whether it's written or not. So
9 my point is if this provision was intended to be appliable in
10 this way, and I believe that this provision has been in place
11 since 1966 or something, at least one other zoning administrator
12 would have seen fit to apply it the same way it's been applied
13 today.

14 COMMISSIONER ECHENWILER: Okay. Mr. Chairman, I don't
15 think there's any benefit to continuing this line of questioning,
16 so I'm done. Thank you.

17 CHAIRPERSON HILL: Okay. All right. Okay. Let me
18 think. The only thing I -- I mean, I don't know, Chairman, if
19 you need anything. Like we're not going to be deciding this --
20 at least I'm not going to be deciding this today. And I'm going
21 to need to look back on a lot of the things that were mentioned
22 concerning all the different regulations that were mentioned
23 today. But I don't know if it -- and I'm looking at my fellow
24 Board members -- if it's worth the Office of Planning opining on
25 zoning history adding to the uniqueness of this property or not.

1 I don't know, and I'm just looking at my Board members.
2 Otherwise, I'm perfectly happy to just, you know, go through the
3 record and figure out what I think.

4 Do you all need anything else, meaning my fellow Board
5 members?

6 COMMISSIONER SMITH: Mr. Chairman, I'm looking at what
7 Mr. Echenwiler has provided with Gilmartin. On the surface, Mr.
8 Echenwiler -- Commissioner Echenwiler, to me, I think this argues
9 against your point. That's why I need the whole -- I don't
10 know -- I don't -- I'm not sure.

11 I need some more time, Mr. Chairman, as you do. But I
12 want to make sure we have everything we need. I see what Mr.
13 Echenwiler is saying here on the bottom of page 1, but I think
14 it actually goes to Mr. Bello's point of why he's -- and what
15 we're dealing with today. That's the way I'm reading it, but
16 I -- I will do it again.

17 I'm just letting you know, Mr. Bello, if you have it
18 as well, I would like for you to provide it. That's all I have.

19 Thank you, Mr. Chairman.

20 CHAIRPERSON HILL: Okay.

21 COMMISSIONER SMITH: Chairman Hill?

22 CHAIRPERSON HILL: Yeah, go on, Mr. Smith.

23 COMMISSIONER SMITH: I mean, I don't know if I need the
24 zoning history on this particular case because I -- I mean, I
25 think the original case I think they recommended denial on the

1 request that was before us at that particular time, but they --
2 it didn't -- it didn't pertain to the -- this particular question
3 before us. What I do want the Office of Zoning -- Office of
4 Planning to opine on is the intent of the -- of the regulation
5 regarding a 30-foot-wide lot. So I think that would be helpful,
6 and that will help clear my mind up on that -- that last prong
7 of the variance test. So that's what I would need.

8 CHAIRPERSON HILL: Give me one second, Commissioner.
9 Okay. So I think -- what I think you're asking -- what you're
10 asking of the Office of Planning.

11 Commissioner Echenwiler, you had a comment?

12 COMMISSIONER ECHENWILER: Yes. Thank you, Mr.
13 Chairman. Obviously it's the Board's prerogative to ask for
14 anything from OP. I will just offer for the Board's
15 consideration, I made some significant efforts to look at the
16 history of this provision going back to ZR58. I'll note by the
17 way that Ms. Shoen (ph.) was quite helpful in pulling some records
18 for me. And the short answer is even with her expert assistance
19 I was able to find nothing going back to the original decision.
20 Mr. Bello said it was 1966. I think that's correct. It was 1966
21 or 1967. But I was able to find nothing indicating what the
22 zoning commission's purpose or intent was, for what that may be
23 worth.

24 CHAIRPERSON HILL: Okay.

25 MR. JESICA: That's good to know. Thank you.

1 CHAIRPERSON HILL: All right. Well, Mr. Jesick, I was
2 going to ask you I guess. Now you know that it's going to be a
3 bigger -- a deeper dig I suppose. But if you could try to answer
4 Mr. Smith's question, right, concerning why this thing is even
5 there, okay? And then if you could also -- since you're going
6 to be asked to opine on that, if you could please opine on whether
7 or not you think the zoning history concerning this case makes
8 it or leads to an exceptional situation, right? And then the
9 parties will have an opportunity to respond to that testimony.
10 And when do you think, Mr. Jesick, you might be able to opine on
11 this and get back to us?

12 MR. JESICK: Well, can I ask the Board a question
13 briefly.

14 CHAIRPERSON HILL: Sure.

15 MR. JESICK: Well, first a comment, I guess. I think
16 it's likely that I would reach the same conclusion that
17 Commissioner Echenwiler did, which is we can't find the original
18 intent. Just -- so just preparing you for that possibility.

19 COMMISSIONER SMITH: Okay. But you -- you don't have
20 to worry about it, Mr. Jesick.

21 MR. JESICK: Okay. I won't.

22 COMMISSIONER SMITH: For my piece anyway.

23 MR. JESICK: Okay.

24 CHAIRPERSON HILL: Okay. Then I don't need you to
25 opine. I mean, I'm happy to dig through this and if I need any

1 further questions, I can, you know, ask for, you know, reopening
2 the record and try to get something from you all to explain. So
3 I don't need anything from anybody. I just need time. So do
4 you all need anything from anybody? Otherwise, we can just, you
5 know, study this and decide where we are.

6 ZC CHAIRPERSON HOOD: Other than what I asked for from
7 Mr. Bello, I have, as Commissioner Echenwiler has mentioned.
8 I've -- actually while we were sitting here I've read it over and
9 over and I keep reading it over and maybe I just need time as
10 well.

11 But if -- as you mentioned, if the history applies to
12 the property then for this decision I would like to have that,
13 Mr. Bello.

14 I do have it, Mr. Echenwiler, and thank you for pointing
15 me to that.

16 Thank you, Mr. Chairman. If -- if you want to provide
17 it, fine. If you don't, fine. I'll go with what I see here.

18 CHAIRPERSON HILL: Why don't, Chairman Hood, for now,
19 let's see where we get. And then, if you need more information --
20 because otherwise I'm just trying to get to where -- as you know,
21 if I ask for information, then I have to ask for information,
22 then the questions on the information, and then it's even longer
23 before I get to the -- get to where I think we are.

24 COMMISSIONER SMITH: Well, I thought you were trying
25 to get -- Mr. Chairman, I thought you were trying to get to a --

1 the next time we will make a decision. I thought that's where
2 we were.

3 CHAIRPERSON HILL: Yes.

4 COMMISSIONER SMITH: So I need that before I can make
5 a decision.

6 CHAIRPERSON HILL: Okay. Then there you go. So then
7 the -- then maybe I'll ask it of the Office of Planning. You'd
8 like them to submit Gilmartin?

9 COMMISSIONER SMITH: Mr. Bello -- and I see here -- let
10 me just say it like this. If there's anything different other
11 than Mr. Bello and what Mr. Echenwiler has already provided that
12 you have, then you can provide it. If there's not, then we
13 already have it. I have -- I'll just go by what Mr. Echenwiler
14 has provided.

15 CHAIRPERSON HILL: Mr. Bello, would you --
16 Go ahead, Mr. Jesick.

17 MR. BELLO: I'm Mr. Bello.

18 CHAIRPERSON HILL: Oh. Mr. Bello, is there anything
19 different that you would provide concerning Gilmartin than what
20 Chairman Hood is already looking at?

21 MR. BELLO: I think an expanded argument of the case,
22 as written, would be helpful.

23 CHAIRPERSON HILL: Okay. That's fine. Chairman Hood
24 is nodding his head. So then when would you be able to provide
25 that, Mr. Bello?

1 MR. BELLO: Rather quickly.

2 CHAIRPERSON HILL: All right. Rather --

3 So Madam Secretary --

4 Now then, Mr. Jesick, if we're going to ask for things,
5 could you -- could the Office of Planning opine on whether or not
6 the zoning history on this property leads -- leads to an
7 exceptional situation?

8 MR. JESICK: I think we can provide that. Could I ask
9 a question? When you say zoning history, are you referring to
10 both the BZ -- the prior BZA case as well as any building permit
11 review and the granting of a building permit?

12 CHAIRPERSON HILL: Yes.

13 MR. JESICK: All of that. Okay.

14 CHAIRPERSON HILL: Okay.

15 MR. JESICK: Yes, we can provide that.

16 CHAIRPERSON HILL: Okay. Great. Thanks.

17 All right. Then if that's the case then, Madam
18 Secretary, when can I get information? When can people provide
19 feedback to that information? And then we'd actually come back
20 for a decision.

21 MS. MEHLERT: How long the Office of Planning needs
22 to -- to provide that information? That would help.

23 MR. JESICK: I would say, just to be on the safe side,
24 three weeks.

25 MS. MEHLERT: So by the 27th?

1 CHAIRPERSON HILL: He's checking.

2 MR. JESICK: Is that Thanksgiving week? I think, given
3 the holiday, it might be wise to push it back.

4 CHAIRPERSON HILL: So the 4th?

5 MR. JESICK: Well --

6 CHAIRPERSON HILL: Or, I mean, can -- can you do it,
7 like, on the 29 -- I mean, on the 2nd?

8 MR. JESICK: We can try and submit something on the 2nd
9 if that's helpful.

10 CHAIRPERSON HILL: Or the 4th -- doesn't matter. I
11 mean, at that point it doesn't matter. I mean, the 4th -- if
12 you get it on the 4th, then they would have responses by the
13 11th, correct, Madam Secretary?

14 MS. MEHLERT: And then you could schedule for a decision
15 on the -- on the 18th.

16 CHAIRPERSON HILL: And is that our last hearing date?

17 MS. MEHLERT: Yes.

18 CHAIRPERSON HILL: And then how many things do we
19 currently have on our last hearing date?

20 MS. MEHLERT: There are several pending postponement
21 requests, so you probably will have around six -- six cases,
22 possibly less.

23 CHAIRPERSON HILL: Okay. let's do it for that date
24 then.

25 MS. MEHLERT: Okay. From the Applicant, an OP due by

1 the 4th, and then responses due the 11th?

2 CHAIRPERSON HILL: Yes, please.

3 MS. MEHLERT: And then, decision on the 18th. Okay.

4 CHAIRPERSON HILL: When was -- we just had -- sorry.
5 Was Chairman Hood coming back for something? Oh, he's coming
6 back in January. Never mind. Okay. Okay. That sounds good to
7 me.

8 All right. Does anybody have anything before we go?
9 Okay. So I'm going to close the hearing and the record except
10 for those items that were mentioned. We'll get all the things
11 back and responses back by the 11th, and then we'll come back
12 for a decision on the 18th, okay? All right. Thank you all.

13 MR. BELLO: Thank you.

14 CHAIRPERSON HILL: Take care. Bye-bye.

15 Let's see. Okay. That's a decision. The hearing was
16 on 1/29.

17 Okay. How many cases have we got left? We've still
18 got quite a few, right? One, two, three, four, five. We still
19 have five cases. The next case -- let me just look here. Okay,
20 let's do the next case maybe and then we can decide whether we
21 want to take lunch. Does that sound fair? Okay.

22 If you all want to call the next case, Madam Secretary?

23 MS. MEHLERT: Next before the Board in the hearing
24 agenda is Application No. 21125 of M. Sean Royall, as amended.
25 This is a self-certified application pursuant to Subtitle X §

1 901.2 for special exceptions under Subtitle C § 711.11 from the
2 entrance site requirements of Subtitle C § 711.7, under Subtitle
3 C § 711.11 driveway width requirements of Subtitle C § 711.5,
4 under Subtitle C § 1402.1 from the retaining wall requirements
5 of Subtitle C § 1401.5, and under Subtitle D, § 5201, from the
6 lot occupancy requirements of Subtitle D § 404.1, from the
7 building area requirements for an accessory building under
8 Subtitle D § 5003.1, and from the accessory building location
9 requirements of Subtitle D § 5004.1(a) to construct a two-story
10 accessory structure in the rear yard of an existing three-story
11 detached principal dwelling, both being in the R-1A/FH zone at
12 2400 Tilden Street, NW, Square 2231, Lot 803.

13 The hearing was originally scheduled for June 26 and
14 rescheduled to September 11th to allow notice to ANC 3F. The
15 Applicant then requested postponement after the project was
16 revised and new relief was added to the application.

17 CHAIRPERSON HILL: Great. Thank you.

18 If the Applicant can hear me, if they could please
19 introduce themselves for the record?

20 MR. FLETCHER: I'm Jeremy Fletcher. I'm the architect
21 for the project.

22 CHAIRPERSON HILL: Great, Mr. Fletcher. Hold on. I
23 see Mr. Sullivan trying to get his --

24 MR. SULLIVAN: Yeah. Hi, Mr. Chair. Sorry. Marty
25 Sullivan with Sullivan & Barros on behalf of the Applicant. And

1 Mr. Fletcher is with us, and -- and I think Mr. Irwin (ph.) as
2 well from the architects.

3 CHAIRPERSON HILL: All right. Mr. Sullivan, if you
4 want to just walk us through your presentation and why you believe
5 your client's meeting the criteria for us to grant the relief
6 requested. I'm going to put 15 minutes on the clock just so I
7 know where we are. And you can begin whenever you like.

8 MR. SULLIVAN: Thank you, Mr. Chair and Members of the
9 Board.

10 If we could have the PowerPoint loaded, please?

11 Property is 2400 Tilden Street, NW.

12 Next slide, please.

13 So the property is in the R-1A Forest Hills zone and
14 is improved with a detached single-family dwelling. Applicant
15 is proposing to remove the existing one-story garage at the rear
16 of the property and construct a new two-story garage. And to
17 complete the project, it needs six areas of relief, including the
18 area requirement, the building area requirement for an accessory
19 building, lot occupancy requirements for the property as a whole,
20 the accessory building rear yard requirements because of the
21 proximity of the accessory building to the principal building.
22 That's the accessory building in the required rear yard relief.

23 Access requirements has a requirement for a ten-foot-
24 high garage opening. We're asking for relief from that. And
25 then as a retaining wall, relief requested, as well as driveway

1 width.

2 Next slide, please.

3 The Office of Planning is recommending approval. DDOT
4 has no objection. ANC 3-C has voted unanimously in support. And
5 then they updated their resolution after we revised the
6 application to add the retaining wall and the driveway width.
7 And I also have a letter in support from Peirce Mill across the
8 street.

9 Next slide, please.

10 And I will turn it over to Mr. Fletcher. Thank you.

11 MR. FLETCHER: Good morning. The property -- I think
12 you can go to the next slide, please -- is found -- this is in a
13 little bit different order than --

14 MR. SULLIVAN: The first one was the plat, Jeremy.

15 MR. FLETCHER: Yeah.

16 MR. SULLIVAN: These are the plans in order.

17 MR. FLETCHER: Okay. Okay. So they are some of our
18 reviews that we're skipping.

19 So yeah, you can go to the next slide.

20 So this is the existing garage on the back to the left,
21 the dark gray footprint, and the existing driveway, which already
22 is kind of a T shape.

23 And if you go to the next slide -- next slide, please.

24 Then the building gets larger for a two-car space, as
25 well as some other functions in the building. And the driveway

1 maintains the T sort of shape, but the part at the face of the
2 building gets a little bit wider to accommodate two garage doors.

3 The project is by an owner who was, you know, looking
4 for a residence in Washington D.C. and he found this particular
5 house for sale. The original part was built in 1811 as a
6 distillery. He has a passion for, you know, preserving and, you
7 know, caring for, like, these architectural things that he really
8 loves. And one of his thoughts was to add the program to the
9 house that he wants. He didn't want to expand the existing
10 footprint of the main house. Instead, let's focus our energies
11 on just expanding the accessory building out back. So therefore,
12 to, you know, be a little bit more hands off with the historic
13 building.

14 Next slide, please.

15 This one is a good section drawing, shows the -- the
16 existing single-car garage and the proposed larger building that
17 has more of the program that the owner requires for his -- for
18 his home.

19 Next slide, please.

20 And then this is a view from the street. And I worked
21 extensively with Historic Preservation Office and the U.S.
22 Commission of Fine Arts on the massing and scale and what the
23 building looks like. And as we were going through the process
24 they had us literally sort of sink the building down into the
25 earth so that the ridge height of the new building was not so

1 high above the existing building and makes it more subservient.
2 So this is what it looks like from the street. The building is,
3 like, really pushed down into the ground.

4 Next slide, please. Next slide, please.

5 That was the existing building we want to remove.

6 Here are the proposed floor plans, the cellar with some
7 space. The first floor with the two-car garage and a catering
8 kitchen storage area.

9 Next slide, please.

10 Second floor, more residential space.

11 Next slide, please.

12 Here's the view from the front. The upper drawing has
13 a front facing Tilden Street; the lower drawing has the side
14 facing the rear of the main dwelling.

15 Next slide, please.

16 More sections and elevations. The lower left is the
17 side facing the neighbor, which -- and I did show these drawings
18 to the staff from the Chinese embassy who owns the property and
19 they gave a verbal approval.

20 Next slide, please.

21 Now, this is the important one for the retaining wall.
22 So in the center of this drawing -- what this is is a section
23 through the building and then through the driveway going up
24 towards Tilden Street on the right side. The darker gray sort
25 of patched part of that retaining wall, the upper part, that is

1 the existing retaining wall dimensions, and the existing driveway
2 line is -- is dashed there. And we're pushing the driveway down
3 with a steeper slope. So even though we're asking for a taller
4 retaining wall, it's the -- the top height of it stays the same
5 elevation and the base of it gets lower.

6 Next slide, please.

7 Some photos of the site.

8 So if you go to next slide, please.

9 This -- it's a little hard to see on my magnification,
10 but that lower-left corner is the image that shows everything the
11 best, if you imagine that driveway ranking down more steeply, and
12 it would expose more, so we need to create some retaining wall
13 at the base of that retaining wall to lower that down. And then
14 the floor level -- the finished floor level of the new garage is
15 lower than the existing finished floor level of this garage.

16 Next slide, please.

17 And back to Marty.

18 MR. SULLIVAN: Thank you, Jeremy.

19 So the special exception requirements granting relief
20 will be in harmony with the general purpose and intent of the
21 regulations and the maps. The proposed accessory building area
22 location within the required rear yard and lot occupancy all
23 permitted via special exception approval. And despite the number
24 of areas of relief, the overall project is -- is relatively minor.
25 And it is a significant distance. And I think there's an overhead

1 photo that -- I don't know if it's in this presentation or not --
2 that shows quite a bit of foliage around the property as well.

3 So we've spoken to and notified both neighbors. It's
4 an embassy on each side and their buildings aren't -- aren't
5 located that close to this. That other comment relates more to
6 the retaining wall. There's existing trees on the property that
7 would be compromised from removing the wall, so the proposal is
8 to rebuild the wall. And it's actually -- as Jeremy stated, the
9 wall height isn't changing so much as the grade at the bottom of
10 it is making it technically higher.

11 Next slide, please.

12 So the retaining wall specific requirements, in
13 addition to meeting the general requirements, the Applicant must
14 demonstrate that conditions relating to the building, terrain,
15 or surrounding area would make full compliance unduly
16 restrictive. And regarding the retaining wall, the CFA and HPO
17 has requested that the design include the garage roof line lower,
18 and this necessitated lowering the driveway, thereby raising the
19 height, technically, of the retaining wall.

20 Next slide, please.

21 The specific criteria for four others of the area of
22 relief -- or three others -- is light and air and privacy. And
23 there's no impact on light and air, or privacy of the accessory
24 building either because of its proximity to a principal building
25 and -- and its -- because of its lack of proximity to neighboring

1 buildings and properties. This is a large property and the two
2 neighboring properties are very large as well.

3 Next slide, please.

4 And the specific criteria for the garage height
5 requirement. There is a requirement in the zoning regulations
6 that says an opening to a garage needs to be at least ten feet
7 high. And I've never seen this enforced toward a matter-of-right
8 project, but when we come before the BZA, we asked for the relief
9 just to be safe because we're here anyway. I thought I'd throw
10 in there that Home Depot mentions that the average standard door
11 height is seven feet. An unusual height is nine feet. I don't
12 know why this regulation exists. And I don't even know how to
13 argue for the relief of that, other than the average car is five
14 feet high, or less, so. But we needed to include this relief in
15 here as well.

16 Next slide, please.

17 And maybe that's -- and I think that's it. That's
18 everything. No, there's -- yeah, that's it. Thank you.

19 CHAIRPERSON HILL: Okay. Thank you.

20 Can I hear from the Office of Planning?

21 MS. MYERS: Hello. Crystal Myers with the Office of
22 Planning. The Office of Planning is in support of this case,
23 and like was said on the record, the staff report. But of course
24 here for questions. Thank you.

25 CHAIRPERSON HILL: Thank you.

1 Does the Board have any questions for the Applicant
2 and/or the Office of Planning? Okay.

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

4 MR. YOUNG: We do not.

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

7 MR. SULLIVAN: No, thank you. Thank you for your time,
8 Mr. Chair and Board Members.

9 CHAIRPERSON HILL: Thank you. You all have a -- I
10 don't know if you're coming back or not. Have a day. Bye-bye.

11 I can't even bring myself to say have a good day. I
12 can just say have a day. That's all I can do. Have a day.

13 All right. Okay. There's a lot of relief. I thought
14 the Applicant went through all of the items and I learned
15 something about garage door heights that I didn't think I was
16 going to learn about. But I'm having no issues with the
17 application or granting the relief. I think it's interesting
18 with what they're proposing to do and the reasons why they're
19 proposing to do it to still enable the program to be met. I am
20 going to rely, again, on the Applicant's presentation, that of
21 the analysis of the Office of Planning, and also it's nice to
22 see that the ANC has had an opportunity to look at this and they
23 were not concerned about the property. I'll be voting to approve.

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

25 COMMISSIONER SMITH: I have nothing to add, Chairman

1 Hill.

2 CHAIRPERSON HILL: Thank you.

3 Mr. Blake?

4 COMMISSIONER BLAKE: Chairman, I'm in support of the
5 application.

6 CHAIRPERSON HILL: Thank you.

7 Chairman Hood?

8 ZC CHAIRPERSON HOOD: Sure. I think this is a well put
9 together package and all the dots were -- Is were dotted and the
10 Ts were crossed and I will be voting in favor of this application.
11 Thank you.

12 CHAIRPERSON HILL: Thank you.

13 All right. I'm going to make a motion to approve
14 Application No. 21125 as captioned and read by the secretary, and
15 ask for a second, Mr. Blake.

16 COMMISSIONER BLAKE: Second.

17 CHAIRPERSON HILL: The motion is made and seconded.

18 Madam Secretary, take a roll call, please.

19 MS. MEHLERT: To approve the application. Chairman
20 Hill?

21 CHAIRPERSON HILL: Yes.

22 MS. MEHLERT: Mr. Smith?

23 COMMISSIONER SMITH: Yes.

24 MS. MEHLERT: Mr. Blake?

25 COMMISSIONER BLAKE: Yes.

1 MS. MEHLERT: And Chairman Hood?

2 ZC CHAIRPERSON HOOD: Yes.

3 MS. MEHLERT: Staff will report the vote is four to
4 zero to one to approve application 21125 on the motion made by
5 Chairman Hill and seconded by Board Member Blake, with Vice-Chair
6 John not participating.

7 CHAIRPERSON HILL: Thank you.

8 All right. I think we just keep going then, because
9 I -- I now found out that somebody has a hard stop at -- at 6
10 o'clock. I don't think that should be a problem, but why don't
11 we just go ahead and do our next case and then see where we get
12 before we start to starve, okay?

13 All right. Go ahead, Madam Secretary, for our next
14 case.

15 MS. MEHLERT: Next is Application No. 7096-A and 7097-
16 A of Van Ness, LP. This is a self-certified application pursuant
17 to Subtitle Y § 704 for a modification with hearing to modify a
18 condition in the order issued in appeal 7096 and 7097 to no longer
19 require the parking spaces on lot 26 to be accessory parking for
20 the hotel use on lot 2 and allow the parking covenant to be
21 extinguished, and pursuant to Subtitle X § 901.2 for a special
22 exception under Subtitle C § 703 from Subtitle C § 701.10 to
23 permit a reduction in the number of required parking spaces.

24 This is specifically to reduce from 78 to 41 the number
25 of parking spaces required under ZR58 to serve the hotel on Lot

1 2 so that no spaces are required on Lot 26. It's located in MU-
2 7B and R-1B zones at 4400 Connecticut Avenue, NW, Square 1971,
3 Lot 2, and 3415 Yuma Street, NW, Square 1971, Lot 26.

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

6 MR. DETTMAN: Good afternoon, Mr. Chairman. Can you
7 hear me okay?

8 CHAIRPERSON HILL: Yes. Thank you.

9 MR. DETTMAN: Good afternoon, Mr. Chairman, Members of
10 the Board. Shane Dettman with the firm Goulston & Storrs, here
11 on behalf of the Applicant. I also have Mr. Gary Williams and
12 Mr. Jamie Howser here to answer any questions on behalf of the
13 Applicant.

14 CHAIRPERSON HILL: Okay. Great. Thank you. What do
15 they both do?

16 MR. DETTMAN: Mr. Williams is with the ownership of --
17 he is an owner of the entity that owns the subject properties
18 that are the subject of this application. And Mr. Howser is with
19 hotel management for one of the -- the subject properties, which
20 is the Days Inn Hotel at 4400 Connecticut Avenue.

21 CHAIRPERSON HILL: Got it. All right, Mr. Dettman, if
22 you want to just walk us through your client's presentation and
23 why you believe there being criteria for us to grant the relief
24 requested. I'm going to put 15 minutes on the clock so I know
25 where we are. And you can begin whenever you like.

1 MR. DETTMAN: Fantastic.

2 And Mr. Young, would you mind bringing up the
3 PowerPoint presentation which is at Exhibit 34 of the record?

4 And as Mr. Young is doing that I just wanted to just
5 express my thanks to the Office of Zoning staff and specifically
6 Ms. Mehlert for being very responsive to some scheduling issues
7 that I had last week as well as even this morning. So really
8 appreciate all of her responsiveness. And everyone else I called
9 at the Office of Zoning.

10 But again, good afternoon, Members of the Board.
11 Again, Shane Dettman with the law firm of Goulston & Storrs.

12 You can go to the next slide, Mr. Young.

13 We're here today to request a special exception for a
14 reduction in required parking under -- from the provision of
15 Subtitle C 701.10, and also for a modification to a condition
16 that is in order -- BZA order 7096 and 7097. We're pleased to
17 have the support of the Office of Planning at Exhibit 30, DDOT
18 at Exhibit 31, as well as the support from ANC 3 at Exhibit 36.

19 I can be very brief in my presentation this afternoon.
20 Just to introduce the Board to the subject property. Again,
21 we're looking at the existing Days Inn Hotel, which is identified
22 in those two lots on the image on the left as the hotel lot at
23 4400 Connecticut Avenue. And then related to the hotel is the
24 lot on the other side of a 20-foot alley to the west of the hotel
25 which is identified there as the garage lot. You can see images

1 on the right of the existing hotel at the corner of Yuma and
2 Connecticut. And then you can see the garage there on the other
3 side of the alley on the image on the bottom right.

4 Next slide.

5 So pursuant to order number 7096, 7097, the hotel and
6 the garage received BZA approval and were constructed in 1963.
7 At the time of the BZA application, the BZA granted a use variance
8 for the construction of the three-level parking garage that's on
9 the garage lot, which is located in a low-density residential
10 zone, which is why the need for the use variance. The Board also
11 granted special exception relief to allow some of the required
12 parking for the hotel to be located offsite on the garage lot.
13 And there was also some relief for roof structures.

14 Next slide.

15 Under the zoning regulations that were in effect at the
16 time, ZR58 -- so in 1963, whenever the Board granted relief to
17 allow required parking spaces to be located off of the subject
18 property, there was a need to record a covenant that basically
19 tied the offsite parking to the use that they were accessory to.
20 So you can see there on the image on the right. That's just a
21 clip from the old BZA order, which basically stipulates that the
22 parking spaces on the garage lot are actually required parking
23 spaces that belong to the hotel, that the owner of the hotel had
24 to record a parking covenant, and that the parking on the garage
25 lot had to remain accessory to the hotel for so long as the hotel

1 was in existence or for so long as the zoning regulations required
2 those spaces. And so ultimately, that's what we're trying to
3 modify in order to facilitate the future sale of the garage lot
4 once market conditions are more favorable.

5 On the bottom image you can see that is a clip from the
6 original zoning computation sheet from when the hotel and the
7 garage were constructed, which shows that there were a total of
8 155 spaces constructed, partially in the -- 140 of those 155
9 spaces are in the parking garage right now.

10 Next slide.

11 So what we're trying to do is request the BZA relief
12 in order to get the reduction in the number of parking spaces
13 that are considered required spaces for the hotel. When the
14 hotel was constructed, under the zoning regulations at the time,
15 78 spaces were required and they all could not be constructed on
16 the hotel lot. This is why we needed the relief for the offsite.

17 There are 41 spaces on the hotel lot in and of itself.
18 So that's what we're trying to do. We're trying to reduce the
19 number of parking spaces for the hotel that are required spaces
20 to 41, which would mean that we would meet our full requirement
21 on the hotel lot. And the reason why we're doing that is, we
22 want to clear the title of the garage lot in order to facilitate
23 the Applicant's future sale of the garage lot for redevelopment
24 when the market conditions are better.

25 Next slide.

1 So if we compare the parking requirement that was in
2 place when the hotel was constructed in the 1960s to what would
3 be required if we were to build the same hotel today, under the
4 regulations in effect in the 1960s, as I said, 178 spaces were
5 required under zoning, 155 spaces were -- were constructed. If
6 we were to build the same hotel today, which is about 155 rooms,
7 under ZR16, the minimum parking requirement would be 33 spaces,
8 and that could be further reduced by 50 percent to 17 spaces
9 because the Metro now exists about .1 miles to the south, down
10 Connecticut Avenue. The Metro did not exist when the hotel was
11 constructed.

12 On the hotel lot -- and you can see immediately to the
13 south of the hotel there you can see that surface parking lot.
14 On the hotel lot itself, 41 spaces exist and that's what we're
15 trying to request -- we're requesting a reduction in the required
16 parking spaces to be 41 spaces so that all of the parking
17 requirement is on the hotel lot.

18 Next slide.

19 So this is just a standard of review. We need to
20 request a special exception from 701.10, which specifically says
21 that the number of required parking spaces shall not be reduced
22 below the minimum required as long as the use that generated that
23 requirement remains in existence. So the hotel, when it was
24 constructed, the minimum required was 78. And so that's the
25 number that has to be maintained under 701.10 unless we come to

1 the Board and seek a special exception.

2 Next slide.

3 So I'll just quickly go through the standard -- or the
4 criteria under C 703.2. The use has to be particularly well
5 served by mass transit. As I mentioned, the UDC Van Ness -- UDC
6 Van Ness Metro station is located just .17 miles to the south.
7 It's also served by the L2 bus line that services downtown. And
8 Chevy Chase has also multiple bike share stations.

9 The reduction in the required hotel parking is going
10 to facilitate the removal of the existing parking garage, which
11 ultimately will reduce the number of trips generated by the hotel,
12 with the idea that, you know, when the hotel was constructed, I
13 think it was an overabundance of parking, very autocentric. Today
14 we have a very different view on the approach to parking. And
15 so the elimination of the parking garage in the future,
16 essentially, is going to reduce the number of trips generated by
17 the hotel ultimately.

18 Next slide.

19 The hotel has information on the current parking
20 demand. We're very confident that the 41 spaces that are on the
21 hotel lot can accommodate the parking demand generated by the
22 hotel. With data through August of 2024, the hotel is averaging
23 26 guests per day that actually pay for parking. Employee demand
24 is very low. It's approximately six spaces at any given time.
25 So the combined, you know, 32 spaces of demand can be accommodated

1 by the 41 spaces that are on the hotel site. And we're not
2 accepting -- we're not requesting any relief from the location
3 access, size, layout, screening, or what not under 703.3(d).

4 Next slide.

5 DDOT issued a report in support on the -- on the
6 condition that certain TDM measures be incorporated into the
7 Board's order. The Applicant, you know, as we set forth in our
8 statement, we don't believe that those TDM measures are necessary
9 for purposes of this relief. Again, we're still going to be
10 exceeding the amount of parking that would be required under
11 today's regulations. But we certainly are not opposed to those
12 TDM measures if the Board felt that it was necessary or that they
13 were interested in incorporating them into their final order if
14 they approve the application.

15 Next slide.

16 And so finally, in terms of the general special
17 exception standards, we don't believe that the parking
18 reduction -- we believe the parking reduction is in harmony with
19 the general purpose and intent of the zoning regulations. We
20 also don't believe that the parking reduction is going to
21 adversely affect the use of neighboring properties and according
22 with the zoning regulations. And you can see the rationale and
23 the bullet points there.

24 And so that concludes my presentation, Mr. Chairman.
25 I'm happy to answer any questions that the Board might have.

1 CHAIRPERSON HILL: Okay. Thank you, Mr. Dettman. I
2 do see the measures that DDOT was hoping the Applicant would
3 agree to, and although I don't necessarily disagree with you,
4 they seem fairly benign to me. And so the Applicant would be
5 fine with those mentioned items in the DDOT report, correct?

6 MR. DETTMAN: Correct.

7 CHAIRPERSON HILL: Okay. So then there was also -- so
8 I was helped by Office of Zoning on some wording concerning the
9 condition, and I'm going to read this wording to you and see if
10 there's anything that you have opposition to. "The parking spaces
11 authorized under the terms of this order are not required parking
12 spaces for the existing hotel use on Lot 2 in Square 1971. This
13 order shall not require the aforementioned parking spaces to be
14 reserved for the existing hotel use on Lot 2 and Square 1971.
15 This order shall not require the owner of the land upon which
16 such parking is located nor its successors and assigns to agree
17 to a covenant with the District of Columbia that would run with
18 the land that binds or requires the accessory off-street parking
19 upon raze or demolition of said parking structure. The Board's
20 approval of the parking structure and parking space as authorized
21 under the terms of this order shall cease."

22 Does that seem relatively straightforward even though
23 that's the longest condition I've ever read?

24 MR. DETTMAN: It's more concise than the proposed
25 language we were offering in our statement, so that all sounds

1 good to us.

2 CHAIRPERSON HILL: Okay. I'm going to turn to the
3 Office of Planning.

4 MR. BRADFORD: Good afternoon, Chairman Hill, Members
5 of the Board. For the record, my name is Philip Bradford with
6 the Office of Planning. The Office of Planning recommends
7 approval of the requested modification and special exception
8 relief to reduce the number of required parking spaces and modify
9 the conditions in BZA Appeal Nos. 7096 and 7097 and finds that
10 the request meets the criteria in Subtitle C and X and stand on
11 the record of the report in Exhibit 30. And I'm available for
12 any questions.

13 CHAIRPERSON HILL: Okay. Great. Thank you.

14 Does the Board have any questions of the Applicant or
15 the Office of Planning?

16 Go ahead, Mr. Blake.

17 COMMISSIONER BLAKE: I have one question for the
18 Applicant. This study is very interesting. I mean, you conducted
19 it just for this year or is it a longer term than that? And I
20 would be curious, not just so much in the average but the peak
21 demand for parking and how that would be facilitated. What has
22 been the peak demand and how often does it go above 41? Are you
23 utilizing the other garage at all? And to the extent that you
24 would have overflow demand, how could you satisfy it in the
25 neighborhood?

1 MR. DETTMAN: Board Member Blake, thank you for the
2 question. The data that I presented during the presentation, my
3 understanding is that's from January 2024 through August 2024.
4 But I'll -- I'll ask Mr. Howser to talk about whether or not they
5 have -- whether that data from this year is consistent with, you
6 know, the patterns observed from prior years.

7 MR. HOWSER: The demand has actually been going down.
8 More and more guests are traveling via Metro. A majority of our
9 guests fly into Reagan National and take Metro straight to the
10 hotel, in conjunction with Uber and Rideshares and whatnot. D.C.
11 does an outstanding job as -- as a city promoting their public
12 transportation systems. And obviously, as time has gone on, more
13 and more people are using the Uber systems, as a generic term.
14 And that's what we're seeing, is actually the demand going down
15 for parking.

16 And yes, obviously there are special events. We've got
17 one that will be coming up this January. And the demand does
18 exceed during very limited special events, most -- most
19 importantly every four years in January. The park Van Ness right
20 across the street from us where, if you're familiar with that
21 neighborhood the -- the largest demand ever is the WJLA building,
22 just across the street from the hotel, with all of their -- their
23 staffers and whatnot. But when that shopping center and WJLA --
24 the old JLA building and whatnot was torn down to make room for
25 the housing in the neighborhood, they had expanded their parking

1 and they do offer day parking over there. So at that point, if
2 we had overflow demand, that would orchestrate agreements to let
3 them know in advance that -- that we would be shifting parking
4 over to them.

5 COMMISSIONER BLAKE: Okay. Thank you.

6 MR. DETTMAN: Board Member Blake, I can also just touch
7 upon the potential for spillover parking into the neighborhood.
8 If you take a look at the -- the DDOT residential parking permit
9 map, all of the streets around the hotel and for quite a distance
10 to the west into the single-family neighborhood, those are all
11 RPP streets and so it's limited to two-hour parking. So any
12 potential for hotel guests to drive to the site and park on
13 residential streets, I think is mitigated by the fact that that
14 is a -- that on-street parking in the neighborhood is controlled
15 through RPP. Thank you.

16 COMMISSIONER BLAKE: Thank you very much.

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

19 Okay. Does anybody have any final questions?

20 Mr. Dettman, any final thoughts?

21 MR. DETTMAN: No final thoughts. Thank you.

22 CHAIRPERSON HILL: Thank you.

23 All right. I'm closing the hearing and the record.

24 Mr. Young, if you'd close -- excuse everyone.

25 Okay. I don't have any issues with the proposal. I'm

1 comfortable with what has been put forward. I'm going to also
2 agree with the analysis that the Office of Planning has put
3 forward. I do appreciate that the ANC has given its opinion and
4 is in favor of this, and I will be voting in favor, with those
5 conditions that were pointed out prior.

6 Mr. Blake, do you have anything you'd like -- I'm
7 sorry.

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

9 COMMISSIONER SMITH: Have nothing to add.

10 CHAIRPERSON HILL: Thank you. Mr. Blake?

11 COMMISSIONER BLAKE: Chair, I'm comfortable with the
12 application. And I believe that my concerns about community and
13 parking were allayed by the Applicant's comments, and I will be
14 voting in favor.

15 CHAIRPERSON HILL: Thank you.

16 Chairman Hood?

17 ZC CHAIRPERSON HOOD: Mr. Chairman, I'm satisfied with
18 the application and also the discussion here today during this
19 hearing proceeding, and I'll be voting in favor.

20 CHAIRPERSON HILL: Okay. Great. Thank you. Then I'm
21 going to make a motion to approve Application No. 7096-A and
22 7097-A as captioned and read by the secretary, including the
23 condition that I already read during the hearing and the items
24 in the DDOT report, and ask for a second, Mr. Blake.

25 COMMISSIONER BLAKE: Second.

1 CHAIRPERSON HILL: Motion made and seconded.
2 Madam Secretary, take a roll call.
3 MS. MEHLERT: Motion to approve the application with
4 conditions. Chairman Hill?
5 CHAIRPERSON HILL: Yes.
6 MS. MEHLERT: Mr. Smith?
7 COMMISSIONER SMITH: Yes.
8 MS. MEHLERT: Mr. Blake?
9 Chairman Hood?
10 ZC CHAIRPERSON HOOD: Yes.
11 MS. MEHLERT: Staff will record the vote as four to
12 zero to one to approval application numbers 7096-A and 7097-A
13 with conditions, on the motion made by Chairman Hill and seconded
14 by Board Member Blake, with Vice-Chair John not participating.
15 CHAIRPERSON HILL: Okay. Great. Thank you.
16 You guys, why don't we -- there's only three left, but
17 let's just take a quick break and grab a little something to eat.
18 Is that fair? And we'll come back in like -- is 20 minutes
19 possible? Okay. Let's shoot for 20 minutes. Okay.
20 ZC CHAIRPERSON HOOD: Shoot for 1 o'clock, Mr.
21 Chairman?
22 CHAIRPERSON HILL: Yeah, 1 o'clock. 30 minutes. There
23 you go. Thank you.
24 (Whereupon there was a brief recess)
25 CHAIRPERSON HILL: Ms. Mehlert, can you call us back

1 in, please.

2 MS. MEHLERT: The Board is back from its quick lunch
3 break and is returning to its hearing session.

4 The next application is Application No. 20571-B of
5 Verizon Wireless. This is a self-certified application for a
6 special exception under Subtitle C § 1313 to allow the continued
7 operation of a temporary monopole installation that was
8 previously approved subject to terms and application number 20571
9 and 20571-A. It's located in RA-1 zone at 700 Yuma Street, SE,
10 Square 6124, Lot 47.

11 CHAIRPERSON HILL: Okay. If the Applicant can hear me,
12 if they could please introduce themselves for the record?

13 MR. WALLACE: My name is Derick Wallace with Goulston
14 & Storrs, for the record.

15 CHAIRPERSON HILL: Okay. Great. Mr. Wallace, I was
16 told that we don't have anything in the record here that says
17 that you're representing the Applicant. Did you notice?

18 MR. WALLACE: No, I did not notice.

19 CHAIRPERSON HILL: Do you know, is there anyone from
20 the Applicant here?

21 MR. WALLACE: Yup. Someone from the Applicant is here.
22 The name is Shea Beltran --

23 MR. BELTRAN: Yes, I'm here.

24 MR. WALLACE: -- there on Webex line. Yeah.

25 CHAIRPERSON HILL: Mr. Beltran, can you hear me?

1 MR. BELTRAN: Yes, I can.

2 CHAIRPERSON HILL: Okay. And you're representing the
3 Applicant?

4 MR. BELTRAN: I am the Applicant.

5 CHAIRPERSON HILL: You are the Applicant. You are the
6 Applicant, correct?

7 MR. BELTRAN: And Mr. Wallace is representing me.

8 CHAIRPERSON HILL: Okay. Mr. Wallace is representing
9 you, right.

10 So Mr. Wallace, I need something into the record that
11 is -- and I'm going to -- we're going to have this hearing and
12 see where we get. If it looks like we don't have a lot of
13 questions, then you need to put that into the record before we
14 vote, and we'll vote at the end of the day, okay?

15 MR. WALLACE: Okay. Great.

16 CHAIRPERSON HILL: Okay. And I guess then I'll need
17 something --

18 Madam Secretary, can you clarify for me? I'll need
19 something from the Applicant that says that Mr. -- what do I
20 need?

21 MS. MEHLERT: Well, we have a letter of authorization
22 from the Department of General Services for Verizon Wireless,
23 which I believe is what Mr. Beltran is representing. We just
24 don't have anything from Goulston also representing the
25 Applicant.

1 CHAIRPERSON HILL: Okay. So that's what I need, Mr.
2 Wallace, okay?

3 MR. WALLACE: Yes. That makes sense.

4 CHAIRPERSON HILL: Okay. All right. So Mr. Wallace,
5 you want to go ahead and explain your application for the special
6 exception? And you can begin whenever you like.

7 MR. WALLACE: Okay. Great. Good afternoon. My name
8 is Derick Wallace, with Goulston & Storrs, and I, along with my
9 colleague, Christine Roddy, am representing Verizon Wireless and
10 its agent Network Building and Consulting, the Applicant in this
11 case.

12 We are here today asking for a modification of
13 significance to extend the approval for a temporary monopole at
14 700 Yuma Street, SE for nine months. The Board originally
15 approved BZA case number 20571 in December 2021 to install a
16 temporary cell tower at 700 Yuma Street, SE. The temporary cell
17 tower approved in that case continues to provide coverage to the
18 community today.

19 On July 2023, the Board approved a one-year time
20 extension for that same antenna in BZA case number 20571-A. Since
21 then the Applicant has worked diligently to establish a permanent
22 antenna at the KIPP School located at 3999 A Street, SE.
23 Unfortunately, however, those discussions were ultimately
24 unsuccessful causing the Applicant to look for an alternative
25 location and seek this modification of significance.

1 Today the applicant is happy to share that they have
2 identified a new permanent location at 3700 9th Street, SE, with
3 construction to be completed by April 2025. To avoid a gap in
4 coverage and allow for construction of the permanent antenna, we
5 are here today asking for a modification to the one-year condition
6 for the temporary monopole to allow for nine additional months.
7 This will allow the Applicant to complete construction of the
8 antenna and maintain coverage.

9 As demonstrated in the initial and supplemental
10 filings, this application meets all of the requirements of
11 Subtitle Y § 704.6 for modification of significance and continues
12 to meet the special exception requirements of Subtitle X § 901.2
13 and Subtitle C § 1313.2 for approval of a monopole antenna.

14 Yesterday, we submitted the supplemental statement
15 addressing those standards at Exhibit 20 in the record, and we
16 are happy to address them now if the Board sees fit. Because a
17 modification of significance allows the Board to extend or alter
18 a condition after the initial approval, this modification is
19 appropriate because the need for the temporary antenna is the
20 same and continues to meet the standards for approval. Here the
21 regulations underscore the importance of maintaining service for
22 the community which necessitates the time extension to avoid a
23 gap in coverage.

24 The proposal also meets the general special exception
25 standards because it is in harmony with the purpose and intent

1 of the regulations by maintaining service in an already approved
2 location. Given the need to maintain service in the community,
3 this modification of significance will allow for the construction
4 of a new permanent antenna.

5 Before turning to our presentation, I am happy to
6 report that we have support from the Office of Planning, which
7 includes a note of no objection from DDOT, at Exhibit 15 in the
8 record. Additionally, ANC 8E voted at its regular meeting in
9 July to support the application and submitted a resolution in
10 support, at Exhibit 18.

11 With that, we have one witness today, Shea Beltran,
12 with NB plus C. He will provide greater detail on the need for
13 a time extension and upcoming construction milestones.

14 Mr. Young, could you please bring up the presentation
15 we submitted? Thank you.

16 MR. BELTRAN: Thank you, everybody. Again, my name is
17 Shea Beltran.

18 If you could please move to the next slide?

19 As Mr. Wallace explained, in December of 2021 we
20 received our initial approval to have this temporary tower up for
21 18 months. Due to the rec center that was on the property here
22 at 700 Yuma Street, was being planned to be torn down, Verizon
23 had antennas located on that building so they needed to find a
24 temporary location for these antennas before we could co-locate
25 on a permanent location.

1 In the bottom left of that site plan is where this
2 temporary monopole is located. On the right side is the KIPP
3 school building, which has since completed construction, where
4 we initially planned to have these permanent antennas co-located
5 after construction was completed. Our negotiations with KIPP
6 were slow going. They were dragging it out, not being very
7 responsive, which facilitated the need for our initial extension
8 to our 18-month BZA approval order.

9 As we got closer to negotiations and closer to a lease
10 agreement with them, we thought we were at the finish line and
11 then KIPP pumped the brakes and let us know that they would no
12 longer be willing to allow us to co-locate the antennas on top
13 of their school building rooftop. So in late spring of 2024 was
14 when they backed out of those lease negotiations and we were
15 forced to find a new location for these antennas.

16 If you could go to the next slide, please?

17 So that is a zoomed out view. In the bottom left is
18 where the existing temporary tower is and in the top of the screen
19 is the new location. It is 3700 9th Street, SE. Once we found
20 that location to be suitable we conducted site visits. We got
21 our engineering firms involved. We put together lease exhibits
22 and began negotiations with the owner. I'm happy to report
23 that --

24 CHAIRPERSON HILL: Mr. Beltran, I'm going to -- I'm
25 going to interrupt you.

1 Mr. Wallace, I'm just going to -- I think everything
2 is in the record here that we've already kind of reviewed. So --
3 and I have some time restraints coming up. So I just want to
4 move ourselves along here a little bit. I'm going to get some --
5 if you can drop that, Mr. Young?

6 And again, just to clarify, this is for a new
7 application. It's not a modification because we -- your order
8 has expired. And so -- but you are arguing this and -- I hear
9 some background noise from somebody. But you are arguing this
10 as a special exception. I see all the criteria that you have
11 done this and also added the explanation of such.

12 Could I go ahead and turn to the Office of Planning?

13 MS. THOMAS: Yes. Good afternoon, Mr. Chair, Members
14 of the Board. Karen Thomas with the Office of Planning. And we
15 rest on the record in support of the continued location of this
16 temporary monopole on the existing site. The Applicant has found
17 a new location. And this would maintain communication for the
18 neighborhood during this time period until they get permits for
19 the new location. So with that, I'll rest on the record in
20 support.

21 CHAIRPERSON HILL: Thank you, Ms. Thomas.

22 Mr. Young, is there anybody here wishing to speak?

23 MR. YOUNG: We do not.

24 CHAIRPERSON HILL: Okay. Mr. Wallace, I guess the one
25 thing is that, you're asking for nine months?

1 MR. WALLACE: Correct. The request is for nine months.

2 CHAIRPERSON HILL: Okay. Given that this has been kind
3 of such a back and forth thing, I would think that the Board
4 wants to give you a little bit more time. I think we're just
5 going to take it to a year because we just want to make sure you
6 don't back here again.

7 So with that, does the Board have any final questions?
8 All right.

9 Thank you, Mr. Wallace. You have anything you'd like
10 to add at the end?

11 MR. WALLACE: No, I just want to thank the Board for
12 their time.

13 CHAIRPERSON HILL: Great. Thank you.

14 I'm going to close the hearing and the record.

15 Mr. Young, if you'd please excuse everyone.

16 Okay. I thought this was relatively straightforward.
17 I didn't have particularly any questions or issues with it, other
18 than what I already kind of spoke about. And I will be voting
19 for -- and I believe in the recommendation that the Office of
20 Planning has put forward, as well as the ANC, and I'm going to
21 be voting in favor.

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

23 COMMISSIONER SMITH: Nothing to add, Chairman Hill. I
24 agree with your assessment of this case and also the condition
25 that it goes for a year. So I will support the application.

1 CHAIRPERSON HILL: Thank you.

2 Mr. Blake?

3 COMMISSIONER BLAKE: Chair, one question. The
4 timeframe of one year would begin when?

5 CHAIRPERSON HILL: I guess -- that's a good question.
6 I think it -- I guess it would be now. I mean, it was -- it
7 would be a summary order, so it would come out relatively quick.
8 I guess it would be when the order comes out.

9 COMMISSIONER BLAKE: Okay. Thank you. I just wanted
10 to clarify that. I'll be in support of the application.

11 CHAIRPERSON HILL: Okay.

12 Mr. Hood -- or Chairman Hood?

13 ZC CHAIRPERSON HOOD: Thank you, Mr. Chairman. No
14 questions or comments. I'm in support.

15 CHAIRPERSON HILL: Okay. Thank you.

16 All right. I'm going to go ahead and make a motion to
17 approve Application No. 20571-B as captioned and read by the
18 secretary, including that this will be for a period of one year,
19 and ask for a second, Mr. Blake?

20 COMMISSIONER BLAKE: Second.

21 CHAIRPERSON HILL: Motion was made and seconded.

22 Madam Secretary, take a roll call.

23 MS. MEHLERT: Would you like to leave the record open
24 for a letter of authorization?

25 CHAIRPERSON HILL: I'm sorry. I'm sorry. Oh, my gosh.

1 Okay. Yes, I'll leave the record open for a letter of
2 authorization. And -- yeah. Yeah, we'll leave the record open
3 for a letter of authorization. So Madam Secretary, let me know
4 if that turns out to be an issue, okay?

5 MS. MEHLERT: Okay.

6 CHAIRPERSON HILL: All right.

7 MS. MEHLERT: Please respond to the Chair's motion to
8 approve the application with a one-year term limit.

9 Chairman Hill?

10 CHAIRPERSON HILL: Yes.

11 MS. MEHLERT: Mr. Smith?

12 COMMISSIONER SMITH: Yes.

13 MS. MEHLERT: Chair Blake?

14 COMMISSIONER BLAKE: Yes.

15 MS. MEHLERT: Chairman Hood?

16 ZC CHAIRPERSON HOOD: Yes.

17 MS. MEHLERT: Staff would record the vote as four to
18 zero to one to approve application 20571-B with the condition on
19 the motion made by Chairman Hill and seconded by Board Member
20 Blake, with Vice Chair John not participating.

21 CHAIRPERSON HILL: Okay. Thank you.

22 All right. You want to call our next one, please?

23 MS. MEHLERT: Next is Application No. 21188 of Robert
24 Bailey. This is a self-certified application pursuant to
25 Subtitle X § 901.2 and Subtitle E § 403 for special exceptions

1 under Subtitle E § 207.5 to allow the rear wall of a row building
2 to extend farther than ten feet beyond the furthest rear wall of
3 any adjoining principal residential building on any adjacent
4 property, and under Subtitle E § 5201 from the lot occupancy
5 requirements of Subtitle E § 210.1. This is for a two-story plus
6 basement rear addition to an existing three-story with basement
7 attached principal dwelling located in the RF-1/CAP zone at 502
8 Constitution Avenue, NE, Square 838, Lot 37.

9 CHAIRPERSON HILL: Okay. If the Applicant can hear me,
10 if they could please introduce themselves for the record?

11 MR. KUHN: Good afternoon. My name is Jonathan Kuhn.
12 I am the architect. I'm representing the owner of the property
13 at 502 Constitution Avenue, NE.

14 CHAIRPERSON HILL: Okay. Mr. Kuhn, if you could walk
15 us through your client's application, including why you believe
16 they're meeting the regulations for us to grant the relief, and
17 you can begin whenever you like.

18 MR. KUHN: Are you able to pull up the -- the PowerPoint
19 slide or do you need it at this point? Oh, thank you. Perfect.
20 You can go to the next slide.

21 So the relief that we are seeking here is for a special
22 exception to expand to 70 percent -- or within 70 percent lot
23 occupancy and also the 10-foot rule. Part of the submission
24 included some studies that, here, you can see represented. And
25 there's two sheets to this. One showing from the properties to

1 the left and the right, what would be the east and the west. And
2 how, again, representing this -- the proposed addition does not
3 impact the light, enjoyment, or air of the neighboring
4 properties.

5 The project -- to take a step back. There is a
6 proposed -- as was stated, there's a two-story plus cellar
7 addition to the rear of the property. To the right side you can
8 see we have created an open court. So we're actually staying
9 away from that property some. But it still required the ten-
10 foot low relief, but only at the second floor. And only at the
11 second floor to the property, to the right side -- talking, page
12 right. The property to the left already has an addition that
13 extends, as you can see, graphically beyond what our proposed is,
14 so the ten-foot only applies to the right and only to the second
15 floor.

16 Lot occupancy. Again, we are proposing to expand the
17 footprint of the house at the cellar, first and second floor to
18 accommodate for a larger home on what is a narrow and somewhat
19 small lot.

20 Next slide, please.

21 This is a continuation of the sun studies.

22 Next slide, please.

23 Here these are providing photos of the existing
24 conditions. The top two photos are the front of the house, which
25 is unaffected by the proposed. The bottom two photos are the

1 existing or current conditions at the rear. The photo on the
2 bottom left is looking directly at the rear of our property. On
3 the righthand side, you can see the wall of the property to the
4 right and how far the structure extends beyond the current
5 conditions of the existing. And you get a glimpse on the lefthand
6 side there of the property on the left where there is a one-story
7 plus basement addition that actually extends a little bit beyond
8 the covered porch that you see on the property -- the subject
9 property. So again, because we are doing a two-story plus cellar
10 addition, the second story would require the -- the ten-foot rule
11 relief.

12 The photo on the bottom right is just capturing a photo
13 of the carriage house -- or building that's to the rear of the
14 property on the righthand side.

15 Next slide, please.

16 The photo to the left is standing at the alley, looking
17 back at the property, which you can see through the leaf coverage
18 there. And the two to the right are showing what I was referring
19 to as the carriage house at the back corner of the alley and at
20 what would be 5th Street, NE. Just providing a little bit more
21 context of the immediate surroundings.

22 Next slide, please.

23 This drawing is representing the existing site plan and
24 the proposed so you could see them side by side. On the lefthand
25 side, you can see graphically where we are extending out as --

1 in comparison to the righthand side. And again, what I've
2 mentioned in the sun studies there is an open court along the
3 right side with respect to the property on the righthand side.

4 Next slide, please.

5 These are the existing conditions of the house as it
6 stands today.

7 Next slide.

8 These are the existing elevations, front on the left
9 and rear. Again, the front is not being affected by the proposed.
10 The rear, we are representing here where there is proposed
11 demolition or removal of elements to accommodate the two-story
12 rear addition.

13 Next slide, please.

14 These are the proposed floor plans. Graphically, the
15 new walls are the solid dark hatch. And for purposes of these
16 discussions, you can see the ones that would be first at the top
17 of the page; that is the back of the structure towards the rear
18 of the property. In the basement, we're extending, creating a
19 bedroom suite there. On the first floor, we've expanded to
20 accommodate a kitchen that we feel is in proportion to the size
21 of the home and current 2024 going into 2025 market standards.

22 On the second floor, it's accommodating two bedrooms.
23 The dogleg or the open court allows for a window to get what
24 we -- what we usually call an internal bedroom. And then the
25 last floorplan to the right is the upper floor. Again, we are

1 not proposing an addition there but will use the space as a roof
2 deck area.

3 Next slide, please.

4 These are the proposed elevations. Again, the one on
5 the left is the front. Nothing to be impacted. And the one to
6 the right, where you can now see the proposed addition, we did,
7 in working with historic, try to pick up on some of the elements
8 of the existing with the brick work above the windows. I should
9 say that the skin will be masonry brick, again, trying to maintain
10 the context and conditions of the existing. There's a large set
11 of doors coming off the kitchen that spill out onto a small rear
12 deck and steps that lead to the rear yard.

13 Next slide, please.

14 These are just details. The brick veneer that we're
15 proposing is a thin brick rather than a traditional veneer brick
16 that's more -- dimensionally, about four inches, the skin -- to
17 preserve more interior usable space.

18 Next slide.

19 That may be the last one. Yes.

20 CHAIRPERSON HILL: Okay. Thank you. What the Board
21 has found helpful, in the future just if you come back, if there's
22 like -- if you color the shading as for the -- for the light
23 study as for -- you know, the shadow study between what's proposed
24 versus what you can do by right or what the addition is, it's
25 just kind of easier to see. But I do appreciate the shadow study.

1 MR. KUHN: Thank you.

2 CHAIRPERSON HILL: Could I have the Office of Planning,
3 please?

4 MR. JURKOVIC: Chairman, Members of the Board, this is
5 Michael Jurkovic, Development Review Specialist, the Office of
6 Planning. OP recommends approval of the requested special
7 exceptions relief to lot occupancy and the rear wall extension
8 requirement. We stand on the record of our report. And I'm here
9 to answer any questions. Thank you.

10 CHAIRPERSON HILL: Thank you.

11 And Mr. Kuhn, just to be clear, you reached out to both
12 sides of the property and they have submitted letters of support;
13 is that correct?

14 MR. KUHN: That is correct. And those were submitted
15 into the IVIS file.

16 CHAIRPERSON HILL: Thank you.

17 All right. Does anybody have any questions of the
18 Office of Planning and/or the Applicant?

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

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

21 CHAIRPERSON HILL: Okay. Great. Could you have that
22 witness come forward, please?

23 MR. YOUNG: Yes. They are calling in by phone.

24 CHAIRPERSON HILL: Okay.

25 MR. YOUNG: And that is Ryan Jones (sic).

1 CHAIRPERSON HILL: Okay. Mr. Jones, can you hear me?
2 Mr. Jones? Yes. Yes. Can you hear me?

3 MS. JONES: Yes. Yes, I can hear you very well. Thank
4 you.

5 CHAIRPERSON HILL: Okay. Could you please, just for
6 the record -- could you introduce yourself for the record? And
7 then you'll have three minutes to give your testimony, and you
8 can begin whenever you like.

9 MS. JONES: Okay. There are two of us here, Simon and
10 Robin Hinson Jones. And we own the property at 514 Constitution
11 Avenue. So we share the alley that is behind the residence that
12 you are considering today. Our only concern is that, for the
13 duration of this project, the alley will be accessible. We have
14 a carriage house that we use as a garage for our vehicles and so
15 we would like to be able to continue to use that. And we're just
16 hoping that there won't be construction materials or construction
17 vehicles blocking the alley so that we cannot use it. So that's
18 our concern, use of the alley during this project.

19 CHAIRPERSON HILL: Okay.

20 Mr. Kuhn, you -- you guys don't plan on blocking that
21 alley during the project, correct?

22 MR. KUHN: No, we've made no request with DDOT or others
23 to block the alley. As you could see from the photos that we
24 presented, there's room in the back for -- whether it's
25 construction vehicles or material staging or dumpster, which I

1 don't know that a dumpster could be moved into the narrow
2 alleyway.

3 CHAIRPERSON HILL: No problem. Applicant, do you have
4 contact information of these people over at 514 Constitution
5 Avenue?

6 MR. KUHN: No, I don't.

7 CHAIRPERSON HILL: Okay.

8 Madam Secretary, is there --

9 Oh, Mr. Kuhn, would you be willing to contact 514
10 Constitution Avenue just to let them know if they have any issues
11 they can reach out to you?

12 MR. KUHN: Yeah. Absolutely. And I'm sure the owner
13 would be just as happy to provide the information to be -- being
14 a good neighbor. This is going to be their permanent residence,
15 so --

16 CHAIRPERSON HILL: Great.

17 MR. KUHN: They want to be a good neighbor.

18 CHAIRPERSON HILL: Are you able to coordinate
19 information transferring from these two witnesses?

20 MS. MEHLERT: Yes, we can -- we can follow up and
21 coordinate that.

22 CHAIRPERSON HILL: Okay. All right. I'm sorry, I --

23 MS. JONES: Okay. Thank -- thank you very much.

24 CHAIRPERSON HILL: Thank you. Bye-bye.

25 MS. JONES: Bye-bye.

1 CHAIRPERSON HILL: Okay. Thanks, Mr. Kuhn.

2 All right. Mr. Kuhn, anything you'd like to add at the
3 end?

4 MR. KUHN: No. I think I've presented everything.
5 We've got letters of support. We've received support from the
6 Office of Planning. I'm open to any questions or comments that
7 the Board may have.

8 CHAIRPERSON HILL: Okay. Great. I don't think the
9 Board has any questions of you.

10 Okay. I'm going to go ahead and close the hearing and
11 the record. Thank you, Mr. Kuhn.

12 MR. KUHN: Thank you.

13 CHAIRPERSON HILL: Okay. The only thing I usually get
14 worried about is that -- that rear wall and they pretty much are
15 matching up to the one that's next to it. But it -- I -- and
16 the shadowing, I think, was the thing that was the most -- is
17 usually the most concerning to me, and I didn't have any issues
18 with the shadowing. I do appreciate that the Office of Planning
19 has taken a look at this, as well as the ANC. And the ANC is in
20 support of this and -- and Commissioner Echenwiler, who was here
21 earlier today, was the person who was also involved in this so I
22 know it's been thoroughly look at.

23 But also then the -- it's comforting to know that
24 neighbors on either side are in support, so I'm going to be voting
25 to approve this application.

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

2 COMMISSIONER SMITH: I agree with your assessment,
3 Chairman Hill, and will support.

4 CHAIRPERSON HILL: Thank you.

5 Mr. Blake?

6 COMMISSIONER BLAKE: Sure. I agree with your
7 assessment and will be in support. I'd also just indicate the
8 architecture -- architect of the Capitol is in support of the
9 application as well.

10 CHAIRPERSON HILL: Thank you, Mr. Blake.

11 Chairman Hood?

12 ZC CHAIRPERSON HOOD: I have nothing to add. Thank
13 you.

14 CHAIRPERSON HILL: Thank you.

15 All right. I make a motion to approve Application No.
16 21188 as captioned and read by the secretary and ask for a second,
17 Mr. Blake?

18 COMMISSIONER BLAKE: Second.

19 CHAIRPERSON HILL: Motion made and seconded.

20 Madam Secretary, if you'd take a roll call, please.

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

23 Chairman Hill?

24 CHAIRPERSON HILL: Yes.

25 MS. MEHLERT: Mr. Smith?

1 COMMISSIONER SMITH: Yes.

2 MS. MEHLERT: Mr. Blake?

3 COMMISSIONER BLAKE: Yes.

4 MS. MEHLERT: Chairman Hood?

5 Staff would record the vote is four to zero to one to
6 approve application 21188 on the motion made by Chairman Hill and
7 seconded by Board Member Blake, with Vice Chair John not
8 participating.

9 CHAIRPERSON HILL: Thank you.

10 Madam Secretary, could you call our last case, please?

11 MS. MEHLERT: Next case is Application No. 21190 of
12 Sicarii Development, LLC. This is a self-certified application
13 pursuant to Subtitle X § 901.2 for special exception under
14 Subtitle D § 5201 and the side yard requirements of Subtitle D §
15 208.7.

16 This is for a two-story rear addition to an existing
17 two-story semi-detached principal dwelling with a nonconforming
18 side yard. It's located in the R-2 zone at 3309 12th Street,
19 SE, Square 5938, Lot 842.

20 CHAIRPERSON HILL: Thank you.

21 If the Applicant could hear me, if they could please
22 introduce themselves for the record?

23 MS. WILSON: Rachel Wilson with Sicarii Development.

24 CHAIRPERSON HILL: Okay.

25 MS. WILSON: And I also have our architect

1 representative, Mr. Tom Dorsey, on the video call as well.

2 CHAIRPERSON HILL: Okay. Great. Ms. Wilson, are you
3 going to be presenting to us?

4 MS. WILSON: No, Mr. Dorsey will be presenting on our
5 behalf.

6 CHAIRPERSON HILL: Okay. Great.

7 Mr. Dorsey, can you hear me? You're on mute, I think,
8 Mr. Dorsey.

9 MR. DORSEY: Okay. I can hear you. Can you hear me
10 now?

11 CHAIRPERSON HILL: Great. Yes. Thank you. Could you
12 introduce yourself for the record, sir?

13 MR. DORSEY: My name is Thomas Dorsey. I'm with MWB
14 Architects, and we're working with the -- with the owner of the
15 property. And I can give you a brief description.

16 CHAIRPERSON HILL: Yes, please. If you could, that
17 would be great, Mr. Dorsey.

18 MR. DORSEY: Okay. This is an application for a special
19 exception relief. The owner is seeking relief from Subtitle D §
20 208.7, a special exception pursuant to Subtitle D § 5201, Subtitle
21 X 901, relief desired from the side yard setback of a five-foot
22 minimum to build a ten-foot addition at less than the minimum
23 side yard setback for non (indiscernible) side property line.

24 Relief from 11 D DCMR § 208.7 may be granted by the
25 Board as a special exception pursuant to 11 D DCMR § 5201.1(b),

1 and subject to the conditions of 11 X § 901. An applicant for
2 special exception relief under this section shall demonstrate
3 that the proposed addition, new principal building, or accessory
4 restructure shall not have a substantially adverse effect on the
5 use or enjoyment of any abutting or adjacent dwelling or property,
6 specifically:

7 (a) The light and air available to neighborhood
8 properties shall not be unduly affected;

9 (b) The privacy of use and enjoyment of the neighboring
10 properties shall not be unduly compromised;

11 (c) The proposed addition or accessory structure,
12 together with the original building or the new principal building
13 as viewed from the street, alley and other public way, shall not
14 substantially visually intrude upon the character, scale, pattern
15 of houses along the street or alley frontage; and

16 (d) In demonstrating compliance with paragraphs (a),
17 (b), and (c) of this subsection, the applicant shall use graphical
18 representations, such as plans, photographs, or elevation and
19 section drawings sufficient to represent the relationship of
20 proposed addition, new building, or accessory structure to
21 adjacent buildings and view from public ways.

22 The requested exception specific to this application
23 pertains to the required five-foot side yard setback, which is
24 not a T at the proposed ten-foot addition to the existing
25 nonconforming structure. The side yard property line is not

1 parallel to the structure and is adjacent to the public alley.
2 The new ten-foot addition at the rear of the existing structure
3 has a side yard setback that varies from a minimum of three feet,
4 seven inches at the existing structure to four feet, four inches
5 at the rear of the addition. The side yard setback in question
6 is adjacent to an 18-foot alley -- 18-foot public alley and
7 therefore would not unduly effect the light and air of any
8 neighboring properties.

9 The proposed construction will be close -- closer to
10 the property line than required by code. But because that side
11 of the building is open to an eight-foot public alley it does
12 not unduly compromise the privacy of use and enjoyment of
13 neighboring properties. The proposed construction does not
14 visually intrude upon the character, scale and pattern of housing
15 along the alleys of the neighborhood, which has other structures
16 with similar side yards. The new construction and noncompliant
17 side yard is minimally visual (sic) from 12th Street.

18 DCMR § 901.2, the Board is authorized to grant a special
19 exception where it finds that three conditions exist: 1, will be
20 in harmony with the general purpose and intent of the Zoning
21 Regulations; 2, will not tend to affect adversely the use of
22 neighboring property in accordance with the Zoning Regulations
23 and Zoning Maps; and 3, will meet such special conditions as may
24 be specified in this title.

25 The proposed development is consistent with the intent

1 of the R-2 zones, which provides or is predominantly developed
2 with semi-detached houses on moderately sized lots that also
3 contain detached dwellings. The subject property is a semi-
4 detached single-family residence and is intended to remain as
5 such. The development will not adversely affect the use of the
6 neighboring properties. The development is similar in size and
7 scale to buildings within the surrounding area and the
8 noncompliant -- and the noncompliant side yard does not adversely
9 affect that. The subject property will remain as a single-family
10 unit and a new addition will not infringe on the use of the
11 neighboring properties.

12 Based on these conditions, we are requesting approval
13 of our request for special exception for a special exception for
14 a noncompliant side yard. Thank you for your consideration.

15 CHAIRPERSON HILL: Thank you, Mr. Dorsey. That was
16 well said. Thank you for your presentation.

17 May I hear from the Office of Planning?

18 MR. BARRON: First, for the record, my name is Ron
19 Barron with the D.C. Office of Planning. The Office of Planning
20 recommends approval of the requested special exception. The
21 proposed addition would be in harmony with the general purpose
22 and intent of the R-2 zone and would be unlikely to affect
23 adversely the use and privacy of neighboring properties. OP is
24 content to stand on our report, which is submitted in the record
25 at Exhibit Number 17. And I am available to answer any questions

1 the Board may have. Thank you.

2 CHAIRPERSON HILL: Thank you, Mr. Barron.

3 Before I turn to my Board members, Mr. Dorsey, did you
4 guys reach out to the ANC?

5 MR. DORSEY: Yes, we did.

6 CHAIRPERSON HILL: And did they respond back to you
7 or --

8 MR. DORSEY: We didn't get a response back. To be --

9 MS. WILSON: We -- Mr. Dorsey, we did speak with Robbie
10 Woodland and she was in support. And we do have the email
11 confirmation from her that she was in support of our request.
12 But I -- and I think she said she was going to put us on a
13 meeting, but I'm not sure what happened after that point.

14 CHAIRPERSON HILL: Okay. That's fine. Thank you, Ms.
15 Wilson.

16 MS. WILSON: Thank you.

17 CHAIRPERSON HILL: Mr. Young, is there anyone here
18 wishing to speak?

19 Okay. Does the Board have any questions of the
20 Applicant?

21 Go ahead, Mr. Blake.

22 COMMISSIONER BLAKE: Question for Ms. Wilson. Have you
23 been in touch with the neighbor at the 3307 12th Street?

24 MS. WILSON: We have been in touch directly with them.
25 Mr. Dorsey and our architect, Mr. Banks, they worked up an

1 | agreement that we have with them, you know, between our company
2 | and them directly.

3 | COMMISSIONER BLAKE: Okay. But they did not submit
4 | anything to the record in terms of a letter or anything like
5 | that?

6 | MS. WILSON: No. They -- I mean, they told us that
7 | they were fine and they were in agreement with everything. They
8 | just wanted to make sure, you know, that there was no damage or
9 | anything to their property. And yeah, that was about it.

10 | COMMISSIONER BLAKE: Okay. Thank you.

11 | CHAIRPERSON HILL: Okay. Thank you. All right. Well,
12 | I'm going to go ahead and close this hearing and the record.

13 | Mr. Dorsey, Ms. Wilson, thank you all for your
14 | participation and have a nice day.

15 | MR. DORSEY: Thank you.

16 | CHAIRPERSON HILL: Okay. I mean, the main thing about
17 | it was, like, the side yard is up against this alley, and so I
18 | don't really think there's any kind of an issue with it. So I
19 | don't have any issues with the property and -- I'm sorry, with
20 | this application. I also agree with the analysis the Office of
21 | Planning has provided, and I appreciate that they have reached
22 | out to the ANC. And the ANC, I guess, has even -- they have had
23 | some interaction, and the Applicant on the record stated that
24 | they were -- at least the SMD seems to have been in approval,
25 | but we don't have anything from the ANC.

1 I'm going to be voting in favor of this application.
2 Mr. Smith, do you have anything you'd like to add?
3 COMMISSIONER SMITH: Nothing to add, Chairman Hill.
4 CHAIRPERSON HILL: Thank you. Mr. Blake?
5 COMMISSIONER BLAKE: I'm still in support of the
6 application.
7 CHAIRPERSON HILL: Thank you.
8 Chairman Hood?
9 ZC CHAIRPERSON HOOD: I support. Thank you.
10 CHAIRPERSON HILL: Thank you. I'm going to make a
11 motion to approve Application No. 21190 as captioned and read by
12 the secretary and ask for a second, Mr. Blake.
13 COMMISSIONER BLAKE: Second.
14 CHAIRPERSON HILL: Motion is made and seconded.
15 Madam Secretary, if you'd take a roll call, please?
16 MS. MEHLERT: Motion to approve the application.
17 Chairman Hill?
18 CHAIRPERSON HILL: Yes.
19 MS. MEHLERT: Mr. Smith?
20 COMMISSIONER SMITH: Yes.
21 MS. MEHLERT: Mr. Blake?
22 COMMISSIONER BLAKE: Yes.
23 MS. MEHLERT: Chairman Hood?
24 ZC CHAIRPERSON HOOD: Yes.
25 MS. MEHLERT: Staff will record the vote is four to

1 zero to one to approve Application No. 21190 on the motion made
2 by Chairman Hill and seconded by Board Member Blake, with Vice
3 Chair John not participating.

4 CHAIRPERSON HILL: Great. Thank you.

5 Madam Secretary, is there anything else before the
6 Board today?

7 MS. MEHLERT: There is not.

8 CHAIRPERSON HILL: Okay. All right. You guys have
9 a -- have a day. Okay. Bye-bye. We're adjourned.

10 (Whereupon, the above-entitled matter went off the
11 record at 1:53 p.m.)

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

This is to certify that the foregoing transcript

In the matter of: Public Hearing

Before: DCBZA

Date: 11-06-24

Place: (Via Webex)

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



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