

GOVERNMENT OF  
THE DISTRICT OF COLUMBIA

+ + + + +

BOARD OF ZONING ADJUSTMENT

+ + + + +

REGULAR PUBLIC HEARING

+ + + + +

WEDNESDAY

FEBRUARY 5, 2025

+ + + + +

The Public Hearing of the District of Columbia Board of Zoning Adjustment convened via teleconference, pursuant to notice at 9:00 a.m. EDT, Frederick L. Hill, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

FREDERICK L. HILL, Chairperson  
LORNA JOHN, Vice Chairperson  
CHRISHAUN SMITH, Commissioner  
CARL H. BLAKE, Commissioner  
ROBERT E. MILLER, Zoning Commission Vice Chairperson

BOARD OF ZONING ADJUSTMENT STAFF PRESENT:

KEARA MEHLERT, Secretary  
PAUL YOUNG, A/V Specialist

The transcript constitutes the minutes from the Regular Public Hearing held on February 5, 2025.

HUNT REPORTING COMPANY  
Court Reporting and Litigation Support  
Serving Maryland, Washington, and Virginia  
410-766-HUNT (4868)  
1-800-950-DEPO (3376)

## T A B L E O F C O N T E N T S

Case No. 21236	
Application of S. Douglas Bunch.....	6
Case No. 21216	
Application of Latasha D. Boone Trustee.....	10
Case No. 21218	
Application of BORS Properties, LLC.....	62
Case No. No. 21222	
Application of Esther Kahng and Corey Martin.....	82
Case No. 21223	
Application of Melissa Brand.....	116
Case No. No. 21239	
Application of John Hayman.....	122
Case No. 21216	
Application of Latasha D. Boone Trustee.....	173

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

(9:30 a.m.)

CHAIRPERSON HILL: Good morning, ladies and gentlemen,  
to the Board of Zoning Adjustment. Today is 2/5/2025.

This public hearing will please come to order. My name  
is Fred Hill, Chairman of the Board of Zoning Adjustment. Joining  
me today are Board members Lorna John, Carl Blake, Chrishaun  
Smith and Zoning Commissioner Rob Miller. Today's meeting  
hearing and 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 on 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 at our decision  
meeting session. If you're experiencing difficulty accessing  
Webex or with your call-in telephone, then please call our OZ  
hotline number at 202-727-5471. Once again, 202-727-5471. It's  
also listed on the screen.

At the conclusion of a 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  
required when the decision it contains is adverse to a party  
including an affected ANC. A full order may also be needed if

1 the Board's decision differs from the Office of Planning's  
2 recommendation. Although the Board favors the use of summary  
3 orders whenever possible, an Applicant may not request the Board  
4 to issue such an order.

5 In today's hearing session everyone who's listening on  
6 Webex or by telephone will be muted during the hearing and only  
7 persons who have signed up to participate or testify will be  
8 unmuted at the appropriate time. Please state your name and home  
9 address before providing oral testimony or your presentation.  
10 Oral presentations should be limited to a summary of your most  
11 important points. When you're finished speaking, please mute  
12 your audio so that your microphone is no longer picking up sound  
13 or background noise. All persons planning to testify either in  
14 favor or in opposition should have signed up in advance. They'll  
15 be called by name to testify. If this is an appeal only parties  
16 are allowed to testify. By signing up to testify, all  
17 participants complete the oath or affirmation as required by Y-  
18 408.7. Requests to enter evidence at the time of an online  
19 virtual hearing such as written testimony or additional  
20 supporting documents other than live video which may not be  
21 presented as part of the testimony, maybe allowed pursuant to Y-  
22 103.13 provided that the person making the request to enter an  
23 exhibit explain, a) how the proposed exhibit is relevant, b) the  
24 good cause justifies allowing the exhibit into the record  
25 including an explanation of why the requestor did not file the

1 exhibit prior to the hearing pursuant to Y-206 and how the  
2 proposed exhibit would not unreasonably prejudice any parties.  
3 The order for special exceptions and variances are pursuant to  
4 Y-409.

5           At the conclusion of each case an individual who is  
6 unable to testify because of technical issues, may file a request  
7 for leave to file a written version of the planned testimony to  
8 the record within 24 hours following the conclusion of public  
9 testimony in the hearing. If additional written testimony is  
10 accepted, then parties will be allowed a reasonable time to  
11 respond as determined by the Board. The Board will then make  
12 its decision at its next meeting session but no earlier than 48  
13 hours after the hearing. Moreover, the Board may request  
14 additional specific information to complete the record. The  
15 Board and the staff will specify at the end of the hearing exactly  
16 what is expected and the date when persons must submit the  
17 evidence to the Office of Zoning. No other information shall be  
18 accepted by the Board.

19           Finally, the District of Columbia Administrative  
20 Procedures Act requires that a public hearing on each case be  
21 held in the open before the public. However, pursuant to 405(b)  
22 and 406 of that Act the Board may, consistent with its rules and  
23 procedures and the Act, enter into a closed meeting on a case  
24 for purposes of seeking legal counsel on a case pursuant to D.C.  
25 Official Code Section 2-575(b)(4) and/or deliberate on a case

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

4 Madam Secretary, do we have any preliminary matters?

5 MS. MEHLERT: Good morning, Mr. Chairman, and members  
6 of the Board.

7 In regards to regarding late filings, the Chairman has  
8 reviewed and granted waivers for all the filings into the  
9 applicable case records pursuant to Subtitle Y, Section 206.7 and  
10 Section 103.13. Any other late filings during the course of  
11 today's live hearing should be presented before the Board by the  
12 Applicant, parties or the witnesses after the case is called.  
13 Any other preliminary matters will be noted when the case is  
14 called.

15 CHAIRPERSON HILL: Okay. All right. Thank you.

16 All right. You can go ahead and call our first case  
17 when you have a chance.

18 MS. MEHLERT: The first case is in the Board's meeting  
19 session. It's an expedited review application, No. 21236 of S.  
20 Douglas Bunch. This is a self-certified application pursuant to  
21 Subtitle X, Section 901.2 for special exceptions under Subtitle  
22 E, Section 5201 from the rear yard requirements of Subtitle E,  
23 Section 207.1 and the lot occupancy requirements of Subtitle E,  
24 Section 210.1.

25 This is for an uncovered second-story stair and landing

1 addition for access to a roof deck on an attached principal  
2 dwelling. It's located in the RF-1 zone at 906 Westminster  
3 Street, Northwest, Square 362, Lot 276.

4 CHAIRPERSON HILL: Okay. Good morning, everybody.  
5 Let's see.

6 So this, again, the rear yard requirements, there's 20  
7 feet required, there's 17.5 feet existing and proposed. The lot  
8 occupancy 60 percent is permitted. There's 65 percent existing  
9 and they're trying go out by four percent where 70 percent is  
10 allowed by special exception.

11 I didn't really have an issue with this. I mean I  
12 understand what they're trying to do. I understand why they're  
13 trying to do this under an expedited review and I would agree  
14 that this is something that could be done under an expedited  
15 review. I would cite the Office of Planning's report that I  
16 reviewed and believe it is concise. I also appreciate the ANC's  
17 support and input. I appreciate that the Applicant has gone  
18 through the process of reaching out to the adjacent neighbors who  
19 are also in support as well as, again, the ANC. So I don't  
20 particularly have a lot of thought on this and I'm going to be  
21 voting in support of this application.

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

23 COMMISSIONER SMITH: Nothing to add, Chairman Hill.

24 I agree with your assessment of this particular case  
25 and will support it as well.

1 CHAIRPERSON HILL: Thank you.  
2 Mr. Blake?  
3 COMMISSIONER BLAKE: Here, Mr. Chair.  
4 I have nothing to add. I am in support of the  
5 application.  
6 CHAIRPERSON HILL: Thank you.  
7 Vice Chair John?  
8 VICE CHAIRPERSON JOHN: Thank you, Mr. Chairman.  
9 I have nothing to add and will support the application.  
10 CHAIRPERSON HILL: Thank you. And welcome back, Vice  
11 Chair John.  
12 VICE CHAIRPERSON JOHN: Thank you. It's good to be  
13 back.  
14 CHAIRPERSON HILL: Nice to see you. And Vice Chair  
15 Miller?  
16 ZC VICE CHAIRPERSON MILLER: Thank you, Mr. Chairman.  
17 Yes. I concur with you and my colleagues.  
18 CHAIRPERSON HILL: Okay. Going to make a motion to  
19 approve Application No. 21236 as captioned and read by the  
20 secretary, and ask for a second.  
21 Ms. John?  
22 VICE CHAIRPERSON JOHN: Second.  
23 CHAIRPERSON HILL: The motion is made and seconded.  
24 Madam Secretary, would you take a roll call, please.  
25 MS. MEHLERT: Please respond to the Chair's motion to



1 approve the application.

2 Chairman Hill?

3 CHAIRPERSON HILL: Yes.

4 MS. MEHLERT: Vice Chair John?

5 VICE CHAIRPERSON JOHN: Yes.

6 MS. MEHLERT: Mr. Smith?

7 COMMISSIONER SMITH: Yes.

8 MS. MEHLERT: Mr. Blake?

9 COMMISSIONER BLAKE: Yes.

10 MS. MEHLERT: Commissioner Miller?

11 ZC VICE CHAIRPERSON MILLER: Yes.

12 MS. MEHLERT: Staff would record the vote as five to  
13 zero to zero to approve Application No. 21216 on the motion made  
14 by Chairman Hill and seconded by Vice Chair John.

15 CHAIRPERSON HILL: Thank you.

16 Let me see. Madam Secretary, did you add, was it 21216  
17 that had the new information?

18 MS. MEHLERT: Yes, sorry. I just read the wrong case  
19 number in that last vote call. It was to approve Application  
20 21236 on the motion made by Chairman Hill and seconded by Vice  
21 Chair John.

22 And then 21216 has a preliminary matter regarding  
23 waiving the filing deadline.

24 CHAIRPERSON HILL: Oh, okay. I'm sorry. Okay.

25 So, but the, I thought that the Applicant had put

1 something in there about, into the record about how or why to  
2 waive the filing deadline, or no?

3 MS. MEHLERT: For 21216?

4 CHAIRPERSON HILL: Yeah.

5 MS. MEHLERT: It's in Exhibit 31F.

6 CHAIRPERSON HILL: Okay. Great. Okay.

7 You may call our next case, please.

8 MS. MEHLERT: Next is in the Board's hearing session.  
9 It's for Application No. 21216 of Latasha D. Boone Trustee. As  
10 amended, this is a self-certified application pursuant to  
11 Subtitle X, Section 1002 for area variances from the lot area and  
12 lot width requirements of Subtitle E, Section 202.1 and pursuant  
13 to Subtitle X, Section 901.2 for special exceptions under  
14 Subtitle E, Section 5201 from the lot occupancy requirements of  
15 Subtitle E, Section 210.1, under Subtitle E, Section 5201 from  
16 the rear yard requirements of Subtitle E, Section 207.1 and under  
17 Subtitle E, Section 207.5 to allow the rear wall of a row or  
18 semi-detached building to extend farther than ten feet beyond the  
19 farthest rear wall of an adjoining principal residential building  
20 on any adjacent property. This is for the subdivision of three  
21 record lots, each improved with a two-story principal dwelling  
22 in an attached or semi-detached building and additions to each  
23 building for use as two-unit flats on each new lot.

24 This is located in the RF-1 zone at 418 and 422 Franklin  
25 Street, and 2804 5th Street, Northeast, Square 3639, Lots 26

1 through 28 and as mentioned previously, there is a motion from  
2 the Applicant to waive the filing deadline.

3 CHAIRPERSON HILL: Okay.

4 If the Applicant can hear me, if they could please  
5 introduce themselves for the record.

6 MS. BOONE: Hi. Latasha Boone.

7 CHAIRPERSON HILL: Okay. Great.

8 And do you have representation, Ms. Boone?

9 MS. BOONE: Yes. My counsel, Martin Sullivan, as well  
10 as the architects are on the line from EL Studios.

11 CHAIRPERSON HILL: Okay.

12 Mr. Sullivan, can you introduce yourself for the  
13 record?

14 MR. SULLIVAN: Yes. Thank you.

15 Martin Sullivan from Sullivan & Barros on behalf of the  
16 Applicant.

17 CHAIRPERSON HILL: Okay. Thanks.

18 So, Mr. Sullivan, you have a preliminary matter for us  
19 to waive the filing deadline requirements and if you wouldn't  
20 mind telling me why you would like us to waive the filing deadline  
21 requirements, and then also what that change again, just can you  
22 clarify that for me. This actually did cause a little bit of  
23 consternation with us over the weekend in that we didn't get, I  
24 guess, the reason why you're late in filing and I guess why 300.17  
25 now, you know, we have been a little bit lax at times with that

1 and now, you know, if you can just explain to me why, again,  
2 you're filing late, why you think we should approve it and what  
3 you're changing.

4 Thank you.

5 MR. SULLIVAN: Yes.

6 We spent a lot of time with the Office of Planning last  
7 week. So we had multiple meetings, discussions back and forth,  
8 email with the Office of Planning in order to strengthen the  
9 variance argument and the details are on the variance argument.  
10 The only change that was made in those discussion to it came up  
11 that we would remove the penthouses so that we wouldn't need the  
12 penthouse relief.

13 So that's the only change in the plans. But at the  
14 heart of this was us needing time to work with the Office of  
15 Planning to then submit additional details on our variance  
16 argument.

17 CHAIRPERSON HILL: Okay.

18 MR. SULLIVAN: Which we're happy to say ended up  
19 securing their support in the end.

20 CHAIRPERSON HILL: Okay.

21 And what is it that you ended up presenting then to the  
22 ANC?

23 MR. SULLIVAN: Ms. Boone can talk about that. Yes.

24 MS. BOONE: Yes. So I had purchased this property back  
25 in 2007. When I spoke with the ANC we talked about how to best

1 utilize the lot itself. I had litigation resorting from the L-  
2 shaped plats that had been on the property line since ever. I  
3 purchased the property in 2007 so I was unaware of the L-shaped  
4 plats but through acquisitions of the other two properties I kind  
5 of learned about them and four years and \$100,000 in litigation  
6 fees later, that has been resolved. So what we're trying to do  
7 with The Renata plan is to (audio interference) those L-shaped  
8 plats, make things a little bit --

9 MR. SULLIVAN: Tasha, Tasha, hold on a second. Mr.  
10 Chair, we're into our presentation. I think, I didn't know if  
11 you wanted a more specific answer on the ANC?

12 CHAIRPERSON HILL: Yeah. That's all right.

13 Mr. Sullivan, what I'm trying to understand is did you  
14 present to the ANC what you're about to present to us?

15 MS. BOONE: Yes.

16 MR. SULLIVAN: Yes.

17 MS. BOONE: The ANC has seen both the ZAD, sorry, the  
18 Zoning and Administrative Board for my zoning board as well as  
19 the full ANC unanimously being supportive of the plan as well as  
20 presented testimony today.

21 CHAIRPERSON HILL: Gotcha. Ms. Boone, what we're doing  
22 right now is a preliminary matter to allow the change that's  
23 taking place and not the 30 day notice that needed to happen  
24 before we are moving forward.

25 MS. BOONE: Yes. I presented to both my local Zoning

1 Administrative Board and the ANC in December, so they are aware  
2 of the plans.

3 CHAIRPERSON HILL: Right. But this, so Mr. Sullivan,  
4 the penthouse was on the plans that you presented to the ANC?

5 MS. BOONE: And they're aware that we took them off and  
6 submitted their letter three days ago or four days ago. So  
7 they're aware. Commissioner --

8 MR. SULLIVAN: They submitted two letters, Mr.  
9 Chairman. The ANC submitted their resolution a while ago in  
10 support. The letter submitted on I think Monday or Tuesday from  
11 the ANC was --

12 CHAIRPERSON HILL: It was yesterday. It was yesterday.

13 MR. SULLIVAN: Yeah, it was their testimony effectively  
14 by the person that was authorized to represent the ANC before the  
15 Board.

16 CHAIRPERSON HILL: Okay. Okay. Okay. All right. Okay.

17 I mean, after going through this I'm comfortable  
18 waiving the filing deadline and allowing us to proceed as is. Do  
19 my fellow Board members have anything they'd like to say?

20 (No response.)

21 CHAIRPERSON HILL: Okay. All right, Mr. Sullivan.

22 So as you know, Mr. Sullivan, if you can go ahead and  
23 walk us through your client's application and why you believe  
24 you're meeting the criteria for us to grant this particular relief  
25 that's being requested. I'm going to put 15 minutes on the clock

1 | so I know where we are, and you can begin whenever you like.

2 |           MR. SULLIVAN: Thank you. Chair.

3 |           We do have a PowerPoint, if we could load that, please,  
4 | and then I'll introduce it briefly and turn it over to Ms. Boone,  
5 | and then to the architect that's also with us.

6 |           So the properties, you see the address is there. It's  
7 | three properties together. Next slide, please.

8 |           So this is the RF-1 zone. Each lot is currently  
9 | improved with a two-story building. They're each used as a single  
10 | family dwelling. The Applicant's proposing to reconfigure the  
11 | lots and all three lots are nonconforming and we'll see the lot  
12 | areas in a second, and extremely unique as to their shape.  
13 | There's two of them that L-shape over the third lot. They're  
14 | all nonconforming.

15 |           What we're asking is simply to reallocate and shift  
16 | some of these nonconforming lot areas between the three lots in  
17 | a way to make the record lots line up with what is the reality  
18 | on the ground. So in this proposal the lot width is not changing.  
19 | The existing buildings will now be on rectangular lots and the  
20 | development, it becomes more feasible, makes more sense, brings  
21 | higher quality units, more units and more space, as the architect  
22 | will attest.

23 |           The Applicant's also, so the addition, some of these  
24 | additions also require special exception relief. So we've  
25 | removed all the penthouse special exception relief. We're asking

1 for special exception relief as you see on this chart for lot  
2 occupancy, rear yard and ten foot roller. We need no variances  
3 for lot occupancy or yards, setbacks or height. All the variance  
4 is for reallocating the existing lot areas among the three lots.  
5 Next slide, please.

6 I'll turn it over to Ms. Boone now to talk a little bit  
7 about her history with the property.

8 Thank you.

9 MS. BOONE: I purchased lot at 2804 back in 2007. All  
10 the wooden privacy fences and chain link fences were intact.  
11 Enjoyed free use of the space up until 2020 when the owner of  
12 lot 28, Ms. Allen (phonetic) filed suit to have me move the fences  
13 based on the L-shaped plats. I will jump ahead and say that I  
14 purchased that property as well as the property to the left of  
15 her to remove some of those issues but we still had those L-  
16 shaped lots and as we were thinking through what we could do with  
17 the future state of The Renata, that was one of the issues that  
18 we kind of had been working around. If we can move to the next  
19 slide and kind of talk through that a little bit more.

20 CHAIRPERSON HILL: Mr. Young, can you go to the next  
21 slide?

22 MS. BOONE: Thank you.

23 So this is the back side where you can kind of see some  
24 of the issues where everyone had wooden fences kind of aligned  
25 but not in accordance with the deeds. If you can move to the



1 next slide we'll see the aerial view of how the lots were, thank  
2 you.

3 So no one was kind of living as though the deeds were  
4 accorded but we all had L-shaped plats which is how I purchased  
5 the property and we can go to the next slide, those kind of aerial  
6 views.

7 But so this is the future estate of The Renata. So  
8 what we were hoping to do is to normalize the lots to make them  
9 all rectangular with how people use the lots today. The variance  
10 would allow us to normalize the rectangular shapes, make better  
11 use for the land and hopefully make larger units that can better  
12 use that square and then hopefully not have that future litigation  
13 after four years and \$100,000 in legal fees I'd love to not have  
14 to deal with this again. But, for the most part, we would be  
15 able to use this lot and still have that access between 4th and  
16 5th Streets within what the normal zone is. If you can go to  
17 the next slide.

18 CHAIRPERSON HILL: Can I interrupt, Ms. Boone, one  
19 second?

20 MS. BOONE: Yes.

21 CHAIRPERSON HILL: Hey, Mr. Sullivan, I'm going to ask  
22 the Office of Planning. Do you know why these flag lots are kind  
23 of that way, No. 1, and then No. 2, do you know if lot 0029 is  
24 still that flag lot kind of thing?

25 MR. SULLIVAN: Twenty-nine and thirty are still in that

1 shape. That's what all these lots are today. We don't know what  
2 the purpose of it was. These lots were originally recorded in  
3 the 40s, so those pre-58 lots. It doesn't seem to reflect any  
4 intention or access or any other reason. You know, maybe there  
5 was a reason or thought there was a reason when they originally  
6 put them down --

7 CHAIRPERSON HILL: Okay.

8 MR. SULLIVAN: -- but the reality is that the fences go  
9 back as if they're rectangular lots.

10 CHAIRPERSON HILL: Okay. Go ahead, Ms. Boone.

11 MS. BOONE: Thank you.

12 So the future state of The Renata. As we were looking  
13 through it with the architects who will speak shortly, there were  
14 a number of confluence of issues that arose. It was either they  
15 were going to irregular shaped buildings. We couldn't move the  
16 widths of the walls of the existing flats and we also had issues  
17 related to, none of these lots are conforming. So what we  
18 presented to the ANC and what they kind of were appeased to was  
19 the fact that we could regularize the lots, make them a little  
20 bit more rectangular and still keep with the theme of the  
21 neighborhood so that we could kind of stay within what Brookland  
22 was doing and still provide large housing and prevent future  
23 confusion related to ownership lines.

24 So with that I can turn it over to the architects to  
25 kind of give you a little bit more detail of what we're presenting

1 for The Renata.

2 MR. SULLIVAN: I think we might have one more slide  
3 before we get to the architects views.

4 MS. BOONE: Oh, yes.

5 MR. SULLIVAN: If you want to just talk about  
6 (indiscernible).

7 MS. BOONE: And just mostly to state that I had did a  
8 lot of canvassing, unfortunately at the wrong time so people  
9 thought I was canvassing for a different reason, but they  
10 understood that I was canvassing to get support for the  
11 neighborhood. So I did receive support from the local neighbors  
12 as well as the neighbors to the north at 2806 5th Street. The  
13 ANC was amenable and they supported with both written testimony  
14 and with the normal amount of ANC support and D.C. OP, through  
15 our conversations that Marty alluded to earlier, helped us kind  
16 of get to a place where we could present something that would be  
17 good for the neighborhood. So hopefully that is amenable to the  
18 BZA today.

19 MR. SULLIVAN: Thank you. So, Mr. Chairman, we'll turn  
20 it over to the architects, Mark Lawrence and Sarah Beth Combs,  
21 should be on and the slides that they're going to go through, we  
22 put the plans at the end of the PowerPoint in case you want to  
23 for reference the full plans, but we targeted the pages in this  
24 PowerPoint specifically for their analysis on the variance  
25 argument.

1                   COMMISSIONER BLAKE: Mr. Chairman, I have a question  
2 for Ms. Boone.

3                   CHAIRPERSON HILL: Go ahead, Mr. Blake.

4                   COMMISSIONER BLAKE: Ms. Boone, I appreciate the  
5 community outreach you've done and I notice that there are number  
6 of letters in support from surrounding neighbors, but I did notice  
7 that the adjacent neighbor on 5th Street to the west as well as  
8 the neighbor next to that did not submit anything and I don't  
9 see anything (audio interference) reference as to how it would  
10 impact them and also looking at the structure of the property  
11 which we'll certainly go to shortly, I did notice that they were  
12 fairly impacted by this and I noticed that there was no input  
13 from them. Can you discuss how your relationship and how you  
14 interact with them and explain the process and the project to  
15 them and their --

16                  MS. BOONE: Yes.

17                  COMMISSIONER BLAKE: -- and their support or lack  
18 thereof.

19                  MS. BOONE: Absolutely. So I canvassed and walked door  
20 to door. I've spoken with all of the neighbors. The neighbor  
21 immediately to the left of 418 is a rental property. I've been  
22 unable to reach out to the actual owner of that property but I  
23 have, you know, spoken to the renter and whomever was living  
24 there at the time. It's transitioned a few times over the last  
25 six months. And the far neighbor to the very end, they did not

1 support or disapprove of the project but we have spoken. So I  
2 can't speak to how they would want to react, but we have spoken  
3 about the project and unfortunately, because I posted the notices  
4 about the hearing, they thought we had gotten approval so they  
5 were, like, congratulations and I had to let them know that this  
6 was not a moment that we could celebrate just yet.

7 COMMISSIONER BLAKE: Let me just be clear though. So  
8 the property owner at 414 --

9 MS. BOONE: Correct.

10 COMMISSIONER BLAKE: -- was, you were unable to contact  
11 that person?

12 MS. BOONE: It's just a renter in the actual unit and  
13 I've not been able to reach out to the owner, correct.

14 COMMISSIONER BLAKE: Thank you.

15 MR. SULLIVAN: And I'd like to add to Board member  
16 Blake that the proposal we're providing and the relief we're  
17 asking for would allow for a development that's actually more  
18 favorable to the neighbor to the west than it would be, I think  
19 we're asking for about two feet past the ten foot rule and we're  
20 losing that loss actually getting smaller, so we're effectively  
21 shrinking density and the length of that building in this  
22 proposal, and you'll see that. The architect will explain that.

23 COMMISSIONER BLAKE: Mr. Sullivan, the one thing I was  
24 concerned about was there is access to the alley is provided  
25 through some type of space that's about four feet wide, then it

1 | looks like it goes across again the property line of that neighbor  
2 | at 414 and so for that reason I was concerned as to whether there  
3 | was an arrangement or easement provided to facilitate that. So  
4 | that's where I'm kind of going with this (indiscernible).

5 | MS. BOONE: If we could go back to slide 6 maybe.

6 | MR. SULLIVAN: And, Tasha, you can talk about this but  
7 | my (indiscernible) --

8 | MS. BOONE: Oh, sorry. Slide 5.

9 | MR. SULLIVAN: -- there's nothing recording but we're  
10 | honoring the history of four feet for the purposes of taking  
11 | trash out; is that correct, Tasha?

12 | MS. BOONE: Correct. So this is always been kind of  
13 | unfortunately the state of use. I bought the property back in  
14 | 2007 so I walk out of the back alley and I put my rubbish in the  
15 | public alley between and there has not been anything that I  
16 | formally signed or been attested to that allows me to do so. We  
17 | just all do that. That is the only place where the public  
18 | municipality trash picks up back there, on the public alley  
19 | between 4th and 5th Streets.

20 | COMMISSIONER BLAKE: In the revised plan all of the  
21 | garbage cans for these properties will be along the property line  
22 | towards the, I'd say this is the east side in the rear towards  
23 | the north building and then you would traverse that four foot  
24 | space all the way down to the end to put it in the public alley;  
25 | is that right?

1 MS. BOONE: Yes, sir.

2 COMMISSIONER BLAKE: Okay. Thank you.

3 CHAIRPERSON HILL: But there's been no easement to  
4 allow people to go down that four foot space is what I think Mr.  
5 Blake is asking and what you're saying is nothing's ever been  
6 recorded.

7 MS. BOONE: It's just common right. Like, we just,  
8 again, none of this, the L-shapes, all of the things, we just  
9 use it in this way.

10 CHAIRPERSON HILL: Yeah, no I got it. The only thing  
11 I'm kind of, and I mean I think they haven't even gotten to the  
12 argument yet, I was just curious though. What happens if somebody  
13 says, you know, we don't want you going through our property  
14 anymore to get to that alley?

15 MS. BOONE: Oh, well, unfortunately the litigation that  
16 pursued was because a tree fell on the wooden lot and I had to  
17 walk around to put my trash out. So I literally walked down 5th  
18 Street, all the way Franklin and around to the public alley to  
19 putout my rubbish. So this is what caused the litigation.

20 MR. LAWRENCE: I can also speak to that a little more  
21 in the presentation related to trash.

22 COMMISSIONER BLAKE: One question for you, Ms. Boone.  
23 Which, you had said you purchased, which property did you purchase  
24 first?

25 MS. BOONE: The corner lot, 2804 5th Street.

1                   COMMISSIONER BLAKE:   Okay.   And then the tree fell in  
2   422, in that area?

3                   MS. BOONE:   Well, if you can go back to the next slide  
4   previous to this one.   So the tree fell, this is where the red  
5   arrow is, so I couldn't open that door where you see, that's  
6   where my lot ends and I would usually walk out and you can see  
7   everybody's trash cans and the recycling bins, I would just walk  
8   out there.   But once the tree fell I didn't have access there.

9                   COMMISSIONER BLAKE:   Okay.   I see what you're saying.  
10   Okay.   And then you had litigation with the property owners at  
11   that property and the one next to it is what you're saying?

12                  MS. BOONE:   The litigation ensued from the red house,  
13   Ms. Allen, at lot 28.   Lot 27 also had a similar claim but they  
14   just, I guess they were working with Ms. Allen in their claim so  
15   I didn't have an actual litigation suit with them.

16                  COMMISSIONER BLAKE:   So then my last question.   Again  
17   with 414 which would then be the third house which would then be  
18   the last link to get, well, that would be the last link to get  
19   to the alley, that person has not been involved at all in the  
20   litigation nor have they been involved unaware of what we're  
21   doing today?

22                  MS. BOONE:   They're aware.   I, you know, presented what  
23   I was trying to do but I've just not heard back positively or  
24   negatively with them.

25                  COMMISSIONER BLAKE:   So you have spoken with them?



1 MS. BOONE: Correct.

2 COMMISSIONER BLAKE: Okay. I thought you said you  
3 weren't able to reach them. I apologize.

4 MS. BOONE: Well, I spoke to the renter but not the  
5 owner. So I want to make that clear. I spoke to the person who  
6 was living in the dwelling but I don't know that they're the  
7 actual owner of the site.

8 COMMISSIONER BLAKE: Okay. So just to clarify, and I  
9 apologize for taking so much time on this, Mr. Chair. In the  
10 event that the owner at 414 decided that they did not want you  
11 to use that area of their property to dump your trash, what would  
12 be the net result?

13 MR. LAWRENCE: I can speak to that in the presentation.

14 COMMISSIONER BLAKE: Okay. I look forward to it. Thank  
15 you.

16 MR. LAWRENCE: Good morning everyone. My name is Mark  
17 Lawrence. I'm the architect for the properties. Can we go to  
18 the next slide? Keep going. Next slide. Next slide. Next  
19 slide. Okay. Thank you.

20 Thanks for hearing our testimony this morning. We've  
21 identified the two lots that are atypical and offer a series of  
22 difficulties. The dog leg which is eight feet wide is very  
23 challenging to build on but even using it as outdoor space, you  
24 can't park on it. You can't even put a picnic table with chairs  
25 around it because it's just not wide enough to accommodate use,

1 and so we are proposing to shift some of that area from those  
2 two nonconforming lots to the lot on the corner to create a  
3 conforming lot and reduce the size of those two L-shaped lots.

4           One of the things in the third diagram that you can see  
5 in terms of by-right development, those two L-shaped lots won't  
6 change in width. So in their current configuration you could  
7 make them deeper or longer, you could make longer buildings but  
8 you're not making better buildings because they're 16 feet wide  
9 and you can only get so much light and air to the front and back  
10 in both of those buildings.

11           So our proposal keeps those two lots, lot 27 and 28,  
12 at a more typical size working with zoning regs to extend them  
13 and being sensitive to lot 29 and 30. By the way, lot 29 and 30  
14 did receive certified mailings and notifications of the proposed  
15 plan. So we did go through the proper methods to reach out to  
16 everyone in the neighborhood. Some we got feedback from and some  
17 we did not. So we are trying to shift some area to that corner  
18 lot which makes for a better building because it creates a  
19 building that has access to light on three sides as opposed to  
20 two and so that's kind of the rationale in this first series of  
21 diagrams. Next slide.

22           So the next slide we're comparing on the left the lots  
23 in their current configurations and if we were to do by-right  
24 development or variances to extend those properties or extend  
25 those buildings on those lots and looking at calculating the area

1 of envelope or the linear feet of envelope. So for 418 Franklin  
2 and 420 Franklin, because they're 16 feet wide you get a frontage  
3 of 16 feet and a rear of 16 feet. No matter how you configure  
4 it, that's the amount of access to light and air that you get  
5 for those properties.

6 If you are able to reallocate some of that space you  
7 create, on the corner lot, you can create a building that has  
8 more access to light and air and daylight, and we are creating a  
9 little shared entry in yellow at the center of that building to  
10 allow light on three sides. So what that does is that maintains  
11 the existing configuration of 2804 which has currently windows  
12 to the north, windows to the east and windows to the south. North  
13 is up in these drawings. And then the new building which mirrors  
14 that shape also has windows to the north, windows to the east  
15 and windows to the south. So it creates, it allows for a better  
16 use of space if you look at all three properties in total.

17 It also allows for a variety of bedroom types. So  
18 instead of having two bedroom or two bedroom plus den units, it  
19 allows for some new units to have more bedrooms. So we're showing  
20 that some can be up to five bedrooms in the configuration that  
21 we're showing. We're maintaining space between ourselves and our  
22 neighbor to the north, 2806, so that they still have their access  
23 to light and air and we can share that space as well.

24 Speaking to the trash question, we are currently  
25 showing trash collection or trash storage on the rear of 2804.

1 We can maintain the existing kind of neighborly path to the alley  
2 if that's amenable, however, if necessary we could also establish  
3 a connection to 5th Street for trash pick-up there. So we have  
4 flexibility. We can either work with the existing conditions.  
5 We can work with the neighbor if there's an easement that needs  
6 to be created, or we can use our own property to have that trash  
7 go to 5th Street. So we have thought about that and are trying  
8 to work with both scenarios, should they come about. Next slide.

9 This is the last slide of our presentation. As Marty  
10 mentioned, there is a full presentation at the end but I just  
11 wanted to speak to the rationale for how we're adding on to the  
12 building, the corner property. So we're mirroring that existing  
13 condition to create a building that maintains that setback along  
14 5th Street and creating a small break between the two buildings.  
15 They're still connected but it allows for access to both buildings  
16 and shared, kind of shared court between the two buildings. So  
17 I just wanted to explain the rationale there.

18 I think I've covered, open to questions.

19 COMMISSIONER BLAKE: Mr. Chair, I have a quick  
20 question.

21 CHAIRPERSON HILL: Yes. Go ahead.

22 COMMISSIONER BLAKE: (Audio interference). So as we  
23 look at these neighboring properties there's an entranceway off  
24 of 5th Street that is designed for access to which apartments?  
25 I was trying, I could not figure it out on the diagram.

1           MR. LAWRENCE: Well, that allows access to four units  
2 at 2804. It also could potentially allow for access to a unit,  
3 to two units, the second floor units at 422 and 418. So there  
4 is --

5           COMMISSIONER SMITH: Is that the intention for it to  
6 provide access to those units?

7           MR. LAWRENCE: That's what we're showing in the plans  
8 currently.

9           COMMISSIONER BLAKE: Okay. So this is an apartment  
10 building although the ownership --

11          MS. BOONE: No, it's not an apartment building. I  
12 think they had different access --

13          CHAIRPERSON HILL: Hey, hold on, hold on. Hey, you  
14 guys, hold on, hold on. Let Mr. Blake speak first.

15          COMMISSIONER BLAKE: I know you don't want to use that  
16 word but The Renata as you designed, that's one word, so I'm  
17 going to assume this whole development's considered that and it's  
18 one, it's a building that has several units and it is properly  
19 as individual units. If I were to, I assume this is all now  
20 under common ownership and the assumption is that that will remain  
21 under common ownership unless you're going to create an easement  
22 to have access to 422 to second floor properties and, again, you  
23 have another easement for that.

24                 So I'm just trying to make sure that clearly these are  
25 very intertwined and under common ownership this works fairly

1 well. But to the extent that you separate the ownership of each  
2 of these three distinct buildings, what you just described to me  
3 has some kinks with it. So I just want get clear on that.

4 MR. LAWRENCE: Yeah, I appreciate that and I understand  
5 the questioning.

6 What I would say, I'll speak to the shared entry. We  
7 are using that shared entry. It makes the corner property, it  
8 needs that shared entry. But you can, you know, we're doing two  
9 units on a single lot, so those two units, you know, can use that  
10 single entry. We are looking at, and we are showing in the plans  
11 right now, that access to two units at 422 and 418 are also using  
12 that entry point. So you're correct. However, we would set up  
13 an easement for that to occur and it would be, they could be sold  
14 as individual units. We aren't, it's not our intention to make  
15 an apartment building and under zoning, the regulations they're  
16 not. These'll be three separate flats for zoning purposes because  
17 we can't do multi-family. But there's nothing in zoning that  
18 doesn't allow somebody to access a building across another  
19 property for building code purposes or for whatever reason.

20 MS. BOONE: And my apologies for speaking out earlier.  
21 I think this is me going to when we were thinking through how we  
22 could use the lot best, this is one of the irregularities that  
23 we faced. Like, how can we do this and maximize the space without  
24 bumping up against other regulations?

25 VICE CHAIRPERSON JOHN: Mr. Chairman --

1 MR. SULLIVAN: And then we could remove it and we could  
2 do something different if it affected the variance argument or  
3 the overall presentation. But I don't think that it's connected.

4 CHAIRPERSON HILL: Ms. John, you had a question.

5 VICE CHAIRPERSON JOHN: Yes. I have a question for Mr.  
6 Lawrence. I am having difficulty understanding where this common  
7 walkway is that would be closed off for the, I can't see the  
8 numbers, I think it was 414 that Mr. Blake asked about.

9 MR. LAWRENCE: Sure. Why don't we, let's go up one  
10 plan and I'll try and explain it here and if not, we can go to  
11 the site plan which is -- so you have that? Yes.

12 VICE CHAIRPERSON JOHN: Maybe the site plan would be  
13 better to use --

14 MR. LAWRENCE: Yeah.

15 VICE CHAIRPERSON JOHN: -- the proposed development on  
16 the site plan.

17 MR. LAWRENCE: Yes. The site plan is all the way at  
18 the end of the presentation.

19 VICE CHAIRPERSON JOHN: Okay.

20 MR. LAWRENCE: So when I see it I will, keep going,  
21 please. One more. One more. Keep going. Sorry. Keep going.  
22 Next. Next. Okay.

23 This is the site plan with the proposed trash storage  
24 at property 2804. So we're showing these three buildings would  
25 utilize that trash storage. We could either, we could continue

1 to go left or west as currently, you know, as currently used to  
2 access the alley. So trash could be taken out, continue to be  
3 taken out along that path that currently exists or if there's a  
4 challenge with the neighbors at 29 and 30 we could, our trash  
5 could go out to 5th Street. So we have flexibility to do both  
6 of those in these lots.

7 VICE CHAIRPERSON JOHN: So what would be the difficulty  
8 with the lot, I'm having trouble seeing the drawing. What would  
9 be difficult with the lot to the west of the three flats?

10 MR. LAWRENCE: Because lot 29 is also an L-shaped lot.  
11 It's one of these strange lots. It technically owns all of the  
12 access to the alley. So right now they have, there's a fence  
13 like, to sort of designate that four foot wide path --

14 VICE CHAIRPERSON JOHN: Right.

15 MR. LAWRENCE: -- but, and that's how it is currently  
16 set up. But that's just the nature of these properties in the  
17 L-shape configuration.

18 VICE CHAIRPERSON JOHN: So if I might follow-up. So  
19 I'm not sure what the difficulty would be for that lot. That  
20 lot could continue to access the alley.

21 MR. LAWRENCE: That's right. We would not affect their  
22 difficulty at all.

23 VICE CHAIRPERSON JOHN: Okay. So the only issue would  
24 be if you were to sell the two interior lots, then those two lots  
25 would need access to the trash cans --



1 MR. LAWRENCE: Right.

2 VICE CHAIRPERSON JOHN: -- on the corner lot?

3 MR. LAWRENCE: That's correct.

4 VICE CHAIRPERSON JOHN: And that's what you're saying  
5 you would have to consider including permanent easements for  
6 access to the trash cans and to the alley?

7 MR. LAWRENCE: That's correct.

8 VICE CHAIRPERSON JOHN: Okay.

9 MR. SULLIVAN: Board member John, we could do that but  
10 it would only have the effect of getting halfway across the block.  
11 And nothing that we're proposing in this proposal, whether this  
12 is approved or not, affects the trash situation. So the trash  
13 situation will exist whether this is approved or not and the  
14 existing configuration of lots didn't have anything to do with  
15 the trash collection either. There was only, it didn't give any  
16 access that's being taken away. It's completely unchanged as far  
17 as the trash transportation situation.

18 VICE CHAIRPERSON JOHN: I understand what you're saying  
19 and I don't know off hand, I don't remember if there's a  
20 requirement for trash receptacles for a flat, because that's what  
21 you're building. So is there any regulation that covers that?

22 MR. SULLIVAN: There's not a zoning regulation, no.

23 VICE CHAIRPERSON JOHN: Okay. All right. That's it  
24 for me, Mr. Chairman.

25 COMMISSIONER BLAKE: Chairman Hill? Just a quick

1 clarification, Mr. Chair, as we have the architect here.

2 In the event that you did not have access to that 414  
3 on lot 29, you would then have to take the trash around the  
4 corner, all the way around to the alley for each of those units  
5 to do that, correct?

6 MR. LAWRENCE: I think what we would actually do is try  
7 to get trash pick-up on 5th Street which happens, there are cases  
8 where if there's not alley access, that municipal trash gets  
9 picked up on the main street. I live in an alley where that is  
10 the case.

11 COMMISSIONER BLAKE: So you would have DDOT re-route  
12 the traffic if they did that? The pick-up? I mean, the trash  
13 collection would be re-routed to accommodate the three flats?  
14 That's what you're trying to do is what you're saying?

15 MR. LAWRENCE: We're not trying to do that but --

16 COMMISSIONER BLAKE: I'm saying that's what you would,  
17 that's effectively to say that might be one of the options  
18 (indiscernible).

19 MR. LAWRENCE: By virtue of, yeah, by virtue of some  
20 very strange shaped lots that exist, we would have to contend  
21 with that in one way or another.

22 COMMISSIONER BLAKE: Yeah. Okay. Thank you.

23 MR. LAWRENCE: But we're trying to do our best to manage  
24 both and control our trash if we can.

25 CHAIRPERSON HILL: Okay.

1 I guess, Mr. Lawrence, I mean, we're still waiting for  
2 I guess the argument again about the area variances and what you  
3 all are here for, but I am kind of curious about the trash because  
4 we don't want to approve something that then ends up being a  
5 problem later and so I was just curious. The reason why you guys  
6 aren't trying to get this deal with it on 5th Street right now  
7 is because it would be more problematic to try to get the trash  
8 taken from 5th Street at this point; is that correct?

9 MR. LAWRENCE: I don't think it would. It hadn't  
10 occurred to me. I had always assumed that we could either use  
11 the existing conditions that the site and properties lend  
12 themselves to now or have the trash --

13 CHAIRPERSON HILL: Yeah. I'm just (indiscernible).  
14 We've see a lot of stuff where, like, suddenly there's land  
15 somewhere and then there's land somewhere else, right? So I mean  
16 you guys are traversing currently lot 29 to get to that alley.

17 MR. LAWRENCE: That's correct.

18 CHAIRPERSON HILL: And that is the way it's been.

19 MR. LAWRENCE: Yeah.

20 CHAIRPERSON HILL: That's fine. I understand that.  
21 But we're just trying to kind of talk through some of this. So --

22 MS. BOONE: I can interject that the EYA housing that  
23 Catholic University provided, they have a separate trash pick-up  
24 that does, I mean, outside of municipality that comes up the  
25 street. So we could utilize that. I don't know that it would

1 be ideal but there is something that picks up on the outside. So  
2 there are different ways that we could deal with that.

3 CHAIRPERSON HILL: Go ahead, Mr. Blake.

4 COMMISSIONER BLAKE: I just want to make a comment.

5 I think this is a very wonderful and creative design.  
6 The issue that comes back to me over and over again is that it  
7 needs to be tightened up with some easements that guarantees you  
8 some of the things that you're saying because one of the problems  
9 that you had initially with the L-shaped lots was that there were  
10 conflicts, take down the fence, don't do this, that. That four  
11 foot lot you're talking about, there's a potential conflict which  
12 would be resolved through an easement.

13 So it's more or less, you know, think about it and, I  
14 mean, it's not that hard to, well it may be, but, you know, that  
15 is one of the things that would resolve that issue and would  
16 tighten it up a lot as well with the easement on the development  
17 properties in the event that you separate also. That's all.

18 MR. SULLIVAN: That's a great point, Board member  
19 Blake, and we're actually communicating about that because I  
20 wanted to see if they'd be willing to do that. I think we can  
21 do, like a four foot easement that would at least get the interior  
22 lots out to 5th Street. The alley may be out of our control,  
23 the access to the alley, but at least get access. I don't think  
24 that's why this was initially in this configuration because the  
25 L-shapes are so much more than needed for pedestrian access, but

1 we could certainly solve that issue for the three lots that Ms.  
2 Boone owns.

3 VICE CHAIRPERSON JOHN: So, Mr. Chairman, I would just  
4 note that DDOT had no objection. Was there any discussion with  
5 DDOT about the trash situation?

6 MS. BOONE: None.

7 VICE CHAIRPERSON JOHN: None?

8 MS. BOONE: That we're aware of.

9 MR. SULLIVAN: No, we haven't. We didn't hear anything  
10 from DDOT. Usually when there's an issue I'll get an email or  
11 the Office of Planning will alert us of questions from DDOT. So  
12 I think this one's way below their threshold of what usually gets  
13 their attention.

14 VICE CHAIRPERSON JOHN: Okay.

15 CHAIRPERSON HILL: All right, Mr. Sullivan. You can  
16 continue, please.

17 MR. SULLIVAN: Thank you, Mr. Chair. Next slide,  
18 please.

19 MR. LAWRENCE: This is, we're back in the drawings,  
20 Marty, so you should go back up to the --

21 MR. SULLIVAN: Oh, okay. Okay. We're in the drawings.  
22 So if you could go back up to, and, Mark, could you highlight  
23 again real quick just like the, some of the -- if you go back.  
24 I'm sorry. Go back to the plan drawing that shows the percentages  
25 between the two different. Next one. Next one up. The one

1 after this I think. Sorry, we'll have to go back into the main  
2 presentation. One more. That one.

3 Mark, if you could talk just in a little more detail  
4 about the window wall area gained and the number of bedrooms  
5 gained by fixing the lot configuration.

6 MR. LAWRENCE: Yes.

7 So the diagram to the left shows the existing  
8 conditions. We've got 35 linear feet of frontage, you know,  
9 envelope front and back which means that limits the number of  
10 bedrooms that you can put at 418 or 420 on a 16 foot wide property.  
11 So we're kind of, you know, obviously with these row houses we're  
12 limited to windows in the front, windows in the back and that  
13 limits the number of bedrooms.

14 So making those, you know, making a by-right  
15 development or getting a special, making those units larger,  
16 improving those to some extent doesn't really help, it just makes  
17 a really long building with a dark interior. So we're asking  
18 for reasonable additions to 418 and 420 maintaining bedroom  
19 counts that are in that two bedroom or two plus den scenario.  
20 But reallocating that unused dog leg area, that space that can't  
21 be used to the corner lot. That allows for some variety in unit  
22 types and better units and a better use of space and massing on  
23 a building that's on the corner of 5th and Franklin. It relates  
24 to the neighbors in a more cohesive way.

25 And so that area increases because the linear feet of

1 envelope increases, so it allows, we go from .6 percent to .8  
2 percent and so we go from, you know, two bedrooms and three  
3 bedrooms to two bedrooms and five bedrooms bringing that variety.

4 MR. SULLIVAN: And I want to point out too. This shows,  
5 the graphic on the left shows the potential density and for  
6 potential we use a 70 percent special exception. The interior  
7 lot we wouldn't, I don't think we would ask for and we certainly  
8 wouldn't get all of that length. We would need rear yard special  
9 exception and significant ten foot rule special exception and so  
10 the re-shifting allows us to keep that down. It just reduces  
11 that potential density and at the 70 percent we're only asking  
12 for a couple of feet of ten foot rule relief, essentially shifts  
13 the potential density away.

14 So while we're not asking for an increase in the  
15 potential density, fixing the lots and normalizing the lots  
16 allows us to reach that potential density in a way that provides  
17 for a better layout, better quality units, family sized units on  
18 the corner and moves the density to the end and all three lots  
19 are nonconforming. Two lots become a little less conforming and  
20 one lot becomes more conforming. So we're just moving the lot  
21 area among those three nonconforming lots. So, next slide,  
22 please.

23 Next slide, please.

24 So I want to go through the narrative on the variance  
25 argument. I think that Mr. Lawrence has laid it out and

1 | illustrated the exceptional condition, the practical difficulty.  
2 | But to list it out for you, the exceptional conditions include  
3 | the shape of the lots. The shape with long narrow extensions  
4 | limits the use of the interior lots and also limits the efficient  
5 | and effective use of the other lots of the three including the  
6 | corner lot which as it is now is very shallow, the corner lot.  
7 | And the size of the three lots all nonconforming, one of which  
8 | becomes a little more conforming. The existence of pre-58  
9 | buildings on each of these lots, so the lot width isn't changing  
10 | because we're working with the existing buildings.

11 |           As the Board knows the shape of a lot, a pre-58 shape  
12 | of a lot and nonconforming status of a lot is a typical  
13 | exceptional condition. It's listed, shape of a lot is listed in  
14 | the statute and in the zoning regulations as an example of an  
15 | exceptional condition. Next slide, please.

16 |           So the practical difficulties relate both to the design  
17 | of the building. We believe there's a practical difficulty in  
18 | the existing configuration because of the potential for further  
19 | dispute. As Ms. Boone noted, she's been through several years  
20 | of litigation and conflict as a result of the shape of the lots.  
21 | We're hoping to resolve that practical difficulty with this  
22 | proposed subdivision. The substantially potential length of the  
23 | building on the corner substantially shortened if we don't  
24 | subdivide. It significantly limits the amount of quality of  
25 | housing and it could reasonably add it to the existing buildings,



1 as permitted by the regulations. As Mr. Lawrence noted, we've  
2 significantly increased the amount of exterior walls that can  
3 have windows and the possibility of having family units, up to  
4 five bedroom units on the corner lot which without the proposal  
5 these would all remain two bedroom units.

6           There is some usable land left idle if we don't do the  
7 subdivision as a result of what would reasonably be approved in  
8 a special exception. While the potential density doesn't change,  
9 the likelihood of having that potential density approved is  
10 decreased and the impact that it would have on the west lots for  
11 that reason, for the impact it would have on the west lots. So  
12 the current situation incentivizes a design with longer  
13 windowless buildings in the interior lots. It would be more  
14 difficult to be approved by special exception and also a matter-  
15 of-right re-subdivision would require the demolition of the  
16 buildings and the loss of two dwelling units. We could do a  
17 matter-of-right subdivision if we had four units only, so it's a  
18 practical difficulty to lose two units and to have to demo the  
19 existing buildings.

20           Also, I don't want to leave out the severity of the  
21 variance. The Court of Appeals has stated the severity of  
22 variance is a consideration for the practical difficulty test and  
23 it's there for a reason I think because it ties into the phrase  
24 unnecessarily burdensome. We think the shape of these lots leads  
25 to an unnecessarily burdensome condition and what we're asking

1 for to fix it isn't more potential density, more height or to  
2 approve lots that aren't there or to add units. We still have a  
3 max potential of six, we're still asking for six.

4 We're just asking, it's a practical difficulty in the  
5 quality of the units principally and the severity of the variance,  
6 we're merely changing the record lot situation on paper to match  
7 the reality on the ground as it's been for the last, since the  
8 40s, since before 1958 and as I've stated a couple of times, we  
9 are reducing the compliance of the lot area in the interior in a  
10 way which means it's less impactful because the potential density  
11 goes down on those lots, to the lot to the west and making the  
12 corner lot more conforming. Next slide, please.

13 Relief can be granted without substantial detriment to  
14 the public good and without impairing the intent, purpose and  
15 integrity of the zone plan. The resulting buildings do not exceed  
16 any special exception limits. We don't need a variance for a  
17 lot occupancy. The lots are already legally nonconforming and  
18 lot dimensions will simply be adjusted to fix the lot lines, make  
19 standard rectangular lots. As noted, the potential density for  
20 the overall property is only adjusted in the sense that it solves  
21 the practical difficulties, but we're not gaining any potential  
22 density as a result of this.

23 We enjoy the unanimous support from ANC 5F and they  
24 submitted their testimony as well that was accepted into the  
25 record that they submitted yesterday and in that letter I think

1 they also mentioned the exceptional condition with this property  
2 as well as the strong support for the design overall. Next slide,  
3 please.

4           Regarding the special exception relief, and we do have  
5 a shadow study in the file. The architect can go through that  
6 if the Board would like to go through that. We're asking for  
7 ten foot rule relief and rear yard relief. The rear yard relief  
8 is adjacent to a lot that's perpendicular and so it essentially  
9 could read as a side yard and there's six feet of yard back there,  
10 and do have the support of the neighbor that's bordering the  
11 property to the north.

12           So the proposed uses are permitted by-right in the  
13 zone. We meet the general special exception requirements and the  
14 relief will not result in any undue impact on light, air or  
15 privacy, nor result in any visual intrusion of the character,  
16 scale pattern of houses along 5th Street or Franklin Street.  
17 Next slide, please.

18           As noted, the shadow studies don't show any undue  
19 impact on light and air as a result of the special exception  
20 relief. We do provide six feet between the adjacent building  
21 which is perpendicular to the rear of our buildings and the rear  
22 additions won't be visible for any public ways, and the 2804 5th  
23 Street addition is designed to mirror the existing bulk with open  
24 space along 5th Street and bays on the property to replicate the  
25 existing conditions, and it has frontage along 5th Street and the

1 rear yard will appear to be a side yard. Next slide, please.

2 So that's it for our presentation. So if the Board has  
3 any questions for myself or the architect or Ms. Boone.

4 CHAIRPERSON HILL: Okay. Thank you, Mr. Sullivan.

5 Okay. Let me hear from the Office of Planning real  
6 quick and then I'll see what other questions my Board might have.  
7 Can we hear from the Office of Planning, please?

8 MR. LAWSON: Hi. Good morning, Mr. Chair, and members  
9 of the BZA and the owner of these properties. Nice to meet you.  
10 My name is Joel Lawson. I'm with the D.C. Office of Planning.  
11 I'm here with Michael Jurkovic of our office.

12 We did spend a lot of time discussing this case. We  
13 found it problematic in many ways. OP continues to not accept  
14 most of the arguments raised by the Applicant with regards to the  
15 unique circumstance resulting in a practical difficulty.  
16 However, we feel that there is sufficient justification that can  
17 be found for this relief and we did find that the proposal would  
18 easily address the second part of the test and we felt it even  
19 addresses sufficiently the third part of the test, the intent and  
20 integrity of the zoning regulations, in that the proposal is not  
21 resulting in a form of development or scale of development that  
22 would be inconsistent with the intent of the zone or even  
23 inconsistent with what could be possible under the current  
24 configuration.

25 We do think that in the long run or in the end it is a

1 better solution than a by-right solution likely would be and for  
2 that reason the Office of Planning is recommending approval based  
3 on the analysis in our report as opposed to the analysis in the  
4 Applicant's filings.

5 Thank you, and I'm available for questions.

6 CHAIRPERSON HILL: Okay.

7 Does the Board have any questions of the Office of  
8 Planning or the Applicant?

9 Go ahead, Mr. Blake.

10 COMMISSIONER BLAKE: Yes.

11 Mr. Lawson, I had a question for you with regard to  
12 what we discussed earlier about the easements for the properties  
13 and so forth. Does the Office of Planning have an opinion on  
14 that?

15 MR. LAWSON: We think it's definitely a valid issue to  
16 raise. I think in a perfect world there would be easement  
17 registered across basically all the properties to allow the trash  
18 to be accessed from the alley. We assume that would be a better  
19 solution from a DDOT/NDPW standpoint. That is something that the  
20 Applicant would have to figure out and I think that the Applicant  
21 has demonstrated that they do have a solution that we believe  
22 would work if the properties not owned by this Applicant did not  
23 agree to that easement, they do have a solution that could work.

24 As the Applicant stated, it is not unusual for  
25 properties, it's not a perfect solution for anybody but there are

1 certainly many instances in the District where trash is collected  
2 from the street. That's something that the Applicant would have  
3 to work out with DDOT and DPW.

4 COMMISSIONER BLAKE: Okay.

5 CHAIRPERSON HILL: Anyone else?

6 (No response.)

7 CHAIRPERSON HILL: Okay. Let me try to think whether  
8 I have a question.

9 Mr. Lawson, I appreciate that you're here. OP does not  
10 accept all of the Applicant's justification for the proposed  
11 variance relief. What does that mean?

12 MR. LAWSON: Basically what we're saying is that the  
13 Applicant has provided a number of arguments, particularly with  
14 regards to a practical difficulty resulting from the unique  
15 circumstance. Most of those issues that were raised by the  
16 Applicant OP feels are not relevant or acceptable, to OP anyways,  
17 as being reasonable justifications for an area variance.

18 We think that the practical difficulty is relatively  
19 straightforward. You know, the lots are an odd shape. They are  
20 unusual and even though there is one other lot on this square  
21 that kind of also has this kind of dog leg situation, it is an  
22 unusual thing and we felt that that unusual circumstance resulted  
23 in a, also a pretty simple practical difficulty, you know, in  
24 that those dog legs -- well, kind of two parts to this. Those  
25 dog legs create a privacy and maintenance potential issue to the

1 Applicant and also from a kind of a broader standpoint they  
2 actually create or kind of recreate a lot configuration that is  
3 more consistent with what we would typically seek on a square  
4 like this.

5           We just found a number of the arguments, we certainly  
6 wouldn't call a request like this negligible although we agree  
7 certainly with the Applicant that it's not a case of creating  
8 additional lots over what exists right now or what has existed  
9 in the past. We wouldn't accept the ability to maximize  
10 development potential is a reasonable argument for variance  
11 relief. OP has certainly in the past recommended approval of  
12 area variance relief where there are situations associated with  
13 that property that make the properties undevelopable without the  
14 relief.

15           We think that that's a reasonable argument for an area  
16 variance. That's not the case here. The properties are developed  
17 right now, you know, and there is no guarantee in our minds in  
18 the zoning regulations that you should be allowed to maximize  
19 your development potential. We believe that that would be an  
20 argument that would set a difficult and problematic precedent for  
21 future cases. So we just --

22           CHAIRPERSON HILL:       Mr. Lawson, I need (audio  
23 interference).

24           MR. LAWSON: Oh, sorry. We just think it was a simpler  
25 argument than what the Applicant was trying to present.

1                   CHAIRPERSON HILL: No, that's fine. I just want to  
2 make sure I get it right. You're not concerned that this is,  
3 again, setting a precedent as you just said?

4                   MR. LAWSON: I think that, we understand that every  
5 case is judged on its own merits but the argument that's made  
6 and accepted by the BZA as being a valid argument can then be an  
7 argument that future Applicants or the current Applicant could  
8 use in future cases and we don't think that's an argument that  
9 should be accepted. If the Board accepts it, then that's fine,  
10 we'll accept it as well but in OP's opinion that's not an argument  
11 that we would accept.

12                  CHAIRPERSON HILL: Okay. Thank you.

13                  All right. Anyone else?

14                  (No response.)

15                  CHAIRPERSON HILL: Okay.

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

17                  MR. YOUNG: We do not.

18                  CHAIRPERSON HILL: Okay. All right. Okay.

19                  I'm sorry. This is not a particularly complicated  
20 thing in that the question I want to ask, but I want to ask the  
21 lawyers something. So if you all will bear with me I just want  
22 to have an emergency closed meeting real quick and I'm going to  
23 look for the language I'm supposed to read.

24                  (Pause.)

25                  CHAIRPERSON HILL: As Chairman of the Board of Zoning



1 Adjustment in the District of Columbia in accordance with Section  
2 405(c) of the Open Meetings Act, I move that the Board of Zoning  
3 Adjustment hold a closed meeting -- oh, wait, I got the wrong  
4 one.

5 (Pause.)

6 CHAIRPERSON HILL: Keara, do you want to send it all  
7 to me again. I think I'll find it but, oh, never mind. I got  
8 it, I got the first one. If you want to send the other thing  
9 I've got to read later, that would be great. All right.

10 As Chair for the Board of Zoning Adjustment in  
11 accordance with Section 407 of the District of Columbia  
12 Procedures Act, I move that the Board of Zoning Adjustment hold  
13 a closed emergency meeting on 2/5/2025 for the purposes of seeking  
14 legal counsel on Case 21216, deliberate but not decide on Case  
15 21216.

16 Is there a second? Ms. John?

17 (No response.)

18 CHAIRPERSON HILL: Is there a second? Mr. Blake?

19 COMMISSIONER BLAKE: Second.

20 CHAIRPERSON HILL: Motion made and seconded. Madam  
21 Secretary, can you take a roll call?

22 MS. MEHLERT: Please respond to the Chair's motion to  
23 hold an emergency closed meeting with OZ legal.

24 Chairman Hill?

25 CHAIRPERSON HILL: Yes.

1 MS. MEHLERT: Mr. Smith?

2 COMMISSIONER SMITH: Yes.

3 MS. MEHLERT: Mr. Blake?

4 COMMISSIONER BLAKE: Yes.

5 MS. MEHLERT: Commissioner Miller?

6 ZC VICE CHAIRPERSON MILLER: Yes.

7 MS. MEHLERT: Staff would record the vote as four to  
8 zero to one on the motion made by Chairman Hill and seconded by  
9 Mr. Blake to hold an emergency closed meeting.

10 CHAIRPERSON HILL: Thank you. See you all in a little  
11 bit. Okay?

12 (Whereupon, there was a recess for an emergency closed  
13 meeting with legal counsel.)

14 CHAIRPERSON HILL: Hello. Mr. Sullivan, are you there?

15 MR. SULLIVAN: Yes, I am, Mr. Chair.

16 CHAIRPERSON HILL: Okay. Great. Okay. Thank you all  
17 for your patience.

18 If you could do me a favor and go, so after hearing  
19 from the Office of Planning, if you could just please summarize  
20 why you believe your client is meeting the first prong, that's  
21 one thing. Then the other is could you then clarify for me the  
22 lot width relief or lot area relief for each of the three lots,  
23 like you're not asking for lot width relief for all of the lots,  
24 but if you could just clarify each lot and then those are the  
25 only questions I have for you.

1           MR. SULLIVAN: Okay. Thank you. Let me pull up the  
2 numbers here on the actual, I'm going to look up the latest self  
3 cert., form for the lots. It's three different self certs.

4           So the exceptional conditions are the shape, the shape  
5 of the properties principally and the fact that there's existing  
6 buildings, pre-58 buildings, it's pre-58 shape of the lot, and  
7 they're uniquely shaped in a way that restricts the quality of  
8 the redevelopment, no, no, I'm getting into the practical  
9 difficulty there.

10           And the, so the lot area for lot 28, 418 Franklin,  
11 yeah, existing conditions 1458, that lot will go to 1104 and 422  
12 Franklin is 1202 and that goes to 1104. And then 2804 5th is  
13 currently 1497 and that goes to 1950, and that width would be  
14 required to be 30 for a semi-detached is 28.27 and the width on  
15 the other two lots is unchanged but it's 16 feet for the two  
16 interior lots.

17           CHAIRPERSON HILL: Okay. Okay. Thanks for that  
18 clarification.

19           The, again that first prong, the thing that, you  
20 know -- I want to be clear that part of your argument is not  
21 trying to maximize the property or is not trying to maximize your  
22 development and I love that Mr. Lawrence is nodding his head.  
23 So, you know, that is not what you're saying, correct, Mr.  
24 Sullivan?

25           MR. SULLIVAN: Right. We're not saying, but it's the

1 quality of the development because it restricts the light, the  
2 sunlight into units, we get better units. We do get more units,  
3 I think that is part of the area variance argument. It's not a  
4 use variance. The Office of Planning has supported and the BZA  
5 has approved many cases where the test is not, well, the land is  
6 undevelopable if we don't get the relief. That's not the area  
7 variance test.

8 Office of Planning supported a case you'll hear later  
9 today for a deck for lot occupancy variance where the lot's  
10 already developed and it has nothing to do with whether or not  
11 it can be developed or not, but they supported that case based  
12 on, well, somebody wants a deck and they have a walk-out basement.

13 So compared to that I think this is the prototypical  
14 exceptional condition which has led to practical difficulties of  
15 the conflict that it's led to in the history of the lot, which  
16 will be solved, and it leads to the practical difficulty of a  
17 restricted lower quality development where you get less bedrooms.

18 CHAIRPERSON HILL: Okay. Okay. Okay. Right. Okay.

19 So I don't know if I necessarily agree with the last  
20 statement that you made, right, and that's what I don't want to  
21 get caught up in later and whether or not we did something before  
22 or whatever we did before, I just want to make sure I understand  
23 the argument of the first prong and it's not that you're trying  
24 to get a better development, and that's the thing that I'm trying  
25 to understand and I'm going to kind of, I guess, talk through

1 with some of my Board members. So that was one thing, and you  
2 can summarize if you like in a minute.

3 Go ahead, Ms. John. I can't hear you, Ms. John. You're  
4 on mute.

5 VICE CHAIRPERSON JOHN: So, Mr. Sullivan, please  
6 explain the difficulty of using that handle on the two interior  
7 lots because it's eight feet wide, what could you do with that?

8 MR. SULLIVAN: Nothing.

9 VICE CHAIRPERSON JOHN: Okay.

10 MR. SULLIVAN: Right. Yeah. We have idle land as a  
11 result of that. Not even for recreational purposes, as the  
12 architect testified to and I, on that point I think that's what  
13 the Office of Planning is saying as well. They stated in their  
14 report simply deciding what to do with the dog leg areas which  
15 could present unnecessarily privacy, security and maintenance  
16 concerns particularly to the future owners of the units on the  
17 three properties.

18 I'm happy to go with the Office of Planning's argument.  
19 Mr. Lawson said that argument's simpler than we made it out to  
20 be so if everything that we've said is just extra and the Office  
21 of Planning has a separate argument I'll go with that. I am this  
22 angle. Everything else we've mentioned is a practical difficulty  
23 and exceptional practical difficulty as well in line with other  
24 decisions, but in the end we do have their support and we have  
25 the support of the ANC on it as well. And I think it's quite

1 unique. I mean, the shape of this lot, which is what the Code  
2 mentions, when the Board has the ability to grant variance relief  
3 for an exceptional shape of a lot before 1958. That's exactly  
4 what this is.

5 CHAIRPERSON HILL: Okay, Mr. Sullivan. I'm going to  
6 stop you.

7 MR. SULLIVAN: Thanks.

8 CHAIRPERSON HILL: It's the shape of the lot. That's  
9 all I'm trying to get at, right, and again it's the Board that  
10 has to decide. I mean, I appreciate the Office of Planning, I  
11 appreciate the ANC and I appreciate everything you all do but at  
12 the end of the day we have to figure out whether we are  
13 comfortable with what we're deciding.

14 MR. SULLIVAN: But, I'm sorry, it's the shape along  
15 with the fact that there's existing buildings that would be  
16 difficult to demo, and if we changed it in any other way we'd be  
17 losing units --

18 VICE CHAIRPERSON JOHN: So the practical difficulty  
19 (indiscernible) --

20 MR. SULLIVAN: -- you know, the only way to make it  
21 conforming --

22 MS. BOONE: (Indiscernible) in ongoing litigation. So  
23 I went through that back, like this has caused actual litigation.

24 CHAIRPERSON HILL: Okay. That's right. The litigation  
25 isn't necessarily going to be part --

1 MS. BOONE: That's fair but I just want to remind you.

2 CHAIRPERSON HILL: Ms. Boone, I understand the \$100,000  
3 that you've spent. I understand that.

4 MS. BOONE: Thank you.

5 CHAIRPERSON HILL: I got you, okay?

6 Anybody else, because I have one more thing before we  
7 go. Okay. This is one more thing.

8 So, Mr. Sullivan, I would like to see one thing from  
9 you all. That, like, what is it? Okay. On your, and you can  
10 maybe, if you want to try to get it by the end of the day and if  
11 the Board wants to try to deliberate on this later, that rear  
12 alley access, can you remove that from the plans on page 3? Like,  
13 you don't have rear alley access and so what just makes me  
14 uncomfortable is the fact that, like, you know, those two interior  
15 lots --

16 MS. BOONE: Yes.

17 CHAIRPERSON HILL: -- now they're kind of stuck, right?

18 MS. BOONE: Yes.

19 CHAIRPERSON HILL: If you wanted to go ahead and try  
20 to write an easement for those two interior lots since you own  
21 all three lots --

22 MS. BOONE: Yes.

23 CHAIRPERSON HILL: -- you can go ahead and do that, but  
24 that's on you all. You just at least have to get rid of the fact  
25 that you don't actually have rear alley access --

1 MS. BOONE: And nice to have, but not a must have.

2 CHAIRPERSON HILL: -- (indiscernible). I'm getting  
3 thumbs up from the architect. So you all can do that to the  
4 drawings and that way we're not approving something that is not  
5 accurate.

6 MS. BOONE: Correct.

7 CHAIRPERSON HILL: Okay. I guess that's it. Anybody  
8 else from my Board?

9 (No response.)

10 CHAIRPERSON HILL: Okay. Would you all mind if they  
11 submit that by the end of the day and we can come back and  
12 deliberate at the end of the day? I'm looking at my Board  
13 members. Okay. Fine.

14 So, Mr. Lawrence, if you can go ahead and put that into  
15 the record and Ms. Mehlert, we're going to go ahead and allow  
16 them to put that into the record and then we're going to reopen  
17 this case. We're not closing it. It's open for this one item  
18 and then we're going to reopen it at the end of the day where we  
19 might end up deliberating and I'm doing that for making sure I'm  
20 being compliant with what we're supposed to do.

21 So you all don't need to come, you don't need to come  
22 back? Actually --

23 MS. BOONE: Sorry. I'm a newbie. Can you tell me what  
24 we're reopening for?

25 CHAIRPERSON HILL: It's okay, Ms. Boone. Give me one



1 second.

2 So, Ms. Mehlert, can I, or somebody, I just want to  
3 make sure I'm doing this right. Like, do I have to close this  
4 or can, I'm leaving it open for, and I love, Ms. John's going to  
5 help me.

6 Go ahead, Ms. John.

7 VICE CHAIRPERSON JOHN: Well, I was saying we could  
8 close the record except for this one thing and then at the end  
9 of the day we would deliberate. We would not be hearing any  
10 testimony and would deliberate and make a decision.

11 CHAIRPERSON HILL: Right. And, Ms. Mehlert and I can  
12 do that?

13 MS. MEHLERT: Yes. You can either close the record now  
14 except for the requested information and then deliberate later  
15 with no testimony or you can leave the record open and --

16 CHAIRPERSON HILL: Okay. I'll have a question for  
17 you --

18 MS. MEHLERT: -- no testimony.

19 CHAIRPERSON HILL: I'll have a question for you later,  
20 Ms. Mehlert. I just want to make sure I'm doing this right. So,  
21 Ms. Boone, I'll explain to you. One second.

22 So we need to have a full record the way it is before  
23 we deliberate --

24 MS. BOONE: Okay.

25 CHAIRPERSON HILL: -- and what I need to see is what,

1 | your architect is nodding and he knows what he's going to submit.  
2 | Okay? And so we're going to get that in the next hour, Mr.  
3 | Lawrence? Okay. So then what we'll do is we're going to close  
4 | the record except for that one item and then we'll come back at  
5 | the end of the day and deliberate. So, I'm going to  
6 | (indiscernible).

7 | MS. BOONE: Okay.

8 | CHAIRPERSON HILL: Go ahead, Ms. John.

9 | VICE CHAIRPERSON JOHN: Is the alley access on the site  
10 | plan?

11 | MS. BOONE: Yes. Oh, sorry, you're talking to the  
12 | architect.

13 | VICE CHAIRPERSON JOHN: The official -- Mr. Lawrence,  
14 | the official site plan in the record, is it also recorded there?

15 | MR. LAWRENCE: Yes. We're going to, in our site plan  
16 | we're showing access to the alley and I understand that we are  
17 | going to remove that illustration from our site plan.

18 | VICE CHAIRPERSON JOHN: Right. Not just the  
19 | presentation but the site plan?

20 | MR. LAWRENCE: Yes. We can do both.

21 | VICE CHAIRPERSON JOHN: Okay.

22 | ASSISTANT TO MR. LAWRENCE: It's the existing site  
23 | plan, not the proposed. Just to clarify.

24 | MS. BOONE: I'm sorry, can she repeat?

25 | MR. LAWRENCE: Well, we were saying it's shown on the

1 existing site plan but not the proposed site plan.

2 VICE CHAIRPERSON JOHN: But it can't be on the proposed  
3 site plan. That's what I'm (indiscernible).

4 MR. LAWRENCE: Yes. And I don't think it is, but I'm  
5 verifying.

6 VICE CHAIRPERSON JOHN: Okay.

7 MR. LAWRENCE: Bear with me. Yeah. Currently we are  
8 not showing alley access on the proposed site plan.

9 MS. BOONE: Just to be clear can we reference whatever  
10 slide you're talking to? I'm a little confused.

11 COMMISSIONER SMITH: What he's referencing, Mr.  
12 Lawrence, is page 15 of the --

13 MR. LAWRENCE: Can someone share --

14 COMMISSIONER SMITH: -- architectural plans.

15 MS. BOONE: Yeah. Can we show it on the screen?

16 MR. LAWRENCE: Someone share the screen? I just want  
17 to make sure I'm correcting the right drawing too.

18 VICE CHAIRPERSON JOHN: Can we go first to the proposed  
19 site plan which is what you have certified to in the record, not  
20 the presentation?

21 CHAIRPERSON HILL: Where's the proposed site plan, Mr.  
22 Lawrence? Do you have it in your record?

23 MS. BOONE: For what?

24 MR. SULLIVAN: 31B should be.

25 CHAIRPERSON HILL: Ms. Boone, give me one second.

1           MR. SULLIVAN: Exhibit 31B. It's page 3 I think is  
2 what we're talking about of Exhibit 31B; is that correct? It  
3 says shared alley access and we're going to remove that and if  
4 it's on any other drawing.

5           MR. LAWRENCE: Well, I'd like to see what they're  
6 looking at and I can't. Can someone please --

7           MR. SULLIVAN: I'll show you. Yeah, it's just Exhibit  
8 31B. We can't share so, but it's page 3 of the architecturals  
9 that we filed last week. And we can --

10          ASSISTANT TO MR. LAWRENCE: And that's the existing  
11 site plan, not the proposed.

12          CHAIRPERSON HILL: Who's speaking?

13          MR. LAWRENCE: Sorry. Yeah, you can't. Sorry, that  
14 was my assistant is helping.

15                 This drawing is the existing site plan. This drawing  
16 is not the proposed site plan. This drawing only shows the access  
17 that is currently utilized by all neighbors and property owners.  
18 So we're not, that's an existing condition. Our site plan, I  
19 believe, does not show alley access but --

20          MR. SULLIVAN: Page 10.

21          MR. LAWRENCE: Page 10.

22          MR. SULLIVAN: Of that exhibit. Right. It doesn't  
23 have the access.

24          MS. BOONE: It shows, yes.

25          MR. SULLIVAN: So --

1 MS. BOONE: Just there. Uh-huh. And this is proposed.

2 MR. SULLIVAN: But we can take it off the existing if  
3 that's clearer (phonetic).

4 MS. BOONE: Correct. Correct.

5 CHAIRPERSON HILL: Okay. Let's just, go ahead, Ms.  
6 John.

7 VICE CHAIRPERSON JOHN: Yeah, it's just the proposed.  
8 This is what you're going to build to.

9 MR. LAWRENCE: This does not show access to the alley.

10 VICE CHAIRPERSON JOHN: Okay.

11 MS. BOONE: But that is the current state of me. So I  
12 walk out now and that's the way that I put out the rubbish.

13 COMMISSIONER SMITH: But you don't own it now, so let's  
14 move on from that.

15 CHAIRPERSON HILL: Okay. Mr. Sullivan, can you hear  
16 me? You know what we're trying to do, correct?

17 MR. SULLIVAN: Yes.

18 CHAIRPERSON HILL: Okay.

19 MR. SULLIVAN: I do.

20 CHAIRPERSON HILL: Why don't you talk to your  
21 architect. Why don't you get something submitted and if it's not  
22 what we want to see by the end of the day we won't be voting,  
23 and so I think you know, Mr. Sullivan, what we're trying to do.  
24 Okay? All right.

25 So I'm going to go ahead and close the hearing and the

1 record except for the information that the Board has asked for.  
2 Unless, Mr. Sullivan, you have anything you'd like to add?

3 MR. SULLIVAN: No, thank you.

4 CHAIRPERSON HILL: Okay. Great.

5 So I'm going to close the hearing and the record. We'll  
6 come back at the end of the day after we've had a chance to see  
7 what the Applicant has put forward and if it satisfies the  
8 question that the Board has asked for.

9 Okay. Thank you, guys.

10 (Pause.)

11 CHAIRPERSON HILL: Okay. You all, that took way longer  
12 than I thought. So let's take a break and we'll come back in 15  
13 minutes. Okay? Thank you.

14 (Whereupon, there was a brief recess.)

15 CHAIRPERSON HILL: Okay. We are back. Madam Secretary,  
16 would you like to call us back and call our next case?

17 MS. MEHLERT: After a quick recess the Board is  
18 returning to its hearing session. The next case is Application  
19 No. 21218 of BORS Properties, LLC. This is a self-certified  
20 application pursuant to Subtitle X, Section 901.2 for a special  
21 exception under Subtitle C, Section 703.2 from the minimum  
22 vehicle parking requirements of Subtitle C, Section 701.5. This  
23 is for a new nine unit apartment house in a two-story semi-  
24 detached building located in the MU-3A zone at 3319 12th Street,  
25 Northeast, Square 3930, Lot 29, and as a preliminary matter the

1 Applicant has submitted a motion to waive the filing deadline for  
2 corrected plans and self-certification form.

3 CHAIRPERSON HILL: Okay. Thank you.

4 If the Applicant can hear me, if they could please  
5 introduce themselves for the record.

6 MS. WILSON: Hi. Alex Wilson from Sullivan & Barros  
7 on behalf of the Applicant in this case, and Mr. Peovski is the  
8 Applicant if there are any questions for him.

9 CHAIRPERSON HILL: Okay. Great. Thank you.

10 If the Board doesn't have a problem I'm going to go  
11 ahead and waive the filing requirement and go ahead and put that  
12 into the record, Ms. Mehlert, because I'd like to take a look at  
13 what those items are. Let's see.

14 All right. Ms. Wilson, if you want to go ahead and  
15 walk us through your client's application and why you believe  
16 they're meeting the criteria for us to grant the relief requested.  
17 I'm going to put 15 minutes on the clock so I know where we are  
18 and you can begin whenever you like.

19 MS. WILSON: Great. Thank you so much. I'm also here  
20 with Mr. Dave Bloom who is the project architect. Mr. Young,  
21 could you please pull up the presentation. Thank you.

22 The property is located at 3319 12th Street, Northeast.  
23 Next slide, please.

24 It's located in the MU-3A zone and the proposal is to  
25 construct a new residential apartment building with nine units.

1 The building envelope is within the by-right limits, however  
2 there is no alley access nor curb cut approval. There is an  
3 existing curb cut leading to what is a driveway on the side or  
4 in front and it's an illegal parking space. So this must be  
5 closed off for DDOT. Accordingly, the proposal requires parking  
6 relief as no parking can be provided for only one space.

7 The Office of Planning is recommending approval. DDOT  
8 has no objection. In terms of neighbor outreach in addition to  
9 the original notice by the Office of Zoning, the Applicant sent  
10 out notices and packages directly to the three abutting neighbors  
11 and then, again, about two or three weeks before the hearing sent  
12 out a second round of notices, again to the adjacent neighbors  
13 and also to those included within 200 feet which includes about  
14 22 houses soliciting feedback, providing all of the project  
15 information and our contact information and we haven't heard  
16 anything from any of these neighbors.

17 And then in terms of the ANC outreach, we emailed the  
18 previous SMD and ANC numerous times before the elections with no  
19 response. Thankfully once the new SMD was elected, he responded  
20 very quickly so we thank him. We met with him and he has submitted  
21 a letter in support acknowledging, you know, the attempts at our  
22 community outreach, the proximity to the metro and how the  
23 proposal aligns with the housing and transportation goals in the  
24 community. Next slide, please.

25 This is a photo showing the existing property and the



1 | curb cuts. So we are required to close that curb cut and the  
2 | policy is because the curb cut occupies at least two on-street  
3 | parking spaces, removing it will actually lead to an increase in  
4 | parking overall because it can only ever lead to one space. Next  
5 | slide, please.

6 |           This just shows the proximity to the Brookland metro.  
7 | It's only three tenths of a mile, about a six minute walk. It's  
8 | in a great location with respect to public transportation. There  
9 | are a number of bus stops nearby and near the Brookland metro on  
10 | Michigan Avenue. It's also about six blocks to Rhode Island  
11 | Avenue which has a number of bus stops as well and the Rhode  
12 | Island metro, and there are other amenities nearby including  
13 | grocery stores and smaller markets and restaurants in the  
14 | immediate area. Next slide, please.

15 |           In terms of the general special exception requirements,  
16 | the use itself and the proposed building bulk and density is  
17 | permitted as a matter-of-right in the MU-3 zone. As the property  
18 | is located close to amenities such as grocery stores,  
19 | restaurants, shops and the metro, it is anticipated that future  
20 | residents are unlikely to have cars and that is consistent too  
21 | with the size of the units. It's a mix of one bedroom and two  
22 | bedroom units and we would expect these units to attract single  
23 | people, couples or smaller families that would not require a car  
24 | for everyday life. Next slide, please.

25 |           In terms of the zoning criteria for approval, the

1 Applicant is only required to approve one of these but we picked  
2 all that would safely apply. As noted, the property lacks alley  
3 access and DDOT noted in its report that it has not permitted a  
4 curb cut for just one space. The property is well served by  
5 mass transit including the Brookland metro. The property is well  
6 served by transportation and is walking distance to amenities.  
7 It has a walk square of 90 and is considered a walker's paradise  
8 and the reduction in the required number of parking spaces, the  
9 one space, is only for the amount the Applicant is physically  
10 unable to provide as there is no alley access and we cannot  
11 physically get parking on-site.

12           Regarding demand for parking, the Applicant anticipates  
13 that the transportation characteristics, amenities in the  
14 neighborhood and size of the units will likely attract residents  
15 without cars. Next slide, please.

16           Thank you. We do have the plans and plats and the  
17 architect -- Dave, would you just briefly walk through the  
18 project and give a sense of what's being proposed here?

19           MR. BLOOM: Sure.

20           This is for a multi-family building, nine units. It's  
21 two-stories with a cellar and penthouse. You can see the site  
22 plan here. It's aligned with the southern edge of the property.  
23 Next slide, please.

24           This is just another copy of the site plan. We can go  
25 ahead one slide.

1           This is the cellar plan. There's three units here.  
2 Access to each of these units is from the side yard which is plan  
3 north here through exterior doors to each of the three units.  
4 Next slide.

5           First floor has a similar layout with three units,  
6 access doors along the northern edge to each of the units. Next  
7 slide.

8           Second floor has three units. They have a common  
9 corridor leading from the front of the building up a flight of  
10 stairs to the second floor.

11           CHAIRPERSON HILL: Mr. Bloom, can I interrupt you?

12           MR. BLOOM: Sure.

13           CHAIRPERSON HILL: Ms. Wilson, these are all just the  
14 plans, right, for the remainder of your presentation?

15           MS. WILSON: Correct, yeah, just to get a sense. We  
16 can go ahead and just answer any questions.

17           CHAIRPERSON HILL: No, no. I'm just saying I'm just  
18 flipping through your slide deck. So, okay, Mr. Bloom, I'm going  
19 to go ahead and let, we've kind of had a longer morning than I  
20 thought, so I'm going to see, kind of work through the application  
21 and see where my Board may or may not have questions and if they  
22 have questions concerning the plans, we'll bring the plans back.  
23 Mr. Young, if you can go ahead and drop the slide deck, please.

24           May I go ahead and hear from the Office of Planning,  
25 please?

1 MR. BARRON: Good afternoon, Commissioners. For the  
2 record my name is Ron Barron, Development Review Specialist with  
3 the D.C. Office of Planning.

4 The Office of Planning recommends approval of the  
5 requested special exception relief from the minimum vehicle  
6 parking requirements in the MU-3A zone. Approval of the requested  
7 special exception relief would be in harmony with the general  
8 purpose and intent of the zone and would be unlikely to adversely  
9 affect the neighboring properties.

10 I am happy to rest on our report submitted into the  
11 record and available to answer any questions you might have.

12 CHAIRPERSON HILL: Great. Thank you.

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

15 (No response.)

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

18 MR. YOUNG: Yes. We have two witnesses signed up.

19 CHAIRPERSON HILL: Okay. Great.

20 Could you introduce them and tell me their names,  
21 please?

22 MR. YOUNG: Sure. Chirag Patel and Harold Herndon is  
23 calling in by phone.

24 CHAIRPERSON HILL: Okay.

25 Mr. Patel, can you hear me?

1 MS. WILSON: He's with the development team. I just  
2 wanted to note that. He may have been signed up.  
3 CHAIRPERSON HILL: Oh. So he's not a witness?  
4 MS. WILSON: Correct.  
5 CHAIRPERSON HILL: Okay. Mr. Patel, can you hear me?  
6 MR. PATEL: Yes, I can hear you.  
7 CHAIRPERSON HILL: For the record, you're just signed  
8 up as part of the development team, correct?  
9 MR. PATEL: Correct.  
10 CHAIRPERSON HILL: Okay. Great. Mr. Young, who was  
11 the other name? I'm sorry, Mr. [Turndon]?  
12 MR. YOUNG: Harold Herndon.  
13 CHAIRPERSON HILL: Okay. Mr. Herndon, can you hear me?  
14 (Pause.)  
15 CHAIRPERSON HILL: Mr. Herndon, can you hear me?  
16 (Pause.)  
17 CHAIRPERSON HILL: Mr. Young, do you know what he pushes  
18 to unmute himself?  
19 MR. YOUNG: I believe it's star 6.  
20 CHAIRPERSON HILL: Mr. Herndon, can you hit star 6?  
21 MR. HERNDON: Can you hear me now?  
22 CHAIRPERSON HILL: Yes, yes. Can you hear me?  
23 MR. HERNDON: Yes. I'm Harold Herndon H-E-R-N-D-O-N.  
24 CHAIRPERSON HILL: Okay. Mr. Herndon --  
25 MR. HERNDON: Property owner.

1 CHAIRPERSON HILL: -- where are you?

2 MR. HERNDON: Yes. I'm property owner at 3321 12th  
3 Street, next door to the where the property is. It's a detached  
4 home corner property.

5 CHAIRPERSON HILL: Okay. Mr. Herndon, you'll have  
6 three minutes to give your testimony and you can begin whenever  
7 you like.

8 MR. HERNDON: Yes. The parking is the issue.

9 You're building not one building, you're building three  
10 is my understanding of the same. You've already started one and  
11 this will be the second, the second one. So we're talking about  
12 27 plus units plus the townhouse on the top. So parking is the  
13 issue. There is no alley which is correct about that and the  
14 light and air, as I have windows on all four sides of my building.  
15 This is going to block, definitely going to block my view and  
16 air and those are my concerns.

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

18 Let me just take a look at where you're located. Okay.

19 MR. HERNDON: Right now there's a line that's on, that's  
20 put up there on the property now, so I need to get a survey done  
21 (indiscernible) a ladder or a fence.

22 CHAIRPERSON HILL: Mr. Herndon --

23 MR. HERNDON: (Indiscernible).

24 CHAIRPERSON HILL: -- do you have contact with the  
25 Applicant?

1 MR. HERNDON: No.

2 CHAIRPERSON HILL: Ms. Wilson, do you know who Mr.  
3 Herndon is?

4 MS. WILSON: Could we get his information from the  
5 Office of Zoning (audio interference)?

6 CHAIRPERSON HILL: Ms. Mehlert, Ms. Mehlert, is it  
7 possible to get the information of Mr. Herndon to the Applicant?

8 MS. MEHLERT: We'll share ours with him.

9 MR. HERNDON: Pardon me?

10 CHAIRPERSON HILL: One second, Mr. Herndon. I'm just  
11 trying to see --

12 MR. HERNDON: Okay.

13 CHAIRPERSON HILL: -- how we can get your information  
14 to the Applicant.

15 MR. HERNDON: Yes.

16 MS. MEHLERT: We should be able to do that.

17 MS. WILSON: Thank you.

18 CHAIRPERSON HILL: Mr. Herndon, I'm going to put you  
19 in touch with the Applicant, okay?

20 MR. HERNDON: Sure. Uh-huh.

21 CHAIRPERSON HILL: Regardless of how this goes, you're  
22 the immediate neighbor and so they should be working with you and  
23 being in contact with you, and I'm going to talk about why that  
24 hasn't happened yet.

25 MR. HERNDON: Yes.

1 CHAIRPERSON HILL: You can go ahead and they're also,  
2 if you want to reach out to the Office of Zoning which is whom  
3 you originally called --

4 MR. HERNDON: Uh-huh.

5 CHAIRPERSON HILL: -- they can help you get the  
6 information for the Applicant. Okay?

7 MR. HERNDON: Right now she said someone will be  
8 contacting me first?

9 CHAIRPERSON HILL: Yeah. Somebody will contact you to  
10 give you their information and also we will give them your  
11 information so you two can communicate.

12 MR. HERNDON: All right. Okay.

13 CHAIRPERSON HILL: Okay?

14 MR. HERNDON: And, all right, and do you have a number,  
15 you said I should contact the Office of Zoning or?

16 CHAIRPERSON HILL: Yeah. The number that you called,  
17 how did you get -- do you have a pen?

18 MR. HERNDON: Yes, uh-huh.

19 CHAIRPERSON HILL: Okay. It's 202 --

20 MR. HERNDON: Okay.

21 CHAIRPERSON HILL: -- 727 --

22 MR. HERNDON: Uh-huh.

23 CHAIRPERSON HILL: -- 5471.

24 MR. HERNDON: 5471. Yes.

25 CHAIRPERSON HILL: Okay?



1 MR. HERNDON: Yes. All right. So parking is a big  
2 issue there and it's an issue now, and we're talking about 27  
3 more units plus penthouses. Yeah.

4 CHAIRPERSON HILL: Okay.

5 MR. HERNDON: That's really a problem.

6 CHAIRPERSON HILL: Mr. Herndon, we'll go ahead and,  
7 like, we'll go ahead and try to walk through this application.  
8 The thing is they're supposed to provide one parking space so  
9 they're just trying to get relief from one parking space.

10 MR. HERNDON: Well, there's no parking there. There's  
11 only one parking space there.

12 CHAIRPERSON HILL: Yeah, and that's --

13 MR. HERNDON: So that would be taking, I, would be  
14 taking my space away then.

15 CHAIRPERSON HILL: Your space?

16 MR. HERNDON: I mean, there's only one parking space  
17 in front there.

18 CHAIRPERSON HILL: Okay. Can you give me your address  
19 again, please, sir?

20 MR. HERNDON: 3321 12th Street.

21 CHAIRPERSON HILL: Okay. Okay. Does anybody have any  
22 questions of the witness?

23 (No response.)

24 CHAIRPERSON HILL: Okay. Mr. Herndon, I'm going to go  
25 ahead and excuse you and if we need you back we have your phone

1 number, okay?

2 MR. HERNDON: All right. All right. Thank you.

3 CHAIRPERSON HILL: Thank you, sir.

4 MR. HERNDON: Uh-huh. Right, bye.

5 CHAIRPERSON HILL: Bye bye.

6 Ms. Wilson, did you guys reach out to this neighbor?

7 MS. WILSON: Yes. We sent two notices. I can, I'll  
8 defer to Mr. Peovski about any attempts at in-person outreach,  
9 but we sent two separate notices with all of our contact  
10 information, the plans, the time of the hearing. Trying to think  
11 if there's anything else. But, so he's received or should (audio  
12 interference).

13 CHAIRPERSON HILL: Mr. Peovski, can you hear me?

14 MR. PEOVSKI: Yes, I can hear you.

15 CHAIRPERSON HILL: Could you introduce yourself for the  
16 record, please, sir?

17 MR. PEOVSKI: Sure. My name is Bojan Peovski. I'm one  
18 of the owners.

19 CHAIRPERSON HILL: Okay. Did you reach out to the  
20 neighbor next door?

21 MR. PEOVSKI: We sent very detailed packages with  
22 certified mail twice direct to the immediate neighbors and to  
23 actually 22 other households and we provided full contact  
24 information, email, phone number. There's a letterhead attached,  
25 a copy of the plans and so forth and I never heard from anyone

1 in fact, not just Mr. Harold.

2 CHAIRPERSON HILL: Okay. But you never knocked on  
3 their door?

4 MR. PEOVSKI: This was a couple of months ago so I  
5 don't recall necessarily knocking on somebody's door specifically  
6 but that's why we made attempts via mail with full contact  
7 information twice, right, to make sure they at least have our  
8 contact info to reach out.

9 CHAIRPERSON HILL: Okay. Ms. Wilson, can you explain  
10 to me what happened at the ANC, please?

11 MS. WILSON: Sure.

12 We reached out to the ANC probably five or six times  
13 in 2024 and then after the new commissioners were elected we  
14 reached out again and so we got in touch with the SMD. It was  
15 too late to go to the full ANC, so then he just did the SMD letter  
16 which is in the record.

17 CHAIRPERSON HILL: That's 5B03?

18 MS. WILSON: Yes. And --

19 CHAIRPERSON HILL: This project is in 5B03?

20 MS. WILSON: Correct, yes. And I'll just, I'll note  
21 for the record that we are maintaining a setback on the side  
22 closest to the adjacent neighbor.

23 MR. BLOOM: And just to add to that, the existing or  
24 the previous house that stood there had an eight foot setback and  
25 we're proposing a nine foot setback.

1 CHAIRPERSON HILL: Okay.

2 MS. WILSON: And also two stories, just for the record.

3 CHAIRPERSON HILL: Yeah. My only disappointment is  
4 that the next door neighbor says that they did, hadn't actually  
5 spoken with the Applicant yet. Does anybody have any questions  
6 of anyone?

7 (No response.)

8 CHAIRPERSON HILL: Okay.

9 Ms. Wilson, you want to add anything at the end?

10 MS. WILSON: No. Thank you.

11 CHAIRPERSON HILL: Okay. All right. I'm going to  
12 close the hearing and the record. Oh, before I leave.

13 Ms. Wilson, so can you hear me?

14 MS. WILSON: Yes.

15 CHAIRPERSON HILL: Please make sure the Applicant  
16 reaches out to the next door neighbor.

17 MS. WILSON: Absolutely. We'll get his contact  
18 information and I'll exchange that.

19 CHAIRPERSON HILL: And, Mr. Miller, I see you. One  
20 second. And then make sure that, like, the Applicant, Mr.  
21 Peovski, can you hear me?

22 MR. PEOVSKI: Yes, yes.

23 CHAIRPERSON HILL: Would you pronounce your name for  
24 me?

25 MR. PEOVSKI: It's pronounced [Boyan], the first name.

1 The J is pronounced as a Y.

2 CHAIRPERSON HILL: What's your last name, sir?

3 MR. PEOVSKI: Peovski.

4 CHAIRPERSON HILL: Peovski.

5 MR. PEOVSKI: Yes.

6 CHAIRPERSON HILL: Mr. Peovski, so my only, I shouldn't  
7 say this but please reach out to your neighbor and let your  
8 neighbor know what's going on and let your neighbor know the time  
9 of, like, if this is to move forward, the time of construction,  
10 what the plan is and when they may or may not be disturbed. Okay?

11 MR. PEOVSKI: Absolutely. I'll do that. I'll knock  
12 on their door this week again, and I'm going to leave a mailer  
13 as well on the door with my contact information info.

14 CHAIRPERSON HILL: Okay. So that you can communicate  
15 with the neighbor to know what's going on. Okay?

16 MR. PEOVSKI: Absolutely. Yeah, and by the way just  
17 the fact we do have a full communication with the neighbor to  
18 the right. So they're fully aware of what's going on. But not,  
19 this neighbor I wasn't able to reach out, so I just wanted to  
20 add that.

21 CHAIRPERSON HILL: Okay. Thank you.

22 Commissioner Miller, you had your hand up?

23 (Pause.)

24 CHAIRPERSON HILL: You're on mute, Commissioner Miller.

25 ZC VICE CHAIRPERSON MILLER: Thank you, Mr. Chairman.

1                   Yes. Two quick questions just out of curiosity. I  
2 saw, for Ms. Wilson, there's a, the Applicant will be paying a  
3 fee into the Housing Production Trust Fund to satisfy the  
4 penthouse inclusionary zoning requirement. Do you happen to know  
5 what the approximate dollar amount of that is?

6                   MS. WILSON: I don't, and I could not calculate that  
7 off the top of my head because it's very complicated.

8                   MR. PEOVSKI: We do have a, we do have a copy of the  
9 penthouse addendum. It's \$37,000 roughly.

10                  MS. WILSON: Perfect. We do.

11                  ZC VICE CHAIRPERSON MILLER: Okay. Thank you very much  
12 for that.

13                  And, Mr., was that Mr. Peovski who just said that?

14                  MR. PEOVSKI: Yes.

15                  ZC VICE CHAIRPERSON MILLER: Yes, thank you. Thank you  
16 for that, Mr. Peovski.

17                  Just also out of curiosity, there was a reference by  
18 the neighbor to two other apartment buildings having been built  
19 in that immediate neighborhood. Are you, were you the Applicant  
20 for either of those?

21                  MR. PEOVSKI: We, on one of them, yes, but I'm not sure  
22 what other developments he's referring to because obviously  
23 there's a lot of other developments on the street. We do have  
24 another project on 12th Street. So I'm not sure what assumption  
25 he's making as far as all the other projects, yeah.

1                   ZC VICE CHAIRPERSON MILLER:     Okay.     It's not  
2 necessarily relevant to the issue.

3                   MR. PEOVSKI:   Yes.

4                   ZC VICE CHAIRPERSON MILLER:   I just wanted to know  
5 that. Thank you very much.

6                   MR. PEOVSKI:   Of course. Thank you. Thank you, Mr.  
7 Miller.

8                   CHAIRPERSON HILL:   Okay. Thank you.

9                   All right. Okay. I'm going to go ahead and close the  
10 hearing and the record. Thank you all.

11                   (Pause.)

12                   CHAIRPERSON HILL:   Okay.

13                   Again, with regard to the parking relief and them  
14 meeting enough of the criteria under C-703.2, I think that they  
15 are meeting enough of the criteria for us, for me, to feel  
16 comfortable reducing the parking space requirement by one. I  
17 think that the one spot in this particular case, given where this  
18 property is going to be located and how close it is to public  
19 transportation, I don't have an issue with the relief that's  
20 being requested as the relief that's being requested is the  
21 parking relief.

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

23                   COMMISSIONER SMITH:   No. I agree with your assessment  
24 of this case given its location close to the Brookland metro  
25 station and along multiple bus lines there. So I'm fairly

1 comfortable with the request for parking relief and I have no  
2 other comments. So I'll support.

3 CHAIRPERSON HILL: Thank you.

4 Mr. Blake?

5 COMMISSIONER BLAKE: Yes, Mr. Chair.

6 I'm in support of the application as well. I would  
7 note DDOT has no objection to it. I do think that the ANC 5B I  
8 would love to have a report from them. I do think though we can  
9 make the decision I think on this without that given the fact  
10 that the project itself is within matter-of-right with the  
11 exception of this parking relief that's being requested, and I  
12 certainly do think that given the proximity to the metro, et  
13 cetera, this does meet the criteria for that.

14 I also, I'm disappointed that the Applicant hadn't had  
15 a dialog, well, had made attempts but hadn't had an effective  
16 dialog with the neighbor and I wish that that would take place.  
17 That said, again, I'm in support of the application.

18 CHAIRPERSON HILL: Thank you.

19 Vice Chair John?

20 VICE CHAIRPERSON JOHN: Thank you, Mr. Chairman.

21 I agree with the comments so far and am in support of  
22 the application.

23 CHAIRPERSON HILL: Thank you.

24 Commissioner Miller?

25 ZC VICE CHAIRPERSON MILLER: Yes. Thank you, Mr.



1 Chairman.

2 Yes, I agree with the comments of our colleagues.

3 CHAIRPERSON HILL: Thank you.

4 All right. I'm going to go ahead and make a motion to  
5 approve Application No. 21218 as captioned and read by the  
6 secretary, and ask for a second. Ms. John?

7 VICE CHAIRPERSON JOHN: Second.

8 CHAIRPERSON HILL: The motion is made and seconded.  
9 Madam Secretary, if you would take a roll call, please?

10 MS. MEHLERT: Please respond to the Chair's motion to  
11 approve the application.

12 Chairman Hill?

13 CHAIRPERSON HILL: Yes.

14 MS. MEHLERT: Vice Chair John?

15 VICE CHAIRPERSON JOHN: Yes.

16 MS. MEHLERT: Mr. Smith?

17 COMMISSIONER SMITH: Yes.

18 MS. MEHLERT: Mr. Blake?

19 COMMISSIONER BLAKE: Yes.

20 MS. MEHLERT: Commissioner Miller?

21 ZC VICE CHAIRPERSON MILLER: Yes.

22 MS. MEHLERT: Staff would record the vote as five to  
23 zero to zero to approve Application 21218 on the motion made by  
24 Chairman Hill and seconded by Vice Chair John.

25 CHAIRPERSON HILL: Okay. Great. Thank you.

1           Madam Secretary, you may call our next one when you get  
2 an opportunity. you tube 2 14 12

3           MS. MEHLERT: Next is Application No. 21222 of Esther  
4 Kahng and Corey Martin. This is an application pursuant to  
5 Subtitle X, Section 901.2 for a special exception under Subtitle  
6 D, Section 5201 from the rear yard requirements of Subtitle D,  
7 Section 207.1 and pursuant to Subtitle X, Section 1002 for an  
8 area variance from the lot occupancy requirements of Subtitle D,  
9 Section 210.1. This is for a rear deck addition to an existing  
10 attached principal dwelling located in the R3 zone at 5001 4th  
11 Street, Northwest, Square 3302, Lot 21.

12           CHAIRPERSON HILL: Great. Thank you.

13           If the Applicant can hear me, if you could please  
14 introduce yourself for the record.

15           MR. MARTIN: Yes. My name is Corey Martin.

16           CHAIRPERSON HILL: Okay, Mr. Martin.

17           Mr. Martin, if you want to go ahead and walk us through  
18 your application and why you believe you're meeting the criteria  
19 for the special exception and the area variance request. I know  
20 that you're not a land use attorney, or maybe you are, but you  
21 can go ahead and walk us through and we will see where we get,  
22 and you may begin whenever you like. I've put 15 minutes on the  
23 clock just so I know where we are.

24           MR. MARTIN: Sure.

25           It shouldn't take that long. I have a presentation

1 that I shared. It's not nearly as professional as some of the  
2 other ones you've seen. I don't think it's a requirement to see  
3 it. It just has some images of --

4 CHAIRPERSON HILL: No, that's great.

5 MR. MARTIN: -- (indiscernible). Oh, beautiful. Okay?

6 CHAIRPERSON HILL: (Indiscernible) pulled it up  
7 already.

8 MR. MARTIN: So I'm not a land use attorney but maybe  
9 one day we'll see. After this process I feel like I've learned  
10 a lot.

11 Anyway, this is where we live 5001 4th Street,  
12 Northwest. ANC 4D is I believe the designation. If we can go  
13 to the next one, next slide.

14 So this is a picture of the current space. It is right  
15 behind our house. I apologize, there's a, you can't see the  
16 parking pad below the fence but you can see the stairs and the  
17 landing coming up the side of the back of the house. If you can  
18 go to the next slide.

19 This is the proposed deck that we would like to build,  
20 or at least a pencil drawing of it and I don't have these points  
21 written and I apologize, but we are requesting relief from the  
22 lot occupancy limit and the rear setback limit. Would it be  
23 helpful to say more about that or is that adequate? I apologize.  
24 I'm not familiar with the procedures here.

25 CHAIRPERSON HILL: That's all right, Mr. Martin. Go

1 ahead and just give us what kind of presentation you'd like to --

2 MR. MARTIN: Sure. Okay.

3 CHAIRPERSON HILL: -- and we may or may not have  
4 questions for you and we'll also hear from the Office of Planning.

5 MR. MARTIN: Perfect. Thank you.

6 So you can go to the next slide for me. Great.

7 So we need relief for the lot occupancy to build any  
8 additional structure. The current building is over the lot  
9 occupancy limit so in order to add anything we would need relief.  
10 On the, I believe it's Exhibit 11B we had notes come back from  
11 one of the officers that detailed the current lot space and the  
12 minimum required lot space and our lot is actually undersized.  
13 It's under the minimum requirement for the lot size space which  
14 is part of the reason that our current house is actually over  
15 the lot occupancy limit.

16 We think adding a deck will fit with the current  
17 aesthetic. As you can see in this picture going all the way down  
18 the alley there are a number of decks, a number of fences as  
19 well. The relief we're applying for I don't believe is  
20 exceptional. There are several decks, I believe four, that take  
21 up, ostensibly take up more lot occupancy. I didn't measure or  
22 run the calculations but you'll see some pictures in a second,  
23 they're quite large and then many actually leave less setback  
24 than what we're requesting.

25 The proposed deck would leave I believe nine feet of a

1 setback. The requirement is 20. As you'll see in the pictures  
2 in a second, many of the structures in addition to occupying more  
3 lot occupancy, leave virtually no setback. So I don't think the  
4 relief we're applying for is exceptional.

5           Currently the space is only used for a parking space  
6 with some exceptional components to the grade and what the space  
7 does now. But in effect we'll be doubling the use of that space.  
8 We'll keep the parking space and then add a deck over the top  
9 and allow us, you know, to use that space as kind of, like,  
10 functional space to enjoy. And this is an amenity that a lot of  
11 the neighbors already enjoy, both in our alley and in the alley  
12 across the street.

13           I presented to our ANC on the 15th of January and they  
14 voted to support. I believe they were going to write a letter  
15 but I don't know if that actually came into existence.

16           CHAIRPERSON HILL: We have their feedback.

17           MR. MARTIN: Okay. Great. You can go ahead, I believe  
18 I have just two, maybe three more slides.

19           So this is a picture from the north end of the alley.  
20 As you can see the first three decks are significantly, they  
21 cover more lot occupancy and they leave far less setback. You  
22 can see the first, I think was a garage, that goes within just a  
23 few feet of the alley. The next one has a deck that's quite  
24 large and addition of privacy fence which actually extends up to  
25 that alley itself. It's virtually no setback, and the third deck

1 | you can see is even larger as the deck extends basically to the  
2 | alley itself. I'm sure that covers more lot occupancy. And then  
3 | I think just one more slide. It's just more of the same.

4 |           If you go to the next slide you can see the sizing  
5 | example of one of several that are actually enclosed spaces where  
6 | the deck we're proposing is not enclosed. I believe there's one  
7 | more slide but I don't think it's actually that useful, so yeah.

8 |           It's just a view from the whole of the alley. You can  
9 | see a lot of places have decks. Many of them are larger than  
10 | the one we're proposing and most of them in fact have less setback  
11 | than the one we're proposing.

12 |           I believe that's it for my presentation. So I welcome  
13 | any questions or feedback.

14 |           CHAIRPERSON HILL: Okay. Thank you.

15 |           Let me hear from the Office of Planning first and then  
16 | we'll take questions from the Board.

17 |           MR. LAWSON: Good afternoon, Mr. Chair and members of  
18 | the Commission. Joel Lawson again with the Office of Planning.

19 |           This time I'm here for a happy thing. I'm here just  
20 | to introduce a brand new development review member to you all.  
21 | Joshua Mitchum is actually a native of D.C. and he comes to the  
22 | Office of Planning with a lot of experience in P.G. County in  
23 | Laurel doing development review and planning work. He's been  
24 | with OP for about a month, just under a month actually, so he's  
25 | definitely our newest member. So we want to welcome Joshua to

1 | our team and I'll turn it over to you, Joshua.

2 |           Thanks.

3 |           CHAIRPERSON HILL: Thank you, Mr. Lawson. Welcome Mr.  
4 | Mitchum.

5 |           MR. MITCHUM: Thank you very much. Thanks, again,  
6 | Joel, and nice to meet the members of the BZA.

7 |           So for the record my name is Joshua Mitchum,  
8 | Development Review Specialist with OP and we recommend approval  
9 | of the area variance as well as the approval of the special  
10 | exception, and we stand on the record of our submitted report,  
11 | and are available for any questions.

12 |           Thank you.

13 |           CHAIRPERSON HILL: Okay. Great.

14 |           I think we may have questions. I'm not sure. Before  
15 | we get to questions, Mr. Young, is there anyone here wishing to  
16 | speak?

17 |           MR. YOUNG: We do not.

18 |           CHAIRPERSON HILL: Okay. All right.

19 |           Does the Board have any questions of the Office of  
20 | Planning or the Applicant? Go ahead, Mr. Blake.

21 |           COMMISSIONER BLAKE: I have a quick question for the  
22 | Office of Planning.

23 |           In your written report there was an element that said  
24 | that assuming that we could, let's see, if the in-site outdoor  
25 | space is a customary and anticipated use for a dwelling was a

1 critical element that needed to be addressed. Perhaps you and  
2 Mr. Lawson could address where you see in the regulations where  
3 that is mandated, that on-site outdoor space is customary or  
4 anticipated use for a building.

5 MR. LAWSON: I think what we intended to get at for  
6 this one was that this is, you know, again, relating to the  
7 practical difficulty to the Applicant. Right now there is no  
8 outdoor space that the Applicant can use and that is typically a  
9 feature that is desired by D.C. residents and is encouraged by  
10 the Office of Planning in developments. The Applicant has found  
11 a way to provide some outdoor space without increasing pervious  
12 surface on the property and without removing the parking spaces.  
13 If he removed the parking spaces that would require its own kind  
14 of relief before this Board. So we felt that taking all of that  
15 into account that this application reasonably met the variance  
16 test, thus our recommendation of approval.

17 COMMISSIONER BLAKE: Mr. Lawson, there obviously are a  
18 lot of decks on this row that seem to exceed the development  
19 standards. Can you address other cases that you looked at and  
20 so forth with regard to those other decks? Are you familiar with  
21 them at all?

22 MR. LAWSON: I did not research the other decks on the  
23 property. I didn't notice any other BZA cases in the immediate  
24 vicinity. It could be that decks pre-date current zoning  
25 regulations but we wouldn't be able to say for sure.



1 COMMISSIONER BLAKE: Okay. Thank you.

2 CHAIRPERSON HILL: Mr. Lawson, or again, Mr. Mitchum,  
3 so, like, this is an area variance that I know has to meet those  
4 three prongs. So if this were not approved, the Applicant could  
5 build a deck but just a smaller deck, correct?

6 MR. LAWSON: No. While it would be a very small deck  
7 and it would require special exception approval instead of  
8 variance, area variance relief, as the Applicant stated they're  
9 are currently over the amount that's permitted by-right, slightly  
10 under the amount that's permitted by special exception, so any  
11 addition to the house would require some kind of relief from the  
12 Board. Any deck that would conform, we did some -- I don't have  
13 it in front of me -- but we did some kind of back of envelope  
14 calculations, the deck would be very, very small, not much bigger  
15 than a landing, to be within that 70 percent lot occupancy maximum  
16 that's permitted by special exception.

17 CHAIRPERSON HILL: Mr. Lawson, really I know that  
18 there's a little bit of a struggle on this application and so  
19 the, under special exception, what could the Applicant do?

20 MR. LAWSON: Under special exception the Applicant  
21 could do a lot occupancy of 70 percent. I believe that right  
22 now they're at a lot occupancy of 65 percent approximately, so  
23 that would mean, you know, again that they would have a deck  
24 equivalent to five percent, you know, of the lot. Again, that  
25 would be a relatively small deck. It might also impact the

1 ability to maintain the parking space below because the posts for  
2 that deck obviously would move to kind of the middle of the  
3 parking, of the existing parking space rather than to the edges  
4 of the property.

5 I understand your struggle with this one. We struggled  
6 with it as well. It's a reasonable project but there is the test  
7 in the zoning regulations that requires that unique circumstance  
8 resulting in a practical difficulty. You know, in the end we  
9 came down on the side of that this was a reasonable request, that  
10 it is reasonable to provide a deck off the back of the property  
11 and for that they would need area variance relief.

12 CHAIRPERSON HILL: Right.

13 So Mr. Martin, I got a little lost, I'm sorry. There  
14 is no deck there now?

15 MR. MARTIN: I'm glad to hear I'm not the only one who  
16 got lost in that. You're correct, there is no deck there now.

17 CHAIRPERSON HILL: Okay.

18 Mr. Lawson, I'm glad that you also see why we are  
19 struggling, right? So --

20 COMMISSIONER BLAKE: Mr. Lawson, a quick question for  
21 you.

22 CHAIRPERSON HILL: Go ahead, Mr. Blake.

23 COMMISSIONER BLAKE: We talked about, you said a five  
24 percent increase in lot occupancy would not be a reasonably sized  
25 deck. Maybe it's the pole you're talking about, but I mean that's

1 basically about 85 square feet. So if I use an eight by ten deck  
2 that comes in within that, if I do an eight by eight deck which  
3 is certainly usable space for recreation, those are acceptable  
4 sized decks. I want to understand why you would feel it would  
5 not be accommodated with that.

6 MR. LAWSON: You know, again, we made our determination  
7 that we felt that there was sufficient justification for this  
8 relief and so that's what we based our recommendation on. Again,  
9 we were a little bit concerned about what the impacts of a much  
10 smaller deck might be on the parking pad below which I believe  
11 the Applicant wants to maintain. That's one of the goals that  
12 they're trying to do which is also consistent with the zoning  
13 regulations but I understand what you're saying.

14 You know, as I said, we struggled with this one as well  
15 about whether they technically met that test. So I understand  
16 what you're struggling with and I don't know what the exact size  
17 of a deck that's conforming to the zoning regulations would be  
18 but, you know, our report with our recommendation is what it is.

19 MR. MARTIN: If I could respond to that, would that be  
20 appropriate?

21 CHAIRPERSON HILL: Give me one second, Mr. Martin. I'm  
22 trying to help you also.

23 So, like, Commissioner Miller, like, from the Zoning  
24 Commission, right? Just what we've, this has happened a couple  
25 of times where, like, the posts for the deck have kind of gotten

1 | rid of the parking and then we end up kind of struggling with  
2 | that but there's nothing in the regulations that say that the  
3 | parking is something that you can take into consideration when  
4 | you're in this situation and that's more a comment, Mr. Miller.

5 |           ZC VICE CHAIRPERSON MILLER: At some point too.

6 |           CHAIRPERSON HILL: Great. You want to comment now, oh,  
7 | you want to wait.

8 |           ZC VICE CHAIRPERSON MILLER: I'll wait.

9 |           CHAIRPERSON HILL: Okay.

10 |           Go ahead, Mr. Martin. You had something you'd like to  
11 | say.

12 |           MR. MARTIN: Yeah. Just in regard to the, what Mr.  
13 | Blake had said.

14 |           So under the current, we could build a deck that's 85  
15 | square foot as you said. A five by five section of that would  
16 | be required for the landing which would bring the square footage  
17 | down to about 50 square feet. The house itself is about 20 feet  
18 | wide, so creating like a five by ten deck space would, in addition  
19 | to the five by five landing would, you know, fall within that 85  
20 | square foot allowance. I'm not sure I get --

21 |           COMMISSIONER BLAKE: I'm not sure that the landing  
22 | would actually be part of that calculation. Mr. Lawson, would  
23 | you help him with that? I would think that the 85 square feet  
24 | would be for the deck alone. The landing and stairs are not  
25 | counted in lot occupancy, but could help me out with that. I

1 want to make sure we're clear on that. Is it the size of the  
2 landing would make a difference?

3 MR. LAWSON: I'm sorry, Commissioner Blake. I think  
4 you're asking me that question. I believe you're correct. I  
5 think that the Zoning Administrator has determined that a  
6 landing, I think the size might be four feet by four feet, is  
7 not counted towards lot occupancy and the stairs would also not  
8 count towards lot occupancy.

9 COMMISSIONER BLAKE: So that if he had a staircase, and  
10 I'm not trying to design the deck, but if he had a staircase four  
11 foot wide with a landing four feet, you could have a deck that  
12 was the full eighty-five square feet. Does that make sense to  
13 you assuming it doesn't interfere with the parking area?

14 MR. LAWSON: Yes. If the question is would that landing  
15 count towards lot occupancy, our understanding is that it would  
16 not. So whatever is left could be apportioned to a deck.

17 COMMISSIONER BLAKE: Okay.

18 MR. MARTIN: So if I'm understanding it right, then the  
19 landing wouldn't count so 85 square feet would encompass the  
20 deck. So the house is 20 feet wide so, you know, four feet of  
21 that wouldn't count because of the landing so we'd be looking at  
22 16 feet to build a deck along the rim of the house. That would  
23 allow the deck to come out about five feet, 5.3 feet, from the  
24 house which I don't know how usable that space would meet the  
25 prong.

1           COMMISSIONER BLAKE: Well, it depends. If you have to  
2 have it go the entire length of the house, I mean, to the extent  
3 that it doesn't have the horizontal we can have the vertical,  
4 right? So you would obviously slice it down a little bit and  
5 kind of make a square-ish kind of thing?

6           MR. MARTIN: Sure. I guess, I just don't see the  
7 substantive difference between running a deck that runs half of  
8 the house versus running a deck that runs the whole, run the  
9 whole length of the house.

10          COMMISSIONER SMITH: (Audio interference) the whole  
11 deck that's deeper. That's the reason.

12          MR. MARTIN: Right. But I guess why not extend it the  
13 length of the house other than I get that it would require special  
14 exemption. Like, it doesn't present a different aesthetic. It  
15 doesn't harm the neighbors in any substantive way. It doesn't  
16 change the use of the space.

17          COMMISSIONER BLAKE: I think the one thing it does is  
18 it takes you from a special exception to a variance and I think  
19 Board member Smith had talked about the criteria for a variance  
20 is fairly a significant bar for an area variance versus a special  
21 exception. I think under the special exception criteria what  
22 you're proposing probably sounds a lot, makes sense given the  
23 fact that the rest of the neighborhood has done it already and  
24 but, in fact, it doesn't meet that criteria. That's the only,  
25 that's my hesitation was I'm trying to get wrapped around the

1 fact and I do think that you, you know, it seems terribly unfair  
2 that your deck on your property doesn't have the deck that  
3 everyone else seems to have in the neighborhood. But I'm trying  
4 to just wrestle with trying to come up with variables that make  
5 that a strong enough argument for a variance.

6 Mr. Lawson, my concern with this is, with others, is  
7 that to the extent that we determine that outdoor space is  
8 something that's needed which is not in the regulations, we pose  
9 the threat of creating everybody using (phonetic) recreational  
10 space and I can't, I mean that's a hell of an argument but it's  
11 not in the, it's a desire, it's an ideal, it's a, you know, a  
12 desire but it's not a mandate or a requirement.

13 So it's difficult to kind of say, okay, this is what  
14 they should have. So I'm just trying to wrestle with that to  
15 get comfortable with it. That's all, Mr. Chairman.

16 CHAIRPERSON HILL: Okay.

17 Commissioner Miller, you hopefully or had a comment?

18 ZC VICE CHAIRPERSON MILLER: Yeah. Thank you, Mr.  
19 Chairman.

20 I understand the challenges that some of my fellow  
21 Board members and the Office of Planning had in evaluating this  
22 case under the variance criteria. We've had this issue come up  
23 before with decks and I think I've asked before that the Office  
24 of Planning review the zoning regulations to make this type of  
25 situation a special exception, as Board member Blake said and it

1 would clearly fall under the special exception.

2           The variance criteria is difficult. It does have the  
3 three prongs. I just don't think it should apply in this type  
4 of case and I think the zoning regulations should be changed.  
5 Nonetheless, I think the equities involved here give, have given  
6 me in the past and would give me today enough comfort level as  
7 apparently it's given the Office of Planning enough comfort level  
8 to approve what is a reasonable request and, but I think  
9 regardless of how the Board decides today or doesn't decide or  
10 whatever it does today, I think the Office of Planning needs to  
11 re-visit or visit this issue of rear decks having to meet a  
12 variance test as opposed to a special exception test in this type  
13 of situation.

14           So that's just my comment. I don't know if that's  
15 helpful to get to a favorable outcome, but it's enough for me.

16           CHAIRPERSON HILL: All right. Thanks, Commissioner.

17           I guess I'm trying to understand and, Mr. Lawson, I'm  
18 sorry. I got kind of lost just a little bit. Like, I just, if  
19 this doesn't work I just want to know whether or not Mr. Martin  
20 has some kind of special exception alternative or, and not that  
21 you all are trying to design the deck either, and I also kind of  
22 apologize that I'm looking at you, Mr. Lawson and also Mr.  
23 Mitchum, that -- because I don't see it, so I can't say, okay,  
24 and neither can you, but I can't say, okay, this is what a special  
25 exception is and this is then the parking is gone, right? And



1 | so that's where I get kind of lost in it a little bit and whether,  
2 | and how I can defend it in the regulations or not.

3 |           You don't know, Mr. Lawson, if there's something they  
4 | can do under special exception that is reasonable and keeps the  
5 | parking. You don't know, correct?

6 |           MR. LAWSON: That's correct.

7 |           CHAIRPERSON HILL: Okay. Okay.

8 |           Does anybody have --

9 |           COMMISSIONER SMITH: Mr. Chairman, I think I have a  
10 | question because I am similar to Mr. Blake that I am struggling  
11 | with this and I do not understand the Office of Planning's  
12 | rationale for accepting this variance based on criteria that does  
13 | not exist in the zoning regulations.

14 |           Mr. Lawson, does the parking space in itself count  
15 | against open space?

16 |           MR. LAWSON: I'm sorry. I didn't understand the  
17 | question.

18 |           COMMISSIONER SMITH: Does the parking space in and of  
19 | itself count against open space? Is it open space? I'm  
20 | struggling with --

21 |           MR. LAWSON: It doesn't count towards the lot occupancy  
22 | if that's what you mean.

23 |           COMMISSIONER SMITH: Yes. But can it be considered  
24 | open space? It's uncovered, it's open to the sky. Can it be  
25 | considered open space or is the zoning regulations silent about

1 that?

2 MR. LAWSON: I guess I would say the zoning regulations  
3 are silent about that. The parking space counts towards pervious  
4 surface but does not count towards lot occupancy. If the parking  
5 space was covered, as it would be by this deck, it would count  
6 towards lot occupancy and pervious surface.

7 COMMISSIONER SMITH: Okay.

8 Well, that's the part I'm struggling with because the  
9 argument that is being made today is that the District, or the  
10 Office of Planning is saying, the Office of Planning has said  
11 this through the pandemic that we value open space. But there  
12 isn't any definition or criteria of what is considered open space.

13 So I'm struggling with this particular variance because  
14 in my mind an open area that is considered a parking space could  
15 be open space in some way, shape or form.

16 MR. LAWSON: I'm sorry. Maybe we weren't very clear  
17 in our report and we were, to some extent positing this question  
18 to the --

19 COMMISSIONER SMITH: I know (indiscernible).

20 MR. LAWSON: -- positing this question to the BZA but  
21 by open space we were talking about usable I don't want to say  
22 recreation space, but usable space that an owner could use, you  
23 know, I know the Chair of the Zoning Commission has often referred  
24 to where do you put the barbecue, you know, kind of thing. Yeah,  
25 and so I think that's what we were to some extent getting at. Is

1 | there space, you know, but the regulations do include things  
2 | like, you know, yard requirements and that's intended to provide,  
3 | you know, open space on a property.

4 |           So I guess we were actually referring more to usable  
5 | space, but I understand what your concerns are. We're not  
6 | advocating, you know, a particular position here. To some extent  
7 | we were asking the question. We were saying that this clearly  
8 | met, in our minds, the second part of the test. We don't actually  
9 | think it's particularly inconsistent with the intent of the  
10 | zoning regulations to have a rear deck per se and so we were  
11 | trying to make an argument that in this case maybe in a situation  
12 | like this, because they're not increasing pervious surface on the  
13 | property which is one of the things that lot occupancy is also  
14 | intended to address, that maybe there was sufficient grounds for  
15 | recommending approval.

16 |           I understand that you have a lot of questions and a lot  
17 | of concerns with where that might lead. Honestly, I share those  
18 | concerns.

19 |           COMMISSIONER SMITH: Okay.

20 |           I appreciate that, Mr. Lawson, and I will say that I  
21 | have a lot of concerns and a lot of heartburn given that this is  
22 | a very interesting test and I guess we're, we're somewhat  
23 | deliberating, Chairman Hill, but I think this is a test that  
24 | needs to be answered and this, to Mr. Miller's point, and I think  
25 | I've also said it in the past, this is a test that needs to be

1 answered by the Zoning Commission to provide some additional  
2 regulations to allow some flexibility in these types of decks  
3 where they're not required to get a variance. Maybe it's a  
4 special exception. Maybe up to a certain size an open deck  
5 doesn't count against lot occupancy but I'm not comfortable with  
6 arbitrarily at this point in time saying that an open, that a  
7 deck rises to the level of a variance.

8 I'm not prepared to say yes to that and I think you see  
9 where my vote is going to go on this one unfortunately, and I  
10 think that you have a strong case for a special exception. I  
11 don't think that you have met the criteria for a variance and I  
12 will support a special exception application and would make a  
13 recommendation to Mr. Miller as the representative from the  
14 Zoning Commission to really push for some form of a regulation  
15 that allows for an easier measure of relief for these types of  
16 things if we write into the zoning regulations that an open deck  
17 or open space is, something of this particular nature, is valid.

18 So that's where I'm at now.

19 CHAIRPERSON HILL: Okay. All right.

20 Mr. Martin, I just want to let you know I know you're  
21 there and you're doing the right thing by just waiting to see  
22 how this plays out.

23 Go ahead, Ms. John.

24 VICE CHAIRPERSON JOHN: So my question is for Mr.  
25 Lawson, and I'm sorry, you're having such a hard time today, and

1 Mr. Mitchum, this is not about you, it's about the regulations.  
2 So don't think we're ignoring you but your boss is here so we  
3 think he should take the weight today.

4 So, Mr. Lawson, we've been asking for some change in  
5 these regulations for a while. Is your office doing anything to,  
6 you know, propose new regulations, as Commissioner Miller has  
7 been saying over and over. It is very difficult for us to make  
8 these decisions. There's a practical reason I can see why Mr.  
9 Martin wants a deck and to be fair, you don't have to have a deck  
10 to use that space. If there is a patio back there you move the  
11 car and then entertain. That's what I'm saying.

12 So, but I think a deck is a very useful thing to have  
13 for a family and what I'm concerned about is that the Board could  
14 exercise its discretion in such a way that you don't have a  
15 regulation because this is the second time I've seen this type  
16 of case as, well that I remember in the last few months. They're  
17 very difficult. I feel for the homeowner but at the same time,  
18 if we stretch this regulation, you know, where's it going to go?

19 So I will stay where I am on the regulation but I guess  
20 I'm pleading sort of my swan song, Mr. Lawson, that we do  
21 something about these decks. A lot of us live in townhouses and  
22 we know that a deck is useful for lots of reasons, you know. So  
23 I would just urge the Office of Planning to do something. That's  
24 all. So I'm sort of on the fence right now. I'll see where I  
25 end up. But I'm just saying if we approve this deck, I don't

1 know how we deny others, you know.

2           So we had another squeaker and we, you know, we approved  
3 the deck because the pole for the shorter deck would be right in  
4 the middle of the parking space and there were all sorts of things  
5 that that Applicant stated that made the situation one that would  
6 have a confluence of factors and I don't like those cases because  
7 I think they do balance (phonetic) to your regulations. So that's  
8 it for me for now, Mr. Chairman.

9           Thank you.

10          CHAIRPERSON HILL: Okay.

11          Ms. John, give me one second and, again, Mr. Martin,  
12 you're doing a good job, I'm telling you. So I forget, Mr. Young,  
13 did I ask was there anybody here wishing to speak?

14          MR. YOUNG: We do not.

15          CHAIRPERSON HILL: Okay. Great.

16          This is what I think, okay? I'm going to let Mr. Martin  
17 have the last word. Mr. Martin, this is about the regulations.  
18 This has nothing to do with whether or not we think a deck's a  
19 good idea. If you haven't figured that out, that's what's going  
20 on, right? And so as far as we're concerned have a frigging  
21 deck, right? And so, I mean you can have a deck you just can't  
22 have a deck you want. That's the problem we're having, right?

23          And so I think that we'll let Mr. Martin have his last  
24 word and then I think we're going to table this for a decision  
25 and, Mr. Martin, I'm not exactly sure but if it looks as though

1 | this isn't going to work the way we think it -- if I don't think  
2 | this application is necessarily going to move forward in the way  
3 | that you would like it too, you might have an opportunity to come  
4 | back and we might discuss other alternatives for you. Okay? So  
5 | at this point, Mr. Martin, you can go ahead and say what you'd  
6 | like to say.

7 |           MR. MARTIN: Yeah. I appreciate you guys thinking  
8 | through this so carefully. I would contend that it's not usable  
9 | space in its current form beyond the parking space which seems  
10 | to be one of the criteria if I'm understanding that although  
11 | admittedly I am, you know, on the outside of this.

12 |           The space currently is beginning roughly at ground  
13 | level and the parking pad goes down to the basement and provides  
14 | an exit for the basement so the grade on that space is very steep.  
15 | It is not a space you could put the barbecue out in. It's not a  
16 | space you can really do anything. We can barely park our car in  
17 | that to be frank because the grade is so steep that it will scrape  
18 | the bottom of the car if you have more than two people in there.

19 |           So I don't think it's a usable space and I would argue  
20 | that it's a less usable space in its current form. And I get  
21 | the relief, under relief I could build a deck. I would still  
22 | contend that that's an unnecessary hardship perhaps, if I'm using  
23 | the right language, because the size of that deck would be  
24 | practically, if it runs the length of the house I think the size  
25 | of that deck would be practically useless. If it is, you know,

1 an 8 by 10 deck, such that it fits within the, such that we don't  
2 need the variance approval, it just feels like arbitrary, like  
3 we're cutting off half the deck just to, adhering to this law.  
4 And I'm a special education coordinator so I get the importance  
5 of rules and following them but, you know, I guess we're just  
6 asking for an exemption on this one.

7 That's all I got.

8 CHAIRPERSON HILL: Okay. Thanks, Mr. Martin. Mr.  
9 Martin, he's a special education coordinator, like, so we're  
10 like, you know, Christmas and Santa Claus. Okay? So, all right.

11 Go ahead, Ms. John.

12 VICE CHAIRPERSON JOHN: Yeah. Mr. Martin, please tell  
13 me about that slope again. So the patio slopes down to the back  
14 door of your house?

15 MR. MARTIN: Not the patio, but the parking space. So  
16 if you look at the grade, the alley runs here and then you come  
17 out from the parking space and it slopes down very fast because  
18 it, the basement unit empties out into that parking space, the  
19 basement. So it's not a practical useful space because the grade  
20 is so steep.

21 VICE CHAIRPERSON JOHN: So the parking is near the edge  
22 of the property, you know, the rear. I'm forgetting my  
23 (indiscernible).

24 MR. MARTIN: Correct.

25 VICE CHAIRPERSON JOHN: So you park right there and



1 then below where the deck would be is not usable space anyway.  
2 That's what you're saying.

3 MR. MARTIN: It's usable as a parking space but not  
4 beyond that.

5 VICE CHAIRPERSON JOHN: Towards the door, under the  
6 deck towards the basement door, right? Is that usable for  
7 parking?

8 MR. MARTIN: I guess, I'm not sure.

9 VICE CHAIRPERSON JOHN: It's a slope. I don't know  
10 what the grade, the slope is, but I'm imagining if you drive off  
11 the street you can probably park in that area but not closer to  
12 the house because the land slopes towards the back door?

13 MR. MARTIN: I mean, you could theoretically pull up  
14 to the very back of the house. There's a, we have our heating  
15 and AC unit is right there so that would prevent us from pulling  
16 up to touching the house but theoretically you could pull up.

17 VICE CHAIRPERSON JOHN: Okay. That's fair enough.  
18 Thank you.

19 CHAIRPERSON HILL: Go ahead, Mr. Blake. 5

20 COMMISSIONER BLAKE: Mr. Martin, the clarification we  
21 should probably also make with the area, the clarification is  
22 that I suspect there was a garage underneath on the lower level  
23 of the house. I think that's a common feature in this  
24 neighborhood, garages. So the slope would be designed so that  
25 your car would get inside the garage and you wouldn't be parking

1 out on the slope. Is that, is your garage closed in or is it  
2 still there? What does it look like there?

3 MR. MARTIN: We don't have a garage there so I'm not  
4 sure. I imagine you're right, it was probably built that way  
5 initially and at some point somebody turned the garage into  
6 habitable space, but I don't know.

7 CHAIRPERSON HILL: Ms. John, if you guys go to Exhibit  
8 6 it's got the color photograph.

9 VICE CHAIRPERSON JOHN: Could Mr. Young pull that up?  
10 I am using one computer today.

11 CHAIRPERSON HILL: Mr. Young, could you pull up Exhibit  
12 6, please?

13 (Pause.)

14 CHAIRPERSON HILL: Ms. John, can you see that one?

15 VICE CHAIRPERSON JOHN: Yeah.

16 MR. MARTIN: I will say none of those pictures do  
17 justice to the grade of the slope. It looks nearly flat there.  
18 It's not, the grade is steeper than it appears in those photos.  
19 I'd be happy to take and submit photos or do a more accurate  
20 calculation of the grade if that would be helpful at a later  
21 date.

22 CHAIRPERSON HILL: It looks like that might be helpful.  
23 I got one Board member whose face lit up a little bit. And so --

24 VICE CHAIRPERSON JOHN: Can you put that picture back  
25 up? So, Mr. Martin, can you keep the stairs where they are now?

1 Is there any way you would have to move those stairs?

2 MR. MARTIN: If we built a deck I think we would move  
3 the stairs simply to, I guess I'm not sure. In answer to your  
4 question, yes.

5 VICE CHAIRPERSON JOHN: Okay.

6 MR. MARTIN: We could leave the stairs there.

7 VICE CHAIRPERSON JOHN: Right. So you could, I don't  
8 remember what the drawing looks like, but you could build your  
9 deck to the right of those, my left as I'm looking at the picture,  
10 to the left. I don't remember where the deck is right now. So  
11 you could arguably come out the distance between the stairs and  
12 the side of the house. Anyway, forget about what I'm asking.  
13 I'm not a designer, so we can forget that question.

14 MR. MARTIN: By my calculations we could come out 5.3  
15 feet.

16 VICE CHAIRPERSON JOHN: Within the 70 percent lot  
17 occupancy?

18 MR. MARTIN: Right.

19 VICE CHAIRPERSON JOHN: Okay. All right. Thank you.

20 CHAIRPERSON HILL: Okay. Thanks, Mr. Young. Can you  
21 drop that down?

22 Okay. Does anybody have any more questions of Mr.  
23 Martin or the Office of Planning, or Mr. Lawson?

24 (No response.)

25 CHAIRPERSON HILL: No? Okay.

1           Mr. Martin, I'll tell you what we're going to do. We're  
2 going to come back for a decision next week, okay? And then  
3 (audio interference). Okay?

4           Go ahead, Mr. Blake.

5           COMMISSIONER BLAKE: Mr. Chairman, to be fair and be  
6 helpful I think that Mr. Martin's house is at the end of the row.  
7 This slope is higher than, probably the highest slope of all  
8 given the need to access that, what would have been that garage.  
9 So to the extent that if he wanted to provide some additional  
10 data that supported his unique situation beyond that, that might  
11 be helpful although it's pretty hard to say how you could justify  
12 a deck but, to a variance.

13           But I mean that would be the only additional piece of  
14 information, a very strong study of slope might be something that  
15 could help with this but I don't know. I'd have to ask the other  
16 Board members if it made a difference to them. I mean, I'm not  
17 saying it would, it certainly would be an argument to strengthen  
18 a pure variance argument.

19           CHAIRPERSON HILL: Hold on a second, Mr. Blake.

20           What was I going to say? Can we, hey, let's take a  
21 five minute break. Okay? Taking a five minute break. I'll be  
22 right back.

23           (Whereupon, there was a brief recess.)

24           CHAIRPERSON HILL: Mr. Martin? Mr. Lawson? Mr.  
25 Mitchum? Okay. Great. All right.

1           Mr. Martin, you have had your conclusion. I appreciate  
2 that. Does the Board, okay, and I think that I would like to  
3 see where we land and so I'm going to go ahead and close the  
4 hearing and the record, and excuse everybody. Thank you, Mr.  
5 Young.

6           (Pause.)

7           CHAIRPERSON HILL: Okay.

8           So we've I think mentioned to the Office of Planning  
9 that this has been an issue for us that we would like to try to  
10 see resolved to where it is not a variance for a special  
11 exception. In this particular case it is a variance.

12           I do think that in my experience with this case and  
13 hearing about this case, I would agree with the Office of  
14 Planning's recommendation and the reason why I would agree with  
15 the Office of Planning's recommendation is not that outdoor space  
16 is necessarily something that I'm taking into process, I'm not  
17 necessarily thinking of this. I mean, I think that there is  
18 outdoor space whether the outdoor space is a small piece of  
19 outdoor space or, as was noted earlier, whether a barbecue could  
20 fit on the outdoor space which I do also think is a possible  
21 argument.

22           I think that because of the slope of that driveway and  
23 that I think is enough for me to get to a practical difficulty  
24 and also for me, and this is where I'm not really sure about the  
25 parking, you know, it seems vague enough that the parking could

1 also possibly get in the way. But for me it's the unique  
2 property, the land, the angle of the driveway, that makes me able  
3 to get to behind how this is actually a unique piece of property  
4 that will result in a practical difficulty and as far as the  
5 second and third prong, I don't have any issues with the second  
6 and third prong.

7 So I would be fine with the area variance. And the  
8 special exception, again, concerning the 20 feet, nine feet  
9 proposed and 25 feet existing for the special exception, I also  
10 don't have any issues with the special exception. I will note  
11 that the Office of Planning has put forward a report that is in  
12 support. I do, again, voice the same that my other Board members  
13 have voiced, that this is something that hopefully will not come  
14 back again to us in this particular way any time soon and that  
15 also the ANC has gone forward and was able to take a look at this  
16 and they didn't have any issues with it. So I'm going to be  
17 voting in favor of this application.

18 Commissioner Miller, could I go to you next?

19 ZC VICE CHAIRPERSON MILLER: Thank you, Mr. Chairman.

20 I appreciate your comments and I think the Board in  
21 similar situations has struggled and tried to find uniqueness or  
22 exceptional conditions which could beat technically the variance  
23 test. I certainly agree with my colleagues who have been, or  
24 the Office of Planning to propose a change here so that we don't  
25 have to struggle in this type of rear deck situation.

1           What's almost exceptional in this situation is that  
2 that house doesn't have a deck. That's what's really exceptional  
3 and it's, but it's this type of regulation that we struggle with  
4 that makes people lose confidence in regulations in general and  
5 if the Office of Planning doesn't propose something soon I'll try  
6 to get my fellow Commission members to separately initiate. We  
7 don't do that very often but then hopefully we won't have to do  
8 it in this case, initiate without the technical expertise the  
9 Office of Planning provides us in proposing a new regulation.  
10 But that takes a long time and so maybe they could also propose  
11 emergency type of action which they have proposed in certain  
12 situations. And since this is going to be coming up, I recall  
13 the one case that Ms. John referred to. I recall previous cases  
14 as well. It's more than just a couple and it's way past time  
15 for us to deal with that so this Board doesn't have to struggle  
16 with trying to find a reason to make it fit into the variance  
17 test.

18           This should be simple for a homeowner to allow for a  
19 very small property and there are standards that could be provided  
20 as other, Board member Smith and the Office of Planning today  
21 raised no additional pervious space and whether it's a certain  
22 percentage or a usable deck, something that's usable where you  
23 can put a grill on it, you know. It makes, there's a lot of  
24 common sense and equities involved here which, for me, have  
25 allowed me in the past to vote in favor of this type of situation

1 even under the variance test.

2 So I'm prepared to vote in favor today. Thank you.

3 CHAIRPERSON HILL: Thank you.

4 Vice Chair John, could I go to you next?

5 (Pause.)

6 CHAIRPERSON HILL: You're on mute, Vice Chair John.

7 VICE CHAIRPERSON JOHN: Thank you, Mr. Chairman.

8 I think you've heard my struggle with this case. But  
9 on balance, I'm trying to look now in my notes for the size of  
10 the deck. I think it's, the landing area is 5 by 5 or something  
11 like that which is larger than the 4 by 4 size that the regulation  
12 allows and I believe that's why the Zoning Administrator come to  
13 the landing as a deck. And so when it is built, it will be, it  
14 will not have the same massing as if the landing were the full  
15 15 feet I believe is what it is.

16 So I think, so that goes to the severity of the relief  
17 granted and assuming that we grant relief. I think that, as you  
18 said, Mr. Chairman, that the slope of the rear yard, you know,  
19 does affect the practical difficulty standard and so I will give  
20 great weight to the Office of Planning's report, but I would be  
21 more concerned about how the slope of the lot both towards the  
22 house and towards the other house to the right or left, as Mr.  
23 Blake mentioned, might create a practical difficulty for the  
24 Applicant.

25 So in this case I will support the application and I



1 agree with Commissioner Miller that the Office of Planning needs  
2 to move expeditiously to come up with regulations that will work  
3 for the entire city because, in this particular block and I think  
4 we have seen other blocks like this, the decks make sense. It  
5 might not make sense in other neighborhoods and in terms of area  
6 variances generally, and so I think this needs to be looked at  
7 yesterday.

8 So, that's it for me, Mr. Chairman.

9 CHAIRPERSON HILL: Thank you.

10 Mr. Smith, could I go to you next?

11 COMMISSIONER SMITH: Well, I think everyone knows where  
12 I stand on this particular case. I think I deliberated on this  
13 a little earlier.

14 I completely disagree with the Office of Planning's  
15 assessment of this particular case because I think what they're  
16 attempting to do is a test of non-existent regulations for us to  
17 support a case of this type. I understand the issue of the slope.  
18 I think it's an irrelevant part of this conversation here  
19 regarding this deck.

20 I believe that the correct approach to something of  
21 this particular nature and, again, not to attack the Applicant,  
22 not to attack Mr. Lawson or Mr. Mitchum, I believe that the  
23 correct avenue for something of this particular nature if this  
24 is something that's desired by the District for us to, or for  
25 them, to amend the zoning regulations and I see no other way

1 around it other than to amend the zoning regulations.

2 I understand, as Mr. Miller has stated, that amending  
3 the regulations take a while, but I do not want to continue to  
4 see these particular applications come to us simply because it's  
5 easier for the Board of Zoning Adjustment to approve them than  
6 to go through a zoning amendment process that would take longer,  
7 which I think would be for the greater good of the District of  
8 Columbia.

9 So with that, I believe that they have not met the area  
10 variance criteria and I will deny the application.

11 CHAIRPERSON HILL: Thank you.

12 Mr. Blake?

13 COMMISSIONER BLAKE: I think we've got the answer  
14 already, but the first thing I want to do is I do want to address  
15 the questions posed by the Office of Planning.

16 I do not think that an outdoor space is a customary  
17 anticipated use for a dwelling in the District. I think that  
18 it's a desire, it's an aspiration. I think it's a goal. I think  
19 that it is not an entitlement for, you know, or a requirement.  
20 That said, I do struggle very much with the variance test and I  
21 would align my thoughts with those of Board member Smith.

22 CHAIRPERSON HILL: Okay. Thank you. All right.

23 I'm going to make a motion to approve Application No.  
24 21222 as captioned and read by the secretary, and ask for a  
25 second. Ms. John?

1 CHAIRPERSON HILL: You're on mute, Ms. John.  
2 (Pause.)  
3 VICE CHAIRPERSON JOHN: Second.  
4 CHAIRPERSON HILL: Thank you.  
5 Madam Secretary, could you take a roll call, please?  
6 MS. MEHLERT: Please respond to the Chair's motion to  
7 approve the application.  
8 Chairman Hill?  
9 CHAIRPERSON HILL: Yes.  
10 MS. MEHLERT: Vice Chair John?  
11 VICE CHAIRPERSON JOHN: Yes.  
12 MS. MEHLERT: Mr. Smith?  
13 COMMISSIONER BLAKE: No.  
14 MS. MEHLERT: Mr. Blake?  
15 COMMISSIONER BLAKE: No.  
16 MS. MEHLERT: Commissioner Miller?  
17 ZC VICE CHAIRPERSON MILLER: Yes.  
18 MS. MEHLERT: Staff would record the vote as three to  
19 two to zero to approve Application 21222 on the motion made by  
20 Chairman Hill and seconded by Vice Chair John, with Commissioner  
21 Miller also approved the motion and Board member Smith and Blake  
22 opposed.  
23 CHAIRPERSON HILL: Okay. Thank you. All right.  
24 So we have two more cases. I think it actually might  
25 take a little time, at least one of them's going to. Let's have

1 lunch. It's 1:30, let's say 2 o'clock. Okay?

2 Thank you all.

3 (Whereupon, at 1:30 p.m., there was a recess for  
4 lunch.)

5 MS. MEHLERT: The Board has returned from its lunch  
6 recess and has returned to its hearing session.

7 Next on the agenda is Application No. 21223 of Melissa  
8 Brand. This is an application pursuant to Subtitle X, Section  
9 901.2 for a special exception under Subtitle D, Section 207.5 to  
10 allow the rear wall of a row building to extend farther than ten  
11 feet beyond the farthest rear wall in an adjoining principal  
12 residential building on an adjacent property. This is for a two-  
13 story rear addition to an existing two-story attached dwelling.  
14 Located in the R3 zone at 3544 W Place, Northwest, Square 1300,  
15 Lot 513.

16 CHAIRPERSON HILL: Great.

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

19 (Pause.)

20 CHAIRPERSON HILL: Mr. Young, is the Applicant around?

21 (Audio interference).

22 CHAIRPERSON HILL: Can anyone hear me or is that me,  
23 or? Mr. Comedy, can you hear me?

24 MR. COMEDY: Yes, sir. I can hear you.

25 CHAIRPERSON HILL: Go ahead and mute you.

1 MR. COMEDY: Uh-huh.

2 CHAIRPERSON HILL: That's weird.

3 MR. YOUNG: So I think that he might have his YouTube  
4 page open that he has the hearing going, so he'll need to mute  
5 that or exit the YouTube page.

6 CHAIRPERSON HILL: I got it. Okay. He's doing that  
7 now I think. Okay. Excellent.

8 (Pause.)

9 MR. COMEDY: Can you hear me now?

10 CHAIRPERSON HILL: Yes. Can you hear me?

11 MR. COMEDY: Perfect.

12 CHAIRPERSON HILL: Great. You want to introduce  
13 yourself for the record, please.

14 MR. COMEDY: So I'm Darren Comedy. I'm the project  
15 architect for the project and I believe the owner, Melissa Brand,  
16 is also here as well.

17 CHAIRPERSON HILL: Okay. I don't know. Mr. Young, do  
18 you see Ms. Brand? Okay. Great.

19 Ms. Brand, can you hear me?

20 (Pause.)

21 MS. BRAND: I am available now.

22 CHAIRPERSON HILL: Okay.

23 MS. BRAND: I'm Melissa Brand, the Applicant and  
24 homeowner. Thank you for your time.

25 CHAIRPERSON HILL: Great. Thank you. Thank you, Ms.

1 Brand.

2 All right, Mr. Comedy. Are you presenting to us I  
3 assume?

4 MR. COMEDY: I wasn't prepared to present but I didn't  
5 know what was presented to you guys or what was sent to you guys  
6 in the beginning, but I can just give you an overview of the  
7 project as it was stated.

8 We've got a two-story addition and we're requesting a  
9 two foot offset, I guess, if you want to call it that from the  
10 ten foot application that allows you to go ten foot out from the  
11 neighbor's property line for our two-story addition and that's  
12 pretty much the end of it.

13 We've kind of complied with everything else except for  
14 the ten foot rule and that's why we're here.

15 CHAIRPERSON HILL: Okay. And you went to the ANC, is  
16 that correct, and you presented or did Ms. Brand present?

17 MR. COMEDY: I believe Ms. Brand presented.

18 MS. BRAND: Yes. Actually my husband presented. He  
19 is the other owner of the property and the ANC have submitted a  
20 memorandum of support, and we also have letters of support from  
21 the adjoining neighbors and another neighbor in the Glover Park  
22 community.

23 CHAIRPERSON HILL: Okay.

24 And, Mr. Comedy, you guys are going back 14 feet; is  
25 that correct?

1 MR. COMEDY: That's correct.

2 CHAIRPERSON HILL: Okay. All right.

3 Let me go ahead and hear from the Office of Planning,  
4 please.

5 MS. THOMAS: Hi. Good afternoon, Mr. Chair. Karen  
6 Thomas with the Office of Planning.

7 And the Office of Planning is recommending approval of  
8 this application. The rear addition extends four feet beyond the  
9 matter-of-right at ten feet for one of the properties and, it is  
10 against one of the neighboring properties rather, and the other  
11 abutting property satisfies the condition. It is less than ten  
12 feet. It is only about nine feet back.

13 So with that, I will rest on the record of our report  
14 and I'm happy to take any questions.

15 Thank you.

16 CHAIRPERSON HILL: Great. Thank you. All right.

17 Does the Board have any questions for the Applicant or  
18 the Office of Planning?

19 (No response.)

20 CHAIRPERSON HILL: Okay.

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

22 MR. YOUNG: We do not.

23 CHAIRPERSON HILL: Okay. All right.

24 Let's see. Mr. Comedy, it doesn't look like, or Ms.  
25 Brand, the Board has any questions for you all so I'm going to

1 go ahead and excuse you guys and you all have a good day.

2 MS. BRAND: Thank you. You too.

3 CHAIRPERSON HILL: Thank you.

4 (Pause.)

5 CHAIRPERSON HILL: Okay.

6 I didn't have any issues with this application.  
7 They're going four feet past the ten feet. I was looking at the  
8 Office of Planning's report. There doesn't seem to be an issue  
9 with light and air or shadowing, or any kind of privacy issues.  
10 It doesn't look as though there are any windows that are going  
11 to be affected from this addition in terms of the four feet and  
12 I don't think that there are going to be any adverse impacts from  
13 the additional four feet.

14 It is good to see that the Applicant has gone through  
15 the process of reaching out to their neighbors and has gotten the  
16 approval from their neighbors as well as the support of their  
17 ANC. So I'm going to be voting in favor of this application.

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

19 COMMISSIONER SMITH: I have nothing to add. I will be  
20 voting in support.

21 CHAIRPERSON HILL: Thank you.

22 Mr. Blake?

23 COMMISSIONER BLAKE: Mr. Chair, I agree with your  
24 analysis and I'm also comfortable with the Office of Planning's  
25 analysis in the report. I give great weight to the Office of



1 Planning's recommendation for approval. I notice that there are  
2 no statements of objection from the abutting property owners and  
3 I note the support of ANC 3B which I give great weight.

4 I'll be voting in favor of the application.

5 CHAIRPERSON HILL: Thank you.

6 Vice Chair John?

7 VICE CHAIRPERSON JOHN: I agree with the comments so  
8 far. I believe this is a straightforward application and I am  
9 in support.

10 CHAIRPERSON HILL: Thank you.

11 Commissioner Miller?

12 ZC VICE CHAIRPERSON MILLER: I also agree with the  
13 comments of our colleagues and appreciate the work of the Office  
14 of Planning and the ANC 3B on this case.

15 Thank you.

16 CHAIRPERSON HILL: Thank you.

17 All right. I'm going to make a motion to approve  
18 Application No. 21223 as captioned and read by the secretary, and  
19 ask for a second. Ms. John?

20 VICE CHAIRPERSON JOHN: Second.

21 CHAIRPERSON HILL: The motion is made and seconded.  
22 Madam Secretary, if you take a roll call, please?

23 MS. MEHLERT: Please respond to the Chair's motion to  
24 approve the application. Chairman Hill?

25 CHAIRPERSON HILL: Yes.

1 MS. MEHLERT: Vice Chair John?

2 VICE CHAIRPERSON JOHN: Yes.

3 MS. MEHLERT: Mr. Smith?

4 COMMISSIONER SMITH: Yes.

5 MS. MEHLERT: Mr. Blake?

6 COMMISSIONER BLAKE: Yes.

7 MS. MEHLERT: Commissioner Miller?

8 ZC VICE CHAIRPERSON MILLER: Yes.

9 MS. MEHLERT: Staff would record the vote as five to  
10 zero to zero to approve Application 21223 on the motion made by  
11 Chairman Hill and seconded by Vice Chair John.

12 CHAIRPERSON HILL: Thank you.

13 And Madam Secretary, you can call our next one when you  
14 get a chance.

15 MS. MEHLERT: Next is Application No. 21239 of John  
16 Hayman. This is a self-certified application pursuant to  
17 Subtitle X, Section 901.2 for special exceptions under Subtitle  
18 D, Section 5201 from the side yard requirements of Subtitle D,  
19 Section 208.7 and from the lot occupancy requirements of Subtitle  
20 D, Section 210.1. This is for a two-story rear addition to an  
21 existing two-story detached principal dwelling. Located in the  
22 R2 zone at 3220 Brothers Place, Southeast, Square 5990, Lot 12  
23 and I'll note that the Applicant submitted a, their affidavit for  
24 posting (phonetic) and maintenance earlier today and need it to  
25 be approved to be added to the record.

1 CHAIRPERSON HILL: Okay. Great. Thank you.  
2 If everybody could mute themselves unless they're  
3 speaking, that would be wonderful.  
4 Let's see. If the Applicant can hear me, if they could  
5 please introduce themselves for the record.  
6 MR. HAYMAN: Good afternoon, everybody. My name is  
7 John Hayman. I have my wife Gloria with me and we are  
8 (indiscernible) for the property at 3220 Brothers Place,  
9 Southeast.  
10 CHAIRPERSON HILL: Okay.  
11 Mr. Hayman, does your camera work?  
12 MR. HAYMAN: Let me see. Trying to (indiscernible)  
13 location. Not sure.  
14 CHAIRPERSON HILL: I have to try and figure that out.  
15 MR. HAYMAN: Okay.  
16 CHAIRPERSON HILL: If you could put yourself on mute.  
17 MR. HAYMAN: Okay. Hold on.  
18 CHAIRPERSON HILL: Okay.  
19 I can see an ANC Commissioner here with me. Is it  
20 Commissioner Woodland and if so, could you introduce yourself for  
21 the record?  
22 ANC COMMISSIONER WOODLAND: Yes, hi. My name is  
23 Commissioner Woodland. I'm an ANC Commissioner for Single Member  
24 District 8C06.  
25 CHAIRPERSON HILL: Thank you, Commissioner. Welcome.

1           ANC COMMISSIONER WOODLAND: Thank you.

2           CHAIRPERSON HILL: Like your hat.

3           ANC COMMISSIONER WOODLAND: Thank you.

4           CHAIRPERSON HILL: Let's see.

5           COMMISSIONER SMITH: Like your glasses.

6           CHAIRPERSON HILL: Mr. Smith likes your glasses,

7 Commissioner.

8           ANC COMMISSIONER WOODLAND: Well, thank you so much,

9 sir.

10          CHAIRPERSON HILL: Let's see.

11          Mr. Hayman, can you get the camera to work?

12          MR. HAYMAN: I'm trying to get the camera to work. I

13 thought I had this thing up all this time and trying to figure

14 out what I need to do.

15          CHAIRPERSON HILL: As long as I can hear you.

16          MR. HAYMAN: Okay.

17          CHAIRPERSON HILL: There seems to be like a weird delay.

18 Do you have any, turn off everything else other than just the

19 computer in terms of the sound.

20          MR. HAYMAN: Okay.

21          CHAIRPERSON HILL: Okay?

22          MR. HAYMAN: Is that good or --

23          CHAIRPERSON HILL: Well, there's something in the

24 background that I can hear. I don't know, somebody seems to be

25 talking in the background or is there something on in the back?

1 You're okay right now.

2 MR. HAYMAN: Okay. All right. If I'm okay right now,  
3 good.

4 CHAIRPERSON HILL: Okay.

5 MR. HAYMAN: My architect, he was out. I just talked  
6 to him, he said he's trying to park so, but we should be all  
7 here.

8 CHAIRPERSON HILL: Okay. Mr. Hayman, if you want to  
9 go ahead and I guess describe to us the project and why you  
10 believe, or at least your understanding why you believe you're  
11 meeting the criteria for us to grant the relief requested, and  
12 I'm going to go ahead and put 15 minutes on the clock so I know  
13 where we are and you can begin whenever you like.

14 MR. HAYMAN: Okay.

15 We started this project out. We wanted to expand our  
16 property so we renovated, we were in the process of renovating  
17 the whole house and an addition. We were going to add an addition  
18 to the house, two stories. It's a two-story single family home  
19 with a two-story addition added to it and we went as far back as  
20 we could, as far as the regulations, and we also asked for,  
21 requested a two percent variance which we were approved of prior  
22 to that and basically that's it.

23 You know, our addition is no wider than the footprint  
24 of the house so the only thing we're doing is trying to, you  
25 know, get more space, you know, trying to make our home, you

1 know, a better home. We've been there for over 30 years, raised  
2 our kids there and everything. Now it's just me, my wife, but  
3 we're trying to also, the reason for the expansion also was for  
4 my mom. You know, she's presently 88-years-old and her,  
5 physically she's fine but mentally, you know, things are going  
6 kind of bad. So we were trying to make space so she could live  
7 with us so she could stay on the first floor and basically that's  
8 it.

9 CHAIRPERSON HILL: Okay.

10 You know, I think you have the TV on in the background  
11 or something.

12 MR. HAYMAN: No. I have no TV on. We have nothing  
13 on.

14 CHAIRPERSON HILL: Okay. Then somebody has a TV on  
15 maybe. All right. Okay.

16 I'm just trying to see. Mr. Hayman, you said your  
17 architect is with you?

18 MR. HAYMAN: Yeah. He's supposed to be on this call  
19 as well.

20 CHAIRPERSON HILL: Do you know, or maybe one of my  
21 Board members can help me. I'm just looking for the architectural  
22 plans.

23 MR. HAYMAN: Okay.

24 CHAIRPERSON HILL: Do you know, Mr. Hayman, where they  
25 are in the exhibits?

1 MR. HAYMAN: Okay. Okay. Looking and I see No. 5 for  
2 architectural plans and elevations.

3 CHAIRPERSON HILL: Oh, great. Thank you. Okay. Great.  
4 All right.

5 Let me turn to the Office of Planning first.

6 MR. HAYMAN: Okay.

7 CHAIRPERSON HILL: And then, oh, wait, before we go to  
8 the Office of Planning. Commissioner Woodland, would you like  
9 to give us your testimony?

10 ANC COMMISSIONER WOODLAND: Yes, sir. I'm ready to do  
11 that.

12 CHAIRPERSON HILL: Please go ahead.

13 ANC COMMISSIONER WOODLAND: Okay.

14 Good afternoon. I am Commissioner Robbie Woodland of  
15 8C06, formerly 8C03 where Mr. Hayman was once my constituent.

16 I am testifying today and for support of Ward 8  
17 resident, Mr. Hayman, as he seeks to complete the necessary  
18 renovations on his home. Mr. Hayman has been a dedicated member  
19 of our community demonstrating a strong commitment to maintaining  
20 his property and contributing to the overall well being of the  
21 neighborhood. Ensuring that he can complete these renovations  
22 is not only essential for his safety and quality of life, but  
23 also strengthens the stability and revitalization of our  
24 community.

25 I urge the appropriate authorities, which will be you

1 | guys, to support Mr. Hayman in securing the resources needed to  
2 | bring his home to a livable and sustainable condition. In  
3 | addition to that, I would like to add that I live 1.2 miles away  
4 | from Mr. Hayman, which is like a six to ten minute drive, and I  
5 | did verify his sign postings on, let me get my notes, January  
6 | the 20th, January the 29th and February the 3rd.

7 | Thank you for allowing me to speak. I yield.

8 | CHAIRPERSON HILL: Thank you, Commissioner.

9 | ANC COMMISSIONER WOODLAND: Yes, sir.

10 | CHAIRPERSON HILL: Thanks for being with us.

11 | Can I turn to the Office of Planning?

12 | ANC COMMISSIONER WOODLAND: Yes, sir. Thank you so  
13 | much.

14 | CHAIRPERSON HILL: Thank you, Commissioner.

15 | MS. MYERS: Good afternoon. Crystal Myers with the  
16 | Office of Planning.

17 | The Office of Planning is in support of this case. I  
18 | will note that we do not think the side yard relief is needed.  
19 | You are allowed to do a five foot side yard and to maintain that  
20 | five foot side yard should you do an addition. So we didn't  
21 | think it was needed but because it was requested we did review  
22 | it and felt that the special exception relief could be supported,  
23 | and we also, like I said, supported the lot occupancy relief.

24 | So with that I stand on the record of the staff report,  
25 | but of course here for questions.



1 Thank you.

2 CHAIRPERSON HILL: Thank you. Thank you, Ms. Myers.

3 Does the Board have any questions of the Applicant or  
4 the Office of Planning?

5 (No response.)

6 CHAIRPERSON HILL: Okay.

7 Mr. Young, if everybody could just mute themselves  
8 also, except for me. Mr. Young, are there people here wishing  
9 to speak?

10 MR. YOUNG: Yes, we do.

11 CHAIRPERSON HILL: Okay. Could you give me, how many  
12 do we got?

13 MR. YOUNG: We have eight I believe, around eight signed  
14 up. How many do you want me to bring?

15 CHAIRPERSON HILL: Why don't you bring them on four at  
16 a time?

17 MR. YOUNG: Okay.

18 So the first four. The first is Lenwood Johnson,  
19 Shirley Harper, Louis Jarvis and, let's see, Calito Keith.

20 CHAIRPERSON HILL: Okay. Let's see.

21 Is it Mr. Johnson? Can you hear me?

22 (Pause.)

23 CHAIRPERSON HILL: You might be on mute.

24 (Audio interference.)

25 CHAIRPERSON HILL: Ms. Harper, can you put yourself on

1 | mute? Everybody put themselves on mute. Mr. Johnson, can you  
2 | hear me?

3 | (Pause.)

4 | CHAIRPERSON HILL: Okay. I'll come back to you, Mr.  
5 | Johnson. Mr. Harper, can you hear me?

6 | (Pause.)

7 | CHAIRPERSON HILL: Mr. Harper, can you hear me?

8 | MS. HARPER: Yes. (Audio interference).

9 | CHAIRPERSON HILL: I think, Ms. Harper, you might have  
10 | something else on, like either a TV or you're listening through  
11 | your phone as well. It's just your computer probably, meaning  
12 | just use one device and then try to turn that device off of mute.

13 | MS. HARPER: Okay.

14 | (Audio interference.)

15 | CHAIRPERSON HILL: Well, you're almost there maybe.  
16 | Well, you know what, Ms. Harper? You could call in on the phone  
17 | number. You can call in at 202 --

18 | (Audio interference.)

19 | CHAIRPERSON HILL: Can you hear me?

20 | MS. HARPER: Okay. Let's try again.

21 | (Audio interference.)

22 | CHAIRPERSON HILL: Okay. Why don't you do this, Ms.  
23 | Harper. Can you call on the cell phone?

24 | MS. HARPER: Yes. Wait a minute.

25 | CHAIRPERSON HILL: Okay.

1 MS. HARPER: What's the number?

2 CHAIRPERSON HILL: Well, I can hear you now. Who's  
3 talking now? Ms. Harper? The number is 202-727-5471. Once  
4 again, 202-727-5471 and if you call through there, then you can  
5 just call on the phone. So we'll come back to you, Ms. Harper.

6 Mr. Jarvis, can you hear me?

7 (Pause.

8 MR. JARVIS: Yeah, I can hear you.

9 CHAIRPERSON HILL: Okay. Great.

10 So, Mr. Jarvis, if you could introduce yourself and  
11 where you live, and then you'll have three minutes as a member  
12 of the public to give your testimony, and you can begin whenever  
13 you like.

14 MR. JARVIS: My name is Louis Jarvis. I live at 3222  
15 Brothers Place. (Indiscernible).

16 CHAIRPERSON HILL: Are you with Ms. Harper?

17 MR. JARVIS: Yes, I'm with Ms. Harper.

18 CHAIRPERSON HILL: Okay. Then that's why you're  
19 getting feedback. You both have it on at the same time.

20 So, Mr. Jarvis, why don't you go ahead and give your  
21 testimony and then Ms. Harper can give her testimony.

22 MR. JARVIS: Well, what I am for the testimony. When  
23 they was digging the foundation I told them they was digging too  
24 close to my foundation and my house and I told him, I said go  
25 ahead and dig. Don't worry about him. That's what the contractor

1 | said. And then they put the extension, it is 15 inches away from  
2 | my house property line, 15 inches and it's hanging over on my  
3 | property on the roof upstairs. And I checked it and that is what  
4 | happened and it's still standing there and Mr. Hayman refused to  
5 | talk to me. Talked to me about nothing.

6 | CHAIRPERSON HILL: Okay. Okay. All right.

7 | I think I understand. Okay. Is there anything else,  
8 | Mr. Jarvis?

9 | MR. JARVIS: No, that's it for now.

10 | CHAIRPERSON HILL: Okay.

11 | Ms. Harper, can you hear me?

12 | MS. HARPER: Yes.

13 | CHAIRPERSON HILL: Can you introduce yourself for the  
14 | record?

15 | MS. HARPER: I'm Shirley Harper. I live at 3222  
16 | Brothers Place adjacent to the property. I had no notice about  
17 | anything going on on this property. Okay?

18 | He's five feet from the fence line which his drain is  
19 | hanging into my yard, and his gutter and the roof is hanging  
20 | over. So he needs to move it because he's interfering with my  
21 | property regardless of what he say. I haven't talked to Mr.  
22 | Hayman at all concerning his renovations. He comes in here, we  
23 | watch him do it. He doesn't say nothing. He sits in the alley  
24 | watching them build the house out of compliance.

25 | Now with that in mind, I shouldn't be stuck with his

1 | overhanging my yard. You know the roof, he's on the property  
2 | line on both sides which they refused to do. Mr. Hayman didn't  
3 | give us notice about anything going on over there and I disagree  
4 | with this, this special exception because no way his property  
5 | should be interfering with mine. Now if I want to sell my  
6 | (indiscernible) or my home with another man's roof and drain  
7 | hanging in the yard. This is affecting me and my property.

8 | I have nothing against his (indiscernible) as long as  
9 | he's fully compliant. That's all I'm saying. His property should  
10 | not interfere with mine, under no circumstances. He needs to  
11 | move it. That's all I can say. It has to be moved in the  
12 | guidelines. He can have it if it's put in the guidelines. It  
13 | would not kind (phonetic) to me. That's what I'm saying.

14 | And Mr. Hayman don't give me notice on anything. I  
15 | found out about the meeting. A neighbor came and told me about  
16 | this meeting. I don't know what the secret is with Mr. Hayman.  
17 | If you can come put a sign on your house, you can come knock on  
18 | the door. No one should have had knock on my door and told me  
19 | about this hearing today when he's right here. The door didn't  
20 | move. All he had to do was knock which he refused to talk. Okay?

21 | CHAIRPERSON HILL: Okay. All right. Thanks, Ms.  
22 | Harper. Let's see.

23 | Mr. Johnson, can you hear me?

24 | MR. JOHNSON: Yes, I can hear you.

25 | CHAIRPERSON HILL: Okay. Great.

1           Mr. Jarvis, if you can mute your line, that'd be great.  
2 And just don't go anywhere, just try to mute it.

3           MR. YOUNG: I think Mr. Johnson was with them too.

4           CHAIRPERSON HILL: Oh. Mr. Johnson, are you with them  
5 also? Mr. Johnson, are you in the same room --

6           MS. HARPER: No.

7           CHAIRPERSON HILL: -- with Mr. Jarvis?

8           MR. YOUNG: Sorry, I was wrong. I thought he spoke  
9 from their line.

10          CHAIRPERSON HILL: Okay. Got it.

11          Mr. Johnson, can you hear me?

12          (Pause.)

13          CHAIRPERSON HILL: I'll come back.

14          COMMISSIONER SMITH: I have a question, Mr. Chair.

15          CHAIRPERSON HILL: Sure. Go ahead, Mr. Smith.

16          COMMISSIONER SMITH: So I have a particular question.  
17 This is to Mr. Hayman.

18          Your addition that you're making, is the overhang,  
19 because of how close these properties are, is it overhanging, the  
20 new overhang, is that overhanging -- is that matching the  
21 existing overhang of the older portion of the house?

22          I see you shaking your head, Ms. Woodland. Can you  
23 speak to that?

24          ANC COMMISSIONER WOODLAND: Yes. Okay. Thank you.

25          Yes, so initially when Mr. Hayman was doing some of the

1 work on his house he was misquoted about the feet and everything  
2 which is the reason why his project was stopped. But since then  
3 he's corrected the issues. There has been another inspector  
4 that's been out to make sure that everything was done in decency  
5 and in order.

6 I think it's important to note that Mr. Hayman does not  
7 have the best relationship --

8 CHAIRPERSON HILL: Commissioner Woodland, Commissioner  
9 Woodland?

10 ANC COMMISSIONER WOODLAND: Yes.

11 CHAIRPERSON HILL: Hold on. Somebody's got, could  
12 everybody else mute their lines? Okay. Okay.

13 Mr. Jarvis, we can hear you so you need to mute your  
14 line. Okay. There you go.

15 All right. Go ahead, Commissioner.

16 ANC COMMISSIONER WOODLAND: Thank you, sir.

17 I think it's important to note that Mr. Hayman has to  
18 protect himself at this point. They haven't had the best  
19 interactions and these interactions have, you know, become a  
20 little violent. I have asked Mr. Hayman to keep his distance  
21 because of a situation that happened that is currently being  
22 looked into by MPD at my request. So that will probably be why,  
23 if he was supposed to have given her any notice that he did not  
24 because the situation can get a little extreme between both of  
25 the neighbors. So I did request that he keeps his distance just

1 | so that, you know, we can get everything done that we need to  
2 | get done.

3 |           But the issue has been corrected.    There was a  
4 | misquotation that Mr. Hayman received in the beginning but once  
5 | he made that correction, there was another inspector who came out  
6 | who reviewed everything and everything was a go.   So all he had  
7 | to do was complete his paperwork which he did.

8 |           Thank you.

9 |           CHAIRPERSON HILL:   Thank you, Commissioner.

10 |           Mr. Keith, can you hear me?   Mr. Keith?   Okay.

11 |           Mr. Johnson, can you hear me?   Okay.

12 |           Let me do this.   I'm going to go ahead and excuse Ms.  
13 | Harper and Mr. Jarvis, and then I'll try to bring in two more  
14 | people, Mr. Young.

15 |           Ms. Harper and Mr. Jarvis, thank you for your  
16 | testimony, and who are the new people, Mr. Young?

17 |           MR. YOUNG:   The next two are both calling in by phone.  
18 | That is Darryl Love and Jeffrey McCoy.

19 |           CHAIRPERSON HILL:   Okay.   Mr. Love or Mc. McCoy, can  
20 | you hear me?

21 |           (Pause.)

22 |           CHAIRPERSON HILL:   Mr. Love, can you hear me?   Oh, is  
23 | that Mr. Love?

24 |           MR. LOVE:   Darryl Love.

25 |           CHAIRPERSON HILL:   Okay.   Great.



1           Could you please introduce yourself, Mr. Love, and  
2 where you live and then you'll have three minutes to give your  
3 testimony, and then you can begin whenever you like.

4           MR. LOVE: Okay. My name is Darryl Love. I stay at  
5 3221 Brothers Place, Southeast. That's directly across from Mr.  
6 Hayman and Ms. Harper and Mr. Jarvis. I've been in the  
7 neighborhood longer than anybody so it's well over 60 years and  
8 I've seen just about everything in the neighborhood that's  
9 materialized.

10           But the main thing is there's been a sign on, as regards  
11 the sign on the house posted, there was a sign, orange and black  
12 white bordered sign I believe, posted on the front of the house.  
13 It was a pretty decent sized sign. You couldn't miss it, and  
14 when I looked at it it gave me the information concerning the  
15 hearing and everything and it's been out there since, for a good  
16 two or three weeks. And then I just noticed though on Monday,  
17 which would be the 3rd I think, 3rd of February, that the sign  
18 was no longer there, but it's been out there for everybody to  
19 see. I could see it because I stay right in front of them and I  
20 noticed it as soon as I go out and pick up my newspaper.

21           But I've been in the neighborhood well over 60 years  
22 and I'm familiar with Mr. Hayman and Ms. Harper and Mr. Jarvis.

23           CHAIRPERSON HILL: Okay. All right. Thank you, Mr.  
24 Love. Is Mr. McCoy with you?

25           MR. LOVE: No.

1 CHAIRPERSON HILL: Oh. Mr. McCoy, can you hear me?

2 (Pause.)

3 CHAIRPERSON HILL: Mr. McCoy, can you hear me? All  
4 right. All right.

5 Who else, okay. Mr. Young, would you please excuse Mr.  
6 Love.

7 MR. MCCOY: Hello? Hello?

8 CHAIRPERSON HILL: Mr. McCoy?

9 MR. MCCOY: Yes.

10 CHAIRPERSON HILL: Oh, great. Mr. McCoy, could you  
11 introduce yourself for the record and then please you'll have  
12 three minutes to give your testimony, and you can begin whenever  
13 you like.

14 MR. MCCOY: All right. I'm Jeffrey McCoy. I'm in the  
15 next block of the Haymans and I've known them for quite a while.

16 My testimony, or really I don't know why this is even  
17 necessary because I thought what they're having done should be  
18 just a renovation from what I'm told and it shouldn't take them  
19 more than three weeks or three months, but what I understand it's  
20 taken almost over a year or two and I just don't understand why  
21 it's a problem and why we're going through all this, you know,  
22 problem solving. It shouldn't be any, you know, I don't  
23 understand the problem myself.

24 I mean, I was told that zoning issued a stop work order  
25 because variations of what he was building the house at but, you

1 know, from what I see the footprint's still the same. They didn't  
2 change anything. Everything is on the same footprint. So I  
3 don't understand why there's a big commotion about this building  
4 if they're getting the house finished.

5 To me, I mean I've been in construction for over 25  
6 years. I'm most familiar with foundations and being too close  
7 to other properties, but they got, they also got this thing called  
8 a grandfather clause. So if this is a grandfather clause they  
9 can't move the entire house from where it's sitting on it, they  
10 would put an addition on which is in the same line, you know,  
11 that's the existing house.

12 So I can't understand why it's taking so long to get  
13 this house built. I'm sort of flabbergasted behind this. I just  
14 don't think it's fair it's taking this long because I go by the  
15 house all the time and look at it and right now they put a stop  
16 work order on the house. The house is not covered. The wood,  
17 pretty soon he's got to replace all the wood again if he try to  
18 finish it. There's not even shingles on the roof. I mean, they  
19 even put the stop work order on it before they could put the  
20 shingles on the roof. That's unfair I think. You know, at least  
21 let them get the shingles on the house at the top so they can,  
22 you know, then go along and try to figure out what's going on.  
23 But the house is still open.

24 This should be only take a three month project to do,  
25 if not five months. But it's been almost two years.

1 CHAIRPERSON HILL: Okay. All right. Thank you, Mr.  
2 McCoy and thank you for taking your time to speak with us.

3 All right. Mr. Young, you can remove or please excuse  
4 Mr. Love and Mr. McCoy, and then were there two more?

5 MR. YOUNG: So Mr. Johnson is now calling in by phone.

6 CHAIRPERSON HILL: Okay.

7 MR. YOUNG: And then the next ones I have, I believe  
8 they're together. It's Broderick and Sarah Morgan.

9 CHAIRPERSON HILL: Okay. All right. Hold on one  
10 second, please. Okay.

11 Mr. Johnson, can you hear me?

12 MR. JOHNSON: Yes, I can. Can you hear me?

13 CHAIRPERSON HILL: Yes. Could you please introduce  
14 yourself for the record?

15 MR. JOHNSON: Sure. My name is Lenwood Johnson. I am  
16 a neighbor to Ms. Shirley Harper and I have a short written  
17 testimony. May I read it?

18 CHAIRPERSON HILL: Yes, please. Go ahead.

19 MR. JOHNSON: Okay.

20 Good afternoon Board of Zoning Adjustment. I am here  
21 today to oppose John Hayman's 3220 Brothers Place, Southeast,  
22 application for a special exception to side yard requirement.

23 If I understand, if Mr. Hayman's request is granted he  
24 would be allowed to keep his recently constructed cellar  
25 addition. Currently, the addition extends on to the property of

1 Ms. Shirley Harper whose house is immediately next door at 3222  
2 Brothers Place. Ms. Harper told me that she is vehemently opposed  
3 to Mr. Hayman's encroachment and has never, ever agreed to or  
4 even considered letting him build on her property. The part of  
5 Mr. Hayman's structure that encroaches the Harper property needs  
6 to be dismantled immediately.

7 For the record, I live at 3105 Waclark Place,  
8 Southeast, a few hundred feet from Ms. Harper who has been my  
9 neighbor and friend since 2018 when I moved into the neighborhood.  
10 I hope this Board will grant Ms. Harper immediate relief and  
11 order the immediate removal of the offending portion of the Hayman  
12 property.

13 Thank you for hearing my opinion.

14 CHAIRPERSON HILL: Thank you, Mr. Johnson, and thank  
15 you for taking the time to be with us.

16 Let's see. Mr. or Ms. Morgan, can you hear me?

17 MR. MORGAN: Yes, I can.

18 CHAIRPERSON HILL: Okay.

19 Could you please introduce yourself for the record and  
20 then you'll have three minutes to give your testimony.

21 MR. MORGAN: Yes. So my name is Broderick Morgan. I  
22 apologize for not having a camera and if the connection is bad I  
23 apologize again. We're overseas in United Arab Emirates and it's  
24 pushing on midnight here.

25 My wife and I stay adjacent to the Hayman's at 3216

1 Brothers Place. I guess we're the relative new kids on the block  
2 because we moved there in 2015, but we've had tenants in the  
3 property since we moved in September of 2023.

4           Regarding this issue, you know, we knew that they were  
5 planning construction. My wife and I gave our contact information  
6 to the Haymans prior to our departure just in case any issues  
7 came up regarding construction that we could relay with our  
8 property manager and tenants as necessary. But we've heard  
9 nothing from them until an attempted call late last night at 3  
10 a.m., our time.

11           So throughout this whole process we haven't received  
12 letters, we haven't received any sort of contact. I notice two  
13 of the exhibits, once we heard from the Harpers, Mrs. Harper,  
14 regarding this meeting, there are two exhibits in there that sort  
15 of say that they reached out or would reach out in October and  
16 November. Again, we didn't hear this whatsoever.

17           And, in addition, looking at this issue, I think the  
18 photos provided by the Haymans regarding the property, if you  
19 notice they're all taken from the front which is not the area  
20 that's really in dispute, and I would just encourage you in your  
21 decision to look at the pictures from the rear of the property  
22 provided by Mrs. Harper in terms of making your decision here.

23           And ultimately, you know, we don't have anything  
24 against the Haymans. We certainly haven't had any violent contact  
25 with them or otherwise. I would note that the signs posted to

1 me are not sufficient notice, particularly given again that we're  
2 overseas and, you know, ultimately our house, you know, our house  
3 is not built up to the property line so, you know, we don't have  
4 quite the same issues that Mrs. Harper does with this project in  
5 terms of the impact and I think, you know, we appreciate the  
6 opportunity to hear from particularly the city planners and  
7 everything on, you know, the impacts to the properties. It was  
8 just really frustrating to have to be here this late, have to  
9 not really have adequate notice of this process or even issues  
10 given the entire lack of communication with this process.

11 And, again, thank you for hearing from us and that's  
12 all I have.

13 CHAIRPERSON HILL: Okay. Thanks.

14 Mr. Morgan, did your wife want to, or the other person  
15 that wanted to speak?

16 MS. MORGAN: Hi. My name is Sarah Morgan.

17 I don't have anything to add. I believe I submitted a  
18 statement in advance on behalf of my husband and myself that  
19 should be in the documents that are online.

20 CHAIRPERSON HILL: Okay. Great. Thank you all.

21 Mr. and Mrs. Morgan, I guess since you guys are over  
22 there in UAE, if you want to, and you have access to the record,  
23 the Office of Planning's report in Exhibit 32 might be helpful  
24 to you in terms of reviewing this and they do not believe that  
25 the side yard relief is needed. We're here currently for the

1 lot occupancy perhaps, and so just to let you know that that  
2 report will help you kind of understand a little bit more of the  
3 project since you're overseas.

4 Let's see. Okay. Did, Mr. Keith, was he able to hear  
5 us?

6 MR. KEITH: Here I am. Thank you.

7 My name is Calito Keith and I'm at 3309 Brothers Place,  
8 Southeast and the only thing --

9 CHAIRPERSON HILL: Mr. Keith, you'll have three  
10 minutes --

11 MR. KEITH: -- I want to add is this.

12 CHAIRPERSON HILL: Mr. Keith, I'm sorry, you'll have  
13 three minutes to give your --

14 MR. KEITH: Currently (indiscernible). I'm sorry?

15 CHAIRPERSON HILL: I was just going to say you have  
16 three minutes to give your testimony and you can begin whenever  
17 you like.

18 MR. KEITH: All right. Thank you.

19 The issue is that with the side yard, if he has to have  
20 any work done on the side of his property he may have to gain  
21 access via Ms. Harper's (audio interference) and I think that was  
22 one of the issues was that his construction workers were in fact,  
23 you know, just going into her yard without asking.

24 In reference to any type of assault or anything, the  
25 issue that Commissioner Woodland was talking about, Mr. Hayman



1 was the one who had had the charge against him. So if you read  
2 the police report it clearly states that he was the one who  
3 assaulted the Harpers. He stole their property. So rather than  
4 come on here and discuss the fact that he's going to have to use  
5 her yard, currently there's no other options to it. The space  
6 isn't big enough for him to do the construction or do any type  
7 of renovation on the side of his house without gaining access to  
8 hers, and that's all I'd like to add.

9 Thank you.

10 CHAIRPERSON HILL: Okay. Thank you, Mr. Keith.

11 All right. Mr. Young, have we heard from everyone?

12 MR. HAYMAN: You haven't heard from me?

13 CHAIRPERSON HILL: Who's that?

14 MR. HAYMAN: The owner, Mr. Hayman.

15 CHAIRPERSON HILL: Okay. Mr. Hayman, you're going to  
16 have a chance, okay?

17 MR. HAYMAN: Okay.

18 CHAIRPERSON HILL: This is public testimony.

19 MR. HAYMAN: Okay. I understand.

20 CHAIRPERSON HILL: Okay. Let's see.

21 Mr. Young, is that all of the witnesses?

22 MR. YOUNG: Yes, it is.

23 CHAIRPERSON HILL: Okay. Great. Thank you so much.

24 All right. If you can go ahead and excuse all the  
25 witnesses, please. There's a new person here and I'm having a

1 | hard time with your last name I think, sir. With the headphones  
2 | on, can you introduce yourself?

3 | (Pause.)

4 | CHAIRPERSON HILL: You're on mute, sir.

5 | (Pause.)

6 | CHAIRPERSON HILL: You're still on mute.

7 | (Pause.)

8 | CHAIRPERSON HILL: No, still on mute.

9 | (Pause.)

10 | MR. OLAREWAJU: Hello.

11 | CHAIRPERSON HILL: Yes, can you hear me?

12 | MR. OLAREWAJU: Can you hear me?

13 | CHAIRPERSON HILL: Yes. Could you introduce yourself  
14 | for the record?

15 | MR. OLAREWAJU: Yes. I'm Ebenezer Olarewaju. I am the  
16 | architect who helped Mr. Hayman with the design and the permits  
17 | for his construction.

18 | CHAIRPERSON HILL: Okay. Okay. Great. All right.  
19 | Okay.

20 | Let me see now first of all if the Board has any  
21 | questions for anyone?

22 | (No response.)

23 | CHAIRPERSON HILL: Okay. All right. I got one  
24 | question. All right.

25 | So, Mr. Hayman, now you all, all you have to do is --

1 MR. HAYMAN: Hello?

2 CHAIRPERSON HILL: Can you hear me?

3 MR. HAYMAN: Yes, I can hear you.

4 CHAIRPERSON HILL: Okay. There was some, I thought  
5 somebody had the sound on again.

6 All you have to do is answer the questions that the  
7 Board asks you, okay?

8 MR. HAYMAN: Okay.

9 CHAIRPERSON HILL: So as I understand it, I'm a little  
10 confused in terms of, like, there was a stop work order but that  
11 has been addressed, correct?

12 MR. HAYMAN: This is what, this is what the, this is  
13 why we're here. The stop work order was due to the Department  
14 of Buildings not doing what they were supposed to do. It's a  
15 zoning, it came out as a zoning issue.

16 You know, these plans have been in effect and they've  
17 had them for close up to a year and a half. We've gone on and  
18 we got approved through the Department of Buildings through the  
19 zoning process in order to go ahead and do what we needed to do,  
20 you know. We did this before we even started working.

21 You know, here we are three quarters into the process.  
22 All of a sudden from out of nowhere we get this stop work order  
23 and it says, when I asked what it's about they say it's a zoning  
24 issue and then when I called and I talked to Department of  
25 Buildings, Ms. Kathleen Beeton, you know, they said it was an

1 error on their part because they thought that both of the houses  
2 were co-joined, you know. They weren't, they didn't think that  
3 our house was detached but if they look at the plat, if they look  
4 at the architectural drawings, you clearly see that these are  
5 detached houses.

6 So here we are three quarters into our project and now  
7 they've saying stop, we want you to change everything around, you  
8 know, and do this (indiscernible). Well, I mean, we did  
9 everything we were supposed to do. We did our due diligence and  
10 now here we are in a situation where they want us to stop and  
11 turn everything around, and that's something that we didn't think  
12 that we needed to do. So that's why we're requesting the special  
13 exception because this wasn't an error on our part, this was an  
14 error on the DOB's part.

15 CHAIRPERSON HILL: Okay.

16 If everyone else just to mute themselves unless they're  
17 talking, that'd be great. Does anybody have any questions?

18 Go ahead, Mr. Blake.

19 COMMISSIONER BLAKE: I have one single question. I'm  
20 confused a little bit. What you've done, sit, does it sit five  
21 feet away from the property line or not?

22 MR. HAYMAN: From, no, it does not.

23 COMMISSIONER BLAKE: How far away from the property  
24 line does it sit?

25 MR. HAYMAN: It's on the footprint, my addition is on

1 the same footprint as the house itself.

2 COMMISSIONER BLAKE: Is it five feet --

3 MR. HAYMAN: I just, I just said no, it is not.

4 COMMISSIONER BLAKE: Well, how far from the property  
5 line?

6 MR. HAYMAN: It's not five feet from the property line.  
7 It may be two feet away from the property line.

8 COMMISSIONER BLAKE: Okay. So that's the issue, right?

9 MR. HAYMAN: That's the issue now. That wasn't the  
10 issue before. You know, if that was the issue from the get-go  
11 then that's something that the DOB should have told us from the  
12 get-go. You know, we're not, we didn't go in doing anything  
13 egregious, we came in and we followed everything. We presented  
14 our plans, they looked at our plans, they approved our plans.

15 So how is it that all of a sudden out of nowhere going  
16 down this road we're three quarters away from getting, I mean,  
17 we're one quarter from getting our thing completed and here we  
18 are, we got the addition up and all of a sudden after we get the  
19 addition up we get a stop work order, you know.

20 So as far as what you're saying I get what you're  
21 saying. I'm not disagreeing with you on that. I'm not a builder.  
22 I'm not, I didn't know about these rules. We turned, all I know  
23 is that I paid for plans, we turned in the plans. DOB approved  
24 the plans. So where did we go wrong?

25 CHAIRPERSON HILL: Okay.

1 COMMISSIONER SMITH: Mr. Hayman?

2 MR. HAYMAN: I'm listening.

3 COMMISSIONER BLAKE: No, go ahead.

4 COMMISSIONER SMITH: Go ahead, Mr. Blake.

5 COMMISSIONER BLAKE: No, you go ahead.

6 COMMISSIONER SMITH: I don't think you finished asking  
7 the question.

8 CHAIRPERSON HILL: Mr. Blake I think is done asking a  
9 question. Mr. Smith, you can go ahead and ask a question.

10 COMMISSIONER SMITH: Mr. Hayman, yes.

11 I think everyone on this Board recognizes that you did  
12 submit plans and DOB did approve. They are within their right  
13 to pull them back if something is wrong. So it sounds like what  
14 was wrong was (audio interference) a wall check, that you weren't  
15 meeting the minimum zoning setback. The minimum zoning setback  
16 is eight feet. That's your existing house is not eight feet.  
17 Yes, you have an existing house. What you have said to us right  
18 now was that you were matching the new side, the side setbacks  
19 for the new addition up to the existing house.

20 MR. HAYMAN: Right.

21 COMMISSIONER BLAKE: The existing house isn't eight  
22 feet. You don't have eight feet, eight foot setbacks at each  
23 side of your house.

24 MR. HAYMAN: What do you mean by, when you say, what  
25 do you mean by eight foot setbacks? Define that.

1 COMMISSIONER SMITH: That's why --  
2 MR. JAMES: Can anyone hear me?  
3 CHAIRPERSON HILL: Hold on. Hold on. Everybody just  
4 hold on (audio interference).  
5 Mr. Hayman? Mr. Hayman?  
6 MR. HAYMAN: Yes, sir.  
7 CHAIRPERSON HILL: Who, is Mr. (audio interference)?  
8 MR. HAYMAN: That's, yeah, that's Mr. Albert James. He  
9 was one of the guys who, with the architect.  
10 CHAIRPERSON HILL: Okay. Just hold on.  
11 Yeah. So, Mr. Hayman, what Mr. Smith is saying is that  
12 there's an eight foot side yard required. It's okay. This is  
13 the way the application is currently. There's an eight foot side  
14 yard that's required. Your existing side yard was five feet. So  
15 currently your side yard is five feet, I believe. And now Mr.  
16 Blake is shaking his head.  
17 COMMISSIONER SMITH: It's not.  
18 COMMISSIONER BLAKE: I don't believe it's five feet.  
19 CHAIRPERSON HILL: All right. Now I'm confused.  
20 Can Mr. Hayman mute himself? Commissioner, mute  
21 himself. Okay?  
22 Ms. John, you seem to think that you have an answer or  
23 something? You want to share a comment, Ms. John?  
24 VICE CHAIRPERSON JOHN: If I could please say  
25 something.

1           Now that I've seen Mr. Hayman I realize I have seen  
2 him, I mean I may, not may have, I met Mr. Hayman some time ago.  
3 Is that Mrs. Hayman right next to him? Yes. So I am acquainted  
4 with the family and I can recuse myself or object. I believe I  
5 can be fair but I need to disclose that up front. So you can  
6 continue.

7           CHAIRPERSON HILL: Ms. John?

8           VICE CHAIRPERSON JOHN: This contact was some time ago,  
9 I would think at least ten years.

10          CHAIRPERSON HILL: That's fine. Mr. Smith, can I see  
11 your camera?

12          COMMISSIONER SMITH: I think I'm freezing because of  
13 the camera.

14          CHAIRPERSON HILL: Oh, got you. Okay. This is crazy  
15 technology.

16          I'll tell you what? Ms. John, since this is so  
17 contentious, why don't you go ahead and recuse yourself and then  
18 if we need your vote, we can figure that out later. Okay?

19          VICE CHAIRPERSON JOHN: Okay.

20          CHAIRPERSON HILL: So we're going to go ahead and excuse  
21 Ms. John.

22          VICE CHAIRPERSON JOHN: Yes.

23          CHAIRPERSON HILL: Thank you, Ms. John.

24          COMMISSIONER SMITH: So I'm going to, Chairman Hill,  
25 I'm going to continue what I was saying, but I'm going to go and



1 | turn off my camera because I think I'm freezing because of that.

2 |           CHAIRPERSON HILL: Okay.

3 |           COMMISSIONER SMITH: Because I think I heard Mr. Hayman  
4 | asking me a question.

5 |           Based on your building, your plans that you've  
6 | submitted or that's within the record, your proposed addition  
7 | is -- the width of your property is 25 feet. Your proposed  
8 | addition, the width of your addition is 21.3 (phonetic) feet and  
9 | are you, you're saying (audio interference) --

10 |           MR. HAYMAN: I can't hear you.

11 |           COMMISSIONER SMITH: -- (audio interference.)

12 |           CHAIRPERSON HILL: Mr. Olarewaji, can you mute  
13 | yourself?

14 |           (Audio interference).

15 |           CHAIRPERSON HILL: Could you try again, Mr. Smith?

16 |           COMMISSIONER SMITH: Are you saying that your  
17 | currently, as constructed, you only have two feet side yard?

18 |           MR. HAYMAN: Okay.

19 |           From my property line, basically what this, this is  
20 | what the deal is. In between both of our houses what was  
21 | something at one time it was considered an easement. You know,  
22 | they put a, okay, all right. Here's the deal.

23 |           CHAIRPERSON HILL: Mr. Hayman? Mr. Hayman?

24 |           MR. HAYMAN: Yes, sir.

25 |           CHAIRPERSON HILL: Just hang on one second. Everybody

1 mute themselves.

2 Mr. Ebenezer, you're the architect. You're still on  
3 mute. We're all just calmly talking here. We're just trying to  
4 figure out what actually is the side yard.

5 MR. OLAREWAJU: I think at this point Mr. Hayman needs  
6 to limit to those of us who did the plan. Let's start with Mr.  
7 James first. Mr. James is my associate and he was my go-between  
8 all the time. So let Mr. James start --

9 (Audio interference.)

10 CHAIRPERSON HILL: Why does Mr. James --

11 MR. OLAREWAJU: Mr. James is also an architect. He's  
12 my associate and he is the one that was directly on this project.

13 CHAIRPERSON HILL: Okay. So let me --

14 MR. OLAREWAJU: More intimate with this project.

15 CHAIRPERSON HILL: Okay.

16 Mr. James, can you hear me? Could you introduce  
17 yourself for the record.

18 MR. JAMES: Yes. Good afternoon. My name is Al James.  
19 I worked directly with Mr. Hayman as the designer working under  
20 Mr. Ebenezer who prepared the drawings that were submitted for  
21 permit.

22 CHAIRPERSON HILL: Okay. Are you an architect, Mr.  
23 James?

24 MR. JAMES: I'm an architectural designer. I'm not a  
25 registered architect in the District and that's why I work with

1 Mr. Ebenezer.

2 CHAIRPERSON HILL: Okay. What's the side yard? How  
3 big is the side yard?

4 MR. JAMES: Per the plat we got from the District, the  
5 side yard is five feet from the existing house and the addition  
6 falls in line with the existing house where it does not go any  
7 further to the property line or sit further away from the property  
8 line. It is in line, so based on the plat that we received it  
9 is five feet. If we went up and did the actual measurements we  
10 would have to see what (indiscernible). But based on the plat  
11 that we got from D.C. it's five feet from the property line.

12 CHAIRPERSON HILL: Okay. On either side?

13 MR. JAMES: Yes, on either side of the property.

14 CHAIRPERSON HILL: Okay.

15 Ms. Myers, can you hear me?

16 MS. MYERS: Yes, I can hear you.

17 CHAIRPERSON HILL: I just want to make sure that's  
18 right.

19 So the Office of Planning, they're supposed to have an  
20 eight foot side yard. They have a five foot side yard on both  
21 sides; is that correct?

22 MS. MYERS: That's what's been represented in the  
23 Zoning Administrator's letter, so we based our analysis off of  
24 what's been provided in the ZA's letter and also what the  
25 Applicant has provided to the record.

1 CHAIRPERSON HILL: Okay. All right. Okay.

2 Does anybody have any questions?

3 COMMISSIONER SMITH: Can somebody point that to me in  
4 the record because I don't see a five foot side yard setback on  
5 anything that's (indiscernible).

6 MS. MYERS: The Zoning Administrator's letter is in the  
7 record and I actually had to ask the Applicant to provide the  
8 calculations sheet because that was not provided in the record.  
9 However, that is what is connected to the ZA's letter and that  
10 is the basis of the ZA's referral which does say, I believe, that  
11 side yard relief is needed because of five feet, and I'm taking  
12 a look now.

13 CHAIRPERSON HILL: Everybody just wait until the Office  
14 of Planning comes back, unless Mr. Smith has a question.

15 COMMISSIONER SMITH: (Indiscernible).

16 MS. MYERS: There's also a self, I'm sorry, there's  
17 also a self-certification in the record and that says five feet  
18 for the side yard as well. So the self-certification is Exhibit  
19 19.

20 CHAIRPERSON HILL: I see that one.

21 MS. MYERS: Yeah, and the Zoning Administrator letter,  
22 let me see.

23 (Pause.)

24 MS. MYERS: So, I see that there's a memo from, I think  
25 the self-certification ultimately is the primary but there is a

1 memo from the ZA's office at Exhibit 14 and again at Exhibit 15.  
2 So if you look at that, the 15 one, that one does refer to the  
3 special exception for side yard and, like I said, there was no  
4 calculations sheet and that's what the Applicant had provided to  
5 me in an email.

6 But ultimately this is considered a self-certification  
7 case so we would go by Exhibit 19, the updated zoning self-  
8 certification, and that's the one that does say five feet.

9 CHAIRPERSON HILL: And, Ms. Myers, can you tell me  
10 again the Office of Planning's analysis concerning the side yard.

11 MS. MYERS: When it comes to the side yard we, well No.  
12 1, we don't think side yard relief is needed because five feet  
13 is permitted. If you have an existing five foot side yard you  
14 are allowed to do an addition maintaining that five foot side  
15 yard but we did say that since this was requested for a special  
16 exception relief for the side yard, we still reviewed it and we  
17 thought that it wouldn't be -- let's go to the report here.

18 So in regards to light and air, we didn't think the  
19 addition was of a sizable, of a size that would impact the  
20 adjacent neighbor's light or air. It's considerably lower in  
21 height than what is the maximum for zoning and it goes, it's a  
22 nine foot addition going back into the property so not extensive  
23 enough to really, again, have a significant impact on the adjacent  
24 neighbor.

25 We also felt that the rear yard, all of the rear yards

1 | were sufficient to allow for adequate light and air flow. In  
2 | regards to privacy of use and enjoyment of the neighboring  
3 | properties, again, we did not think that it was of a size to  
4 | really have a significant impact. We have to remember with  
5 | special exceptions we always look at does it have, what is it to  
6 | a level to be undue compromise, so not to say there might not  
7 | be, there might, there could still be a small impact if someone  
8 | were to personally feel that a small impact was felt, but it has  
9 | to be to a level considered undue so a pretty significant amount  
10 | and we did not feel that there was, the size of this addition  
11 | was to a level to be considered undue impact and we also felt  
12 | that the way this addition looks on the alley would not be  
13 | significantly or any real level of being out of character with  
14 | this neighborhood. It's a pretty standard typical residential  
15 | appearance, and so visually it would not change the character of  
16 | the area.

17 |           And so for those reasons we felt that the special  
18 | exception could be granted, or we could support it.

19 |           CHAIRPERSON HILL: Thank you, Ms. Myers.

20 |           Okay. Go ahead, Mr. Blake, and then Mr. --

21 |           COMMISSIONER BLAKE: Yes. I'm looking at the picture  
22 | that you provided here and I see there's a fence going down  
23 | between the two properties. Is that property, is that fence on  
24 | the property line or is that fence to one side or another?

25 |           CHAIRPERSON HILL: Mr. Ebenezer is trying to talk but

1 | you're on mute, Mr. Ebenezer.

2 |           MR. OLAREWAJU: I want Al James to answer all those  
3 | questions.

4 |           MR. JAMES: In terms of the fence location, I haven't  
5 | surveyed the fence or gotten any data on the actual location of  
6 | the fence. So I can't say for certain it's on the property line  
7 | or offset from the property line.

8 |           COMMISSIONER BLAKE: You say you have not looked at  
9 | this, the issue is the side yard, so you did not measure this is  
10 | what you're saying?

11 |           MR. JAMES: No, I said I haven't surveyed. There's no  
12 | survey markers on the site to mark the property line, so there's  
13 | no way for me to know for certain if the fence itself is sitting  
14 | on the property line or offset one foot or six inches off the  
15 | property line. But it appears to be very close to the property  
16 | line as it appears to be halfway between the two structures.

17 |           COMMISSIONER BLAKE: But it doesn't look like five  
18 | feet? I can't tell. Okay. Thank you.

19 |           CHAIRPERSON HILL: Okay. Okay.

20 |           Go ahead, Mr. Miller. I'm sorry.

21 |           ZC VICE CHAIRPERSON MILLER: Well, that was, Mr. Blake  
22 | asked one of my two questions.

23 |           The other one was I guess I don't know if this, I  
24 | realize the certification, self-certification in the ZA's  
25 | letter -- here's Archie to verify all this because he's very good

1 at math, much better than I am. Hi Archie.

2 Does the side yard require, I guess this is for Ms.  
3 Myers just out of curiosity. Does the side yard requirement  
4 apply to the roof overhang as well, because the roof overhang  
5 obviously goes beyond the edge of the law (phonetic).

6 MS. MYERS: I don't believe it does. I mean the ZA's  
7 office would be the one to best answer that, but I don't think  
8 it does.

9 ZC VICE CHAIRPERSON MILLER: Okay. That was just my  
10 question out of curiosity.

11 Thank you.

12 CHAIRPERSON HILL: Who's trying to talk?

13 Mr. OLAREWAJU: Ebenezer Olarewaju, the architect.

14 CHAIRPERSON HILL: Go ahead, Mr. Ebenezer.

15 MR. OLAREWAJU: I've had a lot of experience over the  
16 years with these kind of situations. My observation is that when  
17 two neighbors are not on good terms sometimes what appears to be  
18 or what is legally permitted suddenly becomes contentious.

19 I've been doing this for over 40 years and I've been  
20 in some really interesting situations and the thing is when I was  
21 preparing these drawings the first thing that I looked at were  
22 all the regulations in terms of setbacks. Were they being  
23 followed, to be sure that everything goes through and follows all  
24 the rules, and I did and I told him. I said, look, there's no  
25 way I'm going to sign and put a seal on this if I believe it's



1 not going to be approved or if it's in violation of anything.  
2 And at that time it didn't look like it there was and of course --

3 CHAIRPERSON HILL: Okay. Mr. Ebenezer, I'm going to  
4 cut you off.

5 So let me just, I'm going to have an emergency closed  
6 meeting real quick because I'm going to talk to legal. I'm sorry  
7 to drag this out a little bit, and let me do that and then we'll  
8 come back. Okay? So what that means is we're going to get to  
9 talk to our Legal Division and then we'll come back. Okay?

10 I'm Fred Hill, Chairman of the Board of Zoning  
11 Adjustment in the District of Columbia. Oh, shoot  
12 (indiscernible).

13 As Chairperson of the Board of Zoning Adjustment for  
14 the District of Columbia and in accordance with 407 of the  
15 District of Columbia Administrative Procedures Act I move that  
16 the Board of Zoning Adjustment hold a closed emergency meeting  
17 on 2/5/2025 at 3:25 p.m. to seek legal advice from our counsel  
18 on Case No. 21239, deliberate and not vote on Case No. 21239,  
19 for reasons cited in District Code 2-575(b)(13).

20 Is there a second? Mr. Blake.

21 COMMISSIONER BLAKE: Second.

22 CHAIRPERSON HILL: Okay. Great.

23 The motion is made and seconded. If you could please  
24 take a roll call, Madam Secretary.

25 MS. MEHLERT: Please respond to the Chair's motion to

1 hold an emergency closed meeting.

2 Chairman Hill?

3 CHAIRPERSON HILL: Yes.

4 MS. MEHLERT: Mr. Blake?

5 COMMISSIONER BLAKE: Yes.

6 MS. MEHLERT: Mr. Smith?

7 COMMISSIONER SMITH: Yes.

8 MS. MEHLERT: Commissioner Miller?

9 ZC VICE CHAIRPERSON MILLER: Yes.

10 MS. MEHLERT: Staff would record the vote as four to  
11 zero to one to hold an emergency closed meeting.

12 CHAIRPERSON HILL: Okay.

13 As it appears the motion passed, I hereby give notice  
14 that the Board of Zoning Adjustment will recess this proceeding  
15 at 2/5/2025 at 3:26 p.m. to hold a closed emergency meeting  
16 pursuant to the District of Columbia Administrative Procedures  
17 Act. A written copy of this notice will be posted in the Jerrily  
18 R. Kress Memorial Hearing room. Thank you. We will all come  
19 back, so don't go anywhere.

20 Thank you.

21 (Whereupon, at 3:26 p.m., there was a recess for an  
22 emergency closed meeting with legal counsel.)

23 MS. MEHLERT: The Board has returned from an emergency  
24 Closed meeting with OZ Legal and is returning to Case No. 21239  
25 of John Hayman.

1 CHAIRPERSON HILL: Okay. Thank you.

2 Okay. Everybody stay on mute, if you wouldn't mind,  
3 except for who I'm going to ask a question to because we've had  
4 a lot of feedback.

5 Mr. Hayman, can you hear me?

6 MR. HAYMAN: Yes, I can hear you.

7 CHAIRPERSON HILL: Okay.

8 So, Mr. Hayman, I want to let you know. We're trying,  
9 I'm trying to help you. I'm trying to make sure this is going  
10 in a way that you don't have to come back here. Okay?

11 So what ended up happening, or what we were getting  
12 confused by, is your plat and what we think your relief may or  
13 may not be, okay, and if we get it wrong then you're going to  
14 have to come back to us again when there's a wall check done,  
15 okay? And what I'm speaking of, again, is what exactly is the  
16 side yards of the new addition that you've made? Okay?

17 So what I'm going to suggest is that you go back to the  
18 Department of Buildings and our staff can help you on some of  
19 this. So our staff will reach out to you and help you try to  
20 get, or at least understand what you're asking for, which is a  
21 notes and computations page as to what exactly is there. Okay?  
22 And then if it turns out that you don't have five feet, but you  
23 only have two feet or whatever it is, you might have to change  
24 the relief that you're asking for. Okay? And, again, if we  
25 approve something that is not actually there, you're going to

1 have to come back to us later and this is all going to keep going.  
2 Okay?

3 So I'm going to refer you to staff and they will advise  
4 you as to how you can get the correct measurements for us and  
5 then we're going to re-schedule this for a continued hearing on  
6 that area. Okay?

7 MR. HAYMAN: Okay. As far as getting the correct  
8 measurements, you're talking about this is something that I have  
9 to put into play or is this something that the Department of  
10 Buildings themselves can come out and do with the inspectors that  
11 they have?

12 CHAIRPERSON HILL: We're trying to help you, and so I'm  
13 trying to find out exactly we can, whatever the Department of  
14 Buildings may have so that you don't have to go about doing it.  
15 We're going to try to help you do that. Okay?

16 Now, whatever they may or may not be able to do I can't  
17 say yet, but I'm going to let you, we're going to, as I said,  
18 refer you to the Office of Zoning here now and see what happens  
19 next. Okay? Because as you mentioned, you think you might only  
20 have two feet right now, okay, and so that is going to be  
21 different and that's going to be a problem for you later.

22 So let's go ahead and re-schedule this, okay? Put this  
23 off (audio interference) hearing just to find out where we are  
24 with the proper measurements.

25 MR. HAYMAN: Okay.

1 I remember you just saying something. You mentioned a  
2 wall check?

3 CHAIRPERSON HILL: What I was saying is that when there  
4 is a wall check done, and this is kind of getting out of my area  
5 of expertise right now, but if we were to approve something that  
6 says you had a five foot side yard and then the wall check comes  
7 and says you don't have a five foot side yard there would be a  
8 problem. Okay?

9 MR. HAYMAN: Okay. But if I've already got a wall  
10 check, if I already got a wall check then what then, because I  
11 did have to get a wall check.

12 COMMISSIONER BLAKE: Is that information in the record?  
13 The results from that?

14 MR. HAYMAN: It should be. Because I had to go to a  
15 third party, you know, with, when I talked to Kathleen Beeton  
16 about that, that's what we did. We paid for a wall check.

17 CHAIRPERSON HILL: Where's that wall check in the  
18 record? You don't have any idea.

19 MR. HAYMAN: Let me check.

20 CHAIRPERSON HILL: Did the wall, Mr. Hayman?

21 MR. HAYMAN: Yes, sir.

22 CHAIRPERSON HILL: Did the wall check say that you had  
23 a five foot side yard?

24 MR. HAYMAN: You know, that I don't know. What I do  
25 know is that everything came back as a positive, like there was

1 no encroachment on anybody's part as far as any of my neighbors  
2 and everything, and everything was positive. So, if I'm going  
3 to, I can't comment on something that I don't remember, you know,  
4 I don't recall.

5 COMMISSIONER BLAKE: Mr. Hayman (audio interference)  
6 they were talking about really doing what the actual measurement  
7 was.

8 MR. HAYMAN: Exactly.

9 COMMISSIONER BLAKE: So if (indiscernible).

10 MR. HAYMAN: Exactly, exactly.

11 COMMISSIONER BLAKE: If you could just give us a number.  
12 If it's --

13 MR. HAYMAN: Well, I can't, I can't give you (audio  
14 interference).

15 COMMISSIONER BLAKE: (Audio interference).

16 MR. HAYMAN: Say that again?

17 COMMISSIONER BLAKE: Do you have a copy of the document?

18 MR. HAYMAN: I do have a copy of the document.

19 COMMISSIONER BLAKE: It doesn't have the measurement  
20 on it?

21 MR. HAYMAN: Well, I don't have it right here in front  
22 of me right now but I'll check in the exhibits to see if it's in  
23 there.

24 CHAIRPERSON HILL: Okay. I'm still going back with the  
25 original plan. Okay?

1           So I'm going to go ahead and re-schedule this for a  
2 continued hearing only on what we're asking about which is, again,  
3 the measurements of the side yards on the addition, right?

4           MR. HAYMAN:   Okay.

5           CHAIRPERSON HILL:   I'm going to send you to staff.  
6 Madam Secretary, when can I come back here again, do you think,  
7 with Mr. Hayman?  As quickly as possible.  I want to help Mr.  
8 Hayman out because if everything's exposed I want to find out one  
9 way or the other what's going to happen.

10          MS. MEHLERT:   Could come back March 5th.

11          MR. HAYMAN:    Oh, my God.   Oh, my God.   This is  
12 ridiculous.

13          MS. MEHLERT:   (Audio interference) because it's a busy  
14 schedule so I don't know how much time you want to putu on  --

15          CHAIRPERSON HILL:   Who's not on mute?  Okay.

16          Mr. Hayman, if you know the answer you can tell me the  
17 answer right now, right?

18          MR. HAYMAN:    I don't --

19          CHAIRPERSON HILL:   If I approve something that is not  
20 correct, then you're going to get all back in this again, right?

21          MR. HAYMAN:    Okay.  I understand what you're saying,  
22 but when I talk about, when you're talking about measurements and  
23 all that, you know, I got to give it up to the people that I  
24 dealt with, the architect, my architect's assistant, you know,  
25 as far as the size of the plot and everything.  So I got to get

1 that to them because they're more knowledgeable than I am when  
2 it comes to that. You know, I haven't done a whole bunch of  
3 measurements and so if I know that my lot size is going to be 25  
4 foot in width and I'm not sure how much it is in length and  
5 everything but I know it's going to be 25 foot in width, so I'll  
6 just have to leave that, you know, put it in their hands and  
7 everything and if there's no way possible that I can get the  
8 answer then, and come back, you know, as far as with this  
9 information from the wall check.

10 CHAIRPERSON HILL: Okay.

11 I'm going to let you talk to the staff, okay, and we'll  
12 come back. You're saying the 5th, which is a month away, right?  
13 You're going to have to, if Ms. Mehlert, is there? I mean, I  
14 don't know what we have between now and then, I mean you still  
15 have to get to DOB, right, and so that's going to take time,  
16 right? And then if the numbers are different than what you  
17 submitted before, Mr. Hayman, then you're going to have to, again,  
18 change your self-cert., right?

19 And so let me go ahead and let you talk to staff and  
20 why does the, Ms. Mehlert, what's the 19th look like, which is  
21 in two weeks, I know?

22 MS. MEHLERT: We don't have a hearing. That's the week  
23 of President's Day.

24 CHAIRPERSON HILL: Oh. Okay. What about the 26th?

25 MS. MEHLERT: The 26th you have six hearing cases.



1 CHAIRPERSON HILL: Okay.

2 Mr. Miller, are you around on the 26th?

3 ZC VICE CHAIRPERSON MILLER: I can, I may be out of  
4 town but I think I can be made, yeah, I can make myself available  
5 unless I'm in flight.

6 CHAIRPERSON HILL: Okay.

7 ZC VICE CHAIRPERSON MILLER: But the only thing I want  
8 to say is when staff reaches out to DOB or whoever to get their  
9 accurate measurement so we can give the, consider the relief  
10 that's being asked for, consider the accurate relief that's being  
11 asked for, when we get the revised or confirmed measurements if  
12 they're different than what OP evaluated I would like staff to  
13 just reach out to OP and see if they can get a revised OP report  
14 that shows they're evaluating two feet versus five feet, just so  
15 we know what we're evaluating.

16 CHAIRPERSON HILL: Okay.

17 ZC VICE CHAIRPERSON MILLER: I would just want a revised  
18 OP report as well if we have different measurements.

19 CHAIRPERSON HILL: Okay. All right.

20 Ms. Mehlert, Mr. Hayman, I'll let you guys reach out  
21 to each other and we'll try to get you back here on the 26th. If  
22 for some reason we have to push it back, we'll push it back.  
23 Okay? And we'll try to do it first thing because there's a lot  
24 of other cases on the 26th.

25 MR. HAYMAN: So we can't resolve this today? I mean,

1 | because my architect's assistant said that according to the plat  
2 | it's five feet, so we just can't resolve this today and then go  
3 | on?

4 |           COMMISSIONER BLAKE: Mr. Hayman (audio interference).  
5 | The measurement on the plat says to me that the width of your  
6 | lot is 25 feet. It says that the width of your building is 21.5  
7 | feet. That leaves me with three and a half feet divided by two  
8 | does not give me five feet. I need to know what the right number  
9 | is. Look at the plat that you submitted, look at the numbers  
10 | and see why they don't add up and just give me the right number.  
11 | That's all we're asking for.

12 |           MR. HAYMAN: Okay. And we get the right number -- so  
13 | basically what you're saying is, if this number is what you're  
14 | talking about and it's different then, at this point, then we  
15 | have to comply to what they're talking about as far as trying to  
16 | make this, do something else as far as the addition is concerned.  
17 | Is that what you're saying something else as far as the addition  
18 | is concerned. Is that what you're saying something else as far  
19 | as the addition is concerned. Is that what you're saying?

20 |           COMMISSIONER BLAKE: We need you to give us the number.  
21 | That's why we're asking for the number. We want to know the  
22 | correct number. That's what we need.

23 |           MR. HAYMAN: I understand what you need but I'm saying  
24 | after that, then what?

25 |           COMMISSIONER BLAKE: We need to know what you need, you

1 need to give us the number. That's what we need.

2 MR. HAYMAN: Okay.

3 CHAIRPERSON HILL: Okay. Mr. Hayman?

4 COMMISSIONER BLAKE: (Audio interference).

5 MR. HAYMAN: Okay. All right. All right. I'm good.  
6 I'm good. So it's on the 26th?

7 CHAIRPERSON HILL: We'll see you on February 26th.  
8 Okay?

9 MR. HAYMAN: Any particular time?

10 CHAIRPERSON HILL: We're going to try to do it 9 a.m.  
11 I got a lot of other cases that we're trying to fit you in for --

12 MR. HAYMAN: Okay.

13 CHAIRPERSON HILL: -- and so on two, yeah, 2/26. Oh,  
14 am I here on 2/26? Yeah, 2/26. Okay. All right. Okay. Thank  
15 you all. We'll see you on 2/26.

16 MR. HAYMAN: Okay.

17 CHAIRPERSON HILL: Bye bye.

18 MS. MEHLERT: Did you want to give any deadlines for  
19 any submissions?

20 CHAIRPERSON HILL: Oh, thanks, Ms. Mehlert. Maybe you  
21 can help me? What kind of deadlines can I get to get back here  
22 on the 26th?

23 MS. MEHLERT: So we could see if the Applicant can  
24 submit anything regarding the measurements by next Friday the  
25 14th and then OP provide a revised report if needed by the 21st.

1 CHAIRPERSON HILL: Yeah. And then, however, in order  
2 for that to happen Mr. Hayman has to get to DOB and get the  
3 numbers, the notes and computations that they might have,  
4 correct?

5 MS. MEHLERT: Yes.

6 CHAIRPERSON HILL: Okay. So that, Mr. Hayman, if DOB  
7 can get back to you by the 14th with those numbers, then you can  
8 submit it to us, okay? And tomorrow why don't you reach out to  
9 staff or staff will reach out to you and at least help you  
10 maneuver that with the Department of Buildings, at least point  
11 you in the right direction, okay?

12 MR. HAYMAN: Thank you, sir.

13 CHAIRPERSON HILL: Okay. All right. Okay. All right.

14 Then we are done for now and hopefully we get back on  
15 the 26th. So we will close that part of the hearing and the  
16 record. And now we're going back still to something else.

17 (Pause.)

18 CHAIRPERSON HILL: Okay. All right.

19 Mr. Smith, are you there?

20 COMMISSIONER SMITH: I'm here.

21 COMMISSIONER BLAKE: Where's Ms. John?

22 CHAIRPERSON HILL: Okay. All right. Ms. John is not  
23 coming? Okay. All right. She's gone.

24 So, okay. Let's see. Ms. Mehlert, you can call our  
25 decision case.

1 MS. MEHLERT: Yes. The last case scheduled or that the  
2 Board scheduled for decision earlier today is return to  
3 Application No. 21216 of Latasha D. Boone Trustee. As amended,  
4 this is a self-certified application pursuant to Subtitle X,  
5 Section 1002 for area variances from the lot area and lot width  
6 requirements of Subtitle E, Section 202.1 and pursuant to  
7 Subtitle X, Section 901.2 for special exceptions under Subtitle  
8 E, 5201 from the lot occupancy requirements of Subtitle E, Section  
9 210.1 and from the rear yard requirements of Subtitle E, Section  
10 207.1 and under Subtitle E, Section 207.5 to allow the rear wall  
11 of a row or semi-detached building to extend farther than ten  
12 feet beyond the farthest rear wall of an adjoining principal  
13 residential building on any adjacent property.

14 This is for the subdivision of three record lots, each  
15 improved with a two-story principal dwelling and an attached or  
16 semi-detached building and additions to each building for use as  
17 two-unit flats on each new lot. This is located in the RF-1 zone  
18 at 418 and 422 Franklin Street, Northeast, and 2804 5th Street,  
19 Northeast, Square 3639, Lots 26 and 28, and the Applicant  
20 submitted the requested information in Exhibit 38 in the record.

21 CHAIRPERSON HILL: Great. Thank you.

22 So they have asked us to allow this into the record.  
23 Unless the Board has any issues I'd like to please allow it into  
24 the record. There is an existing site plan and then there's the  
25 proposed site plan which does not show any kind of alley access.

1 So that is something that I think the Board had asked for prior  
2 to us being able to deliberate.

3 Does anybody want to start the deliberations while I  
4 get myself kind of organized? Go ahead, Mr. Blake.

5 COMMISSIONER BLAKE: Okay. Sure.

6 In looking at this analysis, it basically focuses on  
7 the area variance. Obviously the area variance, to look at the  
8 first prong of the area variance the Applicant must prove that  
9 as a result of the attributes of a specific piece of property,  
10 the strict application of the zoning regulations would result in  
11 peculiar and exceptional practical difficulties to the owner and  
12 the property.

13 Looking at the first element, the first prong requires  
14 the Applicant to demonstrate that there exists extraordinary  
15 exceptional conditions or uniqueness affecting the property. The  
16 uniqueness can certainly be an exceptional situation that may  
17 arise from a confluence of factors which affect a single property,  
18 which I think is the case here.

19 We look at the exceptional condition based on a  
20 confluence of factors of the zone (phonetic). First of all is  
21 the unusual condition existing lot configuration is two dog leg  
22 lots wrapped around a third, the size of the interior lots  
23 actually adds to that which are well below the existing standard  
24 for a row house in the zone and the fact that the meaningful  
25 portion of these interior lots are contained in these dog legs

1 | which, due to their size and location, are unusable for  
2 | development of meaningful (phonetic) recreation space. Lastly,  
3 | the singular and unified focus provided by common ownership also  
4 | facilitates the realignment. So I think those factors together  
5 | actually create a unique circumstance which allows to resolve and  
6 | provide the relief. The undevelopable space behind the corner  
7 | lot, and behind the middle lot is basically 580 square feet.

8 |         The second element of this thing, if we look at the  
9 | first prong, is to what are the factors determining whether  
10 | there's unnecessary or burden practical difficulty. We can look  
11 | at a wide range of factors from the severity of variance, the  
12 | weight of burden of the restricted compliance, the effect of the  
13 | proposed variance we have on the overall zone plan. So the key  
14 | there is to demonstrate not that it's in strict compliance with  
15 | regulations is really burdensome, but not impossible.

16 |         So these lots are not conforming lots. There's no  
17 | option to make all three lots conforming to current requirements.  
18 | Although the lots have already been developed consistently with  
19 | the regulations and further development is possible, the re-  
20 | apportionment of the property as afforded by the area variance  
21 | which provides for development of larger lots configured in a way  
22 | that provides superior light and air to residents and would  
23 | potentially be less impactful to neighboring properties and other  
24 | option requiring relief. So, as designed the property would be  
25 | more consistent with the norms of the square and in greater

1 harmony with the streetscape and character of both Franklin and  
2 5th Streets.

3           Looking at the second prong of the test, the issue is  
4 can relief be granted without substantial detriment to the public  
5 good. So given the massing of these units, the potential adverse  
6 impact on neighboring properties is minimized I think and should  
7 not be undue. The ANC really put some very positive comments in  
8 their statement, in their supplemental state in Exhibit 35. They  
9 said basically this project will net benefit to the neighborhood.  
10 The addition will be much needed housing units in the area. The  
11 development of an unutilized block and normalizing the block in  
12 size with other properties within the vicinity. The requested  
13 relief by the Applicant is in alignment with the goals of our  
14 neighborhood and will serve to further revitalize a block along  
15 a busy road.

16           So in my mind that certainly does support the fact that  
17 this is in line with in supporting public, there's no substantial  
18 detriment to the public good. Looking at it from the perspective  
19 of the intended zoning regulations of the third prong, the  
20 granting relief should not result in a substantial impairment of  
21 the intent of purpose. This certainly could be accomplished by-  
22 right. This is a better configuration that would otherwise  
23 result.

24           So for that reason I believe that this is, and it would  
25 certainly be still, you know, technically it would still be three



1 flats. So I believe that the Applicant has done a good job with  
2 that. As far as the special exceptions are concerned, I believe  
3 the Applicant has met the burden of proof for all the special  
4 exception relief requested as well and I will certainly  
5 congratulate the Applicants of being a very creative way to  
6 maximize the value of space.

7 And, oh, by the way, I'd like to mention I do not  
8 believe that I look at this as a situation where you just maximize  
9 the value. I do believe that this was a very oddly structured  
10 situation and this is a very good way to accomplish a lot of  
11 things that can only be accomplished given the confluence of  
12 factors that we have.

13 That's my thoughts, Mr. Chair.

14 CHAIRPERSON HILL: Oh, God, you should get promoted.  
15 You really need to get, like, a promotion. Thank you so much,  
16 Mr. Blake, for all of your well thought out reasoning and it's  
17 very appreciated.

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

19 COMMISSIONER SMITH: No, I don't have anything to add.

20 I by and large agree with what Commissioner Blake has  
21 stated regarding how the area variances, the proposed development  
22 meets the prongs of the area variance test as well as how they  
23 meet the special exception requirements and I will be voting in  
24 support.

25 CHAIRPERSON HILL: Thank you.

1 Commissioner Miller?

2 ZC VICE CHAIRPERSON MILLER: Thank you, Mr. Chairman.

3 Yes. I also agree that Board member Blake did an  
4 excellent job of presenting the case and the case for approving  
5 it and I agree with his rationale and I agree with the rationale  
6 provided by the Office of Planning in terms of the variance and  
7 special exception criteria being met, and give great weight to  
8 that and to the ANC and am ready to move forward.

9 Thank you.

10 CHAIRPERSON HILL: Thank you.

11 Okay. I have nothing to add. I appreciate the efforts  
12 of my colleagues to help put forth a clear argument.

13 I am going to make a motion to approve Application No.  
14 21216 as captioned and ready by the secretary, and ask for a  
15 second. Mr. Blake.

16 COMMISSIONER BLAKE: Second.

17 CHAIRPERSON HILL: Motion made and seconded. Madam  
18 Secretary, take a roll call, please.

19 MS. MEHLERT: Please respond to the Chair's motion to  
20 approve the application.

21 Chairman Hill?

22 CHAIRPERSON HILL: Yes.

23 MS. MEHLERT: Mr. Smith,

24 COMMISSIONER SMITH: Yes.

25 MS. MEHLERT: Mr. Blake?

1 COMMISSIONER BLAKE: Yes.

2 MS. MEHLERT: Commissioner Miller?

3 COMMISSIONER BLAKE: Yes.

4 MS. MEHLERT: Staff would record the vote as four to  
5 zero to one to approve Application 21216 on the motion made by  
6 Chairman Hill and seconded by Mr. Blake, with Board member John  
7 not participating.

8 CHAIRPERSON HILL: Okay. Thank you. Hey, Archie, how  
9 you doing? Good. Yeah, Archie, we're talking to you.

10 ZC VICE CHAIRPERSON MILLER: You have anything to say?  
11 Say goodbye.

12 ARCHIE: Bye.

13 CHAIRPERSON HILL: Bye. We're adjourned. Bye bye.

14 (Whereupon, the above-entitled matter went off the  
15 record at 4:28 p.m.)

16

17

18

19

20

21

22

23

24

25

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

This is to certify that the foregoing transcript

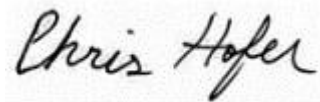
In the matter of: Public Hearing

Before: DC BZA

Date: 02-05-25

Place: Webex videoconferencing.

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



---

Chris Hofer