

GOVERNMENT OF  
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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REGULAR PUBLIC HEARING

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WEDNESDAY

APRIL 2, 2025

+ + + + +

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

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

FREDERICK L. HILL, Chairperson  
CARL H. BLAKE, Vice Chairperson  
CHRISHAUN SMITH, Commissioner  
ROBERT MILLER, Zoning Commission Vice Chairperson  
GWENDOLYN WRIGHT, Zoning Commissioner

BOARD OF ZONING ADJUSTMENT STAFF PRESENT:

KEARA MEHLERT, Secretary  
PAUL YOUNG, A/V operations

The transcript constitutes the minutes from the Regular Public Hearing held on April 2, 2025

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(9:30 a.m.)

CHAIRPERSON HILL: Good morning, ladies and gentlemen. Today is 4/2/2025. This public hearing of the Board of Zoning Adjustment will please come to order. My name is Fred Hill, Chairman of the District of Columbia Board of Zoning Adjustment. Today joining me are Board members Chrishaun Smith, Carl Blake, and Zoning Commissioners Gwendolyn Wright and Rob Miller. Today's meeting and hearing agenda are available on the Office of Zoning's website. Please be advised that this proceeding is being recorded by a court reporter and is also webcast live via Webex and YouTube Live.

The video of the webcast will be available on the Office of Zoning's website after today's hearing. Accordingly, everyone who is listening on Webex or by telephone will be muted during the hearing. Also please be advised that we do not take any public testimony at our decision meeting sessions. If you're experiencing difficulty accessing Webex or with your telephone call-in, then please call our OZ hotline number at 202-727-5471, once again 202-727-5471 -- it's also listed on the screen -- to receive Webex login or call-in instructions.

At the conclusion of a decision-making 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

1 including an affected ANC. A full order may also be needed if  
2 the Board's decision differs from the Office of Planning's  
3 recommendation. Although the Board favors the use of summary  
4 orders whenever possible, an applicant may not request the Board  
5 to issue such an order.

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

15 All persons planning to testify either in favor or in  
16 opposition should have signed up in advance. They'll be called  
17 by name to testify. If there's an appeal, only parties are  
18 allowed to testify. By signing up to testify, all participants  
19 completed the oath or affirmation as required by Subtitle Y-  
20 408.7. Requests to enter evidence at the time of an online  
21 virtual hearing, such as written testimony or additional  
22 supporting documents other than live video which may not be  
23 presented as part of the testimony, may be allowed pursuant to  
24 Y-103.13 provided that the person making the request to enter an  
25 exhibit explains, a) how the proposed exhibit is relevant, b) the

1 good cause is justified in allowing the exhibit into the record  
2 including an explanation of why the requester did not file the  
3 exhibit prior to the hearing pursuant to Y-206, and c) how the  
4 proposed exhibit would not unreasonably prejudice any parties.  
5 The order of procedures for special exceptions and variances are  
6 in Subtitle Y-409.

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

21           Finally, the District of Columbia Administrative  
22 Procedures Act requires that a public hearing in each case be  
23 held in the open before the public. However, pursuant to Section  
24 405(b) and 406 of that Act, the Board may, consistent with its  
25 rules and procedures and the Act, enter into a closed meeting on

1 a case for purposes of seeking legal counsel on a case pursuant  
2 to D.C. Official Code Section 2-575(b)(4) and/or deliberate on a  
3 case pursuant to D.C. Official Code Section 2-575(b)(13) but only  
4 after providing the necessary public notice in the case of an  
5 emergency closed meeting after taking a roll call vote.

6 Madam Secretary, do we have any preliminary matters?

7 MS. MEHLERT: Good morning, Mr. Chairman and members  
8 of the Board.

9 There are no changes to the schedule today. However,  
10 regarding late filings, the Chairman has reviewed and granted  
11 waivers to allow late filings into the applicable case record  
12 pursuant to Subtitle Y, Section 206.7 and Section 103.13. Any  
13 other late filings during the course of today's live hearing  
14 should be presented before the Board by the applicant, parties,  
15 or witnesses after the case is called. Any other preliminary  
16 matters will be noted when the case is called.

17 CHAIRPERSON HILL: Okay. Thank you.

18 Okay. Good morning, everybody. I think, Commissioner  
19 Wright, we have Commissioner Miller first on a first decision,  
20 and then we'll see you right after that. Commissioner Miller,  
21 welcome. And Madam Secretary, you can call our first issue of  
22 business.

23 MS. MEHLERT: The first case in the Board's meeting  
24 session is Application No. 21239 of John Hayman. This is an  
25 application pursuant to Subtitle X, Section 901.2 for special

1 exceptions under Subtitle D, Section 5201 from the side yard  
2 requirements of Subtitle D, Section 208.7 and from the lot  
3 occupancy requirements of Subtitle D, Section 210.1.

4 This is for a two-story rear addition to an existing  
5 two-story detached principal dwelling. It's located in the R-2  
6 zone at 3220 Brothers Place, Southeast, Square 5990, Lot 12.  
7 This was heard on February 5th and February 26th. The decision  
8 that was scheduled for March 12th was postponed at the request  
9 of the ANC, ANC SMD 8C04, and submissions were requested from the  
10 Applicant. And participating are Chairman Hill, Vice Chair  
11 Blake, Mr. Smith, and Commissioner Miller.

12 CHAIRPERSON HILL: Okay. Thanks, everybody. All  
13 right.

14 So this went on for quite some time in terms of the  
15 hearing. We heard or took a lot of testimony from the ANC,  
16 members of the community, the neighbor in opposition, and we  
17 asked for some additional information and also gave more time for  
18 the ANC to, again, review this after we got more updated numbers  
19 in terms of what exactly was there and being proposed and being  
20 built.

21 So I went back and took a look at the Office of  
22 Planning's report, as well as the supplemental report, as well  
23 as the ANC and the ANC's supplemental report, all in which were  
24 in favor of this particular request. I went then back and looked  
25 at B-5201.4 and all the different criteria within there as well

1 as X-901.2 which were the standard that we're supposed to take a  
2 look at to determine whether or not this is something that should  
3 be granted by special exception.

4 I think that, in my particular case, I don't think that  
5 the addition is necessarily going to cause any more undue impact  
6 than what was really there actually and kind of what I had an  
7 easier time taking a look at is some of the additional material  
8 that came forward in terms of the plat and some of the photographs  
9 as well as again, as I mentioned, the continued support of the  
10 ANC. But the addition basically is -- again, it's another 9.4  
11 inches I think from what was originally there and even what was  
12 originally there did tend to block some light to that neighbor.  
13 But I don't think the addition -- it's going back on the same  
14 line as what is there in terms of the building itself.

15 Now, I suppose this could have been done easier for the  
16 Applicant had they just done the five feet on either side but  
17 that might have made, you know, something really not worthwhile  
18 I suppose for that additional nine feet, four inches. So taking  
19 a look at the material that's been put forth since the hearings  
20 have gone forward, I am comfortable granting this application  
21 given the criteria that we're supposed to look at.

22 May I go to Mr. Blake next?

23 VICE CHAIRPERSON BLAKE: Mr. Chair, thank you very  
24 much.

25 I agree with the comments that you made. We first



1 debated this application in February, February 26th actually, and  
2 when we deliberated then, I was in support then and I remain in  
3 support of the application today. I continue to believe that the  
4 Applicant has met the burden of proof to be granted the requested  
5 relief.

6           The issue that came to my attention is this, and what  
7 to me was the issue, the measurements have been inaccurate from  
8 the outset. The measurements provided to the Department of  
9 Buildings were inaccurate just as the measurements provided at  
10 the outset of this hearing were inaccurate. As a result, the  
11 work exceeded the scope of what was approved by the DOB in its  
12 permits, and the application took a very long time to weed  
13 through, and it didn't necessarily have to.

14           So I just was -- you know, the issue to me was we've  
15 got to get measurements right, and you know, focus on this thing  
16 properly. That said the project is where it is. I do think it  
17 met the criteria for approval and I will be in support of the  
18 application.

19           CHAIRPERSON HILL: Thank you, Mr. Blake.

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

21           COMMISSIONER SMITH: I have nothing to add, Chairman  
22 Hill. I agree with your assessments, you and the Vice Chair's  
23 assessments, on this particular case. I do not believe -- and  
24 we've debated this back and forth, and we've given the ANC an  
25 additional opportunity to take a look at this particular

1 application, and that was the reason why we kicked it. And given  
2 that they've taken a look at this application, gone through it  
3 again with another fine-tooth comb with the additional  
4 information that was provided at the previous hearings, I'm  
5 comfortable moving forward with this application as well and  
6 believe it would not have a substantial undue hardship on any of  
7 the -- on surrounding properties. So with that, I will support  
8 the application.

9 CHAIRPERSON HILL: Thank you.

10 Commissioner Miller?

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

12 I agree with your comments, Mr. Chairman, your very  
13 thorough analysis as well as Vice Chair Blake's and Board Member  
14 Smith's comments. I think with all of the supplemental  
15 information, the accurate numbers of what was being proposed and  
16 what was there, the opportunity for the ANC to review this with  
17 the right numbers for the side yard, and the aerial photograph  
18 that we got showing the context of the neighborhood, what's been  
19 there for a while, and the petition that was submitted from I  
20 think it was over 20 neighbors in support as well.

21 So I have reached a comfort level with this relief and  
22 am ready to move forward, and I appreciate all of the time that  
23 everybody has taken on this case.

24 Thank you.

25 CHAIRPERSON HILL: Thank you, Commissioner. All right.

1 I'm going to make a motion to approve Application No.  
2 21239 as captioned and read by the secretary and ask for a second.  
3 Mr. Blake?

4 VICE CHAIRPERSON BLAKE: Second.

5 CHAIRPERSON HILL: Motion made and seconded. Madam  
6 Secretary, if you could take a roll call.

7 MS. MEHLERT: Please respond to Chair's motion to  
8 approve the application.

9 Chairman Hill?

10 CHAIRPERSON HILL: Yes.

11 MS. MEHLERT: Vice Chair Blake?

12 VICE CHAIRPERSON BLAKE: Yes.

13 MS. MEHLERT: Mr. Smith?

14 COMMISSIONER SMITH: Yes.

15 MS. MEHLERT: Commissioner Miller?

16 ZC VICE CHAIRPERSON MILLER: Yes.

17 MS. MEHLERT: Staff would record the vote as four to  
18 zero to one to approve Application 21239 on the motion made by  
19 Chairman Hill and seconded by Vice Chair Blake.

20 CHAIRPERSON HILL: Great. Thank you.

21 Commissioner Miller, is that it for you today?

22 ZC VICE CHAIRPERSON MILLER: Fortunately that is it for  
23 me today. Hope you have a great day.

24 CHAIRPERSON HILL: Thank you. You have a nice day as  
25 well.

1 ZC VICE CHAIRPERSON MILLER: Thanks.

2 CHAIRPERSON HILL: Thank you. All right.

3 Commissioner Wright, welcome back. Okay. I think,  
4 Madam Secretary, you're going to call 21231, correct?

5 MS. MEHLERT: I can call that one next. I wasn't sure  
6 if you were doing the time extension or the decision.

7 CHAIRPERSON HILL: Let's do that one now because I  
8 pulled it all up. I got a little out of whack I guess.

9 MS. MEHLERT: Which one? The --

10 CHAIRPERSON HILL: The 21231.

11 MS. MEHLERT: Next in the Board's meeting session is  
12 Appeal No. 21231 of Courtney Bolin and William Gabler. This is  
13 the appeal of the decision made on August 23rd, 2024, by the  
14 Department of Buildings Zoning Administrator to issue building  
15 permit No. B2309496 pursuant to Subtitle X, Section 1100.

16 This is appealing a new two-story accessory structure  
17 containing an accessory apartment located in the R1-B zone at  
18 3021 15th Street, Northeast, Square 4017, Lot 22. This was heard  
19 on March 12th and scheduled for a decision. Participating are  
20 Chairman Hill, Vice Chair Blake, Mr. Smith, and Commissioner  
21 Wright. And as a preliminary matter, there was a motion filed  
22 by the Appellant to re-open the record in Exhibit 25.

23 CHAIRPERSON HILL: Okay. Thank you. Okay.

24 So let's talk about this request to re-open the record.

25 So I don't necessarily agree that the Appellant did not have

1 enough time to respond during the hearing or that new information  
2 was necessarily provided beyond what normally occurs during the  
3 course of a normal hearing, meaning there's testimony, then  
4 there's response to testimony.

5           However, out of an abundance of caution I suggest that  
6 we go ahead and re-open the record and allow the file into the  
7 record from the Appellant. I then think that we should give --  
8 and there is opposition to the motion to re-open the record from  
9 both the Department of Buildings and the property owner, and I  
10 think that the motions actually that they filed were also -- made  
11 sense to me.

12           But I think, again, since this seems to be a more  
13 litigious case than we had -- not always have, and in this  
14 particular case, it could become litigious, that I think that,  
15 again, out of an abundance of caution, we'll go ahead and let  
16 the Appellant put into the record what they wanted to put into  
17 the record, allow the parties to have seven days to respond, and  
18 then we can come back here again to deliberate. Now, again, I  
19 don't know where we all might end up, but I -- again, those are  
20 my thoughts in terms of the motion to re-open the record, and  
21 I'm going to go around the table.

22           Mr. Smith, what do you think?

23           COMMISSIONER SMITH: I agree with your assessment that,  
24 I don't think it does any harm to add the additional information  
25 into the record for us to, you know, deliberate on potentially

1 in the future. But I'm in support. I'm in support of admitting  
2 it.

3 CHAIRPERSON HILL: Okay. Great.

4 Vice Chair Blake?

5 VICE CHAIRPERSON BLAKE: Yes, Mr. Chair.

6 I'm in support of admitting the additional information  
7 with the caveat that the Appellee and owner have the opportunity  
8 to respond, and I think we can agree with that.

9 CHAIRPERSON HILL: Sorry. Thanks.

10 And that also brings up another point that this will  
11 be the last round; like, we're not going to go back and forth on  
12 this, right? We're going to admit this into the record. The  
13 parties will have an opportunity to respond and then there will  
14 not be a response to the response. Like, this is all we're going  
15 to do here in terms of, I think they're, I mean, again, it was a  
16 four-hour hearing. So we had a lot of testimony, and there's a  
17 lot of information in terms of what I think the Board needs to  
18 make a decision. So thank you for that comment, Mr. Blake.

19 Commissioner Wright?

20 ZC COMMISSIONER WRIGHT: I agree with re-opening the  
21 record to let the Appellee's submission in, and I think it's  
22 important to have a conversation about the points that they've  
23 raised.

24 CHAIRPERSON HILL: Okay. All right. Great. All right.

25 Madam Secretary, so if we do that, what am I going to

1 do here? When can we get back here?

2 MS. MEHLERT: You could give a week for the parties to  
3 respond. So we'll put it in the record today. They could have  
4 until the 9th to respond, and then you could come back on the  
5 23rd for a decision --

6 CHAIRPERSON HILL: All right.

7 MS. MEHLERT: -- because there's no hearing on the 16th.

8 CHAIRPERSON HILL: Right. We're off on the 16th. Okay.  
9 That's fine. Let's see. Who's with us on the 23rd? Commissioner  
10 Wright's not. Commissioner Wright, are you available on the  
11 23rd?

12 ZC COMMISSIONER WRIGHT: I am available on the 23rd,  
13 yes.

14 CHAIRPERSON HILL: Okay. Great.

15 And we'll go ahead and do this first, Commissioner  
16 Wright, also so you can then go on with your day. Okay. Let's  
17 do that then. So we're moving the decision to -- okay.

18 Go ahead, Madam Secretary.

19 MS. MEHLERT: No, so just to clarify, so any response  
20 due by April 9th, and no responses to the responses will be  
21 accepted.

22 CHAIRPERSON HILL: Exactly. Do me a favor? I don't  
23 think -- can you give them until the 10th to respond?

24 MS. MEHLERT: Yes.

25 CHAIRPERSON HILL: Okay. So give them until the 10th

1 to respond because today, you know (indiscernible). All right.  
2 Okay. That's it. We can move on to our next order of business  
3 which I do think is the time extension.

4 MS. MEHLERT: The next case and the last case in the  
5 Board's meeting session is Application No. 20554-A of Sasha Bruce  
6 Youthwork, Inc. This is a request pursuant to Subtitle Y, Section  
7 705.2 for a six-month time extension of the validity of the order  
8 in Application No. 20554.

9 This is for a youth residential care home for up to 15  
10 persons in an existing three-story building. It's located in the  
11 RF-1 zone at 1022 Maryland Avenue, Northeast, Square 961, Lot  
12 803.

13 CHAIRPERSON HILL: Okay. Thank you.

14 I don't know why I'm having a hard time pulling up this  
15 particular file. Let me try it again, please. Okay. Great.  
16 Thanks. All right.

17 So, I didn't particularly have any issues with the  
18 extension. I mean, I think that they're still waiting for some --  
19 I guess a C of O from DOB, however, and I do cite the Office of  
20 Planning's report as well as that the ANC didn't have any issues  
21 with the extension. What I would propose though is six months  
22 seems just like kind of an odd extension, and so I propose we go  
23 ahead and give them a year which would take them out to  
24 12/19/2025, basically the end of this year. And even in the  
25 Office of Planning's report, I guess they cited two years'



1 extension, but I think they just meant also the six months. But  
2 I don't have any issues with the time extension.

3 Mr. Smith, do you have any thoughts?

4 COMMISSIONER SMITH: No. I agree with your assessment  
5 and the recommendation to do one year because six months seems  
6 really odd, and that's really only giving them two months. So  
7 I'm in support of the one-year extension.

8 CHAIRPERSON HILL: Thank you.

9 Vice Chair Blake?

10 VICE CHAIRPERSON BLAKE: I agree, Mr. Chair. I think  
11 a one-year extension is appropriate. It's unclear to me exactly  
12 what the issues are with the issuance of the C of O and -- because  
13 I don't have an idea of what that might be. I have no idea  
14 what -- the way they described it, it's just so difficult getting  
15 through the process. So I think a year is appropriate just to  
16 be on the safe side. It's more efficient for the Board and so  
17 forth.

18 CHAIRPERSON HILL: Thank you.

19 Commissioner Wright?

20 ZC COMMISSIONER WRIGHT: Yes, I agree to a one-year  
21 extension as well.

22 CHAIRPERSON HILL: Thank you. All right.

23 I'm going to make a motion to approve the time extension  
24 of 20554-A as captioned and read by the secretary, and ask for a  
25 second. Mr. Blake?

1 VICE CHAIRPERSON BLAKE: Second.

2 CHAIRPERSON HILL: Thank you.

3 Just to be clear again, this was for a one-year time  
4 extension to get to 12/19/2025.

5 Madam Secretary, if you would take a roll call.

6 MS. MEHLERT: Please respond to the Chair's motion to  
7 approve the time extension, the one-year time extension.

8 Chairman Hill?

9 CHAIRPERSON HILL: Yes.

10 MS. MEHLERT: Vice Chair Blake?

11 VICE CHAIRPERSON BLAKE: Yes.

12 MS. MEHLERT: Mr. Smith?

13 COMMISSIONER SMITH: Yes.

14 MS. MEHLERT: Commissioner Wright?

15 ZC COMMISSIONER WRIGHT: Yes.

16 MS. MEHLERT: Staff would record the vote as four to  
17 zero to one to approve the time extension 20554-A on the motion  
18 made by Chairman Hill and seconded by Vice Chair Blake.

19 CHAIRPERSON HILL: Thank you.

20 You guys, could you give me, like, three minutes? I  
21 just have to get something organized. I'll be right back.

22 (Whereupon, there was a brief recess.)

23 CHAIRPERSON HILL: Okay. Madam Secretary, can you hear  
24 me?

25 MS. MEHLERT: Yes.

1           CHAIRPERSON HILL: So what I think I would like to do  
2 is do a couple of preliminary matter items on two cases, and then  
3 depending upon how that goes, we might hear those cases at the  
4 end of the day. So go ahead, Madam Secretary, and call our first  
5 preliminary, or whatever; call whatever you want to call.

6           MS. MEHLERT: The first is a party status request for  
7 Application No. 21262 of Ian Packman and Ellen Carlson. This is  
8 a self-certified application pursuant to Subtitle X, Section  
9 901.2 for special exceptions under Subtitle D, Section 5201, from  
10 the rear yard requirements of Subtitle D, Section 207.1 and lot  
11 occupancy from Subtitle D, Section 210.1 from the lot occupancy  
12 requirements.

13           This is for a two-story rear addition to an existing  
14 two-story attached principal dwelling. The project is located  
15 in the R-3/GT zone at 2728 O Street, Northwest, Square 1239, Lot  
16 854, and the two requests for party status in opposition are from  
17 Prue Larocca of 1363 28th Street and April Lynne Bowler and Jamie  
18 Peva, who are the owners of 1359 28th Street.

19           CHAIRPERSON HILL: Okay.

20           So, we're not bringing anybody in; is that correct,  
21 Madam Secretary?

22           MS. MEHLERT: You don't have to, but they are present,  
23 if needed.

24           CHAIRPERSON HILL: That's great. That's fine. So, so  
25 they're obviously listening, I'll assume.

1           So what I would propose we do is, and by the way the  
2 Office of Zoning, you guys, thank you so much for the maps. The  
3 maps and where the location is of people that are requesting  
4 party status is so helpful in terms of what we had been doing in  
5 the past. This is very helpful.

6           So seeing the locations of the two people that are in  
7 opposition or the two parties that are requesting party status  
8 in opposition, I think they do meet the criteria for us to grant  
9 the party status and what I had hoped for, as they're listening,  
10 is that explaining what, how it works. So if they were to get  
11 party status, which we'll see if that happens, then the Applicant  
12 comes forward. The Applicant gives their presentation. Then the  
13 party status people will also have -- in this particular case  
14 since there's only two party status people basically, groups of  
15 people, they will both have the same amount of time as the  
16 Applicant to give their presentation.

17           There will then be questions from the Board. There  
18 will be questions from the Applicant. There will be questions  
19 from the party status people of each other. Then there is the  
20 Office of Planning; we'll hear from them. Everyone will get a  
21 chance to ask questions of the Office of Planning. There will  
22 be a rebuttal by the Applicant of anything that has gone on  
23 through the hearing, and then the party status people -- or all  
24 parties will get an opportunity to ask questions just on the  
25 rebuttal, not to start the conversation again, but just on the

1 rebuttal. Then, this part is not in the regulations, but  
2 basically then we'll have a conclusion from the two party status  
3 people as well as then a conclusion from the Applicant, and then  
4 we'll move on with our day.

5 I don't think you all have any questions about  
6 anything. My only question is whether or not you agree with the  
7 party status issue. And I'll turn to Mr. Smith -- and if you  
8 have any comments on anything I said I guess, but Mr. Smith?

9 COMMISSIONER SMITH: No. I agree with your assessment  
10 on this. The two party status requesters are directly adjacent  
11 to the subject property and would be directly impacted by any  
12 changes that would occur with the addition as relates to light,  
13 air, and privacy to their properties. So I am in support of  
14 granting them party status for this particular case.

15 CHAIRPERSON HILL: Thank you.

16 Mr. Blake?

17 VICE CHAIRPERSON BLAKE: I agree. I have nothing to  
18 add.

19 CHAIRPERSON HILL: Thank you.

20 Commissioner Wright?

21 ZC COMMISSIONER WRIGHT: I agree to adding the two  
22 property owners as parties.

23 CHAIRPERSON HILL: Okay. Great. Thank you. All right.

24 Then, Madam Secretary, we'll go ahead and grant party  
25 status to the two groups I guess that have requested party status

1 and then we'll come back and have their case at the end of the  
2 day. I think there's also going to be another case at the end  
3 of the day. This will be the first of the two cases at the end  
4 of the day.

5 Madam Secretary, do you have anything for us?

6 MS. MEHLERT: No, nothing else.

7 CHAIRPERSON HILL: Okay. Great.

8 Then let's move on to our next preliminary matter,  
9 please.

10 MS. MEHLERT: The next request for party status is in  
11 Application No. 21263 of Susan M. Tamborini, Trustee. This is a  
12 self-certified application pursuant to Subtitle X, Section 901.2  
13 for special exceptions under Subtitle D, Section 5201 from the  
14 lot occupancy requirements of Subtitle D, Section 210.1, the  
15 building area requirements of Subtitle D, Section 5003.1 to allow  
16 an accessory building with a building area greater than 450 square  
17 feet and the accessory building location requirements of Subtitle  
18 D, Section 5004.1(a) to allow an accessory building in a required  
19 rear yard.

20 This is for a new accessory structure in the rear yard  
21 of an existing two-story detached principal dwelling located in  
22 the R1-B zone at 4632 Charleston Terrace, Northwest, Square 1368,  
23 Lot 54. And there is a request for party status in opposition  
24 from Deborah James who owns 4634 Charleston Terrace.

25 CHAIRPERSON HILL: Great. Thank you.

1           So, again, I neglected to mention this on the other  
2 one; I do think they know. The ANC is also a party, so the ANC  
3 might be involved in that other case that we just went through.  
4 So, again, this issue before us is party status for an adjacent  
5 property that I do think also meets the criteria for us to grant  
6 party status.

7           So if the party status were to pass -- I'm going to  
8 repeat myself whether they were watching the first time or not --  
9 the Applicant will give the presentation. The party status person  
10 will have the same amount of time as the Applicant to give their  
11 presentation. The Office of Planning will give their  
12 presentation. There will be questions from the party status in  
13 opposition to the Applicant, from the Applicant to the party  
14 status in opposition if anybody has any questions. There will  
15 be rebuttal done by the Applicant.

16           The questions will then take place from the party  
17 status in opposition as well as the Board on anything on rebuttal.  
18 We're not rehashing the case; it's just on the rebuttal. There  
19 will then be a conclusion from the party status people in  
20 opposition as well as the Applicant. And then we will continue  
21 to move forward, and at any point the Board or the, the Board  
22 will have questions can do that and also the Office of Planning,  
23 et cetera.

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

25           COMMISSIONER SMITH: I have nothing to add. I'm in

1 support.

2 CHAIRPERSON HILL: Mr. Blake?

3 VICE CHAIRPERSON BLAKE: I'm in support, Mr. Chair.

4 CHAIRPERSON HILL: Commissioner Wright?

5 ZC COMMISSIONER WRIGHT: I also support the party  
6 status request.

7 CHAIRPERSON HILL: Thank you. All right.

8 I think, Madam Secretary, as I mentioned before we'll  
9 do this -- this will then be at the end at the end of the day.  
10 We're going to do 21262 and then 21263, and I don't know, before  
11 I continue, do you have anything to add, Madam Secretary?

12 MS. MEHLERT: No.

13 CHAIRPERSON HILL: No? Okay. Then I think maybe we  
14 might start 21262 before lunch just to give everybody a little  
15 bit of time as to where I think things might fall and probably  
16 21263 would not happen until after lunch. But yeah, that's kind  
17 of my, just to give everybody kind of an idea.

18 And then, Madam Secretary, you can call our next order  
19 of business.

20 MS. MEHLERT: The next case in the Board's hearing  
21 session is Application No. 21253 of the Owner of 1232 Maryland  
22 Avenue, Northeast. This is a self-certified application pursuant  
23 to Subtitle X, Section 901.2 for special exceptions under  
24 Subtitle E, Section 207.5 to allow the rear wall of a row dwelling  
25 to extend farther than ten feet beyond the farthest rear wall in



1 the adjoining principal residential building on any adjacent  
2 property, and under Subtitle E, Section 5201 from the lot  
3 occupancy requirements of Subtitle E, Section 210.1.

4 This is for a two-story rear addition to an attached  
5 two-story principal dwelling located in the RF-1 zone at 1232  
6 Maryland Avenue, Northeast, Square 1005, Lot 64.

7 CHAIRPERSON HILL: Thank you.

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

10 MS. FOWLER: Hi, everyone. This is Jennifer Fowler.  
11 I'm the architect representing the home owners.

12 CHAIRPERSON HILL: Okay. Thanks, Ms. Fowler.

13 Ms. Fowler, do you guys do any matter-of-right work?

14 MS. FOWLER: Actually, yeah. I do a bit of that too.

15 CHAIRPERSON HILL: Okay. All right. Okay.

16 So, Ms. Fowler, if you could please walk us through  
17 your client's application and why you believe they're meeting the  
18 criteria for us to grant this relief. I'm going to put 15 minutes  
19 on the clock so I know where we are, and you can begin whenever  
20 you like.

21 MS. FOWLER: Okay. Thank you so much for your time.

22 This is a request for lot occupancy over 60 percent.  
23 We're asking for 70 percent coverage. The existing house is 57.9  
24 percent which includes a deck that's about ten feet above the  
25 grade at the rear. We're also asking for the rear yard setback.

1 We're extending 20 feet 1 inches beyond 1234 Maryland Avenue but  
2 only 7 foot 6 inches beyond 1230 Maryland Avenue.

3 It's a two-story rear addition. It's the same height  
4 as the existing house. The rear of the house does have a walk-  
5 out basement. So it's about 30 feet tall at the rear, but we're  
6 keeping the same roofline as above. And on the second floor,  
7 there's a dogleg setback against 1234 to allow for windows, and  
8 we've included a tie window on there for privacy purposes.

9 There is a sun study in the record that compares the  
10 matter-of-right version which would be a 6.78-foot deep addition  
11 to the proposed addition, and that shows there is minimal impact  
12 to the neighboring properties due to the orientation of the lots.  
13 We do have ANC support as well as letters in support from both  
14 of the adjacent neighbors, and we've received support from the  
15 Office of Planning.

16 So with that, I will leave it open to questions. Thank  
17 you.

18 CHAIRPERSON HILL: Okay. Great. Thank you.

19 Before I turn to my Board for questions, could I hear  
20 from the Office of Planning, please.

21 MS. MYERS: Good morning. Crystal Myers from the Office  
22 of Planning. The Office of Planning is in support of this case  
23 and can stand on the record of the staff report. Of course, here  
24 for questions. Thank you.

25 CHAIRPERSON HILL: Thank you. All right.

1 Does the Board have any questions for the Applicant or  
2 the Office of Planning? Go ahead, Mr. Blake.

3 VICE CHAIRPERSON BLAKE: Mr. Chair, I have one  
4 question. There is one party I believe in opposition, and the  
5 issue focuses on the shadow study indicating that it may  
6 understate the impact.

7 Could you address that for me, Ms. Fowler?

8 MS. FOWLER: I apologize. I wasn't aware of any  
9 opposition letters.

10 CHAIRPERSON HILL: I think Mr. Blake's talking about  
11 CHRS.

12 MS. FOWLER: Oh, the CHRS. I mean, we presented to the  
13 CHRS, and went over the sun study, and showed that, if you look  
14 at the sun study, you can see in red where I've dotted in where  
15 the change is from the matter-of-right to the proposed, and it  
16 primarily falls in very small parts of the rear yards of the  
17 properties and there was really no impact to people's windows,  
18 sunlight kind of entering the houses.

19 So in my opinion, it was not an undue impact, and they  
20 probably just have a different viewpoint on that. But in my  
21 opinion, the sun study shows it's definitely within the realm of  
22 what's normally approved and accepted by your Board.

23 Thank you.

24 VICE CHAIRPERSON BLAKE: Thank you.

25 CHAIRPERSON HILL: Thank you, Ms. Fowler. Anyone else?

1 Okay.

2 (Pause.)

3 CHAIRPERSON HILL: Mr. Young, is there anyone here  
4 wishing to speak?

5 MR. YOUNG: We do not.

6 CHAIRPERSON HILL: Okay. All right.

7 Ms. Fowler, you have anything at the end?

8 MS. FOWLER: No, I don't. Thank you so much for your  
9 time.

10 CHAIRPERSON HILL: Thank you. All right.

11 I'm going to go ahead and close the hearing and the  
12 record. If you can please excuse everyone, Mr. Young.

13 (Pause.)

14 CHAIRPERSON HILL: I didn't have any issues with this  
15 particular case. I thought that it meets the criteria for us to  
16 grant the relief. It is helpful that both adjoining neighbors  
17 are in support. It's not necessary, but it's helpful. Also it's  
18 nice to see that the ANC is in support, and I do appreciate the  
19 analysis that the Office of Planning has provided.

20 I will agree with the analysis that the Office of  
21 Planning has provided. And the terms of the shadow study, it  
22 looks to me as though most of it is falling on to existing  
23 garages, so I don't think that the additional shadowing from what  
24 is a matter-of-right option is necessarily anything that's undue  
25 that would keep me from voting for this case. I'm going to be

1 voting in favor.

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

3 COMMISSIONER SMITH: I have nothing to add, Chairman  
4 Hill. I agree with your assessment of this case as well as the  
5 Office of Planning's assessment of this particular -- of the  
6 request for relief and will support the application.

7 CHAIRPERSON HILL: Thank you.

8 I also appreciate that the Applicant has worked with  
9 the architect in making a window higher so there's not a privacy  
10 issue.

11 Mr. Blake, do you have anything else you'd like to add?

12 VICE CHAIRPERSON BLAKE: I do not, Mr. Chair. I'm in  
13 support of the application. I believe the Applicant has met the  
14 criteria for approval.

15 CHAIRPERSON HILL: Thank you.

16 Commissioner Wright?

17 ZC COMMISSIONER WRIGHT: No comments. I support the  
18 application.

19 CHAIRPERSON HILL: Thank you. All right.

20 I'll make a motion to approve Application No. 21253 as  
21 captioned and ready by the secretary, and ask for a second. Mr.  
22 Blake?

23 VICE CHAIRPERSON BLAKE: Second.

24 CHAIRPERSON HILL: Motion is made and seconded. Madam  
25 Secretary, if you would take a roll call, please.

1 MS. MEHLERT: Please respond to the Chair's motion to  
2 approve the application.

3 Chairman Hill?

4 CHAIRPERSON HILL: Yes.

5 MS. MEHLERT: Vice Chair Blake?

6 VICE CHAIRPERSON BLAKE: Yes.

7 MS. MEHLERT: Mr. Smith?

8 COMMISSIONER SMITH: Yes.

9 MS. MEHLERT: Commissioner Wright?

10 ZC COMMISSIONER WRIGHT: Yes.

11 MS. MEHLERT: Staff would record the vote as four to  
12 zero to one to approve Application 21253 on the motion made by  
13 Chairman Hill and seconded by Vice Chair Blake.

14 CHAIRPERSON HILL: Thank you. You may call our next  
15 item of business when you have an opportunity, Madam Secretary.

16 MS. MEHLERT: Next is Application No. 21194 of Karen  
17 Marsh. As amended, this is a self-certified application pursuant  
18 to Subtitle X, Section 901.2 for a special exception under  
19 Subtitle X, Section 5201 from the rear yard requirements of  
20 Subtitle X, Section 207.1 and pursuant to Subtitle X, Section  
21 1000.1 for area variances from the floor area ratio requirements  
22 of Subtitle F, Section 201.1 and the lot occupancy requirements  
23 of Subtitle F, Section 210.1.

24 This is for a rear addition including a 64-square-foot  
25 upper-level stair enclosure and outdated egress stair walkway in

1 the required rear yard of an existing attached principal dwelling  
2 for use as a two-unit building. It's located in the RA-2 zone  
3 at 1837 Vernon Street, Northwest, Square 2555, Lot 36. The  
4 hearing was originally scheduled for November 13th, 2024, and was  
5 postponed twice at the Applicant's request. As a preliminary  
6 matter, there's also a motion to waive the filing deadline to  
7 allow an updated self-certification form which is in the record  
8 at Exhibit 41A.

9 CHAIRPERSON HILL: Okay. Thank you.

10 I don't have any issues letting in the updated self-  
11 cert. I think it's necessary for the Board to understand what's  
12 going on. Unless my fellow Board members have any issues, please  
13 raise your hand or speak up. Hearing none, we'll go ahead and  
14 allow that into the record.

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

17 MS. ROGERS: Yes. Good morning, Chairman Hill and  
18 members of the Board. For the record, Elizabeth Rogers with the  
19 law firm of Lerch, Early & Brewer, here today on behalf of the  
20 Applicant, Karen Marsh. With me also is Karen Marsh, the  
21 Applicant, and C.J. LaMora with Circle Square Cross, the  
22 Applicant's architect.

23 CHAIRPERSON HILL: Okay. Great. Thank you, Ms. Rogers.

24 I'm just going to go around also. Could the architect  
25 please introduce himself?

1 MR. LAMORA: Good morning Board. My name is Christopher  
2 LaMora. You can call me C.J. I am the principal architect of  
3 Circle Square Cross Architecture, and we've been working with Ms.  
4 Marsh on this for a while now.

5 CHAIRPERSON HILL: Okay. Thank you.

6 Ms. Marsh, would you like to introduce yourself for the  
7 record?

8 MS. MARSH: Hello. My name is Karen Marsh, and I have  
9 been a resident of D.C. at 1837 Vernon Street for 32 years now.

10 CHAIRPERSON HILL: Oh, pretty good. Okay.

11 Ms. Rogers, you may go ahead and walk us through your  
12 client's application and again, why you believe they're meeting  
13 the criteria for us to grant the relief. I'm going to put 15  
14 minutes on the clock so I know where we are, and you can begin  
15 whenever you like.

16 MS. ROGERS: Great. Thank you. And we put together a  
17 PowerPoint presentation.

18 Mr. Young, if you can please pull that up? It's Exhibit  
19 45. Perfect. Thank you.

20 We are requesting both special exception and variance  
21 relief. The special exception seeks relief from the rear yard  
22 requirements, and the variance seeks relief from the lot  
23 occupancy FAR allowances of the zone. The requested relief is  
24 necessary to permit the creation of an upper-level apartment on  
25 the fourth floor of the existing row building consistent with the



1 intent of the residential apartment zone and the property's  
2 historic use of a group home.

3 Specifically, the rear yard relief and the lot  
4 occupancy is needed to allow for the construction of an elevated  
5 egress stair and walkway which will connect the alley to the  
6 third floor, and the FAR variance is necessary to allow for the  
7 construction of a very minor 64-square-foot addition to the upper  
8 level to accommodate an interior access stair and the necessary  
9 head room associated with it.

10 Next slide, please.

11 The property is located on Vernon Street, Northwest at  
12 approximately equidistant between 19th Street and 18th Street.  
13 It's currently improved with a four-story row dwelling containing  
14 approximately 3,800 square feet that was built circa 1899.

15 Next slide, please.

16 The property is located in the RA-2 zoning district.  
17 It's also within the Washington Heights historic district.

18 Next slide, please.

19 The property is unique in that it was actually  
20 previously occupied as a group home for approximately 30 years,  
21 from the 1970s until 2006. As a result, the upper level of this  
22 building is uniquely situated for conversion into an apartment  
23 unit as it already has the infrastructure of both plumbing and  
24 electrical to support a separate kitchen and bathroom. You can  
25 see that area where there's -- currently has the kitchen and

1 bathroom on the upper level today, shown in yellow on the top  
2 righthand corner of the image.

3           The Applicant, as Ms. Marsh mentioned, has resided in  
4 this house for over 30 years and desires to remain, but this  
5 large historic home is much bigger than the Applicant's family  
6 currently needs. So she'd like to create an upper-level apartment  
7 on that fourth floor to provide for necessary additional housing  
8 to increase the diversity of housing within this desirable  
9 neighborhood. However, to do so, she needs to construct dedicated  
10 separate egress and access for safety purposes to that unit.

11           Next slide, please.

12           Given the interior configuration of the existing  
13 building in order to accommodate that egress and access, the  
14 Applicant must construct an exterior stair and walkway which  
15 would provide access from the alley through the garage up to the  
16 third floor of the existing home. That exterior stair and walkway  
17 is shown on the slide in yellow, and this is what's triggering  
18 the lot occupancy -- or a portion of this is triggering the lot  
19 occupancy and rear yard relief.

20           Next slide, please.

21           And then on the interior, the Applicant must construct  
22 a separate dedicated interior access stair which would provide  
23 that access from the third floor up to the fourth floor. As you  
24 can see here, most of that stairwell actually can be accommodated  
25 within the existing building envelope. It's actually just the

1 | portion up on the fourth floor where we need to construct that  
2 | modest 64-square-foot addition to accommodate the necessary head  
3 | height for the stairs and that landing.

4 |           If you go to the next slide, you can kind of see the --  
5 | thank you -- that is 64 square feet from the exterior that would  
6 | be constructed. Everything else is accommodated within the  
7 | existing building.

8 |           Next slide, please.

9 |           The access and egress modifications are shown here,  
10 | plan view, both in yellow on the third floor and then orange on  
11 | the fourth floor plan view. These are the only modifications  
12 | that are being proposed which are triggering the need for this  
13 | relief. I would just note this project has been a long time in  
14 | the making. The Applicant originally received building permit  
15 | approval in 2021 but didn't move forward with construction before  
16 | those permits expired, and it wasn't until the Applicant went  
17 | back in to seek new permit approval that the need for this relief  
18 | was identified.

19 |           As detailed in our burden of proof statement and pre-  
20 | hearing statement, the proposed application satisfies the various  
21 | findings the Board must make to approve the variance and special  
22 | exception. Given the details are provided in the record, I'll  
23 | be brief, and in my summary, I'll be happy to provide any  
24 | additional detail the Board would like.

25 |           In terms of the special exception, this application is

1 in harmony with the general purpose and intent of the zone and  
2 the zoning map including the specific purpose and intent of the  
3 RA-2 zone. The residential apartment zones are designed to  
4 provide areas suitable for multiple-dwelling units, and the RA-  
5 2 zone itself provides for areas developed with predominantly  
6 moderate-density residential and permits multiple units on this  
7 property.

8 The residential use on the property will remain  
9 unchanged. The Applicant is merely seeking to construct an upper-  
10 level apartment within the existing building which is in keeping  
11 with the intent of the zone and obviously the historic use of  
12 the property which has had multiple D.C. residents for over 30  
13 years when it was used as a group home.

14 As such, the proposed modifications are fully  
15 consistent with the purpose and intent of the RA-2 zone but  
16 additionally the comprehensive plan which recognizes the  
17 importance of housing diversity including a mix of unit sizes and  
18 also opportunities for both rental and home ownership in this  
19 area of the city. The proposed special exception will not tend  
20 to adversely affect the neighboring properties.

21 You can go to the next slide. Thank you.

22 The light and air available to neighboring properties  
23 won't be unduly affected. The proposed elevated stair and walkway  
24 will be constructed of steel framing that has an open design to  
25 allow light and air to permeate through it, and that should only

1 cast very minor additional shadows on the adjacent properties,  
2 and no outdoor living space will be created by that proposed  
3 elevated stair and walkway. Importantly, these improvements are  
4 actually similar to the conditions that exist on both the adjacent  
5 properties and the properties across the alley. As you can see  
6 here in this upper righthand corner is the immediately adjacent  
7 property which kind of has an elevated exterior stair and landing,  
8 and then you can see across the alley, there's obviously for  
9 those apartment units, you know, several similar kind of stair  
10 access conditions.

11 Next slide, please.

12 In terms of the variance findings, the extraordinary  
13 situation and conditions arise from a confluence of factors and  
14 the zoning history of this project. Here, the exceptional  
15 situation conditions include the existence of a row building  
16 constructed circa 1899, now located in a historic district which  
17 was previously occupied as a group home for approximately 30  
18 years. Given the prior use of the property as a group home, as  
19 I mentioned, the plumbing and electrical is already there on the  
20 fourth floor to accommodate this apartment unit.

21 In order to utilize that, however, the Applicant must  
22 construct these improvements to provide for that necessary access  
23 and egress. That additional unit, though, will be fully  
24 consistent with the intent of the RA-2 zone. The strict  
25 application of the zoning ordinance would result in peculiar and

1 | exceptional practical difficulties on the Applicant. The Board  
2 | has flexibility obviously to consider a number of factors when  
3 | making that finding including the increased expense and  
4 | inconvenience, the severity of the requested variance, and the  
5 | effect that the variance would have on the overall zone plan.

6 |         Here, the property is already nonconforming with  
7 | respect to FAR and lot occupancy. Therefore, any additional  
8 | modification to the structure would trigger the need for relief.  
9 | Based on the prior use of the existing building as a group home,  
10 | as I mentioned, it's already built out to accommodate that  
11 | apartment unit. To locate that apartment unit elsewhere within  
12 | the building would require significant expense and modifications  
13 | and substantial additional cost. Importantly, the relief that  
14 | we're requesting is de minimis. It's only 64 square feet of  
15 | additional floor area to accommodate the head room and the landing  
16 | for that interior stair and 60.8 feet of additional coverage for  
17 | that exterior stair and walkway which would increase the lot  
18 | occupancy by 3.51 percent.

19 |         This relief can be granted without substantial  
20 | detriment to the public good or impairing the intent or purpose  
21 | of the zone plan. The upper floor apartment that we're proposing  
22 | is consistent with the purpose and the intent of the RA zone. It  
23 | also adds housing diversity in this desirable neighborhood which  
24 | promotes the goal of the comp plan. It also could continue to  
25 | be used for residential use, which is of course in keeping with

1 the character of the surrounding neighborhood and will  
2 importantly promote a public policy objective of increasing  
3 housing supply within the city.

4 We are pleased that the ANC voted unanimously to  
5 support -- okay, sorry -- to support the special exception  
6 variance application. Their support is in the record as Exhibit  
7 37. We went back to them when we added the variance relief, and  
8 they re-affirmed their support. The immediately adjacent  
9 neighbors have also expressed their support for the proposed  
10 application, and for all these reasons, we believe that the Board  
11 can make the necessary findings to approve the special exception  
12 and variance relief. And I'd be happy to answer any questions  
13 you have.

14 And, Karen, I just want to make sure, was there  
15 something you were trying to add? No? Okay.

16 MS. MARSH: No. I'm here for questions, yes.

17 MS. ROGERS: Okay. Thank you.

18 CHAIRPERSON HILL: Okay. Thank you, Ms. Rogers. All  
19 right.

20 Before I turn to the Board, could I hear from the Office  
21 of Planning?

22 MR. JESICK: Thank you, Mr. Chairman and members of the  
23 Board. My name is Matt Jesick. I'm presenting OP's testimony  
24 in this case, and the Office of Planning is happy to rest on the  
25 record in support of the application, but I'm available for any

1 questions. Thank you.

2 CHAIRPERSON HILL: Thank you. Thank you, Mr. Jesick.

3 Does the Board have any questions for the Applicant or  
4 the Office of Planning? Go ahead, Commissioner Wright.

5 ZC COMMISSIONER WRIGHT: Hi, Ms. Rogers. Nice to see  
6 you. I just wanted clarification. The bedroom on the third  
7 floor that's noted on the architectural plans, is that associated  
8 with this apartment unit or is it just -- is it part of the main  
9 house and it's just being shown as a bedroom to identify its use?

10 MS. ROGERS: It is shown just as a bedroom to identify  
11 its use. It'll continue to be part of the main dwelling. It's  
12 just that bedroom has to actually be modified and kind of shrunk  
13 to accommodate that interior access stair which is why it's called  
14 out, but it won't be part of the upper- level apartment.

15 ZC COMMISSIONER WRIGHT: Right. And the other  
16 question, is the staircase that goes to touch the ground --  
17 goes -- does it go next to the garage or through the garage?

18 MS. ROGERS: It actually goes through the garage. So  
19 the garage will be opened up to accommodate that stairwell that  
20 will then provide access to the alley grade.

21 ZC COMMISSIONER WRIGHT: Great. Thank you. Those were  
22 my only questions just for clarification.

23 CHAIRPERSON HILL: Thank you, Commissioner. Anyone  
24 else?

25 (Pause.)



1 CHAIRPERSON HILL: Okay.

2 Mr. Young, is there anyone here wishing to provide  
3 testimony?

4 MR. YOUNG: We do not.

5 CHAIRPERSON HILL: Okay. All right.

6 Ms. Rogers, do you have anything you'd like to add at  
7 the end?

8 MS. ROGERS: Nothing further. Thank you.

9 CHAIRPERSON HILL: Okay. Thank you.

10 I'm going to go ahead and close the hearing and the  
11 record. Mr. Young, if you could please excuse everyone.

12 (Pause.)

13 CHAIRPERSON HILL: Okay. Thank you.

14 I appreciate -- the architectural drawings were a  
15 little bit complicated for me, and so I appreciate some of the  
16 questions. It makes it more interesting I suppose, but also I  
17 think that they are meeting the criteria for us to grant this  
18 relief.

19 The one that I wanted to kind of spend more time was,  
20 again, the variance relief. And I think that they have  
21 demonstrated, again, from the confluence of factors how they're  
22 meeting the uniqueness of the property and how I do think that  
23 the 64 square feet is de minimis in terms of how this is  
24 triggering the relief. And I do think that this being an area  
25 variance, they are showing a practical difficulty to the owner

1 also given that there is plumbing and electrical on that top  
2 floor, and so I will be voting -- oh, and also I do cite the  
3 Office of Planning's report, and I do appreciate the analysis  
4 that they have provided and also that of the ANC. And it is nice  
5 that they have worked with their neighbors in terms of providing  
6 enough information as to this project and received their support.  
7 I will be voting in favor of this application.

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

9 COMMISSIONER SMITH: I agree with your assessment and  
10 your description of this particular case and how they've met the  
11 burden of proof for us to grant the special exception and the  
12 area variances, given the confluence of factors related to this  
13 design of -- the existing design and the utility layouts in the  
14 existing building. So I will -- I'm inclined to grant them the  
15 area variances and the special exception for this very unique  
16 design that they're proposing to construct, these series of  
17 stairs. So, again, I'm in support.

18 CHAIRPERSON HILL: Thank you.

19 Vice Chair Blake?

20 VICE CHAIRPERSON BLAKE: Mr. Chair, I am in support of  
21 the application. I agree with the analysis you put forth as well  
22 as Mr. Smith, and I have nothing I want to add.

23 CHAIRPERSON HILL: Thank you.

24 Commissioner Wright?

25 ZC COMMISSIONER WRIGHT: I also support the application

1 and agree with the comments of my colleagues.

2 CHAIRPERSON HILL: Thank you. All right.

3 I'm going to make a motion to approve Application No.  
4 21194 as captioned and read by the secretary and ask for a second.  
5 Mr. Blake?

6 VICE CHAIRPERSON BLAKE: Second.

7 CHAIRPERSON HILL: Motion made and seconded. Madam  
8 Secretary, can you take a roll call, please.

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

11 Chairman Hill?

12 CHAIRPERSON HILL: Yes.

13 MS. MEHLERT: Vice Chair Blake?

14 VICE CHAIRPERSON BLAKE: Yes.

15 MS. MEHLERT: Mr. Smith?

16 COMMISSIONER SMITH: Yes.

17 MS. MEHLERT: Commissioner Wright?

18 ZC COMMISSIONER WRIGHT: Yes.

19 MS. MEHLERT: Staff would record the vote as four to  
20 zero to one to approve Application 21194 on the motion made by  
21 Chairman Hill and seconded by Vice Chair Blake.

22 CHAIRPERSON HILL: Okay. Great.

23 If it's okay with you guys, can we just take a 15-  
24 minute break? We'll come back -- let's try to come back at 11.  
25 Thank you.

1 (Whereupon, there was a brief recess.)

2 CHAIRPERSON HILL: Madam Secretary, you can call us  
3 back and then call us back in when you get a chance.

4 MS. MEHLERT: The Board is back from a short break and  
5 is returning to its hearing session. Would you like me to call  
6 the next case?

7 CHAIRPERSON HILL: Yes, please. Thank you.

8 MS. MEHLERT: The next case is Application No. 16930-  
9 A of National Association of Realtors. This is a self-certified  
10 request pursuant to Subtitle Y, Section 704 for a modification  
11 with hearing of order in application No. 16930 to remove Condition  
12 No. 3 and modify the approved plans to allow removal of internal  
13 and exterior loading areas as well as removal of an internal  
14 service and delivery area, and pursuant to Subtitle X, Section  
15 901.2 for application for a special exception under Subtitle C,  
16 Section 909.2, from the loading requirements of Subtitle C,  
17 Section 901.1 and the loading size and layout requirements of  
18 Subtitle C, Section 905.4, and this is again to allow the  
19 elimination of existing loading space and loading berth on an  
20 existing office building. It's located in the D-3 zone at 500  
21 New Jersey Avenue, Northwest, Square 627, Lot 13.

22 As a preliminary matter, there are three proffered  
23 expert witnesses: Juan Manjarres and Navid Tehrani as experts  
24 in architecture, who are not in the witness book, and Daniel  
25 Solomon as an expert in transportation, who is in the witness

1 book.

2 CHAIRPERSON HILL: Okay. Thank you.

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

5 MR. AVITABILE: David Avitabile of Goulston & Storrs,  
6 land use counsel, here on behalf of the Applicant. We also have  
7 Bradley Clark from Cushman & Wakefield, who is here as the  
8 representative for the owner, and then we have members of the  
9 architectural and transportation engineering team.

10 CHAIRPERSON HILL: Okay.

11 Who was it that you needed to be admitted as an expert,  
12 Mr. Avitabile?

13 MR. AVITABILE: So it would Daniel Solomon from Gorove  
14 Slade as an expert in transportation; I believe you all have seen  
15 Daniel before. And then the other person, we have two architects  
16 with us today. We actually would only ask that Navid Tehrani,  
17 who is on from ZDS, be proffered as an expert in the field of  
18 architecture based on his resume and experience.

19 CHAIRPERSON HILL: Okay.

20 Mr. Solomon we've seen before. And so do you know --  
21 can you tell me where Mr. Tehrani's resume is in the record? Do  
22 you happen to know off hand, Mr. Avitabile?

23 MR. TEHRANI: Can I add that -- this is Navid Tehrani.  
24 I've been added as an expert as part of a PUD or two that I've  
25 done before. So I thought I would be already in the system.

1 MR. AVITABILE: Yeah. His resume is included as a part  
2 of Exhibit 16E of the record. His resume is on page 2 of Exhibit  
3 16E of the record.

4 CHAIRPERSON HILL: Got it. Thanks. All right.

5 Well, either way, Mr. Tehrani, I don't know. I think  
6 the book goes over from the Zoning Commission, but if not, I  
7 don't have any issues with you being admitted as an expert in  
8 architecture being that you are an architect and that I see from  
9 your resume here. And unless my Board has any issues with that,  
10 please raise your hand or say something. Hearing none, we're  
11 going to allow you into the -- our book, whatever that is.

12 MR. TEHRANI: Appreciate it.

13 CHAIRPERSON HILL: And then, let's see. Mr. Avitabile,  
14 why don't you go ahead and walk us through your client's  
15 application and why you believe they're meeting the criteria for  
16 us to grant this particular relief. I can't remember, when did  
17 this original proposal get granted; do you know?

18 MR. AVITABILE: 2002 was the original approval.

19 CHAIRPERSON HILL: Okay.

20 MR. AVITABILE: So it's an older -- it's an older case.  
21 The building was constructed and completed about 20 years ago.

22 CHAIRPERSON HILL: Yeah. I know we all -- well, I  
23 think most of us know where the building is.

24 MR. AVITABILE: Yeah.

25 CHAIRPERSON HILL: You know, it's a very unique

1 building.

2 MR. AVITABILE: It's significant, different.

3 CHAIRPERSON HILL: Okay. Great Why don't you guys  
4 walk us through your presentation?

5 MR. AVITABILE: Great. All right. We'll do that.

6 And Mr. Young, if you could bring up our presentation  
7 that would be fantastic. And I will present a summary.

8 So, good morning, Chairman Hill, members of the Board.  
9 David Avitabile with Goulston & Storrs, land use counsel for the  
10 Applicant. I'm joined by my colleague, Derick Wallace, and also  
11 joined as I said by Bradley Clark of Cushman & Wakefield,  
12 representing the building owner; Navid Tehrani and Juan Manjarres  
13 of ZDS Architects; and Daniel Solomon of Gorove Slade. And we're  
14 here today to present an application that will permit upgrades  
15 and renovations to the existing commercial office building at 500  
16 New Jersey Avenue, Northwest.

17 And Mr. Young, if we could advance to slide 4, please.  
18 Thank you.

19 So the existing building you can see here. As you  
20 noted, Chair Hill, it's very distinctive. It was constructed  
21 about 20 years ago pursuant to a BZA order that approved special  
22 exception for variance relief. From a number of provisions of  
23 the zoning regulations, the relief was necessary because the  
24 property is actually quite small relative to the overall area  
25 around the building, especially given its downtown location, and

1 among other areas of relief, the Board approved relief from the  
2 requirement to provide an internal loading berth. So instead,  
3 the approved building was constructed with an internal service  
4 delivery space which you can see here on the lower image -- it's  
5 No. 4 -- and then also an outdoor loading space that was sort of  
6 just outside the building in public space which is where that  
7 dumpster and that parked car are in this image here.

8 And so what NAR was planning are selective renovations  
9 to the ground floor of the existing building to improve its  
10 operations and marketability to tenants.

11 So now if we could skip ahead to slide 9, please, Mr.  
12 Young. I apologize for sending you backwards and forwards today  
13 but I thought this was the quickest way to get through this.

14 (Pause.)

15 MR. AVITABILE: I'll start speaking. It should be the  
16 plan of the existing building, slide 9. There we go. Thank you  
17 very much.

18 So the existing lobby, which is No. 3 here, is  
19 incredibly narrow, and it's located right up against the existing  
20 service delivery space which is No. 4 on this image, which is  
21 where the trash and service area is located. So the existing  
22 floor plan does not work, to put it succinctly.

23 So we can skip ahead two slides, please, Mr. Young.  
24 One more, please. Thank you.

25 So you'll see here, here is the proposed floor plan and



1 | what we're proposing to do is in part bumping out the existing  
2 | lobby just a couple of feet, but it really would create more room  
3 | in that lobby. If you've never been inside this lobby, you walk  
4 | in, and it really is quite narrow compared to what you would  
5 | expect in a typical downtown office building. So that couple of  
6 | feet would really create a better experience for tenants and  
7 | visitors.

8 |           But the more significant change relevant to the  
9 | application today is in the back-of-house space behind the lobby,  
10 | and what we're proposing to do is really relocate the back-of-  
11 | house space and reorganize it so that the office parts at the  
12 | back-of-house space will now be sort of behind the lobby where  
13 | No. 5 is where, you know, the mail room and such are. And then  
14 | we'll relocate the trash area over to where the No. 4 is away  
15 | from the lobby and away from the regular users of the building.

16 |           And then if we can go to slide 7, so back four slides,  
17 | please, Mr. Young.

18 |           What these interior changes will do is permit the  
19 | implementation of some pretty significant exterior changes.  
20 | Right now, as you can see in the upper image here, the public  
21 | space surrounding the building is largely impervious with -- and  
22 | this is in no small part due to that curb cut and loading area  
23 | that's outside the building over on the 1st Street side which is  
24 | the north side of the image here. And as we explained in our  
25 | application, neither that interior service delivery space or the

1 exterior loading area is regularly used. Instead, it's the  
2 curbside loading zone where all of that loading activity happens.

3 And so what we're preposing to do is lean into those  
4 established operations and formally eliminate the loading spaces,  
5 and this will allow for an increase in the green space and removal  
6 of the curb cut on 1st Street, and you can see that on the lower  
7 image which is the proposed conditions, significantly increasing  
8 the amount of green space along the 1st Street perimeter of the  
9 building. This is coupled with other changes we're making on the  
10 New Jersey Avenue side to also increase green space and public  
11 space. And so to achieve this outcome -- if we can go forward  
12 one slide, please -- and this is the landscape plan that, again,  
13 shows where we'll end up as a result of this relief. It shows  
14 again that increased landscaping along the 1st Street side of the  
15 building.

16 We're asking for two areas of relief, Board members.  
17 First is modifying the prior BZA approval to remove that outdoor  
18 loading area and the associated condition No. 3 which was related  
19 to that outdoor approval space. And then the second thing we're  
20 asking for is special exception relief from the loading  
21 requirements to eliminate the remaining interior loading  
22 facilities. We believe we've met the burden of approval for  
23 these areas of relief.

24 With respect to the modification piece, what we're  
25 asking the Board to do is eliminate the outdoor loading area that

1 | was proposed at the time 20 years ago to potentially mitigate the  
2 | impact of not having an interior loading berth. That was the  
3 | BZA's original relief. As time has now demonstrated, the outdoor  
4 | loading area really isn't needed as the curbside loading area is  
5 | sufficient to accommodate the building's loading needs.  
6 | Therefore, eliminating this mitigation measure will not have a  
7 | substantial change on the impact of the original relief on  
8 | surrounding properties. We also do not believe this change  
9 | impairs the integrity of the zoning regulations since the  
10 | regulations have now been amended to allow one to get relief from  
11 | the loading requirements of special exceptions.

12 |           Put another way, you know, originally 20-some-odd years  
13 | ago, eliminating that loading berth was a variance request. Now  
14 | it's a special exception. So had that loading berth been  
15 | eliminated today, it would have been totally consistent with the  
16 | regulations as long as you met the conditions. So modifying the  
17 | original BZA order to eliminate that loading relief is similarly  
18 | consistent with the regulations.

19 |           And then with respect to the special exceptions, we've  
20 | also met the requirements of Subtitle C, Section 909. As we've  
21 | explained, the use of the building generates a lower loading  
22 | demand than the regulations require and what demand there is can  
23 | be accommodated by the curbside loading. The property is located  
24 | in the commercial area of downtown so curbside loading will not  
25 | have a negative impact on surrounding properties, and finally,

1 the shift to formalize curbside loading will allow for the  
2 elimination of curb cut and otherwise improve the streetscape  
3 surrounding the building, again as you see on this image.

4 We're here with support from the Office of Planning,  
5 the Department of Transportation, and ANC 6E. I'll note that  
6 we've worked closely with DDOT and OP over a number of months,  
7 really years, to come up with the design for the public space  
8 surrounding this property, and that's what led to the  
9 consideration of could we eliminate those loading facilities and  
10 make this work from a curbside perspective, and we think that  
11 this really does work well for all parties involved. It allows  
12 NAR to upgrade to meet their current operational and tenant needs  
13 down at the ground level, and it also results in an improved  
14 public realm and streetscape surrounding the site.

15 So, you know, on balance we think we've met all of the  
16 relevant standards of the zoning regulations, and we are happy  
17 to answer any questions the Board has. Thank you.

18 CHAIRPERSON HILL: Thank you, Mr. Avitabile.

19 Before I turn to the Board, can I hear from the Office  
20 of Planning, please?

21 MR. MITCHUM: Hi. This is Joshua Mitchum with the  
22 Office of Planning. We are in support of the application, and  
23 we can stand on OP's report in the record. Thank you.

24 CHAIRPERSON HILL: Okay.

25 I've got a couple, just a couple of quick questions.

1 So the Office of Planning, there were some old -- or there were  
2 three total conditions, right? We're discussing the removal of  
3 Condition No. 3. Do you -- and maybe the Applicant also knows  
4 this. I mean, the first condition was build according to plans,  
5 and so I don't think that's relevant anymore. I don't think we  
6 need that condition. And the other was, like, the tower shall  
7 only be used -- the tower proposed on the north side of the  
8 building shall only be used as an architectural embellishment and  
9 not used for any other purpose. Does the Office of Planning know  
10 what the Board was talking about at that point in time?

11 MR. MITCHUM: At this time, I am not aware of the exact  
12 nature of that condition. I would also just defer if the  
13 Applicant also knows as well, but that didn't come up in our  
14 analysis in terms of what they're proposing.

15 CHAIRPERSON HILL: So the Office of Planning doesn't  
16 necessarily think that condition is necessary at this point?

17 MR. MITCHUM: No, sir.

18 CHAIRPERSON HILL: Okay.

19 Mr. Avitabile, do you know what that was about?

20 MR. AVITABILE: We did not handle the original case,  
21 but I suspect based on the way that the condition is framed, that  
22 there was perhaps some concern that the tower element, the  
23 architectural embellishment, could be used as functional space.  
24 And there has historically been a ruling sort of that when you  
25 have an architectural embellishment that goes above the height

1 | limit, it is only supposed to be architectural. It is only  
2 | supposed to be design purposes only. It is not supposed to have  
3 | any sort of functional space or use within it, because otherwise  
4 | that could create a, you know, a violation of the Height Act  
5 | and/or the zoning regulations.

6 |           So my guess is it was just attempting to clarify that.  
7 | The actual tower element as designed is totally unenclosed. It's  
8 | just a structural spire that doesn't have a roof on it, it doesn't  
9 | have walls on it. So I think the intent of that has been met  
10 | and made with the design of the building.

11 |           CHAIRPERSON HILL: That's all right. I thought  
12 | maybe --

13 |           MR. AVITABILE: That's my guess.

14 |           +CHAIRPERSON HILL: Got it. I thought maybe they  
15 | were -- if they were using it for a, you know, a cell tower or  
16 | something like that that they -- I don't know. But anyway.

17 |           So my Board members -- I'm kind of, I don't know if I'm  
18 | interested in leaving that as a condition just because it was  
19 | there before, and I don't think the Applicant has any issues with  
20 | that condition. But other than those questions that I had, do  
21 | my Board members have any questions?

22 |           Mr. Blake?

23 |           VICE CHAIRPERSON BLAKE: I'd like to ask the Applicant  
24 | to elaborate a little bit on the conversations with the Department  
25 | of Transit. I'd like to understand a little bit why they

1 recommend the inclusion of a TDM plan in their proposal where our  
2 focus would be LMP makes sense. I'm curious to know about the --  
3 why the TDM is even factored in here.

4 MR. AVITABILE: Good questions. I'll start and then  
5 turn it over to Daniel to speak a little bit more about the TDM  
6 piece of it.

7 There were extensive discussions with DDOT. They  
8 started -- largely starting just at the public realm design at  
9 that level with sort of the Public Space side of DDOT, not the  
10 planning side of DDOT, for a couple of years. And then over  
11 time, they pushed us to increase and increase the amount of green  
12 space around the site, and that ultimately led to sort of the  
13 question, hey, could you get rid of the curb cut and get rid of  
14 the loading space all together, and we determined, hey, that  
15 actually works well for us. So that was part one of the DDOT  
16 conversations.

17 We then brought the folks from the planning  
18 sustainability side, and actually we ultimately -- DDOT as a  
19 whole, we've had a preliminary design review meeting with a lot  
20 of the disciplines there. They reviewed this plan. They've  
21 generally blessed it, and those conversations then shifted to  
22 some of the other transportation impacts and looking at, okay,  
23 if you eliminate that loading berth, can you accommodate your  
24 loading needs? You know, we worked with them to scope the  
25 transportation study. They agreed to that. They -- you know,

1 Daniel can speak to the details. And yes, they of course said,  
2 well, we need a loading management plan, and we agreed to one.

3 In terms of the TDM piece of it, I think it is standard  
4 practice for our colleagues at DDOT to look for -- get applicants  
5 to commit to TDM measures whenever they can. We don't disagree  
6 that perhaps this is unnecessary to mitigate the specific impacts  
7 of the relief we're requesting here, but we nevertheless put one  
8 together to get ourselves through the DDOT process. And Daniel,  
9 I don't know if you have anything else to say on that.

10 I guess maybe put another way to take the bait of the  
11 question, if the Board were to choose to not require the TDM  
12 plan, we wouldn't necessarily fight you on that, but we also  
13 understand if you want to include it as a condition, because DDOT  
14 did. We're prepared to live by it if need be.

15 VICE CHAIRPERSON BLAKE: Okay. Thank you.

16 CHAIRPERSON HILL: Commissioner Wright?

17 ZC COMMISSIONER WRIGHT: I support definitely including  
18 the TDM plan that has already been offered. And I do have a  
19 question that maybe the transportation consultant can answer,  
20 which is functionally how will trash removal happen, and how will  
21 moving in for new tenants into the building happen?

22 You know, I guess I do understand the idea of an on-  
23 site loading area. I think you're eliminating that, and I guess  
24 I just would like to get a little more information about with  
25 the street loading. Does that mean every time trash is picked



1 up, dumpsters will be wheeled across the sidewalk to a trash  
2 truck and/or whenever someone moves in, the moving truck will be  
3 on the street and all of the items will be wheeled across the  
4 sidewalk into the building?

5 MR. SOLOMON: So what we are doing with this proposal  
6 is essentially standardizing and formalizing what exists out  
7 there today. So the way the service and delivery space was  
8 oriented and the way that the building was functioning is that  
9 trucks would pull up adjacent to the curb cut and then roll trash  
10 and goods from curbside to the building itself.

11 So what we are doing here in essence is improving  
12 streetscape while formalizing existing operations and then also  
13 agreeing to a loading management plan so that is even further  
14 formalized with DDOT. We've had preliminary conversations with  
15 DDOT about how the design of the curb might be rolled so that  
16 goods can be wheeled from the street up on to the sidewalk and  
17 then to the building. That'll get formalized as part of the  
18 Public Space approval process, but DDOT is on board with the  
19 design that we have here and will be further flushed out as we  
20 go through the Public Space process. So we're pretty confident  
21 with the solution that we've come up with.

22 ZC COMMISSIONER WRIGHT: Right. Thanks for that  
23 additional information.

24 MR. SOLOMON: Absolutely.

25 CHAIRPERSON HILL: Okay. Anyone else for questions?

1 Okay.

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

3 MR. YOUNG: We do not.

4 CHAIRPERSON HILL: Okay. Great.

5 I suppose, and we can have a discussion about this once  
6 we're done with the deliberations here, but I guess, Commissioner  
7 Wright, there was some of a little bit of a discussion also with  
8 OZLD as to whether or not the TDM plan was kind of revisiting  
9 the original application as opposed to this particular  
10 modification. And so whether or not that does or doesn't get  
11 put in as a condition, Mr. Avitabile, would you guys be doing  
12 the TDM plan anyway?

13 MR. AVITABILE: For one, we're still going to have to  
14 go through the public space approval process in the Public Space  
15 Committee and so DDOT will have that process to ask us to make  
16 those same commitments anyway. So the long and the short of it  
17 is we'll do it regardless because we've already said we would.

18 CHAIRPERSON HILL: Okay. All right.

19 Let's see. Anyone else have any questions? Okay.  
20 I'm' going to go ahead and close the hearing and the record.

21 And Mr. Young, if you could please excuse everyone.

22 (Pause.)

23 CHAIRPERSON HILL: Okay. Thanks.

24 Yeah. I mean, like, we've all seen this building.  
25 Like, the building is just -- I love the building. I mean, I've

1 never been inside the lobby, but I want to go inside the lobby  
2 now before, if this passes the changes, to see how small it was.

3           The -- as far as the application goes and what the  
4 Applicant has put forward, I'm comfortable removing the condition  
5 and then granting the further relief as put forward. I also  
6 mentioned before that, for whatever reason, I'll just keep the  
7 second condition with the tower just because I don't think they're  
8 going to do anything with it. It's been there forever that way  
9 now, but considering that the Board of Zoning or whatever BZA  
10 group was here 20 years ago, they put it in there so I don't  
11 really have an issue with that being a condition. And I mentioned  
12 about the TDM plan versus the loading management plan, my thoughts  
13 on that. However, I'm also happy to go with whatever way the  
14 Board wants to go on that. But I do think that the loading  
15 management plan is something that we should include as a  
16 condition.

17           So, let's see. With that I'll go ahead and go to you,  
18 Mr. Smith.

19           COMMISSIONER SMITH: I agree with your approach to this  
20 particular case. I am in support of the removing, -- well, in  
21 support of the special exceptions. And just like Ms. Wright  
22 stated, I am in support of including the TDM plan as well as the  
23 loading management plan in light of them removing the loading  
24 zone to properly manage any type of loading requirements that  
25 would happen in the right-of-way given that this is along New

1 Jersey Avenue, some fairly major streets here. I would also  
2 support keeping the condition that you referenced about the tower  
3 as well, given that I don't think that's causing too much  
4 heartburn. So I'm comfortable with the approach that you have  
5 suggested.

6 CHAIRPERSON HILL: Okay. I'm fine with going with that  
7 as well.

8 Mr. Blake?

9 VICE CHAIRPERSON BLAKE: Mr. Chairman, I'm in favor of  
10 removing Condition No. 3. I am -- I believe the Applicant has  
11 met the burden of proof to be granted the requested special  
12 exception relief. I would prefer that the TDM plan be referenced,  
13 and I would definitely support the inclusion of the load  
14 management plan because it is a critical part of the removal of  
15 the, yeah, alterations to the loading area.

16 So for that reason, I, again, would be in support of  
17 the special exception, support of removal of Condition No. 3, but  
18 I do have some issues with the inclusion of the TDM actually in  
19 the order. I'd rather do it by reference. There you go.

20 CHAIRPERSON HILL: Okay.

21 So back on that item, I'm fine too. I also had  
22 mentioned before that I thought that maybe the TDM plan was not  
23 something that we should put in as a condition, but if my fellow  
24 Board members thought it needed to be a condition, that's fine.  
25 Also now it is on the table as just referencing it in the order,

1 | which is also something we can do, and they also -- the Applicant  
2 | has put forward that the TDM plan would be something that they  
3 | would be using -- or sorry, implementing regardless of what the  
4 | Board does with this because they still have to go through the  
5 | Public Space process.

6 |           Mr. Smith, are you comfortable referencing the TDM  
7 | plan?

8 |           COMMISSIONER SMITH: I'm comfortable with that.

9 |           CHAIRPERSON HILL: Commissioner Wright?

10 |           ZC COMMISSIONER WRIGHT: Yes, I'm comfortable with  
11 | referencing it in the order. I don't want to just leave it  
12 | entirely to the Public Space process but I also am comfortable  
13 | with it not being a formal condition.

14 |           CHAIRPERSON HILL: Okay. Thank you.

15 |           I don't know where I was. Did everybody deliberate?  
16 | Okay. Everybody deliberated. Sorry. So, okay, I'm getting a  
17 | little lost. All right. Okay.

18 |           I'm going to go ahead and make a motion then to approve  
19 | Application No. 16930-A as captioned and read by the secretary,  
20 | including the condition that they include the TDM plan as  
21 | provided. We will reference -- I'm sorry, including the LMP  
22 | condition, the loading management plan, we will reference the TDM  
23 | plan in the order, and also we will still include Condition No.  
24 | 2 from the original order which was the tower proposed on the  
25 | north side of the building shall only be used as an architectural

1 establishment and shall not be used for any other purpose, and  
2 ask for a second.

3 Mr. Blake?

4 VICE CHAIRPERSON BLAKE: Second.

5 CHAIRPERSON HILL: The motion is made and seconded.  
6 Madam Secretary, if you could take a roll call, please.

7 MS. MEHLERT: Please respond to the Chair's motion to  
8 approve the application with conditions.

9 Chairman Hill?

10 CHAIRPERSON HILL: Yes.

11 MS. MEHLERT: Vice Chair Blake?

12 VICE CHAIRPERSON BLAKE: Yes.

13 MS. MEHLERT: Mr. Smith?

14 COMMISSIONER SMITH: Yes.

15 MS. MEHLERT: Commissioner Wright?

16 ZC COMMISSIONER WRIGHT: Yes.

17 MS. MEHLERT: Staff would record the vote as four to  
18 zero to one to approve Application No. 16930-A with conditions  
19 on the motion made by Chairman Hill and seconded by Vice Chair  
20 Blake.

21 CHAIRPERSON HILL: Great. Thank you.

22 Madam Secretary, you may call our next order of  
23 business when you have an opportunity.

24 MS. MEHLERT: Next is Application No. 21261 of John  
25 Means and Evelyn Ballard. This is a self-certified application

1 pursuant to Subtitle X, Section 901.2 for a special exception  
2 under Subtitle F, Section 5201 from the open court width  
3 requirements of Subtitle F, Section 209.1. This is for a new  
4 third-story with roof deck at an existing two-story attached  
5 principal dwelling located in the RA-2/DC zone at 1825 S Street,  
6 Northwest, Square 132, Lot 13.

7 MR. MEANS: Hi. Good morning, everyone. Can you hear  
8 us okay?

9 CHAIRPERSON HILL: Yes. Could you please introduce  
10 yourself for the record?

11 MR. MEANS: Perfect. And as I do, Mr. Young, our  
12 architect, Pete Nettelbeck, is also a participant if you're able  
13 to admit him. I believe he was sworn in in case there are  
14 questions.

15 While you are doing that, I'm John Means. I'm the  
16 resident at 1825 S Street, Northwest, along with --

17 MS. BALLARD: Hi. I'm Evelyn Ballard. John and I are  
18 married, and we live here with our two wonderful and wild  
19 children, Nathan (phonetic) and Lilly (phonetic), who we walked  
20 to our neighborhood public school this morning. I moved to D.C.  
21 in 2007, fell in love with D.C., fell in love with this  
22 neighborhood, and have lived in the neighborhood since then. And  
23 then we recently moved to 1825 S.

24 CHAIRPERSON HILL: Okay. Great. Thank you.

25 Mr. Nettelbeck, can you hear me, and if so can you

1 introduce yourself for the record?

2 MR. NETTELBECK: Hi there. Sorry, my video's not  
3 working for some reason. My name is Pete Nettelbeck. I'm the  
4 architect that worked with John and Becky (phonetic) on this  
5 project. And can you hear me all right?

6 CHAIRPERSON HILL: Yeah, yeah.

7 Mr. Nettelbeck, are you going to present or is your  
8 client presenting?

9 MR. NETTELBECK: John and Becky will be presenting  
10 today.

11 CHAIRPERSON HILL: Okay. Great.

12 Let's see. So, Mr. Means and Ms. Ballard, I believe --

13 MR. MEANS: Yes, sir.

14 CHAIRPERSON HILL: -- if you all want to go ahead and  
15 walk us through your application? And we will see where we get  
16 in terms of any questions that we may have. I'm going to put 15  
17 minutes on the clock so I know where we are, and you can begin  
18 whenever you like.

19 MS. BALLARD: Thank you.

20 MR. MEANS: Great. Thank you, Mr. Hill, and thank you  
21 to the whole Board for having us today.

22 Mr. Young, if you're able to pull up Exhibit No. 32,  
23 which is our presentation.

24 MS. BALLARD: And that's our daughter, Lilly, there.

25 MR. MEANS: This is our daughter, Lilly, on the front



1 steps of 1825 S Street. I'll get into the case. We just finished  
2 the primary renovation of the residence. This was a burned-down  
3 row house at 18th and S. We previously lived at 17th and S for  
4 about 12 years and saw the opportunity to help restore this home.  
5 So we've completed the main renovation and are in the process of  
6 permitting the third floor addition which I can share more about  
7 in a moment.

8 If you can go on to the next page. This is -- I'll  
9 give it a second to reload. Mr. Young, if you're able to click  
10 ahead.

11 You can see the particular site between 18th and 19th  
12 Street on S in Northwest. The home was originally built in 1895  
13 and is part of the Dupont Circle historic district. It's not  
14 itself registered, but Historic Preservation and HPRB have been  
15 involved in this process and have previously signed off and  
16 approved the third floor addition that we're discussing today.

17 If you will go to the next slide, Mr. Young.

18 You can see on this slide -- and apologies for the  
19 small text -- the matter at hand for this committee, or this  
20 Board, sorry, is the open court in the rear yard where we are.  
21 The building is currently noncompliant as it was built in 1895,  
22 and we're asking for an exception to continue to extend that  
23 nonconformance as we add this third floor addition. I believe  
24 the dimensions are on the next slide. Yes, they are.

25 So you can see this is a infill property in 1895. This

1 was a 15-foot lot which meant that only a four-foot-wide court  
2 was available at the time. So this is an existing 1895 property  
3 with that four-foot court, and again, we're proposing to add a  
4 third floor on the existing structure. We are not changing the  
5 footprint or the coverage ratios for the property, so it's just  
6 to extend that four-foot court. By current zoning, it would be  
7 slightly over seven feet wide if we were to build that court  
8 today and the house, which would take up half of the lot width.

9 If you go on to the next slide, Mr. Young.

10 We put a map here showing support letters that have  
11 been received from the immediately affected neighbors, both the  
12 ones that directly see the court and the five in the condo  
13 building next to the court. This has been reviewed through the  
14 land use committees of our ANC now multiple times given the  
15 historic components and the zoning criteria, and the main ANC,  
16 and has been approved unanimously in committee twice and in the  
17 ANC now twice as well. So it's widely supported both from our  
18 neighbors and through the ANC, and I believe the Office of  
19 Planning and DOB have also submitted their support for the  
20 request.

21 And then just to give you a visual representation of  
22 what we're asking for, and then I can pause there. We can go  
23 through more plans if helpful. Yeah, can you go to slide 8, Mr.  
24 Young?

25 This is the rear of the home, and we just wanted to

1 | give a visual of the court. You can see that, at this point,  
2 | condo developments on each side of the project, of our home, have  
3 | extended up to the third and the fourth floor above our unit and  
4 | our court in the section just adjacent to the condo development  
5 | on the left hand side and it's to the east of our property. So,  
6 | again, our proposal is to add a third floor, and if you want to  
7 | see what that would look like --

8 |           If you jump to page 10, Mr. Young, we'll just skip two  
9 | slides so we're just focusing on the rear. We would continue to  
10 | extend up this new window line that has been created, again,  
11 | previously approved by HPRB, the Historic Board, and DOB to add  
12 | this third floor and the roof deck.

13 |           So, again, the matter at hand for the BZA is to continue  
14 | to allow this court to be extended upwards, and I will pause  
15 | there to see if you have questions. I'm happy to go through  
16 | other parts of the plans, but we wanted to keep it relatively  
17 | quick for you.

18 |           CHAIRPERSON HILL: Thank you, Mr. Ballard.

19 |           Let me do this. Before I get to my Board again, I'm  
20 | going to go ahead and turn to the Office of Planning.

21 |           MR. JURGOVIC: Good morning, Chairman Hill and members  
22 | of the Board. This is Michael Jurgovic, development review  
23 | specialist with the Office of Planning. OP recommends approval  
24 | of the requested special exception relief to open court width.  
25 | OP stands on the record of our report. I'm here to answer any

1 | questions. Thank you.

2 |           CHAIRPERSON HILL: Okay. Great. Thank you, Mr.  
3 | Jurgovic.

4 |           Does the Board have any questions of either the  
5 | Applicant or the Office of Planning?

6 |           (Pause.)

7 |           CHAIRPERSON HILL: No. Mr. Young, is there anyone here  
8 | wishing to speak?

9 |           MR. YOUNG: We do not.

10 |           CHAIRPERSON HILL: Okay.

11 |           Let's see. Mr. Ballard, do you have anything you'd  
12 | like to add at the end?

13 |           MR. MEANS: No. Thank you for the time and  
14 | consideration.

15 |           CHAIRPERSON HILL: Okay. Thank you.

16 |           And Mr. Young, you can go ahead and close the hearing  
17 | and the record.

18 |           (Pause.)

19 |           CHAIRPERSON HILL: Okay. I thought this was actually  
20 | a relatively straightforward request. I didn't have any issues  
21 | with the application nor the way that they're meeting the criteria  
22 | for us to grant this particular relief.

23 |           I appreciate the effort that the Applicant has gone  
24 | through in terms of both their presentation as well as all of  
25 | the community outreach that they've done. I actually appreciated

1 the sight line presentation the most in terms of the application.  
2 I found it helpful. And then also it is nice to see that they  
3 were able to get support from some of their neighbors in the area  
4 as well as that of the ANC, and I do appreciate the analysis that  
5 the Office of Planning has put forward in their report, and I'll  
6 be voting in favor of this application.

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

8 COMMISSIONER SMITH: Nothing to add. I believe also  
9 this is a very straightforward application. Given the size and  
10 scale of the adjacent buildings, I think that this will -- this  
11 particular addition would not have any undue impact on any of the  
12 adjacent neighbors. So with that, I will support as well.

13 CHAIRPERSON HILL: Thank you.

14 Vice Chair Blake?

15 VICE CHAIRPERSON BLAKE: I would also like to be in  
16 favor of the application, and I would also echo the fact that I  
17 do appreciate the line-of-sight perspective provided by the  
18 Applicant. I thought that was very helpful and will be in support  
19 of the application. Thank you.

20 CHAIRPERSON HILL: Thank you.

21 Commissioner Wright?

22 ZC COMMISSIONER WRIGHT: I support the application. I  
23 just want to note for the Applicant's benefit, I lived in this  
24 neighborhood, immediately in this neighborhood, like, immediately  
25 from 1987 until 2000. Had my first child while living in this

1 neighborhood and know it's a great neighborhood to raise kids.  
2 So I really appreciated their presentation and their commitment  
3 to being in the city and raising their children in the city, and  
4 I think it is a straightforward application. They're doing, it  
5 looks like, a very good job of renovating and appropriately adding  
6 on to a historic building, and I'm fully in support of the  
7 application.

8 CHAIRPERSON HILL: All right. Great. Thank you,  
9 Commissioner. Wow, Commissioner, being there in the '80s. Good  
10 for you. All right. Let's see. Okay.

11 I'm going to go ahead and make a motion then to approve  
12 Application No. 21261 as captioned and read by the secretary, and  
13 ask for a second. Mr. Blake?

14 VICE CHAIRPERSON BLAKE: Second.

15 CHAIRPERSON HILL: The motion is made and seconded.  
16 Madam Secretary, if you'll take a roll call, please.

17 MS. MEHLERT: Please respond to the Chair's motion to  
18 approve the application.

19 Chairman Hill?

20 CHAIRPERSON HILL: Yes.

21 MS. MEHLERT: Vice Chair Blake?

22 VICE CHAIRPERSON BLAKE: Yes.

23 MS. MEHLERT: Mr. Smith?

24 COMMISSIONER SMITH: Yes.

25 MS. MEHLERT: Commissioner Wright?

1 ZC COMMISSIONER WRIGHT: Yes.

2 MS. MEHLERT: Staff would record the vote as four to  
3 zero to one to approve the application, Application No. 21261,  
4 on the motion made by Chairman Hill and seconded by Vice Chair  
5 Blake.

6 CHAIRPERSON HILL: Great. Thank you, Madam Secretary.  
7 Give me one moment, please.

8 (Pause.)

9 CHAIRPERSON HILL: Okay. Madam Secretary, you may call  
10 our next case when you have an opportunity.

11 MS. MEHLERT: Next the Board is returning to  
12 Application No. 21262 of Ian Packman and Ellen Carlson. This is  
13 a self-certified application pursuant to Subtitle X, Section  
14 901.2 for special exceptions under Subtitle D, Section 5201, from  
15 the rear yard requirements of Subtitle D, Section 207.1 and the  
16 lot occupancy requirements of Subtitle D, Section 210.1. This  
17 is for a two-story rear addition to an existing two-story attached  
18 principal dwelling located in the R-3/GT zone at 2728 O Street,  
19 Northwest, Square 1239, Lot 854. Previously the Board granted  
20 party status in opposition to Prue Larocca and April Lynne Bowler  
21 and Jamie Peva. And then there's also a preliminary matter. The  
22 Applicant's filed a motion to waive the filing deadline to allow  
23 in submissions responding to OP which are in the record at  
24 Exhibits 22 and 22B.

25 CHAIRPERSON HILL: Okay. Can you repeat that last item

1 again, Madam Secretary? Sorry.

2 MS. MEHLERT: Yes. The Applicant has submitted a motion  
3 to waive the filing deadline to allow in late submissions that  
4 are responding to the Office of Planning. And that's in Exhibits  
5 22 through 22B, so they're already in the record.

6 CHAIRPERSON HILL: Okay.

7 I'm going to go ahead and allow that into the record,  
8 unless my Board members have any issues, because I want to see  
9 exactly what is going on with that item. And if my Board members  
10 have any issues, raise your hand or say something? Okay. Thank  
11 you. Going to allow that into the record, please.

12 Can the Applicant hear me, and if so, could they  
13 introduce themselves for the record?

14 MR. SULLIVAN: Yes. Thank you, Mr. Chairman and Board  
15 members. My name is Marty Sullivan with Sullivan & Barros, here  
16 on behalf of the Applicant.

17 CHAIRPERSON HILL: Okay. Thank you.

18 Could Ms. Larocca please introduce herself for the  
19 record?

20 MS. LAROCCA: Good morning. Prue Larocca, I'm the  
21 property owner at 1363 28th Street, Northwest.

22 CHAIRPERSON HILL: Okay. Great.

23 Thanks, Ms. Larocca. Ms. Larocca, is your camera  
24 working? If not, that's okay.

25 MS. LAROCCA: I'm not sure.



1 CHAIRPERSON HILL: Okay.

2 MS. LAROCCA: Maybe. Is it now?

3 CHAIRPERSON HILL: No. Maybe you can play with it.  
4 Just try and play with it for a -- oh, there you go. Great.  
5 Perfect.

6 MS. LAROCCA: Okay. Now am I working?

7 CHAIRPERSON HILL: Yes, yes. Thank you. Thank you.  
8 All right.

9 And then, let's see. Is it Ms. Bowler? Okay. Great.  
10 And well, could you guys introduce yourselves, please? You're  
11 on mute. You guys are on mute.

12 MS. BOWLER: I'm April Bowler. I'm the owner of 1359  
13 28th Street, and this is my fiancée, Jamie Peva.

14 CHAIRPERSON HILL: Okay. Great. Thank you for joining  
15 us.

16 Let's see. Mr. Sullivan, are there other people here  
17 with you? I see the commissioner, I think. Let me see where  
18 the commissioner --

19 MR. SULLIVAN: Yes. I think the owners should be here,  
20 and then the architect is here, Kiley Wilfong Cullen --

21 CHAIRPERSON HILL: Okay.

22 MR. SULLIVAN: -- who's the project architect.

23 CHAIRPERSON HILL: Give me one second. I saw the  
24 commissioner there for a second. Commissioner, could you  
25 introduce yourself for the record? You're on mute, Commissioner.

1                   ANC COMMISSIONER LOHSE:     Gwendolyn Lohse, ANC 2E  
2 Commissioner. Thanks for having us today.

3                   CHAIRPERSON HILL: Great. Welcome back.

4                   Let's see. And then, Ms. Cullen. Is it Ms. Cullen?  
5 Could you introduce yourself?

6                   MS. CULLEN: Yes. My name is Kiley Wilfong Cullen. I  
7 have been working with the homeowners on this project for a while  
8 and obviously lead architect.

9                   CHAIRPERSON HILL: Great. Thank you.

10                  Mr. Sullivan, who's the homeowner?

11                  MR. SULLIVAN: Ian Packman and Ellen Carlson.

12                  MR. PACKMAN: We're here.

13                  CHAIRPERSON HILL: Mr. Packman, can you introduce  
14 yourself for the record?

15                  MR. PACKMAN: Yes. Ian Packman and Ellen Packman,  
16 homeowners at 2728 O Street.

17                  CHAIRPERSON HILL: Okay. Great. Thank you. All right.

18                  So everybody, first of all welcome, and what we're  
19 going to try to do here is work through the application. Just  
20 so you all know, the Board has taken a look at the record, and  
21 we hear cases every Wednesday. And often times there are  
22 differences of opinion as to what is going on, and then the Board  
23 is to take a look at the criteria that we are faced with and  
24 determine whether it can be approved, or can't be approved, or  
25 maybe there should be some things that need to change in order

1 for it to be approved.

2 But what I'd like to point out is we're all going to  
3 do our best to kind of get through this as reasonably as possible,  
4 right? And also since everybody is neighbors, everybody has to  
5 live with everybody after this is over. So let's try to move  
6 along as best we can is all I'm just trying to say.

7 So that being the case, Mr. Sullivan's going to be able  
8 to go first. And Mr. Sullivan, if you want to go ahead and give  
9 us your presentation and why you believe your client is meeting  
10 the criteria to grant the relief requested. I'm going to put 15  
11 minutes on the clock just so I know where we are, but you can  
12 begin whenever you like.

13 MR. SULLIVAN: Thank you, Mr. Chair.

14 If Mr. Young could please load the PowerPoint  
15 presentation. Next slide, please.

16 So the address is 2728 O Street, Northwest. A quick  
17 overview, the Applicant's proposing to construct a rear addition.  
18 It consists of expanding and enclosing an existing first floor  
19 sunroom and a second-story rear addition on top of that. It's  
20 essentially a rear infill addition, so the entire rear wall of  
21 the property will align with the adjacent property's rear wall  
22 to the east and a little short of the rear wall to the west. And  
23 actually I'll show you. It's a portion of the Applicant's  
24 property which is already at the 9.3-feet distance, so they're  
25 filling in a portion of their property which is already at that

1 point.

2           So as a result, the lot occupancy is going to increase  
3 to 68.3 percent from, I think it's 64.6 currently, and the rear  
4 yard setback is currently 9.3. It's going to remain 9.3 but for  
5 a distance that goes across the entire property now. The Office  
6 of Planning is recommending approval, and ANC 2E voted not to  
7 support.

8           Next slide, please.

9           The general special exception criteria the Board's  
10 authorized to grant where, in the judgment of the Board, the  
11 special exception is in harmony with the purpose and intent of  
12 the zoning regulations and the zoning maps and will not tend to  
13 adversely affect the use. The property is located in the R-3/GT  
14 zone which is intended to permit attached row houses on small  
15 lots and limit permitted ground coverage of new and expanded  
16 buildings and other construction to encourage a general  
17 compatibility with the siting of new or expanding buildings in  
18 the existing neighborhood.

19           The property will remain a single-family row dwelling  
20 and the proposed addition is effectively rear infill aligning the  
21 rear wall with existing rear walls on this, as you'll see, a row  
22 of three houses facing O Street on very small lots.

23           Next slide, please.

24           The specific criteria, which we will go through and  
25 you'll see in the photos and the plans. As mentioned, the

1 addition's going to line up with neighboring properties. It's  
2 on the south end of this property, so Ms. Bowler's property is  
3 directly south of this. The shadow study shows absolutely zero  
4 shadow, zero shade, as you can expect because it's tucked within  
5 two buildings, and the shadow doesn't go to the south.

6           Regarding privacy and use and enjoyment of neighboring  
7 properties, for the same reason, there's no impact at all right  
8 or left, east or west, because it's packed in against existing  
9 walls. Regarding to the south, the 9.3 yard, rear yard, which  
10 is adjacent to the side property line of Ms. Bowlers', will not  
11 change. There are currently several windows and an open screened  
12 porch facing that property. If anything, this will be an  
13 improvement of the privacy situation.

14           The Office of Planning noted that the view doesn't  
15 substantially change the privacy situation. I would argue that  
16 it significantly improves it, because you're trading an open  
17 screen porch and windows for walls and windows. And again, this  
18 is because it's perpendicular to Ms. Bowler's property; it's her  
19 side. So she goes out the side of her property in a rowhouse  
20 district that has 9.3 feet between her and the next house.  
21 Regarding visual intrusion, the addition is barely visible from  
22 O Street, and we do enjoy OGB approval.

23           Next slide, please.

24           Here you see an overhead view. So that open notch --  
25 the subject property is 2728 O -- there's this open notch here,

1 and that's what's being filled in. It's two stories. The  
2 neighboring properties are a story above it, and we will not go  
3 as far as the existing rear wall on 2730. We'll line up with  
4 the Applicant's current existing rear wall on the L, and also  
5 that lines up with the 2626 neighbor, 2726 neighbor to the right.

6 Next slide, please.

7 There's the existing situation. That is the screen  
8 porch, and the building to the right of that screen porch is the  
9 Applicant's property. So they currently have four windows facing  
10 to the south in addition to the screen porch.

11 Next slide, please.

12 This is a view from the other angle. There you see the  
13 at-risk window you've probably seen and read about in the record.  
14 That's to the property at 2730 of Ms. Larocca. That building  
15 has three walls full of windows. That's a hallway window, and  
16 we can get into the discussion of at-risk windows maybe more so  
17 in my rebuttal. But typically the Board doesn't consider the  
18 relevance of at-risk windows, and there's reasons for that, and  
19 I can go into that in more detail if the Board would like to hear  
20 that.

21 So, next slide, please.

22 And now I'd like to turn it over to Ms. Wilfong Cullen  
23 to take you through the plans. Thank you.

24 Kiley?

25 MS. CULLEN: Thank you for allowing us to present.

1           As you can see this is a survey. Our proposed addition,  
2 as Marty noted, does not protrude any farther than their existing  
3 rear wall. That rear wall has the two windows on it, kitchen on  
4 the first level and then a bathroom on the upper level.

5           Next slide, please. Next slide, please.

6           When we were approached by this client, these clients,  
7 they had mentioned that previously before they had purchased the  
8 house there may have been a powder room on level 1 and that was  
9 eliminated during the renovation. So their drive and interest  
10 in this project started with adding a powder room to the first  
11 level because they did have friends with mobility impairments and  
12 it was going to be easier for them to access a powder room from  
13 the first level rather than the upper level.

14          Next slide, please.

15          And so you can see the roof plan.

16          Next slide, please.

17          And so this is what we were -- we started out with. So  
18 as you can see, a three-season room there. The only access to  
19 the back rear yard from the first level is through that three-  
20 season room. There is also a area way down into the basement.

21          Next slide, please.

22          Upper level here. Primarily a bedroom and then the  
23 right side of the house is an extension of that bedroom and also  
24 the bathroom.

25          Next slide, please.

1           So the proposal shows a powder room that is stacked on  
2 the right side of what was previously the screened-in porch. The  
3 reason for that is it helps align with the plumbing a little bit  
4 better and then allows for access out the left side of the  
5 building. And as you can see, it aligns with the existing rear  
6 wall of their building.

7           Next slide, please.

8           On the upper level this house, while it is very  
9 beautiful, is a pretty small footprint, so we were looking to add  
10 an office above the previous three-season sunroom as well as a  
11 walk-in closet. That walk-in closet obviously does not need a  
12 window in it. It was required by OGB that we look at this, we  
13 examine this, in terms of a sleeping porch, so that's how we  
14 landed on the exterior design and were able to eliminate the need  
15 for a window in the walk-in closet which is really primarily  
16 adjacent to bedroom windows from the south property from our  
17 understanding.

18          Next slide, please.

19          As you can see, the roof plan. We are proposing a  
20 skylight in the walk-in closet just to get light in the space.

21          Next slide.

22          And in this section here you can see the sunroom as  
23 well as the walk-in closet.

24          Next slide.

25          That's the existing conditions with the party wall with



1 the at-risk window.

2 Next slide.

3 And here is where we landed with OGB as you can see  
4 here with the office windows, and then we were not required to  
5 have a window in the walk-in closet. And as Marty noted, it does  
6 enclose this space a bit more on the back side of the house.

7 Next slide.

8 Here are a couple of renderings. As noted, it does  
9 not -- the rear wall does not extend past where we are currently.

10 Next slide.

11 View from the street which is very minimal, and then  
12 we've got our sun study. So since we are on the south side of  
13 the building, we don't have anything -- of course, the sun is on  
14 the south side. We're not really casting any shadows on anything  
15 but our own building at minimum or at most. So in terms of  
16 blocking light and air, we show very strongly that we aren't  
17 impacting the adjacent neighbors since we're staying within the  
18 existing footprint, and we are -- on either side of us and behind  
19 us have a full story above what our homeowner's, our client's,  
20 house.

21 Next slide.

22 Of course, this is summer solstice for the proposed.

23 Next slide.

24 And then of course winter solstice, existing.

25 Next slide.

1 Proposed.  
2 Next slide.  
3 I think we also have the equinox, yeah. So that's  
4 existing.  
5 Next slide.  
6 And proposed.  
7 Next slide.  
8 MR. SULLIVAN: Thanks, Kiley. I think I'll talk about  
9 these photos. So these are views from the existing windows in  
10 the Applicant's building.  
11 Next slide, please.  
12 This is a view from a window looking south.  
13 Next slide, please.  
14 There's a view from the screen porch looking south  
15 on -- that's Ms. Bowler's building, her side wall there. Next  
16 slide, please.  
17 Same view.  
18 Next slide, please.  
19 And this is the corner building. This is Ms. Larocca's  
20 building. She has windows on three sides, and the window that --  
21 the at-risk window that's going to be covered up is a hallway  
22 window.  
23 Next slide, please. Next slide, please.  
24 And that's the third side of the building. That's from  
25 38th Street.

1                   Next slide, please.   Next slide.

2                   And that's it.   Yes, so that's it for the presentation.

3   Thank you.

4                   CHAIRPERSON HILL:    Okay.    Great.    Thank you, Mr.  
5   Sullivan.   All right.   You basically went 15 minutes or so, 13  
6   minutes?   We'll go with 15.   All right.

7                   So what I would like to do so everyone knows, I'm going  
8   to go through all of our testimony, and then we can ask questions.  
9   Again, first the Board can ask questions also when they want to,  
10   but if I can just kind of get through testimony first that would  
11   be helpful.

12                  Ms. Larocca, can you hear me?

13                  MS. LAROCCA:   I can.   Can you hear me?

14                  CHAIRPERSON HILL:   I can.

15                  MS. LAROCCA:   Good.

16                  CHAIRPERSON HILL:   If you want to go ahead and give us  
17   your testimony.

18                  MS. LAROCCA:   Okay.

19                  CHAIRPERSON HILL:   And you can begin whenever you like.

20                  MS. LAROCCA:   All righty.

21                  I'm the owner of 1363 28th Street which is the same  
22   building that the Applicant calls 2730 O, but my lot address or  
23   my tax address is 1363.   It's a multi-family building at the  
24   southeast corner of the intersection of 28th and O Street.   The  
25   property has been in my family for more than 60 years, and I'm

1 also a third-generation Georgetown. My property is to the west  
2 of the Applicant's property.

3 I think the Applicant portrays their request as a  
4 simple and innocuous infill project to align their existing one-  
5 story porch addition with my east wall and also build a second  
6 story on top of that. What they haven't adequately described is  
7 the related histories of our properties, the significant physical  
8 and financial impact of their project to me and my property or  
9 the nonconforming nature of their property. Most importantly,  
10 they have failed to provide the Board with a compelling reason  
11 for granting their requested relief or demonstrated how your  
12 approval of the relief adequately protects me, other abutting  
13 neighbors, and the policies set forth in the zoning regulations  
14 unique to the Georgetown historic district.

15 So I've done a little research and according to the  
16 Office of Planning's HistoryQuest website, my building was  
17 constructed in 1859, the first brick building on the block. The  
18 Applicant's house was originally constructed as a rear addition  
19 to my building in 1887. According to the historic Fire Atlases  
20 dating to the mid-20th century, it wasn't until at least the  
21 1960s that the Applicant's house had a shallow rectangular  
22 footprint as is typical for a rear addition. It's unclear when  
23 the house was expanded to the two-story L-shape it currently  
24 possesses. And of course on top of that, it appears that the  
25 one-story porch addition was constructed within the last decade

1 | by a prior owner, and though all of the neighbors have searched  
2 | mightily to try to find a record of permitting or review by the  
3 | Old Georgetown Board of the addition, we haven't been able to lay  
4 | hands on one.

5 |           Why am I getting into this? I believe it's important  
6 | to have context information, especially when the Applicant seeks  
7 | to describe my second-story window, the one their project would  
8 | completely cover over and block, as an at-risk window. The window  
9 | is similar to the windows in new construction. It's not at all  
10 | similar to at-risk windows in new construction, and certainly  
11 | everybody that I'm hearing that talks about this considers an at-  
12 | risk window something that you don't even have to consider. It's  
13 | hard for me to understand why a property that was built on my  
14 | lot originally -- there was no lot line between my property and  
15 | the Applicant's lot line -- why all of a sudden we would sort of  
16 | move to becoming an at-risk window.

17 |           The situation where you have two kind of complex and  
18 | intertwined properties isn't unusual in Georgetown. I would  
19 | argue that that's why the zoning regulations set forth explicit  
20 | policies for the R-3/GT zone. Both of our properties and the  
21 | surrounding neighborhood are classified as such. The policies  
22 | include the protection of the integrity of contributing buildings  
23 | to the historic district, and they provide a limiting of ground  
24 | coverage of expanding buildings to encourage general  
25 | compatibility between the siting of new or expanding buildings

1 in the existing neighborhood. Subtitle D, 1100.2 surely, surely  
2 what is being proposed here where a historic window is being  
3 blocked over fails that test.

4 As I understand the zoning regulation, the special  
5 exception requirements, the Applicants have the burden of  
6 demonstrating a few things including the light and air available  
7 to neighboring properties shall not be affected. Clearly in the  
8 case of my window -- that window is one of two windows in the  
9 hallway. As I mentioned, it's a three-story multi-family  
10 building. That hallway is the only way that tenants of three  
11 apartments can get into the building and up to their units, so  
12 the loss of that light is quite substantial for them.

13 I don't really understand why I would be forced -- why,  
14 in the face of building new construction, I would be forced to  
15 bear the cost and the damage to my property for this to transpire,  
16 and certainly I can't think of a more negative impact on the  
17 building than to have a window completely blocked off. The fact  
18 that it fronts on a shared tax lot line does not mitigate the  
19 effect or absolve the Applicants of responsibility. Despite what  
20 the Applicants may suggest to you, that you should not consider  
21 at-risk windows, I have not found any case similar to this one  
22 where a historic window was approved to be blocked over by the  
23 Board. I'd be happy to be told of one if there is such a one.

24 In closing, I'd like to remind the Board of another  
25 aspect of the Applicant's property that they have minimized in

1 | their presentation. Their property is a nonconforming structure  
2 | that they're proposing to expand quite dramatically. As you know  
3 | better than I, the zoning regulations strictly regulate  
4 | expansions of nonconforming structures for reasons just like  
5 | this, unreasonable impacts on neighboring properties.

6 | I hope the Board would consider this when deliberating  
7 | over the Applicant's request. They're not starting from a lot  
8 | that meets the current requirements of our zone. They're having  
9 | a 2,000 square -- now a 2,000-square-foot lot where larger is  
10 | required. This lot is, I think, approximately 750 square feet.  
11 | So I understand the property is nonconforming rather than having  
12 | compliant rear yard of 20 or more feet. Their's measures less  
13 | than half of that and is occupied by an arguably unpermitted  
14 | porch.

15 | Now the Applicants are requesting to further expand the  
16 | building and footprint even further and to add a second story.  
17 | Respectfully, it's just too much for certainly me, and I think  
18 | you shall hear from the rest of the neighbors.

19 | Thank you very much. That's all I have to say for now.

20 | CHAIRPERSON HILL: Thank you, Ms. Larocca.

21 | MS. LARocca: Thank you.

22 | CHAIRPERSON HILL: Okay.

23 | Ms. Bowler, would you guys like to go next?

24 | MS. BOWLER: Sure.

25 | I'm April Bowler. I live at 1359 28th Street, and I

1 have been in this house for -- this'll be the 14th year. Since  
2 my fiancée, Jamie Peva, is the -- he's a better public speaker  
3 and a less emotional speaker. I'm going to let him speak for  
4 us, if that's all right.

5 CHAIRPERSON HILL: Sure. Of course.

6 MS. BOWLER: Thank you. Thank you for having us, Mr.  
7 Chairman and members of the Board.

8 CHAIRPERSON HILL: Mr. Peva?

9 MR. PEVA: Good morning, Mr. Chairman and members of  
10 the Board. We oppose granting a special exemption for 2827 O  
11 Street on lot occupancy requirements and setback requirements.

12 It seems that the proposal -- it seems to be the  
13 justification for this proposal is that, since the lot is already  
14 at 63 percent, then why not 68 percent. What's the difference  
15 of a little bit more? And this is precisely the definition of  
16 exacerbating an already nonconforming condition, and it doesn't  
17 capture the scale and the immediacy of this distinct character  
18 in the neighborhood in Georgetown. It's a small lot, and the  
19 houses are close together already.

20 But zeroing in on our specific complaints and why we  
21 have party status is our house at 1359 28th Street is directly  
22 south of the proposed addition. I would just like to touch on  
23 this part of the statute. The regulations reads, "An application  
24 for special exemption relief under this section shall demonstrate  
25 that the proposed addition shall not have a substantially adverse



1 effect on the use or enjoyment of any abutting or adjacent  
2 dwelling property". Then there's an (a) and a (b): "(a) The  
3 light and air available to neighboring properties shall not be  
4 unduly affected."

5           So, as April says, if you take an empty space and you  
6 put something in it, it's affected, and we understand that the  
7 word is "unduly". But given the scale and the closeness of the  
8 house, it's already unduly. So exceeding the space at all creates  
9 a problem. But really our big issue is the privacy, is (b), "the  
10 privacy of use and enjoyment of neighboring properties shall not  
11 be unduly compromised." This is the crux for us really.

12           There's been a lot made of the incrementalism in this  
13 addition, that since the property is already nine feet away, then  
14 what's the big deal if the rest of the house is held to the same  
15 standard. But this is misleading. The part of the house that  
16 is nine feet away is a screen porch and not a real living area.  
17 On the existing plans, it's listed as a three-season sunroom.  
18 This is also misleading. There's no heat, air conditioning  
19 supplied to this room, and the windows are screens. The pretense  
20 that it is a three-season room is silly in Washington, D.C. It's  
21 rarely used.

22           Now, this is important because essentially all of the  
23 living that's taking place in the neighbor's house is taking  
24 place 15 feet away behind a brick wall. It's not as if it's  
25 already at nine feet away. If you look at the architect's BZA

1 submission dated 12/3/24, which we just did, image No. 11 shows  
2 that there are four windows. Three on the main part of the house  
3 facing 1359 are primarily facing a wall, and the fourth window  
4 is in the stairwell. It's clear that when 2728 was built that  
5 there was a clear intention to provide privacy for the neighbor  
6 to the south by placing these windows where they are. Each of  
7 the peripheral windows on the edges of the houses face blank  
8 walls of 1359. The only exception is the middle window which  
9 looks into our second floor window, but that window in 2728 O  
10 Street is in a stairwell.

11           So, the point is that the occupants of 2728 live their  
12 lives 15 feet away on the other side of this brick wall unless  
13 they're in the stairwell or at the edges of the house, and even  
14 then they're apt to see a brick wall on this side. If you look  
15 at the addition, the architect's image No. 12, it proposes to  
16 bring all of that living area within nine feet plus a substantial  
17 increase in the number of windows, five times the current window  
18 area. Even the exterior glass door has a glass transom and glass  
19 sidelines. There's been every effort to open every south-facing  
20 part of the house.

21           The change would be utterly dramatic in every way, both  
22 quantitatively and qualitatively, and there's been no mention of  
23 this glaring fact in any of the proposals other than to say it  
24 was the OGB that asked for so many windows, not the homeowner,  
25 which really doesn't lessen the impact on us at all.

1 I'd like to leave it there, for this alone, I would  
2 hope, would convince the Board that the privacy of the southern  
3 neighbor would be unduly compromised. I could get into the  
4 economic impact of this, but I won't because we plan on living  
5 here for a long time. But I can't leave it there, for there are  
6 other points that need to be made or refuted if you are  
7 considering granting relief for a special exemption.

8 It is our understanding that Subtitle X or 10, 901.6  
9 says that the BZA is required to give great weight to the ANC  
10 and to the Office of Planning. As you know, the ANC has passed  
11 a unanimous resolution opposing this addition. Not only our own  
12 representative but every other ANC Commissioner has agreed that  
13 the conditions for a special exemption are not merited.

14 Additionally, this resolution is accompanied by at  
15 least five additional letters of opposition direct from the  
16 neighbors, each of whom has a different and a valid point. We  
17 know that the OP submitted a memorandum supporting this addition.  
18 However, I've read it, and it should not carry as much weight as  
19 the ANC because to start with, there's at least one untruth. It  
20 says that the addition would not be visible from the street.  
21 This is clearly untrue, as one can see from the photo taken from  
22 28th Street. Even the original proposal from the subject property  
23 shows this. If such a fact can be wrong in the report, does it  
24 not call into question all the subjective assertions that it  
25 makes regarding whether the surrounding properties will be unduly

1 affected?

2 I know that no one from the OP ever came into 1359 28th  
3 Street and looked out our windows, and its assertion that the  
4 character, scale and pattern of the houses would not be affected  
5 makes me doubt that they walked down the alley and looked west.  
6 But I was present when the ANC Commissioner came into our house,  
7 assessed the situation, and it was clear to her what a dramatic  
8 change this addition would make to the privacy of our house. My  
9 point is that if the BZA is statutorily obligated to consider the  
10 ANC and the OP's recommendations, the ANC should be given greater  
11 weight.

12 Again, I'd like to leave it here, but there's yet  
13 another misleading document in the record. There is a letter  
14 from Martin P. Sullivan, attorney, for the owners of the subject  
15 property addressing the privacy concern. I think to the extent  
16 that these arguments are in the BZA members' minds, they need to  
17 be refuted. It is telling when a talented lawyer like Mr.  
18 Sullivan is tasked with finding reasons why there's not a privacy  
19 issue and these are the reasons that he came up with. Not one  
20 of them serves. I'm not going to bring you through them all,  
21 but I've already refuted each one of them except for No. 3 where  
22 he asserts, for a rowhouse, a nine-foot setback is generous.  
23 This, too, is misleading. Most side yard setbacks are against  
24 another neighbor's side yard where there are minimal windows and  
25 no privacy issues. In this situation, 1359 28th Street's side

1 yard abuts 2728 O Street's backyard with full view of the back  
2 of the house.

3 In conclusion, I've been a real estate agent in  
4 Georgetown for over 30 years, and buyers are constantly asking  
5 me about what might happen next door. Will the neighbors block  
6 their sun or change their view, or alter the quiet feel of a  
7 block, and part of the reason is that justifies why people pay  
8 so much to be in this neighborhood. And I always tell them that  
9 there's 60-percent lot coverage, and if the neighbor's already  
10 over it, that you're protected. If this exception is granted for  
11 nothing but the most contrived reasons, what would I tell them?  
12 That there's a 70-percent rule? Who is protected? No one.

13 MS. BOWLER: Thank you so much for your time and  
14 consideration.

15 CHAIRPERSON HILL: Thank you. Thank you both. Okay.  
16 I'm going to go now to the Office of Planning, please.

17 MR. BARRON: Good afternoon, Commissioners. This is  
18 Ron Barron for the record for the Office of Planning. The Office  
19 of Planning recommends approval of the requested special  
20 exceptions. We are happy to rest on our report. It's been  
21 submitted in the record, and I'm available to answer any questions  
22 you may have.

23 CHAIRPERSON HILL: Okay. Great. Thank you.

24 Commissioner, are you here?

25 ANC COMMISSIONER LOHSE: Yes.

1                   CHAIRPERSON HILL:       Okay.       Great.       Thank you,  
2 Commissioner.   Would you like to give your testimony from the  
3 ANC?

4                   ANC COMMISSIONER LOHSE:   Sure.   And we appreciate  
5 everyone being here today.

6                   I think we know there's two special exceptions being  
7 asked, a rear yard requirement and an exception for the lot  
8 occupancy requirements, and they're requesting such to widen  
9 their home which, if they do widen their home, it will block  
10 another resident's window and with privacy implications for the  
11 other neighbors. All the neighbors that we spoke to are opposed,  
12 and I think the neighbors have become very educated across the  
13 communities about special exceptions because they're being sought  
14 so frequently, both for the rear yard and lot occupancy. And we  
15 have a lot of flooding in people's basements so people have become  
16 more educated and more interested in these topics recently.

17                   So just to put some context around this. We, overall  
18 the ANC 2E, really our position was that neighbors are clear that  
19 special exceptions should be granted very infrequently, thus, for  
20 example, why call it a special exception in which a lot occupancy  
21 is 60 percent so light and air can flow. Neighbors strongly  
22 support the lot occupancy and rear yard requirements which are  
23 created to prohibit relatively large houses on relatively small  
24 lots and to maintain character versus a small chipping away of  
25 uniqueness.

1           ANC 2 concurs with the opposition. ANC 2E hopes the  
2 Applicant will resubmit the application to reduce its footprint  
3 to what exists today, which is already over lot occupancy and  
4 build up.

5           So thank you, and I hope a compromise can be found.

6           CHAIRPERSON HILL: Thank you, Commissioner. Okay.

7           Let me see. Mr. Young, is there anyone here wishing  
8 to speak?

9           MR. YOUNG: We do not.

10          CHAIRPERSON HILL: Okay. All right.

11          So now what we're going to do, I suppose I can -- I  
12 guess I'll start with my Board. Do you all have questions?

13          (Pause.)

14          CHAIRPERSON HILL: And also, by the way, we can go  
15 through everybody else's questions and the Board can also ask  
16 questions which is what I kind of think might happen both ways.

17          But go ahead, Mr. Blake.

18          VICE CHAIRPERSON BLAKE: Mr. Chair, I have a couple of  
19 questions for the Applicant.

20          The -- on the first level you have a three, you  
21 currently have a three-season room. That will shift obviously  
22 over. That won't be that actively used. Those windows, though,  
23 will that create a full-use, full-seasonal room, or would it just  
24 be -- you know, is it a year-round fully-conditioned space, or  
25 will it continue to be somewhat of a seasonal space? That's my

1 first question.

2 MR. SULLIVAN: It'll be a full space, and I can have  
3 the architect talk about what's behind that space because one of  
4 those windows is a powder room, so there's not going to be any  
5 view out of that. I don't know what the other space is for.

6 Kiley, if you want to answer that, please.

7 MS. CULLEN: Yeah. The intention is for that to be a  
8 conditioned space. And please, I missed the first part. Are we  
9 talking about the upper level where the office is added?

10 VICE CHAIRPERSON BLAKE: Okay. Yes, I'm asking about  
11 the first level first. I just wanted to get the -- let me tell  
12 you where I'm going with this.

13 Right now you have a seldomly used space, let's call  
14 it that, and now the question is is that going to convert into a  
15 heavily used space or is going to remain a seldomly used space?  
16 Obviously I see the restroom next to it, which should be -- could  
17 be seldomly used or frequently used. But it's not going to be a  
18 lived-in, aggressively used space. So I'm just curious about the  
19 other space.

20 And I do want to talk about the second floor because  
21 the second floor does have some elements I think that it brings.  
22 There were windows up there, but it brings forward the upper  
23 level with the closet which certainly does not create a privacy  
24 issue because there's no window there. The additional two windows  
25 that come above that for the office space do create potentially



1 a privacy issue, but that, there's some mitigating issues we can  
2 address that with.

3 So I'm kind of just getting a feel for the activity  
4 level that takes place on the first floor, and then I'm want to  
5 talk a little bit about the second floor and the activity level  
6 that takes place there, any and all space.

7 MS. CULLEN: Understood. So the existing screened-in  
8 porch is obviously in our climate here used occasionally per  
9 humidity levels and also temperature levels outside. The  
10 intention for the sunroom is for it to be a conditioned space  
11 that will be more comfortable for the clients, but the  
12 anticipation is that wouldn't be used more often than -- it's not  
13 going to be a lived-in space. You know, it's a sunroom that  
14 they'll spend time in occasionally. It's not a very large space,  
15 so it's not like -- when they have, you know, friends or family  
16 over, it's not a space that can really have multiple people in  
17 it. There's space for maybe two.

18 The driving factor for the windows on the south façade  
19 was actually OGB. Our initial submission to OGB showed only one  
20 window. Essentially if you take that window in the stair that's  
21 been discussed and pull that straight out, and that's the window  
22 that we were going to keep for the upper level because of privacy  
23 concerns. So OGB, working with them, we went back and forth a  
24 number of times and had discussed they wanted more windows to  
25 make it look more aligned with a sleeping porch.

1           Marty, do you have any other comments on that, because  
2 I know that the windows have been something that we've discussed  
3 internally quite a bit?

4           MR. SULLIVAN: No, I don't have anything else. I mean,  
5 the Applicant would be fine if those windows had to be frosted  
6 or something as a condition of mitigation because there's no view  
7 that they're concerned about.

8           I mean, sometimes I don't like to offer that because  
9 the Applicant also should have the right to look out and see if  
10 they have a child out in the yard and so, but if that's what we  
11 need to do to get approved, they're certainly okay with that.  
12 We've talked about that beforehand. I didn't think it was  
13 necessary in this case because we had windows; they're just  
14 getting a few feet closer. I'm not sure we're focused on how  
15 small this addition really is. As Ms. Cullen mentioned, it's not  
16 a large space at all.

17           So, but yes, if the Board would like to see that, we  
18 could certainly agree to that.

19           VICE CHAIRPERSON BLAKE: Mr. Sullivan, I agree. I  
20 think that the frosted windows on the office space would certainly  
21 accomplish a lot in terms of privacy for the south property. On  
22 the lower level with the lavatory, certainly even if you did a  
23 frosting on the lower portion of that window, it would also have  
24 the same effect. I suspect if you're sitting there -- I see the  
25 toilet's next to the window -- it wouldn't, you know, have that

1 negative effect on privacy or -- even if you were sitting there  
2 for a while.

3 So I think that it's -- you know, I think that that may  
4 address some of those issues. So thank you. That's very helpful.  
5 Thank you very much.

6 CHAIRPERSON HILL: Go ahead, Commissioner Wright.

7 ZC COMMISSIONER WRIGHT: I have a question that maybe  
8 the Applicant or Ms. Larocca can respond to.

9 This building was once a portion of Ms. Larocca's  
10 property. It was an extension, and at some point, it was  
11 subdivided off and became its own lot with its own building.  
12 Well, the same building, but you know, it became a separate  
13 residence on its own lot. Does anyone know what year that  
14 subdividing happened?

15 (Pause.)

16 ZC COMMISSIONER WRIGHT: You're muted, Ms. Larocca.

17 MS. LAROCCA: No. I've not been able to find the date  
18 specifically. It's some time after 1945 and before 1960, and  
19 when it was initially a rear addition, it was a one-story addition  
20 and it wasn't in the current L-shape. It was just, if you will,  
21 more like an I that goes between my building and 2726.

22 ZC COMMISSIONER WRIGHT: But you were not associated  
23 with ownership of the building. Your family was not associated  
24 with --

25 MS. LAROCCA: So, my grandmother, yeah, my grandmother

1 bought the building in the early 1960s, and it was a separated  
2 lot at that time.

3 ZC COMMISSIONER WRIGHT: Got it. Thank you for that  
4 information.

5 MS. LAROCCA: Yeah. And the window was there at that  
6 time.

7 CHAIRPERSON HILL: Okay. Thank you.

8 Let's see.

9 VICE CHAIRPERSON BLAKE: Mr. Chair, if I could?

10 CHAIRPERSON HILL: Sure. Go ahead, Mr. Blake.

11 VICE CHAIRPERSON BLAKE: Mr. Sullivan, in doing this,  
12 are you converting this to a record lot as matter-of-right or is  
13 that not a factor here?

14 MR. SULLIVAN: It will have to be, yeah. There's no  
15 underlying record lot, so they will have to convert that to a  
16 record lot which DOB does as a matter-of-right when they have an  
17 existing tax lot with a building and tax lot that have existed  
18 since prior to 1958.

19 VICE CHAIRPERSON BLAKE: Mr. Sullivan, when was that  
20 provision put in requiring a record lot for a permit? Do you  
21 recall what year when that was? Was that in '58 or was that  
22 in --

23 MR. SULLIVAN: Do you mean like A-301.4?

24 VICE CHAIRPERSON BLAKE: Yeah. Requiring the record  
25 lot first. Do you remember?

1 MR. SULLIVAN: I assume it's always been there.

2 VICE CHAIRPERSON BLAKE: Okay. I'm just trying to get  
3 a sense that -- if you constructed this without getting approval  
4 because it didn't need it at the time, but I'll follow up. Thank  
5 you very much.

6 MR. SULLIVAN: Well, so, and there's a lot of discussion  
7 about nonconforming conditions which both neighbors have as well  
8 on either side of us. But a 1958 base map shows this footprint  
9 as it is now. Maybe it was a roof and wasn't closed in; I suspect  
10 that's probably what it was. But the lot occupancy was the same  
11 as it is today in 1958 or 1959 based, so I assume it's '58 as  
12 well so. And at any rate, we're asking for, you know, the  
13 proposed situation to be considered regardless of what was there  
14 in the past or what the current condition is anyway.

15 VICE CHAIRPERSON BLAKE: Thank you, Mr. Sullivan. My  
16 goal was just to get a sense of the time frame that that footprint  
17 existed, and I think you gave me that information. Thank you  
18 very much.

19 CHAIRPERSON HILL: Okay. Maybe this is for the  
20 architect. Like, you guys went to the Old Georgetown Board,  
21 right, and you had to make some changes to get their blessing,  
22 right? And the Old Georgetown Board is not an easy Board, right?  
23 And so what did you have to do? What changes did you make that  
24 they thought were necessary?

25 MS. CULLEN: They were fine with the footprint, so on

1 first level and second level. Their only request that -- and  
2 they really didn't discuss the window if I recall, that at-risk  
3 window. So they were fine with the layout. Their only request  
4 was that it aligns more with, you know, the design style of the  
5 sleeping porch.

6 So that's where extra windows came in, and we went back  
7 and forth quite a bit, like I mentioned, of, you know, we don't  
8 need all these extra windows. But that was their request. So  
9 we went through several iterations to see what felt right and for  
10 both the clients and balancing obviously the OGB's requirements.  
11 So that was really the feedback we got.

12 CHAIRPERSON HILL: Okay. That's one.

13 Then the other, I guess Ms. Bowler and Mr. Peva, like,  
14 what I -- and actually I'm trying to think who to ask this. Those  
15 windows that are on your side of the home that would go facing  
16 into the new addition, what do they look out of now?

17 MS. BOWLER: Okay. So one of them is my dining room  
18 window. Like right now I'm sitting in my dining room here. I  
19 can turn it --

20 CHAIRPERSON HILL: No, no, don't turn it. Don't turn  
21 it round.

22 MS. BOWLER: So I'm looking right into their screened-  
23 in porch.

24 CHAIRPERSON HILL: That's fine.

25 MS. BOWLER: That's my dining room.

1 CHAIRPERSON HILL: One's your dining room window.

2 MS. BOWLER: The second floor is my office.

3 CHAIRPERSON HILL: Okay. Second floor's your office.  
4 So there's just the two windows?

5 MS. BOWLER: The two windows. But these are two of the  
6 rooms that I spend most of my time in, and the nine feet away,  
7 the screened-in porch, like I say it has screens and it's mostly  
8 empty most of the time and suddenly nine feet away will be --

9 CHAIRPERSON HILL: I got it. I got it.

10 MS. BOWLER: -- you know, like a house, a new house.

11 CHAIRPERSON HILL: I understand.

12 MS. BOWLER: Yeah.

13 CHAIRPERSON HILL: And so for the architect, again, and  
14 this is what Vice Chair Blake was kind of asking, those windows  
15 look into what on the other side?

16 MS. CULLEN: So the windows you're talking about in  
17 the --

18 CHAIRPERSON HILL: The kitchen windows. The kitchen  
19 window on the first floor and then the office window on the second  
20 floor.

21 MS. CULLEN: Yes. So on the existing, like the L part  
22 that was added at a later date that we don't know that time line,  
23 somewhere in the late '50s, that first level is the kitchen.  
24 It's the window above the sink, and then above that is a window  
25 in their existing bathroom. That's the existing building.

1 CHAIRPERSON HILL: No, no, no.  
2 MS. CULLEN: You want to pull up --  
3 CHAIRPERSON HILL: What were you going to try and pull  
4 up?  
5 MS. CULLEN: I was going to say if we wanted to pull  
6 up the drawings again I can point that out.  
7 CHAIRPERSON HILL: It is in the presentation?  
8 Mr. Young, if you want to pull up the presentation and  
9 just --  
10 Do you know which slide it is, Ms. Cullen?  
11 MS. CULLEN: It's going to be the proposed floor plans,  
12 so we had earlier on. Okay. So that's the second level. So we  
13 can see that the office windows look --  
14 CHAIRPERSON HILL: Give me a second. Give me a second.  
15 MS. CULLEN: Okay.  
16 CHAIRPERSON HILL: Which slide are you on? You don't  
17 know?  
18 MS. CULLEN: Slide 15.  
19 CHAIRPERSON HILL: Slide 15.  
20 MS. CULLEN: What's on the screen.  
21 VICE CHAIRPERSON BLAKE: Yes, yes. I'm just looking  
22 on the computer.  
23 MS. CULLEN: Yes.  
24 CHAIRPERSON HILL: Okay. Right. Okay. Go ahead.  
25 MS. CULLEN: Yes. So those office windows will overlook



1 the property to the south, their second floor windows, which I  
2 believe, and correct me if I'm wrong, I apologize, I believe  
3 that's an office space.

4 CHAIRPERSON HILL: Yeah, no. That's okay. I mean, I  
5 understand what's on the other side, meaning in the 1359 home.  
6 I'm just trying to get an idea as to, are those -- I see on that  
7 slide it says bedroom window at 1359 and that arrow, but then  
8 are those the two windows? Those two little bump-out things?

9 MS. CULLEN: Yes. Yeah, those are the brick sills from  
10 the windows.

11 CHAIRPERSON HILL: Those are the brick sills from the  
12 windows. Okay.

13 And so, Ms. Bowler -- is it, so there's two windows on  
14 that side?

15 MS. BOWLER: On my side?

16 CHAIRPERSON HILL: Yeah.

17 MS. BOWLER: There's more than that, but these are the  
18 only -- I'm just talking about the windows that I have a view of  
19 this addition. I have other windows that don't directly look on  
20 to this addition.

21 CHAIRPERSON HILL: Okay. Because I see two windows  
22 right here. That's what I was confused about. One window seems  
23 like it's right across from the walk-in closet and the other  
24 window seems it's right across from where the office is.

25 MS. BOWLER: That's right. That's right.

1 CHAIRPERSON HILL: Are there two windows there?

2 MS. BOWLER: Yes, there are.

3 CHAIRPERSON HILL: Okay. Okay. All right.

4 I can get further clarity also. Okay.

5 Mr. Young, you can drop that slide deck. Okay. All  
6 right.

7 So now what I'm going to do is ask if you all have any  
8 questions of the Applicant and if the Applicant has any questions  
9 of you, okay? So let me first start with the ANC.

10 Commissioner, can you hear me?

11 (Pause.)

12 ANC COMMISSIONER LOHSE: I can.

13 CHAIRPERSON HILL: Oh, great. Commissioner, do you  
14 have any questions of either the Office of Planning or the  
15 Applicant?

16 ANC COMMISSIONER LOHSE: I have two questions for the,  
17 I guess the Board.

18 How frequently are we seeing rear yard exceptions and  
19 special exceptions to the property lot and the lot occupancy? I  
20 think that's really the question out there, is we've got a lot  
21 occupancy and a rear yard exceptions, and can we talk about  
22 separating the two? The ANC proposed that perhaps building upon  
23 the current structure that's on the building and going up from  
24 there. I think you saw our submission.

25 CHAIRPERSON HILL: Okay. I'm just trying to answer

1 your question. Sorry.

2 In terms of how often we see these, we see these a lot.  
3 Like, I don't know the number per se or whatever it is. So that's  
4 the answer to that No. 1 question.

5 The other one is that the application is the way the  
6 application is, and the Applicant is here presenting whatever the  
7 Applicant is presenting. So we wouldn't change, so they --

8 ANC COMMISSIONER LOHSE: And I hear you, but I just  
9 want to make sure the Board understands, and OP, and also the  
10 Applicant understands what ANC did suggest, right? It's the lot  
11 occupancy issue for us which addresses some of the window issues  
12 and the privacy issues, and I want to make sure that ANC  
13 resolution is clear regarding that. And given how often we are  
14 seeing this, that we heard from probably, you know, 12 different  
15 neighbors because we're seeing so many people apply for  
16 exceptions to the rear and the lot occupancy, and that's where  
17 we came down with our resolution.

18 And I understand where OP is, but I also think light,  
19 air, and privacy as well as water flow does matter. So I have  
20 no questions, but I did want to make sure people understood why  
21 the ANC came out where it did.

22 CHAIRPERSON HILL: Okay. Okay. Thank you,  
23 Commissioner.

24 ANC COMMISSIONER LOHSE: Yes.

25 CHAIRPERSON HILL: Ms. Larocca? Oh, sorry. Go ahead,

1 Commissioner Wright.

2 ZC COMMISSIONER WRIGHT: Yes. I just wanted to ask the  
3 ANC Commissioner to briefly explain that, by building on the  
4 existing footprint, you would perhaps be solving some of Ms.  
5 Larocca's concerns because it wouldn't deal with the window on  
6 the rear of her building. But you wouldn't be dealing with Ms.  
7 Bowler's concerns because you would still have a two-story  
8 structure that was nine feet (indiscernible).

9 ANC COMMISSIONER LOHSE: Correct. It would be blocking  
10 privacy, air, light, and it's obviously -- the current structure  
11 that's on the property is already over the property, the lot  
12 occupancy.

13 ZC COMMISSIONER WRIGHT: Right. So it would solve some  
14 problems but --

15 ANC COMMISSIONER LOHSE: But not all, no. Not all.

16 ZC COMMISSIONER WRIGHT: Okay. I just wanted to  
17 clarify. Thank you.

18 ANC COMMISSIONER LOHSE: And, and --

19 CHAIRPERSON HILL: Hold on. Hold on one second.  
20 Maybe, Commissioner, if you could mute your line? Great. Thanks.

21 Mr. Smith, you had a question?

22 COMMISSIONER SMITH: I just want clarification from the  
23 ANC.

24 Based on what you're saying, is your recommendation to  
25 solve some of these issues is for them to go up in height, so to

1 a third floor?

2 ANC COMMISSIONER LOHSE: It is not. We -- we support --  
3 and I apologize for the (audio interference) maybe that will  
4 help.

5 CHAIRPERSON HILL: I don't think it's you. I think --  
6 hold on one second. I think it's Mr. Smith. Mr. Smith, if you  
7 will mute your line while the Commissioner is talking?

8 COMMISSIONER SMITH: I'm on mute.

9 CHAIRPERSON HILL: Okay. Go ahead, Commissioner.

10 ANC COMMISSIONER LOHSE: Okay. Thank you.

11 No. We support the opposition, right, which we state  
12 in our letter because of the lot occupancy and the rear yard  
13 requirements and that the structure is already over the lot  
14 occupancy requirements. If there is a compromise to be found,  
15 to build upon two stories only on the existing structure. Does  
16 that clarify?

17 COMMISSIONER SMITH: I think that clarifies it. I  
18 don't know if it necessarily solves the problem and creates  
19 another one when it relates to light and air.

20 ANC COMMISSIONER LOHSE: Exactly.

21 COMMISSIONER SMITH: But I did want to understand the  
22 position.

23 ANC COMMISSIONER LOHSE: Yes. And we support the  
24 opposition is the position and -- thank you.

25 COMMISSIONER SMITH: Thank you.

1 CHAIRPERSON HILL: Okay. Thank you, Mr. Smith. All  
2 right.

3 Ms. Larocca?

4 MS. LAROCCA: Yes.

5 CHAIRPERSON HILL: Do you have any questions of either  
6 the Office of Planning or the Applicant?

7 MS. LAROCCA: So I guess my questions first would  
8 probably go to the Applicant or the Applicant's architect.

9 CHAIRPERSON HILL: Okay. What is your question?

10 MS. LAROCCA: So my question is, I mean everybody just  
11 summarily says, okay, it's an at-risk window; we're just going  
12 to cover it up. But nowhere in their presentation do they make  
13 any reference to what that means. I mean, that's a material  
14 change to my building, and I'd like a little bit of color on  
15 exactly what that means.

16 CHAIRPERSON HILL: Your question, Ms. Larocca, I'm  
17 sorry, is what?

18 MS. LAROCCA: So if permission is granted to them for  
19 these special exceptions and they proceed to build over my window,  
20 I'd like to know what construction materials would be used, how  
21 would they block my building, and how would I be protected when  
22 they're blocking my building?

23 CHAIRPERSON HILL: Ms. Cullen, do you have an answer  
24 for that?

25 MS. CULLEN: Sure.

1           So we don't -- we have not put together full  
2 construction documents yet because we're so early in the process,  
3 but we would need to follow all of D.C. permit requirements.  
4 That would be a firewall so we would need to maintain the fire  
5 rating between those two units. That information could come  
6 later with our assembly sheet.

7           Mr. Sullivan, do you have any other, further experience  
8 with at-risk windows that you feel like would be relevant here?

9           MR. SULLIVAN: Not being an expert in building code,  
10 in my experience with DOB, DOB will require that a person with  
11 an at-risk window close their window when a building comes within  
12 the limit of what it's supposed to be in proximity to that window.  
13 However, I think because the Applicant's going to be, like, double  
14 fire rated, that precludes that from happening. That's all  
15 construction related wise anyway.

16           MS. LAROCCA: So, I'm sorry. Sir, I don't understand  
17 what that means. So because it's double fire rated, I wouldn't  
18 have to go through the expense to close it from my side? I don't  
19 know what you're telling me.

20           CHAIRPERSON HILL: Ms. Larocca, I've got to --

21           MR. SULLIVAN: Well, I'm not -- I can't give you advice  
22 on building code.

23           MS. LAROCCA: I'm not asking for advice. I'm just  
24 trying to understand what that's --

25           CHAIRPERSON HILL: I'm also trying to real quick. I

1 don't know if, Mr. Sullivan, you're saying you know the answer.  
2 I don't think you know the answer. I can't recall --

3 MR. SULLIVAN: I don't know the answer nor is it  
4 relevant to this case.

5 CHAIRPERSON HILL: I can't recall what has happened in  
6 the past when we've been in this situation, and so you don't  
7 know, in the past, what happened to somebody's window? Is that  
8 what you're saying?

9 MR. SULLIVAN: Well, I can give you a full explanation  
10 of what happens in the context of a BZA consideration of a special  
11 exception or a variance for at-risk windows.

12 CHAIRPERSON HILL: Mr. Sullivan --

13 MR. SULLIVAN: But if we're talking about building code  
14 I --

15 CHAIRPERSON HILL: -- Mr. Sullivan, I can find out the  
16 answer myself. I was just curious if you knew, and so you don't  
17 know what happens to the other side?

18 MR. SULLIVAN: Construction-wise?

19 CHAIRPERSON HILL: Yes.

20 MR. SULLIVAN: I don't.

21 CHAIRPERSON HILL: Okay. That's fine.

22 MS. LAROCCA: Yeah. Thank you.

23 CHAIRPERSON HILL: So, Ms. Larocca, yeah. I can find  
24 out also because I'm kind of curious because we've been in this  
25 situation before, and I don't remember what happens to the person



1 next door, right?

2 MS. LAROCCA: Yes.

3 CHAIRPERSON HILL: And I don't know how much that cost  
4 is or isn't and you know, what we have ended up doing as a Board,  
5 and I can kind of look into that a little bit more.

6 Do you have any further questions, Ms. Larocca?

7 MS. LAROCCA: No, I don't.

8 CHAIRPERSON HILL: Thank you.

9 Mr. Peva, do you have any questions of either the Office  
10 of Planning or the Applicant?

11 MR. PEVA: No, sir.

12 MS. BOWLER: No, not at this time. Thank you.

13 CHAIRPERSON HILL: Okay. Okay. Thank you. Thank you  
14 all.

15 So, Mr. Sullivan, you will have an opportunity for some  
16 rebuttal and then the parties will have an opportunity to again  
17 question anything you say in rebuttal, and so I want to mention  
18 to the parties this is only questions on this point. They're  
19 not further questions on what happened before. It's just anything  
20 now the Applicant might offer in rebuttal.

21 Mr. Sullivan, do you have any rebuttal?

22 MR. SULLIVAN: I do, Mr. Chairman.

23 CHAIRPERSON HILL: Sure. Go ahead, Mr. Sullivan.

24 MR. SULLIVAN: Okay. So in response to the ANC saying  
25 12 different neighbors are opposed to this, only two property

1 owners can even see this addition or can even be slightly impacted  
2 by it at all. And so, and what followed from that was more  
3 discussion of macro-Zoning Commission issues. They just don't  
4 like special exceptions. They think too many of them are granted,  
5 and of course, that's not applicable here to this specific case.

6 You know, my best rebuttal is going to be focusing on  
7 our case and the criteria. Regarding light and air, the sun  
8 study is conclusive --

9 CHAIRPERSON HILL: Mr. Sullivan?

10 MR. SULLIVAN: -- as you would expect. Yes?

11 CHAIRPERSON HILL: I'm sorry to interrupt you. I just  
12 want to make sure, you're going to get a conclusion --

13 MR. SULLIVAN: Yes.

14 CHAIRPERSON HILL: -- so I'm just trying to understand  
15 what's rebuttal and what's conclusion.

16 MR. SULLIVAN: Okay. So then I'll -- for rebuttal I'll  
17 talk about at-risk windows. This Board has had at-risk windows  
18 in play before in special exception and variance applications,  
19 and what this Board has found is that the at-risk window is not  
20 up for consideration.

21 And here's why. It's based on a basic principle. If  
22 Ms. Larocca could prevent the Applicant from exercising their  
23 property rights and pursuing the use and enjoyment of their  
24 property because of her window, that's what's called a negative  
25 easement. She has a negative easement, and a negative easement

1 by law cannot be created by prescription. It can't just happen.  
2 It has to be explicit by agreement, and from this principle the  
3 D.C. Court of Appeals decision, Hefazi v. Stiglitz, stated this,  
4 and I'll quote, "This rule flows from the basic principle that  
5 the actual enjoyment of the air and light by the owner of the  
6 house," Ms. Larocca, "is upon her land only and that the owner  
7 of the adjoining lands," the Applicant, "has submitted to nothing  
8 which actually encroached upon his rights."

9           So they can't lose their property rights by virtue of  
10 her putting a window on their property line, and so that's the  
11 basis for that. I mean, think about it. Like, if I want to put  
12 an at-risk window up, I can't -- that doesn't mean that now my  
13 neighbor can't enjoy the rights of seeking special exception  
14 relief.

15           There's been several cases. We did a special exception  
16 case, 19586, seven or eight years ago now. Maybe 100-percent  
17 rear yard special exception blocked ten floors of apartment  
18 windows on a building, including removing bedrooms. That was  
19 okay. Went to the Court of Appeals. The Office of Planning  
20 wrote a report on that in support. Case 18878, similar situation.  
21 There was a Court of Appeals case on that as well confirming  
22 that, and so the Board considers at-risk windows under that law  
23 for good reason.

24           Regarding privacy, again, and I've conferred with my  
25 client on this as well, absolutely willing to do frosting, in

1 particular because of some comments that Ms. Bowling made in her  
2 submission stating that she looks out upon the Applicant's  
3 property dozens of times a day and this proposal will alter her  
4 experience of gazing on the Applicant's property. So absolutely  
5 would like frosting. The Applicant wants to do that anyway.  
6 They were going to do it anyway. So we --

7 CHAIRPERSON HILL: So, Mr. Sullivan --

8 MR. SULLIVAN: -- offer that as mitigation for the, --  
9 for any privacy concerns, and I think that's all I have for  
10 rebuttal. Thank you.

11 CHAIRPERSON HILL: Okay. Thank you.

12 Does the Board have any questions concerning Mr.  
13 Sullivan's rebuttal?

14 (Pause.)

15 CHAIRPERSON HILL: No. Does the ANC have any questions  
16 concerning rebuttal?

17 (Pause.)

18 CHAIRPERSON HILL: Ms. Larocca, do you have any  
19 questions concerning rebuttal?

20 MS. LARocca: I do.

21 So my question for Mr. Sullivan would be are all at-  
22 risk windows considered the same? Certainly the first case that  
23 you mentioned I've actually read because that was in the record,  
24 and that was for new construction. So I'm curious to know if  
25 there would be a case out there where a historic window in a

1 historic building was built before there was a lot line between  
2 the two properties, because your client's property was built as  
3 an addition to my property. Does that have the same standing as  
4 a modern at-risk window?

5 MR. SULLIVAN: Nothing in historic preservation law  
6 that would change that basic principle that you're not entitled  
7 to a negative easement to look out over a neighbor's property --

8 MS. LAROCCA: Well, I could get --

9 MR. SULLIVAN: -- and to keep them from exercising their  
10 property rights.

11 MS. LAROCCA: -- but I can get a reverse negative  
12 easement imposed on myself, effectively, by them building up  
13 against my wall.

14 MR. SULLIVAN: I don't understand that question.

15 MS. LAROCCA: I mean, isn't that also a taking, I guess?  
16 If they take my window away, isn't that a taking of some sort?

17 MR. SULLIVAN: No.

18 MS. LAROCCA: I don't -- I'm practicing zoning law  
19 without a license, so I don't really know the terminology.

20 CHAIRPERSON HILL: That's all right.

21 MS. LAROCCA: But that seems to me inconsistent. But  
22 that's it.

23 CHAIRPERSON HILL: Okay, Ms. Larocca. Thank you.

24 Mr. Peva, do you have any questions about the rebuttal?

25 MS. BOWLER: I don't at this time.

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

2 I'm going to go through conclusions here. I do have  
3 something that I want from the Applicant and so -- but we'll go  
4 ahead and do conclusions first.

5 Commissioner, you want to go ahead and give us your  
6 conclusion?

7 ANC COMMISSIONER LOHSE: Lot occupancy and rear yard  
8 exceptions are, should be exceptions, and they should be taken  
9 seriously if light, air, privacy, and windows are impacted.  
10 They're used very frequently, and in this case, there is question  
11 as to whether or not the rear yard exception, the property lot  
12 exception, the light, the privacy, the requirements are met to  
13 provide approval for this. And all the neighbors opposed it as  
14 a result of looking at whether or not the requirements are met.  
15 And I ask the Board to think about are the requirements met for  
16 both of those, given the properties surrounding it and the  
17 opposition and the ANC position.

18 CHAIRPERSON HILL: Okay, Commissioner. Thank you.

19 Ms. Larocca, would you like to give any summary?

20 MS. LAROCCA: I just would re-state what I've said all  
21 along, which is I think their proposal to both violate the lot  
22 and occupancy requirements and then build up along my at-risk  
23 window, I continue to be in opposition to them.

24 CHAIRPERSON HILL: Thank you, Ms. Larocca.

25 Mr. Peva, would you like to add anything at the end or

1 conclusion, I should say?

2 MS. BOWLER: I would just like to re-emphasize that if  
3 you think of 2728 as an L-shape, the foot has always been close,  
4 nine feet away, but that portion is behind brick for me. So this  
5 addition that they're putting on, which is the part of their  
6 house, the biggest part that I look at all day on every level of  
7 my house, it would be like they're building a new house right  
8 there. That's all I can say. It will change my experience of  
9 my own home. Thank you.

10 CHAIRPERSON HILL: Okay. Thank you, Ms. Bowler.

11 Mr. Sullivan, do you have anything you'd like to add --  
12 or not add, is there any conclusion you'd like to give the Board?

13 MR. SULLIVAN: I'll be brief. So special exceptions  
14 are part of the zoning regulations, they're not outside the zoning  
15 regulations, and the Board must grant, when we meet the criteria,  
16 very simply. We safely meet this criteria. Light and air, shadow  
17 study's conclusive. That's easy. Privacy, no change as OP noted  
18 from privacy, but if there are any privacy concerns from the  
19 Board, the Applicant's willing to frost the windows.

20 And on that point too, part of the Applicant's wall  
21 with the window is already 9.3 feet away. I think that keeps  
22 getting missed. The sun porch is only a portion of the property  
23 that's at that rear line. It's the Applicant's building that  
24 goes in an L and comes out to the 9.3 feet. So we're filling in  
25 a notch of the Applicant's building, not a notch in the block.

1 And you can nod your head, but that's a fact, and the Board can  
2 go back and look at that.

3 MS. BOWLER: Not a fact, sir. If you like to come  
4 over, I welcome you.

5 MR. SULLIVAN: So we can bring up the --

6 CHAIRPERSON HILL: Mr. Sullivan? Mr. Sullivan? Mr.  
7 Sullivan? Mr. Sullivan?

8 MR. SULLIVAN: Okay.

9 CHAIRPERSON HILL: Please just have your conclusion  
10 and -- please just have your conclusion.

11 MR. SULLIVAN: Okay.

12 So finally it's barely -- as I stated in the PowerPoint  
13 presentation, I didn't lie about that -- it's barely visible from  
14 O Street, and it's approved by OGB, and I think that's it.

15 CHAIRPERSON HILL: Okay. Thank you.

16 MR. SULLIVAN: Thank you.

17 CHAIRPERSON HILL: Okay. So let's see. I would like  
18 to see this from the Applicant -- I don't know if my Board has  
19 anything else they'd like to see, but if I could see something --  
20 I'm a little confused as to, again, what windows on 1359 are  
21 looking -- what they're looking at, right? And so I'm looking  
22 at the architect. If you, and then, Mr. Sullivan, if you guys  
23 can give me something just that I can -- I just can't visualize  
24 what those windows are looking at. And then you guys were talking  
25 about a frosting possibility, or Mr. Blake was talking about



1 frosting.

2 And so, Mr. Sullivan, if you could, you know, talk to  
3 your client and figure out what frosting where might actually  
4 help against those windows, that would be something I'd at least  
5 like to take into consideration, right? And so how long do you  
6 think that would take to get -- oh, sorry. Does my Board have  
7 anything else?

8 Mr. Blake, you had your hand up?

9 VICE CHAIRPERSON BLAKE: Is there something from the  
10 OGB, a report from OGB available, Mr. Sullivan?

11 MR. SULLIVAN: If there is, I can provide it. I'm not  
12 sure what they issue when they do conceptual approval. I don't  
13 know if there's a transcript or an order or not.

14 MS. CULLEN: They have a --

15 MR. SULLIVAN: Maybe Ms. Cullen knows.

16 MS. CULLEN: -- you know, email trail, yeah. So the  
17 first time we presented, we had comments, and then we went back  
18 and forth with the Board Chairman and essentially provided a  
19 façade that they approved of, and we essentially got that email,  
20 the approval by email.

21 VICE CHAIRPERSON BLAKE: I would appreciate that  
22 information just so I have something in the record with regard  
23 to that, because we have leaned on that a couple of times.

24 CHAIRPERSON HILL: Okay. If you could submit that into  
25 the record, then we can take a look at that. And then I guess,

1 again, Mr. Sullivan, those -- something that can kind of make it  
2 easier for me to conceptualize the windows on 1359 and what they  
3 look at and what you guys might frost on the other side, okay?  
4 And again, whether or not we think it's necessary, that's a whole  
5 other thing, because I don't know if we've even gotten to  
6 deliberations as to what we think. But I'd just kind of like to  
7 have that information.

8 Does anybody else from the Board want anything?

9 (Pause.)

10 CHAIRPERSON HILL: Okay.

11 Then, Madam Secretary, if we do those things, when can  
12 we get back here for deliberation?

13 MS. MEHLERT: Did I hear if there was a time frame for  
14 the Applicant? I'm not sure you had --

15 CHAIRPERSON HILL: Mr. Sullivan, when do you think you  
16 might be able to get this?

17 MR. SULLIVAN: I'm guessing by Friday. Is that correct,  
18 Kiley? Friday?

19 MS. CULLEN: That's doable.

20 CHAIRPERSON HILL: Okay. All right.

21 Then if we get stuff by Friday, then everybody would  
22 have a week to respond, right? Is that how that works?

23 MS. MEHLERT: Correct.

24 CHAIRPERSON HILL: Okay. So what that means is everyone  
25 who's a party, ANC is, and now new parties, would have comments

1 to whatever gets put into the record back by the 18th, okay? And  
2 then --

3 MS. MEHLERT: The 18th or the 11th?

4 ZC COMMISSIONER WRIGHT: I think it's the 11th.

5 CHAIRPERSON HILL: Right, the 11th. Right, the 11th,  
6 sorry. And then, oh, Commissioner Wright's coming back anyway  
7 on the 23rd.

8 ZC COMMISSIONER WRIGHT: That's right.

9 ANC COMMISSIONER LOHSE: We --

10 ZC COMMISSIONER WRIGHT: We could schedule it for the  
11 23rd. I could definitely be at that meeting for this case as  
12 well.

13 CHAIRPERSON HILL: Got it. Commissioner --

14 ANC COMMISSIONER LOHSE: Commissioner Hill, or Chairman  
15 Hill, we as ANC 2E do not meet until the end of April, so we  
16 actually will not be able to get an ANC comment if you do want  
17 it. We have a public schedule that we set at the beginning of  
18 the year, and we cannot meet outside of that at this point. It's  
19 too short of a notice.

20 CHAIRPERSON HILL: Got it. You guys aren't meeting in  
21 April, is that what you're saying?

22 ANC COMMISSIONER LOHSE: We're not meeting until April  
23 28th.

24 CHAIRPERSON HILL: Okay.

25 ANC COMMISSIONER LOHSE: Yes.

1 CHAIRPERSON HILL: Okay.

2 Well, now I'm looking at my fellow Board members, okay?  
3 So I don't think anything is necessarily going to change with  
4 your recommendations, Commissioner. However, what you're going  
5 to get, and I think is you -- Commissioner Lohse, did I lose you?

6 ANC COMMISSIONER LOHSE: I think my internet's not so  
7 good today --

8 CHAIRPERSON HILL: Okay. Okay.

9 ANC COMMISSIONER LOHSE: -- so I'm trying to stay off  
10 video.

11 CHAIRPERSON HILL: Okay. You can stay off video, sorry.

12 The -- so even if we -- so what I'm trying to get is,  
13 like, we're looking for the windows things and then possible  
14 shading. Can you all hang on one second? Sorry. Somebody's at  
15 the door.

16 (Pause.)

17 CHAIRPERSON HILL: Sorry. Okay.

18 So we would be back here deliberating on the 23rd. If  
19 you all meet as an ANC on the 28th, if you gave us comments, and  
20 I'm just looking here. If you gave us comments, do you think  
21 you could give comments the next day, Commissioner?

22 ANC COMMISSIONER LOHSE: Sure.

23 CHAIRPERSON HILL: It's possible? Okay. All I'm trying  
24 to say is I don't think we're going to get anything new  
25 necessarily, you know, because they're -- I mean, you're not

1 going to change your report. You're basically -- we're talking  
2 about frosting and what the view may or may not be.

3 I got you, Mr. Sullivan; hang on one second. Okay. Go  
4 ahead, Mr. Sullivan.

5 MR. SULLIVAN: Since we're not talking about changing  
6 opinions or anything and they're just going to respond, I think  
7 the ANC's -- or Commissioner Lohse is authorized by the ANC to  
8 speak further for the ANC. So I don't really think they need a  
9 separate meeting. I just don't, since we're going to wait forever  
10 for a full order, so I don't think -- I don't want to extend this  
11 time for a decision more than it has to.

12 CHAIRPERSON HILL: Mr. Sullivan, I got you. I got you.  
13 I 'm looking to see what my Board has to say, what we're actually  
14 doing, and as you say, it's going to take a while anyway. I  
15 don't see another week necessarily doing a whole bunch of  
16 difference to anything.

17 But go ahead -- I'm looking to my Board. If you all  
18 think we should wait longer until the 30th, I mean we're talking  
19 about another week, right? If the ANC wants to submit something  
20 into the record which, now that I'm talking it through, I don't  
21 mind waiting one more week. But do my fellow Board members have  
22 an issue with waiting a week? Okay. Great.

23 So then, Mr. Sullivan, if you want to go ahead and  
24 submit whatever you want to submit by the 11th, okay? I'm sorry,  
25 the 4th, the 4th which is in two days, and then the parties will

1 have until the 11th to respond, and then we'll keep the record  
2 open just for any ANC comment until the 29th.

3 So, Commissioner, if something happens in that, you  
4 know, meeting on the 28th that changes anything that you submit,  
5 we'll wait until the 30th to deliberate. Okay, Commissioner?  
6 Okay. Great.

7 ANC COMMISSIONER LOHSE: Yes.

8 CHAIRPERSON HILL: We got a thumbs up.

9 ZC COMMISSIONER WRIGHT: I'm available on the 30th. I  
10 would have to come back on April 30th, but I ask, if we do, if  
11 it could be the first item on the agenda because I do have some  
12 commitments later in the morning.

13 CHAIRPERSON HILL: Okay. Thanks, Commissioner. I  
14 forgot that you have to come back again.

15 So we will do this first thing in the morning on the  
16 30th, as well as the other first thing in the morning you've got  
17 to do on the 23rd, okay? Okay. All right.

18 Madam Secretary, is there any questions to the  
19 deadline? Do you want to repeat what I said, or what do you want  
20 to do?

21 MS. MEHLERT: So you're asking for submissions from the  
22 Applicant by April 4th, responses from parties by April 11th.  
23 The ANC has until the --

24 CHAIRPERSON HILL: I just raised my hand, sorry. I'm  
25 going to raise my hand.

1           Mr. Sullivan, do you just want to go until the 11th?  
2 I mean, you don't need it if you want more time to put this  
3 together?

4           MR. SULLIVAN: We might as well if it's all the same --

5           CHAIRPERSON HILL: Okay.

6           MR. SULLIVAN: -- to everybody else.

7           CHAIRPERSON HILL: Let's go ahead, because it doesn't  
8 change anything in terms of the deciding factor. We'll give you  
9 until the 11th to come up with what we're talking about, okay?  
10 Then the parties will have until the 18th to respond. The ANC  
11 will have until the 29th to submit something to us, and we'll  
12 come back here for a decision on the 30th, okay?

13           Does anybody have any questions?

14           (Pause.)

15           CHAIRPERSON HILL: Okay.

16           Madam Secretary, do you have any questions? Okay.  
17 Okay. Great.

18           We're all going to take a lunch break, and before I let  
19 everybody go, Mr. Sullivan, are you on with us for the next one?

20           MR. SULLIVAN: I am, yes.

21           CHAIRPERSON HILL: Okay.

22           Let's all have lunch, okay? Let's all take a nice  
23 lunch break, okay? And so let's come back at 1:35, 1:40. I'm  
24 looking at my Board members, 1:40? Okay. 1:40, 1:45, let's take  
25 1:45. All right.

1 I'm going to close this hearing and the record. Thank  
2 you all very much and we'll see you back here at 1:45.

3 (Whereupon, there was a recess for lunch.)

4 MS. MEHLERT: The Board is back from its lunch break  
5 and is returning to its hearing session.

6 The last case on the agenda is Application No. 21263  
7 of Susan M. Tamborini, Trustee. This is a self-certified  
8 application pursuant to Subtitle X, Section 901.2 for special  
9 exceptions under Subtitle D, Section 5201, from the lot occupancy  
10 requirements of Subtitle D, Section 210.1, the building area  
11 requirements of Subtitle D, Section 5003.1 to allow an accessory  
12 building with a building area greater than 450 square feet and  
13 the accessory building location requirements of Subtitle D,  
14 Section 5004.1(a) to allow an accessory building in a required  
15 rear yard. This is for a new accessory structure, a deck and a  
16 pergola, in the rear yard of an existing two-story detached  
17 principal dwelling. It's located in the R1-B zone at 4632  
18 Charleston Terrace, Northwest, Square 1368, Lot 54.

19 And as a preliminary matter, there are two motions from  
20 the Applicant to waive the filing deadline. One is to allow in  
21 a shadow study and plans as Exhibits 20A and 20B and another to  
22 allow in a photograph and renderings that are in Exhibit 31B.

23 CHAIRPERSON HILL: Okay. Thank you.

24 Unless my Board has any issues, I want to go ahead and  
25 allow those items into the record so we have a full and complete



1 record and have an opportunity to look at them.

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

4 MR. SULLIVAN: Thank you, Mr. Chairman and Board  
5 members. Marty Sullivan with Sullivan & Barros on behalf of the  
6 Applicant.

7 CHAIRPERSON HILL: Thank you, Mr. Sullivan.

8 Is Ms. James --

9 MS. JAMES: Oh, sorry.

10 CHAIRPERSON HILL: That's okay.

11 MS. JAMES: Yes.

12 MR. SULLIVAN: Yeah, I'm sorry. Mr. Chair, the owner  
13 is with us, Susan Tamborini, and the architect, Tony Derro.

14 CHAIRPERSON HILL: Got you.

15 MR. SULLIVAN: Sorry.

16 CHAIRPERSON HILL: Thank you, Mr. Sullivan. Give me  
17 one second, Ms. James.

18 Ms. Tamborini, you want to go ahead and introduce  
19 yourself for the record.

20 MS. TAMBORINI: Yes. I'm Susan Tamborini. I am the  
21 owner of 4632 Charleston Terrace, and thank you for hearing my  
22 case.

23 CHAIRPERSON HILL: Okay. Thank you.

24 And Mr. Sullivan, the architect, is that Mr. Deriro  
25 (sic)?

1 MR. SULLIVAN: Mr. -- yeah. Derro, D-E-R-R-O.

2 CHAIRPERSON HILL: Mr. Derro, can you hear me? Could  
3 you introduce yourself for the record?

4 MR. DERRO: Yes. I'm Tony Derro. I'm with Aperture  
5 Architecture.

6 CHAIRPERSON HILL: Okay. Great.

7 Ms. James, can you hear me, and if so, could you  
8 introduce yourself for the record?

9 CHAIRPERSON HILL: Yes. I'm Deborah James, and I'm at  
10 4634 Charleston Terrace, right next to the Applicant.

11 CHAIRPERSON HILL: Okay. Great. Perfect. Okay.

12 So everyone, if you could mute yourself unless you're  
13 talking that would be helpful. And then what we're going to do,  
14 again, Ms. James, is the Applicant will have an opportunity to  
15 give their testimony. You will then have an opportunity to give  
16 your testimony. The Office of Planning will have an opportunity  
17 to give their testimony. Then the Board will ask questions of  
18 whomever they want to ask questions of. And you, Ms. James, will  
19 have an opportunity to ask questions of the Office of Planning  
20 and the Applicant, and then the Applicant will have an opportunity  
21 to give any rebuttal. And then you and -- well, just the Board  
22 will also -- will have any questions just on rebuttal.

23 We won't revisit whatever happens before. It'll just  
24 be questions on rebuttal, and then you'll have an opportunity to  
25 give a conclusion, and then the Applicant will give a conclusion.

1 And during all this testimony, we'll be able to kind of figure  
2 out where we are with this particular application.

3 Ms. Sullivan, if you want to go ahead and walk us  
4 through your client's application and why you believe they're  
5 meeting the criteria for us to grant the relief requested. I'm  
6 going to put 15 minutes on the clock just so I know where we are,  
7 and you can begin whenever you like.

8 MR. SULLIVAN: Thank you, Mr. Chair and Board members.  
9 I was going to do the main presentation myself, but Ms. Tamborini  
10 and Mr. Derro are available for questions.

11 If you could load the PowerPoint please, Mr. Young.  
12 Thank you.

13 The address is 4632 Charleston Terrace, Northwest.

14 Next slide, please.

15 Applicant is proposing to replace an existing deck with  
16 a covered deck on the lowest level. According to the Zoning  
17 Administrator, the new deck is considered an accessory structure  
18 because it's covered. But it's also not meaningfully connected  
19 to the principal building, so it's not an extension of the  
20 building like a deck, like an uncovered deck would be or like a  
21 connected portion of a building would be. So for that reason,  
22 this deck is an accessory structure just like a garage would be  
23 considered.

24 And the proposed covered deck is within the required  
25 rear yard, so necessitating special exception relief from

1 5004.1(a). And the deck counts towards lot occupancy for the  
2 property, and so we're asking relief for the 40 percent limit to  
3 go to 49.3 percent. And then the deck's also subject to the  
4 accessory structure maximum footprint of 450 square feet for  
5 which we're asking for relief from that to go to 652 square feet.  
6 And all three areas of relief are considered under the special  
7 exception criteria, 5201, the light and air, privacy, and  
8 character scale and pattern test.

9 Next slide, please.

10 The Office of Planning recommends approval, and they  
11 made a suggestion to the Applicants to consider screening in  
12 response to the party opponent's concerns, which we have done in  
13 the filing yesterday and which you'll see in the PowerPoint --  
14 or on Monday, sorry. ANC 3D has taken no formal position due to  
15 a split vote, but they did submit a letter explaining each side's  
16 position. And there are two letters of support from surrounding  
17 neighbors, including the adjacent neighbor to the east.

18 Next slide, please.

19 I'll go through the criteria real quick before we get  
20 into the materials. We meet the general special exception  
21 criteria. The property is remaining a single-family detached  
22 dwelling. The proposal's not increasing the size of the existing  
23 principal building, and all of this is within the special  
24 exception criteria.

25 Next slide, please.

1           The deck is -- it's open on all sides. The shadow  
2 study shows no undue impact on neighbors' light and air. There's  
3 no impact to the buildings to the south and minimal impact to  
4 the west, to Ms. James' property, but not undue. And there are  
5 three windows facing north from the condo building to the south,  
6 and I'll show on you diagrams that two of those windows are safely  
7 below the floor level of the proposed deck and they currently  
8 look out at a large retaining wall on the client's property  
9 because of the slope of her property, and then there's just one  
10 window on that building that is above the floor level and it's  
11 offset from the property. It's actually adjacent to Ms. James'  
12 property, and we'll show you a photo of that relative distance  
13 there. And of course, the addition's not visible from any public  
14 way because there's no alley here and it can't be seen from the  
15 street.

16           Next slide, please.

17           Here you see a map of the property, and the buildings  
18 south of this or southwest of the property are apartment  
19 buildings.

20           Next slide, please.

21           This is an overhead view of Ms. Tamborini's property.  
22 You can see the current deck there.

23           Next slide, please.

24           So this is the rear of her property. That's the  
25 retaining wall I mentioned, and there's a fence there. So the

1 lower windows currently look at this retaining wall and fence,  
2 the lower windows on the apartment building to the south.

3 Next slide, please.

4 This is the existing deck.

5 Next slide, please.

6 Also more of the existing deck and outdoor patio space.

7 Next slide, please. Next slide, please.

8 And this is a view looking east from the Applicant's  
9 property.

10 Next slide, please.

11 So this is a photo that was actually in the submission  
12 by Ms. James, and I thought it was helpful to show the windows.  
13 So those two windows there are below the level of the proposed  
14 deck, and I'll show you that on a different graphic, so leaving  
15 the only window being that small window on the upper level there.  
16 And this photo looks out from Ms. James' property, and you can  
17 see the fence line there. So it's offset eight or ten feet from  
18 the subject property.

19 Next slide, please.

20 This is a plat showing the deck addition in the rear.

21 Next slide, please.

22 So this was filed as a page. We blew these up for the  
23 PowerPoint, so the next few slides are going to be these  
24 renderings blown up a little bit.

25 So next slide, please.

1           This is the site plan showing the deck. So you see the  
2 window noted on the south building there to the left and the  
3 distance between the deck and the configuration of it in the  
4 context of the condo building to the south, and Ms. James'  
5 building is on the left.

6           Next slide, please.

7           There's the level of the windows. The lower window on  
8 the south building, which Ms. James' called french doors. They  
9 do look like that but they're windows with a balcony. But at  
10 any rate, they look out. They will be -- after it's proposed,  
11 they'll be well below the floor level of the proposed deck and  
12 the other window is at that level as well.

13          Next slide, please.

14          This is a similar drawing showing the relationship of  
15 the window to the proposed deck.

16          Next slide, please.

17          And here's a rendering showing that. So the window in  
18 the back -- those two windows in the back are the ones that aren't  
19 directly adjacent to the subject property. They're more adjacent  
20 to Ms. James' property, and the first window you see is what Ms.  
21 James described as the french doors.

22          Next slide, please.

23          This is an overhead rendering showing the proposed  
24 deck. We mentioned it's a proposed deck and pergola. The pergola  
25 portion of it is in the middle of it and that counts in the lot

1 occupancy because the slats there of the pergola are closer than  
2 24 inches apart on center, so that's all -- the entire structure  
3 is included in the proposed lot occupancy.

4 Next slide, please.

5 This shows the footprints of the existing deck versus  
6 the proposed footprint of the new deck on the right side there.

7 Next slide, please.

8 Just another overhead view.

9 Next slide, please.

10 And there's a rendering from the other side. This  
11 isn't formally proposed, but Ms. Tamborini intends to have  
12 greenery on that side of the deck and planters for additional  
13 coverage or screening from the building to the south.

14 Next slide, please.

15 And here's a view of the same thing from the west.  
16 She's also intending to have greenery on that side as well,  
17 including that tree. Again, we're not proposing that because I  
18 think that's hard to enforce and it's a little more ambiguous,  
19 but we did propose very specific screening for this side of the  
20 deck which we'll see later on in the presentation.

21 Next slide, please.

22 These are shadow studies. So the areas outlined in  
23 orange are the additional shadow from the deck. It's done from --  
24 rather than from matter-of-right to proposed, it's existing to  
25 proposed because the deck is not covered now.



1               Next slide, please.

2               And these are just different times. You see the amount.  
3 Ms. James' building is over to the left, so you see there's a  
4 little bit of impact on the left side there at noon in the spring  
5 and fall.

6               Next slide, please. Next slide, please. Next slide,  
7 please. Next slide, please.

8               If you have any questions about any particular slides  
9 please let me know, but I'm going through these since the area's  
10 outlined.

11              Next slide, please.

12              And that's probably the area with the most shade casted  
13 to the west.

14              Next slide, please. Next slide, please. Next slide,  
15 please.

16              So we did submit yesterday morning a -- we took Ms.  
17 James' photo of her view from the solarium, and we superimposed  
18 the deck on that to get a sense. So I think we got a really good  
19 sense of the privacy and view situation of how it would look,  
20 and also we have two renderings that we submitted that are coming  
21 up to show the screening that we're proposing as well. I don't  
22 know if privacy is a major concern or not. The Office of Planning  
23 raised the issue. It wasn't discussed much at the ANC meeting.  
24 But if it is an issue, it's certainly -- we wanted to propose  
25 this because we think it's nice screening and fits in well with

1 the deck.

2 Next slide, please.

3 So there's the view. This is the photo that Ms. James  
4 provided from her solarium down at the existing deck. So there's  
5 already a deck there and already outdoor recreational space of  
6 Ms. Tamborini's.

7 Next slide, please.

8 And this is one thing the Office of Planning noted that  
9 covering that deck actually improves the privacy situation over  
10 the existing. But in addition to that, so we have the screens  
11 here provided which you'll see later in a rendering because  
12 that'll be easier for the Zoning Administrator to use to approve  
13 a permit, but wanted to show you this view from here. And those  
14 screens go all the way up because there's some shade there. You  
15 can't see that but they go the full length of the deck. They're  
16 going to be three feet wide each and we're proposing to put them  
17 anywhere on that side because I think, anywhere on that side that  
18 you put it, it's going to have a significant increase in the  
19 privacy between the two properties. Next slide, please.

20 So here's a rendering of how the slides will look from  
21 the inside.

22 Next slide, please.

23 The screens. And that's a rendering showing them from  
24 that angle as well. So I think the screens are more effective  
25 and more attractive than what you're used to seeing when we're

1 screening a deck and I think that fits in line with the design  
2 of the deck and also if there are privacy concerns I think that  
3 would do a really job of mitigating those.

4 Next slide, please.

5 And that's it. If the Board has any questions for  
6 myself or Ms. Tamborini or Mr. Derro.

7 Thank you.

8 CHAIRPERSON HILL: Thank you, Mr. Sullivan. Thank you  
9 for your presentation.

10 Ms. James, can you hear me?

11 MS. JAMES: Yes.

12 CHAIRPERSON HILL: Okay. Great.

13 So they went about 15 minutes or so, so you'll have the  
14 same amount of time if you like, and you can go ahead and give  
15 us your testimony.

16 MS. JAMES: Okay. Thank you for hearing me.

17 I want to state up front -- well, first I just want to  
18 say, in general I want to say to Susan that regardless of how  
19 this comes out I am your good neighbor. I want you to know that.  
20 If there's ever a time you want to -- feel you want to draw on  
21 me as a neighbor. You know, I'm going to tell you if your garage  
22 light is on when you don't know. I just want you to know that  
23 however this comes out --

24 CHAIRPERSON HILL: Ms. James? Ms. James?

25 MS. JAMES: Yes.

1 CHAIRPERSON HILL: I'm going to interrupt you one  
2 second. I really appreciate what you're trying to convey, but  
3 then what's going to happen is people have to respond to whatever  
4 you're trying to convey.

5 MS. JAMES: Okay. Okay.

6 CHAIRPERSON HILL: It's okay.

7 MS. JAMES: I see your point.

8 CHAIRPERSON HILL: I appreciate it though.

9 MS. JAMES: So then I also want to say that if this  
10 were just a deck, if there were just an extensive deck, I can't  
11 imagine having any objection. In fact, I'd probably give a level  
12 of support. I most definitely want Susan to have access to her  
13 outdoor space.

14 So just so it's clear, my concern is with the roof, and  
15 I think that's why it was designated as the accessory structure.  
16 and I do want to make sure that as you walk through it as decision  
17 makers you keep in mind this is an accessory structure that, I  
18 gather, in consultations with the Zoning Administrator, it was  
19 determined to be that.

20 Now, it might be somewhere earlier in the file, but the  
21 first time, you know, I'm new to this, don't really know this  
22 process, but the first way I became aware that was a footnote in  
23 the OP report, and indeed, it was referenced up front now in  
24 Applicant's presentation. It just rings to me -- I'm just  
25 curious; it's a question. Apparently there was some preliminary

1 consultation with the, it sounds like with the Zoning  
2 Administrator. I don't know if that's typical. I didn't see,  
3 maybe there is there in the file a reference from the Zoning  
4 Administrator but I don't see that.

5 So I just want to make clear that while there may be a  
6 process to follow if this were just a deck, I want everyone to  
7 keep in mind this is an accessory structure and to review it with  
8 that concern.

9 So I also want to say I know certainly that the  
10 Applicant is fully within her right to request these exceptions,  
11 but indeed, they are exceptions. I would like to think that the  
12 zoning regulations afford us some level of protection and that  
13 when exceptions come up they are looked at carefully to make sure  
14 of course that the criteria permits.

15 So starting with the criteria being in harmony with the  
16 intent and purpose of the zoning regulations, I think this is a  
17 case to look at that very carefully. That it's not as simple to  
18 say this is still a single family home, that it maintains that  
19 overall structure, that I accept. That is true. But I think  
20 the zoning regulations go beyond that in its protections and in  
21 this case I think the concept of putting in an accessory structure  
22 in a space where a backyard that wouldn't fit by-right, if I  
23 understand it, any accessory structure even to ask, that is if I  
24 understand this by-right an accessory structure would have to be  
25 25 feet beyond the main structure.

1           So that I'm just saying it's hard for me to imagine  
2 that you're in harmony with the intent and purpose of the zoning  
3 regulations to completely basically block off your backyard with  
4 something that by-right, just to do it by-right, you couldn't put  
5 in that space at all and that's all there is back there. That  
6 is you go back more than 25 feet, and I don't think you're even  
7 still on the property.

8           So I do ask the basic question even before you get to  
9 the question of harm to individual property owners, neighboring  
10 property owners, whether this really is overall in harmony with  
11 the intent and purpose of zoning regulations for not just, it's  
12 not even a regular size. So keep in mind it's an accessory  
13 structure that by-right should be 25 feet out. Here they're  
14 looking to put it 18 inches from the main property. It's not  
15 even saying, well, 20 feet, 15 feet, 10 feet, 8 feet, 18 inches.

16           So that's really close to the main property, and as I  
17 understand it, an accessory structure by its nature doesn't have  
18 to, it can waive setoff rules. They can go closer to the adjacent  
19 property lines, and that might have its rationale if it's 25 feet  
20 out. I don't see the rationale for waiving setoff if you're 18  
21 inches from the main property and the result will be because  
22 they're going to push, if I understand it right, 3.77 feet from  
23 my property line which will make the beginning of this new  
24 structure even closer to my home than her home is right now.

25           And of course, the reason coming so close and occupying

1 | so much space is she's looking to make it 44 percent larger than  
2 | a regular, than a by-right accessory structure, 200 feet larger,  
3 | and that -- the overall result is that she's getting very close  
4 | to the 50 percent on the occupancy, all of it concentrated in  
5 | the backyard tending towards my property.

6 |           I just ask; it's this overall question to look at each  
7 | component carefully. Is this really in harmony with the zoning,  
8 | the intent and purpose of the zoning and keeping in mind these  
9 | are very tight lots. These, you know, this is an in-city location  
10 | where the houses are already as close as I think they can be in  
11 | zoning, so they're tight lots. Yes, you know, looking out the  
12 | window right now I see Applicant's house and that's the point.  
13 | You do see other houses and that's why the remaining open space  
14 | really is precious and I say that not just how it impacts me or  
15 | other neighbors, but simply as an overall zoning concern.

16 |           Moving specifically to my situation, I actually would  
17 | like to pull up --

18 |           Is it Mr. Young? Can I ask Mr. Young to pull up  
19 | actually Applicant's mark-up of my picture. I think it's in  
20 | Exhibit 31B.

21 |           CHAIRPERSON HILL: One second, Ms. James. Yeah,  
22 | Exhibit 31B. Okay.

23 |           MS. JAMES: I think that's what it is. It's the color  
24 | photos. It's the mark-up.

25 |           CHAIRPERSON HILL: Mr. Young, do you see 31B?

1 MS. JAMES: Okay. So first I'd like to say this, yeah.  
2 Okay. Okay. This one I don't think captures the flavor so well  
3 of how much of an impact it's going to be, but if you scroll  
4 down, scroll to the end of this. Let's go to the next one, and  
5 I'll make some comments. After this, there's another one. Okay.

6 So this one to some extent does, but this is going to  
7 I think if I look at, if I, like, peer down I think that her  
8 structure is going to be still closer so it will have even more  
9 of the sense of going directly into her, there's I think, this  
10 to me if you look down it looks like it's more than 18 inches.  
11 Very quickly you'll reach the vanishing line where you look, you  
12 don't see the difference between where this property and her  
13 house, much closer.

14 So I'm saying we'll have somewhat of this effect.  
15 Frankly, this occupies a lot of space. But it will have even  
16 more so because it will come closer to her house, so it'll be,  
17 there'll be even more of that, and like, it's a little confusing  
18 in this picture. Remember her accessory structure is now going  
19 to come even closer to my house than my property line and in turn  
20 my house than her house is. So this picture, you know, the depth  
21 is a little confusing to see so you have to visualize that,  
22 indeed, her house is very close, and indeed, this accessory  
23 structure is going to be some four feet closer, as I understand  
24 it.

25 So looking at this picture, I think the accessory



1 structure itself will come closer to her property than is properly  
2 represented here and will -- as I said, depth is hard to reflect,  
3 but I'm just pointing out it will come even closer than as close  
4 as her house, and her house is very close.

5 I also want to point out as a detail, because as we've  
6 said, you know, plants are ephemeral, but that certainly is not  
7 there now, a tree in exactly that position like that in that  
8 position at that height. I don't know whether she plans to put  
9 such a plant, but of course, even if there is such a plant, plants  
10 can come and go and would only have leaves and flowers at certain  
11 times.

12 But I mean, looking at that picture, frankly it  
13 occupies the remaining open space. It means I will -- looking  
14 from my sunroom, I will see roof and as I said, coming even closer  
15 to her house than I think this represents and closer to my  
16 property as it will be four feet closer than her house is now to  
17 my property. Okay. I just wanted to show that so I would give  
18 my view on that.

19 So I mean it will --

20 CHAIRPERSON HILL: Thank you, Mr. Young, you can drop  
21 that. Thank you.

22 MS. JAMES: So it will affect the use and enjoyment of  
23 my property. It also has this impact on the condo owners. I  
24 don't know whether Applicant has managed to speak to the condo  
25 owners. I have been in contact with the condo owners, and I have

1 made them aware of my filings. They've expressed it there, so  
2 they have not really been able to focus on this both in work and  
3 outside of work. I'm not sure if they're on this call now. I've  
4 spoken to the husband, and he said either he or his --

5 CHAIRPERSON HILL: Ms. James, can you hang on one  
6 second?

7 MS. JAMES: Yes.

8 CHAIRPERSON HILL: Mr. Young, could you drop that slide  
9 deck for me? Thanks.

10 And Ms. James, I'm never sure exactly how this works.  
11 I mean, you can provide testimony as to what you have done, but  
12 you can't provide testimony for other people --

13 MS. JAMES: Okay.

14 CHAIRPERSON HILL: -- unless there was some kind of,  
15 like, written thing that you had in the record that said you're  
16 allowed to provide testimony on behalf of somebody. But just go  
17 ahead and continue, please. Thank you.

18 MS. JAMES: No, I'm not providing testimony on their  
19 behalf. I'm just saying that I have been in touch with them,  
20 that's all, and that they might be on this call. They said they  
21 were going to try to be on the call. That's all I'm saying.  
22 Yeah.

23 So I am happy that three members of the ANC were  
24 supportive of my position, and according to what they sent, which  
25 is an exhibit in the record, they wrote, "In combination, these

1 three deviations from normal zoning constitute a massive overuse  
2 of the backyard and an abuse of Applicant's neighbors. The  
3 addition of a roof to deck making it an accessory structure  
4 greatly increases the impact of the proposed addition. In  
5 particular, the light available to the apartment building in the  
6 rear would be restricted as would the air for the yard and the  
7 next door neighbors."

8           Moreover, they suggest there are reasonable  
9 alternatives, and in fact I do think it's possible for Applicant  
10 and her architect to come up with reasonable alternatives. There  
11 is a statement in the OP report that I have to say I don't fully  
12 understand, to the effect that somehow it's not feasible to reduce  
13 the size of the deck because of existing site conditions including  
14 drainage and retaining wall ties. I guess I'm a little confused  
15 by that as in right now they don't have a massive deck. So I  
16 don't see why they need a massive deck for these purposes somehow.  
17 It seems to me they could accommodate it otherwise. They could  
18 also potentially make the roof smaller.

19           As I said, I actually have no objection to the deck.  
20 I want Susan to be able to use her outdoor space. So I --

21           CHAIRPERSON HILL: Ms. James? Ms. James?

22           MS. JAMES: Yes.

23           CHAIRPERSON HILL: Just to let you know you're at 13  
24 minutes, so you have a couple of minutes left.

25           MS. JAMES: Right. I think, I don't know if I have --

1 | you know, I want to be able to enjoy my backward facing property.  
2 | I think in general we often think of our backward facing space  
3 | as the more private space, and therefore, that amount of open  
4 | space in that direction is particularly valuable. This is a  
5 | neighborhood where by its nature you see -- you do see neighbors,  
6 | and therefore, what the space that remains is valuable. I think  
7 | it goes moreover just to the fundamental not in harmony with the  
8 | intent and purpose of the zoning laws.

9 |           Let me see. Yeah. I think this is -- I appreciate the  
10 | OP report commenting to coordinate with neighbors. I think it  
11 | should go beyond simply screening. I think it's possible for the  
12 | Applicant to consider possible designs that are less intrusive,  
13 | and as I said, even at core I question whether such a massive  
14 | structure, meaning the roof, should even be there.

15 |           CHAIRPERSON HILL: Okay. Thank you, Ms. James. All  
16 | right.

17 |           Before I turn to the Board and everybody, can I hear  
18 | from the Office of Planning?

19 |           MR. BRADFORD: Good afternoon, Chairman Hill, members  
20 | of the Board. For the record, my name is Philip Bradford,  
21 | Development Review Specialist with the Office of Planning. The  
22 | Office of Planning recommends approval of the requested special  
23 | exception relief and stands on the record of the report in Exhibit  
24 | 30. Thank you, and I'm available for any questions.

25 |           CHAIRPERSON HILL: Okay. Thanks, Mr. Bradford. Okay.

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

2 MR. YOUNG: We do not.

3 CHAIRPERSON HILL: Okay. All right.

4 So now I have two questions. Let me first look -- oh,  
5 go ahead. Did you have your hand up, Mr. Smith?

6 COMMISSIONER SMITH: Oh, okay. First let me go.

7 Ms. James?

8 MS. JAMES: Yes.

9 CHAIRPERSON HILL: Do you have any questions of the  
10 Office of Planning or the Applicant?

11 MS. JAMES: Will I have another -- if they have  
12 questions will I have a follow-up chance for questions? Well, I  
13 do guess I do have the question, the question I just raised.

14 Indeed, what did Applicant mean when they said to OP  
15 that it's not feasible to reduce the size due to existing site  
16 conditions including drainage and retaining wall ties?

17 CHAIRPERSON HILL: So that's -- you're asking the  
18 Applicant that question, Ms. James?

19 MS. JAMES: I'm asking the Applicant that question,  
20 yes.

21 CHAIRPERSON HILL: Mr. Sullivan, do you have any idea  
22 as to an answer for that question?

23 MR. SULLIVAN: Yeah, generally.

24 So the reason why that was brought up -- of course it's  
25 not part of the special exception criteria on why we didn't do a

1 different alternative or whether we could or not, but in  
2 discussions with the Office of Planning, I told them that we  
3 would look into adjusting the deck or moving the deck and that  
4 was of course (audio interference). I responded to OP, after I  
5 heard back from Mr. Derro and Ms. Tamborini, that that would be  
6 difficult to do and that they didn't want to do that, so.

7 CHAIRPERSON HILL: Okay.

8 So, Ms. James, it doesn't seem like they were either  
9 able to do it or wanted to do it. Do you have another question,  
10 Ms. James?

11 MS. JAMES: I mean, I don't see that as a particularly  
12 thorough answer. I mean, this says that --

13 CHAIRPERSON HILL: The answer, Ms. James. Ms. James?  
14 Just to let you know. The Applicant is here asking for what  
15 they're asking for --

16 MS. JAMES: Okay.

17 CHAIRPERSON HILL: -- so then the Board is going to  
18 determine whether or not they meet the criteria for what they're  
19 asking for. So they can come ask, you know, have the right to  
20 ask whatever they want to ask, and so that's why they're before  
21 us right now.

22 MS. JAMES: Okay. I want to know has the Applicant  
23 been in touch with the owner of the three-panel french doors?

24 CHAIRPERSON HILL: I guess --

25 MR. SULLIVAN: So, in addition to the regular notice,

1 we did send out additional notices as we like to do when it's  
2 hard or difficult to connect with a neighbor, and so we did send  
3 them follow-up letters of notice and got no response.

4 MS. JAMES: Okay. And got no response. Okay.

5 In the design, just a design question, isn't the deck  
6 itself continuous? It's the roof that's a little bit detached?

7 CHAIRPERSON HILL: Your question is whether or not the  
8 deck is attached to the building?

9 MS. JAMES: Well, the design, seeing the design, you  
10 know -- I don't read designs all the time. I don't know just  
11 how to read them. It looks like you step out from the house  
12 directly on to the deck. The deck is not detached from the house,  
13 and that at some point in that 18 inches the roof begins. So  
14 I'm really just asking for clarification. Is the deck continuous  
15 from the house? It's just that it's the roof that begins 18  
16 inches in?

17 MR. SULLIVAN: Well, sure. I mean the deck is connected  
18 to the house. Otherwise there would be no way to get from the  
19 house to the deck so there's --

20 CHAIRPERSON HILL: So the answer is yes, Ms. James.

21 MR. SULLIVAN: Yes.

22 MS. JAMES: Right. Okay. So do I have more questions?  
23 Well, these are simply questions. I guess those are my questions.

24 CHAIRPERSON HILL: Okay. Thank you, Ms. James. Okay.

25 I'm going to turn to the Board. Okay. Does my Board

1 have any questions of the Applicant or the Office of Planning?

2 Go ahead, Commissioner Wright.

3 ZC COMMISSIONER WRIGHT: Given the relief that is being  
4 requested and given the interpretation of this as an accessory  
5 structure, what would be the steps required if in the future the  
6 owner wanted to enclose and make this conditioned space? Would  
7 they have to come back to the BZA or anyone else for any  
8 approvals, or could they enclose this area and make it conditioned  
9 space since they're getting approval for a number of different  
10 special exceptions for an accessory structure?

11 MR. SULLIVAN: Yeah. If my client asked me that  
12 question, I would say you definitely can't make any significant  
13 changes to anything that the BZA specifically approves like this.  
14 So it would remain, they would have to have the screens. They  
15 would have to leave it open, and any significant, any change at  
16 all significant to the deck is going to require modification of  
17 any approval.

18 ZC COMMISSIONER WRIGHT: Okay.

19 But they are getting approval essentially for an  
20 accessory structure that is over the normal size limit for  
21 accessory structures of 450 square feet. They're getting  
22 approval for an accessory structure that is closer to the primary  
23 residence than is normal for a accessory structure. They are  
24 getting, you know, a variety of approvals that -- and you know,  
25 again I understand you're saying that because we're approving



1 | this specific application that they would need to come back if  
2 | they wanted to enclose this area and make it conditioned space.  
3 | But they already have their approval for an accessory structure  
4 | over 450 square feet, et cetera.

5 | CHAIRPERSON HILL: Mr. Bradford, can you hear me?

6 | (Pause.)

7 | CHAIRPERSON HILL: Yeah. So, Mr. Bradford, can you  
8 | answer Commissioner Wright's question? I basically think -- I  
9 | can't recall exactly how it works, but it would change the whole  
10 | dynamic of the project and they would be back for -- they would  
11 | need a whole bunch of different kinds of relief to actually be  
12 | able to do that.

13 | But Mr. Bradford, are you able to answer Commissioner  
14 | Wright's question?

15 | MR. BRADFORD: No. I'm not quite sure what would happen  
16 | if they decided to enclose that in the future.

17 | CHAIRPERSON HILL: Okay. Give me a second then, again.

18 | Mr. Sullivan, you seem to think you have an answer?

19 | MR. SULLIVAN: Yeah.

20 | I mean, it's an automatic condition of any Board's  
21 | order that the project be consistent with the plans submitted and  
22 | approved. So we submit those plans to the Zoning Administrator  
23 | or to DOB with a permit application, and that's all that can be  
24 | done. And if there's any other permit application down the road,  
25 | they would see that it's a BZA-approved structure and they would

1 go back to those plans. So it's a condition of the order.

2 ZC COMMISSIONER WRIGHT: Or (indiscernible) --

3 MR. SULLIVAN: Or it's a condition of every BZA order.  
4 You don't even have to do it specifically.

5 ZC COMMISSIONER WRIGHT: In this particular case I  
6 think it makes a huge difference. Would your client be willing  
7 to accept a specific condition that would say that this structure  
8 would not be enclosed as conditioned space in perpetuity?

9 MR. SULLIVAN: Well, I, no. I don't know if that's  
10 appropriate or advisable that they would burden the property in  
11 such a way because does that then mean -- I mean, I think it  
12 probably doesn't matter because that's what they're stuck with  
13 anyway.

14 I mean, one of the things on Monday of course, as you  
15 know, the Zoning Commission eliminated this particular area of  
16 relief so it doesn't, when that becomes effective there's no  
17 limit to how close the accessory structure can be to the principal  
18 building and of course there's no side yard requirement for the  
19 accessory structure. So that location is, in a couple of months,  
20 is matter-of-right.

21 I know that's not this application. That goes more to  
22 spirit and intent argument, I think. But I just don't know the  
23 implications of, I guess so. Because it's just the opposite,  
24 it's just the negative of what we're saying. We're required to  
25 do what's in the plans and nothing further. So, yes, I don't

1 see any reason why that would matter because if they wanted to  
2 do something different, then they would absolutely have to go  
3 back. Well, no, so --

4 CHAIRPERSON HILL: Excuse me, Mr. Sullivan, I'm going  
5 to interrupt you.

6 MR. SULLIVAN: This is an important point, Mr. Chair.  
7 They could remove the structure completely and then we're  
8 starting from point zero but there might be something on the  
9 record saying we can't do something even though we could do it  
10 or we could ask for relief from that. So I think it's a little  
11 cleaner if we leave it the way it's normally done.

12 CHAIRPERSON HILL: Yeah.

13 I think what I was going to ask or, sorry, mention,  
14 Commissioner Wright, if you're interested is that, you know, we  
15 can talk to OZLD about this issue and we can do that now if you  
16 want or we can also do it after the hearing and before a decision  
17 is made, and I'm happy to go either way.

18 ZC COMMISSIONER WRIGHT: I would be interested in  
19 hearing what our legal staff has to say about my question.

20 CHAIRPERSON HILL: Okay. Let's do --

21 ZC COMMISSIONER WRIGHT: I don't know when the right  
22 time is but I would be interested.

23 CHAIRPERSON HILL: No, that's fine. Why don't we go  
24 ahead and continue moving along here and then we'll come back and  
25 have an emergency meeting and talk to OZLD, and then come back.

1 Does anyone have any further questions of the Applicant  
2 or the Office of Planning?

3 (Pause.)

4 CHAIRPERSON HILL: Okay.

5 Mr. Sullivan, do you have any rebuttal?

6 MR. SULLIVAN: No, thank you, Mr. Chair.

7 CHAIRPERSON HILL: Okay. All right.

8 Then let's go ahead and do the thing real quick, the  
9 emergency meeting real quick. Let me get my little script. Okay.  
10 Okay.

11 And just, Ms. James, can you hear me? Just so you know  
12 we're going to go, step away to have an emergency closed meeting  
13 with our legal staff and then we're going to come back, and then  
14 you'll have an opportunity to give like a three minute conclusion.  
15 The Applicant will have the same time and then we'll see where  
16 we get, okay?

17 MS. JAMES: Okay.

18 CHAIRPERSON HILL: Okay. We'll come back in a minute.  
19 Let's see.

20 As Chairperson for the Board of Zoning for the District  
21 of Columbia and in accordance with 407 of the District of Columbia  
22 Administrative Procedures Act, I move that the Board of Zoning  
23 Adjustment hold a closed emergency meeting on 4/2/2025 to seek  
24 legal advice from our counsel on Application 21263 and deliberate  
25 upon but not vote on case 21263.

1 Is there a second? Mr. Blake?

2 VICE CHAIRPERSON BLAKE: Second.

3 CHAIRPERSON HILL: Motion is made and seconded. Madam  
4 Secretary, can you take a roll call, please.

5 MS. MEHLERT: Please respond to the Chair's motion to  
6 hold an emergency closed meeting.

7 Chairman Hill?

8 CHAIRPERSON HILL: Yes.

9 MS. MEHLERT: Vice Chair Blake?

10 VICE CHAIRPERSON BLAKE: Yes.

11 MS. MEHLERT: Mr. Smith?

12 COMMISSIONER SMITH: Yes.

13 MS. MEHLERT: Commissioner Wright?

14 ZC COMMISSIONER WRIGHT: Yes.

15 MS. MEHLERT: The vote is four to zero to one. The  
16 motion passes to hold an emergency closed meeting.

17 CHAIRPERSON HILL: Okay. Great. All right.

18 We're going to jump off of this one and jump on another  
19 one. See you guys in a little bit.

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

22 CHAIRPERSON HILL: Okay. Madam Secretary, can you call  
23 us back in, please.

24 MS. MEHLERT: The Board is back from its emergency  
25 closed meeting with OZ legal and is returning to Application No.

1 21263 of Susan M. Tamborini, Trustee.

2 CHAIRPERSON HILL: Okay. Great.

3 Mr. Sullivan, can you hear me?

4 (Pause.)

5 Ms. James, can you hear me?

6 MS. JAMES: Yes.

7 CHAIRPERSON HILL: Okay. Great.

8 Ms. James, do you want to go ahead and give us a three  
9 minute conclusion?

10 MS. JAMES: Sure. One second. Let's see. Okay, one  
11 second. Just give me one second. Sorry, sir.

12 Well, okay. So basically we count on the zoning  
13 regulations to protect us. I ask the Board to carefully consider  
14 whether the criteria for exceptions are met here. Our tight lots  
15 are not designed to accommodate massive accessory structures. Do  
16 we really want our limited open space intentionally so set by the  
17 zoning regulations to be blocked by massive structures that are  
18 only possible with several substantial exceptions.

19 MR. SULLIVAN: Mr. Chairman, can you hear me?

20 CHAIRPERSON HILL: Yes. I'm sorry, Ms. James.

21 MR. SULLIVAN: I'm sorry. I had a sound issue and my  
22 assistant told me that you had said something, so sorry about  
23 that.

24 CHAIRPERSON HILL: Right. No problem.

25 MR. SULLIVAN: I am here.

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

2 Ms. James, I'm sorry. Please continue.

3 MS. JAMES: I think at a minimum applicants should  
4 consider alternatives, less disruptive alternatives.

5 CHAIRPERSON HILL: Okay. Thank you, Ms. James.

6 Mr. Sullivan, do you have a conclusion?

7 MR. SULLIVAN: Yes. Thank you, Mr. Chairman.

8 Very simply. The application meets the special  
9 exception criteria. There's minimal impact on light and air.  
10 It's not undue certainly. Privacy, as OP stated, was improved  
11 and then especially with the additional screening and there's no  
12 visual intrusion because there's no view at all of this structure  
13 from the alley or from the street.

14 Thank you.

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

16 MR. SULLIVAN: And also we would be happy to agree to  
17 that condition too, that Commissioner Wright mentioned. I don't  
18 think there's a material difference between, I know what the  
19 Applicant --

20 CHAIRPERSON HILL: I got you, Mr. Sullivan. That's  
21 okay.

22 MR. SULLIVAN: -- but I just didn't, I think the words  
23 in perpetuity scared me. But it's not a covenant anyway, it's  
24 just the order, so.

25 CHAIRPERSON HILL: Got you. Thanks, Mr. Sullivan. All

1 right.

2 I'm going to go ahead and close the hearing and the  
3 record. Mr. Young, if you could please excuse everyone.

4 (Pause.)

5 CHAIRPERSON HILL: Okay. Thank you.

6 Mr. Smith, I believe you were kind enough to begin the  
7 deliberation.

8 COMMISSIONER SMITH: I'll begin the deliberation.

9 So what was before us today was a self-certified  
10 application for special exceptions from the lot occupancy  
11 requirements, the building area requirements for an accessory  
12 building larger than 450 square feet and the location of the  
13 accessory building in the required rear yard.

14 Based on the submitted information within the record  
15 and the testimony provided by the Applicant, I do believe that  
16 the Applicant has met the burden of proof for us to grant these  
17 special exceptions and I will look towards the criteria under D-  
18 5201.4 for the reasons why they have met their requirement.

19 What we're tasked with looking at is under D-5201.4(a),  
20 (b) and (c). Does the light and air available to neighboring  
21 properties, will it be unduly affected? I think based on the  
22 design of this particular accessory structure, given that it is,  
23 given the topography and the design and size of this accessory  
24 structure, it would not have an undue impact on the adjacent  
25 property owner's light and air. The structure as designed would



1 be open, an open structure that would allow light and air to  
2 traverse through the structure and would not impact adjacent  
3 properties, and also I will state that the topography itself  
4 would lend itself to not creating a hindrance to light and air  
5 to any other adjacent properties.

6           The privacy of use and enjoyment of neighboring  
7 properties should not be unduly compromised, again, the crux of  
8 this, of the impacts is undue. This is an accessory structure.  
9 There's a preponderance on the zoning ordinance to allow certain  
10 sizes of the accessory structures within the rear yard and again,  
11 this is an open accessory structure so I do not believe it will  
12 have a substantial impact on neighboring properties.

13           The proposed addition or accessory structure , together  
14 with the original building as viewed from the street, alley or  
15 public way shall not substantially visually intrude upon the  
16 character, scale and pattern of houses along the street or alley  
17 frontage, and as Mr. Sullivan stated, this is in the rear yard  
18 of the property so it shouldn't have a visual impact as seen from  
19 the street, alley or any public way.

20           The standard special exception on considerations. I  
21 believe that this structure would be in harmony with the general  
22 purpose and intent of the zoning regulations and would not, again,  
23 tend to generally adversely impact any of the neighboring  
24 properties.

25           Going back to this concern about privacy. The adjacent

1 property owner did state that they believe that this structure  
2 may have some material effect on their privacy and the Applicant  
3 has -- Ms. Wright, has recommended a condition that would  
4 mitigate some of those concerns related to, not about privacy,  
5 but related to light and air and I welcome some additional dialog  
6 from my Board members regarding some form of a condition that  
7 would restrict any future enclosure of the accessory structure.

8 And with that consideration of a condition, I would  
9 recommend approval.

10 CHAIRPERSON HILL: Okay. Thank you.

11 I guess, and we can have further discussions about  
12 this. I mean, like, we could reference something in the order,  
13 this is going to be a full order. I'm not a big fan of that  
14 particular condition just because I think that the way it needs  
15 to be built is the way it needs to be built, but I'm happy to  
16 continue that dialog.

17 Mr. Blake, do you have anything to add?

18 VICE CHAIRPERSON BLAKE: First of all, I agree with  
19 Board member Smith's assessment. I have a few other comments  
20 slightly different direction though.

21 I think that the Applicant has met the burden of proof  
22 in the sense that the issue, again, light and air. I don't think  
23 that there's going to be a material impact on light and air flow,  
24 and light particularly because of the location of the property  
25 is relative, as he pointed out.

1           The privacy issue is something that was really curious  
2 to me and it wasn't with regard to the property to the west from  
3 the party in opposition, but more so to the privacy of the condo  
4 to the south because of the downward look of the property. But  
5 in reviewing basically the testimony I heard today, my concern  
6 is significantly is reduced because, a) the windows, there are  
7 three total windows exposed.

8           Those two windows to the right are actually towards Ms.  
9 James' property and the lower window on the side is so far below  
10 the retaining wall that it will not have an impact on the light  
11 and I do not think the privacy will be materially impacted as  
12 well. It's a southward property so there's no impact in terms  
13 of the sun. So I think that, and privacy is really not an issue  
14 there.

15           So to the extent that we were going to include some  
16 type of privacy screening, I would have ordinarily said it would  
17 go to that side, not to the other, to the west. The issue with  
18 the west side, and the party in opposition made a very clear  
19 statement about this at the outset, their concern is solely with  
20 the roof. They were completely comfortable with the size of  
21 that, but the issue is the roof and it was largely because it  
22 had a visual impact on their line of sight from their sunroom.

23           And reviewing those slides very carefully and hearing  
24 the presentation today, it was clear that the issues provided did  
25 actually, the roof did provide privacy for the subject property.

1 The screening would provide additional privacy for the screening  
2 property. The view is what the concern was that was created by  
3 the roof and that view is not something that we actually are  
4 focused on from our perspective.

5 So, for example, the zoning regulations in the District  
6 of Columbia focus on control, land use, density, height, bulk  
7 characteristics of property. When, a view is not protected, so  
8 there are no zoning regulations protecting individual view test  
9 and in the context of the special exception test, the Board looks  
10 in consideration of the impact on the proposed project on  
11 neighboring properties as it relates to light, air flow, and  
12 privacy which we've talked about. It also factors in the visual  
13 intrusion on the character and pattern of housing along the  
14 streets and city and alley-scapes.

15 Now, we talked about that. There's no visibility from  
16 the street or from the alley. There is no alley in this case.  
17 But it does not specifically address the visual intrusion on a  
18 person's line of sight being disrupted or obstructed by an  
19 unwanted visual element in their environment. In other words,  
20 the roof, you may see the roof but it's not on your property and  
21 we can't really, we are not tasked with evaluating the adverse  
22 impact of a, what you consider to be an unattractive roof all  
23 the way from your property.

24 So, there are ways you can certainly address that. You  
25 can have an easement that says you can never build that, but that

1 may be something you'd have to negotiate. But certainly there's  
2 no restrictive covenant relying on that or anything like that.  
3 So we do not have that in this case. So in that regard I'm not,  
4 the issue about the impact to the property to the west is  
5 somewhat, the property to the west I'm somewhat less concerned  
6 with.

7 So having said that, I do believe the Applicant has met  
8 the burden of proof to be granted the requested relief and I will  
9 be voting in support of the application.

10 CHAIRPERSON HILL: Thank you.

11 Commissioner Wright?

12 ZC CHAIRPERSON HOOD: This has been a very interesting  
13 case. I'm going to be voting against the application. I'm not  
14 in favor of the application.

15 I really am concerned about us approving an accessory  
16 structure greater than 450 square feet and/or 30 percent of the  
17 required rear yard. It's significantly higher than 30 percent  
18 of the required rear yard and it is higher than 450 square feet.  
19 I think that it is too big for this property and I think that it  
20 will have a detrimental impact on the nearby neighbor's enjoyment  
21 and use of her property, and the views from her property.

22 So, you know, I know I may be in the minority here but  
23 I can't support the application.

24 CHAIRPERSON HILL: Okay. Thank you, Commissioner.

25 No, I appreciate that. I guess on my side of things,

1 I mean, just what I -- in the experience that I've had the part  
2 that in trainings that I've done it seems as though a view is  
3 something that we're not necessarily protecting. A view is not  
4 something that is within the scope of the regulations.

5 Now, the size of something, you know, the light and it  
6 goes back to, and I'll go back just to me again with the -- let  
7 me look at the regs real quick, okay? yeah, 5201.4 and the light  
8 and air, privacy and enjoyment and whether or not you can see it  
9 from the street or the alley. As I, I guess I'm going to align  
10 my comment or my thoughts with Mr. Blake and Mr. Smith, and that  
11 I think they are meeting this particular criteria for us to grant  
12 the relief.

13 I don't know about the screening. I don't, you know,  
14 I guess now Commissioner Wright's still allowed to participate  
15 in this discussion even though she's not interested in this  
16 particular or doesn't think it meets the criteria, but I don't  
17 know if the screening, I'm looking to the other Board members.  
18 Were you all saying that you thought the screening was serving a  
19 purpose and if so, would it be the way that it was suggested and  
20 I'm going to go with Mr. Smith first.

21 COMMISSIONER SMITH: I think it should be the way it  
22 was suggested in the plans where they're proposing there  
23 currently now for it to be completely open. So what we could do  
24 is we can forego the condition given that the plans that show  
25 substantial compliance -- the plans show that it's open. So when

1 | they submitted the plans to the Department of Buildings it had  
2 | to be in substantial compliance with how we've approved them. So  
3 | we could potentially just forego the condition and just trust the  
4 | plans and if they do not move forward with these plans as  
5 | submitted, they would have to come back before this Board.

6 |           CHAIRPERSON HILL: What I meant, and I'm sorry, what I  
7 | was trying to understand was that there's the two screens that  
8 | are on the side of the deck that's facing the party in opposition  
9 | and they're two screens, right? So those are the two screens  
10 | that I guess, and I'm just for lack of it seems like it's just  
11 | as fine with me to approve it with the two screens on that side  
12 | as not, you know.

13 |           Because what Mr. Blake was saying is that the screens  
14 | really would be on the side where the condo building is, right?  
15 | Perhaps more importantly particularly, and I haven't, I can't get  
16 | my head around exactly where that other window is, the one that  
17 | is below the deck lines. I mean, they're below the deck line.  
18 | But the one that was right over there by the condo building,  
19 | that's a different screen.

20 |           But I'm fine with keeping it the way the proposal is,  
21 | which I think is the two screens on one side, the two screens on  
22 | the other side I think. I can't remember whether they were, that  
23 | was the two screens on one side. Okay. Just two screens on one  
24 | side, and so, you know, if that seems to be helpful to making  
25 | the project more amenable, then I would be fine with that too.

1           So I guess we're keeping the -- currently on the deck,  
2 currently on this discussion, are the two screens on the side  
3 that's facing the home in opposition, and Mr. Blake, are you on  
4 board with that?

5           VICE CHAIRPERSON BLAKE: I could support that. I don't  
6 think it's necessary, but I can support that, yes.

7           CHAIRPERSON HILL: Right. Okay. All right.

8           Then I'm' going to go ahead and make a motion to approve  
9 Application 21263 as captioned and read by the secretary, and  
10 specifying, that this is not a condition, but specifying that  
11 this will be built as per the plans that were presented before  
12 the Board of Zoning Adjustment, and ask for a second. Mr. Blake?

13          VICE CHAIRPERSON BLAKE: Second.

14          CHAIRPERSON HILL: The motion is made and seconded.  
15 Madam Secretary, could you take a roll call, please.

16          MS. MEHLERT: And to clarify, I believe the renderings  
17 showing the screens that you're talking about are in Exhibit 31B.

18          CHAIRPERSON HILL: Yes.

19          MS. MEHLERT: Is that what you wanted to include?

20          CHAIRPERSON HILL: Yes. Thank you.

21          MS. MEHLERT: Okay.

22          Please respond to the Chair's motion to approve the  
23 application.

24          Chairman Hill?

25          CHAIRPERSON HILL: Yes.



1 MS. MEHLERT: Vice Chair Blake?

2 VICE CHAIRPERSON BLAKE: Yes.

3 MS. MEHLERT: Mr. Smith?

4 COMMISSIONER SMITH: Yes.

5 MS. MEHLERT: Commissioner Wright?

6 ZC CHAIRPERSON HOOD: No.

7 MS. MEHLERT: Staff would record the vote as three to  
8 one to one to approve Application No. 21263 on the motion made  
9 by Chairman Hill and seconded by Vice Chair Blake with  
10 Commissioner Wright opposed.

11 CHAIRPERSON HILL: Thank you.

12 All right, everybody. Thank you all for your time  
13 today. I hope you guys have a nice evening, and I'll see you  
14 next time. We're adjourned.

15 Bye bye.

16 (Whereupon, the above-entitled matter went off the  
17 record at 12:41 p.m.)

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

This is to certify that the foregoing transcript

In the matter of: Public Hearing

Before: DC BZA

Date: 04-02-25

Place: Videoconferencing

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



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Gloria Morales