

GOVERNMENT OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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REGULAR PUBLIC HEARING

+ + + + +

WEDNESDAY

MAY 21, 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, Carl H. Blake, Vice Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

CARL H. BLAKE, Vice Chairperson
CHRISHAUN SMITH, Commissioner
ANTHONY J. HOOD, Zoning Commission Chairperson

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 May 21, 2025.

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

(9:30 a.m.)

VICE CHAIRPERSON BLAKE: Good morning, ladies and gentlemen. The Board of Zoning Adjustment May 21st, 2025, public hearing will please come to order. My name is Carl Blake, Vice Chair of the District of Columbia Board of Zoning Adjustment. Joining me today are board members Chrishaun Smith representing the National Capitol Planning Commission and Zoning Commissioner Anthony Hood.

Today's meeting and hearing agendas 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. If you experience difficulty accessing Webex or your telephone call-in then please call our OZ hotline number at 202-727-5471 to receive Webex login or call-in instructions.

Today we will begin our decision meeting session and then proceed with our public hearing session. Please be advised that we do not take any public testimony at our decision meeting session. Public testimony will be received during the public hearing session, however only parties are allowed to testify in appeals. At the conclusion of a decision meeting session the

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

9 In today's hearing session everyone who is listening
10 on Webex or by telephone will be muted during the hearing and
11 only persons who have signed up to participate or testify will
12 be unmuted at the appropriate time. Please then state your name
13 and home address before providing oral testimony or your
14 presentation. Oral presentations should be limited to a summary
15 of your most important points. When you're finished speaking,
16 please mute your audio so your microphone is no longer picking
17 up sound or background noise. Once again, if you experience
18 difficulty accessing Webex with your telephone call-in or you
19 have forgotten to sign up 24 hours prior to this hearing, then
20 please call our OZ hotline number at 202-727-5471 to sign up to
21 testify and receive Webex login or call-in instructions.

22 All persons planning to testify either in favor or in
23 opposition should have signed up in advance. They will be called
24 by name to testify. By signing up to testify all participated
25 completed the oath or affirmation as required by Subtitle Y,

1 Section 408.7. Requests to enter evidence at the time of an
2 online virtual hearing such as written testimony or additional
3 supporting documents other than live video which may not be
4 presented as part of the testimony may be allowed pursuant to
5 Subtitle Y, Section 103.13. The order of procedure for special
6 exceptions and variances are pursuant to Subtitle Y, Section 409.
7 The order of procedure for appeals are pursuant to Subtitle Y,
8 Section 507. Time constraints shall be maintained pursuant to
9 Subtitle Y, Section 408.2 and 408.3.

10 At the conclusion of each case an individual who is
11 unable to testify because of technical issues may file a request
12 to leave the record open to file a written version of the planned
13 testimony to the record within 24 hours following the conclusion
14 of public testimony in the hearing. If additional written
15 testimony is accepted, then the parties will be allowed a
16 reasonable time to respond as determined by the Board. The Board
17 will then make a decision at its next meeting, but no earlier
18 than 48 hours after the hearing.

19 At the conclusion of a hearing the Board may request
20 additional specific information to complete the record. The
21 Board and staff will specify at the end of the hearing exactly
22 what is expected and the date when persons submit the evidence
23 to the Office of Zoning. No other information will be accepted
24 by the Board.

25 Once again, after the Board adjourns the hearing, the

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

9 Finally, the District of Columbia Administrative
10 Procedures Act requires that the public hearing on each case be
11 held in the open before the public. However, pursuant to Sections
12 405(b) and 406 of that Act the Board may, consistent with its
13 rules and procedure and the Act, enter into a closed meeting on
14 a case for purposes of seeking legal counsel on a case pursuant
15 to D.C. Official Code, Section 2-575(b)(4) and/or deliberate upon
16 a case pursuant to D.C. Official Code, Section 2-575(b)(13) but
17 only after providing the necessary public notice and in the case
18 of an emergency closed meeting after taking a roll call vote.

19 Madam Secretary, do you have any preliminary matters?

20 MS. MEHLERT: Good morning, Mr. Vice Chair, Board
21 member Smith, Chairman Hood. There are no scheduling changes to
22 the agenda today. However, regarding late filings the Vice Chair
23 has reviewed and granted waivers to allow late filings into the
24 applicable case record pursuant to Subtitle Y, Section 206.7 and
25 Section 103.13. Any other late filings during the course of

1 today's live hearing should be presented before the Board by the
2 Applicant, parties or witnesses after the case is called. Any
3 other preliminary matters will be noted when the case is called.

4 VICE CHAIRPERSON BLAKE: Okay.

5 Would you then please call our first case.

6 MS. MEHLERT: First case in the Board's meeting session
7 is on the expedited review calendar. It's Application No. 21300
8 of Joseph P. Catlett, Trustee and John K. Jenkins, Trustee. This
9 is a self-certified application pursuant to Subtitle X, Section
10 901.2 for a special exception under Subtitle D, Section 5201,
11 from the rear yard requirements of Subtitle D, Section 207.1.

12 This is for a one-story rear porch addition to an
13 existing two-story detached principal dwelling. It's located in
14 the R-1A zone at 4250 Fordham Road, Northwest, Square 1467, Lot
15 898.

16 VICE CHAIRPERSON BLAKE: Okay. Thank you.

17 The Applicant proposes to construct a 408 square foot
18 one-story screen porch addition over an existing patio that is
19 currently partially covered by a large pergola in a rear detached
20 principal dwelling. The property sits on an 8,600 plus square
21 foot lot created in the early 1990s as part of a theoretical lot
22 subdivision. This subdivision actually required a 25 foot rear
23 yard, however the existing rear yard is nonconforming at 22.96
24 feet with the proposed addition required rear yard would be
25 reduced to 4.6 feet in the area occupied by the screen porch

1 while the remaining portions of the yard remain at the existing
2 nonconforming condition.

3 To address these issues the Applicant is seeking a
4 special exception from the rear yard requirements of Subtitle D,
5 Section 207.1. The Board is authorized to grant the requested
6 relief pursuant to the criteria for Subtitle D, Section 5201 and
7 Subtitle X, Section 901.2, and also the Applicant has requested,
8 and is eligible, for an expedited review pursuant to Chapter Y,
9 Section 401.

10 As a special exception represents the permitted
11 deviation from the matter-of-right development standard subject
12 to certain conditions, the Applicant must demonstrate to
13 substantial evidence presented in the record that the project
14 shouldn't result in undue adverse impact on neighboring
15 properties.

16 Given the existing site conditions including
17 landscaping and the orientation of neighboring structures, the
18 addition should not create a substantial shadowing or obstruct
19 the availability of light and air to adjacent properties, and
20 given the height of the structure the existing site condition,
21 including the mature landscaping of fences and orientation, the
22 addition should also not impact or compromise their privacy. The
23 addition should not be visually intrusive as it will not be
24 visible from Fordham Road and 49th Street, and its scaling design
25 aligns with the existing homes and neighboring character.

1 I agree with the Office of Planning's analysis that the
2 Applicant has met the burden of proof to be granted the requested
3 relief. I give great weight to the Office of Planning's
4 recommendation for approval. I also give great weight to the
5 report of ANC 3D which is in support of the application and states
6 no issues or concerns. I will note that there is a letter of
7 support in the record from the neighbor residing directly behind
8 the subject property. I'll be voting in support of the
9 application.

10 Mr. Smith, do you have anything to add?

11 COMMISSIONER SMITH: Chairman Blake, I don't think I
12 have anything to add. I think that you have summed up the merits
13 of this case and the reasons why they meet the burden of proof
14 to be granted the special exception and I will support as well.

15 VICE CHAIRPERSON BLAKE: Okay.

16 Chairman Hood?

17 ZC CHAIRPERSON HOOD: Thank you, Mr. Chairman.

18 I have nothing to add and I'll be voting in favor as
19 well.

20 VICE CHAIRPERSON BLAKE: Awesome. Okay.

21 Having deliberated, I'll make a motion to approve
22 Application No. 21300 as captioned and read by the secretary, and
23 ask for a second.

24 Mr. Smith?

25 COMMISSIONER SMITH: Second.

1 VICE CHAIRPERSON BLAKE: Madam Secretary, the motion
2 has been made and seconded. Madam Secretary, would you please
3 conduct a roll call vote?

4 MS. MEHLERT: Please respond to the Vice Chair's motion
5 to approve the Application.

6 Mr. Blake?

7 VICE CHAIRPERSON BLAKE: Yes.

8 MS. MEHLERT: Mr. Smith?

9 COMMISSIONER SMITH: Yes.

10 MS. MEHLERT: Chairman Hood?

11 ZC CHAIRPERSON HOOD: Yes.

12 MS. MEHLERT: Staff would record the vote as three to
13 zero to two to approve Application No. 21300 on the motion made
14 by Vice Chair Blake and seconded by Mr. Smith, with Chairman Hill
15 not participating.

16 VICE CHAIRPERSON BLAKE: Okay. Thank you.

17 Madam Secretary, would you call our next application,
18 please.

19 MS. MEHLERT: Next is Application No. 20566-A of
20 Towerco 2013, LLC. This is a request pursuant to Subtitle Y,
21 Section 703 for a modification without hearing of the plans
22 approved in Application No. 20566 to allow an increase in the
23 height of an existing monopole from 84 feet to 99 feet.

24 It's located in the R-1B zone at 1800 Perry Street,
25 Northeast, Parcel 01570026 and Parcel 01570027.

1 VICE CHAIRPERSON BLAKE: Thank you.

2 In the original order 25066 the Board granted special
3 exception under Subtitle C, Section 1313 to allow a new monopole
4 with a height of 84 feet. The special exception pursuant to
5 Subtitle X, 900.2 from Subtitle C, Section 1313.2 for an extension
6 of the 84 foot monopole to 99 feet in height.

7 In this proceeding pursuant to Subtitle Y, Section 703,
8 the Applicant is seeking modification without hearing to allow
9 the increase in the height of the monopole from 84 to 99 feet to
10 accommodate the co-location of another carrier's cell site which
11 need to be re-located to the renovation or to facilitate the
12 renovation of the Burroughs Elementary School. I believe the
13 design and modification is appropriate as a modification without
14 hearing pursuant to Subtitle Y, Section 703.7 as there are no
15 additional relief required and I have no objections, and because
16 I believe the impact on this modification can be understood
17 without witness testimony.

18 I've reviewed the and I will credit the Office of
19 Planning's analysis on how the application has met the conditions
20 of Subtitle C, Section 1313.2 as well as the general standards
21 of Subtitle X, Section 901.2. It is located away from residential
22 properties. The proposed pole is necessary and will accommodate
23 another carrier. The proposed pole will be only 15 feet taller
24 but the Applicant's depiction suggests the visual impact will not
25 be significantly greater.

1 I give great weight to the Office of Planning's
2 recommendation for approval. While there's no report in the
3 record from the ANC to give great weight, I will note that the
4 proper posts were made to all parties including the affected ANC
5 receive proper notice. I'll be voting in support of the
6 modification.

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

8 COMMISSIONER SMITH: Vice Chair Blake, I don't have
9 anything to add. I agree with your assessment of this case and
10 will vote in support.

11 VICE CHAIRPERSON BLAKE: Thank you.

12 Chairman Hood?

13 ZC CHAIRPERSON HOOD: I agree with your assessment as
14 well, Mr. Chairman. I think the record reflects approval in this
15 particular case.

16 Thank you.

17 VICE CHAIRPERSON BLAKE: Okay.

18 Having deliberated, I'll make a motion to approve
19 Application No. 20566 as captioned and read by the secretary, and
20 ask for a second. Mr. Smith?

21 COMMISSIONER SMITH: Second.

22 VICE CHAIRPERSON BLAKE: The motion is made and
23 seconded. Madam Secretary, would you please conduct a roll call
24 vote?

25 MS. MEHLERT: Please respond to the Vice Chair's motion

1 to approve the application.

2 Vice Chair Blake?

3 VICE CHAIRPERSON BLAKE: Yes.

4 MS. MEHLERT: Mr. Smith?

5 COMMISSIONER SMITH: Yes.

6 MS. MEHLERT: Chairman Hood?

7 ZC CHAIRPERSON HOOD: Oh, I'm sorry. I didn't hear
8 you. Yes.

9 MS. MEHLERT: Staff would record the vote as three to
10 zero to two to approve Application 20566-A on the motion made by
11 Vice Chair Blake and seconded by Mr. Smith.

12 VICE CHAIRPERSON BLAKE: Okay.

13 Madam Secretary, would you please call our first public
14 hearing case?

15 MS. MEHLERT: First case in the Board's hearing session
16 is Application No. 21247 of Jewish Primary Day School of the
17 Nation's Capitol Inc. This is a self-certified application
18 pursuant to Subtitle X, Section 901.2 for special exceptions
19 under Subtitle U, Section 203.1(m) and Subtitle X, Section 104,
20 to allow expansion of an existing private school, and under
21 Subtitle C, Section 703.2 from the minimum vehicle parking
22 requirements of Subtitle C, Section 701.5.

23 This is for increases in student enrollment and staff
24 in an existing private school. It is located in the R-1B zone
25 at 4715 16th Street, Northwest, Square 2707, Lot 33. This hearing

1 was originally scheduled for March 19th and postponed at the
2 Applicant's request. Also as a preliminary matter there is a
3 request from the Applicant to waive the 30 day filing deadline
4 to allow in an updated conditions list and existing site
5 improvements plan, and these are in Exhibits 29 through 29B.

6 VICE CHAIRPERSON BLAKE: Thank you very much.

7 With the Board's indulgence, I would like to grant the
8 motion to include the additional documentation. I think it would
9 be very helpful for the case.

10 The Applicant, would you please introduce yourself?

11 MS. BLOOMFIELD: Good morning. Jessica Bloomfield with
12 the law firm of Holland & Knight. We have a whole team here. Do
13 you want everyone to go and introduce themselves right now as
14 well, or would you like me to do that for them?

15 VICE CHAIRPERSON BLAKE: You can do it, whichever way
16 is the easiest. What I'd like to do is you introduce everyone
17 but I would like you to explain to me the format of your
18 presentation and who will be speaking and who will be available
19 for questions that are asked. But please introduce everyone.

20 MS. BLOOMFIELD: Wonderful. Deborah, I'll kick it over
21 to you. Deborah is head of school. And you're on mute.

22 MS. SKOLNICK-EINHORN: Thank you.

23 Hi everyone. I'm Deborah Skolnick-Einhorn. I'm the
24 head of school of Milton Gottesman.

25 We're a Jewish Day School, the only Jewish Day School

1 in the District of Columbia. We live on two campuses, both on --

2 VICE CHAIRPERSON BLAKE: Ms. Einhorn, I just wanted you
3 to introduce yourself at this point.

4 MS. SKOLNICK-EINHORN: I'm Deborah. I'm the head of
5 school.

6 VICE CHAIRPERSON BLAKE: Okay.

7 MS. SKOLNICK-EINHORN: Thank you.

8 MS. BLOOMFIELD: Vanita?

9 MS. MILTON: Vanita Ahuja. I'm the Chief Strategy and
10 Operations Officer at Milton.

11 MS. BLOOMFIELD: Melissa? You're on mute.

12 MS. DAVIS: Apologies. I'm Melissa Davis. I've been
13 the principle of South Campus for 13 years.

14 MS. BLOOMFIELD: Duncan?

15 MR. MILLER: Yes. I'm Duncan Miller. I lead Security
16 and Facilities for Milton.

17 MS. BLOOMFIELD: And we do have a few other folks here
18 as well. I know that Nicole White from Symmetra, she's our
19 transportation consultant, she is on. We also have our
20 transportation coordinator for the school who should be, oh,
21 there's Nicole. Sorry.

22 Anyway, we're all here and I'm happy to answer your
23 first question which is, I will be doing the majority of the
24 presentation. We did file a PowerPoint. I will turn it over to
25 Deborah to talk a little bit about the school and its operations

1 and the need for the requested relief, and then our entire team
2 is here for questions.

3 VICE CHAIRPERSON BLAKE: I'm going to put 15 minutes
4 on the clock, so we can keep track of where things are and would
5 you please just go through and begin your presentation.

6 Mr. Young, could you pull up the presentation, please?

7 MS. BLOOMFIELD: Thank you.

8 Good morning. Again for the record, Jessica Bloomfield
9 from Holland & Knight. I am here this morning on behalf of the
10 Milton Gottesman Jewish Day School requesting special exception
11 relief to increase the maximum committed number of students and
12 faculty permitted within the existing and approved lower school
13 campus building which is at 4715 16th Street. The application
14 also requests special exception relief to reduce the number of
15 required on-site parking spaces. Would you go to the next slide?

16 VICE CHAIRPERSON BLAKE: Ms. Bloomfield, could you just
17 let me interrupt you just for a second. I forgot to mention
18 something.

19 MS. BLOOMFIELD: Of course.

20 VICE CHAIRPERSON BLAKE: I've gone over the slides,
21 your prepared slides and have reviewed the proposed modification
22 to the conditions that are presented in Exhibit 29A.

23 MS. BLOOMFIELD: Great.

24 VICE CHAIRPERSON BLAKE: It is clear, we're effectively
25 looking at the impact of 20 additional students and 11 faculty

1 staff, and the request to reduce the minimum parking requirement.
2 Now, this is not a modification of the prior order, but rather a
3 new application. So if it's approved, the order will supersede
4 the previous order and the conditions of the new order will
5 govern. So, as you know, the conditions of the Board's orders
6 are designed to mitigate potentially adverse impacts and I
7 realize that some of these conditions you've listed have carried
8 over from the original Lowell order even.

9 So it would be helpful for me if you would provide some
10 additional detail on the rationale for each condition, so I'm
11 asking at the end of your presentation, your formal presentation,
12 you go through your proposed conditions in Exhibit 29A and have
13 the Board ask any questions they might have. I think that will
14 expedite matters as we go forward.

15 MS. BLOOMFIELD: Absolutely. And I did actually email
16 along with the PowerPoint the exhibit to the conditions to Paul
17 Young so that he should have those at his fingertips as well,
18 and let's turn to that after we do the presentation because I do
19 want Deborah to speak a little bit about the history of the school
20 and the need for the increase in the students. I do think that's
21 important. But we can sort of skip through some of the other
22 stuff. I'll move through it a little bit more quickly because
23 it sounds like you've done a careful review of the case record
24 already.

25 So on this slide you can see the property. It's zoned

1 R-1B. It's located on the east side of 16th Street with Decatur
2 Street to the north and Piney Branch to the east. It received
3 its private school original approval in 1989 and it has operated
4 as a private school since then.

5 On the next slide you can see the existing school
6 building on the property. Other than the building, the property
7 is just improved with a play area for students and seven surface
8 parking spaces for faculty and staff. The application that we
9 have before you today does not propose any construction,
10 enlargements, nothing physical is happening to the property, just
11 the increase in students and faculty.

12 The next slide I think I'm turning over to Deborah to
13 give a little bit of color on the school's operations.

14 MS. SKOLNICK-EINHORN: Hi everybody. Thanks so much
15 for having us this morning.

16 We really treasure our place as part of the
17 (indiscernible) 16th Street landscape. We were founded in 1988.
18 In my fifth year I'm the third head of school, so we're in our
19 37th year of operation. A dozen years already on our additional
20 campus or small area what we call our south campus for our early
21 elementary which is Pre-K through One. We're the only Jewish Day
22 School in the District of Columbia and we're really a deep
23 community as part of that, both within the Jewish community and
24 within our D.C. community. We have an other campus also in Ward
25 4 which is at 16th and Fort Stevens. There are 470 students

1 between the two campuses and as Jessica said, we're looking to
2 move from 130 to 150 maximum at our south campus.

3 Students are coming from all over D.C. and Montgomery
4 County, and also Prince George's. Almost of them arrive and
5 leave our campuses via one of our nine buses or campus
6 transportation and many of our staff members also live close by,
7 including me in Ward 4, and use public transportation, very
8 accessible by the F2 and F9 buses. We have globs of kids who
9 come on them each morning.

10 We really are very proud to be a values-driven school
11 and some of our key values are serving the community, providing
12 support. We try to be out there and have our kids doing good
13 deeds. It's part of our tradition, both at the school and as a
14 spiritual community. You know, we really saw during Covid and
15 since Covid an increased demand for the school. There's a bit
16 of a bottleneck at our south campus which means that we can't
17 always accept as many students as desire to come here.

18 Unlike many other D.C. area private schools we're
19 really looking to get as many Jewish students and other students
20 from the community who have come. If we're equipped to support
21 them we want to be able to say yes. We're not a school that's
22 looking to have a waiting list or to be an elite school. We
23 really just want to serve any family who wants a Jewish education
24 and we're seeing incrementally that there's one or two students
25 a year that we're turning away because we don't have sufficient

1 capacity at our smaller south campus.

2 So what we're really seeking here today is not a
3 revolution. If at all it's a small evolution to be able here
4 and there to accept one student or hire an additional assistant
5 teacher to make sure we're meeting the student's needs and making
6 sure we can say yes to families who really want this education.
7 In particular at the moment we're really enmeshed in the process
8 to ensure that we're supporting our Federal workers. Thirty of
9 our families have already experienced a layoff. We're very much
10 a school, about 50 percent of our families have at least one
11 person who's in the Federal workforce. We're providing emergency
12 financial aid to make sure that our school is accessible to
13 everyone.

14 In a given year we give away four and a half million
15 dollars in aid. This year we're fundraising, recognizing we
16 might need to, you know, give away several more millions to ensure
17 that any family, you know, isn't losing the opportunity for the
18 religious education that they'd like because of what's happening
19 and the uncertainty in the Federal worker force. Again, we're
20 not looking to suddenly fill, you know, at least 20 spots but to
21 be able to say yes to a family who really wants this Jewish
22 education, the only one available in D.C., we want to be able to
23 say yes as those applications come up.

24 We've been here for 13 years really without incident.
25 We always want to be good neighbors. We contacted people, as

1 | you've seen in our presentation, and we're really eager to work
2 | with our neighbors always and to be part and part of the community
3 | and neighborhood, and very open to ways that we can continue to
4 | grow in that.

5 | VICE CHAIRPERSON BLAKE: I have a quick question for
6 | you.

7 | MS. SKOLNICK-EINHORN: Yes.

8 | VICE CHAIRPERSON BLAKE: How many students do you have
9 | in each of the grades? You have three grades there. How many
10 | students are in each one?

11 | MS. SKOLNICK-EINHORN: So in each of the grades we have
12 | 19 in our pre-K, that's only one section. And then we have a
13 | maximum of 52 in our kindergarten and we can go up to 57 I believe
14 | in our first grade.

15 | VICE CHAIRPERSON BLAKE: And how would you, is that mix
16 | going to pretty much be the same for the prescribed increase or
17 | would that be adjusted more to the pre-K level, or how do you
18 | expect to do that?

19 | MS. SKOLNICK-EINHORN: Yeah. I think it really depends
20 | on demand, Mr. Blake. You know, if we see increased demand in
21 | pre-K, then we might think about two smaller classes in pre-K or,
22 | you know, increased demand in kindergarten, which is our most
23 | common entry year, to make a few enlargements in that grade. Our
24 | upper campus can't accommodate more than 60 per grade, so we
25 | would never be growing any grade larger than that.

1 And we want to keep low, you know, teacher to student
2 ratios of course which is why we've put in for additional teaching
3 staff. We want to make sure we're providing learning support so
4 students with a range of needs can come to Milton and get a Jewish
5 education. We take pride in that. It's a big part of our value
6 system, and just want to make sure that we can staff sufficiently
7 to serve every student's needs.

8 VICE CHAIRPERSON BLAKE: In the increase in faculty and
9 staff, what amount is faculty and what amount is staff or just
10 it could vary? What's your anticipation?

11 MS. SKOLNICK-EINHORN: Yeah. I mean 11, honestly 11
12 staff is a big leap for us financially. That would be a very
13 slow growth for us, I think. But I would imagine, you know,
14 ultimately if we added one additional class anywhere, we would
15 need three additional teachers for that. We have, every class
16 has a teacher who does our Hebrew and our Jewish studies and
17 another who does general studies, and then also an assistant
18 teacher. But if we were to grow by this amount we would probably
19 add a learning specialist in there as well.

20 VICE CHAIRPERSON BLAKE: Okay.

21 And last, do you guys have any contract workers on
22 staff and do you share faculty or staff with the upper campus
23 (audio interference)?

24 MS. SKOLNICK-EINHORN: We do share a faculty and staff
25 between the two campuses, more for the administration. So Vanita

1 and I, for example, we switch off days, so that we're supporting
2 at both campuses. So there are quite a few of us, Duncan as
3 well. Really our administration is for, we think of it as one
4 pool, two campuses, so our security administration, our
5 facility's administration is shared.

6 The two contracts that we have are with our facilities
7 team. We work with an organization called PNM. They've been
8 our partners for some time. It's been a very good partnership.
9 We also have a security contract which is relatively new, just
10 since October 2nd. We've had a need for increased security at
11 our campuses and so we do have a contract with an organization
12 called TriCorps. We also have internally some security that we
13 employ directly.

14 VICE CHAIRPERSON BLAKE: And then the head count, with
15 regard to that is not counted in your faculty's count at all?
16 Okay. How many people would you say are associated with that,
17 just for those two services?

18 MS. SKOLNICK-EINHORN: So we hire, for our security we
19 have one person at each campus and that would not change. We're
20 fully staffed for the number of seats we have. That's just based
21 on the campus, so we wouldn't add any additional security. I
22 think for facilities at our south campus, we don't even have a
23 full time person here. If we were to grow, we would probably
24 just grow that role, but we most likely wouldn't have to add an
25 additional facility as it's a small, it's a small school, but we

1 might add hours to that contract.

2 VICE CHAIRPERSON BLAKE: Okay. Thank you. I appreciate
3 your answers.

4 MS. SKOLNICK-EINHORN: Absolutely. Thank you.

5 MS. BLOOMFIELD: If you could go to the next slide,
6 please, Mr. Young.

7 Just a brief history. We talked about this already.
8 There have been two prior BZA applications approved originally
9 for 125 students and 14 faculty staff, adds up to 130 students
10 and 26 faculty and staff and the current request is for 150
11 students and 37 faculty and staff which, as we've discussed, also
12 results in an increase in parking requirement which we've
13 requested relief for. Next slide, please.

14 We've sort of gone over this but just to state for the
15 record. The special exception relief is requested pursuant to
16 Subtitle X, Section 901.2. The private school use is under
17 Subtitle U, Section 203.1(m) and Subtitle X, Section 104. How
18 we meet those requirements is all in our PowerPoint presentation.
19 It's also explained in detail in the case record. I'm happy to
20 skip through it if that is, if we want to get straight to the
21 conditions. (Indiscernible).

22 VICE CHAIRPERSON BLAKE: (Indiscernible) please go
23 through it.

24 MS. BLOOMFIELD: Yes, yes. Vehicle parking is pursuant
25 to Subtitle C, 703.2. Next slide, please.

1 Before we get into those details I wanted to provide a
2 quick overview for the Board members. We are pleased to have
3 support for this application. We worked closely with our affected
4 ANC 4E over a number of months. We received a official unanimous
5 vote in support at their March, 2025 public meeting. That's in
6 the case record. We also have a supportive report from the Office
7 of Planning. It has not expressed any conditions. I hope they'll
8 be here today to express that again.

9 And then we did work very closely with DDOT. DDOT's
10 report indicates no objection and they indicated three conditions
11 which we agreed to all three of those. The first is to continue
12 to work with DDOT on the school bus pick-up and drop-off, and 2)
13 to implement the TDM plan. There's one very minor change that
14 we discussed with DDOT after they submitted their report. There
15 was a duplicative car pooling requirement which they agreed was
16 not necessary, and then the third is to continue to implement the
17 TDM plans that are currently existing. So we agree with all of
18 those conditions. Next slide, please.

19 VICE CHAIRPERSON BLAKE: I have one question. I have
20 one question before you go back to that.

21 MS. BLOOMFIELD: Okay.

22 VICE CHAIRPERSON BLAKE: On the parking, I mean on the
23 bus drop-off. The issue is between Decatur Street and 16th Street
24 and as I recall from the discussion there was an issue as to
25 whether it would be, you had historically had it on 16th Street

1 but DDOT wanted it to be on Decatur. Where does that stand right
2 now? From our perspective we'd like to go one way or the other.
3 Where are you now with that discussion?

4 MS. BLOOMFIELD: Sure.

5 So we have operated successfully on 16th Street
6 forever. There has been no concerns raised by the community.
7 There has been no safety concerns for any of our students or
8 faculty. It is the cleanest and clearest and safest way for
9 students to enter and exit the building.

10 I will turn it over to Nicole and/or someone else from,
11 probably Vanita, from the team to answer any specific questions
12 you have about it. Our position is that 16th Street is the safest
13 and most appropriate location for bus pick-up and drop-off. It
14 does not change the status quo. DDOT has asked that it go on
15 Decatur Street because their preference is to keep activities
16 like this on lower flow streets. We have a number of ways that
17 we believe that we can accommodate any of the concerns that DDOT
18 might have about keeping it on 16th Street and I will stop there
19 and let you ask some questions and turn it over possibly to Nicole
20 or Vanita to answer them for you.

21 MS. WHITE: Let me just chime in before the questions
22 and just say that our desire is to have that flexibility remain
23 so that we can continue to coordinate with DDOT during the Public
24 Space process. So we want to continue those discussions, so that
25 would be our request at this point, to allow that flexibility to

1 | either go on Decatur or 16th Street.

2 | VICE CHAIRPERSON BLAKE: Just to quick clarify. So is
3 | it a matter of just negotiating back and forth with, to keep 16th
4 | Street or is there some particular plans you have in mind that
5 | would make 16th Street work if DDOT is in opposition to that?

6 | MS. WHITE: Yes. So our desire is to keep 16th Street,
7 | I think the way Ms. Bloomfield started with just how robust our
8 | bus program is, helping 70 percent plus of the population and the
9 | importance of the connection between the north and south campus
10 | and the efficiencies of eight to nine buses depending on the time
11 | of day and all of the various stops. The school really desires
12 | and understands the importance of maintaining the bus pick-up and
13 | drop-off on 16th Street. There is a direct line for the
14 | pedestrians, for the students to go without conflicts with any
15 | vehicles from 16th Street whereas there is not that same
16 | opportunity from Decatur Street.

17 | VICE CHAIRPERSON BLAKE: What's the time line in which
18 | you think you'll have resolution on this with DDOT?

19 | MS. WHITE: I think the time line is DDOT has stated
20 | its position and we'd like to continue this dialog on this part
21 | of the Public Space process and, you know, if necessary include
22 | neighborhood discussions as part of that.

23 | VICE CHAIRPERSON BLAKE: Okay. We'll probably have to
24 | come back to that.

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

1 COMMISSIONER SMITH: Yeah. Just to that point that Ms.
2 White brought up.

3 I don't think that this Board has ever taken that
4 approach. DDOT has been fairly explicitly clear that they would
5 prefer to have it on Decatur Street, so has there been any type
6 of plan that's been presented to DDOT? Is there a plan that you
7 can provide that shows how you could make Decatur Street work,
8 and also has there been some dialog with the neighborhood already
9 about, you know, this particular DDOT condition of moving this
10 to Decatur Street?

11 MS. WHITE: We looked at this as being separate from
12 the BZA process of adding 20 students, that this is something
13 that DDOT may desire to do separate from that case, and so we
14 were just looking into maintaining that flexibility. We have
15 submitted to DDOT a memorandum separate from the transportation
16 statement separate from the BZA process to just our evaluation
17 of Decatur Street versus 16th Street, and there are certainly
18 advantages to each option. But considering the context of
19 everything, we just stated our case for the preference of 16th
20 Street and so that's why we wanted to continue that dialog and
21 maintain that flexibility.

22 COMMISSIONER SMITH: Okay. Thank you.

23 And I'll just go on record and say that I do agree that
24 this request from DDOT is separate from the increase in the number
25 of students, but I do not think it's separate from their request

1 for a reduction in the vehicle parking spaces because to me this
2 is all, you know, one discussion. So that's the reason why I do
3 have some hesitation in just kicking this can to the Public Space
4 Committee. Sorry.

5 MS. WHITE: If I could just respond to that please. So
6 the parking space thing is separate from the pick-up/drop-off
7 because the parking spaces are there to support staff and the
8 parking is right across the street where the pick-up drop-off is
9 really for the 70 percent plus students that use the bus program.
10 So we see that as a separate --

11 COMMISSIONER SMITH: I completely disagree with you --

12 MS. WHITE: Okay.

13 COMMISSIONER SMITH: -- because honestly with these
14 type, you were here before on another case as well.

15 MS. WHITE: Sure.

16 COMMISSIONER SMITH: It had to deal with a daycare
17 facility and there was a big discussion about the pick-up and
18 drop-off. So I don't know how we can say one way or the other
19 on that particular case where it doesn't apply and this case
20 we're going to kick it to some future date.

21 MS. WHITE: No. I think the difference of that, I'm
22 very familiar and I recall that case, is that there were
23 neighborhood concerns that were explicitly stated about the use
24 of Peabody Street, and so that's why we had to, like, really
25 provide all of the detailed information and then there was a

1 school that was a couple of blocks away and there was just concern
2 about those cumulative impacts. But I hear what you're saying,
3 just my initial response to that.

4 MS. AHUJA: May I provide some color and context? So --

5 VICE CHAIRPERSON BLAKE: Before you do that, Ms. Ahuja,
6 I just want to say one thing.

7 We have to understand that this is, we're looking also
8 at a condition that discusses this and one of the things we want
9 to, don't forget this is going to supersede the other order. So
10 it's kind of like we're going to decide it one way or the other.
11 The other order says 16th Street. The TDM plan says that DDOT
12 wants something else. If we decide to go and say, okay, for 16th
13 Street, then you're going to have to come back for a modification
14 to switch it to Decatur if that happens and if you decide to,
15 you know, so that's one issue I'm thinking about. It's not going
16 to carry over. It's either, you know, it will supersede the last
17 order so this is what matters to us.

18 So I think, and also there's an issue about delegation
19 of authority to the extent that we allow DDOT to decide where it
20 goes later and it's not reflected in our order. So we, I do
21 think this is something we'd like to, we're going to have to work
22 through it, as Board member Smith pointed out. It's not fully
23 out of our bailiwick.

24 MS. WHITE: And Ms. Bloomfield has provided later in
25 the presentation just the modification to that condition which,

1 again, would include some flexibility in the language there. So
2 I guess we can continue the conversation if it makes sense at
3 that point. But I think we're on the same page with DDOT and
4 the actual TDM, it's just the pick-up/drop-off.

5 MS. AHUJA: Right. If I could provide the color.

6 So right now we have eight school buses in the morning,
7 nine school buses in the afternoon that transport between the two
8 campuses about 372 children to school. And Decatur Street itself,
9 the block that we're on is quite small and that's where our parent
10 pick-up/drop-off procedures are. There are only seven parking
11 spots on the property itself.

12 So what we would like to continue to do is to have the
13 buses pick up and drop off on Decatur. We understand that there's
14 a concern about standing and so we are prepared to address that.
15 We're working with our bus company to see if we can get a radio
16 or a schedule so that we can ensure that there's not more than
17 one bus at a time on 16th Street when they're dropping off.

18 The challenge with Decatur is there's only space for
19 one bus at a time and with the fact that that there's where our
20 pedestrians enter, it's also where the cars enter and it's a very
21 small block. Our concern is twofold. No. 1 is the presence of
22 the buses and the cars going in the opposite directions could
23 create a challenge and also everybody would need to funnel out
24 into the neighborhood street, which we would like to avoid because
25 we would like to try and be good neighbors and we understand that

1 | having those buses and families and cars on those streets would
2 | not be ideal.

3 | So we would like to continue to make the case with
4 | DDOT. We've asked DDOT to come see the school and show them how
5 | our procedures work in case there are things that they think we
6 | can tighten up on 16th Street, but we maintain that 16th Street
7 | would be safer and cleaner for our neighbors and also more
8 | efficient in terms of transporting students between the two
9 | campuses because the buses that head northward start at our south
10 | campus in the afternoon, for instance, and then go to the, they
11 | start at our south campus, they go to the north campus and then
12 | they pick up the kids at north campus and then they continue
13 | north and it's the opposite in the afternoon. So the buses that
14 | head southbound start at our north campus and then go to our
15 | south campus, and then continue on their way.

16 | We're mostly concerned about the impact to neighboring
17 | streets if we end up going on to Decatur and this didn't come up
18 | as part of our ANC presentation because we were still in
19 | negotiation with DDOT which is part of why we'd like to wait, if
20 | possible, to save it for the Public Space because we'd like to
21 | engage the ANC and make sure that whatever we decide is something
22 | that they would also be appreciative of.

23 | ZC CHAIRPERSON HOOD: Mr. Chairman? Mr. Chairman?

24 | VICE CHAIRPERSON BLAKE: Chair Hood.

25 | ZC CHAIRPERSON HOOD: Oh, sorry. Yeah. I appreciate

1 that discussion. I'm not always in favor of what DDOT proposes.
2 I don't see anything in this record which would change anything
3 from the school to continue to do what they do on 16th Street.
4 I understand their policies of trying to use Decatur and what
5 they're trying to do across the city. This is one of those cases
6 where I believe DDOT, and I don't believe they show up sometimes
7 to the BZA, this is one of those cases where I believe DDOT should
8 be present so we can have, so we can discuss questions with them.

9 But I think you, Mr. Chairman and Board member Smith,
10 are right on target because the key was at the end of the day,
11 Ms. Bloomfield and Ms. White, I believe DDOT has the final say
12 so. So the problem I'm having is is exactly what my colleagues
13 have already mentioned. If we do something you may have to come
14 back for a modification. So to me, normally I don't have a
15 problem moving it on to Public Space, but this time the issue is
16 we need to kind of have some certainty I believe, having known
17 as I've sat on this case previously in 2012, but regardless I
18 think it's very important that that get nailed down.

19 But I don't see anything in this record that would go
20 against what the school is trying to do. So that's just my two
21 cents and I wanted to put that on the record. That's why I need
22 to have questions, would like to have a conversation with DDOT
23 but I know DDOT has the final say.

24 Thank you, Mr. Chairman.

25 VICE CHAIRPERSON BLAKE: Thank you, Mr. Chair.

1 You may continue your presentation.

2 MS. BLOOMFIELD: Thank you. I will, and just to put a
3 pin in this plan we can absolutely come back to it, we've had a
4 number of conversations with DDOT about this issue and we have
5 no reason to believe that 16th Street is not the right place.
6 These are very young kids. Kinder, you know, pre-K through 1st
7 grade, they're very young kids and safety is really the most
8 important piece here.

9 We are not aware of any concerns from the neighborhood
10 over the past decade plus of having the buses on 16th Street. So
11 maintaining the status quo in this situation is really our strong
12 preference. If you could go to the next slide, please, I'll
13 continue the presentation.

14 Here we have, just reference the fact that we did file
15 an updated conditions chart. We recognize to the Chair's point
16 that these are the new conditions that supersede the conditions
17 in the prior order. They are mostly, and we can go through them,
18 but they are mostly just cleaning things up to demonstrate how
19 the school is currently operating, to make things a little bit
20 more clear compared to what was approved in 2012/2013. There's
21 nothing hugely different in those conditions including the above,
22 quite frankly, which was required to be on 16th Street a decade
23 ago. Next slide.

24 Here I will quickly touch on how the application meets
25 the standards of review. First, the private school use requires

1 compliance with X-104 and U-203.1(m). As we have provided in our
2 application, the private school use will be located so that it
3 is not objectionable to adjoining or nearby properties. This use
4 has existed for many, many years with no known impacts and the
5 minimal increase in students and faculty will not disturb the
6 status quo.

7 Given the high rate of school bus ridership that Nicole
8 alluded to, it will not generate any meaningful traffic increases
9 and based on the school's limitation on the number of classes
10 that are permitted to play outside at any given time, there will
11 be no meaningful increase in noise at the property either. There
12 will also be no new facilities as a result of the application
13 and therefore no impacts associated with construction or new
14 buildings or structures.

15 Second, as we will discuss, there is ample parking
16 provided for this proposed use. The seven existing parking spaces
17 will remain on-site and we have an agreement to provide 18
18 additional spaces across the street at the 19th Street Baptist
19 Church. This parking configuration has been found to adequately
20 accommodate all students, teachers and visitors to the property.

21 And third on this slide, X-104.3 states that
22 development standards are to mirror those in the underlying zone.
23 In this case the application is not proposing any new development,
24 so it's not applicable here. Next slide, please.

25 Relief was requested from 703.2, Subtitle C, 703.2 to

1 reduce the on-site parking space requirement. In this case 25
2 spaces are required. Seven spaces are on the property and we
3 will provide 18 additional spaces across the street.

4 If you go to the next slide you can see where that's
5 located. Right there is the church and we have an agreement with
6 them to provide those spaces. Next slide.

7 The reduction --

8 VICE CHAIRPERSON BLAKE: I have a quick question for
9 you on that. Go back to that last slide. Two quick questions
10 for you on the parking.

11 MS. BLOOMFIELD: Sure.

12 VICE CHAIRPERSON BLAKE: Is there, there's nothing in
13 the record that talks about the terms of the agreement. Is the
14 short term agreement, long term agreement, how does it work? And
15 also I wanted to know where do you currently provide the other,
16 the off-street spaces that you have, that you're providing
17 currently?

18 MS. BLOOMFIELD: Vanita or Duncan, can you answer that,
19 please?

20 MR. MILLER: Yes, I can answer the terms part of that.
21 So our agreement with 19th Street is an annual agreement, so it
22 renews yearly. Our staff has special parking passes that we
23 issue to them that lets the church know that they're with us and
24 able to park on that site, and then we issue those to staff.
25 They're numbered. The staff are able to put them on their cars

1 and use them.

2 VICE CHAIRPERSON BLAKE: Okay. And the current place
3 you're doing it is where again?

4 MS. AHUJA: So I should say this is a new-ish agreement.
5 Prior to Covid my understanding is that we had an agreement with
6 the church immediately across Decatur from us. We have not been
7 able to reach, I've been here three years, we have not been
8 successful in reaching out to them or hearing from them and so
9 the prior agreement I think paused during Covid and we have been
10 working to try and find a new partner. So we're pleased that
11 within the last six months the 19th Street Baptist Church has
12 agreed to provide us with parking and we're working for the
13 parking. But we had a lapse during Covid and, in part, because
14 we lost connection with the church who was providing the parking
15 before.

16 Sorry, I think you're on mute, Mr. Chair.

17 VICE CHAIRPERSON BLAKE: So you've been using street
18 parking pretty much in the interim to fill your needs?

19 MS. BLOOMFIELD: Staff have, yes. Some staff have been
20 using street parking. We do have a number of staff who take
21 public transportation.

22 VICE CHAIRPERSON BLAKE: Okay.

23 MS. BLOOMFIELD: Yes. I believe some staff have been
24 street parking and actually one of the, on this map and I know
25 this is one of the conditions, you'll see on 16th Street there

1 is a C-shaped driveway that has existed I'm assuming as long as
2 the building has been there, but I don't know the exact dates.
3 We have a number of staff who sort of, you know, park behind one
4 another. So the majority of our staff are actually parking on
5 that C-shaped space on 16th which we know is going away as part
6 of this agreement.

7 VICE CHAIRPERSON BLAKE: Okay. And that C is public
8 space; is that right?

9 MS. BLOOMFIELD: Yes.

10 VICE CHAIRPERSON BLAKE: Okay. Thank you.

11 MS. BLOOMFIELD: Okay. Next slide.

12 We have demonstrated in the record that the reduction
13 in on-site parking is proportionate to the parking demand and the
14 reduction is limited to the number of spaces that can reasonably
15 be provided on-site due to the configuration and the layout of
16 the existing improvements. And then finally the relief is
17 requested. The relief requested is limited to the number of
18 spaces only, not their location, access, size or any other factor.
19 Next slide, please.

20 Finally on the parking, we worked with DDOT to
21 establish a mutually agreeable TDM plan. It's long. It's a
22 couple of pages. It's included in the final TDM report at Exhibit
23 26 and as I mentioned, we are comfortable with every single one
24 of those conditions other than the reference to complying with
25 school pool. We are complying with a variety of other school

1 car pool-type programs and DDOT was comfortable with us removing
2 that one. Next slide, please.

3 It's, again, sorry there's a lot of words, but this
4 final slide identifies how the application meets the general
5 special exception standards of review. That the existing private
6 school use will be in harmony with the general purpose and intent
7 of the regulations and the zoning map, and that the modest
8 increase in students and faculty over the years will not disturb
9 the status quo and if approved, would allow the school to admit
10 an additional number of students, hopefully in the Fall.

11 The use would not affect adversely the use of
12 neighboring properties due to the school's proposed operations,
13 certain limitations on outdoor use, its TDM plan, and we'll meet
14 all of the conditions, as I've previously described. Moreover,
15 as we noted, the ANC voted unanimously to support this
16 application. We're happy to have their support. And the next
17 slide, I think that's it.

18 Yeah. I would open it up to questions. I know we've
19 answered a variety already and if you want to pull up the
20 conditions chart, I'm happy go through that as well.

21 VICE CHAIRPERSON BLAKE: Okay.

22 Let's see. Are there any more questions from the Board
23 on the formal presentation before we move to the conditions?

24 MS. SKOLNICK-EINHORN: Mr. Blake, may I make a short
25 comment about admissions?

1 VICE CHAIRPERSON BLAKE: Who is this? I'm sorry.

2 MS. SKOLNICK-EINHORN: This is Deborah, head of school.

3 VICE CHAIRPERSON BLAKE: Please. Go ahead.

4 MS. SKOLNICK-EINHORN: I just wanted to share that we
5 are not anticipating additional students in the coming year. I
6 think the combination of the Federal worker crisis that we're
7 seeing is more likely to actually suppress admissions and we're
8 seeing people moving and going abroad, you know, taking jobs
9 elsewhere. So unfortunately I don't see we're going to
10 (indiscernible) this and use it in the future, but in the
11 immediate future we're trying to just sustain our levels which
12 is a challenge in the current landscape.

13 VICE CHAIRPERSON BLAKE: Okay.

14 Ms. Bloomfield, let's move on to the conditions.

15 MS. BLOOMFIELD: Sure.

16 Mr. Young, do you mind pulling up the PDF that I sent
17 you. It's also Exhibit 29A. Thank you.

18 Great. I'm not sure how well you can all see that but
19 I also have it on my screen so I'll be able to talk about it.

20 Condition No. 1 is identifying a new number of students
21 at 150 and I will just say before I get into this, we, the three
22 columns, the first column is what was approved. The second column
23 is what's being proposed. The third column is our rationale sort
24 of to explain for the record why we were making that change. So,
25 No. 1 is increasing the number of students.

1 No. 2 is increasing the number of faculty and staff,
2 which is what we're here for.

3 No. 3 describes the hours of operation. We've sort of
4 jiggered these a little bit because the, just to identify the
5 actual school hours that are being operated today, 7:45 a.m. to
6 4:45 Monday through Friday and then we've noted that there are,
7 and we can speak to this if it's necessary, there are about 20
8 weekend and/or evening or late afternoon days per year where
9 there are additional academic activities. These are open houses,
10 back to school nights, orientations, that sort of thing and so
11 we, that wasn't previously identified in the order conditions so
12 we've included those here just for clarity.

13 MS. SKOLNICK-EINHORN: Jessica?

14 MS. BLOOMFIELD: Yes.

15 MS. SKOLNICK-EINHORN: Just want to say we do have
16 after school activities that we've, that's our, we bused the
17 students as part of those nine buses. The young students come
18 over to our north campus which is where we host really all of
19 our after school activities or after care, et cetera, which goes
20 until 6 o'clock. But, again, that's only on our north campus.
21 It's concentrated there.

22 MS. BLOOMFIELD: Thank you.

23 No. 4 is about using the play area. So what we've done
24 here is we've gotten a little bit more specific to rather than
25 saying small groups of children only, we're now identifying that

1 the number of students is equivalent to one grade to be more
2 specific on the number of students that are allowed to play
3 outside at a given time, and then we do have, we've noted here,
4 again, just to be consistent with current operations that about
5 twice a month there are some additional holidays and/or
6 curricular needs where larger groups may play outside.

7 MS. AHUJA: For the group, if you go to the next page.

8 VICE CHAIRPERSON BLAKE: I have --

9 MS. BLOOMFIELD: Thank you. It's on the next page.

10 VICE CHAIRPERSON BLAKE: On this particular one --
11 please go, you can go to the next one -- but I want to talk a
12 little bit about that particular condition.

13 I think that one of the things that we in there is the
14 small number is a little bit vague about approximately one class
15 size. We talked about a few minutes ago what the class size
16 looks like, so if we'd be comfortable I'd just like to have a
17 number specifically around 60 if that accommodates the playground
18 as opposed to in the classes. I realize that when the pre-K guys
19 are out it's not going to be anywhere near that but certainly if
20 you did a larger one that would, 60 would more than cover that.

21 MS. BLOOMFIELD: So maximum 60 students at a time?

22 VICE CHAIRPERSON BLAKE: Yeah. For those, for that,
23 in that particular sense we put the small groups instead of, just
24 to have a more definitive number.

25 MS. AHUJA: Thank you. That makes sense.

1 VICE CHAIRPERSON BLAKE: The second thing is with
2 regard to the students up to twice a month to celebrate Jewish
3 holidays or other curricular needs. Because this will travel
4 with the land, it would probably be good not to single it out to
5 this specific use. So I'd be inclined to just, I'm not going to
6 change anything, but I would move the celebrate Jewish holidays
7 and just have you have twice a month for other curricular needs,
8 which you do at this time but I don't think you need to put that
9 into it, pretty much limit it to. Like, before you rented to
10 Latin, you know, the other schools and then they would, you know,
11 not have that flexibility.

12 So if you want flexibility I think it would be best to
13 remove that.

14 MS. BLOOMFIELD: So it would say the playground may be
15 utilized by larger groups of students up to twice a month for
16 other curricular needs?

17 VICE CHAIRPERSON BLAKE: Yes.

18 MS. BLOOMFIELD: Is that all right, team?

19 MS. SKOLNICK-EINHORN: That's great. We appreciate
20 that adjustment.

21 VICE CHAIRPERSON BLAKE: Board member Smith? Chairman
22 Hood? Any issues with that? Okay.

23 MS. BLOOMFIELD: Thank you. I think that's a very good
24 point.

25 VICE CHAIRPERSON BLAKE: Go to the next one.

1 MS. BLOOMFIELD: Next is No. 5. All we've done here
2 is identify the number of off-site parking spaces that are
3 required. I would note that this language does not require that
4 the off-site parking spaces be located at the specific church or
5 in a specific location. It just requires that off-site parking
6 spaces be located within a half mile. It allows for flexibility.
7 If that agreement with the church ends we can relocate the off-
8 site parking spaces somewhere else.

9 No. 6. This is the item that we talked about where we
10 have written it so that it is flexible for us to work with DDOT
11 to either put the bus parking on 16th or Decatur. As we've
12 mentioned, it is our strong preference to keep the bus pick-
13 up/drop-off on 16th Street. Decatur simply cannot handle it.

14 MS. AHUJA: May I add one other note, which is, this
15 is for pick-up and drop-off. For field trips we usually do have
16 the buses pick up on Decatur so I don't know that that matters
17 for the purposes of this but I did want to just name that as a
18 element that there will be buses on Decatur occasionally for
19 field trip pick-up.

20 VICE CHAIRPERSON BLAKE: All right. We've had a lot
21 of discussion about this, as you said, and I'm trying to figure
22 out how to provide you with the flexibility but not to push our
23 position. I think that we could potentially just say something
24 that the pick-up operations may take place from either Decatur,
25 16th Street or Decatur and we can remove as coordinated with

1 DDOT.

2 I'd like to ask my Board members their thoughts on
3 that.

4 Mr. Smith?

5 COMMISSIONER SMITH: (Audio interference).

6 VICE CHAIRPERSON BLAKE: I can hear you now.

7 COMMISSIONER SMITH: If it's the pleasure of the Board
8 to, you know, allow this flexibility I think it's worded is fine
9 but instead of saying may, say shall. So it either shall be
10 either 16th or Decatur and wherever DDOT lands on where they are
11 going to go, whether DDOT demands that it be on Decatur, the
12 condition gives them that flexibility. So I don't think we need
13 to re-word it.

14 VICE CHAIRPERSON BLAKE: Right.

15 I would, would you remove the as coordinated with, or
16 you're fine with that?

17 COMMISSIONER SMITH: No. Keep it as coordinated with
18 if we're, if it's the pleasure of the Board to not nail this down
19 and will, and allow them to continue to have the conversation
20 with DDOT at a future date. I think the condition works for what
21 they're trying to do.

22 VICE CHAIRPERSON BLAKE: Okay.

23 So the other question I'd say though is the word or
24 appropriate, because what if they come up with a combination of
25 Decatur and 16th Street? Because we're kind of either/or with

1 | what we have there.

2 | ZC CHAIRPERSON HOOD: I think either/or would work, Mr.
3 | Chairman. But, again, for the life of me I cannot see anything
4 | in this record why the, you know, Decatur Street to begin with
5 | other than for field trips. Because what would the Board be
6 | creating, because when it's all said and done, the community's
7 | not going to say DDOT, they're going to say the BZA approved it.

8 | So I just did not see anything in this record that puts
9 | it on Decatur, but I would agree with the way you're going, Mr.
10 | Chairman, because the whole goal for me was not to have them come
11 | back in front of us, and I'll leave it at that point.

12 | COMMISSIONER SMITH: And I agree with Chairman Hood.
13 | I think I'm fine with keeping the condition, if the Applicant
14 | wants to keep that condition, that's fine but I think in order
15 | for us to be more comfortable to what Mr. Hood is saying, we need
16 | to see some type of plan that if it is on Decatur. So I think
17 | it needs o be both. You need to, you have a plan that shows on
18 | 16th Street with them operating it from 16th Street now. What
19 | we have on record is DDOT is pretty adamant about moving this to
20 | Decatur, so I think there needs to be some type of plan that
21 | shows it on 16th and Decatur.

22 | MS. BLOOMFIELD: I believe that we have that in the
23 | case record already, the Decatur plan.

24 | VICE CHAIRPERSON BLAKE: Let's pull that up and maybe
25 | we can reference that so that we'll have something to work with.

1 | Where would that be, Ms. Bloomfield?

2 | MS. BLOOMFIELD: That would be in our transportation
3 | statement at Exhibit 22B. Nicole, you know this report better
4 | than I do and maybe can walk through it a little bit.

5 | Is Mr. Young able to pull that up on the screen or do
6 | you all have it in front of you?

7 | VICE CHAIRPERSON BLAKE: Mr. Young, please pull that
8 | up so that we can see, the two exhibits.

9 | MS. WHITE: Let's start with figure 2, which is on page
10 | 5.

11 | VICE CHAIRPERSON BLAKE: Hang on a second. Mr. Young,
12 | do you have that?

13 | MS. WHITE: There we go. Okay.

14 | So this is showing existing operations on 16th Street.
15 | This is showing where students would get off the bus and that
16 | pink zone on 16th Street is where the buses currently pick up
17 | and drop off, and this is showing where students would be able
18 | to directly access the school without any conflicts with
19 | vehicles.

20 | And then later in the report, so this would accommodate
21 | the 16th Street option. And then later in the report on page 8,
22 | which is figure 4, we are showing what the pink zone, which is
23 | the primary zone for pick-up/drop-off if it occurs on Decatur
24 | Street. The green zone is the contingency space that we've
25 | designated so that in case by chance more than one bus comes,

1 the bus could use the green area, the second bus could use the
2 green area so to not back up traffic on 16th Street or Decatur.
3 So this would be the Decatur pick-up/drop-off option.

4 VICE CHAIRPERSON BLAKE: Is this consistent with what
5 DDOT is proposing?

6 MS. WHITE: Yes. DDOT has, this is in the
7 transportation statement. DDOT has approved this as part of
8 their report. DDOT has also said that it could assist with
9 signage to further assist the zones on Decatur Street. So I
10 think between the two exhibits we have that, we've shown that
11 flexibility that's desired in both pick-up/drop-off zones.

12 MS. BLOOMFIELD: And I think if we're talking about
13 language in the order because I know you were just sort of
14 wordsmithing it, we could use, I can't remember, maybe Board
15 member Smith said it, may be located on Decatur or 16th Street
16 or and/or 16th Street. You know, we do want the flexibility. We
17 have proven I believe to do that, that their policy to not have
18 things like bus pick-up/drop-off on 16th Street is sort of like
19 they apply this policy no matter where you are or what the context
20 is.

21 In this context Decatur Street is not the right place
22 for it. The neighborhood would, I don't want to ever speak for
23 the neighborhood but it would be a detriment to the neighborhood.
24 There'd be a lot more large buses and vehicles on the smaller
25 streets. So while we would love the Board to make a decision,

1 to Commissioner Hood's point we don't want to have to come back
2 here to change it if DDOT absolutely says no and while we hope
3 that doesn't happen, that's the position we don't want to be in.
4 So I think the flexibility in the order would be our first
5 preference.

6 VICE CHAIRPERSON BLAKE: So if you're reading that
7 sentence you said you'd just replace the word operations may take
8 place from 16th Street or Decatur Street? Is that the way you're
9 saying it?

10 MS. BLOOMFIELD: Correct.

11 Operations, and I have it on my screen. I don't know
12 if Mr. Young has that up.

13 VICE CHAIRPERSON BLAKE: No (indiscernible).

14 MS. BLOOMFIELD: Yeah --

15 MS. WHITE: I thought we said and/or also, just --

16 MS. BLOOMFIELD: I have it. Operations, we could say
17 operations may take place from either 16th Street or Decatur
18 Street.

19 VICE CHAIRPERSON BLAKE: Board member Smith, Chairman
20 Hood? What are your thoughts on that?

21 COMMISSIONER SMITH: I personally --

22 ZC CHAIRPERSON HOOD: Go ahead Board member Smith.

23 COMMISSIONER SMITH: (Indiscernible).

24 ZC CHAIRPERSON HOOD: I can just go last.

25 COMMISSIONER SMITH: I'm not comfortable with removing

1 the term shall. I think there was some batting around of removing
2 shall and saying may --

3 MS. BLOOMFIELD: Shall.

4 COMMISSIONER SMITH: -- for it to be definitive. So I
5 would say shall, so I wouldn't change that term. If you wanted
6 to add and/or Decatur Street I'm comfortable with that. But,
7 yeah, I wouldn't change it to may.

8 MS. BLOOMFIELD: That's fine with me. I'm looking at
9 my colleagues, Vanita and Deborah, is that language okay with
10 you? I think the shall and the may, I'm comfortable with either
11 one.

12 MS. SKOLNICK-EINHORN: Yeah. And I think --

13 MS. BLOOMFIELD: (Indiscernible) that process?

14 MS. SKOLNICK-EINHORN: And we always like to be
15 creative. So if we come up with something creative with DDOT
16 which is some combination of Decatur and 16th Street, this leaves
17 us the possibility to just have a little more creativity for what
18 works for DDOT, for the neighborhood, for the safety of our kids
19 and I really appreciate the way this is being discussed and having
20 the optionality. There was, DDOT did have some internal
21 disagreement about it so I don't think it was as cut and dried
22 as the ultimate document makes it seem.

23 VICE CHAIRPERSON BLAKE: So are we, Board member Smith,
24 Chairman Hood, are we in the same place with this?

25 ZC CHAIRPERSON HOOD: Yes.

1 VICE CHAIRPERSON BLAKE: Either/or.

2 ZC CHAIRPERSON HOOD: I believe we are, Mr. Chairman.
3 But, again, I want to make sure I put this on the record that I
4 don't understand why we're doing Decatur Street when we don't
5 have anything in this record. Because I know when it goes awry,
6 don't nobody mention DDOT. They're going to mention the Board
7 of Zoning Adjustment and I'll just leave it at that.

8 Thank you.

9 MS. BLOOMFIELD: Mr. Young, if you could pull up the
10 conditions chart again, please. We're on No. 7. If you scroll
11 down a bit.

12 No. 7. There's no change. This is about parking for
13 extra curricular events that would happen at Carter Barron with
14 shuttle service. So that --

15 VICE CHAIRPERSON BLAKE: I have a question for you on
16 that.

17 MS. BLOOMFIELD: Absolutely.

18 VICE CHAIRPERSON BLAKE: Is there an agreement in place
19 for that and how is this born out in practice?

20 MS. BLOOMFIELD: Vanita?

21 MS. AHUJA: I can speak to that. So what happens is
22 when we have a few events where we would reach out to Parks team
23 to ask if we can use parking there and then we have buses, the
24 same buses that bring our students, we have buses that go back
25 and forth. So, for instance, we, for grandparents day, have a

1 number of families. We encourage them to park there and we have
2 a bus that goes back and forth. We have a staff member who meets
3 them at the bus stop so that they know we're there and when the
4 bus is coming.

5 MS. SKOLNICK-EINHORN: I will add that we're seeing a
6 lot more. We are encouraging for those type of events people
7 are of course using public transportation or ride share which, I
8 think with Uber and Lyft being so much more accessible, that's a
9 very common solution for people for those. So we're not seeing
10 a huge amount of use on that option but we like to provide
11 obviously off-site parking for major events. And we also
12 obviously because of parking, we don't do very many large events
13 at school. It's just very complicated to get that many people
14 there so we try to do smaller events.

15 VICE CHAIRPERSON BLAKE: Okay. Thank you.

16 Any questions on that otherwise? Okay. Let's go to
17 the next one.

18 MS. BLOOMFIELD: Sure.

19 The next one was brought to our attention actually by
20 BZA staff. The plan that is referenced in the current condition
21 is sort of out of the date and so what we did here was we filed
22 a copy of the landscape plan that was approved. The building
23 permit number is referenced there that approved it. The plan
24 that we filed in the case record is, you know, stamped by DOB
25 from 2013. So what we've just done here is say that the

1 landscaping will be maintained consistent with the current
2 conditions.

3 VICE CHAIRPERSON BLAKE: Okay.

4 Is the current conditions, were they implemented
5 consistent with that plan and I know you have the term generally
6 in accordance, so I want to get a sense of what exists today is
7 what is on that plan or, and if it's generally different, how
8 different is it?

9 MS. BLOOMFIELD: Yeah. It was, there are, and Vanita
10 walked me through the very, very small things that are not quite
11 exactly the same. There's like a dead tree stump. It is about
12 95 percent exactly what is shown on the approved stamped plan but
13 because plants have died and new ones have been planted, it's not
14 100 percent exactly the same but we felt comfortable that filing
15 that approved plan, we would maintain it generally consistent.
16 If you'd like more details on that I'm going to turn it over to
17 Vanita, and we can pull that up if you'd like to look at it.

18 VICE CHAIRPERSON BLAKE: The other thing I would
19 mention is that the initial intent for the landscaping in part
20 at the Lowell School order was to provide a buffer for the
21 residential community. At this point I suspect there's a
22 sufficient buffer there. You may want to elaborate on that.

23 MS. BLOOMFIELD: Would you like us to pull up the plan
24 or do you want us just to talk about it?

25 VICE CHAIRPERSON BLAKE: You can talk about it. I

1 mean, we're familiar with the plans.

2 MS. SKOLNICK-EINHORN: Maybe Duncan can talk about it?

3 MS. AHUJA: I've looked more closely at the plans. If
4 you don't mind I'll take it and then Duncan can add it.

5 So we have some large half-grown trees that are, I
6 think they're Everbrite, Vichay (phonetic), and I don't remember
7 exactly, I don't know. I don't know the exact name, but there's
8 a large cluster of trees on the inside of the fence along the
9 yard and then there are along the fence line we have also some
10 of the other trees that are there. There's some small
11 modifications to the landscaping plan itself. There were some
12 garden boxes that, they're moved slightly from where they were.
13 There were some stumps that had monkey bars in them. The stumps
14 rotted so they were replaced with a metal monkey bar set. So
15 they're very minor changes.

16 In terms of the landscaping that is there. I've been
17 here three years. We haven't changed it so my assumption is it's
18 the same landscaping that was installed in 2013. I will, we are
19 always happy to revisit and make sure. I haven't done an
20 assessment of the trees that are there.

21 VICE CHAIRPERSON BLAKE: Okay. So the other
22 questions --

23 MS. AHUJA: (Indiscernible) haven't been changed.

24 VICE CHAIRPERSON BLAKE: -- the context, in the context
25 of landscaping, the intent was to provide a buffer to the

1 residential properties. Is that a buffer, is there a sufficient
2 buffer there today?

3 MS. BLOOMFIELD: So I'll answer this. So separately
4 we have put up a fence, maybe a year ago or so that is a complete
5 buffer between the direct abutting neighbors to the south. There
6 have been some issues with that fence because it was installed
7 according to the permit granted by DOB but the permit granted a
8 fence at a taller height than is actually permitted. So we have
9 been working with DOB very closely on getting a Code modification
10 to bring the height of the fence down to a matter-of-right fence
11 height.

12 So to answer your direct question about whether there's
13 a buffer, in addition to the landscaping there's also a fence
14 that abuts the direct neighbors and also a portion of the public
15 street surrounding the property.

16 VICE CHAIRPERSON BLAKE: Okay. All right. Thank you.

17 I think in that case I'd like to keep that provision
18 in the, the way you've written it in the conditions.

19 Mr. Smith, would you have any comment on that?

20 COMMISSIONER SMITH: No. I agree with your approach
21 to that.

22 VICE CHAIRPERSON BLAKE: Okay. The next one.

23 MS. BLOOMFIELD: The next one allows faculty and staff
24 to ride school buses for free. We've not changed this.

25 VICE CHAIRPERSON BLAKE: Okay. And then, let's see.

1 We go to number --

2 MS. BLOOMFIELD: Next page, No. 10. Originally
3 required that the school do a performance monitoring plan. DDOT's
4 report agreed with us that that is no longer necessary so we've
5 just deleted, propose to delete that condition entirely.

6 VICE CHAIRPERSON BLAKE: Comments on that, Mr. Smith?
7 Chairman Hood, any comments on that last one?

8 ZC CHAIRPERSON HOOD: No comments.

9 VICE CHAIRPERSON BLAKE: Okay. Okay.

10 So I think that gets us pretty much through the
11 conditions.

12 MS. BLOOMFIELD: There's one more which is a new
13 condition, No. 11, and this one is simply to require that we
14 comply with the TDM plan shown in the DDOT report, other than
15 the school pool item.

16 VICE CHAIRPERSON BLAKE: Okay.

17 The only thing that's significantly different I think
18 about this is that in the original condition there was a time
19 period considered and the time period was not put in place because
20 there was going to be a review or a monitoring program. In this
21 case we are removing the monitoring program and certainly we're
22 not talking about a time limit. So it's a little bit of a, let's
23 say, a naked commitment but I'm comfortable with it.

24 Mr. Smith?

25 COMMISSIONER SMITH: With adding a time limit?

1 VICE CHAIRPERSON BLAKE: No, no, no. I'm saying,
2 initially this term had a, there was a proposed time limit. They
3 removed the time limit and they had a monitoring program. The
4 monitoring program was a relatively short period of time. It
5 essentially expired and at this point we could either maintain
6 it the way it is. I don't think, it doesn't have a monitoring
7 component to it I guess is what I'm saying. Do you think that's
8 necessary? If not, I'm comfortable with it the way it is.

9 COMMISSIONER SMITH: No, I'm comfortable with it the
10 way it is now.

11 VICE CHAIRPERSON BLAKE: Okay. Chairman Hood, I'm
12 going to assume you agree with that?

13 ZC CHAIRPERSON HOOD: Yes, I do.

14 VICE CHAIRPERSON BLAKE: Okay. Then I do think that
15 concludes the conditions. All right.

16 Are there any other questions from the Board for the
17 Applicant?

18 (Pause.)

19 VICE CHAIRPERSON BLAKE: Okay. Then I will now ask the
20 Office of Planning to present their report.

21 ZC CHAIRPERSON HOOD: Mr. Chairman, I do have --

22 VICE CHAIRPERSON BLAKE: Yes, sir.

23 ZC CHAIRPERSON HOOD: -- and I might have missed this.
24 The only blemish I saw in this record, Ms. Bloomfield, and I know
25 it has nothing to do with us. The good neighbor policy I call

1 | it, about the fence. Can we get the fence situation straightened
2 | out, about the fence? I forgot the gentleman's name but I don't
3 | know. What's the status? Are you all working on that?

4 | MS. BLOOMFIELD: Yes.

5 | ZC CHAIRPERSON HOOD: Or are you all --

6 | MS. BLOOMFIELD: Yes, yes. Of course. Sure.

7 | I'm happy to address the fence. I talked about it a
8 | little bit a minute ago. The fence was, if you go by the property
9 | there is a very tall fence there. That fence was installed
10 | according to an approved permit from DOB. Whomever installed
11 | that fence, the contractor for the school, did not realize that
12 | that fence was well over what Code allows for.

13 | So they installed it, and then it was found out that
14 | it was way over Code. The school didn't know either. And we
15 | have been working with DOB for months and months and months now
16 | to try to bring that fence into compliance with what is required.

17 | ZC CHAIRPERSON HOOD: Okay.

18 | MS. BLOOMFIELD: And then --

19 | ZC CHAIRPERSON HOOD: You don't have to explain no
20 | more. I've worked with DOB myself --

21 | MS. BLOOMFIELD: Okay.

22 | ZC CHAIRPERSON HOOD: -- so I get it, trust me. Thank
23 | you.

24 | MS. BLOOMFIELD: Well, we're trying, we're trying.
25 | We're working on it and quite frankly there are a variety of

1 security concerns and we would like to keep the fence taller than
2 is permitted and we have not been granted that ability to do
3 that, and so we are going to bring it down to what's permitted
4 essentially. But that's the story.

5 ZC CHAIRPERSON HOOD: You don't have to explain no
6 more. DOB has a hard job. I give DOB all the credit but I also
7 understand how long sometimes things can take. That's what I, I
8 missed that earlier. So thank you, Ms. Bloomfield.

9 MS. SKOLNICK-EINHORN: And, Mr. Hood, the fence work
10 is scheduled for right when the students are released because we
11 obviously don't want to do that while they're here, but the work
12 should be performed beginning in the middle of June to adjust it.

13 ZC CHAIRPERSON HOOD: Okay. Great.

14 MS. SKOLNICK-EINHORN: And we apologize for that. It
15 was definitely, it's been a hard process but we recognize it
16 wasn't our best (phonetic).

17 ZC CHAIRPERSON HOOD: Okay. I understand. I know all
18 about it. Thank you.

19 Thank you, Mr. Chairman.

20 VICE CHAIRPERSON BLAKE: Okay. Thank you.

21 Now we're going to hear from the Office of Planning.

22 MR. MITCHUM: Yes. This is Joshua Mitchum with the
23 Office of Planning.

24 I just want to reiterate that we are in support of the
25 project and we can stand on our comments in the record, and yes,

1 I'm happy to answer any questions that you may have.

2 VICE CHAIRPERSON BLAKE: Mr. Mitchum, your report did
3 not include the conditions and did not require any conditions.
4 Are you comfortable with the conditions which we've, would the
5 Office of Planning be comfortable with that?

6 MR. MITCHUM: Yes. So OP did have a chance to review
7 the conditions as presented by Ms. Bloomfield and we are in
8 agreement with them, especially with the Applicant working with
9 DDOT to resolve any lingering transportation issues.

10 VICE CHAIRPERSON BLAKE: Okay. Thank you.

11 Does the Applicant have any questions for the Office
12 of Planning?

13 MS. BLOOMFIELD: No. Thank you.

14 VICE CHAIRPERSON BLAKE: Okay.

15 Mr. Young, is there anyone who wishes to testify? Any
16 witnesses?

17 MR. YOUNG: Yes. We have one witness here.

18 VICE CHAIRPERSON BLAKE: Okay. Would you please bring
19 them in?

20 MR. YOUNG: His name is Kirk Shickman.

21 VICE CHAIRPERSON BLAKE: Okay.

22 Mr. Shickman, are you there? Is your camera --

23 MR. SHICKMAN: Yes, sir.

24 VICE CHAIRPERSON BLAKE: Okay. Is your camera working?

25 MR. SHICKMAN: I can, yes. Are you asking me to bring

1 | it on?

2 | VICE CHAIRPERSON BLAKE: Sure. Okay.

3 | Mr. Shickman, as a member of the public you have three
4 | minutes to provide your testimony. Before you begin, would you
5 | please state your name and your address. We try to get sense of
6 | the proximity to the property in relation to it. So if you do
7 | that and you have three minutes, and you can begin whenever you
8 | like.

9 | MR. SHICKMAN: Yes, sir. Thank you.

10 | Kirk Shickman. I'm at 1500 Decatur Street, Northwest.
11 | I'm about one house away from the property in question. And as
12 | a close neighbor, I oppose the zoning exemption unless the
13 | Applicant either provides a reasonable off-street parking plan,
14 | either to the ANC or the BZA, that mitigates the existing strain
15 | on parking and traffic or provides the required number of spots
16 | on-site or nearby for current staff load.

17 | At current capacity or current occupancy, the school
18 | is already below the required number of spaces that are required.
19 | So looking at Table C, 701.5, that indicates that a private
20 | educational facility have two spots for every three teachers and
21 | staff and currently there are, and I didn't appreciate this
22 | before, but just in walking around the spot as a close neighbor
23 | seven spots is different than what I knew.

24 | Currently I saw four spots in the front, at least on
25 | the Decatur Street side with room for about eight or so more cars

1 in that circle that fronts 15th Street. There was a total of 12
2 spots in my estimation which is more than I guess maybe more
3 generous than what has been shared here today. That serves a
4 staff of 28 folks. That's less, that's about two thirds of what's
5 required which is 18 spots.

6 So this request for variance would mean that the school
7 would be at less than half of the required spaces provided and
8 probably less if we take the seven spots into consideration here.
9 And since the streets immediately around the school do not require
10 a parking permit, staff and school buses are parking on the
11 streets. That's on Decatur, that's on Piney Branch and Decatur
12 down to about 15th Street, and Piney Branch down to about
13 Delafield and maybe a little bit beyond. And so this also fills
14 the current capacity of the spots that we have within the block
15 or so of the school and it allows for few other users.

16 I don't think a parking plan here, and I do appreciate
17 what I've heard today which I didn't know, around the efforts to
18 find off-street parking that's close by. I don't think that's
19 an (audio interference) ask from the community. Like was
20 mentioned before, there are private parking facilities within two
21 blocks of the school that could provide ample space for daytime
22 overflow parking. The school operates a large facility with more
23 parking about a mile up the road which they mentioned, Milton,
24 where shuttles could be run from.

25 I would say also pick-up and drop-off of more students

1 is problematic. Currently the number of cars accessing the school
2 those transition times is overwhelming and causes back-ups on
3 Decatur and northbound 16th Street, which we've talked about a
4 bunch today. Adding at least a dozen more parent vehicles to
5 this will only increase the inconvenience and risk. The school
6 should consider staggering dismissals perhaps or some other
7 operational changes that would make this a little bit easier, and
8 I can see that you guys have had a lot of conversation around
9 that today.

10 But this facility is already operating past its
11 capacity from a vehicle standpoint. It's a small area, small
12 school, and I appreciate the mission but the facility doesn't
13 necessarily allow for the vision that they have for where they
14 want to go with it. They're already benefiting from fewer than
15 required spaces at the expense of those of us in the community
16 and I think this might be easily remedied with some communication
17 with the neighbors and others that have spaces that allow for
18 this, and it sounds like some of that's happening.

19 But I think that should be done before a variance here
20 is issued and so I do appreciate your time and consideration, and
21 hope I've met the time commitments here.

22 VICE CHAIRPERSON BLAKE: Yes, sir. Thank you very much
23 for your testimony.

24 Does anyone on the Board have a question for the
25 witness? Okay. Thank you very much, Mr. Shickman, for your

1 testimony.

2 MR. SHICKMAN: Yes, sir.

3 VICE CHAIRPERSON BLAKE: Okay.

4 Mr. Young, you may dismiss the witness. Is there anyone
5 else that wishes to testify? You said no, right?

6 MR. YOUNG: Correct.

7 VICE CHAIRPERSON BLAKE: Okay.

8 I have a quick question for the Applicant based on
9 that.

10 I understand that you have not had the Mosaic Church
11 parking facility available and you have been using the street,
12 as you indicated, which is probably going to reflect some of the
13 burden that Mr. Shickman acknowledged. Have you been using the
14 16th Street, the 19th Street Baptist Church parking, or have you
15 been using it or are you intending to use it and when would you
16 begin?

17 MS. BLOOMFIELD: Vanita?

18 MS. AHUJA: I'm actually going to ask Duncan because
19 we've had back and forth with the church about it, so I'll ask
20 him to respond.

21 MR. MILLER: Yes. So we are currently using it. So
22 to Vanita's point, we had a block there right after Covid where
23 we lost our other partnering with the church across because they
24 had new management and we weren't able to get a hold of the, and
25 during that time our staff got a little more comfortable than we

1 would like parking either on-site or on the street. So we've
2 been working over the past six months to phase them off those
3 spots into the new off-site parking. We have a handful of staff
4 that have adapted that. We expect to continue that push to get
5 full compliance going into the next school year.

6 VICE CHAIRPERSON BLAKE: Chairman Hood, did you want
7 to say something?

8 ZC CHAIRPERSON HOOD: No, Mr. Chairman. Thank you.

9 VICE CHAIRPERSON BLAKE: Okay.

10 I would just, as you do have parking potentially we
11 should make an effort to use that parking and continue with a
12 good neighbor policy. It's easy to park in that street and I am
13 familiar with the street. It is a narrow street. Piney Branch
14 is narrow. It would be helpful to make sure that they enforce
15 the use of the parking facility, even though it's not as
16 convenient. Okay. I think that's that.

17 Any other questions we have? Ms. Bloomfield, you're
18 going to have the opportunity to give us closing remarks if there
19 are no other questions from the Board members. Seeing none,
20 would you please continue with your closing remarks, if you have
21 any.

22 MS. BLOOMFIELD: Thank you very much to all of you. I
23 don't actually have a whole lot to say. I think we got a lot of
24 really good work done and appreciate your detailed input on our
25 conditions which is extremely helpful to us, as always. I do

1 appreciate the testimony that we heard from, I'm sorry, I'm
2 forgetting his last name, Kirk's last name, who just came up. We
3 are very sensitive to cars in the neighborhood. We have been a
4 good neighbor for many years and believe that we've done a lot
5 of outreach to our neighbors, particularly as it relates to this
6 particular increase in students and faculty.

7 We are providing, 25 parking spaces is required under
8 the zoning regulations and with the seven on-site and the 18 off-
9 site, that is a total of 25, so we believe we will be meeting
10 the requirement as it relates to pick up and drop off and the
11 number of cars on the streets in the surrounding neighborhood.
12 The majority of students take the bus and so the increase, the
13 maximum increase in students which would be 20, would not actually
14 result in 20 more pick-up and drop-off cars coming on to Decatur
15 Street. It would only be a couple of cars, if that. And then
16 we've done quite, Nicole has done quite an extensive
17 transportation study to show that there would be no real adverse
18 impacts that DDOT was comfortable with.

19 So I appreciate all of the discussion today and I will
20 just ask that the Board support this application.

21 Thank you.

22 VICE CHAIRPERSON BLAKE: Okay. Thank you very much.

23 I thank you all for your time and your testimony, and
24 I'm going to, if it's okay, close the record and the hearing
25 session and let the witnesses go.

1 Thank you very much.

2 (Pause.)

3 VICE CHAIRPERSON BLAKE: All right.

4 So we can move on to our deliberation session. Okay.
5 I'm going to kick off with this and I appreciate and look forward
6 to your input, Mr. Smith and Chairman Hood.

7 Based on the information provided in the record and the
8 testimony received today in this hearing, I do believe the
9 Applicant has met the burden of proof to be granted the requested
10 relief. This is based on its past performance, the current
11 practices and proposed conditions. I believe with the additional
12 faculty and staff, the Applicant has demonstrated that the
13 private school use will not likely continue in a way that is
14 objectionable to the adjoining nearby properties because of
15 noise, traffic, number of students or other objectionable
16 conditions.

17 Most of the activities will take place indoors. Use
18 of the playground will be limited to 60 as per the condition,
19 except for a few small gatherings. There's nothing in the record
20 indicating that there were complaints about noise or activity
21 levels other than the testimony received today which really
22 focused mostly on the traffic issue, and the incremental addition
23 of 20 students should not majorly change the current situation.

24 The proposed traffic increase will be monitored, as we
25 pointed out, and the proposed conditions with the TDM plan should

1 not result in adverse impacts on traffic. I do believe that
2 adequate parking will be provided for staff through the
3 combination of on-site parking within a close proximity which is
4 really addressing the only concerns mentioned by the ANC 4E,
5 which is in support of the application. The Applicant, as per
6 the parking regulation, the Applicant does not have room to
7 provide the required spaces which is indicated as 25 by the
8 Applicant. They only have seven. They have been parking in the
9 public space, they've been parking on the street but recently
10 secured parking within 600 feet.

11 Now, the fact that it's within 600 feet is actually
12 within the context of the regulations but I believe that out of
13 an abundance of caution, the approval is warranted since the
14 year-to-year agreement with some, you know, uncertainty to it,
15 so I believe that granting approval for the additional parking
16 within a half mile is appropriate for future flexibility.

17 I give great weight to the Office of Planning's
18 recommendation for approval and note that the DDOT report is in
19 support of the TDM which is included in the condition of approval.
20 We've gone through the conditions. I'm not going to review them
21 now, but I think I'm comfortable with where we ended up and the
22 biggest issue I think there was the flexibility for the pick-up
23 and drop-off which is a concern. So, but I do believe we've
24 reconciled that issue adequately.

25 So I'll be voting in favor of the application. Mr.

1 Smith, do you have anything you want to add?

2 COMMISSIONER SMITH: No, Chairman Hill, not Chairman
3 Hill, Chairman Blake. Okay.

4 I have nothing to add. I think you have summed up the
5 metrics of this case and why they have met the burden for us to
6 grant the requested special exceptions. As you've stated before,
7 they've been operating successfully for over a decade at this
8 particular site and I do believe that the requested expansion and
9 the increase in number of faculty would not, you know, have a
10 major detrimental effect on the surrounding neighborhood.

11 I agree with all the conditions stated. You know, the
12 biggest issue just, as you've stated, was about this pick-up and
13 drop-off arrangement. There seems to be, you know, some
14 disagreement between them and DDOT. But the Applicant has
15 provided two different pick-up and drop-off plans that do provide
16 them with the flexibility on wherever they land with DDOT going
17 forward, and they will continue to have this dialog with the
18 surrounding neighborhood. So also adding that flexibility if
19 they get some pushback from the neighborhood about it being on
20 Decatur, it does give them the flexibility and DDOT the
21 flexibility to send this back to 16th Street if they so choose
22 and agree to that arrangement.

23 So I do give the Office of Planning's staff report
24 great weight and note that the ANC is in support, and I'll support
25 the special exception request for approval as well.

1 VICE CHAIRPERSON BLAKE: Thank you, Mr. Smith.

2 Chairman Hood?

3 ZC CHAIRPERSON HOOD: I would agree with both of the
4 comments of both my colleagues, and also mention I think this was
5 thoroughly discussed and any objectionable views that were at
6 least potential adverse impacts that were recognized I think were
7 discussed and mitigated. And from what I see I this record is
8 that past practices, I think that if we see some of the increase
9 I believe they have been mitigated and I think this record is
10 complete, and I will be voting in favor of it.

11 Thank you.

12 VICE CHAIRPERSON BLAKE: Thank you, Chairman Hood.

13 Having deliberated, I make a motion to approve
14 Application No. 21247 as captioned and read by the secretary,
15 incorporating conditions presented in Exhibit 29A as amended in
16 the hearing, and ask for a second. Mr. Smith?

17 COMMISSIONER SMITH: Second.

18 VICE CHAIRPERSON BLAKE: The motion has been made and
19 seconded. Madam Secretary, would you please conduct a roll call
20 vote?

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

23 Vice Chair Blake?

24 VICE CHAIRPERSON BLAKE: Yes.

25 MS. MEHLERT: Mr. Smith?

1 COMMISSIONER SMITH: Yes.

2 MS. MEHLERT: Chairman Hood?

3 ZC CHAIRPERSON HOOD: Yes.

4 MS. MEHLERT: Staff would record the vote as three to
5 zero to two to approve Application 21247 with conditions on the
6 motion made by Vice Chair Blake and seconded by Mr. Smith.

7 VICE CHAIRPERSON BLAKE: Okay. Excellent.

8 This actually took a little longer than I thought it
9 would. So if you would, I'd like to take a break until, and
10 reconvene at 11:30. Okay? Thanks.

11 (Whereupon, there was a brief recess.)

12 MS. MEHLERT: The Board is back from a quick break and
13 is returning to its hearing session.

14 The next case is Application No. 21282 Pat and Cheri
15 DeQuattro. This is a self-certified application pursuant to
16 Subtitle X, Section 901.2 for special exceptions under Subtitle
17 E, Section 5201, from the lot occupancy requirements of Subtitle
18 E, Section 210.1, and under Subtitle U, Section 301.1(g) to allow
19 expansion of an accessory building for residential purposes.

20 This is for a second story addition for residential use
21 to an existing one-story accessory structure in the rear yard of
22 an existing two-story attached principal dwelling. It's located
23 in the RF-1 zone at 917 Constitution Avenue, Northeast, Square
24 940, Lot 17.

25 VICE CHAIRPERSON BLAKE: Okay. Thank you.

1 Is the Applicant, would you please introduce yourself?

2 MR. TERAN: Good morning, Commissioners. My name is

3 Eric Teran. I'm the architect for the owners.

4 VICE CHAIRPERSON BLAKE: Okay. Who else do you have

5 here with you today, Mr. Teran?

6 MR. TERAN: It's just going to be myself.

7 VICE CHAIRPERSON BLAKE: Okay.

8 Mr. McCrery, you're also on the dais. What is that?

9 Is he part of your team or?

10 MR. TERAN: No, sir.

11 VICE CHAIRPERSON BLAKE: Mr. McCrery, can you come off

12 mute so I can figure this out?

13 MR. MCCRERY: Sorry. I was muted, sir. I'm a neighbor.

14 VICE CHAIRPERSON BLAKE: Okay. What's your affiliation

15 with the project?

16 MR. MCCRERY: I'm a neighbor.

17 VICE CHAIRPERSON BLAKE: You're a neighbor?

18 MR. MCCRERY: Yes, sir.

19 VICE CHAIRPERSON BLAKE: Okay. You were not

20 recognized --

21 MR. MCCRERY: I happen to also be an architect, but.

22 VICE CHAIRPERSON BLAKE: Okay. I understand. Okay.

23 So you're here to testify as a member of the public?

24 MR. MCCRERY: Yes.

25 VICE CHAIRPERSON BLAKE: Okay.

1 Mr. Young, would you please --

2 MR. YOUNG: I'll bring him back later. Sorry. I
3 thought he was part of the team.

4 VICE CHAIRPERSON BLAKE: Okay. Thank you very much.
5 We'll have you back in shortly. Okay. All right.

6 Okay, Mr. Teran. You have, if you would take a few
7 minutes to just go through and tell us about the project and how
8 your client is meeting the criteria for approval. I'll put 15
9 minutes on the clock so I can keep track of where we are, and
10 you can begin whenever you like.

11 MR. TERAN: Thank you. Mr. Young, if you could bring
12 up the presentation that I uploaded online?

13 And so while he's doing that, we did receive full
14 support from the ANC and we do have support letters from both
15 adjacent neighbors.

16 So we're requesting two reliefs. One is because we're
17 expanding the accessory structure for residential purposes and
18 the second is since we're going straight up from the existing
19 detached garage, the lot occupancy will become a little bit over
20 64 percent. Next slide, please.

21 So this is the existing garage --

22 VICE CHAIRPERSON BLAKE: Mr. Teran, one question for
23 you while you're there. I had a couple of different measurements
24 I saw. One said it was a 422 square foot footprint existing and
25 the proposed structure was, like, 440 square feet, but the lot

1 occupancy stayed at 64.4 percent. Could you explain how that
2 happened?

3 MR. TERAN: That might have been, we might not have
4 updated the new square footage because originally we were not
5 going to come to BZA and we only had a, I think it was 61 percent
6 lot occupancy and we were going to get the Zoning Administrator
7 relief. But then when we found out we had to come to BZA since
8 we're expanding an accessory structure, we decided to go ahead
9 and also request the additional lot occupancy.

10 VICE CHAIRPERSON BLAKE: Okay. So the existing lot
11 occupancy is 61 percent?

12 MR. TERAN: No. It would be 64 percent.

13 VICE CHAIRPERSON BLAKE: So what would be the former
14 lot occupancy?

15 MR. TERAN: So that, we're basically keeping it the
16 same but we're adding the second story to the garage. And so
17 that second story is what would be nonconforming so we have to
18 get the BZA relief for that.

19 VICE CHAIRPERSON BLAKE: Okay. Is the building 422
20 square feet or 440 square feet?

21 MR. TERAN: It would be 440 square feet.

22 VICE CHAIRPERSON BLAKE: Okay. Thank you.

23 MR. TERAN: So here you can see the, you know, the two
24 on top is from the rear yard and you can notice the garage, the
25 two-story accessory structure on the left side, and then the

1 bottom two are from the alley. And so basically we're just
2 proposing to build straight up and keep the existing footprint
3 of the first floor garage. Next slide, please.

4 This is looking down the alley north, or east and west
5 and you can see on the right hand side our garage right there
6 that's open. Next slide, please.

7 This is where it's located within the block and as I
8 mentioned before, we're keeping it the same size and the height
9 will be similar to the building to the east. Next slide, please.

10 So these are the floor plans. Starting on the left
11 with level one. We're keeping it an existing garage and then we
12 have access to the stairs to go up to the second floor which the
13 owners plan on using as a bonus room. And then we have stairs
14 to the roof for access for them. Next slide, please.

15 Here are the elevations. You can see on the east
16 elevation that is only going to be a little bit higher than what
17 the existing adjacent neighbor is to the east. Next slide,
18 please.

19 So here we have the left elevation which is north.
20 That's looking back to the owner's house, and on the right that's
21 the south looking into the alley. This was an item brought up
22 with the ANC that they asked us to raise the sill of the south
23 elevation of the window. Originally it was 18 inches and now we
24 have a 36 inch sill, and that was, you know, so that it would
25 provide a little bit more privacy looking into the houses across

1 the alley. Next slide, please.

2 And just the sections. Next slide, please.

3 And the three images. This did go in front of the HPO
4 or HPRB and it was approved. Next slide, please.

5 And then we have some shadow studies. So really only,
6 I think as you'll see in the next six slides, only really this
7 one provides additional shading as you can see on the right side.
8 The one on the left side would be if we had kept the second floor
9 under 60 percent lot occupancy, and that shading on the right
10 side basically just on top of the roof of the detached structure
11 for the property to the west. Next slide, please.

12 And so here you can see on the right additional shading
13 is basically on the owner's property. Next slide, please.

14 And here there's a little additional on the property
15 to the west at the summer solstice at 3 p.m. Next slide, please.

16 So here there's nothing in the winter as well as the
17 next two slides. Next slide, please.

18 And one more slide, please.

19 And so that's why, you know, we believe there's minimal
20 impact to any of the neighbors. We've got the support, as I
21 mentioned, from both adjacent neighbors and from the ANC and I'm
22 happy to answer any questions.

23 VICE CHAIRPERSON BLAKE: Are there any questions from
24 the Board? Okay.

25 I want to just clarify one thing, Mr. Teran. Is, this

1 is going to be used as a bonus room for the Applicant?

2 MR. TERAN: Yes. For the owners.

3 VICE CHAIRPERSON BLAKE: Okay. All right. Very good.
4 Okay. No more questions? Okay.

5 I'm going to call now the Office of Planning. Hello,
6 Ms. Thomas. Please.

7 MS. THOMAS: Yes. Hi. Good morning, Mr. Chair, members
8 of the Board. Karen Thomas with the Office of Planning.

9 And the addition will not increase the footprint on the
10 subject property, thereby increasing the nonconforming lot
11 occupancy nor would it add, reduce the yard and the Applicant has
12 provided shadow studies which we satisfied with and we do not
13 think that there would be significant impacts to any of the
14 abutting neighbors. And with that, I will refer to the record
15 of our report.

16 Thank you.

17 VICE CHAIRPERSON BLAKE: Thank you. Any questions for
18 the Office of Planning? Okay.

19 I have one question again for the Applicant. There was
20 some concerns expressed by the ANC about the privacy issues. Can
21 you discuss how those were addressed?

22 MR. TERAN: Yes. There was that window in the rear
23 yard. They just, one of the Commissioners didn't like that the
24 window sill was so low so that if you were standing on the second
25 floor you could, you know, had a steeper angle to look into the

1 neighbors across the alley and so he just asked if we could raise
2 the sill and that's what we did. So we raised it from 18 inches
3 to 36 inches.

4 VICE CHAIRPERSON BLAKE: Okay. Great.

5 And the plans reflect that alteration?

6 MR. TERAN: Correct.

7 VICE CHAIRPERSON BLAKE: Okay. Thank you very much.

8 Does anyone else on the Board have any questions for
9 the Applicant or the Office of Planning? Okay.

10 Mr. Teran, if you have any additional closing remarks
11 you'd like to make, please do so.

12 MR. TERAN: No, sir.

13 VICE CHAIRPERSON BLAKE: Okay. Well, then I will close
14 the hearing and the record.

15 MR. YOUNG: Mr. Blake?

16 VICE CHAIRPERSON BLAKE: Yes. Oh, sorry.

17 MR. YOUNG: We did have that one witness.

18 VICE CHAIRPERSON BLAKE: That's right, Mr. McClery.
19 Please bring Mr. McClery in. My apologies.

20 MR. YOUNG: It looks like he dropped off so we have
21 staff reaching out to him right now.

22 VICE CHAIRPERSON BLAKE: Let's give him a hot moment
23 to get back because I don't want to not hear his comments. I
24 apologize for missing that.

25 (Pause.)

1 MR. YOUNG: So staff has informed me that he has changed
2 his mind about testifying, so he will no longer be on.

3 VICE CHAIRPERSON BLAKE: Okay. Thank you then. I will
4 close the hearing and the record, or the record and the hearing
5 and having done that we'll go on to deliberate.

6 I mean, this is a fairly straightforward application.
7 I believe the Applicant has met the burden of proof to be granted
8 the relief. The shadow study demonstrates there'd be no real
9 impact. The main issue that was brought up by the ANC about
10 privacy was addressed by redesign of the windows and I believe
11 that, I agree with the Office of Planning's analysis and give
12 great weight to its recommendation. I also give great weight to
13 the recommendation of ANC 6A and the record contains letters of
14 support by both agencies. The design was approved by HPRB. So
15 therefore I'll be voting in favor of the application.

16 Mr. Smith, do you have anything you want to add?

17 COMMISSIONER SMITH: No. I agree with you that this
18 is a very straightforward application and I will also support the
19 requested special exception.

20 VICE CHAIRPERSON BLAKE: Chairman Hood? You're on
21 mute.

22 ZC CHAIRPERSON HOOD: Thank you, Mr. Chairman. I will
23 vote in support of this application. Thanks.

24 VICE CHAIRPERSON BLAKE: Having deliberated I will make
25 a motion to approve the application as read and captioned by the

1 secretary, and ask for a second. Mr. Smith?

2 COMMISSIONER SMITH: Second.

3 VICE CHAIRPERSON BLAKE: Madam Secretary, the motion's
4 been made and seconded. Would you please conduct a roll call
5 vote?

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

8 Vice Chair Blake?

9 VICE CHAIRPERSON BLAKE: Yes.

10 MS. MEHLERT: Mr. Smith?

11 COMMISSIONER SMITH: Yes.

12 MS. MEHLERT: Chairman Hood?

13 ZC CHAIRPERSON HOOD: Yes.

14 MS. MEHLERT: Staff would record the vote as three to
15 zero to two to approve Application 21282 on the motion made by
16 Vice Chair Blake and seconded by Mr. Smith.

17 VICE CHAIRPERSON BLAKE: Madam Secretary, would you
18 please call our next case.

19 MS. MEHLERT: Next is Application No. 21287 of Tsunami
20 Hair Studio. This is an application pursuant to Subtitle X,
21 Section 1000 for a use variance from Subtitle U, Section 401.1
22 to allow expansion of a nonconforming use and the area variances
23 from the maximum floor area ratio requirements of Subtitle F,
24 Section 201.1, and the lot occupancy requirements of Subtitle F,
25 Section 210.1.

1 This is for the expansion of a nonconforming use in a
2 new accessory structure in the rear yard of an existing two-story
3 building. It's located in the RA-1 zone at 4248 Benning Road,
4 Northeast, Square 5087, Lot 856.

5 VICE CHAIRPERSON BLAKE: Okay.

6 Is the Applicant with us? Who's the agent presenting
7 for the Applicant?

8 MR. ODUROE: Agent John Oduroe from Big Tent Design
9 Studio.

10 VICE CHAIRPERSON BLAKE: Mr. Oduroe, you're the agent.
11 Is there anyone else here with you?

12 MR. ODUROE: LaToya, Ms., are you on? I guess not.
13 It's just me.

14 VICE CHAIRPERSON BLAKE: Okay. Well, if she comes in
15 later we'll let her in.

16 So if you, Mr. Oduroe, if you would please tell us
17 about the project and how you think your client is meeting the
18 criteria for approval. I'll put 15 minutes on the clock so we
19 can keep track of where we are, and you can begin whenever you
20 like.

21 Thank you.

22 MR. ODUROE: Yes. Mr. Young, can you bring up my
23 presentation, please? Excellent. Okay.

24 Good morning, Mr. Chairperson and members of the Board.
25 My name is John Oduroe. I am principal of Big Tent Design Studio.

1 My address is 54 Hawthorne Court, Northeast and I'm here on behalf
2 of the Applicant, LaToya Liles-Walker, owner of 4248 Benning
3 Road, LLC and the Tsunami Hair Studio. We're requesting use and
4 area variance relief for a modest rear yard improvement that will
5 allow this neighborhood serving business to remain viable and co-
6 compliant. Next slide, please.

7 Very quickly, the presentation table will go as
8 follows. We'll provide a brief overview of the property and the
9 proposed improvements. We're going to review the exceptional
10 conditions that affect the site. We're going to explain some of
11 the undue hardships that the conditions have created and we're
12 going to demonstrate that granting relief will not harm the public
13 or the zoning plan. Next slide, please.

14 Project overview. Next slide.

15 Tsunami Hair Studio is located at 4248 Benning Road,
16 Northeast on a 2,040 square foot lot, zoned RA or RA-1. While
17 the corridor is primarily lined with residential apartments, it
18 includes a mix of mixed use nonconforming structures as well.
19 There are an MU-7 zone just a few blocks in either direction and
20 several long standing nonconforming commercial uses are scattered
21 along this stretch of Benning Road.

22 To the east there's a vacant parking lot and to the
23 west there's a building with a history of commercial occupancy.
24 The building covers more than half the lot and has, sorry, the
25 building on our lot covers more than half the lot and has housed

1 commercial tenants since at least the early '50s. The current
2 salon use was formally approved in 1964 under BZA order No. 8021
3 and it continues to this day. Next slide.

4 To comply with D.C. Health Codes, specifically Title
5 17, Section 3718 and Title 25E, Section 500, the salon has added
6 sanitation sinks, storage for sterilized supplies and other
7 mandated upgrades over time. These additions, while necessary,
8 have reduced the interior space available for staff, clients and
9 core operations of the salon. To restore operational balance,
10 we propose installing two small conditioned story units in the
11 rear of the yard where equipment and supplies will be stored in
12 a conditioned environment. This would allow the interior to
13 focus on service delivery, maintaining clients, you know,
14 providing services to the community.

15 To do this we, again, request a use variance that will
16 allow accessory structures in support of the legally approved
17 nonconforming commercial use that's happening in the principal
18 building. We request an area variance for FAR proposing 1.12
19 while .9 is allowed on the site, and we also request an area
20 variance for lot occupancy proposing 72 percent where 40 percent
21 is currently permitted on the site. Next slide, please.

22 Next slide, please.

23 Under Subtitle X, Section 1000.1 of the D.C. zoning
24 regulations, the BZA may grant variances if the following tests
25 are met. The Applicant must prove an exceptional condition

1 | inherent to the property. The Applicant must show a resulting
2 | undue hardship for use variances or practical difficulty for area
3 | variances and finally, the Applicant must show that no harm to
4 | the public good or the zoning plan will arise from the relief.
5 | In this case we're requesting both a use variance and two area
6 | variances.

7 | The tests are nearly the same with one key difference.
8 | The use variance or for the use variance the hardship must be
9 | significant enough that the property can't reasonably be used for
10 | any conforming purpose under the current zoning. That's the
11 | standard we're addressing today and because it's a higher bar
12 | than what's required for the area variance, showing that we meet
13 | this standard also will satisfy the standard for the area
14 | variance. Next slide, please.

15 | So test one, exceptional condition to the property.
16 | Next slide.

17 | The site is affected by three interconnected
18 | exceptional conditions. One, next slide.

19 | VICE CHAIRPERSON BLAKE: Mr. Oduroe, is your picture
20 | available? I just noticed your picture's not. Can you put that
21 | up?

22 | MR. ODUROE: Oh, I'm sorry. I didn't realize that it
23 | didn't come on automatically. Hold on. Do you see me?

24 | VICE CHAIRPERSON BLAKE: I can now. Thank you.

25 | MR. ODUROE: Okay. Apologies for that.

1 So, yes. Next slide, please.

2 So first, there's a zoning mismatch between the
3 building's approved use and the yard's residential restriction.
4 The building has a BZA approved nonconforming commercial use.
5 The zoning regulations apply that only, sorry, zoning regulations
6 apply that approval only to the building itself and not to the
7 entire lot. Zoning does not extend nonconforming use rights to
8 the rear yard or to new accessory improvements.

9 So even in a modest change, like adding a storage unit,
10 requires BZA relief. Of course this isn't any kind of flaw in
11 the Code, it's just how zoning works. But in this case it creates
12 an exceptional condition. The owner is legally barred from making
13 a simple functional upgrade that supports the use that the BZA
14 has already approved in the past. Next slide, please.

15 Exceptional condition two. The rear yard no longer
16 serves its zoning purpose. So RA-1 zoning assumes that the rear
17 yard serves residential units by providing light, air and outdoor
18 space. But this property hasn't housed residents since at least
19 1950s and adjacent properties to the east and the west are not
20 residential either. In fact, the property to the east is a
21 parking lot currently. Without the zoning relief, the owner is
22 forced to design to residential standards that simply don't apply
23 to the property now and how it's currently being used and how
24 it's historically been used for the last several decades. Next
25 slide, please.

1 This disconnect makes it impossible to repurpose the
2 yard in any meaningful way. The space remains under-utilized,
3 unmonitored and, as you can imagine, vulnerable to nuisance
4 activity. So a few images of the current space right now in its
5 kind of unutilized capacity. Next slide, please.

6 The third condition is the site is incredibly narrow,
7 so it's a much smaller site than typical. The site is just
8 eighteen and a half feet wide and occupies a 2,040 square foot
9 parcel, barely above the minimum lot size allowed for RA-1. The
10 building spans the full width of this lot and more than 50 percent
11 the depth leaving no usable outdoor space besides the rear yard
12 for operational support or any kind of expansion that might
13 support the business. Next slide, please.

14 As you can see from the photos here, the tight footprint
15 poses challenges. Those challenges got significantly more
16 difficult in 2021 when D.C. modernized its health and safety
17 standards for salons requiring more sinks, stricter sanitation
18 areas and tighter plumbing compliance. Meeting those rules in
19 such a small space has been difficult and it's forced tough trade-
20 offs. Next slide, please.

21 The salon does its best to adapt but, as you can see,
22 every available inch is used for work stations, for sanitation
23 or for circulation. There's no room for dedicated storage, no
24 room for, you know, staff rest and no flexibility to rearrange
25 functions without cutting into the essential services that they

1 offer. Next slide, please.

2 There's no room to build inward and, again, zoning is
3 limiting our ability to move outward. The rear yard is the only
4 viable area that could potentially support additional space that
5 will support the long standing commercial use. Without relief
6 that space remains off-limits, and you can see these are
7 additional storage units and sanitary stations, hand washing
8 stations, a makeshift break area, that are all piled on top of
9 each other in order to make the space work currently. Next slide,
10 please.

11 In our view, this is the essence of the exceptional
12 condition. A site that's so constrained it can no longer
13 reasonably support the BZA approved nonconforming use and without
14 at least some modest relief to regain some of its functionality,
15 the business, you know, simply won't be able to survive here.
16 Next slide.

17 The owner has tried a variety of solutions including
18 off-site storage. She attempted locating a facility that was
19 approximately four miles away which created, you know, roughly
20 an eight mile trip each day that had to be made in order to, you
21 know, get supplies and materials and bring them back. There were
22 some incidents where the climate couldn't be controlled within
23 the storage facility and the owner, you know, lost material, lost
24 supplies that spoiled. The trip as you can imagine is a great
25 inconvenience that creates a lot of operational challenges in

1 terms of her managing her staff, managing her clientele and kind
2 of toting back and forth between here, you know, the storage
3 facility. Next slide, please.

4 In summary, these three conditions create a
5 circumstance where there's kind of a confluence of exceptional
6 situations making the ability to maximize the use of the site
7 under the current zoning effectively impossible. Next slide,
8 please.

9 And this of course leads to undue hardship on the owner.
10 Next slide.

11 Strict application of the zoning regulations prevents
12 the owner from making reasonable use of the full site to support
13 the property's long standing legally approved commercial use.
14 The interior is fully bid out and cannot accommodate the
15 sanitation and storage upgrades now required by the Health Code.
16 Zoning restrictions prohibit even modest improvements to the yard
17 leaving no path to maintain a safe and compliant operation.

18 Reverting back to the original RA-1 residential use is
19 also not feasible. As you can imagine after decades of plumbing,
20 electrical changes, layout modifications to the existing
21 structure, the cost and effort to undo that work to go back to a
22 traditional residential structure would be incredibly prohibitive
23 for the owner or, you know, a potential buyer of the property.

24 You know, in summary without zoning relief strictly
25 applying current zoning rules would severely limit operations and

1 | impose excessive cost and ultimately jeopardize the future of the
2 | long standing legally approved neighborhood business. Next
3 | slide, please.

4 | The third condition we're going to discuss is no harm
5 | to the public or to the zoning ordinance. Next slide, please.

6 | The commercial use of this site is not an anomaly.
7 | Again, there are mixed use zoning districts located to a few
8 | blocks up Benning Road and a few blocks down Benning Road and
9 | several other longstanding nonconforming commercial uses already
10 | exist along this corridor and have historically. This proposal
11 | aligns naturally with the historic, you know, use of this property
12 | as well as the existing character and the expectations of this
13 | neighborhood. We're not doing anything that hasn't existed
14 | already. This property has existed for quite a while in this
15 | location in this current state. Next slide, please.

16 | From the street level the proposed improvements will
17 | almost be completely invisible, preserving the existing visual
18 | character of Benning Road. The storage units are set at the rear
19 | of the property and fully screened by the existing building when
20 | approaching from the east. As you can see, you can't see the
21 | rear area. Next slide, please.

22 | When you're in front of the building you can obviously
23 | see a little bit of the site behind it. Next slide, please.

24 | When approaching from the west, it's similarly hidden
25 | from view along Benning Road as it's positioned well back to the

1 rear of the site. Next slide, please.

2 Additionally, a fence is proposed to basically conceal
3 anything that would be visible across the opening, you know,
4 creating no visual intrusion or disruption to the street façade
5 or the character of the neighborhood as you walk up and down
6 Benning Road. Next slide, please.

7 As noted by the Office of Planning report, both the
8 Office of Planning and DDOT have indicated their support. There's
9 also widespread support from the community. Next slide, please.

10 We submitted into the record that the ANC 7F has
11 unanimously supported the application. Additionally, neighbors,
12 clients and Ward 7 residents have provided enthusiastic
13 endorsement as evidenced by multiple letters of support that have
14 been submitted and entered into the record. Next slide, please.

15 Quotes and letters from the community consistently
16 highlight the Applicant's role as more than just a local business
17 owner. Beyond providing valued haircare services, the Applicant
18 is recognized as a meaningful civic partner and a valued
19 neighborhood asset. Granting this relief supports not only a
20 business but a cherished community resource. Next slide, please.

21 Next slide.

22 In summary, this is a modest request designed to
23 preserve a longstanding nonconforming commercial use as well as
24 the ongoing operations of a valued member of the community. The
25 property clearly faces multiple exceptional conditions. The

1 requested relief is necessary to avoid undue hardship. It causes
2 no public harm and has widespread support from both the community,
3 the Office of Planning as well. Next slide.

4 As you can see this is a rendering of what the units
5 will look like, again, from the east side of Benning Road looking
6 west. Relief is necessary for the business to meet required
7 standards and codes. The proposed storage structure is small
8 scale, discreet and practical offering a simple and minimally
9 impactful solution.

10 We respectfully request the Board's approval of this
11 variance relief.

12 Thank you.

13 VICE CHAIRPERSON BLAKE: I thought this was a very
14 thoughtful and detailed presentation. Thank you very much.

15 Do we have any questions from the Board or the
16 Applicant?

17 COMMISSIONER SMITH: I just have one question. It's a
18 clarifying question because this has come up before and I just,
19 I don't see anything in the record. The variance relief is
20 typically tied to the property itself and I just want to verify
21 that the Applicant is the owner of the property as well as the
22 business, and not just the business.

23 MR. ODUROE: That is correct. The Applicant owns a
24 holding company called 4248 Benning Road, LLC and she also owns
25 the business Tsunami Studios.

1 COMMISSIONER SMITH: Okay. That was the only question
2 I had.

3 MR. ODUROE: Uh-huh.

4 VICE CHAIRPERSON BLAKE: Thank you.

5 Chairman Hood, any questions from you?

6 ZC CHAIRPERSON HOOD: No, I don't have any questions.

7 VICE CHAIRPERSON BLAKE: Okay. Thank you.

8 We'd like to hear next from the Office of Planning.

9 Ms. Maxine Brown-Roberts.

10 MS. BROWN-ROBERTS: Good afternoon, Mr. Chairman and
11 members of the BZA. I'm Maxine Brown-Roberts from the Office of
12 Planning.

13 The Office of Planning recommends approval of the use
14 and area variances to expand a nonconforming use, FAR and lot
15 occupancy. As detailed in the OP report, the Applicant has
16 demonstrated an extraordinarily or exceptional situation
17 resulting in undue hardship to the owner due to the history of
18 the commercial use on the site and limitations on the use due to
19 changes in operational requirements resulting in undue hardship,
20 and a practical difficulty in maintaining business and meeting
21 the regulations.

22 The proposed containers for storage should not
23 substantially affect the public good in that they would not be
24 visible from Benning Road and would be one-story and would be
25 behind a fence, and vegetation would help to block visibility

1 from the residences to the south, actually to the north.

2 Trash containers would also be provided at the rear of
3 the building. The proposal would not be contrary to the intent
4 of the zoning regulations as the Applicant has demonstrated a
5 uniqueness and exceptional situation of the property which has
6 led to a unique hardship and practical difficulty to the owner.
7 Furthermore, the integrity of the zoning regulations would not
8 be eroded if the relief were granted as it has met more, a more
9 matter-of-right option would place a significant financial burden
10 on a small business owner and could remove a business that has
11 served the neighborhood for decades.

12 Again, OP recommends approval of the requested
13 variances. Thank you, Mr. Chairman, and I'm available for
14 questions.

15 VICE CHAIRPERSON BLAKE: Thank you, Ms. Maxine Brown-
16 Roberts. Let's see.

17 Do we have any questions from any members of the Board
18 for the Office of Planning?

19 (Pause.)

20 VICE CHAIRPERSON BLAKE: Do we have any questions from
21 the Applicant for the Office of Planning?

22 MR. ODUROE: We do not.

23 VICE CHAIRPERSON BLAKE: Okay.

24 Mr. Young, is there anyone that wishes to testify?

25 MR. YOUNG: We do not.

1 VICE CHAIRPERSON BLAKE: Okay.

2 If you had any additional closing remarks, we would
3 look forward to them, Mr. Oduroe. Please go ahead.

4 MR. ODUROE: I do not. I think I've said enough.

5 VICE CHAIRPERSON BLAKE: Okay. Okay.

6 I'm going to close the hearing and the record then.
7 Mr. Young, would you please excuse everyone.

8 (Pause.)

9 VICE CHAIRPERSON BLAKE: Okay.

10 First of all, I say at the beginning of the deliberation
11 I really did appreciate the information provided by the
12 Applicant. I found it helpful. I also found that the Applicant's
13 presentation was very thorough and instructive, and I really
14 appreciate the pictures of the internal space. Sometimes you
15 can't get a real grasp of what's going on until you see that.

16 I think these proposed structures will be modest in
17 scale and discreetly placed in the rear yard, minimizing impact
18 on neighboring properties and I don't think that granting relief
19 will allow the continued operations of a trusted and valued
20 business.

21 You know, when I looked through the prongs of the
22 variance test, the use and area variance which the use test is a
23 very high standard and I'm going to agree with the Office of
24 Planning's analysis of how the variance test was met. I'm going
25 to give great weight to the Office of Planning's recommendation

1 for approval. I note that DDOT has no objection. I will also
2 note that there are several letters in support for the record
3 including the adjacent property owner and that there is no
4 testimony presented in opposition.

5 Mr. Smith, I welcome your comments on the variance.

6 COMMISSIONER SMITH: I agree with your assessment and
7 looking at the various variance tests. As you've stated a use
8 variance is a very high hurdle and I do, I agree with the Office
9 of Planning's assessment of how they meet that high level of
10 criteria given the size of the space, given that they have to
11 meet other regulatory standards that have reduced the amount of
12 space that be dedicated to the business and I do believe that
13 the proposed storage units will be fairly small and with the
14 additional fence and the trees in the rear yard, it wouldn't have
15 an objectionable --

16 (Audio interference).

17 VICE CHAIRPERSON BLAKE: You froze there online and I
18 can't quite hear what you're saying.

19 COMMISSIONER SMITH: Impact.

20 (Audio interference).

21 VICE CHAIRPERSON BLAKE: Mr. Smith, we've lost you.

22 (Audio interference).

23 VICE CHAIRPERSON BLAKE: Yeah. I didn't hear the last
24 part of what you said. Did everyone else hear that or it was
25 just me?

1 ZC CHAIRPERSON HOOD: I didn't hear it either, Mr.
2 Chair.

3 COMMISSIONER SMITH: It was, I probably froze.

4 VICE CHAIRPERSON BLAKE: Can you maybe take your camera
5 off and then try again with that section?

6 (Pause.)

7 COMMISSIONER SMITH: Okay. Let's try this again.

8 I agree with the Office of Planning's assessment on the
9 reasons why they have met the burden of proof for us to grant
10 the use variance, given the size of the existing building and how
11 much space now has to be dedicated to other, to meet other
12 regulatory requirements for the District of Columbia.

13 I believe that the proposed accessory structures in the
14 rear of the yard would not have a detrimental impact on the
15 surrounding community and I will support the variance request.

16 VICE CHAIRPERSON BLAKE: Excellent. Thank you very
17 much, Mr. Smith.

18 Chairman Hood?

19 ZC CHAIRPERSON HOOD: Yes, Mr. Chairman. I too will
20 be supporting this application. I really appreciate the
21 presentation and I think that it meets the relief requested, and
22 I think it was very thought out and very thorough in this
23 presentation, advocacy as well.

24 Thank you. That's all I have on this.

25 VICE CHAIRPERSON BLAKE: Thank you.

1 Having deliberated, I'll make a motion to approve
2 Application No. 21287 as captioned and read by the secretary, and
3 ask for a second. Mr. Smith?

4 COMMISSIONER SMITH: Second.

5 VICE CHAIRPERSON BLAKE: Motion has been made and
6 seconded. Madam Secretary, would you please conduct a roll call
7 vote?

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

10 Vice Chair Blake?

11 VICE CHAIRPERSON BLAKE: Yes.

12 MS. MEHLERT: Mr. Smith?

13 COMMISSIONER SMITH: Yes.

14 MS. MEHLERT: Chairman Hood?

15 ZC CHAIRPERSON HOOD: Yes.

16 MS. MEHLERT: Staff would record the vote as three to
17 zero to two to approve Application No. 21287 on the motion made
18 by Vice Chair Blake and seconded by Mr. Smith.

19 VICE CHAIRPERSON BLAKE: Thank you.

20 Would you please call our next case, Madam Secretary?

21 ZC CHAIRPERSON HOOD: Mr. Chairman, I need one minute
22 to log off and log back on so I can get things reacclimated, so.

23 VICE CHAIRPERSON BLAKE: Okay. Well, let's do this.
24 Let's take a ten minute break, because we do, I think we have
25 two more cases, correct? Yes. Let's take a ten minute break

1 and everybody get their computer situated, and let's get back
2 here at 12:20.

3 ZC CHAIRPERSON HOOD: Okay. Thank you.

4 (Whereupon, there was a brief recess.)

5 MS. MEHLERT: The Board is back from another quick
6 break and returning to its hearing session.

7 The next case is Application No. 21290 of Carolyn R.
8 Millbourne Hantz. This is an application pursuant to Subtitle
9 X, Section 901.2 for a special exception under Subtitle D, Section
10 207.5 to allow the rear wall of a semi-detached building to extend
11 farther then ten feet beyond the farthest rear wall of any
12 adjoining principal residential building on any adjacent
13 property.

14 This is for a two-story rear addition to an existing
15 two-story semi-detached principal dwelling. It's located in the
16 R-2 zone at 28 46th Place, Northeast, Square 5138, Lot 77, and
17 as a preliminary matter there is a request from the Applicant to
18 waive the 30 day filing deadline to provide additional
19 information on communications with DOB which is in the record.

20 VICE CHAIRPERSON BLAKE: I'm comfortable with waiving
21 that if the Board has no objection. I'd like to have that
22 information.

23 Is the Applicant here? If so, would you please
24 introduce yourself and anyone who might be with you joining us
25 today?

1 MS. MILLBOURNE HANTZ: Good afternoon. I'm Carolyn
2 Millbourne Hantz. I'm the owner at 28 46th Place, Northeast. My
3 husband's here with me as well and I've got my contractor, Melvin
4 Taylor of MT Builders, and I believe our architect, Olufemi
5 Sokoya, is supposed to be here as well.

6 VICE CHAIRPERSON BLAKE: Okay. Will they be doing the
7 presentation or will you be, and they'll be available for
8 questions, or how do you want to do the presentation today?

9 MS. MILLBOURNE HANTZ: I'll be doing the presentation
10 and they'll be available for questions.

11 VICE CHAIRPERSON BLAKE: Okay. Well, I'm going to turn
12 it over to you. You have 15 minutes to present your case. Please
13 tell us about your project and we'll ask you any questions that
14 we have. Go ahead when you like.

15 MS. MILLBOURNE HANTZ: Okay.

16 Again, I'm the owner at 28 46th Place, Northeast. I
17 did provide my oral testimony in writing for the record.

18 Also in terms of background, on March 13, 2022 our
19 architect submitted our application to the Department of Consumer
20 & Regulatory Affairs for approval of our house addition
21 including, and it included nine required permits. On August 1,
22 2022 we submitted the signed plan for certification in order to
23 receive approval of the construction drawings.

24 We received zoning approval of the building permit
25 B2205045 for the addition, alternation and repair of our home

1 from Ms. Brittany Bullock on March 20, 2023 and that's documented
2 in ProjectDox at Exhibit 26. On June 9, 2023 we had a mandatory
3 meeting with Ms. Ashley Delgado with the Office of Construction
4 & Building Standards and on August 31, 2023 Ms. Delgado provided
5 some feedback on our updated drawings and approved it on December
6 8, 2023. I paid \$5,743.1 for the permit on March 12, 2024, so
7 the approval process basically took two years and on March 13,
8 2024 Mr. Sokoya received the approved plans via ProjectDox.

9 On December 20, 2024 when the project was about 80
10 percent complete and we were awaiting final approval for the
11 interior work, we were notified by Department of Buildings, I
12 believe it was Stephania (phonetic) Richardson notified our
13 contractor that there was a zoning issue related to the rear
14 extension. All of the extension is on the rear of the property.
15 And, again, we did this, we started construction April, 2024
16 relying on the approved permit.

17 But the Department of Buildings with the information
18 they provided our contractor was that the permit application was
19 issued in error. The addition is not in compliance with Sub. B,
20 207.4. The Board of Zoning relief is required and the addition
21 extends more than ten feet beyond the adjacent rear building wall
22 because the property is attached on one side. Okay. Okay.

23 In terms of the zoning harmony and neighborhood impact,
24 we feel the proposed extension is consistent with 11 D.C.M.R.
25 Subtitle X, 901.2. It is in harmony with the zoning restrictions

1 and maps and it would not adversely affect use of neighboring
2 properties including the adjoining property at 30 46th Place,
3 Northeast. Our architect carefully designed our addition to
4 minimize any visual or structural impact on surrounding homes and
5 that's reflective of the thoughtful and modern development.

6 In terms of community support, on February 18, 2025 I
7 testified before the ANC 7F Commission and received their support
8 for completing the construction including the 15 foot extension
9 across all three levels, and we have the pictures of the property
10 at Exhibit 5, and the plat map is at Exhibit 13. At no point
11 during the two year approval process were we told that further
12 zoning reviews and approvals would be required or that the
13 extension at 15 feet would require a zoning variance through the
14 Board of Zoning Adjustment. The addition from start to finish
15 has always been 15 feet.

16 In terms of, we relied in good faith on the zoning
17 approval that we got in March, 2023 and the approval was granted
18 for the 15 foot addition. In terms of other delays we've
19 experienced in relation to this project, there were two clerical
20 errors in the BZA memorandum that we had to get fixed before we
21 could proceed. One was the incorrect square number and the other
22 was it originally described another project that was not ours.

23 In terms of the integrity of the permit system, we are
24 concerned as tax paying citizens that, you know, the permit
25 approval process was issued through the Department of Buildings

1 and we relied on that and made significant investments in
2 upgrading our property. The addition itself is pretty much
3 already built. All of the construction is 80 percent complete.
4 We're waiting to finish the inside of the home.

5 Over the last nine months we've had to relocate three
6 times incurring \$3,000 in leasing costs and the last two
7 relocations have been due to the construction delays associated
8 with the zoning issues. This hardship continues and is compounded
9 by the fact that we are unable to live in our primary residence
10 which remains in limbo pending the outcome of this review. Also
11 we've had to move three times, again, with our adult son and our
12 adult son is non-verbal and autistic and requires 24/7
13 supervision. Each relocation has been traumatic for him as
14 changes in routine severely affect his wellbeing. Autistic
15 people tend to rely on routine, so it's been quite stressful him
16 not being in the home that he was born and raised in for the past
17 27 years.

18 Representatives from the Department of Buildings and
19 D.C. Zoning also articulated additional requirements that we had
20 to go through in terms of getting pictures of other properties
21 and neighbor's statements which we have done and they're included
22 in the record, and this additional need just seems unfair and
23 misguided at this stage given that we were at 80 percent, the 15
24 foot addition is already built and all of the plumbing,
25 electrical, everything was to specification of 15 feet.

1 The people we spoke to in relation to these
2 requirements, these additional requirements including Gregory
3 Garland, Sara Bardin and Robert Reid. And my family and I, we
4 reasonably relied upon the original zoning review approval by Ms.
5 Bullock. Applying additional factors now is puzzling and seems
6 unfair, unjust and detrimental to my family's financial and
7 emotional wellbeing.

8 Requiring us to now justify previously approved work
9 after we spent years of time and effort and extensive financial
10 investment seems punitive to me. The proposed additional
11 justification also undermines the integrity of the permitting
12 process and creates undue hardship for us.

13 Just to give you some background on my home. I
14 purchased our home in 1993 from my grandfather to keep the family
15 homestead in the family for four generations and beyond. Our
16 home is the same home in which my maternal grandparents raised
17 my mother and her 12 siblings. I am a lifelong Washingtonian
18 and have children to remain in the District of Columbia, even
19 after the tragic loss of my first husband in 2007. After retiring
20 from 46 years of Federal service, I hoped to enjoy my retirement
21 in this newly renovated home starting January 3rd of this year
22 when I retired and that hope remains unrealized.

23 I'm requesting relief given the facts that I've
24 presented and I respectfully request relief in the form of a
25 waiver, a special exception to allow the completion of our home

1 alteration and repair including our already built 15 foot
2 addition. Again, we were 80 percent complete when this issue was
3 raised to our attention. We relied on the zoning review approval
4 March 20, 2023. There was even an additional year of additional
5 requirements that we jumped in order to get the permit approved
6 completely in March, 2024 and we started construction acting in
7 good faith in compliance with, you know, the permit as issued.

8 We also request extension or renewal of the now expired
9 permit because, due to the work stoppage based on the zoning
10 issues, the permits have in the interim expired, at least the
11 plumbing and electrical have expired. I also again authorized
12 Melvin Taylor, our contractor, to speak as a witness if you have
13 any questions and our contractor, Olufemi Sokoya, who has now
14 joined us if you have any questions.

15 In conclusion I'm committed to preserving and enhancing
16 my family home of four generations and continuing to contribute
17 positively to my neighborhood of the past 32 years. I acted in
18 good faith on the March, 2023 zoning review and approval and have
19 faced unnecessary hardship over the past six months and continue
20 to do so. I respectfully ask the Board to approve my request
21 for zoning relief so that my family may finally return home.
22 We've been out of our home since August 15 of last year. And
23 that concludes my testimony subject to your questions.

24 VICE CHAIRPERSON BLAKE: Thank you very much. I'm
25 sorry that you've had to go through so much unnecessary burdens.

1 Does anyone from the Board have any questions for the
2 Applicant?

3 (Pause.)

4 VICE CHAIRPERSON BLAKE: I'll take that as no. Can we
5 hear from the Office of Planning? Mr. Shephard, no, Mr. Beamon,
6 are you there? Okay. Would you please walk through the approval
7 specifically and give us the conditions for D-5201 and X-901.2,
8 please?

9 MR. BEAMON: Give me one second, if you don't mind.
10 I'm just trying to get my camera turned on here. There we go.

11 So, yes. So OP did review this application. As the
12 Applicant mentioned there was a building permit issued, I'm
13 sorry. For the record, Shepard Beamon with the Office of
14 Planning.

15 But, yes. A permit was issued in error. We did do a
16 review of the criteria pursuant to Subtitles D and X. We
17 ultimately found the proposed addition as built should not
18 interfere on have impacts on the adjacent property owners in
19 terms of privacy, light and air. When viewed from the street it
20 should visually obstruct or negatively impact the character or
21 appearance of the neighborhood. And then lastly, the addition
22 as built should not, or should be in harmony with the zoning
23 regulations and the intent of the zone district.

24 So with that, OP is in support of the special exception
25 and recommends approval and I can take any other questions.

1 VICE CHAIRPERSON BLAKE: Thank you, Mr. Beamon.

2 Does anyone on the Board have any questions for the
3 Office of Planning?

4 (Pause.)

5 VICE CHAIRPERSON BLAKE: Okay. All right. I don't
6 have any questions either. Thank you very much, Mr. Beamon.

7 Mr. Young, is anyone there who wishes to testify?

8 MR. YOUNG: We have one witness signed up. Diane
9 McDuffie.

10 VICE CHAIRPERSON BLAKE: Sure. Would you please admit
11 Ms. McDuffie?

12 MS. MCDUFFIE: Yes.

13 VICE CHAIRPERSON BLAKE: Ms. McDuffie, is your camera
14 working?

15 MS. MCDUFFIE: I don't know how to work it. Let's see.
16 I don't know where to push to get the camera.

17 VICE CHAIRPERSON BLAKE: Okay. Well, we can hear you.

18 As a member of the public you've got three minutes to
19 provide your testimony. We look forward to hearing to what you
20 have to say. I'm going to put three minutes on the clock, if
21 you go over I'll let you know. So you can begin at any point
22 you'd like. Thank you.

23 MS. MCDUFFIE: No. I've been Carolyn's neighbor for
24 the past 32 years as well and --

25 VICE CHAIRPERSON BLAKE: I'm sorry. Ms., would you

1 please, I'm sorry, would you please tell me your location, your
2 address? I'm sorry.

3 MS. MCDUFFIE: 20 46th Place, Northeast, Washington,
4 D.C.

5 VICE CHAIRPERSON BLAKE: Okay.

6 MS. MCDUFFIE: Yes. We've been their neighbors for the
7 past 32 years and we would like them to have their addition put
8 on to their home as well. We have no objection to them having
9 their new addition and we understand about their son, and I
10 understand that he needs to be back in this home as well. So we
11 have no objection to anything that they're doing.

12 So that's all I wanted to say basically. You know,
13 just for them to go here and finish what they've go to do, and I
14 think, you know, it's something that they need for their family
15 and it's been a while. It's been a year.

16 So that's all I have to say for right now, and I thank
17 you.

18 VICE CHAIRPERSON BLAKE: All right. Thank you, Ms.
19 McDuffie. Appreciate your testimony.

20 Did anyone have any questions for the witness? Okay.
21 Mr. Young, you can dismiss the witness. All right.

22 Are there any other questions we have for the
23 Applicant? Okay. I am going to close, or sorry, Ms., I'm sorry.
24 Do you have any other closing remarks you'd like to make?

25 MS. MILLBOURNE HANTZ: Okay.

1 Just for your information, Diane, Ms. McDuffie is the
2 person who lives to the one side of the house. She's the person
3 with the house that's beside ours but not attached. Just to give
4 you some context in terms of who she is.

5 VICE CHAIRPERSON BLAKE: Is there anything else you'd
6 like to add?

7 MS. MILLBOURNE HANTZ: Do you want to add anything?

8 MR. HANTZ: Ron Hantz, 28 46th Place. My wife has laid
9 out what the challenges have been and I'm hoping that if the
10 Board approves our moving forward with the construction on our
11 property and that, yes, we do need to be back home. Thank you.

12 VICE CHAIRPERSON BLAKE: Okay. Thank you very much,
13 Mr. and Mrs. Hantz, and I look forward to hoping things work out
14 for you. I'm sorry that you've had to go through what you've
15 had to endure. I definitely appreciate what you're going through.
16 Thank you very much.

17 Okay. I'm going to close the hearing and the record.
18 Mr. Young, if you could please excuse everyone.

19 (Pause.)

20 VICE CHAIRPERSON BLAKE: Okay.

21 You know, based on the information in the record as
22 well as the testimony received today, I do believe the Applicant
23 has met the burden of proof to be granted the requested relief.

24 I agree with the Office of Planning's analysis on how
25 the Applicant met the criteria. I would also give great weight

1 to the Office of Planning's recommendation for approval. I note
2 that the ANC 7F is in support with no issues or concerns, and
3 DDOT also informed OP that they had no objection to the proposal
4 and there are a number of persons in support including the
5 adjacent neighbor, as we heard testimony today. It's unfortunate
6 the Applicant had to experience this. I mean, you know, it's a
7 special exception but it had some very significant implications
8 in terms of the severity of it and I sincerely apologize for that
9 implication.

10 If you have any other comments, Mr. Smith, I'd welcome
11 them.

12 COMMISSIONER SMITH: I have no further comments. I do
13 understand what the Applicant has gone through. This was as
14 (indiscernible). I do apologize that this has taken as long as
15 it has and I'm happy to, you know, say that the light is at the
16 end of the tunnel. I do believe that they have met the burden
17 of proof for us to grant the special exception and will support
18 the special exception, and hopefully there aren't any more delays
19 going forward.

20 VICE CHAIRPERSON BLAKE: Thank you, Mr. Smith.

21 Chairman Hood?

22 ZC CHAIRPERSON HOOD: I would agree with my colleague.
23 I'm hoping that the Hantz family does not have to deal with any
24 more delays. Government should be predictable. I've always said
25 that. So I'm ready to move forward and I don't want to delay

1 | this case any longer. Thank you, Mr. Chairman.

2 | VICE CHAIRPERSON BLAKE: Okay.

3 | Having deliberated I'm making a motion to approve
4 | Application No. 21290 as written and captioned by the secretary,
5 | and ask for a second. Mr. Smith?

6 | COMMISSIONER SMITH: Second.

7 | VICE CHAIRPERSON BLAKE: The motion has been made and
8 | seconded. Madam Secretary, would you please conduct a roll call
9 | vote?

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

12 | Vice Chair Blake?

13 | VICE CHAIRPERSON BLAKE: Yes.

14 | MS. MEHLERT: Mr. Smith?

15 | COMMISSIONER SMITH: Yes.

16 | MS. MEHLERT: Chairman Hood?

17 | ZC CHAIRPERSON HOOD: Yes.

18 | MS. MEHLERT: Staff would record the vote as three to
19 | zero to two to approve Application 21290 on the motion made by
20 | Vice Chair Blake and seconded by Mr. Smith.

21 | VICE CHAIRPERSON BLAKE: Great. Okay.

22 | Madam Secretary, would you please call our last case,
23 | I believe our last case for the day.

24 | MS. MEHLERT: The last case is Application No. 21292
25 | of Oak at Morse Street, LLC and Sung H. Cho, Trustee. As amended,

1 this is a self-certified application pursuant to Subtitle X,
2 Section 901.2 for a special exception under Subtitle U, Section
3 802.1(e) to allow entertainment, assembly and performing arts use
4 and pursuant to Subtitle X, Section 1000 for an area variance
5 from Subtitle U, Section 802.1(e)(3) to allow any portion of a
6 property with entertainment, assembly and performing arts uses
7 to be in the same square or within a radius of 1,000 feet of
8 another property containing a live performance nightclub or dance
9 venue.

10 This is for a new entertainment, assembly and
11 performance arts use in two existing two-story attached buildings
12 on contiguous lots. The project is located in PDR-1 zone at 405
13 and 407 Morse Street, Northeast, Square 3588, Lots 15 and 16, and
14 there is as a preliminary matter a request to waive the filing
15 deadline for a response to ANC 5D, updated photographs and an
16 updated self-certification form.

17 VICE CHAIRPERSON BLAKE: If the Board is comfortable
18 with it, I'll waive the motion, I'll accept the motion to accept
19 the late filings.

20 Welcome, Ms. Moldenhauer. Would you please introduce
21 yourself for the record and anyone who will be joining you today.

22 MS. MOLDENHAUER: Good evening, Chair and Board
23 members, Meredith Moldenhauer from the law firm of Cozen
24 O'Connor, here on behalf of the Applicant. I also have the
25 Applicant's representative, Mazen, who is, I see him on the

1 attendee list, if someone could move him to a panelist (phonetic),
2 that would be lovely.

3 I thank the Board for granting us the waiver for the
4 late filling. I'll allow my client to introduce himself.

5 MR. ZAATARI: Good afternoon, everyone. This is Mazen
6 Zaatari speaking here.

7 MS. MOLDENHAUER: And if Mr. Young could pull up our
8 PowerPoint presentation. Great. Thank you so much. Next slide,
9 please.

10 So the property you see here is located off of Morse
11 Street and is both in a PDR-1 zone and it's two lots. Next slide.

12 You can see here just to kind of help orient the Board.
13 Lot 407 is in red and 405 is in blue. You can see both the front
14 elevation and the rear elevation on both of these properties.
15 The property at 405 is also currently being renovated for a
16 macaroon store on a retail space on the front level. Next slide.

17 Proposed use here is to request a special exception
18 relief, variance relief, for an entertainment event space and
19 music venue. The proposal would be to have the two structures
20 connected and joined through openings in the façade and create
21 one venue on the second floor for an open floor plan. The
22 proposed use will take place fully within the building. This use
23 is distinct from some other cases you've had. There's no proposal
24 for a restaurant or dining use as that would interfere with the
25 below retail use such as having a hood or other type of uses.

1 Next slide.

2 You can see here a rendering of how the proposed use
3 would interact and be seen from the alley. The property is very
4 close to the corner of the alley access and the primary access
5 for the use would be to the alley. Next slide.

6 As indicated, the entire proposal would be all on the
7 second floor. On the right hand side of the image is the first
8 floor. This shows in the blue box where you would access off
9 the alley in the rear. The purpose of this is to maintain and
10 to allow for a continued use of the first floor for retail as it
11 says the property to your left is being renovated right now for
12 a macaroon store and the property to the right currently has a
13 first floor use.

14 So the intent would be to renovate the second floor and
15 to propose this use on the second floor. There has been some
16 back and forth conversations and additional prior design. The
17 DJ booth was moved to the interior of the layout to try and pull
18 all the noise down away from any edges of the property wall.
19 Next slide.

20 VICE CHAIRPERSON BLAKE: Ms. Moldenhauer, could you go
21 back to that slide for a second?

22 MS. MOLDENHAUER: Absolutely, yes.

23 VICE CHAIRPERSON BLAKE: Could you just orient us for
24 that slide? So I think that where it says second floor would be
25 facing Morse Street; is that right?

1 MS. MOLDENHAUER: Yes, that is correct. The second
2 floor is facing Morse Street and the back half of the blue box
3 on the first floor is facing the alley.

4 VICE CHAIRPERSON BLAKE: Okay. And there, the proposed
5 deck would be on the Morse Street side of the property?

6 MS. MOLDENHAUER: Correct. Yes.

7 VICE CHAIRPERSON BLAKE: Okay. Okay. Thank you. I
8 just wanted to make sure.

9 COMMISSIONER SMITH: I have one additional question.

10 MS. MOLDENHAUER: Board member Smith.

11 VICE CHAIRPERSON BLAKE: (Indiscernible) Mr. Smith.

12 COMMISSIONER SMITH: That second floor that you're
13 speaking of at the top of the graphic. Is that enclosed? Is
14 that deck going to be enclosed in some way, shape or form?

15 MS. MOLDENHAUER: So everything is enclosed. If we can
16 go back to the two slides prior. One more slide. Sorry.

17 So you can see here they're not changing, the historic
18 façade is not changing. So all of the interior area where any
19 music would play is behind that historic Morse Street façade.
20 There would be an outdoor area that would have no music and no
21 amplification on an outdoor deck in front of that façade, but
22 everything else is internal. So does that make sense?

23 COMMISSIONER SMITH: Yes, that makes sense.

24 MS. MOLDENHAUER: Okay. Thank you.

25 So we can go back to the slide that we were on. Next

1 | slide. Here.

2 | We did engage with the ANC in two zoning subcommittee
3 | meetings and one full ANC committee and the question that they
4 | had revolved around proposed security and operational plans. So
5 | we did provide information to them and did include information
6 | regarding the fact that the operation would include a CBE
7 | certified independent security company. There would be personnel
8 | on-site before, during and after all events. Staff would be
9 | positioned at the entrance inside the venue and in the alley, and
10 | we also provide information on both security cameras and lighting
11 | and would communicate and coordinate regarding multimodal
12 | transportation. Next slide.

13 | We did include images of where those potential security
14 | cameras would be located. Again, this is not as much to the
15 | specific zoning standard but it was something that the ANC asked
16 | for and so we are providing that to the Board. Next slide.

17 | Next slide.

18 | Next slide.

19 | We believe that the Applicant here satisfies the
20 | special exception relief to permit an entertainment, assembly and
21 | performing arts use in the PDR-1 zone. The proposed use is in
22 | harmony with the general purpose and intent of the zone plan and
23 | will not adversely impact the use of neighboring properties. The
24 | property is a vibrant mixed use community made up as the Union
25 | Market area. The property is not abutting or touching any

1 residential or residential uses. The proposed use is to
2 (indiscernible) would be anticipated to have little impact and
3 provide the benefits to those in the neighborhood. Next slide.

4 The proposed use does comply with the additional
5 special conditions pursuant to the subsection, including the fact
6 that the proposed use would not have objectionable aspects or
7 impacts on neighboring properties as to noise, traffic, parking,
8 loading or number of attendees, or waste. We, there's no parking
9 requirement as to this proposed project but we obviously, the
10 project is within a transit rich community as well as the majority
11 of those individuals that would be coming to this facility would
12 potentially be attending or going to a restaurant venue because
13 there is no food provided at this place. For other locations in
14 Union Market it might be getting to this project via walking or
15 potentially via other uses that would not require parking. The
16 property which will not be abutting a residential use or
17 residential zone. This property, it does not abut any residential
18 uses or zone and is separated from an alley. Next slide.

19 We did, wanted to provide there is no impact on noise
20 as that is part of that special condition, how the project is
21 addressing sound management, sound proofing the interior such as
22 using a floating floor and rubber underlays to reduce any base
23 vibrations that can be transmitted. There is also a solid-core
24 door with weather stripping and a double glaze window acoustics
25 to reduce any window or noise vibrations at the windows.

1 We are providing an entryway design that will actually
2 have a vestibule so that way when anybody is entering or exiting
3 the project, that entry and exiting will not allow for noise to
4 escape during that period of time. And then in addition to that,
5 the speakers are placed in a location in the center of the room,
6 as I showed you in the plans, to reduce any vibrations or noise
7 along the walls and they'll also be compliant in conducting sound
8 checks throughout the operation of the site to ensure that they
9 are compliant with all D.C. Code requirements as far as noise and
10 sound. Next slide.

11 The proposed use complies with the special conditions.
12 We are asking under No. 3 for a variance from the 1,000 feet
13 requirement for other venues. As I think the Board is aware in
14 their review of 21279 last week, there is an application that did
15 get approved in regards to requesting the initial variance relief
16 that we'll address in the next slide.

17 No. 4, there will be no external performances or
18 amplifications. As indicating, everything will occur indoors on
19 the site and we are also willing to accept any additional
20 conditions. Next slide.

21 So we are asking for a variance from the 1,000 foot
22 requirement for other uses. The Board is aware that there's the
23 unique condition of the fact that when we filed the application
24 there were no other venues currently, based on our research of
25 Certificates of Occupancy but three weeks prior we became aware

1 at our March ANC meeting when the Applicants for Palette 22 did
2 present their project. We do believe that that permitting history
3 and timing history is unique. We also believe that the use venues
4 are very different. Their facility is a restaurant that is going
5 to be a country and western themed and restaurant. It'll be
6 operated on specific time periods with live music whereas ours
7 will be a music venue or a venue that will be rented out based
8 on potential availability or desire including potentially
9 obviously music, DJ opportunities as well as family parties,
10 office parties, art venues, bar mitzvahs, and any other type of
11 event that would potentially occur. And so we believe based on
12 that that there is a practical difficulty that's compliant with
13 this requirement and that there would be no detrimental impact
14 to the public good or to the zone plan by permitting this use.
15 Next slide.

16 We, as I indicated, did present to the Zoning and
17 Planning Committee for ANC 5D twice, both in March and April,
18 then supplemented the information to them and then presented
19 before them on May 13th. On May 13th they voted four to two to
20 two to support the application based on a conditional support.
21 The conditional support was that the Applicant comply with their
22 conditional support and we supplement the record to include
23 images of the alley. There were express concerns about the fact
24 that the alley, having access of the alley and if the alley was
25 not yet improved in a way that would be conducive to this use.

1 We indicated that and the SMD for this project, Commissioner
2 Arbuckle, was very adamant about supporting the project and
3 indicated that obviously this would allow for this improvement,
4 and so we provided a narrative to the ANC regarding, and to the
5 Board, about how the Applicant intends to continue to improve the
6 alley such as cleaning, washing, reviewing and confirming that
7 there's no illegal dumping occurring in the alley and I would
8 also be providing both the Board and the ANC copies of how they
9 are cleaning the alley, and then also consent to attending an ANC
10 meeting prior to opening the facility.

11 And so based on that, I do know that the ANC had not
12 yet filed their resolution in the record but I am happy to answer
13 any questions. I believe the next slide is the conclusion of
14 our presentation.

15 Oh, sorry. Here are images of the Applicant working
16 to, you know, improve and ensure that the alley is, you know,
17 continually, even before they open up for business it's, you
18 know, in a condition that is improved from its current condition.
19 Next slide.

20 Now I've completed our presentation and am available
21 for any questions.

22 VICE CHAIRPERSON BLAKE: I have a quick administrative
23 question (indiscernible).

24 MS. MOLDENHAUER: I think our client got kicked off for
25 a second. If he can be brought back in.

1 VICE CHAIRPERSON BLAKE: Ms. Moldenhauer, I've got a
2 quick administrative question on this just to clarify.

3 On your recently submitted self-certification, I think
4 the request, it was cut off in the variance thing. You might
5 want to take a look at that and see if you need to re-submit
6 that.

7 MS. MOLDENHAUER: I think we did re-submit it. Are you
8 talking about 22B?

9 VICE CHAIRPERSON BLAKE: Yeah, I am. I'm looking at
10 22B now and it looks like, and maybe I'm misreading it, it looks
11 like it's cut off under the, could you ask for a variance under
12 802.1. Under a little bit more than that specific, the specific
13 1(e)(3), that should be a little bit more there I think.

14 MS. MOLDENHAUER: Yes. I mean, it should be, sorry, I
15 guess.

16 VICE CHAIRPERSON BLAKE: Okay. Just look at that, it's
17 updated but it's just, it just isn't saying what it should. So
18 it's a minor thing. I just thought maybe, just brought it to
19 your attention. You might want to correct that. So we're asking
20 for the, what exactly what we're asking for. What you're saying
21 is, saying that is just inconsistent with that.

22 The second question I wanted to ask you about was the
23 ANC. Do you anticipate that the ANC is going to submit a report
24 to the record? Did they express that? I understand your
25 representation but I was curious to know, do you anticipate. We

1 don't have anyone from the ANC here so I'm trying to just get a
2 sense for that.

3 MS. MOLDENHAUER: I will say that there was some
4 confusion between the Chair and the SMD about whether the SMD's
5 vote counted that night because he was not there during roll
6 call, and I don't know, you know, if -- I'll have you know the
7 SMD is very supportive but if this is required to the Chair,
8 there may be some delay I would say in getting a formal resolution
9 in the record.

10 VICE CHAIRPERSON BLAKE: But you represent that they
11 did approve, they approved and are in support and the issues and
12 concerns they raised you addressed?

13 MS. MOLDENHAUER: Correct. And it was a four vote in
14 support, two, one abstaining, one absent, and two in opposition.

15 VICE CHAIRPERSON BLAKE: Okay. Thank you.
16 Any other members of the Board have questions?

17 COMMISSIONER SMITH: (Audio interference.)

18 MS. MOLDENHAUER: I'm having a hard time hearing you.

19 COMMISSIONER SMITH: Oh. Can you hear me? Are you
20 proposing to construct a retractable roof?

21 MS. MOLDENHAUER: The roof is glass.

22 COMMISSIONER SMITH: And the roof will be glass on top
23 of the historic second floor?

24 MS. MOLDENHAUER: Correct. Yes.

25 MR. ZAATARI: I can jump in here. So there's two types.

1 We have some sort (audio interference).

2 VICE CHAIRPERSON BLAKE: Would you guys mute
3 yourselves? You're echoing, Mr. Zaatari. Please go ahead.

4 MR. ZAATARI: Oh, can you hear me better now?

5 VICE CHAIRPERSON BLAKE: Much better.

6 MR. ZAATARI: Amazing. And I'm sorry it cut off
7 earlier. I'm not sure what happened.

8 But it's mostly a two type of roof. There's a portion
9 of it that would be the glass and the other one that would be
10 the louver. This does not, it does not cover or open up further
11 from the historic wall so it's not going to be seen from the
12 public alley and the front side of Morse Street.

13 COMMISSIONER SMITH: Okay. And I have one additional
14 question. In your floor plans (audio interference). As a matter
15 of fact we have two sets of floor plans. We got one that's in
16 the record that's just the second floor. The first floor is not
17 all that clear. But (audio interference) actual floor plans of
18 what's in your (audio interference)?

19 VICE CHAIRPERSON BLAKE: You're breaking up, Mr. Smith.
20 The floor plan is different from those in Exhibit 5 which you
21 did address earlier that said that you had had to make some
22 alterations moving back the DJ booth.

23 The question is do you have, the plans that you showed
24 us that are in the slide deck, do you have those plans in the
25 record other than in that slide deck?

1 MS. MOLDENHAUER: They are just part of the PowerPoint
2 presentation which is part of the record at Exhibit 23.

3 COMMISSIONER SMITH: Is there any way that the floor
4 plan with, the stamped plans can be submitted within the record,
5 and we're not referencing the PowerPoint?

6 MS. MOLDENHAUER: We can definitely supplement the
7 record and submit, I mean do we have to have the stamped plans
8 or just plans that are on our architectural sheet?

9 MR. ZAATARI: We have stamped plans from the architect,
10 not from DOB yet, but this conversation for the retractable
11 rooftop we've already had with the Historic Preservation and they
12 approved it. So we've kind of consulted with them before
13 submission to DOB.

14 MS. MOLDENHAUER: We're happy to supplement the record,
15 Commissioner Smith.

16 COMMISSIONER SMITH: Okay. And my next question is
17 that deck and on both sets of plans it shows nothing on the deck.
18 Are you proposing to put in seats? Are there going to be
19 different, is there going to be a different layout arrangement
20 depending on different nights? What's going to be on that deck?

21 MR. ZAATARI: Correct. So there will be different
22 layout organizations based on the different events we host. I
23 mean, during the day as a, and maybe outside to that, during the
24 day maybe we'll just have regular furniture for people to sit
25 down, grab a coffee from Olivia Macaron and just have their normal

1 day up there, and then based on the event that we'd be hosting
2 in the afternoon or at night it would change.

3 COMMISSIONER SMITH: Okay. Do you have that in
4 different sets of plans that show the layouts that you propose
5 because I think the only thing that we have to go on is that
6 you're just going to put whatever in there up to 240 people based
7 on the occupancy?

8 MR. ZAATARI: We don't have the layouts for, like, the
9 different events. It's usually based on the event that we end
10 up doing. So usually we do the layout based on the event or
11 whoever is doing the event would have kind of a proposal of how
12 they would want it positioned.

13 COMMISSIONER SMITH: Okay. But are you going to have
14 permanent seating on the deck?

15 MS. MOLDENHAUER: No. I think there'd be no permanent
16 seating. It would be flex based on the potential user.

17 COMMISSIONER SMITH: Okay. But no amplified sounds
18 beyond that? Okay.

19 MS. MOLDENHAUER: Correct. No amplified sound.

20 COMMISSIONER SMITH: Okay. And can you speak to how
21 you're going to, again, maybe this was in the testimony, how
22 you're going to control noise or have any type of materials for
23 noise attenuation?

24 MR. ZAATARI: For sure. That No. 1 for the entrances
25 and the exits there's already space between how we're doing it.

1 So people entering from the back there's a double, there's two
2 double doors before you get to the venue itself which prevents
3 sounds from opening up and we are already doing that.

4 The second thing would be the acoustic ceilings,
5 acoustic, I'm not sure, I'm sorry, I forgot the word. But it's
6 mainly like the acoustic dry wall that you would hang to the
7 sides of the building as well as having a vestibule to prevent
8 sounds from entering, from exiting as people exit the venue.

9 COMMISSIONER SMITH: Well, how do you control with that
10 on the second floor because that seems like that'll be your main
11 event space?

12 MR. ZAATARI: Correct. So the idea of having the
13 acoustic ceiling, acoustic dry wall around the venue which
14 prevents sounds from travelling outside and then for the doors
15 up to the deck we would have a vestibule, and there would usually
16 be one security guard that opens the doors and closes it so that
17 as people are entering and exiting we're making sure that no two
18 doors are being open at the same time.

19 COMMISSIONER SMITH: Okay. I'm not seeing a vestibule
20 on your plans on the second floor. It just looks to be like a
21 door.

22 MS. MOLDENHAUER: Oh, the vestibule is on the first
23 floor as you enter.

24 MR. ZAATARI: There's a vestibule --

25 COMMISSIONER SMITH: Okay. So no vestibule on the

1 second floor to control the sound?

2 MR. ZAATARI: For sure. For exiting to the deck,
3 sometimes you might have an event where they're not using the
4 deck so it's not a permanent vestibule, it's the ones that you
5 can put up and down. They usually use them at a lot of venues
6 down in New York and many different spaces. We're using one,
7 actually our architect proposed one vestibule that you can buy
8 and it's like you just put it up and down as needed.

9 COMMISSIONER SMITH: Okay.

10 MR. ZAATARI: So it's not a permanent one because
11 sometimes you might have an event where there's very little music
12 and you're going to be allowing people up outside and inside.
13 For like a corporate event, let's say for example, you're not
14 blasting sound so you won't need it. So that's going to be up
15 taking space from the venue, so we won't put up the vestibule.
16 But if there's like a night where there might be amplified sound
17 on the inside, then we make sure that we put it up.

18 COMMISSIONER SMITH: Okay. And I think the only
19 question that I had, and this one is to Ms. Moldenhauer. The
20 two people that voted to not support it, did they state the
21 reasons why?

22 MS. MOLDENHAUER: They did. It was the Chair and his
23 concerns were that, yeah, the area wasn't right yet or wasn't,
24 you know, ready yet for having alley access. His concern really
25 was that, you know, the current, you know, condition isn't

1 conducive for an alley access and our position and the Single
2 Member District, Commissioner Arbuckle, countered to that which
3 he didn't say that night, was that, you know, if you don't approve
4 it and you don't allow this project to be developed, then the
5 alley will not ever get better and that, and this will obviously
6 allow for improvement, but the Commissioner just expressed his
7 statement that he thought, you know, not yet.

8 COMMISSIONER SMITH: Okay.

9 MR. ZAATARI: If you don't mind adding here that there's
10 already restaurants in Union Market that's just started
11 establishing their alley entrances and that's improved a lot of
12 the alleys that we're in. But you just have to start, as Meredith
13 mentioned, that the perfect example is Minetta Tavern, La'
14 Shukran shares the same alley like we do which already has alley
15 access as well as there's a small bakery that does alley access.

16 COMMISSIONER SMITH: Okay. Okay. Thank you.

17 Chairman Blake, I don't have any further questions.

18 VICE CHAIRPERSON BLAKE: Okay.

19 Chairman Hood, do you have any questions for the
20 Applicant?

21 ZC CHAIRPERSON HOOD: I'm just curious. Ms.
22 Moldenhauer, was the Chair of the ANC, was that Chair Guzman?

23 MS. MOLDENHAUER: Guzman, yes.

24 ZC CHAIRPERSON HOOD: Okay. All right. That's all.
25 I was just curious. Thank you, Mr. Chairman.

1 VICE CHAIRPERSON BLAKE: Thank you.

2 Okay. We can hear from, if we can just hear from the
3 Office of Planning? Ms. Myers, I'd ask you please go through
4 your analysis of the variance for me. Thank you.

5 MS. MYERS: Sure. Crystal Myers with the Office of
6 Planning.

7 The Office of Planning is in support of this case of
8 both the special exception and the area variance. You have
9 requested that I go over the area variance arguments. I shall
10 do so. Just zoom down to the last section here.

11 So with the area variance, the Applicant has to
12 identify, well I should first say, this is the variance and the
13 requirement that they be more than 1,000 feet away from a venue
14 that has live performances. In this case they are less than that
15 which is why they need a variance, and the variance argument the
16 primary exceptional situation argument, is that they were unaware
17 of the property across the street essentially having a live
18 performance aspect because of the timing of when they applied for
19 this case.

20 Prior to filing the Applicant made a good faith effort
21 to determine the type of relief needed for the proposed use.
22 This effort included directly communicating with the Zoning
23 Administrator's office on February 10th, 2025. Based on the
24 information available at the time the Zoning Administrator's
25 office confirmed that only special exception relief is necessary

1 in this case for the proposed entertainment space and this venue.
2 But three days later BZA case 21729, which was the case that was
3 last week's case, that case was for an eating and drinking
4 establishment with live performances was officially accepted by
5 the Office of Zoning.

6 The Applicant relied on the Zoning Administrator's
7 office's accurate at the time's confirmation, that only special
8 exception relief is necessary. Consequently, they moved forward
9 with their plans for this use as a special exception. So the
10 key thing here being is that timing and reliance on Zoning
11 Administrator's office's guidance led them to make decisions that
12 were just for a special exception case when in fact they actually
13 needed to do a variance. But they were unaware of that at the
14 time.

15 Strict application of the regulations would result in
16 a practical difficulty. If this owner had a difficult time
17 securing a viable tenant or I should say the owner of the property
18 has had a difficult time securing a viable tenant to use the
19 space, consequently the property has been vacant for an extended
20 period of time. Now that the owner has found a tenant who is
21 prepared to rent the space if the proposed use is approved,
22 denying the relief would mean the owner would lose the tenant and
23 the space would remain vacant.

24 As for there being substantial detriment to the public
25 good, we do not think that there would be a substantial detriment

1 to the public good. Granting the requested area variance would
2 result in, actually it would be beneficial to the public. The
3 proposed use would add to the vibrant mixed use and entertainment
4 activity in the Florida Avenue market district, is what we also
5 can call the Union Market area. It would serve as a private
6 event space, so it would only be booked for discreet events on
7 an irregular or limited schedule.

8 As such, it should not regularly be operating at the
9 same time as the establishment across the street at 400 Morse
10 Street, Northeast and we thought that granting the requested area
11 variance should not result in substantial impairment to the
12 zoning plan or regulations. The zone PDR-1 allows the proposed
13 use as a special exception. Besides the location requirement,
14 this proposal satisfies the special exception.

15 If the proposal is permitted to exist across the street
16 from an eating and drinking establishment with live performances
17 at Morse Street which last week was approved, so that continues
18 to move in the direction it's going. If it does come to fruition,
19 it should not significantly disturb the neighboring locations,
20 so this particular use should not be disruptive to the across the
21 street use and that you should not be disruptive to this use.

22 They operate a little differently so we don't think
23 that there would be direct impacts by their two operations. The
24 Florida Avenue Market area is a growing commercial and
25 entertainment location and the adjacent property is a warehouse.

1 The surrounding uses are compatible with the properties. So,
2 again, Office of Planning feels that the area variance has been
3 met in this case.

4 VICE CHAIRPERSON BLAKE: Thank you.

5 Does anyone have any questions for the Office of
6 Planning?

7 (Pause.)

8 VICE CHAIRPERSON BLAKE: I have one. Ms. Myers, can
9 you tell me what the intent of that regulation is, that zoning
10 regulation for the 1,000 foot?

11 MS. MYERS: Well, this regulation predates my time at
12 Office of Planning. But to my best understanding of what I
13 believe is the intent of it, the distance requirement seems to
14 be trying to prevent an over-concentration of these types of
15 uses, near low to moderate density, a residential neighborhoods.
16 In this case we don't feel that there is an over-concentration.
17 There are no low to moderate density residences nearby so we
18 think that these two existing in these locations would not be
19 disruptive in the area.

20 VICE CHAIRPERSON BLAKE: Okay. Thank you.

21 Does anyone else have any questions? Chairman Hood,
22 you wouldn't want to shed some light on that intent, would you?

23 ZC CHAIRPERSON HOOD: Are you speaking of the 1,000?

24 VICE CHAIRPERSON BLAKE: Yes.

25 ZC CHAIRPERSON HOOD: Yeah. I tell you I think Ms.

1 Myers is correct, but I recall it, and I'm trying to think. It
2 was just as I was coming on the Board so I think it had, actually
3 I think that had something to do with it -- maybe 300 or 1,000,
4 I can't remember -- but it had a lot to do with trash transfer
5 stations and I'll just leave it at that. But I do know that what
6 Ms. Myers said about the over-concentration is exactly what they
7 were trying to achieve. But, Ms. Myers, I just remember going
8 back to the mid '90s with trash transfer stations and I may be
9 totally wrong, but I know they all line up some kind of way.
10 I'll just leave it at that.

11 VICE CHAIRPERSON BLAKE: Okay. There we have it. All
12 right.

13 Are there any other questions that we have for the
14 Office of Planning either from the Applicant or from the Board?

15 (Pause.)

16 VICE CHAIRPERSON BLAKE: Okay. Let's see.

17 Mr. Young, is there anyone that wishes to speak?

18 MR. YOUNG: We do not.

19 VICE CHAIRPERSON BLAKE: Okay.

20 Ms. Moldenhauer, do you have any additional comments
21 you'd like to make in closing?

22 MS. MOLDENHAUER: No additional comments. We thank the
23 Board for their time. We're happy to supplement the record and
24 obviously are looking forward to the Board's deliberation.

25 Thank you very much.

1 VICE CHAIRPERSON BLAKE: Okay.

2 So before you go and before we turn to deliberations,
3 I want to ask our Board members if there's anything that they
4 need to help them make their decisions?

5 Mr. Smith, I'll go to you first.

6 COMMISSIONER SMITH: I think it's important to get the
7 correct set of plans into the record, so I would request the
8 Applicant to submit the plans into the record that were
9 supplemented.

10 VICE CHAIRPERSON BLAKE: Okay.

11 And correct set of plans meaning the ones stamped, the
12 architecturally stamped plans that we mentioned earlier?

13 COMMISSIONER SMITH: Ms. Moldenhauer illustrated within
14 her PowerPoint.

15 VICE CHAIRPERSON BLAKE: Okay.

16 And is there anything else you need? Do you want to
17 hold out for an ANC report or are you comfortable with that, what
18 we asked?

19 COMMISSIONER SMITH: Yes. Yeah, I think it would be
20 helpful since we're waiting on a set of plans to get a letter
21 from the ANC. Hopefully they can provide that relatively short,
22 in short order.

23 VICE CHAIRPERSON BLAKE: Okay. Okay.

24 Chairman Hood, would you like anything else?

25 ZC CHAIRPERSON HOOD: I'm just glad to know that we're

1 going to wait on that ANC. I'd kind of like to examine that a
2 little more. I do know ANC 5D is, they're very thoughtful. I
3 know they, Ms. Moldenhauer mentioned they may be differing but I
4 would like to see that as well.

5 Thank you.

6 VICE CHAIRPERSON BLAKE: Okay. Great. All right.

7 And I would personally appreciate anything you could
8 submit to the record that reflected that HPRB input. I think
9 you said that Historical looked at it and opined on the design.
10 If you could submit something to the record just to reflect that,
11 I'd appreciate it. I think that would be it.

12 So, based on that I'd like to, let's see. Madam
13 Secretary, we'd like to have those two pieces, the record closed
14 and open for those two pieces of information, three pieces of
15 information. The additional information on the layout, the ANC
16 report if they should submit one, and I'd like to have some
17 information on the HPRB whatever they might have. It could be
18 emails, could be a full report, I don't care.

19 Yes. Go ahead, Ms. Moldenhauer.

20 MS. MOLDENHAUER: Also just to add the (c)(3) to the
21 135, I think got cut off.

22 VICE CHAIRPERSON BLAKE: Okay. Please. Okay.

23 And I think that would be it. So, Madam Secretary,
24 could you give us a date for that decision?

25 MS. MEHLERT: For decision you could put this on, well

1 | it depends on when the Applicant can submit these items. I mean,
2 | if you can get it in by this Friday the ANC could have until next
3 | Friday and we could, you can put it on for a decision for June
4 | the 4th. I don't know if that's too soon.

5 | VICE CHAIRPERSON BLAKE: Ms. Moldenhauer, do you think
6 | you can do June 4th?

7 | MS. MOLDENHAUER: We'd be happy if it was the 28th or
8 | the 4th, yes.

9 | MS. MEHLERT: We don't have a hearing next week.

10 | MS. MOLDENHAUER: Oh, you don't have a hearing. Then
11 | the 4th it is.

12 | VICE CHAIRPERSON BLAKE: That sounds good. Okay. Thank
13 | you very much.

14 | Then I'm going to close the hearing and the record will
15 | remain open for those pieces of information we requested. Okay?
16 | And we'll have a decision on June 4th? Excuse me?

17 | MS. MOLDENHAUER: Thank you. I was saying thank you
18 | for your time.

19 | VICE CHAIRPERSON BLAKE: Okay. Thank you.

20 | MR. ZAATARI: Thank you all for your time.

21 | VICE CHAIRPERSON BLAKE: Okay.

22 | Mr. Young, you can excuse the witnesses. Madam
23 | Secretary, is there anything else we need to cover today?

24 | MS. MEHLERT: Nothing else from staff.

25 | VICE CHAIRPERSON BLAKE: Okay.

1 This meeting is adjourned. Bye.

2 ZC CHAIRPERSON HOOD: Thank you.

3 (Whereupon, the above-entitled matter went off the
4 record at 1:21 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: 05-21-25

Place: Via Webex

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

Cecilia Baptiste

Cecilia Baptiste