

GOVERNMENT OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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REGULAR PUBLIC HEARING

+ + + + +

WEDNESDAY

July 23, 2025

+ + + + +

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

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

FREDERICK L. HILL, Chairperson
CARL H. BLAKE, Vice Chairperson
CHRISHAUN SMITH, Commissioner
GWENDOLYN WRIGHT, Zoning Commissioner
ANTHONY 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 July 23, 2025.

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

2 (9:30 a.m.)

3 CHAIRPERSON HILL: Good morning, ladies and
4 gentlemen, the Board of Zoning Adjustment. Today is 7/23/2025.
5 Public hearing will please come to order. My name is Fred
6 Hill, Chairman of the District of Columbia Board of Zoning
7 Adjustment. Joining me today are Board members Chrishaun
8 Smith, Carl Blake, Zoning Commissioners Gwen Wright and
9 Chairman Anthony Hood. Please be advised that this proceeding
10 is being recorded by a court reporter and is also webcast live
11 via Webex and YouTube Live.

12 The video of the webcast will be available on the
13 Office of Zoning's website after today's hearing. Accordingly,
14 everyone who is listening on Webex or a telephone will be muted
15 during the hearing. Also, please be advised that we do not
16 take any public testimony at our decision-making sessions. If
17 you're experiencing difficulty accessing Webex or with your
18 telephone call-in, then please call our hotline number at
19 (202) 727-5471, once again (202) 727-5471.

20 At the conclusion of decision-meeting (sic) session,
21 I shall, in consultation with the Office of Zoning, determine
22 whether a full or summary order may be issued. A full order is
23 required when the decision it contains is adverse to a party,
24 including an affected ANC. A full order may also be needed if
25 the Board's decision differs from the Office of Planning's

1 recommendation. Although the Board favors the use of summary
2 orders wherever possible, an applicant may request the Board to
3 issue such an order.

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

13 All persons planning to testify, either in favor or
14 in opposition, should have signed up in advance. They'll be
15 called by name to testify. If this is an appeal, only parties
16 are allowed to testify. By signing up to testify, all
17 participants completed the oath or affirmation as required by
18 Y-408.7. Requests to enter evidence at the time of an online
19 virtual hearing, such as written testimony or additional
20 supporting documents other than live video which may not be
21 presented as part of the testimony, may be allowed pursuant to
22 Y-103.13 provided that the person explains in doing the request
23 how the exhibit is pertinent, how the exhibit justifies
24 allowing it into the record, including an explanation of why
25 the requester did not file their exhibit prior to the hearing,

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

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

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

1 575(b)(13) but only after providing the necessary public notice
2 in the case of an emergency closed meeting after taking a roll
3 call vote.

4 Madam Secretary, do we have any preliminary matters?

5 MS. MEHLERT: Thanks, Mr. Chairman, members of the
6 Board. On today's schedule, Application No. 21034 of
7 Morningstar Community Development has been postponed to
8 November 12th, 2025. Also, the Chairman has reviewed and
9 granted waivers to allow late filings into the applicable case
10 record pursuant to Subtitle Y, Section 206.7 and Section
11 103.13.

12 Any other late filings during the course of today's
13 live hearing should be presented before the Board by the
14 applicant, parties, or the witnesses after the case is called.
15 Any other preliminary matters will be noted when the case is
16 called.

17 CHAIRPERSON HILL: Okay. Great.

18 Good morning, everybody. Nice to see everyone.

19 Let's see, Madam Secretary, you may call our first order of
20 business today, please.

21 MS. MEHLERT: First case is in the Board's hearing
22 session. It's Application No. 21316 of Saturday Nnam. This is
23 a self-certified application pursuant to Subtitle X, Section
24 901.2 for a special exception under Subtitle E, Section 207.5,
25 to allow the rear wall of a row building to extend farther than

1 10 feet beyond the farthest rear wall of an adjoining principal
2 residential building on any -- on an adjacent property.

3 This is for a two-story rear addition to an existing
4 two-story row dwelling. It's located in the RF-1 zone at 515
5 21st Street, Northeast, Square 4516, Lot 203. This hearing
6 began last week on July 16th, and the Board requested the
7 applicant provide updated architectural drawings depicting the
8 proposed landing, which are in Exhibit 33. And participating
9 on this case are Chairman Hill, Vice Chair Blake, Mr. Smith,
10 and Commissioner Wright.

11 CHAIRPERSON HILL: Great. Thank you.

12 If the applicant can hear me, if they could please
13 introduce themselves for the record.

14 MR. RACHAL: Chairman Hill, this is Anthony Rachal.
15 I'm the attorney for the applicant, Saturday Nnam.

16 CHAIRPERSON HILL: Great. Mr. Rachal, is your camera
17 working?

18 MR. RACHAL: It was. Let me -- is it on now?

19 CHAIRPERSON HILL: No, but that's all right, Mr.
20 Rachal. Let's see how this goes. So Mr. Rachal, I know that
21 what the Board had asked were what type of plan -- oh, great,
22 perfect there we go -- what type of plans you might have for
23 the landing. And rather -- and I see the plans that are in the
24 exhibit, and I know that some of my fellow board members might
25 have some questions pertaining to the landing. So what I'd

1 rather -- what I'd like to do is just ask my fellow board
2 members now, based on the drawings -- if there's further
3 questions about their particular landing before we have a
4 discussion about the relief that's being requested.

5 Mr. Blake? You're on mute, Mr. Blake. You're on
6 mute. Are you having that same problem again? Okay. Okay.

7 I think Commissioner Wright had her hand up.

8 VICE CHAIRPERSON BLAKE: Now -- can you hear me --

9 CHAIRPERSON HILL: Now we've got Mr. Blake.

10 VICE CHAIRPERSON BLAKE: Okay. If -- Ms. Wright, if
11 you want to go first, that's fine.

12 ZC COMMISSIONER WRIGHT: I was just going to say that
13 I appreciate the drawing. It does appear that the landing and
14 steps are minimal. You know, I believed it was just very
15 important for us to actually have a drawing of what was going
16 to be constructed so that it could -- we could verify that what
17 was being built was consistent with our approval. And I have
18 no problem with the landing that is proposed. I think the fact
19 that it runs along the building and sort of hugs the wall of
20 the building is a good thing, and I don't have a problem with
21 it. That was all I was going to say.

22 CHAIRPERSON HILL: Okay, thank you, Commissioner
23 Wright.

24 Mr. Blake?

25 VICE CHAIRPERSON BLAKE: Yes, thank you. I agree

1 that the exhibit was very helpful.

2 Mr. Rachal, I noticed that in your statement you
3 indicated that prior plans that were in the -- I think in
4 Exhibit 12B -- had a protective railing on the building, and
5 those were the plans in the document. And then Exhibit 33 now
6 replaced those plans, and in the -- in the hearing last week,
7 you indicated that the plan was to actually put a landing in,
8 as you have depicted in this picture. I appreciate the fact
9 that you've done that because it is concerning, the fact that
10 in the first iteration you did not meet the plan as specified,
11 and then you put up an exhibit featuring a railing, and then
12 represented that you were going to put in a landing, and
13 then -- you know -- who knows what you would have done.

14 So I am -- I think that in this case, we should make
15 sure we make -- can get that landing in, and if it's, you know,
16 inconsistent with the plans, we probably might have to pare it
17 down next time as opposed to just give you grace on it. But I
18 do think it's important that you know we -- we don't want to
19 retroactively adjust for things necessarily.

20 I do think -- and we can go into deliberations on
21 this -- but I do think the standard is met for approval. But I
22 do think it's important that we stick to the plans as they are
23 written. And that's all I have to say, Mr. Chair.

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

25 Mr. Rachal, can you hear me?

1 MR. RACHAL: Yes, I can.

2 CHAIRPERSON HILL: Mr. Rachal, if you haven't figured
3 this out yet, the Board doesn't necessarily have a whole lot of
4 faith as to what you guys are doing because, like, you did say
5 you were going to build one way. Then you decided because of
6 the sand or something -- whatever the footings were -- you
7 built it farther than you were going to build it. Then there's
8 a drawing with a railing on there on a door, and now you have
9 this. And so what we're trying to point out is that if you
10 actually build something other than this, you're probably going
11 to come back to us for added -- asking for relief, and you're
12 probably not going to get it and have to tear down whatever it
13 is that you put up there. Would you please pass that along to
14 your client?

15 MR. RACHAL: I certainly will, Chairman Hill.

16 CHAIRPERSON HILL: Great. Thank you, Mr. Rachal.

17 Okay. All right. Unless the Board has any other
18 questions? All right. I'm going to excuse the applicant.
19 Thank you, Mr. Rachal.

20 MR. RACHAL: Thank you.

21 CHAIRPERSON HILL: Okay. In terms -- hold on. Give
22 me a second. Okay, great, thanks. Okay.

23 I don't think I need to hear from the Office of
24 Planning on anything about that landing unless you guys need
25 to. Do you guys need to hear from the Office of Planning?

1 Okay. All right.

2 So based upon the actual relief that's being
3 requested, and I do appreciate everything that, you know, you
4 all had asked for for this particular applicant. As I said,
5 I -- it's near the end of the summer for me, so I'm kind of
6 moving along maybe a little bit faster than I would come
7 September. But I think in terms of the relief, I mean I don't
8 like how we got to this relief, but I'm comfortable with what
9 they're asking for. I appreciate the shadow studies. I
10 appreciate that the Office of Planning's report is in favor of
11 this, and I also do appreciate that the applicant has gone out
12 to the ANC. I am glad that there's not a lot of people that
13 have any concerns on either side of this property and --
14 however, I do think they're meeting the criteria for me to vote
15 in favor of it. So I am going to vote in favor of the relief
16 that is being requested.

17 Mr. Smith, do you have anything you would like to
18 add?

19 COMMISSIONER SMITH: No, I have nothing to add. I
20 agree with your assessment. I thank the applicant for
21 submitting additional graphics to show the landings, and I
22 agree by and large with the position of the Office of Planning,
23 recommending approval for the special exception, and note that
24 the ANC is in support. So I will vote in support.

25 CHAIRPERSON HILL: Thank you.

1 Mr. Blake?

2 VICE CHAIRPERSON BLAKE: Mr. Chairman, as I said
3 earlier, (indiscernible) coupled with the plans that have
4 currently been provided, and I do appreciate the applicant
5 complying with the regulations this time. I do believe the
6 applicant has met the burden of proof as I said. And I give
7 great weight to the Office of Planning's report and
8 recommendation for approval as well as great weight to the
9 report of the ANC 7E which states there are no issues or
10 concerns. I am in support of the application at this point.

11 CHAIRPERSON HILL: Okay, great. Thank you.

12 Commissioner Wright?

13 ZC COMMISSIONER WRIGHT: Yes, I agree. I support the
14 application as it is currently presented. And I definitely
15 echo and agree with Chair Hill's comments that, you know, this
16 wasn't great that we got to this as a retroactive application
17 and that there seemed to be a lot of moving parts, but we now
18 have a drawing showing what is supposed to end up being on the
19 ground when all is said and done. And I really do hope that
20 the applicant will build exactly consistent with those
21 drawings, because that is the way the process works. You
22 submit a drawing, and you build according to that drawing. So
23 I will support the application as it's currently been
24 submitted.

25 CHAIRPERSON HILL: Okay, great. Thank you.

1 Go ahead, Mr. Blake.

2 VICE CHAIRPERSON BLAKE: Yes, just to continue that,
3 I'd like to also reference in the order the exhibit that had
4 the drawing that -- just to be clear that that is the exact
5 drawing, and so we can reference (indiscernible) Exhibit No.
6 33.

7 CHAIRPERSON HILL: Okay. Great. All right, thanks,
8 Mr. Blake.

9 Okay. I'm going to make a motion to approve
10 Application No. 21316 as captioned and read by the secretary,
11 including a comment that the order reference that the plans --
12 that the project will be built as per the plans, in particular
13 the landings, in Exhibit 33 and ask for a second. Mr. Blake?

14 VICE CHAIRPERSON BLAKE: Seconded.

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

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

19 Chairman Hill?

20 CHAIRPERSON HILL: Yes.

21 MS. MEHLERT: Vice Chair Blake?

22 VICE CHAIRPERSON BLAKE: Yes.

23 MS. MEHLERT: Board Member Smith?

24 COMMISSIONER SMITH: Yes.

25 MS. MEHLERT: Commissioner Wright?

1 ZC COMMISSIONER WRIGHT: Yes.

2 MS. MEHLERT: Staff duly records the vote of four to
3 zero to one to approve Application No. 21316 on the motion made
4 by Chairman Hill and seconded by Vice Chair Blake.

5 CHAIRPERSON HILL: Okay. Thanks. Commissioner
6 Wright, I hope you have a good day. We'll see you next time.

7 Mr. Blake, you may want to log off and log back in.
8 You're kind of choppy.

9 VICE CHAIRPERSON BLAKE: Yeah? Okay.

10 CHAIRPERSON HILL: Good morning, Chairman Hood.

11 ZC CHAIRPERSON HOOD: Good morning Mr. Chair, and
12 Board Members, staff, and residents. Good morning.

13 CHAIRPERSON HILL: Having a good morning this
14 morning. Good. Just waiting for Mr. Blake to get back in.

15 (Pause.)

16 CHAIRPERSON HILL: Mr. Blake, can you hear us?

17 VICE CHAIRPERSON BLAKE: I can. Can you hear me?

18 CHAIRPERSON HILL: Oh yeah, that's much better.

19 VICE CHAIRPERSON BLAKE: Okay.

20 CHAIRPERSON HILL: Okay. Great. All right.

21 Madam Secretary, can you call our next item of
22 business, please?

23 MS. MEHLERT: Yes. Next is in the Board's meeting
24 session. It's an advanced party status request in Application
25 No. 21326 of Ehsan Jazini. This is a self-certified

1 application pursuant to Subtitle X, Section 901.2 for special
2 exceptions under Subtitle U, Section 253, to allow an accessory
3 apartment on the second floor of an accessory structure under
4 Subtitle D, Section 207.5; to allow the rear wall of a row
5 building to extend farther than 10 feet beyond the farthest
6 wall of the adjoining principal residential building on an
7 adjacent property; and under Subtitle D, Section 5201, the lot
8 occupancy requirements of Subtitle D, Section 210.1, location
9 requirements of Subtitle D, Section 5004.1(a) to allow an
10 accessory building in a required rear yard. It's for an
11 accessory apartment on the second floor of a new two-story
12 accessory structure in the rear yard of an existing two-story
13 attached principal dwelling with new third floor and three-
14 story rear additions to the principal dwelling. It's located
15 in the R-3/GT zone at 3546 Whitehaven Parkway Northwest, Square
16 1296, Lot 384.

17 A public hearing was originally scheduled for July
18 30th and has been postponed to October 1st. And before the
19 Board today are requests for advanced party status in
20 opposition from Peter Courtois and Allison Astorino-Courtois,
21 Amy Collen, and Robert Winthrop Huffman.

22 CHAIRPERSON HILL: Okay. Great. Are the party
23 status opposition members here?

24 MR. YOUNG: They are here. Do you want me to bring
25 them in?

1 CHAIRPERSON HILL: Yeah. Could you please?

2 MR. YOUNG: Yeah.

3 CHAIRPERSON HILL: Ms. Ferster, can you hear me?

4 MS. FERSTER: Yes, I can.

5 CHAIRPERSON HILL: And thanks so much. Could you
6 introduce yourself for the record?

7 MS. FERSTER: Sure. My name is Andrea Ferster. I
8 represent Amy Collen, who is an adjacent landowner at 3544
9 Whitehaven, who is seeking advanced party status as a party in
10 opposition.

11 CHAIRPERSON HILL: Okay. Great. Thank you. One
12 second here. Ms. Collen. And then Mr. Huffman. Okay. And
13 then Mr. Courtois. Okay.

14 Ms. Ferster, you're only representing Ms. Collen?

15 MS. FERSTER: That's correct, only Ms. Collen.

16 CHAIRPERSON HILL: Okay. Mr. Huffman, can you hear
17 me? Can you -- you're on mute. Could you introduce yourself
18 for the record?

19 MR. HUFFMAN: Sorry. I'm Robert Huffman, current
20 tenant at 3544, which shares a wall to the east with the
21 applicant.

22 CHAIRPERSON HILL: Got it. And Mr. Huffman, I'm -- I
23 don't have any issues with you being a tenant or anything. I
24 was just curious. Do you -- do you have, like, a lease that's
25 going on for an extended -- like, at least a year, or you know,

1 when -- when this would actually be possibly be built is what
2 I'm trying to figure out.

3 MR. HUFFMAN: We signed a two-year lease at the
4 beginning of June. Just, I'd say, prior to --

5 CHAIRPERSON HILL: Okay.

6 MR. HUFFMAN: -- all -- all of this.

7 CHAIRPERSON HILL: Okay. Great. Thank you. Let's
8 see.

9 And Mr. Cortoris (sic) -- is that how you pronounce
10 your name?

11 MR. COURTOIS: It's Courtois.

12 CHAIRPERSON HILL: Oh, Courtois.

13 Mr. Courtois, could you introduce yourself for the
14 record?

15 MR. COURTOIS: Yes. It's Peter Courtois. I live at
16 3548 Whitehaven Parkway. I'm on -- I'm on the other side --

17 CHAIRPERSON HILL: Okay.

18 MR. COURTOIS: -- so I'm attached on the west side.

19 CHAIRPERSON HILL: No. That's great. And so Mr.
20 Courtois, and Mr. Huffman, and Ms. Collen, I know you guys
21 don't come before us -- I don't know if you've ever been before
22 us or not -- but Ms. Ferster does represent people before us,
23 and so I -- I think that you all are going to get party status,
24 but what I would ask, if you could, since Ms. Ferster is kind
25 of the professional, maybe she could kind of, like, lead the

1 argument and then you guys can go ahead and also give your
2 testimony when the time comes.

3 What normally happens is that the applicant will give
4 their argument as to how they think they're meeting the
5 criteria for what we're supposed to look at for the -- whatever
6 is being proposed -- right? And then the -- I'm sorry -- and
7 then those who are either in support or opposition would come
8 next and then provide their testimony. And then we go through
9 everyone's testimony, and then everyone gets to ask questions
10 of each other. There's also the Office of Planning. The
11 Office of Planning will give their report.

12 Have you guys had a chance to actually look into the
13 file, like, go on the BZA website and look at the filings yet?
14 Or do you understand how that works? I see one -- I see Ms.
15 Collen's --

16 MR. HUFFMAN: Yes.

17 CHAIRPERSON HILL: Okay. Great. So all I was just
18 going to point out is what the Board looks at is these
19 particular regulations as to whether or not we, the Board,
20 think that it should be approved or not. And the Office of
21 Planning tends to give at least the criteria, even from like an
22 outside lay audience perspective, and you can kind of take a
23 look at that. So, that won't come until like the week before
24 the hearing. And so just kind of giving you a heads up that
25 that's there, that you can kind of like take a look at, that

1 gives a little bit more context as to what we kind of are
2 talking about.

3 Do you all have any questions and if so, raise your
4 hand?

5 MR. HUFFMAN: Not at this time.

6 CHAIRPERSON HILL: I see Mr. Smith raising his hand.
7 Oh, I thought you did. Okay. All right, so nobody has any
8 questions? Okay. All right then I'm going to excuse all of
9 you all, and we'll see you probably -- it's -- Madam Secretary,
10 it's October what?

11 MS. MEHLERT: October 1st.

12 CHAIRPERSON HILL: Okay. And you know, you're in
13 good hands with Ms. Ferster. If there is anything that
14 actually can get done ahead of time, that'd be great, but you
15 never know right?

16 Okay. All right. I'm going to go ahead and excuse
17 you guys. You all have a good day.

18 MR. HUFFMAN: Thank you.

19 MR. COURTOIS: Thank you.

20 CHAIRPERSON HILL: Okay. All right. I'm going to go
21 ahead and see do you all have any comments or anything? I'm
22 going to make a motion.

23 Okay. I'm going to make a motion to approve party
24 status for a -- a group of people: Amy Collen, Peter
25 Courtois -- sorry -- and Mr. Huffman in Case No. 21326 and

1 ask -- for party status in opposition.

2 I ask for a second, Mr. Blake?

3 VICE CHAIRPERSON BLAKE: I second.

4 CHAIRPERSON BLAKE: Okay. Motion made and seconded.

5 Madam Secretary, take a roll call.

6 MS. MEHLERT: Please respond to the Chair's motion to
7 grant party status in opposition.

8 Chairman Hill?

9 CHAIRPERSON HILL: Yes.

10 MS. MEHLERT: Vice Chair Blake?

11 VICE CHAIRPERSON BLAKE: Yes.

12 MS. MEHLERT: Board Member Smith?

13 COMMISSIONER SMITH: Yes.

14 MS. MEHLERT: Chairman Hood?

15 ZC CHAIRPERSON HOOD: Yes.

16 MS. MEHLERT: Staff would record the vote is four to
17 zero to one to grant party status in opposition in Application
18 No. 21326 on the motion made by Chairman Hill and seconded by
19 Vice Chair Blake.

20 CHAIRPERSON HILL: Okay. Great. You may call our
21 next piece of business, Madam Secretary.

22 MS. MEHLERT: Next in the Board's meeting session is
23 an expedited review of Application No. 21323 of Steven and
24 Natalia Graham. This is a self-certified application pursuant
25 to Subtitle X, Section 901.2 for a special exception under

1 Subtitle E, Section 5201, from the rear yard requirements of
2 Subtitle E, Section 207.1. This is for a two-story rear
3 addition to an existing two-story semidetached principal
4 dwelling. It's located in the RF-1 zone at 424 7th Street, NE,
5 Square 862, Lot 183.

6 CHAIRPERSON HILL: Okay. Great. Thank you. All
7 right. I've had a chance to review the record, and this was
8 again 20-feet minimum required, 16.3 feet existing, and 12.3
9 feet proposed. I looked at the application, the architectural
10 drawings, and I didn't particularly have any issues with the
11 application. I will note that they have extensive outreach,
12 which is good for them, that the adjacent property owners all
13 are in support as well as the Capitol Hill Restoration Society.

14 I also will agree with the Office of Planning's
15 recommendation and that of the ANC. This particular ANC also
16 has -- is pretty knowledgeable of the different criteria, and
17 they were in favor of this particular application. So I'm
18 going to be voting in favor of this application.

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

20 COMMISSIONER SMITH: Nothing to add. Voting in
21 support.

22 CHAIRPERSON HILL: Thank you.

23 Mr. Blake?

24 VICE CHAIRPERSON BLAKE: With your analysis, Mr.
25 Chair, I too will be voting in support of the application.

1 CHAIRPERSON HILL: Thank you.

2 Chairman Hood?

3 ZC CHAIRPERSON HOOD: I also will vote in support of
4 this application. Thank you.

5 CHAIRPERSON HILL: Thank you. I'm going to make a
6 motion then to approve Application No. 21323 as captioned and
7 read by the Secretary and ask for a second. Mr. Blake?

8 VICE CHAIRPERSON BLAKE: Second.

9 CHAIRPERSON HILL: Motion has been made and seconded.
10 Madam Secretary, take a roll call, please.

11 MS. MEHLERT: Motion to approve the application.
12 Chairman Hill?

13 CHAIRPERSON HILL: Yes.

14 MS. MEHLERT: Vice Chair Blake?

15 VICE CHAIRPERSON BLAKE: Yes.

16 MS. MEHLERT: Board Member Smith?

17 COMMISSIONER SMITH: Yes.

18 MS. MEHLERT: Chairman Hood?

19 ZC CHAIRPERSON HOOD: Yes.

20 MS. MELERT: Staff would record the vote as four to
21 zero to one to approve Application No. 21323 on the motion made
22 by Chairman Hill and seconded by Vice Chair Blake.

23 CHAIRPERSON HILL: Thank you. All right. Madam
24 Secretary, you may call our next item of business.

25 MS. MEHLERT: Next is in the Board's Hearing Session. It's

1 Application No. 21320, Washington Georgetown Properties, LLC.
2 This is a self-certified application pursuant to Subtitle X,
3 Section 901.2 for a special exception under Subtitle C, Section
4 703.2, to eliminate the minimum vehicle parking requirement of
5 Subtitle C, Section 701.5.

6 This is for a new hotel with retail and restaurant uses
7 in an existing two-story building with a five-story addition.
8 It's located in the MU-13 zone at 3401 K Street, Northwest, Square
9 1183, Lot 813. And as preliminary matters, the applicant has
10 proffered two expert witnesses, Andrew Harmon is a project
11 architect who is not in the witness book, and Jami Milanovich is
12 an expert in transportation who is in the witness book. The
13 applicant has also requested to waive the 30-day filing deadline
14 to submit additional floor plans in Exhibit 22A.

15 CHAIRPERSON HILL: Okay. Great. Thank you. Unless
16 the Board has any issues with it, I'd like to go ahead and put
17 the floor plans into the record so we know what we're looking
18 at.

19 And then -- let's see. So that's that one. You said --
20 I'm sorry, Madam Secretary -- there was an expert witness who's
21 not in the book?

22 MS. MEHLERT: Yes, I believe the project architect.

23 CHAIRPERSON HILL: Okay. If the applicant can hear me,
24 if they can please introduce themselves for the record.

25 MS. SHIKER: Yes, Chairman. Good morning. Christine

1 Shiker with the law firm of Holland & Knight representing the
2 applicant on this matter. With respect to the project architect,
3 he is only going to be here if we need him for questions. So
4 since he is not in the book, and actually not registered in D.C.,
5 I suggest we hold off on trying to identify him as an expert at
6 this point until we see if we need to discuss that.

7 CHAIRPERSON HILL: Okay. That's fine, Ms. Shiker.

8 Okay. So I mean, this one kind of surprised me. Like,
9 I wondered what this thing was as I drive by it all the time,
10 and so, that's interesting to know.

11 And now -- right -- so I understand why you guys are
12 here, and what you're trying to do. And so I'll let you go ahead
13 and explain how you think you're meeting the criteria for us to
14 grant this particular relief. I'm going to put 15 minutes on
15 the clock so I know where we are. And you can begin whenever
16 you like.

17 MS. SHIKER: Yeah. So good morning again. Christine
18 Shiker with the law firm of Holland & Knight. I am joined today
19 by a variety of people, but our direct presentation will include
20 Joseph (phonetic) Addeo from the applicant and then Jami
21 Milanovich, who is our traffic expert.

22 Mr. Young, could you please bring up our PowerPoint
23 presentation for -- it's in Exhibit 29. All right. Thank you
24 so much.

25 Again, we represent Washington Georgetown Properties,

1 LLC, the applicant. And this applicant is actually an affiliate
2 of citizenM Hotels.

3 Next slide please.

4 The property is located at 3401 K Street, across the
5 street from the Georgetown waterfront. You can see it as you're
6 coming north on Key Bridge; it's over to your east. It is zoned
7 MU-13, and it is improved with a historic warehouse that will be
8 adaptively reused for this project.

9 Next slide please.

10 The applicant seeks special exception relief to allow
11 full reduction in the required on-site parking for a new 7-story,
12 230-room hotel on the site. Our special exception is pursuant
13 to Subtitle C, Section 703, which allows for this relief if it
14 is providing -- if the project is providing the -- or if the
15 project is unable to provide the required number of parking spaces
16 because it is impractical due to site characteristics, or
17 unnecessary due to a lack of demand, or the site's proximity to
18 transit options. As we will discuss, the parking relief is
19 justified based on a number of the criteria.

20 Next slide please.

21 We are pleased to have strong support for the
22 application. The Office of Planning has recommended approval
23 without any conditions. DDOT has no objection to the application,
24 subject to conditions to which the applicant has agreed and Ms.
25 Milanovich will discuss. We are also pleased to have the

1 unanimous support of the ANC, subject to conditions, which I'm
2 going to talk about at the end of our presentation.

3 At this point, Mr. Addeo will provide a very brief
4 description of citizenM and the proposed hotel concept. Then Ms.
5 Milanovich will walk through the transportation considerations.
6 I will then come back to summarize our compliance with the burden
7 of proof, and then we can go to questions. So I'll hand it over.
8 Thank you.

9 MR. ADDEO: Thank you, Christine. Can everyone hear
10 me?

11 CHAIRPERSON HILL: Yes. If you can introduce yourself
12 for the record, please, also?

13 MR. ADDEO: Yes. Good morning. This is Joseph Addeo,
14 Director of Investment Management with citizenM. As Christine
15 mentioned, I'd like to tell you a bit about our brand, our guests,
16 and the Georgetown Development Project.

17 citizenM was founded in the early 2000s to address a
18 gap in the hospitality market by delivering a design and tech-
19 enabled hotel experience for business and leisure travelers.
20 Since launching, citizenM has developed a portfolio of nearly 40
21 hotels in major markets across the globe, which we continue to
22 own and operate. Each property is uniquely positioned within a
23 city's cultural fabric, allowing guests to connect directly with
24 local businesses and public transit. Our hotels are built with
25 an understanding of our guests, who consistently leverage public

1 transportation with an appreciation for each hotel's walkability
2 when traveling for either business or leisure. Each hotel is
3 designed with limited amenities tailored for our consistent guest
4 experience. We do not offer large meeting space or restaurants
5 which are catered to outside parties. Our focus is to drive
6 guests into city centers to engage with local businesses.

7 MS. SHIKER: And let's -- I'm sorry to interrupt. Mr.
8 Young, if you could advance the slides, there are a couple of
9 slides that go with his presentation. There we go.

10 MR. ADDEO: Thank you.

11 MS. SHIKER: You can go to the next slide now.

12 MR. ADDEO: You can go to the next slide now as well.
13 Thank you.

14 Our clients are global business partner -- business
15 and leisure travelers who value a luxury hotel experience in
16 central city locations but at an affordable price. For both
17 first-time and seasoned citizenM guests, communication is
18 provided to everyone regarding specific hotel amenities and
19 features, including transit options. Our hotels are built
20 without parking in almost all major metropolitan markets. This
21 communication is done at several touch points prior to arrival,
22 and our hotel team members are well versed to answer any
23 questions. The typical citizenM guest will make public transit
24 and rideshare their primary mode of transportation to or from the
25 hotel, which is consistent across our portfolio.

1 Next slide, please.

2 In speaking specifically to the Georgetown project,
3 Georgetown will be the third location for citizenM in D.C., which
4 has already been a wildly successful market for us and our guests.
5 Existing properties in NoMa and Capitol were constructed without
6 parking, to which there has been no impact to guest experience
7 or property performance. Our thesis on the development has
8 consistently been that the Georgetown project will add to an
9 already successful citizenM portfolio, while being mutually
10 beneficial to local businesses in this historic and unique
11 neighborhood. This here is a rendering of the project from Water
12 Street looking northwest.

13 And if you could advance to the next slide.

14 And this is another rendering of the project
15 overlooking the canal facing southeast. And that's all.

16 MS. MILANOVICH: I just want to talk a few minutes
17 about the requested parking relief that we have before us. The
18 project is required to provide a minimum of 27 vehicular parking
19 spaces. That's based on the zoning regulations and also a 13-
20 space credit that the zoning administrator has determined this
21 project is eligible for based on the existing warehouse.

22 The project is just over a half a mile from the Rosslyn
23 Metro station and just over a quarter mile from a priority Metro
24 bus route. So for example, if we were just about 160 feet to
25 the east, we would qualify for a 50 percent reduction in the

1 parking requirement. But because we're just outside of both of
2 those radiiuses, we are requesting full relief from the 27 parking
3 spaces. But from a practical purpose, we are in very close
4 proximity to both the Metro station as well as a priority Metro
5 bus route.

6 Through our work with the ANC, the applicant has agreed
7 to secure a minimum of 17 spaces in an off-site garage near the
8 project. Those spaces will not necessarily be within the 600
9 feet permitted under the zoning regulations, hence why we're
10 seeking approval of the special exception for the full relief
11 from those 27 spaces. We have done an inventory of off-street
12 parking opportunities located in proximity to the project site.

13 If you go to the next slide -- slide, please.

14 You can see, there are a number of locations -- so
15 there are over 1,700 off-street, off-site parking spaces within
16 about a ten-minute walk of the site. You see here there are nine
17 locations. Location number 1, which is located at the north side
18 of the map on Wisconsin Avenue, is the only location that's just
19 outside of that ten-minute walk. And a number of those locations
20 are closer to a five-, six-, seven-minute walk from the site. So
21 again, 1,700 off-street, off-site parking spaces within about a
22 ten-minute walk of the site.

23 Next slide, please.

24 The applicant has agreed to implement a transportation
25 demand management plan. This plan works to incentivize and

1 encourage non-auto modes of transportation. So citizenM hotels
2 have ambassadors that are on-site. They have local knowledge.
3 And so they'll be assisting guests while the guests are on the
4 property with information including non-auto modes of
5 transportation that are nearby, as well as restaurants and those
6 types of things that are within walking distance of the hotel.

7 The hotel's website will include a "getting here"
8 section that will focus on the non-auto modes of transportation
9 that are available proximate to the site. The hotel's website
10 will also specifically indicate that no parking is provided on
11 the site, and it will provide information to those off-street,
12 off-site parking opportunities that are in the vicinity of the
13 hotel.

14 Importantly, the hotel is providing abundant bicycle
15 parking. They are providing thirteen long-term bicycle spaces
16 in the hotel. That's five more than what is required by the
17 zoning regulations. They're also providing 14 short-term bicycle
18 spaces in public space adjacent to the hotel. And that's 11 more
19 than what's required by the zoning regulations.

20 Next slide, please.

21 At DDOT's request, all of the long-term bicycle spaces
22 in the hotel will be equipped with outlets so that employees who
23 ride electric bikes to work can charge those bikes while they're
24 on-site. The hotel will also be participating in providing
25 discounted Capital Bikeshare memberships to employees. They'll

1 be participating in the SmartBenefits program, which will allow
2 employees to use pretax dollars for transit funds. And the hotel
3 has agreed to conduct a survey of their hotel guests annually,
4 and that information will be shared with DDOT as well as the ANC.

5 Next slide, please.

6 The applicant has also agreed to implement a loading
7 management plan. They do have an on-site loading berth that will
8 be accessed from Water or K Street. The dock manager will be
9 appointed, and that person will be responsible for scheduling
10 deliveries. All of the hotel deliveries must use that loading
11 dock so as not to take up on-street space for loading activities.
12 The dock manager will ensure that any trucks using the loading
13 berth do not block the sidewalk, and in accordance with D.C. law,
14 the trucks will not be permitted to idle onsite.

15 Next slide.

16 So just to summarize and wrap up, the applicant is in
17 agreement with DDOT's proposed conditions as stated in their July
18 11th report. And we find that with the implementation of the
19 TDM plan, the provision for the off-site parking as well as
20 implementation of the loading management plan, the project is not
21 expected to have any adverse traffic impacts on the surrounding
22 area.

23 And with that, I'm going to turn it back to Christie
24 to wrap up.

25 MS. SHIKER: Thank you.

1 If we can go to the next slide, please.

2 So the BZA may grant special-exception relief for the
3 required number of parking spaces if at least one of the criteria
4 of 703.2 is met. As we've discussed in our pre-hearing
5 submission, we believe that this project meets four of the
6 criteria, although again, the Board only need find that one has
7 been met.

8 Next slide, please.

9 Now the first criteria that the application meets is
10 that the land use or transportation characteristics of the
11 neighborhood minimize the need for required parking spaces.
12 Georgetown is a highly walkable neighborhood and surrounded by
13 various transit options. In addition, as Ms. Milanovich talked
14 about, we are just outside of the perimeter of the 50 percent
15 reduction, which just means that you're in a transit-rich area.
16 So even though we're just slightly outside of that, it does mean
17 that we are -- the project is still readily accessible to transit.

18 Next slide, please.

19 The second criteria is that the nature of the use or
20 structure or the number of guests who would reasonably be expected
21 to use the building generate demand for less parking than the
22 minimum parking standard. As you've heard, the citizenM brand
23 caters to independent, frequent travelers who prioritize location
24 and convenience over traditional full-service accommodations.

25 In fact, as was testified, most of their hotels do not

1 provide on-site parking, including their other hotels in D.C. In
2 addition, the hotel will feature compact guest rooms for short
3 stays, no large event spaces, and limited food and beverage
4 service, which all reduce the parking demand because you're not
5 bringing other people to the site other than hotel guests.

6 Next slide, please.

7 The third criteria is the quantity of existing public,
8 commercial, or private parking other than on-site, on-street
9 that's in the neighborhood and can reasonably be expected to be
10 available. As Ms. Milanovich discussed, there are over 1,300
11 parking spaces within a quarter mile, and that number grows to
12 over 1,700 with a slightly larger radius.

13 Next slide, please.

14 The final criteria that the application meets is that
15 the nature of the historic resource impacts the ability to provide
16 the required number of spaces. We haven't talked a lot about
17 the historic building because we really are focused more on the
18 parking demand. But as we noted, there is a historic warehouse.
19 It is a contributing building to the Georgetown Historic
20 District. And we've described this in detail in our pre-hearing
21 submission. There are architectural and structural constraints
22 that limit providing parking on-site. Specifically, the
23 warehouse occupies most of the lot, leaving a little to no room
24 to have exterior surface parking. Therefore, any parking would
25 have to be provided inside the existing structure and that's

1 infeasible for a variety of reasons.

2 First, you'd have to have additional openings in the
3 historic facade, which would not be consistent with the historic
4 preservation goals for the site. And constructing it, like,
5 inside or below leads to potential structural issues, potential
6 damage, and then there are definitely operational issues with the
7 existing columns. So the historic resource really does make it
8 infeasible to provide parking actually on the site.

9 Next slide, please.

10 Now to approve the reduction, the BZA must find the
11 reduction is proportionate to the reduction in parking demand,
12 limited to the number of spaces that cannot be provided, and
13 isn't requesting relief from the size of spaces. As we have
14 discussed, the demand is very limited for this use and there are
15 constraints that limit the ability to provide parking on site.

16 Next slide, please.

17 Finally, any request for a reduction of four or more
18 spaces requires a TDM plan. Ms. Milanovich has testified as to
19 the TDM plan, which DDOT indicates that it supports in its report.

20 Next slide, please.

21 So the requested relief also meets the general special
22 exception standard in that it is in harmony with the purpose and
23 intent of the zoning regulations and will not tend to adversely
24 affect the use of neighboring property.

25 Next slide, please.

1 So this last point, the applicant has worked very
2 closely with the ANC to ensure that there will be no adverse
3 impact. And they have agreed to six conditions which are
4 generally as follows: The first condition is that the applicant
5 will secure 17 off-site parking spaces for any demand that there
6 could be.

7 Next slide.

8 The applicant will continue to work with the ANC and
9 provide updates in accordance with this condition that, if the
10 principal use changes from a hotel to a non-lodging use, the new
11 owner will not be able to use this relief without returning to
12 the BZA and that the applicant would notify the new owner of
13 this. Now this is a regulation. So the zoning regulations say
14 that the zoning administrator cannot change a principal use for
15 a project that's been approved by the BZA unless the BZA approves
16 it. So we have included this in here, but this is a matter of
17 regulation.

18 And the third -- the fourth on this page is that the
19 applicant and the ANC will develop mutually agreed upon
20 transportation management and construction management plans.

21 Next slide, please.

22 And then the last two of the six conditions are that
23 the applicant will agree to the approved transportation
24 management plan and the approved loading management plan that Ms.
25 Milanovich talked about.

1 So these commitments to these conditions were important
2 to the ANC in giving us the unanimous support. However, we've
3 been working with ANC because some of these conditions may be
4 outside of the Board's jurisdiction to include in an order if the
5 Board approves this application. As such, to ensure that we have
6 respected what the ANC has required or asked for, we have entered
7 into a Memorandum of Agreement with the ANC, which is in the
8 record as Exhibit 30A, and it has been signed by both the
9 applicant and the ANC. This MOA binds the applicant to complying
10 with these conditions, regardless of whether they are included
11 in the final order, and the ANC has indicated that such binding
12 commitment satisfies their request that these conditions be part
13 of the project.

14 So accordingly, if the Board approves this application,
15 it can include any of these conditions which it believes is within
16 its jurisdiction to include in the order knowing that the
17 applicant has a binding commitment to all of these conditions as
18 part of the MOA that has been signed by both parties.

19 And with that, we can go to the next slide.

20 That concludes our presentation. We believe that we
21 have clearly met the burden of proof for the special exception
22 to reduce the parking, and we would be happy to answer any
23 questions that the Board may have. Thank you.

24 CHAIRPERSON HILL: Okay. Great.

25 Before I turn to the Board -- and I'm going to have

1 some questions also -- can I just do the Office of Planning real
2 quick -- or hear from the Office of Planning, I should say.

3 MS. THOMAS: Yes. Good morning, Mr. Chair, members of
4 the Board. I'm Karen Thomas from the Office of Planning. And
5 for the reasons outlined in our report, we are in support of this
6 application, including the fact due to the size of the lot, the
7 historic nature of the structure, and its location within a
8 transit corridor -- close to a transit corridor, and a number of
9 transportation and pedestrian options that would be available
10 from this location, and we believe the applicant has met the
11 criteria and the special exception criteria as well. And with
12 that, I'll rest on the record. Thank you.

13 CHAIRPERSON HILL: Okay. Thanks.

14 Ms. Shiker, I actually have a couple of questions.
15 So -- so how did you all get to this point? Meaning -- you know,
16 I've driven by the thing, right? And so how did you get here --
17 that you need parking relief after you've started to build it?

18 MS. SHIKER: Yeah. So Chairman Hill, when the building
19 permit application was submitted, the applicant took advantage
20 of the provision that says it would provide off-site parking
21 within 600 feet of the site, which can be done as a matter of
22 right. And the zoning administrator concluded and provided a
23 determination that the proposal, the proposed agreement, all was
24 sufficient. There have been changes in the immediate vicinity
25 with some of those projects for which the six -- within that 600

1 feet that are now being -- doing -- that are being -- going
2 forward as conversions. So there would be a block of time when
3 they would not be available -- and so therefore we were concerned
4 that we would not be able to -- to satisfy that matter of right
5 condition. And so therefore, we have come forward and worked
6 with the ANC to ensure that we can provide it to, to reduce the
7 parking all the way. But we would provide those 17 spaces
8 anywhere outside of that 600 feet, given kind of the changes in
9 our -- in our limited area. So that's how we were approved, as
10 we originally were having an agreement to provide it within 600
11 feet.

12 CHAIRPERSON HILL: Right. So when you say that they --
13 you're -- you were concerned that there's going to be a block of
14 time when they aren't going to be available. Are they going to
15 be available later, or that's just the way it is now?

16 MS. SHIKER: Well, we're just -- we're not 100 percent
17 sure because they're going through conversions. At the time we
18 had the agreement, when we were originally going through permit,
19 those projects were not proposed for conversions. They were just
20 commercial buildings with parking facilities.

21 CHAIRPERSON HILL: And the entrance is on K Street; is
22 that right?

23 MS. SHIKER: So there isn't an -- yeah, the entrance
24 to the building is down on K/Water Street, but there is also 34th
25 Street and frontage on the east side. But the entrance is on --

1 on the K Street side.

2 CHAIRPERSON HILL: Right. People will come down from
3 that thing down below?

4 MS. SHIKER: Correct.

5 CHAIRPERSON HILL: Okay. All right. Okay. And
6 you're -- now I'm just curious and stuff -- so you're going to
7 have retail down there?

8 MS. SHIKER: There's a very limited -- I want to say
9 it's about 3,500 -- 3,000 square feet of a potential retail space.
10 It's not a huge retail space.

11 CHAIRPERSON HILL: Okay. So you're -- you're off --
12 you're proposing to provide 17 spaces off site. Correct?

13 MS. SHIKER: That is correct. That is what our
14 commitment to the ANC is.

15 CHAIRPERSON HILL: Okay. And then -- I mean I'm going
16 to -- some of the -- and I'll let my Board also speak to some of
17 the conditions, the way they're worded -- but you know, I mean
18 if you guys use valet, that's fine. But I mean -- right, so 17
19 spaces, and I'll talk to my Board about that -- or my fellow
20 Board Members, as we kind of go through that.

21 Let's see. Does anybody have any questions?

22 Go ahead, Mr. Blake.

23 VICE CHAIRPERSON BLAKE: I just want to follow up on
24 the -- that -- what comments you just made, Mr. Chair.

25 The valet -- tell me a little bit about how those spaces

1 are used. It says staff and guests. Would this be a valet
2 service, or how do you do it at your other D.C. location since
3 it's the similar format? I'd just be curious to know how that
4 works.

5 MS. SHIKER: So I'm going to let Mr. Addeo talk about
6 how -- how we would do this, but this is not proposed to
7 necessarily be a valet service. What we're going to do is
8 contract to have parking spaces in other garages such that, when
9 we give information to the guests, they will say there's no
10 parking on-site. If you're interested in parking, we have
11 contracted with spaces at "X" garage that is located here, and
12 you can park your vehicle there.

13 Joe, did you want to add anything -- or Jami -- to
14 that?

15 MR. ADDEO: That's correct. So the other two locations,
16 just to reiterate, are not built with parking. And as Christine
17 mentioned, very similar, there's communication -- both that's
18 given to the guests prior to arrival about any arrangements that
19 we would -- or have -- or do have. And we're exploring options,
20 whether it's valet or just a contractual relationship with a
21 garage.

22 VICE CHAIRPERSON BLAKE: Great. But at those other
23 sites, do you use those spaces? How do -- if you have contracted
24 spaces with those locations as well, did you seek relief from
25 those locations as well? I'm trying to get a sense of, from a

1 practical standpoint, how you actually will use the space.

2 MR. ADDEO: Those locations do not have contractual
3 spaces.

4 MS. SHIKER: -- and they're in the D-Zone --
5 Commissioner -- Board Member -- and so they weren't required to
6 have parking spaces.

7 VICE CHAIRPERSON BLAKE: And as a matter of what -- but
8 you do use valet to use those, to the extent that you have them
9 at those other places? Do you -- do you use them for valet or
10 do you actually use staff members? I'm just curious, how do you
11 really use them?

12 MS. SHIKER: You don't have valet at the other
13 locations, correct, Joe?

14 MR. ADDEO: Correct. No, there's no valet within the
15 entire portfolio, including D.C.

16 VICE CHAIRPERSON BLAKE: Okay. Thank you.

17 CHAIRPERSON HILL: Go ahead, Mr. Smith.

18 COMMISSIONER SMITH: I just want to, you know, expand
19 on -- I think some of those questions that was raised by Mr.
20 Blake and -- you all have spoken about these two other D.C.
21 properties -- but showed, in the presentation, properties in
22 Europe -- which to me weren't comparable, given that most of
23 those -- I kind of recognize where they're located, and you have
24 better multi-modal transportation options.

25 These two sites in D.C. that you have now, you say

1 they're in the D-Zone. Are they closer to a metro station that
2 would, you know, support, I think, the intent of what you stated
3 your business is -- to be business friendly without parking,
4 close to multi-modal transportation options. Are they much
5 closer to a Metro in comparison to this site in Georgetown, that's
6 really stuck in a hole to be completely honest.

7 MS. SHIKER: So the two sites, one is located in the
8 NoMa neighborhood, and the other is located on School Street in
9 Southwest. I know that the NoMa site is within a half mile of
10 of Metro. I don't know the exact distance. The School Street
11 site, I am not aware of how close it is to Metro. However --

12 COMMISSIONER SMITH: School Street is close to
13 L'Enfant Plaza Metro Station, like walking distance.

14 CHAIRPERSON HILL: If this is the same School Street --

15 MS. SHIKER: I don't know the exact -- I don't know the
16 exact distance. I know, for example, this site in Georgetown is
17 located immediately outside the half mile of -- it's at .55 miles
18 from the Rosslyn Metro station. So we are in, in what is
19 considered generally close proximity. We're just right outside
20 of that, kind of, half-mile walking range.

21 CHAIRPERSON HILL: Okay.

22 COMMISSIONER SMITH: Well, it seems like those are
23 probably more proximate to better multi-modal transportation
24 options to not need any form of parking where, if it was not in
25 a D-Zone, then it would be more applicable to reduce to zero.

1 My other question is regarding the warehouse that
2 you're building around -- that you're incorporating into the
3 hotel. Does that hotel -- I mean does that warehouse front
4 along -- it covers the full frontage along K Street? So it makes
5 it difficult to incorporate any type of parking garage and have
6 access?

7 MS. SHIKER: Yes. So the warehouse building is existing
8 and occupies the -- most of the existing floor plate of the --
9 of the site or the lot area. And it, it does come up to K Street.
10 I think that we had an image in the PowerPoint if you want us to
11 bring it back up.

12 VICE CHAIRPERSON BLAKE: If we can bring that up just,
13 you know, so we can close the loop on this.

14 MS. SHIKER: Yeah. Mr. Young, would you please pull
15 that up?

16 And if you look at page 7 of that sheet, you can see
17 there is the existing warehouse.

18 VICE CHAIRPERSON BLAKE: Okay. Okay. Thank you. Well,
19 my last question is regarding the 17 parking spaces. So you
20 haven't contracted as of yet for these 17 off-site parking spaces?

21 MS. SHIKER: We have an initial like -- kind of letter
22 agreement, but we do not -- we have put a requirement that we
23 would have that prior to a certificate of occupancy, and that is
24 one thing that we would assume that the Board would include in
25 any order approving it, that the zoning administrator has

1 confirmed that we have an agreement for contracting on those 17
2 spaces. So that's something that would be checked off before a
3 certificate of occupancy was issued.

4 COMMISSIONER SMITH: Okay. Okay, thank you. That's
5 all the questions I have.

6 CHAIRPERSON HILL: Go ahead, Mr. Blake.

7 VICE CHAIRPERSON BLAKE: Just for clarification, the
8 parking spaces would be how -- what's the radius for the 17
9 spaces?

10 MS. SHIKER: So they don't have a specific radius, but
11 what we have done in our evaluation is, we have identified 1,300
12 spaces within a quarter mile, and then up to -- over 1,700, just
13 a little bit further out. Most of those, with the exception of
14 the one up on Wisconsin Avenue that Ms. Milanovich pointed out,
15 are about a ten-minute walk, and so we would contract with --

16 CHAIRPERSON HILL: I lost Ms. Shiker. Did you all lose
17 Ms. Shiker?

18 VICE CHAIRPERSON BLAKE: Yes.

19 CHAIRPERSON HILL: Okay. I guess Ms. Shiker is gone.

20 MR. ADDEO -- is it Addeo? How big are the rooms?

21 MR. ADDEO: The rooms -- there're about a hundred and
22 so they're all the same size. They're effectively the same.
23 They're the length of a king-size bed.

24 CHAIRPERSON HILL: Yeah.

25 MR. ADDEO: So they're a micro-room concept. They're

1 very tech-focused.

2 CHAIRPERSON HILL: Okay. And they're, like, small, and
3 they're very tech focused. And then, so the average age people
4 that are staying there?

5 MR. ADDEO: I don't know if I have information on
6 average age. It's quite a mix. It's both business and leisure
7 travelers. And it's a, you know, definitely a global -- it's an
8 original --

9 CHAIRPERSON HILL: I've looked --

10 MR. ADDEO: This isn't your --

11 CHAIRPERSON HILL: I've looked --

12 MR. ADDEO: -- (indiscernible) company.

13 CHAIRPERSON HILL: I've looked at your website. I see
14 what you're doing. And I'm just curious how big it was.

15 Okay. Ms. Shiker? You --

16 MS. SHIKER: I'm back. Sorry. I think I had a
17 technical issue. I apologize if I missed a question.

18 CHAIRPERSON HILL: That's all right.

19 Mr. Blake, can you repeat your question?

20 VICE CHAIRPERSON BLAKE: Well, we were talking a little
21 about the radius. And the condition that you had up there says
22 it would be located more than 600 feet from the property. I like
23 the idea of having it within a radius that's specified. To say
24 "more than 600 feet" means you can put it in Virginia. It means
25 you can put it anywhere. I'd like -- within the radius that

1 would be a feasible -- quarter mile, half, you know, eighth of a
2 mile radius from the site would probably be -- given the fact
3 that there are 1,700 or more, you know, to try to find something
4 within a defined radius would probably be a better to us than
5 outside of 600 feet.

6 MS. SHIKER: So the reason we drafted it that way, it
7 wasn't trying to say it had to be outside of 600 feet. We were
8 just trying to make it clear that it wasn't within, kind of, the
9 matter-of-right standard of 600 feet. I think that based on Ms.
10 Milanovich's work, probably saying something, like, within a half
11 mile, which is kind of the general standard -- like, is it transit
12 worthy -- is something that we could evaluate, absolutely. We
13 weren't trying to say that it was going to be in Maryland. We
14 were just trying to distinguish that it wasn't within the matter-
15 of-right 600 feet.

16 VICE CHAIRPERSON BLAKE: Okay. Thank you.

17 CHAIRPERSON HILL: Chairman Hood, did you have your
18 hand up?

19 CHAIRPERSON HOOD: Mr. Chairman. I think my question's
20 going to be for Ms. Milanovich.

21 You mentioned the -- and it's been a while since you
22 mentioned it, so forgive me if I didn't -- if I don't characterize
23 it back to you right -- I think you said to "come get me" or
24 "come here". I forgot what the statement was -- what the slogan
25 was. How does that look? What is -- how does -- is that

1 messaging? How does that look when you give that "come get" --
2 and I forgot what you said -- "come get me" or something.

3 MS. MILANOVICH: Yeah. It's the "getting here" section
4 of their -- yeah.

5 CHAIRPERSON HOOD: Getting here.

6 MS. MILANOVICH: So they'll have a website, and there
7 will be a link to what they call "getting here", so -- you know,
8 how do you get to the hotel -- and so on that section, it will
9 provide information about different transportation options
10 available to get to this specific hotel. It will also tell people
11 that are looking at this hotel, to book at this hotel, look,
12 there's no parking at this hotel, but there is parking nearby.
13 And so for example, if you would go to the website for one of
14 their other two D.C. locations, they have a link to a third-party
15 parking locator. If you guys are -- I think right now they're
16 using SpotHero, if you're familiar with SpotHero. So you can
17 link to there, and it'll tell you where there are parking spaces
18 available near that site.

19 So it's really a twofold purpose. One, making sure
20 people understand what metro bus routes are nearby; what metro
21 stations are nearby; the biking opportunities, Capital
22 Bikeshare, all of those types of things as well as alerting them
23 to the fact that there's not parking provided at the hotel, but
24 there are parking options nearby that they can utilize.

25 CHAIRPERSON HOOD: So my next question -- and I don't

1 want the public to take this wrong. I don't need another petition
2 about Anthony Hood and bicycles and grocery stores. I'm asking
3 because I don't know. So my question is -- and I understand the
4 programmatic point of how this is being done, business. I think
5 we've dealt with one before and -- I don't know if was one of
6 Mr. Addeo's -- but I do know that this is a concept of business,
7 being able to get to a hotel. They come in town for business,
8 whatever. But do people actually ride bicycles -- and nobody
9 take this wrong -- with their suitcases and stuff? I don't see
10 a lot of that. I just don't. And I'm wondering how realistic
11 is that?

12 Because the last time I said something about groceries
13 on a bicycle, I got in trouble. So I'm not going that route.
14 I'm just asking for informational purposes.

15 MS. MILANOVICH: Yeah, so I think -- to your point, no.
16 So remember, there's two different types of trips, right? There's
17 the trip you take getting to the hotel with your luggage, and
18 then there's the trips that you take once you're checked into the
19 hotel, to go to dinner or to meet friends or, potentially, for a
20 business meeting. So it's those types of trips, once you're
21 checked in, that we then look at bicycles being available for
22 people who are comfortable, right? Like, I myself, I'm a -- I
23 bike, but not on the -- I'm not comfortable enough to ride in
24 city traffic, but I would ride on the trail that's right next
25 door.

1 But there are plenty of people that are comfortable
2 riding to meet friends for coffee or whatnot on M Street for
3 example. So those are the trips that we're targeting in terms
4 of the bike availability -- as well as employees.

5 I think -- you know, the electric bikes have become
6 really, really popular in the city, and so we anticipate that
7 employees might use an electric bike or a pedal bike to commute
8 to work. And so those are the types of bike trips that we're
9 targeting.

10 CHAIRPERSON HOOD: Okay. Thank you for that
11 clarification, Ms. Milanovich. I do know I haven't heard anything
12 back. I think -- I don't know if it was BZA or the Zoning
13 Commission -- dealt with something similar to the same concept.

14 But you would not turn away families, right, Mr. Addeo?
15 If families wanted to stay in the hotel, you would not turn them
16 away?

17 MR. ADDEO: It is one single type of room, so all the
18 rooms are built exactly the same, in the same fashion, so it is
19 one bed. But the hotel has been utilized by a variety of type
20 of guests and travelers, a strong following of people who are
21 really passionate about the brand.

22 CHAIRPERSON HOOD: Yeah. Okay. All right. Thank you.
23 Thank you, Mr. Chair.

24 CHAIRPERSON HILL: Okay. Thanks. Okay. Let me do a
25 couple of things here, and I know I still have to go to the

1 public -- even though I don't know if there is anybody.

2 Okay. Ms. Shiker, just help me understand the
3 conditions. There's a variety of things that are getting thrown
4 around here.

5 So you all are going to propose 17 spots within a half
6 mile radius, which may include valet, correct?

7 MS. SHIKER: (No audible response)

8 CHAIRPERSON HILL: Okay. Then you have the TDM and LMP
9 plans that DDOT have proposed. I'm trying to see where those
10 are or --

11 MS. SHIKER: Yes. So TDM is marked as Exhibit 19A in
12 the record, and so is the loading management plan.

13 CHAIRPERSON HILL: It's also 19A?

14 MS. SHIKER: Correct.

15 CHAIRPERSON HILL: Okay. And then, within the MOU --

16 MS. SHIKER: There are three additional questions
17 within the MOU. Excuse me -- there are --

18 CHAIRPERSON HILL: Additional conditions, right.

19 MS. SHIKER: -- three additional conditions --

20 CHAIRPERSON HILL: Right.

21 MS. SHIKER: -- within the --

22 CHAIRPERSON HILL: There's the A, which is the off-
23 street parking. There's B, which is the coordination of every
24 six months, right?

25 MS. SHIKER: Correct.

1 CHAIRPERSON HILL: C, and the change of principal
2 use -- that's already within our regulations. And then there's
3 the TDM, and then --

4 MS. SHIKER: Yeah. The -- D is, kind of, just a general
5 transportation management plan, which we do have the approved TDM
6 and construction management plan. Our team is going to be done
7 with construction in about six months, and so they are continuing
8 to work with the ANC to the extent there are any issues.

9 CHAIRPERSON HILL: Okay, right. But you already signed
10 that MOU?

11 MS. SHIKER: Correct, we did.

12 CHAIRPERSON HILL: Okay. So just for my Board members
13 here, I mean, I know that -- so the 17 spots are pretty clear in
14 terms of the half-mile radius. The TDM plan -- and I actually --
15 even though it might be not necessarily pertinent to us at times,
16 I like the loading management plan just because of what this is
17 and what they're asking for.

18 B, I think is reasonable for the ANC. And then C, as
19 I mentioned, already is within the regulations. And then I think
20 the rest of it falls within the MOU that -- and we can talk about
21 this -- I'm looking at my Board members also while I got everybody
22 here, including the applicant -- concerning the conditions.

23 If I missed anything, will my Board members, please,
24 raise your hand.

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

1 MR. YOUNG: We have no one from the public, but you do
2 have someone from DDOT here.

3 CHAIRPERSON HILL: Oh. Okay. Go ahead and bring DDOT
4 in, I guess. I'll see if anybody has any DDOT questions.

5 MR. OZBERK: Chairman Hill, Members of the Board. For
6 the record, my name is Erkin Ozberk, development review program
7 manager with the District Department of Transportation. DDOT is
8 here supportive of the applicant's requested parking relief at
9 3401 K Street Northwest.

10 As was mentioned earlier in the hearing, in our July
11 11th, 2025, report -- for the record, it's Exhibit 27 -- DDOT
12 recommended approval on the conditions that the applicant
13 implement the transportation demand management plan and loading
14 management plan detailed as Exhibit 19A in the record. And also,
15 if the proposed 17 parking spaces are not secured off site, that
16 the applicant will fund and install an eight-dock expansion plate
17 at the nearest Capital Bikeshare station.

18 We look forward to continuing to work with the
19 applicant on the streetscape design and any other items related
20 to curbside management. And I thank you, and I'm happy to answer
21 any questions if you have them.

22 CHAIRPERSON HILL: Thanks.

23 Ms. Shiker, I forgot about this eight-dock expansion
24 plate thing. This is something that the applicant has agreed to?

25 MS. SHIKER: So the way that the condition was written

1 is that it would only be required if we were not going to provide
2 the 17 off-site spaces. And because we are going to provide the
3 17 off-site spaces, my understanding is DDOT would not require
4 it. It would only be if, for example, we were not required to
5 provide those 17 off-site spaces.

6 CHAIRPERSON HILL: I don't think the BZA, in general,
7 supports, kind of, that kind of a condition from us, but I just
8 want to clarify with DDOT, then.

9 DDOT, is that how you understand your condition?

10 MR. OZBERK: Correct. Because -- since the applicant's
11 requesting full relief and the 17 off-site spaces are sort of
12 separate from the relief, part of the agreement with the ANC, our
13 request was, well, if that didn't happen for some reason, if the
14 Board didn't go for it, then we would want to ensure that Capital
15 Bikeshare expansion was part of the order, if that makes sense.

16 CHAIRPERSON HILL: Okay. Great. Thank you.

17 Does the Board have any questions of DDOT? Okay.

18 All right. Thank you for that.

19 Yeah, when do you think you guys are going to come
20 online if this happens?

21 MS. SHIKER: I believe that the hotel is looking to
22 deliver in the first quarter of 2026.

23 CHAIRPERSON HILL: Okay. Okay. All right. Does the
24 Board have any final questions of anybody before I close the
25 hearing? Okay. I'm going to close the hearing. You all have a

1 good day.

2 MS. MILANOVICH: Thank you.

3 CHAIRPERSON HILL: I just noticed somebody else on the
4 hearing room that I hadn't seen in a while, and I didn't see
5 their name until just now. I didn't know -- anyway.

6 So I just want to talk for a minute. I mean, I just
7 can't -- like, I've driven by this thing, and I was just, like,
8 what is it? And so I think that it sounds like -- I mean, I
9 can't believe they're going to be able to put something down
10 there by Water Street where, like, it's been that dead corner for
11 forever, and so I think it's kind of interesting.

12 But in terms of the relief, I guess because of this
13 concept, and that it is just kind of this micro hotel kind of
14 thing, I can understand how there won't be a lot of people parking
15 because of the -- I'm sorry -- because of the type of person
16 that's coming to this hotel and using this hotel, so I guess I
17 would be in favor of everything that has been proposed thus far,
18 in terms of the 17 spots in order to allieve (sic) -- to be
19 comfortable with getting rid of the parking altogether.

20 DDOT has given their analysis as far as the
21 transportation demand management plan, the loading management
22 plan, the 17 spots within a half-mile radius. The ANC obviously
23 put a lot of time and effort in getting into this analysis. And
24 again, I'm just, kind of, surprised -- I mean, it's there. Like,
25 it's almost done. So -- but I'm going to be voting in favor,

1 based upon the conditions that have been put forward, and I'm
2 comfortable with it.

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

4 COMMISSIONER SMITH: I do -- I do support the special
5 exception, but for different reasons than what I believe the
6 applicant presented. I don't quite buy the argument that just
7 because -- and I get the points that's being raised by the
8 applicant on the nature of their business, but I don't -- I don't
9 buy the argument that there would not be a need for parking given
10 where this is located. This is in Georgetown. This is away from
11 even the primary bus routes in Georgetown. I don't buy that
12 argument at all.

13 And considering the fact that there are -- the
14 applicant has two hotels within the District now that are located
15 in a very short distance from -- to metro stations and more
16 multimodal transportation access, bus lines that run directly in
17 front of those particular hotels, I do not buy that argument at
18 all and the Office of Planning's -- most of the Office of
19 Planning's arguments for a special exception.

20 But if we only need to pick one criteria. To me, the
21 primary reason for including the parking reduction at this
22 particular point in time, being that it's so far along in its
23 construction, is this is incorporating that warehouse that covers
24 the entire frontage for probably more than a third of the total
25 building area of this particular site.

1 So it makes it difficult to me to construct any type
2 of parking, particularly at this point. I mean, this building
3 is already a good amount of time out of the ground. So I do buy
4 the argument of A, due to the physical constraints of the
5 property, the required parking spaces cannot be provided either
6 on the lot or within 600 feet.

7 And I'm fairly comfortable with the -- I'm reasonably
8 comfortable with the approach that the applicant is proposing to
9 take, which to me is just giving them time. It seems to me they
10 should have already figured this out by this point. But this is
11 just giving them time to contract off site, give them some
12 flexibility to find the 17 parking spaces, not now, but in a
13 year -- within a year before the C of O is being issued.

14 So I'm comfortable with providing that flexibility. So
15 with that, I will support it under that premise, not none of the
16 arguments that were made by the applicant.

17 CHAIRPERSON HILL: Okay. Thank you.

18 Mr. Blake?

19 CHAIRPERSON HILL: Mr. Chairman, I'm in support of the
20 application. The one area that I would speak to is the
21 conditions, specifically with regard to the loading management
22 plan. The transportation demand management plan, which is
23 Attachment F of that exhibit, makes sense to me because we're
24 dealing with a parking relief issue. The loading management plan
25 does make sense, because it would impact positively -- avoid

1 some, I guess, adverse impact to the community. So that could
2 be justified on that perspective.

3 But because this is a parking issue, I have an issue
4 including the loading management plan in Attachment C of that
5 exhibit. Otherwise I'm fine.

6 CHAIRPERSON HILL: Okay. And I don't mind pushing
7 back, Mr. Blake, in that we can disagree to -- well. The reason
8 why I like the loading management plan is that if it's going to
9 alleviate traffic in any way, and they've already agreed to it,
10 because this is, exactly what Mr. Smith said, it's a tight little
11 space. It's down there. We've all been down there. There's
12 not a lot of room down there, right? And so that's why -- and I
13 understand the advice we've been given at times about this loading
14 management plan and how it's not for the parking. But I don't --
15 if you all don't want in the loading management plan, I don't
16 have to have the loading management plan either. That's why, in
17 this particular case, I was interested.

18 But I'll circle back around to those, because it
19 doesn't break the deal for me one way or the other.

20 Chairman Hood?

21 CHAIRPERSON HOOD: Chairman, as I looked at this
22 case -- and I'm always concerned when we're doing away with
23 parking -- but I think history has shown, in this city, people
24 learn to adapt. And I think in this case, especially, they're
25 going to learn to adapt, because at the end of the day, if it

1 doesn't work, then the person who's going to lose is going to be
2 the applicant. So I think it's part -- I think they made their
3 case. I think the criteria that's being asked for and what they
4 have come back and put in the record, I think they've made their
5 case.

6 Again, like I said, humans, we learn to adapt. And I
7 know there have been other cases that we have allowed no parking.
8 And out of all those cases, all these years, I've only heard back
9 negatively on one. So I think they made their case, and I'll be
10 voting in support and following the lead of the rest of my
11 colleagues. Thank you.

12 CHAIRPERSON HILL: Okay.

13 Mr. Smith, do you have a opinion about the loading
14 management plan?

15 COMMISSIONER SMITH: No, I don't have an opinion. I
16 think it -- and I agree with you. I think we probably should
17 include it, given the nature of the request and where this is
18 located in Georgetown.

19 CHAIRPERSON HILL: Mr. Blake?

20 VICE CHAIRPERSON BLAKE: Yeah. I mean, I told you my
21 rationale. I'm in support of the application. I'll go either
22 way, as well. But that was my concern with regard to that
23 inclusion. Because it is in the agreement no matter what.
24 They've made the agreement with the ANC. They're going to do
25 it. It's just a question of the continuity of our order. I'm

1 fine.

2 CHAIRPERSON HILL: Okay. Thanks. Yeah. And as I
3 said, I know how -- I know your opinion, and also, I'm not
4 necessarily disagreeing with it. Just, this particular case is
5 why I feel more comfortable at least asking for it. But again,
6 it is in there. They've all agreed to it. And that's going to
7 be the least of their worries if this doesn't work out.

8 Okay. I'm going to make a motion to approve Application
9 No. 21320, including a condition that they provide 17 spots within
10 a half-mile radius, which may include valet; they include the TDM
11 plan and the LMP plan -- I'm sorry -- the TDM plan and the LMP
12 in Exhibit 19A; then within the MOA that is put together with
13 the ANC, they're also going to have outgoing outreach and
14 coordination, which is Number (sic) B in the MOA; and then all
15 the other things we have already mentioned in our conditions.

16 And I ask for a second, Mr. Blake?

17 VICE CHAIRPERSON BLAKE: Second.

18 CHAIRPERSON HILL: Motion made and -- oh, sorry. Mr.
19 Smith?

20 COMMISSIONER SMITH: I just wanted to make -- and I
21 didn't hear it when you said it -- I know that the applicant has
22 stated -- they have a sentence in their condition, and I just
23 want to make sure that's not included: "If the contract is
24 terminated, the applicant shall use best efforts to secure a new
25 agreement that maintains the required number of off-site spaces

1 within a reasonable time frame". We're not including that, right?

2 CHAIRPERSON HILL: No. It just -- it's just flat-out
3 saying they're going to provide 17 spots within a half-mile
4 radius, period.

5 COMMISSIONER SMITH: Okay. I just wanted to make sure.

6 Thank you.

7 CHAIRPERSON HILL: Which may even include valet --
8 sorry -- which may include valet.

9 And ask for a second, Mr. Blake.

10 VICE CHAIRPERSON BLAKE: Second.

11 CHAIRPERSON HILL: Okay. Motion made and seconded.

12 Madam Secretary, can you take a roll call, please?

13 MS. MEHLERT: There's a motion to approve the
14 application with conditions.

15 Chairman Hill?

16 CHAIRPERSON HILL: Yes.

17 MS. MEHLERT: Vice Chair Blake?

18 VICE CHAIRPERSON BLAKE: Yes.

19 MS. MEHLERT: Board Member Smith?

20 COMMISSIONER SMITH: Yes.

21 MS. MEHLERT: And Chairman Hood?

22 CHAIRPERSON HOOD: Yes.

23 MS. MEHLERT: Staff records the vote is four to zero
24 to one to approve Application No. 21320, with conditions, on the
25 motion made by Chairman Hill and seconded by Vice Chair Blake.

1 CHAIRPERSON HILL: Okay. If you all can bear with me,
2 if you all are okay, what I wanted to do real quick -- and then
3 we can take a break -- is I want to do an emergency closed meeting
4 on a couple of cases that are coming up. All right? Because I
5 want to be able to talk to legal with you guys. And those cases
6 are 19823-A, 21319, and 21307. And so we can do that, then take
7 a break, then come back. And so I'm letting the public know
8 we'll probably be back around 11:30 then, okay?

9 So if you all will bear with me. As Chairperson of the
10 Board of -- as Chairperson of the Board of Adjustment for the
11 District of Columbia, in accordance with 407 of the District of
12 Columbia Administrative Procedures Act, I move that the Board of
13 Zoning Adjustment hold a closed emergency meeting on 1/23/2025
14 (sic), to seek legal advice from our counsel on cases 19823-A,
15 21319, and 21307. Deliberate, but not vote, on those same cases.

16 Is there a second, Mr. Blake? It appears the motion --
17 I'm sorry.

18 Madam Secretary, could you take a roll call, please?

19 MS. MEHLERT: Please respond to the Chair's motion to
20 hold an emergency closed meeting.

21 Chairman Hill?

22 CHAIRPERSON HILL: Yes.

23 MS. MEHLERT: Vice Chair Blake?

24 CHAIRPERSON HILL: You're on mute, Mr. Blake.

25 MS. MEHLERT: Mr. Blake?

1 VICE CHAIRPERSON BLAKE: Yes.

2 MS. MEHLERT: Board Member Smith?

3 COMMISSIONER SMITH: Yes.

4 MS. MEHLERT: Chairman Hood?

5 CHAIRMAN HOOD: (No audible response)

6 MS. MEHLERT: The motion passes.

7 CHAIRPERSON HILL: Okay. Great. All right.

8 Mr. Young, if you'll send us a link, and then we'll all
9 meet over there. And then, as I mentioned, we'll come back
10 probably around 11:30.

11 (Whereupon, there was a brief recess.)

12 CHAIRPERSON HILL: Madam Secretary, could you call us
13 back in, and I think we are in a meeting case next.

14 MS. MEHLERT: Correct. The Board is back from its
15 emergency closed meeting and break and is returning to its meeting
16 session.

17 The next case is a time extension request, No. 19823-
18 A, of Wisconsin Avenue Baptist Church. This is a request pursuant
19 to Subtitle Y, Section 705.2, for a two-year time extension of
20 the term ability (sic) under Subtitle Y, Section 702.1, of the
21 order granting Application No. 19823. The approval granted a new
22 church and continuing care retirement community. It's located
23 in the R-1B zone at 3920 Alton Place, Northwest, Square 1779, Lot
24 14.

25 CHAIRPERSON HILL: Okay. Thanks.

1 All right. I'm sure the Board has had an opportunity
2 to review the time extension. My thoughts are on -- my thoughts
3 on it are that the time extension actually is from the date that
4 the judgment was stamped, which was April 6th, 2023, and was not
5 the mandate date of May 1st. And therefore, I believe that it
6 is untimely because it wasn't filed until April 29th.

7 I want to make another comment about this, is that even
8 if we somehow thought it was a timely matter, since they lost
9 their -- since the partnership was lost, and I think -- this is
10 something that I still would have wanted to hear from the
11 applicant again. So in this particular case, I suppose if the
12 applicant would want to come back and try to walk through the
13 Board again how this is something that should be granted with the
14 new partnership, then they can go ahead and do that. But I
15 believe that this is now untimely before us, and we're not able
16 to do the time extension. So I would be voting against the time
17 extension due to its untimely nature.

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

19 VICE CHAIRPERSON BLAKE: Yes, Mr. Chair. I agree that
20 the period of validity would have ended -- would have ended prior
21 to the request, and since the Board doesn't have the authority
22 to resurrect a expired order, it would be appropriate to dismiss
23 this application.

24 CHAIRPERSON HILL: Thank you. Chairman Hood?

25 CHAIRPERSON HOOD: Thank you, Mr. Chairman. I would

1 agree with both my colleagues' comments, and I will be voting to
2 rule it as untimely. Thank you.

3 CHAIRPERSON HILL: Thank you. All right. I'm going
4 to make a motion then in regard to application 19823-A, with
5 regards to the time extension, to deny because it is untimely,
6 and ask for a second, Mr. Blake?

7 VICE CHAIRPERSON BLAKE: I think it's to dismiss not
8 to --

9 CHAIRPERSON HILL: Sorry. Thank you. Thank you. To
10 dismiss due to its untimely nature, and ask for a second,
11 Mr. Blake?

12 VICE CHAIRPERSON BLAKE: Second.

13 CHAIRPERSON HILL: Thank you.

14 Madam Secretary, could you take a roll call?

15 MS. MEHLERT: Please respond to the Chair's motion to
16 dismiss the time extension request.

17 Chairman Hill?

18 CHAIRPERSON HILL: Yes.

19 MS. MEHLERT: Vice Chair Blake?

20 VICE CHAIRPERSON BLAKE: Yes.

21 MS. MEHLERT: Chairman Hood?

22 CHAIRPERSON HOOD: Yes.

23 MS. MEHLERT: Staff would record the vote as three to
24 zero to two to dismiss Application No. 19823-A on the motion made
25 by Chairman Hill and seconded by Vice Chair Blake.

1 CHAIRPERSON HILL: Great, thank you. You may call our
2 next order of business when you get a chance.

3 MS. MEHLERT: The next case is in the Board's hearing
4 session, and it's Application No. 21319, of 1332 HARVAR, LLC.
5 This is a self-certified application pursuant to Subtitle X,
6 Section 1002, for an area variance from the minimum lot area
7 requirement of Subtitle U, Section 301.5(b), to allow an
8 additional dwelling unit in an existing three-unit apartment
9 house. It's located in the RF-1 zone at 1332 Harvard Street,
10 Northwest, Square 2855, Lot 66. And this hearing was originally
11 scheduled for July 2nd and was postponed at the applicant's
12 request.

13 CHAIRPERSON HILL: Okay. Great. Thank you.

14 If the applicant can hear me, if they could please
15 introduce themselves for the record?

16 MS. WILSON: -- from Sullivan and Barros on behalf of
17 the applicant in this case, and I'm here with Mr. Wayne Jordan
18 on behalf of the ownership team. And we also have Ms. Renee
19 Geisler (phonetic) signed up, if you have any questions for either
20 Mr. Jordan or Mr. (sic) Geisler on behalf of the ownership team.

21 CHAIRPERSON HILL: Okay. Great. Thank you,
22 Ms. Wilson. If you want to go ahead and walk us through your
23 client's application and why you believe that they are meeting
24 the criteria for us to grant this relief. I'm going to put 15
25 minutes on the clock so I know where we are, and you can begin

1 whenever you'd like.

2 MS. WILSON: Great. Thank you so much.

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

4 Thank you.

5 The property is located at 1332 Harvard Street,
6 Northwest.

7 Next slide please.

8 It's currently improved with a purpose-built apartment
9 building, constructed circa 1903, located in the RF-1 zone. It
10 has three stories and a basement level. It has four, two-bedroom
11 units, one on each floor, only three of which are approved on
12 the C of O. The fourth unit, the basement unit, was never added
13 to the certificate of occupancy, despite undergoing a renovation
14 at the same time as the other three units in 2008, which was
15 managed by former owners.

16 The new ownership group took over in 2020 and became
17 aware of the issue in 2021, 2022, when they updated the ownership
18 documents. They began the process to rectify the situation by
19 submitting for permitting to add the fourth unit. At this stage,
20 all disciplines have signed off on the building permit except for
21 zoning, as the applicant was relatively recently informed that
22 zoning relief was required to finalize the permit. While the use
23 itself, and while purpose-built apartment buildings, are allowed
24 to expand as a matter of right, there has to be 900 square feet
25 of land area per unit, and the lot is about 2500 square feet, so

1 shy of that requirement.

2 No physical changes are being proposed with this
3 request, just the legalization of the existing as-built fourth
4 unit. And this is an area variance per the regulations, and the
5 applicant is therefore seeking relief under U, 301.5(b), which
6 is the provision specifically for purpose-built apartment
7 buildings and is distinct from conversion relief under U, 320.2,
8 with 900-foot rule relief, just for what it's worth. So these
9 are two distinct provisions because this is a purpose-built
10 apartment building. So ordinarily, it would be able to expand,
11 but we don't have the 900 square feet per unit.

12 In terms of agency support, OP is recommending
13 approval, and the ANC voted unanimously to support the
14 application, and the resolution was submitted to the record
15 yesterday.

16 Next slide, please.

17 This is the subject unit. It's fully up to code and
18 has been rented in this configuration for over a decade without
19 any issues nor enforcement action.

20 Next slide, please.

21 This shows the proximity to other higher density zones,
22 such as the RA-4 zone, and then further to the west is the MU-5
23 zone along 14th Street.

24 Next slide, please.

25 This shows the proximity to 14th Street and the general

1 location. It's very close to the Columbia Heights Metro.

2 Next slide, please.

3 And this again shows the general area, characterized
4 by a mix of primarily moderate to medium density residential
5 uses.

6 Next slide, please.

7 This is a photo of the building. Again, no changes are
8 proposed, only the legalization of the existing fourth unit.

9 Next slide, please.

10 In terms of the variance test, the unique history can
11 be considered as part of the exceptional circumstances leading
12 to the practical difficulty. This is a purpose-built apartment
13 building, and the building itself only became nonconforming upon
14 the adoption of the 1958 regulations. When the property was
15 purchased in 2008 by a multimember ownership group, the lower-
16 level unit renovation was already in progress by another former
17 owner.

18 So there was the 2008 owner who was currently in
19 progress of renovation, and then an ownership group, which is
20 distinct from the current owner, took over. And there is a
21 managing partner of that multimember ownership group who held the
22 majority interest, and took over the renovation, and assured the
23 rest of the stakeholders that all necessary permits for the fourth
24 unit had been obtained. Relying on these assurances, the unit
25 was rented for over a decade without incident. The business

1 license had already been issued. No enforcement actions were
2 ever taken or have been taken to date.

3 As a result, the other stakeholders, some of which are
4 in the current ownership group, that took over after the managing
5 partner's departure and buyout, had no reason to suspect any
6 issues with the unit. And so after that managing partner's
7 departure in 2020, the new management team assumed control and
8 began routine administrative updates, since this is a new owner,
9 including efforts to amend the C of O for the new ownership. And
10 this was in 2021 and 2022, and it was only then they discovered
11 the C of O covered three units.

12 In response, Ms. Geisler led a diligent investigation
13 to understand the oversight and seek a remedy. This was self-
14 initiated by this new ownership group. No enforcement action
15 spurred this. It's been a many-years-long process to work with
16 various D.C. agencies to get to this point for this group. And
17 as a result, the applicant has secured all necessary approvals
18 for the fourth unit, except for zoning, which remains the final
19 step in the permitting process.

20 Next slide, please.

21 In terms of the practical difficulty, there is no
22 ability to purchase adjacent land and expand the land area, which
23 is what the relief is based on, since this is a permitted use
24 and would otherwise be permitted to expand as a matter-of-right
25 if it had that land area. But the applicant faces two options:

1 Either combine the basement unit with the first-floor unit or
2 demolish the basement unit and leave the space vacant. The
3 applicant has explored both alternatives and determined that each
4 would pose significant financial and operational difficulties.

5 As detailed in a preliminary cost analysis in the
6 record, reconfiguring the ground and basement level into one
7 single unit would cost approximately \$370,000, prolonged vacancy,
8 and disruption to existing tenants. Creating a single unit would
9 require a full gut renovation of two otherwise functional; code-
10 compliant; two-bedroom, two-bath units, and of course, the result
11 would be an overly large unit. The applicant's statement went
12 into this in more detail, but there are not even comps for a
13 similarly-sized unit in the area. So in addition to the cost,
14 it would be extremely difficult to rent this out for a price that
15 makes sense in terms of the market.

16 The alternative would be to demolish the fourth unit
17 entirely and leave the space unoccupied. This would not cost as
18 much as the full combination, but it would still be a substantial
19 cost in removing, and renovating, and then making it up-to-code
20 for a conditioned vacant space which would just remain
21 underutilized as each of the units has enough storage and a washer
22 and dryer in each of the existing units, including this fourth
23 unit.

24 Both options ultimately result in a loss of a long-
25 standing, code-compliant, relatively affordable -- compared to

1 the alternative -- unit, resulting in a practical difficulty for
2 the owner but also an overall loss of a great housing unit in
3 the area and in the District.

4 Next slide, please.

5 In terms of the zone plan and public good, this case
6 is factually unique even compared to other 900-foot roll cases.
7 Of course, there is no intentional wrongdoing, and there were
8 assurances by the former manager that everything was okay. In
9 addition, the building was already undergoing a renovation by
10 another former owner when the former managing partner took over.

11 There are multiple layers here in terms of what the
12 current ownership group was led to believe. The current ownership
13 group inherited a condition that they reasonably believed was
14 resolved and only discovered the zoning discrepancies during
15 routine ownership updates in 2021 and 2022. So there would be
16 no incentives or real opportunity to repeat this fact pattern.
17 Additionally, they pursued a resolution on their own, in good
18 faith, with no enforcement action or external pressure involved.

19 The 900-square-foot rule, under Subtitle U, 301.5(b),
20 is presumably intended to regulate density and prevent
21 overcrowding or strain on neighborhood infrastructure,
22 particularly in lower-density residential areas. The property
23 is located in a transit-rich multifamily context where the
24 additional unit is compatible with the surrounding development.
25 Enforcing the 900-foot rule strictly here would not serve its

1 intended purpose and would, instead, remove an existing housing
2 unit at great cost.

3 In this case, the additional unit does not increase the
4 building's size, height, or visible footprint. No exterior
5 changes are proposed, and it has existed for over a decade without
6 complaint, enforcement, or any negative impact on the surrounding
7 community or infrastructure. And the community is in support,
8 and we have the ANC resolution in the record.

9 Next slide, please.

10 And this just shows the as-built, approved floor plans
11 with two bedrooms per unit, one on each floor. And again,
12 everything has been approved for permitting except for the use
13 and zoning approval.

14 I believe that's the last slide, and that concludes my
15 presentation. But we do have the owners here, and I'm available
16 if you all have any questions. Thank you so much.

17 CHAIRPERSON HILL: Okay. Let me see. I think we might
18 have some questions, but let me turn the Office of Planning first.

19 MR. JESICK: Thank you, Mr. Chairman and the members
20 of the Board. My name is Matt Jesick, presenting OP's testimony
21 in this case, and the Office of Planning can largely rest on the
22 record in support of this application. We felt that this
23 application met the three-part variance test; and therefore,
24 we're recommending that the Board approve the application. Thank
25 you.

1 CHAIRPERSON HILL: So Mr. Jesick, I guess the part that
2 I'm trying to really understand is the uniqueness of this. I
3 mean, the Office of Planning thinks it's unique because, why,
4 they, like, inherited this situation?

5 MR. JESICK: Yes. There are some exceptional
6 conditions, primarily the ownership history. There have been a
7 series of owners, beginning, as the applicant stated, prior to
8 2008. That owner began the process of creating this fourth unit.
9 The second ownership group, from 2008 to 2020, finished that
10 renovation of the fourth unit -- or creation of the fourth unit,
11 and then the present owner inherited that situation, reasonably
12 believing that it was legally in existence -- the fourth unit.
13 So we felt that that was the primary exceptional condition.

14 CHAIRPERSON HILL: And that it will cost a lot of money
15 to turn it back into a use that is not necessary?

16 MR. JESICK: Yeah. That gets into the practical
17 difficulty. If the regulations were strictly enforced, that
18 exceptional condition would lead to a practical difficulty in
19 that, yes, it would cost a lot of money to combine units, whether
20 it's the basement and the first floor or some other combination
21 within the building. It would cause a lot of disruption to the
22 existing tenants and -- or if the space were simply to remain
23 vacant, that would be a loss of revenue that the present owner
24 had (sic) anticipated when they purchased the property.

25 CHAIRPERSON HILL: So but if this were coming to you

1 guys, like, as a new property being -- I'm not looking for a
2 hypothetical -- like, if this were a new property being built
3 this way, then they would not have, necessarily, an exceptional
4 condition because it wouldn't already have been built; is that
5 correct?

6 MR. JESICK: Well, if what you're saying is is this --
7 would we support the creation of a brand-new apartment building
8 from scratch in the RF-1 zone, the answer is no. Or would we
9 support a conversion with this --

10 CHAIRPERSON HILL: The 900-square-feet thing that I'm
11 always having a little bit of trouble with.

12 MR. JESICK: Right.

13 CHAIRPERSON HILL: And I apologize. Like, I know people
14 know on this board better than I, like, how did the 900-square-
15 foot thing come about?

16 MR. JESICK: I'd have to get back to you on that. I
17 don't know the full history of it.

18 CHAIRPERSON HILL: Okay. Okay. All right. I'm a
19 little bit more confused than I thought I was going to be about
20 this; I'll let you all know. And so -- meaning my Board
21 members -- and so, yeah. So do my Board members have any
22 questions?

23 COMMISSIONER SMITH: I do think -- I have one quick
24 question, Mr. Jesick. When you look at this situation, it does
25 appear to be a relatively -- I'll just be honest -- weak variance

1 argument. The fact that these (sic) management group has had --
2 this has had several owners and it's actually part of it from
3 the past is an issue. I think the fact that the self-creation,
4 since it's an area variance, isn't a barrier to it, but I have a
5 hard time really appreciating the exceptional condition and the
6 existence of an illegal unit that we are basically trying to
7 legalize based on the fact that it successfully existed for many
8 years without being caught and so forth.

9 So I think it's a -- I just, I'm struggling with the
10 test itself. I understand that there's a unit in place, and it's
11 a nice-looking unit from what those pictures suggested, and
12 certainly could be used to improve the availability of -- well,
13 it is -- I suspect it's in service. But it's been in service
14 without a C of O for years.

15 So I'm just trying to get -- I want to just better
16 understand the exceptional condition that I can clearly point my
17 finger at, and I'm not there.

18 CHAIRPERSON HILL: Go ahead, Chairman Hood.

19 CHAIRPERSON HOOD: Mr. Jesick, thank you for your
20 report. I'm trying to remember, as you are and others, the 900-
21 square-foot -- I remember having a long, lengthy, lengthy,
22 exhaustive discussion of how we got the 900 square feet, and I'm
23 trying -- was that in the '58 regs, or did we change that in the
24 '16 zoning rewrite?

25 MR. JESICK: Yeah, that was in the '58 regs. It's

1 existed as long as I can remember, so I think it's been there
2 for quite a while.

3 CHAIRPERSON HOOD: So I know we must have examined
4 changing it -- something -- during the ZR '16 -- which I don't
5 know what you call it now -- but during the rewrite. But I know
6 that that discussion went round and round and round.

7 And I would agree with both of my colleagues' comments.
8 I am not there yet. I think it's weak. I believe that there
9 was a rationale behind it. I would have to look at the
10 legislative history. I heard Ms. Wilson mention affordability
11 and density. I get that. But there's a reason that it's there.
12 And I can see if we were -- the BZA's job is to maybe reduce it
13 some. But this is quite a bit, a significant change in the square
14 feet, and I just can't get with the argument.

15 So Mr. Chairman, you might want to have Board Member
16 Smith to participate, because I -- if it's just us three, I
17 won't -- I'm not sure where Vice Chair Blake is, but I know where
18 I am. Thank you.

19 CHAIRPERSON HILL: That's okay. And we can ask more
20 questions. Ms. Wilson, I'll let you have a comment or what have
21 you, but like, I'm the one I think that -- I didn't think I was
22 there, and now I actually am a little bit more wishy-washy than
23 I was before. Right? And so I don't even know if I'm going to
24 vote today, and so -- but I understand what that -- I understand
25 the argument the applicant's making. I understand the argument

1 that the Office of Planning is making. And I guess I'm just not
2 clear on what I think about it, I suppose.

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

4 MR. YOUNG: We do not.

5 CHAIRPERSON HILL: Okay. Let's see. I mean, I think
6 I understand the argument. I just don't know what I think about
7 it. And so, Ms. Wilson, if you want to try and take another
8 crack real quick, but I'm not going to vote today.

9 MS. WILSON: Sure.

10 CHAIRPERSON HILL: You guys have to vote.

11 MS. WILSON: And I understand that, and I'd like to add
12 some more information to the record based on what I've heard
13 today, because there are a long line of cases with similar fact
14 patterns where owners have inherited illegal -- or nonconforming
15 conditions. And so I do believe that is a unique aspect that
16 can be considered as part of the variance test, in conjunction
17 with the other aspects, including the fact that this is not a
18 fact pattern likely to be repeated or utilized for future cases.

19 In addition to that, there are cases where vacant
20 basements have been approved in purpose-built apartment
21 buildings. And I do think that's -- I can submit those to the
22 record, as well. So there have been cases where if this were
23 reviewed de novo, without the inherited condition, that have been
24 approved, and there are many of those.

25 So I understand the comments here, and I'd like to add

1 to the record, if that's okay, to see if anyone would feel more
2 comfortable once we include those.

3 Yes?

4 CHAIRPERSON HILL: Okay. Hang on one second,
5 Ms. Wilson.

6 Mr. Blake, you got your hand up. I don't even know if
7 you got your question answered by OP. Sorry.

8 VICE CHAIRPERSON BLAKE: I didn't, but I want to ask
9 this question. It would be helpful to provide some of the
10 legislative history on the 900-foot rule -- the 900-square-foot
11 rule. That would be very helpful. And to the extent that you
12 do want to cite some cases where we've done this on a de novo
13 basis, it would be helpful if they're not summary --

14 MS. WILSON: Yeah.

15 VICE CHAIRPERSON BLAKE: -- just the folders with the
16 name --

17 MS. WILSON: Yes. Yeah, full orders.

18 VICE CHAIRPERSON BLAKE: -- which I think, the ones
19 that you've mentioned in your prior -- you mentioned in your case
20 record here, some of -- most of which are summary orders, so it's
21 hard for us to draw conclusions from those orders. So if you
22 can come up with some full orders that can support that, I think
23 that'd be more helpful for us.

24 MS. WILSON: I have one in mind, so absolutely. Yes.

25 CHAIRPERSON HILL: Chairman Hood?

1 CHAIRPERSON HOOD: Thank you, Mr. Chairman.

2 Also, Ms. Wilson, let's make sure that comparison is
3 an apples-to-apples as much as possible. I know they're not
4 going to be exactly mirroring each other, but some of the same
5 ingredients --

6 MS. WILSON: Yes.

7 CHAIRPERSON HOOD: -- I think would be very helpful for
8 me. So thank you.

9 MS. WILSON: Thank you.

10 CHAIRPERSON HOOD: And especially the full order,
11 because I'd like to see if I voted for something like that before.
12 So that'd be great. Thank you.

13 CHAIRPERSON HILL: Mr. Blake?

14 VICE CHAIRPERSON BLAKE: I would like more than one,
15 Ms. Wilson. Just because you may find one case where it went in
16 that direction, if there are 30 others that went the other way,
17 that probably wouldn't be as supportive. But to find the one in
18 a haystack -- needle in the haystack is good, but I'd like to
19 see more than one supporting that.

20 MS. WILSON: Absolutely. I can do that.

21 CHAIRPERSON HILL: So you all did go to the ANC,
22 Ms. Wilson, and they were in support, correct?

23 MS. WILSON: Correct, yes.

24 CHAIRPERSON HILL: And why were they in support -- or
25 what did they say about it?

1 MS. WILSON: I wasn't there. Mr. Sullivan was as I was
2 out, but their resolution talks about how it's not a large ask
3 to keep an existing unit of housing, effectively.

4 CHAIRPERSON HILL: Got it. Mr. Sullivan went to the
5 ANC meeting or on video?

6 MS. WILSON: Yes. Yeah, he had his own case there, so
7 he also presented my case --

8 CHAIRPERSON HILL: Interesting.

9 MS. WILSON: -- because I was out of town.

10 CHAIRPERSON HILL: I can't imagine that you guys go in
11 person. I'd like to see Mr. Sullivan in person at an ANC meeting.
12 That would be something I'd like to go back to today.

13 MS. WILSON: They're all virtual.

14 CHAIRPERSON HILL: I know they're all virtual now, but
15 in person would have been something to see.

16 MS. WILSON: Yeah.

17 CHAIRPERSON HILL: All right. Okay. Let me think.
18 Yeah. And I'll look at my Board members. I mean, I'm so confused.
19 Also, like, the housing, the good housing, the -- all these
20 different things -- the affordable housing -- right? I mean, I
21 know where -- I even know where this thing is, right? It's over
22 there by the Target, right? And so -- I don't know.

23 All right. So Ms. Wilson, go ahead and submit whatever
24 you want to try to submit, right?

25 And then, I don't know -- Mr. Blake, I'm looking at

1 you, do we -- and Chairman Hood -- do we come back for a continued
2 hearing or just the information is enough?

3 VICE CHAIRPERSON BLAKE: I think a continued hearing
4 would be best.

5 CHAIRPERSON HILL: Okay. All right. So Madam
6 Secretary, if we did a continued hearing, when do we come back?

7 MS. MEHLERT: So it would be after the August recess.
8 So you've got, on September 10th, five hearing cases, and on the
9 17th, you have three hearing cases and an appeal.

10 CHAIRPERSON HILL: Okay. The appeal, definitely not.
11 And the -- okay.

12 Ms. Wilson, are you on the next one as well?

13 MS. WILSON: No, I'm not. This is my last one until
14 September.

15 CHAIRPERSON HILL: Okay. So Mr. Sullivan's on the
16 other one?

17 MS. WILSON: Yes.

18 CHAIRPERSON HILL: Okay. I'm sorry, Madam Secretary.
19 What dates did you throw out again?

20 MS. MEHLERT: So if you wanted to come back in
21 September, there's three hearing dates. There's September 10th,
22 which has five hearing cases and two meeting cases. The 17th
23 has three hearing cases and an appeal plus two meeting cases, and
24 the 24th has five hearing cases that day.

25 CHAIRPERSON HILL: Okay. Ms. Wilson, right now, that

1 is empty? That unit is empty?

2 MS. WILSON: I believe so.

3 CHAIRPERSON HILL: Okay. You believe so. Okay. Is
4 the management person here -- or the owner here?

5 MS. WILSON: Yes.

6 CHAIRPERSON HILL: Could you introduce yourself,
7 please, for the record?

8 MR. JORDAN: My name is Wayne Jordan, and I am the
9 current owner of the property.

10 CHAIRPERSON HILL: Okay. Mr. Jordan, is that unit
11 empty right now?

12 MR. JORDAN: It has been empty since the last year and
13 a half. And the reason that it hasn't been, that we discovered
14 that it was a problem, was we were reapplying for our business
15 license. And -- so --

16 CHAIRPERSON HILL: Mr. Jordan, can you -- does your
17 camera work?

18 MR. JORDAN: I'm trying to get it to work. I don't I
19 don't know how to -- this is the first time I've been on this
20 system, so I'm not sure how to get it on.

21 CHAIRPERSON HILL: It just has a video or a stop video
22 button at the bottom.

23 MR. JORDAN: Well, it does, but it's not -- for some
24 reason.

25 CHAIRPERSON HILL: Okay. That's all right.

1 MR. JORDAN: Hold on. Hold on. Let me see if I can --
2 hold on.

3 MS. QUINN: You have to go to your browser to --

4 MR. JORDAN: Hold on. I guess I have to go to my
5 browser to get this to work.

6 So Quinn, why don't you -- how do we get this going?

7 MS. QUINN: You have to allow your camera.

8 MR. JORDAN: How do you "allow your camera" into a --
9 I'm sorry.

10 CHAIRPERSON HILL: All right. That's okay. That's
11 okay. You're probably going to come back, but now that I got
12 you, and this is also -- I'm glad you're speaking up -- like,
13 part of why this is an exceptional situation is that you got the
14 property this way. And that's what I'm also trying to understand.
15 Can you explain to me --

16 MR. JORDAN: That is correct.

17 CHAIRPERSON HILL: Okay. So can you explain to me when
18 did you buy this? And you found out about this unit not meeting
19 the certificate of occupancy criteria a year and a half ago, and
20 that's when you didn't allow people to move into it, and you
21 started this process? Is that what you're trying to say?

22 MR. JORDAN: No, that's not accurate.

23 CHAIRPERSON HILL: Okay.

24 MR. JORDAN: I actually was a part of the original
25 ownership group that purchased the property in 2008. My nephew

1 actually -- I helped him purchase the property. We -- I'm a
2 developer in Oakland, California. So we developed this property
3 in 2009. And when we bought the property, the developer that
4 the property was bought from was already working on the units,
5 so we assumed that we had permit to do all the -- the four units.
6 And I didn't become aware of the violation until, like I said, a
7 year and a half, maybe two years ago when we -- someone came by
8 and did their annual or -- inspection again on the business
9 license. And we were informed that we were out of compliance
10 because we had four units instead of three. It was only -- the
11 occupancy was only for three units. And that's when I became
12 aware of that.

13 CHAIRPERSON HILL: Okay. And Mr. Jordan, I don't think
14 you're going to get a whole lot of argument from the Board that
15 we wish we could do things we can't necessarily do, and so that's
16 where we're trying to figure out right now how you got to this
17 situation.

18 MR. JORDAN: Right. Right.

19 CHAIRPERSON HILL: Like, if you didn't -- if you didn't
20 get approval of this, what would you do with that floor?

21 MR. JORDAN: If I didn't get approval, well, I guess
22 we would have to take it out of use.

23 CHAIRPERSON HILL: No, I understand that. You'd turn
24 it into storage or something? You -- you haven't thought that
25 far.

1 MR. JORDAN: Well, I don't think any of the -- I would
2 not turn it into storage. No. It would just not be rented.

3 CHAIRPERSON HILL: Okay.

4 MR. JORDAN: It costs too much to demolish it to make
5 it a storage unit. Each unit has -- it's fully serviced with --
6 with washer and dryer and -- and everything that you need for the
7 unit, and they actually have storage in the units. The units
8 are quite large in themselves.

9 CHAIRPERSON HILL: Yeah, even that basement is nice.
10 Do you know how much you were renting that basement unit for?

11 MR. JORDAN: I do not.

12 CHAIRPERSON HILL: Pardon?

13 MR. JORDAN: No --

14 CHAIRPERSON HILL: You do not --

15 MR. JORDAN: -- I do not. I'd have to --

16 CHAIRPERSON HILL: -- or did you ever know? Okay. And
17 for whatever --

18 MR. JORDAN: I could have my assistant --

19 CHAIRPERSON HILL: I got you. I got you.

20 For whatever it's worth, Ms. Wilson, if we can find out
21 what that thing's been -- like, you know, I'm just thinking about
22 affordable housing and what, you know, that's, you know,
23 something that is maybe taken into consideration or not. It'd
24 be nice to know how much that unit gets rented for. Okay. All
25 right, Ms. Wilson, we will see you then -- oh, wait. We didn't

1 decide.

2 How do we get -- do you know if -- if you guys come
3 back, I guess -- I mean, I don't really have a -- I don't really
4 have a strong preference. I mean, Mr. Blake, like, do you want
5 to come back with a fuller day on the 10th, or do you want to
6 come back with a fuller day on the 24th?

7 And also, Chairman Hood, when are you available?

8 ZC CHAIRPERSON HOOD: I will -- I will make myself
9 available whatever full day you all want to have, so I will be
10 there for that one case.

11 CHAIRPERSON HILL: Okay. So Mr. Blake, because Mr.
12 Blake, I'm a little concerned about the next case also. That's
13 why I'm starting to, you know. Somebody's going to get the 10th
14 and somebody's going to get the 24th if this continues to work
15 this way.

16 VICE CHAIRPERSON BLAKE: (Indiscernible).

17 CHAIRPERSON HILL: They can both -- we'll see what
18 happens then. Okay. Let's put them on the 24th --

19 VICE CHAIRPERSON BLAKE: If you think that's necessary.

20 CHAIRPERSON HILL: I -- I prefer the 24th as well
21 because I don't know how I'm going to -- how mentally prepared
22 I'm going to be for work on the 10th.

23 So the 24th, Ms. Wilson, will that work for you?

24 MS. WILSON: (No audible response)

25 CHAIRPERSON HILL: Okay. We're going to come back on

1 9/24.

2 And then, Madam Secretary, I don't know what dates you
3 want to try to give for stuff.

4 MS. MEHLERT: So if the applicant could submit
5 everything by either September 3rd or September 10th, then OP and
6 ANC could have until the 17th to respond, and then come back on
7 the 24th. I don't know if that works for you or those dates work
8 for the applicant.

9 CHAIRPERSON HILL: Ms. Wilson, did you hear all that?
10 I think you're on mute, but I think you're saying yes.

11 MS. WILSON: Thank you.

12 CHAIRPERSON HILL: Okay. Okay. Great. Then we will
13 see you all back on the 24th.

14 Ms. Wilson, have a nice August.

15 Mr. Jordan, see you then.

16 MR. JORDAN: Thank you.

17 CHAIRPERSON HILL: Thank you. Okay. Let's go ahead
18 and -- well, I'm starting to get hungry, but if -- let's try
19 to -- if you all can manage, let's try to get through the next
20 two, and then we'll take lunch and then -- and then -- before our
21 last case.

22 So if you want to call our next case, Madam Secretary.

23 MS. MEHLERT: Sure. So next is Application Number
24 21307 of Henry Tam and Lan Tran. This is a self-certified
25 application pursuant to Subtitle X, Section 901.2 for special

1 exceptions under Subtitle U, Section 320.2, to allow the
2 conversion of an existing residential building to a three-unit
3 apartment house, and under Subtitle C, Section 703.2 for the
4 minimum vehicle parking requirements of Subtitle C, Section
5 701.5, and pursuant to Subtitle X, Section 1002, for an area
6 variance from the minimum lot area requirement of Subtitle U,
7 Section 320.2(c) to allow a conversion to an apartment house with
8 less than 500 -- 900 square feet of land area per each existing
9 and new unit. Again, this is a conversion of an existing
10 residential building to a three-unit apartment house located in
11 the RF-1 zone at 725 Hobart Place, Northwest, Square 2888, Lot
12 197.

13 CHAIRPERSON HILL: Great. If the applicant can hear
14 me, if they could please introduce themselves for the record.

15 MR. SULLIVAN: Marty Sullivan with Sullivan & Barros
16 on behalf of the applicant.

17 CHAIRPERSON HILL: Welcome, Mr. Sullivan.

18 MR. SULLIVAN: Thank you.

19 CHAIRPERSON HILL: I -- I enjoy thinking of you as at
20 an ANC meeting.

21 MR. SULLIVAN: I was -- I was there virtually. Yeah.

22 CHAIRPERSON HILL: No, no, no. But you were there
23 live, though, back in the day.

24 MR. SULLIVAN: Yes, I was. I remember those days.

25 CHAIRPERSON HILL: In the basement of churches and all

1 kinds of places. I'm sure you were -- yeah. Okay.

2 MR. SULLIVAN: Good times.

3 CHAIRPERSON HILL: Yes, yes. So Mr. Sullivan, if you
4 want to walk us through your client's application and why you
5 believe we should grant this relief. I'm going to put 15 minutes
6 on the clock so I know where we are. And you can begin whenever
7 you like.

8 MR. SULLIVAN: Thank you, Mr. Chairman and Board
9 members. If Mr. Young could please load the presentation.

10 The address is 725 Hobart Place, Northwest.

11 Next slide, please.

12 So the property is improved with a three-story, three-
13 unit row building. The applicant purchased the property in 2018,
14 at which time it was configured and advertised as a three-unit
15 building. They discovered at some point that there was no C of
16 O for the third unit and is now seeking relief to make the third
17 unit legal. And the applicant is not proposing any changes to
18 the building. The property has 1688 square feet of land area so
19 it does not meet the 900 square foot rule, and accordingly, the
20 applicant is requesting special exception relief for the
21 conversion pursuant to U-320.2 and variance relief within that
22 special exception from the 900-foot rule, area variance relief.
23 And applicant is also requesting parking relief for one space for
24 an increase from two units to three units. And this zone, even
25 if there is no alley, requires parking relief because two spaces

1 are required.

2 Next slide, please.

3 The Office of Planning is recommending approval, and
4 ANC 1E voted unanimously in support, and DDOT has no objection.

5 Next slide, please.

6 So this is the subject property here. That's Georgia
7 Avenue over to the right. There's a large apartment building at
8 2920 Georgia, two properties away. And there's a property to the
9 left. Those are flats, those four buildings there. That was
10 actually a variance case we did about ten years ago for that
11 location. And then there's another multifamily building to the
12 left of that on this block.

13 Next slide, please.

14 There's the front of the building. All of the units
15 are accessed through the front door.

16 Next slide, please.

17 There's the front as well and the neighboring
18 properties and the apartment building to the right.

19 Next slide, please.

20 These are the units and the entrances. This is the
21 opening foyer entrance to unit 1 there, and then you come to the
22 stairs to unit 2 and 3.

23 Next slide, please.

24 It's the kitchen in unit 1.

25 Next slide, please.

1 In unit 2, kitchen.

2 Next slide.

3 And kitchen in unit 3.

4 Next slide, please.

5 And these are the floor plans showing the existing
6 units. This is unit 1.

7 Next slide, please.

8 Unit 2.

9 Next slide.

10 And unit 3.

11 Next slide, please.

12 The general special exception requirements, special
13 exception is permitted. The relief will be in harmony with the
14 purpose and intent of the zoning regulations and zoning maps and
15 will not tend to adversely affect the use of the neighboring
16 properties. And the proposal will maintain the status quo of the
17 three units and allow the applicant to bring the building into
18 compliance. This portion of the RF zone, it borders the -- the
19 higher density zone on Georgia Avenue -- and before, I believe.
20 And there's more multifamily on this particular block. The next
21 block to the west is where it's mostly single-family homes and
22 flats.

23 Next slide, please.

24 So we meet the special exception requirements, save for
25 the 900-foot rule. It's just three units, so there's no fourth

1 dwelling unit for IZ. And the building is in existence. There
2 are currently three tenants in the building, one for each unit.
3 One of the tenants was in the building when the applicant
4 purchased the building.

5 Next slide, please.

6 Regarding the parking relief, the lot has no alley
7 access and no room for a driveway in the front of the building.
8 So the request is to continue to have no legal parking spaces
9 where one is required for an increase from two units to three
10 units.

11 So due to the physical constraints of the property with
12 no alley, parking spaces cannot be provided, and the applicant
13 was unable to locate available off-street parking within 600
14 feet. And that -- that -- those parking spaces would also have
15 to not be servicing any other use, and that's where it gets
16 difficult to find those spaces. And the use is in structures
17 particularly well served by mass transit, shared vehicle, and
18 bicycle facilities. It's approximately 200 feet from bus routes
19 on Georgia Avenue and a little over a half mile from the Georgia
20 Avenue-Petworth Metro.

21 Next slide, please.

22 The exceptional condition, the property was configured
23 and advertised as a three-unit building when purchased in 2018.
24 And modifying the existing units would require displacement of
25 tenants, significant construction costs, and loss of rental

1 income. And there's no option or ability to purchase additional
2 land to make it compliant with the 900-foot rule. The practical
3 difficulty is the elimination of a long-standing unit, including
4 termination of tenant leases, costly renovations, and loss of
5 housing in an area where such units are permitted by special
6 exception.

7 There's no harm to the public code or zone plan. This
8 maintains the status quo of the existing use, and the use itself
9 is permitted in this zone. And the surrounding area on this
10 block includes other multi-unit buildings.

11 Next slide, please.

12 And this may be it. So in -- in our applicants'
13 statement, we -- we mentioned some other cases, some precedent
14 cases. I'm gathering that the Board's probably going to want to
15 hear more on that and -- along with Ms. Wilson's case --

16 CHAIRPERSON HILL: Mr. Young, can you drop that slide
17 back? Thanks.

18 MR. SULLIVAN: One of the things that's -- we did
19 provide here at -- at the request of the ANC too -- we have an
20 affidavit from the tenant that was in the property when the
21 current owner purchased the property. He was -- he signed a
22 lease with the previous owner, and he's been there continuously
23 till now from prior to the conveyance. We're --

24 CHAIRPERSON HILL: Is that affidavit in the record, Mr.
25 Sullivan?

1 MR. SULLIVAN: I think so. I don't know if we just
2 sent it to the ANC or if we got it into the record. I'll let
3 you know --

4 CHAIRPERSON HILL: You put it in the record. Yeah.

5 MR. SULLIVAN: -- in a minute. So the -- the Board has
6 approved cases like this. They're unique, but they're -- but
7 they're -- yes, they're relatively rare. So I have no problem
8 with expanding on that argument and providing the Board with a
9 brief with the precedents. And I can go into detail on the
10 apples-to-apples comparison.

11 Full orders may be hard to find because, frankly, it
12 hasn't really been that -- there has never been, I think, this
13 much discussion on a case as we had in the last case and this
14 case for these. They don't happen a lot. They're unique. But
15 I'd say once every year or two there's been an approval similar
16 to this request that just recognizes the zoning history of a
17 property and the good faith reliance of a -- of an owner or of a
18 purchaser purchasing an existing property and -- and presuming
19 that it was legal because there was no enforcement action
20 available when they purchased the property.

21 That's one thing they might look for is whether or not
22 there's any violations on a property, and they wouldn't find any
23 on this. And -- and this is similar to Ms. Wilson's case. No
24 enforcement action has taken place. This is self-initiated by
25 the property owner to -- when -- when -- when he discovered that

1 he was out of compliance.

2 CHAIRPERSON HILL: Okay. Go ahead, Mr. Blake.

3 VICE CHAIRPERSON BLAKE: Sure. Yeah. It's kind of
4 funny. We -- it's such a rare occurrence, but it happened the
5 same -- twice in the same day. The -- the -- the -- it was the
6 fact that --

7 MR. SULLIVAN: Two separate -- different case, really,
8 when -- when we're looking for --

9 VICE CHAIRPERSON BLAKE: Similar property.

10 MR. SULLIVAN: -- an area of relief. We're -- we're
11 a conversion, and Ms. Wilson's --

12 VICE CHAIRPERSON BLAKE: Well, exactly. That is --
13 that is --

14 MR. SULLIVAN: -- was a -- was a purpose-built
15 apartment building. I mean --

16 VICE CHAIRPERSON BLAKE: I'm not going to
17 (Indiscernible) this issue.

18 MR. SULLIVAN: And -- and they -- because there's some
19 precedents that apply to Ms. Wilson's case that wouldn't apply
20 to mine, I think, that make her case even stronger. Because even
21 if there was no unit on the bottom, we've had several cases
22 approved where the Board has found an empty basement is not an
23 ideal condition, and that itself can be an exceptional condition
24 and a practical difficulty. In this case, we don't have that,
25 but we have -- but we do have tenants existing. And in a fairly

1 recent case by the Board, the Board even mentioned that loss of
2 rental income can be part of the practical difficulty in a case
3 like this.

4 So -- and then again, I mean, I'm throwing these things
5 at you and just asking you to believe me. We're okay with a time
6 delay if -- if the Board would like the full layout of -- of how
7 we see the -- the -- the precedent and -- and how the Board has
8 ruled on these cases like this in the past.

9 VICE CHAIRPERSON BLAKE: And Mr. Sullivan, as well, we
10 talked about the legislative history of the 900-foot rule. It
11 would be helpful as well there. And obviously you and Ms. Wilson
12 work together, so however you can come up with that would be very
13 helpful. Because, you know, realistically, this 900-foot rule
14 could be a special exception you could make some -- instead of
15 doing that. But it's here for a reason, and it could be helpful
16 to get a real good sense of the purpose of that and the intent.
17 And the -- so legislative history would be very helpful there.
18 And I would appreciate the -- the -- the reference cases because,
19 in many instances, there is a reliance, but it tends to be
20 sometimes on an error made by someone in the District that also
21 contributes to that.

22 And the -- in this case, it's -- it's more like a due
23 diligence issue and personal miss and then being able to
24 continuously rent these things, even without the proper
25 credentials, illegally. So that's what I see. I'd love to have

1 that information. It would be very helpful for me.

2 MR. SULLIVAN: The legislative history, I'm not sure
3 how it's done. That's 1958 or -- or earlier. But we'll do what
4 we can to find -- I know what you're looking for. I -- we will
5 do what we can to find something along those lines.

6 CHAIRPERSON HILL: Chairman Hood, you had your hand up.

7 ZC CHAIRPERSON HOOD: Let me help you a little bit. If
8 you look at it, that legislative history was discussed when the
9 zoning rewrite -- I know that for a fact because my former
10 colleague, Peter May, was drilling his home so that -- you can
11 start there, and you might be able to go back to '58. That would
12 be very helpful. But when we talk about this, the zoning regs
13 talks about renovations and expansions. And I know you just
14 cited to Vice Chair Blake that there was some difference in this
15 case and the previous case that we heard, but when I look at it,
16 it still resolves (sic) around a 900-foot rule.

17 And it seems to me that the way -- there's a different
18 spin being presented now, and I -- I'm -- I'm looking forward to
19 seeing how these have been looked at last time, and -- and again,
20 that apples-to-apples comparison, so I appreciate you taking that
21 note and bringing that back. And -- and -- and I'll just leave
22 it at that for now. But I -- I tell you, it's a heavy lift for
23 me. And -- and I believe -- I'd like to see those orders because
24 I don't think I was on many of them, so thank you.

25 MR. SULLIVAN: You're welcome. Yeah. You're -- you're

1 on one of them at least. I just looked -- I just started looking
2 up the cases as -- as the last case was going on. But I agree
3 that this is an issue that needs some time now and --

4 ZC CHAIRPERSON HOOD: Okay.

5 MR. SULLIVAN: -- to lay it out rather than addressing
6 it here at the last minute.

7 ZC CHAIRPERSON HOOD: So let me just ask this, Mr.
8 Sullivan. Do you remember that argument when we were doing the
9 rewrite? You remember that 900-square-foot rule? Did you -- did
10 you participate in that discussion --

11 MR. SULLIVAN: Well --

12 ZC CHAIRPERSON HOOD: -- if you remember?

13 MR. SULLIVAN: Well, I mean, I remember participating
14 in the -- the pre -- it wasn't in the rewrite -- it was a year
15 before the rewrite, when --

16 ZC CHAIRPERSON HOOD: Okay.

17 MR. SULLIVAN: -- when R4 was changed, right? Yeah.
18 And I don't remember a whole lot of discussion necessarily just
19 about the 900-foot rule. The -- I remember it being about --
20 obviously about architectural elements and additions. I mean, I
21 think it was the additions that really -- that -- that's what
22 triggered that whole thing, dissatisfaction with the -- the pop
23 ups and the additions. And I do know that then they also -- it
24 was matter of right, and now it's a special exception to go --
25 but that was still within the 900-foot rule. So I don't know

1 that the 900-foot was directly addressed in the 2015 amendment
2 or not, but we'll look and see if we can find information on
3 that.

4 ZC CHAIRPERSON HOOD: Well, I -- I know it was because
5 I -- I remember the discussion because it was very exhaustive.
6 But anyway, we'll -- we'll figure it out. I probably can't
7 remember what I did yesterday, so thank you, Mr. Sullivan.

8 MR. SULLIVAN: Okay. Okay. Thanks.

9 CHAIRPERSON HILL: Okay. Can I hear from the Office
10 of Planning?

11 MR. BRADFORD: Good afternoon, Chairman Hill, members
12 of the Board. For the record, this is Philip Bradford,
13 development review specialist with the Office of Planning. The
14 Office of Planning is recommending approval of the requested area
15 variance relief. Based on OPS analysis, the applicant meets the
16 variance test and has an exceptional situation unique to their
17 property. The Office of Planning also supports the requested
18 special exception relief, the request to reduce the minimum
19 parking requirements and convert the building to a three-unit
20 flat as they meet the special exception criteria for approval.
21 Thank you. And I'm available for any questions.

22 CHAIRPERSON HILL: Okay. So Mr. Bradford, again, the
23 unique characteristic of this is because it was purchased this
24 way?

25 MR. BRADFORD: Yeah. So after reviewing the case, my

1 thoughts on this are it went to BZA in, I believe, 2014 and got
2 the third-story addition. And they are on a slightly smaller
3 plot of land, so there's no ability to expand. It's clear, based
4 on the leases, that this was not done by the owner, and we are
5 against possibly displacing the tenants because it would be a
6 significant expense to -- looking at the previously approved BZA
7 files -- remove the kitchens, bathrooms, reconfigure the bedrooms
8 on the third floor. So that's why we have taken the stance on
9 recommending approval.

10 CHAIRPERSON HILL: Okay. All right. Mr. Young, is
11 there anyone here wishing to speak?

12 MR. YOUNG: No, we don't.

13 CHAIRPERSON HILL: Okay. Great. Thanks. And I'm now
14 looking at my fellow Board members. So I still think this is
15 disappointing. I think it sucks. So, you know, I don't know
16 what to do also in these situations now. Like, I don't understand
17 the 900-square-foot thing. I shouldn't say I don't understand
18 it. It comes up a lot, and there has been a lot of, like, one
19 way this way, one way that way sometimes I got to say, like, you
20 know. And I think that they -- they sometimes have not gotten
21 as much discussion as these last two have. But I'd like to also
22 understand them better now because, again, displacing people, if
23 it's affordable housing, if not, if that's something we can take
24 into consideration, I don't know, as -- I don't think you can
25 actually -- as to whether or not it is exceptional or not.

1 The part that kind of, I guess, sticks with me about
2 this is, again, right, we've talked about the cost of converting
3 things. What is this going to turn into? If, you know, if they
4 don't get the approval, then I guess they have to spend the money
5 just to make it two units, right, as opposed to three. And so
6 I'm kind of throwing out a bunch of stuff here also for either,
7 you know, Mr. Sullivan's argument or not because I know right now
8 you don't have the votes, and I don't think you have the votes
9 on the last one either. And so I don't know where we might end
10 up, but I'd like to, wherever we end up, be a little bit more
11 clear as to how we will end up with it in the future so people
12 know whether to bring these things before us or not. Right? So
13 I will --

14 MR. SULLIVAN: And --

15 CHAIRMAN HILL: Go ahead, Mr. Sullivan. Give me one
16 second. So -- give me one second. So I'd go ahead and say,
17 whatever it is you think you can put forward, Mr. Sullivan, for
18 both Mr. Blake, myself, and Chairman Hood, and we're probably
19 going to bring in Mr. Smith on both of these so that there's
20 another vote. But what were you going to say, Mr. Sullivan?

21 MR. SULLIVAN: Well, I just think that's a good point
22 about -- I don't think it should be done retroactively with --
23 if the Board's going to look at precedent and say, well, we --
24 we shouldn't have done those cases in the past, I think it should
25 be an announcement -- and there may be case law on that too, but

1 I'll look that up -- that the Board has changed -- is changing
2 their opinion of something that -- that held -- I put cases -- I
3 put precedent cases. It's only in a footnote in the applicant
4 statement. And I didn't bother going into a long, detailed
5 exposition of the precedent because, frankly, I didn't think it
6 would be an issue because these cases haven't been problematic
7 before.

8 But if the Board's questions it, I'm confident that we
9 would have the votes if you look at the precedent that we're
10 going to submit and the argument we'll submit, and you'll say,
11 okay, these are -- this is in accordance with things we've decided
12 in the past, and -- but we're not going to do it anymore. That --
13 that would be more fair, but I think the Board should follow
14 and -- and obviously I'm not telling you you have to take my word
15 for it. I'm telling you, we'll provide that --

16 CHAIRPERSON HILL: Why don't you --

17 MR. SULLIVAN: -- explanation.

18 CHAIRPERSON HILL: Mr. Sullivan, you can -- you can go
19 ahead and put forward whatever you want. And I will also say,
20 Mr. Sullivan, like, you know, the Board doesn't have that kind
21 of precedent thing. Like, I mean, each case is different. And
22 so -- and also not only that, you are going to get some difference
23 of opinion on whoever seems to be sitting on the Board that day.
24 Right? And so -- but I'm welcome to see whatever you want to
25 put forward, and we're going to come back for a continued hearing.

1 And everybody's got their hands up, so I'll get around again.

2 Go ahead, Chairman Hood, first.

3 ZC CHAIRPERSON HOOD: I do remember one particular case
4 on 900 square feet, but it wasn't the volume of what's being
5 asked for as far as relief. But one of the things that I -- I
6 do want to say to Mr. Sullivan is that the word that's being used
7 now that I have never heard, at least when I was on the BZA
8 dealing with this, was displacement. So now that word has now
9 been thrown in. So that's why I want to see some context so I
10 can come up with an educated, informed decision. I'm not saying
11 it's -- it's a -- it's a nonstarter for me. What I'm saying is
12 I need to make sure that we put all the equation together so we
13 can make sure that we come up with a wise solution. I'm not sure
14 what's been done. I don't think we need to put out no statement
15 because each -- each case runs on its own. And that's -- that's
16 my thoughts. Thank you.

17 CHAIRPERSON HILL: Okay. All right. Mr. Blake, you
18 had your hand up?

19 VICE CHAIRPERSON BLAKE: Yeah. Mr. Sullivan, I have a
20 question for you. You had mentioned -- at least the Office of
21 Planning had mentioned in the prior case and the approval, that
22 approval was for continued use as a flat, but just with the
23 adjustments. And were the -- was the construction that was done
24 inconsistent with the plans in that -- in that approval?

25 MR. SULLIVAN: I'm not -- I'm not familiar with --

1 what -- what case are you referring to? I'm sorry.

2 VICE CHAIRPERSON BLAKE: He talked about -- the Office
3 of Planning mentioned in a prior case with this property, I
4 believe. And maybe the Office of Planning can --

5 MR. SULLIVAN: It was lot occupancy. Lot occupancy
6 relief is what they --

7 VICE CHAIRPERSON BLAKE: Right.

8 MR. SULLIVAN: -- that this was about.

9 VICE CHAIRPERSON BLAKE: Right, but it was going to
10 continue to operate as a flat.

11 MR SULLIVAN: It was.

12 VICE CHAIRPERSON BLAKE: And maybe you can tell me.
13 Did -- was it configured this way at that time or what -- at
14 that -- based on the plans that are in there, was it configured
15 as a three-unit building or two or --

16 MR. SULLIVAN: No. That was -- and that was around
17 9 -- 2014, I think. No. We looked at that BZA application.
18 Those plans were two units.

19 VICE CHAIRPERSON BLAKE: Okay. So how did we get --

20 MR. SULLIVAN: That -- that owner must have known, you
21 know, that he -- or didn't try to do three units. Well, he did
22 it later, apparently, but he didn't -- he didn't represent
23 that --

24 VICE CHAIRPERSON BLAKE: Okay. So --

25 MR. SULLIVAN: -- that he was going to do that in that --

1 in his BZA case, no.

2 VICE CHAIRPERSON BLAKE: Okay. So they did increase
3 the structure at that point and later added a unit is basically
4 what kind of happened?

5 MR. SULLIVAN: Yeah. I think -- and I think the --
6 the -- the lot occupancy relief may have been for some stairs or
7 something.

8 VICE CHAIRPERSON BLAKE: In the rear. Right. Right.

9 MR SULLIVAN: Yeah.

10 VICE CHAIRPERSON BLAKE: Okay. Thank you. I just
11 wanted to clarify that. Thank you, Mr. Sullivan.

12 MR. SULLIVAN: Yeah.

13 CHAIRPERSON HILL: Okay. All right. Mr. Sullivan,
14 we're going to put you then on the 24th as with the previous
15 case, so we can all as a Board look at things at the same way.
16 And then Chairman Hood will put them both at the beginning of
17 the day.

18 And so Madam Secretary, you want to let Mr. Sullivan
19 on the same date probably?

20 MS. MEHLERT: The last case we had submissions. I
21 don't think we decided between the 3rd or the 10th, but -- of
22 September. I don't know if there's a preference there. And then
23 OP and ANC E optional responses by the 17th. So I don't know if
24 the 3rd works for the submissions okay?

25 MR. SULLIVAN: Yes. Yeah. That's fine. Thanks.

1 CHAIRMAN HILL: Okay. All right. Great. Then we'll
2 see you on the 24th, Mr. Sullivan. I know you have one more with
3 us, but let's all -- we're going to -- we're going to do one more
4 case, we're going to do lunch, and then we're going to come back
5 for the last case of the day. So --

6 MR. SULLIVAN: Thank you.

7 CHAIRMAN HILL: -- why don't we close the hearing and
8 this case, and we're going to do a continued hearing on the 24th.
9 Thank you. Bye-bye.

10 Madam Secretary, why don't you go ahead and call the
11 next one?

12 MS. MEHLERT: Next is Application No. 21321 of Kevin
13 and Julia Thomas. This is a self-certified application pursuant
14 to Subtitle X, Section 901.2 for special exceptions under
15 Subtitle E, 5201 on the rear yard requirements of Subtitle E,
16 Section 207.1, and the lot occupancy requirements of Subtitle E,
17 Section 210.1. This is for a third story and three-story rear
18 addition to an existing two-story attached principal dwelling.
19 It's located in the RF-1 zone at 1224 Carrollsburg Place,
20 Southwest, Square 651, Lot 109.

21 CHAIRMAN HILL: Okay. If the applicant can hear me,
22 if they can please introduce themselves for the record.

23 MR. DALEY: Good evening. Can everyone hear me?

24 CHAIRMAN HILL: Yes.

25 MR. DALEY: Okay. Good afternoon, Chairman Hill and

1 members of the Board. My name is Patrick Daley. I'm a project
2 manager at Eustilus Architecture. We are the architects and the
3 agent for the homeowners of 1224 Carrollsburg Place, Southwest,
4 Kevin and Julia Thomas.

5 CHAIRMAN HILL: Is -- got you. Is Mr. Teran not -- I
6 see his -- his name. I didn't -- is he your colleague, Mr. Daley?

7 MR. DALEY: Yes, Mr. Teran is my colleague. Yes.

8 CHAIRMAN HILL: Okay. All right. Mr. Daley, why don't
9 you tell us about your client's project and why you believe
10 they're meeting the criteria for a grant of the relief requested.
11 I'm going to put 15 minutes on the clock so I know where we are,
12 and you can begin whenever you like.

13 MR. DALEY: So 1224 Carrollsburg Place Southwest is an
14 existing two-story detached rowhome built over a crawlspace.
15 We're here today to seek relief from the 60 percent maximum total
16 lot occupancy, as well as the 20-foot required rear yard setback.
17 We have received letters of support from ANC 6D as well as from
18 several neighbors, including the adjoining neighbor at 1222
19 Carrollsburg Place. We have not received a letter of support
20 from the adjoining neighbor at 1226 Carrollsburg Place yet. The
21 owners have attempted to call and send letters to the neighbors,
22 but they are living out of the country, and they've had trouble
23 contacting them.

24 Mr. Young, if you could please bring up Exhibit Number
25 5.

1 CHAIRMAN HILL: Mr. Young?

2 MR. YOUNG: I'm pulling it up now.

3 CHAIRMAN HILL: Okay. Thanks. Exhibit 5.

4 MR. DALEY: So these are some photographs of the street.
5 So in that top left photo, 1224 Carrollsburg Place, the subject
6 property, is that light -- light blue row house in the center of
7 the frame. The -- all the houses on this street are very similar,
8 two-story row houses. If you look at the two bottom photos, you
9 can see the two-story decks in the rear yard. Our -- so our
10 proposed project is a rear yard addition, which consists of
11 enclosing the two-story deck in the rear yard, as well as a third-
12 story pop-up addition.

13 The existing home is in an existing nonconforming
14 condition at 67 percent lot occupancy. The rear yard setback is
15 also existing nonconforming at 18 feet, 9-3/4 inches. So we're
16 not seeking to encroach any further. We're just seeking to
17 enclose that two-story rear deck and convert it into interior
18 space.

19 And Mr. Young, if you could please pull up Exhibit
20 Number 6.

21 So just an overview of our project again. 67 percent
22 lot occupancy is going to remain at the first and second floor,
23 and then the third floor we're proposing at 61.7 percent.

24 The next slide, please.

25 So here's our site plan. So you can see where it says

1 existing two-story rowhome. Our third-floor addition is set back
2 from the front facade by 5 foot and 6 inches. So it's set back
3 from the existing brick parapet and cornice.

4 The next slide, please.

5 So these are the plans. You can see it's basically a
6 complete gut of the interior of the existing home, creating a
7 nice open floor plan. And then on the first floor, you can see
8 where it says "den" in the back. That's the existing two-story
9 deck that we're enclosing as part of that rear yard addition.

10 The next slide, please.

11 And here's our third-story pop-up edition. So you can
12 see there's that balcony at the front, which I mentioned is set
13 back 5 foot, 6 inches from that -- the existing brick parapet and
14 cornice. And then we have two bedrooms in the rear which are
15 built over the -- where -- where the existing two-story deck was.

16 The next slide, please.

17 So these are just our elevations. You can see on the
18 left side how we -- our third-story pop-up is set back. We have
19 that balcony that remains behind that existing parapet.

20 The next slide, please.

21 And so these are just our side elevations showing what
22 the pop-up will look like from the sides.

23 The next slide, please.

24 Just another view of the section. You can see that
25 balcony set back from the front.

1 Onto the next slide, please. I've got the last slide.
2 If you could please bring up Exhibit Number 19. This is our sun
3 study.

4 Okay. So this is our sun study at 9 a.m. on the summer
5 solstice. The image on the left is our proposal, and the image
6 on the right is what could be built as a matter of right. So
7 you can see at 9 a.m. on the summer solstice, there's no
8 difference in shading.

9 The next slide, please. 12 p.m. on the summer solstice,
10 you get a little bit of additional shading onto the roof of the
11 two-story deck of the neighboring property to the north.

12 The next slide, please.

13 At 3 p.m. on the summer solstice, you don't get any
14 additional shading onto the neighboring properties, just a little
15 bit of additional shading going into the alley.

16 Next slide, please.

17 So at 9 a.m. on the winter solstice, we get a small
18 amount of additional shading, again, up to the property to the
19 north.

20 The next slide, please.

21 12 p.m. on the winter solstice, you get some additional
22 shading, again on -- going on to the roof of the two-story deck
23 of the property to the north.

24 The next slide, please.

25 And finally, this is 3 p.m. on the winter solstice, and

1 you can see that there is no additional shading with our proposal
2 as compared to the matter of right.

3 That's the end of our presentation. I'd be happy to
4 answer any questions. Thank you.

5 CHAIRMAN HILL: Okay. Before I turn to the Board, can
6 I hear from the Office of Planning?

7 MS. BROWN-ROBERTS: Good afternoon, Mr. Chairman and
8 members of the BZA. Maxine Brown-Roberts, representing the
9 Office of Planning on BZA 21321.

10 Hi, Mr. Hood. My picture is up.

11 ZC CHAIRPERSON HOOD: I was going to say something
12 about that, but I -- I'm going to reserve it for now.

13 MS. BROWN-ROBERTS: Okay. I'm sorry. I will stand on
14 the record of the OP report, which outlines that the applicant
15 meets the requirements of Subtitle E 5201 and Subtitle X 901 for
16 the rear yard and lot occupancy requirements and recommends
17 approval. Thank you, Mr. Chair, and I'm available for questions.

18 CHAIRMAN HILL: Thank you, Ms. Brown-Roberts.

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

20 MS. BROWN-ROBERTS: It's taking as long.

21 CHAIRMAN HILL: Mr. Young?

22 MR. YOUNG: We do not.

23 CHAIRMAN HILL: Okay. Does the Board have any questions
24 for anybody?

25 Ms. Brown-Roberts, is this your last case with us

1 today?

2 MS. BROWN-ROBERTS: Yes, Mr. Chairman.

3 CHAIRMAN HILL: Okay. Well, I neglected to say it to
4 everybody else, but you all have a nice August, then.

5 MS. BROWN-ROBERTS: Thank you very much.

6 CHAIRMAN HILL: Okay. And --

7 ZC CHAIRPERSON HOOD: Now, Chair --

8 MS. BROWN-ROBERTS: And same to you from OP.

9 CHAIRMAN HILL: Thanks.

10 ZC CHAIRPERSON HOOD: Mr. Chair --

11 CHAIRMAN HILL: Go ahead, Chairman Hood.

12 ZC CHAIRPERSON HOOD: Can I just add Ms. Brown-Roberts
13 know exactly -- it -- it seems that she's able to show her camera
14 and -- and -- and let you all see her. But when she comes in
15 front of the zoning commission, it doesn't work. She can't show
16 it. So I'm looking forward -- I know she'll see us before August
17 break, so I'm looking forward to your camera working when you
18 come in front of the zoning commission.

19 Thank you, Mr. Chairman.

20 MS. BROWN-ROBERTS: Okay.

21 CHAIRMAN HILL: All right. I'm going to close the
22 hearing and the record and excuse everyone. Thank you, everybody.

23 I think, Chairman Hood, you people are just, like,
24 scary. That's why I, like, you know, they're, like -- at the
25 Board of Zoning Adjustment, we're a nice, calm, relaxed place.

1 ZC CHAIRPERSON HOOD: So we don't want to get started.
2 We want to finish this case. But I always ask OP, do they like
3 work -- coming in front of -- presenting in front of the zoning
4 commission or the BZA? I just want you to know I do do that.

5 CHAIRMAN HILL: And I'm sure you get the answer you
6 want when you ask it. All right.

7 So I'm fine with this. I thought -- I think it's a
8 pretty minimal expansion. I appreciate the -- the sun study. I
9 appreciate all the outreach that the -- the client -- I'm
10 sorry -- the applicant has done for the neighbors as well as the
11 one adjacent neighbor. I think it's, as I said, pretty modest.
12 I would agree with the analysis the Office of Planning has put
13 forward. I also appreciate that there's the setback on the --
14 on the top floor. And I, again, will agree with the Office of
15 Planning, I will agree with the ANC, and I will vote in favor of
16 this application.

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

18 COMMISSIONER SMITH: No. I agree with your assessment
19 of this case, that it is a fairly straightforward case. And I
20 think they've met the merits for us to approve, so I will vote
21 in approval.

22 CHAIRMAN HILL: Thank you. Mr. Blake?

23 VICE CHAIRPERSON BLAKE: Thank you, Mr. Chair. I'm in
24 support of the application. I agree with the comments that you
25 and Board Member Smith made. I give great weight to the Office

1 of Planning's report and recommendation for approvals, and also
2 with the ANC. So I'll be voting in favor of the application.

3 CHAIRMAN HILL: Thank you. Chairman Hood?

4 ZC CHAIRPERSON HOOD: Mr. Chairman, I, too, agree, and
5 I appreciate the applicant's sun studies as well. So I will vote
6 in favor of this case as well. Thanks.

7 CHAIRMAN HILL: Thank you. All right. I'm going to
8 make a motion to approve Application No. 21321 as captioned and
9 read by the secretary and ask for a second.

10 Mr. Blake?

11 VICE CHAIRPERSON BLAKE: Second.

12 CHAIRPERSON HILL: Motion made and seconded.

13 Madam Secretary, take a roll call.

14 MS. MEHLERT: Chair's motion to approve the
15 application.

16 Chairman Hill?

17 CHAIRMAN HILL: Yes.

18 MS. MEHLERT: Vice Chair Blake?

19 VICE CHAIRPERSON BLAKE: Yes.

20 MS. MEHLERT: Board Member Smith?

21 COMMISSIONER SMITH: Yes.

22 MS. MEHLERT: Chairman Hood?

23 Staff would record the vote as 4 to 0 to 1 to approve
24 application number 21321 on the motion made by Chairman Hill and
25 seconded by Vice Chair Blake.

1 CHAIRMAN HILL: Okay. Great. Thank you, guys. I
2 don't know how long it's going to take, like, I mean, do you want
3 to try to come back at 1:50? What's that? Then that's like --
4 no. I'm sorry, 12 -- no. What time is it? Oh, okay. Oh, it's
5 already kind of like 1 -- so, like, 1:40? 1:40? All right.
6 We'll try to come back at 1:40. Okay. Thank you. Bye-bye.

7 (Recess.)

8 CHAIRMAN HILL: Okay. Great. Madam Secretary, if you
9 could call us back and call our next case, please.

10 MS. MEHLERT: The Board is back from its break and
11 returning to its hearing session. The next case is Application
12 No. 21325 of CGB (sic) Investments, LLC. As amended, this is a
13 self-certified application pursuant to Subtitle X, Section 901.2
14 for special exceptions under Subtitle U, Section 253.4 to allow
15 an accessory apartment and accessory structure and under Subtitle
16 D, Section 5201 from the building area requirements for an
17 accessory building of Subtitle D, Section 1105.4. This is for a
18 second-story addition to an existing one-story accessory
19 structure in the rear yard -- excuse me -- of an existing two-
20 story row building for use as an accessory apartment.

21 It's located in the R-3/GT zone at 3253 P Street,
22 Northwest, Square 1255 (sic), Lot 206. And last week, the Board
23 granted advanced party status in opposition to a group of 200-
24 foot neighbors represented by Andrea Ferster. As a preliminary
25 matter, there was also a motion to waive the filing deadline from

1 the applicant to add a revised self-certification form.

2 CHAIRMAN HILL: Okay. I'm going to go ahead and allow
3 the waiver because I wanted to take a look at everything that's
4 going on with this case. And so if you want to go ahead and add
5 that into the record, Madam Secretary.

6 Can the applicant hear me? And if so, if they can
7 introduce themselves for the record.

8 MR. SMITH: Yes, I can hear you. Kip Smith and my
9 wife, Caroline Smith, are here. We're the applicants.

10 CHAIRMAN HILL: Okay. Great. One second, Mr. Smith.
11 Can you use your camera?

12 MR. SMITH: Let's see. Oh, yes. There we are.

13 CHAIRMAN HILL: Okay. Great. Great. Well, welcome,
14 Mr. Smith. And is it Ms. Smith also?

15 MR. SMITH: Yes.

16 CHAIRMAN HILL: Okay. Great. All right. You can go
17 ahead and mute yourself, sir.

18 MR. SMITH: Okay.

19 CHAIRMAN HILL: And I think we're -- Mr. Sullivan is
20 your representative; correct?

21 MR. SULLIVAN: Yes. That's correct, Chair.

22 CHAIRMAN HILL: Okay. Can you introduce yourself for
23 the record, please?

24 MR. SULLIVAN: Yes. Marty Sullivan, on behalf of the
25 applicant.

1 CHAIRMAN HILL: Great. And Ms. Ferster, can you hear
2 me?

3 MS. FERSTER: Yes, I can.

4 CHAIRMAN HILL: Great. Thank you. Could you introduce
5 yourself for the record?

6 MS. FERSTER: Yes, I'm Andrea Ferster. I'm
7 representing the -- the parties in opposition, the 200-foot
8 neighbors.

9 CHAIRMAN HILL: Okay. Great. Thank you, Ms. Ferster.

10 All right. So I think everybody knows how we usually
11 go through this, or at least most of the people on this call do.
12 What we're going to do is we're going to have the applicant
13 present their case and how they believe they are meeting the
14 requirements for us to grant this relief. Then the way I'm going
15 to try to do this today is I'm going to then have -- unless
16 there's some questions from anyone, my -- including my fellow
17 Board members -- I want to just try to get through the testimony
18 before going to questions.

19 So then I would ask then that the party in opposition
20 present their testimony. Then we'll be going to the Office of
21 Planning, and then we're going to have questions of the applicant
22 from the -- the party in opposition. And then questions to the
23 Office of Planning from the party in opposition, then also
24 questions of the applicant to the presentation of the party in
25 opposition. And also questions to the Office of Planning from

1 the applicant. And at any part of the time, if my fellow Board
2 members have any questions, they can go ahead and speak up.

3 We then go ahead and turn to any audience members that
4 are not affiliated with the parties and then work our way through
5 this day. I also would like to mention that I know that -- you
6 know, we've read the testimony and can see that there is
7 differences of opinions as to whether or not this project should
8 move forward, and they're from people that are living adjacent
9 to one another. So if we can do our best to keep this as calm a
10 proceeding as possible and do our best to stick to the information
11 concerning the regulations, that would be helpful. And we shall
12 see what we do.

13 And as is the norm, the party who is giving the
14 presentation kind of sets the standard as to how much time we
15 give everybody. But at the same time, I don't necessarily cut
16 anybody off if -- if there's more time that's needed from the
17 party in opposition for their testimony -- or anybody's testimony
18 for that matter.

19 So, Mr. Sullivan, with that being the case, I'll go
20 ahead and let you lead us off with your presentation. And you
21 can begin whenever you like.

22 And Mr. Young, if you just want to kind of keep an
23 ongoing clock, and I'll also try to do the same here on my phone.

24 And you can begin, Mr. Sullivan.

25 MR. SULLIVAN: Thank you, Mr. Chairman and Board

1 members. Again, my name is Marty Sullivan. I'm zoning counsel
2 for the applicant. With us here also is Eric Teran, the
3 architect -- project architect. So I'll turn it over to him at
4 some point, but I'll start the presentation.

5 If Mr. Young could please load the PowerPoint, the
6 property is 3253 P Street, Northwest. Next slide, please.

7 The property is improved with a two-story plus cellar,
8 single-family row dwelling as the principal building, and it has
9 a one-story accessory building in the rear. The accessory
10 building has an existing building area, or footprint, currently
11 of 470.8 square feet, and the applicant is proposing to add a
12 second story to that accessory building in those same dimensions.
13 And since the maximum permitted building area for an accessory
14 building is 450 square feet, the applicant is seeking special
15 exception relief for the additional 20.8 square feet on the second
16 story.

17 The applicant is also seeking special exception
18 approval to use the accessory building as an accessory apartment,
19 including a waiver as permitted from U 253.9(a) to allow the use
20 of both floors for the accessory apartment use. ANC 2E has voted
21 to not oppose each of the special exception requests, including
22 the waiver, and OP has recommended approval.

23 Next slide, please.

24 There's an overhead map of the property, and I'll turn
25 it over. I think we're into the plans now, so I'll turn it over

1 to Mr. Teran.

2 Eric?

3 MR. TERAN: I'm Eric Teran, the architect for the
4 project. This is a photo of the house there in white in the
5 middle with the easement on the left going back towards the
6 garage. You could kind of see it at the very end. There's some
7 brick and a black garage door.

8 Next slide, please.

9 This is the easement, and going back towards the garage
10 door, the -- you kind of see a downspout in the middle. To the
11 left is the neighbor's garage, and to the right is the property
12 in question.

13 Next slide, please.

14 So here, the two doors that you see there are the --
15 the area where we're going to convert it to the apartment. And
16 we'll be adding a second story on top of that. And you can see
17 the space in front of it is where we'd maintain the one parking
18 space.

19 Next slide, please.

20 This is another photo looking east. No, west, I'm
21 sorry. So just get a little bit more of context of what's behind
22 it and what's around it.

23 Next slide, please.

24 So this is a cover sheet of all the things that we're
25 asking for, and you have a site plan as well on there.

1 Next slide, please.

2 This is a little bit more detail of the site plan. You
3 can see on the right side it's enlarged where the existing home,
4 the existing patio, the existing easement, and where the garage
5 is at the very end of the property, and the dimensions. And so
6 we're just proposing to build right on top of the existing
7 structure.

8 Next slide, please.

9 So these are the existing elevations. They basically
10 will be the same, except that the doors will be removed -- or
11 the garage doors become regular doors, and there'll be a second
12 story that you'll see.

13 Next slide, please.

14 So this is the proposed floor plans. On the right side
15 is the first floor and open living space, and then on the left
16 side would be a one bedroom with a closet and a bathroom.

17 Next slide, please.

18 And that's just the roof.

19 Next slide, please.

20 And so this is the proposed elevations. You know, the
21 north, east, and west are very similar. The south is the big
22 one where you can see at the first floor the garage doors are
23 now bifold doors. This went through OGB, and this is what was
24 approved. The second story has simple casement windows.

25 Next slide, please.

1 So here are the other side elevations.

2 Next slide, please.

3 And so this is the elevation with the whole row of
4 garages just to get a better idea of the context and what it
5 would look like adding the second story to the existing portion.

6 Next slide, please.

7 So in this section, I think the -- the most interesting
8 part here is if you look at section 1, on the left side of it,
9 you can see where the neighbor to the north, their elevation is
10 actually much higher. So they're not going to see a full 19 feet
11 like you see when you're entering the garage. They'll see
12 about -- what is that -- about 11 feet rather than 19 feet. So
13 it's not going to be as big from the people in the north viewing
14 the garage when they're viewing the backside.

15 Next slide, please.

16 So here are some 3D images just to better understand
17 the context and the materials. We used this for OGB as well.
18 You can see how some of the buildings to the east and to the
19 north are much bigger, and you get a little bit of an idea of
20 the context.

21 Next slide, please.

22 And this as well, so you can see the building to the
23 left, which is to the north, and another house to the right,
24 which is east, are much bigger. So this, I think, is -- for a
25 detached garage, is within the scale. I believe detached

1 structures can be up to 22 feet. We're only at 19 feet. So
2 we've worked with OGB in lowering that because we did originally
3 come, I think it was 20 foot, 6 inches. So we have lowered it.

4 Next slide, please.

5 And so these are the shadow studies. The left is what
6 would be a matter of right, which would be 450 square feet, and
7 the right is the 470 square feet. So here at 9 a.m., which is
8 the top two, you can see on the right side it's about additional
9 8 inches of additional shading. And that's basically just on the
10 roof. So there really isn't any hardship on any of the neighbors.

11 Next slide, please.

12 And at the top, same thing, there's really no
13 additional shading. On the bottom, it'd be 9 a.m. for the winter
14 solstice. You can see there's a little bit more shading to the
15 neighbors to the north, however, that would be on the -- the
16 brick wall. It wouldn't be going into the neighbor's backyard --
17 and on the roof -- the garage roofs.

18 Next slide, please.

19 And here are the other two times at 12:00 and at 3:00,
20 and at 12:00, there's a little bit impact at the very back because
21 it is -- obviously it's taller. So there's going to be an impact.
22 And at 3 p.m., there's nothing. I think that might be the last
23 slide for me, at least.

24 Is there any more, Paul, or next slide? So that --
25 that's it for me. Thank you.

1 MR. SULLIVAN: Okay. Thanks, Eric.

2 This project meets the general special exception
3 requirements. The zoning regulations specifically allow for
4 special exception relief for the use of an accessory structure
5 as an accessory apartment, as well as requests for up to two
6 waivers or modifications of the conditions of that special
7 exception. And the 20.8 square feet is also permitted through
8 special exception relief and is minimal in this case with no
9 impact on light and air or privacy. The project meets all other
10 developmental standards of the R-3/GT zone, including overall lot
11 occupancy.

12 Next slide, please.

13 So the special exception criteria for approval of the
14 20.8 additional square feet, which the 20.8 square feet basically
15 represents a one-foot strip of the second-floor addition on the
16 accessory building. And so it doesn't cause any adverse effects
17 on the light and air of neighboring properties. Shadow studies
18 provided by Mr. Teran shows no discernible impact. That strip
19 that he was pointing out, we figured less than 6 inches of impact
20 at certain times on -- not even into neighboring windows or
21 anything, but just on roofs and -- and a yard. And the accessory
22 of structure only contains windows and doors on the south facade,
23 facing the applicants' rear yard, and the existence and location
24 of those windows have no connection whatsoever to the additional
25 20.8 square feet being requested.

1 And the accessory building regarding character, scale, and
2 pattern has existed for years in this location. it's at the rear
3 of the property, adjacent to other accessory buildings, and the
4 proposed is about 3 feet under the maximum permitted height, and
5 the proposal enjoys concept design approval from the Old
6 Georgetown Board.

7 Next slide, please.

8 Regarding the conditions of approval for the accessory
9 apartment use, these are the requirements for that, which we
10 safely meet: either the principal dwelling or accessory
11 apartment unit shall be owner occupied for the duration of the
12 accessory apartment use. So once the accessory apartment is
13 established, then it must be owner occupied either in the
14 accessory apartment or in the principal building.

15 The total number of people living in both the main
16 house and accessory apartment combined cannot exceed six persons.
17 There shall be permanent access by way of a permanent passage
18 open to the sky, no narrower than eight feet in width, extending
19 from the accessory building to a public street through a side
20 setback or shared recorded easement. There is such an easement.
21 It's a little over eight feet on the adjacent property, which has
22 been in existence since at least 1946, and it is in perpetuity.

23 The dwelling use of the accessory building shall be
24 coterminous with the permanent access. That will be the case,
25 of course. Accessory building that houses an apartment shall not

1 be used simultaneously for any accessory use other than a private
2 garage, an artist's studio, or storage for a dwelling unit on the
3 lot. Accessory building will comply with this requirement. And
4 the accessory building shall not have a roof deck, and this is
5 not proposed to have a roof deck.

6 The accessory building also shall be located such that
7 it is not likely to become objectionable to neighboring
8 properties because of noise, traffic, parking, or other
9 objectionable conditions. The accessory building is in a
10 existing location. It is a small apartment, and the entire
11 property is limited to only six people. Therefore, it's not
12 likely to become objectionable to neighboring properties because
13 of noise, traffic, parking, or other objectionable conditions.
14 The survey plat shows that the required parking space will still
15 be provided on the property, as noted in the Office of Planning
16 report. Next slide, please.

17 So U 253.9(a), an accessory apartment in the R-3/GT
18 zone shall only be permitted on the second story of a detached
19 accessory building, but this is a waivable condition. And also,
20 point 9(b) prohibits a balcony or projecting window. The
21 applicant is requesting a waiver of U 253.9(a) and discusses in
22 the section below how we meet that. So U 253.10 provides the
23 requirements for granting the waiver; there are three. One is
24 that no waiver is allowed of the ownership requirement. No waiver
25 is allowed of the maximum number of six residents on the entire

1 property.

2 And then third requirement is that the modification
3 does not conflict with the intent of this section to maintain a
4 single household residential appearance and character, which we
5 have a single -- it doesn't change the appearance or character
6 of that to have that on the first floor. And as the Office of
7 Planning noted in their report, the purpose of this requirement
8 was to preserve parking space there. And because we were
9 providing parking on the property still, the Office of Planning
10 is in support of the waiver, as well as the other areas of relief.
11 And next slide, please.

12 And that may be it for us. I'll note we filed a revised
13 Form 135, which was required of us to put the waiver section
14 within the special exception box. So I defer to the board on
15 that. It's not a separate special exception. But however, it
16 needs to fit within the board's view of, that is fine with us.
17 So that's all we have. If you have any questions for myself, or
18 Mr. Teran, or for the applicant. Thank you.

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

20 Ms. Ferster, can you hear me?

21 MS. FERSTER: Yes, I can.

22 CHAIRPERSON HILL: Thanks. They ran around, like, 13
23 minutes. Again, whatever you end up doing until it gets really
24 late, I'll let you know. So go ahead and give us your
25 presentation, and you can begin whenever you like.

1 MS. FERSTER: Great. Thank you. Good afternoon,
2 members of the Board. We have two witnesses. I am hoping that
3 each of them will be ten minutes or under, so only slightly above
4 the 12 minutes the applicant took. Our first witness will be
5 Mr. Guillermo Rueda. He is listed in your book as a zoning
6 expert. And so I don't see the need to qualify him, but his CV
7 is in the record.

8 CHAIRPERSON HILL: Okay. Great. Sure -- and this is
9 more for my Madam Secretary -- another thing, I know Mr. Rueda
10 is with us for his expertise in architecture. I always get
11 confused as to whether there's a zoning expertise one way or the
12 other, but I'm happy for him to be considered as a zoning expert
13 in architecture, but just not for --

14 You don't need to let me know right now, Madam
15 Secretary. I just know that there was like -- I don't know what
16 categories things go in at times, so maybe you can help me out
17 with that later. Okay? Okay. Great.

18 Go ahead, Mr. Rueda, if you could introduce yourself
19 for the record. Nice to see you again. I think you're on mute,
20 Mr. Rueda. I think you're still on mute.

21 Can you all hear me?

22 COMMISSIONER SMITH: I can hear you.

23 CHAIRPERSON HILL: Mr. Rueda?

24 MR. SULLIVAN: I don't think he can hear you.

25 CHAIRPERSON HILL: We can't hear you.

1 MR. RUEDA: Are you okay?

2 CHAIRPERSON HILL: Yeah. Can you hear me? Can you
3 hear me?

4 MR. RUEDA: Now I can; I'm sorry.

5 CHAIRPERSON HILL: Okay. That's all right.

6 MR. RUEDA: Technical problem.

7 CHAIRPERSON HILL: Okay. I said, nice to see you again,
8 Mr. Rueda. And if you could just introduce yourself for the
9 record, and you can begin whenever you like.

10 MR. RUEDA: Nice to see you too. I appreciate the
11 introduction. My name is Guillermo Rueda. I am an architect
12 recognized as an expert before this body in zoning, and I'm here
13 to offer rationale for denying relief of the four separate
14 requirements of the regulations necessary to convert this
15 existing attached garage building at 3253 P Street NW into a two-
16 story accessory apartment. I have a slide deck.

17 If Mr. Young can -- yeah. There you go.

18 CHAIRPERSON HILL: Do you know which exhibit that is,
19 by any chance, Mr. Young?

20 MR. YOUNG: I do not know which exhibit it is.

21 CHAIRPERSON HILL: Okay. Madam Secretary, can you drop
22 that into the record if you get a chance? Did you hear me, Madam
23 Secretary?

24 MS. MEHLERT: Yes. I don't know if we've received it.
25 I think it's --

1 CHAIRPERSON HILL: -- (indiscernible) has it. Ms.
2 Ferster, do you have it?

3 MS. FERSTER: I don't believe it's been filed into the
4 record as of yet. We can do that.

5 CHAIRPERSON HILL: Yeah, I know. It's just easy for
6 us to follow along. That's the only reason why.

7 MR. RUEDA: Well, I submitted it to the -- to Mr. Young.

8 CHAIRPERSON HILL: Yeah. Mr. Young has it.

9 MR. RUEDA: Okay.

10 MS. MEHLERT: You just need to submit it also to
11 bzasubmissions@dc.gov so we can get it into the record.

12 MR. RUEDA: My apologies. I forgot to do that. You're
13 right.

14 MS. FERSTER: I can do that right now.

15 CHAIRPERSON HILL: Oh, great. Thanks, Ms. Ferster.

16 Okay. Go ahead, Mr. Rueda.

17 MR. RUEDA: If we can move to slide 2, the accessory
18 apartment is proposed in the R-3/GT zone, one of the zones in
19 ZR16 that does not allow accessory apartments as a matter of
20 right. Like many lots in the surrounding squares, the restriction
21 is due to many accessory buildings built across an alley from the
22 principal structures. These accessory buildings, therefore,
23 present a public face towards the homes that create a character
24 of their own. In this case, there's a private easement that
25 allows access to the properties that flank 3255 for whom I provide

1 this testimony; they're the easement holders.

2 Slide 3.

3 And we didn't update our slides for all of the relief
4 that was added as part of the new self-certification form, I just
5 wanted to add. The immediate homes on this block are
6 characterized by setbacks from the street face and separation
7 between the buildings that allows views into the rear garden
8 spaces, a feature that is distinct from the nearby row homes.
9 The front entry doors on this block are typically set back from
10 the main façade, and even the one true row dwelling at 3263 does
11 not extend full width at the street front by setting back its
12 entry to provide light and air to the adjoining properties.

13 Like the self-certification submitted by the applicant
14 for this property, OP's report considers the property as
15 semidetached, as does the Office of Tax and Revenue. And while
16 we're not suggesting that OTR's or OP's characterization requires
17 that the property be considered at 40 percent occupancy as
18 required for semidetached buildings, it should be noted that OP's
19 report does not recognize that the applicant's occupancy of 52
20 percent would be nonconforming in the case of any other
21 semidetached home on the block and beyond the 10 percent relief
22 standard for special exceptions. It does suggest that OP's report
23 is not complete in its analysis, and it fails to address the
24 adverse effect of adding the additional height to a structure
25 that can be so plainly viewed from P Street.

1 Slide 4.

2 So the applicant in this case proposes to create a
3 second-story addition to an attached garage and in a private
4 court by requesting relief of the 450 square foot maximum building
5 area requirement under 1105.4. The accessory building is
6 accessed by private easement serving the owners at 3255 and the
7 two adjoining properties, including the applicant. It buffers
8 the P Street properties from the Volta Place properties, framing
9 the garden space in conjunction with the attached garages and low
10 garden walls that frame the copious trees and vegetation.

11 Slide 5, please.

12 So the visual intrusion of a second-story addition, in
13 this case, creates a public face within this private court that
14 unduly compromises the private use and enjoyment of the
15 neighboring homes and properties. As with the other semidetached
16 homes on the block, the private driveway in this case creates a
17 direct view corridor into the proposed two-story accessory
18 apartment, which would not be present in the case of a row
19 dwelling and certainly detract from the idea that this is a single
20 household at 3253. The appearance would definitely be distinct.
21 I improvised that -- hang on a second.

22 The visual intrusion is particularly incompatible with
23 the purpose of the R-3/GT zone, which does not permit accessory
24 apartments as a matter of right, and further, to limit permitted
25 ground coverage of new and expanded buildings and other

1 construction to encourage a general compatibility between the
2 siting of new or expanded buildings and the existing neighborhood
3 district; that's under Subtitle D 1100.2.

4 It's for this reason that the accessory buildings are
5 subject to special development standards, from which the
6 applicant is also seeking special exception relief. These
7 factors contraindicate granting relief under the requirements of
8 U 253, in this case, to convert an attached one-story garage into
9 a two-story accessory dwelling, and therefore the special
10 exceptions under 253.4 and 253.9 should be denied.

11 The project relies on relief of three separate
12 requirements of the U 253 section for accessory buildings in the
13 R-3 zone. One is that the accessory building needs relief to
14 even have an accessory apartment. Two, that the residential use
15 be located only on the second story. And the third requirement
16 is that the accessory apartment be detached, a detail that both
17 OP and the applicant omit in any of their statements.

18 Note that the request for zoning relief from three of
19 the U 253 conditions This section triggers the requirement that
20 the applicant be required to meet the higher standard of variance,
21 as required by 253.12. The applicant recharacterizes this relief
22 as a single waiver. And I believe that the two requirements of
23 253.9 can be, and should be, read separately from the first waiver
24 to allow the use, under 253.4, the ability to even have an
25 accessory apartment. The Board should not be persuaded

1 otherwise. The second waiver relates to the fact that the
2 residential use can only be located on the second floor, second
3 story and the proposed dwelling is clearly on both floors. It
4 converts the two-car garage into a kitchen, living, dining room
5 space with a powder room and a new additional floor to provide a
6 bedroom suite with a laundry facility.

7 The third requested waiver involves a requirement in
8 253.9(a) that the accessory apartment be detached, and in this
9 case, it is not. It is part of a row of garages continuous with
10 the easement holder and his neighbor to the west. The architect's
11 drawings clearly show how the accessory apartment shares a common
12 wall in its sections and its plans. And the photos that we show
13 obviously also contribute to this.

14 Slide 6, please.

15 I guess, lastly, I wanted to note that the applicant
16 fails to meet its burden of proof on the true impact of light
17 and air. The shadow studies don't take into consideration the
18 longer shadows of fall and spring and fails to include even
19 relevant shadow information after 3 p.m. during the summer, when
20 the sun sets closer to 9. Furthermore, there's ample reason to
21 consider that the impact of the entirety of the addition should
22 be considered given that the addition is for the residential use.
23 It makes little sense to only consider the degree to which the
24 nonconforming building area impairs light, where there is no
25 indication that the addition to the attached accessory building

1 is viable without the multiple requested special exceptions to
2 allow the residential use, and the two stories, and on an attached
3 dwelling.

4 The adverse impact of the two-story accessory dwelling
5 on light and air, particularly to the Crocker property at 3208
6 Lower Volta, is undeniable, but it's wholly masked by the improper
7 baseline used in the applicant's shadow study.

8 And last slide, I think -- actually, I missed one of
9 them. There you go.

10 You can see there how the shadows are longer during the
11 equinox than they are in the summertime. The last slide just
12 shows the impact on the zone plan. The applicant's request fails
13 to meet his burden of proof for relief under special exception
14 metrics, because it creates a visual intrusion upon the
15 character, scale, and pattern of the semidetached houses along P
16 Street as viewed from the private easement and due to its adverse
17 effect on light and air to the neighboring properties of the
18 north. The other failure is to maintain the appearance of a
19 single household by having the accessory apartment separate from
20 the building at 3253. And more importantly, the project cannot
21 be considered "as is" without meeting the terms for a variance
22 relief under 253.12. Thank you.

23 CHAIRPERSON HILL: Okay. Thank you, Mr. Rueda.

24 And Madam Secretary, when that gets put into the
25 record, if you could let us know also?

1 Ms. Ferster, who would you like to go next?

2 MS. FERSTER: Yes. Our next and last witness will be
3 Mr. Rolf Sartorius. He is one of the owners of 3255 P Street,
4 which is the adjacent property across the driveway, and the owner
5 of the driveway over which there is an easement. He will be
6 testifying on behalf of all the neighbors in an effort to be
7 concise and not duplicate any testimony. And he will be
8 addressing the standard under 853.9(s) which is that the
9 requirement that the accessory building -- no, sorry -- 853.8(s)
10 that the accessory building shall be located such that it is not
11 likely to become objectionable to neighboring properties because
12 of noise, traffic, parking, or other objectionable conditions.

13 CHAIRPERSON HILL: Got it. Thank you.

14 Mr. Sartorius, please introduce yourself for the
15 record, and you can begin when you like.

16 MR. SARTORIUS: Great. Thank you. Thank you, Mr.
17 Chairman and Board members. My name is Rolf Sartorius, and I'm
18 the property owner at 3255 P Street with my wife and my daughter.
19 We've consulted with our neighbors and have jointly prepared our
20 objections, and we appreciate the chance to weigh in with our
21 concerns this afternoon.

22 In my short presentation, I'd like to outline the
23 negative impacts of the proposed ADU on ourselves and our
24 neighbors in terms of light, air, privacy, noise, and traffic.
25 Mr. Rueda, I think, has done a nice job presenting on the zoning

1 deficiencies of the application and its visual intrusiveness in
2 our neighborhood. Finally, I'd like to point to some construction
3 concerns at the end of my presentation.

4 So for negative impacts, first I'd like to talk about
5 privacy. We and the other owners in the neighborhood have all
6 purchased our properties, placing great value on their small
7 private gardens, patios with ample light and privacy. These are
8 small havens of peace and quietude in the city, and we enjoy
9 these spaces very much.

10 The proposed ADU is at the end of a narrow, private,
11 single access point driveway. We own that driveway, and the
12 easement allows our neighbors to move back and forth. The
13 increased occupancy of the ADU with the additional residential
14 and visitor foot and car traffic required to access it will pass
15 directly in front of our living room and dining room windows, and
16 will pass along our backyard gardens. I have a slide presentation
17 that has a picture of this, and it shows --

18 If we can pull that up. Move ahead a couple of slides
19 to slide 5, I believe. Keep going. And we can go ahead. One
20 more. That's it.

21 So this is a picture of the other day with a service
22 vehicle working on the garage of 3253 P Street. As people and
23 vehicles move through the very narrow access point, it's very
24 intrusive in terms of noise and visibility, and that, that's a
25 big negative on our privacy. And the additional foot traffic and

1 car traffic deliveries moving in and out of the ADU would make
2 that much more apparent for us. The ADU's four, large, south-
3 facing windows and two ground level, six-foot windowed bifolded
4 doors, and the upper-level, four-foot, six-inch windows will face
5 over our garden area and face directly into our master bedroom
6 and living room windows.

7 The proposed ADU requires taking down or substantially
8 cutting back older shade trees, that you saw in the earlier photos
9 provided by the architect. And some of the trees that are
10 proposed to be cut back on the Crocker side of the property would
11 likely not survive, given that so much would be taken out of the
12 canopies. These trees also provide a visual barrier between 3255
13 P Street and the adjacent properties and help to protect privacy.

14 We and neighbors are also very concerned about the
15 noise that the additional foot and personal vehicular traffic
16 would cause in our immediate area: service and construction
17 vehicles, tenants moving in and out, trash bins -- additional
18 trash bins moving in and out. The noise echoes very loudly in
19 our narrow driveway area, and it's bothersome as things pick up
20 in terms of density and traffic.

21 Similarly, an AC unit placed on the roof of the ADU,
22 or in front of it, will throw off additional unwanted noise. It
23 will vibrate in that small area in the back of our homes and
24 would also affect, especially if the AC is placed on the roof,
25 the properties that are on the Volta Place locations.

1 The proposed ADU may be rented to Georgetown students,
2 especially given our walking proximity to the campus. We support
3 and enjoy university students. However, students enjoy parties.
4 And the only place to congregate outside the apartment is on the
5 parking flat next to our backyard and patio and again, facing
6 into our master bedroom and living room windows. Regardless of
7 who rents the unit, our driveway and the small space in front of
8 the garages will now be an entrance to the apartment and
9 essentially the only outdoor congregating space for people,
10 bikes, cars, trash bins, et cetera. And our neighbors all see
11 this as something that will substantially impair our enjoyment
12 and use of our properties with the added noise and traffic.

13 In terms of light and air, our street is characterized
14 by two-story homes, as some of the earlier slides showed us, and
15 single-story garages. Due to the disproportionate massing of the
16 ADU, the owners of 3249, 3253, and 3259 P Street; 3208, 3214,
17 and 3216 Volta will be directly affected by the new structure
18 that is completely out of proportion and out of character with
19 the pattern of our neighborhood. The owners of 3208 Lower Volta,
20 the Crockers, will experience very substantial loss of light in
21 their home. They're worried about lack of airflow caused by the
22 two-story structure in their backyard area. And they're worried,
23 especially about the blockage of light, the southern exposure of
24 light, that's not accurately reflected in the architect's
25 drawings.

1 Again, the architect's drawings assumed a two-story
2 structure with a 22-foot variance and the adequate, more
3 appropriate baseline for the shadow study would be the garage as
4 it is, because it's a matter of exception to putting the second
5 story. Several shade trees and their diffused light would also
6 be removed and would block some of the screening.

7 And if we move on to adverse impacts on parking,
8 neighbors along our street, both the businesses in our mixed-use
9 location and residents are very concerned about the extra stress
10 on the on-street parking caused by the loss of the spaces in the
11 back area. The two parking spaces in the proposed ADU structure
12 would be lost, and at least one of the two spaces in front of
13 the ADU would be lost, placing additional three spaces --
14 requirement for additional three spaces onto the street. And
15 that's not taking into account that whoever inhabits the ADU,
16 whether it's one to three people, may have additional cars. So
17 this puts a stress on the street parking where competition for
18 business parking, and competition for parking for the school
19 that's across the street, and parents visiting for meetings and
20 dropping kids on and off for school activities is very dense.
21 And the competition for parking spaces is very tight on our
22 street.

23 By having cars parked in the space in front of the ADU
24 rather than in the garage, and with the added trash bins, it's
25 more difficult to maneuver cars in and out of the four garage

1 spaces, especially when the space in front of the ADU is occupied
2 by service vehicles. In combination with the increased occupancy
3 of the ADU and the existing occupancy of 3253 P Street, there's
4 going to be additional jockeying for parking spaces and it's
5 going to negatively affect our enjoyment of the neighborhood.
6 Again, business owners on the street have voiced their concerns
7 about the additional pressure it will put on the parking spaces
8 in front of businesses.

9 The next thing I wanted to talk about is the visual
10 intrusion of the ADU. It is visible from P Street, and as the
11 application states, our area is characterized by two-story
12 dwellings with detached, one-story accessory structures. If we
13 can go back to some of those slides that I had, the first couple
14 of slides show the semidetached character of our neighborhood.
15 And it's a very special neighborhood because of the semidetached
16 nature of it, and it gives some relief to the density in other
17 parts of Georgetown. And again, the backyard areas are very
18 special spaces for all of us.

19 The visual intrusion of the proposed ADU is such that
20 it's visible from all the properties that are joining us in our
21 objection as well as a total of about 16 properties on our block
22 that have inward views towards the proposed structure. The ADU
23 is out of character and out of proportion with the accessory
24 structures in the neighborhood. The proposed ADU really presents
25 as a street-front residential façade in its design, massing, and

1 scale in an area characterized by private backyard gardens and
2 one-story accessory structures. In an earlier presentation, the
3 architect showed some pictures of comparable ADUs that were two-
4 story structures, but they were in public alleyways, and they
5 were really not legitimate comps to be presented in our case.

6 Finally, I wanted to say that we have construction
7 concerns from our neighbors and from us directly on the easement.
8 First, the ADU is proposed based on adding a second story to the
9 weak garage structure. The garages and the six-bay structure is
10 about 100 years old. It's crumbling. It has a lot of water in
11 the walls; it's very wet. And it's not solid. Our concern is
12 that with additional building, that the whole thing may collapse,
13 and the party walls will require digging and strengthening to
14 repair footings and retaining walls on the adjacent properties.
15 And none of those activities are supported by the neighbors.

16 Second, the driveway easement runs above an underground
17 stream, and we and our neighbors have worked hard to control
18 water problems. This is one reason why our neighbor at 3253 has
19 said he needs to build the ADU because he's concerned about
20 digging in his basement to expand his property and the hitting
21 of water. So the water under the easement, if there's any work
22 done to dig up for sewage lines or power lines, that's very likely
23 to affect the very delicate sort of flood mitigation work that
24 we and neighbors have done to prevent wet basements.

25 And then finally, on the impact on the zone plan, we

1 and neighbors are very concerned that if a two-story ADU exception
2 is granted for 3253 P Street, the same zoning exceptions could
3 be granted for ADUs above the two adjacent garage structures,
4 3255, 3259 P Street. And if this were the case, it would magnify
5 each of the problems that I've mentioned related to parking,
6 privacy, noise, air, et cetera.

7 So for those reasons, the neighbors request a party
8 status to -- have requested the opposition to make their concerns
9 known. A potential acceptable solution that we've talked with
10 the applicants about is of a single-story ADU. We reluctantly
11 accept that, we've offered that as a negotiation point, and the
12 applicant has turned us down on that.

13 So in summary, we object to the ADU, and we hope that
14 BZA won't support it because of the negative impacts it has on
15 us and the 200-foot property owners: substantial loss of privacy;
16 disproportional sizing, pattern, and massing of the unit, making
17 it seem like a residential façade; the diminished light; the
18 increased noise; the increased congestion on the easement; the
19 increased parking on the street for businesses and residents; and
20 our important construction concerns; and then the final concern
21 about setting a precedent that would further erode the unique
22 character of our neighborhood. Thanks a lot for letting me share
23 our concerns and our opposition to the project.

24 CHAIRPERSON HILL: Thank you. Mr. Sartorius?
25 Sartorius?

1 MR. SARTORIUS: Sartorius.

2 CHAIRPERSON HILL: Thank you, Mr. Sartorius. Ms.
3 Ferster?

4 MS. FERSTER: That concludes our opposition case.
5 Thank you for your consideration.

6 CHAIRPERSON HILL: Okay. Thank you. Okay. Thank you
7 all. Before we continue with questions and such, could we hear
8 from the Office of Planning?

9 MR. MITCHUM: Yes. Good afternoon, Chairperson, and
10 the members of the Board. Again, my name is Joshua Mitchum with
11 the OP. We reiterate our support for the application. However,
12 we would note an error in the first page of our report, which
13 describes this as a semidetached house. As the report states
14 later on, we did confirm with the zoning administrator that it
15 is indeed defined as a rowhouse, not a semidetached building.
16 But aside from that, I'm available for any questions. Thank you.

17 CHAIRPERSON HILL: Okay. Thanks. All right. I got a
18 bunch of questions, and then you all can ask your questions, too,
19 and we'll go around, if that's okay.

20 Mr. Sullivan, can you hear me? What's your client --
21 and I know your client's here, but I'm going to try to ask you
22 first -- what do they think they're going to do with that ADU?

23 MR. SULLIVAN: Well, I guess I would defer to them and
24 ask --

25 CHAIRPERSON HILL: Okay. All right.

1 MR. SULLIVAN: -- but they're going to use it as an
2 accessory apartment.

3 CHAIRPERSON HILL: All right.

4 Mr. Smith?

5 MR. SMITH: Yes, sir. I can.

6 CHAIRPERSON HILL: You're going to be renting that out.
7 Is that the plan?

8 MR. SMITH: Not as of right now. We actually could use
9 the space for family needs at this point. But that's something
10 that I would leave on the table for down the road as an option
11 for sure.

12 CHAIRPERSON HILL: Okay. And then can you tell me why
13 you weren't interested in just doing it on the first floor?

14 MR. SMITH: It just did not accomplish the goals we
15 needed with the size restraint that the square footage would have
16 allowed if we had just stayed on the first floor. It's just the
17 450 feet was just not adequate space.

18 CHAIRPERSON HILL: Okay. It's 450 feet per floor?

19 MR. SMITH: Correct.

20 CHAIRPERSON HILL: Right. Okay. All right. That's
21 number one.

22 And then, Mr. Sartorius, that garage that's next to
23 what they're proposing, that's your garage, right?

24 MR. SARTORIUS: Correct. And it's a party wall.

25 CHAIRPERSON HILL: And then the one next to that is

1 3259's, correct?

2 MR. SARTORIUS: Correct.

3 ZC CHAIRPERSON HOOD: And you all go through that
4 easement, correct?

5 MR. SARTORIUS: Correct.

6 CHAIRPERSON HILL: Okay. Okay.

7 Do my Board members have questions?

8 Sure. Go ahead, Chairman Hood.

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

10 Mr. Sartorius, I'm trying to understand. And I know
11 there was a lot to go over, but you mentioned the easement. You
12 all share -- so it's one way you all go up in there, and you all
13 share that, right? I mean, is that -- did I capture that
14 correctly?

15 MR. SARTORIUS: Yeah. It's a shared easement with
16 perpetual rights for all parties. We own the ground under the
17 easement.

18 ZC CHAIRPERSON HOOD: Okay. So I'm trying to get the
19 nexus -- and maybe Ms. Ferster can help me -- so the nexus with
20 what's being proposed by the Smiths in the ADU, how is that
21 interfering with your easement? I mean, what is it? He has to
22 cross over it? I mean, you all share it now, right?

23 MR. SARTORIUS: Yes. We all share the easement. It
24 does not interfere with the easement, per se. It just means for
25 added congestion and noise over the easement area that directly

1 affects us and our neighbors.

2 ZC CHAIRPERSON HOOD: Okay. Now, I'm going to say
3 something unpopular, but I'm asking for a reason. If I was to
4 say to you -- help me get there where you are, that's what I'm
5 trying to get -- if I was to say to you what you just told me
6 was a stretch, how would you tell me it wasn't a stretch?

7 MR. SARTORIUS: I'm not too sure what you're asking me
8 to respond to. If it's a stretch to get to what point?

9 ZC CHAIRPERSON HOOD: No, it's just that -- maybe I'm
10 not getting what you're saying about the nexus. So I'll just
11 leave it at that, and I'll wait to hear from him as we go along.
12 So thank you all for answering my question. Thank you.

13 Thank you, Mr. Chairman.

14 MR. SARTORIUS: I think, just to maybe respond to your
15 point, that it's the use of the area that the easement provides
16 access to that will create a lot of noise and disruption for us
17 and neighbors. We're not arguing with the use of the easement
18 but with the effects of people moving in and out of that area,
19 of the loss of privacy, of the additional noise, foot traffic.

20 ZC CHAIRPERSON HOOD: Okay. So you're arguing that the
21 intensity of the use -- it's more intensity. That's what you're
22 saying?

23 MR. SARTORIUS: Yeah, exactly. It's more intensity and
24 loss of privacy with windows overlooking our private backyard
25 spaces.

1 ZC CHAIRPERSON HOOD: Okay. I got it. Thank you.

2 MR. SARTORIUS: Thank you.

3 ZC CHAIRPERSON HOOD: And thank you to whoever that is
4 that helped me get my question answered. Thank you both.

5 Thank you, Mr. Chairman.

6 CHAIRPERSON HILL: Thank you, Mr. Hood.

7 So before I go, I got to say -- and Mr. Sullivan and
8 the -- Mr. and Ms. Kip Smith -- the one that I'm kind of stuck
9 with now and I don't know, we'll see where we all get, is the
10 privacy, use, and enjoyment of neighboring properties. And I
11 mean, I get that that easement -- and I'm trying to also just
12 kind of think of what I think about it. Like, there's a lot --
13 it's a small easement; it's a small alley. If there are people
14 renting it back there, I agree with it that there will be like --
15 you know, the only outdoor space they will have will be right in
16 front of where that parking is supposedly going to go.

17 Those doors open up; they're just big doors -- and I'm
18 just talking about me right now. I've got my fellow board
19 members -- but my concern is about privacy, enjoyment of that
20 alley and just how intense it might get if people are living back
21 there, right? And so that's where I'm kind of getting a little
22 stuck on it, for me. But I'll keep talking with my fellow board
23 members if they have any further questions. And then I'm going
24 to turn to you guys if you guys have any questions of each other.
25 But do you all, my board member --

1 Mr. Blake?

2 VICE CHAIRPERSON BLAKE: The owner of the property, Mr.
3 Smith. So when you looked at that additional 20.8 square feet
4 of additional space, how valuable is that to you on the second
5 floor? Does it really make a huge difference as opposed to just
6 being that strip that we talked about -- the additional strip,
7 that is really what the relief is for up there -- does that make
8 a significant difference in the design of the property?

9 MR. SMITH: Thank you, sir. Thank you for the question.
10 One of the reasons we did this approach was because of the
11 continuity of the existing structure and what the second addition
12 would look like. And so when we went to the Old Georgetown Board
13 and were working with them on this project, we thought that that
14 additional space would help with the continuity of the look.
15 More of a façade issue than a functional issue, if that makes
16 sense.

17 VICE CHAIRPERSON BLAKE: Okay. Thank you very much.
18 Appreciate that.

19 MR. SMITH: Yes, sir.

20 CHAIRPERSON HILL: Anybody else? Okay.

21 Ms. Ferster, do you have any questions of the
22 applicant?

23 MS. FERSTER: I do not.

24 CHAIRPERSON HILL: Okay. Mr. Sullivan, do you have any
25 questions of the party in opposition?

1 MR. SULLIVAN: I do not. Thank you.

2 CHAIRPERSON HILL: Okay. Then I don't know now. This
3 is the first time this has gone this way for me, so I'm going --

4 MS. SARTORIUS: May I say something?

5 CHAIRPERSON HILL: Who's talking?

6 MS. SARTORIUS: This is Pat Sartorius. I'm the spouse
7 of Rolf Sartorius.

8 CHAIRPERSON HILL: Sure. You had something? You have
9 a question, Ms. Sartorius?

10 MS. FERSTER: Well, I just wanted to respond to the
11 clarification question from, I think it was, Mr. Hood.

12 CHAIRPERSON HILL: Oh, okay.

13 MS. FERSTER: So I think what the issue really is, is
14 the easement was intended to provide access for people to park
15 their cars in their garages. And the area -- and the size of it
16 and its co-location with 10 different properties around it -- the
17 area was not designed as an entrance to a single-family home.
18 And with the, as you said, the tiny parking -- the paved parking
19 area in front of the garage is essentially the only public area
20 that people who live there will have, so people will be
21 congregating there. It's hard enough to drive a car through that
22 narrow alleyway. And it's very hard for the three property
23 owners. Although Mr. Smith hasn't experienced this because he
24 hasn't lived there, it's very hard to maneuver all the cars into
25 these spaces. So you're changing an intended purpose to make

1 this the front access way to a separate house. And I think that
2 that is of real concern. Thank you so much.

3 CHAIRPERSON HILL: I think you're answering Chairman
4 Hood's question.

5 ZC CHAIRPERSON HOOD: Yeah, I think that was very
6 helpful. Thank you. I appreciate the response.

7 CHAIRPERSON HILL: Okay. Oh, Mr. Sullivan, where's the
8 plat again? I'm sorry. Do you know which exhibit it's in? Or
9 can somebody tell me?

10 MR. SULLIVAN: Not offhand, but I can look it up. 18C.

11 CHAIRPERSON HILL: 18C? Okay. Great. Thanks.

12 MR. SULLIVAN: 18C.

13 CHAIRPERSON HILL: Thank you. Thank you. Right. Okay.
14 All right.

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

16 MR. YOUNG: One witness signed up, and then you also
17 have the ANC commissioner on.

18 CHAIRPERSON HILL: Oh, great. I didn't know that.
19 Let's have the witness first, please.

20 MR. YOUNG: That is Martin Getzendanner.

21 CHAIRPERSON HILL: Okay. Great.

22 Mr. Getzendanner, can you hear me? Mr. Getzendanner,
23 can you hear me?

24 MR. GETZENDANNER: Can you hear me now?

25 CHAIRPERSON HILL: Yes. Can everybody mute themselves,

1 except for Mr. Getzendanner? And Mr. Getzendanner, if you have
2 your computer on, mute your computer.

3 MR. GETZENDANNER: Okay. I'm unmuted now. Okay. Am
4 I on one line now? Okay.

5 CHAIRPERSON HILL: No, you're still on two lines.

6 MR. GETZENDANNER: Is that better now?

7 CHAIRPERSON HILL: Yeah. Can you hear me?

8 MR. GETZENDANNER: Basically, I'm a neighbor --

9 CHAIRPERSON HILL: Mr. Getzendanner. I can't hear you
10 very well. Can you get closer to whatever it is you're trying
11 to speak into?

12 MR. GETZENDANNER: Okay. Can you hear me now?

13 CHAIRPERSON HILL: Yes. Can you introduce yourself for
14 the record? And then you'll have three minutes to give your
15 testimony, and you can go ahead and begin.

16 MR. GETZENDANNER: Okay. I'm a neighbor at 3247 P
17 Street which is the Wisconsin Avenue side of the property in
18 question. Because there's a large area of parking behind all of
19 the restaurants on Wisconsin Avenue, we have a direct view of
20 this particular garage area. If you put a ten-foot brick wall
21 in front of our view of the back, it's going to be a problem for
22 us, even though we're not part of that particular easement. So
23 I just wanted to mention that and that you would know the overall
24 lay of the land. For all of us surrounding that area, it's
25 problematic. That's all I wanted to say.

1 CHAIRPERSON HILL: Okay. Thank you, sir.

2 Does anybody have any questions of the witness? Okay.

3 Mr. Young, if you could please excuse the witness.

4 The ANC is here? Can you introduce yourself?

5 Oh, Commissioner Maysak, can you hear me?

6 MR. MAYSAK: I can; thank you very much. All right.

7 CHAIRPERSON HILL: Great. Do you want to introduce
8 yourself for the record real quick?

9 MR. MAYSAK: Yeah. Commissioner Paul Maysak, and I
10 live actually 3267 P Street, so a couple doors down from this.

11 CHAIRPERSON HILL: Okay.

12 MR. MAYSAK: And I've certainly done a lot of outreach
13 and trying to meet with neighbors and get feedback. And we took
14 it both to OGB and this and the ANC meetings. And so I'm more
15 just here for questions or availability.

16 CHAIRPERSON HILL: Okay. No problem. Well, thanks for
17 coming. And it doesn't sound like it was an easy one, I'm sure,
18 for you guys.

19 MR. MAYSAK: No, actually, it wasn't. Because it's
20 certainly all neighbors that I know. But in any event, I don't
21 know if there's any questions of me.

22 CHAIRPERSON HILL: Well, we'll see. We'll see.

23 MR. MAYSAK: I don't have a -- Yeah. Thank you.

24 CHAIRPERSON HILL: Do you have a pool?

25 MR. MAYSAK: Do I? Yeah, I have a pool. And I have

1 an accessory unit in the rear of my house. And I'm the one kind
2 of with that L-shaped lot that would look back, you know? So
3 from my backyard, I will see -- to have that --

4 CHAIRPERSON HILL: Got it.

5 MR. MAYSAK: -- the previous applicant. I'll see it.

6 CHAIRPERSON HILL: I'm sorry. I'm just looking over
7 it of the overhead, and it just looks nice, that's all.

8 MR. MAYSAK: There you go.

9 CHAIRPERSON HILL: Okay. Let's see. Okay. Well, hang
10 around, Commissioner.

11 MR. MAYSAK: Sure.

12 CHAIRPERSON HILL: Okay. All right. I hate to do this
13 to you guys. I want to do an emergency meeting. Okay?

14 Go ahead, Mr. Blake.

15 VICE CHAIRPERSON BLAKE: First, just to get some color
16 from the commissioner on the ANC meeting and the decision to not
17 take a position. That was very curious to me how they arrived
18 at that conclusion.

19 MR. MAYSAK: You mean to neither -- to not oppose nor
20 support?

21 VICE CHAIRPERSON BLAKE: Yes.

22 MR. MAYSAK: We had a 4-0 and 2 abstain vote. I've
23 lived on that street for 18 and a half years, so I'm personally
24 not opposed. Although, I recognize a lot of the concerns on the
25 use of the alley and the easement and those concerns of activity

1 back there. How did we -- yeah. Typically, Georgetown and ANC,
2 we're not into zoning exceptions. I don't like zoning exceptions.
3 We oppose them. The two that abstained, opposed. To me -- if I
4 drilled it down for me -- and you know, I have an accessory unit.
5 There are accessory units. And I see this city seems to be
6 wanting density, whether I -- I don't really like that, but that
7 may be as it means. And then as far as the size, it does seem,
8 if he had built a foot back -- set back a foot, that exception
9 is not there. And I think the design with the spacious flat
10 makes more sense. So how did we -- does that help answer?

11 VICE CHAIRPERSON BLAKE: A little bit. So you arrived
12 at a position where you couldn't really take a position. How
13 did that --

14 MR. MAYSAK: No, the position is I don't oppose. I
15 have neighbors. Each of these neighbors speaking are near,
16 abutting neighbors of a long time and have opinions that I don't
17 specifically totally agree with. So I support and want them to
18 present their case and have their hearing and be heard, but I
19 also represent the applicant technically, right?

20 And I have a high principle in America of the ability
21 to improve your property and to improve it, so that plays in. I
22 have an accessory unit. My accessory unit is 14 and a half feet
23 tall. I think it'll actually be taller than this accessory unit
24 from the ground -- from the center of the Earth, so.

25 CHAIRPERSON HILL: Mr. Maysak, your accessory unit

1 though, and this thing, it is accessed by kind of like a little
2 alley, right?

3 MR. MAYSAK: That alley -- yeah. Well, alley, my
4 property, my very specific property. Yeah.

5 CHAIRPERSON HILL: Right. So it's --

6 MR. MAYSAK: So I'm semidetached and I walk behind.
7 And my next-door neighbor to my immediate side built a ten-foot
8 addition and --

9 CHAIRPERSON HILL: Right.

10 MR. MAYSAK: -- popped in some windows there. But
11 yeah, it's a private -- well, I have an easement with my
12 neighbor -- but I provide an easement access to my neighbor, a
13 walking one.

14 CHAIRPERSON HILL: If you're facing your house, it's
15 to the left or the right?

16 MR. MAYSAK: My house -- well, my house is to the left.
17 The walkway -- when you look at my house, you walk in, my front
18 door is on the left side, the neighbor's to the right. Does that
19 answer the question?

20 CHAIRPERSON HILL: I think so. I'm just curious now --

21 MR. MAYSAK: Yeah.

22 CHAIRPERSON HILL: -- how your accessory dwelling unit
23 is accessed, and it's through the left side of your property?

24 MR. MAYSAK: Yeah, it's totally across my property.

25 CHAIRPERSON HILL: Right.

1 MR. MAYSAK: It's not through anybody else. And it's
2 not something I have any intention to rent, but it is a full-
3 kitchen accessory unit.

4 CHAIRPERSON HILL: Right. Got it. Okay. All right.
5 Okay.

6 Since I got a little bit time, who's talking?

7 MS. FERSTER: Just say the opposition.

8 CHAIRPERSON HILL: Okay.

9 MR. SARTORIUS: Yeah, this is the opposition. We just
10 wanted to clarify that Paul is a friend of ours, and we appreciate
11 his trying to ride the fine line of neutrality in this case. And
12 we also appreciate that his ADU is in his backyard, and it's not
13 intended as a rental unit. It has none of the issues that we're
14 concerned about in terms of loss of privacy, increased foot
15 traffic through a very private backyard area, no problems with
16 increased density related to parking.

17 CHAIRPERSON HILL: Okay.

18 MR. SARTORIUS: So it's really not -- it's not really
19 a good comparison point.

20 CHAIRPERSON HILL: Well, Mr. Sat -- sorry -- Mr.
21 Sartorius, I'm going -- I'm going to treat that as a question at
22 this point, and then Mr. Sullivan's going to have an opportunity
23 to rebut anything that's gone on. Then you all can ask questions
24 on the rebuttal. If you have any questions on the rebuttal, then
25 everybody's going to get a conclusion. But I do want to talk to

1 the OZLD. And so I'm sorry to do this, but I do have a little
2 bit more time than I thought I was going to have. So I'm going
3 to make an emergency closed meeting, and I'm going to do it really
4 fast. Okay.

5 As Chairperson of Board of Zoning Adjustment, District
6 of Columbia, in accordance with 407 of the District of Columbia
7 Administrative Procedures Act, I move that the Board of Zoning
8 Adjustment hold a closed emergency meeting on 7/23/2025 for the
9 purposes of seeking legal counsel on -- legal advice from our
10 counsel on case 21325, deliberate but not vote on case 21325.

11 Is there a second, Mr. Blake?

12 VICE CHAIRPERSON BLAKE: Second.

13 CHAIRPERSON HILL: The motion made and seconded.

14 Madam Secretary, take a roll call.

15 MS. MEHLERT: Chair's motion to hold an emergency
16 closed meeting. Chairman Hill?

17 CHAIRPERSON HILL: Yes.

18 MS. MEHLERT: Vice Chair Blake?

19 VICE CHAIR BLAKE: Yes.

20 MS. MEHLERT: Board Member Smith?

21 MR. SMITH: Yes.

22 MS. MEHLERT: Chairman Hood?

23 ZC CHAIRPERSON HOOD: Yes.

24 MS. MEHLERT: Motion passes.

25 CHAIRPERSON HILL: Okay, I'll see you guys in a minute.

1 (Whereupon, there was a brief recess.)

2 CHAIRPERSON HILL: Okay. Madam Secretary, can you call
3 us back in, please?

4 The Board is back from its emergency closed meeting
5 with legal counsel and is returning to application Number 21325.

6 MR. SARTORIUS: Great. Thank you.

7 Mr. Sullivan, can you hear me?

8 MR. SULLIVAN: Yes, I can.

9 CHAIRPERSON HILL: Thank you.

10 MR. SULLIVAN: Sure.

11 CHAIRPERSON HILL: Do you have any rebuttal, Mr.
12 Sullivan?

13 MR. SULLIVAN: Yes, I do.

14 CHAIRPERSON HILL: Okay. And just to point out to
15 everybody again, whatever Mr. Sullivan says, you can question,
16 rebuttal. You don't go back and reargue things. You question
17 the rebuttal.

18 So Mr. Sullivan, go ahead.

19 MS. FERSTER: Thank you, Mr. Chairman and Board
20 members. Some quick notes on some of the specific points raised
21 by the opposition. First, Mr. Rueda started off by saying there
22 was added relief. There was no added relief. The request for
23 the waiver has been here from the beginning. It's just a
24 condition of the requested special exception. It's always been
25 a part of the application and the original filing. It was

1 included in Form 135. I removed it when I came on the case and
2 resubmitted because my self-certification, I wanted to be
3 accurate and show that it's not a separate special exception.
4 We're asking for two special exceptions. So that was never --
5 it's an administrative thing. No relief was added.

6 Second, I haven't heard any information whatsoever from
7 the opposition that goes to the specific charge before this board.
8 And that's the focus on the regulations. We have two specific,
9 separate special exception requests. One is special exception
10 for additional building footprint of 20 square feet on the second
11 story of an accessory building that is not even near or attached
12 to any houses -- 20 square feet. You didn't even need a shadow
13 study to know that that doesn't impact light and air. It doesn't
14 impact privacy, that 20 feet, and it doesn't impact character,
15 scale, and pattern. This building is 3 feet lower than the
16 permitted height, and it's barely visible from the street. But
17 it has approval from the Old Georgetown Board, the federal agency
18 that's charged with determining whether the design fits with
19 character, scale, and pattern. So regarding the other relief,
20 that's it for the 20 square feet.

21 I think it's helpful too for the Board to understand --
22 as I'm pointing out that they haven't made any argument on the
23 regulations, the Board likes to know what can we do as a matter
24 of right and how does this relief look in relationship to that.
25 We can build a 450-square-foot second floor as a matter of right.

1 We could remove the stove from the plans, and we could get that
2 permit tomorrow, and there's no accessory apartment. There's the
3 same thing everybody's looking at. It'll have the same use. So
4 all we're asking for is approval of the accessory apartment to
5 be used as an apartment so that it can house somebody. There's
6 a restriction that we can't get waived -- no more than six persons
7 can ever inhabit this property. So there's really no chance that
8 there's going to be an intensity of use. They could put six
9 students in the principal building, and they could use their
10 accessory building as a party house if that's what they're
11 concerned about. That's not what this is.

12 Also, I'll note that privacy is not -- you won't find
13 the word "privacy" in U 253, related to the accessory apartment.
14 They're commingling their arguments on one or the other. Privacy
15 relates to the first special exception. It doesn't relate to U
16 253. They're very specific requirements for use as an accessory
17 apartment. We meet those without question so -- and they haven't
18 challenged any of this.

19 CHAIRPERSON HILL: And Mr. Sullivan, is some of this
20 rebuttal or conclusion?

21 MR. SULLIVAN: Well, it's kind of -- yes, it's kind of
22 mixed, but I'm trying to address some of the things they said.
23 Because they've talked about a lot of stuff, almost none of which
24 relates. I mean, that's the general rebuttal argument. Almost
25 everything they brought up doesn't relate to what's before the

1 Board. And I was a little concerned by some of the questions
2 from the Board. The value of the second floor doesn't matter in
3 this; the need doesn't matter. It's a special exception request.
4 It's just based on the structure itself and the accessory
5 apartment. And if the Board's going to say regarding -- their
6 argument seems to be that making this an accessory apartment
7 opens it up to use, and then there'll be recreational use in the
8 backyard. And that's going to be a problem of privacy. Again,
9 privacy doesn't count. There's going to be a parking space there.
10 It's not recreational space.

11 CHAIRPERSON HILL: Going back, I thought privacy
12 counted. I think I thought --

13 MR. SULLIVAN: You won't find it in U 253, no. The
14 word doesn't -- it's not there.

15 CHAIRPERSON HILL: But it's under (b), right? It's
16 under 5201.

17 CHAIRPERSON HILL: It doesn't adversely affect the use
18 of neighboring property. It's general special exception
19 requirements. But if the Board's going to say --

20 MR. SARTORIUS: Anyway, I can go back again and go back
21 to legal when I want to go to -- we're not going to have a
22 decision today anyway. But I know what I'm worried about, and
23 now you're telling me I can't be worried about it. And so what
24 other is your -- I'm just trying to understand where your rebuttal
25 is, and then they're going to have questions on rebuttal. So

1 you're saying they have no argument is what you're saying; that's
2 your rebuttal?

3 MR. SULLIVAN: They've argued things that don't apply
4 to the regulations. So you've heard -- there's -- I haven't seen
5 a larger gap between the claims of harm and the benign nature of
6 this request. And I think you would know that about the 20 square
7 feet of the building. If you had a 20-square-foot addition
8 anywhere else -- if there was no opposition to this, you wouldn't
9 think twice about that 20 square feet. So now we're talking
10 about an accessory apartment and whether or not accessory --
11 basically, it comes down to whether or not an accessory apartment
12 is inherently objective to anybody, just by its very existence.

13 CHAIRPERSON HILL: Are you having rebuttal to me, Mr.
14 Sullivan? What do you -- what --

15 MR. SULLIVAN: No. I'm rebutting from what we heard
16 from the opposition. He put an expert witness in there that --
17 in their original submission, their expert witness was -- and I
18 don't know if the Board wants to address this at all -- he brought
19 up issues invoking regulations that haven't been in effect for
20 ten years. So I think there's a whole lot of smoke here but no
21 fire, because this case isn't all that complicated. That's all
22 I have.

23 CHAIRPERSON HILL: Okay.

24 Ms. Ferster, do you have any questions upon rebuttal?

25 MS. FERSTER: Sorry. You mean a question of Mr.

1 Sullivan?

2 CHAIRPERSON HILL: Yeah. So Mr. Sullivan just gave his
3 rebuttal. Do you have any questions about his rebuttal?

4 MS. FERSTER: I mean, I disagree with a lot of the
5 things he said, particularly his characterization that privacy
6 is immaterial to U dash 253.8(s) which specifically speaks to
7 objectionable conditions. Privacy also is not particularly
8 mentioned in the general special exception standards. It is one
9 of the types of objections that is uniformly made by many, many
10 opponents.

11 CHAIRPERSON HILL: Ms. Ferster, I'm sorry. Let me just
12 do this because people seem to be going to conclusions. Ms.
13 Ferster, why don't you go ahead and just give me your conclusion,
14 then Mr. Sullivan will give me his conclusion, and then we're not
15 going to make a decision today.

16 MS. FERSTER: Okay. Sure. So the point I just made
17 is relevant that, privacy is clearly a consideration under the
18 general special exception standards under Subtitle X, as well as
19 the specific objectionable conditions that are considered in the
20 in the context of the accessory apartment. So that's our first
21 point.

22 The other point I really want to make, which really
23 hasn't been addressed, is the point made by Mr. Rueda, which is
24 that the applicant just simply does not address the fact that
25 this is a detached -- this is not a detached accessory building.

1 And if you look at the plain language of Subtitle U 253.9(a), it
2 includes two conditions. One is that the use must only be on
3 one floor and the second, that the accessory dwelling must be a
4 detached building. This is clearly not a detached accessory
5 building. It's attached to the garage adjacent to it. So there
6 are two waivers that are in this application, one of which has
7 not been acknowledged by either the applicant or the Office of
8 Planning.

9 And then I guess the final point -- which I think Mr.
10 Rueda's testimony really does speak for itself -- but the point
11 is is that, while technically this is a row dwelling because of
12 the way the lot line works, it has all appearances of a
13 semidetached building. And the reason why the protections, the
14 development standards for accessory buildings and accessory
15 dwellings are different. In this case, they focus on the views
16 from the street, and this clearly has a view from the street that
17 is apparent from anybody who's walking on P Street. And it's as
18 Mr. Sartorius testified, as well as Mr. Rueda, it is a visual
19 intrusion that one would not normally find on this street of
20 semidetached apartments. So I won't repeat any of their testimony
21 other than those points that I did want to emphasize.

22 CHAIRPERSON HILL: Okay. Thanks, Ms. Ferster.

23 Okay. Mr. Sullivan?

24 MR. SULLIVAN: Yes. Clearly the regulations meant
25 detached from the principal building when it talked about

1 accessory buildings. And the Board has approved other cases, at
2 least one other, under U 253 with an accessory building that was
3 attached to another accessory building. If they had meant that
4 it couldn't be attached to an accessory building in a row
5 district, you would expect that it would never be approvable. So
6 the precedent there from Office of Planning and from the Board
7 is that that has been approved in that way. And that's how they
8 view it, that it's detached from its principal building.

9 Visual intrusion, I defer to the Old Georgetown Board.
10 Yes, you can see it through an eight-foot-wide easement. There's
11 no requirement that it not be viewable. And a lot of the
12 conversation has been about views, which the Board knows people
13 aren't entitled to particular views. They don't want to look at
14 this, apparently, but that doesn't have anything to do with the
15 special exception requirements. The word privacy is not in U
16 253, it's not in paragraph (f), it's not in when talking about
17 would adversely affect the use.

18 My problem with that is that, if you're going to say
19 that -- if their position is that privacy is de facto affected
20 by the use of an accessory apartment, then you can't have one,
21 then it fails in every case. If the Board's going to find here
22 that there's a privacy issue, then there's always a privacy issue
23 because we're just using a property as it's permitted by special
24 exception. And so that's probably why the word privacy is not
25 in U 253.8(f) as one of the objectionable conditions. And it's

1 also not in the special exception general requirement, regarding
2 adversely affecting the use of neighboring properties. But even
3 if it was, it's just not going to be an impact anyway.

4 The property is still the same size. It could be the
5 same size; it can be as a matter of right or have the same number
6 of people. It'll have less car trips because there'll be only
7 one parking space now instead of two. It's arguably going to be
8 less intense than it could be as a matter of right.

9 CHAIRPERSON HILL: Okay. All right. Okay I'm going
10 to close the hearing in a minute.

11 Mr. Sullivan, what I'm talking about is under X 901.2,
12 and I'm talking about (b), which is, tend to affect adversely the
13 use of neighboring property in accordance with the zoning
14 regulations and zoning maps. Now, if I'm not able to use that
15 in this particular situation, then I'm going to find that out,
16 right? Because I am worried about just the one thing that I'm
17 worried about, right? And you only need three votes so -- and
18 you still might have my vote. You might not. I don't know,
19 right? And so your client, the thing that I'm worried about is,
20 again, that alley and people coming back and forth in that alley.
21 Somebody having ADU where they're in control of how you get back
22 to that ADU, this is an easement thing, right? I'm not looking
23 for a conversation. I'm just kind of sharing my concerns, right?
24 And so you know --

25 MR. SULLIVAN: Then you got to let me respond to that,

1 though. With all due respect, Mr. Chair, the word "easement" is
2 actually included this when it talks to the access requirement
3 for U 253 so it contemplates that your access could be by easement
4 to the accessory apartment. So it's not an unusual or an
5 unanticipated situation when the zoning commission was looking
6 to see how we could provide an extra housing unit on a property
7 like this. And it's a separate property, there's no reason for
8 anybody to go on -- my client, the applicant, has the right --
9 has had the right since at least 1946 to go in and out on this
10 easement area. They have a property interest in that.

11 CHAIRPERSON HILL: Okay.

12 MR. SULLIVAN: And this relief isn't going to change
13 the intensity of that use just because there's now going to be --
14 somebody is going to be able to reside in that accessory
15 apartment.

16 CHAIRPERSON HILL: Got you. Okay.

17 Do my fellow board members have anything they'd like
18 to add or questions? Okay. All right. Then let's put this up
19 for decision next week. And thank you all very much. I do
20 appreciate that this went more smoothly than sometimes it goes.
21 So I hope you all have a nice evening. Bye-bye.

22 (Whereupon, the above-entitled matter went off the
23 record at 3:30 p.m.)

24

25

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

This is to certify that the foregoing transcript

In the matter of: Public Hearing

Before: DCBZA

Date: 07-23-25

Place: Videoconferencing

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

Jennifer Brugh
Jennifer Brugh