

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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REGULAR PUBLIC HEARING

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WEDNESDAY

OCTOBER 29, 2025

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The Regular Public Hearing of the District of Columbia Board of Zoning Adjustment convened via Video/Teleconference, pursuant to notice at 10:17 a.m. EDT, Frederick L. Hill, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

FREDERICK L. HILL, Chairperson  
CARL H. BLAKE, Vice-Chairperson

ZONING COMMISSION MEMBER PRESENT:

GWEN WRIGHT, Commissioner

OFFICE OF ZONING STAFF PRESENT:

KEARA MEHLERT, Secretary  
PAUL YOUNG, A/V Production Specialist

OFFICE OF PLANNING DEVELOPMENT REVIEW STAFF PRESENT:

SHEPARD BEAMON  
PHILIP BRADFORD  
MICHAEL JURKOVIC  
JOSHUA MITCHUM  
CRYSTAL MYERS  
KAREN THOMAS

1 OFFICE OF ZONING ATTORNEY ADVISORS PRESENT:

2 SARAH BAJAJ, ESQ.  
3 CARISSA DEMARE, ESQ.

4 The transcript constitutes the minutes from  
5 the Regular Public Hearing held on October 29, 2025.

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

10:17 a.m.

MS. MEHLERT: And this is Application No. 21352 for a special exception under subtitle (e), Section 204.4, from the rooftop or upper floor element requirements of subtitle (e), Section 204.1, to allow removal of a rooftop architectural element original to an existing two-story principal row building.

It is located in the RF-1 Zone at 828 12th Street NE, Square 981, Lot 821. And I'll just note the hearing was administrative reschedule from last week, October 22.

CHAIRPERSON HILL: Okay, great, thank you. If the applicant can hear me, if they can please introduce themselves for the record?

MS. RANADE: Morning, everyone, my name is Nadine Ranade. First of all, I want to apologize for October 22. There were some technical issues. I did join the meeting, but no one could hear me, so that's why I was given this opportunity to present today.

CHAIRPERSON HILL: Okay, thank you.

(Simultaneous speaking.)

MS. RANADE: Sorry. I am seeking relief from Section 204.1 and 204.4, for removal of turret.

CHAIRPERSON HILL: Okay, Ms. Ranade, you have

1 a PowerPoint presentation, is that correct?

2 MS. RANADE: Yes, I do. And I submitted to  
3 Paul because they told me I can't control the slides.

4 CHAIRPERSON HILL: Yes, that's correct. Mr.  
5 Young, could you please pull up the PowerPoint? And  
6 Ms. Ranade, if you could go ahead and walk us through  
7 your PowerPoint?

8 MS. RANADE: Thank you, Mr. Hill. So, my  
9 property address is 828 12th Street NE, Washington, D.C.  
10 And I am -- the case is basically I'm seeking relief  
11 from the subtitle 204.1 and 204.4 -- actually it's  
12 missing here. Which refers to relief from allowing me  
13 to open up my rooftop, and removing the turret structure  
14 on the rooftop.

15 Next. So the location of the property is,  
16 as you can see right here, it is the end rowhouse in  
17 that block. And there is a vacant lot next to -- I mean  
18 it's a big house at the corner, but there is like a  
19 20-foot vacant space between my end rowhouse and the  
20 next house.

21 Next. Here is the directions for the  
22 property. This is the north, it's facing east, and the  
23 back is west, and the shared -- unfortunately, the wall  
24 that is shared, is on the south side.

25 Next. You can skip that. It's again showing

1 the direction.

2           Next. So, here, this picture I took, it shows  
3 the structure on the top of the roof. It is a low-height  
4 turret, and I'll share more pictures on the street.  
5 Not every rowhouse has a turret, and recently, there  
6 have been several remodelings done on the street and  
7 they do not have the structure. It's not consistent  
8 on the block, basically.

9           Next. So, this is showing the existing  
10 elevation of the property. It has a first floor and  
11 a second floor, and then on the rooftop, this conical  
12 structure up there.

13           Any questions on this slide?

14           Okay, moving to next one. And this is again,  
15 another view showing the elevations and the structure  
16 on the rooftop.

17           Next. And this is what's proposed. So, we  
18 will maintain the first floor, the second floor, partial  
19 third floor will be added. And we are just going to  
20 open up this space. We will not put any construction  
21 there where the turret is. It will be just open rooftop.

22           Next. This, again, is showing all the details  
23 and the elevations of the new development. And as you  
24 can see, this area, there won't be any structure. We  
25 are just seeking to remove that structure and open up

1 the space.

2 Next. This is the architectural view of the  
3 finished construction. So, it will be just as a open  
4 rooftop here. The structure currently resides at the  
5 corner up here. We are just -- want to remove it to  
6 make it nice.

7 Next. So we did the study for a shadow study.  
8 I submitted the solar study, the aurora study. I had  
9 gotten engineering help from Beacon Consulting team.

10 And we submitted those findings and seeked if any of  
11 the neighbors in the 200-feet area are impacted. And  
12 they did not find any impact to any of the neighbors.

13 Next. We further did analysis to ensure that  
14 if anybody has solar panels on their roof, if this will  
15 impact them in any way. We discovered that they are  
16 quite far away from our area, from my property, and there  
17 won't be any impact.

18 Next. This is just another view of, from the,  
19 taken, picture taken from the solar study that was  
20 submitted.

21 Next. I'm not very good about interpreting  
22 this. I apologize, I don't understand, but apparently  
23 it's a kind of aurora shading map, which the engineer  
24 had done.

25 CHAIRPERSON HILL: Ms. Ranade, it's okay.

1 We understand it.

2 MS. RANADE: Okay, all right, next. All  
3 right, just couple of key points. Like I stated  
4 earlier, the solar study showed no impact of shading  
5 to the adjacent neighbors. We ensured the neighbors are  
6 notified and they are actually very positive. They want  
7 to see the change in development.

8 This house was in a very dilapidated  
9 condition. It was built originally in 1910, so they're  
10 looking forward to the improvement on the street and  
11 bringing more value to the neighborhood. The turret  
12 is also not so visible because it's a low-height  
13 structure from the street when you look up front,  
14 straight from the street.

15 It will also open up the rooftop and allow  
16 for better sun exposure, which could be beneficial to  
17 any adjacent neighbors. And, architecturally, the  
18 house will conform to the newly designed homes on the  
19 street. So, next.

20 Before I share some of the pictures from the  
21 street, but I just want to point out I did review the  
22 report submitted by Office of Planning. I made an  
23 error, it's not Office of Zoning, it's Office of  
24 Planning.

25 And they requested that -- they said they



1 approve removal of the turret, however, there is a  
2 structure underneath the turret. It's like a  
3 decorative cornice and they have asked that I do not  
4 remove that. And I will abide by that. I don't plan  
5 to remove that. I think it looks beautiful so I'd like  
6 to keep that intact, so just wanted to state that.

7 Next. So the structure that they're asking  
8 me to keep is this, this top. Do you see this cornice  
9 structure right there? Yes, so that will, these are  
10 some of my neighbors actually, some of the pictures as  
11 you can see, that do not have turrets. And I will keep  
12 my cornice intact that way to make it look and feel same.

13 MR. MITCHUM: Just so that the Board is aware,  
14 our recommendation is based purely on the removal of  
15 the turret.

16 (Simultaneous speaking.)

17 MS. RANADE: And, actually, this is one of  
18 the end rowhouses that was recently remodeled.

19 MR. MITCHUM: We are not commenting on the  
20 proposed --

21 MS. RANADE: They actually went all the way  
22 up and constructed the third floor, and have very small  
23 I guess, open, opening up in the front.

24 CHAIRPERSON HILL: Okay, great, thanks, Ms.  
25 Ranade.

1 MS. RANADE: Thank you.

2 CHAIRPERSON HILL: Before I turn to my Board,  
3 can I turn to the Office of Planning?

4 MR. MITCHUM: Good evening, Mr. Chair, and  
5 fellow Board members. My name is Josh Mitchum, of the  
6 Office of Planning.

7 Office of Planning, I would like to actually  
8 just reiterate just so that the Board is aware, our  
9 recommendation is based purely on the removal of the  
10 turret. We are not commenting on the proposed addition,  
11 as the applicant has been issued a building permit for  
12 the penthouse addition by the Department of Buildings.

13 So, and also we just want to affirm the  
14 applicant's statements and that we are in support of  
15 the removal of the specific roofed portion of the  
16 architectural turret. And we are willing to rest on  
17 our recommendation in our report, and I'm available for  
18 any additional questions. Thank you.

19 CHAIRPERSON HILL: Okay, Mr. Mitchum, I know  
20 that the Office of Planning had some questions and they  
21 had gotten, I think, the plans are in the record now  
22 in terms of that cornice remaining.

23 MR. MITCHUM: Yes.

24 CHAIRPERSON HILL: Is the Office of Planning  
25 comfortable with the plans that are in the record?

1 MR. MITCHUM: Yes, sir, we are. We've seen  
2 the plans and we are in support of the proposed, proposed  
3 changes.

4 CHAIRPERSON HILL: Okay, great, thank you.  
5 All right, does the Board have any questions of the  
6 applicant or the Office of Planning?

7 (No audible response.)

8 CHAIRPERSON HILL: Okay, Mr. Young, is there  
9 anyone here wishing to speak?

10 MR. YOUNG: We do not.

11 CHAIRPERSON HILL: Okay. All right, Ms.  
12 Ranade, well, I hope you have a nice day and I'm glad  
13 that you were able to join us this week, and thank you  
14 for your presentation.

15 MS. RANADE: Thank you for allowing me to  
16 speak today. Thank you very much, everyone.

17 CHAIRPERSON HILL: Bye-bye.

18 MS. RANADE: Bye.

19 CHAIRPERSON HILL: I'm going to close the  
20 hearing and the record. Let me see. I'm in favor of  
21 this application. I'm glad that we're able to take a  
22 look at the plans as I was a little bit confused also  
23 as to what the Office of Planning was trying to get to.

24 And so, I do appreciate that the applicant  
25 has gone through the process reaching out to the ANC,

1 and that the ANC was in favor of this.

2 I think that the fact that the -- this is not  
3 -- it's not a solid row of town homes with cornices --  
4 I'm sorry, with turrets. And that I think that this  
5 really can be granted. I do realize that the Capitol  
6 Hill Restoration Society has submitted something in on  
7 the record that they're not in favor of this.

8 However, I think, again, in terms of my comfort  
9 level, the fact that, again, it's not this solid row  
10 of homes that have turrets, I don't think it's something  
11 that I would be able to -- or it's not something that  
12 I will object toward. So I'm going to be voting in favor  
13 of this application and also giving great weight to that  
14 of the Office of Planning, and the ANC.

15 Vice Chair Blake, do you have anything you'd  
16 like to add?

17 VICE CHAIR BLAKE: Sure, Mr. Chair. I, too,  
18 will be voting in support of the application. I do think  
19 the applicant has met the burden of proof. The solar  
20 shading kind of confirmed that there's no undue impact  
21 on the light. There's no in evidence of any privacy  
22 compromises. There's no new openings, or additional  
23 overlook. And I think by retaining the turret basin  
24 point is the design really does preserve the rhythm of  
25 the block, and removing only the roof cap actually

1 reduces the visual massing.

2 Overall, it looks like the proposal maintains  
3 a use and scale that's fully consistent with the  
4 surrounding houses.

5 So, I give great weight to the Office of  
6 Planning's recommendation for approval. And I also  
7 give great weight to the written report of ANC 6A, which  
8 after reviewing the design clarification, is in  
9 unanimous support and states no issues or concerns.

10 As for the CHRS concerns, I do think those  
11 are valid preservation concerns, but I do think based  
12 on the revised drawings and clarified scope provided  
13 by the applicant, I think that CHRS' preservation  
14 concerns are largely mitigated by the retention of the  
15 cornice in the turret base.

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

17 CHAIRPERSON HILL: Great, thank you.  
18 Commissioner Wright?

19 COMMISSIONER WRIGHT: So, I had a lot of  
20 misgivings about this application and I think removing  
21 the turret, I don't think any good reason was given for  
22 removing the turret other than the architect said it  
23 would look nice.

24 And that bothers me a lot. That's the only  
25 relief that they're asking for. And I would normally

1 share a lot of the concerns of the Capitol Hill  
2 Restoration group, but what I'm convinced to support,  
3 the reason I'm convinced to support this application,  
4 honestly is the ANC.

5 And I think that the ANC looks at these issues  
6 very carefully. It represents the community. I'm just  
7 clarifying, this is not a historic district as far as  
8 I understand it. So, it doesn't need to go through the  
9 Historic District Review Board.

10 And the ANC really reflects the belief of the,  
11 the beliefs, the viewpoint of the community. So, I'm  
12 giving great weight to that.

13 I think it is in terms of a rationale for  
14 removing the turret, I think it is actually not well  
15 viewed by the applicant.

16 But I don't think that it will disrupt the  
17 street scape. I think it's great that they're  
18 maintaining the cornice --

19 CHAIRPERSON HILL: Commissioner Wright, I  
20 think you froze.

21 COMMISSIONER WRIGHT: -- and very beneficial.

22 But so I will vote -- in favor and my main  
23 reason is that I don't think it will over, in an overall  
24 way, disrupt the streetscape. And the ANC supports it.

25 CHAIRPERSON HILL: Okay, thank you,

1 Commissioner. Commissioner, I think you kind of cut  
2 out there for a minute, and so I think however, I got  
3 the gist of everything that you were saying.

4 But maybe after, when we take a break, maybe  
5 you can log off and log back on. I don't know, but you  
6 can hear me okay, right, Commissioner?

7 COMMISSIONER WRIGHT: I can hear you fine,  
8 yes.

9 CHAIRPERSON HILL: Okay, okay, great. All  
10 right, then I'm going to go ahead and make a motion,  
11 thank you Commissioner for your comments, and you as  
12 well, Vice Chair Blake, make a motion to approve  
13 Application Number 21352 as captioned and read by the  
14 secretary, and ask for a second. Mr. Blake?

15 VICE CHAIR BLAKE: Second.

16 CHAIRPERSON HILL: Motion made and seconded,  
17 Madam Secretary, would you take a roll call?

18 MS. MEHLERT: Respond to the Chair's motion  
19 to approve the application. Chairman Hill?

20 CHAIRPERSON HILL: Yes.

21 MS. MEHLERT: Vice Chair Blake?

22 VICE CHAIR BLAKE: Yes.

23 MS. MEHLERT: Commissioner Wright?

24 COMMISSIONER WRIGHT: Yes.

25 MS. MEHLERT: Staff would record the vote as

1 3:0:2 to approve Application Number 21352, on the motion  
2 made by Chairman Hill and seconded by Vice Chair Blake.

3 CHAIRPERSON HILL: Great, thank you, Madam  
4 Secretary.

5 Madam Secretary, if you can call our next case,  
6 please?

7 MS. MEHLERT: This is Application Number  
8 21356, of Victor and Julie Raczkowski, as amended is  
9 a self-certified application pursuant to sub-title (x),  
10 section 901.2, for special exceptions under  
11 sub-title(d), section 5201, from the rear yard  
12 requirements of sub-title (d), section 207.1, from the  
13 side yard requirements of sub-title (d), section 208.2,  
14 and from the location requirements of sub-title (d),  
15 section 5004.1, to allow an accessory building in a  
16 required rear yard.

17 This is for a two-story rear addition to an  
18 existing two-story detached principal dwelling, in  
19 addition to an existing one-story accessory building,  
20 expanding the first floor and a new second story.

21 It's located in the R1-B Zone at 3112 Woodley  
22 Road NW, Square 2102 of Lot 40.

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



1 MS. JONES: Hi, my name is Jobi Jones,  
2 architect for Julia and Victor Raczkowski. I'm at 5120  
3 New Hampshire Avenue NW.

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

10 MS. JONES: Okay, and I did send Mr. Young  
11 a presentation.

12 CHAIRPERSON HILL: Secretary, did that go in  
13 the record?

14 (No audible response.)

15 Secretary, do you know if that's in the record?

16 MS. MEHLERT: I don't see it, so if the  
17 applicant could submit that to bzasubmissions@dc.gov,  
18 that would be great.

19 MS. JONES: Okay.

20 CHAIRPERSON HILL: Ok thanks, Ms. Jones.  
21 Okay, I guess you can just go ahead and tell Mr. Young  
22 to advance the slides as you need to do that, okay, Ms.  
23 Jones? So go ahead and start.

24 MS. JONES: Will do. As was already  
25 mentioned, this is, we are seeking side yard and rear

1 yard relief for an addition, a rear addition on a fully  
2 detached two-story home with basement. We're also  
3 doing an addition to an existing garage that abuts a  
4 rear alley.

5 Next slide. This is for context, so you can  
6 see we are located at 3112 Woodley, which is the property  
7 in the middle. 3116 is slightly north of us, and 3108  
8 is slightly south.

9 Also for context, an image of the existing  
10 garage on the alley. As you can see, it is a shared party  
11 wall between the two garages between 3116 and 3112.

12 Next slide. Further context. So this is the  
13 rear of the existing house. So, this is where we will  
14 be extending back from and the photo on the lower left  
15 side shows the view to the house slightly to the north  
16 of us.

17 This is the one that we will be, this is the  
18 side that we need the relief from. So you can see  
19 there's already an addition on the back of that house.

20 You'll also see a very large walnut tree.  
21 I only mention that because it will come up later when  
22 mentioning the shadow studies. I did not include that,  
23 but it does create quite a bit of shading already, as  
24 is.

25 And then, the larger photo is a view from the

1 back door of the existing house, showing context of what  
2 that garage looks like currently.

3 Next slide. This is the plat, proposed plat  
4 showing the footprint of the existing house and the  
5 existing garage, plus the diagonally shaded areas show  
6 where our additions would occur on the existing  
7 footprints.

8 Next slide. These are for context. These  
9 are floor plans of the existing above and the proposed  
10 below, just showing what's happening on the interior,  
11 and what functions we're getting out of it.

12 Next slide. Then elevations. So we are  
13 pretty much leaving fully intact the existing brick  
14 home, which is on the top elevation on the right.

15 And our addition would basically have its own  
16 separate roof and leave everything intact. And then,  
17 you can see the garage both in side profile and in front  
18 profile.

19 Next slide. So this diagram basically gets  
20 at the crux of our issue. We are already on a  
21 cone-shaped lot and slightly at an angle on the lot.

22 The pinch point on that northwesterly corner  
23 is already at the setback. So any addition we do is  
24 already going to very quickly approach that setback.

25 So that's our challenge. That's what we're up against,

1 and why we need this relief.

2           Additionally, the existing garage as it  
3 stands, is non-conforming in terms of its setback. It's  
4 supposed to be set back 8 feet, it's currently only at  
5 5.

6           And the argument for leaving that as is seems  
7 clear, just so we can maintain continuity between the  
8 two garages as they stand now.

9           Next slide. So as you'll recall in the image  
10 of the backyard, the neighboring property already has  
11 a sizeable addition onto the back of it.

12           So, and theirs does set back but even with  
13 our addition, we are still do not extend as far back  
14 into the rear yards as our neighbor and so we think that  
15 that, plus the fact that they, theirs does set back,  
16 gives us a little bit of benefit there in terms of any  
17 impact to air or light.

18           Next slide. And this one is just going  
19 through the garage. So the existing footprint as it  
20 stands with the party wall, and then the extent of our  
21 expansion.

22           The goal here is to accommodate a full-sized  
23 car plus some lawn equipment. And then above would be  
24 unfinished storage space, which is what we would be  
25 achieving with the gabled rooftop.

1           Next slide. So the next three slides are a  
2 series of shadow studies. Another thing working to our  
3 benefit is all of these properties have like a southernly  
4 facing location. So, all the images along the top are  
5 existing, and all the ones below have our proposed  
6 additions.

7           Next slide. All of these show that there is  
8 no substantial or in a lot of ways, any impact on light  
9 and air from the addition.

10          Next slide. This is the last one. And I  
11 mentioned that tree in the beginning just because the  
12 tree is not included in these shadow studies again,  
13 because there's been talk back and forth about it the  
14 tree, if the neighbors will keep the tree or not keep  
15 the tree, so I just eliminated it all together. So,  
16 the tree is not a consideration in the shadow studies.

17          And that is the extent of the presentation  
18 so if you guys have any questions, be happy to answer.

19          CHAIRPERSON HILL: Okay, great, thank you,  
20 Ms. Jones. Before I turn to the Board, could I hear  
21 from the Office of Planning?

22          MR. BEAMON: So good morning, Board members.  
23 For the record, Shepard Beamon from the Office of  
24 Planning. OP has reviewed the application for the  
25 requested special exception relief for the side and rear

1 yard requirements, and finds that the request meets the  
2 criteria for sub-titles (d) and (x).

3 We've stated in our report that we don't  
4 believe that the rear yard relief is required for the  
5 principal dwelling. However, if it is determined that  
6 it is required, OP does not object to that.

7 OP recommends approval of the other requested  
8 areas of relief, and I can take any questions.

9 CHAIRPERSON HILL: Great, thank you, Mr.  
10 Beamon. Does the Board have any questions of the Office  
11 of Planning or the applicant? Go ahead, Commissioner  
12 Wright.

13 COMMISSIONER WRIGHT: Have we gotten any  
14 feedback from the ANC? I know in the report I hadn't  
15 seen a report from the ANC.

16 CHAIRPERSON HILL: It's in Exhibit 29.  
17 There's also the form in Exhibit 29A. However, Ms.  
18 Jones, do you want to go ahead and speak to the meeting  
19 that you had with the ANC?

20 MS. JONES: Yes, we did, we met with the ANC  
21 a while back. There were, there was really, it was a  
22 short meeting. They were in approval; they supported  
23 the relief.

24 CHAIRPERSON HILL: Okay, okay, thanks, Ms.  
25 Jones. Mr. Blake?

1           VICE CHAIR BLAKE: Yes, along those lines,  
2 Ms. Jones, I'd be curious to know there's obviously no  
3 adverse impact or objection documented in the record.

4       And you got the ANC's support.

5           Could you talk a little bit about the dialogue  
6 you've had with the adjacent neighbors?

7           MS. JONES: Yes, so they have all received  
8 notification of the addition. They've received access  
9 to plans and elevations.

10          I know there's even been correspondence with  
11 the neighbor to the north, even sharing builder  
12 information. Beyond that, I've received no negative  
13 comment, or concern.

14          VICE CHAIR BLAKE: With the building 3116 you  
15 share a party walled garage, is there any further  
16 discussion with them or anything like that?

17          MS. JONES: No, there's been no concern, or  
18 no, no comment or feedback.

19          VICE CHAIR BLAKE: Okay, thank you.

20          CHAIRPERSON HILL: Thank you. Mr. Young, is  
21 there anyone here wishing to speak?

22          MR. YOUNG: None.

23          CHAIRPERSON HILL: Okay, Mr. Blake, I'm  
24 sorry, I see your hand up again?

25          VICE CHAIR BLAKE: Yes, one last question.

1 Ms. Jones, why did you ask for the relief for the rear  
2 yard?

3 MS. JONES: Oh, that was for the garage.  
4 We're supposed to have a 8-foot setback for the garage  
5 and it's non-conforming at 5 feet. We're modifying it.

6 VICE CHAIR BLAKE: Okay, and Mr. Beamon, why  
7 would you say that it's not necessary?

8 MR. BEAMON: So OP's analysis was for the  
9 required rear yard, which does not allow the accessory  
10 structure in the rear yard. And in this scenario, they  
11 would be maintaining the 5-foot rear setback.

12 Yes, so yes, again, the required, the  
13 accessory structure was in the rear yard. And since  
14 they're expanding that structure, they then needed that  
15 required relief to allow for that expansion in the rear  
16 yard.

17 That was OP's interpretation.

18 VICE CHAIR BLAKE: Now on the document I see  
19 in front of me, it says the rear yard is proposed as  
20 52.1 feet, and the rear yard requirement is 25 feet.

21 And they went from 61 to 52.

22 Again, and I want to please, I don't see, that  
23 suggests you don't need it but please, is it, what is  
24 it?

25 MR. BEAMON: Again, we don't, we didn't think



1 that there was a need for the requested rear yard relief  
2 from the principal dwelling, which is what I believe  
3 that's what the applicant was requesting.

4 MS. JONES: We're requesting relief for the  
5 garage since it's non-conforming at 5 feet, sorry, yes,  
6 at 5 feet.

7 MR. BEAMON: Right, yes, and then there was  
8 the additional requested relief for the rear yard for  
9 the principal dwelling, if I'm correct.

10 MS. JONES: I thought that was in error or  
11 something got put into a wrong category, I don't know.

12 Yes, we didn't, we don't need rear yard relief for the  
13 main principal dwelling but we did, we do want it for  
14 the garage.

15 MR. BEAMON: Right.

16 CHAIRPERSON HILL: Okay, all right, in terms  
17 of that I'm fine with it either way. And so, but I don't  
18 know if Mr. Blake is getting his answer his answer or  
19 not. But Blake, do you want me to continue or?

20 VICE CHAIR BLAKE: Yes, go ahead. I just want  
21 to make sure we're getting, we're giving them right,  
22 the right relief, that's all.

23 MR. BEAMON: Yes, we only did an analysis of  
24 the rear yard relief for the accessory structure as well.

25 CHAIRPERSON HILL: Okay. All right, let's

1 see. Ms. Jones, do you have anything you'd like to add  
2 at the end?

3 MS. JONES: No, I think I'm all set if there's  
4 no more questions.

5 CHAIRPERSON HILL: Okay, thank you. All  
6 right, I'm going to go ahead and close the hearing on  
7 the record. Mr. Young, could you please excuse  
8 everyone? Ms. Jones, you have a nice day.

9 (Pause.)

10 Thank you. Okay, I'm comfortable with this  
11 application. I understand why they're asking for the  
12 relief they are seeking, whether or not exactly they  
13 need the rear yard relief for that accessory building  
14 or not, but I'm still fine granting it in terms of if  
15 they do end up needing it, I think I'm fine with that  
16 as well.

17 I understand the, I'm sorry, the argument that  
18 the applicant is putting forward in terms of the shape  
19 of the yard.

20 I do appreciate that they went through the  
21 ANC and also the ANC didn't have any issues or concerns,  
22 and I'm going to be voting in favor of this application.

23 Mr. Blake, do you have anything you would like  
24 to add?

25 VICE CHAIR BLAKE: No, Mr. Chairman. I'm in

1 favor of, in support of your assessment and the  
2 application.

3 I'm still a little bit unclear as to the rear  
4 yard issue, and to be on the safe side, I think we should,  
5 I'm comfortable approving versus dismissing it.

6 So for that I'll be in support of the  
7 application.

8 CHAIRPERSON HILL: Thank you. Commissioner  
9 Wright?

10 COMMISSIONER WRIGHT: Yes, I'm in support.

11 CHAIRPERSON HILL: Okay, great, thank you.  
12 All right, I'm going to make a motion to approve  
13 Application Number 21356 as captioned and read by the  
14 Secretary, and ask for a second. Mr. Blake?

15 VICE CHAIR BLAKE: Second.

16 CHAIRPERSON HILL: The motion made and  
17 seconded, and Madam Secretary, take a roll call, please.

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

20 CHAIRPERSON HILL: Yes.

21 MS. MEHLERT: Vice Chair Blake?

22 VICE CHAIR BLAKE: Yes.

23 MS. MEHLERT: And Commissioner Wright?

24 COMMISSIONER WRIGHT: Yes.

25 MS. MEHLERT: The staff would record the vote

1 as 3:0:2 to approve Application Number 21356 on the  
2 motion made by Chairman Hill, and seconded by Vice Chair  
3 Blake.

4 CHAIRPERSON HILL: Okay, great, thank you.  
5 Okay, if it's okay with you guys, let's do one more and  
6 then we can take a break. Is everybody all right with  
7 that?

8 Okay, all right if you want to go ahead and  
9 call our next case, Madam Secretary?

10 MS. MEHLERT: Next is Application Number  
11 21357, of Acceleap Partners, LLC. This is  
12 self-certified application pursuant to sub-title (x),  
13 section 901.2, for a special exception under sub-title  
14 (u), section 253, to allow an accessory apartment on  
15 the second floor of a new accessory structure in the  
16 rear yard of an existing attached two-story principal  
17 dwelling.

18 It's located in the R-3/GT Zone at 3805 T  
19 Street NW, Square 1310, Lot 5080.

20 CHAIRPERSON HILL: Okay, great, thank you.  
21 If the applicant can hear me, if they could please  
22 introduce themselves for the record?

23 MR. DAVIE: This is Adam Davie, I'm speaking  
24 on behalf of the project team.

25 CHAIRPERSON HILL: Okay, Mr. Davie, is your

1 camera working?

2 MR. DAVIE: Yes.

3 CHAIRPERSON HILL: Great, if you could turn  
4 it on, please? Okay, great, thank you. Commissioner  
5 Putta, are you with us?

6 MR. PUTTA: Yes, I'm in and out, but I will  
7 try to at least read our resolution. Thank you.

8 CHAIRPERSON HILL: Okay, great. Do you have  
9 somewhere to go or you're able to be with us for a little  
10 while?

11 MR. PUTTA: I will, I just have work stuff  
12 going on at the same time, sorry about that.

13 CHAIRPERSON HILL: So Commissioner, do you  
14 want to go ahead and give us your testimony?

15 MR. PUTTA: Sure, sure. Forgive me for not  
16 having my camera on. It's nice to see you all, and  
17 basically you should have our resolution.

18 And basically, we, there was just more, there  
19 was just a lot of questions raised and not enough  
20 answers, for us to support this application.

21 And we do appreciate that the applicant did  
22 reach an agreement with the immediate neighbor on the  
23 side where relief is required.

24 But we just, we're probably going to defer  
25 to you on what you think of these technical issues and

1 questions that have been raised, that we didn't have  
2 enough answers for.

3 CHAIRPERSON HILL: Okay, no problem.

4 Commissioner, I just wanted to get your testimony before  
5 we heard the testimony in case you got knocked out.

6 MR. PUTTA: Thank you.

7 CHAIRPERSON HILL: But also, Commissioner,  
8 we don't have your report, I don't think.

9 MR. PUTTA: Our resolution?

10 CHAIRPERSON HILL: Yes.

11 MR. PUTTA: It's very short. It's --

12 CHAIRPERSON HILL: No, I don't think it's in  
13 the record.

14 MR. PUTTA: It's one long sentence. I can  
15 let --

16 CHAIRPERSON HILL: Okay.

17 MR. PUTTA: It should have been sent. That's  
18 very strange.

19 CHAIRPERSON HILL: Okay, Commissioner, let  
20 me do this. Let me, I'm going out of order because I  
21 thought maybe you had to go.

22 MR. PUTTA: I do.

23 CHAIRPERSON HILL: But let me start again.  
24 So Mr. Davie, can you hear me?

25 MR. DAVIE: Yes.

1 CHAIRPERSON HILL: Okay, great. If you want  
2 to go ahead and walk us through your client's  
3 presentation, and why you believe they're meeting the  
4 criteria for us to grant the relief, and you can go ahead  
5 and begin whenever you like.

6 MR. DAVIE: Yes, it sounds like that might  
7 have been possibly talking about a different project.

8 So the address in question here is --

9 (Simultaneous speaking.)

10 MR. PUTTA: Oh.

11 MR. DAVIE: -- 3805 T Street NW.

12 CHAIRPERSON HILL: Okay.

13 MR. DAVIE: This is for a --

14 CHAIRPERSON HILL: Yes.

15 MR. DAVIE: -- special exception seeking  
16 relief, and this is to allow for an accessory apartment  
17 above a garage in the rear of an attached two-story  
18 principal dwelling.

19 MR. PUTTA: Apologies. Apologies.

20 CHAIRPERSON HILL: Commissioner, I'm sorry.

21 MR. PUTTA: I don't know how that happened.

22 We do have a resolution on that one as well. I'm sorry,  
23 that --

24 MR. DAVIE: No problem.

25 MR. PUTTA: My comments were about the number,

1 I should give it to you, but anyway, please scratch that.  
2 Apologies, everyone.

3 CHAIRPERSON HILL: Okay, that's all right.  
4 Commissioner, I saw what -- I know the case that you're  
5 speaking of, and I saw some of the information for that  
6 case, but it's not this case. So, we're going to take  
7 you -- we're going to take you out.

8 MR. PUTTA: Right. Did you already hear that  
9 case previously?

10 CHAIRPERSON HILL: No, we haven't heard it  
11 yet.

12 MR. PUTTA: Okay. Sorry about that.

13 CHAIRPERSON HILL: That's all right. We'll  
14 bring you back in when that --

15 MR. PUTTA: I think we've got one, the number  
16 7 on your agenda is also my neighborhood, the Burleith  
17 Citizens Association case, Duke Ellington Field. So,  
18 I'll try to be back for that one, but it is a busy day.  
19 I work on Obamacare of all things, so wish me luck.

20 COMMISSIONER WRIGHT: Did you have a  
21 resolution on this case?

22 MR. PUTTA: I think we approved it, this one.  
23 I'm sorry, let me -- do you have a chat where I could  
24 --

25 CHAIRPERSON HILL: No, no, that's okay.



1 Commissioner, give me a minute, okay? I don't think  
2 that you're in the right one, I know you're not in the  
3 right case.

4 And so, I don't even know if --

5 MR. PUTTA: Adam, we did a resolution of  
6 support, right, Adam?

7 MR. DAVIE: Yes. We are 100 percent  
8 approved and supported.

9 CHAIRPERSON HILL: Right. Okay, so at least  
10 that because still there, Commissioner, there's not  
11 anything from your ANC in the record for this one either.

12 MR. PUTTA: Uh-huh, I'll try to get it.

13 CHAIRPERSON HILL: So that's fine, so now you  
14 can be helpful again, just your ANC passed this in favor.

15 MR. PUTTA: Yes.

16 CHAIRPERSON HILL: Is what you're now stating  
17 on the record for Case Number 21357, correct?

18 MR. PUTTA: Yes, yes, yes, no objections.  
19 This one is fine and the neighbors are fine, and it was  
20 unanimous. It was a unanimous vote.

21 CHAIRPERSON HILL: Okay, thank you, all  
22 right, so that's helpful. Thank you Commissioner.

23 MR. PUTTA: See you guys at the end of the  
24 day.

25 CHAIRPERSON HILL: All right, Commissioner,

1 we'll see you later. All right, Mr. Davie, you can begin  
2 again.

3 MR. DAVIE: We can keep it short and sweet  
4 as well. I know you guys have a busy agenda. So it's  
5 really just a, there's a garage at the property in  
6 question, and then it's a accessory structure above the  
7 garage and to be able to use it for an additional  
8 dwelling.

9 And this is at the rear of the property there's  
10 already a two-story property there in that there's  
11 existing garage that's a one-car garage. This garage  
12 is going to be a two-car garage, and then the accessory  
13 unit would be above that garage.

14 CHAIRPERSON HILL: Okay, thank you. Could  
15 I hear from the Office of Planning before I turn to the  
16 Board?

17 MR. JURKOVIC: Good morning Chair Hill, this  
18 is Michael Jurkovic, with the Office of Planning. OP  
19 recommends approval of the applicant's requested relief  
20 for an accessory apartment use, and stand on the record  
21 of our report.

22 Here to answer any questions, thank you.

23 CHAIRPERSON HILL: Thank you, thank you, Mr.  
24 Jurkovic. All right, let's see, does the Board have  
25 any questions of the applicant or the Office of Planning?

1 (No audible response.)

2 CHAIRPERSON HILL: Okay, oh, sorry, go ahead,  
3 Mr. Blake.

4 VICE CHAIR BLAKE: Yes, I just want to make  
5 sure I'm clear on the relief requested and exactly who,  
6 what you're asking for relief from based on your  
7 self-cert, and what we, what is the case captioned as.

8 And I think you may have had a comment with  
9 regard to that?

10 MR. DAVIE: You're asking me?

11 VICE CHAIR BLAKE: I'm asking you but also  
12 the Office of Planning, just to clarify that we're --  
13 under the same, you're asking for exactly what you're  
14 asking for. I just want to make sure.

15 What was your request in your self-cert?

16 MR. DAVIE: The specific request is seeking  
17 relief to allow for the accessory apartment above the  
18 garage. The structure is already permitted and  
19 approved, and it's just the ability to change it from  
20 storage to an accessory dwelling unit.

21 VICE CHAIR BLAKE: Okay, okay, thank you.  
22 Mr. Jurkovic, maybe you can help me with this. Just  
23 to clarify that the relief requested and the standard  
24 for approval is consistent with what the requirement  
25 is in your document, and what the applicant is

1 requesting?

2 MR. JURKOVIC: Yes, in the applicant's, I  
3 think you're referring to the fact that the applicant  
4 submitted a revised burden of proof that responded  
5 specifically to the accessory apartment conditions when  
6 it's in a detached accessory structure, and not internal  
7 to the principal structure.

8 And the applicant did submit a revised burden  
9 of proof addressing the conditions for an accessory  
10 apartment in the accessory structure.

11 VICE CHAIR BLAKE: Okay, thank you, I didn't  
12 see it. Thank you.

13 CHAIRPERSON HILL: Okay, thank you. All  
14 right, Mr. Davie, have a nice day.

15 MR. DAVIE: Thank you very much.

16 CHAIRPERSON HILL: I'm going to close the  
17 hearing in the record. I thought this was pretty  
18 straightforward. I didn't have any issues with it or  
19 concerns.

20 I am glad that even though it was a little  
21 confusing at the beginning, the commissioner was able  
22 to clarify the position of the ANC.

23 I'm also going to be giving the Office of  
24 Planning's report great weight, and voting in favor of  
25 this application.

1           Commissioner, I mean Vice Chair Blake, do you  
2 have anything you'd like to add?

3           VICE CHAIR BLAKE: Yes, I'm in support of the  
4 application. I do believe that the applicant has met  
5 the burden of proof, and I really don't have any  
6 questions for this. I think it totally meets the burden  
7 of proof.

8           I did have a little bit of concern about the  
9 specificity of the request but I think that it will work  
10 out fine. Thank you.

11          CHAIRPERSON HILL: Thank you, Commissioner  
12 Wright?

13          COMMISSIONER WRIGHT: I don't have a concern  
14 about this application. In fact, it looks like a very  
15 good idea. I would also note that the neighbors on  
16 either side have submitted letters of support, in  
17 addition to the ANC.

18          And so, I support this application.

19          CHAIRPERSON HILL: Thank you. All right, I'm  
20 going to make a motion to approve Application Number  
21 21357 as captioned and read by the Secretary, and ask  
22 for a second. Mr. Blake?

23          VICE CHAIR BLAKE: Second.

24          CHAIRPERSON HILL: Motion having been made  
25 and seconded, Madam Secretary, will you take a roll call?

1 MS. MEHLERT: Respond to the Chair's motion  
2 to approve the application. Chairman Hill?

3 CHAIRPERSON HILL: Yes.

4 MS. MEHLERT: Vice Chair Blake?

5 VICE CHAIR BLAKE: Yes.

6 MS. MEHLERT: Commissioner Wright?

7 COMMISSIONER WRIGHT: Yes.

8 MS. MEHLERT: Staff would record the vote as  
9 3:0:2, to approve Application Number 21357 on the motion  
10 made by Chairman Hill, and seconded by Vice Chair Blake.

11 CHAIRPERSON HILL: Thank you. Okay, do you  
12 guys want to take a quick break and we'll do like 15  
13 minutes or so and come back? Thank you.

14 (Whereupon, the above-entitled matter went  
15 off the record at 11:03 a.m. and resumed at 11:25 a.m.)

16 CHAIRPERSON HILL: All right, Madam  
17 Secretary, do you want to call us back in, please? Or  
18 call our next case?

19 MS. MEHLERT: Yes, the Board is back from a  
20 quick break returning to its hearing session.

21 The next case is Application Number 21359,  
22 of Margaret Wedgewood and Erik Beith. This is a  
23 self-certified application pursuant to sub-title (x),  
24 section 901.2, for special exceptions under sub-title  
25 (c), section 711.11, from the entrance height

1 requirements of sub-title (c), section 711.7 under  
2 sub-title (c), section 711.11, from the alley center  
3 line setback requirements of sub-title (c), section  
4 711.7, under sub-title (e), section 5201 from the  
5 accessory building area requirements of sub-title (e),  
6 section 5003.1, and under sub-title (u), section  
7 301.1(e) to allow residential use of a new accessory  
8 building.

9           This is for a new accessory structure in the  
10 rear yard of an existing two-story attached principal  
11 dwelling. It's located in the RF-1 Zone at 524 Taylor  
12 Street NW, Square 3231, Lot 90.

13           And as a preliminary matter, the applicant  
14 submitted a request to waive the filing deadline to  
15 submit a vehicle turning diagram in Exhibit 21B.

16           CHAIRPERSON HILL: Okay, great, thank you.  
17 With regard to the application and the turning radius,  
18 I would like to see that, so I'm going to go ahead and  
19 allow that into the record.

20           Could the applicant, if the applicant can hear  
21 me, if they could please introduce themselves for the  
22 record?

23           MR. SULLIVAN: Board members, this is Marty  
24 Sullivan, with Sullivan and Barros, on behalf of the  
25 applicant.

1 CHAIRPERSON HILL: Okay, great. Mr.  
2 Sullivan, if you want to go ahead and walk us through  
3 your client's application and why you believe they're  
4 meeting the criteria for us to grant the relief.

5 I'm going to put 15 minutes on the clock so  
6 I know where we are, and you can begin whenever you like.

7 MR. SULLIVAN: Thank you. If Mr. Young could  
8 please load the PowerPoint presentation.

9 (Pause.)

10 Thank you. The address is 524 Taylor Street  
11 NW. Next slide, please.

12 Property is in the RF-1 Zone, and it is  
13 improved with a single-family row dwelling, and the  
14 applicant seeks to construct a new two-story accessory  
15 structure at the rear of the property, and requires the  
16 following four areas of relief.

17 The first is to have an accessory building  
18 that houses a principal dwelling unit. The current  
19 language of (u) 301, the accessory building to have a  
20 residential use, needs to exist as of 2013.

21 This building does not yet exist so we're  
22 asking for special exception relief from that  
23 requirement.

24 And that's the fourth one of these. I'm  
25 sorry, I'm getting out of order. That's the accessory



1 apartment use, or the principal building use.

2           Accessory building's building area is limited  
3 to 450. We're asking for relief from that. Special  
4 exception relief from the building area.

5           Alley center line setback under 711 for a  
6 building that has parking in it, there's still a 12-foot  
7 setback for that, so we're asking for relief for that.

8           And then, a garage door height. And I'll note  
9 that three of these areas of relief are proposed to be  
10 eliminated in the omnibus text amendment.

11           The garage door height requirement has been  
12 admitted as that was just a mistake that it applies in  
13 the residential zones, because no garage has a height  
14 of 10 feet.

15           And the alley center line setback is proposed  
16 to be revised to line up with the accessory building  
17 setback, because the accessory building has a 7 and a  
18 half foot setback, but the requirement for parking in  
19 a building has a 12-foot setback still. And that was  
20 supposed to be revised along with that.

21           So that's going to be changed, so that relief  
22 would go away. And the, what I mistakenly called the  
23 accessory apartment use, it's actually a second  
24 principal dwelling unit in the accessory building.  
25 That restriction is going away as well. Or proposed

1 to go away in the omnibus.

2 Next slide, please. The Office of Planning  
3 is recommending approval and ANC 4C has voted  
4 unanimously in support, and we have three letters of  
5 support including from the one adjacent neighbor to the  
6 east. And DDOT has no objection.

7 Next slide, please. You see the property  
8 there, it's a very long, narrow lot.

9 Next slide, please. This is a photo showing  
10 the existing area there. There's nothing there now.

11 You can see a couple other accessory buildings on the  
12 alley, and they are lined up with the alley also with  
13 no setback from the alley.

14 Next slide, please. It's an overhead photo.

15 Next slide, please. And here is the plat and  
16 the proposal is to add the accessory building in the  
17 back.

18 Next slide, please. I'll note that the  
19 building area requested also includes a balcony, and  
20 those stairs to the accessory building.

21 Next slide, please. This is just the floor  
22 plan showing there's parking on the bottom, and then  
23 a dwelling unit on the second floor.

24 Next slide, please. And here are the  
25 elevations showing the proposed accessory building.

1           Next slide, please. The applicant meets the  
2 general special exception criteria. The purpose of the  
3 RF-1 Zone is to provide for areas predominantly  
4 developed with rowhouses on small lots, with no more  
5 than two dwelling units. The proposal is to add a second  
6 dwelling unit, and the specific special exception  
7 requirements are met as shown on the following slides.

8           Next slide, please. For the building area  
9 of the accessory building, light and air to neighboring  
10 properties is not unduly affected. Accessory building  
11 is situated at the rear of the property, and the  
12 applicant is requesting relief for the footprint.

13           The height and number of stories is permitted  
14 as a matter of right, and there's still about 60 feet  
15 of space between the accessory building and the  
16 principal building.

17           There are no east or west-facing windows, and  
18 it's also a long distance from the neighboring homes  
19 as well.

20           And finally, the accessory building will not  
21 substantially visually intrude upon character, scale,  
22 and pattern of houses along the street, or other public  
23 ways.

24           It's not out of scale or character with  
25 accessory buildings along the alley.

1           Next slide, please. For the 711 relief, this  
2 is what we needed the turning diagram for. This is a  
3 requirement, this is one of the ones that is proposed  
4 to be revised to 7 and a half feet where there's a 12-foot  
5 center alley line setback requirement.

6           And special exception relief is allowed in  
7 certain situations. We do have a turning diagram that  
8 shows it can get in. The garage is wide and it's meant  
9 for just one car. So, there's going to be no problem  
10 for a car getting in the garage.

11           Next slide, please. There's the turning  
12 diagram showing the one car getting into the garage.

13           Next slide, please. The requirements for the  
14 accessory building, it was not in existence in January  
15 1, 2013, so that is what we're asking special exception  
16 relief for.

17           And from number 2, so we do need permanent  
18 access to the accessory building dwelling to have a  
19 residential unit there, and we do have the permanent  
20 access. We have a 15-foot wide alley that's within 300  
21 feet of a street.

22           A roof deck is not proposed as it's not  
23 permitted on an accessory building in this case.

24           And the accessory building is not being used  
25 for any accessories, other than a private vehicle garage

1 and a dwelling unit.

2 Next slide, please. And I think that's it.

3 The only other thing I didn't mention was the 10-foot  
4 height for the garage.

5 And of course, that was in the proposed new  
6 regulation that's being removed. It was mistakenly put  
7 in the residential zone.

8 Next slide. That's it. Thank you.

9 CHAIRPERSON HILL: Okay Mr. Blake, before I  
10 just, can I just real quick hear from the Office of  
11 Planning?

12 (No audible response.)

13 CHAIRPERSON HILL: Ms. Thomas, I'm sorry, oh,  
14 now we can hear you.

15 MS. THOMAS: Okay, yes. Karen Thomas on  
16 behalf of the Office of Planning, and we are in support  
17 of this request for an accessory structure in the rear  
18 yard of the principal dwelling unit within the RF-1 Zone.

19 We understand that a building does not now  
20 exist and they need relief from it, and it has met the  
21 conditions including the access to the structure being  
22 a 15-foot wide alley, and the access to New Hampshire  
23 Avenue.

24 It does meet those requirements and we are  
25 also in support based on the fact that DDOT has

1 recommended, has seen no issues with the access  
2 requirements and the provision of the turning radius.

3 And so, we are in support of the application  
4 overall. And with that, I'll rest on the record of the  
5 report and I'll be happy to take any questions. Thank  
6 you.

7 CHAIRPERSON HILL: Thank you, Ms. Thomas.  
8 Mr. Blake, you had your hand up?

9 VICE CHAIR BLAKE: Yes, three quick questions  
10 for Mr. Sullivan. Mr. Sullivan, what is the actual  
11 height that you propose to have for that door on the  
12 accessory building?

13 I mean you say you're not going to have 10  
14 feet but there's no, nothing provided as to what it would  
15 be. What is the, I see you have the plans there, so  
16 what is the height? Is it 7 feet, 8?

17 MR. SULLIVAN: Actually, I think the  
18 architect is here. He joined us just in case there were  
19 questions. Mr. Yavnai, if he's here. I assume it's  
20 the standard height of I guess it's 7, 7-8 feet.

21 CHAIRPERSON HILL: Mr. Yavnai, can you hear  
22 me?

23 MR. SULLIVAN: But the requirement should  
24 have never existed anyway and it's going away, and  
25 doesn't really.

1 VICE CHAIR BLAKE: Well, it exists now so I'm  
2 just curious to know what --

3 (Simultaneous speaking.)

4 CHAIRPERSON HILL: Mr. Yavnai?

5 Mr. Yavnai, can you hear me?

6 MR. YAVNAI: I can, can you hear me?

7 MR. SULLIVAN: Yes, could you introduce  
8 yourself for the record?

9 MR. YAVNAI: Good morning, everyone, good  
10 morning, Mr. Chairman. My name is Boaz Yavnai, I'm the  
11 architect on the project.

12 MR. SULLIVAN: Great, are you able to answer  
13 Vice Chair Blake's question?

14 MR. YAVNAI: Yes, this is a standard 7-foot  
15 garage door.

16 VICE CHAIR BLAKE: Thank you. The second  
17 question is, there's a discrepancy between the DDOT's  
18 8.5 measure for the proposed center line setback, and  
19 you're at 7.5.

20 Is that an issue or is that just an error on  
21 the DDOT?

22 MR. SULLIVAN: That must be an error on DDOT,  
23 yes. We're on the property line so, and it's a 15 foot  
24 wide alley. According to the plat.

25 VICE CHAIR BLAKE: Do you think that would

1 be an issue for you in terms of getting this done if  
2 the DDOT is expecting 8 and a half, or no? Probably  
3 not?

4 MR. SULLIVAN: No, I don't think so. It's  
5 a -- DOB would approve it. I'm not even sure if DDOT  
6 sees this application at permitting.

7 VICE CHAIR BLAKE: Okay, and the last question  
8 is, the building is 694 square feet. What about it makes  
9 it necessary to be so much bigger than the 450? What  
10 elements are there that make that happen? Or  
11 necessitate that?

12 MR. SULLIVAN: Well, the need is not part of  
13 the special exception criteria, but I can break down,  
14 maybe Mr. Yavnai can break down.

15 Part of that is the stairs, and I could have  
16 probably removed the stairs because I do have a zoning  
17 determination from years ago that says the stairs aren't  
18 included, but I wanted to just out of an abundance of  
19 caution, I had them include that.

20 And then there's a balcony as well, so, but  
21 I assume and Mr. Yavnai can confirm this. It's in order  
22 to get a second principal dwelling unit, you would need  
23 a certain amount of space as opposed to just an accessory  
24 unit or a unit that's just used for incidental purposes.

25 And, because the entire lower level is taken



1 up by parking, that leaves you with just the 694 minus,  
2 and I could probably tell you, or Mr. Yavnai could tell  
3 you, how much of that is actually the building.

4 MR. YAVNAI: If I can jump in?

5 MR. SULLIVAN: Boaz, if you could. How much  
6 of that building footprint, do we have 694 for stairs  
7 and balcony? Can you tell us how much is just the  
8 building itself?

9 MR. YAVNAI: I think it's under, I don't have  
10 the full dimension in front of me but I know that it's  
11 under 500. I think the total is between 450 and 500.

12 And to the other thing that Mr. Sullivan said  
13 was also exactly right, which is we really tried to stay  
14 if you look at the floor plan, fairly minimal in the  
15 amount of space we allocate to living. Just enough to  
16 make it a livable one-bedroom unit.

17 MR. SULLIVAN: I can actually calculate the  
18 number for you Board Member Blake, real quick here.  
19 I have the plat.

20 CHAIRPERSON HILL: Ms. Thomas, you have your  
21 hand up?

22 MS. THOMAS: In your slide, Mr. Sullivan, you  
23 said it was 541 square feet.

24 MR. SULLIVAN: Yes, thank you, thank you, Ms.  
25 Thomas.

1 CHAIRPERSON HILL: Does anyone else have any  
2 questions?

3 (No audible response.)

4 Mr. Yavnai, if you want to mute your mic?  
5 Thanks. Mr. Young, is there anyone here wishing to  
6 speak?

7 (No audible response.)

8 Okay, great. All right, I just want to see  
9 here, okay, great. Okay, all right, Mr. Sullivan, do  
10 you have anything you'd like to add at the end?

11 MR. SULLIVAN: No, I don't. Thank you, Mr.  
12 Chair and Board members.

13 CHAIRPERSON HILL: Okay, great, thank you.  
14 All right, I'm going to go ahead and close the hearing  
15 and the record. Mr. Young, if you could please excuse  
16 everyone.

17 Okay, thanks. Okay, for me I thought this  
18 was pretty straightforward. I would give great weight  
19 to the analysis that the Office of Planning has provided,  
20 as well as that of the ANC that also states that the  
21 applicant supported the process throughout, and  
22 proactively engaged with neighbors to address questions  
23 and concerns.

24 I do think they're meeting the criteria for  
25 us to grant this particular relief, even though this

1 relief might go away, it is here now.

2 And so, I'm going to be voting in favor of  
3 this application. Mr. Blake, do you have anything you'd  
4 like to add?

5 VICE CHAIR BLAKE: I'm in favor of the  
6 application. And I'll give great weight to the written  
7 report of ANC 4C, which is in support with no issues  
8 or concerns. And also great weight to the Office of  
9 Planning's recommendation for approval. I'm in  
10 support.

11 CHAIRPERSON HILL: Thank you. Commissioner  
12 Wright?

13 COMMISSIONER WRIGHT: No additional  
14 comments. I'm in support of the application.

15 CHAIRPERSON HILL: Okay, thank you. I'm  
16 going to make a motion to approve Application Number  
17 21359 as captioned and read by the secretary, and ask  
18 for a second. Mr. Blake?

19 VICE CHAIR BLAKE: Second.

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

22 MS. MEHLERT: This motion to approve the  
23 application, Chairman Hill?

24 CHAIRPERSON HILL: Yes.

25 MS. MEHLERT: Vice Chair Blake?

1 VICE CHAIR BLAKE: Yes.

2 MS. MEHLERT: Commissioner Wright?

3 COMMISSIONER WRIGHT: Yes.

4 MS. MEHLERT: Staff would record the vote as  
5 3:0:2, to approve Application Number 21359 on the motion  
6 made by Chairman Hill, and seconded by Vice Chair Blake.

7 CHAIRPERSON HILL: Okay, thank you. So just  
8 to share with my Board members. So we have a case next  
9 that has party status, and the case after that, that  
10 has party status, then we have an appeal.

11 And so, this is where it's going to be longer.

12 So I'm going to quickly take a break if we don't mind,  
13 just before we start this, because I just need a quick  
14 break.

15 And maybe come back 5-10 minutes, whatever,  
16 but I'm just going to take a quick break, okay? Thank  
17 you.

18 (Whereupon, the above-entitled matter went  
19 off the record at 11:43 a.m. and resumed at 11:52 a.m.)

20 CHAIRPERSON HILL: Let's see, Madam  
21 Secretary, if you could call us back in and call our  
22 next order of business?

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

25 The next case is Application No. 21361 of

1 Moshood Olayinka, as amended. This is a self-certified  
2 application, pursuant to Subtitle X, Section 901.2, for  
3 Special Exceptions; under Subtitle E, Section 207.5,  
4 to allow the rear wall of the semi-detached building  
5 to extend farther than 10 feet beyond the farthest rear  
6 wall of any adjoining principal residential building  
7 on any adjacent property; under Subtitle E, Section  
8 5201, from the side yard requirements of Subtitle E,  
9 Section 208.3, and under Subtitle U, Section 320.2, to  
10 allow the conversion of an existing residential building  
11 to an apartment house.

12 This is for a third-story, end, rear addition  
13 to an existing semi-detached building and conversion  
14 to a four-unit apartment house. It's located in RF-1  
15 zone at 1253 Morse Street, Northeast, Square 4069, Lot  
16 0058.

17 And last week, the Board granted an advance  
18 request for party status in opposition to Natalie  
19 Martinez, Andrew Karay, and Swan Boutelle.

20 There are also a couple of preliminary  
21 matters.

22 There is a motion from the Applicant to waive  
23 Subtitles Y, 300.15 and 300.16, to allow submission of  
24 supplemental materials and to modify the application  
25 within 30 days for hearing.

1           There is also a motion to postpone that was  
2       filed by the party in opposition Natalie Martinez and  
3       Andrew Karay.

4           CHAIRPERSON HILL:   Okay, great.   Thank you.

5           If everybody can mute themselves unless  
6       they're talking, that will be helpful, No. 1.

7           No. 2, if the Applicant can hear me, if they  
8       can please introduce themselves for the record?

9           MR. CARBALLO:   Yes, my name is Adam Carballo  
10      from Carballo Architecture.   I'm representing Mr.  
11      Moshood who is our client and property owner.   Also on  
12      my private team is Shima Safinia who will also be  
13      testifying as part of the Applicant.

14          CHAIRPERSON HILL:   Okay, great.

15          Let me go through introductions first.   For  
16      the record, Ms. Safinia, could you please introduce  
17      yourself?

18          MS. SAFINIA:   Sure.   My name is Shima  
19      Safinia.   I'm also with Carballo Architecture.   I'm the  
20      Senior Design Associate on the project.

21          CHAIRPERSON HILL:   Okay.   And I'm sorry, is  
22      it Mr. Moshood?

23          MR. OLAYINKA:   Good morning.   Good morning.  
24      My name is Moshood Olayinka.

25          CHAIRPERSON HILL:   I see.

1 MR. OLAYINKA: I'm the owner of 1253 Morse  
2 Street. I'm looking forward for a positive  
3 deliberation today.

4 CHAIRPERSON HILL: Actually, I'm sorry, sir,  
5 who are you the owner of?

6 MR. OLAYINKA: Moshood Olayinka is my name.  
7 I'm the owner of --

8 CHAIRPERSON HILL: Oh, okay.

9 MR. OLAYINKA: 1253 Morse Street.

10 CHAIRPERSON HILL: Oh, I got you.

11 MR. OLAYINKA: Yes, sir.

12 CHAIRPERSON HILL: I got you. Thank you.

13 Mr. Carballo, you are representing Mr.  
14 Moshood, correct?

15 MR. CARBALLO: Yes, sir.

16 CHAIRPERSON HILL: Okay, right. I got  
17 confused there for a second. Okay. That's No. 1.

18 Let's me, Ms. Boutelle, Boutelle -- Ms. Dawn,  
19 can you hear me?

20 MS. BOUTELLE: I can.

21 CHAIRPERSON HILL: Yes, could you introduce  
22 yourself for the record

23 MS. BOUTELLE: Hi. My name is Dawn Boutelle.  
24 I am a neighbor of the property in question. I am at  
25 1247 Morse Street, Northeast.

1 CHAIRPERSON HILL: Thank you. Welcome.  
2 Let's see. And, Ms. Martinez, can you hear  
3 me?

4 MS. MARTINEZ: Yes, I can.

5 CHAIRPERSON HILL: Okay. Can everybody mute  
6 themselves except for Ms. Martinez?

7 Ms. Martinez, great, can you introduce  
8 yourself for the record?

9 MS. MARTINEZ: Hi there. My name is Natalie  
10 Martinez. This is my husband Andrew Karay. And we  
11 are at 1257 Morse Street, Northeast.

12 CHAIRPERSON HILL: Okay, great. Perfect.  
13 And everybody can mute themselves again.

14 So, there's some preliminary matters that are  
15 currently going on. And I've read all the preliminary  
16 matters. And what I thought was the best way to do this  
17 is that we'll go ahead and hear this case, and hopefully,  
18 a lot of people's questions can get answered as we hear  
19 the case.

20 Then, we're probably going to do Mr. Carballo.  
21 How do you say your name, Carbarrio, again?

22 MR. CARBALLO: Carballo.

23 CHAIRPERSON HILL: Carballo? Oh, I'm trying  
24 to say it a different way. Okay. Mr. Carballo --

25 MR. CARBALLO: You're making it more



1 complicated.

2 (Laughter.)

3 CHAIRPERSON HILL: Yeah, I know. You know,  
4 I'm trying to do the double "l's" there.

5 So, Mr. Carballo, what I think is probably  
6 going to happen is, you know, there seems to be a lot  
7 of questions out there in general. And so, if we go  
8 ahead and hear this, and hopefully, some of those  
9 questions could get answered through this process. And  
10 then, we're probably going to continue this for a  
11 limited-scope hearing to give everyone a little bit more  
12 of an opportunity to chew through some of this.

13 And then, also, depending upon what's going  
14 on, like I disagree with the ANC trying to kick this  
15 into January or February. But, you know, the ANC might  
16 have a chance to look at this again, but I know how this  
17 process works and I think that's too long a time.

18 So, I'm going to go ahead -- and I'm going  
19 to look at my Board members here in a second -- but I'm  
20 going to deny the postponement request because I think  
21 it will be best served if we all hear some stuff, and  
22 then, I'm going to allow the information into the record.

23 Because, again, as I said, we're probably going to do  
24 a limited-scope hearing on this later, as people can  
25 chew on any of this. And that is going to be my motions.

1 Vice Chair Blake, do you have any -- do you  
2 agree?

3 VICE CHAIR BLAKE: I agree.

4 CHAIRPERSON HILL: Commissioner Wright?

5 COMMISSIONER WRIGHT: Yes, I agree.

6 CHAIRPERSON HILL: Okay, great.

7 So, then, that being the case, Madam  
8 Secretary, I don't think I have to take a vote. I don't  
9 remember, but do I need to take a vote?

10 MS. MEHLERT: No.

11 CHAIRPERSON HILL: No? Okay.

12 So, I'll allow everything in the record and  
13 we're going to deny the postponement.

14 All right. So, that all being the case, going  
15 back to the process, Mr. Carballo will be able to give  
16 his testimony as to what the project is and how he's  
17 meeting the criteria for us to grant the relief.

18 Then, party status people will be able to give  
19 their testimony as to why they believe that the Applicant  
20 is not meeting the criteria for us to grant the relief.

21 We're going to hear from the Office of Planning, and  
22 then, everybody is going to be able to ask questions  
23 of each other. Okay? And then, probably we're going  
24 to have a little conclusion from everybody, and then,  
25 as I said, we'll see where we send up coming back again.

1           So, Mr. Carballo, if you want to go ahead and  
2     give us your presentation? I'm going to put 50 minutes  
3     on the clock, just so I kind of know where we are. And  
4     so the people in opposition understand, they, basically,  
5     get the same amount of time as the Applicant. So, I'm  
6     kind of keeping track of all that. So, just to let you  
7     all know.

8           And, Mr. Carballo, you can begin whenever you  
9     like.

10          MR. CARBALLO: Okay, great. I believe we  
11     submitted a presentation. Is now the proper time to  
12     pull that presentation up?

13          CHAIRPERSON HILL: Yeah. Do you know which  
14     exhibit that is in the record?

15          MS. SAFINIA: I can check that really quick.

16          MR. CARBALLO: This is it on the screen. I  
17     can see our presentation.

18          CHAIRPERSON HILL: And, no, that's okay. I  
19     appreciate it. I'm just trying to look through real  
20     quick here.

21          MR. CARBALLO: So, to set the context, our  
22     subject property is located at 1253 Morse Street,  
23     Northeast. This is located in the R-1 zoning district.  
24     This specific block of Morse Street has a variety of  
25     different housing types.

1 CHAIRPERSON HILL: Mr. Carballo, I am going  
2 to interrupt you one second.

3 Madam Secretary, do you know where this is  
4 in the record?

5 MS. MEHLERT: I think it's Exhibit 27.

6 CHAIRPERSON HILL: Okay. Okay, perfect.

7 Okay, Mr. Carballo, thank you. Please go  
8 ahead.

9 MR. CARBALLO: Sure.

10 As I was saying, this is located on a block  
11 of Morse Street that has a variety of different housing  
12 types, building types, if you will. We're located as  
13 one-half of a group of five semi-detached properties  
14 consisting of two, you know, two semi-detached  
15 structures. There's five of those groupings.

16 Across the street, there's a very large  
17 apartment building. Further down, several buildings  
18 down, there's groupings of row dwellings that are  
19 attached that, you know, are five to eight buildings  
20 alone; the same for across the street.

21 Further up the block, five-six -- five-six  
22 properties to the northwest of our property, there's,  
23 again, another large apartment building, and another  
24 large apartment building beyond that, as well as a park  
25 and a school sort of located immediately to the north.

1           Our property, again, makes up semi-detached,  
2 a grouping of two, two semi-detached rowhouses.  
3 Immediately to the north of ours at 1251, there is an  
4 apartment conversion that was approved by the Board that  
5 we have photographic evidence of.

6           We are located on a large lot. Our lot is  
7 3,633 square feet.

8           We are here before the Board to request Special  
9 Exception for three items.

10          The first one is Subtitle U. As you can see  
11 on the lower lefthand side of our site plan coversheet  
12 here, conversion of existing residential building built  
13 prior to May 12th, 1958, to an apartment. This shall  
14 be permitted as a Special Exception under RF-1 under  
15 Subtitle X, Chapter 9, as long as there are, as a minimum,  
16 900 square feet of lot area per dwelling unit.

17          We are proposing four dwelling units at this  
18 property, which would require a lot area of 3,600 square  
19 feet. Our property is 3,633 feet. We meet the  
20 requirements of the subsection to be able to provide  
21 four dwelling units at this property by way of a Special  
22 Exception.

23          Further then, we have a second item that we're  
24 here before you today. This is Subtitle 208.3, pursuant  
25 to Subtitle 520 and X 1002. A proposed side yard of

1 3 feet in lieu of the required 5 feet.

2 We are still providing a side yard setback.

3 This would be on the property line to the north. The  
4 goal of this side yard setback reduction from 5-foot  
5 required to 3-foot required is to gain an extra 2 feet  
6 of interior space which would allow us to provide for  
7 two bedrooms on that, on the rear portion of the property  
8 in lieu of just a single bedroom.

9 Our goal in providing these dwelling units  
10 is to provide housing that would be accommodating for  
11 families. Each one of our units is a three-bedroom  
12 unit. This aligns with the Mayor and the City Council's  
13 goal for providing housing for families in the District.

14 Further to that, we have a final request --  
15 and this, I think there are some questions about this  
16 final comment, or this final request. Subtitle 207.5,  
17 pursuant of Subtitle E 5201, the proposed rear addition  
18 to extend 20 feet past an adjoining property.

19 If you look at these five groups of  
20 semi-detached, every single one of them, with the  
21 exception of one property, has a one-story rear bumpout  
22 on the ground floor that, you know, basically aligns  
23 with all the neighboring properties.

24 Our property, we're actually -- we're only  
25 -- if we go to the second -- well, I'm not sure if there's

1 an overview. I guess you can kind of see it on this  
2 upper image. It can be seen a lot better on Google  
3 Earth. We should have had that image.

4 We're proposing to go 10 feet beyond where  
5 we already are. This would align the property  
6 immediately to the north of us, which was converted more  
7 recently. That property also has a side yard infill  
8 that goes all the way to the property line; whereas,  
9 we're not making it anywhere near that. We're actually  
10 having a setback.

11 I believe the property immediately next door  
12 is the only property we share a party wall with. It  
13 may have had a one-story bumpout which would have aligned  
14 with the rear of our property at some point in time and  
15 perhaps it was removed.

16 But because of that, we have to go 20 feet  
17 beyond our shared party wall neighbor. But we're not  
18 going back -- you can see in this lower image there's  
19 a very large addition to the property immediately to  
20 the north of ours -- we're not going anywhere further  
21 back beyond where they are.

22 This property also has balconies. Our  
23 property does not have any balconies on the rear of it.

24 So, the condition that we're proposing is not, you know,  
25 it's not nearly as large as what was granted next door

1 to us.

2 If I go through the evidence -- if I pull up  
3 my -- you know, I believe that we're meeting the criteria  
4 of the Special Exception, in that, for the first one,  
5 for the lot area, we have the proper lot area for the  
6 property.

7 Two, with respect to side yard setback, the  
8 portion of our building that we would like that side  
9 yard, the minimum side yard reduced from 5 foot to 3  
10 foot is actually on a small section of the infill.

11 I think if we go to the next slide, I can show  
12 in the floor plan. You can see here just the neighboring  
13 property that has the balconies. The property next door  
14 to ours actually goes to the property line. We're not  
15 proposing to go near the property line.

16 If you go to the next slide, please? I'm  
17 trying to find it in our -- you'll notice that the only  
18 portion of this lower lefthand image or the top lefthand  
19 image, we're proposing the reduction of the side yard  
20 at the very rear of the property, which is nearly 40  
21 feet from the front building face, and only on the second  
22 and third floor, to allow for some additional bedrooms  
23 in those units. It does not change the front  
24 streetscape. It's not nearly as imposing as the  
25 next-door property, which is far larger and has far less



1 of a setback than -- they have a zero setback. We're  
2 still providing 3 feet. So, I think that, you know,  
3 it's a modest request, if that.

4 If you go back to the previous slide, I'll  
5 speak to the 10-foot versus 20-foot. If you'd go back  
6 to the previous slide, please?

7 So, the property next door, again, we would  
8 be going 10 feet past the current footprint of the  
9 building. The property next door to ours actually has  
10 balconies at the rear, which we are not proposing.

11 And in this image, the upper righthand image,  
12 the property next door to ours, we believe their  
13 one-story addition was removed at some point in time,  
14 because all of them in this block have that one-story,  
15 10-foot setback. Had that structure not been removed,  
16 we still would have only been going back 10 feet. So  
17 again, I think we're not asking for any more than what  
18 our neighbors have. In fact, it's actually less than  
19 what was granted by our neighbors.

20 If we go back to the -- continue on with our  
21 slides, I can walk through the floor plans as well.  
22 If we're able to go to the next slide?

23 Also, you know, the third floor is a matter  
24 of right. That's not part of our request.

25 Next.

1           And we are complying with Office of Planning  
2   for setting that third floor back beyond an existing  
3   architectural element, just stating for the record.

4           Next slide, please.

5           The current building does not have an  
6   off-street parking. We're actually providing two  
7   off-street parking spaces for this property.

8           We do meet all other requirements as far as  
9   lot coverage and rear yard setback, as well as building  
10   height. We don't have any requests for any of those,  
11   any of those items.

12          Next slide, please.

13          This is the existing footprint.

14          Next slide, please.

15          And you can see here where the adjoining  
16   property does not extend -- this is the property that  
17   we share a party wall with. This property does not share  
18   the same footprint as ours, although we suspect that  
19   at one point in time it did extend as far back as ours.

20         However, that's not the condition now.

21          Next slide, please.

22          This is showing the 10-foot addition. It's  
23   going 10 feet beyond the current property line, and it  
24   actually does align with the building to the north minus  
25   their balconies. Their balconies extend beyond, but

1 we're not proposing any balconies at the rear of our  
2 property.

3 Next slide, please. Next slide, please.

4 So, as you can see, on the second and third  
5 floor, nearly 40 feet back from the front elevation,  
6 we do have a small side yard bumpout that would be --  
7 which would provide a 3-foot setback to the side yard  
8 in lieu of a 5-foot. Then, that additional 2 feet allows  
9 us to provide a property with three bedrooms, which,  
10 you know, would allow a couple and two children to occupy  
11 the space.

12 We're not providing any balconies. We do have  
13 a rear exit for easier front-rear access, but no  
14 balconies are proposed.

15 Next slide, please.

16 This shows our operating unit, again, with  
17 the same footprint as the second floor.

18 Next slide, please.

19 This shows massing of the property. Again,  
20 these are elements that are set back from the front  
21 elevation. You can notice that the property adjacent  
22 to ours in plan right, which is to the north of our  
23 property, extends all the way to the property line;  
24 whereas, ours, we are abiding by a setback.

25 Next slide, please.

1           This is the rear of the property. Again,  
2 we're not proposing any balconies, although we do have  
3 a rear exit stair at the back of the property, and we  
4 do have that setback on the second and third floor.

5           Next slide, please.

6           This is the existing side yard setback, and  
7 you notice that one-story bumpout which all of the  
8 semi-detached -- this grouping of five blocks all have  
9 that one-story bumpout, except for the one that we share  
10 a party wall with.

11          Next slide.

12          This is our infill addition. Again, we are  
13 allowed a third floor as a matter of right, and that  
14 projection on the second and third floor that does have  
15 the setback.

16          Next slide, please.

17          This is the opposite side yard elevation.

18          Next slide, please.

19          We've had a lot of discussions with the ANC,  
20 going back to July 1st, when we first made contact.  
21 We've contacted the ANC in full transparency and with  
22 the spirit of open dialog and communication.

23          We initially met with the ANC, spoke with them  
24 regarding our schedule, and we agreed to a schedule in  
25 the summertime for, you know, a series of meetings where

1 we would meet with them. And Shima can speak a little  
2 bit more to the specifics of those meetings.

3           However, you know, communication has broken  
4 down with the ANC. And, you know, initially, when we  
5 contacted them, they requested that they could not meet  
6 with us until we had a BZA case scheduled, which is not  
7 part of our protocol generally. Generally, you meet  
8 with them. You have a dialog before you even schedule  
9 a BZA case. Clearly, scheduling BZA cases, you know,  
10 provide -- they require additional financial investment  
11 by the client and the owner, but they requested we  
12 complied with that, even though that's not necessarily  
13 part of their protocol.

14           In our communication, we had -- you know, after  
15 our second meeting with ANC, ahead of a meeting that  
16 was supposed to occur on Tuesday evening, Friday, after  
17 our office was closed, we received a lengthy list of  
18 requests. And again, this was Friday after our office  
19 was closed for the weekend, Monday being a federal  
20 holiday. I believe they did this to slow us down.

21           And they made requests for full underpinning  
22 drawings, geotechnical reports, additional items that  
23 really aren't in the purview of the ANC. One of those  
24 items regarded structure questions about the property,  
25 usually items that are reserved for plans reveal, not

1 necessarily for ANC to sort of weigh-in on.

2           So, one of those items that we did actually  
3 comply with was we provided a letter from our structural  
4 engineer, again, at Mr. Moshood's expense. The  
5 engineer of record, who had not necessarily been  
6 retained yet, you know, provided this letter certifying  
7 that the building would be designed per D.C. Building  
8 Code and it would not have any adverse effect for the  
9 adjoining property owner. It seemed a little out of  
10 the purview. However, you know, in a spirit of trying  
11 to be transparent and provide an open dialog, we provided  
12 this communication.

13           Next slide, please.

14           They also asked for an extensive sun-shading  
15 study. And again, we provided an extensive sun-shading  
16 study. We learned that there were several members, you  
17 know, adjoining property owners from several doors down  
18 that do not share a party wall with us that had questions  
19 about their impact.

20           I'll remind that these property owners are  
21 to the southeast of our property. Generally, shadows  
22 do not extend to the south of a property. They extend  
23 usually to the north. However, nevertheless, we had  
24 provided the sun-shading study.

25           And, you know, you can kind of clearly see

1 -- this is, obviously, one for January. We can, you  
2 know, sort of cycle through some of these.

3 CHAIRPERSON HILL: Mr. Carballo, that's okay.  
4 I have it up.

5 MR. CARBALLO: Yeah.

6 CHAIRPERSON HILL: I mean that's the end of  
7 the sun studies?

8 MR. CARBALLO: There's an extensive sun  
9 study. However, there's really no effect.

10 The one effect that they had that they made  
11 mention for was there's a brief period in October at  
12 6:00 p.m. that there is a slight shadow on a property.  
13 However, according to my weather app, during October,  
14 sundown is at 6:08 tonight. So, if my --

15 CHAIRPERSON HILL: Mr. Carballo, it's okay.

16 MR. CARBALLO: Yeah.

17 CHAIRPERSON HILL: We can figure out the sun  
18 studies.

19 MR. CARBALLO: All right. Sure.

20 CHAIRPERSON HILL: So, do you have anything  
21 else or is that the end?

22 MR. CARBALLO: I wouldn't mind having Shima  
23 sort of express some of the communication that we've  
24 had with the ANC.

25 Some of the opposition that we've had here

1 did not attend the ANC meetings, and I think there's  
2 just a lack of understanding as to what the project is.

3 Further to that, our ANC point of contact I  
4 don't think has acted in full transparency.

5 CHAIRPERSON HILL: Mr. Carballo, it's okay.  
6 Let's just kind of get through this. Okay?

7 MR. CARBALLO: Fair enough.

8 CHAIRPERSON HILL: Okay. All right. And,  
9 Ms. Shima, it's okay right now.

10 Okay. If you would drop this slide deck for  
11 me? Okay, great. Thank you.

12 I think the ANC Commissioner is here, correct?  
13 (No response.)

14 Commissioner Salvador, can you hear me?

15 MS. ROBLIN: Yes, I'm here. I'm the ANC --

16 CHAIRPERSON HILL: Okay, great.

17 MS. ROBLIN: Yeah.

18 CHAIRPERSON HILL: Can you introduce yourself  
19 first? I apologize.

20 MS. ROBLIN: Sorry. I'm Anna Roblin. Let  
21 me start my video. Hi.

22 I'm Anna Roblin. It's in my SMD --

23 CHAIRPERSON HILL: Okay, Commissioner.

24 Thanks.

25 Is there another Commissioner, Salvador?



1 MR. SAUCEDA-GUZMAN: Yes, I'm the Chairman.  
2 I'm sorry, I can't seem to start my camera. But I'm  
3 the Chairman of the ANC.

4 CHAIRPERSON HILL: That's okay. Could you  
5 introduce yourself, please?

6 MR. SAUCEDA-GUZMAN: Yes. This is  
7 Commissioner Salvador Saucedo-Guzman, Chairman of ANC  
8 5D.

9 CHAIRPERSON HILL: Okay, great. Thank you.

10 All right. And then, somebody -- Mr. Keats,  
11 did you just turn on your camera? Who are you? You're  
12 on mute.

13 MR. SAUCEDA-GUZMAN: Yes, he's our Chair for  
14 -- our Co-Chair for our Zoning Committee.

15 CHAIRPERSON HILL: Oh, got you.

16 Mr. Keats, you have to unmute yourself.

17 MR. KEATS: It's Zoom.

18 CHAIRPERSON HILL: No problem. Can you  
19 introduce yourself for the record?

20 MR. KEATS: I'm Skip Keats, legally, Wilfred  
21 Keats. As noted, I'm the Co-Chair of the ANC 5D Zoning  
22 and Development Committee.

23 CHAIRPERSON HILL: Got it. Okay.

24 Commissioner Roblin, can you hear me?

25 MS. ROBLIN: Yeah.

1 CHAIRPERSON HILL: Okay.

2 MR. KEATS: And also, just to address one  
3 quick point, what was said about the late letter and  
4 everything, that was because we went over and did a site  
5 visit because the stuff we were reading just didn't seem  
6 to add up for us. So, that's why that letter was late.  
7 It was not malicious intent. It was just --

8 CHAIRPERSON HILL: Okay.

9 MR. KEATS: -- we went over and looked at the  
10 property.

11 CHAIRPERSON HILL: No problem, Commissioner.  
12 And just so you all know, we're just going  
13 to try to get through this together and try to figure  
14 things out.

15 MR. SAUCEDA-GUZMAN: Thank you.

16 CHAIRPERSON HILL: So, Commissioner Roblin,  
17 are you going to be speaking on behalf of the ANC, and  
18 then, using your colleagues? Or who's going to lead?

19 MS. ROBLIN: Well, we have not had a vote yet.  
20 So, I believe I cannot speak on behalf of the whole  
21 ANC. And that's one thing I wanted to really ask you  
22 for, is we really want to have a vote before --

23 CHAIRPERSON HILL: Oh, no, no, no. I'm  
24 saying -- that's what I'm saying. And, Commissioner,  
25 you've been with us before. I'm trying to just see --

1 I don't think you need -- and, Commissioner Salvador,  
2 if you could mute yourself maybe?

3 MR. SAUCEDA-GUZMAN: Uh-hum. Oh, sorry.

4 CHAIRPERSON HILL: No problem.

5 And, Madam Secretary, I can't remember; maybe  
6 you can help me. Like I just needed a letter from  
7 somebody saying who is going to speak on behalf of the  
8 ANC. Isn't that correct?

9 MS. ROBLIN: Oh, I mean, if I can speak on  
10 behalf of the ANC without having a vote, yes. But what  
11 --

12 CHAIRPERSON HILL: Yeah. I don't think I  
13 need it. I don't think I need anything, Ms. Mehlert,  
14 unless I need something, right?

15 MS. ROBLIN: Okay.

16 MS. MEHLERT: I believe the ANC should be  
17 submitting a formal vote authorizing a representative  
18 for the case. They can submit something within seven  
19 days after the hearing authorizing the testimony, but  
20 --

21 CHAIRPERSON HILL: Got it.

22 Who hasn't sworn themselves in yet?

23 MS. MEHLERT: Commissioner Salvador.

24 CHAIRPERSON HILL: Okay. Commissioner, can  
25 you hear me again, Salvador?

1 MR. SAUCEDA-GUZMAN: Yes.

2 CHAIRPERSON HILL: Have you been on with us  
3 before, sir?

4 MR. SAUCEDA-GUZMAN: Yes, sir, uh-hum.  
5 Uh-hum.

6 CHAIRPERSON HILL: I recognize you. Oh, your  
7 camera just doesn't work, huh?

8 MR. SAUCEDA-GUZMAN: Correct, correct. It's  
9 just, you know, it can't work today.

10 CHAIRPERSON HILL: So, Commissioner, do you  
11 want to go ahead, and the Secretary is going to  
12 administer the oath to you.

13 MR. SAUCEDA-GUZMAN: Go ahead.

14 MS. MEHLERT: So, please raise your right  
15 hand, even though we can't see you.

16 MR. SAUCEDA-GUZMAN: Yes, Miss.

17 (Commissioner Salvador Saucedo-Guzman  
18 sworn.)

19 MS. MEHLERT: Consider yourself under oath.

20 CHAIRPERSON HILL: Okay. Great. Thank you.

21 MR. SAUCEDA-GUZMAN: Thank you.

22 CHAIRPERSON HILL: You know, Commissioner  
23 Roblin, all I was just trying to figure out is who is  
24 going to talk first, right? And I can get all the  
25 technical paperwork backing it all up later. But I

1 guess, are you going to talk first? That's all I'm  
2 trying to understand.

3 MS. ROBLIN: I would like to, unless Skip or  
4 Salvador would prefer to talk first. Yeah, any way is  
5 fine with me.

6 CHAIRPERSON HILL: Okay. I'm going to let  
7 you talk first then, because I can't see Commissioner  
8 Salvador.

9 And, Commissioner Keats, it's the first time  
10 you've been with us; I don't know -- sorry -- if you  
11 have or not. But Commissioner Roblin has been with us  
12 before.

13 So, what's going to happen? So, you all  
14 introduced yourselves. You've all been sworn-in. And  
15 so, what's going to happen is you guys are going to go  
16 kind of last -- okay? -- in your testimony. Okay?

17 So now, what I'm going to hear from, if I could,  
18 are the parties in opposition. And I think I see --  
19 let's see, is it -- Ms. Dawn, can you hear me?

20 MS. BOUTELLE: I can.

21 CHAIRPERSON HILL: Great. Oh, I'm looking  
22 at -- okay, great. Thank you.

23 So, I'm trying to remember, are you the one  
24 that's two doors down or one door down?

25 MS. BOUTELLE: Two doors down.

1 CHAIRPERSON HILL: Okay, great. Okay.  
2 Okay. So, Ms. Dawn, I mean, I'm just trying to keep  
3 everybody kind of on track. Right? Between you guys,  
4 we're going to try to keep you, like, 20 minutes. Okay?  
5 Right?

6 So, Ms. Boutelle, if you want to -- how do  
7 you say your last name gain?

8 MS. BOUTELLE: You're saying it right.

9 CHAIRPERSON HILL: Okay.

10 MS. BOUTELLE: And Natalie and Andrew and I  
11 have already talked. And so, we had kind of decided,  
12 if it's okay with you and the rest of the Board, that  
13 they would go first.

14 CHAIRPERSON HILL: Absolutely.

15 MS. BOUTELLE: Okay.

16 CHAIRPERSON HILL: Absolutely. So, I guess  
17 now, Ms. Martinez, do you want to go ahead and begin,  
18 and I'll just keep track over here with a little timer.

19 MS. MARTINEZ: Yes. Can we please pull up  
20 the slide show that we submitted to Paul?

21 CHAIRPERSON HILL: Sure.

22 MS. MARTINEZ: It helps keep us organized and  
23 on track.

24 CHAIRPERSON HILL: Yeah, absolutely.

25 MS. MARTINEZ: And my husband and I are going

1 to speak jointly because I did the research, but he made  
2 the PowerPoint. So, sometimes that might be best.

3 CHAIRPERSON HILL: No problem. No problem.

4 MS. MARTINEZ: Great.

5 So, as you can see, my name is Natalie  
6 Martinez. This is my husband Andrew Karay.

7 We bought our property, 1257 Morse; we closed  
8 in late June. Moved in July 1st. So, all of this, as  
9 you can imagine, is new to us and surprising, because  
10 this proposed development was not in the context of the  
11 home that we purchased quite recently, before the  
12 proposed development. So, to give some context to our  
13 concern.

14 Next slide, please.

15 As we know, we're here to discuss the three  
16 reliefs that they're seeking to construct a third-story  
17 rear and side addition to the existing single-family  
18 home and to convert the structure into a four-unit,  
19 multifamily building.

20 We believe, based on not only the testimony  
21 that Mr. Carballo just provided, but also the  
22 burden-of-proof statement which was updated on October  
23 7th, that they have not met the burden of proof which  
24 is on the Applicant to meet. We're going to go into  
25 a few ways why the project itself does not meet the burden

1 of proof, but I also encourage the BZA to review the  
2 Applicant's burden of proof, because it's often  
3 extremely circuitous and does not actually provide  
4 justification for how the burden of proof has been met,  
5 which, of course, is the duty of the Applicant to meet.

6 Next slide, please.

7 So, the first area that we want to discuss  
8 the burden of proof has not been met is that the light  
9 and air will not be unduly affected with this new  
10 development. Like I said, the Applicant asserts  
11 without supporting evidence that the proposed additions  
12 will not affect the light and air to neighboring  
13 properties, and, in fact, just alleged the same in his  
14 testimony, when, in reality, the 20-foot rear extension  
15 doubles the limit -- doubles what can be done by right,  
16 and inevitably, casts longer shadows and reduced light  
17 to adjoining rear yards on 1255 and 1257 in the evening  
18 hours.

19 We have another slide that demonstrates that.

20 It's not up for discussion; of course, it casts more  
21 shadows. The shadow study shows material impacts.  
22 These rowhomes were, of course, designed to have limited  
23 light to begin with because of their design, and any  
24 additional extreme rear development, of course, casts  
25 shadows in the afternoon to the properties to the east



1 side, but it also, if you'll note the letter about  
2 position from the owner, the soon-to-be owner of 1251  
3 Morse Street, it will cast significant shadows on their  
4 property as well in the morning, especially given the  
5 limited amount of light that already exists in 1251.

6 Further -- go ahead.

7 MR. KARAY: If I can jump in, if you actually  
8 go to the next slide, I want to address Mr. Carballo's  
9 assertion that only October is impacted, when, according  
10 to their own shadow study, year-round on the evenings  
11 both properties are cast in shadow, especially 1255,  
12 but 1257 as well.

13 As you can see here -- this was taken directly  
14 from their shadow study -- the assertion that this has  
15 no impact is completely false, in our opinion. We think  
16 it does have material impact on neighboring properties.

17 MS. MARTINEZ: And can you go back to the  
18 previous slide? I just want to make sure I concluded.

19 And, of course, the burden of proof here is  
20 that we will not be unduly affected, and the light, the  
21 reduction of light at -- I mean, right now, 1251, which  
22 we'll get to -- I know this isn't -- we're not here to  
23 discuss 1251, but it is an extremely contentious hearing  
24 as well; already casts shadows in the afternoon on the  
25 properties that are existing, as I'm looking out the

1 window to it.

2 I'd also like to bring up that the Applicant  
3 pointed out, without proof, that 1255 may have, could  
4 have had -- alleged that at one point could have had  
5 a rear extension; it doesn't. It just doesn't.

6 And he also made the allegation that the  
7 neighborhood is characterized by rear extensions, and  
8 I wouldn't say that to be true. Some properties have  
9 rear extensions; some do not. But the 1251 property  
10 that's in the -- to help (audio interference) to find  
11 justification for actions is an extreme pushout relative  
12 to the rest of the traditional rowhome properties.

13 Next slide, please.

14 MR. KARAY: But I'd add on there that, even  
15 if this neighborhood does have some 10-foot extensions,  
16 they usually are limited to the first floor, not three  
17 floors 20 feet back; there is no brick wall.

18 Next slide, please.

19 MS. MARTINEZ: So, the zoning regulations  
20 allow the Board to grant modest rear additions that  
21 slightly exceed beyond 10 feet -- 10 feet beyond the  
22 adjoining property, where justified. Here, the  
23 Applicant proposed a 20-foot projection, but offers --  
24 and this is where he asserts that they have no impact,  
25 but haven't made substantive justifications.

1           There have been no quantitative or visual  
2 analyses of its effect on neighboring rear windows or  
3 yards like mine. The pattern of rear massing along the  
4 block, the statute reads there needs to be a  
5 consideration of the view from the alley as well. The  
6 Applicant has not made any kind of said justification  
7 to the alley view.

8           And although there has been conducted -- you  
9 know, I don't think that it substantiates that no undue  
10 impact on airflow and daylight is assessed, and  
11 especially not on 1251; that the ground-floor units will  
12 now have 2 feet of separation between the property line  
13 and the pushout.

14           And we can actually get -- because we're going  
15 to talk about side yard, but, you know, the light going  
16 into especially the lower-floor units has not been  
17 addressed.

18           Next slide, please.

19           I'd like to talk about the side yard. I think  
20 it's important to take a look at this picture. While  
21 the proposed development ignores -- and I know that this  
22 is a zoning meeting and not a Code meeting, but it ignores  
23 the utilization of the egress as an emergency exit.  
24 This proposed development is going to be on the second  
25 and third floors 2 feet from the adjoining wall.

1           And then, the Applicant also failed to mention  
2   that the basement cellar unit will have a stairwell that  
3   goes into the unit --

4           MR. KARAY:   Along the property.

5           MS. MARTINEZ:  -- along the property.  So,  
6   of course, the current degree of separation that they're  
7   saying will -- the 5 feet, that the 5 feet will be on  
8   the ground floor is inaccurate, impossible, considering  
9   there will be a stairwell into the basement unit.

10          This affects, especially to me, the privacy  
11   of the neighboring unit, as, of course, as someone is  
12   entering into the basement, they'll be able to look up  
13   and look into the windows in this egress.

14          Next slide, please.

15          I think what I really struggle with as a new  
16   homeowner learning all about this process, is, you know,  
17   we live in a RF-1 zoning.  The proposal is not in harmony  
18   with the general purpose and intent of RF-1, which is  
19   one of the stipulations that the Applicant needs to meet  
20   in order to receive these exemptions.

21          The RF-1 zone is designed to preserve  
22   moderate-density, family-oriented housing, and the  
23   rhythm of the attached dwellings needs to fit the  
24   character of the neighborhood.  Dawn, who's going to  
25   speak next, is going to speak to the character of the

1 neighborhood and her long-time presence in the  
2 neighborhood.

3 But, obviously, this huge development outside  
4 of 1251, which was contentious and continues to be  
5 precedent-setting and unfortunate, it is not the -- it  
6 is not in harmony with the RF-1 zone that's supposed  
7 to be single-family homes with two units. And it alters  
8 the intensity and character of the block. It sets  
9 precedent for neighboring semi-detached and  
10 single-family rowhomes to seek similar conversions, and  
11 it conflicts with the RF-1 goal of maintaining  
12 consistency in lot (audio interference) height and  
13 massing along residential streets.

14 MR. KARAY: Cumulatively, over time, the  
15 fundamental character of the block is changing, and will  
16 change, just because of this.

17 MS. MARTINEZ: And it already has been done  
18 by 1251, which was extremely contentious. And Anna,  
19 who's on the phone, Dawn who was involved in that  
20 process, could speak to the historical opposition to  
21 this kind of redevelopment of Trinidad that's outside  
22 of the scope of a traditional rowhome.

23 MR. KARAY: Next slide, please.

24 MS. MARTINEZ: Like we said, the Applicant  
25 continues to not substantiate their requests and their

1 burden of proof. A lot of it is like, "Well, the burden  
2 of proof is that no privacy will be impacted, and no  
3 privacy is impacted; therefore, we've met the burden  
4 of proof." It's extremely circuitous and doesn't  
5 actually provide justifications.

6           So, while the Applicant does note that no  
7 windows will face 1255 Morse, it entirely omits the  
8 potential views into neighboring rear yards from upper  
9 floors. I know that the Applicant said that there would  
10 be no balconies, but, nevertheless, of course, there  
11 will be windows on the back, and does not address the  
12 privacy from the rear. It does not increase -- address  
13 the resulting impacts on privacy, noise, and shared  
14 outdoor spaces due to the increase in the occupancy,  
15 nor does it address the privacy of ground-floor units  
16 from the basement units and stairwells.

17           And then, the absence of this analysis of these  
18 elements leaves their claim that they've met the burden  
19 of proof unsubstantiated.

20           Next slide, please.

21           And finally, we're going to -- the next slide  
22 will show the degree to which this development deviates  
23 from the view, the traditional -- the character of the  
24 neighborhood as we know it, but, really, just the  
25 character of a typical D.C. rowhouse.

1           Obviously, the Applicant needed a few extra  
2 square feet, which is why they have the bumpout, which  
3 is -- there's no similarity on our block, in our view,  
4 anywhere in D.C. of such a modern take on a rowhouse.

5       And furthermore, again, it's up to the Applicant to  
6 substantiate that their burden of proof has met, you  
7 know, the need for relief, and their submission lacks  
8 context elevation or streetscape. It's in black and  
9 white. It should have been in color.

10           And then, the three-story rear projection,  
11 like we've said, substantially alters the rear alley's  
12 visual scale and block rhythm.

13           So, without such documentation, the Board  
14 cannot reasonably conclude that the addition will not  
15 visually intrude, as required.

16           MR. KARAY: And the next slide, please.

17           This kind of demonstrates nowhere in Trinidad  
18 is there both a pushout and stilts supporting the  
19 pushout. And beneath those stilts, which wasn't really  
20 addressed in the prior presentation, is the digout into  
21 the cellar. That is not -- that is not seen anywhere  
22 else on this block or in Trinidad.

23           And it doesn't also address how deeply  
24 compromised the visibility of their proposed units will  
25 be, when they're going to be so close -- you can see

1 windows on the side -- towards 1251.

2 MS. MARTINEZ: And how can the Applicant  
3 allege that the egress that is built for light and for  
4 emergency exit in 1251 -- how can they possibly say that  
5 the light and air will not be unduly affected, as you  
6 can see from this image?

7 Next slide, please. And this is, I believe,  
8 our last slide.

9 The combined relief represents a significant  
10 departure from zoning intent, which is, I think, what  
11 we're here to do today, to try to remain true to the  
12 zoning of the Trinidad neighborhood, which is  
13 predominantly single-family homes, especially on Morse  
14 Street.

15 Taken together, the requested exemptions --  
16 the conversion to four units, the reduction of the side  
17 yard, the doubling of the rear extension -- result in  
18 a fundamental change in density and character rather  
19 than a limited exception. And furthermore, the  
20 cumulative effect of more granted exceptions creates  
21 the effect of cascading precedent, and where such  
22 exemptions become the rule rather than the exception.

23 As you can see, the Applicant continually  
24 referred to 1251 as justification for their development,  
25 which is the perfect example of the precedence-setting



1 that this committee is in charge of deliberating. And  
2 the fact that 1251 was so contentious, and this one,  
3 clearly, with the 10-plus letters of opposition, is  
4 equally contentious, this is a fundamental -- this sets  
5 precedent to fundamentally change the zoning in the  
6 Trinidad community.

7 And I think that's the last slide, if I'm not  
8 mistaken. And I think Dawn -- I'm going to pass the  
9 floor to Dawn to speak to her 19 years in the community,  
10 who can really speak to (a) what these properties have  
11 been, and (b), her concerns.

12 CHAIRPERSON HILL: Okay. Thanks, Ms.  
13 Martinez. Thank you, Ms. Martinez.

14 Ms. Boutelle, do you want to go ahead?

15 MS. BOUTELLE: Hi. Yes. Thank you. Thank  
16 you to the members of the Board for allowing me to speak  
17 today, and thank you, Andrew and Natalie, for doing all  
18 that legwork with the PowerPoint slides.

19 I have been here in Trinidad since 2007, and  
20 I was one of the opposers to the property at 1251. One  
21 of my biggest contentions about it was that doing a side  
22 yard buildout would set a precedent in the neighborhood  
23 for changing the look and feel of these two -- the  
24 duplexes that are together.

25 In my letter of opposition, the third page,

1 I did kind of cobble together some pictures of what the  
2 street looks like with the duplexes. They're all really  
3 cute side by side, and I feel like this kind of exceptions  
4 to what is already allowed by right does fundamentally  
5 change the character and the look and feel of the  
6 neighborhood.

7           On top of that, what 1253 is proposing doesn't  
8 even look like a traditional rowhouse. 1251, although  
9 I did oppose it, it does come out entirely to the property  
10 line. So, you could make the argument that it does look  
11 like a traditional rowhouse, even though these are not  
12 traditional; they are the duplexes; whereas, 1253 is  
13 proposing a backset, which totally throws off the whole  
14 look and feel.

15           In doing so, of course, light and air is  
16 impacted. No one can say otherwise. When you are  
17 taking away space where light and air exists, it does  
18 impact the light and air.

19           And although 1251 only currently has one  
20 resident, that resident -- well, the person is in the  
21 process of purchasing -- that resident is opposed.

22           I have to say I'm very happy that we have the  
23 resident at 1251, and then, of course, the resident,  
24 Natalie and Andrew, at 1257, who are engaged. When I  
25 was fighting against 1251, the properties on both sides

1 were unoccupied. I was the nearest resident by far,  
2 and then, the properties on the other side of those were  
3 also unoccupied.

4           So, it's kind of also what falls into here,  
5 the property in question, 1253, has been historically  
6 unoccupied. It's had random residents kind of over the  
7 time that I've been here, but not the owner and no one  
8 for any longevity. And they haven't had anyone there  
9 for five years, and then, on either side, nobody, and  
10 then, on either side, nobody again. So, it's hard to  
11 say that, well, the person in the property right next  
12 to it does not, you know, does not oppose, when they  
13 do not exist.

14           I do want to address the bumpout. My house  
15 -- it was said that all these houses, the duplexes, have  
16 bumpouts. I went and actually ran to double-check my  
17 bumpout, because my bumpout is a fully enclosed back  
18 porch at 5 feet from the brick wall. My neighbor does  
19 not have one. The neighbor on the other side does have  
20 a back porch that's enclosed.

21           So, I would say maybe half of the properties,  
22 when it was alleged that only one property does not have  
23 a bumpout. So, half of the properties don't have a  
24 bumpout, and the ones that have a bumpout are back  
25 porches. There's two properties that have been

1 redeveloped, and, of course, they do, which one being  
2 1251 with the full extension.

3 And I also wanted to address the underpinning.

4 So, I appreciate the Applicants were willing to kind  
5 of address the ANC's concerns. Memories are long, and  
6 1233 was a property that dug out the cellar. None of  
7 the others have dugout cellars. But 2353, when they  
8 went to redo, they went to dig out the cellar, and the  
9 whole building collapsed. So, memories are long, and  
10 that was, you know, why there were concerns about  
11 underpinning, doing the underpinning of this project.

12 So, I just kind of wanted to address that.

13 But going back to, you know, the bumpout and  
14 the side, the second-floor bumpout on stilts, it is out  
15 of character with the rest of the neighborhood. It's  
16 out of character with this lot.

17 In addition to these five that have the  
18 duplexes, we do kind of have a break, and then, a couple  
19 more duplexes. So, there is more than just the  
20 traditional rowhouses on this block.

21 And as someone who has been here and been  
22 involved with the community for -- what? -- 18-19 years  
23 at this point, the look and the feel of the neighborhood  
24 substantially changing changes not just, you know, the  
25 air and the light, but it also changes things that don't

1 necessarily get addressed in these meetings, which is  
2 the consistency of, like, the water runoff, the parking,  
3 you know, like the schools. Like all of these things  
4 are impacted by the decisions that are made here.

5 And changing what would be a single-family  
6 home into four apartments entirely changes how the use  
7 and the density of the building is being utilized. And  
8 although it's not necessarily your job here, it is  
9 something that is a trickle-down effect.

10 And just one last thing. You know, there's  
11 been trees talked about -- because I've been sitting  
12 here all day kind of listening to everyone, and trees  
13 have been talked about a lot, about the shade studies.

14 Trees are not permanent structures and trees  
15 lose foliage. And so, to compare them to say, oh, well,  
16 the light study shows that they have trees, so, you know,  
17 the light study shouldn't be impacted -- you know, trees  
18 get cut down; they get blown down; they get torn down,  
19 but buildings are forever.

20 So, thank you so much for your time today.  
21 I really appreciate the opportunity to speak.

22 CHAIRPERSON HILL: Thank you. Thanks, Ms.  
23 Boutelle. Thanks, Ms. Martinez and Mr. Karay.

24 Okay. I'm going to keep moving.

25 By the way, just real quick on that bumpout

1 thing, whatever might have been there or was there, it's  
2 not there now. So, you know, we're looking at what is  
3 there now. So, just to let you all know.

4 Okay. Let's see. Commissioner Roblin, can  
5 you hear me?

6 MS. ROBLIN: Yes.

7 CHAIRPERSON HILL: Okay. I'm going to ask  
8 the Secretary to help me make sure I get all the paperwork  
9 that's necessary from the ANC later. But, currently,  
10 do you want to go ahead and give us the ANC's testimony?

11 MS. ROBLIN: Yes, thank you very much.

12 My name is Anna Roblin. This case is in my  
13 SMD in southern Trinidad.

14 I am very concerned about this case. The  
15 community, as you've seen, extremely strongly opposes  
16 it. We have about 10 letters of opposition and I have  
17 one more that I'm posting. We have three parties in  
18 opposition now, and there will definitely be a fourth  
19 party in opposition, as Natalie said, who has just bought  
20 1251.

21 The case file has an extremely large amount  
22 of errors, which is extremely concerning. It's to the  
23 point where I feel certain that whoever entered their  
24 documents into the case file did not visit the premises,  
25 or they would never have made the mistakes they made.

1           And it's extremely troubling to me that, after  
2 the ANC wrote to Ms. Safinia requesting more information  
3 -- you can see the document that I attached to this letter  
4 here in the written file, so that we could accurately  
5 inform our fellow Commissioners of the facts -- they  
6 just never responded back to us.

7           I really don't think that we were asking for  
8 too much information. I think that it was an adequate  
9 amount of information for what was needed for  
10 Commissioners to make their mind up and vote about the  
11 building.

12           So, we had told them in this letter that they  
13 needed to attend our November public meeting rather than  
14 our October meeting. And I'm aware that they were not  
15 happy about that request, and they were not happy, as  
16 they have said here as well, about our request that we  
17 gather an adequate amount -- or what we felt to be an  
18 adequate amount of information given to us, so that we  
19 could accurately poll the vote.

20           But it was really shocking to me that they  
21 simply ignored our request and never even returned mail,  
22 and that they appear to think that it's okay to come  
23 here to this hearing without the ANC having voted.

24           And I was thinking, well, maybe because Ms.  
25 Safinia is from Baltimore, she does not understand how

1 BZAs in D.C. work, but we have never had somebody ever  
2 refuse to have a vote in our Commission before they went  
3 here to the BZA. So, I was just, you know, very shocked  
4 about that.

5 The mistakes in their case file are extreme.

6 I mean, they include things like a lot of faulty  
7 measurements. They said that 1251 Morse is two stories  
8 instead of three stories. This is all in the case file  
9 with you.

10 They mentioned a street called Warder as being  
11 in the immediate neighborhood, but it's nowhere close  
12 to us. It's a street in Northwest.

13 They completely failed to mention that there's  
14 a cutout in 1251, as has been spoken about by Natalie  
15 and Andrew, which their plans for the side yard could  
16 be very problematic for regarding fire and egress  
17 issues. They never even showed that cutout in their  
18 plans at all.

19 The letters of support they have from  
20 neighbors which neighbors signed only mention going 10  
21 feet back, not 20 feet. So, I don't think those letters  
22 should be deemed valid.

23 Our Zoning and Development Committee's  
24 Co-Chair Skip Keats has specifically delineated their  
25 errors. So, I request that, you know, he be allowed



1 to speak, if that's possible.

2           They are claiming that the neighbors' light  
3 and air will not be adversely affected, which we believe,  
4 as has been said here by the parties, is highly unlikely  
5 to be true. And I don't believe they have done an  
6 adequate, good quality shadow study. How can they  
7 possibly tell exactly how much our light will be affected  
8 if they have not done a serious professional shadow  
9 study? And that was one of the things that we requested,  
10 was a shadow study.

11           The bedrooms of their units are extremely  
12 small. So, to me, it seems like -- I hate to say it  
13 -- but it seems like they just want to charge the buyer,  
14 the renters a three-bedroom price rather than making  
15 two-bedroom units that are a decent size for the  
16 bedrooms. I don't consider that being a healthy way  
17 for people to live in a bedroom that small.

18           I did want to mention that it appears that  
19 OP has not visited the property yet, because they did  
20 say in their statement that the building is attached  
21 on both the east and the west side, and that is not the  
22 case.

23           And they also never mentioned the lightwell  
24 in 1251 and the fire issues, which we believe will more  
25 than likely constitute a serious Code violation.

1           So, I just think that it should be obvious  
2 to everyone that they need to go back and make a lot  
3 of changes. And I cannot -- I will not ever recommend  
4 the project to the ANC or to the BZA to support it, unless  
5 it really moves from being as detrimental as it is to  
6 the community, to being good for us.

7           So, I would ask you definitely send them back  
8 for these kinds of errors and have everything corrected.

9           And I respectfully request that we be allowed to vote  
10 on this project before the BZA votes.

11           Thank you for your time and attention.

12           CHAIRPERSON HILL: Thanks, Commissioner.

13           Let's see. Commissioner Keats, Commissioner  
14 Roblin wanted you to add some context?

15           MR. KEATS: Yes. First off, I'm not a  
16 Commissioner. I am the Co-Chair of the Zoning and  
17 Development Committee. It's an appointed position.

18           CHAIRPERSON HILL: Okay. Got it.

19           MR. KEATS: Commissioner Salvador  
20 Saucedo-Guzman, who is the Chairman of the ANC, is the  
21 other Chair; he's the other Co-Chair of the Zoning  
22 Committee.

23           CHAIRPERSON HILL: Got it.

24           MR. KEATS: Is that clear? I just want to  
25 be certain, so nobody accuses me of being something I'm

1 not.

2 CHAIRPERSON HILL: All right.

3 MR. KEATS: Also, I want to clarify a couple  
4 of things. They submitted some plans, which, then, they  
5 submitted some revisions to, which some came in before  
6 we started writing the letter -- or, I mean, I should  
7 say, very little of that came in before we started  
8 writing the letter in the sense of when we were looking  
9 at stuff. Some of it came in as the letter was writing  
10 and things like that. So, it was changing.

11 But, yes, the couple of things I want to --  
12 one of the concerns -- let me pull up my -- one second.

13 The reason we requested a bunch of those  
14 documents is because we've had buildings -- we had a  
15 building that collapsed in this, in 5D, back in June.

16 It's a different situation, but I'm sure the Board is  
17 aware of the building that collapsed up on B Street.

18 That's why we wanted to have an understanding of what  
19 their underpinnings, and everything, would be, when they  
20 were going to excavate. We don't want the building  
21 collapsing.

22 But other concerns we had, which just led to  
23 us asking for the various types of documents, are: the  
24 lightwell in 1251, it has a sliding door on it on the  
25 first level, but turns that into a patio. And there

1 windows that look down on it. That, potentially, could  
2 serve as a fire escape. There is a fence -- 1251 is  
3 built to its property line, and there is a fence there,  
4 that you would have to put a ladder up and over. But,  
5 as this fence now, someone could come over that and come  
6 down a couple of feet and they'll hit grass, which for  
7 a fire is fine, but --

8 CHAIRPERSON HILL: Hey, Mr. Keats, once  
9 again, I'm just trying to -- I mean, I don't think FEMS  
10 is something that's necessarily we're experts upon.  
11 So, I don't know if --

12 MR. KEATS: No. Well, what I'm trying to  
13 point out, though, is that, if you look at the areaway  
14 on their revised plans, I think it will show it lines  
15 up with that lightwell.

16 The other issue we have is that, when they  
17 put in that side addition, it's going to reduce the light  
18 coming to the windows in their own building, as well  
19 as this lightwell in 1251. And we're concerned about  
20 that.

21 It does not meet the -- it does not meet --  
22 it does not match the rest of the neighborhood.

23 The reason we asked about -- we're also  
24 concerned about the piers looking very small. And we  
25 asked about cladding because the zoning -- the Building

1 Code talks about the distance between buildings all  
2 depends on the cladding and things. And at one point,  
3 with that side extension, it's going to be 3 feet from  
4 1251, and what the Committee is concerned about is the  
5 potential for fire and things like that.

6 And that is why we asked for the various  
7 documents. They all went to trying to avoid a building  
8 collapse, like has happened elsewhere recently. And  
9 according to Mr. Carballo, these may not be our concerns,  
10 but they are the neighborhood's concerns.

11 CHAIRPERSON HILL: Okay. Okay. Thanks, Mr.  
12 Keats.

13 MR. KEATS: So, as far as the errors that I  
14 found, some of them have been cleared up; some of them  
15 still retained.

16 Warder Street, the Warder Street bit -- Warder  
17 Street is over near the McMillan Reservoir, and it's  
18 in there describing how -- describing the environs  
19 around this building. And I'll read it.

20 It says, "Will not virtually affect the  
21 rowhomes to the north and south of the property, nor  
22 will the addition adversely affect the properties to  
23 the east and west of the building, as they are separated  
24 from the building by a public alley and Warder Street,  
25 respectively."

1 Alignment to this building is sort of like  
2 it would be northeast-southwest. And so, I just sort  
3 of used the standard directions. The street is to the  
4 north. 1251 is to the west; 1255 is to the east, and  
5 the alley is to the south. That's just one type of error  
6 that exists in their burden of proof.

7 CHAIRPERSON HILL: Okay, Mr. Keats, just let  
8 me interrupt you one second.

9 MR. KEATS: Uh-hum.

10 CHAIRPERSON HILL: So, let me start to go  
11 through this a little bit more. Like I think that, you  
12 know, there's a lot of questions the ANC has from this  
13 Applicant, and I think something's going to have to be  
14 done about that, one way or the other.

15 So, let me kind of move through this a little  
16 bit more. I'm going to turn to the Office of Planning.

17 MR. KEATS: I think that the Office of  
18 Planning -- I think --

19 CHAIRPERSON HILL: Mr. Keats?

20 MR. KEATS: Yes?

21 CHAIRPERSON HILL: I'm asking for the Office  
22 of Planning's testimony.

23 MR. KEATS: Okay.

24 CHAIRPERSON HILL: No problem.

25 And then, Mr. Carballo, just so -- oh, God,

1 I want to say, "Caballo" -- Carballo -- Mr. Keats, if  
2 you don't mind muting your line?

3 MR. KEATS: Oh, sorry.

4 CHAIRPERSON HILL: No problem.

5 Mr. Carballo, so again, the way this is going  
6 to work is that, after we hear testimony from everybody,  
7 everybody is going to have an opportunity to ask  
8 questions, and we'll see, you know, how long that goes  
9 in terms of they need to be pertinent to what's before  
10 us.

11 But, Mr. Carballo, you'll have an opportunity  
12 for rebuttal. And basically, all that means, again,  
13 is that anything that gets said, you'll have a chance  
14 to at least give comment towards, right? You've been  
15 with us before.

16 MR. CARBALLO: Yes, sir.

17 CHAIRPERSON HILL: And then, all of the people  
18 who are here will have an opportunity to also ask  
19 questions of your rebuttal. So, just to let everybody  
20 know.

21 So, may I hear from the Office of Planning,  
22 please?

23 MS. MYERS: Good afternoon. Crystal Myers  
24 with the Office of Planning.

25 The Office of Planning is recommending

1 approval in this case -- with the condition that the  
2 trash and recycling area be enclosed with a privacy fence  
3 to minimize impacts to the neighborhood property.

4 I understand that there is a lot of interest  
5 in this case, and let me just touch upon why we  
6 recommended approval.

7 When it comes to the general Special Exception  
8 criteria, we do believe that it meets the general Special  
9 Exception. RF-1 allows for conversions to apartment  
10 buildings. And so, this would be allowing for that to  
11 occur.

12 And we believe that it does meet the criteria  
13 of E 5201. So, when it comes to the relief needed for  
14 the rear extension and for the side yard, we believe  
15 that those are -- or when it comes to the impacts to  
16 the neighboring properties, we do believe that those  
17 are being mitigated and to not be unduly impactful to  
18 the neighboring properties. So again, the general  
19 Special exception criteria is satisfied.

20 For the conversion criteria, for a four-unit  
21 apartment building in this zone, we need at least 3,600  
22 square feet, and this property is meeting that -- exceeds  
23 that, actually. You also have to have one of the units  
24 be an IZ unit, which they are going to be doing. So,  
25 it complies with that criteria.



1           For the 5201 Special Exception part, the side  
2 yard and the rear extension, when it comes to light and  
3 air, the Applicant has already provided a shadow study,  
4 but more what we were looking at at the time, we were  
5 looking at the fact that the adjacent property at 1255  
6 Morse Street should not be unduly impacted. The  
7 neighboring property does not have windows facing the  
8 subject property. So, the addition would not unduly  
9 impacts their light and air.

10           And in regard to the neighbor's rear yard,  
11 there is a substantial large tree in their backyard.

12       So, for a good portion of the year when the tree has  
13 leaves, that would -- that actually casts significant  
14 shade in its own right.

15           And as for the neighboring property at 1251  
16 Morse Street, that building was recently expanded, as  
17 we have discussed, and their size is similar to what  
18 is being proposed. And the rear is designed, for this  
19 project, the rear is designed to be aligned with the  
20 rear of that neighboring property. And so, the light  
21 and air, again, should not be significantly impacted  
22 for that property.

23           For the privacy, use, and enjoyment, the 1251  
24 Morse Street, Northeast, property does not have -- or  
25 that building does not have windows along the side that

1 face this neighbor, the existing property that we're  
2 talking about, nor the subject property that we're  
3 talking about now. And the addition would not have any  
4 windows or openings along the side facing the house at  
5 1255 Morse Street, Northeast. So, we don't think that  
6 the property, that privacy would be significantly  
7 impacted.

8 As for being able to see in the rear yard,  
9 that is a public area. So, we don't consider that to  
10 be an undue impact, to be able to see into the rear yard,  
11 because that is pretty common for a rear yard situation.

12 And then, for what is allowed or how it is  
13 when it comes to the character of the neighborhood, as  
14 has been discussed, you know, the property next door  
15 has already been redeveloped similarly. What is being  
16 proposed here would not be significantly out of  
17 character for what is along this street.

18 And I believe this Applicant will be painting  
19 their building a similar color to what is being -- what  
20 has been done on the adjacent property.

21 And again, this is not -- or "not again" --  
22 but this is not a Historic District. And so, what is  
23 being proposed we feel is within the character of the  
24 neighborhood along the street and along the alley.

25 So, with that, I will conclude the OP

1 testimony, but, of course, here for questions. Thank  
2 you.

3 CHAIRPERSON HILL: Okay, great. Thanks.

4 What I'd like to do, if I can, I'm actually  
5 just going to hear from my Board members, if you guys  
6 are kind of prepared with any questions that you might  
7 have.

8 And then, I'll go ahead and see, in the same  
9 order that we took testimony, who has questions of whom.

10 MS. ROBLIN: Commissioner Salvador did not  
11 speak yet.

12 CHAIRPERSON HILL: Commissioner Salvador,  
13 can you hear me? Do you have any additional -- do you  
14 have any additional different testimony to add?

15 MR. SAUCEDA-GUZMAN: No, I just want to make  
16 it clear on behalf of the ANC that we had a poor ability  
17 to get a good amount of time to, one, address the  
18 discrepancies on this very, very, very poor application  
19 that was submitted, and discuss the new items that were  
20 submitted thereafter, after I think our only one or two  
21 meetings that we had.

22 I know that Mr. Carballo mentioned that we  
23 worked with Shima. I think there was some disconnect  
24 between them, him himself and her, in terms of what we  
25 were discussing in our back end.

1           We did our due diligence to speak with these  
2 folks, to ensure that we were going about everything  
3 correctly. We support housing coming into our  
4 neighborhoods, but the application was so poorly  
5 written, we couldn't even speak, as a Commission, to  
6 vote on it, to actually make a decision on this, because  
7 we had the worst information available.

8           I understand that some of these discrepancies  
9 have been fixed since then, but, as a Commission, we  
10 were not given the proper opportunity to speak on this  
11 and vote on this, as we typically do with every applicant  
12 that comes across our desk.

13           In my six years as an ANC Commissioner, I have  
14 never seen anything like this before, an application  
15 so poor, and I've never seen the inability to be able  
16 to vote on a case, either. So, I understand that OP  
17 and some of the other folks say, yes, they want to approve  
18 this, but to do this without input, direct input, from  
19 the neighborhood and the ANC Commission is beyond --  
20 it is beyond me even thinking that this is even possible.

21       This is entirely new to me; I didn't know that this  
22 was possible.

23           So, I just want to say we didn't do anything  
24 that we wanted to stick it to this Applicant or anything  
25 like that. No, we were doing our due diligence. We

1 had questions to discrepancies and issues that were  
2 arisen. We clearly saw a copy-and-paste from a  
3 different application submitted on this application;  
4 hence, why we questioned these concerns, because this  
5 was just -- this was just pretty much pushed on us to  
6 get it done as quickly as possible, and now we're having  
7 this hearing today.

8 We requested a postponement because, clearly,  
9 we saw fallacies. We weren't responded -- we never  
10 received a response to our initial letter of these  
11 discrepancies or a postponement. So, we just wanted  
12 more time to actually do this how we typically would  
13 do it.

14 So, my neighbors, my colleagues, they stated  
15 what they needed to say in opposition of the project,  
16 but, as the Chairman of ANC 5D, my main concern, and  
17 why I'm here today during my lunch break, is because  
18 I wanted to make the fact known that this Applicant did  
19 not give us the proper opportunity to discuss the real  
20 plans of this case, being that the numbers were not  
21 matching, the streets were not matching. A lot of  
22 information was very incorrect.

23 And I know this can be quickly overlooked in  
24 this process of a hearing, because you guys don't have  
25 the opportunity to look at the details. We looked at

1 those details and there was just way too much mess-ups  
2 -- way, way, way too many.

3 That's why, as the Commission, we weren't  
4 given -- we weren't giving this Applicant an opportunity  
5 to come to our meeting because they didn't have the right  
6 information for us to make a decision. So, I just want  
7 to make that clear, and on behalf of ANC 5D.

8 CHAIRPERSON HILL: Okay. Thank you.

9 So, you guys, again, I read a lot of this stuff  
10 that was in the record, obviously, right? And so, my  
11 hope in this was that, hopefully, this could start some  
12 understanding as to wherever you guys are. I'm talking  
13 to the ANC now, though, right?

14 And at the end of the day, we do need to process  
15 the application. So, we'll see what happens next, but  
16 also, at the end of the day, we get things from the ANC  
17 that basically says, "We don't have enough information.

18 We don't think the information is accurate. We're  
19 voting to deny." And that's the information that we  
20 get from the ANC.

21 So, I'm just saying that you do have an  
22 opportunity to vote against an application as well, but  
23 I understand everything that you've been saying. I just  
24 want to get us -- I thought that this was going to be  
25 helpful, and I still kind of think it's going to be

1 helpful.

2 So, okay. Okay. So, Commissioners -- not  
3 Commissioners -- my Fellow Board Members, do you guys  
4 have any questions at this particular point, or do you  
5 want to just let me keep continuing and you can add at  
6 the end your questions?

7 Go ahead, Commissioner Wright. Thank you.

8 COMMISSIONER WRIGHT: I have a question of  
9 the architect, Mr. Carballo.

10 I noticed in the upper two floors of your  
11 proposed project you not only have three bedrooms, but  
12 three bathrooms, which is a little unusual for property  
13 that you assume is going to be for a family. I think  
14 that's more typical when you imagine a property with  
15 three roommates. Can you explain why you have three  
16 bedrooms and three bathrooms?

17 MR. CARBALLO: Just to provide an amenity to  
18 each bedroom. Two bedrooms are en suite; one is a hall  
19 bath. This was requested by our client and the property  
20 owner.

21 COMMISSIONER WRIGHT: Could you also address  
22 exactly how the stairway to the lowest floor is going  
23 to interact with the extension and the posts that hold  
24 that extension up, you know, the 3-foot bumpout?

25 MR. CARBALLO: Sure. So, the staircase that

1 accesses the lower unit is effectively an English  
2 basement. It is an areaway. That areaway stairs do  
3 not have a setback requirement. We're making an  
4 oversized areaway in order to allow for additional light  
5 and air to that lower unit.

6 The columns that we have that support the  
7 second and third floor don't interact with that  
8 lightwell or that areaway stair. The rear stair, if  
9 you see on our presentation, they do align with the  
10 foundation wall that supports the rear stair, but the  
11 column is sitting on a foundation wall.

12 COMMISSIONER WRIGHT: So, to make sure I  
13 understand, the 3-foot bumpout area and the columns,  
14 does any portion of that overhang the areaway that you're  
15 creating?

16 MR. CARBALLO: Only the stair portion, but  
17 not the -- the rear stair. Now, this is probably more  
18 easier to understand if you look at the floor plan for  
19 the first floor, but there is no overlap for the actual  
20 areaway portion; only the staircase.

21 CHAIRPERSON HILL: Mr. Carballo, do you know  
22 where that is in your slide deck?

23 MR. CARBALLO: I sure do. It's page 9.

24 CHAIRPERSON HILL: Page 9.

25 Mr. Young, could you please pull up page 9



1 of Mr. Carballo's slide deck?

2 MR. CARBALLO: So, you can see at the rear  
3 stair there is a column. We see our three columns that  
4 represent -- and then, you see the dashed line of the  
5 overhang above. So, it actually doesn't align with the  
6 actual areaway portion; just the staircase, the rear  
7 staircase that leads out from that areaway.

8 CHAIRPERSON HILL: Do you see it,  
9 Commissioner Wright?

10 COMMISSIONER WRIGHT: Yes, and I apologize  
11 that I have to, like --

12 CHAIRPERSON HILL: No, no, no. I'm saying  
13 if you pull up --

14 COMMISSIONER WRIGHT: -- with my face right  
15 up into the camera.

16 CHAIRPERSON HILL: If you can pull up on your  
17 laptop --

18 COMMISSIONER WRIGHT: Yeah.

19 CHAIRPERSON HILL: I don't know if you have  
20 more than one, and I just happen to. But you can see  
21 kind of the dashed line --

22 COMMISSIONER WRIGHT: Yeah. No, I see it.  
23 I see it, yeah. It, essentially, extends over the  
24 staircase that in this image is to the right of the  
25 areaway.

1 MR. CARBALLO: Correct.

2 COMMISSIONER WRIGHT: Uh-hum.

3 MR. CARBALLO: Yeah, the rear bumpout itself  
4 is -- or excuse me -- the side yard bumpout is  
5 approximately 20 feet. And it's also 40 feet from the  
6 front face of the building, not including the bay window  
7 on the front. That's an existing architectural  
8 feature.

9 COMMISSIONER WRIGHT: Uh-hum.

10 MR. CARBALLO: So, it's quite a ways back and  
11 it's for a minimal stretch of that.

12 CHAIRPERSON HILL: Okay. Mr. Young, could  
13 you drop out, please?

14 Okay. Commissioner Wright, anything else at  
15 this point?

16 COMMISSIONER WRIGHT: No, there were just the  
17 points of clarification I wanted right now. Thank you.

18 CHAIRPERSON HILL: Thanks.

19 Vice Chair Blake?

20 VICE CHAIR BLAKE: I had a couple of quick  
21 questions.

22 I looked at the plans as well, and one of the  
23 questions I had was, I believe the IZ unit is in the  
24 cellar, is that correct?

25 MR. CARBALLO: Yeah, that's correct.

1 VICE CHAIR BLAKE: But I don't believe -- hum?

2 MR. CARBALLO: Yes, sir. Yeah, we're showing  
3 the IZ unit --

4 VICE CHAIR BLAKE: I don't believe that is  
5 allowed, to have the IZ in the cellar. You might want  
6 to check that.

7 The second thing is, the Office of Planning  
8 has suggested and had a condition on having trash  
9 enclosed in a recycling area.

10 MR. CARBALLO: Uh-hum.

11 VICE CHAIR BLAKE: As a general rule, we  
12 prefer that to be shown in the plans. And we're not  
13 going to condition that, but it should be represented  
14 before -- and when you present your plans to us. Okay?

15 MR. CARBALLO: It's located on the site plan,  
16 sir.

17 VICE CHAIR BLAKE: Okay. So, it should  
18 resolve. They mentioned they didn't have it before.

19 MR. CARBALLO: Yeah.

20 VICE CHAIR BLAKE: I did go through the  
21 documents myself and I did notice a fair amount of  
22 inconsistencies which concern me, and especially with  
23 regard to the community outreach, when I saw the form  
24 letter that was distributed to the neighbors and the  
25 fact that it did mention a 10-foot addition, which would

1 be disarming, and it was actually a 20-foot addition.

2 And so, I do think that there may be a community  
3 outreach issue that you guys should try to address  
4 sincerely. And I think, given what's happening with  
5 the ANC, I can understand their concerns, and I think  
6 there is a balance, when there's overreaction, but  
7 certainly, I do think that we definitely want to get  
8 that community input.

9 And thank you very much, Mr. Carballo.

10 The question I get from the Commission, and  
11 also, if there is a neighbor -- and maybe it's not  
12 appropriate for this, but the status of 1251, does anyone  
13 know? Is that -- you said there's one person that  
14 communicated about that -- is it a condo building? Is  
15 it occupied? We don't have anybody here from 1251  
16 saying anything. So, I'm trying to understand, if  
17 that's the most affected party, I'm curious about that.

18 The other thing, too -- and maybe you guys  
19 could also address this -- we don't have windows on 1251.

20 We do have that court. And I wanted to again understand  
21 the impact of the court -- that on the court and the  
22 light impact from that. Those are the kind of things  
23 I'd like to talk about.

24 CHAIRPERSON HILL: I mean, hold on a second.

25 Hold on a second.

1           So, Commissioner Roblin, since you are the  
2 person who I started this with, I think the first  
3 question that Mr. Blake had was, who's in that unit right  
4 now? There is somebody that's there, right? And okay.

5       And I can't remember, you're saying that that person  
6 did submit something into the record in opposition?

7           MS. ROBLIN: Yes. She wants to be a party  
8 as well, but she didn't have the time yet. And she was  
9 under the impression that, in order to be a party, she  
10 has to sign the paperwork, because hasn't -- she's going  
11 to do that on Friday.

12          CHAIRPERSON HILL: Unfortunately, I think the  
13 time limit is up for that. But she can speak as a member  
14 of the public, you know. And so, that's something that  
15 you might want to point out.

16          VICE CHAIR BLAKE: Is there something in the  
17 record right now from her?

18          MS. ROBLIN: Yes.

19          CHAIRPERSON HILL: They're all nodding.

20          VICE CHAIR BLAKE: Okay, but what exhibit is  
21 it? What exhibit is it?

22          CHAIRPERSON HILL: Anybody know what exhibit  
23 it is?

24          MS. ROBLIN: One second.

25          CHAIRPERSON HILL: They're all looking.

1 MS. ROBLIN: I also wanted to say that I  
2 believe that their measurements on the side of the 1251  
3 side are wrong, because 1251 came to the property line.

4 And I believe they don't have that. So, I think that's  
5 something that's really important that's not accurate  
6 in their paperwork. 1251 is now at the property level.

7 So, they're talking 3 feet and 5 foot. That whole thing  
8 needs to be changed. Unfortunately, I don't have a  
9 great comprehension --

10 CHAIRPERSON HILL: That's okay,  
11 Commissioner, given the things -- everybody hold on.

12 MR. KARAY: Yes, but I think I've got it,  
13 Exhibit 33.

14 CHAIRPERSON HILL: Exhibit 33.

15 Mr. Keats, you have your hand up, but what  
16 is it that you'd like to say?

17 MR. KEATS: We note that the lightwell in 1251  
18 has windows on it.

19 CHAIRPERSON HILL: Hold on a second.

20 MR. KEATS: While the walls that are right  
21 on the property line do not, the lightwell in 1251 has  
22 windows. It also has a sliding door that turns the floor  
23 of that lightwell into a patio. And if that had to  
24 become a fire escape, for example, with the areaway for  
25 1253 --

1 CHAIRPERSON HILL: Hold on. Hold on. Hold  
2 on, Mr. Keats, one minute. Let me just -- you're not  
3 giving more testimony.

4 MR. KEATS: Okay.

5 CHAIRPERSON HILL: Just let me --

6 MR. KEATS: We're worried about the fall,  
7 essentially.

8 CHAIRPERSON HILL: Yeah, well, I don't know  
9 whether that's necessarily a -- anyway, okay.

10 MR. KEATS: If they're all windows there,  
11 that's what I'm getting at.

12 CHAIRPERSON HILL: Mr. Keats, thank you.

13 MR. KEATS: I'm sorry.

14 CHAIRPERSON HILL: That's all right. I heard  
15 you.

16 By the way, oh, God, I've got to let you guys  
17 know, we're going to do another one after this in this  
18 exact same way, and then, we're going to do an appeal.

19 So, I'm trying to, like, pace myself. Okay?

20 Mr. Carballo, you had your hand up.

21 MR. CARBALLO: I'm not sure this is the  
22 appropriate time to bring this up. However --

23 CHAIRPERSON HILL: It's probably not then,  
24 Mr. Carballo, but go ahead.

25 MR. CARBALLO: The lightwell thing, that's

1 not a path of egress. You can't egress from one person's  
2 property by way of an adjoining property.

3 CHAIRPERSON HILL: Why don't you go ahead and  
4 just --

5 MR. CARBALLO: So, all of this is irrelevant.

6 CHAIRPERSON HILL: Hold on. What I was going  
7 to say, when you get to rebuttal, whenever we finally  
8 get to that, okay --

9 MR. CARBALLO: Yeah.

10 CHAIRPERSON HILL: -- you can go ahead and  
11 have your rebuttal. Okay?

12 MR. CARBALLO: Sure. Okay.

13 CHAIRPERSON HILL: Thank you.

14 So, Mr. Blake, you got your two questions  
15 answered, correct?

16 VICE CHAIR BLAKE: In part.

17 MS. MARTINEZ: And I've been in communication  
18 with --

19 CHAIRPERSON HILL: Hold on. Who's talking?  
20 Oh, okay. Ms. Martinez, hold on for a second.

21 MS. MARTINEZ: Yeah.

22 CHAIRPERSON HILL: By the way -- by the way,  
23 you can't give testimony from somebody else. Okay?

24 MS. MARTINEZ: That's fine.

25 CHAIRPERSON HILL: Just so you know. Okay.



1 Mr. Blake, go ahead, please.

2 VICE CHAIR BLAKE: Well, I said before I think  
3 I've gotten some of my questions answers, but the answers  
4 I've gotten are what they are. Again, I want to just  
5 get the color on those issues with the 1251, the existing  
6 occupants. I appreciate that color. And that's all  
7 I need for right at this moment.

8 CHAIRPERSON HILL: Okay, great.

9 So, I've been just informed by the Secretary  
10 that the purchaser of 1251 has signed up, but they need  
11 an ASL interpreter. So, we're going to see what happens  
12 next.

13 And just to let you all know, this is not  
14 getting done today. Okay? So, let's just, like, keep  
15 that in mind. Okay?

16 So now, we're going to have questions from  
17 you guys. And so, if you can try -- oh, sorry, go ahead,  
18 Mr. Blake.

19 VICE CHAIR BLAKE: Yeah. So, this is one  
20 purchaser that will be moving in 1251. How many units  
21 at 1251? Four? Three?

22 CHAIRPERSON HILL: The plan has got three  
23 units.

24 VICE CHAIR BLAKE: Three? So, the other two  
25 are vacant?

1 CHAIRPERSON HILL: People seem to be nodding  
2 yes.

3 VICE CHAIR BLAKE: And how long has it been  
4 there? Construction completed when?

5 CHAIRPERSON HILL: I don't know.

6 MS. MARTINEZ: I believe six months.

7 VICE CHAIR BLAKE: Six months.

8 MS. MARTINEZ: At least. At least.

9 MR. KARAY: So, they've never been occupied  
10 in the time that we were both the early purchase of our  
11 home to actually living here for the last four months.

12 CHAIRPERSON HILL: Okay. For the record,  
13 that was Mr. Karay.

14 MR. KARAY: Yes. Apologies.

15 CHAIRPERSON HILL: All right. That's all  
16 right. Okay.

17 Oh, it's good to have a standing desk. I hope  
18 you guys have standing desk. I've got to let you know  
19 it's really helpful.

20 Okay. Okay. So, the next person that gets  
21 to ask questions is going to be -- I guess, Mr. Carballo,  
22 it's going to be you. So, do you, Mr. Carballo, have  
23 any pertinent questions to ask any of the people in  
24 opposition or the ANC -- that are not rebuttal?

25 MR. CARBALLO: That aren't rebuttal?

1 CHAIRPERSON HILL: Pertinent questions.

2 Yes.

3 (Pause.)

4 Okay, you think about it. You think about  
5 it.

6 MR. CARBALLO: One question I do have is that  
7 --

8 CHAIRPERSON HILL: Go ahead, Mr. Carballo.

9 MR. CARBALLO: -- the property -- property  
10 owners at 1257, which does not share a property line  
11 with our property --

12 CHAIRPERSON HILL: That's Miss Dawn?

13 MR. CARBALLO: Yes.

14 CHAIRPERSON HILL: Oh, I'm sorry.

15 Ms. Martinez?

16 MS. MARTINEZ: We're at 1257.

17 MR. KARAY: That would be us.

18 MR. CARBALLO: You've been in the  
19 neighborhood for four months now, which is about as long  
20 as we've worked with the ANC. I think a lot of your,  
21 say, apprehension of this property or suspect about the  
22 property that we're -- at 1253 really has to do with  
23 concerns over the potential property owners at 1251.

24 One question is, you know, why do you feel  
25 like you have to speak for the residents at 1251?

1 MS. MARTINEZ: I don't feel --

2 CHAIRPERSON HILL: Hold on.

3 Mr. Carballo, that doesn't have anything to  
4 do with the zoning stuff that's going on right now.  
5 Okay?

6 MR. CARBALLO: Okay. All right.

7 But what I'm getting at is, if this was such  
8 a -- you know, if this development for 1251 has been  
9 painted as this terrible thing, but, yet, you still  
10 purchased your property at 1257. If this was so awful  
11 a few doors down, why did you --

12 CHAIRPERSON HILL: Mr. Carballo, Mr. Carballo  
13 --

14 MR. CARBALLO: Uh-hum?

15 CHAIRPERSON HILL: -- I mean, you can answer  
16 that, Ms. Martinez. This isn't a particularly  
17 pertinent question. We're just going to have it, and  
18 then we're going to move on.

19 MR. CARBALLO: Okay.

20 CHAIRPERSON HILL: But, Mr. Carballo, just  
21 to let you know, none of these people want your  
22 development. Okay?

23 MR. CARBALLO: It's not my development. It's  
24 --

25 CHAIRPERSON HILL: Just worry about why.

1 Okay? Whatever it is, whatever it is, no offense to  
2 the owner.

3 MR. CARBALLO: Yeah.

4 CHAIRPERSON HILL: So, go ahead, Ms.  
5 Martinez.

6 MS. MARTINEZ: I'm happy to answer the  
7 question. I certainly don't speak for 1251. The woman  
8 who --

9 CHAIRPERSON HILL: The question was, Ms.  
10 Martinez, why did you buy it, even though the other thing  
11 was there? That was the -- that was the question.

12 MS. MARTINEZ: Well, I bought it because, at  
13 that point, 1251 does not -- although it mildly does,  
14 but to an -- I am unduly affected by 1251's extreme  
15 development.

16 CHAIRPERSON HILL: Okay. Okay.

17 MS. MARTINEZ: However, I would be unduly  
18 affected by 1253, and I think it's clear that 1251 set  
19 a precedent. If granted, 1253 would set a precedent,  
20 and then, suddenly, we have every single house in the  
21 neighborhood that looks just like the developing they're  
22 proposing.

23 CHAIRPERSON HILL: Okay, great.

24 Okay. Mr. Blake, you had your -- I see your  
25 hand up, Mr. Blake.

1           VICE CHAIR BLAKE: Yeah, I was just -- I was  
2 looking in the file. And it is, in fact -- there's a  
3 letter in support from 1251 Morse Street. I suspect  
4 that may be the developer; I don't know. And there's  
5 also a letter in opposition from a potential buyer.

6           And it's interesting, I mean, from our  
7 perspective as the Board, we would be concerned with  
8 the potential impact on the people that would occupy  
9 this building, even though they do not exist to speak  
10 today. So, I do think that there's some element here  
11 where we are -- I am concerned. I would like to get  
12 a better sense of what's going over there, that's all,  
13 and how it's impacting that building.

14           CHAIRPERSON HILL: Okay. And by the way, by  
15 the time we leave here, the Board gets to ask whatever  
16 it wants the next time.

17           And I will stand on the record again as saying  
18 I don't know if everybody doesn't want this thing.  
19 Okay.

20           So, Mr. Moshood, if that's what you're going  
21 to say, I take it back.

22           But, go ahead, Mr. Moshood. You had your hand  
23 up.

24           MR. OLAYINKA: Yes. Good afternoon,  
25 everyone. I just want to, you know, get the record

1 straight that I'm a person -- Okay? -- and that I own  
2 this building. I've owned this building since 1990.

3 I've used this building as assisted living, as a group  
4 home. And presently, my son lives there. Okay? This  
5 house has always been occupied.

6 And I believe that, if the government approves  
7 -- okay? -- my project, I don't care now -- okay? --  
8 if 1 million people oppose, I would love to talk to them.

9 I'm not, you know, constructing a nightclub. Okay.

10 I'm a retired person. I've been working. I've been  
11 serving this environment -- okay? -- for many years.

12 Okay?

13 I need to invest, and I don't -- I don't see  
14 why -- okay? -- you know, people that are not living,  
15 you know, close to my property should be so strong, you  
16 know, opposing this. I try to communicate with them  
17 -- okay? -- and I never know that this is, you know,  
18 kind of a plan or a way to delay, you know, my project.

19 Okay?

20 So, I'm appearing today, and whatever we need  
21 to do, but I cannot afford too much of delays. Okay?

22 I pay my dues in this neighborhood; I really  
23 do. Okay? I've been a citizen of this neighborhood  
24 since 1992. I'm talking about both Ward 5 and Ward 7.

25 Thank you, sir.

1 CHAIRPERSON HILL: Thank you, Mr. Moshood.

2 Okay. Wait a second. Okay. Ms. Shima, what  
3 is it that you would like to say?

4 MS. SAFINIA: I wanted to briefly explain,  
5 like, our communications, the communications we had with  
6 the ANC, since we reached out, until we got a list of  
7 comments from them on October 10th.

8 CHAIRPERSON HILL: Ms. Safinia -- no,  
9 Safinia, give me one second.

10 MS. SAFINIA: Okay.

11 CHAIRPERSON HILL: To just let you know, Mr.  
12 Carballo has given his presentation. You could have  
13 been a witness for him. And you can say -- we'll let  
14 you have your -- we'll let you answer any questions that  
15 the Board might have, right?

16 What I'm trying to get at, and what I think  
17 is going to happen -- I'm sorry, Mr. Moshood, but this  
18 is the way this process works -- but I do need to get  
19 something from the ANC, right? So, I have to get some  
20 kind of information from the ANC, even if that, at this  
21 point, since we had a very long hearing -- even if I  
22 get nothing, I at least know that there was an  
23 opportunity for the ANC to somehow get whatever they  
24 thought they might need, so that they can take a vote.  
25 Right?



1           So, Ms. Safinia, I'm just cutting you off  
2 because, like, you have to kind of work it out at some  
3 point before -- Mr. Moshood, I'll give you a moment as  
4 well. I have to get to --

5           MR. OLAYINKA: Very quickly --

6           CHAIRPERSON HILL: -- the questions.

7           MR. OLAYINKA: Okay.

8           CHAIRPERSON HILL: Go ahead, Mr. Moshood.

9           MR. OLAYINKA: No, just a very quick point  
10 of order. My name is Ms. Olayinka, not Mr. Moshood.  
11 My first name is Moshood. Okay? I've been a teacher  
12 since 1993 in Washington, D.C.

13          CHAIRPERSON HILL: Okay, Mr. Olayinka --

14          MR. OLAYINKA: I just wanted that for the  
15 record.

16          CHAIRPERSON HILL: -- Olayinka. Thank you.

17          MR. OLAYINKA: Yes, sir.

18          CHAIRPERSON HILL: I didn't mean to insult  
19 you by --

20          MR. OLAYINKA: No, sir. No, sir. You're  
21 okay. You're okay. You're good.

22          CHAIRPERSON HILL: Okay. Okay. All right.  
23 Hold on one second.

24          Oh, yeah. So, okay, Mr. Carballo.

25          Okay, now we're going to ask Ms. Roblin, or

1 Commissioner Roblin -- all right. I think everybody  
2 is going to have a lot of questions, and I think it might  
3 be better off that you all talk about your questions,  
4 and then come back later. But, regardless,  
5 Commissioner Roblin, do you have any questions for the  
6 Applicant?

7 MS. ROBLIN: Well, I would, for one thing,  
8 like to ask Mr. Olayinka if we could communicate, because  
9 we never got any message that you reached out to  
10 communicate, and we would really like to communicate  
11 with you.

12 Of the Applicant? So, the 1251, I think you  
13 mentioned on 1251, because you were not saying that it  
14 has reached the property level. It does reach the  
15 property level, and that would throw off what you were  
16 saying, I believe, and Skip knows this information  
17 better than I do. But it's an issue, 5-feet, 3-feet,  
18 because you did not have it accurately. Skip can speak  
19 better to this, if he could.

20 CHAIRPERSON HILL: One second, please.

21 Mr. Carballo, do you understand what they seem  
22 to be confused about?

23 MR. CARBALLO: But we are proposing to build  
24 within 3 feet of the property line for a 20-foot section  
25 at the rear of the property on the second and third floor

1 only.

2 CHAIRPERSON HILL: Okay. Give me a second  
3 then.

4 Mr. Keats, I see your hand. What's your  
5 question?

6 MR. KEATS: Just some clarification, per  
7 Commissioner Roblin. The first set of floor plans, et  
8 cetera, the architectural drawings that were submitted,  
9 they showed the non-existent side yard of 1251. They  
10 have issued -- they have submitted revised architectural  
11 plans that now show 1251 built to the property line.

12 That is where certain of the issues developed, because  
13 the Committee, et cetera, originally saw the original  
14 plans before they were superseded.

15 So, for Exhibit --

16 CHAIRPERSON HILL: Mr. Keats, I have to  
17 interrupt you guys one second.

18 You guys have a lot of questions and you're  
19 trying to figure out stuff. And so, this is --

20 MS. ROBLIN: Well, I'm just saying that's  
21 where this, the confusion Commissioner Roblin is having  
22 --

23 MS. ROBLIN: I'm sorry about that.

24 CHAIRPERSON HILL: That's all right.

25 MS. ROBLIN: I didn't realize --

1 CHAIRPERSON HILL: That's all right.

2 MS. ROBLIN: -- them revised.

3 CHAIRPERSON HILL: That's all right. So,  
4 what I, what I --

5 MR. KEATS: The plans that we were shown just  
6 a few minutes ago, those are the new plans.

7 MS. ROBLIN: Okay.

8 CHAIRPERSON HILL: Okay. Okay. Now, while  
9 I'm pausing, let me -- let me just take a step back.

10 So, we have an application here that somebody  
11 is trying to do something. Okay? And Mr. Olayinka --  
12 Olayinka? --

13 MR. OLAYINKA: Yes, sir.

14 CHAIRPERSON HILL: Mr. Olayinka is here  
15 asking the Board for relief. And the way the process  
16 works is you go to the ANC; you present your case to  
17 the ANC. The ANC gives their recommendation. The  
18 Office of Planning gives their recommendation. And  
19 then, the Board determines what it thinks of all the  
20 information that it's getting.

21 I thought that this was pretty disjointed when  
22 it came in, and it continues to be disjointed. So, what  
23 I am going to try to think about for a second -- we might  
24 even take a break in a minute or go to whatever -- is  
25 that, Commissioner, when is your guys' next meeting?

1 MS. ROBLIN: The second Tuesday --

2 MR. SAUCEDA-GUZMAN: November 18th is the  
3 next meeting.

4 MS. ROBLIN: Oh, yeah.

5 CHAIRPERSON HILL: Who said that?

6 MR. SAUCEDA-GUZMAN: The Chairman. This is  
7 Chairman Salvador Saucedo-Guzman. The next ANC meeting  
8 is November 18th.

9 CHAIRPERSON HILL: November the -- Chairman,  
10 you're missing your lunch.

11 MR. SAUCEDA-GUZMAN: I'm still here, yeah.

12 CHAIRPERSON HILL: Okay.

13 MR. SAUCEDA-GUZMAN: I just wanted to  
14 clarify. I could speak on behalf of the ANC's admin  
15 side.

16 CHAIRPERSON HILL: That's good.

17 MR. SAUCEDA-GUZMAN: The Applicant has been  
18 given notice of this date.

19 CHAIRPERSON HILL: Okay. So, November 18th.  
20 So, can you guys hear this again on November 18th?

21 MR. SAUCEDA-GUZMAN: Yes, sir, that was the  
22 original intention after setting it up earlier this  
23 month.

24 CHAIRPERSON HILL: Okay. Okay. So, I see  
25 that there's the letter, and I saw the letter that has

1 a lot of information that's been requested by the ANC.

2 So, Mr. Caballo -- or Carballo, sorry -- Mr.  
3 Carballo, I don't know what you can or can't try to submit  
4 to the ANC before their meeting on November 18th. What  
5 I propose is you guys try to talk, and if Mr. Olayinka  
6 and Commissioner Roblin can get together, or whoever  
7 -- whoever can kind of talk to whomever. Because if  
8 the ANC is confused about something, it's probably, Mr.  
9 Carballo, your job to try to clarify their confusion.

10 And if it can't be resolved, then it just can't  
11 be resolved, right? If there's -- like I'm not an  
12 architect. If you explain something to me and I don't  
13 understand it, then I just don't understand it.

14 However, you will get an opportunity to  
15 present, I guess, on the 18th of November, and then,  
16 the ANC can tell us what they think. If they're  
17 completely confused and they don't want to vote in favor,  
18 then they don't want to vote in favor. Right?

19 And, Mr. Olayinka, unfortunately, the way this  
20 also works is, if the ANC votes against it, it makes  
21 the process longer. Right? But you might not be able  
22 to proceed anyway. I don't know. Right?

23 I just don't want to spend the next hour --  
24 I just don't want to spend the next hour asking and  
25 answering questions, when this sounds like something

1 that you all might be able to do before November 18th.

2 So, Mr. Carballo, do you know what they're  
3 asking for? Kind of sort of?

4 MR. CARBALLO: Kind of sort of. I'm happy  
5 to meet with the ANC again. My concern, and Mr.  
6 Olayinka's concern, is that this will then push our  
7 hearing to February or even beyond. And we'd prefer  
8 to return back to this Board sooner than that.

9 CHAIRPERSON HILL: Yeah, we try to do our best  
10 to help all, everybody -- okay? -- in terms of timing.

11 And so, Mr. Olayinka, I'm sorry, this is just the  
12 process. And I appreciate -- by the way, I've lived  
13 here -- I've been in D.C. a very, very long time also.

14 I appreciate what you're saying about being in  
15 Trinidad, living in Trinidad, and being a resident  
16 there.

17 And so, if you all go to the ANC on the 18th  
18 of November, the ANC -- you guys can give us something,  
19 maybe a letter, by the 18th of November? Would that  
20 be fair, over a week and a half?

21 I see -- okay, great. Perfect.

22 So then, why don't, Mr. Carballo, why don't  
23 you get in touch with the ANC and try to answer their  
24 questions as best you can? Okay?

25 And then, why don't the members in opposition

1 also go to the ANC meeting? I assume it's virtual.  
2 And then, you can hear what the case is. You can give  
3 your testimony. You can find out what's going on.

4 And then, we'll all come back here again for  
5 a continued hearing. Okay?

6 And so, Madam Secretary, I hate to ask this  
7 question: is there any place between now and the end  
8 of the year that we can stick this case?

9 MS. MEHLERT: December 3rd and December 10th,  
10 you only have five hearing cases.

11 CHAIRPERSON HILL: Oh, wow. Okay. December  
12 3rd and December 10th. Let's do December 10, because  
13 then we'll be able -- we'll have enough time to kind  
14 of digest whatever we get from the ANC by November 28th.  
15 Okay?

16 One second, Ms. Martinez.

17 Okay. Ms. Martinez, you had your hand up.

18 MS. MARTINEZ: I would like to understand a  
19 little bit better what this followup hearing would  
20 entail. Obviously, I imagine we're not going to  
21 regurgitate everything we just said. So, (a) what we  
22 should expect, but (b) can additional parties be  
23 admitted to the followup hearing? Because, you know,  
24 like Mr. Blake said, we do have other parties, very  
25 pertinent parties, that, you know, just got into this



1 process.

2 CHAIRPERSON HILL: I've got my hand up.  
3 Ma'am, when you've got your hand up, I say, "I've see  
4 your hand up." So, I'm just saying, like,  
5 you're just asking a very straightforward question I  
6 understand. The deadline is past.

7 So, if you want to like -- so, they can come  
8 in and they can, as a member of the public, they can  
9 give their testimony at any time, right? So, they can  
10 come in and give their testimony.

11 And at the Board -- like if you're the  
12 next-door neighbor, the Board usually is more interested  
13 in what you have to say and we'll ask some questions.  
14 Right?

15 And the next time we're here is going to be  
16 a continued hearing. And what that means, basically,  
17 is we're probably going to find out what happened at  
18 the ANC meeting, right?

19 And like that's -- because, as you guys know,  
20 I'm not trying to be flippant and I'm very respectful  
21 -- and I do mean this -- of everyone's opinion here.

22 We have another big case after this, and then  
23 another big case after that. So, I'm trying to make  
24 it so this is somewhat efficient. Because if everybody  
25 just -- if everybody is asking questions and everything,

1 it's not going to work really quick.

2           So, I'm trying to create a process which is  
3 the ANC will talk to Mr. Carballo -- Caballo or Carballo?  
4 -- Carballo, and then, also, Mr. Carballo, you're in  
5 touch with these people in opposition that are also part  
6 of this case now, right? So, if you can get their  
7 questions answered -- and again, by the way, you all  
8 might not agree at all, right? But, at least,  
9 hopefully, you'll understand what's going on, right?

10       And then, we'll come back. Okay?

11           MR. CARBALLO: I'm happy to abide by that.

12           CHAIRPERSON HILL: Got it.

13           And so, one final thought, just so you all  
14 know. The Office of Planning has submitted their  
15 report. Okay? So, the Office of Planning is giving  
16 the Board of Zoning Adjustment their opinion as to how  
17 this is meeting the regulations. You don't have to  
18 agree with the Office of Planning; the Board doesn't  
19 necessarily have to agree with the Office of Planning.

20       But the Office of Planning is the one that's helping  
21 us understand the regulations. So, if you read their  
22 report, it kind of also helps you understand what we're  
23 actually trying to take a look at.

24           Go ahead, Commissioner Roblin.

25           MS. ROBLIN: They had some inaccuracies in

1 their report which was troubling. Like they said that  
2 it's attached on both sides, and it's not.

3 And they also never mentioned the -- what do  
4 you call it? -- that cutout in 1251, which I would think  
5 that they would have caught with, like, a fire hazard  
6 for what they wanted, or an egress hazard.

7 CHAIRPERSON HILL: Okay. So, I don't think  
8 FEMS is something that the Office of Planning does, but  
9 I will ask the Office of Planning -- the Office of  
10 Planning, did you all say that this was connected? I'm  
11 sorry.

12 MS. MYERS: Once again, Office of Planning.

13 Yeah, I saw that part in the report. That's  
14 an error. It's not attached on the side; that's 1251.

15 It's only attached on the other side. So, that part,  
16 we would say, you know, is not correct.

17 But, as for the cutout or the courtyard, that's  
18 not part of our review as much. When it comes to the  
19 light and air discussion, we discussed the reason why  
20 we felt that it met that criteria.

21 You know, when it goes through the -- if it  
22 is approved and it goes through the building permitting  
23 process, it will have to comply with Building Code  
24 requirements. And so, we rely on our counterparts on  
25 that side to take a look at that more carefully.

1 MS. ROBLIN: Thank you.

2 CHAIRPERSON HILL: I see everybody's hand.  
3 Give me one second.

4 I'm going to come to you, Commissioner, at  
5 the end because I just want to see what Ms. Martinez's  
6 question is real quick.

7 MS. MARTINEZ: Since there was that error in  
8 the Office of Planning's review, can we request in this  
9 period for the Office of Planning to visit the property  
10 and take a look and make sure that they have incorporated  
11 their assessment of light and air on the 1251 side of  
12 the property?

13 CHAIRPERSON HILL: Give me one second. Give  
14 me one second.

15 Commissioner Wright, what was your question?

16 COMMISSIONER WRIGHT: Well, it's not a  
17 question. It's really more of a statement. I think  
18 we're dancing around a lot of arguing about, you know,  
19 did this person have this detail right; did this person  
20 have that detail right? And I think, you know, that's  
21 well and good, and we should do that. But I am hoping  
22 that when the owner and his architect meet with the  
23 community, there can be, also, a substantive discussion  
24 about whether there could be changes, big changes, to  
25 the project.

1 I am concerned about what I've seen to date.

2 I don't believe that the project that was constructed  
3 is a good model for the block. I think there is a way  
4 to get four units on this property because 3,600 feet  
5 does allow for four units. I think there is a way to  
6 get four units on this property, but it may not be four  
7 units that are as big as what is currently proposed.

8 And so, I think, again, it's great to have  
9 everyone meet and try to make sure that there's going  
10 to be, you know, adequate information and all of that,  
11 but I really hope that the conversation between the owner  
12 and the architect with the community, represented by  
13 the ANC, can see if there may be some agreement of a  
14 way to get four units on this property without some of  
15 the more problematic changes that are proposed.

16  
17 So, that is my hope between now and November,  
18 whatever the date was you said, 16th, 18th, whatever  
19 the date was, that there can actually be a conversation,  
20 not just about who said what; what mistake was -- you  
21 know, why typo was made here? You know, have a real  
22 conversation about the project. Just my thought.

23 CHAIRPERSON HILL: Okay. Thanks,  
24 Commissioner. Well, your thought matters.

25 So, let's see. Yeah, Crystal -- I mean, sorry

1 -- Ms. Myers, give me a second.

2 They don't visit all the properties.

3 But go ahead, Ms. Myers. The question was,  
4 will you go visit the property?

5 MS. MYERS: Actually, in this case, we already  
6 have visited the property because we ourselves had some  
7 questions, as you know. The property next door has  
8 recently redeveloped. And so, some of the photographs  
9 in the earlier versions of this project did not reflect  
10 that. So, we have been to the property and our report  
11 reflects what we saw.

12 Like I said, the error is strictly, like, a  
13 typo. So, we apologize for that.

14 Thank you.

15 CHAIRPERSON HILL: Okay. Thanks, Ms. Myers.

16 Okay. This is what I suggest: when did we  
17 start? We started at 11:30? Okay. So, we've gone,  
18 like, two hours now or more; I don't know.

19 So, what I suggest is you all -- I mean, Mr.  
20 Carballo, get with the ANC. Represent your client as  
21 best you can. Get with the ANC. Try to get whatever  
22 comments or questions you can get resolved, resolved,  
23 right?

24 And then, it sounds like -- I hate to say this  
25 now a little bit -- but, you know, if you can go back

1 -- if you somehow go back to the drawing board and are  
2 able to do something that gets the four units and the  
3 ANC support and neighborhood support, I don't know.  
4 You might want to push this back even farther.

5 What I'm trying to tell you, Mr. Carballo,  
6 before you say anything, I only have three people.  
7 Okay. I have three people and three votes. Everybody  
8 has to agree. Okay? So, at the end of the day, if you  
9 only get two votes, you don't win. So, there you go.

10 Mr. Carballo, what was your point?

11 MR. CARBALLO: I'm in an agreement with you.

12 I'm happy to meet with the ANC. I'm also happy to meet  
13 with my client between now and then to reevaluate some  
14 of the comments and feedback we've received today, and  
15 see if there's some type of middle ground we can strike  
16 between the client's wishes, the ANC's concerns. I look  
17 forward to that conversation.

18 And hopefully, we have a productive  
19 presentation on the 18th with ANC.

20 CHAIRPERSON HILL: Great. The faster you  
21 somehow make it worker, the faster you get to the  
22 building permit.

23 And Commissioner Wright has given you all of  
24 her opinions.

25 MR. CARBALLO: Uh-hum.

1 CHAIRPERSON HILL: And so, I will let  
2 Commissioner -- I'm sorry, Commissioner Wright?  
3 Commissioner Wright, yeah, has given all her opinions.

4 I'm going to let Board Member Blake give his  
5 opinions. Okay? And then, we're going to adjourn.  
6 Okay?

7 Go ahead, Mr. Blake. Do you have anything  
8 you'd like to add?

9 VICE CHAIR BLAKE: Well, actually, I'm in  
10 agreement with what I just heard. This is fantastic.

11 It's funny, we spend a lot of time on this,  
12 but I think that, if I were chairing the meeting, I would  
13 have said, "It's not right. You guys figure it out and  
14 come back."

15 I think that what we've done today does tell  
16 us where some of the issues are, and I do think there  
17 is a potential for getting something done. So, I'm  
18 encouraged by what I actually see today. It took a long  
19 time, but I'm encouraged.

20 CHAIRPERSON HILL: I'm getting my final  
21 summation. So, we're going to let you guys go. You  
22 all are going to meet on the 18th.

23 Mr. Carballo, you're going to figure it out,  
24 talk and communicate.

25 I'm summing up what I'm hearing my Board say



1 again. It is that there's the land area for this to  
2 happen. And I'm also talking to the people that are  
3 also in opposition and the ANC. There is the land area  
4 for this to happen, right, in the four units. And if  
5 there's some way that you can get the four units to work,  
6 great. If not, we're going to be back here anyway.

7 So then, we'll come back on the 10th of  
8 December for a continued hearing. And to clarify what  
9 that means to me, it is that we're, again, not going  
10 to go back all over all this stuff. We are going to  
11 hear what happened at the ANC meeting, and we'll go in  
12 the same order that we just went through now.

13 And at that point, Mr. Carballo, if you think  
14 you still need to have some rebuttal, you can go ahead  
15 and get your rebuttal at that time. Okay?

16 Okay. Well, thank you all very much. I hope  
17 you all have a nice afternoon.

18 And if you're really interested, you can hang  
19 out with us for the next six hours and come back. Okay?

20 (Laughter.)

21 All right. You all have a nice day.

22 MS. ROBLIN: Thank you. Thank you very much.

23 MS. MEHLERT: Mr. Chairman, did you want to  
24 give any deadlines for submissions? I know you had  
25 mentioned the 28ths for the ANC.

1 CHAIRPERSON HILL: Yeah. I don't know.  
2 What are the deadlines? I'm sure they're still they're  
3 still listening.

4 MS. MEHLERT: I mean, I think if you keep  
5 November 28th for anything from the ANC, and then, you  
6 can give a week for parties to respond for December 5th.  
7 And then, you come back on the 10th.

8 CHAIRPERSON HILL: Great.

9 So, what that meant -- and I'm sorry if you  
10 all missed it. I'm sure you can reach out. The Office  
11 of Zoning can reach out and let us know.

12 But that means that, on the 28th, we're getting  
13 -- we're going to get something from the ANC. And you  
14 guys, the parties, will have until the 5th to tell us  
15 what you think of what the ANC put forward. That also  
16 means the Applicant as well as the people in opposition.  
17 And then, we'll come back on the 10th.

18 Okay? Great.

19 I mean, do you all have lunch. Okay.

20 So, it's 1:50. Do you want to say 2:30? Is  
21 that good enough?

22 COMMISSIONER WRIGHT: A shorter amount of  
23 time because we do have a lot, and I actually have a  
24 5:30 cutoff.

25 CHAIRPERSON HILL: Oh, you've got a hard stop?

1 COMMISSIONER WRIGHT: Yeah.

2 CHAIRPERSON HILL: You've got a hard stop?

3 COMMISSIONER WRIGHT: Yeah, at 5:30. Yeah.

4 CHAIRPERSON HILL: Now, Commissioner Wright,  
5 if I had known that before, I could have helped out  
6 earlier.

7 (Laughter.)

8 Okay. All right. Okay. Well, let's come  
9 back in half an hour. Like I need 30 minutes. Okay?

10 COMMISSIONER WRIGHT: Yeah.

11 CHAIRPERSON HILL: All right. See you back  
12 in a few minutes.

13 COMMISSIONER WRIGHT: That's great.

14 CHAIRPERSON HILL: Okay. Thanks. Bye.

15 (Whereupon, at 1:49 p.m., the foregoing matter  
16 went off the record and went back on the record at 2:58  
17 p.m.)

18 CHAIRPERSON HILL: Hello, Mr. Blake?

19 VICE CHAIR BLAKE: Yes, I'm here.

20 CHAIRPERSON HILL: Oh, perfect. Okay,  
21 great.

22 Ms. Mehlert, if you could go ahead. And I  
23 know that the next application we had before us was  
24 21360; however, if we could quickly just call the appeal,  
25 because I have a couple of questions to ask of the appeal

1 that might be helpful.

2 Mr. Blake, I guess -- I don't know, Mr. Young,  
3 what's the mute button? It's star something or?

4 VICE CHAIR BLAKE: Can you hear me? You can  
5 hear me, right?

6 CHAIRPERSON HILL: Yeah, we can hear you.

7 VICE CHAIR BLAKE: Okay.

8 CHAIRPERSON HILL: Mr. Young, what do you do  
9 to mute?

10 MR. YOUNG: I believe it's star-6.

11 CHAIRPERSON HILL: Okay, I think it's star-6,  
12 Mr. Blake, to mute and unmute your line. We'll just  
13 give you time and we'll work through this together.

14 Ms. Mehlert, if you could call the appeal,  
15 I just want to talk to the parties.

16 MS. MEHLERT: He's just back from his lunch  
17 break and the next is Appeal Number 21314 of Burleith  
18 Citizens Association. This is an appeal pursuant to  
19 Subtitle X, Section 1100 and the decision made on  
20 February 14th, 2025 by the Department of Building and  
21 Zoning Administrator to issue Building Permit Number  
22 B2308807. This permit is for four new lighting poles,  
23 each 80 feet in height, installed at a public recreation  
24 facility. It's located in the R3/GT Zone at 1700 38th  
25 Street, NW (Square 1307, Lot 859).

1           This hearing was originally scheduled for  
2   September 17th, postponed at DOV's request. As a  
3   preliminary matter, there is a motion from DGS, the  
4   intervener, to strike from the record in Exhibit 19.  
5   The motion is in Exhibit 19.

6           CHAIRPERSON HILL: Okay, great. Thanks. If  
7   the Appellant can hear me, if they could introduce  
8   themselves for the record.

9           MR. McDUFFIE: My name is Michael McDuffie  
10   and I represent the Burleith Citizens Association in  
11   this matter. My address is 3723 R Street, NW.

12          CHAIRPERSON HILL: Okay, Mr. McDuffie, thank  
13   you. Let's see, Ms. Moldenhauer, who are you  
14   representing?

15          MS. MOLDENHAUER: I represent the Department  
16   of General Services, the intervener of the property.

17          CHAIRPERSON HILL: Okay, great. Could you  
18   introduce yourself again? I'm sorry. State your name.

19          MS. MOLDENHAUER: Good afternoon. Meridith  
20   Moldenhauer from the law firm of Cozen O'Connor, here  
21   on behalf of the intervener, the Department of General  
22   Services, on behalf of the implementing agency, the  
23   Department of Parks and Rec.

24          CHAIRPERSON HILL: Okay. Could the Zoning  
25   Administrator please introduce themselves for the record?

1 MS. BEETON: Hello, my name is Kathleen  
2 Beeton, I'm the Zoning Administrator.

3 CHAIRPERSON HILL: Great, thank you, Ms.  
4 Beeton. Could the DOB please introduce themselves?

5 MR. HARESIGN: Good afternoon, Chris  
6 Haresign, General Counsel, Department of Buildings, on  
7 behalf of the Appellee.

8 CHAIRPERSON HILL: Okay, great. Mr.  
9 McDuffie, I've read the record and so you seem pretty  
10 knowledgeable about what's going on in general. Do you  
11 know, and I think you do know this, but do you know that  
12 the Zoning Commission tomorrow is taking up -- I believe  
13 is taking up, a text amendment concerning something that  
14 might relate to this appeal?

15 MR. McDUFFIE: That there has been an OP  
16 report and then another OP report that drastically  
17 changed the proposed text. My understanding is there  
18 is no retroactivity to that change. It's been  
19 repeatedly referred to in briefs as evidence of OP's  
20 intent to which it should be accorded great weight, but  
21 given that these are proposed changes that are subject  
22 to further change, the relevance to this matter is  
23 tenuous at best.

24 CHAIRPERSON HILL: Okay. I'm asking this  
25 because I'm trying to give my opinion as to what I think

1 we should do and I wanted to hear from you guys as to  
2 what your opinion is on what is happening supposedly  
3 or not happening and I know by the way that whatever  
4 happens at the Zoning Commission happens at the Zoning  
5 Commission. I don't know if it's going to happen or  
6 it's not going to happen, I just want to know if you  
7 all were aware.

8 Ms. Moldenhauer, are you aware of what may  
9 or may not happen at the Zoning Commission tomorrow?

10 MS. MOLDENHAUER: Yes, we are aware of the  
11 omnibus brief and some of the proposed language that  
12 the Zoning Commission will be discussing.

13 CHAIRPERSON HILL: Okay, so what I would like  
14 to do then, I don't know if you heard earlier, but I'm  
15 going to lose some board members at a hard stop and so  
16 I don't think we would have enough time regardless to  
17 hear this appeal, so what I'm going to do is I'm going  
18 to push it back so that I have an opportunity to also  
19 take a look at what may or may not happen at the Zoning  
20 Commission, but really the other reason I'm doing this  
21 is I don't really have enough time for you guys today.

22 So, what I think, Madam Secretary, just so we have  
23 enough time to see where we are with this so I can at  
24 least revisit it, what is the last hearing date in  
25 December?

1 MS. MEHLERT: (No audible response.)

2 CHAIRPERSON HILL: Oh really? That's our  
3 last hearing date?

4 MS. MEHLERT: Yes.

5 CHAIRPERSON HILL: Okay, we get a bigger break  
6 than I remember. Okay, what's on December 10th right  
7 now?

8 MS. MEHLERT: You now have six cases. You  
9 continued the last case on to the 10th as well.

10 CHAIRPERSON HILL: Oh my God, I forgot about  
11 that. Okay, all right. Let's put this on December  
12 10th, okay? Let's see where we are on December 10th  
13 and that way I think that's the most prudent thing to  
14 do. You guys, we're going to come back on December 10th,  
15 okay? Okay. We will see you all on December 10th.  
16 Thank you.

17 MS. MOLDENHAUER: Thank you.

18 MR. HARESIGN: Thank you.

19 CHAIRPERSON HILL: Thank you.

20 MS. MOLDENHAUER: Bye.

21 CHAIRPERSON HILL: Bye-bye, closing that  
22 portion of the hearing for the record, I should say.  
23 Now, Madam Secretary, you can call our next case.

24 Application No. 21360 of M & Potomac Streets  
25 Associates



1 MS. MEHLERT: Okay, the next case is  
2 Application Number 21360 of M & Potomac Streets  
3 Associates. As amended, this is a self-certified  
4 application pursuant to Subtitle X, Section 901.2 for  
5 Special Exceptions under Subtitle D, Section 5201 from  
6 the rear yard requirements of Subtitle D, Section 207.1,  
7 from the side yard requirements of Subtitle D, Section  
8 1104.1, and pursuant to Subtitle X, Section 1002 for  
9 area variances from the lot area requirements of  
10 Subtitle D, Section 202.1, and the lot occupancy  
11 requirements of Subtitle D, Section 210.1 for a  
12 two-story dwelling in a new detached building located  
13 in the R3/GT Zone at Prospect Street, NW, Square 1206,  
14 Lot B32.

15 As a reminder, earlier today the Board granted  
16 party status in opposition to Joanna Perkowska.

17 CHAIRPERSON HILL: Okay, great. Thank you.  
18 If the Applicant can hear me, if they could please  
19 introduce themselves for the record.

20 MR. MALLIOS: Hi. I am Peter Mallios. I am  
21 the Applicant.

22 CHAIRPERSON HILL: Okay, Mr. Mallios, are you  
23 going to be presenting or is your architect?

24 MR. MALLIOS: The architect is going to  
25 present.

1                   CHAIRPERSON HILL: Oh, great, okay. So,  
2 would the architect please introduce themselves for the  
3 record?

4                   MR. KEARLEY: Hi, I'm Gregory Kearley with  
5 Inscape Studio. I'm the architect for the project and  
6 just for disclosure, I also have a contract to purchase  
7 the property to build a house for myself.

8                   CHAIRPERSON HILL: Okay, all right, so  
9 that'll be --

10                  (Simultaneous speaking.)

11                  MR. KEARLEY: I don't know if that matters  
12 in terms of the relief or --

13                  CHAIRPERSON HILL: I don't think it matters.  
14 I just --

15                  MR. KEARLEY: But I just wanted to share that.

16                  CHAIRPERSON HILL: No, that's great. You  
17 might be able to answer different questions later then  
18 with regard to that. Ms. Perkowska, I'm sorry, how do  
19 you say it again?

20                  MS. PERKOWSKA: It's Perkowska.

21                  CHAIRPERSON HILL: Ms. Perkowska, okay, Ms.  
22 Perkowska, could you introduce yourself for the record?

23                  MS. PERKOWSKA: Yes, my name is Joanna  
24 Perkowska and I am adjoining neighbor to the subject  
25 plot, residing at 1220 Potomac Street, NW.

1 CHAIRPERSON HILL: Okay, great. Thanks, Ms.  
2 Perkowska. What's going to happen now is the Applicant  
3 is going to present, then you, Ms. Perkowska, will get  
4 to present, then we're going to hear from the Office  
5 of Planning. Did you see the earlier one with the party  
6 status thing? No? Ms. Perkowska? No? Okay.

7 MS. PERKOWSKA: No, I had to prioritize today  
8 so I was mindful that I should be --

9 (Simultaneous speaking.)

10 CHAIRPERSON HILL: No, that's okay. I just  
11 wondered because you would have seen how it went, that's  
12 all.

13 MS. PERKOWSKA: Oh, oh, you know, because of  
14 this case I have a speed course to find out the process,  
15 so, yes, thank you so much, Chair Hill.

16 CHAIRPERSON HILL: Okay, perfect. Mr.  
17 Kearley, if you want to go ahead and present your  
18 Applicant's application and why you believe they're  
19 meeting the criteria as read in the relief. I'm going  
20 to put 15 minutes on the clock so I know we are. Ms.  
21 Perkowska, just so you know, you basically kind of around  
22 the same amount of time as the Applicant and Mr. Kearley,  
23 you can begin whenever you like.

24 MR. KEARLEY: All right, thank you.

25 MS. PERKOWSKA: I just have a question, so

1 that 15 minutes will include my cross or not?

2 CHAIRPERSON HILL: No, Ms. Perkowska --

3 (Simultaneous speaking.)

4 MS. PERKOWSKA: Because I'm very brief --

5 CHAIRPERSON HILL: I understand. That's  
6 just your presentation time.

7 MS. PERKOWSKA: Excellent, thank you.

8 CHAIRPERSON HILL: Okay? Okay, Mr. Kearley,  
9 go ahead.

10 MR. KEARLEY: All right, thank you. So,  
11 again, I am the architect for the project and  
12 representing the Applicant. I'm going to have Pete just  
13 give a two-minute talk about the property itself and  
14 then I'll give the presentation. We'll stay within the  
15 15 minutes.

16 MR. MALLIOS: Hi. I'm again Peter Mallios.

17 I'm the managing partner of M & Potomac Streets  
18 Associates, which is the owner of the lot. My  
19 partnership built the condominium around 1980. When  
20 the condominium was designed, it made more sense for  
21 this parcel to become a free standing home, single family  
22 home versus part of the condominium.

23 The lot was created about that time and the  
24 partnership withdrew it from the condominium with the  
25 intent of having a house built on it. We still own

1 condominium units in Eton and I'm the president of the  
2 condominium. I have allowed the condominium access  
3 across the property with my permission through a gate,  
4 which is about 3 or 3-1/2 feet wide, but there is no  
5 easement for that access, that has just been done with  
6 my permission over the years.

7 I have negotiated an easement with Greg, the  
8 buyer, to allow the condominium to have perpetual access  
9 to Prospect Street. Thanks. Greg, why don't you take  
10 it from here.

11 MR. KEARLEY: All right, thank you for the  
12 background. We are asking for the following relief:  
13 Lot area 64 percent deviation, lot occupancy a 30 percent  
14 deviation. Those are variances and then the special  
15 exceptions on the rear yard and side yard setbacks.  
16 Is there any way to just go through the presentation  
17 that is part of that? It might be easier for everyone.

18 CHAIRPERSON HILL: Which one is it, Mr.  
19 Kearley? Which exhibit?

20 MR. KEARLEY: It's Plans and Elevations.

21 CHAIRPERSON HILL: Is that Exhibit 13 or you  
22 don't know?

23 MR. KEARLEY: I don't know what the exhibits  
24 are, but it's the Plans and Elevations.

25 CHAIRPERSON HILL: Okay. It's Exhibit 10,

1 I'm sorry.

2 MR. YOUNG: Looks like.

3 CHAIRPERSON HILL: Yeah, Exhibit 10, thank  
4 you, Mr. Young.

5 MR. KEARLEY: Just a background, we went to  
6 OGB CFA and they approved the design. We went through,  
7 I don't know, four or five iterations with them, and  
8 OGB deemed this sort of the best and only use for this  
9 particular lot, which is a single family home. You  
10 can see where it's located. Eton Condominiums is just  
11 to the south of the property and then to what would be  
12 the east, so southeast Eton Condominiums falls in. Next  
13 slide.

14 This is the context. You can see the property  
15 right here, the vacant lot. These are some adjacent  
16 neighboring structures. Next slide.

17 This shows the context and elevation so you  
18 can see the property at 33rd Street on the right side  
19 and then the property at Prospect Street with the  
20 elevation of the proposed single family home. Then,  
21 you can see the Eton Court Condos behind. One thing  
22 to just notice too, is that trees are higher than our  
23 building significantly. We're actually going to be  
24 lowering, what I believe is, visual sight lines and what  
25 not from the Eton Condos because we sit so much lower

1     than the tree.   Next slide.

2                 This is the existing site plan which is just  
3     a vacant lot.   Next.

4                 This is the proposed site plan.   What's to  
5     be noted is that we have agreed to an easement to allow  
6     a continue walkway through Prospect Street to get to  
7     Eton Condominiums through the property, so we're  
8     prepared to have an easement on the property that allows  
9     for the passage of persons who live in Eton Condos to  
10    still access it.   Part of the relief we're asking for  
11    on the right hand side is there's a four foot passageway  
12    to get access to the rear yards on the properties at  
13    33rd Street.

14                You can either have a five-foot setback or  
15    a zero setback.   We're asking for a nine-inch setback  
16    and having relief of 4.25 feet.   The reason we're asking  
17    that is we would maintain the four foot passageway so  
18    the properties on 33rd Street could have access to their  
19    rear yards.   I assume all those properties bring out  
20    their trash on trash day from there, so they would have  
21    a continued use of that four foot passageway.   That's  
22    really the reason we're asking for the side yard relief.  
23    We don't need relief on the other side because we have  
24    a five-foot setback, which is allowed.   Next slide.

25                These are the floor plans, not that important.

1       There's a family room downstairs. Next slide.

2               That's the first floor plan. Next slide.

3               That's the second floor. It's a three  
4 bedroom, one in the cellar, two on the second floor.

5       Next slide.

6               These are the elevations that were approved  
7 by OGB. Next slide.

8               That's the side. We tried to minimize the  
9 fenestration for privacy for the neighbors' property,  
10 so we have two small windows which were really dictated  
11 by OGB wanting those. Next slide.

12              This is the rear elevation. You can see that  
13 it slopes down significantly the property, so it's a  
14 walk out at the cellar and then two stories above. Next  
15 slide.

16              This is the entrance. OGB did not want an  
17 entrance and steps on the street on Prospect Street,  
18 so we're actually entering the single family home from  
19 the passageway from the side yard. Next slide.

20              Same thing, but with some bars for security.  
21 Next slide.

22              A section through. Next slide.

23              Here we go, here's that easement that we're  
24 willing to grant which would allow passage through to  
25 the Eton Court. They would have a gate which they do



1 now. So, they would have continued access and this is  
2 the massing of the single family home.

3 We understand that we're asking for a lot  
4 occupancy deviation that's fairly significant. I just  
5 want to note that the size of our property really  
6 dictates that and we have a property that is 1,437 square  
7 feet and we have a very modest home, I believe, that  
8 has a minimal impact on the neighboring properties, but  
9 to do any house on this property, we need some type of  
10 deviation from lot occupancy and the sided rear yards.

11 To note that I did a study of 22 of the properties that  
12 are around this building, around this lot and the average  
13 size of those properties was 1,380 square feet, which  
14 is actually smaller than the size of this property.

15 The property is not unique. It is unique, but it's also  
16 consistent with the other properties in the  
17 neighborhood. We're not looking to have a 1,400 square  
18 foot lot with a house in it in a neighborhood that has  
19 5 to 10,000 square foot lots. We believe it fits in  
20 with the pattern of the neighborhood and the scale of  
21 the neighborhood and it is actually larger than the  
22 average of the adjacent properties. That's excluding  
23 Eton Condos, because that's a much a bigger project,  
24 right? That's I don't know how many units that is, 20  
25 or 30 units, but we believe that the variances will not

1 adversely affect the neighboring properties, that the  
2 light and air to the neighboring properties shall not  
3 be duly affected. We have sun studies that show that.

4 The privacy and use and enjoyment of the  
5 neighboring properties will not be negatively affected.

6 This is a very dense urban neighborhood. There's  
7 construction. Construction is always something that  
8 has to be navigated and we want to be a good neighbor.

9 I actually bought, well, I haven't bought, I have a  
10 contract to buy this property because I want to live  
11 in this neighborhood. This is not a big development.

12 It's a very unique property.

13 I love the property, but neighbors have every  
14 right to voice their opinions and I'm assuming their  
15 opinions are they like this little lot, but it is a  
16 private property. It's not public space and so we  
17 believe we're meeting the threshold for the variance  
18 and special exceptions to be granted. The light and  
19 air, the privacy and enjoyment and with all those things,  
20 we respectfully present to the Board that we should be  
21 granted the relief for this particular project.

22 CHAIRPERSON HILL: Okay, thanks, Mr. Kearley.

23 Ms. Perkowska, if you want to go ahead and give us your  
24 testimony, please. We can't hear you. I think you're  
25 on mute maybe.

1 MS. PERKOWSKA: That should work.

2 CHAIRPERSON HILL: Yes.

3 MS. PERKOWSKA: My property is at 1220 Potomac  
4 Street, NW and it shares direct boundary so because of  
5 the direct adjacency, if this project is approved,  
6 unfortunately, I will have direct site specific and  
7 adverse impact. There are documented in the record,  
8 Exhibit 22 and Exhibit 36. Just to summarize, the  
9 impact will be significant and adverse. There will be  
10 unduly reduced light, elimination of privacy. It will  
11 remove the open green proper restricted emergency access  
12 and the details in the analysis, I refer to the record,  
13 Exhibits 22 and 36.

14 These are substantial adverse effects.  
15 What's important in this case is that the Board already  
16 considered a nearly identical proposal on this same  
17 parcel and denied the relief. No conditions have been  
18 changed. It's the same size. It's the same zoning.

19 It's the same ownership, the same context, same open  
20 space function and most importantly, it's the same  
21 developer-created hardship. The former Board decision  
22 is the Order 1485 and it's directly relevant and  
23 persuasive in this case.

24 Also, the ANC voted to deny this application  
25 and the Board must give that decision great weight.

1 Granting a relief would reward a self-created hardship  
2 and if self-creation is a valid hardship under the zoning  
3 law, then the zoning law becomes optional. The record  
4 as it stands right now supports the denial of this  
5 application.

6 I would like to quickly just make a note to  
7 the architect citing the rowhouses, that argument is  
8 legally irrelevant because application aims to build  
9 detached dwelling not a rowhouse in Georgetown zone.

10 CHAIRPERSON HILL: Okay, thank you, Ms.  
11 Perkowska. Before I get to questions, can I hear from  
12 the Office of Planning?

13 MR. BRADFORD: Good afternoon, Chairman Hill  
14 and Members of the Board. For the record, this is Philip  
15 Bradford with the Office of Planning. The Office of  
16 Planning is recommending is approval of the special  
17 exception and variance requests. The size and the shape  
18 of the lot is the most notable exceptional situation  
19 regarding this property. The tax law has been in  
20 existence since the 1980s and is undersized for the zone  
21 and unusually shaped.

22 If this was a record lot, it would not need  
23 the area variance from the lot dimension requirements  
24 of Subtitle D, but since this is a tax lot, it needs  
25 the relief in order to be developable per Subtitle C

1 301.1. Given the size of the lot, the proposed  
2 development also requires a variance from the lot  
3 occupancy requirements if it's to contain a reasonably  
4 sized residential structure. The staff report contains  
5 a note that incorrectly the lot occupancy could be  
6 approved via special exception. The rest of the report  
7 is written to support the variance and the table on page  
8 two correctly notes that the maximum lot occupancy by  
9 special exception for the R3GT zone is 50 percent.

10 The special exception request for the side  
11 and rear yard which are common requests for  
12 non-conforming properties meet the special exception  
13 criteria. The proposal is not out of character for the  
14 area and it is anticipated that a residence would be  
15 constructed on a vacant lot in a residential zone.  
16 Therefore, the construction of a detached dwelling unit  
17 would not result in any unreasonable adverse impacts  
18 to the adjacent properties. Thank you. I'm available  
19 for any questions.

20 CHAIRPERSON HILL: Thank you. Okay, can I  
21 ask my -- I know Mr. Blake is on the phone, so let me  
22 wait one second before I get to him. Commissioner  
23 Wright, do you have any questions?

24 COMMISSIONER WRIGHT: Yes and this is for the  
25 Office of Planning, in the staff report, prior cases

1 were described on this property and there was a prior  
2 case in 1988 when the Board denied certain variances  
3 and there was a prior case in 1981 when the Board granted  
4 certain variances. Could you talk a little bit about  
5 the history of those other cases?

6 MR. BRADFORD: I've only been able to read  
7 the order of the '88 case. The case before that, I am  
8 aware of, but I've not been able to look at the record  
9 for that. Also, for the '88 case, because I can see  
10 only the order that I'm aware of, I have not been able  
11 to see what exactly was proposed other than the numeric  
12 amounts that they were requesting. Granted, the code  
13 at that point was different than today. We've got a  
14 different Board. The proposal may be different, so I'm  
15 not one hundred percent familiar with the full depth  
16 of those cases to really speak to exactly what was in  
17 them and what the differences may be between that and  
18 this one.

19 MEMBER WRIGHT: So, if you don't have that  
20 information, I would like to ask if the property owner,  
21 Mr. Mallios, who I guess has been the owner for this  
22 entire time, if you can offer any comments on what the  
23 previous cases were and why either the variances were  
24 granted or not granted.

25 MR. MALLIOS: Well, I wasn't the owner at that

1 time. I bought into the partnership about 25 years ago,  
2 so those cases pre-dated me. My vague recollection is  
3 the first, the 1981, hearing, basically they went in  
4 and said we meant to make the lot bigger and there was  
5 a mistake made and so they were turned down because the  
6 Board said it wasn't their mistake or BZA rather said  
7 it wasn't their mistake, so they turned it down. I don't  
8 know what was proposed at that time.

9 In 1988, my understanding was a much larger  
10 structure was proposed. It was a three-level house plus  
11 basement and so one of the things that -- the size was  
12 an issue and I think that's one reason that Greg has  
13 proposed a smaller, two-story, house rather than a  
14 three-story house which fits in the character of the  
15 neighborhood a lot better than a larger house would.

16 MR. KEARLEY: Also, too, I believe it was a  
17 gabled roof which means it was much higher.

18 MR. MALLIOS: Right.

19 MR. KEARLEY: In our conversations with OGB,  
20 we went to a flat roof so we could stay at about 21-22  
21 feet as opposed to 35 feet. So, we brought the scale  
22 of the property down significantly than what was  
23 previously before the Board.

24 CHAIRPERSON HILL: Wait one second. Wait one  
25 second. Just let me get Commissioner Wright's

1 questions answered.

2 COMMISSIONER WRIGHT: That's helpful. It  
3 sounds like Ms. Perkowska also has some -- I'm just  
4 trying to get the background and so do you have  
5 additional background, Ms. Perkowska, that would be  
6 helpful?

7 MS. PERKOWSKA: Just the brief notes. In the  
8 decision that we are very familiar with from 1988,  
9 specifically the Board said that the prior 1981 decision  
10 was and I'm quoting, "the lot as currently configured  
11 does not conform to the address and dimensions which  
12 were the basis of the Board's previous approval." So,  
13 that's what was completely different dimension,  
14 completely different lot. Whereas, the 1988 decision  
15 that's the same one, that is same owner or successor.

16 It's owned by the entity so that is checked. It's the  
17 same zoning. We established the ownership continues.

18 The most important, the size, the shape haven't changed  
19 from 1988.

20 COMMISSIONER WRIGHT: Thank you.

21 MS. PERKOWSKA: The key is, it's self-created  
22 developer --

23 (Simultaneous speaking.)

24 CHAIRPERSON HILL: Ms. Perkowska, I got it.

25 I'm just trying to get some questions answered for



1 Commissioner Wright. Commissioner, any additional  
2 questions?

3 COMMISSIONER WRIGHT: No, I appreciate that.

4 My other question that I want to ask of the architect  
5 and to make sure I fully understand this, is that the  
6 walkway that exists on the, I guess it would be what,  
7 the east side of the property, that exists today, you  
8 are proposing would remain and that there would be an  
9 easement recorded in the land records to allow  
10 condominium owners to access their property through  
11 that walkway. Is that true?

12 MR. KEARLEY: A hundred percent committed do  
13 that and I am happy to have that as part of the BZA order.  
14 We can't -- I can't file an easement because I don't  
15 own the property yet, but --

16 COMMISSIONER WRIGHT: Right, right.

17 MR. KEARLEY: When we go to permit, we would  
18 have an easement and have that filed with the DC and  
19 I'm a hundred percent committed to that. You can see  
20 in the drawings that it is -- the only reason we're asking  
21 for side yard relief, we could have gone from property  
22 line to property line as a matter of right, and that's  
23 the definition of an attached, you don't have to  
24 actually be physically attached to another property for  
25 it to be an attached. It's detached because we're

1 asking for relief from the side yard and creating a  
2 five-yard side yard and the only reason we're really  
3 doing that is as a courtesy to the neighbors on the west,  
4 so they can continue to have full access to their rear  
5 yards and that we have the ability to have an easement  
6 which would give the Eton Court condo owners continued  
7 use. Right now, there is no easement.

8 COMMISSIONER WRIGHT: That's great, I've got  
9 that. I got that.

10 MR. KEARLEY: Okay, sorry.

11 COMMISSIONER WRIGHT: On the west side, just  
12 to be clear which is not where the easement is going  
13 to be, on the west side you have an area which is --  
14 again, I'm trying to make sure I understand, is it five  
15 feet or four feet?

16 MR. KEARLEY: It's a four-foot passageway.

17 COMMISSIONER WRIGHT: Okay and that --

18 (Simultaneous speaking.)

19 MR. KEARLEY: In order to have a side yard

20 --

21 COMMISSIONER WRIGHT: To allow --

22 MR. KEARLEY: You need five feet, we're asking  
23 for a nine-inch side yard because we don't want to  
24 encroach and make it three feet three, it's a little  
25 tight to bring down trash cans and such, so we want to

1 --

2 COMMISSIONER WRIGHT: Right, so it's --

3 MR. KEARLEY: We want to maintain --

4 COMMISSIONER WRIGHT: Four feet.

5 MR. KEARLEY: A four-yard passageway for the  
6 property owners on 33rd Street, so we're asking for a  
7 4.25 relief from the side yard.

8 COMMISSIONER WRIGHT: Got it. So, there will  
9 be a passageway four feet wide, is it going to be grass  
10 or paving?

11 MR. KEARLEY: Whatever the neighbors want  
12 we'll do, right? We're going to have to, when we do  
13 footings and foundation, etc., obviously you have to  
14 excavate a little bit, but we will put back pavers,  
15 concrete or whatever they want and whatever OGB says  
16 is acceptable.

17 COMMISSIONER WRIGHT: And so I understand  
18 also, all the neighbors on the west side have fences  
19 and backyards. Their houses actually face onto, is it  
20 33rd?

21 MR. KEARLEY: 33rd Street.

22 COMMISSIONER WRIGHT: And so their houses  
23 face onto 33rd, they all have backyards. They might  
24 have sheds or whatever, I mean I don't know --

25 MR. KEARLEY: Exactly.

1 COMMISSIONER WRIGHT: I'm not getting into  
2 that.

3 MR. KEARLEY: And this gives them the only  
4 access to their rear yards which we want to maintain  
5 in full.

6 COMMISSIONER WRIGHT: Right, but their houses  
7 are actually some --

8 MR. KEARLEY: 33rd Street.

9 COMMISSIONER WRIGHT: Distance from that back  
10 lot line?

11 MR. KEARLEY: Yeah. Whether it's 10, 15, 20  
12 feet, they set back from the lot line.

13 COMMISSIONER WRIGHT: Okay, got it. Great.  
14 I'm just getting the lay of the land.

15 MR. KEARLEY: No problem.

16 COMMISSIONER WRIGHT: That's the information  
17 I'm trying to get. Those are all my questions.

18 MR. KEARLEY: Right, hopefully I answered the  
19 question.

20 COMMISSIONER WRIGHT: Yes, thank you.

21 CHAIRPERSON HILL: Okay, thank you,  
22 Commissioner Wright. Mr. Blake, can you hear me? Mr.  
23 Blake, you might have to do star 6 again, I don't know.

24 VICE CHAIR BLAKE: Okay, I took a little  
25 minute, you know.

1 CHAIRPERSON HILL: Yes.

2 VICE CHAIR BLAKE: Can you hear me?

3 CHAIRPERSON HILL: Yes.

4 VICE CHAIR BLAKE: Okay. Yeah, I appreciate  
5 the questions that have been asked with regard to the  
6 history of the property, because I do think that it is  
7 helpful in trying to understand exactly what we're  
8 doing. I do have one kind of administrative type  
9 question. To the extent that, I think the Office of  
10 Planning had mentioned that this was obtainable via  
11 5201, but -- and I also think that the Applicant had  
12 initially applied for four variances and then adjusted  
13 that to two special exceptions and two variances. What  
14 I'm a little bit unclear about is I understood that the  
15 regulation, you had to have an existing record lot and  
16 from, I think, predating the 58 regulations to use 5201.  
17 Am I misreading that? Or how should we interpret that  
18 or how are you interpreting that?

19 CHAIRPERSON HILL: That's for the Office of  
20 Planning, Mr. Bradford.

21 VICE CHAIR BLAKE: And Mr. Bradford could also  
22 answer too, because he did -- it's a self-certified  
23 application, so he would be able to address that.

24 MR. BRADFORD: Yeah, they need the lot  
25 dimension relief to make this developable because it's

1 not a record lot. It's just a tax lot.

2 MR. KEARLEY: We have applied for variance  
3 for that because we're over 50 percent.

4 MR. BRADFORD: Yeah.

5 MR. KEARLEY: So, that's why we're asking for  
6 variances for lot area and lot occupancy and we're asking  
7 for special exceptions for the rear and the side yard  
8 setbacks.

9 CHAIRPERSON HILL: Yeah, I don't know if  
10 that's answering the question, but I'll see. Mr. Blake,  
11 did that answer the question for you? I don't think  
12 so.

13 VICE CHAIR BLAKE: Okay, are you eligible for  
14 the special exception without having had a record lot?  
15 Are you saying that these two variances will allow you  
16 to then create a record lot so that you will then be  
17 eligible for the special exceptions?

18 CHAIRPERSON HILL: That's okay. Mr.  
19 Bradford, I'll help clarify in one second. You don't  
20 seem to be able to understand what the question is and  
21 I don't know how to clarify it just yet, but I'll be  
22 able to in a minute.

23 MR. BRADFORD: Yeah, also some of the lot,  
24 I mean yes, it's in the code, but some of the -- part  
25 of that process is more with the Surveyor's Office, I

1 believe, so I'm not familiar with what happens to convert  
2 the lots beyond when I work on the relief.

3 MR. KEARLEY: To convert the lot with  
4 subdivision plat to turn it from a tax lot to a record  
5 lot, we need to have the relief granted or they won't  
6 convert it with the subdivision plat. We've started  
7 that process and we have the subdivision plat, but we  
8 haven't got the signatures of the different outside  
9 agencies. We'll need the relief in order to finalize  
10 the subdivision plat and turn it into a record lot.  
11 Does that answer the question or close to it?

12 VICE CHAIR BLAKE: Yes, so essentially what  
13 you're saying is, you're asking for the special  
14 exception now, the two special exceptions now, presuming  
15 that you will be eligible for them once you get the two  
16 variances?

17 MR. KEARLEY: Yes and then we'll be able to  
18 convert it from a tax lot to a record lot, which we can't  
19 do until we have the relief.

20 VICE CHAIR BLAKE: Okay. Thank you. I think  
21 I'm a little bit unclear about that provision because  
22 it did have an angle about record lots since -- for  
23 instance, it predated the regulation. So, the ZA can  
24 make that determination ultimately, that's not  
25 necessary for us to make that determination today.

1 Thank you.

2 CHAIRPERSON HILL: Okay, thanks, Mr. Blake.

3 I'm going to take a break in a minute anyway because  
4 I have to do something, but Mr. Kearley, do you have  
5 any questions for Ms. Perkowska? Mr. Blake, you might  
6 want to mute your line. I think it's just star 6. Mr.  
7 Kearley, do you --

8 (Simultaneous speaking.)

9 MR. KEARLEY: I don't necessarily have any  
10 questions. We will do what we can do to minimize the  
11 impact during construction and abide by everything that  
12 DC has for best practices. I don't want to get --

13 (Simultaneous speaking.)

14 CHAIRPERSON HILL: That's okay. If you don't  
15 have any questions --

16 (Simultaneous speaking.)

17 MR. KEARLEY: I don't have anything specific.

18 CHAIRPERSON HILL: I got it. No problem.  
19 Ms. Perkowska, do you have any questions for either the  
20 --

21 MS. PERKOWSKA: Yes.

22 CHAIRPERSON HILL: Applicant or the Office  
23 of Planning?

24 MS. PERKOWSKA: Both.

25 CHAIRPERSON HILL: Okay.



1 MS. PERKOWSKA: So, to Applicant, you are not  
2 claiming any physical change to the lot since 1988?

3 MR. KEARLEY: The physical dimensions of the  
4 lot have not changed. The ownership will change, since  
5 I have a contract on the property.

6 CHAIRPERSON HILL: Yeah, you answered the  
7 question. Nothing has changed in the dimensions of the  
8 lot, Ms. Perkowska.

9 (Simultaneous speaking.)

10 MS. PERKOWSKA: So, nothing also has changed  
11 with the hardship claim?

12 MR. KEARLEY: I don't know what the hardship  
13 was previously. We laid out in the application why we  
14 believe relief should be granted, but I'm not familiar  
15 with what the Applicant put for a hardship previously.

16 CHAIRPERSON HILL: And, Ms. Perkowska, if  
17 that was from the previous case, that was from the  
18 previous case.

19 MR. KEARLEY: But I think Office of Planning  
20 communicated why it --

21 (Simultaneous speaking.)

22 CHAIRPERSON HILL: It's okay.

23 MR. KEARLEY: Is a unique property.

24 CHAIRPERSON HILL: Ms. Perkowska, what's your  
25 next question?

1 MS. PERKOWSKA: To Office of Planning, did  
2 Office of Planning conduct any site visit? Any shadow  
3 or privacy studies that were third party verified and  
4 not preferred by the Applicant itself? Second  
5 question, did OP evaluate whether any material  
6 conditions have changed since the prior decision because  
7 none of that was --

8 (Simultaneous speaking.)

9 CHAIRPERSON HILL: Ms. Perkowska --

10 MS. PERKOWSKA: Evaluated in the decision.

11 CHAIRPERSON HILL: Let him answer the  
12 questions first. Go ahead, what was the first answer  
13 to the first question, please, Mr. Bradford.

14 MR. BRADFORD: The first question was a  
15 multi-part on -- so, OP doesn't conduct sun or shadow  
16 studies, so that's not something that we do. We review  
17 what's provided by the Applicant in the record, so I  
18 deemed what the Applicant provided in the record  
19 sufficient to understand the relationship of this  
20 dwelling to the surrounding area. I have not visited  
21 this lot for the purpose of this relief, but given I  
22 live in DC, I've walked past this lot many times just  
23 being in Georgetown, so I'm familiar with the location,  
24 but I did not go to the site specifically to evaluate  
25 other than using the photos and street view for the

1 application.

2 CHAIRPERSON HILL: Okay, Ms. Perkowska, your  
3 second question again?

4 MS. PERKOWSKA: Whether OP evaluated if any  
5 material conditions have changed since last time it was  
6 denied in 1988. So, whether any material conditions  
7 have changed because that's also not addressed and  
8 that's relevant.

9 MR. BRADFORD: So, I wrote my report to the  
10 variance and special exception criteria, not really  
11 taking into consideration the past cases, but I will  
12 note that OP recommended approval in the 1988 case as  
13 well, so we are being consistent in our recommendation.

14 CHAIRPERSON HILL: So, Ms. Perkowska, also  
15 this is the case that's in front of us now and so we're  
16 getting information from the Office of Planning as to  
17 what they think now and then -- so, I still don't --  
18 even though we can go back and look at what happened  
19 in previous cases, the Board has to decide what the Board  
20 thinks is accurate at this point. What's your next  
21 question?

22 MS. PERKOWSKA: Besides the case, there is  
23 Court of Appeal precedent from 1973 that specifies that  
24 self-created hardship cannot qualify --

25 CHAIRPERSON HILL: Okay, so, Ms. Perkowska,

1 I'm saying you're giving testimony now again. You're  
2 talking about the self-created hardship argument you  
3 were making earlier. You don't have any more questions  
4 for the Office of Planning it looks like. Let's see,  
5 Mr. Young, is there anyone here wishing to testify?

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

8 CHAIRPERSON HILL: Okay, great. Could you  
9 tell me that person's name?

10 MR. YOUNG: Tom Spouse.

11 CHAIRPERSON HILL: Okay. Mr. Spouse, can you  
12 hear me?

13 MR. SPOUSE: (No audible response.)

14 CHAIRPERSON HILL: Great, could you please  
15 introduce yourself for the record and then as a member  
16 of the public, you'll have three minutes to give your  
17 testimony and you can begin whenever you like.

18 MR. SPOUSE: Thank you very much. My name  
19 is Tom Spouse. I own the property directly adjacent  
20 to this lot, so I'm on the corner of Prospect and 33rd  
21 Street. My property butts up onto this current, what  
22 we call the mulch garden. My understanding is that the  
23 structure that's going to be put here will remove the  
24 trees that currently provide us with some degree of  
25 respite from the construction of Eton Court, which I

1 think would be, by anybody's assessment, not really in  
2 keeping with the historic charm of Georgetown.

3 My first concern really is the removal of that  
4 and bringing Eton Court more into the line of sight of  
5 the neighborhood, so that's my first concern really with  
6 this.

7 The second concern really remains around my  
8 light and the light that will be afforded to my property.

9 Those are the two major concerns. I'd just be  
10 interested in hearing from these gentlemen as to exactly  
11 how they intend to handle those two considerations,  
12 please.

13 CHAIRPERSON HILL: Okay. Mr. Spouse, you're  
14 giving testimony. We don't take questions and answers  
15 necessarily from the witnesses, but I can ask some of  
16 the questions for you after you're done.

17 MR. SPOUSE: Okay, super. Thank you so very  
18 much indeed.

19 CHAIRPERSON HILL: The trees and the light  
20 and air, and where is your property again?

21 MR. SPOUSE: I'm essentially the house that  
22 abuts the western side of this property. We're the most  
23 directly -- aside from the Eton Court residence, my  
24 property is the most directly affected by this. There's  
25 another consideration I think that we should really

1 address here and it's possible that this could be  
2 rectified by some kind of arrangement, but aside from  
3 the light issue and really the exposing of Eton Court  
4 to the world, which I've always found an offensive  
5 eyesore, I think the big concern here is also around  
6 security.

7           We've had a number of incidents over the years  
8 in this neighborhood because we have a lot of students,  
9 especially on the 33rd Street properties below mine,  
10 so coming down toward M Street. One of the things that  
11 I think precludes the invasion down that alleyway is  
12 the fact that you have to cross this open lot and it's  
13 quite exposed and well lit. So, were we to construct  
14 a property and build a four-foot wide alleyway that was  
15 directly accessible from the sidewalk, it would be a  
16 lot easier for somebody to evade detection and slip down  
17 that alleyway and then into the rear of those properties.

18           CHAIRPERSON HILL: Okay, Mr. Spouse, I'm  
19 sorry, you're running out of time.

20           MR. SPOUSE: Go ahead, go ahead then. I'll  
21 be happy to cap there. Thank you.

22           CHAIRPERSON HILL: Okay, thank you so much.  
23 Thank you for your testimony. Mr. Young, if you could  
24 please excuse Mr. Spouse. Mr. Kearley, I forget, I'm  
25 a little confused about the trees and whatever. There

1 were some tress over that are on the Eton side condo  
2 thing that you guys are building below the tree line,  
3 right? Is that correct?

4 MR. KEARLEY: Pete, can you answer that if  
5 it's on the --

6 (Simultaneous speaking.)

7 MR. MALLIOS: The trees are on the lot.  
8 They're all the way at the back of the lot abutting the  
9 property line with the condo.

10 MR. KEARLEY: So, they are on this lot and  
11 --

12 MR. MALLIOS: They are on the lot, yeah.

13 MR. KEARLEY: They are on the lot. We can  
14 work with an arborist if we can save some of those trees  
15 during construction. I'm not opposed to that. We're  
16 glad -- we have to abide by the DC regulations for trees.  
17 Any trees we would remove, we'd have to plant other  
18 trees in the rear yard. We understand. We want to  
19 mitigate between Eton Condos. Eton Condos is a little  
20 bit of an anomaly here in this area because they're small  
21 townhomes, so I believe that our building would act as  
22 a buffer between that and would be welcome to work with  
23 an arborist and other folks to come up with a plan, but  
24 we have to abide by DC law for the trees and we can only  
25 remove trees that are of a certain size and we will,

1 a hundred percent, abide by DC laws for any tree removal.

2 CHAIRPERSON HILL: Okay, all right. Let me  
3 see. Ms. Perkowska, can you hear me? I'm sorry, you're  
4 on mute. If you want to go ahead and give us a conclusion  
5 -- oh, I'm sorry. Mr. Kearley, do you have any rebuttal  
6 at all?

7 MR. KEARLEY: I don't have a rebuttal. I  
8 understand that people live in this area and they have  
9 every right to be a proponent or an opponent. We want  
10 to communicate why we believe we deserve the relief.

11 The only thing I would share in addition, if  
12 you want us to, is to show the sun study to show the  
13 minimal impact on the neighbors because that was  
14 mentioned by a number of people. I'm glad to walk people  
15 through that if you deem that necessary. If not, we'll  
16 move forward, but again, everyone has their own right  
17 as a resident of DC to be --

18 (Simultaneous speaking.)

19 CHAIRPERSON HILL: Okay, that's okay --

20 MR. KEARLEY: A proponent or an opponent.

21 CHAIRPERSON HILL: That's okay, I was a little  
22 --

23 MR. KEARLEY: No rebuttal to that.

24 CHAIRPERSON HILL: I'll just say that. Okay,  
25 great, thank you. Ms. Perkowska, could you please give



1 us your conclusion? You're on mute, Ms. Perkowska,  
2 sorry.

3 MS. PERKOWSKA: No material change has been  
4 presented since the prior decision. It's the same  
5 hardship and it's related to the small lot that was  
6 carved out by the developer. That was not a mistake,  
7 it was an intentional subdivision. This is not just  
8 about the President and full ANC support of our position,  
9 there are 11 letters opposing directly adjoining this  
10 subject with detailed adverse effect to their  
11 properties, so it is not just me. It's a near universal  
12 position.

13 The record does not present that the burden  
14 of proof was met by the Applicant. The Applicant has  
15 not met standards under zoning relief law. If that was  
16 not asked to be pushed through zoning relief, we would  
17 not be here, but the lot was created this way and --

18 CHAIRPERSON HILL: Okay.

19 MS. PERKOWSKA: Arguing right now that you  
20 can create a small lot then come back to Zoning Board  
21 and ask for the variance, that just overturns the  
22 precedent and for the reason that is in the record,  
23 detailed explanation of adverse impact, how substantial  
24 are those, the record supports the denial. Thank you.

25 CHAIRPERSON HILL: Thank you, Ms. Perkowska.

1 Mr. Kearley, do you have any conclusion?

2 MR. KEARLEY: I believe we have outlined why  
3 we should be granted the relief. It's in the record.

4 The sun studies, the plans and elevations and that we're  
5 not creating a negative adverse condition for the  
6 neighborhood. I think that was substantiated by OGB  
7 unanimously approving this. Other than that, I think  
8 everything that's in the record is what we stand by in  
9 terms of the relief being granted.

10 CHAIRPERSON HILL: Okay, great. Let me see  
11 now, Ms. Perkowska, I'm sorry, you've kind of given your  
12 case and your conclusion, what is it that you want to  
13 say?

14 MS. PERKOWSKA: One important point about the  
15 walkway that is misrepresented on Applicant's plans.

16 It's currently wider than four feet. There is no clear  
17 distinction between adjoining property, Lot 834 --

18 (Simultaneous speaking.)

19 CHAIRPERSON HILL: Okay, Ms. Perkowska,  
20 you're creating more testimony again and so, Mr.  
21 Kearley, you were able to have a response to testimony,  
22 please (Telephonic interference.)

23 MR. KEARLEY: It was a four-foot path, we're  
24 keeping the four-foot path. We're keeping the access  
25 to Eton Court. I think it's shown in the exhibitions

1 in terms of the side yards. Now, you can say that the  
2 lot is a side yard, but it's not, it's a lot. It's  
3 private property, so we're keeping the established rear  
4 and side yard. That's it.

5 CHAIRPERSON HILL: Okay, thanks, Mr. Kearley.  
6 Can you guys give me -- I just need a quick break and  
7 then I'll come back, okay? I'll be right back. Sorry,  
8 guys, I'm back. We're still waiting for Ms. Perkowska.  
9 Okay, great. Sorry, I had to deal with something.

10 If you all can mute yourselves unless you're talking  
11 that would be helpful because there's an echo.

12 Mr. Kearley, I guess, this is again  
13 self-certified, so I just want to get my head around  
14 something that I think Board Member Blake was trying  
15 to ask. Under 5201, it says it authorizes the Board  
16 to grant relief from specific development standards by  
17 special exception for an addition to a principal  
18 residential building. Okay? This is not an addition  
19 to a principal residential building.

20 Then it continues in 5201 with one dwelling  
21 unit on a non-alley lot or for a new principal  
22 residential building on a substandard, non-alley record  
23 lot, which I don't think this is also, as described by  
24 C 301.1. So, what Mr. Blake was trying to ask is why  
25 do you think that it's proper to be here under D 52.01?

1           MR. KEARLEY: I don't have an answer to that  
2 question, but I can get it to you for the record. I  
3 would have to advise with my attorney.

4           CHAIRPERSON HILL: Okay because this is also  
5 the process that we're going through also, meaning we'll  
6 think about this. Mr. Blake was trying to ask this,  
7 right? Because it's possible that if we're not -- we,  
8 the Board, are going to have to decide whether or not  
9 we're here under 52.01 correctly, right? Because if  
10 we're not, then we can't really do it. So, if the Board  
11 decides that we're not here under 52.01, it might have  
12 to go back the way it was with the four variances, which  
13 means that you might have to beef up your case or come  
14 back a little bit later in a different way.

15           This is where I'm still trying to figure out  
16 with the Board and Office of Zoning Legal Department  
17 whether or not we're here under the correct relief.

18           MR. KEARLEY: Understood, but my  
19 understanding was we can't turn this into a record lot  
20 without the relief.

21           CHAIRPERSON HILL: Right and I don't even know  
22 if that's accurate, but regardless I don't know whether  
23 that puts us here under 52.01.

24           MR. KEARLEY: Okay.

25           CHAIRPERSON HILL: So, what I think we should

1 do is if you want to go ahead and submit something into  
2 the record as to why you should be here under 52.01,  
3 given the two items that I mentioned, okay? Then we  
4 will come back and have a limited scope hearing and all  
5 that means is we're going to try to talk about this 52.01  
6 exercise. Ms. Perkowska, sorry I'm doing a bad job with  
7 your name, it's a limited scope hearing that we'll be  
8 talking about this issue just to let you know. We won't  
9 go revisit things.

10 MR. KEARLEY: I will advise -- when could you  
11 do that? I mean this shouldn't take very long in terms  
12 of the 52.01 if we come back, could we come back?

13 CHAIRPERSON HILL: I understand. It might  
14 not take you long to put something in the record. It  
15 might take a little bit of a while to -- the Board's  
16 going to have to decide whether or not you're right.

17 MR. KEARLEY: Okay.

18 CHAIRPERSON HILL: And so I am going to look  
19 here, Madam Secretary, can you hear me?

20 MS. MEHLERT: (No audible response.)

21 CHAIRPERSON HILL: Thanks. In order for us  
22 to come back here for this issue, when do you think we  
23 could come back here for this issue? You're on mute,  
24 Madam Secretary.

25 MS. MEHLERT: It depends on how busy of a

1 schedule you would like. If the Applicant (Telephonic  
2 interference.) you could do November 19th, you could  
3 do December 3rd. December 3rd has fewer cases.

4 CHAIRPERSON HILL: Okay, how many cases --  
5 (Simultaneous speaking.)

6 MR. KEARLEY: I would vote for the 19th if  
7 possible.

8 CHAIRPERSON HILL: Yeah, thanks, Mr. Kearley,  
9 I'm sure you would sooner rather than later. I'm  
10 surprised, really? How many cases on the 19th, Madam  
11 Secretary?

12 MS. MEHLERT: There are seven right now.

13 CHAIRPERSON HILL: Okay. I think this will  
14 be a pretty straightforward discussion. It either is  
15 or it isn't, right? You can talk with your legal people  
16 also, Mr. Kearley, and see what we just mentioned.  
17 Again, I'm just referring them to 52.01, D 52.01, with  
18 regard to the addition to a principal residential  
19 building and the new principal residential building on  
20 a substandard non-alley record lot as described in C  
21 301.1 --

22 MR. KEARLEY: Okay.

23 CHAIRPERSON HILL: For reference, okay?

24 MR. KEARLEY: I have no problem. I mean I  
25 consulted with Alex and Marty, who I think you guys know

1 well, they present all the time and they are the ones  
2 who mapped this out.

3 CHAIRPERSON HILL: Okay, no problem.

4 MR. KEARLEY: So, I'm going to confer with  
5 them. I'll have an answer this week.

6 CHAIRPERSON HILL: Okay, so then why don't  
7 you go ahead, this is November 29th, if you submit  
8 something --

9 MR. KEARLEY: October 29th.

10 CHAIRPERSON HILL: Oh, I'm sorry. October  
11 29th, thank you, if you submit something into the record  
12 by November 5th --

13 MR. KEARLEY: Not a problem.

14 CHAIRPERSON HILL: Then that will give the  
15 parties, meaning Ms. Perkowska, until the 12th to submit  
16 anything with regard to what is being submitted on  
17 November 5th. Okay?

18 MR. KEARLEY: And this is solely on that one  
19 issue, right?

20 CHAIRPERSON HILL: Yes, the 52.01.

21 MR. KEARLEY: Okay.

22 CHAIRPERSON HILL: Okay?

23 MS. PERKOWSKA: If I might kindly request  
24 pushing that to December because I have a very busy  
25 schedule. I'm actually leaving tomorrow for Europe and

1 all the 10 neighbors that objected, they're also pretty  
2 caught up, so we would like to have some more time.

3 CHAIRPERSON HILL: Ms. Perkowska, I'm doing  
4 my best to get like -- you talk about your busy scheduled,  
5 this is a really busy schedule over here, right? So,  
6 we're jammed, you can tell right now, I'm jammed until  
7 4:00 right now and I still have an appeal that didn't  
8 happen. If the appeal were to happen, I would have been  
9 until 9:00 tonight, so I think that you can submit  
10 something into the record. I'm only asking about one  
11 thing. I'm not asking about all the other stuff, this  
12 is just something that I'm talking about, 52.01. By  
13 the way, I'm not asking for anything else. The question  
14 that I'm asking of the Applicant as to why they are here  
15 under the correct 52.01, okay? And so, Ms. Perkowska  
16 -- how do you say your last name?

17 MS. PERKOWSKA: Perkowska.

18 CHAIRPERSON HILL: Perkowska, I'm sorry.  
19 Ms. Perkowska, you, Ms. Perkowska, will have until the  
20 12th. You'll have a whole week to give some kind of  
21 submission regarding what we get on November 5th, okay?  
22 Then, we'll come back here on November 19th and  
23 determine what we're going to do next. So, that will  
24 again be -- I guess actually do I need a limited scope  
25 hearing? I don't know, Mr. Blake, or now that I've got



1 you there or Commissioner Wright, I think we'll be able  
2 to -- we'll at least be able to know where we're going  
3 to go next based on the record probably. Yeah, go ahead,  
4 Commissioner Wright.

5 COMMISSIONER WRIGHT: I understand this is  
6 a very important legal, technical issue that needs to  
7 be baseline resolved. Are we voting on the correct  
8 thing and that is certainly something that the Applicant  
9 should be checking with their attorney. We should be  
10 getting advice from the attorney that represents the  
11 BZA on this matter as well, I think. That is an  
12 important baseline issue.

13 I did want to say after hearing the testimony  
14 about the actual proposal that I just think it's only  
15 fair to give all of the people who have spoken at least  
16 a little bit of feedback. I believe this proposal and  
17 we have to figure out the right legal items that we need  
18 to do to act on this one way or the other, I believe  
19 the proposal is a good proposal, let me just say that.

20 I think that I understand the 1988 decision, I think  
21 that it is true that the lot is not different, but the  
22 building is and from what I've understood it's  
23 significantly different.

24 So, again, that may even be something that  
25 we want to ask a little more information about to be

1 sure that that is accurate. I just put that out there  
2 because I think it's unfair to say to these folks, you've  
3 sat here all day for waiting for this item, here's the  
4 item, we're not going to give you any feedback on the  
5 actual proposal. So, I wanted to do that.

6 MR. KEARLEY: All right. Thank you very  
7 much.

8 CHAIRPERSON HILL: Let's see, so anyway, I'm  
9 going back again, on the 5th, you give me whatever you  
10 think on 52.01. On the 12th, the parties will have an  
11 opportunity to respond and on the 19th, we're not going  
12 to do a continued hearing, on the 19th, we're going to  
13 figure out where we are. Okay? Go ahead, Mr. Blake.

14 VICE CHAIR BLAKE: It could be to just get  
15 a -- you know, this is a self-certified application,  
16 if you felt comfortable getting a zoning determination  
17 letter from the ZA, that would certainly solve a lot  
18 of the confusion in terms of what could and could not  
19 be done. I would appreciate determining your arguments  
20 that could present from your attorneys or de facto  
21 attorneys, but the fact of the matter is then we still  
22 will have to mull over this issue. I think a more direct  
23 way would be to get the determination letter form the  
24 ZA.

25 CHAIRPERSON HILL: Okay, I don't think you'll

1 get one that fast, Mr. Kearley, but I'll leave it open  
2 for two items. If you get some kind of zoning  
3 determination letter, fine, you can go ahead and put  
4 that also in the record by the 5th, or you can at least  
5 let us know what happened with that zoning determination  
6 letter if you decide to do it or not do it. Then, explain  
7 again the 52.01 thing. Again, parties will have an  
8 opportunity to respond by the 12th and we're going to  
9 come back and have a discussion amongst the Board on  
10 the 19th. So, we're not having a continued hearing.

11 MR. KEARLEY: Okay. Great.

12 CHAIRPERSON HILL: Okay, and --

13 (Simultaneous speaking.)

14 MR. KEARLEY: I will have it in there and it  
15 will either be I'll be confident in the  
16 self-certification when I do that and if it doesn't work  
17 out for the 52.01, then will I have to resubmit?

18 CHAIRPERSON HILL: You'll have to figure out  
19 where you are, Mr. Kearley, and the office can help you  
20 with that.

21 MR. KEARLEY: Thank you.

22 CHAIRPERSON HILL: Okay?

23 MR. KEARLEY: Got it.

24 CHAIRPERSON HILL: Ms. Perkowska, you had a  
25 question?

1 MS. PERKOWSKA: Just that one sentence, 188  
2 did not refer to the design --

3 (Simultaneous speaking.)

4 CHAIRPERSON HILL: Ms. Perkowska, Ms.  
5 Perkowska, we are not rearguing things, right, and so  
6 we took your testimony. We heard everybody's testimony  
7 and the Board is going to have to figure out what the  
8 Board's going to do, right, and I heard everything.  
9 We all heard everything that you said about the previous  
10 applications and so this is exactly what's going to  
11 happen next. On the 5th, we're going to get some more  
12 information. You'll have an opportunity to respond on  
13 that information by the 12th and then the Board is going  
14 to figure out what's going on on the 19th. Okay? All  
15 right, thank you all for your time today.

16 I'm going to go ahead and close the hearing  
17 and the record. I really appreciate it, believe it or  
18 not, I really do.

19 MR. KEARLEY: Thank you, Chairman Hill and  
20 everyone else, much appreciated.

21 CHAIRPERSON HILL: Bye-bye. Madam  
22 Secretary, you just came on.

23 MS. MEHLERT: You're scheduling us for a  
24 decision on the 19th?

25 CHAIRPERSON HILL: Yeah, I mean the decision

1 is going to be, I guess, whether or not this is here  
2 correctly for us or not, right, and then I think that  
3 will be the first hoop and then if we get through that  
4 hoop, then I guess we will decide on the merits. Okay?  
5 Okay, all right. Does anybody have to -- do we need  
6 anything else, Madam Secretary?

7 MS. MEHLERT: No, nothing else from staff.

8 CHAIRPERSON HILL: Okay. Nice to see you  
9 guys. Commissioner Wright, I got you out earlier, I  
10 want that on the record.

11 COMMISSIONER WRIGHT: I appreciate that,  
12 except I have to come back two more times.

13 CHAIRPERSON HILL: Well, hey, you know, you  
14 signed up for it. You signed up for it, I didn't --

15 (Simultaneous speaking.)

16 COMMISSIONER WRIGHT: Yep, out early today,  
17 but two more meetings.

18 (Laughter.)

19 CHAIRPERSON HILL: You raised your hand and  
20 you said yes, and so I got nothing to do with that.

21 COMMISSIONER WRIGHT: That's true. That's  
22 true, I'm just joking. I'm just joking.

23 CHAIRPERSON HILL: I know, I know.

24 COMMISSIONER WRIGHT: Thank you very much.  
25 We'll see you all soon.

1                   CHAIRPERSON HILL: All right, you all take  
2 care. We're adjourned. Bye-bye.

3                   (Whereupon, the above-entitled matter went  
4 off the record at 4:15 p.m.)

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## 1 C E R T I F I C A T E

2 This is to certify that the foregoing transcript was  
3 duly recorded and accurately transcribed under my  
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8 and further that I am not a relative nor an employee  
9 of any of the parties nor counsel employed by the  
10 parties, and I am not financially or otherwise  
11 interested in the outcome of the action.

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Sam Wojack