

GOVERNMENT OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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REGULAR PUBLIC HEARING

+ + + + +

WEDNESDAY

SEPTEMBER 10, 2025

+ + + + +

The Public Hearing of the District of Columbia Board of Zoning Adjustment convened via teleconference, pursuant to notice at 9:30 a.m. EDT, Carl H. Blake, Vice Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

CARL H. BLAKE, Vice Chairperson
CHRISHAUN SMITH, Commissioner
ROBERT E. MILLER, Vice Chairperson, Zoning Commission
JOSEPH IMAMURA, Zoning Commissioner
TAMMY STIDHAM, Zoning Commissioner

OFFICE OF BOARD OF ZONING ADJUSTMENT STAFF PRESENT:

KEARA MEHLERT, Secretary
PAUL YOUNG, A/V Operations

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OFFICE OF PLANNING STAFF PRESENT:

Joshua Mitchum, Development Review Specialist,
Matt Jesick, Development Review Specialist
Karen Thomas, Development Review Specialist
Shephard Beamon, Development Review Specialist

The transcript constitutes the minutes from the
Regular Public Hearing held on September 10, 2025.

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

(9:30 a.m.)

VICE CHAIRPERSON BLAKE: Good morning ladies and gentlemen. The Board of Zoning Adjustment September 10, 2025 public hearing will please come to order.

My name is Carl Blake, Vice Chair of the District of Columbia Board of Zoning Adjustment. Joining me today are Board members Chrishaun Smith with the International Capital Planning Commission, Zoning Commissioner Rob Miller, Commissioner Tammy Stidham and Commissioner Dr. Joe Imamura.

Today's meeting and hearing agenda are available on the Office of Zoning's website. Please be advised that this proceeding is being recorded by a court reporter and is also webcast live via Webex and YouTube Live. The video of the webcast will be available on the Office of Zoning's website after today's hearing. Accordingly, everyone who is listening on Webex or by telephone will be muted during the hearing. If you experience difficulty accessing Webex or with your telephone call-in then please call our OZ hotline number at 202-727-5471 to receive Webex login or call-in instructions.

Today we'll begin with our decision meeting session, then proceed with our public hearing session. Please be advised that we do not take any public testimony at our decision meeting session. Public testimony will be received during the public hearing session, however only parties are allowed to testify on

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

10 In today's hearing session everyone who's listening by
11 Webex or by telephone will be muted during the hearing and only
12 persons who have signed up to participate or testify will be
13 unmuted at the appropriate time. Please state your name and home
14 address before providing oral testimony or your presentation.
15 Oral presentations should be limited to a summary of your most
16 important points.

17 When you're finished speaking please mute your audio
18 so that your microphone is no longer picking up sound or
19 background noise. Once again, if you experience difficulty
20 accessing Webex or with your telephone call-in, or if you have
21 forgotten to sign up to 24 hours prior to the meeting then please
22 call our OZ hotline number at 202-727-5471 to sign up to testify
23 and to receive Webex login or call-in instructions.

24 All persons planning to testify either in favor or in
25 opposition should have signed up in advance. They'll be called

1 by name to testify. By signing up to testify all participants
2 completed the oath or affirmation as required by Subtitle Y,
3 Section 408.7. Requests to enter evidence at the time of an
4 online virtual hearing such as written testimony or additional
5 supporting documents other than live video may not be presented
6 as part of the testimony may be allowed, pursuant to Subtitle Y,
7 Section 103.13.

8 The order of procedure for special exceptions and
9 variances are pursuant to Subtitle Y, Section 410. The procedure
10 for appeals are pursuant to Subtitle Y, Section 507 and time
11 constraints will be maintained pursuant to the Subtitle Y,
12 Sections 408.2 and 408.3.

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

22 At the conclusion of the hearing the Board may request
23 additional specific information to complete the record. The
24 Board and staff will specify at the end of the hearing exactly
25 what's expected and the date when persons must submit the evidence

1 to the Office of Zoning. No other information shall be accepted
2 by the Board. Once again, after the Board adjourns the hearing
3 the Office of Zoning, in consultation with the Chair, will
4 determine whether a full or summary order may be issued. A full
5 order is required when the decision it contains is adverse to a
6 party, including an affected ANC and an order may also be needed
7 if the Board's decision differs from the Office of Planning's
8 recommendation. Although the Board favors the use of summary
9 orders when proper, an applicant may not request the Board to
10 issue such an order.

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

21 Madam Secretary, do we have any preliminary matters?

22 MS. MEHLERT: Good morning, Mr. Vice Chair and members
23 of the Board. Welcome back.

24 Regarding the schedule today, Application No. 21209 of
25 304, 306 and 308 K Street, LLC has been postponed to November

1 5th, 2025. Also the Chairman has reviewed and granted waivers
2 to allow late filings in the applicable case record pursuant to
3 Subtitle Y, Section 206.7 and Section 103.13. Any other late
4 filings during the course of today's live hearing should be
5 presented before the Board by the applicant, parties or witnesses
6 after the case is called. And any other preliminary matters will
7 be noted when the case is called.

8 VICE CHAIRPERSON BLAKE: Okay. Thank you very much,
9 Madam Secretary. Would you please call our first meeting issue
10 case.

11 MS. MEHLERT: The first item in the Board's meeting
12 session is Application No. 21298 of Justin Riordan and Zach Bache.
13 As amended, this is a self-certified application pursuant to
14 Subtitle X, Section 1002 for area variances from Subtitle C,
15 Section 302.1 to allow a subdivision to create new record lots
16 not meeting the minimum requirement for lot width for side yard,
17 from Subtitle D, 208.2 to allow side yards of less than eight
18 feet, Subtitle D, Section 302.1 to allow a lot width less than
19 50 feet and Subtitle D, 5003.1 to allow an accessory structure
20 with building area greater than 450 square feet or 30 percent of
21 the rear yard, for the subdivision of two existing record lots
22 to create two new record lots with an existing detached dwelling
23 on one new lot and a new two-story detached principal on the
24 other new lot.

25 This project is located in the R-1B zone at 1306 Girard

1 Street, Northeast, Square 3958, Lots 8 and 9. The public hearing
2 for this case was concluded on July 30th, 2025. The Board voted
3 to approve the application except for the side lot variance relief
4 for the new lot B. Participating in the hearing and vote were
5 Chairman Hill, Vice Chair Blake, Board member Smith and
6 Commissioner Stidham, and then on August 7th the Applicant
7 withdrew the side lot variance relief for lot B and also submitted
8 a request to open the record to allow a revised plan which is
9 before the Board today.

10 VICE CHAIRPERSON BLAKE: Thank you.

11 So as the secretary indicated, this Board heard this
12 case on July 30th and had, and since the Board approved the
13 application except for this side yard issue on lot B. The Board
14 didn't believe that the Applicant met the standard for the area
15 variance for the side yard relief on that lot and thought it was
16 more of a design issue than a necessity.

17 The Applicant is now requesting the Board to reopen the
18 record to submit supplemental materials with updated
19 architectural plans and elevations showing post structure on lot
20 B with compliant side yard. So the Applicant is, the secretary
21 pointed out is also seeking to withdraw the request for an area
22 variance from Subtitle D, Section 208.2 for lot B.

23 So the Board has the authority to reopen the record if
24 the Applicant demonstrates good cause and a lack of prejudice to
25 any party. I believe that the Applicant has demonstrated good

1 cause and I'm prepared to grant the request to reopen the record
2 for these submissions if there are no objections from other
3 members of the Board. Okay. Hearing no objection we will reopen
4 the record for those submissions.

5 Now, Chapter Y, Section 602.7 requires that we
6 distribute the supplemental materials to other parties in the
7 case and allow seven days for a response. And while there were
8 some letters of opposition and support ANC 5B are the only other
9 party so we're going to have to provide them with the supplemental
10 materials before we can actually take action. So we have to set
11 a decision date to vote on the revised application.

12 Madam secretary, can you help me a little bit with that
13 date? Can we do that next week?

14 MS. MEHLERT: You could set it for a decision next
15 week. If you want to set a response period of six days you could
16 have the ANC respond by next Tuesday. That is within the Board's
17 purview so, but it's up to the Board what you'd like to do.

18 VICE CHAIRPERSON BLAKE: The ANC was in support of the
19 project and I think the Board would be comfortable getting the
20 information out of the ANC right away, and we can reduce the
21 response period to six days. I think it would be great to take
22 it up at our next session.

23 Mr. Smith, would you be comfortable with that?

24 COMMISSIONER SMITH: Yes, I'm comfortable with that.

25 VICE CHAIRPERSON BLAKE: Okay. Commissioner Stidham?

1 ZC COMMISSIONER STIDHAM: I'm also comfortable with
2 that.

3 VICE CHAIRPERSON BLAKE: Okay. Madam Secretary, do we
4 need to take a vote or we can sufficiently satisfy this?

5 MS. MEHLERT: You don't need to take a vote to reopen
6 the record.

7 VICE CHAIRPERSON BLAKE: Okay. So let's, so we'll
8 close this for now. The only information that the record is open
9 for is this submission and the comments from the ANC, if they
10 have any, but nothing else will be permitted into the record
11 besides that and we will take action on this at the decision
12 meeting next session. Okay?

13 Can we go on to the next? Would you call the next
14 case?

15 (Pause.)

16 COMMISSIONER SMITH: And Tammy, that was your last case
17 for today?

18 ZC COMMISSIONER STIDHAM: Yes, that was it. You guys
19 have a great day.

20 VICE CHAIRPERSON BLAKE: Oh, see you. Sorry about
21 that. Thank you. Bye.

22 COMMISSIONER SMITH: Take care.

23 ZC COMMISSIONER STIDHAM: Okay. Bye.

24 MS. MEHLERT: The next item on the Board's meeting
25 agenda is Application No. 21119-A of Vikramaditya Railan and

1 | Veena Railan. This is a request pursuant to Subtitle Y, Section
2 | 700.2 for reconsideration of an order issued on July 29th, 2025
3 | that approved special exceptions under Subtitle U, Section 421
4 | to allow a new residential development and under Subtitle C,
5 | Section 714.3 from the parking screening requirements of Subtitle
6 | C, Section 714.2.

7 | This was for the creation of two additional dwelling
8 | units in an existing four unit apartment house with third-story
9 | and three-story rear additions to the existing two-story semi-
10 | detached building. It's located in the RA-1 zone at 2232 40th
11 | Street, Northwest, Square 1317, Lot 15. Again, the order
12 | approving the application was issued on July 29th, 2025 and
13 | participating in the original proceedings were Chairman Hill,
14 | Vice Chair Blake, Board member Smith and Dr. Imamura, and on
15 | August 8th the party in opposition, Marla Leftwich, submitted a
16 | request to extend the ten day deadline to file a Motion for
17 | Reconsideration, and on August 19th Ms. Leftwich filed a Motion
18 | for Reconsideration.

19 | VICE CHAIRPERSON BLAKE: Okay. Thank you, Madam
20 | Secretary. This is a little bit of a complicated matter but we
21 | should be able to go through it pretty quickly actually.

22 | So the Applicant has filed a Motion for Reconsideration
23 | for the order. The order, as the secretary pointed out, was
24 | issued on July 29th making ten day deadline for a timely Motion
25 | for Reconsideration August 8. So the party in opposition

1 submitted a request on August 8th asking the Board to extend the
2 ten day deadline and the party in opposition then filed a Motion
3 for Reconsideration on August 19.

4 So before moving into evaluating the merits of the
5 Motion to Reconsider, we need to first address the request to
6 extend the filing deadline. Now, Subtitle Y, Section 101.9
7 authorizes the Board to extend the deadline if it finds good
8 cause and if the waiver will not prejudice the rights of any
9 party. The party in opposition argues that they, as it relates
10 to good cause the party in opposition argues that they were not
11 served a copy of the order.

12 Now this could be considered good cause but there's
13 information in the record to the contrary. To me though the
14 bigger picture issue is the prejudice as the Applicant has been
15 already given the opportunity, given the green light essentially
16 to (audio interference) and commence work. So in that instance,
17 because of the prejudice and the questionable good cause I don't
18 believe that the party in opposition has met the standard set out
19 in Subtitle Y, Section 101.9 having not sufficiently demonstrated
20 good cause or lack of prejudice.

21 Mr. Smith, what are your thoughts?

22 COMMISSIONER SMITH: I completely agree with everything
23 you stated. The reasons raised by the party in opposition, again,
24 deal with noticing and that was something that we discussed at
25 length at the hearing and the Applicant both noticed, properly

1 noticed, and had the ability to speak on the issues that she
2 raised at the hearing last year. So, again, the party in
3 opposition is continuing to beat the same drum of she wasn't
4 properly noticed and I think we fully aired that out at the
5 hearing last year. So I do not, I would not be in favor of
6 reopening the record for this and reconsider it.

7 VICE CHAIRPERSON BLAKE: And you would not feel
8 comfortable with the extension either?

9 COMMISSIONER SMITH: No.

10 VICE CHAIRPERSON BLAKE: Okay.

11 COMMISSIONER SMITH: She hasn't shown proper cause.

12 VICE CHAIRPERSON BLAKE: Okay. Thank you.

13 Dr. Imamura?

14 ZC COMMISSIONER IMAMURA: Thank you, Mr. Vice Chairman.
15 I'm in agreement with you and Board Member Smith that specific
16 to Section 101.9 that she hasn't shown good cause here. Board
17 Member Smith's comment that the issue of the notice, I think
18 there is sufficient evidence to the contrary in the record there.
19 So I'm not in favor of an extension here nor am I in favor of
20 reconsideration.

21 VICE CHAIRPERSON BLAKE: Okay. Well, therefore having
22 deliberated this matter I'm going to make a motion to deny the
23 request to extend the filing deadline and to dismiss the Motion
24 for Reconsideration, and ask for a second. Mr. Smith?

25 COMMISSIONER SMITH: Second.

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

4 MS. MEHLERT: Please respond to the Vice Chair's motion
5 to deny the request to extend the filing deadline and dismiss the
6 Motion for Reconsideration.

7 Vice Chair Blake?

8 VICE CHAIRPERSON BLAKE: Yes, to deny and dismiss.

9 MS. MEHLERT: Board Member Smith?

10 COMMISSIONER SMITH: Yes.

11 MS. MEHLERT: Dr. Imamura?

12 ZC COMMISSIONER IMAMURA: Yes, to deny and dismiss.

13 MS. MEHLERT: Staff would record the vote as three to
14 zero to two to deny the request to extend and dismiss the Motion
15 for Reconsideration on the motion made by Vice Chair Blake and
16 seconded by Board Member Smith, with Chairman Hill not
17 participating.

18 VICE CHAIRPERSON BLAKE: Thank you very much.

19 Dr. Imamura, that is your only case today; is that not
20 correct?

21 ZC COMMISSIONER IMAMURA: That's correct.

22 VICE CHAIRPERSON BLAKE: All right. Thank you very
23 much. We'll see you.

24 ZC COMMISSIONER IMAMURA: Thank you.

25 VICE CHAIRPERSON BLAKE: All right. Madam Secretary,

1 | could you call our next? Hello, Vice Chair Miller. Madam
2 | Secretary, thank you.

3 | MS. MEHLERT: Next on the Board's meeting session is
4 | an expedited review application, No. 21340 of Shannon and Andrew
5 | McMahon. This is a self-certified application pursuant to
6 | Subtitle X, Section 901.2 for a special exception under Subtitle
7 | D, Section 5201 for the side yard requirements for an accessory
8 | building under Subtitle E, Section 5005.1.

9 | This is for a rear addition to an existing two-story
10 | detached principal dwelling with a one-story accessory building
11 | that would be located within the required side yard. It is
12 | located in the R-1B zone at 3048 Oliver Street, Northwest, Square
13 | 2315, Lot 811.

14 | VICE CHAIRPERSON BLAKE: The Applicant here proposed a
15 | rear addition of one or two stories and an existing attached
16 | principal dwelling unit with accessory building that meets the
17 | matter-of-right development standards in the zone. But because
18 | the additional, with the addition of the principal structure the
19 | existing accessory building will be located in the required side
20 | yard.

21 | Having reviewed this I think the record is full and I
22 | believe the Applicant, this application is appropriate for the
23 | expedited review. I agree with the Office of Planning's analysis
24 | that the Applicant has met the burden of proof to be granted the
25 | requested relief as the project shouldn't result in an undue

1 | adverse impact on neighboring properties. The garage will be in
2 | the same place and maintain the same dimensions. As such given
3 | the addition of the principal building, there'll be no change to
4 | the light, air flow or privacy or use of enjoyment of neighboring
5 | properties. The garage is similar to the adjacent neighbor's
6 | garage and the other garages on the street so maintaining its
7 | location on the property would allow the Applicant to continue
8 | having on-site parking and not take up any parking space on the
9 | street.

10 | So I see it overall as a positive and give great weight
11 | to the Office of Planning's recommendation for approval, and also
12 | give great weight to the report of the ANC 3/4G which is in
13 | support, states no issues or concerns. We also had an email from
14 | the Office of Planning, DDOT stated they had no objections to
15 | proposing leave and I would also note that there are several
16 | letters in support from neighboring properties including the
17 | abutting neighbors to the east, west and south. So I'll be voting
18 | in support of the application.

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

20 | COMMISSIONER SMITH: I have nothing to add. I agree
21 | with your analysis of this particular case and will vote in
22 | support.

23 | VICE CHAIRPERSON BLAKE: Thank you.

24 | Vice Chair Miller?

25 | ZC VICE CHAIRPERSON MILLER: Yes, Vice Chair Blake.

1 That was a very thorough analysis and I agree with it. Thank
2 you.

3 VICE CHAIRPERSON BLAKE: Thank you.

4 Madam Secretary, having deliberated I'd like to make a
5 motion to -- Madam Secretary? Having deliberated, I'd like to
6 make a motion to approve Application No. 21340 as captioned and
7 read by the secretary, and ask for a second. Mr. Smith?

8 COMMISSIONER SMITH: Second.

9 VICE CHAIRPERSON BLAKE: Motion has been made and
10 seconded. Madam Secretary, would you please conduct a roll call
11 vote.

12 MS. MEHLERT: Please respond to the Vice Chair's motion
13 to approve the application.

14 Vice Chair Blake

15 VICE CHAIRPERSON BLAKE: Yes.

16 MS. MEHLERT: Board Member Smith?

17 COMMISSIONER SMITH: Yes.

18 MS. MEHLERT: Commissioner Miller?

19 ZC VICE CHAIRPERSON MILLER: Yes.

20 MS. MEHLERT: Staff would record the vote as three to
21 zero to two to approve Application No. 21340 on the motion made
22 by Vice Chair Blake and seconded by Board Member Smith, with
23 Chairman Hill not participating.

24 VICE CHAIRPERSON BLAKE: Thank you very much, Madam
25 Secretary. Would you please call our final meeting case.

1 MS. MEHLERT: Next is Application No. 20992-A of
2 National Presbyterian Church, Incorporated. This is a request
3 pursuant to Subtitle Y, Section 703 for a modification without
4 hearing for a special exception approved in Application No. 20992
5 to allow changes to location of the child development center and
6 the pick-up/drop-off area.

7 The project is located in the R-1B zone at 3101 Nebraska
8 Avenue, Northwest, Square 1724, Lot 805.

9 VICE CHAIRPERSON BLAKE: Okay. I believe that, thank
10 you very much.

11 The request is on the modification without hearing
12 calendar and I do think it's appropriate for the calendar as the
13 facts can be, the implications can be readily understood without
14 a hearing. The original order, in the original order the
15 Applicant intended to convert the lower level of an existing
16 agency building into a child development center for up to 16
17 children and four staff members. Now they plan to relocate the
18 child development center to the second floor of the church
19 building in a newly constructed (audio interference) space. So
20 they're seeking the BZA's approval to modify the plans approved
21 in that order to do that.

22 They're also seeking to modify the pick-up and drop-
23 off location which will be further down in the campus from where
24 it initially was with the agency building to the actual church
25 entrance. The approved pick-up and drop-off site plan layout

1 presented in pages 2 and 3 of Exhibit 2 and those pick-up/drop-off
2 plans are also presented in pages 4 and 5 of that same exhibit.
3 In the original order of the Applicant was granted approval for
4 a pick-up/drop-off area located behind the on-site agency
5 building. With the subject modification request the Applicant
6 now proposes to relocate the pick-up/drop-off area behind the
7 National Presbyterian Church building. The pick-up and drop-off
8 area will continue to be accessed through Van Ness Street and the
9 area to be relocated from behind the agency building to the
10 entrance of the church. The access pick-up area would actually
11 continue to be on Van Ness Street but the interesting thing about
12 it is that because it's further down it actually improves the
13 queuing coming into the campus.

14 So to continue, the conditions pretty much remain the
15 same. There's no change in number of students or faculty. It
16 looks like the new pick-up and drop-off area like I said will
17 actually reduce the potential congestion on Van Ness, although
18 it probably would (audio interference) students. But I agree
19 with the Office of Planning's analysis and I give great weight
20 to its recommendation to grant the requested modification.

21 According to the Office of Planning, DDOT has reviewed
22 the subject application and indicated that it has no objection
23 as presented. Interestingly, the ANC 3A took no position but
24 they were in support of the previous application. So I suspect
25 there's no, there's nothing to give great weight to from the ANC

1 | in this matter but they are aware, and they are not in opposition.
2 | So I'll be voting in favor of this application.

3 | Mr. Smith.

4 | COMMISSIONER SMITH: I have nothing to add. I agree
5 | with your analysis as well as the Office of Planning's analysis
6 | on this particular case and I will vote in support.

7 | VICE CHAIRPERSON BLAKE: Vice Chair Miller.

8 | ZC VICE CHAIRPERSON MILLER: Thank you, Vice Chair
9 | Blake. Yes, I agree with both of you and am prepared to support
10 | this application by the National Presbyterian Church.

11 | VICE CHAIRPERSON BLAKE: Thank you. Okay.

12 | Having deliberated, I'd like to make a motion to
13 | approve the modification, to grant the modification and ask for
14 | a second. Mr. Smith?

15 | COMMISSIONER SMITH: Second.

16 | VICE CHAIRPERSON BLAKE: Madam Secretary, having
17 | completed deliberations and have a second, would you please call
18 | a roll call vote.

19 | MS. MEHLERT: Please respond to the Vice Chair's motion
20 | to approve the modification.

21 | Vice Chair Blake?

22 | VICE CHAIRPERSON BLAKE: Yes.

23 | MS. MEHLERT: Board Member Smith?

24 | COMMISSIONER SMITH: Yes.

25 | MS. MEHLERT: Commissioner Miller?

1 ZC VICE CHAIRPERSON MILLER: Yes.

2 MS. MEHLERT: Staff would record the vote as three to
3 zero to two to approve Application No. 20992-A on the motion made
4 by Vice Chair Blake and seconded by Board Member Smith, Chairman
5 Hill not present or participating.

6 VICE CHAIRPERSON BLAKE: Thank you. Board members, I'd
7 like to take a 15 minute break before we begin our public hearing
8 sessions and then after that we'll go through the other cases and
9 we'll take a brief break after that. Okay? So 15 minute break.
10 I'll see you back shortly.

11 (Whereupon, there was a brief recess.)

12 VICE CHAIRPERSON BLAKE: Madam Secretary, would you
13 please call in our next, our first hearing case.

14 MS. MEHLERT: Yes. The Board is back from a quick
15 break and is now entering its hearing session. The first case
16 is Application No. 21327 of Yeabsira Geda and Muluwork Kenea. As
17 amended, this is an application pursuant to Subtitle X, Section
18 901.2 for special exceptions under Subtitle U, Section
19 251.1(b)(3) to allow an expanded child development home for up
20 to 12 children and under Subtitle U, Section 251.6(b) to allow
21 modification of Subtitle U, Section 251.3(f) to allow operation
22 related to a home occupation outside a structure.

23 This is for the increase in the number of children from
24 nine to twelve on an expanded child development home in a detached
25 principal dwelling. It's located in the R-1B zone at 4433 19th

1 Place, Northeast, Square 4186, Lot 35.

2 VICE CHAIRPERSON BLAKE: Excellent. Thank you very
3 much.

4 Could the Applicant please introduce yourself for the
5 record and anyone who will be joining you today.

6 MS. KENEA: My name is Muluwork Kenea. My address is
7 4433 19th Place. I'm home childcare provider. We are today
8 presented to expand our daycare from nine to twelve.

9 VICE CHAIRPERSON BLAKE: Okay. Thank you, Ms. Kenea.
10 Will anybody be joining you today as well?

11 MS. KENEA: Ms. Yeabsira, she's joined but she's in
12 work. We have observation, OSSE observation. She has, one of
13 us we have to attend. She is there. She will speak for a moment
14 for hearing because she's with OSSE on the observation platform.

15 VICE CHAIRPERSON BLAKE: Okay. All right. Thank you
16 very much.

17 MS. KENEA: Ms. Yeabsira, please. We are just
18 (indiscernible).

19 VICE CHAIRPERSON BLAKE: Okay.

20 MS. GEDA: Hello.

21 VICE CHAIRPERSON BLAKE: Hello. How are you? Thank
22 you very much.

23 MS. GEDA: How are you? Sorry. I'm working right now,
24 that's why, like, I have an observation so I cannot go to meet
25 you guys.

1 VICE CHAIRPERSON BLAKE: Okay.

2 MS. GEDA: I'm sorry about that.

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

4 MS. GEDA: Thank you.

5 VICE CHAIRPERSON BLAKE: Ms. Kenea, do you have a
6 presentation that you'd like to make?

7 MS. KENEA: Yes.

8 VICE CHAIRPERSON BLAKE: Okay. Is it, Mr. Young, do
9 you have that slide deck?

10 (Pause.)

11 VICE CHAIRPERSON BLAKE: Okay. So would you please,
12 you have 15 minutes to tell us a little bit about your project
13 and what is it you're trying to do and welcome back. We remember
14 you from the last time. Please give us, let us know exactly what
15 you're doing and how your project meets the criteria for approval.
16 We'll put 15 minutes on the clock so we can keep track of where
17 we are, and you can begin whenever you like.

18 MS. KENEA: Okay. Again, my name is Muluwork and my
19 partner is Yeabsira Geda. This is a family owned business. This
20 is our second program. We need to expand our main child
21 development to 12 because we have a lot waiting list. We are
22 working with children's hospital and the Washington Hospital.
23 We are the nearest. We are provide for them for (indiscernible)
24 or the evening programs. That's why we need to extend our program
25 and the day program is the same thing. Around our area we need

1 more space for early childhood and we are professional. Please
2 go to the next slide.

3 Okay. Again, I want to introduce myself. I'm in family
4 childcare. This one we started 2016 this program but this is
5 the second part I start in 2023 at 4433 19th Place. We are
6 currently capacity of nine children and we are high quality
7 ranked, and Early Headstart program, we are NHC accreditation in
8 progress and our sister branch is located in 5357 Gay Street.
9 And we serve most of low income clients based on the neighborhood
10 area and we are working with child subsidy program and QIN. Next
11 page.

12 Why did we start this business? Because we believe all
13 young families deserve both accessible and high quality child
14 service and our experience is ten year experience at GAP Community
15 Childcare as head teacher, in 2016 earning my own home expanded
16 childcare and since right now in the second one is almost two
17 years.

18 My personal experience and my sister experience, she's
19 a pharmacist. I am early childhood educator. I have my Masters.
20 She has her in pharmacy Bachelor degree and she has CDA. We are
21 taking different kind of class and we work with communities and
22 cultural places like churches, like most (indiscernible) by teach
23 the children's language and culture and wherever when we have
24 community service we are serving in the parents' place. Next
25 page, please.

1 Our childcare, you know, I say it about our
2 accreditation that our childcare is nature-based and we believe
3 children by play they learn and we use creative curriculum where
4 we help different kind of people and same, like low incomes, by
5 provide resource and whatever they needed. We are offering some
6 like different kind of classes and stuff as we work with the
7 families to not only work with the children.

8 Service we provide. Our program is 24 hour daycare
9 service aged zero to 12 working with children hospital and
10 Washington Hospital and collaborate with finance and programs
11 that provide clients with D.C. child subsidized program as well
12 as private pupil. And our program, again, multi-cultural
13 education, multiple different background programs, and healthy
14 home cooking, we are providing the home food, and we use creative
15 curriculum and the D.C. Core. Next.

16 Why we extended? This, you see the picture. That one
17 is the other program, the blue one, the light blue one we say
18 this is the second year but this year we have five children from
19 two staffed school. That's why we see our domain that is high,
20 that's why we extend and provide for the community high quality
21 childcare and at the same time about staff two to create work
22 (indiscernible) we will hire. This program extended from 12, we
23 will hire more staff and will create job opportunity. And, you
24 know, the parents they have (indiscernible). When they need,
25 they bring their children and when they don't have school when

1 | we have enough space we access for them anytime when they need.

2 | Next page.

3 | Neighborhood need, high family presence. One in three
4 | households including family with young children. Large youth
5 | population, one in four residents are youth aged zero to 18.
6 | Children service shortage, limited access to early child
7 | education and aftercare programs. Nearby area like Michigan Park
8 | face similar gaps and opportunity for impact, strong need for
9 | quality, affordable childrens in the community. Next page.

10 | North Michigan Park and Brookland/Fort Totten,
11 | Northeast D.C. for many families, these child attend Blow Pierce
12 | Elementary just minutes away not having aftercare option. We
13 | have. And as a mother and community member understands the need
14 | for high-quality childcare, that's why we established Amen Family
15 | Childcare to fill the gap and support families in the
16 | neighborhood. Next, please.

17 | COMMISSIONER SMITH: Ms. Kenea?

18 | MS. KENEA: Yes, sir.

19 | COMMISSIONER SMITH: I'm sorry if I'm, could you
20 | pronounce your last name again? I'm sorry.

21 | MS. KENEA: [Ken-ya], you're right.

22 | COMMISSIONER SMITH: Kenea. Thank you. We have the
23 | PowerPoint presentation in the record. I know, I'm looking at
24 | the other slides, these later slides and we note that the ANC is
25 | in support of the application and I think we -- you have a lovely

1 program. I think we probably have some additional questions that
2 we want to ask. So we could probably stop the presentation here
3 if any other Board members have some additional questions.

4 MS. KENEA: Okay.

5 VICE CHAIRPERSON BLAKE: Okay, Mr. Smith. Do you have
6 a question?

7 COMMISSIONER SMITH: Yes. I think I just have one
8 question. It's about the pick-up and drop-off arrangement. How
9 is that being handled now? Is that occurring within the street
10 or within an alley?

11 MS. KENEA: We have both sides. We have three gates
12 and we have on alley side, but we use it in the front because
13 our place is too big and we have a large parking lot and we have
14 driveway too where two or three people they will park in the
15 driveway.

16 COMMISSIONER SMITH: They park in the driveway?

17 MS. KENEA: Yes.

18 COMMISSIONER SMITH: They rotate, and you have a
19 driveway?

20 MS. KENEA: Yes.

21 COMMISSIONER SMITH: Is it in the rear?

22 MS. KENEA: Yes, I have two care driveway in the alley
23 in the back.

24 COMMISSIONER SMITH: In the alley. Okay. So all pick-
25 up and drop-off occurs in that driveway within the alley?

1 MS. KENEA: Yes, sir.

2 COMMISSIONER SMITH: Okay. And what if there is two
3 cars currently parked in the driveway now, so what happens with
4 that third car?

5 MS. KENEA: Third car?

6 COMMISSIONER SMITH: If the driveway is taken up with
7 two cars and there are other vehicles waiting to pick up another
8 child, say there's a third or fourth parent, where are they
9 waiting? In the street?

10 MS. KENEA: To be honest, in front of my house I have
11 a slot five cars. It's on my property, that's why you don't have
12 parking problem.

13 COMMISSIONER SMITH: Okay.

14 MS. KENEA: Yes.

15 COMMISSIONER SMITH: Okay. I just wanted to make sure
16 that they weren't queuing in the alley. So you've answered my
17 question. Thank you.

18 MS. KENEA: Okay. Thank you.

19 VICE CHAIRPERSON BLAKE: I have a question for you with
20 regard to the layout. Are all the activities on the first level?
21 All the childcare takes places on the first level of the building;
22 is that right?

23 MS. KENEA: Yes. All activity will be the first level
24 because the house is a split house, all the living room.

25 VICE CHAIRPERSON BLAKE: Okay. And you also have an

1 outdoor play area. I assume that the waiver is for the outdoor
2 play area --

3 MS. KENEA: Yes.

4 VICE CHAIRPERSON BLAKE: -- is that correct?

5 MS. KENEA: Yes.

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

8 Vice Chair Miller, do you have any questions?

9 ZC VICE CHAIRPERSON MILLER: Thank you, Vice Chair
10 Blake.

11 No, I don't think I have any questions. This is very
12 similar to a case by this Applicant for their sister child
13 development center, as was noted by the Applicant, 5357 Gay
14 Street, Northeast which we approved special exception there for
15 a similar increase. So I have no questions.

16 VICE CHAIRPERSON BLAKE: Okay. With that, thank you
17 very much for your presentation. I'm going to ask the Office of
18 Planning for their report now, please.

19 MR. MITCHUM: Hi you all. Good morning, Vice Chair and
20 members of the Board. This is Joshua Mitchum with OP. We've
21 analyzed the application and are willing to rest on our analysis
22 provided in OP's report, and we are available for any questions.

23 Thank you.

24 VICE CHAIRPERSON BLAKE: Okay. I have a question for
25 you. You state the, you've provided relief from, let's see, from

1 something that the Applicant's actually not asking for. Can you
2 elaborate on that?

3 MR. MITCHUM: Could you explain which one you're
4 referring to? Is it the maximum square foot allowed or --

5 VICE CHAIRPERSON BLAKE: Yes.

6 MR. MITCHUM: So per the Applicant's burden of proof,
7 it was submitted a little bit after the fact but it stated that
8 they were currently using 500 square feet right now, square feet
9 of usage for the use, and so per the regulations the maximum
10 would be 250 square feet. So that's why we stated it as, right
11 now they're using 500, 250 square feet is the max and then we're
12 just proposing to bring it into compliance for the 500 square
13 feet, as proposed.

14 VICE CHAIRPERSON BLAKE: Okay. I think the
15 interpretation we had is a little bit different. I do not think
16 that we read it such that the maximum size provision of U-251.3(b)
17 is actually applied to daycare uses. The maximum size provisions
18 basically exclude the daytime care uses and the 30 foot minimum
19 area dedicated of 35 square feet for individual is the number
20 that we use for that measure so I think that that is the way that
21 we've interpreted it.

22 Mr. Smith, do you want to add to that, it'd be fine.

23 COMMISSIONER SMITH: Yes. So I'll add to it. Let's
24 see. This particular provision, Mr. Mitchum, that you're
25 referring or you've requested the Applicant get some relief from

1 is 251.3(b). So it says it's for except for lodging and as
2 provided in Subtitle U, Section 251.1(b) and 251.1(f). So in
3 essence, uses within those two subtitles are excluded from this
4 250 square foot requirement. So this will point to, or the
5 regulations for home, this particular type of use, child
6 development home, will point to 251.1(b) which are the
7 development standards for any standard child development home.

8 So I believe probably that particular type of relief
9 that you're referencing would not be needed for a child
10 development home. They would just need to meet the standards in
11 251.1(b) and under 3 they can get a special exception. They just
12 have to maintain 35 square feet per child, so 35 times 12 whatever
13 that is, 420 square feet.

14 MR. MITCHUM: Yeah. Per our calculations they would
15 meet the, as stated, they would meet that requirement.

16 COMMISSIONER SMITH: Okay. So probably that special
17 exception isn't needed so we can move forward with the two that's
18 requested by the Applicant.

19 MR. MITCHUM: Would you like a supplemental report at
20 any point to rectify that or?

21 COMMISSIONER SMITH: No, I don't think so.

22 VICE CHAIRPERSON BLAKE: The other thing, Mr. Mitchum,
23 is you did not actually talk about the waiver that the Applicant's
24 requesting for the outdoor equipment that would be U-251.3(f).
25 Can you speak to that?

1 MR. MITCHUM: Let me just pull up my notes real quick.
2 Let's see.

3 (Pause.)

4 MR. MITCHUM: It may have been an omission. Let me,
5 if you don't mind I would have to double check my past notes on
6 that.

7 VICE CHAIRPERSON BLAKE: Okay. If you need a minute
8 to check on that. Let me.

9 VICE CHAIRPERSON BLAKE: Okay. If you need a minute
10 to check on it, that's fine. We have (audio interference) public
11 testimony.

12 MR. MITCHUM: Okay.

13 VICE CHAIRPERSON BLAKE: So you have a few moments if
14 you want to kind of look at your notes and come back with that
15 response and evaluation of that. Okay?

16 MR. MITCHUM: Thank you.

17 VICE CHAIRPERSON BLAKE: All right. Thank you. All
18 right. So, let's see.

19 Is there anyone from the, no there's not. Mr. Young,
20 are there any people interested in testifying?

21 MR. YOUNG: Yes, we do.

22 VICE CHAIRPERSON BLAKE: Okay. Would you please admit
23 them in, say three at a time?

24 MR. YOUNG: Yes. So the first three are Mahalet Drar,
25 Camilla Williams and Elias Sekecho.

1 VICE CHAIRPERSON BLAKE: Okay. Thank you. We
2 appreciate you having the public commentary and testimony. We're
3 going to have three minutes for everyone to give their testimony
4 individually. Please make sure you state your name and home
5 address before providing any oral testimony and I remind you
6 please try to keep your presentation limited to a summary of your
7 most important points. So go ahead the first person. Ms. Camilla
8 Williams.

9 MS. WILLIAMS: Good morning everyone.

10 VICE CHAIRPERSON BLAKE: Good morning. Is your picture
11 working, Ms. Williams?

12 MS. WILLIAMS: Oh. Can you see me?

13 VICE CHAIRPERSON BLAKE: No, I can't. Oh, I can see
14 you now. Would you please introduce yourself and give us your
15 address for the record and you have three minutes to give your
16 testimony. Mr. Young, please put three minutes on the clock, and
17 you can begin whenever you like.

18 MS. WILLIAMS: My name is Camilla Williams. My home
19 address is 1632 F Street, Northeast and I am a working parent
20 full time student in the community. I'm here to express my strong
21 support for the proposed extension daycare house for families
22 like mine who work non-traditional and extended schedules.

23 This initiative would benefit families in our
24 community, especially those who work in healthcare, hospitality,
25 emergency services and others that demands long and irregular

1 hours. It would be also empowering parents to pursue career
2 growth, education and second jobs, of all which ultimately
3 strengthens our households and our neighborhood. Thank you for
4 your consideration to this essential step in supporting families.

5 Thank you.

6 VICE CHAIRPERSON BLAKE: Thank you very much for your
7 testimony. Who's next? Elias?

8 MR. SEKECHO: Yes. Good morning.

9 VICE CHAIRPERSON BLAKE: Okay. Would you please
10 introduce yourself for the record and give us your name and
11 address, and as a member of the public you'll have there minutes
12 to give us your testimony. Mr. Young, please put three minutes
13 on the clock, and you can begin whenever you like.

14 MR. SEKECHO: All right. Good morning. My name is,
15 again, Elias Sekecho. My address is 5210 10th (phonetic) Street,
16 Northeast, Washington, D.C.

17 I've been knowing Ms. Muluwork and Yeabsira Geda
18 through family members, and I am in strong support with extending
19 their child development center as stated by the founders of the
20 childcare development center> I know how they're for a great
21 opportunity for creating a job for our city as well as supporting
22 a working family. So extending the childcare development center
23 would support the families that work late nights, morning, early
24 morning, as well as it would create an opportunity for the D.C.
25 residents for creating a job opportunity, helping, supporting.

1 I've been knowing Ms. Muluwork, not only as providing
2 the childcare development center just for earning incomes, also
3 supporting the community with wellness education through a lot
4 of different areas of day to day life. So creating the
5 opportunity for Ms. Muluwork as well Yeabsira Geda, this will
6 support our city and will support our community. This will also
7 encourage others to self-reliance, self-independence, to creating
8 a job and improving day to day life.

9 So I'm in favor of this, that you guys would consider
10 supporting and helping our joint community try to build and create
11 a great living environment in our city.

12 Thank you so much, and that's all I have for you.

13 VICE CHAIRPERSON BLAKE: Thank you very much for your
14 testimony. Does anyone have any questions? Okay. We'll ask
15 the third person to speak now. I cannot remember your name, Ms.,
16 no I can't. But yes, thank you very much.

17 MS. DRAR: My name is Mahalet.

18 VICE CHAIRPERSON BLAKE: Mahalet. Would you please
19 state your name and your address before providing oral testimony?
20 You have three minutes.

21 MS. DRAR: Okay.

22 VICE CHAIRPERSON BLAKE: And, Mr. Young, would you
23 please start the clock and you can begin whenever you like.

24 MS. DRAR: Good morning. My name is Mahalet Drar. My
25 address is 3418 Mitchell (phonetic) Street, Northeast,

1 Washington, D.C.

2 I know Ms. Mulu and her partner for a long time and one
3 of my children attended Amen Child Development Center for about
4 three years and it was a very loving and caring home for my child.
5 She learned a lot from the center and she loved, until today she
6 called them aunty because of the love and the care they provided.

7 This expansion will give opportunity for working
8 parents that needs to have an option, so our kids or children
9 will have more place to stay and because of the love and the
10 diverse of the providers they will learn more, and I hope you
11 approve this expansion and I support.

12 VICE CHAIRPERSON BLAKE: Okay. Thank you very much for
13 your testimony.

14 MS. DRAR: Thank you.

15 VICE CHAIRPERSON BLAKE: Thank you very much for your
16 testimony. Does anyone from the Board have any questions there?
17 Okay. So Mr. Young, would you please call in three others.

18 MR. YOUNG: Yes. The next three are Shaquan Smoot,
19 Mestawet Dejene and Cynthia Davis.

20 VICE CHAIRPERSON BLAKE: All right. Thank you. Again,
21 let's see. Again, let's see. We're going to limit our public
22 comments to three minutes and if you please state your name and
23 address before you begin your oral testimony, we appreciate it.
24 We'll first call up Ms. Smoot. Go ahead, Ms. Smoot. Would you
25 please give us your name and address and provide us with your

1 testimony. You have three minutes, and you can begin whenever
2 you like. Ms. Smoot? You're muted I believe. I see your face
3 but you're muted.

4 Okay. I see Ms. Davis there. Ms. Davis, would you
5 like to give me your testimony? You have three minutes.

6 MS. DAVIS: Yes. Can you see me on camera?

7 VICE CHAIRPERSON BLAKE: I can see you and I can hear
8 you.

9 MS. DAVIS: Okay.

10 VICE CHAIRPERSON BLAKE: Mr. Young, would you please
11 start the clock? You have three minutes. Please provide us with
12 your testimony, of course provide us first with your name and
13 your home address.

14 Thank you.

15 MS. DAVIS: Well, I guess Ms. Smoot is there. I think
16 I heard her in the background.

17 VICE CHAIRPERSON BLAKE: Okay. We'll come back to her.
18 You go ahead and I'll come back to Ms. Smoot.

19 MS. DAVIS: Okay. Great. Hello everyone and thank you
20 so much today for allowing me to provide my testimony in support
21 of BZA Case 21327. My name is Cynthia Davis and I'm the founder
22 and CEO of Kings and Queens Childcare Center located at 4831 9th
23 Street, Northwest, Washington, D.C. 20011. I'm also the
24 executive director of the D.C. Family Childcare Association which
25 is located at 6100 Chillum Place, Northeast, Suite 204,

1 Washington, D.C. 20011.

2 I'm here in support of Muluwork and Yeabsira Geda with
3 the expansion. I'm also in a location that supports doctors and
4 I'm also a 23 hour program as well. Since they had took the lead
5 since the pandemic, we all three of us has really stayed open
6 during that time and have continued to support essential workers
7 because we're essential workers ourselves and we wanted to
8 continue to support that, expanding our programs.

9 So just like Muluwork's program on Gay Street I was
10 there to testify too in support of adding more children and
11 families because we are proximity experts. We live in the
12 community. We know exactly what's going on with the community
13 and we provide resources as well as childcare for the community.
14 So therefore I am totally in support of Muluwork's and Yeabsira
15 Geda expansion to 12 children.

16 Thank you so much for allowing me to speak.

17 VICE CHAIRPERSON BLAKE: Thank you very much for your
18 testimony. Thank you for what you do in the community as well.
19 Ms. Smoot, are you, can you hear me?

20 (Pause.)

21 VICE CHAIRPERSON BLAKE: Ms. Smoot, can you hear me?
22 I see you there.

23 (Pause.)

24 VICE CHAIRPERSON BLAKE: Mr. Young, is she on mute or
25 something like that? I don't think so.

1 MR. YOUNG: It doesn't look like she's muted.

2 VICE CHAIRPERSON BLAKE: Okay. Ms. Smoot, can you hear
3 us? Perhaps she can call in on our help line. What is the,
4 let's see you can call on the help line, let's see here. Mr.
5 Young, could you pop the larger number up just so I can see it?

6 MR. YOUNG: It's 202-727-5471.

7 VICE CHAIRPERSON BLAKE: Okay. Ms. Smoot, did you hear
8 that telephone number? If you're able to call us back at 202 --

9 MR. YOUNG: It doesn't seem like she can hear us because
10 she's not having any reaction.

11 VICE CHAIRPERSON BLAKE: I agree. I agree.

12 MR. YOUNG: We can have staff reach out to her.

13 VICE CHAIRPERSON BLAKE: Can you have staff reach out
14 to her?

15 UNIDENTIFIED SPEAKER: Yes.

16 VICE CHAIRPERSON BLAKE: Who said that? Who said that?

17 MR. YOUNG: I'm not sure.

18 VICE CHAIRPERSON BLAKE: Okay. Could you have staff
19 reach out to her and then we'll try to get her on the floor. We
20 have another section of folks after this so we'll try to get her
21 on after that. Okay? All right.

22 So we'll go to our next person who is Ms. Dejene; is
23 that right?

24 MS. DEJENE: Yes. Ms. Dejene.

25 VICE CHAIRPERSON BLAKE: Ms. Dejene. Would you please

1 state your name and address and you have three minutes to provide
2 us with your presentation. Please state your name and address
3 before beginning and please begin when you like. Mr. Young,
4 start the clock.

5 MS. DEJENE: Okay. My name is Mastawet Dejene. I live
6 in 1703 Bunker Hill Road, Northeast, Washington, D.C. 20017.

7 So I'm here to support Muluwork and Yeabsira Geda. So
8 I'm in child development learning center. This is such a big
9 milestone and true blessing for community. They are not only a
10 great provider, but also a teacher, a mentor and a supporter for
11 children and families.

12 Amen Child Development Learning Center is more than
13 just a daycare. It's a place where children feel safe, learn
14 and grow with confidence. Their dedication, love and passion for
15 helping children shines through in everything you do. By opening
16 this second center, you guys are giving more families the chance
17 to experience quality care and early learning. This
18 (indiscernible) show your hard work and commitment and I'm so
19 proud of you guys. You are making a lasting difference in
20 children's lives in the community.

21 Thank you.

22 VICE CHAIRPERSON BLAKE: And thank you very much. We
23 appreciate it and again thank you for what you are doing to help
24 citizens in the community. All right. Does the Board have any
25 questions for these folks? Okay.

1 Mr. Young, you can dismiss these witnesses and bring
2 in the next and we'll try to get Ms. Smoot back on at some point
3 I hope.

4 (Pause.)

5 VICE CHAIRPERSON BLAKE: Do you want to call the next
6 folks?

7 MR. YOUNG: Yeah. We had two more signed up but it
8 doesn't look like they are on anymore.

9 VICE CHAIRPERSON BLAKE: Okay. So is that all that we
10 have?

11 MR. YOUNG: That is all.

12 VICE CHAIRPERSON BLAKE: Okay. Can we get Ms. Smoot
13 back at all? Can you try? Her screen is still there.

14 MR. YOUNG: Yeah. I think that staff talked to her and
15 she's going to be calling by phone so I'll let you know when I
16 see her.

17 VICE CHAIRPERSON BLAKE: Okay. Great. Thank you.

18 Well, we don't have any more testimony from the public
19 other than that, so we'll wait for that. Perhaps we can revisit
20 the Office of Planning now.

21 MR. MITCHUM: Hello again. That is, we were looking
22 in the record and we don't seem to have seen the request for the
23 waiver in the record. That seems to be why we didn't mention it
24 in the report.

25 VICE CHAIRPERSON BLAKE: Mr. Mitchum, it's in the

1 referral letter from the ZA's most recent version, it's in the
2 third one and it's also provided commentary in the supplemental
3 order from the Applicant. I'm looking. I think it's one of the
4 most recent (indiscernible).

5 MR. MITCHUM: Let me double check here. Vice Chair,
6 could you repeat what was the exhibit number that you had
7 mentioned for the ZA's report? Was it Exhibit 22? So U-251.3(f)
8 which would be the operations of the home business must be in
9 front of the building.

10 VICE CHAIRPERSON BLAKE: It's with regard to the play
11 yard. It's similar to the relief we gave in the last application.

12 MR. MITCHUM: Right. Yeah. If you would like us to
13 look us into it further we can probably do this in the
14 supplemental, but that seems to have come after the bulk of our
15 analysis here. But, yeah, we can add this into a supplemental
16 report but it wouldn't change our ultimate recommendation or
17 approval for the application as presented.

18 VICE CHAIRPERSON BLAKE: I think that, we have the
19 ability to waive two, make two applications with those provisions
20 in 251.1 through 251.4 and this is the only one that we're seeking
21 at this point. So I think the Board, now I can see if any of
22 the members have any questions, I don't have any problem
23 modifying, providing that modification. I don't think it would
24 have an adverse impact to fit in with the -- it is part of the
25 recommendation the request from the ZA in the referral letter.

1 Mr. Smith, do you have any comment on that?

2 COMMISSIONER SMITH: No. Well, my comment is I'm
3 assuming this is for the playground so I don't have any comment
4 on the requested relief from 251.3(f) so that (audio
5 interference). Ms. Kenea?

6 VICE CHAIRPERSON BLAKE: Do you have a comment, Ms.
7 Kenea?

8 MS. KENEA: Yes. I sent the waiver, the OP they send
9 it to me and I attach with my application and I don't know who's
10 her name, she brings it zone of Planning.

11 COMMISSIONER SMITH: We acknowledge that, so that
12 relief was requested it just wasn't, and announced as done by the
13 Office of Planning for that relief that you requested. Chairman
14 Blake, I'm comfortable with proceeding with including the relief
15 with 251.3(f) and, Mr. Mitchum, I don't think that we need a
16 supplemental report for this.

17 VICE CHAIRPERSON BLAKE: I agree.

18 MR. MITCHUM: Also Office of Planning would add that,
19 you know, we would support the waiver if it was necessary. It
20 wouldn't change the findings of our report.

21 VICE CHAIRPERSON BLAKE: All right. Thank you very
22 much. Do we now have Ms., yeah, on the line. I see someone on
23 the telephone. Ms. Smoot, is that you on the telephone? If so,
24 can you unmute yourself?

25 MS. SMOOT: Yes. This is Shaquan Smoot.

1 VICE CHAIRPERSON BLAKE: Welcome. Thank you very much.
2 It's nice to finally get you on the line. Would you please
3 provide your testimony, please state your name and home address
4 and you have three minutes to provide testimony. Mr. Young,
5 would you please begin the clock and, Ms. Smoot, you can give
6 your testimony whenever you like.

7 MS. SMOOT: All right. My name is Shaquan Smoot. My
8 address is 2505 12th Place, Southeast.

9 I've been with Monolu (phonetic) for over ten years.
10 She was very helpful for me and my children. I'd just had a
11 newborn baby. She had my baby, now he's four months. She's very
12 helpful. She also, in her program for my other kids, picking
13 them up from school, helping them with their homework. I mean
14 she's totally amazing. My kids also now speak two different
15 languages and they do well in school. So I think that's exactly
16 what she needs, to extend.

17 VICE CHAIRPERSON BLAKE: Thank you very much for your
18 very warm testimony. Mr. Young, I think perhaps we can dismisses
19 the testifier (phonetic) and I'd like to say this has been very
20 warming conversation. Ms. Kenea, you clearly are doing some
21 really good work that people are very excited about and I'm very
22 excited about it. I appreciate what you're doing.

23 Is there any, do the Board members have any questions
24 for the Applicant?

25 COMMISSIONER SMITH: No.

1 VICE CHAIRPERSON BLAKE: Vice Chair Miller?

2 ZC VICE CHAIRPERSON MILLER: No, I have no questions
3 and I concur with your comments about the good work of the
4 Applicant, and thank all witnesses many of whom we saw in June
5 on the sister child development. So good to see you all.

6 VICE CHAIRPERSON BLAKE: Okay. Thank you very much and
7 thank you. We'll talk to you very soon. Hopefully we resolve
8 this very quickly. Thank you. Mr. Young, could you close the
9 hearing and dismiss the witnesses and we'll move on to
10 deliberations. Thank you.

11 I'm in support of this application. I believe the
12 Applicant has met the burden of proof to be granted the relief.
13 I would give great weight to the Office of Planning's
14 recommendation for approval. I'd also agree that the application
15 as written and captioned is sufficient and I would be in support
16 of that application. I do take note also of the verbal support
17 from the Office of Planning for the modification and I would also
18 note that DDOT has no objection to the approval. ANC 5B is in
19 support and clearly a lot of people are very excited about this
20 service. So I will be voting in favor of the application.

21 Mr. Smith?

22 VICE CHAIRPERSON BLAKE: I agree with your assessment
23 of this case and it seems to me to be a fairly straightforward
24 case at that. So I will also vote in the affirmative, yes vote
25 for this special exception, this series of special exceptions.

1 VICE CHAIRPERSON BLAKE: Thank you.

2 Vice Chair Miller?

3 ZC VICE CHAIRPERSON MILLER: Thank you, Vice Chair
4 Blake. I'm ready to support the special exception and waiver
5 request before us and I appreciate Vice Chair Blake's and Board
6 Member Smith's clarification in your dialog with the Office of
7 Planning and maybe the Applicant as well actually what exactly
8 what relief is before us and that we are, seem prepared to
9 approve.

10 So thank you.

11 VICE CHAIRPERSON BLAKE: Thank you. Okay.

12 Having deliberated I'd like to make a motion to approve
13 the application No. 21327 as captioned and read by the secretary,
14 and ask for a second. Mr. Smith?

15 COMMISSIONER SMITH: Second.

16 VICE CHAIRPERSON BLAKE: Okay. The motion is made and
17 seconded, Madam Secretary, would you please conduct a roll call
18 vote.

19 MS. MEHLERT: Please respond to the Chair's motion to
20 approve the application.

21 Vice Chair Blake?

22 VICE CHAIRPERSON BLAKE: Yes.

23 MS. MEHLERT: Board Member Smith?

24 COMMISSIONER SMITH: Yes.

25 MS. MEHLERT: And Commissioner Miller?

1 ZC VICE CHAIRPERSON MILLER: Yes.

2 MS. MEHLERT: Staff would record the vote as three to
3 zero to two to approve Application No. 21327 on the motion made
4 by Vice Chair Blake and seconded by Board Member Smith, with
5 Chairman Hill not present or participating.

6 VICE CHAIRPERSON BLAKE: Okay. Would you please call
7 our next case?

8 MS. MEHLERT: Next is Application No. 21337 of CFC
9 Incorporated. This is a self-certified application pursuant to
10 Subtitle X, Section 901.2 for a special exception under Subtitle
11 U, Section 511.1(j) to allow a laundry facility in excess of
12 2,500 square feet of gross floor area in an existing attached
13 one-story building. It's located in the MU-3A zone at 2901
14 Minnesota Avenue, Southeast, Square 5507, Lot 803.

15 VICE CHAIRPERSON BLAKE: Okay. If, hi Ms. Wilson, how
16 are you doing? All right. If we could, all right. If you could
17 please, let's see, introduce yourself for the record and anyone
18 else that will be joining you today, I'd appreciate it if you'd
19 explain if you have any particular format for the presentation
20 or if you're just going to, how you're going to do that.

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

22 Good morning. My name is Alex Wilson from Sullivan &
23 Barros. I'm the attorney for the case and I'm here with Mr.
24 Talati who is the owner of Love in Every Fold and he is the
25 contract purchaser at the property, and we do have a presentation

1 | if Mr. Young could please pull that up. Thank you. If you could
2 | please go to the next slide.

3 | As I mentioned, I'm here with Mr. Talati who is the
4 | contract purchaser of the property and the owner of Love in Every
5 | Fold, a high quality modern laundromat that he is proposing to
6 | open in the space. In terms of operation they're anticipating
7 | one to two employees on-site at a time with a security guard from
8 | 8 p.m. to 6 a.m. for overnight hours with 24 hour service
9 | available for those who cannot make it during daytime hours.

10 | The facility will include self-service options as well
11 | as wash and fold options with monthly community specials. There
12 | will also be a delivery service starting soon after the opening.
13 | The machines are modern card operated or even app operated with
14 | the ability to view what machines are available ahead of time.
15 | The environment is also comfortable and quiet with no TVs.
16 | Charging stations are provided as well as Wi-Fi and folding
17 | stations and there is no drycleaning involved, just the laundry
18 | services.

19 | In terms of the BZA request, the property is zoned MU-
20 | 3A which is a commercial mixed use zone. The building was most
21 | recently used for auto parts retail. This is a service use which
22 | is typically allowed by-right in the zone except regulations
23 | provide that laundry facilities specifically, which includes
24 | drycleaning and the laundromat use, are limited to 2,500 square
25 | feet. Again, no drycleaning is proposed here but as this is a

1 | laundromat use and the building is approximately 7,500 square
2 | feet the use requires special exception approval from BZA under
3 | the general special exception requirements. Next slide, please.

4 | This is what the most recent use looked like and this
5 | is a view from Minnesota showing the large curb cut. As part of
6 | the proposal we met with DDOT and this curb cut is proposed to
7 | be reduced to 12 feet for one-way traffic through the lot. Next
8 | slide, please.

9 | This is an angle from 30th Street opposite Minnesota
10 | and this shows the conditions on-site and the 30th Street curb
11 | cut which will also be reduced to 12 feet and this will be the
12 | exit, and this area is going to be improved overall. The parking
13 | lot is going to be striped and appropriately screened. Next
14 | slide, please.

15 | This shows the internal floor plan proposed. Next
16 | slide, please.

17 | This is the plat and I think this is a good place to
18 | discuss the two conditions that DDOT proposed. They have no
19 | objection subject to two conditions and the first condition is
20 | that the Applicant shall reduce the curb cut to 12 feet and have
21 | one-way traffic as shown in this particular exhibit per DDOT
22 | approval during Public Space permitting and we are fine with that
23 | language.

24 | There's a second DDOT condition that the Applicant
25 | shall remove excess paving and restore green space in the public

1 parking and building restriction area around the property. We're
2 also amenable to this but it didn't include that same flexibility
3 for the Public Space Committee approval, so if the Board wants
4 to adopt these conditions we just ask that they revise slightly
5 to also include that same language per DDOT approval during Public
6 Space permitting or the Applicant shall (indiscernible) DDOT and
7 Public Space Committee to identify appropriate areas for removing
8 excess paving, et cetera.

9 It's a minor point but it would allow flexibility for
10 the second condition in case the Public Space Committee doesn't
11 approve this so we aren't back here to change the condition, and
12 I have email correspondence with the DDOT reviewer confirming
13 they're fine with that updated language, and I can --

14 VICE CHAIRPERSON BLAKE: Just a quick question for you.

15 MS. WILSON: Yes.

16 VICE CHAIRPERSON BLAKE: If you had to change the, do
17 that would you do it in non-public space on the property to
18 increase the purview of service? How would that impact the plans
19 that we have?

20 MS. WILSON: It wouldn't impact the plans that we have
21 right now. My concern, and it's probably fairly minor, is that
22 Public Space doesn't allow for demolition of some paving in that
23 area and then we have a reviewer who's reviewing this condition
24 fairly strictly and says, okay, you have to go back to the BZA
25 because they adopted this particular condition that says you have

1 to remove and restore the green space, and the Public Space
2 Committee didn't approve it and so we would be stuck having to
3 come back to adjust the condition in an order.

4 VICE CHAIRPERSON BLAKE: Okay. But the green space is
5 in public space that they need to adjust, not in private space,
6 correct?

7 MS. WILSON: So it's in the BRL but it's technically
8 private space in public space.

9 VICE CHAIRPERSON BLAKE: Okay. Thank you. Do you meet
10 the green requirements though or the pervious service
11 requirements for the zoning? You do meet that currently?

12 MS. WILSON: Yes, we will be meeting that.

13 VICE CHAIRPERSON BLAKE: And this would only increase
14 the amount of green space that you have, right?

15 MS. WILSON: Yes. All of that will be met.

16 VICE CHAIRPERSON BLAKE: Okay. Thank you.

17 MS. WILSON: Thank you. Next slide, please.

18 In terms of the use, the use itself is a by-right use
19 if it were to be 2,500 square feet, so we are seeking the
20 additional square footage for the entire building requiring the
21 special exception, and these are some photos of the existing
22 location in Connecticut. So you can see how it would look inside
23 and how clean and modern the space is. Next slide, please.

24 Next slide, please.

25 This is the help desk. Next slide, please.

1 Next slide, please.

2 Next slide, please.

3 And next slide, please.

4 In terms of community and agency support, OP is
5 recommending approval. DDOT has no objection. We presented to
6 ANC 7B and then the owner canvassed with the SMD this weekend
7 resulting in additional support noted by the SMD's statement in
8 support and prior to that there was a separate petition that went
9 around the neighborhood more generally resulting in about 60
10 signatures in support. Next slide, please.

11 VICE CHAIRPERSON BLAKE: Ms. Wilson, before you're
12 there go back to that slide. On the community support ANC 7B
13 did not meet and vote on this or do they plan to in the future?
14 What's going on?

15 MS. WILSON: So we presented and they voted three to
16 two, and I do not know the exact by-laws of the ANC but that was
17 not enough to move a formal resolution in support forward. So
18 right after that I had a pretty long discussion with the SMD and
19 then the owner, Mr. Talati, who's on now, talked to the SMD and
20 actually went out with him this past weekend to go around and
21 just make sure he was comfortable with the use and they did
22 additional canvassing and I think they met over 50 people and
23 everyone was very supportive.

24 VICE CHAIRPERSON BLAKE: Do you know what the issues
25 or concerns that were raised at those meetings with the ANC?

1 MS. WILSON: So I think the SMD was, Mr. Hasan-Towery
2 was supposed to join us to talk more about that and Mr. Talati
3 might be able to shed some more light. When I talked to the SMD,
4 and I don't want to speak for the other Commissioners since it's
5 sort of word of mouth, they were not clear on what the ownership
6 structure of the business was and they had concerns that it was
7 more of a corporate entity coming in to their neighborhood and
8 Mr. Talati cleared that up with the SMD immediately once he called
9 him and talked to him, and met with him.

10 VICE CHAIRPERSON BLAKE: Okay. Do you anticipate that
11 the SMD will have the opportunity to take this matter up for a
12 formal vote at any point or again after you've revisited it, or
13 no?

14 MS. WILSON: They haven't communicated that that would
15 be happening.

16 VICE CHAIRPERSON BLAKE: Okay. Thank you.

17 Mr. Smith, do you have anything on that?

18 COMMISSIONER SMITH: No, I don't have anything on it.

19 VICE CHAIRPERSON BLAKE: Thank you. All right. Thank
20 you. Continue, Ms. Wilson.

21 MS. WILSON: Great. Thank you. I was just checking
22 to see if the SMD is on. Next slide, please.

23 So in terms of the general special exception
24 requirements, they're met in this case. In terms of overall
25 improvements, this will result in public space improvements,

1 exterior building improvements, a redesign of the parking area
2 including a safer pedestrian environment with one-way traffic as
3 well as a screened parking area where there is only a chain-link
4 fence now. In terms of traffic I noted in DDOT's report they
5 don't expect any impacts and laundromat produced studies
6 predictable trips (phonetic) typically. The building itself is
7 not being expanded, just upgraded and updated. There are no
8 adjoining neighbors or directly adjacent neighbors. This is the
9 only property in this square.

10 The use itself is neighborhood serving consistent with
11 the purposes of the MU-3A zone to provide day-to-day services and
12 low density commercial uses and in general the use is intended
13 to be a positive addition to the community. They're activating
14 a vacant retail building improving the site and providing a needed
15 and exciting community laundry service.

16 And this concludes my portion of the presentation and
17 I want to very briefly turn it over to the owner of Love in Every
18 Fold, Mr. Talati, to say just a few words.

19 VICE CHAIRPERSON BLAKE: Mr. Talati, are you there?

20 MS. WILSON: I think you're on mute, Chirag. I don't
21 know you can (indiscernible).

22 VICE CHAIRPERSON BLAKE: Mr. Young, you can drop the
23 slide. Are you done with the slides?

24 MS. WILSON: Yes. Thank you.

25 VICE CHAIRPERSON BLAKE: You can drop the slides. Go

1 ahead.

2 MR. TALATI: All right. Good morning. How are you
3 guys?

4 So my name is Chirag Talati. Just a brief explanation
5 of who I am. I am the owner and operator for Love in Every Fold.
6 I am located at 400 Blake Street, Apartment 3202, New Haven,
7 Connecticut and to kind of clear up some of the questions
8 regarding the SMD and, like, the ANC conversation about ownership
9 structure their question was who was going to be owning it. They
10 brought up this third-party entity that is called Curbside
11 Laundries which is essentially a Kelio system that we utilized
12 and they have no bearing or ownership to this building or to our
13 entity at all.

14 I have been owning and operating laundromats for about
15 eight years and I look to expand into this space. Canvassing
16 this location two times now, one by myself and one time with
17 Commissioner Hasan Keith Towery. I was able to learn a lot about
18 the environment, the people and what they're looking for and I
19 am excited to actually be joining in and hopefully building this
20 location and giving the community something to look forward to.

21 VICE CHAIRPERSON BLAKE: Thank you very much. Does
22 anyone on the Board have any questions?

23 (Pause.)

24 VICE CHAIRPERSON BLAKE: Okay. Thank you both. Okay.
25 I'm going to now turn to the Office of Planning.

1 MR. JESICK: Thank you, Mr. Chairman and members of the
2 Board.

3 My name is Matt Jesick, presenting OP's testimony in
4 this case and the Office of Planning can rest on the written
5 record of our report. We are recommending approval of the
6 application as it met the relevant special exception criteria.
7 And that concludes my testimony but I'm happy to take any
8 questions.

9 VICE CHAIRPERSON BLAKE: Okay. I don't have any
10 questions for Mr. Jesick. Does anyone else have any questions
11 for Mr. Jesick?

12 (Pause.)

13 VICE CHAIRPERSON BLAKE: Okay. All right.

14 Mr. Young, is there anyone who wishes to speak from the
15 public?

16 MR. YOUNG: We have one witness signed up.

17 VICE CHAIRPERSON BLAKE: Okay.

18 MR. YOUNG: And his name is George Tarway (phonetic).

19 VICE CHAIRPERSON BLAKE: Okay.

20 MS. WILSON: Mr. Tarway is from our team. He's the
21 project manager so unless you have any questions for him, he's
22 not a member of the public to testify.

23 VICE CHAIRPERSON BLAKE: Okay. Fine. Thank you then.
24 Okay. So I guess we can move on. Ms. Wilson, do you have any
25 closing remarks?

1 MS. WILSON: Just to thank you for your time.

2 VICE CHAIRPERSON BLAKE: Okay. All right.

3 Mr. Young, dismiss the witnesses and close the hearing
4 for now and move on to deliberations.

5 I mean, I believe that the Applicant has met the burden
6 of proof to be granted the relief in this case. My only concern
7 that I had was with regard, and I will rest that on the report
8 of the Office of Planning and their findings and their analysis.
9 My only concern was with the community outreach because I just
10 thought it was interesting three-two vote because it kind of said
11 there was some degree of, you know, concern, and I can certainly
12 see the issues, the crime concerns and other things with a
13 laundromat hangout, but it's unclear.

14 So we don't have anything from the ANC to give great
15 weight to, but the endorsement from the SMD was positive and the
16 Applicant's representations for having garnered the support from
17 the community is also encouraging. But that's my only
18 apprehension with regard to this, but I think otherwise the
19 Applicant has met the burden of proof to be granted the relief.

20 Mr. Smith, do you have anything you want to add or
21 subtract?

22 COMMISSIONER SMITH: No. I agree with everything that
23 you stated on this matter. I do believe they met the burden of
24 proof for us to grant the special exception. I do like that the
25 Applicant has worked with DDOT to narrow the, well to clean up

1 the entrances up to the site to make this, well (audio
2 interference) the site is traversed given that this is a
3 triangular parcel so there could be some conflicts that would
4 occur with the two entrances that currently exist.

5 I do share, you know, some of your concern and
6 apprehension about not receiving anything from the ANC officially
7 but I do agree with you as well that it is beneficial that we've
8 gotten the letter from the SMD for that area recommending approval
9 and support for this application and we did receive testimony
10 from the Applicant to speak about how he will be a positive
11 addition to the community. But it would have always been, it
12 would have been great to get something from the ANC officially
13 to provide great weight.

14 But based on testimony provided by the Applicant and
15 everything within the record I will support the application.

16 VICE CHAIRPERSON BLAKE: Thank you, Mr. Smith, and also
17 would note there is a petition that the Applicant has had several
18 signatures on from members of the community indicating support
19 for the project.

20 Mr. Miller, or Vice Chair Miller?

21 ZC VICE CHAIRPERSON MILLER: Thank you, Vice Chair
22 Blake.

23 I agree that the Applicant has met the burden of proof
24 for the special exception that's being requested. I appreciate
25 the Applicant's responsiveness to community concerns and Office

1 of Planning concerns.

2 What you said, Mr. Chairman, just triggered in my mind
3 a question I probably should have asked. Maybe you can remind
4 me if the Applicant's representative, Ms. Wilson, addressed the
5 security issue. The pre-hearing submission Exhibit 20C says
6 something a security guard will be present during the overnight
7 shift from 8 p.m. until 6 a.m. By prioritizing a safe and secure
8 environment with cameras, lighting and modern safety measures
9 customers will feel comfortable doing laundry at any hour. This
10 creates peace of mind for individuals. Safe space to do laundry
11 during off-peak hours. Is the security part of the condition
12 that the Applicant addressed in their presentation? If not I
13 guess maybe want to bring her back, Ms. Wilson back, and see if
14 they have any objection to including a reference to the security
15 that they're proffering?

16 VICE CHAIRPERSON BLAKE: It was not. Most conditions
17 that were referenced regard the public space issues with DDOT and
18 we, that are outside, really outside of our purview. However, I
19 do think it would be helpful if you'd like her to bring back,
20 how would we, I guess reopen the record and we can go to, I guess
21 we've done it with a vote to reopen the record. If you want to
22 reopen the record and I see good --

23 ZC VICE CHAIRPERSON MILLER: No. I apologize for not
24 bringing that up.

25 VICE CHAIRPERSON BLAKE: It's fine. Mr. Young, if you

1 can bring back Ms. Wilson and Ms. Mehlert, if I'm opening the
2 room properly make sure you let me know. If not, let me know.

3 MS. MEHLERT: You're fine. Yes.

4 VICE CHAIRPERSON BLAKE: Thank you. Ms. Wilson, you're
5 almost there. Would you, you've heard the question from Vice
6 Chair Miller. Would you be able to address that for us, please?

7 MS. WILSON: Sure. You're asking if we would be opposed
8 to having the security measures as a condition and no, that's
9 part of what was offering and that's part of the business. So
10 if it's going to stay open from, you know, 8 to 6 a.m. we would
11 have that security guard security measures as stated.

12 ZC VICE CHAIRPERSON MILLER: Thank you. Thank you for
13 that response, Ms. Wilson.

14 VICE CHAIRPERSON BLAKE: Okay. Ms. Wilson. Ms. Wilson?
15 Can you tell me where we can cite the exact provisions of that
16 in your document so I can have the proper wording on that
17 condition? Give me a clue to security provisions and we'll do
18 some tightening up a little bit.

19 MS. WILSON: Yes. Give me one minute and I can
20 identify ---

21 ZC VICE CHAIRPERSON MILLER: I think it's Exhibit 20C,
22 page 2.

23 VICE CHAIRPERSON BLAKE: 20C, page 2?

24 ZC VICE CHAIRPERSON MILLER: Yes. The second paragraph
25 addresses security and the first sentence probably gives the

1 condition, "A security guard will be present during the overnight
2 shift from 8 p.m. until 6 a.m." But I'll let Ms. Wilson address
3 it.

4 MS. WILSON: Yes, that's perfect. Yes, that would be,
5 the condition would be, "A security guard will be present during
6 the overnight shift from 8 p.m. until 6 a.m.," and that is on
7 page 2 of Exhibit 20C.

8 VICE CHAIRPERSON BLAKE: Okay. That's great. Thank
9 you very much, Ms. Wilson.

10 We'll close the record. Excuse the witness. We'll go
11 back to, close the hearing and we'll go back to Mr. Smith. Do
12 you have any objections with that or any other conditions you
13 might in there?

14 COMMISSIONER SMITH: No.

15 VICE CHAIRPERSON BLAKE: Okay. So as for the DDOT
16 conditions, I don't think we want to include them in our order.
17 The intent to actually create more green space would be a positive
18 and I don't necessarily, it wouldn't necessarily materially
19 change the outcome of the decision, in my opinion.

20 What do you think?

21 COMMISSIONER SMITH: I think we agree it's within the
22 right-of-way and I don't think that that's something that we can
23 control as a board. So I'm not inclined to include the DDOT
24 conditions.

25 VICE CHAIRPERSON BLAKE: Okay.

1 Vice Chair Miller?

2 ZC VICE CHAIRPERSON MILLER: I think the plans show the
3 condition, the first condition of the DDOT condition about the
4 one-way, reducing the curb cuts and having one way, from 24 feet
5 to 12 feet and having one way traffic in and out of each of those.
6 So I'm comfortable with removing that DDOT condition and agree
7 with what you said, Vice Chair.

8 VICE CHAIRPERSON BLAKE: Thank you. Okay.

9 Having deliberated, I'm going to now call for a vote.
10 I move that the, I make a motion that we approve the application
11 as written and captioned with the addition of one, conditional
12 approval with the condition the inclusion of a security guard can
13 be present during the overnight hours between 8 p.m. and 6 a.m.,
14 as stated in Exhibit 20, page 2, and ask for a second.

15 Mr. Smith?

16 COMMISSIONER SMITH: Second.

17 VICE CHAIRPERSON BLAKE: Motion is made and seconded.
18 Would you please conduct a roll call vote, Madam Secretary.

19 MS. MEHLERT: Yes. And just to clarify I think it was
20 Exhibit 20C.

21 VICE CHAIRPERSON BLAKE: Let me see. 20C. Yes, I'm
22 sorry.

23 MS. MEHLERT: Please respond to the Chair's motion to
24 approve the application with a condition.

25 Vice Chair Blake?

1 VICE CHAIRPERSON BLAKE: Yes.

2 MS. MEHLERT: Board Member Smith?

3 COMMISSIONER SMITH: Yes.

4 MS. MEHLERT: Commissioner Miller?

5 ZC VICE CHAIRPERSON MILLER: Yes.

6 MS. MEHLERT: Staff would record the vote as three to
7 zero to two to approve Application No. 21337 with a condition on
8 the motion made by Vice Chair Blake and seconded by Board Member
9 Smith with Chairman Hill not present or participating.

10 VICE CHAIRPERSON BLAKE: Great. Okay. Let's see. We
11 have two more cases left; is that correct? Or no, three.

12 MS. MEHLERT: Three.

13 VICE CHAIRPERSON BLAKE: Let's have the next one then.
14 Thank you.

15 MS. MEHLERT: Next is Application No. 21331 of
16 Washington Metropolitan Transit Authority. This is a self-
17 certified application pursuant to Subtitle X, Section 901.2 for
18 a special exception under Subtitle C, Section 1305.2,
19 requirements for building mounted antennas under Subtitle C,
20 Section 1305.1(a) to allow antennas to extend above the top of a
21 wall or roof of the building to which they are mounted. This is
22 for five new building-mounted antennas on an existing 11-story
23 building. It is located in the D-5 zone at 300 7th Street,
24 Southwest, Square 464, Lot 26.

25 VICE CHAIRPERSON BLAKE: Great. Thank you.

1 Is the Applicant here?

2 MR. FERRARA: Yes. Gary Ferrara.

3 VICE CHAIRPERSON BLAKE: Okay, Mr. Ferrara. Would you
4 please introduce yourself and who else might be on your team, and
5 give me a sense of how you're going to do your presentation
6 structurally, who else might be speaking and we can begin. You'll
7 have 15 minutes on the clock and we can begin, but if you could
8 just kind of give us the overview and introduce the other members
9 of your team and who might speak first.

10 MR. FERRARA: Yes. My name is Gary Ferrara, the
11 authorized representative for Washington Metro Area Transit
12 Authority and Motorola Solutions who is the time project manager
13 and construction contacts for WMATA. I have with me on behalf
14 of WMATA Vernon Hartsock and Quesy Right. I also have Paul
15 Bromley with Motorola Solutions and Eric Kohl with KCI who is the
16 engineer of record in case there's any direct questions for them.

17 VICE CHAIRPERSON BLAKE: Okay. Great. Thank you very
18 much. Quite a team. Okay. You have 15 minutes on the clock.
19 If you begin and tell us how your client meets the conditions
20 for approval.

21 MR. FERRARA: We do have a brief PowerPoint
22 presentation that was submitted into the record.

23 VICE CHAIRPERSON BLAKE: Absolutely. Mr. Young, would
24 you bring up the PowerPoint presentation.

25 MR. FERRARA: Yes. Thank you.

1 So the property is (audio interference). The building
2 at 300 7th Street, Southwest. The building is owned by WMATA
3 and serves as their headquarters. Next slide, please.

4 WMATA in 2022 under order from the BZA 20799 received
5 approval for a very almost identical application to install whip
6 antennas transmit and receive and GPS antennas on the roof of the
7 building which exceeds the roofline. So we are asking for a
8 similar relief from Section 1305.2 which restricts antennas from
9 exceeding the height of the building. Next slide, please.

10 With this application WMATA is in the need to add to
11 their communication system and the antennas that are on the
12 rooftop of the building. They are almost identical, maybe a
13 little bit shorter than the existing antennas that are there.
14 The three whip antennas that are proposed to transmit and receive
15 will extend above the roofline 16 and a half feet. The GPS
16 antennas are a lot shorter. They will extend above the roofline
17 about 1.5 feet. Next slide, please.

18 I went through, this is part of the record in my
19 application but I did include it from that, the requirements for
20 building modern antennas. It's very similar to documentation and
21 testimony that was included in the relief sought in 2022. If
22 you like, I've listened to the other applications. I can
23 certainly go through it but I did hear you say in other
24 applications it's part of the record and may not be necessary.

25 VICE CHAIRPERSON BLAKE: Well, it won't be necessary

1 (audio interference). It won't be necessary right now. You can
2 continue.

3 MR. FERRARA: Okay. So pursuant to Subtitle 1305.1
4 which is the main relief that we're seeking, our building-mounted
5 antennas shall comply with the following conditions; the top of
6 the antenna shall not extend above the top of the wall or roof
7 of the building or structures to which it is mounted. We've
8 indicated as shown on the drawings included with the application
9 the antennas will exceed above the top of the structure from
10 which it is mounted. As I stated the whip antennas will be 16
11 and a half feet above the roofline of the building that they are
12 mounted on and the GPS antennas will be 1.5 feet above the
13 roofline of where they're mounted. So we respectfully request
14 special exception approval from this requirement.

15 Each antenna shall be located or screened subject to
16 visibility from the public spaces, navigable waterways, historic
17 landmarks, national monuments, minimized to the greatest
18 practical extent. The property is located in proximity to a
19 number of public spaces, landmarks, navigable waterways including
20 Hancock Park one block to its northwest, the Eisenhower Memorial
21 and the National Mall a few blocks to the north and the landmark
22 HUD headquarters and GSA regional office building to the
23 southwest and west respectively. Washington Channel is located
24 several blocks to the south. Next slide, please.

25 The antennas are mounted to the greatest practical

1 extent as their unobstructed heights are required in order to
2 transmit and receive critical OCCs communications from all
3 directions of the headquarters building. The antennas all are
4 of the cylindrical pole variety, which are whip antennas, and
5 each measure only approximately three inches in diameter and they
6 taper (phonetic) to the top. So they are very slim. Given their
7 verticality and very slim profile, the antennas are anticipated
8 to be visually unobtrusive. Further, with regard to views from
9 the north, west and south the building is largely bounded by
10 office buildings between seven and ten stories in height.
11 Notably, both the GSA building and the HUD headquarters contain
12 a number of roof-level antennas that extend well above the rooftop
13 structures. In the case of the GSA building the antennas appear
14 to be mounted atop the building penthouse and extend a number of
15 stories in height.

16 Given the property's location new construction is
17 reviewed by the United States Commission of Fine Arts (CFA),
18 pursuant to the Shipstead Luce Act. As a result, the CFA
19 regulates the height, exterior design and construction of private
20 and semipublic buildings adjacent to public buildings and grounds
21 of major importance.

22 I did reach out to the CFA at the end of last year.
23 They did respond. It is part of the record. They have no issue
24 with the application but they also stated that under the Shipstead
25 Luce Act WMATA is exempt from their review and that also is part

1 of the record. Next slide, please.

2 An antenna shall be constructed of materials and colors
3 that blend with the surroundings to the greatest practical extent
4 or shall be screened and/or painted to blend with the surface to
5 which the antenna is attached. As indicated in the attached
6 drawings, the antennas are proposed to be constructed of
7 materials and colors to blend to the extent practical to blend
8 with their surroundings. The antennas have a very slender upright
9 appearance and will be constructed of a light colored metal
10 intended to minimize contrast with the background sky. The
11 proposed antennas will be similar in appearance to the existing
12 antennas on the building.

13 A building-mounted antenna placed on a penthouse or
14 rooftop structure with a rooftop outdoor recreation space shall
15 be secured from unauthorized access for a minimum vertical
16 distance of ten feet. The proposed antenna configuration
17 complies with this requirement as the outdoor recreation space
18 is located at the opposite west side of the roof, and access from
19 the recreation space to the area of the roof where the antennas
20 are proposed to be installed is blocked by a portion of the
21 enclosed penthouse.

22 Any related equipment cabinet or shelter that is not
23 internal to the building or penthouse shall be, 1) constructed
24 with materials and colors that blend with the building or
25 penthouse or rooftop structures and located to reduce its

1 | visibility from public space to the greatest practical extent.
2 | This section does not apply as no outdoor equipment cabinets are
3 | proposed on the rooftop. Next slide, please.

4 | This slide shows the property where WMATA's
5 | headquarters is. It's the (indiscernible) center. It also shows
6 | the visual effects of the existing and proposed antennas. As you
7 | can see location 1, actually it's to the upper left of the map
8 | image. The wording is cut off but that's the view from that
9 | point and then location 2 is to the upper right of the property,
10 | 4 is to the lower left and, I'm sorry, 3 and then 4 is to the
11 | lower right.

12 | As you can see in 4 they're practically invisible and
13 | in location 3, because of the distance, they are not visible.
14 | The closer views from location 1 and 2 are a good representation
15 | of the visibility of the existing antennas and the proposed
16 | antennas. Next slide, please.

17 | The typical antenna view shows the existing antennas
18 | that are up there and what we are proposing. The second image
19 | are the existing antennas, the shorter ones kind of with the
20 | circle on top of them, those are the GPS antennas in the forefront
21 | and the third image shows the addition of the antennas that are
22 | proposed and the shorter GPS antennas. Next slide, please.

23 | This is from the drawings that are part of the record
24 | in the application. It's the elevation view of the building and
25 | it does show the existing antennas that are a lighter color and

1 the proposed antennas that are bolder in color. Next slide,
2 please.

3 That's it. I would like to add that part of the record
4 is the review from Planning and they outline the standards from
5 the Board in reviewing this request. They also indicated agencies
6 that they contacted and there were no comments on the application.
7 At the time the ANC 6B had not responded so I did submit, as part
8 of the record, my communication with them since April in an
9 attempt to review the application with them and they did respond
10 in April which indicated no comments. I'd just like, and this
11 isn't part of the record, but they did respond on Monday,
12 September 8th, to the Zoning Office through an email stating that
13 they had no comments on the application.

14 We are available to answer any additional questions the
15 Board may have.

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

18 I think my biggest question came back again with the
19 ANC and I think you have adequately addressed what has transpired
20 there. Are there any members of the Board with questions for
21 the Applicant?

22 (Pause.)

23 VICE CHAIRPERSON BLAKE: Thank you very much.

24 I'd like to hear from the Office of Planning.

25 MS. THOMAS: Yes. Good morning, Mr. Chair, members of

1 the Board. Karen Thomas with the Office of Planning and we have
2 no objections to the proposed installation as it is no different
3 to the existing which was approved in 2022. These antennas are
4 important to our service communications in the District and they
5 do meet all the requirements of having no adverse impact on this
6 neighborhood. We also would note that the Commission of Fine
7 Arts has no objection to this installation as stated in our
8 report, and with that I'll rest on the record of our report.

9 Thank you.

10 VICE CHAIRPERSON BLAKE: Thank you, Ms. Thomas. Does
11 anyone have any questions for the Office of Planning? Okay.

12 Mr. Young, is there anyone wishing to speak?

13 MR. YOUNG: We do not.

14 VICE CHAIRPERSON BLAKE: Okay. Thank you.

15 Mr. Ferrara, do you have any closing remarks?

16 MR. FERRARA: Not really. I think we have substantiated
17 the need for the antennas and (indiscernible) has been set, or
18 set from the higher order from 2022 allowing the very similar
19 antennas up there that were installed and operating and obviously
20 communication within WMATA's system is vitally important and the
21 purpose of the additional antennas is to enhance and improve that
22 communication.

23 (Pause.)

24 MR. FERRARA: I'm sorry. You're muted.

25 VICE CHAIRPERSON BLAKE: Mr. Young, you can dismiss the

1 witnesses and close the hearing. Thank you very much for coming,
2 all of you.

3 (Pause.)

4 VICE CHAIRPERSON BLAKE: Okay. We're all here. All
5 right.

6 I reviewed the application. I do believe the Applicant
7 has met the burden of proof to grant the relief. The most
8 significant thing in this application for me, we've gone through
9 the entire checklist with the Office of Planning and with the
10 Applicant in detail and I do believe they have met the burden of
11 proof based on those criteria.

12 The biggest issue for me when I look at this thing is
13 the visual intrusion issue and in this case I do not think they'll
14 be visually intrusive at all because of its, the height, a way
15 up 130 feet. I think that the singular block makes it, you know,
16 stand out by itself, to get the CFA support, Committee of Fine
17 Arts support.

18 I was a little bit disappointed in not hearing from the
19 ANC again. I do think, I did acknowledge the communication which
20 transpired between the ANC and the Applicant in those emails they
21 put in and so, and I'm comfortable with that and I will be in
22 support of the application.

23 Mr. Smith.

24 COMMISSIONER SMITH: I have nothing to add, Vice Chair
25 Blake. I agree with your assessment of this particular case and

1 will vote in support noting that CFA doesn't have any objection.

2 VICE CHAIRPERSON BLAKE: Vice Chair Miller.

3 ZC VICE CHAIRPERSON MILLER: Thank you, Vice Chair
4 Blake. Yes, I agree with each of your comments and appreciate
5 the Applicant's presentation, particularly the illustration
6 rendering showing the existing slim profile color that tries to,
7 that blends in somewhat and I just think that was very helpful
8 and certainly one of support the essential functioning of WMATA
9 in this area. So I'm ready to support.

10 VICE CHAIRPERSON BLAKE: All right. Thank you, Mr.
11 Vice Chair.

12 Okay. Based on that I'd like to make a motion to
13 approve the application as written and captioned for Application
14 No. 21331 and ask for a second. Mr. Smith?

15 COMMISSIONER SMITH: Second.

16 VICE CHAIRPERSON BLAKE: Madam Secretary, the motion's
17 been seconded. Would you please call a roll call vote.

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

20 Vice Chair Blake?

21 VICE CHAIRPERSON BLAKE: Yes.

22 MS. MEHLERT: Board Member Smith?

23 COMMISSIONER SMITH: Yes.

24 MS. MEHLERT: And Commissioner Miller?

25 ZC VICE CHAIRPERSON MILLER: Yes.

1 MS. MEHLERT: Staff would record the vote as three to
2 zero to two to approve Application No. 21331 on the motion made
3 by Vice Chair Blake and seconded by Board Member Smith, with
4 Chairman Hill not present or participating.

5 VICE CHAIRPERSON BLAKE: Thank you very much, Madam
6 Secretary. It is now 12:01. I'd like to take a 30 minute lunch
7 break and reconvene at or about 12:35. Okay? Thank you.

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

9 VICE CHAIRPERSON BLAKE: Madam Secretary, could you
10 call us back in to session, please.

11 MS. MEHLERT: The Board is back from its lunch break
12 and is returning to its hearing session. Would you like me to
13 call the next case?

14 VICE CHAIRPERSON BLAKE: Please. Thank you.

15 MS. MEHLERT: Next is Application No. 21334 of Della
16 Barba Company. This is a self-certified application pursuant to
17 Subtitle X, Section 1002 for a use variance from Subtitle U,
18 Section 320.1(a) to allow a restaurant use and pursuant to
19 Subtitle X, Section 901.2 for a special exception under Subtitle
20 C, Section 703.2 and the minimum parking requirements of Subtitle
21 C, Section 701.5. This is for a restaurant on the first floor
22 and basement of an existing two-story row building with outdoor
23 seating in public space. It's located in the RF-1 zone at 1382
24 East Capitol Street, Northeast, Square 1035, Lot 814.

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

1 If the Applicant is here, would you please introduce
2 yourself for the record and anyone else who'll be joining you
3 today in the presentation.

4 MS. WINGATE: I believe you're on mute.

5 MR. RACHEL: For the record, I'm Anthony Rachel,
6 attorney for the Applicant Della Barba Pizza Company.

7 VICE CHAIRPERSON BLAKE: Thank you, Mr. Rachel. Who's
8 here with you today? Who's here with you today?

9 MR. RACHEL: With me today are members of Della Barba
10 Company, Tracey Wingate and Joseph Barba and our architect, Ziad
11 Demian of Demian & Associates that will making the presentation
12 regarding the proposed plan.

13 VICE CHAIRPERSON BLAKE: Okay. Thank you.

14 Mr. Rachel, I have reviewed the application and I'm not
15 sure we are in a position to proceed at this point. There seems
16 to be an issue with the, we do have a report from the Office of
17 Planning that they reached out to you for some questions and they
18 were not, and you didn't respond. So, for example, there were
19 some issues with the certification that said something about the
20 seeking a variance from U-320.1. I'm not sure exactly about the
21 relevance of that to the relief that's actually being requested.
22 If you have a nonconforming use to a nonconforming use with an
23 expansion into potentially with the increased seating in the
24 street and sidewalk, that's kind of what you're asking for. But
25 the U-301.2 would not get you there. The other thing is there

1 are questions about parking relief being requested. It's unclear
2 that you need parking relief in this application.

3 Now, when you went through your written remarks I saw
4 that you had touched on relief from Subtitle C, Section 204 which
5 does address the issues that you talked about with regard to
6 nonconforming use, nonconforming use in a residential zone and
7 expansion. So we did, I do think you've got the substance of
8 your discussion there but you need to make sure that in a self-
9 cert application, because we cannot give you relief for something
10 you don't ask for and essentially the way this is written you
11 haven't asked for the relief that I think you need.

12 But, again, if you look at Subtitle U, Section 204 I
13 think you're directionally, on the right direction to get that
14 done. However, we might also point out that when you look at
15 Section 204 those are variances which are fairly high bars to
16 meet. So I do think you have to be careful in looking at that.

17 Now, the Board can't tell you what to do. It's a self-
18 certified form. You can do whatever, you can ask for whatever
19 you'd like but if we don't think it's what you appropriately
20 should be asking for, we could dismiss the case. But I wouldn't
21 want to do that. This is obviously something people really like
22 and want in the community so we just have to make sure we get
23 the right request in place so that you can accomplish what you're
24 trying to do. I'm going to first ask, do you understand what
25 I'm saying?

1 MR. RACHEL: Yes, Mr. Chairman. We did address the
2 Planning Office issue with regard to the parking. That was
3 addressed by the Department of Transportation's report which we
4 noted that there's only one space required. Because we are going
5 from a nonconforming use as a fast food operation to a
6 nonconforming use as a restaurant which allows us to expand into
7 public space, we have to meet a parking requirement and that
8 parking requirement was for only one space given the size of the
9 facility and the exemption allowing for 3,000 square feet not to
10 be included. There's only a 1,000 foot area involved which
11 requires the one parking space.

12 VICE CHAIRPERSON BLAKE: Okay. And with regard to the
13 variances that you're requesting, there are different ways to get
14 to where you want to be and I think you just need to make sure
15 that the self-cert aligns itself with the application. So U-
16 320.1 will not, is not the request. But, as I said before, in
17 your written statement you do very carefully go through a lot of
18 the Section 204 which you will need relief through that mechanism.
19 So you've covered the issue but it needs to be in a self-cert
20 statement up top. Okay? And, again, it's a high bar so you
21 might want to think about ways you might get there other than
22 that particular way.

23 Mr. Smith, do you want to add something to that?

24 COMMISSIONER SMITH: Yes. I have two things to add and
25 a fair amount of your expansion seems to be forward of that front

1 building wall. It's an open question to me whether how much of
2 that is public space, how much of that is private property.
3 That's not really, we need some additional clarification on the
4 plans that you submitted, what's public, what's private. So
5 that's one additional question.

6 The second one, I want to piggyback off of what Chairman
7 Blake stated. You're requesting a variance, a use variance.
8 That is a very high hurdle, so remember that you have to
9 demonstrate a hardship here and I don't know based on, and you
10 have to flesh that a little bit more I guess, you know, as we,
11 this will be continued because we need some additional
12 information.

13 I don't know if you've met that hardship criteria. If
14 there may be other options within the zoning regulations that you
15 could pursue to operate the use in a manner that I think that
16 they are intending to operate it as and, again, as Chairman Blake
17 stated you can request what you want and the Board will make a
18 determination at that particular time when the application is
19 complete and submitted to us.

20 But there may be an opportunity, and I'm not making a
21 determination, you may want to explore this provision of the
22 corner store regulations a little bit more closely whereby you
23 may not need a variance. So I just want to put that out there
24 as you refine this application before it comes back to our Board.

25 MR. RACHEL: I would like if we could to proceed with

1 the presentation of the plans because those will not change so
2 as to familiarize the Board with what is being proposed and what
3 the ANC has received and approved.

4 VICE CHAIRPERSON BLAKE: Yes. I'm hesitant to do that
5 only because I think it would be better to have the relief in
6 order because we can't take action on anything that's before us
7 right now. So we would definitely need to get that in a different
8 form even for us to take action today. So in fact what I would
9 suggest, if you could, would be to work with the Zoning
10 Administrator. We can't give you a determination right now and
11 I can't shake it. What we've already seen tells us that we need
12 to make some adjustments and I think you've gotten two bits of
13 information as to where you might, direction you might go in with
14 this already, but I do think if you spent some time with the
15 Zoning Administrator to get, and the Office of Planning, to figure
16 out the best exact route.

17 This is something I think the community's excited about
18 and I think you just need to get the relief requested in order
19 and kind of approach it from that respect. I don't think it
20 would be really beneficial at this point to go through the
21 specifics of the application without that in place.

22 Vice Chair Miller, do you have anything to add?

23 ZC VICE CHAIRPERSON MILLER: Thank you, Vice Chair
24 Blake. I, and welcome Tony Rachel to the BZA, good to see you.

25 MR. RACHEL: The same.

1 ZC VICE CHAIRPERSON MILLER: We worked 40 years ago
2 together in the same building, District Building before it was
3 called the Wilson Building. But anyway I agree with Vice Chair
4 Blake's comments. I think it would be helpful, and we need an
5 Office of Planning full report. I'm not sure we have that and I
6 do commend you on your community outreach with the ANC and
7 garnering support from unanimous or I think it was from ANC 6A
8 and I think this will be an amenity in the community.

9 But we do have to have, we have to have the right relief
10 before us to grant the relief that you need to do what you want
11 to do. So I think if you can get something from the Zoning
12 Administrator who does determine that, that spells out exactly
13 what you should be asking for and what you don't need to be asking
14 for, that might be helpful. Or the self-certification, revised
15 self-certification form as indicated by my colleagues. So I look
16 forward to you getting that soon and our being able to review
17 this as soon as possible.

18 MR. RACHEL: Thank you very much for your comments.

19 VICE CHAIRPERSON BLAKE: Madam Secretary, can you help
20 me a little bit here with the scheduling because I'd like to try
21 to move this on as early as possible. What would be the best
22 time that we could bring back the Applicant to work through this?
23 I would suggest about a month or two.

24 MS. MEHLERT: So I would suggest at this point November
25 19th. I know it's a couple of months away but the schedule is

1 pretty full for the fall and this could essentially give us enough
2 time to get answers from DOB if needed and for OP to file a full
3 report. I'm not sure if that would work.

4 VICE CHAIRPERSON BLAKE: Would that work for the
5 Applicant?

6 MR. RACHEL: Yes, it would.

7 VICE CHAIRPERSON BLAKE: Okay. Thank you, and we'll
8 do that. We'll postpone until the 19th of November and, again,
9 I would just encourage you. There are many ways to skin a cat
10 and some of the ways require far less of a burden in terms of
11 the heavy lifting, in terms of the, you know, the standard for
12 approval. As you know, a use variance is very challenging, a
13 high standard, a high bar. A special exception is a much lower
14 bar. So there may be some ways that you could address what you're
15 trying to do and you should consider that. I can't tell you what
16 but then again if you spend some time with the ZA's office I
17 think you'll be able to come up with something. Okay?

18 Thank you guys. Thank you very much.

19 MR. RACHEL: Thank you.

20 VICE CHAIRPERSON BLAKE: Mr. Young, if you dismiss the
21 witnesses.

22 (Pause.)

23 VICE CHAIRPERSON BLAKE: Okay. Madam Secretary, would
24 you please call our last case of the day. You're on mute.

25 MS. MEHLERT: Sorry. Next is Application No. 21333 of

1 Parasol Tree Holdings, LLC. This is a self-certified application
2 pursuant to Subtitle X, Section 901.2 for a special exception
3 under Subtitle E, Section 5201, from the lot occupancy
4 requirements of Subtitle E, Section 210.1 and pursuant to
5 Subtitle X, Section 1002 for a use variance from Subtitle U,
6 Section 301 to allow an office use.

7 This is for a new office use on the first floor of an
8 existing two-story attached building and three-story rear
9 addition for residential use. It's located in the RF-1/CAP zone
10 at 409 East Capitol Street, Southeast, Square 817, Lot 812. And
11 as a preliminary matter there is a request for party status in
12 opposition to the application from Frank Snellings and Mary
13 Landrieu.

14 VICE CHAIRPERSON BLAKE: Okay. So we'll address the
15 party status question first. Is the party asking party status
16 present? Mr. Lyle, Mr. Blanchard?

17 MR. BLANCHARD: Can you hear me?

18 VICE CHAIRPERSON BLAKE: Yes. I can hear you. I can't
19 see you -- there you are. Okay. I see that everyone looks like
20 they're here.

21 MR. BLANCHARD: Okay.

22 VICE CHAIRPERSON BLAKE: I've reviewed the, welcome
23 back, I should say that first. Welcome back. I've reviewed the
24 request for party status and the owners of the abutting property
25 in considering the nature of the requested relief as well as the

1 | issues concerned raised, I do believe that the requested (audio
2 | interference) would be more significantly and uniquely affected
3 | in character than the general public. So I would feel comfortable
4 | granting party status if my Board would be comfortable with that.

5 | Mr. Smith?

6 | COMMISSIONER SMITH: Yes. I'm comfortable with that.

7 | VICE CHAIRPERSON BLAKE: And Vice Chair Miller?

8 | ZC VICE CHAIRPERSON MILLER: Yes. I support the party
9 | status request.

10 | VICE CHAIRPERSON BLAKE: Okay. So I will then go ahead
11 | and make a motion to grant the party status in application 21333
12 | I believe to Mr. Snellings and Ms. Landrieu, the abutting
13 | neighbors, and ask for a second. Mr. Smith?

14 | COMMISSIONER SMITH: Second.

15 | VICE CHAIRPERSON BLAKE: Okay. Motion is made and
16 | seconded. Madam Secretary, could you take a roll call, please.

17 | MS. MEHLERT: Please respond to the Chair's motion to
18 | grant party status in opposition.

19 | Vice Chair Blake?

20 | VICE CHAIRPERSON BLAKE: Yes.

21 | MS. MEHLERT: Mr. Smith?

22 | COMMISSIONER SMITH: Yes.

23 | MS. MEHLERT: Commissioner Miller?

24 | ZC VICE CHAIRPERSON MILLER: Yes.

25 | MS. MEHLERT: Staff would record the vote as three to

1 zero to two to grant party status in opposition on the motion
2 made by Vice Chair Blake and seconded by Board Member Smith.

3 VICE CHAIRPERSON BLAKE: Okay. A quick comment to Mr.
4 Blanchard. As you're aware, having party status you'll be given
5 an equal opportunity and amount of time to present to the
6 Applicant including, you know, witnesses, you'll be able to ask
7 questions, cross-examine all the witnesses and so forth today.
8 Are you prepared with your materials?

9 MR. BLANCHARD: Yes, Vice Chairman Blake. Mr. Young
10 has some materials that I'd like to use as exhibits. They were
11 filed with a form 153 yesterday morning.

12 VICE CHAIRPERSON BLAKE: Okay. Madam Secretary, I
13 assume those have met the deadline and they are submitted
14 properly, right? If not, we'll submit them into the record.

15 MS. MEHLERT: They should be in the record.

16 VICE CHAIRPERSON BLAKE: Okay. So with that, we'll
17 begin. Mr. Sullivan, welcome back. If you could introduce
18 yourself and anyone else with you speaking today, and if you
19 could talk a little bit I'd appreciate that.

20 MR. SULLIVAN: Thank you, Chairman Blake, and good
21 afternoon Chairman Blake and Board members. My name is Marty
22 Sullivan from Sullivan & Barros here on behalf of the Applicant
23 and with us today also is Brian Forehand, the project architect
24 and the Applicant, Tony Jia should also be with us.

25 VICE CHAIRPERSON BLAKE: Okay. And let me just

1 introduce the party in opposition quickly and then we'll begin
2 with your presentation.

3 Mr. Blanchard, would you introduce your team who's with
4 you and who will be speaking just so I have a sense of that.

5 MR. BLANCHARD: Yes. Thank you. Sitting next to me
6 here looking at his cell phone is Mr. Frank Snellings and his
7 wife, Mary Landrieu, is not with us yet. She's tied up in a
8 meeting but hopes to be back and available by 1:30. Our other
9 witness, Jeff Levin, is hopefully on the phone but I'm going to
10 send him a text message and his wife, Daniella, is not with us.
11 So it's myself and those three people are the -- oh, there's
12 Jeff. He's on the screen by phone I believe.

13 VICE CHAIRPERSON BLAKE: Okay. Thank you very much,
14 Mr. Blanchard. Is anybody from the ANC here? I don't think so,
15 correct? No. Okay. Good.

16 Mr. Sullivan, I apologize. I'd like for you to please
17 again for me, I think you did, if you can just explain to us how
18 your client is meeting the criteria for approval. You've got 15
19 minutes on the clock. Proceed as you will.

20 MR. SULLIVAN: Thank you, Mr. Chairman. If Mr. Young
21 could please load the PowerPoint presentation.

22 So the property address is 409 East Capitol Street
23 southeast. Next slide, please.

24 Property contains currently a two-story building with
25 a commercial use on the first floor and a residential dwelling

1 unit on the second floor. The first floor has operated with
2 commercial use for over 75 years, most recently as office space
3 for Sanabria & Company, an interior design firm and previously
4 it was a drycleaning drop-off facility and the prior owner of the
5 subject property changed the use from drycleaning drop-off to the
6 office space and the necessary approvals which would have
7 required a use variance at that time as well were not obtained
8 at that point. So when the Applicant, after he purchased the
9 building, began investigating this property for the proposed
10 project they were informed by us that the office use was not
11 compliant because it had a drycleaning C of O and there was a
12 change of use and that this use variance would be required.

13 So through this application, the Applicant seeks to
14 correct this previously unauthorized change and to bring the
15 property into compliance with use regulations and specifically
16 the Applicant's requesting the use variance under U-301 to permit
17 conversion from one nonconforming use to another. While the 1958
18 regulations allowed this as a special exception, 2016 rewrite
19 removed language that essentially makes the provision meaningless
20 and unusable. So there is no special exception anymore, so all
21 these cases have been use variances and there's been maybe seven
22 or eight of those since the change in 2016.

23 The Applicant's also proposing to construct a rear
24 third-story addition to the building or rear addition with a
25 third-story and will add a second residential unit. So it will

1 have the remaining office use and two residential dwelling units
2 in the end. The proposed addition will increase the lot occupancy
3 to 70 percent exceeding the max of 60 percent and requiring
4 special exception relief from eight to ten. Next slide, please.

5 The Office of Planning is recommending approval of both
6 areas of relief. ANC 6B last night voted unanimously in support
7 of the use variance and voted six to two to oppose the special
8 exception request. ANC 6C, which is also a party, they are across
9 the street across East Cap. They unanimously voted to support
10 the application both areas of relief and the Architect of the
11 Capitol has submitted a report with no objection. Next slide,
12 please.

13 Regarding the general special exception criteria, the
14 project preserves the property's longstanding mixed use
15 character. It adds needed residential units (audio interference)
16 unit and respects the scale and historic fabric of the Capitol
17 Hill Historic District and the addition does not extend more than
18 ten feet past either adjacent buildings' furthest rear walls. Of
19 course we'll go into that in more detail regarding the special
20 exception test coming up. Next slide, please.

21 The special exception criteria for 5201 for this ten
22 percent additional lot occupancy. Proposed addition is only ten
23 feet past the furthest rear wall of the building at 411 East
24 Capitol Street and it aligns with the furthest rear wall of the
25 building at 405 East Capitol Street. We still have a proposed

1 rear yard setback of 30 feet which is ten feet more than the
2 minimum required and the shadow study which Mr. Forehand will
3 show you shows some slight impact but certainly not undue impact.

4 Regarding privacy, there's no windows on the sides of
5 the proposed addition and the small roof deck proposed is closer
6 to the front of the building and it doesn't have a view of the
7 rear yards because the rear addition is sloping down so it doesn't
8 have a roof deck, and the site line drawings that you'll see show
9 no view of the addition from East Capitol Street and we have the
10 rear yard of 30 feet. This is regarding character, scale and
11 pattern.

12 Max height at the highest point of its sloped roof is
13 29 and a half feet which is five and a half feet under the
14 maximum. The historic part of this enjoys support from CHRS.
15 They didn't weigh in on the zoning part of this and also approval
16 from HPRB and as noted from the Architect of the Capitol. Next
17 slide, please.

18 There is additional criteria because of the zone we're
19 in because we're in the Cap. overlay and this is also addressed
20 by the Architect of the Capitol letter. So I think I'll just
21 refer to that letter and the information in detail is there on
22 how we have met these requirements as well. Next slide, please.

23 The variance test for the use variance. We'll note too
24 the use variance is supported by all parties, even the ANC 6B
25 which is opposing the special exception. They're unanimously in

1 support of the use variance and we haven't to date heard any
2 objections at all to this part of the application. The property
3 is unique due to its long history of this ground floor commercial
4 use. Originally a drycleaner with C of Os dating back to the
5 1950s. I mentioned that under prior ownership it was converted
6 without the proper approvals.

7 Undue hardship. Strict application of the regulations
8 would create undue hardship. The first floor cannot reasonably
9 be converted to residential use without substantial
10 reconstruction. This is cost prohibitive and is also
11 inconsistent with the building's historic design. I think, Mr.
12 Forehand, if you have questions about this, could explain too how
13 HPO's guidelines, Historic Preservation's guidelines, would
14 restrict changes in the display window and other front design
15 things that would have to be changed in order to support a
16 residential use behind it.

17 No harm to public good or to the zone plan. Granting
18 the use variance will not harm the public good. The office use
19 is less intense than the historically approved drycleaner use and
20 I'll note that we're not asking for an expanded category of uses
21 like we sometimes do. The owner wanted to just keep it as office
22 use and didn't see any need to expand that for any other
23 possibilities down the road. And the relief will bring the
24 building into compliance while supporting local businesses and
25 maintaining neighborhood stability. Next slide, please.

1 So I'll turn it over to Mr. Forehand to take you through
2 some photos and plans. Brian?

3 MR. FOREHAND: Thanks, Marty, and thank you everyone
4 for your time today.

5 So the project that's illustrated here is a mid-block
6 two-story building currently 409 East Capitol Street. Next
7 slide.

8 And the images here show the rear of our property as
9 well as the two adjacent properties. Next slide.

10 And a closer view just of the existing rear of our
11 current building that you can see, it's sort of a step down
12 property as it extends towards the rear and currently does not
13 extend as far back as either neighboring property. Next slide.

14 This is in the documentation that we provided. It
15 basically just provides some background on the property including
16 the residential and commercial square footage. The main thing
17 of note here is the residential square footage is the predominant
18 use based on the calculations of the square footage of each use.
19 Next slide.

20 This is our existing site plan. Again, just
21 illustrating the location of the property. Important to note
22 here as well are sort of the assemblages of the properties
23 adjacent. Also the fact that there are no public alleys from
24 any of the adjacent streets. It is essentially a landlocked
25 parcel. Next slide.

1 We both, three years ago when we received initial HPRB
2 approval of the project and, again, this go around did massing
3 studies of the property to show both the existing and the proposed
4 impacts on the site to this additional and existing rear façade
5 and associated massing. Next slide.

6 And we also illustrated both via documentation and also
7 an erected number of mock-ups that the proposed addition is not
8 visible from any point along the street as required by HPO.
9 Because of this and the fact that even with requesting the
10 additional relief, it materially does not change what we had
11 applied for in the previous go around with HPO. They did not
12 see any reason not to accept the proposal again on the merits
13 this time. So it has already gone through HPO and was approved
14 on consent calendar in July. Next slide.

15 And then this shows the preliminary elevations of the
16 project and, again, it's important to note that, you know, we're
17 going through preliminary review. So because we first want to
18 confirm what is possible for our client before we spend time
19 designing something that may or may not be approved later, we
20 have not developed obviously final plans for elevations for the
21 project but this illustrates, you know, our preliminary concepts
22 for the project. Next slide.

23 And likewise this is showing the proposed property seen
24 from the 405 and 407 adjacent property looking towards the west.
25 Next slide.

1 And just for reference, this is showing the site plan
2 with the two neighboring properties. This is our client's
3 existing footprint of the existing two-story building and then
4 next slide, please.

5 This illustrates our proposed addition. So as you can
6 see here we are extending ten feet but not beyond ten feet of
7 the 411 East Capitol Street property and we are extending the
8 same distance as the 405 East Capitol Street project or 70 feet,
9 so a remaining 30 feet setback. Next slide.

10 And then these images effectively show the massing
11 envelope and the impacts. This view here does also illustrate
12 the proposed roof deck which, as Mr. Sullivan indicated, is
13 towards the front of our building and adjacent to the side
14 property wall. So it is not something that would have an adverse
15 impact on the privacy of other adjacent property owners. Next
16 slide.

17 And then this is looking towards the rear towards the
18 property to again illustrate the massing and, again, you'll note
19 that the setback of our building or the extent to which it is
20 extending is equivalent to the 405/407 property to the west and
21 then you'll note several properties to the east actually do extend
22 further than what we're proposing. Next slide, please.

23 And just another view illustrating the same massing
24 from the opposite side. Next slide, please.

25 And then finally as is required we have provided the

1 shadow studies. So the images at the top are based on the matter-
2 of-right 60 percent lot occupancy and based on what was previously
3 approved by Historic which was all done as a matter-of-right by-
4 right design and then the lower is showing the impact of the
5 additional ten percent. So the percentage of the parts that are
6 highlighted in red on these diagrams, that indicates the
7 additional shadows that would be cast by what we're proposing.
8 So you can see the minimal impacts that doing this additional ten
9 percent that we're requesting would actually have on the adjacent
10 properties. Next slide, please.

11 This is showing the same at the summer solstice and
12 then next slide, please.

13 And then the winter solstice. Next slide, please.

14 Okay. I think that might be everything.

15 MR. SULLIVAN: Yes. That's it for the presentation.
16 If the Board has any questions for myself or Mr. Forehand or Mr.
17 Jia. Thank you.

18 VICE CHAIRPERSON BLAKE: Thank you very much for your
19 presentation.

20 I actually want to first start with Mr. Forehand and
21 get started on a few things. I understand that this is a
22 preliminary look at it but I wanted to get a better sense of the
23 actual project in terms of where the addition's going to be. I
24 know you had a slide early on that had the kind of the addition
25 to the floor. But could you just go back and kind of talk about

1 | how much will be added to the first floor, how much to the second,
2 | how much to the third and how those three connect. How would
3 | that enter into the residential space? Where would the commercial
4 | space terminate? Those sorts of things. I think you had a couple
5 | of exhibits that alluded to it. I wasn't able to really follow
6 | though.

7 | MR. FOREHAND: Yes. I'm happy to do that and I don't
8 | know if it's possible.

9 | MR. SULLIVAN: And if I could jump in, Mr. Chairman.
10 | I didn't include the floor plans in the PowerPoint presentation
11 | but they're in Exhibit 20B which is the more complete plans. So
12 | there would be floor plans in there and maybe, Brian, you could
13 | look at them on your screen and explain them as the Board looks
14 | at them on their screen, if that's possible.

15 | MR. FOREHAND: Yes. Absolutely.

16 | So I'll see if I can give you a little bit of what page
17 | you might be able to find this information.

18 | COMMISSIONER SMITH: And can I also, since we are
19 | bringing up these floor plans, the floor plans don't necessarily
20 | speak to where the units are within the building in the proposed
21 | set. I see existing floor plans for a residential unit on the
22 | second floor but the proposed set doesn't provide much detail.
23 | So could you provide the detail in filling up those plans?

24 | MR. FOREHAND: Sure. Certainly.

25 | So I believe it should be page 19 of the BZA submission.

1 | It's in the file that shows the ground floor plan.

2 | COMMISSIONER SMITH: Okay, 19 is a massing.

3 | MR. FOREHAND: Okay. Yes, sorry. I think this, sorry,
4 | what I was referring to I think what was in the full file, not
5 | just our presentation.

6 | VICE CHAIRPERSON BLAKE: Oh, okay, Mr. Smith. You
7 | know, Mr. Young, it would be helpful. If you could just, I'm
8 | trying to scramble here myself, could you pull up the Exhibit 20
9 | and the page that he's talking about so we can all just be on
10 | the same page.

11 | MR. FOREHAND: And as you do that the one that I will
12 | say is that we intend to maintain the office use on the ground
13 | floor. Residents would be predominantly second and third floor.
14 | There are some access, areas of access on the first floor that
15 | would be for the residential units and some utility storage. But
16 | that's not the material use. The use of the residential would
17 | be on the second and third floors. So as that's being pulled
18 | up, we're adding --

19 | VICE CHAIRPERSON BLAKE: Mr. Young, Mr. Young, do you
20 | have it? Great. Okay.

21 | MR. FOREHAND: Yeah.

22 | COMMISSIONER SMITH: But let's start on page 14.

23 | MR. FOREHAND: Perfect, yes. Thank you.

24 | So as you can see here we would be adding approximately
25 | 387 square feet to the first floor and this is where, as I

1 mentioned, this would be largely providing rear circulation to
2 the back, the rear yard area and would be effectively utility
3 space for the residential units in terms of, you know, hot water
4 and so forth. We wouldn't have any occupied residential space
5 down here in terms of living quarters. We would not be expanding
6 the office use here and that's effectively because of the fact
7 that it's grandfathered and we're not at liberty to expand that
8 space.

9 And then if you go to the next floor --

10 COMMISSIONER SMITH: Before you go to the next floor.

11 MR. FOREHAND: Yes.

12 COMMISSIONER SMITH: I see the 387 square feet that's
13 being proposed of this utility space for the residential, but you
14 do have a door, a series of doors that would access the ground
15 floor commercial space and would that be towards, that would be
16 dedicated towards the commercial if you know what I'm saying?
17 Not the double doors but the other set of doors that connects
18 through three doors to the ground floor.

19 VICE CHAIRPERSON BLAKE: (Indiscernible) one page, Mr.
20 Young.

21 MR. FOREHAND: It may be helpful to go back one page
22 and so everybody is seeing the same. Can we go back to the first
23 floor plan? Thank you.

24 Yes. So the door to the, that's above the bay if we're
25 looking at this plan north that leads to a series of steps, that's

1 the residential entry into the building and that would be
2 maintained as the residential entry. Looking to the, from the
3 sidewalk the door below the bay, that access is the office space
4 and then there are a series of doors out the back. So they go
5 to basically like a store room space currently and then there
6 would be, we would be adding a shared space to the rear there
7 that would be effectively egress for that connect. And then the
8 double doors, as you mentioned, that would effectively just be
9 coming into a common space and then stairs that would be leading
10 up to the residential floors from the rear yard.

11 COMMISSIONER SMITH: Okay. Thank you for that
12 clarification but wouldn't that be contrary to what you just
13 stated that the ground floor commercial space you're not
14 proposing to expand because that is expanding the space
15 accessible to the ground floor commercial that is currently
16 there, I believe.

17 MR. FOREHAND: I mean, we could honestly, I mean it
18 could be through shared space or the space just before what we're
19 showing actually is also the back sort of room that you pass
20 through. That actually is where there are some current utilities
21 that are currently shared between the commercial and the
22 residential space. So, and honestly I think with given the square
23 footage of the space it's more of a courtesy for the commercial
24 use but I don't, you know, believe from an egress standpoint we
25 would be required to have that second point of egress, so.

1 COMMISSIONER SMITH: Well, either way you're requesting
2 a use variance here. I'm saying that that is what would be
3 considered an expansion, just contrary to what you're stating.
4 But you can continue on with your presentation.

5 MR. FOREHAND: Okay.

6 MR. SULLIVAN: And if I could jump in for a second.
7 Board Member Smith, we're definitely not asking for an increase.
8 So --

9 MR. FOREHAND: Yes.

10 MR. SULLIVAN: -- you know, it could be a condition of
11 any approval to make it clear that whatever was approved before
12 is all that gets approved now as far as the premises but I noticed
13 the C of Os, I don't know that they, they just say the first
14 floor of the building right now is what that -- so whatever the
15 existing first floor commercial use is, yes, can't be expanded.
16 We're certainly aren't asking for more. So we could either
17 clarify the plans or do whatever it takes to make that super
18 clear.

19 COMMISSIONER SMITH: Okay. We can mull it over. So,
20 Mr. Forehand, you can continue with your presentation. I'm sorry.

21 MR. FOREHAND: No worries. And then if we go to the
22 next slide that'll show the second floor with the proposed
23 addition of 585 square feet at that level, and then this is also
24 depicting sort of roughly the idea for the two units. Again,
25 this is preliminary but this level is mostly occupied by a single

1 unit that would have views towards the front, presumably living
2 space and then towards the rear presumably bedroom space and then
3 you'll note that there is another entry and stairs that would
4 provide access into the upper units. So you effectively come
5 into a lower landing and then take the stairs up to the third
6 floor which, if we go to the next page we'll be able to see how
7 that floor lays out. So it's an additional 648 square feet single
8 use residence with the roof deck situated at the front as
9 previously indicated.

10 COMMISSIONER SMITH: Okay. I'm also unclear but you're
11 not showing walls, you're not showing where --

12 MR. FOREHAND: Yeah. I mean, we haven't designed the
13 interior of the space because, you know, in doing so and then
14 not being able to actually build the property would be sort of a
15 waste of our client's money.

16 COMMISSIONER SMITH: I've never seen it done that way
17 but that's interesting, but okay.

18 MR. SULLIVAN: I understand, yeah. Typically we do
19 have, like, a little more advanced floor plans but the Zoning
20 Administrator does have the, there's total flexibility with any
21 approval like this to change the floor plans but I do know that
22 we typically do have them a little more detailed than this one.

23 VICE CHAIRPERSON BLAKE: Okay. You mentioned a little
24 while ago, Mr. Sullivan, about the C of Os. So you have the C
25 of O from, two C of Os were in the record from 1950, '48, 1950,

1 something like that; is that right?

2 MR. SULLIVAN: Yes, that's what I see, yes.

3 VICE CHAIRPERSON BLAKE: Okay. So at what point did,
4 do we have a C of O at all for the building?

5 MR. SULLIVAN: Well, we just have a C of O for
6 commercial use because the residential unit wouldn't, doesn't
7 require a C of O.

8 VICE CHAIRPERSON BLAKE: We do not have that at any
9 level other than that?

10 MR. SULLIVAN: No. It wouldn't be required. So
11 typically on mixed use with the mom and pop you only have the
12 commercial C of O.

13 VICE CHAIRPERSON BLAKE: Okay. So when the Applicant
14 acquired this property they did not get an updated C of O would
15 you say?

16 MR. SULLIVAN: Well, yes. I mean, more to the point
17 when the previous owner changed tenants the current tenant, which
18 came on board under the previous owner's tenure, that tenant did
19 not get the necessary approvals to change it to get a C of O. So
20 they --

21 VICE CHAIRPERSON BLAKE: When did the drycleaner cease
22 to operate?

23 MR. SULLIVAN: I think I'd like to bring Mr. Jia in if
24 he's there. He can best answer these questions. Tony, are you
25 there? He said he called in.

1 VICE CHAIRPERSON BLAKE: There is someone here with a
2 703 number.

3 MR. SULLIVAN: We're asking him to unmute. Maybe he's
4 muted.

5 VICE CHAIRPERSON BLAKE: Okay.

6 (Pause.)

7 MR. SULLIVAN: He says he's having technical
8 difficulties. The current office use moved in two years before
9 he purchased and of course though I followed up with the question
10 (audio interference). So I can give you that answer in a minute
11 too. And it should be in the record too so I'll look and see
12 what we have.

13 VICE CHAIRPERSON BLAKE: So as you understand it it's
14 converted to, let's see the office use two years before he
15 acquired the property. That's what you're saying?

16 MR. SULLIVAN: Correct.

17 VICE CHAIRPERSON BLAKE: And was there a different
18 tenant in the space at that time or was this, the current tenant
19 is the original tenant post-cleaners?

20 MR. SULLIVAN: So to answer a previous question, my
21 client purchased this property in 2021.

22 VICE CHAIRPERSON BLAKE: Uh-huh.

23 MR. SULLIVAN: Operated and started in 2019 and so your
24 question was --

25 VICE CHAIRPERSON BLAKE: You're saying they took, so

1 | in '21, so in 2019 is when the current tenant moved in or when
2 | they converted to (indiscernible)?

3 | MR. SULLIVAN: Yes. Current tenant moved in in 2019.

4 | VICE CHAIRPERSON BLAKE: 2019, okay. Now would, was
5 | the Applicant required to get a business license to operate the
6 | rental property?

7 | MR. SULLIVAN: I don't (audio interference).

8 | VICE CHAIRPERSON BLAKE: Does the (audio interference).

9 | MR. SULLIVAN: (Audio interference).

10 | VICE CHAIRPERSON BLAKE: Ask him if he has the rental
11 | license to operate the property and secondarily, I would assume
12 | that the current tenant as well has a business license to operate
13 | at this location; is that right?

14 | MR. SULLIVAN: I don't know.

15 | VICE CHAIRPERSON BLAKE: Okay. All right. So I would
16 | like to just check out those two pieces of information because
17 | in order to get a business license you need a C of O. So I'm
18 | trying to see if the rental property is being rented legally or
19 | if the business is operating. I'm sure it is. I'm sure they
20 | probably pulled, you know, a business license so it must have a
21 | C of O that we just can't find.

22 | MR. SULLIVAN: No. I know there's no other C of Os on
23 | the property other than the ones we've submitted.

24 | VICE CHAIRPERSON BLAKE: Okay.

25 | MR. SULLIVAN: (Audio interference).

1 VICE CHAIRPERSON BLAKE: Okay. So we've got to see how
2 we got to where we are then. Okay.

3 MR. SULLIVAN: So in a typical commercial lease the
4 tenant's responsible for ensuring that they're in compliance
5 according to the lease. Now I understand ultimately a property
6 owner would be responsible as well regulatory-wise. But in this
7 case that's how that came about. Sanabria, the office use, when
8 they came in I assume they thought that it was, everything was
9 kosher and they didn't, just didn't get a C of O. And so Mr.
10 Jia who purchased in 2021 when he called us to talk about the
11 special exception case we looked for C of Os and when we didn't
12 find one we told him that he needs to shore that up as well.

13 VICE CHAIRPERSON BLAKE: Okay. All right. So when
14 he's available we can get a little better clarity on that. That
15 would be helpful. So I guess this building, was it marketed as
16 a multi-use building or was it marketed as a residential building
17 when he purchased it? Do you know?

18 MR. SULLIVAN: No, I don't know offhand, multi-family
19 is what he says.

20 VICE CHAIRPERSON BLAKE: Is it a multi-family?

21 MR. SULLIVAN: Well, maybe they meant multi-unit. But
22 I mean that's just, that would just be a brokerage representation
23 of what was there. It's only, it's one unit and one business
24 space so I don't know why they would do that.

25 VICE CHAIRPERSON BLAKE: Okay. You had indicated that

1 | this was a nonconforming use to nonconforming use chance for it.
2 | So essentially that would be something that would be able to be
3 | accomplished typically through a special exception and then
4 | through a area variance because of the residential, using
5 | residential space. In this instance the use variance because,
6 | it looks to me like the nonconforming element had lapsed so what
7 | you're really looking at is a, you know, you've got a residential
8 | property that you're trying to now put a commercial facility
9 | because that had lapsed. If it hadn't lapsed please explain to
10 | me why it would not have (audio interference).

11 | MR. SULLIVAN: So, it has lapsed. That's one reason.
12 | But even if it had not lapsed, this would be a use variance. In
13 | the 2016 rewrite for whatever reason the phrase "neighborhood
14 | facility" was removed from the regulations to provide for special
15 | exception change from one nonconforming use to another neglecting
16 | the fact that every single thing ever approved under that was a
17 | neighborhood facility because it's the only thing it could
18 | possibly approve under that, or that anybody would request.

19 | So now the language says you can change from one special
20 | exception, from one nonconforming use to another by special
21 | exception as long as you're a single family dwelling, a flat or
22 | multi-family property which is impossible. So when the office
23 | use was started without a lapse in 2019, their request would have
24 | been a use variance and now it's lapsed and it's still a use
25 | variance. So in either case from September of 2016 forward these

1 | were all use variances and all the cases that we mentioned in
2 | our Applicant's statement, we've done four or five or six of
3 | these cases since 2016 which would have been special exceptions
4 | but now they're use variances. We detailed those cases at the
5 | end of the Applicant's statement.

6 | VICE CHAIRPERSON BLAKE: So those are most, some (audio
7 | interference) primarily. The question I have though is it's a
8 | use variance I agree, but it's a use variance because it has
9 | lapsed though, it's not going from one nonconforming to another
10 | and I think it is basically the way we would look at it is a,
11 | it's a residential building oddly configured that is a, that you
12 | would like to convert to a commercial space.

13 | MR. SULLIVAN: No. It's a resident, it was built as a
14 | commercial space. The four properties to its left as you face
15 | the building all the way to the corner are built the same way.
16 | They're all commercial spaces on the first floor. They're all
17 | mixed space in the residential zone. While it lapsed it needed
18 | this relief anyway and like I said in 2019, and we're correcting
19 | that, and we're not asking to change the residential space to a
20 | commercial use.

21 | We're asking to keep the commercial use that's been in
22 | existence from the beginning, more than 75 years, and that's what
23 | configured and if you look at the photo of the front of the
24 | property as well it's built as commercial. It's flush to the
25 | ground whereas the residential properties around it have

1 elevation stoop. It's got the display window which Historic
2 wouldn't allow us to change and I'll also note that everybody
3 supports this heartily, even the people that oppose the special
4 exception.

5 So I would not agree with the characterization that
6 we're asking to change a residential space to a commercial space.
7 We're just asking to retain commercial space that's been in
8 existence from the beginning.

9 VICE CHAIRPERSON BLAKE: Right. I agree with you that
10 in the difference between this building and the ones beside it
11 is the fact that that right to have a nonconforming space had it
12 lapsed in this case whereas in most cases it is not.

13 MR. SULLIVAN: Yeah. It hasn't lapsed but actually
14 nobody, if anybody changes the use whether it lapses or not
15 they're going to need this use variance and of the precedents
16 that I've detailed in my Applicant's statement, some of those are
17 lapses and some of those are changes from an existing
18 nonconforming use to another.

19 VICE CHAIRPERSON BLAKE: But the examples you gave us
20 were summary orders. I didn't see any full orders in what you
21 gave me so I'm trying to, I'm working, I'm trying to get there.
22 So I'm just saying, I looked at it, I could use a summary, I
23 can't use any of it. So, but I don't know what the logic was
24 behind it. I need to have the new ones, right?

25 MR. SULLIVAN: I can go into more detail if you want.

1 I mean, I, and this happened in other cases we have like --

2 COMMISSIONER SMITH: Can I interrupt as well since
3 we're going down this road? You know, Mr. Sullivan, as you know,
4 each case stands on its own merits. I get the case history but
5 any decision that we would make would stand on its own merits in
6 this particular situation.

7 MR. SULLIVAN: I'm very aware of that maxim, that it
8 stands on its own merits. It doesn't stand on its own law. It
9 doesn't mean that the Board can take a consistent pattern of
10 custom and practice in how they view and consider these
11 applications and then say, well, even though this is, the facts
12 are very much like every other case, the merits are the same as
13 these other cases, that we're going to go in different directions.
14 So, yes --

15 COMMISSIONER SMITH: I'm not quite sure --

16 MR. SULLIVAN: -- (indiscernible) its own law.

17 COMMISSIONER SMITH: I'm not quite sure that the merits
18 are the same on this particular case. It's the nonconforming use
19 itself has lapsed and by your own admission based on some of the
20 questions that were asked a business license hasn't been
21 supplied, an occupancy permit on the first floor (audio
22 interference) hasn't been supplied. In my eyes, based on the
23 information that was submitted, we have an illegal use that
24 shouldn't be operating in what now is legally a residential
25 building or should be a residential building.

1 MR. SULLIVAN: No. I would disagree that it should be
2 a residential building. It's been a commercial building from the
3 beginning and the regulations were changed to make it
4 nonconforming, and there is precedent for the lapsed case. The
5 Board has never made that distinction in any of those other cases.
6 I know at least one of those precedents, maybe more of them
7 because one of them was before 2015, the 1247 E Street case, was
8 decided well before 2016 change. So that was the last --

9 VICE CHAIRPERSON BLAKE: No. You can do this, it'd be
10 great. I see where we're going with this. I do think it would
11 be very helpful if you could help us find some precedents to
12 support the argument that you're making because from what I can
13 see, and looking at the precedents in front of me, I don't see
14 it. So if you can find that to support it I would be very happy
15 to --

16 MR. SULLIVAN: It's already in the record and these
17 cases have never been questioned since 2016, and the ANC didn't
18 question it. This is the first thing (audio interference) like,
19 yes, that makes perfect sense that this should be approved and
20 I've got the cases in the file. I can certainly go into more
21 detail on that to explain why they line up, but (indiscernible) --

22 VICE CHAIRPERSON BLAKE: Yes. As long as it's not
23 summary orders that'd be great. As long as they're not summary
24 orders that's great.

25 MR. SULLIVAN: -- difficulty and the exceptional

1 condition stands regardless of whatever paperwork was or was not
2 done in the background because it deals with the physical aspects
3 of the property. But I'm happy to go into whatever, into more
4 detail if you want. I could go into transcripts. The fact that
5 it's a summary order doesn't mean it's not a precedent, it
6 actually means it's an even safer clearer precedent that wasn't
7 questioned or needed to be discussed or has never been challenged
8 by anybody. So, but I can do that. Whatever the Board needs as
9 far as additional information of course we're happy to provide.

10 VICE CHAIRPERSON BLAKE: I mean, I appreciate what
11 you're saying. I mean, the logic behind it I totally agree. I'm
12 just trying to look at what we have in front of us from the
13 regulations and, again, and I do think you have a wonderful data
14 base and would be able to find precedents to support what you're
15 saying and (indiscernible) --

16 MR. SULLIVAN: It's all in there. (Indiscernible) by
17 the Office of Planning as well, just as they have in this case
18 as well. So I would refer to their analysis and maybe you could
19 ask them on that point because I'm a little surprised by the, I
20 guess, by which way this is going. But --

21 VICE CHAIRPERSON BLAKE: Okay.

22 MR. SULLIVAN: -- I can find more (indiscernible) --

23 VICE CHAIRPERSON BLAKE: (Indiscernible).

24 MR. SULLIVAN: -- six of those since 2016 so I can bring
25 up those six cases and go into great detail on those.

1 VICE CHAIRPERSON BLAKE: Okay. I appreciate that. So
2 what we can do too. Let's look at the special exception. You've
3 talked about the fact that you're not increasing the, well, this
4 is a multi-use building or it's, what you have before us is a
5 multi-use property. It's not a residential property. So can you
6 just help me to understand how B-5201 would apply to a multi-use
7 property and not a residential property because this is not a
8 purely residential property although, as your architect pointed
9 out, it's predominantly residential. It's not, it's a multi-use
10 property.

11 So I'm trying to understand because typically you might
12 think about it and as you know the regulations allow 60 percent
13 of occupancy for residential up to 70 percent, but in other areas
14 it's only 40 percent. So if you can help me a little bit to
15 understand how I should look at that because then that suggests
16 to me you get an area variance to increase that square footage
17 on the lower level if it's (indiscernible).

18 MR. FOREHAND: If I could speak to that briefly.

19 VICE CHAIRPERSON BLAKE: Okay.

20 MR. FOREHAND: So in the document you had pulled up
21 earlier that's the full package, there is, I believe it's labeled
22 as page 8, a letter and it's an email correspondence between
23 myself and at the time Zoning Administrator, Matt Legrand, he's
24 obviously since retired, but in which we actually discussed that
25 exact matter and the reason that it was allowed to be considered

1 residential in terms of how we looked at the lot occupancy versus
2 commercial is because of that determination that the residential
3 space was the predominant use. So that is in the record. It's
4 in the submission.

5 VICE CHAIRPERSON BLAKE: Okay. So, we'll look at,
6 okay. If you could give me, share that correspondence and we
7 can follow up with that, that would be helpful if you have a copy
8 of that correspondence because that would seem to me that if that
9 is the interpretation that the current Zoning Administrator has
10 and that we would support and that could be a way to approach
11 it.

12 MR. FOREHAND: Right. And, again, the document that
13 we had up earlier that we were looking at the floor plans, it's
14 in that same document. It's just on one of the earlier cases.

15 VICE CHAIRPERSON BLAKE: Very good. All right.

16 MR. SULLIVAN: I'll find out exactly where it is,
17 Chairman Blake, and let you know as we're going forward.

18 VICE CHAIRPERSON BLAKE: Okay. All right. Let's see.

19 Mr. Smith, do you have any other questions? Vice Chair
20 Miller, do you have any questions?

21 ZC VICE CHAIRPERSON MILLER: Thank you, Mr. Chairman.
22 It's an interesting dialog each of you had with Mr. Sullivan and
23 I look forward to getting that additional material backing up the
24 argument because although those other cases may have been summary
25 orders, if we get to an order in this case it may not be a summary

1 order and would need the rationale.

2 So, on the rear addition you said that there are no
3 windows on the side, is that what you said, so there shouldn't
4 be an impact on privacy I think is what you said.

5 MR. SULLIVAN: Yes.

6 ZC VICE CHAIRPERSON MILLER: There are windows though
7 on the rear because we have testimony I guess in the record from
8 abutting properties on the rear saying that their privacy on the
9 windows that look over their yard would be impacted. How many
10 windows are on the back, I guess?

11 MR. SULLIVAN: I'll ask Brian how many windows are
12 intended to be on the back, but I'll note that there's a 30-foot
13 rear yard setback and that the letter from the Haislmaiers,
14 they're not adjacent despite the claim to be adjacent. There's
15 a property between them. So they're about 50 feet away from the
16 addition which has a 30-foot rear yard.

17 ZC VICE CHAIRPERSON MILLER: Okay. Well, I appreciate
18 that response. Do we have any, did you show renderings or
19 elevations showing that rear?

20 MR. FOREHAND: We didn't for the rear but in the plans
21 that we pulled up earlier we showed our kind of preliminary layout
22 for windows there that were showing that two pairs of windows per
23 floor that would be residentially sized so effectively would be
24 adding eight windows if you add those up four per floor.

25 ZC VICE CHAIRPERSON MILLER: Thank you. Okay. Thank

1 | you very much for that response. Okay. I don't think I have
2 | any other questions at this point, Mr. Chairman, Mr. Vice Chair.

3 | VICE CHAIRPERSON BLAKE: I have one last question for
4 | Mr. Sullivan. Mr. Sullivan, essentially what I see here too is
5 | your description having two residential units, two principal
6 | dwellings flat (indiscernible) and commercial space essentially
7 | are three functional units of some sort. Now I can't say they're
8 | residential units but three functional. This is a zone that in
9 | order to get three functional units, at least residential units,
10 | you would need to meet the 900 square foot rule. This is far
11 | from that. How is that plausible and just help me understand
12 | that?

13 | MR. SULLIVAN: Sure. And we can submit that precedent
14 | as well. We have a determination letter also from Mr. Legrand
15 | from years ago explaining that with an existing nonconforming
16 | order, noncompliant use commercial use in the space that you
17 | could add a unit and it would be limited to two residential
18 | dwelling units and the commercial space wouldn't add to that.

19 | VICE CHAIRPERSON BLAKE: So the commercial space
20 | wouldn't count? So you could have three units in one building
21 | and it would not count?

22 | MR. SULLIVAN: Yes. Because that only applies to the
23 | residential unit.

24 | VICE CHAIRPERSON BLAKE: But in this case it's a non-
25 | compliant --

1 MR. SULLIVAN: I don't actually think the distinction
2 matters but I mean I can send you the letter.

3 VICE CHAIRPERSON BLAKE: Yes. Okay. And, let me see.
4 Okay. I'll have something to work with. Okay.

5 COMMISSIONER SMITH: Did we find in the additional
6 clarification on, I'm assuming, Mr. Forehand, you were
7 referencing Exhibit 20A. Do we have any additional clarification
8 on this note from the former Zoning Administrator regarding this
9 interpretation of the maximum lot occupancy because I share the
10 same concerns that Mr. Blake shares regarding this. The
11 applicability of Section 5201 to a building that's not completely
12 residential.

13 MR. FOREHAND: So, again, that's, I don't know if you
14 still have it up but the document that we were looking at
15 previously when you were asking me about the floor plans is --

16 COMMISSIONER SMITH: The only thing I see on that within
17 that set is on the title page where it says relief itself from
18 the lot occupancy to allow 70 percent and a zoning analysis, but
19 I don't see a letter from the Zoning Administrator.

20 MR. SULLIVAN: I don't see it either so we'll, it sounds
21 like we're going to be filing some additional information. So
22 we'll include that if I don't happen to find it.

23 MR. FOREHAND: Yeah. I don't know if there's a way for
24 me to share this with you more quickly. I mean, I have to pull
25 it up or I can drop it in a box and email it to somebody, but.

1 COMMISSIONER SMITH: If you just send it to staff and
2 they can add it within the record.

3 MR. FOREHAND: Okay.

4 COMMISSIONER SMITH: But the regulation explicitly
5 states under 5201.1 for an addition to a principal residential
6 building and, Mr. Sullivan, you know, by your own admission with
7 some of this dialog we've been having about the nonconforming
8 noncomplying use on the ground floor is that this building, your
9 statement wasn't purpose built as mixed use or commercial
10 building. So without that information, your statement
11 contradicts itself.

12 MR. SULLIVAN: Yeah. Well, we have that clarification
13 from the Zoning Administrator both on that point and the two unis
14 plus commercial, so we can submit that.

15 COMMISSIONER SMITH: Okay. Thank you.

16 VICE CHAIRPERSON BLAKE: Also I would ask if you could,
17 I would focus on Bernstein v. District of Columbia Board of Zoning
18 Adjustment as one of the cases you might want to source to help
19 me figure out why, because I understand the lynchpin for Mr.
20 Legrand's researching was the fact that it was a continuing
21 nonconforming and in my mind once that has lapsed it ain't a
22 continuing nonconforming. So that key component has gone. Now
23 I want you to help me walk through that so I can get comfortable
24 why that's not the case and I think that might be a good starting
25 point with that particular case.

1 Let me see. Okay? All right. So do we have any more
2 questions for the Applicant?

3 COMMISSIONER SMITH: I don't have any more questions.

4 VICE CHAIRPERSON BLAKE: Okay. So we can move on.
5 Let's see. Mr. Blanchard. Do you have any questions for the
6 Applicant?

7 (Pause.)

8 VICE CHAIRPERSON BLAKE: Mr. Blanchard, your face is
9 not there and you may be on mute. I can't hear you.

10 MR. BLANCHARD: There we go.

11 VICE CHAIRPERSON BLAKE: Okay.

12 MR. BLANCHARD: So I think the Board has asked a lot
13 of good questions and so I'm not going to ask an additional
14 questions at this time. If we do, if there are supplemental
15 filings I'd ask the opportunity to respond to those as well.

16 VICE CHAIRPERSON BLAKE: Let's see. Mr. Eckenwiler.
17 I think you have, you could say something. Would you have a
18 question for the Applicant?

19 ANC COMMISSIONER ECKENWILER: Good afternoon, Vice
20 Chair Blake, and since I just came in late my apologies. Mark
21 Eckenwiler appearing on behalf of ANC 6C which is an affected ANC
22 in this case.

23 You have our letter of support both as to the use
24 variance and special exception in the record at Exhibit 30. I
25 don't propose to take up much of the Board's time. I'll stand

1 on that, but if you want --

2 VICE CHAIRPERSON BLAKE: I was just asking if you had
3 a question for the Applicant.

4 ANC COMMISSIONER ECKENWILER: Sorry.

5 VICE CHAIRPERSON BLAKE: I'm going to come back to you
6 for your statement.

7 ANC COMMISSIONER ECKENWILER: Sorry, no. No questions
8 at all, Mr. Sullivan.

9 VICE CHAIRPERSON BLAKE: All right. Thank you. Okay.
10 So we're going to now move to the Office of Planning.

11 MR. BEAMON: Good afternoon, Board members. For the
12 record Shephard Beamon with the Office of Planning.

13 OP's reviewed the application for the requested special
14 exception and area variance relief from the use permissions and
15 lot occupancy and finds that the request meets the criteria for
16 Subtitles U and X, therefore OP recommends approval and open for
17 any questions.

18 VICE CHAIRPERSON BLAKE: Clearly for Mr. Beamon from
19 the foregoing discussion there are a lot of questions, so I'm
20 going to have to ask you to help me understand the same questions
21 I asked Mr. Sullivan. For example, I want to understand why E-
22 5201 is appropriate for this, for the relief and I'd also like
23 to understand the impact of the non-compliance on the commercial
24 space and if that would have some bearing on the ability to apply
25 what Mr. Sullivan has decided from past Zoning Administrator

1 Legrand in terms of the ability to (audio interference) that way.
2 Okay?

3 So you might not be able to do that right now but I
4 will need that from you --

5 MR. BEAMON: Okay.

6 VICE CHAIRPERSON BLAKE: -- if you're able to do that.
7 Okay? Mr. Smith, do you have any questions for the Office of
8 Planning?

9 COMMISSIONER SMITH: So I share that same concern that
10 Vice Chair Blake stated. I'll also need some additional
11 information about, this question how the non-complying use
12 applies in this case to the use variance which seems to be, you
13 know, a topic of conversation today as well. If you could provide
14 that in a supplemental report.

15 VICE CHAIRPERSON BLAKE: Mr. Sullivan, do you have any
16 questions for the Office of Planning?

17 MR. SULLIVAN: No, thank you.

18 VICE CHAIRPERSON BLAKE: Okay. Mr. Blanchard, do you
19 have any questions for the Office of Planning? You're on mute.

20 MR. BLANCHARD: I have two mute buttons. I'd just ask
21 if OP, Mr. Beamon, would address the position taken last night
22 by ANC 6C on the lot occupancy when he files any supplemental
23 report. Thank you.

24 VICE CHAIRPERSON BLAKE: Okay. Any other questions
25 for, Vice Chair Miller, do you have any questions for the Office

1 of Planning?

2 ZC VICE CHAIRPERSON MILLER: No questions.

3 VICE CHAIRPERSON BLAKE: Okay. All right.

4 So now we could, any other agencies that we have to
5 speak. No one else can speak on that. The ANC, I see you're
6 on, Mr. Eckenwiler, since 6A is not present.

7 ANC COMMISSIONER ECKENWILER: Mr. Vice Chair, is this
8 about questions for OP?

9 VICE CHAIRPERSON BLAKE: No. We're done with OP now.
10 We're moving on to ANC.

11 ANC COMMISSIONER ECKENWILER: Okay. Great. So just
12 to recap what I said earlier. You have our letter of support
13 both as to the variance, the use variance and the special
14 exception for lot occupancy in the record at Exhibit 30. I'm
15 happy to stand on that but of course I'd be happy to answer
16 questions as well.

17 VICE CHAIRPERSON BLAKE: Okay. Does anyone have any
18 questions for Mr. Eckenwiler?

19 Mr. Sullivan? Mr. Sullivan? I believe you client has
20 a question.

21 COMMISSIONER SMITH: Mr. Blake, Ms. Landrieu is --

22 MS. LANDRIEU: (Indiscernible).

23 VICE CHAIRPERSON BLAKE: I'm sorry. Mr. Blanchard, I
24 apologize. You're sitting next to each other. Please go ahead.

25 MS. LANDRIEU: Hi.

1 VICE CHAIRPERSON BLAKE: Hi.

2 MS. LANDRIEU: I'm Mary Landrieu. I own the property
3 with my husband, Frank, who I hope you all can see on the screen,
4 Frank Snellings and Mary Landrieu. We are so happy to talk with
5 you all because you all are only the second group of people that
6 have even allowed us to speak so we really are grateful because
7 Mr. Mark, the ANC person from 6C that sent you a letter of
8 support, never talks to us and we live right across the street.
9 So my question to Mark, Mr. Mark who is the ANC 6C person, my
10 question is why didn't you talk to any of the neighbors that
11 actually live next to this building across the street from your
12 jurisdiction? It's not even your jurisdiction.

13 ANC COMMISSIONER ECKENWILER: We're not under any
14 obligation and in fact, Ma'am, under the rules we could decide a
15 case without even hearing from the Applicant. We did in this --

16 MS. LANDRIEU: Oh, okay.

17 ANC COMMISSIONER ECKENWILER: -- issue with the
18 Applicant.

19 MS. LANDRIEU: I'm not familiar with those rules. Yeah.
20 I've just lived here 25 years. I'm sorry I'm not an expert on
21 the rules. I just wanted to ask you, you didn't think it was
22 important to talk to anybody that lives next to this complete
23 monstrosity, what will be a monstrosity?

24 ANC COMMISSIONER ECKENWILER: In this instance, no, we
25 did not.

1 MS. LANDRIEU: Okay. Thank you.

2 VICE CHAIRPERSON BLAKE: Thank you. And the party in
3 opposition will have an opportunity to present their case
4 shortly.

5 MS. LANDRIEU: Thank you.

6 VICE CHAIRPERSON BLAKE: Are there any questions for,
7 further questions for Mr. Eckenwiler? Okay.

8 I have one question for Mr. Sullivan while we're here.
9 So could you please explain to me what did transpire at 6B? You
10 did allude to it during your presentation but I didn't quite
11 understand what happened there.

12 MR. SULLIVAN: 6B? Yes, last night they unanimously
13 supported the use variance request on their consent agenda and
14 they voted six to two to oppose the special exception request.

15 VICE CHAIRPERSON BLAKE: Do you have any color on the
16 rationale behind it or you would be unable to say it?

17 MR. SULLIVAN: I do. They said that, "Applicant seeks
18 to renovate its property, it's going to occupy 70 percent. ANC
19 6B generally supports these variances," misnamed that, "because
20 our neighborhood is zoned too restrictively for an inner city
21 neighborhood. However, we feel obliged to reflect the sentiments
22 of the neighborhood when there is sincere opposition to a
23 particular project. The neighbors' enjoyment of their own back
24 yards would be reduced by the presence of Applicant's rear
25 expansion."

1 VICE CHAIRPERSON BLAKE: Okay. And that's in a
2 transcript or is that in the record?

3 MR. SULLIVAN: That's in the record. That was posted
4 this morning.

5 VICE CHAIRPERSON BLAKE: Okay. I'll take a look at it.
6 Thank you.

7 MR. SULLIVAN: Exhibit 32, I think.

8 VICE CHAIRPERSON BLAKE: Does anyone else have any
9 other questions before we turn to the party in opposition? Okay.
10 Mr. Blanchard, it is your opportunity to present your position
11 and to include all your witnesses and so forth. We have about
12 15 or so minutes roughly, a little more than that I guess, to do
13 that. So if you would proceed. Mr. Young, start the clock so
14 we know where we are. Thanks.

15 MR. BLANCHARD: Good afternoon. I'm Lyle Blanchard and
16 I'm representing Frank Snellings and his wife, Mary Landrieu.
17 They are the property owners at 405 and 407 East Capitol Street
18 which is adjacent. I'm going to ask both of them to talk about
19 their views on why the Applicant has not met its burden on the
20 standards for the special exception. I also have Mr. Jeffrey
21 Levin as a witness and he is the owner of 411 which is the
22 adjoining property on the other side of 409 and I will now turn
23 to them and let them speak.

24 MR. SNELLINGS: Good morning, or afternoon I guess now.
25 I'm Frank Snellings and just a little history. My wife and I

1 moved to D.C. in January of 1997 and six months later we bought
2 a weed infested and overgrown double wide asphalt parking lot at
3 405/407 East Capitol and we began the process of trying to build
4 a home there to raise our children in, and we went through two
5 years of planning and permitting and then another three years of
6 actual construction and almost to the day five years after we
7 bought the lot we moved in.

8 And so we've enjoyed living there. We've raised our
9 two children there. They're now 33 and 28 so they've left the
10 nest so to speak and so what we wanted to see is when we looked
11 at these plans that have been offered by the Applicant, the
12 property next to us will rise 29 and a half feet above elevation.
13 It will be right next to us. When people walk into our home
14 they'll look over and see this monstrosity if it ever is
15 constructed and they'll say, well, I thought you lived in a
16 historic district and my comment to them will be, well, yes, we
17 once did but we no longer do because this thing has been allowed
18 to be built there.

19 And we are not opposed, gentlemen, to renovation and
20 expansion of properties right there in our back yard. Fluor
21 Corporation, which owns 403, they did an expansion several years
22 ago, came to us, take a look. We said it's fine. No problem.
23 Then our neighbor to the back of us whose side yard abuts our
24 backyard at 8 4th Street, Southeast, they wanted to add 15 or so
25 feet to the back of their property to add a bedroom. We said

1 fine, no problem. Go ahead and do it and they did.

2 Then three years ago, Mr. Jia, came with a modest
3 proposal and asked us to take a look at it. We looked at it. We
4 said no problem. That's, go right ahead if you can get the
5 approvals, go and do it. We've got somewhere in the process and
6 at some point wherever that is or was, he decided not to do it
7 and so our situation is that we are going to be looking at this,
8 you know, huge development in a historic district and I don't
9 know if you all have the packet in front of you of the pictures
10 that we submitted this morning, but if you do I'd like to quickly
11 run through those with you if I could. Do you all have those?

12 MR. BLANCHARD: Can Mr. Young bring up the exhibit that
13 was filed with --

14 VICE CHAIRPERSON BLAKE: (Indiscernible) which exhibit?

15 MR. BLANCHARD: Yes, I do. Hold on. It's Exhibit 34,
16 three four, and go beyond the next page, please.

17 MR. SNELLINGS: All right. If you look at that picture
18 and you see the automobile on the left and you can see a yellow
19 flag up in the trees behind the brick wall, that flag stops at
20 14 feet above elevation. If you go up another 15 and a half feet
21 you will clearly see that construction from 4th Street's
22 sidewalk, very clear. The property that's just shown briefly
23 there on the right, that is No. 8 A Street and the property to
24 its right is No. 10 which where they have lodged a complaint
25 against. And so let's turn to the next page real quick, if we

1 | could.

2 | MR. BLANCHARD: Mr. Young, could you go to the next
3 | page, please.

4 | MR. SNELLINGS: And that's just the rear of the existing
5 | property and then we can move to the next picture.

6 | MR. BLANCHARD: Next page.

7 | MR. SNELLINGS: And that's an enlarged view of the rear
8 | of 409 and it also shows 411. It also shows the tree that is
9 | growing on 411. So we can go to the next picture.

10 | MR. BLANCHARD: Next page.

11 | MR. SNELLINGS: That two pieces of tape, that was put
12 | there by Mr. Forehand, the Applicant's architect, to show how far
13 | back on the lot the additional ten feet would bring that structure
14 | that they would like to construct. And next picture, please.

15 | What the 60 percent versus 70 percent looks like,
16 | that's how far back it would go. Next picture, please.

17 | Next picture, please.

18 | No, we, that's okay. You can go to that. Yeah, okay.
19 | And that again gives you the extent of the overage and now you
20 | can see it taking shape. It's going to be a huge rectangular
21 | figure, and then if we can go to the next picture, please.

22 | That will show from our property how that thing is
23 | going to tower over our side yard where we entertain a good bit.
24 | We almost live out there in the spring and summer and love being
25 | there, and we will have this monstrosity looming over us right

1 | there adjacent to us.

2 | And then the final picture.

3 | MR. BLANCHARD: Next page. Thank you.

4 | MR. SNELLINGS: That will show you that, and Mr. Levin
5 | will speak for himself, but Mr. Levin to his east has a three,
6 | you know, has a much larger building next to him and then if this
7 | addition is allowed to be constructed at 409, he will be basically
8 | operating in a canyon. And so that is the end of it on the
9 | pictures, and we would just simply urge the Committee and the BZA
10 | to oppose this and thank goodness when we did get notice of a
11 | meeting, we went to the ANC 6B meeting and they voted with their
12 | Planning and Zoning Committee in favor of this, and then also
13 | last night by six to two vote with the ninth member not being
14 | present (audio interference). So that's --

15 | MR. BLANCHARD: Thank you, Mr. Snellings. When you say
16 | the P&Z voted in favor, you mean in favor of your position?

17 | MR. SNELLINGS: No. They voted in favor of opposing
18 | it, yes.

19 | MR. BLANCHARD: Right. Your position --

20 | MS. LANDRIEU: They opposed it.

21 | MR. SNELLINGS: Opposed. Yeah.

22 | MR. BLANCHARD: Yeah. All right. Thank you. And now,
23 | Ms. Landrieu, would you testify, please.

24 | MS. LANDRIEU: Yes, thank you so much. Yeah. I really
25 | appreciate my husband's presentation. He's worked so hard on

1 | this and it's been so worrisome to us. And, gentlemen, you'll
2 | have to forgive me. I don't know all the details or the rules
3 | and I'm sorry, I didn't have time to study up on all the details.

4 | But what Frank said is absolutely true. We love this
5 | neighborhood. We've raised our children here. We've been here
6 | 25 years. We have been as upstanding citizens as possible. We
7 | love our neighbors. We've worked and cooperated with them. We
8 | actually loved the cleaners next door. It was Capitol Hill Valet.
9 | I brought my clothes there almost every day. We had no problem.

10 | When we built in this neighborhood people said are you
11 | all crazy? That's like a bad neighborhood, blah, blah, blah,
12 | blah, blah. We said, look, we love the city. We want to help
13 | rebuild the city. You can look at the picture of what was here,
14 | and my husband basically designed and built this house. When
15 | people come to my home, we entertain all sorts of people here,
16 | neighborhood kids, people. We have a Halloween. It's one of
17 | the favorite Halloween places on East Capitol. Everyone knows
18 | my house. And they come in and they say, gee, you did a great
19 | job renovating. I say we didn't renovate this house, we built
20 | this house from scratch and people just, their mouths drop open.
21 | They're like but it looks just like it fits in the neighborhood.
22 | We said that's because we respect the neighborhood. We know
23 | where we live. We know the history of this neighborhood.

24 | And for this developer who doesn't even live here come
25 | into this neighborhood and try to sneak this through, because

1 | when they came to talk to us three years ago I said, Frank,
2 | because it's a long story and I'll cut it short, I said, Frank,
3 | you better talk to this gentleman. I have no problem with him
4 | buying the property but, you know, let's make sure whatever he's
5 | going to do with it. Oh, no, don't worry. We're just going to
6 | renovate it. It needs to be a little fixed up. We said, fine.
7 | It looks fine to us now but if you want to fix it up, it's great.
8 | But he doesn't. He's asking for a ten foot extension which will
9 | severely damage, severely damage our property, all the neighbors
10 | on our block. I don't care what Mr. Mark says who's across the
11 | street, and he may be right. He doesn't need to talk to us but
12 | as a courtesy, you would think he would.

13 | So we have about 12 neighbors that are the closest
14 | neighbors to this from the front, the side, the back. We are
15 | all strongly opposed to it, and like Frank said, we want more
16 | residents. We want more commercial if that's what you all want.
17 | We are not opposed to it. But this is a monstrosity that they
18 | want to put up and I'm not even sure he wants to live there. If
19 | he did I might say, well, whatever. But he wants to drop this
20 | in our neighborhood I guess to make a buck, I guess that's what
21 | people do these days and this is in violation of so many things.
22 | They did not tell us. All the notices they went to the meetings.
23 | The first meeting we were able to go to was I think what, Frank,
24 | yesterday or the day before because nobody bothered to come tell
25 | us about the seven, eight, you know, this extra ten feet.

1 So the final thing I'll say is I want Jeff to speak,
2 Levin. He's new to this building he bought on the side, but his
3 building will be even worse affected than ours and I'd like Jeff
4 to speak, and then Ms. Kathleen who I hope is on the call, she
5 has a letter from about eight or nine neighbors that are outraged.
6 We are outraged. This is not a little thing.

7 So we ask you to kill it as best you can today and if
8 it's not, then we'll continue to work on this because it's just
9 not right. And, again, if he wants to go to his 60 feet he's
10 entitled to that. Now, I don't, say one more thing. I don't
11 know anything about the use, the conditional use, trust me. It
12 doesn't matter if you gentlemen decide you want to put a
13 commercial space there, we're fine. As long as it's not a bar
14 or a marijuana smoking place, we have enough of those on Capitol
15 Hill but, you know, you all do your rules. If you want to put a
16 residence there perfect for us. We don't complain. What we're
17 complaining about is an out of city neighbor to, you know, come
18 in and drop this monstrosity and wreck our block without really
19 talking to us about what they want to do and we're just very
20 upset. So if Jeff could speak, that would be wonderful.

21 MR. BLANCHARD: Thank you, Ms. Landrieu. Mr. Levin,
22 could we hear from you please. I see his name up on the panel.
23 Jeffrey Levin.

24 MR. LEVIN: I'm here.

25 VICE CHAIRPERSON BLAKE: Are you available for your

1 video?

2 MR. LEVIN: (Audio interference) pull over.

3 MS. LANDRIEU: Jeff?

4 MR. LEVIN: (Audio interference).

5 MS. LANDRIEU: We've only got two (indiscernible), so
6 hurry up.

7 MR. BLANCHARD: Mr. Levin, we need your testimony.

8 MS. LANDRIEU: Well, if Jeff can't speak --

9 MR. BLANCHARD: (Indiscernible) between cell towers.

10 MS. LANDRIEU: -- is Ms. Kathleen on? Is Kathleen on?

11 MR. BLANCHARD: No, no, Jeff is there.

12 MR. SNELLINGS: There he is.

13 MR. BLANCHARD: Jeff, please go ahead. You've got 42
14 seconds. Jeff?

15 VICE CHAIRPERSON BLAKE: Mr. Levin, you can call in on
16 the telephone if you'd like.

17 MR. LEVIN: How do I do that?

18 MR. BLANCHARD: He's going in and out.

19 VICE CHAIRPERSON BLAKE: You can call in on the
20 telephone. The number's 202-727-5471, 202-727-5471.

21 MR. LEVIN: (Audio interference.)

22 ZC VICE CHAIRPERSON MILLER: I think he had more than
23 42 seconds. I think we don't count technical difficulties as
24 part of the 15 minutes or whatever.

25 MS. LANDRIEU: Thank you. Thank you, Mr. Miller.

1 MR. LEVIN: So guys, I appreciate (audio interference).

2 COMMISSIONER SMITH: Mr. Levin, if you can hear me?

3 MR. LEVIN: Yes.

4 COMMISSIONER SMITH: I don't want you to waste your
5 time, I want you, trying to communicate in this manner try to
6 give it, the phone number that Chairman Blake gave you a call,
7 that way we can maximize your time because you're breaking up.

8 MR. LEVIN: What is the phone number?

9 VICE CHAIRPERSON BLAKE: 202-727-5471.

10 MR. LEVIN: Okay. And the other thing I need to dial?

11 VICE CHAIRPERSON BLAKE: I believe so.

12 MR. LEVIN: Okay. I'm calling right now. Thank you.

13 (Pause.)

14 MS. LANDRIEU: And while we're waiting, can I just ask
15 a question for the record. If you all have a concern about the
16 three units, because right now it's like everything, a business
17 on the ground floor, an apartment upstairs and that's been
18 perfect. We've had lovely neighbors for 25 years. I don't know
19 why, if it's against the rules for them to put in two residences
20 up top which it's a small building, and then still have a
21 commercial, I don't know if that's a problem but I might want to
22 just put that on the record. I heard someone talk about that.

23 VICE CHAIRPERSON BLAKE: Thank you, Ms. Landrieu. We
24 appreciate that. We're aware of that.

25 MS. LANDRIEU: Very good, because I didn't realize that

1 | could be a problem as well.

2 | VICE CHAIRPERSON BLAKE: We're still waiting here.

3 | MS. LANDRIEU: Well, maybe we could go to Ms. Kathleen.
4 | Frank, is she on? She was so good last night. Is she on? Lyle?

5 | MR. BLANCHARD: Mary, we have to wait, we have to wait
6 | for the Board to conclude the party status witnesses.

7 | MS. LANDRIEU: Oh, okay, okay.

8 | MR. BLANCHARD: Kathleen is a person in opposition, so
9 | we have to wait for Chairman Blake to get to that portion of the
10 | hearing.

11 | MS. LANDRIEU: Okay. Thank you.

12 | MR. BLANCHARD: You're welcome.

13 | ZC VICE CHAIRPERSON MILLER: Well, while we're waiting
14 | for Mr. Levin to connect, let me just say it's good to see you,
15 | Ms. Landrieu.

16 | MS. LANDRIEU: Thank you.

17 | ZC VICE CHAIRPERSON MILLER: We in the District miss
18 | your friendly voice and advocacy on behalf of our citizens and
19 | the United States Senate, and wish you --

20 | MS. LANDRIEU: Thank you, Mr. Blake. Yeah, I thought
21 | maybe I might know some of you all because we worked so hard
22 | together with the city for so many years and, you know, I was
23 | just doing and the city is doing so well.

24 | ZC VICE CHAIRPERSON MILLER: I know you did. I was in
25 | the Council Office --

1 MS. LANDRIEU: Thank you.

2 ZC VICE CHAIRPERSON MILLER: -- 27 years and saw (audio
3 interference).

4 MS. LANDRIEU: Thank you. And that's why this is so
5 upsetting. I mean, it's not just me. I mean, it's not because
6 I was a senator or anything, it's so disrespectful for this
7 attorney that represents this gentleman to not talk to the
8 neighbors. I mean, and they really didn't and it's like a big
9 surprise, and we're like completely caught off guard and it's
10 just hurtful.

11 So anyway, I'm sure there's some rules they know how
12 to get around but, again, the person that purchased this property,
13 he purchased it for fair market value. I realize people have a
14 right to make a profit, no problem. But I do have a problem with
15 sneaking through something without talking to all of us and then
16 telling you all it's no big deal when it really is a big deal,
17 and if you all want to come to the house, some of you might have
18 already been here, you can see it with your own eyes and then
19 you will really know what we're talking about.

20 So I'm really sorry Jeff's disconnected because our
21 house, as you know, it's 36 feet wide. So we have a little space
22 and we had, you know, our yard is pretty much open. But he is
23 only 18 feet and he's on the other side. He'll be on the other
24 side of two straight up walls.

25 VICE CHAIRPERSON BLAKE: This is a good discussion but

1 let's do this. Are you here?

2 MR. LEVIN: I'm here. Can you, I'm good and if you
3 all can hear me I'll be brief and very direct with my --

4 COMMISSIONER SMITH: Please, please, please speak.
5 Thank you.

6 MR. LEVIN: Okay.

7 COMMISSIONER SMITH: Mr. Young, can you put two minutes
8 on the clock?

9 MR. LEVIN: Thank you guys. So the proposed addition
10 or monolith destroys the value of my property. It's a violation
11 of my quiet use of the property because it's going to block me
12 in. I saw the slides and the presentation and I was at the ANC
13 meeting yesterday, and I don't think the pictures did any justice
14 to the damage to my property. The property to the east of me
15 goes back even further. So if this addition, you know, is
16 permitted, you know, my property value goes in half and I also
17 believe that the, I don't support it. It really would affect my
18 property value and my enjoyment of the property.

19 I think that it would be one thing if the owner of the
20 property was looking to live in the property and live in the
21 neighborhood and contribute to the neighborhood, but that's not
22 the case here and I might feel differently. But I wouldn't the
23 way it's currently drawn because, you know, my backyard which,
24 as you all know, is a bit scarce in Capitol Hill and D.C., and
25 Capitol Hill. You know, it's pretty much worthless.

1 I also believe that the extra ten percent, and I'm not
2 a zoning expert by any means, is okay if it doesn't harm other
3 people and, you know, if there's an intent to contribute to the
4 neighborhood, not build something that I believe is out of
5 character for the neighborhood. I oppose it 100 percent the way
6 it currently is and I'm open if you have any questions for me,
7 I'm happy to answer.

8 VICE CHAIRPERSON BLAKE: Thank you very much. Does
9 anyone have any questions for Mr. Levin? Okay. Mr. Blanchard,
10 back to you.

11 MR. SULLIVAN: I'm sorry, Chairman Blake. Were you
12 asking if any parties had questions?

13 VICE CHAIRPERSON BLAKE: Yes, actually you guessed it.
14 That's right. Let me finish. This is their overall presentation.
15 Let them finish up and then you can ask, or you can cross-examine.
16 So, Mr. Blanchard, if you want to finish up.

17 MR. BLANCHARD: Thank you. Yes.

18 So just to wrap up. You've heard from both Mr.
19 Snellings, his wife Mary Landrieu and the adjacent neighbor or
20 the abutting neighbor. So both of these two property owners are
21 abutting. The property owner you'll hear from later is adjoining
22 even though she's one lot away, and their testimony that you have
23 just heard shows that they are adversely affected by the
24 additional ten percent relief and this dense monolith. Even
25 though there may be no windows there is still some shadow and so

1 that, you know, that affects them adversely and as the Architect
2 of the Capitol noted in their exhibit, that testimony from the
3 neighbors where there is impact on the adjacent neighbors needs
4 to be taken into consideration and because of that, I don't
5 believe that Mr. Sullivan has met the test under 901.2(b).

6 Thank you.

7 VICE CHAIRPERSON BLAKE: Thank you. Does anyone on the
8 Board have any other questions for the party in opposition? Okay.
9 Oh, yes, Mr. Vice Chairman. Go ahead.

10 ZC VICE CHAIRPERSON MILLER: Thank you, Vice Chair
11 Blake.

12 I think I know the position but I'm not sure they
13 clearly stated it. You don't oppose the use variance to make
14 the design office legal I guess, if that's what they need if
15 that's the relief, or could you just clarify if you oppose the
16 use variance for the --

17 MR. BLANCHARD: Yes. Thank you (indiscernible).

18 MS. LANDRIEU: Before I answer can I answer
19 (indiscernible).

20 MR. BLANCHARD: Mary, Mary --

21 MS. LANDRIEU: (Indiscernible).

22 MR. BLANCHARD: Mary, I know what you want to say.

23 MS. LANDRIEU: Okay.

24 MR. BLANCHARD: Commissioner Miller, my clients do not
25 oppose the use variance.

1 ZC VICE CHAIRPERSON MILLER: That's all I wanted to
2 know.

3 MR. BLANCHARD: The only issue they're opposing, thank
4 you.

5 ZC VICE CHAIRPERSON MILLER: That's all I wanted to
6 know.

7 MS. LANDRIEU: Well, wow. That's exactly what I was
8 going to say. Like, we loved the cleaner there. We liked the
9 interior design people. They were so lovely. We loved the ladies
10 that were there. We never wanted them to leave. They were the
11 loveliest people in the world. We loved having their office.
12 That's not the problem. The problem is what he's trying to build.

13 VICE CHAIRPERSON BLAKE: All right. Thank you very
14 much for your testimony.

15 Now we're going to open the floor. Do anyone have
16 further questions? Mr. Smith, anything? Any other questions
17 from you? Okay. Mr. Sullivan, you have the opportunity for
18 cross-examination of the party in opposition.

19 MR. SULLIVAN: I think I'd like to briefly ask a
20 question of Mr. Levin, if he's still on.

21 MR. LEVIN: I'm here. I'm here, Marty.

22 MR. SULLIVAN: So you mentioned that it's important
23 that the Applicant live at the property. Do you live at 411?

24 MR. LEVIN: No, I don't.

25 MR. SULLIVAN: And you said that your property's going

1 | to dip in half. Do you have an appraisal showing that your
2 | investment property would lose half its value?

3 | MR. LEVIN: I've been doing, I've been in the Washington
4 | area doing real estate for 30 plus years, as you know. No one
5 | can predict what the value of the property is, so my speculation
6 | if it's worth, whatever it's worth what is being proposed, the
7 | property value if I wanted to sell it would be a 50 percent
8 | discount to something that would be more palatable for the
9 | neighborhood.

10 | MR. SULLIVAN: Thank you. I have no further questions.

11 | VICE CHAIRPERSON BLAKE: Okay. Thank you. All right.
12 | Is, let's see. Is Mr. Eckenwiler still online? I assume not.
13 | So Mr. Young, is there anyone wishing to testify? We should have
14 | at least two or three.

15 | MR. YOUNG: I believe we just have one signed up.

16 | VICE CHAIRPERSON BLAKE: Okay.

17 | MR. YOUNG: She's calling in by phone.

18 | VICE CHAIRPERSON BLAKE: Okay. Is she here now or not?

19 | MR. YOUNG: Yes.

20 | VICE CHAIRPERSON BLAKE: Okay.

21 | MR. YOUNG: I just brought her in.

22 | VICE CHAIRPERSON BLAKE: Okay. Great. And it is who?

23 | MR. YOUNG: Kathleen O'Reilly.

24 | VICE CHAIRPERSON BLAKE: Okay.

25 | MS. O'REILLY: I'm here.

1 VICE CHAIRPERSON BLAKE: All right, Ms. O'Reilly.
2 Thank you for joining us today. As a member of the public you
3 have three minutes to provide us with testimony. Please state
4 your name and address before you begin. You have three minutes,
5 and start whenever you like.

6 MS. O'REILLY: All right. Can you hear me?

7 VICE CHAIRPERSON BLAKE: Yes, we can.

8 COMMISSIONER SMITH: So there's a lot of feedback.

9 VICE CHAIRPERSON BLAKE: (Indiscernible) background
10 noise.

11 MS. O'REILLY: Can you hear me?

12 VICE CHAIRPERSON BLAKE: We can hear you but I think
13 there's some background noise from YouTube or something.

14 MS. O'REILLY: Let me see if this works.

15 VICE CHAIRPERSON BLAKE: Can you go into a different
16 room or something?

17 MS. O'REILLY: Let's see if this works. I don't know
18 if it'll change. Just a second. I'm going to move. All right.
19 I'm in a different location. Is this better?

20 VICE CHAIRPERSON BLAKE: Yes. Go ahead. Thank you.

21 MS. O'REILLY: All right. All right. I'm going to
22 start. My name is Kathleen O'Reilly and I both own and live 414
23 8th Street, Southeast, and I am opposed to the application, and
24 hopefully my pre-hearing submission makes clear that we neighbors
25 are not against small business on East Capitol. Quite the

1 opposite. Those small businesses that are here now add
2 convenience add a wonderful layer to the social fabric of our
3 neighborhood as did Monica at the drycleaners.

4 I live on 8th Street, one block over from the block at
5 issue and I'm closer to 5th than 4th, and from my third floor
6 back bedroom with leaves still on the trees my view of what would
7 be this eyesore extension is not affected. But once the leaves
8 fall I suspect it could be. I received no notice from the
9 Applicant and do not know what notice he provided to whom, when,
10 in what format and with what parameters he applied as to
11 neighbors. Following the hearing I will submit a petition opposed
12 to this application by eight additional neighbors as was given
13 to me early last evening.

14 I wish to comment on more than my limited view as
15 obviously not the one most important here. The Applicant's
16 representative at the ANC committee hearing made clear he thinks
17 his (audio interference) a slam dunk. Basically that you will
18 look at the shadow study measurement, consider the effect on view
19 and light (phonetic), vote approval and just move on, that in
20 effect what we opponents say today will be a waste of time. I
21 certainly hope not. View is an important factor in any common
22 sense understanding of the legal standard required to be applied,
23 namely the use and enjoyment of one's property and the burden of
24 proof is on the Applicant, not on us opponents.

25 In the case of this application (audio interference)

1 consider view in context. The Applicant, as we've learned, is a
2 realtor in Maryland who apparently has never lived in D.C. and
3 apparently does not intend to live on this property. The degree
4 to which the view of a homeowner in this neighborhood might be
5 reduced by such special exceptions, may seem insignificant,
6 slight or even silly for anyone living on a much larger piece of
7 property in the suburbs, for example. But this is a dense
8 neighborhood where the views we have are under the best of
9 circumstances extremely limited and thus all the more in need of
10 protection.

11 Also relevant is how the requested extension (audio
12 interference) across the street from the property and likewise
13 as would be seen from 4th Street when we neighbors walk by that
14 driveway that's next to the Marquette University dormitory. So
15 this is not exactly landlocked as was described. It seems clear
16 that the Applicant realtor bought this property a few years ago
17 knowing the space limitations and the criteria for an exception.
18 His original plan came within the 60 percent expansion limit but
19 he's since changed his mind and decided he can't get as much
20 profit from this investment as originally assumed so he wants to
21 squeeze out more profit by building this expansion.

22 The word lapsed is now I think relevant based on the
23 recent discussion a few minutes ago. Namely, it appears that
24 when he bought this property he was unaware of or took no action
25 when he apparently had a lapsed business and a lapsed residential

1 permit. But when I and my husband bought this home from another
2 part of the Hill we both made sure that there was a current
3 Certificate of Occupancy for the basement apartment in this home.
4 Both my late husband and I at a point (audio interference) that
5 we were going to be doing business out of our home with an
6 architect and lawyer, we made sure we had our business licenses
7 in place, frankly a little bit out of fear of getting in trouble
8 but also out of respect for this neighborhood and what those
9 rules mean.

10 And so in all due respect, I really don't think it's
11 the role of this Commission or this body to try and bale this
12 Applicant out of what was a bad business plan and I hope that
13 you will see from my pre-hearing submission a little of the
14 history of this little piece of Capitol Hill we all love and
15 consider ourselves to be custodians, and where even the American
16 Historical Association chose to place its national office which
17 is down at my corner one street over from the property at issue.

18 So I thank you for listening and I thank you for your
19 service to our community.

20 VICE CHAIRPERSON BLAKE: Thank you, Ms. O'Reilly. Now
21 are you going to send us a copy of the petition this evening?

22 MS. O'REILLY: I am.

23 VICE CHAIRPERSON BLAKE: We will review --

24 MS. O'REILLY: As soon as this call is over.

25 VICE CHAIRPERSON BLAKE: Okay. Okay, make sure we get

1 that and then we'll review your statement as well. Thank you
2 very much for your testimony.

3 Does anyone have any questions for Ms. O'Reilly?

4 (Pause.)

5 VICE CHAIRPERSON BLAKE: Okay, Ms. O'Reilly. Thank you
6 very much for your time. Okay. Let's see. Where are we now?
7 Okay.

8 Mr. Sullivan, do you have any questions of anybody
9 because I'm going to, it's going to be time for your rebuttal.

10 MR. SULLIVAN: No, I have no questions before rebuttal.

11 VICE CHAIRPERSON BLAKE: Okay. Well, let's begin with
12 your rebuttal then.

13 MR. SULLIVAN: Thank you.

14 So no matter how many times the word monstrosity or
15 monolith is used, it doesn't get to the heart of the issue and
16 the special exception criteria. When you don't have an argument
17 you use passion, hyperbole, stories, and I think it would be very
18 helpful for the Board to look at the fact that we've had no
19 response to our shadow study from the opposition. They haven't
20 even attempted to respond to it because they couldn't. It clearly
21 is a shadow study that shows minimal impact, certainly not undue.
22 Even from opponent's counsel you haven't heard a response to
23 that.

24 Regarding privacy, we know there's no windows. We know
25 the roof deck is near the front of the building so privacy can't

1 possibly be an issue. Character, scale and pattern, this is
2 supported in addition to CHRS, HPRB, there's no view of this from
3 East Capitol Street and it's not out of line, it doesn't protrude
4 past buildings even the building that's adjacent to it and on
5 each side it's book ended by buildings that go significantly
6 longer than that. So there's definitely not any impact from
7 character, scale and pattern.

8 A couple of things I'd like to point out too and this
9 is that the highest point of sloping roof is five and a half feet
10 less than the max height. The rear yard is 30 feet, ten feet
11 more than the minimum required and OP report called this out
12 specifically noting that there is "minimal increase in shadow
13 coverage on the adjacent properties" and also noting that the
14 rear yard requirement is exceeded in height as well under the
15 limit. We're not asking for ten foot rule relief.

16 I take some issue with, and I don't think it's
17 appropriate, that opponents feel like they can deceive or
18 exaggerate or demean the Applicant who they don't even know and
19 there's some failure of integrity because he's seeking a special
20 exception, just like many other people have done. Saying that
21 this is trying to be sneaked through is just a falsehood. We've
22 been to five ANC meetings and Mr. Snellings was at an ANC meeting
23 in July that he chose not to speak at, and then there was a
24 meeting last week. So to say he found out about it last night
25 at the ANC meeting is just a falsehood.

1 Mr. Levin told the ANC last night that he lives at 411
2 for some reason. You hear today he doesn't. He disparages Mr.
3 Jia for not wanting to live in the building, even though he's in
4 the same business Mr. Jia's in. For some reason it's important
5 that Mr. Jia has a real estate license in Maryland that he doesn't
6 even use. These are not relevant facts. It's not relevant
7 testimony. So I would just point out that nothing you've heard
8 in response to this has addressed these three items that matter
9 here, aside from the procedural issues that of course the Board's
10 talked about and assume we're going to submit additional
11 information for.

12 But the shadow study clearly shows no undue impact.
13 The privacy, that's clear. There's no impact on privacy and the
14 additional ten feet being requested is not out of character,
15 scale and pattern. Can't even be viewed from the street. It's
16 landlocked so it's not viewed from the alley as well. And that's
17 all I have.

18 Thank you.

19 VICE CHAIRPERSON BLAKE: Thank you, Mr. Sullivan.

20 Now, we're going to do something a little bit the same
21 but different. We're going to practice the Hill doctrine which
22 is we're going to allow having closing statements from both the
23 party in opposition and then finally the Applicant will have the
24 last word. So, Mr. Blanchard, if you'd like to make a very brief
25 closing statement, I'd appreciate it and then Mr. Sullivan will

1 make his closing statement. We are going to have a continued
2 hearing and we will review at the end of these two statements
3 the additional documentation that the Board would like to see.

4 Let's go to the statement, Mr. Blanchard.

5 MR. BLANCHARD: Thank you. Thank you, Vice Chairman
6 Blake.

7 This addition, even though it doesn't have windows
8 facing the adjacent property, it does have windows, you heard
9 from Mr. Forehand, that face properties on A Street, their rear
10 yards and those have an adverse impact on their privacy. The
11 structure, the plans aren't very fulsome, as the Board noted at
12 the beginning so there's not a lot of detail for us to respond
13 to. The shadow studies show some impact and there is impact on
14 that basis whether Mr. Sullivan wants to characterize it as
15 minimal or not, there is impact on both the adjacent properties
16 and the scale is just, without detail, oppressive.

17 My client did not have notice of Capitol Hill
18 Restoration Society's meeting, did not have notice of HPRB's
19 meeting. I know that that's out of your jurisdiction but no
20 notice was given there and we plan to appeal that conceptual
21 approval of HPRB because there is, this will be visible as you
22 heard in Mr. Snellings' testimony when you saw those photograph.
23 You could see a yellow flag above the car and that shows it's
24 visible from 4th Street. That is a private alley. There's no
25 structure there now but it's visible from 4th Street and that's

1 the same issue we'll bring up with HPRB. The fact that it's not
2 visible from East Capitol we understand and we're not disputing
3 that but it is visible from 4th Street and will affect Ms.
4 O'Reilly's viewshed, the neighbors along them and the two
5 adjoining property owners.

6 So we're not trying to demean the Applicant, we are
7 trying to get appropriate information from him to assuage my
8 client's concerns about the impact, the adverse impacts on
9 privacy, view, light and air and those are issues that the Board
10 has to take into consideration.

11 Thank you.

12 VICE CHAIRPERSON BLAKE: Thank you, Mr. Blanchard.

13 Mr. Sullivan, with the last word. Are you here?

14 MR. SULLIVAN: I am. Thank you, Mr. Chairman. Video
15 coming on in a second. Thank you. I'll be brief because I
16 understand there's going to be a continued hearing. We'll be
17 talking again and submitting information.

18 The shadow study has some impact. We don't dispute
19 that but that's not the standard. If the Board were to find that
20 that small amount of impact was undue, it would be a first for
21 that level of small amount of impact.

22 Regarding windows at the rear of the house, it's a 30
23 foot rear yard again, and I don't think the Board has ever
24 considered a 30 foot rear yard in a 20 foot rear yard zone having
25 windows on the back to be a privacy issue for anybody in an urban

1 neighborhood row house district.

2 Regarding character, scale and pattern, you've seen
3 plans that show this bookended by much larger buildings and
4 certainly doesn't extend beyond them and can't be seen from the
5 front street.

6 So on the three relevant areas of the special exception
7 criteria, I think it safely meets all those requirements and I
8 don't actually think that you're going to respond to any of that.

9 Regarding the use variance, and we'll delve into that
10 more with additional submissions, but this is a case very much
11 like other cases whether they were lapsed uses or not and I don't
12 think that how it got to where it is is actually a critical
13 element of the use variance analysis in this case because it
14 relates to the property and the condition of the building and
15 what it would take to take it to residential physically, not a
16 lack of paperwork and for that reason I think and, again, that's
17 supported by everybody as well.

18 So that's all I have on the entire application, so
19 thank you.

20 VICE CHAIRPERSON BLAKE: Great. Thank you very much,
21 Mr. Sullivan. Okay.

22 Mr. Smith, I know you've been taking copious notes as
23 to what you want to have for our continued hearing. Do you have
24 a few things you want to put out there?

25 COMMISSIONER SMITH: Well, I just need additional

1 clarification on if you can provide information about a business
2 license and I think, Mr. Blake, you spoke to that if there was a
3 business license for the existing business that's there now. If
4 your Applicant has a rent roll that shows that it's been leased
5 or something of that particular nature continuously.

6 But I think that's all that I, well I need some
7 additional information about, clarification on the use of E-5201,
8 I think we beat that one to death. And the other information I
9 need is from the Office of Planning which I think they're aware
10 of. That's all I need, Chairman Blake.

11 VICE CHAIRPERSON BLAKE: Okay. So additionally I'd
12 like to have the input on the precedents as we talked about for
13 the last impact of that. If you want to comment on Bernstein v.
14 District of Columbia Board of Zoning Adjustment, I'd appreciate
15 that. Also if you could give a little bit more information about,
16 let's see. My handwriting's so bad I can't even read it.

17 COMMISSIONER SMITH: While you're looking for that I
18 have one more bit of information that I will need. That letter
19 that you speak of from the previous Zoning Administrator, I
20 recommend if you can find that particular letter but also follow
21 up with the current Zoning Administrator as well.

22 VICE CHAIRPERSON BLAKE: And the other, thank you.
23 That was the part I was looking for, Legrand. If you can find
24 those two emails that you said you had, and don't forget the
25 business license is not just a business license, it could be --

1 I'd like to see both because there's a tie between them and also
2 if you can have some more refined, not necessarily refined plans
3 but a lot of things that we talked about that would lead to the
4 privacy, et cetera.

5 It's kind of like you're saying it but we don't see it
6 and because we can't see it we can't say it's true and it wouldn't
7 be reflected. We want to have the plans reflected in what we
8 actually approved and as to the critical issue with privacy and
9 so forth, we probably want to make sure we have those windows
10 exactly where we think they're going to be, if nothing else.

11 Vice Chair Miller. Vice Chair Miller. Vice Chair
12 Miller, did you have a comment?

13 (Pause.)

14 VICE CHAIRPERSON BLAKE: I think he did.

15 COMMISSIONER SMITH: Well, can I expand on what you
16 just said because this has gone full circle to a comment that I
17 had earlier in the hearing. Not only would I recommend that you
18 put in the windows because these are the concerns that was raised
19 by Ms. Landrieu and Mr. Snellings about privacy. So given
20 everything that was heard I would recommend that you just provide
21 some type of floor plans that would show what corresponding rooms
22 these windows would be associated with. So if you could revise
23 these plans where you can show the rooms, that would be probably
24 more beneficial to you at this point in time.

25 ZC VICE CHAIRPERSON MILLER: Mr. Vice Chair? Can you

1 | hear me?

2 | VICE CHAIRPERSON BLAKE: It's not all we have. I'm
3 | trying to see if --

4 | ZC VICE CHAIRPERSON MILLER: Can you hear me?

5 | VICE CHAIRPERSON BLAKE: Yes, sir. Go ahead.

6 | ZC VICE CHAIRPERSON MILLER: Sorry, I'm having
7 | connectivity issues. I appreciate all the information that's
8 | been asked for. It's a lot of information and I appreciate Mr.
9 | Sullivan's agreement to provide that information to us. I don't
10 | think we have in the record, correct me if I'm wrong, the Historic
11 | Preservation Office report or the Capitol Hill Restoration
12 | Society written comment, if there is one. Is that in the record,
13 | Mr. Sullivan?

14 | MR. SULLIVAN: Commissioner Miller, the CHRS didn't
15 | weigh in at all on the zoning issue. My understanding is that
16 | they weighed in to HPRB on the historic issue, so sorry if I
17 | confused that. But I'll try to get whatever we have from them.

18 | ZC VICE CHAIRPERSON MILLER: Yes. An HPR staff report
19 | I think would be helpful recalling just Board Member Smith's
20 | comment about being able to see. Hopefully there are more
21 | renderings there for perspectives on the adjacent properties. So
22 | look forward to seeing all that information as well.

23 | Thank you.

24 | MR. SULLIVAN: Thank you.

25 | VICE CHAIRPERSON BLAKE: Thank you. Okay. Mr.

1 Sullivan, how long would it take you to gather all of this?

2 MR. SULLIVAN: A little bit of time. We're not in a
3 terrible hurry. I know we have some plans and I would defer to
4 Mr. Forehand on that, but also getting input from the Zoning
5 Administrator, I think that's probably the thing that's going to
6 maybe take the most time, maybe six weeks.

7 VICE CHAIRPERSON BLAKE: Okay. Six weeks. Okay. Madam
8 Secretary.

9 MS. LANDRIEU: Mr. Blake, can I ask a technical
10 question, just one technical question? Could somebody give to
11 us the information about how the Historical Society could render
12 any opinion on anything of any structure that's not even designed
13 because we haven't seen any designs. I thought that's what their
14 job was.

15 VICE CHAIRPERSON BLAKE: Okay. I cannot speak to
16 that --

17 MS. LANDRIEU: Okay.

18 VICE CHAIRPERSON BLAKE: -- at this point, so I do not
19 know the answer to that question.

20 MS. LANDRIEU: Okay.

21 VICE CHAIRPERSON BLAKE: Okay? Madam Secretary, what
22 dates do we have available? What do we have six weeks out plus
23 or minus, what would be available for a continued hearing?

24 MS. MEHLERT: So at this point I think the November 5th
25 hearing might be the best based on the Board's schedule. It's

1 | either that or the October 22nd but I think that might be too
2 | soon.

3 | VICE CHAIRPERSON BLAKE: Okay. So we'll go with the
4 | 9th, the what? The 5th of November.

5 | MS. MEHLERT: November 5th.

6 | VICE CHAIRPERSON BLAKE: Does that work for you, Mr.
7 | Sullivan?

8 | MR. SULLIVAN: I think we could do the 22nd.

9 | MS. LANDRIEU: We can't do the 22nd, we're out of the
10 | country. It has to be November sometime, please.

11 | MR. SULLIVAN: That's fine with us. November 5th is
12 | fine.

13 | VICE CHAIRPERSON BLAKE: Okay. So the continued hearing
14 | for November 5th. The record is going to be closed for everything
15 | other than what we asked for and comments back from the respective
16 | parties on these files. So do you have the timeframe for
17 | submissions?

18 | MS. MEHLERT: So I mean based on what the Applicant
19 | says, perhaps they could submit by October 22nd and responses due
20 | the following week on October 29th and then back for a hearing
21 | on November 5th.

22 | VICE CHAIRPERSON BLAKE: Does that work for everyone?

23 | MR. SULLIVAN: Yes, it does. Works for me.

24 | MR. BLANCHARD: Yes.

25 | VICE CHAIRPERSON BLAKE: Okay. Mr. Beamon, we also

1 | would like that information from you as well that Board Member
2 | Smith requested.

3 | MR. BEAMON: That works.

4 | VICE CHAIRPERSON BLAKE: Okay. Thank you very much.
5 | Okay. So I guess we will adjourn this session of the meeting,
6 | this hearing and I'll see you guys back on November 5th for a
7 | continuation of this hearing.

8 | Thank you.

9 | MR. SULLIVAN: Thank you.

10 | MS. LANDRIEU: Thank you.

11 | MS. MEHLERT: Just to clarify, Vice Chair, so this is
12 | a continued hearing --

13 | VICE CHAIRPERSON BLAKE: Yes.

14 | MS. MEHLERT: -- so the record will be open but it will
15 | be I guess limited to what --

16 | VICE CHAIRPERSON BLAKE: What we just asked for and
17 | responses from, and the responses, there's one other piece of
18 | information that's available the lady, Ms. O'Reilly, said she was
19 | going to submit one additional document with the petitioning.
20 | Everything else should only be these documents and then the
21 | responses that would come as a result from the parties'
22 | communications.

23 | MS. MEHLERT: Right.

24 | VICE CHAIRPERSON BLAKE: Okay? All right. Do we have
25 | anything else to cover today?

1 MS. MEHLERT: No, nothing else from the staff.

2 VICE CHAIRPERSON BLAKE: This meeting's adjourned.

3 Thanks everybody.

4 (Whereupon, the above-entitled matter went off the
5 record at 3:00 p.m.)

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C E R T I F I C A T I O N

This is to certify that the foregoing transcript

In the matter of: Public Hearing

Before: DC BZA

Date: 09-10-25

Place: Via Videoconferencing

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


Ildiko Nyari