

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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REGULAR PUBLIC HEARING

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WEDNESDAY

JANUARY 21, 2026

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The Regular Public Hearing of the District of Columbia Board of Zoning Adjustment convened via Videoconference, pursuant to notice at 9:57 a.m. EST, Carl Blake, Vice-Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

CARL BLAKE, Vice-Chairperson
BRITTNEY DRAKEFORD, NCPC Designee

ZONING COMMISSION MEMBERS PRESENT:

ROBERT MILLER, Vice-Chairperson
GWEN WRIGHT, District Resident Appointee

OFFICE OF ZONING STAFF PRESENT:

KEARA MEHLERT, Secretary
MIKE SAKINEJAD, GIS Program Manager

OFFICE OF PLANNING DEVELOPMENT REVIEW STAFF PRESENT:

SHEPARD BEAMON
PHILIP BRADFORD
MICHAEL JURKOVIC
JOSHUA MITCHUM

1 OFFICE OF ZONING ATTORNEY ADVISORS PRESENT:

2 SARAH BAJAJ, ESQ.
3 CARISSA DEMARE, ESQ.
4 JORDANE WONG, ESQ.

5 DISTRICT DEPARTMENT OF TRANSPORTATION STAFF PRESENT:

6 NOAH HAGEN

7 The transcript constitutes the minutes from
8 the Regular Public Hearing held on January 21, 2026.
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1 P-R-O-C-E-E-D-I-N-G-S

2 9:57 a.m.

3 VICE CHAIR BLAKE: Okay, so, Madam Secretary,
4 if you'd call in our first public hearing case?

5 MS. MEHLERT: Yes, if we could -- I just wanted
6 to ask for just a couple minutes to confirm that we have
7 the witnesses for that case, since we're moving right
8 into it. If you'd just give a couple minutes.

9 VICE CHAIR BLAKE: Okay, why don't we take
10 -- we'll take a five minute break?

11 (Whereupon, the above-entitled matter went
12 off the record at 9:58 a.m. and resumed at 10:06 a.m.)

13 VICE CHAIR BLAKE: Madam Secretary, I think
14 we're back, so if you would call us back in, if that's
15 what we have to do?

16 MS. MEHLERT: The Board is back from a quick
17 break and is now in its hearing session.

18 The next case is Application Number 21378 of
19 McKendree-Simmi-Brookland United Methodist Church, as
20 amended.

21 This is an application pursuant to Subtitle
22 X, Section 901.2 for special exceptions under Subtitle
23 C, Section 703.2 from the minimum vehicle parking
24 requirements of Subtitle C, Section 701.5 and under
25 Subtitle U, Section 203.1(h) to allow a new daytime care

1 use for a new child development center for up to 60
2 children on the second floor of an existing two-story
3 detached building.

4 It's located in the R-1B zone at 2420 Rhode
5 Island Avenue, Northeast, Square 4290, Lot 0803.

6 VICE CHAIR BLAKE: Okay, thank you.

7 Let's see, is the applicant with us? Would
8 you please introduce yourself for the record and anyone
9 that will be joining you today?

10 Mr. Teachy, are you there?

11 MR. TEACHY: Yes, I'm here now.

12 VICE CHAIR BLAKE: Okay, would you introduce

13 --

14 MR. TEACHY: Can you hear me?

15 VICE CHAIR BLAKE: Yes, I can hear you, thank
16 you.

17 Would you introduce yourself and anyone else
18 that you will have who will be speaking with you today?

19 MR. TEACHY: Just myself, I'm Robert Teachy.

20 VICE CHAIR BLAKE: Okay, thank you. Mr.

21 Teachy, we -- there's one thing I wanted to go over with
22 you before we begin. I wanted to just, from a
23 preliminary matter, just kind of clear up the
24 authorizations in here.

25 I think you're -- you had another person who

1 was going to be on with you, I believe. But I -- are
2 you saying now that that person will not be presenting?

3 MR. TEACHY: No, he's sick.

4 VICE CHAIR BLAKE: Go ahead.

5 MR. TEACHY: He's sick.

6 VICE CHAIR BLAKE: He's sick? Okay.

7 Are you prepared to do the presentation?

8 MR. TEACHY: Yes.

9 VICE CHAIR BLAKE: Okay. All right, so, just
10 to be clear, just to be clear, Ms. Harris is the finance
11 chair of the church. And she is the person or the owner
12 that has authorized you to represent their interest in
13 this case, is that correct?

14 MR. TEACHY: Yes.

15 VICE CHAIR BLAKE: Okay. And in turn, you
16 have authorized others to work with you with regard to
17 the Board's presentation, but again, they're not present
18 today, is that correct?

19 MR. TEACHY: Yes.

20 VICE CHAIR BLAKE: Okay. All right, I just
21 wanted to make sure of that for the record.

22 The next question -- do you have formal
23 presentation you'd like to make for us? I didn't see
24 anything in the record.

25 MR. TEACHY: No, just here to answer any

1 questions that y'all might have.

2 VICE CHAIR BLAKE: Okay. Well, I'll tell you
3 what, why don't we -- I do actually have quite a few
4 questions, but would you please -- if you would just
5 take -- if you -- we have -- what I'd like to do, as
6 the applicant, you have the opportunity to tell us about
7 your project and how you believe you're meeting the
8 criteria for our approval.

9 As you know, the criteria for this is
10 established for the parking requirement and also for
11 -- to allow the daycare -- daytime care use.

12 I think we've looked at the parking issue and
13 it may or may not be required, but nevertheless, we can
14 -- well, let's just go through your presentation and
15 see what we get from there.

16 So, if you could just give us kind of an
17 overview presentation and tell us how you think you're
18 meeting requirements for approval.

19 And then, we're going -- I guess open it up
20 to -- for questions from the Board.

21 Okay?

22 MR. TEACHY: Okay.

23 VICE CHAIR BLAKE: You have 15 minutes on the
24 clock. Begin whenever you'd like.

25 MR. TEACHY: Okay, well, the project -- first

1 of all, let's start with the parking.

2 We do have a parking lot that the church has.

3 It's maybe, I want to say maybe five feet away, like
4 across the street, but next to the playground. It's
5 on Hoover Road, but that's across the street on the back
6 side, which is Lawrence Street.

7 So, that would be the entrance there, we'll
8 be letting the kids in and out, other than the Rhode
9 Island Avenue side.

10 So, that's number one.

11 Number two is, you know, the -- it was a
12 daycare. You know, I'm 50 years old, so the daycare
13 has been there since I was a child.

14 So, all we was just trying to just move from
15 one location to another. So, and establish a bigger
16 footprint for -- to get move kids and to serve more of
17 the community.

18 So, we moved from Bunker Hill, which we had
19 22 kids that was there for ten years. So, I moved up
20 here to Rhode Island Avenue so we can try to give a bigger
21 footprint and help the kids grow and education them a
22 little more than what we've been able to do in Bunker
23 Hill.

24 And as far as the -- what is that, the -- what
25 am I looking for?

1 As far as the establishment, I think we do
2 meet the burden of proof, but you know, hopefully, the
3 Council will see that we did everything we could to meet
4 the demand and meet the approval rate.

5 So, I mean, that's the best I could tell you.
6 I mean, everything else is put in place as far as the
7 parents.

8 The ANC, which we've got ANC-5, ANC-C I think
9 it was with Harry Thomas. But we've got everybody
10 onboard, the neighbors. And we've still got a few kids
11 waiting to enroll. So, we're just waiting to see if we
12 can open.

13 VICE CHAIR BLAKE: Okay. I have a couple
14 questions for you, just based on your remarks just now.

15 First of all, how -- the footprint of your
16 new place is -- how big is that exactly? I did see in
17 Exhibit 21 a layout, but how many square feet do you
18 think that is?

19 MR. TEACHY: The whole building or just that
20 floor?

21 VICE CHAIR BLAKE: Just that floor? The
22 space that you will be occupying.

23 MR. TEACHY: The space I'll be occupying is
24 -- I believe it is 2,200 square feet.

25 VICE CHAIR BLAKE: Okay. And it's composed

1 of a couple classrooms, a bathroom, what exactly do you
2 have up there?

3 MR. TEACHY: We have two bathrooms, we have
4 five classrooms, and an office.

5 VICE CHAIR BLAKE: Okay. All right, and is
6 --

7 MR. TEACHY: And we have a kitchen on the third
8 floor.

9 VICE CHAIR BLAKE: A kitchen on a different
10 floor?

11 MR. TEACHY: Yes.

12 VICE CHAIR BLAKE: Will you be using that
13 kitchen?

14 MR. TEACHY: Yes.

15 VICE CHAIR BLAKE: Is that a shared kitchen?

16 MR. TEACHY: No.

17 VICE CHAIR BLAKE: Okay. You indicated that
18 there was -- you had met with the ANC as well and you
19 have ANC approval.

20 Our records don't have that. We do have some
21 comments from several of -- three of the ANC
22 Commissioners from your immediate ANC, and also, two
23 from the adjacent ANC.

24 But did you actually go and make a formal
25 presentation to the ANC?

1 MR. TEACHY: We talked with them, yes.

2 VICE CHAIR BLAKE: Did you do a formal
3 presentation and did they vote on a formal presentation
4 based on that?

5 MR. TEACHY: As far as my knowledge is, yes.

6 VICE CHAIR BLAKE: Okay, okay. All right,
7 we don't have anything in the record to reflect that,
8 but we'll move on from there. You mentioned -- will
9 you use an outdoor play space?

10 MR. TEACHY: There is an outdoor play space
11 across the street, which is maybe five feet away.

12 VICE CHAIR BLAKE: Will you be using that?
13 Is that part of the -- your programming? Your layout?

14 MR. TEACHY: No, we haven't decided to do that
15 yet. We have to see what they want us to do with that
16 first.

17 VICE CHAIR BLAKE: Okay. You also mentioned
18 -- I noticed in the record that you had discussions with
19 DDOT with regard to the -- they wanted a Comprehensive
20 Transportation Review study and a pick-up/drop-off
21 plan.

22 How is that progress going?

23 MR. TEACHY: Well, it's going as far as the
24 -- it's going as planned, I guess. Because we told them
25 what we was doing as far as drop-off and pick-up, but

1 they want us to use the Lawrence Street side instead
2 of the Rhode Island Avenue side where parking would be
3 at.

4 And we told them we could use that side, it
5 wouldn't be a problem.

6 And then, they said he had to do a little more
7 studying about it.

8 VICE CHAIR BLAKE: Okay. Well, you said that
9 -- so, the way you have it structured now, the pick-up
10 is on the Lawrence Street side and drop-off?

11 MR. TEACHY: That's what DDOT wants.

12 VICE CHAIR BLAKE: Okay. And what is your
13 -- what is the plan that you presented to DDOT?

14 MR. TEACHY: The plan that I presented was
15 Rhode Island Avenue.

16 VICE CHAIR BLAKE: Okay, okay. So, we're
17 still working through that?

18 MR. TEACHY: Yes, yes.

19 VICE CHAIR BLAKE: Okay, cool. Now, we
20 talked about -- one of the questions I had for you as
21 well along these lines is, I want to talk a little bit
22 about the parking issue for your staff.

23 I understand that the requirement for this
24 facility is based on square footage and you need one
25 required space which you are asking for relief from that.

1 The -- let me get my screen straight, okay.
2 You're asking for one required -- relief from that.
3 But you have -- I think you said you're going to have
4 -- your staff is going to be about 12 people. You're
5 going to have about I think 60 students and 12 faculty,
6 is that correct?

7 MR. TEACHY: Yes.

8 VICE CHAIR BLAKE: Okay. Where -- do you have
9 any sense of how will the faculty -- what are they doing
10 for parking and so forth?

11 MR. TEACHY: We have a parking lot. We use
12 the church parking lot. We already presented that and
13 there should be a map in there.

14 I forgot what number it is, but we sent in
15 a map where the church parking lot would be at on Lawrence
16 Street, which is right there on -- it's Lawrence and
17 Hoover Road, Lawrence and Hoover Road which is on the
18 back side of Rhode Island Avenue.

19 VICE CHAIR BLAKE: Okay. I looked for a
20 diagram because it would be very helpful actually to
21 see a diagram of the church parking lot and of the pick-up
22 and drop-off scheme.

23 MR. TEACHY: We presented it --

24 VICE CHAIR BLAKE: But I did not see one in
25 the record. Excuse me?

1 MR. TEACHY: We sent that to Mr. Hamilton.
2 Yes, I can find the thing for you. But we sent that
3 in because he told us to draw him a map and send it to
4 him.

5 VICE CHAIR BLAKE: Yes, that would be very
6 helpful.

7 MR. TEACHY: Okay, I'll resend it. And the
8 parking lot is -- we've got 30 spaces in there.

9 VICE CHAIR BLAKE: Now, that parking lot,
10 though, that's used by the church as well, correct?

11 MR. TEACHY: Only on Sundays.

12 VICE CHAIR BLAKE: Don't they have funerals?

13 MR. TEACHY: Not that many. But if they need
14 the parking lot -- the funerals are not that big, I should
15 say, where they would need the parking lot.

16 VICE CHAIR BLAKE: Okay. Well, okay, we'll
17 come back to that. I think that you do have -- I think
18 we'll come back to that.

19 Okay, all right, thank you.

20 MR. TEACHY: Okay.

21 VICE CHAIR BLAKE: Does anyone else on the
22 Board have any questions for the applicant?

23 I sorry to have monopolized the conversation.

24 COMMISSIONER MILLER: Yes, Mr. Chairman, no,
25 I think you covered a lot of ground and I had some of

1 the same questions.

2 Mostly, you know, DDOT was requesting, as I
3 read it, two things, the Comprehensive Transportation
4 Review under their -- so, whatever they've submitted,
5 I don't know if it's met the parameters of what DDOT's
6 requested.

7 And so, maybe the consultant who isn't able
8 to be with us today might have that information about
9 if they're working on the CTR.

10 And the other specific thing, so that's what
11 DDOT needs in order to give us a recommendation. They
12 haven't really given us a recommendation.

13 The Office of Planning has recommended
14 approval, but DDOT -- and we have the ANC single-member
15 district member who recommended approval, but DDOT has
16 not -- wants that CTR. And so, I hope we can get
17 information at some point if we don't -- at some point
18 where that is.

19 But, specifically, what they were asking for
20 was what you just asked for, that the location of that
21 parking -- off street parking lot be shown on the plans
22 that are in front of us that we're supposed to be
23 evaluating and approving.

24 He said he sent a map in and maybe that's the
25 plan, I don't know, the plans that we would be approving.

1 But we would need that. And there are a number of
2 conditions associated with the -- in the OP report, which
3 I think we need to hear from the applicant as whether
4 they agree with those conditions and we might put some
5 of them -- might consider putting some of them into our
6 approval, if we ever get to that point.

7 So, that's the only things I really wanted
8 to say. I think we -- Mr. Teachy probably needs his
9 consultant here to give us that information or come back
10 with more information. But we'll hear from Office of
11 Planning and see what they -- maybe they can shed some
12 light on some of these issues as well.

13 So, I really don't have a specific question
14 other than what you've already covered. But those are
15 my comments.

16 Thank you.

17 VICE CHAIR BLAKE: Okay, thank you.

18 Board Member Drakeford?

19 MEMBER DRAKEFORD: Yes, I would agree with
20 both the Chair and the Vice Chair regarding this
21 application.

22 I do think that, first, having, I want to say,
23 site plan, but having a visual diagram that describes
24 where certain required aspects of are -- certain aspects
25 are, particularly where the outdoor play area is in

1 respect to the facility, wanting to see actual parking
2 lot requirements.

3 I think it would also be helpful to -- so,
4 I've reviewed the letter from the property owner or the
5 representative of the property owner, since the facility
6 is owned by a church.

7 And I would just indicate that I think it would
8 also be helpful to some of the points that you all have
9 raised here that the property owner provide some
10 additional description that it would not -- just around
11 hours of operations and that there would be no conflicts
12 or they perceive that there would be no conflicts.

13 And then, also, just reviewing the case
14 materials, just wanted to clarify, again, around some
15 of those conflicts around time and traffic, what the
16 hours of operation would be of the child care facility
17 or the child care development center itself.

18 Yes, but I do think that the biggest thing
19 is really looking at the actual site layout in respect
20 to other components on site.

21 VICE CHAIR BLAKE: Okay, thank you very much.

22 I want to turn now to the Office of Planning
23 for their report.

24 Mr. Beamon?

25 MR. BEAMON: Good morning, Board Members.

1 For the record, Shepard Beamon with the Office
2 of Planning.

3 OP's reviewed the application for the
4 requested special exception relief to allow daytime care
5 and from the minimum parking requirements.

6 We've found that the request has met the
7 criteria for Subtitle C and X.

8 The Board previously approved the same use
9 for up to 75 children on this property back in 2009.

10 And therefore, OP recommends approval as
11 stated in our report.

12 OP also recommends the applicant continue to
13 work with DDOT to complete any other necessary review.

14 And with that, I will conclude OP's testimony.

15 VICE CHAIR BLAKE: Okay, Mr. Beamon, I'm going
16 need you to help me a little bit more with this.

17 Can you walk through the U 203.1 criteria just
18 so we get a better sense of like how they met that?

19 MR. BEAMON: So, the applicant did include
20 some information about their pick-up and drop-off and
21 their burden of proof and I think in the transportation
22 document in the record.

23 And you know, again, as I just stated, you
24 know, we do continue to recommend that the applicant
25 work with DDOT to make sure that that plan for pick-up

1 and drop-off is acceptable on Lawrence Street.

2 And as the applicant just mentioned, you know,
3 they were unsure or uncertain that they would have play
4 areas. So, if they do decide that, they have some plans
5 for transporting children to those play areas.

6 But they will also still have to meet those
7 OSSE requirements. And we don't recommend any special
8 treatments in terms of design or planting or parking
9 areas.

10 And then, lastly, there are no child care
11 development centers within a 1,000 feet of this
12 property.

13 VICE CHAIR BLAKE: Okay. So, did you find
14 the pick-up/drop-off sufficient to plan that they've
15 described to you sufficient?

16 MR. BEAMON: Yes, I believe that was the --
17 and maybe the applicant can correct me on this, but I
18 think that was the -- met the pick-up and drop-off for
19 the previous use.

20 But, yes --

21 VICE CHAIR BLAKE: Did you see a map? Did
22 you see a map that had that information?

23 MR. BEAMON: I didn't see a map, but the
24 applicant actually did send me an email with just like
25 an aerial shot of a map showing the property and then

1 the parking lot. But there was no diagram showing
2 pick-up and drop-off routes.

3 VICE CHAIR BLAKE: Okay. And --

4 (Simultaneous speaking.)

5 VICE CHAIR BLAKE: With regards to parking,
6 I think your report said that it may or may not be
7 necessary. Have you looked at that? Is it -- what's
8 your opinion on that?

9 MR. BEAMON: Correct. So, in looking at the
10 Zoning Regulations, we believe they've actually met the
11 parking requirements with -- for offsite parking with
12 this parking area being less than 600 feet from the
13 property, within the same zone, and under the same
14 ownership as the church.

15 So, yes, we find that it could, you know, and
16 parking may not be necessary, but if it is determined
17 that a special exception is needed for parking, then
18 we still recommend approval of that offsite parking to
19 meet that requirement.

20 VICE CHAIR BLAKE: And that requirement would
21 be just for one space reserved in that parking lot,
22 correct?

23 MR. BEAMON: Correct.

24 VICE CHAIR BLAKE: And one of the issues is
25 focusing on the potential impact on neighboring

1 properties.

2 Have you -- are you comfortable with the impact
3 that the traffic might have of pick-up and drop-off with
4 the neighboring properties?

5 MR. BEAMON: Again, I would rely on DDOT's
6 recommendation for that, but --

7 VICE CHAIR BLAKE: We don't have that.

8 MR. BEAMON: Right, right. So, whenever, you
9 know, that is cleared up, you know, we'll more so defer
10 to them. But just based on the information that we've
11 been provided, we don't think that the plan for pick-up
12 and drop-off would be detrimental to neighboring
13 properties.

14 VICE CHAIR BLAKE: Well, they had one pick-up
15 and drop-off that says it's going to be on Rhode Island
16 Avenue or something like that and then, we're going to
17 have something on Lawrence. Which one did you -- which
18 one are you opining for?

19 MR. BEAMON: Lawrence and the rear.

20 VICE CHAIR BLAKE: Okay, all right. Do you
21 have any conditions that you have for the -- that the
22 -- in your report? I didn't see that.

23 MR. BEAMON: Correct. And it was -- I think
24 the applicant actually said it in their burden of proof,
25 but there, just to, again, to provide some source of

1 information to parents in terms of pick-up and drop-off
2 and any parking procedures just to make sure that that
3 procedure moves smoothly.

4 VICE CHAIR BLAKE: Okay. Do any other Board
5 members have questions for the Office of Planning or
6 the applicant?

7 COMMISSIONER MILLER: Not at this time.

8 Thank you, Mr. Chairman.

9 MEMBER DRAKEFORD: So, I do have a question,
10 but I'm not certain if it should be directed towards
11 the Office of Planning or to Office of Zoning staff.

12 So, Chair Blake, please guide me.

13 VICE CHAIR BLAKE: Okay, I'm going to guide
14 you. Ask the Office of Planning and see what you get.

15 MEMBER DRAKEFORD: Okay. So, Mr. Teachy
16 mentioned that they will also be using the third floor
17 for a kitchen. And I'm just curious if or how that may
18 change the nature of this particular special exception
19 case. Because, initially, what we saw was just for the
20 second floor with the classroom and now, with the
21 potential addition of the third floor, just curious as
22 to how that might just -- yes.

23 MR. BEAMON: I mean, the only thing I can think
24 of is maybe it might modify the square footage and maybe
25 that would maybe impact the parking requirement. But

1 I don't think it will. I think -- and depending on how
2 much -- how large that kitchen is, but I don't think
3 that it would change it from one to two spaces.

4 MEMBER DRAKEFORD: Okay. Yes, I think I
5 would also then just be interested in seeing or if the
6 floor plans for that third floor space should also be
7 incorporated as part of the overall application.

8 MR. TEACHY: Can I take that?

9 VICE CHAIR BLAKE: Sure, go ahead, Mr. Teachy.

10 MR. TEACHY: We -- the third floor is not a
11 deal breaker. We could just get rid of the third floor
12 and do what we're was doing down at Bunker Hill, have
13 food delivered to us.

14 So, we'll be without a kitchen. So, we'll
15 just have food delivered to us.

16 VICE CHAIR BLAKE: Okay, all right.

17 Okay, any other questions, Board Member
18 Drakeford?

19 MEMBER DRAKEFORD: No, not at this moment.

20 Thank you.

21 VICE CHAIR BLAKE: Okay. So, this is where
22 we are, Mr. Teachy, I think that we -- the Board has
23 quite a few questions that we need to have answered,
24 one of which -- and I think you're -- I appreciate what
25 you're trying to do, but I do think there's some elements

1 of your plan which we need to firm up so that we can
2 get behind it and meet the regulations.

3 Our requirement -- we need to make sure that
4 we have kind of seen everything and make sure that we
5 do not have an adverse impact on neighboring properties
6 and that we have the adequate parking, which we -- I
7 think we're getting there.

8 But we also want to make sure that, for
9 example, if you have -- if you're going to get a C of
10 O for the second floor, but you're going to use the third
11 floor, really the third floor is actually part of what
12 you're doing, so the C of O should incorporate the third
13 floor or the kitchen space as well.

14 But you only provided it as the first level.
15 So, and you're unclear as to whether you're going to
16 use the playground or not. There's some implications
17 that this is a noise issue, et cetera, et cetera.

18 So, we want to -- I think what we'd like to
19 do, and I think it's very important, that pick-up and
20 drop-off scenario is important to us and to have a firm
21 plan with regard to that is going to be very helpful
22 to us.

23 Because, typically, these types of facilities
24 are conditioned and a lot of the things that we look
25 at because they're trying to avoid the adverse impact

1 on the neighbors is to make sure we understand how the
2 traffic flows might be, the time, the hours of operation,
3 all that sort of stuff.

4 So, we'd like to have that. And I think, in
5 fact, if you look at the last authorization we did for
6 a daycare center in this location, it did, in fact, have
7 conditions which did touch on most of those things, and
8 most do.

9 So, we're probably going to look at some
10 elements to make sure that we have what we need. But
11 I think the first thing we're going to do is, I do think
12 we want to pause with this for a minute and allow --
13 hear back from -- have you work through your
14 transportation review study and your pick-up/drop-off.

15 We'd like to get a diagram of that. I'd also
16 like to get a diagram -- an overview that shows where
17 the parking is and I'd like to just get a little bit
18 more clarity from the owner as to the availability of
19 that space.

20 Although, again -- and I'm looking at it more
21 so from the perspective of the impact on the neighborhood
22 and for your teacher -- your staff parking, not so much
23 for, you know, that -- the, you know, one parking space.

24 I do think that that probably could be easy
25 to accommodate. But I do think I want to just get a

1 little bit more clarity on that. So, specificity is what
2 we're looking for. And so, I'm going to -- I think that
3 -- is there anything else that my other Board members
4 would -- oh, the other thing, too, is I would like to
5 see if we can get a little bit more from the ANC. We
6 do not have a report that we can give great weight to
7 at this point. And it would be very helpful if we could
8 actually see if we can get --

9 And you obviously have a very good dialogue
10 with the Commissioners. So, I'd like to see if you could
11 try to move forward and get some commentary back from
12 the ANC just to dot our I's and cross our T's.

13 Is there anything else that --

14 MR. TEACHY: Okay, so, I don't know if you
15 guys know this, but, you know, on Lawrence Street, the
16 church owns everything on there but two houses. So,
17 I don't know how that's supposed to impact them
18 neighbors.

19 VICE CHAIR BLAKE: Well, and you're right,
20 we may not know that because it's not necessarily
21 presented in the record in a way that we can get that.

22 We can't just base --

23 MR. TEACHY: Okay.

24 VICE CHAIR BLAKE: We can't make -- we do not
25 know as -- the property as intimately as you do. So,

1 we want to make sure that the record substantiates
2 everything that --

3 MR. TEACHY: Got you.

4 VICE CHAIR BLAKE: -- we're talking about.
5 I do think that an overhead diagram that kind of
6 illustrated a lot of that and some would support that.

7 So, I do think it'd be very helpful if you could provide
8 that. And work, again, like I said, with the DDOT.

9 Is there anything else that other Board
10 members would like to see from the applicant?

11 COMMISSIONER MILLER: Mr. Chairman, I know
12 -- I think you've -- what you've asked for is appropriate
13 for us to be able to deliberate and make a decision.

14 And, you know, this is a very commendable use that
15 serves the neighborhood and serves the community. We
16 want to support it.

17 But we have to include within our decision
18 or deliberations the -- we have to show that we're
19 meeting the criteria. And we just need that
20 information, all of the information that you've asked
21 for into the record.

22 So, I hope that we can get that in short order.

23 VICE CHAIR BLAKE: Ms. Drakeford?

24 MEMBER DRAKEFORD: Yes, no, I don't have
25 anything else to add. I think the items that you've

1 requested I believe are sufficient.

2 VICE CHAIR BLAKE: Mr. Beamon, would you
3 please -- it's a little hard to ask you, I know it's
4 not quite appropriate, but would you kind of work with
5 the applicant?

6 And I'd also like you to re-draft or provide
7 us with an updated commentary that reflects some of the
8 input, if possible, from DDOT. We don't necessarily
9 need DDOT, but we do need to be clear what we are looking
10 at. So, you know, with regard to, you know, the -- where
11 I -- we need to see that, where the drop-off/pick-up
12 is, all that kind of stuff.

13 We need to get a sense of the hours and we
14 need to get a sense of if there are conditions that are
15 appropriate to mitigate the potential impact.

16 I think the fact that it is, like you pointed
17 out, not a lot going on on that street, this is
18 residentially oriented, is a factor. And there may not
19 be a lot of cars on that street, that's a factor.

20 So, we should get a sense of all that to help
21 us make our informed decision. So, if you would -- I'd
22 appreciate it if you would work with the applicant and
23 also refine your presentation so that it has a little
24 bit more specificity in it, I would appreciate it.

25 I don't think that going to change your

1 opinion, but I would just like to have that for -- so
2 that we could appropriately make our decision.

3 Can you do that?

4 MR. BEAMON: Yes, and I'll work with DDOT
5 also, who's on the call, too, if -- I think if you had
6 any questions for them specifically.

7 But yes, I'll work with DDOT --

8 VICE CHAIR BLAKE: DDOT is on the call?

9 MR. BEAMON: Yes.

10 VICE CHAIR BLAKE: I'm sorry, I didn't realize
11 that. We'd love to hear from DDOT. So, let's pause
12 a minute and introduce yourself from DDOT.

13 MR. HAGEN: Hey, good morning, members of the
14 Board. For the record, I'm Noah Hagen with the District
15 Department of Transportation.

16 DDOT, we don't see any immediate concerns with
17 the applicant's requested relief to construct a new
18 child development center at 2420 Rhode Island Avenue.

19 But, however, in our January 9th report in
20 Exhibit 39 in the record, we did note that the applicant
21 has yet to scope the transportation study and
22 pick-up/drop-off plan for DDOT and provide us with that
23 finished plan.

24 And due to the size of the proposed child
25 development center, DDOT requires the study to assess

1 the impact of the center on the surrounding
2 transportation network and public space.

3 We're currently in the process of scoping the
4 study with the applicant and we look forward to
5 continuing to work with them to document and mitigate
6 any potential transportation impacts of the project.

7 Thank you, be happy to answer any questions.

8 VICE CHAIR BLAKE: Sure, okay, thank you very
9 much for being here, that's very helpful. That is a
10 critical element. What -- how long will it take to get
11 this done?

12 MR. HAGEN: We don't think it should take
13 longer than a few weeks. I think it kind of depends
14 on how long it takes the applicant to get this
15 information together. But, you know, we're -- the fact
16 that we've been able to move this forward.

17 VICE CHAIR BLAKE: Okay, all right. Okay,
18 well, that's very helpful.

19 I think, if the Board members are comfortable
20 with this, I would like to give the applicant a little
21 bit of time to work with DDOT. Because a lot of the
22 information that we would need would likely come out
23 of that work.

24 And I'd also like to have them work with the
25 Office of Planning to, you know, refine some of those

1 things and, again, look at some potential conditions
2 that we might recommend if we deem them necessary to
3 mitigate adverse impacts, okay, on the community. All
4 right?

5 So, you said a few weeks, so let's see, Madam
6 Secretary, could you look at our calendar and see what
7 kind of dovetails with that?

8 MS. MEHLERT: I would think probably the --
9 coming back towards the end of March would -- might give
10 enough time for the applicant to put together the CTR
11 as well as get the information needed.

12 VICE CHAIR BLAKE: Okay.

13 COMMISSIONER MILLER: Mr. Chairman?

14 VICE CHAIR BLAKE: Yes, sir?

15 COMMISSIONER MILLER: I just had one question
16 for Mr. Hagen before he might leave us. And I appreciate
17 the time that you're working with the applicant on that
18 scoping and appreciate that. So, hopefully, we can get
19 that information and you can get that information that
20 you need to give us that information.

21 But do you know, just out of curiosity, on
22 the 2009 approval of the even larger daycare which had
23 conditions in it, as I recall the record, was there a
24 CTR done for that facility -- for that project at that
25 time? Do you know? Happen to know that?

1 MR. HAGEN: Not off the top of my head, but
2 that was at a different location.

3 COMMISSIONER MILLER: Oh, okay. Was it on
4 this --

5 MR. HAGEN: I will ask. I'm not sure.

6 COMMISSIONER MILLER: Okay, all right, just
7 was curious, okay. It might have important information
8 that might still be relevant.

9 VICE CHAIR BLAKE: Okay. Board Member
10 Drakeford, did you have something you wanted to add?

11 MEMBER DRAKEFORD: No, I don't have anything
12 to add.

13 VICE CHAIR BLAKE: Okay, all right.

14 Just hold on one second, Mr. Sakinejad, is
15 there anybody who wishes to speak or testify?

16 MR. SAKINEJAD: So, we do not have anyone
17 signed up.

18 VICE CHAIR BLAKE: Great, okay, thank you.

19 All right, I'm going to -- thank you very much,
20 Mr. Hagen, for taking the time to join us.

21 We're going to -- let's set a date to -- what
22 specific date do we have, Miss -- Madam Secretary, for
23 this?

24 MS. MEHLERT: You could put it on March 25th.

25 VICE CHAIR BLAKE: That sounds good to me.

1 Does that work for you, Mr. Miller?

2 COMMISSIONER MILLER: Yes, thank you.

3 VICE CHAIR BLAKE: Okay. We'll do it on March
4 25th. Is there some deadlines we need for filings?

5 MS. MEHLERT: So, I would recommend the
6 applicant submit everything that's been requested by
7 March 11th. And then, an ANC report response and
8 supplemental reports from DDOT and OP by March 18th.

9 VICE CHAIR BLAKE: Okay. Okay, Mr. Teachy,
10 you're going to receive a letter from the Office of
11 Zoning that's going to explain exactly what the Board
12 is asking you for and the timeline for that submission.

13 So, rather than try to -- I know you're on
14 a phone line, so rather than try to figure it all out
15 here, I'm just going to make sure, you will get a letter
16 from us specifying exactly what we're asking you for.

17 Okay?

18 MR. TEACHY: All right.

19 VICE CHAIR BLAKE: All right. Thank you very
20 much.

21 All right, I'm going to close this portion
22 of the hearing, thank you all for joining us.

23 Mr. Sakinejad, you can let everybody go.

24 MS. MEHLERT: Is this a continued hearing on

25 --

1 VICE CHAIR BLAKE: It is a continued hearing,
2 absolutely, yes.

3 MS. MEHLERT: Okay.

4 VICE CHAIR BLAKE: Yes, continued hearing,
5 thank you.

6 Okay, does anybody need a break?

7 Sounds like I'm seeing no. Madam Secretary,
8 could you please call our next case?

9 MS. MEHLERT: Next is Application Number
10 21384 of Adetokunbo Harrison.

11 This is an application pursuant to Subtitle
12 X, Section 901.2 for a special exception under Subtitle
13 E, Section 207.5 to allow the rear wall of a rear building
14 to extend further than 10 feet beyond the permissible
15 wall of an adjoining principle residential building on
16 an adjacent property.

17 This is for a two-story rear addition to an
18 existing two-story semi-detached principal dwelling.

19 The project is located in the RF-1 zone at 630 Randolph
20 Street, Northwest, Square 3233, Lot 77.

21 And I will note that just, in the past half
22 hour, we received a late letter in opposition. So, I
23 wanted to check if the Board wanted to allow that into
24 the record?

25 VICE CHAIR BLAKE: A letter in opposition?

1 Yes, I'm -- I would -- if my Board doesn't have an
2 objection to it, I would be comfortable receive --
3 admitting that additional filing to the record at this
4 point.

5 Does anyone have any concerns with that?

6 COMMISSIONER MILLER: No, but maybe we should
7 take a break so I can read the letter.

8 VICE CHAIR BLAKE: Okay, that's fine, let's
9 do that.

10 Let's submit that to the record and let's take
11 a -- how long would you need, sir?

12 COMMISSIONER MILLER: Oh, just a few minutes.

13 VICE CHAIR BLAKE: How many minutes is a few?
14 Like five? Ten?

15 COMMISSIONER MILLER: Let's say five.

16 (Whereupon, the above-entitled matter went
17 off the record at 10:47 a.m. and resumed at 10:57 a.m.)

18 VICE CHAIR BLAKE: Madam Secretary, could you
19 call us back in?

20 MS. MEHLERT: The Board is back from a break
21 and is returning to Application Number 21384.

22 VICE CHAIR BLAKE: All right, I'm going to
23 just say, first of all, we need to bring in the applicant
24 and introduce the applicant.

25 And Ms. Harrison?

1 (No audible response.)

2 VICE CHAIR BLAKE: If the applicant can hear
3 me, would you please introduce yourself for the record?

4 MS. HARRISON: Hi, good morning.

5 VICE CHAIR BLAKE: Okay.

6 MS. HARRISON: Sorry, there's an echo.
7 Can you hear me now?

8 VICE CHAIR BLAKE: If you've got another
9 device or something going like that, that would cause
10 the echo. You're going to want to mute that.

11 MS. HARRISON: Okay, can you hear me now?

12 VICE CHAIR BLAKE: In addition, is your camera
13 working? Are you able to turn on your camera?

14 MS. HARRISON: Yes, yes, I can, hold on one
15 second.

16 Hi, can you see me?

17 VICE CHAIR BLAKE: We can, how are you?

18 MS. HARRISON: I'm fine.

19 VICE CHAIR BLAKE: Good. Would you introduce
20 yourself for the record? Is there anyone else -- if
21 there's anyone else joining you today, I'd ask you to
22 introduce them as well?

23 MS. HARRISON: Okay. Hi, everyone, I am
24 Adetokunbo Harrison. If it's difficult to pronounce
25 my name, you can call me T. I'm here with my husband,

1 Godspower Harrison, as well as our architect, Alicia,
2 she's also online to provide any technical
3 clarifications that you may have because I'm not as
4 technical.

5 I've lived and grew up in 620 Randolph Street
6 since 1982 -- I'm sorry, 1992, correction. And
7 basically, just trying to do some overdue tender love
8 and care to the property.

9 VICE CHAIR BLAKE: Okay, I just wanted you
10 to do the introductions. Is there -- let's see, do we
11 have anybody from the ANC here?

12 (No audible response.)

13 VICE CHAIR BLAKE: No? Okay, all right, do
14 we -- okay, we're good to go.

15 So, what I'd like to do is if you'd take --
16 we have 15 minutes on the clock and you can tell us a
17 little bit about your project and how you believe your
18 meeting the criteria for approval.

19 If you wish to have your architect speak,
20 that's fine as well. Do you have a -- you don't have
21 a prepared presentation, do you?

22 MS. HARRISON: No, but my architect is
23 prepared to present before you guys and answer all the
24 questions that you may have. So, I would defer this
25 portion to her.

1 VICE CHAIR BLAKE: Okay.

2 And this is Ms. Lopez, is that correct?

3 MS. LOPEZ: Good morning, Alicia, can you hear
4 me?

5 VICE CHAIR BLAKE: We can hear you, go ahead,
6 Ms. Lopez. How are you?

7 MS. LOPEZ: Okay, sorry. Good morning, guys,
8 I'll be brief.

9 First of all, thank you for allowing me to
10 speak today. Yes, I am here on behalf of the Harrison
11 family to present their petition for a special exception
12 approval.

13 Basically, this family -- and this is a family,
14 this is a husband and a wife. They have children. They
15 have all -- this house has been in their family for almost
16 35 years, as she just mentioned.

17 That's 35 years of them paying property taxes,
18 being lawful members of this community. They are just
19 here because they need to expand their family. They
20 need an addition to their house. They need to remodel
21 the house. Obviously, this is a very old house. And
22 they need to add on an addition for their growing family.

23 That's the only reason we're here.

24 They meet the guideline for the special
25 exceptions for the following reasons, and I believe you

1 guys should have a copy. It was uploaded in the record
2 of the floor plans.

3 But this is basically a semi-detached
4 rowhouse, roughly about, what 20-, 25-foot wide. And
5 they just need to do an addition. So, you are able to
6 do up to 10 feet in addition without needing this special
7 exception. They are going to -- a little bit over 20
8 feet, 27 feet.

9 And so, it's a huge back yard, so there's still
10 using less than 60 percent lot occupancy. They're at
11 59 percent lot occupancy with the addition. And so,
12 because they're going over 10 feet, they need a special
13 exception for the footage over 10 feet.

14 And so, I just want to point out a few things.
15 Number one, several houses in the area have huge
16 additions going way past 10 feet, 20 feet that we've
17 noted, several. So, those cases have also been before
18 you and have been approved.

19 This is -- they're not trying to turn this
20 into condos. They're not trying to go up a fourth level.

21 This is just a family that needs the -- need extra space
22 for their family, for their children for a house that's
23 been in their family for over 35 years.

24 But I also want to note that they have spent
25 over a year in this process trying to get this approved.

1 They've spent tens of thousands of dollars out of their
2 own money.

3 This is a working class family. These are
4 not builders and developers. This is a husband and a
5 wife who's working every day. And so, they literally
6 can't afford not to get this special exception done
7 because they've put so much of their money --

8 VICE CHAIR BLAKE: Ms. Lopez?

9 MS. LOPEZ: -- already into the things they
10 needed to do. And so --

11 VICE CHAIR BLAKE: Can you --

12 MS. LOPEZ: And so, we're just here to ask
13 this committee to approve this special exception for
14 them, for their family so that they can renovate this
15 old house and have space for their growing family and
16 their children.

17 VICE CHAIR BLAKE: Okay, all right.

18 Well, let me ask the applicant one quick
19 question, and we're going to go to the Office of Planning
20 after this.

21 To the extent that you -- have you had -- tell
22 me a little bit about, Ms. Harrison, tell me a little
23 bit about your interaction with the neighbors. And I
24 know you've gone to the ANC and presented. Tell me a
25 little bit about your -- have you met with the neighbors

1 and shared your plans and things of that sort?

2 You're on mute.

3 MS. HARRISON: Yes. So, we were able to mail
4 all the letters, the plans to all the neighbors, spoke
5 to some neighbors.

6 For example, I have the neighbors to the left
7 of me and to the right of me. I haven't been able to
8 like see like physically, but they've also been informed
9 via the actual sending letters and are well aware.

10 The only person I've -- the only neighbor
11 that's about three houses from me is Ms. Hannah that
12 I've been able to speak to actually on the phone. That's
13 the only neighbor that I've been able to speak to.

14 Everyone else, I've just, you know, not been
15 able -- like kind of passing each other and not being
16 able to like speak. And because once we started the
17 permit process, we've -- that's also made the like
18 process to see people challenging, but we put the notice
19 on the door for them to also let -- reach out to us.

20 So, we've given people like the due process
21 time to reach out to us if they had any concerns or
22 opposition to this. So, I'm kind of surprised we're
23 getting something an hour before.

24 VICE CHAIR BLAKE: And, Mr. Williams, you did
25 not speak to Mr. Williams?

1 MS. HARRISON: Ms. Chavis --

2 VICE CHAIR BLAKE: Chavis, Ms. Chavis, sorry.

3 MS. HARRISON: Yes, yes, Ms. Chavis. So, she
4 actually sent an email to Commissioner Eric Heller and
5 we responded to that and also cc'd ANC Commissioners.

6 Because we also have gone before the Commission and
7 she had an opportunity then to also sit in and approve
8 with the rest of the community during that approval
9 process.

10 We went to the ANC Commission meeting where
11 everyone approved it. But she was not -- either she
12 wasn't there or, you know, wasn't present for that.

13 And so, she, I guess, somehow reached out to
14 Mr. Heller, ANC Commissioner Heller later and we
15 responded to her via email and provided the necessary
16 information, including the plans again, just in case.

17 And we made sure our architect was there and we, you
18 know. So, she had opportunities to get her questions
19 answered.

20 VICE CHAIR BLAKE: Okay. Do you know her?
21 You know her, though? You know --

22 MS. HARRISON: Oh, yes, yes, yes, I know her.
23 Like I said, I've been -- I've lived there, I grew up
24 there. I went away for college, got married, you know,
25 had kids. But --

1 VICE CHAIR BLAKE: So you guys have had a
2 dialogue? You've been in conversations? This is not
3 --

4 MS. HARRISON: Yes, it's not new, but it's
5 only been via email. I have not been able to see her
6 like visibly.

7 VICE CHAIR BLAKE: All right, thank you very
8 much.

9 Does anyone else on the Board have any
10 questions right now?

11 We're going to go to the Office of Planning
12 to go through the application. Does any other -- any
13 questions?

14 COMMISSIONER MILLER: I'll wait until after
15 the Office of Planning.

16 VICE CHAIR BLAKE: Okay.

17 Ms. Drakeford, you good, too?

18 MEMBER DRAKEFORD: Yes, I'll wait until after
19 the Office of Planning as well.

20 VICE CHAIR BLAKE: Okay, thank you very much.

21 Okay, the Office of Planning, please?

22 Mr. Bradford?

23 MR. BRADFORD: Good morning, Chairman Blake,
24 Members of the Board. For the record, this is Philip
25 Bradford, Development Review Specialist with the Office

1 of Planning.

2 The Office of Planning is recommending
3 approval of the requested special exception relief and
4 can stand on the record of the report in Exhibit 23,
5 I believe. And that concludes my testimony and I'm
6 available for any questions.

7 Thank you.

8 VICE CHAIR BLAKE: Okay, Mr. Bradford, I'm
9 going to ask you to go through a little bit -- just go
10 through that real quick, how the applicant meets the
11 criteria for approval on this particular situation?
12 I'm going to need you to go through that for me real
13 quick, okay?

14 MR. BRADFORD: Sure. Our analysis looked at
15 the context. Of course, the yards are permitted area
16 of relief by special exception.

17 This is a ZA referral case, so a lot of the
18 information in the report is coming from the ZA memo.

19 But upon reviewing the context of the property, it
20 shouldn't unduly affect the light and air to any
21 properties.

22 The lots at the section of the square are
23 larger than average, if I'm remembering correctly. So,
24 there's plenty of room, plenty of light access to not
25 really have a negative impact to any of the adjacent

1 properties.

2 This is near a corner, too, so there's
3 generally reduced privacy, given that some of the rear
4 yard to the houses are facing into the others from the
5 two sides there.

6 The building is consistent with the appearance
7 of the others. I did do a site visit, so it seemed
8 appropriate to the context as well. The plans submitted
9 were also sufficient to analyze the rear extension to
10 the criteria.

11 The only thing, I don't know if you guys saw
12 this in the report, that I had concerns about which
13 really doesn't have much bearing on meeting the special
14 exception criteria was that the plans and the renderings
15 are a little bit inconsistent on the location of windows.

16 So, that was a little bit unclear to me. But
17 overall, I was able to write a report in support despite
18 some discrepancies on windows, given that the -- what
19 we're here for is really the rear extension.

20 And it's mostly in line with other rear
21 extension cases the Board has approved in the past.

22 So, that's --

23 VICE CHAIR BLAKE: A quick question, on the
24 window issue, is it the fenestration, does it have an
25 impact on the neighboring property in terms of privacy?

1 Is it clear from what the -- what you -- we need to
2 -- our plan should be consistent -- the plans we approve
3 should be consistent with what they develop.

4 Are we locked on what they have? What was
5 the inconsistency there? And does it have -- could it
6 have a potential impact on privacy?

7 MR. BRADFORD: If there were windows where
8 they're showing them to be, I don't think it would be
9 an undue impact on the privacy whether they're there
10 or not.

11 It just was confusing for me to see windows
12 shown in one location and then, you see them on the floor
13 plan and they're not there or vice versa.

14 I'm not remember exactly which windows, but
15 I just remember in the plans, looking at the floor plans
16 versus the elevations and like shows a window there,
17 it's not there on the other sheet where it should be.

18 So, it was a little unclear. But overall,
19 I didn't find it to be so -- like whether the window
20 was there or not, I don't think it would make or break
21 the privacy issue.

22 VICE CHAIR BLAKE: Okay, thank you.

23 Ms. Lopez, can you address that -- the window
24 confusion?

25 MS. LOPEZ: Yes, yes, can you hear me?

1 VICE CHAIR BLAKE: Yes, we can.

2 MS. LOPEZ: Oh, okay, I'm so sorry.

3 Yes, okay, so the window issue, listen, I don't
4 think this is a deal breaker for my clients.

5 If you guys say, you know, we don't want any
6 windows on the east side, you know, the west side, I'm
7 -- just put that in the approval and I'm sure we can
8 just get rid of those windows.

9 But that's not a deal breaker for us. So,
10 we can have the windows, we cannot have the windows on
11 the east side or the west side, which ever ones you feel
12 might --

13 VICE CHAIR BLAKE: Okay, well, maybe you can
14 help me a little bit. Why do your plans have differences
15 in the windows? Are they consistent?

16 Which plans have the correct window layout?

17 MS. LOPEZ: So, there should be a document
18 titled, Final. Do you see one that says, Floor Plan
19 Final, May 2025?

20 Hello?

21 VICE CHAIR BLAKE: That's not how we're set
22 up.

23 MS. LOPEZ: There should be a document titled
24 Final, do you see one that says Floor Plan Final, May
25 2025?

1 VICE CHAIR BLAKE: Do you know what exhibit
2 that is in the -- in our records?

3 MS. LOPEZ: No, I wouldn't know what exhibit
4 that is, I'm sorry.

5 VICE CHAIR BLAKE: All right, we'll figure
6 it out.

7 So, we're going to say the exhibit that's
8 labeled the way you said is the one that has the final
9 plans with -- that's clear on that.

10 Mr. Bradford, do you understand which exhibit
11 she might be talking about?

12 MR. BRADFORD: No, I'm looking at it right
13 now, and I'm not quite clear. I don't see anything
14 that's from May in the record at all.

15 VICE CHAIR BLAKE: All right, all right, we're
16 going to pause on that one for a minute. We'll come
17 back to that.

18 Does anyone else have a question? I have one
19 other question for Mr. Bradford.

20 Does anyone else have a question for the Office
21 of Planning?

22 MS. LOPEZ: Can I just say one more thing,
23 too? I'm looking at the floor plan right now and as far
24 as the extension, that cut back is under the 27-foot
25 extension is why we're here. I'm only showing two

1 windows, well, actually, three windows. So, I'm only
2 showing three windows on each level.

3 So, on the one side, I'm not showing any
4 windows. So, this is a semi-detached property, right?

5 So, on the west side of the house is another house that's
6 semi-detached. Right?

7 On the right side, there is no house on the
8 right side. So, there's two windows on each level on
9 the right side.

10 So, to me, there's no neighbor on the right
11 side. So, it's, you know, it's not attached on the right
12 side. So, that cannot be affecting anybody.

13 And so, on the left side, which is where there
14 is a neighbor, there's no windows, because it's
15 semi-detached. Right?

16 So, how is that invading anyone's privacy?

17 VICE CHAIR BLAKE: What I'm trying to do is,
18 I'm trying to get clarity from the Office of Planning
19 side to understand which exhibit he's supposed to be
20 looking at and so we can say what we are -- what we know
21 that we're approving.

22 I understand what you're saying, but it's a
23 little bit confusing not having it in front of me.

24 Mr. Bradford, you look like you're looking
25 at. Are you -- do you see something there?

1 MR. BRADFORD: Yes, it -- there's like also
2 red here and maybe that led to some confusion on my part.

3 But now that I'm looking at it, it looks like
4 there is consistency between the windows, despite them
5 not appearing that way at my first glance.

6 But hard doing it on the fly, but it does seem
7 now that I'm looking at it, the windows are generally
8 consistent. But it's just the red, I couldn't tell what
9 the red is showing in Sheet A102.

10 It looks like there's two windows on the upper
11 story, two windows on the bottom story of the elevation.

12 And then, on the side view of the east side,
13 it looks like there's two windows on the bottom and one
14 on the second floor, which would not be consistent with
15 the floor plan.

16 I'm looking at Sheet A104, Sheet A102, but
17 I don't know if that's showing there's a window there
18 now and that's going away. But it's unclear what the
19 red was trying to signify on those plans.

20 So, if the architect can clarify that?

21 MS. LOPEZ: I can just clarify that for you.

22 The red -- so, this house -- they, years ago, and it
23 can be even over a decade ago, they had tried to do an
24 addition. And so, some remnants are still there. That
25 will be demoed.

1 So, I was just -- the red is just showing what
2 we're kind of existing, but that's going to be demoed.

3 Obviously, this would replace it. So, that's why --
4 that's what the red was for.

5 So, there is remnants of an addition from,
6 I don't know, maybe a decade ago, I don't know the date.

7 But that's going to be demoed and then, this would
8 replace it.

9 MR. BRADFORD: Okay. If that is the case,
10 then the windows are correct. I'm sorry about that in
11 the report.

12 VICE CHAIR BLAKE: Now, would that have an
13 impact -- do see those -- the current design, does that
14 have an impact on -- adverse impact on privacy?

15 MR. BRADFORD: No, I would not say so. I
16 mean, if anything, it's less because I thought there
17 was more windows than there were, but now, there's one
18 less window. So, it would reduce it from what I even
19 thought it was.

20 VICE CHAIR BLAKE: All right, I appreciate
21 that.

22 Yes, Ms. Drakeford, you have a question?

23 MEMBER DRAKEFORD: Yes, so I do have a
24 question.

25 So, I'm looking at the I believe it's Exhibit

1 6 that has the architectural plans. And one of the
2 things I'm just trying to make sure I understand is just
3 around the actual existing versus -- the existing versus
4 the total proposed addition.

5 So, under Exhibit 6 -- and also, then want
6 to make sure that I'm looking at the correct or the most
7 up to date, most recent plans.

8 So, in Exhibit 6, which has the architectural
9 plans, page 2, it lists the total -- the existing --
10 it lists the existing site and then, it also lists a
11 proposed 27-foot extension.

12 But in the application, and then, also in the
13 -- I believe the Zoning Administrator's certification
14 letter, it shows that there's 8 feet existing and then,
15 a 17-foot extension proposed.

16 So, I'm just trying to make sure that I
17 understand what -- and what is currently existing under
18 page 2, is that -- does that include the existing
19 extension that was done previously? And does this --

20 I'm just trying to make sure I'm
21 understanding, yes, understanding this diagram and how
22 these are -- and what's actually the extension?

23 VICE CHAIR BLAKE: Mr. Bradford, do you have
24 -- do you understand the question?

25 (Pause.)

1 VICE CHAIR BLAKE: Mr. Bradford, do you
2 understand the question?

3 MR. BRADFORD: It was unclear whether that
4 question was to OP or the applicant. Could you clarify
5 that?

6 MEMBER DRAKEFORD: Well, I guess the first
7 question would be to the applicant, it's just to verify
8 that the Exhibit 6 is the current architectural plans
9 that we're supposed to be referencing?

10 And then, I think to OP, I just want to verify
11 which -- if that is the correct -- if these are the most
12 up to date plans, would it be based off of this diagram,
13 what is the actual extension?

14 Because there seems to be some discrepancy
15 between what's listed in the applicant's application
16 and then, what's presented on the site plan or in the
17 architectural drawings.

18 MS. LOPEZ: So, yes, if you said to the
19 applicant, so, yes, what you're looking at, that page,
20 I believe it's the second page, you said, that is
21 correct.

22 So, you have the existing house there which
23 is 22 feet wide by 45 feet deep. And then, you have
24 the proposed full extension, which is the 27 feet, 22
25 feet wide by 27 feet extension.

1 That is what we're here for. Ten feet is
2 already kind of like you guys -- well, the Department
3 of Permitting is okay with 10 feet, but because we're
4 doing -- we need an extra 17 feet, total 27, 10 plus
5 17, 27, we have to apply for the whole 27-foot extension.

6 So, 27 feet as you see on the paper is what we are
7 applying for. That is what it would be.

8 Now, as I mentioned before, a decade ago, we
9 tried to do an extension that it was never finished.

10 I don't know what happened. I don't know who -- I
11 wasn't around ten years ago, but it's -- there are
12 remnants there that are going to be demoed.

13 So, we don't even really need to mention it,
14 it's going to be demoed. What we're here for today is
15 for the existing house, the 22 by 45 that they want to
16 renovate and then, add the 27-foot extension.

17 MR. BRADFORD: And to answer my portion of
18 that question, yes, this is the most up to date that
19 OP has analyzed. And it was a bit confusing in the
20 burden of proof, but I relied more on ZA referral and
21 correlating that to the plans.

22 So, they are doing a 27-foot rear extension
23 because there's a 10-foot allowance, there is 17 feet
24 that they're needing relief for beyond the 10, given
25 it's 27.

1 So, it is correct based on my analysis.

2 MEMBER DRAKEFORD: Thank you.

3 VICE CHAIR BLAKE: Okay. Any other questions
4 from the Board?

5 Okay, Mr. Bradford, I have one last question
6 for you. We do have the -- we have a 10:30 -- 11:30
7 deadline here. The -- in your report, I think you did
8 use the criteria of E 5201.

9 Can you explain to me why -- I do not believe
10 that that's appropriate. I'm just curious and ask you
11 why you used 5201?

12 MR. BRADFORD: One second. Oh, yes, that's
13 -- wait.

14 Why wouldn't it be? It's an addition to an
15 existing building in the RF.

16 VICE CHAIR BLAKE: The -- it's E 207.5 that
17 basically says that it's subject to E 5201 if applicable.

18 I believe that's what it says in that. And the issue
19 with that is only that it only applies to lot occupancy,
20 yards, courts, and pervious surface.

21 And this -- in this particular instance, it
22 doesn't have a requirement for any of those. This is
23 a matter of right structure and it doesn't have those
24 additional elements to it. So, it's not applicable.

25 But the good news is, it does help us to really

1 get a good sense of the adverse impacts of light, air
2 flow, and privacy or neighboring properties, which is
3 relevant to X 901.2(b).

4 So, I mean, it's a good -- you kind of went
5 beyond where you needed to, but I'm just saying, it
6 doesn't -- it really does not apply in this particular
7 instance, from what I understand. That's it. Okay?

8 Maybe not? Do you understand what I'm
9 saying?

10 MR. BRADFORD: Oh, yes, I -- yes, yes.

11 VICE CHAIR BLAKE: Okay. All right, so,
12 we're going to move on. Thank you very much, thank you
13 very much. It was very -- actually very, very
14 insightful and very helpful as you went through there
15 and clarified those issues.

16 Are there any -- is there any other questions
17 for the Office of Planning or the applicant at this
18 point?

19 (No audible response.)

20 VICE CHAIR BLAKE: Okay. Do we have anyone
21 who -- do we have anyone that wishes -- any public
22 testimony?

23 MR. SAKINEJAD: Hi, Chair, yes, we do.

24 Just one second.

25 VICE CHAIR BLAKE: Sir, could you please

1 introduce -- who are -- who do we have?

2 MR. SAKINEJAD: Ms. Chavis Williams.

3 VICE CHAIR BLAKE: Okay, excellent, that's
4 appropriate. Ms. Williams, as a member of the public,
5 you have three minutes to give your testimony.

6 You can start with your name and address.
7 We can give you a minute or two more since you are the
8 abutting neighbor. But we -- if you could please
9 quickly do that.

10 We have your presentation and if you go ahead
11 and we'd love to hear from you, so exactly what your
12 concerns and issues and concerns.

13 MS. WILLIAMS: Hi, this is Chavis Williams,
14 can you hear me?

15 VICE CHAIR BLAKE: Yes, we can.

16 MS. WILLIAMS: Oh, good. Chavis Williams and
17 I live at 628 Randolph Street. And I'm opposed to this
18 particular addition of 27 feet as that will put a
19 two-foot high wall down almost the entire length of my
20 rear yard.

21 The yards at this end of the block are much
22 smaller than the ones that were talked about earlier
23 where they put additional extensions. Those yards go
24 all the way down to the alley that runs behind them.

25 We have no alley. Our yards are completely

1 encompassed, or 630, I should say, has other properties
2 on all three sides of the back yard.

3 So, in addition to the windows that would look
4 out and look into or can look into my neighbor's house
5 at 632, they're also talking about putting a rear porch
6 or deck on the back of the house, which would then look
7 into the house that's on 7th Street, because that house
8 runs perpendicular across the rear of our yards.

9 So, I -- we would have, you know, virtually
10 no yard space. So, I'm in my yard trying to enjoy my
11 yard with a two-foot high wall there and absolutely not
12 air. You know, I notice that the young lady says that
13 they moved in 1992. Well, my family purchased this
14 house in 1953.

15 I work from home. She has never once knocked
16 on my door to talk about this extension as I have the
17 time and since Ms. Haastrup, the original owner of the
18 house passed away, if I don't send a letter asking them
19 to cut their grass or do something, I have no
20 communications with them.

21 So, I'm not sure how she spoke to both the
22 resident here at 628 nor the Williams's, a different
23 family that lives at 632 when, really, a knock on the
24 door could have had that satisfied.

25 Also, I noticed that the architect said that

1 there would not be windows on the east side, but if they
2 put windows on the west side, that can look into the
3 owner at 632's property.

4 So, I think that this particular construction
5 will not only visually impact the neighborhood by
6 putting such a large structure in this little small
7 corner, I think that excess of 27 feet, which is now
8 nearly three times the 10-foot normal extension is just
9 more than really could be supported by this area and
10 would definitely adversely impact the living
11 conditions.

12 VICE CHAIR BLAKE: Thank you very much, Ms.
13 Williams.

14 Does the applicant have a question for Ms.
15 Williams?

16 MS. HARRISON: I just want to provide some
17 clarity and background context.

18 First of all, Ms. Williams, I apologize that
19 we were not able to see each other physically. I
20 actually have -- I'm a government worker. I have to
21 physically go in every day.

22 Also, I want to give background to also give
23 some context, she's adjacent to an alley and there's
24 no windows on the west side into her yard at all.

25 I also want to talk about the other Ms.

1 Williams, because there's two Williams, one to my left
2 and Ms. Chavis Williams, who has the right property.

3 And they have -- their house is already --
4 like they have an nice large amount of property. So,
5 could see if she said maybe they were extending and this
6 is impeding on something. But I know they plan to do
7 renovations, so I had a chance to talk with them.

8 As I stated, Hannah, our neighbor, who's two
9 down -- two additional, maybe three doors down from Ms.
10 Williams, Chavis Williams, had already done exactly what
11 I am copy and paste to do.

12 And I wouldn't have even brought it before
13 the Board if we didn't have a home -- three homes from
14 us doing the same exact thing with less family members.

15 VICE CHAIR BLAKE: I think that's --

16 MS. HARRISON: I also understand that Ms.
17 Chavis has a long, contentious history with my mom.
18 And unfortunately, my mom has passed away, but I just
19 want to preserve her legacy by keeping this property
20 in the family. That's really what I want to do.

21 And we plan to --

22 (Simultaneous speaking.)

23 MS. HARRISON: Yes?

24 VICE CHAIR BLAKE: All right, thank you.

25 I was just asking if you wanted to ask her

1 a question.

2 Okay, does the Board have any questions for
3 the party?

4 No? Okay. Ms. Williams, thank you very much
5 for your testimony.

6 MS. WILLIAMS: Could I possibly make one
7 addition? I also wanted to say that the house that Hannah
8 lives in, which is directly across the alley from me,
9 that house was that way in 1953 when my parents bought.
10 They have that -- they have an additional long extension
11 that was always there.

12 Additionally, each of the diagrams that I've
13 seen, the current eight-foot extension that's on the
14 house, they keep showing that looking as if it is part
15 of the original home and it is not. It is, indeed, and
16 8-foot extension that currently has some structural
17 issues.

18 VICE CHAIR BLAKE: Okay, Ms. Williams, thank
19 you very much for your testimony. We have another case
20 we have to jump on quickly, but I do appreciate your
21 testimony. It was very helpful.

22 MR. SAKINEJAD: Excuse me, Mr. Chairman.

23 VICE CHAIR BLAKE: Thank you.

24 MR. SAKINEJAD: We have someone else signed
25 up to speak. They signed up --

1 VICE CHAIR BLAKE: Okay, who is that?

2 MR. SAKINEJAD: It is --

3 VICE CHAIR BLAKE: You can release Ms.

4 Williams.

5 Go ahead.

6 MR. SAKINEJAD: Okay, great, thank you.

7 It is -- his name is Smith is the last name.

8 VICE CHAIR BLAKE: Okay. Go ahead, Mr.

9 Smith, if you could introduce yourself? Could we have
10 your name and address.

11 I believe we also have your testimony -- your
12 letter to the record.

13 Please go ahead.

14 MR. SMITH: Great, thank you, Mr. Chair. My
15 name is --

16 VICE CHAIR BLAKE: You have three minutes --
17 (Simultaneous speaking.)

18 MR. SMITH: Sure.

19 VICE CHAIR BLAKE: You have three minutes,
20 please set the clock.

21 MR. SMITH: I'll keep it very short, don't
22 worry about it. My name is Anthony Smith and I'm
23 speaking in support of Chavis Williams.

24 Ms. Williams's issue was brought to my
25 attention at a recent ANC meeting that I was attended

1 because of another developer issue that -- who is wanting
2 more special treatment instead of building within the
3 matter of right.

4 The applicant in this case is requesting an
5 extended 27 feet beyond the rear wall of the adjoining
6 row house, as you guys have already established, Ms.
7 Chavis's family home.

8 Even though the zoning regulations
9 established 10 feet as the limit, records shows the
10 existing structure at 630, and from what I've seen by
11 the visual evidence, is that it's built -- there's
12 already an eight-foot adjoining addition to that home.

13 Under the intent of the regulation, that
14 leaves only a 10 -- or a two-foot additional that could
15 be reasonably built within the matter of right.

16 What is being requested is what I would
17 consider special treatment that would allow more than
18 20 feet of wall, unlike what Chavis was saying was two
19 feet, it's actually 20 to 24, 25 feet of wall running
20 along Chavis's rear yard.

21 It's a scale of mass of this proposal that
22 would be felt every day by her, reducing her light,
23 diminishing her air flow, all of the things that zoning
24 cares about.

25 As more of a practical issue that I don't quite

1 understand, this -- and it was nowhere in any of the
2 plans that I read, this property has no alley access.

3 The rear yard is enclosed by all of its
4 neighbors. The application does not explain how the
5 construction of the structure would actually occur
6 without access to Ms. Chavis's yard and it's alley
7 access.

8 So, adjacent yards for access, staging of
9 equipment, digging of the foundation, removal of the
10 illegal construction that was done previously.

11 This all happen -- will happen in essentially
12 right off of Chavis's property line. She has lived in
13 this home for decades, maintained it, relied on it for
14 her entire life. And I respectfully ask the Board to
15 apply the regulations as written and not grant special
16 treatment in this case.

17 Thank you very much.

18 VICE CHAIR BLAKE: Thank you very much, Mr.
19 Smith.

20 Does anyone have any -- on the Board have any
21 questions for Mr. Smith?

22 Okay, thank you. Are there any other -- is
23 there any other testimony?

24 We can dismiss Mr. Smith, thank you very much.

25 Is there any other testimony that we have from

1 the public?

2 MR. SAKINEJAD: That should be it, sir.

3 VICE CHAIR BLAKE: Okay, great, thank you.

4 MS. LOPEZ: Am I allowed to just speak to the
5 construction element he just mentioned?

6 VICE CHAIR BLAKE: Ms. Lopez, the
7 construction element is not relative to --

8 MS. LOPEZ: Okay.

9 VICE CHAIR BLAKE: -- or is not legally
10 relevant to our decision.

11 MS. LOPEZ: If I can --

12 VICE CHAIR BLAKE: So, I'd prefer not to.
13 Okay?

14 If -- let's see, can we -- does anybody from
15 the Board have any questions for the applicant, Office
16 of Planning, or anybody else at this point?

17 COMMISSIONER MILLER: I'm not sure if I have
18 any questions, but I do have some concerns about the
19 light and air, undue impact on the adjacent property,
20 given the size of this addition.

21 And we don't have -- I'm not asking for shadow
22 studies, but I'm having trouble visualizing the impact.

23 And it might be helpful to have an illustrative
24 rendering or something more that shows that the light
25 and air of that -- of the adjacent property is not being

1 unduly -- unduly is the standard, and unduly impacted.

2 I see the extensions elsewhere on the block.

3 They may have been done before the 10-foot rule went
4 into effect, which went into effect for a reason, but
5 it does allow a special exception. It's not special
6 treatment, it's a special exception which is permitted
7 if we find it meets the undue -- not unduly impact and
8 other criteria.

9 So, I just think that, given the size, I have
10 some concern and I would want more from Office of
11 Planning or applicant to address the light and air issue.

12 Because I just -- I have concerns about it
13 at this point. And I know we're out of time, so I'm
14 sorry to go on so long, Mr. Chairman.

15 VICE CHAIR BLAKE: Thank you, no, that's very
16 helpful, Commissioner.

17 Ms. Drakeford, do you have anything that you'd
18 like to see in addition or help to clarify this for you?

19 MEMBER DRAKEFORD: No, not at this moment.

20 VICE CHAIR BLAKE: Okay, all right. Let's
21 see, Vice Chair Miller, if you could give me a sense
22 of what you believe would help you to shape your opinion?

23 Basically, let me just explain to you, Ms.
24 Harrison, there are three of us right now that have to
25 vote on this. We must be unanimous in our vote in order

1 to get anything done. There's typically five members
2 on the Board, now we have three. So, we have to be in
3 unanimous agreement to get something done.

4 Mr. Miller, you are -- you need something to
5 help you formulate your decision and you said you'd like
6 -- would the shadow study help? You said maybe not,
7 renderings would help you? What would you like?

8 COMMISSIONER MILLER: I don't want the
9 applicant to have to go through a lot of expense. I
10 don't know, I think the shadow studies are available
11 through some online system that's accessible. But I
12 think that would be helpful.

13 An illustrative rendering would be helpful
14 that just shows the perspective and the relationship
15 between the 27-foot extension and the adjacent -- Ms.
16 Chavis Williams' property. That would be helpful.

17 VICE CHAIR BLAKE: Okay. Ms. Drakeford, you
18 have a great background in this type of thing, what would
19 you suggest would be helpful to pull this together?

20 MEMBER DRAKEFORD: I mean, I think what
21 Commissioner Miller has indicated would be helpful.

22 I mean, I guess one of the other things would
23 be, you know, if possible, if possible, right, because
24 this is the adjacent property, the immediate adjacent
25 property owner -- the adjoining property owner, you

1 know, is there some type of opportunity to have a
2 discussion around potential impacts and maybe
3 mitigation?

4 I mean, that would be, you know, potentially
5 one thing that I could see. Right? In addition to the
6 site study or to the shadow study, excuse me.

7 But I think, even if there is some type of
8 conversation that could potentially happen, but that
9 would be -- but again, you know.

10 VICE CHAIR BLAKE: Okay, all right, thank you.

11 I mean, I have to agree with your comment.
12 I think you guys have to live together one way or the
13 other. I mean, you're next door neighbors. So, a good
14 neighbor policy is an important one.

15 The points that you made about you're going
16 to potentially go on her property to get access to
17 different things, all that's real.

18 So, I do think it's important that you do have
19 a dialogue with your neighbor to try -- as a good neighbor
20 policy to try to figure things out and communicate.

21 So, I want to try to do this, I would like
22 you guys to do -- give us a couple pieces of information.

23 One would be photographs of this entire rear
24 side so we can get a sense of what it really looks like.

25 I think we have a couple photographs in the record,

1 but I'd like to get a few more photographs to show the
2 relationship between these properties in the rear so
3 I can get a real good sense of what that looks like.

4 Secondly, a shadow study, which I think is
5 readily available, we would appreciate that
6 information. That can be generated -- it's not that
7 difficult from what I understand.

8 But if I'm wrong, I'm wrong, but I think that
9 would be very helpful to address some concerns. And
10 I'm going to take this and we're going to put it off
11 for two weeks to give you an opportunity to get that
12 information for me and hopefully establish some type
13 of dialogue with your next door neighbor.

14 So, if you could give us those two pieces of
15 information, I'm going to set this for a decision, unless
16 the Board thinks we need to have a continue hearing.

17 But I'd like to have those pieces of
18 information and set this for a decision at -- in two
19 weeks.

20 Is the Board comfortable with that?

21 COMMISSIONER MILLER: Yes, and I appreciate
22 the encouragement of dialogue between the good
23 neighbors.

24 MEMBER DRAKEFORD: Yes.

25 VICE CHAIR BLAKE: Okay. All right, Madam

1 Secretary?

2 MS. MEHLERT: Yes, so that would be a decision
3 on February 4th.

4 VICE CHAIR BLAKE: Oh, another February 4th,
5 that's a great day, we're going to be here.

6 Okay, let's do February 4th for -- set for
7 a decision. I would like the applicant to get the
8 information that we requested in a week in advance or
9 do you need to do -- do you need more than that?

10 MS. HARRISON: I think that would dependent
11 on --

12 MS. LOPEZ: Well, as -- we can meet that
13 deadline --

14 VICE CHAIR BLAKE: I'm sorry, Ms. Lopez, you
15 had something to say?

16 MS. LOPEZ: -- if the owner is okay with that.

17 VICE CHAIR BLAKE: Ms. Lopez?

18 MS. LOPEZ: As the architect, we can meet that
19 deadline if the owner is okay with that. I just wanted
20 to say, from my point of view, we can meet that deadline.

21 VICE CHAIR BLAKE: She gave you a thumbs up.
22 She gave you a thumbs up.

23 MS. LOPEZ: Okay, so we will need send it in
24 through him and forward it to you or --

25 VICE CHAIR BLAKE: I can't quite make out what

1 you're saying, but --

2 MS. LOPEZ: I was saying, we send everything
3 to him and he forwards it to you?

4 VICE CHAIR BLAKE: Right, yes, yes, that will
5 be fine. We'll get it -- you're going to get a letter
6 from the Zoning Department which will give you all the
7 information you need to respond to this request. Okay?

8 MS. LOPEZ: Yes, sir, we're on it.

9 VICE CHAIR BLAKE: Straight away.

10 MS. MEHLERT: I was just going to add that,
11 if the applicant could -- well, just in terms of a
12 response from -- an optional response from the ANC, so
13 if they could get it in perhaps by the 26th, then you
14 could give the ANC until the 2nd if they had any comments.
15 Or you can waive that as well.

16 VICE CHAIR BLAKE: Well, that's not very long.

17 Ms. Lopez, that's not very long, that's only
18 about a week, right? Can you get that stuff done in
19 a week?

20 MS. LOPEZ: It's up to you all in a week.

21 Now, we don't have anything to do with the ANC and --

22 VICE CHAIR BLAKE: Wait, wait, wait, no, we're
23 talking about --

24 VICE CHAIR BLAKE: We're talking about March,
25 we're talking about March, we're talking about March.

1 (Simultaneous speaking.)

2 VICE CHAIR BLAKE: Ms. Lopez, just a second,
3 you're talking -- we're talking about March, correct,
4 not February? We're talking about March, we're fine,
5 that should work fine. March 4th should be fine.

6 And the 26th should be a good day.

7 MS. MEHLERT: Oh, I thought you had said to
8 set it for a decision in two weeks.

9 VICE CHAIR BLAKE: Well, I said -- yes, I was
10 thinking two weeks, but I'm thinking that's going to
11 be too -- that's too close, so we need to push that.

12 Even with this, that doesn't sound -- that's
13 -- we need three weeks for this at least. What do you
14 think?

15 I'd like to give the applicant enough time
16 to get this done and give the ANC an opportunity to
17 respond.

18 MS. HARRISON: Two weeks is enough timeline
19 for us. I don't think any light study's going to change
20 the ANC's decision because they already approved it.

21 Right?

22 So, I think this light decision and this light
23 testing is really for you all, rather than the ANC.

24 VICE CHAIR BLAKE: Okay, you feel comfortable
25 with that time frame?

1 MS. HARRISON: Oh, yes, we can make that
2 timeline.

3 VICE CHAIR BLAKE: Okay, all right.

4 Madam Secretary, we're going to schedule it
5 for that date. Okay?

6 MS. HARRISON: Yes, ANC doesn't meet
7 frequently in --

8 VICE CHAIR BLAKE: Okay, thank you, Ms.
9 Harrison. Okay?

10 Madam Secretary, we're going to schedule for
11 what you just said and with the 26th as the deadline
12 for the submissions.

13 MS. MEHLERT: January 26th?

14 VICE CHAIR BLAKE: Yes, January 26th. Yes,
15 that's what we agreed to.

16 MS. MEHLERT: All right.

17 VICE CHAIR BLAKE: Okay? Okay, with that,
18 we're going to dismiss the witnesses. I'm going to
19 close the hearing except for the submissions -- close
20 the record except for the submissions that we requested
21 and I'll see you all on the -- what date is that? The
22 --

23 MS. MEHLERT: The 4th.

24 VICE CHAIR BLAKE: The 4th? I'll see you on
25 the 4th. Thank you.

1 Okay, we need to now go into our FMBZA meeting.
2 Can we take a five-minute break and then we will begin
3 that? Madam Secretary?

4 MS. MEHLERT: Yes.

5 COMMISSIONER MILLER: And I guess I'll be back
6 after that.

7 VICE CHAIR BLAKE: Yes, we'll be right back.

8 (Whereupon, the above-entitled matter went
9 off the record at 11:46 a.m. and resumed at 12:08 p.m.)

10 MS. MEHLERT: The Board is returning to its
11 regular hearing session. The next case is Application
12 Number 21394 of FC, LLC. This is a self-certified
13 application pursuant to Subtitle X, Section 901.2 for
14 a special exception under Subtitle U, Section 513.1(e)
15 to allow a new fast food establishment in a two-story
16 portion of an existing three-story building. The
17 project is located in the MU-4 zone at 3288 ½ M Street
18 NW, Square 1206, Lot 833.

19 VICE CHAIR BLAKE: Is the applicant here?
20 Would you please introduce yourself for the record and
21 anyone else who will be joining you today?

22 MR. WILLIAMS: Yes, good afternoon. My name
23 is Zach Williams. I'm a land use attorney with Venable.

24 I am representing the applicant and I also have Mr.
25 Drew Kellogg with the applicant with me today.

1 VICE CHAIR BLAKE: Okay, excellent, and I
2 assume you have a formal presentation, I think I saw
3 it in the record, that you will provide us with?

4 MR. WILLIAMS: I do have a brief presentation,
5 Chair Blake, and if Mr. Young --

6 VICE CHAIR BLAKE: Excellent, okay, well,
7 then would you please go ahead and tell us a little bit
8 about your project? And I'll put 15 minutes on the
9 clock, and begin whenever you like.

10 MR. WILLIAMS: Great, thank you, Chairman
11 Blake and members of the Board. I am happy to be
12 representing today FC LLC, the application for this new
13 Flavor Hive location in Georgetown. Could I go to the
14 next slide, please?

15 The property at which the application is based
16 is 3287 ½ M Street. It's actually a condominium unit
17 on M Street along the major retail corridor on the north
18 side of M Street just between Potomac Street NW and 33rd
19 Street NW. Next slide, please?

20 Prior use of this space was a restaurant that
21 was called Harmony Café, and we will be proposing here
22 to replace what was previously a restaurant with what
23 is technically considered a fast food restaurant,
24 although even though this technically is a fast food
25 restaurant, it operates much more like a Chipotle or

1 a CAVA with counter-based service, and bowls and foods
2 like that rather than your sort of traditional fast food,
3 as we'll discuss here in a minute. Next slide, please?

4 Some of the interior architectural plans just
5 show what I just described, which is that Flavor Hive
6 is a, initially was a food truck concept and now has
7 a couple of brick and mortar locations throughout the
8 DMV. This would be the first one in D.C. in Georgetown.

9 And the idea is it's just like what you would
10 think of with a Chipotle, or a CAVA, or a Sweet Grain,
11 or one of those types of restaurants where you order
12 from the counter and it's an assembly line type of
13 service where you can see all of the food in front of
14 you. You then take the food, you sit down at a table,
15 and you can either eat there or you can take away.

16 It's a bowl-based concept with natural,
17 organic foods in the form of bowls and other types of
18 foods like that. It's had a lot of success in the market
19 on the food trucks, and now in the brick and mortar,
20 and the applicant's excited to be bringing this to
21 Georgetown. Next slide, please?

22 Here is the, just a photograph, actually, of
23 another brick and mortar location in the DMV. This
24 gives you a good sense of exactly what I was talking
25 about, about the way that this would work. It's an open

1 concept where you can see where everything is being
2 prepared and everything is being made.

3 So, even though it's technically a fast food
4 use under the D.C. zoning regulations given there's no
5 waiter service, and ultimately folks will bus their own
6 tables. Those are some of the items that classify it
7 as fast food here. It isn't, you know, your traditional
8 fast food like I mentioned. It's more of a fast casual
9 concept that we're familiar with now days, especially
10 in the DMV market. Next slide, please?

11 The relief we're requesting is simply to
12 establish a fast food use in the MU-4 zone. As I already
13 mentioned, we talked a little bit about the way that
14 this restaurant will operate. Just to be clear, no
15 drive-thru proposed. Interior seating will be provided
16 for up to 20 guests.

17 The restaurant will involve preparation,
18 consumption, dining and carryout, as I mentioned, rice
19 bowls, pita sandwiches, side items and deserts,
20 everything made to order on site. Next slide, please?

21 Turning to the special exception standards
22 that we're all familiar with, we don't believe that this
23 proposed Flavor Hive location will have significant
24 impacts on the community, our neighbors. Number one,
25 it's replacing a prior restaurant use that was there

1 for quite some time. We know restaurant and retail uses
2 are very common on this part of M Street in Georgetown.

3 All of the trash will be handled internally
4 up to the building, and the hours of operation are
5 similar to other restaurant uses on M Street and they're
6 listed here, 11:00 a.m. to 10:00 p.m. Monday through
7 Thursday, 11:00 a.m. to 2:00 a.m. Friday and Saturday,
8 and 11:00 a.m. to 8:00 p.m. on Sunday. Next slide,
9 please?

10 We also do have support, unanimous support
11 from the ANC, and the Office of Planning also recommends
12 approval of this special exception. And with that, I'll
13 conclude my presentation, and we are available for any
14 questions. Thank you.

15 VICE CHAIR BLAKE: Does the Board have any
16 questions for the applicant? Okay, we're going to move
17 to the Office of Planning.

18 MR. MITCHUM: Hi, this is Josh Mitchum with
19 the Office of Planning. We are in support of the
20 application and are available for any questions as well.
21 Thank you.

22 VICE CHAIR BLAKE: Does anyone have any
23 questions for the Office of Planning?

24 COMMISSIONER MILLER: I guess I had -- thank
25 you, Mr. Mitchum, for your report. I see that the trash

1 will be internal. Is that being recommended by OP as
2 a condition to the approval?

3 MR. MITCHUM: Not as a condition. It was just
4 simply the applicant responding to Subtitle U, 1513,
5 or 513, about the, basically complying with that
6 subtitle, but it's not a condition of approval. We just
7 note that they are doing that to comply with the
8 subtitle.

9 COMMISSIONER MILLER: Does the applicant have
10 any -- I don't know if it's appropriate for us to --
11 I can't remember if we've done this type of condition
12 before, but does the applicant have any problem with
13 that being a condition since that's what you're
14 representing? Okay, I think I'm seeing a nod yes from
15 --

16 MR. KELLOGG: That's correct, Commissioner.
17 We have an enclosed trash room in the space, and given
18 the concerns of the ANC, I'm highly sensitive to the
19 rodent traffic in the area, so we'll make sure we're
20 very good neighbors.

21 COMMISSIONER MILLER: Okay, thank you.

22 VICE CHAIR BLAKE: I do appreciate that
23 question, Vice Chairman. I think the question I'd like
24 to do though for the Office of Planning is I want you
25 to look at U 513.1(e)(4). The use shall be designed

1 and operated so as not to become objectionable to
2 neighboring properties because of noise, sound, odors,
3 lights, hours of operation, or other conditions.

4 Your report obviously said you're comfortable
5 with those things. Could you just elaborate a little
6 bit on the noise issues, why you think the sound is not
7 an issue, why the odors would not be a problem, why lights
8 and hours of operation would, as specified, would or
9 would not be?

10 To that point, our goal is to create
11 conditions, if necessary, that would address potential
12 adverse impacts on the neighboring properties, so just
13 -- I want to make sure we have captured that because
14 you're -- I want to make sure we capture that.

15 MR. MITCHUM: Sure, so I'll just start with
16 the proposed hours of operation. That didn't stick out
17 to us as being anything out of the ordinary to similar
18 businesses in the area. There are two days in which
19 it's open until 2:00 a.m., but we wanted to check and
20 see if that was consistent with other similar
21 restaurants in the area, and it is, so we didn't have
22 any -- we didn't think that would be an objectionable
23 hour of operation.

24 Furthermore, there is no alcohol being served.
25 Even the ANC brought that up, so that's something again

1 that could be a potentially objectionable use of the
2 property, but that's not the case with this one? I'm
3 sorry, what's that? And then furthermore, for the trash
4 collection, it would be served in the, or it would be
5 administered in the existing space internally.

6 And then also finally, they did not propose
7 any exterior or amplified music, so we didn't see that
8 as something that would be loud or them not being good
9 neighbors. And again, just everything with the
10 application is consistent with similar uses along that
11 corridor.

12 VICE CHAIR BLAKE: Okay, and you did not think
13 that any conditions would be necessary above what's
14 stipulated in this order?

15 MR. MITCHUM: No, not for this type of use.

16 As the applicant has alluded to, it's quite similar
17 and common along this corridor that we did not feel to
18 have any additional conditions.

19 VICE CHAIR BLAKE: Okay, thank you very much.

20 Does anyone else on the Board have any questions for
21 the Office of Planning or the applicant? Okay, is the
22 ANC with us? Is there anyone who wishes to speak from
23 the public?

24 MR. SAKINEJAD: We do not have anyone signed
25 up.

1 VICE CHAIR BLAKE: Okay, thank you. All
2 right, Mr. Williams, do you have any closing remarks?

3 MR. WILLIAMS: I do not. Thank you.

4 VICE CHAIR BLAKE: Okay, well, thank you very
5 much for your time. I appreciate it. We can dismiss
6 the witnesses. We're going to close the hearing and
7 begin our deliberations.

8 Okay, this application seeks special
9 exception approval for the establishment of a fast food
10 eating establishment in existing commercial space in
11 the MU-4 zone on M Street. The reality of it is, like
12 you said, it's a fast food restaurant because it fits
13 the definition of a fast food restaurant.

14 The proposal involves no exterior
15 construction or expansion, and continues a longstanding
16 restaurant use in a pedestrian-oriented commercial
17 corridor. The operation is modest in scale, with
18 approximately 20 indoor seats, no drive-thru, no
19 alcohol, and trash is handled internally, so I believe
20 the applicant has met the burden of proof to be granted
21 the requested relief.

22 I do agree with the Office of Planning's
23 analysis of how the applicant has met the conditions
24 of U 513.1(e), as well as the general standards of
25 Subtitle X. I agree with the findings that it should

1 not adversely affect or impact related traffic, parking,
2 noise, trash, or nearby residential properties as it's
3 primarily in a commercial zone.

4 I give great weight to the Office of Planning's
5 recommendation for approval. I also give weight to the
6 written report of ANC 2E, which is in support and states
7 no issues or concerns. I'll also note that DDOT has
8 no objection.

9 I will note that there is a letter of
10 opposition in the record, but the concerns raised in
11 this letter relate to alleged business history and the
12 character of an individual associated with the
13 operation, not site-specific zoning impacts, so under
14 Subtitle X, those issues fall outside of the Board's
15 jurisdiction and are not relevant to our decision. So,
16 having said that, I'll be voting in support of the
17 application. Vice Chair Miller, did you have anything
18 you wanted to add?

19 COMMISSIONER MILLER: Thank you, Mr.
20 Chairman. No, I agree entirely with your analysis,
21 including regarding the letter of opposition. There
22 is a Clean Hands Law in the District and that's another
23 agency's responsibility to review whatever issues might
24 exist with an applicant in terms of prior history.

25 So, I agree that the conditions have been met,

1 and the ANC's unanimous support, which is not always
2 given by that ANC. Sometimes when they even support,
3 they just say no objection. They're basically saying
4 they support unanimously, so it fits in with what's in
5 the neighborhood.

6 I'm trying to remember whether we ever did
7 a fast casual category in the zoning regulations. I
8 know we were considering it at some point because this
9 kind of is beyond or different from fast food, but
10 anyway, I support the application. Thank you.

11 VICE CHAIR BLAKE: Thank you. Board Member
12 Drakeford?

13 MEMBER DRAKEFORD: Yeah, I have no objections
14 to this particular matter. As indicated, the ANC is
15 in support, and it seems that this is really a
16 use-specific, definition-based concern or special
17 exception need.

18 VICE CHAIR BLAKE: All right, thank you very
19 much. Having deliberated this, I will make a motion
20 to approve Application Number 21394 as captioned and
21 read by the Secretary and ask for a second, Ms.
22 Drakeford?

23 MEMBER DRAKEFORD: I second.

24 VICE CHAIR BLAKE: Okay, the motion has been
25 made and seconded. Madam Secretary, would you please

1 conduct a roll call vote?

2 MS. MEHLERT: Please respond to the Chair's
3 motion to approve the application. Chairman Blake?

4 VICE CHAIR BLAKE: Yes.

5 MS. MEHLERT: Board Member Drakeford?

6 MEMBER DRAKEFORD: Yes.

7 MS. MEHLERT: Commissioner Miller?

8 COMMISSIONER MILLER: Yes.

9 MS. MEHLERT: Staff would record the vote as
10 three to zero to two to approve Application Number 21394
11 on the motion made by Chairman Blake and seconded by
12 Ms. Drakeford. You're on mute, Mr. Chair.

13 VICE CHAIR BLAKE: Okay, we have two or three
14 cases left, I think, correct?

15 MS. MEHLERT: Two cases.

16 VICE CHAIR BLAKE: You said two?

17 MS. MEHLERT: Yes.

18 VICE CHAIR BLAKE: Okay, Board Members, would
19 you like to continue with these two or would you like
20 to take a lunch break? It is 12:25.

21 COMMISSIONER MILLER: I'd like to continue
22 since I have lunch plans.

23 VICE CHAIR BLAKE: Okay, well, let's get right
24 to this then. All right, Madam Secretary, would you
25 please call the next application?

1 MS. MEHLERT: Yes, next is Application Number
2 21395 of BXP Project 11, LLC. This is a self-certified
3 application pursuant to Subtitle X, Section 901.2 for
4 a special exception under Subtitle C, Section 1506.1
5 from the penthouse setback requirements of Subtitle C,
6 Section 1504.1(d).

7 This is for a new canopy structure over a
8 portion of an outdoor terrace on the fifth floor of a
9 new 11-story building. It is located in the D-7 zone
10 at 725 12th Street NW, Square 319, Lot 864. And as a
11 preliminary matter, Brendan Beachler has been proffered
12 as an expert in architecture. He is not in the witness
13 book and his resume is in Exhibit 18-A.

14 VICE CHAIR BLAKE: All right, as a preliminary
15 matter, I have looked at his resume and I'm comfortable
16 accepting him into the witness book as an expert witness
17 in architecture. If the applicant is here, would you
18 please introduce yourself, and for the record, anyone
19 else who will be joining you today, and who will be
20 speaking?

21 MR. AVITABILE: Wonderful. Thank you, Chair
22 Blake. David Avitabile from Goulston & Storrs, land
23 use counsel on behalf of the applicant. I'm joined
24 today by my colleague, Lee Templin, as well as Sean
25 Sullivan on behalf of the applicant BXP, and Brendan

1 Beachler on behalf of the architect Dude Paine.

2 So that we're not getting in the way between
3 now and Mr. Miller's lunch plans, we're happy to do a
4 -- I could just do a brief summary rather than a full
5 presentation of the application since we're here with
6 support and the relief is relatively straightforward,
7 and then we can proceed to questions if that works for
8 you.

9 VICE CHAIR BLAKE: That works for me. Let's
10 do it.

11 MR. AVITABILE: All right, great. So, we're
12 here today for a minor but important area of relief
13 that's required to facilitate the development of a new
14 commercial office building. Briefly, the building's
15 been designed with a focus on two primary tenants, one
16 on the lower floors and one on the upper floors.

17 The design incorporates multiple open spaces
18 for these tenants, including a sizeable outdoor terrace
19 on the fifth floor. That is the primary open space for
20 the lower story tenant.

21 To create shade and privacy for the outdoor
22 space, the design team developed a canopy structure that
23 will sit above a portion of this outdoor terrace. It's
24 shown on the plans which were included in the
25 application. And it's been designed to be compatible

1 with the design vernacular of the building, with a curved
2 shape that slopes gently to a point at the edge of the
3 terrace.

4 As the Board knows, the zoning regulations
5 include setback requirements for penthouses and roof
6 structures. These regulations were developed
7 primarily with structures on the top floor of buildings
8 above the height limit to reduce their visibility from
9 the street below.

10 As strictly written, these regulations do
11 however also apply to roof structures on lower-story
12 terraces as well, and that's what's giving rise to our
13 request for special exception approval today. There's
14 a small portion of this canopy where it meets the
15 building that falls within the setback area. It's about
16 72 square feet that falls within the setback area.

17 We think the relief is warranted here under
18 Subtitle C, Section 1506.1 for a couple of reasons.
19 First, the relief results in a better design because
20 it allows the curve of this canopy to match the curves
21 of the building rather than forcing it to an abrupt
22 termination, and then second, we believe that applying
23 the setback requirement is unduly restrictive.

24 You know, as we noted in our application, we're
25 not occupying any more than the allowable area we'd be

1 allowed to occupy. We're actually leaving some area
2 on the table, so to speak, within what the setback area
3 would require elsewhere, so we're not gaining more cover
4 than we would be entitled to.

5 And furthermore, there is this weird
6 discordancy in the zoning regulations where if this were
7 a fully habitable and occupiable space part of the
8 building, story of the building, there would be no
9 setback requirement. We could be right out at the edge
10 of the building. It's only because this is a roof
11 structure that the regulations are technically
12 requiring a setback here, and so we think it's -- you
13 know, there's an unreasonableness to requiring a setback
14 here.

15 And finally, we think we meet the general
16 special exception requirements. The relief is in
17 harmony with the regulations, which again would allow
18 a fully enclosed structure here without a setback, and
19 would also allow for these sorts of canopies in roof
20 transition areas, height transition areas.

21 And finally, since this is really internal
22 to our property and not abutting any adjacent owner,
23 we don't believe it's affecting any properties
24 adversely, and I think that's also supported by the fact
25 that there's no opposition in the record. We're here

1 with support from OP, DDOT, and the ANC 2C. And we're
2 pleased to be here, and I'm happy to answer any
3 questions. Thank you.

4 VICE CHAIR BLAKE: Thank you very much. Does
5 my Board have any questions for the applicant?

6 COMMISSIONER MILLER: Thank you, Mr.
7 Avitabile, for that presentation. I think we have a
8 very strong argument in support of this special
9 exception relief here. Just out of curiosity, does that
10 penthouse, habitable penthouse space, trigger a housing
11 linkage contribution under the zoning regulations?

12 MR. AVITABILE: So, we have separately on the
13 actual roof of the building, the upper story roof of
14 the building, we do have a habitable penthouse space
15 that will trigger a linkage requirement. We're running
16 base calculations. I think we're looking at, you know,
17 hundreds of thousands of dollars for that upper-story
18 space.

19 Down here, this isn't habitable space. It's
20 truly just an outdoor canopy that's appurtenant to the
21 fifth floor of the building, so there's no habitable
22 space underneath this canopy, so that wouldn't trigger
23 a requirement. The requirement only gets triggered
24 when you have a roof, and walls, and it's, you know,
25 truly habitable, but the upper-story space is

1 triggering, you know, a significant contribution.

2 COMMISSIONER MILLER: Right, and that's not
3 really before us because that's permitted as a matter
4 of right.

5 MR. AVITABILE: Right.

6 COMMISSIONER MILLER: So, but I just thought
7 it would be helpful to me and the public to hear on the
8 record that a housing production trust fund contribution
9 will be made of hundreds of thousands of dollars in this
10 case.

11 MR. AVITABILE: Thank you.

12 VICE CHAIR BLAKE: Okay, any other questions?

13 MEMBER DRAKEFORD: I have no questions.

14 VICE CHAIR BLAKE: Okay, great, thank you.

15 We will move to the Office of Planning.

16 MR. JURKOVIC: Good afternoon, Board Members.

17 For the record, this is Michael Jurkovic, development
18 and review specialist with the Office of Planning. OP
19 recommends approval of the applicant's requested
20 penthouse relief and stands on the record of our report.

21 I'm here to help answer any questions. Thank you.

22 VICE CHAIR BLAKE: Does anyone have any
23 questions for the Office of Planning? Okay, does the
24 applicant have any questions for the Office of Planning?

25 MR. AVITABILE: No, we do not.

1 VICE CHAIR BLAKE: Is there anyone here from
2 the ANC? I do not believe so. Is there anyone from
3 the public that wishes to speak?

4 MR. SAKINEJAD: We do not have anyone signed
5 up.

6 (Pause.)

7 MR. SAKINEJAD: Sorry about that, guys. Sir,
8 we do not have anyone signed up to speak.

9 VICE CHAIR BLAKE: Okay, thank you, thank you.
10 Okay, let's see, Mr. Avitabile, do you have any other
11 closing remarks or anything?

12 MR. AVITABILE: Nothing else from us. Thank
13 you very much.

14 VICE CHAIR BLAKE: Okay, thank you very much.
15 We are going to close the hearing, and we can dismiss
16 the witnesses and we will begin our deliberations. You
17 can dismiss the witnesses.

18 Okay, this is a fairly straightforward
19 application. I'm in support of the application. I
20 believe it meets the burden of proof under Subtitle C,
21 Section 1506, as well as the general standards of
22 Subtitle X. It's a real good-looking building. I was
23 very impressed. I mean, the windows stand out as very
24 statuesque and kind of old school, but this thing they
25 put up there is really good-looking, so I think that

1 the canopy really is -- it's a good-looking building.

2 I would say the relief is fairly limited in
3 scope. It's only approximately 72 square feet along
4 one edge of the terrace, and the canopy is architectural
5 in nature. It's not enclosed, an enclosed wall, or even
6 an expansion of the building envelope. I'm looking at
7 the renderings again and it appears that the canopy will
8 barely be visible from the public street, and given its
9 design and placement, should not adversely affect light
10 and air.

11 I do agree with the Office of Planning's
12 conclusion that a strict application of the setback
13 would unnecessarily limit the usability and design of
14 the terrace, and that the proposed canopy represents
15 a better architectural outcome than a fully enclosed
16 structure would otherwise be built as a matter of right.

17 So, I give great weight to the Office of
18 Planning's recommendation for approval. I also give
19 great weight to the written report of ANC 2C which is
20 in support of the application and states no issues or
21 concerns.

22 I will also note that DDOT has no objection,
23 although their commentary really is not relevant to our
24 decision in this particular case. I'll be voting in
25 support of the application. Vice Chair Miller?

1 COMMISSIONER MILLER: Thank you, Mr.
2 Chairman. I agree with you.

3 VICE CHAIR BLAKE: That's it? Okay, Ms.
4 Drakeford?

5 MEMBER DRAKEFORD: Yes, I agree as well. I
6 believe as stated, it did -- I was really concerned about
7 the Height Act, and I think the intent is really looking
8 at facilities that are higher, or buildings that are
9 taller, excuse me, and so I certainly agree with the
10 comments by you, Chair, and then also by the D.C. Office
11 of Planning.

12 VICE CHAIR BLAKE: All right, thank you. All
13 right, then I am going to make a motion to approve the
14 application as captioned and read by the Secretary and
15 ask for a second, Ms. Drakeford?

16 MEMBER DRAKEFORD: I second.

17 VICE CHAIR BLAKE: Okay, the motion has been
18 made and seconded. Madam Secretary, would you please
19 conduct a roll call vote?

20 MS. MEHLERT: Please respond to the Chair's
21 motion to approve the application. Chairman Blake?

22 VICE CHAIR BLAKE: Yes.

23 MS. MEHLERT: Board Member Drakeford?

24 MEMBER DRAKEFORD: Yes.

25 MS. MEHLERT: Commissioner Miller?

1 COMMISSIONER MILLER: Yes.

2 MS. MEHLERT: Staff would record the vote as
3 three to zero to two to approve Application Number 21395
4 on the motion made by Chairman Blake and seconded by
5 Board Member Drakeford.

6 VICE CHAIR BLAKE: Thank you very much. I
7 guess, Vice Chair Miller, you can go to lunch, I guess,
8 huh?

9 COMMISSIONER MILLER: Thank you. I
10 appreciate that, and have a good day, and it was good
11 to --

12 VICE CHAIR BLAKE: All right, thank you very
13 much.

14 COMMISSIONER MILLER: -- participate with
15 you, Board Member Drakeford. Good to have you here.

16 MEMBER DRAKEFORD: Thank you.

17 COMMISSIONER MILLER: And my kudos to
18 Chairman Fred Hill as well. I'm sure we'll do something
19 special for him at some point, but I agree with all of
20 your comments. I second your comments about former
21 Chairman Fred Hill as well. Thank you. So, have a
22 great day.

23 VICE CHAIR BLAKE: Okay, let's see,
24 Commissioner Wright, you're there, all right. Okay,
25 so Madam Secretary, would you please call our last case

1 for today?

2 MS. MEHLERT: The last case is Application
3 Number 21360 of M & Potomac Streets Associates, as
4 amended. This is a self-certified application pursuant
5 to Subtitle X, Section 1002 for area variances from the
6 lot area requirements of Subtitle D, Section 202.1, the
7 lot occupancy requirements of Subtitle D, Section 210.1,
8 the rear yard requirements of Subtitle D, Section 207.1,
9 and the side yard requirements of Subtitle D, Section
10 1104.1. This is for a principal dwelling a new,
11 detached building with a two-story cellar. It's
12 located in the R-3/GT zone at Prospect Street NW, Square
13 1206, Lot 832.

14 This hearing began on October 29, and at the
15 November 19 decision meeting, the Board scheduled a
16 continued hearing on the amended application.
17 Participating in the original hearing were Chair Blake
18 and Commissioner Wright. Also, as a preliminary
19 matter, there was a party status request in opposition
20 from Sabrina Cassagnol that was submitted yesterday.

21 VICE CHAIR BLAKE: Okay, let me bring in the
22 applicant. Is the applicant here?

23 MR. KEARLEY: I'm here.

24 VICE CHAIR BLAKE: Okay, do you have anyone
25 else that's going to be presenting with you today?

1 MR. KEARLEY: The owner of the property --
2 I'm the architect and I actually have a contract to
3 purchase the property that is contingent on BZA
4 approval, so I am going to be the owner of the property
5 only if we get approval, and the current owner was going
6 to join the meeting. I don't know if he's here or not.

7 VICE CHAIR BLAKE: Okay, we'll let him in if
8 he comes.

9 MR. KEARLEY: Yes.

10 VICE CHAIR BLAKE: Let's now turn to the
11 preliminary matter before us, which is a party status
12 request from an abutting neighbor. I've reviewed the
13 request, and at this point, I think, yes, we have had
14 some changes in the requested relief. It's actually
15 what it was initially, four variances, and, but there
16 has been absolutely no change in the project itself.

17 I mean, the project remains the same pictured
18 dimensions. There's no design changes or anything like
19 that, so the project really has remained the same. It's
20 just the relief has shifted back and forth, and back
21 to where it started in the beginning. So, in that
22 regard, I think that this has been ongoing.

23 Now, we are going to take a little bit of an
24 approach to look at this a lot like with the new relief,
25 but I am going to -- I am of the mind to deny the party

1 status because it is untimely, and I would though be
2 very comfortable extending a few extra minutes for the
3 person requesting party status to speak in the public
4 session.

5 We typically do three minutes for public
6 testimony, but I would be comfortable extending that
7 a little bit longer, say five minutes or so, just because
8 the person is relatively close, next door, and I would
9 like to hear their input. If everyone is comfortable
10 with that, I'm going to by consensus move to deny party
11 status. I see a nodding of heads, but let's say verbally
12 yes or no. Are we good?

13

14 MEMBER DRAKEFORD: Yes, I'm in support.

15 VICE CHAIR BLAKE: Okay.

16 COMMISSIONER WRIGHT: Yes, I agree with you.

17 VICE CHAIR BLAKE: Okay, thank you very much.

18 So, we're going to deny support and we're going to move
19 on to this. Okay, now let's talk a little bit about
20 how we're going to set this presentation up. Mr.
21 Kearley, I'd like you to go through and give us your
22 presentation as it relates to the four variances and
23 the criteria for which the variance, you know, you are
24 requesting relief.

25 These are area variances, so practical

1 difficulty standing apprised. We're going to then have
2 the -- oh, excuse me, the party in opposition. Is the
3 party in opposition here? Yes, John, you're here?
4 Would you please -- are you able to come on?

5 MEMBER DRAKEFORD: Mr. Chair, if I could, I
6 did just want to note that I have reviewed the record.

7 I have reviewed both the hearing cases from October
8 29 and also the one in this, in November, excuse me.

9 VICE CHAIR BLAKE: Excellent, excellent,
10 that's great. There's a lot of material in there, so
11 thank you very much for having done that. I appreciate
12 you having read into the case. And welcome, Mister --
13 could you pronounce that so I can get it right? I can't
14 hear you. Try again. No, I can't hear you. Why don't
15 you log out and log back in again? We'll wait.

16 MR. KEARLEY: One thing from the Board, how
17 much information do you need from me as the applicant?

18 Do you want me to rehash everything? The project
19 hasn't changed. I can talk about the justification for
20 relief. That really hasn't changed, but I know this
21 -- I just want to hear from you what you want me to
22 communicate in terms of going from the two special
23 exceptions to they're now classified as variances.

24 VICE CHAIR BLAKE: I'd like you to make the
25 variance arguments, explaining your project and why you

1 believe you're meeting the criteria for approval, so
2 I want to go through the --

3 MR. KEARLEY: Sure.

4 VICE CHAIR BLAKE: -- elements of the variance
5 test. There will be some questions about the project.

6 Obviously, we have new Board Members who have read in,
7 but they are not as familiar with it as others, and it's
8 very helpful, and they may have additional questions
9 they want to ask.

10 So, to the extent that you could review as
11 much as possible in your presentation, I would
12 appreciate it. I just want to make sure the party in
13 opposition is back just so they don't miss anything.

14 (Simultaneous speaking.)

15 MR. KEARLEY: I will definitely wait for that,
16 but I just wanted some direction about how much
17 information you wanted from me because you had the
18 previous testimony. I'll talk specifically about the
19 two areas of relief that switched from the special
20 exception to the variance.

21 VICE CHAIR BLAKE: You should go through each
22 area just to make sure it's --

23 MR. KEARLEY: Okay.

24 VICE CHAIR BLAKE: And some questions are
25 going to come out for each thing, and I know that Board

1 Member Drakeford is, again, very knowledgeable in this
2 area, so we may have a great deal of questions, and I
3 know that Commissioner Wright is also very familiar with
4 the topic and she may well have some issues. You know,
5 we are in a position now where we need to be unanimous
6 in what we do, so we have to be very focused and, you
7 know, in our need to do this, so.

8 MR. KEARLEY: Sure, I appreciate that.

9 VICE CHAIR BLAKE: Because I want to try to
10 make sure we get everybody onboard.

11 MR. KEARLEY: Okay.

12 VICE CHAIR BLAKE: Okay, we're still waiting.
13 Have we had any luck yet? Mr. Sakinejad, do we have
14 -- oh, yes, there she is, okay, good. Okay, so as soon
15 as we get her back, we'll begin. I'll explain a little
16 bit more about the format and then we'll get started.

17 Ms. Perkowska, are you back?

18 (Pause.)

19 VICE CHAIR BLAKE: Ms. Perkowska, I see your
20 name there, but I don't see your face and you're muted.

21 Are you there?

22 (No audible response.)

23 MR. KEARLEY: Just one comment. Peter
24 Mallios is waiting to be let in or be able to -- he's
25 the current owner if you need to let him in.

1 VICE CHAIR BLAKE: Excellent.

2 MR. KEARLEY: But anyway, he's here and ready.
3 I don't know if he needs to say anything, but he's here
4 if he needs to answer any questions. There he is.

5 MS. MEHLERT: Mr. Mallios hasn't signed up
6 to testify, so he would need to be given the oath if
7 he wants to provide testimony.

8 MR. MALLIOS: I don't need to testify. I'm
9 just here as the owner.

10 VICE CHAIR BLAKE: Madam Secretary, would you
11 go ahead and issue him an oath? I'm pretty sure he may
12 have something to say.

13 MS. MEHLERT: Mr. Mallios, please raise your
14 right hand. Do you swear or affirm that the testimony
15 that you will give today is the truth?

16 MR. MALLIOS: I do.

17 MS. MEHLERT: Thank you.

18 VICE CHAIR BLAKE: Thank you. Ms. Perkowska,
19 are you able to hear us and speak now? You're on mute,
20 Ms. Perkowska. Just see if you can speak. Can you hear
21 us?

22 (No audible response.)

23 VICE CHAIR BLAKE: You're on mute right now.
24 You're on mute.

25 (Pause.)

1 VICE CHAIR BLAKE: Ms. Perkowska, you are
2 still on mute. Can you hear us? If you can hear us,
3 put your thumb up or say I can hear you.

4 (Pause.)

5 VICE CHAIR BLAKE: Mr. Sakinejad, maybe we
6 could have her call in on the hotline instead? Let's
7 see. Ms. Perkowska, if you can't hear us, can you call
8 in on the hotline so we can put you on the telephone?

9 Okay, Mr. Sakinejad, can you figure it out? See what's
10 going on with that and see if you can help us get her
11 --

12 MR. SAKINEJAD: Yes, sure thing.

13 VICE CHAIR BLAKE: -- on the line.

14 MR. SAKINEJAD: I'm having Rob call her.

15 VICE CHAIR BLAKE: Okay.

16 MR. SAKINEJAD: So, we'll see if we can get
17 it squared away.

18 VICE CHAIR BLAKE: All right, we'll wait.
19 Give us a couple of minutes. Thank you.

20 MR. KEARLEY: One thing I think might be
21 helpful as I start talking is can we bring the
22 presentation up? Could you bring that up, or I have
23 it, I can, if I share, but it would just be helpful --

24 VICE CHAIR BLAKE: No, you can't share, but
25 we --

1 MR. SAKINEJAD: -- when I'm talking about
2 setback and things.

3 VICE CHAIR BLAKE: We'll happily bring it up
4 for you. That's not a problem.

5 MR. SAKINEJAD: Okay.

6 VICE CHAIR BLAKE: You can ask when you want
7 to share a screen, okay?

8 MR. SAKINEJAD: Okay, no problem. I just
9 think it would be helpful to --

10 VICE CHAIR BLAKE: We'll get it ready.

11 (Simultaneous speaking.)

12 VICE CHAIR BLAKE: We'll get it teed up, okay.

13 (Pause.)

14 MS. MEHLERT: Do you know what exhibit you
15 wanted to use for your presentation? I don't believe
16 we received an updated PowerPoint or anything.

17 MR. KEARLEY: Yeah, it wasn't updated because
18 there were no changes, so it's the plans and elevations.
19 It was the same --

20 MS. MEHLERT: Yeah, we just need the exhibit
21 number so it's easy to find. I believe it's Exhibit
22 10 in the record?

23 MR. KEARLEY: I'm not looking at the record,
24 so it, I believe it was labeled plans and elevations.

25 If you bring it up, I can confirm.

1 MS. MEHLERT: I think it is Exhibit 10.

2 MR. KEARLEY: Thank you.

3 (Pause.)

4 VICE CHAIR BLAKE: Okay, everybody, let's do
5 this. We -- she is still trying to log in on that.

6 We're going to have her just call in on the telephone.

7 I hate to do this, but let's just take a five-minute
8 break because I don't want to sit here and keep looking
9 at the screen and doing nothing, so let's just take a
10 five-minute break so we can move around freely, and then
11 we'll come right back.

12 (Whereupon, the above-entitled matter went
13 off the record at 12:56 p.m. and resumed at 1:04 p.m.)

14 VICE CHAIR BLAKE: Ms. Perkowska? Ms.
15 Perkowska, can you hear us? Can you hear us this time?

16 Okay, unmute your microphone and -- unmute your
17 microphone, please. Could you unmute your microphone
18 and introduce yourself? Can you unmute your microphone
19 and introduce yourself?

20 Okay, what we're going to have to do is this.

21 I'm going to need you to call in on the hotline. I
22 don't know what you're saying. I need you to call in
23 on the hotline and conduct it that way, but what we're
24 going to do is we're going to try to get you connected
25 and situated where we can hear you.

1 So, what we're going to do is we're going to
2 take a 30-minute break for lunch, and the staff is going
3 to work with you to try to get you back online so we
4 can have this hearing. Because it's very inconvenient
5 not to have it with you as part of it, so I want -- you
6 need to be in here, and I see you're having technical
7 difficulties now.

8 So, you're going to have to call in on the
9 telephone, and we're going to arrange it, and we're going
10 to start the hearing. It is 1:05 now. We're going to
11 restart this hearing promptly at 1:30, and I need you
12 to be on the telephone if you can't make the --

13 (Whereupon, the above-entitled matter went
14 off the record at 1:05 p.m. and resumed at 1:33 p.m.)

15 MS. MEHLERT: The Board is back from its break
16 and returning to Application Number 21360 of M & Potomac
17 Street Associates and its hearing session. I believe
18 Ms. Perkowska's Webex is now working if you want to say
19 something, Ms. Perkowska.

20 MS. PERKOWSKA: Yes, thank you.

21 VICE CHAIR BLAKE: Yes, could you introduce
22 yourself for the record?

23 MS. PERKOWSKA: My name is Joanna Perkowska.
24 I'm an opposing party.

25 VICE CHAIR BLAKE: Great, thank you. So, you

1 are there, excellent. Okay, now let's begin.

2 MS. PERKOWSKA: Oh, sure.

3 VICE CHAIR BLAKE: Let's see, what we're going
4 to do is the applicant is going to review his
5 presentation, focusing on the four variances and the
6 relief requested. He's going to revisit his original
7 slide show to aid in the presentation. You can ask
8 questions, Ms. Perkowska, of the applicant. We will
9 also ask questions.

10 You will then be able to present your
11 commentary, almost like the original hearing, but an
12 abbreviated version, I would say, with regard to the
13 criteria that we're talking about for the variance
14 relief.

15 We will hear from the Office of Planning and
16 any other parties that may be interested in the public
17 speaking. I believe we should have at least one, and
18 then we will proceed with comments and closing remarks.

19 So, with that, Mr. Kearley, if you want to go ahead
20 and begin your presentation? You have 15 minutes or
21 so --

22 MR. KEARLEY: Okay, thank you.

23 VICE CHAIR BLAKE: -- on the clock, and you
24 can begin whenever you like.

25 MR. KEARLEY: Okay, could we bring up the

1 presentation, the plans and elevation? Thank you.
2 Next slide? Next slide? So, this is the property in
3 question. It's the view from Prospect Street that
4 you're looking at. It's the vacant property and the
5 context around the property.

6 So, we are asking for relief from lot area
7 which is a 64-percent deviation, lot occupancy which
8 is a 30 percent deviation, rear yard setback, 8'2 1/4
9 inch deviation in the west side yard deviation. So,
10 the relief we're seeking, I believe, this property by
11 -- the nature of this property, I think, meets the
12 definition of a unique property that this causes a
13 hardship to the owner.

14 And the property itself is 1,437 square feet
15 in land, and in order to do anything on this property,
16 you really need deviations and relief from lot occupancy
17 and lot area, and those are two of the four variances.

18 The other two are for the side yard setback, right,
19 and the rear yard setback.

20 Now, the side yard setback as we're looking
21 at the photos, we're really only asking for relief
22 because we're trying to maintain the access from the
23 neighbors to what would be the west. You can see there's
24 a walkway, and so we want to continue a four-foot walkway
25 for the neighbors, so the properties on 33rd Street would

1 have the same access that they have now.

2 So, we're asking for relief from that, but
3 we could have gone to the property line, but we would
4 have made their access difficult, and this is how
5 everyone gets trash into the proper, you know, from the
6 back yards and rear yards, and gives access to the rear
7 of the property.

8 We're also creating an easement on the
9 property to what would be the east, and that allows for
10 the Eton Condos behind us to maintain their access from
11 Prospect Street, which was a big deal for the residents
12 of the Eton Condos in the rear to maintain that. So,
13 if we had gone to the property line, which we had a matter
14 of right to, we would have closed off their access from
15 Prospect Street.

16 So, the other relief we're asking for is lot
17 occupancy and lot area, and with a 1,400 square foot
18 property, you can't do a house on the property without
19 having some relief for lot occupancy and lot area. So,
20 even though the deviation's at 64 percent for lot area
21 and lot occupancy at 30 percent, it's consistent with
22 the neighboring properties.

23 So, this property was always intended to be
24 a single-family home, and it's been difficult to
25 navigate this process, but we have OGB approval. They

1 approved concept design and they communicated that this
2 really is the best and only use for this particular
3 property, which would be a single-family home.

4 So, we believe that even though we're asking
5 for the variances, the variances will not affect
6 adversely the use of the neighboring properties. The
7 light and air will not be diminished and unduly effected.

8 We actually have a proposed height of 22 feet, which
9 is 13 feet less than what is allowed in this zone
10 district.

11 So, if you go to the next slide, you can see
12 the scale of this property in relationship to the
13 neighboring property. We're actually bringing it down
14 to much lower than what is allowed in this zone district
15 so that we work with the context of the neighboring
16 properties and don't adversely affect the neighboring
17 properties.

18 So, we don't think we're compromising the
19 privacy and enjoyment of the neighboring properties.

20 The light and air is not being unduly affected. So,
21 in conclusion, I feel that the applicant meets the
22 requirements for variances' relief by the Board and I'm
23 happy to answer any questions.

24 A couple of just quick things, on the sides,
25 we minimized the windows so we don't encroach in terms

1 of privacy in looking directly into the neighboring
2 properties. Those side yards, I think, are key because
3 we're trying to maintain and being a good neighbor by
4 maintaining the four-foot path to the west and the
5 easement for the Eton Condos to the east.

6 So, I believe that we're proposing a very
7 modest single-family home that has been concept approved
8 by OGB, and it fits into the context of the neighboring
9 properties without adversely affecting those
10 properties. I'm happy to answer any questions from the
11 Board or anyone else.

12 VICE CHAIR BLAKE: Okay, I have a quick
13 question for you. So, as I heard your descriptions,
14 I did see -- it does very much sound to me that -- I
15 need to have the comparison though for the exceptional
16 condition. I didn't really see -- I want you to kind
17 of give me a little bit more on the exceptional
18 condition. Is it just the size of the lot? Is it the
19 width? Could you just tell me a little bit just to get
20 a better sense of that?

21 I just, I don't -- I'm looking at -- and I
22 love and appreciate seeing the, you know, again,
23 watching these videos again, but just can you help me
24 get a little better sense of what about that lot?
25 Because I saw some things that didn't -- I want to gather

1 how -- yeah, go ahead.

2 MR. KEARLEY: Okay, so the lot is 1,437 square
3 feet, and even though it's a small lot, it's consistent
4 with the neighboring lots. I did a study of the 22
5 closest properties to this particular lot and those
6 properties average 1,380 square feet. So, even though
7 this property is 1,437, which is small, it's actually
8 larger than the average lot in 22 of the closest
9 properties, but these properties all have 80-percent
10 lot occupancy, right?

11 The lot occupancy is consistent with the lot
12 occupancies and the lot area of the neighboring
13 properties. When you're talking about lot area, you're
14 talking about the required 4,000 square feet in this
15 zone district.

16 We're at 1,437, but the average lot area is,
17 what did I have, it's 1,380. So, the deviation that
18 we're asking for in terms of the lot area is 64 percent,
19 really stemming from the unique condition of all of the
20 lots in the area that are noncomplying with the 4,000
21 square feet. The average is 1,380. We're at 1,437.

22 So, the difficulty of designing a house with
23 -- well, you can't design a house without getting relief
24 from lot area, so that's very unique to this property,
25 but unique to all of the properties in the area, that

1 none of them meet the 4,000 square foot threshold.

2 VICE CHAIR BLAKE: Interesting, unique to the
3 area is not unique, because what you are saying is that
4 there are several houses in the area that have this same
5 general problem, right, or this --

6 MR. KEARLEY: Yes.

7 VICE CHAIR BLAKE: -- same condition, so that
8 same condition spread across other properties is not
9 unique. It becomes what's spread around in -- it
10 becomes a neighborhood issue, so is any other thing that
11 might further differentiate this lot that makes it
12 unique?

13 MR. KEARLEY: Well, how it falls down to the
14 rear too makes it very unique because it falls off
15 dramatically to the rear. You can see in the section
16 of this that you walk out from the cellar to the rear,
17 so you have a very -- the topography of the site drops
18 off dramatically, so that makes it very, I think, this
19 property unique.

20 I think maybe the language I wasn't using right
21 or correct. I think it's consistent with the
22 neighboring properties in terms of lot area, but those
23 neighboring properties as a whole would be considered
24 unique to a zone district that now requires 4,000 square
25 feet, so it's a matter of semantics, so, but --

1 VICE CHAIR BLAKE: So, let's go back --
2 (Simultaneous speaking.)

3 MR. KEARLEY: But I understand what you're
4 saying.

5 VICE CHAIR BLAKE: But when you look at the,
6 in this case, the topography, you're saying that it
7 slopes down tremendously in the back. Do the other
8 properties adjacent to this property have that
9 characteristic as well --

10 MR. KEARLEY: No.

11 VICE CHAIR BLAKE: -- or is it this property
12 --

13 (Simultaneous speaking.)

14 MR. KEARLEY: This is unique to this property.
15 Most of the other properties are relatively flat.
16 We're talking a couple of feet moving back one way or
17 another. This drops off dramatically in the rear.

18 VICE CHAIR BLAKE: Okay, and what --

19 MR. KEARLEY: And that was --

20 VICE CHAIR BLAKE: When it drops off in the
21 rear, what happens? It kind of, it goes back and then
22 it just -- what happens right there at the back? Is
23 there just like a retaining wall?

24 MR. KEARLEY: Okay, can you go to the section
25 in that -- can you go back to the -- that will probably

1 explain it better in that, the same set that we had.

2 Okay, so if you -- I think this is -- go back one.

3 Okay, the other way, I apologize. So, here is it in
4 plan. You can see how it -- the dashed lines are the
5 topo and how it's falling down, so, but there's a section
6 in there that maybe describes it better.

7 VICE CHAIR BLAKE: Okay, now when I'm looking
8 at the -- oh, go back to that slide that we just had,
9 that had the, okay, the lines on it, okay. So, the
10 property ends exactly where on this? Where is the
11 property -- the property line is that jagged line?

12 MR. KEARLEY: Do you see the sawtooth at the
13 rear where it says --

14 VICE CHAIR BLAKE: Right, right.

15 MR. KEARLEY: -- 22.5, 9.5, and that?

16 VICE CHAIR BLAKE: Okay.

17 MR. KEARLEY: That's the rear of the property.

18 There's a retaining wall where it says plus one, and
19 then the property starts. It goes down to 9'5 in the
20 rear there, from there, so it drops off significantly
21 at the rear and there's a retaining wall right there
22 where it's that 1.0. And do you see the steps going
23 down?

24 VICE CHAIR BLAKE: Right.

25 MR. KEARLEY: So, on the left where you come

1 down and you see the steps going down, that's on our
2 property, and it comes down significantly there, and
3 then that's where the folks from Eton access their units
4 and that's what we're trying to maintain.

5 VICE CHAIR BLAKE: And what exactly is in that
6 section right behind the property line? What exactly
7 is right there where that line, the jagged --

8 (Simultaneous speaking.)

9 MR. KEARLEY: You mean the neighboring
10 property, in Eton Court?

11 VICE CHAIR BLAKE: You talked about the
12 sawtooth. I'm trying to figure out how that -- how did
13 that become that way?

14 MR. KEARLEY: Go back to the photos. I think
15 there's a photo that best describes that. Go back
16 again, back. Okay, so here is it in the rear, right?
17 No, go -- the top right -- no, you had it on that page.

18 VICE CHAIR BLAKE: Top right.

19 MR. KEARLEY: Right there, you can see the
20 steps coming down?

21 VICE CHAIR BLAKE: Mm-hmm.

22 MR. KEARLEY: That's on the property in
23 question, on this property. So, you go down and then
24 you're into a courtyard at the Eton Court Condos. So,
25 those steps are on this property, and so you can see

1 how it falls down and then you enter --

2 The bottom step basically is the property
3 line, but you can see, and then it is their property,
4 which is basically an open court at the rear of their
5 units, but you can see how dramatically it steps down.
6 You can just look at those steps.

7 VICE CHAIR BLAKE: So, are those trees on
8 Eton's property or is it on your property, those trees?

9 MR. KEARLEY: Well, hopefully to be my
10 property, they would be on my property --

11 VICE CHAIR BLAKE: Okay, so --

12 MR. KEARLEY: -- in the rear yard.

13 VICE CHAIR BLAKE: Okay, in the rear yard of
14 your property with the fence in front of it? That's
15 your property?

16 MR. KEARLEY: Yeah, which will have privacy
17 to the rear yard of the Eton Court Condos. There will
18 be a fence there.

19 VICE CHAIR BLAKE: Okay, great. Thank you
20 very much. That's helpful.

21 MR. KEARLEY: Okay.

22 VICE CHAIR BLAKE: Do you know how this design
23 came about with the staircase going down there? Was
24 that just something that happened over time or did it
25 happen --

1 MR. KEARLEY: I think Pete could probably
2 answer that better. He's the current owner and he knows
3 the history of this quite well, but when they subdivided
4 and created the Eton Court Condos, they actually
5 subdivided this to be a single-family home development
6 as part of that, and that never happened.

7 And so, they have this leftover property that
8 is the property we're talking about right now, the 1,437
9 that is accessed from Prospect Street, but I don't really
10 know the history of that except that it was intended
11 to be a single-family home, and I think -- Pete, are
12 you there? Can you fill in the blanks on that?

13 (No audible response.)

14 MR. KEARLEY: Maybe he's not there.

15 COMMISSIONER WRIGHT: He's under attendees.
16 He's not pulled up as one of the speakers.

17 MR. KEARLEY: Okay.

18 VICE CHAIR BLAKE: We can add him that's not
19 an issue. He's already been -- yeah, there you go.

20 MR. KEARLEY: So, if you can, I guess,
21 elaborate on that, Pete, on how this property came to
22 be and that strange sort of saw tooth at the back.

23 MR. MALLIOS: Hi, sure. When the condominium
24 was built, this was, as Greg said, intended to be a
25 single family house. It didn't fit. The condo

1 couldn't go up that small a width property, so it just
2 made more sense to do that.

3 To make a long story short, obviously we've
4 never built a house on it and so here we are. To answer
5 your question, when the condominium was finished, the
6 then developer, who is my partner, created the walkway
7 and the stairway and there was a license agreement at
8 the time which allowed the condo to use the lot, travel
9 over the lot, landscape the lot, which is why an easement
10 hadn't been created. The intent was always to have an
11 easement when the time came when they built the house,
12 but again, that never happened.

13 So, while the walkway has been there for 45
14 years, it's always been under the license agreement.

15 VICE CHAIR BLAKE: Okay.

16 MR. MALLIOS: As Greg said, all the dirt is
17 the lot. All the paved area is the condo except for
18 the stairs are part of the lot. The trees are on the
19 lot.

20 MR. KEARLEY: And I've agreed to create an
21 easement and I'm happy to have that in the record for
22 the BZA, but that's every intention is I want to be able
23 to be a good neighbor to the Eton Court folks too in
24 that they would maintain access from Prospect Street,
25 which was a big deal for the residents there.

1 VICE CHAIR BLAKE: Okay, who was the developer
2 of these condominiums?

3 MR. MALLIOS: His name was Robert Wilpey, M
4 & Potomac Street Associates was the entity which still
5 owns five condos in the condominium and I'm still a
6 member of M & Potomac, but Robert Wilpey was his name.
7 He's still alive, he's just retired.

8 VICE CHAIR BLAKE: Okay, okay. Thank you,
9 that's very helpful. Does anyone else have a question?
10 Yes, please go ahead, Commissioner.

11 COMMISSIONER WRIGHT: Thank you. A couple
12 of questions. First, on the west side there is a walkway
13 that allows the properties facing the street to the west
14 access to their back fence and where, I guess, they bring
15 their trash cans. That is not on this lot, is that
16 correct?

17 MR. KEARLEY: Some of it is, and that's why
18 we're asking for a deviation because if you go to the
19 site plan --

20 COMMISSIONER WRIGHT: Yes, could we go back
21 to that?

22 MR. KEARLEY: Which is part of that drawing,
23 we're moving off the property line by nine inches.
24 They're nine inches onto that, so the next slide, I
25 believe --

1 COMMISSIONER WRIGHT: Well, actually, I think
2 this is -- no, if you could go back to the slide we were
3 just looking at.

4 MR. KEARLEY: Okay.

5 COMMISSIONER WRIGHT: The upper middle --
6 (Simultaneous speaking.)

7 MR. KEARLEY: So, the property line
8 encroaches on that pathway by nine inches. You can
9 either go to the property line, but if you have a side
10 yard, it has to be at least five feet. We're pulling
11 it off nine feet so that --

12 COMMISSIONER WRIGHT: Not many inches --

13 MR. KEARLEY: So, we're asking for a 4.25
14 deviation from the five-foot side, so we would maintain
15 the full width of that pathway so they can navigate up
16 and down that to bring out trash and to get access to
17 their rear yards.

18 COMMISSIONER WRIGHT: I understand. Why is
19 it impossible to pull back the five feet as required
20 and not need a variance from that?

21 MR. KEARLEY: Well, I think it would
22 compromise the house. On the other side, we're pulling
23 back significantly to keep the pathway for the condo
24 to have access, so if you did that --

25 (Simultaneous speaking.)

1 COMMISSIONER WRIGHT: Right, you're
2 maintaining --

3 MR. KEARLEY: On both sides, the house is so
4 small to begin with that we start encroaching into what
5 would be a practical size for the house.

6 COMMISSIONER WRIGHT: So, that's another
7 question. What is the total square footage of all three
8 levels of the house?

9 MR. MALLIOS: I'm going to pull that up.

10 MEMBER DRAKEFORD: And then, Commissioner
11 Wright, if I may also add onto your question. I'm also
12 curious about the actual dimensions of the lot itself.

13 MR. KEARLEY: Of the lot? You can see the
14 lot if you go to the first floor plan, go to the next
15 slide, next. Okay, there are the dimensions of the lot
16 42 feet wide at the front and then 34 on one side, 22
17 and then you see the saw tooth. Those are the actual
18 dimensions of the lot.

19 MEMBER DRAKEFORD: Thank you.

20 COMMISSIONER WRIGHT: So, the square footage
21 --

22 (Simultaneous speaking.)

23 MR. KEARLEY: And I'm going to get there right
24 now for you. Just bear with me for one second and I'll
25 have that. So, on the upper two floors, we're at

1 approximately 1,680 and then you have the cellar which
2 is not viewed from the street, which is about another
3 840.

4 COMMISSIONER WRIGHT: So, it's about 2,400
5 or 2,500 square feet ballpark.

6 MR. KEARLEY: In the ballpark, yes.

7 COMMISSIONER WRIGHT: Right, so honestly I
8 will just tell you, I think the variance on lot size
9 going down from 4,000 to what's there 1,473 feet is
10 reasonable because it is actually impossible to make
11 the lot bigger and it's not dissimilar from the size
12 of other lots in the immediate area. However, the
13 percentage of lot coverage, I think, is -- I don't know
14 that you've made your case that you could not achieve
15 a realistic house without reducing the lot coverage.

16 Now, you might not be able to get to the, I
17 think -- is it 40 percent, which is what's required in
18 the code, but you could probably if you did 50 percent,
19 you would still have about somewhere in the ballpark
20 of 700 square feet per floor and if you did three floors,
21 you could still get a house about 2,000 square feet,
22 which in Georgetown is not an unrealistic square footage
23 for a house. That would also allow you to not need a
24 reduction of the side yards. You wouldn't need to do
25 a variance for that because you would pulling the west

1 side back at least to meet the five-foot setback
2 requirement.

3 I do have some concerns, honestly, in the rear
4 yard because what is not clear from some of your photo
5 montages that you've done, which are also in your
6 presentation, is that with the walkout area for your
7 ground floor. All of those trees that currently exist
8 between your lot, they're on the back of your lot and
9 that are shielding the condominium complex, all of those
10 trees will be removed. There's no possibility that you
11 would be able to retain them. Given the kind of walkout
12 with a terrace that you are proposing.

13 However, if you did a smaller footprint and
14 a smaller building, you probably could have a very small
15 area to access the basement and get some light, but not
16 a full terrace and still retain some of the trees. You'd
17 have to have a retaining wall and so on, but you probably
18 could actually retain the trees. I guess my point is
19 that with a different design, you could eliminate the
20 need for at least two of your variance requests or --
21 again, I'm thinking rear yard and side yard. I'm not
22 sure about rear yard, I have to say I'm not positive
23 about that, but you could reduce the number of variance
24 requests and, I think, honestly still end up with a
25 livable house.

1 My concern is that you've gotten sort of wedded
2 to a specific design that could be changed to not need
3 some of the variances that you are requesting. That
4 is my concern. I don't know that I'm convinced that
5 this is the only possible design to end up creating a
6 livable, marketable house in this location. I'm
7 interested in hearing your response to those concerns.

8 MR. KEARLEY: I would agree that it's not the
9 only solution. We worked very long and hard with OGB,
10 which really is the sort of design conscience of
11 Georgetown. I went through, I think, five iterations
12 with OGB to come up with this. In terms of the side
13 yard setback, the way that -- they're very prescriptive.

14 I don't know if you've ever been to OGB or been to some
15 of their hearings, but sort of the scale and the rhythm
16 of the fenestration and the windows. I mean we went
17 through, I believe, it was five iterations for the design
18 from one hearing and we finally landed on this, so would
19 they approve something else? It's possible, but that
20 was sort of the first step in the hurdle and how they
21 wanted the windows, the rhythm of the windows and the
22 fenestration, it fit best with the particular width that
23 we're looking at.

24 We could have gotten rid of the side yard
25 variance if we had just gone nine more inches to the

1 property line and that would have eliminated one of the
2 four variances. We would have reduced by 25 percent
3 the number of variances, but we thought it was important
4 to try to maintain that path for the neighboring
5 properties and not reduce the width of that path.
6 Something would be viable, I would assume, if we
7 redesign, but it would be going back to OGB and going
8 through that process, but I went through that process
9 with them and the scale, the height, the width, they're
10 looking at the proportions of the house from the height
11 to the width to the depth and how all that works. We
12 actually originally had the front door at the front of
13 the building. We moved it to the side based on comments
14 from OGB so we could not have steps encroaching into
15 the public space, that was a nonstarter.

16 We spent quite a bit of time getting the
17 proportions of this house right in terms of the size
18 of the house and the scale of the house in relationship
19 to the neighboring properties. When you're looking at
20 it, you're just not looking at the facade, you're looking
21 at it three dimensionally, so the depth and the width
22 and the height and how all those things work together
23 was subject to input, very prescriptive input from OGB
24 and we landed on this. I think it's a very modest house,
25 especially in today's world. I don't disagree with you

1 that could you have done something different on the side
2 yard and that, sure. I can communicate that if we take
3 out trees, we'll plant trees.

4 We would do nothing that isn't a matter of
5 right in terms of replacing trees and doing that. We'd
6 have to get a permit for that, but I would welcome doing
7 what we can to maintain those trees, but I landed on
8 this design with six months of going back and forth with
9 OGB and it wasn't easy. It effectively kills the
10 project for me if this doesn't happen because I've been
11 doing this for two years and -- well, first of all, the
12 contingency for the purchasing of the property is void
13 if we don't get a hearing, so it's going through a whole
14 'nother process and I know that that's not your problem,
15 it's my problem. Zoning has to go with what Zoning is,
16 but the first thing we went to was OGB because that is
17 -- they're again very prescriptive in what they want
18 and we worked very long and hard with OGB to land on
19 this and to get the proportions of the house right.

20 If it's not as wide, the proportions of the
21 height of the house in relationship to the width of the
22 house at the street front changes completely. If you
23 change that five feet, it's a very squat, squarish house
24 as opposed to a rectangular house volume. It's very
25 difficult to get those things right and I feel that we

1 landed on a very modest house that the proportions of
2 the house and scale of the house really work with the
3 fabric of the neighborhood.

4 COMMISSIONER WRIGHT: I have to say I -- my
5 training is in architecture. I think you're a very
6 skillful architect. I think you've done a very nice
7 design and that definitely was my perception from the
8 get go, you know, in this particular case is that you've
9 done a very nice design. The problem is that we're
10 charged with maintaining the zoning code and the
11 required setbacks and all of those kinds of things.
12 As we've just discussed, you're requesting variances
13 because of a particular design that you're trying to
14 implement. It's a very nice design and it has been
15 approved by the Old Georgetown Board, in a preliminary
16 way, but I think the issue with the variance is that
17 there needs to essentially be a variance because there's
18 no other thing you can do. There's no other
19 alternative. That's why I sort of support the variance
20 of the lot size because again there's no way you can
21 acquire more land and get up to a 4,000 square foot lot.
22 That's really very unrealistic and if that was the only
23 variance that you were looking for, I think you would
24 have a very good case, especially because the lot that's
25 there is about the same size as other lots in the

1 neighborhood, but the side yard setback variance and
2 the rear yard setback variance and the lot coverage are
3 all things that you are requesting because of a specific
4 design.

5 I'm not suggesting you build a little -- I
6 mean we see accessory dwelling units that are a 450
7 square foot footprint and two stories. I'm not
8 suggesting that that's what you would need to build,
9 but I'm just saying that you could build something of
10 a different design that would not require all the
11 variances that you've requested. That is where I'm
12 having a problem.

13 It's hard for me because I really like your
14 proposal. I mean I really --

15 MR. KEARLEY: But I think this would be a
16 practical difficulty of reducing it to that scope
17 because if you're looking at 700 square feet of floor
18 to get to the 50 percent threshold which still needs
19 a variance, right, because you have a 40 percent lot
20 occupancy. You're looking at 600 square feet on the
21 inside the walls because you have the eight plus inches
22 of thickness for the walls and you have insulation and
23 you have everything else, so you're looking a very small
24 house that the practical difficulty of you can do it.

25 I mean there are tiny houses, you see those, right,

1 but would that be a better fit for Georgetown? I would
2 argue no.

3 (Simultaneous speaking.)

4 COMMISSIONER WRIGHT: Well, I don't know --

5 MR. KEARLEY: That the proportions of this
6 and the scale of this are consistent with the
7 neighborhood we're actually only at 22 feet, so that
8 saying we could go three stories up at 700 feet per floor
9 and still stay within the 35 foot height limitation,
10 right, but have the 2,100 square feet consistent with
11 all three. We could actually go 2,800 square feet
12 because you'd have the cellar and that would not need
13 a variance for height, but would it be a better project?

14 No. I think a smaller house would not be a better
15 project for this and now, you've got the merits of the
16 zoning, I think the property is unique and creates a
17 hardship for the owner of the property based on the size
18 of the property, the topography of the property, just
19 how it meets today's standard of 4,000 square feet.
20 It's very unique in that way, especially with the change
21 in elevation. I don't think you get a better house if
22 you change the proportions, but that's for you guys to
23 decide. But anyway, if that happens, I doubt you'll
24 see me again for this one because it effectively kills
25 my contract with the owner to do this. I can't go

1 through this another two years.

2 COMMISSIONER WRIGHT: Right. I mean I --
3 that literally makes me very sad, because I really do
4 think --

5 MR. KEARLEY: You haven't voted yet.

6 COMMISSIONER WRIGHT: You are -- well, that's
7 true, we haven't voted yet. I want to just reiterate
8 I think you're a very skillful architect. I think it's
9 a really good design, but our job is not the same job
10 as the Old Georgetown Board. Our job is looking at the
11 zoning and again, with a variance, I just feel like it
12 needs to be -- you get a variance if there's no other
13 solution.

14 MR. KEARLEY: Well, if you shifted it over
15 nine inches and got rid of the side yard variance. By
16 shifting over the whole -- not changing a thing, shifting
17 it over and encroaching on the neighbors' paths, those
18 rear yard paths by nine inches --

19 (Simultaneous speaking.)

20 COMMISSIONER WRIGHT: No, I would rather see
21 you actually pull back five feet rather than shifting
22 over, but --

23 MR. KEARLEY: But if it's just on the merits
24 of zoning, we could have done that --

25 COMMISSIONER WRIGHT: Yes.

1 MR. KEARLEY: Without asking for relief and
2 so --

3 COMMISSIONER WRIGHT: That's true.

4 MR. KEARLEY: It seems like we're being
5 penalized for trying to be a good neighborhood and
6 pulling it in nine inches and saying let's maintain the
7 four feet that they've always had. Because if you --
8 even nine inches and it goes down to three foot three,
9 it's very difficult to wheel one of the bins for trash
10 down there.

11 COMMISSIONER WRIGHT: Oh, yeah, that's very
12 narrow.

13 MR. KEARLEY: And to do that --

14 COMMISSIONER WRIGHT: Yeah, that's very
15 narrow. Okay, well, I've sort of, you know, made my
16 point and, you know, we'll see what the other members
17 of the BZA think.

18 MR. KEARLEY: I appreciate your comments.
19 Thank you.

20 VICE CHAIR BLAKE: Very interesting
21 discussion. Board Member Drakeford, do you have any
22 questions?

23 MEMBER DRAKEFORD: I do have a question for
24 the applicant. It's a series. So, one, I just want
25 to make sure I'm clear on it, what is the current width

1 of the pathway and then what is the proposed width of
2 the easement?

3 MR. KEARLEY: The current width of the pathway
4 is -- let me -- I'm going to measure it right now on
5 my computer so I'm one hundred percent sure, three feet
6 two and one-half inches.

7 MEMBER DRAKEFORD: Okay.

8 MR. KEARLEY: Three-foot three plus or minus,
9 I could be off half an inch, right, because when you
10 go and field measure things it's not always. Then,
11 we're giving the nine inches which would then allow for
12 that -- the current pathway is four feet.

13 MEMBER DRAKEFORD: Okay.

14 MR. KEARLEY: But if we had encroached on it
15 those nine inches, it would have been down to three-foot
16 three, so that's why we're asking for the deviation and
17 relief from the side yard setback because I didn't want
18 to shift it all the over to the property line because
19 we would have been taking nine inches away from that
20 rear yard access that the neighbors currently have.

21 MEMBER DRAKEFORD: Okay, thank you and then
22 it was also indicated that, I believe by Mr. Mallios,
23 please forgive me if I pronounce your name incorrectly,
24 that there's not a current easement on site for Eton
25 condo members to access, but it's a licensing, is that

1 what he indicated? It was a licensing agreement or
2 licensing --

3 MR. MALLIOS: Yes, that's correct. There's
4 a license agreement allowing the use of a walk way.

5 MEMBER DRAKEFORD: Okay.

6 MR. KEARLEY: But I wouldn't be subject to
7 the licensing agreement but I have agreed to create an
8 easement so it's actually registered and recorded with
9 D.C., that there would be an easement and you can see
10 that if you go to the last page of that presentation.

11 I don't know if we can pull that up one more time.
12 Okay, so you see that there, right? You see that the
13 pathway is still being shown which would allow the
14 access. You can see someone right there walking right
15 to it, but that is that pathway to the east, which
16 allows for continued access from the Eton Court condo
17 owners to access the property from Prospect Street.

18 MEMBER DRAKEFORD: Okay. Also, I just wanted
19 to verify or confirm, would this be the only property
20 that's actually fronting Prospect where the front of
21 the building or the front of the structure is facing
22 Prospect Street?

23 MR. KEARLEY: Well, I guess you'd call it the
24 front. The front door is on the side.

25 MEMBER DRAKEFORD: Okay.

1 MR. KEARLEY: But when you're looking at
2 Prospect Street, if you go back to the second page.
3 Sorry, I think it's the next one, the one with the images.

4 No, I think you missed it. No, keeping going back.

5 Right there. Across the street, you can see a building
6 that's very similar in terms of the widest part follows
7 the street instead of the narrowest, right? Most
8 townhomes you have -- let's say it's 20 x 40 instead
9 of 30 x 20, right? It's consistent with that view across
10 the street in terms of the long side faces the street.

11 Since you have the corner buildings on either side of
12 me, that is similar, right, because you have the long
13 side on Prospect Street as opposed to if you're looking
14 across the street, down the street you have more of that
15 traditional rhythm of townhomes, which in Georgetown
16 could be as narrow as 15 feet, right? They're not very
17 wide, but this is somewhat -- I'm going to use the term
18 unique again, that you see the long side on a number
19 of these townhomes. One, because there are corner units
20 right there and two, because the building directly
21 across the street is very similar in nature, which was
22 picked up, I'm sure, by OGB.

23 MEMBER DRAKEFORD: Okay. The last question,
24 Chair Blake, this might be for staff, is it possible
25 I just want to make sure I'm understanding and I'm clear

1 about the process and then also the difference between
2 tax lots in the city, property lots and the process then
3 to transition from a tax lot to a property lot.

4 MR. KEARLEY: Was that to me or -- we would
5 have to do a subdivision plat to go from a tax lot to
6 a record lot. It's pretty standard if we had Zoning
7 approval. I don't think they've ever been denied, maybe
8 they have. Never is a bad -- rarely, but you would do
9 a subdivision plat for the surveyor to record the lot
10 and to change it from a tax lot to a record lot. That
11 would be done as part of the permitting process in terms
12 of the permit office would not approve the permit unless
13 it was changed to a record lot.

14 MEMBER DRAKEFORD: And then I guess the
15 question for record lots, do record lots need to have
16 a structure proposed on it in order to be classified
17 for the record or can it just go through subdivision
18 itself?

19 MR. KEARLEY: I'm not sure, can you say that
20 one more time? I'm not sure I understood that fully.

21 MEMBER DRAKEFORD: Oh yes -- don't worry about
22 it. It's fine. Thank you.

23 MR. KEARLEY: Okay.

24 VICE CHAIR BLAKE: Okay, well, in any case
25 this lot will need variances in order to meet the

1 dimensional requirements to become a record lot. So,
2 we essentially are working that right now to actually
3 get it to the point where it can become a record lot.

4 Let's see, are there any other questions that we have
5 from the Board?

6 Okay, now I'm going to do something -- does
7 the party in opposition have any questions for the
8 applicant?

9 MS. PERKOWSKA: One question, answer yes or
10 no. Zoning law does not guarantee development to
11 preferred size or build. Yes or no?

12 MR. KEARLEY: I don't know how to answer.
13 I can't answer that yes or no. I didn't understand the
14 question.

15 COMMISSIONER WRIGHT: Could you repeat the
16 question? I didn't quite hear it.

17 MS. PERKOWSKA: Zoning law does not guarantee
18 development to preferred size or yield. Applicant is
19 pursuing this application based on the particular
20 development project and Commissioner Wright was very
21 detailed trying to explain that this is not the only
22 way to approach this lot. So, zoning law does not
23 guarantee development to a preferred size or yield.

24 MR. KEARLEY: You can --

25 (Simultaneous speaking.)

1 MS. PERKOWSKA: The answer to this question
2 is --

3 MR. KEARLEY: That can be a statement, I don't
4 know to respond to that. I know when you go to BZA you
5 have to apply with a specific project hypothetical and
6 they'll take it on the merits of the project, but it's
7 built into the zoning regulations that there can be
8 relief granted if the Board of Zoning deems that the
9 relief requested is justified.

10 VICE CHAIR BLAKE: Okay, thank you. That
11 pretty much answered it. You said it's a yes/no
12 question, he gave you more than a yes or no. Okay, so
13 the next thing I'd like to do is move on to the Office
14 of Planning. Mr. Bradford, could you just come in?
15 I want to get your take on the updated plans and so forth
16 and your variance analysis. Thank you.

17 MR. BRADFORD: Sure. Good afternoon,
18 Chairman Blake, members of the Board. For the record,
19 this is Philip Bradford, Development Review Specialist
20 with the Office of Planning.

21 The Office of Planning is recommending
22 approval of the requested area relief for lot
23 dimensions, lot occupancy, rear yard, inside yard
24 requirements. Based on OP's analysis, the applicant
25 meets the variance test and has an exceptional situation

1 and a practical difficulty unique to the property
2 relating to the size and shape of the lot that would
3 essentially make the property undevelopable without
4 some type of zoning variance.

5 In addition to the fact that it's a tax lot,
6 the special exception criteria is not applicable because
7 it's written to only be applicable to record lots,
8 therefore they can't apply for that. Could you please
9 mute yourself, Ms. Perkowska?

10 There would be no detriment to the public good
11 as the applicant has designed an appropriately designed
12 building that suits the character of the block and also
13 meets the intent of the R-3 and R-3/GT zones as it is
14 a detached house that preserves the quiet residential
15 character of the area.

16 That concludes my testimony. Thank you. I'm
17 available for any questions.

18 VICE CHAIR BLAKE: I have a question for you.
19 Again, I want to go back to the uniqueness of this lot.
20 You said it's unique because of its size, yet the
21 applicant has said that it's not unique in size, it's
22 actually right in the middle.

23 MR. BRADFORD: While the size is relatively
24 similar to some of the other lots, what is unique about
25 the size and shape together is taken as a whole, is that

1 there is no other lot within the square that has a depth
2 as shallow as this lot. That is what is unique in terms
3 of when you take into consideration the rear yard and
4 then throw in the side yard setbacks, you're
5 increasingly working with an unusually shaped footprint
6 of the house.

7 We're trying to get a dwelling that is suitable
8 for somebody to actually use and live their life there
9 and it almost pushes you into an impractical layout for
10 another. It's either too wide, too shallow. With this
11 type of lot, you don't really win. The rest of them
12 within the square are all shaped rectangular for road
13 dwellings. This lot is unlike any other within the
14 square so with the size and shape taken together is what
15 OP really believes is the practical difficulty here.

16 It's not just the square footage. It's the square
17 footage combined with the shape and taking into
18 consideration that it is not a record lot, which also
19 pushes them to get a variance. By choice, there's no
20 other option because they can't qualify for special
21 exception relief given that it is the tax lot.

22 All of those factors combined, I feel like
23 that is the rationale that led us to support the
24 variances in this case when it was revised to go from
25 a special exception to all variance, given the tax lot

1 situation.

2 VICE CHAIR BLAKE: Thank you. Now, these are
3 several areas of relief and the applicant said it is
4 possible to design something that would require less
5 relief. What's your take on that? Ideally, the Board
6 likes to do things different, less rather than more
7 relief. The lesser standard stuff. The special
8 exception probably would be better. If we move one
9 variance that applies.

10 The issue here is, is this an unbuildable lot
11 or can it be something made that would function on it
12 that would be reasonable? I want to get your thoughts
13 on that.

14 MR. BRADFORD: It's definitely buildable;
15 however, I question whether you'd wind up with a house
16 that somebody truly would want to live in. It's not
17 just the square footage, it's the staircase taking up
18 part of the area; the clearances for the doors to be
19 able to open; the dishwashers, refrigerators, furniture
20 itself to be able to walk around it and not feel like
21 you're in a cramped layout. When I was reviewing the
22 floor plans, you start to think about okay, if they were
23 take it in five feet here or meet the rear yard, it would
24 have been beneficial to see a by-right just for talking
25 purposes in the plan set; however, that wasn't provided,

1 but one can infer what that would look like and that's
2 not a house that I think anybody would want to live in.

3 VICE CHAIR BLAKE: All right, thank you. Are
4 there any other questions from the Board or the Office
5 of Planning? Any questions from the party in opposition
6 for the Office of Planning? Okay. Oh, you do have a
7 question, okay go ahead.

8 MS. PERKOWSKA: Yes, one question. So, is
9 Office of Planning comfortable finding that four
10 substantial variances together do not substitute for
11 rezoning?

12 MR. BRADFORD: I don't think that this would
13 be appropriate for rezoning, especially given that yes,
14 they did need to get relief for the lot occupancy or
15 side yards and the lot size itself. However, I don't
16 believe there is another zone that would facilitate a
17 by-right development of this lot or that would be
18 appropriate for the site. I mean an R-3/GT is generally
19 the type of zone for this site. So, that is what it
20 should remain under and work within the confines of that
21 zone.

22 MS. PERKOWSKA: I have a follow up question
23 because nowhere in your report there is an analysis of
24 cumulative effect of stacking four variances. There
25 are conclusions but for this part, have to rely on

1 evidence in the record and has to find on each prong
2 of the test. Unfortunately, that is not presented
3 either by applicant or by Office of Planning, so
4 conclusions are not substantive evidence.

5 VICE CHAIR BLAKE: That's good and I
6 appreciate that input. Thank you. All right are there
7 any other questions that we have? Great. Thank you
8 very much, Mr. Bradford. Ms. Perkowska, I'm actually
9 going to give you an opportunity to add any comments
10 that you might have at this point as part of your
11 presentation. Then, we're going to have the applicant
12 finish with the last word. So, if you want to move
13 forward in a modest time frame that would be fantastic.

14 MS. PERKOWSKA: I have a presentation and I
15 will be as brief as is required. Chair and members of
16 the Board, before I begin, for the record, I incorporated
17 by reference all evidence, exhibits, sworn testimony,
18 hearing transcript and prior Board decisions while
19 writing the record, denying the variance relief for this
20 same parcel, including those identified in my opposition
21 filing, Exhibit 48. Nothing in my remarks now waives
22 that record.

23 This is an area variance case and the legal
24 frame work is simple, the applicant needs to prove each
25 prong. Failure on any one prong requires denial. I

1 will focus on what the record does not contain because
2 the Board may grant relief only on substantial evidence,
3 not assumption, conclusions or sentiment.

4 First, there is no extraordinary or
5 exceptional condition. The applicant and Office of
6 Planning pointed to the small size, irregular shape,
7 slope and its creation as a tax lot through voluntary
8 subdivision. None of these are extraordinary. Small
9 and irregular parcels are common through Georgetown.

10 Many Georgetown lots have the same slope or grade
11 change, that doesn't make this property exceptional.

12 At most, the slope makes construction a little more
13 complicated, more expensive, but it does not prevent
14 a small conforming structure or another lawful, by-right
15 use. Therefore, it does not justify four variances.

16 OP expressly confirmed that this parcel was
17 created through voluntary subdivision. Subdivision
18 created conditions are self-created and run with the
19 land and they cannot support variance relief. A
20 conclusion consistent with the Board's prior denial of
21 this same parcel, Order 14854. If the Board finds an
22 extraordinary condition here, it must explain how a
23 common, self-created condition somehow becomes
24 exceptional. That explanation is not in the record.

25 Second, there is no peculiar or exceptional

1 practical difficulty. For a lot this far below minimum
2 standards seeking four variances, I will repeat, four
3 variances, the lot requires something close to extreme
4 situations. Essentially, inability to put the lot to
5 any conforming use and that is completely absent. The
6 previous evidence comes from the applicant itself. In
7 their email to the neighbors, the applicant stated in
8 his own words, that surface parking is allowed by-right
9 in this zone and requires no variances. That statement
10 is recorded in Exhibits 28 and 35.

11 The applicant also included a drawing
12 specifically that there was a choice to use this lot
13 without variances. That is an admission that the
14 property can lawfully and conformingly be used without
15 any variances. The applicant may prefer a large
16 detached house, but variance law does not require the
17 Board to eliminate four standards so an owner can upgrade
18 from a conforming use to a more profitable one.
19 Practical difficulty is not about whether an owner gets
20 the project they want. They wish to have a house, but
21 they do not carry the burden. Yes, Zoning prefers
22 residential use and the Board may consider difficulty
23 in building a house there, but that is not what has been
24 shown here. The applicant has not shown that a smaller,
25 conforming house is impossible. In his own testimony

1 today, he confirmed it is possible, but his plans and
2 the record shows instead that the applicant prefers a
3 much larger house and if he doesn't get it, he is willing
4 to pursue a different by-right use. This is a choice,
5 not a hardship and once the record shows choice rather
6 than necessity, this prong of the test is not satisfied.

7 Third, substantial detriment and zone plan
8 impairment are un rebutted. The opposition evidence
9 fully incorporated by reference is site specific detail
10 and un rebutted. The record contains multiple written
11 letters documenting impacts to light, air, privacy,
12 access and safety; universal ANC opposition to this
13 project, Exhibit 27; and universal opposition from all
14 adjoining owners. Not a single property owner supports
15 this application.

16 The applicant's shadow materials are
17 unexplained and not accurate and they were fully
18 contested by parcel-specific evidence already in the
19 record including sworn testimony. Unexplained,
20 misleading diagrams cannot outweigh sworn site-specific
21 evidence. If the Board grants the relief, it must
22 explain why this un rebutted evidence is rejected.

23 Why OP report cannot carry the burden? First,
24 OP never shows that this lot cannot be used under design,
25 only that the applicant cannot build the house they

1 want and that is not a legal test. Second, OP admits
2 this tax lot was created by voluntary subdivision so,
3 OP admits that this lot was created by voluntary
4 subdivision, but then treats the consequences of that
5 choice as hardship, even though self-created conditions
6 cannot justify variance. Third, OP repeatedly relies
7 on special exception logic even though the Board has
8 already ruled that path is closed. Using special
9 exception reasoning to prove an area variance is legal
10 error.

11 Let me just make a short, crisp argument about
12 OGB. Concept approval is not zoning evidence. OGB
13 does not apply zoning law or variance standards.
14 Opposition evidence demonstrates that applicant OGB
15 filing omitted materials and omitted material facts
16 related to zoning opposition and included inaccurate
17 statements, including this letter written by President
18 Peter Mallios, Exhibit 28, written without their
19 authorization, yet submitted to the Board.

20 Eton Condominium Association, in Exhibit 20,
21 specifies that Mr. Mallios has no authorization to
22 communicate wishes of Eton Condominium to any
23 administrative body and definitely don't present it as
24 full support of condominium, because there is none.

25 Modifying law record point, the applicant has admitted

1 that their earlier sworn testimony misstated the legal
2 basis for the relief, that is in his Exhibit 42. It
3 goes directly to credibility and integrity and requires
4 explicit findings about what testimony were credits and
5 what it does not.

6 About the walkway, the current physical
7 walkway is approximately nine feet and five inches not
8 what the applicant stated on the record. A picture and
9 accurate description is in Exhibits 28 and 35. Also,
10 the renderings by the applicant are inaccurate. There
11 is a lot that Ms. Cassagnol will be speaking to that
12 and she will make her case because the submitted
13 materials by this applicant misstate, omit, distort in
14 order to get a preferred development project. Zoning
15 law does not support that.

16 Conclusion. This record incorporated in full
17 does not support affirmative finding on any prong of
18 the variances. If the Board nonetheless considered the
19 relief, it must do with specific reason and findings
20 addressing the applicant's burden, self-created
21 conditions. Academic association, the owner of this
22 lot, owned a big parcel and decided to carve out
23 irregular shape, unbuildable tax lot. He now comes back
24 to Zoning and asks for major four variances because there
25 is a lucrative project that they are pursuing.

1 VICE CHAIR BLAKE: Are you --
2 (Simultaneous speaking.)

3 MS. PERKOWSKA: The self-created conditions,
4 the prior denial of nearly identical relief for the same
5 parcel and the same owner, that's what the Board needs
6 to analyze. The absence of the conforming use we
7 already know there is conforming use available and
8 un rebutted opposition evidence. Thank you so much for
9 your time.

10 VICE CHAIR BLAKE: Thank you very much for
11 your testimony. Does anyone from the Board have any
12 questions for the party in opposition? Yes, go ahead,
13 Commissioner.

14 COMMISSIONER WRIGHT: This is actually not
15 for the party in opposition, but it brings up -- she
16 brought up a topic that I'd like the Office of Planning
17 to address, which is there was an earlier case for an
18 application on this property that was requesting a
19 series of variances. The Board of Zoning Appeals, or
20 Zoning Adjustment, did deny that a number of years ago.
21 I just wanted to ask the Office of Planning, did you
22 look at that case and did you do any analysis of it in
23 conjunction with the analysis of the current case?

24 MR. BRADFORD: I believe we touched on this
25 in the last hearing. Given that it's a different code

1 and the regulations may not be the same since it was
2 30 or 40 years ago, some aspects of it are not necessarily
3 directly relevant today. However, I did take a look
4 at it and unfortunately, I don't know if it's due to
5 its age or whatever records or retention laws the
6 District has for old cases, I can't really get a complete
7 picture of what was said in that hearing. I don't
8 believe the OP report, I was able to read the full thing
9 in terms of what they're like today. So, I don't really
10 have a clear understanding of even what was proposed.

11 I don't see plans. I don't see even a site plan or
12 renderings, elevations of the house, etc., so for me,
13 it seemed really difficult to incorporate that into my
14 thinking when I don't have a clear picture of what was
15 presented to the Board, what the regulations may have
16 been at the time and so on and so forth.

17 I did take a look, but it wasn't super helpful
18 to my review given that it felt like the record for it
19 was a bit incomplete.

20 COMMISSIONER WRIGHT: Okay, thank you very
21 much for that information.

22 VICE CHAIR BLAKE: Board Member Drakeford,
23 do you have any questions?

24 MEMBER DRAKEFORD: No, I don't have any
25 questions.

1 VICE CHAIR BLAKE: Okay, thank you. Let's
2 see, we're going to take testimony from the public at
3 this point.

4 MR. SAKINEJAD: We have a single person signed
5 up to speak. It is the person that was requesting
6 party status.

7 VICE CHAIR BLAKE: Excellent, thank you.
8 Please admit her. How are you doing?

9 MS. CASSAGNOL: Hello.

10 VICE CHAIR BLAKE: If you could just give us
11 your name and address and introduce yourself for the
12 record.

13 MS. CASSAGNOL: Hi, my name is Sabrina
14 Cassagnol and I own the property at 3260 Prospect Street
15 as well as a little narrow strip of lot that borders
16 the walkway to Eton Court.

17 VICE CHAIR BLAKE: Okay. As I said earlier
18 in your request for party status, I'd be happy to give
19 you a few extra minutes to present your input. We're
20 going to put five minutes on the clock to start and
21 that'll give us a sense of where we are. I would
22 appreciate it if we could have your commentary -- if
23 you could maintain within the relevant legal elements,
24 I would greatly appreciate that. If you'd put five
25 minutes on the clock and you can begin your presentation.

1 MS. CASSAGNOL: Thank you. I'll be brief,
2 I'm not as well versed in legalese as everyone else,
3 so I'll be using more of, I guess, more casual language.

4 Basically, what I wanted to present is the
5 fact that the project would substantially diminish the
6 light, air and privacy of my property as well as that
7 to the west of the proposed lot. The sun study that
8 was submitted doesn't include elevation drawings. It
9 doesn't include any two-point perspectives and,
10 therefore, it does not show the reduction in sunlight
11 to the neighboring properties, especially mine. They
12 would certainly be significant.

13 The plans also don't reflect the narrow strip
14 of property that I own that's adjacent to the passageway
15 access to Eton Court. That walkway has been in use for
16 40 years. It's currently very well lit. It's nine feet
17 seven inches wide and, as Joanna pointed out, there is
18 an exhibit that was submitted with a photo of that
19 walkway with measuring tape. That measurement does not
20 appear anywhere in the plans and the proposal is to
21 reduce that to a width of five feet. That passageway
22 is used by movers, emergency vehicles, delivery vehicles
23 and residents continuously throughout the day and, I
24 believe it's the most heavily trafficked entrance to
25 Eton Court as there is no other entrance with this sort

1 of access. This reduced width would render the walkway
2 less usable and less safe for all of the Eton Court
3 residents.

4 My last comment is about the Office of Planning
5 recommendation for approval, which doesn't include a
6 rationale or reasonable basis for ignoring ANC 2E's
7 unanimous opposition to the project and the 11 letters
8 of opposition from the neighbors. At the ANC 2E
9 meeting, the commissioners at that meeting actually said
10 that they had never seen such unanimous opposition to
11 a project presented at a meeting. It also fails to
12 acknowledge the various misrepresentations that have
13 been made during the process including the falsified
14 letter of support from Eton Court that Joanna mentioned.

15 That letter of support has been rescinded under
16 pressure from the residents and many of the opposition
17 letters are indeed from the residents of Eton Court.

18 I, therefore, respectfully ask the Board to deny the
19 requested variances.

20 VICE CHAIR BLAKE: Thank you very much, if
21 that concludes your remarks. Thank you very much.

22 MS. CASSAGNOL: Thank you.

23 VICE CHAIR BLAKE: Do we have any questions
24 for the witness from the Board? Okay, from the
25 applicant? Okay, any questions from the party in

1 opposition?

2 MR. KEARLEY: I just have one comment. I can
3 make it at the end if you'd rather --

4 (Simultaneous speaking.)

5 VICE CHAIR BLAKE: Yes, you're up next.

6 MR. KEARLEY: Okay, I'll just wait and do it
7 then.

8 VICE CHAIR BLAKE: You can do it in closing
9 remarks.

10 MR. KEARLEY: Okay, thank you.

11 VICE CHAIR BLAKE: So, if there are no other
12 questions, we are going to then go to the applicant for:
13 a) your rebuttal; and, b) your closing remarks.

14 MR. KEARLEY: All right, thank you. Can you
15 bring up the drawings one last time? I just want to
16 make sure that everyone understands. First of all, I've
17 presented to the Board dozens of times over the years
18 and I found it insulting that there were comments that
19 my integrity was not where it needed to be and I was
20 making false drawings and communicating things that were
21 not true. I have never done that in dozens of cases
22 to the Board and people need to be very careful when
23 they say that I'm making misleading statements or doing
24 drawings that are misleading. Everything is 100
25 percent accurate. If there's a mistake, I'll own up

1 to that, but it was very insulting that I'm being accused
2 of making false statements and making drawings that are
3 false and misleading. That was very disturbing.

4 I've tried to do this the right way and I know
5 the neighbors are opposed. It's not inconsistent with
6 neighbors on any case. They seem to be opposed, but
7 I just want to put that in the record. I've never made
8 a false statement to BZA in dozens of hearings that I've
9 been in.

10 All right, can we go to the site plan? Go
11 to the next one, I think there's the proposed, that might
12 be better. If you can zoom in a little bit. I just
13 listened and heard that I never documented that side
14 yard properly. It is right there. You can see the
15 property line, that sliver of a property, which is part
16 of the neighbor on Prospect Street, very clear. Then,
17 the five-yard proposed side yard setback is solely on
18 our property. There is no question that we're meeting
19 that. If people walk down here, if they walk solely
20 on my -- it's not my property, I see it slipping away
21 right now, but they would have three feet four inches
22 to walk and unless the neighbor to the east put a fence
23 here, they would have about five feet four inches to
24 walk. This is a three-foot door that you have to get
25 into it and it's a three-foot gate right now. If that

1 path is wider than three feet, which it is on my property,
2 anything they can get in that gate which is only three
3 feet wide, can fit down that passageway.

4 Then, the four feet was on the property on
5 the west, which I was accused of lying about too, because
6 they said I didn't document, but everything is
7 documented in the drawings. Again, incredibly
8 insulting that my integrity was questioned and I was
9 accused of lying. That is -- anyway, it's just very
10 disturbing because my reputation as an architect, I do
11 this for a living is based on stamping drawings and doing
12 things the right way. Enough of that.

13 When I'm looking at this, you have to present
14 a project. Obviously, there are other ways to do this
15 and is the only way? I think this is the most practical
16 way to do this project. Working with OGB, working with
17 Zoning, you look at this rear yard and how that saw tooth
18 in, how do you come in and deal with things of that
19 nature? Where the house comes to is right where that
20 old retaining wall is, which leaves that as a flat area
21 here and then you step out. So, the practical
22 difficulty of moving the earth and the cost would, in
23 my mind, be prohibitive.

24 The only reason we're asking for the fourth
25 piece of relief is because I'm trying to be a good

1 neighbor and you can see there's nine inches we're
2 pulling it back. Could've gone right to that and made
3 that walkway very difficult to traverse for the
4 neighboring properties, but we made a decision to do
5 that at nine inches. I hope that justifies the relief
6 for this, but the property is clearly unique in its size,
7 in its topography, in the depth of the property compared
8 to other townhomes and row homes in the area and I think
9 that the relief is so modest we're asking for.

10 Even though it's four variances, the four
11 variances are a product of the uniqueness of the
12 property. We're not going to get away from lot
13 occupancy and we're not going to get away with lot area.

14 I could get rid of the side yard setback variance, but
15 then I would either have to change the proportions of
16 the building, which would be detrimental to the building
17 and not work with the design, or we move it over to the
18 property line, which creates a difficulty for the
19 neighboring properties, which I don't want to do. I
20 think we meet all the standards for the variance. The
21 sun study was 100 percent accurate. I think people are
22 used to having a vacant lot, I understand neighbors
23 saying, God, we love that vacant lot, but it's not a
24 park. It's not public space. It's a private piece of
25 property and it should be viewed that way. The only

1 use for this, practical use, is a house. I did not send
2 out those drawings for the parking garage. I think the
3 current owner of that did it, but first of all, OGB and
4 Historic would never approve a parking lot here, so
5 that's just out of the question. It's a matter of right
6 by zoning, but it doesn't matter because it would never
7 be approved by Historic and by OGB. It would be
8 horrendous to have a parking lot here, to see a bunch
9 of cars parked on here.

10 I believe we have a very modest property that
11 has reacted to the uniqueness and the constraints of
12 the property and that we are asking for relief that is
13 very particular to this site and trying to design the
14 best house possible for this particular site in terms
15 of proportions and scale and all these things. Can you
16 do a different house? Sure. We'll let someone try if
17 that's the case, but I think we need to think about this
18 project on the merits of our request for relief, which
19 I think we've clearly outlined and communicated why we
20 should be granted the relief. I think OP has been clear
21 that we're consistent with the fabric of the
22 neighborhood and the overall objective of OP in terms
23 of developing in this area.

24 I appreciate your time. I know this is never
25 fun for you guys to make these decisions, but I sort

1 of stand on the merits of the application and the
2 reasoning behind this and I do not believe we're creating
3 an adverse condition to any of the neighbors. I think
4 we're enhancing the neighborhood. I think we're
5 allowing for Eton Court to continue use of access from
6 Prospect Street. We're allowing the neighbors on 33rd
7 Street to still have their rear yard access and so, it's
8 a free standing house. I don't see how we're
9 interrupting air. The sun studies clearly show that
10 we're not adversely adding shade and shadow to
11 properties.

12 Anyway, I feel very strongly that we've
13 created the right project for this property. I guess
14 I'll stand on that, but just one last time, incredibly
15 insulting to be told I lied about anything --

16 (Simultaneous speaking.)

17 VICE CHAIR BLAKE: Thank you, Mr. Kearley.
18 I understand.

19 MR. KEARLEY: Or that I misrepresented
20 anything. That is not the case.

21 VICE CHAIR BLAKE: I can appreciate your
22 concern. Thank you very much for your testimony as
23 well. I'm going to look to my Board for a second. Is
24 there any additional information -- yes, Mrs. -- yes?

25 MS. PERKOWSKA: I would like the final word

1 if I may.

2 VICE CHAIR BLAKE: You can't have the final
3 word, the applicant has the final word. Okay? We're
4 going to close the hearing at this point. Your
5 statement was well understood. Unless the Board would
6 rather hear it from Ms. Perkowska, we can do that. I
7 think we're fine. If you have any other statements that
8 you want to put into the record, you can do that. Okay?

9 MS. PERKOWSKA: Just common sense.

10 VICE CHAIR BLAKE: Give me a second. Do you
11 want to give me a second? Give me a second. I want
12 to talk to the Board for a second, all right? Does
13 anyone else on the Board have any additional information
14 that they need from the applicant to help them with this
15 decision? Again, as there are three of us, we must be
16 unanimous in our decisions, so is there any additional
17 information that anyone else on the Board needs? No?

18 MEMBER DRAKEFORD: No, there's no additional
19 information.

20 VICE CHAIR BLAKE: Okay, all right. I'm
21 going to do this, is there some comment that you wanted
22 to make, Ms. Perkowska?

23 MS. PERKOWSKA: Yes, quickly to the applicant
24 because he presented like he said extensively in OGB.

25 He had, during the whole process, never notified the

1 neighboring owners. There was no notice --

2 (Simultaneous speaking.)

3 VICE CHAIR BLAKE: Ms. Perkowska, that's --

4 MS. PERKOWSKA: I just wanted to say that the
5 renderings were incorrect and that statement --

6 VICE CHAIR BLAKE: We just go off the
7 evidence. I appreciate --

8 MS. PERKOWSKA: Up there on Prospect that he
9 has full support of adjoining owners and full support
10 of Eton Court, that is incorrect. So, just wanted to
11 --

12 VICE CHAIR BLAKE: All right --

13 MS. PERKOWSKA: Say one thing that four --

14 VICE CHAIR BLAKE: No, you said --

15 (Simultaneous speaking.)

16 MS. PERKOWSKA: Is not on the record, are not
17 a remedy for the hardship. There are substitutes for
18 the rezoning, which is not the Board's role. Thank you
19 so much for your time.

20 VICE CHAIR BLAKE: Thank you for instructing
21 us on that. All right, what we're going to do now is
22 we're going to -- since we need no additional
23 information, we're going to close the hearing and we're
24 going to dismiss the witnesses. What I'd like to do
25 is set this for a decision next week. Are you available,

1 Commissioner Wright?

2 COMMISSIONER WRIGHT: I'm checking. Let me
3 check my calendar. Yes.

4 VICE CHAIR BLAKE: Fantastic.

5 COMMISSIONER WRIGHT: The 28th, yeah.

6 VICE CHAIR BLAKE: The 28th, we will have a
7 decision on this case at the meeting session. Madam
8 Secretary, would you please set that up so we can do
9 a decision meeting session for this? We'll try to do
10 it at the beginning.

11 MS. MEHLERT: Got it.

12 VICE CHAIR BLAKE: All right, thank you very
13 much. By the way, the record is closed with no
14 additional information and we are now set for the
15 decision. Madam Secretary, is there any other business
16 for today?

17 MS. MEHLERT: No, sir.

18 (Whereupon, the above-entitled matter went
19 off the record at 3:11 p.m.)

20

21

22

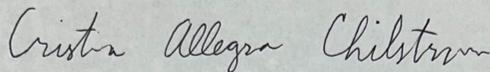
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1 C E R T I F I C A T E

2 This is to certify that the foregoing transcript was
3 duly recorded and accurately transcribed under my
4 direction; further, that said transcript is a true and
5 accurate record of the proceedings; and that I am neither
6 counsel for, related to, nor employed by any of the
7 parties to this action in which this matter was taken;
8 and further that I am not a relative nor an employee
9 of any of the parties nor counsel employed by the
10 parties, and I am not financially or otherwise
11 interested in the outcome of the action.

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18 Cristina Allegra Chilstrom