

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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REGULAR PUBLIC MEETING

+ + + + +

WEDNESDAY

JANUARY 28, 2026

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The Regular Public Meeting of the District of Columbia Board of Zoning Adjustment convened via Video/Teleconference, pursuant to notice at 9:30 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  
JOSEPH S. IMAMURA, PhD, AOC Designee

OFFICE OF ZONING STAFF PRESENT:

KEARA MEHLERT, Secretary  
MICHAEL SAKINEJAD, Zoning Data Coordinator  
PAUL YOUNG, A/V Production Specialist

OFFICE OF PLANNING DEVELOPMENT REVIEW STAFF PRESENT:

PHILIP BRADFORD  
MAXINE BROWN-ROBERTS  
MATTHEW JESICK

OFFICE OF ZONING ATTORNEY ADVISORS PRESENT:

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SARAH BAJAJ, ESQ.

The transcript constitutes the minutes from  
the Regular Public Meeting held on January 28, 2026.

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

(10:06 a.m.)

1  
2  
3 VICE CHAIRPERSON BLAKE: Good morning, ladies  
4 and gentlemen. The Board of Zoning Adjustment's  
5 January 28, 2026 public hearing will please come to  
6 order.

7 My name is Carl Blake, Chair of the District  
8 of Columbia Board of Zoning Adjustment. Joining me  
9 today are Board Members Brittany Drakeford,  
10 representing the National Capitol Planning Commission,  
11 and Zoning Commissioners Dr. Joe Imamura, Gwen Wright,  
12 and Rob Miller.

13 Today's meeting and hearing sessions are  
14 available on the Office of Zoning's website.

15 Please be advised that this proceeding is  
16 being recorded by a court reporter and is also webcast  
17 live via WebEx, and YouTube Live.

18 The video of the webcast will be available  
19 on the Office of Zoning's website after today's hearing.

20 Accordingly, everyone who is listening on WebEx or by  
21 telephone will be muted during the hearing.

22 If you experience difficulty accessing WebEx  
23 or with your telephone call-in, then please call our  
24 OZ hotline number at 202-727-5471, to receive WebEx  
25 login or call-in instructions.

1           Today we'll begin with our decision meeting,  
2 and then proceed with our public hearing session.  
3 Please be advised that we do not take public testimony  
4 at our decision meeting session. Public testimony  
5 would only be received during the public hearing  
6 session. However, only parties are allowed to testify  
7 in appeals.

8           At the close of a decision meeting and I will  
9 in consultation with the Office of Zoning, determine  
10 whether a full or summary order may be issued.

11           A full order is required when the decision  
12 it contains is adverse to a party, including an affected  
13 ANC. A full order may also be needed if the board's  
14 decision differs from the Office of Planning's  
15 recommendation.

16           Although the Board favors the use of summary  
17 orders whenever possible, an applicant may not request  
18 the board to issue such an order.

19           In today's hearing session, everyone who is  
20 listening on WebEx or by telephone will be muted during  
21 the hearing, and only persons who have signed up to  
22 participate or testify, will be unmuted at the  
23 appropriate time. Please state your name and home  
24 address before providing oral testimony, or your  
25 presentation.

1 Oral presentations should be limited to a  
2 summary of your most important points. When you are  
3 finished speaking, please mute your audio so that your  
4 microphone is no longer picking up sound or background  
5 noise.

6 Once again, if you experience difficulty  
7 accessing WebEx or with your telephone call-in, or if  
8 you've forgotten to sign in 24 hours prior to the  
9 hearing, then please call our OZ hotline number at  
10 202-727-5471 to sign up to testify, and to receive WebEx  
11 login or call-in instructions.

12 All persons planning to testify either in  
13 favor or in opposition should have signed up in advance,  
14 they will be called by name to testify. By signing up  
15 to testify, participants completed the oath or  
16 affirmation as required by Subtitle Y, 408.7.

17 Requests to enter evidence at the time of an  
18 online virtual hearing, such as written testimony or  
19 additional supporting documents, other than live video,  
20 which may not be presented as part of testimony, may  
21 be allowed pursuant to Subtitle Y, Section 103.13.

22 The order of procedure for special exceptions  
23 and variances are pursuant to Subtitle Y, Section 409.

24 The order of procedure for appeals are pursuant to  
25 Subtitle Y, Section 507.

1           Time constraints will remain pursuant to  
2 Subtitle Y, Section 408.2, and 408.3.

3           At the conclusion of each case, an individual  
4 who was unable to testify because of technical issues  
5 may file a request to leave the record open to file a  
6 written version of the planned testimony to the record,  
7 within 24 hours following the conclusion of the public  
8 testimony in the hearing.

9           If additional written testimony is accepted,  
10 then the parties will be allowed a reasonable time to  
11 respond as determined by the board.

12           The board will then make its decision at its  
13 next meeting session, but no longer than 48 hours after  
14 the hearing.

15           At the conclusion of a hearing, the Board may  
16 request additional specific information to complete the  
17 record.

18           The board and staff will specify at the end  
19 of the hearing exactly what is expected, and the date  
20 when the persons must submit the evidence to the Office  
21 of Zoning. No other information will be accepted by  
22 the board.

23           Once again, after the board adjourns the  
24 hearing, the Office of Zoning in consultation with the  
25 Chair, will determine whether a full or summary order

1 may be issued. A full order is required when a decision  
2 it contains is adverse to a party, including an affected  
3 ANC.

4 A full order may also be needed if the board's  
5 decision differs from the Office of Planning's  
6 recommendation.

7 Although again, although the board favors the  
8 use of summary orders whenever possible, an applicant  
9 may not request the board to issue such an order.

10 Finally, the District of Columbia  
11 Administrative Procedure Act requires that the public  
12 hearing on each case be held in open before the public.

13 However, (audio interference) Sections  
14 504.5(b) and 6 of the Act, the board may consistent with  
15 the Rules of Procedure of the Act, enter into a closed  
16 meeting for purposes of seeking legal counsel on a case  
17 pursuant to D.C. Official Code Section 2-575(b)(4),  
18 and/or deliberating on a case pursuant to D.C. Official  
19 Code Section 2-575(b)(13), but only after providing the  
20 necessary public notice.

21 And in the case of an emergency closed meeting,  
22 after taking a roll call vote.

23 Madam Secretary, do we have any preliminary  
24 matters?

25 MS. MEHLERT: Good morning, Mr. Chair,

1 members of the board. There are a few changes to the  
2 schedule today. Application Number 21397 of Rosalind  
3 Upton has been withdrawn from the public meeting  
4 session.

5 Application Number 21386 of AMW Associates,  
6 LLC, has been removed from the expedited review calendar  
7 and scheduled for a hearing on March 11, 2026.

8 Application Number 21404 of 512 Taylor, LLC,  
9 has been postponed to March 11.

10 Appeal Number 21270 of Alexis Signs and Robin  
11 Epstein, has been postponed to April 22.

12 And, Application Number 21399 of 57th Street  
13 News, Inc., has been postponed to June 3.

14 Any other preliminary matters will be noted  
15 when the case is called.

16 VICE CHAIRPERSON BLAKE: Okay, thank you,  
17 Madam Secretary. That makes for a relatively brief  
18 calendar, thank you. Would you please call our first  
19 decision case?

20 MS. MEHLERT: First case on the board's  
21 meeting session is Application Number 21360, of M and  
22 Potomac Streets Associates.

23 As amended, this is a self-certified  
24 application pursuant to Subtitle X, Section 1002, for  
25 area variances from the lot area requirements of

1 Subtitle D, Section 202.1, the lot occupancy  
2 requirements of Subtitle D, Section 210.1 for rear yard  
3 requirements of Subtitle D, Section 207.1, and the side  
4 yard requirements of Subtitle D, Section 1104.1.

5 This is for a principal dwelling NMU detached  
6 building located in the R3/GT zone at Prospect Street  
7 NW, square 1206, lot 832.

8 This hearing began on October 29 and was  
9 completed last week on January 21.

10 Participating are Chair Blake, Board Member  
11 Drakeford, and Commissioner Wright.

12 VICE CHAIRPERSON BLAKE: Okay, thank you,  
13 Madam Secretary. In this application, the applicant  
14 is seeking to construct a detached two-story principal  
15 dwelling on a currently unimproved lot that has  
16 basically sat vacant for 40 years in the R3/GT zone.

17 We had two hearing sessions on this  
18 application and received numerous filing to the record.

19 We had exhaustive testimony.

20 I've gone over everything in the record and  
21 reviewed the testimony provided in the hearings. I do  
22 have a few minor questions, you could say nitpicks.

23 But I do want to maybe spend a little bit more  
24 time working through this analysis. That said, I would  
25 like to hear what my other board members are thinking.

1 Commissioner Wright?

2 COMMISSIONER WRIGHT: Thank you. This is a  
3 very difficult case in that, we first were hearing about  
4 it potentially under the special exceptions standards.

5 And, I think that there was a good argument  
6 made by the applicant and by Office of Planning, about  
7 meeting special exceptions standards.

8 But then, it became clear that because of the  
9 nature of this lot, it could not be reviewed under  
10 special exceptions standards, it had to be reviewed as  
11 variances for separate variances.

12 At (audio interference) is a higher standard  
13 and that is a difficult, difficult situation.

14 Again, just reading the standard for granting  
15 a variance as stated in Subtitle X, 1000.1 differs with  
16 respect to use in area variances as follows:

17 An applicant for an area variance must prove  
18 that as a result of the attributes of a specific piece  
19 of property, described in Subtitle X, 1000.1, the strict  
20 application of a zoning regulation would result in  
21 peculiar and exceptional practical difficulties to the  
22 owner of the property.

23 I do believe that, that standard is met on  
24 several of the variances that have been requested,  
25 specifically the lot area, the lot coverage, and the

1 rear yard.

2           However, I don't believe that standard has  
3 been met on the request for a side yard variance of 4  
4 feet 3 inches on the west side.

5           And so, I would be in favor of granting three  
6 of the variances, but I do have a concern about that  
7 fourth variance because I don't believe that strict  
8 application of the zoning regulation would result in  
9 a peculiar and exceptional practical difficulties to  
10 the owner.

11           So, that's where I stand at the moment.

12           VICE CHAIRPERSON BLAKE: Okay. Let's see,  
13 before I address that, I want to hear what Board Member  
14 Drakeford, what are your thoughts?

15           MEMBER DRAKEFORD: Yes, so after reviewing  
16 the materials and the conversations from our hearings,  
17 I would certainly agree with Commissioner Wright.

18           I am fully in support of the lot area  
19 variances, the lot coverage, as well as the rear yard.

20           I do believe that burden has met, has been met.

21           I would also be in support of the side yard  
22 variance as well, which I think is in addition to what  
23 the Commissioner indicated.

24           So, I would be in support of all four  
25 variances.

1           VICE CHAIRPERSON BLAKE: Okay, so I agree that  
2 this is a challenging case because they had a lot of  
3 iterations to it, and we certainly heard a great deal  
4 of testimony on both parts from the parties in  
5 opposition, as well as the applicant.

6           And frankly, the number of issues did come  
7 up in this review.

8           I first said I had a couple of nitpicks. One  
9 of the nitpicks is that when I looked back and did the  
10 simple calculation on the lot occupancy, I came up with  
11 59 percent lot occupancy, not 70 percent.

12           So it's there, but I'm going to base my  
13 decision on 59 percent lot occupancy unless I learn  
14 otherwise that it should be the larger number of 70  
15 percent, which reduces that.

16           I think that the other question I came up with  
17 is, is really an issue of design that the applicant has  
18 decided in order to provide two side yard areas, the  
19 4 foot to the west to maintain that, as well as the  
20 entrance to the Eaton properties, they wanted to, the  
21 detached structure really comes largely out of the  
22 desire to maintain both of those access ways.

23           Obviously, you're still actually reducing  
24 part of the access way I think on the east side. But  
25 on the west side if you maintain at 4 feet.

1           So, it is somewhat of a design issue.  
2   However, the fact that this relief really is a detached  
3   dwelling requires 4,000 square foot of space.

4           If the applicant opted from a design  
5   perspective to shift the entire building as it's  
6   situated 9 inches to the west, it would chop off a little  
7   bit of the walkway to the residence on 33rd Street.

8           But, it would reduce the requirement for lot  
9   area because then you have a semi-detached property with  
10   only a lot area requirement of 3,000 square feet.

11           And, you would eliminate the side yard  
12   variance requirement.

13           So, I do think there is an element of design  
14   in here. The question is really, is that side yard at  
15   4 feet that important to, does it really go against the  
16   zoning intent? Does it really have an adverse effect  
17   on neighboring properties?

18           To some extent, the design that's in front  
19   of us has kind of compromises and maintains that but  
20   to a large extent, the zoning relief could be reduced  
21   if we simply shifted it those few inches to the west.

22           So, from a design perspective there are a lot  
23   of different things you could do. I think some small  
24   iterations to make this work, but the question is kind  
25   of balancing those two issues especially given the

1 magnitude of the overall degree of relief that's being  
2 requested.

3           So, that's kind of where I am and like I said,  
4 I kind of have to think, I want to think a little bit  
5 more about this.

6           I can tell you right now obviously I seem to  
7 be, we are not in the same place on the entirety of the  
8 application.

9           I do think that they are tied so I'd like to  
10 take another week or so, maybe two weeks, to kind of  
11 think about this and see if we can, and see if I can  
12 kind of figure out a way to get in the right place.

13           Or if we can have some other board members  
14 join us so we can kind of work through this. But I don't  
15 think that the board at this point, is in a position  
16 to make a decision, because I don't think we have a  
17 unanimous consensus.

18           Is there anything that any of the board members  
19 would be interested in hearing, or would time help?  
20 What are your thoughts, Commissioner?

21           COMMISSIONER WRIGHT: The only thing that I,  
22 I think that would perhaps change my position is again,  
23 I feel like I can only look at the application that has  
24 been submitted.

25           And, there are ways that the applicant could

1 change the application. Shifting it 9 inches, changing  
2 it to a semi-detached building, rather than a detached  
3 building.

4 There are things the applicant can do but we  
5 aren't telling the applicant what they should apply for.

6 They have applied for a detached building. That is  
7 what they have applied for, and that's what we're  
8 reviewing.

9 If someone and again, under a detached  
10 building there has to be a 5 foot side yard setback on  
11 the west side, which would be 4 feet 3 inches more than  
12 what the applicant is currently proposing.

13 So, it would be helpful for me to understand  
14 from the applicant, if he wants to retain the detached  
15 building and that is what he submitted, and that's what  
16 we're reviewing, why is reducing the width, pulling it  
17 back 4 feet 3 inches, making his rooms al little bit  
18 smaller on the inside, why is that going to result in  
19 again, going back to what the Code says?

20 How is that going to result in a peculiar and  
21 exceptional practical difficulty for the owner? And  
22 if they can demonstrate that, I'm open to hearing what  
23 those practical difficulties are.

24 If the applicant wished to amend their  
25 application and do what Chair Blake just mentioned,

1 shift the whole building over 9 inches and recalculate  
2 the lot coverage, they wouldn't need the side yard  
3 setback.

4 They would still have the same rear yard  
5 setback, and demonstrate how the remaining amount of  
6 land on the adjacent neighbor's property, which I think  
7 would be a little over 3 feet, is still sufficient to  
8 carry trash cans back and forth to the curb.

9 If they wanted to demonstrate that, I would  
10 also be open to an amended application. But those are  
11 sort of the two ways I could imagine future discussion  
12 going.

13 Either let's talk about an amended application  
14 to create a semi-detached building rather than a  
15 detached, or let's keep a detached and pull it back the  
16 full 5 feet, which is an additional 4 feet 3 inches on  
17 the west side.

18 And show us why that then makes the building  
19 unbuildable, or unusable. What is that peculiar,  
20 practical difficulty in reducing the width of the  
21 building by 4 feet 3 inches?

22 So, those would be the kinds of information  
23 I would be interested in hearing.

24 VICE CHAIRPERSON BLAKE: Okay, thank you.  
25 Let's see, Board Member Drakeford, do you have anything

1 you want to add?

2 MEMBER DRAKEFORD: No, not at this moment I  
3 don't have anything to add.

4 VICE CHAIRPERSON BLAKE: Okay, all right.  
5 Well, I think I want to make a couple other points.  
6 One of the other points you made, Commissioner Wright,  
7 was if we could bifurcate this and kind of look at, or  
8 basically just kind of go through each level of relief  
9 and determine rather what we could and could not do.

10 I'm uncomfortable with that because I do  
11 believe that these are tied sufficiently that we would  
12 open up, we would not accomplish our goal by doing, we  
13 would do an injustice to the project if we kind of  
14 decouple them.

15 I think that we, I personally prefer to work  
16 in the direction of the harmony with the plan because  
17 we would not, I don't think we'd get a favorable  
18 resolution otherwise.

19 So, for now we kind of stand a little bit at  
20 indecision point again, because we are not on all three  
21 on the same page.

22 So what I'd like to do is I'm going to put  
23 this, postpone this decision for two weeks if that would  
24 work with the calendar, Madam Secretary?

25 And, I want to give us some time to think about

1 it. I think the applicant has listened to this and is  
2 aware of kind of the thoughts that we have, and where  
3 we're going.

4 So, I'm not, I don't think I'm going to reopen  
5 the record for redesigns or something at this point.

6 What we have before us, we probably could, we could  
7 make, ultimately make a decision on I believe.

8 So, we're going to just push it off for two  
9 weeks. Madam Secretary, how's the calendar look?

10 MS. MEHLERT: You could schedule a decision  
11 on February 11. That works for Commissioner Wright.

12 VICE CHAIRPERSON BLAKE: Okay, we can do that.

13 And, if the applicant does want to comment or make a  
14 motion to reopen the record, they are certainly free  
15 to do that at any point between now and then, all right?

16 Okay, so we'll close this portion. We'll  
17 close this meeting and this hearing for now, this meeting  
18 session.

19 Okay, Commissioner Wright, take care. Thank  
20 you very much.

21 Okay, Madam Secretary, we all set now to go  
22 to the next one?

23 MS. MEHLERT: Yes.

24 VICE CHAIRPERSON BLAKE: If so, would you call  
25 it? Thank you, would you call our next decision meeting

1 item?

2 MS. MEHLERT: Next on the board's meeting  
3 session is a party status request, is application number  
4 21404 of 512 Taylor, LLC.

5 This is a self-certified application pursuant  
6 to Subtitle X, Section 901.2 for a special exception  
7 under Subtitle D, Section 5201 from the side yard  
8 requirements of Subtitle D, Section 208.7.

9 This is for a third-story and three-story rear  
10 addition to an existing two-story attached principal  
11 dwelling.

12 It's located in the R2 zone at 5034 Nebraska  
13 Avenue NW, square 1879, lot 30.

14 Before the board are requests for party status  
15 in opposition from Catherine Bolinsky, and Jason and  
16 Patricia Kovacs.

17 This hearing was originally scheduled for  
18 today, January 28 and was postponed to March 11 at the  
19 applicant's request.

20 I believe the party status requestors are on  
21 call if needed.

22 VICE CHAIRPERSON BLAKE: Okay, thank you.  
23 Thank you very much. Welcome, Dr. Imamura. We see you  
24 in there. Thank you, good to see you.

25 COMMISSIONER IMAMURA: Thank you, Mr.

1 Chairman, good to see you, too. And, Board Member  
2 Drakeford, I look forward to working alongside you.

3 MEMBER DRAKEFORD: Thank you.

4 COMMISSIONER IMAMURA: Soon to be Dr.  
5 Drakeford, I think.

6 MEMBER DRAKEFORD: Yes.

7 VICE CHAIRPERSON BLAKE: Excellent.

8 MEMBER DRAKEFORD: I'm look forward to  
9 working with you all as well.

10 VICE CHAIRPERSON BLAKE: Excellent. Let's  
11 see, we have both parties according to the secretary  
12 here. Let's see, Ms. Ferster, I think welcome back.  
13 I see you're representing the, Ms. Bolinsky.

14 Ms. Bolinsky is the abutting, we have two  
15 separate requests of a party status. Are the Novacs  
16 here as well? I want to make sure.

17 Madam Secretary, you said both the Kovacs were  
18 here, right?

19 Mr. Kovacs: Yes, I'm here. Mr. Kovacs, I'm  
20 Jason Kovacs. My wife is working.

21 VICE CHAIRPERSON BLAKE: I see, thank you,  
22 sir. Okay, if we have any questions, we will certainly  
23 reach out to you. It's required that you be present  
24 at the hearing or a representative.

25 I've reviewed the request for party status

1 and as the owners of the abutting properties, I  
2 considered the nature of the relief requested, as well  
3 as the issues and concerns that are raised in the  
4 application.

5 And frankly, I believe that the requestors'  
6 interest both of which would likely be more  
7 significantly and distinctively or uniquely affected  
8 in character or kind, by the proposed zoning action than  
9 those in the general public as they both are abutting  
10 neighbors.

11 So, I will note that neither the applicant  
12 nor the affected ANC have objected, so I'm actually  
13 fairly comfortable granting party status to both  
14 parties.

15 Ms. Drakeford, do you have anything you'd like  
16 to add, or a contrary view?

17 MEMBER DRAKEFORD: No, I have no opposition.

18 I would be in support of your indication, and also agree  
19 that I would be okay with party status as well.

20 VICE CHAIRPERSON BLAKE: Okay, thank you.

21 Dr. Imamura?

22 COMMISSIONER IMAMURA: Thank you, Mr.  
23 Chairman. I align myself with your views and am in  
24 agreement that to grant party status to both.

25 VICE CHAIRPERSON BLAKE: Okay, thank you.

1 Let's see, Madam Secretary, I have a question for you.  
2 Madam Secretary, are you there?

3 I was going to make a motion to do this in  
4 two separate motions for party status. Would that be  
5 appropriate, or should we do one?

6 Okay, I'll just, I'm just going to go with  
7 what I got. I'll go ahead and make a motion to grant  
8 the party status in application 21404, to Catherine  
9 Bolinsky and the abutting neighbor to the south, and  
10 ask for a second, Ms. Drakeford?

11 MEMBER DRAKEFORD: I second.

12 VICE CHAIRPERSON BLAKE: Okay, the motion has  
13 been made and seconded. Madam Secretary, would you  
14 please take a roll call vote?

15 MS. MEHLERT: Please respond to the Chair's  
16 motion to grant party status in opposition to Catherine  
17 Bolinsky. Chairman Blake?

18 VICE CHAIRPERSON BLAKE: Yes.

19 MS. MEHLERT: Board Member Drakeford?

20 MEMBER DRAKEFORD: Yes.

21 MS. MEHLERT: Dr. Imamura?

22 COMMISSIONER IMAMURA: Yes.

23 MS. MEHLERT: Staff would record the vote as  
24 3-0-2 to grant party status in opposition to Catherine  
25 Bolinsky.

1 VICE CHAIRPERSON BLAKE: Okay, I'll go ahead  
2 and make a motion to grant party status application in  
3 application number 21404, to Jason and Patricia Kovacs,  
4 the abutting neighbors to the north and ask for a second,  
5 Ms. Drakeford?

6 MEMBER DRAKEFORD: I second.

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

10 MS. MEHLERT: Please respond to the Chair's  
11 motion to grant party status in opposition to Jason and  
12 Patricia Kovacs. Chair Blake?

13 VICE CHAIRPERSON BLAKE: Yes.

14 MS. MEHLERT: Board Member Drakeford?

15 MEMBER DRAKEFORD: Yes.

16 MS. MEHLERT: Dr. Imamura?

17 COMMISSIONER IMAMURA: Yes.

18 MS. MEHLERT: Staff would record the vote as  
19 3-0-2 to grant party status in opposition to Catherine  
20 Bolinsky, or sorry, to Jason and Patricia Kovacs.

21 VICE CHAIRPERSON BLAKE: Okay, thank you very  
22 much. Okay, now the hearing is scheduled for March 11  
23 and now that party status has been established, I want  
24 to summarize the guidelines for parties which are  
25 outlined in Subtitle Y, Section 403.

1           So prior to the hearing, all parties which  
2 included an affected ANC, must be served and sent copies  
3 of any filings submitted to the record such as any new  
4 supplemental documents or motions.

5           Parties are also afforded the opportunity to  
6 respond to any motions or requests. In addition,  
7 parties will receive any official communications  
8 regarding the hearing proceedings, or the board's  
9 actions from the Zoning Office.

10          At the public hearing, parties are given  
11 equal, the same amount of time to satisfy, to testify  
12 as the applicant and may present witnesses, as well as  
13 cross-examine all other parties and witnesses.

14          I will note that when there are more than one  
15 party, we allow and encourage, actually encourage the  
16 parties to coordinate arguments and presentations prior  
17 to the hearing to avoid unnecessary repetitious  
18 testimony.

19          Lastly, you will receive a copy of written  
20 notice of any decisions or orders entered into the case.

21          Do you both understand that and I know Ms.  
22 Ferster, I know you're very familiar with the process.

23          Mr. Kovacs, I assume you would be too, and I hope you  
24 are able to coordinate so that the testimony again, is  
25 not unnecessarily repetitious.

1 MR. KOVACS: Absolutely.

2 VICE CHAIRPERSON BLAKE: Okay.

3 MS. FERSTER: Yes, he will call me,  
4 absolutely.

5 VICE CHAIRPERSON BLAKE: Okay, thank you very  
6 much and we'll see you on March 11.

7 MS. FERSTER: Thank you.

8 MR. KOVACS: Thank you.

9 VICE CHAIRPERSON BLAKE: All right, Madam  
10 Secretary, would you call our next meeting case matter?

11 MS. MEHLERT: Next is application number  
12 20967A of Salvation Arts, LLC, pursuant to Subtitle Y,  
13 Section 705.2 for a one year time extension of the  
14 validity of the order in application number 20967 that  
15 was issued on November 9, 2023.

16 This is for a new six-story 30-unit apartment  
17 house with above ground floor, above ground floor  
18 commercial space.

19 It's located in the NMU 7B/HA zone at 1371  
20 to 1375 H Street, square 1027, lot 166.

21 You're on mute, Mr. Chair.

22 VICE CHAIRPERSON BLAKE: That's a big factor.

23 In this application, in this request, the applicant  
24 is seeking a one year extension, time extension to the  
25 validity of the order.

1           The final date of that order I think was  
2 November 9, 2023 and the period of validity would have  
3 expired on November 9, 2025.

4           The applicant did file the extension timely  
5 on October 27, so based on a one year extension, the  
6 new period of validity would be November 9, 2026.

7           So, Section Y, Section, Subtitle Y, Section  
8 705 of the Zoning Regulations allows for the extension  
9 of a BZA approval for good cause, so long as the request  
10 is filed timely.

11           The appropriate notifications were made and  
12 the verification that there have been no material  
13 changes in the way that any of the facts upon which the  
14 board based its original decision, have changed.

15           In the request before us, that request which  
16 was filed on October 27, was timely. The appropriate  
17 notifications were made to ANC 6A, and I'll also note  
18 that ANC 6A is in support.

19           And based on report provided by the Office  
20 of Planning, which supports approval of the application,  
21 there have been no substantial changes in any of the  
22 material facts upon which the board based its original  
23 decision.

24           And as far as good cause is concerned, the  
25 applicant states that the adverse market conditions

1 beyond its control have delayed the project, and impeded  
2 the ability to obtain project finance, which I can  
3 certainly understand.

4           Considering these factors, I do believe that  
5 the conditions of Y, 705.2 have been met and I will  
6 support the one year extension.

7           Board Member Drakeford, do you have anything  
8 you'd like to add?

9           MEMBER DRAKEFORD: No, as you've indicated,  
10 the ANC has expressed support and given the current  
11 economic times, I can certainly understand their  
12 rationale so why they need the time extension.

13           VICE CHAIRPERSON BLAKE: Thank you. Dr.  
14 Imamura?

15           COMMISSIONER IMAMURA: Thank you, Mr.  
16 Chairman. I'm also in agreement and believe that the  
17 applicant has demonstrated good cause, and I'm ready  
18 to support.

19           VICE CHAIRPERSON BLAKE: Okay, thank you.  
20 Okay, I'll make a motion to approve the request for a  
21 one year time extension with a new period of validity  
22 ending December 21, 2026, and ask for a second, Board  
23 Member Drakeford?

24           MEMBER DRAKEFORD: I second.

25           VICE CHAIRPERSON BLAKE: Madam Secretary, the

1 motion has been made and seconded. Would you please  
2 conduct a roll call vote?

3 MS. MEHLERT: Please respond to the Chair's  
4 motion to grant the time extension. Chairman Blake?

5 VICE CHAIRPERSON BLAKE: Yes.

6 MS. MEHLERT: Board Member Drakeford?

7 MEMBER DRAKEFORD: Yes.

8 MS. MEHLERT: Dr. Imamura?

9 COMMISSIONER IMAMURA: Yes.

10 MS. MEHLERT: Staff would record the vote as  
11 3-0-2 to grant the time extension in application number  
12 20967A on the motion made by Chairman Blake, and seconded  
13 by Board Member Drakeford.

14 VICE CHAIRPERSON BLAKE: Okay, Madam  
15 Secretary, would you please call our final meeting  
16 agenda item?

17 MS. MEHLERT: Next is application number  
18 20968A of National Geographic Society. This is a  
19 request pursuant to Subtitle Y, Section 705.2 for a two  
20 year extension of the validity of the order in  
21 application number 20968.

22 This approved a restaurant and penthouse  
23 habitable space in an existing 11-story building. It's  
24 located in the D6 zone at 1145 17th Street NW, square  
25 183, lot 885.

1           And, there is a preliminary matter. The  
2 applicant has submitted a motion to waive Subtitle Y,  
3 702 or other provision to accept the time extension  
4 request.

5           You are muted again.

6           VICE CHAIRPERSON BLAKE: I'm getting good at  
7 that, thanks. As the secretary pointed out, the  
8 applicant is seeking waiver from Subtitle Y, Section  
9 702.1.

10           In order for the board to consider a two year  
11 time extension, which the board is actually authorized  
12 to do pursuant to Y, 101.9 if good cause is shown.

13           The applicant argues that the good cause shown  
14 for granting this waiver is that the National Geographic  
15 Service did in fact, file, timely file the application.

16           So, there's a little bit of a nuance to this  
17 in that it looks like the order was issued on November  
18 8, 2023. That would be the date that the order is final.

19           The order would therefore, expire on November  
20 8, 2025. Now, the applicant submitted the request on  
21 November 12, which is obviously after, several days  
22 after the order expired.

23           Now, when you look at the plain language of  
24 Y, 702.1, it says an order is valid for two years without  
25 specifying two years from the date of issuance, or the

1 effective date.

2 Now, the actual order that the applicant is  
3 referring to and has, contains a boilerplate statement  
4 that adds, after it becomes effective, which is actually  
5 it doesn't appear in the language of Subtitle Y, Section  
6 702.1.

7 And, it is actually at odds with the D.C. Court  
8 of Appeals precedence, and particularly with North  
9 Cleveland Association v. BZA. And, the board's  
10 practices.

11 So for the past 5 -- 4 years, the board has  
12 consistently based time extension requests on the date  
13 that an order became final as issued, and has declined  
14 to revive orders older than 2 years beyond the final  
15 date.

16 So, considering these factors, I don't believe  
17 the applicant has demonstrated good cause. And, I would  
18 move to deny the motion for waiver.

19 That said, if the motion is denied, the request  
20 for the time extension is untimely as the order will  
21 have expired.

22 So there's nothing we can do to revive the  
23 order. So, we would then probably, I would have to then  
24 make a motion to dismiss the request for a time  
25 extension.

1           So having said that, are there any other  
2 opinions on that? Dr. Imamura?

3           COMMISSIONER IMAMURA: Thank you, Mr.  
4 Chairman. This is difficult. We often try to get to  
5 yes where we can, but as you've stated, certainly don't  
6 want to set a precedent here.

7           And, even though they've certainly shown good  
8 cause in terms of their justification regarding sort  
9 of economic or financial hardship, knowing the other  
10 requirements and conditions, regrettably, I think  
11 they've missed the filing deadline for this.

12           It's really a matter of days between the final  
13 order on November 8 and I think the effective date of  
14 November 18 versus their filing date of November 12.

15           So, again certainly don't want to set a  
16 precedent here, and I think we have firm ground to stand  
17 on in terms of other case law where we have been  
18 consistent in denying such time extensions.

19           So, I'm prepared to align myself with your  
20 views, Mr. Chairman. I'm curious to hear Board Member  
21 Drakeford's position.

22           VICE CHAIRPERSON BLAKE: Thank you, sir.  
23 Board Member Drakeford, please? What are your  
24 thoughts?

25           MEMBER DRAKEFORD: Yes, so I think I would

1 certainly agree in not wanting to establish a precedent  
2 that is inconsistent with the board's previous  
3 decisions.

4 I'm also seeing that, also just curious to  
5 see in the record there has also been submission of a  
6 letter from the ANC in support, just noting that I  
7 believe that came in fairly recently.

8 And just, yes, as was mentioned, I think this  
9 is a very difficult, difficult decision but I also align  
10 myself with you all's perspectives and comments.

11 VICE CHAIRPERSON BLAKE: Okay, thank you very  
12 much. So with that, I'd like to make a motion to deny  
13 the motion for the waiver and I'd also like to, and within  
14 that, make a motion to dismiss the request for a time  
15 extension as there is no order to revive.

16 And ask for a second, Board Member Drakeford?

17 MEMBER DRAKEFORD: I second.

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

21 MS. MEHLERT: Please respond to the Chair's  
22 motion to deny the applicant's waiver and dismiss the  
23 time extension request. Chair Blake?

24 VICE CHAIRPERSON BLAKE: Yes.

25 MS. MEHLERT: Board Member Drakeford?

1 MEMBER DRAKEFORD: Yes.

2 MS. MEHLERT: Dr. Imamura?

3 COMMISSIONER IMAMURA: Yes, with a dramatic  
4 pause only because this is very difficult.

5 MS. MEHLERT: Staff would record the vote as  
6 3-0-2 to deny the waiver request and dismiss the time  
7 extension request in application number 20968A on the  
8 motion made by Chairman Blake, and seconded by Board  
9 Member Drakeford.

10 VICE CHAIRPERSON BLAKE: Okay, all right and  
11 let's move on if we could, to our first hearing, hearing  
12 session, matter.

13 MS. MEHLERT: I would just like to clarify,  
14 just to go back to the time extension 20967A, the new  
15 expiration date that you gave.

16 I believe you had mentioned a December date,  
17 but I think it's supposed to be --

18 (Simultaneous speaking.)

19 VICE CHAIRPERSON BLAKE: It should be  
20 November.

21 MS. MEHLERT: Yes, November 9.

22 VICE CHAIRPERSON BLAKE: Yes, it would be  
23 November, that's correct, sorry, uh huh.

24 (Whereupon, the above-entitled matter went  
25 off the record at 11:02 a.m.)

## 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 Court Reporter

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