

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

JUNE 10, 2026

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The Regular Public Hearing of the District of Columbia Board of Zoning Adjustment convened via Video Teleconference, pursuant to notice at 9:30 a.m. EDT, Michelle Pourciau, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

MICHELLE POURCIAU, Chairperson
PAUL GOLDSTEIN, Vice-Chairperson
MELISSA LINDSJO, NCPC Designee

ZONING COMMISSION MEMBER PRESENT:

GWEN WRIGHT, District Resident Appointee

OFFICE OF ZONING STAFF PRESENT:

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

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1 OFFICE OF PLANNING DEVELOPMENT REVIEW STAFF PRESENT:

2 SHEPARD BEAMON
3 PHILIP BRADFORD
4 PHILIP ISAIAH
5 MATTHEW JESICK
6 MICHAEL JURKOVIC
7 CRYSTAL MYERS
8 KAREN THOMAS

9 OFFICE OF ZONING ATTORNEY ADVISORS PRESENT:

10 SARAH BAJAJ, ESQ.
11 CARISSA DEMARE, ESQ.
12 JORDANE WONG, ESQ.

13 The transcript constitutes the minutes from
14 the Regular Public Hearing held on June 10, 2026.
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P-R-O-C-E-E-D-I-N-G-S

(9:45 a.m.)

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2
3 MS. MEHLERT: So the first case in the
4 Board's hearing session is Application Number 21451
5 of O'Rayon McKnight. This is an application
6 pursuant to Subtitle X § 1002, review variances from
7 Subtitle U, Section 201.1 to permit a four-unit
8 apartment house. And from Subtitle C § 204.1 and
9 204.4, to reestablish a discontinued, nonconforming
10 use.

11 This is for a new four-unit apartment house
12 in an existing two-story semidetached building. It
13 is located in the R2 zone at 133 Galveston Place
14 Southwest, Square 6239, Lot 89. And as a
15 preliminary matter, the application has requested to
16 postpone the hearing.

17 CHAIRPERSON POURCIAU: Thank you. I see we
18 have the Applicant. Mr. Freeman, would you like to
19 proceed? Please unmute.

20 MR. FREEMAN: Sorry. This is Kyrus
21 Freeman. I'm a partner at the law firm of Holland &
22 Knight on behalf of the Applicant. We filed a
23 request yesterday to postpone our hearing. And I
24 understood that the Board had a question, I believe,
25 about the postponement so we're here to answer any

1 questions.

2 CHAIRPERSON POURCIAU: Yes, I believe Board
3 Member Goldstein, you had a question? Or are there
4 other questions from Board Members?

5 VICE CHAIR GOLDSTEIN: I had a specific
6 question, but I don't know if others may have more
7 general questions about the postponement.

8 Mr. Freeman, I'm wondering if in the lead
9 up to a postponed hearing date you could have
10 additional conversations about the need for relief
11 from C § 204.4? I don't want to linger on it, but,
12 you know, a use, in my reading, a use that's
13 discontinued doesn't need relief to be refreshed
14 from the rule that says you're discontinued after
15 three years.

16 So I just want to make sure that the ask,
17 when we see it again, is accurate for what we have
18 authority to grant. So if in the intervening time,
19 between now and a future date, if you could re-look
20 at that relief request and determine whether it's
21 needed or not.

22 MR. FREEMAN: So for full transparency,
23 thank you for that, Commissioner Goldstein. Or
24 Board Member Goldstein. Yesterday afternoon we
25 received confirmation from the zoning administer

1 that we don't need any relief and that this project
2 can move forward as a matter of right.

3 So our goal is actually to withdraw the
4 application, but I want to kind of confirm a thing
5 or two before we withdraw the application because we
6 did receive a favorable determination that we don't
7 need any relief whatsoever. So I think the BZA
8 secretary was on that email as well.

9 We still had to obviously follow COL
10 application and occupancy. Once we do that, I
11 intend to withdraw our application.

12 VICE CHAIR GOLDSTEIN: Well that would seem
13 to moot my point that I just made so succinctly. So
14 thank you.

15 MR. FREEMAN: Thank you.

16 CHAIRPERSON POURCIAU: Thank you so much,
17 Mr. Freeman, that's good news. Are there any other
18 questions or comments on this, this case?

19 No? Seeing none, do we need to make a
20 motion on this --

21 MS. MEHLERT: Yes.

22 CHAIRPERSON POURCIAU: Okay.

23 VICE CHAIR GOLDSTEIN: I'm still hoping.
24 So, Mr. Freeman, you still want to ask for a fall
25 date, but you're going to try to see if this can

1 proceed matter of right and then that fall date will
2 be withdrawn, is that the goal?

3 MR. FREEMAN: Yes, sir. That is our goal.

4 COMMISSIONER WRIGHT: To that end, I'm glad
5 to make a motion to postpone this case to the fall.

6 And, you know, again, with the understanding it may
7 end up ultimately being withdrawn. But, you know,
8 we don't know that for sure at this time. So I'll
9 make a motion that Application Number 21451 be
10 postponed to a date in the fall.

11 CHAIRPERSON POURCIAU: Is there a second?

12 VICE CHAIR GOLDSTEIN: Second.

13 CHAIRPERSON POURCIAU: Madam Secretary.

14 MS. MEHLERT: Please respond to
15 Commissioner Wright's motion to grant the
16 applicant's postponement request. Chair Pourciau?

17 CHAIRPERSON POURCIAU: Yes.

18 MS. MEHLERT: Vice Chair Goldstein?

19 VICE CHAIR GOLDSTEIN: Yes.

20 MS. MEHLERT: Board Member Lindsjo?

21 MEMBER LINDSJO: Yes.

22 MS. MEHLERT: And, Commissioner Wright?

23 COMMISSIONER WRIGHT: Yes.

24 MS. MEHLERT: Staff record the vote as 4-0-
25 1. The motion passes.

1 And I would recommend the date of October
2 28th as the future reschedule date.

3 MR. FREEMAN: Thank you.

4 CHAIRPERSON POURCIAU: Thank you, Mr.
5 Freeman.

6 MR. FREEMAN: Thank you.

7 CHAIRPERSON POURCIAU: Let's proceed to our
8 next agenda item please. 21386.

9 MS. MEHLERT: Okay. Next on the agenda is
10 Application Number 21386 of AMW Associates, LLC.
11 This is a self-certified application pursuant to
12 Subtitle X § 901.2 for special exceptions under
13 Subtitle E § 5201 from the rear yard requirements of
14 Subtitle E § 207.1, and the lot occupancy
15 requirements of Subtitle E § 210.1.

16 This is for a new third story and three-
17 story rear addition to an existing two-story row
18 dwelling. It's located in the RF-1 zone at 1332
19 Corbin Place, Northeast, Square 1031, Lot 170.

20 This case was originally scheduled for
21 expedited review on January 28th, 2026, and was
22 removed and set in for a public hearing at the
23 request of a nearby property owner. Also as a
24 preliminary matter, the applicant submitted a
25 request to waive the filing deadline with the update

1 plans and neighbor agreement in Exhibits 44 and 45.

2 The applicant also submitted a PowerPoint
3 last night, which needs approval from the Board to
4 be entered into the record.

5 CHAIRPERSON POURCIAU: Is there a motion to
6 enter the PowerPoint into the record?

7 MS. MEHLERT: You don't necessarily need to
8 make a motion.

9 CHAIRPERSON POURCIAU: Okay.

10 VICE CHAIR GOLDSTEIN: I have no objection
11 to it. If we want to allow it.

12 CHAIRPERSON POURCIAU: Thank you. All
13 right, I see we have Mr. Meriles is on. And is the
14 applicant ready to present?

15 MR. BELLO: Yes, Madam Chair.

16 CHAIRPERSON POURCIAU: Or Mr. Bello? Yes.
17 Okay, thank you.

18 MR. BELLO: Good morning. Yes, good
19 morning, Madam Chair and Board Members. My name is
20 Olutoya Bello. I'm representing the owner of the
21 project, Mr. Meriles, who is also signed on. I
22 guess he can introduce himself as well.

23 MR. MERILES: Good morning, Board Members.

24 My name is Walt Meriles and I am the owner of 1332
25 Corbin Place, Northeast.

1 CHAIRPERSON POURCIAU: Good morning.

2 MR. BELLO: I guess if we just pull up the
3 PowerPoint I can walk through how this application
4 meets the standards for the reliefs this is asking
5 for. Thank you.

6 So the address of this application is 1332
7 Corbin Place, Northeast.

8 Next slide please. This is the project
9 overview. This is renovation of an existing two-
10 story plus a cellar property. We request a third-
11 floor addition and an extension of the rear. And
12 would be a total rehabilitation of the existing
13 structure. Historically used as a single-family
14 dwelling, will remain the same.

15 Next slide please. Two areas of relief is
16 what this application seeks. One from the rear yard
17 setback requirements, which is E § 207.1 and the
18 second is for lot occupancy. The E § 210.1. The
19 application meets all of the development standards
20 for the subject property.

21 Next slide please. This is just basic
22 property information. Property is located in RF-1
23 zone district. The lot area is very, very small.
24 It's 1100 square foot lot. And the existing
25 footprint is 498, which works out to about, it's a

1 small area there, but the lot occupancy is 57
2 percent. And it abuts a 15-foot alley. The
3 existing building is already nonconforming with
4 respect to rear yard. And it was built in 1915.

5 Next slide please. These descriptive of
6 the existing conditions of the property. Again, is
7 a two-story with a cellar. No parking -- no off-
8 street parking currently. The rear yard is
9 approximately short of, four feet short of the 20-
10 foot required. It's existing nonconforming.

11 Next slide please. So the proposed
12 additions, as agreed with the neighbors, is to
13 extend the basement no further than four feet. And
14 then the first, second and third floors would be
15 eight feet in the rear. There will be a rear deck
16 that is four feet extended.

17 The third floor, as agreed with the owners,
18 with a setback 12 feet from the existing facade of
19 the building in order to deal with a site plan
20 issue. The neighbors expressed concern over. This
21 was agreed between the applicant and the neighbor.

22 The parking, the project will be provided
23 one parking space. And then we're replacing the
24 whole HVAC system.

25 Next slide please. These are some of the

1 architecturally summaries that was negotiated with
2 the neighbors. The front will be brick veneer with
3 historic trim and cornice detailing. Third floor
4 recessed 12 feet from the front wall to preserve the
5 block character. No exposed CMU visible from public
6 right of way. No rooftop mechanical equipment
7 visible from Corbin Place, Northeast. No side
8 windows or fenestration on party walls. No second
9 and third floor rear decks proposed.

10 Next slide please. This is the compliance
11 snapshot. The project complies with height, number
12 of stories, views, front yard setback, side
13 setbacks. Which are not required in the row
14 dwelling. And parking. Zero existing, one
15 provided.

16 Relief needed only for these two areas.
17 Rear yard setback and the lot occupancy.

18 Next slide please. Lot occupancy is going
19 from 57 percent to 68 percent, which is 11 percent
20 change. The application qualifies for special
21 exception under Section E 5201.

22 Next slide please. The required rear yard
23 is 20 feet in vision in this street. The existing
24 condition, 16 feet. That existing nonconformity
25 will be extended so the newly requested rear yard

1 will be 11.75 feet from the rear property line.

2 Next slide please. The burden of proof.
3 For special exceptions the applicant has to meet
4 this three-prong standards. That the application is
5 in harmony with these zoning regulations. That no
6 adverse effect on neighboring properties. And then
7 that the application meets the specific conditions.

8 Next slide please. The harmony provision,
9 again, the subject property is located in the RF-1
10 district which encourages row dwellings as a matter
11 of right. This property is a row dwelling. Allows
12 a single-family use, which is the existing, and the
13 proposed views, for this project. Meets the height
14 and number of stories. We do.

15 Third-floor addition is setback, again.
16 Rear addition is consistent with the neighborhood
17 pattern of rear extensions and decks.

18 Next slide please. No adverse effect on
19 neighboring properties. There is no side windows or
20 openings on party walls. No upper level second and
21 third floor rear decks. Rear addition is limited to
22 eight feet. It's a modest depth relative to the
23 alley separation.

24 Adjacent homes at 1328 and 1336 Corbin
25 Place already have rear decks extended beyond the

1 rear walls. These will be the two immediately
2 adjoining properties. Light and air is unaffected.

3 And masonry party walls, no side openings on
4 adjacent buildings. Privacy preserved, 15-foot
5 public alley separates the set of row dwellings
6 opposite the alley.

7 And then we're providing one parking space.

8 Off-street parking space. Which reduces the on-
9 street parking demand. These are the factors the
10 applicant believes meet this no adverse effect
11 prong.

12 Next slide please. Special conditions.
13 Light and air. Again, there are no side openings on
14 adjacent properties or share common masonry party
15 walls. Rear addition is modest in depth. Only
16 eight feet beyond the adjoining buildings' rear
17 walls. Third-floor is setback 12 feet.

18 Neither immediately joining property
19 features a roof deck. And this application does not
20 either. No shadow impacts beyond typical row house
21 conditions. The Application has submitted solar
22 studies in the record to show that there is limited
23 shadow impact on the adjacent property.

24 Next slide please. Special conditions.
25 Again, privacy of use and enjoyment. No side

1 windows or fenestration on party walls. No second
2 or third-floor rear deck. Decks and balconies.
3 Ground level rear deck limited to four feet in-
4 depth. Third-floor setback is 12 feet. Fifteen
5 foot alley separation. Proposed third-floor does
6 not overlook any neighboring rooftop deck.

7 Next slide please. Character scale and
8 pattern. Third-floor recessed 12 feet from the
9 front building wall. Respects established block
10 setback. Brick veneer and historic trim detailing
11 match the character of surrounding Corbin Place
12 homes.

13 The cornice line and detailing consistent
14 with historic cornice character of the block. No
15 visible rooftop mechanical equipment from Corbin
16 Place. Rear addition aligns with the existing with
17 the neighborhood.

18 Now these conditions are all documented in
19 the site agreement with the neighbors so it would,
20 if the Board does approve this application it will
21 serve as a condition of approval of this project.

22 Next slide please. These are the
23 limitations on granting the special exception under
24 this provision. The itemized conditions prove that
25 the project does not violate any of these

1 limitations.

2 Next slide please. Community engagement.
3 The, I think again, the proof of the depth of
4 community outreach is what the neighborhood
5 agreement has resulted in. But most of those was
6 engaged by the owner, so the owner would want to
7 testify with respect to timeline. If the Board
8 wishes to hear that the owner is here to do that.
9 I'll leave that to the discretion of the Board.

10 Mr. Meriles, do you want to walk through
11 very quickly your engagement with the opposing
12 neighbors?

13 MR. MERILES: Definitely. Good morning,
14 again. So now I'm going to talk some more about
15 what happened with the neighbors and all the
16 engagement that we have gone with them.

17 As my representative, Mr. Bello, has walked
18 you through the project and the relief that's being
19 sought up, I would like to talk more about the
20 community outreach process that we undertook to
21 reach an agreement with the neighbors of the
22 community.

23 So following our September 2025 filing and
24 subsequent ANC approval, several neighbors submitted
25 letters of opposition. As the BZA was no actively

1 hearing cases at that time the ANC took the
2 opportunity to bring us back for an additional
3 review session.

4 At that session the neighbors and us, as
5 developers, were not in alignment on several of the
6 design points. And we were asked to engage directly
7 in a structured dialogue to explore whether a mutual
8 agreement could be reached. We took that charge
9 seriously. We reached out proactively to the
10 opposing owners and invited them into a real and
11 open conversation about the project.

12 Over the course of several months, from
13 March through May of this year, we exchanged
14 detailed correspondence with the neighbor group and
15 worked closely with our architectural design
16 alternatives based directly on the neighbor's
17 feedback. This was definitely not a simple or quick
18 process. There were multiple rounds of negotiation
19 and moments where the parties were not in alignment.

20 But both sides remained at the table in good faith
21 throughout. And I am very proud of how that process
22 unfolded.

23 That process resulted in a signed
24 neighborhood agreement with the property owners,
25 which has already been submitted as part of this

1 case record. The agreement reflects voluntary
2 commitments made by AMW Associates and direct
3 response to concerns raised by the community.

4 And the key terms of the agreement included
5 a 12-foot voluntary setback on the third-floor. And
6 this is from the front of the building wall. And
7 the setback was voluntary good faith gesture on our
8 part in response to the neighbors' concerns about
9 the streetscape of Corbin Place, Northeast.

10 In addition, we talked about a brick veneer
11 facade. That front-facing portion of that third-
12 floor addition will be brick to be consistent with
13 the historic character of the block. And we also
14 capped the rear extension at eight feet.

15 As a result of this process the adjoining
16 neighbors and owners have agreed to support this
17 application before the Board. That support is
18 reflected in the signed agreement submitted with the
19 case. And the ANC 6A has also been engaged
20 throughout this process and has been supportive of
21 the collaborative approach both parties undertook.

22 We came into this process committed to
23 being good neighbors and to deliver a project that
24 represents the character of Corbin Place. The
25 agreement was reached, and the months of honest

1 engagement that produce it reflects that commitment.

2 We are proud of the outcome and grateful to
3 the neighbors for the good faith they have brought
4 to every stage of this conversation as well. We
5 respectfully ask the Board to help grant the relief
6 sought. And I am happy to answer questions as well
7 if any of you may have. Thanks so much.

8 CHAIRPERSON POURCIAU: Thank you so much,
9 Mr. Bello. Are there any questions from the Board?

10 VICE CHAIR GOLDSTEIN: I have a couple
11 questions please. First, and I just want to applaud
12 you for continuing your work in a satisfactory
13 solution. I think that's terrific progress and I'm
14 really happy to see that.

15 I'm wondering, I see the neighbor agreement
16 from adjacent neighbors, but that doesn't seem, just
17 based on my quick review, to be either of your
18 adjoining neighbors. Could you just let me know
19 what your conversations with them, with our
20 immediately next door neighbors on either side of
21 your side yard?

22 MR. MERILES: Yes. There were no immediate
23 opposition from the neighbors from the sides. Both
24 were encouraging about the project. We actually
25 showed them and sent all the plans with a receipt

1 that we sent through mail. So fortunately there was
2 not opposition from their ends.

3 The adjoining neighbor, Chris, who is from
4 1344, he was also a part of the email conversations
5 that we had with the other neighbors, but he was
6 never taking part as an opposing neighbor for these
7 process. And a reason that we had to engage with
8 all the other neighbors was even though not
9 immediately adjoining neighbors, but neighbors
10 surrounding the community.

11 VICE CHAIR GOLDSTEIN: Okay. Well thank
12 you for making your efforts with them as well. I
13 see, Mr. Bello, just a question. You'll still be
14 able to legally get a parking spot in that rear
15 yard? I'm just hoping you can confirm that.

16 MR. BELLO: I'm sorry, what's the question?

17 VICE CHAIR GOLDSTEIN: In the rear yard
18 there is a conforming parking space for the project?

19 MR. BELLO: Yes. That's proposed.

20 VICE CHAIR GOLDSTEIN: Okay.

21 MR. BELLO: Yes.

22 VICE CHAIR GOLDSTEIN: Okay. Kind of
23 underneath the deck is kind of some of the space?

24 MR. BELLO: Partially. Yes.

25 VICE CHAIR GOLDSTEIN: Partially. Correct.

1 MR. BELLO: Yes.

2 VICE CHAIR GOLDSTEIN: Just want to confirm
3 with you, the latest revised plans you put in, you
4 would -- you would say that they are conforming, to
5 the extent they can, the neighbor agreement that you
6 reached as far as the alterations, the setbacks and
7 the like, the latest plans reflect those agreements?

8 MR. BELLO: That will be your Exhibit 44.
9 That's correct. All those changes in the agreement
10 have been incorporated into the design drawings.

11 VICE CHAIR GOLDSTEIN: Okay. Thank you
12 very much.

13 MR. BELLO: Thank you.

14 CHAIRPERSON POURCIAU: Are there --

15 MR. BELLO: And --

16 CHAIRPERSON POURCIAU: -- other --

17 MR. BELLO: Yes, go ahead.

18 CHAIRPERSON POURCIAU: Proceed. Go ahead.

19 Mr. Bello, did you want to add something?

20 MR. BELLO: No, no, I'm good. Thank you.

21 CHAIRPERSON POURCIAU: Okay. Are there
22 other questions from Board Members?

23 VICE CHAIR GOLDSTEIN: Oh, I did have one
24 more question. My apologies. In your discussions
25 with the ANC, the -- you've done a good job keeping

1 them informed of the revised plans it seems. They
2 intend to take it up tomorrow, or soon. Is that
3 your understand and your, what is your understanding
4 of the likely support or no support for that, for
5 those revised plans?

6 MR. BELLO: It is on the consent calendar
7 for the ANC for tomorrow. And that is simply to
8 update the previous approval that was given,
9 resolution of support, which will be Exhibit 38.
10 That's their original support.

11 But the opposition should face after that
12 process. So the engagement that Mr. Meriles just
13 walked through was post that initial resolution. So
14 tomorrow, yes. To your question, all the ANC
15 members have been privy to this agreement. In fact,
16 they recommended it. So tomorrow is really a
17 perfunctory process of just issuing an update to the
18 ANC resolution.

19 VICE CHAIR GOLDSTEIN: Thank you.

20 CHAIRPERSON POURCIAU: Thank you. If there
21 are no more questions from the Board, I see that the
22 Office of Planning is here with a recommended
23 approval. No other government agencies are present.

24 And the ANC isn't here. It's nice to see they had
25 approved it and will be considering it again later

1 this week. Tomorrow I guess.

2 Having no other people present is there an
3 closing remarks you would like to make, Mr. Bello or
4 Mr. Meriles?

5 MR. BELLO: We'll just stand on the record,
6 Madam Chair.

7 VICE CHAIR GOLDSTEIN: Madam Chair, it does
8 look like the Office of Planning is here if we did
9 want them to testify at all. I wasn't sure if you
10 were suggesting it wasn't needed or otherwise.

11 CHAIRPERSON POURCIAU: No, thank you.
12 Thank you. Office of Planning? Who is here from
13 Office of Planning? Ms. Thomas?

14 MS. THOMAS: Yes. I don't know where --

15 CHAIRPERSON POURCIAU: Hi, how are you?

16 MS. THOMAS: -- this camera is facing, I'm
17 sorry.

18 CHAIRPERSON POURCIAU: Okay.

19 (Laughter.)

20 MS. THOMAS: Yes. I'm not sure. Yes.
21 Good morning.

22 CHAIRPERSON POURCIAU: Could you -- thank
23 you.

24 MS. THOMAS: If you just want me to be
25 brief or I can run through our presentation, what is

1 your preference?

2 CHAIRPERSON POURCIAU: Yes, please. Thank
3 you.

4 MS. THOMAS: Okay. Yes, good morning,
5 Madam Chair Pourciau and Members of the Board. For
6 the record, I'm Karen Thomas with the Office of
7 Planning and we are recommending approval of the
8 applicant's request for special exception relief
9 under Subtitle E § 5201 and Subtitle X of 901. And
10 this would allow the applicant to construct his
11 third-story addition and his three-story rear
12 addition at 1332 Corbin Place, Northeast.

13 Since the property is located in the RF-1
14 zone, the applicant is proposing an eight foot rear
15 addition to be setback from the front facade. And
16 that rear wall would remain within the ten foot
17 limit, beyond the adjoining rear walls. So relief
18 is only required for the lot occupancy increasing
19 from 57 percent to 68 percent. And for the rear
20 yard, which would be reduced from 16 feet to about
21 11 feet.

22 So under our review and analysis we found
23 that the addition would not unduly affect the light
24 and air available to neighboring properties. The
25 depth of the addition would remain within the

1 standard ten foot allowance. And any shadowing is
2 expected to be minimal.

3 The privacy impacts are also limited, as
4 views from the lower rear deck. And windows
5 primarily face the alley. And fencing along the
6 property lines will help maintain the privacy for
7 adjoining neighbors.

8 From the public realm the addition would
9 not visually intrude on the character or scale of
10 the block. And rear additions of this type are
11 common in the neighborhood. And although the
12 property is not within the historic district, we see
13 that the Capitol Hill Restoration Society submitted
14 a letter in support.

15 So OP finds the proposal to be in harmony
16 with the intent of the RF-1 zone and not likely to
17 adversely affect neighboring properties. It
18 maintains the R, residential use, and stays within
19 the allowable rear extension that meets the height
20 limits of the zone.

21 As we see, DDOT had no concerns. And ANC
22 6A is in support at this time. And for these
23 reasons we are recommending approval. And I'm
24 available for any questions. Thank you.

25 CHAIRPERSON POURCIAU: Thank you, Ms.

1 Thomas. Are there any questions for OP?

2 VICE CHAIR GOLDSTEIN: I do, if that's
3 okay? Thank you, Ms. Thomas, that was a very
4 helpful presentation. Have you had an opportunity
5 to review the revised plans?

6 MS. THOMAS: Yes.

7 VICE CHAIR GOLDSTEIN: Is there anything
8 about the revised plans that would change your
9 original assessment of support for the project?

10 MS. THOMAS: No. I think, I think there is
11 some improvement. I like the fact that based on
12 conversations with the community they included
13 adding finishing touches to the front facade. So I
14 think the continued discussions enhance the project
15 rather than cause any, cause OP to have pause with
16 recommending approval.

17 VICE CHAIR GOLDSTEIN: Thank you very much.

18 MS. THOMAS: Okay.

19 CHAIRPERSON POURCIAU: Thank you, Vice
20 Chair Goldstein. Any other questions from the
21 Board? Does the applicant have any questions for
22 the Office of Planning?

23 MR. BELLO: No questions, Madam Chair.

24 CHAIRPERSON POURCIAU: Thank you. Good.

25 And so I believe we have heard all of the testimony.

1 And if the Board is ready to deliberate we will
2 call (audio interference) in the record and the
3 witnesses will be excused and we can deliberate.
4 After deliberation we'll vote. Madam Secretary.

5 MS. MEHLERT: Yes, the witnesses have been
6 excused and so the Board can start their
7 deliberations.

8 CHAIRPERSON POURCIAU: All right.

9 COMMISSIONER WRIGHT: I think this is a
10 project that merits special exception relief for the
11 reasons that have been enumerated. I think it meets
12 the standards of E § 5201.1 and 5201.4. I think
13 that it will be a project that will not have a
14 negative impact on, it will be in harmony with the
15 general purpose and intent of the zoning code. It
16 will not affect adversely the use of neighboring
17 properties.

18 And because of some of the specific
19 elements that have been included, I think it
20 definitely will not have an undue effect on things
21 like light and air or privacy of use and enjoyment,
22 et cetera. So for all of those reasons I think this
23 project, in its current form as shown on Exhibit 44,
24 the most updated architectural plans, I think this
25 definitely meets the standards for special exception

1 relief.

2 CHAIRPERSON POURCIAU: Thank you for that,
3 Commissioner Wright. Any other comments from the
4 Board or deliberation, or are we ready to put in a
5 motion? Commissioner Wright, make a motion or --

6 COMMISSIONER WRIGHT: Sure. I think,
7 again, for all the reasons I just listed I would
8 move approval of Case 21386 and, for special
9 exception relief in terms of lot coverage and rear
10 yard setback because I believe it meets all of the
11 provision of E § 5201.1 and E § 5201.4. And for the
12 reasons I just sort of enumerated.

13 MEMBER LINDSJO: I second that.

14 CHAIRPERSON POURCIAU: Thank you. Is there
15 any discussion? I did want to bring up that the ANC
16 (audio interference) another document I believe as
17 of their meeting tomorrow. Is there any provision
18 we need to include regarding that?

19 COMMISSIONER WRIGHT: Well we can't vote on
20 something prospectively. So, you know, we already
21 have a letter from the ANC recommending approval of
22 this project that is dated a while ago. I know
23 they're going to look at the revised project, and
24 it's on their consent calendar. But I think, again,
25 from the record, my sense is the ANC supports this

1 project. And so, I'm not really including in my
2 motion, at least, anything about the prospective
3 vote that's coming up tomorrow.

4 CHAIRPERSON POURCIAU: Very good. Thank
5 you for that, Commissioner Wright. If there is no
6 more discussion, I think we're ready to vote.

7 MS. MEHLERT: Please respond to
8 Commissioner Wright's motion to approve the
9 application. Chair Pourciau?

10 CHAIRPERSON POURCIAU: Yes.

11 MS. MEHLERT: Vice Chair Goldstein?

12 VICE CHAIR GOLDSTEIN: Yes.

13 MS. MEHLERT: Board Member Lindsjo?

14 MEMBER LINDSJO: Yes.

15 MS. MEHLERT: And, Commissioner Wright?

16 COMMISSIONER WRIGHT: Yes.

17 MS. MEHLERT: Staff will record the vote as
18 4-0-1 to approve Application Number 21386 on the
19 motion made by Commissioner Wright and seconded by
20 Board Member Lindsjo.

21 CHAIRPERSON POURCIAU: Excellent. Madam
22 Secretary, are we ready to proceed to Case 21419?

23 MS. MEHLERT: Yes. Next on the agenda is
24 Application Number 21419 of PMG Mid Atlantic, LLC.
25 This is a self-certified application pursuant to

1 Subtitle X § 901.2 for a special exception under
2 Subtitle U § 511.1(f) to allow enlargement of an
3 existing gas line service station use. Specifically
4 it's for the expansion of an existing gas station
5 with a convenient store and repair shop on Lot 22,
6 to incorporate new vehicle towing and associated
7 vehicle storage on the abutting Lot 13. It's
8 located in the MU-3 zone at 4101 Alabama Avenue,
9 Southeast, Square 5369N, Lots 13 and 22.

10 CHAIRPERSON POURCIAU: Thank you so much.
11 I see we're joined by the applicant. Mr. Sullivan,
12 would you like to begin your presentation now, Mr.
13 Sullivan?

14 MR. SULLIVAN: Thank you, Madam Chair. And
15 good morning, Madam Chair and Board Members. My
16 name is Marty Sullivan with the firm of Sullivan and
17 Barros. And I'm here on behalf of the applicant in
18 this case.

19 If Mr. Young could please load the
20 PowerPoint presentation? Thank you.

21 Thank you. So this is a special exception
22 application for 4101 Alabama Avenue, Southeast. The
23 property is located in the MU-3A zone. And the site
24 is currently improved with an existing BP Gas
25 Station, convenience store and service garage.

1 The applicant is proposing to expand the
2 existing gas station operation to include vehicle
3 towing and associated vehicle storage on the
4 adjacent lot. And there will be no expansion by the
5 way of any of the mechanical or gasoline service
6 station uses onto Lot 13.

7 It will operate -- the towing and storage
8 use will operate as an integrated component of the
9 existing service station supporting vehicle related
10 services already provided onsite, in addition to the
11 isolated towing and parking storage. And the
12 combined operation will provide a full range of
13 vehicle services, although none of that will be
14 fueling. The vehicle repair and maintenance are
15 not, do not take place on the expanded portion of
16 the property. On Lot 13.

17 And the enlargement of a gasoline service
18 is permitted in the MU-3A zone by special exception.

19 And accordingly, applicant is requesting that
20 relief pursuant to Subtitle U § 511.1(f) and
21 Subtitle X § 901.1 to allow the towing and vehicle
22 storage component as part of the existing service
23 station. And this relief, by the way, is pursuant
24 to a zoning memorandum from DOB as opposed to self-
25 certified.

1 Next slide please. The Office of Planning
2 is recommending approval. DDOT has no objection.
3 They have two conditions. And you will see in a
4 minute, I'll show you the plat. We have not yet
5 revised the plat to reflect those conditions. And
6 so -- and we can talk about that, I suppose, when we
7 get to that diagram. When we get to that plat.

8 The applicant has conducted multiple rounds
9 of outreach engaging with over a hundred surrounding
10 households through fliers, door-to-door engagement
11 and informational materials. The applicant himself
12 attended ANC meeting 7B on February 19th to
13 introduce the project and to engage with community
14 members and elected representatives. And they did
15 not vote at that time.

16 I attended the ANC 7B meeting on May 21st,
17 at which time the application was included on the
18 agenda as the final item, however, the meeting was
19 just ended without mention of this application. And
20 so we're not aware of why that was. I may have
21 missed at the beginning of the meeting that they
22 took it off the agenda, I just really don't know.
23 Because we haven't had a response from the ANC.

24 Separate from that, we've reached out to
25 the ANC at least 13 times in emails that were not

1 responded to. And we only found out that we were on
2 the May 21st agenda because we're on their Listserv.

3 And that wasn't communicated to us directly.

4 Next slide please. So here's the aerial
5 photo. You see the subject lot to the right. The
6 service station is just underneath that. That's
7 where -- the arrow is pointing at a subject lot.
8 That area is actually public space, and I'll show
9 that in a second on the next photo. And the parking
10 area is behind that to the right.

11 Next slide please. So this area of gravel
12 and old pavement at the beginning, that's public
13 space. And that's the area that DDOT is request --
14 requiring, for its support, that that area be
15 brought back to a park-like setting. Which would
16 include grass. And the applicant has agreed to do
17 that. Also, the applicant has agreed to have
18 circulation into the Lot 13 be completely internal
19 to the existing property.

20 Next slide please. So if you look at that,
21 there is a driveway to the right. And we're facing
22 Lot 13 from Alabama Avenue here. The plat we're
23 going to look at in a minute has a new curb cut, and
24 it's going across that public space. And the new
25 plan, the revised plan that is, that the civil

1 engineer has not yet completed, will have
2 circulation just go through the existing curb cut
3 internal to the property and then it will access Lot
4 13 from the existing service station.

5 Next slide please. The application meets
6 the general special exception requirements. It will
7 be in harmony with the general purpose and intent of
8 the regulations and zoning maps. Proposal is
9 consistent with the intent of the MU-3A zone, which
10 is designed to accommodate a variety of business
11 uses, including the expansion of an existing
12 gasoline service station.

13 The proposed towing and vehicle storage
14 component compliments the existing gas station
15 operation creating a comprehensive vehicle service
16 facility. Consistent with the intent of the zone by
17 maintaining all auto-related functions, including
18 vehicle parking and circulation within the same
19 premises. The proposal enhances operational
20 efficiency and ensures that vehicle activity is
21 properly managed within a controlled and secure
22 environment.

23 And the proposed parking, towing and
24 storage portion of the service station on Lot 13
25 will not create undue adverse impacts on neighboring

1 properties. Noise levels will comply with all
2 applicable regulations ensuring that operations do
3 not significantly differ from existing conditions as
4 the area already accommodates the existing service
5 station. And the site will include appropriate
6 screening and fencing to ensure that operations are
7 conducted neatly and securely. And given these
8 factors the proposed use will be in harmony with the
9 general zoning intent and will not adversely affect
10 surrounding properties.

11 Next slide please. Regarding the specific
12 special exception conditions, the property is
13 located 30 feet from the nearest residential zone.
14 The requirement that it be not located within 25
15 feet. So we meet that condition. The operation of
16 the use shall not create dangerous or other
17 objectionable traffic conditions.

18 The existing gasoline service station has
19 operated on the property since 1968. And the
20 operation, this operation, will not create dangerous
21 objectionable traffic conditions. The expanded use
22 will not consist of any new buildings, service
23 areas, gasoline pumps or any other mechanical
24 equipment or service, it will only handle the
25 parking, towing and storage uses accessory to the

1 existing service station use.

2 And vehicle movement, as stated, will
3 remain within the existing property and on Lot 13.
4 No added curb cut, and the applicant acknowledges,
5 and will comply with DDOT requirements and
6 conditions noted in its report.

7 Third condition is that required parking
8 spaces may be arranged so that all spaces are not
9 accessible at all times. And we have shown this on
10 the plat, you'll see in a minute, that it's
11 staggered parking. So in order to accommodate a
12 higher number of cars.

13 And next slide please. So here is the
14 plat. Lot 22 is the existing property. Lot 13,
15 also owned by the same owner, is the proposed towing
16 lot. And you can see where the spaces are
17 delineated there. We left a wide enough access
18 aisle to get to those spaces.

19 And this is, you'll see there is access
20 coming in with, across the public space. The new
21 plat will have that removed and will show only
22 internal access. And we can also show a sketch
23 showing that the public space area that's currently
24 pavement or gravel will be renovated to be grass
25 covered park like setting in accordance with DDOT's

1 condition.

2 Next slide please. This is just another
3 site plan showing the spaces. So on the question of
4 the plat, we would expect to have the plat within a
5 week or two. And I understand the Board will want
6 to see that.

7 I just, I was hoping that we could at least
8 get started on this process. I understand if the
9 Board would want to hold off on a decision until we
10 get that plat. We have no problem with that of
11 course. And we would get that into the Board as
12 soon as possible. But I would say that we should
13 allow two weeks for that. If the Board were to
14 continue the hearing or schedule a decision.
15 Assuming the Board doesn't have any other questions
16 or is okay with this in general. Thank you.

17 Next slide please. I think that might be
18 it. Yes. Thank you.

19 CHAIRPERSON POURCIAU: Thank you, Mr.
20 Sullivan, that was a comprehensive presentation.
21 Are there any questions from the Board please?

22 VICE CHAIR GOLDSTEIN: Thank you very much,
23 Mr. Sullivan. I do just have a couple of questions.

24 One thing, just to clarify. I feel like I heard
25 you say that this was a relief referred from the

1 Department of Building. Is that an accurate
2 statement?

3 MR. SULLIVAN: Yes. We have a zoning
4 administrator memorandum in the case file.

5 VICE CHAIR GOLDSTEIN: Okay. I didn't see
6 that so I just wanted to be sure. I see two self-
7 certifications I think in the record. So I was just
8 going to give you a chance to clarify if I'm
9 misunderstanding.

10 MR. SULLIVAN: Hold on one second, let me
11 clarify it for you because sometimes we put a self-
12 cert on top of that. Oh, I'm sorry, we did self-
13 cert. But we do have the BZA memo. Or ZA memo.
14 And if that's not in the file I'll file that. But -
15 -

16 VICE CHAIR GOLDSTEIN: Yes. If you also
17 have it, I think that might be helpful --

18 MR. SULLIVAN: Well, it's Exhibit 9. I
19 think -- I'm sorry, we do have a ZA memo. And I
20 think we had (audio interference) --

21 VICE CHAIR GOLDSTEIN: Mr. Sullivan, did we
22 lose you for a moment there?

23 MR. SULLIVAN: Oh, yes. Can you hear me
24 now? So if recollection serves, we did -- we (audio
25 interference) section.

1 VICE CHAIR GOLDSTEIN: I don't know if it's
2 just on my end, I think you froze from my view.

3 CHAIRPERSON POURCIAU: Yes, you're going in
4 and out. He's going in and out.

5 MR. SULLIVAN: Okay, can you hear me now?

6 CHAIRPERSON POURCIAU: Can you repeat what
7 you said?

8 VICE CHAIR GOLDSTEIN: Yes.

9 MR. SULLIVAN: Sorry.

10 CHAIRPERSON POURCIAU: Yes.

11 MR. SULLIVAN: Sorry. (Audio
12 interference.)

13 VICE CHAIR GOLDSTEIN: I think we keep
14 losing --

15 MR. SULLIVAN: I keep going out.

16 VICE CHAIR GOLDSTEIN: We keep losing you
17 there, unfortunately.

18 MR. SULLIVAN: I don't know if it's -- my
19 internet says I'm fine. I don't know why it's doing
20 that, so.

21 We effectively amended the -- we did self-
22 certify. We effectively amended the original ZA
23 memorandum because it had a different section for
24 the relief.

25 VICE CHAIR GOLDSTEIN: Okay. Okay. But

1 you --

2 MR. SULLIVAN: So thank you for pointing
3 that out.

4 VICE CHAIR GOLDSTEIN: Oh, okay.

5 MR. SULLIVAN: Sorry about that.

6 VICE CHAIR GOLDSTEIN: That's fine. I just
7 wanted to be clear on that. So you proceeded as a
8 self-certified application?

9 MR. SULLIVAN: Yes.

10 VICE CHAIR GOLDSTEIN: I was hoping to also
11 ask a little bit about the edge condition on Lot 13
12 between the proposed use and the closest residential
13 use. It does look to me that you meet the
14 requirements of being separated from the residential
15 zone, but some of the residential use may in fact be
16 closer to your property than the zone because it's a
17 split zone lot.

18 I didn't see any photographs, but I'm just
19 hoping that you could explain to me how the use
20 would not be adverse to the closest residential
21 neighbors?

22 MR. SULLIVAN: Well, yes, the requirement
23 is just for the zone, but I understand that that
24 last house is mostly in the commercial zone. We
25 will have screening there. Most of these cars are

1 going to be towed in, so there is not going to be a
2 lot of movement with the cars. And they're not
3 going to be all fired up at the same time, there is
4 not going to be work done over there.

5 We could -- we could move, we could put a
6 buffer there further too so that there is 25 feet
7 between the house. That -- that's not technically
8 required but certainly happy to do that if that
9 would ease any concerns in that regard. And then
10 that way we can make it so the use is limited. We
11 would put a buffer (audio interference) --

12 VICE CHAIR GOLDSTEIN: I think we lost you
13 again unfortunately.

14 MR. SULLIVAN: -- separated. My goodness.
15 Okay, I'm --

16 VICE CHAIR GOLDSTEIN: Just one of those
17 days.

18 MR. SULLIVAN: -- sorry about that.

19 VICE CHAIR GOLDSTEIN: No, that's all
20 right. I think the last thing I heard you say is
21 that you could put in a buffer --

22 MR. SULLIVAN: Yes.

23 VICE CHAIR GOLDSTEIN: -- to better --

24 MR. SULLIVAN: Happy to do that.

25 VICE CHAIR GOLDSTEIN: -- any impacts.

1 MR. SULLIVAN: Yes.

2 VICE CHAIR GOLDSTEIN: I think I personally
3 think that sounds like a good approach. And I
4 would, you know, ask the other Board Members to
5 chime in if they feel otherwise. I also want to
6 make sure, Mr. Sullivan, that's not programmatically
7 going to compromise you, but I think that's a really
8 good idea just to, you know, make sure that since
9 that neighbor is closer I think it's a nice idea to
10 do. And in the next submission that I -- we're
11 anticipating, I think it would be great to have that
12 reflected in that submission.

13 Also lighting I suspect. Will there be
14 lighting on the lot and what, do you have any
15 description of what the lighting approach might be?

16 MR. SULLIVAN: I do not, but we can
17 certainly provide that information as well.

18 VICE CHAIR GOLDSTEIN: Okay.

19 MR. SULLIVAN: Yes.

20 VICE CHAIR GOLDSTEIN: Well just, I would
21 suspect that something that's pointed down not, you
22 know, into the --

23 MR. SULLIVAN: Yes.

24 VICE CHAIR GOLDSTEIN: -- neighborhood
25 properties and the like.

1 MR. SULLIVAN: Yes. We would definitely
2 keep the lighting away from affecting anybody. And
3 it would be the minimum needed for security purposes
4 I'm sure.

5 VICE CHAIR GOLDSTEIN: Okay. Well that
6 would be great just to have that in the record if
7 you're all -- since you're also submitting other
8 things. Just to have that.

9 MR. SULLIVAN: Sure.

10 VICE CHAIR GOLDSTEIN: So thank you very
11 much. I don't have any other questions.

12 CHAIRPERSON POURCIAU: Are there any other
13 questions from Board Members?

14 COMMISSIONER WRIGHT: Yes, I don't have any
15 other questions. I think Commissioner Goldstein
16 brought up, or Board Member Goldstein, brought up an
17 excellent, a number of excellent points.

18 And so, you know, my thought is that we
19 continue this hearing for two weeks, or whatever,
20 needs to be, whatever time is needed so that the
21 applicant can submit a revised drawing that
22 eliminates that additional access along, across
23 public land and shows all of the access being
24 internal. That also shows the buffer that has just
25 been discussed. And that provides information about

1 what the lighting will be and how the lighting will
2 be designed to not spill onto other properties.

3 And I think if we have that document, you
4 know, I certainly support the special exception for
5 the additional use on this, you know, already
6 automotive related piece of property. I don't have
7 a problem with the use. But I would like to see
8 those details before we actually, and have them be
9 put into the record before we actually take a vote.

10 VICE CHAIR GOLDSTEIN: And the, I'm sorry,
11 just one more point about the buffer. I'm hoping
12 that it's not just a lot that can de facto become
13 more parking. So hopefully something, Mr. Sullivan,
14 that could stake out that buffer space as true
15 buffer space. And I'll let you be thoughtful in how
16 that is approached.

17 And I agree, Commissioner Wright, I thought
18 those were excellent guidance.

19 CHAIRPERSON POURCIAU: I think the comments
20 that have been brought up are great. I would like
21 to say the pictures of the site looks well
22 maintained. Looks like a nice site. And with the
23 return of that green space I think it will look even
24 nicer. And I hope that the landscaping will be
25 defined in the site plan that you resubmit and make

1 it a asset to the neighborhood.

2 Are there -- did you have any questions for
3 us? I think now -- I know the Office of Planning is
4 here. Ms. Lindsjo, did you have any questions
5 before I go to Office of Planning?

6 MEMBER LINDSJO: Not at this time. Thank
7 you.

8 CHAIRPERSON POURCIAU: Thank -- thank you.
9 All right, so we have Karen Thomas again --

10 MS. THOMAS: Yes.

11 CHAIRPERSON POURCIAU: -- am I correct?

12 MS. THOMAS: Yes --

13 CHAIRPERSON POURCIAU: Okay.

14 MS. THOMAS: -- that's correct.

15 CHAIRPERSON POURCIAU: Thank you.

16 MS. THOMAS: Yes. Good morning, again,
17 Madam Chair and Members of the Board. And for the
18 record, I am Karen Thomas with the Office of
19 Planning.

20 And OP is recommending approval of the
21 applicants request for special exception relief to
22 allow vehicle towing and associated vehicle storage
23 as part of the existing gasoline service station at
24 4101 Alabama Avenue, Southeast. This activity would
25 function as an integrated extension of the existing

1 fueling and repair service.

2 Our analysis indicated that, noted rather,
3 that the existing station predates the current
4 zoning regulation and is located approximately 30
5 feet from the nearest residential zone. And the
6 proposal does not alter the footprint or move the
7 use closer to residential properties. And this
8 application satisfies the required separation.

9 With consideration of traffic and safety,
10 DDOT's report states that the towing and storage use
11 does not raise significant transport network
12 concerns. But DDOT did identify public space
13 compliance issues, specifically noncompliant paving
14 and the need to relocate the Lot 13 access gate.

15 But I will note that these relate to public
16 space design, not traffic safety. And with DDOTs
17 recommended conditions, all circulation would occur
18 internally from Lot 22 and the use would not create
19 dangerous or objectionable traffic conditions.

20 With respect to parking and maneuvering,
21 all towing storage and maneuvering would occur on
22 private property. Once the gate is relocated and
23 public parking area restored, no vehicle would need
24 to enter or cross public space to be parked for
25 removed. And this would satisfy Subtitle U § 511.1.

1 And generally, the MU-3 -- sorry. MU-3A
2 zone anticipates moderate density commercial uses,
3 including gasoline service stations and related
4 auto-oriented functions. The towing and storage
5 component is operationally related to the existing
6 use and formalizes the activity that has
7 historically occurred on Lot 13.

8 This site is buffered on three sides by a
9 church parking lot, a recreation center and Alabama
10 Avenue. And residential properties to the south, as
11 separated by distance and topography.

12 So with fencing, screening and internalized
13 circulation the use is not expected to generate
14 noise, glare or operational impacts beyond existing
15 conditions. Based on the analysis we find that the
16 proposal to be in harmony with the MU-3A zone are
17 not likely to adversely affect neighboring
18 properties. And so we would recommend approval
19 subject to DDOTs conditions regarding public space,
20 restoration and internalized access. Thank you.
21 And I'm available for any questions.

22 CHAIRPERSON POURCIAU: Thank you so much.
23 Are there any questions for OP from the Board? No.

24 Does the applicant have any questions for
25 Office of Planning? No? Okay.

1 MR. SULLIVAN: I don't (audio interference)
2 -- I have no questions. Thank you.

3 CHAIRPERSON POURCIAU: Thank you, Mr.
4 Sullivan. I think I see that two are signed up in
5 opposition, but I don't know that I see them in the
6 panelist list.

7 MR. YOUNG: I'll bring them in now.
8 They're both calling in by phone.

9 CHAIRPERSON POURCIAU: Okay, thank you. I
10 see that I have Ms. Billings signed up in opposition
11 to Case 21419. Ms. Billings, are you present? Mr.
12 Young or Ms. Mehlert, can you assist?

13 MR. YOUNG: I believe they have to push
14 star-6 to unmute from the phone.

15 MS. BILLINGS: Can you hear me now?

16 CHAIRPERSON POURCIAU: Yes. Thank you.

17 MS. BILLINGS: Oh, thank you.

18 CHAIRPERSON POURCIAU: You have three
19 minutes --

20 (Simultaneously speaking.)

21 MR. YOUNG: -- fading in and out --

22 CHAIRPERSON POURCIAU: -- for your
23 testimony please --

24 (Simultaneously speaking.)

25 CHAIRPERSON POURCIAU: Okay, yes. Three

1 minutes please. Thank you, Ms. Billings.

2 MS. BILLINGS: Yes, thank you. Thank you
3 for taking my call. My name is -- allow me to
4 introduce myself. My name is Doretha M. Billings
5 and I am a resident of the home directly behind the
6 parking lot which you are trying to expand. My
7 address is 1243 42nd Street, Southeast.

8 And I am the president of the Fort Dupont
9 Woods Condominium Association. We're located on
10 Massachusetts Avenue, Southeast, 4100 Block to 4123
11 and we continue from the 1201 Block to the 1259
12 Block of 42nd Street, Southeast.

13 The map that you were looking at shows the
14 townhouse that is directly behind the lot. And the
15 lot numbers listed at 13, and the houses that we're
16 discussing are the ones that are to the right.

17 I oppose expanding for the service for the
18 following reasons. Can you hear me? Hello?

19 CHAIRPERSON POURCIAU: Yes, we hear you.

20 MS. BILLINGS: Hello?

21 CHAIRPERSON POURCIAU: Thank you. Yes, we
22 hear you.

23 MS. BILLINGS: Okay, thank you. Thank you.

24 CHAIRPERSON POURCIAU: Yes.

25 MS. BILLINGS: Thank you. For the

1 following reasons --

2 CHAIRPERSON POURCIAU: You're loud and
3 clear. You're loud and clear.

4 MS. BILLINGS: Okay, thank you. A, behind
5 -- let's start with this. This map that was
6 presented to you, this exhibit that was exhibited to
7 you with these pictures, it's old. It's old.

8 Right now they're saying they want to have
9 a tow and two vehicles, and for the vehicles that
10 the gasoline station is working on to be stored
11 there. That's not true. Currently we have huge
12 trucks parked on that lot. We have a huge moving
13 van. We have a dump truck. We have food trucks.
14 We have a gaming trailer. And we have just a few
15 tow trucks there. I mean, towed vehicles there.

16 The trucks is a big problem because the lot
17 itself is at a slope and those trucks, they're huge
18 trucks, they are parked backwards into the lot. And
19 right next to the lot the fence, it's a house, 42nd
20 -- 1247 42nd Street, Southeast, that house is in
21 danger, along with 1245, my house, 1243, and 1241.
22 These are the townhouses, if you look at the
23 pictures, that's directly behind it.

24 Right now they're not using that lot for
25 anything which they've presented to you. The trees

1 that are behind it, and I saw that it was filed that
2 they had to do something with the tree, last year,
3 November of last year, they don't work with the
4 community on anything.

5 I tried to get that gentleman to cut the
6 tree down because it was dead. They've owned that
7 shop since 2014 when the previous owner sold it to
8 them. He kept things up, but they won't keep things
9 up. They will not do it. He wouldn't cut the tree
10 down. And in November 2025 the trees fell and fell
11 on the house right behind it. Right on the end.

12 Lucky -- and we had to call the fire
13 department. Luckily there was, that person inside,
14 the disabled person, he was terrified when that
15 house -- when the trees fell. Luckily --

16 CHAIRPERSON POURCIAU: Ms. Billings?

17 MS. BILLINGS: -- the tree cracked and all
18 of the branches at the top fell over top of the
19 houses and all on our properties.

20 CHAIRPERSON POURCIAU: Ms. Billings?

21 MS. BILLINGS: I had to --

22 CHAIRPERSON POURCIAU: Ms. Billings? The
23 time is up. Are you able to sum it up now please?

24 MS. BILLINGS: Three minutes? Okay, yes.

25 CHAIRPERSON POURCIAU: Okay.

1 MS. BILLINGS: They're not using it for
2 what they should be using it for. Right now they
3 have, the dump truck that comes there on this gravel
4 area that they showing you, if they can't get into
5 that lot he parks right there on that gravel lot.
6 He be there on weekends. He was just there this
7 past weekend.

8 The trees --

9 (Simultaneously speaking.)

10 MS. BILLINGS: -- bothered our property.
11 It has affected our property appearance. And also,
12 our value.

13 CHAIRPERSON POURCIAU: Okay.

14 MS. BILLINGS: This is a danger to us.
15 This --

16 CHAIRPERSON POURCIAU: Thank you, Ms.
17 Billings. I would like to ask the Board Members if
18 they have any questions for you if that's okay, all
19 right?

20 MS. BILLINGS: Oh, just one more thing. I
21 would like for ANC to be involved with the decision
22 on this as well.

23 CHAIRPERSON POURCIAU: All right, thank you
24 so much. Are there questions for Ms. Billings from
25 the Board please? Okay, no questions. Why don't we

1 move on to --

2 COMMISSIONER WRIGHT: Can I ask her a quick
3 question?

4 CHAIRPERSON POURCIAU: Yes. Yes.

5 COMMISSIONER WRIGHT: You know, we have
6 just talked with the applicant about putting a
7 buffer in. Some -- which I am -- which I'm hoping
8 will be plantings. Would that help mitigate some of
9 the impact of this lot on your property?

10 MS. BILLINGS: No. Because they are not
11 parking vehicles there, they're parking commercial
12 trucks there and they're huge. The area which is
13 affected is too close to the house. Too close to
14 the house.

15 The fence that is there was put up by the
16 Association. They don't have anything to protect
17 us. Nothing.

18 COMMISSIONER WRIGHT: Okay, thank you.

19 CHAIRPERSON POURCIAU: Thank you,
20 Commissioner Wright. I think we'll go to the next
21 person presenting in opposition. Ms. Tilghman, are
22 you on the line?

23 MS. TILGHMAN: Yes, I am on the line.

24 CHAIRPERSON POURCIAU: Thank you. You have
25 three minutes to present.

1 MS. TILGHMAN: Thank you very much. My
2 name is Paula Tilghman. I have lived at 4000
3 Alabama Avenue since 1976.

4 Today I'm speaking in opposition to the
5 application because the towing and storage lot is
6 already an eyesore. Today's hearing is about a
7 business that is fully operational. I don't know
8 who approved it. But I first learned of this
9 proposal on February 19th, 2026, at my ANC meeting.

10 Thank you for rescheduling the first
11 hearing because after that meeting I talked to my
12 neighbors and inquired about the community outreach
13 that was supposedly made by BP Gas. My ANC gave me
14 the community outreach list.

15 Only one property on my side of the street
16 was contacted. Those occupants listed two
17 addresses. One on Alabama Avenue and one in the
18 State of Missouri. The property is owned by a
19 charitable organization. It's occupants are
20 transients.

21 I went to 4015 Massachusetts Avenue because
22 it is on the outreach list. I asked the proprietor
23 why he approved the project. He didn't know what I
24 was talking about. Like the rest of us on Alabama
25 Avenue, 4015 was never contacted for this

1 application.

2 At the February 19, 2026, ANC meeting, we
3 were told that all the abandoned vehicles in our
4 area can be taken to the lot and stored there. We
5 would no longer see them in our neighborhoods. The
6 proposed lot is in our neighborhood. We were told
7 that we would not see the vehicles on the lot from
8 the street, yet I currently see the vehicles on
9 their property as I walk and drive by the site.

10 We were told the vehicles would not be
11 moved to the street, however, how will they get to
12 cars in the back when so many cars are blocked in?
13 Currently there are cars on the grass adjacent to
14 41st Street.

15 Frequently once these vehicles in front of
16 that enclosed property, and the trucks seen are a
17 great deal larger than the one presented in the
18 picture with the application. Trucks on the lot can
19 be seen from the street. The look -- the lot looks
20 like a vehicle junkyard.

21 It is a commercial lot on a residential
22 street. Please deny this application. 4101 Alabama
23 Avenue is directly across the street from the even
24 side of the 4000 Block of Alabama Avenue. 41st
25 street separates the odd side of the 4000 Block of

1 Alabama Avenue from the BP Station.

2 I have talked to many of my neighbors, none
3 of them support this application. Please deny
4 Application Number 2149. Thank you.

5 CHAIRPERSON POURCIAU: Thank you, Ms.
6 Tilghman. Do any Board Members have questions for
7 Ms. Tilghman please?

8 COMMISSIONER WRIGHT: I would just ask my
9 same question that I asked the previous homeowner
10 who testified. Do you think if there was screening
11 required for the lot that that would make a
12 difference or change your viewpoint on the project?

13 MS. TILGHMAN: I don't think it would make
14 a difference. When I go down 41st Street the -- I
15 think they're just talking about the house and not
16 the yard of the house.

17 But when you're on the even side of Alabama
18 Avenue it's a big mess. Those trucks are way taller
19 than the fence that they put up to guard it with.
20 And they have cars all over the grass. I mean, you
21 can't hide that because it's right on 41st Street.
22 It looks bad. So my answer is no.

23 COMMISSIONER WRIGHT: Okay, thank you very
24 much.

25 MS. TILGHMAN: Thank you.

1 CHAIRPERSON POURCIAU: Any more questions
2 from the Board? Office of Planning, do you have any
3 questions for either of the parties in opposition?

4 MS. THOMAS: No, ma'am.

5 CHAIRPERSON POURCIAU: Okay. Thank you.

6 MS. THOMAS: No thank you.

7 CHAIRPERSON POURCIAU: Would the applicant
8 like to speak? Do you have any --

9 MR. SULLIVAN: Yes, thank you. And
10 hopefully I stay connected this time.

11 I regret that I did not hear these comments
12 before. And I sort of relied on my applicant (audio
13 interference) -- continue the hearing (audio
14 interference) --

15 VICE CHAIR GOLDSTEIN: I'm sorry, I think
16 you're breaking up from my end.

17 COMMISSIONER WRIGHT: Yes, I can't hear Mr.
18 Sullivan.

19 CHAIRPERSON POURCIAU: Maybe go off camera,
20 Mr. Sullivan.

21 MR. SULLIVAN: Yes, thank you.

22 MS. MEHLERT: I would try calling in.

23 MR. SULLIVAN: Okay, thanks. What's the
24 number, Ms. Mehlert?

25 MS. MEHLERT: I just emailed it to you, but

1 I can, if you need I can give it verbally, but I
2 just sent him an email with that information.

3 MR. SULLIVAN: Okay, thank you.

4 CHAIRPERSON POURCIAU: Sometimes if you
5 just speak but don't have your camera on it gives
6 you enough bandwidth to be heard.

7 MR. SULLIVAN: Okay, I can try that but
8 then I -- can you hear me now, Commissioner Wright?

9 COMMISSIONER WRIGHT: Yes. We can hear
10 your voice --

11 MR. SULLIVAN: Okay.

12 COMMISSIONER WRIGHT: -- when your camera
13 is not on.

14 MR. SULLIVAN: Okay. So second, the
15 operator of this lot will be a tenant of sorts in
16 partner with the current owner. So they'll be
17 dealing with a different entity more invested in the
18 successful operation of this lot. And it will be
19 used for towing of cars.

20 So any use that's been there before, this
21 should improve that. And I'd like the opportunity
22 to communicate that with the neighbors. Of course
23 they don't need to take my word for it, but I will
24 reach out to them. And we'll meet with them and
25 connect with the person that will be operating this

1 portion of the property to see if we can make them
2 comfortable and work on their concerns.

3 CHAIRPERSON POURCIAU: Thank you, Mr.
4 Sullivan. Is there any other discussion for the,
5 those in opposition? If not we, I believe we may --
6 we are ready to proceed to deliberation.

7 And so, hearing no further comments we'll
8 close this hearing section of the record. The
9 witnesses can be excused and we will begin
10 deliberation. Is there a motion to -- do I need a
11 motion for that?

12 VICE CHAIR GOLDSTEIN: I guess I would like
13 to question whether we close the hearing or continue
14 it? I think I might be more inclined to continue
15 it. I think there is a fair amount of information
16 that the applicant has committed to providing, as
17 well as additional discussions with neighbors. And
18 perhaps even another opportunity for the applicant
19 to return to the ANC.

20 I'd really like to give that a bit of time
21 to proceed and see what the results are. I would be
22 looking for, although the neighbors in opposition
23 said it would not change their view, I really would
24 like to see a robust buffer put in place. I'd like
25 more information about the lighting.

1 I've heard the commitment about only cars.

2 I'd like to see that fleshed out a bit more from
3 the applicant. And I would like to see what the
4 fruits of discussions of the neighbors are.

5 In my mind I'm also toying with the idea,
6 and I want to see where this goes, about whether
7 there should be a timeline on the proposed use.
8 This might be something that the applicant, I'd be
9 curious to hear them respond to. But just as a
10 thought experiment, let's say we conditioned it on a
11 five year term and have them come back. And I'd
12 love to hear the applicant respond to something like
13 that while they're still, if they're still able to
14 come back into the hearing.

15 So those are my thoughts at the moment.
16 And I seed the floor to any other Board Members.

17 COMMISSIONER WRIGHT: I agree that we
18 should continue the hearing rather than close the
19 hearing right now. I think we should continue it
20 and get all of the information that has been
21 discussed. And give the applicant time to go back
22 to the neighborhood and ANC and have additional
23 discussions.

24 I also don't know, and would want us to get
25 some advice from our legal staff about whether we

1 can condition something like this with a five year
2 time limit. I don't -- I don't know the answer to
3 that, whether we can do that or not. And I think
4 we'd probably want to get a little advice on that.

5 But I definitely think this is not ready
6 for action today and needs to have the hearing be
7 continued to address the things that we have
8 discussed today and the information we've gotten
9 from the adjacent neighbors.

10 VICE CHAIR GOLDSTEIN: Thank you so much.
11 And I would ask the applicant, and if they're not
12 able to orally now, as far as -- as part of the next
13 submission to address the concept of a time limit
14 and what their view of that is.

15 I'd also like them to talk about the
16 current operation of that lot and how that's going
17 to be stopped or improved right away. And I'd like
18 to see that as far as a submission too.

19 CHAIRPERSON POURCIAU: Excellent. Those
20 are excellent comments. I think the continuance is
21 a great idea. Ms. Lindsjo, do you have anything you
22 want to add?

23 MEMBER LINDSJO: No. I agree with the
24 continuance.

25 CHAIRPERSON POURCIAU: Thank you so much.

1 Ms. Mehlert, do we vote on the continuance? Is that
2 how we proceed?

3 MS. MEHLERT: No. No, I was going to ask
4 if you wanted to bring the applicant back in to
5 address those elements since you're not closing the
6 hearing. Typically you don't need to excuse the
7 applicant when you're continuing the case you can --

8 CHAIRPERSON POURCIAU: Okay.

9 MS. MEHLERT: -- discuss what's needed and
10 then schedule the further continued date.

11 CHAIRPERSON POURCIAU: Excellent. It looks
12 like he's back, so let's see if he is ready to
13 speak. Mr. Sullivan, are you available?

14 MR. SULLIVAN: Yes, Madam Chair, I'm here.

15 CHAIRPERSON POURCIAU: Did you -- there was
16 some questions from Vice Chair Goldstein. Could you
17 repeat those, please?

18 You're on mute, Vice Chair.

19 VICE CHAIR GOLDSTEIN: All right. As far
20 as it's taken that many times till I started talking
21 while on mute I've been better about it.

22 I think there were a number of items that
23 we wanted to ask you for. I think a number of which
24 you've agreed to. About the buffer. And I'd really
25 like to see what that looks like in a revised

1 submission. We've talked about lighting. Community
2 outreach, of which you've also suggested is a good
3 idea in this case.

4 I did want to ask you questions about how
5 we can improve the operation of that lot. We've
6 heard some pretty concerning testimony today and I
7 just want to make sure that that condition improves
8 as quickly as possible.

9 And then I'd also like to hear your
10 thoughts, and this is kind of wrapped up in some of
11 these other discussions and the like, what -- what
12 your reaction would be to a term limit on this use?

13 MR. SULLIVAN: Thank you. The -- sorry.
14 I'm not opposed to the concept of a time limit.
15 There will be significant investment in improving
16 the lot and the operation and the front of that, so
17 we'd like to have a significant amount of time. And
18 I can't comment on the time, but I can submit my
19 thoughts on that further.

20 And I think, you know, have that be
21 considered along with, we'll see if we can make any
22 progress with the ANC and the neighbors as well and
23 improving the plan overall and answering your
24 questions. And I assume that will have some (audio
25 interference) --

1 CHAIRPERSON POURCIAU: Excellent. Thank
2 you for offering that. So if there is no more
3 discussion on this, Madam Secretary, could you give
4 some information on the continuance please?

5 MS. MEHLERT: Sure. So it sounds like
6 there is a number of things requested from the
7 applicant. I am not sure how long it might take the
8 applicant to submit those, but say the Board, if you
9 wanted to continue the hearing to, say July 15th.
10 Commissioner Wright is actually back that day as
11 well.

12 The applicant could submit their filings
13 by, say June 24th or July 1st, then give the ANC
14 until July 8th to respond. If they -- or submit
15 something. And then the Board could return on July
16 15th.

17 CHAIRPERSON POURCIAU: Assuming that's
18 adequate time for the applicant to complete --

19 MR. SULLIVAN: July 1st would be great.
20 Thank you, Madam Chair. Yes. For a submission
21 date. Yes.

22 CHAIRPERSON POURCIAU: Great, thank you.
23 Thank you so much. So we'll proceed to continuance.

24 I'd like to request a five-minute break.
25 All right, thank you all. This has been good so

1 far. Well, let's reconvene at 11:20. That will be
2 six minutes.

3 (Whereupon, the above-entitled matter went
4 off the record at 11:14 a.m. and resumed at 11:22
5 a.m.)

6 CHAIRPERSON POURCIAU: Okay, welcome back,
7 everyone. We'll proceed with the agenda item Case
8 No. 21423.

9 MS. MEHLERT: The Board and staff are back
10 from a quick break and returning to its hearing
11 session. That's this Application No. 21423 of 2210
12 5th, LLC, as amended. This is a self-certified
13 application pursuant to Subtitle X, Section 901.2
14 for a special exception under Subtitle U, Section
15 802.1(e) to allow an entertainment assembly and
16 performing arts use. And pursuant to Subtitle X,
17 Section 1002 for an area variance, Subtitle U,
18 Section 802.1(a)(2) to allow an entertainment
19 assembly and performing arts use on the property
20 abutting a residential use or residential zone.
21 This is for a new entertainment assembly of
22 performing arts use, specifically indoor golf
23 simulator at a mixed-use two-story building. It's
24 located in a PDR2 zone at 2210 5th Street, NE,
25 Square 3622, Lot 811.

1 As a preliminary matter, the applicant has
2 proffered two expert witnesses in architecture which
3 are not -- have not been recognized by the Board
4 yet, Alan Sparber and Joe Spinelli and their resumes
5 are in Exhibit 35A.

6 CHAIRPERSON POURCIAU: So as our first
7 action to recognize the applicant and architecture,
8 were those the two? Was that our first action?

9 MS. MEHLERT: That's before the Board as a
10 preliminary matter, yes.

11 CHAIRPERSON POURCIAU: Yes. Has anyone
12 reviewed their information in the file? Let's do
13 that now.

14 Any questions? Hearing no questions, it
15 looks fine. We'll recognize those and we'll proceed
16 to the presentation. I see we have two agents
17 signed up, applicant and the architect.

18 Who will be speaking today?

19 MS. TEMPLIN: Hi, good morning, Chair
20 Pourciau, and members of the Board. My name is Lee
21 Templin and I'll start things off if that's okay.

22 CHAIRPERSON POURCIAU: Thank you.

23 MR. UTZ: I think we lost Lee.

24 CHAIRPERSON POURCIAU: Would you like to
25 start Mr. Utz, or should we give her a minute to get

1 back on?

2 MR. UTZ: We can go ahead and get started.

3 If we can pull up the presentation, that would be
4 great and then when we walks back on, I can hand it
5 back to her. So yes, can we pull up the
6 presentation, please, just for the record.

7 MS. TEMPLIN: Sorry about that. Can
8 everyone hear me okay?

9 MR. UTZ: Yeah, we can hear you. We just
10 pulled up the presentation. I'll let you take it
11 over.

12 MS. TEMPLIN: Thanks, Jeff. So I'd like to
13 start off by introducing our team for the record.
14 My name is Lee Templin of Goulston and Storrs, land
15 use counsel on behalf of the applicant, 2210 5th,
16 LLC. And we appreciate the opportunity to present
17 to you today BZA Case No. 21423 for 2210 5th Street,
18 Northeast.

19 I'm joined today by my colleague, Jeff Utz,
20 as well as Greg Casten, President of the applicant.

21 And on behalf of the design team, we are joined by
22 Alan Sparber with Restaurant Consultants, Inc.

23 Mr. Young, if you could please go to the
24 next slide, please.

25 This application is for 2210 5th Street,

1 Northeast. The property is located between the
2 Eckington and Edgewood neighborhoods in Northeast
3 D.C. The surrounding area consists of a mix of
4 industrial and commercial uses. Rhode Island
5 Avenue, Northeast, to the north includes mostly
6 commercial uses, as well as several newer multi-
7 family buildings. The Metropolitan Branch Trail, or
8 the MBT, runs approximately one block east of the
9 property.

10 The property is currently improved with a
11 surface parking lot and warehouse structure that was
12 previously used as an autobody repair shop. The
13 property currently sits vacant and the applicant
14 plans to convert the warehouse to an indoor digital
15 golf range.

16 Next slide, please. The property is
17 located in the PDR-2 zone, but it is the only lot
18 within the square with that zoning. All of the lots
19 to the north and west are in the NU-4 zone. The
20 proposed use would be matter of right anywhere else
21 within the square.

22 Next slide, please. In addition, the
23 future land use maps strikes the property for both
24 PDR and residential uses indicating a more mixed use
25 vision for the property than purely PDR use.

1 Next slide, please. We are here today to
2 request a special exception pursuant to Subtitle U,
3 Section 802.1(e) to allow golf simulator use as an
4 entertainment assembly performing arts use in the
5 PDR-2 zone. Although the property to the west is
6 long utilized as a commercial building including a
7 supermarket, it is currently being redeveloped with
8 a multi-family building. Therefore, we are also
9 requesting a variance in the special exception
10 condition of Subtitle U 802.1(e)(2) that the subject
11 property not abut a residential use or residential
12 zone.

13 We are pleased to have the support of OP at
14 Exhibit 37 of the record and ANC 5F at Exhibit 21,
15 as well as the report of no objection from DDOT at
16 Exhibit 31. The OPM DDOT reports do not contain any
17 conditions. And with that, I'll turn it over now to
18 Mr. Casten and then Mr. Sparber to give some more
19 background on the property and the project.

20 Mr. Casten? You might need to unmute
21 yourself.

22 MR. CASTEN: I thought you guys did that.
23 I beg your pardon.

24 Thank you, Lee. Good morning. Good
25 morning, Chair Pourciau and other members of the

1 Board. My name is Greg Casten. I am the owner or
2 president and primary owner of 2210 5th, LLC, as
3 well as several well-known D.C. businesses. I've
4 been in the District since 1984, owning and
5 operating businesses and small real estate
6 throughout.

7 I think I'm in seven wards now. Some of
8 the notable ones are Ivy City Smokehouse, Ivy City
9 Tavern, Nick's Riverside Grill, Tony and Joe's
10 Seafood Place, the Point DC, the Strand in Deanwood
11 is my newest, and then, of course, ProFish, the
12 wholesaler everyone knows about.

13 I'm excited about this project. I've
14 planned for it for a long time. I'm sorry we have
15 to go through these steps. The building is of --
16 anyway. I've owned the property since '23. It was
17 not my intention to originally do this use. I had
18 hoped to use some other industrial-based tenants,
19 but the building shape was not proper and the size
20 didn't work out, so in the end, I couldn't really
21 lease it.

22 To the north of it, to the property is a
23 strip of one-story retail, including a laundromat, a
24 market, and a fast-food establishment. The
25 surrounding area is a mix of industrial and

1 institutional uses including the U-Haul that's right
2 across the street of a fire station. It's
3 diagonally across the street. There's a church in
4 between those two across the street or sort of a
5 block away. There is a cement factory to the right.

6 There are warehouses all around and then due south
7 there's five or six townhouses on the street, across
8 the street abutting the property. I think they're
9 both single and multiple. I'm not sure.

10 Previously, the property was used for car
11 and repair storage which were matter of right. For
12 years, the lot was somewhat unattended, if you will,
13 and there were cars and junk parked everywhere. I
14 mentioned before who I've tried to work with. Most
15 of those companies were ones that I was involved in,
16 including an audio visual company and a moving
17 company and ProFish. ProFish could store some
18 styrofoam byproduct there while we wait for it to
19 accumulate and it's really not a great use for it
20 and certainly wouldn't pay for the cost of obtaining
21 it and I guarantee the neighbors wouldn't like that.

22 So thus, I don't think any of the
23 businesses I have can use the property and I don't
24 think the property is all that attractive for what
25 it is as a 3,000 square foot building and hence the

1 idea to try to use this golf simulator craze and see
2 if I could put that in the building. The warehouse
3 is narrow and L shape. It's got a small addition.
4 Has a slanted roof. The large bays get in the way
5 of things like storage for the moving company and
6 whatnot, but rather than fill them in, I thought it
7 would look better with overhead doors which I think
8 -- I don't know if there's a picture of or not.

9 If the proposed use is not allowed, the
10 property will most likely just remain a vacant lot
11 while I try to figure out what I'm going to do with
12 it and who I can sell it to or if I could sell it.
13 And then ultimately, may end up just being a
14 collection place for what it was when the auto
15 repair was there.

16 The proposed golf simulators, there's four
17 of them. They fit right into the bays. They don't
18 make any noise. They plug into 110 volt plugs. You
19 hit a golf ball into the back of a heavy wall and
20 the apparatus analyzes your swing, your approach,
21 helps correct it, helps make you a better player if
22 you're really into golf. And then also the four
23 machines can be set in unison so that you can have
24 communities and community events and that type of
25 things there where people might come and you get 20

1 people and they would each play on a machine as a
2 foursome against one another. If you're
3 knowledgeable about how the game of golf might work,
4 this gives them an opportunity, especially in light
5 of some of the controversy going on with the golf
6 courses in DC and what's going to happen to them. I
7 might add in the background of all of that, I have
8 been a long supporter of Langston and trying to make
9 Langston a better golf course as an amenity for DC
10 and I'm still actively involved in that. We held
11 their tournament, Chair, I think this year, so my
12 attention or desire for golf has some personal
13 nature, but certainly not exclusively in any way
14 here.

15 We maintain the existing building the way
16 it is. The roof on the little extension we'll raise
17 about two feet. I believe it's currently lower than
18 the roof on the square part of the L or the long
19 part of the L. That's just so that it can fit a
20 golf swing in there that right now it doesn't.
21 There is a small second floor in there on the other
22 far end of the L, the tall end closest to Rhode
23 Island Avenue.

24 Our proposed use, in my opinion, will
25 benefit the neighborhood. I would note the area is

1 evolving, similar to the way Ivy City did and
2 similar to the way Union Market neighborhood has
3 grown and I think in time, this will be a nice end
4 cap for when you go down 4th Street and 5th Street
5 down to the end of that -- it's not a cul-de-sac,
6 but a 90-degree turn. I forget the name of the
7 building that sits right at the end of -- I think
8 it's 4th and -- I can't remember, but you take a
9 right, right down in there. That's all residential
10 use. And that would be the customer base and I
11 think that they would greatly appreciate having this
12 amenity.

13 That's really all I have to say. Thank you
14 for your time. Thank you for looking at it and
15 hopefully our argument is persuasive.

16 Lee?

17 MS. TEMPLIN: Thanks, Greg. Mr. Sparber,
18 would you like to walk through the next few slides
19 briefly?

20 MR. SPARBER: Yes, I would. Thank you.
21 I'm Alan Sparber. I'm an architect. I've been
22 working in DC, practicing in DC as an architect for
23 more than 40 years. At one point, I did a lot of
24 commercial work all over the East Coast. I've had
25 18 licenses. Now I've restricted myself to DC,

1 Maryland, and Virginia doing private, corporate
2 work. We've also done local, state, and Federal
3 Government projects as well.

4 RCI, where I'm a partner, we've worked with
5 Greg Casten for over 20 years on projects all over
6 the city, as he's mentioned, in all quadrants and we
7 were excited to find this one. This building is
8 unusual, very unique in that it's got a lot of
9 street frontage, but no street presence and it's a
10 difficult layout. There's an existing masonry wall
11 running down the side, separating two small areas.
12 It would be difficult to remove that and very costly
13 to put a lot of structure in this building.

14 The building is set back from 5th Street,
15 almost a 100 feet from the curb, 80 feet from the
16 property line and most of the property, as you can
17 see from the picture, is surface parking which is
18 unusual in the District. The structure itself
19 presents challenges with its length and narrow
20 depth. The small addition with a slanted roof that,
21 as Greg mentioned, we're raising so it fits the golf
22 module and we'll discuss modules a little bit later.

23 Because it's so far back, no presence, it's
24 difficult to utilize, as Greg also mentioned, for
25 another economically-viable purpose. It's difficult

1 to modify the existing warehouse due to age and
2 configuration of these bays, as well as I've
3 mentioned, the location of the supports. Any
4 reconfiguration requires removal of existing masonry
5 supports and introduce seams that creates
6 waterproofing and insulation problems.

7 Can I have the next slide?

8 This is what a golf module looks like.
9 It's 15 feet across the front, 13 feet deep. A
10 golfer would stand on the green. It's an artificial
11 turf surface and if you're not familiar with the
12 project, a golfer stands there with a real golf ball
13 and a real golf club and hits the ball into a screen
14 upon which is projected either a cart-to-inversion
15 of a golf fairway or an actual picture of any one of
16 a number of real life golf courses. So it looks
17 like you could be playing at Augusta.

18 You hit a real ball and it bounces off the
19 mesh screen into an insulated back surface, very
20 little noise at that impact, but you can actually
21 see a cartoon version of your golf ball flying
22 through the air and landing in a fairway or a lake
23 or a sand trap. And the unusual thing is these --
24 each one of these golf modules and there are four of
25 them take 195 square feet out of the space. So only

1 one person at a time can be in each one of those
2 spaces. So we've also got some cafe-style tables
3 around so your friends or visitors can come and
4 watch you work on your game or they can all be
5 combined as Greg had mentioned, and you can play
6 amongst yourselves, amongst your friends.

7 Can I have the next slide, please?

8 This again shows the layout of the building
9 with the golf modules in place. Again, each one is
10 only one person at a time, so it does eat up a lot
11 of space in the building. So this building is a
12 particularly unique space to -- for these modules.
13 Not many other buildings would make it work as
14 easily.

15 So let me see -- can I get another slide?

16 CHAIRPERSON POURCIAU: Mr. Sparber, I just
17 want to let you know that your time has almost --
18 has run out.

19 MR. SPARBER: Okay.

20 CHAIRPERSON POURCIAU: So if you all want
21 to wrap it up, that would be nice.

22 MR. SPARBER: Okay. I've said my peace. I
23 would welcome any questions any of you have. Thank
24 you.

25 MS. TEMPLIN: Thanks, Alan. And Chair

1 Pourciau, members of the Board, I'm happy to very
2 quickly run through the special exception and/or
3 variance standards if that would be helpful or I'm
4 happy to rest on the record. I think I could be
5 pretty brief, but it's entirely up to you.

6 CHAIRPERSON POURCIAU: Yes, if you can do
7 that quickly. Thank you.

8 MS. TEMPLIN: Sure. Will do. Thanks.

9 Next slide, please. So as I mentioned,
10 we're requesting a special exception to permit the
11 entertainment assembly performing use in a PDR zone
12 and then a variance from the requirement that use
13 does not abut a residential use for the planned
14 multi-family next door.

15 Next slide, please. The application meets
16 all the special exception standards. First, the
17 relief will be in harmony with the purpose and
18 intent of the zoning regs and the golf simulator use
19 will adaptively reuse this vacant building with a
20 creative and economically-viable concept.

21 The use contributes to creating an amenity-
22 rich neighborhood that will complement the abutting
23 commercial uses to the north and to the west, where
24 the use would be matter of right.

25 And finally, the project furthers the goal

1 of the mid-city area element of the comp. plan as
2 it redevelops a vacant building with a trail-
3 orientated development, very close to MBT.

4 Next slide.

5 The relief will not tend to affect
6 adversely the use of neighboring properties, as the
7 neighborhood is already mixed use. There's an
8 evolving entertainment district just north of Rhode
9 Island Avenue that includes the Alamo Drafthouse,
10 Kraken Kourts and Skates and a Bubble Planet and
11 Monet immersive experiences. And has been
12 discussed, proposed use is very limited in scope
13 with only four golf simulators.

14 Next slide, please. The use is not likely
15 to become objectionable to neighboring properties.
16 As has been explained, the noise level of the golf
17 simulators is very low, only about 70 decibels which
18 is similar to a dishwasher or a vacuum cleaner and
19 the number of patrons will be limited by the small
20 number of four golf simulators. There's also no
21 anticipated adverse impact on parking or trash.

22 Next slide, please. As mentioned, the
23 property does abut a pending residential use
24 although it's not in active use yet and therefore
25 we're requesting the variance relief from this

1 provision. We are not aware of any properties
2 within 1,000 feet that contain a live performance
3 nightclub or dance venue and we did look into
4 certificates of occupancy for several nearby uses,
5 none of which consisted of a live performance
6 nightclub or dance venue.

7 Next slide, please. The applicant does not
8 propose any external implication for the proposed
9 use and will comply with any additional requirements
10 the Board chooses to impose, but we know that as OP
11 recommended in their report, no additional
12 requirements are recommended given the small scale
13 of the use and lack of anticipated adverse impact.

14 Next slide.

15 The applicant is also requesting a variance
16 in the special exception requirement and as Mr.
17 Casten and Mr. Sparber described, the property is
18 affected by a number of exceptional situations.
19 First, the proposed use would be matter or right and
20 any other lot in this square. Second, it seems like
21 an anomaly that the PDR zone reaches up into the
22 square and we imagine the reason might be the site's
23 prior automotive use. Third, the property is
24 unusual in that it consists mostly of surface
25 parking with a very oddly-configured warehouse.

1 Fourth, the shape of that structure, including the
2 narrow depth and large bays and the location and
3 limitations of the structural support components and
4 the unusual slanted roof of the recent final
5 addition severely restricted the potential viable
6 uses of the lot. Fifth, the limited potential on
7 the site is demonstrated by the obstacles that
8 applicant has already faced trying to lease the
9 unusual building. And finally, the FLUM recently
10 changed to include the residential designation mixed
11 for this lot that further underscores the unusual
12 zoning for this property and the evolution of this
13 at the District conditions for this lot.

14 Next slide, please. The applicant will
15 face practical difficulty with strict zoning
16 compliance. The property is currently vacant and
17 the applicant has thus far been unable to utilize
18 the property due to its unique characteristics. The
19 significant setback from 5th Street and minor
20 footage along W Street offers a limited presence and
21 visibility for retail tenants. Reconfiguration of
22 the building would likewise be impracticable as it
23 would require removal of masonry supports that could
24 potentially endanger the viability of the structure
25 and introduce steam that could create waterproofing

1 and insulation issues.

2 Although the I configuration constrains
3 most potential uses, the proposed golf simulator use
4 really uniquely fits perfectly well within the
5 automotive repair bays.

6 Next slide, which is my final line of
7 comments. Finally, the variance relief will not
8 cause substantial detriment to the public good or
9 the zoning regulations or zoning maps. The proposed
10 use provides new recreational use that will enrich
11 the surrounding neighborhood and provide an amenity
12 for the nearby MBTs. The use is quiet and will have
13 no audible impact on nearby residential uses, nor
14 will it generate any adverse traffic impacts, fumes,
15 or other detrimental impacts.

16 As PDR zones evolve through this city, the
17 proposed use complements the pending multi-family
18 development next door and in nearby residential uses
19 along Rhode Island Avenue helping to create an
20 amenity-rich environment.

21 And then the next slide which is just the
22 thank you very much and I would reiterate that we
23 believe the application meets all the standards for
24 both the special exception and variance relief. We
25 are pleased to have the support of OP and ANC 5F, as

1 well as the report of no objection from DDOT and we
2 really appreciate the Board's time and consideration
3 today.

4 CHAIRPERSON POURCIAU: Thank you for a
5 comprehensive presentation. Please be aware of the
6 time allowed going forward. Our days get kind of
7 long and all of the points were good, but maybe
8 could have been a little shorter.

9 Mr. Casten, thank you so much for your
10 establishments all over DC. I've enjoyed them and I
11 also enjoy golf, so it's nice to see this kind of
12 facility being looked at in this area.

13 At this time, I'd like to ask if any board
14 members have questions for the applicant.

15 COMMISSIONER WRIGHT: I have one question.
16 I note in the communications from the ANC that they
17 are talking about the fact that you all have
18 proffered, although I don't think that's quite the
19 correct word, but that you've offered to try to make
20 sure that the noise is not an issue. And I think
21 that for the actual golf simulators, that's not
22 going to be a problem. But you do have outdoor
23 seating, sort of cafe seating in the L courtyard,
24 I'll call it a courtyard of the building.

25 Could you talk a little bit about what

1 noise might be generated by people sitting out at
2 those tables? Will you be serving food and drink
3 for people who will be sitting at those tables or
4 are they really just tables for people to sit at
5 while they're waiting for the golf simulator?

6 MS. TEMPLIN: Yes, I think at the moment,
7 it's a little early to know exactly what will be
8 served, if anything. they will mostly be there for
9 the patrons and as we've described, the number of
10 patrons will be limited by the small number of golf
11 simulators, so we're not anticipating a large
12 occupancy rate of the property whatsoever.

13 I also point out that the bays open towards
14 the east, towards 5th Street where there's the U-
15 Haul and the fire station and more industrial uses.

16 So it kind of lends itself to like the small amount
17 of noise will be kind of headed in that direction if
18 that makes sense.

19 COMMISSIONER WRIGHT: Thank you. And is
20 there going to be, facing 5th Street, any kind of
21 fence or gate that people have to walk through to
22 get into the little courtyard?

23 MS. TEMPLIN: I believe there's currently a
24 gate there. Is that right, Mr. Casten?

25 MR. CASTEN: That's correct. There's a

1 large gate, actually, an automatic gate that closes
2 and shuts the whole property off.

3 COMMISSIONER WRIGHT: And that's going to
4 remain?

5 MR. CASTEN: Yes.

6 COMMISSIONER WRIGHT: When it is in this
7 new use?

8 MR. CASTEN: Yes. And just to talk about
9 food, I do anticipate some kind of refreshment
10 available to the people. I'm not sure about alcohol
11 at this point, but I certainly hope to be able to
12 offer sandwiches or a hamburger, but not an
13 established restaurant per se, but something simple.
14 So that activity may happen and you know, you might
15 have a few people that consolidate outside.

16 Being an operator of establishments in
17 Washington Harbor and Georgetown and residential
18 buildings throughout, I'm well aware of the concerns
19 the residents have and the requirements for noise
20 and what not, so I don't envision any activity here
21 even presenting an opportunity to create an issue
22 with the neighbors, but you never know. But I don't
23 think it's anything like my other establishments
24 might produce.

25 COMMISSIONER WRIGHT: Great, and so your --

1 obviously, there are noise ordinances and you know
2 that you'll have to comply with all of those and
3 again, what I hear you say is that those outdoor
4 tables really aren't oriented to bring in other
5 customers who aren't really using the golf
6 simulators. They're really for the customers using
7 the golf simulators and/or their guests that they
8 might bring along with them. Is that correct?

9 MR. CASTEN: Yes, sorry, fair enough. Yes,
10 that is correct. For the tenant, that's exactly --
11 well, the tenant is me, it's my corporation, but
12 yes, that's what they're there for. I don't have
13 intention of parked vehicles there, other than --
14 and the use in front of the tables, but right now
15 I'm parking a few trucks and vehicles from my
16 various companies there. That activity won't go on.

17 COMMISSIONER WRIGHT: Okay. Thank you very
18 much.

19 VICE CHAIR GOLDSTEIN: I do have a question
20 about the relief and just wanted to ask a couple of
21 follow ups. I see in the record that this case was
22 originally referred I believe as a special
23 exception, then as a use variance, and now we're
24 here for the special exception and area variance.

25 Can you just describe why this has more

1 morphed so much in the relief requested?

2 MS. TEMPLIN: Sure. Of course, first, I
3 believe there are a couple of ZA memos with the
4 original relief in the record and then that has been
5 superseded by we submitted a self-certification from
6 135, I believe it was Exhibit maybe 23 or so in the
7 record which superseded those ZA memos.

8 It is an area variance. If you look at
9 Subtitle X 1001.3 that lists out the different types
10 of area variances and this would be like a pre-
11 condition to the establishment of a special
12 exception use provided that the variance will not
13 cause the proposed use to meet a more intense use.
14 So that is why it qualifies as an area variance as
15 opposed to use.

16 VICE CHAIR GOLDSTEIN: That makes sense to
17 me. I'm just -- it's more -- if DOB was telling you
18 other things and now you're coming back with the
19 relief that doesn't match what they had referred you
20 for, I don't know if any of the facts have changed.

21 I just want to make sure that there's no daylight
22 between what you're asking for and what the
23 expectation was.

24 MS. TEMPLIN: Of course, no. It's a fair
25 question. I don't believe we were involved in those

1 preliminary discussions with the Building
2 Administrator, so when we became involved we decided
3 to just submit the Form 135.

4 MR. CASTEN: I can add to that. I think
5 what DOB, this is the end of a two-year process.
6 This has been a very arduous, arduous permitting
7 process and they didn't inform me through zoning
8 that we needed a variance until about a week before
9 they were going to issue the final permit. And then
10 I think they were confused and that's when I got Mr.
11 Hudson and Lee involved. I don't know if that helps
12 explain it, but from my perspective all of this is
13 sort of above my head, the variance and what not,
14 that's legal.

15 When we made the original application and
16 it was without lawyers because DOB told me oh, you
17 don't need -- it's not that serious and then the
18 gentleman from your staff called and said this is a
19 serious thing, you better make sure you have it
20 clean and that's when I said I better get a lawyer.

21 If it would have been me here answering these
22 questions I'd would have been wiped. I don't know
23 any of those answers. But maybe that helps clear up
24 why there's confusion in the process and maybe it
25 was a misstep in the beginning and when Jeff and Lee

1 got involved, it corrected itself. And they got
2 involved with DOB as well. But I think it was on
3 your docket before I engaged Jeff and Lee, so that
4 could explain it.

5 VICE CHAIR GOLDSTEIN: Thank you. I've
6 also heard a couple of times and just to confirm for
7 myself, this use in any of the surrounding MU-4
8 properties, I believe it's all MU-4 in the square
9 would be matter of right. It's just somehow
10 through whatever zoning conditions and special
11 exceptions were developed at some point in time that
12 the more intensive industrial zone has this
13 additional restriction. Is that correct?

14 MS. TEMPLIN: Yes, it's true. It is kind
15 of unusual. It's also unusual how the PDR comes up
16 and reaches just this little property and the rest,
17 you know if you look broadly north and west, they're
18 all MU. So it is -- it's pretty unique.

19 VICE CHAIR GOLDSTEIN: Okay. Thank you. I
20 don't have any other questions.

21 MR. CASTEN: Thank you.

22 CHAIRPERSON POURCIAU: All right, hearing
23 no other questions from the Board, I see we have the
24 DC Office of Planning on board.

25 Mr. Jesick, would you like to present your

1 report now please?

2 MR. JESICK: Yes. Thank you, Madam Chair,
3 and members of the Board. For the record, my name
4 is Matt Jesick and I'll be presenting OP's testimony
5 in this case.

6 And the Office of Planning is happy to rest on the
7 record in support of the application. We analyzed
8 the requested relief and found that the application
9 meets the standards for relief for both the special
10 exception, for the use, and the area variance for
11 the specific criteria within the use.

12 I'm happy to elaborate on that as the Board
13 would like, but again, we found that it met the
14 applicable criteria and are recommending approval.
15 Thank you so much.

16 CHAIRPERSON POURCIAU: Thank you so much
17 for your report and your brief presentation.

18 Are there any questions for Mr. Jesick from
19 the Board? From the applicant?

20 Okay, thank you, Mr. Jesick.

21 I believe we don't have anyone else signed
22 up. Are there any concluding remarks the applicant
23 would like to make?

24 MS. TEMPLIN: No, just in closing, I
25 reiterate that we believe we meet all of the

1 standards. The property, as Vice Chair Goldstein
2 pointed out, is really unusual and its PDR-2 zoning
3 and the proposed golf simulator use would be
4 permitted as a matter of right in any of the other
5 zones and we really appreciate the Board's time and
6 consideration today.

7 CHAIRPERSON POURCIAU: Thank you. Any
8 further deliberations by the Board? All right,
9 hearing no deliberation, Ms. Wright would you like
10 to offer a motion? Are we ready for that?

11 COMMISSIONER WRIGHT: I'm glad to do a
12 motion. I'm the motion maker of the day.

13 CHAIRPERSON POURCIAU: Yes, you're the
14 motion maker.

15 COMMISSIONER WRIGHT: I'm the motion maker.
16 So I am happy to move approval of Application No.
17 21423 of 2210 5th Street, LLC for the property at
18 2210 5th Street, NE, Square 3622, Lot 811 and to
19 move approval of the requested special exception to
20 allow an entertainment assembly and performing arts
21 use and the area variance to allow an entertainment
22 assembly and performing arts use on a property
23 abutting a residential use for residential zone. And
24 I base my motion on all of the information that's
25 been presented both by the applicant and in the

1 Office of Planning report about why this project
2 meets the standards for special exception and area
3 variance. Thank you.

4 MEMBER LINDSJO: I'll second the motion.

5 CHAIRPERSON POURCIAU: Any further
6 discussion? Madam Secretary, would you please call
7 the roll?

8 MS. MEHLERT: Please respond to
9 Commissioner Wright's motion to approve the
10 application.

11 Chair Pourciau?

12 CHAIRPERSON POURCIAU: Yes.

13 MS. MEHLERT: Vice Chair Goldstein?

14 VICE CHAIR GOLDSTEIN: Yes.

15 MS. MEHLERT: Board Member Lindsjo?

16 MEMBER LINDSJO: Yes.

17 MS. MEHLERT: Commissioner Wright?

18 COMMISSIONER WRIGHT: Yes.

19 MS. MEHLERT: Staff would record the vote
20 as 4 to 0 to 1 to approve Application No. 21423 on
21 the motion made by Commissioner Wright and seconded
22 by Board Member Lindsjo.

23 CHAIRPERSON POURCIAU: Thank you so much.
24 I'd like to ask the board members, I'm thinking
25 maybe we'll take one more case before we break for

1 lunch. What are your thoughts? Do you agree?

2 Okay, let's do that.

3 All right, Madam Secretary, would you
4 please call the next case?

5 MS. MEHLERT: Yes, next is Application No.
6 21424 of Mestawet Dejene. This is an application
7 pursuant to Subtitle X, Section 901.2 for special
8 exceptions under Subtitle U, Section 251.1(b)(3) to
9 permit an expanded child development home for 12
10 individuals 15 years of age or less and under
11 Subtitle U, Section 251.6(b) for a modification of
12 Subtitle U, Section 251.3(f) to allow conduct of
13 operations related to a home occupation outside of
14 the structure, specifically an outdoor play area.
15 This again is the expansion of an existing child
16 development home from 9 to 12 children, rated as a
17 home occupation and its attachments to dwelling.
18 It's located in the R-1B zone at 1703 Bunker Hill
19 Road, NE, Square 4163, Lot 3 and I will note that
20 there was a letter in support that was submitted
21 late last night and this is pending until the
22 reports get out into the record.

23 CHAIRPERSON POURCIAU: Thank you. Let's
24 enter that into the record. And is the applicant
25 ready to present? Ms. Dejene.

1 MS. DEJENE: Can you hear me?

2 CHAIRPERSON POURCIAU: Yes, we hear you
3 now. Thank you so much.

4 MS. DEJENE: Thank you so much for giving
5 me this opportunity to present today. I also thank
6 you for my neighbors and the community members for
7 they give me a time, all this time waiting me, to
8 supporting me. Thank you for everybody.

9 So my name is Mestawet Dejene. I am a
10 childcare provider for ten years. So now I'm here
11 to expand my childcare for twelve.

12 My slide. Okay, next slide.

13 CHAIRPERSON POURCIAU: I just want to
14 remind you, you have 15 minutes, okay?

15 MS. DEJENE: Okay, okay. Thank you. Okay,
16 my name is Mestawet Dejene. I am immigrant from
17 Ethiopia in 2008. I'm a proud mother of three
18 children. I began my journey as a stay-at-parent,
19 which inspired my passion for early child education,
20 motivated me to pursue a career in child care.

21 In 2015, I obtained my Child Development
22 Association, CDA, credential. I later continued my
23 education as a resident of District of Columbia,
24 where I earned my associate's degree in early
25 childhood education in 2026. I am currently

1 pursuing my bachelor's degree in early child
2 education.

3 I opened my Playsafe Play House in 2017 and
4 have found great fulfillment in providing a safe,
5 nurturing, and educational environment for children.

6 I am deeply committed to support families and
7 contribute positive to my community through quality
8 childcare service.

9 Next slide, please. Here is a request for
10 capacity 9 to 12. So now I am the owner, so I'm
11 working in the daycare, so I am licensing.

12 Next slide, please. So I proposed a zoning
13 request, requesting zoning approval to increase
14 childcare capacity to 12 child care use all
15 remaining consistent with current zoning
16 designation. No changes to building footprint or
17 property use. Expansion aligned with DC zoning
18 occupancy requirements.

19 Next slide, please. So property of zoning
20 information and property. Single family home.
21 Zoning District commercial and residential. Existing
22 approved childcare use. No structural change
23 proposed. Building with continue to meet zoning and
24 occupancy standards.

25 Next slide, please. Current and proposed

1 capacity, current approval capacity, 9. Proposed
2 capacity, 12. Increasing of three children.
3 Capacity increase does not exceed the zoning limited
4 for childcare home.

5 Next slide, please. Four staff members
6 onsite. Staff presence ensure proper supervision
7 full time. Staff support safe drop off/pick up and
8 daily operation. No impact to public safety or
9 neighbor condition.

10 Next slide, please. A space and occupancy
11 compliance, educate indoor, support footage to
12 support 12 children. Compliance with D.C. occupancy
13 load requirement. Clear design activities, rest, and
14 circulation area. Space layout supports safe
15 environment and supervision. Floor plan is attached
16 in appendix.

17 Next slide, please. Parking, traffic, and
18 neighbors' impact. No increase in traffic beyond
19 typical residential uses. Drop off and pick up is
20 staggered to reduce condensing. No commercial
21 signage proposed. No impact to strict parking
22 availability. Operation remaining consistent with
23 residential character.

24 Next slide, please. Hours of operations,
25 Monday through Friday, 7 to 6. No late nights or

1 overnight operations. Ours is consistent with
2 residential zoning exception. No change to previous
3 operation hours.

4 Next slide, please. Safety and board
5 compliance. The property complies with DC Fire
6 building and safety code. Emergency exits clear
7 marked and access. Safe egress maintained for all
8 occupants. We will continue to comply with DCRA/DOB
9 and OC requirements.

10 Next slide, please. Primary and zoning
11 request. Child care use remains appropriate for
12 zoning district. Capacity increase is modest and
13 manageable. No adverse impact to neighbors or
14 infrastructure. I respectfully request zoning
15 approval to increase capacity to 12 children.

16 Next slide, please. There's my slides.
17 Thank you for your time.

18 CHAIRPERSON POURCIAU: Thank you so much.
19 Thank you for providing this use as well.

20 MS. DEJENE: Thank you.

21 CHAIRPERSON POURCIAU: Are there any
22 questions from the Board?

23 VICE CHAIR GOLDSTEIN: I just want to say I
24 really appreciate your presentation. That was very
25 helpful and thank you very much. I'm also really

1 happy to see that the neighbor, one of your adjacent
2 neighbors submitted a letter of support. I think
3 that's terrific. And thank you.

4 MS. DEJENE: Thank you.

5 CHAIRPERSON POURCIAU: All right, I think
6 we'll go to the Office of Planning for their report.

7 Mr. Beamon, please.

8 MR. BEAMON: Yes, good morning, board
9 members. For the record, Shepherd Beamon with the
10 Office of Planning. OP has reviewed the application
11 for the requested special exception to allow the
12 expansion of a child development home with some
13 operations outside of the home and finds that the
14 request has met the criteria for Subtitle 2X. The
15 request has received approval from OSSE and from the
16 ANC, therefore OP recommends approval and I can take
17 any questions.

18 CHAIRPERSON POURCIAU: Any questions for
19 OP? Anything from the applicant?

20 So I see you have nine people signed up in
21 support. That's very impressive. Do they want to
22 speak today?

23 MS. DEJENE: Yes, some of them are on the
24 line.

25 CHAIRPERSON POURCIAU: Okay. So, Mr.

1 Young, can you help us with that, please?

2 I want to remind those who are speaking
3 that you have three minutes and hopefully, you won't
4 repeat, but we love hearing the positive comments.

5 MS. MASON: Good afternoon. Can you hear
6 me?

7 CHAIRPERSON POURCIAU: Yes.

8 MS. MASON: I apologize. My camera is not
9 cooperating.

10 CHAIRPERSON POURCIAU: So I have a Ms.
11 Moller, M-O-L-L-E-R, Lori Moller as the first --

12 MS. MASON: Okay, I'm sorry. Go ahead,
13 Lori.

14 MS. MOLLER: Good morning. This is Lori
15 Moller. We are neighbors of Mestie. Just a house
16 down. I just want to see that Mestie and her family
17 are wonderful, caring neighbors. What we've seen in
18 terms of the children, it's very compassionate,
19 happy care of the children. We see them on their
20 walks in the neighborhood. They're always laughing,
21 smiling. It's a joy to see them. And we very much
22 support the expansion of the daycare. We don't
23 anticipate any issues other than enjoying seeing a
24 few more children with her group. Thank you.

25 CHAIRPERSON POURCIAU: Thank you so much.

1 Next we have Ms. Kraft.

2 MS. KRAFT: Hi, can you hear me?

3 CHAIRPERSON POURCIAU: Yes.

4 MS. KRAFT: Okay, great. My name is Leslie
5 Kraft. I live right next door to Mestawet at 1701
6 Bunker Hill Road and I'm in support of the
7 application today. I would like to state on the
8 record that I fully support and can speak personally
9 about the excellent care that Mestie and her team
10 provide for children. My son attended Mestie's
11 daycare. He's three years, for a few months, before
12 my mother moved in to help with us. And my mother is
13 now a friend of Mestie and we have good camaraderie.

14 I've always had a very positive experience with
15 both Mestie's business, but also her family and her
16 children as well, her older children. And I can
17 also speak about the professionalism that I've
18 experienced through her business that warrants the
19 excellent attention to the children.

20 Mestie, I'm so proud of you and you've done
21 everything by the book and you've built your
22 business and you've educated yourself, and I just
23 admire you so much. So I'm glad I can say that
24 publicly. Twelve is probably the maximum amount of
25 kids that I would put at the space, but it is enough

1 -- the space that she has is enough to accommodate
2 12 kids, including your wonderfully fenced in and
3 safe back yard that the kids can play in. So I'm
4 definitely in support of it and I'm excited to see
5 your business grow.

6 MS. DEJENE: Thank you.

7 CHAIRPERSON POURCIAU: Thank you. Next we
8 have Muluwork Kenea?

9 MS. KENEA: Yes, good afternoon, everybody.
10 My name is Muluwork Kenea. I'm a home provider,
11 Ward 7 and Ward 5. I'm so happy to see Mestawet. I
12 was her coach in the beginning, but now she is good
13 provider and also times I visit her program. She
14 deserves to extend her program. Thank you very much
15 for giving her a chance.

16 CHAIRPERSON POURCIAU: Thank you.

17 MS. DEJENE: Thank you.

18 CHAIRPERSON POURCIAU: I see Mr. Michael on
19 the list -- is Michael here?

20 MR. YOUNG: So the next four on the list
21 are not attending or speaking, so there's just the
22 two left.

23 CHAIRPERSON POURCIAU: Okay, that takes us
24 to -- is that Ms. Davis next, Mr. Young?

25 MR. YOUNG: That's correct

1 CHAIRPERSON POURCIAU: All right, Ms.
2 Davis.

3 MS. DAVIS: Hello, everyone. I'm Cynthia
4 Davis, a coworker and colleague in school also with
5 Mestawet. I'm also the executive director of the DC
6 Family Child Care Association. We are in full
7 support of 12 children. We have worked very, very
8 hard to acquire this expensive phase for family
9 childcare. A lot of times we have to really save
10 our funds to take on something like this and to get
11 through the process. It's really a wonderful thing.

12 I'm in full support of Mestawet and of achieving
13 this big goal.

14 Getting 12 children is really, really
15 exceptional and we are hoping that the Board of
16 Zoning will see the same thing, too. We met the need
17 of the city of getting more children and we can't
18 get a lot. We wish we could give all the care. And
19 being CBOs, community based organizations, and
20 facilities in the community, we just want to serve
21 and continue to give back to our community. We know
22 how much that means to families and the community
23 itself, so I'm in full support and hopefully that
24 the Board of Zoning will rule in favor of Mestawet
25 getting her special exception. Thank you.

1 CHAIRPERSON POURCIAU: Thank you.

2 MS. DEJENE: Thank you so much.

3 MS. DAVIS: I wanted to go fast because
4 everybody is ready to go to lunch.

5 CHAIRPERSON POURCIAU: Mr. Young, who is
6 the last person? Is there one more?

7 MR. YOUNG: Yes, Limi.

8 PARTICIPANT: Yes, good afternoon,
9 everyone. I'm here to say I'm in full support of
10 Mestawet extending her child care business. My
11 children attended her childcare service in the past.
12 They're now 12 and 9, so she's been on this journey
13 for some time and I'm in full support.

14 CHAIRPERSON POURCIAU: Excellent. Board
15 members, would you like to -- do you have any
16 questions of this wonderful support group?

17 VICE CHAIR GOLDSTEIN: No questions. I
18 just think it's exceptional, all the positive
19 support you're receiving. So I'm really happy to
20 hear it. Thank you.

21 MS. DEJENE: Thank you.

22 CHAIRPERSON POURCIAU: Thank you for that.
23 I'd like to offer Ms. Dejene the opportunity to
24 provide any final remarks, any conclusion you'd like
25 to provide?

1 MS. DEJENE: No. Just thank you for giving
2 the time and I'm so happy to expand my daycare. I
3 really appreciate all the positive comments from my
4 neighbors, friends, community members. I really
5 appreciate it.

6 CHAIRPERSON POURCIAU: Great. Is there any
7 further deliberation by the Board? Okay. If
8 there's no more deliberation, I think we are ready
9 to proceed to a vote.

10 I'm going to ask Mr. Goldstein, if he would
11 like to -- I'm feeling like Commissioner Wright is
12 leading us to --

13 COMMISSIONER WRIGHT: I'm glad to share the
14 joy.

15 VICE CHAIR GOLDSTEIN: I'll do my best to
16 keep up with Commissioner Wright.

17 I'd like to make a motion to approve
18 Application No. 21424. This is for a -- as
19 captioned which includes the U251.1(b)(3) special
20 exception relief, as well as the 251.6(b) for a
21 modification of 251.3(f) for the outdoor play. I
22 think the applicant has made the case and has met
23 the criteria of the special exception. There's a
24 number of ANC in the record, OSSE in the record,
25 Office of Planning in the record, support all

1 around. Support from neighbors. I think it sounds
2 terrific and I would move to approve.

3 COMMISSIONER WRIGHT: I'll second that.

4 CHAIRPERSON POURCIAU: Very good. I just
5 want to add how delightful it is to have a case that
6 is so well received, so with that, I think we're
7 ready to vote.

8 MS. MEHLERT: Please respond to the Vice
9 Chair's motion to approve the application.

10 Chair Pourciau?

11 CHAIRPERSON POURCIAU: Yes.

12 MS. MEHLERT: Vice Chair Goldstein?

13 VICE CHAIR GOLDSTEIN: Yes.

14 MS. MEHLERT: Board Member Lindsjo?

15 MEMBER LINDSJO: Yes.

16 MS. MEHLERT: Commissioner Wright?

17 COMMISSIONER WRIGHT: Yes.

18 MS. MEHLERT: Staff would record the vote
19 as 4 to 0 to 1 to approve Application No. 21424 on
20 the motion made by Vice Chair Goldstein and seconded
21 by Commissioner Wright.

22 CHAIRPERSON POURCIAU: Thank you so much.

23 And with that I think we'll break for lunch. Is 40
24 minutes enough time? Can we come back at 1 o'clock?
25 Yes. All right. Thank you all so much. See you

1 then.

2 (Whereupon, the above-entitled matter went
3 off the record at 12:20 p.m. and resumed at 1:03
4 p.m.)

5 CHAIRPERSON POURCIAU: Everybody, welcome
6 back. Let's reconvene the meeting.

7 Madam Secretary, I think we're ready for
8 case number 21428.

9 MS. MEHLERT: Okay. The Board is back from
10 its lunch break and returning to the hearing
11 session.

12 The next case is Application Number 21428
13 of Daniel Alexander Payne Community Development
14 Corporation. As amended, this is a self-certified
15 application, pursuant to Subtitle X, Section 1002,
16 for a rear -- for an Area Variance from the rear
17 yard requirements of Subtitle I, Section 205.1; and
18 pursuant to Subtitle X, Section 901.2, for Special
19 Exceptions under Subtitle C, Section 807.2, from the
20 bicycle parking space requirements that's Subtitle
21 C, Section 802.1; and under Subtitle C, Section
22 1506.1, from the penthouse setback requirements of
23 Subtitle C, Section 1504.1.

24 This is for a four-story -- or 12-story
25 rear addition with basement and penthouse to an

1 existing detached building to provide 20 new
2 dwelling units. It's located in the D-6 zone at
3 1518 M Street, NW, Square 0197, Lot 86.

4 And I will note for the Board that there
5 was gave late filings submitted by the applicant, or
6 by its self-certification form, updating the rear
7 yard calculations, and this is not yet in the
8 records; pending Board approval.

9 CHAIRPERSON POURCIAU: Thank you for that.
10 Yes, so please enter that information in the
11 record, please.

12 And we will start with the applicant. I
13 see the agent, Mr. DeBear, is here.

14 MR. DeBEAR: Yes.

15 CHAIRPERSON POURCIAU: Are you going to
16 give a presentation, Mr. DeBear?

17 MR. DeBEAR: Yeah, absolutely. Thank you.
18 I'd like to introduce myself. My name is Eric
19 DeBear. I am a pro bono counsel on behalf of the
20 applicant, from Cozen O'Connor. I'll let Pastor
21 Lamar also introduce himself, and Mr. Green, the
22 architect.

23 MR. LAMAR: Good afternoon, Madam Chair,
24 and to this Committee. My name is William H. Lamar
25 IV, the pastor of Metropolitan African Methodist

1 Episcopal Church, and have been so since 2014. I
2 haven't been there for the whole 190 years the
3 church has been in existence, but glad to be with
4 you all today.

5 MR. DeBEAR: Alton?

6 MR. GREEN: Oh, okay. Greetings, Board.
7 My name is Alton Green. I am an architect with
8 Bryant Mitchell PLLC. I reside in Washington, D.C.,
9 on Mount Pleasant Street, and I just so happened to
10 be a member, a long-time member of Metropolitan AME
11 Church.

12 MR. DeBEAR: Great. Thank you. I think I
13 heard the Chair admit the late filing into the
14 record, so then I'd ask -- that included a very
15 minor update to our previously filed PowerPoint
16 presentation, so I'd ask Mr. Young to pull up that
17 new, revised presentation that was emailed yesterday
18 evening or late afternoon. Thank you. You can move
19 to the next slide.

20 CHAIRPERSON POURCIAU: I just want to
21 remind you the clock is running, and you have a
22 little under 15 minutes. Thank you.

23 MR. DeBEAR: Okay. We are -- this property
24 is located downtown in the D-6 Zone, a high-density
25 D Zone. It is on M Street Northwest, between 15th

1 and 16th Street Northwest. Next slide, please.
2 Existing conditions, as the Pastor mentioned, this
3 is a -- this property is improved with the
4 historically landmarked church building that was
5 constructed in the 1880s. It is a relatively
6 shallow lot for a downtown lot, and that is the crux
7 of what we will be discussing today. Next slide,
8 please. I'm going to turn it over to the Pastor to
9 briefly introduce the church and the CDC before we
10 get into the plans.

11 MR. LAMAR: Thank you very much. Again,
12 Bill Lamar, pastor of the Metropolitan. I think
13 it's important to note that Metropolitan sits on the
14 longest continuously held parcel of property by
15 persons of African descent in the District of
16 Columbia. Our history is long and proud, and many
17 generations of Washingtonians have called us home,
18 and distinguished of members of the local and
19 broader national and international community have
20 been a part of what we've done.

21 We have always sought to do the work of
22 justice, to do the work of peace building and peace
23 making. And the residences at 1518 of Metropolitan
24 emerged after we determined that our tradition and
25 the needs of the city coalesce and intersect here,

1 where there is a need for affordable housing,
2 especially amongst military veterans.

3 The veterans need housing, and they need
4 mental health facilities, and they need trauma work,
5 and we are uniquely positioned to do that. We want
6 permanent and dignified housing for these
7 individuals that reflect our mission, and that
8 empowers the marginalized, and that cares for those
9 who struggle most. We've always reached beyond the
10 sanctuary, and this is a part of that ongoing work
11 for nearly two centuries.

12 Using church-owned property will advance
13 the District's cause of ensuring that there is
14 affordable housing and that military veterans are
15 able to live downtown, which is where we are
16 located.

17 The Daniel Payne CDC -- next slide, please
18 -- was founded in 1998 by Metropolitan. It has done
19 many good things in education, economic empowerment,
20 and development. This is the first property
21 development venture that we have undertaken. And
22 with the help of many organizations, including
23 Enterprise, including Wells Fargo, we have been
24 trained to do the work of helping to develop
25 religiously-owned property. We have property. The

1 people have need. And we believe that those two
2 things can come together in a way that is a benefit
3 to the city.

4 The residences of 1518 -- next slide -- is
5 proposed development here for 27 permanent
6 supportive housing units for formerly unhoused
7 veterans, on our church home property. The building
8 is 12 stories. It's a residential structure, 17,400
9 square feet, approximately, designed to provide
10 safe, stable housing, along with access to
11 supportive services that will help long-term
12 sustainability.

13 This project is in the predevelopment
14 stage, during which the church and the CDC are
15 evaluating the viability, feasibility, risks, and
16 implications as far as government is concerned, and
17 we definitely want the fact that our mission
18 aligning with the city's mission for affordable
19 housing, especially for veterans, to come to
20 fruition in this significant, innovative, and
21 creative opportunity. Thank you.

22 MR. DeBEAR: If you could, just go on to
23 the next slide.

24 MR. LAMAR: You all thought a -- you all
25 thought that a preacher would talk longer. I got

1 you.

2 (Laughter.)

3 MR. DeBEAR: Next slide. Thank you. And
4 just to briefly summarize the community/agency
5 outreach, ANC 2C -- I know the Commissioner is on
6 the call -- voted unanimously to support our
7 application. We have HPRB concept review, which was
8 critical given the historical significance of the
9 church. The Office of Planning filed a report
10 supporting all three areas of relief, and DDOT has
11 no objection. Next slide, please. Now, I'll
12 briefly turn it over to Mr. Green to briefly walk
13 through the plans for the project.

14 MR. GREEN: Okay. This is Alton Green
15 again, architect. I will briefly walk you through
16 the next ten slides.

17 Okay. This is the site plan you're looking
18 at now. M Street is north. It's at the top. And
19 the proposed building is on the alley, 16 feet, 4
20 inches by 85 feet, five inches, 12 stories, as the
21 Pastor said, 27 units. Next slide, please. This is
22 the basement of the existing church. You see, in
23 blue is where the veterans would have their laundry
24 and their exercise room. Of course, the trash would
25 be down there, also the new elevator and stair.

1 Next slide, please. The first floor plan is the
2 church's fellowship hall, and the area in the pink
3 is the renovation to certain affected areas in the
4 church. Of course, at the bottom, at the alley,
5 you'll see the area in blue. That's the present
6 church kitchen. That kitchen would be renovated
7 totally under this project. Next slide, please.
8 This is the sanctuary area of the church. And you
9 know, again, at the bottom, you would see the
10 affected area. The Pastor's study suite will be on
11 this level, as well as an open area to your right.
12 Oh, good. I can point it to you. This area will be
13 a counseling area for the veterans. And of course,
14 we're going to get a new elevator installed. Next
15 slide, please. This is the first floor, where you
16 see the small microunits that the veterans will
17 occupy. This floor, from floor 3 to 5, is typical.
18 We would have two apartments, and in the middle, a
19 lounge/counseling area. Next slide, please. This
20 is a typical floor, floors 6 through 9, and which
21 will consist of three, three apartments. You can
22 see it's very simply laid out in small units. I
23 call them microunits. And this entire building will
24 have -- will be serviced by a new elevator, and exit
25 stairs will flank the new building. Next slide,

1 please. This is floors 10 through 12, typical
2 floors. The units on this floor will be a little
3 larger than the other floors, as far as the
4 apartments and micro-apartments. And again, you
5 would see the exit stair flanking the building.
6 Okay. Next slide, please. This is the roof. This
7 is where I propose to put an atrium, a glass-
8 enclosed atrium, which would be critical to the --
9 for the use of the veterans. This is where they
10 would gather, all special programs; also, they would
11 have special training.

12 You can see on this floor, there is a
13 warming kitchen for the veterans' use, two toilets.

14 It is accessed by the elevator and the right stair.

15 And outside, would be a green roof. As I
16 mentioned, it will be totally glass enclosed on, you
17 know, at least on three sides, and it will be a very
18 uplifting space, you know, and not to mention the
19 beautiful views from the top. Next slide, please

20 This is the top of the atrium, and which
21 will also have a green roof on top. So there will
22 be an upper green roof, and there will be a lower
23 green roof. Okay. Next slide, please. Now, you
24 see the renderings, the proposed renderings. The
25 main elevation will be in the alley. That's this

1 elevation here. It would be in the alley. However,
2 the entrance would be from M Street, through the
3 side yard. This particular one shows you that we
4 are protecting the historic nature of the church,
5 and in the background, you can see the north side of
6 the new proposed structure. Okay. Next slide.

7 Eric, I turn it over.

8 MR. DeBEAR: All right. Great. Thank you,
9 Alton.

10 Again, to summarize the relief, we have
11 requested this application. Even though a special
12 exception relief is usually available for rear yard
13 in the D Zones because we are within -- we violate
14 one of the conditions, being within 40 feet of
15 another structure for residence windows. We've
16 requested area variance relief.

17 This is the updated figure. The
18 requirement is almost 23 feet. We have 14 feet as
19 measured to the center line of the alley, which
20 we're permitted to do, so we need a little less than
21 9 feet of relief. But we're also requesting a
22 setback relief from the penthouse from the front and
23 rear setback requirement, and then long-term bicycle
24 parking relief for -- to provide no long-term
25 bicycle spaces. Next slide, please. Next slide.

1 In terms of the rear yard relief, again, as
2 I mentioned, special exception relief is generally
3 available in the D Zone, but variance are still
4 needed because we do not meet that condition that I
5 mentioned. We believe there is an exceptional
6 condition in the programmatic need to use and
7 incorporate the existing historic church building on
8 site. And that leaves, as Mr. Green walked through,
9 a very shallow area to build this addition, making
10 it very challenging, if not impossible, to build a
11 realistic residential addition while maintaining --
12 while having it on site and maintaining the church's
13 historic elements.

14 Naturally, a strict application of the rear
15 yard requirement would impose practical difficulty,
16 and that would shrink the approximately 16-and-a-
17 half-foot floor plan even further and greatly
18 restrict the ability to provide any sort of
19 habitable space there.

20 We do not believe that this impacts or
21 impairs the zone plan or is detriment to the public
22 good. There is, generally, support for this
23 wonderful project, and we do believe it aligns with
24 the high-density nature of this zone. Next slide,
25 please. Next slide.

1 With respect to the penthouse, again, given
2 the relatively narrow footprint that this project
3 can incorporate, it is virtually impossible to
4 provide a compliant front and rear setback on the
5 penthouse. A stair and elevator overruns are needed
6 for building code and to provide the elevator within
7 the building.

8 But again, we don't foresee any adverse
9 impact. We do have images in the case record
10 showing that the penthouse would not be visible from
11 M Street. That certainly was critical in the
12 historic preservation review of this matter. And
13 again, given the relatively small size of the
14 penthouse that's being provided, we don't foresee
15 any impacts or material impacts to light, air, or
16 privacy. This project is generally surrounded by
17 office buildings in the area.

18 Next slide, please. Next slide. And
19 finally -- oh, sorry. I skipped over that slide.
20 That one, please.

21 Just on the bicycle parking relief, I know
22 I've -- we've gone through our time here. Again,
23 this all comes down to the relatively narrow
24 buildable area we have, but I think it is important
25 to note that in terms of long-term bicycle parking,

1 the type of demographic that this project would be
2 serving, namely homeless veterans, are generally
3 older in age and are less likely to need long-term
4 bicycle parking.

5 We are ensuring that the church maintains
6 its existing space, both underneath the existing
7 church and at the first level, where long-term bike
8 parking can be located. But there is simply
9 insufficient space to provide the requisite
10 supporting programming for this residential project
11 while also finding space for bicycle parking.

12 But I would note that we have worked with
13 DDOT. We're going to provide a fourth short-term
14 parking space. As Alton mentioned, there is space
15 along the sides of the existing building where
16 short-term bicycle parking can be located. So that
17 at least somewhat mitigates the lack of a long-term
18 bicycle parking space to have actual bicycle parking
19 on the lot as opposed to in public space.

20 And with that, I will close our
21 presentation in chief, and we'd be happy to answer
22 any questions the Board might have.

23 CHAIRPERSON POURCIAU: Thank you so much.
24 Very good presentation. Thank you for your work in
25 the community and for the history that you bring to

1 our city. It's quite astounding and quite
2 impressive.

3 (Simultaneous speaking.)

4 CHAIRPERSON POURCIAU: And the work that
5 you continue to do, how about that? Yes.

6 Are there any questions from Board members,
7 please?

8 VICE CHAIR GOLDSTEIN: I do have a question
9 or two, but I also want to just echo that it's an
10 outstanding-looking project, and I really applaud
11 you all for the creativity and vision that's
12 involved. I hope it does come to realization.

13 I think, just want to ask because, you
14 know, we're talking about this incredible
15 programming, but there's some discussion of bike
16 parking. So I think I'll just ask you about the
17 bike parking.

18 So DDOT asked for four, and you've agreed
19 to four. And is that in the plan somewhere, or is
20 that just a commitment that's made? This is for the
21 short term.

22 MR. DeBEAR: Yeah, it's short-term. So
23 it's not exactly shown in the plans, Board Member
24 Goldstein, but yeah, we're absolutely committed to
25 it. And you know, the plans can be updated if

1 needed. But we figured, since we're certifying that
2 we meet the requirement and are now agreeing to a
3 fourth space, then that can simply be a condition or
4 just incorporated by reference.

5 VICE CHAIR GOLDSTEIN: Okay. We may just
6 want to talk amongst ourselves about the best way
7 for that.

8 And the long-term parking, I think you
9 explained there just isn't -- programmatically,
10 there just isn't great space for it. I know the
11 Office of Planning references it, but your view is
12 that it just cannot be accommodated. Is that
13 correct?

14 MR. DeBEAR: Yeah, it's just very
15 challenging. I mean, the -- as Mr. Green walked
16 through the plans, I mean, the below-grade level for
17 the residential addition is, I think, a small --
18 excuse me -- gym, essentially, and limited other
19 space.

20 And then, the church space is actually
21 within the footprint on the first few levels. You
22 saw the pastor's study being renovated. That level
23 is actually church space that's being incorporated
24 within the footprint of where the residential
25 addition will be above. And then, elsewhere,

1 they're providing a common kitchen and some other
2 kind of amenity-serving space. And it's already
3 only 16 feet -- 16-and-a-half-feet wide, so to find
4 -- without eliminating that amenity space, it's very
5 challenging to provide even a bike locker within the
6 footprint of the residential addition.

7 And as I mentioned, you know, the church
8 obviously takes up a large segment of this property
9 with the actual church sanctuary, which obviously
10 could not house bicycle parking. But I think
11 elsewhere, other church programming that's needed
12 for the church, we certainly wanted to be respectful
13 of, you know, them maintaining their operations as
14 is. And obviously, being a historic building, it
15 didn't initially provide bike parking and doesn't
16 have long-term bike parking.

17 VICE CHAIR GOLDSTEIN: Okay. For the rear
18 yard, I think you touched on it, just been slight
19 revisions to the measurement. We've landed on one
20 that, I guess, incorporates the midpoint of the
21 neighboring alley. And is there much of a rear yard
22 on your own property as well? I couldn't remember
23 what that measurement ended up being.

24 MR. DeBEAR: Yeah, there, it was simply
25 updating. We miscalculated. So nothing about the

1 rear yard has changed. It just was a
2 miscalculation. There's no rear yard on the
3 property.

4 VICE CHAIR GOLDSTEIN: Okay.

5 MR. DeBEAR: It is entirely using the
6 measurement to the center line of the alley, which
7 we initially referenced as 12 feet, but it is
8 actually 14 to the center line of the alley. So
9 that is the entirety of the rear yard, all using the
10 alley.

11 VICE CHAIR GOLDSTEIN: Okay. Thank you.
12 That's very helpful. I appreciate it. No further
13 questions.

14 COMMISSIONER WRIGHT: I just wanted to make
15 sure I understood and clarify. On the bicycle
16 parking, under the code, you're only required to
17 have one short-term space. You had proposed three,
18 and now you're agreeing to four, which is all above
19 and beyond the one that you're required. So the
20 real special exception that you're looking for in
21 terms of bicycle parking is really the elimination
22 of the nine long-term spaces. Is that correct?

23 MR. DeBEAR: Correct. Yeah, that's
24 correct.

25 COMMISSIONER WRIGHT: So it's not a special

1 exception related to the short-term spaces at all
2 because you're already above what's required there.

3 MR. DeBEAR: Correct.

4 COMMISSIONER WRIGHT: It's the long-term
5 spaces. Okay, just making sure I understood.

6 CHAIRPERSON POURCIAU: I'm hearing no more
7 questions. I think next, we'll hear from the Office
8 of Planning. Is Mr. Jurkovic --

9 MR. JURKOVIC: Good afternoon, Madam Chair,
10 and Members of the Board. For the record, this is
11 Michael Jurkovic with the Office of Planning.

12 OP recommends approval of the requested
13 Area Variance relief to Subtitle I 205.5, as well as
14 two requested Special Exceptions to Subtitle C
15 1504.1 and C 802.1.

16 In regards to the requested area variance,
17 OP understands the applicant has amended this relief
18 item to clarify the calculation of the required rear
19 yard, and we continue to be in support of this
20 request.

21 Lastly, as noted in our report, we
22 requested the applicant revisit the scope of the
23 requested long-term bicycle parking relief.
24 However, we would defer to DDOT's recommendation for
25 the applicant to provide at least four short-term

1 bicycle parking spaces.

2 That concludes my testimony, and I'm here
3 to answer any questions. Thank you.

4 CHAIRPERSON POURCIAU: Thank you, Mr.
5 Jurkovic.

6 Any questions from the Board, please?

7 Okay. Hearing no questions, now we have
8 Ms. Groth from the ANC.

9 Are you ready to present now, please?

10 MS. GROTH: Yes, ma'am. Thank you. I'm
11 Nancy Groth. I'm the Commissioner of Single Member
12 District 2C-02, which I'm proud to say includes
13 Metropolitan AME Church.

14 I'd be -- so I don't forget at the end, let
15 me just throw in my two cents about the parking. My
16 district is very rich in Bikeshare stations,
17 including, I think, there's one right at the other
18 end of the block. So I view the long-term bike
19 thing as a program possibility that they could give
20 the residents access to those systems in lieu of on-
21 site bike parking.

22 At any rate, I'm a first-term commissioner.

23 I became a commissioner because the city bought a
24 building, 100-year-old building in my alley,
25 literally in my backyard, a decrepit, formally

1 occupied for seven decades by printing presses,
2 building to become 150-bed, low-barrier men's
3 shelter. To say that the neighbor's hair was on
4 fire is a considerable understatement.

5 So I just started asking questions because
6 the property seemed so ridiculously unsuitable and
7 dangerous for that purpose. And I said all along
8 that if the project failed of its own
9 misunderstanding that I would look and support other
10 homeless services in my own district. This is not
11 about putting the folks somewhere else. We already
12 live with unhoused men in my district. I have many
13 constituents in my district who are unhoused.

14 So, as it turns out, that project is now on
15 indefinite hold. I asked enough questions about the
16 possibility of printing chemicals contaminating the
17 site, and there's -- it was completely landlocked by
18 alleys with no pedestrian access whatsoever, a
19 variety of other things. It's now on indefinite
20 hold, awaiting funding for a DGS study.

21 This project at Metropolitan is none of the
22 things that that project was. This is a single-use,
23 permanent, supportive housing with complete
24 wraparound services, intended to actually support
25 people as they age in place, and in a non-congregate

1 private setting that affirms everybody's dignity.

2 So I'm very proud to support this project.

3 I've also lobbied -- it looks like
4 successfully for the Aston Bridge housing over in
5 West End -- to be funded to go to full capacity.

6 So, among the many things that we need to
7 be doing to support our unhoused neighbors, this is
8 a huge piece of the process, and again, I'm very
9 proud to support this as a showpiece really of what
10 imagination and passion can do with our unhoused
11 neighbors.

12 CHAIRPERSON POURCIAU: Thank you so much
13 for that.

14 MS. GROTH: And I'll take questions for the
15 -- I am here both representing my district
16 specifically, and I'm also the designated
17 representative of Commission 2C, which did pass our
18 unanimous resolution in January to support this
19 project.

20 CHAIRPERSON POURCIAU: Excellent. Thank
21 you for your remarks and that suggestion about the
22 Bikeshare being so close by. It sounds like a great
23 alternative use.

24 Are there questions from the Board, please?

25 No questions. Would OP or the applicant

1 like to engage in any questions, any for the ANC or
2 for Office of Planning? I didn't ask that
3 previously.

4 MR. JURKOVIC: No.

5 MR. LAMAR: I'd just like to -- I'd like to
6 thank the Commissioner for her questions, her
7 concern, and her support. Thank you. Thank you
8 all.

9 MS. GROTH: I have pledged myself to
10 accompany this project. As long as I'm a
11 commissioner, I will accompany this project through
12 whatever the next phases are, any way that I can be
13 helpful, any way that I can be a connector or a
14 convener or in any way be helpful to this project.
15 I'm in this for the long haul.

16 CHAIRPERSON POURCIAU: Excellent. Would
17 the -- thanks again, Ms. Groth.

18 Would the applicant like to provide any
19 summary comments at this point?

20 MR. DeBEAR: No, just thank you to the
21 Board for its time today. And this is obviously a
22 wonderful project, as you've heard from a team that
23 cares very deeply about it and hope that it can move
24 forward and come to fruition. Thank you very much.

25 MR. LAMAR: Thank you again.

1 CHAIRPERSON POURCIAU: Any other questions
2 before we move to deliberation?

3 Hearing none, I'd like to close the
4 hearing, and the Board will deliberate on our
5 action. Thank you.

6 (Pause.)

7 CHAIRPERSON POURCIAU: Okay. Any
8 discussion? Yes, go ahead.

9 COMMISSIONER WRIGHT: Well, I'm glad to
10 start out, but I definitely am interested in hearing
11 from the other Board members, as well.

12 I think, as has already been stated, this
13 is a very important and very laudable project, and
14 it really does sound like it's something that
15 they've worked with the community on, and that the
16 community understands and supports, and that it's a
17 very needed project.

18 It also is, to me, the sort of poster child
19 for why we even have the variance process. When you
20 have a really unique situation -- and this is, I
21 think, a unique situation with a historic
22 building, and you don't want to, you know, cut away
23 or remove portions of the historic building or have
24 a negative impact on the historic building, and the
25 remainder of the lot is very narrow and constrained

1 and small, it's, I think a, again, a poster child
2 for why you would have a variance from the rear yard
3 requirements. It truly is a unique lot, a unique
4 set of circumstances that I think merit a variance.

5 In terms of the bicycle parking, again,
6 they are meeting and exceeding their requirements
7 for short-term parking. And the only thing at this
8 point I think that's really before us is the special
9 exception for not having the nine long-term spaces.

10 I think having them exceed their short-term number,
11 which I guess, by code, is 1, and they've agreed to
12 go to 4. That certainly is a good rationale for the
13 special exception as is, as was brought up by the
14 ANC commissioner, you know, nearby Bikeshare
15 opportunities. I thought that was a very
16 interesting point.

17 So I support the requests for relief in
18 terms of the area variance and the special
19 exceptions. I think this is a, again, a very
20 important project, and I know it's at an early
21 stage. I hope that it can come to fruition and that
22 this hearing today is just sort of a first step in
23 helping it come to fruition.

24 So those are my comments, but I'd love to
25 hear from the other Board members.

1 CHAIRPERSON POURCIAU: I want to add; I
2 didn't state for the record that there were no
3 public witnesses. And I think that's also a sign of
4 how good a job they've done in coordinating with the
5 community and their neighbors and building a
6 portfolio for a much-needed project.

7 It seems like, if you're going to have a
8 structure like that be in that dense area of
9 downtown, and that the architect would come up with
10 a design that, you know, again, preserves the
11 history of the church and its structure, and then
12 provide for such a good use, is really exemplary.

13 And on the, you know, what you said about
14 the bicycle parking, I agree 100 percent. So I am
15 ready to support as well.

16 VICE CHAIR GOLDSTEIN: Yeah. I don't have
17 anything to add. I think you all have really
18 captured it well. It's a terrific project, would
19 love to see it advance in the future.

20 MEMBER LINDSJO: Yeah, I also don't have
21 anything else to add. I thought it was very well
22 done.

23 CHAIRPERSON POURCIAU: Great. I believe we
24 are ready to approve case number 21428. Is there a
25 motion that someone would like to provide?

1 VICE CHAIR GOLDSTEIN: Well, I can. I can
2 do this one. Again, I move to approve application
3 number 21428 for the relief as captioned.

4 MEMBER LINDSJO: I second that.

5 CHAIRPERSON POURCIAU: Madam Secretary, I
6 think we're ready for the vote.

7 MS. MEHLERT: Great. And to clarify, that
8 would be the relief as captioned and read by the
9 Secretary? Just to clarify.

10 CHAIRPERSON POURCIAU: Yes.

11 VICE CHAIR GOLDSTEIN: I think that that's
12 correct.

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

15 Chair Pourciau?

16 CHAIRPERSON POURCIAU: Yes.

17 MS. MEHLERT: Vice Chair Goldstein?

18 VICE CHAIR GOLDSTEIN: Yes.

19 MS. MEHLERT: Board Member Lindsjo?

20 MEMBER LINDSJO: Yes.

21 MS. MEHLERT: And Commissioner Wright?

22 COMMISSIONER WRIGHT: Yes.

23 MS. MEHLERT: Staff will record the vote as
24 4 to zero to 1 to approve application number 21428
25 on the motion made by Vice Chair Goldstein, and I

1 believe it was seconded by -- was it Board Member
2 Lindsjo?

3 MEMBER LINDSJO: Yes. Thanks.

4 CHAIRPERSON POURCIAU: Excellent. Thank
5 you. Madam Secretary, I think we're ready to move
6 to case 21440.

7 MS. MEHLERT: Okay. Next on the agenda is
8 application number 21440 of Paul and Katherine
9 Rosenbaum. This is a self-certified application,
10 pursuant to Subtitle X, Section 1002, for an Area
11 Variance from the side yard requirements of Subtitle
12 D, Section 208.2. This is for a new detached
13 principal dwelling and accessory apartment. It's
14 located in the R-1B zone at 6117 32nd Place,
15 Northwest, Square 2019, Lot 8.

16 There are a couple preliminary matters.
17 First, the applicant submitted a motion to waive the
18 filing deadline for additional demo plans and an
19 affidavit from the architect. Those are in exhibits
20 47B and 47C. Separately, the applicant submitted a
21 few late filings that are not yet in the record,
22 pending Board approval, including their PowerPoint
23 and copies of a couple Zoning decisions.

24 CHAIRPERSON POURCIAU: Thank you. Is the
25 applicant ready to present their testimony? I see

1 we have -- is it his agent speaking or the
2 applicant? And you'll have 15 minutes total.

3 MS. WILSON: Great. Thank you. My name is
4 Alex Wilson, and I am one of the attorneys for the
5 applicants, the Rosenbaums. Thank you so much for
6 having us here today. We do have a presentation
7 that was just uploaded to the record. If we could
8 have that pulled up, and then our presentation is a
9 little bit longer than 15 minutes, but we will walk
10 you through everything in the appropriate level of
11 detail.

12 CHAIRPERSON POURCIAU: Please try to keep
13 it as short as possible, though. Okay? Please.

14 MS. WILSON: Great. Thank you. So thank
15 you for having us here today. I'm also here with my
16 partner, Marty Sullivan. We are the attorneys for
17 Paul and Katherine Rosenbaum. They are the owners
18 and longtime residents of this property. And we are
19 also joined today by the architect, Mr. Buehler.

20 And the relief we are seeking is simple.
21 The application says that we are proposing a new
22 home, and we'll get into the details of why it's
23 categorized that way. But we are essentially
24 seeking to maintain a 4.9-foot side yard on the
25 north side, where 8 feet would ordinarily be

1 required due to a zoning history.

2 And so, the context here is critical. The
3 crux of our variance argument is tied to the unique
4 permitting history here and how this has created a
5 practical difficulty for the applicants. The
6 project, as constructed and currently proposed, was
7 issued a building permit by DOB in September 2025.
8 The Rosenbaums acted in good faith on that permit,
9 demolished what was approved, and built what was
10 approved.

11 Three months after the permit was issued,
12 DOB came back to the applicant and said that DOB
13 made a mistake in issuing the permit and that this
14 should have been considered new construction, and
15 that because this is now new construction, the
16 existing side yard is now shy of the 8-foot side
17 yard requirement.

18 We tried talking to DOB about honoring the
19 permit, but they directed the Rosenbaums to seek
20 relief. And so, the need for the variance and how
21 we meet the three-pronged variance test is tied
22 directly into the series of events stemming from
23 DOB's mistakes.

24 So, today, we're going to show that the
25 unique or exceptional condition is the permitting

1 history itself, that the practical difficulty is the
2 substantial expense into the hundreds of thousands
3 of dollars incurred in justified reliance on that
4 permit, and the impossibility of undoing what was
5 already done here. And we are going to show that
6 the third prong is satisfied by the broad community
7 support that this project has, the absence of actual
8 harm to the zone plan, and the fact that the very
9 side yard we are asking to maintain would have been
10 approved as a matter-of-right had DOB simply caught
11 its own error at the permit stage.

12 Before I get into this case, I'm going to
13 turn over to Paul and Kathy Rosenbaum to just
14 quickly introduce themselves.

15 MR. ROSENBAUM: Good afternoon. I'm Paul
16 Rosenbaum. I'm the co-owner of this property.
17 Welcome, Ms. Pourciau and Mr. Goldstein, the BZA
18 Board. Without you, this meeting would not be
19 happening today.

20 In 1982, I bought a dilapidated two-
21 bedroom/one-bath bungalow with an unfinished attic
22 as a fixer-upper after a divorce, returning from
23 California because my daughter moved back here with
24 my ex-wife.

25 In 1985, I remarried, and Kathy, who is now

1 my co-owner, agreed to join me from California. We
2 squeezed into our cozy house, raised two sons with a
3 bunk bed. They attended all the public schools and
4 went off to college.

5 A couple of decades ago, I promised Kathy a
6 new, modern kitchen. Over the years, each time we
7 talked to architects and designers to get what she
8 wanted, it always involved moving the stairs from
9 the back of the house to the north side of the
10 house. So we decided to expand up and move bedrooms
11 and closets upstairs.

12 We love our block and neighbors. We have
13 had block parties in front of our house over the
14 years. We have chosen to redesign the house so that
15 we can age in place and enjoy our family and friends
16 at our new, expanded house.

17 Kathy, do you want to say something?

18 MS. ROSENBAUM: Yes. Good afternoon,
19 everybody, and thank you so much for letting us tell
20 you our case. And we so appreciate the fact that
21 you are there and that you exist, especially after
22 having heard the previous case with wonderful
23 projects that we have or corrections that we need to
24 make in the city.

25 I know that we made this consideration of

1 changing our house for a couple of reasons Paul has
2 mentioned, and you know our history already. So all
3 I want to say is that I would really appreciate your
4 consideration into a positive result today. Thank
5 you so much. You have great endurance for a long
6 day.

7 MR. ROSENBAUM: We're finished.

8 MS. WILSON: Thank you so much. Thank you
9 so much, Paul and Kathy.

10 Could you please go to the next slide? And
11 that's just showing the original house. Next slide,
12 please. This slide shows the original foundation
13 plot from 1927. The original house foundation was
14 constructed 4.9 feet from the shared lot line of the
15 property to the north. This just shows that the
16 side yard is a lawful pre-existing, non-conforming
17 condition that has been there for roughly 100 years.

18 This was taken into consideration when upgrading
19 the home, and the Rosenbaums took all of the correct
20 steps to do this. They hired their architect, Mr.
21 Buehler. And I'm going to ask Mr. Buehler some
22 questions.

23 Primarily, Mr. Buehler, are you a licensed
24 and registered architect in DC?

25 MR. BUEHLER: I am. I've been licensed

1 since 2007, and I've been practicing for 27 years.

2 MS. WILSON: Thank you. And can you
3 describe your experience as an architect in D.C.?

4 MR. BUEHLER: In D.C. specifically, I've
5 worked on over 100 projects of ranging types, but
6 most primarily single-family additions and
7 renovations.

8 MS. WILSON: Thank you. And were you
9 responsible for drafting the building permit
10 application plans for this house?

11 MR. BUEHLER: Yes.

12 MS. WILSON: Thank you. Next slide,
13 please. Mr. Buehler, when you submitted this
14 project, did you submit it as a raze or an addition?

15 MR. BUEHLER: As an addition.

16 MS. WILSON: Thank you. And can you
17 explain a little bit? Is that the correct
18 classification under the building code?

19 MR. BUEHLER: It is. The building code has
20 a very broad interpretation of an addition. You
21 need to keep a very minimal amount of house to avoid
22 a raze.

23 MS. WILSON: Great. Thank you so much.
24 Next slide, please. And Mr. Buehler, what does this
25 slide show?

1 MR. BUEHLER: You'll see the red stamps in
2 the corner of each of the sheets, which is
3 indicating that DOB has reviewed and approved these
4 drawings.

5 MS. WILSON: Thank you. Next slide,
6 please. And what was the proposal for the north
7 wall?

8 MR. BUEHLER: So, the north wall, where the
9 existing 4.9-foot side yard was, the intention was
10 to keep the foundation wall along that side of the
11 house. It's the one direction that the house
12 couldn't grow, so it's the one wall that made sense
13 to keep. And then the remaining walls are overtaken
14 by the additions in the other directions.

15 MS. WILSON: Great, thank you so much.
16 Next slide, please. And what are we looking at on
17 this slide?

18 MR. BUEHLER: This is a front elevation of
19 the house, and it's essentially showing that we're
20 keeping a few modest portions of foundation wall but
21 otherwise removing the rest of the house.

22 MS. WILSON: Great. Thank you so much.
23 And was the intent to demolish, let's say, more than
24 60 percent of the interior walls of this home or the
25 foundation walls?

1 MR. BUEHLER: Yeah. We never quantified
2 the exact extent of demolition. It's never
3 something I've been asked to do by DOB on any
4 project, including this one. We probably will talk
5 about this further in the presentation. We could
6 have retained more wall if we'd understood that
7 zoning had a different definition of raze than the
8 entire rest of DOB, but that's not codified anywhere
9 in the zoning ordinance, and so that's not something
10 we were aware of.

11 MS. WILSON: Thank you. Let's go to the
12 next slide, please.

13 And is this just showing the additional
14 walls and demolition plan?

15 MR. BUEHLER: That's correct. And you can
16 see elevation number 4 is the north elevation, and
17 that portion of foundation wall that's not hatched
18 is the portion that was intended to be kept, and
19 then the rest of the house was intended to be
20 removed.

21 MS. WILSON: And is there anything missing
22 on this plan that DOB would have needed to
23 understand this extent of demolition?

24 MR. BUEHLER: I don't believe so.

25 MS. WILSON: Great. Thank you. Next

1 slide, please. Could you walk us through the timing
2 of the process, from the building permit application
3 until DOB told you that it made a mistake?

4 MR. BUEHLER: We were given a permit. That
5 permit, I should say, was approved in September.
6 Zoning approved it on their first review without
7 asking for additional information. And they simply
8 noted the requirement for a wall check, which is a
9 standard requirement.

10 Demolition started almost immediately
11 thereafter. It's obviously the first step in the
12 process. So that was in early October. Demolition
13 took about two weeks, and then framing began almost
14 -- or foundation work, I'm sorry, began almost
15 immediately thereafter.

16 The wall check that was requested was
17 ordered in early November, on November 11th, I
18 believe. And then it took about 10 days for that to
19 be prepared and submitted.

20 And then, in December, we were notified
21 that the zoning approval had been made in error and
22 that DOB was essentially rescinding that approval.
23 And by December 29th, they had issued a stop-work
24 order for the project.

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

1 Could we please go to the next slide?

2 And so, this is that email from Ernesto
3 Warren, the zoning reviewer. Were you aware that
4 the ZA had rules outside of the Zoning Regulations
5 that provided --

6 MR. BUEHLER: I was not.

7 MS. WILSON: -- a different definition of
8 raze? Okay. So, were you ever given this Zoning
9 Administrator Interpretation number 10 that they're
10 citing here?

11 MR. BUEHLER: I was not. And I was not
12 asked to quantify the amount of demolition that we
13 were proposing during the plan review process.

14 MS. WILSON: Okay. So no one ever brought
15 up this interpretation to you at any point during
16 the review process?

17 MR. BUEHLER: That's correct.

18 MS. WILSON: Great. Thank you so much.
19 Next slide, please. And I have some slides here
20 just showing how far deeply this Zoning
21 Administrator Interpretation 10 is buried. It
22 requires about three pages deep into DOB's website,
23 and then you have to scroll all the way down to the
24 middle of the third page to even find the list of
25 Zoning Administrator Interpretations.

1 Next slide, please. And then it's all the
2 way down at the bottom, at number 10. Once you
3 actually click that, you get the interpretations.
4 And as you can see, these are meant to provide
5 further interpretations of particular regulations.

6 In this case, there's no regulation being
7 interpreted. The zoning raze rule is the only one
8 of these interpretations that's not based on a
9 regulation.

10 Next slide, please. And this is the
11 interpretation. It was made up by the Zoning
12 Administrator's Office. It establishes the
13 percentage of walls that need to be removed before
14 DOB will flag this as a raze for zoning purposes
15 only. And so, DOB, per this rule, should have
16 flagged the project at the permit stage as new
17 construction for zoning purposes.

18 And so, the validity of this interpretation
19 is not the primary issue in this case, but it's
20 important because it has created this mess that the
21 Rosenbaums are in. And it's not an actual zoning
22 regulation. It was never raised during plan review.

23 And so, this supports the element of good faith and
24 detrimental reliance that goes to our variance
25 argument.

1 Next slide, please. And so, we talked
2 about this earlier, that even under the building
3 code, this is still categorized as an addition.
4 That's correct, Mr. Buehler?

5 MR. BUEHLER: That's right.

6 MS. WILSON: All right, thank you. Next
7 slide, please. And so, what does this new
8 categorization as a new building mean for the
9 project?

10 MR. BUEHLER: Well, the side yard on the
11 north side of the house would have to be an 8-foot
12 side yard instead of the existing side yard, which
13 is 4.9 feet. So, essentially, we'd have to move the
14 entire house 3 feet to the south.

15 MS. WILSON: Okay. Thank you. Next slide,
16 please. Right. So this is the provision that
17 allows extensions of existing non-conforming side
18 yards, so long as the extension is 8 feet. So, in
19 addition to not being able to maintain that existing
20 4.9-foot side yard, the proposed extension is also
21 considered non-conforming. Is that correct, Mr.
22 Buehler?

23 MR. BUEHLER: That's right.

24 MS. WILSON: Great. Thank you. And so,
25 this is what's resulted in the need for the variance

1 relief that we are seeking today. We are here in
2 order to maintain a side yard that has existed for
3 100 years, and the approved extension of that side
4 yard along the north property line. That's the crux
5 of the issue. Once the threshold of percentage of
6 walls were removed that DOB considers new
7 construction, that 100-year-old side yard and the
8 extension became non-conforming.

9 Next slide, please. In terms of community
10 and neighbor support, the ANC is supportive, as are
11 the neighbors, including the neighbor to the north.

12 And they've submitted a letter in support. And we
13 have ten other -- at least ten other letters in
14 support in the record.

15 Next slide, please. Just for some of the
16 legal doctrine that's driving this application and
17 how it fits with the variance test, the principle of
18 equitable estoppel is rooted in fairness. It's
19 relatively straightforward. A government that
20 induces reasonable reliance, say, by issuing a
21 permit, approving plans, and conducting a full
22 review and signing off, cannot later reverse course
23 and penalize a party who has acted in good faith on
24 that approval.

25 The doctrine also requires that the party

1 suffered a detriment, typically through substantial
2 expenditure of resources in reliance on that
3 government's approval.

4 And critically, the balance of equities
5 comes into play, meaning the government's interest
6 in enforcing its own regulations and compared to the
7 party who -- compared to the harm to the party who
8 relied on the government. So the equities must
9 strongly favor the party seeking estoppel. In
10 essence, it weighs the good-faith investment against
11 the public interest in zoning enforcement.

12 Next slide, please. Thank you. Mr.
13 Sullivan will talk a little bit more about this, but
14 in Saah vs. D.C. Board of Zoning Adjustment, the
15 court laid out four elements of estoppel: first,
16 that the party acts in good faith; second, that the
17 acts were based on affirmative acts of the
18 municipality, typically a permit or official
19 approval; third, the party made expensive and
20 permanent improvements in justifiable reliance on
21 those acts; and fourth, the equity strongly favor
22 the party claiming estoppel.

23 CHAIRPERSON POURCIAU: Ms. Wilson?

24 MS. WILSON: Yes.

25 CHAIRPERSON POURCIAU: Ms. Wilson, could I

1 ask how many more slides you have?

2 MS. WILSON: We're going to jump to slide
3 25 at this point, and then I'm going to talk about
4 how this fits in with our specific case. And then
5 we will wrap it up.

6 CHAIRPERSON POURCIAU: Thank you so much.

7 MS. WILSON: Of course.

8 MR. SULLIVAN: Okay. This is Marty
9 Sullivan. I'm going to talk about slide 25. Thank
10 you.

11 And I think I fixed my communication
12 problem on my end, so hopefully that doesn't come
13 up. I restarted my router, and it's all good.

14 This is a case comparison table. These are
15 cases that the Board of Zoning Adjustment has
16 granted variance approvals, area variance approvals
17 for what we call estoppel cases. And I don't want
18 to get caught up in the semantics of estoppel versus
19 just detrimental reliance. But at the bottom line
20 is, in these cases, the Board determined that the
21 permit history, meaning the issuance of a permit by
22 mistake and the subsequent retraction after a
23 certain amount of time and a certain amount of money
24 spent by the applicant, is and can be considered an
25 exceptional condition for the variance argument.

1 That's prong one.

2 And these -- in these decisions, the Board
3 also decided that the financial consequences to an
4 applicant as a result of that exceptional condition
5 also satisfied prong 2 or the practical difficulty
6 test. And regarding the equities, they also
7 analyzed that.

8 So these cases, and I start with the Court
9 of Appeals case, and in the Court of Appeals case of
10 Saah, Saah, the Court of Appeals actually said that
11 the BZA was estopped from denying the variance,
12 which they denied, and they overturned that case
13 based on the elements of estoppel. But I don't know
14 that we even need to delve deeply into that because
15 in these other four cases, also estoppel-related, it
16 focuses more on the variance argument itself. And
17 the Board didn't necessarily use the term estoppel,
18 but it talked about detrimental reliance.

19 And in these cases, I listed all the
20 factors that are involved in the analysis, and I'll
21 summarize it to say that the present case before you
22 exceeds almost every other case in here on almost
23 every element. For instance, if you look at prong 2
24 and the amount of financial consequence to the
25 Rosenbaums, \$330,000 that Mr. Buehler testified to

1 as a result of this, because the effect of this is
2 that they have to dig out and remove their
3 foundation of the house that they lived in for 40
4 years, and rebuild it with an 8-foot side yard.

5 And the other thing I'll point out is, when
6 it comes to the degree of relief or the equities,
7 we're actually talking about reproducing a matter-
8 of-right condition. The 4.9 side yard is just
9 keeping what wasn't demolished. For the extension
10 of the side yard, it's proposed at 5 feet, and which
11 is permitted by right. So if, as Alex stated
12 earlier, if DOB had not made the mistake, the
13 architect could have easily revised the plans,
14 reduced the level of demolition so that it wasn't a
15 zoning raze, and then there'd be no question about
16 the 5-foot side yard.

17 I'll also note any relief at that point
18 would have still been a special exception, too,
19 because we have an existing house.

20 And also, once the level of demolition was
21 done, once 61 percent of demo was done, that 330,000
22 became a liability for the Rosenbaums immediately
23 because you can't undo the demolition.

24 So I'll leave the Board to look through the
25 rest of it. I don't have to go through it. But

1 some of the things, all the factors are here. I
2 think on every element, the Rosenbaums case is as
3 strong or stronger than any of these other five BZA
4 cases. And that's it.

5 Alex, back to you.

6 MS. WILSON: Great. Thank you. Let's go
7 to slide 27. I'm going to skip around a little in
8 the interest of time. Thank you so much.

9 So the exceptional condition can arise from
10 factors that are extraneous to the property, and the
11 condition -- the exceptional condition here is the
12 unique permitting history. DOB conducted a full
13 plan and zoning review. The permit was issued. It
14 was expressly approved as an addition. The
15 Rosenbaums proceeded to demolish and construct
16 exactly what was approved. And then three months
17 later, DOB reversed course, not because anything new
18 was discovered, but because the same plans that had
19 already been approved were reviewed again and a
20 different conclusion was reached.

21 I'm going to skip to slide 29, please.

22 Thank you. In terms of the practical difficulty,
23 the cost of the burden of compliance can be weighed
24 against the severity of the variance requested, and
25 detrimental reliance can be taken into account. In

1 this case, the cost of compliance would result in
2 hundreds of thousands of dollars, not including
3 displacement costs and other things of that nature.

4 And of course, requiring compliance
5 wouldn't have any benefit to the District in
6 enforcing its own zoning code, as that 5-foot side
7 yard has been there for 100 years and, again, would
8 have been required by-right had DOB caught its own
9 mistake.

10 Let's skip to Slide 31, please. Thank you.

11 In terms of the third prong, there is no
12 substantial detriment to the public good. It's
13 clearly satisfied with the neighbor's support and
14 the fact that the Rosenbaums are seeking to do what
15 would have been a matter-of-right project. The side
16 yard is being maintained as has existed on this
17 property for 100 years, and we are not expanding
18 beyond what already exists.

19 And prong three aligns directly with the
20 equities analysis, as it defines the interest that
21 the city has in protecting the public and in
22 protecting the integrity of the Zoning Regulations
23 compared to the harm and injury that estoppel would
24 avoid.

25 Next slide, please. Next slide, please.

1 Thank you. In conclusion, the variance test is
2 safely met for our exceptional condition. We are
3 permitted to cite the unique permitting history.
4 We've demonstrated the presence of good faith.

5 For prong two, the practical difficulty, we
6 have shown how the good faith detrimental reliance
7 on the actions of DOB has created the situation
8 where reliance and subsequent compliance would, at a
9 minimum, cost the Rosenbaums hundreds of thousands
10 of dollars in addition to continual displacement and
11 uncertainty. Further, this reliance was not self-
12 inflicted. It was justifiable reliance. And on
13 balance, the severity of relief versus the burden of
14 compliance clearly weighs in the applicant's favor.

15 We are happy to answer any questions and
16 thank you so much for your time.

17 (Pause.)

18 COMMISSIONER WRIGHT: Are we doing
19 questions from the Board now or --

20 VICE CHAIR GOLDSTEIN: Madam Chair, I think
21 your volume isn't coming through, unfortunately.

22 COMMISSIONER WRIGHT: Can't hear you.

23 VICE CHAIR GOLDSTEIN: Let's give her a few
24 seconds, but then I think we should just -- if the
25 applicant is done with their presentation, it would

1 make sense to me that the Board ask some questions.

2 Let's just see if Madam Chair comes back in the
3 next few seconds, because she would probably want to
4 hear the answers as well.

5 (Pause.)

6 VICE CHAIR GOLDSTEIN: Okay. She's
7 notified me that she can at least hear us, so there
8 -- oh, we see you again.

9 Why don't we -- Commissioner Wright, would
10 you like to start with some questions? Is that --

11 COMMISSIONER WRIGHT: Sure. Well, this is
12 a terrible situation, and so, one question I have
13 is, when you were informed by DOB that there was a
14 problem and that they had made a mistake -- I guess
15 that was in December that you were informed of that?

16 MR. BUEHLER: That's correct.

17 COMMISSIONER WRIGHT: Did you completely
18 stop work on the house at that point, or did you
19 continue working?

20 MR. BUEHLER: The -- our initial assumption
21 was that somebody was misinterpreting something
22 because the wall check was absolutely consistent
23 with the approved documents. And so, we didn't
24 direct the builder to stop working immediately. And
25 then, about a week or two later, it became clear

1 that it wasn't a misunderstanding, that DOB was
2 reversing course. And at that point, we stopped
3 work. And then we almost immediately got a stop-
4 work order, and then we absolutely stopped work.

5 COMMISSIONER WRIGHT: Okay. I mean, the
6 one thing that, again, I have to admit, I don't have
7 a whole lot of professional experience with this
8 issue in the District of Columbia, but I do have a
9 lot of professional experience with it in Montgomery
10 County. And we've wrestled with this.

11 And, you know, it is very surprising to me
12 that if there are other projects that have gone
13 through like this, where the level of demolition
14 that's taken place was not considered a raze, but
15 was considered a renovation or an addition, I'm very
16 surprised about that. And I'm surprised that the
17 Department of Building would ever approve plans that
18 had this level of demolition without calling it a
19 raze.

20 And, you know, I am trying to believe in
21 good -- that you all, in good faith, were following
22 the lead of the Department of Building and that you
23 were assuming they knew what they were doing and
24 that that's why you, you know, sort of accepted that
25 this would be approved as an addition/renovation.

1 MR. BUEHLER: Well, they --

2 COMMISSIONER WRIGHT: But there are --

3 MR. BUEHLER: Sorry.

4 COMMISSIONER WRIGHT: But there are other
5 builders and people who do projects that aren't in
6 good faith and try to consider projects that are
7 clearly, by all measures, and all common sense are a
8 total demolition or razing of a building, and they
9 try to slip them through as renovations or
10 additions.

11 MR. BUEHLER: I'd like to respond to that.

12 COMMISSIONER WRIGHT: And I'm going to, you
13 know, take on good faith that that is not, you know,
14 what you all were intending here, that you were
15 following the lead of Department of Building.

16 MR. SULLIVAN: Sean, can I respond?

17 MR. BUEHLER: That would make sense if
18 there was something to gain.

19 (Simultaneous speaking.)

20 MR. SULLIVAN: Can you let me respond
21 first, and then I'll turn to you? Because I think
22 we have two different angles -- or, I mean, we both
23 have something to contribute in response to that.

24 The thing about this case, Commissioner, is
25 there was nothing to gain from doing that. That's

1 the thing. There are other cases where builders --
2 and I've worked on a lot of them -- they'll push the
3 limits, or they'll do whatever they can to avoid it.

4 And sometimes they can't, or they'll do whatever
5 they can to avoid being found out if they do that.

6 In this case, there was nothing to gain.
7 It's not like there was a -- it wasn't over lot
8 occupancy. So what they were doing, they could do
9 if they had not demolished more than 60 percent of
10 the exterior walls. Because you can extend at the -
11 - other than the 1 inch of the 4 foot 9 portion,
12 which is just a small part of the foundation. The
13 walls are going up at 5 feet. So there was no need
14 to deceive. And also, the walls were in bad shape
15 as well. And that was always the intention to
16 remove them.

17 Sorry, Sean. You can go ahead and say what
18 you want to say. I just --

19 MR. BUEHLER: No, I --

20 MR. SULLIVAN: I just wanted to point,
21 like, the premise there is not -- there was no
22 incentive for deception in that, in this particular
23 case.

24 MR. BUEHLER: That was the crux of my point
25 is we had no reason; we had no reason to lie about

1 this because it was by right.

2 But I will say, having permitted many
3 projects using DOB's -- they have a process called
4 Velocity, where you actually meet with the
5 reviewers, and they review it right in front of you.

6 And I've had many, many projects where the builder
7 is trying to meet a raze or avoid a raze. And I've
8 been told by many different reviewers that all you
9 need to keep is 4 feet of wall to avoid a raze. And
10 in the eyes of DOB, not Zoning, but the rest of DOB,
11 the reason to avoid a raze, a lot of times, is just,
12 once you raze, you have to abandon and reestablish
13 all your utilities. And that's a very costly thing
14 to do.

15 And so, I understand you're saying this
16 sounds like anyone using reason would look at this
17 and say this is a raze, but that avoiding a raze is
18 just leaving enough wall that you can leave
19 utilities attached to the building and leave a
20 grounded element to work from. And so, this is not
21 an intent to conceal or to pretend it's something
22 it's not. It's just, we're just using the
23 terminology that the city uses regularly.

24 COMMISSIONER WRIGHT: Yeah, I mean,
25 avoiding a raze has many benefits --

1 (Simultaneous speaking.)

2 MR. BUEHLER: If you're doing a project
3 that's not by-right.

4 COMMISSIONER WRIGHT: -- both in terms of
5 the utility issue you mentioned, but also when
6 something is razed, it has to meet all current
7 setback standards. So you end up having, when
8 you're building a new building, to, you know,
9 perhaps move a building into a location that you
10 don't really want to move the building into. And
11 you know, again, there's lots of reasons that people
12 want to avoid a permit being considered a razing or
13 a full demolition.

14 And I don't know, again, sounds like the
15 Department of Building may be a little confused
16 because they have some reviewers, as you're saying,
17 during this Velocity process, who are telling you
18 all you have to keep is 4 feet of a foundation,
19 while there is a written interpretation on their
20 website that says you have to keep 40 percent of the
21 structure.

22 You know, so again, I think that, not your
23 fault, but there is definitely, it seems, some
24 confusion at the Department of Building if you're
25 saying you're being told in other cases, oh, all you

1 have to keep is 4 feet of foundation wall, while
2 there's an interpretation on their own website that
3 contradicts that.

4 (Simultaneous speaking.)

5 MR. BUEHLER: Well, the interpretation is
6 not the interpretation is not turning this into a
7 raze. They're just using a zoning raze as a
8 separate designation outside of the actual building
9 code. The building code still calls this an
10 addition. That interpretation doesn't change the
11 building code. It's just a zoning interpretation.

12 MR. SULLIVAN: Also, that interpretation
13 has evolved over the years. So, and it is 4 feet in
14 certain instances. That's in ZA-10. There's
15 different kinds of additions.

16 So, also, I'll mention the ZA-10 says it
17 applies generally, on a case-by-case basis, so,
18 which would lead one to believe that the only way
19 you could actually know you're complying with it is
20 by the issuance of a permit on that case. But this
21 -- and that's part of the confusion behind it is it
22 was just -- it was not in writing for years, for
23 maybe ten years, and first adopted by Mr. LeGrant,
24 and then it evolved, and then it was in writing.
25 But it

1 COMMISSIONER WRIGHT: Well, I'm glad it's
2 in writing, yeah.

3 MR. SULLIVAN: Yeah. And all the other
4 cases that I presented on my chart, those were
5 zoning regulations, and they were obvious ones, like
6 very, very prominent ones, like architectural
7 element. You couldn't remove a cornice. On the
8 last case on that chart -- 20813, it is -- can't
9 remove a cornice. But the applicant submitted a
10 plan removing the cornice, and it was approved. And
11 then DOB came back and said, we made a mistake; we
12 shouldn't have done that. And then this Board
13 acknowledged that it was a good-faith mistake.

14 So there's -- I think the fact that it's
15 not a regulation makes it more plausible that it's
16 an innocent mistake in that case.

17 COMMISSIONER WRIGHT: Yeah, I mean, it does
18 sound to me like there is -- there are issues at the
19 Department of Building where one hand doesn't
20 necessarily know what the other hand is doing, and
21 that they need to have better communication.

22 But, you know, I go back to the fact, and I
23 want to emphasize, I'm not accusing you all of
24 trying to pull something over. I do believe that
25 you're being honest in saying you went in; you got

1 the permit. You were following the building code
2 definitions of raze. You felt that's what the
3 people reviewing the permit were following. You got
4 your permit. You proceeded with your work. I
5 accept, you know, all of that. And that when you
6 were told to stop working, you stopped working, you
7 know?

8 So I, again, I accept all of that, which
9 again makes this case even harder because it doesn't
10 seem like there's anyone who is consciously trying
11 to do something bad. And I think that's probably
12 honestly why the neighbors are also, you know,
13 seeing that and supporting that.

14 I know there are other projects that have
15 happened in the city where a project was supposed to
16 be a renovation and ended up being a total raze, and
17 the neighbors weren't happy about that and created,
18 you know, a very difficult situation. So, you know,
19 again, I get that.

20 I think, you know, this is -- there are no
21 villains, is what I'm trying to say, in this case.
22 There is no one who is trying to do something
23 consciously, you know, outside the boundaries. But
24 again, then it leaves us in this situation of, you
25 know, a difficult, difficult sort of conundrum.

1 You know, if we were looking at a project
2 where you had kept the existing house fully intact
3 and had added on to the rear, and you wanted to add
4 on to the rear following the existing building line
5 so that that rear addition would also be 4.9
6 whatever feet, I have no doubt that if that had come
7 to us, we would have approved, you know? We would
8 have approved it because it, you know, was an
9 existing house. You're building an addition. That
10 side yard had been the way it had been for 100
11 years. You know, I'm guessing if that had come
12 forward in a different circumstance, we would have
13 approved that.

14 What we're dealing with here, though, is,
15 you know, essentially a full-blown demolition and an
16 after-the-fact request to allow the side yard to be
17 less than 8 feet. So I'm still weighing it. I'm
18 going to -- I'm interested in hearing from the
19 Office of Planning and from, you know, the other
20 people who are here to speak, but I did want to just
21 sort of acknowledge that the problem of folks coming
22 in for a renovation or addition and then doing a
23 full demolition is something that is -- that I am
24 very sensitive to and that I don't -- and that I
25 certainly don't support.

1 But again, I think we have a somewhat
2 unique situation going on here, so I'll let my other
3 colleagues weigh in. This is a hard one. I'm sort
4 of listening to everything I'm hearing, and I'll be
5 very interested in hearing from the Office of
6 Planning.

7 VICE CHAIR GOLDSTEIN: I'd like to ask a
8 question or two. Thank you very much, Commissioner
9 Wright.

10 And thank you all. I'm sorry you're in
11 this situation, and I'm sorry we have to review this
12 case in this context.

13 When -- I just want to ask a little bit
14 about the permitting, if I can, Mr. Buehler. So the
15 retention of the north wall, was it -- that was the
16 goal of that was to preserve the substandard side
17 yard; is that correct?

18 MR. BUEHLER: That's correct.

19 VICE CHAIR GOLDSTEIN: Okay. And as part
20 of that, there were assumptions about grandfathering
21 that were made. And is it correct to understand
22 that your assumptions of grandfathering were based
23 on past case experiences, as well as your
24 understanding of the building code?

25 MR. BUEHLER: That's correct.

1 VICE CHAIR GOLDSTEIN: Okay. And
2 unfortunately, we're here today because there was
3 not a knowledge or discussion about the zoning
4 interpretation that's on the website.

5 MR. BUEHLER: I've never heard of
6 interpretation 10 before this project.

7 VICE CHAIR GOLDSTEIN: Okay. Okay. You
8 know, I find this unfortunate because it seems like
9 either the right words were not there; the right
10 questions weren't asked. Something got missed at
11 the time of permitting, and the hope is that things
12 don't get missed, so we don't end up in this
13 situation.

14 To Commissioner Wright's point, there are
15 cases where people say they're going to retain,
16 let's say, 40 percent of their walls and then
17 demolish it. That's not this case. I'm assuming
18 you have retained what -- correct me otherwise --
19 have you retained what you said you would retain as
20 part of your --

21 (Simultaneous speaking.)

22 MR. BUEHLER: Yeah, we have retained what
23 we said we would, and the reviewer agreed. He said,
24 look, I got this wrong. I missed this. I should
25 have caught this in review. But he specifically

1 said, I'm not saying you took down more than you
2 asked to. I'm saying I shouldn't have let you take
3 down as much as I let you take down.

4 VICE CHAIR GOLDSTEIN: Was it the same
5 person who reviewed it originally who did the -- oh,
6 okay.

7 MR. BUEHLER: Yes.

8 VICE CHAIR GOLDSTEIN: And there's no
9 suggestion that the wall check showed that you
10 didn't build according to plan; is that correct?

11 MR. BUEHLER: That's right. Everybody
12 agrees the wall check matches what was permitted.

13 VICE CHAIR GOLDSTEIN: So you built what
14 was permitted. Just to get that piece, just to
15 reiterate it, you built what was permitted, nothing
16 more. You didn't retain less. You built what was
17 permitted?

18 MR. BUEHLER: That's correct. And nobody
19 has disputed that, that I'm aware of.

20 VICE CHAIR GOLDSTEIN: Okay. I do want to
21 ask about the December 9th to the 29th, which is a
22 little bit unfortunate that construction kept
23 proceeding, given the concern about the legitimacy
24 of the original permit. What kind of construction,
25 just to know, was going on at that point?

1 MR. SULLIVAN: Mr. Goldstein, can I just
2 weigh in here for a second that we have not included
3 in our calculation of damages as a result of
4 reliance on this approval? We have -- we stopped
5 the minute that we knew there was a problem. We
6 stopped calculating.

7 VICE CHAIR GOLDSTEIN: Okay.

8 MR. SULLIVAN: The fact that they're doing
9 more work is completely irrelevant to our argument.

10 VICE CHAIR GOLDSTEIN: Okay.

11 MR. SULLIVAN: The damages that we're
12 talking about, we are not calculating them beyond
13 the moment when it was made clear to the applicant
14 that there was a problem.

15 VICE CHAIR GOLDSTEIN: Okay.

16 MR. SULLIVAN: Just for information on our
17 variance argument, just to let you know, we didn't
18 count that. I mean, there could be a lot of reasons
19 to close up. You got to close up a property that's
20 going to be damaged by the weather and -- or you
21 just take a risk and say, I mean, you can move
22 forward at your risk until you don't have -- until
23 you get a stop work order, and then that's at your
24 risk. So we knew at that point, because it was at
25 risk, then it's not part of our estoppel argument or

1 reliance argument anymore. And that's why we didn't
2 include it.

3 VICE CHAIR GOLDSTEIN: Okay. Thank you.
4 That's actually where I was leading. So that's
5 helpful that you anticipated it. I think the Office
6 of Planning report referenced some of the potential
7 cost damages as accumulating during that period.
8 But what you, just to reframe, just to restate it,
9 you're saying that the cost damages that you're
10 showing are not including that period. That's all
11 cost unrelated to that December timeframe.

12 MR. SULLIVAN: That's correct. And we've
13 had discussions with the Office of Planning post
14 their report, so Mr. Bradford may have something to
15 add in that regard as well. I don't know.

16 VICE CHAIR GOLDSTEIN: Okay. I think
17 that's all I have for now. Thank you.

18 CHAIRPERSON POURCIAU: Ms. Lindsjo, did you
19 want to ask any questions?

20 MEMBER LINDSJO: I have no questions at
21 this time. Thank you.

22 CHAIRPERSON POURCIAU: Thank you. I
23 believe it's a good time now to hear from the Office
24 of Planning, Mr. Bradford from Office of Planning.

25 MR. BRADFORD: Good afternoon, Chair

1 Pourciau, Members of the Board, Philip Bradford with
2 the Office of Planning.

3 OP has issued a report recommending denial
4 of the requested area variance in Exhibit 35.
5 However, OP has been working with the applicant to
6 obtain additional information regarding the case.
7 And considering the additional information provided
8 to the record, OP would like to change our
9 recommendation in this case to approval.

10 After reviewing the full set of plans, OP
11 believes that applicant submitted plans to DOB that
12 clearly noted the scope of the demolition and that
13 also matches what was observed during our site
14 visit. The applicant acted in good faith and relied
15 upon the DOB approvals and moved forward with
16 construction in line with the issued approvals. OP
17 believes this is an exceptional situation that meets
18 the first prong of the variance test.

19 Given that DOB only raised the issue at
20 wall check after significant construction has
21 occurred, the applicant has a practical difficulty
22 and undue hardship and cost to correct the issue at
23 this stage of construction. If the home had not
24 been considered a raze for zoning purposes, it would
25 have been able to maintain the non-conforming side

1 yards and set back new walls at 5 feet. Given the
2 request is 4.9 feet, this would not impair
3 significantly the intent of the Zoning Regulations.

4 And it is worth noting that there is
5 significant support from the community and the ANC
6 in the record.

7 And with that, thank you, and I'm available
8 for any questions.

9 CHAIRPERSON POURCIAU: Are there questions
10 for OP?

11 VICE CHAIR GOLDSTEIN: I guess I have a
12 question or two. Thank you, Mr. Bradford. I
13 appreciate the presentation, and I also appreciate
14 you being pretty nimble here. I read your report,
15 and it was pretty -- it was denial. And so, I was
16 trying to understand the position. So I just really
17 want to understand a little bit more about what
18 changed in your mind.

19 So what changed was you received additional
20 information from the applicant. This additional
21 information made you feel comfortable that the
22 permitting history created an exceptional condition
23 causing the practical difficulty; is that the
24 pathway you went down, and what was it that really
25 turned your mind?

1 MR. BRADFORD: What turned my mind was,
2 initially, I don't believe, when I got assigned this
3 case at first, there was elevations or a full plan
4 set in the record. There was one sheet that just
5 showed the cellar level, and I requested elevations,
6 which was another piece of the puzzle, so to speak.

7 But then, within the last week, I was able
8 to review the full approved plan set that DOB
9 reviewed as part of the building permit process.
10 And at every sheet showing the new and existing
11 conditions of the house, it was very clearly noted
12 and delineated on every sheet, saying, this is
13 proposed for retention. This is hashed and grayed
14 out. This is proposed for demolition. And it's
15 very clear, like, while I don't have certain
16 programs to, like, do the mathematical analysis of a
17 40 to 60 percent zoning raze, it's obvious that it
18 wouldn't have met that.

19 So I had to ask myself why, if somebody's
20 reviewing this house, they were not able to raise
21 that issue at the building permit stage. It was
22 very, very clear on the plan. So they clearly acted
23 in good faith. They weren't hiding anything. And
24 if it got to this point, it seems like it was
25 something that was missed.

1 VICE CHAIR GOLDSTEIN: Thank you. I don't
2 know if I have any other questions. Thank you.

3 CHAIRPERSON POURCIAU: Commissioner Wright,
4 do you have any questions for OP?

5 COMMISSIONER WRIGHT: No. No, I understand
6 the presentation and the reason for the change in
7 their recommendation.

8 I guess I'm interested; is anyone from the
9 Department of Building going to be joining us?

10 CHAIRPERSON POURCIAU: As far as I see,
11 there are no other agencies or individuals signed up
12 today, so I don't even see that the ANC is signed
13 up. So I believe the answer to that question is no.

14 COMMISSIONER WRIGHT: Well, that's
15 unfortunate because, again, all paths lead to the
16 Department of Building and, you know, questions
17 that, you know, we might want to pose to them, but I
18 can understand why they maybe chose not to attend.
19 No, I don't have any other questions.

20 CHAIRPERSON POURCIAU: With the --

21 VICE CHAIR GOLDSTEIN: Can I follow up with
22 a question?

23 (Simultaneous speaking.)

24 VICE CHAIR GOLDSTEIN: Oh, I'm sorry. I
25 apologize, Madam Chair.

1 I do want to ask, and you may have said it,
2 and I just missed it. For the practical difficulty
3 -- this is for the Office of Planning. The
4 practical difficulty in your mind is that, given the
5 permitting history and the construction that's
6 occurred, there'd be a practical difficulty to the
7 applicant of trying to comply at this point. And
8 what is your reasoning?

9 MR. BRADFORD: Yeah, the cost of compliance
10 at this point, in OP's position, would be very
11 significant and an undue hardship on the applicant.

12 VICE CHAIR GOLDSTEIN: Okay. And undue
13 hardship, I mean, really, all we need is the
14 practical difficulty, and you would see that as a
15 practical difficulty, given the amount of effort and
16 cost it would be to make a compliant side yard.

17 MR. BRADFORD: Correct. Given that they
18 were reliant on their plans being approved, yes.

19 VICE CHAIR GOLDSTEIN: And you don't see
20 any detriment to the zone plan or to the public good
21 as a result of this project potentially retaining
22 this side yard?

23 MR. BRADFORD: Given that the neighbor to
24 the north was in support, also, during my site
25 visit, I tried -- granted it's very difficult to

1 eyeball this, but the houses on the street are
2 pretty old, and this wouldn't be the only non-
3 conforming side yard or otherwise yard on that
4 block. So, almost having a non-conforming side yard
5 for this house and getting relief for that would
6 just maintain consistency with many other non-
7 conforming setbacks on the block.

8 And since it's 4.9 and they could, by
9 right, if they were not meeting the raze
10 interpretation, have a 5-yard side setback, it's a
11 very negligible difference, in OP's opinion, going
12 from 4.9 -- going from 5 feet to 4.9.

13 VICE CHAIR GOLDSTEIN: And the arguably
14 most impacted neighbor to the north wrote a letter
15 in support; I think you mentioned that?

16 MR. BRADFORD: They did. And I believe
17 that was also on the applicant's presentation for
18 talking about community member support, a screenshot
19 of that homeowner's letter.

20 VICE CHAIR GOLDSTEIN: Okay. Thank you.

21 COMMISSIONER WRIGHT: I wanted to add into
22 that. I don't I think it's a slippery slope to
23 buy the argument about practical difficulty because
24 something bad happened, and it would cost a lot of
25 money to rectify it. Because let's, you know,

1 assume that although we think this was all like an
2 honest misunderstanding, there are other cases that
3 may come forward in the future that are not honest
4 misunderstandings. And you know, I could imagine a
5 situation where we would say, sorry that it's going
6 to cost you \$300,000, but you've got to take down
7 what you've built and build it the right way. So
8 I'm not happy with the idea of practical difficulty.

9 What I sort of am focused on is, you know,
10 if we were viewing this before any construction had
11 started, we probably would have approved -- and they
12 were building an addition, we probably would have
13 approved a variance to allow the addition to still
14 be, you know, 4.9 or approximately 5 feet because
15 it's what had been there for 100 years. And the
16 next-door neighbor didn't object, and so on, and so
17 forth.

18 So, for me, the issue is that -- yeah, the
19 question I ask myself is, although this is a
20 retroactive request that we're getting, would we
21 have probably approved it if it had been asked for
22 ahead of time?

23 MR. SULLIVAN: I can answer that,
24 Commissioner. We wouldn't have needed any relief.
25 That's the whole point. We had no need to. The 4.9

1 would stay. We'd be extending the wall at 5 feet,
2 which is permitted by right for an existing
3 building. DOB approved demolition that made it so
4 that the building no longer exists. And so, in
5 those demo plans we're following, the building no
6 longer exists.

7 Regarding practical difficulty, the only
8 thing we know about practical difficulty in the
9 context of detrimental reliance is what past BZA
10 decisions have told us and what the Court of Appeals
11 has told us. And they absolutely include the
12 financial consequences for the applicant in the
13 practical difficulty analysis, as long as there's
14 good faith. Good faith is required, absolutely.

15 COMMISSIONER WRIGHT: Well, that's, yeah,
16 that's the point is --

17 MR. SULLIVAN: And I've come across a lot
18 of cases I wouldn't bring forward because we
19 couldn't show good faith. There's either deception
20 or plans aren't -- weren't approved the right way.
21 This one's straight down the line, showing no bad
22 faith and no reason, no reason for bad faith.
23 That's what I'm saying. Because it would have been
24 a matter-of-right project. If DOB says, you know
25 what, you need to save more walls. Okay. Done.

1 Save more walls. We'd end up with the same product
2 that's sitting there now.

3 COMMISSIONER WRIGHT: Yeah. And again for
4 me, that you're saying the same thing I think I'm
5 saying with a different twist, which is that
6 basically, I don't know that any of us have a
7 problem, including the neighbors, with the final
8 outcome of what's on the ground, and that if it had
9 required some approval -- I hear you saying it
10 wouldn't have, but if it had, we probably would have
11 given the approval, that the substance of what we're
12 dealing with of what has ended up on the ground is
13 not objectionable. It's not out of character with
14 the neighborhood. It's, you know, it's not a
15 problem. It's the problem is how we got there.

16 And I, again, but I really don't like the
17 idea of using -- I understand it may have been used
18 in the past. I don't like using the idea of
19 financial hardship, the idea that it's going to cost
20 a lot of money, as sort of our criteria in making a
21 decision because I think there may be times in the
22 future where other cases come in where there's a
23 whole lot of financial hardship, And we're going to
24 say, you know, sorry, it's going to cost a lot of
25 money, but you have to; you have to revise what

1 you've built.

2 MR. SULLIVAN: Okay. Then that position
3 would just be overturning 100 years of estoppel law,
4 so --

5 (Simultaneous speaking.)

6 CHAIRPERSON POURCIAU: Mr. Sullivan, do you
7 have any questions or follow-up for Mr. Bradford?

8 MR. SULLIVAN: I do not. Alex, do you?

9 MS. WILSON: Sorry. Give me a minute. I'm
10 thinking of a question.

11 Did you have an opportunity -- and I know
12 we just submitted it to the record and didn't go
13 through it in the presentation. We submitted a
14 case. It's 19521A. I don't know if you had an
15 opportunity to review that, but it talks about this
16 specific point. So, if that did come into play in
17 OP's analysis or if the Board wanted to review that
18 too, it actually specifically talks about granting
19 approvals in this type of case, because the ANC uses
20 exact words that Commissioner Wright is stating,
21 this slippery slope. And in that case, the
22 distinguisher, I believe, was that good faith.

23 And so, is the good faith something you
24 considered in your review? Did you --

25 (Simultaneous speaking.)

1 MS. WILSON: Yeah, sorry. That was hard to
2 follow, but I get you.

3 MR. BRADFORD: Yeah. I, like, quickly
4 looked at that case to be like, did I look at this
5 or not? And, yeah, I did briefly look at that case
6 and the rest of the cases that you all sent over as
7 precedents in the filing.

8 But, yeah, in this case, the fact that I
9 could not find anything that indicated bad faith,
10 that the fact that there's good faith here did weigh
11 heavily in my decision. Otherwise, this is
12 something that, like, is hard to support, but given
13 the circumstances, I believe there's cause to
14 support it in this situation.

15 MS. WILSON: Thank you. That's my only
16 question.

17 CHAIRPERSON POURCIAU: Thank you. So, at
18 this time, I don't see where there are any other
19 entities signed up to testify, no other government
20 agencies; I believe the ANC is not here, and there
21 are no parties signed up in support or opposition.
22 And we've heard on the record the support of the
23 ANC, and I believe, the neighbors.

24 Would the applicant like to make any
25 closing remarks at this time?

1 MS. WILSON: I'd like to make just one
2 final point, and then I'll see if Marty has anything
3 to add. I'm just not sure we made this clear
4 enough. So, as we've discussed today, DOB or Zoning
5 will let you demolish up to 60 percent of the walls.

6 And so, in this building permit process, had they
7 simply told Mr. Buehler during the zoning review, at
8 that point, when they should have, he could have
9 easily updated the plans to retain that percentage
10 of walls and still done this exact project.

11 So, of course, there are benefits to not
12 doing a raze. We wanted those benefits and intended
13 to keep those benefits by doing the appropriate
14 acts, and we could have had those benefits, and done
15 this exact same project, and not been here at all.
16 The Rosenbaums would, you know, be drinking coffee
17 in their house at this point if DOB had caught this.

18 So nobody gained anything by not demolishing 20,
19 you know, X percentage of walls. Maybe some minor
20 costs in rebuilding, but that was certainly not
21 something worth this process.

22 And so, I do think that goes to good faith.
23 We could have done this project and possibly
24 completed it by now had DOB caught that. And that's
25 the only additional point I'd like to make. And I

1 don't know if Marty has anything to add.

2 MR. SULLIVAN: I do. Just in regard to the
3 slippery slope argument, these, while rare, this
4 exact situation happens, and it's happened for over
5 100 years. The Saah vs. BZA Court of Appeals case
6 was 1981. The cases in my chart, all but one of
7 which we worked on, 2013, 2014, 2023, and 2018, so
8 it happens. It doesn't happen a lot because
9 typically, it's easier to fix the problem, or you
10 catch the problem in time.

11 So there is an infrastructure for approval
12 of variance relief based on the three prongs. And
13 in that infrastructure, the Board and the Court of
14 Appeals forever have considered the expense and the
15 consequences to the applicant as the practical
16 difficulty; the permitting history as an exceptional
17 condition; and then also considered, in the estoppel
18 argument, what is called equities: the interest of
19 the city versus the damage to the applicant. In
20 this case, we're talking about hundreds of thousands
21 of dollars of damage versus building a building that
22 could have been built anyway if the mistake wasn't
23 made.

24 And I don't think one thing that was made
25 clear, too. I should read this paragraph from the

1 Saah case about mistakes:

2 In the incident case, it can at most only
3 be argued that petitioner or his architect should
4 have known that the project exceeded the maximum lot
5 occupancy. However, the same can be said for the
6 official who approved the plans, and we will not go
7 so far as to decide that any of them were negligent
8 in failing to discover the problem at that time. In
9 hindsight, there's no question that the portion of
10 the upper floors which extends over must be included
11 in lot occupancy. Nevertheless, we do not consider
12 reliance upon approval of the permit applications to
13 have been unjustified.

14 So that's in the background. So, if you
15 have this infrastructure, if you had the opportunity
16 to save the Rosenbaums from an absolute financial
17 catastrophe, and it would not be out of line with
18 past decisions, in this case, why wouldn't you?
19 This is not the case to overturn 100 years of this
20 kind of jurisprudence. And what would be the fear
21 of the slippery slope? That DOB is not accountable
22 at all, then, when they make a mistake? And then
23 people are really, really subject to harm from
24 permitting mistakes.

25 So I just, I don't; I don't understand. I

1 mean, this case and the facts behind this case shine
2 in comparison to other cases that this Board has
3 approved. And I don't see where it falls short in
4 any respect in regard to that analysis, all of the
5 cases which we've included in our arguments.

6 So I guess that's all I have to say on that
7 point. I don't know if the Board has any other
8 questions for us.

9 CHAIRPERSON POURCIAU: I want to thank you
10 all for coming in today, and I want to express my
11 remorse in this dilemma we find ourselves in.
12 You've presented a very clear argument, and at this
13 point, I believe the Board is ready to move to
14 deliberate this case, and we can close the hearing
15 part of the record. Thank you again for coming.

16 (Pause.)

17 CHAIRPERSON POURCIAU: Is there more
18 discussion we would like to have at this point?

19 VICE CHAIR GOLDSTEIN: Sorry, I thought I
20 would just jump in. I was on the fence coming into
21 this one, but I think they've met their burden. I
22 think there is an exceptional condition based on the
23 permitting history. I'm not -- this is not a
24 fairness thing. That's not it. It's just that they
25 got approval for a permit, and they built according

1 to the permit. And unfortunately, some conversation
2 did not occur; some element that should have brought
3 this issue up at that time did not happen, and they
4 built according to their permit.

5 I think, additionally, that side yard has
6 been there for 100 years. I think that there's
7 enough here in that sort of confluence to say that
8 there is an exceptional condition leading to a
9 practical difficulty, that complying now with the 8-
10 foot side yard would have not just financial
11 consequence, but time consequence, effort
12 consequence, and the like, that it rises to the
13 level of practical difficulty.

14 I think given it's generally a -- this
15 could have been a conforming building. It's a
16 conforming use. Neighbors are supportive, including
17 the next-door neighbor against their narrower side
18 yard. I think it's not an easy case. So I think it
19 was right for us to wrestle with it and to ask hard
20 questions. But I think that at the -- ultimately, I
21 think they've met their burden for an area variance
22 for the side yard requirements.

23 CHAIRPERSON POURCIAU: I'd like to add that
24 I think the nature of this Board is one where we
25 have to consider when things are not as clear. The

1 slippery slope, unfortunately, is often where we
2 find ourselves. And in saying that, I want to
3 commend the Board members on your questions, on your
4 deliberation, on your analysis of what was put
5 forward. Even the applicant must have worked
6 diligently with the Office of Planning.

7 It hasn't -- it's not an easy case, but I
8 think all of the questions have been answered, and
9 all of the problems or dilemmas in coming up with
10 the vote that we're going to make have been
11 considered. And so, I feel the record is full. And
12 this is my second meeting, and I really feel like
13 I'm proud that I'm the chair of this Board.

14 VICE CHAIR GOLDSTEIN: Thank you. Well,
15 we're happy that you are.

16 I just wanted to add one more thing to the
17 record. The Office of Planning has now changed its
18 recommendation from denial to support, which was
19 helpful for my analysis. ANC 3G, I believe, is also
20 in support. And DDOT had no objection. Thank you.

21 CHAIRPERSON POURCIAU: All right. Does
22 anything -- OP has changed their position. Was that
23 entered in the record appropriately?

24 MS. MEHLERT: No, they just -- they
25 verbally changed their recommendation on the record.

1 There's no updated report, written report. That's
2 up to the Board if you like that or not. But there,
3 you know, they did give their testimony here today
4 on the record.

5 CHAIRPERSON POURCIAU: Thank you. Are
6 there any further items we need to discuss?

7 Hearing none, I think we're ready for a
8 motion.

9 (Simultaneous speaking.)

10 COMMISSIONER WRIGHT: I can try, or would
11 you like to try, Paul?

12 VICE CHAIR GOLDSTEIN: I don't know. I
13 feel more confident that you get the right words in,
14 Commissioner Wright, if you don't mind.

15 COMMISSIONER WRIGHT: Well, let's see.
16 I'll give it a try, and it will accept friendly
17 amendments if they're needed.

18 So I move that we approve application
19 number 21440 of Paul and Katherine Rosenbaum for a
20 property at 6117 32nd Place, Northwest, Square 2019,
21 Lot 8. And their application is for an area
22 variance from the side yard requirements of Subtitle
23 D 208.2. And it is for the north side yard, where
24 normally, it would be an 8-foot minimum required,
25 and they are requesting 4.96 feet.

1 And I believe they have made their argument
2 about the fact that they're facing an extraordinary
3 or exceptional situation because of the permitting
4 history on this, that there would be practical
5 difficulties in not getting the variance. It would
6 create practical difficulties, and that relief can
7 be granted without substantial detriment to the
8 public good.

9 So for all those reasons, I move approval
10 of this case.

11 VICE CHAIR GOLDSTEIN: I'll second it.

12 CHAIRPERSON POURCIAU: Any further
13 discussion?

14 (No audible response.)

15 CHAIRPERSON POURCIAU: Madam Secretary, I
16 think we're ready to vote.

17 MS. MEHLERT: Please respond to
18 Commissioner Wright's motion to approve the
19 application.

20 Chair Pourciau?

21 CHAIRPERSON POURCIAU: Yes.

22 MS. MEHLERT: Vice Chair Goldstein?

23 VICE CHAIR GOLDSTEIN: Yes.

24 MS. MEHLERT: Board Member Lindsjo?

25 MEMBER LINDSJO: Yes.

1 MS. MEHLERT: And Commissioner Wright?

2 COMMISSIONER WRIGHT: Yes.

3 MS. MEHLERT: Staff would record the vote
4 as 4 to zero to 1 to approve application number
5 21440 on the motion made by Commissioner Wright and
6 seconded by Vice Chair Goldstein.

7 CHAIRPERSON POURCIAU: Thank you. I'd like
8 to take a quick break, and then we can come back and
9 hear the last two cases. Okay. How about 3:10?
10 That looks good. All right, see you then. Thank
11 you.

12 (Whereupon, the above-entitled matter went
13 off the record at 3:02 p.m. and resumed at 3:12
14 p.m.)

15 CHAIRPERSON POURCIAU: Welcome back. I
16 just -- my voice is starting to feel a little
17 strained. So, Mr. Goldstein, I just wanted to alert
18 you just in case -- if I may need some help getting
19 through the last two applications, I hope you
20 wouldn't mind assisting.

21 And so we will reconvene our meeting at
22 this time. And, Madam Secretary, would you
23 introduce case number 21431, please?

24 MS. MEHLERT: Yes. Next in the Board's
25 hearing session is Application Number 21431 of

1 Eastern Avenue Holdings III, LLC. This is a self-
2 certified application pursuant to Subtitle X,
3 Section 901.2 for special exceptions under Subtitle
4 U, Section 421, to allow a new residential
5 development, and under Subtitle C, Section 703.2,
6 the minimum vehicle parking space requirements of
7 Subtitle C, Section 701.5.

8 This project is the creation of 10
9 additional dwelling units in an existing 18-unit
10 apartment house with a three-story rear addition to
11 an existing three-story detached building. It's
12 located in the RA-1 Zone at 1218 Eastern Ave.,
13 Northeast Square 5202, Lot 43. And as a preliminary
14 matter, the applicant requested to waive the filing
15 deadline to submit information about tenant
16 relocation plans in Exhibits 24 through 25 that's
17 before the Board.

18 CHAIRPERSON POURCIAU: Thank you.

19 Hello, Mr. Williams and Mr. Petyak, how are
20 you today?

21 MR. WILLIAMS: Good afternoon, Madam Chair.

22 Good to see you again.

23 CHAIRPERSON POURCIAU: Very good. Thank
24 you. We're ready to hear your presentation.

25 MR. WILLIAMS: Great. Thank you. And good

1 to see you all again, Madam Chair, members of the
2 Board. My name is Zach Williams. I'm a land use
3 attorney with Venable, representing the applicant
4 today. Matt Medvene is the representative for the
5 developer. And Ryan Petyak here is the architect as
6 well.

7 Mr. Young, could we pull open the
8 presentation? Thank you, Mr. Young.

9 This is an application for a project at
10 1218 Eastern Avenue Northeast. Next slide. As
11 members of the Board heard last week, this is a
12 project related in many ways to three other
13 projects. It's to be considered independent of the
14 other projects. The application stands on its own.

15 And for the benefit of Commissioner Wright, I'll go
16 through these slides because the context, I think,
17 is important.

18 There are four Eastern Ave. existing
19 apartment houses that are being redeveloped and
20 renovated at the -- the same time by this developer.

21 The application that we're looking at today is 1218
22 Eastern Ave., Northeast.

23 These projects are very similar in that
24 they're all in the RA-1 zone. They're all existing
25 apartment houses that are being renovated and

1 expanded. They're all generally within a third to a
2 half mile of Deanwood Metro, and they also have the
3 same ANC commissioner, SMD, ANC7C, and they're also
4 part of the Deanwood Civic Association, which
5 reviewed the projects essentially collectively.

6 Next slide, please. The four projects, as
7 I mentioned, are related. The project today, 1218
8 Eastern Avenue Northeast, is a project that
9 currently has 18 units. The applicant is seeking to
10 renovate and do a small addition to the building to
11 add 10 units for a total of 28.

12 The next application that will be
13 considered today is 1206 Eastern Avenue Northeast,
14 and we'll talk about that later. The other
15 applications that you see here were considered by
16 the Board last week.

17 As with the other three applications, the
18 building in the case today fell into serious
19 disrepair due to neglect by the previous owner.
20 This particular developer purchased these buildings
21 essentially out of foreclosure and with the aim of
22 bringing them up to current living standards,
23 renovating them, and adding additional units.

24 Next slide, please. I'll walk through
25 really quickly the slides for all four buildings

1 just so you get a sense for how similar they really
2 are. This is 1342 Eastern Ave. Northeast. Next
3 slide, please. This is 1218 Eastern Ave.,
4 Northeast, which we're considering today. You can
5 see these buildings are almost identical in terms of
6 their architectural style, the vintage in which they
7 were built, the massing, and also, the use as three-
8 story apartment houses.

9 Next slide, please. There's 1206 Eastern
10 Ave., Northeast. And finally, one more slide, Mr.
11 Young. This is 1106-1112. I think we have another
12 one at the rear of that property. Mr. Young, next
13 slide. And this is the rear of 1106-1112.

14 So coming back to the map in this
15 application, we're looking at 1218 Eastern Ave.,
16 Northeast, which is the -- which you can see here
17 outlined on this chart. As I mentioned, it's an RA-
18 1 zoned property.

19 Next slide, please. And the proposed
20 project on this single corner lot is to add 10
21 units, for a total of 28. As I mentioned, that'll
22 include three IZ units. The project involves
23 raising the roof by approximately three feet and a
24 very minor rear deck.

25 No parking spaces are technically provided.

1 There is area for parking, but we can't count it
2 because the area to the rear of the site is accessed
3 by an unimproved alley. And I'll get more into that
4 in a minute here. Because it's an unimproved alley,
5 we can't count those spaces even though there is
6 parking back there and there has been parking that
7 has existed there for quite some time.

8 So because of that -- as we'll get into --
9 we're seeking parking relief in addition to adding
10 these units in the RA-1 zone. Otherwise, the
11 project is completely in line with the standards in
12 this zone.

13 Next slide, please. Here's a survey of the
14 current property, the current existing apartment
15 house. And there you can see the alley that is
16 adjacent to the property, and you can see it's
17 listed as unimproved. And so while you can access
18 the rear, it's not an improved alley. So
19 technically speaking, we can't count parking. And
20 DDOT does not have any near-term plans to improve
21 that alley.

22 The alley is fairly extensive and so this
23 project is not able to support improving the
24 entirety of that alley on its own. We are hoping --
25 I think the community is hoping -- that that

1 ultimately does get improved. But for now, it will
2 stay the way it is. And for that reason, we will
3 need parking relief from the -- what is one required
4 parking spot otherwise required for this project.

5 Next slide, please. Here's a scenario view
6 of the same thing. And there you can see a little
7 bit better view. The tree canopy is covering most
8 of it, but you can see where the alley is and how it
9 is a sort of gravel, unimproved alley. It's not
10 paved. So even though there's plenty of room to get
11 back there to the rear, that parking doesn't count.

12 Next slide, please. So the request that --
13 the relief that we're requesting in this application
14 is to add additional units to an existing apartment
15 house in an RA-1 zone, which requires special
16 exception relief and special exception relief from
17 the -- what would otherwise be the one required
18 parking space on this -- for this project.

19 Everything else about the project is permitted by
20 right without further relief in the RA-1 zone.

21 Next slide. Walking through the special
22 exception standards for relief that we're seeking.
23 The first general standard is the relief should be
24 in harmony with the general purpose and intent of
25 the zoning regulations. The RA-1 zone is intended

1 exactly for these types of projects for low to
2 moderate density development, such as low-rise
3 apartment buildings just like these. And as I
4 already mentioned, the project will meet all the
5 development standards in the RA-1 zone.

6 Next slide, please. The next general
7 standard for a special exception is that the relief
8 should not adversely affect neighboring properties.

9 Typically, we think about light, air, and privacy
10 as we review this standard here. The height of the
11 buildings will only change by several feet. The
12 addition to the rear is a very minor additional.
13 Mostly, the footprint of the building remain as is.

14 All the renovations will be occurring inside of
15 those buildings and bringing those units and those
16 buildings up to current living standards.

17 This particular neighborhood, as you can
18 see, as these are four projects very near to one
19 another -- apartment houses of this type and vintage
20 are very typical in this particular area. And so
21 this project will continue to be in harmony with
22 neighboring properties.

23 Property is located about a third mile --
24 one-third mile from the Deanwood Metro station,
25 which makes it an appropriate place to add

1 additional multifamily units. And finally, the
2 project will provide four more bicycle parking
3 spaces that would otherwise be required. So we will
4 be providing 14, which should help to mitigate some
5 concerns about the parking -- the parking relief
6 that we're requesting.

7 Next slide, please. With respect to the
8 parking, there are some additional standards that we
9 need to look at per the zoning regulations. And the
10 first is that due to the physical constraint of the
11 property, the required parking in this case cannot
12 be provided on the lot. And the -- the constraint
13 is essentially that there's no access. There's no
14 access via an improved alley, so we can't get to the
15 rear of the property, at least not in the sense that
16 would count for parking.

17 However, the use of the structure is
18 particularly well served by mass transit. As we
19 mentioned, it's within a third of a mile to Deanwood
20 Metro station. And the property does not have
21 access to an open public alley. As we already
22 mentioned, has an access to an alley, but it's not
23 improved. So that's another justification for the
24 parking relief.

25 And the parking relief, the additional

1 justifications there would -- in terms of the curb
2 cut, we've talked with DDOT and -- and the Public
3 Space Committee. They're not willing to grant
4 additional curb cuts for this particular lot, so
5 that's not an option either. And there wouldn't be
6 any other way to get to the rear of the property to
7 add parking access otherwise that would be
8 permitted.

9 Next slide, please. Further standards for
10 parking relief from the zoning regulations,
11 particularly Subtitle C, Section 703.3 and 703.2.
12 The relief should be proportionate to the reduction
13 in parking demand demonstrated by the applicant
14 here. Only one space is required and only one space
15 -- we're only getting -- asking relief for that one
16 required space. So the reduction is literally as
17 minimal as it possibly could be.

18 And the same goes for the next two
19 standards, is that the number of spaces that cannot
20 be provided should be limited to what is reasonable.

21 Again, here, just -- we're just talking about one
22 required space. And then number three, same thing.

23 The relief should be limited to the number of
24 parking spaces and only that. And we're not asking
25 for any other relief related to screening, access,

1 size, layout, anything else. It's just that one
2 space, in addition to obviously adding the units in
3 the RA-1 zone.

4 Next slide, please. We are very pleased to
5 have community and Office of Planning support for
6 the application. We met with the Deanwood Citizens
7 Association and ANC7C on many occasions to discuss
8 this project and the other three. Ultimately, ANC7C
9 and the Deanwood Citizens Association voted to
10 support the application and evidence of their
11 support is in the record. In addition, Office of
12 Planning recommends approval of the application.

13 So with that, I'll conclude my
14 presentation, and we're available for questions.
15 Thank you.

16 CHAIRPERSON POURCIAU: Thank you, Mr.
17 Williams.

18 Board Members, would you like to ask some
19 questions of the applicant?

20 VICE CHAIR GOLDSTEIN: Yeah. I'd like to
21 ask you about the Office of Planning condition of
22 their recommendation. They would like a playground
23 or play area for tenants of the building. I'm just
24 curious what your thoughts are on that and what your
25 view of creating that is.

1 MR. WILLIAMS: Sure. And we did see that
2 from the Office of Planning. So our view on that is
3 something that we would prefer not to do. And the
4 reason for that mainly is that the -- the prop- --
5 this property and the other Eastern Ave. properties
6 have had issues with security. It's had -- they had
7 issues with folks basically setting up, you know,
8 living areas on the property. Now, that doesn't
9 help that they've been sort of -- some of them have
10 been vacant or under -- are getting ready for
11 construction. But this particular area has been
12 difficult to maintain public safety around these
13 types of properties.

14 The worry with putting a playground at the
15 rear of the property, in particular, is that it
16 could be a magnet for that type of behavior rather
17 than providing what is good intentions from the
18 Office of Planning for children that may live in the
19 building. We're worried that it would be instead
20 somewhere that would invite bad behavior,
21 particularly at night, and would make for an unsafe
22 situation.

23 So, you know, I won't -- I won't go too far
24 more down the road into details, but the details of
25 some of these issues are pretty extreme and the

1 community is well aware of it. And it's something
2 the applicant/developer/owner has been working on as
3 we've moved through these applications. It's a
4 tricky situation and it's something that for some
5 reason these properties have had that issue,
6 vagrancy, drug use, and crime, and other things.
7 And so there is just that concern about creating a
8 space like that.

9 VICE CHAIR GOLDSTEIN: Did the question --
10 did the idea of a playground come up at all in
11 discussions with the community or the ANC? Is this
12 -- I'll certainly ask the Office of Planning about
13 it, but has this otherwise been raised as a desire
14 for this property?

15 MR. WILLIAMS: You can come up. And we
16 heard the comment from Office of Planning very
17 recently just a few weeks ago, and so it was sort of
18 a late comment that came in from Office of Planning.
19 And again, I think good intentions, for sure, and I
20 don't doubt that good intentions of trying to
21 provide a space for children. But it wasn't
22 something that we discussed or was brought up with
23 the community over the many meetings that we had,
24 whereas those other issues I mentioned were
25 discussed at length. And you can see some of that

1 in the community benefits agreement. I know that
2 technically that's not part of the zoning decision,
3 but you can see evidence of those discussions about
4 safety and security on these lots and commitments
5 from the applicant/developer to ensure to maintain
6 that.

7 So, you know, I think the hesitancy here
8 is, you know, that, you know, bringing something to
9 the property that wasn't discussed at the community
10 and could potentially invite those problems, the
11 very problems that we're trying to prevent.

12 VICE CHAIR GOLDSTEIN: And the property is
13 in relatively close proximity to park or recreation
14 areas; is that correct?

15 MR. WILLIAMS: Believe there are several
16 nearby. And there was a question, I think, why this
17 was a comment on this application and not the other
18 ones. And I believe that Office of Planning's
19 reasoning for that was that there are some public
20 playgrounds or parks closer to some of the other
21 projects versus this one. You'd have to ask the
22 Office of Planning about that. But this was the
23 only of the -- one of the four we saw that comment.

24 VICE CHAIR GOLDSTEIN: Okay. Thank you.
25 Oh, I do want to ask about what is the parking

1 situation around this building? If people have
2 cars, is it going to be street parking, essentially?
3 Is it restricted?

4 MR. WILLIAMS: It is. It is.

5 MR. PETYAK: It is going to be street
6 parking around this building. Currently, as Mr.
7 Williams said, the gravel lot or the gravel path off
8 the unimproved alley flanks the building. But
9 currently there have not -- not seen any cars
10 parking behind that gravel in that gravel lot.

11 VICE CHAIR GOLDSTEIN: And you're only
12 required to have one parking spot, was that right?

13 MR. WILLIAMS: That's correct, per the
14 zoning regulations. And just the way the
15 regulations work with renovations of existing
16 multifamily, we basically -- we just look at the --
17 what the new units would require and assume that the
18 units previously were providing the required
19 parking. So that's just a zoning administrator
20 determination that we've applied now on a couple of
21 different projects.

22 VICE CHAIR GOLDSTEIN: Okay. Thank you.

23 COMMISSIONER WRIGHT: I have a quick
24 question on the playground issue. You know, perhaps
25 the reason it was brought up on these cases is that

1 there does appear to be some space between --
2 between the two cases that we're looking at today.
3 The property at 1218 and the property at 1206
4 Eastern Avenue do appear to have some land between
5 those two buildings such that playground equipment
6 could be installed without being at the back facing
7 the alley. But maybe I'm not -- you know, again, I
8 have not made a site visit to the property, so maybe
9 I'm not seeing it clearly.

10 You know, I think, again, the idea -- I
11 certainly understand the concern about creating a
12 playground at the back of a property where it's not
13 visible from the public right of way. It could
14 become a hangout spot. It could become something
15 undesirable. But could you tell me if it's accurate
16 that between 1218 and 1206 there is some land
17 between the two buildings?

18 MR. WILLIAMS: Let me make sure I
19 understand, Commissioner. Are you referring to land
20 on these existing parcels or land between the two
21 parcels?

22 COMMISSIONER WRIGHT: So make sure on the
23 existing parcels that it would be visible from the
24 street so that you wouldn't be back behind the
25 buildings. Again, maybe it would be great if you --

1 maybe Mr. Young could pull up the site plan, if that
2 would be possible, in the PowerPoint.

3 MR. PETYAK: Sorry, if I may. The
4 buildings currently have between them -- both 1208
5 and 1216, there's a building in between at 1210.
6 Between 1206 -- geez, I'm getting confused -- which
7 has been a process of this. Between 1216 and 1210
8 there is only the minimum side yard setback of just
9 around 8 feet. So only have about 8 feet of land on
10 the property to be able to do any type of apparatus,
11 which is quite limited.

12 COMMISSIONER WRIGHT: The site plan --
13 because I'm getting confused also in terms of what,
14 you know -- there are four buildings and they're all
15 very unique.

16 CHAIRPERSON POURCIAU: Mr. Young or Ms.
17 Mehlert, are we able to pull up the site plan and
18 share it?

19 MR. YOUNG: Is it in the PowerPoint or do I
20 need to pull it from the record?

21 CHAIRPERSON POURCIAU: It was in the
22 PowerPoint first or second slide, the early slide
23 and the PowerPoint.

24 COMMISSIONER WRIGHT: Okay. So this is
25 1218. I guess I'm actually looking at the -- and I

1 -- and this one which is on the sort of pie shaped
2 lot, definitely did not have any space for a
3 playground. But the ones that are farther down
4 Eastern Avenue -- and again, I'm getting my numbers
5 mixed up. Is it 1206 and 1210?

6 MR. WILLIAMS: 1206 is the -- the next
7 application that we'll hear. And then 1210 is -- is
8 in between the two.

9 MR. PETYAK: Not our property.

10 COMMISSIONER WRIGHT: Okay. There are --
11 farther down the street, there are two properties
12 that I think are your property that are next to each
13 other. Is that correct?

14 MR. WILLIAMS: Yes, that's 1106 to 1112.

15 COMMISSIONER WRIGHT: Okay. I'm sorry, I'm
16 getting the numbers all mixed up.

17 MR. WILLIAMS: It's okay.

18 COMMISSIONER WRIGHT: Is there space or
19 land between those two buildings.

20 MR. WILLIAMS: So we're actually combining
21 those two buildings into one and creating and
22 consolidating the lots. So that project is going to
23 be a little different than these other three.

24 COMMISSIONER WRIGHT: I see. Okay. So
25 there may be land now, but there won't be land when

1 you're done?

2 MR. WILLIAMS: That's correct.

3 COMMISSIONER WRIGHT: That -- the additions
4 are going to go in those locations. Got it. Okay.

5 MR. PETYAK: If I may. Also, the Deanwood
6 Rec Center -- I just looked it up -- is just around
7 a half mile away.

8 COMMISSIONER WRIGHT: Okay. I know that
9 there has been a lot of discussion -- switching
10 gears. I know that there's been a lot of discussion
11 about relocation for existing tenants. Do you want
12 to talk about that in -- in more detail?

13 MR. WILLIAMS: Yes. And I know,
14 Commissioner, you weren't part of those discussions
15 last week. And so I think it would be -- be good
16 for us to go over that again. And I think that the
17 question is, with respect, first of all, with this
18 particular property, correct me if I'm wrong, Matt,
19 are there any tenants currently in 1218 or are they
20 all out now?

21 MR. MEDVENE: Good afternoon. There are a
22 few. I believe there's three remaining, all of
23 which have signed agreements and are actively
24 working with our vendor -- third-party vendor, to
25 find new living accommodations. The rest of the

1 tenants that were in there have successfully found
2 new apartments and relocated.

3 So there's none in there that are holding
4 out or fighting anything. That's probably not the
5 best way to put it, but they're all actively working
6 on relocating for the remaining three.

7 MR. WILLIAMS: So that, Commissioner, is a
8 little different from the cases last week where
9 there were actually a couple of tenants who
10 testified in opposition to the cases and still had
11 not reached an agreement regarding relocation. And
12 so Commissioner Hood asked for additional
13 information, which we submitted in all four of the
14 records. Even though those hadn't been heard yet,
15 we knew that that question was going to come up
16 again, so all four records have all of that
17 relocation information which we submitted.

18 There's a good bit of information there.
19 We can certainly talk through it. I can summarize,
20 and then Matt Medvene with the developer can weigh
21 in. And so basically what has happened is the
22 developer hired a third-party agency that is -- this
23 is what they specialize in for relocation.

24 And there was a specific plan that was set
25 forth over the period of several months -- I believe

1 this started last fall -- which involved informing
2 the residents about the upcoming projects and then
3 giving them particular -- particularly giving them
4 specific options. Either they could take a buyout,
5 which is a cash for keys offer, and/or take
6 assistance for relocating. They have different
7 opportunities for relocating. They also have the
8 opportunity to come back to the properties once
9 these projects are done and come back and reapply to
10 be tenants in the new buildings.

11 So there's a couple of different options
12 for the tenants. And most of the tenants across the
13 four buildings have come to an agreement. There's
14 only a couple that haven't, across all four
15 properties.

16 And this was something that was discussed
17 at length. This was the number one topic of
18 conversation with both the ANC and the Deanwood
19 Citizens Association. And I mentioned this last
20 week, these applications were delayed approximately
21 three months due to the lack of the quorum. They
22 were initially on the agenda for March. The good
23 thing about that was it just gave us additional time
24 to work with the Deanwood Civic Association and the
25 ANC and for those folks to do their due diligence.

1 They didn't just take our word for it. They did
2 their due diligence. They went out to those
3 properties to make sure that these tenants were
4 being taken care of. And ultimately, we were
5 frankly very proud to get the support of those
6 organizations.

7 The Deanwood Civic Association, in
8 particular, if you know folks there, I mean, this is
9 one of the best run civic associations I've ever
10 encountered. And these folks really care about
11 their community. They hold lengthy meetings,
12 they're detailed, they go above and beyond. And
13 they certainly made sure that what we were saying
14 was accurate.

15 So that's just a summary of our process and
16 what we went through to get to that support from
17 those organizations. And hopefully the information
18 that we provided in the record provided additional
19 detail on those efforts on relocation and assistance
20 for those existing tenants.

21 COMMISSIONER WRIGHT: Thank you. That's
22 very helpful. And you know, I did look at the --
23 again, what you call the agreement that you've come
24 to with the ANC and the Deanwood Civic Association
25 had a lot of elements that was very, very detailed

1 agreement, including things related to construction,
2 management during the project, and lots and lots of
3 fairly very well negotiated agreements that you all
4 had come to.

5 And again, if we are looking at these
6 projects as each individual project -- and you have
7 just stated that the one we're currently hearing,
8 1218, essentially doesn't have any -- or has only a
9 couple of tenants left; is that correct?

10 MR. MEDVENE: Shoot, I apologize. I
11 misspoke. This is 12 -- this is 1218. There -- it
12 is vacant. There are no tenants. It's 1206 that
13 has -- 1206 is the one that has three. Even I get
14 this stuff confused, so I apologize. 1218 has --
15 has no tenants. It is fully vacant. 1206 has three
16 remaining, but all of which have signed the
17 agreements and are actively looking. But 1218, for
18 this particular here -- case, is fully vacant.

19 COMMISSIONER WRIGHT: Well, that's great.
20 That relocation issue, at least, again, if we're
21 doing this case by case, which we are, it makes that
22 pretty much moot. And the only things, again,
23 you're asking for relief on are the ability to add
24 additional apartments to an existing apartment
25 building and not have the one required parking

1 space. Those are your only requests for relief at
2 this point, right?

3 MR. WILLIAMS: That is correct.

4 COMMISSIONER WRIGHT: Okay. That's very
5 helpful. Thank you. I don't have any other
6 questions.

7 VICE CHAIRPERSON GOLDSMITH: I do have one
8 more relocation question if I can. And maybe the
9 relevance isn't as much to this project, but to
10 others, but they all kind of present some similar
11 topics. Could you tell me what other agencies are
12 engaged in the issue of relocation in the city? Who
13 are monitoring or involved in these issues?

14 MR. MEDVENE: At this juncture, it's an
15 easier list of who's not involved. We have -- we
16 are on -- in active conversations on a regular basis
17 with the rent administrator directly, Lauren Pear
18 and her team, Tanya Butler Truesdale and Keith
19 Anderson. We also have the OAGs involved and the
20 DOB team specific, not just in the permitting and
21 review process, which is underway, but also in the
22 enforcement and maintenance division, Art
23 Alternative Resolution, and John Fiorentein and
24 Keith Parsons on the DOB side.

25 So there is -- there is a very hefty amount

1 of conversations and communication and cooperation
2 going between all parties. And it's necessary
3 because we are finding on numerous occasions the
4 left hand isn't always talking to the right. So
5 we'll come to agreements with one entity only to
6 find out that another entity wasn't aware of it.
7 And then we kind of have to work through that. So
8 this is -- this has been a very arduous and thorough
9 and very extensively discussed and continuing
10 discussions as we work through these final stages.

11 VICE CHAIRPERSON GOLDSMITH: Thank you.
12 And those agencies will continue to be involved into
13 the future, as long as there are live issues
14 presented?

15 MR. MEDVENE: The rental administrator at
16 the forefront of it has made it very clear that this
17 is -- that they are not -- that they are keeping
18 their eyes on and working through with us and is
19 going to be monitoring closely, which they have
20 been. Which is fine, because at the end of the day,
21 frankly, we need their support, given the hurdles we
22 have run into on the cases from last week with those
23 tenants.

24 So we've welcomed it. We've actually
25 reached out proactively to them early on and are

1 seeking their assistance and guidance to make sure
2 that everything is resolved properly and for
3 everyone's best interest.

4 VICE CHAIRPERSON GOLDSMITH: Thank you.

5 CHAIRPERSON POURCIAU: If there are no more
6 questions from the Board at this time, I'd like to
7 call on -- I think it's Ms. Myers from the Office of
8 Planning.

9 MS. MYERS: Good afternoon, commissioners.
10 Crystal Myers with the Office of Planning. The
11 Office of Planning is recommending approval of this
12 case. We can sign on the record of the staff
13 report, but I will address our recommended condition
14 for a play area.

15 This project has a pretty large rear yard.
16 It's larger than all the other cases this applicant
17 -- or I believe it's -- believe it is larger than
18 all the other cases the applicant has run a war
19 youth with their similar projects. And that's why
20 the Office of Planning for this one was appropriate
21 to recommend a play area.

22 This one also will have about approximately
23 28 units, all family size units. And there's very
24 limited amount of recreation in this area. So we
25 were thinking of just like a small play area in the

1 rear. It could be fenced if security is a concern.

2 And it would be addressing -- for small children.
3 So again, a very small play area. But there's no
4 recreation on this site, and as I mentioned, it's
5 very limited in this area. So that's why we thought
6 it appropriate to recommend it because we think
7 there's enough space on the site to accommodate it.

8 So otherwise with that, we will recommend
9 support, as well as for support for the -- for the
10 parking relief. Thank you.

11 CHAIRPERSON POURCIAU: Thank you, Ms.
12 Myers. Don't forget to mute your -- when you're not
13 speaking, please. Not to you, Ms. Myers, but
14 others.

15 Do we have any follow up questions for --
16 does the Board have any follow up questions for OP?

17 VICE CHAIRPERSON GOLDSMITH: I do. Just
18 one. Ms. Myers, thank you very much for your report
19 and your testimony. The play area, just to clarify,
20 is that related to any particular condition of
21 relief that the applicant is seeking?

22 MS. MYERS: Yeah, this is a -- we pretty
23 much do a site plan review which looks at this as an
24 apartment or as a new development and making sure
25 that there are appropriate accommodations when it

1 comes to this type of use. You may notice that
2 there is this requirement that Department of
3 Recreation take a look at this case. It's in the
4 section when it talks about -- let's see, it's --
5 well, the youth421 special exception. In general,
6 you have to look at that this use can be
7 accommodated.

8 But specifically, there's a call out to
9 recreation, other services. And in this case, I
10 mean as typical, Department of Recreation doesn't
11 usually comment on cases even though they are given
12 the opportunity to do so, especially with these
13 types of cases. And we typically will note what
14 other recreation is in the area since Department of
15 Recreation doesn't typically comment and we have
16 noted the community center that the applicant also
17 mentioned as well.

18 But he also thought it appropriate to
19 identify that a play area would be appropriate
20 because of the limited amount of recreation in the
21 area. So that's really what this is. It's a use
22 review. And we thought for this type of use,
23 recreation is something that should be called out.

24 VICE CHAIRPERSON GOLDSMITH: Thank you.
25 And so there is no DPR letter into the record, I

1 guess. And there's no OSSI letter in the record.
2 Do you feel generally like those conditions have
3 been satisfied? I understand the playground, but
4 otherwise, in the absence of those letters, your
5 analysis that those conditions are satisfied?

6 MS. MYERS: Yes. Yes, we do.

7 VICE CHAIRPERSON GOLDSMITH: Okay. Thank
8 you.

9 CHAIRPERSON POURCIAU: Does the applicant
10 have any questions for the Office of Planning?

11 MR. WILLIAMS: We do not. Thank you.

12 CHAIRPERSON POURCIAU: Thank you. Thank
13 you, Ms. Myers. I do not see that the ANC is
14 present or any other district agencies, and there
15 are no supporting -- there's no one on the list to
16 speak in support. There are two on the list to
17 speak in opposition. Can we bring them in to hear
18 their testimony, please?

19 MR. YOUNG: Yeah. We actually only just
20 have one.

21 CHAIRPERSON POURCIAU: Just one came.
22 Okay. Thank you, Mr. Young.

23 Ms. Langley, how are you?

24 MS. LANGLEY: I'm well, Madam Chair. How
25 are you today?

1 CHAIRPERSON POURCIAU: Very good. We're
2 ready to hear your testimony, and you have three
3 minutes.

4 MS. LANGLEY: Thank you, Madam Chair and
5 members of the Board. My name is Nia Langley. I am
6 a senior staff attorney at Bread for the City,
7 working with organizers, other legal services
8 providers, and tenants at the Eastern Avenue
9 properties in opposition of this and the other
10 applications because the applicant has not complied
11 with DC law.

12 Under D.C. Code Section 42-3505.01(f), a
13 housing provider who seeks to displace tenants to
14 renovate a property and bring it up to the Housing
15 Code must submit a detailed application, known as a
16 501(f) petition to the Rent Administrator, Office of
17 the Tenant Advocate, and Department of Buildings.
18 Only if the Department of Buildings agrees that the
19 Housing Code violations are so extreme that repairs
20 cannot be made while tenants are on the property and
21 the 501(f) petition is approved by the Rent
22 Administrator, can the housing provider go forward.

23 That section of the DC Code provides, among
24 other things, that tenants that are displaced by
25 such renovations have the right to return and pay

1 the same rent that was in place before they were
2 displaced. Only some of the tenants at the Eastern
3 Avenue properties, 1106-1112, 1206-1218, and 1342,
4 some that are being heard today and some that were
5 heard last week, received a combined notice of
6 relocation eligibility and 120-day notice to vacate
7 dated November 17, 2025. This combined notice does
8 not comply with the DC Code at all.

9 At a meeting with the Deanwood Citizens
10 Association in February of 2026, Matthew Medvene and
11 his counsel, Zachary Williams, discussed all of the
12 zoning applications that are before this body.
13 Among other things, Mr. Medvene intimated that he
14 would begin eviction proceedings against the
15 remaining tenants who do not agree to waive their
16 rights and leave. He also said that he would not re
17 rent the property to the displaced tenants at the
18 same rate pre-renovation, which is against the law.

19 The Rent Administrator confirmed with Bread
20 for the City last week that there is no record of a
21 501(f) petition for the subject properties and that
22 the Rent Administrator issued a void order on that
23 combined notice to vacate that was dated November
24 17, 2025. The Rent Administrator also confirmed
25 that they are not actively working with the

1 applicant on these matters.

2 DC law requires that the applicant give
3 legally valid notices to vacate to their tenants.
4 The applicant is required to have a valid basic
5 business license and to properly register the
6 properties with the Rental Accommodations Division.

7 To this day, the applicant has failed to meet all
8 of those requirements and cannot move forward with
9 any evictions or forced displacement at this time.

10 And so, in closing, all of the zoning
11 applications for the Eastern Avenue Northeast
12 properties should be denied because the applicant
13 has not complied with DC law. While there are some
14 housing conditions that do need to be addressed, the
15 tenants on the property cannot be forced out of
16 their homes unless the applicant strictly complies
17 with its obligations under the law, gets approval
18 from the Rent Administrator and the Department of
19 Buildings, and engages meaningfully with all of the
20 stakeholders, especially the remaining tenants.

21 Thank you so much.

22 CHAIRPERSON POURCIAU: Thank you, Ms.
23 Langley. Are there -- are there questions from the
24 Board? No questions?

25 Thank you so much for your testimony, Ms.

1 Langley.

2 Did the applicant want to ask anything of
3 the Speaker?

4 MR. WILLIAMS: No questions for the
5 speaker.

6 CHAIRPERSON POURCIAU: Okay. Thank you so
7 much. Okay. Where are we? So we have heard from
8 everyone that has signed up to testify. Again,
9 there were no other district agencies, there were no
10 one from the ANC, and no one else in support or
11 opposition.

12 Are there any other questions from the
13 Board before -- you know what, Mr. Williams, I think
14 we're ready for your closing remarks.

15 VICE CHAIRPERSON GOLDSMITH: I'm sorry,
16 Madam Chair, I would just like the applicant to
17 respond to what they heard from the -- from the
18 testimony just a moment ago. Thank you.

19 CHAIRPERSON POURCIAU: Thank you.

20 VICE CHAIRPERSON GOLDSMITH: In addition to
21 any closing remarks.

22 CHAIRPERSON POURCIAU: Thank you.

23 MR. WILLIAMS: Absolutely. I think it's a
24 two-part response -- maybe three. Number one, it
25 sounded like the speaker was sort of generally in

1 opposition to these projects, but this particular
2 application right now has a vacant building on it.
3 So I don't think any of the speaker's concerns would
4 apply to this particular application that we're
5 considering. And I didn't hear the speaker say
6 anything different with respect to this particular
7 building. So that's number one.

8 Number two, you know, obviously we're here
9 at the Board of Zoning Adjustment to consider zoning
10 matters. It's really not the right forum to be
11 litigating tenant issues. However, I know there's
12 an interest in it, and that's why we've submitted
13 the information and why I went over the efforts that
14 have been made.

15 And to the extent that the Board wants to
16 get into those specific statements and our responses
17 to them, we have responses to them, but I just don't
18 know how too far down the line the Board wants to go
19 on this, because I think we saw last week, like, we
20 could -- we could continue to talk about this for a
21 long time. This is a really important issue. But
22 there are other agencies that are working on that
23 issue. And no matter what the BZA does with these -
24 - this application, those matters will continue to
25 have to be resolved before anything happens. So I

1 think I would -- that's what I would say.

2 And, Mr. Goldstein, if you'd like us to
3 respond to point by point, we absolutely can. And I
4 know that my client would love to, because I think
5 there's some things that were stated there that were
6 not accurate. But I just -- before we go there, I
7 want to make sure that's what the BZA would like to
8 hear.

9 COMMISSIONER WRIGHT: I'm just wondering,
10 have you all received any official notification from
11 any other agency, whether it's the Department of
12 Buildings or the folks who handle rental relocation
13 or any agency that the previous speaker enumerated?

14 Have you received notification from any of them
15 that you are in violation of their rules?

16 MR. WILLIAMS: Mr. Medvene, do you want to
17 respond to that?

18 MR. MEDVENE: Sorry, I didn't realize I was
19 muted. Yes. As the testimony that was just
20 presented outlined, she is not incorrect. As I went
21 into on last week's hearings and as we submitted
22 into the record in the documentation for the
23 relocations, the rental administrator notified us
24 back in April that our -- our initial filings had
25 contained some errors. They were mostly procedural

1 errors. They have been working with us, and they
2 have outlined that there are different filings that
3 they would request that we have submitted, which we
4 are in the process of changing counsel, given that
5 we were pretty frustrated that the errors were made
6 in the first place. And that is what we are
7 actively working through with the rental
8 administrator on doing so.

9 And as -- as we outlined last week, despite
10 this URA notice that was issued back in November
11 that had the 120 days that everyone continues to
12 bring up and discuss, those 120 days lapsed in
13 March, on March 17th. And as to this date, there
14 has not and will not be any court action or LNT
15 action taken against any of the tenants until such
16 filings and procedural issues are remedied with the
17 agencies that we are actively working. As such, all
18 of the tenants that are in the building continue to
19 be in the buildings until they are -- either they
20 come to an agreement with us and they find an
21 alternative housing that they choose, or until we
22 get through the procedural process with the rental
23 administrator and DOB to make sure that the process
24 is followed. I will say that DOB -- as it pertains
25 to the conditions of the building, DOB -- we have it

1 in writing from them, and they will testify -- and
2 it is documented in a BZA agreement -- that we have
3 -- with DOB and the OAG, that these buildings -- it
4 is acknowledged they cannot, in the condition that
5 they are in, be brought up or repaired to a suitable
6 condition with them being occupied. As such, they
7 are -- that is why they signed the BZA agreement
8 with us that suspends all but life safety violations
9 with these buildings because they know that it is a
10 futile effort.

11 That's that. You just cannot win given the
12 conditions of the building while it's occupied. And
13 they are supporting our actions as we work through
14 the process and procedurally with the rental
15 administrator to ensure that the relocations are
16 done properly procedurally in the -- so we are aware
17 of the issues. The multiple government agencies are
18 aware of the deficiencies of the initial notice, as
19 this testimony did outline, and has been brought up
20 at all occasions.

21 We -- it is a process that we are working
22 through revising, and we will get through and get
23 done properly, at which point we will then follow
24 whatever steps the rental administrator guides us to
25 do based off of the final filing that they lead us

1 to do -- to submit. But none of that is new
2 information or impacting the course of action, which
3 is we continue to offer all tenants the resources
4 relocation and in the interim they are staying in
5 place until they either choose to leave, they take
6 the buyout and relocations services offered, or as I
7 said, the rental administrator provides the
8 appropriate filing guidance for us and necessary
9 steps for us to take, whatever that might be at such
10 a time.

11 But until then, they are remaining in place
12 and no action has been taken against the tenants, as
13 we are now in June, well past the 120-day notice
14 that was initially errantly filed and is being
15 currently remedied.

16 VICE CHAIRPERSON GOLDSMITH: Is there --
17 regardless of the course of this hearing, these
18 processes will continue on into the future; is that
19 correct?

20 MR. MEDVENE: That is correct. We could
21 get approvals for this -- DOB could even issue our
22 building permits for these projects. But until the
23 tenant situations are resolved, we can't start the
24 projects that have tenants in them until they have
25 been relocated legally and appropriately. So none

1 of this, these BZA hearings, nor the DOD permit
2 review process, etcetera, has any bearing on the
3 tenant protections.

4 As a property owner, we can go through the
5 process of entitlement, permitting, design, et
6 cetera, all we want. That doesn't give us an
7 automatic right to waive tenant protections. Those
8 stay in place regardless, and they will continue to
9 be in place until the necessary steps are followed
10 and remedied with the various agencies that are
11 there to protect them that we are all currently
12 working with.

13 VICE CHAIRPERSON GOLDSMITH: Thank you.

14 CHAIRPERSON POURCIAU: Are there any
15 further questions from the Board for the applicant?

16 From their concluding remarks, I am a
17 little torn here. We've been looking at these --
18 you've submitted somewhat as a package. And this
19 one, this one building is vacant, although I think
20 some of the terms of how it became vacant might be
21 in question. And we have a continuance on the other
22 two buildings. And we haven't considered 1206 yet,
23 Application 21433. But we have heard that that
24 location is not vacant.

25 What are your thoughts? What is the

1 applicant's thoughts on the BZA reviewing all four
2 together -- viewing all four together?

3 MR. WILLIAMS: Madam Chair, my position is
4 that all the applications stand on their own. While
5 these projects are related to each other, the zoning
6 relief that's sought is independent of the other
7 three projects. So that's how I presented the case.

8 I presented the case in the general context
9 only because that's the way that the community
10 reviewed them and that is reflective of the
11 community benefits agreements and the ANC support.
12 I think it's also reflective of the work that went
13 into this on behalf of the applicant. Instead of it
14 being piecemeal, it was a pretty broad effort.

15 However, that being said, our position is
16 that with respect to the zoning relief and standards
17 that the applicant needs to meet, we've met all
18 those standards. We have the support in the record
19 from the ANC, which is given great weight, from
20 Office of Planning, which is given great weight, and
21 there are no parties in opposition.

22 While there was one speaker in opposition,
23 the speaker's subject of testimony was not zoning.
24 It was a tenant rights, which is an important
25 subject, but it's not a subject under the purview of

1 this Board. So our view is -- is that the zoning
2 should be -- if it's appropriate, that we -- it
3 should be -- the issue move forward to a vote today
4 on this particular application knowing that we still
5 have one more to hear and the other two will come
6 back, I believe, for a decision -- only a decision.

7 Public hearing is already closed on those in a
8 couple of weeks.

9 CHAIRPERSON POURCIAU: Thank you. Is there
10 any further deliberation by the Board at this time?

11 VICE CHAIRPERSON GOLDSMITH: Could we just
12 clarify when the other two cases are coming up for
13 decision? I thought -- in my mind, it was next
14 week. Is that wrong?

15 MS. MEHLERT: They are scheduled for
16 decision next week, 17th.

17 CHAIRPERSON POURCIAU: Well, I want to say
18 thank you to the applicant. and I would like to
19 close this hearing so that the Board can deliberate
20 and vote on this application.

21 MR. WILLIAMS: Thank you, Madam Chair.

22 CHAIRPERSON POURCIAU: So. This one seems
23 to have a little different condition on, you know,
24 the status of the applicants as well as the relief
25 that's being requested. What do you all think about

1 the matter in which we can proceed?

2 VICE CHAIRPERSON GOLDSMITH: I'm of mixed
3 mind of whether to take the vote today or to wait to
4 next week to make a decision. Curious if others
5 have any strong feelings in that respect.

6 COMMISSIONER WRIGHT: Well, I think this
7 building, 20 -- I'm sorry -- 1218 Eastern Avenue is
8 vacant. How it got vacant may be another issue for
9 discussion, but that definitely isn't under the
10 purview of this board. So, you know, my -- maybe
11 this is splitting the baby. I -- I think we should
12 take action on this building which is vacant, which
13 has, you know, two very specific types of relief
14 that it's asking for, which are not very extreme.
15 You know, allowing additional units and having a
16 special exception to forego one vehicle parking
17 space, those are pretty simple, straightforward
18 zoning actions. And the building's vacant.

19 So one possibility is that we take action
20 on this. And then the other one that is scheduled,
21 which we have not heard yet, but does have residents
22 in the building, maybe that should be heard next
23 week when there is more fulsome discussion,
24 particularly with Chairman Anthony Hood in
25 attendance, about the relocation -- about the

1 relocation issues, because for the building we're
2 talking about right now, it is sort of moot.

3 CHAIRPERSON POURCIAU: I am just concerned
4 about the issues around how the relocation occurred.

5 And, you know, they've had to wait a while to get
6 to this point -- which is unfortunate, you know --
7 to get to this point with the BZA. But I think
8 waiting one more week on this one -- that would be
9 one of four -- I don't see that as a greater
10 hardship. And as you mentioned, we would have the
11 benefit of having Chairman Hood in that deliberation
12 with us to make a full decision on each one of these
13 in one setting. So I'm -- I think I'm leaning
14 toward deferring.

15 VICE CHAIRPERSON GOLDSMITH: Just to ask,
16 if we wanted to have an emergency closed session to
17 get some advice on this, Ms. Mehlert, is -- what if
18 we were inclined to go that way? What would the
19 procedure be?

20 MS. MEHLERT: So the Board would need to
21 vote to hold -- you're saying emergency closed
22 session with -- with OZ Legal right now?

23 VICE CHAIRPERSON GOLDSMITH: Yep.

24 MS. MEHLERT: So the -- so the Board would
25 need to vote to hold one, and then you would go into

1 a separate session with OZ Legal, and then return to
2 the hearing.

3 VICE CHAIRPERSON GOLDSMITH: I -- I feel a
4 little bit more inclined to go that direction and I
5 -- just to get some advice and -- but if my fellow
6 Board members don't think that's necessary, I'll
7 listen to you, too, on that front.

8 COMMISSIONER WRIGHT: Well, there will be a
9 closed session, which you voted on -- which we voted
10 on, I should say, earlier. There will be a closed
11 session next week, and that will be prior to the
12 June 17th BZA meeting. There will be a closed
13 session on June 16th. So if we defer action on this
14 case and the next case, as the Chair was perhaps
15 suggesting, we would have an opportunity in the
16 already voted on closed session on the 16th to ask
17 any questions that we might need to get legal
18 guidance.

19 VICE CHAIRPERSON GOLDSMITH: And that would
20 be if we deferred a decision until next week. I'm
21 hoping to -- at least my thinking was just to have
22 this discussion now, but I think I would prefer just
23 to have a quick closed session if that's not
24 unagreeable to folks.

25 MEMBER LINDSJO: I'm in favor of that.

1 VICE CHAIRPERSON GOLDSMITH: Do we need a
2 vote on that?

3 MS. MEHLERT: So, Madam Chair, I will send
4 you just so you have it in your inbox, the script
5 for making a motion to hold a closed meeting. So I
6 will send that to you right now. There's a specific
7 script in motion.

8 CHAIRPERSON POURCIAU: Thank you.

9 As Chairperson of the Board of Zoning
10 Adjustment for the District of Columbia and in
11 accordance with Section 406 of the District of
12 Columbia Administrative Procedure Act, D.C.
13 Official Code Section 2-576, I move that the Board
14 of Zoning Adjustment hold a closed emergency meeting
15 on June 10 -- today -- 2026, for the purpose of,
16 number one, seeking legal advice from our counsel
17 pursuant to D.C. Official Code Section 2-575(4)(a)
18 and/or deliberating upon but not voting on cases
19 pursuant to D.C. Official Code Section 2-575(13).
20 The cases on the agenda are 21413 and 21433. Is
21 there a second?

22 VICE CHAIRPERSON GOLDSMITH: Second.

23 CHAIR POURCIAU: Will the Secretary now
24 please take a roll call vote on the motion before
25 us, now that it has been seconded?

1 MS. MEHLERT: Please respond to the Chair's
2 motion to hold an emergency closed meeting with
3 legal counsel.

4 Chair?

5 CHAIRPERSON POURCIAU: No.

6 MS. MEHLERT: Vice Chair Goldstein?

7 VICE CHAIR GOLDSTEIN: Yes.

8 MS. MEHLERT: Member Lindsjo?

9 MEMBER LINDSJO: Yes.

10 MS. MEHLERT: Commissioner Wright?

11 COMMISSIONER WRIGHT: Yes.

12 MS. MEHLERT: The vote as three to one to
13 zero. The motion passes.

14 CHAIRPERSON POURCIAU: I hereby give notice
15 that the Board of Zoning Adjustment will recess this
16 proceeding on this on June 10, 2026, at 4:17 p.m.,
17 to hold a closed emergency meeting. Staff will post
18 a notice on D.C. OZ's website and on the public
19 bulletin board and the agenda items for the closed
20 meeting. And I assume now that we --

21 MS. MEHLERT: So what will happen is -- so
22 you'll get a separate link to Webex. And so you'll
23 want to mute and turn off the video for this
24 session. You can still stay in it. And then you
25 can open the separate -- this other Webex separately

1 at the same time.

2 VICE CHAIRPERSON GOLDSMITH: Okay. Thank
3 you.

4 CHAIRPERSON POURCIAU: Do you all want to
5 start the Webex in five minutes or you want to do it
6 immediately?

7 VICE CHAIRPERSON GOLDSMITH: If someone
8 wants a break, that's fine, but I'm happy to do it
9 immediately.

10 CHAIRPERSON POURCIAU: Okay. Let's do it
11 immediately.

12 VICE CHAIRPERSON GOLDSMITH: Thank you.

13 CHAIRPERSON POURCIAU: Thank you.

14 (Whereupon, the above-entitled matter went
15 off the record at 4:18 p.m. and resumed at 4:51
16 p.m.)

17 CHAIRPERSON POURCIAU: We're back in
18 session. I'd like to ask, is there a motion on
19 Application Number 21431? Hearing no motion, then I
20 would like to ask that we move this to a decision
21 meeting next week at the same time as the other
22 applications that we reviewed last week.

23 MS. MEHLERT: Great. We'll put it on the
24 meeting agenda for next week, June 17th.

25 CHAIRPERSON POURCIAU: Thank you very much.

1 And I believe we're ready now to move to our next
2 agenda item, Number 21433.

3 MS. MEHLERT: The last case is Application
4 Number 21433 of Eastern Avenue Holdings III, LLC, as
5 amended. This is a self-certified application
6 pursuant to Subtitle X, Section 901.2 for special
7 exceptions under Subtitle U, Section 421, to allow a
8 new residential development, and under Subtitle F,
9 Section 201.4, to allow 1.084 area ratio and a
10 voluntary provisional development.

11 This project is for the creation of five
12 additional dwelling units in an existing fifteen-
13 unit apartment house with a three-story rear
14 addition to an existing three-story detached
15 building. It's located in the RA-1 zone at 1206
16 Eastern Avenue, Northeast, 5202, Lot 44.

17 The applicant has submitted two requests to
18 waive the filing deadline. First, is a revised
19 self-certification form and statement in exit of
20 2324. And the second request, for the tenant boom
21 relocation plan in Exhibits 29 through 29.

22 CHAIRPERSON POURCIAU: Thank you. Good
23 seeing you again. Are you ready to give the
24 testimony for this application?

25 MR. WILLIAMS: Yes, Madam Chair. My Name

1 is Zach Williams. I'm a land use attorney with
2 Venable, representing the applicant in this case.

3 Mr. Young, could we pull up the
4 presentation? Thank you, Mr. Young.

5 This is an application for a new project at
6 1206 Eastern Avenue Northeast. Next slide, please.

7 I won't be redundant here in that this is the same
8 slide and the same background column context that we
9 just discussed in the prior case.

10 This is the final of the four applications
11 to be considered by the Board. This is 1206 Eastern
12 Ave., Northeast, just two parcels to the southeast
13 of the application we just considered at 1218
14 Eastern Ave.

15 Next slide, please. For 1206 Eastern Ave.,
16 this is currently a fifteen-unit building, and we
17 are seeking only to add five units. Of the four
18 projects that we have submitted on Eastern Ave.,
19 this is the -- you should call it the smallest scope
20 of the four, in that only five units are being added
21 and no additional zoning relief is needed.

22 Next slide, please. We'll work through
23 these quickly. Going through these current
24 conditions of the Eastern Ave. properties, 1342, --
25 next slide. 1218 Eastern Ave. Next slide, please.

1 The next one is 1206 -- 1106. Okay, I think we
2 skipped 1206.

3 Can we go back a slide, Mr. Young? That's
4 the one we've got to see. Okay. There we go.
5 There's 1206, which is the application that we're
6 discussing right now. Next slide, please. There's
7 1106 through 1112. And one more slide, which is the
8 rear of 1106 and 1112. There it is. Those are the
9 existing buildings as they exist today.

10 Next slide, please. So reorienting to us
11 to the application, 1206 Eastern Ave., putting it in
12 context with these other four projects. Next slide.

13 Here's a depiction of the project as proposed.
14 This is a single lot with just over 13,000 square
15 feet of land area. We'll be adding five units, for
16 a total of fifteen, which is inclusive of two IZ
17 units. We'll be raising the roof by four feet with
18 a very, very minor rear addition. Four parking
19 spaces will be provided, which meet the zoning
20 requirements.

21 And although all of their work is by right
22 and meets the development standards of the RA-1 zone
23 -- next slide, please -- the relief requested here
24 is special exception relief to add units to an
25 existing apartment house in the RA-1 zone pursuant

1 to septic use, Section 421, as well as special
2 exception relief for voluntary inclusionary
3 development. Given that this is adding less than
4 ten units -- it's only adding five units and so it's
5 not a mandatory inclusionary development -- it's a
6 voluntary inclusionary development.

7 One thing I'll note is that a text
8 amendment has already been approved to remove this
9 requirement for special exception relief for a
10 voluntary inclusion or any development in the RA-1
11 zone. That's not effective yet. We're still
12 waiting for that final order to be published but
13 expect that it will be here in the next couple
14 months. But that has changed the zoning
15 regulations. That is upcoming.

16 Now, all the right work, as I mentioned, is
17 by right and permitted in the RA-1 zone without
18 further relief. Next slide, please. Walking
19 quickly through the standards here for special
20 exceptions. First, the relief must be in harmony
21 with the general purpose and intent of the zoning
22 regulations. Here, again, the RA-1 zone envisions
23 projects just like this with low to moderate density
24 development and low rise apartments. And like I
25 mentioned a couple of times, the project meets all

1 the standards of the RA-1 zone.

2 Next slide. The next general special
3 exception standard is that the relief should not
4 adversely affect neighboring properties. Typically,
5 we look at light, air, and privacy when considering
6 this relief. Here, again, the height will change
7 only by a few feet. The addition that's proposed is
8 very minor. The renovations will be incurring
9 inside of the buildings.

10 As already discussed in the prior cases,
11 apartment and multi-family buildings of this type
12 are very common in the neighborhood. And this
13 project, as well, is located approximately a third
14 of a mile from the Deanwood Metro station.

15 Next slide. We have community and Office
16 of Planning support for this project, as well. As I
17 mentioned, we met with the Deanwood Citizens
18 Association and ANC7C on multiple occasions to gain
19 their support. The evidence of their support is in
20 the record, Office of Planning, as well as
21 recommended approval. And with that I conclude my
22 presentation. Thank you.

23 CHAIRPERSON POURCIAU: Thank you. I'd like
24 to open it up to the Board for questions, please.
25 Any questions from the other Board -- from Board

1 members. Okay. Let's go -- we've got Mr. Isaiah
2 from the Office of Planning. Are you ready to
3 present your testimony?

4 MR. ISAIAH: Yes, Madam Chair, and thank
5 you. For the record, this is Philip Isaiah on
6 behalf of the Office of Planning. OP staff
7 recommends approval of the subject application for
8 the new residential development standards in the RA-
9 1 zone pursuant to Subtitle U, Subsection 421, and
10 the additional density for voluntary IZ to build
11 subject -- to build the subject division at 1.08
12 FAR, pursuant to Subtitle F, Subsection 201.4 of the
13 Zoning Regulations, and stands on the record of the
14 report contained as Exhibit 21 of the record dated
15 April 24, 2026, and the supplemental report
16 contained as Exhibit 27 of the record dated May 29,
17 2026. This concludes OP testimony. Thank you.

18 CHAIRPERSON POURCIAU: Thank you. Any
19 questions for OP? Does the applicant --

20 VICE CHAIRPERSON GOLDSMITH: I'm sorry,
21 just a quick --

22 CHAIRPERSON POURCIAU: Oh yeah, no problem.

23 VICE CHAIRPERSON GOLDSMITH: Just a quick
24 one. Thank you for the presentation. It's helpful.
25 I've asked this before and I just would like to get

1 it on the record. DPR and OSSI did not file reports
2 to the record, is my understanding, but you found
3 based on your own analysis, that it met the relevant
4 conditions that they would have commented on; is
5 that correct?

6 MR. ISAIAH: That's correct.

7 VICE CHAIRPERSON GOLDSMITH: Thank you.

8 CHAIRPERSON POURCIAU: Does the applicant
9 have any questions for OP?

10 MR. WILLIAMS: We do not. Thank you.

11 CHAIRPERSON POURCIAU: Thank you.

12 At this point, I do not believe there are
13 any other agencies that are signed up to testify and
14 the -- and the ANC is not present. I see that there
15 are two individuals signed up to testify in
16 opposition. Could we bring them in now and hear
17 from them?

18 Okay. First on my list I have Ms.
19 Lightfoot. Ms. Lightfoot, are you ready to testify?
20 And you have three minutes.

21 Mr. Young, is there a Ms. Lightfoot or --

22 MR. YOUNG: Yeah. She's calling in by
23 phone, so she needs to push star six to unmute
24 herself.

25 CHAIRPERSON POURCIAU: Okay, thank you.

1 MS. LIGHTFOOT: Hello, my name is Rashida
2 Lightfoot.

3 CHAIRPERSON POURCIAU: Hello?

4 MS. LIGHTFOOT: Hello.

5 CHAIRPERSON POURCIAU: Hi. Can you hear
6 me?

7 MS. LIGHTFOOT: Yes.

8 CHAIRPERSON POURCIAU: Okay. We're ready
9 to hear from you. You have three minutes. Thank
10 you.

11 MS. LIGHTFOOT: Thank you. My name is
12 Rashida Lightfoot. I'm calling in reference right
13 now. I live in 1206 Eastern Avenue, Apartment 202.

14 I've been staying there for about maybe 13 years or
15 so. We moved in 2014 of November, and we've been
16 residents there ever since. My daughter was one.

17 But however, we've been dealing with a lot
18 of things with the apartment with repairs, and I
19 know it's too late for repairs and all that other
20 stuff because the building has been enforced to
21 close. But however, we've been there for a long
22 time, and we haven't had the proper services like
23 termination, all of the things that we need for the
24 apartment. And since then, of their vacancies,
25 we've been having rodents run through our apartment.

1 Numerous of -- you know, it's just bad. The
2 condition is bad. Our settling fell down. A lot of
3 things we reported and just we didn't get the
4 services that we really needed.

5 So that's why I'm making this testify
6 (sic), because we have been going through these
7 cases numerous times with the rental office and also
8 the property managers, and we've been sending out
9 decades of emails to let them know the situation
10 that we've been occurring with. And water damages,
11 the wall damages, lead damages, everything, like
12 literally everything. We have two kids at home, and
13 it's just been a wreck, and we're still constantly
14 dealing with the same stuff.

15 CHAIRPERSON POURCIAU: Thank you, Ms.
16 Lightfoot.

17 MS. LIGHTFOOT: You're welcome.

18 CHAIRPERSON POURCIAU: Thank you. I'm
19 sorry to hear that and appreciate you testifying
20 today. Are there any questions for Ms. Lightfoot
21 from --

22 VICE CHAIRPERSON GOLDSMITH: Did we lose
23 you, Madam Chair? Give her a few seconds, and then
24 we'll -- we'll ask the other witness to proceed and
25 testify.

1 CHAIRPERSON POURCIAU: Can you hear me?

2 Can you hear me?

3 VICE CHAIRPERSON GOLDSMITH: Yes.

4 CHAIRPERSON POURCIAU: You hear me now?

5 VICE CHAIRPERSON GOLDSMITH: Yes, I hear
6 you.

7 CHAIRPERSON POURCIAU: All right. Thank
8 you.

9 Thank you again, Ms. Lightfoot. At this
10 point, I think we'll hear from Ms. Langley.

11 MS. LANGLEY: Thank you, Madam Chair and
12 members of the Board. For the sake of time and to
13 avoid redundancy, I just will say that my testimony
14 and concerns are virtually the same as during the
15 last hearing at the previous application. But I am
16 happy to answer any questions from the Board members
17 or the applicant. Thank you.

18 CHAIRPERSON POURCIAU: Are there any
19 questions from the board or the applicant?

20 MR. WILLIAMS: Not from us.

21 CHAIRPERSON POURCIAU: Thank you again, Ms.
22 Langley. Sorry you had to stay so long.

23 MS. LANGLEY: That's okay. Thank you for
24 your work, and have a nice day, everybody.

25 CHAIRPERSON POURCIAU: You, too. Thank

1 you.

2 So at this point, I think we'd like to hear
3 closing remarks from the applicant.

4 MR. WILLIAMS: Absolutely. Thank you,
5 Madam Chair. The comments mentioned by the witness
6 who we don't have a record of her being a tenant,
7 but besides that, those are issues that we
8 acknowledge those pre-existed the -- this developer
9 taking ownership of the building recently, that is,
10 there are significant problems with these buildings
11 which we've discussed and which the city and DOB is
12 aware of. And that's why this project needs to move
13 forward. And you know, that is -- so that is
14 something that's acknowledged and something that the
15 applicant is working diligently to rectify through
16 these renovation projects. Thank you.

17 CHAIRPERSON POURCIAU: I really appreciate
18 those closing remarks and even the remarks from the
19 tenant or the person who lives there. And it does
20 sound like the renovation is really needed.

21 I just want to say that we just want to be
22 clear on unraveling a little more in a concise way
23 how this relocation process has happened. And I
24 think we'll be able to do that in a decision meeting
25 that takes into account everything we've heard over

1 the last four applications.

2 Are there other comments or questions from
3 Board? I believe that at this point, we should move
4 this application to a decision meeting next week.
5 Does the applicant have any questions about that?

6 MR. WILLIAMS: No, Madam Chair.

7 CHAIRPERSON POURCIAU: Thank you.

8 Madam Secretary?

9 MS. MEHLERT: Yes. If the Board does not
10 need any other information from the applicant, you
11 can close the hearing on the record and we can
12 schedule for a decision if that's what you would
13 like to do.

14 CHAIRPERSON POURCIAU: Thank you so much.
15 I want to thank everybody for the deliberation
16 today. This has been a great board meeting today.
17 We should close this session, which will close out
18 today's meeting. I want to thank you all for -- I
19 think it just has been a great day of deliberation
20 and it's shown our commitment to try to do the best
21 we can with the portfolio we have in front of us to
22 support each other and to support the applicants and
23 those in the city, making it a better city. Have a
24 great evening and I'll see you next Tuesday.

25 MS. MEHLERT: I'm just going to note for

1 the record that Case 21433 is scheduled for decision
2 on June 17th next week.

3 CHAIRPERSON POURCIAU: Very good. Thank
4 you so much. Sorry I'm not on video, but you know,
5 I'm having these -- here I am, hopefully. All
6 right, see you soon. Have a good night.

7 (Whereupon, the above-entitled matter went
8 off the record at 5:10 p.m.)

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C E R T I F I C A T E

This is to certify that the foregoing transcript was duly recorded and accurately transcribed under my direction; further, that said transcript is a true and accurate record of the proceedings; and that I am neither counsel for, related to, nor employed by any of the parties to this action in which this matter was taken; and further that I am not a relative nor an employee of any of the parties nor counsel employed by the parties, and I am not financially or otherwise interested in the outcome of the action.



James Cordes