

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

SEPTEMBER 9, 2026

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

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

MICHELLE POURCIAU, Chairperson
PAUL GOLDSTEIN, Vice Chair
ROBYN JACKSON WELLS, Board Member

ZONING COMMISSION MEMBER PRESENT:

ANTHONY J. HOOD, Chairperson

OFFICE OF ZONING STAFF PRESENT:

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

OFFICE OF PLANNING DEVELOPMENT REVIEW STAFF PRESENT:

JOSHUA MITCHUM
CRYSTAL MYERS
KAREN THOMAS
PHILIP ISAIAH

The transcript constitutes the minutes from the Regular Public Hearing held on September 9, 2026.

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

9:33 a.m.

BZA CHAIR POURCIAU: The Board of Zoning Adjustment's September 9th, 2026, public hearing will please come to order. My name is Michelle Pourciau, Chair of the District of Columbia Board of Zoning Adjustment.

Joining me today are Board members Vice Chair Paul Goldstein, and I want to welcome our new Board member, Robyn Wells. And we have with us today from the Zoning Commission the Chairman, Anthony Hood. Member Melissa Lindsjo may be joining us later in the meeting.

On September 8th, 2026, the Board entered into a closed meeting session for the purpose of obtaining legal advice from counsel. This closed meeting was voted upon previously in a public setting to be held for the purpose of obtaining legal advice from our counsel and deliberate, but not vote, on contested cases on today's agenda. While discussions were held, there were no decisions made.

Today's meeting and hearing agendas are available on the Office of Zoning's website. Please be advised that this proceeding is being recorded by a court reporter and is also webcast live via Webex and YouTube Live. The video of the webcast will be available on the Office of Zoning's website after today's hearing.

Accordingly, everyone who is listening on Webex or

1 by telephone will be muted during the hearing. If you
2 experience difficulty accessing Webex or with your telephone
3 call in, then please call our Office of Zoning hotline number
4 at 202-727-5471 to receive Webex login or call in
5 instructions.

6 Today, we will begin with our virtual public
7 hearing session. Public testimony will be taken during the
8 hearing session. In today's hearing session, everyone who is
9 listening on Webex or by telephone will be muted during the
10 hearing, and only persons who have signed up to participate
11 or testify will be unmuted at the appropriate time.

12 Please state your name and home address before
13 providing oral testimony or your presentation. Oral
14 presentations should be limited to a summary of your most
15 important points. When you are finished speaking, please
16 mute your audio so that your microphone is no longer picking
17 up sound or background noise.

18 All persons planning to testify, either in favor or
19 in opposition, should have signed up in advance. They will
20 be called by name to testify. By signing up to testify, all
21 participants completed the oath or affirmation as required by
22 Subtitle Y, Section 408.7.

23 Requests to enter evidence at the time of an online
24 virtual hearing, such as written testimony or additional
25 supporting documents, other than live video which may not be

1 presented as part of the testimony, may be allowed pursuant
2 to Subtitle Y, Section 103.13.

3 The order of procedure for special exceptions and
4 variances is pursuant to Subtitle Y, Section 409. Time
5 constraints for hearing testimony shall be maintained
6 pursuant to Subtitle Y, Sections 408.2 and 408.3.

7 Once again, if you experience difficulty accessing
8 Webex or with your telephone call in, or if you have
9 forgotten to sign up 24 hours prior to this meeting, then
10 please call our Office of Zoning hotline number at 202-727-
11 5471 to sign up to testify and to receive Webex login or call
12 in instructions.

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

22 At the conclusion of the Board's hearing session,
23 the Office of Zoning, in consultation with the Chair, will
24 determine whether a full or summary order may be issued. A
25 full order is required when the decision it contains is

1 adverse to a party, including an affected ANC. A full order
2 may also be needed if the Board's decision differs from the
3 Office of Planning's recommendation. Although the Board
4 favors the use of summary orders whenever possible, an
5 applicant may not request the Board to issue such an order.

6 And finally, the District of Columbia
7 Administrative Procedure Act requires that the public hearing
8 on each case be held in the open before the public. However,
9 pursuant to Sections 405(b) and 406 of that act, the Board
10 may, consistent with its rules of procedure and the act,
11 enter into a closed meeting on a case for purposes of seeking
12 legal counsel on a case pursuant to D.C. Official Code
13 Section 2-575(b)(4) and/or deliberating on a case pursuant to
14 D.C. Official Code Section 2-575(b)(13), but only after
15 providing the necessary public notice and, in the case of an
16 emergency closed meeting, after taking a roll call vote.

17 Having said that, I'd like to proceed to the next
18 item on our agenda, which is a vote for the Board to hold a
19 closed meeting on September 15th, 2026, at 2:00 p.m. This
20 session is being held in order for the Board to receive legal
21 advice from its counsel regarding the cases noted on the
22 agenda for the September 16th, 2026, meeting and to preserve
23 the attorney-client privilege between the Board and its
24 attorney pursuant to D.C. Official Code Section 2-
25 575(b)(4)(A), and to deliberate but not vote on the contested

1 cases pursuant to D.C. Official Code Section 2-575(b)(13).

2 I will ask the secretary to provide the list of
3 cases on the agenda.

4 MS. MEHLERT: The cases scheduled for the September
5 16th hearing are 21489, BIG 1401 NY OWNER LLC; 21475 of Barry
6 Rodgers; and 21509 of Roman Catholic Archbishop of
7 Washington.

8 BZA CHAIR POURCIAU: I will now make a motion to
9 enter into closed session on September 15th, 2026, at 2:00
10 p.m. Is there a second?

11 VICE CHAIR GOLDSTEIN: I'll second that.

12 BZA CHAIR POURCIAU: Thank you, Vice Chair. The
13 motion has been seconded. Will the Secretary now please take
14 a roll call vote?

15 MS. MEHLERT: Please respond to the Chair's motion
16 to hold a closed meeting with legal counsel on September 15th
17 at 2:00 p.m. Chair Pourciau?

18 BZA CHAIR POURCIAU: Yes.

19 MS. MEHLERT: Vice Chair Goldstein?

20 VICE CHAIR GOLDSTEIN: Yes.

21 MS. MEHLERT: Board Member Wells?

22 MEMBER WELLS: Yes.

23 MS. MEHLERT: And Chairman Hood?

24 ZC CHAIR HOOD: Yes.

25 MS. MEHLERT: Staff would record the vote as four

1 to zero to one. The motion passes.

2 BZA CHAIR POURCIAU: The motion passes. Thank you.
3 The Board will meet in closed session at 2:00 p.m. on
4 September 15th, 2026.

5 Madam Secretary, before I ask for preliminary
6 matters, I'd like to officially welcome our new board member,
7 Board Member Wells. Thank you for joining us today, and I
8 would like for us to celebrate having a full contingent for
9 the Board at this time. So, we're really excited about that.

10 And so, Madam Secretary, are there any preliminary
11 matters for today?

12 MS. MEHLERT: Just a note on the schedule for the -
13 - or the agenda for today. Application No. 21430 of 1365
14 Perry, LLC has been postponed from today's meeting session
15 and rescheduled to the September 30th public meeting. Any
16 other preliminary matters I will note when the specific case
17 is called.

18 BZA CHAIR POURCIAU: Very good. Thank you so much.
19 All right. Well, I think we're ready to start our official
20 agenda. Madam Secretary, would you please call the first
21 case as people are being entered into the session?

22 MS. MEHLERT: The first case in the Board's hearing
23 session today is application No. 21452 of Sarah and Carl
24 O'Briant. This is a self-certified application pursuant to
25 Subtitle X, Section 901.2 for special exceptions under

1 Subtitle D, Section 5201 from the rear yard requirements of
2 Subtitle D, Section 207.1, and the side yard requirements of
3 Subtitle D, Section 208.2.

4 It's for a one-story rear addition to an existing
5 two-story detached principal dwelling of an existing
6 accessory structure located in the R-1B zone at 3817 Jenifer
7 Street Northwest, Square 1855, Lot 38.

8 This case was originally scheduled for the
9 expedited review calendar on July 1st, and was (audio
10 interference) for a hearing after a party status request was
11 filed.

12 There are a couple preliminary matters. First, the
13 applicant has filed a motion to accept late submissions,
14 including revised plans. And then there is also a party
15 status request from Michael Hall and Jane Taylor, which was
16 originally filed in opposition, and now they are in support
17 of the application. The party status requester is also
18 present on the Webex.

19 BZA CHAIR POURCIAU: Would you repeat that last
20 thing, please?

21 MS. MEHLERT: So, the -- Mr. Hall is present on the
22 Webex, if you'd like to address the party status request
23 first.

24 BZA CHAIR POURCIAU: Yes, I would. Thank you for
25 being on, Mr. Hall. I know you had requested party status

1 while you were in opposition, and I see that you've submitted
2 documentation saying that you're now in support. Are you
3 still seeking party status while in support?

4 MR. HALL: Yes, I am.

5 BZA CHAIR POURCIAU: Okay. Thank you very much for
6 that clarification. All right. And so, with that, I think
7 we're ready to proceed. I would like to say we have 15
8 minutes on the clock for the presentation from the applicant,
9 and so we would appreciate it if all representing the
10 applicant could adhere to that schedule.

11 And so I see we have the agent here, Mr.
12 Nettelbeck. Good seeing you today. Are you ready to
13 present?

14 MR. NETTELBECK: I am. Good morning. Thank you
15 for taking the time to allow us to present our project. I'm
16 going to go ahead and share my screen. I hope I can share my
17 screen.

18 BZA CHAIR POURCIAU: I think we usually have the --

19 MR. NETTELBECK: Oh, there we go.

20 MS. MEHLERT: Madam Chair, I just want to
21 interrupt. The Board should address if you are granting
22 party status to Mr. Hall first.

23 BZA CHAIR POURCIAU: Very good. Thank you for that
24 clarification. Yes, the Board is granting party status to
25 Mr. Hall. Thank you for ensuring that was said on the

1 record.

2 Could we please reload the presentation? And then
3 we'll let Mr. Nettelbeck get started. Thank you.

4 MR. NETTELBECK: Great.

5 BZA CHAIR POURCIAU: Please proceed.

6 MR. NETTELBECK: Awesome. I'm going to run through
7 this fairly quick, and then I assume there will be some
8 questions. So, my name is Pete Nettelbeck. I'm an architect
9 working on the project 3817 Jenifer Street for the owner,
10 Sally and Steve O'Briant.

11 Next slide. 3817 Jenifer Street is located in the
12 Chevy Chase neighborhood between 38th and 39th Street
13 Northwest. It has a shared alley with Jocelyn Street, and we
14 can see from the base map, this is from somewhere in the
15 1930s, shows many shed structures and many structures that
16 are close to the rear alley, if not on the rear alley.

17 Next slide. We are asking for relief from the rear
18 yard setback, 25 feet, and the side yard setback of 8 feet.
19 We currently have 5 feet 10 inches from the rear and 2 feet 7
20 inches from the side. And we are planning to build directly
21 on top of the existing garage structure.

22 Next page. Here are images of Jenifer Street taken
23 from -- the street view. Next slide. Images facing west and
24 facing east on Jenifer Street. Next slide. And these are
25 images of the rear of the property and the garage structure

1 and the existing deck on top of that existing garage
2 structure. And the bottom right image shows an image from
3 the rear alley.

4 Next slide. So, this is the existing site plan.
5 The next set of drawings will kind of show the existing and
6 demo drawings. So, 3817 Jenifer Street is a two-story plus
7 cellar single-family residence with a detached existing
8 garage structure, and that garage structure has an existing
9 deck on top of it. The garage structure is not connected to
10 the house.

11 Next slide. This is the demo drawings -- the demo
12 east drawings. On the right-hand side, we can see where the
13 existing deck is and where we're going to build on top of.

14 Next slide. Image on the left shows the demolition
15 north elevation. So, this is kind of where we can see where
16 the addition is going to be placed and where we're going to
17 kind of surgically cut into the house and create this
18 addition. Next slide. And this is a demo site section. So,
19 on the left-hand side of the screen, we can see the existing
20 garage and the deck that we are removing and going to build
21 on top of.

22 Next slide. So, we originally had made a set of
23 drawings to present and submitted these drawings. We've
24 since altered these drawings, and we've worked with some of
25 the neighbors on Jocelyn Street to address some of their

1 privacy concerns. And so, I have this set of drawings in as
2 a -- just for reference purposes, so we can address these if
3 we need to. And we'll just quickly kind of touch on them.

4 So, next slide. So, the X's -- on the left-hand
5 side, you can see the highlighted yellow area is the proposed
6 addition. And the floor plan and footprint of the addition
7 is not changing, but we are changing some of the exterior
8 windows. So, where we see an X, that's where we are removing
9 the original proposed windows from our original proposal.

10 Next slide. And so, we're basically on the east
11 elevation. We're removing one quarter of the glazing closest
12 to the alley. Next slide. On the north elevation, so this
13 is the elevation facing the alley. So, we are removing the
14 two large picture windows at eye level, and so we are
15 removing those from the proposed set of drawings.

16 Next slide. And again, on the west elevation,
17 we're removing one quarter of the glazing closest to the
18 alley. Next slide. Site section, same thing, removing one
19 quarter of the -- of glazing closest to the alley. Next
20 slide. And a site section showing the same thing.

21 Next slide. Okay, so these are our updated
22 proposed set of drawings. Again, we are proposing a one-
23 story addition on top of the existing garage structure. Next
24 slide. We can see here the connection between the kitchen
25 and the proposed addition, how it's going to be in the

1 northwest corner of the property on top of the existing
2 garage structure.

3 Next slide. The east elevation. So, the client
4 really wanted to have a lot of natural light into the space.

5 And to address some of the privacy concerns, we ended up
6 removing some of the large panes of glass. But to capture
7 more sunlight, we ended up adding more skylights to allow
8 light into that space.

9 Next slide, 21. The proposed rear elevation. So
10 in this elevation, we still have clerestories in the tops, if
11 you can see the large -- or not -- the triangular windows
12 close to the roof line. But those are going to be too high
13 to look out at, and we removed the picture windows from the
14 original proposal.

15 Next slide. Proposed west elevation. Again, we
16 removed the large pane of glass -- one of the large panes of
17 glass but did add some skylights to allow more natural light
18 into that space.

19 Next slide. Here's a site section. So, this kind
20 of shows where the addition is going to be placed on top of
21 the existing garage structure. And so I think for as far as
22 like the design of this, I think we're really concerned with
23 the hierarchy of the building. So we didn't want to
24 overpower the building, the existing structure. And so the
25 one-story addition to me felt like it was in line with, you

1 know, the hierarchy of the main building and then kind of the
2 secondary structure off the back and the addition off the
3 rear.

4 Next slide. And here we can see a site section in
5 relation to the house directly behind the property. And just
6 to kind of give a sense of scale, how this -- to me, this
7 feels like it's in line with a lot of the other -- a lot of
8 the other houses and things that have been built in the same
9 neighborhood.

10 Next slide. So, did a quick kind of study just to
11 kind of look at what other people have done in the
12 neighborhood. And approximately 65 percent of the folks in
13 the neighborhood between Jocelyn Street and Jenifer Street
14 had some sort of structure within the rear or side yard
15 setback. Some of these structures were garage structures,
16 some of them were the existing single-family -- residence,
17 and some were converted garage structures to shed structures,
18 occupiable sheds, all types of different things, and people
19 have done a lot of different things over time.

20 Next slide. And so these are some of the examples
21 of some additions that were added that are within some of the
22 setbacks. Next slide. And then some other examples, and
23 these are in the alley on Jocelyn and Kanawha Street. The
24 bottom center image is, you know, the setback -- this is the
25 original house, and it was set back by less than 10 feet.

1 And there's some deck structures that are within these
2 setbacks. So it's a very common occurrence to see structures
3 that are kind of within the -- that rear yard setback.

4 Next slide. So, did a sightline study. So, this
5 is an image facing west from the center of the deck. So
6 there's currently a deck on top of the existing garage
7 structure. We're planning to put in a one-story addition,
8 and this one-story addition will create less visibility
9 towards the neighbors.

10 And again, we worked with the neighbors behind with
11 Mr. Hall and some other neighbors to remove some of the
12 windows that were originally further to the right to provide
13 a little bit more privacy. And this image shows a viewpoint
14 directly into our adjacent neighbor's property. And this
15 adjacent neighbor has written a letter of support for this
16 project.

17 Next slide. Again, existing image of the deck
18 looking towards the rear, and on the right-hand side shows
19 the image of what we are projecting the image to be whenever
20 we put in the structure. And then next slide. And same
21 thing towards -- the image of the center of the deck looking
22 out towards the adjacent neighbor facing east.

23 Next slide. So I also performed a sun study to
24 show the sun path. So the -- this is kind of the arc of the
25 sun path in Washington, D.C. The top arc kind of shows the

1 sun path in the summer, during the summer solstice. So, that
2 is when the sun is really high in the sky. The sun rises at
3 5:43; sun sets at 8:36. And then at the very bottom, the arc
4 shows when the sun is really low in the sky. And that's when
5 the sun rises at 7:23 and the sunset is at 4:50.

6 Next slide. So we've -- with the location of this,
7 and the location of the addition, we had -- the Office of
8 Planning had presented saying, you know, given the modest
9 height and location above an existing footprint and the
10 substantial side yard separation to the east, the project
11 would not result in undue impacts to light and air. So, I'm
12 just going to show a few studies -- going to continue to show
13 a few quick studies to kind of show the path of the sun in
14 three times of the year.

15 So, slide 33. Next slide, please. Oh. Okay, so
16 this is the sun path in the vernal equinox. The sunrise is
17 at 7:12. The sunset is at 7:19. And so I did a few
18 snapshots every two hours or so, so at 8:12, 10:12, 12:12,
19 all the way through sunset. And the sun path basically will
20 leave a shadow on the exterior fence of the Jocelyn Street
21 neighbors, but we don't project that to actually enter into
22 the property during the vernal and autumnal equinox.

23 Next slide. An enlarged version. So again, this
24 is vernal equinox, and we can kind of see the yellow is the
25 proposed addition, and we can see that projected shadow is on

1 the exterior alley-facing fence.

2 And then we're going to -- next slide. And then at
3 2:12, it's going to -- same time in the spring, it's going to
4 project onto the exterior fence of the neighbor at 3814
5 Jocelyn Street.

6 Okay, next slide. So we next did a sun study in
7 the winter solstice. So this is when the sun is at its
8 lowest point. So we can see the sunrise is at 7:23; the
9 sunset's at 4:50. It's at this point where there's going to
10 be a little bit of shade that will be cast into the
11 properties of both the rear neighbors across the alley. And
12 we can project that it's going to be, you know, just for a
13 couple hours in the morning time in the wintertime.

14 And then by -- next slide. So at 10:23, we project
15 that the sun's going to cast a shadow -- the addition will
16 cast a shadow into 3816 Jocelyn Street for a few hours.

17 Next slide. And then by noon, it will start
18 casting the shadow into 3814 Jocelyn Street. So, the only
19 time we project that there's going to be a shadow actually
20 entering into the property will be in the winter months and
21 just for a few hours during the -- during that time.

22 Next slide. And then finally, did a sun path study
23 during the summer solstice. So this is the longest day of
24 the year, sunrise at 5:43, sunset at 8:36. And again, every
25 two hours did a snapshot. And we project that no -- during

1 the summer months, no shadow will be cast across the alley
2 into any of the properties across on Jocelyn Street or any of
3 the adjacent neighbors.

4 Next slide. So you can see the sun's high in the
5 sky. It's casting a short shadow. This is at 10:43. Next
6 slide. And then in the late afternoon at 4:43, again, all
7 the shadow's going to be on our subject property at 3817
8 Jenifer Street.

9 Next slide. So, we had originally gotten a lot of
10 letters of support, and actually this is not updated. This
11 is -- there's actually another version of this because we
12 ended up talking to a bunch of neighbors. So the --

13 BZA CHAIR POURCIAU: Mr. Nettelbeck?

14 MR. NETTELBECK: Yes?

15 BZA CHAIR POURCIAU: I'm sorry. I know you have a
16 few more slides. Just wanted to let you know that the 15-
17 minute time period is up and was hoping that maybe you could
18 summarize, but please proceed.

19 MR. NETTELBECK: Yes. The -- we've worked with Mr.
20 Hall, who's been very gracious to meet with us, as well as
21 some other neighbors. And there's actually another neighbor
22 directly behind us who originally wrote a letter of
23 opposition at 3814 Jocelyn Street, and they had retracted
24 their letter of opposition.

25 And then I'm just going to fast-forward to the last

1 slide, so if you go -- letter of support, letter of support.
2 Keep going. You can keep on going through these.

3 Next. Okay. And then -- so in conclusion, for a
4 special exception, we need to demonstrate that the special
5 exception is consistent with the general intent and purpose
6 of the zoning regulations. Many houses in the R-1B zone have
7 structures within the rear and side yard setback. I think
8 our proposed one-story addition is in line with that.

9 How allowing the use will not adversely affect the
10 use of the neighboring properties. This is a single-family
11 residence. It's going to remain a single-family residence.
12 No additional traffic or noise will be generated because of
13 the special exception.

14 How it will not unduly affect light and air to
15 neighboring properties. I think we've shown through the sun
16 study that there'll be a very minimal impact on light and air
17 on the adjacent properties.

18 Not compromise the use of privacy, enjoyment of the
19 neighboring properties. You know, we -- again, we worked
20 with the neighbors and just wanted to be -- I know my clients
21 really want to be good neighbors. They've been in the house
22 since the early 1990s. They want to be good neighbors, and
23 they want to have good neighborly relations. And so we hope
24 that these proposed design changes will be taken well and
25 will be appreciated.

1 And then not substantially visually intrude upon
2 the character, scale, and pattern of the houses. Our
3 proposed one-story addition at the rear of the property was
4 carefully designed to integrate harmoniously with the
5 existing structure. We're planning to use similar materials,
6 brick, siding, these types of things that are consistent with
7 what's in the neighborhood, and this will be barely visible
8 from the street. And that is the end of my presentation.

9 BZA CHAIR POURCIAU: Thank you. Thank you for that
10 thorough presentation. I'd like to start by asking the Board
11 if they have questions for the applicant. And let's start
12 with Vice Chair Goldstein, please.

13 VICE CHAIR GOLDSTEIN: Thank you very much for the
14 presentation. I think you addressed a number of the
15 questions I may have had. I did want to ask one or two --

16 MR. NETTELBECK: Yeah.

17 VICE CHAIR GOLDSTEIN: -- additional questions.
18 One is I've kind of heard this repeated a few times, that
19 it's the same footprint as the garage. Is that accurate, or
20 did it expand even beyond the garage to an extent?

21 MR. NETTELBECK: So, if we go to -- if I can
22 present. So, the main structure of the building is over the
23 existing garage structure, and then we had to connect it back
24 into the house. And so, that's a few feet that we're
25 connecting into the house, which is going to -- which is side

1 yard connection that we're asking for relief from. And then
2 we also have an awning on the side of the house, which is --

3 VICE CHAIR GOLDSTEIN: Okay.

4 MR. NETTELBECK: -- over the existing step way down
5 from the deck. So, it's basically the same location --

6 VICE CHAIR GOLDSTEIN: Okay.

7 MR. NETTELBECK: -- over that deck.

8 VICE CHAIR GOLDSTEIN: What is the height of the
9 addition and also relative to the principal house that
10 exists?

11 MR. NETTELBECK: So, the height of the addition is
12 14'11", and that is 5'6" less than the high point of the
13 existing house.

14 VICE CHAIR GOLDSTEIN: Okay.

15 MR. NETTELBECK: So --

16 VICE CHAIR GOLDSTEIN: And that height is from
17 grade, is that right?

18 MR. NETTELBECK: Yeah.

19 VICE CHAIR GOLDSTEIN: -- not from the alley?

20 MR. NETTELBECK: No, not from the alley.

21 VICE CHAIR GOLDSTEIN: Yeah. Okay. Well, thank
22 you. And I just want to make a comment that I'm pleased to
23 see that you've continued engaging the neighbors and that
24 there's been work to revise the plan in a way that can be
25 more satisfactory to the neighbors that are most impacted.

1 So, I'm just really happy to see that continued
2 work that's been done. Thank you. Those are all the
3 questions I have for now.

4 MR. NETTELBECK: Yeah. And I just want to say we
5 really appreciate the neighbors that were willing to talk
6 with us and address their concerns. And we really, like,
7 again, my clients really want to be good neighbors, and they
8 were really grateful for neighbors that are open to having a
9 conversation. So, we appreciate that.

10 BZA CHAIR POURCIAU: Thank you. Before I go to the
11 next board member, I wanted to -- I think you've done a lot
12 to address the concerns of the neighbors. I still see there
13 are still a number of letters of opposition --

14 MR. NETTELBECK: Yeah.

15 BZA CHAIR POURCIAU: -- in the record. If you
16 could summarize the sense of what remains, that opposition.

17 MR. NETTELBECK: So, I mean, I think the main
18 source of opposition were around privacy and overlooking into
19 the rear yard, and from that having the viewpoint from inside
20 the house looking out towards the rear yard, and into the
21 backyards of the neighbors across Jocelyn Street. I think
22 that is the main concern.

23 There were a few concerns about having a chimney in
24 the addition. To me, I think that's less of a concern having
25 a chimney on the alley. I think, in D.C., row houses have

1 chimneys located, you know, in the center on the property
2 lines all throughout the city.

3 And this is going to be built to code, and there's
4 going to be oversight, and so we're going to make sure that
5 we have all the proper fire separations and things like that,
6 and that'll be addressed in the code.

7 And then, there was a consideration about hardship
8 and why we necessarily need this addition. I do want to
9 address the fact that we have previously gotten a building
10 permit, and this is in slide 48.

11 Earlier this year, we applied for a building permit
12 to update the drawings -- I'm sorry, update the ground floor
13 restroom. And so, we updated that restroom and added grab
14 bars and made it an accessible bathroom.

15 And so, really, the idea of this is that my clients
16 want to age in place. So, they want to stay in the same
17 house as they get older, and they want this to live on, you
18 know, one level as much as possible. So, as they get older,
19 they want to stay in the house. And so, I think those are
20 some of the concerns that were kind of brought up, and yeah.

21 BZA CHAIR POURCIAU: Thank you for that additional
22 clarification. I'll now go to board member Wells. Do you
23 have any questions for the applicant at this time?

24 MEMBER WELLS: I would agree that in the
25 presentation, you addressed most of my concerns. Just for my

1 benefit, they're mostly around the light and the privacy.
2 So, just for clarification, there was already an existing
3 deck that was in use?

4 MR. NETTELBECK: Yep.

5 MEMBER WELLS: Right. Okay. And that, like I
6 said, covers the same footprint of the existing deck, or this
7 addition does. It's not like you're going any higher or
8 lower.

9 MR. NETTELBECK: Well, we are going -- I mean, the
10 footprints are going to remain the same. We are obviously
11 adding walls, so it's going to go --

12 MEMBER WELLS: Mm-hmm.

13 MR. NETTELBECK: -- it will be higher, but we're
14 not changing the foot, like the --

15 MEMBER WELLS: The ground elevation.

16 MR. NETTELBECK: -- the ground elevation, correct.

17 MEMBER WELLS: Okay. Okay. And then, for the
18 concern about light, so I heard you say during the summer
19 solstice, there's pretty much no impact with shadow, but
20 during the winter solstice, there's minimal. I caught what
21 it was directly across the alley, where it's just hitting the
22 fence line, but on the two adjacent properties, what was the
23 impact there again?

24 MR. NETTELBECK: So, on the adjacent property
25 directly to the west --

1 MEMBER WELLS: Mm-hmm.

2 MR. NETTELBECK: -- which is closest to the
3 addition --

4 MEMBER WELLS: Mm-hmm.

5 MR. NETTELBECK: -- those letters, there will be an
6 impact on light and air, but we do have a letter of support
7 from that neighbor.

8 MEMBER WELLS: Okay.

9 MR. NETTELBECK: And then, the other neighbor on
10 the east side, there's virtually no time where that would
11 really be affected. I mean, there might be, you know, a few
12 minutes in the closing winter hours, but --

13 MEMBER WELLS: Mm-hmm.

14 MR. NETTELBECK: -- I wasn't able to find that in
15 the study.

16 MEMBER WELLS: Okay. That's all the questions I
17 had. Thank you.

18 BZA CHAIR POURCIAU: Thank you. Chairman Hood,
19 would you like to ask any questions of the applicant at this
20 time?

21 ZC CHAIR HOOD: I don't necessarily have any
22 questions. I think Mr. Nettelbeck has the same way as he's
23 done it, and the way I see, answered and filling those
24 questions in the ANC meeting, the same way he's done here. I
25 think they meet the test, especially for me it was 5201.4.

1 He's explained it.

2 And as already been mentioned, there was an
3 existing deck that was already there, even though it's
4 increasing the height. And I also note we live in an urban
5 city. So, I get it. I understand.

6 So, I think he's done his due diligence. Unless I
7 hear something that practices me a different way, I think he
8 has met the test. But I definitely want to hear from the
9 community as well.

10 But I also know that sometimes, you know, that you
11 can't make everybody happy. But what you have done in your
12 design, you've garnered the support of others. So, I want to
13 commend you and the applicant as you all continue to move
14 forward.

15 And even after this is done, whichever way this
16 goes, I would still suggest that you still have those
17 conversations, because for me, when I heard you say good
18 neighbor policy, that's a big deal for me. So, thank you,
19 Mr. Nettelbeck.

20 MR. NETTELBECK: Yeah.

21 ZC CHAIR HOOD: Thank you, Madam Chair.

22 BZA CHAIR POURCIAU: Thank you. Would the -- Mr.
23 Hall, would you like to cross-examine the applicant at this
24 point?

25 MR. HALL: I have no real questions. I just would

1 like to express our appreciation for the neighbor's
2 willingness to address our concerns on privacy and thank them
3 for their efforts.

4 BZA CHAIR POURCIAU: Thank you. Thank you so much
5 for that. We'll now go to the Office of Planning. We have
6 Ms. Thomas with us today. Ms. Thomas, do you have a report
7 you'd like to present now?

8 MS. THOMAS: Yes. Good morning, Madam Chair and
9 members of the Board. OP continues to recommend approval of
10 the applicant's request for special exception relief from the
11 rear and side yard requirements.

12 We support the applicant's refined design in direct
13 response to the neighbor's concerns, which removed the
14 windows of the one-story addition, as shown by the applicant
15 today. We find that this approach maintains all existing
16 nonconforming yard conditions without expanding the building
17 envelope closer to any property line.

18 And our review of the plans and submitted sun study
19 confirms that the addition would not unduly affect light,
20 air, or privacy.

21 From the public realm, the addition is not visible
22 from Jenifer Street and is consistent with the scale and
23 pattern of rear yard structures along the alley, and the lot
24 occupancy remains within matter of right limits.

25 So, in OP's judgment, this application satisfies

1 the criteria of subtitle D 5201, and the relief would be in
2 harmony with the intent of the R-1B. We therefore recommend
3 approval of the requested special exceptions. Thank you.

4 BZA CHAIR POURCIAU: Thank you, Ms. Thomas. I'm
5 going to go a little out of order. I want to call on the ANC
6 commissioner first. I overlooked Ms. Nagy. Thank you for
7 being here. I don't know if you had any cross-examination
8 for the applicant, or if you have any questions for the
9 Office of Planning.

10 MS. NAGY: Thank you. Thank you for having me
11 here. I appreciate the opportunity to represent the ANC. I
12 don't have any questions. I also would like to thank
13 everybody for cooperating to try to find a solution that
14 works for the neighborhood. I think that's very important.

15 The ANC issued its decision before some of the
16 opposition letters were received. It has not had a chance to
17 review them, but I don't know that it would change the ANC's
18 decision. I can't say that for sure, but I don't think so.
19 And I appreciate the chance to speak. Thank you.

20 BZA CHAIR POURCIAU: Thank you so much. We'll now
21 take questions for Office of Planning from the Board. Vice
22 Chair Goldstein.

23 VICE CHAIR GOLDSTEIN: I don't have any questions.
24 Thank you very much for your presentation.

25 BZA CHAIR POURCIAU: And Board Member Wells, any

1 questions for Office of Planning?

2 MEMBER WELLS: I do not have any questions.

3 BZA CHAIR POURCIAU: Mr. Chairman, Mr. Hood, any
4 questions for OP?

5 ZC CHAIR HOOD: No questions, Madam Chair. I have
6 no questions. I also want to thank Commissioner Nagy too for
7 her response. Thank you.

8 BZA CHAIR POURCIAU: Thank you. Yes. Mr. Hall, do
9 you have any cross-examination for the Office of Planning?

10 MR. HALL: No, I do not. Thank you.

11 BZA CHAIR POURCIAU: And does the applicant have
12 any questions for OP?

13 MR. NETTELBECK: Nope, I do not.

14 BZA CHAIR POURCIAU: Okay. Thank you so much. I
15 do not believe we have any District government agencies other
16 than OP present. I don't know if, Ms. Nagy, you'd like to
17 give a more full presentation. We appreciate the comments
18 you made, but at this point, do you have a presentation?

19 MS. NAGY: I do not.

20 BZA CHAIR POURCIAU: All right. Thank you so much.
21 And I think now we'll hear from the party in support. Mr.
22 Hall, please proceed.

23 MR. HALL: Thank you for allowing us to participate
24 as a party. We appreciate our neighbor's efforts to address
25 our concerns, and I think our opposition letter that was

1 filed previously laid out our initial concerns, and we've
2 been able to work through the vast majority of those.

3 And we appreciate that our neighbors are committed
4 to ensuring our privacy and the impacts of their project on
5 our privacy. So, we thank them. That's all I have at this
6 point. Thank you.

7 BZA CHAIR POURCIAU: Thank you. From the Board,
8 are there any questions for Mr. Hall for this party? I'm
9 seeing the vice chair shaking his head no. And Ms. Wells as
10 well. All right. There are no questions from board members.

11 Would the applicant like to cross-examine the party? No.
12 And what about the ANC commissioner? No. Okay. Thank you
13 all so much.

14 So, at this point, I don't think there's anyone
15 else signed up to testify, and I'm not hearing that I've
16 missed anyone. So, we'll go back to you, Mr. Nettelbeck.
17 Would you like to give any closing remarks for the
18 application?

19 MR. NETTELBECK: No. No. I think in general, we
20 just really appreciate the willingness to speak, and work
21 through the design, and address all the concerns with the
22 neighbors. So, we just really appreciate Mr. Hall and some
23 of the other neighbors that were willing to meet with us, so.

24 BZA CHAIR POURCIAU: Excellent. So, from the
25 Board, are there any further questions or items you'd like to

1 discuss before we close the record and enter into
2 deliberations?

3 I know for me, I just want to add in -- I want to
4 add that I too agree that I appreciate the work that's been
5 done on the structure and with the community to find
6 consensus and to work toward a broader community acceptance.

7 And so, that's very much appreciated.

8 And so, I don't think there's anything else. So,
9 the Board is ready to deliberate. Please close the hearing
10 and the record. Witnesses will be excused. And I want to
11 thank you all for taking the time to come out today for this
12 case. And we will proceed into deliberations.

13 All right, thank you so much. So, it looks like
14 this is a case of the process doing what it is supposed to
15 do, which is a great thing, you know, finding middle ground
16 in some cases, but maybe not pleasing every resident. But
17 definitely those who are most affected, their concerns have
18 been addressed, and they even took the time to come out and
19 testify on the record.

20 Mr. Vice Chair, are there any items you'd like to
21 add at this point?

22 VICE CHAIR GOLDSTEIN: No, thank you. I think that
23 was well said. Actually, I will just say a little bit more
24 that I think the -- based on the presentation submissions by
25 the applicant, as well as the Office of Planning report and

1 the ANC submission and testimony, I think the applicant has
2 met their burden under 5201 for relief from the side and rear
3 yard. I found it very helpful, in particular, the thorough
4 sun studies that were submitted. I think the impact was
5 restrained on the neighbors and not undue in any way, and any
6 privacy concerns that we've heard about have been addressed
7 in the revision of the project. I think they've met their
8 burden for the special exception.

9 BZA CHAIR POURCIAU: Thank you for that. Ms.
10 Wells, would you like to add toward this deliberation?

11 MEMBER WELLS: I would agree that they have met
12 their burden of proof, and as I mentioned, I think the
13 questions I had were about privacy and light, and they
14 demonstrated through their presentation and concurrence with
15 the Office of Planning that there's no -- that they met their
16 burden of proof for relief.

17 BZA CHAIR POURCIAU: Thank you. Chairman Hood?

18 ZC CHAIR HOOD: I don't necessarily have anything
19 to add. I think the merits of this case and the way this
20 case was presented, and also looking at the relief that was
21 requested of us, I think the applicant's done his due
22 diligence. And I don't see anything that would stop this
23 from moving forward. Thank you.

24 BZA CHAIR POURCIAU: Thank you. I'd just like to
25 add, I think the, you know, the side yard and rear yard,

1 there were really no changes to lot occupancy, not much
2 change there. It was kind of the height that was the
3 difference, and they did a lot with trying to relieve the
4 burden of the bulk of the height. So, I agree with what's
5 said, and I am supporting this application.

6 I think I'd like to enter a motion at this time. I
7 move that application 21452 be approved as read into the
8 record by the secretary and based on the results of this
9 deliberation. Is there a second?

10 MEMBER WELLS: I second.

11 BZA CHAIR POURCIAU: Thank you, Robyn. Ms. Wells,
12 thank you. Madam Secretary, would you please call the vote?

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

15 BZA CHAIR POURCIAU: Yes.

16 MS. MEHLERT: Vice Chair Goldstein?

17 VICE CHAIR GOLDSTEIN: Yes.

18 MS. MEHLERT: Board Member Wells?

19 MEMBER WELLS: Yes.

20 MS. MEHLERT: Chairman Hood?

21 ZC CHAIR HOOD: Yes.

22 MS. MEHLERT: Staff would record the vote as four
23 to zero to one to approve Application No. 21452 on the motion
24 made by Chair Pourciau and seconded by Board Member Wells.

25 BZA CHAIR POURCIAU: Excellent. Would you please

1 read the next case in, No. 21471?

2 MS. MEHLERT: Next is Application No. 21471 of
3 Station 4 Properties, LLC. This is an application pursuant
4 to Subtitle X, Section 1002, for a use variance from Subtitle
5 E, Section 201.1, to permit a three-unit apartment house for
6 the creation of one new dwelling unit in the basement of an
7 existing two-story semi-detached building -- uses a two-unit
8 flat.

9 It's located in the R-2 zone at 4654 Hillside Road
10 Southeast, Square 5362, Lot C-5. There is a preliminary
11 matter. The applicant has submitted a few motions to request
12 a waiver of late filings, which are on the record in Exhibits
13 25 through 27.

14 BZA CHAIR POURCIAU: Thank you. And I see that the
15 applicant and others are coming into the hearing now. I have
16 listed --

17 MS. VIVAR: We're here. Good morning.

18 BZA CHAIR POURCIAU: Good morning. Thank you. I
19 have listed as the Agent Mr. Lopez and Ms. Vivar. Is that
20 correct?

21 MR. LOPEZ: Yes. Good morning.

22 MS. VIVAR: Correct.

23 BZA CHAIR POURCIAU: Good morning. Thank you for
24 being here. We usually allow 15 minutes for a presentation
25 for the whole applicant. Are you ready to begin your

1 presentation?

2 MS. VIVAR: As ready as I can be. I am a little
3 nervous. I'm going to have to tell you. I'm not used to
4 these things, but it's something we need to do. So, I'm
5 going to start my presentation. I think I sent a
6 presentation if they can put it in there --

7 BZA CHAIR POURCIAU: Don't --

8 MS. VIVAR: -- for us.

9 BZA CHAIR POURCIAU: I want to tell you. Don't
10 worry. We're a little nervous too. So, you're --

11 MS. VIVAR: All right. Okay.

12 BZA CHAIR POURCIAU: I've been doing this for --
13 this is my 10th hearing now, so I'm less nervous than I was
14 for the first one, but I understand.

15 MS. VIVAR: So, you've had a little practice
16 already.

17 BZA CHAIR POURCIAU: Try to relax. Yes.

18 MS. VIVAR: Okay. So, we're requesting the
19 approval to build a third unit in this building, 4654
20 Hillside Road. It -- the building right now it -- we can go
21 to the next slide, please. It has two units on the first and
22 second floor.

23 Can we go to the next slide? Thank you. So, we
24 are requesting a modest change entirely within the existing
25 building. Like I said, the building contains two units in

1 the first level. And we're proposing to build a third unit
2 in the basement.

3 The request is that to convert an existing basement
4 into a lawful dwelling unit using the existing rear entrance.

5 It does have a separate entrance. What does not change is
6 the building height, the footprint and massing, and the
7 residential use and neighborhood form.

8 We can go to the -- actually, the fourth slide,
9 please. The next one. Yeah. This is a little bit of the
10 history of the building. This was built as a multi-unit
11 residential use. We saw 1942. It was built as a four-unit
12 building apartment. 1958, it was down zoned -- the area was
13 down zoned to R-2. 2001, the building went from four units
14 to two units. And then we purchased it on -- in 2022 as a
15 two-unit building.

16 Although, we -- from the moment that we bought it
17 and the way that it was advertised to us, it was that we
18 could build in the basement. We have a photo of the
19 advertisement also. I think it's the slide No. 8.

20 I'm sorry, I messed up when I submitted all of
21 this, and I didn't do it in order. So, in the slide No. 8,
22 there is an advertisement of the listing from 2022 when we
23 bought it, which it really weighed in our motivation to buy
24 this building. Thank you. And do not go to that one. Okay.
25 We'll see that one later.

1 This is the basement. It's completely empty right
2 now. We've had a few problems with the maintaining -- with
3 the condition of the basement due to the lack of ventilation
4 that we have there. We -- in 2022, we had to do a whole
5 treatment of the basement because it was -- there was some
6 micro bacterial growth in there, which we documented there
7 also in all of our evidences. So, we had to do that
8 treatment there in 2024, October.

9 And since then, we've put -- my husband, he put a
10 unit there to kind of make the air circulate because there's
11 no windows. There's only, like I said, the rear door in
12 there, but it's always locked because, you know, there's
13 nothing in there.

14 So, due to that lack of ventilation and air
15 circulation, we've incurred into a lot of extra expenses in
16 order to maintain the -- a little ventilation in there. We
17 also have to deal with -- be really mindful and really on top
18 of pest control because of this empty space. So, we've been
19 doing that ever since we bought the building almost.

20 Can we go to the next slide, please? This is the
21 invoice that we had back in 2024 when a company came to do
22 the treatment and kind of clean up the area because of the
23 microbial growth that we had. And there was an elevated
24 humidity, which we've tried to counter-rest with the -- what
25 did you put in there -- a unit of dehumidifier.

1 MR. LOPEZ: Yeah. We installed a unit to have
2 ventilation in the basement. Installed plastic and install
3 sump pump, and do a lot of, you know, clean in the area,
4 remove some dirt, try to, you know, keep the basement clean.

5 So, all this has been increasing our expenses, and
6 now it's something that we have to, you know, keep doing
7 frequently. And every season we have to make sure we have
8 the right treatment in the basement. Like in the wintertime,
9 we have to make sure the heater is on.

10 On summertime, we have to make sure the fans is on.
11 At the same time, we have to, you know, keep the door open
12 to have air going into the basement.

13 So, for all this reason, we are looking to make the
14 basement finished. In that scenario, we are going to have
15 egress window. We are going to have all the elements like
16 AC, heater. It's going to be closed. It's going to be
17 ventilated properly. But right now, it's really hard to keep
18 doing that because the area right there is no -- is very
19 critical to keep, you know, like to install windows right
20 there, and nobody living in the unit, it can be broken. They
21 can get into.

22 MS. VIVAR: So yeah, there is many conditions.
23 We're not saying that it's just this, but there is many
24 conditions that are -- that like the -- like I said, the
25 condition and ventilation, all of these things that are

1 creating very demands -- very active demands from us every
2 season, every place -- every time so we can maintain that
3 basement.

4 We, in wintertime, like he said, we have to put a
5 heater in there so that the pipes don't freeze. We've come
6 close to that, and I think it was last winter that it was
7 really, really cold. So, all of these things create a really
8 hardship to us.

9 We can go to the next slide. We can -- we also
10 have thought about, you know, incorporating the basement into
11 the existing units. However, that is very, very difficult
12 structurally because we will have to -- you know, the
13 flooring upstairs will have to -- it will have to change.

14 We will have to have the tenants that currently are
15 there move out. There's children there, so we couldn't work
16 with them there. So, that will really create a really big
17 hardship for us because we will have to -- we will not have
18 it that rental income during those months. And, you know,
19 we've calculated six to eight months to do that kind of work.

20 There is no connecting the stairs currently from
21 the upper level to the basement. There is only a rear
22 entrance from the -- for the basement. So that makes us
23 think that this unit or this building was built originally
24 for, you know, as a separate unit. It was not incorporated
25 in the units up -- with the units upstairs.

1 BZA CHAIR POURCIAU: Excuse me one second. Mr.
2 Young, I think they've asked for the next slide.

3 MR. YOUNG: Okay.

4 MS. VIVAR: Yes. Here you can see the upstairs.
5 We put a picture of the layout that we currently have
6 upstairs. So, we will have -- there -- these are small
7 units. It's 1,200 each. But because it's -- they're kind of
8 like duplexes, so it's downstairs and the upstairs. The
9 bedrooms are upstairs. So, there is the first level and the
10 second level of the unit, and then we have the basement,
11 right? So, then there's -- they're already small units.

12 And I know this is an R-2 zone. We found out after
13 that an R-2 zone is only designed for single family homes.
14 But this was clearly a building that was built to be a
15 multifamily, and it will be really hard to turn it into a
16 single dwelling.

17 So, the conditions of the basement, you can see
18 there. This was a picture of 2024 where we were having that
19 micro bacterial growth. And we've been, you know, we've
20 cleaned all of that up and we are really good at maintaining
21 that, but that's creating a really extra hardship for us
22 every season.

23 We can go to the next one, please.

24 MR. LOPEZ: Yeah, I would like to add something
25 right there. So, the building original -- the previous

1 owner, he convert it from four unit. Before, it was four-
2 unit, one bedroom in each unit, so he convert to two unit.
3 So right now, we have two unit.

4 So, we, right there existing we have three
5 electrical meter, three gas meter, and one of these
6 electrical service is in the basement already. So, I don't
7 know before, but it looked like half of the basement; it was
8 finished before we buy the -- before we bought the building.

9 So, that half of the basement, it has the right
10 elevation. I mean, the entire basement have the right
11 measurement and elevation. But half of the basement, when I
12 get into the building the first time, I saw that it was in
13 some point was finished.

14 So, I think in that scenario, we are not going to
15 be any problem because the measurement of the square footage,
16 and the elevation, and it has its own door from the side to
17 the building. And I think doing, like she was explaining,
18 doing this unit connected to the existing one is going to be
19 really, really compromise the space and the structural of the
20 building because the bedroom are in the upper level then
21 living room and kitchen. So, we have to reconfigure it --
22 relocate pretty much everything in regarding to we make the
23 opening going to the basement.

24 BZA CHAIR POURCIAU: Okay. You have a little over
25 a minute left. I was wondering if you think you might be

1 able to wrap it up in a few minutes.

2 MS. VIVAR: Yeah. Yeah. So, yeah, like we were
3 explaining, absorbing the basement into the occupied units
4 will be really hard. We'll have to have new internal stair
5 openings, floor and wall demolition, structural framing
6 changes, relocation of plumbing, electrical and mechanical
7 systems, disruption and temporary of the families -- of the
8 displacement of the families that live there already.

9 This slide is the listing that I was talking to you
10 about, where they represented that, you know, we could build
11 a third unit. We didn't know it was going to be all of this
12 rezoning that we will have to do. But, you know, hopefully
13 we could -- we can explain to you really well all the
14 hardship that we're having and the particularly of this unit,
15 and we can get approval to do it.

16 Also, the other concern that we have is the risk of
17 a break-in. We've had other incidents in the same block
18 where they have broken into spaces, and I have documented
19 that in the -- in all the evidence that we submitted, too.

20 So, we have had -- we have been working together
21 with the Office of Planning. We requested -- they requested
22 a lot of evidences of what we were stating. So, we submitted
23 all of that. And I think what the result of the Office of
24 Planning was the recommendation of the approval of -- for us
25 to build that third unit. But I don't know. I'm done with

1 my presentation. I don't know if you will have any
2 questions.

3 BZA CHAIR POURCIAU: Okay. Thank you so much.

4 MS. VIVAR: Okay.

5 BZA CHAIR POURCIAU: Were there any other slides
6 here you wanted us to see?

7 MS. VIVAR: There are some other slides.

8 BZA CHAIR POURCIAU: Do you want to flip through
9 those quickly?

10 MS. VIVAR: Yeah, we can go through those quickly.
11 Can we go to the next one? Yeah, the vacancy creates
12 recurrent maintenance and security burdens.

13 BZA CHAIR POURCIAU: You mentioned all this.

14 MS. VIVAR: Yeah, we did that.

15 BZA CHAIR POURCIAU: Next one. Next slide, Mr.
16 Young.

17 MS. VIVAR: Yeah, we have the OP -- finds every
18 variance standard is met.

19 BZA CHAIR POURCIAU: Very good.

20 MS. VIVAR: It's actually an undue hardship. Yeah,
21 it was originally a multi-unit design. It's a separate --
22 total separate basement. There's no connection with the
23 units upstairs.

24 And also, we have documented all the conditions
25 that we have in the basement and things that we have to do in

1 order to maintain it. And also, they found that there will
2 not be any substantial detriment to the public good. We are
3 not doing anything exterior. This will be mainly interior
4 work and also the no substantial impairment of zoning intent.

5 This is a modest interior increase within the
6 legacy of a multi-unit building. And this fits the block and
7 established development pattern.

8 BZA CHAIR POURCIAU: Okay. Next slide, Mr. Young.

9 MR. LOPEZ: I think that's the last one.

10 BZA CHAIR POURCIAU: That's it. That's it. Okay,
11 very good. Thank you. That was a good presentation. Very
12 full --

13 MR. LOPEZ: Thank you.

14 BZA CHAIR POURCIAU: -- and descriptive. I'd like
15 to now see if there -- if the Board has any questions. I'd
16 like to start with Vice Chair Goldstein, please.

17 VICE CHAIR GOLDSTEIN: Thank you very much. I
18 thought your slide presentation was really helpful for
19 understanding the request and the current conditions. I do
20 have a few questions for you.

21 I just want to start with the listing issue that
22 you mentioned, in that you had an expectation for a third
23 unit. You know, I hear this, and I get a little
24 uncomfortable with that kind of argument. Did you all
25 consult the zoning when you bought the property? Did you

1 look at the zoning rules?

2 MR. LOPEZ: We didn't because I trust pretty much
3 in the realtor. The seller was a realtor. Our realtor was
4 a, you know, realtor with a lot of experience. So, pretty
5 much, you know, both realtor, one the owner. I, you know,
6 just follow what they advertise. And when I ask question,
7 they say, yes, pretty much that is possible to build. So,
8 yeah I'm, you know, just follow what they, you know,
9 recommend and said.

10 VICE CHAIR GOLDSTEIN: Okay.

11 MS. VIVAR: Yeah. That was a problem.

12 (Simultaneous speaking.)

13 VICE CHAIR GOLDSTEIN: Yeah, I'm sorry that -- oh,
14 go ahead.

15 MS. VIVAR: So sorry. That was, you know, probably
16 our lack of experience that, you know, went through that.
17 But we never expected that we'll have to go through all of
18 this. And not only that, I mean, but all the conditions that
19 have come with the basement, with maintaining the basement in
20 good condition in order for the families above to live, you
21 know, live good in a good building, you know, is what is
22 being difficult for us at this time.

23 VICE CHAIR GOLDSTEIN: Yeah. Sorry.

24 MR. LOPEZ: Okay. One more thing. And the next,
25 right in front of that building, there is other building, and

1 that building is four unit. And then that building, the
2 4654, it was four unit before. So, I definitely, you know, I
3 didn't --

4 MS. VIVAR: We didn't imagine it couldn't in there.

5 VICE CHAIR GOLDSTEIN: Yeah. Okay. Well, I
6 understand it -- well, I'm sorry you found yourself in this
7 situation, and I do -- I am a bit curious about why the
8 basement is set up this way. I'm just kind of curious if you
9 have any thoughts.

10 I understand it was originally a four-unit. It got
11 reduced and remodeled to two. You've seen some evidence of
12 renovation in the basement. It seems odd to me. What was
13 the purpose of this space after that renovation occurred? Do
14 you have any idea? Has it just been sitting empty for years?
15 What happened here?

16 MR. LOPEZ: Not sure about what was the purpose,
17 but, yeah, I saw drywall there and was painting. And that
18 window, if you know there is a picture, this picture right
19 here, this window right here, the white one, this was a
20 window that they closed, and the other side of the building
21 was other window.

22 So, I think in some point somebody lived in that
23 area because the electrical service is there. It's gas
24 there. I'm not sure about, but yes, half of the basement was
25 finished. When I saw half of the basement finished, then I

1 say, okay, yeah, it's possible to do it. So, they --

2 VICE CHAIR GOLDSTEIN: Do you have a sense -- there
3 are some very identical looking buildings that you've kind of
4 referenced that have four units in them. Do you know of
5 those buildings is the basement typically one unit? Do you
6 have any sense of what those are laid out like?

7 MR. LOPEZ: Yes. One right in front of our
8 building, that is the basement, one unit. And the unit that
9 we have already, those are four unit. So, practically in
10 that building is five unit. And here we have this building
11 in I think it was 2003. He finished that building in 2003.
12 So, here we have the entire building, and he did this -- a
13 unit in the basement. So, I don't know how he did, if it --
14 he rezoning or it was rezoning already a four unit, and then
15 he put that unit in the basement and the rest of the unit,
16 you know, in the upper level. So, I don't know how he did,
17 but yes, the basement is finished.

18 VICE CHAIR GOLDSTEIN: Okay.

19 MR. LOPEZ: Yeah.

20 VICE CHAIR GOLDSTEIN: Madam Chair, I have a couple
21 more questions, if you don't mind if I continue on a bit.

22 When you've looked to see the -- whether it's
23 possible to use this space in a different way, one option is
24 the idea of combining them with the units above, which you've
25 kind of said is problematic.

1 Have you looked into any other options? Is it just
2 your belief that the unit in the basement would be the best
3 option, or have you explored whether there's something else
4 you could do with that space?

5 MR. LOPEZ: I think the unit in the basement is
6 what we have been focusing. The reason is because finishing
7 that unit is going to be practically that problem, that
8 expense that we have every single season is going to be
9 resolved. It's a beautiful space that can be livable.
10 Elevation and, you know, square footage are perfect. Yeah,
11 so practically that is what we have been exploring.

12 VICE CHAIR GOLDSTEIN: Okay. Yeah, I was just
13 trying to think. Just because of the lack of internal
14 connection, it's kind of challenging to think of how else,
15 without restoring that, it could be used. So, you mentioned
16 tenants in the building. One of the units is vacant and one
17 is occupied? Is that right?

18 MR. LOPEZ: No. Both -- at the moment, both units
19 are occupied.

20 MS. VIVAR: At the moment that I presented the
21 application, one of them was vacant. It recently -- we
22 recently got a tenant now in September. Was it September?
23 August?

24 MR. LOPEZ: Yeah.

25 MS. VIVAR: It was August I think that she moved

1 in, a tenant moved in.

2 VICE CHAIR GOLDSTEIN: Oh. And the idea is that
3 you can do this renovation of the basement without displacing
4 those tenants? You think you can do that?

5 MR. LOPEZ: Yes, we can definitely do that because
6 the way that is -- we organize everything, so they are not
7 going to be compromised in any way.

8 VICE CHAIR GOLDSTEIN: Okay.

9 MR. LOPEZ: Yeah.

10 VICE CHAIR GOLDSTEIN: One last thought. I was
11 looking at the layout. I was just a little bit curious about
12 it. It looked like four bedrooms, one bathroom, kind of a
13 small living room. Can you tell me what your thinking is for
14 the layout that you've developed?

15 MR. LOPEZ: Yeah. That drawing I did, you know,
16 trying to figure it out how to do it, but I think that space,
17 if we do it, we are going to be looking between two and three
18 bedroom. Because I prefer to give more space since it's in
19 the basement. It's better to -- they have more space.

20 I think three bedroom is plenty of space to do it.
21 And then we are going to have space to maybe do other
22 bathroom and give more space for the living room.

23 VICE CHAIR GOLDSTEIN: Okay. I think that sort of
24 direction makes a lot more sense to me to make it a kind of a
25 more inviting space. I'm glad you're rethinking that. That

1 -- those are all the questions I have for now. Thank you
2 all.

3 MR. LOPEZ: Thank you.

4 BZA CHAIR POURCIAU: Thank you. Board member
5 Wells, do you have questions for the applicant?

6 MEMBER WELLS: I do. I think Vice Chair Goldstein
7 actually addressed a lot of the questions. The main one is,
8 you know, within the existing use or current zoning regs,
9 what can you do, and that was all explored.

10 And it sounds like this option to have another
11 living unit in the basement is the most practical or the most
12 feasible, easier to do than anything else. And it sounds
13 like you guys have already explored all your other options
14 without having to request, you know, this relief.

15 MS. VIVAR: Yeah. Basically, that's what we've
16 been focused on because -- yeah, it -- like my husband said,
17 he sees that this space is suitable to make a unit to, you
18 know, for a family to occupy that space. And then we will
19 have peace of mind because we'll have somebody there.

20 You know, we're not going to be afraid of break-ins
21 like we are now, or bursting pipes, or all the conditions
22 that we presented before.

23 MR. LOPEZ: Yeah. You know, trying to do the other
24 option maybe is going to -- is not going to be possible
25 because the investment that's going to be in that specific

1 building, again it's going to be too much to do it.

2 I think, you know, we are not going to afford
3 because we are going to have the building empty and then
4 spend all this money trying to relocate it, you know,
5 everything from those two unit in the upper level and then do
6 the opening and on top of that, we have to finish the
7 basement like, you know, pretty much the same, doing a
8 separate unit.

9 MEMBER WELLS: Okay. And so, the problems that
10 you're experiencing now in the basement or have experienced
11 with like the microbial growth or issues with ventilation,
12 you know, that's expected to be resolved with having a tenant
13 in the basement?

14 MR. LOPEZ: Yes. It's going to be resolved because
15 we are going to have egress window in each bedroom. It's
16 going to be central unit which, you know, circulate the air.
17 The door is going to be constantly open and closed.

18 MS. VIVAR: It's going to be like --

19 MR. LOPEZ: It's going to be finishing -- all the
20 wall are going to be sealed, waterproofing. Install the
21 waterproofing on the ground system, and yeah, definitely it's
22 going to be something that is going to resolve the problem a
23 100 percent.

24 MEMBER WELLS: Okay. Okay. All right. I think
25 that's most of my questions. Thank you.

1 MS. VIVAR: Thank you.

2 BZA CHAIR POURCIAU: Thank you.

3 MR. LOPEZ: Thank you.

4 BZA CHAIR POURCIAU: Chairman Hood, any questions
5 for the applicant?

6 ZC CHAIR HOOD: No, I don't have any questions. I
7 think they have expounded. I know a variance is a heavy
8 lift. I think they have done their due diligence, at least
9 thus far from my standpoint. So, I have no questions. And
10 thank you all for your presentation.

11 MR. LOPEZ: Thank you.

12 MS. VIVAR: Thank you.

13 BZA CHAIR POURCIAU: Thank you. I think now we'd
14 like to go to the report from the Office of Planning.

15 MR. ISAIAH: Thank you.

16 BZA CHAIR POURCIAU: Thank you, Mr. Isaiah.

17 MR. ISAIAH: Thank you, Madam Chair. For the
18 record, this is Philip Isaiah on behalf of the Office of
19 Planning. The Office of Planning recommends approval of the
20 subject variance.

21 Upon consideration of the strict scrutiny variance
22 test that is necessary for the granting of such, OP finds
23 that the confluence of concurrent factors, when considered
24 together, the structure size, the deferred maintenance, the
25 safety incidents, and also the unit configuration of being

1 able to adapt the basement unit, together, when considered
2 concurrently, creates an exceptional hardship for the -- to
3 the property owner, and therefore, satisfies the variance
4 test that is required.

5 As such, OP otherwise stands on the record
6 contained as Exhibit 28 of the report contained as Exhibit 28
7 of the record dated August 28th, 2026. Thank you.

8 BZA CHAIR POURCIAU: Thank you so much. Any
9 questions of OP, Mr. Goldstein?

10 VICE CHAIR GOLDSTEIN: Thank you very much. I
11 don't have any questions at this moment. Thank you.

12 BZA CHAIR POURCIAU: Thank you.

13 MR. ISAIHAH: Thank you very much.

14 BZA CHAIR POURCIAU: How about you, Ms. Wells, any
15 questions for OP?

16 MEMBER WELLS: No, no questions.

17 BZA CHAIR POURCIAU: Mr. Hood, any questions for
18 OP?

19 ZC CHAIR HOOD: No. I do want to thank Mr. Isaiah.
20 Your report has definitely made our lives a lot easier, at
21 least for me. So, thank you.

22 BZA CHAIR POURCIAU: Does the applicant have any
23 questions for our Office of Planning?

24 MS. VIVAR: No, we don't. But I just wanted to
25 thank also Mr. Philip Isaiah because he's helped a lot with,

1 you know, his guidance, and his comments and, you know,
2 guiding us through the process.

3 MR. LOPEZ: Yeah. He has a really nice, I can say
4 amazing customer service. So, thank you for that service
5 because when we start a process, and I think everybody when
6 they start process like this, we don't know anything pretty
7 much.

8 And sometimes we don't afford to hire somebody who
9 have the knowledge to do it. And I'm pretty sure many people
10 they stop doing things or getting a little more information
11 because they don't know from where they start. Yeah. So,
12 thank you for your service.

13 BZA CHAIR POURCIAU: Thank you so much for sharing
14 that. That means a lot. Thank you, Mr. Isaiah. We will now
15 -- I just want to say for the record the Advisory
16 Neighborhood Commission does not appear to be present, but
17 they did submit a document saying that they had reviewed and
18 there was no opposition. There are no parties in support or
19 opposition and --

20 MS. VIVAR: There was a --

21 BZA CHAIR POURCIAU: No.

22 MS. VIVAR: I'm so sorry to interrupt, but there
23 was the -- we presented two letters from the neighbors rear
24 and front in support of the --

25 BZA CHAIR POURCIAU: Very good. Thank you for

1 stating that for the record. They're not here today, but
2 that's important to have on the record. So, thank you for
3 bringing that up.

4 And so, there -- the last item on the agenda right
5 now for this case is to hear your closing remarks. Do you
6 have any closing remarks for us at this time?

7 MS. VIVAR: We didn't prepare anything.

8 BZA CHAIR POURCIAU: That's good. That's fine.

9 MR. LOPEZ: I don't know what to say.

10 MS. VIVAR: Just thank you for everybody's help in
11 this process. The office of -- the Board has been really
12 helpful also with the emails and, you know, making sure we're
13 here in this date and everything. It's been, you know, it's
14 been an experience. So, thank you very much.

15 MR. LOPEZ: Yeah. Thank you very, very much,
16 everybody.

17 BZA CHAIR POURCIAU: Thank you. I'd just like to
18 say on the record I am in support of this application. I
19 think you're doing a lot to improve this property, and it
20 sounds like the addition of an additional unit in the
21 building changes the use somewhat, but it seems to be in
22 conformance with the neighborhood.

23 So, I want to thank you for all the work you're
24 doing and thank Planning and the Zoning Office for assisting
25 you to make sure this moves through. Is there any further

1 discussion before we enter into deliberations?

2 MEMBER WELLS: No.

3 VICE CHAIR GOLDSTEIN: Thank you. I'd like to jump
4 in and just ask a question: Did you present to the ANC?

5 MS. VIVAR: Yeah, we did. I remember speaking to a
6 person in charge of the ANC, and we've emailed also all the
7 application and all the supplemental evidence that we've been
8 sending you, everything. So, yes.

9 VICE CHAIR GOLDSTEIN: Do you have any sense of why
10 they didn't take a position? Just curious.

11 MS. VIVAR: I don't know. I thought maybe they're,
12 like, too busy, but I, you know, emailed them everything and
13 talked to him about the project and all of that. I don't
14 have in the top of my mind the name, but I must have it
15 somewhere there. I don't know. I have no idea.

16 VICE CHAIR GOLDSTEIN: Okay. Hmm. No, just a
17 little more unusual to see a submission that says we take no
18 position on it, so I just was curious.

19 MS. VIVAR: Mm-hmm.

20 VICE CHAIR GOLDSTEIN: Why that might be the case.
21 Okay. Thank you.

22 MS. VIVAR: Yeah. Thank you very much. But we had
23 a great --

24 ZC CHAIR HOOD: Madam Chair -- hold one second.
25 Madam Chair, let me expound on what Vice Chair Goldstein was

1 saying. Vice Chair Goldstein, the way I look at this, it's
2 something that we did because -- or something however we
3 asked it because the -- what they're saying, at least the
4 letter I'm reading, unless there's another one here too,
5 which concerned me too.

6 The Commission position is limited to the
7 circumstances presented with this application and is not
8 intended to express a broader position.

9 The assumption that I'm getting from this letter is
10 that they were -- the conversation was about the whole R-2
11 zone, and I think the ANC is exactly correct.

12 And I'm trying to figure out -- and I do want to do
13 some further, not in this case, specific to this case, but I
14 do want to find out what Vice Chair Harris was speaking of,
15 because it sounds to me like maybe the question that was
16 directed to him, and this has nothing to do with this
17 applicant, is more so for a Zoning Commission issue.

18 And I don't know whether they were mixed up, but I
19 would ask Ms. Mehlert and others, let's follow with them to
20 see if there's a problem of understanding, then we can help
21 them because they're going to have other cases that might not
22 just coming from the Board or the Commission, but that we
23 want to make sure that they're on the right track. And I'm
24 sure Ms. Barton will follow up, and we'll get a clear
25 understanding. So, I too had that same exact concern. So,

1 thank you. Thank you, Madam Chair.

2 BZA CHAIR POURCIAU: Thank you. I didn't read it
3 at that -- I didn't read the ANC submission to that detail,
4 but I -- sometimes the ANC doesn't say anything. That's, to
5 me, very troubling. So that they did look at it and were not
6 in opposition seemed favorable to me. So please let us know
7 what you find out after you perform any additional
8 investigation.

9 And so, with that, I think that's all we have at
10 this time for the applicant. I want to thank you for coming
11 in, and presenting, and working on your property. And so,
12 the Board will now enter into deliberation. Please close the
13 hearing and the record. The witnesses will be excused, and
14 we will make a decision on this case. Thank you again.

15 MS. VIVAR: And right before I cut my
16 communication, so, after this, what is the process? I should
17 be checking on the portal about the case or the decision, the
18 final decision? What are the next steps?

19 BZA CHAIR POURCIAU: Ms. Mehlert, could you assist
20 --

21 ZC CHAIR HOOD: Madam Chair, let me help you, so we
22 can move this along.

23 BZA CHAIR POURCIAU: Thank you.

24 ZC CHAIR HOOD: The office will help you follow
25 with our staff. The key is you want to hold tight and get

1 the vote first, and then follow with our staff. And then
2 you'll be good to go, okay?

3 MS. VIVAR: Thank you.

4 (Simultaneous speaking.)

5 BZA CHAIR POURCIAU: So, they are going to remove
6 you, but don't hang up. You know, listen in.

7 MS. VIVAR: Oh, don't hang up right now?

8 BZA CHAIR POURCIAU: Yeah, you don't hang up, but
9 they are going to remove you from -- you won't be on screen
10 anymore.

11 MS. VIVAR: Oh, okay.

12 BZA CHAIR POURCIAU: Okay.

13 (Pause.)

14 BZA CHAIR POURCIAU: All right. Thank you so much.
15 Are there -- I'd like to first call on Vice Chair Goldstein
16 to see what items you have to add to the record and your
17 thinking on this case.

18 VICE CHAIR GOLDSTEIN: Thank you very much. Use
19 variances are not easy, so I don't want any impression of
20 that to be out there. I do think that there are, as I think
21 the Office of Planning presented, a confluence of reasons why
22 they can meet the burden in this case. I think the layout is
23 really unusual, the history of the property and how it was a
24 four-unit and got reduced in units and got this leftover
25 space, which is really pretty odd. And the units above and

1 trying to combine and all the challenges of that.

2 I'd also say I appreciated my colleague, Member
3 Wells, asking will this improve the circumstances? Is it the
4 applicant's belief that this investment will solve a number
5 of the issues that you presented? They said they think it
6 will. So I think investment in this space could be really
7 for the positive. And I think there's just enough there that
8 I can get onboard with supporting this application.

9 BZA CHAIR POURCIAU: Thank you. Board Member
10 Wells, do you have any comments you'd like to add and your
11 thoughts on this application?

12 MEMBER WELLS: Yeah, I struggled with this one.
13 And just my understanding of their case, I feel like they
14 have to show that they couldn't do anything under the
15 permanent use. And then that, you know, this hardship that
16 they're speaking to, I don't know if there was -- if all the
17 options had been explored. Or I didn't get the sense all the
18 options had been explored.

19 I understand that leaving how it is, and all the
20 different improvements, you know, if they were to add a
21 stairway and make it one unit, that's a lot of money. I
22 don't think I necessarily agree that it was an exceptional
23 hardship, as the Office of Planning was saying. I don't know
24 if that's a valid reason to approve a variance, you know, not
25 knowing that you couldn't do this under the current zoning

1 regs, and then getting to the place where you're saying, oh,
2 it's too expensive, let's leave it as-is; let's see if we can
3 get a variance to add a unit.

4 I'm still on the fence about it, so I'm, you know,
5 open to hearing others' thoughts.

6 BZA CHAIR POURCIAU: Thank you for that. Chairman
7 Hood, would you like to offer your thoughts on this
8 application or do you want me to come back to you?

9 ZC CHAIR HOOD: No, I'm going to be very brief. I
10 think the record speaks for itself. I think this applicant
11 has done due diligence. As has already been mentioned by all
12 my colleagues, and the whole discussion, a variance is
13 definitely a heavy lift. Any type of variance is a heavy
14 lift, for the most part. And I think the customer service
15 and what I've heard, not knowing it, it really satisfied me.

16 And when I look in this record -- that's what I always look
17 at, is the record -- when I look in this record, I think they
18 have met their -- what is required to gain a variance.

19 So I don't have any major issues. And I know this
20 is not part of what we look at, but I really appreciate the
21 customer service. Because I think it's very important. We
22 have residents who haven't -- I'm not going to say have no
23 clue, but don't understand and do zoning every week. It's
24 tough enough for us. So I know, from the way they presented
25 their case, I know a lot of stuff in the details and the

1 discovery was really delved into. And if this was
2 challenged, I think the courts would even have a hard time,
3 too, overturning whatever decision BZA -- hopefully it's
4 affirmative -- will do.

5 So, anyway, I know that's a lot of words, but
6 that's my point. Thank you.

7 BZA CHAIR POURCIAU: Thank you. I agree with the
8 sense of my colleague that a lot of work was done. There may
9 be other options, but I can see where there's a heavy lift
10 and investment to make the area suitable, let alone make it a
11 new unit. And I understand the use that will come with
12 occupying that unit is positive toward optimizing the use of
13 the building and keeping the building whole and having the
14 building operate in safer environment, both in terms of crime
15 and environmental quality. And so, for those reasons, I will
16 be voting in support of this item.

17 Would someone like to enter a motion at this time?

18 VICE CHAIR GOLDSTEIN: I'll make a motion to
19 approve Application No. 21471 from Station 4 Properties, LLC,
20 as captioned and read by the Secretary.

21 BZA CHAIR POURCIAU: I second. Madam Secretary,
22 would you please call a vote?

23 MS. MEHLERT: Please respond to the Vice Chair's
24 motion to approve the application. Chair Pourciau?

25 BZA CHAIR POURCIAU: Yes.

1 MS. MEHLERT: Vice Chair Goldstein?

2 VICE CHAIR GOLDSTEIN: Yes.

3 MS. MEHLERT: Board Member Wells?

4 MEMBER WELLS: What are my voting options? Or what
5 are my response options?

6 MS. MEHLERT: It's either for or against the
7 motion.

8 MEMBER WELLS: For. Or, yes.

9 MS. MEHLERT: Chairman Hood?

10 ZC CHAIR HOOD: Yes.

11 MS. MEHLERT: Staff would record the vote as 4 to 0
12 to 1 to approve Application No. 21471 on the motion made by
13 Vice Chair Goldstein and seconded by Chair Pourciau.

14 BZA CHAIR POURCIAU: Thank you. It's 11:13. I'd
15 like to take a quick break. Is that okay for everybody? We
16 have three more cases. I'm hoping we might be able to get
17 through those before lunch, but let's see how it goes. Okay?
18 So let's reconvene at 11:20. That's seven minutes. Thank
19 you.

20 (Whereupon, the above-entitled matter went off the
21 record at 11:14 a.m. and resumed at 11:21 a.m.)

22 BZA CHAIR POURCIAU: Excellent. I see everyone is
23 back. We will reconvene. Madam Secretary, would you place
24 the next case into the record, No. 21480?

25 MS. MEHLERT: The Board is back from a quick break

1 and returning to its hearing session. The next case is
2 Application No. 21480 of Julia Oliver and Ian Hoffman. This
3 is a self-certified application pursuant to Subtitle X,
4 Section 901.2, for a special exception under Subtitle E,
5 Section 5201, of the lot occupancy requirements of Subtitle
6 E, Section 5201. This is for a new one-story structure in
7 the rear yard of an existing row dwelling. It's located in
8 the RF-1 zone at 1808 Kilbourne Place, Northwest, Square
9 2599, Lot 66.

10 BZA CHAIR POURCIAU: Thank you so much. I see
11 we're joined by the agent Erik Hoffland and the applicant Ian
12 Hoffman. If Mr. Hoffland -- are you ready to present for the
13 record? And we like to allow 15 minutes for the applicant's
14 full presentation.

15 MR. HOFFLAND: Okay. Thank you, Chair and
16 Commissioners of the Board. I'll do a brief presentation
17 here, but first I guess I'll introduce, or he can introduce
18 himself, the client Ian, who I believe is joining us too.
19 Maybe he can't talk. Maybe he's just listening in.

20 Well, I'll start my presentation. And I believe
21 there is an online presentation here. Yes. Okay, great.
22 I'll try to make this fairly brief.

23 This is the area in Mount Pleasant. The pin there
24 shows 1808 Beaumont. The massing here is not proper, but
25 this is a row of almost identical houses on identical sized

1 lots along the row.

2 Next. Here is just a plat showing -- and this is
3 lot 66 here, and it's a one-story garage with a deck on top
4 that we're proposing.

5 Next. Here's just a quick shot of the front of the
6 house. You can see similar houses on either side.

7 Next. Here's the alley. This is the current --
8 well, actually this is not the current condition. The
9 current condition I'll show you in a second, and I'll show
10 you other ones along the row. But you can see houses of
11 similar depth along the row. There's a big tree you see
12 jutting out to the right, upper right of the screen.

13 And if you go to the next slide, please. You can
14 see the tree has subsequently been removed since that last
15 photo was taken. It was rotting and there was storm damage,
16 so it was removed, which was one of the issues that Office of
17 Planning was concerned about with our new garage structure.

18 Next. Here again is showing just down the alley
19 there is, similar to what we're about to propose, there's a
20 garage and roof deck at 1812 Kilbourne, also further down at
21 1820. And you can see adjacent to the right of the screen,
22 1806, the remnants of a garage which had been demolished, or
23 partially demolished, at some earlier phase of its life.

24 Next. Here's, again, further looking down the
25 alley. The applicant's is just to the right of the screen,

1 and you can see a bunch of garages all lining the left, the
2 opposite side of the alley to the left.

3 Next. Here's looking up the alley. Applicant's --
4 again, this is a photograph before the tree was removed. You
5 can see another garage just up the street at 1802, and then
6 again the remnants of the older garage adjacent at 1806.

7 Next. And again, just further looking up the
8 street and all the garages on the opposite side of the alley.

9 Next. We are seeking relief here. The garage in
10 conjunction with the house would increase the lot occupancy
11 to just under 70 percent. So, we're asking for a special
12 exception to increase from the permitted 60 percent to the 70
13 percent allowed under special exception.

14 Next. Here is the current site plan just showing
15 where we would -- in the hatched area where we would demolish
16 the existing soil steps, and parking area, and retaining
17 wall.

18 And then, next. And here would be the proposed
19 garage plan on the left and deck above it to the right.

20 Next. And then, this is a simple site section,
21 probably the most helpful. The alley is well below the front
22 grade. And in fact, when the new garage is built, the roof
23 of it should be also below the front grade and obviously well
24 below the main level of the house.

25 And the intent for the applicant is to keep the

1 deck as low as possible and the ceiling height as low as
2 possible in the garage so that there's minimal steps to get
3 from the yard up to the deck.

4 Again, there's a lot of other garages built along
5 this road, similar volume and mass, and this is not anything
6 unusual in the neighborhood or on the block.

7 But because a garage -- the footprint is considered
8 part of the lot occupancy if it's measured from the alley
9 rather than from the front grade of the property, that's
10 where the relief is being asked for today.

11 And we have support from all the -- several, I
12 think, five neighbors just surrounding the property,
13 including myself, who's the next-door neighbor. And we have
14 a support letter from the ANC, no letters of opposition, and
15 I believe the Office of Planning is in support as well. And
16 I guess I will end there and open up for any questions, or
17 the Office of Planning.

18 BZA CHAIR POURCIAU: Thank you so much. We'd like
19 to start with some questions. Vice Chair Goldstein, do you
20 have some questions for the applicant?

21 VICE CHAIR GOLDSTEIN: Thank you very much, and I
22 appreciate the presentation. First, just on a lighter note,
23 have you now two weeks in a row represented both adjacent
24 neighbors to your home?

25 MR. HOFFLAND: Yes.

1 VICE CHAIR GOLDSTEIN: That's pretty remarkable. I
2 haven't looked ahead a week. Are we going to see you
3 represent across the alley behind your property next?

4 MR. HOFFLAND: Well, you never know. I can't
5 discount that.

6 VICE CHAIR GOLDSTEIN: Okay. Okay.

7 MR. HOFFLAND: I may be asking for my own garage at
8 some point, but that's -- I need some more clients to make
9 that happen.

10 VICE CHAIR GOLDSTEIN: All right. That was going
11 to be my next question, too. I saw a little bit in the
12 record with the Office of Planning report, and I'll follow up
13 more directly with the Office of Planning, but they were
14 mentioning the changes to the rules in 2512. Are you aware
15 of how that affected you? I was just a little bit curious.

16 I don't think you had applied for relief from it,
17 so I was a little unsure about the discussion of it. Is it
18 that you're permitted a bigger footprint than you used to be,
19 so there's no relief needed? I'm hoping to see how the rule
20 is working to help these cases.

21 MR. HOFFLAND: I -- are we talking about the
22 omnibus --

23 VICE CHAIR GOLDSTEIN: Yeah. So, there's a
24 discussion of E 5003.1 in the Office of Planning report. I
25 can just ask them directly. I was just curious if you had

1 any thoughts on it.

2 MR. HOFFLAND: Honestly, I think I actually missed
3 that part, so I apologize for that.

4 VICE CHAIR GOLDSTEIN: Okay. Thank you. I don't
5 have any further questions.

6 BZA CHAIR POURCIAU: Thank you. Board Member
7 Wells, do you have questions for the applicant?

8 MEMBER WELLS: I do not have any questions for the
9 applicant.

10 BZA CHAIR POURCIAU: Thank you. Chairman Hood, do
11 you have any questions for the applicant?

12 ZC CHAIR HOOD: I don't necessarily have any
13 questions, but I'm interested in -- with Mr. Hoffland. I
14 didn't know he represented last week. I didn't read into
15 last week because I wasn't here. But I will tell you that
16 I'm interested in finding out if he's representing this whole
17 project -- I mean, this whole area, for the most part, which
18 is a great job, spectacular. I'm just trying to see if some
19 of those who testified said to the Commission when we were
20 doing the omnibus, is it didn't go further enough.

21 I don't know, you know, Mr. Hoffland, something you
22 may want to look at and work with Office of Planning because
23 if we got to come back -- it should be a -- the omnibus is
24 supposed to take away these type of hearings to a certain
25 point.

1 And if we got to have -- you've got to represent
2 every alley owner that wants to do it, then we need to maybe
3 go further, like some of the people asked us to go further
4 than the omnibus. But, anyway, let me just see what happens.

5 That may be something we want to do, like we did with decks
6 some years ago. So, I'm just throwing that out there for --
7 just throwing that out there to see if it takes -- if it gets
8 caught on, if anybody catches on to it. Thank you, Madam
9 Chair.

10 BZA CHAIR POURCIAU: Thank you. I think it's
11 fascinating and I love seeing the evolution of these
12 properties, right? So, I don't like the fencing of America,
13 just for the record. And sometimes, you know, the garages
14 feel like more separation. But it is a part of the
15 evolution. And so I think the omnibus is an attempt at
16 changing the regulations in a way to permit people to do what
17 has been seen to be, you know, the next generation of
18 development for these corridors and areas. So, it will be
19 interesting to hear more about that.

20 I don't have any questions. So I would like to now
21 go to Ms. Thomas from the Office of Planning to hear your
22 report. Ms. Thomas, are you available?

23 MS. THOMAS: Sure. Yes. Again, good morning,
24 Madam Chair, members of the Board. Karen Thomas for the
25 Office of Planning. Well, I'll rest on the record in support

1 of this application. We really didn't have any issues. We
2 think that this is a modest proposal that is shown here.

3 I'd just like to address a slight confusion. We
4 wrote the report initially on the old -- before the omnibus,
5 which included in 5201.2 for new enlarged accessory
6 structures, and it referenced -- what was what was the
7 number? It referenced 5003.1. So, that was removed. It was
8 just for clarity's sake, but it doesn't change -- it didn't
9 change our approval in support of the application.

10 So, going forward, we will have a better report in
11 terms of how this is analyzed. But, in fact, the applicant
12 did not -- we did not need an analysis of 5003.1 because it
13 has -- it satisfied the maximum building area for the
14 accessory structure. It was well below what was permitted.

15 So, we need to get clarity in how we write the
16 reports going forward based on the omnibus. So, I apologize
17 for that error.

18 BZA CHAIR POURCIAU: Thank you for bringing that
19 up. Actually, I appreciated seeing the adjustment in the
20 record. I know we've been, I would say, fumbling through a
21 little bit in this transition period because much of the work
22 has been done before the approvals. And so, I appreciate you
23 going back in and making that adjustment and helping us see a
24 little more clearly about that transition.

25 Are there -- is there any more discussion or

1 questions from the Board for Office of Planning?

2 VICE CHAIR GOLDSTEIN: I just have a question. And
3 thank you, Ms. Thomas. I didn't mean to point it out in a
4 way to be critical. I was more curious, did the change to
5 the rules help accommodate this project in your view? And
6 that was my curiosity, a little bit in line with Commissioner
7 Hood's question. Do you have any thoughts on that?

8 MS. THOMAS: No, I think the change made it
9 clearer, to include as a separate item maximum building area
10 for these structures. So -- but it didn't change it in terms
11 of how we were going to approve it, anyway, our basis for the
12 determination. But I think it makes it clearer that you have
13 to look at that if the applicant is -- sometimes the
14 applicant would have missed it because it was in another
15 section altogether by itself. But here it clearly references
16 it. It's seen much better, I believe. So I think it was our
17 fault we missed that. I didn't -- again, because it was in a
18 separate section, and it's not easily seen when a homeowner
19 goes to look at this. What should I do? Does it meet it?
20 It wasn't clear before. So, I don't know if that's helpful,
21 but it didn't change how we were going to look at it.

22 VICE CHAIR GOLDSTEIN: Okay. No, I just appreciate
23 it. I think you're on the front-line of seeing how things
24 are operating, so I really appreciate your insights. And
25 thank you for your report and presentation.

1 MS. THOMAS: Thank you. I hope what I said was
2 helpful, but we'll improve as we go along.

3 BZA CHAIR POURCIAU: Thank you. Any other
4 questions for Office of Planning from the Board?

5 No, not hearing one. Does the applicant have any
6 questions for OP?

7 No? Okay. We'll now go on to -- I just want to
8 confirm that there are no other District agencies present.
9 The ANC is not present. I think they submitted something for
10 the record. There was a question if the applicant presented
11 before the ANC, but maybe I'm mixing this up with a different
12 -- did you present before the ANC, Mr. Hoffland?

13 MR. HOFFLAND: No, we did not. I think -- and the
14 ANC, I think, was not meeting, or did not meet recently, but
15 they did send a letter of support that is in the record.

16 BZA CHAIR POURCIAU: Okay. The summer recess can
17 be tricky. There are no parties that are either in support
18 or opposition of this case, and no individuals. No one
19 signed up to testify in opposition or support.

20 And so, having said all that, Mr. Hoffland, would
21 you like to give any closing statements on behalf of the
22 applicant?

23 MR. HOFFLAND: I don't think I have anything to add
24 other than to thank you all for your time. And, yeah,
25 hopefully more things like this can be run through without

1 going through the BZA if, in case -- if, in fact, the zoning
2 regulations allow it. I guess I'll also just see if Ian had
3 anything he wanted to say, if he can. If not, that's all I
4 have to say.

5 BZA CHAIR POURCIAU: Thank you, Mr. Hoffland, for
6 that.

7 All right. I will be voting in support of this
8 application. It just seems to address all of the
9 requirements of the regulations, and it seems to be in
10 conformance with what is happening in the neighborhood.
11 Actively happening, I might say.

12 Is there any other discussion Board members would
13 like to have before we close the record to deliberate? Mr.
14 Goldstein, I'll call on you first.

15 VICE CHAIR GOLDSTEIN: I don't have any other
16 questions before we close the record to deliberate. Thank
17 you.

18 BZA CHAIR POURCIAU: All right. Ms. Wells?

19 MEMBER WELLS: No other questions.

20 BZA CHAIR POURCIAU: Thank you. And Chairman Hood?

21 ZC CHAIR HOOD: I have nothing.

22 BZA CHAIR POURCIAU: All right. With that, I want
23 to thank you for coming today, presenting, and working on
24 improving your community.

25 The Board is ready to deliberate. Please close the

1 hearing and the record. Witnesses will be excused, and then
2 we will deliberate and discuss the case.

3 MR. HOFFLAND: Thank you.

4 (Pause.)

5 BZA CHAIR POURCIAU: Thank you. Mr. Goldstein, I'd
6 like to call on you first. Are their items you'd like to
7 add, or would you like to discuss your position on this case?

8 VICE CHAIR GOLDSTEIN: Thank you. I think I can be
9 very brief. I think the record is full, with the applicant's
10 submissions, presentation, as well as the Office of
11 Planning's submission and presentation today. It's a very
12 modest garage addition, and I believe they've met their
13 burden under 5201 for the lot occupancy relief. Thank you.

14 BZA CHAIR POURCIAU: Thank you. Board Member
15 Wells?

16 MEMBER WELLS: I would agree they've met their
17 burden of proof for this one.

18 BZA CHAIR POURCIAU: Thank you. Chairman Hood?

19 ZC CHAIR HOOD: Thank you, Madam Chair. I have
20 nothing to add.

21 BZA CHAIR POURCIAU: Thank you. All right. So I
22 will offer a motion to approve Application 21480 as read into
23 the record by the Secretary. Is there a second?

24 VICE CHAIR GOLDSTEIN: Second.

25 BZA CHAIR POURCIAU: Thank you so much. Madam

1 Secretary, would you please call the vote.

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

4 BZA CHAIR POURCIAU: Yes.

5 MS. MEHLERT: Vice Chair Goldstein?

6 VICE CHAIR GOLDSTEIN: Yes.

7 MS. MEHLERT: Board Member Wells?

8 MEMBER WELLS: Yes.

9 MS. MEHLERT: Chairman Hood?

10 ZC CHAIR HOOD: Yes.

11 MS. MEHLERT: Staff would record the vote as 4 to 0
12 to 1 to approve Application 21480 on the motion made by Chair
13 Pourciau and seconded by Vice Chair Goldstein.

14 BZA CHAIR POURCIAU: Thank you. So, we're ready to
15 proceed to our next application, No. 21481. Ms. Mehlert,
16 would you please read into the record?

17 MS. MEHLERT: Yes. Next is Application No. 21481
18 of Hunter Lowe, estate executor. This is an application
19 pursuant to Subtitle X, Section 901.2, for a special
20 exception under Subtitle D, Section 5201, from the side yard
21 requirements of Subtitle D, Section 28.7. This is for a one-
22 story rear and side addition to an existing two-story
23 detached principal dwelling with a non-conforming side yard.

24 It's located in the R1-B zone at 4610 Verplanck Place,
25 Northwest, Square 1555, Lot 847.

1 BZA CHAIR POURCIAU: Thank you. I see we're joined
2 by Mr. Chavis, who is the agent for the applicant. Mr.
3 Chavis, thank you for being here. We'd like to offer 15
4 minutes for the full reading of the report by the applicant.
5 Are you prepared to enter your report now?

6 MR. CHAVIS: Yes, I am. Good morning. Thank you
7 so much. I believe I have -- the PowerPoint was sent over?

8 BZA CHAIR POURCIAU: Yes, Mr. Young will load that
9 up for you.

10 MR. CHAVIS: I apologize now; my sinuses decided to
11 have fun with me this morning, so if I sneeze or cough during
12 the middle of the presentation, I do apologize.

13 BZA CHAIR POURCIAU: We definitely understand.
14 Don't worry about it.

15 MR. CHAVIS: So, again, thank you, Chairperson and
16 members of the Board. My name's Antoine Chavis, and I'm
17 representing Hunter Lowe, the executor of the estate and
18 applicant for 4610 Verplanck Place, Northwest.

19 We're requesting a limited special exception to
20 continue the home's existing one-foot alley side yard
21 alignment for a one-story rear addition to the home. The
22 property will remain a detached single-family property. And
23 we also shared our plans and did some door-knocking with the
24 neighbors. And all the neighbors who responded provided
25 written statements confirming that they do not have any

1 opposition to the project itself.

2 Next slide, please. So, as you can see from the
3 property, the request that we're asking is pretty narrow.
4 Current zoning requires an eight-foot side yard. The house
5 currently has a one-foot side yard along that alley side of
6 the property. What we're asking is to simply extend the
7 existing wall plane toward the rear of the house that does
8 not move any closer to that property line. We're not asking
9 for any relief regarding height, rear yard, occupancy use --
10 occupancy limit or use, excuse me.

11 Next slide. So, you can see here from the proposed
12 addition, it's a pretty modest addition. Currently, the
13 kitchen is six foot -- six feet wide by ten feet in length.
14 And so, what we want to do is add an addition to expand that
15 kitchen so it becomes a little bit more functional for
16 today's use, including putting a main bathroom on that main
17 level. The addition itself is 11 feet, 6 inches in height.

18 So, it's very subordinate to the main structure,
19 which is a two-story home. The property remains, again, a
20 two-story detached single family. The proposed lot occupancy
21 is only 25 percent, so well below what the 40 percent matter-
22 of-right limit is. And the rear yard after the addition is
23 still approximately 51 feet.

24 Next slide, please. When it comes to light, air,
25 and privacy, we believe those findings are satisfied. Again,

1 the rear yard is 51 feet and followed by a 16-foot alleyway
2 to the rear before you even get to that next neighbor. On
3 the opposite side, there's substantial separation of more
4 than 13 feet from our neighbor. In addition to that, the
5 side where there is an alley, there's additional separation
6 between us and that neighbor. The house also currently has
7 existing five-foot-tall privacy fencing that will help keep
8 that -- the privacy of the neighbors and the windows that
9 would be added covered.

10 Again, we've shared these proposed plans with
11 neighbors throughout the area. We've gotten written supports
12 or response. The family -- Hunter Lowe's family that reside
13 in the home, they've been in the home for over 50 years at
14 this point, so they're very familiar with the neighborhood
15 and the neighbors themselves.

16 Next slide, please. You can see here the addition
17 itself is very much in character with the home. We're going
18 to be using like materials, siding, to make sure that the
19 home really -- it complements the home versus try to
20 overpower what existed. We are not doing any changes to the
21 front facade at all. This is all a rear addition. And we
22 just feel that, the way that they've designed it, we really
23 just feel that it blends in with the neighborhood. A lot of
24 neighbors in the neighbor have done this exact same addition
25 to the property to make it more useful for today's needs.

1 Next slide, please. So, the independent agency
2 review and community support application, in its August 28th
3 report, Office of Planning did recommend approval for it, as
4 well as DDOT has indicated no there's no objection for that.
5 And, again, the neighbors that saw the proposed plans
6 provided a written statement that they did not oppose the
7 project itself.

8 Next slide. For those reasons, including the
9 agency review and the written statements of non-opposition of
10 the nearby neighbors, we just respectfully ask that the Board
11 approve our special exception. And I'm happy to answer any
12 questions that you might have.

13 BZA CHAIR POURCIAU: Thank you so much. Thank you
14 for that concise presentation. I'd like to first go to Vice
15 Chair Goldstein to see if he has any questions.

16 VICE CHAIR GOLDSTEIN: Thank you. And I think that
17 was a really helpful presentation. So, thank you for walking
18 us through that. I do have a question or two about
19 particular slides, and I'm wondering if Mr. Young might be
20 able to bring back up the presentation, and I can just ask
21 you a question or two about it.

22 MR. CHAVIS: Absolutely.

23 VICE CHAIR GOLDSTEIN: Thank you. Would you mind
24 starting on -- I'm just trying to get a little bit better
25 sense of the project. Do you mind starting on Slide 2, Mr.

1 Young? So, looking at this plat --

2 MR. CHAVIS: Correct.

3 VICE CHAIR GOLDSTEIN: -- could you just confirm
4 for me, I thought north would be on the top. Is that wrong?

5 MR. CHAVIS: I believe that is. Sorry. That is --
6 I'm not exactly sure how that got there like that.

7 VICE CHAIR GOLDSTEIN: Okay.

8 MR. CHAVIS: Yeah, sorry about that. I don't know
9 exact -- that's clearly an error when we had the slides put
10 together. But, essentially, you can see the addition is to
11 the rear of the home, in that red area, and then there's a
12 section of red that we'll be extending off of an existing
13 covered patio area. That's already existing.

14 VICE CHAIR GOLDSTEIN: Okay. Would you mind just
15 walking to your elevations and just kind of -- I don't know,
16 you may not be able to use any kind of pointing device, but
17 I'd be a little bit curious, could you just describe what the
18 new is --

19 MR. CHAVIS: Yes.

20 VICE CHAIR GOLDSTEIN: -- on the elevations?
21 If you could sort of walk down to that slide, Mr. Young, if
22 possible. I'm thinking of the elevations in particular.
23 Yeah. Thank you.

24 MR. CHAVIS: I can't see. Can you scroll to the
25 right a little bit? There you go. So, if you see the side

1 elevation on the right, the area where you have the window
2 that extends off the rear of the home, that's the new
3 addition itself.

4 So, everything -- if you see the side elevations
5 currently, to the pictures to the right, the right one is
6 with the new addition. The one to the left is what it
7 currently looks like in that -- those pictures set that's to
8 the right. And then you have the rear elevation -- a rear
9 elevation of what it currently looks like, and then with the
10 addition added out. So, one of the windows are being removed
11 and it won't exist anymore, and then you'll have the two
12 windows that will be the new windows looking out to the
13 backyard.

14 VICE CHAIR GOLDSTEIN: Okay. And, I'm sorry, I may
15 just need you to unpack that a little bit. Which is the side
16 with the side yard relief relative to the new addition?

17 MR. CHAVIS: So, if you look at the first sets of
18 pictures, so where the rear elevations, the right side where
19 you have the chimney, is where we're asking for the relief.

20 VICE CHAIR GOLDSTEIN: Okay. And then on the
21 right-hand side, showing the new addition, where is the
22 relief?

23 MR. CHAVIS: The relief on that side would be the
24 opposite side of the home. So, this would be a side view
25 from the neighbor.

1 VICE CHAIR GOLDSTEIN: Okay. I mean, I'm just
2 struggling a little to see it in these. I wish it was
3 presented a little bit more clearly, although I don't
4 necessarily see anything problematic about it. So, just to
5 follow up, the addition itself, it's a one-story extension?

6 MR. CHAVIS: Correct.

7 VICE CHAIR GOLDSTEIN: Or have I got that?

8 MR. CHAVIS: You're correct.

9 VICE CHAIR GOLDSTEIN: That's -- okay.

10 MR. CHAVIS: It's a one-story extension on a two-
11 story home. Correct.

12 VICE CHAIR GOLDSTEIN: Okay. Thank you.

13 BZA CHAIR POURCIAU: Paul, could I jump in for a
14 second?

15 VICE CHAIR GOLDSTEIN: Yeah.

16 BZA CHAIR POURCIAU: Just, it looks a little like a
17 little bit of a wraparound, though. Is that true?

18 (Simultaneous speaking.)

19 MR. CHAVIS: I'm sorry. Go ahead.

20 BZA CHAIR POURCIAU: No, you go ahead.

21 MR. CHAVIS: So, as you see, if you look at the
22 first two sets of picture on the left, there's an existing
23 porch and area that's built above it. What's happening on
24 that wraparound is there's being a mudroom created there.
25 That way, it gives you access to the yard as well as that

1 mudroom area that enters into that kitchen area.

2 If we go to the next -- I believe it's the next
3 slide -- you see the interior plans. Go back. Sorry, wrong
4 slide. If you go to Slide 3, please. So, you can see this
5 area where the mudroom exists, where that bathroom exists,
6 and the new kitchen area that's all being created there.

7 Currently, the home ends where you see the dotted
8 line going into that new area from that main living room
9 area. The home ends there, currently, if you drew a straight
10 line across.

11 VICE CHAIR GOLDSTEIN: What's north in this layout?

12 MR. CHAVIS: So, north would be down -- the front
13 door would be north, so it'd be the lower part of the
14 picture.

15 VICE CHAIR GOLDSTEIN: Okay, and the alley would be
16 sort of to the left of the picture?

17 MR. CHAVIS: Correct. Where you see the chimney
18 there, that is the alley, and that is the side that we're
19 asking for the relief.

20 VICE CHAIR GOLDSTEIN: Okay. Okay. Well, I thank
21 you. And I'm sorry, Madam Chair, if you had more questions
22 along the lines of that. I just want to make sure, you know,
23 that it's really clear, if we're approving this, what exactly
24 we're approving, so that when you get to permitting, it's as
25 clear as possible for them.

1 MR. CHAVIS: Well, we've actually --

2 (Simultaneous speaking.)

3 MR. CHAVIS: Oh, sorry. We've gone through the
4 entire permitting process. Building has approved it,
5 mechanical -- all the mechanicals. The only thing that was
6 holding this up was zoning.

7 VICE CHAIR GOLDSTEIN: Okay. And that's right, it
8 was a referral from zoning --

9 MR. CHAVIS: Correct.

10 VICE CHAIR GOLDSTEIN: -- that sent you here. Is
11 that right? Okay. Thank you.

12 BZA CHAIR POURCIAU: So, on this diagram that we're
13 looking at now, the wall that requires the special exception
14 is all the way to the left.

15 MR. CHAVIS: That is correct.

16 BZA CHAIR POURCIAU: Is that correct?

17 MR. CHAVIS: That's correct.

18 BZA CHAIR POURCIAU: Okay. All right. Thank you.
19 All right. Thank you, Mr. Goldstein.

20 Board Member Wells, do you have any questions for
21 the applicant?

22 MEMBER WELLS: No. I'm glad we had that discussion
23 to clear up exactly what was being extended here, because it
24 was a bit confusing from the drawings. Thank you.

25 BZA CHAIR POURCIAU: Thank you. Chairman Hood, do

1 you have any questions?

2 ZC CHAIR HOOD: No, I just want to thank the
3 applicant, Mr. Chavis, for his presentation. Thank you.

4 MR. CHAVIS: Thank you.

5 BZA CHAIR POURCIAU: Very good. Thank you, Mr.
6 Chavis.

7 We'll now go to the Office of Planning. We have
8 Mr. Mitchum on the line. Would you please give your report?

9 MR. MITCHUM: Oh, sorry. I don't know what's going
10 on with my camera. Let me switch real quick. Sorry about
11 that. Let's try a different one.

12 BZA CHAIR POURCIAU: It's bright.

13 MR. MITCHUM: I know. Okay. Thank you, Madam
14 Chair, members of the Board. My name is Joshua Mitchum with
15 the Office of Planning. We remain in support of the
16 application and are willing to rest on our report in the
17 record. And I'm happy to answer any questions that you have.
18 Thank you.

19 BZA CHAIR POURCIAU: Thank you so much for that
20 brief report. Did you receive a response from the ANC?

21 MR. MITCHUM: So, the ANC response came after the
22 filing of our report. It looks like it's Exhibit 24, in
23 which they state that they're not in support or denial of the
24 project, but they just haven't received any applicant -- the
25 applicant has not provided any correspondence about

1 neighborhood support for it, so they didn't -- they offered
2 essentially a neutral position.

3 BZA CHAIR POURCIAU: Mr. Chavis, was there a reason
4 you didn't --

5 MR. CHAVIS: We actually emailed the ANC the exact
6 forms. We were called, and I can't remember the person's
7 name that we spoke with, we were required -- that's why we
8 went out to the neighborhood to get the signed forms of non-
9 opposition. And we sent those findings -- I can exactly give
10 you the date here, one moment -- to the ANC, and I have a
11 record that we did send all the emails and the written
12 statements over to them. So, let me check.

13 Yes, on Friday, August 7th, at 2026, at 9:15 a.m.,
14 I received a call from Ms. Ali and sent her the letters of
15 statement at that point.

16 BZA CHAIR POURCIAU: Thank you for that. Do Board
17 members have questions for Mr. Mitchum?

18 VICE CHAIR GOLDSTEIN: Sorry, just one quick
19 question. Thank you, Mr. Mitchum, as always, for your
20 presentation and reports. I saw a reference to DDOT
21 expressing to you no objection, but I didn't see anything in
22 the record. I just wanted to clarify they had reached out to
23 you independently of any submission to the Board.

24 MR. MITCHUM: Yes. That was email correspondence.
25 Yes.

1 VICE CHAIR GOLDSTEIN: Okay. Thank you.

2 BZA CHAIR POURCIAU: Ms. Wells or Mr. Hood, do you
3 have any questions for OP?

4 MEMBER WELLS: No.

5 ZC CHAIR HOOD: Not for OP. No.

6 BZA CHAIR POURCIAU: Okay. All right. Thank you
7 so much. Thank you, Mr. Mitchum. We will -- there are no
8 other District agencies here to testify, and the ANC is not
9 present. And there are no parties for this application
10 either in support or opposition, and no individuals have come
11 forward.

12 And so, with that, I would like to ask the
13 applicant if he would like to offer a closing statement at
14 this time.

15 MR. CHAVIS: Again, I'd just like to thank you all
16 for your time, Madam Chairperson and members of the Board, to
17 hear our hearing. We just ask for this request to be
18 approved so we can hopefully make the home more useful for
19 today's standards.

20 Also, I want to say, Mr. Reed in the office is just
21 amazing. He's helped so much in helping with all the
22 questions that we had. So, I just wanted to say thank you to
23 that team as well.

24 BZA CHAIR POURCIAU: Thank you for that. We almost
25 didn't hear your case today because there were some

1 complications with the submittal. So, thank you for
2 straightening that out quickly.

3 All right. For me, this application looks full.
4 The side yard request is in keeping with what exists there,
5 and it seems to be in the neighborhood. I will be in -- I'm
6 looking to vote in support of this application.

7 Is there any other discussion or questions for the
8 applicant before we close the record? Mr. Goldstein?

9 VICE CHAIR GOLDSTEIN: No further questions. Thank
10 you.

11 BZA CHAIR POURCIAU: Ms. Wells or Mr. Hood, would
12 you like to offer anything else in the record before we go to
13 deliberations?

14 MEMBER WELLS: I just wanted to acknowledge that
15 the ANC, you know, did send a letter that had some
16 considerations in there for the applicant for, you know, what
17 they would like to see moving forward. So, I just want to
18 have that on record that they did send that.

19 MR. CHAVIS: Yes. I believe it -- they wanted us
20 to do a rain barrel, and we agreed to that. Absolutely.

21 BZA CHAIR POURCIAU: Excellent. Thank you for
22 that. All right. The Board is ready to deliberate. Please
23 close the hearing and the record. Witnesses will be excused.

24 Thank you again, Mr. Chavis. And then we will deliberate,
25 discuss, and hopefully vote on the case.

1 (Pause.)

2 BZA CHAIR POURCIAU: Okay, thank you all. Mr.
3 Goldstein, I'll start with you for deliberations. What would
4 you like to add for the record?

5 VICE CHAIR GOLDSTEIN: I think that you put it
6 well. The record is full that the applicant has met their
7 burden for the special exception for the side yard. And I
8 don't have much more to add on that.

9 BZA CHAIR POURCIAU: Thank you. Ms. Well, anything
10 in addition?

11 MEMBER WELLS: Nothing in addition.

12 BZA CHAIR POURCIAU: Chairman Hood?

13 ZC CHAIR HOOD: No, I don't have anything to add.
14 I would support the record in this case. For me, it's de
15 minimis. So I will be voting in support of this application.
16 Thank you.

17 BZA CHAIR POURCIAU: Okay. Would someone like to
18 offer a motion?

19 VICE CHAIR GOLDSTEIN: I can offer the motion to
20 approve Application 21481 by Hunter Lowe, estate executor,
21 for the relief as captioned and read by the Secretary.

22 ZC CHAIR HOOD: I second the motion.

23 BZA CHAIR POURCIAU: Thank you, Chairman Hood.
24 Madam Secretary, would you please call the vote?

25 MS. MEHLERT: Please respond to the Vice Chair's

1 motion to approve the application. Chair Pourciau?

2 BZA CHAIR POURCIAU: Yes.

3 MS. MEHLERT: Vice Chair Goldstein?

4 VICE CHAIR GOLDSTEIN: Yes.

5 MS. MEHLERT: Board Member Wells?

6 MEMBER WELLS: Yes.

7 MS. MEHLERT: Chairman Hood?

8 ZC CHAIR HOOD: Yes.

9 MS. MEHLERT: Staff would record the vote as 4 to 0
10 to 1 to approve Application No. 21481 on the motion made by
11 Vice Chair Goldstein and seconded by Chairman Hood.

12 BZA CHAIR POURCIAU: Excellent. Thank you. And
13 we'll move on to our last case, No. 21485. Ms. Mehlert,
14 would you please read it into the record?

15 MS. MEHLERT: Next is Application No. 21485 of
16 Capitol Hill Hotel Owner 1, LLC. This is a self-certified
17 application pursuant to Subtitle X, Section 1002, for a use
18 variance from Subtitle U, Section 301.1, to allow a lodging
19 use, and pursuant to Subtitle X, Section 901.2, for a special
20 exception under Subtitle C, Section 909.2, of the loading
21 requirements of Subtitle C, Section 901.1.

22 This is for a lodging use in two existing detached
23 buildings separated by a private alley subject to a public
24 access easement. It's located in RF-1/CAP zone at 200-220 C
25 Street, Southeast, Square 762, Lot 841.

1 BZA CHAIR POURCIAU: Thank you so much. I see
2 we're joined by Mr. DeBear, the agent for the applicant.
3 Welcome. We like to allow 15 minutes for the full
4 presentation by the applicant. Are you ready to present, Mr.
5 DeBear?

6 MR. DEBEAR: I am, Chair. Thank you very much.
7 Again, this is Eric DeBear from Cozen O'Connor, agent on
8 behalf of the applicant. If Mr. Young could -- oh, he beat
9 me to it there. I have a, hopefully, brief presentation.

10 If you could move to the next slide. This case
11 concerns the Capitol Hill Hotel, which is at 200-220 C
12 Street, Southeast. Here is a picture of the zoning map.
13 It's in the RF-1 zone.

14 Next slide, please. So, to give the Board a little
15 bit of a background on the property, as I mentioned, it's at
16 the -- it's on C Street at the corner of 2nd and C Street.
17 It is actually two separate buildings, one six-story and one
18 five-story.

19 You can see an image at the corner there on the
20 bottom right as well of the existing hotel. It's 153 rooms
21 with 12 parking spaces and no formal loading berth, with
22 loading occurring in the private alley down the middle of the
23 site there.

24 This is in the Capitol Hill neighborhood, of
25 course. It is -- you can see, on the image at the top right,

1 the Library of Congress directly across the street. And this
2 is obviously, then, close by to many government buildings,
3 like the U.S. Capitol and the Supreme Court.

4 Next slide, please. Here's a -- just to give you a
5 better idea of the site layout. You can see the two
6 buildings, one six-story, one five-story, and then what's
7 labeled as driveway, but is actually a private alley down the
8 middle of the site.

9 Next slide, please. So, really the crux of this
10 case concerns this unique history of the Capitol Hill Hotel.

11 The buildings were originally constructed in the 1950s and
12 issued certificates of occupancy, that you can see on the
13 right-hand side there, for apartment house use. It began
14 operation as a transient hotel-style use in at least the
15 early 1980s. And this is relevant because, prior to 1989,
16 the zoning regulations had no minimum length of stay
17 associated with an apartment house use with the definition of
18 that.

19 So then, in 1989, under Zoning Commission Case 87-
20 31, the Commission actually enacted a text amendment to
21 actually define apartments with a minimum length of stay.
22 So, in 1989, it became, essentially, a legal non-conforming
23 use because of the transient nature of operations up to that
24 point. The owner at that time obtained a letter from the
25 Zoning Administrator confirming that legal non-conforming

1 use. That Zoning Administrator confirmation has since been
2 reaffirmed in both 2021 and most recently in 2026.

3 Next slide, please. Here is a snip of the original
4 1993 ZA decision. You can see in the second sentence there,
5 I reviewed the contents of your letter and agree with your
6 findings that the buildings at 200-220 C Street have the
7 right to continue as an apartment house use without
8 limitation to the period of rental. So, at that time, it
9 became a legal non-conforming use, essentially an apartment
10 house use that could operate as a hotel.

11 Next slide, please. The proposal now. Our client
12 purchased this hotel in 2025 and is seeking to correct this
13 long-standing deviation between the formal zoning use and the
14 certificate of occupancy. There will be no changes to the
15 hotel as a result of this application. There's no
16 construction being proposed. There will be no operational
17 changes, no increase to room count. It is essentially,
18 again, limited to correcting and obtaining a proper
19 certificate of occupancy for the decades-old hotel use.
20 Unfortunately, that requires a use variance, which is why
21 we're here before you today. A lodging use is not permitted
22 in the RF-1 zone, so a use variance is required.

23 In connection with the change to the use formally,
24 the loading requirement would go to two loading spaces under
25 the current regs for a hotel use. So, we would need a

1 special exception as well from the loading requirements.

2 Next slide, please. To give a brief synopsis of
3 community/agency outreach, the ANC 6B is in support, and that
4 letter is in the record at Exhibit 17. The Office of
5 Planning supports both areas of relief and DDOT has no
6 objection.

7 Next slide, please. To go through the legal use
8 variance case, the exceptional condition of this use variance
9 is the unique zoning history that I just outlined a few
10 moments ago. Again, the hotel has operated as a transient
11 use for over 40 years and only became legal non-conforming in
12 1989. There is plenty of case law that supports events
13 extraneous to the land, so not necessarily due to the land or
14 the building itself, to establish an exceptional condition.

15 Next slide, please. Then, moving to undue
16 hardship. This really comes down to a number of factors that
17 creates, really, confusion and uncertainty for the hotel to
18 operate. As I note, a legal gray area. So, really, the
19 first one is, there are many employment and operational laws
20 that are simply different for hotels and apartments. And
21 this creates uncertainty because it is unclear what applies
22 to this hotel that is formally recognized as an apartment.

23 For employees, this can affect workplace policies,
24 job classifications, and compliance planning. For the hotel,
25 this certainly increases legal risk related to that

1 uncertainty and makes employee recruitment and retention more
2 difficult.

3 From a liability perspective, hotels operate under
4 a substantially higher duty of care to employees and guests.

5 It is considered to be a public place as opposed to an
6 apartment, and that's how the law views it. So, this forces
7 insurers to reconcile the differences between the hotel use
8 and the formal zoning classification of apartment. This
9 inevitably leads to a reduced number of potential insurance
10 carriers, which, again, also result in increases to premium
11 and potential limits on coverage or other exclusions.

12 Next slide, please. Continuing with the undue
13 hardship. Many hotels are operated under either management
14 or franchising deals. This divergence between the use and
15 the zoning classification creates uncertainty for potential
16 management or franchise opportunities. Again, it raises
17 questions related to how this hotel can operate, whether it
18 can meet that company's brand standards, and certainly
19 related to, then, guest services and compliance. This,
20 similar to insurers, limits the applicant's ability to
21 attract ordinary hotel management or franchise opportunities
22 that would be afforded to any standard hotel.

23 From a licensing perspective, the building, similar
24 to its certificate of occupancy, has actually been operating
25 as a housing license -- as a housing business, I should say.

1 This certainly leads to regulatory uncertainty with
2 inspection requirements and other regulatory compliance.

3 From an investment and borrowing perspective, the
4 hospitality industry is already facing challenges with
5 financing. This divergence of use and zoning classification
6 just, again, increases uncertainty and risk. And then that
7 leads to, certainly, narrowing the pool of lenders and
8 investors, and that results in potentially less favorable
9 loan terms.

10 Again, lenders and investors look at a lot of
11 things when determining whether to invest in a property, and
12 this just creates additional questions and risk for those
13 investment and borrowing opportunities that could be used to
14 improve the hotel from a functionality perspective or a
15 renovation perspective.

16 Next slide, please. And, finally, the idea of
17 reverting to a compliant non-lodging use. Obviously, you
18 have two large buildings that have 153 rooms in them
19 currently that have been used as a hotel room for four
20 decades. So, really, the only potential use would be an
21 actual apartment use, but that would require the installation
22 of full cooking facilities in all 153 rooms. Some of the
23 rooms have a wet bar, and we have an image in the record of
24 that wet bar, but those are not full cooking facilities,
25 which would be required for an apartment use.

1 It would also be wholly unreasonable to incur the
2 expense, and time, and challenge of adding cooking facilities
3 when this property could just continue under the current
4 legal non-conforming use. But, again, that goes back to the
5 other hardships that it has faced if it continues to do so.

6 Next slide, please. In terms of no substantial
7 detriment, I don't think -- you know, we certainly recognize
8 that a use variance is the highest level of relief that this
9 Board sees. However, of use variance cases, this is a
10 relatively de minimis amount of relief. And I say that
11 because this is not seeking to introduce a new non-conforming
12 use. This is not even seeking to expand the existing legal
13 non-conforming use. So, this is just, again, correcting the
14 use classification that has resulted in hardship for our
15 client after they purchased the property a year ago.

16 Again, in terms of no substantial detriment, we
17 have ANC support, and that's likely related to the fact that
18 there will be no exterior changes here, there will be no
19 construction, there will be no increase to the number of
20 rooms. And we believe that means that there will be no
21 substantial detriment to the public good.

22 And, finally, I did want to note this will result
23 in a reclassification of this property for taxation purposes,
24 real estate taxation. So, that will benefit the District as
25 a whole by increasing tax revenue, because the commercial

1 rate is higher than the residential rate that it's currently
2 taxed under.

3 Next slide, please. I want to briefly just go
4 through the loading relief. As I mentioned earlier, when a
5 property changes use categories, you need to provide loading
6 in accordance with whatever that new use category requires if
7 it exceeds the loading requirement of the prior use category.
8 So, the prior use category of an apartment use under ZR-58
9 had a loading requirement of one. The new lodging use has a
10 loading requirement of two. There has been no loading at the
11 property, and there will continue to be no loading at the
12 property, but because of that increase in the requirement,
13 one loading berth is needed for relief.

14 Next slide, please. Just going through the
15 standard. Again, as I mentioned, although technically a
16 change of use, the operations of the hotel will stay the
17 same. It has used this private alley between the two
18 buildings for loading activities and will continue to do so.
19 There will be no adverse impacts because this hotel space is
20 primarily limited to guest rooms and a small lobby common
21 area. So, this is not the type of hotel that will have large
22 events, and therefore the loading needs will be relatively
23 limited. And, again, of course, the past operations of the
24 hotel are proof that the private alley is sufficient to meet
25 those needs. And, of course, DDOT is supportive of the

1 relief.

2 And, finally, meeting one of the special conditions
3 under C 909.2, for these reasons, the use will generate lower
4 loading demand than the minimum requirement, again, related
5 to the layout of the hotel and the operations not changing.

6 Next slide, please. And, with that, I will close
7 my presentation in chief, and I am open to any questions the
8 Board might have. Thank you for your time.

9 BZA CHAIR POURCIAU: Thank you, Mr. DeBear. That
10 was a really strong presentation. I had several questions
11 that you answered very clearly, especially was why is this
12 coming to us now? And I appreciated new ownership cleaning
13 the record up for the property. So, thank you for that.

14 Vice Chair Goldstein, do you have any questions for
15 the applicant?

16 VICE CHAIR GOLDSTEIN: I have a few. Thank you
17 very much for the presentation. One thing that I was curious
18 about, you referenced a 2026 reaffirmation of the previous
19 interpretation. I didn't see that in the record. Was that
20 not entered into the record?

21 MR. DEBEAR: It's not in the record. I think,
22 while I did make mention of it, and we have it and can put it
23 into the record, it says the exact same thing as the 2021.
24 It's just because the -- again, our client is a new owner, so
25 we went to the Zoning Administrator now before -- or while we

1 were in the process of filing this application, and just got
2 confirmation that the Zoning Administrator would honor the
3 2021 and 1993 determination.

4 So, if it needs to be put into the record, we're
5 happy to do so. But, again, given the timing of when we were
6 filing and when the confirmation was issued, we just did not.

7 VICE CHAIR GOLDSTEIN: Okay. But your testimony is
8 it just reaffirmed the previous interpretation --

9 MR. DEBEAR: Correct.

10 VICE CHAIR GOLDSTEIN: -- from 2021 as continuing.

11 I'm just curious, just more generally. So, Zoning
12 Commission Case 87-31 was intended to better define the
13 classification of these uses and created non-conformities for
14 hotels, I'm guessing that were zoned residentially, had C of
15 O's as apartment houses, but were being operated like hotels.

16 What's your understanding of the intent? Was 87-31
17 trying to convert, like, your subject property, among others,
18 to residential use and kind of a corollary to that to typical
19 residential use more than a month?

20 And as a secondary question to that, are you
21 suggesting that, since this has operated in this way for,
22 like, 40 years, that there's something different about trying
23 to bring this property into conformity?

24 MR. DEBEAR: I mean, obviously, I was not around
25 when that zoning case was decided in 1987, or at least not

1 practicing.

2 VICE CHAIR GOLDSTEIN: I wasn't aware either.

3 (Laughter.)

4 MR. DEBEAR: I think it was intended to limit the
5 number of properties in residential zones that could
6 otherwise have been used for apartments and that had been
7 being used for hotels. So, definitely a similar situation to
8 what we have here. But I think, like any other change, while
9 something is operating as legal, when it changes, it can
10 become legal non-conforming. So, I can't speak to exactly
11 how many situations were like that here, but I think, you
12 know, a Zoning Commission text amendment both looks to the
13 past but also to the future. And so, I don't think it was
14 necessarily to bring existing uses into compliance because,
15 again, they could all be not legal non-conforming, but was to
16 make sure that, in the future, that opportunity was more
17 limited. And then hotels would be restricted to mixed use
18 and higher density zones.

19 VICE CHAIR GOLDSTEIN: Okay. And you're asking us,
20 here, to legitimize that previous use that became non-
21 conforming for the reasons you've presented, the sort of
22 confluence of a number of reasons?

23 MR. DEBEAR: Correct. And I should just add, Vice
24 Chair, that, I mean, I'm not aware of another property that's
25 asked for this relief. So, again, I don't -- I can't testify

1 to being knowledgeable of every single case that's ever been
2 filed, but I think this is probably a -- for a hotel of this
3 size, it is a relatively -- it is a unique, relatively few,
4 if any, other hotels of this size are operating under a C of
5 0, you know, 40 years later for an apartment.

6 VICE CHAIR GOLDSTEIN: Yeah. No, I think that's
7 helpful. You know, one other aspect of this case, sometimes
8 zoning language can be really tricky in that it's your
9 apartment house or apartment building, but the time, you're
10 not subject to the length of time. It's this sort of
11 language use. We all kind of know it means you're an inn or
12 a hotel, but we can't say the use is a hotel. It's still an
13 apartment house, which doesn't have the requirement of how
14 long you have to live there.

15 MR. DEBEAR: Right.

16 VICE CHAIR GOLDSTEIN: It's a strange language
17 world.

18 MR. DEBEAR: It is. And, again, that just goes
19 back to the uniqueness of a case like this. And, you know,
20 again, that leads to these challenges and hardships that I've
21 laid out with operating a large hotel. And, you know, again,
22 I think -- one thing I mentioned, again, is the de minimis
23 nature of this, that even though it's a use variance,
24 nothing's going to change. It is just legitimizing,
25 essentially, the hotel use that's been in effect for 40-plus

1 years.

2 VICE CHAIR GOLDSTEIN: Mm-hmm. And it's your
3 understanding that it's continuously operated in this hotel
4 manner over that time?

5 MR. DEBEAR: Yeah. My understanding is it
6 certainly -- we know it predates 1989 because we have the
7 1993 determination. So, at a minimum, you know, since the
8 mid-1980s. But from my understanding, it dates back prior to
9 that. And you can see that in what the Zoning Administrator
10 agreed to back in 1993, which was over 30 years ago as well.

11 VICE CHAIR GOLDSTEIN: Okay. And my last question
12 is just about -- I just want -- could you just expand a
13 little bit more? The client could, in theory, put kitchens
14 into this building, in each unit, and make them into
15 apartments. But you're testifying -- and I think there was
16 something -- I can't remember if there was more evidence than
17 that in the record, but that would be prohibitively
18 challenging or expensive or --

19 MR. DEBEAR: Yeah, because it's only --

20 VICE CHAIR GOLDSTEIN: Could you just explain that
21 a little bit more?

22 MR. DEBEAR: Yeah. So, there's really two factors
23 here. Because there's only wet bars in some of the rooms,
24 even for those wet bars, they do not have utility connections
25 for like a gas or electric stove. So, utility connections

1 would need to be installed, along with the hardware
2 associated with a full kitchen. That would be prohibitively
3 expensive, especially in light of the fact that we could
4 continue to operate on as a legal non-conforming use.

5 It is obviously a hardship, as I have laid out, to
6 do that, but that would really be what they would do, you
7 know, if we had not come to you in the first place. And so,
8 there's just -- it would be nonsensical to convert it to an
9 apartment when it's been a hotel and they could continue to
10 operate under this -- in this kind of odd, unique zoning
11 framework of being an apartment house under the C of O.

12 VICE CHAIR GOLDSTEIN: Thank you very much.

13 BZA CHAIR POURCIAU: Thank you, Vice Chair. Board
14 Member Wells, do you have questions for the applicant?

15 MEMBER WELLS: I do have a question related to
16 zoning. I heard you say that it is a private alley -- not
17 zoning, sorry, loading. I heard you say it's a private alley
18 where loading occurs. Is that only shared with the hotel?
19 Is it shared with any other property?

20 MR. DEBEAR: So, there's an easement. It's a
21 private alley, so it's part of the property. There is an
22 easement for public access over that private alley to get to
23 the rest of the alley network from C Street. However, the
24 hotel has operated by -- the hotel has used it for loading
25 for years and years now, and there's been no issue with

1 blocking the alley in terms of defeating that public access
2 easement.

3 So, there's never been, to my knowledge, a question
4 of that, and certainly the community didn't raise any issues
5 or questions about that. So, that's really the legal
6 standing of the alley, but it's part of the Capitol Hill
7 Hotel property.

8 MEMBER WELLS: Okay. And did DDOT -- I thought I
9 saw something mentioned about a loading plan in one of these
10 documents. Did DDOT ask for one or revisions to one? Or
11 they just approved it as is, I think --

12 MR. DEBEAR: They just approved it. I'm looking at
13 the DDOT report right now. They said -- yeah, they did not
14 require a loading plan. They relied on the existing use of
15 the alley being part of our property.

16 Again, I don't think the same would be said if it
17 was a fully public alley, but they relied on that space as
18 usable space to meet the loading needs of the hotel.

19 MEMBER WELLS: Okay. And as far as the other
20 properties that share -- that have access through easement,
21 you testified that there have been no issues with that. Did
22 you, I guess, reach out to the ANC or speak to the different
23 property owners individually to support that?

24 MR. DEBEAR: Yeah, I mean, we met with the ANC, and
25 they didn't raise any questions about the use of that alley.

1 MEMBER WELLS: Okay. All right. That's all I had.
2 Thank you.

3 BZA CHAIR POURCIAU: Thank you, Ms. Wells. Mr.
4 Hood, do you have any questions for the applicant?

5 ZC CHAIR HOOD: I appreciate Board Member Wells
6 bringing up the ANC. I know this ANC, and a lot of them are
7 in the city are very in tune with D.C., and I don't want to
8 get in trouble naming ANCs. So -- but I will tell you that
9 when I didn't see the concern, I see the letter of support,
10 it showed me that Mr. DeBear and his client have done their
11 due diligence.

12 And, Mr. DeBear, I want you to know that I've read
13 through this application, and I get it. I get it. So, I
14 don't have any questions. So, thank you, Madam Chair.

15 BZA CHAIR POURCIAU: Thank you. I did see that the
16 architect of the Capitol weighed in in support of the
17 application and that is -- that was a good sign. And so, I
18 would now like to go to Ms. Myers from the Office of Planning
19 to submit her report. Thank you for joining, Ms. Myers.

20 MS. MYERS: Thank you. Good afternoon,
21 Commissioners. Crystal Myers, Office of Planning. Nice to
22 be back again with you guys. Anyway, Office of Planning is
23 in support of both areas of relief, and we can stand on the
24 record of our staff report, but of course, here for
25 questions. Thank you.

1 BZA CHAIR POURCIAU: Excellent. Are there
2 questions from the Board for Office of Planning? Mr.
3 Goldstein? No. Ms. Wells? There are no questions right
4 now. Thank you for your report.

5 I will proceed to -- there are no other District
6 agencies that are present to give a report. The ANC is not
7 present, but they have weighed in on the application. There
8 are no parties that have been established either in support
9 or opposition.

10 We do have one witness, Ms. West, who is
11 undeclared. Ms. West, are you online now and ready to
12 present? I see a box for Ms. West, but it looks like she's
13 muted and her camera is off. Mr. Young, can you assist Ms.
14 West?

15 MR. YOUNG: Yeah. She just needs to find the
16 unmute button at the bottom of her screen, and if she is
17 having trouble with that, she should call the hotline number.

18 BZA CHAIR POURCIAU: The hotline number is 202-727-
19 5471.

20 MR. YOUNG: Staff is reaching out to her right now,
21 so --

22 BZA CHAIR POURCIAU: Thank you.

23 MR. YOUNG: -- we should get her set up in a minute
24 or two.

25 BZA CHAIR POURCIAU: Thank you so much.

1 MS. WEST: Hello? Yes. Can you hear me now?

2 BZA CHAIR POURCIAU: Yes, we hear you. Thank you,
3 Ms. West.

4 MS. WEST: Thank you. I apologize. I've been
5 pressing unmute, but for some reason it wasn't working.

6 BZA CHAIR POURCIAU: All right.

7 MS. WEST: Yes.

8 BZA CHAIR POURCIAU: Let me just say, before you
9 start, you have three minutes to present. If you can give
10 your name and address for the record, and we'd love to hear
11 your testimony.

12 MS. WEST: Yes. And you can hear me on this now?

13 BZA CHAIR POURCIAU: Yes. We hear you clearly.

14 MS. WEST: Oh, okay. Okay. So basically, we
15 reside at 230 2nd Street, and we had two concerns. One is
16 the access -- the public access to the alley and that that
17 remains open, and it sounds like that will because,
18 obviously, it's very important for us to access our garages,
19 for trash pickup, fire issues, whatever. So, that's -- I
20 just want to emphasize the public easement and access through
21 the C Street, private alley is really important.

22 And again, we don't object to the project, but we
23 have one major concern with the hotel, and that is their
24 sanitation practices and their trash management practices.

25 As you may be aware, that alley is very close to a number of

1 restaurants, and whenever I have seen their trash room the --
2 basically it's overflowing with trash. There's trash on the
3 floor. The door is like -- it's not sealed, so you can see
4 where rodents are able to access it. So -- and there are
5 many rats in the alley. So, we feel like that they're not
6 operating up to code at, you know, at all on that issue. And
7 for -- you can imagine for 153 units, the amount of trash
8 that's created. I don't even think they have a trash
9 compactor, but that's just a serious concern that we've had.

10 And, you know, I've tried to engage the Department
11 of Health, but if they can -- I don't know if this can be
12 conditioned on their, you know, having, you know, being up to
13 code with the sanitation issues because, you know, it's a
14 major -- you know, the rats get into our homes and, which
15 they have, and it's hugely problematic.

16 So that's my -- they've been fine neighbors
17 otherwise, but that has been a consistent problem with the
18 hotel. And they don't even have the capacity to handle the
19 trash for the 153 units, and whenever I've seen -- yeah.

20 Thank you.

21 BZA CHAIR POURCIAU: Thank you, Ms. West. Mr.
22 DeBear, could you respond, please? You're on mute.

23 MR. DEBEAR: Apologies, I muted myself while we
24 were waiting. So, I'm sure my happy -- my client would be
25 happy to agree to any condition related to trash management

1 that the Board would see fit. This is a new issue that was
2 raised. We didn't hear anything from the ANC.

3 But again, I think that they'd be happy to do
4 whatever is necessary to make sure that they are good
5 neighbors and are following the correct sanitation disposal
6 procedures that the city may have.

7 MS. WEST: We would greatly appreciate -- the first
8 we saw or heard of this was the notice that was on the hotel.

9 So, we weren't approached. We weren't contacted. And our
10 neighbors at 230 -- 228 weren't contacted either. I mean,
11 this was the first -- again, maybe it was at an ANC, but
12 yeah.

13 BZA CHAIR POURCIAU: Okay, do -- let me go to
14 questions from the Board. I do want to pursue the
15 notification. If there's a notification concern, maybe staff
16 can look at that while we hear if there are any questions
17 from the Board for Ms. West. Vice Chair Goldstein?

18 VICE CHAIR GOLDSTEIN: Let me first -- I'd love to
19 just ask Mr. DeBear to respond to the public nature of the
20 alley remaining as such. I think you may have touched upon
21 it already in response to some questions, but I'm hoping
22 maybe you can put it back on the record.

23 MR. DEBEAR: Yeah. Thank you, Vice Chair. So, it
24 is a private alley that is subject to a public access
25 easement. And I think this goes back to the very limited

1 loading needs of the hotel. They will fully comply with the
2 requirements of that public access easement. In other words,
3 hotel loading needs will not interfere with the public's
4 ability to access the alley network in accordance with that
5 easement.

6 VICE CHAIR GOLDSTEIN: Thank you. And as far as
7 you're aware of the terms of the easement, it will continue
8 to operate in a way that the public has access along that
9 alley. Is that correct?

10 MR. DEBEAR: Exactly. Yeah. And loading needs
11 will not change as a result of this application, so it should
12 continue to be available. And I understand that the concern
13 that was voiced, but it will continue to be accessible as it
14 has been.

15 MS. WEST: That would be helpful because I will
16 note that many times our recycling is not picked up, and we
17 feel like there may be, you know, issues with access. But at
18 any rate, yeah.

19 VICE CHAIR GOLDSTEIN: Mr. DeBear, I appreciate
20 your willingness to say that your client will, you know, be
21 helpful as far as sanitation concerns. You know, the Board
22 really hasn't heard much information about trash or the like
23 to necessarily construct a condition.

24 I don't -- you may not -- this may not be something
25 that you have deep knowledge of, but is there anything more

1 you can tell us about the way garbage is currently being
2 handled by the hotel, or this wasn't on your radar, so you're
3 not able to really talk to it?

4 MR. DEBEAR: Yeah. It unfortunately was not, or we
5 could easily address it. And let me -- I'm just seeing if my
6 client has any thoughts --

7 VICE CHAIR GOLDSTEIN: Yeah. I was going to ask.

8 MR. DEBEAR: -- via text. Yeah, I mean, I think
9 that ultimately, you know -- I honestly don't even know what
10 these -- what the standards are, like, what agency and what
11 regulations would apply to trash. But I can say that we're
12 happy to agree to anything the Board might come up with. So,
13 I apologize for not being more eloquent here. It's just not
14 something that was raised, and so, it's hard to know what
15 would even be needed to address that.

16 VICE CHAIR GOLDSTEIN: And, you know, also from my
17 perspective, you know, how does that address the relief that
18 you're asking for in this case? How is that the connection
19 between the two? Yeah, I'd be curious --

20 MR. DEBEAR: Yeah --

21 VICE CHAIR GOLDSTEIN: No, go ahead.

22 MR. DEBEAR: I think given the nature of this
23 request, the loading relief doesn't necessarily have anything
24 to do with trash. My client texted me telling me they have
25 trash picked up every day.

1 MS. WEST: I believe there's one dumpster and
2 again, every single time I've seen it, it's overflowing.
3 There's trash on the floor. The door to that room is not
4 open at the bottom.

5 MR. DEBEAR: Yeah.

6 MS. WEST: And it seems like, if you're formally
7 asking that this be made into a hotel, that that change, that
8 now is the time to make sure that you're being consistent and
9 operating in a way that doesn't harm the neighborhood.

10 MR. DEBEAR: I mean, we could certainly agree to
11 get more dumpsters if that --

12 MS. WEST: Or a compactor and making sure that all
13 the dumpsters can close and that trash is not on the floor
14 and that that room is sealed. Again, I'm not an expert on
15 this, but I know it's a major Capitol Hill issue, and we're
16 having more and more -- again, they've gotten -- they've
17 gnawed into my home and they --

18 MR. DEBEAR: Yeah.

19 MS. WEST: -- you know, chewed through --

20 MR. DEBEAR: They can -- apologies, Ms. West. I
21 don't mean to interrupt. They can agree to install a
22 compactor and get an additional dumpster. It sounds like
23 something that's reasonable to address some of these
24 concerns.

25 MS. WEST: Yeah. So, that trash is not

1 overflowing, that there's not on the floor, and that the
2 trash thing is sealed. The room to the trash is sealed.

3 VICE CHAIR GOLDSTEIN: Can I make a suggestion, and
4 certainly my colleagues can weigh in, but perhaps we just
5 leave the record open for a supplement to sort of address
6 this issue, Mr. DeBear. And I'd rather not try to figure
7 this out on the fly, because I don't really know what the
8 best solution is to this issue, and I'd really rather you
9 spend some time and attention to it.

10 MR. DEBEAR: Yeah, I mean, I would certainly --
11 we're happy to agree to what we have put on the record
12 already. I mean, I would argue that given, again, the fact
13 that operations will remain the same, there would arguably be
14 no impact in terms of trash to the Board's approval --

15 MS. WEST: But we're not happy with the operations.
16 We're not happy with the operations. No, that's the point.

17 MR. DEBEAR: I understand that.

18 ZC CHAIR HOOD: Madam Chair. Madam Chair. Can I
19 say something? I think, and I was right in line. I think
20 we're really just going back and forth. We're having an ANC
21 meeting or a community meeting, and I think Vice Chair
22 Goldstein is exactly right. I don't think this is something
23 we can deal with today. And I think it is definitely in
24 connection. I heard the issue about the loading versus the
25 connection and what's being requested. As my colleagues have

1 already spoke about, I think it is a connection. And I hear
2 Mrs. West's concern, and Mr. DeBear obviously did not know
3 about it, neither did we.

4 And I think they need to have some more time to
5 come back with a resolution and whatever's within our
6 jurisdiction, we can make it a condition, because we're not
7 going to solve anything here today but waste time and waste
8 time. So, Madam Chair, I think just to move the public
9 forward and move this process forward, I think we need to
10 follow Vice Chair Goldstein's recommendation. Thank you.

11 BZA CHAIR POURCIAU: Thank you, Chairman Hood, Ms.
12 West, and Mr. DeBear. What I'd like to do is to see if there
13 are any other questions for Ms. West. We know that what's on
14 the record now and then proceed from there. Ms. Wells, did
15 you have any questions or concerns for Ms. West?

16 MEMBER WELLS: Not for Ms. West, but as a follow-up
17 to Mrs. West's comments for Mr. DeBear. If we can -- if the
18 record's going to stay open, if we could also address loading
19 times as well. I heard you say that operations will remain
20 the same, but there's nothing saying what those operations
21 currently are. So, if that can be addressed as well.

22 MR. DEBEAR: We can address that. By loading
23 times, you mean when we would expect loading to occur and for
24 how long?

25 MEMBER WELLS: Yes. Yes.

1 MR. DEBEAR: Okay.

2 BZA CHAIR POURCIAU: Thank you, Ms. Wells. And Mr.
3 Hood, do you have anything else to ask concerning Ms. West's
4 presentation?

5 ZC CHAIR HOOD: No, I was ready to move until I
6 heard that, so I don't have anything else, really. Thank
7 you.

8 BZA CHAIR POURCIAU: Okay. Thank you. Thank you,
9 Ms. West, for taking the time to join us today.

10 MS. WEST: Yes, and I apologize for not getting
11 input in earlier. Thank you all.

12 BZA CHAIR POURCIAU: Okay. Thank you. There are
13 no others on the list to present, so I'd like to go to the
14 applicant at this point and ask Mr. DeBear if you'd like to
15 present closing remarks.

16 MR. DEBEAR: Thank you, Chair. Again, appreciate
17 the Board's time today. I believe we've laid out the legal
18 standard for approval of a use variance for the requested
19 lodging use. We are happy as a supplement to address the
20 recent concerns raised about trash and loading times.

21 Nonetheless, I believe we've clearly laid out in
22 the record the evidence of a unique condition resulting in a
23 undue hardship for the ongoing apartment house C of O for
24 this decades-old hotel. And we've also, I believe,
25 established the special exception standard for loading relief

1 for one loading berth.

2 With that being said, I would just ask that the
3 Board respectfully schedule something as soon as possible. I
4 think we can get these issues resolved relatively quickly,
5 and we'd appreciate a resolution on the application sooner
6 rather than later. And again, thank you for your time.

7 BZA CHAIR POURCIAU: Thank you so much and thank
8 you for being responsive to the concerns that have been
9 raised. Right now, I'm feeling like there are two things we
10 want entered into the record, information regarding how trash
11 and rodent control will be improved or eliminated, you know,
12 and also loading times and use of the easement alleyway.

13 And I feel like with those two, we could defer to a
14 decision meeting with those two things being added to the
15 record. And I would be able to vote positively on the
16 application with that information added in the record. Vice
17 Chair Goldstein, your thoughts on this before we go to
18 deliberation?

19 VICE CHAIR GOLDSTEIN: I don't have anything else
20 to add. I really appreciate your presentation, your
21 willingness to provide the information we're asking for. As
22 you can tell, I don't think we're asking for additional
23 information about the real substantive use variance. It's
24 really some quality-of-life questions that are attached to
25 it. So, I think that's probably a pretty positive sign, and

1 I look forward to seeing more information come in.

2 MR. DEBEAR: Great.

3 BZA CHAIR POURCIAU: Thank you. Thank you. Ms.
4 Wells?

5 MEMBER WELLS: I don't have anything else to add.
6 Thank you.

7 BZA CHAIR POURCIAU: Thank you. And Chairman Hood?

8 ZC CHAIR HOOD: I too don't have anything else.
9 Thank you.

10 BZA CHAIR POURCIAU: Okay. Thank you again, Mr.
11 DeBear, for your presentation. It was a full presentation,
12 and for being responsive to the new issues. The Board is
13 ready to deliberate. Please close the hearing and the
14 record. Witnesses will be excused, and then we will
15 deliberate, discuss the case and our next actions.

16 (Pause.)

17 ZC CHAIR HOOD: Madam Chair, for me, I don't --
18 for me, I would say that we would deliberate once we have
19 the information we requested.

20 BZA CHAIR POURCIAU: Very good.

21 ZC CHAIR HOOD: And I guess we will look at the
22 schedule and see how soon we can do it. I know Mr. DeBear
23 has asked, but I think it's also important, and I should
24 have said this when you asked me earlier. It's important
25 that Ms. West and Mr. DeBear, they have a conversation to

1 see how they can kind of come up -- because she actually
2 lives the situation; we just hearing about it -- and how
3 they can work together and come up with a win-win as soon
4 as possible. Not that that's predicated on our decision,
5 but I think it would be good if they have a discussion.
6 So that's -- those are my two cents. Thank you.

7 BZA CHAIR POURCIAU: Yeah, I agree 100 percent.
8 Yeah, I forgot we didn't have to close the record if we
9 weren't voting today. But Mr. Goldstein?

10 VICE CHAIR GOLDSTEIN: Yeah, no, as soon as we
11 come up with a date, I really would like to just make sure
12 that the applicant can submit what we're asking for in
13 time to meet that date. So we might -- maybe there's a
14 need to just confirm it with the applicant if they're
15 still available. But Ms. Mehlert, if you could suggest
16 maybe a date and submission dates, that'd be terrific.

17 MS. MEHLERT: Sure. I was going to suggest the
18 board returning on September 23rd, so the applicant can
19 submit information by next Wednesday and then any optional
20 response from the ANC due by the 23rd. Again, I'm not
21 sure if that is enough time for the applicant, but that
22 would be my suggestion.

23 VICE CHAIR GOLDSTEIN: Would it be possible, if
24 the applicant's still here, we can just ask them if that
25 works? I don't know technologically if we can bring him

1 back in.

2 MS. MEHLERT: Yeah, Mr. Young I think can bring
3 him back in.

4 BZA CHAIR POURCIAU: Yeah, I see that he's still
5 around. He's still on the list.

6 MR. DEBEAR: Yes, that works.

7 BZA CHAIR POURCIAU: Okay. Thank you. All
8 right. So we will move this agenda item to a decision
9 meeting in two weeks contingent on information being
10 submitted in the record. Ms. Mehlert, is there anything
11 else we need to do with that?

12 MS. MEHLERT: Nope. Just noting that the record is
13 closed with the exception of those requested submissions.

14 BZA CHAIR POURCIAU: Very good, thank you for that.
15 And so, with that, that was our last case. Want to thank
16 you all. Ms. Wells, you've completed your first full
17 hearing, and you did a great job.

18 MEMBER WELLS: Give myself a round of applause.

19 BZA CHAIR POURCIAU: Round of applause. Right.
20 All right. Thank you all. Have a great afternoon and
21 evening.

22 (Whereupon, the above-entitled matter went off the
23 record at 12:55 p.m.)

24

25

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.



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