

GOVERNMENT OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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REGULAR PUBLIC MEETING & HEARING

+ + + + +

WEDNESDAY

JULY 19, 2023

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The Regular Public Meeting & Hearing of the District of Columbia Board of Zoning Adjustment convened via teleconference pursuant to notice at 9:30 a.m. EDT, Frederick Hill, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

FREDERICK HILL, Chairperson
LORNA JOHN, Vice Chairperson
JOSEPH IMAMURA, Zoning Commissioner

BOARD OF ZONING ADJUSTMENT STAFF PRESENT:

CLIFFORD MOY, Secretary
PAUL YOUNG, Data Specialist

BOARD OF ZONING ADJUSTMENT LEGAL COUNSEL:

MARY NAGELHOUT, Esquire

The transcript constitutes the minutes from the Regular Public Hearing held on July 19, 2023.

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

(9:30 a.m.)

CHAIRPERSON HILL: Good morning, ladies and gentlemen and the Board of Zoning Adjustment. Today's date is 07/19/2023. This public hearing will please come to order. My name is Fred Hill, Chairperson of the District of Columbia Board of Zoning Adjustment. Joining me today is Vice Chair Lorna John and Zoning Commissioner Dr. Imamura. Today's meeting and hearing agenda are available on the Office of Zoning's website. Please be advised that this proceeding is being recorded by a court reporter, is also webcast live via Webex and YouTube Live. The video of the webcast will be available on the Office of Zoning's website after today's hearing. Accordingly, everyone who is listening on Webex or by telephone will be muted during the hearing. Also please be advised that we do not take any public testimony at our decision meeting session. If you're experiencing difficulty accessing Webex or with your telephone call-in, then please call our OZ hotline number at 202-727-5471.

At the conclusion of a decision meeting session, I shall, in consultation with the Office of Zoning, determine whether a full or summary order may be issued. A full order is required when the decision it contains is adverse to a party, including an affected ANC. A full order may also be needed if the Board of Zoning's decision differs from the Office of Planning's recommendation. Although the Board favors the use of

1 summary orders whenever possible, an applicant may not request
2 the Board to issue such an order. In today's hearing session,
3 everyone who is listening on Webex or by telephone will be muted
4 during the hearing and only persons who have signed up to
5 participate or testify will be unmuted at the appropriate time.
6 Please state your name and home address before providing oral
7 testimony or your presentation. Oral presentations should be
8 limited to a summary of your most important points. When you're
9 finished speaking, please mute your audio so that your microphone
10 is no longer up sound or background noise. All persons planning
11 to testify either in favor or in opposition should have signed
12 up in advance. They'll be called by name to testify. If this
13 is an appeal, only parties are allowed to testify. By signing
14 up to testify, all participants completed the oath or affirmation
15 as required in Subtitle Y 408.7. Evidence to ent- -- request to
16 evidence -- request to enter evidence at the time of an online
17 virtual hearing such as written testimony or additional
18 supporting documents other than live video which may not be
19 presented as part of the testimony may be allowed pursuant to
20 Subtitle Y 103.13 provided that, one, the person making the
21 request to enter an exhibit explain, A, how the exhibit is
22 relevant, B, the good cause to justify allowing the exhibit into
23 the record, including an explanation of why the requester did not
24 file the exhibit prior to the hearing pursuant to Y 206, and how
25 the (indiscernible) would not unreasonably prejudice any parties.

1 The order of procedures for special exceptions and
2 variances are in Y 409. The order for an appeal is in Y 507. At
3 the conclusion of each case, any individual who was unable to
4 testify because of technical issues may file a request for leave
5 to file a written version of the planned testimony to the record
6 within 24 hours following the conclusion of public testimony in
7 the hearing. If additional written testimony is accepted, then
8 parties will be allowed a reasonable time to respond as determined
9 by the Board. The Board will then make its decision at its next
10 meeting session, but no earlier than 48 hours after the hearing.
11 Moreover, the Board may request additional specific information
12 to complete the record. The Board and the staff will specify at
13 the end of the hearing exactly what is expected and the date when
14 a person must submit the evidence to the Office of Zoning. No
15 other information shall be accepted by the Board.

16 Finally, the District of Columbia Administrative
17 Procedures Act requires a public hearing on each case be held in
18 the open before the public. However, pursuant to Section
19 405(b)(4) and 406 of that Act, the Board may, consistent with the
20 rules -- with its rules of procedures and the Act, enter into a
21 closed meeting on a case for purposes of seeking legal counsel
22 on a case pursuant to D.C. Official Code Section 2-575(b)(4)
23 and/or deliberate on a case pursuant to D.C. Official Code Section
24 2-575(b)(13), but only after filing the necessary public notice,
25 and in the case of a closed meeting taking a roll call vote.

1 Mr. Secretary, do we have any preliminary matters?

2 MR. MOY: Mr. Chairman and members of the Board, I do
3 have a brief announcement this morning with regards to today's
4 docket. First, Case Application No. 20929 of Brian and Alison
5 Garback. That application has been withdrawn by the Applicant.

6 Second, on the Board's agenda today, there is -- I will
7 be asking for Board action on a roll call for closed meetings,
8 schedule of dates that run from September of 2023 through January
9 2024.

10 Other than that, there are some other preliminary
11 matters, but it's best that I bring those to your attention when
12 I call the case, sir.

13 CHAIRPERSON HILL: Okay. Great.

14 Good morning, everybody. Let's see if you could call
15 our first time extension case, I believe, Mr. Moy.

16 MR. MOY: Okay. This case would be Application No.
17 -- and this in the public meeting session. number and end. This
18 is in the public meeting session. So this is Application No.
19 20428A of 1730 Pennsylvania Avenue LP. This is the Applicant's
20 request pursuant to Subtitle Y Section 705.1 for a two-year time
21 extension of the validity of the order approving Application No.
22 20428. Property's located in the D-6 zone at 1730 Pennsylvania
23 Avenue, N.W., Square 168, Lot 51.

24 CHAIRPERSON HILL: Great. Thank you.

25 Okay. So I read through the record and I would agree

Commented [DG1]: 20428A 1730 Pennsylvania Avenue, LP

1 with the Applicant's argument concerning their time extension.
2 I would think that the argument that they made about the economic
3 conditions I can understand and would agree with. Also that this
4 -- that the Office of Planning has gone ahead and also given us
5 their approval of this time extension. I think if this is the
6 one I'm thinking of correctly, the variance is really no longer
7 needed and it could have been done now under a special exception.
8 However, I guess, again, just extending the order until two years
9 past the order issue date. And so again, if the order issue date
10 was 05/05/21, that would take them out to 05/05/25. And those
11 are my thoughts. Dr. Imamura, do you have anything to add?

12 ZC COMMISSIONER IMAMURA: Thank you, Mr. Chairman. I
13 agree with your summary and appreciate the explanation by the
14 Applicant to approve this time extension and the date that the
15 order is final, so on 05/05/25.

16 CHAIRPERSON HILL: Vice Chair John?

17 VICE CHAIR JOHN: Thank you, Mr. Chairman. I don't
18 have a lot to add. I thought the Applicant's explanation was
19 reasonable, that the market conditions are really the driving
20 fac- -- is really the driving factor here. And so I agree with
21 your analysis, and I will be in support of the request for an
22 extension.

23 CHAIRPERSON HILL: Okay. Thank you. I'll make a motion
24 then to approve Application No. 20428A as in apple and ask for a
25 second, Ms. John?

1 VICE CHAIR JOHN: Second.

2 CHAIRPERSON HILL: The motion been made and second, Mr.
3 Moy, if you'd take a roll call please?

4 MR. MOY: Thank you, sir. When I call your name, if
5 you'll please respond to the motion made by Chairman Hill to
6 grant the request for a time extension. And this time extension
7 would be to May 5th, 2025. The motion was second by Vice Chair
8 John.

9 Zoning Commissioner Dr. Imamura?

10 ZC COMMISSIONER IMAMURA: Yes.

11 MR. MOY: Vice Chair John?

12 VICE CHAIR JOHN: Yes.

13 MR. MOY: Chairman Hill?

14 CHAIRPERSON HILL: Yes.

15 MR. MOY: Staff would record the vote as three to zero
16 to two, and this is on the motion made by Chairman Hill to grant
17 the request for a time extension. The motion to grant the
18 extension was second by Vice Chair John, who is also supporting
19 and approving the request, as well as voting to grant from Dr.
20 Imamura, of course Vice Chair John and Chairman Hill. We have
21 no other Board members participating. Again, the motion carries,
22 sir, on a vote of three to zero to two.

23 CHAIRPERSON HILL: Thank you, Mr. Moy. You may call
24 our next one, Mr. Moy.

25 MR. MOY: This case is Application No. 20520A of JBG/55

1 New York Avenue, LLC and 75 New York Avenue, LLC, and JBG/1300
2 First Street, LLC. This is also an Applicant's request pursuant
3 to Subtitle Y Section 705.1 for a two-year time extension of the
4 order approving Application No. 20520. Property's located in the
5 D-5 zone at 1300 First Street, N.E., New York Avenue, N.E., Square
6 671, Lots 3 to 7, 29 to 30, and 804. And that's all I have for
7 you, sir.

8 CHAIRPERSON HILL: Thank you, Mr. Moy.

9 I guess similar to the last time extension, I read
10 through the record and would agree with their argument concerning
11 the market and the economic conditions as to why they need the
12 time extension. I would also note that the ANC was also in
13 support of the time extension as was the Office of Planning. I
14 don't have any particular further comments on this.

15 Dr. Imamura, do you?

16 ZC COMMISSIONER IMAMURA: Nothing further, Mr.
17 Chairman. This is pretty straightforward.

18 CHAIRPERSON HILL: Vice Chair John?

19 VICE CHAIR JOHN: Nothing further, Mr. Chairman, I
20 agree it's straightforward.

21 CHAIRPERSON HILL: Okay. I'll make a motion to approve
22 Application No. 20520A as in apple, and ask for a second, Ms.
23 John?

24 VICE CHAIR JOHN: Second.

25 CHAIRPERSON HILL: Motion been made and second, Mr.

1 Moy, if you'd take a roll call please?

2 MR. MOY: Thank you, sir. When I call your name, if
3 you'll please respond to the motion made by Chairman Hill to
4 grant the request for a time extension. And I believe this time
5 extension would extend to October 15, 2025. The motion was second
6 by Vice Chair John.

7 Zoning Commissioner Dr. Imamura?

8 ZC COMMISSIONER IMAMURA: Yes.

9 MR. MOY: Vice Chair John?

10 VICE CHAIR JOHN: Yes.

11 MR. MOY: Chairman Hill?

12 CHAIRPERSON HILL: Yes.

13 MR. MOY: Then staff would record the vote as three to
14 zero to two, and this is on the motion made by Chairman Hill to
15 grant the request for a time extension. The motion to grant was
16 second by Vice Chair John, who also voted to grant the request
17 for a time extension as well as approval from Dr. Imamura, and
18 again Vice Chair John and Chairman Hill. We have no other no
19 other Board members participating. Motion carries on a vote of
20 three to zero to two.

21 CHAIRPERSON HILL: Thank you, Mr. Moy. All right, Mr.
22 Moy, you can call our first hearing case when you get a chance.

23 MR. MOY: This case is -- and we're in the public
24 hearing session -- this case is Application No. 20770 of
25 DistrictProperties.com, Inc., as advertised as an amended self-

Commented [DG2]: 20770 DistrictProperties.com, Inc.

1 certified application pursuant to Subtitle X, Section 901.2. The
2 special exceptions are as follows: Subtitle C, Section 703.2(h),
3 this is the minimum vehicle parking requirements of Subtitle C,
4 Section 701.5 and Subtitle D, Section 5201, this is for the side
5 yard requirements of Subtitle D, Section 206.2. Property is
6 located in the R-1B zone at 4519 Douglas Street, N.E., Square
7 5115, Lot 23. Other than that, Mr. Chairman, just to remind you,
8 we do have a person signed up to testify. Thank you.

9 CHAIRPERSON HILL: Okay, great, thank you.

10 If the Applicant can hear me, can they please introduce
11 themselves for the record? Mr. Seck, can you hear me?

12 MR. SECK: Good morning, Chairman Hill.

13 CHAIRPERSON HILL: Good morning. Can you hear me?

14 MR. SECK: Yes, I can hear you just now. Sorry, just
15 logging in a little late.

16 CHAIRPERSON HILL: That's all right. Can you introduce
17 yourself for the record?

18 MR. SECK: Yes. My name is Oumar Seck, representing
19 LNDC Rupture 2011 for the project 4519 Douglas Street, N.E.

20 CHAIRPERSON HILL: Great. Could you -- Mr. Seck, are
21 you choosing not to use your camera?

22 MR. SECK: Well, I have it actually coming in. I got
23 to mount it.

24 CHAIRPERSON HILL: Okay. That's all right. Okay.

25 MR. SECK: It's (indiscernible).

1 CHAIRPERSON HILL: Okay. Okay. All right. Mr. Seck,
2 if you want to go ahead and please walk us through your
3 application and why you believe you're meeting criteria for us
4 to grant the relief requested and go ahead and begin whenever you
5 like.

6 MR. SECK: Okay. Chairman Hill, I would like to know
7 if there's a possibility to move me down maybe next one following
8 this or any way you want to place me if it is possible. If I
9 could --

10 CHAIRPERSON HILL: Why, Mr. Seck?

11 MR. SECK: For preparation, I had to go through this
12 -- some updated files that were put in and just to be ready and
13 put the cameras in and everything, if that's possible.

14 CHAIRPERSON HILL: Okay. That's fine. All right. Mr.
15 Seck, we'll move you to the end of the -- well, we have an appeal
16 --

17 MR. SECK: Okay.

18 CHAIRPERSON HILL: -- and that is going to be -- so
19 we'll move you to second to last. Okay? So that's -- I mean, I
20 don't know how long things are going to take. That means, you
21 have -- there's two more cases ahead of you. Okay?

22 MR. SECK: Okay. No problem. I'll be on standby. I
23 greatly appreciate it and apologize to the Board. Thank you.

24 CHAIRPERSON HILL: Okay. No problem, Mr. Seck.

25 All right. We're going to close this portion of the

1 hearing and the record. Mr. Moy, if you can -- Mr. Young, if
2 you can excuse everyone, please. And then -- oh, hold on one
3 second. There's -- wait, don't leave yet, Mr. Seck. Mr. Seck,
4 can you hear me?

5 MR. SECK: Yes, yes, sir, I can.

6 CHAIRPERSON HILL: Mr. Young, is there someone who's
7 here to testify?

8 MR. YOUNG: Yes, there is one person.

9 CHAIRPERSON HILL: Are they here -- can you bring them
10 in real quick?

11 MR. YOUNG: Yes.

12 CHAIRPERSON HILL: And what's her name?

13 MR. YOUNG: Sabrena Fields.

14 CHAIRPERSON HILL: Okay.

15 Ms. Fields, can you hear me?

16 MS. FIELDS: Hello?

17 CHAIRPERSON HILL: Hi, Ms. Fields, can you hear me?

18 MS. FIELDS: Yes.

19 CHAIRPERSON HILL: Are you around somewhere that you
20 can just keep the computer on for like -- it might be like an
21 -- I don't know if it'll be like an hour or so or are you -- do
22 you have to leave?

23 MS. FIELDS: I do have to leave. I'm on my way to
24 work.

25 CHAIRPERSON HILL: Got it. Are you hear in support or

1 opposition?

2 MS. FIELDS: In opposition. I live at 4515, and I've
3 been taking care of this property since I've been here for 32
4 years. And --

5 CHAIRPERSON HILL: Okay. Give me one second, Ms.
6 Fields. Go ahead and introduce yourself for the record first,
7 please.

8 MS. FIELDS: Sabrena Fields.

9 CHAIRPERSON HILL: Okay. And where do you live, Ms.
10 Fields?

11 MS. FIELDS: 4515 Douglas Street, N.E.

12 CHAIRPERSON HILL: Okay.

13 Mr. Seck, can you hear me?

14 MR. SECK: Yes, sir.

15 CHAIRPERSON HILL: Okay. We're going to take Ms.
16 Fields' testimony now. Okay?

17 MR. SECK: Okay.

18 CHAIRPERSON HILL: Ms. Fields, I mean, you're welcome
19 to come back, Ms. Fields as well, if you like, but I'm going to
20 go out of order here because the Applicant is trying to get their
21 camera set up and some other things in order for us to have the
22 hearing. So we're going to go ahead and take your public
23 testimony now and you have three minutes to give it to us and
24 you can begin whenever you like.

25 MS. FIELDS: Okay. Like I said, I've been here at 4515

1 Douglas Street for 32 years, and we've been taking care of this
2 property, I guess it's 4519, and no one had really said anything
3 to me about building on this property. So I mean, I've been
4 trying to contact someone to see if I can purchase the land since
5 I've already been working on it or maintaining the property. I'm
6 not sure who I'm supposed to be talking to.

7 CHAIRPERSON HILL: No, that's all right, Ms. Fields,
8 I'm sorry. Yeah, that's not really something that is in our
9 area. Like I guess this property is owned by the Applicant, and
10 they're trying to do something with it. And what they're planning
11 on doing is what's in the record under Exhibit -- I'm sorry,
12 under Application 20770. And so I guess I don't know what to
13 say. I guess like, you know, I don't think it's for sale, but I
14 can tell you where you can look to see what they're planning on
15 doing with it.

16 MR. FIELDS: So how was it purchased?

17 CHAIRPERSON HILL: I don't know, Ms. Fields. That's
18 really not anything that I know about.

19 MS. FIELDS: Okay. Is there any way I can be, I guess,
20 reimbursed for taking care of the property all these years?

21 CHAIRPERSON HILL: Again, Ms. Fields, I don't know. I
22 mean, Mr. Seck, are you there?

23 MR. SECK: Yes, Chairman Hill.

24 CHAIRPERSON HILL: Yeah. Do you know Ms. Fields?

25 MR. SECK: No.

1 CHAIRPERSON HILL: Okay.

2 Ms. Fields, are you the next-door neighbor to this
3 property?

4 MS. FIELDS: Yes.

5 CHAIRPERSON HILL: Okay.

6 So Mr. Seck -- let's see how can I do this -- Ms. Fields
7 -- Mr. Moy -- Mr. Seck, can I get your contact information to
8 Ms. Fields?

9 MR. SECK: Yes, absolutely.

10 CHAIRPERSON HILL: You guys can just -- you can at
11 least answer her questions and see, you k now, what you can do
12 in terms of like just at least letting her know what's going on
13 with that property. Apparently, she didn't know that it was for
14 sale or what was going on. And she's been, you know, you're
15 hearing this, taking care of it. So at least if you two can
16 communicate, then again, as we've mentioned many times here,
17 because of the good neighbor policy, they're right next door to
18 you, you can at least let them know what's going on. So is it
19 all right, Mr. Seck, I'll give Ms. Fields your contact
20 information?

21 MR. SECK: Yes, yes. And we did have letter --
22 neighborhood letter notifications out, so I'm sure there is plans
23 in their possession of what we plan on doing. But yes, I would
24 gladly meet with her as well.

25 CHAIRPERSON HILL: Okay.

1 Mr. Moy, if you could get Mr. Seck's information to Ms.
2 Fields.

3 MR. MOY: Yes, sir, I'll take care of that.

4 CHAIRPERSON HILL: Okay. Does the Board have any
5 questions for anybody?

6 VICE CHAIR JOHN: Yes, Mr. Chairman, one for Ms. Fields.
7 Ms. Fields, is your house the off-white house if you're looking
8 at the property to the right?

9 MS. FIELDS: Yes.

10 VICE CHAIR JOHN: Okay. And the house to the left of
11 that with the red stoop, do you know that property owner as well?

12 MS. FIELDS: Yes.

13 VICE CHAIR JOHN: Okay. I just wanted to figure out
14 where you are. Thank you, Mr. Chairman.

15 CHAIRPERSON HILL: Okay. Thank you.

16 All right, Ms. Fields, Mr. Seck, the Applicant, will
17 get in touch -- or I'm sorry, Mr. Moy, the secretary, will get
18 in touch with you with Mr. Seck's contact information, and you
19 can try to ask him some questions. Okay?

20 MS. FIELDS: Okay. He has my email?

21 CHAIRPERSON HILL: Mr. Moy, I don't know how you get
22 in touch with Ms. Fields, do you know?

23 MR. MOY: I think it's on -- I'll have staff call her.
24 I believe we have her phone number. So I'll have that and I'll
25 share that information with Mr. Seck so that he can contact her.

1 CHAIRPERSON HILL: Okay, great.

2 All right, Ms. Fields, and if you want to -- so Ms.
3 Fields, the Applicant has asked for us to have a little bit of
4 an extension, a time extension, meaning until the end of today
5 because they need to get their camera working and there's some
6 other issues. And so if you would like to come back to hear the
7 hearing, it'll be like in maybe an hour, hour and a half. I can
8 ask staff to call you when we're coming back. Otherwise, you've
9 now had an opportunity to give us your testimony and hopefully
10 you can speak to Mr. Seck. Okay?

11 MS. FIELDS: Okay. Thank you so much.

12 CHAIRPERSON HILL: Thanks, Ms. Fields.

13 Mr. Moy, if you could ask staff to contact Ms. Fields
14 before we start again with this case, just so she knows?

15 MR. MOY: Yes, sir, we're working on it right now.

16 CHAIRPERSON HILL: Okay. Thank you, Mr. Moy.

17 All right. Mr. Young, you can excuse everyone. I'm
18 going to close this portion of the hearing and the record.

19 And then, Mr. Moy, if you want to call our next hearing
20 case.

21 MR. MOY: Okay. So this case for the Board is
22 Application No. 19175A of Navy Yard, Doghouse, LLC -- excuse me
23 -- dba Atlas Doghouse. And this includes a modification, so as
24 advertised as an amended self-certified application for --
25 pursuant to Subtitle Y, Section 703, this is a modification of

1 consequence of the plans approved in Order No. 19175 and pursuant
2 to Subtitle X, Section 901.2 a special exception under Subtitle
3 I, Section 303.1(a), which would allow an animal boarding use.
4 Property's located in the D-5 zone at 21 Street, S.E., S 65 --
5 rather 695W, Lot 7001. And I believe, Mr. Chairman, the Applicant
6 is also requesting expert witness status for an architect by the
7 name of William O'Neill. Thank you, sir.

8 CHAIRPERSON HILL: Okay, great.

9 Could the Applicant, if they can hear me, please
10 introduce themselves for the record?

11 MR. COHEN: Yes, good morning, Mr. Chair, Christopher
12 Cohen with Holland & Knight on behalf of the Applicant. Joined
13 today by Danny Kampf, a representative of Atlas Doghouse, as well
14 as William O'Neill, whom we are proffering as an expert witness,
15 as Mr. Moy mentioned. We had made a filing last Friday. I
16 understood that it was within the 15-day window, so there's a
17 waiver request as well to accept it into the record. That filing
18 includes Mr. O'Neill's resume, as well as some additional
19 information for the Board about the proposed sound mitigation
20 measures relevant to the request.

21 CHAIRPERSON HILL: Okay. I will go ahead and allow it
22 into the record unless the Board has any issues with it.

23 And if the staff could please drop that in there so
24 that the Board can take a look. And all that I see -- I see the
25 resume of Mr. O'Neill. Okay. I don't have any issues with

1 admitting Mr. O'Neill as an expert in architecture, he being a
2 registered architect.

3 Does anybody have any questions for anybody about the
4 expert witness status? Okay.

5 Mr. Cohen, if you want to go ahead and give us your
6 presentation as to why you believe your client is meeting the
7 criteria for us for grant the relief requested, I'm going to put
8 15 minutes on the clock so I know where we are, and you can begin
9 whenever you like.

10 MR. COHEN: Thank you. Thank you, Mr. Chair. And good
11 morning to all the members of the Board.

12 Mr. Young, if you don't mind pulling up our PowerPoint
13 presentation at Exhibit 27, thank you so much?

14 So again, on behalf of Atlas Doghouse, we're requesting
15 the Board's approval for a modification of consequence as well
16 as a special exception to permit an animal Boarding use. If we
17 could go to the next slide, we can walk the Board through the
18 property.

19 This property is actually a retail space located within
20 the building known as Novel South Capitol, and that building is
21 -- the retail space, excuse me, is along I Street. The building
22 is located, as you can see here, at the northeast intersection
23 of South Capitol Street and I Street. The property is zoned D-
24 5, which is intended for high density development, as well as a
25 mix of uses including residential, nonresidential, service,

1 retail, et cetera. Now that we're oriented, we can move to the
2 next slide. We'll zone in on where precisely the retail space
3 is located. If we can go to the next slide please? Thank you
4 so much.

5 So here we're looking along I Street that that retail
6 space is the proposed space for the animal boarding
7 establishment. What's important to note here also is that any
8 pick-ups and drop-offs would occur within this internal drop-off
9 area. So everything -- all the activity, dropping off dogs,
10 picking up dogs, would be off of I Street. And Mr. Kampf will
11 get into a little more detail about that. If we could turn to
12 the next slide?

13 Just to give a summary of the application and where we
14 are, again we're seeking a modification of consequence
15 specifically to change the ground floor plan that was approved
16 by the Board under the original order. Again, we're also seeking
17 a special exception and animal boarding use is permitted by
18 special exception in the D-5 zone. The Office of Planning is
19 recommending approval and did not flag any -- or recommend or
20 request that any conditions were imposed associated with animal
21 boarding use. And then the Applicant has had productive and good
22 engagement with ANC 8F having an executive meeting in May,
23 culminating in a favorable vote at the June meeting and the ANC
24 filed its letter of support into the record, I believe yesterday.
25 That is at Exhibit 26, if I'm not mistaken. If we can turn to

1 the next slide? I wanted to detail a little bit more for the
2 Board the request for the modification of consequence. The Novel
3 -- Mr. Young, if we could turn to next slide, sorry?

4 The Novel was constructed pursuant to an approval that
5 occurred under the 1958 zoning regulations. Specifically in that
6 case, the Board approved a special exception from the rear yard
7 requirements as well as variances for the side yard and loading
8 requirements. The reason why that this case is framed as a
9 modification is, again, the Board approved or granted that
10 approval subject to certain plans. And within those plans there
11 was an approved ground floor plan that showed the space that we
12 are proposing for the animal boarding establishment as a lobby
13 space. I would like to note also, after receiving this approval,
14 the applicant or the property owner had approved -- excuse me,
15 the zoning administrator had granted an administrative
16 modification. So that space today is actually constructed as a
17 retail space. But nevertheless, we are still here out of an
18 abundance of caution so that the Board is approving the most
19 updated set of plans consistent with the current configuration
20 of the property. If we could go to the next slide, the visual
21 might help the Board as well.

22 So on the left you'll see here that space was approved
23 under the original order as a lobby and today it's constructed
24 as a retail space. This is the area for which we are proposing
25 to operate the animal boarding establishment, and again thus

1 seeking a modification of consequence to change this plan. I
2 hope that adds a little bit more clarity in the modification.
3 I'm going to turn it over to Danny Kampf to talk a little bit
4 more about Atlas Doghouse and their operations and their
5 philosophy. Thank you.

6 MR. KAMPF: Hi, my name is Danny Kampf. And I'm the
7 owner of Atlas Doghouse. I'm a behaviorist, and what makes us
8 unique is that we take a behavioral approach to dog daycare,
9 which means we actively curate the dogs for --

10 MR. COHEN: I'm sorry, Danny, one second.

11 Mr. Young, if you could move to the next slide just to
12 track Danny's testimony? Thanks.

13 MR. KAMPF: Okay. So like I was saying, we take a
14 behavioral approach to dog daycare. So what we're doing is we
15 actively go in and we improve dog behavior. So we correct things
16 like barking or bullying or antisocial behavior. It's not just
17 an internal dog park where it's wild and dogs are going crazy or
18 anything like this. This is really our competitive edge. It's
19 what makes us unique. It's why our customer base love us, why
20 we have this demand to expand at the moment. And so yeah, that's
21 just primarily what sets us apart, why the Novel would like to
22 have us in their establishment. They have about 80 dogs present
23 in their apartment complex and view us as an amenity to them and
24 to the neighborhood in general.

25 So we are staffed 24/7. All of the staff is trained

1 by me, they get a crash course in behaviorism and ethology, so
2 they learn about dog body language and how to correct barking and
3 bullying and anything like this. If there are problems, dogs are
4 removed from the facility. They either work with a trainer or a
5 behaviorist or are brought to a staff member's home. We are very
6 cognizant of generating negative externalities. We want to be
7 beneficial to the neighborhood. We would like the neighborhood
8 to love us. We draw our business from the neighborhood. And so
9 this is just something we're very aware of.

10 So our facility is designed to mitigate sound. We have
11 soundproofing. I believe Bill will speak to that later. But if
12 you look at our current establishment on 8th Street, we have two
13 neighbors to either side of us, and the building is constructed
14 without any soundproofing, very thin walls. And both of our
15 neighbors love us. We have a nail salon and a gymnastic studio.
16 In the past, they've actually written letters of support for us
17 in front of the BZA and the ANC. We have always been very aware
18 of sound and also smell. And so smell is something that we know
19 is a concern. We use vet grade cleaning products that break down
20 the enzymes in dog urine, so it's not just covering it up with
21 Fabuloso or something like this, it's actually chemically
22 changing the compounds that generate the odor.

23 And so we're very proud of our facility. It's quiet.
24 You can go in there, there's 60 dogs, you can hear a pin drop,
25 but they're playing, but they're playing in a pro-social, quiet,

1 respectful way because that's what we do, we teach them. The
2 idea is that dogs come out better than they come in. It's sort
3 of like a school as much as it is a daycare. And yeah, we're
4 just -- we're basically trying to fit a supply to a demand curve
5 right now. This is an industry that's growing rapidly. D.C.
6 has more dogs and children at this point. And yeah, there's
7 quite a bit of demand for our service, so that's what we're trying
8 to provide. Thank you.

9 MR. COHEN: Thank you, Danny.

10 Mr. Young, if you can move to the next slide.

11 And Danny, if you could just take about 30 seconds to
12 walk the Board through the proposed layout for this particular
13 location?

14 MR. KAMPF: Sure. So as you see, we have four pens.
15 And so on the left, upper left, part is where there is
16 residential. And so we really didn't want to have any dogs
17 abutting the residential space. So none of our pens where there
18 are dogs are next to residential space. Everything is over from
19 that. So it's either the street or there's inside there's an
20 enclave. And I know a drop-off and parking is a concern for the
21 Board and that's why customers will not be dropping off dogs on
22 the street. They won't be parking on the street. The Novel has
23 provided us a little -- a drop-off zone that's internally within
24 the building itself. So they're going to pull into this little
25 enclave and drop the dogs off. But most of our -- most of our

1 customers are walking, truthfully, and will come from the
2 building itself. But there's no space internally here that abuts
3 residential. We have the employee area and supplies and things
4 like this that abut the residential section where there are
5 apartments. And I believe there's actually only one apartment.
6 And on top of that it will be soundproofed as well. So you're
7 going to have two layer -- really three buffers. You're going
8 to have the soundproofing, the fact that there's no space with
9 dogs, and then on top of it the fact that we take this behavioral
10 approach so dogs are quiet anyway.

11 And other than that, you see these open pens that we
12 have. That's just how these daycares are designed. They have
13 within them different stalls so we can introduce dogs one at a
14 time where we then use Pavlovian condition to pull the dogs away
15 from the stall, and it opens and the dog comes out. And yeah,
16 that's -- there's not much to it other than you have dog jungle
17 gyms and things like that on the inside, but not much more than
18 what you see here.

19 MR. COHEN: Thank you, Danny.

20 Mr. Young, if you could turn it, maybe three slide --
21 next slide please? I'm going to track along with you. Next
22 slide? And then probably the one slide after that, and we'll
23 close up.

24 So those slides were basically a summation of what
25 Danny had just testified to. As far as the legal criteria for a

1 special exception, as the Board knows, the criteria is that, one,
2 the proposed use or request must be in harmony with the zoning
3 regulations. The request or the use should not tend to adversely
4 affect adjacent property owners. And three, the use will meet
5 special exceptions as enumerated in the zoning regulations. Next
6 slide please?

7 Those conditions -- well, again here, this is a
8 summation of why we feel the request satisfies the general
9 criteria at least. As we stated earlier, the D zones are intended
10 for this type of mix of uses at a high-density level. The animal
11 boarding use is also appropriate for the ground floor of a mixed-
12 use building based on the, again, the intent and purposes of the
13 D-5 zone. Danny had testified to the various ways in which Atlas
14 Doghouse will ensure that adjacent neighbors and property owners
15 will not be adversely affected by this use. And then we can turn
16 finally to the next slide to walk through the conditions
17 enumerated under subtitle use Section 513.1. If you could turn
18 to the next slide? Thank you so much.

19 These are detailed at length in our filings and I won't
20 go through them here. If the Board has any pointed questions,
21 we are happy to flesh out our -- the application's compliance
22 with a particular criteria. If we can go to the next slide?

23 Again, conditions regarding animal waste, the odors
24 -- or mitigating odors, excuse me. And then I think one last
25 point I'll make is that the animal boarding establishment is not

1 relying on any external yards within the Novel. There are a
2 couple of courtyards that are devoted to residents. The Atlas
3 Doghouse will not be using those courtyards. Everything will be
4 kept within the establishment. And if dogs are -- or when dogs
5 are walked outside, it's in accordance with a strict timing
6 program that Danny can speak to. That is about it for us. We
7 also, again, we have Mr. O'Neill here who can answer any questions
8 specific to the design of the establishment and the sound
9 mitigation efforts. But otherwise, we thank the Board again for
10 its time this morning and respectfully request approval of the
11 request before them. Thank you again.

12 CHAIRPERSON HILL: Okay.

13 All right. Does the Board have any questions of the
14 Applicant?

15 ZC COMMISSIONER IMAMURA: Mr. Chair, I have two
16 questions, one for Mr. Kampf and one for Mr. O'Neill.

17 Mr. Kampf, how many -- I'm familiar with your type of
18 practice, and I read somewhere about the volume of dogs you
19 anticipate?

20 MR. KAMPF: So at max capacity, we should be able to
21 take 120 dogs.

22 ZC COMMISSIONER IMAMURA: And the facility itself has
23 how many square feet?

24 MR. KAMPF: Off the top of my head, it's 3,400.

25 ZC COMMISSIONER IMAMURA: That's what I thought. Okay.

1 Great. All right. Thank you, Mr. Kampf.

2 Mr. O'Neill, since you are here, let's make use of your
3 time. If you could walk the Board through the sound transmission
4 mitigations that you've planned for? And you're still on mute,
5 Mr. O'Neill.

6 MR. O'NEILL: Can you hear me now?

7 ZC COMMISSIONER IMAMURA: Yes.

8 MR. O'NEILL: Okay. So as Danny said, first, just
9 starting off with the layout of the facility, we located the pens
10 away from the core building, so there is one of the best sound
11 mitigations is space. So there's a air buffer located between
12 the residential unit and also the sound source. In addition, the
13 existing wall of that residential unit is a -- it's a cinder
14 block wall with a faring partition on top of it, with the total
15 STC rating of 86, which is extremely high. Typically in office
16 buildings, you're looking anywhere from, you know, 34 to
17 conference rooms in the 50 range. So just alone, the build- --
18 the wall there itself, 86 is very high.

19 What we plan on doing is adding a shaft wall on the
20 inside of the space on our side, which would add another STC of
21 46, which will give you a total of an STC 133, which is, in my
22 opinion, very, very sufficient for this use. It's probably
23 overkill, but we -- again, we want to make sure that we do not
24 have issues and it's rather to do it right the first time and
25 easier to do it right this time than to rip it out in the future.

1 So that that's the wall, the one spot where the residential unit
2 is. So that's how we're handling that.

3 Also, all penetrations into that wall will be sealed
4 with acoustic sealant on all four sides of the partition -- on
5 our partition. And any penetrations in that will also be sealed
6 as well. So that's the wall situation.

7 We also have -- there's residential units above this
8 building or above this space. So we have a multiple kind of
9 layered effect to mitigate the sound. The clear slab -- the
10 clear height is about, I believe it's 12'7", and we're putting a
11 drop acoustic ceiling at roughly I think 10 feet. And above that
12 -- that ceiling is going to be an isolated ceiling, so it's
13 essentially going to be suspended from the slab on isolated
14 hangers and have neoprene gaskets around the perimeter. So
15 essentially that makes that ceiling independent of the structure
16 it's attached to, so there's no reverberation or vibration that
17 is mitigate- -- that transmits to the slab itself. Also the slab
18 is a 7-inch thick concrete slab post tension. So just straight
19 concrete, we're looking at an STC of 50, which also is very, very
20 good STC. The one thing that concrete's not great at is the NRC,
21 it's the sound absorption, so that's where sound would
22 reverberate and bounce off it. So to mitigate that, that's why
23 we're adding in the drop ceiling. We'll have -- the acoustic
24 ceiling tile will be a high NRC product, which essentially means
25 that it will absorb most of the sound that it hits and will not

1 bounce back. So this also helps with the sound in the space for
2 Danny and the dogs to make it a more pleasant experience that
3 also prevents the sounds from leaving and transmitting to the
4 upper floors. So that's our main approaches and our sound
5 mitigation.

6 ZC COMMISSIONER IMAMURA: Thank you, Mr. O'Neill. It
7 sounds like -- so you don't have any concern about the way you've
8 designed this space. There shouldn't be any flanking noise
9 through the floor, through the wall. It sounds like the ductwork
10 I would assume is isolated, so there shouldn't be any issues
11 there as well, and no flanking through the ceiling.

12 MR. O'NEILL: Correct. And the building itself
13 (indiscernible) itself, it's considering being concrete
14 construction, it's a great base to go -- to work from. If this
15 was a stick-built building, it would be maybe a little different
16 story, be a little more opportunity for flanking. But this is a
17 great building for this use.

18 ZC COMMISSIONER IMAMURA: All right. Thank you, Mr.
19 O'Neill.

20 Mr. Chairman, those are all the questions that I have.

21 CHAIRPERSON HILL: Okay. Thank you.

22 I'm going to go ahead and turn to the Office of
23 Planning.

24 MS. MYERS: Good morning. Crystal Myers from the Office
25 of Planning, sitting in for Steve Mordfin. The Office of Planning

1 I s recommending approval of this modification and approval of
2 the special exception use. And we can stand on the record of
3 the staff report. Thank you.

4 CHAIRPERSON HILL: Thank you, Ms. Myers.

5 All right. Does anybody have any questions of the
6 Office of Planning?

7 Mr. Young, is there anyone here wishing to speak?

8 MR. YOUNG: We do not.

9 CHAIRPERSON HILL: Okay. All right.

10 Mr. Cohen, is there anything you'd like to add at the
11 end?

12 MR. COHEN: No, Mr. Chair, thank you all for your time.
13 We really appreciate it.

14 CHAIRPERSON HILL: Okay. I'm going to close the hearing
15 and the record. If you could please excuse everyone?

16 Mr. Kampf, good luck to you. I lost you.

17 Okay. I would agree with everything that the Applicant
18 said. I don't really have any issues with it. I thought that
19 -- you k now, I guess I'm kind of glad that they are here with
20 the plans, you know, the change in the plans, like there was some
21 discussion about whether or not it was necessary. I mean, out
22 of an abundance of caution, I'm always rather leaning toward that
23 anyway. It's nice to have an opportunity to look at this kind
24 of thing because we've had these kind of uses before us and, you
25 know, it's usually the whole thing about residential above or,

1 you know, concerns about residential, concerns about noise
2 mitigation, concerns about odor. And I think that this particular
3 Applicant is doing everything that the regulations require and
4 then some, and I do wish them the best in terms of their operation
5 if this were to move forward. I'm going to be voting in favor.

6 Dr. Imamura, is there anything you'd like to add?

7 ZC COMMISSIONER IMAMURA: Thank you, Mr. Chairman.
8 There's nothing additional I'd like to add. I'm satisfied with
9 the way it's been designed and laid out, and I think their
10 application's sufficient.

11 CHAIRPERSON HILL: Great.

12 Vice Chair John?

13 VICE CHAIR JOHN: I don't have a whole lot to add to
14 this. I thought that they addressed appropriately the special
15 exception criteria as well as the general special -- the general
16 requirements under X 901, so I'm in support of the application
17 and I thought that the noise mitigation approach is quite
18 impressive.

19 CHAIRPERSON HILL: Okay.

20 All right. I'm going to make a motion to approve
21 Application No. 19175A as in apple and ask for a -- as captioned
22 and read by the secretary, and ask for a second, Ms. John?

23 VICE CHAIR JOHN: Second.

24 CHAIRPERSON HILL: Motion been made and second, Mr.
25 Moy, if you'd like to take a roll call.

1 MR. MOY: Thank you, sir. When I call your name, if
2 you'll please respond to the motion made by Chairman Hill to
3 approve the application for the relief requested. The motion to
4 approve was second by Vice Chair John.

5 Zoning Commissioner Dr. Imamura?

6 ZC COMMISSIONER IMAMURA: Yes.

7 MR. MOY: Vice Chair John?

8 VICE CHAIR JOHN: Yes.

9 MR. MOY: Chairman Hill?

10 CHAIRPERSON HILL: Yes.

11 MR. MOY: And we have no other Board members
12 participating. Staff would record the vote as three to zero to
13 two. And this is on the motion made by Chairman Hill to approve.
14 The motion to approve was second by Vice Chair John, who also
15 voted to approve, as well as approval of the application from Dr.
16 -- Zoning Commissioner Dr. Imamura, and of course Vice Chair John
17 and Chairman Hill. Motion carries, sir, on a vote of three to
18 zero to two.

19 CHAIRPERSON HILL: Thank you, Mr. Moy. You can call
20 our next case please.

21 MR. MOY: This case is Application No. 20927 of
22 Congressional 1015 Rhode Island, LLC. This application is
23 advertised as a self-certified application pursuant to Subtitle
24 X, Section 901.2 for a special exception under Subtitle U, Section
25 421 to allow a new residential development. Property's located

Commented [DG3]: 20927 Congressional 1015
Rhode Island, LLC

1 in the RA-1 zone at 1015 Rhode Island Avenue, N.E., Square 3870,
2 Lot 53. And other than that, Mr. Chairman, just to remind you
3 that we do have an ANC member who has signed up to testify.

4 CHAIRPERSON HILL: Okay. Great.

5 Could the Applicant -- if the Applicant could hear me,
6 if they could please introduce themselves for the record?

7 MR. ATHEY: Good morning, everybody, I'm Brian Athey,
8 the president of Congressional 1015 Rhode Island Avenue, LLC.
9 Excuse me.

10 CHAIRPERSON HILL: Okay. Mr. Sullivan, are you here
11 also presenting? And could you introduce yourself for the record?

12 MR. SULLIVAN: Yeah. Thank you, Mr. Chair. Marty
13 Sullivan, I'm zoning counsel for the Applicant.

14 CHAIRPERSON HILL: Okay. Are you going to be giving
15 the presentation or Mr. Athey?

16 MR. SULLIVAN: I'll be giving the presentation along
17 with Mr. Crain, the architect.

18 CHAIRPERSON HILL: Okay.

19 Mr. Crain, you want to introduce yourself for the
20 record please?

21 MR. CRAIN: Sure. Adam Crain, the architect with 2Plys.

22 CHAIRPERSON HILL: Okay. Mr. Sullivan, if you want to
23 go ahead and walk us through your client's application and why
24 you believe they're meeting the criteria for us to grant the
25 relief requested. I'm going to put 15 minutes on the clock so I

1 know where we are, and you can begin whenever you like.

2 MR. SULLIVAN: Thank you very much.

3 Mr. Young, if you could please load the PowerPoint?

4 This is 1015 Rhode Island Avenue, N.E. Next slide
5 please?

6 It's RA-1, so requesting U 421 BZA approval. The
7 Applicant's proposing to raise the existing single-family
8 dwelling and construct a new three-story plus cellar dwelling
9 with eight residential units. And the proposal complies with the
10 development standards as you see in the table below. So the only
11 relief requested is the U 421 relief. Next slide please?

12 The Office of Planning has recommended approval. I
13 don't know which ANC commissioner is here. Maybe they could help
14 explain why we're here without ANC input. We have had a lot of
15 outreach. We have been to an ANC meeting, and I can answer more
16 questions on that. I guess I would just defer to the ANC
17 commissioner and we can fill in the details after that. Next
18 slide please?

19 I'll turn it over to Mr. Crain to take us through the
20 plans. Thank you.

21 MR. CRAIN: Sure. As you can see here with the front
22 elevation or the street view, the left side we've got 1015 Rhode
23 Island Avenue. There are several other properties that are under
24 construction nearing completion on this block in the RA-1 zone.
25 Next slide?

1 I think a rear view here. This is the house that will
2 be raised. Next slide? Go forward.

3 3D perspectives here. The client requested that we
4 keep a somewhat residential esthetic towards the front rather
5 than going I guess modern and boxy as some others on the street
6 have done. I guess in previous projects that was well received
7 with the ANC. So we kept that design esthetic here. You can
8 see on the side here on the right, right side image.

9 MR. ATHEY: Can I just make one comment. We actually
10 were before the BZA with the project at 1018 Bryant Street after
11 considerable neighbor input. We have since constructed that
12 project and received very positive neighbor feedback, and as a
13 consequence I elected to try to keep the project sort of in
14 keeping with what happened at -- or what the outcome was at 1018
15 Bryant Street visually. So that's kind of why you've ended up
16 with the project here. In fact, I actually got an email from a
17 neighbor yesterday on Bryant Street telling me how much they
18 liked the project and asking me to keep it similar in esthetic.
19 And that's what we've done here. So thanks.

20 CHAIRPERSON HILL: Thank you.

21 MR. CRAIN: Thank you, Brian.

22 As you can see from the renderings, we're proposing
23 three levels over cellar with a small penthouse, mainly for
24 rooftop access for roof decks. We do have the main entry there
25 on the side for the majority of the units. Next slide?

1 Front and rear views showing balconies on the rear for
2 the units for outdoor space. Also balconies in the front for
3 outdoor space for those units. Next slide?

4 It's the site plan. On the right-hand side you'll see
5 we're providing four parking spaces, three full size, one
6 compact, along with a designated and screened trash area there
7 just before them. Various planting and landscaping for the green
8 area ratio as shown. Next slide? Maybe we'll move one forward.
9 Next slide?

10 Yeah, this is a little clearer. The color designations
11 of the different units. Eight units in total, basically two per
12 floor, one front, one back. Almost all of them are two unit --
13 or two-bedrooms. We do have a three-bedroom unit, the rear of
14 the cellar, with a bike room down there as required. Do have a
15 small roof terrace, a penthouse for ancillary space for roof deck
16 access. Next slide?

17 We can go through a couple of these. You can go
18 forward. These are just more detailed plans, if anyone cares to
19 look at those, but they were shown on the previous slide, so we
20 can move forward. We can move forward again.

21 Second floor here, again the two-bedroom units. Next
22 slide?

23 Third floor here, again two-bedroom units. Next slide?

24 And roof plans showing the roof deck (indiscernible)
25 there. Next slide please?

1 Just a little more detail of roof plan and above. Next
2 slide?

3 Elevations here on the left of the front. Client
4 requested certain materials to keep with the residential
5 esthetic, so maintained those. It's kind of a shingled portion
6 up at the gable and a white siding. I think we're doing black
7 windows throughout. On the side you'll see the ADA ramp going
8 up to the main entrance. The first four units will have their
9 front doors as direct access there. Next slide?

10 Just other elevations to clarify things, and windows.
11 Next slide please?

12 Section drawing, just kind of clarifying. The cellar
13 lots occupying the max lot occupancy, that's why it kind of
14 extends a little further off to the left there beyond the rear
15 of the upper portions of the building, it'll also provide outdoor
16 space for that unit. Next slide?

17 More detailed sections showing different areas of
18 cutting through. Go forward?

19 Here's some of the material they talked about with the
20 shingles happening up in the gable end in keeping with that
21 residential esthetic, black windows, white cladding. Next slide?

22 Kind of a grading plan that we included just for a
23 (indiscernible). Next slide please?

24 Landscaping plan showing some of the plantings that'll
25 be kind of all over on the site. There's an existing tree in

1 the street at the front public space that will be retained and
2 protected. Next slide please?

3 Back to Marty.

4 MR. SULLIVAN: Thank you, Adam.

5 The general requirements are met in 901.2. It will be
6 in harmony with the general purpose and intent of the zoning
7 regulations and zoning maps. The RA-1 zone provides for areas
8 predominantly developed with low to moderate density development,
9 including multi-family residential buildings. And the building
10 does conform or will conform to all other RA-1 zoning development
11 standards. The proposal includes sufficient setbacks from
12 neighboring buildings and two side yards where only one is
13 required. Project includes eight dwelling units and the design
14 is sensitive to the existing homes and surrounding neighborhood,
15 which includes a mix of single-family dwellings and a larger
16 multi-family buildings. And four parking spaces are provided,
17 just one is required. Next slide please?

18 The specific requirements. I assume the BZA has
19 referred this to the relevant agencies, existing and planned area
20 schools to accommodate the number of students; public streets;
21 and then 421.3, the Office of Planning's report. Next slide
22 please?

23 And that may be it. I'd like to just ask -- it might
24 be helpful to have Mr. Athey weigh in. Brian, you had a
25 conversation with the immediate neighbor. One neighbor's

1 existing apartment building, the other neighbor's a single
2 family.

3 MR. ATHEY: Oh, I did actually. I spoke to the
4 immediate neighbor about a week ago in person. You know, I kind
5 of waited at the front door for him and talked to him about the
6 project. And we really just talked about he has a wall on the
7 property line, potentially using that. It was very, very
8 positive. I mean, he was positive. He was, you know, supportive.
9 The house, as you can see, is not in good condition. So I thought
10 it was very favorable. He's also in close contact with another
11 developer on the street who I know, you know, from doing
12 development in the city for some time and has been very
13 collaborative, et cetera. So it was very positive.

14 We also sent the plans I think on June -- or I know on
15 June 1 via certified mail to both neighbors. The other neighbor,
16 the neighbor on the other side, as you can see, is an apartment
17 building. They didn't reach out. I also called and left a
18 message, never heard anything back from them, so. And I've
19 emailed the, you know, for multiple months, been emailing the
20 folks that I know from the Bryant Street project to inform them
21 about this project. And so we've done kind of all that we can
22 with neighbor outreach, feel really good about the design of the
23 project and I'm certainly proud of the Bryant Street project and
24 think it reflects collaboration with the neighborhood. And I
25 tried to use those lessons learned on this project.

1 MR. SULLIVAN: Thanks, Brian.

2 So we have nothing further from the Applicant. As I
3 mentioned, I do have information and can answer questions about
4 the Advisory Neighborhood Commission meeting, but I figured I'd
5 --

6 CHAIRPERSON HILL: No, that's all right, Mr. Sullivan.
7 Okay. I'm sorry to interrupt you.

8 Is the commissioner here?

9 MR. YOUNG: He is not signed on.

10 CHAIRPERSON HILL: Oh, okay, I thought maybe there was
11 one other person here. Mr. Norman, are you not -- how are you
12 with the team?

13 MR. NORMAN: I'm a member of the entity, Congressional
14 1015 Rhode Island, so I'm Brian's partner on the project.

15 CHAIRPERSON HILL: Oh, okay, all right. Okay, great.

16 All right. So Mr. Sullivan, then in that case, you all
17 did or somebody did go and they took a vote and they just haven't
18 given us a report yet and you're saying you're testifying that
19 the vote was in favor?

20 MR. SULLIVAN: No, no, they didn't take a vote. So as
21 we always do, we work as hard as we can to get on the ANC agenda.
22 We tend to struggle a little bit more in this SMD with getting
23 on that agenda. They had a special meeting after not being put
24 on the agenda through multiple requests, they scheduled a special
25 meeting and put us on the agenda. And then because the Single

1 Member District member wasn't present, they just said they
2 weren't going to vote. And I think Commissioner Kapur's letter
3 that he submitted as an individual commissioner with other
4 commissioners talks about that a little bit as well. So there
5 were no objections at the meeting. It was a good ANC meeting.
6 It was a positive response. But Chairman Manning just decided
7 that they weren't -- even though they had a quorum, they weren't
8 going to vote because the SMD wasn't there. And but -- she didn't
9 express any notion that she was going to ask for a postponement
10 or anything like that, so.

11 CHAIRPERSON HILL: Okay. Okay. All right. I'm going
12 to turn to the Office of Planning, and then I'll come back to my
13 fellow Board members for questions.

14 MS. MYERS: Hello, Crystal Myers with the Office of
15 Planning. The Office of Planning is in support of this
16 application. I will note that we had asked for the Applicant to
17 submit the existing plans for I believe it was grading and they
18 did do that. So we are satisfied and again I can recommend
19 approval from the Office of -- on the Office of Planning's review
20 of this. So I'm here for questions if you have any. Thank you.

21 CHAIRPERSON HILL: Okay. Give me one second. I have
22 a question. Before I get to mine, does the Board have any
23 questions for the Office of Planning and/or the Applicant at this
24 point?

25 ZC COMMISSIONER IMAMURA: Mr. Chairman?

1 CHAIRPERSON HILL: Go ahead.

2 ZC COMMISSIONER IMAMURA: I guess this might be for Ms.
3 Myers. And I saw the letter in the record from Commissioner
4 Kapur specifically talking about the discussion about affordable
5 housing. I'm just curious, I know that that's not a requirement
6 here, but I don't know if there's been any conversations about
7 that between OP and the Applicant. It seems like this development
8 is in alignment with other -- another development along the street
9 there. But just curious if that's ever been part of the
10 conversation between you and the Applicant or anything further?

11 MS. MYERS: No, because they are complying with the
12 requirements. This is an eight-unit building, so they are not
13 required to provide inclusionary zoning units. We do have those
14 conversations when it is required, but in this case it's not, and
15 they comply with the development standards, and upon review we
16 believe they comply with the special exception. So you know, our
17 questions were just restricted to those issues. And like I said,
18 we're satisfied that they've met the requirements.

19 ZC COMMISSIONER IMAMURA: Perfect. Thank you, Ms.
20 Myers, just wanted that on the record. Mr. Chairman, I don't
21 have any further questions.

22 CHAIRPERSON HILL: Okay.

23 Ms. John?

24 VICE CHAIR JOHN: I have no questions, Mr. Chairman.

25 CHAIRPERSON HILL: All right. Mr. Young, is there

1 someone here wishing to speak?

2 MR. YOUNG: Yes, we have one witness signed up.

3 CHAIRPERSON HILL: Okay. Can you bring that person in
4 please and give that person's name to me?

5 MR. YOUNG: It is Ms. Simpson.

6 MS. SIMPSON: Hello?

7 CHAIRPERSON HILL: Hi, Simpson, can you hear me?

8 MS. SIMPSON: Yes, I hear you now.

9 CHAIRPERSON HILL: Could you go ahead --

10 MS. SIMPSON: Good morning.

11 CHAIRPERSON HILL: -- and introduce yourself? Yeah,
12 and Ms. Simpson could you --

13 MS. SIMPSON: My name --

14 CHAIRPERSON HILL: Could you introduce yourself for the
15 record and then you'll have three minutes and you can begin
16 whenever you like.

17 MS. SIMPSON: Okay. My name is Charlottie Simpson. I
18 am the resident and owner of 1014 Rhode Island Avenue, N.E.,
19 D.C., and I am highly opposed to another single small-unit, as
20 you may call it, apartment building or condo being built in this
21 block. It has destroyed the beauty of the 1000 block of Rhode
22 Island Avenue, N.E. People have had their single-family homes
23 here for years, older than I am. I'm 75 and I am highly disturbed
24 that this is not New York City, it's never going to be New York
25 City, and we don't want to be stacked up on top of each other.

1 And that's why the residents here have bought homes here and
2 raised families here for years because we like the esthetics of
3 the neighborhood. And it is absolutely disturbing to have seen
4 them tear down the two houses across the street from me and put
5 up these little cheesy looking condos and all -- down at Bryant
6 Street. And it's really unfair. And I don't know, my neighbors
7 that the gentleman says, you know, okay with the fact that they
8 want to do the same thing to 1015 that they've done to 1011 and
9 1009 may be, but I know that the Smiths have invested an awful
10 lot of love, money, and time and energy in making their property
11 look the way it does, which is very nicely kept. And I have done
12 the same to try to keep mine, and my neighbors. And on my side
13 of the street, I have my person who has purchased 1016 who wants
14 to do the same thing, and if he does, it's going to be in my yard
15 basically. There will basically be maybe three feet of space
16 between the walls, exterior wall of the building on the north
17 side and my yard. And I am just very displeased that Zoning
18 Commission has allowed this zone to accept this kind of
19 reconstruction of the neighborhood. It makes no sense because
20 this was not a neighborhood that was in disarray and falling
21 apart. A block up the street at 13th and Rhode Island is a very
22 large piece of land. I don't know why a developer has not been
23 inspired to go and build -- all these little buildings could have
24 built five or six units of these seven- and eight-unit buildings
25 in that space. It's unsightly. It's been there for years with

1 nothing when they tore down the old apartment units there.

2 And I just want to appeal to the Zoning Commission to
3 stop this. Let's have -- whatever I need to be educated on how
4 to appeal that the zoning is changed, modified, adjusted, but not
5 another single one of these condominiums to be erected in this
6 block. We have struggled and strived too hard to be taxpaying
7 residents of the District to have chosen this area because it
8 looked the way it did and presented and offered the kind of
9 housing, single-family housing, that it has. And now somebody
10 wants to put up on every empty space of seven- or eight-unit
11 building. It's not -- it's unfair. It's unreasonable. And like
12 I said, if somebody wants to live New York, move to New York,
13 I'm sure they can find a place. But this is D.C. and I am proud
14 to be a resident taxpaying citizen of D.C. and I'm extremely
15 unhappy with what's happening with allowing developers to come
16 in and put up all these cheesy buildings all over. It's
17 ridiculous. And I'm sorry, that's my say and I'm really very
18 passionate about this and the march will have to go farther. And
19 I'm sorry our ANC commissioner is not here to speak and has not
20 been active and he should have been, but he doesn't answer his
21 phones when, you know, residents calls. So that's another story
22 I guess that's not your badge.

23 CHAIRPERSON HILL: Okay. Thanks, Ms. Simpson. Ms.
24 Simpson, do you know how to access the files on the website?

25 MS. SIMPSON: No, I do not. I can probably learn.

1 CHAIRPERSON HILL: Yep. Do you have a pen with you?
2 MS. SIMPSON: One moment, I can get one. Okay. I have
3 one.
4 CHAIRPERSON HILL: Yep. This is Case No. 20927.
5 MS. SIMPSON: Yes.
6 CHAIRPERSON HILL: Okay? And if you go to the D.C. BZA
7 -- just Google D.C. BZA and then you click on the website, you
8 can click, let me see exactly what it says there, if you go to
9 services and then go to interact -- services, then go to the
10 interactive zoning information.
11 MS. SIMPSON: Okay.
12 CHAIRPERSON HILL: Okay? You click case review and
13 then you put in that number.
14 MS. SIMPSON: Okay.
15 CHAIRPERSON HILL: Okay? And then you can go and then
16 you can see the whole case file.
17 MS. SIMPSON: Yes.
18 CHAIRPERSON HILL: And then that can give you at least
19 an understanding of what is going on here.
20 MS. SIMPSON: Okay.
21 CHAIRPERSON HILL: And then in particular, if you go
22 to, you know, view the full report and then you go to the Office
23 of Planning's report, which is in Exhibit 18 --
24 MS. SIMPSON: Okay.
25 CHAIRPERSON HILL: -- that'll explain the zone that you

1 live in and -- or I'm sorry, the zone that this property is in.

2 And --

3 MS. SIMPSON: Yes.

4 CHAIRPERSON HILL: -- why they are here with this
5 special exception. To change the zo- -- to change the way the
6 zoning is, to change the way the zoning is, you would need to
7 talk to again your ANC and then also you would go to like the
8 Zoning Commission.

9 MS. SIMPSON: Okay.

10 CHAIRPERSON HILL: Okay?

11 MS. SIMPSON: Because this has got -- yes, this has got
12 to stop. We've got too much blighted property to be doing this.
13 And the sad news is that these condominiums are not going to
14 allow for people with moderate incomes to low incomes. They're
15 not going to be able to afford it. And that's going to push
16 people who've been taxpaying residents for all those years that
17 they've had these properties out. And it's not fair.

18 CHAIRPERSON HILL: Okay.

19 MS. SIMPSON: Okay. Thank you so much.

20 CHAIRPERSON HILL: All right, Ms. Simpson, you're
21 welcome. Does anybody have anything for Ms. Simpson? Okay. Ms.
22 Simpson, I'm going to let you go. You have a nice day.

23 MS. SIMPSON: Okay. Thank you. And you do the same.
24 Bless you.

25 CHAIRPERSON HILL: Thank you. Thank you.

1 MS. SIMPSON: Okay.

2 CHAIRPERSON HILL: Bye-bye.

3 All right. Let me see, Mr. Sullivan, do you have
4 anything else you'd like to add at the end?

5 MR. SULLIVAN: No, thank you, Mr. Chair.

6 CHAIRPERSON HILL: Okay. All right. I'm going to go
7 ahead and close the hearing and the record.

8 Okay. In terms of this particular application, I mean,
9 I think it's really pretty relatively straightforward. I mean,
10 I think that they are within the criteria for us to grant this
11 particular relief. I would -- I'm disappointed that the one
12 witness is unhappy with the way that the zoning process is working
13 out in that area, but again, those are -- these are things that
14 are allowed within this zone according to special exception, if
15 they meet those criteria. And the criteria is not particularly
16 complicated in this case. And so I do not have any issues with
17 it, although I do understand that the one particular witness is
18 very disappointed and upset in the changes that are going on in
19 their neighborhood. And perhaps they can do something if they
20 wanted to again through their ANC and then speaking with the
21 Zoning Commission. And it's not really an area that is ours to
22 take on at this point in time.

23 I would also at least listen to the testimony that the
24 Applicant has put forward in terms of their outreach to the ANC
25 and they're trying to get some kind of vote from them. However,

1 we haven't gotten anything from them and specific, but I will be
2 voting in favor of this application.

3 Dr. Imamura?

4 ZC COMMISSIONER IMAMURA: Thank you, Mr. Chairman. It
5 is regrettable that we didn't receive anything from the ANC. I
6 do appreciate the Applicant in their effort to solicit a favorable
7 response from the ANC or at least work with them. I also
8 appreciate Ms. Simpson calling in and appreciate her passion as
9 a D.C. resident and understand her point of view, although I
10 would note that having moved from New York, specifically
11 Brooklyn, to D.C., D.C. is definitely not turning into New York.
12 It is distinctly D.C.

13 So I think you're right, Mr. Chairman, in my point of
14 view, the Applicant has met the criteria. This is pretty
15 straightforward. The design is pretty consistent along Rhode
16 Island there. I would say while this isn't a criteria, I was a
17 little underwhelmed by the landscape plan and the grading plan,
18 but those are just my personal points of view for that. But
19 overall, in terms of the special exception criteria that they're
20 asking for relief, I'm prepared to vote in support.

21 CHAIRPERSON HILL: Thank you.

22 Vice Chair John?

23 VICE CHAIR JOHN: Thank you, Mr. Chairman. So I agree
24 with the comments so far. And I understand Ms. Simpson's concerns
25 about the loss of single-family housing on that street in

1 particular. And I agree with you, Mr. Chairman and Dr. Imamura,
2 that, you know, the appropriate place to seek some sort of redress
3 would be the Zoning Commission, since the BZA basically looks at
4 each application to see how it meets the requirements for relief.
5 In this case, it's a special exception. The property is located
6 in the RA-1 zone and it meets all of -- the project meets all of
7 the development standards. And as you said, Mr. Chairman, the
8 criteria for relief under U 421 is really not very stringent and
9 it's basically to make sure that in general the project complies
10 with, you know, the concerns regarding light and air and privacy.
11 And so again, this application meets all of the criteria for, you
12 know, for the development standards. So this is a long way of
13 saying that I'm in support of the application. And to address
14 the ANC's concerns about having an IZ unit and the potential
15 costs of these units, I would just note that as the OP, Office
16 of Planning, said, there is no requirement for an IZ or any IZ
17 units. So again, I'm in support of the application. Thank you.

18 CHAIRPERSON HILL: Great. Thank you, Ms. John.

19 All right. I'm going to make a motion to approve
20 Application No. 20927 as captioned and read by the secretary and
21 ask for a second, Ms. John?

22 VICE CHAIR JOHN: Second.

23 CHAIRPERSON HILL: Motion been made and second, Mr.
24 Moy, if you'd take a roll call?

25 MR. MOY: Thank you, sir. When I call your name, if

1 you'll please respond to the motion made by Chairman Hill to
2 approve that application for the relief requested. The motion
3 to approve was second by Vice Chair John.

4 Zoning Commissioner Dr. Imamura?

5 ZC COMMISSIONER IMAMURA: Yes.

6 MR. MOY: Vice Chair John?

7 VICE CHAIR JOHN: Yes.

8 MR. MOY: Chairman Hill?

9 CHAIRPERSON HILL: Yes.

10 MR. MOY: We have no other Board members participating.
11 Staff would record the vote as three to zero to two. And this
12 is on the motion made by Chairman Hill to approve. The motion
13 to approve was second by Vice Chair John, who also voted to
14 approve, as well as approval from Dr. Imamura, again Vice Chair
15 John and Chairman Hill. Three to zero to two, the motion carries,
16 sir.

17 CHAIRPERSON HILL: Great. All right. Thank you, Mr.
18 Moy. Okay. If it's okay let's just take a break. Let's go
19 ahead and take like 15 minutes or so and I'll see you guys in a
20 little bit. Thank you.

21 (Whereupon, there was a brief recess.)

22 CHAIRPERSON HILL: All right. Mr. Moy, you can call
23 our next one when you get an opportunity.

24 MR. MOY: Thank you, sir. Sorry I'm tardy.

25 CHAIRPERSON HILL: You're not.

1 MR. MOY: Okay. Are we returning to District
2 Properties, sir?

3 CHAIRPERSON HILL: Yes, sir.

4 MR. MOY: Okay. Thank you. All right. After a quick
5 break, the Board has returned to its public hearing session. And
6 the time is at or about 11:11 a.m. As I said, so the Board is
7 returning to Case Application No. 20770 of
8 DistrictProperties.com, Inc. And I'm going to restate for the
9 transcript this is an amended self-certified application pursuant
10 to Subtitle x, Section 901.2 for the following special
11 exceptions: Subtitle C, Section 703.2(h), minimum vehicle
12 parking requirements of Subtitle C, Section 701.5, Subtitle D,
13 Section 5201, this is the side yard requirements of Subtitle D,
14 Section 206.2. Property located in the R-1B zone at 4519 Douglas
15 Street, N.E., Square 5115, Lot 23. And that's all I have. Thank
16 you, sir.

17 CHAIRPERSON HILL: Great.

18 Mr. Seck, can you hear me, and if so, could you
19 introduce yourself for the record?

20 MR. SECK: Yes. Good morning again, Chairman Hill.
21 Good morning, Board members. My name is Oumar Seck, representing
22 District Properties for the property at 4519 Douglas Street,
23 N.E., for special exceptions.

24 CHAIRPERSON HILL: Okay. Great. Thanks, Mr. Seck. If
25 you want to go ahead and walk us through your application and

1 why you believe you're meeting the criteria for us to grant the
2 relief requested, I got 15 minutes on the clock there, so I know
3 where we are, and you can begin whenever you like.

4 MR. SECK: Thank you, Chairman Hill. And again, thank
5 you to you and both -- all members for allowing me to push this
6 a little bit for better preparation with the cameras and
7 everything else. I do appreciate it.

8 And to begin, 4519 located Northeast we're seeking two
9 reliefs. One is the side yard -- special exception for side yard
10 variance from minimum required of eight feet to three feet on
11 both side of the building, and also the minimum parking
12 requirement due to the fact that this property does not have
13 access to a functional alley and as well as a lack of enough
14 width in the front of the side of the building to be able to put
15 in a nine foot or even an eight foot for compact vehicle parking
16 space.

17 We have the support of the Office of Planning, whom we
18 worked with until even last week, making adjustment on windows.
19 We did the studies for the light to not affect the neighbors or
20 block the neighbors' light. We have about a minimum of nine feet
21 to either side of the buildings, one of which I will speak on
22 later. The person who testified earlier, Ms. Sabrena Fields, I
23 had a conversation with her. We basically are meeting the
24 development standards for no adverse effect on air quality,
25 light, and also the tranquility of the neighborhood.

1 We did have also the letter of support from the ANC
2 commissioner and chairman, Mr. Siraj Hassan, who's also the
3 single member district commissioner, supporting this project. I
4 wanted to also briefly touch on the conversation I had with Ms.
5 Sabrena Fields, who testified earlier. After several questions,
6 she, from my understanding, said that she's going to put up a
7 fence and I told her we will put up new fence so you can save
8 money there. And the conversation went well. I can't say that
9 she's in support, but whatever she was planning to pursue don't
10 seem like she will. I did explain her that this was an individual
11 lot with a lot and square number of its own, it was never part
12 of either properties. And she will save my number and we will
13 cooperate very well during the construction. We would like --
14 having said this and trying to make it brief -- to get the support
15 of the Board of Zoning to develop this lot. Thank you very much.

16 CHAIRPERSON HILL: All right. Thanks, Mr. Seck.

17 Let me go to the Office of Planning first, my fellow
18 Board members, and then we can ask questions, if any. If I can
19 turn to the Office of Planning please?

20 MR. JESICK: Thank you, Mr. Chairman, and members of
21 the Board. My name is Matt Jesick, and I'll be presenting OP's
22 testimony in this case. We appreciate the Applicant working with
23 us. At the time of our initial report, we didn't have enough
24 information to make a recommendation about the side yard relief,
25 and we had asked them to produce a sun study, which they did,

1 and that is at Exhibit 56. And based on that information, we
2 can recommend approval of the special exception for side yard.
3 They've asked to reduce the side yard from eight feet, which is
4 required, down to three feet, which we have seen before in these
5 very narrow lots.

6 We were concerned about potential impacts to the solar
7 array on the neighbor's property. Based on that new sun study,
8 we felt that the amount of impact would not be undue. It appeared
9 that the shadow began to impact the solar panels in the late
10 afternoon or early evening based on what was displayed at Exhibit
11 56. So we were comfortable that there would not be an undue
12 level of impact.

13 Our one remaining concern was the degree of privacy,
14 also especially to that same property to the east. And that's
15 why we proposed a condition regarding the height of the windows
16 on the first floor and we recommended that they be what are called
17 piano windows with a sill height no less than five feet above
18 the floor level of the first floor. Since we issued our report,
19 the Applicant has submitted new plans which reflect that design
20 change, so the Board would have the option of either using a
21 condition of approval or simply referring to the latest set of
22 plans which are in the record, I believe the new plans are at
23 Exhibit 59, if I'm not mistaken.

24 Just quickly, regarding the parking relief, we do not
25 believe parking relief is required. Subtitle C, 702.4(a) states

1 that no parking is required for a single-family home when there
2 is no improved alley present. So we don't believe the Applicant
3 needs to seek relief from that provision.

4 That's my testimony, but I'm happy to take any
5 additional questions. Thank you.

6 CHAIRPERSON HILL: All right. Mr. Seck, are you aware
7 of the Office of Planning's con- -- not concern, thought that you
8 guys don't need parking?

9 MR. SECK: Yes. It's on the report here. Because
10 we've had a lot of back and forth with the Office of -- Board of
11 Zoning regarding how to word these reliefs, et cetera. But on
12 the table in our report the regulation as parking, Title C
13 703.2(h), it did read what Mr. Nicholas (sic) just read because
14 it's a dysfunctional alley at the rear.

15 CHAIRPERSON HILL: So but I'm just trying to make sure
16 we're not going to give you relief that you don't necessarily
17 need.

18 And Mr. Jesick, the Office of Planning does not think
19 the parking relief is required, correct?

20 MR. SECK: Oh, Mr. Jesick, yes.

21 MR. JESICK: That's our reading of the regulations,
22 correct.

23 CHAIRPERSON HILL: Okay. So Mr. Seck, the Office of
24 Planning doesn't think you need parking relief.

25 MR. SECK: Yes, that is correct. That is correct.

1 CHAIRPERSON HILL: So you're comfortable withdrawing
2 that relief?

3 MR. SECK: Yes. Yes, sir.

4 CHAIRPERSON HILL: Okay. So we're just here for the
5 side yards, correct, Mr. Jesick?

6 MR. JESICK: That's our understanding, yes.

7 CHAIRPERSON HILL: Okay. All right. Does the Board
8 have any questions for the Applicant or the Office of Planning?

9 ZC COMMISSIONER IMAMURA: I do not, Mr. Chairman, I
10 think this is pretty straightforward. Yeah, I don't have any
11 questions.

12 CHAIRPERSON HILL: Okay.

13 Mr. Young, is there anyone here wishing to speak?

14 MR. YOUNG: We do not.

15 CHAIRPERSON IHLL: Okay. All right. I know I'll note
16 for the record again that we did have Ms. Smith's (sic) testimony
17 earlier, that Mr. Seck has spoken about and that he is in contact
18 with Ms. Smith (sic) and he will be speaking with her during, if
19 this does pass, the construction phase.

20 All right. Mr. Seck, do you have anything else you'd
21 like to add at the end?

22 MR. SECK: Just for the record, you said Ms. Smith,
23 it's Ms. Fields.

24 CHAIRPERSON HILL: Oh, thank you. Ms. Fields.

25 MR. SECK: No problem.

1 CHAIRPERSON HILL: Could you, Mr. Seck, could you
2 submit -- and I'll leave the record open for this -- a revised
3 self cert that removes the minimum vehicle parking requirements?
4 I'm going to make a motion without it, but if you can submit a
5 revised self cert, that will tidy up the record.

6 MR. SECK: Yes, we will do that between today and
7 tomorrow. I'll do it ASAP.

8 CHAIRPERSON HILL: Okay. And you can confirm that with
9 Mr. Moy.

10 All right. All right. I'm going to go ahead. Anything
11 else, Mr. Seck?

12 MR. SECK: Just to add, as Mr. Jesick mentioned, for
13 the change of plan with that piano window, it's been uploaded
14 because the comment came last Friday. We addressed it and
15 uploaded this Monday. So it's on the record in the IZ.

16 CHAIRPERSON HILL: Yeah, I see it in Exhibit 59.

17 MR. SECK: Okay.

18 CHAIRPERSON HILL: Okay, great.

19 All right. I'm going to go ahead and close the hearing
20 and the record. Mr. Young, if you could please excuse everyone?

21 MR. SECK: Thank you very much.

22 CHAIRPERSON HILL: Thank you, Mr. Seck.

23 Okay. We see this a lot or we've seen this quite a
24 bit in particular from this particular developer because this is
25 something that they do do. I mean, these small narrow lots,

1 they're so odd at times. Like we've had big arguments about --
2 or not arguments, big discussion about the side yard and how
3 narrow the home can be. And, you know, I'm in agreement with
4 what the Office of Planning has put forward in terms of their
5 recommendation. I'm glad that the Office of Planning had an
6 opportunity to look at a sun study that reflected their concerns
7 again about the side yard relief, as well as the solar panels on
8 nearby properties. Again, if you didn't get the side yard relief,
9 you'd almost have no -- it'd be almost an usable piece of land,
10 but.

11 So I do see that we don't have a report from the ANC,
12 which is something that would have been nice to have. But I do
13 see the -- at least the fact that the commissioner of the SMD,
14 commissioner submitted a letter not necessarily in support, but
15 just offering an explanation as to what has been going on with
16 the Applicant's attempt at getting before the ANC.

17 So I will be voting in favor of this application and I
18 will look to you, Dr. Imamura to add your comments or thoughts.

19 ZC COMMISSIONER IMAMURA: Thank you, Mr. Chairman. I
20 agree with everything that you've already stated. I would add
21 that without the side yard relief, this would be a nine-foot-
22 wide home, which would be incredibly difficult. It is at 19 feet
23 per the drawings in the record. You know, it would have been
24 nice to see a little bit more. I did want to call attention to
25 a letter in the record by Mr. Frank Matthews to ANC 7D in

1 opposition. And the reason for that is he lays out a number of
2 issues that are of particular concern. And I appreciate Mr.
3 Matthews raising these because with these narrow lots, we do need
4 to pay special attention to these issues about access, of course
5 light and air, and, you know, first responder access he lists
6 there, and, you know, green space. So I appreciate Mr. Matthews
7 participation in the process in providing us a good checklist.
8 And I think this property, the way that it's been designed and
9 the site plan actually satisfies this checklist. I think -- and
10 the Office of Planning in their report that there is no undue
11 impact to light and air, so the shadow study certainly support
12 that and I'm prepared to vote in support.

13 CHAIRPERSON HILL: Vice Chair John?

14 VICE CHAIR JOHN: Thank you, Mr. Chairman. I agree
15 with the comments so far. This is a very narrow lot and I believe
16 the Applicant has made -- has complied with the criteria for
17 special exception relief to build with the three-foot side yard.
18 And I'm in support of the application. It's fairly
19 straightforward. And I agree with the Office of Planning that
20 there should not be any undue impact on the solar panels, on the
21 neighbors' solar panels, because of the time of day when, you
22 know, it's mostly in the afternoon when there would be some
23 shadowing. So again, I'm in support. Thank you.

24 CHAIRPERSON HILL: Okay. Let's see. All right. Well,
25 I thank you very much for your comments from my colleagues.

1 I'm going to make a motion to approve Application No.
2 20770 with the as amended, a self-certified application pursuant
3 to Subtitle X 901.2 for a special exception under Subtitle D 5201
4 from the side yard requirements of Subtitle D 206.2, two side
5 yards at eight foot required, two at three foot proposed, and
6 note that there will be a self-certified applica- -- a self
7 certification clarifying the -- what I just put forward in the
8 record and that what has been spoken about during the case
9 eliminating the parking requirement and just having the side yard
10 requirements, and ask for a second, Ms. John?

11 VICE CHAIR JOHN: Second.

12 CHAIRPERSON HILL: The motion been made and second, Mr.
13 Moy, if you'd take a roll call please?

14 MR. MOY: Thank you, Mr. Chairman. When I call your
15 name if you'll please respond to the motion made by Chairman Hill
16 to approve the amended requested relief. The motion was second
17 by Vice Chair John.

18 Zoning Commissioner Dr. Imamura?

19 ZC COMMISSIONER IMAMURA: Yes.

20 MR. MOY: Vice Chair John?

21 VICE CHAIR JOHN: Yes.

22 MR. MOY: Chairman Hill?

23 CHAIRPERSON HILL: Yes.

24 MR. MOY: We have no other Board members participating
25 today. Staff would record the vote as three to zero to two. And

1 this is on the motion made by Chairman Hill to approve. The
2 motion to approve was second by Vice Chair John, who also voted
3 to approve, as well as approval from Zoning Commissioner Dr.
4 Imamura, and of course Vice Chair John and Chairman Hill. Motion
5 carries on a vote of three to zero to two.

6 CHAIRPERSON HILL: Thank you, Mr. Moy.

7 If the Board wouldn't mind, we're going to just take a
8 quick ten-minute break here before the appeal. And so just let
9 me get a couple of things together and we'll come right back.
10 Thank you.

11 (Whereupon, there was a brief recess.)

12 CHAIRPERSON HILL: I love the mute button. I said, Mr.
13 Moy, if you can go ahead and call our next case please? Thank
14 you.

15 MR. MOY: All right. The next case before the Board
16 is Appeal No. 20921 of 1501 Erie Street SE Construction, LLC.
17 This is an appeal from the decision made on February 2nd, 2023
18 by the Office of Zoning Administration, Department of Buildings.
19 Property's located in the RF-1 zone at 113 18th Street, S.E.,
20 Square 1097, Lot 118. The preliminary matter here, or two, Mr.
21 Chairman, one is the party, the Appellee, filed a PowerPoint
22 submission within the 24-hour block. And the other preliminary
23 matter is DOB's motion to -- for continuance, which is located
24 at Exhibit 12, which was filed on July 14. And that's all I have
25 for the moment, sir.

Commented [DG4]: 20921 1501 Erie Street
Construction, LLC

1 CHAIRPERSON HILL: Okay. Unless the Board has any
2 issues, I'd like to go ahead and allow into the record what has
3 been requested to be put into the record. And then please go
4 ahead and do that.

5 Mr. Fuller, if you can introduce yourself for the
6 record please? You're on mute, Mr. Fuller.

7 MR. FULLER: Sorry about that. Good morning, Mr.
8 Chairman and the Board. This is Brent Fuller on behalf of the
9 Department of Buildings.

10 CHAIRPERSON HILL: Okay.

11 And then, Mr. Sullivan, if you could hear me, if you
12 can introduce yourself for the record?

13 MR. SULLIVAN: Yes. Good morning, Mr. Chair and members
14 of the Board, Marty Sullivan here on behalf of the Appellant.

15 CHAIRPERSON HILL: Okay.

16 So Mr. Fuller, where -- you're asking for a
17 postponement again, because we don't have the zoning
18 administrator with us, correct?

19 MR. FULLER: That's correct, Mr. Chairman. And I
20 apologize for the late nature. I think I filed this on Friday
21 afternoon. Just hearing from the zoning administrator, as
22 indicated in our motion to continue and without going into too
23 much detail, the acting zoning administrator is undergoing a
24 surgery at some point the week before last week. And in
25 preparation of the hearing, we sort of have had a prep session,

1 quite frankly, scheduled for Friday last week. At some point, I
2 was notified that his recovery is taking a little bit longer than
3 anticipated and he didn't think he'd actually be able to sit for
4 the hearing this afternoon. I reached out to Mr. Sullivan and
5 just kind of let him know the situation and indicated I'd probably
6 have to file, unfortunately, a motion to postpone or continue
7 this hearing. And I understood from Mr. Sullivan, he didn't
8 think he could necessarily consent to it. So we've obviously
9 filed the motion because we don't have the zoning administrator
10 or acting administrator available to testify on behalf of the
11 Department of Buildings here this morning.

12 CHAIRPERSON HILL: Okay, Mr. Fuller, thanks.

13 Mr. Sullivan, so you know the situation here,
14 obviously, and you're -- I know you're opposed to the continuance,
15 but also then you -- Mr. Moy mentioned that you have an
16 application for special exception from this relief for something
17 happening in September; is that correct?

18 MR. SULLIVAN: Yes. We filed two applications, a
19 special exception we filed behind this, in the event that the
20 appeal was not successful. So that was strategically scheduled
21 to be after the appeal.

22 CHAIRPERSON HILL: Right. And how --

23 MR. SULLIVAN: That was September 13th.

24 CHAIRPERSON HILL: And how has that application been
25 moving forward, if I might ask, meaning going through the ANC,

1 the Office of Planning, all that stuff, you've been moving those
2 through the normal channels?

3 MR. SULLIVAN: We have, but we haven't heard back from
4 the Office of Planning yet. Typically it would be around now,
5 maybe a little later when we'll first hear from the Office
6 Planning and hear their concerns. So we haven't heard those yet.

7 CHAIRPERSON HILL: Okay. And --

8 MR. SULLIVAN: And formally, the ANC has stated that
9 they don't have an issue with the project. They didn't want to
10 get involved in the appeal, but they indicated that they might
11 support the special exception. But I don't really --

12 CHAIRPERSON HILL: Right. And if the Board finds that
13 the special -- that the application that you're putting forward
14 for your client in September, if the Board agrees with your
15 argument, then that would make this appeal moot; is that correct?

16 MR. SULLIVAN: One or the other should make the other
17 one moot, yes, either granting the appeal or granting the special
18 exception.

19 CHAIRPERSON HILL: The reason why I'm asking is I don't
20 see you getting back here with the appeal until probably after
21 your application.

22 MR. SULLIVAN: Yeah, I was afraid of that. I just on
23 behalf of my client, we just -- he couldn't bring himself --

24 CHAIRPERSON HILL: Sure, I understand, but I mean,
25 you're trying to -- you're working both sides, which is good.

1 And so, you know, this wasn't foreseen.

2 And so, Mr. Moy, when could I get back here with -- I
3 mean, we made the day here, and I know Mr. Fuller, and I
4 appreciate the zoning administrator is not able to be with us,
5 and we need him. And so we made this day for an appeal. Right?
6 Like I mean, there's -- the appeals take a very long time. And
7 so we have a very short docket. I mean, we're already now at
8 11:45, and I even stretched it out a little bit. And so I say
9 this, you don't have to respond, I say this because I'm trying
10 to ask Mr. Moy when I can get back here again for an appeal. Mr.
11 Moy?

12 MR. MOY: All right. Mr. Chairman, the -- if the Board
13 were to grant the motion to continue, I think my suggestion,
14 given the size of the dockets through the fall, that this appeal
15 -- my suggestion would be to place on October the 18th, and even
16 so on October the 18th, the Board has seven cases and one
17 expedited review case.

18 CHAIRPERSON HILL: So then what's -- I mean, seven and
19 an expedited review is too many. So when's the next date?

20 MR. MOY: After October 18th.

21 CHAIRPERSON HILL: Yeah.

22 MR. MOY: October 25th, we have eight cases. November
23 1st, if you want to go that far, we have seven cases and one
24 expedited review. On November 8th, we have eight cases. Shall
25 I stop?

1 CHAIRPERSON HILL: Yeah, let me think. No, I'm kind
2 of curious because I want to know, like when's the next time if
3 -- so what's November 15th, what's November 22nd? Like when is
4 the next day that's not going to jam up the Board?

5 MR. MOY: Well, none of these are going to be what you
6 want to hear because on November 15th we have an appeal and with
7 four cases. Then after that, I'm open any time after
8 Thanksgiving.

9 CHAIRPERSON HILL: Right, Thanksgiving, we're off again
10 on the 22nd?

11 MR. MOY: Yes, sir.

12 CHAIRPERSON HILL: Okay.

13 MR. MOY: So if you want to continue, you would -- you
14 have a free schedule on November 29th.

15 CHAIRPERSON HILL: Yeah, that's after Thanksgiving.

16 MR. MOY: Yes, sir.

17 CHAIRPERSON HILL: And you said -- what was your first
18 day that you -- oh, you had eight cases and an appeal on the
19 18th? Right?

20 MR. MOY: Yes.

21 CHAIRPERSON HILL: That was the first one that you
22 suggested, right? And then the next one was the 25th, and you
23 said how many, of October?

24 MR. MOY: October -- I'm sorry, after which date in
25 October?

1 CHAIRPERSON HILL: I'm sorry, October 18th, how many
2 cases you got?

3 MR. MOY: We have seven cases, one expedited review.

4 CHAIRPERSON HILL: Got it. On the 25th, what do you
5 have?

6 MR. MOY: We have eight cases.

7 CHAIRPERSON HILL: Okay. I'll tell you what, go ahead
8 and put it on the 18th. Right? And this is what I think we're
9 going to do. And I'm talking to Mr. Sullivan and Mr. Fuller. I
10 don't -- I'm going to wait and see what happens at this next --
11 at the next -- the hearing that Mr. Sullivan is back here for
12 this case, Mr. Moy, is in September, when? It's right after the
13 break. Right?

14 MR. MOY: 13th.

15 CHAIRPERSON HILL: It's right after the break?

16 MR. MOY: Yes, sir.

17 CHAIRPERSON HILL: September 13th, right. So if that
18 case does not go well, and I'm looking at my only fellow Board
19 mem- -- well, actually, that's not true, Mr. -- Dr. Imamura,
20 we're going to keep you on this if you would be willing. And so
21 -- if we end up doing this as an appeal. And so and I want you
22 to remind me of that, Mr. Moy, because what I'm going to suggest
23 is that we'll go ahead and see what happens on their case on the
24 13th. And if this appeal -- I have to give them a date right
25 now, so I'm giving them 10/18/23. However, if this appeal does

1 have to be necessary, then what I would suggest to the Board is
2 we'll go back, Mr. Moy, to the Applicant and find another day
3 that the Board is willing to hear this outside of our Wednesday
4 schedule because eight cases and an appeal is just undoable.
5 Right? And so that's my suggestion. And once again, I'm
6 repeating it for everybody, we're going to wait and see what
7 happens with this Applicant's case on the 13th as to whether or
8 not this appeal needs to continue to move forward. If it does,
9 then for now it's tentatively scheduled on 10/18. And if we need
10 to have it, we'll try to find another day, probably around 10/18
11 that works for everybody that we can have just the appeal. Does
12 anybody have any questions, and if so, raise your hand? Okay.

13 All right. Mr. Moy.

14 MR. MOY: Okay. So Mr. Chairman, so to repeat, when
15 the Board returns from its August recess, then on September 13th,
16 when we hear 20932, Dr. Imamura will be sitting on that one case
17 for that day?

18 CHAIRPERSON HILL: Oh, great. That's a great idea. I
19 didn't think of that.

20 MR. MOY: That didn't come from me. Okay? I just --
21 I don't want to get on the bad side of a zoning commissioner.
22 Okay?

23 CHAIRPERSON HILL: All right.

24 ZC COMMISSIONER IMAMURA: Thank you, Mr. Moy.

25 CHAIRPERSON HILL: Are you around, Dr. Imamura? You

1 can come in for that one case because then if we need you for
2 the appeal, then you'll know about that case. That makes --

3 ZC COMMISSIONER IMAMURA: That does make sense.

4 CHAIRPERSON HILL: I didn't think about that, Mr. Moy,
5 very good.

6 MR. MOY: It's a team team effort, all right?

7 CHAIRPERSON HILL: I know, it is.

8 MR. MOY: I'm sure I picked up the vibe from you, sir.

9 CHAIRPERSON HILL: Gotcha, very good. So okay,
10 anything else, Mr. Moy? Keep going?

11 MR. MOY: No, no, nothing more on this one, sir.

12 CHAIRPERSON HILL: Okay. All right.

13 Mr. Fuller, Mr. Sullivan, any questions?

14 Oh, sorry, Vice Chair John?

15 VICE CHAIR JOHN: Not a question, just a comment on
16 what I would be looking for in the appeal. So I'm looking at
17 the PowerPoint presentation from DOB, and I guess this goes to
18 the Applicant as well. So I'm looking for an image of the --
19 showing the demolition of the front or the raze, whatever we're
20 going to decide it is, of the front of the building. I see that
21 the back was completely removed, but I don't see anything showing
22 that the front was removed, the wall in the front. I see various
23 stages, but I don't see a picture. So if there's one, I would
24 like to see it. I guess that's for the Applicant.

25 MR. SULLIVAN: If I might answer that now. That's the

1 best picture we have because the picture wasn't taken when it was
2 all the way down. That's it in the stage of reconstruction.
3 What we do have is expert witness testimony on that photo saying
4 that it does show that the full front facade was razed. If you
5 look at the sides, you can see the bricks removed all the way
6 down to the sides. So that new Tyvek or wrap, whatever you call
7 it, wasn't there. That's new reconstruction already. So we can
8 -- we will supplement that photo with testimony.

9 VICE CHAIR JOHN: Okay. Thank you.

10 CHAIRPERSON HILL: Okay. Anyone else?

11 All right. Then I'm going to go ahead and close this
12 portion of your hearing and the record, and we will see whether
13 we see you or not on 10/18. Thank you so much.

14 MR. FULLER: Thank you.

15 VICE CHAIR JOHN: Thank you.

16 CHAIRPERSON HILL: Bye-bye.

17 Okay. Mr. Moy, there's still one other issue for the
18 Board, correct?

19 MR. MOY: Yes, for Board action.

20 CHAIRPERSON HILL: Okay. As Chairman of the Board for
21 the District of Columbia and in accordance with 405(c) of the
22 Open Meetings Act, I move that the Board of Zoning Adjustment
23 hold closed meetings by videoconference at 2 p.m. on the following
24 dates: Monday, September 11, 2023; Monday, September 18th, 2023;
25 Monday, September 25th, 2023; October 2nd, 2023. These are all

2023 until they're not. So Monday, October 2nd; Monday, October 16th; Monday, October 23rd; Monday, October 30th; Monday, November 6th; Monday, November 13; Monday, November 27; Monday, December 4th; Monday, December 11; Monday, December 18; Tuesday, January 16, 2024; Monday, January 22nd, 2024; Monday, January 29, 2024. All of these at 2 p.m. Eastern. The purpose of the closed meeting will be to receive legal advice from the Board's counsel and to deliberate but not vote on the contested cases per Section 405(b)(4) and (13) of the Act, D.C. Official Code Section 2-575(b)(4) and (13). Scheduling for the Board's public meeting and/or a hearing the following Wednesday. Per D.C. Official Code Section 1-207.42(a), no resolution, rule, Act, regulation, or other official action shall take place except at an open public meeting. The closed meeting will be electronically recorded pursuant to D.C. Official Code Section 2-578(a). Is there a second, Ms. John?

VICE CHAIR JOHN: Second.

CHAIRPERSON HILL: Mr. Moy, could you take a roll call?

MR. MOY: Thank you, sir.

When I call your name, if you'll please respond to the motion made by Chairman Hill to approve the schedule of closed meeting dates from September 2023 through the end of January 2024. The motion was second by Vice Chair John.

Zoning Commissioner Dr. Imamura?

ZC COMMISSIONER IMAMURA: Yes.

1 MR. MOY: Vice Chair John?

2 VICE CHAIR JOHN: Yes.

3 MR. MOY: Chairman Hill?

4 CHAIRPERSON HILL: Yes.

5 MR. MOY: We have no other Board members participating.
6 Staff would record the vote as three to zero to two. And this
7 is on the motion made by Chairman Hill to approve. The motion
8 to approve was second by Vice Chair John, who also voted to
9 approve, as well as approval from Zoning Commissioner Dr.
10 Imamura. So again, the motion carries on a vote of three to zero
11 to two.

12 CHAIRPERSON HILL: Great. Thank you.

13 As it appears that the motion has passed, I request the
14 Office of Zoning provide notice of these closed meetings in
15 accordance with the Act.

16 All right. Mr. Moy, is there anything else you need
17 from the Board today?

18 MR. MOY: Nothing from the staff, sir.

19 CHAIRPERSON HILL: Okay. All right. Well, I hope you
20 guys have a nice day.

21 VICE CHAIR JOHN: Thank you. And thank you, Dr.
22 Imamura, for another short day.

23 CHAIRPERSON HILL: Thank you, Dr. Imamura.

24 ZC COMMISSIONER IMAMURA: Thank you, Madam Vice Chair.
25 Thank you, MR. Chairman. Thank you, Mr. Moy.

CHAIRPERSON HILL: Bye-bye.

(Whereupon, the above-entitled hearing was adjourned.)

C E R T I F I C A T I O N

This is to certify that the foregoing transcript

In the matter of: Public Meeting

Before: BZA

Date: 07-19-2023

Place: Teleconference

was duly recorded and accurately transcribed under my direction; further, that said transcript is a true and accurate record of the proceedings.

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