

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

+ + + + +

BOARD OF ZONING ADJUSTMENT

+ + + + +

REGULAR PUBLIC HEARING

+ + + + +

WEDNESDAY

JANUARY 17, 2024

+ + + + +

The Regular Public Hearing of the District of Columbia Board of Zoning Adjustment convened via Video Teleconference, pursuant to notice, at 9:59 a.m. EST, Frederick L. Hill, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

FREDERICK L. HILL, Chairperson
LORNA L. JOHN, Vice-Chairperson
CARL H. BLAKE, Member
CHRISHAUN S. SMITH, Member, NCPC Designee

ZONING COMMISSION MEMBERS PRESENT:

ANTHONY J. HOOD, Chairperson
JOSEPH S. IMAMURA, PhD, Member, AOC Designee

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary
PAUL YOUNG, A/V Production Specialist

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

(202) 234-4433

www.nealrgross.com

OFFICE OF PLANNING STAFF PRESENT:

SHEPHERD BEAMON
MAXINE BROWN-ROBERTS
MATT JESICK
MICHAEL JURKOVIC

JONATHAN KIRSCHENBAUM
KAREN THOMAS

OFFICE OF ZONING ATTORNEY ADVISORS PRESENT:

SARAH BAJAJ, ESQ.
COMETRIA COOPER, ESQ.
CARISSA DEMARE, ESQ.
RYAN NICHOLAS, ESQ.

The transcript constitutes the minutes from
the Regular Public Hearing held on January 17, 2024.

TABLE OF CONTENTS

	<u>PAGE</u>
Case No. 20957 Application of Alade Interests, LLC	4
Case No. 20981 Application of Numu Kamara	17
Case No. 20995 Application of Herndon I & D, LLC	47
Case No. 21014 Application of Universal Church, Inc.	86
Case No. 21021 Application of Sarah and Joseph Nunes	93
Case No. 21023 Application of Blair Goins	101
Case No. 21026 Application of 5200 Wisconsin, LLC	112
Case No. 21032 Application of District of Columbia Department of General Services	124

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

(202) 234-4433

www.nealrgross.com

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

(10:01 a.m.)

MR. MOY: Let's see. Okay. So the next Board action is to Case Application Number 20957. This is, once again, Case Application Number 20957 of Alade Interests, LLC. This is a self-certified applicant -- self-certified application pursuant to Subtitle X, Section 901.2, for special exceptions under Subtitle E, Section 207.5, which would allow a rear wall of a row building to extend more than 10 feet, and under Subtitle U, Section 320.2, to allow conversion of an existing residential building to an apartment house.

The property is located in the RF-1 zone at 722 Kenyon Street, N.W., Square 2891, Lot 116.

If the Board will recall, the Board voted to reopen this record on November 1st to provide evidence -- additional evidence into the record.

And participating is Chairman Hill, Vice Chair John, Mr. Smith, and Zoning Commission Chair Anthony Hood.

BZA CHAIR HILL: Great. All right. If someone -- someone is on -- maybe if they could mute themselves until I ask for an introduction. There seems to be a lot of background noise.

But now I will ask the applicant to introduce themselves for the record.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

(202) 234-4433

www.nealrgross.com

1 MR. CRAIN: Sure. My name is Adam Crain. I'm the
2 architect with 2Plys. Joining me today is Mr. Alade, who is
3 the property owner representative.

4 BZA CHAIR HILL: Okay. Mr. Crain, I actually
5 don't have a lot of questions about this. I mean, there was
6 an issue concerning a condition that the Board put forward,
7 which is that you guys needed 2,700 square feet of lot area
8 to make this project comply with the regulations.

9 And so we, the Board, wanted to see this proof,
10 and it looks as though you put a plat in Exhibit 35 that
11 clarifies the requirements for the 2,700 square feet. And
12 I guess you can just confirm that that is what has happened
13 since we reopened the record on November 1st.

14 MR. CRAIN: Yes, sir. There was a bit of a longer
15 process than we anticipated for a subdivision creating that
16 2,700 square foot lot, and now that it's complete, we have
17 uploaded that.

18 BZA CHAIR HILL: Okay. Great.

19 Does the Board have any questions of the
20 applicant? Does the Board have any questions of the Office
21 of Planning, since the Office of Planning is here?

22 All right. Let's see, Mr. Young, is there one --
23 is there anyone here wishing to speak?

24 MR. YOUNG: We do not.

25 BZA CHAIR HILL: Okay. All right. Then I will

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 -- appreciate, Mr. Crain, the time you've taken, as well as
2 your client, Mr. Alade. Alade?

3 Okay. Do you want to introduce yourself, sir,
4 since you're here?

5 MR. ALADE: Thank you very much to the Board, and
6 also my architect. This is Jide Alade. I appreciate the
7 time and effort, and I look forward to a good project.

8 BZA CHAIR HILL: Thank you, Mr. Alade. I also
9 wish you the best if this continues to move forward.

10 All right. I'm going to go ahead and close the
11 hearing and the record. I will excuse everyone, please, Mr.
12 Young.

13 Okay. So we -- Mr. Nicholas, are you on this or
14 is it Ms. Cooper? Ms. Bajaj?

15 MS. COOPER: Good morning. This is Cometria
16 Cooper for OZLD. I am assigned to this case.

17 BZA CHAIR HILL: Thank you, Ms. Cooper. Ms.
18 Cooper, was there just the one condition about the 2,700
19 square feet that the Board had put forward, or were there
20 other conditions?

21 MS. COOPER: There were two conditions. The one
22 is the one that was up for discussion today, but the second
23 was from OP. They recommended approval on the condition that
24 there will be no decks, terraces, or recreation space on the
25 roof of the rear of the building containing Unit Number 3 as

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

(202) 234-4433

www.nealrgross.com

1 shown in architectural plans at Exhibit 27.

2 BZA CHAIR HILL: Could you say that again?

3 Architectural plans in which exhibit? What did you say?

4 MS. COOPER: Number 27.

5 BZA CHAIR HILL: Exhibit 27?

6 MS. COOPER: Yes.

7 BZA CHAIR HILL: Okay. And it was the third --
8 it was the back third floor?

9 MS. COOPER: It was Unit Number 3. I'm not -- I'd
10 have to take a look at --

11 BZA CHAIR HILL: That's okay. I know they --
12 there was some back and forth about -- if this is the right
13 one, there was a stairwell that I think was on a drawing, but
14 anyway. Okay. All right. Okay. Thank you.

15 So what I would propose is that we rescind our
16 previous vote on this, and then again discuss now that we
17 have clarification on that other condition.

18 So I'm going to make a motion that we rescind our
19 previous vote on Application Number 20957 and ask for a
20 second, Ms. John.

21 VICE CHAIRPERSON JOHN: Second.

22 BZA CHAIR HILL: A motion has been made and
23 seconded. Mr. Moy, would you take a roll call? And is Mr.
24 Smith on this? No?

25 MR. MOY: Yes, he is. He was on the previous --

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 BZA CHAIR HILL: I have lost him now.

2 MR. MOY: He was on the previous vote.

3 BZA CHAIR HILL: I have literally lost him. Maybe
4 he disconnected for a second. Why don't you go ahead and
5 take the roll call for this rescind, Mr. Moy, and then we'll
6 wait for Mr. Smith to rejoin us.

7 BZA CHAIR HILL: All right. Thank you, sir.

8 So when I call your name, if you will please
9 respond to the motion made by Chairman Hill to rescind the
10 previous vote on this application, which was taken on October
11 18th, 2023. This motion was seconded by Vice Chair John.

12 Zoning Commission Chair Anthony Hood?

13 ZC CHAIR HOOD: Yes to rescind.

14 MR. MOY: Vice Chair John?

15 VICE CHAIRPERSON JOHN: Yes.

16 MR. MOY: Chairman Hill?

17 BZA CHAIR HILL: Yes.

18 MR. MOY: Staff would record the vote as three to
19 zero to two, and this is on the motion made by Chairman Hill
20 to rescind -- to rescind the previous vote. The motion was
21 rescind was seconded by Vice Chair John, who is in support
22 of the motion, as well as Zoning Commission Chair Anthony
23 Hood in support of the motion. Again, the motion carries to
24 rescind on a vote of three to zero to two.

25 BZA CHAIR HILL: Okay. I'm waiting to see if I

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

(202) 234-4433

www.nealrgross.com

1 get Mr. Smith back. I'll text him and see if he's having any
2 --

3 ZC CHAIR HOOD: Mr. Chairman, I need to step away
4 for about five minutes.

5 BZA CHAIR HILL: All right. So that will give us
6 time to get Mr. Smith back up and running.

7 Mr. Blake, I need one of your cakes right now, if
8 you could send one over.

9 MEMBER BLAKE: Yeah. I will pick you up for sure.

10 BZA CHAIR HILL: I mean, a good --

11 MEMBER BLAKE: Mr. Chairman, I need to step out
12 for a second as well. So maybe you should do like a
13 five-minute recess or something?

14 BZA CHAIR HILL: Okay. All right. We'll go ahead
15 and -- well, I mean, when I get everybody back, I'll get
16 everybody back. So go -- we're going to take five minutes,
17 everyone, at least. So I'm going to turn my camera off I
18 guess for five minutes. It's 11:10. We'll come back at
19 11:15 and see who we get and just -- okay. Thank you.

20 (Whereupon, the above-entitled matter went off the
21 record at 10:09 a.m. and resumed at 10:33 a.m.)

22 BZA CHAIR HILL: I think I have everyone I need
23 for 20957. Mr. Moy, can you just kind of call us back into
24 that, please?

25 MR. MOY: Yes, sir. The Board is back to its

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 hearing session after a quick recess, and the time is at or
2 about 10:33 a.m. in the morning.

3 BZA CHAIR HILL: Okay. Great. So we're, again,
4 talking about Application Number 20957. And what had
5 happened just before we left for the break is we had
6 rescinded our previous vote. During the continued hearing,
7 we got further clarification that the applicant was meeting
8 the 2,700 square feet requirement, that the Board had issued
9 as a condition, that was actually not really a good condition
10 because it is a requirement.

11 So we rescinded our vote, and in terms of the
12 application, I'm going to rest on my previous deliberation
13 and discussion, because nothing has changed in regard to the
14 merits of the case. I mean, I appreciate the solar studies
15 that were put forward. I didn't have any issues with the
16 project as a whole. And, again, I refer the Office of
17 Zoning's Legal Division back to the prior testimony or
18 deliberations for the writing of the order.

19 And I am going to be voting in approval of this
20 application, with the condition that the Board had put
21 forward originally, and I thank the Office of Zoning's Legal
22 Division for helping me clarify that about the no decks or
23 terraces on Unit Number 3 that's specified in Exhibit 27.

24 So unless anyone has anything else they'd like to
25 add -- oh, sure, go ahead, Vice Chair John.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 VICE CHAIRPERSON JOHN: Mr. Chairman, I believe
2 that the deck was removed in the final plans. I probably
3 need to check that again, but that's my recollection. So if
4 we could take a moment --

5 BZA CHAIR HILL: It was.

6 VICE CHAIRPERSON JOHN: Okay.

7 BZA CHAIR HILL: But I guess what we had decided,
8 I remember, in terms of why we were even going to put the
9 condition there at all, was that so they didn't end up
10 putting a deck later or something like that. That's why we
11 left that condition there.

12 VICE CHAIRPERSON JOHN: But I don't know if that's
13 something -- I think we vote on what's before us, not what's
14 possible. So if there is no deck in the drawings, then they
15 can't build a deck without coming back to the Board.

16 BZA CHAIR HILL: Okay. So then you want to remove
17 both conditions.

18 VICE CHAIRPERSON JOHN: Yes. That's what I think
19 makes sense, unless someone else, you know, has another idea.

20 BZA CHAIR HILL: No. That's fine with me, unless
21 OZLD says something. And I don't hear them saying anything.
22 Let's see. Anyone else have anything to say before I make
23 a motion?

24 Okay. Then I'm going to go ahead and make a
25 motion to approve Application Number 20957, as captioned and

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 read by the secretary, and ask for a second. Ms. John?

2 VICE CHAIRPERSON JOHN: Second.

3 BZA CHAIR HILL: Motion made and seconded. Mr.
4 Moy, if you'd take a roll call.

5 MR. MOY: Thank you, sir. Please respond when I
6 call your name to the motion made by Chairman Hill to approve
7 the application for the relief requested. The motion was
8 seconded by Vice Chair John. And I believe in your motion,
9 Mr. Chairman, there are no conditions attached?

10 BZA CHAIR HILL: No.

11 MR. MOY: Okay. Just clarifying that.

12 Zoning Commission Chair Anthony Hood?

13 ZC CHAIR HOOD: Yes.

14 MR. MOY: Mr. Smith?

15 MEMBER SMITH: Yes.

16 MR. MOY: Vice Chair John?

17 VICE CHAIRPERSON JOHN: Yes.

18 MR. MOY: Chairman Hill?

19 BZA CHAIR HILL: Yes.

20 MR. MOY: Staff will record the vote as four to
21 zero to one, and this is on the motion made by Chairman Hill
22 to approve. Motion to approve was seconded by Vice Chair
23 John, who is also in support of the motion. The motion is
24 also supported and the vote from Zoning Commission Chair
25 Anthony Hood, Mr. Smith, of course Vice Chair John, Chairman

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 Hill, one member not participating. Again, the motion
2 carries on a vote of four to zero to one.

3 Also, just a final thing for the record, Mr.
4 Chairman, is Exhibit 31 considered the final plan in the
5 record? If we could take a quick look.

6 BZA CHAIR HILL: Yeah. I'm looking.

7 MR. MOY: Exhibit 31.

8 BZA CHAIR HILL: Yeah. Go ahead and -- the plans
9 -- I mean, this is where I'm not -- the most recent plans,
10 and I'll let OZLD clarify this when they're writing the
11 record -- when they're writing the order. As I understand
12 it, the most recent plans are in Exhibit 31, wherein there
13 is no deck on that third -- and I don't see a deck.

14 And so unless there is -- well, no, this is where,
15 again, it's weird. So there is something that seems -- and
16 I -- they probably might have even gone now, like I see a
17 spiral stair going up to the roof deck on one of the
18 drawings.

19 And so, Ms. John, I totally understand what you're
20 speaking to is that they have to build according to the
21 plans. I guess I'm just not sure which one to refer to or
22 to go ahead and put that condition in there again.

23 VICE CHAIRPERSON JOHN: I was trying to find the
24 exhibit. It would be the plans that we are approving. I
25 just -- I just lost -- oh dear.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 BZA CHAIR HILL: No. I appreciate it. It's in
2 like -- I think it's in -- I think it's in 31, and I don't
3 know now, Mr. Young, I mean, I doubt that architect is still
4 there, but he might be. Do you see the architect still
5 there, Mr. Young?

6 MR. YOUNG: Yes, he's on.

7 BZA CHAIR HILL: Okay. Great. Do you want to
8 bring him back in? I'm reopening the hearing to speak to the
9 architect.

10 MR. MOY: My understanding from my staff, Mr.
11 Chairman, is that Exhibit 31, that sheet number -- I'll get
12 the sheet number -- actually shows no deck, but maybe Mr.
13 Crain can clarify that.

14 BZA CHAIR HILL: Right. Mr. Crain, could you
15 reintroduce yourself, please?

16 MR. CRAIN: Sure. Adam Crain, architect with
17 2Plys. And are we talking about the roof deck on that rear
18 building?

19 VICE CHAIRPERSON JOHN: Yes.

20 BZA CHAIR HILL: Yes.

21 MR. CRAIN: Okay. We have removed that, and this
22 permit with DOB is in progress, and there is no roof deck on
23 there.

24 BZA CHAIR HILL: Okay. Then maybe I -- I guess
25 what I'm now confused about, and now I'm not as confused

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 about, is the spiral stair going to the roof deck on the main
2 building, correct?

3 MR. CRAIN: That we have as remaining, and I don't
4 believe we were instructed or required to remove that.

5 BZA CHAIR HILL: You were not. I just want to
6 make sure that what I'm looking at -- this is why I was
7 confused. I look at -- I can see the -- so the plans that
8 are in Exhibit 31 are the plans that are -- you guys are
9 going to build toward, correct?

10 MR. CRAIN: Exhibit 31? I'm pulling that up now.

11 BZA CHAIR HILL: Yeah.

12 MR. CRAIN: No rear roof deck and the spiral --
13 correct, these are them.

14 BZA CHAIR HILL: Okay. Vice Chair John, do you
15 have any questions?

16 VICE CHAIRPERSON JOHN: No, Mr. Chairman.

17 BZA CHAIR HILL: Okay. All right. Thanks, Mr.
18 Crain, for sticking around. And you earned your money, Mr.
19 Crain. That was great. All right. You all have a good day,
20 Mr. Crain.

21 Going to close the hearing again. Let's see.
22 Great.

23 So as I was stating -- did I make a mistake here?
24 The roof -- there is -- the roof deck is removed. It's no
25 longer there on the third floor of the rear building. And

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 I didn't have any issues with the project, as I mentioned
2 before.

3 So I'm going to go ahead and make a motion to
4 approve Application Number 20957, as captioned and read by
5 the secretary, without any conditions, and ask for a second,
6 Ms. John.

7 VICE CHAIRPERSON JOHN: Second.

8 BZA CHAIR HILL: The motion has been made and
9 seconded. And these are, again, to be built to the plans
10 that are in Exhibit 31. 31, yeah. 31.

11 And, Mr. Moy, if you can take a roll call vote?

12 MR. MOY: Yes, sir. Thank you.

13 So when I call your name, if you'll please respond
14 to the motion made by Chairman Hill to approve the
15 application for the relief requested. The motion was
16 seconded by Vice Chair John.

17 Zoning Commission Chair Anthony Hood?

18 ZC CHAIR HOOD: Yes.

19 MR. MOY: Mr. Smith?

20 MEMBER SMITH: Yes.

21 MR. MOY: Vice Chair John?

22 VICE CHAIRPERSON JOHN: Yes.

23 MR. MOY: Chairman Hill?

24 BZA CHAIR HILL: Yes.

25 MR. MOY: Staff would record the vote as four to

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 zero to one, and this is to the motion made by Chairman Hill
2 to approve. The motion was seconded by Vice Chair John, who
3 supports the motion, as well as support to approve from
4 Zoning Commission Chair Anthony Hood, Mr. Smith, of course
5 Vice Chair John and Chairman Hill. No other Board members
6 participating. Motion carries on a vote of four to zero to
7 one.

8 BZA CHAIR HILL: Thank you, Mr. Moy.

9 All right. So then, Mr. Moy, if you can call our
10 next issue and last issue with Chairman Hood?

11 (Whereupon, the above-entitled matter went off the
12 record at 10:43 a.m. and resumed at 10:54 a.m.)

13 MR. MOY: All right. The Board is in its public
14 hearing session, and the first case in this session is
15 Application Number 20981 of Numu or Numu, -U-M-U, Kamara.
16 This is a self-certified application pursuant to Subtitle X,
17 Section 901.2, for the following special exceptions; Subtitle
18 E, Section 207.5, to allow a rear wall to extend further than
19 10 feet; Subtitle E, Section 204.4, from the rooftop
20 architectural element requirements; Subtitle E, Section
21 204.1, and Subtitle E, Section 320.2, to allow the conversion
22 of an existing residential building to an apartment house,
23 property located in the RF-1 zone at 1941 2nd Street, N.E.,
24 Square 3565, Lot 56.

25 And I believe -- allow me to check one more thing,

1 sir. I believe we have one witness signed up to testify, and
2 that's all I have.

3 Thank you.

4 BZA CHAIR HILL: Okay. Great. Thank you.

5 If the applicant can hear me, if they can
6 introduce themselves for the record.

7 MR. CROSS: Yeah. Name is Michael Cross. I'm the
8 architect for this project at 1941 2nd Street, N.E. I'm
9 joined here today by Elizabeth Stewart, who is the project
10 coordinator. I'll be presenting.

11 BZA CHAIR HILL: Okay. And then Bert Meekins?

12 MR. MEEKINS: Yep. Bert Meekins, project
13 designer. Thank you.

14 BZA CHAIR HILL: Okay. Great. Thank you.

15 All right. Mr. Cross, you can go ahead and walk
16 us through your client's application, why you believe they
17 are meeting the criteria for us to grant the relief
18 requested. I'm going to put 15 minutes on the clock, so I
19 know where we are, and you can begin whenever you like.

20 MR. CROSS: Appreciate that.

21 Mr. Young, if you could pull up our presentation
22 and Exhibit 40. While that's coming up, as Mr. Moy read,
23 this is Case Number 20981. We're seeking three areas of
24 relief here: one, for the conversion of a seven-unit
25 apartment building in the RF-1 zone; two, the removal of an

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 architectural rooftop element; and, three, a rear addition
2 would -- which extends past the 10 feet allowed past the
3 adjoining neighbor.

4 BZA CHAIR HILL: Mr. Cross, could you -- can I
5 interrupt you one second?

6 Mr. Young, there's a Commissioner with us, an ANC
7 Commissioner?

8 MR. YOUNG: Yes. She's on the line.

9 BZA CHAIR HILL: Okay. Commissioner, could you
10 introduce yourself for the record, please?

11 MS. ANDERSON: Hi. My name is Commissioner
12 Jennifer Anderson of 5F05.

13 BZA CHAIR HILL: Okay. Are you the SMD for this
14 project?

15 MS. ANDERSON: I am. I'm not planning on
16 presenting, but I wanted to be available in case there are
17 questions.

18 BZA CHAIR HILL: Okay. Great.

19 All right. Let's see, Mr. Cross, you may
20 continue.

21 Welcome, Commissioner.

22 MS. ANDERSON: Thank you.

23 MR. CROSS: So next slide, please?

24 The project location is 1941 2nd Street, N.E.,
25 which is on the east side of the block between U Street and

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 Todd Place, N.E.

2 Next slide, please?

3 While we're seeking three areas of relief, all
4 other aspects of the project are conforming as a matter of
5 right apartment house. The height proposed is 34-1/2 feet
6 out of an allowable 35. Our footprint is only 42 percent of
7 an allowable 60 percent. We're providing four parking spaces
8 where only three are required. And front, side, and rear
9 setbacks are all conforming.

10 Next slide, please?

11 With respect to the conversion to an apartment
12 building, this relief is only required because the original
13 apartment house was converted to a single-family home and now
14 needs relief to be converted back into an apartment house,
15 which is in keeping with its original use and the use of the
16 adjacent structures in this row.

17 Being that the lot is at the end of an adjoining
18 row, this lot is wider than others on the block, giving it
19 greater land area and subsequently making it eligible for up
20 to seven dwelling units under the zoning code. With this
21 conversion, we are creating six new family-sized units that
22 are three bedroom, two baths, roughly 1,250 square feet
23 apiece. Two of those units will be IZ, and the seventh unit
24 is intended to be the owner's private residence.

25 Next slide, please?

1 The removal of the architectural rooftop element
2 that we're seeking, the mansards of the two adjoining
3 properties have been removed. That's at 1937 and 1933 2nd
4 Street. And we believe that with those removed and this
5 being an end of an adjoined row, that removing the existing
6 mansard roof allows us to create a more aesthetically
7 pleasing bookend to the row of adjoining structures to the
8 south.

9 Next slide, please?

10 BZA CHAIR HILL: Mr. Cross?

11 MR. CROSS: Yes, sir.

12 BZA CHAIR HILL: Is that mansard, then, on the
13 other bookend gone?

14 MR. CROSS: On the other bookend, I don't believe
15 it is gone. I'd have to check.

16 BZA CHAIR HILL: Okay. Thank you.

17 MR. CROSS: The ones that I'm referring to are
18 just the two sequentially adjacent, adjoining properties.

19 BZA CHAIR HILL: Yeah. I see it from your
20 presentation.

21 MR. CROSS: So the last area of relief we're
22 seeking is for a rear addition, which extends more than 10
23 feet past the adjoining neighbor. We are seeking an addition
24 that projects 20 feet past the adjoining neighbor to the
25 south. Our building is going to be at the north end of the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 row, so the projection is not anticipated to cast any shadows
2 on the adjoining neighbor located to the south.

3 The majority of the project is reduced in scale
4 from three stories to two stories where it adjoins the
5 adjacent property, to further reduce the impact on the
6 adjoining property, with the three-story portion of the
7 addition only projecting 6-1/2 feet past the adjoining
8 neighbor.

9 There is 10-1/2 feet between the proposed project
10 and the project to the north, which is also located at a
11 higher elevation, further reducing any impact our project may
12 have on it.

13 And, lastly, this zone allows for up to 60 percent
14 lot occupancy as matter of right. And even with this relief
15 being sought, our project is only proposing a total of 42
16 percent lot occupancy.

17 Next slide, please?

18 Actually, we'll come back to this one.

19 Next slide, please?

20 We've prepared some solar studies that show that
21 the net increase of shadow cast by our structure -- that show
22 the net increase of shadow proposed by our structure. In
23 this -- in these sheets, we have the matter of right mass on
24 the left, and subsequently the proposed mass on the right.
25 In the illustrations on the right, we have illustrated the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 net increase shadow in red.

2 These represent the morning hours of the equinox.
3 You can see that there is a small increase in shadow during
4 the morning hours but nothing substantial.

5 Next slide, please?

6 In a similar way, the evening or afternoon hours
7 for the equinox, there is a small increase. Notably,
8 actually, there is a decrease in some of the late-day shadows
9 because of that little notch that's taken out in the
10 two-story reduction there at the rear.

11 Next slide, please?

12 These are the summer solstice shadows, again, very
13 minor increase in the morning.

14 Next slide?

15 And only minimal increase midday. Again, summer
16 sun is very high in the sky.

17 Next slide?

18 And in the winter we get a much more dramatic
19 shading. However, the net increase is very minimal, shown
20 in red here in the morning, slight increase there at the rear
21 due to the extension.

22 Next slide?

23 And a slight increase early afternoon. By the
24 late afternoon, the shadows of the matter of right are the
25 same as the proposed or greater.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 If we could return to slide number 7, page number
2 7, of this presentation? Apologize for jumping around.

3 We received the OP report, which recommends
4 support, as well as a letter from the ANC which does not
5 oppose any areas of relief. We have eight letters of support
6 on file, including five from all adjoining -- owners of the
7 adjoining property at 1937 2nd Street. That's the property
8 which we propose to extend 20 feet beyond.

9 We understand that there are a few letters of
10 opposition the record, which generally seem to express
11 concern about a possible negative precedent regarding the
12 massing, parking, and the number of units. We have worked
13 with the ANC over a number of months, including participating
14 in a site visit with local neighbors that was hosted by the
15 SMD Commissioner, at which time we wanted the block to review
16 the nature of the projects in this area.

17 Based on the information available through public
18 resources like DC Scout, et cetera, we put together this
19 assessment here to serve as our outline for that walk, which
20 shows that a large number of properties on the southern end
21 of this square have already been developed in a similar way.

22 In summary, our findings were that the average
23 extension in this area was 23 feet 9 inches. We are again
24 proposing 20 feet. The average lot occupancy is 44 percent.
25 We are proposing 42. The average parking ratio is 52

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 percent. We are proposing 47 percent. Sorry, 57 percent.
2 The average number of units is 6.72, and we are proposing 7.

3 We can return to the cover sheet, page 1.

4 While we're sensitive to the concerns of the
5 community, our client, a 26-year resident of this block,
6 simply wishes to receive the same opportunities as the other
7 developers have been afforded before her. Our client has
8 witnessed a great deal of change in her community over the
9 decades that she has lived here and wishes to be part of that
10 continued positive change.

11 With that, we appreciate your time. Happy to
12 answer any questions that you might have.

13 BZA CHAIR HILL: Okay. Before I turn to the
14 members of my Board, if I could go ahead and hear from the
15 Office of Planning, please.

16 MS. THOMAS: Yes. Good morning, Mr. Chairman.
17 We are in fact in support of this application for the
18 conversion of this former -- now single-family home into an
19 apartment unit, which would provide up to two IZ units. We
20 do -- we have concluded that the request, the relief that is
21 being requested in terms of the addition beyond the 10 foot
22 -- the 10 feet, and in support with the shadow study would
23 -- would have no significant impact on the adjoining
24 neighbor, and the separation between the other neighbor is
25 adequate enough. And, as explained, they are at a higher

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 elevation, so it should not have an adverse impact on the
2 other neighbor as well.

3 With that, we are in support of this application
4 and rest on the record of our report.

5 Thank you.

6 BZA CHAIR HILL: Thanks, Ms. Thomas. Just to be
7 clear, there are two IZ units, correct?

8 MS. THOMAS: Yes.

9 BZA CHAIR HILL: Okay. All right. Commissioner,
10 can you hear me?

11 MS. ANDERSON: I can.

12 BZA CHAIR HILL: Is there anything you'd like to
13 add in particular about the outreach? Like they said about
14 walking the blocks with you guys, does that all seem
15 accurate?

16 MS. ANDERSON: Yes. We held a meeting, which
17 included the site visit. We have also invited the applicant
18 to present at our meetings starting I believe in July. And
19 I believe, if I recall correctly, they presented and answered
20 questions at at least three of our ANC -- monthly ANC
21 meetings, in addition to that additional outreach.

22 BZA CHAIR HILL: Okay. Great. All right. I will
23 now turn it over to my Board for any questions they may have.
24 I'll start with Mr. Smith.

25 MEMBER SMITH: Yeah. My question is for Ms.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 Thomas. And, you know, this question was raised by persons
2 in opposition about traffic and -- traffic and parking. And
3 I know that the property is -- the applicant is stating in
4 your staff report, is stating that the property owner would
5 have four parking spaces.

6 I was looking at the submitted set of plans, and
7 beautiful graphic but it doesn't -- doesn't confirm that it's
8 four parking spaces. So could you point to an exhibit where
9 you could confirm that the space in the rear, behind the
10 roll-up doors, is four legal parking spaces? It could be Ms.
11 Karen or Mr. Cross. Doesn't matter.

12 MS. THOMAS: Yeah. I don't have the plans in
13 front of me. If Mr. Cross could pull up something, or I --
14 I have to check it.

15 MR. CROSS: So I believe it's page 3 of the
16 presentation set. The page number is actually BZA-09 in
17 Exhibit 40. That's the proposed site plan, which shows the
18 parking spaces. We're getting four parking spaces, three of
19 which are full size and one is compact.

20 MEMBER SMITH: Is it sheet SK-12?

21 MR. CROSS: No. I'm looking at sheet BZA-09,
22 which should be page 3 of Exhibit 40.

23 MEMBER SMITH: I got you. Okay. Okay. That's
24 what I needed to see. Thank you.

25 BZA CHAIR HILL: Okay. Who else has a question?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 VICE CHAIRPERSON JOHN: Just a quick question.
2 I don't have your report in front of me, and I was wondering
3 if you intended to cite E5201 and not E5207 in your -- in the
4 OP report.

5 MS. THOMAS: Let me check.

6 VICE CHAIRPERSON JOHN: The applicant asked for
7 relief under E5207, which is the rooftop architectural
8 element requirements. I don't know if I misread the report.

9 MS. THOMAS: Let me doublecheck it, and maybe I
10 misquoted. E5201, E5207, let me see here. Let me -- let me
11 doublecheck. Hold on one second.

12 VICE CHAIRPERSON JOHN: I'm going to try to pull
13 up your report as well.

14 MS. THOMAS: Yeah. Pull up the report. Let me
15 just check with the regulations. We don't have a 5207. I
16 don't -- I don't see a 5207. All right. Do you mean 5201.7?

17 VICE CHAIRPERSON JOHN: Well --

18 MS. THOMAS: No.

19 VICE CHAIRPERSON JOHN: -- I'm looking at what --
20 the applicant requested relief under E204.4, replaced --
21 which replaced E206.4 and E5207.

22 MS. THOMAS: I think everything became --

23 VICE CHAIRPERSON JOHN: Okay. All right.

24 MS. THOMAS: Yeah. It's 5201.

25 VICE CHAIRPERSON JOHN: Well, that's fine.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 MS. THOMAS: Okay.

2 VICE CHAIRPERSON JOHN: Thank you.

3 MS. THOMAS: Okay.

4 BZA CHAIR HILL: Okay. Anyone else? Dr. Imamura?

5 MEMBER IMAMURA: Thank you, Mr. Chairman.

6 Let me start off with some positive statements,
7 Mr. Cross. I appreciate the arrangement of your solar study.
8 It's very easy to follow, especially for members of the
9 public.

10 I would just comment be careful how you use
11 acronyms. Some people just -- it may take them an extra
12 minute to pick up on summer solstice or spring equinox, so
13 just make sure that because these are documents for the
14 public record, the public is taking a look at these, so just
15 for those needs, just to remind you to be careful on how you
16 use your acronyms.

17 But, otherwise, I appreciate the solar study. I
18 thought that was pretty effective.

19 In general, I don't have any concerns about the
20 design, but I -- I have heard OP confirm about the two IZ
21 units. Can you tell me where those are located?

22 MR. CROSS: Sure. They should be labeled in the
23 plans. I believe they are units -- they're the two front
24 units, first floor front, which is labeled as unit 3, and
25 second floor front, which is labeled unit 5.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 MEMBER IMAMURA: Okay. Great.

2 MR. CROSS: And those --

3 MEMBER IMAMURA: Thank you. All right. Terrific.
4 I'm glad you've got one on the ground floor.

5 Also wanted to compliment you on just the analysis
6 that you provided for the block. I appreciate that. And
7 then illustrating that, graphics or representation.

8 The question I have, though, about the IZ units,
9 and I'm glad that the record is now kind of cleared up, but
10 what I noticed is in the burden of proof that was issued on
11 June 12th, 2023, it says propose three units; therefore, no
12 IZ is required on page 1. And then your set of plans that
13 are issued on May 24th, 2022, show what seems to be seven
14 units.

15 So I just kind of wanted to clarify what was the
16 intent from the beginning and why was there sort of this --
17 I won't suggest that it was misleading, but it just -- it
18 kind of jumbles or clouds the intent of the design.

19 So was the intent to always have seven units? And
20 I guess my question is, why -- if so, then why is it the
21 burden of proof -- the statement in the burden of proof said
22 that there were no IZ units going to be converted and only
23 three units?

24 MR. CROSS: I appreciate that. Our initial
25 assessment before we started the project outline that there

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 were going to be IZ units. As we got into the project, we
2 have always been proposing seven units. But the IZ component
3 was omitted in some of the initial iterations, simply as kind
4 of an internal miscommunication. That was revised and
5 corrected, and I apologize that the burden of proof did not
6 catch up with that, but IZ has been in there for several
7 months now, I believe.

8 MEMBER IMAMURA: It has, and I appreciate that.
9 It's just, you know, there is sort of a pattern, Mr. Cross,
10 and at least -- I won't speak for the Board, but I know that
11 when I do see -- look more carefully at your drawing sets,
12 and so for that communication and clarity.

13 So it just seems to me that there's this sort of
14 consistency, and at the end the record finally catches up
15 with the correct set of drawings, matches the burden of
16 proof, and I guess this leads to my last question. I know
17 that there has been examples in the past where DOB has
18 received -- or received a different set of plans, so I just
19 want to make certain that DOB has -- if the Board so chooses
20 to approve this application, that they have the correct set
21 of plans or will have the correct set of plans in front of
22 them.

23 MR. CROSS: I appreciate your feedback, as always.
24 The record is consistent between DOB and BZA, and we will
25 build according to the BZA's approved plans.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 MEMBER IMAMURA: Thank you, Mr. Cross. I want
2 this project, if approved, to be successful for both you and
3 the applicant, and we've -- as you know, and it has been on
4 public record, it's sort of the history of some very
5 challenging cases here because of the miscommunication in
6 drawing sets. So thank you for adding that clarity.

7 Mr. Chairman, those are all the questions that I
8 have for Mr. Cross.

9 BZA CHAIR HILL: Okay. Great.

10 Mr. Cross, the plans are the ones that are in
11 Exhibit 40, correct?

12 MR. CROSS: Yes, sir.

13 BZA CHAIR HILL: Okay. All right. Anyone else
14 have questions?

15 VICE CHAIRPERSON JOHN: Mr. Chairman, just one
16 question, for the Commissioner to clarify that she is not
17 authorized to represent the ANC at this hearing. Am I
18 reading the record correctly? I'm trying to pull up the ANC
19 resolution now.

20 BZA CHAIR HILL: Commissioner, do you know if they
21 have signed something that says that you are representing the
22 ANC?

23 MS. ANDERSON: We do not have a signed document
24 saying that I represent the ANC. We just have the resolution
25 that we passed supporting two of the areas of the requested

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 relief.

2 BZA CHAIR HILL: I got you. So for the record,
3 you are here as the SMD, correct?

4 MS. ANDERSON: Correct.

5 BZA CHAIR HILL: Okay. Great.

6 All right. Anyone else have any questions before
7 I move on to the public?

8 VICE CHAIRPERSON JOHN: Just one follow-up
9 question for -- for the Office of Planning, and I think I
10 might have their report, because this affects whether or not
11 we can provide great weight to the report. Just give me a
12 moment.

13 So the correct -- in the report, it says relief
14 from 206.1. That was changed and replaced by 204.1 and
15 204.4. And I'm trying to see if the discussion referenced
16 -- yes, the discussion -- so the relief would be granted
17 under 204.4 and X901, with respect to the architectural
18 elements.

19 So there is a discussion of 204.1. It's just in
20 your caption. Okay. That's fine. That's fine.

21 On page 5, with respect to the rooftop or upper
22 floor elements, you do discuss 204.1. Okay. Thank you.

23 Thank you, Mr. Chairman. I have nothing else.

24 BZA CHAIR HILL: Okay. Thank you, Vice Chair
25 John.

1 Let's see. Okay. Anyone else have any questions
2 for anyone before I move on to the public?

3 All right. Mr. Young, is there someone here
4 wishing to speak?

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

6 BZA CHAIR HILL: Okay. Could you give me their
7 name, please?

8 MR. YOUNG: James Skellion.

9 BZA CHAIR HILL: Okay. Great. Mr. Skellion, can
10 you hear me?

11 MR. SKELLION: I'm sorry. Can you -- I can hear
12 you. Can you hear me?

13 BZA CHAIR HILL: Yes. Yes.

14 MR. SKELLION: Okay. Great. Great. Thank you
15 for allowing me just to voice some of my concerns that --
16 yeah. What? Do you need me to -- do you need --

17 BZA CHAIR HILL: Yeah.

18 MR. SKELLION: -- anything else from me? My
19 address or what?

20 BZA CHAIR HILL: Yeah. Just one second. Exactly,
21 Mr. Skellion. If you could introduce yourself for the
22 record.

23 MR. SKELLION: Sure.

24 BZA CHAIR HILL: And then also, just to let you
25 know, you'll have three minutes to give your testimony, and

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 the clock is on the screen.

2 MR. SKELLION: Okay. Good morning. My name is
3 James Skellion, and I live across the street at 1928 2nd
4 Street. I have been in the neighborhood for almost 12 years,
5 and I just -- when these plans came up, you know, I just had
6 some concerns, and I guess this is -- this is where I voice
7 those concerns and, you know, present those concerns to the
8 Zoning Commission, and then, you know, we just take it from
9 there I guess.

10 So my main concern was the relief for the
11 additional 20 feet on the rear of this project. Basically,
12 there is a real parking issue in our neighborhood.
13 Currently, there is a parking issue. And looking at these
14 plans, and I kind of looked at them in just how many bedrooms
15 there will be, you know, of this -- of these seven units, and
16 I believe there's 22 bedrooms for this property and this
17 project, and so, you know, that's quite a foot print for this
18 property.

19 And to only have four parking spaces, I don't
20 think that's sufficient. And I would assume that those
21 parking spaces will be allotted to the owner of the building,
22 so the other people in this building will have to park on the
23 street. And like I say, we have a problem now, and then
24 bringing in, you know, five other families with two cars
25 each, you know, I would -- I would think that's an issue.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

(202) 234-4433

www.nealrgross.com

1 I don't have an issue with the relief at the front
2 of the building or the other relief request. The plans are
3 beautiful, but I think the project is a little big. There
4 isn't any structure or building similar to this building on
5 our block.

6 You know, I -- I think creating the entrance on
7 the side versus the front will change some of the
8 characteristics of our neighborhood, and so, yes, but that's
9 -- that's basically my concern. I just -- I don't -- again,
10 the main one is the parking issue. There is not enough, and
11 I don't know how the zone -- Zoning Commission determines
12 parking spaces per, you know, how many you need for a
13 multi-unit building. But that -- that's just my concern.
14 That's all I have to say.

15 BZA CHAIR HILL: Okay. Thanks, Mr. Skellion.

16 MR. SKELLION: Sure.

17 BZA CHAIR HILL: And also, thanks for taking the
18 time to be here. Did you get a chance to go to any ANC
19 meetings?

20 MR. SKELLION: Say that again?

21 BZA CHAIR HILL: Did you get the chance to go to
22 your ANC meetings?

23 MR. SKELLION: Yes. Yes, I -- I attended -- yes,
24 I -- I did. Yeah.

25 BZA CHAIR HILL: Okay. And were you able to voice

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 your concerns at that point as well?

2 MR. SKELLION: I was, yeah.

3 BZA CHAIR HILL: Okay. I mean, the issue with --
4 or not the issue -- I mean, we are -- they are not here
5 requesting parking relief. They are providing all of the
6 parking. We're the -- we're the Board of Zoning Adjustment,
7 by the way. We're not the Zoning Commission.

8 MR. SKELLION: Okay.

9 BZA CHAIR HILL: So, you know, we're following
10 what the regulations are put forward, so they're not here
11 requesting parking relief. They are providing all of the
12 parking for this building. But I do hear what you're saying
13 about the other issues that you had in terms of -- or at
14 least one thought you thought that maybe the character --
15 that the entrance on the side made a difference. But as far
16 as the parking, they are providing all of the parking that
17 they are supposed to be providing.

18 MR. SKELLION: Okay. And, Mr. Chairman, and
19 that's -- again, I think -- I think that's -- it's up to
20 code, but that 20-foot bump out in the back, you know, is it
21 -- is it reasonable to ask the -- you know, that that
22 particular relief request -- that could create more parking
23 for this, you know, seven-unit building, you know. That's
24 how I look at it, so --

25 BZA CHAIR HILL: Okay.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 MR. SKELLION: Yeah.

2 BZA CHAIR HILL: All right. Does anybody have any
3 questions for Mr. Skellion? Okay. All right. Mr. Skellion,
4 thank you --

5 MR. SKELLION: Thank you.

6 BZA CHAIR HILL: -- for taking the time.

7 MR. SKELLION: Yep. Thank you.

8 BZA CHAIR HILL: Bye-bye.

9 Okay. Let's see. All right. Does anyone have
10 any other questions for the applicant or the Office of
11 Planning?

12 Go ahead, Dr. Imamura.

13 MEMBER IMAMURA: Thank you, Mr. Chairman. I just
14 have one more comment for Mr. Cross. And just, actually, two
15 comments I guess, one for Mr. Skellion that -- just a layout.
16 Architecturally, I don't think that there could be any more
17 additional parking onsite.

18 But my comment for Mr. Cross is that, with the
19 seven units, 22 bedrooms, that's an awful lot -- amount of
20 trash waste that people will generate. And I only see four
21 trash bins, at least in your rendering on the plan. And I'm
22 not expecting a comment. This is sort of outside of the
23 relief requested, but I would encourage you to expand that
24 area. So five pounds of trash per person per day, and you
25 only have four trash bins out there. You may want to

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 increase the number and size of this. And it looks like you
2 have space available, so --

3 MR. CROSS: I appreciate that. This project will
4 be served by private trash collection. So the frequency of
5 that pickup will be coordinated with the capacity.

6 MEMBER IMAMURA: Okay.

7 MR. CROSS: I hope so. All right.

8 MEMBER IMAMURA: Thank you, Mr. Chairman.

9 BZA CHAIR HILL: Thanks, Dr. Imamura.

10 All right. I'm going to go ahead and close the
11 hearing. Oh, sorry. Mr. Blake?

12 MEMBER BLAKE: A quick question, Mr. Cross. Are
13 these intended to be condos or rental units?

14 MR. CROSS: At this time, I'm not sure. I believe
15 the original intent was for them to be condominium units, but
16 the client has indicated that she is not fully confident in
17 which direction she'll go at the time of out sale.

18 MEMBER BLAKE: Okay. Thank you.

19 BZA CHAIR HILL: Okay. All right. Thank you all
20 very much. Thank you, Commissioner, for joining us. And I'm
21 going to close the hearing and the record.

22 (Pause.)

23 BZA CHAIR HILL: Okay. Would someone else like
24 to start? I see Vice Chair John talking, which is great.
25 I'm just tired of talking. That's all.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 VICE CHAIRPERSON JOHN: Okay. So I thought Mr.
2 Cross's presentation was really very thorough, and I
3 appreciated the outreach to the community and his explanation
4 of why the design was consistent with what's on the block
5 right now.

6 So I am -- I think that the application meets the
7 criteria. Usually, the issue with these cases is the
8 extension of the rear wall further than 10 feet. And, in
9 this case, I appreciated the shadow studies, which did not
10 show significant shadowing beyond what's available as a
11 matter of right.

12 With respect to the parking, I -- as the chairman
13 stated, there is no request for parking relief, and I also
14 appreciate that the Commissioner is here from the SMD to give
15 comments if we need them. However, because the Commissioner
16 is not authorized to speak on behalf of the full ANC, we will
17 not be able to give her testimony great weight, even though
18 she didn't really have very much to say. I'm just stating
19 the rule that the Board follows.

20 And with respect to the ANC report, the ANC was
21 in favor of the relief from 204.1 through 204.4, and the
22 general special exception criteria, and also for the
23 conversion to the residential building. So with respect to
24 those two elements, I am prepared to give the ANC report
25 great weight and no weight with respect to the rear wall

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 extension. I appreciate that the adjacent property owner
2 which would be most impacted is in support.

3 And with respect to the Office of Planning's
4 report, I will give it great weight because I thought the
5 explanation was quite thorough.

6 And so, with that, I would leave it to my fellow
7 Board members to comment. Thank you, Mr. Chairman.

8 BZA CHAIR HILL: Thank you, Vice Chair John.
9 Mr. Smith?

10 MEMBER SMITH: I agree with the assessment of Vice
11 Chair John on this particular case. I think on the whole Mr.
12 Cross's presentation, Ms. Thomas's presentation, regarding
13 OP's stance on this particular case, I do believe they have
14 met the burden of proof for us to grant the requested special
15 exceptions for them to significantly expand this building.

16 As Ms. John stated, the major concerns with these
17 types of developments or these types of -- these types of
18 developments, these types of conversions, expansions for
19 conversions, is the rear addition. So they are doing a
20 20-foot expansion, but I will give kudos to the applicant for
21 being very meticulous in designing this building to ensure
22 that they mitigate some of those light impacts, instead of
23 we've seen that most of the time we've seen them --

24 VICE CHAIRPERSON JOHN: Hey, I'm freezing over
25 here.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 BZA CHAIR HILL: Ms. John? Ms. John, you're --
2 Ms. John? Ms. John, you're on mute.

3 MEMBER SMITH: You're not on mute.

4 BZA CHAIR HILL: You're not on mute.

5 VICE CHAIRPERSON JOHN: Thank you. So now the
6 whole world knows that I have a heating issue in my house,
7 which is why I'm wearing a jacket.

8 (Laughter.)

9 VICE CHAIRPERSON JOHN: I'm trying to get it
10 fixed. I will mute. Thank you for letting me know.

11 BZA CHAIR HILL: Good luck to that.

12 VICE CHAIRPERSON JOHN: Thank you.

13 BZA CHAIR HILL: All right. Mr. Smith?

14 MEMBER SMITH: Right. So the applicant has
15 proposed in its design to -- to, you know, place a roof deck
16 on a fair amount of what would be the third floor of this
17 building, and in a manner -- and placing it in a manner that
18 -- what the applicant is proposing -- it does provide some
19 additional light to the property that would be most impacted,
20 the attached building.

21 And this design consideration I think is reflected
22 by the adjacent property owner being in support of this
23 particular application, of note -- which is of note to me.

24 Regarding some of the concerns raised by the
25 persons in opposition regarding parking, the property owner

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 is in compliance with the minimum parking requirements. And
2 because we are not the Zoning Commission, we do not have the
3 recourse to negotiate that.

4 We are required to look at the regulations as they
5 are, and the applicant is meeting that minimum standard for
6 parking and we cannot require them to go above the estimation
7 if they so are not inclined to provide above that minimum.

8 Regarding safety, this proposed addition would
9 provide additional eyes on the street with additional units
10 within that building. So I do believe that there would not
11 be an undue issue regarding safety with the proposed
12 expansion of this building.

13 So with that, I note that the ANC is also in
14 support, and I give OP staff report great weight and would
15 support the application.

16 BZA CHAIR HILL: Thank you, Mr. Smith.

17 Mr. Blake?

18 MEMBER BLAKE: I would echo comments made by Vice
19 Chair John and Board Member Smith. As I was reviewing the
20 application, I think the applicant does meet the burden of
21 proof to be granted the relief requested. Light and air will
22 not be unduly impacted. Privacy enjoyment certainly would
23 not be unduly compromised. And the design is not that
24 visually intrusive. I actually have, in the past, owned
25 property on this particular block, and I am very familiar

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 with it. I think that the parking issue, as Mr. Smith
2 pointed out, is more than the minimum requirement for
3 parking, and the shadow study certainly did show that the
4 light and air will not be unduly, light will not be unduly
5 impacted. Otherwise, the massing is within the requirements
6 of the zone. And this is an unusually large lot for this,
7 you know, slightly larger lot for this particular row.

8 I give great weight to the Office of Planning's
9 recommendation for approval and echo Ms. John's comments with
10 regard to the ANC's great weight application. I will be
11 voting in favor of this application.

12 BZA CHAIR HILL: Thank you. Dr. Imamura.

13 MEMBER IMAMURA: Thank you, Mr. Chairman. I align
14 myself with all of the comments made by my fellow Board
15 members in agreement and plan to vote in support of this.

16 BZA CHAIR HILL: Okay. Great. Thank you. I also
17 will agree with everything that has been said before and do
18 appreciate that I am not 100-percent sure, but I believe that
19 they are providing one more parking space than is the
20 minimum, even though it is a compact space, and that, again,
21 right, they are not asking for relief for parking.

22 And in terms of the Mansard roof, I did want to
23 make one comment, which is that I am comfortable with it
24 because the other Mansard roofs have been removed and this
25 is an end-of-the-block project, although it is kind of an

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 interior block and whatever. And I think that the applicant
2 has done a good job of providing us with the information
3 needed in terms of the sun study and the reaching out to the
4 community. They have basically done their homework, which
5 is great. They have reached out to all of the neighbors,
6 they have gotten all of the different people to understand
7 about the project, which makes it easier for me to feel
8 comfortable about how they're meeting the requirement.
9 Although the requirement, again, is not how well you reach
10 out to the public, it is helpful to understand what the
11 community is thinking.

12 I would mention also, I think I have been told
13 that the commissioner that was with us was actually the vice
14 chair, and since the vice chair signs documents as to who is
15 representing the ANC, even though we don't have a signed
16 document, I don't think it's necessary, but I am just
17 pointing out that I was informed that she was the vice chair.
18 But I do appreciate her testimony and her ability to be with
19 us to provide further clarity as to how much effort has gone
20 on with this project with the community. So I will also be
21 voting in favor.

22 I am going to go ahead and make a motion to
23 approve Application Number 20981, as captioned by the
24 secretary, and ask for a second. Ms. John.

25 VICE CHAIRPERSON JOHN: Second.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 BZA CHAIR HILL: The motion has been made and
2 seconded. Mr. Moy, if you would take a roll call.

3 MR. MOY: Yes. Thank you, sir. When I call your
4 name, if you will please respond to the motion made by
5 Chairman Hill to approve the application for the relief
6 requested. The motion was seconded by Vice Chair John.
7 Zoning Commission, Dr. Imamura.

8 MEMBER IMAMURA: Yes.

9 MR. MOY: Mr. Smith.

10 MEMBER SMITH: Yes.

11 MR. MOY: Mr. Blake.

12 MEMBER BLAKE: Yes.

13 MR. MOY: Vice Chair John.

14 VICE CHAIRPERSON JOHN: Yes.

15 MR. MOY: Chairman Hill.

16 BZA CHAIR HILL: Yes.

17 MR. MOY: Staff would record the vote as 5 to 0
18 to 0, and this is on the motion made by Chairman Hill to
19 approve. The motion to approve was seconded by Vice Chair
20 John, who also voted to approve. Others voting to approve
21 the motion, Zoning Commissioner, Dr. Imamura; Mr. Smith; Mr.
22 Blake; Vice Chair John, and Chairman Hill. Motion carries,
23 sir, 5 to 0 to 0.

24 BZA CHAIR HILL: Thank you, Mr. Moy. So we have
25 kind of been taking breaks left and right a little bit, and

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 so, if everyone is okay, just let me know if otherwise, I
2 will just keep going until we break for lunch and then see
3 what is happening. Does anybody need a break right now?
4 Okay.

5 Mr. Moy, you can call our next case. You're on
6 mute, Mr. Moy.

7 MR. MOY: Thank you, sir. The case before the
8 Board is Application Number 20995 of Herndon I & D, LLC.
9 This is a self-certified application pursuant to Subtitle X
10 § 100.2 for an area variance from the minimum lot dimensions
11 of Subtitle D § 202.1. The property is located in the R-1A
12 zone at 2065 Trumbull Terrace, NW, Square 2640, Lot 818. And
13 I believe, if I can check one other thing, sir, I believe --
14 no, that's all I have. Thank you, sir.

15 BZA CHAIR HILL: Okay. Great. If the applicant
16 can hear me, if they can introduce themselves for the record.

17 MR. HENDI: This is Ricardo Hendi. I'm the
18 architect.

19 MR. BELLO: Good morning. Toye Bello representing
20 the applicant.

21 BZA CHAIR HILL: All right. Good morning, Mr.
22 Bello. I started to hear someone. Is there someone else
23 with you, Mr. Bello?

24 MR. BELLO: Yes, the architect is online.

25 BZA CHAIR HILL: Okay. Could the architect

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 introduce themselves, please?

2 MR. HENDI: Yes. Sorry. I spoke over Mr. Bello.
3 Sorry about that. My name is Ricardo Hendi. I'm the
4 architect.

5 BZA CHAIR HILL: Okay. Mr. Bello, do you know
6 that Exhibit 9 that you are now the representative for the
7 applicant was signed? You're on mute, Mr. Bello.

8 MR. BELLO: We updated a signed copy. I believe
9 that would be -- let's see if I can --

10 BZA CHAIR HILL: Is the applicant here, Mr. Bello?

11 MR. BELLO: I don't believe so. The owner may be
12 listening but --

13 BZA CHAIR HILL: No problem. I'll wait for you
14 to look and find. If the owner is listening, if they could
15 try to join the hearing.

16 MR. HENDI: Hi. This is Ricardo Hendi. The owner
17 is online. He's listening. He's having trouble speaking
18 English, so I'm helping him out. What would you like him to
19 do? Just to identify himself?

20 BZA CHAIR HILL: Can I hear him right now?

21 MR. HENDI: I believe he can, if he would, if I
22 may, Raul (foreign language spoken), please. Can you
23 identify yourself, Raul?

24 BZA CHAIR HILL: Oh, here, I see him. Mr. Hendi,
25 can you hear me again?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 MR. HENDI: Yes, I can hear you.

2 BZA CHAIR HILL: Could you ask Mr. Castellano --

3 MR. HENDI: Yes, Raul Castellano, yes. He's the
4 owner. He's a representative of Hernon I & D.

5 BZA CHAIR HILL: Can he hear me?

6 MR. HENDI: Raul, you're on mute. If you can
7 unmute yourself, Raul.

8 MR. CASTELLANO: Hello. Good morning. Sorry.
9 I try to put on mute. Okay, okay. Good morning. I am here.
10 I can hear you.

11 BZA CHAIR HILL: Mr. Hendi, could you ask --
12 (foreign language spoken).

13 MR. CASTELLANO: Castellano.

14 BZA CHAIR HILL: Castellano, Castellano. Could
15 you ask Mr. Castellano if Mr. Bello is his representative?

16 MR. CASTELLANO: Yes, he's the representative.
17 Ricardo Hendi is my architect.

18 BZA CHAIR HILL: Okay, all right. So for the
19 record, Mr. Castellano has now said that Mr. Bello is his
20 representative. All right. Mr. Bello, can you hear me
21 again?

22 MR. BELLO: Yes, I can, Mr. Chair.

23 BZA CHAIR HILL: Okay. If you want to go ahead
24 and walk us through your application and why your applicant
25 is meeting the requirements for us to grant the relief

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 requested. I am going to put 15 minutes on the clock so I
2 know where we are, and then you can begin whenever you'd
3 like.

4 MR. BELLO: Thank you, Mr. Chair. If Mr. Young
5 would pull up the PowerPoint presentation, the Exhibit 35,
6 I believe. Thank you. Second page, please. So the relief
7 that the applicant is seeking before the Board of Zoning
8 Adjustments is an area variance. And that area variance is
9 from provision of Subtitle D § 202.1. This is to allow the
10 new construction of a single-family dwelling on a substandard
11 tax lot. The project, otherwise, complies with all other
12 applicable development standards.

13 Next page, please. Section 100.2 authorizes the
14 Board to grant variances where a property exhibits three
15 characteristic elements. The first is that the property be
16 unique in physical characteristic or demonstrate an
17 extraordinary or exceptional situation of condition of
18 property.

19 Next page, please. The second prong of the test
20 is that the physical characteristics or extraordinary or
21 exceptional situation of condition of property makes the
22 strict application of the zoning regulations result in
23 peculiar and exceptional practical difficulties upon the
24 owner.

25 The third is that the Board be able to grant the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 variance without substantial detriment to the public good and
2 without substantial impairment of the intent, purpose, and
3 integrity of the zone plan.

4 Next page, please. With respect to the first
5 prong of tests, the subject property demonstrates exceptional
6 condition of property because it is existing in its
7 configuration and has been existing in that configuration
8 since prior to May 12, 1958. In other words, it's been
9 substandard since that time and no reconfiguration is
10 requested in this application.

11 Next page, please. Peculiar and practical
12 difficulties to the owner. Without the grant of the relief
13 that the applicant is requesting, this lot would be
14 undevelopable in perpetuity. So the granting of the relief
15 actually relieves the owner of the property of the peculiar
16 and practical difficulties that would be placed upon the
17 owner without the granting of this relief.

18 Next page, please. Substantial detriment to the
19 public good. The relief sought is not inconsistent with the
20 provisions set forth in Subtitle C 301.1. That section
21 allows similar lots, nonstandard, substandard lots to be
22 developed as a matter of right, provided that the proposed
23 structure meets all of the development standards prescribed.
24 The proposed project here comprises all of the applicable
25 development standards for its underlying R-1A zone district.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 The subject matter has undertaken concept review approval by
2 the Commission of Fine Arts, and the applicant notes that the
3 CFA process was also a public hearing review process similar
4 to the BZA process.

5 Next page, please. The proposed single-family
6 dwelling provides an additional indoor parking space than it
7 is required to provide, accessible from a curb-cut already
8 approved by DDOT. The proposed use is permitted as a matter
9 of right. This would be in compliance with the third prong
10 of the burden of proof.

11 Next page, please. The applicant presented the
12 design or application to the ANC in a regularly-scheduled
13 meeting December 28. The motion to support the application
14 failed on 3-2 vote. And the basis of ANC opposition, one,
15 was that the owner had prior knowledge of the substandard
16 nature of the subject property, which the applicant does not
17 deny; and that the proposed building is large in scale for
18 the substandard size relative to adjoining properties.

19 The applicant's response to the report. The fact
20 that the substandard lot is in existence and the applicant
21 was aware of it does not preclude the application here before
22 the Board because the purpose of requesting a variance is
23 exactly to mitigate such situations. The scale of the
24 property. The property comprised of the maximum percentage
25 of lot occupancy, which is 40 percent, so it is consistent

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

(202) 234-4433

www.nealrgross.com

1 with the scale that the applicable provisions prescribe for
2 the underlying zone.

3 Next page, please. The ANC also brought up the
4 issue of the ownership of the adjacent property by the same
5 owner, which is correct. So this graphic essentially
6 illustrates that, even if the owner were to attempt a
7 subdivision or a re-subdivision of these two lots, we would
8 still be before the Board of Zoning Adjustments because one
9 of the lots would not comply with the minimum lot
10 requirements. So the single ownership of those two lots does
11 not mitigate the need for relief that is sought before the
12 Board of Zoning Adjustments in this application.

13 Next slide, please.

14 BZA CHAIR HILL: Mr. Bello, Mr. Bello.

15 MR. BELLO: Yes, sir.

16 BZA CHAIR HILL: Just to be clear that when you're
17 talking about the ownership of that other lot so that they
18 don't have enough area to make two separate lots, so the
19 other one would be in noncompliance?

20 MR. BELLO: One of them would be, would either be
21 creating a new noncompliance that doesn't exist or we'll
22 still be coming before the Board for an application for this
23 particular property. At the appropriate time, I think I will
24 have the architect speak to the process that's already been
25 undertaken for that lot, which I think they already have a

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 building permit for.

2 BZA CHAIR HILL: Okay. Please ct. Thank you.

3 MR. BELLO: So this is simply a copy of the
4 concept approval letter from the Commission of Fine Arts.
5 Next page, please. This is a builder's plat that documents
6 compliance with all other applicable development provisions
7 for the property which the property proposed structure
8 complies with. Next page, please. Just another site plan
9 documenting the same.

10 Next page, please. I'll have the architect speak
11 more to this, but this, basically, is an illustration of the
12 relative relationship between these two lots, 2055 and 2065,
13 owned by the applicant and the adjacent property that faces
14 Upshur Street in terms of a scale and profile.

15 Next page, please. This is just a vicinity map
16 and photographs showing neighborhood type. Next page,
17 please. I would have the architect take over from here to
18 walk the Board through the design elements of the project.
19 Next page, please. I'll leave that to the architect. Next
20 page, please. Next page, please. Next page, please. Next
21 page, please.

22 This is a copy of the tree removal permit. I know
23 there were issues raised about the tree removal on this site,
24 but the applicant has undertaken the review process for those
25 trees that are removable and those heritage trees that needs

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

(202) 234-4433

www.nealrgross.com

1 to be protected. So this is the tree removal permit for that
2 purpose.

3 Next page, please. No need to repeat this. Is
4 an Advisory Neighborhood Commission issue that's already been
5 addressed. Next page, please. And this is essentially the
6 conclusion where the applicant respectfully requests the
7 relief to be granted for stated reasons. The property meets
8 the three point test. The type of structure is a permitted
9 structure as a matter of right. The use is a permitted use.
10 And the proposed structure meets and exceeds the minimum
11 required parking spaces for the single-family dwelling.

12 If the Board wishes, the architect would walk
13 through the design package. And we stand ready to answer any
14 questions.

15 BZA CHAIR HILL: Okay. Mr. Bello, let me see
16 before -- oh, never mind. Mr. Blake has his hand up, and,
17 Mr. Blake, do you need to see something from the
18 presentation?

19 MEMBER BLAKE: Yes and no. The question will lead
20 to that.

21 BZA CHAIR HILL: Okay. Go ahead.

22 MEMBER BLAKE: Sure. In doing this observation
23 of this case, I found that, in looking at the prong test, I
24 had a little bit of problem with the practical difficulty.
25 And the reason I had that problem is that, as I look at the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 joint ownership, which you indicated was not that relevant,
2 the fact that it is joint ownership means that a theoretical
3 lot subdivision is possible. And, therefore, if I argue that
4 there is no opportunity to expand the area or no opportunity
5 to get a building permit as one of my elements of my
6 features, practical difficulty, I don't see how there's a
7 practical difficulty. So can you walk through why a
8 theoretical lot subdivision would not be doable?

9 Also, you indicated that we'd still be here for
10 relief, but, if, in fact, that were relief, it would be for
11 a special exception, which is a lesser relief standard than
12 this variance. So if you could explain to me why, could you
13 explain to me why that would not be the right approach to
14 this?

15 MR. BELLO: Well, thank you, Mr. Blake. So
16 Subtitle A § 301.3, that provision prohibits the court
17 official from issuing a building permit to any property
18 unless that property is on a separate lot of record. And
19 there are, in fact, exceptions to that rule, but that
20 exception includes the theoretical lot subdivision exceptions
21 of Subtitle C 305.1.

22 Subtitle C 305.1 allows a waiver of Subtitle C
23 302.1. 302.1 mandates that a lot shall be divided, and the
24 emphasis is on that word divided, so as not to create a
25 nonconformity or violate the provisions of the zoning

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

(202) 234-4433

www.nealrgross.com

1 regulations pertaining to yards, courts, lot occupancy, lot
2 width, and minimum of area.

3 Now, the technical language of the use of the word
4 subdivision encompasses three types of subdivisions: one,
5 either to combine several lots together; another to subdivide
6 to create a new lot from a single lot; and the third which
7 is simply to convert a tax lot to a record lot, as Subtitle
8 A § 301.3 mandates. The third kind of subdivision is what
9 is embarked on here: not one to create a new lot to
10 subdivide, to combine, or otherwise just to record the lot
11 and convert it from a tax lot to a record lot.

12 If you look at the provisions of the theoretical
13 lot subdivision, that provision is actually for the
14 subdivision of a large lot, wherein those lots would not have
15 street frontage and would front on private access road, if
16 you go through the provisions and look at the requirements
17 for those kind of subdivisions. So my contention here is
18 that the theoretical lot subdivision is inapplicable in this
19 instance because we are not creating any new lots in any kind
20 of way or changing the configuration of what exists.

21 MEMBER BLAKE: Mr. Bello, I'm trying to make sure
22 I understand. If you combine this into one record lot and
23 then do a theoretical subdivision of that one lot, that is
24 exactly what will allow you to draw a permit and build two
25 primary structures on that lot. So I don't understand why

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 that would not be the case. Maybe I'm missing that.

2 MR. BELLO: Sure. First of all, those two lots
3 in that circumstance would still have street frontage. And
4 even if those could be considered under special exception,
5 if you look at the special exception provisions, that does
6 not waive the requirement for minimum area and width
7 requirements. So we'll still be asking for a full exception
8 and then a variance under that special exception from the --

9 MEMBER BLAKE: I understand that the provisions,
10 though, look at height, side yard, rear yard. I don't recall
11 the area requirement. Maybe we can talk to the Office of
12 Planning to get clarification. I'm not sure there's an area
13 requirement in there.

14 BZA CHAIR HILL: Mr. Bello, let's talk with the
15 Office of Planning when we get to them. Okay. Who else has
16 a question? Ms. John.

17 VICE CHAIRPERSON JOHN: Yes. So the second lot,
18 is it currently developed? Because in your statement you say
19 that the lot at 2065 is the only undeveloped lot, so is that
20 accurate?

21 MR. BELLO: Let me respond to your question
22 partially and then have the architect speak to that. So that
23 lot does have an existing structure.

24 VICE CHAIRPERSON JOHN: Okay.

25 MR. BELLO: I'll let the architect speak to what's

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 proposed for it because I wasn't that involved in that.

2 VICE CHAIRPERSON JOHN: Okay. And does that
3 existing lot meet the requirements for a record lot?

4 MR. BELLO: Yes, it does. And I believe it has
5 been converted to a record lot. I'll let the architect speak
6 to that, if you will, please.

7 VICE CHAIRPERSON JOHN: Okay. So I can wait to
8 see that. Thank you.

9 MR. HENDI: This is Ricardo Hendi, the architect.
10 The other build at that lot has been converted into a record
11 lot, and we have a permit for it.

12 VICE CHAIRPERSON JOHN: When was that conversion
13 done?

14 MR. HENDI: Last year, I believe, mid September,
15 August. That was a requirement of obtaining the permit,
16 which we have. The permit was granted on December 19th or
17 thereabouts.

18 VICE CHAIRPERSON JOHN: Right. So it was a tax
19 lot with a structure?

20 MR. HENDI: Yes.

21 VICE CHAIRPERSON JOHN: Was it possible to
22 subdivide into two record lots, according to what Mr. Blake
23 was suggesting?

24 MR. HENDI: Okay. So, yes, the sum of both lots,
25 so the minimum lot size is 7500 square feet. The sum of both

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 lots is 1400, 700 and change. So if you combine both lots,
2 we're about 260 square feet short of getting two lots that
3 are compliant. That's the crux of it. So even if we do
4 that, we don't quite make it.

5 I would like to add to that that if, you know,
6 right now, one of the concerns of the ANC is that the
7 structure proposed for 2065 is too large. But if we made the
8 lot larger for 2065, the structure will be even larger. So
9 the way it is now, it's actually a much, somewhat compact
10 structure than what would result if we go the route of a
11 subdivision and expanding the lot just because we can build
12 a little bit more. It makes a difference.

13 VICE CHAIRPERSON JOHN: What's the frontage of
14 both lots?

15 MR. HENDI: So can we go back to that exhibit, if
16 you will, please? I can give it to you. I have it on my
17 computer. I believe it's page number 10. I don't know if
18 you can zoom in. The purple line, it's a theoretical line
19 that would give us the minimum lot on the right-hand side.

20 MR. BELLO: Ricardo, I think, I'm not sure,
21 correct me if I'm wrong, are you asking about the existing
22 width of lot or --

23 VICE CHAIRPERSON JOHN: Yes, the existing
24 frontage, street frontage. And what are the requirements for
25 creating a theoretical lot?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 MR. BELLO: Well, the existing width of lot of
2 application is approximately about 68 feet.

3 VICE CHAIRPERSON JOHN: Okay.

4 MR. BELLO: To repeat my experience and
5 contention, the --

6 VICE CHAIRPERSON JOHN: Just answer the question
7 first. So the width on the current lot is 16 feet. And on
8 the second lot for which you have the permit, what's the
9 frontage on that one, street frontage?

10 MR. BELLO: That's compliant at about more than
11 75 feet.

12 VICE CHAIRPERSON JOHN: Okay. Please continue.

13 MR. BELLO: So I was going to respond to your
14 question about the requirement for creating theoretical lots
15 and to reiterate my contention that even a theoretical lot
16 requires that the minimum lot area or dimensions be met or
17 else relief would be requested.

18 VICE CHAIRPERSON JOHN: Yes. And those
19 requirements are what? Is it --

20 MR. BELLO: That we fill in 500 square feet and
21 75 feet of width.

22 VICE CHAIRPERSON JOHN: Okay. Thank you.
23 Seventy-five feet in lot frontage?

24 MR. BELLO: That's correct.

25 VICE CHAIRPERSON JOHN: Okay. Thank you.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 BZA CHAIR HILL: Let me do this. Can you drop the
2 slide for a second, Mr. Young? Could I just hear from --
3 could the Office of Planning introduce themselves, please?

4 MR. JESICK: Good afternoon, Mr. Chairman and
5 members of the Board. My name is Matt Jesick.

6 BZA CHAIR HILL: Hi, Mr. Jesick. Happy New Year.

7 MR. JESICK: Thank you. Happy New Year.

8 BZA CHAIR HILL: Thank you. There's this whole
9 thing about the theoretical lot subdivision as a special
10 exception being a different route to do this. Are you
11 following along and understand what we think?

12 MR. JESICK: I am following. I'm afraid I can't
13 give you a detailed analysis on that option at this time.
14 That would be something new to us. But I understand the
15 Board's direction.

16 BZA CHAIR HILL: Okay. So do you think it might
17 be possible or you don't know?

18 MR. JESICK: It sounds like it could be possible,
19 yes.

20 BZA CHAIR HILL: Okay. Mr. Bello, I'm watching
21 you. You're on the screen, Mr. Bello. You know, you need
22 your poker face on a little bit better, you know.

23 MR. BELLO: Sorry.

24 BZA CHAIR HILL: That's all right, Mr. Bello.
25 Because I don't know where we are anyway, so that's okay.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 Like, whether you have convinced me, like -- I'm not so sure
2 about the first prong, Mr. Bello, just to be clear. Like,
3 the fact that you've got an undeveloped lot, like, I mean,
4 there's undeveloped lots all over the place, right. So, you
5 know, we'll see where we get with this discussion. But while
6 I'm still with the Office of Planning now, they apparently
7 are in approval of your current situation.

8 And so, Mr. Jesick, could you give your
9 recommendation, please, from the Office of Planning?

10 MR. JESICK: Yes, certainly. You're correct, Mr.
11 Chairman. The Office of Planning did find that this
12 application meets the standards for variance relief. We
13 reviewed it against the three-part variance test and found
14 that this lot did exhibit exceptional conditions which would
15 result in a practical difficulty for the applicant. Because
16 it is a tax lot, the applicant cannot obtain a building
17 permit, and this tax lot has existed since at least 1954,
18 prior to the establishment of the 1958 zoning regulations.
19 Every other lot in the vicinity was apparently created around
20 the same time. Why they were created as tax lots and not
21 record lots we can't establish, but all those other lots have
22 been developed. So there would be no opportunity for this
23 subject lot to expand in lot area or, as has been discussed,
24 even in this particular case where the adjacent lot is under
25 common ownership, even if it were expanded, one of the two

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

(202) 234-4433

www.nealrgross.com

1 lots would not meet the minimum lot area requirements.

2 So we did find that there would be a practical
3 difficulty, and we did not find that there would be undue
4 impacts to the public good or the intent of the zoning
5 regulations. So we can recommend approval of the variance
6 as requested.

7 BZA CHAIR HILL: Okay. So I'm looking at the
8 Office of Planning's report also for my fellow Board members,
9 so, I mean, they have made a case and provided some further
10 clarity as to why they believe that the area variance is
11 meeting the criteria, and I don't necessarily know if I need
12 the Board to try to figure out another way for the applicant
13 to get to where they are currently with the Office of
14 Planning. But, again, we'll see how this plays out.

15 Okay. Does anybody, do any of my fellow Board
16 members have any questions for the applicant or the Office
17 of Planning? Let's take Mr. Blake. He had his hand up
18 first.

19 MEMBER BLAKE: Mr. Jesick, could you explain to
20 me, you said it would take you a minute to figure out if the
21 theoretical lot subdivision would be doable or plausible.
22 What's your thoughts on that right now, and what would it
23 take for you to figure that out?

24 MR. JESICK: Well, I think Mr. Bello raises a
25 question about the relationship of C 305 and C 302, which we

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 would need to investigate in terms of lot area requirements.
2 And then we would also just need to do, you know, an
3 analysis. If that were the direction we would need to do
4 that analysis against the criteria of the theoretical
5 subdivision in 305. So I couldn't say at this point what our
6 stance would be on that analysis.

7 MEMBER BLAKE: Are you aware of an area
8 requirement in the subdivision, the theoretical subdivision?

9 MR. JESICK: The language is interesting because
10 the language of C 305 says that the following development
11 standards shall apply to theoretical lots, and it does talk
12 about side and rear yards, vehicle ingress or egress,
13 building height, and I think that's the main parameters. But
14 it does also refer, as Mr. Bello mentioned, to C 302; and C
15 302 talks about lot area. So I think we would need to look
16 at that further to give you a firm answer on that question.

17 MEMBER BLAKE: Okay. Thanks.

18 VICE CHAIRPERSON JOHN: So, again, here's my
19 comment. The applicant has presented an application for a
20 variance, and the applicant also has a record lot on an
21 adjoining lot, and I'm not quite sure why we're addressing
22 the adjoining lot if the applicant now has a record lot on
23 the adjoining lot. Are we saying that the variance is self
24 created? I guess this part of deliberations, but if someone
25 has an answer to that.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 MR. JESICK: Was that a question to me, Ms. John?

2 VICE CHAIRPERSON JOHN: Well, I guess I could ask
3 you, Mr. Jesick. I mean, when you review this application,
4 do you look at what is in front of you or do you go back to
5 see how we got here, in this case, where the applicant was
6 able to convert one lot to a record lot without seeking
7 approval of the BZA. So would you go back and look at that
8 action, which is not before us?

9 MR. JESICK: No, I don't think so. You know, that
10 lot was a tax lot also. However, it met the area and width
11 standard, so the owner was able to create the record lot.
12 It just so happens that that same owner owns this lot, but,
13 if it wasn't in common ownership, whoever owned the subject
14 property would still need to come before the Board, you know,
15 seeking relief. So the present owner could sell it, and then
16 the new owner would still need to come back to you for the
17 same areas of relief, and they would not have the option of
18 doing some kind of, you know, theoretical subdivision with
19 the adjacent property.

20 So we focused on the subject lot itself and
21 whether that property met the standards of the variance test.
22 We came to our conclusion and can recommend approval.

23 VICE CHAIRPERSON JOHN: Please go back over that
24 first prong again. One, it predates the 1958 regulations?

25 MR. JESICK: Yes. As far as we could tell, and

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 we worked with the surveyor on this question, we believe it
2 was created in 1954, around the same time as all the other
3 lots in this area, and it was created from a parcel, created
4 as a tax lot. We believe that is the same case as all the
5 other adjacent lots. Over time, all those other lots have
6 been developed, so this is the only remaining lot that has
7 not been developed. So there would be no opportunity to
8 expand the subject property because there are no other vacant
9 lots adjacent to it, notwithstanding the option of somehow
10 combining with a lot to the north. But, again, that option
11 is only under discussion because it's under common ownership,
12 and the ownership can always fluctuate. So that's how we
13 came to the conclusion that there was an exceptional
14 condition on this property.

15 VICE CHAIRPERSON JOHN: And please explain about
16 the park land. How does that impact the exceptional
17 condition?

18 MR. JESICK: I don't think that was part of our
19 discussion of exceptional condition.

20 VICE CHAIRPERSON JOHN: All right. Thank you.
21 Thank you.

22 BZA CHAIR HILL: Thank you, Vice Chair John. All
23 right. Anyone else for any questions of anybody? Okay. Mr.
24 Young, is there anyone here wishing to speak?

25 MR. YOUNG: We do not.

1 BZA CHAIR HILL: Okay. All right. Well, then let
2 me think here. All right. Let's see. First of all, Mr.
3 Bello, can you again tell me what happened with the ANC?

4 MR. BELLO: The motion that was moved at the ANC
5 meeting was for, one, of approval, but it failed on a 3 to
6 2 vote.

7 BZA CHAIR HILL: And can you remind me again why
8 it failed? What were the problems?

9 MR. BELLO: One, there was illusion to the fact
10 that this owner purchased the property knowing that the lot
11 was substandard and the fact that he owned an adjoining lot,
12 and the other was with respect to the scale of the proposed
13 footprint, which is in compliance with the maximum permitted
14 lot occupancy.

15 BZA CHAIR HILL: Say that last one again.

16 MR. BELLO: With respect to the concern with
17 scale, the applicant submits that the footprint is in
18 compliance with the maximum permitted lot occupancy and is
19 two floors above grade, as the elevations and the renderings
20 reflect. Moreover, it went through a Commission of Fine Arts
21 design review and already has concept approval.

22 BZA CHAIR HILL: Okay. Okay. All right. Okay.
23 Before I move on -- so this is just for my fellow Board
24 members, okay -- I know that at least someone may be
25 interested in asking Mr. Bello to take a look at the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 theoretical lot subdivision issue, and I don't know where I
2 am with that in that, I'll be honest, I'm happy to support
3 that information if, in fact, that helps clarify some Board
4 members' concerns that this may be the appropriate way to
5 move forward.

6 My hesitation is that we kind of are asking
7 applicants, well, it's not happened before, asking applicants
8 to look at a different manner to approach the project because
9 the Board members may be uncomfortable with this particular
10 rationale. So that is kind of where I think some members may
11 be.

12 So my ask or question, and I'm going to go around
13 the table, is would you like to have the applicant try to
14 flesh out a theoretical lot subdivision special exception
15 because you're uncomfortable with the way this is currently
16 going, meaning this route? And then what we would do -- or
17 I can actually ask then, we could just ask the Office of
18 Planning to provide their analysis of this possibility and
19 then it won't put a greater burden on the applicant, and then
20 we could come back for a decision? So if the Office of
21 Planning can actually even do that; I'm not terribly sure.
22 I have to kind of talk that through.

23 So I will ask, I'll go around the table and see
24 what you all think about what I just said. Who would like
25 to offer up their opinion first?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 MEMBER BLAKE: I guess I'll go first.

2 BZA CHAIR HILL: Okay.

3 MEMBER BLAKE: In my opinion, the issue to me is
4 that I'm not sure there's a practical difficulty. So to the
5 extent that -- that was the only thing that sways my vote is
6 that I did not think there's a practical difficulty.
7 Therefore, I wouldn't necessarily be supportive of a variance
8 in this case.

9 So the reason that, for me, to understand why a
10 theoretical lot subdivision wouldn't work would, in fact,
11 mean that there is a practical difficulty. They would not
12 be able to develop the lot otherwise. So it's a very simple
13 binary answer to me. They can or they can't. If they can,
14 then there isn't a practical difficulty. And if they cannot,
15 then there is a practical difficulty because it prohibits the
16 development of the property. That's my view. So I would
17 like to know the answer to that question.

18 BZA CHAIR HILL: Okay. Let me go around the table
19 and continue. So Mr. Blake has expressed his -- he's a no,
20 right, at this point. So if I can hear from my other fellow
21 Board members and also Mr. Jesick. I mean, ideally, it would
22 be great if you could just provide the report, Mr. Jesick,
23 in what Mr. Blake is asking for because, that way, then that
24 helps clarify whether or not there is a practical difficulty
25 according to Mr. Blake.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 Mr. Jesick, is that something you can provide the
2 Board?

3 MR. JESICK: Well, let me say that, if the Board
4 is asking us to review an application, we can certainly do
5 that. If the Board is asking us to provide an analysis or
6 an interpretation of the zoning regulations and how that
7 might apply to the property, I would recommend that your own
8 legal counsel would be the better route to provide you that
9 advice since we are not the official interpreters of the
10 zoning regs and I would hesitate to provide an answer that
11 might differ from what your own legal counsel would
12 potentially advise you.

13 BZA CHAIR HILL: That's fine. We can do an
14 emergency meeting also to hear from legal just to make
15 everybody, give everybody more information. So I don't know,
16 Mr. Smith -- and I'm going to go around; you just happen to
17 be on my right, Mr. Smith. And you've spent so much time in
18 an airplane, I'm sure you'd like to breathe and talk and all
19 these things. What is your opinion, Mr. Smith?

20 MEMBER SMITH: I agree with Mr. Blake. I think
21 we need to foreclose the possibility of whether -- I think
22 it's a question of whether it's an extraordinary or
23 exceptional situation if the applicant has another property
24 they can take that is at a lower burden of proof to the
25 special exception.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 BZA CHAIR HILL: Okay.

2 MEMBER SMITH: So I would like to explore this
3 question about theoretical lots. I agree with Mr. Jesick
4 that, you know, it's not an interpretation that the Office
5 of Planning makes. I think it's something that we need to
6 discuss with our legal counsel. So I would be more in favor
7 of having that discussion with our legal counsel and then
8 continuing this case.

9 BZA CHAIR HILL: Let me do an emergency meeting
10 with legal real quick, okay, and see where we are and if they
11 can provide this information and, if so, how much time they
12 need. And I'm looking for my little emergency speech, which
13 I don't have with me.

14 MR. HENDI: Could I add one thing, if I may?

15 BZA CHAIR HILL: Sure. Go ahead.

16 MR. HENDI: Yes. Just to remind everybody, the
17 owner, when he purchased this property, he purchased it
18 thinking that he could be able to build. He started the
19 process of doing the building permits thinking that it wasn't
20 an issue. Once we submitted to DOB for permit, it became
21 then clear that he had to come to BZA for relief. By that
22 time, the 2055 property, the adjacent one, was underway,
23 similar to 2065. 2065 started going the route of BZA while
24 2055 kept going. Now we have a permit for that; so if we
25 were to subdivide, we would have to redevelop the whole

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

(202) 234-4433

www.nealrgross.com

1 project and put the owner in huge, huge financial pressure.

2 And then, I mean, I know that we have to do this
3 properly and all of that, but I urge you to think what would
4 be the end purpose of all of this. We would end up with a
5 development that would be very similar. It's not like we are
6 gaining much by subdividing the properties. In fact, 2055
7 would be pretty much somewhat the same size and 2065 would
8 be even larger if we were going to redevelop and do all of
9 that. So the end result doesn't change if we were going to
10 subdivide. The whole effort would be putting the owner in
11 a lot of financial stress, and we wouldn't be achieving much
12 difference. So, anyhow, just wanted to put that --

13 BZA CHAIR HILL: Mr. Hendi, that was well said.
14 That was well said. I'm still looking for my little speech.

15 MR. BELLO: Mr. Chairman, can I just one thing --

16 BZA CHAIR HILL: Okay, Mr. Bello. Give me one
17 second, Mr. Bello. Mr. Moy, can you send me the --

18 MR. MOY: It's done, it's done.

19 BZA CHAIR HILL: Okay. Great.

20 MR. MOY: I sent it to you.

21 BZA CHAIR HILL: Okay. Great. Thanks. Go ahead,
22 Mr. Bello.

23 MR. BELLO: I would just want to add that, in
24 considering this matter, that attention should be paid to
25 these two sections: 302.1 and 302.2. 302.1 is what mandates

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 the subdivision shall not be affected to create a
2 nonconforming lot dimensions below what is described for the
3 underlying law. The exception for theoretical lots comes
4 under 302.2. That exception is only with respect to placing
5 more than one building on one lot. So the distinction is
6 very important.

7 So there's no exception from the provision 302.1,
8 which mandates minimum lot area requirements for lots in
9 respective zones. The exception for theoretical lots has to
10 do with the placement of more than one structure on one lot.
11 I think it's a very important distinction.

12 BZA CHAIR HILL: Okay.

13 VICE CHAIRPERSON JOHN: Mr. Bello, I think I
14 understand what the issue is. The applicant could have
15 subdivided into one lot and then created a theoretical
16 subdivision, which would not require a variance which is a
17 higher standard of relief, whereas the theoretical lot
18 subdivision could be done by special exception. That's how
19 I understand it, of course. The lawyers can disabuse me of
20 that notion. And I think we need to have this discussion
21 with the lawyers for the benefit of the Board.

22 You know, there's an application before us. We
23 can either vote on it or vote on it and see where the vote
24 goes or do as the Board sometimes does is to give the
25 applicant an opportunity to amend its application. So I

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 think that's where we are.

2 MR. BELLO: It's a little bit more than that,
3 Madam Chair.

4 VICE CHAIRPERSON JOHN: Okay.

5 MR. BELLO: Your point is well taken that that is
6 the issue, but the question here is is it, in fact, a lesser
7 burden of proof. If we all come to a consensus that 302.1
8 does not grant any waiver, even under a theoretical lot
9 subdivision, specifically with respect to lot dimensions,
10 what that means is that, even if we came back to you with a
11 theoretical lot subdivision, we would still need an area
12 variance from the minimum lot area requirements because one
13 or the other lots or both of them are not going to comply.

14 VICE CHAIRPERSON JOHN: Yes, that is my
15 understanding, but I would like to hear from the lawyers
16 whether -- you would have to come back before the Board
17 anyway. The question is what relief would you be coming back
18 for.

19 So let's talk to the lawyers. I'm not giving a
20 legal opinion. I'm just saying what I think is happening,
21 but let's have the lawyers tell us what the law is.

22 BZA CHAIR HILL: Okay. All right. I appreciate
23 both what Mr. Bello has added, as well as Mr. Hendi. Okay.
24 As chairperson of the Board of Zoning Adjustment in the
25 District of Columbia, in accordance with 407 of the District

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 of Columbia Administrative Procedures Act, I move that the
2 Board of Zoning Adjustment hold a closed emergency meeting
3 on 1/17/2024 for purposes of seeking legal advice on Case
4 20995 and deliberate upon but not vote on Case 20995 for the
5 reasons cited in D.C. Official Code 2-575(b)(13). Is there
6 a second, Ms. John?

7 VICE CHAIRPERSON JOHN: Second.

8 BZA CHAIR HILL: The motion made and seconded, Mr.
9 Secretary, could you please take a roll call?

10 MR. MOY: When I call your name, if you'll please
11 respond to the motion made by Chairman Hill to hold an
12 emergency closed meeting with legal counsel. The motion was
13 seconded by Vice Chair John. Zoning Commissioner, Dr.
14 Imamura.

15 MEMBER IMAMURA: Yes.

16 MR. MOY: Mr. Blake.

17 MEMBER BLAKE: Yes.

18 MR. MOY: Mr. Smith.

19 MEMBER SMITH: Yes.

20 MR. MOY: I'm sorry. Could you repeat that again?

21 MEMBER SMITH: Yes.

22 MR. MOY: Vice Chair John.

23 VICE CHAIRPERSON JOHN: Yes.

24 MR. MOY: Chairman Hill.

25 BZA CHAIR HILL: Yes.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 MR. MOY: The motion carries, sir, on the vote of
2 5 to 0 to 0. This is on your motion to hold an emergency
3 closed meeting. The motion was seconded by Vice Chair John.
4 In support and voting for the closed meeting is Zoning
5 Commissioner, Dr. Imamura; Mr. Smith; Mr. Blake, Vice Chair
6 John; Chairman Hill. The motion carries, sir.

7 BZA CHAIR HILL: Okay. Thank you. As it appears
8 the motion is passed, I hereby give notice that the Board of
9 Zoning Adjustment recess this proceeding on 1/17/2024 at
10 12:37 p.m. to hold a closed emergency meeting pursuant to
11 District of Columbia Administrative Procedures Act. A
12 written notice will be posted in the Jerrily R. Kress
13 Memorial Hearing Room.

14 Okay. Guys, I'll see you on the other channel,
15 and we'll come back right away. Thank you.

16 (Whereupon, the above-entitled matter went off the
17 record at 12:38 p.m. and resumed at 1:03 p.m.)

18 BZA CHAIR HILL: Okay. Mr. Moy, if you can call
19 -- oh, wait, I'm missing one more. Mr. Blake, is he there?
20 Okay. Great. Mr. Moy, if you could call us back in, please.

21 MR. MOY: After convening an emergency closed
22 meeting with legal counsel, the Board has returned to its
23 public hearing session and the time is now at or about 1:03
24 p.m.

25 BZA CHAIR HILL: Okay. Great. Mr. Bello, I don't

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 think we're going to need anything else from you. However,
2 if it ends up that we are going to need something else from
3 you, I will call you back in and let you know. You're on
4 mute, Mr. Bello.

5 MR. BELLO: Thank you.

6 BZA CHAIR HILL: Okay. All right. I'm going to
7 go ahead and close the hearing on the record. We're going
8 to please excuse everyone.

9 Okay. After some discussion, it seems like,
10 again, this could have been done another way, right. This
11 could have possibly been done as a theoretical lot
12 subdivision and a special exception. Again, I say this
13 possibly could have been done. And, again, what seems to be
14 happening is that, even in that situation, one of the lots
15 might have been back with us for an area variance. This is
16 where I get a little confused about -- thank you. Mr. Blake
17 will be able to clarify it when he gets to that portion of
18 it. So then this could have been done as a special
19 exception. I could have been done in a different way.
20 However, it is before us the way it is now.

21 I think that this is a little different than a
22 previous case that was being put before us as a precedent
23 case, which was, I guess, the Harrison case of 20594. And
24 I'm going to put that out because it's different. And so
25 that all of my fellow Board members also clarify how other

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 people that may be watching this, we, the Board, probably
2 think that it should have been done as a theoretical lot
3 subdivision. That being the case, as an area variance, I
4 think that it is a practical difficulty standard, which is
5 to say it's not impossible to do something else; it's
6 practically difficult to do something else. Part of that now
7 practical difficulty is the additional burden to now go back
8 and do this as a theoretical lot subdivision and come back
9 to us again.

10 We don't know for sure, at least I don't know for
11 sure, whether or not that also is a correct route because I
12 don't have the analysis that's done from the Office of
13 Planning and also the feedback that we receive from the
14 Office of Zoning's legal division. However, all the other
15 developmental standards are being met.

16 I do think that, as the Office of Planning has put
17 forward, that this subject tax lot was created in 1954. All
18 the other lots in the vicinity all apparently created around
19 the same time have been developed, and the adjacent property,
20 there's no opportunity to expand that area with the property,
21 the subject property.

22 Now, this is where, I guess, there's some
23 discrepancy in that both of those lots are owned by the same
24 owner. So can those lots be expanded? Maybe. The fact that
25 it's owned by -- if it was owned by somebody else tomorrow,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 that would be a different situation.

2 So I can get to the practical difficulty standard,
3 that first prong, because of the explanation that the Office
4 of Planning has put forward, as well as the fact that I think
5 it is more burdensome now to go back to the potential
6 theoretical lot subdivision. I don't think there's any harm
7 to the -- detriment to the public good, and I don't think
8 that the intent, purpose, and integrity of the zoning
9 regulations will be compromised.

10 So I also see that the ANC, we do not have a vote
11 in favor. We also don't have a vote in opposition. So they
12 basically, one vote failed, and the reasoning that the
13 applicant has put forward as to the commissioners that were
14 opposed, those issues and concerns don't seem to be the
15 issues and concerns that apply toward the variance standard
16 that we're talking about. They are things that were really
17 not germane to this argument.

18 So that being the case, I'm going to go ahead and
19 be able to vote in favor of this application. I'm going to
20 start us going around the horn, and I will start with Mr.
21 Smith. Pardon me?

22 MEMBER SMITH: Ms. John.

23 BZA CHAIR HILL: Okay. Ms. John, you've been
24 offered up. You're on mute, Ms. John. You're on mute, Ms.
25 John.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 VICE CHAIRPERSON JOHN: I was going to try to go
2 last. So the Board has seen applications where an applicant
3 has a tax lot that can be converted to a record lot with
4 relief from the Board. The problem with this case for me is
5 that the applicant owned the two lots, and, based on the
6 regulations, the more appropriate approach would have been
7 to create a subdivision into one record lot and then do a
8 theoretical subdivision. And there would be some relief
9 needed, but it would not be a variance. And there was some
10 discrepancy with the ANC as to whether or not the applicant
11 did own both lots. However, we are where we are now, and
12 what we have in front of us is an application for 2065 based
13 on the theory that the regulations would allow the applicant
14 to apply for and be granted a variance based on a number of
15 factors: one being that the tax lot predates ZR 58 and it was
16 created in, I believe, 1954; that it's the only lot in the
17 area that has not been developed, which the applicant did
18 agree that the second lot which was already converted to a
19 record lot is developed with a structure on the property, so
20 that appears to be correct. So I can see my way to finding
21 that there is an exceptional condition.

22 What seems to be the issue is that because --
23 okay. So the owner has to have a practical difficulty. It
24 doesn't mean that the property cannot -- that nothing can be
25 done with the property -- just that it would be a practical

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

(202) 234-4433

www.nealrgross.com

1 difficulty if the applicant were to comply with the
2 regulations. In this case, the applicant has a way to get
3 to the result through a less-restrictive criteria, which is
4 the theoretical lot special exception. However, I think that
5 one could find there's a practical difficulty because the
6 applicant would still need relief from the Board and the
7 question is the extent of the relief that would be possibly
8 necessary.

9 In any event, I can see my way to seeing that
10 there is a practical difficulty, even if I believe that the
11 theoretical subdivision should have been pursued and that
12 this case should not be a precedent for any other case that
13 comes before the Board. And I recognize that the applicant
14 would, at this point, have to redevelop the entire project,
15 which would be very expensive for the applicant.

16 There is no development, there is no request for
17 relief from any development standard. So in terms of the
18 massing and the structure that's being built, I don't think
19 that there would be any adverse impact to the neighbors in
20 having that type of structure on this property.

21 So that's a long-winded way of saying that I am
22 in support of the application as it is presented to the
23 Board, and I will give great weight to OP's analysis and the
24 testimony today.

25 And thank you, Mr. Chairman. That's all I have.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 BZA CHAIR HILL: Thank you. Who would like to go
2 next?

3 MEMBER SMITH: I'll go next.

4 BZA CHAIR HILL: Mr. Smith.

5 MEMBER SMITH: I'll align my viewpoint with where
6 Ms. John is on this, and it's part of the reason why I wanted
7 Ms. John to go, because she can state this better than I can.
8 As she stated, it would have been cleaner, given that the
9 property owner has owned both of these properties and it's
10 on record that they created a record lot for the other
11 property that they own, it would have been cleaner for them
12 to create one record lot for both of these properties and
13 then pursue a theoretical lot subdivision with a special
14 exception at that point in time. But there are multiple
15 contradictions within, I guess, the D.C. Zoning regs; but I
16 do believe that whether they went that route at that
17 particular time or an evaluation of this application as it
18 stands in our face now as a request for area variance, I
19 agree with the position of Ms. John that I think, given the
20 unique history of this property, this tax lot was created
21 prior to ZR 58, prior to the zoning regulations of the
22 District in a manner that is in keeping and in character with
23 the adjacent properties that they're all, roughly, the same
24 size. It's just unfortunately that this one remained a tax
25 lot.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 Given the history, I do agree with the analysis
2 of the Office of Planning that an extraordinary situation
3 does exist for this existing lot in order for them to develop
4 it in a manner that would be in character with all of the
5 other single-family residential properties in this R-1A zone.
6 So I can agree that they have an extraordinary or exceptional
7 situation, as well as the other problems of the variance
8 test.

9 So with that, I align myself with, again, Ms. John
10 and also Chairman Hill on how the applicant has met the
11 burden of proof for us to grant the variance. And I would
12 give OP's staff report great weight and support the
13 application.

14 BZA CHAIR HILL: Thank you. Mr. Blake.

15 MEMBER BLAKE: I would go back to my prior
16 statement: I'm not sure there's a practical difficulty
17 established here, though I do quite understand what has
18 transpired. I do believe that the additional element of
19 having to go back and redo the subdivision is problematic and
20 maybe excessively burdensome. But that said, based on the
21 letter of the application, I will be voting against it.

22 BZA CHAIR HILL: Okay. Dr. Imamura.

23 MEMBER IMAMURA: Thank you, Mr. Chairman. I'll
24 take a cue from Board Member Blake and be brief. I align
25 myself with Vice Chair John's comments, as well as yours, Mr.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 Chairman and Board Member Smith. I think the focus of this
2 conversation may be a little too pedantic for the public;
3 but, suffice it to say that sending the applicant down the
4 road of sort of the zoning exercise of theoretical lot, I
5 think, could be onerous and over-burdensome. So with that,
6 again, I think the ultimate goal here will arrive at the same
7 conclusion, so I'm prepared to vote in support and appreciate
8 Vice Chair John's master class on this topic.

9 BZA CHAIR HILL: Great. Thank you. All right.
10 I'm going to go ahead and make a motion to approve
11 Application Number 20995, as captioned and read by the
12 secretary, and ask for a second, Ms. John.

13 VICE CHAIRPERSON JOHN: Second.

14 BZA CHAIR HILL: Motion made and seconded. Mr.
15 Moy, take a roll call.

16 MR. MOY: When I call your name, if you'll please
17 respond to the motion made by Chairman Hill to approve the
18 application for the relief that's requested. This motion was
19 seconded by Vice Chair John. Zoning Commissioner Dr.
20 Imamura.

21 MEMBER IMAMURA: Yes.

22 MR. MOY: Mr. Smith.

23 MEMBER SMITH: Yes.

24 MR. MOY: Mr. Blake.

25 MEMBER BLAKE: No.

1 MR. MOY: Vice Chair John.

2 VICE CHAIRPERSON JOHN: Yes.

3 MR. MOY: Chairman Hill.

4 BZA CHAIR HILL: Yes.

5 MR. MOY: Staff would record the vote as 4 to 1
6 to 0. This is on the motion made by Chairman Hill to
7 approve. The motion was seconded by Vice Chair John. Those
8 voting to approve the motion is Zoning Commissioner Dr.
9 Imamura, Mr. Smith, Vice Chair John, Chairman Hill. Voting
10 opposed to the motion is Mr. Blake. Again, the motion
11 carries 4 to 1 to 0.

12 BZA CHAIR HILL: Okay. Great. Thanks, everybody.
13 So let's go ahead and take lunch and maybe let's come back
14 at, like, 2:00 because I have to go get it. Okay. Thank
15 you.

16 (Whereupon, the above-entitled matter went off the
17 record at 1:19 p.m. and resumed at 2:07 p.m.)

18 BZA CHAIR HILL: Okay. Mr. Moy, I think it is us
19 for now. If you want to go ahead and call us back in and
20 call our next case, that would be wonderful.

21 MR. MOY: Thank you, sir. After a lunch recess,
22 the Board has returned to its public hearing session, and the
23 time is now at or about 2:07 p.m. in the afternoon. The next
24 case before the Board in its public hearing session is
25 Application Number 21014 of Universal Church, Inc. This is

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 a self-certified application pursuant to Subtitle X § 901.2,
2 special exception under Subtitle C § 703.2, from minimum
3 parking requirements Subtitle C § 701.5. Property is located
4 in the MU-4 zone at 3109 Georgia Avenue, NW, Square 3047, Lot
5 113.

6 And I believe we have a witness sign up to testify
7 on this application. Thanks, sir.

8 BZA CHAIR HILL: Okay. Great. Thank you. If the
9 applicant can hear me, if they could introduce themselves for
10 the record.

11 MS. GIANNUNZIO: Hi. This is Marcy Giannunzio.
12 I'm the architect from DIAG Studios, and I am representing
13 the applicant, Universal Church.

14 BZA CHAIR HILL: Okay. Great. Thank you. Could
15 you say your last name again for me?

16 MS. GIANNUNZIO: Giannunzio.

17 BZA CHAIR HILL: Giannunzio. All right. Ms.
18 Giannunzio, if you want to go ahead and walk us through your
19 client's application and why you believe they're meeting the
20 criteria for us to grant the relief requested. I'm going to
21 put 15 minutes on the clock just so I know where we are, and
22 you can begin whenever you'd like.

23 MS. GIANNUNZIO: Okay. Good day, everyone. Just
24 for your information, listening on to the hearing is the
25 applicant, Pastor Jose, and Ida, the secretary for the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 church. Also listening in is Peter Mallios, the landlord.

2 We hope it's pretty straightforward, but we are
3 before you to apply for a special exception for the property
4 located at 3109 Georgia Avenue, NW, from the required parking
5 requirements, Subsection C 701.5. The Universal Church has
6 proposed to occupy the first and second floor of 3109 Georgia
7 Avenue as a place of worship. The existing first and second
8 floor use are zoned as business. There is a different tenant
9 located in the basement level for mercantile use.

10 While a religious-based use is allowed in the
11 commercial MU zone, the size of the sanctuary is limited
12 based upon the number of seats a space can hold. Thus, this
13 impacts the amount of parking required. The building
14 presently occupies 88 percent of the lot, and the lot does
15 not provide enough available space for any parking on site,
16 as the building extends back almost to the rear property
17 line.

18 Universal Church is proposing a 40-seat sanctuary.
19 Thus, the zoning regulations require four parking spaces for
20 this size facility, one space for every ten seats. While the
21 regulations allow the church to lease four spaces in the
22 neighborhood, the church did not find any available parking
23 lots in the immediate vicinity of the property. Therefore,
24 we are before you requesting the parking relief through a
25 special exception from the BZA.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

(202) 234-4433

www.nealrgross.com

1 Universal Church has four Sunday services and
2 prayer services throughout the remaining six days of the
3 week. Some businesses in the block are closed on Sunday, so
4 we anticipate that the church use potentially has minimal
5 impact on parking, as compared to other allowed commercial
6 uses. While the church has other offerings during the week,
7 they are not as well attended as Sunday mass, so they will
8 have even less impact on parking.

9 The majority of the congregation does take mass
10 transit when attending services, and there are multiple Metro
11 and bus stations within a half mile of the site. There is
12 also multiple Capital Bikeshare stations and many of the
13 congregation does not own a car, so we feel there are a lot
14 of options besides parking with a private car.

15 It's our understanding that the ANC 1E, DDOT, and
16 the Office of Planning have all recommended support or have
17 taken no exceptions to our application. Thus, we are before
18 you today to ask for approval of our parking requirement
19 special exception. And this concludes my presentation, and
20 thank you for your consideration.

21 BZA CHAIR HILL: Thank you. That was very helpful
22 and well done. I appreciate your time. Let's see. Does
23 anyone have a question for the applicant? Okay. Let's see.
24 I'm going to turn to the Office of Planning.

25 MR. JURKOVIC: Good afternoon, Mr. Chairman and

1 members of the Board. My name is Michael Jurkovic,
2 Development and Review Specialist with the Office of
3 Planning. The Office of Planning is recommending approval
4 of the special exception relief as requested by the
5 applicant. OP stands on the record of the report, and I'm
6 here to answer any questions. Thank you.

7 BZA CHAIR HILL: Thank you. Does anybody have any
8 questions for the Office of Planning? Okay. Mr. Young,
9 there's someone here who wants to speak.

10 MR. YOUNG: We had someone signed up, and they had
11 informed staff earlier that they no longer wish to testify,
12 so we have no one.

13 BZA CHAIR HILL: Okay. Great. Thank you. All
14 right. Ms. Giannunzio.

15 MS. GIANNUNZIO: Yes.

16 BZA CHAIR HILL: I thank you so much for your
17 time. Again, I thought it was very well presented and done
18 and thank you for doing all of your homework in terms of,
19 like, the outreach to the community, as well as the ANC and
20 DDOT. Unless you have anything to add, I'm going to excuse
21 you.

22 MS. GIANNUNZIO: No. Thank you.

23 BZA CHAIR HILL: Okay. Great. I'm going to go
24 ahead and close the hearing on the record. Okay. I would
25 agree with the analysis that the Office of Planning has put

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 forward, as well as the discussion that the ANC has put
2 forward in recommending the application. Also, DDOT does not
3 have any objections to this. Again, it's a 40-person place
4 of worship, and I believe that this is not going to increase
5 any issues concerning traffic, as it seems as though the
6 public transportation is something that's very accessible and
7 that the religious mass is only, you know, once a week, at
8 best. And so I still think that it's not something that is
9 going to provide a problem granting this relief from the four
10 parking spaces, so I'm going to be voting in favor.

11 Mr. Smith, do you have anything you'd like to add?

12 MEMBER SMITH: I don't have anything to add. I
13 agree with the assessment of the Office of Planning and the
14 testimony provided by the applicant and would also support
15 the application, given that the ANC is also in support of
16 this, given that the neighborhood would be impacted by any
17 adverse parking situations that may occur on side streets,
18 so it's good to see that they are in support, and DDOT
19 doesn't have any objection to this. So with that, I'm going
20 to give OP staff report great weight and support the
21 application.

22 BZA CHAIR HILL: Thank you. Mr. Blake.

23 MEMBER BLAKE: I have nothing to add. I'll be
24 supporting the application.

25 BZA CHAIR HILL: Thank you. Dr. Imamura.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 MEMBER IMAMURA: I don't have anything further to
2 add, Mr. Chairman. I'm in agreement with both you and Board
3 Member Smith.

4 BZA CHAIR HILL: Great. Thank you. All right.
5 I'm going to go ahead and make a motion to approve the
6 Application Number 21014 as captioned and read by the
7 secretary and ask for a second, Mr. Blake.

8 MEMBER BLAKE: Second.

9 BZA CHAIR HILL: Motion made and seconded. Mr.
10 Moy, take a roll call, please.

11 MR. MOY: When I call your name, if you'll please
12 respond to the motion made by Chairman Hill to approve the
13 application for the relief requested. The motion to approve
14 was seconded by Mr. Blake. Zoning Commissioner, Dr. Imamura.

15 MEMBER IMAMURA: Yes.

16 MR. MOY: Mr. Smith.

17 MEMBER SMITH: Yes.

18 MR. MOY: Mr. Blake.

19 MEMBER BLAKE: Yes.

20 MR. MOY: Chairman Hill.

21 BZA CHAIR HILL: Yes.

22 MR. MOY: Staff would record the vote as 4 to 0
23 to 1, and this is on the motion made by Chairman Hill to
24 approve. The motion to approve was seconded by Mr. Blake.
25 Mr. Blake also voted to approve the application, as well as

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 approval from Zoning Commissioner Joe Imamura, Mr. Smith, of
2 course Mr. Blake, Chairman Hill. We have no other Board
3 member participation. The motion carries 4 to 0 to 1.

4 BZA CHAIR HILL: Thank you, Mr. Moy. When you
5 have an opportunity, please feel free to call our next case.

6 MR. MOY: The next case is Application Number
7 21021 of Sarah and Joseph Nunes, N-U-N-E-S. This application
8 is pursuant to Subtitle X § 901.24, the following special
9 exceptions: Subtitle E § 207.5 to allow a rear wall to extend
10 farther than 10 feet; Subtitle E § 520.1 from the lot
11 occupancy requirements of Subtitle E § 210.1. The property
12 is located in the RF-1 zone at 1506 3rd Street, NW, Square
13 521, Lot 818.

14 BZA CHAIR HILL: Thank you. If the applicant can
15 hear me, if they could please introduce themselves for the
16 record.

17 MR. JONES: Yes. This is Kim Jones, the
18 architect.

19 BZA CHAIR HILL: Okay. Mr. Jones, are you able
20 to use your camera? If not, that's fine. I just want to
21 know.

22 MR. JONES: It doesn't seem to be coming on.

23 BZA CHAIR HILL: Oh, there you go. Okay. Great.
24 All right. Mr. Jones, if you want to go ahead and walk us
25 through your client's application and why you believe they're

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

(202) 234-4433

www.nealrgross.com

1 meeting the criteria for us to grant the relief requested.
2 There was one question that I know we're going to have for
3 you. On the second floor, it looks as though your numbers
4 are 11'4", and the Office of Planning's is 19'4" for the
5 second floor I think. And so I don't know if that's a
6 discrepancy or not that we can kind of like talk through when
7 we get to that portion of it. But feel free to go ahead and
8 begin whenever you'd like.

9 MR. JONES: Okay. As stated, the property is in
10 a residential neighborhood located on the west side of 3rd
11 Street, NW. The residence is a two-story attached
12 single-family dwelling. The applicant has proposed to
13 replace the existing second floor treated wood rear deck with
14 a two-story addition consisting of an extended kitchen and
15 dining room on the first floor and an extended bedroom on the
16 second floor. The application requests special exception
17 from the lot occupancy requirements. The addition will bring
18 the coverage to 64 percent, being 4 percent over the allowed
19 60 percent.

20 The application also requests exception from the
21 rear wall extension requirements. The first floor of the
22 proposed addition will extend 13'4" inches and the second
23 floor 11'4" beyond the rear wall of the neighbor to the north
24 at 1508 3rd Street. The first and second floors of the
25 addition will extend 12 feet beyond the rear wall of the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

(202) 234-4433

www.nealrgross.com

1 neighbor to the south at 1504 3rd Street.

2 BZA CHAIR HILL: Could you repeat that second
3 part, Mr. Jones? I got the 11'4" from the rear wall of which
4 neighbor?

5 MR. JONES: The neighbor to the north at 1508.

6 BZA CHAIR HILL: 1508. Okay. And then you
7 started to tell me about the other neighbor.

8 MR. JONES: Yes. Then the neighbor to the south,
9 the first and second floors of the addition will extend 12
10 feet beyond the rear of the neighbor to the south at 1504.

11 BZA CHAIR HILL: Got it. 1504. Okay. Please
12 continue.

13 MR. JONES: Well, because 1504 lies to the south
14 of the project, the project light quality will be little
15 affected. The disturbance of the air will be minimal.
16 Because the first floor addition extends 13'4" and the second
17 floor 11'4" beyond the rear wall, due to the depth, the
18 existing light will be somewhat impacted. Air disturbance
19 will be minimal.

20 It would be best to explain those dimensions by
21 looking at one of the drawings.

22 BZA CHAIR HILL: Sure. Do you know, the exhibit
23 that I've been looking at is Exhibit 5, which I think is the
24 architectural plans and elevations.

25 MR. JONES: That would be it.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 BZA CHAIR HILL: Mr. Young, if you could pull up
2 Exhibit 5. And, Mr. Jones, just to be clear, Exhibit 5 are
3 the current plans. You don't have updated plans, correct?

4 MR. JONES: No, these are current.

5 BZA CHAIR HILL: Okay. Just tell us where you'd
6 like to go, sir.

7 MR. JONES: Could we go to the fourth drawing?
8 So in looking at those dimensions, the existing home 1508,
9 the rear of their building, they have the main part of the
10 original building and then there is a one-story rear addition
11 also. So, in fact, if we go from the one-story rear addition
12 of the neighbor, we are 11'4", we're 13'4" from the rear of
13 their one-story addition to the rear of our addition. If we
14 were to go from the back of the original building to the back
15 of the first floor of our building, which would be the
16 maximum projection, it's actually 23 feet. So I guess it
17 came down to what we want to consider to be the rear of the
18 neighbors. If it's at the second floor of the original or
19 the back of the first floor, which is the furthestest
20 projection back of the neighbors.

21 So if we're looking at from the first floor rear
22 to the first floor rear of our addition, we are actually
23 extending 13'4".

24 BZA CHAIR HILL: Okay.

25 MR. JONES: And you can also see the rear

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 elevation there. Again, we'd have to go back to the floor
2 plan, but we have held the second floor back from the total
3 projection of the first floor both to minimize the projection
4 from our neighbors on both the first and second floor. And,
5 in fact, if we looked at the floor plan, which would be
6 number two, actually it would be sheet A002, you can see
7 again how we relate to the first and second floor projections
8 of the neighbor to the north. And we've also, by holding the
9 second floor back and actually angling it a bit, we are
10 holding it down to a projection of, it's 12 feet at the first
11 floor beyond the neighbor to the south, but it's 7'8" beyond
12 the deck of the neighbor to the south. So where they have
13 an existing deck, we have held the corner of our building
14 back flush to the extension of their deck to minimize the
15 affected projection on their side.

16 BZA CHAIR HILL: Okay. All right. Is that it,
17 Mr. Jones?

18 MR. JONES: Yes. If there are any questions to
19 clarify that, I'm welcome.

20 BZA CHAIR HILL: Okay. Thank you, sir. Could I
21 hear from the Office of Planning?

22 MR. BEAMON: Good afternoon. Shepherd Beamon with
23 the Office of Planning. We reviewed the requested special
24 exception and recommend approval of the requested relief for
25 lot occupancy and rear extension requirements to allow the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 proposed rear addition. We find that the request meets the
2 criteria under Subtitles E and X, and we stand on the record
3 of the report as shown in Exhibit 25.

4 And I guess to kind of follow-up with the question
5 from Chairman Hill, just looking back at those floor plans,
6 staff calculated our numbers based on the -- so we first
7 looked at the proposed addition in relation to the rear wall
8 of the first floor for the property at 1508 to the property
9 to the north and then we calculated the rear extension for
10 the second floor based on the rear wall of the second floor
11 of the property to the north. I hope that makes sense. So
12 that's where we got our numbers, yes.

13 BZA CHAIR HILL: So the bottom is, it's 13'4" --

14 MR. BEAMON: Correct.

15 BZA CHAIR HILL: -- and at the top it's 19'8".

16 MR. BEAMON: Correct.

17 BZA CHAIR HILL: Right? And so they're going 3'4"
18 beyond on the ground and 9'8" beyond the second floor,
19 correct?

20 MR. BEAMON: Yes.

21 BZA CHAIR HILL: Okay. All right. Mr. Jones, do
22 you understand those numbers and would agree with them?

23 MR. JONES: Yes.

24 BZA CHAIR HILL: Okay. All right. Does anybody
25 have any questions for the Office of Planning? All right.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 Mr. Young, is there anyone here who wishes to speak?

2 MR. YOUNG: We do not.

3 BZA CHAIR HILL: Okay. All right. Mr. Jones, I'm
4 going to go ahead and let you go. I hope you have a lovely
5 day.

6 MR. JONES: Thank you.

7 BZA CHAIR HILL: Bye-bye.

8 MR. JONES: Bye.

9 BZA CHAIR HILL: I've got to say it's so
10 interesting, like, none of you all have been down to the live
11 testimony hearing room. Like, all of you all are after
12 COVID, and I'm the only one who even kind of thinks about --
13 I mean, I found it enjoyable, you know. At least there was
14 a lot more live to it. But the fact that people can come and
15 go and be gone, I mean, Mr. Jones is off with his day now,
16 and we didn't have to go anywhere. Incredible.

17 All right. I don't have any issues with the case.
18 I thought it was kind of, you know, not nominal, but I wasn't
19 worried about the sun or the shadowing. I think that the 3
20 feet-plus and the second story, first story, and then the
21 9'8" on the second story, it did not concern me. I thought
22 it was a pretty benign, a small addition.

23 In addition to that, the adjacent properties are
24 both in support of the application. I didn't see -- let me
25 clarify the ANC. Is there no report? Oh, no, I got a

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 report. Yes, so the ANC was in support. It's the last
2 exhibit in the record.

3 So I'm going to be voting in favor of the
4 application. Mr. Smith, do you have anything you'd like to
5 add?

6 MEMBER SMITH: I don't have anything to add. I
7 agree with your assessment in this case and will support the
8 application, as well.

9 BZA CHAIR HILL: Thank you. Mr. Blake.

10 MEMBER BLAKE: I have nothing to add and will be
11 in support of the application.

12 BZA CHAIR HILL: Thank you. Dr. Imamura.

13 MEMBER IMAMURA: I was a little concerned with the
14 neighbor to the north, but the fact that there's a letter in
15 support from the neighbor to the north and, as you pointed
16 out, ANC 5E's last-minute submission yesterday, I think
17 there's overwhelming support for this, and I'm prepared to
18 vote in favor.

19 BZA CHAIR HILL: Okay. Thank you. All right.
20 I'm going to make a motion to approve Application Number
21 21021 as captioned and read by the secretary and ask for a
22 second, Mr. Blake.

23 MEMBER BLAKE: Second.

24 BZA CHAIR HILL: Motion has been made and
25 seconded. Mr. Moy, if you'll take a roll call.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 MR. MOY: When I call your name, if you'll please
2 respond to the motion made by Chairman Hill to approve the
3 application for the relief requested. The motion to approve
4 was seconded by Mr. Blake. Zoning Commissioner, Dr. Imamura.

5 MEMBER IMAMURA: Yes.

6 MR. MOY: Mr. Smith.

7 MEMBER SMITH: Yes.

8 MR. MOY: Mr. Blake.

9 MEMBER BLAKE: Yes.

10 MR. MOY: Chairman Hill.

11 BZA CHAIR HILL: Yes.

12 MR. MOY: Staff would record the vote as 4 to 0
13 to 1, and this is on the motion made by Chairman Hill to
14 approve. The motion to approve was seconded by Mr. Blake,
15 who also voted to approve the application. Others voting to
16 approve the application: Zoning Commissioner, Dr. Imamura;
17 Mr. Smith; Mr. Blake; Chairman Hill. No other Board member
18 participating. The motion carries on a vote of 4 to 0 to 1.

19 BZA CHAIR HILL: Okay. Great. Thank you. All
20 right. Mr. Moy, you may call our next one when you get an
21 opportunity.

22 MR. MOY: The next case is Application Number
23 21023 of Blair Goins, G-O-I-N-S. This is an application
24 pursuant to Subtitle X § 901.2 for a special exception under
25 Subtitle C § 710.3 from the vehicle parking location

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 restrictions, Subtitle C § 710.2(c)(2). The property is
2 located in the R-2 zone at 4501 Eads Street, E-A-D-S, Street,
3 NE, Square 5133, Lot 109.

4 And that's all I have for you, sir. Thank you.

5 BZA CHAIR HILL: Thank you. If the applicant can
6 hear me, if they could please introduce themselves for the
7 record. You may be on mute, Mr. Goins.

8 MR. GOINS: Yes, I was. Okay. Sorry about that.
9 Yes, my name is Blair Goins. I'm the owner and applicant.

10 BZA CHAIR HILL: Okay. All right. Mr. Goins, if
11 you want to go ahead and explain to us why you believe you're
12 meeting the criteria or us to grant the relief requested.
13 You can also, since you're not a zoning attorney, speak to
14 the outreach that you've put forward, as well as the project
15 itself. I'm going to put 15 minutes on the clock, so I know
16 where we are. And you can begin whenever you'd like.

17 MR. GOINS: Okay. Great. Well, first of all, I
18 want to thank the members of the Board for giving me an
19 opportunity to apply for receiving a special exception
20 basically to install a single-car driveway in front of my
21 home. And I should say the oral presentation I give today,
22 I'm about to give in just a second -- well, I've already
23 begun -- is essentially a summary of the burden of proof
24 document which I submitted, Exhibit Number 6. I do add one
25 piece of information additionally, which is regarding a

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 special tree on my property, but that's really pretty much
2 it. And I will discuss the support that I have elsewhere
3 beyond, well --

4 BZA CHAIR HILL: What did you say about the
5 special tree again?

6 MR. GOINS: Well, I was going to talk about that
7 I will give additional information that goes beyond what's
8 listed in Exhibit Number 6, in the burden of proof document,
9 because I make no reference to the special tree in that
10 document, but I'm bringing that up in the oral presentation
11 now.

12 BZA CHAIR HILL: Okay.

13 MR. GOINS: And I can say more about that now if
14 you want.

15 BZA CHAIR HILL: Sure. Go ahead.

16 MR. GOINS: Do you want me to talk about that now?

17 BZA CHAIR HILL: Sure.

18 MR. GOINS: Okay. It's actually related to the
19 permit that I received, I've already received from the
20 Department of Transportation. As a condition of receiving
21 the permit, I was requested from the Urban Forestry Division
22 of the department to meet with the Ward 7 arborist, Alexi
23 Alexiev, which I did, actually, over a year ago. And he
24 examined my property and noticed a special tree because he
25 determined that there was a special tree on the property.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

(202) 234-4433

www.nealrgross.com

1 It's about 40 feet away from the proposed driveway. And then
2 he gave me measures to deal with protecting the tree, which
3 I followed, digging a trench and pruning the roots that were
4 near the driveway.

5 And he actually came back a second time. I met
6 with him twice: one to examine the property and the tree, and
7 then he came back after I performed the measures he
8 requested. I'm talking about Alexi Alexiev, the Ward 7
9 arborist. And he approved what I did, and he also gave
10 recommendations for, you know, when the work begins, which,
11 of course, I will follow.

12 So that's really all I wanted to add that I was
13 following that, you know, his provisions, which allowed the
14 Department of Transportation, since I followed through with
15 his recommendations, actually grant me the Department of
16 Transportation permit for the driveway.

17 Does that make sense or did I --

18 BZA CHAIR HILL: No, it made sense.

19 MR. GOINS: Okay. Great. Okay. And then I can
20 go on with the other, you know, reasons for why I feel like
21 I should be granted the special exception. And as I said,
22 all of this is pretty much summarized in the Exhibit Number
23 6, the burden of proof document that I previously submitted.
24 But I'll just quickly summarize the bottom-line points.

25 So since the only construction I'm proposing is

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 for a driveway, my house will remain a residential detached
2 single-family home in the R-2 zone, and because I'll be
3 parking the car on the driveway, no longer parking our car
4 on the street, the amount of street parking for the neighbors
5 will remain the same. And I also think, as I said in the
6 burden of proof document, it's very notable that there is an
7 existing curb-cut that spans more than 7 feet in front of my
8 property, which is, again, the location on Eads Street, which
9 is the proposed location for the driveway, which suggests to
10 me that either there was a driveway there before or they put
11 this curb-cut there in anticipation of a future driveway.
12 This was, like, 13 years ago when I bought the property and
13 that was already there.

14 And I already talked about the permit I got from
15 the Department of Transportation, so I don't need to mention
16 that again. That was really in reference to the tree, the
17 special tree.

18 So, fundamentally, the basis for the special
19 exception that I'm requesting is that the location of the
20 driveway in the rear or the west of the house would be
21 unsafe, impractical, and cause undue hardship, essentially
22 because there are very, very steep hills on those locations,
23 in the alley in the rear and on 45th Street on the west, you
24 know, whereas in the front of the building, the grounds in
25 the front of the property adjacent to Eads Street is

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

(202) 234-4433

www.nealrgross.com

1 essentially flat.

2 And the other thing about this I think is
3 important to note is installing this driveway, the big reason
4 for this is because my wife and I bought an electric car a
5 year ago and we need to be close to the house to accommodate
6 the 25-foot limitation of the charger cord. And, you know,
7 we're a low-income couple, and surely the most economical to
8 be charging a car, which is important because I actually
9 drive for Uber and so I need to charge the car often and for
10 long periods of time.

11 And, lastly, I think the most important thing,
12 which you made reference to, is, you know, I have pretty much
13 anonymous -- what's that word -- complete support from my
14 immediate neighbors, that is to say the ones on all four
15 directions immediately next to mine, in addition to some
16 others a little further away, which you can see from the
17 seven signed letters of approval. And I also attended one
18 of the ANC 7F meetings and explained the situation, and they
19 did, as well, approve this driveway, which, of course, you
20 can see in the uploaded document, and as well as the Office
21 of Planning which also uploaded their approval document.

22 So, basically, those are the main points for
23 requesting the special exception.

24 BZA CHAIR HILL: All right. Mr. Goins, thank you
25 so much. Let me just turn to the Office of Planning first

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 before I turn to my board.

2 MR. BARRON: Okay. My name is Ron Barron,
3 Development Review Specialist, the D.C. Office of Planning.
4 The Office of Planning recommends approval of the special
5 exception relief requesting the application. OP is content
6 to rest on the record, our report in the record on Exhibit
7 30. I'm available to answer any questions you may have.
8 Thank you very much.

9 BZA CHAIR HILL: Thank you. All right. Does my
10 Board members have any questions for the applicant or the
11 Office of Planning? Sure. Go ahead, Dr. Imamura.

12 MEMBER IMAMURA: One question and one comment.
13 I'll ask my question first because I'll forget it. Mr.
14 Goins, for your driveway, just curious if you're planning on
15 using permeable paving at all or just concrete --

16 MR. GOINS: Oh, yes, I'm planning to use concrete,
17 and the reason is is actually met with the person who
18 apparently would be, after the work is done or maybe in the
19 middle of the work, one of the inspectors with the Department
20 of Transportation. I actually met with her, and I asked
21 about that very question, and she said, well, you have to use
22 concrete for this area, that's what's appropriate or common
23 or something like that. And so I agreed to do that.

24 MEMBER IMAMURA: That's fine. It was more out of
25 my own curiosity. Thank you for sharing more information

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 about the heritage tree; I appreciate that, as well. My
2 comment is that I appreciate your genuineness, and I can tell
3 you must love being a resident of D.C., coming before the BZA
4 because all you want to do is install a driveway. And you've
5 done your due diligence, done your community outreach with
6 your neighbor, solicited their support. And navigating
7 zoning regulations is not easy, and I just want to compliment
8 you on the work that you've done to get to this point, again,
9 just for a driveway.

10 So I appreciate your stick-to-itiveness. Thank
11 you for your citizenry and for participating in the public
12 process. You know, a lot of people are often afraid of
13 jumping in, but you did. And also thank you for your efforts
14 to help save our environment with the purchase of an electric
15 vehicle. So thank you very much.

16 Mr. Chairman, those are all the compliments that
17 I have and statements I'd like to make to Mr. Goins. So, Mr.
18 Goins, thank you very much.

19 MR. GOINS: Thanks.

20 BZA CHAIR HILL: That's great, Dr. Imamura. I
21 will second that, Mr. Goins. Okay. Anyone else? All right.
22 Mr. Young, is there anyone who wishes to speak?

23 MR. YOUNG: We do not.

24 BZA CHAIR HILL: All right. Mr. Goins, I hope you
25 have a nice day. Thank you again for all your time and

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 continued success here in D.C.

2 MR. GOINS: Thank you. Very much appreciated.
3 Take care.

4 BZA CHAIR HILL: Bye-bye.

5 MEMBER IMAMURA: Be save driving.

6 BZA CHAIR HILL: Amen. All right. I don't have
7 any issues with this application. I think that, as far as
8 DDOT is concerned about the trees, it sounds as though the
9 applicant is working with DDOT, so I would not be in favor
10 of adding any DDOT condition to that effect. And I do
11 believe that the applicant has done their due diligence, as
12 Dr. Imamura has said, in a way that I think is commendable.
13 And I'm going to be voting in favor of this application.

14 Mr. Smith, do you have anything you'd like to add?

15 MEMBER SMITH: I have nothing to add. I'm in
16 support of the application.

17 BZA CHAIR HILL: Thank you. Mr. Blake.

18 MEMBER BLAKE: I, too, will be in support of the
19 application.

20 BZA CHAIR HILL: Dr. Imamura.

21 MEMBER IMAMURA: I am also in support and, for me,
22 Mr. Chairman, this is a new one. We've seen people go to
23 great lengths to expand, build a deck. This one is just to
24 build a driveway.

25 BZA CHAIR HILL: Very good. All right. I'm going

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 to go ahead and make a motion then to approve Application
2 Number 21023 as captioned and read by the secretary and ask
3 for a second, Dr. Imamura, since you've been so forthright
4 in this case.

5 MEMBER IMAMURA: Thank you for the opportunity,
6 Mr. Chairman. I second that.

7 BZA CHAIR HILL: All right. That motion has been
8 made and seconded. Mr. Moy, if you want to go ahead and take
9 a roll call.

10 MR. MOY: When I call your name, if you'll please
11 respond to the motion made by Chairman Hill to approve the
12 application for the relief requested. The motion to approve
13 was seconded by Dr. Imamura. Mr. Smith.

14 MEMBER SMITH: Yes.

15 MR. MOY: Mr. Blake.

16 MEMBER BLAKE: Yes.

17 MR. MOY: Chairman Hill.

18 BZA CHAIR HILL: Yes.

19 MR. MOY: Zoning Commissioner Imamura.

20 MEMBER IMAMURA: Yes.

21 MR. MOY: Staff would record the vote as 4 to 0
22 to 1, and this is on the motion made by Chairman Hill to
23 approve. The motion to approve was seconded by Dr. Imamura,
24 who also voted to approve the application, as well as
25 approval from, voting to approve from Mr. Smith; Mr. Blake;

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 and, of course, Chairman Hill; and Zoning Commissioner, Dr.
2 Imamura. We have no other Board members participating. The
3 motion carries 4 to 0 to 1.

4 BZA CHAIR HILL: Thank you, Mr. Moy. When you get
5 a chance, you may call our next one.

6 MR. MOY: The next case is Application Number
7 21032 of the District of Columbia Department of General
8 Services. This is an amended self-certified application
9 pursuant to Subtitle X § 901.2 for special under Subtitle C
10 § 807.2 from the minimum number of long and short-term
11 bicycle parking spaces required under Subtitle C § 802.1,
12 properties located in the StE-2 zone at 2700 Martin Luther
13 King, Junior Avenue, SE, Square 5868S, Lot 859.

14 And I believe -- let's see. I believe, yes, I
15 believe, from what I can see at the moment, all we have
16 testifying would be the applicant's team.

17 BZA CHAIR HILL: Okay. If the applicant can hear
18 me, if they could please introduce themselves for the record.
19 Can the applicant hear me? Can you all hear me? Okay. Ms.
20 John, are you with us again?

21 VICE CHAIRPERSON JOHN: Yes, Mr. Chairman.

22 BZA CHAIR HILL: Okay. Great. We've got Ms. John
23 back. Can the applicant hear me? Can the Office of Planning
24 hear me?

25 MS. BROWN-ROBERTS: Yes, Mr. Chairman.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 BZA CHAIR HILL: Okay. Ms. Moldenhauer, can you
2 hear me? Mr. Young, is there a connection issue or you don't
3 know?

4 MR. YOUNG: Not that I'm aware of.

5 BZA CHAIR HILL: Okay. All right. Let's do this.
6 Mr. Moy, can you hear me?

7 MR. MOY: Yes, I do.

8 BZA CHAIR HILL: Why don't you reach out to the
9 applicant. Is that other applicant here? You don't know.

10 MR. MOY: I'll have to check with staff.

11 BZA CHAIR HILL: Okay. Let's take a minute,
12 everybody. Yes, the next case. Okay. Then why don't, Mr.
13 Moy, why don't the staff reach out to the applicant on 21032
14 and let's go ahead and call the next case, and then we'll
15 come back, okay? Mr. Moy?

16 MR. MOY: Yes, I was muted.

17 BZA CHAIR HILL: Oh, sorry. I didn't even see it.

18 MR. MOY: That's because I didn't turn the camera
19 on.

20 BZA CHAIR HILL: Well, there you go.

21 MR. MOY: That was too quick. Now I guess I have
22 to start over, right?

23 BZA CHAIR HILL: Yes.

24 MR. MOY: Oh, man. Okay. Here we go. All right.

25 Application Number 21026 of 5200 Wisconsin, LLC. This is a

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 self-certified application pursuant to Subtitle X § 901.2,
2 special exception under Subtitle C § 204.9, to allow a change
3 from one non-conforming use to another non-conforming use;
4 and pursuant to Subtitle X § 1002 for area variance from
5 Subtitle C § 204.9(b) to allow a non-residential use. The
6 property is located in the RA-2 zone at 5200 Wisconsin
7 Avenue, LLC, or, rather, 5200 Wisconsin Avenue, NW, Square
8 1657, Lot 23. And I believe that's -- yes, that's all I have
9 for you, sir.

10 BZA CHAIR HILL: Okay. Thank you. If the
11 applicant can hear me, if they could please introduce
12 themselves for the record.

13 MR. COHEN: Yes, we can hear you, Mr. Chair. Good
14 afternoon. Christopher Cohen on behalf of the applicant, and
15 we're ready to present whenever.

16 BZA CHAIR HILL: Okay. Great. And is the
17 applicant Mr. Demaree?

18 MR. DEMAREE: I represent the applicant.

19 BZA CHAIR HILL: Oh, great. And what's your name,
20 sir?

21 MR. DEMAREE: Larry Demaree.

22 BZA CHAIR HILL: Demaree, Demaree. Okay. Great.
23 All right. Mr. Cohen, if you want to go ahead and walk us
24 through your client's application and why you believe they're
25 meeting the criteria for us to grant the relief requested.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 I'm going to go ahead and put 15 minutes on the clock just
2 so I know where we are, and you can begin whenever you'd
3 like.

4 MR. COHEN: Thank you, Mr. Chair, and if it's not
5 too late to say to all the members of the board, happy new
6 year.

7 Mr. Young, if you could please pull up the
8 presentation. Thank you so much.

9 Okay, we'll just get started. Good afternoon,
10 members of the board. Christopher Cohen, Holland & Knight,
11 on behalf of the Applicant, 5200 Wisconsin, LLC, which is
12 also the owner of the subject property. Also with me this
13 afternoon is Mr. Larry Demaree, the owner's representative.

14 We are seeking the board's approval for a special
15 exception in the variance to change an existing nonconforming
16 use, a commercial bank, to another nonconforming use, a
17 retail clothing store, at 5200 Wisconsin Avenue, Northwest.
18 As explained in the Applicant's materials, and as we will
19 summarize here today, the subject property has a history of
20 commercial uses, and the existing building has operated as
21 a commercial bank since 1972.

22 The Applicant has not proposed any additions or
23 enlargements to the existing building, however, relief is
24 needed to continue using this property for another commercial
25 purpose.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

(202) 234-4433

www.nealrgross.com

1 We can move to the next slide, please.

2 As you can see here, the subject property is
3 located along the commercial portion of Wisconsin Avenue in
4 the Friendship Heights neighborhood and is bounded by
5 Wisconsin Avenue to the east, Harrison Street to the south,
6 a 20-foot wide public alley to its west, and a Pepco
7 substation to the north. This slide also shows that the
8 property is zoned RA-2 which is unique to this property when
9 you look at the other properties along the Wisconsin Avenue
10 corridor which are all zoned for mixed use.

11 We can move to the next slide, please.

12 To provide just a quick summary of this
13 application, as I mentioned at the beginning, the Applicant
14 proposes to convert the existing building at the property
15 that's been used as a bank for quite some time for a retail
16 clothing store, so another commercial use. However, because
17 both of these uses are nonconforming to the RA-2 zone,
18 special exception relief is needed pursuant to Subtitle C,
19 Section 204.9.

20 In addition, the Applicant is requesting an area
21 variance from of the specific conditions, that's Subsection
22 D in 204.9 which requires that a nonconforming use conversion
23 must be to a residential use in the RA-2 zone.

24 Regarding the agency reports, the Office of
25 Planning recommended approval with no conditions and DDOT has

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

(202) 234-4433

www.nealrgross.com

1 no objection to the subject application with two conditions
2 that are related to the Applicant's use of public space. The
3 Applicant does agree to both of those conditions.

4 We are also pleased to have support of the subject
5 of the affected ANC, that's ANC 3E, which voted unanimously
6 to support the application back in December at its public
7 meeting. The ANC's resolution is marked as Exhibit 24 in the
8 case record.

9 I will now turn it over to Mr. Demaree who will
10 walk the board through the existing improvements of the
11 property.

12 Mr. Demaree, it's all yours.

13 MR. DEMAREE: Thank you very much. Good afternoon,
14 Chairman Hill and members of the board. I am Larry Demaree
15 and I'm on behalf of the Applicant. We have owned this
16 property since 2008 with the existing building on the
17 property that's been operated as and leased to a variety of
18 commercial banking establishments since it was constructed
19 in 1974.

20 BZA CHAIR HILL: Excuse Mr. Demaree.

21 MR. COHEN: Mr. Young, could you just want to
22 advance to the next part.

23 Go ahead, Larry.

24 MR. DEMAREE: Okay. As shown on this slide,
25 excuse me, let me see where I was. In 2022, the most recent

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

(202) 234-4433

www.nealrgross.com

1 commercial bank lease expired and due to widespread
2 consolidation of branch banking and the influx of virtual
3 banking, we have been unsuccessful at securing an occupant
4 despite engaging with over 50 financial institutions
5 including banks, credit unions, and mortgage companies,
6 directly and through brokers. As set forth in our
7 application materials, we are now looking to turn over the
8 property to a boutique dress store that has been operating
9 in Washington, D.C. since 1990. As shown on this slide, the
10 existing building was constructed specifically to accommodate
11 a commercial bank use and the building's curvilineal design
12 does not lend itself to a simple residential conversion.

13 Next slide, please.

14 As shown on these diagrams, it would be very
15 difficult to repropose the interior space for residential
16 purposes. The building's lower level is entirely below grade
17 with no windows or exterior access. There is also limited
18 plumbing within the existing structure, so lack of any full
19 bathrooms or kitchen facilities would pose significant
20 limitations. Thus, we believe we can bring the existing
21 commercial building to another commercial use is an
22 appropriate choice for this property which is primarily
23 surrounded by other commercial establishments.

24 As was recognized in a 2022 report prepared by the
25 Friendship Heights Alliance which is a property-owner

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 collaborative focused on the transformation of Friendship
2 Heights, the neighborhood is undergoing a re-importation from
3 big box retailer and national chains and smaller
4 street-facing space with more local focus. Thus, the
5 proposed use aligns with increased preference for more
6 personalized retail experience. If the relief is not
7 granted, the building will likely sit vacant at this
8 prominent location on a major corridor. We believe that the
9 proposed retail dress shop use will benefit the surrounding
10 community and encourage economic activity along this portion
11 of Wisconsin Avenue.

12 Thank you for your time this afternoon in
13 consideration of our application. I will now turn it back
14 over to Mr. Cohen.

15 MR. COHEN: Thank you, Mr. Demaree. If we could
16 move to the next slide, please? So I'm not going to go
17 through these in detail, but we're going to turn to the
18 specific criteria for the special exception in the variance.
19 There are several conditions associated with 2049 which
20 require that when a property owner or user of property is
21 seeking to convert an existing improvement from one
22 nonconforming use to another, there are certain conditions.
23 I wanted to highlight, in particular, the one about external
24 impacts. We actually believe that the proposed use would
25 result in actually fewer impacts to the corridor because the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

(202) 234-4433

www.nealrgross.com

1 proposed use involves employment-base shopping and the
2 frequency with which customers would be entering this
3 proposed use would probably be less than a commercial bank.
4 So I wanted to flag that one.

5 I also wanted to flag the fact that while this
6 property -- again, this property is on the commercial
7 corridor of Wisconsin Avenue. The closest residential use
8 is to the west, across a 20-foot alley and the building
9 itself is over 100 feet away. So the proposed use really
10 should not have -- or the impact associated with the proposed
11 use should be minimal at best.

12 If we can turn to the next slide, these are just
13 more of the criteria associated with the special exception
14 request. I want to turn to the variance and again, these
15 justifications are highlighted in our filings, particularly
16 the pre-hearing statement at Exhibit 21A.

17 Mr. Young, if you could just turn to the next
18 slide.

19 As Mr. Demaree testified just now, the exceptional
20 situation here involves the existing building was really
21 designed for commercial purposes and has been used for
22 commercial purposes for a long time. And also when you
23 couple that with the fact that where the property is situated
24 and it's primarily surrounded by other nonresidential uses,
25 commercial activity would seem to be most appropriate here.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 And the practical difficulty again is that converting this
2 use -- excuse me, converting this existing building for
3 residential use would present quite a burden given its
4 current status.

5 And finally, just to address the third prong of
6 the variance test, we believe that the request would not be
7 a detriment to the public good especially given the fact that
8 the District and our stakeholders in the Friendship Heights
9 neighborhood are looking for more local serving, modest
10 retail, that's more small, not big box chains and we feel
11 that this conversion to this next commercial use would align
12 with those goals and the vision for the Wisconsin Avenue
13 corridor.

14 I'm going to leave it at that and that concludes
15 our presentation. We really thank the board for its time and
16 we're happy to answer any questions.

17 BZA CHAIR HILL: Okay, does anybody have any
18 questions for the Applicant?

19 Okay, let me turn to the Office of Planning.

20 MR. KIRSCHENBAUM: Good afternoon, Chair Hill and
21 members of the Board of Zoning Adjustment. I am Jonathan
22 Kirschenbaum with the Office of Planning and we recommend
23 approval of the special exception and the area variance
24 relief. Please let me know if you have any questions.

25 BZA CHAIR HILL: Well, happy new year to you, Mr.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 Kirschenbaum.

2 MR. KIRSCHENBAUM: Happy new year.

3 BZA CHAIR HILL: It's to all of the OP people if
4 I didn't say that already.

5 Let's see. Does anybody have any questions for
6 Office of Planning?

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

9 MR. YOUNG: We do not.

10 BZA CHAIR HILL: Okay, since I have the
11 microphone, is it Mr. Demaree?

12 MR. DEMAREE: Yes, sir.

13 BZA CHAIR HILL: Demaree, Demaree.

14 MR. DEMAREE: Yes, sir.

15 BZA CHAIR HILL: Unless it's a secret, is Rizik's
16 coming back?

17 MR. DEMAREE: I'm not aware -- oh, no. I see what
18 you're saying. No, it's not Rizik's. It's called -- it's
19 in Georgetown. I'm trying to think of the name.

20 BZA CHAIR HILL: Do you know, Mr. Cohen?

21 MR. COHEN: It's a boutique dress shop. I'm
22 actually looking up the particular name. But that's what's
23 coming up.

24 BZA CHAIR HILL: You can look it up. Makes me
25 want to go to Rodman's after this case.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 All right, we'll all go to Rodman's and just
2 wander around and see what we see.

3 MR. DEMAREE: It's called Signature Dresses.

4 BZA CHAIR HILL: Okay, Signature Dresses.

5 MR. DEMAREE: Sorry I drew that blank.

6 BZA CHAIR HILL: That's all right. I thought
7 Rizik's was coming back. Okay.

8 MR. DEMAREE: She's actually going to -- she's
9 purchasing the building, so she'll be an owner/operator.

10 BZA CHAIR HILL: It's a really unique-looking
11 building.

12 MR. DEMAREE: She loves it.

13 BZA CHAIR HILL: All right, I don't have anything
14 else. Thank you for indulging me. Does anyone have anything
15 else?

16 All right, Mr. Cohen, we're going to let you go.

17 MR. COHEN: Thank you, all.

18 BZA CHAIR HILL: Have a nice day. Okay, I didn't
19 have any issues with the application. I mean I think it was
20 designed for commercial use and it's been a bank for forever
21 and it's designed as a bank with the drive-through and such.
22 I mean I'm going to stay away though -- we've in the past
23 stayed away from the DDOT conditions that are really kind of
24 outside of our purview concerning like public space and
25 they're talking about them closing the curb cut. And then

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 the other one -- so both of them are kind of public space
2 issues which I don't think is in our purview and so I
3 wouldn't be interested in adding those conditions. Other
4 than that, I think that the Applicant makes its argument for
5 the relief that they're requesting. And then also I would
6 agree with the analysis of the Office of Planning has put
7 forward and I'll be voting in favor of this application.

8 Would you like to add anything, Mr. Smith?

9 MEMBER SMITH: Nothing to add.

10 BZA CHAIR HILL: Mr. Blake?

11 MEMBER BLAKE: I don't have anything to add and
12 I would be in support of the application as well.

13 BZA CHAIR HILL: Thank you, Dr. Imamura?

14 MEMBER IMAMURA: Nothing to add, Mr. Chairman.

15 BZA CHAIR HILL: Vice Chair John?

16 VICE CHAIRPERSON JOHN: Nothing to add, Mr.
17 Chairman.

18 BZA CHAIR HILL: Thank you. I will go ahead and
19 make a motion to approve Application No. 21026, as captioned
20 and read by the Secretary, and ask for a second, Ms. John?

21 VICE CHAIRPERSON JOHN: Second. Motion made and
22 seconded.

23 Mr. Moy, if we can take a roll call.

24 MR. MOY: Yes, thank you, sir. When I call your
25 name, if you will please respond to the motion made by

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 Chairman Hill to approve the application for the relief
2 requested. The motion to approve was seconded by Vice Chair
3 John.

4 Zoning Commissioner Dr. Imamura?

5 MEMBER IMAMURA: Yes.

6 MR. MOY: Mr. Smith?

7 MEMBER SMITH: Yes.

8 MR. MOY: Mr. Blake?

9 MEMBER BLAKE: Yes.

10 MR. MOY: Vice Chair John?

11 VICE CHAIRPERSON JOHN: Yes.

12 MR. MOY: Chairman Hill?

13 BZA CHAIR HILL: Yes.

14 MR. MOY: Staff would record the vote as 5 to 0
15 to 0 and this is on the motion made by Chairman Hill to
16 approve. The motion to approve was seconded by Vice Chair
17 John. Vice Chair John also voted to approve, as well as
18 approval from Zoning Commissioner Dr. Imamura, Mr. Smith, Mr.
19 Blake, Vice Chair John, Chairman Hill. Motion carries, sir,
20 unanimous, 5 to 0 to 0.

21 BZA CHAIR HILL: Thank you. Let's see. Mr. Moy,
22 would you like to call our last one?

23 MR. MOY: This case would be Application No. 21032
24 of the District of Columbia Department of General Services,
25 as amended, self-certified application pursuant to Subtitle

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 X Section 901.2, special exceptions under Subtitle C Section
2 807.2 from the minimum number of long and short term bicycle
3 parking spaces required under Subtitle C Section 802.1.
4 Property located in the StE-2 zone at 2700 Martin Luther King
5 Jr. Avenue, Southeast, Square 5868S, Lot 859. And other than
6 that, I believe the Applicant's team is in the panel, sir.

7 BZA CHAIR HILL: Thank you. If the Applicant can
8 hear me, if they would please introduce themselves for the
9 record.

10 MS. MOLDENHAUER: Good evening, good afternoon,
11 Chairman Hill and members of the board. Meridith Moldenhauer
12 from Cozen O'Connor here on behalf of the Applicant. I have
13 the PowerPoint slides and I have with me representative from
14 DGF, DHF, DF, and the architectural team if they would like
15 unmute themselves and introduce themselves.

16 MR. KELMERS: Hi, this is Andrew Kelmers with HOK,
17 the architect. I've turned my camera on. Hopefully, it's
18 coming. Good afternoon, everyone.

19 MR. STUTZ: Good afternoon. This is Ben Stutz.
20 I'm the Director of New Hospital Development for the District
21 of Columbia, Department of Health and Human Services in the
22 Deputy Mayor's Office. Thank you for hearing our case.

23 MS. MOLDENHAUER: Okay, Mr. Young, I believe you
24 have a PowerPoint presentation that's in the record.

25 Okay, great. Thank you. Next slide.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 As indicated, we have representatives from DGF,
2 DHF, and the architectural firm, HOK.

3 Next slide.

4 The property is located in the St. Es 2 zone.

5 Next slide.

6 I'll turn it over to Ben just to walk through a
7 little bit about the history of St. Elizabeths campus and
8 project.

9 MR. STUTZ: Thanks, Meredith. Commissioners, this
10 is a unique public/private partnership to build the first new
11 hospital in Washington, D.C. in 25 years. We began many
12 decades ago trying to find a sustainable solution to remove
13 the District from the healthcare business. The Mayor
14 announced an agreement with Universal Health services who is
15 the national operator of George Washington University
16 Hospital downtown. In 2018, we broke ground on this project.
17 In January of 2022, the project is funded 95 percent with
18 District capital dollars and 5 percent with private funds
19 from Universal Health Services and the Federal Government.
20 We hope to begin offering services to patients in early 2025
21 with substantial completion of the facility itself this
22 December.

23 To date, as you probably know from being on the
24 historic St. Elizabeths campus, we have received approval
25 throughout the project for the design of the hospital

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

(202) 234-4433

www.nealrgross.com

1 facility from the United States Commission on Fine Arts and
2 the local regulatory agencies. I'd be happy to answer any
3 questions about the project at large. Thank you.

4 MS. MOLDENHAUER: Thank you so much. Next slide.

5 So some of the numbers of the BZA you may recall
6 we have previously been before the BZA for this project. It
7 was Case No. 20595. That project talked about the overall
8 of our proposed project, but the project is the same as the
9 new 139-bed hospital with an ambulatory pavilion. There are
10 two separate wings. They are an in-patient wing which will
11 include a general medical maternity service, emergency
12 department, trauma center, radiology and surgery division.
13 There's an ambulatory wing which will have outpatient care
14 clinic space, imagining, specialty cases, medical offices,
15 and rehabilitation programs. The prior case specifically
16 focused on a helipad, an inpatient wing, and penthouse relief
17 associated with the helipad.

18 We can go to the next slide.

19 We are here today requesting special exception
20 relief under the minimum bike parking space requirements.
21 The long term bike space requirements under Subtitle C807.2
22 had a requirement for 38 spaces. The regulations require
23 that they have to be located within the hospital building or
24 in the use for which the bike parking is provided. We are
25 proposing zero bike parking space -- long-term bike parking

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 spaces within the hospital building, but we are proposing 38
2 spaces within the separate parking garage structure that
3 you'll see in a moment when we walk through the plan.

4 In addition, we're asking for special exception
5 relief for the short term bicycle parking requirements under
6 Subtitle C807.2. The requirements are for 10 spaces with 120
7 feet of a hospital building. We have multiple entrances and
8 exits for the hospital building, but we are not proposing to
9 be able to comply within 120 feet. We are proposing to
10 provide 25 on two different bike parking racks for outdoor,
11 short term bike parking. Eight of those will be within 120
12 feet distance. Seventeen will be within 150 feet.

13 I now turn it over to Andrew Kelmers, next slide
14 please, who will walk through site plan and to show how the
15 relationship with the bike parking and the structures. Thank
16 you.

17 MR. KELMERS: All right, everyone. Good
18 afternoon. I'll just be brief and then please let me know
19 if you have any questions. On the site plan on the screen,
20 north is in fact up, so that's good. We have Martin Luther
21 King Boulevard on the left and our public park that serves
22 as a buffer between Martin Luther King Boulevard and the
23 hospital structure. The tower on the left is the inpatient
24 wing and the tower on the right is an ambulatory wing. You
25 can see the parking garage, and then there's a short covered

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

(202) 234-4433

www.nealrgross.com

1 walkway connector between the main lobby of the hospital and
2 the parking garage.

3 The short-term parking on the exterior is either
4 side of the main entry drop off. Because of the size of the
5 drop off, we just put it immediately to either side. And
6 then the bike parking the long term bike parking we are
7 proposing to put in the lower level of the parking garage
8 which has direct access from the loop road that goes to the
9 back of the hospital and a direct entrance at that level.

10 MS. MOLDENHAUER: Next slide, please.

11 MR. KELMERS: So as you can see, two short term
12 exterior bike parking highlighted to the left and the right
13 of the main entry, pretty much equally distributed between
14 the two. And the one on the right does actually have a very
15 short, direct entry into the east entry of the lobby. And
16 as they traverse, if they chose to go into the main entry in
17 the middle, they would be under a canopy.

18 And then the covered walkway that connects to the
19 garage, this plan shows the lowest level of the garage which
20 is actually down two levels from the public entrance through
21 the parking garage which you can see on the lower left corner
22 of the garage plan.

23 We wanted to put the parking, the bike parking on
24 this level because it would actually afford bike riders the
25 opportunity to bike directly into the garage and as a bike

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 commuter myself, it's always easier if you don't have to get
2 into an elevator, so we thought that was a big plus. And
3 then that affords them the ability, either employees or the
4 public to then go back to the two entrances shown into the
5 hospital wing.

6 Next slide.

7 This is just an enlarged diagram of the lowest
8 level of the garage. Our long term parking spaces with a
9 combination of lockers, tandem bikes, and single bikes, both
10 vertical and horizontal racks, secured for long-term parking.
11 And then the ability -- as you can see on the lower left
12 there where the elevator bank for the garage is, there is an
13 ability to bring your bike, if you chose, for example, if you
14 parked in the short-term parking there and you decided you
15 wanted to leave your bike for whatever reason, you could
16 bring it down and bring it into the long-term parking.

17 And then the red line showing the bike route shows
18 that direct link to the loop road to the north which is
19 reserved for hospital traffic only, really staff traffic
20 only, so it should be very low volume as well.

21 Okay, next slide.

22 An enlarged plan of the outdoor parking. And as
23 you can see, the one on the right actually has a very direct
24 entrance that they choose to use the east entrance. Both
25 entrances lead to the main lobby.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 Next slide.

2 MS. MOLDENHAUER: Thanks so much. So we have
3 presented twice with the local ANC and we do have a letter
4 of support from the ANC 8C at Exhibit 20. We've coordinated
5 back and forth with Office of Planning and they have a
6 recommendation of approval in Exhibit 25 and DDOT has not
7 objection at Exhibit 26.

8 Next slide.

9 We believe that we satisfied the special exception
10 relief criteria for this application due to the physical
11 constraints of the property and the required bicycle spaces
12 cannot be accommodated within the requirements to satisfy
13 Subtitle C 807.2. We believe the requested relief would not
14 result in a reduction in the bike parking. As we indicated,
15 the bike parking is still being provided, it's just a
16 question of the location upon which it's being located. And
17 we believe the requested relief is limited and necessary in
18 accordance with the requirements.

19 Next slide.

20 We thank you for your time today, and we are
21 available for questions.

22 BZA CHAIR HILL: Thank you, Ms. Moldenhauer.
23 Thank you for your presentation.

24 Do you know the discrepancies between what you all
25 are proposing and what DDOT -- I'm not necessarily saying

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 that I'm in agreement with what DDOT is asking for. I just
2 wanted to understand what the differences were. Do you know?

3 MR. KELMERS: I can answer that if you want me to.

4 BZA CHAIR HILL: Oh, yes, sure.

5 MR. KELMERS: Or Meridith, would you --

6 MS. MOLDENHAUER: Please go ahead, Andrew. Thank
7 you.

8 MR. KELMERS: I mean I can't quote chapter and
9 verse, but in general, the DDOT requirements are written more
10 as if you're contemplating an office building in a central
11 business district where the parking would be below the
12 building because that is part of the way the requirement is
13 written. Because of our site conditions, the garage is next
14 to the building instead of being under it. So that's really
15 the main difference is instead of going down to the garage,
16 you're going laterally to the garage.

17 BZA CHAIR HILL: I'm sorry, and thank you, Mr.
18 Kelmer?

19 MR. KELMERS: Yes, yes.

20 BZA CHAIR HILL: I appreciate -- what I'm saying
21 is DDOT had some conditions it seems like, a recommendation
22 and one of them was like the Applicant shall provide at least
23 six showers and 23 lockers, you know, and I don't know if
24 that was something that I kind of -- and then they went
25 long-term bicycle storage with four spaces being electrical

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 outlets for ebikes and then the 38 long term bike parking and
2 a storage room on the first floor. I mean that's what I
3 meant, those four recommendations versus what you guys are
4 actually proposing. Are there any differences? Or where are
5 the differences?

6 MR. KELMERS: We do have showers and lockers
7 available. It was our understanding that the intent is long
8 term bike parking would be primarily for staff. Obviously,
9 if you're a patient, you're not going to probably ride your
10 bike to the hospital. So we do have those available in the
11 facility.

12 BZA CHAIR HILL: Okay. That's okay. All right
13 -- it's all right, Ms. Moldenhauer. I'm comfortable with the
14 answer.

15 Does anyone have any more questions for the
16 Applicant before I turn to the Office of Planning?

17 Go ahead, Ms. John.

18 VICE CHAIRPERSON JOHN: Yes. Ms. Moldenhauer, can
19 you go back to that first slide where you summarize the
20 parking requirement and the ones that you were providing and
21 their location? I believe it was in one of your opening
22 slides.

23 MS. MOLDENHAUER: Yes, thank you.

24 VICE CHAIRPERSON JOHN: Yes, that's the slide.
25 So you're not meeting the location requirement for the 38

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 spaces.

2 MS. MOLDENHAUER: That is correct.

3 VICE CHAIRPERSON JOHN: Right. And they're in a
4 parking garage. So the short term, I think that's the
5 question I have. So the short term bicycle parking, how many
6 will not meet the requirement? As I see it, you will meet
7 the requirement for eight spaces, so you would only need
8 relief for two spaces. Do I get that right?

9 MS. MOLDENHAUER: Yes, that's correct. We're
10 providing an additional 15 beyond the required parking, short
11 term bike parking requirements. We have looking that are
12 outside of the 120 feet requirement.

13 VICE CHAIRPERSON JOHN: Right.

14 MS. MOLDENHAUER: And then we have 15 additional
15 short term bike parking spaces that are in addition to the
16 overall max requirements.

17 VICE CHAIRPERSON JOHN: I think I got a little
18 confused. So basically, what is it you need really for? I
19 mean two spaces -- what are those?

20 MS. MOLDENHAUER: It will be for 38 long term
21 bicycle parking spaces and we need relief from 2 short term
22 bicycle parking spaces.

23 VICE CHAIRPERSON JOHN: Okay. Thank you. No
24 further questions, Mr. Chairman.

25 BZA CHAIR HILL: Thank you, Vice Chair John.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 Anyone else?

2 Okay, I'm going to turn to the Office of Planning.
3 You're on mute. Ms. Thomas.

4 MS. BROWN-ROBERTS: Ms. Brown-Roberts.

5 BZA CHAIR HILL: Ms. Brown-Roberts, I'm sorry.

6 MS. BROWN-ROBERTS: So good afternoon, Mr.
7 Chairman, and members of the BZA. Maxine Brown-Roberts from
8 the Office of Planning. The special exception relief the
9 Applicant has requested from the location requirements of the
10 long term and short term bicycle parking is due to the
11 property's -- due to the property and the proposed hospital
12 use which has specific and unique requirements.

13 To mitigate not being able to provide spaces in
14 the specified locations, the Applicant is providing spaces
15 within the adjacent parking structure for the long term
16 parking spaces and locating the shorter parking spaces within
17 -- over 120 feet from the hospital entrance.

18 The proposal meets the requirements of Subtitle
19 X.901 as it meets the intent of providing bicycle parking in
20 a safe, easily accessible area and would not impede or hamper
21 pedestrian ways and movements.

22 The location of the spaces would not affect the
23 use of the adjacent properties. OP therefore recommends
24 approval of the requested variance. Thank you, Mr. Chairman.

25 BZA CHAIR HILL: Thank you, Ms. Brown-Roberts.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 Does anyone have any questions for the Office of Planning?

2 All right, Mr. Young, is there anyone here wishing
3 to speak?

4 MR. YOUNG: We do not.

5 BZA CHAIR HILL: Okay, does anyone have any
6 questions -- final questions for the Applicant?

7 All right, Ms. Moldenhauer, I'll go ahead and let
8 you guys go. I hope you have a nice.

9 MS. MOLDENHAUER: Thank you so much for your time
10 and your consideration today.

11 BZA CHAIR HILL: Okay. So they're providing the
12 38 long term and the 9 short term. I don't have any issues
13 with their requests for relief. I understand why they need
14 the relief requested now because of the clarification on
15 where the parking garage is being adjacent to the hospital
16 and not underground as the architect was kind enough to point
17 out in terms of like a downtown corridor parking under the
18 building. I also appreciate that the ANC is in support.

19 In terms of the DDOT conditions, I don't really
20 think that it will be something that I would want to
21 necessarily get involved in, in so much as I believe that
22 they're meeting the requirements and I'm comfortable with
23 what they're providing. And if DDOT wants to work with DGS
24 to kind of work on different aspects of the bike parking, I
25 think the two agencies can work together to do that. So I

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 will be voting in favor. And Mr. Smith, do you have anything
2 you'd like to add?

3 MEMBER SMITH: No, I think you have summed up the
4 issues of the case and the reasons why I also support this
5 case. So I will also vote in support.

6 BZA CHAIR HILL: Thank you Mr. Blake?

7 MEMBER BLAKE: Yes. I am in support of the
8 application. I think it's very straight forward and I can
9 vote in favor of the special exception request.

10 BZA CHAIR HILL: Thank you. Dr. Imamura?

11 MEMBER IMAMURA: Thank you, Mr. Chairman. I'm in
12 agreement with your comments, particularly the comments about
13 the DDOT as opposed to the requirements. I think that the
14 Applicant meets the requirements for relief and the design
15 solution is fair and reasonable.

16 BZA CHAIR HILL: Thank you. Vice Chair John?

17 VICE CHAIRPERSON JOHN: I have nothing to add and
18 I am -- just to say that the application meets the criteria
19 for relief and I thank the Applicant for clarifying the
20 amount of short-term spaces for which relief is required
21 which would be 2 short-term spaces and for the 38 long-term
22 spaces. Thank you.

23 BZA CHAIR HILL: Thank you. All right, I'm going
24 to go ahead and make a motion to approve Application No.
25 21032, as captioned and read by the Secretary and ask for a

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

(202) 234-4433

www.nealrgross.com

1 second, Ms. John?

2 VICE CHAIRPERSON JOHN: Second.

3 BZA CHAIR HILL: The motion was made and seconded.
4 Mr. Moy, take a roll call.

5 MR. MOY: Yes, sir. When I call your name, if you
6 will please respond to the motion made by Chairman Hill to
7 approve the application for the relief requested. The motion
8 to approve was seconded by Vice Chair John.

9 Zoning Commissioner Dr. Imamura?

10 MEMBER IMAMURA: Yes.

11 MR. MOY: Mr. Smith?

12 MEMBER SMITH: Yes.

13 MR. MOY: Mr. Blake?

14 MEMBER BLAKE: Yes.

15 MR. MOY: Chairman Hill?

16 BZA CHAIR HILL: Yes.

17 MR. MOY: Vice Chair John?

18 VICE CHAIRPERSON JOHN: Yes.

19 MR. MOY: Staff would record the vote as 5 to 0
20 to 0 and this is on the motion made by Chairman Hill to
21 approve. The motion to approve was seconded by Vice Chair
22 John who also voted to approve the application. Voting to
23 approve the application also, Zoning Commissioner Dr.
24 Imamura, Mr. Smith, Mr. Blake, Vice Chair John, and Chairman
25 Hill. Motion carries, sir, 5 to 0 to 0.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 BZA CHAIR HILL: Thank you, Mr. Moy. Thank you
2 so much for your help today and I look forward to seeing
3 everyone next week.

4 VICE CHAIRPERSON JOHN: Thank you, Mr. Chairman.
5 Good-bye, everybody.

6 BZA CHAIR HILL: Bye-bye, we're adjourned.

7 (Whereupon, the above-entitled matter went off the
8 record at 3:30 p.m.)

9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: Public Hearing

Before: DC BZA

Date: 01-17-24

Place: teleconference

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



Court Reporter

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1716 14TH ST., N.W., STE. 200

WASHINGTON, D.C. 20009-7831

(202) 234-4433

www.nealrgross.com