

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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REGULAR PUBLIC MEETING

+ + + + +

WEDNESDAY

JULY 24, 2024

+ + + + +

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

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

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

ZONING COMMISSION MEMBERS PRESENT:

ANTHONY J. HOOD, Chairperson  
ROBERT MILLER, Vice-Chairperson

OFFICE OF ZONING STAFF PRESENT:

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

OFFICE OF ZONING ATTORNEY ADVISORS PRESENT:

SARAH BAJAJ, ESQ.  
MARY NAGELHOUT, ESQ.

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The transcript constitutes the minutes from the Regular Public Meeting held on July 24, 2024.

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

(1:49 p.m.)

1  
2  
3 SECRETARY MEHLERT: This is the Board's meeting  
4 session. The first case is Application Number 20472-B for  
5 the River School. This is a remand of an order approving,  
6 subject to conditions, special exceptions to allow a daytime  
7 care use under Subtitle U, Section 203.1(h), a private school  
8 use under Subtitle U, Section 203.1(m), and Subtitle X,  
9 Section 104, and a reduction in the minimum vehicle parking  
10 requirements of Subtitle C, Section 701.5, under Subtitle C,  
11 Section 703.2.

12 This project is for a new child development center  
13 and private school campus for 350 children with accessory  
14 clinic use and 90 employees. It's located in the R-1-B Zone  
15 at 4220 Nebraska Avenue, Northwest, Square 1727, Lots 4 and  
16 5. The hearing on remand was on July 3rd. The Board closed  
17 the record and scheduled for decision. And participating are  
18 Chairman Hill, Vice Chair John, Board Member Blake, Board  
19 Member Smith, and Commissioner Miller.

20 BZA CHAIR HILL: Okay. Thank you, Ms. Mehlert.

21 So let's see. A couple of things. So we know  
22 this has been brought to us on remand. We had a hearing, a  
23 full hearing, on it. Vice Chair John has been kind enough  
24 to agree to take the lead on this discussion or at least  
25 begin the discussion.

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1           But however, before I turn it over to Vice Chair  
2 John, I guess I would also say that, you know, what we were  
3 charged with by the Court of Appeals' opinion was an adequate  
4 discussion may have included findings on whether the shuttle  
5 was necessary to the reduction goal and whether 100 percent  
6 compliance was required.

7           Additionally, if the shuttle will be required, the  
8 Board should consider whether the school will adequately  
9 enforce that requirement. On remand, the Board should make  
10 additional findings about the shuttle's precise role  
11 consistent with this analysis. If 100 percent use of the  
12 shuttle is necessary, the Board should determine whether it  
13 would require the school to meet that level as a condition  
14 in granting its application.

15           I have some pretty straightforward opinions, I  
16 suppose, on it. But since Vice Chair John was so kind to  
17 start the discussion, I will turn it over to her and then  
18 circle around when it gets back to me.

19           VICE CHAIRPERSON JOHN: Thank you, Mr. Chairman.

20           I will start the discussion, but I don't expect  
21 to be exhaustive. So the Board was charged at looking to see  
22 whether 100 percent compliance with the shuttle bus was  
23 required. And there is ample information in the record that  
24 shows that the Board -- that the Applicant does not  
25 anticipate 100 percent compliance with the shuttle bus.

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1           The information is described at Exhibit 100B,  
2 which shows how the traffic management study indicated that  
3 peak traffic would have the highest trip generation in the  
4 mornings and that the Applicant committed to a reduction of  
5 45 percent. This reduction would be met by several means,  
6 and the most important one is the shuttle bus.

7           The Applicant indicated further and the record  
8 also shows that the Applicant does not expect that there  
9 would be 100 percent compliance with the shuttle bus plan in  
10 order to meet that 45 percent reduction. There would be, of  
11 course, exemptions for some students who meet certain  
12 criteria, such as those that walk to school or if they meet  
13 certain ADA qualifications, or they're driven to school by  
14 faculty, parents who are faculty at the school and who are  
15 allowed to drive to school, or parents with younger siblings  
16 because this shuttle bus requirement would only apply to  
17 students from K through 6.

18           So, with that extensive discussion in the record,  
19 which the Board in its order did not highlight, I feel  
20 comfortable in my conclusion that 100 percent compliance is  
21 not required and that the Board should adopt the conditions  
22 recommended by the River School that dictate how the shuttle  
23 bus requirement would be imposed and enforced.

24           And the Applicant also detailed how -- that  
25 there's a progressive enforcement system for parents who

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1 don't meet that shuttle bus requirement. This is contained  
2 in the contract that the parents sign. And also, it is --  
3 I think that it's a progressive structure, which could end  
4 in dismissal. The Board cannot require that the Applicant  
5 enforce the shuttle bus program in that way because I believe  
6 that that's an internal operational policy that this Board,  
7 I don't believe, under the existing case law, can dictate.

8           But I'm satisfied that what the Applicant has  
9 proposed is reasonable. The Applicant is also proposing to  
10 share the bus routes when the school opens, which is a more  
11 -- I'm sorry, share the bus routes with the ANC when the  
12 school opens, which is reasonable since the Applicant cannot  
13 anticipate at this time what the student body would look like  
14 and what the shuttle bus needs would be.

15           Now, with respect to the additional conditions,  
16 the Applicant is proposing to make these conditions of the  
17 shuttle bus clearer by proposing a new condition. And I  
18 guess we can discuss these as well. I believe those  
19 conditions are reasonable.

20           The one proposal I'm not in agreement with is the  
21 proposal to review or to revise Condition 4, which says that  
22 all student pickup and drop-off activities shall occur on  
23 campus. The Applicant shall not permit pickups or drop-offs  
24 of students from passenger vehicles on 42nd Street, Van Ness  
25 Street, Warren Street, and it also includes, or other

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1 neighborhood streets under any circumstances.

2 I believe inserting, or other neighborhood streets  
3 under any circumstances, is too broad. And I don't know how  
4 that would be imposed. Of course -- I'm sorry, enforced.  
5 Of course, the Applicant and the ANC and the parties can  
6 agree to defining which streets would be covered in the  
7 shuttle bus plan. But I don't believe the Board should  
8 incorporate such a very broad area in the order.

9 And so those are my thoughts, Mr. Chairman.

10 BZA CHAIR HILL: Okay. Thanks, Vice Chair John.  
11 Thank you for taking the lead.

12 Who would like to have a discussion next?

13 MEMBER BLAKE: I'll go.

14 BZA CHAIR HILL: Go ahead, Mr. Blake. Thank you.

15 MEMBER BLAKE: Mr. Chair, I by and large agree  
16 with everything that Vice Chair John said with regard to  
17 this. I believe that the -- it was clear from the outset that  
18 the Applicant had intended to use a variety of means to meet  
19 the threshold requirement for the 45 percent reduction.

20 And in our hearing, we referenced the -- let's see  
21 -- Exhibit 46A and also Exhibit 69A from the Department of  
22 Transportation. And looking at those two exhibits, it was  
23 pretty clear, and in reviewing that, that the footnotes  
24 there, which presented in Table 9B on pages labeled 38 and  
25 39, assume that there are going to basically be 139 students

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1 who would actually use the bus.

2           Footnote 1 discussed the fact that there were  
3 going to be anywhere from 326 to 338 students and that K  
4 through 6 would be composed of 203 students, and the younger  
5 kindergarten about 135. And they also assume there there  
6 would be potentially 24 students per bus, resulting in about  
7 six buses or six trips.

8           So, when I thought about that, it's clear from  
9 that that the utilization of the shuttle would not be  
10 necessary to accommodate that. The simple math says 68  
11 percent of the students -- and this is just a rough estimate,  
12 though -- would be using the bus on a regular basis with  
13 those specific inclusions, which are laid out in those two  
14 tables, again, which is in the Applicant's Exhibit 46A(1) and  
15 also incorporated in DDOT's report as well.

16           So, for that reason, I believe that it has been  
17 there clearly stated the role it would play in meeting the  
18 objective. And it 100 percent was not necessary; in fact,  
19 it was not expected. I also believe there was an assumption  
20 with regard to absenteeism or -- as well, about five percent.  
21 So the numbers actually did reflect a fairly conservative  
22 estimate, and not 100 percent was anticipated.

23           I do agree with the Office of Planning that the  
24 new conditions do in fact reinforce a lot of the statements  
25 that were made throughout and in the revised TDM exhibit,

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1 which Vice Chair John pointed out. And I would be in support  
2 of including those proposed conditions outlined in Exhibit  
3 171A. And I agree with Vice Chair John on the location as  
4 well. Thank you.

5 BZA CHAIR HILL: Thank you, Mr. Blake.

6 I mean, I can go next also. So I think that we  
7 heard a lot of testimony on this issue, and what the Board  
8 was again asked to do was whether or not the Board thought  
9 that 100 percent use of the shuttle bus was necessary to  
10 achieve the goals that the Board thought was necessary to  
11 mitigate any adverse impact for this particular project.

12 I don't think that the Board at any time thought  
13 that the shuttle bus was 100 percent necessary, meaning that  
14 everyone was supposed to use the shuttle bus. The goal was  
15 to keep people out of their cars. And really, there is a  
16 trip count that is what they are to adhere to, or is what is  
17 going to be kind of the teeth to this particular issue.

18 Then in the testimony that we heard was all really  
19 kind of like how there were different ways in which people  
20 were not going to be using cars, you know, the students who  
21 walk or bike to school, the ones who took private  
22 transportation, some that have a younger sibling that's  
23 permitted to ride by the car, and then there would be like  
24 a -- the other student, the older student, would be able to  
25 arrive by the car that way.

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1           And then I think that, again, the documented  
2 physical disabilities or whatever reasons that the school was  
3 putting forward to keep -- or allowing people that have a  
4 need to be driven, that they, the school, are going to be  
5 able to figure out what is or isn't appropriate based upon,  
6 I think, ADA. I'm not actually exactly sure. But they, the  
7 school, are going to be able to determine this.

8           And the reason why it doesn't really matter is  
9 because there's still the trip count. I mean, they have to  
10 adhere to the trip count. And so I did not get that argument  
11 from the people in opposition as to that being an issue.

12           I think that as far as the conditions go, I would  
13 agree with what everyone has said in terms of what the Office  
14 of Planning's recommendation and then also the Applicant's  
15 conditions in 171A -- I guess the specificity in what Vice  
16 Chair John was saying in terms of Condition Number 4 -- just  
17 to be clear, Vice Chair John, you're saying that we would  
18 strike, or other neighborhood streets under any  
19 circumstances, and would we keep the rest of it?

20           VICE CHAIRPERSON JOHN: Yes, that was my thought.  
21 We would just strike, or other neighborhood streets, because  
22 it's a wide area. What streets exactly --

23           BZA CHAIR HILL: Got it.

24           VICE CHAIRPERSON JOHN: -- are they considering?  
25 And they can include that in the shuttle bus route plan if

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1 that's necessary.

2 BZA CHAIR HILL: Okay. I would agree with that.  
3 And then it would still -- the remainder of it, that all  
4 student pickup and drop-off activity shall occur on campus;  
5 the Applicant shall not permit pickups or drop-offs of  
6 students from passenger vehicles on 42nd Street, Van Ness  
7 Street, Warren Street -- those would be included, correct?

8 VICE CHAIRPERSON JOHN: Yes.

9 BZA CHAIR HILL: And then the Applicant will  
10 ensure that caregivers will not park on neighborhood streets  
11 during drop-off and pickup, to wait, or walk their students  
12 to and from the subject property. Correct?

13 VICE CHAIRPERSON JOHN: Yes.

14 BZA CHAIR HILL: Okay. All right. I'm  
15 comfortable with that.

16 Mr. Smith or Commissioner Miller? I'm sorry, Mr.  
17 -- yeah, Mr. Smith or Commissioner -- go ahead, Mr. Smith.

18 MEMBER SMITH: I don't have too much to add. I  
19 think all of my fellow Board members have really encapsulated  
20 where my head was on this particular case, and I by and large  
21 agree with what you're saying. What the Court was tasking  
22 us with doing here is, if the shuttle bus is required, how  
23 would the Applicant, I believe, reasonably enforce that  
24 requirement?

25 And there was questions that came up about -- I

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1 think based on -- hold on, sorry -- based off of everything  
2 that was stated on the record. It was never the intention  
3 that the shuttle bus would encapsulate all of the student  
4 arrival at a particular site. There is nuance to that  
5 particular arrival, and the Applicant has provided a detailed  
6 transportation management plan that would ensure a reasonable  
7 reduction in private vehicle trips to the site to reduce  
8 traffic that would come to the school.

9           So I believe that what was submitted within the  
10 record -- I believe with these conditions and with revised  
11 conditions submitted, would address the concerns that was  
12 raised by the remand. And I do agree with the position of  
13 Ms. John to amend the Revised Condition Number 4 to remove  
14 the last portions of that statement because I do agree with  
15 her that it would be hard to enforce such a vague condition.

16           So, with that, I will approve of the revised  
17 conditions.

18           BZA CHAIR HILL: Thank you.

19           Commissioner Miller?

20           VICE CHAIRPERSON MILLER: Thank you, Mr. Chairman,  
21 and thank you to my fellow Board members, especially Vice  
22 Chair John, for your comments and deliberations thus far,  
23 which were very comprehensive and I think address the  
24 concerns raised in the Court's remand.

25           I think the River School applicant has proposed

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1 a condition that clarifies what each of you have said is that  
2 with our understanding that the shuttle bus would be a  
3 required mechanism, required tool, that this school would  
4 have to use for the K to 6 students in order to meet with  
5 limited specified exceptions, which they've spelled out in  
6 that condition that they've offered in order to meet, as the  
7 Chairman just emphasized, the 45 percent trip reduction  
8 threshold that is required in the transportation management  
9 plan that is part of this case.

10           And that shuttle bus is a requirement. But there  
11 are limited exceptions, which are spelled out now in the  
12 condition that's been provided to us. And the threshold is  
13 the key to whether that shuttle bus requirement will have to  
14 be strengthened or other measures, other enhanced traffic  
15 mitigation measures, will have to be implemented. And  
16 there's the monitoring that goes on once this gets going.

17           And there's enforcement referenced in that  
18 condition to the progressive consequences and penalties if  
19 the parents who don't need any -- if those kids aren't using  
20 the shuttle bus and they don't meet any of the exceptions,  
21 there are progressive penalties leading to expulsion, which  
22 are part of the student code of conduct and -- which are part  
23 of the transportation management plan, which is part of this  
24 case.

25           So I concur with my fellow Board members that this

1 condition provided by River School does clarify that the  
2 shuttle bus is a requirement. Not 100 percent of the  
3 students are going to be using the shuttle, just because  
4 there are those specified exceptions, limited, and there's  
5 the enforcement mechanism that's spelled out. And in order  
6 to meet the 45 percent peak morning rush hour threshold,  
7 that's the key.

8           On the broadening of that condition requiring that  
9 parents not drop off students on neighborhood streets, I  
10 agree with my fellow members that it was -- adding, or other  
11 neighborhood streets, was vague. The key is that the general  
12 requirement is that the students be picked up and dropped off  
13 on campus other than any shuttle bus off-campus site that  
14 might be provided at a later time.

15           So I think that it was -- the original condition  
16 on that point, that they not drop off on immediately adjacent  
17 streets, is enforceable. To reference all other neighborhood  
18 streets -- I don't know how far that goes. So I think what  
19 we had there originally was a reasonable condition to enforce  
20 the pickup and drop-off general requirement to be on campus,  
21 not in the surrounding neighborhood.

22           So I appreciate the River School being responsive  
23 to the Board's request in its procedural order about the  
24 remand, and I appreciate their attempts to be responsive to  
25 other ANCs' requests, whether it's tracking students who are

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1 walkers or using public transportation to make sure there's  
2 no confusion about who is allowed to walk onto the campus.

3           So I think we've got a reasonable response here  
4 to the Court's remand, and we can proceed accordingly. Thank  
5 you.

6           BZA CHAIR HILL: Thank you, everyone. Thank you  
7 for your time and your deliberations and work on this.

8           I'm going to go ahead and make a motion, then, to  
9 approve Application Number 20472-B and the deliberations that  
10 the Board have put forward considering the remand of this  
11 particular application, including the new -- or not new  
12 conditions, the conditions that are in Exhibit 171A, however,  
13 altering Condition Number 4 as I had read earlier in the  
14 record and ask for the Office of Zoning's Legal Division to  
15 help us with the writing of the order, but again, just  
16 striking the other neighborhood streets under any  
17 circumstance portion from Condition 4, and ask for a second.

18           Ms. John?

19           VICE CHAIRPERSON JOHN: Second.

20           BZA CHAIR HILL: The motion made and seconded.

21           Secretary Mehlert, if you could take a roll call,  
22 please.

23           SECRETARY MEHLERT: Please respond to the Chair's  
24 motion to approve the application with the conditions as  
25 noted by the Chair in Exhibit 171A, plus the edits to the

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1 proposed Condition 4.

2 Chairman Hill?

3 BZA CHAIR HILL: Yes.

4 SECRETARY MEHLERT: Vice Chair John?

5 VICE CHAIRPERSON JOHN: Yes.

6 SECRETARY MEHLERT: Mr. Smith? Thank you,

7 Mr. Smith, sorry.

8 MEMBER SMITH: Yes.

9 SECRETARY MEHLERT: Mr. Blake?

10 MEMBER BLAKE: Yes.

11 SECRETARY MEHLERT: And Commissioner Miller?

12 VICE CHAIRPERSON MILLER: Yes.

13 SECRETARY MEHLERT: Staff report the vote is five  
14 to zero to zero to approve Application 20372-B with the  
15 conditions on the motion made by Chairman Hill and seconded  
16 by Vice Chair John.

17 BZA CHAIR HILL: Thank you, Ms. Mehlert.

18 Okay. Okay. Okay. I think I only have one more  
19 piece of business with Commissioner Miller, and then we can  
20 take a break.

21 Ms. Mehlert, if you want to call our next item.

22 SECRETARY MEHLERT: Next is Application Number  
23 21177, the D.C. Department of General Services. This is a  
24 self-certified application pursuant to Subtitle X, Section  
25 901.2, for special exception under Subtitle X, Section 900.3,

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1 to allow an extension or enlargement of a use that was  
2 originally permitted and lawfully established as a matter  
3 of right, for which the zoning regulations now require  
4 special exception approval.

5           This is the enlargement of a large-scale  
6 government use, which now requires approval as a special  
7 exception under Subtitle I, Section 303.1(c). It is located  
8 in the D-4-R zone at 501 New York Avenue, Northwest, Square  
9 482-S, Lot 800. And the hearing for this case is currently  
10 scheduled for September 18th. And before the Board today is  
11 a motion from ANC 2G to postpone the hearing.

12           BZA CHAIR HILL: Okay. So, you guys, I'm going  
13 to let, maybe, somebody else start the discussion again on  
14 this one. We'll see if anybody wants to step forward and  
15 start the discussion. If not, I can always start the  
16 discussion.

17           The reason why I'm pulsing is because, as I  
18 mentioned before, this is my ANC, and I do not think that  
19 that in any way will stop me from being able to apply the  
20 regulations to this issue, as we've already gone through this  
21 before -- or not gone through it once before. We had an  
22 appeal on this project. And so I mention that again for the  
23 record.

24           But the postponement before us -- there's a couple  
25 of things that I want to talk through with you guys. There's

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1 a request for a postponement from September to November  
2 sometime. I forget when that is, when they -- I have to look  
3 when they were asking for the postponement -- and that they  
4 give us a couple reasons, one of which being that proper  
5 notice was not given to the complete 200-footers. And so I  
6 know that the notice has gone out now to the 200-footers.

7           But there's one more item to kind of talk about,  
8 and I'm not sure what you -- the one I know I want to talk  
9 about I'm not sure what to do with, I guess, just yet is that  
10 there was a submission by the ANC yesterday but was not  
11 served on DGS. So it was not served on the parties, so I  
12 can't let it into the record for us to necessarily talk  
13 about.

14           I know that you guys have seen it. If it's  
15 something that you think is changing your opinion or you  
16 would like to have that in the record, then we would have to  
17 allow it into the record and come back next week again -- or  
18 I'm sorry, ask the ANC to serve it on the parties, which is  
19 DGS, and then come back and have this deliberation next week.  
20 I don't necessarily think we need to do that. I think we  
21 need to have this deliberation now.

22           But I offer up those different items and ask if  
23 somebody else would like to start the discussion. And if  
24 not, again, I will, but just seeing if anybody wants to step  
25 forward.

1 All right. Commissioner Miller. But I guess it's  
2 one of those things like I remember if you waited long  
3 enough, that you get voluntold for whatever was going on.  
4 So it's interesting. How long I can stay quiet I don't know.  
5 But thank you, Vice Chair Miller.

6 VICE CHAIRPERSON MILLER: Well, since I won't be  
7 in the rest of your meeting, I thought I should step up. So  
8 we have before us the request from ANC 6E for a postponement  
9 of the hearing on this case, which is an application for a  
10 special exception to permit the temporary central cell block  
11 on New York Avenue, related case that we had a hearing on  
12 back in the spring. Since the hearing, we got an appeal of  
13 the permit that was issued to the Department of General  
14 Services for the temporary cell block because they were of  
15 the opinion that it was matter of right.

16 And this Board disagreed and agreed with the  
17 Appellants, the opposition, which was the ANC, ANCs in this  
18 case, among others. And so a special exception application  
19 has been filed pursuant to our denial of the matter of right,  
20 pursuant to our granting of the appeal that had granted the  
21 permit as a matter of right.

22 So, on the issue of ANC 2G's letter dated July  
23 23rd, which we've seen, I have no objection to putting it in  
24 the record. I don't think it's anything different than what  
25 ANC 6E had already put into the record and, I think, was

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1 served on the parties. And I think the Applicant, DGS's,  
2 Department of Corrections opposition motion, which we have  
3 in the record as well, addresses the similar concerns that  
4 6E had raised. They're the same requests, same concerns that  
5 2G is now raising that 6E had previously raised.

6 So I have no objection to 2G's letter being in the  
7 record, Mr. Chairman, if others -- if the majority of the  
8 Board agrees. I would just note that the original notice,  
9 as I think the Chairman said, apparently did not include all  
10 of the 200-footers. I think there was a large condominium  
11 building, amongst others, that may not have gotten the  
12 original notice.

13 That was corrected. That deficiency was  
14 corrected, and a new notice went out that -- on the record  
15 and apparently does include all of the 200-foot neighbors --  
16 so notice in time for the September 18th hearing. However,  
17 the ANCs in each raise concerns about having enough time.  
18 Even though they participated in the previous related case  
19 hearing on the appeal, they need more time than over the  
20 summer.

21 I don't think we need to postpone it to November.  
22 So there isn't a deficiency. There isn't technically a  
23 deficiency in the current notice that went out. It  
24 apparently includes all of the 200-footers, including the one  
25 that was left -- at least the large one that was left off the

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1 original notice.

2           And people have known about this in the  
3 neighborhood because of the previous case that we had a  
4 hearing on, which was well publicized and had a lot of  
5 extensive public hearing testimony and has been -- even a  
6 report about it in media. But -- so I don't think we need  
7 to postpone this to November. I would think September 18th  
8 technically meets -- the new notice meets that -- the time  
9 requirement. But I wouldn't have a problem with going to  
10 October. I don't think we should be postponing to November.  
11 I think that's not necessary.

12           So that's where I am, Mr. Chairman.

13           BZA CHAIR HILL: Okay. Thank you.

14           Who would like to go next?

15           VICE CHAIRPERSON JOHN: Okay. I'll go next. I  
16 agree with everything that Vice Chair Miller has said. The  
17 revised notice corrects any deficiency that originally  
18 existed. And I agree with the Applicant's response in  
19 opposition to the motion.

20           And I believe that the Applicant would be  
21 prejudiced from this continuance because the parties are  
22 fully aware, as Vice Chair Miller said, of all of the issues  
23 in this case. And there was a full hearing in the appeal.  
24 And so I don't see what would be served by another lengthy  
25 delay. And so I would also not include the new letter from

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1 the ANC, which was not properly noticed.

2           So, in essence, I agree with Vice Chair Miller's  
3 conclusion. But I would kick the September time frame  
4 perhaps to the end of September, if possible, for reasons not  
5 related to this hearing. Thank you, Mr. Chairman.

6           BZA CHAIR HILL: Thank you, Vice Chair John.

7           Mr. Blake, I think I saw your hand up.

8           MEMBER BLAKE: Yes, you did. My comment is I  
9 agree with what you said about there being sufficient notice  
10 to all the relevant parties at this point. I do think it's  
11 important that ANC 2G does have an opportunity to evaluate  
12 this in an organized format, which, given the summertime  
13 activities, would necessitate having this at some point in  
14 late September/October, which would allow them to meet and  
15 review it formally.

16           So, for that reason, I do agree it would be best  
17 to postpone it but not until November. I don't think that's  
18 necessary, as the community has a great deal of knowledge  
19 about this process and, like you said, have been notified.  
20 And I think it would impair the ability for the project to  
21 just delay it unnecessarily.

22           So I think that postponing it at least until a  
23 more reasonable time frame, early October, such that the ANC  
24 had a chance to have formal meetings, would be appropriate,  
25 but not till November.

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1 BZA CHAIR HILL: Okay. Thank you.

2 Mr. Smith?

3 MEMBER SMITH: I have nothing more to add. I  
4 agree with the statements provided by my colleagues on this  
5 particular case. I'm not opposed to allowing the ANC letter  
6 within the record. Typically, when we -- even if they would  
7 file late, we allow them into the record. And I don't think  
8 it's much materially different than the one that we already  
9 had in the record. So I'm not necessarily opposed to that  
10 if the Board is inclined to allow that within the record.

11 Regarding the postponement itself, I agree with  
12 everything that's stated. I do believe that the Applicant  
13 for this case during that time has corrected the issue of  
14 proper notification of their public building that wasn't  
15 properly notified, and it was done in a timely manner.

16 So I believe that question of a continuance would  
17 be a moot point at this point. And I agree that the  
18 Applicant would be prejudiced if we were to move this back  
19 another two months. So I am inclined to deny the motion to  
20 postpone.

21 BZA CHAIR HILL: Okay. All right.

22 Madam Secretary, do you know when ANC 6C meets?  
23 Is it C? Yeah -- 6E. 6E. I'm sorry.

24 SECRETARY MEHLERT: They meet on the fourth  
25 Tuesday of each month. So they would meet on September 24th.

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1 BZA CHAIR HILL: Okay. The fourth Tuesday. And  
2 do you have all the ANCs, when they meet?

3 SECRETARY MEHLERT: No. I just did a quick  
4 Google.

5 BZA CHAIR HILL: Oh. Great. So I mean -- and I  
6 think mine -- 2G is on the second Thursday of each month,  
7 correct?

8 SECRETARY MEHLERT: 2G, I think -- yeah. I think  
9 they meet on September 12th.

10 BZA CHAIR HILL: Right. Okay. And then 6E is  
11 going to meet in September on the 24th. Is that what you  
12 said?

13 SECRETARY MEHLERT: Yes.

14 BZA CHAIR HILL: Okay. And then they would meet  
15 in October, 6E, on the 22nd?

16 SECRETARY MEHLERT: Correct.

17 BZA CHAIR HILL: Okay. All right. I don't know.

18 So this is what I'm kind of proposing, right? So  
19 -- well, first of all, I think that this has now been  
20 properly noticed. I think that the additional 200-footers  
21 have gotten notice. They've had a chance to -- you know,  
22 whatever, be notified. And this case has been in the  
23 community for some time, meaning we have the appeal and  
24 everything.

25 So I was kind of torn on the postponement, and the

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1 reason why -- and also, for the record, I didn't go to my ANC  
2 meeting this time, right? I just didn't go. So I don't have  
3 any extra information. So the -- oh. We haven't heard the  
4 case, right? We haven't heard the special exception. We  
5 haven't heard what we think. We haven't heard from the  
6 Office of Planning. We haven't heard from the Applicant,  
7 right?

8           So I don't know what we're necessarily going to  
9 think about this, right? And I wasn't terribly interested  
10 in postponing because I didn't necessarily think, regardless  
11 of -- unless we thought that they just didn't meet the  
12 criteria and we weren't probably going to think they met the  
13 criteria and it was going to get rejected. I think that if  
14 we did think that it was going to meet the criteria, I think  
15 that we would have wanted to hear a lot from the ANCs.

16           So I didn't necessarily think it was something  
17 that was going to happen right away, right? So I'm a little  
18 bit torn in that I think we would probably have a lot more  
19 discussion with the ANCs about this particular project. So,  
20 therefore, it still would probably gone on. It wouldn't  
21 necessarily have just been heard and decided on that day.

22           So, anyway -- so now I'm a little bit torn  
23 because, again, if we did give the ANC more time, that means  
24 that they will have met in September, and also, then 6E will  
25 have met in September, and then we could have a hearing,

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1 like, mid-October. Right? And that means that, also, the  
2 ANC -- that means that the ANC would have met once on the  
3 23rd of September, and 2G would have met on the 12th of  
4 September.

5           And then, if we met on the 2nd of October, then  
6 that would be before 2G's next meeting. Right? So then we  
7 could hear the case, see what's going on, and then there  
8 would be another meeting for the ANC both in 2G and in 6E in  
9 October. I'm trying to talk this through.

10           So, if we postponed to October 2nd, that would be  
11 before the second possible ANC meeting for both ANCs, and  
12 then we will all have heard the case. So I'm kind of leaning  
13 towards the 2nd of October so that it's after both ANCs would  
14 have had a chance to meet in September, and then we have the  
15 hearing on October 2nd. Or -- and I'm throwing this out  
16 there because, as I said, I'm going to hear from everybody  
17 on this one -- is that we can meet on October 30th, and that  
18 would have given the ANCs two meetings.

19           But I still think they will meet after we have our  
20 hearing. So I don't know what to do, either the 2nd or the  
21 30th of October. Does anybody have a thought?

22           VICE CHAIRPERSON JOHN: I have a thought, Mr.  
23 Chairman, and a question. Was 6E a participant in the  
24 appeal? I don't recall. It seems to me everybody was  
25 involved.

1           BZA CHAIR HILL: I think we took testimony from  
2 people in 6E, but I don't think we heard from 6E. So 6E now  
3 would be, I think, a party because they're an adjoining ANC.

4           VICE CHAIRPERSON JOHN: Yes. Okay. So I agree  
5 with you that October 2nd would be sufficient because this  
6 is not a new project, and everyone has notice and understands  
7 what the stakes are. So I would suggest the earlier  
8 hearing, October 2nd.

9           BZA CHAIR HILL: Okay.

10           Anyone else?

11           VICE CHAIRPERSON MILLER: Mr. Chairman, I was just  
12 looking at different calendars. I think a couple weeks  
13 delayed to allow the ANC to September to have their meeting,  
14 discuss this, is appropriate. So an early October hearing  
15 is reasonable. I would ask that it be October 9th rather  
16 than October 2nd just because there is a religious holiday  
17 in there and might be -- it just might be better, depending  
18 because it sounds like that could be a long hearing.

19           BZA CHAIR HILL: Okay. That's fine with me. I  
20 mean, the thing about October 9th -- and I still think it's  
21 going to be fine -- is that 2G is meeting on the 10th. And  
22 so -- but -- 2G is meeting on the 10th. So they would  
23 basically be here for the meeting on the 9th and then meet  
24 on the 10th.

25           VICE CHAIRPERSON MILLER: I have no problem with

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1 doing it one week later than that as well. So, I mean, if  
2 you think that makes more sense -- I'll defer to you, Mr.  
3 Chairman.

4 BZA CHAIR HILL: No, no. I mean, I think the 9th  
5 is fine. I think everybody will know everything.

6 VICE CHAIRPERSON MILLER: But the 16th is fine for  
7 me, too. Just personally, I think that's fine.

8 BZA CHAIR HILL: That's fine. No, the 9th -- I  
9 wanted to do it before the next -- I wanted to do it before  
10 --

11 VICE CHAIRPERSON MILLER: Okay. I was  
12 misunderstanding what you were saying.

13 BZA CHAIR HILL: Yeah. So okay. So, then, you,  
14 Commissioner Miller, are better off on the 9th, which is  
15 great, just because we need you. You've been involved in all  
16 this for a while, and you voted with me on the appeal. So  
17 okay.

18 Mr. Blake?

19 MEMBER BLAKE: I agree, Mr. Chair, that sometime  
20 in October would be good because I would like to have the  
21 ANCs participate fully in this and have the opportunity to  
22 have an organized meeting. So that date sounds good to me,  
23 either the 2nd or the 9th. Either one is perfectly fine.

24 BZA CHAIR HILL: Okay.

25 Mr. Smith?

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1           MEMBER SMITH: I agree with Mr. Blake. It would  
2 allow the ANCs to both be fully engaged. So I would probably  
3 be the date -- I think you guys said that they meet on the  
4 7th, so would it be better for them to be on the 9th? The  
5 meeting on the 9th?

6           BZA CHAIR HILL: No. 6E is going to meet on the  
7 24th, I think.

8           Is that what you said, Madam Secretary? Of  
9 September, right?

10          SECRETARY MEHLERT: 6E, yes.

11          BZA CHAIR HILL: Right. So then they're going to  
12 -- so what's happening is 2G will get a meeting in September.  
13 6E will get a meeting in September. We will then have our  
14 hearing, and what I think will probably happen, unless  
15 something -- what I think will probably happen is we'll want  
16 the ANCs to meet again after the hearing. That's why I'm  
17 saying that the ANCs then would have a chance to meet after  
18 the hearing.

19          So that's why I'm shooting for the 9th, which  
20 you're -- can you confirm for me again that 2G is on October  
21 10th?

22          SECRETARY MEHLERT: That's what their website  
23 says.

24          BZA CHAIR HILL: Okay. All right. And I'm pretty  
25 sure, like I said, it's the second Thursday. So that means

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1 that if we did it the 9th, then we could have -- and then  
2 everybody would get another meeting before we might meet  
3 again. So I'm proposing October 10th -- I'm sorry, October  
4 9th.

5 MEMBER SMITH: I'm fine with October 9th.

6 BZA CHAIR HILL: Okay.

7 What is the schedule like, Madam Secretary, on  
8 October 9th?

9 SECRETARY MEHLERT: There are six cases scheduled  
10 for the hearing. One is an appeal, and then there's another  
11 case that has been -- that have party status and opposition.

12 BZA CHAIR HILL: Okay. What does October 2nd look  
13 like?

14 SECRETARY MEHLERT: October 7th, there are seven  
15 hearing cases.

16 BZA CHAIR HILL: Okay.

17 And, Commissioner Miller, I'm totally fine with,  
18 like -- I just don't know which holiday it is or how that  
19 works out. So, if we did it in the morning on October 2nd,  
20 that would still give enough time, or you still think -- I'm  
21 completely fine, by the way. It doesn't matter. It's going  
22 to be a long day no matter which day it is.

23 So, October 9th, we have an appeal and a bunch of  
24 stuff, it sounds like. And October 2nd, we've got seven  
25 cases, which is also a lot of stuff. So it really doesn't

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1 matter to me. I mean, if you -- Commissioner Miller, please  
2 don't let me push you one way or the other. If you think  
3 that October 9th works better for you -- because we really  
4 want to have you here -- then we'll just do it October 9th.  
5 It's not a big deal.

6 VICE CHAIRPERSON MILLER: I would prefer that.

7 BZA CHAIR HILL: Okay. Great. So, then, October  
8 9th. Okay? And we'll try to do this first so that we can --  
9 I don't know who's on the 9th. If it's Commissioner Miller,  
10 then you're with us the whole day. So then -- you know.  
11 Okay.

12 So I'm going to make a -- okay. So, then, as far  
13 as the letting the letter into the record, I think that the  
14 ANC could now give it to the party, right? And then we'll  
15 put it in the record, okay?

16 So go ahead, Madam Secretary, and ask the ANC to  
17 serve the party, and then we'll put it in the record. Okay?  
18 Okay. Great.

19 So, then, I'm going to make a motion to -- I don't  
20 know what it is. I'm going to make a motion to, I guess,  
21 deny the motion to -- I mean deny the motion opposed -- well,  
22 actually, I don't know what I'm doing.

23 VICE CHAIRPERSON JOHN: I think you're granting  
24 the motion to postpone, Mr. Chairman.

25 BZA CHAIR HILL: Okay. Great. So we're going to

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1 grant the motion to postpone to 10/9/24. Okay? Wow. It's  
2 getting hear the end of the year. It'll be '25, almost.

3 So okay. Vice Chair John, do you second?

4 VICE CHAIRPERSON JOHN: Oh, second.

5 BZA CHAIR HILL: Okay. Great. So the motion made  
6 and seconded. If you could take a roll call, Madam  
7 Secretary.

8 SECRETARY MEHLERT: Please respond to the Chair's  
9 motion to grant ANC 2G's motion to postpone the hearing.

10 Chairman Hill?

11 BZA CHAIR HILL: Yes.

12 SECRETARY MEHLERT: Vice Chair John?

13 VICE CHAIRPERSON JOHN: Yes.

14 SECRETARY MEHLERT: Commissioner Smith?

15 MEMBER SMITH: Yes.

16 SECRETARY MEHLERT: Mr. Blake?

17 MEMBER BLAKE: Yes.

18 SECRETARY MEHLERT: Commissioner Miller?

19 VICE CHAIRPERSON MILLER: Yes.

20 SECRETARY MEHLERT: Staff report the vote is five  
21 to zero to zero to approve ANC 2G's motion to postpone to  
22 October 9th on the motion made my Chairman Hill, seconded by  
23 Vice Chair John.

24 BZA CHAIR HILL: Okay. Great.

25 So, Vice -- I'm sorry. Yeah, Vice Chair Miller,

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1 you're done, right?

2 VICE CHAIRPERSON MILLER: Yes. Thank you very  
3 much. I hope you all have a good day.

4 BZA CHAIR HILL: You have a nice day.

5 We're going to take a break, correct, everybody?  
6 So you want to do 10 minutes, 15 minutes?

7 VICE CHAIRPERSON JOHN: Fifteen.

8 BZA CHAIR HILL: Okay. We'll get back here at  
9 11:15. Thank you.

10 (Whereupon, the above-entitled matter went briefly  
11 off the record.)

12 BZA CHAIR HILL: Let's see. Secretary Mehlert,  
13 please go ahead and call our next item of business.

14 SECRETARY MEHLERT: Next in the Board's meeting  
15 session is Application No. 21098 of Alta Laquearia, LLC.  
16 This is a self-certified application pursuant to Subtitle X,  
17 Section 1002 for an area variance from alley lot development  
18 standards of Subtitle E Section 5100.1(a). This is for a  
19 partial second story addition to an existing one-story  
20 building on an alley lot to be used as a principal dwelling.  
21 It's located in the RF-1 zone at 633 Rear E Street, SE,  
22 Square 877, Lot 888. The hearing was originally scheduled  
23 on April 24th and postponed to July 3rd. After the hearing  
24 on July 15th, the chairman granted the applicant's motion to  
25 reopen the record to allow submission of information

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1 regarding security bars. And participating are Chairman  
2 Hill, Vice Chair John, Mr. Smith, Mr. Blake, and Dr. Imamura.

3 BZA CHAIR HILL: Okay, great. Thank you. All  
4 right, so we took a lot of testimony on this. There was a  
5 lot of discussion from the applicant, from their attorney,  
6 from parties in opposition, and there's also letters in  
7 support and then the Office of Planning.

8 I think the property is a great property and I  
9 think the design or what they're trying to do is a great,  
10 wonderful design. I just don't particularly think they meet  
11 the variance test. And so, you know, for me it is an area  
12 variance. It's not a use variance, but it is an area  
13 variance and I think that they actually can do something with  
14 that property. Like I don't think that -- you know, like  
15 what they're trying to do may be practically difficult, but  
16 they could use -- there are properties, all kinds of alley  
17 properties like that alley property that have less space that  
18 make homes out of it. And so I -- and I'm happy to have the  
19 deliberation, happy to hear what anybody has to say. I think  
20 it's a fantastic -- again, like I would love to be able to  
21 approve the design because it's just a crazy, wonderful,  
22 beautiful design. I just don't think that for me they're  
23 meeting the prongs of the test to approve the project.

24 Again, and I'm going to even like turn to the  
25 Office of Planning's report in terms of that their argument

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1 about the exceptional situation or the practical difficulty,  
2 it again -- and I'll make one more comment I guess about the  
3 roof. Like, you know, and again, no disrespect to what  
4 they're trying to do because I think it's a wonderful  
5 project. They're taking away a lot of the roof to make the  
6 courtyard, so if they're taking away that much of the roof  
7 to make the courtyard, you would think they could also take  
8 away some of the roof to lower the roof so that they could  
9 have this second story if they wanted, but just it not be as  
10 high. And so that's kind of where I am. And also, they just  
11 don't need the second story. Like they can just do something  
12 with the building the way it is. So, but that's my thoughts.

13           So who would like to go? I am going to go around  
14 the Board. Mr. Smith?

15           MEMBER SMITH: I pretty much agree with what  
16 you're saying in this particular case. The request before  
17 us is to construct a partial second story addition to an  
18 existing one-story building on an alley lot, and to me, the  
19 question before the Board is the requested area variance,  
20 meets the area variance, requirements to construct a building  
21 unit that is 28 feet tall according to the application with  
22 2 stories which is 8 feet taller than the allowed out of  
23 right height for an alley lot building. So we went to the  
24 three prongs. So to me the easiest -- I'll start with the  
25 second prong, the question about substantial detriment to the

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1 public good.

2           The question here is whether granting the  
3 additional eight feet of building height for the second floor  
4 would constitute a substantial detriment to the public good.  
5 The public good is defined to me as affecting, from a zoning  
6 standpoint, the health, safety, and welfare of the  
7 surrounding properties. And in this particular case and by  
8 and large what we look at is impacts related to light and  
9 air, and it comes to height and policy to a certain degree,  
10 depending on the type of case.

11           So based on the widths of the alley surrounding  
12 the property, one is 10 feet, one is 15 feet, the other one  
13 I believe is 30 feet. It will take -- respectively. The set  
14 back they've proposed of second floor from the alleys which  
15 would be roughly 15 feet away from the property lines of  
16 surrounding -- to the north and south property. The proposed  
17 addition would not have a substantial impact on light and  
18 air. And the applicant has submitted shadow studies showing  
19 no adverse impact and most of the impact based on the shadow  
20 studies would be during the autumnal equinox, so in  
21 September. So it doesn't seem like it would be a substantial  
22 impact from the light and air standpoint.

23           Now moving to the other prongs, I'll start with  
24 the third prong, the intent and purpose and integrity of the  
25 zoning regulations. First part, this is zoned RF-1 which

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1 does allow for this type of name use to be contemplated  
2 within the alley. So that's not so much of an issue.

3           Regarding the alley lot, the requested area  
4 variance related to the alley lot provisions, the intent of  
5 the height provisions is stated within the Office of  
6 Planning's staff report. And I completely agree with their  
7 positioning on the purpose and the intent of the alley lot.  
8 HPRB's vision is to ensure that alley lot dwellings are  
9 easily that would be in an alley would be of a secondary  
10 nature to the primary buildings that are along a street  
11 frontage. And to me, that is to protect the character, the  
12 scale and character of the surrounding neighborhood.

13           Commonly, which we commonly take a look at when  
14 we're looking at properties that face on primary streets that  
15 are looking to alter the architectural roof elements or to  
16 construct some type of pop-up, what we're looking at is  
17 whether it would substantially affect the character of the  
18 neighborhood, and I believe that's the reason for the intent  
19 of the alley lot provision, I mean the alley lot height  
20 provision. So in that, I do not believe that the area  
21 variance being requested would meet the intent of the zoning  
22 regulations that restrict the alley height, I mean the alley  
23 lot height to 20 feet. So I do not believe it meets the  
24 intent.

25           Regarding the first prong, I did struggle with

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1 this one. And to me, it's more of a 50-50 question. The  
2 question regarding the substantial situation of this matter  
3 has to do with the zoning requirements for the 20-foot  
4 height, the alley lot buildings cause such a practical  
5 hardship for the applicant to be able to effectively use the  
6 property for a dwelling unit.

7           As you stated, the applicant can use effectively  
8 this property for a dwelling unit. This is a 7500 square  
9 foot building. They're not required to go to a second floor  
10 in order to reasonably use the existing building as it is  
11 now. I get that it is a warehouse, but warehouses within the  
12 District are commonly converted to residential all the time.  
13 So I struggle with the other arguments that were made by the  
14 applicant regarding redesigning or altering the windows may  
15 pose an issue for Historic Preservation's standpoint. And  
16 also, the removal of the concrete roof would impair the  
17 historic character of the existing warehouse. It is a roof.  
18 It's not something that can be seen from the street and it's  
19 not something based on the Office of Planning's staff or  
20 that was contemplated by HPO. They're more concerned with  
21 what the exterior -- what you would see from the -- from eye  
22 level.

23           I would, however, state that the applicant has  
24 submitted documentation from the engineer to modify the  
25 existing windows for bedrooms to be co-compliant could

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1 compromise the integrity of the structure with to me is the  
2 primary cause for the applicant to meet the first prong of  
3 the variance test. So I do believe that they may potentially  
4 -- I believe on its face may meet the essential situational  
5 factor of difficulty, but some of the other concerns that  
6 were raised by the applicant I find very spurious.

7           So with that, I do not believe that the applicant  
8 has met all three of the various prongs and would recommend  
9 denial of the variance request.

10           BZA CHAIR HILL: Thank you. Mr. Blake?

11           MEMBER BLAKE: Thank you, Mr. Chair. I agree with  
12 the comments made by Mr. Smith. I, too, will take a second  
13 and just take a look at the prongs of the test and my read  
14 on that.

15           I do believe that the applicant initially lists  
16 a confluence of factors contributing to a unique situation.  
17 I think it's a very large building, which it is. It's a very  
18 large lot for an alley lot, which it is. Those are not  
19 unique and I think the Office of Planning pointed that out  
20 in its original report.

21           The fact that it's on three alleys is a factor and  
22 -- but the most distinguishing factor which really does, I  
23 think, hinge on the uniqueness of this property and the  
24 practical difficulty really relates to the roof and the  
25 support structure. So the key here is that it's a 500-ton

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1 concrete roof that according to a licensed engineer, which  
2 is in Exhibit 36A, provides evidence of extraordinary and  
3 exceptional condition because removal or alteration of this  
4 roof, according to that, would potentially have some impact  
5 on the structural integrity of the property, of the building,  
6 the walls, and so forth. And the key part of this, as I look  
7 at it is, is that the garage light structure and the three  
8 doors on the south side are the critical, historical element,  
9 not necessarily the roof. But the roof structure is  
10 historical in some regards, but it is not the defining  
11 feature of this building.

12           Anyway, assuming that's the case, when I look at  
13 this, I do believe that it does create a practical difficulty  
14 in having a two-story building in that in order to remove  
15 this 500-ton concrete roof, it's going to cause a lot of  
16 problems and it could potentially adversely impact the  
17 structure. So trying to create a structure that fits within  
18 the 20-foot range would be difficult, and so I do think  
19 there's a practical difficulty with regards to that.

20           The report also indicated that it also might be  
21 a risk of a structural integrity of doing the lower floor  
22 windows. Now if I assume that the practical difficulty is  
23 with the second story, I don't necessarily think there's a  
24 practical difficulty in reasonably using this property for  
25 a residential building because I do believe the first floor

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1 still represents an opportunity.

2           I find it hard to believe -- again, the practical  
3 difficulty is established by the engineer, although I would  
4 have loved to have seen some more backup data to support  
5 that. I'm going to go with that, but I do believe that --  
6 I can understand where it could be a practical difficulty in  
7 raising the roof. I do see it as being not part of the  
8 practical difficulty in putting in windows for a bedroom.  
9 I don't think that that's a practical difficulty. We've seen  
10 in this building where if you look at the walls, it's been  
11 ripped out many times, openings have been opened, they've  
12 been closed, bricked over. I mean they've done a lot with  
13 this. And if you can tell me you can put a 2100 square foot  
14 addition on top of this roof I suspect putting windows in is  
15 not going to tear it down.

16           But I do think that again, I do think a second  
17 story might be challenging. The main issues that the  
18 applicant puts out with the practical difficulty in doing the  
19 lower level is the fact of security, the fact that most of  
20 the -- I guess the south, west, and north portions of the  
21 building are on public property, or border on alleys, and it  
22 makes it difficult to put windows in to do that. It's  
23 interesting because as Board Member Smith pointed out, those  
24 alleys are different in size.

25           For example, the south alley is 30 feet. The west

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1 alley, I believe is 15 and the north alley is 10. The west  
2 alley certainly is challenging because there's traffic going  
3 through there periodically. But what's interesting about the  
4 north alley is it's a pedestrian alley, it's Archibald Court.  
5 It's not a very highly populated thing. Has no cars or  
6 anything like that. It's more like a walkway than an actual  
7 alley, so it does have -- it doesn't have the same risk  
8 profile I think that the south might have and it doesn't have  
9 the architectural importance of the south side.

10           It is possible to put windows on that side from  
11 what I can see and I think that suggests to me that there's  
12 a possibility the argument made by the applicant focuses on  
13 the fact that they can't put bars on the windows, that it  
14 wouldn't work. I suspect that given the number of alley  
15 dwellings in the city and dwellings that are below ground,  
16 above grade, at grade, there's probably some merit to that,  
17 the bars working. And I did review the documents put in by  
18 the applicant on the bars and I am not persuaded by that to  
19 believe that bars aren't possible.

20           I also think that the applicant pointed out that  
21 it was not possible to do windows on the -- let's see, on the  
22 east side because it would be near the applicant's -- the  
23 neighbor who had concerns about privacy. My concern there  
24 was that the privacy issue could be resolved if the pure  
25 issue was egress, you could put a window in there that had

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1 frosted panes which would eliminate -- and not facing the  
2 property of the neighbor, and you could then make it sort of  
3 accessible, on private property, accessible, and it would  
4 also deal with the privacy issue for the adjacent neighbor.  
5 So I think there were some solutions. That's obviously a  
6 very -- one example, but I think there are a lot of examples  
7 of ways that creatively they could address the issues that  
8 might allow them to make this happen.

9           Again, my biggest issue is I find it hard -- I do  
10 believe there is maybe some structural challenges with  
11 putting on by right second level at 20 feet. I feel, for a  
12 lot of reasons, including even the doors and how they would  
13 go through Historical, but when I think about the idea of you  
14 cannot put windows on the first floor because of structural  
15 integrity, I find that very hard to accept. However, I'll  
16 accept that first problem of the practical difficulty based  
17 on the evidence presented by the applicant from the licensed  
18 engineer. There's nothing in the record that says otherwise  
19 to contradict that.

20           As you look to the second prong, I do believe the  
21 applicant has used the shadow studies and setbacks and so  
22 forth. When we typically look at that prong, we do look at  
23 -- as what Member Smith pointed out, health, public welfare  
24 and surrounding properties. And it's very similar to the  
25 test we use in our typical special exceptions. We look at

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1 the light, air flow, and privacy of use.

2           The other thing we typically look at, too, is the  
3 impact that it might have on visual intrusion. Now that's  
4 less of an extent in this, but more so in a practical  
5 exception. And I believe that the support -- the information  
6 we got from the HPO or the HPRB really does support the fact  
7 that this is compatible with the neighborhood. So I would  
8 argue that from a visual intrusion standpoint, it too would  
9 be acceptable. But this isn't a special exception and we're  
10 not looking at that clause. So I think that -- but that is  
11 supported, so I think to a large extent the second prong is  
12 addressed.

13           The third prong which is the intent is very  
14 difficult -- in some ways difficult to assess because it's  
15 not spelled out in the regulations specifically that this is  
16 the intent of the regulations. I think that the Office of  
17 Planning provided some very good insights as to the process  
18 for the amendment which tightened regulations, which said  
19 clearly the objective is to be subordinate to the street-  
20 facing properties. And in this case, clearly a 5,000 foot,  
21 with the addition of 7500 square foot property of 2 stories  
22 of 28 feet would certainly not be subordinate to the street-  
23 facing properties. It would be on par and in many instances  
24 much bigger because a lot of the homes in this area are  
25 significantly smaller than that. So for that reason I do

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1 believe that the third prong is not consistent or not met by  
2 the applicant.

3 I would also say I had some concerns when I heard  
4 this case to look at the interaction with the community and  
5 particularly with the local residents, immediate residents.  
6 One of the things that was very clear is that they were not  
7 happy with it and they felt it really had an impact on them.  
8 I agree that we have established through our shadow space and  
9 so forth that they are not adversely affected, but I do think  
10 that they may well be -- they may well be adversely affected,  
11 but the evidence suggests otherwise.

12 I do think that there may have been a lack of  
13 communication between the applicant and those neighbors  
14 because I think some solutions could have been possible. I  
15 think in some testimony I recall hearing, the applicant  
16 indicated that it was just an impasse and they would not let  
17 us have the second floor. That may be the case, but our goal  
18 is to have a reasonable use of the property for permitted use  
19 and I think that that could be accomplished.

20 So again, I do not feel the -- I do not believe  
21 the third prong was met as well. That's all.

22 BZA CHAIR HILL: Thank you, Mr. Blake. Dr.  
23 Imamura?

24 COMMISSIONER IMAMURA: Thank you, Mr. Chairman.  
25 I want to thank Board Member Smith and Board Member Blake for

1 their thorough analysis. As always, very pragmatic and  
2 critical view.

3 I struggled with this case. Certainly Board  
4 Member Smith, it's interesting I think, said number two,  
5 prongs number two, three were met, but not number one. Board  
6 Member Blake, I think if I got this right, prong number one  
7 was met and not prong number three. I wasn't sure about  
8 prong number two. I think he said that's met too, but.

9 I align myself with the comments of Board Member  
10 Blake, the majority of his comments. Area variances are  
11 difficult. We have a responsibility, as you've pointed out  
12 to me, Mr. Chairman, we have a responsibility to apply the  
13 regulations as BZA. But I also think with that we have  
14 another responsibility which is kind of in the gray area.  
15 So we know that HPRB, the HPO Office, has said that this fits  
16 in with the character of scale and pattern of the  
17 neighborhood, the surrounding neighbors. So they certainly  
18 are the authority of that of the Capitol Hill Historic  
19 District. So it's less about really the steps which has  
20 already been deliberated on by the HPRB and then our  
21 responsibility to apply the zoning regulations.

22 But we also have this additional responsibility  
23 to take a look at our building stock, and particularly for  
24 historic buildings, to advance the preservation ethic and  
25 look at ways to adaptively renew some of these historic

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1 properties to bring them into good repair so that they don't  
2 fall further into disrepair in their surrounding  
3 neighborhood. So regardless of the interior program of this  
4 building, somebody had a vision and it's a creative vision.  
5 Whether there's a gym, interior courtyard, whatever there  
6 might be, that's really the owner's preference. But really  
7 it's about, I think big picture thinking, there's a  
8 responsibility here to take a look at how can we find balance  
9 with the zoning regulations and the opportunity to be -- for  
10 adaptive reasons and sensitive intervention to advance  
11 historic preservation.

12           So I think Board Member Smith pointed out, the  
13 exceptional situation here, the engineer's letter about the  
14 roof structure, that's very clear to me. I do agree that  
15 there still might be some opportunity or ways to install  
16 window openings on the ground floor. However, that does  
17 possibly impact the historic character and unique features  
18 to this construction, especially with the existing headers  
19 that are there. So I think the architect has done a fine job  
20 in terms of -- and HPRB certainly has commented so that it  
21 is compatible with the proposed openings and where they are.

22           Board Member Blake brought up a good point about  
23 the risk profile being much lower, Archibald Court. I'm  
24 certainly in agreement with that. I'm not sure that I fully  
25 agree with the architect's argument that security bars pose

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1 an additional encumbrance for fire egress. You see them all  
2 over the city. That said, I still think that there may be  
3 a way to move this forward.

4           Again, it's not about the program of this space.  
5 And yes, we have a responsibility to apply the zoning  
6 regulations, but when it meets historic preservation, this  
7 is where our body politic has an opportunity to give  
8 additional consideration. So with that, I believe that I  
9 think this might be one of those moments, and I'm always  
10 cautious and I think I have a record of being careful about  
11 setting precedent. I certainly wouldn't want to set  
12 precedent here. But I think this is unique enough and that  
13 this is a one-off circumstance, but there are nuances to this  
14 particular location that it does not set a precedent.

15           That's where I am, Mr. Chairman. I'm not sure  
16 that I was able to fully convince Board Member Smith, but I  
17 certainly hope so and that this lies in a gray area and that  
18 we have a responsibility to look at ways to improve the  
19 fabric of our city bringing all buildings into good repair.  
20 So that's where I am, Mr. Chairman.

21           BZA CHAIR HILL: Okay. Thanks, Dr. Imamura.

22           Vice Chair John?

23           VICE CHAIRPERSON JOHN: Thank you, Mr. Chairman.

24 So I agree with the comments so far of Board Members Blake  
25 and Smith. I understand the angst of Commissioner Imamura,

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1 but first off, I don't believe that the Board can outsource  
2 its zoning authority to HPRB. And I've said this many times.  
3 I think that in this particular case, the issue is whether  
4 there's a practical difficulty because of the exceptional  
5 conditions, which I agree are there. And the test is whether  
6 or not the applicant is able to make reasonable use of the  
7 property, in this case as a residence.

8 I am not convinced that this residence cannot be  
9 constructed to add usable windows, either in the areas that  
10 were originally located. It would just be different sorts  
11 of windows and the applicant would have to build around that.  
12 I mean I'm not an architect, but I am -- I mean I just cannot  
13 believe, notwithstanding what is in the record, that there  
14 can't be usable windows in this building. And I note that  
15 the applicant is removing portions of the building for other  
16 reasons, so whether or not that complies with HPRB, I would  
17 just question whether or not if it's okay to remove portions  
18 of the building for other reasons. Certainly the applicant  
19 should be able to put in appropriate windows for a residence.  
20 And that happens all over the city with these added dwellings  
21 and even with sometimes corner-store buildings that are  
22 constructed, buildings where there is a corner store use that  
23 have been converted to a residence and you see these all over  
24 the city.

25 But more importantly, I believe, I agree with OP's

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1 statement that the height variance, which is what the  
2 applicant is seeking, and I think I'm correct in saying that  
3 the request is for 28 feet, which is 6 feet higher than  
4 what's allowed by the regulation. So I agree with OP's  
5 statement that the height variance would be contrary to the  
6 intent of the alley lot regulations to ensure that alley  
7 dwellings are secondary in scale to the street-fronting  
8 properties. And the applicant didn't show us any properties  
9 in the alley that were close to 24 feet or 28 feet. The  
10 applicant showed us street-facing properties, and I forget  
11 the particular exhibit, but it showed that the properties  
12 that were much higher were not alley lot dwellings.

13           So I am not in support of this application because  
14 I believe there is no practical difficulty in making  
15 reasonable use of the property as a residence.

16           Thank you, Mr. Chairman.

17           BZA CHAIR HILL: Okay, thank you, Vice Chair John.

18           Okay, so after hearing everyone's commentary, is  
19 there anything anyone would like to add before I make a  
20 motion?

21           Sure, go ahead, Dr. Imamura.

22           COMMISSIONER IMAMURA: Thank you, Mr. Chairman.

23 I just want to take the opportunity to underscore that  
24 whatever position I take on the vocal vote here and my point  
25 about HPRB suggesting that the design is compatible,

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1 certainly not implying that we outsource to BZA Board. Quite  
2 the contrary. There's a reason that it comes to the BZA  
3 after it's already reviewed by HPRB, but that we have even  
4 greater authority and responsibility and obligation and  
5 ethical responsibility, not just to apply the zoning  
6 regulations, but also to think more holistically and  
7 comprehensively about the historic fabric this is.

8 BZA CHAIR HILL: Okay. Thanks, Dr. Imamura.  
9 Anyone else?

10 Okay. I'm going to make a motion to deny  
11 Application No. 21098 as captioned and read by the Secretary  
12 and ask for a second.

13 Ms. John?

14 VICE CHAIRPERSON JOHN: Second.

15 BZA CHAIR HILL: The motion has been made and  
16 seconded.

17 Ms. Mehlert, can you take a roll call?

18 SECRETARY MEHLERT: Please respond to the chair's  
19 motion to deny the application.

20 Chairman Hill?

21 BZA CHAIR HILL: Yes.

22 SECRETARY MEHLERT: Vice Chair John?

23 VICE CHAIRPERSON JOHN: Yes.

24 SECRETARY MEHLERT: Board Member Smith?

25 MEMBER SMITH: Yes.

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1 SECRETARY MEHLERT: Board Member Blake?

2 MEMBER BLAKE: Yes.

3 SECRETARY MEHLERT: Dr. Imamura?

4 COMMISSIONER IMAMURA: I'm going to do what the  
5 chairman did for a case a while back and I'm going to  
6 abstain.

7 SECRETARY MEHLERT: Abstain?

8 COMMISSIONER IMAMURA: Yes.

9 SECRETARY MEHLERT: Staff would record the vote  
10 as 4 to 0 to 1 to deny Application 21098 on the motion made  
11 by Chairman Hill and seconded by Vice Chair John with one  
12 abstention.

13 BZA CHAIR HILL: Okay. Thank you. All right,  
14 we're going to just keep chugging along here.

15 Dr. Imamura, is that it for you?

16 COMMISSIONER IMAMURA: That's it for me.

17 BZA CHAIR HILL: Thank you. Thank you.

18 COMMISSIONER IMAMURA: Thank you, Mr. Chairman.

19 BZA CHAIR HILL: Thank you.

20 COMMISSIONER IMAMURA: Have a great week,  
21 everybody.

22 BZA CHAIR HILL: And you as well. So now we have  
23 Chairman Hood, I believe.

24 COMMISSIONER HOOD: Sorry, I'm here. Good  
25 morning, everyone.

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1 BZA CHAIR HILL: Good morning, Chairman Hood.  
2 Thank you for joining us.

3 All right, Ms. Mehlert, if you want to call our  
4 next item?

5 SECRETARY MEHLERT: This is Application No. 20802  
6 of 639A, LLC. This is a motion pursuant to Subtitle Y,  
7 Section 701 to Stay Effectiveness of the Board's order for  
8 the Application No. 20802 issued on December 5th, 2022,  
9 pending a decision and order by D.C. Court of Appeals in D.C.  
10 Appeal No. 22AA0942. The subject project is a two-story  
11 accessory structure with a dwelling unit in the rear yard of  
12 an existing two-story semi-detached principal dwelling. It's  
13 located in RF-1 zone at 639 A Street, SE, Square 870, Lot  
14 113.

15 BZA CHAIR HILL: Okay. I'm not really clear where  
16 we are with this one.

17 Ms. Mehlert, is the person putting forward the  
18 stay with us?

19 SECRETARY MEHLERT: I believe they are on the  
20 call.

21 BZA CHAIR HILL: Okay. If you maybe could bring  
22 them forward because I have a question for them.

23 MR. YOUNG: Who is it?

24 SECRETARY MEHLERT: Mr. Tolliver.

25 BZA CHAIR HILL: Oh, Mr. Tolliver. Charles

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1 Tolliver.

2 MR. TOLLIVER: Is everyone able to hear me?

3 BZA CHAIR HILL: Yes. Mr. Tolliver, could you  
4 introduce yourself for the record?

5 MR. TOLLIVER: Absolutely. Good morning,  
6 Chairman, Commissioners, Board Members, and staff. My name  
7 is Attorney Charles Tolliver and I'm appearing on behalf of  
8 Petitioner Enise Han in my official capacity and my address  
9 is 1717 K Street, NW, Suite 900, Washington, D.C.

10 BZA CHAIR HILL: Thank you, Mr. Tolliver.  
11 Mr. Tolliver, what I was confused about is like is there an  
12 appeal or has the appeal been dismissed?

13 MR. TOLLIVER: Thank you so much for the  
14 opportunity to respond to that question. We were going to  
15 bring that up as a preliminary matter, but you are correct.  
16 The appeal with the D.C. Court of Appeals was dismissed on  
17 procedural grounds. Nevertheless, we believe that BZA still  
18 retains jurisdiction and authority pursuant to Subtitle  
19 Section 602.4 or Subtitle 701.2.

20 BZA CHAIR HILL: Okay. But I guess what would we  
21 be staying for? Like what is it that is still outstanding?

22 MR. TOLLIVER: Of course. So the petitioner would  
23 essentially ask that the Board grant the motion to stay and  
24 reopen the record to conduct a further hearing on designated  
25 areas, specifically whether or not there was a failure or

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1 defect of the notice of the public hearing pursuant to  
2 Section 402.11 and whether the construction, renovation, or  
3 alterations as being carried out in accordance with the plans  
4 approved by the Board pursuant to subsection Y, sorry,  
5 Subtitle Y, Section 604.10.

6 BZA CHAIR HILL: Okay. Does the Board have any  
7 questions of Mr. Tolliver?

8 VICE CHAIRPERSON JOHN: Mr. Chairman, I don't know  
9 if I have a question, but Mr. Tolliver, there is no order in  
10 place. There's nothing to stay. I think what you might be  
11 asking for is more properly -- well, I guess you're asking  
12 for a new application and there's nothing in the record  
13 concerning a new application. There really is nothing to  
14 stay.

15 MR. TOLLIVER: Ms. John, I believe we were taking  
16 the approach that the final order dated December 5th, 2022  
17 and that's how this sort of initially began with appealing  
18 to the D.C. Court of Appeals, but I agree with your  
19 assessment as well.

20 BZA CHAIR HILL: Okay. Does anybody have any  
21 other questions for Mr. Tolliver?

22 Okay, Mr. Tolliver, thank you for joining us. I'm  
23 going to excuse you from the hearing.

24 MR. TOLLIVER: Thank you so much.

25 BZA CHAIR HILL: Okay. I again, don't -- it's

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1 unclear to me what exactly there is to stay and so I would  
2 just deny this motion to stay.

3 Mr. Blake, do you have any comments?

4 MEMBER BLAKE: I agree, Mr. Chairman. There's  
5 nothing to stay, but is it appropriate to dismiss or deny?  
6 I don't know the answer to that question.

7 BZA CHAIR HILL: I think it's either way. We can  
8 dismiss as moot, but I will wait to hear from my other board  
9 members.

10 Vice Chair John?

11 VICE CHAIRPERSON JOHN: I would just deny the  
12 motion. If the lawyers think it should be dismissed, then  
13 I guess they can correct us, but I think we either grant the  
14 motion or not and we're saying we're denying the motion, I  
15 guess because it's moot because there is no order that can  
16 be stayed. So that's my decision.

17 BZA CHAIR HILL: Okay. Mr. Smith, are you with  
18 us on this one?

19 MEMBER SMITH: I'm not with you all on this one.

20 BZA CHAIR HILL: Okay. Chairman Hood?

21 COMMISSIONER HOOD: I, too, would agree with what  
22 I heard all my colleagues say. I wouldn't even consider it.  
23 I think they went to the court. The way I look at it, like  
24 you say, there's nothing there, so I don't know what we're  
25 even doing, so I don't even know why -- I don't think it's

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1 properly before us and I'll leave it at that. Thank you, Mr.  
2 Chairman.

3 BZA CHAIR HILL: Okay, well, I'm going go along  
4 with Vice Chair John. I'm going to make a motion to deny and  
5 then if the attorneys think that it should be dismissed, we  
6 can figure that out as well, how they want to write it.

7 I'm going to make a motion to deny the motion to  
8 stay of Application 20802A and ask for a second.

9 Ms. John?

10 VICE CHAIRPERSON JOHN: Second.

11 BZA CHAIR HILL: Motion has been made and  
12 seconded.

13 Madam Secretary, if you could take a roll call?

14 SECRETARY MEHLERT: Please respond to the chair's  
15 motion to deny the motion to stay.

16 Chairman Hill?

17 BZA CHAIR HILL: Yes.

18 SECRETARY MEHLERT: Vice Chair John?

19 VICE CHAIRPERSON JOHN: Yes.

20 SECRETARY MEHLERT: Board Member Blake?

21 MEMBER BLAKE: Yes.

22 SECRETARY MEHLERT: Chairman Hood?

23 CHAIRMAN HOOD: Yes.

24 SECRETARY MEHLERT: Staff would record the vote  
25 as 4 to 0 to 1 to deny the motion to stay in Application

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1 20802 on the motion made by Chairman Hill and seconded by  
2 Vice Chair John with one board member not participating.

3 BZA CHAIR HILL: Okay. Mr. Smith, are you back  
4 with us?

5 Okay, Madam Secretary, you can call our next item.  
6 Ms. Mehlert, will you please call our next item?

7 MS. MEHLERT: Next in the meeting session is  
8 Application Number 21157 of 3528 O Street, LLC. This is a  
9 self-certified application pursuant to Subtitle X,  
10 Section 901.2, for a special exception under Subtitle U,  
11 Section 254.14, to allow corner store use, and pursuant to  
12 Subtitle X, Section 1002, for an area variance from the  
13 location requirements of Subtitle U, Section 254.6(g).

14 This is for a corner store use operated as a  
15 prepared food shop on the first floor and basement of an  
16 existing two-story building with residential use on the  
17 second floor. It is located in the R-3/GT zone at 3428 O  
18 Street, Northwest, Square 1228, Lot 76.

19 The hearing for this case began on June 12th and  
20 was continued to September 25th, and participating are  
21 Chairman Hill, Vice Chair John, Mr. Blake, Mr. Smith, and  
22 Chairman Hood.

23 And today before the Board are two motions  
24 submitted by Melinda Roth, one of the parties in opposition.  
25 First is a motion to strike the applicant's video and

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1 pictorial evidence filed on June 24th, and second is a motion  
2 to rescind the party status in support of Christopher  
3 Itteilag filed on July 8<sup>th</sup>.

4 BZA CHAIR HILL: Okay. Are you all ready to  
5 discuss? Okay.

6 VICE CHAIRPERSON JOHN: Yes.

7 BZA CHAIR HILL: I can start. I guess, again,  
8 these two motions are before us. The first one, the motion  
9 to strike, I think I also might have confused the request.  
10 When we heard this hearing, during rebuttal there was  
11 photographs put forward in rebuttal responding to comments  
12 that were made in the hearing by the party in opposition.

13 And then the applicant also was speaking about a  
14 video, and they said that they didn't put the video in  
15 because they thought that video was not allowed to be in the  
16 record. And so what I clarified was that it's -- well, then  
17 we took a -- then we took a break to talk to counsel because  
18 I wasn't clear as to what we were or were not able to do.

19 And after speaking with counsel and then we came  
20 back, we determined that on rebuttal it was perfectly  
21 acceptable for the applicant to offer rebuttal testimony to  
22 what had been spoken before about the trash bins. I don't  
23 think that it necessarily means that -- well, anyway, so then  
24 I asked -- then the video question came up, and I was trying  
25 to clarify that, as I read every Wednesday, it's not the

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1 video -- there is -- you know, I've been -- I've been also  
2 now getting this for quite some time, which was before the  
3 pandemic. And there were -- there was video that was allowed  
4 into the record.

5           Now what happened since the pandemic and since we  
6 went virtual is that at the very beginning of this process,  
7 experiment, people would turn their computer around and show  
8 the thing that was next to their house or whatever it was.  
9 So that was the live video that was not allowed into the  
10 record. I'm sorry, was not allowed to be used as part of  
11 testimony.

12           So then I clarified with the applicant saying,  
13 "You can submit video," and then they did not submit the  
14 video. I haven't seen the video. I didn't think the video  
15 was submitted, right?

16           So in terms of the exhibits that have photographic  
17 responses to the testimony in rebuttal, I think that they are  
18 appropriate, and I think that they are in the record. I  
19 think that we have seen it. I don't think they need to be  
20 highlighted, but I think that they are appropriately in the  
21 record. So I would not agree to strike the photographs.

22           But, at this point, I don't need any video. So,  
23 you know, the record is closed. I would agree with the party  
24 putting the motion forward I guess that we don't need any  
25 video, so I would not be inclined to have video.

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1           In terms of the -- rescinding the party status  
2 issue, what I was also reminded of was that there is really  
3 no basis in the regulation to rescind the party status.  
4 There is nothing in the regulations that say this. And I do  
5 think that the Board correctly gave party status to -- let  
6 me just look for the name here real quick.

7           MEMBER SMITH: Christopher.

8           BZA CHAIR HILL: Sorry. Yeah. Christopher -- I'm  
9 going to not pronounce it right -- Illeitag or Illeilag. And  
10 that that person was actually across the street from the  
11 application. And as we have kind of talked about now with,  
12 like, these type of applications that have a retail  
13 component, we tend to think that more people are affected  
14 because there is a retail component.

15           And that's also how we gave the person in  
16 opposition party status. That person is a few doors down,  
17 and this person is across the street. So I think they both  
18 have the same argument, and so I would not be in favor of  
19 rescinding the party status, even though there's really no  
20 basis in the regulation for us to do so.

21           So those are my thoughts, and I will turn to  
22 Mr. Smith.

23           MEMBER SMITH: Chairman Hill, I agree with your  
24 approach to this particular request regarding the pending  
25 motions.

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1           Regarding the -- well, first off, I will say that  
2 we had a full record, and part of that particular record, as  
3 presented by the parties in opposition to this particular  
4 case, related to trash. And a big part of that discussion  
5 related to trash in the outdoor receptacle. What was  
6 presented at the hearing when we heard this was a rebuttal  
7 by the -- by the applicant regarding private use of those  
8 trash cans by the applicant. And one of the rebuttals was --  
9 is notated in the pictures that were submitted within the  
10 record.

11           I do believe that the pictures that were submitted  
12 in the record were submitted as part of rebutting the party  
13 in opposition's case, and I think it was properly submitted.  
14 So I'm not inclined to strike the pictures, but I am inclined  
15 to strike the videos. As I've stated, we have a full record,  
16 and we can deliberate on the issue that -- the issue that has  
17 been raised regarding the uses of these trash cans during our  
18 deliberation.

19           When this case returns back for our discussion in  
20 fall, or towards the end of the summer anyway, regarding the  
21 other request, I agree with you on what the other request  
22 was, to rescind the party status. As you stated previously,  
23 we do not have any -- it's fairly silent within the record  
24 on when we should rescind party status. But I do believe  
25 that we, as you stated, granted the party status given the

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1 location -- and this is regarding Mr. Itteilag -- we granted  
2 him the party status because of his -- he lives fairly  
3 proximate to the case at hand.

4 So I believe that he -- we granted that justly,  
5 and I'm not inclined to rescind his party status. So I agree  
6 with your -- with your approach for both of these cases.

7 BZA CHAIR HILL: Okay. All right. I've been  
8 reminded of a clarification, that the record is still open  
9 I guess due to this being a continued hearing. So --

10 MEMBER SMITH: That's right. Yeah.

11 BZA CHAIR HILL: Right. So, but so I made an  
12 error in terms of, like, closing the record. I -- you know,  
13 we can I guess -- and I'd ask for anyone from Legal to  
14 correct me if I'm wrong, but we can now clarify that we don't  
15 need the video or want the video. So that I'm not sure of,  
16 and maybe Legal, if they wanted to speak up and let me know,  
17 they could say something.

18 But go ahead, Mr. Blake.

19 MEMBER BLAKE: Yeah. Mr. Chair, first of all, I  
20 would say that, as relates to this video/non-video, as I  
21 recall, there were still pictures of -- during the day of  
22 Ms. Roth putting trash in the garbage can.

23 In the evening, they were still -- but that was  
24 a video for -- recorded from, like, a Ring bell or something,  
25 but those were still from that video of that in the middle

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1 of the night. So I believe that, from my interpretation,  
2 that was the video, but it was presented in stills as opposed  
3 to as a video, and the significance there was that it was in  
4 the middle of the night and it was to make clear where the --  
5 where it came from.

6 So I -- that's what my interpretation was on that,  
7 and I wasn't sure there was yet another actual live video  
8 that was to be released. But, if there was, then I'm  
9 mistaken. But that was my interpretation of those two  
10 photos. One was during the day, and one was at 1:30 -- like  
11 1:30 in the morning or something like that.

12 But I believe, though -- just to be clear on this,  
13 I believe that the applicant's argument that the rebuttal  
14 evidence is directly relevant to the issues under  
15 consideration is accurate. I think it's admissible. I think  
16 that Ms. Roth had pointed out that what we saw can't be  
17 unseen, and I believe the Board has the ability to interpret  
18 the material in the record and give it the weight that is  
19 warranted.

20 I, therefore, think I would vote to deny that  
21 motion.

22 As it relates to the party status, to rescinding  
23 the party status of Mr. Itteilag, he was granted party status  
24 by the Board in accordance with the criteria specified in  
25 Subtitle Y, 404, for a lot of the same reasons that she

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1 ultimately received party status. So, for that reason, I do  
2 believe that he was properly accorded party status.

3 I also question the fact that I do not believe in  
4 the zoning regulations there is a part that provides for an  
5 opponent or any other party to object to party status other  
6 than the ANC and the applicant. So, for that reason, I don't  
7 believe she has standing to do that. In either case, I would  
8 vote to deny that motion to rescind as well.

9 BZA CHAIR HILL: Okay. Thank you.

10 Vice Chair John?

11 VICE CHAIRPERSON JOHN: Thank you, Mr. Chairman.  
12 I don't have a lot to add to what has been said. I believe  
13 the party status was properly granted based on the same  
14 criteria that the party in opposition is requesting. They  
15 are about the same distance.

16 As a matter of fact, I'm going to mispronounce his  
17 name, so I'm just going to say the gentleman across the  
18 street is probably closer to the property in question as the  
19 party in opposition.

20 So, and I agree that there is no regulation that  
21 I have seen that would allow the party in opposition to at  
22 this point request that the Board should rescind its original  
23 decision. I agree also with everyone else that the videos --  
24 that the still photographs in the record which were  
25 photographs that were taken from a Ring camera were properly

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1 admitted as rebuttal testimony.

2           Also, the person who owned the Ring camera and who  
3 offered the photographs testified and was able to  
4 authenticate the still pictures and note that they were from  
5 his Ring camera, and that person was also identified -- able  
6 to identify the individual in the photograph.

7           So, with all of that, I would deny both motions,  
8 both the motion to strike and the motion to rescind party  
9 status.

10           BZA CHAIR HILL: Okay. Thank you.

11           Chairman Hood?

12           ZC CHAIR HOOD: I would agree with all of the --  
13 all of my colleagues, particularly with all of the comments  
14 of Commissioner Blake. So not to be redundant, I will just  
15 associate myself with Commissioner Blake's comments. Thank  
16 you.

17           BZA CHAIR HILL: Thank you.

18           All right. I'm going to make two motions. Then  
19 we can vote on them. I believe all I need to do is -- like,  
20 I don't need the video. I'm the one who asked for the video  
21 where it clarified about the video. I don't need the video.

22           So, Madam Secretary, if the video gets entered in,  
23 please don't let it into the record unless they want to  
24 submit something that says they need to let it into the  
25 record. Now, it was -- it was -- I forget when that hearing

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1 was. The hearing was some time ago. So, but -- so I'm not  
2 -- I don't even need to talk about the video. I don't need  
3 it. I don't -- you can just leave it out.

4 In terms of this motion for the photographs, I am  
5 going to make a motion to deny the motion to strike the  
6 photographic items that are in the record as requested by the  
7 party in opposition and ask for a second, Ms. John.

8 VICE CHAIRPERSON JOHN: Second.

9 BZA CHAIR HILL: Motion made and seconded.

10 Ms. Mehlert, if you could take a roll call?

11 MS. MEHLERT: Please respond to the Chair's motion  
12 to deny the motion to strike the photographs in the record.

13 Chairman Hill?

14 BZA CHAIR HILL: Yes.

15 MS. MEHLERT: Vice Chair John?

16 VICE CHAIRPERSON JOHN: Yes.

17 MS. MEHLERT: Mr. Smith?

18 MEMBER SMITH: Yes.

19 MS. MEHLERT: Mr. Blake?

20 MEMBER BLAKE: Yes.

21 MS. MEHLERT: Chairman Hood?

22 ZC CHAIR HOOD: Yes.

23 MS. MEHLERT: Staff would record the vote as five  
24 to zero to zero to deny the motion to strike photo evidence  
25 in the record on the motion made by Chairman Hill and

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1 seconded by Vice Chair John.

2 BZA CHAIR HILL: Okay. Thank you. I'm going to  
3 make a separate motion, then, to deny the motion to rescind  
4 the party status as put forward by the party in opposition  
5 and ask for a second, Ms. John.

6 VICE CHAIRPERSON JOHN: Second.

7 BZA CHAIR HILL: Motion made and seconded.

8 Ms. Mehlert, if you would take a roll call?

9 MS. MEHLERT: Please respond to the Chair's motion  
10 to deny the motion to rescind the party status.

11 Chairman Hill?

12 BZA CHAIR HILL: Yes.

13 MS. MEHLERT: Vice Chair John?

14 VICE CHAIRPERSON JOHN: Yes.

15 MS. MEHLERT: Mr. Smith?

16 MEMBER SMITH: Yes.

17 MS. MEHLERT: Mr. Blake?

18 MEMBER BLAKE: Yes.

19 MS. MEHLERT: Chairman Hood?

20 ZC CHAIR HOOD: Yes.

21 MS. MEHLERT: Staff would record the vote as five  
22 to zero to zero to deny the motion to rescind party status  
23 on the motion made by Chairman Hill and seconded by Vice  
24 Chair John.

25 BZA CHAIR HILL: Okay. Thank you.

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1           So, you guys, can we -- I just want to take a  
2 break actually. I don't know if you -- I don't know what  
3 we're going to do in terms of lunch, to be quite honest. I  
4 mean, there is -- there is still I guess quite a few items  
5 that we're going to have, so I guess maybe we'll end up  
6 taking lunch.

7           But is it all right if we just take a quick break?

8           VICE CHAIRPERSON JOHN: And, Mr. Chairman, you  
9 would want to do lunch at this time? It's 12:18.

10          BZA CHAIR HILL: Yeah, sure. Okay. If that's  
11 what -- do you -- I guess that's my question. Do you guys  
12 want to do lunch? Do you want to come -- I mean, I -- okay.  
13 Let me start again.

14          There is advance party status, party status  
15 request. Okay. So let's take lunch. Okay? We'll go ahead  
16 and take lunch. We'll come back at -- let's try 1:00.

17          VICE CHAIRPERSON JOHN: Thank you.

18          BZA CHAIR HILL: Okay? Thank you.

19          (Whereupon, the above-entitled matter went off the  
20 record.)

21          BZA CHAIR HILL: All right. Secretary Mehlert,  
22 can you call us back and call our next issue?

23          MS. MEHLERT: The Board is back from their lunch  
24 recess, and the next case in the meeting session is a party  
25 status request in Application Number 21151 of Dinesh Tandon

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1 and Nidhi Tandon.

2           This is a self-certified application pursuant to  
3 Subtitle X, Section 901.2, for a special exception under  
4 Subtitle C, Section 204.9, to allow a change from a  
5 nonconforming use to another nonconforming use, and pursuant  
6 to Subtitle X, Section 1002, for an area variance from  
7 Subtitle C, Section 204.9(b), to allow non-residential use.

8           This is a change in the nonconforming use of the  
9 first floor and cellar in an existing two-story building from  
10 retail convenience store to a restaurant. It's located in  
11 the RF-1 zone at 2324 North Capitol Street, Northwest,  
12 Square 3124, Lot 143.

13           Previously, the Board, on July 3rd, denied Pam  
14 Mendelson's request for party status in opposition. On  
15 July 18th, the Board granted -- or July 17th, rather, the  
16 Board granted Evelyn Brown's request for party status in  
17 opposition. And the hearing itself has been postponed at the  
18 applicant's request to October 9th.

19           And before the Board today are three requests for  
20 party status in opposition -- Malini Tolat, Richard Smith,  
21 and Maya Kavalier.

22           BZA CHAIR HILL: Okay. Great.

23           Mr. Young, could you bring in the participants?

24           Okay. Great. Ms. Tolat, can you hear me?

25           MS. TOLAT: Yes. Yes, I can.

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1 BZA CHAIR HILL: Okay. Great. Okay. Could you  
2 -- could you introduce yourself for the record, please?

3 MS. TOLAT: Yeah. Sure. My name is Malini Tolat.  
4 I own and reside in 15 Bryant Street, Northwest, and I've  
5 been here since 2017.

6 BZA CHAIR HILL: Okay. And, I'm sorry, your  
7 address again?

8 MS. TOLAT: 1-5, 15 Bryant Street. I'm --

9 BZA CHAIR HILL: Okay.

10 MS. TOLAT: -- the first house on the -- the unit  
11 block of Bryant on the northwest side.

12 BZA CHAIR HILL: Okay. Mr. Smith, can you hear  
13 me? Mr. Smith, can you hear me? You're on -- you're on mute  
14 I think, Mr. Smith. Mr. Smith, can you hear me? Can you  
15 just nod? You're on mute I think, sir.

16 Can you all hear me?

17 MEMBER SMITH: I can hear you. I don't know if  
18 he can hear us.

19 BZA CHAIR HILL: I don't think you -- I don't even  
20 think it was -- I don't know if he knows his camera is on.

21 Mr. Smith, can you hear me? Okay. I'll tell you  
22 what. Just give me a second.

23 Mr. Young, if you can think -- if you can figure  
24 out how to get in touch with Mr. Smith or, Mr. Mehlert, if  
25 you can try to call Mr. Smith.

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1 Ms. Kavalier, can you hear me?

2 MS. KAVALER: Yes.

3 BZA CHAIR HILL: Great. Could you introduce  
4 yourself for the record?

5 MS. KAVALER: Hi. I'm Maya Kavalier. I own, live,  
6 and work in -- at my property, 8 Bryant Street, Northwest,  
7 which is directly next to the property in question with just  
8 the alley separating us.

9 BZA CHAIR HILL: Okay. Great.

10 Do you all know Evelyn Brown? Ms. Kavalier, you  
11 are nodding yes.

12 MS. KAVALER: Yes.

13 BZA CHAIR HILL: Ms. Tolat, you're nodding yes.

14 Okay. I forget where Ms. Brown's residence is.  
15 Do you all remember?

16 MS. KAVALER: I forget the exact number, but she  
17 is on North Capitol, I think maybe two doors down from them.

18 BZA CHAIR HILL: Okay. Great.

19 MS. KAVALER: Our alleys -- we share an alley, the  
20 two of us.

21 BZA CHAIR HILL: Okay.

22 MS. TOLAT: Yeah. And I'm just across the street,  
23 just, you know, the first -- I mean, little -- little -- not  
24 exactly across, because there's the North Capitol house that  
25 -- I'm kind of diagonally across the street.

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1 BZA CHAIR HILL: Okay. I'm still trying to get  
2 in touch with Mr. Smith there.

3 MS. TOLAT: He has been waiting all this time, so  
4 he is here.

5 BZA CHAIR HILL: No, no. I see him. I see him.  
6 I can't -- he doesn't seem to be able to respond.

7 MS. TOLAT: I can try and --

8 MR. SMITH: Is that better?

9 BZA CHAIR HILL: Oh, there you go. Great.

10 MR. SMITH: My apologies.

11 BZA CHAIR HILL: That's all right. Mr. Smith, can  
12 you introduce yourself for the record?

13 MR. SMITH: Yes. My name is Richard Smith. My  
14 wife Janice and I live at 19 Bryant Street. We are  
15 diagonally 25 yards from the -- what used to be the Sunbeam  
16 Market.

17 BZA CHAIR HILL: Okay. Does the Board have any  
18 questions of any of the party status requesters?

19 Okay. So I guess I'll just -- and I'll let my  
20 fellow Board members kind of speak up. I mean, I know that  
21 we granted party status to Ms. Evelyn Brown. And, Mr. Smith,  
22 do you know Ms. Brown also?

23 MR. SMITH: Yes.

24 BZA CHAIR HILL: Okay. So, you know, what I would  
25 like to do is, Mr. Smith, I mean, I can understand part of

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1 the regulation -- I'm sorry. Under the criteria of party  
2 status regulations, I would just -- I don't need to go into  
3 the detail of it, but, Ms. Kavalier -- and I'm sorry if I'm  
4 getting your last name wrong -- but you're kind of like --  
5 you're right across the alley from where it is.

6 And then, Ms. Tolat, you're, you know, kind of  
7 across the street from where it is.

8 And, Mr. Smith, you're also kind of across the  
9 street from where it is. I mean, Mr. Smith, a little bit --  
10 you're kind of getting into the area where I don't know if  
11 I would say you are or aren't as uniquely affected. But  
12 since you're kind of with this group of neighbors, like --

13 MR. SMITH: Yes.

14 BZA CHAIR HILL: -- I would go ahead and kind of  
15 grant you all party status, but then ask you all to work  
16 together with Ms. Brown during your testimony. And so you  
17 guys can kind of like work as a group to give us your  
18 testimony.

19 And so what would happen is -- and I'll let my  
20 fellow Board members speak up after this if they have  
21 anything to add or say -- is that as you have received party  
22 status, that means at the hearing you'll get to act as a  
23 party, right, during the application process.

24 So that means that you will give your testimony  
25 to the Board. You will also have an opportunity to ask

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1 questions of the applicant, ask questions of the Office of  
2 Planning, ask questions -- I don't know if the ANC is  
3 participating or not in the hearing, but ask questions of all  
4 of the other parties. Okay?

5           And so you give a little -- you know, the  
6 applicant will give their presentation, usually the day  
7 before the application or something like that. I don't know  
8 who is -- let me see if I -- yeah.

9           Okay. So there is an attorney that's with us  
10 quite often that usually gives a PowerPoint presentation to  
11 their application. And that might come in, like, the day  
12 before or the day of, and so it's helpful to see what they  
13 believe the zoning issues are and what they believe -- and  
14 how they think they are going to meet the criteria for us to  
15 grant the relief. Right?

16           Now, your opportunity will be to give us testimony  
17 as to why you believe they are either not meeting the zoning  
18 criteria, but you're not zoning attorneys, but if you, you  
19 know, can follow along with also the Office of Planning, the  
20 Office of Planning will submit a report, and the Office of  
21 Planning's report will be more directed to the zoning  
22 criteria. Okay?

23           So if you will excuse me, there is an alarm going  
24 off. Just one moment.

25           (Pause.)

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1           BZA CHAIR HILL: Okay. Sorry. There was an alarm  
2 going off here.

3           So then you'll have an opportunity to give your  
4 presentation. And, again, you're not zoning attorneys, but  
5 we'll -- we want to hear from you on, really, the zoning  
6 issues, right? And so what the hope is is as you present as  
7 a group, you can either determine who is going to be the  
8 presenter, right, and then what testimony in terms of  
9 witnesses that you guys might give each other, right?

10           Like, you know, you might be a witness to this or  
11 you might be a witness to that or the person might give the  
12 majority of the testimony and then you all might give your  
13 own testimony, but only like a minute or two, not repeating  
14 any of the testimony that the main person gave. Right?

15           Okay. Does my Board have any questions of the  
16 party status people in request for party status?

17           Okay. Do you all have any questions, meaning  
18 party status requesters?

19           MS. TOLAT: I have a question.

20           BZA CHAIR HILL: Okay.

21           MS. TOLAT: So we saw the original proposal that  
22 the applicants put in, and we have responded to that in  
23 writing as well. So with the deferred October hearing, are  
24 they going to put in a new proposal? I guess I'd like to  
25 understand. You said the presentation might come the same

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1 day or the day before that. So is there -- will we have an  
2 opportunity to kind of see the -- I mean, I guess I wanted  
3 to know if they will put in a new proposal or that's the --  
4 that remains the same.

5 BZA CHAIR HILL: Sure. So, Ms. Tolat, I'm not  
6 sure what proposal got changed. Like we -- we haven't  
7 studied the case yet, right?

8 MS. TOLAT: Okay.

9 BZA CHAIR HILL: And so, you know, I won't be  
10 looking at this case until the week of the hearing or a week  
11 before the hearing. And so, you know, you all will have a  
12 chance to keep looking in the record. You know, I would  
13 assume that -- and I don't know if -- Ms. Mehlert, if you  
14 guys know how they can get in touch with the applicant, do  
15 we do that sometimes? Or I don't even know.

16 MR. SMITH: We actually have met the applicant,  
17 and he invited us over to show us his layout.

18 BZA CHAIR HILL: Oh, okay. So then --

19 MR. SMITH: So --

20 BZA CHAIR HILL: So then, Mr. Smith --

21 MR. SMITH: -- but still not the actual  
22 construction of the inside of the store.

23 BZA CHAIR HILL: Okay. So I guess, Mr. Smith,  
24 what I'm trying to get at is that, you know, the more you can  
25 talk with the applicant -- I mean, you guys now have been

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1 granted -- or you will be granted party status. So there is  
2 incentive for them to talk to you and work with you, right?

3           You know, the more you can work out before you get  
4 to us, the better, right? And so that's what I'm trying to  
5 encourage to you. Again, I haven't read the case, so I don't  
6 know whether or not they have a case, meaning whether they  
7 would win or not, right? Like, I mean, we're going to hear  
8 that on the day of the hearing.

9           But whatever the more -- you know, the more you  
10 guys can meet, the more you guys can, you know, work things  
11 out, the better it is for everyone ahead of time. Okay?

12           Okay. All right. So I'm going to go ahead and  
13 make a motion to approve the party status of Ms. Tolat,  
14 Mr. Smith, and Ms. Kavalier, and ask for a second, Ms. John.

15           Okay. I'll ask for a second, Mr. Blake.

16           MEMBER BLAKE: Second.

17           BZA CHAIR HILL: All right. Motion has been made  
18 and seconded, Madam Secretary. If you could take a roll  
19 call, and maybe we'll get one from Ms. John.

20           VICE CHAIRPERSON JOHN: Second. Second, Mr. --  
21 Board Member Hill. I had trouble getting to my mute button.

22           BZA CHAIR HILL: That's all right. That's --

23           MR. SMITH: Me, too.

24           MS. MEHLERT: Should we go with Mr. Blake's second  
25 or Vice Chair John?

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1 BZA CHAIR HILL: Go with Mr. Blake. Vice Chair  
2 John is always seconding, so --

3 MS. MEHLERT: Please respond to the Chair's motion  
4 to grant party status in opposition to Malini Tolat, Richard  
5 Smith, and Maya Kavalier.

6 Chairman Hill?

7 BZA CHAIR HILL: Yes.

8 MS. MEHLERT: Vice Chair John?

9 VICE CHAIRPERSON JOHN: Yes.

10 MS. MEHLERT: Mr. Smith?

11 MEMBER SMITH: Yes.

12 MS. MEHLERT: Mr. Blake?

13 MEMBER BLAKE: Yes.

14 MS. MEHLERT: Chairman Hood?

15 ZC CHAIR HOOD: Yes.

16 MS. MEHLERT: Staff would record the vote as five  
17 to zero to zero to approve or grant party status to Malini  
18 Tolat, Richard Smith, and Maya Kavalier, in Case 21151, on the  
19 motion made by Chairman Hill and seconded by Mr. Blake.

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

21 All right, you guys. We will see on October 9th.

22 MS. KAVALER: Thank you.

23 BZA CHAIR HILL: Bye.

24 MR. SMITH: All right. Thanks for -- thanks for  
25 letting us attend. Bye-bye.

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1 BZA CHAIR HILL: Bye-bye. Good luck to you.

2 Okay. You can call our next one, then.

3 MS. MEHLERT: Next is another party status before  
4 the Board, Application Number 21143 of the Trustees for  
5 Harvard University. This is a self-certified application  
6 pursuant to Subtitle X, Section 901.2, for a special  
7 exception under Subtitle U, Section 203.1(o), to allow use  
8 of an existing residential building by a nonprofit  
9 organization for the purposes of a nonprofit organization,  
10 and pursuant to Subtitle X, Section 1002, for an area  
11 variance from the gross floor area requirements of  
12 Subtitle U, Section 203.1(o)(2).

13 This is for nonprofit organization use in an  
14 existing residential building. It is located in the R-1B/GT  
15 Zone at 3100 R Street, Northwest, Square 1281, Lot 836.

16 The public hearing for this case has already been  
17 postponed to October 9th at ANC 2E's request. And before the  
18 Board today are four requests for party status in opposition  
19 -- Daniel Chao, Katherine and Peter Fitzgerald, Amelie Stroh,  
20 and Erin Drouin.

21 BZA CHAIR HILL: Okay. Great. Mr. Chao, can you  
22 hear me?

23 MR. CHAO: Yes.

24 BZA CHAIR HILL: Great. Could you introduce  
25 yourself for the record and give us your address?

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1 MR. CHAO: Hi. I'm Daniel Chao. I live at  
2 1698 31st Street, Northwest.

3 BZA CHAIR HILL: Okay. Great.

4 Mr. Drouin, can you hear me?

5 Mr. Young, do you see a Mr. Drouin? Or is it  
6 Ms. Drouin? Oh, there we go.

7 MS. DROUIN: Hello. This is Erin Drouin. Can you  
8 hear me?

9 BZA CHAIR HILL: Yes. Could you introduce  
10 yourself for the record, please?

11 MS. DROUIN: Yes. This is Erin Drouin. I live  
12 at --

13 BZA CHAIR HILL: Okay. And what --

14 MS. DROUIN: -- 1692 31st Street.

15 BZA CHAIR HILL: Okay. Ms. Fitzgerald, can you  
16 hear me? Ms. Fitzgerald, can you hear me?

17 MS. FITZGERALD: Yes.

18 BZA CHAIR HILL: Great. Could you introduce  
19 yourself for the record?

20 MS. FITZGERALD: I'm Katherine Fitzgerald at  
21 1681 31st Street, Northwest.

22 BZA CHAIR HILL: Okay. And, Ms. Stroh, can you  
23 hear me?

24 MS. STROH: Yes. This is Amelie Stroh at  
25 1679 31st Street, Northwest.

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1 BZA CHAIR HILL: Great. Okay. So what I'm going  
2 to ask you guys is -- I'm going to start with you, Ms. Stroh.  
3 Why do you think you're meeting the criteria for us to grant  
4 you a party status?

5 MS. STROH: Because I live near -- I live what I  
6 believe to be 200 feet, within the house -- 3001 R Street.

7 BZA CHAIR HILL: Okay. And your concerns are --  
8 I see some of the things that are in your listing. Okay.  
9 So that's one, and I'm going to ask my Board members in a  
10 second if they have any questions.

11 Can the Fitzgeralds hear me?

12 MS. FITZGERALD: Yes, I can hear you. I'm  
13 Katherine. My husband Peter is not here.

14 BZA CHAIR HILL: Okay. No problem.  
15 Ms. Fitzgerald, why do you think you meet the criteria for  
16 us to grant you party status?

17 MS. FITZGERALD: Well, I'm definitely within the  
18 200 feet. I received a letter about this in --

19 BZA CHAIR HILL: Okay.

20 MS. FITZGERALD: -- inviting me to, you know --

21 BZA CHAIR HILL: Okay.

22 MS. FITZGERALD: -- participate.

23 BZA CHAIR HILL: Okay. All right. And then,  
24 let's see, I'll get -- oh. Ms. Drouin, can you hear me?

25 MS. DROUIN: Yes, I can.

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1 BZA CHAIR HILL: Okay.

2 MS. DROUIN: I also live within 200 feet of 3100 R  
3 Street, and was sent a letter I guess by the lawyers of  
4 Harvard or a representative asking me to participate.

5 BZA CHAIR HILL: Okay. Asking you -- okay.  
6 Asking you -- so are you all here in opposition?

7 MR. CHAO: Yes. As of now, for me.

8 BZA CHAIR HILL: Okay. Ms. Drouin?

9 MS. DROUIN: Yes. I currently am.

10 BZA CHAIR HILL: Okay. Ms. Fitzgerald?

11 (No audible response.)

12 BZA CHAIR HILL: Okay. And then, Ms. Stroh?

13 MS. STROH: Yes.

14 BZA CHAIR HILL: Okay. As of now.

15 BZA CHAIR HILL: Okay. So just so you guys know,  
16 like, the criteria is not that you're within 200 feet. It's  
17 that why you would be more uniquely affected than the -- than  
18 the general public within even that 200 feet. And so just  
19 because you're that -- in that 200 feet doesn't mean that you  
20 meet what the Board thinks meets the criteria for party  
21 status. That just means that that's the notification that  
22 goes out about anything that's going on within the 200 feet.

23 Mr. Chao, he actually shares a party wall, and so,  
24 you know, he would be more uniquely -- in my opinion, he  
25 would be more uniquely affected than other members of the

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1 public.

2           Now, that doesn't mean that the Board won't grant  
3 some party status, like if -- you know, if it's -- if it's  
4 a couple doors down, maybe it depends on the type of project  
5 that's being -- gone on or put forth, and then so you maybe  
6 even -- I don't know if -- what people think about the  
7 location for Ms. Drouin.

8           I see that the applicant's team is here. Can the  
9 applicant hear me?

10           MS. BATTIES: Yes. Good morning, Chairman Hill.  
11 Or good afternoon. Yes, I can hear you.

12           BZA CHAIR HILL: Great. Could you introduce  
13 yourself for the record, please?

14           MS. BATTIES: Yes. Leila Batties with the law  
15 firm of Holland & Knight on behalf of the applicant.

16           BZA CHAIR HILL: Okay. So, first, let me see, do  
17 any of my Board members have any questions about anybody?

18           ZC CHAIR HOOD: Mr. Chair, right quick, I do have  
19 a -- good afternoon, everyone.

20           I do have a question for Ms. Batties. I'm just  
21 curious of jurisdiction. I read the submission.  
22 Ms. Batties, why is this not in front of the Zoning  
23 Commission? Not that I'm bidding for any work. I just want  
24 to know why.

25           MS. BATTIES: Because the request -- it's not part

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1 -- it's not within the Dumbarton Oaks Campus Master Plan,  
2 which is the applications that typically go before the Zoning  
3 Commission. So this house is across -- directly across the  
4 street, and they are seeking special exception approval for  
5 nonprofit use of the property.

6 ZC CHAIR HOOD: So it's outside of the campus plan  
7 area.

8 MS. BATTIES: Right.

9 ZC CHAIR HOOD: Okay. All right. I guess I can  
10 go for that, ma'am.

11 Thank you, Mr. Chairman.

12 Thank you, Ms. Batties.

13 BZA CHAIR HILL: Thank you. I just realized the  
14 ANC -- I'll come right back to you. One second, Vice Chair  
15 John.

16 The ANC Commissioner is here. Is that correct?

17 MS. LOHSE: Yes. ANC 2E06, Gwendolyn Lohse, and  
18 I am the ANC representative in this matter, given that  
19 Commissioner Chao lives immediately adjacent to the property  
20 in question.

21 BZA CHAIR HILL: Okay. Great. Okay. Mr. Chao  
22 is also a Commissioner?

23 MS. LOHSE: Yes, he is.

24 BZA CHAIR HILL: Okay. Great. Well, welcome,  
25 both Commissioners.

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1           Let's see. Okay. Vice Chair John, you had your  
2 hand up? You're on mute, Vice Chair John.

3           VICE CHAIRPERSON JOHN: Thank you. Now I can  
4 rephrase my question. So I wanted to ask Ms. Batties if the  
5 applicant objects to the request for party status.

6           MS. BATTIES: The applicant has comments on the  
7 request, but does not object.

8           VICE CHAIRPERSON JOHN: Okay. Thank you.

9           BZA CHAIR HILL: Okay. What comments are they,  
10 Ms. Batties?

11           MS. BATTIES: If you can indulge me for just two  
12 minutes. So I -- I do want to note for the record that on  
13 July 11th -- we read all of the party status requests, and  
14 on July 11th we filed a letter with the BZA in response to  
15 all of the comments and concerns that were raised in the  
16 party status request.

17           Also, this morning we filed into the record a  
18 response to the statement filed by Mr. Chao yesterday at  
19 Exhibit 33 of the record. So our goal in responding to the  
20 party status request and to Mr. Chao's statement was to  
21 address those comments and concerns that were pertinent to  
22 the legal standard of review, wanted to make sure that there  
23 were a lot of misstatements or misunderstandings in both the  
24 party request and Mr. Chao's statement.

25           So we wanted to clarify that information, and we

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1 also wanted to provide additional information for both the  
2 community stakeholders and the Board as we go forward. I  
3 think if you read the party status requests, a lot -- there  
4 is a lot that is not pertinent to the legal standard of  
5 review, and so we felt that these responses were important  
6 to share with the Board.

7 I also want to note, Mr. Chair, that this  
8 application has been deferred twice. The first time it was  
9 deferred was at the request of Commissioner Chao. He said  
10 he was not available. We were happy to postpone the  
11 application -- or the hearing.

12 The most recent deferral was at the request of  
13 Commissioner Lohse. We did not -- she filed a motion to  
14 postpone the hearing. We did not object to that  
15 postponement, with the understanding that the ANC is going  
16 to host a community meeting next week on July 29th to discuss  
17 this application, and then bring this application before the  
18 ANC on September 3rd.

19 Now, we have been -- we first met with  
20 Commissioner Lohse and Commissioner Chao on April 2nd or --  
21 yeah, April 2nd, the day after we filed this application.  
22 We hosted -- the applicant hosted a community meeting on  
23 June 13th.

24 BZA CHAIR HILL: Ms. Batties?

25 MS. BATTIES: Yeah.

1 BZA CHAIR HILL: So I'm just going to interrupt  
2 you. So I'm looking through all of the exhibits that you  
3 guys are talking through. I mean, I think that, you know,  
4 if you are to continue to work with whoever ends up getting  
5 party status, that would obviously be what you all would want  
6 to do, and then you're going to continue to work with the  
7 ANC. And this is back on the docket again when?

8 MS. BATTIES: I do want clarification. I thought  
9 it was on October 23rd, but I heard October 9th, when  
10 Ms. Mehlert spoke earlier.

11 BZA CHAIR HILL: Ms. Mehlert, can you tell us?

12 MS. MEHLERT: I'm sorry. Yeah. It's  
13 October 23rd. I misspoke earlier.

14 BZA CHAIR HILL: Okay. Great. All right.

15 MS. BATTIES: Look, Mr. Chair, I just want to know  
16 -- we have been in constant communication with the -- with  
17 Commissioner Chao and Commissioner Lohse since this  
18 application was filed. We have agreed to be cooperative in  
19 the spirit of cooperation with --

20 BZA CHAIR HILL: Ms. Batties, I'm sorry. I'm just  
21 going to interrupt you. I've got you. Like, I don't want  
22 to hear the back and forth. Commissioner Chao is telling us  
23 -- I mean, we're just here for party status.

24 MS. BATTIES: Okay.

25 BZA CHAIR HILL: And so, you know, so let's see.

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1 I'm going to -- I'm going to -- I'm going to let everybody  
2 go, and then I'm going to let my Board determine whether or  
3 not -- who we think should get party status.

4 Before we let anybody go, I'm letting you know  
5 that I'm probably going to -- you know, I'm going to agree  
6 that Mr. Chao is uniquely affected. I don't know about  
7 Ms. Drouin, and I don't think that the Fitzgeralds or the  
8 Strohs are any more uniquely affected than other members of  
9 the general public in that area. So if --

10 MS. STROH: Well, when --

11 BZA CHAIR HILL: If -- if --

12 MS. STROH: When --

13 BZA CHAIR HILL: If -- if -- Ms. Stroh, if you  
14 don't get party status -- I'm just giving you my vote. If  
15 you don't get party status, then you'll be able to be either  
16 a witness for Mr. Chao, okay, during his presentation or you  
17 will also have an opportunity to give testimony as a member  
18 of the public.

19 Now, go ahead. What was your question?

20 MS. STROH: So when you asked me initially, I  
21 didn't understand fully when you wanted my opinion why I  
22 should get party status. Parking is critical on our block.  
23 It's a critical issue. And also, this is a residential  
24 community, and there is a community going on. They've had  
25 this house for over three years. They have left it -- it's

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1 in awful shape.

2           It is -- this is a residential neighborhood. This  
3 impacts our values. This is -- we all know -- all the  
4 neighbors know each other. I am right there. We are -- and  
5 those of us near this corner in particular are impacted by  
6 the parking and also by it being a business, you know, a  
7 nonprofit business. And this is why I feel like everyone on  
8 this call should be qualified to party status. We are up  
9 against Harvard, which has a huge campus.

10           BZA CHAIR HILL: Okay, Ms. Stroh. I got you. I  
11 got you.

12           MS. STROH: Okay.

13           BZA CHAIR HILL: The Board is going to determine  
14 whether or not you qualify for party status per the  
15 regulations. Okay? And so we'll see what the Board has to  
16 say. Okay? So --

17           MS. DROUIN: This is Ms. Drouin.

18           BZA CHAIR HILL: Sure. Go ahead, Ms. Drouin.

19           MS. DROUIN: I just want to add that I share an  
20 alley with the building in question, and I am three doors  
21 down from 3100 R Street, and that it has been -- remained  
22 mostly vacant, and the first communication we had was in the  
23 last three months. As the lawyer indicated, we have just  
24 heard from the lawyers in the last three months.

25           And I think the question raised by one of your

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1 Commissioners about why this isn't before the Board of Zoning  
2 was a question that residents had, living in a residential  
3 neighborhood and the university wanting to change a residence  
4 from residential use.

5 BZA CHAIR HILL: Okay. So, Ms. Drouin, I got you.  
6 And the only reason why I'm kind of -- we're not taking any  
7 testimony today on the actual merits of the case. So that's  
8 why --

9 MS. DROUIN: Right. I'm not a lawyer, so I don't  
10 know what the rules are that you follow. So I just wanted  
11 to add some more detail to -- for my --

12 BZA CHAIR HILL: Okay. I got you.

13 MS. DROUIN: Okay. Thank you.

14 BZA CHAIR HILL: So the -- whoever gets party  
15 status will then be able to be a party. What that means,  
16 again -- I guess you might have seen the last one -- that  
17 means you'll be able to give your presentation, you'll be  
18 able to have witnesses, you'll be able to -- the ANC is a  
19 party, an automatic party, so they will also be able to give  
20 their presentation. They will be able to have witnesses.  
21 And so if whoever gets party status, wants anybody to be a  
22 witness, they can.

23 In addition to that, people that don't get party  
24 status will be able to give testimony during the hearing  
25 itself. And so that's another opportunity for the public to

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1 give their testimony.

2 MR. CHAO: I do --

3 BZA CHAIR HILL: So -- go ahead, Mr. Chao.

4 MR. CHAO: I am so sorry. I do want to just say  
5 quickly that I have a disagreement with Ms. Batties about  
6 communication. I think that, on behalf of everyone,  
7 communication has been a little bit problematic. Ms. Batties  
8 knows that she and I both spoke first when I was not a  
9 Commissioner, and I talked to her as a neighbor, and she  
10 assured that I would be notified about any type of  
11 applications.

12 And then I became a Commissioner, but then I  
13 helped them with their 20-year campus plan to get the ANC's  
14 full approval unanimous. And I had a good working  
15 relationship.

16 And then, come to find out, I was blind-sided by  
17 an application -- this application. I wasn't even told about  
18 it. I was working, and they said --

19 BZA CHAIR HILL: Okay. So I got you.

20 MR. CHAO: -- communication is key.

21 BZA CHAIR HILL: As I said, this is not the  
22 hearing, but I understand -- you know, I'm not -- we're not  
23 trying to take testimony back and forth, or what have you.  
24 But we will have a hearing, and then --

25 MR. CHAO: Yeah.

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1           BZA CHAIR HILL: -- obviously, if there is any  
2 communication that hasn't been going on between the applicant  
3 and those -- well, even the ANC is here, right? So the --  
4 I don't even know what the ANC's position is yet. And so  
5 they will have to work through the ANC and then we'll take  
6 all of the testimony during the hearing.

7           Do my fellow Board members have any questions of  
8 anybody before I excuse everyone? Go ahead, Mr. Blake.

9           MEMBER BLAKE: Yeah. Did we get comments from the  
10 ANC as to whether they would have objections to any of the  
11 potential party status requests?

12           MS. LOHSE: This is Commissioner Gwendolyn Lohse  
13 from the ANC, and I -- I do support a party status for all  
14 of the individuals that are property owners on this line.  
15 I think this is a very important discussion.

16           Harvard University, obviously, has quite a lot of  
17 real estate within our community, and we want to continue to  
18 ensure that -- good community relations, and I think I  
19 haven't -- I don't live near this area, and it's my  
20 observation that there is improvement for community  
21 relations.

22           And granting party status with shared alleys,  
23 adjacent people, people across the street, when they are  
24 looking at a vacant home, and there has been safety issues,  
25 and there has been some need for communication, will

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1 encourage the parties to work together as we try to consider  
2 what potential conditions may be appropriate.

3 I hope to have good relations as we work towards  
4 what could be a potential -- potential agreement. We have  
5 a bit -- a while to go there, and I do think these  
6 individuals are all uniquely positioned because of their  
7 experiences to date over the last while while Harvard has  
8 owned the property.

9 And, again, it is not in the campus plan.

10 BZA CHAIR HILL: Okay. Ms. John, you have your  
11 hand up?

12 VICE CHAIRPERSON JOHN: So before everyone leaves,  
13 I'd just like to add a point of clarification that the  
14 applicant has not objected to party status for all of the  
15 requesters. The other thing I would like to add is that the  
16 ANC and the party requesters should be aware of what the  
17 applicant is asking to do.

18 So the applicant is asking to use this residential  
19 building for an office purpose, because the regulations  
20 require that. And the applicant is representing that only  
21 four people maximum will use this building for office  
22 purposes. And the applicant is not seeking relief from  
23 parking.

24 And just in passing, as a gratuitous comment, I  
25 would note that four people in a house is not a lot of

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1 people, and I'll just offer that as you all discuss this  
2 application.

3 MS. LOHSE: And I think, Vice Chair, I appreciate  
4 what the scope of the application is, and the two requests,  
5 both the variance and the use, and the time period as well.  
6 Just for your understanding, I do have a solid view of what  
7 is being requested.

8 And I also understand that one of the applicants  
9 for party status -- you know, this is -- the 200 feet are  
10 drawn from the center with tax -- using tax lists, and the --  
11 one of the applicants, Ms. Stroh, is 200 feet from the  
12 property line.

13 So I appreciate that -- again, I appreciate the  
14 applicant is supportive of the party status, and I also  
15 appreciate we all want to have a good understanding of what  
16 the applicant is asking. Yet -- and that is one key reason  
17 why I am supporting party status, and I also supported some  
18 extension of the hearing, because I want there to be ample  
19 time for discussion. And there hasn't been ample time, and,  
20 you know, summer is almost impossible to get anyone together.  
21 And you really need to have -- this is a complicated topic  
22 for those that aren't in the know and knowledgeable on  
23 zoning.

24 VICE CHAIRPERSON JOHN: Thanks. I just wanted to  
25 focus everyone's -- this is a good place to focus what the

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1 hearing will be about.

2 MS. LOHSE: Yep. Absolutely.

3 VICE CHAIRPERSON JOHN: About allowing four  
4 employees to use this building on a temporary basis, as I  
5 understand it.

6 Okay. That's all I had, Mr. Chairman.

7 BZA CHAIR HILL: Okay. Thanks, Ms. John.

8 All right. Anybody else have any questions of  
9 anyone? Okay. Great.

10 All right. Let's see. Mr. Young, if you could  
11 please -- if you want to put them all in a room, if we have  
12 to come back to them, we can. But if you want to go ahead  
13 and excuse them.

14 Thank you, guys.

15 Okay. So, you know, we have party status requests  
16 all the time, advance party status requests all the time.  
17 And so, again, I'm just going to read the regulation for  
18 those who are watching. Under Y 404.13, "The Board shall  
19 grant party status only if the person who is requesting party  
20 status has clearly demonstrated that the person's interest  
21 would likely be more significantly, distinctively, or  
22 uniquely affected in character or kind by the proposed zoning  
23 action than those of other persons in the general public."

24 And then, if we did grant party status, then those  
25 people would have party status, right? They would be able

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1 to act as a party. I'm repeating myself. But, in any case,  
2 I am on -- I think that the one who is sharing the party wall  
3 with the applicant, Mr. Chao, Commissioner Chao, I would --  
4 Chao. Chao. I would agree that he should get party status.

5 I guess Ms. Drouin, since she does share an alley  
6 there with the property, I could, you know, maybe think that  
7 she is more clearly affected.

8 In terms of the testimony from the Fitzgeralds or,  
9 again, Ms. Stroh, you know, even the issues that they are  
10 talking about with parking and other issues that have come  
11 up in her concerns, or their concerns, like economic changing  
12 to the property from residential use, environmental issues,  
13 you know, those are more general public issues I think.

14 So I wouldn't be in support of giving party status  
15 to the -- at least right now, before we start having a  
16 discussion, between the Fitzgerald -- Ms. Fitzgerald and  
17 Ms. Stroh. And I don't really know what I think of  
18 Ms. Drouin, but Mr. Chao, I would agree, has met the -- has  
19 met the criteria for the regulations -- per the regulations.

20 I am going to ask Mr. Smith what his thoughts are,  
21 please.

22 MEMBER SMITH: So I do agree with your -- with  
23 your assessment on Mr. Chao, being that he is -- shares a  
24 party wall with the adjacent property owner. And, again,  
25 this is -- this decision is based off of the regulation,

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1 Y 404.13, uniquely affected.

2           And I am also looking at -- based on within the  
3 record what the applicant -- what the various party status  
4 requesters have stated for their -- how they are uniquely  
5 affected or what their concerns are. Again, Mr. Chao has --  
6 shares a party wall.

7           I agree with you that the -- Ms. Stroh, given her  
8 distance from the property and the concerns that she raised  
9 regarding noise, street parking, property maintenance, are  
10 more general in nature, that aren't -- to me does not rise  
11 to the level that she uniquely -- on that block is uniquely  
12 affected by these.

13           Those types of concerns I believe are probably  
14 shared by the entire block, if not the entire neighborhood.  
15 Those are very general concerns that I think would be raised  
16 by any party, Your Honor, that is -- that lives along  
17 31st Street or R Street, or to that matter 32nd Street,  
18 because it's -- that block is also in close proximity.

19           Also, with Ms. Drouin, a large amount of those  
20 concerns are general in nature. The only unique one separate  
21 from that is the alley use. The use of the alley -- I do not  
22 believe that she is uniquely affected in that -- from that  
23 standpoint because all of the properties that back up from  
24 32nd and 31st Street share that same alley. So I do not  
25 believe that she is uniquely affected simply because she

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1 shares a common alley that other properties in this area  
2 share with the property in question.

3           So I will only be inclined to grant party status  
4 to the -- Mr. Chao. Again, that does not stop Ms. Stroh or  
5 Ms. Drouin from coordinating with Mr. Chao as part of his  
6 testimony as witnesses, and it also does not preclude them  
7 from testifying in their own capacity, but not necessarily  
8 with party status level as part of the hearing.

9           BZA CHAIR HILL: Okay.

10           MEMBER SMITH: So only Mr. Chao.

11           BZA CHAIR HILL: Thank you.

12           Mr. Blake?

13           MEMBER BLAKE: For the sake of time, I will be  
14 very brief. I will align my comments with Mr. Smith in this  
15 matter.

16           BZA CHAIR HILL: Thank you.

17           Vice Chair John?

18           VICE CHAIRPERSON JOHN: Thank you, Mr. Chairman.  
19 So I -- I went back and forth about Ms. Drouin because of her  
20 concerns about the alley, and I don't think the other two --  
21 the Fitzgeralds and Ms. Stroh -- would be more uniquely  
22 affected than what Ms. Drouin -- than Ms. Drouin in this  
23 case. So I would be inclined to allow party status for  
24 Ms. Drouin and Mr. Chao.

25           BZA CHAIR HILL: Okay. Chairman Hood?

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1           ZC CHAIR HOOD: For the sake of time, I will align  
2 myself with Vice Chair John's comments. Thank you,  
3 Mr. Chairman.

4           BZA CHAIR HILL: Okay.

5           ZC CHAIR HOOD: Okay. Yeah. I'll leave it at  
6 that.

7           BZA CHAIR HILL: Okay. I am going to -- I guess  
8 I will go with Vice Chair John and Chairman Hood. I think  
9 it's kind of -- it's unclear to me whether Ms. Drouin should  
10 get or shouldn't get party status, but I'll lean my vote  
11 towards her getting party status.

12           And then I would ask that Mr. Chao and Ms. Drouin  
13 communicate with each other about their presentation and try  
14 not to repeat whatever they plan on giving us testimony  
15 about. I would think that if they can coordinate, it would  
16 be more effective and -- for the Board in terms of their  
17 presentation.

18           So, basically, they would give a presentation.  
19 It would be good if they chose who would lead the  
20 presentation, and then who would support, you know, in terms  
21 of being a witness. So I'm going to go ahead and make a  
22 motion, then, to approve party status for Mr. Chao and  
23 Ms. Drouin, and ask for a second, Ms. John.

24           VICE CHAIRPERSON JOHN: Second.

25           BZA CHAIR HILL: Motion made and seconded. Madam

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1 Secretary, if you could take a roll call, please.

2 MS. MEHLERT: Please respond to the Chair's motion  
3 to grant party status in opposition to Daniel Chao and Erin  
4 Drouin, and to deny party status to Katherine and Peter  
5 Fitzgerald and Amelie Stroh.

6 Chairman Hill?

7 BZA CHAIR HILL: Yes.

8 MS. MEHLERT: Vice Chair John?

9 VICE CHAIRPERSON JOHN: Yes.

10 MS. MEHLERT: Mr. Smith?

11 BZA CHAIR HILL: Hold on. Give me a second.

12 Wait, wait. Ms. Mehlert, so I didn't make a motion -- I was  
13 going to make two motions. So the first motion --

14 MS. MEHLERT: Oh, sorry.

15 BZA CHAIR HILL: That's all right. The first  
16 motion I made was to approve the party status of Mr. Chao and  
17 Ms. Drouin. Ms. John just seconded. So let's do that vote  
18 first.

19 MS. MEHLERT: Okay. Apologies. Please respond  
20 to the Chair's motion to grant party status to Daniel Chao  
21 and Erin Drouin.

22 Chairman Hill?

23 BZA CHAIR HILL: Yes.

24 MS. MEHLERT: Vice Chair John?

25 VICE CHAIRPERSON JOHN: Yes.

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1 MS. MEHLERT: Mr. Smith?

2 MEMBER SMITH: This is party status for both?

3 BZA CHAIR HILL: Yes.

4 MS. MEHLERT: Yes.

5 MEMBER SMITH: No.

6 MS. MEHLERT: Mr. Blake?

7 MEMBER BLAKE: Yes.

8 MS. MEHLERT: And Chairman Hood?

9 ZC CHAIR HOOD: Yes.

10 MS. MEHLERT: Staff would record the vote as four  
11 to one to zero to grant party status in opposition to Daniel  
12 Chao and Erin Drouin on the motion made by Chairman Hill and  
13 seconded by Vice Chair John.

14 BZA CHAIR HILL: Mr. Smith, I appreciate -- there  
15 was an old Commissioner that Mr. -- that Chairman Hood  
16 probably knows that would make me bifurcate that little vote  
17 there, you know, and so since you are going to fail anyway,  
18 you know, I appreciate you making more work for me. Right?

19 Okay. Now I'm going to make another motion to  
20 deny party status for Ms. Fitzgerald and Ms. Stroh and ask  
21 for a second, Ms. John.

22 VICE CHAIRPERSON JOHN: Second.

23 BZA CHAIR HILL: Motion made and seconded.  
24 Ms. Mehlert, if you could take a roll call, please.

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

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1 to deny party status to Katherine Fitzgerald and Amelie  
2 Stroh.

3 Chairman Hill?

4 BZA CHAIR HILL: Yes.

5 MS. MEHLERT: Vice Chair John?

6 VICE CHAIRPERSON JOHN: Yes.

7 MS. MEHLERT: Mr. Smith?

8 MEMBER SMITH: Yes.

9 MS. MEHLERT: Mr. Blake?

10 MEMBER BLAKE: Yes.

11 MS. MEHLERT: And Chairman Hood?

12 ZC CHAIR HOOD: Yes.

13 MS. MEHLERT: Staff would record the vote as five  
14 to zero to zero to deny party status in opposition to  
15 Katherine Fitzgerald and Amelie Stroh on the motion made by  
16 Chairman Hill and seconded by Vice Chair John.

17 BZA CHAIR HILL: Okay. And then the hearing is  
18 on 10/23. Is that what you said, Ms. Mehlert?

19 MS. MEHLERT: Correct. Yes.

20 BZA CHAIR HILL: Okay. Great. All right. Thank  
21 you. Okay. So that's that.

22 (Whereupon, the above-entitled matter went off  
23 the record.)

24

25

C E R T I F I C A T E

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Before: DC Office of Zoning

Date: 07-24-24

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