

GOVERNMENT OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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REGULAR PUBLIC HEARING

+ + + + +

WEDNESDAY

APRIL 23, 2025

+ + + + +

The Public Hearing of the District of Columbia Board of Zoning Adjustment convened via 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
CARL BLAKE, Vice Chairperson
CHRISHAUN SMITH, Commissioner
CARL H. BLAKE, Commissioner
JOSEPH IMAMURA, ZC Commissioner
GWEN WRIGHT, ZC Commissioner
TAMMY STIDHAM, ZC Commissioner

BOARD OF ZONING ADJUSTMENT STAFF PRESENT:

KEIRA MEHLERT, Secretary
PAUL YOUNG, A/V operations

The transcript constitutes the minutes from the Regular Public Hearing held on April 23, 2025.

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

(9:30 a.m.)

CHAIRPERSON HILL: Good morning, ladies and gentlemen to the Board of Zoning Adjustment. Today's meeting is 4/23/2025. This public hearing will please come to order. My name is Fred Hill, Chairman of the District of Columbia Board of Zoning Adjustment. Joining me today are Commissioners Gwen Wright, Dr. Imamura, and I believe that's it for today. Also Board members Chrishaun Smith and Carl Blake.

Today's meeting and hearing agenda are available on the Office of Zoning's website. Please be advised that this proceeding is being recorded by a court reporter and is also webcast live via Webex and YouTube Live. A video of the webcast will be available on the Office of Zoning's website after today's hearing. Accordingly, everyone who is listening on Webex or by telephone will be muted during the hearing. Also please be advised that we do not take any public testimony at our decision meeting sessions. If you're experiencing difficulty accessing Webex or with your telephone call-in, then please call our OZ hotline number at 202-727-5471, once again 202-727-5471 to receive Webex login or call-in instructions. It's also listed on your screen.

At the conclusion of a decision meeting session I shall, in consultation with the Office of Zoning, determine whether a full or summary order may be issued. A full order is

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

7 In today's hearing session, everyone who is listed on
8 Webex will be muted by telephone until it's the appropriate time
9 for you to speak. If you sign up to participate then you have
10 signed up and taken the oath. Please state your name and home
11 address before providing oral testimony or oral presentation.
12 Oral presentation should be limited to a summary of your most
13 important points. When you're finished speaking please mute your
14 audio so that your microphone is no longer picking up sound or
15 background noise.

16 Requests to enter evidence at the time of a virtual
17 hearing such as written testimony or additional supporting
18 documents other than live video which may not be presented as
19 part of testimony, may be allowed pursuant to Y-103.13 provided
20 that the person making the request to enter an exhibit explain,
21 a) how the proposed exhibit is relevant, b) the good cause
22 justifies allowing the exhibit into the record, and c) how the
23 proposed exhibit would not unreasonably prejudice any parties.
24 The order for procedures and special exceptions and variances are
25 in Y-409.

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

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

25 Madam Secretary, do we have any preliminary matters?

1 MS. MEHLERT: Good morning everyone. On the schedule
2 today the time (audio interference).

3 CHAIRPERSON HILL: You're kind of going in and out, Ms.
4 Mehlert, unless it's me.

5 MS. MEHLERT: Okay. Does this sound okay?

6 CHAIRPERSON HILL: Seems better now.

7 MS. MEHLERT: I'll keep going. Just let me know.

8 Application No. 20863A --

9 CHAIRPERSON HILL: Maybe turn off your video. See if
10 that helps.

11 MS. MEHLERT: Is this better?

12 CHAIRPERSON HILL: We'll see.

13 MS. MEHLERT: Okay. Application No. 20863A of BUAP
14 1735 K, LLC has been withdrawn. Application No. 20273 of
15 Livingston Developers Group, LLC has been postponed to June 11th,
16 2025. Application No. 21269 of GAH Development, LLC has been
17 postponed to July 2nd, 2025. Also the Chairman has reviewed and
18 granted waivers to allow late filings into the applicable case
19 records pursuant to Subtitle Y, Section 206.7 and Section 103.13.
20 Any other late filings during the course of today's live hearing
21 should be presented before the Board by the applicant, parties
22 or witnesses after the case is called. Any other preliminary
23 matters will be noted when the case is called.

24 CHAIRPERSON HILL: Okay. Thank you.

25 Yes, Ms. Mehlert, it seems like, I don't know. Maybe

1 on a break if you were to log off and log back on.

2 MS. MEHLERT: Yeah. I'll do that.

3 CHAIRPERSON HILL: Okay. All right.

4 Good morning everybody. My allergies are killing me,
5 so if I sound worse than I normally sound that's why. Okay.
6 Let's see.

7 What is our first order of business, Madam Secretary?

8 MS. MEHLERT: First is in the Board's meeting session.
9 It's the decision of Appeal No. 21231. Would you like me to tall
10 the case?

11 CHAIRPERSON HILL: Yes, please. Thank you.

12 MS. MEHLERT: Appeal No. 21231 of Courtney Bolin and
13 William Gabler. This is the appeal, the decision made on August
14 23rd, 2024 by the Department of Building Zoning Administrator to
15 issue building permit No. B2309496 pursuant to Subtitle X,
16 Section 1100. This is appealing a new two-story accessory
17 structure containing an accessory apartment in the rear yard of
18 a attached principal dwelling. It's located in the R1-B zone at
19 3021 15th Street, Northeast, Square 4017, Lot 22.

20 This was heard on March 12th and at the April 2nd public
21 meeting the Board granted the Appellant's motion to reopen the
22 record to receive supplemental material. Participating are
23 Chairman Hill, Vice Chair Blake, Mr. Smith and Commissioner
24 Wright.

25 CHAIRPERSON HILL: Great. Thank you.

1 As the Board will recall, we heard this case and then
2 there was a request to add information into the record. We added
3 information into the record and then allowed the people, the
4 participants to respond. I've also reviewed the supplemental
5 material and responses and now I think I'm ready to kind of talk
6 about this. I have, I think I was going to ask Mr. Blake if he
7 would lead the discussion on this one.

8 Vice Chair Blake, would you mind?

9 VICE CHAIRPERSON BLAKE: Sure. Thank you, Mr. Chair.

10 I have some prepared remarks to go to this case. It
11 was a very large record, actually a very simple issue but a very
12 large record and I wanted to be able to go through a lot of the
13 things, as much as I could dealing specifically with the zoning
14 related issues. But I do want to touch on some of the other
15 issues that have come up in the discussion.

16 So, the Board is authorized to hear and decide appeals
17 where it's alleged by the Appellant that there's an error in any
18 order, requirement, decision, determination or refusal made by
19 any administrative officer in the administration or enforcement
20 of the zoning regulations. In most cases it's a decision the
21 Zoning Administrator which is approved, which is appealed to the
22 BZA.

23 In an appeal the Board's primary focus is on the claims
24 of an error made by the Appellant, however it is possible that
25 if during the course of an appeal the Board hears something that

1 | it believes may be in error, the Board may act on it even though
2 | it wasn't part of the original claim of error. In this appeal,
3 | the Appellant's challenge to the ZA's decision is to issue
4 | building permit No. B2309496 to the owners of 3021 15th Street,
5 | Northeast authorizing re-build of a large garage and accessory
6 | structure in the rear of the property with second floor addition
7 | accessory dwelling. Now, this is a new dwelling, a new structure
8 | ultimately which was placed in the same location. That said,
9 | both are matter-of-right options. The Appellant's initial and
10 | amended statement of appeal raised several arguments.

11 | The claims of error specifically relates to the Zoning
12 | Administrator is erroneously permitted a two-story detached
13 | secondary home to be built without the required eight foot side
14 | yards. The second claim was that the Appellant's property will
15 | be burdened with constructive easement based on the approval of
16 | a building permit. The third issue that was raised is that the
17 | ADU project would require special exemption relief under Subtitle
18 | U, 253.8(c)(1).

19 | Also issues that came up were the demolition of the
20 | garage is outside the scope of the building permit and that the
21 | proposed structure would pose a fire hazard and finally, the
22 | approval of the building permit will deter the development of
23 | affordable housing in the Brookland neighborhood.

24 | Now, some of these are issues. Some of these are claims
25 | of error which we can address. Be clear, the Board's jurisdiction

1 is limited by Subtitle X, Section 1100.3. The Board of Zoning
2 Adjustment has no jurisdiction to hear and decide any appeal o
3 portion of any appeal where the order requirement, decision,
4 determination or refusal was not based in whole or part upon any
5 zoning regulation or math (phonetic). That is to say the Board
6 has no jurisdiction to hear or decide arguments alleging
7 violations of provisions of the construction code including fire
8 safety. The Board has no jurisdiction to hear claims involving
9 due process violations. The Board has no jurisdiction to decide
10 questions of constitutionality. Lastly, the Board cannot amend
11 the zoning regulations.

12 When we looked at the last issue we raised, the
13 Appellant's argument pertaining to the alleged deterrence of
14 affordable housing as, it really is a policy issue and it's really
15 outside of the jurisdiction of the Board. So the focus of my
16 review will be on the zoning related claim, the side yard
17 requirement and the need for special exemption relief under
18 Subtitle U, Section 253.8(c)(1).

19 So let's turn to the side yard requirement first.
20 Specifically, the Appellant argues that the clear and unambiguous
21 language of the regulations in Subtitle D, 208.2 will be a focus,
22 required that all the tax buildings including those used as
23 accessory apartments must have two eight foot side yards in the
24 R1-B zone. The DOB argues that the provisions of Subtitle D,
25 208.2 do not apply to accessory structures.

1 The basis for the claim of error lies in the Appellant's
2 reading of the interpretation of the regulations and the
3 Appellant alleges that the error made by the ZA's decision stems
4 from the ZA's misreading of the regulations. Here the challenge
5 is that the Appellant's interpretation of the zoning regulations
6 directly conflicts with the testimony of the Department of
7 Buildings and Deputy Zoning Administrator and it really is up to
8 us to decide, the Board, to determine rather which version we are
9 comfortable with.

10 So let's turn to Section D-208.2. Two side yards each
11 a minimum of eight feet in width shall be provided for all
12 detached buildings. The Appellant argues that the accessory
13 building is a detached building and Subtitle D applies to all
14 detached buildings in the R1-B zone. The DOB argues that
15 requirement applies to principal buildings only and not accessory
16 buildings.

17 Now let's take a look at the definitions provided in
18 Subtitle D, Section B-100. Okay. First of all, a building. A
19 building is a structure requiring permanent placement on the
20 ground that has one or more floors and a roof supported by columns
21 or walls. When separated from the ground up or the lowest floor
22 up, each portion shall be deemed a separate building except as
23 provided elsewhere in this title. Principal building is defined
24 as the building in which the primary use of the lot is conducted.
25 An accessory building is a subordinate building located on the

1 same line as the principal building, the use of which is
2 incidental to the use of the principal building. And a detached
3 building is a building that is completely separated by all other
4 buildings and has two side yards.

5 Now, the DOB concedes that an accessory building is a
6 detached building, the provisions of Subtitle D, 208.2 do not
7 apply to accessory buildings as they are actually governed by the
8 provisions of Chapter 50, and I would agree with that
9 interpretation. The development standards for principal
10 buildings in the R zones are presented in Chapter 2 of Subtitle
11 D, while the development requirements for accessory buildings are
12 provided in Chapter 50 of Subtitle D. The development standards
13 for accessory buildings in Chapter 50 take the place or supplant
14 the Chapter 2 development standards.

15 Now, the zoning regulations contemplate -- now I want
16 to just say this. When you look at these regulations it's clear,
17 when you look at the plain reading of the language, and I have
18 painfully learned this over the last few years that I've been
19 here at the Board, it's a little deeper than that and you have
20 to read each in conjunction with the other and then maybe sections
21 and other places that refer to various elements to help you really
22 flesh out what is allowed in the zone. But in this case the
23 development standards for accessory buildings are specifically
24 specified in Subtitle D, Sections 5000.2 through 5000.6. The
25 bulk of accessory buildings in the R zones are controlled for

1 development standards and subtitles Sections 5002 through 5006.

2 Now, I just want to make clear. I'm going through this
3 only because it's very helpful for me to actually walk through
4 the regulations to determine if we looked at them properly. So
5 the zoning regulations really do contemplate that an accessory
6 building can be constructed as a matter-of-right in the R zone
7 provided that it meets the development standards and if it doesn't
8 meet one of the development standards it may need a special
9 exception or it may have to be a variance. But we have to be
10 clear rather it does meet the matter-of-right development
11 standards because that's what the permit essentially approved.

12 So an accessory building is permitted in the R zone
13 subject to requirements stated in Subtitle D, Chapter 50 which
14 including accessory building must be, a) subordinate to and
15 located in the same lot as the building to which it's accessory,
16 b) used for the purpose which is incidental to the use of the
17 principal building which may include one accessory apartment, c)
18 secondary in size compared to the principal building, d)
19 constructed after the construction of the principal building on
20 the same lot, and e) not located in the front of a principal
21 building.

22 Now, the new accessory structure will be approximately
23 18.5 feet deep, 20 feet wide with a building area of about 370
24 square feet and that's presented in Exhibit 21. It'll be located
25 in the same lot. It'll be secondary in size compared with the

1 principal building that it will be located, it will not be located
2 in front of the principal building and it will be used as an
3 accessory apartment which is permitted as a matter-of-right. So
4 in this case the proposed structure meets the general matter-of-
5 right bulk and form development standards of the zone.

6 Now we need to talk about placement. So we turn to
7 Subtitle D, Sections 5004 and 5, later on some additional location
8 specific requirements which, with different requirements for
9 accessory buildings located in side yards and rear yards.
10 Remember from the front we can't have one in the front yard, so
11 side yard and rear yard accessory buildings are permitted.

12 The subject property, if we look at the subject
13 property, the subject property is a corner lot and it's fronted
14 on two streets, 50 feet on 15th Street, Northeast, on east side,
15 and 15 feet on Irving Street, Northeast on the north side. With
16 a corner lot all the side and rear property lines are defined
17 and established in relation to the front that's selected by the
18 owner. In this case the property owner selected the 15th Street
19 frontage as a front of the subject property for zoning purposes
20 establishing the rear lot as lot line to the east which abuts
21 the west side lot line of the Appellant's lot, lot 9, of the
22 square for a distance of 50 feet south from the Irving Street
23 frontage.

24 The subject property is located in the R1-B zone for
25 which the development standards include a minimum rear yard

1 requirement of 25 feet and two side yards with a minimum of eight
2 feet in width for all detached buildings, which is the subject,
3 the primary subject in discussion. The side yard requirements
4 regulate the distance between a building and a side lot link
5 (phonetic). Side lot, side yards run parallel to side lot lines
6 and the entirety of the principal building on the lot and that's
7 defined in Subtitle D, 122. The rear lot is measured from the
8 back wall of the principal building to the rear lot line and
9 covers the full width of the lot. If a required side yard
10 intersects with a required rear yard, the larger yard shall apply
11 for the required distance of the larger yard and that's in the
12 areas in measurement.

13 Now, what's important in this case the subject property
14 has a detached dwelling with two side yards, an eight foot side
15 yard to the south and a side lot of approximately two feet two
16 inches to the north side of the lot factoring in a porch. Based
17 on measurements provided in the site plan in Exhibit 19 in slide
18 5 and the wall check in Exhibit 21, the rear yard measures
19 approximately 55 feet resulting in a remaining rear yard of 30
20 feet after counting from the required rear yard of 25 feet. So
21 the proposed accessory building is in the rear yard but it is
22 not in the required rear yard.

23 The accessory building will be located in the rear
24 yard. Like I said, it's west side will be approximately 35 feet
25 behind the rear wall of the principal building and that's placing

1 | it 9.8 feet behind the required rear yard of 25 feet. Okay.
2 | East façade will be two feet from the rear lot line and the
3 | Appellant's west yard and south facing will be approximately two
4 | feet from the south side lot line and that's presented in Exhibit
5 | 21. So as the proposed accessory building is located in the rear
6 | yard, the provisions of D, 5004 do apply.

7 | So let's go into the specifics. This is for the rear
8 | yard. So an accessory building other than a shed, the proposed
9 | accessory building is not a shed, may be located within a rear
10 | yard in an R zone provided that an accessory building is, a) not
11 | a (indiscernible) required rear yard, and b) set back at least
12 | seven and one half feet from the center line of any alley. In
13 | this case there is no alley on the square and the, it is not
14 | located in the rear yard, required rear yard. So therefore it
15 | complies with the accessory building rear yard development
16 | standards. (Indiscernible) says that the accessory building then
17 | meets the matter-of-right development standards.

18 | Now turning to the second claim of error or issue that
19 | arises, the ADU project would require special exception for
20 | relief under Subtitle U, 253.8(c)(1). Now, the regulations in
21 | Subtitle U permit an accessory apartment as a matter-of-right in
22 | the R zones and it can be located in the principal building or
23 | in the accessory building and an accessory apartment in an
24 | accessory building is permitted as a matter-of-right in the R
25 | zones as an accessory use so long as it meets the requirements

1 of U-253.

2 In this case only one accessory apartment unit is
3 proposed which is consistent with the regulations. The principal
4 building would continue to be owner occupied which is consistent
5 with the requirement. The total number of persons occupying an
6 accessory will not exceed three, which is consistent with the
7 requirements and permanent access to the accessory apartment will
8 be provided by an eight foot side yard along the southern side
9 of the property line and the accessory building has access from
10 Irving Street where there's a curb cut and a driveway entrance,
11 and I did find Exhibit 11, slide 11, Exhibit 19 very helpful in
12 sorting through all of that. That was the main contentious issue
13 that the Appellant had with this is that there was no permanent
14 access but in fact permanent access is being provided in those
15 two ways.

16 So also that number E is that the accessory building
17 will not be used for any other accessory uses other than those
18 permitted and also the proposed accessory building will not have
19 a roof deck, which it does not. So in doing all that it's
20 (indiscernible) to me that the use meets the matter-of-right
21 requirement standards as well. So the building meets the matter-
22 of-right requirements and the accessory dwelling unit also meets
23 the use requirement. That suggests to me that there was no error
24 made by the, in my mind no error was made by the Zoning
25 Administrator in granting the approval for this permit.

1 Now, an issue raised that the Board is required to give
2 weight to the issues concerned raised by the affected ANC. In
3 this case the affected ANC 5B submitted a written report in
4 support of the appeal urging that the BZA enforce the regulations
5 as written and that's in Exhibit 13, and a supplemental report
6 sent by ANC 5B clarifying its position, highlighted the issues
7 in concern and raised in a two-page handout circulated by the
8 Appellant prior to the meeting titled "The Impact of the Zoning
9 Administrator's Determination in Brookland if Left Uncorrected."
10 Unsustainable Development; Fire Safety Issues; Families with
11 Lesser Resources will lose their Property Rights; Neighbors'
12 Relationships will be Hostile; Neighbors will lose Exclusive Use
13 of Property and Privacy. There'll be Liability; Property Damage.

14 These issues are certainly in line with those presented
15 by the Applicants in the case and seemed to me to be more of a
16 policy issue and it does in fact point to some issues and as we
17 know, there are certain zones within the District who have
18 specific requirements with regard to accessory dwellings and
19 certainly I would agree that if the community is that concerned,
20 it does make sense to work with the Zoning Commission to make
21 some adjustments.

22 But as we can see it today, the Zoning Administrator
23 can follow the existing rules to the tee. Now if you believe
24 that there should be a modest setback on lots that are in the
25 corner property, then that's something that the Zoning Commission

1 | could work on amending to facilitate that. But as far as the
2 | existing rules are concerned, this is what we have and I would
3 | argue that, also just mention that the whole concept of ADUs is
4 | a big discussion throughout the country and there are a variety
5 | of ways that many parties (phonetic) have approached this. So
6 | D.C. has the unique situation and so, you know, as I said more
7 | involvement in the public policy front could help you resolve
8 | specific issues for your community.

9 | So that said, reviewing the evidence presented in the
10 | record as well as the testimony provided by the Appellant and the
11 | witnesses and walking through the regulations, I do not believe
12 | the ZA erred in its interpretation of the regulations. I did
13 | find walking through the regulations helpful and I believe the
14 | testimony provided by Deputy Zoning Administrator Vitale to be
15 | instructive and persuasive.

16 | As I said, the claim of error lies, the basis for the
17 | claim of error in the Appellant's reading and interpretation of
18 | the regulations. The Appellant's interpretation of the
19 | regulations is unsupported by any qualified experts. The
20 | Appellant's selective references to prior statements made by the
21 | property owners, architects, is hearsay and they are
22 | unaccompanied by any testimony as sworn evidence that would
23 | support their interpretation.

24 | So that said, I do not believe the Appellant has met
25 | the burden of proof to be granted the appeal. I will be voting

1 to deny the appeal.

2 CHAIRPERSON HILL: Thank you, Mr. Blake, and thank you
3 very much for taking all that time to help us walk through the
4 appeal.

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

6 COMMISSIONER SMITH: I have absolutely nothing to add.
7 I completely agree with what Vice Chair Blake has stated so
8 eloquently on the merits of the case, the reasons why the majority
9 of the Board make the decision that it made in deciding this
10 particular case and in that the additional information that was
11 presented by the appellars did not, I don't think it suffices to
12 change the metrics of this particular case. So I will also be
13 voting to deny what's requested before us.

14 CHAIRPERSON HILL: Thank you.

15 Commissioner Wright?

16 ZC COMMISSIONER WRIGHT: I'm in a different location
17 than I am normally. We're away on a trip and I'm in a hotel room
18 so I'm working through that.

19 I have to say I agree with really 90 percent of what
20 Mr. Blake has said and I strongly, strongly support accessory
21 dwelling units. I think they are an important way to address
22 our housing needs and I really don't want to be on the side of
23 saying let's make it accessory dwelling units more difficult.
24 However, I did raise a number of issues and asked a number of
25 questions and I have to say I think that there is an

1 interpretation that I understand is consistently being used by
2 the Department of Buildings, but I don't think that
3 interpretation is consistent with the plain reading of the law
4 and I think that probably we need a zoning text amendment to
5 clarify the issue and to make sure in the future that the
6 Department of Buildings can make decisions based not just on
7 their precedent and their judgment, but on the language in the
8 law.

9 What concerns me, I think we've all agreed that the
10 building in question is a detached building and it does concern
11 me that the development standards in Subtitle D, Chapter 2 say
12 that they shall apply to accessory buildings in the R zones except
13 as specifically modified by this Chapter, and the only things
14 that are specifically modified in the Chapter have to do with if
15 you're placing an accessory building in the side yard that, or
16 if you are, you know, having it near an alley so that you have
17 to set it back from an alley, there are some, you know, very
18 specific ways that accessory dwelling units, the regulations are
19 modified. But there's nothing that says that they're modified
20 in eliminating all side yard requirements that are required for
21 a detached building.

22 And so I think that's a problem and I think that, again,
23 as was described by Ms. Vitale, there has generally been a policy
24 and she did describe it as, you know, a policy that they have
25 not asked for side yards for accessory dwelling units but I think

1 that isn't exactly what the law says.

2 So I will actually be voting to support the appeal and
3 I do think, and I will raise this with my colleagues on the Zoning
4 Commission, I think there needs to be a zoning text amendment to
5 clarify this.

6 CHAIRPERSON HILL: Okay, Commissioner.

7 I think if you think there should be zoning text
8 amendment to clarify this, then I guess that's something maybe
9 that you can work through on the Zoning Commission. I have to
10 disagree with you in that I think that based upon all the
11 testimony that we heard, I think that in this particular case the
12 way that the regulations are written I would be unable to support
13 the appeal because I think that they are actually building this
14 as a matter-of-right the way it's been determined in the
15 regulations, the way it is now.

16 And so I don't see how one could necessarily, well
17 anyway that's my opinion of how it is in this particular case
18 and if it changes in the future, that will be changing in the
19 future and so that's something wherein, again, the Zoning
20 Commission would be able to go ahead and handle as a text
21 amendment. But this being the case right now I don't see how it
22 could support --

23 ZC COMMISSIONER WRIGHT: Yeah. Could I just clarify
24 that I think the zoning text amendment is needed to make the
25 actions of the Department of Buildings within the regulations.

1 That's what I'm saying is that there has been a practice in the
2 Department of Buildings to not require side yards for accessory
3 dwelling units that are detached buildings and I think that that's
4 fine if that is the decision we all go for. But I don't think
5 that the regulations today say that.

6 So, you know, I am fine in the future of trying to make
7 sure to make the Department of Buildings' actions clearer and
8 more consistent with the actual language in the regulations but
9 I think today the language in the regulations absolutely could
10 be interpreted to say you need to have side yards, setbacks, for
11 a detached building that is built as an accessory dwelling unit.

12 So that's just my viewpoint and you all may, you know,
13 again I don't mind being outvoted at all but I do think that
14 everything else that Mr. Blake brought up, all of the other
15 arguments that have been brought up by the Appellants, I agree
16 with him completely. The one thing I don't, that I just can't
17 get to and this is based upon a reading of the zoning regulations,
18 nothing else, is that there is nothing in the regulations for
19 accessory dwelling units that specifically says they are absolved
20 of having the side yards that are typically required for detached
21 buildings. They are absolved of other things in the regulations
22 and the regulations specifically say that they are governed by
23 the overall code except where they're specifically absolved.

24 So that's where I'm concerned and, you know, again, 90
25 percent of what Mr. Blake said I agree with and I disagree with

1 | much of what's in the appeal, but it's that one element that I
2 | can't get past.

3 | CHAIRPERSON HILL: Okay, Commissioner.

4 | I guess we'll have to see how this goes then because
5 | now, based upon this discussion, it might, what's the word? I
6 | don't know if this is going to confuse things in the future or
7 | not and so this is where, you know, things that we do here at
8 | the Board are not as flexible as things that maybe we can do at
9 | the Zoning Commission. But I understand your vote, I understand
10 | your vote and so --

11 | ZC COMMISSIONER WRIGHT: Right. So it's to not confuse
12 | things in the future. That's why I'm saying I will talk with my
13 | colleagues about a zoning text amendment because I think there
14 | is a lack of clarity and we need to get that clarity so that all
15 | of the actions you all are taking aren't, you know, aren't made
16 | more difficult.

17 | CHAIRPERSON HILL: So then you think that the, okay.
18 | Go ahead, Mr. Blake.

19 | VICE CHAIRPERSON BLAKE: The only thing I want to say.
20 | I agree that you can, it is sometimes difficult to get through
21 | it and I've certainly experienced it myself. I think one of the
22 | issues though there are all the resources that explain the
23 | interpretations. So there are zoning interpretations that are
24 | posted on the website which do address some of these issues that
25 | do provide guidance and I do think that perhaps, again, for

1 greater transparency those documents which, I do believe there
2 is something on ADUs in that that, you know, will help people to
3 better understand where they can go.

4 I think in this particular instance, you know, we're
5 looking at the plain language and you're right, sometimes there's
6 some typos. Sometimes they didn't quite reference things because
7 it's a document that continues to be evolved and maybe they missed
8 something. Maybe, you know, it's a lot of pages to it.

9 So I agree with you that it may not be perfect in its
10 current construction but the interpretations that we make are not
11 exactly, you know, that's our job is to make the interpretations.
12 It's the Zoning Administrator's job to interpret the regulations.
13 So in interpreting those regulations you have to make some
14 decisions, to draw some (indiscernible), if not we take the letter
15 of the law and then they interpret them and that is the role that
16 the Board and the ZA has.

17 So I appreciate what you're saying though and I would
18 appreciate the clarification.

19 CHAIRPERSON HILL: Okay.

20 I guess the thing that I, and I'm going to go back and
21 I guess I could also watch the Zoning Commission stuff when they
22 go through this with the text amendment perhaps, but, you know,
23 determining that the Zoning Administrator erred is where we kind
24 of have to kind of have this appeal or this discussion, right?
25 And so I guess, Commissioner, like you think that the Zoning

1 Administrator erred in one particular area? Okay. But then the
2 other areas you don't think the Zoning Administrator erred?

3 ZC COMMISSIONER WRIGHT: Correct. I think that the
4 Zoning, the interpretation of the Zoning Administrator in this
5 issue regarding setbacks only I think is incorrect interpretation
6 and everything else I'm completely, you know, in fact the fact
7 that this is in the rear yard, in the appropriate part of the
8 rear yard. I mean, that it has access, all of those things, I
9 agree with, you know, and I appreciate Mr. Blake went through
10 them all very, very carefully and with great thought and I agree
11 with all of that.

12 The only thing that I disagree is the interpretation
13 that a detached accessory building does not need setbacks and,
14 again, Ms. Vitale said that is an interpretation and I however
15 in reading the plain language of what is written in the Code, I
16 think that that interpretation is problematic and I think given
17 that and given that that interpretation is used for many, many
18 cases, then I believe we need a zoning text amendment to clarify
19 it and to make the Zoning Code more consistent with how it's
20 being interpreted on a daily basis. But I just think if you read
21 the plain language of the Code --

22 CHAIRPERSON HILL: Commissioner, I hear you,
23 Commissioner. I'm trying to understand right now. I understand
24 your point and what I'm trying to get at and what I'm trying to
25 understand myself. The votes are already where the votes are, I

1 | just want to be clear for the people that are watching and the
2 | Applicant and the Appellant and everything that might happen is
3 | that I just don't know if this is the right forum to try to fix
4 | this, and so --

5 | ZC COMMISSIONER WRIGHT: Well, it's not the right
6 | forum.

7 | COMMISSIONER SMITH: She's agreeing with you.

8 | ZC COMMISSIONER WRIGHT: Yeah. It's not the right
9 | forum to fix this at all. It is, I'm explaining my vote and,
10 | you know, the other members may feel that the interpretation is
11 | appropriate. I'm explaining my vote and because of the way I'm
12 | voting, I'm also saying I will take some responsibility for trying
13 | to follow up and make sure that if it is at all unclear
14 | inconsistent that we solve that.

15 | CHAIRPERSON HILL: Okay. All right.

16 | I'm going to make a motion to deny Appeal No. 21231 as
17 | captioned and read by the secretary, and ask for a second. Mr.
18 | Blake?

19 | VICE CHAIRPERSON BLAKE: Second.

20 | CHAIRPERSON HILL: Motion made and seconded. Madam
21 | Secretary, can you take a roll call, please.

22 | MS. MEHLERT: Please respond to the Chair's motion to
23 | deny the appeal.

24 | Chairman Hill?

25 | CHAIRPERSON HILL: Yes.

1 MS. MEHLERT: Vice Chair Blake?

2 VICE CHAIRPERSON BLAKE: Yes.

3 MS. MEHLERT: Mr. Smith?

4 COMMISSIONER SMITH: Yes.

5 MS. MEHLERT: Commissioner Wright?

6 ZC COMMISSIONER WRIGHT: No.

7 MS. MEHLERT: Staff would record the vote as three to
8 one to one to deny Appeal 21231 on the motion made by Chairman
9 Hill and seconded by Vice Chair Blake, with Commissioner Wright
10 opposed to the motion.

11 CHAIRPERSON HILL: Okay. Great.

12 Commissioner, is that the end for you today?

13 ZC COMMISSIONER WRIGHT: It is. I think I've caused
14 enough trouble for one day. So I'm off to the rest of my little
15 vacation that I'm on, so have a good day.

16 CHAIRPERSON HILL: All right, Commissioner. Thank you.
17 Enjoy your vacation. Bye bye. Okay.

18 You guys, I'm having a little bit of an allergy issue.
19 Can we just take a five minute break real quick? Thank you.

20 (Whereupon, there was a brief recess.)

21 CHAIRPERSON HILL: Madam Secretary, can you call our
22 next order of business, please.

23 MS. MEHLERT: The next case is in the Board's hearing
24 session. It's Application No. 21240 of 71 Florida Ave 39, LLC.
25 This is a self-certified application pursuant to Subtitle X,

1 Section 901.2 for a special exception under Subtitle U, Section
2 203.1(J) to allow to allow a healthcare facility for 16 persons.
3 This is for a new 16-bed healthcare facility in an existing two-
4 story detached building with basement. It's located in the R-2
5 zone at 4237 Eads Street, Northeast, Square 5089, Lot 72.

6 The hearing was originally scheduled for March 12th but
7 was postponed and began on March 26th. The hearing was continued
8 to allow the Applicant to attend the ANC meeting and participating
9 are Chairman Hill, Mr. Smith and Commissioner Stidham. I'm not
10 sure if Mr. Blake is participating.

11 CHAIRPERSON HILL: I think Mr. Blake is participating.
12 Mr. Blake, are you participating?

13 VICE CHAIRPERSON BLAKE: I'm participating. I've read
14 it, and thank you very much.

15 CHAIRPERSON HILL: Okay.

16 If the Applicant can hear me if they could please
17 introduce themselves for the record.

18 MS. WILSON: Hi. Alex Wilson from Sullivan & Barros
19 on behalf of the Applicant in this case. I'm also here with Mr.
20 Toye Bello as well as representatives of the Applicant, Mr. Eyob
21 and Mr. Medani (phonetic).

22 CHAIRPERSON HILL: Okay.

23 Is the ANC Commissioner here? Was there an ANC
24 Commissioner? No? All right.

25 Okay, Ms. Wilson. If you want to walk us through your

1 client's application and why you believe they're meeting the
2 criteria for us to grant the relief requested. There's 15 minutes
3 on the clock and you can begin whenever you like.

4 MS. WILSON: Sure.

5 So we already presented the merits of this case at the
6 March 26th meeting. I have a very short summary presentation
7 that would help catch us up if you would like that. If Mr. Young
8 could please pull that up.

9 CHAIRPERSON HILL: That's be great. I'm sorry, I'm
10 confusing this with the next case.

11 MS. WILSON: Sure. Of course.

12 Could you please go to the next slide, Mr. Young? Thank
13 you.

14 So a quick summary of what's gone on so far. The
15 Applicant reached out to the ANC multiple times prior to attending
16 the March 12th hearing as well as all neighbors within 200 feet.
17 Then we attended the original scheduled hearing on March 12th.
18 It was postponed until we could attend and present the full ANC
19 meeting on March 18th. We attended and fully presented the merits
20 of the case to the Board at the March 26th BZA hearing following
21 our presentation to the ANC on March 18th.

22 Then after we presented the merits of the case the BZA
23 granted another postponement request from the ANC so that would
24 go to the April meeting. And then April ANC meeting was
25 originally scheduled for April 15th the date prior. It was moved

1 to April 22nd. We were asked to still present at an April 15th
2 community meeting and did present there and then last night went
3 to the April 22nd ANC meeting. Next slide, please. Thank you.

4 Again, we've presented the merits of the case. I won't
5 go through the entire thing. As a summary, the Applicant is
6 proposing to use the existing building as an assisted living
7 facility. It falls under healthcare facility which permits eight
8 residents by-right. The proposed facility will have 16 residents
9 requiring the special exception approval. OP is recommending
10 approval. DDOT has no objection and there are I think eight
11 letters of support from the surrounding neighbors including the
12 adjacent neighbors to the east and rear. Ample community outreach
13 and ANC coordination occurred in this case which was filed in
14 December. Next slide, please.

15 As a summary, the primary criteria for approval really
16 to parking, screening, noise, traffic and other objectionable
17 concerns and any cumulative impacts related to existing assisted
18 living facilities within 500 feet. The Applicant operates an
19 existing assisted living facility on Clay Street. It's proposing
20 to expand in a similar BZA case scheduled after this case. The
21 ANC also noted there is a community planned at 5501 Blair Street,
22 which is directly next to the Benning metro. That is more than
23 500 feet away from this property so it is technically not
24 considered in the cumulative impacts for this case but it was
25 listed in their resolution they submitted today.

1 So I just wanted to note that it's a different type of
2 community and offers an apartment-style senior living in the
3 commercial zone. The proposed use is intended to be residential
4 in nature and appears a single family home. The assisted living
5 use is allowed by-right with eight people and the Applicant has
6 been operating the facility on Clay Street with eight people for
7 about a year with no complaints. There is screened parking which
8 complies with special exception requirements and the criteria are
9 safely met as there is sufficient on-street parking as
10 demonstrated by photographs in the previous presentation, in
11 addition to four parking spaces at the rear which is four times
12 the required parking for this use.

13 There are strict visitor and noise policies, staggered
14 scheduling and shared delivery services. It is harmonious with
15 the surrounding residential use. As it is residential in nature
16 it will look like a single family home. There are only eight
17 more residents requested than permitted by-right. It meets
18 licensing and code requirements as per the submitted manual in
19 the record and it is intended to be a peaceful and low impact
20 use for both the future residents of the facility and the existing
21 residents on the block. The merits of the case are on record in
22 more detail from the March 26th presentation, but we are happy
23 to answer any questions.

24 Thank you.

25 CHAIRPERSON HILL: Okay. Thank you. Okay. Let's see.

1 Does the Board have any questions of the Applicant?

2 CHAIRPERSON HILL: Go ahead, Commissioner Stidham.

3 ZC COMMISSIONER STIDHAM: One question as I'm sort of
4 forming my thoughts here.

5 So you did participate in the ANC meeting but you
6 participated virtually. Did you provide the ANC a presentation?
7 Did you walk them through the information?

8 MS. WILSON: Mr. Bello, do you want to talk more about
9 the ANC meeting? But we did provide the presentation and any
10 other materials they requested.

11 MR. BELLO: Yes.

12 And not only did we present, send the information in
13 advance we sent it like twice over and last night walked the ANC
14 through the PowerPoint presentation focusing on the type of
15 facility that's been established here because the concern was
16 not, was more about whether this was going to be a transitional
17 home which would be for returning citizens. I think we explained
18 very clearly that that's not this type of facility.

19 CHAIRPERSON HILL: So what were their, Mr. Bello, what
20 were their main concerns? I mean, I'm reading their report. I
21 mean, were they concerned about the possibility of there being a
22 lot of these in the neighborhood or why are they in opposition
23 did you get from that meeting?

24 MR. BELLO: Well, there's obviously I think their broad
25 concern of an overconcentration of these type of facilities in

1 | this ward, Ward Y, which we couldn't really do anything about.
2 | But there were concerns about parking and also there were
3 | discussions about the safety of enjoyment of use of the property.
4 | Again, I think some of those questions or concerns, particularly
5 | with safety, emanates from the confusion of what type of
6 | facilities come into this neighborhood.

7 | CHAIRPERSON HILL: Okay.

8 | COMMISSIONER SMITH: Mr. Bello, can you again, can you
9 | expand on what type of facility this is, you know, given that
10 | this is -- you repeated this twice? Could you, again, for my
11 | edification how this will operate and what type of facility this
12 | will be?

13 | MR. BELLO: Let me leave that to --

14 | MS. WILSON: I'll just jump in and I'll note, I think
15 | the ANC Commissioner is on.

16 | CHAIRPERSON HILL: Okay. I did ask earlier. Can
17 | everybody mute themselves unless they're talking? I think it's
18 | you, Mr. Bello. Or maybe not. Okay.

19 | Before I get to the Commissioner, Ms. Wilson, can you
20 | just answer Mr. Smith's question?

21 | MS. WILSON: Sure.

22 | It's an assisted living facility designed to provide
23 | treatment and care to individuals requiring daily physical
24 | assistance, medical supervision and other supportive services.
25 | So it's for mostly elderly people who need assistance with their

1 day-to-day life and who can no longer live independently. And
2 so these are guests and residents that will have access to on-
3 site care, meals and daily activities and medical oversight
4 tailored to their needs. So it is in no way, shape or form a
5 facility for those who are returning to the community or in need
6 of rehabilitation services in terms of substance abuse. That is
7 not what we are proposing.

8 CHAIRPERSON HILL: Okay.

9 Is the Commissioner here? Madam Secretary, do you see
10 the Commissioner? Who's the Commissioner, Ms. Wilson?

11 MS. MEHLERT: Commissioner Nelson is on. She had just
12 signed up for the other healthcare case, not this one, so that's
13 probably why she wasn't pulled up.

14 CHAIRPERSON HILL: Mr. Young, can you pull up
15 Commissioner Nelson?

16 MS. WILSON: And I think the Single Member District
17 Commissioner is listed as Kimory 7F 03 also in the attendees.

18 CHAIRPERSON HILL: Okay. All right.

19 Commissioner Kimory, can you hear me? Oh, Commissioner
20 Nelson, can you hear me?

21 ANC COMMISSIONER NELSON: Yes, I can.

22 CHAIRPERSON HILL: Okay. Great.

23 Commissioner, I guess you're here also for the next
24 case. Is it you who've been designated to speak to us?

25 ANC COMMISSIONER OREDOFF: No, I'm in. For some reason

1 | there's not access. Okay. My camera's coming up. I'm 7F 03
2 | Kimory Orendoff.

3 | CHAIRPERSON HILL: Okay, Commissioner.

4 | ANC COMMISSIONER ORENDOFF: Sorry. I have a new camera
5 | and it's in here acting (indiscernible) --

6 | CHAIRPERSON HILL: That's okay. That's okay.

7 | Is it Commissioner Kimory?

8 | ANC COMMISSIONER ORENDOFF: Kimory.

9 | CHAIRPERSON HILL: Commissioner, can you tell us what
10 | happened at the meeting and why you guys are opposed or what you
11 | can (indiscernible)?

12 | ANC COMMISSIONER ORENDOFF: At last night's meeting we
13 | had several concerns from residents on the street, that live on
14 | these streets, and they were concerned that they were not
15 | incorporated in the process. They were concerned about the way
16 | that the developers have not come to them properly. Several
17 | folks have brought up the concerns when the property was on sale
18 | for over almost \$1 million and brought down, so they -- one of
19 | the residents brought that up. They said that the property was
20 | not listed for sale. They caught the owner saying that.

21 | So the community felt that they, up to this point,
22 | because I don't live on Clay Street but I represent that area
23 | and because I've been involved with meetings with the residents
24 | up there on Zoom and basically just working with them, walking
25 | through the community, I felt their passion about what's

1 | happening on those streets up there and that they had not had
2 | the input until right now, the ANC is pulling the residents and
3 | they felt that they weren't pulled in from the developers.

4 | So last night's meeting with the other Commissioners
5 | and with the concerns of the constituents was highly alarming to
6 | them and it was highly alarming for what we do see happening in
7 | Ward 7. Okay? I live in Ward 7 so I see the development of
8 | what's happening on this side of the Ward in reference to what's
9 | left and I'm just saying land.

10 | Now, I'm not opposed to assisted living for anybody at
11 | all. But I am opposed when you impose it on residential streets,
12 | and I've been around here all my life, okay? So I've never known
13 | Clay Street or any of these streets to be nothing but residential,
14 | peaceful residential streets. But I am starting to see a little
15 | bit more on certain streets, stuff that I didn't even know existed
16 | in reference to returning citizens on residential streets and
17 | what that looks like and any other process that comes into the
18 | community that is not involved with the constituents.

19 | The concerns that I raise of viewing the facility and
20 | also making sure that they understood that, hey, I'm not against
21 | what they're trying to do but I was definitely against going
22 | strictly from eight to sixteen right away. I mean, you're just
23 | going straight to 16 beds when they just already told us in one
24 | of the facilities they only have four occupants, and we have
25 | assisted living getting ready to come up on 45th Street so that's

1 going to be where D.C.'s going to send a lot of folks that's,
2 you know, assisted living anyway.

3 So that was just some of the concerns. So I know the
4 constituents just really raised serious concerns and so that's
5 why the Board felt the way they felt in their decision last night,
6 and that's why (audio interference) a unanimous decision.

7 CHAIRPERSON HILL: Okay, Commissioner.

8 ANC COMMISSIONER NELSON: If, I'm sorry, is it possible
9 for me to also chime in?

10 CHAIRPERSON HILL: Oh, sure, Commissioner Nelson.

11 ANC COMMISSIONER ORENDOFF: And we share the border
12 line of this SMD area which is why we have a joint --

13 ANC COMMISSIONER NELSON: I got it.

14 CHAIRPERSON HILL: Commissioner Kimory, I'm just
15 looking real quick.

16 ANC COMMISSIONER NELSON: All right. Can you see and
17 hear me?

18 CHAIRPERSON HILL: I can, yes.

19 ANC COMMISSIONER NELSON: Okay.

20 I apologize. I'm in transit between meetings and
21 trying to make sure that I'm here for the meeting --

22 CHAIRPERSON HILL: That's all right.

23 ANC COMMISSIONER NELSON: -- so I apologize. But I did
24 get a chance to, while you all were trying to elevate us into
25 being able to speak, have a chance to hear some of the comments

1 from the Applicant and the representative and I want to comment
2 on that. I find it a little bit distasteful for them to come to
3 this meeting and not be transparent and honest about our
4 engagement up until this point.

5 The ANC Commission has acknowledged that we had a lack
6 in communication due to some transitions happening in our team
7 during the time that the application was submitted and they were
8 required to contact within the fall and winter of 2024. We
9 acknowledged that. This also came to us and was brought to our
10 attention through resident engagement. A resident actually
11 contacted me out of concerns about transparency and the way that
12 the situation engagement that they have with the Applicant. So
13 once it got on our radar we responded immediately. We've also
14 apologized for our lack in communication, acknowledging our
15 shortcomings and how we are planning to address those moving
16 forward.

17 From that point we did, at one point, think that there
18 was -- we didn't know whether or not it was an assisted living
19 facility of a transitional home and that's because on the Eads
20 Street side of this application there is already a transition
21 home across the street from the facility they're proposing a
22 license for and so we had to get some clarity on whether or not
23 there was one existing or if they were the ones that were applying
24 to have a license to do that. We've already sorted that out. So
25 by the time that we got to the April 15th meeting there was no

1 | confusion about what the Applicant was trying to offer the
2 | community.

3 | So, again, I find it distasteful for them to come in
4 | and insinuate that we were confused about what they were
5 | proposing. They also came to the General Commission meeting in
6 | March and clarified that, so we knew it then and we know it now.
7 | So for them to come here and say that, is concerning.

8 | The other piece is Commissioner Orendoff and I held a
9 | meeting on April 15th where the residents of the community as
10 | well as the Applicants were present. We asked them about being
11 | able to see the facility to just get an understanding of what
12 | everything looked like and to be able to have Orendoff do a tour
13 | of the facility so that he could give a first hand report back
14 | of what exactly those facilities are. What I observed from them
15 | is they're very invasive with the way they engage with not only
16 | just us, but the community and that's continued to cause a
17 | distrust throughout this process to the point where they said
18 | they sent out certified mailings to the community. Community
19 | members explained that they have not received them. When we
20 | asked for a copy of those --

21 | CHAIRPERSON HILL: Commissioner, Commissioner, let me
22 | interrupt you for one second.

23 | I understand you guys are talking about like notice
24 | and, you know, whether or not there's been transparency. I hear
25 | all that. What is it, did you guys have, were they concerned

1 | about some different kind of specific zoning issues in terms of,
2 | like, was it traffic or like --

3 | ANC COMMISSIONER NELSON: Yeah. So there was a number
4 | of issues.

5 | So the first issue that was brought up was parking.
6 | They submitted documents to your Commission basically with photos
7 | of the streets being no vehicles whatsoever. The street parking
8 | fluctuates on both Clay and Eads based off of whether or not the
9 | residents are using their parking spaces in the back of their
10 | homes or if they have guests and things of that sort. So I did
11 | confront them about the accuracy of the pictures that they
12 | submitted while acknowledging that we understand that there's
13 | variations in parking. There also are vacant homes on that block
14 | and so that is not taking into account that those homes would at
15 | some point possibly be occupied by other residents who are trying
16 | to raise families on the block. Another piece is the
17 | commercialization of the block.

18 | So, you know, a lot of families are on that block and
19 | they have concerns about their block being commercialized. As I
20 | mentioned earlier, there's already a returning citizens home on
21 | that block across the street from the facility there on Eads
22 | Street and they really want to keep it residential.

23 | The other piece that they were concerned about was the
24 | lack of honesty and transparency. During the April 15th meeting
25 | they had mentioned that one of the Applicants had put that house

1 on Eads for sale and when we asked them about that, because I
2 asked the Applicant was your intention always to have this
3 facility, the Applicant stated yes. They acquired the property
4 to have the facility. But the records show that they tried to
5 sell this property at some point.

6 It is not our place to tell people what they can and
7 cannot do as far as the selling and acquiring of their home as a
8 community, but I do think that if they would have been honest
9 about that and say hey, yes, we tried to sell it, we couldn't
10 and we would like to see how we can continue to invest in the
11 property and this is one of the things that we looked at, I think
12 that would have went over better with the community than them
13 being evasive and dishonest.

14 CHAIRPERSON HILL: Okay. Okay.

15 So, Commissioner, again, whether anybody's been evasive
16 or dishonest it's not something I'm going to be able to figure
17 out right here right now. They're here to apply for the relief
18 that they're asking to do in order to do this healthcare facility
19 and we're just trying to figure out whether those regulations are
20 being met. But I do hear what you guys are saying and I'm glad
21 that you guys are here to be able to participate because the last
22 time we didn't have anything from you all. Okay.

23 I'm going to go to the Office of Planning in one second,
24 again. But does anybody have any questions for the Commissioners?

25 (Pause.)

1 CHAIRPERSON HILL: Okay.

2 Can the Office of Planning hear me?

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

4 CHAIRPERSON HILL: Hey, Ms. Brown-Roberts.

5 Could you introduce yourself for the record?

6 MS. BROWN-ROBERTS: Yes. Maxine Brown-Roberts from the
7 Office of Planning.

8 CHAIRPERSON HILL: Can you do me a favor? Can you just
9 review your report just a little bit and walk me through how the
10 Office of Planning got to their decision.

11 MS. BROWN-ROBERTS: Okay.

12 So the proposal for the 16-bed facility is permitted
13 under Subtitle U, Section 203(J) and in fact it talks about, you
14 know, adverse impacts to the neighborhood due to noise. We
15 believe that the proposed use would be, the residents would be
16 mostly confined to the internal to the building and so we don't
17 expect that there would be significant adverse impact from noise.
18 As for traffic, they're providing four parking spaces and there
19 seems to be some available on-street parking and DDOT has also
20 informed us that they have no objections.

21 There are currently no other facilities within the
22 square of 500 feet of the property and when we say other facility
23 we mean another healthcare facility. Then there is the
24 application for another facility on Clay Street which is to the
25 south of the property and the Applicant has said that that is

1 within 500 feet of the property. We do not think that these two
2 facilities together would adversely impact the neighborhood due
3 to noise, traffic or parking.

4 The proposal would meet the intent of the zoning
5 regulations and therefore we recommend approval of the requested
6 special exception.

7 Thank you, Mr. Chairman.

8 CHAIRPERSON HILL: Thank you, Ms. Brown-Roberts. Okay.
9 Is there anyone here wishing to speak, Mr. Young?

10 MR. YOUNG: Yes. We have one witness signed up.

11 CHAIRPERSON HILL: Okay. Great.

12 Could you please -- oh, sorry. Go ahead, Mr. Smith.

13 COMMISSIONER SMITH: I've got a question for Ms. Brown-
14 Roberts.

15 So you indicated that there, you've done an analysis
16 on other types of facilities of this nature, assisted living
17 facilities or medical care, healthcare facilities that aren't
18 located within a 500 foot radius other than this other application
19 that we'll hear next. Could you explain how you conducted that
20 analysis? Is that based on whether there's another special
21 exception? Is that based (audio interference) business license
22 record?

23 Can you explain how the Office of Planning did a
24 thorough analysis because what we're hearing from the community
25 is that there's another facility that is similar in nature that

1 is fairly close. So I just want to confirm how that analysis
2 was conducted.

3 MS. BROWN-ROBERTS: The regulation says it's a similar
4 facility. So when we're looking, we're looking for another
5 healthcare facility. If it's a halfway house or some, that's not
6 included in the analysis.

7 COMMISSIONER SMITH: Uh-huh.

8 MS. BROWN-ROBERTS: We, usually because the Department
9 of Health doesn't give out a list of where these facilities are
10 located, usually we use, you know, between what we can learn from
11 NHIS or Google Search or that sort of thing, you know, looking
12 at the zoning rights to see if there is any other that has been
13 licensed within that area. So those are, and then of course,
14 you know, we have talked with the Applicant to see if, you know,
15 do they know of any others. So that's generally how we do the
16 analysis.

17 COMMISSIONER SMITH: Okay.

18 I think I have one more question. My question is about
19 the operation. So did the Applicant indicate how many -- and
20 they're going to have food service trucks coming, they're going
21 to have waste management trucks coming -- have they indicated how
22 often that would occur at this site?

23 MS. BROWN-ROBERTS: Yes.

24 I think that it's once a day. The food service, from
25 talking to the Applicant they said the food service would come

1 in and drop off the food in the morning for that day and then
2 for the trash management they would also, it's also once a day.

3 COMMISSIONER SMITH: Once a day?

4 Ms. Wilson, can you confirm that real quick before we
5 move on?

6 MS. WILSON: Once a day in the morning for meal delivery
7 and housekeeping, and that's when the photos were taken just to
8 clarify. And then trash management would be done once a day as
9 well, at the rear along the alley and there's a screened trash
10 area in the rear.

11 COMMISSIONER SMITH: Okay.

12 Do we know, I don't know who can answer this question
13 for me. Is trash collection in this neighborhood occurring in
14 the alley now? Maybe the ANC can speak to that.

15 CHAIRPERSON HILL: Commissioner Kimory, is there alley
16 trash pick-up?

17 ANC COMMISSIONER ORENDOFF: Yes, there is alley trash
18 pick-up. Everything on those residential streets are alley,
19 alleyways.

20 COMMISSIONER SMITH: Okay.

21 ANC COMMISSIONER ORENDOFF: And I have not walked
22 behind the back of the property, I've just done front views of
23 it and I've looked down into the way the property is set up.
24 This is, well, (audio interference) because we did a walk through
25 the other night, Clay, Eads Street. Yeah, Eads Street because

1 the way they're set up it's one big house and you have to, the
2 trash, everything's going to be picked up behind down in the
3 alley.

4 COMMISSIONER SMITH: Okay. Okay. Thank you.

5 No more questions, Chairman Hill, for now.

6 CHAIRPERSON HILL: Okay. Thanks, Mr. Smith.

7 Mr. Young, can you let in the witness please, and tell
8 me their name.

9 MR. YOUNG: Makeda Okolo.

10 CHAIRPERSON HILL: Okay. Great.

11 Ms. Okolo, can you hear me and if so could you introduce
12 yourself for the record?

13 MS. OKOLO: Hi. Good morning, everyone. My name is
14 Makeda Okolo and I'm a resident at 4247 Eads Street, Northeast.

15 CHAIRPERSON HILL: Okay. Great. Thank you.

16 Ms. Okolo, as a member of the public you'll have three
17 minutes to give your testimony and you can begin whenever you
18 like.

19 MS. OKOLO: Thanks a ton, and I just wanted to clarify
20 to Commissioner Smith's question just now, trash pick-up is in
21 the alley as well as on Eads. From my side, I'm on the same side
22 as the Eads property, it is in the alley but on the opposite side
23 it is on the main roadway and it is within that 6:30 to 8:30
24 timeframe. So that was a good point.

25 But let me get through some of the concerns that I have

1 here. As I shared, I've been a resident of this block for the
2 past eight years and I'm joining the meeting this morning to
3 oppose the 21240 Application as I have serious concerns about the
4 request.

5 As our Commissioners have rightly stated, I'm really
6 concerned about the over-commercialization of our block, our
7 neighborhood and Ward 7 at large. I'm concerned about the impacts
8 to parking, business traffic, the legitimacy of the Applicant and
9 the potential increase of ambulance activity, given that the
10 property would house a number of, a large number of residents of
11 varying health issues.

12 The developer currently owns another assisted facility
13 on Clay Street, 500 feet away with four residents. They have a
14 max occupancy, as does this one, of eight residents. They have
15 yet to fully operate at that level, yet they are seeking to
16 leapfrog the process and open a second property on Eads Street,
17 just three doors away from my house going from zero residents to
18 16 residents and I'm really concerned about the cumulative
19 impacts of this property, especially given that we do have a
20 transitional facility right across the street.

21 The Applicant shows tons of pictures with ample parking
22 but, you know, as has been stated already there are a number of
23 either vacant or partially occupied properties where the house
24 is located. The other side of the block that is fully occupied
25 has tons of cars at various hours and so to assert that, you

1 know, parking is not an issue is a half truth and it's perfectly
2 reasonable to expect that it'll become more congested as these
3 properties become occupied.

4 They suggested that they've reached out to neighbors
5 adequately. I am just three doors away, they have not reached
6 out to me. I looked at the certified notices, my home was not
7 one of them. They've misrepresented the history of the property
8 and, you know, I'm just really concerned about whether or not we
9 can trust that they won't shift to another business structure if
10 this one isn't successful.

11 They failed to show up in person to the ANC meeting
12 yesterday, meanwhile I juggled having one child at home doing
13 homework and an eight-year-old with me because this issue was
14 that important to me. They've asserted in previous meetings with
15 you that there was confusion and we were just misinformed and
16 that was a flat out lie. There's no confusion about the type of
17 property that there is. The opposition is due to the failure of
18 the developer to adequately engage our neighbors, the change in
19 familial nature, the failure to demonstrate a true commitment to
20 our neighborhood and just, you know, all these issues taken
21 together makes us feel very, very uncomfortable.

22 I moved from Northwest to Eads Street so that I could
23 raise my two sons and I found just that. I have wonderful
24 neighbors to the either side of me and I knew that this
25 neighborhood would have been overtaken by developers just looking

1 | for quick ways to, you know, flood tons of residents into a single
2 | property for their own business ventures, I would have never
3 | moved here. I think it's unfair to our community and our Ward,
4 | and it makes me concerned for my children. Their bedroom faces
5 | the street. What happens when there's tons of ambulances
6 | constantly? What happens when I want to have my sons' 9th and
7 | 13th birthday parties and we can't because maybe there's tons of
8 | residents or visitors at that property just up the street.

9 | So I really hope that you guys take our concerns
10 | seriously and deny their request. Make them show that they can
11 | operate a facility with the max of eight which they're currently
12 | permitted to do and once they've done that, then let's revisit
13 | this question. But for right now, I'll continue to be in very
14 | strong opposition to it.

15 | CHAIRPERSON HILL: Okay. Thank you, Ms. Okolo. Thank
16 | you for your testimony and thank you for showing up. let's see.

17 | Does the Board have any questions of the witness?

18 | (Pause.)

19 | CHAIRPERSON HILL: Okay. Mr. Young, if you could please
20 | excuse the witness. Thank you, Ms. Okolo. Bye. All right.
21 | Okay.

22 | Ms. Wilson, you're able to give any rebuttal if you
23 | like, and then there will be questions on rebuttal if there's
24 | anything like that. Do you have any rebuttal?

25 | MS. WILSON: No. Thank you.

1 CHAIRPERSON HILL: Okay. Let's see. All right.

2 Does the Board have any further questions of anyone?

3 (Pause.)

4 CHAIRPERSON HILL: Okay. All right.

5 I'm going to go ahead and excuse everyone then. Thank
6 you all for coming.

7 (Pause.)

8 CHAIRPERSON HILL: Okay.

9 I'm closing the hearing and the record and I'm looking
10 at the other Board members. Commissioner, are you available next
11 week by any chance? Just for a decision.

12 COMMISSIONER STIDHAM: Yeah, I can be available next
13 Wednesday.

14 CHAIRPERSON HILL: I need a minute. Okay? I can't
15 decide right now. I've got more testimony, more things going on.
16 I've got to go back and look at stuff and kind of get my head
17 around some things. Okay?

18 COMMISSIONER STIDHAM: Sure.

19 CHAIRPERSON HILL: So if it's okay, let's go ahead and
20 put off the decision until next week.

21 COMMISSIONER STIDHAM: Can we target the afternoon of
22 the 30th by chance?

23 CHAIRPERSON HILL: Sure. Whatever works for you,
24 Commissioner.

25 COMMISSIONER STIDHAM: Okay. I'll work with Keara.

1 CHAIRPERSON HILL: Okay. Madam Secretary, can we put
2 this on for a decision next week? Okay. What's next week's
3 date?

4 MS. MEHLERT: The 30th.

5 CHAIRPERSON HILL: Oh, yeah. Okay. Okay. All right.
6 Commissioner, is that it for you?

7 COMMISSIONER STIDHAM: Well, Keara, is that it for me?
8 Yes, I'm done.

9 CHAIRPERSON HILL: Okay. Great.

10 Thanks, Commissioner.

11 COMMISSIONER STIDHAM: Thank you. Have a good rest of
12 the day guys.

13 CHAIRPERSON HILL: You too. All right.

14 This is what I propose you guys. We haven't had a
15 break break yet, so let's do this. There's a postponement
16 request. Let's do that, because there's a lot of people here
17 for that particular hearing and then let's take a break. Okay?

18 Madam Secretary, could you please pull up the
19 postponement request or call up I should say?

20 MS. MEHLERT: Yes. This is in the Board's hearing
21 session, it's Application No. 21151 of Dinesh Tandon and Nidhi
22 Tandon. As amended, this is a self-certified application
23 pursuant to Subtitle X, Section 901.2 for a special exception
24 under Subtitle C, Section 204.9 to allow a change from one
25 nonconforming use to another nonconforming use and pursuant to

1 Subtitle X, Section 1000 for an area variance for an alternative
2 use variance from Subtitle C, Section 204.9(b) to allow a non-
3 essential use. This is the conversion of the first floor and
4 cellar of an existing two-story attached building with cellar
5 from an existing nonconforming use to a new nonconforming use as
6 a restaurant.

7 It's located in the RF-1 zone at 2324 North Capitol
8 Street, Northwest, Square 3124, Lot 143. The public hearing was
9 originally scheduled for July 24th, 2024 and has been postponed
10 and rescheduled several times. The Board has also previously
11 granted party status in opposition to Evelyn Brown, Richard
12 Smith, Molini Tolat and Maya Kavalier. The merits have not been
13 heard and as a preliminary matter, the Applicant has filed just
14 yesterday a request to postpone.

15 CHAIRPERSON HILL: Okay.

16 If the Applicant can hear me, if they could please
17 introduce themselves for the record.

18 MS. GIORDANO: Yes. This is Cynthia Giordano with Saul
19 Ewing Law Firm representing the Applicant.

20 CHAIRPERSON HILL: Thank you.

21 Ms. Giordano, I understand, like, we got the Office of
22 Planning's report recently and the Applicant, meaning you, hasn't
23 had a chance, neither have all the parties, to take a look at
24 the Office of Plannings report --

25 MS. GIORDANO: That's right.

1 CHAIRPERSON HILL: -- and so I believe you're asking for
2 a postponement due to this fact, correct?

3 MS. GIORDANO: Right. The Office of Planning report
4 was just filed yesterday.

5 CHAIRPERSON HILL: I understand.

6 So when do you think you'd like to come back to us?

7 MS. GIORDANO: So I'm not looking for a major
8 postponement, just, you know, a couple of weeks or whatever works
9 for the Board to, you know, digest. It's a fairly long report
10 and I wouldn't have even known about it if I hadn't asked the
11 staff, you know, whether they were going to file, so.

12 CHAIRPERSON HILL: Okay. Okay.

13 Madam Secretary, what dates would be good at coming
14 back with this?

15 MS. MEHLERT: I would recommend May 14th as the next
16 available date. You have four hearing cases and a meeting case
17 that day. The next two hearings are fairly busy for the Board.

18 CHAIRPERSON HILL: Okay.

19 Let's do May 14th and, let me see. Dr. Imamura, you
20 haven't heard anything yet so you'll probably pass this off, or?

21 ZC COMMISSIONER IMAMURA: I'll probably pass this off.

22 CHAIRPERSON HILL: Okay.

23 Then if that's the case let's go ahead and I guess if
24 the parties are listening, which I'm sure they are, we're going
25 to go ahead and do this first thing. Okay? We'll do our

1 | decisions, we'll do our meeting, this is going to be the first
2 | order of business. Okay?

3 | So whoever is here as party status or want to testify,
4 | the way the Board normally works is we have a meeting session
5 | first wherein we do decisions and other kinds of meeting business
6 | that don't take testimony and then we come in for our cases, our
7 | hearing cases, and then you guys are going to be the first one.

8 | Ms. Giordano, did you hear me?

9 | MS. GIORDANO: I heard you. Thank you very much.

10 | CHAIRPERSON HILL: Okay.

11 | We're going to come back on 5/14 unless my Board has
12 | any issues and if so, please speak up. Okay. All right. All
13 | right. We'll see you on 5/14.

14 | MS. GIORDANO: Thank you.

15 | CHAIRPERSON HILL: Thank you. Thank you. All right.

16 | As I just mentioned, I'm sorry, Dr. Imamura for going
17 | back and forth on all this, let's just take a quick little break.
18 | Okay? Let's go like ten minutes. Okay? Thank you.

19 | (Whereupon, there was a brief recess.)

20 | CHAIRPERSON HILL: Okay, Madam Secretary. If you can
21 | call us back in and then call our next order of business, please.

22 | MS. MEHLERT: The Board is back from a quick break and
23 | is returning to its hearing session.

24 | The next case is Application No. 21249 of 4231 Clay
25 | Street NE, LLC. This is a self-certified application pursuant

1 to Subtitle X, Section 901.2 for a special exception under
2 Subtitle U, Section 203.1(J) to allow a new 16-bed healthcare
3 facility in an existing two-story building with basement. It's
4 located in the R-2 zone at 4231 Clay Street, Northeast, Square
5 5888, Lots 45 and 46 and this was postponed from the March 26th
6 hearing at the ANC's request and merits have not been heard.

7 CHAIRPERSON HILL: Okay. Great. Thank you.

8 If the Applicant can hear me, if they could please
9 introduce themselves for the record.

10 MS. WILSON: Alex Wilson from Sullivan & Barros on
11 behalf of the Applicant in this case and I am here with Mr. Toye
12 Bello, Mr. Eyob and Mr. Medani on behalf of the Applicant.

13 CHAIRPERSON HILL: Okay.

14 I believe there's private Commissioners are with us as
15 well, and so, Commissioners, we'll be turning to you guys after
16 the Applicant speaks. But, Ms. Wilson, if you want to go ahead
17 and walk us through your client's application and why you believe
18 they're meeting the criteria for us to grant the relief. I'm
19 going to put 15 minutes on the clock so I know where we are, and
20 you can begin whenever you like.

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

22 As Ms. Mehlert mentioned, we have not presented the
23 merits of this particular case and we do have a presentation.
24 Thank you, Mr. Young. Could you please go to the next slide?
25 Thank you.

1 So the Applicant is proposing an assisted living
2 facility. Assisted living residences are permitted by-right for
3 eight residents. The building is currently used by-right as an
4 assisted living residence and has been for about a year. The
5 proposal is to increase the number of permitted residents to 16
6 residents requiring special exception approval. OP is
7 recommending approval. DDOT has no objections. There are letters
8 in support from neighbors. No letters of objection as of this
9 morning and the Applicant personally notified nearby neighbors
10 and we presented to the ANC for this case as well. Next slide,
11 please.

12 The facility proposed would be licensed as an assisted
13 living facility. It's designed to provide treatment and care to
14 individuals requiring daily assistance, medical supervision and
15 other supportive services. Next slide, please.

16 This is the interior layout. It's being adaptively re-
17 used and it will continue to look like a single family home from
18 the street. Next slide, please.

19 In terms of operations generally, there will be three
20 staff members on site at any given time. There food delivery
21 services and housekeeping that will occur between 7 a.m. and 9
22 a.m. Waste management will occur once a day. There are urgent
23 medical care protocols detailed in Exhibit 21. Visitors will be
24 coordinated through staff and activities will be customized
25 depending on health assessment. Next slide, please.

1 There is a backyard area that is fenced with a patio
2 and there will be an outdoor use policy, visitor policy and quiet
3 hours to minimize noise for both the residents of the facility
4 and neighbors. In terms of parking and transportation, the
5 facility has four designated parking spaces located at the rear
6 of the building used for staff and visitors which is for a time
7 (indiscernible) parking required per the regulations. The spaces
8 are screened with fencing to comply with the zoning requirements.

9 Additional on-street parking is available adjacent to
10 the facility. The facility has a designated screened waste
11 storage area near the alley and daily private trash pick-up will
12 occur during daytime hours to ensure cleanliness and hygiene with
13 minimal disruption to the residents and neighbors. Next slide,
14 please.

15 In terms of the general special exception criteria, the
16 proposed use is residential in nature and appropriate in this
17 location given the nature of the use, the fact that up to eight
18 residents are permitted by-right and the request is only for
19 eight additional residents and permitted via special exception.
20 Next slide, please.

21 So in terms of the criteria for approval I'll go into
22 more detail on the following slides 4, 3, 5 and 6. No. 1 does
23 not apply. Regarding No. 2, there is a proposed facility on Eads
24 Street for 16 residents and that's addressed in more detail in
25 No. 6 and the following slides. For No. 4, the proposed facility

1 will meet all applicable code and licensing requirements as
2 described in more detail in the manual in Exhibit 21D. Next
3 slide, please.

4 The third requirement is that there shall be adequate
5 appropriately located and screened off-street parking to provide
6 for the needs of occupants, employees and visitors to the
7 facility. The Applicant is providing four parking spaces where
8 only one is required. There will be three employees at the
9 facility at one time with one space reserved for visitors or on-
10 call medical staff. Visitors will be coordinated as detailed in
11 the visitor policy. The parking is screened and existing fence
12 will be maintained, and the parking is hidden by a roll-up door
13 along the alley side. Further, there are several bus stops nearby
14 and the property is only four tenths of a mile from the metro if
15 visitors or employees desire to use public transportation. Next
16 slide, please.

17 This shows the proposed screening and fencing. Next
18 slide, please.

19 So I wanted to talk about these two requirements in
20 more detail, specifically what can reasonably be anticipated in
21 terms of traffic, noise, operations, or the cumulative impacts
22 of those along with the other facility on Eads Street or as
23 mentioned in the ANC's report filed this morning, the one on
24 Blair, although that one I'll note does not currently have a C
25 of O that I could find, and so it appears to just be proposed at

1 | this point. But the point being would any of those impacts rise
2 | to the level of an adverse impact? Next slide, please.

3 | Regarding employees. As I mentioned there will be
4 | three employees per shift and they may park on-site, so this will
5 | not create any additional traffic with four times the amount of
6 | parking than required. There are specific visitor policies and
7 | visitors can be anticipated. In addition to the on-site parking,
8 | there is street parking available nearby expected for meal
9 | delivery and housekeeping as demonstrated in the photographs on
10 | the following slides and, again, there is public transportation
11 | located nearby.

12 | The additional eight residents being requested should
13 | not generate enough visitors to create objectionable or adverse
14 | traffic impacts and DDOT agreed with this assessment in its report
15 | which notes there shall be no adverse impacts. Next slide,
16 | please.

17 | These are photos in front of the property and these
18 | photos were taken during the times when meal deliveries and
19 | housekeeping are expected to occur. Next slide, please. Thank
20 | you.

21 | Next slide, please. These are timestamped. Next
22 | slide, please. Thank you.

23 | Next slide, please. Thank you.

24 | In terms of noise and safety, safety protocols are in
25 | place such as an alarm system and security locks. There are

1 staff on-site 24 hours a day to monitor residents. There are
2 established quiet hours to minimize noise from residents, staff
3 and any visitors. Given the nature of the facility and the need
4 to keep a peaceful environment for the residents, it is
5 anticipated that the proposed use will not create any adverse
6 impacts regarding noise that would impact the use and enjoyment
7 of neighboring properties. Next slide, please.

8 And then finally what would be any cumulative impacts.
9 The proposed Eads facility is located approximately 450 feet
10 away. That facility also has four parking spaces. It has the
11 same operator and will operate using the same service providers
12 which one could view as a benefit since if these two facilities
13 are using one provider for housekeeping and one provider for meal
14 delivery, there's not a cumulative impact.

15 The ANC also noted there is a community planned at 4501
16 Blair Street which is directly next to the metro that is within
17 500 feet although I mentioned it does not currently have a C of
18 O, I'm not sure what the timeline is on the delivery of that. It
19 is a different type of community. It's a senior only living.
20 It's apartment style. It's a different type of use in nature as
21 it isn't, this use is intended to be more residential in nature.

22 Additionally, this use has been operating without
23 complaint for about a year. Accordingly, given that each facility
24 will have four times the amount of required parking and more
25 parking than needed for staff as well as limited visitors, strict

1 noise policies are both intentionally quiet uses for the care of
2 patients and are relatively small in size. The facilities will
3 not have a cumulative impact nor adverse impact on the
4 neighborhood because of traffic, noise or operations or other
5 factors.

6 I believe that is the end of the presentation but we
7 are happy to answer any questions.

8 CHAIRPERSON HILL: Thank you, Ms. Wilson.

9 Ms. Wilson, do you know if DDOT's report took into
10 consideration the other facility that you guys are proposing?

11 MS. WILSON: I don't know. I'd have to check. It's
12 currently not in operation but they had all of the information
13 in the record, the same information.

14 CHAIRPERSON HILL: Yeah. Because I don't see it in the
15 report. That's why I was curious. Okay.

16 Does the Board have any questions of the Applicant?

17 (Pause.)

18 CHAIRPERSON HILL: Commissioner Kimory, can you hear
19 me?

20 ANC COMMISSIONER ORENDOFF: Yes, sir.

21 CHAIRPERSON HILL: Commissioner, would you like to give
22 us your testimony? I know you gave us on the last case but would
23 you like to give us your testimony on this one?

24 ANC COMMISSIONER ORENDOFF: My concerns with this
25 facility is moving it to 16 beds. I expressed that in our

1 meetings. My colleagues expressed it also. I expressed it on
2 our 4/15 meeting that the threshold for me would be eight beds
3 right now but since they only have four in operation and they
4 haven't even exceeded, you know, a threshold of eight.

5 With a request that the Zoning Commission, because
6 sometimes what happens is the ANC Commissioners, we are from the
7 top level of the agencies like the Office of Planning, they plan
8 all this stuff and then it comes to the ANC Commissioners and
9 then we on the ground level, because that's when it hits the
10 ground level it hits us, it hits the constituents, that's when
11 we have to start galvanizing to figure out, okay, how do we come
12 up with a comprehensive plan that can work with the residents,
13 work with me as an ANC Commissioner where I feel at peace that
14 the constituents are at peace.

15 Now the constituents on Clay Street, they're just
16 adamant. They've been against it since it came up, okay? So my
17 concern is the expansion because from what they're saying it's
18 this particular location is in operation, it's already been
19 permitted. The one up on Eads Street, they're just trying to
20 just leapfrog to the 16. So my concern is the capacity.

21 CHAIRPERSON HILL: Thank you, Commissioner.

22 Commissioner Nelson, do you have anything you'd like
23 to add?

24 ANC COMMISSIONER NELSON: Thank you for your time.

25 I just wanted to add a couple of things. So I know

1 that Ms. Wilson said that, I can't, I couldn't quite catch what
2 she was saying. Was it a CSO? She was using an acronym. What
3 exactly is that acronym?

4 CHAIRPERSON HILL: A CSO? Ms. Wilson, do you --

5 MS. WILSON: I apologize. A Certificate of Occupancy.

6 CHAIRPERSON HILL: Oh, a C of O.

7 MS. WILSON: Yeah, I should have said the full.

8 ANC COMMISSIONER NELSON: Okay. Thank you. I just
9 wanted to make sure I had some clarity on that part.

10 So the reason why there isn't a Certificate of
11 Occupancy for the 4501 Blaine Street, not Blair. It's Blaine
12 Street, Northeast location. It's about 156 beds proposed.
13 Developer has already built the building. They should be
14 finishing up by July of 2025 and so that will have 156 beds. As
15 she mentioned it is for senior citizens but when I was in the
16 previous hearing that we just had for the Eads Street they did
17 mention that their facilities, they do plan on serving the elderly
18 as well.

19 That Blaine Street address is .4 miles away from the
20 Clay Street proposal that we're discussing right now and so I do
21 want to make sure that you all are aware that there is something
22 within less than a half a mile that is in the process of being
23 implemented in our community and reiterating the concerns of
24 over-saturation of these types of facilities in our community.

25 I am standing in agreement with Commissioner Orendoff

1 that the community has expressed various concerns about this and
2 then the last piece I want to ask is for permission to submit
3 additional evidence from our April 15th meeting which had a, it
4 was a community meeting where the Applicant and the residents had
5 an opportunity to engage with one another. We were also to get
6 first hand conversation about what was discussed and the
7 community concerns in that space.

8 But, again, I stand with Commissioner Orendoff with not
9 granting an expansion of this license, especially with
10 considerations of what's happening with the pending application
11 on Eads Street.

12 CHAIRPERSON HILL: Okay. Thank you. Okay. Great.

13 Commissioner Orendoff, right. Commissioner Kimory, I
14 was, like, which one's Orendoff. I was like, okay. All right.
15 Thank you. Okay. All right.

16 Let's do this real quick. Can I hear from the Office
17 of Planning?

18 MR. MITCHUM: Yes. Joshua Mitchum with the Office of
19 Planning.

20 Obviously this is a similar case to the case that we
21 heard previously. However, we are recommending approval due to
22 our findings in the report and if there's any other additional
23 questions I'd be happy to answer on behalf of OP.

24 CHAIRPERSON HILL: So, Mr. Mitchum, I guess the only
25 question I had and I'll turn to my Board members.

1 Is, like, is the consideration of this other facility
2 that's proposed within 500 feet. That was taken into
3 consideration when you guys were doing this analysis?

4 MR. MITCHUM: Yes. So part of the regulations,
5 specifically in Subtitle 203(J), U-203(J) we do have to take into
6 account the use of the property, the operation of the property,
7 the occupancy as well as potential traffic in terms of determining
8 whether or not it would be a, if it would be an appropriate
9 recommendation of approval.

10 So we were in contact with the Applicant. They did
11 state this in their Statement of Justification and during the
12 analysis we determined that since this is a mostly internal use
13 with very little use outdoors, we didn't see it as being
14 detrimental to the overall community as presented.

15 CHAIRPERSON HILL: Okay. Let me see.

16 Do my Board members have any questions of the Office
17 of Planning?

18 (Pause.)

19 CHAIRPERSON HILL: Commissioners, do either one of you
20 have any questions for the Office of Planning and if so, raise
21 your hand?

22 (Pause.)

23 CHAIRPERSON HILL: Okay. Go ahead, Commissioner
24 Nelson.

25 ANC COMMISSIONER NELSON: Thank you.

1 Hello, Mr. Mitchum. How are you?

2 MR. MITCHUM: Good. How are you?

3 ANC COMMISSIONER NELSON: Doing all right.

4 When you are doing your assessment for the impact and
5 planning of these communities, do you do any type of residential
6 input?

7 MR. MITCHUM: Well, part of our process is that we are
8 on the lookout for letters of support or opposition from the
9 community. As stated in our guidelines, we fully encourage and
10 recommend that the Applicants also do their part in community
11 outreach and engagement. So we do keep track of that. Part of
12 my staff report indicated the letters of support or opposition
13 that we received for the case. So, yes, OP is aware of any
14 outreach engagements.

15 ANC COMMISSIONER NELSON: I have one more question for
16 you.

17 If a resident is being rented by someone but it is the
18 owner that signs the letter of support, does that impact any type
19 of -- I'm sure I don't know if you all do any research of whether
20 or not the residence is being rented versus it being signed by
21 the actual owner, but that has also been one of the things that
22 we have been hearing as some of the letters of support were signed
23 by the owners who do not occupy some of those residences.

24 So can you speak to that as well?

25 MR. MITCHUM: I can't really speak to that in terms of

1 | how that would really affect our outcome. That's not really
2 | something that comes up very often, so.

3 | CHAIRPERSON HILL: But you look, Mr. Mitchum, you look
4 | at letters in support and opposition from anyone, right? Like,
5 | I mean if you get opposition letters from renters you look at
6 | those just as much as you look at opposition letters from owners,
7 | correct?

8 | MR. MITCHUM: Yes. Yes, sir.

9 | ANC COMMISSIONER NELSON: So, I'm sorry. Can I get a
10 | clarity on this then, because we were told by the Applicant's
11 | representative that the letter would have to come from the owner
12 | and they put the onus on the owner to talk to the resident about
13 | it which seems to, from what I'm hearing, is not true. We're
14 | not familiar with, Orendoff and I, this is our first time really
15 | going through this process so we're not familiar. So we just
16 | need some clarify.

17 | CHAIRPERSON HILL: Sure. Yes.

18 | Commissioner, I guess in terms of the outreach, like,
19 | you know, the letters that the Board of Zoning sends out to the
20 | people within 200 feet, that's one way. Then another is the
21 | placard itself, the big orange sign that's put on the proposed
22 | project and then anybody can submit a letter of support or
23 | opposition. It doesn't matter, you know, we get, even though
24 | it's very odd if we get a letter of support or opposition from
25 | somebody way on the other side of town, anybody can submit any

1 testimony they like in any of the cases that we do. Okay?

2 ANC COMMISSIONER NELSON: Thank you.

3 Is it too late to submit the video that I mentioned
4 earlier?

5 CHAIRPERSON HILL: You're talking about the April 15th
6 thing?

7 ANC COMMISSIONER NELSON: Correct.

8 CHAIRPERSON HILL: Okay.

9 Let me figure that out. I didn't know it was a video.
10 I thought it was like you had a report or something.

11 ANC COMMISSIONER NELSON: It's a video of, it's actual
12 video of the meeting that we had between the Applicant and the
13 community who came out to try to foster communication.

14 CHAIRPERSON HILL: Okay.

15 I'm going to ask OZL, I'm going to ask the Office of
16 Zoning Legal Department how that, I haven't had a video of a
17 hearing submitted before. So let me see. I'll get back to you
18 on that one. Okay?

19 ANC COMMISSIONER NELSON: We can submit a transcript
20 as well if that is sufficient.

21 CHAIRPERSON HILL: Yeah. Either way, I'm going to just
22 try to figure out what we can or can't do. That's all.

23 ANC COMMISSIONER NELSON: Okay. Thank you.

24 CHAIRPERSON HILL: You're welcome.

25 ANC COMMISSIONER ORENDOFF: Thank you.

1 CHAIRPERSON HILL: Okay.

2 Does the Applicant have any a questions of the Office
3 of Planning?

4 MS. WILSON: No. I just wanted to make a clarification
5 that the Blaine Street facility that I discussed is more than 500
6 feet, just to clarify in the record.

7 CHAIRPERSON HILL: Yes, yes. I'll explain that in a
8 second.

9 Commissioners, the way the regulations are written or
10 we're supposed to, the Board can look at whatever the Board is
11 trying to figure out in terms of what the regulations say or I
12 shouldn't say that. They're interpreting the regulations. In
13 the regulations it says we're supposed to look at stuff within
14 500 feet. So if it's outside the 500 feet, we don't look at it,
15 right? But there's a lot of things going on I think in this case
16 just like in the other case. But thank you, Ms. Wilson, for that
17 clarification.

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

19 MR. YOUNG: We do not.

20 CHAIRPERSON HILL: Okay. All right.

21 I'm looking at my Board members. Have you all got any
22 questions right now also?

23 (Pause.)

24 CHAIRPERSON HILL: Okay.

25 Actually before you all go, I hate to do this but I 'm

1 going to go do the emergency meeting real quick just because I
2 want to get clarification on the OZLD side in terms of a video
3 in terms of testimony. So if we can do a, I mean an emergency
4 meeting real quick. You had your hand up, Mr. Blake?

5 VICE CHAIRPERSON BLAKE: A question for the Office of
6 Planning.

7 In the evaluations to do with the operations impact,
8 could you go a little deeper on the criteria you use for that?
9 You know, we have the traffic, noise, operations, can you just
10 go a little deeper on the operations criteria?

11 MR. MITCHUM: Sure.

12 Is that in reference to a specific aspect of OP's report
13 or just you're speaking generally?

14 VICE CHAIRPERSON BLAKE: In this particular, this
15 application, we can talk about this. But when you look at the
16 operations as it impacts noise, traffic, operations is one of the
17 three categories. I want to make sure I understand your take on
18 the operations and what you use to evaluate the operation of
19 that.

20 MR. MITCHUM: Sure.

21 So the Applicant provided a floor plan, a layout of how
22 they envision the facility operating patterns. So we take a look
23 at any potential impacts to, again, noise and traffic in the way
24 of looking at provided parking spaces, what kinds of activities
25 that they're planning on doing, if there's any kind of outside

1 amplification of noise. We just basically look for anything that
2 would cause the property to kind of unduly affect via the privacy,
3 light and shadow, noise, anything like that and we, as the
4 Applicant noted in their burden of proof, the majority of
5 operations will be taking place inside and the only disruptions
6 to, or potential disruptions would be in the way of service and
7 delivery, however we noted that that wouldn't have a large impact
8 on the day-to-day operations as things are mostly once a day and,
9 again, the Applicant has proposed ample parking for the facility.

10 So in the way of noise, especially since it's noted
11 that the, any kind of outside activities would be during the
12 warmer seasons in which they would be doing activities like
13 reading, we didn't see that as a high noise generating or
14 disruptive activity. So that's in a nutshell, a lot of our
15 operations analysis.

16 VICE CHAIRPERSON BLAKE: Okay. Thank you very much.
17 Appreciate that.

18 CHAIRPERSON HILL: Okay. Thanks. All right.

19 As Chairperson of the Board of Zoning Adjustment in the
20 District of Columbia and in accordance with Section 407 of the
21 District of Columbia Procedures Act, I move that the Board of
22 Zoning Adjustment hold a closed emergency meeting on 4/23/2025
23 for the purposes of seeking legal advice on case No. 21249,
24 deliberating upon but not vote on case No. 21249 for the reasons
25 cited.

1 Is there a second? Mr. Blake?

2 VICE CHAIRPERSON BLAKE: Second.

3 CHAIRPERSON HILL: Motion made and seconded. Madam
4 Secretary, could you take a roll call, please.

5 MS. MEHLERT: Please respond to the Chair's motion to
6 hold an emergency closed meeting with OZ Legal.

7 MS. MEHLERT: Chairman Hill.

8 CHAIRPERSON HILL: Yes.

9 MS. MEHLERT: Vice Chair Blake?

10 VICE CHAIRPERSON BLAKE: Yes.

11 MS. MEHLERT: Dr. Imamura?

12 ZC COMMISSIONER IMAMURA: Yes.

13 MS. MEHLERT: Motion passes.

14 CHAIRPERSON HILL: Thank you.

15 As it appears that it passes, I hereby give notice that
16 the Board of Zoning Adjustment will recess this procedure on
17 4/23/2025 at 11:52 a.m. to hold a closed emergency meeting
18 pursuant to District of Columbia Administrative Procedures Act.
19 A written notice of this, a written copy of this notice will be
20 posted in the Jerrily R. Kress Memorial Hearing Room at this
21 time.

22 Okay, Commissioners, so we're going to go to another
23 thing, just talk to the Legal Department and come back. Okay?
24 Thank you.

25 Whereupon, there was a recess for an emergency closed

1 meeting with legal counsel.)

2 MS. MEHLERT: The Board is back from its emergency
3 closed meeting with legal counsel and is returning to Application
4 No. 21249.

5 CHAIRPERSON HILL: Okay. Great.

6 So I'm wanted to go back and talk to Legal to understand
7 how a video is treated and I guess a video is treated like
8 anything else in terms of, you know, its relevancy, its good
9 cause and whether or not it's going to unreasonably prejudice any
10 parties. I think that I would like to see whatever it is and
11 then also the testimony, and then in terms of unreasonably
12 prejudicing any parties I think -- I was going to have to take
13 time anyway because I was trying to figure out the last case that
14 this was about as well, so then the parties would have a chance
15 to respond to whatever is going to be put into the record, and
16 then we come back for a decision.

17 But if you, Commissioner Nelson, if you could like get,
18 you're talking about the little, you're talking about your ANC
19 meeting, right? And you're talking --

20 ANC COMMISSIONER ORENDOFF: No, this was from our
21 joint, we had a, after our ANC meeting in April we had a joint
22 Commission meeting where we brought in the constituents. We sent
23 out an invite to the developers, you know, the providers and we
24 held a joint. So it was all of us together.

25 ANC COMMISSIONER NELSON: Our SMDs are bordering each

1 other. So a lot of the constituents are in my SMD that are in
2 opposition but both facilities are in his SMD. So I'm working
3 with him collectively to make sure.

4 CHAIRPERSON HILL: But you're both the same ANC?

5 ANC COMMISSIONER ORENDOFF: Correct.

6 ANC COMMISSIONER NELSON: Correct.

7 CHAIRPERSON HILL: So, but that meeting that you're
8 talking about, was it a meeting? Like, was it a meeting only on
9 this issue?

10 ANC COMMISSIONER NELSON: Correct.

11 ANC COMMISSIONER ORENDOFF: Right. And that was Zoom.
12 It was a Zoom, it's a legal Zoom.

13 CHAIRPERSON HILL: Okay.

14 ANC COMMISSIONER ORENDOFF: The drop down thing.

15 CHAIRPERSON HILL: How long was the Zoom meeting?

16 ANC CHAIRPERSON NELSON: I'm sorry. Say that again?

17 CHAIRPERSON HILL: How long was the Zoom meeting?

18 ANC COMMISSIONER NELSON: It was one hour.

19 CHAIRPERSON HILL: An hour. All right.

20 Why don't you put a link into the Zoom meeting and then
21 you said you have a transcript?

22 ANC COMMISSIONER NELSON: Yeah. There's a summary the
23 AI Companion component actually summarizes the meeting for you,
24 so we can send that to you as well.

25 CHAIRPERSON HILL: If you can do both, that'd be great.

1 Okay?

2 And then, Ms. Wilson, I guess you guys will have a
3 chance, I mean, we're going to try to do this as best as we can,
4 right? But then you'll have a chance to if there's any kind of
5 response you may want to give from that exhibit that the ANC is
6 trying to submit. Do you have any questions?

7 MS. WILSON: No. I mean, it's a new type of thing. I
8 don't know if, we'll make it work.

9 CHAIRPERSON HILL: Okay.

10 I mean, we haven't done a video of a meeting yet --

11 ANC COMMISSIONER NELSON: Yeah.

12 CHAIRPERSON HILL: -- but now I did talk to the Legal
13 Department and it's within the regulations to do this, right?
14 And so, but really what's also going to be more helpful,
15 Commissioners, is the transcript, right? The meeting, you know,
16 you can only go, you know, you're able to look through the
17 transcript a whole lot easier, right? And really the only thing
18 that this is probably going to provide to the Board I think is
19 just kind of some of this additional testimony that you think we
20 didn't hear from the community and so that's at least something
21 that we can kind of take a look at. Now how that may or may not
22 apply to the zoning regulations, I don't know, right? But we're
23 just going to make sure that we're, like, being as efficient as
24 possible.

25 I'm going to turn back to my Board --

1 MS. WILSON: May I, I apologize, may I raise one concern
2 and just to get this on the record. Just so we can have some
3 sort of clarification that it's an AI generated transcript that
4 may not be 100 percent accurate, right? So they're talking about
5 not submitting a transcript like we have here at the Board of
6 Zoning Adjustment, it's just a summary generated by AI and I
7 would just like to make sure that we understand that's what it
8 is.

9 CHAIRPERSON HILL: That's fine. Right. It's generated
10 through the program.

11 MS. WILSON: Right.

12 CHAIRPERSON HILL: Commissioners, they're saying, like,
13 we have people that we pay to actually make an official transcript
14 so it's not really an official transcript. It's just whatever,
15 you know, the Zoom system spits out, right? So, you know, so
16 it's not, you can't be 100 percent clear but the Board will be
17 able to determine I'm sure what it thinks may be right and
18 inaccurate and go back and look at the video if there's confusion
19 with the transcript, right? I just want to make sure that the
20 record is full in order to kind of talk through this.

21 Mr. Young, or I already asked. Mr. Young, there was
22 no one here to speak, correct?

23 MR. YOUNG: That's correct.

24 CHAIRPERSON HILL: Okay.

25 So, Ms. Wilson, the only question I have. Like, the

1 | thing that I'm going to be really looking at again is just the,
2 | you know, these facilities together in the same 500 feet and
3 | whether or not there's much of an adverse impact to it and, or
4 | whether the issue does arise to an adverse impact, right? What
5 | you guys are allowed, you're allowed eight beds matter-of-right,
6 | right? And so you're trying to go to 16 in both situations,
7 | right?

8 | So I'm going to ask you, do you know which one your
9 | clients wants more of the two? I'm not saying I'm going this
10 | way, I'm just curious. Would they want one to win over the other?

11 | MS. WILSON: No.

12 | CHAIRPERSON HILL: Okay, no.

13 | MS. WILSON: We want them both equally.

14 | CHAIRPERSON HILL: Okay, fine. So it's a, okay. There
15 | you go. All right. Okay.

16 | Does anybody have any questions for the Applicant or
17 | anything, and I'm going to give the Applicant a chance to
18 | summarize?

19 | (Pause.)

20 | CHAIRPERSON HILL: Okay. You can go ahead and give us
21 | your conclusion, Ms. Wilson.

22 | MS. WILSON: Great. Thank you.

23 | In terms of cumulative impacts, again I'll note the
24 | facility has four parking spaces. They're going to operate in a
25 | similar manner and they're going to operate using the same service

1 providers. So this can be viewed as a benefit since if these
2 two facilities are using one provider for housekeeping and one
3 provider for meal delivery, there's not a cumulative impact of
4 having two meal delivery services or two housekeeping services
5 in the neighborhood and that could be done.

6 There could be ten eight-bed assisted living facilities
7 located in this neighborhood with no limits. These have specific
8 limits. This is being reviewed by the Board of Zoning Adjustment
9 and the amount of parking should give some comfort that there
10 won't be any additional parking or traffic impacts and there's
11 only three staff members. So there's still an extra space that
12 can be used for visitors. There's strict noise policies. These
13 are both intentionally quiet uses for the care of patients and
14 they are relatively small in size.

15 The special exception is for up to 300. Obviously that
16 wouldn't be appropriate here. But these are 16 beds each and so
17 only eight more than are permitted by-right, and for those reasons
18 the facilities meet the special exception requirements and will
19 not have a cumulative impact nor adverse impact on the
20 neighborhood due to traffic, noise, operations or other factors.

21 Thank you.

22 CHAIRPERSON HILL: Okay. Hang on one second
23 Commissioner. All right. Okay.

24 So, Commissioner Kimory, usually what happens is they
25 get the last word, the Applicant, right? So they did a summary.

1 | So whatever you're now about to say, they're going to be able to
2 | respond to whatever you're about to say. What are you about to
3 | say?

4 | ANC COMMISSIONER ORENDOFF: No. I just wanted to, on
5 | the record, just to get a walk-through and if I can get her
6 | commitment to a date of a walk-through, of both facilities. I
7 | can just go to both in one day, take the walk-through that we
8 | had talked about in our previous meetings and on 4/15. That's
9 | it. I just want a committed date so (indiscernible) --

10 | CHAIRPERSON HILL: Wait a minute. A walk-through --

11 | ANC COMMISSIONER ORENDOFF: -- get everything
12 | straightened out.

13 | CHAIRPERSON HILL: A walk-through? What, you want to
14 | walk through the actual building?

15 | ANC COMMISSIONER ORENDOFF: Facilities, right. Because
16 | this was something that we had agreed on previous, you know --

17 | CHAIRPERSON HILL: Okay. Okay.

18 | I'm just trying to think. Hold on. Ms. Wilson, do you
19 | have --

20 | MS. WILSON: I'm happy to reach out and coordinate a
21 | date between my, the owner, my client and the ANC. Absolutely,
22 | we can, right after the hearing right now I'll reach out and get
23 | everyone on thread and coordinate that.

24 | ANC COMMISSIONER ORENDOFF: No problem. Thank you, Ms.
25 | Wilson.

1 CHAIRPERSON HILL: Okay. Great. Thank you,
2 Commissioner.

3 And I'm looking at my fellow Board members because I
4 know I'm trying to do this before we, when we get to adjourn,
5 anyway. I don't know, and I'm looking at my fellow Board members.
6 I don't know if there are any conditions or anything, because I'm
7 just trying to figure this out a little bit, right? Like, and
8 Ms. Wilson, you can help me out a little bit with this, right?

9 You've got three staff members. You've got four
10 parking spaces, right, and then you said that the visitors could
11 be coordinated, right? Like, if there's some way that you can
12 propose something that the visitors are coordinated in some
13 fashion that they use that one parking space, right? Then you
14 talk about the same providers. I don't know if you can condition
15 people to use the same providers in two facilities because one
16 facility might get sold, another facility -- so that's where I'm
17 a little confused also as to what we can or can't do.

18 You're on mute, Ms. Wilson.

19 MS. WILSON: Sure. I'll talk to my client but we could
20 do that and then if the next owner, if this does get sold and
21 the future owner did not want to use that, they could come back
22 to the Board and have that condition changed for a modification.

23 Again, I'll discuss with my client. We're happy to
24 put, I mean everything's in the record. We're happy to list out
25 the operational factors in the record as conditions, if the Board

1 | would be more comfortable with that too.

2 | CHAIRPERSON HILL: If you wouldn't mind, just whether
3 | or not they get put in as conditions or not, if you could just
4 | list them in one spot in one exhibit so we can take a look because
5 | I, my struggle is that these two things are going to be at 500
6 | feet within each other and I'm just kind of looking at that.

7 | Do any of my Board members want anything?

8 | (Pause.)

9 | CHAIRPERSON HILL: Okay.

10 | So then, Commissioner Nelson?

11 | ANC COMMISSIONER NELSON: Since you are looking for
12 | testimony, is it also acceptable to be able to submit the
13 | testimony from last night which also had residents giving
14 | testimonies about concerns?

15 | CHAIRPERSON HILL: Why don't we just, I mean, if you
16 | want to -- Ms. Nelson, I can't have us watching like two hours
17 | of, you know, the same thing, the same person saying the same
18 | thing in different places, right? And so if you all want to
19 | submit something into the record that you'd like the Board to
20 | look at, okay, we're happy to look at it. Okay? But I would
21 | prefer if you could make it in some kind of written form, right,
22 | that just makes it easier for us to digest.

23 | I mean, if you haven't noticed, I mean, you all are
24 | Commissioners. You got things that go on all the time. Like,
25 | it's a long day, right? And so, like, you know, we have a lot

1 of information to digest so somehow watching two hours of video.

2 So give us whatever you'd like us to look at, okay?
3 The Applicant will have an opportunity to look at that and respond
4 and what I think I'd like to do is at the same time that when do
5 you think you can give us whatever you're trying to give us,
6 Commissioner Nelson?

7 ANC COMMISSIONER NELSON: We need to pull the ANC
8 meeting from last night, the recording for that, but I can get
9 you the April 15th one by Friday with everything. Is that too
10 late or do you need it sooner?

11 CHAIRPERSON HILL: No, no, that's all right. I'm just
12 trying --

13 ANC COMMISSIONER NELSON: Okay. Then I'll split the
14 meeting from last night so that you have just that part of our
15 meeting if that's sufficient.

16 CHAIRPERSON HILL: Okay. I see one Board member
17 nodding, right?

18 ANC COMMISSIONER NELSON: Okay. Okay. I'll make it
19 as soon as possible.

20 CHAIRPERSON HILL: Whatever you give in video, if you
21 can give that transcript even though I know that transcript is
22 just the Zoom transcript, right, that would be helpful. Okay?

23 And then, Ms. Wilson, if you want to give us, can you
24 give us that list or that exhibit that I'm asking for also by
25 Friday?

1 MS. WILSON: Absolutely.

2 CHAIRPERSON HILL: Okay.

3 Then everybody will have everything by Friday into the
4 record, okay? And then everybody will have a week to respond
5 which that means that you all can, you know, the ANC can respond
6 to the list, even though it's just a list but whatever, respond
7 to the list and then by the 2nd, okay? And then we'll come here.

8 Madam Secretary, what does the 7th look like for us?

9 MS. MEHLERT: On the 7th you have four hearing cases
10 plus an appeal.

11 CHAIRPERSON HILL: And what, I just put something on
12 the 14th, right?

13 MS. MEHLERT: Right. Yes.

14 CHAIRPERSON HILL: What's on the 14th

15 MS. MEHLERT: The 21151 case.

16 CHAIRPERSON HILL: Oh, yeah. Okay.

17 Dr. Imamura, do you want to come back on the 7th or the
18 14th?

19 ZC COMMISSIONER IMAMURA: I prefer the 14th, so.

20 CHAIRPERSON HILL: Let's do the 14th. Okay? So then
21 in that case, Commissioner Nelson, you don't have to give us
22 information until the 2nd, okay? You have a whole week, right?
23 So go ahead --

24 ANC COMMISSIONER NELSON: (Indiscernible) submit it,
25 I'm a novice. Where do I?

1 CHAIRPERSON HILL: That's all right. Madam Secretary?

2 MS. MEHLERT: We can get in touch with you but it would
3 just be to bzasubmissions@dc.gov.

4 ANC COMMISSIONER NELSON: Okay.

5 MS. MEHLERT: But we'll touch base with you.

6 ANC COMMISSIONER NELSON: Thank you so much.

7 CHAIRPERSON HILL: Yes. So, Commissioners, if you can
8 get us. I mean, again, the more efficiently you make it for us
9 the better, right? So you all --

10 ANC COMMISSIONER ORENDOFF: It'll be efficient.

11 CHAIRPERSON HILL: You've got a week --

12 ANC COMMISSIONER ORENDOFF: We'll video edit this so
13 I'll make sure you get exactly so you all don't have to look at
14 a whole drawn out blah blah blah.

15 CHAIRPERSON HILL: That's great. All right.

16 So the 2nd and then we'll have responses by the 9th and
17 we'll come back on the 14th for a decision. Okay? And so, okay.
18 All right.

19 Ms. Wilson, again, whatever you give me on the 2nd, the
20 2nd? Yeah. Whatever you give us on the 2nd, again, I'm just
21 trying to understand the ways that your client has thought about
22 these both being within 500 feet and how you can make the Board
23 feel comfortable with that aspect. Okay? Okay.

24 Anybody else? Okay. All right. We'll come back for
25 a decision on the 14th and thank you very much. Commissioners,

1 thank you, Applicant, and you all have a good day. Closing this
2 portion of the hearing except for everything that's requested by
3 the Board.

4 ANC COMMISSIONER ORENDOFF: Thank you.

5 CHAIRPERSON HILL: Thank you. You're welcome.

6 ANC COMMISSIONER NELSON: Thank you.

7 CHAIRPERSON HILL: Thank you. You're welcome. All
8 right.

9 It's up to you guys. We have three cases that may go
10 okay. So do you want to try them and just knock them out and
11 not eat or do you want to eat and come back, and knock them out?

12 ZC COMMISSIONER IMAMURA: Let's knock them out.

13 CHAIRPERSON HILL: Okay. All right.

14 You can call our next one.

15 MS. MEHLERT: Next is in the Board's meeting session.
16 It's an expedited review application, No. 21286 of 3822 Van Ness
17 NW, LLC. This is a self-certified application pursuant to
18 Subtitle X, Section 901.2 for a special exception, under Subtitle
19 D, Section 5201 from the location requirements of Subtitle D,
20 Section 5004.1(a) to allow an accessory building in a required
21 year yard.

22 This is for a two-story rear addition and one-story
23 side addition to an existing two-story semi-detached principal
24 dwelling with an existing one-story accessory building in the
25 rear yard. It's located in the R-2 zone at 3822 Van Ness Street,

1 Northwest, Square 1829, Lot 23.

2 CHAIRPERSON HILL: Okay. Thank you. Can you all give
3 me one second.

4 (Pause.)

5 CHAIRPERSON HILL: Okay. All right.

6 I think this is before us properly as an expedited
7 review. I was able to review the file as well, and specifically
8 the Office of Planning's report, as well as that of the ANC. I
9 don't really have any particular concerns with this. I think
10 that it meets the criteria for us to grant the relief and I'm
11 going to be voting in favor of this application.

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

13 COMMISSIONER SMITH: Nothing to add.

14 CHAIRPERSON HILL: Mr. Blake?

15 VICE CHAIRPERSON BLAKE: I'm sure I agree with your
16 observations. I'm in support of the application as well.

17 CHAIRPERSON HILL: Dr. Imamura?

18 ZC COMMISSIONER IMAMURA: Nothing to add. This is
19 pretty straightforward. I'm prepared to vote in support.

20 CHAIRPERSON HILL: Okay. Great. Thank you.

21 I'm going to make a motion then to approve Application
22 No. 21286 as captioned and read by the secretary and ask for a
23 second. Mr. Blake?

24 VICE CHAIRPERSON BLAKE: Second.

25 CHAIRPERSON HILL: Motion made and seconded. Madam

1 Secretary, can you take a roll call, please.

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

4 Chairman Hill?

5 CHAIRPERSON HILL: Yes.

6 MS. MEHLERT: Vice Chair Blake?

7 VICE CHAIRPERSON BLAKE: Yes.

8 MS. MEHLERT: Mr. Smith?

9 COMMISSIONER SMITH: Yes.

10 MS. MEHLERT: Dr. Imamura?

11 ZC COMMISSIONER IMAMURA: Yes.

12 MS. MEHLERT: Staff would record the vote as four to
13 zero to one to approve Application 21286 on the motion made by
14 Chairman Hill and seconded by Vice Chair Blake.

15 CHAIRPERSON HILL: Thank you.

16 If you could call our next item of business, Madam
17 Secretary.

18 MS. MEHLERT: Next is back in the Board's hearing
19 session. It's Application No. 21272 of Ellen Adams. This is an
20 application pursuant to Subtitle X, Section 901.2 for a special
21 exception under Subtitle E, Section 5201, from the rear yard
22 requirements of Subtitle E, Section 207.1 and the lot occupancy
23 requirements of Subtitle E, Section 210.1.

24 This is for a new one-story accessory structure in the
25 rear yard of a two-story attached principal dwelling with rear

1 | deck addition. It's located in the RF-1 zone at 54 Randolph
2 | Place, Northwest, Square 3102, Lot 92.

3 | CHAIRPERSON HILL: Okay. Great. Thank you.

4 | If the Applicant is here, if they could please
5 | introduce themselves for the record.

6 | MR. SLOCUM: Sure. My name is Travis Slocum. I'm not
7 | the Applicant but I'm the Applicant's agent. I believe at the
8 | very beginning of this meeting I was instructed to give an address
9 | so I'll share. This'll give some context. My former address
10 | was 54 Randolph Place, Northwest, Washington, D.C. 20001. My
11 | current address is 250 North Diablo Drive in Amargosa Valley,
12 | Nevada 89020. So I'm the former owner of the house. I'm the
13 | Applicant's agent.

14 | CHAIRPERSON HILL: Okay.

15 | And that's in the record somewhere that you're the
16 | Applicant's agent, correct, Mr. Slocum?

17 | MR. SLOCUM: Yes, it is. Yes, it is.

18 | CHAIRPERSON HILL: Okay. All right.

19 | If you want to go ahead and walk us through the
20 | application, why you believe you're meeting the criteria for us
21 | to grant the relief. I'm going to put 15 minutes on the clock
22 | so I know where we are, and you can begin whenever you like.

23 | MR. SLOCUM: Okay. Thank you.

24 | I did submit a PowerPoint. Does someone have that?

25 | CHAIRPERSON HILL: Yes. We'll pull that up.

1 MR. SLOCUM: Perfect. Yeah, I should just preface
2 this. I'm a layman here. I did seek, I had a couple of
3 conversations with attorneys but I'm doing this as a former
4 homeowner, so I don't have counsel here. But, again, my name is
5 Travis Slocum. I'm the former owner of 54 Randolph Place,
6 Northwest, Washington, D.C. If you can go to the next slide,
7 please.

8 I'll give you a quick background as to what's occurred
9 here. In the summer of 2023, I believe it was in August or
10 September, I built a 16 by 20 foot carport in the back of that
11 house. I hired a contractor to do the work and an architect to
12 draw up the plans and handle the permitting process. The
13 architect failed to do that.

14 Ultimately, I was moving back west to where I live now
15 today and so I put, a year later I put the house on the market
16 in August or late July, I believe, of 2024 and shortly after I
17 did that I received a Notice of Infraction from the Department
18 of Buildings because the structure was built without a permit.
19 I should note incidentally that that NOI was dismissed with
20 prejudice by the Administrative Judge at the Office of
21 Administrative Hearings recently. That was on March 18th, 2025.
22 I sold the property in September of 2024 and resolving this issue
23 for the new owner, and that's what brings me here today. Next
24 slide, please.

25 So I'm seeking special exception approval for what

1 | would be or will be a 14 by 14 foot rear accessory carport.
2 | That's a modification to the current structure, a reduction of
3 | six feet in length and one foot on each side, and I've got some
4 | photos later in this presentation to share with you. And the
5 | request is for BZA relief for the 20 foot rear setback requirement
6 | and lot occupancy.

7 | So today with a 16 by 20 foot structure, the lot
8 | occupancy based on the Department of Building's calculation is
9 | 74 percent. So by reducing the size by six feet in length and
10 | one foot on each side, that would bring lot occupancy down below
11 | the 70 percent for a special exception to 69.72.

12 | And I did that as opposed to seeking relief via a
13 | variance as it is today, although that would be probably
14 | preferable, and I'll show you pictures as to why. But I did not
15 | do that because the burden of proof, the standard is higher for
16 | a variance. Yes.

17 | CHAIRPERSON HILL: Mr. Slocum, what is there, did you
18 | already do the removal of the reduction?

19 | MR. SLOCUM: No.

20 | CHAIRPERSON HILL: Okay. Right.

21 | MR. SLOCUM: No.

22 | CHAIRPERSON HILL: I see what's going to happen now.
23 | Okay.

24 | MR. SLOCUM: Exactly, exactly. Next slide.

25 | So this is the, these are photos of the current

1 structure and it matches in fact the carport that the neighbor
2 directly to the east has at 52 Randolph Place and there's photos
3 a little bit later in a slide that show the next door neighbor's
4 a little bit better. But candidly theirs was the inspiration.
5 I moved to D.C. from the west coast, didn't want to have snow
6 all over my car and said, look, you know what? I like what you've
7 got neighbor, let's building the exact same thing. So this is
8 what the current structure is today. Next slide, please.

9 So the proposal is to remove the area you see in red
10 which is six feet in length. So it's 20 feet in total length,
11 so it'll be 14 feet from the garage door to that beam you see
12 here. You see the beam where, the support beam, where the red
13 begins and then it's six feet from that support beam to the end
14 of the deck railing where it's frankly not really resting on the
15 deck. It touches the deck but the deck's not supporting any
16 weight to it. It's supported by those beams. So that part in
17 red would be removed and then the part in yellow on each side
18 would be removed as well.

19 Again, trying to trim this down to get it below a square
20 footage that would, in combination with the house which was bumped
21 out, the deck, I guess those two things, the house and the deck
22 would bring it below 70 percent lot occupancy. Next slide,
23 please.

24 Again, additional pictures of that section to be
25 removed. You'll see there's a motor, there's a little bit of

1 | electrical. There's a light up there. All of those are on the
2 | beam or that primary horizontal support beam. Everything forward
3 | of that towards the front of the house would be removed. Next
4 | slide.

5 | This is a better picture of the neighbor's carport. So
6 | the neighbor has one that's the exact same size as what my house
7 | has or my former house has today. You will notice that, it's a
8 | little bit hard to tell but my house was bumped out about six
9 | feet, the neighbor's house was not, so the deck, we both have,
10 | you know, decks out the back kitchen. The one at 54 Randolph
11 | Place is a little bit further out because the house is bumped
12 | out.

13 | Again, and I just, I was sort of cautioned not go down
14 | this rabbit hole but I think it's important just to mention to
15 | this group. That I think from an adherence to neighboring
16 | structures and from a beauty perspective, I think candidly the
17 | carport as it stands today, it will be a better more suitable
18 | structure than what I'm proposing. But, again, that would result
19 | in 74 percent lot occupancy which would require a variance which
20 | has a higher burden of proof and I frankly did not want to pursue
21 | that feeling that this modification with the special exception
22 | would be easier and more likely. Next slide.

23 | Again, these are two more pictures. This is just
24 | looking from the alley straight on and then the picture on the
25 | right is looking west towards 1st Street, Northwest. Again, the

1 other picture was towards North Cap., and the neighbor
2 immediately adjacent to 54 is 56. They don't have a carport.
3 You see that's their grey car there. Across the way is another
4 carport. So the point of these photos here is to show you that
5 there are numerous structures around this house that have, not
6 just a roll-up garage door, but in fact have carports. In fact,
7 several of them have full enclosed garages as well. Next slide.

8 So to summarize the compliance with zoning rules with
9 the proposed modification that I just mentioned, it will reduce
10 lot occupancy to 69.72 percent and showing compliance with the
11 70 percent limit maintaining the residential character of the RF-
12 1 zoning district designed to be consistent with neighboring
13 structures. Minimal impact on neighbors.

14 I don't think this carport has much of an impact on
15 neighbors at all frankly as it stands today but a reduced size
16 would actually improve that, minimizes visual intrusion, does not
17 obstruct light, air or privacy, aligns with neighborhood
18 esthetics as I just showed and showing no adverse effects on
19 adjacent properties, and lastly these modifications address the,
20 not the rear setback but the lot occupancy issue meeting all
21 special exception criteria and supporting documentation including
22 the initial plans for these photos is included with the
23 application. Next slide.

24 This is just a repeat of what I said. Again, forgive
25 me, I'm a layman here doing this as I would do a business

1 presentation, not a government hearing, but I did submit a
2 statement of compliance that this does align with Subtitle X,
3 Section 9 of the review standard. Next slide.

4 And lastly, this is the final slide. The BZA approval
5 ensures compliance with D.C. zoning regulations, resolves permit
6 issues and honors my commitment to the new owner to have this
7 issue resolved. This was a condition of the sale. I did present
8 to the ANC 5E at their public hearing. I also presented to ANC
9 5E's zoning committee as well as the Bloomingdale Civic
10 Association. This all occurred in March, I believe, and all
11 three of those bodies voted to approve the project.

12 And of course this hearing scheduled today, and that
13 is my presentation. Thanks for your time.

14 CHAIRPERSON HILL: Okay. Thank you. And, Mr. Slocum,
15 you did a lovely job.

16 Let's see. Can I hear from the Office of Planning,
17 please.

18 MR. BARRON: Good afternoon, Commissioners. For the
19 record, my name is Ron Barron, D.C. Office of Planning.

20 The Office of Planning recommends approval of the
21 requested special exceptions. I'm happy to rest on the report
22 that's submitted to the record at Exhibit 25 and am available to
23 answer any questions that you may have.

24 CHAIRPERSON HILL: Thank you.

25 Before I do that, Mr. Young, is there anyone here

1 wishing to speak?

2 MR. YOUNG: We do not.

3 CHAIRPERSON HILL: All right.

4 Does the Board have any questions of the Office of
5 Planning or the Applicant?

6 (Pause.)

7 CHAIRPERSON HILL: Okay. All right.

8 Mr. Slocum, thank you very much for your presentation.

9 MR. SLOCUM: Thank you.

10 CHAIRPERSON HILL: And I'm going to close the hearing
11 and the record.

12 MR. SLOCUM: Thank you.

13 CHAIRPERSON HILL: You're welcome. Okay.

14 I didn't have any issues with this. I mean, I thought
15 like, basically, like, I don't think there's any more undue impact
16 to this carport versus the next door neighbor's versus the other
17 neighbors. It's even smaller than the one that's next to the
18 neighbor but their lot occupancy isn't a problem because it's
19 pulled away from the building and so, or they don't have an issue
20 with lot occupancy. And so I don't have an issue with this
21 particular proposal, and I'm going to agree with the analysis of
22 the Office of Planning as well as that of the ANC and vote in
23 support.

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

25 COMMISSIONER SMITH: No. I agree with your assessment

1 of this case and will vote in support.

2 CHAIRPERSON HILL: Thank you.

3 Mr. Blake?

4 VICE CHAIRPERSON BLAKE: Yes, Mr. Chairman. I agree
5 with your analysis. Actually I agree with the Applicant saying
6 that this looks pretty good but you're right, it would never make
7 the variance test. So I'm in support of the special exception.

8 CHAIRPERSON HILL: Thank you.

9 Dr. Imamura?

10 ZC COMMISSIONER IMAMURA: Mr. Chairman, I'm in
11 agreement with Commissioner Blake and your summary as well. I
12 think it looks pretty good as is and, you know, it's important
13 to adhere to our zoning regulations and Notice of Infractions are
14 important too, but this is one of those cases where it drives me
15 a little bit bonkers that looks good as is, but I think it was
16 very generous of Mr. Slocum to take this on as a condition of
17 the sale of his house. But I'm in agreement and prepared to vote
18 in support.

19 CHAIRPERSON HILL: Okay. Thank you.

20 I'm going to make amotion to support Application No.
21 21272 as captioned and ready by the secretary, and ask for a
22 second. Mr. Blake?

23 VICE CHAIRPERSON BLAKE: Second.

24 CHAIRPERSON HILL: Motion made and seconded. Madam
25 Secretary, can you take a roll call, please.

1 MS. MEHLERT: Just one clarification. Is, there
2 weren't any proposed plans in the record for this case so I wasn't
3 sure if the Board wanted to approve specific dimensions or the
4 proposed plat in the record.

5 CHAIRPERSON HILL: Yeah. Okay.

6 Does somebody have an opinion, the architect being --
7 I'm happy to reopen the record and get proposed plans and that
8 can be helpful, and that's I know if Ms. John were here, I'd know
9 what was going to happen. But Ms. John is no longer here. So
10 do you all have a suggestion? I'm happy to go either way.

11 ZC COMMISSIONER IMAMURA: I think we should probably
12 request those plans for a more fulsome record.

13 CHAIRPERSON HILL: Okay. That's great.

14 No, that's all I need. That's all I need. So, okay.
15 Can you bring back in the Applicant, please, Mr. Young?

16 (Pause.)

17 CHAIRPERSON HILL: Mr. Young, can you hear me? Oh,
18 never mind. Okay. I got him. I got him. Okay. Great. Thanks.

19 Mr. Slocum, so Mr. Slocum, we're going to need
20 proposed, the Board can't just approve stuff, right? We need to
21 see what we're approving, right? So if you go ahead and submit
22 some kind of proposed plans for what you're actually asking us
23 and how they basically match up with what you're proposing.

24 MR. SLOCUM: Yeah. So that may be difficult. It may
25 candidly be more, add more to this than I would like to do. I

1 | did submit a proposed, I don't want to hire another architect to
2 | come in to create plans of the structure that's already built.
3 | I did submit to the record a revised plat which does show the
4 | dimensions, the proposed structure --

5 | CHAIRPERSON HILL: Which exhibit? Which exhibit?

6 | MR. SLOCUM: Pardon?

7 | CHAIRPERSON HILL: Which exhibit?

8 | MR. SLOCUM: It is, it was part of the application. I
9 | need to grab that.

10 | CHAIRPERSON HILL: I think I see it. It's No. 2.

11 | MR. SLOCUM: Okay. Thank you.

12 | CHAIRPERSON HILL: Okay. Mr. Slocum, by the way I just
13 | want to point out, right, we'll see how this goes. But, again,
14 | we the Board don't usually approve something without plans and
15 | the fact that you're here asking for something that they all
16 | might think it's good. Like, the variance you never succeed in
17 | a variance, right?

18 | MR. SLOCUM: That's a good call. Yeah.

19 | CHAIRPERSON HILL: And this was already built
20 | illegally, okay? And so you're here to try to fix it and we got
21 | you. So I need to know if this is good enough for the Board,
22 | the plat, based on the plat, if that would be enough for the
23 | Board and I can go either way.

24 | COMMISSIONER SMITH: Chairman Hill, it's enough for me
25 | because the question before was more related to the size, the

1 square footage of the building, not so much the design. So I'm
2 fine with the spec being the plat as the document that we'll use
3 as the basis, not the design.

4 CHAIRPERSON HILL: Okay.

5 I'm good with it too. So I got two.

6 Mr. Blake?

7 VICE CHAIRPERSON BLAKE: Yes. I'm a little bit mixed
8 because the execution with a plan it's going to happen. Without
9 a plan we kind of like in limbo and I question the feasibility
10 of it. But that said, because given the nature of the structure.
11 I mean, is it, maybe, Mr. Slocum, you can discuss with me. Is
12 it, is this something relatively easy to do what you propose or
13 is it very complicated what you propose?

14 MR. SLOCUM: No, it's easy. I mean, this is crossbeams
15 with a two by four and plywood on the top with shingles.

16 VICE CHAIRPERSON BLAKE: Okay.

17 And you're, so your reluctance in actually planning it
18 out is because of what?

19 MR. SLOCUM: Because of financial. I mean, you know,
20 this thing cost \$18,000 to build that's, you know, and so a
21 contractor come in, a couple of thousand, you know. I just don't,
22 you know, this is a simple structure and this process, and I
23 understand with, I've been watching this meeting all morning here
24 from Nevada. You know, the cases that you're hearing before are
25 different types. I mean, those are kind of in a different world

1 I would say than what this is.

2 VICE CHAIRPERSON BLAKE: Okay. So what you're saying
3 is just you don't want to add the expense of, but we should be
4 confident that it will happen?

5 MR. SLOCUM: A hundred percent because this has,
6 although I will say that the Office of Administrative Hearings
7 did dismiss with prejudice the Notice of Infraction because the
8 DOB did not, they violated a court order by not appearing for
9 the hearing. But, yes, this will still be -- pardon?

10 VICE CHAIRPERSON BLAKE: That's not relevant for us.
11 The issue I said is do I know that if I say yes you can get this
12 done based on what you have --

13 MR. SLOCUM: Yes, sir.

14 VICE CHAIRPERSON BLAKE: -- there's a good chance it'll
15 actually happen?

16 MR. SLOCUM: Yes, sir.

17 VICE CHAIRPERSON BLAKE: And what makes me believe
18 that?

19 MR. SLOCUM: Well, because I will bring this to fruition
20 with the new owner. There's an escrow holdback of funds to get
21 this finished.

22 VICE CHAIRPERSON BLAKE: Okay. All right. Thank you.

23 CHAIRPERSON HILL: Okay. All right.

24 Dr. Imamura, you have comments?

25 ZC COMMISSIONER IMAMURA: I'm in agreement with Board

1 member Smith here. I think the plat is sufficient. He's right.
2 It's not a design issue and it is pretty simple to do. I
3 understand the additional fees for more design work just for the
4 teardown of six feet and I think the plat, I'm looking at it
5 here. So that was Mr. Slocum's saving card here, so.

6 CHAIRPERSON HILL: Okay. Great.

7 MR. SLOCUM: Thank you.

8 CHAIRPERSON HILL: All right. I'm going to go ahead
9 again and close the hearing and the record. Mr. Young, if you
10 could please excuse everyone.

11 MR. SLOCUM: Thank you.

12 (Pause.)

13 CHAIRPERSON HILL: Okay.

14 As I mentioned before in deliberation, I'm comfortable
15 with what we are having, with what is before us. I will make
16 the recommendation again (audio interference) based on the plat
17 in Exhibit 2. Okay?

18 I'm going to make a motion to approve Application No.
19 21272 as captioned and ready by the secretary that the plans, I'm
20 sorry, that the project will be built as per the plat in Exhibit
21 2 and I'm voting for approval, and I'm looking for a second. Mr.
22 Blake?

23 VICE CHAIRPERSON BLAKE: Second.

24 CHAIRPERSON HILL: Motion made and seconded. Madam
25 Secretary.

1 MS. MEHLERT: Please respond to the Chair's motion to
2 approve the application.

3 Chairman Hill?

4 CHAIRPERSON HILL: Yes.

5 MS. MEHLERT: Vice Chair Blake?

6 VICE CHAIRPERSON BLAKE: Yes.

7 MS. MEHLERT: Mr. Smith?

8 COMMISSIONER SMITH: Yes.

9 MS. MEHLERT: And Dr. Imamura?

10 ZC COMMISSIONER IMAMURA: Yes.

11 MS. MEHLERT: Staff would record as four to zero to one
12 to approve Application 21272 on the motion made by Chairman Hill
13 and seconded by Vice Chair Blake.

14 CHAIRPERSON HILL: Okay.

15 If you could call our next item of business, please.

16 MS. MEHLERT: Next is Applicatoin 21274 of GEM
17 Investments, LLC. This is a self-certified application pursuant
18 to Subtitle X, Section 901.2 for a special exception under
19 Subtitle D, Section 5201, from the accessory maximum building
20 area requirement of Subtitle D, Section 5003.1.

21 This is for a new second-story and two-story addition
22 to an existing one-story accessory structure in the rear yard of
23 an existing two-story semi-detached principal dwelling for use
24 as an accessory apartment and garage. It's located in the R-3
25 zone at 21 Channing Street, Northeast, Square 3504, Lot 63.

1 CHAIRPERSON HILL: Thank you.

2 If the Applicant can hear me, if they could please
3 introduce themselves for the record.

4 MS. WILSON: Hi. My name is Alex Wilson from Sullivan
5 & Barros on behalf of the Applicant in this case. I do have the
6 architect and owner available if necessary but I plan to present
7 the presentation by myself at this point.

8 CHAIRPERSON HILL: Great. Thank you.

9 Ms. Wilson, could you please go ahead and walk us
10 through your client's application and why you believe they're
11 meeting the criteria for us to grant the relief. I'm going to
12 put 15 minutes on the clock so I know where we are and you can
13 begin whenever you like.

14 MS. WILSON: Great. Thank you so much. Mr. Young,
15 could you please pull up the presentation? Thank you.

16 As noted, the property is located at 21 Channing
17 Street, Northeast. Next slide, please.

18 The property is located in the R-3 zone. It's improved
19 with a single family row dwelling and one-story garage located
20 at the rear of the property. The Applicant is proposing to
21 construct an addition to the existing accessory building and to
22 use the accessory building as an accessory apartment. The
23 existing accessory building already has a footprint of 688 square
24 feet and the proposed accessory building with stairs will have a
25 footprint of 821 square feet, so a slight increase. Accessory

1 building footprints in the R-3 zone are limited to 450 square
2 feet and so the Applicant is seeking special exception relief
3 pursuant to D-5201 from the accessory building footprint
4 requirements.

5 An accessory apartment in an accessory building is
6 permitted subject to the standards of U-253 which are met in this
7 case. And then the accessory building will also meet the
8 respective setback and height limitations for an accessory
9 building in the R-3 zone and the overall lot occupancy of the
10 property will continue to be well within the lot occupancy limits.
11 The overall lot occupancy is limited to 32 percent where 60 is
12 permitted. Next slide, please.

13 The office of Planning is recommending approval. ANC
14 5E voted unanimously in support. There's only one adjoining
15 property and no concerns were raised and then I believe the ANC
16 report also notes outreach to those within 200 feet and no
17 concerns noted. DDOT has no objection. Next slide, please.

18 So this shows the subject property and if you see where
19 the number 21 is located on this, that is where the existing
20 accessory building is located. As noted, it's about 700 square
21 feet currently. It's on the corner of the lot facing the alley
22 which abuts the rears and parking areas of properties across the
23 alley. There is only one adjoining building shown to the right
24 on this, or sorry, to the left on this and then the garage is on
25 the complete opposite side hidden by foliage, and then the other

1 | property on the right hand side is a cemetery. Next slide,
2 | please.

3 | This is the existing garage as viewed from the alley.
4 | Next slide, please.

5 | This is another view facing the alley to the west and
6 | you can see the foliage along the alley there too. Next slide,
7 | please.

8 | This is an even better angle showing the conditions on
9 | the alley and that the existing garage is located at the dead
10 | end of the alley. Next slide, please.

11 | This just shows the existing proposed footprint. There
12 | will be a second story addition and slight expansion including
13 | the stairs and going from 688 to 821 square feet. Next slide,
14 | please.

15 | This shows what the existing second story will look
16 | like. Next slide, please.

17 | This is the existing footprint. It's just a garage
18 | currently. Next slide, please.

19 | This is the proposed upstairs will be for living space
20 | for the accessory apartment. Next slide, please.

21 | And these are the respected sections and views. Next
22 | slide, please.

23 | The proposal meets the general special exception
24 | criteria as the property will remain a single family row dwelling
25 | with the addition of an accessory apartment in the accessory

1 building which is permitted by-right. Next slide, please.

2 Regarding the specific requirements, the proposal shall
3 not unduly affect the light, air, privacy nor enjoyment of
4 neighboring properties nor will it substantially visually intrude
5 upon the character, scale and pattern of houses along the alley.
6 There's only one adjoining building. The accessory building
7 already exists and the addition is within the 22 foot height
8 limit due to the irregular lot shape. The structure is set back
9 far from any nearby residences while the expansion brings it
10 closer to the Glenwood Cemetery property line. That area is
11 heavily vegetated and well separated from any cemetery
12 structures. The addition does not reduce the existing separation
13 from nearby homes.

14 And finally the proposed addition will not be visible
15 from Channing Street. While it is visible from the alley, the
16 proposal is an addition to a garage that already exists and the
17 property is located at the end of a dead end alley with no
18 consistent architectural pattern. Next slide.

19 I believe that's the end of the presentation and,
20 again, the architect is here if you have any specific questions
21 about the proposed addition.

22 CHAIRPERSON HILL: Okay.

23 Before I turn to my Board, can I turn to the Office of
24 Planning.

25 MR. JURGOVIC: Good afternoon Chairman Hill and members

1 of the Board. This is Michael Jurgovic, Development Review
2 Specialist with the Office of Planning.

3 OP is in support of the Applicant's requested relief
4 to maximum accessory building area and stand on the record of our
5 report. Here to answer any questions. Thank you.

6 CHAIRPERSON HILL: Thank you.

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

8 MR. YOUNG: You have the ANC Commissioner on.

9 CHAIRPERSON HILL: Oh, great. I'm sorry. I didn't see
10 the ANC Commissioner. Sorry.

11 Commissioner, could you please introduce yourself for
12 the record.

13 ANC COMMISSIONER VINING: My name is Kirby Vining. I
14 am the ANC Single Member District Commissioner for ANC 5E06 and
15 this property is located within that SMD, and I'm the author of
16 the Form 129 that votes in support of this that Ms. Wilson just
17 mentioned.

18 CHAIRPERSON HILL: Thank you, Commissioner. Would you
19 like to give any further testimony?

20 ANC COMMISSIONER VINING: Yes.

21 As soon as I learned about this case, when the notice
22 went out to the community there I went to examine the property.
23 I am very close personal friends of the two previous
24 owner/occupants of the property but I went to look at the property
25 given the current circumstances to review exactly the information

1 that Ms. Wilson so adequately summarized, what would be the
2 possible impacts and light and neighboring situation and whatnot,
3 and for my own education I looked at that and said I don't see
4 anything that would be an irritant to anyone at this end of the
5 alley or the cemetery and of course the residents in the cemetery
6 are generally pretty quiet about (audio interference).

7 But that was to educate myself. I went home and looked
8 at the notice to the 200 footers there and did my own notice to
9 the same 200 footers putting into vernacular language. I mean,
10 of course zoning notices come to the community it looks like
11 jabberwocky. But I said, well, there's 21 Channing Street has
12 the existing garage there and they want to expand the footprint
13 of that garage a little bit and put an apartment up on top of it
14 there, and I was asking, and I said that the ANC Zoning Committee
15 and the ANC itself and the BZA would be reviewing this
16 application. They need permission to increase that footprint and
17 permission to put that second floor up, but please contact me if
18 you have any concerns or any questions about this case.

19 And I only received one response to all that which was
20 one of the residents nearby who didn't know about the whole
21 accessory dwelling unit process and I said to him we're in the
22 R-3, everybody can have one. We can have one, we cannot have
23 more than one and it could be in your house or in an out-building
24 like this. So not having seen any derogatory impact of this
25 myself and not having heard any from the community, the ANC voted

1 as you saw and as was explained by Ms. Wilson, was in unanimous
2 support of this.

3 Thank you.

4 CHAIRPERSON HILL: Great. Thank you, Commissioner.
5 All right.

6 Does the Board have any questions of anybody? The
7 Commissioner, the Office of Planning or the Applicant?

8 (Pause.)

9 CHAIRPERSON HILL: Okay. All right. Great. Let's
10 see.

11 All right, Ms. Wilson. Do you have anything you'd like
12 to add at the end?

13 MS. WILSON: No. Thank you all.

14 CHAIRPERSON HILL: Okay.

15 I'm going to go ahead and close the hearing and the
16 record.

17 (Pause.)

18 CHAIRPERSON HILL: Okay.

19 I'm going to agree with the analysis that the Office
20 of Planning has provided as well as that of the ANC as well as
21 that of the Applicant. I think that this is meeting the criteria
22 for us to grant this particular relief and I'm going to be in
23 favor of this application.

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

25 COMMISSIONER SMITH: I'm in support of the application.

1 CHAIRPERSON HILL: Vice Chair Blake?

2 VICE CHAIRPERSON BLAKE: Mr. Chair, I'm in support of
3 the application.

4 CHAIRPERSON HILL: Dr. Imamura?

5 ZC COMMISSIONER IMAMURA: I'm in support of the
6 application as well.

7 CHAIRPERSON HILL: Great. Thank you. All right.

8 I'm going to make a motion to approve Application No.
9 21274 as captioned and read by the secretary, and ask for a
10 second. Vice Chair Blake?

11 VICE CHAIRPERSON BLAKE: Second.

12 CHAIRPERSON HILL: Motion made and seconded. Madam
13 Secretary, can you take a roll call, please.

14 MS. MEHLERT: Please respond to the Chair's motion to
15 approve the application.

16 Chairman Hill?

17 CHAIRPERSON HILL: Yes.

18 MS. MEHLERT: Vice Chair Blake?

19 VICE CHAIRPERSON BLAKE: Yes.

20 MS. MEHLERT: Mr. Smith?

21 COMMISSIONER SMITH: Yes.

22 MS. MEHLERT: Dr. Imamura?

23 ZC COMMISSIONER IMAMURA: Yes.

24 MS. MEHLERT: Staff would record the vote as four to
25 zero to one to approve Application 21274 on the motion made by

1 Chairman Hill and seconded by Vice Chair Blake.

2 CHAIRPERSON HILL: Okay. Thank you, Madam Secretary.

3 Okay, you guys, we've got one more quick thing that we
4 have to deal with. It's for our training sessions.

5 So as Chairman of the Board of Zoning Adjustment with
6 the District of Columbia and in accordance with Section 405(c)
7 of the Open Meetings Act, I move that the Board of Zoning
8 Adjustment hold the following closed meeting on Tuesday, April
9 29th, 2025 at 9:30 a.m. for the purposes of receiving training
10 as permitted by D.C. Official Code Section 2-575(b)(12).

11 The subject of the training is discussions concerning
12 rear yard changes to the zoning regulations, when is a deck no
13 longer a deck, adding screenings, landings, stairs, et cetera,
14 and when does an accessory building become a dwelling unit. Is
15 there a second, Mr. Blake?

16 VICE CHAIRPERSON BLAKE: Second.

17 CHAIRPERSON HILL: Madam Secretary, the motion has been
18 made and seconded.

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

20 Chairman Hill?

21 CHAIRPERSON HILL: Yes.

22 MS. MEHLERT: Vice Chair Blake?

23 VICE CHAIRPERSON BLAKE: Yes.

24 MS. MEHLERT: Mr. Smith?

25 COMMISSIONER SMITH: Yes.

1 MS. MEHLERT: Dr. Imamura?

2 ZC COMMISSIONER IMAMURA: Yes.

3 MS. MEHLERT: Staff would record the vote as four to
4 zero to one to approve the motion made by Chairman Hill and
5 seconded by Vice Chair Blake.

6 CHAIRPERSON HILL: Okay. Great.

7 As it appears the motion has passed, I request the
8 Office of Zoning provide notice of this closed meeting in
9 accordance with the Act.

10 Okay, you guys. Madam Secretary, is there anything
11 left for the BZA today?

12 MS. MEHLERT: There is not.

13 CHAIRPERSON HILL: Okay.

14 I hope you all enjoy your day. Goodbye.

15 ZC COMMISSIONER IMAMURA: Feel better.

16 CHAIRPERSON HILL: Thank you. See you all next time.

17 (Whereupon, the above-entitled matter went off the
18 record at 12:56 p.m.)

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

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2
3 This is to certify that the foregoing transcript

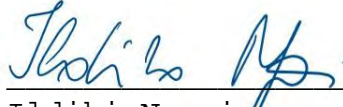
4
5 In the matter of: Public Hearing

6
7 Before: DC BZA

8
9 Date: 04-23-25

10
11 Place: Via Videoconferencing

12
13 was duly recorded and accurately transcribed under my
14 direction; further, that said transcript is a true and accurate
15 record of the proceedings.
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21 _____
Ildiki Nyari