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GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of Zoning
Board of Zoning Adjustment

PUBLIC MEETING AND HEARING
OF THE BOARD OF ZONING ADJUSTMENT

9:40 a.m. to 11:37 a.m.
Wednesday, April 19, 2017

441 4th Street, N.W.
Jerrily R. Kress Memorial Room
Second Floor Hearing Room, Suite 220-South
Washington, D.C. 20001

OLENDER REPORTING, INC.
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1 Board Members:

2 FREDERICK HILL, Chairperson

3 CARLTON HART, Vice Chairperson

4 LESYLLEE WHITE, Board Member

5 ROBERT MILLER, Zoning Commission

6 TRACY ROSE, BZA Secretary

7

8

9 Office of Attorney General

10 SHERRY GLAZER, Esq.

11

12 Office of Planning

13 STEVE COCHRAN

14 CRYSTAL MYERS

15 ANNE FOTHERGILL

16

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

2 CHAIRPERSON HILL: All right. Good morning.
3 The hearing will please come to order. We're located
4 in the Jerrily R. Kress Memorial Hearing Room at 441
5 4th Street Northwest. This is the April 19th public
6 hearing of the Board of Zoning Adjustment of the
7 District of Columbia.

8 My name is Fred Hill, Chairperson. Joining me
9 today is Carlton Hart, Vice Chairperson, Leslyee
10 White, board member, and representing the Zoning
11 Commission is Rob Miller.

12 Copies of today's hearing are available to you
13 and are located on the wall bin next to the door.
14 Please be advised that this proceeding is being
15 recorded by a court reporter and is also webcast live.

16 Accordingly, we must ask you to refrain from any
17 disruptive noises or actions in the hearing room.
18 When presenting information to the Board, please turn
19 on and speak into the microphone, first stating your
20 name and home address. When you're finished speaking,
21 please turn off the microphone so that your microphone
22 is no longer picking up sound or background noise.

23 All persons planning to testify either in
24 favor or in opposition must have raised their hands
25 and been sworn in by the secretary. Also, each

1 witness must fill out two witness cards. These cards
2 are located on the table near the door and on the
3 witness table. Upon coming forward to speak to the
4 Board, please give both cards to the reporter sitting
5 at the table to my right.

6 If you wish to file written testimony or
7 additional supporting documents today, please submit
8 one original and 12 copies to the secretary for
9 distribution. If you do not have the requisite number
10 of copies, you can reproduce copies on an office
11 printer in the Office of Zoning, located across the
12 hall.

13 The order of the procedure for special
14 exceptions and variances, as well as appeals, are also
15 located at the bin as you walk into the door. The
16 record shall be closed at the conclusion of each case,
17 except for any materials specifically requested by the
18 Board. The Board and the staff will specify at the
19 end of the hearing exactly what is expected and the
20 date when the persons must submit the evidence to the
21 Office of Zoning.

22 After the record is closed, no other
23 information shall be accepted by the Board. The
24 District of Columbia Administrative Procedures Act
25 requires that the public hearing on each case be held

1 in the open before the public, pursuant to Section
2 405B and 406 of that act, the Board may, consistent
3 with its rules and procedures and the act, enter into
4 a closed meeting on a case for purposes of seeking
5 legal counsel on a case pursuant to D.C. Official
6 Code, Section 2-575(b)(4), and/or deliberating on a
7 case pursuant to D.C. Official Code 2-575(b)(13), but
8 only after providing the necessary public notice. And
9 in the case of an emergency closed meeting after
10 taking a roll call vote.

11 The decision of the Board in cases must be
12 based exclusively on the public record. To avoid any
13 appearance to the contrary, the Board requests that
14 persons present not engage the members of the Board in
15 conversation. Please turn off all beepers and cell
16 phones at this time so as not as to disrupt these
17 proceedings.

18 Preliminary matters are those which related to
19 whether a case will or should be heard today, such as
20 request for a postponement, continuance, or
21 withdrawal, or whether proper and adequate notice of
22 the hearing has been given.

23 If you're not prepared to go forward with the
24 case today, or if you believe that the Board should
25 not proceed, now is the time to raise such a matter.

1 Do we have any preliminary matters today?

2 MS. ROSE: Yes, Mr. Chairman. Good morning,
3 Members of the Board. The following cases will not be
4 heard today. 19424 of Young Soo Kim. This case has
5 been withdrawn. Application -- also Application No.
6 19472 of Behnam Farahpour has been postponed to May
7 3rd, 2017.

8 CHAIRPERSON HILL: Okay, great. Thank you.
9 Would anyone who is planning on testifying, if you
10 would please stand up and take the oath?

11 MS. ROSE: Please raise your right hand.

12 [Oath administered to the participants.]

13 MS. ROSE: You may consider yourselves under
14 oath.

15 CHAIRPERSON HILL: Okay. Just so everybody
16 knows how we're going to go today, we're going to do
17 the public meeting agenda first, and we're going to
18 follow that order. And then also the following is the
19 hearing agenda and we're going to just make one
20 switch. We're going to hear first, Application No.
21 19480 of Ilya Zusin. I'll probably learn how to say
22 that later. And that's the only change in terms of
23 the order. Otherwise, we're going to follow the
24 agenda.

25 If we could call our first meeting case?

1 MS. ROSE: Yes, the first case on the meeting
2 agenda is a motion for reconsideration of Condition
3 No. 3 in the final order of Application No. 19442 of
4 Matthew Manders, pursuant to 11-DCMR, Subtitle X,
5 Chapter 9 for a special exception under Subtitle D,
6 Section 5201; from the side yard requirements of
7 Subtitle D, Subsection 307.1; to add a deck to the
8 rear of an existing one-family dwelling in the R-1-B
9 Zone at premises 5120 Fulton Street Northwest, Square
10 1419, Lot 824.

11 CHAIRPERSON HILL: Thank you, Ms. Rose. Is
12 the Board ready to deliberate? Okay.

13 So, you know, after going through this and
14 understanding the motion for changing basically the
15 vegetation which we had recommended or had added as a
16 condition, bamboo screening was to be planted, the ANC
17 and the applicant, and I believe a neighborhood
18 thought that bamboo was going to be a little bit too
19 evasive. And so, had requested a modification to
20 change the condition to require more noninvasive
21 vegetation and screening.

22 As is our requirement to hear from the Office
23 of Planning and also take the Office of Planning's
24 opinion and giving them great weight, I was interested
25 in hearing from the Office of Planning even though

1 this is a meeting. I do see that the Office of
2 Planning is here, and I did have a question for the
3 Office of Planning.

4 Did you have something to add also?

5 MR. HART: Yeah, Mr. Chairman. I think the
6 issue on the timeliness of the ANC motion, they
7 submitted the motion 14 days after the issuance of the
8 order. The Section Y, Subsection 101.9 says that we
9 can waive the date, the timeliness issue. They're
10 looking to do this. They -- go to the Office of
11 Planning.

12 CHAIRPERSON HILL: No, I appreciate that. So,
13 I don't have any issues with waiving the timeliness,
14 the motion as timely. And then turn to the Office of
15 Planning to hear their thoughts on vegetation.

16 MR. COCHRAN: Thank you, Mr. Chair, and for
17 the record, Steve Cochran, Office of Planning.

18 And thoughts of vegetation don't come to my
19 mind frequently, but we -- because the deck is
20 relatively high above the grade, that's -- we
21 recommended some screening to protect neighbors.

22 The discussions between the applicant and the
23 ANC seem to be quite amicable. I ran this by our
24 landscape architect, and by our sustainability people
25 at the office. The list of the plants that were

1 recommended by the ANC. They said that the plants
2 recommended were very appropriate for anything on a
3 deck. They were a little concerned that if you're
4 really looking for screening, they don't grow that
5 tall. We have no problem with it. We would note that
6 you might want to add a plant called the -- sorry, on
7 the USDA site it's listed simply as, the Green Giant.
8 It is the -- it's an arborvitae type plant, and it
9 grows considerably taller. And if you need to screen
10 from either adjacent neighbors or from a street, that
11 might be the type of plant that would be suitable, in
12 addition to the ones that are mentioned.

13 CHAIRPERSON HILL: Thank you, Mr. Cochran.
14 Does the Board have any questions for the Office of
15 Planning?

16 MR. HART: The arborvitae is the
17 recommendation as opposed to the --

18 MR. COCHRAN: In addition to.

19 MR. HART: Okay. Thank you.

20 CHAIRPERSON HILL: Okay. There are a variety
21 of things that you can actually grow in the District
22 now for legal purposes.

23 So, I'll go ahead and then, does the Board
24 have any other thoughts or comments?

25 MS. WHITE: No.

1 CHAIRPERSON HILL: Okay. I'm going to go
2 ahead and make a motion to modify the conditions to
3 require noninvasive vegetative screening. I'm not
4 going to get the other names right. The different
5 plants that were recommended by the ANC as well as the
6 applicant are big blue stem, bottlebrush grass, little
7 blue stem, Indian grass, and now the green giant, are
8 all being added as options in the modification for the
9 conditions. Do I get a second?

10 MS. WHITE: Second.

11 CHAIRPERSON HILL: Motion has been made and
12 seconded.

13 [Vote taken.]

14 CHAIRPERSON HILL: The motion passes, Ms.
15 Rose.

16 MS. ROSE: Staff will record the vote as four,
17 to zero, to one with a motion by Mr. Hill, seconded by
18 Ms. White, to grant the motion for reconsideration and
19 revised condition number 3 with the support of Mr.
20 Hart and Mr. Turnbull, who submitted an absentee
21 ballot in support of the waiver of the time
22 requirement and in support of reconsideration.

23 CHAIRPERSON HILL: Okay, great. Thank you.
24 Summary order.

25 MS. ROSE: Thank you.

1 CHAIRPERSON HILL: No? Ms. Glazer?

2 MR. GLASGOW: It should be a full order.

3 MS. ROSE: Full order?

4 CHAIRPERSON HILL: Full order.

5 MR. GLASGOW: The simple order.

6 CHAIRPERSON HILL: Okay.

7 MS. ROSE: Next is Application No. 19446 of
8 Maximum Karasik as amended, pursuant to 11-DCMR,
9 Subtitle X(10), Chapter 9, for a special exception
10 under Subtitle E, Section 5201 from the lot occupancy
11 requirements of Subtitle E, Subsection 304.1, and the
12 nonconforming structure requirements of Subtitle C,
13 Subsection 202.2, to construct a third-floor addition
14 above an existing two-story, one-family dwelling in
15 the RF-1 Zone at premises 646, 6th Street Northeast,
16 Square 834, Lot 89.

17 CHAIRPERSON HILL: Okay, thank you. Is the
18 board ready to deliberate?

19 [No audible response.]

20 CHAIRPERSON HILL: Okay. I can go ahead and
21 start. After reviewing all the information on the
22 case again, as I recall, you know, we had asked --
23 there was a party status opposition to this applicant
24 and we had asked the applicant and the party status
25 individual to try to come to some kind of an agreement

1 or see if there was a way to come to an agreement.
2 And it looks as though after discussions and what has
3 been added to the record, that they could not come to
4 a understanding in terms of how to move forward with
5 this project.

6 Again, after reviewing the information, then
7 also seeing the submission from the applicant in terms
8 of the diagram -- actually, I thought that the
9 illustrations were very helpful to see what was
10 proposed in terms of the third story. I would again
11 be leaning towards the analysis of the Office of
12 Planning in terms of how the applicant has met the
13 criteria and the standard for this application to be
14 approved.

15 I also note that the ANC had voted on this
16 four, to two, to zero in approval. There was letters
17 in opposition as well as letters in support for this,
18 and I can see why there would be opinions on both
19 sides. However again, I was swayed by the analysis by
20 the Office of Planning as well as that the applicant
21 had done everything they could in terms of working
22 with the ANC, and also that the criteria was met for
23 the third-floor addition.

24 So, I would be in support of the applicant.
25 Does anyone else have anything to add?

1 MR. HART: Thank you, Mr. Chairman. I think I
2 would agree with you in terms of the supplemental
3 drawings and information that was provided by the
4 applicant. I think it's very helpful to see the
5 proposed project in concert in the context with the
6 other buildings, the neighboring buildings. And I did
7 not have a -- I would not have a difficult time
8 approving the application as I think that they are
9 definitely -- they've made changes to improve the
10 project through their further consultation with a
11 variety of -- the next door neighbor and also the
12 community.

13 So, I -- and I think that they, again, looking
14 at the Office of Planning report and the supplemental
15 report, I would agree with the Office of Planning in
16 their assessment of the project and their support of
17 it as well.

18 MR. MILLER: Thank you, Mr. Chairman. I would
19 simply agree with my colleagues. I think the
20 supplemental filing with the illustrations, the
21 massing, was very helpful to see that third-floor
22 addition and agree that an effort was made to try to
23 reach an agreement, but unfortunately it was not
24 successful. But there is the setback that wasn't
25 originally there. There is the retention of the

1 mansard roof that wasn't originally a part of that.
2 So, again, I think the drawings were very helpful in
3 showing that there isn't really a significant adverse
4 impact to this addition.

5 MS. WHITE: Mr. Chairman, I also concur with
6 my colleagues. I also gave the Office of Planning's
7 report great weight, and I also believe that the last
8 submission submitted with the drawings were very
9 detailed, and I think they made best efforts to
10 preserve the character of the neighborhood with the
11 addition. The addition doesn't appear to
12 substantially visually intrude upon the character of
13 the scale and the pattern of the houses on that
14 particular block. Nor did I see that it intruded on
15 the privacy of the neighboring property. So, I too
16 agree with the fact that we should provide the relief
17 requested.

18 CHAIRPERSON HILL: Okay, great. Thank you. I
19 was a little surprised, actually, with the
20 illustration in that I didn't realize how close that
21 ceiling seemed to come out to where it was even
22 matching. I understand that the setback was farther
23 on the neighborhood's property. But the illustration
24 I found to be very compelling in terms of argument.

25 So, I'll go ahead and make a motion to approve

1 application No. 19446 of Matt Karasik as read by the
2 secretary.

3 MR. HART: Second.

4 CHAIRPERSON HILL: Motion has been made and
5 seconded.

6 [Vote taken.]

7 CHAIRPERSON HILL: Motion passes, Ms. Rose.

8 MS. ROSE: Staff would record the vote as
9 four, to zero, to one, with a motion by Mr. Hill,
10 seconded by Mr. Hart, to approve the application with
11 Ms. White and Mr. Miller in support of the motion, one
12 seat, board seat vacant.

13 CHAIRPERSON HILL: Thank you. And that's
14 going to be a full order due to the opposition.

15 MS. ROSE: Thank you.

16 [Pause.]

17 MS. ROSE: Do you want me to read the full --
18 next is Application No. 19480 of Ilya Zusin, pursuant
19 to 11-DCMR, Subtitle X, or 10, Chapter 9, for special
20 exceptions from the accessory building, lot occupancy
21 requirements of Subtitle E, Subsection 503.1, from the
22 accessory building rear yard requirements of Subtitle
23 E, Subsection 504.1, and under Subtitle E, 5201 from
24 the lot occupancy requirements of Subtitle E,
25 Subsection 304.1, to construct an accessory two-story

1 carriage house for use as a covered parking -- as
2 covered parking and an office in the RF-1 Zone at
3 premises 202 9th Street Southeast, located in Square
4 944, Lot 814.

5 There is a party status application filed by
6 Candace Gill, represented by Ellen Oppen-Weiner, and
7 there is also a request for postponement filed by Ms.
8 Oppen-Weiner on behalf of Ms. Gill.

9 CHAIRPERSON HILL: Okay, great. Good morning.
10 Could we just -- if you could please introduce
11 yourselves from my right to left?

12 MR. ZUSIN: My name is Ilya Zusin. I'm the
13 owner at 202 9th Street Southeast.

14 MR. GAON: Joe Gaon from the law firm of
15 Holland and Knight on behalf of the applicant.

16 MS. OPPEN-WEINER: [Speaking off microphone.]

17 CHAIRPERSON HILL: I'm sorry, you need to push
18 the button there, the little green button. That's all
19 right.

20 MS. OPPEN-WEINER: It's been a while since
21 I've been here. Thank you.

22 My name is Ellen Oppen-Weiner, and I'm here
23 representing Ms. Gill. I also should mention that I
24 live within 200 feet of the subject property as well.

25 CHAIRPERSON HILL: Okay.

1 MS. GILL: Hi. Candace Gill.

2 CHAIRPERSON HILL: Okay. Great.

3 MS. GILL: I live at 905 Independence Avenue
4 Southeast.

5 CHAIRPERSON HILL: Okay, great. Well, there's
6 a couple of preliminary matters I guess that we need
7 to talk about, one of which is the party status.

8 So, there was a preliminary matter, I guess,
9 about Exhibit 80, which was -- and this is from the
10 applicant, which was clarifying that the request for a
11 ground-floor eating and drinking was in error. Is
12 that --

13 MR. GAON: That's correct.

14 CHAIRPERSON HILL: So, that's correct. And
15 I'm just curious, you just checked the wrong box or --

16 MR. GAON: Just in the conclusion paragraph.
17 I just, I left it in there and it -- I think as shown
18 by the plans and everything else in the record --

19 CHAIRPERSON HILL: Right.

20 MR. GAON: -- it was just a harmless error and
21 a mistake. The Zusins never intended to build an
22 eating and drinking establishment on the property.

23 CHAIRPERSON HILL: Okay. Okay. So I'm, after
24 again --

25 MS. OPPER-WEINER: Mr. Hill, may I make a

1 comment about that?

2 CHAIRPERSON HILL: Sure.

3 MS. OPPER-WEINER: Well, I'm the one that
4 discovered this conclusion. Everybody who had
5 reviewed the file, nobody else had seen it. And when
6 I was preparing for this hearing I'm the one that
7 said, when I was at the ANC meeting, that I had found
8 this conclusion paragraph. I was floored. And I read
9 it and reread it, and reread it.

10 It was signed by Normal Glasgow, Jr. It was
11 filed in the case, and it was filed on March 29th.
12 So, I just want to make sure that's clear in the
13 record.

14 CHAIRPERSON HILL: Okay.

15 MS. OPPER-WEINER: Yes.

16 CHAIRPERSON HILL: All right. I -- and the
17 Board, you know, please, feel free to jump in if you
18 have any questions, but I think I mean, after looking
19 at the exhibit, and I appreciate Ms. -- how do you say
20 it again?

21 MS. OPPER-WEINER: Opper-Weiner.

22 CHAIRPERSON HILL: Opper-Weiner.

23 MS. OPPER-WEINER: I know it's -- most people
24 want to do Opper-Weiner. But it doesn't matter, as
25 long as you spell it right.

1 CHAIRPERSON HILL: Okay. All right. So, Ms.
2 Opper-Weiner, I realize and appreciate that you know,
3 the clarification as to how you found it, but again,
4 after looking at the exhibit and then looking at the
5 drawings, I think that it was an error that they did
6 that. So, unless the Board has any other questions
7 I'm going to accept the clarifying application. Okay.
8 All right.

9 So, that's one issue. The next, again, is the
10 party status request. I guess Ms. Opper-Weiner, if
11 you could tell me a little bit about the party status
12 request, and what you know, your argument is as to why
13 you should receive party status?

14 MS. OPFER-WEINER: Well, yes. First of all,
15 Ms. Gill tried to handle this case by herself, doesn't
16 know the rules and didn't read all -- didn't even read
17 the zoning code.

18 She is directly impacted by this project.
19 It's going to be built, as proposed, up against her
20 home. The D.C. Department of Taxation, Tax and
21 Revenue, changed the nature of her tax listing. She's
22 always thought she lived in a single-family dwelling.
23 But in fact, now it's a semi-detached dwelling.

24 She has some serious concerns about that. In
25 addition, Mr. -- the applicant has proposed to cover

1 up her only window on the back wall, where that house
2 is 930 square feet, it's very small, nobody has gone
3 into the house to see it for themselves, even though
4 Ms. Gill has invited the ANC representative on several
5 occasions.

6 So, she's directly impacted. Her tax -- the
7 assessment for her home went down, so the value of her
8 property has decreased. She's lived there for 19
9 years. Her parents initially bought the property with
10 the intention of Ms. Gill purchasing it. She did live
11 there then entire time, since 1998.

12 So, we feel because of the -- basically she
13 has direct impact, that she ought to have party
14 status. So, I think that's essentially the argument.
15 She's the one that's most directly impacted in a
16 negative way.

17 CHAIRPERSON HILL: Okay.

18 MS. OPFER-WEINER: So, I don't want to repeat
19 what I wrote, but --

20 CHAIRPERSON HILL: No, that's all right.
21 That's okay. I just, I appreciate the clarification.

22 MS. OPFER-WEINER: Okay. Thank you.

23 CHAIRPERSON HILL: And then, so you know, she
24 is the adjacent neighborhood, correct?

25 MS. OPFER-WEINER: Yeah, abutting.

1 CHAIRPERSON HILL: Yeah. Yeah. So, I mean, I
2 don't have any real questions. Does the Board have
3 any questions? Okay.

4 So, we're going to go ahead and grant you
5 party status.

6 MS. OPPER-WEINER: Very good. Thank you.

7 CHAIRPERSON HILL: As the adjacent neighbor.
8 I would imagine that you don't have any, you know,
9 objection to that.

10 If anybody is going to get party status, I
11 would think the adjacent neighborhood is going to get
12 party status.

13 So, then that brings us to the matter of the
14 request for postponement. And, Ms. --

15 MR. GAON: Gaon.

16 CHAIRPERSON HILL: Gaon. So, Mr. Gaon, you
17 had something to say?

18 MR. GAON: I just want to rehash a little bit
19 of the background here. BZA notice was sent out by
20 the secretary on February 24th as evidenced by the
21 attestation of Cliff Moy in the record. It was
22 published in the D.C. Register on March 3rd, all in
23 accordance with the zoning regulations.

24 The applicant posted the property on March
25 28th, also in accordance with the 50-day timeline in

1 the zoning regulations. Some of the neighbors said
2 that they did not actually receive proper notice. I
3 believe a second notice was sent out correcting the
4 ANC that was placed on there. They didn't receive the
5 corrected notice until March 20th.

6 So, in order to accommodate some of the
7 neighbors, we have agreed to postpone the hearing to a
8 later date, even though we believe that notice was
9 provided in accordance with the regulations.

10 We had a conversation with Office of Zoning
11 staff yesterday. They informed us that the next
12 available hearing date is May 10th, so we would just
13 request to be heard at the next available hearing
14 date, just to accommodate the neighbors and make sure
15 any of the notice -- you know, they have proper or
16 more notice of the subsequent hearing.

17 CHAIRPERSON HILL: Okay. I appreciate that,
18 and I appreciate the clarification in terms of the
19 discussion, in terms of whether enough notice was
20 provided. I mean, I think that the sheer fact that
21 everyone is here and has been notified, I mean, that's
22 another indication to me that proper notice has been
23 provided. However, I guess we're kind of coming up to
24 an issue with the date.

25 MR. GAON: I just also want to clarify, if

1 need be, we are ready to go today, so.

2 CHAIRPERSON HILL: Okay. Okay. So, now Ms.
3 Opper-Weiner, I guess Ms. Gill has an issue with the
4 10th. Was that correct?

5 MS. OPFER-WEINER: Yes.

6 CHAIRPERSON HILL: Okay.

7 MS. OPFER-WEINER: We have, first of all, I
8 want to clarify a misstatement that Mr. Gaon made.
9 The second letter that came had the same information
10 in it that the other did.

11 I happen -- as I said, I live in the 200 feet
12 area and I got both letters, actually. And I was
13 surprised that several of my neighbors, key witnesses
14 by the way, who did not receive the letter. I
15 couldn't believe it. And it had the wrong ANC on it,
16 2F, which is what it said, 2F, which is very
17 confusing.

18 In any case, and Mr. Moy all -- the staff
19 knows how I feel about this because I do believe in
20 notice as being one of the most important things. Ms.
21 Gill finally retained me on April 5th, because she was
22 so overwhelmed and feeling as if nobody was listening
23 to her. As a matter of fact, even the Office of
24 Planning didn't even bother to go into her home to
25 check out the -- nobody has. The HPRB woman who I

1 spoke with, Ms. Gutowski (phonetic), didn't go into
2 the house. Mr. Cochran, did not go into the house.

3 So, we are preparing. Now, we have two key
4 witnesses who are unavailable on the 10th. Not to
5 mention, I have a conflict. So, that the -- by the
6 way, they've never called me to discuss what might be
7 a good date. I get demands. It's got to be this
8 date.

9 CHAIRPERSON HILL: Okay. That's okay. That's
10 all right.

11 MS. OPPER-WEINER: Yeah.

12 CHAIRPERSON HILL: I got you. Okay.

13 MS. OPPER-WEINER: But (simultaneous speech).

14 CHAIRPERSON HILL: So the 10th isn't working
15 for you guys, right?

16 MS. OPPER-WEINER: It really is not.

17 CHAIRPERSON HILL: And, Ms. Gill, it's not
18 working for you as well?

19 MS. GILL: No, sir. The 10th is not a good
20 day.

21 MS. OPPER-WEINER: She's a D.C. Public School
22 teacher.

23 CHAIRPERSON HILL: Okay.

24 MS. OPPER-WEINER: And any -- and she gave up
25 most of her vacation because she was getting prepared

1 for this hearing.

2 CHAIRPERSON HILL: Sure. Sure.

3 MS. OPPER-WEINER: And is here.

4 CHAIRPERSON HILL: Sure.

5 MS. OPPER-WEINER: Her daughter is off on
6 vacation because she's in school.

7 CHAIRPERSON HILL: That's okay. I understand.
8 We're trying to accommodate. We're trying to figure
9 this out. So --

10 MS. OPPER-WEINER: And we appreciate that.

11 CHAIRPERSON HILL: So, I know what your --
12 now, what other day works for you other than the 10th?

13 MR. GAON: I think the next available hearing
14 date after that, we were told, is May 31st, and --

15 MS. OPPER-WEINER: The 17th.

16 CHAIRPERSON HILL: We can do --

17 MS. OPPER-WEINER: No, I'm going to be out of
18 the country on May 31st.

19 CHAIRPERSON HILL: Okay. So, the 17th?

20 MS. OPPER-WEINER: Seventeenth of May?

21 CHAIRPERSON HILL: Yes.

22 MS. OPPER-WEINER: Let me check. I also have
23 a conflict on that day, as I believe Ms. Rose knows.
24 Our preference after talking -- well, our key witness
25 will very likely be able to be there. I can change

1 the appointment I have. But I would you know --

2 CHAIRPERSON HILL: We're trying to work with
3 you also. Right. Yeah.

4 MS. OPPER-WEINER: No, I understand. No, no.

5 CHAIRPERSON HILL: Yeah. Sure.

6 MS. OPPER-WEINER: And I'm trying to prepare.

7 CHAIRPERSON HILL: Sure.

8 MS. OPPER-WEINER: We have 40 -- I think it's
9 39 letters in opposition. There's a lot of negative
10 feeling in the community --

11 CHAIRPERSON HILL: Okay.

12 MS. OPPER-WEINER: -- within the 200 feet.

13 CHAIRPERSON HILL: That's all right. So --

14 MS. OPPER-WEINER: Well, I have to talk to all
15 those people.

16 CHAIRPERSON HILL: Okay. Well, today is the
17 19th. And so, you know, so the 17th is -- you know, I
18 mean, they want to do it on the 10th. And so --

19 MS. OPPER-WEINER: Well, we can't do that.
20 That's --

21 CHAIRPERSON HILL: Well, unless we choose the
22 10th, then you'd have to do the 10th.

23 MS. OPPER-WEINER: No, I've got a problem on
24 that day. Yeah. Okay.

25 CHAIRPERSON HILL: I'm just trying to work

1 with you. So, the 17th will work?

2 MS. OPPER-WEINER: It's a maybe.

3 CHAIRPERSON HILL: Okay. It's a maybe.

4 MS. OPPER-WEINER: But if that's -- yeah, we
5 would prefer to go into June if we possibly can.

6 CHAIRPERSON HILL: So, the applicant here is
7 ready to go today. You guys are ready to go today.

8 MR. GAON: Yeah.

9 CHAIRPERSON HILL: And so, June, what will
10 that do for your project?

11 MR. GAON: Significant delays in the project.

12 I mean --

13 CHAIRPERSON HILL: Okay. I'm, unless the
14 Board has any other -- I mean, if you can make the
15 17th work it sounds like you can move some stuff
16 around and make the 17th work, because I don't want to
17 stick them into June.

18 MS. OPPER-WEINER: Okay. Well that's -- Mr.
19 Cochran had originally said it would go into June when
20 we had a -- yes, you did, Mr. Cochran. Well,
21 whatever.

22 CHAIRPERSON HILL: It doesn't matter. So,
23 the 17th, let's go with the 17th. Okay? And if you
24 can't, you know -- if there's you know, I think that
25 we're pushing them back and I don't want to push them

1 into June. And so, you can't do the 31st, so we're
2 going to go ahead and go with the 17th, unless the
3 Board has any other comments or thoughts. Okay?

4 MS. OPPER-WEINER: That's fine.

5 CHAIRPERSON HILL: Okay. So, the 17th of May.

6 MS. OPPER-WEINER: Okay, what time?

7 CHAIRPERSON HILL: Oh, I don't know. We start
8 at 9:30.

9 MS. OPPER-WEINER: 9:30. Okay. So, to be
10 ready. Okay. Is that all right?

11 MS. GILL: Yes.

12 CHAIRPERSON HILL: Okay. All right? Okay.

13 So, then, I guess we'll be back here on the
14 17th of May. What I would request, I mean, if
15 possible obviously, if you guys could get together and
16 work out something, that would be the best for all
17 parties. And if you can sit down and talk and try,
18 and Ms. Gill, you know, you've -- I know you're not a
19 zoning expert and so thankfully you've hired one now
20 that can kind of help you go through the information
21 that you have.

22 There are -- actually, Mr. Gaert, Gaed? Gaon.
23 Mr. Gaon, what was -- I'm just curious, I mean, what
24 was happening with the ANC?

25 MR. GAON: In regards to what?

1 CHAIRPERSON HILL: In regards to the case. I
2 don't see -- is there a report?

3 MR. GAON: They voted to support. There's a
4 letter of support in the record. I think it was
5 uploaded at the end of last week.

6 CHAIRPERSON HILL: Okay. I'm sorry. Must
7 have missed that. All right.

8 MS. OPPER-WEINER: However, may I?

9 CHAIRPERSON HILL: Sure.

10 MS. OPPER-WEINER: The ANC has never reached
11 out to us, the members of the single-member district.

12 CHAIRPERSON HILL: Sure.

13 MS. OPPER-WEINER: I think there are some
14 serious issues of conflict of interest with regard to
15 the ANC single-member district representative. I
16 mean, I've lived in that neighborhood --

17 MR. GLASGOW: Mr. Chair?

18 CHAIRPERSON HILL: Yes? Hold on.

19 MR. GLASGOW: Mr. Chair.

20 CHAIRPERSON HILL: Sure.

21 MR. GLASGOW: This is just on from a motion to
22 continue. It might be better to wait to get to the
23 merits on the continued hearing date.

24 CHAIRPERSON HILL: Okay. All right. So, the
25 Office of Attorney General there is asking us to wait.

1 So, we'll go ahead and hear everything on the 17th.

2 What I was just trying to point out, Ms. Gill,
3 is that the Office of Planning, if you've read the
4 record, the Office of Planning is in support of this
5 with a condition, and now the ANC I guess, has voted
6 in favor of this. So, I'm trying to point out that it
7 would be good to work, if you can, with the
8 neighborhood to see if there's any way to get to some
9 kind of a resolution. And then on the other side, as
10 well, if there is a way to get the resolution and you
11 actually withdrew your party status, they can move
12 forward without a full order.

13 What I'm just trying to point out is there is
14 an opportunity for both sides. There's reasons why
15 both sides want to talk. That's all. You were going
16 to say something?

17 MR. ZUSIN: Yes. The offer that was suggested
18 in the Office of Planning report, is something that we
19 had previously suggested as an offer. And we stand by
20 that offer.

21 CHAIRPERSON HILL: Okay. That's okay.

22 MR. ZUSIN: Yeah.

23 CHAIRPERSON HILL: Again, that's more to what
24 we're going to end up talking about on the 17th.

25 MS. OPPER-WEINER: We're not supposed to be

1 talking about negotiation, I don't believe.

2 CHAIRPERSON HILL: Right. Yeah. No, no, but
3 I'm just saying, I'm trying to encourage you guys to
4 talk, but again, so -- so, we're going to hear the
5 case on the 17th, okay? Does the Board have anything
6 else to add?

7 MS. OPPER-WEINER: Thank you very much.

8 CHAIRPERSON HILL: Okay.

9 MR. GAON: Thank you, Chairman.

10 CHAIRPERSON HILL: Okay. We'll see you guys
11 on the 17th.

12 MR. GAON: All right. Thank you.

13 CHAIRPERSON HILL: You're welcome.

14 All right, Ms. Rose, whenever you're ready.

15 MS. ROSE: Yes. Please come to the table for
16 Application 19464 of David Medvedev as amended
17 pursuant to 11-DCMR, Subtitle 10, Chapter 9 for
18 special exception relief under the penthouse
19 requirements of Subtitle C, Subsection 1500.4. The
20 Uniform Enclosure Height requirement of Subtitle C,
21 Subsection 1500.9, and the penthouse setback
22 requirements of Subtitle C, Subsection
23 1502.1(c)(1)(a), to permit the location of a new
24 penthouse and roof deck on an existing one-family
25 dwelling in the R-4 Zone at premises 1205 V Street

1 Northwest, Square 272, Lot 853.

2 CHAIRPERSON HILL: Good morning.

3 Good morning.

4 CHAIRPERSON HILL: If you could please
5 introduce yourself from my right to left?

6 MR. MEDVEDEV: Good morning. My name is
7 Dennis Medvedev. I am the property owner.

8 CHAIRPERSON HILL: Could you say your name
9 again for me?

10 MR. MEDVEDEV: It's actually, Dennis,
11 unfortunately.

12 CHAIRPERSON HILL: Oh, I'm sorry.

13 MR. MEDVEDEV: I'm not sure how David
14 happened, but the last name is Medvedev.

15 CHAIRPERSON HILL: Medvedev.

16 MR. MEDVEDEV: Yes, sir.

17 MR. BELLO: Toye Bello, representing the
18 applicant.

19 MR. BARROW: And Josh Barrow, the architect.

20 CHAIRPERSON HILL: How do you say your last
21 name again?

22 MR. BARROW: Barrow, B-A-R-R-O-W.

23 CHAIRPERSON HILL: Okay, great. Thank you.
24 All right, Mr. Bello, I guess, you know, you've seen
25 the Office of Planning's report and what they are

1 looking for. I guess there's a little bit of
2 confusion as to what they think you need and what you
3 think you need, and what they're willing to agree to
4 in terms of the standards.

5 So, you can start there for me if you like, in
6 terms of the presentation, and go ahead and -- I mean,
7 you know, I'd like to hear a little bit of
8 presentation, I guess, is what I'm also getting to.
9 So, please go ahead and walk us through the project,
10 walk us through, you know, what the Office of Planning
11 is bringing up in terms of the differences in opinion
12 I suppose, and we'll see where we get to.

13 Does the Board have any other questions about
14 the presentation?

15 [No audible response.]

16 CHAIRPERSON HILL: Okay. Then, Mr. Bello --
17 Ms. Rose, I'm going to put 10 minutes on the clock
18 just so I know where we are. And then, thank you so
19 much.

20 MR. BELLO: Thank you, Mr. Chair. So, it
21 appears to me that the only outstanding issue here is
22 whether the applicant seeks to setback from the rear
23 of the property. And that setback would be with
24 respect to the handrails and the roof deck. That will
25 be to the north of the property and to the east of the

1 property.

2 So, the clarification is that we do not want
3 to set back from the rear of the property or the east
4 of the property, and we're going to be requesting
5 relief from that provision, which is what Office of
6 Planning does not have enough information to support
7 that relief.

8 Okay. So, the application is for a roof deck
9 and a penthouse, right? And so, we're asking for
10 relief from Section 1500.4, which is to locate the
11 roof -- the penthouse on the roof. And not setback
12 from the west property lot line of the property.

13 We will be setting back from the east of the
14 property and the north of the property, a distance
15 equal to the height of the penthouse. But what we're
16 not setting back from the edge of the roof would be
17 the -- to the north of the property and the east of
18 the property.

19 And those setbacks have to do with the
20 handrails that are required for the roof deck under
21 the construction codes.

22 Now, we believe that the application does meet
23 the requirement for the standards for granting relief
24 from those two provisions, because what the Office of
25 Planning refers to as a public alley is actually a

1 private alley. Harrison Square was developed as a
2 theoretical lot subdivision, so those internal alleys
3 that the Office of Planning refers to as public are
4 actually private.

5 So, the handrail and the deck would not be
6 visible from any public right of way. And the
7 handrail and the penthouse setback from V Street,
8 which would be the front of the property, a distance
9 equal to its height, as required under the zoning
10 regulations.

11 CHAIRPERSON HILL: Okay. Well, Mr. Bello, I
12 mean, I'll turn to the Office of Planning and see what
13 they have to say in terms of your argument. I don't
14 know if they have enough information or not. But,
15 does the Board have any questions for the applicant?

16 Sure, please. Go ahead.

17 MR. MILLER: Thank you, Mr. Chairman. So, why
18 can't you meet the setback requirement for the
19 handrail and guard. The deck and guard rail, on the
20 north and east side. Why can't you?

21 MR. BELLO: Well, because the existing
22 property, because this whole block was developed as a
23 theoretical lot subdivision, the actual building for
24 the site for the subject property is occupied 100
25 percent. So, there really isn't any outdoor

1 recreation space for the occupants. And I will let
2 the owner speak to that, but he has a young family and
3 expecting a child, and they need a little additional
4 outdoor recreation space.

5 And the only location on which they can give
6 that is upon the roof.

7 MR. MILLER: No, I understand that. So, how
8 much space would you lose? How much space do you have
9 with your -- if you get the relief you want for the
10 setback, and how much space would you have if we -- if
11 you just met the setback requirement?

12 MR. BELLO: Okay. So, as its proposed, the
13 roof area, the surface roof area will be 346 square
14 feet. But there will be a reduction of 112 square
15 feet down to 234 square feet. And if you look --

16 MR. MILLER: If you met the one-to-one on ever
17 side.

18 MR. BELLO: If we met the one-to-one. But
19 from the frustration about meeting the one-to-one from
20 the east side, is that the roof has actually two
21 skylights that would prohibit or restrict the ability
22 to set back four feet from the east wall. And if we
23 set back from the north wall, which is close to the
24 penthouse, then it reduces the access and the surface
25 area that's available to the occupants of the property

1 for recreational use.

2 MR. HART: Do you have -- excuse me. Do you,
3 Mr. Bello?

4 MR. BELLO: Yes, sir.

5 MR. HART: Do you have photographs of the roof
6 or --

7 MR. MEDVEDEV: I have an aerial view from
8 Google Maps if that helps. I just printed it out
9 yesterday evening.

10 MR. HART: Yeah, that would be helpful. You'd
11 have to give the copies to the secretary.

12 MR. BELLO: I think the Exhibit 5 will be the
13 architectural plans and elevations. That's the roof
14 plan there.

15 MR. HART: I see them now.

16 CHAIRPERSON HILL: You can just give it to the
17 secretary right there.

18 MR. HART: And so, you're saying that the
19 placement of the skylights makes it difficult,
20 impossible?

21 MR. BELLO: Impossible to set back from the
22 east, the east wall. Those two skylights are
23 existing.

24 MR. HART: And, one thing that's hard to kind
25 of see, where this -- the penthouse is going to be

1 with respect to that. Do you have a drawing that
2 shows where that is? Kind of an overlay with the --
3 of the existing with the proposed? Either plan or a
4 section?

5 MR. BELLO: We have a plat here that perhaps
6 it goes straight to that a little better. But the
7 penthouse will be located on the west wall, and there
8 will be no setback from that side of the wall.

9 MR. HART: But there is no other plan that
10 shows where that is?

11 MR. BELLO: The plat would be helpful. Would
12 you like for me --

13 MR. HART: I have a copy of the plat. It's
14 Exhibit No. 3.

15 [Pause.]

16 MR. HART: Okay. And so, the shaded in pieces
17 where the new roof deck is, there's a piece that is
18 not where the skylights are. And so, the only way to
19 get from the front to the back is the -- is where the
20 --

21 MR. BELLO: Is to go around the skylight.

22 MR. HART: Is to go around the skylights. You
23 can't go on the west side because that's where the
24 stair, the stairwell is, I think.

25 MR. BELLO: That's where the stairway

1 entrances are.

2 MR. HART: And so really, all you have, that's
3 the kind of connector that will get you between the --

4 MR. BELLO: The front and the --

5 MR. HART: The front and the back of it. And
6 there's no way to go between the skylights, or is
7 there something that's in between them?

8 MR. BELLO: You could considerably pass
9 through there, yes.

10 MR. HART: So was that -- is that not an
11 option? I don't know what the --

12 MR. MEDVEDEV: It's a quite narrow passage,
13 and it would, in our view, it would severely restrict
14 our ability between the two sides. And that would
15 indeed be the only way to get back, is just to walk
16 between those.

17 MR. HART: Well, I guess this is where I was
18 thinking it would be helpful to have a drawing that
19 shows this, that is an actual architectural drawing
20 that shows dimensions. I mean, this has dimensions,
21 but that part of it isn't dimensioned, so it's a
22 little bit hard to kind of understand that when this
23 is the only drawing that we have, which is really a --
24 the plat, and you have architectural drawings. Do you
25 not have any drawings that show what I'm looking for?

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1 MR. BARROW: Well, the skylights are two feet
2 wide.

3 CHAIRPERSON HILL: I'm sorry, you need to
4 speak right into the microphone there.

5 MR. BARROW: Sorry. Sorry. The skylights are
6 two feet wide. And, then you take the width of the
7 stairs, which is three-foot-eight-inches, and the four
8 feet for the skylight. And it's only about 36 inches
9 between the two skylights. Less than 36 inches. You
10 would notice that it has a railing around it to
11 protect the -- from one, for stepping through the
12 skylight.

13 So, it's down to -- you're almost down to 30
14 inches walking through between the skylights.

15 MR. HART: And what's the distance between the
16 eastern skylight and the edge of the wall, of the
17 exterior wall. Or the, whatever, shared wall?

18 MR. BARROW: Yeah, that is also -- that is, I
19 think it was three feet in there; about three feet.
20 So, when you pushed -- if you pushed the railing three
21 feet off that party wall, then you're up against the
22 skylight.

23 MR. HART: Okay. All right. I might add that
24 even at that location the relief will be -- will still
25 be required.

1 CHAIRPERSON HILL: To go in between the
2 skylights.

3 MR. BELLO: Yeah, it still wouldn't be a one-
4 to-one setback ratio.

5 CHAIRPERSON HILL: Okay. All right. Does the
6 Board have any questions? Yeah, please.

7 MR. MILLER: Thank you, Mr. Chairman. Yeah, I
8 mean, so this is all stemming from the relief you're
9 requesting to have a penthouse on a rowhouse which
10 normally isn't required. It normally isn't permitted,
11 unless there are these one-to-one setbacks.

12 So, the penthouse is a result of the
13 stairwell, that it goes up into the -- on to the roof
14 and that's the access to the roof deck. Is that
15 correct?

16 MR. BELLO: As required under the construction
17 codes, yes.

18 MR. MILLER: I've heard other cases here at
19 this ward. I don't know if it was ones I sat on or
20 just watching some of my colleagues, where they were
21 asked, the applicant was asked in those cases, did you
22 consider a hatch door as an access to the roof deck so
23 that you wouldn't have to create the penthouse?

24 MR. BELLO: Well, my experience is that you do
25 -- the construction codes does require that you have a

1 minimum headroom enclosure above a stair landing. I
2 think the only situation, the design under which you
3 could meet that requirement would be if the landing of
4 the stairs were sunk below the roof level, which in
5 this case would be impractical because the location of
6 the stairs that serves the entire building is right
7 where the penthouse is located.

8 MR. MILLER: Okay. Thank you.

9 MR. MEDVEDEV: If I just might add, I mean,
10 sir, we have a 10-months old son. So, a hatch would
11 really be impractical. As Mr. Bello was mentioning,
12 the entire reason for us creating this is to have some
13 other recreation space. I would not feel comfortable
14 opening a hatch with one hand while holding a baby
15 with the other.

16 MR. MILLER: That's a good answer.

17 MR. MEDVEDEV: If I might also add, what we
18 have done in this project is try to stay as close as
19 possible to the other roof decks in the same heritage
20 square area. Now of course, those have come up
21 earlier, not much earlier, all have been done in the
22 last 10 years. All of those do have the full built up
23 penthouse, and all of those do go wall to wall.
24 Partially because those party walls are the supporting
25 structure that holds up the roof deck.

1 MR. MILLER: How many rowhouses in the square
2 have the similar kind of penthouse that you're
3 seeking?

4 MR. MEDVEDEV: By my -- I know of at least
5 five neighbors who have them. There may be one or two
6 additional ones, but there -- I know five neighbors
7 who have those.

8 MR. MILLER: Okay. Thank you.

9 CHAIRPERSON HILL: Mr. Miller, I'm going to
10 turn to the Office of Planning. Okay. All right.

11 MS. MYERS: Hello, Crystal Myers for the
12 Office of Planning. As has already been stated, the
13 Office of Planning actually recommends approval of the
14 penthouse itself and the one-to-one setbacks needed
15 for the penthouse, as well as the wall heights. We're
16 also supportive of the hand and rail one-to-one
17 setback on the west side, and I believe the -- well,
18 the north side didn't really need relief. So, on the
19 west side we comfortable with it.

20 The area where we disagree is for the rear and
21 east side one-to-one setback for the handrails and the
22 deck. We do not get sufficient information from the
23 applicant supporting it, and did not see a reason to
24 allow for it. Especially in the rear area. I
25 actually went out to the site a couple of days ago.

1 The applicant is correct, there are about -- I counted
2 about three or four penthouses in that square. A
3 couple of them I would have also been not supportive
4 of as well, but it was a different time period,
5 different regulations, so I can't speak to those. But
6 with this one, especially coming up to the zero one-
7 to-one setback in the rear, so up to the building
8 edge, makes me uncomfortable.

9 I understand that the applicant is saying that
10 the alley is not public. This probably would have
11 been helpful to find out about when I requested more
12 information. But be that as it may, I would still
13 say, recommend denial because I do have to be
14 considerate of what does it look like, what does it
15 appear from the alley, what would it appear like to
16 the rear neighbors. And I believe that it would still
17 be visible. I do know that the adjacent neighbors
18 recommended the approval or were supportive of it, but
19 I still need to look at it as the rear neighbors and
20 just, you know, is it within character, which there
21 are no penthouses on that particular area of the
22 square.

23 And again, there are quite a few requirements
24 we have to consider when it comes to the one-to-one
25 setback. And I simply could not justify it, according

1 to some of them. So, it wasn't even a matter of just,
2 you know, like the basic addition, considerations that
3 we think of when it comes to doing an addition to a
4 house. This was a little bit more rigid when it comes
5 to the construction code or just other requirements
6 when it comes to allowing it, because typically you do
7 not allow penthouses and I guess decks not having one-
8 to-one on a rowhouse.

9 So, that was difficult for us to justify, so
10 that is why I recommend denial. And on the east side
11 I simply just did not see why it could not be done.
12 But again, you know, we didn't have evidence from the
13 applicant on that side. So, that's where we stand.

14 CHAIRPERSON HILL: Okay. And just to be clear
15 that the Office of Planning is in denial of the one-
16 to-one on the east and the north, correct?

17 MS. MYERS: Correct.

18 CHAIRPERSON HILL: Okay. Does anyone have any
19 questions for the Office of Planning?

20 MR. HART: Yes, Mr. Chairman. Ms. Myers, the
21 applicant has noted that the issue that they're having
22 is if they do the one-to-one on the east side, that
23 there are these skylights that are kind of, you know,
24 in place that cause the connector between the north
25 and the south portions of the roof deck to be just

1 infeasible. Do you have any comment on that?

2 MS. MYERS: I believe it's up to the Board to
3 decide how they feel on that. As for our view, that's
4 the applicant's choice to have the skylights. I know
5 it's an existing situation. I'm not saying that, you
6 know, skylights aren't a nice thing to have, but you
7 know, it's -- you know, not as bad as a variance, but
8 still, there's a special exception review that needs
9 to be done for penthouses because we generally do not
10 want penthouses on top of roof -- on top of rowhouses.

11 And, if you're going to do one, that, the
12 deck, the handrails, all need to comply. I understand
13 the skylight makes it a little bit more challenging,
14 but this is -- you know, what you decide to do on top
15 of your roof, you know, you've chosen to do those
16 things.

17 So, my view, and I would say the Office of
18 Planning's view is, you know, it's a series of
19 choices. And if you have two skylights in the
20 locations they are, and the distances they are, it
21 makes it more challenging to comply with the
22 requirements you need if you want to do also a deck
23 with handrails.

24 Question?

25 MR. HART: Thank you.

1 MS. WHITE: Is it feasible to change the
2 location of the skylights, or to remove them and you
3 know, develop another option that could comply with
4 the recommendation of Office of Planning?

5 MR. BELLO: Well, I think one of the standards
6 for granting relief here on the 1504.1 is the
7 prohibitive cost of making changes to a building in
8 order to accommodate this relief. Now, as it is, the
9 skylights are existing. I think it will be
10 unreasonable to impose upon the property owner the
11 prohibitive cost of relocating those, and I think it
12 should weigh on the Board's consideration that the
13 adjoining neighbor does not object to the location of
14 the handrail here, and that even if we're to set it
15 back from the east wall, right next to the skylight,
16 this relief will still be required.

17 MS. WHITE: Are there pictures of the
18 skylights in the record at all?

19 MR. BELLO: We do have roof plans that show
20 the location, not only on the plat, but also on the
21 architectural drawings, which is Exhibit 5, I believe.

22 MR. MEDVEDEV: The photo that I had shared
23 with the secretary, also has an aerial view of the
24 skylights and unfortunately I wasn't -- the property
25 itself, I'll have to point it out to you just because

1 this is something that I printed for my own personal
2 use last evening. But they are raised structures from
3 the roof, so it's not just -- the glass is not at the
4 level of the roof. It's a raised structure that
5 raises above the roof, and it slopes so I'm not sure
6 of exact height. I haven't been up there. But, you
7 know, it seems to be several feet up. So, essentially
8 it would be somehow cutting that down and bringing
9 down. And then I don't know, either keeping the glass
10 or roofing it over, but I'm no expert on construction
11 but I expect that will increase our cost quite
12 substantially.

13 MS. WHITE: Thank you.

14 MR. MILLER: Just as a follow up to that.
15 Isn't there a -- won't there be somewhat of a safety
16 issue with having a deck next to a skylight,
17 especially with a 10-month old up there? I wouldn't
18 want my deck to have a glass skylight on it.

19 MR. BARROW: You will see that there is
20 railing around the skylights. And they're 36-inches
21 high. So, that was taken into consideration.

22 CHAIRPERSON HILL: Okay. I mean, what was
23 this that just got brought in front of us? Did
24 someone -- the applicant, you brought this up.

25 MR. BELLO: It's a rendering that at least

1 shows the location --

2 CHAIRPERSON HILL: Okay.

3 MR. BELLO: -- of the --

4 CHAIRPERSON HILL: Okay.

5 MR. BELLO: -- skylights.

6 CHAIRPERSON HILL: All right. Okay. I don't
7 know whether or not this -- I mean, this unfortunately
8 for you makes it kind of show me that you can walk
9 through in between the two skylights. But that's my
10 opinion.

11 I'm trying to think what to do here, whether
12 or not the Office of Planning originally there was not
13 enough -- or at least it seemed as though there might
14 not have been enough information for you to possibly
15 be convinced about the north and east setback. And,
16 I'm hesitant or not clear as to whether or not working
17 with the applicant and the arguments that you've heard
18 today, might convince you otherwise if I gave them a
19 little bit more time. There is some things, it seems
20 like there's a couple things that the Board might be
21 interested in seeing more of. But I'm more just -- I
22 guess, wondering if the applicant wanted to continue
23 to try to work with the Office of Planning to see if
24 they could give them more information. And I can let
25 the Board also, you know, weigh in as to what they

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1 think. But more -- if you'd like to work with the
2 Office of Planning to try to give yourself more
3 information to try to get your argument for the east
4 and the north setback relief.

5 MR. BELLO: Well, we welcome that opportunity.
6 Yes.

7 CHAIRPERSON HILL: Okay. All right.

8 MR. HART: Mr. Chairman.

9 CHAIRPERSON HILL: Sure. Yeah, I mean, for me
10 I think part of this is that -- I mean, this would
11 have been the -- what you provided to us, which
12 doesn't have an exhibit. But the information you
13 provided to us today would have been helpful to
14 actually see this, to get a little bit better
15 understanding. At least I think it is a little bit
16 better understanding of what's going on with the roof
17 and the penthouse that you're proposing.

18 I think that it would be helpful to have a few
19 pieces of information. One of them has to do with
20 the, you know, the Office of Planning has suggested
21 possibly the -- moving one or both of the skylights,
22 or getting rid of one of them. I mean, I know that
23 that's a cost, but you're saying that it's
24 prohibitive. I don't know what that means. I don't
25 know what that cost is, and it would be helpful for us

1 to understand that.

2 I think that it is possible to go between the
3 skylights or go on the eastern side of the eastern
4 skylight. So, as a connector. And, the image that
5 you showed here, which the Chairman just mentioned,
6 really kind of hits that home a little bit more that
7 there is a possibility to move through there if you
8 didn't have the railing on the eastern side and it was
9 actually set back, you'd be able to cross between the
10 front and back of the deck between where the skylights
11 are, because there's a railing around the skylights.

12 So, I think that that would be helpful to see
13 images that show how that can work.

14 And, I'm not sure if you've discussed the
15 north, the railing on the north. And it seems as
16 though that railing is also able to be set back
17 because the stairs come up and the door for the
18 penthouse exits or enters on to the roof deck on the
19 eastern side of the penthouse. Not on the -- you
20 know, not on the northern side of the penthouse. So,
21 there is, you know, you could move it back to be able
22 to be in compliance on the north and east side.
23 Granted, I understand that you'd lose some space, but
24 again, these were -- this is kind of why the
25 penthouses were not -- didn't really want to do this,

1 because there were some issues with, you know, where
2 these things could be visible from.

3 And so, I'd like to see drawings that actually
4 show compliance with the one-to-one setback by either
5 moving the skylight, one of the skylights, the eastern
6 skylight. And also the northern railing. So, the
7 eastern railing and the northern railing, to see if
8 those actually could be set back to the one-to-one
9 setback that they need to be, to be in compliance.
10 I'm just not thinking that there is enough
11 justification to say that, yeah, I think that that's
12 something that I could be in approval of.

13 But I do appreciate these newer drawings
14 because it does help me help give a little bit more
15 information.

16 MR. MILLER: I'll just concur with Mr. Hart's
17 request. I think that would be helpful.

18 MS. WHITE: I would as well, thank you.

19 CHAIRPERSON HILL: Okay. So then, Mr. Bello,
20 if you could just go ahead and provide that
21 information to the Board, we're going to put this on
22 for a decision and try to work with the Office of
23 Planning. I mean to the applicant. I mean, I know
24 you're not -- it doesn't seem as though you're getting
25 everything you want, or you're going to have to try to

1 work to try to get more of it. I'm a little surprised
2 you got what you got.

3 So, just to let you know, there was an earlier
4 situation where there was a lot of discussion with the
5 hatch and like -- and there was, you know, people were
6 getting pushed for the hatch. And they also had small
7 children and they also had all those needs. So, the
8 fact that you are getting the penthouse to begin with,
9 just to make you feel a little better, like, that's a
10 good thing.

11 So, I would go ahead and recommend that, you
12 know, I guess you know, if you want to go ahead, Mr.
13 Bello can work with the Office of Planning and see if
14 they can come into an agreement. In terms of where I
15 am, I mean, I again see that you know, you either lose
16 the skylight or you lose a little bit of deck. You
17 know, is kind of my initial impression based upon the
18 feedback that we've received thus far.

19 Mr. Bello, do you have anything else you'd
20 like to add? But, I am going to go through opposition
21 and everything here. Is there anything else you'd
22 like to add right now?

23 MR. BELLO: Not right now.

24 CHAIRPERSON HILL: Okay, great. So, is there
25 anyone here from the ANC wishing to speak? Is there

1 anyone here wishing to speak in support of the
2 application? Is there anyone here wishing to speak in
3 opposition to the application?

4 Okay. Then, I will kind of turn it back to
5 the applicant here again.

6 MR. BELLO: Thank you, Mr. Chair. And thank
7 you for the opportunity to work with the Office of
8 Planning a little bit more. I just spoke to the
9 applicant and I think we want to put some effort into
10 working with the Office of Planning to see if we can
11 provide better information for the relief.

12 CHAIRPERSON HILL: Okay. Great.

13 MR. HART: Mr. Chairman.

14 CHAIRPERSON HILL: Sure.

15 MR. HART: One other thing. If we could have
16 -- both you and the Office of Planning noted that
17 there were some other examples of this. I'm not
18 saying that these are things that we would -- that we
19 necessarily agree with, but it would be helpful for us
20 to understand where, you know, something similar had
21 happened on the block. And I would probably just keep
22 it on the block itself. Thank you.

23 MR. BELLO: Thank you.

24 MR. MEDVEDEV: To clarification, are you
25 looking for street addresses of those properties or --

1 MR. HART: I'm sorry. I'm actually looking
2 for photographs of -- you could give street addresses,
3 but photographs of what that looks like and, you know,
4 where those are. I don't know if you've been able to
5 get on top to see what that looks like as well, but it
6 would be helpful for us to see those. So, is that
7 clear enough?

8 MR. MEDVEDEV: Yeah, absolutely.

9 MR. HART: Thank you.

10 CHAIRPERSON HILL: Okay. And also, if we
11 could get a supplemental report from the Office of
12 Planning?

13 And so, the applicant knows what we're asking
14 for. We've gone through the hearing. I'm going to
15 just close the record except for the things we've
16 asked for from the -- by the Board. And, Ms. Rose,
17 see what is a good day for a decision.

18 MS. ROSE: It depends on how much time the
19 applicant needs to pull the documents together. And I
20 guess how much time you have to work with the Office
21 of Planning and try to get a supplemental back from
22 the Office of Planning.

23 MR. BELLO: I don't believe we need more than
24 two weeks.

25 CHAIRPERSON HILL: Ms. Myers, that work for

1 you?

2 MS. MYERS: So, Office of Planning would have
3 to have a report by next week in the record. Is that
4 how that would work?

5 MS. ROSE: If everything is submitted on the
6 same day, and two weeks would be May 3rd, the Board
7 could consider it on May 10th.

8 MS. MYERS: I would just ask for the applicant
9 to kind of keep me informed on what's going to be
10 uploaded into the record just so that we could start
11 working before it's, you know, fully in there yet.
12 But we could make it in two weeks then.

13 MR. BELLO: Will do. Thank you.

14 CHAIRPERSON HILL: Okay. So, May 10th.

15 MS. ROSE: Yes, the --

16 CHAIRPERSON HILL: For decision.

17 MS. ROSE: The decision meeting is May 10th.
18 The documents would be due on May the 3rd.

19 CHAIRPERSON HILL: Okay. Great. All right.
20 Thank you all very much.

21 MR. BELLO: Thank you.

22 MR. MEDVEDEV: Thank you.

23 CHAIRPERSON HILL: We're going to take a quick
24 five-minute break. Thank you.

25 [Off the record from 10:58 a.m. to 10:58 a.m.]

1 MS. ROSE: Next is Application No. 19475 of
2 D.C. Boathouse, LLC pursuant to 11-DCMR, Subtitle X,
3 Chapter 9, for subsections under the penthouse
4 restaurant use requirements of Subtitle C, Subsection
5 1500.3(c), and the retail use requirements of Subtitle
6 U, Subsection 504.1(j), to construct an addition to an
7 existing dormitory to create an apartment building
8 with a ground floor retail use and a penthouse café in
9 the MU-2 Zone, currently zoned RA-5, at premises 2601,
10 Virginia Avenue Northwest, Square 6, Lot 42

11 CHAIRPERSON HILL: Okay, good morning. If you
12 would please introduce yourselves from my right to
13 left?

14 MR. EPTING: Yes. John Epting with Goulston
15 and Storrs.

16 MS. KAHLOW: Excuse me. There is a party
17 status request.

18 CHAIRPERSON HILL: Okay. Yeah, we'll get to
19 you. But thank you. Thank you.

20 MS. HOTTEL-COX: Megan Hottel-Cox, also with
21 Goulston and Storrs.

22 MR. KATZEN: My name is Brook Katzen, I'm with
23 the UIP Companies, the applicant.

24 MR. McDOUGAL: And I'm Jim McDougal. I'm with
25 WDG Architecture.

1 CHAIRPERSON HILL: Okay. Are you here with
2 WECA, ma'am? You can come on up and you can just take
3 a seat there on the corner if you'd like, since I've
4 gone in this direction. If you could just introduce
5 yourself?

6 MS. KAHLOW: I'm Barbara Kahlow. I live at
7 800 25th Street Northwest. I am a 200-footer.

8 CHAIRPERSON HILL: Okay.

9 MS. KAHLOW: As well as Secretary/Treasurer of
10 the West End Citizen's Association.

11 CHAIRPERSON HILL: Okay, right. So, you're
12 the -- but the party status request is the WECA,
13 correct?

14 MS. KAHLOW: That is correct.

15 CHAIRPERSON HILL: Okay. All right, great.
16 Okay. I guess fine, we can do the preliminary matter
17 first, which is why they're called preliminary
18 matters.

19 Ms. Kahlow, so as I understand you guys are in
20 support of the application but you still would like
21 party status request. Could you tell me a little bit
22 about why you want party status request and why you
23 think you should receive it?

24 MS. KAHLOW: We always ask for party status
25 request so that we can continue as the case continues.

1 And we are the most active civic association in the
2 Foggy Bottom West End neighborhood, and we are a
3 party, as Mr. Miller can tell you, in almost every
4 case with GW and everything else.

5 I mean, this instance we had a very good
6 outcome. We sent a memorandum of agreement. But if
7 there were an amendment, for example, we would like to
8 be able to participate automatically as a party.

9 CHAIRPERSON HILL: Okay. All right. Does the
10 Board have any questions for the party status
11 applicant? Okay.

12 Does -- I'm going to -- I'm leaning towards
13 granting you party status. Does the applicant have
14 any objection?

15 MS. HOTTEL-COX: No, the applicant is fine
16 with party status.

17 CHAIRPERSON HILL: Okay. All right. So, Ms.
18 Kahlow, we're going to go ahead and give WECA party
19 status.

20 MS. KAHLOW: Thank you very much.

21 CHAIRPERSON HILL: Okay. And so, I am going
22 to turn to -- Ms. Hottel-Cox, are you -- okay,
23 presenting for us? Okay. So, I guess you can go
24 ahead and give us a presentation as to what you're
25 trying to accomplish. I didn't have a lot of

1 questions after reading through the record. I had a
2 comment. There's no alcohol, is that correct, on
3 the --

4 MS. HOTTEL-COX: For the rooftop café request,
5 that's correct, as part of the memorandum of agreement
6 there wouldn't be --

7 CHAIRPERSON HILL: Okay.

8 MS. HOTTEL-COX: The applicant wouldn't apply
9 for a liquor license for the rooftop activity.

10 CHAIRPERSON HILL: Okay. All right. So, then
11 other than that, I guess, you just want to -- does the
12 Board have any particular questions? Otherwise, I'm
13 just going to ask for a kind of high level
14 presentation. All right.

15 So, if you can just go ahead and give us a
16 little bit of a high-level presentation as to what
17 you're proposing and why you meet the criteria, I'm
18 going to go ahead and throw 10 minutes on the clock,
19 Ms. Rose, if I could. And then, just to keep myself
20 in check. And go ahead and begin.

21 MS. ROSE: Thank you. Good morning again. My
22 name is Megan Hottel-Cox, and I am an attorney with
23 Goulston and Storrs representing the property owner.
24 With me is my colleague, John Epting, Jim McDougal
25 with WDG Architects, and Brook Katzen, a

1 representative of the applicant.

2 We are here this morning requesting special
3 exception relief to provide ground floor retail use
4 and penthouse amenity space that includes a café. So,
5 the subject of the application is 2601 Virginia Avenue
6 Northwest. This was the old Howard Johnson site,
7 which most recently was used by George Washington
8 University as a student dormitory.

9 The applicant is proposing to redevelop the
10 building as an apartment house. The property is
11 currently in the RA-5 Zone district, but related to
12 this project the applicant has applied for a map
13 amendment to the MU-2 Zone District. The Zoning
14 Commission approved the map amendment on March 30th
15 and plans to take final action in that case on May
16 8th.

17 So, we're seeking the special exception relief
18 for two retail uses in the building. For the ground
19 floor, we're seeking a special exception to allow
20 retail use, targeted for a restaurant on the first
21 floor. And for the penthouse we're seeking special
22 exception relief to have a poolside café restaurant
23 that would be limited in use to residents only.

24 The applicant has worked with the community
25 regarding the project's compatibility with the

1 surrounding area, and has presented to numerous
2 community groups, and we've entered into an agreement
3 with the West End Citizen's Association regarding the
4 project. We are pleased that the Association is here
5 today in support of the application.

6 Before I turn this over to our witnesses, I am
7 happy to report that we are here today with the
8 support of the Office of Planning and the District
9 Department of Transportation. Additionally, ANC 2A
10 submitted a resolution into the record showing
11 unanimous support for the project and the requested
12 relief.

13 We have two witnesses today, Brook Katzen with
14 the applicant and Jim McDougal who is part of the
15 architecture team for the project. I'll have Brook
16 give a brief overview of the goals of the project, as
17 well as the two areas of relief that we're requesting.

18 And I'll have Jim very briefly walk through the plans
19 showing the areas for the ground floor retail and for
20 the café on the rooftop.

21 Again, my name is Brook Katzen with the UIP
22 companies. UIP has been active in Washington, D.C.
23 for about 15 years and during that time we've
24 renovated more than 30 buildings. What we're best
25 known for and what I think we do best is identifying

1 underutilized buildings and great locations and
2 renovating them into Class A apartments. And that's
3 what this project is.

4 George Washington University -- backing up.
5 The building was built at a Howard Johnson Hotel in
6 1964, and operated as a hotel for more than 30 years,
7 including a restaurant on the ground floor. George
8 Washington University bought the building, I think in
9 the late '90s, and operated as a dormitory for about
10 15 years.

11 They put it on the market for sale in the
12 spring of 2016, and we purchased the building in
13 August, and it's currently vacant and we intend to
14 convert it and renovate it and expand it, and reopen
15 it as 250 apartments.

16 As Megan said, we're going through a map
17 amendment process which was approved, which will allow
18 us to expand the building a little bit. And will
19 also, I believe, cause us to comply with Inclusionary
20 Zoning, which we will do, so this project will include
21 22 affordable housing units, including three two-
22 bedroom affordable housing units.

23 We're pleased to have met Barbara with the
24 West End Citizen's Association early, and come to an
25 agreement with her, and happy that she's here

1 supporting the project.

2 That's about it. We've engaged with the
3 community. We think that putting a retail use on the
4 ground floor of this building will activate this
5 stretch of Virginia Avenue that's currently a little
6 quite, and bring some life to the neighborhood.

7 CHAIRPERSON HILL: Okay. Does the Board have
8 any questions for the applicant? No? Okay.

9 Ms. Kahlow. Kahlow? Sorry. Is it Barbara?

10 MS. KAHLOW: Yes.

11 CHAIRPERSON HILL: Right. So, Ms. Kahlow, if
12 you could, as again party status, I'm just going to go
13 through the motions. You have an opportunity to cross
14 or you have any cross? Okay.

15 MS. KAHLOW: I do not.

16 CHAIRPERSON HILL: All right. And then you
17 have an opportunity to present. Would you like to
18 present anything?

19 MS. KAHLOW: Yes, I would.

20 CHAIRPERSON HILL: Okay, please. Go ahead.

21 MS. KAHLOW: Is Mr. McDougal going to speak?

22 CHAIRPERSON HILL: I didn't have any questions
23 for Mr. McDougal, unless you --

24 MS. KAHLOW: I didn't want to jump over him.

25 CHAIRPERSON HILL: I don't want to, you know,

1 unless you were dying to say something, I'm --

2 MS. KAHLOW: Didn't want to jump over him.

3 CHAIRPERSON HILL: Okay.

4 MS. KAHLOW: I, Barbara Kahlow, as I said,
5 live at 800 25th. WECA is the oldest citizen's
6 organization in Foggy Bottom West End area. 1910.
7 Probably the oldest in D.C.

8 We're primarily interested in maintaining the
9 quality of life for the existing residential
10 community.

11 On September 11th, 2016, the WECA and myself
12 as a 200-footer, signed this memorandum of agreement
13 that was referred to about the map amendment, and
14 about special exceptions.

15 The neighborhood, so you know, is largely
16 residential, with only a limited use of commercial use
17 on ground floors, and we'd like to maintain that whole
18 ambiance. We requested party status because we
19 believe the special exceptions for retail use will be
20 beneficial to the community at large and limit of
21 hours of operation, other restrictions in the rooftop
22 will not have an adverse effect.

23 When the Howard Johnsons was in use and there
24 was a ground floor restaurant, it was used by the
25 community a lot.

1 The party request stated that the agreement
2 says no outdoor entertainment or any amplified music
3 on the ground floor or the rooftop café. This is
4 important, and it's an important quality of life issue
5 for us because it is a residential neighborhood. Most
6 of the elderly don't want noise.

7 The Office of Planning mentioned the MOA with
8 a limited hours and no live or amplified music on the
9 ground floor, no liquor license, limited hours, and no
10 live entertainment on the rooftop.

11 DDOT made some helpful recommendations. We
12 are fully supportive of both special exceptions and we
13 ask that if there is a summary order that at least
14 reference the key protective provisions in the order,
15 in the Board's order. Thank you for considering our
16 views.

17 CHAIRPERSON HILL: Okay. Ms. Kahlow, just to
18 be clear for my own edification, there is -- they
19 can't apply for a liquor license on the ground floor
20 retail. It's just --

21 MS. KAHLOW: That is correct. The Ho-Jo's had
22 one, I believe. Is that correct? Yeah, I think it
23 did and that's not --

24 CHAIRPERSON HILL: The Ho-Jo's had a liquor
25 license?

1 MS. KAHLOW: I think so. I think all of them
2 did. Wine.

3 CHAIRPERSON HILL: Wow, okay.

4 MS. KAHLOW: Wine. Didn't it? Back,
5 beginning of time. Yeah.

6 CHAIRPERSON HILL: Yeah. Actually, that's --
7 sorry, I had another one.

8 Let's see. Okay. Does the Board have any
9 question for the party status?

10 [No audible response.]

11 CHAIRPERSON HILL: Does the applicant have any
12 comments for the party status?

13 MS. HOTTEL-COX: No.

14 CHAIRPERSON HILL: Okay. I'm going to turn to
15 the Office of Planning.

16 MS. FOTHERGILL: Good morning. For the
17 record, I'm Anne Fothergill with the Office of
18 Planning. We rest on the record in support of the
19 application, but I did want to note that I just saw a
20 typo in the summary recommendation number 1 of my
21 report. It is subtitle C, Section 1500.3. So, just
22 want to point that out, referring to the right relief
23 that's requested.

24 CHAIRPERSON HILL: Okay. Thank you.

25 MS. FOTHERGILL: And I'm happy to take any

1 questions. Thanks.

2 CHAIRPERSON HILL: Okay. Does anyone have any
3 questions for the Office of Planning? Does the
4 applicant have any questions for the Office of
5 Planning?

6 MS. HOTTEL-COX: No.

7 CHAIRPERSON HILL: Okay. I'm going to see if
8 the --

9 MS. KAHLOW: I have no questions either.

10 CHAIRPERSON HILL: I'm sorry. Thank you.

11 Is anyone here, else, from the ANC? Is there
12 anyone here wishing to speak in support of the
13 application? Is there anyone here wishing to speak in
14 opposition to the application?

15 [No audible response.]

16 CHAIRPERSON HILL: Okay. Let's see, from --
17 well, I'm going to let the applicant go ahead and
18 close with anything they'd like. But I did want to
19 point out again that from basically the recommendation
20 and advice of the Office of the Attorney General, it
21 seems as though it would be better to wait until after
22 the map amendment went through before voting on this.
23 So, that has been the recommendation of the Office of
24 the Attorney General.

25 So, we are going to postpone this to a

1 decision after it takes effect. And I don't know if,
2 since we have a Commissioner here, when that might
3 happen, but I guess it will be end of May sometime.
4 Or, Ms. Glazer, do you know when that might take
5 place?

6 MR. GLASGOW: I don't know the exact date, but
7 the proposed final action is on May 8th, as the
8 applicant stated. So, it needs to go into the
9 register. So, to be cautious, we would suggest late
10 May sometime.

11 CHAIRPERSON HILL: Okay. Okay. So, all
12 right. Does the applicant -- I'm sorry. Does the
13 Board have any other questions for the applicant? No?
14 Does the applicant have any comment about what just
15 happened?

16 MS. HOTTEL-COX: No.

17 CHAIRPERSON HILL: Okay. All right. So then,
18 we'll go ahead and put this off for a decision on I
19 guess when is the, Ms. Rose, after -- what's the last
20 one in May we've got?

21 MS. ROSE: May 31st.

22 CHAIRPERSON HILL: May 31st, for decision.
23 And I'm just going to comment, I can't believe that
24 Howard Johnsons has been there forever. And like, and
25 now seeing this building that's great, that if it

1 actually, you know, if it actually happens, which
2 meaning a lot of things can happen. But hopefully it
3 happens for you.

4 MR. MILLER: Mr. Chairman.

5 CHAIRPERSON HILL: Yes.

6 MR. MILLER: I would concur with you.

7 CHAIRPERSON HILL: Sure.

8 MR. MILLER: I remember dining at that Howard
9 Johnsons as well. Dining might not have been the
10 right word.

11 CHAIRPERSON HILL: Did you have wine there?
12 Did you have wine there? You were probably old enough
13 for wine.

14 MR. MILLER: Probably not old enough. A
15 little -- anyway, we won't go there. I just wanted to
16 comment that the Zoning Commission, when it took the
17 action on the map amendment last month, the proposed
18 action, it was a unanimous vote. It was not
19 controversial. The same party who is here for this
20 special exception also was there in support, and the
21 same information was provided about the memorandum of
22 agreement, and the ANC in this case is unanimously in
23 support, as they were in that case, for the map
24 amendment. So, I expect all that to go very smoothly
25 and concurrently.

1 CHAIRPERSON HILL: Again, I think it's
2 wonderful that the WECA can -- I didn't know 1910,
3 that's a new one on me.

4 MS. KAHLOW: Yes.

5 CHAIRPERSON HILL: You know. So, been active
6 in the --

7 MS. KAHLOW: Mr. Park and Miller know me well.

8 CHAIRPERSON HILL: Oh, well very good. Now we
9 will have an opportunity to know you well, I suppose.

10 MS. KAHLOW: I think I need to tell you one
11 thing, though, from Mr. Hart. For the Kennedy Center,
12 the reason that they have this long ramp versus the
13 elevators, because an elevator would look awful from
14 the view shed. And we worked with Mr. Hart. He was
15 terrific. So, we do all kinds of stuff that helps
16 everyone.

17 CHAIRPERSON HILL: Well, thank you, Ms.
18 Kahlow. I'm glad you're here helping everyone today
19 as opposed to --

20 MS. KAHLOW: Or trying to.

21 CHAIRPERSON HILL: As opposed to other --
22 something else, because it's not always necessarily
23 helping everyone. But, okay. Let's see.

24 So, then we're off for a decision on the 31st,
25 and I think that's it. Okay? And I'm going to close

1 the record, okay? We don't need anything, right?

2 Okay. All right, great. So, we'll see you the 31st
3 if you want to come.

4 MS. HOTTEL-COX: Thank you.

5 CHAIRPERSON HILL: Thank you. I'm going to
6 take a two-minute break.

7 [Off the record from 11:15 a.m. to 11:18 a.m.]

8 MS. ROSE: Next is Application No. 19440 of
9 311 P Street, LLC, pursuant to 11-DCMR, Subtitle X,
10 Chapter 10 for variances from the lot frontage
11 requirements of Subtitle C, Subsection 303.2, the lot
12 dimension requirements of Subtitle E, Subsection
13 201.1, the front setback requirements of Subtitle E,
14 Subsection 305.1, and the rear yard requirements of
15 Subtitle E, Subsection 306.1, to permit the
16 construction of a new one-family dwelling on a vacant
17 lot in the RF-1 Zone at premises 1502 3rd Street
18 Northwest, Square 521, Lot 833.

19 CHAIRPERSON HILL: And I'm sorry, Ms. Rose, I
20 guess can you call the other one at the same time?

21 MS. ROSE: Sure. That is Application No.
22 19439 of 311 P Street, LLC, pursuant to 11-DCMR,
23 Subtitle X, Chapter 9 for a special exception under
24 the RF-Use requirements of Subtitle U, Subsection
25 320.2, to convert an existing two-story, one-family

1 dwelling into a three-story, three-unit apartment
2 house in the RF-1 Zone at premises 311 P Street
3 Northwest, Square 521, Lot 834.

4 CHAIRPERSON HILL: Good morning. Could you
5 please introduce yourself?

6 MR. SULLIVAN: Good morning. Thank you, Mr.
7 Chair and members of the Board. My name is Marty
8 Sullivan. I'm here on behalf of the applicant.

9 CHAIRPERSON HILL: Okay.

10 MR. SULLIVAN: In both cases.

11 CHAIRPERSON HILL: Okay. Great. Thank you,
12 Mr. Sullivan. So, you guys have asked for a
13 continuance. Is that correct?

14 MR. SULLIVAN: Yes, we have. And in addition
15 to several of the issues that have been raised in the
16 Office of Planning reports, there is a question about
17 an area of relief that we may need to request, and we
18 had a PDRM last week with the Zoning Administrator's
19 staff, and we expected to get an answer on that and we
20 did not get an answer on that so there's -- so, it's
21 an unknown right now so we're probably going -- we
22 would probably amend and request the relief just in
23 case because we haven't gotten an answer that we don't
24 need that relief. And it relates to a requirement for
25 a 30-foot lot width when you create a new record lot

1 for a multi-family building. It's a provision that's
2 always been in the regulations. I haven't seen it
3 enforced in this kind of situation, but there's some
4 question about whether it should be. And so, for that
5 issue we'll probably amend it. And it's likely that
6 we will end up withdrawing the 3rd Street case as
7 well, and just going forward with one to resolve some
8 of the other issues that the Office of Planning has
9 raised.

10 So, we wanted to postpone to May 24th, after
11 the next ANC meeting.

12 CHAIRPERSON HILL: Okay.

13 MR. SULLIVAN: To have a chance to go back to
14 them as well.

15 CHAIRPERSON HILL: Is there anyone here from
16 the ANC? Is there anyone here in support of the
17 application? Is there anyone here in opposition to
18 the application?

19 [No audible response.]

20 CHAIRPERSON HILL: Okay. So, I can just talk
21 to you, Mr. Sullivan.

22 Okay. So, you want to postpone to when again?
23 You said May 24th?

24 MR. SULLIVAN: May 24th, yeah.

25 CHAIRPERSON HILL: Twenty-fourth.

1 MR. SULLIVAN: Or later. Whatever the next
2 date is after the -- May 24th is the date that's after
3 the next --

4 CHAIRPERSON HILL: Right. I don't think the
5 24th is going to work for us, but the 31st, how does
6 that schedule look, Ms. Rose?

7 MS. ROSE: We have seven cases that day, and
8 the next date would be June 14th.

9 CHAIRPERSON HILL: June 14th.

10 MS. ROSE: We don't have any cases scheduled.

11 CHAIRPERSON HILL: Okay. And, Mr. Sullivan, I
12 mean, this has kind of gone back and forth quite a bit
13 and it seems like there is a variety of work that
14 still needs to be done on your applicant's part, and I
15 guess your applicant is not here, right? You're just
16 here representing them.

17 MR. SULLIVAN: Yes, that's correct.

18 CHAIRPERSON HILL: I'm going to push it to the
19 14th, just so you have plenty of time because I don't
20 think that I don't know whether, you know -- I
21 remember that there was some opposition to this, and
22 so, you know, whether whatever happens now in June,
23 hopefully you and your applicant had already cleared
24 up everything with the ANC and with the Office of
25 Planning so that it won't be as controversial, I

1 suppose. But again, that's neither here nor there in
2 terms of meeting the standard for relief.

3 So, when was that, Ms. Rose again? I'm sorry.
4 June?

5 MS. ROSE: June 14th.

6 CHAIRPERSON HILL: June 14th. So, we'll go
7 ahead and do that, Mr. Sullivan.

8 MR. SULLIVAN: Thank you. That's fine.

9 CHAIRPERSON HILL: Okay. Great. All right.
10 We'll see you in June.

11 MR. SULLIVAN: Thank you.

12 [Pause.]

13 CHAIRPERSON HILL: Okay, Ms. Rose I guess the
14 last -- oh, I'm sorry.

15 MR. SULLIVAN: Excuse me.

16 CHAIRPERSON HILL: Sure.

17 MR. SULLIVAN: I'm sorry.

18 CHAIRPERSON HILL: Sure. That's all right.

19 MR. SULLIVAN: I just got a text.

20 CHAIRPERSON HILL: Okay.

21 MR. SULLIVAN: From my wife.

22 CHAIRPERSON HILL: Okay.

23 MR. SULLIVAN: She must be watching.

24 CHAIRPERSON HILL: Okay.

25 MR. SULLIVAN: It's my daughter's graduation.

1 CHAIRPERSON HILL: Okay.

2 MR. SULLIVAN: June 14th.

3 CHAIRPERSON HILL: All right. Okay. That's
4 okay. That's great. Technology is a fantastic thing.
5 So, what's the next day after June 14th, Ms. Rose?

6 MS. ROSE: The 21st.

7 CHAIRPERSON HILL: The 21st. Mr. Sullivan, is
8 it high school or college?

9 MR. SULLIVAN: Elementary.

10 CHAIRPERSON HILL: Wow. I apologize for
11 insulting your age.

12 All right. 21st? Is that what you said?
13 Okay, great. All right, Mr. Sullivan.

14 MR. SULLIVAN: Thank you.

15 MS. ROSE: The last case was originally
16 advertised as Application No. 19469 of Wana Bishop
17 Revocable Trust pursuant to 11-DCMR, Subtitle X,
18 Chapter 9 for special exception under the RF-Use
19 requirements of Subtitle U, Subsection 320, I'm sorry,
20 320.2, to permit the expansion and conversion of an
21 existing one-family dwelling into a three-unit
22 apartment house in the RF-1 Zone at premises 3123
23 Water Street Northwest, Square 3049, Lot 48. And as a
24 preliminary matter there is a request to amend the
25 name of the applicant to 3123 Water Street, LLC.

1 Okay. If you could please introduce
2 yourselves from my right to left? You just -- you
3 need to push the button again, sorry.

4 MR. HOLAHAN: My name is Matt Holahan. I'm
5 the property owner.

6 CHAIRPERSON HILL: Could you spell that last
7 name for me?

8 MR. HOLAHAN: H-O-L-A-H-A-N.

9 CHAIRPERSON HILL: You just need to push it
10 once and then just leave it on.

11 MR. HOLAHAN: H-O-L-A-H-A-N.

12 CHAIRPERSON HILL: Holanhan?

13 MR. HOLAHAN: Holahan.

14 CHAIRPERSON HILL: Holahan. Did you get sworn
15 in this morning?

16 MR. HOLAHAN: I did.

17 CHAIRPERSON HILL: Okay.

18 MR. SULLIVAN: Martin Sullivan on behalf of
19 the applicant.

20 MS. WILSON: Good morning. Alex Wilson from
21 Sullivan and Barros on behalf of the applicant.

22 MR. MARKUS: And Rich Markus, architect.

23 CHAIRPERSON HILL: Okay, Mr. Sullivan, are you
24 presenting, or Ms. Wilson?

25 MR. SULLIVAN: I will present, and the

1 architect.

2 CHAIRPERSON HILL: Okay. So, I don't really
3 have a lot of questions, I suppose. Like, if you
4 could just give me, give us, the Board, a high level
5 understanding as to the project and how you're meeting
6 the standards for relief.

7 I would be a little bit curious, I suppose,
8 about the ANC feedback, and then one item that they
9 mentioned that you know, if the applicant would be
10 accepting of it was, they were talking about
11 encouraging the applicant to plant a shade tree. So,
12 maybe you can kind of like point out what that is, or
13 where that is.

14 I suppose the -- so, the preliminary motion in
15 terms of the name change, unless the Board has any
16 objection, I will go ahead and approve that motion.

17 Okay. And I think there was another
18 preliminary matter concerning the motion to -- I don't
19 know if it's a motion or not, but to accept revised
20 plans. And so, we will go ahead and accept those
21 revised plans as indicated. And maybe you can clarify
22 for me that those revisions are still in line with
23 what the ANC had seen.

24 So, Mr. Sullivan, I'm going to put 10 minutes
25 on the clock for you guys, and you can begin whenever

1 you'd like.

2 MR. SULLIVAN: Thank you, Mr. Chair and
3 members of the Board. My name is Marty Sullivan from
4 Sullivan and Barros on behalf of the applicant. The
5 property address is 3123 Water Street. It is -- it's
6 on an alley, the rear of it's on an alley, although
7 it's mid-block. It's an alley that Ls through the
8 middle of the square.

9 The proposed addition, and the architect can
10 explain more and answer any question, only extends up
11 and it's set back 24 feet from the front of the
12 building. So, we're not extending the rear at all and
13 the front is back 24 feet. So, we're not touching the
14 front of the building, of course, and have a
15 significant setback.

16 And, we do have full support from the ANC, and
17 the architect answer any questions or explain any
18 details of the addition.

19 CHAIRPERSON HILL: Mr. Sullivan, just for --
20 and I'm just curious of it. There was a no vote. Do
21 you know why there was a no vote?

22 MR. SULLIVAN: I have no idea. She didn't say
23 anything. She just voted no.

24 CHAIRPERSON HILL: Okay. Voted no.

25 And the shade tree, I guess the architect can

1 talk to that, speak to that?

2 MR. SULLIVAN: Yes.

3 CHAIRPERSON HILL: Okay. Go ahead, please.
4 Thank you.

5 MR. MARKUS: Yeah. There's a little bit of
6 front yard. It's not that extensive so we, the owner,
7 agreed to put a tree in there. I'm not sure what size
8 yet, but as big as we possibly can in that area.

9 MR. SULLIVAN: The way the ANC commissioner
10 described it is, the street is pretty barren of
11 greenery and he was hoping to change that.

12 CHAIRPERSON HILL: Okay. That's great.

13 MR. SULLIVAN: So, unless the Board has any
14 further questions --

15 CHAIRPERSON HILL: Oh, I'm sorry. I thought
16 the architect was going to give more than -- a little
17 bit more than a presentation, but that's all right.
18 I'll see --

19 MR. SULLIVAN: It's just pretty straight
20 forward.

21 CHAIRPERSON HILL: I'll see --

22 MR. SULLIVAN: There's not much to the
23 addition itself.

24 CHAIRPERSON HILL: I'll see if the Board has
25 any questions for the architect or anyone here. Does

1 the Board have any questions?

2 MR. MILLER: Mr. Chairman, thank you.

3 CHAIRPERSON HILL: Sure.

4 MR. MILLER: You asked a question and I guess
5 I was distracted when maybe the answer came. So, the
6 revised plans do conform with all of the -- whereas,
7 as in the ANC --

8 MR. SULLIVAN: Yes. Correct. They saw the
9 revised plans well before the ANC meeting. And we had
10 a community meeting before, prior to the ANC meeting
11 as well, on a Saturday morning, where four or five
12 neighbors showed up and were in favor of this. Their
13 issue was, they didn't want to see a rear addition.

14 MR. MILLER: Thank you.

15 MR. SULLIVAN: And they were satisfied with
16 that.

17 CHAIRPERSON HILL: So, and maybe, Mr.
18 Sullivan, I'm just kind of curious. So, could your --
19 could the applicant have tried to get more?

20 MR. SULLIVAN: Well, there's a question of,
21 there's already an addition there that extends 10 feet
22 past. And so, there's a question about whether or not
23 you can extend further than that without waiver of the
24 10-foot rule. But this is what -- this is -- the
25 applicant, the applicant came to us saying this is

1 what I need to do.

2 CHAIRPERSON HILL: No, I was just curious. I
3 was just curious as to whether or not, because it's
4 rare that there's that far back a setback in the
5 front. I thought that, but --

6 MR. SULLIVAN: Yeah, there's an existing
7 addition and I suppose that provides the space needed,
8 because one of these will be a three-bedroom as well.

9 CHAIRPERSON HILL: Okay. Okay. Does the
10 Board have any questions for the applicant?

11 MR. HART: And this actually includes --
12 sorry, Mr. Chair.

13 CHAIRPERSON HILL: Sure.

14 MR. HART: This includes a -- there's a spiral
15 stair on the rear?

16 MR. MARKUS: Yes.

17 MR. HART: And is that -- it's hard to tell.
18 Is that like fully enclosed or is that just --

19 MR. MARKUS: No, it's just the rail in the --
20 you might be looking at the three-dimensional sketch.

21 MR. HART: Yeah, I think it's --

22 MR. MARKUS: So, it's just a, it's an open
23 rail.

24 MR. HART: Oh, okay. And why the spiral
25 stair. Is that just because of space?

1 MR. MARKUS: Yeah, to keep it condensed and
2 keep it small as possible. The intention here was,
3 we're just going up off the existing wall of the
4 existing building. So, we're not extending back.
5 We're trying to keep that small. A full stair would
6 get kind of large. So, the intention was to keep that
7 small, but it also would need -- we need a rear access
8 from the upper unit, so that's why that's there.

9 MR. HART: And there's no -- I'm sorry. It
10 was hard for me to tell on this. I was looking at,
11 what is this? I don't know what exhibit I'm looking
12 at now. I'm sorry. Exhibit 40, I guess. Those are
13 the most recent drawings, correct?

14 MR. SULLIVAN: That's correct.

15 MR. HART: And you have -- trying to see what
16 page I'm on now. So, and there is only access to that
17 spiral stair from the top unit?

18 MR. MARKUS: Right.

19 MR. HART: There's no other access to it.
20 It's just --

21 MR. MARKUS: It's just the rear. Yeah, it's
22 accessed from the top unit down to the rear yard.

23 MR. HART: Okay.

24 MR. MARKUS: If we didn't have it, there's no
25 access inside the building. Each unit is on its own.

1 MR. HART: I understand. Thank you.

2 CHAIRPERSON HILL: Mr. Holahan, I'm curious.
3 So, you're developing this property? For what
4 purpose?

5 MR. HOLAHAN: Just to get three units.

6 CHAIRPERSON HILL: Okay. Yeah. Now, have you
7 done other projects in the city?

8 MR. HOLAHAN: I have. I've done other
9 projects on the same street, on 3122 Water Street.

10 CHAIRPERSON HILL: Okay.

11 MR. HOLAHAN: And another one a few blocks
12 away on Kenyan and 13th.

13 CHAIRPERSON HILL: Okay. Yeah, no, it looks
14 like you'll improve the -- I mean, I'm just looking at
15 the rear of the property. I'm thinking that it will
16 look nice when it's done. You know.

17 So, okay. I'm going to turn to the Office of
18 Planning.

19 MS. MYERS: Hello. Crystal Myers for the
20 Office of Planning. The Office of Planning recommends
21 approval of this conversion project and stands on the
22 record of the staff report.

23 CHAIRPERSON HILL: Does anyone have any
24 questions for the Office of Planning?

25 [No audible response.]

1 CHAIRPERSON HILL: Does the applicant have any
2 questions for the Office of Planning?

3 MR. SULLIVAN: No, thank you.

4 CHAIRPERSON HILL: Okay. Is there anyone here
5 from the ANC wishing to speak? Is there anyone here
6 wishing to speak in support of the application? Is
7 there anyone here wishing to speak in opposition to
8 the application?

9 [No audible response.]

10 CHAIRPERSON HILL: I'm going to close that
11 portion of the hearing. Would the applicant like to
12 say anything else?

13 MR. SULLIVAN: No, thank you.

14 CHAIRPERSON HILL: All right. We'll go ahead
15 and close the hearing.

16 Is the Board ready to deliberate? Okay.

17 I mean, I think regardless of what I think of
18 the project in terms of the way I think it looks, I
19 think it's aesthetically going to help the back of the
20 -- definitely the back of the block there.

21 I would rest on the analysis from the Office
22 of Planning and then also that the ANC has submitted
23 their vote, which was nine, to one, to zero in
24 support. I'm satisfied that the applicant meets the
25 criteria in order to approve the application. Does

1 the Board have any other questions before I make a
2 motion?

3 Okay. And I'm going to make a motion to
4 approve Application No. 19469 as read by the
5 secretary.

6 MR. HART: Seconded.

7 CHAIRPERSON HILL: Motion has been made and
8 seconded.

9 [Vote taken.]

10 CHAIRPERSON HILL: The motion passes, Ms.
11 Rose.

12 MS. ROSE: Staff will record the vote as four,
13 to zero, to one with a motion by Mr. Hill seconded by
14 Mr. Hart, to approve the application with Ms. White
15 and Mr. Miller in support of the motion, one board
16 seat vacant.

17 CHAIRPERSON HILL: Can we get a summary order?

18 MS. ROSE: Yes, thank you.

19 CHAIRPERSON HILL: Okay, great. All right.
20 Thank you, all.

21 Ms. Rose, does the Board have anything else
22 before it today? Oh yeah, actually we do.

23 MS. ROSE: Closed meeting, sir.

24 CHAIRPERSON HILL: All right. In accordance
25 with Section 405(c) of the Open Meetings Act, D.C.

1 Official Code 2-575(c), I move that the Board of
2 Zoning Adjustment hold closed meetings on Monday, May
3 1st, May 8th, May 15th, and Tuesday, May 30th. These
4 meetings start at 3:00 p.m. and are held for the
5 purpose of obtaining legal advice from our counsel in
6 deliberating upon but not voting on the cases
7 scheduled to be publicly heard or decided by the Board
8 on the day after each such closed meeting. Those
9 cases are identified on the Board's public meeting and
10 hearing agendas from May 3rd, May 10th, May 17th, and
11 May 31st.

12 A closed meeting for these purposes were
13 printed by section 405(b)(4) and (b)(13) of the act.
14 Is there a second?

15 MS. WHITE: Second.

16 CHAIRPERSON HILL: Motion has been made and
17 seconded. Ms. Rose, could you please take a roll call
18 vote on the motion?

19 MS. ROSE: When I call your name, please
20 indicate whether you're in favor.

21 [Roll call vote.]

22 MS. ROSE: Mr. Hill.

23 CHAIRPERSON HILL: Yes.

24 MS. ROSE: Mr. Hart?

25 MR. HART: Yes.

1 MS. ROSE: Ms. White?

2 MS. WHITE: Yes.

3 MS. ROSE: Mr. Miller?

4 MR. MILLER: Yes.

5 MS. ROSE: Thank you.

6 CHAIRPERSON HILL: All right. The motion
7 passes. I request that the Office of Zoning provide
8 notice of these closed meetings in accordance with the
9 act.

10 MS. ROSE: Yes, sir. Thank you.

11 CHAIRPERSON HILL: Does the Board have -- do
12 we have anything else before the Board?

13 MS. ROSE: No.

14 CHAIRPERSON HILL: All right. Then we stand
15 adjourned. Thank you.

16 [Whereupon, at 11:37 a.m., the public meeting
17 was adjourned.]

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