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

PUBLIC HEARING AND MEETING
OF THE BOARD OF ZONING ADJUSTMENT

9:50 a.m. to 12:51 p.m.

Wednesday, June 28, 2017

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

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1 Board Members:

2 FREDERICK HILL, Chairperson

3 CARLTON HART, Vice Chairperson

4 LESYLLEE WHITE, Board Member

5 ANTHONY HOOD, Zoning Commission

6 CLIFFORD MOY, BZA Secretary

7

8

9 Office of Planning

10 STEPHEN MORDFIN

11 CRYSTAL MYERS

12 ANNE FOTHERGILL

13

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

2 CHAIRPERSON HILL: Ladies and gentlemen, we're
3 located in the Jerrily R. Kress Memorial Hearing Room
4 at 441 4th Street Northwest. This is the June 28th
5 public hearing of the Board of Zoning Adjustment of
6 District of Columbia.

7 My name is Fred Hill, Chairperson. Joining me
8 today is Carlton Hart, Vice Chairperson, Lesyllee
9 White, Board member, and representing the Zoning
10 Commission is Anthony Hood.

11 Copies of today's hearing agenda are available
12 to you and located in the wall bin near the door.

13 Please be advised that this proceeding is being
14 recorded by a court reporter and is also webcast live.

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

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

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

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

19 Preliminary matters are those which relate to
20 whether a case will or should be heard today, such as
21 requests for a postponement, continuance, or
22 withdrawal, or whether proper and adequate notice of
23 the hearing has been given. If you're not prepared to
24 go forward with the case today, or if you believe that
25 the Board should not proceed, now is the time to raise

1 such a matter.

2 Mr. Secretary, do we have any preliminary
3 matters?

4 MR. MOY: Good morning, Mr. Chairman, members
5 of the Board. I do very quickly, as to the case
6 applications on the docket for today, or in this case
7 is not on the docket for today, two case applications.
8 The first is Application No. 19459 of Andrew
9 Phillips. This is a case application that has been,
10 at the applicant's request, postponed, rescheduled to
11 September 13th, 2017.

12 The other case application is No. 19504 of CHS
13 (sic) Bold PAC, P-A-C. The applicant has withdrawn
14 this application, dated June -- in a filing dated June
15 26th, 2017, under Exhibit 83.

16 So, with that, I think the other preliminary
17 matters, the Board can address when that case is
18 called, Mr. Chairman.

19 CHAIRPERSON HILL: Okay, great. Thank you,
20 Mr. Moy.

21 If anyone is here wishing to testify, if you
22 could please stand and take the oath that's going to
23 be administered by the secretary.

24 MR. MOY: Good morning.

25 [Oath administered to the participants.]

1 CHAIRPERSON HILL: Mr. Moy, if you want, I
2 guess you can call the preliminary matter.

3 [Pause.]

4 CHAIRPERSON HILL: All right. Just so the
5 audience knows, actually, we're going to follow the
6 order, except for there's one additional item that we
7 have to, as a preliminary matter, Mr. Moy. And so,
8 let's do that first. And then in other words, we'll
9 follow the order as it's listed in the meeting agenda,
10 as well as the hearing agenda.

11 MR. MOY: Yes, thank you, Mr. Chairman. So,
12 with that, what's before the Board for action as a
13 preliminary matter is Application No. 19511 of the
14 D.C. Department of General Services. As the Board is
15 aware, the Board took action on this application last
16 week, last Wednesday, the 21st of June.

17 Since then, there was a filing from ANC 5E,
18 the report on the next day, which is a Thursday, based
19 on their hearing of Tuesday night. And that filing is
20 in the record, so this is before the Board.

21 CHAIRPERSON HILL: All right. Thank you, Mr.
22 Moy. Is the Board ready to deliberate? Or is aware
23 of this? Okay. So, what happened was last week, we
24 heard this case and deliberated upon it and then took
25 a vote. And then after the fact, and even during the

1 testimony that was provided, we had been informed that
2 the ANC, at the meeting prior, had voted in opposition
3 to the parking relief. And so, we had moved forward,
4 and now after speaking with the Office of Attorney
5 General, understand that due to the opposition from
6 the ANC, a full order would need to be written.

7 So, what I am proposing, and what we did do
8 was reopen the record to allow the ANC report into the
9 record, and now what I would again propose is that we
10 vacate our previous vote, and then if we are now ready
11 to deliberate upon the case after we have allowed the
12 ANC report into the record, and reviewed that, then we
13 can go ahead and also now deliberate on this taking
14 that letter into consideration.

15 Is the Board alright with that?

16 MR. HART: Yes.

17 CHAIRPERSON HILL: Okay. So, Mr. Moy, we're
18 going to I guess, go ahead and move forward now with
19 that. And so, we are going to go ahead and ready
20 again to now deliberate in terms of the case. Do you
21 have that case number there, Mr. Moy, for me?

22 MR. MOY: Yes, it's 19511. Okay. So, after
23 taking the ANC letter into consideration, it did not
24 change my opinion during the deliberations. We had --
25 the testimony had been provided by the applicant in

1 terms of the vote that was taken before, that it was
2 in opposition that the vote exactly was split six to
3 four. And so, that is exactly what the report stated.

4 And so, what we had spoken about and the
5 deliberations that we had made last week, it did not
6 change any of my opinion. So, I don't have anything
7 else to add. Do you? Does anyone else?

8 MR. HART: No, Mr. Chair. I think that I
9 would concur with you. I appreciate the ANC for
10 filing their report. I still think that the
11 applicant's case and the applicant -- the information
12 that they provided regarding why a parking area was
13 not possible is still something that I would support,
14 so I think that the applicant is justified in their
15 requesting this. And I think that we should approve
16 their special exception.

17 MS. WHITE: Mr. Chairman, I was not -- Mr.
18 Chairman, I was not at the case last week, but I did
19 review the record and I also listened to the video of
20 the deliberations, and it's a very good project. The
21 relief that they're seeking with respect to being able
22 to build the recreation center in Edgewood, is very
23 important to the constituency in that area. The
24 parking relief was something that I'm definitely
25 sensitive to, but I am convinced that the party did

1 make best efforts to try to resolve some of those
2 issues by providing other options, such as the bike
3 parking. I would hope in the future that there may be
4 some things that they can look at to try to provide
5 some parking in the future. But at this point, given
6 what's in the record, I will support the application.

7 CHAIRPERSON HILL: Okay, great. Thank you.
8 So, then I'm going to go ahead and make a motion to
9 approve application 19511.

10 MR. HART: Mr. Chair, do we have to -- I'm
11 just procedurally.

12 CHAIRPERSON HILL: Sure.

13 MR. HART: Do we have to make a motion to
14 vacate the previous and approve --

15 MR. MOY: That's been done in the past and we
16 could make two separate motions, or roll it into one
17 motion.

18 CHAIRPERSON HILL: Okay. So, then I'd make a
19 motion -- well, we'll do two separate motions. So,
20 I'll make a motion to vacate the original vote that we
21 took last week.

22 MR. HART: Second.

23 CHAIRPERSON HILL: Motion has been made and
24 seconded.

25 [Vote taken.]

1 CHAIRPERSON HILL: All right, Mr. Moy, so that
2 motion passes. I thought we were going to do that --
3 and this is something for the future, whether or not
4 we can do that consensus or not, but that's great.
5 Thank you.

6 And then the next motion, again, is I'm going
7 to make a motion to approve Application 19511.

8 MR. HART: Second.

9 CHAIRPERSON HILL: Motion has been made and
10 seconded.

11 [Vote taken.]

12 CHAIRPERSON HILL: That motion again passes,
13 Mr. Moy. And I don't know if you have an absentee or
14 not.

15 MR. MOY: No, I don't. But you still have a
16 vote count of three, to zero, to two, to move forward.
17 This is on your motion, Mr. Chairman. Seconded by
18 Vice Chair Hart. Also in support, Ms. White and no
19 other members. Board seat vacant. The motion
20 carries.

21 CHAIRPERSON HILL: Okay. So that now again
22 will be a full order.

23 MR. MOY: That's a full order, and the relief
24 as captioned.

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

1 All right. I believe the next application for
2 a decision is Application No. 19480 of Ilya Zusin.
3 This was a request for special exceptions from the
4 accessory building lot occupancy requirements of
5 Subtitle E, Section 5003.1; from the accessory
6 building rear yard requirements, Subtitle E, Section
7 5004.1, and under Subtitle E, Section 5201; from the
8 lot occupancy requirements, Subtitle E, Section 304.1,
9 to construct an accessory two-story carriage house for
10 use as covered parking and an office in an RF-1 Zone
11 at 202 9th Street Southeast, Square 944, Lot 814.

12 The Board had requested additional information
13 and, Mr. Chair, in your case folders those post-
14 hearing submissions have been filed timely.

15 CHAIRPERSON HILL: All right. Thank you, Mr.
16 Moy. Is the Board ready to deliberate? Okay.

17 [Pause.]

18 CHAIRPERSON HILL: So, we had a long hearing
19 on this with a lot of witnesses from the community and
20 the party in opposition, and then there were many
21 letters in opposition and some in support of the
22 neighbor, letters in opposition, support of the
23 neighbor whose window would be blocked by this
24 particular project.

25 I guess I'm kind of disappointed in that there

1 wasn't a way to somehow resolve this issue, but I was
2 kind of like forced to just again look at whether or
3 not I thought that this window was something that was
4 at risk, and based upon the testimony that we got, as
5 well as the expert testimony from the applicant, I'm
6 of the mind that this actually is a window that is at
7 risk. It's not one that was originally there, and
8 therefore you know, is something that I would have a
9 difficult time denying the property owner the ability
10 to do what they can do by their -- with their
11 property.

12 The property owner, you know, has gone through
13 the -- and has made, in my opinion, a good case as to
14 why the application should be approved. Also backing
15 that up is the analysis from the Office of Planning.
16 There was a lot of questions that the party in
17 opposition had from the Office of Planning, or to the
18 Office of Planning, and I believe that they also
19 answered all of their questions adequately. Whether
20 or not they agreed with the opinion of the Office of
21 Planning, that obviously is something they would not.
22 You know, they're not agreeing with the opinion. But
23 still, that is what the Office of Planning has -- the
24 analysis that they've provided.

25 In addition to that there was the case that

1 had gone through before the ANC, and the ANC did in
2 fact vote in favor to approve this application that
3 they saw that it met the tests and the criteria with
4 which to approve it through the regulations.

5 I am again, disappointed for the adjacent
6 property owner and the loss of their window. Where
7 I'm getting at this point, I suppose, is again you
8 know, the fact that the window was put there doesn't
9 take away the rights of the next-door property owner
10 in terms of what they're able to apply for, and if the
11 criteria is met, what they should be able to receive.

12 You know, just on a personal note, I'm really
13 sorry about the, again, the property owner and also
14 being, you know, a school teacher is something that,
15 you know, they don't get paid enough anyway now, and
16 so now you know, I wasn't able to get to the point,
17 however, where I could get past all of the criteria
18 that I believe the applicant has made in terms of why
19 this should be granted.

20 So, that's the beginning of the deliberation
21 for me, if anyone has anything else to add.

22 MR. HART: I'm going to -- to follow on the
23 Chairman's comments, I find that it was definitely a
24 full record. There was quite a bit of testimony,
25 there was quite a bit of information to have to read

1 through, and I thought it was very helpful to kind of
2 hear all of this, the information, and be able to read
3 through it.

4 I do understand that the at-risk window issue
5 is kind of the crux of this particular case. And this
6 property is on the building, the opposition party's
7 house is on the property line. And so, because it is
8 on the property line, and there is a window that was -
9 - that is situated on that property line, I -- and
10 listening to the Office of Planning's information and
11 report that they provided in their testimony, also
12 reading through the applicant's expert's information
13 about some of the history of the information, I feel
14 that the at-risk window, that I would agree that this
15 is an at-risk window.

16 I think that the -- I'm not exactly sure when
17 that window was put in, but it did not seem that that
18 was a -- I couldn't get to a, this window was actually
19 on the building when the building was actually
20 constructed. And, unfortunately that issue is a, as I
21 said, a key part of this because the at-risk window
22 then -- if this is determined, and I think it is, a
23 at-risk window, then you have the issues that go along
24 with the light and air, and all that other stuff.
25 Those -- the special exception criteria, those become

1 -- the at-risk window issue, once it's resolved, those
2 issues become easier to understand in my view.

3 I would agree with the Office of Planning's
4 information on this. I found that their information
5 was substantial enough to understand where their
6 position was, and I would agree with their position on
7 the building itself, the garage that's being proposed
8 by the applicant, and I think I would be in support of
9 the application because I feel that they've met the
10 special exception criteria for both lot occupancy and
11 rear yard, and would be in support of the application
12 as submitted.

13 MS. WHITE: Thank you, Mr. Chairman. This was
14 probably one of the toughest cases I have had to hear.
15 And I did a lot of research in terms of looking at
16 some of the case law, and there's not a lot of case
17 law out there. You know, I'm obviously sensitive to
18 the needs of the neighbor that's been at this house
19 since 1998, I believe.

20 It's not clear when that window was actually
21 installed, but it was obviously installed prior to her
22 ownership of the house. And there has been a, really,
23 a long list of outpouring of support within the
24 community to kind of support you know, you know, the
25 neighbor's request that that kitchen window not be

1 blocked.

2 And, you know, looking at the law, I mean,
3 this is a special exception. The window is an at-risk
4 window under the law, under the zoning regulations.
5 So, we had to look at that test under Section Y 901.2.
6 And then we had to determine whether or not, if it is
7 an at-risk window, whether or not this would negate
8 the normal standard of for adverse impact under
9 Section Y 901.2.

10 My hope was that the neighbors were going to
11 be able to support this, but you know, this is
12 something I've been looking at probably for the last
13 few weeks to kind of get a sense of whether or not it
14 could be resolved. But at this time, you know, I
15 think based upon a case law and based upon the
16 positioning of the house, the party does have a right
17 to build along that party line because that's where
18 the actual window is. So, I would have to concur, you
19 know, with my colleagues that the application should
20 be approved.

21 CHAIRPERSON HILL: Okay. So again, it is
22 disappointing that this couldn't be resolved in a way
23 that everyone could have been happy. So, I'm again
24 just kind of resting on the Office of Planning's
25 analysis and the full record as Mr. Hart has

1 mentioned. So, I'm going to go ahead and make a
2 motion to approve Application 19480 as read by the
3 secretary.

4 MR. HART: Seconded.

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

7 [Vote taken.]

8 CHAIRPERSON HILL: Motion passes, Mr. Moy.
9 Or, I think you have a -- I don't know if you have an
10 absentee also.

11 MR. MOY: Yes, I do, Mr. Chairman. The other
12 participant on this case is Peter Shapiro, and his
13 absentee ballot vote is to approve the application
14 with such conditions, if any, that the Board may
15 impose.

16 So, that would give a final vote of four, to
17 zero, to one. This is on your motion, Mr. Chairman,
18 to approve the application for the relief requested.
19 Seconded the motion, Vice Chair Hart. Also in
20 support, Ms. White, and of course, Mr. Shapiro. We
21 have a board seat vacant. Motion carries.

22 CHAIRPERSON HILL: Okay. And we're going to
23 do a full order.

24 MR. MOY: Yes, sir.

25 CHAIRPERSON HILL: All right. Thank you, Mr.

1 Moy.

2 All right, Mr. Moy, there was a preliminary
3 matter I think.

4 MR. MOY: Yes, sir. This is the last item for
5 action by the Board, and its Decision Meeting Session.
6 This is applied to Appeal No. 19510 of Nefretiti
7 Makenta. The appellant filed a second postponement of
8 the -- of the July 12th scheduled hearing date, as
9 well as a request to waive the 21-day submission
10 deadline.

11 CHAIRPERSON HILL: All right, great. Thank
12 you, Mr. Moy.

13 So, is the Board ready to deliberate?

14 All right. So, you know, I've looked at
15 everything and this is again, another request to
16 postpone this appeal beyond where we've already
17 granted a postponement. I mean, I, to begin with, was
18 concerned about the first postponement request because
19 we, as a Board are -- well, there's a variety of
20 reasons. I mean, I think that the applicant has had
21 enough time already to make a case. And I think that,
22 you know, they have had enough time to do so.

23 By pushing this after our recess, I think that
24 that again is unduly hurting the property owner to
25 have this issue heard before us. And so, I would not

1 be in support of postponing this again.

2 Again, there was already, I think, sufficient
3 time to make the case. And then we did postpone it to
4 what almost was a month, I think. And so, that should
5 have been enough time to hear the case. So, I'm still
6 interested in hearing the case at the original time
7 that we postponed it to. Does the Board have any
8 other thoughts on that motion?

9 MR. HART: I would concur with you, Mr.
10 Chairman.

11 MS. WHITE: I would concur with you too, Mr.
12 Chairman. I don't want to cause an undue hardship on
13 the parties with further delays, and I think they've
14 had more than enough time to respond.

15 CHAIRPERSON HILL: Okay. So, I'm going to
16 make a motion to deny the motion for the postpone --
17 oh, Mr. Hood, I'm sorry. I didn't realize that you
18 were with us today.

19 MR. HOOD: I actually have been involved with
20 this case in the response, dealing with Bega, to begin
21 with. Those concerns have come to me.

22 What concerns me, and I know you all have been
23 through this, and I don't think any commission has
24 been through this like you all have, but when I look
25 at the data, and I look at one of the things that

1 struck me, and I saw it somewhere when I saw a death
2 in the family. I understand -- let me ask this. I
3 didn't see a date that you all had postponed to --
4 were going to have the hearing. When is the hearing?
5 When is it. It supposed to have been today?

6 MR. HART: No.

7 CHAIRPERSON HILL: Two weeks from today.

8 MR. HART: July 12th.

9 MR. HOOD: It's the 12th.

10 CHAIRPERSON HILL: And then we had postponed
11 this once before.

12 MR. HOOD: Right. And because I know she's --
13 I've been seeing correspondence that's been sent to me
14 from Bega to begin with.

15 But let me just say that, only thing that
16 concerns me, and I don't know if this was an issue the
17 last time, is notes that there was death in the family
18 in June. So, I know this happened, you know, which
19 may make it difficult for appellant to meet deadlines.

20 So, when I see stuff like that I have to take
21 people for face value. And I know, you know, things
22 like that has happened, it's happened in the past.
23 Unless, you know, something else that I'm missing.
24 But a death, as we know, we can't control that. And
25 people's lives are turned upside down. And I know

1 there's some other issues even before we got to that,
2 because I know she's appealing to Bega because I've
3 been involved with the correspondence.

4 So, you know, if you all are going to go with
5 the two weeks, I probably just will recuse myself from
6 voting on this, because when I see when somebody comes
7 and they present to me an issue like that, then you
8 know, I'm compassionate to that. I'm very
9 compassionate to that, so I don't know if I even need
10 to participate in this now because I'm going by the
11 face value. She's had a death in the family. And I'm
12 sure all of us have been down that road, and it turns
13 your life upside down. It does.

14 So, that's where I am. I don't want to throw
15 a monkey wrench.

16 CHAIRPERSON HILL: Mr. Hood, you've thrown a
17 monkey in the wrench, that's okay. Or a wrench,
18 whatever the term is called.

19 I do want to comment about that. Again, I
20 don't know -- I don't want to now seem unsympathetic,
21 or that I am unsympathetic. I mean, I believe her
22 grandmother passed away, or something that was in the
23 record, I think. And I am sympathetic of that.

24 I suppose where I'm sitting is that we -- I
25 believe that there was enough time to begin with to

1 hear the case originally. And so, then we extended it
2 a month to hear -- you know, I didn't think we needed
3 to necessarily extend it the first time. And so, I
4 went back, you know, another four weeks. And now, if
5 we do it again, then we're going to push it into
6 September, which I then think would prejudice more so
7 -- I mean, it's just hearing the case, then. We'll
8 have an opportunity to deliberate, and that
9 deliberation might get pushed back into September. I
10 don't know.

11 But, there was opposition from the property
12 owner the first delay, that was asked for. And I
13 thought that the property owner made a good case as to
14 why not to push it back. And then what I was most
15 concerned about when we pushed it back the first time
16 was, again, something like this; like another request
17 for a delay that would then achieve the original goal,
18 which was to push it into September.

19 But I am definitely just wanted to also state
20 that I am apologetic and well aware of what happens in
21 people's lives, and how that can throw off the timing.

22 But given what Chairman Hood said, does the Board
23 have any other changes to their opinion on the motion
24 for a postponement?

25 MR. HART: You know, I think I hear what

1 Chairman Hood is saying, and I think that I -- I think
2 that we were trying to take some of -- trying to
3 balance how much time we were allowing for a
4 postponement originally, which was I guess two weeks
5 ago. And so that's why we kind of ended in July, kind
6 of the middle part of July. And it just seems like
7 adding another two months to that seems like it's a
8 really long period of time to -- because we would be
9 going, not in August, but in September, that seems
10 like a very long period of time.

11 When you file an appeal, you have a certain
12 deadline that is associated with that. There already
13 is a timetable that is established in the zoning code
14 for the purposes of making sure that there is a timely
15 process that's going on. So, I understand that there
16 are, you know, situations that may require some
17 additional time. I thought that we had, in our
18 deliberations, in our discussion, had provided some
19 time for the applicant to do that. And I just think
20 that we should be continuing with that, that line of
21 reasoning which was the middle part of July, to allow
22 them to provide information about their -- in a
23 statement about their case.

24 So, I would not -- I don't think I'm going to
25 be changing my opinion on the timing.

1 MS. WHITE: Yeah, I agree, Mr. Hart. I'm also
2 very sensitive, and I think maybe the best course of
3 action is to at least get the case started. It
4 doesn't necessarily mean when we hear it on the 12th
5 there's going to be a decision on the 12th. There may
6 be some additional information that we might have to
7 have brought into the record.

8 But again, I don't want to cause too much
9 prejudice to the parties by delaying it until
10 September.

11 CHAIRPERSON HILL: Okay. So, I was going to
12 go -- I'll make my original motion again. I didn't
13 know again, Chairman Hood, that you were involved in
14 this case at this point. Do you want to --

15 MR. HOOD: What do you think? Yeah.

16 CHAIRPERSON HILL: Do you want to -- oh, and
17 actually, since you brought up the Bega issue, I mean,
18 there was a comment in the request that they, the
19 appellant, had been waiting for Bega to make a
20 decision as to whether or not the BZA was going to
21 rehear the case. And as I understand this from the
22 Office of the Attorney General, that's not something
23 that Bega would be able for us to do.

24 So, it makes that argument moot is what I
25 think in terms of that -- the argument that the

1 appellant is making for why this should be continued
2 again, or postponed.

3 So, I'll go ahead and make a motion to deny
4 the motion to postpone 19510.

5 MS. WHITE: Second. Second.

6 CHAIRPERSON HILL: The motion has been made
7 and seconded.

8 [Vote taken.]

9 MR. MOY: Staff would record the vote as
10 three, to one, to one. This is on the Chairman Hill's
11 motion to deny the request to postpone. Seconded the
12 motion, Ms. White. Also in support of that motion to
13 deny, Vice Chair Hart. Or did I reverse that?

14 CHAIRPERSON HILL: I made the motion.

15 MR. MOY: Okay.

16 CHAIRPERSON HILL: Vice Chair seconded.

17 MR. MOY: All right. I'll stand corrected, so
18 Chairman Hill made the motion --

19 CHAIRPERSON HILL: I'm sorry. Lesyllee
20 seconded the motion.

21 MR. MOY: Yeah, that's -- okay. So, Ms. White
22 seconded the motion, Vice Chair Hart also in support.

23 Mr. Hood is opposed to the motion. We have a board
24 seat vacant, so the motion carries.

25 There's still the other matter of the waiver

1 of the 21 days.

2 CHAIRPERSON HILL: Okay. So now, to the
3 matter of the 21-day. I guess, you know, we're
4 already inside the 21 days now, and so I would want to
5 give the appellant time to file, and also have the
6 property owner the opportunity to respond to that
7 filing. So, where I get now is we're basically two
8 weeks out, so I don't know what is, you know, more of
9 a timeliness issue, I suppose, in terms of being able
10 to get responses and what the Board thinks.

11 You know, I would, if we gave the applicant
12 another week from now, that would be the 5th of July,
13 and then the case is going to be heard on the 12th.
14 So, Mr. Moy, I don't know if you have any -- or if the
15 Board has any thoughts or suggestions in terms of the
16 timing, like when if we gave the applicant another
17 week to file, that would give them until the 5th of
18 July, and then we would need to hear from the
19 appellant -- I'm sorry, the property owner, with
20 enough time for us to review. So that would kind of
21 put them on the 7th, I suppose.

22 MR. MOY: Either the July 7th, which is a
23 Friday, or the Monday of July 10th.

24 CHAIRPERSON HILL: I guess if we gave them
25 until Monday, July 10th, then they'd have the weekend.

1 Does the Board have any thoughts on that
2 timing?

3 MR. HART: I think that that's probably the
4 best time that we could look at having the information
5 from the appellant on the 5th, and the response on the
6 10th would be sufficient.

7 MS. WHITE: I think that's good too, the 5th,
8 10th, and 12th. That gives everybody enough time.

9 CHAIRPERSON HILL: Okay. So, Mr. Moy, do you
10 have those dates?

11 MR. MOY: Yes, I do.

12 CHAIRPERSON HILL: So, then now I'm not really
13 sure how this motion works because we're denying
14 the --

15 [Discussion off the record.]

16 CHAIRPERSON HILL: Okay. So, we are approving
17 the waiver of the 21-day deadline. So, I would make a
18 motion -- I would make a motion to approve the waiver
19 of the 21-day deadline, and make the deadline now the
20 5th of July with the property owner responding back to
21 us by the 10th of July. And then we would hear the
22 case on the 12th of July.

23 MR. HART: Seconded.

24 CHAIRPERSON HILL: The motion has been made
25 and seconded.

1 [Vote taken.]

2 CHAIRPERSON HILL: Motion passes.

3 MR. HOOD: I'm going to vote in favor of that
4 since I lost in the first motion.

5 MR. MOY: Okay. So, staff then would record
6 the vote on that waiver motion of four, to zero, to
7 one, this is on your motion, Mr. Chairman. Seconded
8 the motion, Vice Chair Hart. Also in support, Ms.
9 White, and of course Mr. Hood.

10 CHAIRPERSON HILL: Okay, great. Thank you.
11 And, Mr. Moy, we're going to take a quick five-minute
12 break.

13 [Off the record from 10:30 a.m. to 10:37 a.m.]

14 CHAIRPERSON HILL: Mr. Moy, you ready? We're
15 going to call this back together here.

16 MR. MOY: Yes, sir.

17 CHAIRPERSON HILL: We can start with the first
18 one.

19 MR. MOY: Yeah, we're in to our public hearing
20 session, Mr. Chairman.

21 CHAIRPERSON HILL: Okay.

22 MR. MOY: All right. If I can have parties to
23 the table to Application No. 19514 of Hector Burgos,
24 as captioned and advertised for special exceptions
25 under Subtitle C, Section 1504.1, from the general

1 penthouse requirements, Subtitle C, Section 1500.4,
2 and the penthouse setback requirements of Subtitle C,
3 Section 1502, and pursuant to Subtitle X, Chapter 10,
4 for variances from the nonconforming structure
5 requirements, Subtitle C, Section 202.2, and lot
6 occupancy requirements, Subtitle E, Section 304.1.
7 This would permit the addition of a third-story and
8 roof deck to an existing two-story, one-family
9 dwelling in the RF-1 Zone at premises 1805 Wiltberger
10 Street Northwest, Square 441, Lot 84.

11 And, Mr. Chair, we do have a filing with the
12 ANC report as well.

13 CHAIRPERSON HILL: Mr. Moy, when did we get
14 the report?

15 MR. MOY: Actually, this morning. I'll give
16 you a hardcopy in a minute.

17 CHAIRPERSON HILL: Okay.

18 [Pause.]

19 CHAIRPERSON HILL: All right. Good morning,
20 sir. If you could please introduce yourself?

21 MR. BURGOS: Good morning. My name is Hector
22 M. Burgos. I am the owner of 1805 Wiltberger Street
23 in Northwest Washington, D.C.

24 CHAIRPERSON HILL: All right, Mr. Burgos. Did
25 you get sworn in?

1 MR. BURGOS: Yes, sir, I did.

2 CHAIRPERSON HILL: Okay, great. So, Mr.
3 Burgos, I mean we have -- we just got the ANC report
4 that we're going to have a chance to kind of look at
5 while we're listening to your case. And then also I
6 can see that it is at least, you know, just glancing
7 at it, I can see that it's an approval.

8 If you could, during your presentation again,
9 just kind of highlight what it is you're trying to do,
10 and what you're asking for in terms of the relief, and
11 then how you're meeting the criteria for us to grant
12 the relief. And I'm going to, just so I know, put 10
13 minutes on the clock for you just and, you know, you
14 will be able to take more time if you need it. I just
15 wanted to kind of get something on there for me to be
16 able to follow along with.

17 Does the Board in particular, want to hear
18 anything else?

19 MR. HART: Yes, Mr. Chair. If you could kind
20 of focus your discussion about the variance relief
21 specifically, kind of how you're meeting those, there
22 are kind of prongs that you need to meet with those,
23 and if you could kind of discuss that? I know you
24 included it in your, in the statement. I just wanted
25 you to kind of really focus on that aspect of it, as

1 well as -- and I'll ask a question of the Office of
2 Planning additionally. There is a railing on the deck
3 that you're putting on, and it seems like it should
4 have like a setback on the roof. And I wasn't sure if
5 that was actually there or not. And if you could,
6 just kind of describe that as well as you describe
7 your project.

8 MR. BURGOS: Sure.

9 CHAIRPERSON HILL: Okay.

10 MR. BURGOS: And just a quick question if I
11 may?

12 CHAIRPERSON HILL: Sure, of course.

13 MR. BURGOS: I'm not sure at what point I'm
14 supposed to speak, and if the Office of Planning, or
15 Office of Zoning does actually provide any input since
16 they have provided their report and recommendations as
17 well.

18 CHAIRPERSON HILL: Sure. So, the process, Mr.
19 Burgos, if you want to go ahead and give your
20 presentation first, then we'll turn to the Office of
21 Planning. They'll basically tell us about their
22 report and how they arrived at their analysis so we
23 can also ask further questions of them. But just kind
24 of like, if you can, highlight the points that were
25 just mentioned to you. And if you don't completely

1 understand those, then we can also turn to the Office
2 of Planning afterwards and eventually we'll get all
3 our answers -- our questions answered.

4 MR. BURGOS: Understood. I'm just an IT and
5 don't --

6 CHAIRPERSON HILL: Sure. No, that's great. I
7 appreciate it.

8 MR. HOOD: Mr. Chairman.

9 CHAIRPERSON HILL: Yes, of course.

10 MR. HOOD: Can I respond to that?

11 CHAIRPERSON HILL: Sure.

12 MR. HOOD: And your comments also, I know Vice
13 Chair Hart has alluded to the setback, but I also want
14 you to talk about what's going on with that, is it
15 two-feet 11-inches set back? I'm typically not in
16 favor, but if you can explain that, and let's go
17 through that about the penthouse setback.

18 MR. BURGOS: Yes, Mr. Hood.

19 MR. HOOD: All right. Thank you.

20 CHAIRPERSON HILL: All right, Mr. Burgos, you
21 can begin whenever you'd like. And I'll give you more
22 time. You don't have to worry about the 10 minutes
23 because now we've confused you just a little bit so,
24 all right.

25 MR. BURGOS: All right. Good morning. Ladies

1 and gentlemen, Mr. Chair. Thank you for having me
2 here this morning before you guys. It's been a long
3 road for me, you know, starting with my initial filing
4 with the DCRA back in October of last year, to get to
5 this point today.

6 The home itself, it is a small flat on
7 Wiltberger Street, which is a row of seven homes.
8 They're all identical, but in the last couple years
9 each home has gone through their own stages of
10 modernization and coming into a more contemporary
11 state where people need a little bit more space to
12 live.

13 The difference about these homes and what
14 makes it a little bit unique in the neighborhood, is
15 that these homes actually sit on 90 percent of their
16 lots, meaning that there's only about two feet in the
17 rear coming out of a back door so that these homes can
18 actually have an egress for fire or whatever.

19 Our garbage cans are out -- used to be out
20 front of the property. Our neighborhood committee
21 actually lobbied to actually have them access an alley
22 and have our trashcans put into an alley. So, we've
23 really been restricted by the confines of these small
24 structures.

25 In addition to the additional additions of

1 buildings that are coming up on the front, we've got
2 the Wonder Bread factory that's directly in front.
3 Their addition actually began to eclipse the property,
4 and the new addition that's coming up right next to
5 the Howard Theater, the mixed-use properties, they're
6 going to be I think closer to like five, six stories.

7 So, it's, we're kind of like these little guys
8 in the middle of this budding neighborhood and we're
9 not going to have any sunlight. We don't have yard
10 space. So, the reasons for asking for these additions
11 and the rooftop space is simply just to have an
12 outdoor space to enjoy, to actually make it a single-
13 family use home that someone can grow into. And this
14 is my home. Or, at some point it will be. Right.

15 With the application that's been filed, there
16 is a request for a third-floor addition, and to keep
17 the square -- and to build it upon the exact footprint
18 of the home. Because the home has a footprint of
19 under 400 square feet, meeting the requirements for
20 setback would make a foot -- the footprint of the
21 third-floor addition and the roof deck under 300
22 square feet, minus the difference from walls,
23 insulation, et cetera.

24 We have met with neighbors. I have spoken to
25 any concerns. I've been to multiple ANC meetings, and

1 have garnered the support of the ANC. Biggest
2 concerns were materials that were going to be used for
3 the structure, and for the buildout of the roof deck.
4 And concerns were actually related to the materials
5 that would be pressure treated lumber and nonpressure-
6 treated lumber. So, we've made those concessions and
7 discussed materials with the neighbors to actually
8 build out any roofing material so not to have any
9 lumber deck up above the roofline. It's all going to
10 be fire retardant materials, and very low-profile roof
11 pavers to keep the structure as visually invasive --
12 minimally visually invasive as possible.

13 The setbacks and the request for the variance
14 for the penthouse relief, Mr. Hart and Mr. Hood, were
15 specific because of the fact that we cannot meet the
16 requirements for the ratios of the 40/60 requirements,
17 or meet the requirements for an equal distance setback
18 from the left and right, because there is a width of
19 the property of only 12.42 feet.

20 So, we couldn't have stairs. We couldn't have
21 a rear set of stairs coming up from the back because
22 there's no space in the back for stairs that have
23 access to the space. So, we are building the stairs
24 directly in line from the cellar, all the way up to
25 the top.

1 And the space that's going to come up is only
2 going to be enough for just a cover of stairs. So,
3 there's going to be no storage, it's going to have a
4 minimal footprint of, I believe, under 40 square feet,
5 and it's simply just going to be for stairs coming up
6 into the roof space, and access to the front and rear.

7 With regard to the railing system, Mr. Hart,
8 that you were speaking to, again, just keeping in line
9 with the requirements, with the guidelines, I mean,
10 there is a setback from the façade. I believe it's
11 actually 18 inches without having the expertise to
12 being able to speak to what the actual requirements
13 are, because I think that the guidelines are
14 relatively loose as far as what the actual setback is.

15 We've tried to stay as far back as possible to
16 not impede on the sightline of the property. There is
17 going to be no modification to any of the existing
18 original, what do you call this, the molding that goes
19 across that ties all seven of those properties
20 together.

21 MR. HART: The cornice.

22 MR. BURGOS: Yes, sir. Thank you. And we've
23 really tried to make every attempt to garner input
24 from the community and get their support so that we
25 don't take away from the, you know, kind of just the

1 presence of the community and just contribute to the
2 now growing community as it's going up. Two neighbors
3 have already added roof decks or additional third-
4 floor additions. And so just trying to stay in line
5 with the neighborhood, and the direction the
6 neighborhood is going in.

7 I'm sorry, do you have any questions, I
8 haven't answered anything, please let me know.

9 CHAIRPERSON HILL: Do you know, and I was just
10 curious, if the neighbors with the other units, have
11 they come before us as well? I don't recall --

12 MR. BURGOS: Yes.

13 CHAIRPERSON HILL: They have come?

14 MR. BURGOS: I think there is a reference in
15 the zoning memorandum. There was a variance granted
16 in January 27, 2015. It was BZA Case 18907.

17 MR. HOOD: Was that the one on the end from
18 where your property is? The ones that have done the
19 addition on the top are to the left, right?

20 MR. BURGOS: Yes, sir.

21 MR. HOOD: Right. Is that case you just -- is
22 that the one all the way on the corner?

23 MR. BURGOS: It is the one right before the
24 last house on the corner.

25 MR. HOOD: Right before the last. Okay.

1 MR. BURGOS: Yes, sir.

2 CHAIRPERSON HILL: Okay. Does the Board have
3 any questions for the applicant?

4 Yeah, I know. You can also turn to the Office
5 of Planning, then we come back to the applicant.
6 Okay.

7 So, I'll turn to the Office of Planning.

8 MR. MORDFIN: Good morning, Chair and members
9 of the Board. I'm Stephen Mordfin with the Office of
10 Planning. And the Office of Planning supports this
11 application. First off, for the lot occupancy to
12 increase it to 90.5 percent, which is the existing.
13 The uniqueness of this lot is that if the applicant
14 were to build a third floor in conformance with the 60
15 percent maximum that's permitted, it would result in a
16 small area not much more than 200 square feet, and
17 that also would include the area for the staircase and
18 for the walls, and we found that that was a unique
19 situation with the total square footage that you would
20 end up on the roof with that, with what's permitted as
21 a matter of right.

22 And we didn't see that it would be a detriment
23 to the public good because the lot occupancy would
24 continue as it is today. It would not be increasing
25 anything. It would not increase it beyond what it is

1 today and what it is on the first and second floor, or
2 in that entire row of houses.

3 We do recommend approval of special exception
4 relief to construct a penthouse. It conforms with the
5 height, and also the area which permits 30 square feet
6 of storage space. This will have no storage space.
7 It will only be access to the roof, a stairwell.

8 We do find that it would be in harmony with
9 the intent of the zoning regulations, because it will
10 be set back. It isn't equal to its height from the
11 front and rear, although it won't be from the sides
12 because of the narrowness of the lot, which is only a
13 little more than 12 square -- excuse me, 12 feet,
14 which makes it difficult to center it.

15 It would not -- I don't think it would
16 adversely affect the use of neighboring property, it
17 being on one side. This is not an end-unit. I think
18 where an end-unit it might be different, it would be
19 more visible in the row, in a whole row of seven
20 houses of these narrow houses. It will be set back
21 from the end of the row, although it won't be set back
22 from the individual one, and I think that will
23 minimize its appearance. And also, because it will be
24 set back as required, from the front. And that's for
25 the special exception for the side setbacks.

1 So, in conclusion, the Office of Planning does
2 support this application. Thank you.

3 CHAIRPERSON HILL: Does the Board have any
4 questions for the Office of Planning?

5 MR. HART: Yes, I do, Mr. Chair. With regard
6 to the variance relief, what I'm -- when you were
7 talking, the information that you provided in your
8 report, Mr. Mordfin, was with regard to how this
9 particular lot was exceptionally small in this
10 particular zone, which is the RF Zone. But it seems
11 as though all of these units would be -- could use the
12 same argument. And if you can start using that, it
13 doesn't seem that that is necessarily exceptional if
14 others can use the same argument.

15 And so, I'm trying -- I'm struggling with how
16 to particularly say this one is different than the
17 others, or exceptional, or unique with respect to the
18 others. Do you have a response from that?

19 MR. MORDFIN: I agree. I mean, those seven
20 lots are all exactly the same size, and this is one of
21 them. But if you look to the rear, and I don't recall
22 the square footage, those lots are much larger. And
23 also to the south along S Street, those lots are much
24 larger.

25 So, although it is in a small group of lots

1 that are all the same size, the ones surrounding it to
2 the south and to the east are much larger in size.
3 And so, therefore, we found that this little group is
4 unique. Although, this specific lot is not unique to
5 the seven that it's located in, it is unique -- those
6 seven are unique within that square.

7 MR. HART: So, if we had -- well, let me not
8 do an if.

9 So, in this case, the -- it kind of gets me to
10 the second prong, which is this -- I'm sorry, not the
11 second. The third prong which is about substantial
12 harm to the zoning regulations. It seems as though if
13 we are making exception for this and your testimony
14 was about not only this but other units in this
15 particular area that are adjacent to it. It's hard to
16 see how that's not substantial harm to the zoning
17 regulations because you're allowing -- you're looking
18 at this as being more than just exceptional into
19 itself. It is, there are a number of things that are
20 -- there are a number of units that would be
21 considered exceptional, and I guess I'm just trying to
22 figure out how this then would stop. You know, is it
23 -- if there is a unit that is 600 square feet, you
24 know, and it's in an RF zone, is that also an
25 exceptional -- because of the size?

1 I'm just trying to kind of focus on this
2 particular one, how this particular case is
3 exceptional, unique, unto itself.

4 MR. MORDFIN: All right. Well, if there was
5 another one 600 square feet, I don't know that I can
6 comment on that because I don't know if --

7 CHAIRPERSON HILL: I know, and I'm trying not
8 to use hypotheticals. I'm trying to just focus on
9 this.

10 MR. MORDFIN: Yeah. Okay. I still find that
11 it's exceptional because of the small size and that
12 row of houses. I know it's seven of them. I don't
13 see that it would be substantial harm to the zoning
14 regulations. I think what this would do would be to
15 permit the applicant to modernize this residence to
16 current standards within the RF-1 as is promoted by
17 the zoning regulations to permit him to continue to
18 use it as a one-family residence in 2017, as opposed
19 to the year in which these were constructed.

20 MR. HART: Thank you. And one other question
21 with regard to, I had a question about the railing.
22 Mr. Hood had a question about the setback of the
23 penthouse. I'll kind of just focus on the railing
24 aspect of it.

25 In terms of the railing on -- the railing

1 setbacks on the, I guess the front and rear of the
2 building, I'm kind of okay with the sides because of
3 the width of the building, of the narrowness of the
4 building. But the front and rear, are they not
5 supposed to be set back from the edge of the roof?

6 MR. MORDFIN: They are supposed to be set back
7 a distance equal to their height. Looking at the
8 drawing for proposed --

9 MR. HART: And I was looking at --

10 MR. MORDFIN: -- elevation on Sheet A0004,
11 Number 2, shows railing in the rear. I don't see
12 railings in the front. So, perhaps the applicant can
13 better explain just where those railings are.

14 MR. HART: The image that I'm looking at is --
15 I'm trying to look and see what the exhibit number is.
16 Exhibit No. 43, which is, I guess, the most updated
17 drawings that we have. And it shows on that page
18 A0004 is an elevation showing just one side. I guess
19 it's the west, west side of the property.

20 It's the middle image, yes. Thank you. I'm
21 trying to see which one that is. And it's, you have
22 the penthouse that's kind of the darker thing on top.
23 And then to the right of that is a, it looks like a
24 railing. And then to the left of it, of that darker
25 image, which is the penthouse, is the, I guess it's

1 the screening for the HVAC. And so, I was just trying
2 to figure out why that wasn't set back or required to
3 be set back.

4 MR. MORDFIN: Yeah. And I agree, it should be
5 set back, there's no dimension on this drawing so,
6 right now I don't know what its setback is. I agree
7 with you that it should be set back a distance equal
8 to its height.

9 MR. HART: And so, and this is the part that I
10 was struggling with. Is it set back from the edge of
11 the roof, or set back from the property line is what
12 you're looking at, because those are two different
13 things.

14 MR. MORDFIN: No, I thought it was supposed to
15 be set back from the edge of the front wall of the
16 building as opposed to the wall of the third-floor
17 addition. Is that what you're referring to?

18 I think it's supposed to be set back from the
19 front wall of the building adjacent to its equal
20 height, not from the third-floor addition that's
21 proposed.

22 MR. HART: Okay. I think that's it, Mr.
23 Chair. I'm mulling.

24 CHAIRPERSON HILL: Okay, I mean, Mr. Hart, if
25 you have all your questions answered let me know and

1 we can come back also, or if you have a question for
2 the applicant. Does anyone else have any questions
3 for the Office of Planning? Okay.

4 MS. WHITE: No, thank you.

5 CHAIRPERSON HILL: Do you want further
6 clarification, Mr. Hart, about the drawing from the
7 applicant?

8 MR. HART: Yeah, if I could. Mr. Burgos, if
9 you could just state whether or not you know or don't
10 know, if it is, let's just say, compliant.

11 MR. BURGOS: Sure. My understanding based on
12 the architect that I've contracted supporting me on
13 this and supporting the submissions of this, and
14 working with Mr. Mordfin and the Office of Planning,
15 is that we've actually set back sufficiently from the
16 front to actually meet the requirements, and it is my
17 understanding that having the railing at the edge of
18 the third-floor addition still conforms with the
19 requirements for setback from the frontage of the
20 property.

21 But again, I am not a professional.

22 MR. HART: No, I appreciate the response.
23 It's helpful to hear that. Sometimes we don't
24 actually see this information or it's just not that
25 clear. I mean, this one is not dimensioned, so

1 eyeballing it, I'd say it was probably close to that
2 edge. But, I was trying to determine whether or not
3 it was set back from the building face or set back
4 from the edge of the -- the railing was set back from
5 the edge of the third-floor addition. And that's what
6 I was trying to ascertain and Mr. Mordfin gave me that
7 information.

8 MS. WHITE: My question is, based upon what
9 Chairman -- not Chairman, Vice Chairman Hart is
10 pointing out, whether or not those proposed drawings
11 are in compliance with the regulations or the rules
12 that Office of Planning has weighed in on in their
13 report. So, based upon what you're seeing here, are
14 you recommending approval based upon the proposed
15 drawing that Vice Chair Hart just pointed out?

16 MR. MORDFIN: Yes, we were recommending
17 approval based on that. Perhaps applicant should
18 dimension that setback to ensure that it is set back a
19 distance equal to its height.

20 MS. WHITE: Okay.

21 MR. HOOD: Mr. Mordfin, let's go down the road
22 about, I think the Vice Chair had mentioned that while
23 struggling with finding uniqueness of just this one
24 particular property and the other seven, and I know
25 this is probably the only way we can get to where we

1 need to get to, but would that be true for the other
2 seven properties?

3 MR. MORDFIN: It would be true for the other
4 seven because they are all the -- it is a row of seven
5 -- of the same house, seven times on the same sized
6 lot. So, it's not unique amongst those seven. It's
7 unique amongst like the lots behind them, to the rear.

8 MR. HOOD: Right. I get where you -- I get
9 your analysis and I actually agree with it. I'm just
10 trying to figure out, and this is one of those cases,
11 I guess, in even our new regs where we can't really --
12 we can't do a rezoning -- you know, we can't really do
13 anything, other than everybody come down and file
14 case, by case, by case.

15 And one thing, I did mention, Mr. Burgos, you
16 mentioned earlier, in fact -- thank you, Mr. Mordfin.
17 You mentioned earlier about the materials. I think
18 you said the community was concerned about the
19 materials.

20 MR. BURGOS: Yes, sir.

21 MR. HOOD: So am I. So, let's make sure we do
22 it right and the texture, and make sure it fits within
23 the character of the neighborhood.

24 MR. BURGOS: Yes. And that was a -- I mean,
25 speaking to my neighbors, it was paramount to them

1 that I took their concerns, and I don't take those
2 concerns lightly because they are neighbors and we
3 have adjoining walls.

4 So, I mean, it's not -- it's quick that a fire
5 can jump from one roof top to another. God forbid
6 anything like that ever happen. But having the
7 materials that could at least provide some sort of
8 lead time for any neighborhood to -- should something
9 happen, allow them the opportunity to just vacate
10 their homes with time, and not injury, is something
11 that I'd like to ensure that the construction does
12 help provide that.

13 MR. HOOD: And my question about the setback,
14 you know, it's two feet. I think with 11 inches. But
15 I look at also, the letter that we just got from
16 Chairman Padro. So, that gives me a comfort level
17 because I know the work that that ANC does as well,
18 and that's pointed out to me as well. Okay. Thank
19 you, Mr. Chairman.

20 MR. HART: Mr. Chair. Mr. Burgos, I should
21 have also asked this question, and I think you've
22 raised some of this, or maybe it was Mr. Mordfin, but
23 the issue of you don't really have any open space
24 because of the, just the situation that you're in.
25 The really only open space that you are able to get is

1 through this rooftop.

2 Can you talk about the open space in the, kind
3 of your immediate vicinity, your neighborhood? Do you
4 have the ability to go to a park that's, you know,
5 down the street? I mean, is there -- is that
6 available to you as well?

7 MR. BURGOS: Sure. So, speaking to your
8 question, Mr. Hart, I currently live in Columbia
9 Heights. I've been living in Columbia Heights
10 throughout this entire process. I do love the city,
11 walk around the neighbors a lot.

12 The way that neighborhood and Shaw
13 specifically is changing, what used to be once a
14 square right next to the Howard Theater, is now with
15 construction all over the place. There is -- there's
16 going to be multi-family units building in that
17 corner. There was a warehouse that was there that's
18 now going to be -- it was zoned historic, but it
19 actually has additional, like three or four elevations
20 that they're doing as well, and then they're
21 converting that space to storefront.

22 And in the immediate neighbor, sure, I could
23 walk around. But nothing that is relatively close
24 within walking distance. As I haven't lived in that
25 neighborhood yet, is to my knowledge, that is

1 available.

2 MR. HART: Thank you for that.

3 CHAIRPERSON HILL: Anybody else?

4 Mr. Burgos, I'm just kind of curious. So, at
5 the ANC meeting, can you tell me how that went? I
6 mean, again, you know, we know the works that this
7 particular ANC, I guess, or will be your ANC does, and
8 also, you know, Chairman Padro, and was curious as to
9 kind of how the discussion went because as Mr. Mordfin
10 said, I mean, all seven of these now will probably
11 come before us in some capacity or another, perhaps.
12 And already two of them have been done.

13 Can you just kind of -- I'm just curious how
14 the discussion went, how it was -- you know, what did
15 the Commissioners have to say about your case?

16 MR. BURGOS: Sure, sir. First and foremost, I
17 mean, it was actually really interesting just being
18 the, you know, the small guy coming up because I went
19 before the same as Apple went up when they were
20 discussing the Carnegie Library. Douglas Development
21 came and talked about a couple other properties. So,
22 I think they had bigger fish to fry that day, so that
23 they might have taken it a little easy on me.

24 But presenting for the community --

25 CHAIRPERSON HILL: We have a light day today,

1 so that's why you're getting a lot of attention.

2 MR. BURGOS: Yeah. So, presented before the
3 community was helpful to know like what their input
4 was. I ensured that there were neighbors that were
5 present, and neighbors expressed their same concerns
6 that I brought up, same as Mr. Hood, materials. And
7 they open expressed their support.

8 There was not much concern. They wanted to
9 make sure that the original intent of the property, or
10 property line of that little row of seven homes wasn't
11 going to be changed, that the frontage was going to
12 remain the same. That the, like Mr. Hart says, the
13 cornices would actually not be impacted, and that
14 there would be sufficient set back so that not to
15 impede the sight line looking from the street up.

16 And the roof deck is, I mean, it was really
17 just expressed that its intent was to have some sort
18 of outdoor living space because there really isn't any
19 on there. And they received that and understood the
20 conditions and the situation because of the confines
21 of, you know, of the property line.

22 CHAIRPERSON HILL: Okay. I was just curious.
23 And actually, I am going to continue to ask, did they
24 mention anything about all the other properties that
25 might happen to them? They didn't say anything about

1 that.

2 MR. BURGOS: They asked, but they recalled
3 that other properties had come before the ANC.

4 CHAIRPERSON HILL: Uh-huh.

5 MR. BURGOS: And I mean, they understood that
6 it is a changing neighborhood, and we are really being
7 eclipsed by these large buildings that are being
8 erected around us.

9 CHAIRPERSON HILL: Okay. All right. Thank
10 you. I was just curious. Does the Board have
11 anything else?

12 [No audible response.]

13 CHAIRPERSON HILL: All right. Is there anyone
14 here from the ANC? Is there anyone here wishing to
15 speak in support? Is there anyone here wishing to
16 speak in opposition?

17 [No audible response.]

18 CHAIRPERSON HILL: All right. Mr. Burgos, do
19 you have anything else you'd like to add?

20 MR. BURGOS: Just to say thank you, if I can
21 get your support.

22 CHAIRPERSON HILL: Okay, great. Thanks. So,
23 I'm going to go ahead and close the hearing. Is the
24 Board ready to deliberate? Okay.

25 Well, I mean, we've had a pretty nice

1 discussion here, and I -- and as provided, I am also
2 thankful for the discussion that my colleagues have
3 provided in terms of these seven lots and how this
4 still does meet the variance test, given that how
5 these lots are unique. And I appreciate that,
6 questions that were coming from Mr. Hart and Chairman
7 Hood.

8 But again, after the discussion we've had here
9 today and the application's presentation. The
10 analysis from the Office of Planning, as well as the
11 support of the ANC on this, what will probably happen
12 to a majority of those homes I would imagine over
13 time, I would be in support.

14 Does the Board have anything they'd like to
15 add?

16 MS. WHITE: My comment is that I think your
17 presentation was presented very well. You probably
18 don't do this all the time. But I'm very familiar
19 with the area. You know, I remember going to school
20 in that area smelling bread in the morning. So, I
21 know that area is changing substantially, and I have a
22 pretty good sense of the location of the homes in that
23 row, and the necessity for wanting to build up in
24 order to get more space. But I'm also sensitive and
25 appreciative that you're maintaining the historic

1 nature of those homes as well.

2 So, my comment is that for both the variance
3 and the special exception relief that you've
4 requested, I believe that you've met all the tests,
5 especially with the testimony from Office of Planning,
6 and I would be in support.

7 CHAIRPERSON HILL: Anyone else?

8 MR. HOOD: I don't have anything to add, but I
9 will ditto all my comments, my colleagues' comments.

10 And with that, Mr. Chairman, can I make the
11 motion or -- oh, I'm sorry.

12 MR. HART: Yeah, just, I appreciate, Mr.
13 Burgos, the additional information and for bearing
14 with me for some of this, and Mr. Mordfin. I do
15 appreciate your responses as well.

16 I was struggling with this only because it's
17 not really the project itself, it was just
18 understanding how this met the variance test, and I
19 think that I have heard enough to be swayed by it. I
20 still think that there is -- that -- well, I do think
21 that you could make a case for the exceptional
22 situation. I just think that there is a -- yeah, I do
23 think you could make a case for that.

24 I do appreciate the information about that you
25 have a limited amount of space in your existing --

1 well, which will be your home. I guess you were not
2 living there yet. And that that is -- this is really
3 the, kind of the only way in which you're able to get
4 the open space for your home, and that there isn't
5 really much open space in your, you know, in the
6 neighborhood.

7 And, you know, looking at the images, you
8 know, understanding what this looks like in Google
9 images to kind of see this, the street itself, it's a
10 very narrow street, really not street trees on it, so
11 you're really kind of confined in the area.

12 And I think I would be able to approve of the
13 case, given the information that you provided, and the
14 Office of Planning has provided, the testimony that
15 you provided, both have provided at the hearing. I
16 just wanted to make sure that I kind of understood
17 that more fully.

18 And so, with that, I would -- didn't know if
19 you want to make the motion. I'll make the motion to
20 approve BZA Case No. 19514 as read by the secretary.

21 MS. WHITE: Second.

22 CHAIRPERSON HILL: Motion made and seconded.

23 [Vote taken.]

24 CHAIRPERSON HILL: The motion passes, Mr. Moy.

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

1 to zero, to one. This is on the motion of Vice Chair
2 Hart to approve the application for the relief that
3 you requested. Seconding the motion, Ms. White. Also
4 in support, Mr. Hood, Chairperson Hill, we have a
5 board seat vacant. The motion carries.

6 CHAIRPERSON HILL: Great. Thank you. Summary
7 order.

8 MR. MOY: Yes, sir.

9 CHAIRPERSON HILL: Thank you. Thank you. And
10 we're also going to take a quick three-minute break
11 again.

12 MR. BURGOS: Thank you.

13 [Off the record from 11:13 a.m. to 11:20 a.m.]

14 CHAIRPERSON HILL: All right, Mr. Moy,
15 whenever you -- well, let's all get back together
16 here, and let's move on to our next case.

17 MR. MOY: Yes, sir. Thank you, Mr. Chairman.
18 That would be Case Application No. 19516 of Daniel
19 Hines. This application was captioned and advertised
20 for a special exception relief.

21 You can come to the table.

22 Under Subtitle E, Section 5201; from the lot
23 occupancy requirements of Subtitle E, Section 304.1;
24 and special exception from the rooftop architectural
25 element requirements, Subtitle E, Section 206.1(a).

1 this would construct an addition to an existing porch
2 on a one-family dwelling, RF-1 Zone, 765 Gresham Place
3 Northwest, Square 2887, Lot 322.

4 CHAIRPERSON HILL: All right. Great. Thank
5 you, good morning. Good morning. Could you introduce
6 yourselves from my right to left?

7 MR. HINES: My name is Daniel Hines. I'm one
8 of the owners.

9 MR. MODLEY: My name is Andrew Modley. I also
10 co-own the house with Dan at 765 Gresham, and live
11 there.

12 CHAIRPERSON HILL: Okay, great. Thank you.
13 Did you guys fill out your witness cards? And did you
14 get sworn in earlier?

15 MR. MODLEY: Yes.

16 CHAIRPERSON HILL: Okay. So, I don't know
17 who's going to present to us, but whoever does present
18 to us, if you could again -- what I'm most interested
19 in is, again, the overall project and what you're
20 trying to accomplish, as well as the relief that
21 you're asking for, and how you're meeting those
22 standards for the request. And I'll let the Board ask
23 if they have anything more particular to ask for. And
24 then, just for your information again, we'll then --
25 well, you've seen a couple of cases, I'm sure. We'll

1 turn to the Office of Planning and we might have some
2 questions for them. Then we'll see if there's anyone
3 in the audience that has any questions.

4 Does the Board want them to focus on anything
5 more specific than that?

6 [No audible response.]

7 CHAIRPERSON HILL: Okay. Then I'm going to go
8 ahead and put 10 minutes on the clock just so I know
9 where we are, and you can begin whenever you'd like.

10 MR. HINES: Thank you for your time. Like I
11 said, I'm Daniel Hines and this is Andrew Modley.
12 We're one of -- we're the owners and residents at 765
13 Gresham Place, and our plan is to, as you've seen in
14 some of the pictures, our front porch is in pretty
15 disrepair and really needs replacing before it falls
16 down.

17 And as part of replacing that, our proposed
18 plan is to extend the front of it two feet out to make
19 enough space to have a chair and maybe a small table
20 out there to sit and have coffee or read. A lot of
21 people in the neighbor like to hang out on their
22 porches in the front. It's kind of a social part.

23 So, that was why we wanted to extend it. And
24 then the rooftop part is to turn that into a walkout
25 from the upstairs bedroom, which matches some of the

1 other houses on the street in the neighbor.

2 The proposed plans would take it from an
3 existing 61 percent lot occupancy, to 63.6 percent,
4 which is less than the 70 percent threshold. The
5 proposed replacement and two-foot extension, the front
6 part, we plan to be consistent with the intent of the
7 zoning regulations and map. The property's current
8 lot coverage would increase by a modest 2.6 percent,
9 consisting of a total of 36 square feet. The proposed
10 lot coverage would remain consistent with some of the
11 other properties in the area.

12 The planned extension of the porch, being only
13 two feet and remaining an open-air structure, so we
14 planned not to affect the available airflow of our
15 neighbors, specifically the abutting neighbor to the
16 east has an attached metal sunshade overhang added to
17 her porch, which extends past where our porch
18 extension would go. And we also have notified and
19 have a letter from her support.

20 And the neighbor to the west, we're detached
21 from. There's an ease way between us so we don't
22 believe that it would affect their light or air.

23 As with the light and air, due to the small
24 amount of the extension and the fact that we're only
25 extending in the direction of the street, we don't

1 believe that it will in any way compromise the privacy
 2 of the neighboring properties, and we feel the
 3 proposed extending of the front porch is of a mass and
 4 height consistent with both the existing structure and
 5 others in our square.

6 The design intent of the new proposed porch is
 7 to be consistent with the character of the other
 8 houses on the 700 block of Gresham Place Northwest,
 9 and we limited the extension just to give us enough
 10 space to be able to sit out there and to not stand out
 11 from the existing line of porches on the street; stay
 12 consistent with both the older porches and some of the
 13 newer extended porches on the street.

14 With regards to changing the roof, our
 15 replacement will only affect the front porch roof,
 16 none of the actual roof of the main structure.

17 The addition, extension toward the street,
 18 will result in only a small increase in size, and no
 19 change in height or elevation to the porch structure.
 20 And additionally, the new porch is becoming a walk-
 21 out from the second-story bedroom will match the style
 22 and function of the porch directly to the west, 767
 23 Gresham Place, as well as the number on our street and
 24 in the square.

25 With regards to any chimneys or vents, the

1 front porch and its roof is a full story below any of
2 the main house roofs or chimneys in the area, and not
3 near any external vents. So, I do not believe that
4 this will have any effect on anything like that.

5 With regards to the solar energy systems,
6 there are no visible solar energy systems surrounding
7 765 Gresham Place Northwest, and the front porch being
8 much lower than the main roof, a full story lower. I
9 don't believe it will affect anything that would be
10 put on in the future either.

11 Finally, the replacement of the front porch
12 shall not, like I said, affect any rooftop
13 architectural elements such as turrets, dormers, or
14 any of those, and anything original to the house.
15 Additionally, the new proposed structure is in keeping
16 with the surrounding front porches in both scale and
17 shape.

18 Thank you for your time.

19 CHAIRPERSON HILL: All right. We'll probably
20 hear from the Office of Planning, Mr. Hines, also
21 about this. But are you aware that they believe you
22 need relief from C-202.2?

23 MR. HINES: I am. She told -- in speaking
24 with Ms. Myers, she told us that that was something
25 that would be customary since we're already over 60

1 percent, which is the main structure the way it is
2 now, that we would need the relief from that as well,
3 just to have it on the books.

4 CHAIRPERSON HILL: Okay.

5 MR. HINES: That was the way it was explained
6 to me.

7 CHAIRPERSON HILL: And so, you're adding that
8 to your application?

9 MR. HINES: Yes, sir.

10 CHAIRPERSON HILL: Okay. All right. And
11 then, you're aware of that DDOT says that you'll need
12 a permit for the projection of public space?

13 MR. HINES: I was not aware of that, but I am
14 now.

15 CHAIRPERSON HILL: Okay. All right. Okay.
16 Does the Board have any questions for the applicant at
17 this point?

18 MS. WHITE: That was my one question about the
19 DDOT letter that I was reviewing. So, it's in the
20 record, so you may want to take a look, but it
21 essentially says that there will be some permitting
22 necessary to because of it projects, you know. I
23 think maybe seven feet, five and a half inches. And
24 the max is five feet. So, there's going to be some
25 special DDOT permitting that's going to be necessary

1 in order to go forward, because it's in public space.

2 MR. HINES: Okay. I'll have to review that.
3 Sorry, I didn't see it before.

4 CHAIRPERSON HILL: Okay, great. Go ahead and
5 turn to the Office of Planning.

6 MS. MYERS: Good morning. Crystal Myers for
7 the Office of Planning. The Office of Planning is
8 recommending approval and stands on the record of the
9 staff report.

10 CHAIRPERSON HILL: Does anyone have any
11 questions for the Office of Planning? All right.

12 Mr. Hines, can you tell me how it went with
13 the ANC? Did you go before the ANC?

14 MR. HINES: Yes, sir. We went to their
15 Committee of Preservation and presented to them, and
16 they liked the plans and thought, you know, it would
17 be a large improvement from the porch that was there.

18 Now, they had, you know, maybe some tips on
19 how to make it look nice and like that, but they were
20 all unanimously supportive of it. And then when we
21 went to the actual ANC meeting it was very short. The
22 Preservation Committee chair presented to us. They
23 asked if we had anything we wanted to add, and then
24 they all voted in approval.

25 CHAIRPERSON HILL: Okay. All right. Thank

1 you. Go ahead.

2 MR. HART: And when was the meeting? When was
3 the full ANC meeting?

4 MR. HINES: It was in May. I don't remember
5 the date specifically off to the top of my head.
6 Middle of May.

7 MR. HART: Did they send you a report itself?

8 MR. HINES: They did not.

9 CHAIRPERSON HILL: Okay. Does the Board have
10 anything else? I'm going to ask if there's anybody
11 here in the audience. No? All right.

12 Is there anyone here from the ANC? Is there
13 anyone here wishing to speak in support? Is there
14 anyone here wishing to speak in opposition?

15 [No audible response.]

16 CHAIRPERSON HILL: Okay, Mr. Hines, do you
17 have anything else to add?

18 MR. HINES: No, sir.

19 CHAIRPERSON HILL: Okay. Then, I'm going to
20 go ahead and close the hearing. Is the Board ready to
21 deliberate?

22 Okay. Well, after reviewing the record, and
23 again the Office of Planning, and in particular the
24 addition to C-202.2 as well as the applicant being
25 aware of the projection into public space permit that

1 they're going to need, I also -- I was in agreement
2 with the analysis of the Office of Planning and am
3 satisfied by the testimony that the applicant has
4 given in terms of the meeting at the ANC. So, I would
5 be in support of this application.

6 Does anyone else have anything to add?

7 [No audible response.]

8 CHAIRPERSON HILL: Okay. Then I'll go ahead
9 and make a motion to approve Application 19516 as read
10 by the secretary, including 202.2.

11 MR. HART: Second.

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

14 [Vote taken.]

15 CHAIRPERSON HILL: The motion passes, Mr. Moy.

16 MR. MOY: Staff would record the vote as four,
17 to zero, to one. This is on the motion of Chairman
18 Hill to approve the amended relief. Seconded the
19 motion, Vice Chair Hart. Also in support, Ms. White,
20 Mr. Hood. Board seat vacant. Motion carries, sir.

21 CHAIRPERSON HILL: Thank you. Get a summary
22 order, Mr. Moy?

23 MR. MOY: Yes, sir.

24 CHAIRPERSON HILL: Thank you. Thank you,
25 gentlemen.

1 [Pause.]

2 CHAIRPERSON HILL: Mr. Moy, if you could call
3 our last case, please?

4 MR. MOY: Yes. Thank you, sir. That would be
5 Case Application No. 19439 of 311 P Street, LLC. This
6 application has been amended for special exceptions
7 from the parking requirements, Subtitle C, Section
8 703, and the RF-use requirements of Subtitle U,
9 Section 320.2, to convert an existing two-story, one-
10 family dwelling into a three-story, three-unit
11 apartment house in the RF-1 Zone. This is at premises
12 311 P Street Northwest, Square 521, Lot 834.

13 CHAIRPERSON HILL: Good morning. If you could
14 please introduce yourselves from my right to left?

15 MR. SULLIVAN: Good morning, Mr. Chairman,
16 members of the Board. My name is Martin Sullivan with
17 the law firm of Sullivan and Barros on behalf of the
18 applicant.

19 MR. GARDNER: My name is Gregory Gardner. I'm
20 the architect from Seven Five Three Development, and
21 one of the members of the Ownership, LLC.

22 MS. WILSON: Good morning. Alexandra Wilson
23 from Sullivan and Barros on behalf of the applicant.

24 CHAIRPERSON HILL: Okay, great. Thank you.
25 So, Mr. Sullivan, I guess if you could give us the

1 presentation, that would be great, or whoever is going
2 to give us a presentation. This has kind of been
3 before us for a while now and there's been a variety
4 of different things that have come about.

5 I see, you know, where you stand now with the
6 Office of Planning. I was a little confused as to
7 where you stood with the ANC. I suppose as with all
8 the other applications that I asked for, if you could
9 just kind of like focus on the project, in particular
10 the relief that you are asking for, as also how the
11 standard has been met.

12 And then if you want to go ahead and go
13 through, we obviously have everything that's in the
14 record, as well as the information from the Office of
15 Planning. But unclear as to how things are going with
16 the ANC and where you stand with that.

17 So, with that, I'm going to go ahead and put
18 10 minutes on the clock just so I know. If you need
19 more time, that's fine. And does the Board have
20 anything else they'd like the applicant to focus upon?

21 Okay. Then that's it, Mr. Sullivan. You can
22 start whenever you'd like.

23 MR. SULLIVAN: Thank you, Mr. Chairman. The
24 relief being requested is a special exception for a
25 conversion from a single-family to three units. And

1 we, as part of that, we're asking for a waiver of the
2 architectural element provision in order to remove a
3 piece of cornice on the front of the building, and we
4 do not need a waiver of the 10-foot rule.

5 We also discovered that we need parking relief
6 for one space. The parking requirement for
7 conversions has changed slightly from the 1958
8 regulations. Under the 2016 regulations a parking
9 space is now required when you go from one to three
10 units. And there's no parking available.

11 CHAIRPERSON HILL: Is that on your application
12 now?

13 MR. SULLIVAN: Yeah, we amended it about a
14 month ago.

15 CHAIRPERSON HILL: Okay. Thank you.

16 MR. SULLIVAN: Yes. The application was
17 originally partnered with another application on
18 property that was connected to this that was on 3rd
19 Street. And it was an L-shaped property that went
20 around and the original plan was to do the three-unit
21 conversion and to also ask for various types of relief
22 in order to do a one-unit building on the other
23 property, and we've withdrawn that request.

24 At the request of the -- well, the ANC didn't
25 specifically request that, but they did request that

1 we reduce the number of units. So, right now we're
2 just asking for the three-unit conversion.

3 MR. HART: Mr. Sullivan.

4 MR. SULLIVAN: Yes.

5 MR. HART: Did you provide your PowerPoint to
6 us? I thought I had seen it, but --

7 MR. SULLIVAN: It's right here.

8 MR. HART: I'm trying to think if I actually
9 had it, but I appreciate that.

10 MR. SULLIVAN: There's one thing I'd like to
11 address, too, one slight change. The Office of
12 Planning report notes a question about the
13 parapet/railing at the front of the building. And we
14 had called it a parapet, but understand it may not
15 exactly fit that definition, so to make sure that we
16 comply with setback provisions, we have pulled that
17 back to four feet. So, it's a railing with the
18 setback, and we have a plan page showing that as well,
19 if we can submit that.

20 CHAIRPERSON HILL: You have the copies right
21 now?

22 MR. SULLIVAN: Yes.

23 CHAIRPERSON HILL: If you could submit that to
24 us?

25 [Pause.]

1 MR. SULLIVAN: And I am told that A2.2 is the
2 page on which the change is most clearly reflected.
3 It shows the dimension of that setback.

4 And with that, I would turn it over to the
5 applicant architect to describe the project.

6 MR. GARDNER: So, our existing building is a
7 two-story rowhouse. It occupies a fairly large lot
8 for the neighborhood and for the RF-1 Zone at nearly
9 27-feet wide, and a large lot area. It's kind of a
10 Wardman style building. It was built in two events.
11 There's a section to the west, of almost 16 feet wide
12 that's the bayfront. And then there was an addition
13 put on it at a later date to the right, totaling
14 almost 11 feet wide.

15 This stretch of P Street is a very eclectic
16 block. We have a Victorian mixed use on bookending
17 one end of the block, a pre-war apartment building
18 immediately adjacent to the east. And then there is
19 modern flats that were completed in 2016, located to
20 the west.

21 Both adjacent properties to us, it's
22 noteworthy that they are three-story buildings.

23 For our design, we really focused on trying to
24 contrast the addition we were proposing in both
25 material and setting back the façade, towards the rear

1 from the existing. We also were looking at the
2 property and the addition that was added to the
3 existing row house was poorly tied in. It shows signs
4 of settlement. There's also -- it appears that maybe
5 it was built as a carport, and that it had been in-
6 filled later. There's an elevated concrete slab on
7 what would be the second-floor level. But it shows
8 signs, currently, of settlement separation from the
9 building.

10 So, our addition, we, by contrasting material
11 and setback, we're also trying to respond to the
12 surrounding architecture. The restored building, mix
13 of styles, both contemporary and traditional. And our
14 proposed façade sits back about two-feet-six-inches
15 from the face of the current building.

16 Our building has both a third-floor addition,
17 and also a rear addition. It meets both property
18 lines as a true rowhouse, abuts the property line to
19 the east, where that building has a side yard, and
20 then to the west there's a couple mature oak trees.
21 They aren't located on our property, but they're right
22 at the property line. So, we responded to that by
23 providing a setback, a seven-foot-five -- seven-foot-
24 six-inch court to limit the disturbance and try to
25 limit our impact of construction on those trees.

1 MR. HOOD: And I can't see it in A2.2. So, I
2 don't know.

3 MR. GARDNER: Okay.

4 MR. HOOD: Maybe it's just me. I can't even
5 see it on the --

6 MR. GARDNER: Sure. So, looking at the front
7 third of the building, we have the existing brick at
8 the base, the party wall. Our vertical element is
9 actually a standing seem metal. And then we're
10 looking at the at-risk clear story windows, and then
11 the parapet in this section would be a smooth Hardy
12 panel painted a light color. And towards the rear of
13 the building, we're looking at the same smooth panel
14 in the window band area, and then the standing seem
15 metal in this area would be horizontal.

16 MR. HOOD: Okay. The Chairman showed me where
17 it is, 11 X 17 sheet. When you get older, you have to
18 have it a little larger.

19 MR. SULLIVAN: I was going to briefly go over
20 the special exception requirements.

21 CHAIRPERSON HILL: Sure.

22 MR. SULLIVAN: Unless the Board wanted to ask
23 some questions of me.

24 CHAIRPERSON HILL: No, no, we'll see. I mean,
25 that's great, Mr. Sullivan. One comment I did want to

1 ask you about was the condition that the Office of
2 Planning wanted us to include with you in terms of --
3 and we haven't gotten there yet, but since, you now
4 have a break, the applicant's post-sign division must
5 be completed prior to the insurance of a building
6 permit for the conversion.

7 MR. SULLIVAN: Right. Yeah. That's --

8 CHAIRPERSON HILL: And so, the applicant is in
9 agreement with that?

10 MR. SULLIVAN: Absolutely. Yes.

11 CHAIRPERSON HILL: Okay.

12 MR. SULLIVAN: I believe they have to do that.

13 CHAIRPERSON HILL: Okay. Okay, please
14 continue. Or actually, I guess you're right. Does
15 the Board have any further questions for the
16 applicant? I'm sorry, for the architect?

17 Okay, Mr. Sullivan, you can go ahead.

18 MR. SULLIVAN: Thank you. So, first the
19 general special exception requirements of Section
20 Subtitle X, 901.2. The granting of a special
21 exception must be in harmony with the general purpose
22 and intent of the zoning regulations and zoning maps.
23 We believe that the proposed addition and conversion
24 will not adversely affect the public good here, and
25 because of its configuration within the neighborhood,

1 and how it fits within the neighborhood and is in
2 character with the eclectic pattern of the block, and
3 the proposed building matches the height and bulk of
4 the adjacent properties. Right next door is a
5 preexisting apartment building originally built.

6 And requirements of U-320.2, the specific
7 requirements for the special exception for the
8 conversion, the building is not more than 35 feet in
9 height. There's no fourth dwelling unit so there's no
10 inclusionary zoning. It was an existing residential
11 building at the time of the filing.

12 There is, or will be, according to that
13 condition, a minimum of 900 square feet of land per
14 unit. And the addition does not extend 10 feet past
15 the rear wall of the apartment building to its east,
16 and that it faces the rear yards of properties to its
17 west.

18 There are no solar panels or vents or chimneys
19 that an addition would interfere with. And we are
20 asking for a waiver of the architectural element
21 provision to remove the cornice, and we are happy to
22 answer more questions about that.

23 CHAIRPERSON HILL: Can you show me where the
24 cornice is that you're taking off?

25 MR. GARDNER: It's related to the side

1 addition that was added to the building. So, in that
2 11-foot section we'll be removing the cornice just in
3 that -- on that 11-foot portion of the façade that
4 we'll be taking down. The cornice on the bayfront
5 will remain.

6 CHAIRPERSON HILL: I see. Great. Thank you.

7 MR. SULLIVAN: So, we have included a shadow
8 study within the PowerPoint and we can go over that,
9 but as you can imagine, there's not a substantial
10 impact on light and air because of this building's
11 position just west of a three-story apartment
12 building, and then facing the rear yards of the
13 rowhouses to its west.

14 The shadow studies show a slight impact on the
15 rear yards of those rowhouses to the west in the early
16 morning for one season in the summer, and not much of
17 an impact at all other than that time.

18 MR. HART: Which exhibit is that?

19 MR. SULLIVAN: There at the end of the
20 PowerPoint.

21 MR. HART: Thank you.

22 MR. SULLIVAN: So, the time that I'm referring
23 to as the, we believe, the only time where there's an
24 impact, is the March and September, in the morning,
25 and the impact is gone by noon, and it's not there in

1 the other seasons.

2 Regarding our parking relief, the lot is
3 landlocked and the applicant was not able to obtain or
4 ascertain any available parking spaces. It's
5 residential area so there were not parking spaces for
6 rent or lease within the immediate area. The property
7 is close proximity to transit, bus, and Metro rail
8 lines, and a Bikeshare station, and we did submit a
9 TDM plan, which is required in order to request this
10 relief. And that's relief of one space.

11 The applicant owns the property and could
12 theoretically access it from 3rd Street, but there's
13 already a curb cut there and we would not be able to
14 get a curb cut right next to the existing curb cut.

15 MS. WHITE: Just a question. Can you point
16 out where the at-risk windows are?

17 MR. GARDNER: Also on A2.2.

18 MS. WHITE: This one?

19 MR. GARDNER: Yes.

20 MS. WHITE: Okay. It's the -- there's two
21 banks of windows on the front third of the building.

22 CHAIRPERSON HILL: Could you just use a --
23 could you use a pointer over there maybe, or --

24 MS. WHITE: Near the stairs, I guess.

25 CHAIRPERSON HILL: Well, you need the

1 microphone if you're going to go over there and --
2 there's a microphone that the secretary can give you,
3 or you can use the pointer instead of the table. Or
4 you can do both.

5 MR. GARDNER: A little of both. A little of
6 both here.

7 This being the front of the building, these
8 windows here on the third floor, there's a bank of two
9 windows there and a single window there. Those are
10 the only at-risk windows proposed.

11 MR. HART: And that's because the rear
12 addition is actually not on the property line, so all
13 the nine windows that are on the rest of the addition
14 are actually not at the property line, so they would
15 not be at risk.

16 MR. GARDNER: Correct. These windows are
17 located in the court, seven and a half feet away from
18 the property line.

19 MS. WHITE: So, those are at risk of
20 potentially being blocked?

21 MR. GARDNER: Correct. The windows there at
22 the top of the front third of the building.

23 MS. WHITE: Yeah. What's in there? What's
24 inside?

25 MR. GARDNER: Those are bedrooms. It's not

1 the egress for those bedrooms. But it also abuts the
2 rear yard of the adjacent properties.

3 MS. WHITE: Okay.

4 MR. GARDNER: So, likely would not be at issue
5 for being covered over.

6 CHAIRPERSON HILL: Does the Board have any
7 other questions at this time?

8 MS. WHITE: Did they provide --

9 CHAIRPERSON HILL: Oh, please. Go ahead.

10 MS. WHITE: -- feedback on ANC response that
11 you've gotten on the project?

12 MR. SULLIVAN: Yes, we've been to the ANC
13 twice. We went originally before we requested the
14 parking relief, and you have the ANC report in front
15 of you which reflects their concerns, and the
16 discussion. And we then asked for the parking relief,
17 and we went back to the ANC, and I'll let them speak
18 for themselves. I believe they're here. But our
19 interpretation was that they didn't need to entertain
20 the matter again, and that their original vote was
21 going to stand.

22 MR. GARDNER: Their original vote had noted
23 their concerns over density and parking prior to our
24 request of parking relief. So, it was assumed that
25 that opinion would stand.

1 MS. WHITE: Uh-huh.

2 CHAIRPERSON HILL: So rather than -- you're
3 saying, and I guess we'll talk to the ANC. Even
4 though you've adjusted the project, they're still
5 going to keep their same vote probably. Okay.

6 Does anyone else have anything else, turning
7 to the Office of Planning?

8 Okay. Turn to the Office of Planning, please.

9 MS. FOTHERGILL: Good morning. I'm Anne
10 Fothergill with the Office of Planning. As the
11 applicant mentioned, originally this application was a
12 bigger project and there was a lot of discussion with
13 the Office of Planning about the two tax lots and the
14 subdivision that would be needed and creating a
15 substandard lot, the one on 3rd Street. And after a
16 lot of discussion, we are pleased to see that they
17 have withdrawn that other application.

18 And now, this project in terms of the
19 conversion, we support the application as meeting the
20 review criteria for a proposed conversion. There were
21 a number of things that came up. One, they have
22 addressed the rooftop railing setback parapet, and so
23 it sounds like they have adjusted that to meet the
24 setback requirements.

25 We did raise the issue that it's currently a

1 tax lot and will have to be -- they'll have to create
2 a record lot. And there is Subtitle C, Section 304.5,
3 which states that each new lot being created to be
4 used and occupied by an apartment house shall have a
5 street frontage of not less than 30 feet. And there
6 is currently 26.85 feet. So, we raised that.

7 This is self-certified, and we raised that as
8 an issue that they might face in the future when they
9 go for permits.

10 And they, and as has been mentioned, the tax
11 lot, the subject tax lot, currently is 15 feet short
12 of the required 27,000 square feet for this
13 conversion. And so, part of this proposal is that
14 they will subdivide with that adjacent tax lot, obtain
15 the 15 square feet, and have the 2,700. And we just
16 want to be very clear that that has to happen. It has
17 to happen before they can do the conversion, and also
18 that after the subdivision, the other tax lot will not
19 be developed. It will leave a tax lot that's
20 nonconforming to lot area. And the applicant has
21 stated that they don't plan to develop it, but we just
22 wanted to make sure that was clear.

23 Otherwise, the applicant did make some design
24 changes from the first submission to the current
25 submission based on some feedback from the Office of

1 Planning. They are no longer proposing concrete block
2 as a façade material. They did add the fenestration
3 on the west side, which has been previously blank.
4 And overall, the Office of Planning finds it meets the
5 review criteria and recommends approval with that one
6 condition, and I'm happy to answer any questions.

7 CHAIRPERSON HILL: All right. So, again, the
8 condition was the applicant's proposed subdivision
9 must be completed prior to the issuance of a building
10 permit for the conversion.

11 MS. FOTHERGILL: Which, as they stated they
12 would have to do, but we just --

13 CHAIRPERSON HILL: You'd like to see it as a
14 condition. Okay.

15 MS. FOTHERGILL: In case somehow it managed to
16 get through.

17 CHAIRPERSON HILL: All right. Okay.

18 MS. FOTHERGILL: Thank you.

19 CHAIRPERSON HILL: Thank you. Does anyone
20 have any questions for the Office of Planning?

21 MR. HART: Yes. Ms. Fothergill, thank you
22 very much for your testimony. One question. You did
23 note that the property on 3rd Street would be an
24 unbuildable lot?

25 MS. FOTHERGILL: It is current -- it's a tax

1 lot.

2 MR. HART: Yeah.

3 MS. FOTHERGILL: And it is -- I don't, I don't
4 -- it's in the previous staff report. It doesn't meet
5 the lot area for this zone. And so, it's a
6 substandard lot which would need relief to become a --

7 MR. SULLIVAN: A buildable.

8 MS. FOTHERGILL: -- a buildable lot. And we
9 would not support that, is what we were trying to
10 indicate. We hadn't supported it when they came
11 originally.

12 MR. SULLIVAN: Yes. No, I appreciate that.
13 Part of it was, I was in -- and I just kind of thought
14 about this today. OP is stating that a small portion
15 of that lot on 3rd Street be added to this lot to
16 allow it to meet the zoning regs. It kind of -- I
17 started thinking about the reason that this property
18 can't park is because of, there is no -- it's kind of
19 landlocked. You know, they're kind of building all
20 around it, except for that property that could be a
21 parking area for that particular car. I mean, that
22 particular lot. And I don't know --

23 MS. FOTHERGILL: Well, the applicant just
24 mentioned that DDOT would not provide a curb cut.

25 MR. HART: Okay. Okay. Thank you. And I'm

1 sorry I missed that piece, I just --

2 MS. FOTHERGILL: Yeah, no. That came up in
3 our discussion as well, for parking.

4 MR. HART: Thanks. That's it.

5 CHAIRPERSON HILL: So, had DDOT provided a
6 curb cut, there would be a different opinion?

7 MS. FOTHERGILL: Well, they would have -- they
8 probably would have explored that option instead of
9 requesting parking relief.

10 CHAIRPERSON HILL: Okay. All right. Does the
11 Board have anything else for Office of Planning?

12 MS. WHITE: My only question is, why wouldn't
13 they provide a curb cut? I'm the newbie on the block
14 here, so I'm just curious if --

15 MS. FOTHERGILL: It sounds like the applicant
16 stated, there's an adjacent curb cut and they're too
17 close together.

18 MS. WHITE: Okay. Got it.

19 CHAIRPERSON HILL: Okay, great. Does the
20 applicant have any questions for the Office of
21 Planning?

22 MR. SULLIVAN: No, thank you.

23 CHAIRPERSON HILL: Okay. Is there anyone here
24 from the ANC? If you could please come forward, sir?

25 If you could introduce yourselves? Yeah.

1 Good afternoon. Good morning. We'll go with good
2 afternoon. Right. Yeah. I think you're going to
3 have to push the button there so the green light comes
4 on.

5 MR. THOMAS: Okay, yes. Good afternoon. I'm
6 Bradley Thomas and I'm the Chair of Advisory
7 Neighborhood Commission 5E. And I can present the
8 position of the ANC.

9 The ANC is opposed to this for the reason
10 stated in the submission that we presented back on
11 March the 1st.

12 The concern of the majority of the neighbors
13 is that the neighborhood is already overburdened in
14 terms of parking limitations. We have, along that
15 stretch of P Street, and I've lived on that stretch of
16 P Street in the 100 block for 26 years. And along
17 that stretch we now have three charter schools, and we
18 have a number of other projects underway. And there's
19 absolutely no parking available.

20 The applicant here is proposing to convert a
21 single-family home into a three-unit apartment
22 building, which means at least three to six new cars
23 in the neighborhood. And they're saying we can't get
24 parking. I had suggested, and the Commission has
25 suggested, that they look at removing the plan to

1 build on the 3rd Street lot, which they now have done
2 so and aren't doing. But using that space as parking.

3 And the excuse was, well, DDOT won't allow it
4 because there's a curb cut. Well, I've dealt with
5 DDOT quite a bit over the years and DDOT does allow
6 curb cuts to be moved. I don't think the applicant
7 has made a good faith effort to explore that
8 opportunity.

9 And so, I don't think this request is
10 appropriate. I think that in terms of harmony with
11 the general purpose of zoning regulations, the zoning
12 regulations here require one parking space. If that
13 is so onerous they can't provide one, what's the
14 purpose of having a regulation like that? If they
15 can't find a way to redesign this project so that they
16 can provide one single parking space, that it does not
17 -- they claim it will not adversely affect the public
18 good. Well, it does affect the public good.

19 Again, we're talking about more congestion,
20 more vehicles in the neighborhood, with nowhere to put
21 them. And that is having an impact. It's already
22 having an impact and this would just exacerbate that
23 problem. We're still opposed to this and we think
24 that there needs to be a little more creativity in the
25 design of this project so that they can address this.

1 Our response is that the ANC recommended that the
2 variance request not be granted unless and until the
3 applicant came forth with a plan acceptable to the
4 community to address these concerns related to density
5 and parking. They haven't done that.

6 In terms of two appearances, they appeared
7 before the ANC on February 21st, 2017, made the
8 presentation. And out of that meeting was this
9 resolution not to support it.

10 In terms of a second presentation, what
11 they're referring to is a June, June 20th meeting of
12 the ANC. That meeting's agenda was set about two and
13 a half, three weeks before the meeting. Mr. Gardner
14 came to the civic association meeting about a week and
15 a half before the ANC met, and announced that he was
16 going to appear before the ANC, and explained the
17 changes to the plan.

18 Well, that was news to me as the chair of the
19 ANC. He was not on the agenda. But as a courtesy, we
20 said well, we can allow you to come on for
21 informational purposes, but we do not have time on the
22 agenda for you to be a voting item. We have the
23 agenda arranged.

24 And so, they were allowed to make a brief
25 presentation at the end for informational purposes

1 only. But we did not take a vote at that time. And
2 so, the vote that took place earlier is the vote that
3 stands at this point in time. We normally have a two-
4 hour meeting, a public meeting once a month. Because
5 we take a recess in June and July, we had lots of
6 extra items that people wanted to get on the agenda,
7 and we scheduled the agenda very tightly. But still,
8 it ran for three hours and 15 minutes, in a space that
9 we had reserved for two hours.

10 And so, no, the implication that they have had
11 two presentations before the ANC is a little bit
12 misleading. Yes, they appeared a second time, but
13 that was not for the purpose of the ANC taking a vote
14 on this new request for a parking variance. We still
15 oppose it.

16 CHAIRPERSON HILL: Okay. Well, Chair and
17 Thomas, thanks for coming down. A couple of things,
18 actually. Did you get sworn in by any chance?

19 MR. THOMAS: Yes.

20 CHAIRPERSON HILL: Okay, great. And, I'm just
21 curious, are you the SMD for --

22 MR. THOMAS: Yes.

23 CHAIRPERSON HILL: Okay, great. Chairman and
24 the SMD. Great.

25 So, the -- I understand everything you said

1 about the length of the hearings and you guys. You
2 know, you guys get the brunt of a lot of things, you
3 know, in terms of being at the community level that
4 you are at.

5 Do you think -- so, you don't -- I'm just
6 trying to follow along. If there were a vote taken,
7 or there were a different presentation made, given
8 that the applicant has -- is proposing a lesser dense
9 project, do you have any idea as to how that vote
10 might go, or you just still -- I mean, I know you
11 can't really say. I'm just kind of curious.

12 MR. THOMAS: It may have been a closer vote.
13 The vote was seven to two with one abstention back in
14 February.

15 CHAIRPERSON HILL: Right.

16 MR. THOMAS: With this adjustment, yeah, it
17 would have been six to four. Maybe five to four with
18 an extension. I don't know. It may have been closer.

19 CHAIRPERSON HILL: Right.

20 MR. THOMAS: I can't say for sure, but what we
21 really asked was that they come back to us with a
22 proposal. And while they may have been willing to do
23 that in June, by the time they came forward with it,
24 it was really too late for us to accommodate it.

25 CHAIRPERSON HILL: I understand. And just out

1 of curiosity, the two people that voted in favor of
2 the project, even back when it was denser, do you kind
3 of remember what their thoughts were?

4 MR. THOMAS: They -- I don't recall them
5 articulating it.

6 CHAIRPERSON HILL: That's all right. That's
7 okay. I was just curious.

8 MR. THOMAS: I recall the two, and they tend
9 to be more pro-development, less concerned about
10 parking. They're some of the younger members of the
11 commission, and there's clearly a sort of a cultural
12 divide in our community, as you saw. Or you may not
13 have seen, but with the Edgewood case, for instance,
14 that you all decided earlier. There's a very distinct
15 divide between older, more established residents who
16 have -- who tend to rely on motor vehicles, and
17 younger, newer residents who --

18 CHAIRPERSON HILL: Sure. Okay.

19 MR. THOMAS: -- don't mind walking and biking.
20 And so, you know, that has something to do with it is
21 really --

22 CHAIRPERSON HILL: Okay. All right. Thank
23 you. Does the Board have any questions for the
24 Chairman?

25 MR. HOOD: Yeah, I do want to ask Chairman

1 Thomas a few questions. Well, yeah, that divide is
2 going to change when the younger ones get older.
3 They're going to be looking for those cars.

4 MR. THOMAS: Exactly.

5 MR. HOOD: Because those bicycles and walking
6 ain't going to work.

7 MR. THOMAS: Exactly. Exactly.

8 MR. HOOD: That's all right. Just, keep
9 living.

10 CHAIRPERSON HILL: There might not be cars
11 around, you know?

12 MR. HOOD: Just keep living. Let me ask this,
13 Mr. Chairman, Chairman Thomas, I want to get -- I see
14 your report. I want to get directly to what -- I want
15 you to just explain to me in soundbite terms, what is
16 the issue? Is it parking? Does it need to -- let me
17 back up.

18 I notice in your -- this applicant is
19 obviously doing some other development somewhere in
20 the neighborhood, correct?

21 MR. THOMAS: What's the question again? I
22 missed it.

23 MR. HOOD: This applicant, I think you stated,
24 is doing some other development in the neighborhood.

25 MR. THOMAS: Oh, no, no. What they were

1 describing was, right around the corner from this
2 particular lot, this was at 3rd and P. 311 P Street
3 is just west of 3rd Street on P Street.

4 In the 1500 block of 3rd Street, which is just
5 north of P Street, right around the corner, there's
6 another very narrow lot. And they connect in the
7 back.

8 MR. HOOD: Okay.

9 MR. THOMAS: And so, that was originally part
10 of this plan when we first voted on this.

11 MR. HOOD: Right.

12 MR. THOMAS: And we are pleased that they
13 decided not to build on that. But our suggestion is,
14 well, can't this be realigned, redesigned so that
15 perhaps you can do a driveway and do some parking, be
16 able to put one or two cars back there, which would
17 help to alleviate the situation. I think if that
18 happened, the resistance to this project would go
19 away, and I think the commission would approve it.
20 Would support it, rather. We don't approve it, but
21 we'd support it.

22 MR. HOOD: Okay. But that's not being
23 proposed, right?

24 MR. THOMAS: That's not being proposed at this
25 time.

1 MR. HOOD: So, and you all are willing to
2 have, continue to have discussions. But I want to get
3 to the -- just tell me in soundbite terms, why do you
4 oppose this project?

5 MR. THOMAS: Because it brings in more
6 vehicular traffic with no place to put the cars.

7 MR. HOOD: Your estimate was what? I think
8 you said six cars?

9 MR. THOMAS: I'm saying, it's a three-unit
10 apartment building. So, I'm saying that would suggest
11 three families, which probably means one to two cars
12 per family.

13 MR. HOOD: Uh-huh. So, the max would probably
14 be six.

15 MR. THOMAS: Yeah.

16 MR. HOOD: But if they come in with
17 bicycles --

18 MR. THOMAS: Yeah.

19 MR. HOOD: -- like people argue. I'm just,
20 the reason I'm asking, because the courts always want
21 to know --

22 MR. THOMAS: Right.

23 MR. HOOD: -- make sure we give ANC great
24 weight. That's why I want to start -- I always start
25 it, nail down --

1 MR. THOMAS: Right. Right.

2 MR. HOOD: -- what the ANC's issues are.

3 MR. THOMAS: Yeah. On that point, Mr. Hood, a
4 few years ago, and I don't think this was a BZA matter
5 anyway. But one of the charter schools came to the
6 neighborhood, and they got the support of the
7 neighborhood by saying our families don't drive. They
8 bike. They use public transportation. They walk.

9 Neighborhood said, that's great. I was
10 actually in the minority on that saying, well, let's
11 make sure we get some of this in writing. There's
12 some guarantees as to how they're going to deal with
13 this.

14 Oh, no, no, no, we like this. It's great.

15 And so, they were able to get the school in
16 the unit block of P Street. It has been a nightmare
17 for neighbors since then, because they do drive, and
18 they park not only in that block, but they park in the
19 one and 200 blocks of P, they park in the unit block
20 of Bates Street, they park in the 100 block of Bates
21 Street, they park in the 1500 block of 15th Street.
22 And they get out and they walk from there, around the
23 corner to the school.

24 So, it is a concern that many residents have,
25 particularly as you said, older residents who do rely

1 on vehicles to get to the grocery store, to get to
2 their doctor's appointments, what have you.

3 MR. HOOD: Well, I'll tell you this, and I'm
4 going to leave this alone, but I've been down here
5 long enough to hear people tell me that they don't
6 drive to their doctor's appointments. They take Uber.

7 I know when I was growing up, if I took my
8 parents on Uber I probably would have been -- wouldn't
9 have been here today, because nobody talks -- I'm a
10 realist, and that's what we need to understand. The
11 younger people right now, and not nothing against -- I
12 was young too.

13 MR. THOMAS: Yeah.

14 MR. HOOD: But you're going to get older.
15 But, anyway, that's a whole other soap box. Sorry,
16 Mr. Chairman.

17 CHAIRPERSON HILL: No, I appreciate it. I
18 mean, this is something that we talk about a lot in
19 terms of parking. Chairman Thomas, is it RPP around
20 there?

21 MR. THOMAS: Yes, there is RPP. It's not --
22 sometimes it's not very strictly enforced, but it's
23 not the residential only parking. It's just the two-
24 hour limitation parking.

25 CHAIRPERSON HILL: Okay. So, and I know

1 Chairman Hood is not going to think much of this
2 comment, but I was curious, have you guys thought
3 about -- so denying the residents the ability to apply
4 for RPP, and whether that would be something that you
5 could offer the ANC.

6 It's okay. I was just kind of thinking out
7 loud, actually. So, all right. So, does anyone have
8 any more questions for the chairman from the ANC?

9 MR. HART: Yeah. Actually, just one question,
10 Mr. Chairman, Chairman Thomas. Do you know if any of
11 the adjacent neighbors to this property, were they
12 actually at your ANC meeting? Did they talk about the
13 project? And the reason I'm asking is, there's one
14 curb cut that is on P Street that the applicant has
15 said, you know, DDOT wouldn't let them, you know, use
16 the, you know, kind of the -- add one next to it. I
17 didn't know if there was any -- I don't know. If the
18 person that lived at that house, or at that unit, if
19 they had any conversation about this at all.

20 MR. THOMAS: Sure. The building to the west
21 is -- which is on the corner.

22 MR. HART: I think this is to the east.

23 MR. THOMAS: Or, I was going to get to that
24 one.

25 MR. HART: Okay.

1 MR. THOMAS: But I thought you'd want to know
2 both sides.

3 MR. HART: Thanks. That's fine. Thank you.

4 MR. THOMAS: The building to the west, which
5 is at 4th and P, is a very new construction. So, it
6 has very new neighbors who are not yet plugged in to
7 the community, and they also have a parking. That's
8 where there is a parking space provided. It looks
9 like for two vehicles. It's -- maybe you can squeeze
10 four in of you try, but it looks like it's a two-
11 vehicle space.

12 The building to the east, which is 305 P
13 Street Northwest, that neighbor is adamantly opposed
14 to the project, is his objections go beyond the
15 parking. But in fact, he was here when this matter
16 was originally scheduled. He may be out of town or
17 something now, couldn't make it to this hearing. But
18 he is definitely adamantly opposed to the project. He
19 owns the building right next to this on the -- to the
20 east, at 305.

21 MR. HART: Thank you.

22 CHAIRPERSON HILL: Okay. I have a question
23 for the applicant. And before I just get to the
24 applicant, I guess, just a comment for Chairman Thomas
25 again, that they are -- the requirements for one spot,

1 and that's -- you're aware of that, correct? I'm just
2 kind of struggling with, you know -- and the things
3 that come up before us sometimes, you know, it's like
4 one spot. You know?

5 But then the community is, you know, again,
6 speaking to the regulation and how at least they get
7 that one spot.

8 MR. THOMAS: And it's very similar to, again,
9 the issue with the Edgewood Recreation Center. The
10 Commission voted six to four against that, but
11 realizing it's only three spots anyway.

12 CHAIRPERSON HILL: Right. It all builds upon
13 each other.

14 MR. THOMAS: Yeah. And the single-member
15 district commissioner for that actual single-member
16 district, her preference would be build a parking lot.

17 CHAIRPERSON HILL: Right.

18 MR. THOMAS: But that wasn't on the table. We
19 understood that. But, you know, we just took the
20 position that, well at least give them the three.

21 CHAIRPERSON HILL: Okay. Can the applicant,
22 can you speak to your TDM plan a little bit to us?

23 MR. SULLIVAN: Sure. I'll pull the exhibit up
24 here, if I can have one second.

25 We have it in front of us. Does the Board

1 have a specific question about it?

2 CHAIRPERSON HILL: If you could just walk me
3 through it?

4 MR. SULLIVAN: Sure. It's issuance of a one-
5 time one-year Bikeshare or Carshare membership, when a
6 condo buyer moves in, or a lessee. And it's a
7 preloaded \$10 SmartTrip card for each unit at the
8 initial sale.

9 CHAIRPERSON HILL: And so, just so I'm clear,
10 as far as the -- I get the one-time Bikeshare,
11 Carshare membership for a year if it's a purchase. If
12 it's a lessee, is that again just the one time. Or
13 when it's released, it again, each one gets the one-
14 time one-year Carshare or Bikeshare membership. Can
15 you just clarify for me?

16 MR. SULLIVAN: It could be, either way. I
17 don't think it's defined right now, but --

18 MR. GARDNER: As a lessee, we could commit to,
19 with each new lessee provided --

20 CHAIRPERSON HILL: Okay. But I'm just saying
21 it's not clear right now. Okay. Thanks.

22 MR. HOOD: Can I ask a question, Mr. Chairman?

23 CHAIRPERSON HILL: Yes, please.

24 MR. HOOD: And I'm sure Mr. Sullivan won't go
25 along with this, but would the ANC be amenable to

1 tolerating the impact of the additional parking, if
2 they made one unit IZ. And I know Mr. Sullivan is not
3 going to go along, but I'm just curious.

4 MR. THOMAS: If they made available one
5 parking unit?

6 MR. HOOD: No, one unit, IZ. You know,
7 affordable.

8 MR. THOMAS: Oh, oh, oh, oh, okay, affordable
9 housing. That certainly would have a bearing because
10 that's the other major issue that we struggle with
11 often in these development projects, is affordable
12 housing. If that were the give and take --

13 MR. HOOD: I'm just asking. I'm not into
14 negotiating because --

15 MR. THOMAS: Yeah.

16 MR. HOOD: -- I did it with another case,
17 years ago. People thought I was crazy. But anyway,
18 I'm just curious. Mr. Chairman, can I ask Mr.
19 Sullivan?

20 CHAIRPERSON HILL: Certainly. Certainly.
21 Please, go ahead.

22 MR. HOOD: Is that something that your
23 applicant might even look at?

24 MR. SULLIVAN: Well, it's not my decision, but
25 I'll ask the applicant.

1 MR. HOOD: Okay.

2 MR. GARDNER: IZ, at this scale, is not
3 something we could do. The discount of that
4 affordable unit, at a three, or even at a four, is
5 financially -- I've never been able to get that model
6 to work.

7 MR. HOOD: Okay. Well, I'll just let you know
8 so you don't think that I'm picking on you. I did
9 that years ago with the Watergate. Okay. All right.
10 Thank you, Mr. Chairman.

11 No, but we got something out of it.

12 CHAIRPERSON HILL: I was like, there's
13 affordable housing in the Watergate. That's a good
14 view.

15 Ms. White?

16 MS. WHITE: You just pointed this out too.
17 Last night I was trying to look at the letters of
18 support, but nothing would pop up. So, and there are
19 a lot of exhibits there. So, I was wondering, do they
20 exist or -- okay. Or, if they do, we'd like to see a
21 copy.

22 MR. SULLIVAN: Apparently there was a
23 technical glitch with the -- and we have copies --

24 CHAIRPERSON HILL: So, you have copies of
25 letters of support? Could you pass that up to the

1 secretary, please? How many letters of support do you
2 have?

3 MR. GARDNER: From six residents.

4 CHAIRPERSON HILL: Okay, because in the file
5 it looks like a lot.

6 MR. GARDNER: Apologies for that.

7 CHAIRPERSON HILL: Right. Okay. All right.
8 Does the Board have more questions?

9 MR. HART: Yeah, actually, Chairman Thomas, I
10 -- and this is kind of a minor thing, but I just
11 wanted to make sure that it was clear. In the ANC
12 report, it actually says that there is a -- that you
13 were in opposition to the variance, but you -- but it
14 also says that the applicant was looking for special
15 exceptions. That was just an error in -- I don't
16 know. I'm just making sure that I understood that.

17 Was it actually that they were -- give me a
18 second. I need to get to where this is.

19 MR. GARDNER: If I could possibly clarify
20 there? When we had the two separate cases, there was
21 a variance as part of that case, as well as the
22 special exception of this case.

23 MR. HART: So, okay. So, and that's part of
24 what I was trying to kind of get to. The variance
25 that they are talking about is for the P Street, or is

1 it for this particular case? I'm sorry. Is it for
2 3rd Street, or is it for this case?

3 MR. SULLIVAN: 3rd Street.

4 MR. HART: So, it was not -- the variance
5 itself was not for this case.

6 MR. SULLIVAN: Correct.

7 MR. HART: Okay. And I'm only bringing it up
8 because it is -- I was trying to follow the, so the
9 ANC report. And it says that the, by vote to seven to
10 two with one abstention, recommends that this variance
11 request not be granted unless and until the applicant
12 comes up with a plan and, et cetera.

13 And it was again, talking about this
14 particular project. So, I wasn't sure where it --
15 what the ANC actually looked at, and what was being
16 requested at that time. And I think that there is --
17 because there have been some changing things that have
18 gone on, it was a little bit unclear to me and I
19 wanted to just get a little clarity around there.

20 MR. THOMAS: I think I can address that, yeah.

21 MR. HART: The question is to you, so yes.

22 MR. THOMAS: Okay. You may be looking at Case
23 No. 19440. That's the one that we referred to the
24 variance and setback.

25 MR. HART: This is -- I'm actually reading --

1 this is Exhibit No. 36 in Case No. 19439, and Exhibit
2 No. 36 has Case No. -- again, it's the ANC report and
3 it says the case and the name is 311 P Street, LLC.
4 It gives the address. Relief requested, it said
5 special exception to convert a two-story one-family
6 dwelling, into a three-story, three-unit apartment
7 house, and then at the very -- toward the bottom where
8 it talks -- the material is substance, the second
9 piece of that says, "The recommendation if any, of the
10 ANC, as to the disposition of the appeal petition or
11 application," and then it says, "The ANC, by vote of
12 seven to two, recommends that this variance request
13 not be granted."

14 And so, I was just --

15 MR. THOMAS: Okay.

16 MR. HART: And I don't know if it was just
17 because the language was -- because you had two cases
18 that were very similar.

19 MR. THOMAS: Yeah, that's --

20 MR. HART: Or the language that was kind of
21 used for that.

22 MR. THOMAS: Yeah. That was a typo, yeah.

23 MR. HART: Okay. I just, I wanted to clear it
24 up so that we weren't -- we were specifically talking
25 about this. And I'll talk to the applicant as well,

1 to make sure that they were --

2 MR. THOMAS: Right.

3 MR. HART: -- under that assumption as well.
4 But I just wanted to make sure that was clear.

5 MR. THOMAS: Yeah, that's the language that
6 he's in. Not 19440. And it should have been slightly
7 different with 19439.

8 MR. HART: And 19440 actually was withdrawn by
9 the applicant, so --

10 MR. THOMAS: Right.

11 MR. HART: -- we're really only dealing with
12 19439.

13 MR. THOMAS: That's correct.

14 MR. HART: And I'll actually turn to the
15 applicant now, if you could just refer to that?

16 MR. SULLIVAN: Yes. So, we presented the
17 projects together because they -- it's one piece of
18 land. It's actually about a total of about 3,800
19 square feet. And so, we were presenting it as a -- it
20 was a three and a one, but we were still within line
21 with a 900-foot rule, as far as the number of units on
22 that land. And it may be helpful to point out --

23 MR. HART: If you could bring up Exhibits --
24 well, I don't know if you can get to exhibits. But
25 there is a plan that actually shows both of these

1 properties.

2 MR. SULLIVAN: Yeah. And it might be what we
3 have up on the screen now, but although that's kind of
4 far away.

5 MR. HART: Yeah, this was just hard to read.

6 MR. SULLIVAN: Yeah.

7 MR. HART: There's actually a kind of a site
8 plan that I was -- actually, this is fine because it
9 actually shows the property to the east, a little bit
10 easier to see that.

11 CHAIRPERSON HILL: Mr. Moy, if you could hand
12 -- there you go. Take the microphone. Thank you.

13 MR. SULLIVAN: Hello. Okay, yeah. So, this
14 is all -- this is the property owned by the applicant.
15 And it's all part of a larger record lot. So, these
16 are just tax lots. They're not record lots now.

17 So, we're going to create one record lot out
18 of what is there now.

19 The curb cut we're talking about is over here,
20 and it's to this property. And if we were going to
21 have one we'd be limited to a space that's only a
22 couple feet away. I don't know the exact limitation.

23 I was looking up the design in an engineering manual,
24 but I couldn't find it, that you can't have a -- I
25 think it might be 20 feet, that you can't have a new

1 curb cut. Even if they would approve it at all.

2 Another consideration, too, was not to get rid
3 of all this green space if we're not developing it.
4 So, although the applicant would love to help
5 (simultaneous speech).

6 CHAIRPERSON HILL: Mr. Sullivan, since you're
7 up there, actually, yeah, can you show me where the
8 existing curb cut is?

9 MR. HART: You can't really see it on this
10 one. It's --

11 MR. SULLIVAN: If you could go back to the --

12 MR. HART: If you look at Exhibit 32.

13 CHAIRPERSON HILL: Yeah, I'm sorry. I'm
14 jumping around. I don't know if Mr. --

15 MR. SULLIVAN: So, it's right at the top of
16 this lot.

17 CHAIRPERSON HILL: Okay. Mr. Hart, did you
18 get your question answered before I moved on? I'm
19 sorry.

20 MR. HART: I did. They just described that
21 they had presented both of these projects at the same
22 time to the ANC.

23 CHAIRPERSON HILL: Okay. So --

24 MR. HART: I understand that now.

25 CHAIRPERSON HILL: Okay. So, the curb cut

1 there is for -- okay, great. I'm sorry. Mr. Hart is
2 helping me out here with the exhibit. Thank you.

3 Okay. Does anyone have any more questions for
4 the applicant?

5 Okay, I'm going to go roll through this before
6 we get to whatever we're going to end up doing here.
7 Is there anyone else here wishing to speak in support?

8 Is there anyone else here wishing to speak in
9 opposition?

10 Okay. So, I don't know where the Board is.
11 I'm not going to be able to deliberate on this today
12 myself. I think that what I'd like to see is -- I
13 mean, you're now getting -- you're now kind of -- I
14 understand what you were trying to do and I'm
15 appreciative to the applicant that this has been kind
16 of a long process for you. But, you know, you try to
17 do one project and now you've come back and you've
18 made changes, and now you're trying to do this
19 project.

20 I'd like to at least get a vote from the ANC
21 on this project. I think if you were able to provide
22 a little bit more justification on the curb cut, which
23 I think is actually -- I do think it's justified. I
24 don't think DDOT is going to give you that curb cut
25 right there. But, you know, if you can provide some

1 justification, and also that might help your case with
2 the ANC in terms of how you can't get the curb cut.
3 So, it kind of makes the point moot.

4 If you could, in your TDM plan, provide more
5 clarification in terms of what would happen if it were
6 leased when it's released, and then from -- yeah, and
7 then I'd just like see it get before the ANC again and
8 see if now that you have made this project less dense,
9 and if you can provide some justification to the ANC
10 as to how the additional one parking spot is not
11 helpful -- well, I shouldn't say is not helpful. Is
12 not possible at the curb cut, but not in addition to
13 that, you know, it's only one spot, meaning that what
14 could you do, that even if you could provide the one
15 spot, continue to provide some assurances to the
16 neighborhood there, that you know, what you're doing
17 would be less dense than -- I'm sorry, what you're
18 doing would provide less density in terms of traffic,
19 even if you were to provide the one spot, if I'm that
20 -- kind of talking myself into a circle on that one.

21 But I do want to see, you know, what the ANC
22 has to say in terms of this new -- you know, if you
23 revise the TDM plan, again, provided more
24 clarification as to how you can't get the curb cut, or
25 provide the one space. And does the Board have any

1 other thoughts about that?

2 And I guess, I don't know if there's a way to
3 you know, again, I know that there has been, you know
4 -- withholding RPP has not necessarily been something
5 that people think is actually practical. I kind of
6 agree that it possibly couldn't be practical, but it
7 might be something that the ANC would at least take
8 into account, that you're willing to try and do.

9 Does the Board have any other thoughts?

10 MR. HOOD: No, Mr. Chairman. I think you're
11 going right down the right lines to try to be a good -
12 - what I always call a good neighbor policy. I can
13 come -- I can think of some things, but I'd rather --
14 and I appreciate the chairman saying that we all
15 continue to collaborate with the ANC.

16 I actually can think of some other ideas. Not
17 to put the ANC and the community on promise land, like
18 they were with the schools, but there are some things
19 that I think that the applicant can do that alleviate
20 -- because we're talking about one spot. But from a
21 neighborhood perspective, if you're looking at one
22 spot here, one spot there, one spot there, we already
23 got three spots. So, I understand that.

24 So, I think if you think outside of the box,
25 go back to the neighborhood and work that out, and see

1 how we can soften some of the impacts. And even as
2 the Chairman mentioned, while I'm not a fan of RPP at
3 all, going down those lines and thinking outside of
4 the box, I think would be very helpful.

5 And hopefully Chairperson Thomas, you can help
6 the applicant because he didn't hear probably a word
7 that I said because he was talking to his counsel.
8 So, thank you, Mr. Chairman.

9 CHAIRPERSON HILL: And then again, I don't
10 know as Chairman Hood mentioned -- there's a lot of
11 chairmans in the room here today. As Chairman Hood
12 mentioned, the applicant, thinking outside of the box,
13 trying to provide some kind of creative ways, the
14 incentive again is that if you can get the support of
15 the ANC, then you could get to a possible summary
16 order versus a full order, which would set the project
17 even further back.

18 So, there is another incentive there to that.
19 However, and again I'm pointing out -- I like
20 pointing out both sides, a little bit again, you know,
21 Chairman Thomas, it is one spot.

22 And so that's the thing that I always kind of
23 struggle with. You know, whether or not the
24 Millennials are coming, whether the next whatever
25 'lennials are coming after that, you know, it is one

1 spot. And that's where I always kind of struggle with
2 some of the discussions that we have in terms of the
3 different kinds of projects that are kind of going on
4 in the neighborhood, which all we like -- you know, we
5 do like to see. You know, we all want our
6 neighborhood to be successful and grow and have people
7 come to it, and or maybe not always have people come
8 to it, but at least be successful and nice places for
9 us all to live.

10 So, that's where I stand in terms of does the
11 Board have any other thoughts? And, Mr. Thomas,
12 Chairman Thomas, I suppose, do you know when you might
13 be able to get them on the agenda?

14 MR. THOMAS: The next meeting is the third
15 Tuesday in September. Generally, our policy is that
16 they should come before the single-member district,
17 and preferably the civic association before they come
18 to ANC so we get some feedback from the community
19 before we go in to vote.

20 CHAIRPERSON HILL: Are those groups available
21 before your September 3rd meeting? Or are they also
22 on recess?

23 MR. THOMAS: Yeah, the next -- probably the
24 next meeting of the single-member district will be
25 maybe the second weekend in September. And, hopefully

1 we can get that --

2 CHAIRPERSON HILL: I'm sorry. Maybe I got a
3 little lost. When is the next full -- your full ANC
4 meeting?

5 MR. THOMAS: Third Tuesday in September.

6 CHAIRPERSON HILL: Third Tuesday in September.
7 Okay.

8 MR. THOMAS: From a practical standpoint,
9 really the October meeting is -- we can certainly do
10 it at that one. But if we really push it, perhaps we
11 can get it into September. And if we can get it
12 before the SMD and the Civic Association before --

13 CHAIRPERSON HILL: Yeah, and Mr. Thomas, I
14 mean -- Chairman Thomas, you are -- have a little bit
15 more influence than others in terms of getting
16 people's ability to get on an agenda.

17 I do feel for the applicant in terms of at
18 least somehow getting this resolved in some fashion,
19 in terms of it has been a long project. I understand
20 that the applicant tried to do something different in
21 one way, but this has now been on the books for
22 probably like six, seven months.

23 MR. THOMAS: Right.

24 CHAIRPERSON HILL: And so, you know, if you
25 would be willing to do everything you can to get it on

1 there for that September ANC, full ANC meeting, I
2 would much appreciate it.

3 MR. THOMAS: Right.

4 MR. HART: And then, that would allow the
5 Board to schedule something soon thereafter, so that
6 we also get to at least some kind of resolution in as
7 quick a possible sense. And it is unfortunate that
8 the August recess is here with all of us, except for
9 the fact that I am enjoying the whole idea of an
10 August recess. But that's where I'm standing. Does
11 the Board have any thoughts?

12 MS. WHITE: My thought is that I think you
13 have to go down that path of getting it before the
14 ANC, hopefully in September. I didn't realize the
15 meetings stop in July as well, but maybe the agenda is
16 all full during that particular time frame.

17 But I think you know, working with the
18 applicant on the issues and concerns that you have
19 about additional parking, lack of parking that would
20 be caused as a result of the building being there, is
21 a rational thought, and it probably will exacerbate,
22 you know, the need for figuring out a solution. So, I
23 agree with your suggestion to try to get the parties
24 together to maybe come up with some creative ideas to
25 try to resolve the matter, at least to the

1 satisfaction of the ANC so that they can get their
2 support. I think that's important.

3 CHAIRPERSON HILL: The applicant obviously
4 sees the road we're going down. Do you have any
5 thoughts?

6 MR. SULLIVAN: We do. Just it's, we're
7 looking at that's probably a four-month delay in the
8 end, before we get back here because they don't have a
9 meeting in July. And there's already been extensive -
10 - and, and, which we've been promised we're probably
11 still looking at a full order, even after that.

12 We've had extensive dialog with the ANC. We
13 have been to two meetings. We tried to get on that
14 agenda for the second meeting. We've been to the
15 Bates Civic Association twice. We have six support
16 letters from the general community, although that's
17 not -- they're not next-door neighbors. They're the
18 people that would also conceivably have concerns about
19 parking as well.

20 I don't think much is going to change. We can
21 verify the curb cut issue. But if we verify the curb
22 cut issue, then we're really, we're nowhere better
23 off. We could do a two-unit building here, as a
24 matter of right in the exact same massing, without
25 parking. That's what's odd about this request, even

1 though it's 3,800 square feet. We don't have access.

2 If we were two units, we wouldn't need any parking
3 under the regulations.

4 If we were in an apartment zone, we wouldn't
5 need any parking because we're way below the threshold
6 for providing parking, which would be six units.

7 So, we're kind of caught in the middle there,
8 and we'd love to get the support of the ANC. I just
9 think after all this time, and I'll have the applicant
10 speak to that, so I'm just laying out what I think
11 some of the things are important to look at. And the
12 fact that it's just one space, too, keeps coming up
13 for 3,800 square feet.

14 But I can have the applicant talk about his
15 interaction with the ANC over time, and his attempts
16 to dialog with them, and the impact on him of an
17 additional four months.

18 CHAIRPERSON HILL: Okay. And just to let you
19 know, I mean, I do appreciate, Mr. Sullivan, you doing
20 your best for your client at this point and further
21 clarifying where we are, and we're going to listen to
22 you. I don't know whether or not you're going to get
23 to where you need to be, but I do appreciate the
24 points that you're bringing up and then we can think
25 about those and deliberate those here right now.

1 So, I'm sorry, sir. Go ahead.

2 MR. GARDNER: Just, I want to make sure the
3 Board was clear. When we first presented the case to
4 the ANC, the parking concerns were made aware to us,
5 and that was even before we needed relief from the
6 parking. I also clearly explained to both the single-
7 member district meeting, the community association
8 meeting, and the ANC meeting, the DDOT requirement of
9 25 feet from an existing curb cut, which does not
10 allow for us to cut anywhere adjacent to our property.

11 I also worked with Mr. Thomas and provided
12 some diagrams of what parking might have looked like
13 on the site, should we ever get a curb cut, and it
14 would take away one community parking place, and it
15 would pave nearly the entire lot as basically a
16 private alley to -- because of the narrowness of the
17 lot, would only get us two spaces.

18 So, we talked about the cost benefit of taking
19 away one public space for a curb cut to provide one,
20 or possibly two on-site. And this was all in the
21 initial conversation with the ANC, which is what led
22 us to, and in communications with Mr. Thomas saying,
23 hey, we've made some changes to density, but you know,
24 we still have not been able to address the parking
25 because of our limitations of no alley and no curb

1 cut. And we didn't expect them to change their
2 support for the project. And I feel that the delay is
3 going to get us to the same place based on the initial
4 feedback from the ANC.

5 CHAIRPERSON HILL: Okay. Mr. Thomas, I forgot
6 about this issue. So, getting the additional curb cut
7 takes away one additional parking space from the
8 public. You are aware of that, correct?

9 MR. THOMAS: I've been told that, from the
10 developer. From Mr. Gardner, yeah.

11 CHAIRPERSON HILL: Right. No, I mean, it just
12 is that you take away the -- you introduce a curb cut,
13 you can't park there anymore.

14 MR. THOMAS: Well, but the thing -- there's
15 already a curb cut there. So, if we were able to get
16 DDOT to agree to move the curb cut, then you're not
17 necessarily taking away a curb cut, you are -- I mean,
18 taking away a parking space. You may have slightly
19 larger curb cut that might be necessary for the
20 driveway. But it doesn't necessarily mean that it's
21 taking away a parking space.

22 And in terms of the green space argument, we
23 advocate that you do permeable pavers. You can still
24 have green, you can still have an ecologically sound
25 construction, but it doesn't have to be an asphalt

1 parking lot. There are various ways to look at it and
2 I think the Board has mentioned, it's going to take
3 some thinking outside of the box.

4 CHAIRPERSON HILL: Well, we'll see. I mean, I
5 think it will take -- again, I'm just speaking, and
6 the board member can speak up. Since we do have the
7 time here to talk through this, we are going to, I
8 guess, talk a little bit more about it.

9 You know, whether or not this one particular
10 project solves any kind of density issues within your
11 area, that's what I'm kind of struggling with a little
12 bit, right, in terms of the one spot that they are
13 required to give, if you're losing a spot in order to
14 get a spot, then it doesn't seem to make any
15 difference to me.

16 Now, whether or not again the ANC would be
17 voting in favor of this once it's represented, I don't
18 know. I mean, it doesn't sound like it is, at least
19 from your conversation.

20 Does the Board have any further thoughts on
21 the testimony of the Chairman or what the applicant
22 just put forward?

23 MR. HOOD: I do want to ask, Mr. Sullivan, you
24 know, I hear this a lot. Well, we can do this, and we
25 don't need to do that. Why just not do the two units

1 and be done with it? Since you said that, you didn't
2 really --

3 MR. SULLIVAN: Well --

4 MR. HOOD: You need to just come see us.

5 MR. SULLIVAN: Right. Yeah. I mean, it's
6 because economics of course.

7 MR. HOOD: Okay. So --

8 MR. SULLIVAN: I mean, it's a 3,800 square
9 foot lot.

10 MR. HOOD: So, something that you want to do,
11 so it is relevant.

12 MR. SULLIVAN: Yeah, but at some point, if we
13 go another four months and then we go another eight
14 months after that waiting for a full order, then it's
15 a year. And I don't know at which point the carry
16 costs outweigh the cost in the end.

17 MR. HOOD: Well, sometimes that's the cost of
18 the economics, though.

19 MR. SULLIVAN: Right.

20 MR. HOOD: Right?

21 MR. SULLIVAN: Absolutely.

22 MR. HOOD: Okay. All right. Thank you, Mr.
23 Chair.

24 MR. HART: Mr. Thomas, Chairman Thomas, one of
25 the things that I was asking about with regard to the

1 next-door neighbor, understanding that that's -- not
2 the next-door neighbor, but the person that's on the
3 corner of 3rd and P. That is the curb cut that they
4 would be asking to -- because what you were suggesting
5 was, maybe they could move that curb -- that driveway
6 opening, or the curb cut, toward their property so
7 that they could share that, you know, that curb cut,
8 so you wouldn't actually have a new one. You would be
9 kind of both using the same. But the question that I
10 asked was whether or not the neighbors were kind of in
11 support, and you said this one was definitely not in
12 support. And --

13 MR. THOMAS: No, I'm not talking about the one
14 on the corner. The corner is the store.

15 MR. HART: This is the one -- yeah. Yeah, so
16 there is a -- that's the one that I'm trying to find
17 out with -- because they're the ones that actually
18 have the curb cut.

19 MR. THOMAS: Yeah, the corner is a convenience
20 store. Right next to the corner, between the corner
21 store and the 311 building, is the neighbor who was
22 opposed at 305. So, we're talking about two different
23 properties.

24 MR. HART: So, it is possible to -- because I
25 guess the -- we have to get to whether or not it is

1 possible that the person that owns the curb cut would
2 be amenable to even discussing having that either
3 extended or moved, or whatever, so that they could
4 actually have this, you know, be able to do this.

5 I mean, I think it's going to be hard. DDOT
6 tries to -- they do things about kind of line of
7 sight, and the ability to have, if you have a far
8 enough -- you know, if the curb cuts are far enough
9 apart, then there is a line of sight and you'd be able
10 to kind of see, and you wouldn't make a hazardous, you
11 know, condition.

12 MR. THOMAS: Right.

13 MR. HART: They're likely not going to want to
14 do that, so that you really have to have some sort of
15 either combined or one, you know, curb cut to be able
16 to use.

17 MR. THOMAS: Right.

18 MR. HART: And so, it makes it even harder.
19 You have to have a good relationship with that, with
20 folks that own that, to be able to say okay, are you
21 amenable to doing this. I will, you know, pay
22 whatever to actually close the other one and then move
23 it 10 feet or 15 feet, or whatever the move is.

24 MR. THOMAS: Well, we do have a relationship
25 with that owner. As a matter of fact, that owner came

1 before the ANC --

2 MR. HART: I mean them, because they're the
3 ones that are going to -- the applicants are the ones
4 that are going to have to --

5 MR. THOMAS: Oh, okay. Okay. I thought you
6 were --

7 MR. HART: No, no, I was saying that they're
8 the ones that are going to have to actually, you know,
9 possibly do this if that's helpful.

10 MR. THOMAS: I understand.

11 CHAIRPERSON HILL: Okay. So, again, I do
12 appreciate your attorney going to bat for you. And
13 where I am sitting still is that, you know, you guys -
14 - this has been going on a long time for us as well,
15 meaning you try to do one project, you've now changed
16 it up, and now you're trying to do a second project.
17 I still, you know, unless the Board has any changes, I
18 still would like to hear from the ANC on this
19 particular project. We may get to the same place that
20 we are now, and what that means to me, again, just to
21 let everyone know, I suppose, is that I think that the
22 applicant has made a good point in terms of the curb
23 cut issue. But however, they could possibly clarify
24 that with the ANC more, as I've originally said. And
25 you still would get possibly the same reaction that

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1 you're getting now.

2 You didn't get a full vote from them. The
3 chairman here has indicated that he can get you on the
4 agenda on the 20 of September. What was it again,
5 sir?

6 MR. THOMAS: The third Tuesday. I don't know
7 what the date is.

8 CHAIRPERSON HILL: I actually have a calendar
9 right in front of me.

10 MR. MOY: I believe it's the 13th, Mr. Chair.

11 MR. THOMAS: It wouldn't be the 13th.

12 CHAIRPERSON HILL: The 12th, 12th of
13 September.

14 MR. THOMAS: No, third Tuesday, so it's got to
15 be --

16 CHAIRPERSON HILL: Oh, the 19th.

17 MR. HOOD: It's the 20th.

18 CHAIRPERSON HILL: What?

19 MR. THOMAS: Got to be between the --

20 MR. HOOD: Oh, I'm sorry. That's Wednesday.

21 MR. MOY: It's the 19th.

22 MR. HOOD: Nineteenth.

23 MR. MOY: It's the 19th.

24 CHAIRPERSON HILL: I have a calendar right in
25 front of me.

1 MR. HOOD: You might have last year's
2 calendar.

3 CHAIRPERSON HILL: That's true. That's true.
4 So, I've got September 19th. You can get them on the
5 books, correct?

6 MR. THOMAS: Most likely. I won't say
7 definitely yes, because the Commission decides that.
8 I don't make decisions on the part of the Commission.

9 CHAIRPERSON HILL: Okay. Okay. All right.
10 So --

11 MR. THOMAS: The chances are, yes.

12 CHAIRPERSON HILL: Okay.

13 So, I would propose that the Board hear this
14 case again, as a meeting case on the 27th, the
15 applicant present to the ANC on the 19th of September.
16 Chairman Thomas, if you can get us something by like
17 the 22nd of September in terms of whatever happens at
18 that meeting.

19 MR. THOMAS: Uh-huh.

20 CHAIRPERSON HILL: And then we can have a
21 meeting on this on the 27th.

22 MR. THOMAS: Okay.

23 CHAIRPERSON HILL: I appreciate what the
24 applicant has been trying to do in terms of the time
25 that this is taking. Again, where I was standing was

1 that the project has changed. However, I also want to
2 mention to the applicant that even if you don't get on
3 the 19th of September, we still would possibly be able
4 to have a meeting on the 27th.

5 So, I've heard the testimony here now from the
6 ANC. I mean, I do want you to get on -- you know, if
7 you're able to get on the 19th of September, I'd like
8 to present in front of the ANC on the 19th of
9 September and see what happens. Okay? That's what
10 I'm thinking. Does the Board have any other thoughts?

11 MR. HOOD: Mr. Chairman, I just want to add
12 this because I heard this the whole time while you
13 were proposing that. I heard this from the applicant
14 more or less that they weren't thinking outside the
15 box. We've done this for a long time. So, if you go
16 into it with that type of attitude, that's how you're
17 going to come out of it.

18 So, I would just ask them to rethink that and
19 go into it and try to work with the neighborhood,
20 because at the end of the day you will develop and be
21 gone. That community will still, they'll be dealing
22 with whatever is going on. Even though it's one
23 parking space. Yeah, I've heard that a thousand times
24 today, but one, and we continue the next case, one and
25 we continue to next case, one, it adds up.

1 So, I would ask that we go into that meeting
2 with an open mind and not just say, oh, we've done
3 this, we've done that, we'll probably end up in the
4 same place. If we do, we do, but at least try.
5 That's all.

6 CHAIRPERSON HILL: Okay. Does the Board have
7 any other thoughts?

8 MR. HART: Just one, only that this case was
9 originally in front of is in February of this year.
10 That's when it was originally set, February 22nd. And
11 then March, April, and then June, for postponements.
12 And those postponements were for a variety of reasons,
13 but you know, we are here. This is kind of the first
14 time that we are really listening to this entire
15 thing. And I'm not sure if a few months is
16 unreasonable.

17 I'm supporting your --

18 CHAIRPERSON HILL: Okay, no. I've got you. I
19 understand.

20 MR. HART: I'm just saying that we've, you
21 know, this has been --

22 CHAIRPERSON HILL: Yeah. The one that I think
23 we heard the first time was when it was a denser
24 project.

25 MR. HART: Yeah.

1 CHAIRPERSON HILL: But yes, you're correct.

2 It is -- yes, you're correct.

3 So, all right. So, then my proposal, again,
4 would be to close the record, except for allowing the
5 ANC to submit their report after the 19th, and then
6 allowing -- I'm sorry. They would submit their report
7 on the 22nd of September, and then we could also allow
8 the applicant to respond to that by the 25th, which is
9 the following Monday.

10 Okay. And so, then we can get in front -- you
11 guys can get back in front of us on the 27th for a
12 meeting.

13 MR. MOY: Mr. Chair, if I might?

14 CHAIRPERSON HILL: Sure, Mr. Secretary.

15 MR. MOY: Not knowing exactly how this is all
16 going to come out, would you want to keep the record
17 open for OP to reply by the 25th of September also, if
18 they need to?

19 CHAIRPERSON HILL: Sure. That would be great.

20 If the Office of Planning would like to file any
21 supplemental report after the ANC has filed their
22 report, you can do so by the 25th of September.

23 MS. FOTHERGILL: Do you also want that to
24 apply to DDOT?

25 CHAIRPERSON HILL: Yes, that would be great.

1 So, if DDOT has anything to add by then. And
2 if DDOT wants to provide some clarification on that
3 curb cut, they can maybe give that to the applicant to
4 take to the ANC.

5 Okay. So, are we all clear as to what we're
6 waiting for from the record? And just so I'm -- I'm
7 going to go over it again.

8 So, the ANC is going to give us a report on
9 the 22nd of September. The applicant can respond by
10 the 25th of September, and DDOT and the Office of
11 Planning can also give us any of their comments before
12 or by the 25th of September.

13 Okay? All right. Do you guys have any other
14 questions? Okay. All right. Well, then we're
15 closing this case.

16 MR. THOMAS: Thank you, Mr. Chairman.

17 CHAIRPERSON HILL: Thank you. We have one
18 more item, I believe, for the vote here.

19 In accordance with Section 405(c) of the Open
20 Meetings Act, D.C. Official Code Section 2575(c), I
21 move that the Board of Zoning Adjustments hold closed
22 meetings on Monday, July 10th, July 17th, and July
23 24th. These closed meetings start at 3:00 p.m. and
24 are held for the purpose of obtaining legal advice
25 from our counsel and deliberating upon, but not voting

1 on the cases scheduled to be publicly heard or decided
2 by the Board on the day after each such closed
3 meeting.

4 Those case are identified on the Board's
5 public decision meeting and hearing agenda for July
6 12th, July 19th, and July 26th.

7 A closed meeting for these purposes is
8 permitted by Section 405(b)(4) and (b)(13) of the act.

9 Is there a second?

10 MR. HART: Second.

11 CHAIRPERSON HILL: Motion has been made and
12 seconded. Will the secretary please take a roll call
13 vote on the motion?

14 MR. MOY: When I call a member's name, if you
15 would please reply with a yes or a no?

16 [Roll call vote taken.]

17 MR. MOY: Mr. Hood. Mr. Hood.

18 MR. HOOD: Yes.

19 MR. MOY: Ms. White.

20 MS. WHITE: Yes.

21 MR. MOY: Chairman Hill.

22 CHAIRPERSON HILL: Yes.

23 MR. MOY: Vice Chair Hart.

24 MR. HART: Yes.

25 MR. MOY: Have a board seat vacant, the motion

1 carries, sir.

2 CHAIRPERSON HILL: Thank you, Mr. Moy. I
3 request that the Office of Zoning provide notice of
4 these closed meetings in accordance with the act.

5 Mr. Moy, is there anything else that is before
6 us today?

7 MR. MOY: Nothing more from the staff, Mr.
8 Chairman.

9 CHAIRPERSON HILL: All right. Thank you.
10 Then we stand adjourned, everyone.

11 [Whereupon, at 12:51 a.m., the public hearing
12 was adjourned.]

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