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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

9:39 a.m. to 11:39 a.m.
Wednesday, September 20, 2017

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

OLENDER REPORTING, INC.
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1 Board Members:

2 CARLTON HART, Vice Chairperson

3 LESYLLEE WHITE, Board Member

4 PETER SHAPIRO, Zoning Commission

5 TRACEY ROSE, BZA Secretary

6

7 Office of Attorney General

8 SHERRY GLAZER, Esq.

9

10

11 Office of Planning

12 KAREN THOMAS

13 BRANDICE ELLIOT

14 MATT JESICK

15 STEVE COCHRAN

16 CRYSTAL MYERS

17

18

19

20

21

22

23

24

25

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

2 MR. HART: The hearing will please come to
3 order. Good morning, ladies and gentlemen. We are
4 located in the Jerrily R. Kress Memorial Hearing Room
5 at 441 4th Street Northwest. This is the September
6 20th, 2017 public hearing of the Board of Zoning
7 Adjustment of the District of Columbia.

8 My name is Carlton Hart, Vice Chairperson.
9 Joining me today is Lesyllee White, board member, and
10 representing the Zoning Commission is Peter Shapiro.

11 Copies of today's hearing agenda are available
12 to you and are located in the wall bin near the door
13 to my left. Please be advised that this proceeding is
14 being recorded by a court reporter and is also webcast
15 live. Accordingly, we must ask you to refrain from
16 any disruptive noises or actions in the hearing room.

17 When presenting information to the Board, please turn
18 on and speak into the microphone, first stating your
19 name and home address. When you are finished speaking
20 please turn your microphone off so that your
21 microphone is no longer picking up sound or background
22 noise.

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

1 must fill out two witness cards. These cards are
2 located in the table near the door, and on the witness
3 table.

4 Upon coming forward to speak to the Board,
5 please give both cards to the reporter sitting at the
6 table to my right. She just raised her hand.

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

14 The order of procedures for special exceptions
15 and variances, pursuant to Subtitle Y, 409, are in a
16 bin in entrance of the hearing room to my left. The
17 order of procedures for appeal applications pursuant
18 to Subtitle Y, 507, are also at the bin as you enter
19 the hearing room, again, on my left.

20 The record should be closed at the conclusion
21 of each case, except for any materials specifically
22 requested by the Board. The Board and staff will
23 specify at the end of the hearing, exactly what is
24 expected, and the date when the persons must submit
25 the evidence to the Office of Zoning.

1 After the record is closed, no other
2 information shall be accepted by the Board. The
3 District of Columbia Administrative Procedure Act
4 requires that the public hearing on each case be held
5 in the open before the public. Pursuant to Subtitle
6 405(b) and 406 of that act, the Board may, consistent
7 with its rules of procedure, and the act, enter into a
8 closed meeting on a case for purposes of seeking legal
9 counsel on a case, pursuant to D.C. Official Code,
10 Subtitle 2-575(b)(4), and/or deliberating on a case
11 pursuant to D.C. Official Code, Subtitle 2-575(b)(13),
12 but only after providing the necessary public notice
13 and in the case of an emergency closed meeting, after
14 taking a roll call vote.

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

22 Preliminary matters are those which relate to
23 whether a case will or should be heard today, such as
24 request for postponement, continuous withdrawal, or
25 whether proper and adequate notice of the hearing has

1 been given. If you are not prepared to go forward
2 with a case today, or if you believe that the Board
3 should not proceed, now is the time -- excuse me, now
4 is the time to raise such a matter.

5 And, Ms. Secretary, do you have any
6 preliminary matters? If not, we can proceed to the
7 agenda.

8 MS. ROSE: Good morning, Mr. Chairman and
9 members of the Board, staff has one preliminary matter
10 today regarding Application No. 13991A of Curt Hansen,
11 for property located at 522 1/2 K Street Northeast.
12 The hearing has been postponed to October 18th, 2017.

13 MR. HART: Thank you. And all individuals
14 wishing to testify today, please rise so that you can
15 take the oath. Ms. Secretary, would you administer
16 the oath?

17 MS. ROSE: Please raise your right hand.

18 [Oath administered to the participants.]

19 MS. ROSE: You may be seated.

20 MR. HART: And, Ms. Secretary, can you call
21 the first case on our decision agenda?

22 MS. ROSE: That would be Application No.
23 12666C of McGovern, Hinshaw, Peaslee, et al. This is
24 a request for modification of consequence to
25 conditions in BZA order No. 8711 as amended by BZA

1 order No. 12666 to allow relocation of 17 accessory
2 parking spaces serving 1234 19th Street Northwest,
3 from the current location at 1920 N Street Northwest,
4 and relocating to 1233 20th Street Northwest, in the
5 D-5 Zone at premises 1234 19th Street Northwest.

6 The Board has received an ANC letter in
7 support of the modification and this matter is before
8 you for action.

9 MR. HART: Thank you, Ms. Rose. So I guess
10 it's good that we have received the ANC letter. And
11 is the applicant here? And if you -- and is the ANC
12 here? I doubted they would be, but I thought I'd ask
13 anyway.

14 Can you please introduce yourself?

15 MS. PRINCE: New mics.

16 MR. HART: New mics, yes.

17 MS. PRINCE: Allison Prince of Goulston and
18 Storrs, here on behalf of the applicant.

19 MR. HART: And, thank you very much for
20 coming. I didn't want to have too much of a
21 conversation with you but because we had gotten the
22 ANC letter, I guess last night, and I just wanted to
23 make sure that you didn't have any response to the ANC
24 letter. I mean, they're in support of you so I kind
25 of figured you don't, but I would like to --

1 MS. PRINCE: I haven't seen it, but attended
2 the meeting, and based on that I'm sure I don't have
3 an issue with the letter.

4 MR. HART: Okay. And I don't think that we
5 have any other questions for you. That was just a
6 point of clarification and making sure that you didn't
7 have any response for the letter that had been
8 submitted. It is, they voted eight, to zero, to zero
9 in favor of your application and they you know,
10 discussed what the actual -- what you were seeking and
11 it was helpful for us to receive that because it was
12 hard for us to understand where they were now, given
13 the opposition that they had previous decades ago,
14 when the case was last before the Board.

15 So, with that, yeah, that's -- thank you very
16 much. With that, I'll bring it back to the board.
17 Right now, I have -- we have before us this particular
18 case, which is a modification of consequence to BZA
19 order 12666, excuse me, and we are really looking to -
20 - we're following our procedures in order to review
21 this case, and we do have kind of four actions that we
22 can take, but really the only action that I see that
23 we really need to take in this case is to -- given the
24 fact that we now have an ANC report, we haven't
25 report, both in support of the application, and we

1 don't have really any opposition to this case, I think
2 that we can simply either grant or deny this minor
3 modification. I do perceive it to be a modification
4 of consequence, and I would be in support of granting
5 this application as it has been submitted to us.

6 MS. WHITE: Yes, Mr. Vice Chair, I would
7 concur with your assessment. I was looking at the
8 case, probably about 4:00 this morning, you know, just
9 to kind of catch up on everything. And I saw the ANC
10 report. So, that makes it a lot easier to kind of
11 move forward with it under Section Y, Section 70313,
12 which Mr. Hart just outlined as far as the criteria
13 that we can take to grant a modification of
14 consequence. So, I would be in support of it as well.

15 MR. SHAPIRO: And I concur, Mr. Chair.

16 MR. HART: Thank you, and with that I'd make a
17 motion to approve Application No. 12666C of McGovern,
18 Hinshaw, Peaslee et al, as read by the secretary and
19 is there a -- and actually, there is a condition. I
20 guess that condition, which is being modified, which
21 is that the appellant shall provide a covenant running
22 with the land that will require off-street spaces to
23 be maintained so long as the office building at
24 premises -- at these premises, 1234 19 Street, is used
25 for medical offices. That is the condition that is

1 being modified.

2 And right now, the change is for the
3 modification is to 1233 20th Street is where the new
4 spaces are going, and I'm looking at the applicant to
5 make sure that I got that correct. I just want to
6 make sure that that's the change that's being
7 requested, and I would make a motion to support that
8 application as has been read, with that modification.

9 Do I have a second?

10 MS. WHITE: Second, with that condition.

11 [Vote taken.]

12 MR. HART: The motion carries.

13 MS. ROSE: Staff would record the vote as
14 three, to zero, to two, to grant the modification of
15 consequence with a motion by Mr. Hart, seconded by Ms.
16 White, with Mr. Shapiro in support of the motion, Mr.
17 Hill not present, not voting, and one board seat
18 vacant, with the condition as stated.

19 MR. HART: And a summary order.

20 MS. ROSE: Thank you.

21 MR. HART: With that, I think we can move to
22 the hearing agenda, and we can go in the order that
23 has been listed in the bin over to my left here.

24 MS. ROSE: First would be Application No.
25 19559 of 1400 5th Street, LLC, pursuant to Subtitle X,

1 Chapter 10, for a variance from the lot area
2 requirements of Subtitle E, Subsection 201.4 to
3 convert an existing three-unit apartment house and
4 church into a four-unit apartment house in the RF-1
5 Zone, at premises 1400 5th Street Northwest, Square
6 479, Lot 35.

7 MR. HART: Thank you, Ms. Rose. Looks like we
8 have the applicant here. And could you state your
9 name for the record, please?

10 MR. EKO: Good morning. My name is Lani Eko.

11 MR. HART: Thank you. And sir, you are?

12 MR. BROWN: ANC -- excuse me. Tony Brown, 6E-
13 02.

14 MR. HART: Thank you. And, Mr. Eko, you have
15 -- kind of as a beginning piece to this, one of the
16 things that I think that we typically receive as part
17 of our proceedings is a letter of authorization, which
18 is really our understanding as to who you're
19 representing. Could you talk a little bit about your
20 connection with 1400 5th Street, LLC?

21 MR. EKO: 1400 5th Street is owned by the LLC,
22 1400 5th Street, LLC. I'm the managing partner and
23 it's physically owned by my family.

24 MR. HART: So it's owned by your family?

25 MR. EKO: Yes. Which means the, you know, the

1 members of the LLC are, is actually my wife and my
2 son, my family.

3 MR. HART: Okay. And you have the
4 authorization through them?

5 MR. EKO: Yeah, to represent them today.

6 MR. HART: Okay. Do you have anything in
7 writing for us that you've -- because we haven't had
8 anything on file, and typically we get things, even if
9 you're kind of self-representing.

10 MR. EKO: Okay.

11 MR. HART: We receive them so that we have
12 that understanding that you know, some other person
13 who says that they're on this group comes in and says,
14 well, I don't know -- you know, I'm not really sure, I
15 wasn't -- didn't want them to move forward with this.
16 We're just trying to make sure that we have all the
17 information that is required so that we can then make
18 a decision on the case in a timely fashion.

19 MR. EKO: I'm very sorry, I do not have a
20 written authorization from them, but I have an oral
21 authorization from them. This is very new to me.
22 It's not a process I'm familiar with, so I'm trying to
23 do the best, but if it's something I can, you know,
24 provide later to you, I can do that.

25 MR. HART: We can discuss that.

1 MR. EKO: Okay.

2 MR. HART: We can discuss that amongst
3 ourselves.

4 MR. EKO: Okay. Okay.

5 MR. HART: But I think that it is something
6 that we would like to have so that we have that on
7 file and it's something that we can refer to if there
8 is a need to do that in the future.

9 MR. EKO: Okay.

10 MR. HART: But right now, with that kind of
11 done, right now we're looking to have kind of a brief
12 presentation from you about the project that you
13 wanted to present before us. The secretary has
14 described what it is that you're seeking, and we just
15 want to hear from you. We'll get about maybe 10
16 minutes on the -- I don't know if you need 10 full
17 minutes for this, but we'll give you a few minutes,
18 just for our purposes, to understand where we are in
19 your case.

20 MR. EKO: Okay. The applicant's statement was
21 filed with the Board, so I'm just going to go through,
22 summarize the process.

23 1400 5th Street is an historical building that
24 because it's (garbled speech) since the 1900s. It has
25 two distinct units with two separate addresses. One

1 is 1400 5th Street. The other address is 501 O
2 Street.

3 When you look at the historical record for the
4 (garbled speech) permit, they treated both, the
5 building, as two separate unit. 1400 serve us for
6 commercial purpose and (garbled speech) for several
7 years. And then we are the three residential units on
8 the 501 O Street.

9 So, what we intend to do, the O Street, the
10 last occupied apartment on the 1400 5th Street, ask a
11 permit for. Fifty persons at a time. You know, I've
12 been a merchant (garbled speech) not to a certified
13 person.

14 So what we intend to do is to combat that
15 (garbled speech) unit into a residential unit. So
16 instead of three units, we are going to have four
17 residential units. We are not making any change to
18 the footprint of the building. The art will remain
19 the same, the footprint of the building will remain
20 the same.

21 So, there is not going to be any adverse
22 effect, in our opinion, on that structural, compared
23 to all the structural -- the other structural in the
24 neighborhood.

25 MR. HART: Thank you. And are there any

1 questions from the Board at this time, for the
2 applicant?

3 [No audible response.]

4 MR. HART: No. Okay. Now, we'll go to the
5 Office of Planning, to hear your report on this.

6 MS. THOMAS: Sure. Good morning, Mr. Chair
7 and members of the Board. Karen Thomas for the Office
8 of Planning.

9 We, in our report, we outlined our reasons for
10 approval of this variance request to convert the
11 church use into a residential use, without having any
12 harm to, substantial harm to the -- detriment to the
13 public good and harm to the zoning regulations. The
14 structure, as it exists, is an unusual structure, and
15 in terms of having two addresses on one lot, and with
16 a substantial separation between the two -- the
17 apartment use and the church use.

18 And we see that the conversion from the church
19 use into a residential use is appropriate at this
20 location. And for those reasons, we recommend
21 approval of the applicant's request for conversion.
22 Thank you.

23 MR. HART: Any questions of the Office of
24 Planning from the Board?

25 [No audible response.]

1 MR. HART: Okay. Next, we'll -- and I don't
2 have any questions. Thank you very much, Ms. Thomas
3 for your report.

4 At this time we can hear from the ANC, and
5 please, give your -- I see that you've submitted a
6 letter in support of the application, and that you
7 wanted to have letters of support from the adjacent
8 property owners as a condition of that. And you can
9 talk about any other -- what kind of transpired at
10 your ANC meeting. And thank you for coming down.

11 MR. BROWN: All right. Good morning, Chair
12 and the Board. Tony Brown, Anthony Brown, ANC 6E-02.

13 I serve both as the single-member district
14 commissioner for this property as well as the Chair of
15 the Zoning Board for 6E.

16 Mr. Eko has been very diligent in working with
17 the ANC. He has basically met with me on several
18 occasions. He appeared before our zoning committee
19 twice, I believe, when he basically came in to give us
20 the information about the project, in addition to
21 that, when he came, after the application has been
22 submitted for our support.

23 Both in the Zoning Committee meeting, as well
24 as the ANC when it was presented, it was voted upon
25 unanimously by both the Committee and the ANC. He has

1 our full support and we believe that the conversion to
2 another unit will basically afford our neighborhood
3 another opportunity for residents to reside in 6E-02,
4 and we support it.

5 MR. HART: Thank you very much, Mr. Brown, for
6 coming down tonight, coming down today, and giving
7 your thoughts to us.

8 MR. BROWN: Yes.

9 MR. HART: Does the Board have any questions
10 for the ANC member?

11 MS. WHITE: Yes, just one question.

12 MR. BROWN: Yes.

13 MS. WHITE: Did you get any feedback from the
14 adjacent neighbors at all?

15 MR. BROWN: Mr. Eko did provide us -- I'm
16 sorry.

17 MS. WHITE: That's okay.

18 MR. BROWN: He did provide us with letters of
19 support from all of his surrounding property
20 neighbors. So we do have that on file. I don't know
21 if it was submitted along with our paperwork.

22 MS. WHITE: Yes.

23 MR. BROWN: Okay. Yes.

24 MS. WHITE: I just wanted to double-check.

25 MR. BROWN: But they did provide that

1 information to us and they are in support of the
2 project.

3 MS. WHITE: Excellent.

4 MR. HART: Thank you.

5 MR. BROWN: You're welcome.

6 MS. WHITE: The Office from the OAG just
7 recommended that we ask you to identify the specific
8 people that offered the letters of support, for the
9 record.

10 MR. BROWN: Can you give me a minute?

11 MS. WHITE: That were adjacent property
12 owners.

13 MR. BROWN: I don't have those copies with me.

14 MS. WHITE: Just to make sure we're not
15 missing anything here.

16 MR. BROWN: Right. Let me see if I can get
17 it.

18 [Pause.]

19 MR. HART: And, Mr. Eko, are you -- can you
20 tell us what letters?

21 MR. EKO: I have eight letters directly from
22 the board. There is a property, 505, that's -- no,
23 503. It's 501, 505. 505 and 507 are the same
24 property. They are the same HOV. So, I sent out a
25 letter to -- I met personally, I went to the building,

1 I met one of the owner in the building, and I received
2 two letters of support from that particular property.

3 MR. HART: And are they in the -- did you
4 submit that to us?

5 MR. EKO: Yes. They are --

6 MR. HART: Because I have --

7 MR. EKO: I have a total of eight submitted to
8 the Board. I have copies here if you want.

9 [Pause.]

10 MS. WHITE: I see -- you say 505 O Street
11 Northwest. And then there is 1408 5th Street.

12 MR. EKO: Okay.

13 MS. WHITE: And then there is 1405 6th Street.

14 MR. EKO: Okay.

15 MS. WHITE: 1412 5th Street.

16 MR. EKO: Okay.

17 MS. WHITE: That was a part of one exhibit.

18 MR. EKO: Yeah. And there are two separate
19 exhibits. One with one, one that was submitted.

20 MS. WHITE: The first list I read from was
21 Exhibit 819.

22 MR. HART: Yeah, Exhibit 39 has 507.

23 MR. EKO: And there is another exhibit that
24 has two.

25 MS. WHITE: 507 O Street is Exhibit 39.

1 MR. HART: Yeah.

2 MS. WHITE: Is that the adjacent property, do
3 you know, or?

4 MR. EKO: Yeah, 507 and 505 are the adjacent
5 property. They are the same homeowner's association.
6 So there is no 503.

7 MS. GLAZER: Mr. Chair.

8 MR. HART: Yes.

9 MS. GLAZER: Perhaps it would be simpler if
10 the ANC were asked if they are satisfied that the
11 adjacent property owners had submitted letters.

12 MR. BROWN: Based on what we had received,
13 yes. Both myself and Alex Padro, the Chair, 6E,
14 basically reviewed them and we felt that it was
15 adequate support.

16 MS. GLAZER: Okay.

17 MR. BROWN: It's a very limited block. It's a
18 short block.

19 MS. GLAZER: There is an address listed at
20 1402 5th Street.

21 MR. BROWN: Uh-huh. There is.

22 MR. EKO: Yeah, 1402 5th Street, I went there,
23 sent a letter, but during the foundation stage, I have
24 to get this permit with very very supportive. And I
25 went to the building to see it was in the air, because

1 I went to all practically, maybe 40 percent of the
2 building there because almost 20 percent or 25 percent
3 of the property in that area is owned by the church.
4 I forgot the name of the church that owns most of the
5 -- I think it's all -- was the name of the church that
6 owns most of the property. There is one particular
7 church that owns most of the property in that part,
8 within the 200 feet.

9 So I sent a letter. I talked to the director,
10 one of the directors there. He has no objection, and
11 I ask him to write me. He say, no we don't have any
12 objection to it. So they accounted for 20 percent of
13 all the property within that 200 radius.

14 So I went in, I met with most of the property
15 owner. 1401 across, I met with the two owners. I met
16 with 1403, that is on 5th Street. I met with 1402
17 before. We talked on the phone about what I was doing
18 there. And also met with 1404, which they provided me
19 with letter. I met with 1404, I got their letter.
20 1408, I got their letter. 1412, I got letter from
21 them.

22 So I have letters from there, but I met with
23 all the adjacent property owners.

24 MS. WHITE: I'm satisfied, since the
25 stipulation was something that ANC required and that

1 you're satisfied with it.

2 MR. BROWN: Right. Right.

3 MS. WHITE: That would probably mean that I
4 would be satisfied that the adjacent property owners
5 have been -- have consented to the project.

6 MR. BROWN: Yes. I can just give you a quick
7 list. 505 O Street, 1408 5th Street, 1405 5th Street,
8 1412 5th Street, 1406 5th Street, 403 5th Street, 507
9 O Street. Those were the letters that we received.

10 MR. EKO: And subsequent to that we receive
11 additional letters. So, you know, subsequent by
12 submission I receive additional letter from --

13 MR. HART: Okay. Thank you.

14 MR. BROWN: You're welcome.

15 MR. HART: Right now, if there are no other
16 questions for these folks, I think we should -- I'll
17 ask to see if there is anybody in support of the
18 application to step forward.

19 [No audible response.]

20 MR. HART: Anybody in opposition?

21 [No audible response.]

22 MR. HART: Seeing no one. We've heard from
23 the ANC already, and I think the one thing that I
24 would like to have still, is the letter of
25 authorization, just to kind put a -- to close this

1 completely out, to close the case completely out in
2 terms of the information that we should be receiving
3 on the case. And I would, because we have now heard
4 from all of both of you, I could close the record at
5 this point with the exception of getting this piece of
6 -- this document from you. And it really just has to
7 be a letter that you can send in.

8 And if you could send that in like, soon, that
9 would be very helpful.

10 MR. EKO: I'll send tomorrow. I will have it
11 post, you know --

12 MR. HART: Yeah.

13 MR. EKO: I think it will be in tomorrow.

14 MR. HART: The problem is that right now I
15 don't want to finalize and give a final approval
16 without getting that, because I think that that's kind
17 of the end of -- it just makes it a little messy if we
18 have already approved it and then we're looking for
19 something from you. So, I don't think that we can
20 vote today on it, even though I think that from
21 hearing from the other board members we're fairly
22 supportive of this. And I understand that it is a
23 variance, which is a very high bar.

24 MR. EKO: Okay. Okay.

25 MR. HART: But I think that the information

1 that you've provided, as well as the Office of
2 Planning report has given us some confidence in
3 understanding the situation that you're dealing with.

4 So, and the support of the ANC all kind of keep to
5 that. So, right now, I think that we can set this for
6 a decision, or a meeting, which is we could do next
7 week. I know that next week, it's really pretty
8 tight. But I think that this case is fairly straight
9 forward. And really, we're just looking kind of for
10 one document, which will make this a fairly straight
11 forward case. So, we're basically putting it off,
12 putting our final decision off for a week.

13 And I appreciate you coming. You don't have
14 to come in for next weeks, but I do appreciate you
15 coming in for today.

16 And Ms. Secretary, anything else that I've
17 missed?

18 MS. ROSE: No, we'll just put it on the
19 decision meeting for September 27th at 9:30 a.m.

20 MR. HART: And so, it will be a fairly -- we
21 have all the decision cases that happened prior to the
22 -- you're in the hearing portion of our agenda, and
23 you can come at that point, or you don't have to show
24 up for that.

25 MR. BROWN: Okay.

1 MR. HART: For the decision meeting. It's
2 really just a conversation that's amongst ourselves,
3 as long as we get the letter of authorization.

4 MR. EKO: Authorization. Okay.

5 MR. HART: That would be sufficient for us.
6 Okay?

7 MR. EKO: Okay.

8 MR. HART: Yes. No, nothing. So, with that,
9 thank you very much and I think we can move to our
10 next case.

11 MR. EKO: Thank you. Thank you so much.
12 Thank you.

13 MS. ROSE: Next is Application No. 19554 of
14 Robert and Susan Burnett, pursuant to 11 DCMR Subtitle
15 10, or Subtitle X, sorry, Chapter 9, for a special
16 exception under Subtitle D, Section 5201, from the
17 side yard requirements of Subtitle D, Subsection
18 307.1, to construction a rear deck addition to an
19 existing one-family dwelling in the R-1-B Zone, at
20 premises 5186, Fulton Street Northwest, Square 1419,
21 Lot 839.

22 MR. HART: Thank you, Ms. Secretary. And
23 looks like we have our -- is anyone here to speak?
24 Can you introduce yourself, please?

25 MR. HILL: Good morning. My name is Joshua

1 Hill. I'm with Hill and Hurtt Architects.

2 MR. HART: And I guess you're going to do a
3 short presentation for us.

4 MR. HILL: Yes.

5 MR. HART: We typically, you know, we'll give
6 you 10 minutes to do the presentation. You don't have
7 to take it all. This is just kind of really for us to
8 know where we are on our agenda, and if the board
9 members have any questions, they'll pose them, maybe
10 during the presentation, or typically after. But it's
11 all your show right now.

12 MR. HILL: Okay. Great. So, yeah, I'm here
13 representing Robert and Susan Burnett of 5186 Fulton
14 Street Northwest. They live in an R-1-B Zone in a
15 semidetached single-family dwelling.

16 Okay, sorry. I wanted to make sure we're up
17 on the screen here.

18 [Pause.]

19 MR. HILL: I'm a Mac person. Sorry.

20 [Pause.]

21 MR. HILL: I think I got it. There we go.
22 PowerPoint 101. Okay.

23 So, this is their lot, located on Fulton
24 Street Northwest, dead-end street. And these are --
25 so on this side of the street are located, these

1 duplex units. They're semidetached. And they -- the
2 lot width is a 25-foot-wide width, nonconforming to
3 the 50 feet required in R-1-B. This is a structure
4 that was built prior to the 1958 zoning code. And
5 just to give you a previous, Photo 1 just shows the
6 street elevation. It's the house with the blue
7 shutters and a bit of the side yard there.

8 Here are a few shots just showing some more
9 detail of that side yard space, walking down to the
10 rear yard. This is a shot from the side yard, looking
11 back up towards the street. You can see there is a
12 significant slope across the site. It's approximate
13 20 feet from the street down to the alley.

14 And this is a shot looking from the back of
15 the house out towards the alley. And then from the
16 alley back up towards the house, and you can see the
17 significant slope. The main living area, being where
18 these four windows are, that's the main level of the
19 house.

20 The plan, the proposed construction is to add
21 a new deck at the rear with a screen porch below, and
22 then to add a small deck, which is basically a walkway
23 along the side of the house, and then stairs that go
24 down to the yard.

25 The idea is that right now the owners don't

1 have any way of accessing the rear space of the house,
2 so the yard without going through the house down
3 through the basement and out, there's no direct
4 connection from that main level to outdoor -- to
5 private outdoor space in the rear.

6 The request that we're seeking relief for is
7 that one of our initial meetings with the DCRA zoning
8 office, at a PDRM meeting, Predesign Review Meeting,
9 was that there is an eight-foot required setback on
10 each side of the property, which would only leave a
11 nine-foot buildable area off the back of the house for
12 a deck.

13 What we are asking for is relief for side
14 yards on both sides of the house, the side yard on the
15 open side of the house to be five feet instead of
16 eight feet. And on the attached side of the house to
17 be one and a half feet instead of eight feet. And
18 I'll talk a little bit more about that.

19 These drawings are showing the proposed plans
20 in a little more detail. You can see here, this is
21 that walkway. It comes off of their dining room
22 space, off the side of the house, connects to the
23 deck, and then has a stair down to the yard. And then
24 you can see down below, that's the screen porch.

25 We've dashed in what the -- if we were to

1 follow the eight-foot setback on each side, this would
2 be eight feet off of that property line where the
3 house is joined to the other house, and eight feet off
4 of the side yard puts the proposed structure within
5 that side yard, three feet as we discussed.

6 Part of the issue here is they can't connect
7 from the house directly out to the deck, because
8 that's where their kitchen is right now. So they'd
9 have to actually destroy or move their kitchen in
10 order to get directly out to the deck.

11 In terms of the review standards, you know,
12 the thought here is that this is a design that would
13 allow the owners to access their rear yard space from
14 their main living floor. It does not infringe on the
15 rights of others to do the same, and you know, in a
16 few ways is that many people on the block have already
17 done that. We'll show a little bit about that.

18 I'm sorry, I skipped over the elevations, just
19 to show you the side elevation. That's that walkway.
20 The stair down to the yard, the deck, and the screen
21 porch off the back of the house. And this is a view
22 of the back of the house showing the deck with the
23 screen porch below, and the stair.

24 Many others on the street, they're marked with
25 the arrows here, have similar infringements among the

1 -- into the side yard, be it with decks or other
2 items. You can see here, this is 5120. I'll try not
3 to dwell on these too much, but just to give you a
4 sense of, this is a common thing that happens in this
5 neighborhood that because of the narrow lot, people
6 need either access to the deck, or just the required
7 space to have a usable deck space.

8 And you know, not unlike those other
9 precedence, the actual deck edge that you can see here
10 with my pointer, is about 48 feet back from the
11 property line. So it's significantly far away from
12 the street, so it doesn't impact on the scale of what
13 you see from the street, or the feeling of the
14 neighborhood.

15 MR. HART: Can you just go back? Yeah. Are
16 those approximately the same distance back, the
17 examples you're giving?

18 MR. HILL: Yeah, I would say approximate, yes.
19 Like, you know, this one is probably the most
20 accurate because it does overlap the house, whereas it
21 looks like this one is at the very edge of the house.

22 MR. HART: I'm thinking just the distance from
23 the front, from the street, because you see you --
24 these are set pretty far back from the street.

25 MR. HILL: Correct, yes.

1 MR. HART: Okay. Okay, thank you, Mr. Chair.

2 MR. HILL: The other things to note about this
3 is that you know, this side yard piece, the ideas that
4 it's really just big enough to be a walkway, and that
5 we, you know, it's not a space that will be occupied.
6 So, it won't be like, you know, they'll have -- they
7 won't be out there disturbing their neighbors on that
8 side yard. It will really be just doing what really
9 that side yard is used for now, which is a walkway
10 from the front of the house to the rear yard of the
11 house.

12 In terms of the space, the idea too is that
13 this side piece is to be light and open so it's not
14 going to be a heavy bulky addition that's on the side
15 of the house, and it really just will be a walkway
16 that they can connect to the back of the house.

17 We've also discussed with the neighbors
18 putting some plantings and a low fence in between the
19 side yards as part of this project, and some
20 plantings, which will just help to soften the look of
21 the new structure.

22 In terms of the rear yard deck, the idea too
23 is that it conforms with many other, the precedence in
24 the street to have, on this side of the block, to have
25 a rear deck. Right now there's a seven-foot fence on

1 the side where the house is joined to the other side.
2 The floor of the deck is about 10, 10 feet above
3 that. So, you know, the thought is that the, sort of
4 the bulk of the mass -- and it's also pulled away from
5 the property line by a foot and a half so that the
6 bulk of the mass is not -- it's kind of looming over
7 the, over the side, with an intent to not, not block a
8 lot of light.

9 Screening devices will also be used on the
10 sides of the structure in order to help with privacy,
11 but since it is a screen it will still let light
12 through. That's the idea.

13 And also through discussions with the
14 neighbors, we've decided to do more indirect lighting,
15 just so lighting and brightness did not become an
16 issue as well.

17 MR. HART: Mr. Hill.

18 MR. HILL: Yes.

19 MR. HART: In this elevation there are some
20 horizontal members, and I'm assuming that they are not
21 actually connected to each other, but they are just
22 kind of they're vertical and then the horizontal
23 member is set to be kind of a screen. There is no --
24 there's not like a canopy that you're putting on over
25 top of this. This is kind of open to the air?

1 MR. HILL: That's correct. There is no
2 proposed canopy on top. That's correct. And the idea
3 here is where we're showing these open spaces, through
4 discussions with the neighbors we've decided to screen
5 off that area, just to give a little more privacy.

6 MR. HART: And so that's going to be some sort
7 of lattice or something?

8 MR. HILL: Yeah, it will be a lattice or a
9 wood-slatted screen.

10 MR. HART: Okay. Thank you.

11 MR. HILL: The other thing that we just wanted
12 to note is that, you know, the hope is that the look
13 of the structure from the alley is pleasing, and also
14 it fits in with the scale and style of what's seen in
15 the neighborhood, and also the house in and of itself.
16 So it would be just a, you know, a simple basic
17 structure that really the bulk of which is lower to
18 the ground. But also, it's not a sort of large
19 looming offensive structure.

20 We did meet with the adjacent neighbors on
21 July 17th, who have both offered letters of full
22 support. And we worked through a lot of the issues
23 concerning the lighting, concerning privacy, screening
24 and plantings. And that was one of the -- in the
25 approval from the ANC, that was one of their

1 conditions that, that was their only condition that we
2 ask that -- they asked us that we meet with those
3 neighbors. Even though they were in support, we
4 wanted to work out sort of those fine details with
5 them.

6 We also received a letter from DDOT stating
7 that they had no objections to the project as well.

8 MR. HART: And, Mr. Hill, one of the things
9 that you -- you just said that you met on July 17th,
10 and that you worked through a lot of, or did you work
11 through all of the issues? Are there any outstanding
12 issues that they're still looking for?

13 MR. HILL: Thank you for the clarification.
14 There are no outstanding issues. We worked through
15 all the issues.

16 MR. HART: Thank you.

17 [Pause.]

18 MR. HART: I didn't realize you were finished.
19 Okay, does the Board have any questions for the
20 applicant at this point?

21 And, Mr. Hill, you did -- I appreciate you
22 submitting the letter that discusses the, I don't know
23 what you want to call them, the agreements that you
24 had with the neighbors, and those are -- this is
25 Exhibit No. 37. Those are -- they weren't outlined in

1 the ANC letter, but the ANC letter references, you
2 know, meeting with the applicant -- the adjacent
3 owners before coming to us and are you looking at
4 these as being conditions for approval, because I just
5 want to make sure I get the -- I understand them
6 correctly, because I think you've done just about all
7 of these, but I just want to make sure that -- I want
8 to understand what you see about these.

9 MR. HILL: Well, I mean, I mean, our thought
10 was that you know, we want to make sure that the
11 adjacent neighbors are happy and are supportive of the
12 project. I mean, the reality is they were supportive
13 of it, you know, before we worked through the details,
14 but the Burnetts are very much of you know, they like
15 their neighbors and then they want it to be -- you
16 know, they want it to be a pleasant place for everyone
17 to live.

18 So in terms of whether they're conditions or
19 not, I mean, I mean I guess my thought was that that's
20 something that the board would decide, but I mean,
21 they're going to do these things either way.

22 MR. HART: I was just wondering if you were
23 offering them as conditions. That's what I was trying
24 to gauge. That's all.

25 MR. HILL: Okay.

1 MR. HART: Thank you. And no other questions,
2 I'll move to the Office of Planning.

3 MS. ELLIOT: Good morning, Mr. Chair, members
4 of the Board. I am Brandice Elliot representing the
5 Office of Planning. And I think that I have to
6 provide a little bit of clarification at this point.

7 So when OP wrote the report it was really
8 focused on the side yard along the southern property
9 line. There's no mention of the -- what Mr. Hill
10 referred to as a side yard along the north property
11 line, and I'll get into that, the details about that
12 in just a second. But clearly, we had no concerns
13 regarding the side yard relief along the southern
14 property line. We continue to be supportive of that
15 relief for reasons noted in the report, and also by
16 Mr. Hill.

17 Oh, we think that he and the homeowners have
18 done an excellent job of reaching out to the adjacent
19 neighbors, and we appreciate the work that we've done
20 in that regard.

21 Now, in regard to the northern property line,
22 we were only made aware of the discussion with DCRA
23 this morning. Apparently, where during those initial
24 conversations DCRA identified that space between the
25 addition and the northern property line as a side

1 yard. And in our review from OP, we actually
2 considered that a court. And so, there was no mention
3 of that in our report because we didn't realize that
4 that was actually part of the request.

5 We believe it's a court because it doesn't go
6 through the entire lot. The house itself is attached
7 to the neighboring house, and then there's just a one-
8 foot gap for the southern -- I'm sorry, for the, along
9 the eastern portion of the house that continues
10 through to the proposed addition. So, it's just that
11 one-foot gap. And because it doesn't go through from
12 front to rear, we considered it a court.

13 Now, that being said, we are sensitive to
14 DCRA's interpretations and they do have the final say
15 on what that has considered. If it is a court, relief
16 would not be needed. This is a single-family
17 dwelling. There are no minimum dimensional
18 requirements for courts.

19 However, the applicant has indicated that he
20 would, out of an abundance of caution like to continue
21 considering that a side yard and would like the relief
22 granted for that. And certainly OP has no concerns
23 with the one-foot side yard, if that's what is
24 considered, along the northern property line. And we
25 would be supportive of that as part of this special

1 exception request.

2 But I'm happy to answer any questions you
3 have. I hope that I didn't overcomplicate a simple
4 issue.

5 MR. HART: No, I appreciate the clarification
6 and that is very helpful. I do want to make sure that
7 from our OAG, to understand, they're asking for a
8 special exception for a side yard. Does it matter
9 that there are one or two of them?

10 MS. GLAZER: Well, I think it does matter
11 because the Board is going to grant relief to either
12 one or two of the side yards, and my suggestion would
13 be that since DCRA -- unless the Board feels strongly
14 that it agrees with the interpretation of OP and not
15 DCRA, it would be helpful to the applicant certainly,
16 to have relief for the two side yards. And since DCRA
17 will be reviewing it and issuing the permit, it would
18 be more practical.

19 But if the Board doesn't agree with DCRA and
20 wants to take a stand, of course, it can.

21 MR. HART: No, I appreciate that. And I was
22 also trying to understand, in the application that was
23 read by the secretary, we don't actually talk about
24 the side yard relief in specificity. And so, do we
25 need to then specify that it is two side yards versus

1 one? That's what I was trying to get to.

2 MS. GLAZER: Yeah, I think the applicant would
3 have to request that the application be amended
4 officially to include that northern side yard and any
5 granting of the relief would have to specifically
6 include that.

7 MR. HART: And I'd like to know if the --
8 you've just heard all of this discussion, Mr. Hill.
9 Do you understand and are you in agreement with what
10 our Attorney General -- Office of the Attorney General
11 just stated, and I guess now OP is supportive of as
12 well?

13 MR. HILL: Yes, I understand that and I am in
14 agreement.

15 MR. HART: And is that sufficient for us to --

16 MS. GLAZER: Well, the Board would just have
17 to state that the application has been amended per
18 request of the applicant by consensus.

19 MR. HART: Okay. Okay. Thank you for all of
20 that. Didn't mean to make that more complicated, but
21 I wanted to make sure that we were understanding and
22 getting -- drilling down to the actual relief that was
23 being sought so that we were all clear on what that
24 was.

25 I think I could support both of the side yard

1 relief that's being proposed, and not that I disagree
2 with OP, I understand it and I appreciate your
3 perspective on this. I do also understand that DCRA
4 are the ones that are actually -- they are the ones
5 that are approving the permit for this at some point.
6 And if they've given you some indication that they're
7 looking at this as two side yards, I think that would
8 be helpful or us if we were to approve this, that we
9 could be able to talk about all of the relief that's
10 being requested at this time so you don't have to come
11 back to us at some point for this.

12 So, I understand it. I appreciate your
13 willingness to be a little flexible here in bringing
14 this up and so that we can discuss it more fully.

15 So, at this point, I'd like to see if the ANC
16 is here. I don't see them coming, so that's fine.

17 Are there anyone -- is there anyone here in
18 support of the application? Anyone wishing to speak
19 in opposition to the application? There's not that
20 many people here, so I just wanted to make sure that
21 they had their opportunity to come forward.

22 So no one is coming forward now. Let's see.
23 Now, ask the Board if they have any other questions,
24 any other clarification for either OP or for the
25 applicant.

1 MS. WHITE: No, I'm fine, Mr. Chair. I agree
2 that we should amend the application to include the
3 two side yards.

4 MR. HART: Okay. Okay. Now I think we can
5 close the record for this case and I'll bring it back
6 to the Board for deliberation.

7 Any thoughts from the other board members?

8 MR. SHAPIRO: No, sir.

9 MR. HART: Okay. So, with that, I would like
10 to -- I actually thought that the Office of Planning
11 gave a -- I agreed with the Office of Planning report
12 in terms of the southern property line, and the
13 description, and your support of the northern relief
14 that was being sought. So I appreciate you bringing
15 that forward to us, and the clarification so that we
16 can fully understand this.

17 I also would be in support of this northern
18 property line relief that you're seeking. I think
19 that you've presented the case, Mr. Hill, that is --
20 that makes me understand what it is that you're -- the
21 relief that you're seeking, and would be in support of
22 the application 19554, of Robert and Susan Burnett, as
23 read by the secretary, and as amended by the applicant
24 regarding the side yard relief for both sides, the
25 north and the south side of the property, and would

1 like to have a second to that motion.

2 MS. WHITE: I have one question, Mr. Chair.

3 MR. HART: Yes.

4 MS. WHITE: With respect to the conditions, I
5 mean, this case is like a good example of how
6 neighbors work together to find -- you know, to
7 resolve issues. And it seems like, you know, it's a
8 situation where they've informed them, they've gotten
9 their feedback, they've incorporated the changes. But
10 my only question is whether or not as part of the
11 approval we need to incorporate the conditions.

12 But other than that, I'm in support.

13 MR. HART: Yeah, I don't know if Mr. Shapiro
14 has any thoughts on this.

15 MR. SHAPIRO: I was leaning toward the same.
16 My concern about have these as conditions would be,
17 what if there was some slight change from the
18 direction that they went. The neighbors are fine.
19 They're fine. It might be -- would they need to come
20 back to us if they wanted to change it from some kind
21 of lattice work to --

22 MR. HART: Yeah, they would, and that is
23 always the issue with -- not issue. But that's what
24 happens with conditions is that, as specific as we
25 make them, then they have to, if there are changes to

1 them, then they would have to come back for, you know,
2 any -- those modifications to that.

3 MR. SHAPIRO: Right. And so, you know, they
4 technically have met the ANC's requirements --

5 MR. HART: Yeah.

6 MR. SHAPIRO: -- just by having the meeting
7 and working through the resolution of the issues.

8 MR. HART: Yeah.

9 MR. SHAPIRO: And as much as I would want to
10 honor the specificity of it, I think it might work
11 against both the applicant and the neighbors to do
12 that.

13 MR. HART: Yeah, and I understand that. I'm
14 glad you brought them up, Ms. White, that's very
15 helpful. I was --

16 MS. WHITE: Didn't mean to complicate things,
17 though.

18 MR. HART: No, no, no, it's fine. It's
19 helpful to -- that's why I wanted you guys to weigh in
20 on it.

21 So I also think that the -- many times the
22 conditions are things that we know that are kind of
23 going to be happening in the future that they have not
24 actually -- they're agreeing to them, but they still
25 haven't actually done them, but I think you've

1 actually designed the -- just about all of these, I
2 think all of these into what you've presented to us.
3 So I'd be comfortable in not actually having the
4 conditions, to give you all some flexibility in making
5 changes to that. And in light of the ANC report,
6 which actually doesn't specify these, just that you
7 meet with the applicants to kind of address or come up
8 with some of the discussion about some things that
9 need to be addressed in the future.

10 MS. WHITE: So, Mr. Chair, I would be in
11 support of approving it without the conditions,
12 primarily because this is, again, an example of
13 neighbors working together, and it doesn't appear to
14 be you know, a lot of drama going in terms of
15 disagreements with the proposed changes.

16 MR. HART: Okay.

17 MS. WHITE: So that's my comment with respect
18 to the condition.

19 MR. HART: I appreciate it. Yes, sir?

20 MR. SHAPIRO: I think you're looking for a
21 second, so I would second that.

22 MR. HART: Yes. A long-time second. Yes.
23 Thank you, Mr. Shapiro, for seconding.

24 [Vote taken.]

25 MR. HART: The motion carries. Sorry, I

1 shouldn't say that. That's the secretary's job to do
2 that.

3 MS. ROSE: No, that's fine. Staff would
4 record the vote as three, to zero, to two, with the
5 motion by Mr. Hart seconded by Mr. Shapiro to approve
6 the application as amended, with Ms. White in support
7 of the motion.

8 MR. HART: Summary order?

9 MS. ROSE: Thank you.

10 MR. HART: Okay, I'm sorry. Thank you, Mr.
11 Hill. I think we're finished with your case.

12 MR. HILL: Great. Thank you very much. Thank
13 you for your time.

14 MR. HART: Thank you. We're going to take a
15 three-minute break.

16 [Off the record from 10:40 a.m. to 10:46 a.m.]

17 MR. HART: Ms. Secretary, the next case?

18 MS. ROSE: Next is Application No. 19562 of
19 Clayton and Stuart Hall, pursuant to 11 DCMR Subtitle
20 X, Chapter 9, for a special exception under Subtitle
21 E, Section 5201, from the rear yard requirements of
22 Subtitle E, Subsection 205.4, to construct a two-story
23 rear addition to an existing one-family dwelling in
24 the RF-1 Zone at premises 1362, East Capitol Street
25 Northeast, Square 1035, Lot 81.

1 MR. HART: Okay. Ms. Fowler, good to see you
2 this morning.

3 MS. FOWLER: Good morning. Before we get
4 started --

5 MR. HART: Yes.

6 MS. FOWLER: -- the applicant needs to be
7 sworn in.

8 MR. HART: Sworn in? Okay. And if anyone
9 else is here, not that there are that many people
10 here, that need to be sworn in, you can stand up at
11 this time and the secretary will swear you in.

12 MS. ROSE: Please raise your right hand.

13 [Oath administered to the participants.]

14 MS. ROSE: You may be seated.

15 MR. HART: Thank you. And if you could
16 introduce yourselves, please?

17 MR. HALL: I'm the applicant, Clayton Hall,
18 here representing our family as we pursue this relief
19 for a modest home addition at the rear of our home at
20 1362 East Capitol.

21 MR. HART: Thank you.

22 MS. FOWLER: And I'm Jennifer Fowler, I'm the
23 architect and agent on the case. Thank you.

24 MR. HART: And Ms. Fowler, I'm assuming you're
25 going to be presenting this morning?

1 MS. FOWLER: Yes.

2 MR. HART: Okay. And if you -- I'll give you
3 like 10 minutes. You may not need that much, but --

4 MS. FOWLER: Okay.

5 MR. HART: -- just so we know where we are.

6 MS. FOWLER: Sure. It's a pretty straight-
7 forward case. This is a request for a rear addition,
8 it's a two-story rear addition. It's already been
9 approved by the Historic Board, so we're just looking
10 for the zoning relief in order to build more than 10
11 feet past the rear of the adjacent property.

12 We are only going back six-foot-two beyond
13 1360 East Capitol, which is the house immediately to
14 the west, but it's the property to the east that we
15 are extending further than the allowed distance.

16 We're extending 10 feet beyond the existing
17 covered porch at that property. But the Office of
18 Planning is looking -- or sorry, DCRA looks at
19 actually condition space, so we're going 16-feet eight
20 and a quarter past the back of the building condition
21 space, but maintaining the 10 feet from the porch.

22 We do have relief, or we do have support from
23 both adjacent neighbors. We have support from the ANC
24 and the CHRS, so I feel like it's been pretty well
25 vetted and accepted among the neighborhood, and that's

1 really -- otherwise, I think I'll rest on the record.

2 I think the record is pretty full, so.

3 MR. HART: That was quicker than I thought.

4 MS. FOWLER: Okay. Thank you.

5 MR. HART: And okay, with that, does the Board
6 have any questions of Ms. Fowler?

7 MS. WHITE: No, I think I'm clear too. There
8 was one letter of opposition, I think, in the record,
9 but I think the opposition was based upon height, but
10 that's really already allowed under the zoning regs.
11 Was that the same thing?

12 MR. HART: I don't think this was -- there
13 were several cases that we were viewing and I think
14 this may have been --

15 MS. WHITE: It was really your other --

16 MR. HART: -- a later case that --

17 MS. WHITE: Cases. Okay.

18 MR. HART: But I think this one was -- we've
19 had only letters of support.

20 MS. WHITE: Only support.

21 MS. FOWLER: Yeah, I'm not aware of any
22 opposition on this case.

23 MS. WHITE: I stand corrected.

24 MS. FOWLER: Okay.

25 MS. WHITE: Yeah. Thank you.

1 MS. FOWLER: No problem.

2 MR. HART: Yeah, it gets a little --

3 MS. FOWLER: Trying to give me a heart attack.

4 [Laughter.]

5 MS. WHITE: Don't want to do that.

6 MR. HART: So, I guess that's the one question
7 that you had, so it seems like it was covered pretty
8 quickly. And now we have the report from the Office
9 of Planning.

10 MR. JESICK: Thank you, Mr. Chairman and
11 members of the Board. My name is Matt Jesick.

12 The Office of Planning is happy to rest on the
13 record in support of the application, and I'd be happy
14 to take any questions. Thank you.

15 MR. HART: Does the Board have any questions
16 for Mr. Jesick?

17 MS. WHITE: I'm good.

18 MR. HART: Okay. Thank you. Let's see if we
19 have the -- anybody from the ANC present? No?

20 Anyone in opposition to the application?
21 Anyone in support of the application?

22 [No audible response.]

23 MR. HART: Okay, back to the applicant. Do
24 you have any other comments that you'd like to provide
25 to us?

1 MS. FOWLER: Nothing else to add. Thank you.

2 MR. HART: And I actually didn't ask you if
3 you had any questions of the Office of Planning
4 either. I apologize.

5 MS. FOWLER: And I don't. I don't, thank you.

6 MR. HART: Thank you. Okay. So, with that I
7 will close the record. I don't think we have any
8 other documents. The information that you provided
9 was very -- was appreciated, and seeing that we've
10 received the letter from the ANC in support, the
11 letter actually from the Capitol Hill Restoration
12 Society in support, the neighborhood neighbors'
13 letters that were in support, as well as the Office of
14 Planning report that recommended approval, I think I
15 can support the application as well. And reading
16 through the record and all the documents that you
17 provided, I don't see a reason not to approve this
18 case.

19 I don't know if my fellow board members have
20 any comments to make at this time?

21 MS. WHITE: My only comment is I'd like to
22 redeem myself in my previous comment, but yeah, no.
23 Just looking at the record, I'm perfectly comfortable
24 with the relief requested for the rear addition under
25 Section E, Subtitle 205.4. You've got adequate

1 support from OP, ANC 6A, as well as no objections from
2 DDOT. So, if you're making a motion I would second
3 that.

4 MR. HART: Well, you've preempted my motion
5 making, evidently. So, I would make a motion to
6 approve application No. 19562 of Clayton and Stuart
7 Hall, as read by the secretary, and now as seconded.

8 MS. WHITE: Second.

9 MR. HART: Thank you.

10 MS. WHITE: Thank you.

11 [Vote taken.]

12 MR. HART: And the motion carries. Ms.
13 Secretary?

14 MS. ROSE: Staff would record the vote as
15 three, to zero, to two, with a motion by Mr. Hart,
16 seconded by Ms. White to approve the application, with
17 Mr. Shapiro in support of the motion, Mr. Hill not
18 present, not voting, and one board seat vacant.

19 MR. HART: A summary order, please?

20 MS. ROSE: Yes. Thank you.

21 MR. HART: Thank you. Thank you. And you're
22 staying here.

23 I think you can call the next case, please.

24 MS. ROSE: Next is Application No. 19563 of
25 Christopher and Courtney Backemeyer, pursuant to 11

1 DCMR Subtitle X, Chapter 9 for a special exception
2 under Subtitle E, Section 5201 from the lot occupancy
3 requirements of Subtitle E, Subsection 304.1, to
4 construct a two-story rear addition to an existing
5 one-family dwelling in the RF-1 Zone at premises 1203
6 D Street Northeast, Square 1009, Lot 104.

7 MR. HART: Thank you, Ms. Secretary.

8 We have Ms. Fowler again before us, and I'll
9 again give you 10 minutes for your presentation, even
10 though you may not need all of that.

11 MS. FOWLER: Okay.

12 MR. HART: But again, for our purposes.

13 MS. FOWLER: Okay. Thank you. This is a
14 simple lot coverage request.

15 MR. HART: And, I'm sorry, could you --

16 MS. FOWLER: Jennifer Fowler.

17 MR. HART: Thank you.

18 MS. FOWLER: I am the architect representing
19 the owners.

20 This is a very straightforward lot coverage
21 request for a dogleg and rear addition, two stories
22 plus the cellar. We're extending four feet past the
23 rear of the house. Currently there's a one-story
24 porch that we'll be removing and then building in its
25 place, the two-story addition. It will be matching

1 the house at 1205 D Street in depth, and we will be
2 filling in the court dogleg that's on the west -- the
3 west side.

4 Again, it's a two-story. We're not extending
5 above the height of the existing house, and we're
6 basically going to be lined up with the adjacent two
7 properties.

8 The property at 333 12th Street Northeast is
9 an apartment building. Well, it's actually vacant on
10 the first floor. It's a commercial space that's been
11 vacant for years. And then there's, I believe two
12 apartments on the second floor. We did get letter of
13 support from the owner of that building. We also got
14 letter of support from the tenant that has the window
15 that faces the addition, as well as the 1205 D Street
16 Northeast.

17 The building that you see across, which is --
18 sorry. I don't have the address of that, but it's on
19 12th Street Northeast. Doesn't have any windows
20 facing this property. It's just a blank brick wall.

21 MR. HART: And that's -- that would be
22 probably 321, maybe, 12th Street? Is that the one?

23 MS. FOWLER: Yeah, I think 321 12th Street.
24 Yes.

25 MR. HART: I mean, I'm guessing only because

1 it's --

2 MS. FOWLER: Yeah.

3 MR. HART: -- the next one in line.

4 MS. FOWLER: It makes sense. Yeah.

5 MR. HART: But it is -- that's the one that
6 you're talking about.

7 MS. FOWLER: Correct.

8 MR. HART: The one that's between the two, 319
9 on 12th Street and 333 12th Street.

10 MS. FOWLER: Yes.

11 MR. HART: Okay.

12 MS. FOWLER: Yeah, it's 333. And so this
13 house has -- the corner property, the residential has
14 a door on 12th Street. That's why it's the 12th
15 Street address for some reason.

16 So that's essentially the case. Again, it has
17 ANC support, neighbor support. CHRS also submitted a
18 letter of support, so I will leave it at that and let
19 me know if you have questions. Thank you.

20 MR. HART: And for this case, okay, I think
21 the CHRS was fairly recent, the letter that they
22 submitted?

23 MS. FOWLER: I believe it was yesterday.

24 MR. HART: Okay. Because I didn't --

25 MS. FOWLER: Yeah.

1 MR. HART: -- recall seeing that letter, and I
2 appreciate that, I guess that they have submitted it
3 to us.

4 Any questions for the applicant for the case?
5 [No audible response.]

6 MR. HART: Okay. Let's move to the Office of
7 Planning.

8 MR. COCHRAN: Steve Cochran, Office of
9 Planning, and we're pleased to stand on the record.

10 MR. HART: And you couldn't make that longer?
11 [Laughter.]

12 MR. HART: I'm kidding. I'm kidding. I
13 appreciate the diligence in the report. Actually, and
14 I mean, it was you know, good reading.

15 So, any questions for the Office of Planning?

16 MS. WHITE: No questions.

17 MR. HART: Okay. Back to, do you have any
18 questions for the Office of Planning?

19 MS. FOWLER: No, I don't. Thank you.

20 MR. HART: Okay. I have to ask, so. At this
21 point I'll see if anyone, if the ANC is here. Anyone
22 representing the ANC?

23 [No audible response.]

24 MR. HART: Anyone in support of the
25 application? You may come forward.

1 Anyone in opposition to the application?

2 [No audible response.]

3 MR. HART: Okay, hearing none, we're back
4 before the applicant.

5 Any final questions for the applicant in this
6 case?

7 [No audible response.]

8 MR. HART: No. Okay. So, I appreciate the
9 presentation and the information that you supplied for
10 the case. I felt that the outreach to the
11 neighborhood was very helpful. Especially in a case
12 like this where you're kind of moving back, as you
13 were. The now letter from the Capitol Hill
14 Restoration Society, and sometimes they don't approve
15 of projects that are filling in the dogleg, and they
16 actually are in support of this application, which is
17 very helpful to see.

18 The Office of Planning report, which is
19 recommending approval, and just again, reviewing the
20 documents would lead me into the position of being
21 able to support this application as well. And I don't
22 know if any of my fellow board members have any
23 comments. If they don't, I'd make a recommendation --
24 excuse me, a motion to approve Application 19563 of
25 Christopher and Courtney Backemeyer -- it is

1 Backemeyer -- as read by the secretary.

2 MS. WHITE: Second.

3 [Vote taken.]

4 MR. HART: The motion carries. Mrs.
5 Secretary.

6 MS. ROSE: Staff would record the vote as
7 three, to zero, to two, with a motion by Mr. Hart,
8 seconded by Ms. White to approve the application, with
9 Mr. Shapiro in support of the motion, Mr. Hill not
10 present, not voting, one board seat vacant.

11 MR. HART: And a summary order?

12 MS. ROSE: Yes.

13 MR. HART: Thank you. And the next case?

14 MS. ROSE: The next case is Application 19565
15 of Ross and Sarah Kyle, pursuant to 11 DCMR Subtitle
16 X, Chapter 9, for special exceptions under Subtitle E,
17 Section 5201, from the rear yard requirements of
18 Subtitle E, Subsection 205.4, and under Subtitle E,
19 Subsection 5203.3, from the upper floor addition
20 requirements of Subtitle E, Section 206, to construct
21 a rear and third-story addition to an existing two-
22 story one-family dwelling in the RF-1 Zone at premises
23 237 Warren Street Northeast, Square 1033, Lot 847.

24 MR. HART: Thank you very much. And if the
25 applicant and Ms. Fowler, if you could introduce

1 yourselves?

2 MR. KYLE: Sure. Good morning. Ross Kyle. I
3 am the homeowner and applicant here on behalf of my
4 wife and our three children, seeking relief to
5 renovate our home so that we can continue to grow our
6 family in the home that we've bought 11 years ago.

7 MR. HART: Thank you.

8 MS. SCHELLIN: Excuse me, Mr. -- do you have
9 letters of authorization from the three children?

10 [Laughter.]

11 MR. KYLE: I've got some scribbles. That's
12 about all they are.

13 MS. FOWLER: And Jennifer Fowler, I'm the
14 architect.

15 MR. HART: Thank you. Thank you, Mr. Shapiro,
16 for that levity. And I didn't see the letters of
17 authorization either. Kidding.

18 So, let's, Ms. Fowler, if you -- we'll give
19 you 10 minutes to present the case and if the board
20 members have any questions during that time, they'll
21 ask them.

22 MS. FOWLER: Okay. Thank you.

23 MR. HART: Thanks.

24 MS. FOWLER: Okay, this is one of, I guess, my
25 second case for the rear 10-foot exception. This

1 project was actually filed for a permit back in April.
2 We had full detail drawings, started the permit
3 process, then the language was changed in the zoning
4 regulations. And unfortunately, we got snagged in
5 that change. They did include a vesting timeframe
6 that went back to, I think if you filed by March 29th,
7 you were able to remain under the -- you know, to not
8 use the 10-foot rule. However, I think we filed April
9 4th or something. So we were within a week of a
10 matter of right project on this one.

11 So my clients have been very patient, and
12 we've kind of gone through the process of getting this
13 approved, hopefully. But we did -- it was matter of
14 right. We are right at 60 percent coverage. We're
15 not asking for lot coverage relief, but we have made
16 some changes based on feedback from ANC and from --
17 and Office of Planning as well.

18 So we started out with, it's a third-floor
19 addition with a rear extension as well. We were
20 building to the matter-of-right height of 35 feet in
21 the original submission, and the permit plans that are
22 filed. After kind of hearing feedback we've decided
23 to drop the height of the roof by four feet. We
24 essentially had had like an attic space for mechanical
25 and storage, but we've dropped that completely, so now

1 the proposal is 31 feet. So we're well below the
2 maximum height on this property. We also pulled the
3 third-floor back by four feet, just to soften the rear
4 wall and kind of mitigate the impact on the adjacent
5 neighbors.

6 We looked at that as an option. We also
7 looked at kind of reducing the entire rear addition,
8 and it seemed like the third-floor reduction was kind
9 of the most impactful in terms of reducing shadows.

10 So we have made those changes to the proposal.
11 We did get ANC support. They actually supported the
12 original proposal at the Planning and Zoning
13 Committee, so they really didn't have any concerns
14 with us.

15 The other aspect of the project, we're asking
16 relief for is the removal of the front mansard roof.
17 And if you look at the pictures, it's really not a
18 decorative roof. It's got shingles. There's no kind
19 of distinct features to it. It's just a kind of a
20 deep pitched roof, basically. But unfortunately, the
21 zoning -- or the Office of DCRA considers that an
22 architectural feature, even though it's really,
23 there's nothing kind of interesting about it, or
24 unique. So, basically we looked at options of
25 extending it in a way that would not require relief,

1 and there wasn't anything that was going to be
2 aesthetically pleasing. We decided it would be better
3 to go ahead and remove it. What we're proposing is to
4 build up the brick front wall to match the adjacent
5 property. So there's a -- these houses were built at
6 the same time, in the 50s, I believe.

7 MR. KYLE: 1940s.

8 MS. FOWLER: Forties. And a couple of them
9 have kind of a brick parapet wall, and no mansard.
10 So, what we're doing is we're going to match the
11 parapet wall of the adjacent property with, there's a
12 little concrete inset detail, and then have a -- put a
13 new mansard on top of that. So, that's the relief
14 we're asking for, as far as the front of the house.

15 MR. HART: And in the images on Exhibit, what
16 is this, 6, I think, which were the color photographs
17 that you --

18 MS. FOWLER: Uh-huh.

19 MR. HART: There are several houses that are
20 kind of -- that extend in front of, and those are one
21 house removed from this house.

22 MS. FOWLER: Yeah, yeah, that's correct.
23 They're houses that are built up to the property line.

24 MR. HART: Okay.

25 MS. FOWLER: That are -- well, they're not

1 actually all the way to the property line. They are
2 still set back up to 241. And then you have 239.

3 MR. HART: Which exhibit are you looking at?

4 MS. FOWLER: I'm looking at C3 on the
5 architectural plans.

6 MR. HART: Okay. And this is the revised
7 architectural plans?

8 MS. FOWLER: It should be the same on either
9 one, so if --

10 MR. HART: Okay. I don't know. Well, there's
11 a -- revised architectural plans are at 39. But I
12 think that the -- I'm not sure if they have all of the
13 drawings in them.

14 MS. FOWLER: Yeah, because the site plan
15 didn't get revised, so --

16 MR. HART: Okay.

17 MS. FOWLER: -- that's in the original --

18 MR. HART: So, it would be Exhibit No. 7,
19 then.

20 MS. FOWLER: Yeah, thank you. So, you can see
21 that there's 231, 33, 35, 37 and 39 Warren in, are all
22 setback.

23 MR. HART: Yeah.

24 MS. FOWLER: A distance from the front
25 property line.

1 MR. HART: It's taking me a minute for this to
2 come up.

3 MS. FOWLER: Okay. No problem.

4 MR. HART: No, it's a slow --

5 MS. FOWLER: Yeah.

6 MR. HART: It doesn't like the document,
7 evidently.

8 MS. FOWLER: I'll have to project it next
9 time, like the first case.

10 MR. HART: It's okay. Mine just came up, so.

11 MS. FOWLER: Yeah.

12 MR. HART: Okay. So, okay, I see what you're
13 saying now. So it's 241, 243, and 245, which are to
14 the north, I guess, or set up. Or, they're set in
15 front, but they're not --

16 MS. FOWLER: Yes.

17 MR. HART: -- all the way to the property
18 line.

19 MS. FOWLER: And those appear to be older
20 houses.

21 MR. HART: Yeah.

22 MS. FOWLER: They were built first, and then
23 these were kind of in-fill houses at some point, in
24 the 40s.

25 MR. HART: Okay. So it's -- that's the house

1 and that's what I was trying to look at.

2 And so, when you're building -- when you were
3 -- I'm looking for the actual drawing. So, the color
4 photographs also show the building that's to the
5 north, directly adjacent to the north --

6 MS. FOWLER: Uh-huh.

7 MR. HART: That doesn't have a mansard roof.

8 MS. FOWLER: No.

9 MR. HART: Is that a flat roof?

10 MS. FOWLER: So it has -- correct. There's a
11 front parapet wall, basically that goes up the same
12 height as the mansard.

13 MR. HART: Okay.

14 MS. FOWLER: Of 237. And we're trying to
15 replicate that. So, if you look at the house at 239,
16 which is to the left, if you're looking at the
17 photographs of the house.

18 MR. HART: Okay.

19 MS. FOWLER: We're going to match that parapet
20 line, and then build the mansard on top of that.

21 [Discussion off the record.]

22 MS. FOWLER: And you can see there's a --

23 [Discussion off the record.]

24 MS. FOWLER: There's a couple of concrete
25 inset details in that parapet wall that we're going to

1 replicate.

2 [Discussion off the record.]

3 MR. HART: Okay. And then the building to the
4 south, they have a mansard as well?

5 MS. FOWLER: They do. Yeah.

6 MR. HART: Okay. And so a couple houses --

7 MS. FOWLER: Yeah.

8 MR. HART: What I'm trying to get is just
9 context as to what this is, you know, what this looks
10 like as you're kind of going down this street. That's
11 why I'm asking all these questions.

12 MS. FOWLER: If you look at, there's a 3D
13 model in the record. I'm sorry, I don't have the
14 exact exhibit number, but it's toward the end of the
15 log. We have some street views that would probably be
16 the most helpful where you can see the house relative
17 to the neighboring properties.

18 MR. HART: Is this the sun study? No?

19 MS. FOWLER: No, there's not -- it's called,
20 it's something about street views. I can pull it up.

21 [Pause.]

22 MR. HART: I'm sorry. I'm just looking for
23 it. That's all.

24 MS. FOWLER: Okay.

25 [Pause.]

1 MR. HART: Okay. So it's Exhibit 48,
2 photographs of 237 Warren Street.

3 MS. FOWLER: Yeah, I'm not sure why it says
4 photographs.

5 MR. HART: Street views.

6 MS. FOWLER: It got renamed.

7 MR. HART: I think they may have -- someone
8 may have seen it as photographs, but --

9 MS. FOWLER: Yeah.

10 MR. HART: -- they are the street views that
11 you --

12 MS. FOWLER: They're just such great 3D models
13 that they look like photographs.

14 MR. HART: Okay.

15 MS. FOWLER: So, we basically modeled the
16 houses that are all kind of similar and then, you
17 know, a couple on either end. And then just did, kind
18 of views up and down the street, just so you can get a
19 sense of the scale and the massing of the property of
20 the proposed addition.

21 MR. HART: Okay. That's very helpful to see
22 that. Didn't mean to interrupt that so much.

23 MS. FOWLER: Yeah.

24 MR. HART: But I was just trying to get a --

25 MS. FOWLER: Yeah.

1 MR. HART: -- the context.

2 MS. FOWLER: So if you look at the second page
3 of that exhibit, there's a good view where you see a
4 blue house on the right. That's the first one of that
5 row that are matching, and then you have two that have
6 the mansard, and then you have our property with a
7 proposed mansard, and then the parapet at the back.

8 And then you can see how 241 comes out beyond
9 the face of 239.

10 MR. HART: Sure. Okay.

11 MS. FOWLER: So, you can see in the record, we
12 also have a lot of support for this project. I have
13 to give the homeowners credit. They did a lot of
14 outreach, kept sending more and more letters of
15 support, that they're all in the record. So that was
16 definitely -- and the ANC was very supportive.

17 I do see that CHRS submitted a letter
18 yesterday in opposition. We didn't really have a
19 chance to review that letter or respond to it. But
20 otherwise, we had good feedback.

21 MR. HART: Yeah, it seems as though they are,
22 they're kind of looking at it as, it's somewhat out of
23 character --

24 MS. FOWLER: Uh-huh.

25 MR. HART: -- of the rest of the block in

1 terms of the height from, you know, from the
2 neighbors.

3 MS. FOWLER: Right.

4 MR. HART: And they're also looking at the
5 third-floor addition should be moved back. I guess
6 they were looking for just having it not having the
7 kind of same level of the roofline along the façade.
8 And then if you move this back, then it's not so
9 prominent along at the front of the house.

10 MS. FOWLER: Oh, from the front wall. All
11 right. I see.

12 MR. HART: Yeah.

13 MS. FOWLER: I see. I do want to state that
14 it's not in the historic district, just for the
15 record.

16 MR. HART: That's fine.

17 MS. FOWLER: Yeah.

18 MR. HART: Okay. And you can continue, I'm
19 sorry. I'm like, I feel like I've been interrupting
20 you a lot, this particular --

21 MS. FOWLER: I think that pretty much sums it
22 up. Happy to answer any questions. Thank you.

23 MR. HART: Does the Board have any other
24 questions for the applicant?

25 I think we can move to the Office of Planning.

1 MS. FOTHERGILL: Good morning. For the
2 record, I'm Anne Fothergill with the Office of
3 Planning.

4 And the Office of Planning did recommend
5 approval of the two special exceptions that the
6 applicant has requested. And as the applicant
7 mentioned, we did discuss with them, concerns about
8 the proposed massing. And in response, they lowered
9 the height and pulled the third-story in four feet,
10 which helps allow light and air to the backs of the
11 properties.

12 And we did discuss the possibility of them not
13 requesting relief for the rooftop architectural
14 element and setting the addition back. And in
15 response, the height was lowered and as Chairman Hart
16 noted, this property is set back from the street,
17 compared to the properties to the north. And so we
18 felt that that mitigated our concerns about the
19 impact. And so, we would rest on the record in
20 support of the application and are happy to take any
21 questions.

22 MR. HART: Any questions of the Office of
23 Planning? No?

24 Does the applicant have any questions of the
25 Office of Planning?

1 MS. FOWLER: No, I just wanted to thank Anne
2 for her assistance on this project. I know it was a
3 tough one and we worked a lot to kind of get it to a
4 point where everybody was comfortable. So, I wanted
5 to thank her for that.

6 MR. HART: Thank you. Okay. At this point I
7 will see if the ANC is here, representatives from the
8 ANC is here. Or are here.

9 [No audible response.]

10 MR. HART: Is anyone here in support of the
11 applicant? You can come forward.

12 Anyone in opposition to the application?

13 [No audible response.]

14 MR. HART: Okay. Have to go through it,
15 making sure there's nobody there. So, and does the
16 Board have any other questions of the applicant?

17 MS. WHITE: No, I'm fine. But this was
18 actually the case where there was that one opposition
19 letter that was raised about the height. But it
20 doesn't appear that that's really an issue with
21 respect to this case, and it appears that the
22 applicant has also made some modifications to get both
23 ANC and neighborhood support for the project. So, I
24 don't have any questions at this point.

25 MS. FOWLER: Yeah, that letter was submitted

1 before we made the revisions.

2 MS. WHITE: Right. That was --

3 MS. FOWLER: That was to the original --

4 MS. WHITE: Yeah, it was submitted on --

5 MS. FOWLER: Or it was, we were aware of it
6 before.

7 MS. WHITE: August 23rd, I believe, from a --

8 MS. FOWLER: Yeah.

9 MS. WHITE: -- Mr. Kaufman.

10 MS. FOWLER: Yeah.

11 MR. KYLE: We did just -- we did share the
12 revised plans in another letter to that neighbor.
13 We've not heard anything back, but we had hoped that
14 that would help mollify some of his concerns.

15 MS. WHITE: Okay. Very good.

16 MR. HART: The CHRS, and I know that this was
17 kind of late and it was filed fairly, very recently,
18 the letter from CHRS, which I guess is dated the 19th,
19 which is yesterday. One of the things that they did
20 bring up is that the statement, they were referring to
21 your statement, the applicant's statement about light
22 and air would not be unduly affected, is without
23 proof. So, they were saying that they didn't agree
24 with the, I guess it was the sun study, showing that
25 there is shadow, I guess, on the adjacent neighbors.

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1 And could you speak to a little bit about
2 that? I mean, I understand it's just a difference of
3 opinion, but can you talk about the sun study just so
4 that we have, from your perspective, how you see that?

5 MS. FOWLER: Sure. I'm just trying to pull it
6 up.

7 Yeah, I think we did see that there was some
8 impact, particularly to the property at 239, but --

9 MR. HART: This is Exhibit 41.

10 MS. FOWLER: Okay.

11 MR. HART: And they were looking at,
12 particularly in December, I guess.

13 MS. FOWLER: Yeah. I'm not able to pull it up
14 but I apologize.

15 MR. HART: It's like nobody, nobody can pull
16 it up except for me, evidently. Oh, you got it?
17 Okay.

18 MS. FOWLER: Yeah, I think there -- originally
19 there was definitely, there was going to be a lot more
20 impact to that property at 239, that's to the north,
21 and -- but I feel like with a reduction in the height
22 it made it kind of within acceptable range of impact.

23 And you're right, there will be some impact in the
24 winter time when the sun is low. In the summer time,
25 and spring, and fall we didn't really find there was

1 much impact at all to that property.

2 So there -- you know, there is some impact in
3 the winter time that we thought was an acceptable
4 amount based on kind of other projects that have been
5 approved by the BZA.

6 MR. HART: And can you also say whether or not
7 there were -- I recall you saying that there were
8 letters of support from the adjacent neighbors. Is
9 that true?

10 MS. FOWLER: So, we have a letter of support -
11 - you want to talk to that?

12 MR. KYLE: Sure. So, we have a letter of
13 support from the neighbors at 235.

14 MR. HART: okay.

15 MR. KYLE: 239 is a rental property. The
16 owner has never lived there in the 11 years we have.
17 It's been a number of tenants.

18 I have been in e-mail contact with him since
19 June of this year, and he has never committed one way
20 or another. He said, you know, there's a lot of
21 information here. I'll get back to you. I want to
22 talk with my wife. But there's been no -- we've asked
23 for a letter, he has not submitted one. Two of the
24 three tenants that currently live there, which the ANC
25 asked us to see if the tenants would support the

1 project, have written letters of support. So, that's
2 where we stand with 239.

3 MR. HART: And can you tell us who these --
4 which letters that we -- just the names of the --

5 MR. KYLE: It's been White and Garren. I
6 can't think of his last name off the top of my head.

7 MR. HART: Garren McHan?

8 MR. KYLE: Yes.

9 MR. HART: Yeah, that's Exhibit 42, and
10 there's a Ben Lauer.

11 MR. KYLE: Ben. Yep.

12 MR. HART: Okay. That's Exhibit 37. And you
13 said they are the tenants.

14 MR. KYLE: They are the tenants, correct.

15 MR. HART: That live in that, in 237.

16 MR. KYLE: Yes, 239.

17 MR. HART: 239, yes. I'm sorry. I just -- I
18 was reading this quickly and I didn't look at the --
19 at the very bottom it says, 239. And it does say that
20 he is a tenant that's living there.

21 But that's helpful to know and it's helpful
22 for us to kind of get that. It would be more helpful
23 to have the owner, but I understand that you've stated
24 that you've reached out to them on several months ago,
25 and if they wanted to chime in and give their opinion

1 on it, they had the opportunity to do that.

2 MR. KYLE: I think we've given them every
3 opportunity. We've shared the original plans, the
4 revised plans. I mean, I don't think we've seen the
5 owner of the property in five or six years.

6 MR. HART: Understood.

7 MS. FOWLER: And I also note, we sent them the
8 detail. They were provided the detailed permit plans
9 and they were notified through the notification
10 process, the typical DCRA process as well.

11 MR. HART: Okay.

12 MS. FOWLER: You know, because we weren't
13 aware of the zoning change when we filed for permit
14 originally.

15 MR. HART: And there was another point that I
16 wanted to just clarify. The sun study was using the
17 revised architectural plans.

18 MS. FOWLER: Correct.

19 MR. HART: It is not the original design.

20 MS. FOWLER: Correct.

21 MR. HART: I mean, which would have been more
22 impactful, I guess.

23 MS. FOWLER: Yes. Yes.

24 MR. HART: And did you do a sun study for
25 that, or you just did a sun study for this?

1 MS. FOWLER: No, we pretty much decided to
2 lower the height and reduce it --

3 MR. HART: Okay.

4 MS. FOWLER: -- prior to that.

5 MR. HART: Okay. That's it with my questions.
6 I don't know if anyone else has questions for the
7 applicant.

8 Okay. Hearing none, I will close the record
9 and is the Board ready to deliberate? Yes.

10 Okay. So, I appreciate the information that
11 you provided today for this application. I have
12 reviewed the record as well as -- which includes the
13 letters of support and the support from ANC 6C, which
14 I think was six, to zero, to zero for the case if I'm
15 not -- yeah. Actually, six to zero, yes.

16 And also, the letters in support from the
17 adjacent neighbors, understanding that the one
18 adjacent neighbor is -- they were tenants and that you
19 had actually reached out to the adjacent neighbor to
20 the north. Am I doing that right?

21 I also noted -- note that the Capitol Hill
22 Restoration Society did provide a letter. They were
23 in opposition for reasons that had to deal with -- one
24 was height, but really whether or not there was an
25 ability to push back the, or move back the front of

1 the building. In understanding that, I understand
2 where they're coming from for that. I do want to also
3 point out that I understand from your testimony and
4 also from the testimony of Ms. Fothergill, that you
5 have actually done some alterations to the building
6 after having conversations with them, and the ANC, to
7 lower the building height and to make modifications
8 that are trying to reduce the impact of the building.

9 I could be -- I would be in support of the
10 application for the reasons that are thinking that you
11 actually are meeting the requirements for the -- the
12 criteria for the relief that's being requested, and
13 would like to hear from the other board members before
14 making a motion.

15 MS. WHITE: Mr. Chairman, I'm also comfortable
16 in support of the application that you're seeking. I
17 think you've met the criteria to obtain a special
18 exception for both the rear addition and the rooftop
19 architectural element relief that you're seeking today
20 with the report from OP, with the 6-0 vote from the
21 ANC, as well as letters of support from the neighbors.

22 I did note that, you know, there was you know, one
23 opposition from a neighbor. But it appears with some
24 of the changes that you've made from an architectural
25 perspective, that it appears that there is not

1 substantial opposition at all to this particular
2 project that you're seeking.

3 I think the sun studies are really interesting
4 and it's obvious that there are some -- there is some
5 impact, you know, in the winter months. But other
6 than that, I don't see that the addition is going to
7 have a undue or a negative impact on the neighbors on
8 that block. So, I would be in support as well.

9 MR. HART: So with that, I would move to
10 approve Application No. 19565 of Ross and Kyle --
11 excuse me, Ross and Sarah Kyle, as read by the
12 secretary. Do I have a second?

13 MR. SHAPIRO: Second.

14 [Vote taken.]

15 MR. HART: The vote carries.

16 MS. ROSE: Staff would record the vote as
17 three, to zero, to two, with a motion by Mr. Hart,
18 seconded by Mr. Shapiro, to approve the application
19 with Ms. White in support of the motion, Mr. Hill not
20 present, not voting, and one board seat vacant.

21 MR. HART: A summary order.

22 MS. ROSE: Thank you.

23 MR. HART: Thank you. Next case, please?

24 MS. ROSE: Last is Application 19579 of 22
25 Bryant Street Northwest, LLC, pursuant to 11 DCMR

1 Subtitle X, Chapter 9 for a special exception under
2 Subtitle U, Subsection 320.2, to convert an existing
3 one-family dwelling into a three-unit apartment house
4 in the RF-1 Zone at premises 22 Bryant Street
5 Northwest, Square 3124, Lot 110.

6 As a preliminary matter, staff notes that on
7 August 8th, 2017, a request for postponement was filed
8 by the SMD Commissioner for ANC 5E-09. However, last
9 night we received an ANC report in support of the
10 application.

11 MR. HART: Thank you.

12 MS. ROSE: Do the participants need to be
13 sworn?

14 MR. HART: Yes. Actually, thank you. Thank
15 you for that.

16 MS. ROSE: Thank you also. Please raise your
17 right hand.

18 [Oath administered to the participants.]

19 MS. ROSE: You may be seated.

20 MR. HART: All right. And yes, there is a
21 preliminary matter, and thank you, Ms. Secretary for
22 bringing that to our attention. And I guess we do
23 have a letter from the ANC now, that had requested
24 postponement but since they were -- since there were
25 just some timing issues, it seems I don't think that

1 we need to -- I think that the request for a
2 postponement is actually moot now because we actually
3 have a record, ANC report.

4 Does the Board have any other comments on
5 that?

6 MR. SHAPIRO: Do we need to address the
7 request for postponement and act on it in some way,
8 shape, or form?

9 MR. HART: We can --

10 MR. SHAPIRO: Even if it's obvious that
11 they're in a --

12 MR. HART: I think we can -- we could do that
13 fairly quickly. And maybe it's a recommendation to
14 deny the request since we now have a report.

15 MR. SHAPIRO: Yeah. All right.

16 MR. HART: Any second?

17 MR. SHAPIRO: Second.

18 [Vote taken.]

19 MR. HART: The vote is carried.

20 MS. ROSE: Staff can record the vote as three,
21 to zero, to two to deny the motion to postpone the
22 application.

23 MR. HART: Thank you. So, I'm sorry we had to
24 get some things done before meeting with you, or
25 starting the hearing portion with you. If you could

1 provide us your name and address, starting on my
2 right?

3 MR. CHIN: Jeffrey Chin, I am the managing
4 member of 22 Bryant Street Northwest, LLC.

5 MR. PETYAK: Ryan Petyak, 3877 Architecture.

6 MS. THOROGOOD: Marie Thorogood, 3877
7 Architecture.

8 MR. HART: You said Thorogood?

9 MS. THOROGOOD: Yes.

10 MR. HART: Okay. Thanks. Mr. Chin, I'm
11 assuming you're going to be --

12 MR. CHIN: Yes.

13 MR. HART: Okay. And we'll give you 10
14 minutes to talk --

15 MR. CHIN: Great.

16 MR. HART: -- and you don't have to --

17 MR. CHIN: Sure. I don't think I'll need that
18 long.

19 MR. HART: You don't have to take all of it.
20 I know, but --

21 MR. CHIN: Sure. We are seeking a special
22 exception for converting the property at 22 Bryant
23 Street Northwest from a single-family home to a three-
24 unit apartment building. All other work done on site
25 is going to be by-right.

1 MR. HART: And is that it?

2 MR. CHIN: That is it.

3 MR. HART: Are there any questions of the
4 applicant from the Board?

5 [No audible response.]

6 MR. HART: I'll turn to the Office of Planning
7 for their report.

8 MS. MYERS: Good morning. Crystal Myers for
9 the Office of Planning. The Office of Planning stands
10 on the record of the staff report and recommends
11 approval.

12 MR. HART: Thank you, Ms. Myers. Any
13 questions for the -- from the Board for the Office of
14 Planning?

15 MR. SHAPIRO: Mr. Chair.

16 MR. HART: Yes.

17 MR. SHAPIRO: The Office of Planning
18 recommended with the conditions. Just wanted to make
19 sure that the conditions have been -- what are being
20 proposed is satisfactory and --

21 MR. HART: Thank you.

22 MS. MYERS: Yes. We had two conditions. One
23 has already been satisfied. We asked that the chimney
24 agreements be signed and be submitted into the record.
25 By the time of today's hearing, that has been done.

1 And the applicant and Office of Planning have talked
2 about the materials used for the stairwell and deck
3 and have been in agreement with that. So they
4 understand that that's what we'd like to see.

5 MR. SHAPIRO: Thank you, Mr. Chair.

6 MR. HART: Thank you for that clarification.
7 And does the applicant have any questions of the
8 Office of Planning?

9 MR. CHIN: I do not.

10 MR. HART: Okay. And just so that we, making
11 sure that we are kind of all on board with this, you
12 do approve of the conditions that the Office of
13 Planning --

14 MR. CHIN: I do approve.

15 MR. HART: Okay. I'm not saying that they're
16 going to be added to it, I just want to make sure that
17 we were all on the same page.

18 And with that, we'll move to, if there is the
19 ANC, anyone from the ANC that's -- there's nobody
20 here, so I just wanted to -- I have to check.

21 Anyone in support of the application wish to
22 speak?

23 [No audible response.]

24 MR. HART: Anyone in opposition to the
25 application?

1 [No audible response.]

2 MR. HART: Okay. Any other comments from the
3 Board for the applicant?

4 [No audible response.]

5 MR. HART: Okay. And the applicant, do you
6 have any other --

7 MR. CHIN: Yes.

8 MR. HART: -- any other --

9 MR. CHIN: I'd like to address the letter of
10 opposition that was entered into the record late last
11 night.

12 MR. HART: Okay.

13 MR. CHIN: It was a general letter of
14 opposition to development in the neighborhood. I
15 think the opposer made a comment about not wanting to
16 see people not invested in the neighborhood doing
17 development in the neighborhood. I'd just like to
18 state for the record that I live just a few blocks
19 away from this property. My wife and I have been in
20 the neighborhood for five years now and we are raising
21 our six-month-old son, who is in the back of the room
22 at the moment, in the neighborhood and we do plan on
23 staying for a very long time. Just like to state
24 that.

25 MR. HART: Well, I do appreciate that. I'll

1 also say that we -- and yes, there was an e-mail that
2 was received by the zoning staff, and that is Exhibit
3 No. 47. And they do raise some issues about kind of
4 just general development. But also there are issues
5 that are raised regarding parking and saying that it's
6 going to, of course, look to increase the parking
7 supply. Or sorry, not supply. Increase the parking
8 issues, I guess, that are going on in the
9 neighborhood, and thank you for addressing it. I do
10 appreciate that.

11 We did also receive a letter from I guess an
12 e-mail message from the Bloomingdale Civic Association
13 that actually voted to support your application. That
14 was received last night as well, and I'm trying to
15 think of if this one is -- oh, and I think that was
16 all that we had received.

17 It's helpful for us to get these -- this
18 information so that we can make an informed decision
19 on this and I appreciate the comments that you made
20 regarding the letter of concern, and it did seem like
21 it was more of a general kind of comment that somebody
22 is just not happy about some -- all of the development
23 that's happening here.

24 MR. CHIN: Right.

25 MR. HART: And this is just one of all of the

1 development.

2 Yeah, and we have a question from Commissioner
3 -- excuse me, Commissioner, Board Member White?

4 MS. WHITE: Yeah, my one question was about
5 the second sentence in the ANC report. Unless this
6 has been addressed already. They talk about the
7 applicant requests to extend the back of the property
8 by 10 feet and to provide off-street parking.

9 MR. CHIN: Yes.

10 MS. WHITE: Do you have any comments?

11 MR. CHIN: Yes. So, there is a proposed 10-
12 foot addition on to the back of the property that is
13 the maximum by-right. And we are also going to be
14 including two sets of tandem parking spaces in the
15 rear of the property. So, four total parking spaces.

16 MS. WHITE: Uh-huh.

17 MR. CHIN: To help alleviate some of the
18 parking concerns for the neighbors.

19 MS. WHITE: Uh-huh.

20 MR. SHAPIRO: You say these will be stacked
21 parking?

22 MR. CHIN: Correct.

23 MR. SHAPIRO: And what do they back into?

24 MR. CHIN: Oh, the alley. The alley in the
25 rear of the property.

1 MR. SHAPIRO: Okay.

2 MR. CHIN: Yeah.

3 MR. SHAPIRO: That can be a messy way,
4 depending because you're --

5 MR. CHIN: Well, they will be sold --

6 MR. SHAPIRO: -- basically requiring people to
7 be backing --

8 MR. CHIN: They will be sold together --

9 MR. SHAPIRO: -- out all the time.

10 MR. CHIN: -- together, with the units.

11 MR. SHAPIRO: Okay.

12 MR. CHIN: So, each unit will have -- two of
13 the three units will have a set of tandem parking
14 spaces.

15 MR. SHAPIRO: Okay.

16 MR. HART: So they're going to be --

17 MR. CHIN: Correct.

18 MR. HART: They'd be kind of one and -- one
19 with the other so that --

20 MR. CHIN: Both would belong to the same unit.

21 MR. HART: So that you wouldn't have like
22 somebody having to --

23 MR. CHIN: Correct.

24 MR. HART: And knock on the door to have them
25 move their car --

1 MR. CHIN: Exactly.

2 MR. HART: -- to get out of the way. So
3 you're just saying that they are, the tandem ones, are
4 together.

5 MR. CHIN: Correct.

6 MR. HART: And then they will be, I guess, I
7 don't know how to describe that any more.

8 Any other questions for the applicant?

9 [No audible response.]

10 MR. HART: Hearing none, I don't know, does
11 anybody want to make a motion? No?

12 MS. WHITE: I can.

13 MR. HART: You have to turn your mic on.

14 MS. WHITE: This is for Application No. 19579.
15 This is on 22 Bryant Street Northwest, LLC. The
16 relief that you requested today was for a residential
17 conversion under Section U, Subsection 320.2. Reading
18 the record thoroughly, and also getting a positive
19 recommendation with the condition from the Office of
20 Planning, as well as the ANC report that came in
21 yesterday providing full support for the project, as
22 well as the fact that there were no objections from
23 DDOT, I'd like to make a motion to accept Application
24 19579 for the relief for residential conversion for 22
25 Bryant Street Northwest.

1 MR. HART: Seconded. I'm forgetting that
2 I'm --

3 [Vote taken.]

4 MR. HART: The --

5 MS. WHITE: Motion passes.

6 MR. HART: -- motion -- your motion passes.

7 MS. ROSE: Staff would record the vote as
8 three, to zero, to two, with the motion by Ms. White
9 seconded by Mr. Hart, to approve the application, with
10 Mr. Shapiro in support of the motion, Mr. Hill not
11 present, not voting, one board seat vacant.

12 MR. HART: Summary motion.

13 MS. ROSE: Yes, sir.

14 MR. HART: Thank you. Thank you very much.

15 And with that, Ms. Secretary, are there any
16 other cases before us or any other matters before us?

17 MS. ROSE: No, we're done.

18 MR. HART: And with that, we are adjourned.

19 MS. ROSE: Thank you.

20 MR. HART: Thank you.

21 [Whereupon, at 11:39 a.m., the public hearing
22 and meeting were adjourned.]

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CERTIFICATE OF TRANSCRIPTIONIST

I, Kimberly Lawrie, do hereby certify that the foregoing proceeding was transcribed from a digital audio recording provided to me by Olender Reporting and thereafter was reduced to typewriting by me or under my direction.

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Kimberly Lawrie,
Legal Transcriptionist