

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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PUBLIC HEARING

+ + + + +

WEDNESDAY

JULY 11, 2018

+ + + + +

The Regular Public Hearing convened in the Jerrily R. Kress Memorial Hearing Room, Room 220 South, 441 4th Street, N.W., Washington, D.C., 20001, pursuant to notice at 9:30 a.m., Frederick Hill, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

FREDERICK L. HILL, Chairperson
LESYLLEE M. WHITE, Board Member
CARLTON HART, Board Member (NCPC)
LORNA JOHN, Board Member

ZONING COMMISSION MEMBERS PRESENT:

ROBERT MILLER, Vice Chair
MICHAEL TURNBULL, Member

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary
TRACEY ROSE

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

HILLARY LOVICK, ESQ.

OFFICE OF PLANNING STAFF PRESENT:

MAXINE BROWN-ROBERTS
BRANDICE ELLIOTT
ANNE FOTHERGILL
JOEL LAWSON

The transcript constitutes the minutes from the
Public Hearing held on July 11, 2018.

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

10:47 a.m.

1
2
3 CHAIRMAN HILL: Let's go ahead and get started
4 again. Ms. Rose.

5 MS. ROSE: The first application for hearing is
6 number 19741 of M2Edgewood LLC pursuant to 11 DCMR Subtitle
7 X Chapter 9 for a special exception under Subtitle E section
8 206.2 from the upper floor addition requirements of Subtitle
9 E section 206.1(a) to construct a one-story upper floor
10 addition to an existing two-story four-unit apartment house
11 in the RF-1 zone at premises 223 Adams Street NE, square
12 3560, lot 10.

13 CHAIRMAN HILL: Good afternoon. Or good morning.
14 If you could please introduce yourselves from my right to
15 left.

16 MR. LEE: Matthew Lee.

17 CHAIRMAN HILL: You need to push the button there.

18 MR. MLAKAR: Mark Mlakar. I'm the developer
19 principal of M2Edgewood.

20 MR. CROSS: Robert Michael Cross, architect.

21 MR. LEE: Matthew Lee, architect.

22 CHAIRMAN HILL: Mr. Cross, are you going to be
23 speaking to us I guess?

24 MR. CROSS: Yes, sir.

25 CHAIRMAN HILL: Okay. So I guess you can kind of

NEAL R. GROSS

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1 -- this is a continued hearing. You can fill us in on what
2 has happened since the last hearing.

3 And was there someone else that was here arguing
4 with this the first time?

5 MR. CROSS: Yes, Marty Sullivan was our counsel
6 and was with us that time. He's not sitting with us today.

7 CHAIRMAN HILL: Okay. All right. Because there's
8 a bunch of things with the regulations and such. So that's
9 all right. We'll see how this goes.

10 So go ahead and again just share with us what
11 happened since the last time you were here and we'll start
12 from there.

13 MR. CROSS: Sure. As noted this is a continuation
14 from our presentation on June 6 I believe when we presented
15 our case for relief from the architectural rooftop element
16 requirements in Subtitle E section 206.1(a).

17 When we last met we in summary we presented a
18 building which we argued bookended the row, was consistent
19 with other buildings along 3rd Street which it also faces and
20 was of a style in keeping with that of forms in the original
21 fabric of D.C.

22 We had previously suggested that the project was
23 to be more in character with the forms found in D.C. and
24 specifically represented precedent found in the neighborhood.
25 And we appreciate this opportunity to present the requested

1 additional materials to support that position.

2 Specifically we want to show that the majority of
3 rowhouses at the end of the block in this area are
4 rectilinear in form and that the majority of rowhouses that
5 front 3rd Street have entrances on 3rd Street.

6 As seen on sheet BZA 16 virtually every single
7 east-west block between 2nd and 3rd Street ends in a
8 rectilinear mass. Those are represented by all the blue and
9 purple dots that line 2nd and 3rd Street on those east-west
10 blocks.

11 As shown the rows of buildings with mansard roofs
12 are bookended by rectilinear structures without mansard roofs
13 11 times in this neighborhood.

14 Furthermore, there are only one other east-west
15 row that ends in a facade that does not address both streets
16 in some way. That can be found up at 3rd and Channing, the
17 red dot.

18 Therefore we find that the proposed rectilinear
19 form at the end of the row of mansard roofs is in keeping
20 with the character of this specific neighborhood.

21 As seen on sheet BZA 17 virtually every building
22 that has a frontage on 3rd Street either has or has had a
23 primary or secondary entrance that faces 3rd Street. This
24 slide, there's a ton of images found later in the set that
25 support the diagram. We can go through those if you'd like.

1 In fact there's only three other properties that
2 do not have one of those conditions today. That is some form
3 of entrance or indication of an entrance on 3rd Street.

4 Therefore we find the relocation of the entrance
5 from Adams to 3rd Street to be in character with the
6 buildings on this stretch of 3rd Street. Again this includes
7 other rows of buildings with mansard roofs like that along
8 Adams Street.

9 The most recent OP report dismisses all of our
10 supporting analysis of character in the broader neighborhood
11 citing that the proposed is specifically not in character
12 with the other properties in this row along Adams Street.

13 There's no guidelines of how to evaluate character
14 within the zoning regs. But even in the historic
15 preservation guidelines character is not defined as matching
16 the adjacent.

17 To date we have shown not only does the building
18 that we're proposing essentially already exist in the fabric
19 of this very neighborhood as seen on sheet BZA 13b at 2nd and
20 Channing Street but as demonstrated here today this project
21 is moreover conforming with the character of the entire
22 neighborhood as a whole.

23 As a point of context approving this case would
24 not set any new precedent as the board has approved cases
25 like 19428 which is shown on sheet BZA 15 which not only

1 removes the front mansard and replaces it with a balcony but
2 does so in the middle of a row of buildings with existing
3 faux mansard roofs.

4 Lastly, it's our understanding that this specific
5 section of code which is unique to the RF zone was added in
6 response to the public's outcry over a lack of voice
7 regarding popups that were changing the character of their
8 neighborhoods.

9 The lack of standards provided in this section for
10 relief indicated that it was intended to simply give the
11 community a voice on these issues and not intended to turn
12 this board into another board of historic preservation.

13 I think at this time I'd like to let the owner of
14 the property speak as he has a great deal of experience
15 working in these zones with this type of project and has done
16 much of the community outreach on all of the projects so has
17 a good understanding of the communities.

18 CHAIRMAN HILL: Okay, sure.

19 MR. MLAKAR: So, my name's Mark. I've been a
20 District resident for the last 21 years. I've been in this
21 business for the last 15.

22 I have built this project at the end of a row
23 multiple times before with -- by right as was in keeping with
24 the former zoning code. I've had fantastic reviews from all
25 the neighbors. I've been welcomed to the communities. I've

1 had no problems with any of the neighbors. In fact all of
2 the neighbors were highly encouraging of the projects that
3 I've built before.

4 When the zoning code changed all of a sudden I
5 couldn't build the same building that I had done previously,
6 that I had successfully built in the past.

7 And it was my understanding that there was an
8 outcry from the community against popups. And I am one of
9 those people that am against popups. I will never build a
10 popup.

11 And it seems like the incentives now for what I'm
12 trying to do are forcing me into a popup because the matter
13 of right option that I can do, it looks like a popup and it's
14 something that is highly opposed by the community.

15 If I look at the overarching picture of what we're
16 trying to accomplish here everybody seems to be in support
17 of lower income housing in the District that is more family
18 friendly. That is what I'm trying to do. I'm trying to
19 build projects that are in keeping with the character of the
20 city. That's why I originally came up with the design that
21 I did and I've done it on essentially just my own analysis
22 of what it is and on a hunch but now we've substantiated it
23 into a formal report.

24 The overwhelming goal is to build family friendly
25 housing that is at a lower price point. This project

1 accomplishes that. By doing the matter of right option and
2 keeping the mansard roof I am forced to not build units, but
3 I'm forced to build mostly hallways and I have to do smaller
4 units because the mansard makes it so that I have to build
5 a lot of internal hallways in order to accomplish five units
6 in that project.

7 I think it's also ironic that I can actually build
8 this project as a matter of right if I do a raze. I can then
9 only build two units. I could build those two units at
10 probably \$1.2 million and I would be going against what we're
11 all trying to accomplish here.

12 When I did reach out to the community we went
13 through all the different groups and I listened, I heard what
14 everybody wanted, I changed the plans accordingly to
15 represent their interests and their voice.

16 One of the biggest things they were looking for
17 was a building that was a red brick building that matched the
18 existing brick in the neighborhood which is very beautiful.

19 At the last meeting there was some concern that
20 I couldn't match the red brick. Well, I already have matched
21 the red brick. I did an identical project on 1912 3rd Street
22 NE if you look at that project. It's a beautiful red brick
23 building and you cannot see the original and you cannot see
24 the addition. It's seamless.

25 I can do the same on this project. I've done it

1 before. And I promised the community that that would happen
2 and that is reflected in all of our plans going forward.

3 So I would love to create a building that the
4 community wants me to build. I understand that there's
5 opposition from OP.

6 It just disturbs me on a personal level that one
7 person at OP can overrule what an entire community wants me
8 to do. I have 26 letters of support including the next door
9 neighbor. Everybody within 200 feet.

10 I can keep going. I can get as many letters of
11 support necessary but I think to have one person overrule --

12 CHAIRMAN HILL: It's Mr. Mlakar, right?

13 MR. MLAKAR: Mlakar. You can call me Mark.

14 CHAIRMAN HILL: How do you pronounce your last
15 name?

16 MR. MLAKAR: Mlakar.

17 CHAIRMAN HILL: Mlakar.

18 MR. MLAKAR: Yes.

19 CHAIRMAN HILL: Mr. Mlakar. It's not just one
20 person at OP. So there's a variety of people at OP that come
21 together and provide their analysis. So it's just not one
22 person that is opposing this project.

23 As far as a lot of the things that you mentioned
24 the last time you were here you sat in the back and so we
25 didn't get a chance to talk to you.

1 And so you're mentioning a lot of things in terms
2 of community outreach and support. And so we don't have any
3 layout designs.

4 I'm just saying we're going with what we have.
5 I don't see anything about layout in terms of hallways now
6 that you're speaking of.

7 And from the ANC meeting I didn't get -- at least
8 the testimony that was taken last time I didn't get that they
9 were like hugely necessarily in support of this project.
10 They just didn't seem to -- they seemed -- now what were
11 their concerns, the ANC?

12 MR. MLAKAR: Their concerns, they wanted a red
13 brick building. That was the number one concern.

14 CHAIRMAN HILL: So even if the mansard roof were
15 there they'd still get a red brick building.

16 MR. MLAKAR: No, they wouldn't. I would not build
17 the building. I am not going to build a popup. I would sell
18 it to another developer and they would do by right whatever
19 they want to do.

20 CHAIRMAN HILL: You keep talking about this popup
21 thing. So you think it's a popup or it looks like a popup
22 because --

23 MR. MLAKAR: You're putting a trailer on top of
24 an existing building and that's essentially a popup.

25 CHAIRMAN HILL: Okay.

1 VICE CHAIR HART: I had a question.

2 CHAIRMAN HILL: Go ahead, sure.

3 VICE CHAIR HART: I do appreciate from Mr. Cross
4 the information you provided which we didn't have the last
5 time looking at the analysis of the end units and kind of
6 what the neighborhood was like. That to me is doing due
7 diligence and for us to understand is this in keeping or not
8 in keeping.

9 I understand there was a question of whether or
10 not that was even a question that should be asked but it's
11 helpful for us to see that. So I do appreciate that.

12 I do have a question regarding that though. In
13 the analysis that you did were the end units that you were
14 looking at primarily two-story or three-story? Because what
15 you've shown us on the BZA page 16 on exhibit 41 those are
16 in the righthand side, the upper righthand side, that's a
17 two-story unit. And what you all are proposing is a three-
18 story unit which some people, Mr. Mlakar, would consider a
19 popup.

20 To say that you're not doing one is a little
21 disingenuous because you are going higher than the next door
22 neighbor. I understand that you have a particular idea of
23 what that is but I'm just telling you that it is taller than
24 the building that it's next to.

25 We don't have to have a discussion about it. I'm

1 just saying that that is what it is.

2 MR. MLAKAR: If I can just say that I found in my
3 research that people are not opposed to uniform three-story
4 buildings. What they're opposed to is putting a trailer on
5 top of --

6 VICE CHAIR HART: But that has to do with what the
7 design looks like. I'm not necessarily saying that I'm for
8 or against this. I'm trying to understand the analysis that
9 was done.

10 What I'm trying to find out is whether or not the
11 end units were actually two or three floors that they were
12 looking at. Just so that I understand. Not that it's going
13 to be good or bad, I just don't know.

14 MR. CROSS: We didn't note that. Based on the
15 images you have in the record I think what we can conclude
16 is the majority of these have not been modified. So they are
17 the original two-story masses throughout.

18 We do note that at 2nd and Channing there is a
19 three-story rectilinear bookend existing. So that one is
20 clearly three-story. I can't speak to the others.

21 Your point is well taken. The relief being sought
22 is for the removal of the mansard only. The third story is
23 matter of right.

24 VICE CHAIR HART: I fully understand that and I
25 was not having a question on that. I was just trying to

1 understand if you were also making the assertion that the end
2 units that you looked at through your analysis were also
3 three-story or they were a mix.

4 And it sounds like they were generally two-story
5 with this exception that you're showing here on page 13b
6 which has a three-story massing. Which is fine, I just again
7 didn't know what that was.

8 And I do understand that the matter of right
9 height is higher than what the majority of buildings or what
10 many of the buildings are currently because they're existing
11 buildings and people haven't decided to expand them yet. So
12 thank you.

13 Actually, I think you had this a little later.
14 You have a combination slide that shows where the I think in
15 18A and 18B are kind of the combination of where the
16 different -- the street frontage on 3rd Street and whether
17 or not it's -- what that end unit looks like. So you have
18 a combination that shows that.

19 MR. CROSS: That's right. As noted the
20 presentation today is kind of using the summary slides but
21 within that report as you've reviewed it there are the
22 supporting slides that show each and every one of those
23 intersections as requested.

24 And that shows both the condition of its massing
25 on the bookend as well as its entrance condition.

1 VICE CHAIR HART: Much appreciated. Thank you.

2 MEMBER JOHN: Mr. Chairman, I have a question for
3 Mr. Cross. So, can you describe for me if there's no
4 photograph in the file what the row on 223 Adams Street looks
5 like? Are there houses on that side of the street that don't
6 have mansard roofs?

7 That's the odd side. I'm sorry, on the even side
8 there are no mansard roofs I don't believe. They're all
9 square shaped. But on the odd side where you're building,
10 odd numbered side they're mansard roofs all the way up to 3rd
11 Street. Would that be true?

12 MR. CROSS: That's true. As noted I believe it's
13 the north side of the block is rectilinear forms. The south
14 side of the block on which we are located is all similar
15 houses with the mansard that none have been modified to date.

16 And that's a condition that's pretty consistent
17 in these east-west blocks as noted before. And I think what
18 we were noting is as you go up this is the odd condition
19 where one of those uniform blocks which is to your point part
20 of the fabric of this neighborhood, this is the odd condition
21 where that is not ended in a dissimilar form, specifically
22 a rectilinear form.

23 As you see on slide BZA 16 most blocks end in a
24 purple or blue dot which represents a rectilinear mass at the
25 end of that east-west block.

1 All of the blue dots which are mostly congregated
2 in that northern section for one, two -- I guess it would
3 really -- I don't know how you would say it. Two or three
4 blocks I think in terms of the street frontages.

5 Those are blocks which are like Adams where it is
6 a continuous block of two-story homes with mansard roofs and
7 then terminates at both ends in a dissimilar form rectilinear
8 nature which we believe is by design so it addresses both
9 frontages.

10 MEMBER JOHN: So looking at your diagram here so
11 on Ascot Place you're saying that all of those houses on both
12 sides of the street have mansard roofs.

13 MR. CROSS: Actually that is not correct. The
14 ones that are represented in purple are rectilinear rows
15 without mansard roofs. It's the blue dots representing
16 rectilinear forms at the end of mansard rows.

17 MEMBER JOHN: Okay. And that's several streets
18 over.

19 MR. CROSS: Yes, I guess several streets up.

20 MEMBER JOHN: So in terms of the character of the
21 street if you were to put this design in the middle of the
22 block would you consider that disturbing the character of the
23 street? I guess I would ask the owner that question.

24 MR. MLAKAR: Thank you. I own a couple of other
25 buildings that are in the middle of the block and my plans

1 for them are to maintain the mansard roof.

2 So I'm very conscious of the character and the
3 integrity of what we're trying to do. On that project I'm
4 keeping the mansard roof and building by right.

5 MEMBER JOHN: All right, thank you.

6 MR. CROSS: I agree with that position. I think
7 that's our argument here, that this is a unique situation
8 being the end of a row.

9 I think that in the context of D.C. as a whole
10 that is a unique situation that probably is deserving of the
11 special exception relief.

12 And moreover in this area because of the precedent
13 of every other block kind of doing a similar thing where the
14 end of the row is a dissimilar form we believe that there's
15 strong precedent here for relief on the end, not necessarily
16 in the middle.

17 MEMBER JOHN: I have one follow-up question. If
18 you go back to the by right slide. So this is all in white
19 and of course it doesn't look as if it blends with the
20 neighborhood.

21 So if it were brick, if it had been represented
22 by brick would it look as if it's more integrated with the
23 rest of the block.

24 MR. CROSS: Yes. I think in context here it looks
25 odd. The reason it's all shown white is the original

1 proposal that we went to the ANCs with both projects were all
2 painted.

3 And so as noted by the owner we made the
4 concession and we updated the rendering for the proposed but
5 we didn't spend the effort to update the rendering of the
6 matter of right solution.

7 A painted project is a more developer friendly
8 type project as noted by Chairperson Hill and Hart because
9 it allows you to modify the brick without having to match it.
10 And that's how most new development would be done.

11 It is possibly misleading but maybe actually more
12 representative of the person who would build the matter of
13 right project which is not this client.

14 MR. MLAKAR: I'm spending an extra \$70,000 to
15 match the brick to make it a uniform red brick building.

16 And I would argue that that shape of a third story
17 with a mansard roof is not one that is found anywhere in D.C.
18 in the original fabric of D.C.

19 CHAIRMAN HILL: Okay. I'll let the board as more
20 questions. I know Mr. Miller you haven't had a chance yet.

21 So Mr. Mlakar, you had mentioned that you own
22 another property on this row.

23 MR. MLAKAR: I own 716 and 720 Irving Street NE.

24 CHAIRMAN HILL: Not on this row.

25 MR. MLAKAR: Not on this row, but it's same

1 conditions.

2 CHAIRMAN HILL: So that in those conditions you
3 were going to leave the mansard roof and do what you
4 considered a popup then because it's a by right.

5 MR. MLAKAR: No, I'm not going to build a popup.
6 I can do five units here. Over there I can do four units.
7 So I'm just going to build out back and extend out back.

8 CHAIRMAN HILL: And by the way I have no problem
9 with development. I'm going through the regulations and just
10 trying to understand where we are and how this works.

11 Okay. Mr. Miller?

12 COMMISSIONER MILLER: Thank you, Mr. Chairman.
13 I have to say that I originally -- we're not in deliberation
14 now but I originally was inclined against changing the
15 rooftop element because the mansard roof seemed more
16 residential.

17 The rectilinear clean massing and the matching of
18 the brick with the adjacent has grown on me over time.
19 Remind me, the five units, what's the size of the units? How
20 many bedrooms?

21 MR. MLAKAR: They're going to be three bedrooms
22 two baths. If I have to do the mansard roof I have to build
23 additional hallways so then I can only do a two bedroom two
24 bath.

25 COMMISSIONER MILLER: And you mentioned -- not

1 that this has anything to do with the special exception
2 relief but you mentioned price point. This isn't subject to
3 inclusionary zoning but what is the price point for these
4 five units?

5 MR. MLAKAR: They would be starting at \$575 and
6 basement would be a little bit lower. Penthouse would be a
7 little bit higher.

8 COMMISSIONER MILLER: All right. I'll reserve the
9 rest of my comments if and when we get to deliberations. If
10 we don't get to deliberations if you give me a chance then
11 to make my comments.

12 CHAIRMAN HILL: Okay. Does anybody have any more
13 questions for the witnesses?

14 MEMBER WHITE: Just one question. I'm looking at
15 the statements of support. So they're form letters but
16 they're still supporting it.

17 Were there any specific comments regarding or
18 concerns about character, changing the character of the
19 neighborhood by removing the mansard roof, or were they just
20 looking at the project and they were signing the agreement
21 just because they liked the look of what you were proposing?

22 MR. MLAKAR: People don't seem to really care
23 about that mansard that much. I didn't find --

24 MEMBER WHITE: It depends on who you ask.

25 MR. MLAKAR: I didn't find that level of

1 attachment to it especially on the end of the block. I think
2 it would be different if it was in the middle and you're
3 disturbing the block by building another story.

4 I think they were more pleased with the shape.
5 Most people when I would talk to them and I would talk to
6 them about the view from Rhode Island Avenue felt that the
7 entrance should be on the side because it's more in keeping
8 with the view from Rhode Island Avenue.

9 So that you're looking at a building not from the
10 back but you're looking at a nice building from the front.

11 CHAIRMAN HILL: Just to clarify, Mr. Cross, you
12 guys have mentioned this a couple of times. I thought the
13 side entrance was by right. You could do that.

14 MR. CROSS: It's one of the elements that's
15 mentioned in the original OP report.

16 CHAIRMAN HILL: Right.

17 MR. CROSS: Still just trying to answer OP's
18 concerns.

19 CHAIRMAN HILL: Okay.

20 MEMBER WHITE: But not that this has anything to
21 do with the relief that you're seeking, did you mention that
22 it was going to be affordable workforce housing? Or did I
23 mishear you?

24 MR. MLAKAR: I don't believe that \$575 is
25 affordable.

1 MEMBER WHITE: Right. I thought I heard you say
2 that you were focusing in on it. Maybe I misheard you.

3 MR. MLAKAR: I think it's more affordable than
4 doing two units at \$1.2 million. But it's by no means, \$575
5 is --

6 MEMBER WHITE: So it's moderate.

7 MR. MLAKAR: Compared to what exists in D.C. \$575
8 is affordable to some but by no means is it affordable
9 housing.

10 CHAIRMAN HILL: Okay. So we're going to turn to
11 the Office of Planning. As we're turning to the Office of
12 Planning I guess what I was trying to work through is again
13 the regulations and the standards.

14 I don't know if we're going to get to this
15 discussion with you or not but I was kind of going to like
16 206.1 which then sent me to E 5203.3 which then sent me to
17 E 5303.1(b), (c) and (d) which then takes me back to where
18 I thought that you're now talking -- the Office of Planning
19 again speaking to more the general criteria of X 901 that got
20 me back to the RF zone.

21 So I don't know if that was a good enough kind of
22 setup or not but just kind of now turning it over to the
23 Office of Planning.

24 MR. LAWSON: Good morning. My name's Joel Lawson
25 with the Office of Planning. I'm covering for Crystal Meyers

1 who's the project manager for this case and I'll just send
2 out happy birthday wishes to her today.

3 CHAIRMAN HILL: She didn't want to join us for her
4 birthday?

5 MR. LAWSON: She's not in the office today which
6 is why I'm here. Sorry you have to deal with me.

7 So I think in general we're going to stand on the
8 record and state that we remain in opposition to the relief
9 that's being requested.

10 I will say I do think that the applicant has
11 presented some really interesting information. Their
12 analysis of the much broader neighborhood was interesting and
13 I could see that you were interested in that as well with the
14 questions that you were asking.

15 It is a different approach than what we've taken
16 to the interpretation of these regulations. The Office of
17 Planning's role of course in this process is to provide our
18 analysis against what the regulations are and provide that
19 to the board so that you can weigh that against all of the
20 other information that you're receiving.

21 So the information takes a much broader approach
22 to this, to how this provision has been interpreted which is
23 interesting but not how it's been generally interpreted in
24 the past.

25 We feel that the proposal is not consistent with

1 that aspect of the regulations and that's why we're not in
2 support of it. And with that I'll be available for
3 questions.

4 CHAIRMAN HILL: Anybody for the Office of
5 Planning?

6 MEMBER WHITE: Just one question that I'm kind of
7 struggling with. Why is the removal of the mansard roof out
8 of character especially because the third floor is -- can be
9 done as a matter of right?

10 MR. LAWSON: Well, that's a fairly consistent case
11 that this regulation is intended to get at. And it really
12 is a streetscape kind of an issue and it's how well these
13 third floor additions are relating to their neighbors and to
14 the streetscape.

15 And so one of the ways of trying to do that is to
16 maintain that rooftop element.

17 In this case it was our opinion that that mansard
18 roof is characteristic of this section of the block. We
19 didn't quite understand why it had to be removed and we felt
20 that the more appropriate response was to retain it.

21 So it is a somewhat defining characteristic I
22 guess is what I'm saying for how people view the streetscape
23 and that's why the Zoning Commission put that provision in
24 place.

25 And so what we're saying, and I know that the

1 applicant disagrees, but what we're saying is that we feel
2 that it's appropriate to keep that rooftop element to help
3 maintain that streetscape character.

4 VICE CHAIR HART: Mr. Lawson, thank you for
5 coming. The reason we had asked -- I had actually asked for
6 the information regarding the analysis of the neighborhood
7 was to really understand what was going on. Because honestly
8 I had some photographs in the previous hearing and I wasn't
9 really sure where those photographs were taken so it was
10 really hard to understand is this or is this not quote
11 unquote "in keeping" with what's going on in the
12 neighborhood.

13 But their slide BZA number 16 actually shows where
14 all of these -- what the conditions are in the neighborhood.
15 And looking at what that end condition is with regard to the
16 bulk of the buildings are, the houses are in the middle of
17 the block.

18 And that it is fairly regular to have an end unit
19 that is different. And because the zoning regulations allow
20 for a greater height that the applicant is looking for having
21 the by right height for an end unit.

22 And while they are removing the existing mansard
23 roof that condition is not unheard of in the neighborhood.

24 So it seems as though they are in keeping with
25 what the neighborhood design or the neighborhood look is.

1 And I just didn't know if you had a thought on that.

2 MR. LAWSON: Thanks for the question. I think
3 that gets back to my point from a while ago that I think that
4 the information presented from the applicant is really quite
5 interesting.

6 It's simply taking a broader approach to how this
7 provision has been interpreted in the past than has been the
8 case or potentially is a little bit broader than what the
9 Zoning Commission intended when it was put in place.

10 We've tended to look at it, and by we I mean the
11 District, not just the Office of Planning, but we've tended
12 to look at it a little bit more fine-grained than that.

13 On a neighborhood scale you can find many
14 different things in pretty much any neighborhood. I think
15 what's different here is the applicant is trying to make an
16 argument that allowing something different on the end unit
17 is an appropriate form.

18 I thought your question about is that existing
19 form a two-story form or a three-story form an interesting
20 one. But again I'd have to say that we're not opposed to the
21 third story. The regulations allow the third story and
22 that's not really the issue here.

23 The issue here to some extent is how the board
24 wishes to interpret the scope I guess or the scale that this
25 provision should be read, what it should be interpreted

1 against.

2 We've typically taken a more fine-grained
3 approach. I think the applicant has made an interesting case
4 for taking a broader approach in this instance for the end
5 unit, or sorry, for the corner unit of a row of rowhouses.

6 VICE CHAIR HART: And kind of to piggyback on that
7 the by right -- I don't want to say by right, but the design,
8 I guess it is matter of right design that they have put
9 forward or just at least shown us maintains the mansard but
10 removes the door from the front because I guess it would be
11 easier to have the entry lobby for the units on the larger
12 facade.

13 Are you also saying that you'd like to have the
14 entrance remain on what is that street. It's not 3rd.
15 What's the other -- Adams, on Adams Street? Because
16 currently it is on Adams Street and they're proposing it in
17 both instances to move to 3rd.

18 MR. LAWSON: That's not what I'm saying because
19 that's not what the regulations are getting at. The
20 regulations here are specifically about the roof form and so
21 that's what we're focusing on.

22 VICE CHAIR HART: So you don't want to opine on
23 the entrance aspect of it, just the rooftop element.

24 MR. LAWSON: That's what I'm discussing, yes.

25 VICE CHAIR HART: Thank you.

1 MEMBER JOHN: Mr. Chairman, can we go back to that
2 previous slide with the dots. So if we follow the dots it
3 seems to me that there's a clear pattern because the blue
4 dots all have rectilinear and adjacent to mansard rows at the
5 top of the screen.

6 And at the bottom of the screen it's the reverse.
7 We have rectilinear end adjacent to a rectilinear row.

8 So you're correct in that the pattern that you've
9 described does exist but in another section, not in this row
10 with the purple. So in terms of character I think your chart
11 -- I'm not saying which way I'm going but I'm saying that
12 your chart does not support what you're trying to propose.

13 MR. CROSS: I guess I just want to point out that
14 what that might actually only say is that our row of mansards
15 is in a row of rectilinear buildings. That there's no other
16 rows of mansards in our area. That the other rows of mansard
17 buildings are to the north of us.

18 MEMBER JOHN: I see, but the pattern of the houses
19 are different in the southern end.

20 MR. CROSS: There are less rows of mansard houses
21 in the southern end. We are the only one below Bryant
22 Street.

23 MR. MLAKAR: Well, it's a different zoning code.
24 It's not RF-1.

25 MEMBER JOHN: What's at the top?

1 MR. MLAKAR: It's not an apartment zoning code.
2 It's a single family zoning code. I believe it's --

3 MEMBER JOHN: -- getting apples with apples.

4 MR. MLAKAR: The zone changes so you cannot do an
5 apartment house in the south on the upper end of -- RF-1 ends
6 right over by Adams Street. So if we have to do the
7 comparison we should really compare 3rd Street which has --
8 3rd Street and Eckington is full of bookends.

9 MR. CROSS: For the record I don't know what the
10 zoning is for the north end.

11 CHAIRMAN HILL: Mr. Lawson, I've got a question.
12 So from Office of Planning's supplemental report it's that
13 OP's position continues to be that proposal with the removal
14 of the mansard roof element would make the building more out
15 of character with the row on Adams Street NE.

16 So then I was going back into the regulations to
17 kind of see where we would be looking at necessarily the
18 character of that row. And this was the argument which the
19 applicant had made the last time which was that the
20 regulations either were circular or I thought possibly could
21 have just dead ended to where I was trying to figure out
22 where the Office of Planning was looking within the
23 regulations concerning their report.

24 And what it seemed to get me back to was again the
25 overall special exception general criteria which was X 901.1

1 which will be in harmony with general proposed and intent of
2 the zoning regulations and zoning maps.

3 Which then got me to the proposed intent of the
4 RF-1 zone which was to provide for areas predominantly
5 developed with attached rowhouses on small lots within which
6 no more than two dwelling units are permitted.

7 Is that the character that the Office of Planning
8 is speaking of?

9 MR. LAWSON: No. I think right now you're talking
10 about an intent statement for the zone that deals more with
11 use than with building form.

12 The RF zone is absolutely intended to be
13 predominantly a zone with flats, two units maximum.

14 However, the zone makes really clear that there
15 are many examples of existing small apartment buildings like
16 this one that exist in the RF zone and in fact actually
17 provides for an opportunity to convert a flat to an apartment
18 zone.

19 So I think your exact reference is really more to
20 a use provision than to necessarily what we'd be looking at
21 here.

22 Really what we're looking at with this one is
23 206.1 itself which talks about the rooftop element and the
24 preference that that rooftop element be maintained within
25 this zone.

1 CHAIRMAN HILL: So, and I'm just talking this
2 through again because this is coming up a couple of more
3 times later today.

4 So then within 206.2 it says that Board of Zoning
5 Adjustment has special exception under Subtitle X Chapter 9
6 subject to conditions of Subtitle E 5203.3.

7 So you go to E 5203.3 shall be subject to the
8 conditions of Subtitle E 5203.1(b), (c) and (d). And (b),
9 (c) and (d) basically then says again the same thing that was
10 before and (d) says a rooftop architectural element original
11 to the house such as tower or dormer shall not be removed or
12 significantly altered including changing its shape or
13 increasing its height or size. So basically you don't get
14 relief. It can't be done.

15 MR. LAWSON: Well, we disagree with that as well.
16 That's why we have a Board of Zoning Adjustment so that you
17 can weigh the merits of each individual case to see whether
18 or not in this case they have provided sufficient -- I'm
19 going to say it again, a sufficient case to make you
20 comfortable with the relief that's being requested.

21 CHAIRMAN HILL: All right, Mr. Lawson. Thank you.
22 Okay. Anybody else?

23 MEMBER JOHN: Just a follow-up question. So does
24 that then send us back to the special exception criteria, the
25 general special exception criteria. If we are to exercise

1 our discretion.

2 MR. LAWSON: It can. There are specific criteria
3 referred to and as with I'll say all special exception cases
4 there's also a reference to the general special exception
5 criteria of Subtitle X.

6 MEMBER JOHN: Right. Because if what we just
7 heard is correct and D says you have to keep the rooftop
8 architectural elements then we're back to special exception
9 criteria, general special exception criteria I would think.

10 MR. LAWSON: I don't think it's either/or I guess
11 is what I'm saying. I think the regulations make reference
12 to both the more specific and kind of issue specific criteria
13 which in this case are in 5203 and it makes reference also
14 to the more general special exception criteria that apply to
15 if not all then virtually all special exception cases which
16 are in Subtitle X.

17 MEMBER JOHN: Thank you.

18 CHAIRMAN HILL: Mr. Miller.

19 COMMISSIONER MILLER: Thank you, Mr. Chairman.
20 So I agree with Mr. Lawson that all cases are individual and
21 that's what this board is here to decide this case on its own
22 merits and I think a lot of merits have been presented which
23 again I'll go into later.

24 But the question for Mr. Lawson which I asked Ms.
25 Meyers but since we have the benefit of your wisdom here

1 today is regarding slide 15 in exhibit 41 of the applicant's
2 supplemental filing where the OP a year and a half ago
3 supported removal of a mansard roof in the middle of a block
4 at 1937 2nd Street NE saying removal of the faux mansard
5 should have little if any impact on the adjacent neighboring
6 properties. I think that's the case here.

7 The removal of the faux mansard would result in
8 the building having a different rooftop appearance than its
9 adjacent neighbors but the new rooftop would be residential
10 in character.

11 So is it here that in this case you don't think
12 that this rooftop is residential in character? Or you're not
13 looking at it that way? And why did you allow it here?

14 MR. LAWSON: Well, first of all with all due
15 respect we're here to evaluate the case that's before us, not
16 to reevaluate past cases. Each case is judged on its own
17 merits and I'm sure that if we wished to we could provide --
18 I'm sure that the applicant could have provided many other
19 cases where OP recommended approval and many other cases
20 where OP recommended denial. So I'm not here to readjudicate
21 a past case.

22 Once again in this case we feel that from how we
23 evaluate this section and how we've tried to evaluate it
24 consistently that the applicant has from our standpoint not
25 made a sufficient case to justify the relief that's being

1 requested.

2 I think that they've presented other information.
3 We certainly acknowledge that they've provided evidence of
4 at least some if not significant support from the
5 neighborhood.

6 And I will concur with the applicant on their
7 comment that one of the points of this provision was to allow
8 for the community to provide comments on cases such as this.

9 So I think they provided those comments and I
10 think -- they've said that it's been generally positive from
11 the neighborhood.

12 But for how we evaluate the application we
13 continue to feel that it does not make the case.

14 CHAIRMAN HILL: Mr. Lawson, it's been a pleasure
15 having you here today.

16 MR. LAWSON: Me too.

17 CHAIRMAN HILL: It has. This is great. I'm so
18 glad that you're here for this one to be quite honest.
19 And that everyone can hear Mr. Lawson's analysis of this one
20 straight up.

21 Does the applicant have any questions for the
22 Office of Planning?

23 MR. CROSS: Not at this time. Thanks.

24 CHAIRMAN HILL: Okay. So I think we did this
25 before and we're going to do it again. Is there anybody here

1 from the ANC? Is there anyone here wishing to speak in
2 support? Is there anyone here wishing to speak in
3 opposition? Okay.

4 Does anybody have anything else for the Office of
5 Planning? No? Okay. You have anything else you'd like to
6 add at the end?

7 MR. CROSS: Yes. I think just in closing kind of
8 to the comments that were talking about the code, the lack
9 of standards.

10 As mentioned before it's our understanding that
11 the evolution of this code section came out of the public's
12 desire to have a voice in this process. And the lack of
13 standards that are here for us to evaluate it, basically the
14 three you referenced, one is circular, two remaining. We
15 qualify those two. Is really simply to provide that public
16 insight.

17 And so I would say the code worked. Flawed as it
18 may be it worked. We met with four different community
19 groups. We modified our design through that process to
20 satisfy their concern and we received 26 letters of support
21 subsequent to those revisions.

22 CHAIRMAN HILL: Okay. So just to kind of keep the
23 discussion going here it's not that -- as Mr. Lawson said
24 unfortunately we're the end of the code working. And so it's
25 not like the community makes a comment and we take

1 information from the community, we take information from the
2 Office of Planning and then we're stuck with where we're
3 stuck with.

4 And so now we're almost in deliberation.

5 MR. CROSS: My point is simply that we may not
6 need to seek out any other definitions of character or ways
7 to evaluate this that aren't specifically written in the code
8 because they may never have been intended to be there in the
9 first place.

10 That we are simply seeking relief from removing
11 the mansard roof element, not for the mass, not for the style
12 of windows shown which was in the original report and not for
13 relocating the entry.

14 CHAIRMAN HILL: Okay. All right, great. Before
15 I close the hearing does anybody have anything else for the
16 applicant? All right, then we'll close the hearing.

17 Is the board ready to deliberate? I'm ready to
18 start to deliberate. I don't know, meaning I'm going to open
19 it up to you all for starting to deliberate. Who wants to
20 go first?

21 COMMISSIONER MILLER: I've been waiting to say
22 this but I think Board Member White touched on it. If this
23 case is about neighborhood character which the original OP
24 report emphasized I agree that having 26 neighbors,
25 particularly the adjacent neighbor who in the OP report

1 acknowledged wasn't being unduly impacted in terms of
2 privacy, air and light.

3 So to have the 26 neighbors including the adjacent
4 neighbor and the ANC all in support I think justifies. And
5 the overall context of the neighborhood that you presented
6 in terms of which Vice Chair Hart had asked for the last time
7 I think that was interesting and I think that does show the
8 compatibility with the overall neighborhood.

9 MEMBER WHITE: Mr. Chair, I really was looking for
10 information that would tell me that neighbors had some
11 concerns about the removal of the mansard roof in terms of
12 it impacting the character of the neighborhood. That's why
13 I was asking those questions about have you gotten any
14 pushback, has anybody communicated anything in the record
15 about this end unit being constructed.

16 And I would concur with Mr. Miller that I think
17 at this point I think that there could be an argument made
18 that this would not be out of character given the strong
19 support from the ANC, the neighbors, as well as the fact that
20 this is an end unit.

21 And I think that the developer has made some
22 efforts to make sure that the aesthetics of the development
23 is pretty much in character with that block, i.e., ensuring
24 that it would be red brick.

25 So I think that there could be a case made, I'm

1 still open for discussion, that the BZA would have the
2 ability to provide the special exception relief for the
3 removal of the mansard.

4 MEMBER JOHN: So Mr. Chairman, I originally
5 thought that the mansard roof would be out of character with
6 the row. I still think that is true because on that
7 particular row there is a row of mansard roofs that's been
8 undisturbed and it has a particular quality that is
9 aesthetically pleasing. But I'm not an architect and so I
10 cannot say definitively that it is the correct predicate.

11 However, I believe the design with the mansard
12 roof removed would provide efficiencies as the owner
13 explained in terms of the number of units and the price point
14 that could be built. And I realize that that's an economic
15 argument that's not fleshed out in the record.

16 But compared with the support of the community for
17 having more family sized housing in the neighborhood I would
18 think are considerations that I would take into account.

19 So much as I'm torn about removing that mansard
20 roof the regulations do not prohibit it and it's left to the
21 discretion of the board as to what the board sees as being
22 out of character with the neighborhood.

23 So having said all of that I believe in this
24 particular case, also the fact that this idea of bookending
25 streets with a square type building is seen not only in this

1 neighborhood but in other neighborhoods throughout the city.
2 So it's not unusual. It is definitely unusual on this block.

3 So having said that I at this point, Mr. Chairman,
4 would be inclined to support the application most reluctantly
5 based on the criteria in the regulations. But I probably
6 would think differently if this came up in the middle of the
7 row.

8 VICE CHAIR HART: Okay. So I noted earlier that
9 the applicant provided information regarding -- just
10 additional analysis. And I think the analysis is very
11 helpful because what it ends up doing is it provides a
12 greater context for this particular project in the
13 neighborhood.

14 And I understand that the Office of Planning is
15 looking at this and saying on its face this is -- removal of
16 this element, that they can't be in support of that part of
17 that for this particular project.

18 Looking at this project, looking at what was the
19 matter of right development, understanding the analysis that
20 -- the additional analysis that the applicant has provided
21 I'm kind of at two places.

22 One of them is that I am reacting to the
23 architecture and also to the actual project that is before
24 us that is seeking relief.

25 What I was trying to get to around some of the

1 questions that I had with regard to the analysis was this is
2 somewhat different than what is already existing in the
3 neighborhood for a bookend. And so it was hard to try and
4 understand well how is this in keeping with that.

5 If it was two-story I'd probably say yes, I could
6 kind of see that. But this is three-story with a penthouse
7 so it has either another level on top of that. So it is a
8 bit taller.

9 And the reason this kind of came to my attention
10 was really looking at the applicant's drawings and they
11 included some elevations that showed what this would look
12 like.

13 It seems much taller than I was really comfortable
14 with. But I understand that really all that we're here
15 looking at is the removal of this element, this architectural
16 rooftop element.

17 In looking at the matter of right rendering I did
18 not like the matter of right rendering. And I understand
19 that it's a rendering, it's a different color, but I didn't
20 like it and I didn't think that it was an appropriate design
21 really because it kind of -- the change in the project would
22 be to remove the entrance from this Adams Street facade to
23 the 3rd Street facade.

24 And I think that works better with the proposed
25 rendering, the proposed design.

1 That being said I think that the other projects,
2 the other -- I'm looking at the -- some of the other
3 buildings on the bookend, they had some sort of course that
4 made the roof kind of the parapet read differently so that
5 it actually had a top to it.

6 And so if you're going to remove the mansard roof
7 I think that there needs to be some sort of element that
8 helps to make the top of the building read as the top of the
9 building and it just doesn't kind of bleed off into -- from
10 the building to the parapet.

11 So if that's a color change, that's a linear
12 horizontal change I'm not exactly sure but it seems as though
13 there needs to be something that helps to do that.

14 I was just looking at some of the other precedents
15 that were on that BZA page number 16 in exhibit 41 to
16 understand kind of what those tops might look like.

17 I don't know, it just seems like there needs to
18 be something that is done at that top to make it -- and I
19 don't think it has to be huge. I think it has to be more of
20 a detail to make it read more of a this is the building and
21 then this is the parapet. This is I guess the bottom of the
22 parapet.

23 So saying all that I think that I'm coming down
24 on the side of supporting the application. I think that what
25 kind of tipped it for me was really the analysis that was

1 done to understand what was going on in the rest of the
2 neighborhood and that this while a three-story level is still
3 generally in keeping with what is happening at the ends of
4 the blocks which are a different -- there's a different
5 condition that's happening at the end versus what's happening
6 towards the middle of each of the blocks.

7 And I think that that would help me to be able to
8 support the application. I understand that the Office of
9 Planning has provided their analysis of this.

10 I just think that the applicant has provided
11 sufficient information for me to be able to support it in
12 that the end conditions in most of this neighborhood are
13 different than what's happening in the middle of the block.
14 So that's where I am.

15 CHAIRMAN HILL: Okay. I'm torn. I don't know
16 where I am exactly but I know that I'm glad that I might not
17 have to be the bad guy.

18 I guess I was again kind of confused by the
19 regulation as to what it is we're looking at to determine
20 whether or not to approve this or not.

21 And I do appreciate that some part of the
22 discussion has been and I do think that was the case that the
23 community -- this started by the community having a voice in
24 the process.

25 And so otherwise people were just taking off the

1 rooftop elements and doing whatever they needed to do by
2 right.

3 And so I appreciate that the community has -- I
4 guess I'm not terribly sold as to what exactly the community
5 wanted or didn't want. They wanted a brick building. They
6 didn't care about the mansard roof. And if they got the
7 mansard roof and a brick building even if it was different
8 would they not support the application. I wish that I had
9 an opportunity to ask the ANC their thoughts on that.

10 I appreciate that the neighbors were in -- they
11 didn't have any objection to it which was again what they
12 were supposed to have an opportunity to weigh in on.

13 I continue to think that the regulations are not
14 really incredibly well written in terms of how it helps us
15 get to a decision. And kind of going back to what is the
16 special exception criteria will be in harmony with general
17 intent and purpose of the zoning regulations and the zoning
18 maps is kind of where I guess I'm leaning towards providing
19 my decision from in that it's kind of like an undisturbed row
20 of the mansard roofs.

21 And we're now going to go ahead and change one end
22 which I think that the argument has been made very well. I
23 mean personally I don't have any problem with the bookend.
24 I think it looks, the rectangular element.

25 I mean I think the applicant makes a good argument

1 in terms of what are on the bookends of all these other rows.
2 If we approve this which it looks like we possibly will then
3 somebody will come back for the other bookend and try to do
4 the same thing at the other end.

5 And so this will set that precedent in that
6 motion.

7 It's interesting to hear just from a personal
8 standpoint in terms of what the architectural element, what
9 one of the architects on the board here thought of the by
10 right design. I actually didn't particularly dislike the by
11 right design. But again that's just a personal preference
12 which I do think is not what is helpful for people doing
13 projects here before us.

14 I know that we're trying to be as consistent as
15 possible. And I've voted against the Office of Planning so
16 that's not something that hasn't happened before.

17 I suppose I'm just stuck with the row and the
18 mansard roof being removed at all. But again I'm having such
19 a struggle with giving the development community really clear
20 understanding as to what may or may not get approved here
21 without having to go through this long process and them
22 thinking that it's really the community.

23 So I'm -- after all that I guess at this point I'm
24 voting against it. So somebody can make a motion.

25 VICE CHAIR HART: So I'll make the motion to

1 approve application number 19741 of M2Edgewood LLC that was
2 as read and captioned by the secretary. Do I have a second?

3 COMMISSIONER MILLER: Second.

4 VICE CHAIR HART: Hearing a second all those in
5 favor say aye.

6 (Chorus of ayes)

7 MEMBER WHITE: Point of clarification. As part
8 of that motion are we -- because the relief is specific to
9 just the mansard roof we're not including a condition
10 regarding the brick. As part of the condition for approval.

11 VICE CHAIR HART: No because they've actually --
12 design included brick already.

13 MEMBER JOHN: And the parapet, was that a
14 recommendation?

15 VICE CHAIR HART: I think it's more -- for them
16 it's just a recommendation. Unless you -- looking at OAG
17 unless you think that we need to have some drawing that shows
18 that. You're looking at me quizzically.

19 MS. LOVICK: No, I wouldn't in this situation.
20 No.

21 VICE CHAIR HART: That's fine. So we've made the
22 motion, seconded the motion, I've asked all those in favor
23 to say aye.

24 (Chorus of ayes)

25 VICE CHAIR HART: Any opposed?

1 (Chorus of nays)

2 VICE CHAIR HART: The ayes have it. Ms. Rose.

3 CHAIRMAN HILL: All right, Ms. Rose, the motion
4 passes.

5 MS. ROSE: Staff will record the vote as 4-0-1
6 with the motion by Mr. Hart seconded by Mr. Miller with Ms.
7 White and Ms. John in support of the motion and Mr. Hill
8 opposed to the motion.

9 CHAIRMAN HILL: Full order. Full order or summary
10 order. Can you do a summary order?

11 MS. ROSE: It can be a summary order.

12 CHAIRMAN HILL: Okay, summary order then please.
13 Okay, thank you.

14 Thank you, Mr. Miller. All right, Commissioner
15 Turnbull welcome back. All right, Ms. Rose, do you want to
16 call our next one? And then we're going to take a break by
17 the way after the Staples case.

18 MS. ROSE: Next is application number 19757 of
19 1201 Staples LLC as amended pursuant to 11 DCMR Subtitle X
20 Chapter 9 for special exception from the penthouse setback
21 requirements of 11 DCMR Subtitle C section 1500.2 and a
22 waiver from 11 DCMR Subtitle U section 301.2(e) and Subtitle
23 E section 206.1 pertaining to rooftop or upper floor addition
24 requirements to convert an existing non-residential building
25 to a three-unit apartment house in the RF-1 zone at premises

1 1201 Staples Street NE, square 4067, lot 2.

2 There are preliminary matters in this case. The
3 applicant is requesting postponement of the hearing. There
4 is a request to accept the untimely filing of a party status
5 application. The application for party status in opposition
6 has been filed and staff is requesting an amended self-
7 certification form to reflect the current relief being
8 requested.

9 CHAIRMAN HILL: Okay, great, thank you. Could you
10 please introduce yourself?

11 MR. TEASS: Good morning, my name is Will Teass.
12 I'm a principal with Teass Warren Architects here on behalf
13 of our client who owns 1201 Staples Street.

14 CHAIRMAN HILL: Okay, Mr. Teass. There is a bunch
15 of preliminary stuff as you've heard. Is the people
16 requesting party status here? Okay, if you could please come
17 forward. If you could just please introduce yourself for the
18 record.

19 MR. STILP: Hi, Mark Stilp. I am the immediately
20 adjacent neighbor at 1203 Staples Street NE.

21 CHAIRMAN HILL: Is it S-T-I-L-P?

22 MR. STILP: Correct.

23 CHAIRMAN HILL: Okay, great, thank you. Did you
24 guys get sworn in earlier?

25 MR. STILP: Yes.

1 MR. TEASS: Yes.

2 CHAIRMAN HILL: Okay. All right. Let's see. So
3 Mr. Teass, you guys are asking for a postponement. Why?

4 MR. TEASS: We received the Office of Planning
5 report last week which requested some design
6 reconsiderations. And we've reached out and set up a meeting
7 with the Office of Planning to go over some of those design
8 revisions.

9 We've also been working with the adjacent neighbor
10 Mr. Stilp regarding the solar panel array that he has at this
11 house. And we're working on drafting a legal agreement that
12 would relocate some of those panels from his roof to our roof
13 in order to mitigate the impact of the addition to his solar
14 array.

15 CHAIRMAN HILL: Okay. Mr. Stilp, so you're first
16 of all requesting a waiver for untimely filing. Can you
17 explain the request?

18 MR. STILP: Approximately 20 days ago I submitted
19 a request for party status. This is not what I do in my day
20 job and I'm not sure if it is untimely but in the event that
21 you found it was I included that filing.

22 CHAIRMAN HILL: Okay, that's fine. Was it
23 untimely? Is this one because we had a postponement the
24 first time?

25 MS. ROSE: Right, because it came in after the

1 first postponement.

2 CHAIRMAN HILL: Okay. And then Mr. Stilp, again
3 can you explain your party status. I heard you say that
4 you're the immediate next door neighbor, is that correct?

5 MR. STILP: Yes, sir.

6 CHAIRMAN HILL: Okay. And the board has any
7 questions. I do remember seeing the waiver that Mr. Stilp
8 has put forward as well as the party status. I don't have
9 any issues with the waiver or the party status. Does the
10 board have any issues with either one?

11 COMMISSIONER TURNBULL: I would go along with
12 that.

13 CHAIRMAN HILL: All right. So Mr. Stilp we're
14 going to go ahead and grant the waiver and then also grant
15 your party status. The waiver was actually because I guess
16 we had postponed and you hadn't had -- and I still think by
17 the way that's another thing for -- not that I have any
18 influence over anything because I don't know if I do but that
19 postponement thing, you should be able to file I would think
20 if we're just merely postponing. But in any case.

21 So that's that. The postponement that you're
22 trying to do. I guess, Mr. Teass, and I always forget is it
23 Teass or Teass.

24 MR. TEASS: It's Teass.

25 CHAIRMAN HILL: Teass, okay. So Mr. Teass, to

1 clarify the relief. So you guys are now doing U 320.3,
2 correct?

3 MR. TEASS: That is correct.

4 CHAIRMAN HILL: Okay. And so you know you're
5 going to need a new self-certification for that.

6 MR. TEASS: Yes, we do.

7 CHAIRMAN HILL: Okay. And you're getting rid of
8 E 206.1?

9 MR. TEASS: That's correct.

10 CHAIRMAN HILL: Okay. And then the other thing
11 I wanted to confirm or we were a little confused about is are
12 you going 10 feet past the adjoining neighbor?

13 MR. TEASS: We are not. Currently what we're
14 proposing is an addition that's 9 foot 11 from the rear wall
15 of the adjacent neighbor.

16 CHAIRMAN HILL: Okay. So when are you trying to
17 get a postponement to?

18 MR. TEASS: I think that we would like to meet
19 with the Office of Planning which we've scheduled for
20 tomorrow. We would also like to take this back to the ANC.
21 They are meeting on the 14th of August which I know falls in
22 the middle of your August recess so whenever the first
23 available is when you're back from your recess I think would
24 be appropriate.

25 CHAIRMAN HILL: You sure the ANC is meeting in

1 August?

2 MR. TEASS: It's on their calendar. We've reached
3 out to them to confirm that. We have not heard one way or
4 the other.

5 CHAIRMAN HILL: Okay, because I'd be surprised if
6 they were meeting in August. I mean -- anyway, that's fine.
7 You might be asking for a postponement again if they don't
8 meet until September.

9 MR. TEASS: I believe they meet the second Tuesday
10 of the month so perhaps our request today could take into
11 account, we might have to go see them in September, so maybe
12 the third week of September or sometime after that point.

13 CHAIRMAN HILL: Okay. I didn't think the ANCs met
14 in August. There's all kinds of commentary from the back.

15 Ms. Rose, we're pretty packed I think in
16 September, right?

17 MS. ROSE: Yes, I would suggest the 19th of
18 September.

19 CHAIRMAN HILL: Is that kind of light or do you
20 want to just do it -- there's two appeals on that day?

21 MS. ROSE: Yes.

22 CHAIRMAN HILL: So let's not do it that day. We
23 could do it either the next one in September or maybe the
24 first one in October.

25 MS. ROSE: I was looking at when Mr. Turnbull

1 would be back but it doesn't matter for you. So the 26th of
2 September. That's two appeals that day.

3 October 3rd.

4 CHAIRMAN HILL: Who's scheduling two appeals a
5 day. Okay, let's do the first one in October.

6 MS. ROSE: October 3rd.

7 CHAIRMAN HILL: Because then you guys if you need
8 to do it for September then you can do that. And Mr. Stilp,
9 is that -- would that work for you?

10 MR. STILP: I believe so, yes.

11 CHAIRMAN HILL: Okay. So what's the date, Ms.
12 Rose?

13 MS. ROSE: October 3, 2018 at 9:30 a.m.

14 CHAIRMAN HILL: Or at least October 3, 2018.
15 Okay, then we'll see you guys then.

16 MR. TEASS: Thank you very much.

17 MR. STILP: Thank you.

18 CHAIRMAN HILL: We're going to take a quick break
19 and we'll see you again.

20 (Whereupon, the above-entitled matter went off the
21 record at 12:09 p.m. and resumed at 12:24 p.m.)

22 CHAIRMAN HILL: All right, Mr. Moy, whenever
23 you're ready.

24 MR. MOY: All right, thank you Mr. Chairman. I
25 believe the next case application is application number

1 19781. This is of ROK Development LLC. This application has
2 been captioned and advertised for a special exception under
3 the residential conversion requirements Subtitle U section
4 320.2. This would construct a third story and rear addition
5 to an existing principal dwelling unit and convert it to a
6 three-unit apartment house. RF-1 zone at 524 Jefferson
7 Street NW, square 3209, lot 102.

8 CHAIRMAN HILL: Great, thank you, Mr. Moy.
9 Welcome back.

10 MR. MOY: Glad to be here, sir. Thank you.

11 CHAIRMAN HILL: Gentlemen, if you could please
12 introduce yourselves from my right to left.

13 MR. BOSTAN: Good afternoon. My name is Sahnur
14 Bostan with Axis Architects.

15 CHAIRMAN HILL: Moston?

16 MR. BOSTAN: Bostan. B-O-S-T-A-N.

17 MR. ALADE: Good afternoon. My name is Jide
18 Alade. I am a partner of ROK Development LLC.

19 MR. OMITOWOJU: And my name is Wole Omitowoju, a
20 partner in ROK Development. And we own the building at 524
21 Jefferson.

22 CHAIRMAN HILL: Could you say your last name again
23 for me?

24 MR. OMITOWOJU: Omitowoju. It's O-M-I-T-O-W-O-J-
25 U.

1 CHAIRMAN HILL: Okay, thank you. You can
2 introduce yourself.

3 MS. ROTH: My name's Nancy Roth. I'm with ANC 4D.

4 CHAIRMAN HILL: Okay.

5 MS. ROTH: I'm vice chair and this development is
6 located in our area.

7 CHAIRMAN HILL: Okay. All right, great. So
8 you're here to speak on behalf of the ANC.

9 MS. ROTH: Yes.

10 CHAIRMAN HILL: Okay. So you can sit there if you
11 like. It usually comes later in the hearing.

12 MS. ROTH: I just wanted to make sure I didn't
13 miss this.

14 CHAIRMAN HILL: Oh no, no, we won't miss you.

15 MS. ROTH: We have a resident here also.

16 CHAIRMAN HILL: Okay. We're going to take public
17 testimony and also from the ANC after we get through their
18 testimony and the Office of Planning.

19 MS. ROTH: Thank you, sir.

20 CHAIRMAN HILL: You're welcome. Thank you. All
21 right, so which one of you is going to be presenting?

22 MR. ALADE: I am.

23 CHAIRMAN HILL: Okay. So basically if you could
24 go ahead and walk us through what you're trying to do as well
25 as how you're meeting the standards for us to grant the

1 application. And I'm going to go ahead and put 15 minutes
2 on the clock Mr. Moy just so I know where we are. And those
3 numbers are up there on the clock there to your right and
4 left. And you can begin whenever you like.

5 MR. ALADE: Thank you very much. Again my name
6 is Jide Alade. I'm a partner of ROK Development. We own the
7 building at 524 Jefferson Street NW. We are requesting to
8 convert a single family rowhouse in the RF-1 zone to three
9 for sale condo units.

10 As part of this request we're asking for a third
11 story addition which is going up to 33.1 feet which is within
12 the RF-1 zone requirements.

13 We're also asking for a rear addition of 18 feet
14 which is 8 feet beyond the 10 feet by right in the RF-1 zone
15 as well as a waiver from the modifications to the facade to
16 alter the dormer. And we had originally also planned to have
17 a balcony on top of the front porch which we will speak about
18 a little bit later as we go ahead.

19 In terms of outreach I'd like to speak to the
20 outreach that we've done if that's appropriate at this time.
21 We met in May with the Office of Planning prior to filing our
22 application just for pre-review of the regulations.

23 Again, I think I should preface my statement to
24 say that this is not what we do every day. We are not
25 practicing architects or land use lawyers. We are building

1 owners and we are revitalization, the company is a
2 revitalization company that is focused on the northwest D.C.
3 neighborhood looking to buy older buildings to rehab them and
4 bring them up to brand new construction standards.

5 So we met with the Office of Planning to discuss
6 what we could do. And through that meeting we were told
7 what's allowed in terms of the code. And we started our
8 project based on those discussions.

9 We also met with the ANC commissioner Lisa Colbert
10 who is the chair of the ANC 4D and also the single member
11 commissioner. We met with her in May to discuss our project.
12 We showed her some images and she had advised that we need
13 to do community outreach.

14 The recommended neighborhood engagement was
15 started in May and between May and June we met with seven
16 neighbors. First of all we met with the neighbor directly
17 to the east of us which is 522 Jefferson Street. We also met
18 with the neighbor across from us which was at 517 Jefferson.
19 We also met with the neighbors at 609, 612 and 614.

20 Thereafter we got support from all those neighbors
21 that I had mentioned. There were several concerns that were
22 brought up when we had those meetings.

23 The neighbor directly to our right which is to our
24 east, 522, had mentioned privacy in her backyard. And we
25 mentioned that we're not going to be having any windows that

1 look onto her lot because we are building up to the property
2 line.

3 She also mentioned a concern about roof decks and
4 rear decks that are high and that can look over into her
5 yard. And we took those into consideration and removed those
6 elements from our design. This is all prior to formal
7 submission.

8 So we are taking privacy into consideration.
9 We're also taking parking. The block on Jefferson to my
10 understanding is an unzoned block meaning that it's not zone
11 parking so anybody can park there.

12 My understanding is that parking is a challenge
13 in that block for a couple of reasons. One, that some people
14 from out of the area apparently park there and commute
15 because there are no restrictions.

16 Also because of the fact that there are already
17 I believe three apartment buildings on the block there is
18 insufficient parking for residents.

19 Coupled with that in our research and driving
20 around doing our studies in the area we found that there are
21 several older rowhouses that have the small old garages that
22 people don't use. It seems like several people park up front
23 and they don't use their garages. They use their garages for
24 storage. So I think all these things add to the pressure on
25 parking.

1 So we took that into consideration and we
2 redesigned our project which is shown in the record to have
3 the rear be able to accommodate three cars, two in a tandem
4 position and one additional one. We also provide space for
5 recycling, for motorcycle and bicycle parking. So that's how
6 we addressed that issue.

7 When we submitted we did the mailing labels which
8 was sent out to everybody in the 200 feet radius and we were
9 invited to an ANC 4D meeting on June 19 which we attended.

10 At the meeting there was opposition by some
11 residents, particularly residents in the east side of 608
12 Jefferson building. The 608 Jefferson building is called the
13 Jake condo building. It's an old apartment that was
14 converted to condos that was built in 1957. There are 14
15 apartments in that building.

16 But neighbors who are affected by our project are
17 primarily the neighbors who live on the east side whose
18 windows look onto our rear yard currently.

19 So at the meeting we spent quite some time
20 discussing. We were last on the agenda I believe so there
21 wasn't enough time and we were told that there will be a
22 special meeting to be held on July 2 and there was a
23 continuance.

24 We were advised to further engage with neighbors
25 prior to the next meeting.

1 We did this and as part of these efforts we spoke
2 to additional neighbors. Some had believed that it was going
3 to be an apartment for rent project. And we explained to
4 them that that's not what we're doing. We're doing brand new
5 construction.

6 This would be brand new because we're going to be
7 basically taking all the internal elements of the building
8 out and building it fresh. We're planning units that are --
9 there's some smaller units and there's a large unit to kind
10 of have a blend of price points and sizes for the
11 neighborhood.

12 We then went for the meeting -- I'm sorry, we had
13 a meeting with the neighbors. So we were invited to an
14 owners meeting in the 608 Jefferson building. That's the 14-
15 unit condo building I mentioned earlier because most of the
16 opposition came from folks who live in that building.

17 At the meeting on July 1 in the 608 Jefferson
18 building a lot of questions were asked by the homeowners
19 present. And we tried as best as we could to answer all the
20 questions. Some of them had to do with the structural
21 integrity of our building and how that would affect the 608
22 Jefferson building especially regarding underpinning. We
23 mentioned that we were not underpinning. We have enough
24 headroom in the cellar level that we're not going to dig down
25 to underpin our building or their building.

1 There was also an issue of structural integrity
2 because apparently there had been a fire in that building
3 several years ago. And we told the residents that we're
4 taking all the existing wood members out and we're going to
5 be building brand new completely.

6 There is an issue about fire safety in terms of
7 escape from the condo building. There was also an issue
8 about the upper front balcony on the front porch which one
9 of the neighbors was concerned about that people can
10 congregate on that front porch and climb into the window of
11 his building which is in the 608 Jefferson building which
12 will show on the pictures right now.

13 All the comments were comments about the addition
14 of an upper floor which I've heard described as a popup but
15 it's an addition of an upper floor which is allowed by right
16 in the code.

17 However, we are requesting the modification in
18 terms of the dormer element.

19 The rear addition came up which affects some of
20 the residents in 608 Jefferson because as we go back some of
21 their windows that look currently onto our property or over
22 our property will be impacted.

23 Lastly, there were the issue of parking also which
24 we addressed.

25 We later then attended the special meeting of the

1 ANC on the 2nd of July. There were still several people
2 opposing and there were other people who live down the block
3 who also opposed. Most of the people in opposition have
4 submitted letters into the record regarding their opposition.

5 Some new elements came up. One was that it will
6 be too dense, that three units will be too dense. That was
7 one new element that came up.

8 There was one person that was not happy with the
9 treatment of the dormer style that we had introduced. We
10 tried to explain that we specifically made a change here
11 after meeting with the Office of Planning to make the slope
12 a lot shallower, to make it a true dormer type style.

13 And the fact that we are adjacent to another
14 building that is already higher and has a different design
15 typology which is also next to another building yet which is
16 even taller and is also a brick apartment building, we felt
17 that that was a good transition from that typology down to
18 the rowhouses of which we are one.

19 That was discussed in quite a bit of detail with
20 the resident next door at 522 Jefferson and they agreed with
21 that and that's in their letter also.

22 The ANC voted 6-0 to oppose this project. I
23 believe they submitted a letter to the record explaining
24 their position.

25 Our response really has been to try to mitigate

1 concerns that have been stated. We agreed to remove the
2 front balcony on the front porch which is a point that was
3 also noted by the Office of Planning.

4 We've provided the third parking space which is
5 a tandem space and more cycle and bicycle parking to try to
6 alleviate the issue with parking.

7 We have avoided upper floor balconies in the rear
8 to try to mitigate the issue of privacy and also roof decks
9 which address the same issue.

10 We do understand that there are impacts caused by
11 the shadowing of windows on some of the units on the east
12 side of the building. Our shadow studies go into some detail
13 about these and we've actually updated that with windows kind
14 of showing what those impacts are.

15 Our view is that the direct sunlight impact beyond
16 the by right building mass that affects some of these
17 buildings basically affects the living room and kitchen
18 windows of four of the units in the morning hours especially
19 during the summer. And we show how this also affects the
20 building at different times of the year. And we also have
21 some pictures that show how the 608 building affects the
22 building next door because they are both long condo buildings
23 to the west of us currently.

24 COMMISSIONER TURNBULL: If I could interrupt you
25 for a minute. Is the row of pictures in the middle that

1 you're showing, is that the by right then? So that's showing
2 it 10 feet only extending beyond.

3 MR. ALADE: Yes, that's correct.

4 COMMISSIONER TURNBULL: Okay.

5 MR. ALADE: And to the right is the proposed
6 development. So our architect will speak more about this in
7 detail when I'm done with my comments. But our thoughts are
8 that air which is one of the issues is provided by the court,
9 by the existing condo building in 608 and also 610 which are
10 the two buildings to the west of us.

11 When those buildings were built my understanding
12 is that they were probably designed in those ways away from
13 the property line to be able to allow egress and allow air
14 and light to reach those windows.

15 The front lower level of the apartment building
16 in 608 currently look out across the court to our building
17 basically a solid brick wall on our building. So we are
18 willing to look at whatever comments the members of the BZA
19 have regarding this project and we feel that we are providing
20 a variety of units for potential homeowners in this
21 neighborhood.

22 The front units are two units. The lower one is
23 one bedroom plus den. It's a basement level plus ground
24 floor, approximately 1,000 square feet. Price point will
25 probably be about \$400,000.

1 The upper level two-bedroom about 1,100 to 1,200
2 square feet, probably approximately about \$450. And the rear
3 unit is a full level rowhouse townhouse at the back which is
4 accessible from the front also, about 1,900 square feet with
5 a price point of probably about \$650,000.

6 So our architect can speak to the shadow studies
7 in some detail and we welcome your comments.

8 CHAIRMAN HILL: Okay, thank you. Go ahead and
9 speak to the shadow studies if you like.

10 MR. BOSTAN: Yes. Before the shadow studies my
11 client described the project in detail. He mentioned the
12 balcony in the front.

13 We did provide on the application two options for
14 the front elevation on page 8008 is the one with the balcony
15 and on page 8009 is the one without the balcony. So this is
16 the one we are agreeing to move forward with.

17 CHAIRMAN HILL: Which exhibit number?

18 MR. BOSTAN: It's the drawing exhibit.

19 VICE CHAIR HART: Exhibit number 46.

20 MR. BOSTAN: Correct. So we always had this
21 option and we discussed with planning and planning recommends
22 against the balcony as well and we take it -- we accept that.

23 CHAIRMAN HILL: Can you tell me the numbers again?
24 8008 has it and 8007 does not.

25 MR. BOSTAN: No, 8009 doesn't, 8008 does.

1 CHAIRMAN HILL: I've got it. Okay. All right,
2 please continue.

3 MR. BOSTAN: So that's to the balcony. And also
4 just to clarify the impact on the units looking from the side
5 to our project we provided this section 8006b which shows the
6 current condition. It's a section cut through the 608 condo
7 building looking toward our lot.

8 So the existing condition and we noted the living
9 room and the kitchen window and the bedroom in those.

10 CHAIRMAN HILL: 8006b is the 10 feet?

11 MR. BOSTAN: No, this is existing the way it is
12 right now.

13 CHAIRMAN HILL: Okay, I'm sorry.

14 MR. BOSTAN: So just to give you a little bit more
15 information about 608. From the chimney to the north is one
16 unit. From the chimney to the south to the back alley is
17 another unit.

18 CHAIRMAN HILL: 8006c, is that the proposed?

19 MR. BOSTAN: Yes, 8006c is the one that is
20 proposed.

21 CHAIRMAN HILL: And the dashed line, is that the
22 10 feet?

23 MR. BOSTAN: Exactly.

24 CHAIRMAN HILL: Okay.

25 MR. BOSTAN: So we provided these exhibits towards

1 the ease of understanding what's going on.

2 CHAIRMAN HILL: Thank you.

3 MR. BOSTAN: And other than that let me speak
4 briefly about the shadow studies. We have a streetscape that
5 shows -- we did whole block shadow studies but after the
6 concerns from the -- raised by the owners of condos in 608
7 Jefferson we included the windows and zoomed in the shadow
8 studies.

9 So basically the shadow will be casting on 608
10 will be a few hours in the morning. They are to our west.
11 And most of the time the condo building is casting shadow
12 over our property and beyond. They're much longer.
13 Currently they pass our building by 50 feet.

14 CHAIRMAN HILL: Can you clarify again for me, I'm
15 sorry, that window well or whatever you want to call it the
16 distance between those kitchen windows and your proposed
17 project.

18 MR. BOSTAN: On the section or on the plan?

19 CHAIRMAN HILL: Either one.

20 MR. BOSTAN: So if I go back to exhibit 8002 shows
21 the dimension between our building and Jefferson. It's about
22 8 foot 6. And a small portion is at 5 foot 6. So that's the
23 dimension.

24 By the way between 608 and -- there's another
25 apartment building to the west of 608 and they have a court

1 condition there about 11 feet.

2 CHAIRMAN HILL: Okay, keep going.

3 MR. BOSTAN: So going back to the shadow studies.
4 So this is in the winter. It's divided into three pieces,
5 the existing building, by right building by 10 feet addition
6 and proposed building.

7 And it's done at 9 a.m., at noon and at 3 p.m.
8 And this is in the winter. The most impact you will see is
9 on the upper right corner in every case. It speaks for
10 itself. In the winter that living room window is in the
11 shade for a couple of hours. In May and fall the upper upper
12 units get a little bit sun but the lower units, the kitchen
13 and the living room are in shade.

14 And I think the worst condition is in the summer.
15 Although the upper unit gets some sun the bottom kitchen
16 window and the living room windows are in shade. Again this
17 is only in the morning for a couple of hours. Most of the
18 day the condo building is casting shadow on us.

19 So if you have any questions further.

20 COMMISSIONER TURNBULL: Well, I'm confused. If
21 the alley is in the south if I look at the top pictures
22 whether it's existing, by right, or proposed at 9 a.m. a lot
23 of the building, that existing building at 620 it doesn't
24 really have any shadow except where you show it.

25 What I don't understand is if by 12 p.m. if the

1 sun is moving around why.

2 MR. BOSTAN: Well, 12 p.m. kind of the sun is from
3 the top so there isn't a lot of shadow.

4 COMMISSIONER TURNBULL: Why is there shadow. It
5 looks like I see gray on the existing condo building at 620.
6 Why would there be shadow there?

7 MR. BOSTAN: So they are in dark. There's no
8 shadow. The shadow is the grey area. At noon there is no
9 basically shade. The sun is hitting from the top.

10 And if I can show some existing pictures of -- we
11 took some photos of conditions. I don't know if you see my
12 screen.

13 COMMISSIONER TURNBULL: We can see exactly what
14 you've got.

15 MR. BOSTAN: So on page 3 the top left picture is
16 taken in the morning. So that shows the shadow we are
17 casting currently on the condo building. And the photo next
18 to it is in the afternoon. It's showing the shadow the condo
19 building is casting on our yard.

20 And just for point of reference this is west of
21 the condo building 608. That's how much the condo building
22 is casting shadow on the other condo building. This is taken
23 in the morning.

24 And the distance between there is about 11 feet
25 versus the 8 foot 6 we have.

1 CHAIRMAN HILL: Okay. Does the board have any
2 questions for the applicant at this point before we turn to
3 the Office of Planning? Okay. Go ahead and turn to the
4 Office of Planning, please.

5 MS. ELLIOTT: Thank you, Mr. Chairman. I'm
6 Brandice Elliott with the Office of Planning. I'm going to
7 go ahead and stand on the record of our report. We are
8 recommending approval of the requested conversion special
9 exception relief as well as the special waivers that have
10 been requested for the rear addition and the removal of the
11 rooftop architectural element.

12 If there are any questions I'm happy to respond
13 to those.

14 CHAIRMAN HILL: Okay. Does the board have any
15 specific questions for the Office of Planning?

16 MEMBER JOHN: Just one question. Is the approval
17 based on the reduced size of the addition? It's no longer
18 18 feet beyond but 10.

19 MR. BOSTAN: For the record it is 18 feet.

20 MEMBER JOHN: Oh, it is still 18 feet.

21 MR. BOSTAN: Yes.

22 MEMBER JOHN: Oh, okay. Thank you.

23 CHAIRMAN HILL: Ms. Elliott, since there's people
24 here and it's helpful if you could walk through for us again
25 kind of your analysis. And we just had a long discussion

1 about the rooftop element stuff. And I guess what I'm
2 finding in this case there is under U whatever it is, I'm
3 trying to think, they do speak to the character. And so that
4 I can at least see and understand in terms of the rooftop
5 element.

6 But in addition can you kind of -- first of all,
7 if you would please provide your analysis to how you got
8 through your report. And then also I again am kind of
9 struggling with the 18 versus the 10 and again that analysis.
10 Thank you.

11 MS. ELLIOTT: Sure. I think the bulk of the
12 analysis is under the special exception criteria letter I
13 where it goes into the light and air available to neighboring
14 properties and privacy and enjoyment not being unduly
15 compromised, and then the character, scale and pattern of
16 houses and how this is or is not compatible with the existing
17 neighborhood fabric.

18 So if it's okay with the board I'll kind of focus
19 on those issues.

20 CHAIRMAN HILL: That would be great, thank you.

21 MS. ELLIOTT: Okay. So light and air available
22 to neighboring properties. The existing row dwelling for
23 better or worse has the benefit of being located adjacent to
24 a mid-block apartment building. That apartment building
25 extends back about 50 feet beyond the rear wall of the

1 existing row dwelling.

2 And so even with the rear addition it would still
3 extend about 30 feet give or take from beyond the rear wall,
4 the new rear wall of the row dwelling.

5 There's also the benefit of a wide court. And I
6 do apologize, my report actually indicates that court is
7 about 10 feet in width and I believe the applicant provided
8 some revised dimensions showing that it varies in width from
9 about 5 and a half feet to 8 and a half feet.

10 That being said those are still fairly wide courts
11 and so we found in our analysis that because that apartment
12 building actually extends beyond the row dwelling
13 significantly that most of the shadowing occurs to the east.
14 So it's limited mostly -- the proposal doesn't expand the
15 shadowing to the east. That's the point I'm trying to make.

16 The windows that are located in the court for the
17 apartment building, they already do experience some degree
18 of shadowing throughout the day but we didn't find that the
19 proposal would substantially increase that.

20 I'm trying to be sensitive to that because I do
21 realize that there is some opposition, the ANC is opposed and
22 the neighbors are opposed. This is based on our exterior
23 analysis. And I'm sensitive to the fact that there are
24 people that live in that building and they're going to
25 experience that shading and shadowing to a different degree.

1 So I do believe they're here to speak about that
2 specifically.

3 The privacy of use and enjoyment of neighboring
4 properties should not be unduly compromised. In regards to
5 that criteria the addition would not contain any windows that
6 look on either the east or west building elevations and so
7 in terms of privacy that should remain intact for those
8 neighbors to the east and the west of the proposal.

9 And then the conversion as viewed from public
10 alleys should not substantially visually intrude upon the
11 character, scale and pattern of houses. We actually thought
12 that the proposal minus the second story balcony which the
13 applicant has agreed to remove was fairly consistent with the
14 existing street pattern.

15 In fact, we thought that the elongation of the
16 mansard and the dormer windows provided a nice transition
17 from the apartment building down to the lower scaled
18 apartment. I'm sorry, lower scaled row dwellings.

19 And mind you the increase in height is not
20 significant. It's I believe 3.2 feet higher. I apologize,
21 5.6 feet higher than the row dwelling to the east and 3.2
22 feet higher than the apartment house to the west, but still
23 under the 35 feet maximum that's permitted in this zone.

24 I hope that that helps and provides some clarity
25 but I'm happy to go into more.

1 CHAIRMAN HILL: No, that was very helpful. Thank
2 you. Anyone else?

3 COMMISSIONER TURNBULL: The main thing on the
4 front for you is the balcony to be removed.

5 MS. ELLIOTT: Yes. We actually have an Office of
6 Planning staff person that sits on the Public Space Committee
7 and because the balcony is in public space it would have to
8 be reduced significantly in order to meet those requirements.
9 And so we just recommended that it be removed entirely. But
10 yes, we're comfortable with that removal.

11 COMMISSIONER TURNBULL: Thank you.

12 MEMBER WHITE: One question regarding the relief
13 that they're seeking for the rooftop architectural element
14 alteration. Can you address that a little bit? Unless I
15 missed that I just wanted to see what your thinking was as
16 part of your analysis in terms of why it met the criteria for
17 the special exception relief.

18 MS. ELLIOTT: So the rooftop architectural waiver
19 really speaks -- it's letter I number 3 of the special
20 exception criteria that I think more specifically addresses
21 the removal of rooftop features.

22 In this case, and again I know that there have
23 been some extensive discussions today about rooftop elements
24 and whether it's appropriate to remove them. And we review
25 each case on its own merits.

1 I feel that in this particular case the rowhouse
2 is located -- it abuts a nineteen thirties apartment
3 building. The scale of this street is a little bit different
4 than what we've seen in previous cases today.

5 And so what it's being replaced with is
6 essentially an elongated mansard roof, elongated dormers, and
7 it's very similar to the existing architectural rooftop
8 elements. They're just being elongated.

9 And so we think that because of the apartment
10 building to the east that this actually provides a nice
11 transition down to the lower scaled row dwellings and it
12 doesn't increase the height substantially. It's still within
13 the height limitations for the zone.

14 So it still exhibits a lot of those same
15 architectural features that are there although slightly
16 different. But we think that it still is compatible with the
17 existing street character.

18 COMMISSIONER TURNBULL: Just one more question,
19 Ms. Elliott. The balcony deck on the rear of the building.
20 Did you look at the overlook onto the condo as to the impact
21 that might be?

22 MS. ELLIOTT: We did and we don't find that it
23 would be more of an impact than a matter of right balcony
24 would be. And so we didn't find that it would have an
25 adverse impact.

1 COMMISSIONER TURNBULL: You didn't see a need to
2 provide some kind of screening along there to reduce the
3 visibility?

4 MS. ELLIOTT: We didn't. It's at a lower grade
5 and it's immediately adjacent to the fencing so we didn't see
6 it as an issue. It certainly wouldn't be uncommon for
7 applicants to appease their neighbors by providing something.
8 We wouldn't be opposed to that.

9 COMMISSIONER TURNBULL: Okay, thank you.

10 CHAIRMAN HILL: Okay. Does the applicant have any
11 questions for the Office of Planning?

12 MR. ALADE: Not at this time.

13 CHAIRMAN HILL: Okay. And just to let the
14 audience know also we are going to take a break after this.
15 We're going to have lunch. And so this case is going to go
16 on for however long this case goes on. So I'm going to say
17 maybe we'll be back here at 2. So just kind of throwing that
18 out for if anybody is here for the next cases. Because if
19 we don't eat somebody is going to get mad up here.

20 So I know there's someone from the ANC here
21 wishing to speak. If you could please come forward. Is
22 anybody here wishing to speak in support. Let's hear that
23 first. Okay. So if you're here in opposition come on up
24 with the ANC as well is fine.

25 So Commissioner, I know you introduced yourself

1 already but if you could introduce yourself again real quick.

2 MS. ROTH: Hi, I'm Nancy Roth, R-O-T-H, ANC 4D01.
3 I also live on Jefferson Street although a little bit further
4 to the west.

5 CHAIRMAN HILL: Okay, Commissioner Roth, thank
6 you. And you guys, we'll get to you in a minute in terms of
7 public but if you could just introduce yourselves for the
8 record. Just push the microphone and then speak into the
9 microphone.

10 MS. HUMPHREY: My name is Erin Humphrey. I am a
11 resident of 608 Jefferson Street. I also want to make clear
12 that I'm here as a resident. I just had to take my own leave
13 so I'm not actually testifying by any means as part of the
14 fire department. On my own leave, paid for my own parking,
15 drove my own car.

16 CHAIRMAN HILL: Okay, no problem. Thank you for
17 clarification.

18 MS. CHERIE: Good afternoon. My name is Valesay
19 Cherie and my house is directly across the street. I live
20 603 Jefferson Street NW.

21 CHAIRMAN HILL: Okay, Cherie.

22 MS. CHERIE: Cherie. And I am absent from work
23 too. I'm on call. I'm a midwife.

24 CHAIRMAN HILL: Okay. Well hopefully nobody has
25 a baby right now. So we're going to go ahead. You guys will

1 have three minutes each to testify. Commissioner, you have
2 five minutes. But also you can have questions as well of the
3 Office of Planning and also some of the applicants if you
4 have any questions.

5 So please go ahead and there's five minutes on the
6 clock and you can begin whenever you like.

7 MS. ROTH: Thank you. I don't have a prepared
8 presentation, however, very late last night like 1 in the
9 morning I uploaded the report from ANC 4D and I'm concerned
10 that you didn't obtain it because of the late hour at which
11 I put it up. So I'm wondering if I may pass out a paper
12 version for you. Would that be helpful?

13 CHAIRMAN HILL: It's in the record. If you have
14 copies for everybody you're welcome to pass them out.

15 MS. ROTH: All right. Thank you, sir.

16 CHAIRMAN HILL: Sure. You can just give them to
17 the secretary over here. Mr. Moy will pass them out
18 actually, Commissioner. There's a process.

19 MS. ROTH: Thank you so much.

20 CHAIRMAN HILL: Sure, give us one second. All
21 right, Commissioner Roth, you can go ahead whenever you like.

22 MS. ROTH: Okay. Thank you so much. I'm not
23 going to read all the way through here. We listened in great
24 interest to the developers and also to the neighbors.

25 I want to tell you that I've come before this

1 board before and it has always been in favor of the developer
2 because we need density in our neighborhood in order to build
3 an economic engine. So please don't understand us as being
4 anti-development.

5 But the development that happens cannot happen at
6 the expense of the existing residents and we feel this
7 development basically facing the living room windows and the
8 kitchen windows against a blank wall is a very distinctive
9 violation of the 320.2(i) any addition shall not have a
10 substantially adverse effect on the use or enjoyment of any
11 abutting or adjacent dwelling or property. In particular the
12 light and air available to neighboring properties shall not
13 be unduly affected and the privacy of use and enjoyment of
14 neighboring properties shall not be unduly compromised.

15 So my neighbors who live in that building are
16 going to show you what they're going to lose if this goes up.
17 We know from studies done repeatedly across the country the
18 value of natural light in learning environments and in work
19 environments and in home environments.

20 The National Renewable Energy Laboratory of the
21 Department of Energy put out a study in 2003 that was a
22 literature study of all the ways that natural light benefits
23 people and all the ways the lack of it hurts people. It's
24 a health issue.

25 For example, children in naturally lit classrooms

1 score higher on their tests and workers in naturally lit
2 offices are more productive and happier.

3 So you take that light out of a home environment
4 which our residents bought in good faith I believe you take
5 that benefit away from them and that that is a substantial
6 adverse effect.

7 And I also want to say that I'm also a
8 professional realtor and I -- it's my business to evaluate
9 homes and I know that natural light sells a home and raises
10 the value of it. And the absence of natural light and
11 looking out on a wall is going to be an adverse effect on the
12 property value.

13 So these gentlemen do have property rights. We
14 respect property rights. But our residents have property
15 rights also and one of their rights is to preserve their
16 property value which we believe will be substantially
17 decreased.

18 I also want to say one more thing to our Office
19 of Planning person. I do not understand how you can do this
20 study without reaching out to the locals. I don't understand
21 why we weren't called and asked.

22 What I did that convinced me was I went actually
23 to the site and took pictures. They are in the first
24 exhibit. I'm just holding them up so you can see them.
25 That's what the building looks like.

1 So this white line going through here, actually
2 in color it's yellow, but along the left edge is where it's
3 going to go to according to their own plans that they just
4 showed you based on the outlines that you just saw on the
5 screen.

6 So try to imagine what it would be like living in
7 those units that you bought and suddenly having a blank wall
8 in front of you.

9 So my first -- although I have a very strong sense
10 that we need density in the neighborhood my first duty is to
11 represent the residents who live here and that's why I'm here
12 arguing on their behalf that any addition to that back
13 building let alone an 18 foot addition would be of extreme
14 adverse impact to our residents. Thank you, sir.

15 CHAIRMAN HILL: Thank you, Commissioner Roth. Did
16 you have any questions for the applicant or the Office of
17 Planning?

18 MS. ROTH: I asked the Office of Planning why they
19 didn't reach out to us.

20 MS. ELLIOTT: The ANC is notified of the project
21 at the same time that Office of Planning is, and, and both
22 parties are given great weight, and so this is the process
23 working, as it should.

24 You're here to represent your community and, and
25 provide comments, you know, that support their, their vision.

1 So I --

2 MS. ROTH: Did you ever come out to the property
3 and look in the back?

4 MS. ELLIOTT: I am familiar with this
5 neighborhood, yes.

6 MS. ROTH: Okay, but did you --

7 CHAIRMAN HILL: Commissioner Roth --

8 MS. ROTH: -- see this particular property?
9 (Simultaneous speaking.)

10 CHAIRMAN HILL: Commissioner Roth, then --

11 MS. ELLIOTT: I'm sorry.

12 CHAIRMAN HILL: That's okay. And I appreciate,
13 like, I'm trying to, also, then be more clear that,
14 Commissioners, when they come down to the ANC have an
15 opportunity to ask questions.

16 MS. ELLIOTT: Okay.

17 CHAIRMAN HILL: I'm the A, the O, the Office of
18 Planning, I mean, I know it's always difficult when you're
19 on the opposite side of things.

20 MS. ROTH: Yes.

21 CHAIRMAN HILL: But they look at things in a very,
22 like, black and white kind of way, and so they provide their
23 analysis, in terms of their report. I mean, everybody has
24 a difference of, or, everybody doesn't always have a
25 difference of opinion, like, when the ANC's on the same side

1 of the Office of Planning they're thrilled.

2 So -- but I did, they did ask your question, they
3 did answer, in terms of --

4 MS. ROTH: Okay.

5 CHAIRMAN HILL: -- as best they could.

6 MS. ROTH: I beg your pardon.

7 CHAIRMAN HILL: That's all right, you don't need
8 to beg -- I mean, just, you're just on the opposite sides,
9 today.

10 MS. ROTH: Yes.

11 CHAIRMAN HILL: Do you have any questions of the
12 Applicant?

13 MS. ROTH: No.

14 CHAIRMAN HILL: Okay. All right.

15 MS. ROTH: No, they've answered our questions --

16 CHAIRMAN HILL: Okay.

17 MS. ROTH: -- very well.

18 CHAIRMAN HILL: Okay. All right. All right, so
19 now, I'm going to go --

20 VICE CHAIR HART: Just one quick --

21 CHAIRMAN HILL: Oh, sure. Sorry. The Board, any

22 --

23 VICE CHAIR HART: Yes.

24 CHAIRMAN HILL: -- questions --

25 VICE CHAIR HART: Just one, one --

1 CHAIRMAN HILL: -- Commissioner?

2 VICE CHAIR HART: -- one quick question. Ms.,
3 Commissioner Roth, one of the, and I'm a little bit -- not,
4 I wouldn't say confused. I was just looking at the, what you
5 submitted last night, I guess, and what you submitted today,
6 they were a little different and I just --

7 MS. ROTH: Yes, sir.

8 VICE CHAIR HART: -- one's a letter from you, I
9 think?

10 MS. ROTH: I beg your pardon, I, I submitted the
11 next to the last version, instead of the last version.

12 VICE CHAIR HART: Ah.

13 MS. ROTH: And I didn't, when I realized it this
14 morning, I just didn't have time to upload the version that's
15 in front of you, so --

16 VICE CHAIR HART: So you want --

17 MS. ROTH: -- excuse me.

18 VICE CHAIR HART: -- you want the version that's
19 in, that, that you handed out to us --

20 MS. ROTH: Yes.

21 VICE CHAIR HART: -- to be the version that is --

22 MS. ROTH: Exactly right.

23 VICE CHAIR HART: -- I don't --

24 MS. ROTH: And that's partly why I, I gave it out.

25 (Simultaneous speaking.)

1 VICE CHAIR HART: No, I, actually, I appreciate
2 it, because it's, there's more information in the version
3 that you see, that you gave out today --

4 MS. ROTH: Yes.

5 VICE CHAIR HART: -- which is why it's good that
6 you brought a copy of it.

7 MS. ROTH: Yes.

8 VICE CHAIR HART: But I was going to ask you a
9 question, regarding the balcony, you know, on the, on the
10 front of the house. It's, you know, it sounds like that's
11 not going to happen now. So you, you all are -- oh, you, you
12 would support them not having one, it, it sounded like there
13 was an issue with, with one being there, so.

14 MS. ROTH: You have to understand that the
15 Commissioner, whose, whose community, whose district this is,
16 went and did, and you'll see, at the back, went and did a
17 door-to-door poll of the residents and her results are sort
18 of in a graphic on the back.

19 So that was what she found out, as a result of
20 talking to the residents that there was some concern that the
21 balcony, sort of, violated the, you know, the, sort of,
22 rhythm and fabric of the neighborhood. And I don't have a
23 strong feeling about that, one way or another, but,
24 obviously, taking it away would be a good thing.

25 VICE CHAIR HART: Thank you. And, another, kind

1 of, question on this, so --

2 MS. ROTH: Sure.

3 VICE CHAIR HART: So you would prefer the
4 development to not go farther than ten feet? Because,
5 really, that, that ten feet is what is actually --

6 MS. ROTH: I know.

7 VICE CHAIR HART: -- allowed under zoning, as
8 well.

9 MS. ROTH: I know. I actually asked the legal
10 counsel about matter of right. That, these guys can come in
11 and ruin the homes of our residents, by matter of right.

12 VICE CHAIR HART: I can't answer that. They are
13 doing --

14 MS. ROTH: But it appears --

15 VICE CHAIR HART: -- what is --

16 MS. ROTH: That appears to be the fact.

17 VICE CHAIR HART: They are -- they would be able
18 to add ten feet to the back of their --

19 MS. ROTH: They would block all the living room
20 windows. Forgive me, sir.

21 VICE CHAIR HART: No, I understand it. What I,
22 what I'm saying is, the Zoning Regulations were changed, were
23 changed 2016.

24 MS. ROTH: Yes, sir, I know.

25 VICE CHAIR HART: And so prior to that, they

1 could've gone back as far as they wanted to. So right now,
2 without any, that, the matter of right was build back as far
3 as you want, so right now the Zoning Commission approved the,
4 not us, but the Zoning Commission --

5 MS. ROTH: Yes, sir, I know.

6 VICE CHAIR HART: -- they approved the, you know,
7 the addition.

8 COMMISSIONER TURNBULL: We get it, we get it.

9 (Laughter.)

10 VICE CHAIR HART: Sorry, Commissioner Turnbull.
11 But the Zoning Commission, they're the ones that, kind of,
12 said, okay, anything beyond that ten-foot kind of distance,
13 then needs to actually have some community discussion and all
14 of that other stuff. So there were more, there is, there
15 was, kind of, a balance between people that wanted to
16 actually do some development and the community that, the
17 development adding on to their own, their own property and
18 the, and the community, as a whole, so the process is what
19 we have before us --

20 MS. ROTH: Yes, sir.

21 VICE CHAIR HART: -- which is what we're going
22 forward with.

23 MS. ROTH: I would suggest that the blocking of
24 natural light from kitchen windows, is a serious a breachment
25 of quality of life of our residents and --

1 VICE CHAIR HART: Well --

2 MS. ROTH: -- that's what that 18 --

3 VICE CHAIR HART: Well, I would say this, the
4 building that is the condo building is longer than the
5 building that is on either, well not on either side, but on
6 one side of it --- the east the Applicant's building.

7 So that building actually blocks sunlight for the
8 entire back of several of buildings. And so it's currently
9 doing it. So the -- as the sun is moving through it is
10 casting a shadow and blocking.

11 I'm not saying I'm for the development, I'm just
12 saying that, each development has an impact, can have an
13 impact on the adjacent neighbors. And so that's what we're
14 looking at and understanding what those impacts are and then,
15 trying to understand, whether or not -- what that is. So --

16 MS. ROTH: Well, perhaps the best thing would be
17 for you to talk to some of the neighbors who live there, and
18 they can show you what they are going to lose. Although, I'm
19 glad to answer any questions from anyone else on the panel,
20 I'd just as soon shift over to my --

21 VICE CHAIR HART: Well, no --

22 MS. ROTH: -- neighbors, are you --

23 VICE CHAIR HART: -- I don't have a problem with
24 it, I just --

25 MS. ROTH: -- you know --

1 VICE CHAIR HART: -- I was just saying that's --

2 MS. ROTH: Yes, sir.

3 VICE CHAIR HART: -- that's where we are --

4 MS. ROTH: I get that. I understand that.

5 VICE CHAIR HART: Okay.

6 MS. ROTH: Thank you, sir.

7 VICE CHAIR HART: Thanks.

8 MS. ROTH: May I answer any other questions?

9 MEMBER WHITE: I guess, my main question is, you
10 know, what Mr. -- Vice Chair Hart was saying that, as a
11 matter of right, they can go back ten feet, they wouldn't
12 have to come before us.

13 So I'm just trying to see, whether or not, what
14 the ANC's position is, in terms of, how far back you think
15 would be okay for them to go back, beyond the ten feet, or
16 are you just adamant about not going beyond the ten feet?

17 And then, I guess, the other thing is that, I
18 don't think you had a strong position, I didn't finish
19 reading all of your letter, regarding the alteration of the
20 rooftop element, maybe that wasn't as big of an issue it
21 sounds like --

22 MS. ROTH: I --

23 MEMBER WHITE: -- the amount of the project going
24 back is the major part of --

25 MS. ROTH: I like the front. I think the front

1 is quite a beautiful design and will, I mean, not all of my
2 neighbors will agree, but I think they were very sensitive
3 to the, you know, symmetry and proportions of the rest of the
4 neighborhood. And I like the front. So I have no
5 disagreement. It is about the back.

6 CHAIRMAN HILL: Okay. If, now, we could turn to,
7 you guys here, if we could start with Ms. Greening? I just
8 want to make -- I just wanted to make sure I was pronouncing
9 your last name correctly.

10 MS. CHERIE: Cherie. Cherie. My sir name is
11 Cherie.

12 CHAIRMAN HILL: Oh, Cherie. Okay. Ms. Cherie,
13 so you'll have three minutes there and you can go ahead and
14 begin whenever you like.

15 MS. CHERIE: I start now and I'm glad I had the
16 opportunity to hear the first case this morning. I'm coming
17 from Jamaica, and the rights at home are totally different
18 from here and I'm trying to understand your system.

19 But, what I don't understand is how you can choose
20 to live some place and I chose the home that I have now, by
21 the quality of the street. I like the fact that it was a
22 one-way. I like the symmetry of the houses there.

23 There are two apartment buildings. I realize they
24 are condos now. And a number of people that were there,
25 which was fine with me, because I took that into

1 consideration with how many people I'm going to be around.

2 The house is adjacent, well not adjacent, straight
3 across from me. I'm looking at the height that it's going
4 to go up. I don't have a problem with the sun, in fact, I
5 worship the sun.

6 So that height is going to go up. It's going to
7 affect how it's going to hit my house. Personal health, one,
8 I sit on the veranda, drink my tea. I like the sun. What
9 they're proposing is going to block some of that sun coming
10 to my home.

11 Second to that, I have to appreciate what the
12 Commissioner is saying about health, air, and just being
13 healthy. I don't think he should have the right, or they
14 should have the right to diminish, what I consider, a
15 property that I purchased for some of those same properties
16 that I wanted.

17 The fact that, and I understand you say about
18 density, one of the things I like about the row houses, where
19 I was considering, how many people could actually be there,
20 when I was living there, and I plan to stay there.

21 Now, the home is a single dwelling, you're going
22 to turn it into a condo. I've got a monstrosity to my left
23 that just went up overnight. I never saw anything about any
24 development.

25 It had a white sign on the door first, went, then

1 they knocked down the house in the back, they left the front
2 opposite the side, I went to work, I went on overtime, I came
3 back, the block was put up. It looks like a barn.

4 Now there are three condos there, but there are
5 a good eight, or nine, cars that you see, three in the drive
6 behind the place, and then, the vacant house there, there are
7 two others that park there and then they line up on the side.

8 So there's more than just one family. I've got
9 some fear with, now this family coming across with three
10 condos, how many people going to actually be there? He
11 actually addressed one of my concerns is the parking.
12 Parking's horrendous. It's a good thing I have off-street
13 parking, but it's just not fair for the other neighbors.

14 Another concern, I guess, I did talk about what
15 I wanted to say. Oh, that little part here, I noticed, at
16 the bottom, on what they have submitted, is an existing, I
17 guess, a construct just for, for purposes of a model, but
18 that's not necessarily what they're going to end up with.

19 That's a little scary, because you'll give them
20 the right to go ahead and build this property then and
21 develop it the way they want to, and they present one thing
22 to you and the next thing we know, it's back out to the
23 driveway.

24 It could be anywhere towards the front and it will
25 be okay, because it seems it's what -- from what I heard this

1 morning, it's what the developers want to do. That's scary.
2 I guess, I finished before two minutes. The nuns would've
3 been very happy with me.

4 CHAIRMAN HILL: Okay. The -- so, Ms. Cherie, I
5 guess, just to, you know, just to make some comments, I, you
6 know, in terms of the process, the Applicant is here to try
7 to do things within their right, in terms of asking for
8 special exceptions, or variances, whatever the Applicants
9 might be asking for, so they're allowed to come and try to
10 ask, well that's within their right.

11 And then we go through this process to see whether
12 or not they should be granted, or not, that special exception
13 or variance. In terms of the, the shadowing, so you don't,
14 and I can turn to the Applicant, I don't know how much
15 shadowing is actually -- is it?

16 I mean, I don't see anything directly across the
17 street to Ms. Cherie's property, as to how, you're going up
18 an additional, what, eight feet, or something like that, I
19 don't know what --

20 COMMISSIONER TURNBULL: Five feet, or --

21 MR. BOSTAN: About five-and-a-half, six feet.

22 CHAIRMAN HILL: Okay. So you haven't done --

23 MR. BOSTAN: Well --

24 CHAIRMAN HILL: -- an analysis to -- I mean, I --
25 it surprises me, as to how much extra shadowing might happen,

1 if any, from those five feet, across the street.

2 MR. BOSTAN: I mean, we did our side of the block
3 on Page 816, Page 816 starting, and I really don't think --
4 I really don't think that it's --

5 CHAIRMAN HILL: Like, how far, how far away is the
6 -- you don't know how far away the front of the other house
7 is, across the street?

8 MR. BOSTAN: I mean, if it says --

9 COMMISSIONER TURNBULL: Well, the right --

10 CHAIRMAN HILL: It's 90 feet.

11 COMMISSIONER TURNBULL: The right of way is 90
12 feet.

13 CHAIRMAN HILL: Okay.

14 COMMISSIONER TURNBULL: The right of way of the
15 street, I think, is 90 feet. I mean, you got -- the right
16 of way includes the, the lawn --

17 PARTICIPANT: The sides.

18 COMMISSIONER TURNBULL: -- and everything else.

19 CHAIRMAN HILL: Guys, you got to be surprised that
20 there's the shadowing going --

21 COMMISSIONER TURNBULL: I don't think, I don't
22 think it's even going to the middle of the street.

23 MR. BOSTAN: I don't think so, no.

24 CHAIRMAN HILL: All right. Okay. So, Ms. Cherie,
25 the additional height from your, from that development

1 wouldn't get any additional shadowing, wouldn't get to your
2 yard.

3 MS. CHERIE: You're saying you think?

4 CHAIRMAN HILL: No. We're confident of it. But
5 anyway that's okay, you can still be opposed to it. I'm
6 just, kind of, pointing out one item of, of what you had
7 addressed. Does the Board have any questions to Ms. Cherie?

8 COMMISSIONER TURNBULL: Well, no, I just wanted
9 -- I mean, the process that, when, if this is to pay -- if
10 this were to pass, if we were to approve it, there would be
11 an order written, and if there was any deviations from that,
12 or any changes, they would have to come back to the BZA, or
13 they would be in default of their permit. So they would have
14 to remove whatever they did that's not in compliance with
15 their permit. Any change, whatever is approved here, the
16 City Inspectors will be looking at that for what to build.
17 I mean, that's the process.

18 MS. CHERIE: But they have the right to change a
19 single dwelling to a condo?

20 Up to two units, and they're saying three?

21 But then they're saying a basement, as well? Did
22 I say -- no?

23 CHAIRMAN HILL: What Commissioner Turnbull's
24 saying is that, whatever we approve here, is what they're
25 going to get. They don't change their drawings, after they

1 leave here. So whatever we see, whatever everybody sees is
2 what gets approved and then, they don't change anything after
3 that, so. Ms. Humphrey.

4 MS. HUMPHREY: Yes?

5 CHAIRMAN HILL: I'm going to put three minutes on
6 the clock for you, as well.

7 MS. HUMPHREY: And can I -- to you guys?

8 CHAIRMAN HILL: Sure, if you have enough for
9 everybody?

10 MS. HUMPHREY: Well, when you said make copies,
11 I went across the hall.

12 CHAIRMAN HILL: All right, Ms. Humphrey, we're
13 ready to go, whenever you are.

14 MS. HUMPHREY: Okay, thank you. I want to
15 reiterate that I'm not in any way associated with the
16 Department. So I have quite a few things that I want to
17 address.

18 I've been living at 608 Jefferson, Number 303, for
19 eight years this year. And some of my issues have already
20 been brought up but I wanted to be more specific. And I also
21 wanted to bring you photos of the things that I'm going to
22 lose, and this impacts me, actually, less than it impacts the
23 people in 203 and 103, who are going to end up, basically,
24 in caves.

25 So first off, the natural light. The living room

1 windows and the kitchen windows are the only west-facing
2 windows and the only light for the common space in my unit.

3 So -- all right, sorry, east facing. So this one
4 right here that is front and center. I think it's a little
5 easier to see in color, and I apologize I didn't make enough
6 copies before I got here.

7 So this was taken with the hallway lights on. So
8 that, you can see, this is a very shotgun style unit, which
9 is all of the natural light is over on this, on this wall.

10 CHAIRMAN HILL: Sure.

11 MS. HUMPHREY: The ten feet is already going to
12 block my living room light. The 18 feet will block my
13 kitchen light, which will, in effect, block all of the
14 natural light from my living space.

15 So I wanted to have you guys get that layout.
16 There are no other windows in my building, or in my unit.
17 And, like I said, it gets worse the lower in the building
18 that you get, so that kind of light.

19 The one on this other way, with, that goes into
20 the living room and the kitchen, this is taken with no other
21 lights on. This is completely natural light at 8:00 p.m.
22 last night. So this is really significant.

23 And, I think that, anybody that lives in an urban
24 environment, there's a couple of really big perks to living
25 on the third floor. One of them, the biggest, is that I

1 don't live underneath anyone, and the other one is that, I
2 actually have a view and I have natural light. That makes
3 up for having to carry my trash out four flights of stairs
4 every other day.

5 The other two that I have are the view from my
6 kitchen window. The ANC meeting, the developers had actually
7 said, we're already taking your living room, what's the
8 kitchen?

9 This is the view from my kitchen window at 8
10 o'clock last night. And I think that you'll notice that the
11 one in color, this was at 5:30 a.m. this morning. That eight
12 feet is significant to the enjoyment and the use of our
13 property. On -- and I can tell you that, 302 and 303 and 203
14 and 103 will be dramatically impacted by this.

15 We, all, understand that they get ten feet. And,
16 if I hear right, to build in the ten feet, we can have it
17 anyway, one more time, I understand we're not fighting that,
18 we're fighting the additional eight feet. And the additional
19 eight feet is a really, really huge impact.

20 Now, I'm going to -- also added, this is one page
21 of my property appraisal that was done in 2016, when I
22 refinanced. And I picked out the page that specifically put
23 view in my property appraisal.

24 So that will be gone. So that is the best way
25 that I can show you that this will directly impact my

1 property value. And when my property value is directly
2 impact it will impact the entire value, the value of everyone
3 in my building.

4 Obviously, we've talked about parking. There's
5 not a lot we can do about that, I do understand that it is,
6 you know, it's not zone parking, we already have a plan for
7 that.

8 I also want to talk about the front of the
9 building. I think it looks like a row house in a fun house
10 mirror. That is not actually making up for a dormer, or a
11 roof. I think it makes a mockery of the integrity and the
12 character of the row houses.

13 What makes Jefferson Street different is the fact
14 that we have a lot of things the other streets don't have.
15 We have old growth trees. If you look at Ingraham, or Fifth
16 Street, or Seventh Street, they don't have the old growth
17 trees that we have.

18 A lot of those buildings do have second floor
19 patios, or balconies, we don't have those and that is what
20 gives us our character. And just stretching out the roof,
21 I don't think actually makes up for the fact that they're,
22 base -- this is basically a new build.

23 They're tearing everything down, but the party
24 walls, and building a completely new complex. So just
25 because they've appeased, slightly, to the eye, doesn't

1 actually mean that it is approved by, or when you walk down
2 the, the block that you're not going to immediately notice
3 that this is something hugely different than the rest.

4 I'm also not against development. I think that
5 there are, are many other blighted vacant properties.
6 There's many properties that are as is properties that are
7 being ready to be sold.

8 I think that bringing in density, I completely
9 agree with, actually, impacting the Kennedy Street corridor.
10 I am completely for that kind of development. But, a
11 \$700,000 townhouse hanging off the back of what was
12 previously a single family home is not the development that
13 this neighbor needs.

14 Also, as I switch back into my other gears, this
15 kind of development will not allow for any kind of ground
16 ladders to be thrown, or any kind of rescues made out of the
17 west-facing windows.

18 With the properties being that close together, we
19 won't be able to throw ground ladders, to actually evacuate
20 people from that side of the building, which is concerning
21 to me.

22 I'm, also, not a big fan of this lightweight
23 balloon construction, which is the only thing that's
24 happening in D.C., right now. Because, if you guys saw, on
25 Irving Street, I think, last weekend, the 3000 Block of 13th

1 Street, that was the lightweight balloon construction that
2 lit up like a match and turned into a two-alarm.

3 So I know it's --

4 CHAIRMAN HILL: Ms. Humphrey.

5 MS. HUMPHREY: -- code, but --

6 CHAIRMAN HILL: I'm going to just cut you off --

7 MS. HUMPHREY: Yes.

8 CHAIRMAN HILL: -- here a little bit, because
9 you've gone six minutes, even though I think --

10 MS. HUMPHREY: Oh, I'm sorry.

11 CHAIRMAN HILL: That's okay.

12 MS. HUMPHREY: I'm --

13 CHAIRMAN HILL: Even though, I think, three
14 minutes is a little short, usually, and there, but --

15 (Laughter.)

16 CHAIRMAN HILL: But, okay. Does anybody have any
17 questions for Ms. Humphrey?

18 MEMBER JOHN: One question.

19 CHAIRMAN HILL: Yes.

20 MEMBER JOHN: So where would the ten-foot
21 extension go?

22 MS. HUMPHREY: The ten-foot actually blocks all
23 of my living room windows, but it's actually before my
24 kitchen window.

25 MEMBER JOHN: So this spectacular view --

1 MS. HUMPHREY: I intentionally took it out of my
2 kitchen window.

3 MEMBER JOHN: Oh, this is the kitchen window?

4 MS. HUMPHREY: Because this is the difference
5 between --

6 MEMBER JOHN: Okay.

7 MS. HUMPHREY: -- the ten feet and the 18 feet.

8 MEMBER JOHN: Okay. All right, thank you.

9 CHAIRMAN HILL: Ms. Humphrey, as far as, like,
10 since this diagram is up, actually, I can see the kitchen
11 windows. So what's, are those bedroom windows, as you kind
12 of, continue down your building?

13 MS. HUMPHREY: Yes. So the first one's the second
14 bedroom and then it's the bathroom and my --

15 CHAIRMAN HILL: A bathroom.

16 MS. HUMPHREY: -- and then the --

17 CHAIRMAN HILL: And then another bedroom, okay.

18 MS. HUMPHREY: -- the second bedroom.

19 (Simultaneous speaking.)

20 CHAIRMAN HILL: Okay. And that -- and I
21 completely understand you about the kitchen window thing.
22 But that, that kitchen window view, right, even with the ten
23 feet, right, they'd come up, basically, to the edge of your
24 kitchen window, so you'd be looking, pretty much, straight
25 out of the kitchen window. It, I mean, I --

1 MS. HUMPHREY: It is --

2 CHAIRMAN HILL: -- completely understand it, I'm
3 just saying --

4 MS. HUMPHREY: Yes.

5 CHAIRMAN HILL: -- you'd see, then, the edge of
6 the building, is what --

7 MS. HUMPHREY: Right.

8 CHAIRMAN HILL: -- you'd be looking at, okay.

9 MS. HUMPHREY: Which is better than the wall.

10 CHAIRMAN HILL: Which is better than the wall, I
11 agree with you.

12 (Laughter.)

13 CHAIRMAN HILL: All right. Okay, anybody have any
14 more questions for Ms. Humphrey?

15 MEMBER WHITE: I just had one quick -- can you
16 tell me, a little bit, about your building, in terms of what,
17 what is it --

18 MS. HUMPHREY: Sure.

19 MEMBER WHITE: -- a condo and, and how many units
20 and, approximately, how many units are facing that, what is
21 that, the north side?

22 (Simultaneous speaking.)

23 MS. HUMPHREY: East, east side.

24 MEMBER WHITE: East side?

25 MS. HUMPHREY: Yes, the east side of the building.

1 MEMBER WHITE: Yes.

2 MS. HUMPHREY: So our building was built in 1957
3 and it was renovated into condos in 2010. It has 14 unites.
4 Originally, it was primarily owner occupied. We've
5 transitioned a lot more, we have more rental tenants, now.
6 So it's been in the neighborhood for quite a long time.

7 It's a primarily masonry constructed. We call
8 them garden-style apartments, which means we have the single
9 staircase in the center, and then, we have two basements in
10 the unit, and then three floors of four units each.

11 The units that will be most impacted will be 03s,
12 which is I'm the 303 and then, the 03s are, pretty much
13 identical, or they are identical, so the 303, 203, 103.
14 There's also a B-1 unit that already only relies on window
15 wells for their light, and they'll be affected as well.

16 And, I can say that, as 303, I'm in opposition.
17 I haven't spoken directly to the owner of 203, but he's had
18 a long-term tenant for about seven years, she's, obviously,
19 in the opposition to the same thing. And 103 is a rental
20 and, sometimes, a transient rental, like an Air B&B, or
21 something of that sort, so.

22 CHAIRMAN HILL: Okay. Just, just to clarify,
23 also, for my, as far as the building, the way the units are
24 split up, one side is all one side of the unit, then the
25 other side is all the other side of the unit? So on the

1 other side of you, is another unit that looks, basically, at
2 the apartment building, which is now a window well that
3 they're, that they've shown us that's currently a window
4 well.

5 MS. HUMPHREY: Yes, so --

6 CHAIRMAN HILL: Yes.

7 MS. HUMPHREY: -- the, when you come up the
8 stairs, the 02s, are basically identical to mine, but --

9 CHAIRMAN HILL: Right.

10 MS. HUMPHREY: -- we're flopped over opposite.
11 We share a hallway.

12 CHAIRMAN HILL: Right.

13 MS. HUMPHREY: They look out onto 610.

14 CHAIRMAN HILL: Okay.

15 MS. HUMPHREY: And then, there's two units,
16 there's the 01s and the 04s --

17 CHAIRMAN HILL: I got it.

18 MS. HUMPHREY: -- that, or have, actually, a
19 different layout --

20 CHAIRMAN HILL: Okay.

21 MS. HUMPHREY: -- different floor plan that we do.
22 (Simultaneous speaking.)

23 CHAIRMAN HILL: Okay. All right, great. Anybody
24 else?

25 (No response.)

1 CHAIRMAN HILL: All right, thank you all -- oh,
2 I'm sorry. Please.

3 MEMBER JOHN: Just one question. So with the
4 existing building -- can we go back to the previous slide?

5 The previous slide showing the, the side -- all
6 of the bedroom windows -- well, from the second and third
7 floor, first and second floor, and part of the third floor,
8 for the existing building, would be subject to shadow, as
9 well, because it's in the window well, it's in the court?

10 MS. HUMPHREY: Yes, so the first window is
11 actually the bedroom window of the 04 units. The double
12 window is my living room window, and so my unit starts at the
13 double window. That first set of windows is the units in
14 front, the, the 04 units. So that's their only west-facing
15 window. So -- sorry, east. That's their only east-facing
16 window. So they'll be dramatically impacted, as well. And
17 I can say 0 -- you should have, actually, letters of
18 opposition from the 304 and 204.

19 MEMBER JOHN: So I'm clear, the bedroom windows,
20 the single windows, those would all still be subject to
21 shadow now with the existing conditions, right, because
22 they're inside the court, they're not part of the addition?

23 MS. HUMPHREY: You're thinking on the opposite
24 side.

25 MEMBER JOHN: Okay.

1 MS. HUMPHREY: So the --

2 MEMBER JOHN: So on this side --

3 MS. HUMPHREY: Yes, so on my side, I have a, if
4 -- there's nothing that shadows my, my windows right now.

5 (Simultaneous speaking.)

6 MEMBER JOHN: Okay.

7 MS. HUMPHREY: So like I said, the picture that
8 I have, I showed you guys, and it might help with the, the
9 photo, a little bit, but -- so I'm 03. So this is facing,
10 these windows are east-facing. This hallway right here, this
11 is our party wall.

12 302, which is next to me, they have the same
13 hallway, and then their windows face the window well. So
14 mine faced west, theirs faced east and they're --

15 MEMBER JOHN: Okay.

16 MS. HUMPHREY: -- both, they're flopped out like
17 this.

18 MEMBER JOHN: It's sort of not helpful to me. I,
19 I'm looking for the windows --

20 MS. HUMPHREY: It's like a mirror image.

21 MEMBER JOHN: What?

22 MS. HUMPHREY: They're like -- the units are like
23 a mirror image of each other.

24 MEMBER JOHN: Yes, but I'm looking for the windows
25 that are most impacted by the addition in the rear, and it

1 seems to me, looking at this photograph that it would be the
2 windows on the west side of the apartment building, which are
3 right next to the current building, and there's a, I believe
4 that's the five-foot court?

5 MS. HUMPHREY: No -- okay -- no.

6 MEMBER JOHN: Okay, the east side, yes.

7 MS. HUMPHREY: Yes, no, the west -- yes, the west
8 side won't be affected, at all, because they're already
9 looking at the condo building next to them. It's the east
10 side that will be impacted.

11 MEMBER JOHN: Which has an 11-foot, is that
12 correct, an 11-foot --

13 MR. BOSTAN: Correct.

14 (Simultaneous speaking.)

15 MS. HUMPHREY: Yes, the walkway between the two
16 buildings.

17 (Simultaneous speaking.)

18 MR. BOSTAN: Yes.

19 MS. HUMPHREY: Yes.

20 MEMBER JOHN: And so there is some impact, right
21 now, up to the end of the building, the existing building.
22 There is still some shadowing, even with the 11 feet there
23 would still be some impact --

24 MS. HUMPHREY: The other --

25 MEMBER JOHN: -- of the existing conditions.

1 MS. HUMPHREY: I'm not sure.

2 VICE CHAIR HART: What she's talking about is the
3 west. The building on the west is impacting the building
4 that is, that is the building that, that you all live in.
5 Not the windows that you're on, but there is already a, a
6 court that is on the west side of the building that is
7 between those two buildings, I don't know, six -- are you
8 610?

9 MS. HUMPHREY: It's 610 and I'm --

10 VICE CHAIR HART: Yes.

11 MS. HUMPHREY: -- 608.

12 VICE CHAIR HART: Yes. So she was just saying
13 that it's, there would be, even, with a ten, ten-foot
14 addition, or the 18-foot addition, there would still be a
15 court on on the either side of the building that you live in.

16 If we were to approve this --

17 MS. HUMPHREY: Yes, yes --

18 VICE CHAIR HART: -- it would be --

19 MS. HUMPHREY: -- I can understand that. I think
20 that --

21 VICE CHAIR HART: -- so that was the only --

22 MS. HUMPHREY: Yes, I think that the primary
23 difference is that when you're talking about the space
24 between two buildings and privacy, of that shadow issue,
25 there's a big difference between five feet and eight feet and

1 11 feet.

2 Also, the 11 feet allows both of those units and
3 both of those buildings to have windows. That they do face
4 each other and that can, obviously be a privacy concern.
5 But, eight feet to 11 feet and you add the additional
6 windows, which means, when the sun goes east to west, you're
7 going to get good amount of sun into both of those, in both
8 of those units.

9 (Simultaneous speaking.)

10 MS. ROTH: May I speak for a minute? I just want
11 to point out that, when people buy their units and it's
12 already like that, they have accepted that, right? But, when
13 people buy their units in full expectation that they'll have
14 them as they bought them, that's a different experience.

15 MS. HUMPHREY: Okay.

16 CHAIRMAN HILL: Okay, thank you, all, very much.

17 Okay. Let's see. So back to the Applicant here.
18 And I guess it is kind of interesting, I suppose that you
19 guys have got there on the one side -- on the one side of
20 that building, as you're showing this slide, but that's 11
21 feet?

22 Eleven, right. Thanks. And then, the other side
23 there's about, it's going to be eight six, right? And,
24 meaning that the distance between your proposed building and
25 the apartment building, or the condo building. So I guess,

1 what I'm continuing to just struggle with myself is just the
2 difference between the ten feet and the eight feet.

3 And I don't know what you guys, meaning my
4 colleagues here have to say in figuring out about this, but
5 like, you know, we -- and also, just a comment for the people
6 that are here in the audience.

7 But, like we have had this quite a bit in terms
8 of trying to figure out this special exception, in terms of
9 going back past the ten feet. And again, to kind of go
10 around this, and I'm just speaking extemporaneously, at this
11 point, that we had, you know, prior to the regulations being
12 changed, you could've gone out as far as you could in terms
13 of your lot occupancy.

14 So they changed the regulations, so that they were
15 like, you know, they could've gone out much -- they could've
16 knocked out all the windows from everybody and gone all the
17 way out, but they changed those regulations, so that you
18 wouldn't lose everything, meaning -- I shouldn't say lose.

19 And again, I'm speaking extemporaneously, just in
20 terms of the conflict, or the, the difficulty that, I think,
21 the Board continues to go through is that, there were a lot
22 of people that, when the, and the Zoning Commission could
23 speak more even to this that, that argued against that
24 change.

25 Because, you were then taking away the property

1 rights that somebody else already had. Like, they were able
2 to do what they were going to do and, now, those property
3 rights have been taken away.

4 So then they said, you can go out ten feet past
5 your neighbor's wall, by right, and then after that it's a
6 special exception. And then, it continues to be to the
7 Office of Planning, in terms of how that unduly affected --

8 (Simultaneous speaking.)

9 CHAIRMAN HILL: -- neighbors -- thank you.
10 Neighbor. It's primarily the neighbors, you know?

11 But it's not even, necessarily, the immediate
12 neighbors. People come in, talking about the shadowing and
13 everything that are like, you know, three doors down, or
14 things such as what the unduly part is.

15 So I'm not necessarily putting you on the spot,
16 Office of Planning, even though I'm going to ask you, again,
17 in terms of the difference between the -- and I'm going to
18 come back to the Applicant, which is what's the difference,
19 why do you need the eight feet, okay?

20 But so in terms of the difference between the ten
21 feet and the eight feet and your analysis on unduly affected,
22 it's, I guess, you were taking into consideration it's a
23 kitchen window that you have eight-and-a-half feet already
24 for light and air, is that the analysis in terms of unduly
25 affected?

1 MS. ELLIOTT: So the fact that it's
2 eight-and-a-half feet and not the approximate ten that we
3 indicated in the report, it doesn't change our rationale.

4 You know, there are still light and air and, and
5 really, by all accounts, eight-and-a-half feet is a fairly
6 decent width court. And so I think we continue to be
7 comfortable with the analysis that we provided in our report
8 --

9 CHAIRMAN HILL: That's fine. I mean again, it's
10 not unduly affecting the property?

11 MS. ELLIOTT: No.

12 CHAIRMAN HILL: Okay.

13 MS. ELLIOTT: The --

14 COMMISSIONER TURNBULL: Just to add one, at the
15 -- it's also, they need a special exception to go to three
16 units.

17 MS. ELLIOTT: That --

18 COMMISSIONER TURNBULL: Two units could be done,
19 by a matter of right as a flat, but going to three is a
20 special exception.

21 MS. ELLIOTT: That --

22 COMMISSIONER TURNBULL: So that's --

23 MS. ELLIOTT: That is correct.

24 COMMISSIONER TURNBULL: Yes.

25 MS. ELLIOTT: And, and I don't want to discount

1 the neighbors. I mean, obviously, they're looking at this
2 from a different perspective than OP is, as well as the ANC,
3 so, you know, public hearings, they give everyone a chance
4 to speak up.

5 CHAIRMAN HILL: Yes, sure. No, I appreciate that.
6 We've been here many, many times before, in terms of what
7 unduly affect it is and, if it's somebody's window that's a
8 whole lot different than if it's not, so. Ms. White.

9 MEMBER WHITE: Well, I mean, at, first of all,
10 just in general I think the developer did a good job with the
11 proposed development in this particular area.

12 I'm familiar with this area and I know it's, you
13 know, it's a residential area, relatively quiet. There is
14 some developing, development popping up all over the area.
15 But I am very sensitive to the development that's going in
16 the rear.

17 I've had some sensitivities with some other cases
18 that we've had, where the developers have gone beyond the ten
19 feet. Sometimes, I'm willing to modify my position on that,
20 based upon the ANC being supportive of it, and the neighbors
21 being supportive of it.

22 But when you have the ANC and the neighbors
23 testifying about the impacts that this is going to have on
24 light and air, I am still struggling with, whether or not to
25 be supportive of the relief that you're seeking beyond the

1 ten feet.

2 So I hear what the Office of Planning is saying,
3 but I am giving great weight, with respect to the testimony
4 that I've heard from the neighbors and the ANC.

5 So I'm, I'm willing to listen to any, maybe,
6 alternative suggestions, in terms of how to deal with this,
7 or even listen to my colleagues, in terms of what their
8 position is on, on that particular issue. I'm, I think, and
9 comfortable more with the alteration of the rooftop
10 architectural element. So that's where I am, right now.

11 CHAIRMAN HILL: Okay. Please, anyone else?

12 COMMISSIONER TURNBULL: Ms. Elliott, did the
13 Applicant offer any other solution, where they made that
14 separation wider, if they went to your ten, or 11 feet, at
15 the back?

16 MS. ELLIOTT: We did not discuss alternatives, but
17 we're certainly happy to --

18 COMMISSIONER TURNBULL: I'm just curious.

19 MS. ELLIOTT: -- continue working with the
20 Applicant.

21 COMMISSIONER TURNBULL: I mean, I --

22 MS. ELLIOTT: Yes.

23 (Simultaneous speaking.)

24 COMMISSIONER TURNBULL: And I would agree with
25 you, totally, on the concern. I mean, I guess, part of my

1 concern is, if I looked at this particular block, and if this
2 house went back 18 feet, the house next door could also come
3 and go 18 feet. We could do 18 feet, all the way down the
4 street, then.

5 And I'm just wondering, this gets to be, kind of,
6 a domino effect all the way along, or more. But, I mean,
7 that, that's not what we're here to talk, but I guess, it's
8 always been a catch 22, as you would look at each case,
9 individually, and you look at the impacts that are happening.

10 And some -- we've had some very long and dragged
11 out -- I can remember one case that we dragged out a long,
12 in a, in an area where the yards are lot longer and had more
13 room and we struggled with that, because of the house next
14 door.

15 So it's -- there are issues. This does get to be
16 a very complex issue, at times. I mean, it seems simple in
17 one way, but the impacts that we sometimes see are not
18 totally obvious, at first, but as we get into it, we see that
19 the, they're a little bit more far-reaching.

20 CHAIRMAN HILL: I guess, just, I'm -- this is what
21 I can't get from the Office Planning, so far, like, like, how
22 far back can you go? Like, what would've been, you know, 19
23 feet, 20 feet, like, there's no -- like, how did you get to
24 eight --- they came with 18, right? I mean, and then she --
25 and so you analyzed 18?

1 MS. ELLIOTT: We evaluated the proposal that was
2 before us.

3 CHAIRMAN HILL: Right. Right.

4 MS. ELLIOTT: Yes.

5 CHAIRMAN HILL: So how did you all get to 18?
6 Like, you, you went up, basically, to that window's edge and
7 you were like, well, we might be able to get that, and --

8 MR. ALADE: The way we looked at it, obviously,
9 we looked at the lot occupancy and we look at the setback
10 requirements. We also looked at the length of the building
11 beside us, as well as, our internal layout for, for the
12 architecture of the building.

13 And, in looking at the impacts, you know, it's
14 been mentioned before, we looked at what was okay, by right,
15 and we knew that that already had an impact. I mean, without
16 taking anything away from, from the neighbors.

17 And the fact that, you know, some of their windows
18 will be impacted, we also did look at the space between that
19 building and the other building, noticing that there's a
20 court, and that's why we felt that we shouldn't go beyond a
21 certain point. And the bedrooms were a kind of the --

22 CHAIRMAN HILL: Right.

23 MR. ALADE: -- the markup for us, in terms of
24 what's the minimum that we can go to allow our layout to
25 work, not maximizing the lot depth or whatever that we may

1 have, yet still being able to do the building.

2 We also noted that the portion of the building
3 that's right next to us, in front, there's a court that's 5.6
4 feet wide and that's how the building was built. It was
5 built beside our existing building, they left that amount of
6 space, so there are already three levels of condos, that --

7 CHAIRMAN HILL: Can you show me that court, again?

8 MR. ALADE: -- on the site plan. So on this
9 exhibit, on the front, and there's a place where its
10 dimension --

11 CHAIRMAN HILL: Right, the existing court is
12 five-and-a-half.

13 MR. ALADE: Yes, and then that's where, about
14 where the, our existing building stops.

15 CHAIRMAN HILL: And there's another existing court
16 at the eight, eight-six?

17 MR. ALADE: Yes, so eight-six is, right now --

18 CHAIRMAN HILL: It's standing right at the edge.

19 (Simultaneous speaking.)

20 MR. ALADE: Yes, it's looking over our yard, at,
21 at this time --

22 CHAIRMAN HILL: Okay, so --- And I don't think
23 we're going to decide today. Like, you guys -- I'm not
24 hearing anything at this point in terms of the front or the
25 conversion.

1 It's the ten to the eight feet that we're, kind
2 of -- the 18 versus the ten that we're struggling with. So
3 what you guys were going to do -- and once you start getting
4 past the ten, then you're into the kitchen windows anyway,
5 like you're right there at the edge.

6 (Simultaneous speaking.)

7 CHAIRMAN HILL: So what would you have done with
8 the ten feet?

9 MR. ALADE: So the way that our units are
10 organized, you have two units on front, on top of each other,
11 and then one unit in the back.

12 CHAIRMAN HILL: Okay.

13 MR. ALADE: So the back, you know, that's the
14 living room, those are the bedrooms, all that is living space
15 from, from the ground to the top.

16 CHAIRMAN HILL: So you have to completely change
17 your design?

18 MR. ALADE: Yes, in order to --

19 CHAIRMAN HILL: Yes --

20 MR. ALADE: -- in order to get the --

21 CHAIRMAN HILL: -- to get to three units.

22 (Simultaneous speaking.)

23 MR. ALADE: Yes, to get the three units.

24 CHAIRMAN HILL: You'd have the three smaller units
25 up front.

1 MR. ALADE: Yes, it, it'll be totally different.
2 We'd have to go back and re-analyze that, completely. A
3 comment was made, earlier, about, you know, potentially
4 looking at expanding the width of the court.

5 And, you know, we are mindful of the neighbors and
6 we want to be good neighbors. We also want to be able to
7 have our own property rights to do what we can do on our
8 property.

9 So that's something, which we're, we're willing
10 to look at, in terms of, if we all agree, a suggestion that,
11 possibly, a wider court, if that would work. Obviously, that
12 goes back to the zoning, how wide can a court be?

13 There are certain rules that, you can have windows
14 to buildings were built, those regulations have been
15 superseded, now, and you can't really build a court that is
16 just five feet wide any longer.

17 So those are some of the issues that we're looking
18 at, but we'll definitely be open to expanding the width of
19 the court space. I mean, if we keep the 18 feet back,
20 expanding the width of the court space, to allow more light,
21 those are some comments that we'll definitely be willing to
22 look at.

23 Obviously, we'd like to hear what everybody has
24 to say, and then we can make a decision to move forward.

25 CHAIRMAN HILL: Okay. This is the first time I've

1 actually seen the Office of Planning look at somebody else
2 from the Office of Planning and get like signals. It was
3 like there's like a pitcher strike count, like when you give
4 the signal away. I don't know what to do, so --

5 VICE CHAIR HART: I mean, it seems like some of
6 this, some of the haranguing or the issue that we've been,
7 kind of, grappling with and, and it, it took Commissioner
8 Turnbull to, one of his comments that he just made, which is
9 an interesting one, which is, they're looking to do three
10 units here, and the three units, I think, has also created
11 some of this issue.

12 Because, you're looking at, the third unit is what
13 is causing some of the concerns that we have. If we were
14 looking at a flat, this is an RF-1 zone, so if we're looking
15 at flat, then you'd have, you know, two levels on two levels,
16 maybe, you know, the, it would be a two-floor flat, a
17 two-floor unit on top of another two-floor unit.

18 And they'd have to go back less, if they were
19 looking to build that. It just seems like that might be the
20 -- and, I don't know, Commissioner Turnbull, if you had that
21 thought, or not, on --

22 COMMISSIONER TURNBULL: Well --

23 VICE CHAIR HART: -- but it just seems like it's,
24 it's -- I don't know.

25 (Simultaneous speaking.)

1 COMMISSIONER TURNBULL: No I mean you're right.
2 I mean, part of the issue we're getting into is the third
3 floor and the extra, the -- which is an option that was
4 created.

5 But with the new zoning regs, you know, that was
6 an option. But, again, it's one of those things, it's a
7 tradeoff. You look at what's the impact by doing that, so
8 -- I mean, yes, it's, it is a struggle.

9 CHAIRMAN HILL: Okay, you all can think for a
10 second, I'm just trying to think here. I don't know what --
11 I mean, I don't know what I want. And, also, I'm asking for
12 the Board and we can think about it, but I don't know what
13 I necessarily want to see.

14 And I'm just going to ask out loud here to the
15 Board, I suppose. Like, you know, if there were -- again,
16 I don't have any issues with the removal of the front and,
17 and that was a whole other conversation on the last thing,
18 and also the conversion.

19 It's that their conversion is the whole back, you
20 know, which is actually new. I mean, I haven't seen that,
21 necessarily, before. What I've always see is the
22 conversation, then it's included within whatever the envelope
23 is from the front.

24 And so there was unique, but the problem is,
25 you're knocking out the kitchen windows. And I suppose

1 that's what I'm just, kind of, struggling with. You know,
2 if those kitchen windows weren't there, then I don't think
3 we're having, necessarily, a discussion, right?

4 And, and so, you know, the -- and we've had this
5 discussion out loud and I do appreciate the Applicant being
6 relatively calm through this, which is that, you know, this
7 is where we are.

8 I mean, again, the by right thing went to ten
9 feet, and, and again, you're not having any problems now,
10 with the removing of the, of the roof and increasing the
11 roof.

12 I mean, I don't know, we're not here, I'm not
13 trying to figure it out, right here on the, the dais, but I
14 don't know how far up you could go that, necessarily, would
15 make it work out, so you didn't have to go back, as far, and
16 still could get your three units and still get the Office of
17 Planning on board.

18 I think that, you know, the front's been done very
19 well, in terms of how, I don't think it's a stretch for us
20 to, to approve that front. It's, again, just the rear that
21 we're playing with.

22 So I don't know if he can go back and figure out,
23 if there's a way to, to make it work with the ten feet,
24 because the ten feet's bringing you right up to the edge of
25 those kitchen windows, and then, trying to get more height,

1 in some way, or, if there's a way that you want to come --
2 or leave it the way it is, and we can have the discussion for
3 later.

4 Because, you know, I think that the Office of
5 Planning is making argument that that, that eight-and-a-half
6 feet is enough for light and air, for even that kitchen
7 window. I don't know if, necessarily, I'm buying it, but the
8 -- but we've taken, we've taken away people's windows before.
9 I hate to say it that way, but because, it seemed to fall
10 within the regulations, not for any other reason than that.

11 But it, you know, if, if the, if the court were
12 increased, and you're still, you're still, kind of, taking
13 away that, I guess, the view, but you're getting, you're
14 increasing light, by adding more of a court to not only I
15 suppose the kitchen windows, but then the living room
16 windows, you know, depending on how your design went.

17 I don't know what the Board is looking for. I
18 know that I don't want to make a decision today, but I'd be
19 interested in hearing more things. Ms., Ms. John.

20 MEMBER JOHN: So, Mr. Chairman, I agree with the
21 recommendations, so far that, perhaps, the architects and the
22 owners could go back and look at the design, to see if
23 there's any way to increase the size of the court.

24 I mean, even with a five-foot court, there is
25 still light and air. The issue in this case is that, they're

1 actually losing windows, losing light and air, from the
2 windows. So anything that could be done to ameliorate that
3 condition would be helpful.

4 So maybe making the court a little larger might
5 work. And trying to see what, going back somewhere between
6 ten and 18 feet. What would that get you, what's the mix of
7 the apartments in terms of the number of bedrooms, what you
8 could live with, to make the, to make the project viable.

9 And I don't know what those numbers are, but we're
10 just throwing out some suggestions, where you could perhaps
11 meet with the Office of Planning and try to see if there's
12 some way to help with some of the concerns of the neighbors.
13 Just throwing some things --

14 MR. ALADE: Can I speak now?

15 MEMBER JOHN: -- out. Sure.

16 (Simultaneous speaking.)

17 MR. ALADE: Yes -- well, thank you very much for
18 all the comments. We do appreciate that. You know, after
19 meeting with the ANC and the neighbors, we understand the
20 struggle and we have, have looked at and thought about, you
21 know, what are some ways that, that we can deal with this?

22 Obviously, 18 feet is desired. We can, probably,
23 live with half of the eight-foot extension, but, you know,
24 the issue is, you know, it still effects the kitchen window.

25 Although, there's, there will be an angular view

1 out. And, because of the way the, the sun falls, it doesn't
2 fall directly flat on the building, that will provide, you
3 know, for the shadow not to impact the kitchen window, as
4 much.

5 For instance, if we went out 14 feet, an
6 additional four feet, which will still crimp down the sides
7 of the units, but we can possibly live with that. So that's
8 something which we're definitely, willing to look at.

9 You know, in terms of the court, I think we can't
10 speak, specifically, about the court, because I think there
11 are some planning and, you know, and zoning requirements for
12 court size.

13 You know, that will be something that, if, for
14 instance, we would, to say that, after ten feet that we
15 indent the building, say, by four feet for the additional
16 eight feet going back, to make that court, you know, 12 feet,
17 or even 14 feet, indent the building by six feet, you know.

18 Those are some of the things that we are
19 definitely willing to do to make this work for, for all
20 parties involved, in terms of, you know, the amount of, of
21 air and the space in between the buildings, you know, so
22 we're, we're willing to, to look at all those options. We're
23 not hard and fast set on just what we've brought before you
24 today and, and nothing else.

25 CHAIRMAN HILL: Is it just -- the Office of

1 Zoning, they keep talking about this court thing, what are
2 they talking about?

3 MS. ELLIOTT: I don't believe that the zoning
4 requirements actually have minimum width requirements for
5 courts, in the RF-1 Zone. So --

6 MR. BOSTAN: Well --

7 MS. ELLIOTT: -- perhaps there are some other
8 regulations that are --

9 MR. BOSTAN: Well, under RF-1 Zone, there are no
10 court requirements, but they specifically say flats, single
11 family. But, since this is a three units that's the
12 confusion we had that it may, and there's another section
13 that says others which kicks in some of court size
14 requirements. So this is not considered flats. That's what,
15 in the same chart there's an others part.

16 MS. ELLIOTT: That --

17 MR. BOSTAN: But that's --

18 MS. ELLIOTT: that may be correct --

19 MR. BOSTAN: Yes.

20 MS. ELLIOTT: -- if the Applicant moved forward
21 with, with an option, with a reduced court, I mean, it would
22 just be additional relief that we would have to request. So.

23 VICE CHAIR HART: Yes it seems, though, they're
24 -- I mean, currently, there is a, what, you said an
25 eight-foot distance from --

1 MR. ALADE: Eight, eight foot six, yes.

2 VICE CHAIR HART: So the current, the building
3 that is -- the apartment condo building that is to the west
4 of the -- I don't know that --

5 MR. ALADE: Of the proposed building, of our
6 proposed building.

7 VICE CHAIR HART: No, of the, of the existing
8 condo building.

9 MR. ALADE: Yes.

10 VICE CHAIR HART: There is a, you've already said
11 that there was 11-foot --

12 MR. ALADE: Yes, 11-foot court.

13 VICE CHAIR HART: -- usually, we get to 11 feet,
14 total, between the two buildings --

15 MR. ALADE: For us. If we --

16 VICE CHAIR HART: Because, I think that would, at
17 least, you know, at least, give -- there may be three, four
18 feet, for you all?

19 MR. ALADE: Yes and I mean we're willing to do
20 that.

21 VICE CHAIR HART: -- add an existing eight feet.

22 MR. ALADE: If we -- after the first ten feet, the
23 last eight feet, moving back, yes, we can definitely push
24 back additional four feet, to, to, to provide, you know, that
25 additional space. And, you know, we can also look at, you

1 know, any other options that help to mitigate the issue with,
2 with light and air.

3 But, so the way we're looking at it is, you get
4 to the by right, which we can build anyway, without, you
5 know, coming for special exception, except, of course, we
6 request a third unit.

7 And then, going back beyond that, you know, we're
8 willing to mitigate that, that distance, which is, you know,
9 the impact on the kitchen window, and also bring the building
10 back.

11 So if we bring the building back a few feet and
12 we expand the court, then the view lines would improve. So
13 that way there's light, there's more light and it's more than
14 is currently, more light, more air, and still some view from
15 the kitchen window of that specific unit.

16 And that unit, obviously, I do understand, if I
17 lived in there, I would have the same concerns, but in our
18 original conception we were, as you mentioned earlier, Chair,
19 was that the bedroom windows would not be effected.

20 And also, we thought very seriously about the
21 amount of time that this windows will be in direct sunlight,
22 it's, you know, it's a few hours in the morning, by --

23 CHAIRMAN HILL: Well let me just hear -- one
24 second. Because I think we're getting to same place, and
25 then we're just going in a little bit of a circle.

1 Again, what we're looking at is how the light and
2 air is affected to the neighbors and to the community, right,
3 and so that's, at least, one aspect of what the standard is.

4 And I don't disagree with, I don't completely
5 disagree, I don't disagree with the Office of Planning's
6 analysis, right? I mean, like, you know, I think that, they
7 take the same analysis into consideration that they do for
8 all of the different projects, as to what they consider
9 unduly affected, right?

10 So we've, again, I've been here long enough that
11 I've seen things that are much more restrictive, in terms of
12 how the Office of Planning has looked at as to what has been
13 unduly affected, meaning that, there's a there's a light well
14 -- when there's a court that will be providing light and air,
15 now, to the, the, the neighbors there.

16 At the same time, I think that what you're hearing
17 from us is that -- unfortunately, for, for -- I don't know
18 where we would end up, okay? I'm saying it, like, those
19 kitchen windows -- they're kitchen windows that I understand.

20 But, just from the testimony that we took, from
21 the Applicant, like, it's kind of a shocking-kind-of-thing,
22 where it's not like it's a separate wall in that kitchen.
23 Like, that kitchen window is actually seen from the living
24 room, from, you know, the rest of the house, so it's not like
25 it's a kitchen window just in a kitchen, like, blocked off

1 by a refrigerator, or something.

2 And so I understand that kind of, the way that
3 that particular window is falling. And that, by right,
4 you're taking away the living room window, so that's kind of,
5 why I'm, kind of, you know stuck there.

6 I don't know what design you want to come back
7 with, or, or see if there is something you could come back
8 with, or, there's a possibility -- I mean, we haven't had
9 deliberations.

10 I mean, you can see what happens, you know, and
11 I'm just, kind of, putting this out there, for everybody, in
12 terms of the people that are here in opposition. You know,
13 you could come back with exactly what it is and see what the
14 Board has to say.

15 I mean, I don't know. It seems as though there's
16 enough discussion about you going back past the ten feet
17 that, I don't know where you would necessarily end up, right?
18 So again, I'm, kind of going back in a circle on this, in
19 that, if you came back to us, going to the Office of Planning
20 and tried to figure out a way that -- and this is where I'm
21 not clear enough, in terms about how high you could go -- and
22 do you know what the height --

23 MR. BOSTAN: So 35 feet.

24 CHAIRMAN HILL: -- Thirty-five. And they're, you
25 guys are proposing --

1 MR. BOSTAN: Perhaps, 33.

2 CHAIRMAN HILL: They're at 30 --

3 MR. ALADE: Yes, we're at 33.1.

4 CHAIRMAN HILL: You're up to 33, but then, I
5 thought you could go up to 40 by -- no, it wasn't? Couldn't
6 you go up to 40?

7 MS. ELLIOTT: It's 40, by special exception.

8 CHAIRMAN HILL: Right, 40 by special exception.
9 So you can come back and go 40, by special exception -- and
10 I'm just -- I don't know what you all come back with, okay?

11 But, the kitchen window seem to -- and for the
12 kitchen window people, all those that are here, like, you
13 know, that building's coming right up to that kitchen window,
14 so it's not like it's some fantastic view that's going to be
15 happening, after that kitchen window, but you are going to
16 have light, okay?

17 So I think that, I think that -- and the lady from
18 Jamaica is laughing. But we try. You know, we're up here
19 trying to figure it out and, also, understand what the
20 property owner can try to do, in terms of a special
21 exception. But that's exactly correct, it's a special
22 exception that's why you were here. If it was a matter of
23 right, you wouldn't be here.

24 So that all being said, if you go back, talk to
25 the Office of Planning, talk to the immediate neighbors,

1 even, and see if they'd like more of a court there and, you
2 know, pull that window back, than you going all the way up
3 and still going right up to the edge of those windows. I
4 don't know.

5 But if you want to come back, come back with
6 something different for us, we can take a look, or come back
7 with the same thing you want, we can take a look, and then
8 we'll go ahead and make a decision. Am I missing anything
9 from the Board?

10 Okay. So for you to go back, figure out whatever
11 you might want to propose, one way or the other, work with
12 the Office of Planning, perhaps, even get back in front of
13 the ANC, although, I don't necessarily know if that would
14 help you much.

15 But, definitely, going back and talking with the
16 property next door, you know, how long would that take you,
17 and also -- yeah, how long would that take you?

18 MR. ALADE: So, thank you very much. We would
19 like to expedite this process as quickly as possible. We can
20 turn around sketches, in terms of the building massing that
21 address the issues, which it seems like it's boiled down to
22 two issues, basically, the kitchen window and the court. And
23 we --

24 CHAIRMAN HILL: Well, I just think it's the
25 kitchen window. It's not --

1 (Simultaneous speaking.)

2 CHAIRMAN HILL: -- yes, or however you deal with
3 that, or try to deal with that, right now.

4 (Simultaneous speaking.)

5 MR. ALADE: Yes, we can get back, we can get to
6 that, you know, definitely, within a week, at the most. So
7 we, we can turn this around and come back with the hope and
8 I'd appreciate if we can be heard in this month of July,
9 before the recess.

10 CHAIRMAN HILL: Yes, and this is where I'm sorry
11 to say, like, I don't know -- and I, believe me, I empathize
12 with the timing of everything, I mean, we're going on recess
13 in August.

14 There's, we're jammed through September now. I
15 do -- and I'm struggling through this, right now, a lot more
16 than we normally do, particularly, when we're also trying to
17 get to lunch.

18 And so, you know, I'm just letting you know that
19 we are taking time here to try to figure this out, because
20 I do appreciate that you didn't try to go past that bedroom
21 window, right?

22 Like, I mean, you could've, you know, I don't know
23 how far you could've gone back, because apparently, we
24 haven't figured out what that limit is, yet, you know, and
25 so you could've come back here and had blocked all those

1 bedroom windows and then, maybe, we'd be fighting to just
2 save the bedroom windows, you know.

3 So I don't know how you're going to be able to get
4 this done and get to the Office of Planning and get to us,
5 before August. I mean, we can maybe try to do something and
6 get you in here, in September, again.

7 But I don't see how you're going to get back here,
8 before August. Unless, anybody here on the Board is feeling
9 any differently than I am, in terms of you can decide this
10 one way or the other, right now?

11 MEMBER JOHN: Unless it's just set down for a
12 decision. I don't know if that's possible.

13 CHAIRMAN HILL: Right. No, but I'm saying that
14 you need more information, you're not ready to do this, right
15 now.

16 MEMBER JOHN: I could go either way.

17 CHAIRMAN HILL: Okay.

18 MEMBER WHITE: I definitely need more information.
19 I would not be able to move forward with this, so.

20 CHAIRMAN HILL: Okay.

21 MR. ALADE: Can I have a comment, please?

22 CHAIRMAN HILL: Sure. Give me one second, let me
23 just --

24 MR. ALADE: Oh.

25 CHAIRMAN HILL: -- I'm doing a consensus here.

1 MR. ALADE: All right.

2 COMMISSIONER TURNBULL: I would need more, I
3 think, I think they should be given the opportunity to solve
4 some of the issues here. And, as it is right now I don't
5 think I could move forward with the case.

6 CHAIRMAN HILL: Okay. All right, so now, sir.

7 MR. ALADE: Yes. If we agreed to stop at ten
8 feet, request the extra modifications, remove the front
9 balcony, and have the third unit, can a decision be made
10 today?

11 CHAIRMAN HILL: We'd have to see the drawings, but
12 you're getting, probably, closer to getting it, at least,
13 before August, I guess, I don't know. But like, you know,
14 the third unit -- I don't know where, how are you going to
15 get the -- so now you're now going to put the third unit in
16 somewhere?

17 MR. ALADE: Yes. So basically, the configuration
18 would be a basement level flat.

19 CHAIRMAN HILL: Right.

20 MR. ALADE: A first level flat.

21 CHAIRMAN HILL: Okay. Okay.

22 MR. ALADE: And then two units on the other side
23 --

24 CHAIRMAN HILL: So then, you wouldn't raise the
25 roof any?

1 (Simultaneous speaking.)

2 MR. ALADE: No, we would raise, we will go to 30,
3 33 --

4 CHAIRMAN HILL: Yes, yes, you know, I'm saying,
5 what you're proposing, right? So then the Office of Planning
6 would have to see that again?

7 (No audible response.)

8 CHAIRMAN HILL: Yes, correct?

9 MR. ALADE: Yes, the front elevation will remain
10 exactly the same.

11 CHAIRMAN HILL: Yes, but still, there will be new
12 drawings and everything.

13 MS. ELLIOTT: Oh, well, there would be new
14 drawings, but I don't know how significantly it would change
15 our analysis, because it's reducing the rear addition.

16 CHAIRMAN HILL: Okay.

17 MS. ELLIOTT: It would basically eliminate our
18 analysis of the rear addition.

19 CHAIRMAN HILL: Okay. So then the Board would
20 need to see plans, they need to see whatever the plans are,
21 okay? Then we'll see where the plans are. Okay. So then,
22 if we got new plans, for what you're now proposing, which is
23 the matter of right distance, right?

24 The, you're removing, you're going up, as high as
25 you're proposing to go up now, and, right, removing the

1 element, the way that you have it now, with the second
2 balcony's gone off the front, right?

3 MR. ALADE: The second balcony is gone.

4 CHAIRMAN HILL: And you're going to give us new
5 plans. When can you give us new plans by?

6 MR. ALADE: Within, less than a week, basically.
7 I mean, we can get, today's Wednesday, we can get you new
8 plans by Monday.

9 CHAIRMAN HILL: Okay, so you get us new plans.
10 So then we could put this on for a decision, unless you all
11 need something else?

12 For the end of the month.

13 COMMISSIONER TURNBULL: I'm glad I'm not the
14 architect.

15 CHAIRMAN HILL: Right.

16 (Laughter.)

17 CHAIRMAN HILL: So --

18 (Laughter.)

19 CHAIRMAN HILL: But I love the before lunch horse
20 trading that's going on.

21 (Laughter.)

22 CHAIRMAN HILL: So then, Mr. Turnbull, you're not
23 back, you can just do an --

24 COMMISSIONER TURNBULL: I can be here.

25 CHAIRMAN HILL: Okay, you can be here?

1 COMMISSIONER TURNBULL: I can be here, all right.

2 CHAIRMAN HILL: Okay, you -- so the last one in
3 July --

4 COMMISSIONER TURNBULL: The 25th.

5 CHAIRMAN HILL: -- is the 25th, which you all are
6 really, like, it's so, we are so slammed for the next two
7 things. Mr. Moy, does that work, somehow? And OAG seems to
8 be talking a lot.

9 So you'd have to do a revised -- would they have
10 to do a revised --

11 Don't worry about --

12 COMMISSIONER TURNBULL: Ms. Elliott, do you have
13 to do a report, too?

14 CHAIRMAN HILL: No, she might have to do --

15 MS. ELLIOTT: No, I don't think OP would need to,
16 because they're removing relief.

17 CHAIRMAN HILL: So do you need a revised self-cert
18 -- no. I'm waiting for OAG.

19 (Pause.)

20 CHAIRMAN HILL: So would I need a revised
21 self-cert -- would we need a revised self-cert?

22 MS. LOVICK: Well, I don't think the relief is
23 changing. I mean -- oh, you're talking about -- oh, they,
24 they're not, they wouldn't be requesting a waiver for the --

25 CHAIRMAN HILL: The ten feet.

1 MS. LOVICK: Okay, yes, I mean, if they, they're
2 still, though, requesting relief, pursuant to U-3 20.2, so
3 -- I mean, and I don't think that it's delineated on the
4 self-cert that they are requesting the waiver, so I don't
5 think so. I don't think you need a new self-cert.

6 CHAIRMAN HILL: Okay. And you'll still get a full
7 order. Do you know what a full order is?

8 MR. ALADE: No, can you please let us know --

9 CHAIRMAN HILL: Okay.

10 MR. ALADE: -- what is?

11 CHAIRMAN HILL: So a full order means that, you
12 have the ANC in opposition, okay?

13 MR. ALADE: Yes.

14 CHAIRMAN HILL: So since the ANC is opposition,
15 we would have to write a full order. So a full order takes
16 up to a year, okay?

17 More or less, right? Kind of, sort of.

18 MR. MOY: I would say more than six months.

19 CHAIRMAN HILL: Okay, more than six months. So
20 I think, kind of, so you never know. So that means that you
21 wouldn't get your order to be able to move forward with
22 project, anyway, because you have the opposition to the ANC.
23 If you didn't have --

24 MR. ALADE: My, our hope's that --

25 CHAIRMAN HILL: If you didn't have the opposition

1 -- sorry. If you didn't have the opposition of the ANC, we
2 could write a summary order and the summary order would get
3 you 30 days?

4 MR. MOY: Somewhere around --

5 CHAIRMAN HILL: Sixty days?

6 MR. MOY: Between three and seven days.

7 CHAIRMAN HILL: Oh, three and seven days?

8 MR. MOY: Yes.

9 CHAIRMAN HILL: Oh wow that's a big deal.

10 MR. ALADE: So our hope is, to go back to the
11 neighbors and go back to the single member district and, if
12 necessary, to the ANC, to discuss what reliefs -- I mean,
13 basically, what we've done, basically, --

14 CHAIRMAN HILL: But I have to say this, this is
15 not going to work for you, as you thought it was going to
16 work. Because, it's better off that you go back to the ANC.
17 Because, you really are doing a lot of changes, and you're
18 doing a lot of changes that, I would think, the ANC would
19 then, -- you have an opportunity. You have an opportunity
20 to really actually talk with the ANC and say, you know, hey,
21 we're either going to do this, or we're going to that.

22 If you do, you know, the matter of right distance,
23 as well as just ask for the relief from the things that they
24 seem like they're okay with, anyway, then you don't have to
25 do, then they're not against it and then you don't have to

1 do a full order. The full order's going to take you a long,
2 long time to get it done, and so -- six months, at least.

3 So then, in order for you to get to the ANC --
4 and, I'm sorry, I'm just trying to help, you know, articulate
5 this, standing in the way, again, of my sandwich -- is that,
6 you're still now in September, like, I mean, getting in front
7 of the ANC now.

8 I mean, you had a change of plans, you have to get
9 in front of the ANC. The ANC should be happy to see you, but
10 I don't know when they can get on there. I don't know if the
11 ANC Commissioner is still here?

12 MS. ROTH: I'm still here and our next meeting is
13 Tuesday.

14 CHAIRMAN HILL: Oh. So, Commissioner, are you
15 saying that you can get them on the agenda for Tuesday?

16 MS. ROTH: Of course, I have to consult with my
17 colleagues, but I believe so.

18 CHAIRMAN HILL: Okay. So then, if you can get to
19 the ANC, you can decide what you want to do, okay? So if you
20 get, you can give us our drawings, and we can have a vote on
21 the 25th.

22 If you get to the ANC before the 25th and get the
23 report from the ANC and get the ANC's approval, you can get
24 a summary order, which is what you want. If you don't, you
25 can decide what you want to do.

1 We can still vote on the 25th. And then, I don't
2 know if it's going to get approved, or not, but if it does
3 get approved, and the ANC is not in favor, you're going to
4 have to wait a year for your, whatever, report.

5 MR. ALADE: Thank you very much. It's very clear
6 to us now.

7 CHAIRMAN HILL: Okay. So we're still going to put
8 you on for the 25th --

9 MR. ALADE: Yes.

10 CHAIRMAN HILL: -- for a decision. You will get
11 us the -- well, now I'm looking at Mr. Moy. We're going to
12 get drawings. Everyone has to have time to respond to the
13 drawings.

14 MR. MOY: Yes -- from what I'm hearing from the
15 Applicant, if they submit their revised plans and so forth,
16 by Monday, July 16th, have the opportunity to meet with the
17 ANC, the next day, on Tuesday, which is July 17, I, I don't
18 recall, if there's any -- there's no other parties, I
19 believe, so -- and it sounds like the OP may, or may not,
20 weigh in with a supplemental.

21 CHAIRMAN HILL: We don't need a supplemental from
22 OP.

23 MR. MOY: Then the Board can move forward and, and
24 schedule a public meeting decision on the 25th of July.

25 CHAIRMAN HILL: Okay, so tell me, when are we

1 going to get drawings again?

2 MR. MOY: Monday, July 16th.

3 CHAIRMAN HILL: Monday, July 16th. So that's this
4 Monday?

5 Okay.

6 MR. MOY: Of next week.

7 CHAIRMAN HILL: Okay. Okay. And then, the ANC
8 can -- so how do you -- Mr. Adhala? I --

9 MR. ALADE: Alade.

10 CHAIRMAN HILL: Alade? Say it again, please?

11 MR. ALADE: Alade.

12 CHAIRMAN HILL: Alade. Mr. Alade, you're a lucky
13 man, okay? You might not seem so, but this is moving along
14 for you, because August is right here, okay?

15 But, again, I think that -- anyway. Oh God. I
16 think, you know, present the ANC. I think that, you know,
17 if you -- I think that you're sacrificing a lot to try and
18 get this done. So hopefully you can come back without, with
19 everything, kind of, tied up a little bit better. So do you
20 have any questions?

21 MR. ALADE: No.

22 CHAIRMAN HILL: Okay. All right, so hopefully
23 we'll be here, for a decision for you, on the 25th.

24 MR. ALADE: Thank you very much.

25 CHAIRMAN HILL: Okay.

1 MR. MOY: And, one other thing, too, Mr. Chair,
2 at least, I want to say for the transcript, that, if the ANC,
3 assuming they meet with the Applicants on July 17, would
4 submit their follow-up letter, their final letter into the
5 record, before the 25th, but I think, Monday, July 23rd,
6 would be better than Tuesday, July 24th, so the Board will
7 have a chance to read your letter.

8 CHAIRMAN HILL: And thank you, Mr. Moy, for
9 pointing that out. And, I guess, I'd like to, also, since
10 I have the opportunity to say this to the ANC and people that
11 are here that, again, I think that, this particular developer
12 is being very, or, is trying to work very much with the ANC
13 and the Applicant to a point that I actually haven't actually
14 seen before.

15 And so, you know, I would hope that the ANC takes
16 that heavily into consideration, when they come back before
17 you, again. So that's just my hope. All right?

18 (No audible response.)

19 CHAIRMAN HILL: Okay, so we'll see you all on the
20 25th. And we are going to take a break until 3 o'clock.

21 (Whereupon, the above-entitled matter went off the
22 record at 2:24 p.m. and resumed at 3:15 p.m.)

23 CHAIRMAN HILL: All right Mr. Moy, whenever you
24 like.

25 MR. MOY: Thank you Mr. Chairman. The hearing is

1 reconvened. And the time is about 3:10.

2 If we can have parties to the table to Case
3 Application Number 19784 of Steven and Hilda Hooten, H-O-O-T-
4 E-N. As captioned and advertised for a special exception
5 under subtitle E, Section 5201 for the lot occupancy
6 requirements of Subtitle E, Section 304.1.

7 This would expand an existing rear deck addition
8 to an existing principal dwelling unit, and construct a rear
9 accessory garage RF 1 Zone at 237 10th Street, SE, or 944 Lot
10 66.

11 CHAIRMAN HILL: Okay. Thank you Mr. Moy. Good
12 afternoon. If you could please introduce yourself.

13 MS. FOWLER: Good afternoon. I'm Jennifer Fowler.
14 I'm the architect.

15 CHAIRMAN HILL: Okay. All right Ms. Fowler. I
16 know that you have the couple with us today. So, in this
17 particular case I didn't have a lot of questions.

18 The original question that I did have was whether
19 or not the 13 feet had gone through OP and the ANC. And from
20 reading of the record, it's my understanding that it has.

21 And so, you can respond to that once I open it.
22 So unless anyone has more immediate questions, I was going
23 to go ahead and ask you just kind of walk through the
24 presentation.

25 Let us know exactly what you're kind of looking

1 to do, and the standard with which you are meeting in order
2 for us to grant the application.

3 I'm going to put 15 minutes on the clock just so
4 I know where we are. And you can begin whenever you like.

5 MS. FOWLER: Okay. Thank you. So yes, this is
6 a request to build a one story garage. We originally filed
7 the plans with an 11-foot tall garage.

8 The homeowners had second thoughts. Decided to
9 add a little bit of height to get some storage space. This
10 is just purely a garage. And it's basically a one car
11 because of the width of the property.

12 So we -- we actually submitted revised plans for
13 the 15-foot garage. But it did go through ANC, Office of
14 Planning. Everybody knew about the increased height.

15 I'm sorry, 13 feet. Did I say 15? And as well
16 as all the neighbors that signed letters of support. We had
17 several letters of support for the garage as currently
18 submitted in the record.

19 The only relief we're asking for is for lot
20 occupancy. In fact the garage itself doesn't cause the
21 issue. But rather expanding the deck at the second floor of
22 the house.

23 It's the combination of the two that brings us
24 over the lot occupancy. So we are proposing 69.8. Currently
25 we're at 43.7. So it is conforming now.

1 We're expanding the existing deck. We're keeping
2 the same structure. It's basically the second floor of the
3 building. But it's their primary floor.

4 It's one of these houses where you walk in and
5 they have like a rec space on the first floor, and the
6 kitchen is up above. So, we're just trying to kind of expand
7 the deck space at that level.

8 And then create this one story garage. The alley
9 has many garages. A number of them are two-story. Many are
10 in the 11 to 15 foot range. So, I believe it's in keeping
11 with the surrounding areas. And it's not visible from the
12 street. And people have been supportive.

13 We went through historic preservation. And it was
14 approved on consent for that as well. As far as light and
15 air, it's approximately the same size as the garage next
16 door, which sits to the south.

17 You know, there will be some impact to 235 in
18 terms of shadows in the rear yard, where there's actually
19 parking currently. So, it's not part of their outdoor living
20 space. But we did get a letter of support from that
21 neighbor.

22 That really sums it up. I just wanted to open it
23 up to questions.

24 CHAIRMAN HILL: Okay. Great. Thank you. Does
25 anyone have any questions for the Applicant?

1 (No response)

2 CHAIRMAN HILL: I think I'll turn to the Office
3 of Planning.

4 MS. BROWN-ROBERTS: Good afternoon Mr. Chairman
5 and members of the BZA. Maxine Brown-Roberts. I'm from the
6 Office of Planning. The Office of Planning recommended
7 approval of the special exception to increase the lot
8 occupancy, and also to meet the requirements under Subtitle
9 E 5201 as outlined in our report.

10 And I'm available for questions on any of the
11 issue's outline there. Thank you.

12 CHAIRMAN HILL: Thank you. Does anyone have any
13 questions for the Office of Planning?

14 (No response)

15 CHAIRMAN HILL: Does the Applicant have any
16 questions for the Office of Planning?

17 MS. FOWLER: No. I don't. Thank you.

18 CHAIRMAN HILL: Okay. Is there anyone here from
19 the ANC? Is there anyone here wishing to speak in support?
20 Is there anyone here wishing to speak in opposition?

21 (No response)

22 CHAIRMAN HILL: All right, Ms. Fowler, I'm going
23 to turn back to you. Do you have anything else you'd like
24 to add?

25 MS. FOWLER: I have nothing else to add. Thank

1 you.

2 CHAIRMAN HILL: Okay. Does the Board have any
3 other questions?

4 (No response)

5 CHAIRMAN HILL: Okay. I'm going to close the
6 hearing. Is the Board ready to deliberate? Okay, I can
7 start.

8 As I was even indicting at the beginning of the
9 presentation, I didn't have a whole lot of questions
10 concerning the Application. I think that the Office of
11 Planning's report is very efficient in terms of how they're
12 analyzing the standard to be met.

13 I also believe that the ANC being in support, ANC
14 6B, ten to zero to zero, it was helpful. And so I would be
15 in favor of this application.

16 Does anyone else want to add anything?

17 (No response)

18 CHAIRMAN HILL: Okay. I'm going to go ahead and
19 make a motion to approve Application Number 19784 as
20 captioned and read by the secretary, and ask for a second.

21 COMMISSIONER TURNBULL: Second.

22 CHAIRMAN HILL: Motion has been made and seconded.
23 All those in favor, aye.

24 (Chorus of ayes)

25 CHAIRMAN HILL: All those opposed.

1 (No response)

2 CHAIRMAN HILL: Motion passes. Mr. Moy?

3 MR. MOY: The staff would record the vote as five
4 to zero to zero. This is on the motion of Chairman Hill to
5 approve the Application for the relief being requested.

6 And this, of course, is in conformance with the
7 revised plans under Exhibit 36. Seconding the motion is Mr.
8 Michael Turnbull. Also in support, Ms. White, Ms. John, and
9 Vice Chair Hart. The motion carries.

10 CHAIRMAN HILL: Thank you, summary Mr. Moy.

11 MR. MOY: Thank you sir.

12 CHAIRMAN HILL: Thank you.

13 MR. MOY: The next case application before the
14 Board is Application Number 19785 of Paul Vinovich. This
15 Application has been amended for special exceptions under the
16 use requirements of Subtitle U, Section 301.1(g), Subtitle
17 E, Section 5201, for the nonconforming structural
18 requirements of Subtitle C, Section 202.2, and from the lot
19 occupancy requirements of Subtitle E, Section 304.1. This
20 would construct a second story and roof deck addition to an
21 existing accessory structure, RF1 Zone at premises 322 8th
22 Street, SE Square, 924 Lot 50.

23 As the Board is aware, there is a filing in the
24 record under Exhibit 45. A request for party status along
25 with a waiver of the time requirements to file -- as well as

1 the written testimony of Mr. Hacker.

2 This is a preliminary matter, Mr. Chair.

3 CHAIRMAN HILL: Okay. Great. Thank you. Let me
4 first give you some instructions. If you could please
5 introduce yourself.

6 MS. FOWLER: Hi. I'm Jennifer Fowler with Fowler
7 Architects.

8 MR. VINOVIK: I'm Paul Vinovich, the owner.

9 CHAIRMAN HILL: Okay. Great. Is the party status
10 person here? Okay. Sir, if you could please come forward.

11 If you could first just introduce yourself, sir.

12 MR. HACKER: My name is Leonard Hacker.

13 CHAIRMAN HILL: Hacker. All right. So Mr.
14 Hacker, I see so you've requested party status. And then
15 you've also requested for an untimely filing of the party
16 status.

17 Could you please share with the Board why the
18 waiver in terms of the untimeliness for the filing?

19 MR. HACKER: Because the Secretary to the
20 Commission had a tape recording that was, I guess, wrong.
21 And I kept leaving messages to speak to the person, waiting
22 for an answer. And never got it.

23 I finally reached him last night. And he
24 acknowledged the fact. What the tape said was that he was
25 on vacation and he will return within a few days. And that

1 was in June.

2 CHAIRMAN HILL: Okay. All right. So, there was
3 an error. I see, when you were trying to leave a message.

4 MR. HACKER: Yes.

5 CHAIRMAN HILL: Okay. All right. Okay. So then
6 after that, in terms of why you should be granted party
7 status, can you tell us why we should grant you party status?

8 MR. HACKER: Well, I'm asking for party status for
9 three reasons. One -- as a matter of fact I got their memo.
10 One of my neighbors took ill this morning and he can't be
11 here.

12 So, I was told that that's one of the reasons.
13 The second reason is the fact that I was the ANC
14 Commissioner, and was responsible for the original building
15 of the garage 30, ironically 30 years ago this month.

16 And I have some special documents that I would
17 like to present. And I was told the only way I could do that
18 is by being able to question the present owner.

19 And that's the reason I ask for it.

20 CHAIRMAN HILL: Okay. So, but where do you live
21 in regard to the --

22 MR. HACKER: I live right in back. I live at 319
23 9th. And the subject matter is 322 8th. And our garages --

24 CHAIRMAN HILL: Okay. So your garages are
25 opposite one another.

1 MR. HACKER: Yes, sir.

2 CHAIRMAN HILL: Because as far as like the
3 standard with which we grant or don't grant party status, is
4 how are you uniquely involved to the case. And so that would
5 be again that your garage basically faces their garage.

6 MR. HACKER: And I was uniquely involved in the
7 fact that I got the garage built originally.

8 CHAIRMAN HILL: Okay. Well, that one -- and I
9 appreciate that. But I don't know if that would necessarily
10 -- I mean, you could live, you know, on the other side of the
11 city and have helped with that.

12 MR. HACKER: Yes. Yes.

13 CHAIRMAN HILL: So that doesn't necessarily get
14 you. So, I suppose does the Board -- I don't have any issues
15 with the waiving of the deadline.

16 Does the Board have any thoughts on the party
17 status application?

18 MEMBER JOHN: Mr. Chairman, I think he has
19 support. He's shown sufficient interest that could be
20 unique.

21 CHAIRMAN HILL: Okay. All right. So Mr. Hacker
22 we're --- Thank you, sir. We're going to go ahead and grant
23 you the waiver in terms of the request for party status.

24 Then we're also going to grant you party status.
25 So what you would then be able to do now, is we're going to

1 have testimony from the Applicant.

2 You'll have the opportunity to cross examine that
3 testimony as it is just towards the testimony itself. You'll
4 also then have an opportunity to give testimony in the same
5 amount of time that the Applicant would have to give
6 testimony.

7 The Applicant will then have the opportunity to
8 cross examine your testimony. Again, just as it is --
9 revolves around the testimony, right. We're just cross
10 examining testimony.

11 Then you'd have an opportunity to kind of again,
12 question the Office of Planning and work through the whole
13 process. So, just we'll kind of walk that through with you
14 as we go through the motions.

15 So, just bear with us as we go through the first
16 part. All right. You can sit there sir. Or you can grab
17 whatever paperwork you need also, of course.

18 All right. Ms. Fowler, I assume you're going to
19 present to us?

20 MS. FOWLER: Yes.

21 CHAIRMAN HILL: Okay. So now you obviously have
22 someone here in opposition for part -- with party status.
23 And so, we'll see how or what their issues are as we go
24 through this. There was a couple of questions, I guess,
25 about public space. But, I think we'll see how that goes as

1 we kind of like work through this.

2 So, go ahead if you want, and go ahead and give
3 us our -- your presentation. Again, as what the project is
4 you're doing. And also the standard with which you're
5 meeting the criteria for us to grant the request.

6 I'm going to put 15 minutes on the clock so I know
7 where we are. And you can begin whenever you like.

8 MS. FOWLER: Okay. Thank you. Okay, the existing
9 property is -- was built in the '60s. It's a non-
10 contributing building in a historic district.

11 The garage that's existing there was built in the
12 '80s as you've heard. There's a number of garages on that
13 block that were all built around the same time.

14 So, if you look at the photos, you can see there's
15 a number of identical garages on both sides of the alley.
16 We're seeking a special exception -- special exceptions to
17 expand the one-story garage into a two-story garage.

18 And adding living space, in terms of a rental
19 apartment. So, we're seeking U 301.1 for the living space,
20 you know, basically expanding the -- a garage for living
21 space, 202.2 because it's a non-conforming property
22 currently. And 304.1 for lot occupancy.

23 The lot occupancy is only changing because of a
24 balcony that we're adding that's facing the yard. Otherwise,
25 we're building straight above the existing garage.

1 We filed originally in May with a roof deck on top
2 of the garage. We've revised the plans and the Application
3 to eliminate the roof deck to avoid variance requirements.
4 And we decided rather than having a roof deck, we would
5 incorporate a balcony. Which is why that change happened
6 initially when we filed.

7 The idea was the balcony would be a smaller space,
8 less impact on the neighbors as far as visibility to adjacent
9 properties. So that was revised back in May as well.

10 We went to the ANC Planning and Zoning Committee
11 in June. We had several neighbors come in opposition, or to
12 raise concerns. The ANC was primarily focused on the
13 adjacent neighbor, who is here today as well, at 320.
14 Concerns about privacy in the backyard. So, they voted to
15 support the addition assuming that we provide a sun study.
16 And that we make best efforts to work with the neighbor at
17 320. Which we did that. We presented a sun study to the
18 ANC. And that's also in the record.

19 And you can see that the ANC agreed with us that
20 there was no impact to the light and air based on the sun
21 study to the adjacent neighbors. I'm happy to go through the
22 sun study as well. But it's pretty self-explanatory.

23 So, we attempted to meet with the neighbor at 320.
24 And due to scheduling conflicts, we weren't really able to
25 kind of come together before the full ANC. But we did get

1 the approval from the ANC again, pending kind of outreach to
2 the neighbor. And making sure that he was comfortable.

3 Afterwards we met with -- Mr. Vinovich met with
4 Leonard Hacker as well as another neighbor at 321. I'm
5 sorry?

6 MR. VINOVICH: 321 9th.

7 MS. FOWLER: 321 9th. And then on the 25th of
8 June we met with the owners of 320 and 318 to discuss plan
9 modifications.

10 So this is when we actually ended up proposing
11 that we move the balcony away from 320. So basically made
12 it more of a square instead of a linear balcony.

13 To kind of get some space between the property
14 line and the neighbor. We also eliminated a French door and
15 converted that to a single door with a window.

16 Again, trying to kind of eliminate privacy
17 concerns. And the window that's the closest to 320 has been
18 turned into a high window. So it's high enough that you
19 can't actually look out of the window when you're inside the
20 house.

21 So we sent the revised plans to the neighbor. And
22 we heard back on Monday, I believe, that she was still not
23 comfortable with the plans.

24 Which is why we're -- we still have kind of
25 unresolved neighbor issues today. But the current proposal

1 has this kind of modified balcony and reduced, kind of
2 visibility into the rear yard of the neighbor.

3 The project got historic approval on consent. So,
4 historical was fine with concept of the two-story garage.
5 There are a number of garages on the alley. There's two or
6 three kind of taller garages, or at least a couple at the end
7 of the alley that have living space.

8 And again, we feel like it's an appropriate
9 addition. And it's a very common kind of style of building
10 on the hill. We're extending the brick. And we're
11 introducing brick arches to try to make it kind of fit in
12 more with the neighborhood.

13 And I think that's all I have for now. And I'll
14 see what kind of questions come up. Thank you.

15 CHAIRMAN HILL: Okay great. Does the Board have
16 any questions for the Applicant?

17 MEMBER WHITE: Did you ever suggest, or was it
18 ever suggested they have any kind of privacy screens with
19 respect to this? I mean, that was my initial question.
20 Because it sounds like this is mainly about privacy. So, I
21 didn't know if there were any alternative suggestions that
22 were recommended by maybe the ANC with respect to this.

23 MS. FOWLER: Yes. Actually I'm glad you mentioned
24 that. Because I meant to bring this up. Part of the revised
25 plans include a privacy screen at the balcony. Basically I

1 think it's about six -- five and a half foot tall, kind of
2 lattice or privacy screen.

3 Which -- kind of facing the 320 neighbor. I mean,
4 obviously it's not going to -- it's on the side. It kind of
5 runs parallel to the property line. So there will still be
6 some visibil -- you know, some views from, you know, kind of
7 looking out the back of the balcony. But that was something
8 that was discussed with the ANC and the neighbors.

9 CHAIRMAN HILL: So then I was a little unclear.
10 So did you get an ANC vote?

11 MS. FOWLER: Yes. We have ANC support. And there
12 is a letter in the record as well. I believe ANC's here in
13 order to answer your questions.

14 CHAIRMAN HILL: Oh, okay. They all participate.
15 Okay, right. But there were unresolved issues.

16 So I wasn't sure if they're still in support even
17 with the unresolved issues. Or we can at least hear from the
18 ANC when we do get to them.

19 MS. FOWLER: Right.

20 CHAIRMAN HILL: Okay. All right. Okay.

21 MS. FOWLER: It was kind of a -- they voted on it
22 with the condition -- it wasn't even a condition, because it
23 was a full on vote. But they wanted us to continue working
24 with the neighbor.

25 CHAIRMAN HILL: Okay. All right. Okay. Any

1 other questions for the Applicant?

2 (No response)

3 CHAIRMAN HILL: Okay. All right. So Mr. Hacker,
4 so what you'll have an opportunity to do now, is ask -- so
5 you'll have an opportunity to provide your testimony about
6 your concerns, feelings on the Application. This part right
7 now is anything -- if you have any questions for the
8 Applicant as to what they just said. Okay?

9 And you have to just kind of lean forward, sir.
10 And then just push the microphone, you may even bind the
11 microphone down just a little -- there you go, perfect. And
12 was everyone sworn? Sir, you were sworn in before, correct?

13 MR. HACKER: No, sir.

14 CHAIRMAN HILL: Oh, you weren't? Okay. If
15 there's anyone here that wants to participate and has -- or
16 has not been sworn in, if you could please stand and take the
17 oath administered by the Secretary to my left.

18 (Witnesses sworn)

19 MR. MOY: Thank you. You may be seated.

20 CHAIRMAN HILL: Okay. Great. Thank you. So,
21 right Mr. Hacker, do you have any questions for --

22 MR. HACKER: Yes, sir.

23 CHAIRMAN HILL: The Applicant?

24 MR. HACKER: Yes, sir. And the record will show
25 that it was with an affected neighbor that this whole thing

1 started. But more importantly, I'd like to ask the architect
2 -- I'd like to correct one thing. They met at my house.

3 We all met at my house with the neighbor of 217.
4 Which is directly next, the neighbor at 215 -- at 217 could
5 not make it. So, he never met according to the letter that
6 was required. Only two of the garages in the whole alley are
7 two-story. And they are the old carriage houses that were
8 built in the 1890s.

9 And they're in the far south of the alley. The
10 rest of the alley is one-story garages. And 50 percent of
11 the alley has no garages.

12 CHAIRMAN HILL: Okay. So Mr. Hacker, I'm sorry.
13 I'm just trying to understand what your question is. So,
14 what's your question to the Applicant?

15 MR. HACKER: Well, my -- but the Applicant stated
16 that there are two-story garages in the alley. They are at
17 the far side.

18 That whole alley only contains one-story garages.
19 And that's --

20 CHAIRMAN HILL: And so your question to the
21 Applicant, would you agree with that statement?

22 MR. HACKER: Yes.

23 CHAIRMAN HILL: Okay.

24 MS. FOWLER: Yeah. There are two two-story
25 carriage houses. They're on the alley. On the same 30-foot

1 alley that we're abutting.

2 CHAIRMAN HILL: Okay. Okay.

3 MR. HACKER: At the end.

4 CHAIRMAN HILL: Okay.

5 MR. HACKER: And also, I'd like to correct, the
6 vote of the ANC was eight to two of approval with the
7 stipulation that meetings be held with the neighbors.

8 CHAIRMAN HILL: Okay. That was again what I under
9 -- I understand our ques -- that's what I understood from the
10 record to be.

11 MR. HACKER: Yes.

12 CHAIRMAN HILL: And I don't think that the
13 Applicant said anything different in that case.

14 MR. HACKER: But the fact is, he did not meet with
15 all the neighbors as was required.

16 CHAIRMAN HILL: From what I hear -- okay. Now
17 hold on. Mr. Hacker, I'm just trying to get to, is what your
18 question is.

19 Your question is that the ANC said to meet with
20 all the neighbors. And they did not meet with all the
21 neighbors?

22 MR. HACKER: All the neighbors. Yes.

23 CHAIRMAN HILL: That's what -- so your -- what's
24 your question?

25 MR. HACKER: My question is why didn't they meet

1 with the rest of the neighbors?

2 CHAIRMAN HILL: Okay.

3 MR. VINOVIK: I'll answer that.

4 MS. FOWLER: Okay. I'll answer it. The letter
5 specifically says adjacent neighbors.

6 CHAIRMAN HILL: Okay.

7 MR. HACKER: That is correct.

8 CHAIRMAN HILL: Right.

9 MS. FOWLER: Adjacent.

10 CHAIRMAN HILL: Adjacent meaning the next door
11 neighbors.

12 MR. HACKER: Well, I figure that to be --

13 CHAIRMAN HILL: Okay. So your question -- all
14 right, so your -- and we can go through this. Because it
15 looks like the ANC is here also.

16 MR. HACKER: Yes.

17 CHAIRMAN HILL: So we can eventually get to them.
18 But your question was why didn't they meet with you?

19 MR. HACKER: No. They met with me.

20 CHAIRMAN HILL: Oh, okay.

21 MR. HACKER: Why couldn't they meet with the
22 neighbor next to me? Which is one of the five neighbors that
23 they --

24 CHAIRMAN HILL: Well, adjacent is -- adjacent is
25 the next door neighbors. The ones that are right next door

1 to them.

2 That's adjacent. So, --

3 MR. HACKER: I stand corrected.

4 CHAIRMAN HILL: Okay. So, what's your next
5 question?

6 MR. HACKER: I have no further questions.

7 CHAIRMAN HILL: Okay. All right. So we're going
8 to go ahead and put 15 minutes up on the clock, Mr. Hacker,
9 for your presentation.

10 And you can go ahead and provide your testimony
11 as to what you would like to present to the Board. And you
12 can begin whenever you like.

13 MR. HACKER: Thank you. My name is Leonard
14 Hacker. I live at 319 9th Street, SE. I was involved in the
15 original building of the garage, which was an exception.

16 Ironically it was 30 years ago this month. And
17 it was done because of a unique circumstance. The owner of
18 the property was the minority leader of the United States
19 Congress, Bob Michael.

20 And he was mugged. And the Capitol Police and the
21 Mayor's office, and many other people were very concerned
22 about his safety. And I was the ANC Commissioner at the
23 time. And I got a call from the Mayor's office, Cal
24 Thompson, that we've got to get a garage for the man. So,
25 it was done very quickly.

1 And as a matter of fact, I had to handle it. And
2 I still have the original receipt for paying for the permit.
3 And the special letter that stated in order to build this
4 garage, it was in the public interest. So, no zoning. No
5 any of these things were sort of waived. And the garage was
6 built. And I was present, I guess, or fortunate, to be there
7 when the garage was built. It was built six inches into the
8 alley. I do not know, not being an engineer, whether the
9 footing was even correct.

10 And I tried to raise this with the architect, but
11 she never returned my call. I lived at this address for 40
12 years. And this alley has been problematic because of -- it
13 is located off 8th Street. And it is used a shortcut, you
14 know, because 8th Street is very busy.

15 I only want to say that my wife, Naomi and I, both
16 85, and we have serious heart conditions. And because of
17 that, we have to have an easy access exit out of our garage
18 in case of an emergency.

19 If the proposed change by putting the garage --
20 by making the garage a one car garage, and using the second
21 part of the garage for a staircase and exit into the alley
22 for the second-story place, I believe is dangerous to the
23 occupant.

24 It's dangerous to me, because I drive a big Crown
25 Victoria. And I'm always afraid that I'll hit someone.

1 Bob and I, just as an aside, had the unique signal
2 that when he came home, he'd come in on 9th Street, blow his
3 horn, and then get into his garage. Because he just couldn't
4 come in and use 8th Street because of turn, et cetera.

5 I on the other hand, can make the turn and get
6 out. And therefore I need more than the 18 feet my car is
7 long. And any obstruction on the side of the garage, like
8 parking a car or something, would prevent me from, you know,
9 in an emergency, getting out.

10 I also am constantly in fear that if someone lives
11 on top, a tenant or stranger or whatever, and at night they
12 come out of that door and I'm coming out in an emergency, I
13 think it would be very dangerous.

14 I spoke to the police at the -- 1D1. And they
15 sort of said there's nothing they can do about it until
16 something happens. So, that is my concern. Finally, because
17 of the location of the exit of the proposed housing, it is
18 -- I guess the word is trying, or worrisome, that we'll have
19 an accident for no reason.

20 You know, they've never shown a plan of where
21 they're going to put their -- assuming they get approval, of
22 where they're going to put their heating and air conditioning
23 unit to the location.

24 And I suspect it would be on top of the garage.
25 Which would also be noisy to me. And just, you know, not

1 look seemly.

2 Finally, I'd like to state that this is the second
3 exemption that we've had in the area because of the building
4 of the Hines School across the street. And as I said, this
5 was never given an exemption. Finally, if I may, I received
6 a letter from my neighbor at 317, in question. And he said
7 -- may I read it?

8 CHAIRMAN HILL: I'm trying to think what -- you
9 can't testify on behalf of someone who isn't here.

10 So, unless you are authorized to testify in front
11 of -- I'm just letting you know, you can't --

12 MR. HACKER: But may I read the part that I would
13 testify too also?

14 CHAIRMAN HILL: You can read the part that you
15 would testify --

16 MR. HACKER: Thank you.

17 CHAIRMAN HILL: If you were testifying to yourself
18 -- or for yourself I should say.

19 MR. HACKER: Yes, I -- the recently submitted plat
20 and plans show the wall extending into the alley. The point
21 is that the BZA can simply sanction that protrusion over the
22 property line by approving a second-story addition that makes
23 the problem worse.

24 It's a municipal land intended for public use.
25 And can't be taken by adverse possession. It could also

1 cause title problems in the future as well as other issues.
2 It also gives him additional square footage that he doesn't
3 have to count. Paul can fix this problem by tearing down the
4 existing wall and rebuilding it.

5 And again, I will just read it. That was given
6 to me. Please be advised that I am the owner of 317. And
7 is in opposition.

8 CHAIRMAN HILL: Yeah, that's a -- okay, I mean,
9 you're making your own position on that.

10 MR. HACKER: Yes. Yes.

11 CHAIRMAN HILL: So, but that's okay. All right.
12 Okay, is there anything else?

13 MR. HACKER: No, sir.

14 CHAIRMAN HILL: Okay. Does the Board have
15 questions for the witness?

16 MEMBER WHITE: My one question is, can you talk
17 about privacy concerns?

18 MR. HACKER: Yes.

19 MEMBER WHITE: Do you think that the privacy
20 concerns have been addressed that were mentioned by the ANC
21 in the letter that they submitted into the record?

22 They mentioned a second ago that there were --
23 there was going to be a lattice privacy screen. Would that
24 be --

25 MR. HACKER: That was not on my property. My

1 property is directly behind. And obviously my privacy would
2 be affected, because they'll be looking directly into my
3 backyard. And into my back bedroom.

4 MEMBER WHITE: That's your privacy concern then,
5 is the view.

6 MR. HACKER: That's my privacy concern.

7 MEMBER WHITE: Okay. Thank you.

8 MR. HACKER: Yes, ma'am.

9 CHAIRMAN HILL: Well, I can start on a couple of
10 things. And then I'll turn it back over to the Board.

11 Well first of all Mr. Hacker, thank you for your
12 service as a Commissioner. You know, that was -- that was,
13 you know.

14 I'm sure those times were much different then they
15 are now in terms of the area there.

16 MR. HACKER: Yes, sir.

17 CHAIRMAN HILL: The -- some of the things that
18 you're talking about, I guess, it seems conflicting to me in
19 terms of like safety.

20 For example, you know, it would be safer to have
21 people being able to look onto the alley then if they
22 weren't. So, I'm a little concerned when you're talking
23 about safety.

24 And my question would be towards safety. And you
25 would, I guess disagree with that.

1 And then as far as your concern about ease of
2 access out of your current garage. I mean, there is a garage
3 there now. And there's a two-door, and whatever, two car
4 garage there now.

5 So, can you clarify again for me, how -- what's
6 the difference between what the existing garage is doing, to
7 what the new garage would do, with regard to your ease of
8 access?

9 MR. HACKER: Yes, sir. By putting the door to the
10 existing garage -- an exit door from the second story
11 addition, that puts a human being into the alley at night.
12 Which is poorly lit. And therefore, endangers just me,
13 because I'm scared of backing out, endangers the person. And
14 that changes the whole character of my use of the garage.

15 CHAIRMAN HILL: Okay. So you're worried about
16 hitting somebody.

17 MR. HACKER: Yes.

18 CHAIRMAN HILL: Okay. All right.

19 MR. HACKER: It's because the alley is poorly lit.

20 CHAIRMAN HILL: Okay. Let's see, all right,
21 anybody else have anything?

22 (No response)

23 CHAIRMAN HILL: No? Okay. Does the Applicant
24 have any questions for the testimony?

25 MS. FOWLER: Oh, I don't have questions. I just

1 have kind of rebuttal or a response.

2 CHAIRMAN HILL: You'll get a rebuttal at the end.

3 MS. FOWLER: Okay.

4 CHAIRMAN HILL: Yeah. Okay. All right. So that
5 being the case, then I'll go ahead and turn to the Office of
6 Planning.

7 MS. FOTHERGILL: Good afternoon. I'm Anne
8 Fothergill from the Office of Planning, here today on behalf
9 of Steve Cochran, who's the Project Manager for this case.

10 The Office of Planning recommends approval of the
11 three special exceptions that have been requested, to locate
12 a principal dwelling in an accessory structure, and for lot
13 occupancy, and expansion of a non-conforming structure.

14 And I will rest on the record in support of the
15 Application. And I'm happy to take any questions.

16 CHAIRMAN HILL: Okay. Does anybody have any
17 questions for the Office of Planning?

18 (No response)

19 CHAIRMAN HILL: Okay. Does the Applicant have any
20 questions for the Office of Planning?

21 MS. FOWLER: No. Thank you.

22 CHAIRMAN HILL: Okay. Does the party status
23 opposition have any questions for the Office of Planning?

24 MR. HACKER: Yes, sir.

25 CHAIRMAN HILL: Okay.

1 MR. HACKER: My question to the Office of Planning
2 is how can you approve something without taking into
3 consideration the fact that the original structure that
4 you're approving was never really approved?

5 It was done by special exception. And now you're
6 building -- you're asking for another exception on top of an
7 exception, on top of an exception. I just don't understand
8 it.

9 MS. FOTHERGILL: We review the current zoning
10 regulations and the structure exists. And they're proposing
11 an addition above it. And so we review it based on that.
12 I don't know anything about the construction of the previous
13 structure. It will go through building permit review as well
14 in terms of the structure.

15 MR. HACKER: Well, if the current building permit
16 review goes and the property is not on the property, but it
17 extends into the alley, you don't care about that?

18 MS. FOTHERGILL: I would imagine that will be
19 resolved through the building permit process. And if they
20 need some form of relief from that, they would have to return
21 to the Board.

22 CHAIRMAN HILL: So the answer, so just to be
23 clear, they're reviewing what the current regulations allow.
24 So that's what they're doing.

25 They're reviewing the regulations as they're

1 currently written, in terms of what special exceptions the
2 property owner can or can't apply for.

3 MR. HACKER: I understand.

4 CHAIRMAN HILL: Okay.

5 MR. HACKER: And then what happens? So, if you
6 grant those exceptions, then what happens to the exceptions
7 that were already granted that you haven't taken into
8 consideration?

9 I really don't understand that.

10 CHAIRMAN HILL: Okay, I'm sorry. Are you asking
11 me? Or are you asking the Office of Planning again?

12 MR. HACKER: No. I'm asking the person from the
13 OP. I might add, I was also the Cable Commissioner for the
14 District. I was also the neighborhood watch for that place.

15 So, I'm a little familiar with it. And just to
16 not research the history of the property, to ask just
17 additional exemptions, exemptions, exemptions, and not go
18 back as to how many exemptions were already given, I just
19 don't understand the regulations.

20 CHAIRMAN HILL: Okay. All right. Well --

21 COMMISSIONER TURNBULL: Mr. Chair? I think what
22 the Office of Planning is saying, we have a lot of conditions
23 in the city that are even non-conforming.

24 CHAIRMAN HILL: Right.

25 COMMISSIONER TURNBULL: They go before zoning.

1 They were before and so, where we are starting now is at
2 ground zero.

3 We look at what's existing right now, what's
4 before us. We look at -- the Office of Planning is basically
5 saying, there is an existing garage there right now.

6 And so, based upon the current zoning, what can
7 they do? What cannot they do? What are they asking for from
8 the BZA?

9 And so that's where we're going on from. So
10 whatever's happened in the past, is in the past. And as it
11 goes through the permit process, if something comes up, they
12 will raise it at that time.

13 MR. HACKER: Thank you.

14 CHAIRMAN HILL: Okay. All right, is there anyone
15 here from the ANC? Would you please come forward.

16 Please introduce yourself.

17 MR. RIDGE: I'm Dan Ridge. I'm the Chair of ANC
18 6B and designated by the ANC to appear before you today to
19 offer our comments on this case.

20 CHAIRMAN HILL: All right Commissioner Ridge. So
21 we've got two Commissioners here, one present and one past.

22 So, if you could go ahead Mr. Ridge. You get
23 about five minutes as a Commissioner to present anything you
24 like. And you can begin whenever you like.

25 MR. RIDGE: Our presentations are usually limited

1 to the facts contained in an ANC letter. And our letter is
2 pretty simple on this case.

3 We voted to support, eight to two. And we had
4 about an hour long discussion on this case at full ANC after
5 substantial discussion at Planning and Zoning.

6 And we gave a form to neighbors who opposed. But
7 ultimately we supported it. We had a lengthy discussion.
8 And if you have any questions about the nature of that
9 discussion, I'm happy to answer them.

10 CHAIRMAN HILL: Okay. Great. Well thanks for
11 sticking around. And does the Board have any questions of
12 the Commissioner?

13 MS. LOVICK: Excuse me. I just want to interject.
14 Can you just make sure that the ANC doesn't want to cross
15 examine anybody?

16 CHAIRMAN HILL: Oh, okay. So, lately I've
17 neglected to ask at times about whether the ANC wants to
18 cross examine.

19 And so now, I'm happy to say that I will now
20 always be asking if the ANC gets to cross examine. Cross
21 examine is always my favorite thing. So, I'm really happy
22 that we're going to continue this. So, Commissioner Ridge,
23 do you have any questions of either people in terms of
24 testimony?

25 MR. RIDGE: Well, Mr. Chairman, I was a cross

1 examination policy debater. And so, you're playing with
2 fire. But --

3 CHAIRMAN HILL: No, hey. It's OAG over there.
4 It's not me.

5 MR. RIDGE: So, --

6 CHAIRMAN HILL: I'm happy with no.

7 MR. RIDGE: There's almost no upside for us to
8 tangle with our neighbors.

9 CHAIRMAN HILL: Okay.

10 MR. RIDGE: But, so I have no questions that I
11 wish to ask that we did not already ask through the ANC
12 process.

13 CHAIRMAN HILL: Okay.

14 MR. RIDGE: But the truth is, that this is exactly
15 the kind of case that was contemplated by ZR 16. And that
16 made it very easy for us to -- that short circuited a lot of
17 thinking about this otherwise.

18 And the fact that this garage could be demolished
19 and rebuilt as a matter of right without zoning relief made
20 it very easy to support without the need to cross examine
21 anybody.

22 CHAIRMAN HILL: Okay. All right. So I guess the
23 Zoning Commission did its job then. Is what it seems to be,
24 being passed along.

25 COMMISSIONER TURNBULL: Did you hear that Mr.

1 Hart? There was kudos to the Zoning Commission by the Chair.

2 VICE CHAIR HART: Yes. I heard that very loud and
3 clear. Thank you.

4 CHAIRMAN HILL: Okay. All right, so continuing
5 along these lines. But thank you so much.

6 Continuing along these lines. Does the Applicant
7 have any questions of the ANC?

8 MS. FOWLER: No. I don't. I just want to thank
9 Mr. Ridge for sticking out as well. Thank you.

10 CHAIRMAN HILL: Okay. Mr. Hacker, do you have any
11 questions for the ANC?

12 MR. HACKER: No, sir.

13 CHAIRMAN HILL: Okay. You need to put it on your
14 microphone and say no. Sorry.

15 MR. HACKER: No, sir.

16 CHAIRMAN HILL: Okay. Great. Thank you. All
17 right, let's see. Right, did I already ask, did the Board
18 have any questions for the Commissioner?

19 MEMBER JOHN: I have a question.

20 CHAIRMAN HILL: Please.

21 MEMBER JOHN: So, can you discuss some of the
22 objection that the project received at the ANC meeting? What
23 types of comments were there?

24 MR. RIDGE: I would say that the lion's share of
25 the opposition that we heard at ANC was on the grounds of

1 privacy. And certainly those are concerns that we heard from
2 adjacent neighbors.

3 As you heard from Mr. Hacker, we also heard some
4 concerns about the nature of the use of the alley. As we
5 contemplated those of course, every ANC Commissioner of 6B
6 lives on Capitol Hill.

7 And so we brought our personal experiences and
8 noted that 30 foot alleys are quite commodious by Capitol
9 Hill standards. I live on a ten-foot alley myself.

10 And that the privacy issues introduced by an ADU
11 as contemplated like this, are not very different than the
12 privacy issues introduced by conforming by right, row houses
13 built across ten foot alleys.

14 Which occur at the corner of almost every square
15 in Capitol Hill that we have townhouses abutting. And so
16 there seem to be no -- as far as the neighborhood is
17 concerned, unusual privacy implications.

18 I have a second story window that looks into my
19 rear yard across a ten-foot alley and have never been
20 concerned with it.

21 MEMBER JOHN: Thank you.

22 CHAIRMAN HILL: Okay. You guys have ten
23 Commissioners?

24 MR. RIDGE: We have ten Commissioners.

25 CHAIRMAN HILL: Wow. That's a lot of

1 Commissioners. Okay.

2 MR. RIDGE: We'll take you in a softball game.

3 CHAIRMAN HILL: Yeah. I'll bet they could take
4 me in a lot of things. And now I'm just curious. So, you're
5 a cross examiner of what? What do you do?

6 You cross examine people?

7 MR. RIDGE: I was.

8 CHAIRMAN HILL: Oh, you --

9 MR. RIDGE: Children do this. Teen cross
10 examination policy debate. You know, in school.

11 CHAIRMAN HILL: Oh, wow. Okay. That would have
12 been great if I did that, but. Okay. All right. Thank you
13 very much Commissioner.

14 All right. Let's see, is there anyone here
15 wishing to speak in support? Is there anyone here wishing
16 to speak in opposition? Please come forward.

17 Okay. If you could please introduce yourselves
18 for the record.

19 MS. RAOL: My name is Neaha Raol. I'm the
20 adjacent neighbor at 320 8th Street.

21 MR. FARWAGI: Hi. My name is Derek Farwagi. I'm
22 in 318 8th Street. One door down.

23 CHAIRMAN HILL: Okay. When you say one door down,
24 are you right next door as well? Or one door down from Ms.
25 Raol?

1 MR. FARWAGI: Yeah. I'm two doors --

2 CHAIRMAN HILL: Okay. Okay. Great.

3 MR. FARWAGI: From the property.

4 CHAIRMAN HILL: Okay. All right. So you'll each
5 get three minutes to testify. And the clocks are up there
6 on the other side.

7 And you can begin whenever you like.

8 MS. RAOL: Okay. So we're sitting essentially in
9 the order of our houses on 8th Street.

10 CHAIRMAN HILL: Oh, that makes it easy. Thanks.

11 MS. RAOL: If that makes sense. On the other side
12 of Paul is the alley. Which I think you've heard a little
13 bit about. But, a different one.

14 Everything I'm saying is exactly what I've said
15 at the ANC meeting. It's what I said at the ANC Committee
16 meeting.

17 Obviously those results were a bit disappointing
18 because of sort of big outcome of parties having discussions
19 without any real substance in terms of understanding what it
20 was that they were looking for.

21 In terms of, you know, the conditions on
22 approving. That is what it is. But, I'll just go through
23 my talking points. I'm trying to focus in on the pieces that
24 matter really, in terms of where I sit.

25 One initial point is that there are serious

1 concerns with the precedent this will create. Most notably
2 this -- it's hard to imagine that this won't essentially lead
3 to these second stories being placed on the garages that are
4 in the alley.

5 And again, as you -- you've already gone through
6 where there are more there -- where there's more than one
7 level on a garage. And I'm sure you've got papers in the
8 record that identify that. So, I won't really go through
9 that.

10 But, you know, starting with Paul and then us down
11 the other side, that house is essentially the center of the
12 alley. Right? Because people come down. There's a four
13 corners and they go left or right.

14 So, to the extent of understanding the esthetics
15 and the character of that area, that's a point that I'd like
16 to note.

17 Putting that aside, I'd like to just get to the
18 privacy issue. Because that was obviously the focus of the
19 ANC. It was also the focus of the Capitol Hill Restoration
20 Society letter that I think you should have in the record as
21 well.

22 For me, I think that this proposal does
23 significantly compromise my right to privacy and use and
24 enjoyment of my property. As an initial matter, there's no
25 question that any second story unity will have a severe

1 intrusion on my privacy.

2 Again, I think this was recognized by the other
3 folks that have heard this proposal. Going into the revised
4 plans that you've got in front of you that Ms. Fowler went
5 through.

6 For me, and we've had -- you know, this is not new
7 for anyone on this panel here. They don't provide me with
8 the necessary comfort in terms of my privacy concerns.

9 I understand we -- they were asked about the
10 privacy screen, which there is something in the new proposal.
11 For me it doesn't give me confidence that this was sufficient
12 going forward.

13 It's not something that's permanent. And to the
14 extent it's taken down or removed, I'm not sure, you know,
15 where that leaves me going forward.

16 Beyond that, I want to shift to the balcony.
17 Which is again, Ms. Fowler explained how after us discussing,
18 that was adjusted to move a little bit further from my proper
19 -- the fence between the two properties.

20 While it did do that, it moved it further out into
21 the yard. And again, I have a picture from my backyard,
22 which I'm happy to share if that is helpful.

23 But, you know, these backyards aren't big enough
24 for something like that to remove really the line of sight
25 or sort of the intrusion on the property here.

1 I think this was recognized in the Capitol Hill
2 Restoration Society letter as being an unduly impact to my
3 privacy. There's no question that I agree with that. I
4 don't think it's only me. I think it would also affect the
5 neighbor to my left, I guess, if I'm facing outward.

6 To the extent there would be a design type of
7 modification to provide for some outdoor space. I think that
8 that could easily be done by syphoning off perhaps ground
9 level space for that rental unit, which really would remove
10 a lot of my privacy concerns from the balcony perspective.

11 The only final point I'll make is, there are on
12 the proposals, there's a set of windows and a glass door on,
13 again, this is really the side facing into the backyard that
14 my full discussion is limited to here, because of the unique
15 situation in terms of being the neighbor next door.

16 Those -- one, as Ms. Fowler mentioned, is a high
17 window. Which I appreciate that she made that adjustment.
18 It's something that I recognize as significant value in
19 having, because it does not allow someone to essentially be
20 staring into my property.

21 But, there was a full set of windows and the glass
22 door that would lead to the balcony. Which I think provides
23 a direct line of sight again, into my yard and really into
24 my back house. Because my backdoor is all french -- it's
25 french glass doors and glass windows along the side. That's

1 that back wall from my house.

2 It leaves me feeling quite uneasy. And again, I
3 mean, that's really my summary here. I know there was a
4 reference made about the property being above -- beyond the
5 property line.

6 That's not something I am probably intelligent
7 enough to actually speak to in terms of the implications of
8 that. But I'm happy to take any questions. And I see I've
9 gone over. And I appreciate your patience.

10 CHAIRMAN HILL: Thank you. Is there a clock right
11 here? There's a clock right here. All right.

12 Okay. Thank you. Maybe we'll go -- well, does
13 anybody have any questions for Ms. Raol directly?

14 COMMISSIONER TURNBULL: I don't have a question.
15 I just had a comment. Whatever's showing on the drawings
16 gets put into the zoning order.

17 So, you're concern about the privacy screen, it
18 really can't be removed. I mean, if it is removed, you could
19 go to the DCRA and tell them that something's not in
20 compliance.

21 So that screen, if it's showing on the drawing,
22 has -- privacy screen has to stay. That's permanent.

23 MS. RAOL: If I have a chance to respond.

24 COMMISSIONER TURNBULL: Yes.

25 MS. RAOL: Understood. I will say that I made

1 that my first point in response to something. For me, I
2 think the other points are much more important.

3 COMMISSIONER TURNBULL: Okay. I'm just
4 clarifying.

5 MS. RAOL: Yeah, just to clarify because of the
6 order of how I spoke. I wouldn't want that confusion to be
7 relayed.

8 MEMBER WHITE: So, I just had a follow up
9 question. You were talking about the fact that there in the
10 back, the rear of the Applicant's property there was a higher
11 window that you did like because it alleviated some privacy
12 concerns because they wouldn't be able to look directly into
13 your property.

14 And then there were -- there was a door, right?
15 And a larger window. Was there any flexibility or discussion
16 about options there?

17 Or, I guess maybe I should ask the Applicant this.
18 But, was there any flexibility or discussion in terms of what
19 would be okay for you with respect to your privacy concerns?

20 Other than the screen, which I already talked
21 about. But, did you guys talk about the windows and the
22 doors that would be on the deck level?

23 MS. RAOL: Right. And so this is where Ms. Fowler
24 gave, I think the chronology, which probably -- I mean, I
25 appreciate without having sort of this side of it now.

1 They sent this over. And I responded on Monday.
2 So, you know, understanding that we're only at Wednesday
3 today, there hasn't been much more beyond me, you know, and
4 I'll tell you, you know, this was an adjustment that they
5 made on behalf of -- after we had some discussions. For me
6 the deck is very difficult to get past. The balcony. And
7 again, I can -- I don't have six copies of the picture.

8 I don't know if that's sufficient enough to
9 actually hand it out. So I don't want to be breaking any
10 rules here. But I think the deck itself is very difficult
11 to get past. I think the window piece is, you know, if
12 there's no deck, someone can be standing -- you know, if
13 there's a deck I'm not sure that the windows matter. Right?

14 In some ways, not that that's what I want to give
15 on here. But, there hasn't been, and maybe -- right, maybe
16 that's a better question to be passed on now.

17 But, I wanted the timing to be clearer here for
18 you.

19 CHAIRMAN HILL: And Ms. Raol, you're welcome to
20 share photographs if you have photographs there. I don't
21 know if there's enough.

22 You said you have six copies? I don't know if you
23 know --

24 MS. RAOL: Yeah, well I have five. I guess I'll
25 keep one.

1 CHAIRMAN HILL: Well, you can share one with the
2 Applicant.

3 MS. RAOL: Right.

4 CHAIRMAN HILL: And give it there to OAG. We can
5 share.

6 MR. RAOL: Yeah. And so I think as you see it,
7 this just give you the view. I think it's harder, you know.
8 They've stood there. So, it's just harder maybe in theory
9 to see the diagrams and understand sort of the implications.
10 This is from standing outside in the backyard.

11 Essentially if I step out outside my door, and again, I'm not
12 a professional photographer. So, I'm sure better pictures
13 could be taken. But this gives you a sense.

14 Obviously the unit with the blue door is my
15 garage. The one to the right is, you know, the Applicant's
16 garage. So this, I think, can give you perhaps a better
17 visual of --

18 CHAIRMAN HILL: Is where you're saying the
19 proposed garage would be, it's to the right of that hedge?

20 MR. RAOL: Right. The hedge is a fence. The
21 fence is covered with ivy essentially.

22 CHAIRMAN HILL: Right. Right.

23 MS. RAOL: Our separating fence. Correct.

24 CHAIRMAN HILL: Okay. Okay.

25 MS. RAOL: And then his fence along the alley is

1 the lattice along the further right that goes down.

2 CHAIRMAN HILL: Okay. Any more questions for Ms.
3 Raol?

4 MEMBER JOHN: Just a clarification, please. So,
5 are you saying you would be okay with a patio instead of a
6 balcony? Did I hear you suggest that?

7 MS. RAOL: So, --

8 MEMBER JOHN: Let's say they built a patio instead
9 of a balcony. Would that take away some of your objection?

10 MS. RAOL: I mean it would take away a pretty
11 significant privacy piece. You know, now if the entire level
12 gets covered with windows, that would change, you know, that
13 a little bit.

14 But, in terms of what it is now, it certainly
15 would help. Now, I'm not sure what you mean by patio. But
16 all the houses have similar backyards.

17 Obviously designed or maintained a little
18 differently, so.

19 MEMBER JOHN: But would you have -- I'm sorry.
20 Were you finished?

21 MS. RAOL: Oh, yes.

22 MEMBER JOHN: Now, what you have here is sort of
23 a patio. If they did something like that instead of a
24 balcony. I'm just throwing stuff out.

25 MS. RAOL: Yeah. I think it would make a big

1 difference.

2 MEMBER JOHN: Okay. All right. Thank you.

3 MR. MOY: Mr. Chairman, if I may?

4 CHAIRMAN HILL: Yeah.

5 MR. MOY: If Ms. Raol is submitting the photograph
6 for your review, then it should be part of the record.

7 CHAIRMAN HILL: Okay. So Ms. Raol, if you'll make
8 sure to put this up into the record after this. All right?
9 Do you know how to add it to the record?

10 MS. RAOL: I will figure that out.

11 CHAIRMAN HILL: Okay. We can -- when you leave,
12 just pop in the offices across the hall. They'll tell you
13 how to do it. It's very simple. All right. Mr. Farwagi?
14 I'm sorry.

15 MR. FARWAGI: Farwagi. Farwagi.

16 CHAIRMAN HILL: Farwagi. Mr. Farwagi. That's all
17 right. So Mr. Farwagi, you'll also get three minutes.

18 MR. FARWAGI: Okay.

19 CHAIRMAN HILL: And Mr. Moy, if you can put three
20 minutes on the clock. And you can begin whenever you like.

21 MR. FARWAGI: Okay. Thank you. I'll be short.
22 My concern really is about the balcony. We accept that by
23 rights, you know, we can go up one floor.

24 But the balcony is the issue. And I want to give
25 some context to my concern. You know, I met with Paul a

1 couple of times, the owner. And he seems a very reasonable
2 and nice guy.

3 And if here were to live in the property, you
4 know, that's one thing. But I understand that he lives on
5 11th Street.

6 And he bought the property with the intention of
7 at some point maybe living, maybe not living. But probably
8 renting the main building and renting the garage as well.

9 So, with all the, you know, shared economy we live
10 in, Airbnb, I'm not sure who's going to occupy this space
11 above the garage, and whether or not they're going to care
12 for the neighborhoods as we residents do.

13 So, that is the context of my concern really. And
14 I'm all for development. I'm all for increasing density.
15 Which I believe is the overarching goal of D.C.

16 But, the Airbnb thing has changed the dimension.
17 And there have been concerns and instances where there have
18 been unruly renters of property.

19 So, that's the context of my concern. And
20 specifically although I'm not as affected by the balcony as
21 Ms. Raol is, you know, I will have privacy issues.

22 Because the protrusion of the balcony will not
23 only over look her garden, but given that they are very small
24 plots of land, the 300 block of 8th Street is pretty small,
25 I also will be impacted by, you know, anybody just hanging

1 around. Or sort of just, you know, sitting on the balcony.

2 So, that really is my concern. The context of my
3 concern and my real point. And any way we can mitigate
4 against this issue of privacy resulting from that balcony,
5 I would really appreciate it.

6 Thank you for your time.

7 CHAIRMAN HILL: Thank you. Does the Board have
8 any questions for Mr. Farwagi?

9 (No response)

10 CHAIRMAN HILL: No? Okay. Does the Applicant
11 have any questions for the witnesses? No's okay.

12 MR. VINOVIK: I mean, do you want me to address
13 anything that's been -- I don't have questions for them
14 necessarily. But --

15 CHAIRMAN HILL: No. If you have any questions for
16 them or the testimony that was given.

17 MR. VINOVIK: No. No questions.

18 CHAIRMAN HILL: Okay. Do you have any questions
19 for the witnesses?

20 MR. HACKER: No, sir.

21 CHAIRMAN HILL: Okay. All right. Okay, thank you
22 all very much. All right, let's see. All right, so sir,
23 we're going to give you a couple of minutes for a conclusion.
24 Okay?

25 Because what I normally do with party status

1 people is even though they're not supposed to get a
2 conclusion, we let them get a conclusion.

3 Then the Applicant will be given an opportunity
4 to rebut anything that's been said. As well as give a
5 conclusion.

6 Before you give your conclusion, just think about
7 it for a minute, because I do have a couple of questions for
8 the Commissioner since he's still there.

9 So you made a comment about like ZR 16 being
10 helpful. So, can you kind of clarify what that means to you
11 guys?

12 MR. RIDGE: Actually, thank you for that
13 opportunity to clarify. Because we didn't actually say that
14 it was helpful.

15 We said that this was exactly the kind of case
16 contemplated by ZR 16. Which is a claim that we can make
17 without judgment.

18 Now, you know, the ANC has been very involved, you
19 know, in submitting comments for ZR 16. And so we took no
20 position, you know, whether this was a -- this was a plus or
21 a minus.

22 Rather that this was exactly the kind of ADU that
23 was explicitly, you know, made possible by the changes. This
24 is exactly the intent of the changes to the zoning code. Is
25 to allow this kind of ADU.

1 CHAIRMAN HILL: Okay. That's fine.

2 MR. RIDGE: So we didn't mean it was helpful.

3 CHAIRMAN HILL: No, no, that's fine. I just
4 trying to -- and I wasn't being clever about asking. I was
5 actually just curious as to what in particular ZR 16 did in
6 terms of helping.

7 And I understand what you're saying. Is it set
8 the parameters a little bit more clearly as for you to be
9 able to provide analysis.

10 MR. RIDGE: Right.

11 CHAIRMAN HILL: Okay. All right. Okay, so Mr.
12 Hacker, do you have anything you'd like to add in conclusion?

13 MR. HACKER: No.

14 CHAIRMAN HILL: Okay. All right. Ms. Fowler, I'm
15 going to go ahead and let you do a conclus -- a rebuttal and
16 then a conclusion.

17 MS. FOWLER: Okay. Thank you. Okay, so regarding
18 Mr. Hacker's concern, it seems like many of the issues are
19 not zoning related issues from what I hear.

20 And basically the wall position, it's a little
21 unclear where exactly the wall sits. The survey that we have
22 from closing doesn't show an encroachment.

23 But, it looks like there maybe. There needs to
24 be a survey done. But again, that's more of a permitting
25 issue that we'll be dealing with kind of as we get into

1 further drawings.

2 Access for emergencies. We're really not changing
3 anything. It's a 30-foot alley. Very wide by Hill
4 standards.

5 There's, you know, I believe having that people
6 door there is probably going to increase safety in terms of
7 having people in the alley. And having more of an active
8 alley and having windows looking out at the alley.

9 It's currently only a one car garage. I just
10 wanted to kind of clarify that. The property line is 18.
11 I think the interior dimension is not quite wide enough to
12 fit two cars.

13 I'm sure people squeeze them in. But from a
14 zoning perspective, we're not eliminating a space. Other
15 things like the HVAC and things like that are not zoning
16 issues.

17 He did mention privacy issues. And we did discuss
18 this at length at the ANC meeting. But we all agreed that
19 there's deep yards and a 30-foot alley.

20 And then there's a buffer of garages. That would
21 mean there's no impact -- minimal impact to the neighbors
22 across the alley in terms of privacy.

23 So those were just the things that I wanted to
24 address regarding Mr. Hacker's testimony. Oh, and also we --
25 he mentioned the old relief that was requested 30 years ago.

1 My understanding is that's why we're asking for
2 a 202.2. Because it is a currently non-conforming structure.
3 So, that is kind of an add onto that relief.

4 Regarding Ms. Raol's testimony, I really
5 appreciate all the time she spent on this. We've been back
6 and forth a lot.

7 And unfortunately we, because of schedules weren't
8 able to have -- we had one face to face meeting in addition
9 to the ANC meetings.

10 The initial proposal had a full set of french
11 doors right in the middle of the wall. You know, five or six
12 feet wide of glass. It had a balcony that was like property
13 line to property line, all the way across.

14 We felt like the change that we've proposed,
15 basically shifting the door all the way to the other side,
16 so it's almost to the alley. Stacked above the door that's
17 existing on the first floor.

18 And inserting the high window that's closest to
19 her side, as well as just moving the other window closer to
20 the door. And also kind of changing the shape of the
21 balcony.

22 We feel like those were enough of a modification
23 to make it a little more palatable. And we think it was a
24 fair compromise.

25 As Commissioner Ridge stated, you know, it's a

1 very dense neighborhood. I live on Capitol Hill as well.
2 And I have many neighbors that live probably about that
3 distance from the back of my house that have full windows.

4 And so I think that's kind of part of living on
5 the Hill. And I think that, you know, the change in the
6 windows and the door and the privacy screen, I feel like is
7 a -- kind of a good effort to try to appease the concerns.

8 That's all.

9 CHAIRMAN HILL: Okay. Great. Thank you. I'll
10 let the Board ask, because I do have one more question.

11 There was a -- the Commissioner had mentioned, and
12 this is directed to you Ms. Fowler. The Commissioner
13 mentioned like matter of rights stuff.

14 So I was a little confused as to what was -- do
15 you know what that means? Like in terms of tearing it down?
16 Or what you can do by a matter of right?

17 And I don't -- I was confused.

18 MS. FOWLER: I mean, I think we need the lot
19 coverage relief because it's non-conforming. So we would
20 have to do that.

21 But I believe what he was referring to is the fact
22 that we're expanding. It's the 301.1. We're expanding a
23 garage for living space.

24 Whereas you could build a new garage for -- and
25 have, you know, a bathroom in there and living space with no

1 relief.

2 CHAIRMAN HILL: Okay.

3 MS. FOWLER: So it's because of the conversion to
4 two families basically.

5 CHAIRMAN HILL: Okay.

6 MS. FOWLER: But you could build this -- you know,
7 obviously we'd still need lot coverage relief. But you could
8 build a big box.

9 The site -- we're well below, I mean, we're
10 basically at the height limitation. So we're not asking for
11 additional height.

12 And again, that would have been a variance in the
13 past, in the old regulations. We wouldn't have needed a
14 variance for the two-story garage.

15 CHAIRMAN HILL: Okay.

16 MS. FOWLER: So it's a much lower bar now than it
17 used to be.

18 CHAIRMAN HILL: Okay. All right. Okay. Does the
19 Board have any questions for anybody?

20 VICE CHAIR HART: And I don't know if this is --
21 I guess it is a question. The issue of not having a balcony,
22 having a patio.

23 I'm assuming that the issue really is you wouldn't
24 have an ability to be able to access it through from the
25 second floor? Unless you put in a -- put in a -- some sort

1 of circular stair.

2 MS. FOWLER: Right.

3 VICE CHAIR HART: Otherwise you'd have to go
4 through the garage itself. Which would be kind of a
5 separated space.

6 MS. FOWLER: That's exactly right. I'm glad you
7 mentioned that. Because I meant to address that as well.

8 This unit is intended to be a separate unit from
9 the main property. So, there's a door from the alley that
10 leads up the stairs. And it's all fire-rated and closed off.

11 And then there's a door into the garage from the
12 yard. Which is accessed by the occupant of the main
13 building.

14 So, if they were to use the patio space, they
15 would have to come down through, go through the garage. And
16 then go, you know, back into the yard.

17 Or we would have to have a door with a spiral
18 stair or something coming down. Which would probably create
19 the same issues with privacy, because there's the in and out.

20 And usually people tend to sit on a balcony. You
21 know, if there's something there, they're going to use it.

22 VICE CHAIR HART: And -- thank you. And did you
23 contemplate looking at, right now you have kind of a lattice
24 privacy fence. Did you contemplate that turning the -- that
25 corner? So that it actually came down a little bit? Maybe,

1 I don't know, several feet?

2 So that you would just have the -- to the north
3 you'd have the, you know, the privacy lattice. And then a
4 couple of feet, I don't know what that number is, but a
5 couple of feet it would kind of go.

6 So that would kind of enclose that northern
7 portion of that balcony. And make it, you know, that much
8 more difficult to have the view towards the next door
9 neighbor.

10 MS. FOWLER: Right. We didn't consider that. I
11 would probably have to check with Historic Preservation to
12 see how they would feel about that.

13 Because it's kind of making that balcony a little
14 more solid on the top than they've approved. But, yeah, that
15 isn't something we've thought about.

16 But that seems like an easy solution.

17 VICE CHAIR HART: I have absolutely no idea what
18 the neighbor, Ms. Raol, would think about that. But it may
19 go a little bit further.

20 Because it would also help to block some -- block
21 the window that's there. And I don't know if it's, you know,
22 it just seems like it -- it seems like that the privacy issue
23 might be able to be dealt with.

24 I understand there may be an HP, an Historic
25 Preservation concern about that. But, I don't know.

1 MS. FOWLER: Okay. Well, good suggestion. Thank
2 you.

3 VICE CHAIR HART: And actually there was another.
4 Is there any lighting that is associated with the east
5 facade?

6 Like where the entrance is to the -- the
7 pedestrian -- the ground floor entrance for people walking
8 into the accessory unit?

9 MS. FOWLER: You mean like artificial lighting?
10 Like a light fixture?

11 VICE CHAIR HART: As opposed to what kind of
12 lighting?

13 MS. FOWLER: Oh, I thought day lighting. I don't
14 know.

15 VICE CHAIR HART: Oh, no, no, no. I mean, it
16 seems like there was -- Mr. Hacker talked about there being,
17 you know, very little light on the actual alley.

18 MS. FOWLER: Right.

19 VICE CHAIR HART: And I didn't know if that was
20 something that had been even contemplated.

21 MS. FOWLER: Okay. I don't know what the alley --
22 like I haven't been by there at night. But we would
23 definitely incorporate some kind of light fixture.

24 Maybe on a motion sensor. And that's typically
25 what we do with these alley acc -- you know, alley entrances,

1 is have some kind of a light fixture that comes on for the
2 occupant.

3 So that could alleviate some safety concerns. We
4 don't normally put that in the zoning application. But
5 that's something we would incorporate in permitting.

6 VICE CHAIR HART: Yeah. I was more just looking
7 at it, you know, on the -- usually you have artificial
8 elements on the actual building itself.

9 MS. FOWLER: Um-hum.

10 VICE CHAIR HART: And I didn't know if that was --
11 if it just was missing because it was not going to be there.
12 Or if it was missing because it just -- it was just missing.

13 MS. FOWLER: Okay. Yeah.

14 CHAIRMAN HILL: Okay. Anybody else?

15 (No response)

16 CHAIRMAN HILL: Okay. All right, I'm going to go
17 ahead and close the hearing. Is the Board ready to
18 deliberate?

19 Okay. I can deliberate or start at least. I
20 guess, you know, as with most things, I'm always -- or not
21 most things.

22 It's disappointing that everybody can't always be
23 on the same page with these. I thought that the Office of
24 Planning's report was pretty detailed.

25 I think that the Applicant has actually done a

1 fair amount to try to appease the concerns of the property
2 owners. I mean, I know that particularly the immediate
3 neighbor is not, you know, would rather it not exist.

4 But, I think that by moving the door over to the
5 far right, by adding the smaller window rather than the big
6 window, there is definitely something that would not make it
7 an unduly impacted in terms of the privacy.

8 And unduly is always a very loose term. I mean,
9 I don't -- I really do appreciate the photographs that the
10 Applicant in opposition came to bring forward.

11 Unfortunately, it kind of -- I like the bush.
12 Kind of looks as though it provides some level of privacy in
13 and of itself.

14 But, even if it wasn't there, I don't really have
15 an issue with the proposal. I mean, I think that again that
16 area there and the way that the regulations have now been
17 written, this is something that is within the rights of the
18 property owner to at least come forward and see whether or
19 not it's something that the Board could agree on.

20 In addition to that, the ANC has, you know, I
21 mean, the fact that a Commissioner has waited this long to
22 speak, you know, is actually means that it is something that
23 I do believe that their ANC has possibly struggled with. To
24 the point where you know, we're getting, you know, first-hand
25 the discussion of it.

1 I again, I'm sure that absolutely the Commissioner
2 also is not -- is disappointed that everyone could not come
3 to agreement in terms of whether or not this should or
4 shouldn't be approved.

5 I think that the ANC it seems though has, you
6 know, gone through the regulations. And has even made note
7 of how ZR 16 has changed.

8 And has -- they seem to be a well-educated ANC in
9 terms of what they're looking for in terms of the criteria
10 for which to approve something.

11 So, it's also not as if they get to necessarily
12 decide whether or not they like or don't like something.
13 Which is also what we don't necessarily get to decide to do.
14 We just look at what the standards are in terms of granting
15 or not granting the application.

16 So, I do again think that the Office of Planning's
17 report is very thorough. I think that they have looked into
18 all of the elements that have made a good analysis as to how
19 it could be approved.

20 And again, I continue to repeat that I do think
21 that the Applicant has made efforts to kind of contradict,
22 you know, appease any kind of adverse impact that the
23 neighbors might have to this particular proposal.

24 So, that being the case, and with the ANC's
25 support, I would be in favor of this Application. And look

1 for anyone else to add anything to it.

2 MEMBER JOHN: Mr. Chairman, I agree with
3 everything you have said. I would note that the Capitol Hill
4 Restoration Society would support the conversion to the
5 residential unit on the second floor without the balcony.

6 And notwithstanding all of the improvements that
7 have been made to, you know, meet -- sort of, to lessen the
8 privacy impact, I believe that the balcony could be, you
9 know, a very serious intrusion on the privacy of the
10 neighbor.

11 And so, I would support the Application. But,
12 without the balcony.

13 CHAIRMAN HILL: Okay. So, we've got a no. Over
14 to the far right? Anyone else?

15 MEMBER WHITE: Mr. Chair thanks. I am concerned
16 about, you know the privacy issues. Obviously had the
17 gentleman here who's requested party status. And you have
18 two neighbors who that have expressed concern. And ANC
19 Commissioner Ridge.

20 So, I'm very sensitive to their concerns regarding
21 how that property is going to be used. However, I do think
22 that the implementation of the lattice privacy fence would
23 be a reasonable way to address at least some of the privacy
24 concerns with the adjacent neighbor.

25 I do think that OP's analysis was appropriate in

1 this case. I think the adjustments that they made with the
2 plans to reduce the size of the window in the rear, is
3 helpful.

4 As opposed to having two larger windows directly
5 glaring out. I think that's a way of sort of reducing the
6 visibility of the individuals in the house to be able to see
7 on the outside.

8 But, you know, Capitol Hill, this area is a very
9 dense area. People are, you know, kind of literally living
10 almost on top of each other.

11 But it doesn't erase the fact that, you know,
12 they're entitled to a certain level of privacy. And there
13 are expectations that need to be met in order to comply with
14 the special exception criteria with respect to light, air,
15 and privacy.

16 So, while I am concerned about, you know, what's
17 happening with the plans here, I do think they have at least
18 met the criteria in order to get the special exception relief
19 that they're requesting.

20 VICE CHAIR HART: I will -- since my colleagues
21 have noted some things that I was going to say myself, I will
22 not repeat them.

23 But I will say that I do believe that the
24 Applicant has addressed the relief in a way that I find
25 satisfactory or that I think is satisfactory.

1 I had noted something about the privacy fence.
2 I think that they can still -- I think that having the
3 lattice privacy fence would be helpful.

4 And I would be in support of the Application. I
5 know that this is something that the neighbors are -- the
6 ones that have come today are somewhat concerned about.

7 And would encourage the Applicant to continue
8 working with them to try to alleviate some of the -- con --
9 any concerns that they would have.

10 And I don't think it's going to be -- I'm not sure
11 if everybody's going to be happy about it. But I think that
12 there is a solution that would be helpful for -- for the
13 Applicant and for the neighbors.

14 COMMISSIONER TURNBULL: Thank you Mr. Chair. I
15 would agree with the comments of most of my colleagues.

16 I think the Applicant working with Fowler
17 Architects, she does a lot of work on Capitol Hill. We've
18 seen a lot of their projects. They're very sensitive to the
19 neighborhood and to the area.

20 I think as everybody has said, I mean, there are
21 issues. I mean, Capitol Hill is kind of a cheek to jowl
22 living at times.

23 So, I think I'm not opposed to approving the
24 project. I think if they wanted to add an extra two feet or
25 so of lattice going down the other way or whatever, I think

1 that would -- may help the issue and put a little more
2 privacy.

3 But, I think as most of you have said, I think
4 they've gone out of their way to try to alleviate the
5 concerns. A smaller window.

6 And so I would be in favor of approving the
7 project.

8 CHAIRMAN HILL: Okay. I'll make a motion. I'm
9 going to make a motion to approve Application Number 19785
10 as captured and read by the Secretary. And ask for a second.

11 MEMBER WHITE: Second.

12 CHAIRMAN HILL: Motion made and seconded. All
13 those in favor aye.

14 (Chorus of ayes)

15 CHAIRMAN HILL: All those opposed?

16 MEMBER JOHN: Nay.

17 CHAIRMAN HILL: The motion passes. Mr. Moy?

18 MR. MOY: The staff would record the vote as four
19 to one to zero. This is on the motion of Chairman Hill to
20 approve the Application for the relief being requested.
21 Seconding the motion, Ms. White.

22 Also in support Mr. Turnbull, Vice Chair Hart.
23 Opposed to the motion, Ms. John. The motion carries.

24 CHAIRMAN HILL: Thank you. Full order Mr. Moy?

25 MR. MOY: Yes, sir.

1 CHAIRMAN HILL: Okay. All right, thank you all
2 very much.

3 All right, Mr. Moy, let's go ahead and keep this
4 moving.

5 MR. MOY: Thank you sir. Parties to the table.
6 This is for Case Application Number 19793 of Denise and
7 Michael Bloomfield.

8 Captured and advertised for a special exception
9 under Subtitle D, Section 1206.4 and 5201 in the rear yard
10 addition requirements of Subtitle D, Section 1206.3 to
11 construct a second story rear addition to an existing
12 principal dwelling unit, R-20 zone.

13 This is at 1519 28th Street, NW, square 1266, lot
14 281. And there is an ANC 2E report in the record.

15 CHAIRMAN HILL: Okay. Great. Thank you. Could
16 you please introduce yourselves?

17 MS. BLOOMFIELD: I'm Denise Bloomfield. Owner of
18 the property.

19 MR. EZZAT: And I'm Tamer Ezzat, the architect.

20 CHAIRMAN HILL: Could you say your last name
21 again, please?

22 MR. EZZAT: Ezzat. E-Z-Z-A-T.

23 CHAIRMAN HILL: All right. Great. All right.
24 Okay. So, Mr. Ezzat, are you going to be presenting to us?

25 MR. EZZAT: Yes. And it's just the exhibits that

1 are on file right now.

2 CHAIRMAN HILL: Okay.

3 MR. EZZAT: I'm just going to explain them if you
4 need to.

5 CHAIRMAN HILL: Oh, yeah. So, if you could go
6 ahead and go over what it is that you're asking for. And
7 then also how you're meeting the standard for us to grant the
8 criteria.

9 I think there's going to be a couple of questions
10 we're going to have for you as we kind of go through this.

11 But, I'll go ahead and put 15 minutes on the clock
12 right now. And let you begin whenever you like.

13 MR. EZZAT: Sure. This is a single family
14 dwelling. The existing footprint is going to remain intact.
15 And on the rear of the home there is a living space that
16 expands beyond the second floor space by about five feet.

17 And there's a portion of roof that kind of serves
18 as an underlay to this dogleg condition, as you can see on
19 the site plan.

20 The intent of this project was to enclose that
21 space. To create a larger rear master bedroom, or a master
22 bedroom on the rear side of the home.

23 To pull off where the existing bedroom that Ms.
24 Bloomfield currently resides in on the front of the house.
25 More noise, she's trying to get to a rear location of the

1 home to kind of insulate herself from that and be on her
2 garden side.

3 The main intent of this and the reason why we had
4 to file special exception is we're basically going upward
5 from the existing footprint. Which currently resides at 14
6 feet.

7 That's plus or minus a few inches, from the most
8 furthest, rearmost neighbor. We have letters of support from
9 both neighbors.

10 We would not be extending past the southern
11 neighbor. Like I said, keeping the same footprint. So there
12 would be no area of disturbance in terms of grade, or
13 building out in terms of the footprint.

14 The elevations on the last sheet of the
15 architectural exhibit, you can see kind of the existing rear
16 elevation versus the proposed.

17 We have support from the L'Enfant Trust who looks
18 over a lot of the design work. The OGB or Commission of Fine
19 Arts from Old Georgetown Board, submitted a no action as it's
20 not visible to a public way.

21 And so really it comes down to the ANC and any
22 adjacent neighbors input. In which we have full support from
23 the ANC, following all the design guidelines of course, and
24 anything Planning had to add.

25 And both neighbors are in full support. So, we

1 just leave it to you guys to deliberate and let us know what
2 you think.

3 We had some -- we submitted an architectural, kind
4 of shadow study. To kind of show by right what we're allowed
5 to do versus a 3D axonometric kind of showing the areas that
6 we are enclosing.

7 If you pull that up if you'd like, the shadow
8 study. It's a two-page exhibit. So you can see the first
9 page was kind of showing what we want and what's proposed.

10 Basically just going upward. Capturing that roof
11 area. Which is currently flat. And creating kind of water
12 penetration and issues as it is. So, this is kind of solving
13 a technical issue for the client.

14 And then you can see the other which permitted by
15 right, we can have this roof that basically covers the same
16 footprint that we're trying to enclose. Which would cast a
17 very similar, if not identical shadow onto the neighbor that
18 would be at risk.

19 So, at this point, we shared all of these things
20 with our neighbors. Every drawing, we've been very
21 forthright with the ANC and neighbors alike.

22 Again, and that's what it comes down to. And
23 lastly, what we put together, and it's an existing versus
24 proposed rendering, kind of showing the existing yard, like
25 a view on the rear of the yard versus what would be proposed

1 or built.

2 So you can get an idea of what we're trying to
3 accomplish with this. And so I leave that with you guys.

4 CHAIRMAN HILL: Okay. Great. Does the Board have
5 any questions for the Applicant? Yeah, go ahead.

6 VICE CHAIR HART: Just one question. And this was
7 kind of brought to our attention from our Office of Attorney
8 General.

9 But are you not looking for -- is this not
10 expanding an existing non-conforming structure?

11 MR. EZZAT: The non-conforming structure is the
12 lot width itself.

13 VICE CHAIR HART: Yeah.

14 MR. EZZAT: That's not conforming. But the
15 existing footprint of the home is there. I guess, is it a
16 non-conforming part of the zoning that was passed in August
17 2017?

18 VICE CHAIR HART: Yeah, yeah.

19 MR. EZZAT: Yes.

20 COMMISSIONER TURNBULL: Okay. The existing first
21 floor extends 14 feet --

22 MR. EZZAT: Yes. Past that now.

23 COMMISSIONER TURNBULL: Beyond that house --

24 MR. EZZAT: Yes.

25 COMMISSIONER TURNBULL: That's existing right now.

1 MR. EZZAT: Yes. Exactly. As per this imaging
2 existing here.

3 COMMISSIONER TURNBULL: Right.

4 MR. EZZAT: Correct.

5 COMMISSIONER TURNBULL: I think that's what Mr.
6 Hart asked.

7 MR. EZZAT: Yes. So, yes.

8 CHAIRMAN HILL: I think we're trying to ask
9 whether you need C 202.2, is what. And so, we can ask the
10 Office of Planning whether you need that and whether you know
11 what that is.

12 MR. EZZAT: Sure.

13 CHAIRMAN HILL: But, we can ask him. So, I guess
14 I'll turn to the Office of Planning. Do they need C 202.2?
15 And please provide, if you would, testimony to your report.

16 MS. FOTHERGILL: Good afternoon. Anne Fothergill,
17 the Office of Planning. If the Office of Attorney General
18 flagged it, then they -- maybe they do.

19 Office of Planning did not flag it. It was not
20 brought to our attention. We review these cases with DCRA.
21 And we weren't aware of it.

22 But it is possible that they need it. I haven't
23 seen one before like this that -- I don't know the answer.

24 And in terms of the Office of Planning's review,
25 we rest on the record in support of the Application for the

1 requested relief. And I'm happy to take any questions.

2 CHAIRMAN HILL: Okay. Thanks. So does OAG think
3 we need to add -- that they need C 202.2?

4 MS. LOVICK: I mean, it's up to them. I was just
5 raising the issue because it is arguably an extension of an
6 existing non-conformity.

7 But this is a self-certified Application. And so
8 I certainly can't say that they need to revise their
9 Application.

10 I just wanted the Board to address the issue and
11 get input from the Applicant as to what the rationale was for
12 not asking for that relief.

13 CHAIRMAN HILL: So, if the Applicant had revised
14 their Application to include C 202.2, would the Office of
15 Planning be in favor of this?

16 MS. FOTHERGILL: Yes. And the Applicant, I
17 believe this happens frequently, can do it on the spot if
18 they would like to.

19 And yes, we would support that request.

20 CHAIRMAN HILL: So C 202.2 means you're expanding
21 a current non-conformity. And so would you like to add that?
22 You're being offered it.

23 Would you like to add that to your Application?

24 MR. EZZAT: If I'm being offered it, yes. It's
25 just a formality.

1 CHAIRMAN HILL: For formality, please say yes,
2 we'd like to add C 202.2 to our Application.

3 MR. EZZAT: Yes. We would like to add C 202.2 to
4 our Application.

5 CHAIRMAN HILL: Okay. Great.

6 MR. EZZAT: Thank you for bringing that up.

7 CHAIRMAN HILL: Okay. Okay, is there anybody here
8 from the ANC? Does anybody have any questions for the Office
9 of Planning? Sorry, I missed that part.

10 (No response)

11 CHAIRMAN HILL: No? Do you have any questions for
12 the Office of Planning?

13 MR. EZZAT: No.

14 CHAIRMAN HILL: Is there anybody here from the
15 ANC? Is there anyone here wishing to speak in support? Is
16 there anyone here wishing to speak in opposition?

17 (No response)

18 CHAIRMAN HILL: All right. Did you have a
19 question, Ms. White?

20 MEMBER WHITE: Yeah. Just talk briefly about
21 outreach to the community. Do they like this? Are they --
22 did they have a problem with it?

23 Just for the record, just so we know what kind of
24 community outreach you've done. Just speak to this.

25 MR. EZZAT: Yes. I would be happy to. Denise

1 particularly and myself, we reached out to both neighbors,
2 and reached out to anyone at the ANC.

3 And then went to that meeting, which was last
4 Monday. And tried to give a presentation. Everyone was very
5 -- no, this doesn't make sense, and we have letters of
6 support.

7 We have email correspondence that we have loaded
8 onto the record showing this is what we're trying to do.
9 What are your opinions?

10 And we reached out to the Commissioner very early
11 in the process. I would say it was March, Ms. Monica Roache.
12 And she has been supportive throughout.

13 And it was really, it's one of -- the situation
14 was when we first were going through the OGB process, that's
15 when we started to open it up.

16 And then we ran into what we found to be a special
17 exception issue with this project.

18 MEMBER WHITE: Okay. Thank you.

19 CHAIRMAN HILL: Okay. Great. Thanks. Was
20 Chairman Gibbon there?

21 MR. EZZAT: Yes. He was wearing brightly colored
22 shorts.

23 CHAIRMAN HILL: Was he wearing shorts?

24 MR. EZZAT: Yes.

25 (Laughter)

1 CHAIRMAN HILL: Got you. Just curious. Wouldn't
2 want to change that.

3 All right, any other questions?

4 (No response)

5 CHAIRMAN HILL: Okay. I'm going to close the
6 hearing. Or do you have anything else you'd like to?

7 MR. EZZAT: No.

8 CHAIRMAN HILL: Okay. I'm going to close the
9 hearing. Is the Board ready to deliberate? Okay. I can
10 start.

11 I think that there was just a couple of things
12 that we had clarity in. One of which was adding C 202.2 or
13 not. And the Applicant has agreed to add that. And the
14 Office of Planning is in support of that.

15 I think that the Office of Planning's report is
16 very well fleshed out. And I would agree with the analysis
17 that they have provided.

18 I also am glad to see that ANC 2E has provided
19 their support and has no issues or concern. And their vote
20 was unanimous, five to zero to zero. As well as letters of
21 consent to the changes from the L'Enfant Trust.

22 There was an additional five letters of support.
23 And so I do believe that they have met the standard with
24 which that we can approve this Application.

25 And so I would be in favor of it. Does the Board

1 have anything else they'd like to add?

2 COMMISSIONER TURNBULL: I think it's a very well
3 done add onto the project, I mean to the building. And it's
4 pretty.

5 I think I'm in favor of it.

6 CHAIRMAN HILL: Okay. Great. All right. I'm
7 going to go ahead and make a motion to approve Application
8 Number 19793 of Denise and Michael Bloomfield.

9 Pursuant to 11 DCMR, Subtitle X, Chapter 9 for a
10 special exception under Subtitle D, Section 1206.4 and 5201,
11 including C 202.2 from the rear addition requirements of
12 Subtitle D 1206.3, to construct a second story rear addition
13 to an existing principal dwelling unit in the R-20 zone at
14 premises 1519 28th Street, NW, Square 1266, Lot 281. And ask
15 for a second.

16 VICE CHAIR HART: Second

17 CHAIRMAN HILL: Motion has been made and seconded.
18 All those in favor, aye.

19 (Chorus of ayes)

20 CHAIRMAN HILL: All those opposed?

21 (No response)

22 CHAIRMAN HILL: The motion passes. Mr. Moy?

23 MR. MOY: Staff would record the vote as five to
24 zero to zero. This is on the motion of Chairman Hill to
25 approve the request for the amended Application, including

1 Subtitle C, Section 202.2.

2 Second of the motion of Vice Chair Hart. Also in
3 support, Mr. Michael Turnbull, Ms. White, Ms. John. The
4 motion carries.

5 CHAIRMAN HILL: Thank you. Summary order, Mr.
6 Moy?

7 MR. MOY: Yes, sir.

8 CHAIRMAN HILL: Thank you. Thank you all very
9 much.

10 MS. LOVICK: Excuse me. I just wanted to
11 interject. Just for OZ, the Office of Zoning's, records is
12 it possible for you to submit a revised self-certification?
13 Just including the relief from --

14 MR. EZZAT: So with the C 202?

15 MS. LOVICK: Yes.

16 MR. EZZAT: Yes.

17 CHAIRMAN HILL: Okay. Great. Thank you.

18 MS. LOVICK: Thank you.

19 CHAIRMAN HILL: Thank you all very much.

20 MS. LOVICK: Please do that ASAP.

21 MR. EZZAT: I will do that tonight. Thank you.

22 CHAIRMAN HILL: Okay. Mr. Moy, can you call our
23 last case?

24 MR. MOY: All right. That would be Case
25 Application Number 19763 of Sharon and Chen Xu. Caption

1 advertised for special exception under Subtitle E, Section
2 206.2, and 5203.3 from the upper floor addition requirements
3 of Subtitle E, Section 206.1.

4 This would construct a third story addition to an
5 existing two-story, four-unit apartment house, RF-1 zone.
6 This is at 1210 19th Street, NE, Square 4445, Lot 824.

7 CHAIRMAN HILL: Okay. Hi. If you could please
8 introduce yourself.

9 MS. BACHER: Good afternoon. My name is Emily
10 Bacher, Architect.

11 CHAIRMAN HILL: Okay Ms. Bacher. Well,
12 congratulations on being here at the end of the day.

13 MS. BACHER: Thank you.

14 CHAIRMAN HILL: Yeah. But I'm a little confused
15 as to where you are with this Application. So, I still see
16 that, unless I'm missing a couple of things in turning like
17 the Office of Planning's report is in denial.

18 And I don't have an ANC report. So, I'll let you
19 go ahead. And I'm just telling you where I am right now.
20 Right, or where we are at this point.

21 And so, you can go ahead and go through your
22 presentation as to what you're trying to accomplish. And how
23 you think you're meeting the standards for which we can grant
24 the relief.

25 However, you might want to explain right away, or

1 talk about the fact that the Office of Planning is in denial.
2 Unless -- oh. Oh, then well, people are telling me that I'm
3 wrong.

4 So, I'll go ahead and put 15 minutes on the clock
5 there. And you can go ahead and begin your presentation
6 whenever you like.

7 MS. BACHER: Thank you very much. We actually do
8 have ANC approval. And I have the -- we had the meeting last
9 night.

10 And I have -- but I have the completed Form 129
11 from the ANC. And I've crossed --

12 VICE CHAIR HART: They submitted it.

13 MS. BACHER: Okay. Great.

14 VICE CHAIR HART: It's Exhibit 45. It was just
15 late for us. And so it's --

16 MS. BACHER: Yeah.

17 VICE CHAIR HART: It's hard sometimes for us to
18 get all this information in.

19 MS. BACHER: I understand. Good afternoon. Happy
20 last presentation of the day. I'm here to discuss a property
21 at 1210 19th Street, NE.

22 This is off of -- this property is located on a
23 short block of 19th Street, just north of M, dead-ending into
24 the Arboretum.

25 There is a grand total of five buildings on this

1 block. We are proposing a matter of right expansion of an
2 existing four-unit apartment house.

3 We're looking to do a third story addition. And
4 a seven foot rear addition. All of that is matter of right.

5 The only relief that we are seeking is from
6 Subtitle E, Section 2061(a). Which is removing the
7 architectural elements, in this case an existing faux-mansard
8 roof unadorned.

9 As you can see, this slide pretty well the block
10 itself, very short. Our building is here with that red
11 square over it.

12 To the left there's another two-story with a
13 mansard. Or to the right I guess, left, depending on where
14 you're standing.

15 And then on the other side is a three-story, flat
16 roofed apartment building. And across the street from our
17 building is a two-story flat roofed apartment building.

18 So, based on this type of -- on these photos, we
19 would argue that a -- removing the mansard roof is not out
20 of character with the development on this partial block.

21 Fifty percent of the buildings on this block are
22 already heavily modified. The street is truncated. You can
23 see the current view looking down the street.

24 You can see our building in the front is grey.
25 And then beyond it is kind of the three-story apartment

1 building that's on the end of the street.

2 Currently the majority of buildings on this block
3 of not have a mansard roof. Furthermore, our proposal to do
4 a rectilinear form bookends the row with visibility from two
5 sides.

6 And it's a -- consequently a style that keeps --
7 that's keeping in form with the original fabric of D.C.

8 Just to do real quick, our matter of right
9 development drawing is appropriate for infill. But because
10 it's very visible on the end of a row and doesn't appear in
11 the original fabric of D.C., we feel that a more rectilinear
12 shape is more appropriate for an end unit.

13 So, we've worked with both SMD 03 as well as the
14 ANC. We presented to the ANC twice. We had an individual
15 meeting with the single member district.

16 And in between that we have gotten a letter of
17 support from the adjacent property owner/resident. And we
18 hand-delivered a variety of drawings too not adjacent,
19 because -- because of where this building is located, the --
20 on the corner, there's an alley.

21 So, we don't have a lot adjacent. But to all the
22 abutting sort of type units. So, three units on the other
23 side of the alley to the south. And then two units to the
24 other side of the alley to the west.

25 VICE CHAIR HART: Ms. Bacher?

1 MS. BACHER: Yes. Absolutely.

2 VICE CHAIR HART: So the two doors down -- well,
3 I guess two doors down from your property, build the kind of
4 -- the new construction that's there, that's -- is that a
5 three-story building?

6 MS. BACHER: Yes. It's three stories.

7 VICE CHAIR HART: Okay. So then the existing
8 building looks like your building and the building that's to
9 the north of you.

10 But that was torn down and they're building --
11 they built something completely new? Or do you know?

12 MS. BACHER: So, my understanding is there was a
13 single family house and an apartment building on the end of
14 the row that were torn down and fully rebuilt.

15 VICE CHAIR HART: Okay. Thank you. And three?
16 Two and a half stories? Three stories?

17 MS. BACHER: Those are three stories on the end.

18 VICE CHAIR HART: Okay. Thanks.

19 MS. BACHER: You're welcome. As you may remember,
20 earlier this morning my firm presented a fairly similar case.
21 We want to emphasize that we don't take the relief requested
22 lightly.

23 We're bringing this case, like the others, because
24 we believe the specific property and the specific condition
25 are -- merit a special exception.

1 And we believe that the relief that we request is
2 required to ensure that the resulting forms are both
3 aesthetically pleasing and more consistent with those found
4 throughout D.C.

5 By removing the mansard, we're able to provide
6 more family-friendly units above grade. And we're able to
7 limit the size of the rear addition. Which reduces the
8 impact of shade on the adjacent property.

9 Let's see, so we -- I think that pretty much sums
10 up what we've got for our presentation. We, you know,
11 appreciate -- greatly appreciate your time.

12 And we believe that our Application is respectful
13 of the intention of this code. And we request -- I'm happy
14 to answer any questions that you might have.

15 CHAIRMAN HILL: All right. Does the Board have
16 any questions of the Applicant?

17 COMMISSIONER TURNBULL: I just have one. I'm
18 confused as to what you're actually presenting from the
19 standpoint of materials.

20 So the latest thing you talked about was matter
21 of right. And what you can do as a matter of right. Your
22 original Exhibit Number 6 showed drawings where the building
23 is in brick.

24 And then I'm seeing some drawings now that show
25 hardiplank. Is that just an aside? The hardiplank?

1 MS. BACHER: So, are you look -- so you're looking
2 at the brick. The proposal is to do brick. That's our
3 proposed --

4 COMMISSIONER TURNBULL: Okay.

5 MS. BACHER: It's up on the -- what's on the
6 screen right now is our proposal.

7 COMMISSIONER TURNBULL: Yes. It's Exhibit Number
8 6. Exhibit Number 6 is your proposal.

9 MS. BACHER: Yes.

10 COMMISSIONER TURNBULL: Okay.

11 MEMBER WHITE: And is this in character with the
12 block?

13 MS. BACHER: Well, we would argue that it is in
14 character with the block. As you can see from, you know, the
15 aerials of this block, we've got, you know, I mean, it's kind
16 of hard to say what the character of this block is, to be
17 honest with you.

18 There's two four-story -- there's two four-unit
19 apartment buildings that have a faux-mansard roof. There's
20 one two-story, four-unit apartment building that has a flat
21 roof.

22 And then there's a -- I think it's either six or
23 eight unit apartment building that's three stories that has
24 a flat roof. And that's the grand total of the buildings on
25 this particular block.

1 VICE CHAIR HART: How many units again?

2 MS. BACHER: Our proposal is four units.

3 VICE CHAIR HART: So you're not changing from the
4 number of units that are --

5 MS. BACHER: No. We are not.

6 CHAIRMAN HILL: Okay. I'm going to turn to the
7 Office of Planning.

8 MS. FOTHERGILL: Good afternoon. I'm Anne
9 Fothergill with the Office of Planning. And the Office of
10 Planning recommends denial of the request to remove the
11 rooftop architectural element.

12 And we rest on the record in opposition to the
13 Application. And I'm happy to take any questions.

14 CHAIRMAN HILL: Ms. Fothergill, were you here when
15 Mr. Lawson was here at the beginning of the day?

16 MS. FOTHERGILL: I was.

17 CHAIRMAN HILL: Okay. I'm glad we can bookend the
18 days with a -- since we're using the word bookend so much.

19 Okay. Does anybody have any questions for the
20 Office of Planning?

21 COMMISSIONER TURNBULL: You're looking at me?

22 CHAIRMAN HILL: No. I don't have any questions.
23 All my questions got -- I'm questioned out for this
24 particular activity.

25 COMMISSIONER TURNBULL: Well, I guess Ms.

1 Fothergill, I'll play along with this. I mean, I'm just --
2 in one way there's not what I would call a uniform character
3 with these -- with this little faux-mansard.

4 So, I'm wondering if sacrificing this one end,
5 does it really hurt the zone? Does it hurt the character?
6 I mean, I guess it's -- I'm sort of uncertain as to really
7 --- I mean, I can see your reason for doing it. But I can
8 also see reasons for doing what they're doing too.

9 MS. FOTHERGILL: So, I would say that my research
10 showed, and I perhaps it was wrong, that the two buildings
11 at the end of the block, next to the Arboretum, were
12 originally all four had the mansard.

13 COMMISSIONER TURNBULL: Yeah, yeah.

14 MS. FOTHERGILL: But, the architect has different
15 research. So, maybe that's wrong. But at least three of the
16 four did. I thought all four did.

17 COMMISSIONER TURNBULL: Okay.

18 MS. FOTHERGILL: And the -- those must have been
19 either dramatically altered or --

20 COMMISSIONER TURNBULL: Yeah.

21 MS. FOTHERGILL: Or raised and rebuilt before this
22 regulation.

23 COMMISSIONER TURNBULL: Okay.

24 MS. FOTHERGILL: But if you look actually at the
25 roof typologies that the Applicant submitted, you will see

1 that the mansard is the predominant roof form in this subject
2 square.

3 And in fact if those two or one of the two had it,
4 that would continue that pattern.

5 And so for that reason, because it is the
6 predominant roof form, we do not support its removal.

7 COMMISSIONER TURNBULL: Okay. I guess part of the
8 -- I guess I struggle with faux-mansards setting, if it's a
9 row, a complete row, it's a long row, I can -- I feel
10 comfortable going along with that.

11 But something which is as truncated as this in a
12 short, I kind of six of one, two-thirds of another. You sort
13 of struggle with the balance of what we're trying to achieve,
14 I guess.

15 So, I'm struggling with that.

16 MEMBER WHITE: My only question is, given the
17 comments that we just received from the ANC, does that change
18 your opinion?

19 Some of their techs say, includes due to the
20 unique nature of the block, and a large variety of houses --
21 housing types in the area, the proposed construction would
22 not significantly impact the character of the neighborhood.

23 Does that have any --

24 MS. FOTHERGILL: Oh, thank you for reading that.
25 I actually hadn't seen that report. I think it was filed --

1 MEMBER WHITE: I hadn't either. It just came in,
2 yeah.

3 MS. FOTHERGILL: I do agree. That this is an
4 unusual block. And it is a short block. It is across from
5 a different building type.

6 Two of the four buildings have already been
7 altered. So, I do understand what the ANC is saying.

8 VICE CHAIR HART: But you are -- but you don't
9 want to change your opinion or the OP position on it?

10 MS. FOTHERGILL: OP continues to recommend denial.

11 VICE CHAIR HART: Okay.

12 CHAIRMAN HILL: Okay. I love the Office of
13 Planning. They're the best. Like they don't bite.

14 You know, like you'll ask a question. And they're
15 just like a -- they can just stay quiet. You know, they
16 don't have -- like I feel like I have to say something. You
17 know, but they'll -- right.

18 So, all right, does the Applicant have any
19 questions for the Office of Planning?

20 MS. BACHER: We don't have any questions for the
21 Office of Planning, no.

22 CHAIRMAN HILL: Okay. All right. Is there anyone
23 here from the ANC? Is there anyone here wishing to speak in
24 support? Is there anyone here wishing to speak in
25 opposition?

1 (No response)

2 CHAIRMAN HILL: All right. I'm going to turn it
3 back to the Applicant. Is there anything that you'd like to
4 add at the end?

5 MS. BACHER: Sure. We just -- a quick comment on
6 the -- what was discussed with regards to the OP. Again, in
7 whether it's, you know, character with the neighborhood, it's
8 -- it kind of comes down to what you're looking at in terms
9 of -- what you're comparing it to.

10 So, on its block, this block is kind of already
11 up in the air. As -- I want to apologize and make sure the
12 record is correct.

13 As far as we know, the other buildings on the street
14 that are now, like the three-story apartment building, were
15 at some point, you know, mansard roofs. One I think was
16 single family and one was multi-family.

17 I can't say when they were taken down. But they
18 were sure taken down before these regulations. So, just
19 wanted to clarify that.

20 But, so you can see on this block we've got two
21 mansard roofed buildings. And then you've got a flat roof.
22 And then one -- I'm not sure, it seems like it's split up
23 into two buildings, two flat roofs.

24 But, it is sort of developed as one development.
25 So you can consider that any way you'd like. If you kind of

1 zoom out to the block you've got a nice fully mansard row
2 here.

3 So, if you came here and looked down this street,
4 you'd see a clean row of mansard roofs. Over on this street,
5 that's not the case.

6 You look down the street and you see one three-
7 story building at the end. And you see a two-story flat
8 building over here. And you see, you know, a mansard in the
9 foreground.

10 And then zooming out to the larger, a -- this is
11 just for the, you know, we picked the SMD as, well, you know,
12 the area for our study.

13 There's a lot of different blocks with a lot of
14 different typologies that involve a mix of multi-family,
15 single family, mansard roof, faux-mansard roof, flat roof.
16 You know, they're kind of -- the neighborhood has a diversity
17 of housing types in our opinion.

18 CHAIRMAN HILL: Okay. All right. Does the Board
19 have any further questions?

20 (No response)

21 CHAIRMAN HILL: All right. I'm going to go ahead
22 and close the hearing. Is the Board ready to deliberate?
23 Okay, sorry. No, please. Do you have questions?

24 MEMBER JOHN: I just had one question. Is there
25 a roof deck on this?

1 MS. BACHER: There is a roof deck that we are
2 providing. It is a matter of right as part of the
3 development.

4 MEMBER JOHN: Okay.

5 CHAIRMAN HILL: I mean you've said matter of right
6 a lot here today. I just want to let you know, you're here
7 because you can't do it matter of right.

8 I just want clarity. Just to be clear. Matter
9 of right means you're not here. Okay. Just wanted to be
10 clear.

11 All right. So, but I appreciate it. The -- so
12 okay. Does anybody have anything else?

13 (No response)

14 CHAIRMAN HILL: All right. I'm going to go ahead
15 and close the hearing. Is the Board ready to deliberate?

16 VICE CHAIR HART: Sure.

17 CHAIRMAN HILL: Okay. I'm still kind of, you
18 know, I want to hear what you all have to say. Like this to
19 me is even more -- like I can understand why you would
20 approve this more then you would approve the last thing that
21 you all approved.

22 But so, you know, I'll let it go at that. And so,
23 you all can like, if somebody else wants to like deliberate.
24 Does somebody want to deliberate first?

25 VICE CHAIR HART: Sure. I just want to jump in

1 on this. Yeah, you know, it's -- again, I think it's helpful
2 to have the -- the analysis that the Applicant has provided.

3 I guess this is Exhibit 44. That shows what kind
4 of types of roofs, the roof typology, I guess for the area.
5 And this is a very large area to look at.

6 So you guys did a lot of -- wow. A lot of
7 research here. But, what I find somewhat interesting is that
8 the predominant -- there isn't really a bookend typology here
9 that is used that you really had in the -- in the previous
10 case that we looked at.

11 This is really looking at kind of what does that
12 row do? And that row continues on to the end.

13 In this particular block, you already have two of
14 the units that have transformed. That have been changed from
15 the mansard roof to something completely different, flat
16 roofs.

17 And this project is proposing something that is
18 very similar to what is -- what those two units have -- on
19 the same block have already done.

20 I mean, I think I would be in favor of the
21 project, of supporting the relief. Because it is, one, on
22 a short block that already has some changes that have -- that
23 have already occurred.

24 I didn't feel that the -- I felt that the
25 Applicant had met the criteria. I didn't think that that was

1 a particular concern for this.

2 And while I'm not loving the architecture, because
3 I think that again, you may need to have something that gives
4 some delineation to the parapet. Or at least understand what
5 the, you know, that the roof -- there's something kind of
6 different happening there.

7 And that might be helpful. Maybe it's a string
8 course, or something. I don't know. Something that kind of
9 differentiates it might be helpful to break up the -- the
10 monotony of the -- that part of the roof, and identify that
11 change.

12 But, yeah. It's -- I understand that the Office
13 of Planning is, you know, in denial of -- is recommending
14 that we deny this case. I just don't think that I would
15 agree with that.

16 I believe that there isn't much in this particular
17 block to kind of save. And it would seem that there would
18 be -- the flat roofs would be a more predominant
19 architectural scheme that's going on.

20 So, that's it.

21 MEMBER JOHN: So Mr. Chairman, I am reluctantly
22 going to approve another removal of a mansard roof. But, I'm
23 getting close to my limit.

24 I think definitely when they're replaced in the
25 middle of the block, I can see myself being very opposed to

1 that. But this block is sort of unique in that two other
2 buildings, or at least one, it's not clear if it was two or
3 one, you know, have been renovated.

4 And so it's two and two. Which way do you go?
5 And given the efficiency of having the additional space,
6 although I'm not convinced that this is the best design. To
7 me it looks industrial. But what do I know?

8 So, I reluctantly can support. Can find a way to
9 support this Application.

10 MEMBER WHITE: Mr. Chair, I concur with my
11 colleagues. I was just waiting to hear your comments.

12 But yeah, I mean, I was going to push back on it.
13 But, with the ANC's support, their comments, you know that,
14 you know, the block has a variety of housing types.

15 And doesn't -- they don't really seem to be wedded
16 to the mansard roof for this particular Application. And
17 there is at least, you know, one letter of support.

18 So, I'm not seeing any opposition except from the
19 very important report from OP. You know, it's rare when we
20 push back on OP.

21 But I think there is somewhat of a gap with
22 respect to the whole issue of mansard roofs and character.
23 And so, for this particular one, I think I can also concur
24 with my colleagues' comments.

25 And add that in my opinion, based on the analysis

1 of the facts in the record that they've met the special
2 exception criteria under E 206.1.

3 COMMISSIONER TURNBULL: Well, the patient survived
4 the operation. And is alive. I guess I'm not that excited
5 by the surgery that was done.

6 But I like it, the fact that it's all brick. I
7 think if you look at the elevation that's on the -- because
8 you have the very first elevation. Yeah, the rendering of
9 it.

10 Yeah. The top. You know, it's like we cut the
11 building. And you can see we have to do something. And
12 we're going -- we're changing brick. Hopefully we're going
13 to look or do something like it.

14 It's very minimalist. It's sort of like Bauhaus
15 architecture that somehow is -- but we're using brick instead
16 of stucco or plaster. And it's just very minimalist. It's
17 very minimalist.

18 It's modern. I guess you would call it modern.
19 I guess it's -- I'm not that happy with the design I think.
20 I just think that when you add onto a building and you simply
21 delineate how you cut it, and I think it could have been done
22 in many different ways to make it a little bit more
23 attractive.

24 But I think, you know, trying to save a mansard
25 in this particular case, as you all have talked about, I

1 think doesn't make a lot of sense in this case. But I'm not
2 that happy with what we finally end up with.

3 But I guess I'm not unhappy enough not to oppose
4 it. But I'm -- it's reluctance to approve it. But, I think
5 it could have been more artfully, gainfully articulated more.

6 CHAIRMAN HILL: Okay. All right. I again, just
7 am kind of continue to be somewhat confused as to the
8 analysis in terms of the regulations and also how to kind of
9 look at this stuff.

10 And so, you know, while I --again, I was being --
11 not making a joke, but I was just kind of taking shorthand,
12 which was earlier, I could even make more of an argument as
13 to why that row, and this is a different case completely, but
14 why that row is actually being changed.

15 In this case, again, you know, it's already kind
16 of whatever it is. It's like a, you know, it's like a mixed
17 up thing. And it looks like it's just going to be a mixed
18 up thing.

19 You know, and so you know, but I still am just
20 kind of -- fortunately it doesn't seem like you need my vote.
21 So, I'm going to actually probably abstain, just because I
22 can. Yeah.

23 And so, but I will make a -- or you can make a
24 motion.

25 VICE CHAIR HART: No. If you're not going to

1 vote, then you're not making a motion.

2 CHAIRMAN HILL: Or if I'm not going to vote --
3 right. Okay.

4 (Laughter)

5 VICE CHAIR HART: We're going to take you out of
6 this.

7 CHAIRMAN HILL: All right. There you go.

8 VICE CHAIR HART: So, I'll make the motion to
9 approve Application 19763 of Sharon and Chen Xu as read and
10 captioned by the Secretary.

11 Do I have a second?

12 MEMBER JOHN: Second.

13 VICE CHAIR HART: Hearing a second, all in favor
14 say aye.

15 (Chorus of ayes)

16 VICE CHAIR HART: All opposed?

17 (No response)

18 VICE CHAIR HART: Any abstentions?

19 CHAIRMAN HILL: Aye. But I didn't think you did
20 the nay. You didn't do the nay.

21 VICE CHAIR HART: I did the nay. Didn't you hear
22 it?

23 CHAIRMAN HILL: Okay.

24 VICE CHAIR HART: Yes. We just -- you were --

25 CHAIRMAN HILL: I don't know.

1 VICE CHAIR HART: Okay. Mr. Moy?

2 MR. MOY: Staff would record the vote as four to
3 zero to one. This is on the motion of Vice Chair Hart to
4 approve the Application for the relief being requested.

5 Second of the motion Ms. White. Also in support,
6 Ms. John and Mr. Michael Turnbull, and Chairman Hill
7 abstains. The motion carries.

8 CHAIRMAN HILL: Okay. Full order Mr. Moy?

9 MR. MOY: Do you want a full order?

10 CHAIRMAN HILL: I thought you had to have a full
11 order?

12 MR. MOY: The --

13 CHAIRMAN HILL: Oh, no. The summary area.

14 MR. MOY: If the ANC is --

15 CHAIRMAN HILL: So if OP --

16 MR. MOY: The ANC is in support --

17 CHAIRMAN HILL: But if OP is in denial.

18 MR. MOY: The OP -- well, I've been advised by OAG
19 on this item. I'm corrected by counsel here that it's up to
20 the Board.

21 CHAIRMAN HILL: Well, then summary order. Then
22 summary order. Yeah, summary order.

23 MR. MOY: It would be a more vetted summary order.

24 CHAIRMAN HILL: Sure. All right. Do we need any
25 -- is there anything else before the Board?

1 MR. MOY: Not today, sir.

2 CHAIRMAN HILL: Okay. All right. We stand
3 adjourned. Thank you. Thank you very much.

4 (Whereupon, the above-entitled matter went off the
5 record at 5:18 p.m.)

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C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: Public Hearing

Before: DC BZA

Date: 07-11-18

Place: Washington, DC

was duly recorded and accurately transcribed under my direction; further, that said transcript is a true and accurate record of the proceedings.



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