

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

+ + + + +

BOARD OF ZONING ADJUSTMENT

+ + + + +

PUBLIC HEARING

+ + + + +

WEDNESDAY

MARCH 6, 2019

+ + + + +

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 L. Hill, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

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

OFFICE OF ZONING STAFF PRESENT:

- CLIFFORD MOY, Secretary
- ALEXANDRA CAIN, Zoning Specialist

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

- JACOB RITTING, ESQ.

## OFFICE OF PLANNING STAFF PRESENT:

MAXINE BROWN-ROBERTS  
ANNE FOTHERGILL  
MATT JESICK  
JONATHAN KIRSCHENBAUM  
STEPHEN MORDFIN  
KAREN THOMAS

The transcript constitutes the minutes from the  
Public Hearing held on March 6, 2019.

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

10:17 A.M.

CHAIRPERSON HILL: So now we're at our hearing cases.

MR. MOY: All right, the first case before the Board to bring up parties to the table to Case Application 19933 of Sarah Beth and Josh, is it Kuyers? K-U-Y-E-R-S. There's a request for a special exception. Under Subtitle E, Section 5201 from the rear yard requirements, Subtitle E, Section 506.1 and pursuant to Subtitle X, Chapter 10, for an area variance from the lot occupancy requirements, Subtitle E, Section 504.1. This would construct a one story rear addition to an existing attached principal dwelling unit, RF-3 zone. This is at premises 156 Duddington Place, SE, Square 736, Lot 68.

CHAIRPERSON HILL: If the parties could please come forward. Please have a seat. Did you get sworn in earlier?

MS. KUYERS: No, I'm not sure if I did. I'm sorry.

CHAIRPERSON HILL: That's all right. If you could please stand and get sworn in by the Secretary and if anyone else here has missed taking the oath, if you could please stand and get sworn in by the Secretary to my left.

(Witnesses sworn.)

1 CHAIRPERSON HILL: Okay, great. Thank you. Could  
2 you please introduce yourself for the record?

3 MS. KUYERS: Yes. My name is Sara Beth Kuyers.  
4 I live at 156 Duddington Place, SE.

5 CHAIRPERSON HILL: Okay, so Ms. Kuyers, you're  
6 asking or requesting for a postponement, correct?

7 MS. KUYERS: Yes. That's correct.

8 CHAIRPERSON HILL: And why do you want the  
9 postponement?

10 MS. KUYERS: Basically, after conversations with  
11 the Office of Planning, they advised us that they spoke with  
12 the Office of the Attorney General and that we need to make  
13 a modification to the reliefs that we're requesting. So we  
14 would just like a couple more weeks to revise the relief  
15 requested, the burden of proof statement and then give the  
16 Office of Planning time to submit their report to you as  
17 well.

18 CHAIRPERSON HILL: Okay, Mr. Moy, is there a way  
19 you could suggest we could do this?

20 MR. MOY: I believe, Mr. Chairman, that the  
21 Applicant was asking for a date of April the 3rd and the  
22 dockets can accommodate that, if that's the desire of the  
23 Board.

24 CHAIRPERSON HILL: Okay. Fine. Everything is  
25 going to April 3rd today, so okay, so we'll do April the 3rd.

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1 So we're going to go to postponement. Thank you very much.

2 MS. KUYERS: Thank you.

3 MR. MOY: If we could have Applicants to the table  
4 to Case Application No. 19914. This is 3110 Monroe Street  
5 Associates, LLC. This is captioned and advertised for area  
6 variance from the lot dimension requirements, Subtitle D,  
7 Section 302.1 to subdivide the existing lot and construct a  
8 new detached principal dwelling unit in an R-1-B zone. This  
9 is at 3110 Monroe Street, NE, Square 4310, Lot 2.

10 Again, Mr. Chairman, the Applicant is requesting  
11 a postponement to March 13th. And this is in their filing  
12 under Exhibit 54.

13 CHAIRPERSON HILL: Okay. Could you please  
14 introduce yourself for the record?

15 MS. FERREIRA: Caterina Ferreira, principal at  
16 Architexual. I represent 3110 Monroe Street Associates, LLC.

17 CHAIRPERSON HILL: Okay, Ms. Ferreira, thank you.  
18 Could you explain why you want a postponement?

19 MS. FERREIRA: Sure. There were some additional  
20 filings made into the case records that indicated that  
21 additional coordination with the ANC was required. And I'm  
22 referring specifically to Exhibit No. 52 from ANC 5C01,  
23 Commissioner Gail Brevard, regarding some of the  
24 documentation in the case record expressing some concern and  
25 perhaps misunderstanding about some of the information. We'd

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1 like the opportunity to have additional dialogue with the ANC  
2 and hopefully clear those misunderstandings up.

3           Also, I should inform you that the property owner  
4 has reached out to the adjoining property owner, as  
5 recommended by Commissioner Brevard in her statement.  
6 However, he was unsuccessful in being able to speak with  
7 them. And Commissioner Brevard and the property owner have  
8 been in on-going discussions about this case. So the  
9 coordination has already started, the additional  
10 coordination. But it does appear that, as you know, the ANC  
11 vote was a split vote, so it does appear that it would be  
12 helpful to reengage the Commission as a whole, since there  
13 is some disagreement between the various Commissioners  
14 regarding whether or not to support the project. So we would  
15 like to try to strengthen our ANC support.

16           CHAIRPERSON HILL: Okay. Okay.

17           MEMBER WHITE: I just wanted to comment that this  
18 particular application is for variance relief, so I went  
19 through the record, but as you move forward, just make sure  
20 you clearly address the criteria to get the variance relief  
21 so that we're clear because I think right now there's not a  
22 lot there to get me over that threshold.

23           CHAIRPERSON HILL: Okay. March -- that's next  
24 week.

25           MS. FERREIRA: Actually, if I may and I hate to

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1 do this, but I have since found out that the ANC does meet  
2 on March 13th in the evening, so perhaps the following week  
3 would be a more adequate date.

4 CHAIRPERSON HILL: Sure, I mean I think even --  
5 so what day is that, Mr. Moy? Are we good that day?

6 And Ms. Ferreira, do you think you're going to be  
7 ready in two weeks, just a week after the ANC meeting?

8 MS. FERREIRA: Mr. Chairman, we hope so.

9 CHAIRPERSON HILL: Okay, that's fine.

10 MS. FERREIRA: This has been an on-going --

11 CHAIRPERSON HILL: I'm just asking if you want to  
12 ask for more time is what I'm trying to understand. You know,  
13 it's only two weeks away.

14 MS. FERREIRA: Given that the ANC meets on the  
15 13th, I think a week from that date would be adequate.

16 CHAIRPERSON HILL: Okay, and the OP, the Office  
17 of Planning is currently recommending denial.

18 MS. FERREIRA: Understood.

19 CHAIRPERSON HILL: Okay. Mr. Moy, I'm sorry.

20 MR. MOY: No, that's all right. I was checking  
21 the docket sizes. So the following week from the 13th would  
22 put us on the 20th of March. There's four applications, plus  
23 an appeal, so that's doable. I leave that to the Board, but  
24 the following two hearings after that, we still have appeal  
25 cases, but I think of what I'm looking at, the 20th would be

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1 preferable.

2 CHAIRPERSON HILL: Okay. All right. So we have  
3 appeals from now until into April? Okay. We'll put it on --  
4 you said March 20th?

5 MR. MOY: Yes, sir.

6 CHAIRPERSON HILL: Okay, all right, great. Thank  
7 you, Ms. Ferreira.

8 MS. FERREIRA: Thank you.

9 MR. MOY: All right, so Mr. Chairman, if we can  
10 have parties to the table. This is to Case Application No.  
11 19931 of Marcy Mey, M-E-Y, not M-O-Y or not M-A-Y, but this  
12 is a request for a special exception under Subtitle D,  
13 Section 5201 from the rear yard requirement under Subtitle  
14 D, Section 306.1 to construct a two story rear addition to  
15 an existing detached principal dwelling unit, R-1-B zone.  
16 This is at 1440 Otis Street, NE, Square 4003, Lot 18.

17 CHAIRPERSON HILL: Okay, great. Thank you, Mr.  
18 Moy. Could you please introduce yourselves for the record?

19 MR. SELTZER: Hi. Good morning. I'm Jeff  
20 Seltzer, the home owner.

21 MS. BRITTINGHAM: Good morning. My name is Lacy  
22 Brittingham, Brittingham Architecture. I'm the architect and  
23 agent for the owner.

24 CHAIRPERSON HILL: Can you spell your name again,  
25 I'm sorry?

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1 MS. BRITTINGHAM: Sure. B-R-I-T-T-I-N-G-H-A-M.

2 CHAIRPERSON HILL: Okay, great. Thanks, Ms.  
3 Brittingham. I know you've been here before. So you're  
4 going to be presenting to us, I assume?

5 MS. BRITTINGHAM: Yes.

6 CHAIRPERSON HILL: Mr. Seltzer, if you don't mind  
7 turning off your microphone. We get feedback if more than  
8 one microphone is on at a time.

9 So Ms. Seltzer, if you want to go ahead, I'm  
10 sorry, Ms. Brittingham, thanks, if you wouldn't mind taking  
11 us through the project and what you're trying to accomplish  
12 and if you could specify how you're meeting the criteria for  
13 us to grant the relief requested.

14 I'm going to put 15 minutes on the clock just  
15 there so I know where we are. And you can begin whenever you  
16 like.

17 MS. BRITTINGHAM: Okay, thank you. There were  
18 some changes to drawings submitted to the record yesterday.  
19 I also submitted a statement explaining the changes as to --  
20 I can start with that or I wasn't sure if you've seen that.

21 CHAIRPERSON HILL: That's fine. You can start  
22 with the changes. That would be great. Thank you.

23 MS. BRITTINGHAM: Okay. They're relatively minor.  
24 Essentially, we are requesting relief only for the rear yard  
25 setback, D306.2. The changes do not constitute any change

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1 in the relief requested. So essentially the north wall of  
2 the addition moved a little bit further north to make the  
3 kitchen slightly larger so that changed the setback of the  
4 addition from the property line by 1.67 feet. That also  
5 increased the lot coverage slightly, but we are at --  
6 proposed 27 percent lot coverage, so well below the 40  
7 percent limit.

8 I have printed copies of changed drawings. Would  
9 you like me to pass those out? Or, are you --

10 CHAIRPERSON HILL: I think we're okay.

11 MS. BRITTINGHAM: Okay.

12 MEMBER MAY: I'm having trouble loading up the  
13 latest. No, it came up. I good. Thank you.

14 MS. BRITTINGHAM: Okay, so this is 1440 Otis  
15 Street, NE, we have a two story existing home. We are  
16 proposing a very small addition on the rear of the house.  
17 We have two large trees in the back yard. We started this  
18 project immediately in talking to the UFA and understanding  
19 that -- and desire to protect the trees and designing our  
20 addition around the tree roots and trying to maintain the  
21 health of the trees. So we have, as part of the record, the  
22 report from an arborist that we engaged with a year ago.

23 And we have located the addition sort of skewed  
24 to the north side of the existing house and it is 14.5 feet  
25 deep by now 17 foot 4 inches wide with the new dimensions

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1 submitted yesterday. And so our foundation that we are  
2 proposing would be a pier system with grade beams so that we  
3 can locate these piers as needed once we do some hang digging  
4 or air spading as recommended by the UFA and the arborist to  
5 locate the main tree roots and work around them with our  
6 structure to support our addition.

7           So just looking a little bit -- I'll just put the  
8 first floor plan up on the screen. Essentially, we have  
9 reached out to our neighbors. The neighbor to the west,  
10 which is in the direction of our rear yard, which is the  
11 relief that we're requesting, they've signed a letter of  
12 support. That is 1436 Otis Street, NE. Then the neighbor  
13 to the north at 3704 15th Street, again, north, is up on the  
14 plan here. We've reached out to that neighbor. He did not  
15 want to discuss. His comment was that our proposed addition  
16 does not affect him. We reached out to him, obviously,  
17 before we went to the ANC. The ANC has provided a letter of  
18 support for the project and Mr. Seltzer, the owner, has tried  
19 to speak with this neighbor several times.

20           So our proposed addition has no windows now on the  
21 north side, so the -- well, let me back up. The setbacks  
22 around the addition, as far as the light and air, are  
23 generous. The existing house has 11.7 foot setback from the  
24 north side. Our addition is inside of that, so our new  
25 setback would be 12.83 feet. Eight foot is the minimum, so

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1 we have a generous setback on that side and in the rear, the  
2 25-foot minimum required rear setback, we are proposing 20.15  
3 feet. And that is again, the neighbor that's provided the  
4 letter of support.

5           And then on the south side, we have a very large  
6 side yard which is street side. Consider our street yard  
7 would be almost 30 feet setback from the sidewalk and there's  
8 across the street and the neighbor to the south is actually  
9 a commercial property. So light and air around, there's a  
10 very small addition, small footprint, generous sidebacks.  
11 It's a large lot already. We have a very low lot coverage  
12 proposed, 27 percent. So we feel like the light and air is  
13 sufficient around the house and our small addition does not  
14 impact unduly the neighbors in the surrounding.

15           The two trees will further provide screening and  
16 shade, change the shade available to the neighbors and the  
17 air actually more than probably our changes that we're  
18 proposing.

19           The privacy of use and enjoyment, in the drawings  
20 that were resubmitted yesterday, we actually are going to  
21 change the kitchen layout a bit. We removed the windows  
22 altogether on the north side, so there are no windows now  
23 looking into the neighbor to the north. The south side is  
24 across the street, so very far, I don't think our changes  
25 wouldn't impact their privacy or use of their property. And

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1 to the west, we kept the same window pattern on the second  
2 floor which is relatively small, typical residential punched  
3 window openings. Those are the master bedroom. They will  
4 probably have shutters on them and it's looking into the  
5 neighbor's side yard which is generally the least used side  
6 of the house. And that's the neighbor that's provided the  
7 letter of support.

8           And as far as the character, maintain the  
9 character in the public view. We have worked very hard to  
10 try to -- I can go to the elevations. Design an addition  
11 that relates in character to the existing house. It has the  
12 same language, the same vocabulary. It's a little bit hard  
13 to see from the side view, but the overhang, those triple  
14 windows that are -- those are bottom right on the existing  
15 portion of the house, those are brackets and then a large  
16 overhang that covers them. We sort of repeated that  
17 vocabulary with the overhang of the second floor. It's  
18 visible on the south elevation. That also helped us to  
19 minimize the footprint that's impacting around the trees, so  
20 we're trying to relate to the vocabulary of the home, but  
21 also to be -- do everything we can to try to make this thing  
22 as small as possible and not adversely affect the trees.

23           As far as materials, we have a desire to continue  
24 the brick band at the bottom of the addition as it relates  
25 to the existing house. We're proposing Hardie siding which

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1 is the standard vocabulary material for residential additions  
2 in the neighborhood. The idea is that the roofing will match  
3 the material of the existing house, so it will all be  
4 seamless and hopefully a beautiful addition as viewed from  
5 the public way.

6 CHAIRPERSON HILL: Okay, great. Thank you. Does  
7 the Board have any questions for the Applicant?

8 MEMBER MAY: Yes, I'm sorry, just very quickly,  
9 the changes that you made were in response to the  
10 neighborhood concerns or the tree issue or what?

11 MS. BRITTINGHAM: Neither.

12 MEMBER MAY: Neither.

13 MS. BRITTINGHAM: Neither. It was actually was  
14 we looked a bit more closely at the design of the kitchen and  
15 just wanted the kitchen to be a little bit larger. So, we  
16 kind of --

17 MEMBER MAY: Okay, and so you lost the window on  
18 the north side?

19 MS. BRITTINGHAM: Yes.

20 MEMBER MAY: And why did you lose that window?

21 MS. BRITTINGHAM: Because it becomes the back wall  
22 of the kitchen, so cabinetry.

23 MEMBER MAY: Oh, I see, because it's over the  
24 stove.

25 MS. BRITTINGHAM: Yes. So that used to be the

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1 kitchen -- the main kitchen was where the chairs are.

2 MEMBER MAY: Got it. Okay, that's fine. Thank  
3 you.

4 CHAIRPERSON HILL: Okay, let us turn to the Office  
5 of Planning.

6 MS. BROWN-ROBERTS: Good morning, Mr. Chairman,  
7 and members of the BZA, Maxine Brown-Roberts from the Office  
8 of Planning.

9 The Office of Planning, as outlined in our report,  
10 recommends approval of the requested special exception. The  
11 special exception for the rear yard is subject to the  
12 requirements under Section D521 and as outlined in our  
13 report, the two main issues would be the light and air that's  
14 available to adjacent residents and the privacy of use. As  
15 outlined in our report and as stated by the Applicant, the  
16 light and air or the privacy of use of adjacent properties  
17 would not be significantly affected.

18 Also, with the changes that has been proposed, I  
19 think we continue to recommend that the addition will not  
20 affect the light and air. And based on that, we recommend  
21 approval. Thank you, Mr. Chairman.

22 CHAIRPERSON HILL: Okay, thank you. Does the  
23 Board have any questions for the Office of Planning?

24 (No response.)

25 Does the Applicant have any questions for the

1 Office of Planning?

2 MS. BRITTINGHAM: No.

3 CHAIRPERSON HILL: Okay, is there anyone here who  
4 wishes to speak in support?

5 (No response.)

6 Is there anyone here who wishes to speak in  
7 opposition?

8 (No response.)

9 Is there anything else you'd like to add at the  
10 end?

11 MS. BRITTINGHAM: No, sir.

12 CHAIRPERSON HILL: Okay, great. All right, I'm  
13 going to close the hearing. Is the Board read to deliberate?  
14 Okay.

15 I can go ahead and start. I think that -- I  
16 thought that it was kind of a modest addition and I thought  
17 that they met the requirements for the special exception.  
18 I didn't have really any issues with it. I also agreed with  
19 the analysis that was provided by the Office of Planning as  
20 well as that of the changes that they've made with the new  
21 dimensions.

22 DDOT was also in support and the ANC also had no  
23 issues and concerns and their vote was 5-0-0, so I'll be  
24 voting to approve. Does anyone have anything they'd like to  
25 add?

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1 (No response.)

2 Okay, I'll go ahead and make a motion to approve  
3 Application No. 19931 as captioned and read by the Secretary  
4 with the new plans and ask for a second.

5 MEMBER JOHN: Second.

6 CHAIRPERSON HILL: Motion was made and seconded.  
7 All those in favor say aye.

8 (Chorus of aye.)

9 All those opposed?

10 (No response.)

11 Motion passes. Mr. Moy?

12 MS. BRITTINGHAM: Could I ask one question?

13 CHAIRPERSON HILL: Sure.

14 MS. BRITTINGHAM: Well, two actually. Since we  
15 have to locate the tree roots, if we had to shift the  
16 location of the stairs coming out the back door, would that  
17 be a minor modification that's of no consequence or would we  
18 be directed back to the BZA?

19 MR. MOY: Theoretically, Mr. Chairman, as you  
20 know, modifications can include changes in relief or  
21 approvals also based on the drawings that are in the record.  
22 So theoretically, if the drawings have changed, that could  
23 be considered a modification.

24 CHAIRPERSON HILL: Can you -- so I'm technically  
25 re-opening the hearing. Can you show us what exactly you're

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1 talking about?

2 MS. BRITTINGHAM: So just as the foundation plan  
3 doesn't show the structure required for the stair, but the  
4 note there says we would modify the location of these piers  
5 based on where there are major tree roots, so we might shift  
6 them around in the same way the stair coming out the door  
7 would have a footer and if it were found to be -- we couldn't  
8 get around tree roots, we might have to shift the stairs  
9 slightly.

10 CHAIRPERSON HILL: Okay, modify the location of  
11 the piers? And then based upon the tree roots, can you  
12 repeat again what you just said?

13 MS. BRITTINGHAM: Sure.

14 MR. SELTZER: I wonder if my perspective might  
15 help. So we've got flexibility on where we put the piers for  
16 the addition because we can cantilever and put grade beams  
17 wherever the piers are, more or less. However, for the  
18 stairs, that's a small area, so we don't have very much  
19 flexibility on how it can cantilever where the stairs are,  
20 so if there's a tree root where we currently want to put the  
21 staircase, we may have to move it a few feet, one direction  
22 or the other if that makes sense.

23 CHAIRPERSON HILL: Okay, so two steps. One, I  
24 guess, would the Board be willing to entertain a condition  
25 with regard to the stairs and protecting the tree root? I

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1 mean, I would be. And so I'd be looking to Vice Chair Hart,  
2 since you've been our resident architect, or Mr. May, who has  
3 been our visiting architect, if you'd like to either write  
4 either one of the -- how you might put this in as a condition  
5 to allow for this type of flexibility.

6 MEMBER MAY: Before we do that, can I ask a  
7 question? You said you had two questions, before we start  
8 writing conditions, I want to make sure we don't have to  
9 write two.

10 MS. BRITTINGHAM: The homeowner has raised a  
11 question about whether we are locked into Hardie siding at  
12 this point, if it's shown on the drawings.

13 MR. RITTING: There is a rule. It's Y702.8 that  
14 says that you need to build in accordance with the plans.  
15 There is some flexibility built into that that allows the  
16 Zoning Administrator to give you some flexibility, but I  
17 don't think the Board can say one way or the other what the  
18 Zoning Administrator is going to decide about that. So there  
19 isn't -- they can't answer your question.

20 However, it would be possible if you're writing  
21 additional conditions granting flexibility from the plans,  
22 to also include that as a condition of the order.

23 CHAIRPERSON HILL: Let me ask a question. What  
24 other options are you thinking of other than the HardiePlank?

25 MS. BRITTINGHAM: We would consider a board and

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1 batten system which would sort of simulate more of the  
2 existing house as a stucco siding, a stucco finish, so  
3 instead of switching to the plank siding aesthetic it would  
4 be more in line with the existing.

5 MEMBER MAY: You know, I don't think any siding  
6 treatment is frankly relevant to the zoning relief that's  
7 requested.

8 MS. BRITTINGHAM: Great.

9 MEMBER MAY: I mean, can we just note for the  
10 record that we delete the word siding and then siding would  
11 apply to board and batten or would apply to Hardie either  
12 way?

13 MR. RITTING: I could come up with some language  
14 in the order that says that the plans do not explicitly  
15 require the siding shown.

16 MEMBER MAY: Yes, so I mean I think that  
17 specifically addresses the siding issue.

18 CHAIRPERSON HILL: Ms. White, you had a question?

19 MEMBER WHITE: My only question is whether or not  
20 the ANC had any issues with this at all or -- I just wanted  
21 to make sure that this wasn't something that they had raised  
22 as a concern.

23 MS. BRITTINGHAM: They actually had no concerns  
24 and loved the proposal.

25 MEMBER WHITE: Okay. Thank you.

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1 CHAIRPERSON HILL: Okay, so then I guess as far  
2 as the siding issue goes, OAG says they can add some language  
3 into the record or whatever to take care of the siding issue.

4 In terms of the condition for the flexibility to  
5 the stairs to protect the root system -- I see you  
6 scribbling.

7 MEMBER HART: Yes. No, I'm just trying to think  
8 of something that says something to the effect of -- this is  
9 in west elevation, right? Like allow the proposed west  
10 stairs to be repositioned, maybe? Maybe that's better. Yes,  
11 allow the proposed stairs on the west elevation to be  
12 repositioned to accommodate the possible location of tree  
13 roots.

14 MEMBER MAY: I wouldn't bother making it  
15 conditional on that. The way I would try to express it would  
16 be that -- the relief doesn't go to where the stairs are  
17 placed, right? So I think the condition could simply be that  
18 the owner has flexibility with regard to the placement of the  
19 stairs and stoop on the rear on the property provided it  
20 doesn't incur a need for additional zoning relief. I mean  
21 I don't think it does -- how high above grade is it?

22 MS. BRITTINGHAM: It's less than four feet.

23 MEMBER MAY: So if it's less than four feet, I  
24 mean, it shouldn't be an issue no matter what. So we're just  
25 -- I don't think we frankly have to say anything about it,

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1 but I'm not going to speak for the Zoning Administrator, but  
2 if it's less than four feet, it shouldn't trigger any kind  
3 of zoning relief.

4 MEMBER JOHN: Mr. Chairman, I recommend that we  
5 include the language because we had a discussion about the  
6 fact that the building must be built according to the plans.  
7 So that's how we got into this discussion of flexibility.  
8 So I think Commissioner's language is more general and I  
9 would support that.

10 CHAIRPERSON HILL: Mr. Hart? I'm fine with either  
11 condition. I don't think it's going to -- it's not going to  
12 change the zoning relief, but again, the way that we have  
13 been doing this in the recent past is that we do not have any  
14 -- we have not been allowing flexibility, and so the person  
15 would have to come back here again if the plans were changed.  
16 So that's why we're trying to think through this.

17 So since --

18 MEMBER HART: Well, yes, I was just trying to  
19 think of -- in light of what Commissioner May had also  
20 raised, not being as specific to allow flexibility in the  
21 location of the proposed west stairs.

22 MR. RITTING: Can I make one additional  
23 suggestion? The location can change, but the size cannot get  
24 bigger.

25 MEMBER MAY: You know, if it's less than four

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1 feet, it shouldn't matter.

2 MR. RITTING: The condition would say the Board  
3 grants flexibility to change the location of the stairs  
4 provided that the size of the stairs is not expanded and that  
5 there's no additional zoning relief required.

6 MEMBER MAY: I wouldn't even include the language  
7 about the size. I would just say provided that no additional  
8 zoning relief is needed. And that way, if they want to make  
9 it a foot larger because Mr. Seltzer wants to barbecue on the  
10 back stoop, you know, whatever.

11 MR. RITTING: Okay, that's fine. Thank you.

12 MS. BRITTINGHAM: I would just put out that we  
13 just need to reach existing elevation down to the new grade  
14 and so it may change slightly, but again, it's less than four  
15 feet. We want it to be small.

16 CHAIRPERSON HILL: The very general item, Vice  
17 Chair Hart that you mentioned as a condition, can you please  
18 read it again? I was fine with that condition.

19 MEMBER HART: I just -- allow flexibility in the  
20 location of the proposed west stair as long as it no  
21 additional zoning relief is required.

22 CHAIRPERSON HILL: Yes, okay. All right.

23 MEMBER HART: I'll make a motion to approve  
24 Application No. 19931 of Marcy Mey, as read and captioned by  
25 the Secretary, with the condition that the one condition to

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1 allow flexibility in the location of the proposed west stair  
2 as long as no additional zoning relief is required.

3 MEMBER JOHN: Second.

4 CHAIRPERSON HILL: Motion made and seconded. All  
5 those in favor say aye.

6 (Chorus of aye.)

7 All those opposed?

8 (No response.)

9 Motion passes. Mr. Moy.

10 MR. MOY: Thank you. Staff would record the vote  
11 as 5-0-0. This is on the motion of Vice Chair Hart to  
12 approve the application for the relief requested, along with  
13 the condition as he has cited in his motion. Seconding the  
14 motion, Ms. John. Also in support, Ms. White, Chairman Hill,  
15 and Commissioner Peter May. Motion carries.

16 CHAIRPERSON HILL: Thank you. Thank you.

17 MR. MOY: All right, the next application is Case  
18 Application No. 19932 of Jefferson Parke, P-A-R-K-E, request  
19 for special exceptions under Subtitle E, Section 5201 from  
20 the lot occupancy requirements of Subtitle E, Section 304.1  
21 and under Subtitle E, Section 205.5 and 5201 from the rear.  
22 Addition requirements of Subtitle E, Section 205.4 to  
23 construct a third story and rear addition to an existing  
24 attached principal dwelling unit and convert it to a flat in  
25 the RF-1 zone at premises 1227 4th Street, NW, Square 523,

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1 Lot 842.

2 CHAIRPERSON HILL: Okay, great. And just so the  
3 members of the audience here, we're going to take a break  
4 after this case, just a short break and then come back.

5 If you could please introduce yourselves for the  
6 record.

7 MS. KAILIAN: Hi, my name is Arsine Kailian. I  
8 am one of the owners of 1227 4th Street, NW.

9 CHAIRPERSON HILL: Can you spell your name for me,  
10 please?

11 MS. KAILIAN: First name is A-R-S-I-N-E. And last  
12 name is K-A-I-L-I-A-N.

13 CHAIRPERSON HILL: Okay. Thank you.

14 MR. PARKE: Good morning. My name is Jefferson  
15 Parke also at 1227 4th Street, NW, homeowner.

16 CHAIRPERSON HILL: Okay, and who is going to be  
17 presenting to us?

18 MR. PARKE: I'll start at least and then maybe  
19 we'll both answer questions.

20 CHAIRPERSON HILL: Okay, all right Mr. Parke,  
21 let's see how we go with this. I don't have a lot of  
22 particular questions for you, but specific questions. If you  
23 could kind of walk us through what you're trying to  
24 accomplish and how you believe you're meeting the standards  
25 for us to grant the exception -- I'm sorry, the relief that

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1 you're asking for. I'm going to put 15 minutes on the clock  
2 there so I know where we are and you can begin whenever you  
3 like.

4 MR. PARKE: So I'll just read the testimony if  
5 that's okay. So we, Arsine Kailian and Jefferson Parke, are  
6 the owners of 12247 4th Street, NW and long-time neighbors  
7 residing at 1108 5th Street, NW. We're seeking to develop  
8 1227 4th Street, NW from a small single family home into two  
9 three-bedroom family sized units. We've been working for  
10 some time with local architect, Kendall Dorman, of Wiebenson  
11 & Dorman Architects to develop a plan that's compatible with  
12 the historic character of Mount Vernon Square Historic  
13 District.

14 We have reviewed our plans with neighbors, as well  
15 as with the ANC and received their support.

16 In January, we presented our conceptual designs  
17 at the Historic Preservation Review Board which is HPA 19-  
18 105. The Board voted unanimously in favor, advising us to  
19 revise the height and our setback of the addition of the  
20 concept and delegate a final approval to staff. We are  
21 currently working with Brendan Meyer who is on staff at the  
22 Historic Preservation Office to that effect.

23 With regard to the zoning relief, we are seeking  
24 two special exceptions from the BZA. The first request for  
25 relief is to increase the lot occupancy to 70 percent. And

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1 the second request for relief is to set the rear of the  
2 structure, the rear wall or deck more than ten feet beyond  
3 the rear of the neighboring house.

4           So in accordance with Zoning Title 11, as  
5 evidenced by the below statements and attached letters of  
6 support from adjacent owner, (a) the light and air available  
7 to neighboring property shall not be unduly affected. So  
8 with regard to that criteria, the proposed addition is  
9 requested to extend 18 feet 5 inches beyond the wall of 1229  
10 4th Street which is one house to our north, 8 foot 5 inches  
11 more than allowed under Subtitle E. The extension beyond  
12 1225 4th Street, NW, would be approximately 17 feet.

13           The proposed rear addition would not unduly  
14 compromise the light and air to neighboring properties due  
15 to existing conditions. The property and immediate neighbors  
16 face west while the rear of the properties face east. As  
17 such, these homes receive direct sunlight on which the  
18 proposed addition would have minimal impact. Furthermore,  
19 the immediate neighbor to the north contains a very large elm  
20 tree whose canopy provides shade to the yards of five homes  
21 in the row.

22           In addition, none of the neighboring properties  
23 have open courts which would substantially lessen any impact  
24 on light and air conditions. The proposed addition will not  
25 affect the front facade as it is set over 27 feet 7 inches

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1 to conform with the historic preservation requirements.  
2 Thus, this condition will remain the same.

3           So with regard to privacy, the proposed rear  
4 addition has no impact on the surrounding neighbors as it  
5 contains no court or side windows. The existing fencing and  
6 landscaping will be retained and enhanced. With regard to  
7 the addition or accessory structure, together with original  
8 building as viewed from the street, alley, or public way  
9 shall not substantially visually intrude upon the character,  
10 scale, and pattern of houses along the subject street front.

11           The attached -- all this stuff is in our  
12 submission. The attached proposed drawings include photo  
13 overlay which show different perspective from the front  
14 facade, demonstrating a similar to scale to 1221 and 1223 4th  
15 Street which are two houses down.

16           The proposed rear addition will not be visible  
17 from the street frontage -- street vantage, as it is set back  
18 over 27 feet 7 inches from the front facade to conform with  
19 historic preservation requirements. This ensures that  
20 property maintains the character, scale, and pattern of the  
21 existing neighboring houses. The property is landlocked and  
22 the rear yard does not abut any public alley. The lot is  
23 bordered by 4th Street, NW on the front, 1225 and 1229 4th  
24 Street, NW on either side; and a vacant property on New  
25 Jersey Avenue to the rear.

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1 With regards to demonstrating compliance with  
2 paragraphs A, B, and C, the Applicant shall use graphical  
3 representations such as plans, photographs or elevations and  
4 section drawings sufficient to represent the relationship and  
5 so on. Please see the attached plans and photographs. All  
6 those have been provided.

7 The Board of Zoning Adjustment may approve lot  
8 occupancy of all new and existing structures on the lot up  
9 to a maximum of 70 percent. The current lot occupancy is  
10 42.82 percent and the proposed lot occupancy requirement for  
11 this project is 70 percent. The requested relief will be in  
12 harmony with the general purpose and intent of the zoning  
13 regulations and zoning maps and will not tend to adversely  
14 affect the use of neighboring properties due to its  
15 particular design which maintains adequate, open space,  
16 avoids overcrowding of the land, and imposes minimal impact.

17 As mentioned, the items above for Section E or  
18 Section 5201.3, the requested relief does not adversely  
19 affect the neighboring properties. Furthermore, the property  
20 will retain a 26 foot 8 inch rear yard, exceeding the 20-foot  
21 requirement. The immediate neighborhood and historic  
22 district is composed of a wide variety of building  
23 configurations and zones, resulting in an area of single  
24 family row homes, two-family flats, four-unit conversions,  
25 small apartment buildings, and very large apartments with a

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1 very few small studio and retail stores. The density of  
2 Mount Vernon Square is varied and as such an expanded two-  
3 family flat is entirely within the conformity of the  
4 neighborhood.

5           So we'll turn to the characteristics of the home.  
6 The existing structure is a two story, three bedroom, one  
7 bathroom, single unit row house and has been leased to  
8 tenants since 2005. The house has a long rear yard with  
9 garden and ground level deck. Our plans for the property are  
10 to create two three bedroom units to gain sufficient space  
11 for two family sized units. The plan includes a mostly  
12 subgrade basement, as well as a setback third story at the  
13 rear of the house not visible from the street front.

14           The design is comparable to 1221 and 1223 4th  
15 Street, NW, in the same row which share the same history and  
16 original construction with 1227 4th. 1221 through 1227 4th  
17 Street are all wood-frame houses with two story facades and  
18 no alley access. 1221 and 1223 were completely demolished  
19 including the facades and rebuilt in 2007 adding a basement  
20 and setback third story to the rear of the original footprint  
21 which is essentially what we're requesting as well.

22           Each was converted from a single unit to two units  
23 with a design in keeping with the historic fabric of the row,  
24 street, and neighborhood. And we are seeking to preserve the  
25 historic facade of 1227, as well as the historic framing to

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1 the degree required by the Office of Historic Preservation.

2 And just to close, we've received letters of  
3 support from the owners of 1225 and 1231 4th Street, which  
4 are included in the submissions, and we've also received  
5 verbal support from the owner at 1229 and the full support  
6 of the full ANC 6E. Thank you for your consideration.

7 CHAIRPERSON HILL: Okay, great. Does the Board  
8 have any questions for the Applicant?

9 MEMBER HART: Just a quick question. Thank you  
10 very much for the presentation. It was very thorough. And  
11 I'm sorry if I missed this. HPRB?

12 MR. PARKE: Yes.

13 MEMBER HART: Can you go over that again?

14 MR. PARKE: Yes, sorry. So HPRB, we presented I  
15 think it was January 24th. Brendan Meyer was the staff  
16 report writer for that area and he presented his reports to  
17 the Board. The outcome of that was that the Board was okay  
18 with the design, but wanted us to talk more with staff about  
19 the third story rear setback, specifically from the vantage  
20 across 4th Street -- so this property is at a T, a T  
21 intersection, 4th and Ridge Street, NW.

22 And so from the normal criteria for Historic  
23 Preservation, if you're across the street on the sidewalk,  
24 can you see any addition in the rear. In this case, because  
25 it's at a T, the Historic Preservation staff changed the

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1 criteria a little bit to accommodate that and so they stood  
2 a little further back on Ridge Street and was concerned about  
3 the front of the third-floor setback and its position.

4           So the only -- so we're still in discussions with  
5 Brendan about specifically where we would want to stand to  
6 make that frontage, the facade of the third-floor setback to  
7 be not substantially visible, which is the criteria that  
8 Historic uses. So the only variability here with our plans  
9 is essentially that front of that setback. So does it need  
10 to be lowered slightly? Does it need to be pushed back  
11 slightly? But again, we're in discussions and we're talking  
12 about small changes at this point, nothing substantial.

13           MEMBER HART: And so the viewpoint is from -- it's  
14 not from 4th, so I'm just trying to figure out where exactly  
15 they're trying to get this --

16           MS. KAILIAN: They haven't told us exactly. The  
17 Board approved it, but delegated the final approval to the  
18 staff and they won't give us a point on Ridge Street where  
19 it has to be not visible. They want us to do a flag test.  
20 We amended the design slightly and we're going to do a flag  
21 test, but we haven't heard back from them yet.

22           But it's not going to affect the footprint of the  
23 building at all. It's only going to affect where that front  
24 corners of that third-floor addition is located. So it might  
25 be a little bit further down, a little bit further back. The

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1 back wall will be the same.

2 MR. PARKE: And if I could just add one other  
3 point, with regard to the relief and effects on light and  
4 air, the only change that we would do would reduce the  
5 effects. There would be no increase in the volume of the  
6 structure. It would only be a decrease.

7 MEMBER HART: And had you included some shadow  
8 studies to --

9 MR. PARKE: Yes, we can pull up a shadow study.  
10 Okay, so the shadow study that we did was on the Winter  
11 Solstice, so at the most extreme effects, so with the sun  
12 furthest in the south and its effects, so what would the  
13 effects look like on the neighboring properties. One thing  
14 that's not depicted in this rendering is the elm tree that  
15 was noted in the testimony which is at -- mostly on -- the  
16 tree trunk is mostly on the 1231 yard, but it's enormous.  
17 It's over 100 years old and it covers, you know, the canopy  
18 covers all the yards of those row houses.

19 So this is the shadow study at 10 a.m. on this  
20 Winter Solstice. I'm sorry, the first two pages of the sun  
21 study are the existing structure, just to clarify. 1227 is  
22 the property in blue there in the center, so that's without  
23 the addition, showing the existing shadows. That's 2 p.m.

24 And here's the proposed addition, again in blue  
25 at 1227 at 10, noon, and 2 p.m. And again, that's the most

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1 extreme effects of the sun on the Winter Solstice.

2 MEMBER HART: And you didn't provide a kind of a  
3 matter of right option? You just looked at the kind of  
4 existing and then what you're proposing, correct?

5 MR. PARKE: That's correct.

6 MEMBER WHITE: Just one question. What's the  
7 position of the neighbor at 1229 4th Street?

8 MR. PARKE: Yes, so the gentleman's name is Omar  
9 Tulloch and we've been in contact with him a number of times  
10 and he's given verbal support twice. We've also sent him two  
11 certified letters to the two residences that he is registered  
12 at, one of which was returned to us without -- essentially  
13 that he wasn't residing there, wasn't available. The other  
14 one hasn't been returned, but we have not been able to get  
15 a written letter of support from him, just verbal support.

16 MEMBER WHITE: So that building is an apartment  
17 building, or?

18 MR. PARKE: Yes, it is a rental house and it's one  
19 unit at the moment.

20 MEMBER WHITE: Okay.

21 CHAIRPERSON HILL: Okay, anyone else? Okay, we're  
22 going to turn to the Office of Planning.

23 MR. JESICK: Thank you, Mr. Chairman, and members  
24 of the Board. My name is Matt Jesick. The Office of  
25 Planning can generally rest on the record in support of this

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1 application. As noted, the Applicant is continuing to work  
2 with the Historic Preservation Office and we would support  
3 any flexibility to address HPO concerns, as long as the  
4 changes in design do not increase the amount of zoning relief  
5 required. Thank you.

6 CHAIRPERSON HILL: Okay, does anyone have  
7 questions of the Office of Planning?

8 MEMBER HART: Yes, and kind of the same of same  
9 question I had for the Applicant, with regard to the impact  
10 of the -- as you see here, the sun study to the -- on what  
11 is it, 1229? I mean it looks like it would have quite a bit  
12 impact, but I guess it's hard to kind of look at it because  
13 not really sure what the impact is regarding the kind of  
14 matter of right versus what they're proposing.

15 Do you have -- how did the Office of Planning look  
16 at that?

17 MR. JESICK: Yes, just kind of eyeballing it, it  
18 looked like a matter of right addition which would be ten  
19 feet back from the rear facade of 1229 would cast the same  
20 amount of shadow on 1229. Certainly, there is somewhat of  
21 an increase in shadow on the properties to the north, but we  
22 felt that it was not an undue impact of the standard in the  
23 zoning regulations would suggest.

24 MEMBER MAY: And did you have any -- in the  
25 report, you talked about the HPRB review. Hearing the

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1 testimony that we had, do you have anything to add to that?

2 MR. JESICK: No. That was all in line with my  
3 understanding of the situation.

4 MEMBER MAY: Thank you.

5 CHAIRPERSON HILL: Okay. Anyone else for the  
6 Office of Planning?

7 Does the Applicant have any questions for the  
8 Office of Planning?

9 MR. PARKE: No.

10 CHAIRPERSON HILL: Okay. Is there anyone here who  
11 wishes to speak in support?

12 (No response.)

13 Is there anyone here wishing to speak in  
14 opposition?

15 (No response.)

16 Is there anything else that the Applicant would  
17 like to end with?

18 MR. PARKE: Thank you for your time.

19 CHAIRPERSON HILL: Okay, great. Thank you. Does  
20 the Board have any final questions?

21 (No response.)

22 No? We'll go ahead and close the hearing. Is the  
23 Board ready to deliberate?

24 All right. I would be in agreement with the  
25 analysis that the Office of Planning had supported. I think

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1 that the Applicant has met the burden of proof in terms of  
2 how they're meeting the criteria for the relief that they are  
3 requesting. I would also be in agreement with the analysis  
4 that the ANC 6E has provided in terms of their support which  
5 is 5-0-0. There are letters in support from the neighbors,  
6 as well as DDOT has no objection.

7           However, again, the extensions that we've been  
8 granting, I know they're on each individual basis and I  
9 thought that this particular example of this particular  
10 Applicant didn't seem to do much difference in terms of the  
11 shadowing as the Office of Planning had pointed out from the  
12 matter of right version. So I will be voting in support.

13           Is there anyone else who would like to add  
14 anything?

15           (No response.)

16           Okay. Then I'll go ahead and make a motion to  
17 approve Application No. 19932 as captioned and read by the  
18 Secretary and ask for a second.

19           MEMBER HART: Second.

20           CHAIRPERSON HILL: The motion has been made and  
21 seconded. All those in favor say aye.

22           (Chorus of aye.)

23           All those opposed?

24           (No response.)

25           The motion passes. Mr. Moy?

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1 MR. MOY: Staff would record the vote as 5-0-0.  
2 This on the motion of Chairman Hill to approve the  
3 application for the relief requested. Seconding the motion  
4 was Vice Chair Hart. Also in support, Ms. John, Ms. White,  
5 and Commissioner Peter May. Motion carries, sir.

6 CHAIRPERSON HILL: Okay, great. Thank you. So  
7 we're just going to take a quick break and then we'll come  
8 back. And then also at some point we will be taking lunch.  
9 I just don't know when that will be, so just to let you all  
10 know. Thank you very much.

11 (Whereupon, the above-entitled matter went off the  
12 record at 11:08 a.m. and resumed at 11:22 a.m.)

13 MS. CAIN: Application number 19887 of Marjorie  
14 Hutchinson. This is captioned as advertised for a use  
15 variance in the use provisions of Subtitle U, Section 301,  
16 to permit the conversion of an existing non-conforming, non-  
17 residential use to a restaurant in the RF-1 Zone. The  
18 premise is 1724 North Capital Street, N.W., Square 3105, Lot  
19 72. This is a limited scope hearing on the proposed  
20 conditions.

21 MS. STEDMAN: Good morning. Janet Stedman.

22 CHAIRPERSON HILL: Good morning.

23 MS. STEADMAN: Good morning, Josephine Steadman.  
24 Marjorie is actually, she'll be here in a moment.

25 CHAIRPERSON HILL: Okay. Sure. No problem. If

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1 you could please introduce yourself?

2 MS. HUTCHINSON: Good morning. My name is  
3 Marjorie Hutchinson.

4 CHAIRPERSON HILL: Good morning. Okay. So, Ms.  
5 Steadman, or the Ms. Steadman here to my, right in front of  
6 me. Are you going to be presenting to us like you did the  
7 last time?

8 MS. STEADMAN: Yes, sir.

9 CHAIRPERSON HILL: Okay, great. Is the ANC  
10 Commissioner here? Okay. If you'd like to come forward,  
11 please? If everybody can just, I mean, you don't, you can  
12 give them. If you have them, great. But if you can just  
13 fill out two witness cards, and then provide it to the  
14 transcriptionist to my right, after the hearing.  
15 Commissioner, can you just introduce yourself for the record?

16 MS. HOLLIDAY: Yes, sir.

17 CHAIRPERSON HILL: You need to push the  
18 microphone.

19 MS. HOLLIDAY: My name is Bertha Holliday. I'm  
20 ANC Commissioner for 5E-07.

21 CHAIRPERSON HILL: Okay. All right. So, welcome  
22 back, everybody. So, what we were going to do here is, we  
23 were going to have a limited scope hearing. Because we had  
24 a full hearing on all of the --

25 Commissioner, if you could turn off your

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1 microphone? And actually, Ms., Steadman, if you could turn  
2 your off as well. And just, if more than one is on a time  
3 it feeds back up here.

4 So, we're having a limited scope hearing based  
5 upon the conditions. During the last hearing we heard all  
6 of the testimony for the actual relief that was being  
7 requested. And then we also took testimony from the audience  
8 for the application.

9 So, we went back, and after the discussion that  
10 we had here at the Board, and I guess we'll continue to have  
11 discussion. But it seemed as though we wanted to understand  
12 the conditions that the ANC might have concerning the relief  
13 that's being requested.

14 And there was a variety of conditions that had  
15 been put forth, that we saw both in the record from the ANC,  
16 as well as that of the applicant. And rather than, I guess  
17 read through all of the conditions, because they're quite  
18 extensive, and we'll see how we kind of get through that  
19 with, as a Board, if we in fact here are getting to the point  
20 we're implementing the conditions, if you could just, Ms.  
21 Steadman, kind of tell us, walk us through what you all have  
22 done since the last time you were here?

23 MS. STEADMAN: Yes. So, we heard what the Board  
24 asked. We asked us to meet with the community, along with  
25 the ANC Commissioners, so we can come up with conditions,

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1 stipulations on operating the restaurant. So, we did that.

2 We had a meeting with the community, with the  
3 neighbors, on February the 16th of this year. At that  
4 meeting we went over the conditions that we had. Because we  
5 had met with the neighbors before. I believe we met with the  
6 neighbors sometime in January.

7 And at that meeting we had the same conditions.  
8 So, we took the, and at that meeting, that was the agreed  
9 upon conditions. So, we took the same the conditions back  
10 to the second meeting, to see if anything needed to be  
11 revised, revisited. Or if everyone was still in one with  
12 those condition.

13 For the most part everyone still agreed with the  
14 conditions with just a few minor changes. At the end of the  
15 meeting we, the Commissioner asked me to sign the acceptance.  
16 She also signed. And the neighbors that attended also signed  
17 the agreement.

18 CHAIRPERSON HILL: Okay. Is that signed agreement  
19 in the record somewhere?

20 MS. STEADMAN: Yes.

21 CHAIRPERSON HILL: Do you know which exhibit it  
22 is, by any chance? I'm sorry, Commissioner, you have to  
23 press the microphone.

24 MS. HOLLIDAY: I think it's 64.

25 CHAIRPERSON HILL: Okay.

1 MS. HOLLIDAY: I believe.

2 MS. STEADMAN: Yes, it's 64.

3 CHAIRPERSON HILL: Yes. And OAG, yes. Okay.  
4 That's right. It's 64. Okay. Let's see. So, some of the,  
5 as we were kind of walking through these conditions, and  
6 talking about it with the Office of Attorney General, some  
7 of them I guess seemed as though they were actually going to  
8 be able to mitigate adverse impact. And some perhaps were  
9 a little bit too, were not as specific as perhaps we thought.  
10 And so, we're going to kind of talk about that a little bit  
11 with the Board.

12 Before I get, or at least that's what I thought  
13 maybe we would do as a Board, is perhaps get to what we think  
14 possibly would be the conditions that would be good to  
15 mitigate any kind of adverse impact. And then have a  
16 discussion upon the case itself.

17 That would be what I was going to propose.  
18 However, before proposing that, Commissioner, since you here  
19 as the ANC are a party, do you have anything to add in terms  
20 of the testimony that Ms. Steadman just gave?

21 MS. HOLLIDAY: Well, the Exhibit 64 includes a  
22 cover letter that I think sort of explains the process that  
23 was used. And the process was one where we had had a  
24 previous meeting in January, and had come up with various  
25 stipulations.

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1           The stipulations, and those are also in the  
2 record, the stipulations that were, resulted from the January  
3 meeting with neighbors. And those stipulations served as the  
4 basis of the February 16th meeting.

5           In addition, there was a neighbor there who had  
6 been involved in developing a survey that went to neighbors.  
7 And that survey, or the findings, results of that survey were  
8 also presented at the February 16th meeting.

9           So, we went through each of the stipulations that  
10 were on the, that we had agreed to at the January meeting,  
11 and determined whether or not changes were needed, you know,  
12 modifications, deletions, additions to each of those  
13 stipulations.

14           We also considered alternatives that were  
15 suggested by the survey. Now, most of the findings of the  
16 survey were consistent with what, you know, people tended to  
17 agree with what was decided at the January meeting. But for  
18 those items that were inconsistent with what had been decided  
19 at the January meeting, we also discussed those.

20           As a result, when you look at comparing what was  
21 decided at the January meeting, versus what was decided at  
22 the February meeting, you found the following, that 12  
23 stipulations remain the same, or now include minor non  
24 substantive edits. That six stipulations were substantively  
25 modified. And that one stipulation was deleted.

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1 CHAIRPERSON HILL: Okay. So, just some questions  
2 here for Ms. Steadman, in terms of clarification on those  
3 conditions. Like, one of the conditions was speaking about  
4 sound insulation, which I guess was A2. Like, can you  
5 specify where the location of the sound insulation is  
6 supposed to be?

7 MS. STEADMAN: Sure. I believe the sound, we were  
8 speaking about that for the second floor terrace. And what  
9 I was going to do for the second floor terrace was plant  
10 shrubberies, and noise plate, like sound, noise drowning  
11 sound. And sound, they have foam for sound barriers. So,  
12 those were some of the things we was going to implement with  
13 the second floor terrace, to help drown out the noise on the  
14 --

15 CHAIRPERSON HILL: Okay. All right, that's all.  
16 So then again, sound mitigation insulation on the second  
17 floor terrace?

18 MS. STEADMAN: Yes.

19 CHAIRPERSON HILL: The --

20 MS. HOLLIDAY: On those sides that, there is a  
21 typo on that item in the exhibit. And I submitted  
22 corrections. But I don't know. They didn't seem to get  
23 posted. But anyway, the sentence should read, Jam Doung,  
24 owner, would provide sound insulated walls on the second  
25 floor rooftop terrace on those sides of the terrace facing

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1 residents' home, if permitted for use.

2 CHAIRPERSON HILL: The second floor rooftop  
3 terrace on the sides of the terrace facing homes?

4 MS. HOLLIDAY: Yes. Facing residents' homes.

5 CHAIRPERSON HILL: Okay. Then the other one was  
6 the location of the loading zone and the hours. Was there  
7 any specifics to that?

8 MS. STEADMAN: Well, they didn't have a major  
9 concern. They just wanted to have hours between when  
10 they'll, the garbage will be collected. So, they were saying  
11 sometime in between 8:00 a.m. and 12:00 p.m.

12 CHAIRPERSON HILL: 8:00 a.m.?

13 MS. STEADMAN: 8:00 a.m.

14 CHAIRPERSON HILL: And 12:00 p.m.?

15 MS. STEADMAN: And 12:00 p.m., yes.

16 CHAIRPERSON HILL: For trash pickup?

17 MS. STEADMAN: Correct.

18 (Off microphone comment.)

19 CHAIRPERSON HILL: Commissioner, I'm sorry. You  
20 have to push the button.

21 MS. HOLLIDAY: The loading zone would be also for  
22 other deliveries.

23 CHAIRPERSON HILL: And so, deliveries would only  
24 be between 8:00 a.m. and 12:00 p.m.?

25 MS. HOLLIDAY: Yes.

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1 MR. RITTING: May I interject? I believe this is  
2 proposed condition C3, under parking. The proposed condition  
3 reads, owner will ensure delivery vehicles to Jam Doung do  
4 not impede traffic flow on Randolph Place N.W., including  
5 requesting that DDOT identify a loading zone limited hours.  
6 So, that's the loading zone in question here.

7 CHAIRPERSON HILL: Okay. So, I guess, well, it's  
8 not specific. And I'm just trying to understand what it is.  
9 Like, where do you think that -- So, you're including, you're  
10 requesting the DDOT identify a loading zone.

11 So, I don't know if DDOT is or isn't going to  
12 identify a loading zone, I suppose. And then, with limited  
13 hours, the hours that you are proposing are the 8:00 a.m. to  
14 12:00 p.m. hours, correct?

15 MS. HOLLIDAY: Yes.

16 CHAIRPERSON HILL: Okay.

17 MS. STEADMAN: Yes.

18 CHAIRPERSON HILL: And OAG I guess is also helping  
19 to pay attention to this. So, can help during the order when  
20 it's written, okay, if we get to this point again. So then,  
21 the next one, which is D3 through D5, I think, when they're  
22 talking about trash. The location of the trash dumpster, and  
23 plan for its removal. And where will the trucks move? I  
24 guess I'm just trying to understand a little more specificity  
25 to that.

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1 MS. STEADMAN: Well, the trash, how we're going  
2 to remove the trash have not 100 percent been clear. So, we  
3 was thinking if they going to remove the trash from the  
4 alley, that would be fine. If they're going to remove, we  
5 have a three feet, I believe, easement at the back of the  
6 property.

7 So, we was thinking that the trash could be  
8 removed from the back of the property also. I need to confer  
9 with DCRA to see how we're going to work out the trash. So,  
10 that's not totally clear.

11 I know that Office of Planning was clear that I  
12 couldn't put the trash on the sidewalk, because they was  
13 going to be a sidewalk café. So, that is clear to me that  
14 the trash cannot go on the side. But I need to figure out  
15 if I can use the three feet easement at the back. And I'll  
16 figure that out with DCRA.

17 MEMBER MAY: What if it can't? I mean, what's the  
18 backup if you can't do any of these outside solutions?

19 MS. STEADMAN: If I can't do the trash to the back  
20 I'm going to get a trash compactor. And then, the trash  
21 would have to come through the side, the side door.

22 MEMBER MAY: Through the side door. So, it would  
23 all be stored inside until it gets collected from inside?

24 MS. STEADMAN: Yes.

25 MEMBER MAY: Okay.

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1           MEMBER JOHN: Mr. Chairman, if I could just add?  
2 I believe the DDOT letter said that the trash would be stored  
3 inside. And apparently there is a notation on the drawings  
4 that I could not find it myself. But DDOT did refer to a  
5 specific exhibit.

6           CHAIRPERSON HILL: Okay. Let's see. And then,  
7 on E1 you speak of a pest removal contract. What's the pest  
8 removal for, the contract for?

9           MS. STEADMAN: That is for pest control in a  
10 restaurant, like Orkin's. They require me to keep a pest,  
11 a contract with a pest control company, which is what you  
12 should do.

13           CHAIRPERSON HILL: Okay. I don't have any changes  
14 to the pest control. I mean, that's clear enough for me.  
15 And I'll let the Board kind of speak. I mean, so any kind  
16 of changes that I have right now just I guess are the A-2,  
17 which is the second floor rooftop terrace, on the sides of  
18 the terrace. Sorry, sound insulation and mitigation on the  
19 second floor rooftop terrace, on the sides of the terrace  
20 that are facing residential homes.

21           The C-3 concerning DDOT, the applicant will work  
22 with DDOT for a loading zone, and then hours between the 8:00  
23 a.m. to 12:00 p.m. And then, concerning the D-3 issue, will  
24 again work with DDOT about trash issues, and if necessary use  
25 a trash compactor to keep trash inside prior to removal.

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1           So, that's before we past to where we're going to  
2 ask more questions of the applicant. Okay. So, does anybody  
3 have any questions for the applicant about the conditions at  
4 this point?

5           MEMBER MAY: So, one of the things that came up  
6 in other submissions to the record was signage. And I'm  
7 wondering if you have conditions to propose with regard to  
8 signage. There was a particular concern about lit signs.  
9 Is that something that you have considered? It's something  
10 that's come up in meetings. What's the, what can you say  
11 about that?

12           MS. STEADMAN: Well, that issue didn't come up in  
13 the meeting when, the two meetings that we have. But when  
14 I read, when I look into the file yesterday I saw that a  
15 neighbor added a comment about signage. So, that was the  
16 first time I was seeing that, yesterday.

17           Currently we do not have any lit sign, except for  
18 the open sign. And I think we have two sign, one open, the  
19 other one saying curry chicken and jerk chicken. So, aside  
20 from those two signs I have no intentions of putting huge lit  
21 signs in Jamaican, nothing like that.

22           MEMBER MAY: So, I mean, are you willing then to  
23 incorporate a condition not to include and, you know, I mean,  
24 basically we're talking about an exterior sign, right? I  
25 mean, if you have an open sign in the window that says, that

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1 lights up, it's not a big deal. It's the, on the exterior  
2 a sign that's lit is not your intention. So, are you willing  
3 to include that --

4 MS. STEADMAN: I guess I would have to know what,  
5 like get an example of what they're, I just saw the comment  
6 that they don't want any lit sign.

7 MEMBER MAY: Yes.

8 MS. STEADMAN: I don't have any information on  
9 what exact -- Like you said, the open sign is a lit sign.  
10 But that's not what they're speaking of.

11 MEMBER MAY: Right.

12 MS. STEADMAN: I would need to know exactly what  
13 they're speaking of when they, I would need an example of  
14 what is a lit sign or --

15 MEMBER MAY: All right. So, I'll give you an  
16 example. So, are you willing, I mean, you know, it's not  
17 uncommon to have a sign that's on a board, that is, you know,  
18 has neon on it, or something like that. So, it's a neon  
19 writing.

20 Or a sign that has light, you know, embedded into  
21 it. So, like the letters will glow, you know, like a plastic  
22 sign with lighting behind it. I mean, those are the sort of  
23 things that I pictured when I read that submission.

24 MS. STEADMAN: Do they have a size specification?  
25 Or is it that they want absolutely no lit signs?

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1 MEMBER MAY: I think what they requested was no  
2 lit signs whatsoever.

3 MS. HOLLIDAY: No. I believe they said it was  
4 okay to have a lighted sign on the --

5 MEMBER MAY: On North Capitol.

6 MS. HOLLIDAY: Or not on --

7 MEMBER MAY: Correct.

8 MS. HOLLIDAY: -- Randolph Place.

9 MEMBER MAY: Yes, right.

10 MS. HOLLIDAY: Where the sign would go, and lit.  
11 I would like to point out that especially the lighted, you  
12 know, any kind of lighted signs really are guided by the DC  
13 Ordinance on signs. And it's --

14 MEMBER MAY: And we can put controls on them as  
15 well.

16 MS. HOLLIDAY: Yes.

17 MEMBER MAY: So, particularly when they're in  
18 response to concerns of neighbors.

19 MS. HOLLIDAY: Yes.

20 MEMBER MAY: And we're talking about zoning  
21 relief.

22 MS. HOLLIDAY: Okay.

23 MEMBER MAY: So again, I'd ask the question, are  
24 you willing to say that you would, you know, put in a  
25 condition that you would not have a lit sign facing Randolph

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1 Street?

2 MS. STEADMAN: I'd be willing to put in a size  
3 specification.

4 MEMBER MAY: So, on that side?

5 MS. STEADMAN: Yes. Yes. Put a size  
6 specification.

7 MEMBER MAY: And I'm sorry, a size or a side?

8 MS. STEADMAN: Size. S-I-Z-E.

9 MEMBER MAY: Size. So, you want to have the  
10 flexibility to have a lit sign, but not over a certain size?

11 MS. STEADMAN: Correct.

12 MEMBER MAY: I don't think that's particularly --

13 MS. STEADMAN: Well you --

14 MEMBER MAY: -- acceptable. But then again, I'm  
15 not in favor of this --

16 MS. STEADMAN: Okay.

17 MEMBER MAY: -- zoning variance to begin with.  
18 But I am trying to make, I'm trying to seriously address the  
19 concerns that were brought up by the neighbors. And, I mean,  
20 I think you should think about this in terms of what you  
21 would want to have outside of your bedroom window. And  
22 whether 11 o'clock at night you want to have a lit sign  
23 that's right outside there.

24 MS. HUTCHINSON: Okay. Can I say --

25 MEMBER MAY: That's the sort of condition.

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1 MS. HUTCHINSON: Can I say something here?

2 MEMBER MAY: Yes, please.

3 MS. HUTCHINSON: We're directly across from a  
4 funeral home, where this is not a business, where no one  
5 lives. Okay, that's directly across from we are located.  
6 Now, the side on Randolph Street is the largest side --

7 MEMBER MAY: Right.

8 MS. HUTCHINSON: -- of the business.

9 MEMBER MAY: Right.

10 MS. HUTCHINSON: That's the main part of the  
11 business. Now, on the North Capitol side of the business,  
12 that they're saying we should put a sign, it's an apartment  
13 upstairs. Nobody want a sign in front of their window  
14 upstairs.

15 MEMBER MAY: Well, I mean, that's a good reason  
16 not to have a lit sign at all.

17 MS. HUTCHINSON: Okay. So, this wall side of  
18 Randolph, which is the main part of the business, is a good  
19 side where we can have a sign.

20 (Off microphone comment.)

21 MS. STEDMAN: We haven't had enough time. Like,  
22 this is, you mentioning it now is really the first time  
23 we've, we're thinking about it. So, we're not comfortable  
24 agreeing to something that we haven't had time to think  
25 about.

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1 MEMBER MAY: Right.

2 MS. STEDMAN: We're just not comfortable --

3 MEMBER MAY: Yes.

4 MS. STEDMAN: -- making that commitment.

5 MEMBER MAY: I mean, I think one of the things  
6 that concerns me is that this particular issue, and even some  
7 of the things that I read in the record with regard to the  
8 way the public meetings occurred, and this was discussed,  
9 indicated to me that there hasn't been the kind of outreach  
10 to the immediately affected neighbors that should have been  
11 conducted at this point.

12 MS. STEDMAN: Yes.

13 MR. PUTNAM: And you should be ready to address  
14 all these things.

15 CHAIRPERSON HILL: All right. Give me --

16 MEMBER MAY: So, that's the --

17 CHAIRPERSON HILL: -- one second.

18 MEMBER MAY: -- I mean, that's my --

19 CHAIRPERSON HILL: Give me --

20 MEMBER MAY: -- why I'm concerned about it. And  
21 that's why I'm bringing this up.

22 MS. STEADMAN: Well, we had --

23 CHAIRPERSON HILL: Give me one second.

24 MS. STEADMAN: We had two meetings.

25 CHAIRPERSON HILL: Can I just ask, I just want to

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1 ask a quick question. I'm trying to get through the  
2 conditions real quick. And then we can go ahead. So, in  
3 terms of the sign, right, I think that what the Commissioner  
4 had concern about was just that they're lit signs.

5 So, if they're not lit signs, you can have  
6 whatever sign you want. It's just is, they're not lit. So,  
7 do you have, I know you're just hearing about it right now.  
8 And I don't know if necessarily we're all going to vote that  
9 it is something that the Board is concerned with, okay. But  
10 do you have a comfort level with saying that you just won't  
11 have lit signs?

12 MS. STEADMAN: Well, you know, with respect, we  
13 did have two neighborhood meetings with the community. We  
14 had eight neighbors in attendance. I just read this in the  
15 record yesterday. So I, this just came to my mind yesterday  
16 that they didn't want any signs.

17 CHAIRPERSON HILL: Okay.

18 MS. STEADMAN: So, I --

19 CHAIRPERSON HILL: That's fine.

20 MS. STEADMAN: I would be comfortable with saying,  
21 because I'm just thinking about it since last night. I would  
22 be comfortable in saying that we would willing to, if we  
23 decide to do a lit sign, to keep it within a size  
24 specification, rather than to have a huge neon sign, that's  
25 lighting --

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1 CHAIRPERSON HILL: Okay. That's fine.

2 MS. STEADMAN: -- up the whole neighborhood.

3 CHAIRPERSON HILL: So, at this point --

4 MS. STEADMAN: I wouldn't want --

5 CHAIRPERSON HILL: We're going to come back around  
6 to this I think. But at this point you're not comfortable  
7 with it. So, let's just, we can all talk about it one way  
8 or the other.

9 So, that's one that we still have to come back to,  
10 in terms of the lit sign. I guess, before we move on from  
11 the lit sign, does anyone else have any other thoughts or  
12 comments about the lit sign?

13 MEMBER WHITE: I mean, my only comment was that  
14 I'm, I can understand the concern. But I don't know if that  
15 particular issue was a major issue that was discussed during  
16 any of the ANC meetings, or community meetings.

17 But if they're willing to make an adjustment,  
18 that's fine. But that's not how I'm going to be basing my  
19 decision with respect to the application today.

20 CHAIRPERSON HILL: Okay. Anybody else have a  
21 comment about the lit sign?

22 MEMBER HART: Just, honestly I just don't recall.  
23 I mean, I know that there are guidelines, that D.C. has  
24 guidelines for signage. I just don't know how that would  
25 affect or not affect, you know, what's happening on this

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1 instance. So, I'm just trying to kind of understand that  
2 there are some guidelines that talk about the sign size.

3 CHAIRPERSON HILL: Okay. Okay. One second,  
4 Commissioner. I'll come back to you in a second. Do you  
5 have any comments?

6 MEMBER JOHN: I agree that there was no discussion  
7 of the sign issue during all of the meetings. And I believe  
8 the Commissioner described the process of getting  
9 neighborhood input. And I believe there's something in the  
10 record showing how they advertised the meeting.

11 So, from that perspective, excuse me, I think they  
12 made an effort to involve the community. And the issue of  
13 signs should have been brought up then. However, I also  
14 understand that neighbors might not want to see a huge sign,  
15 you know, as they look through their window late at night,  
16 a huge lit sign.

17 So, I think it's reasonable to limit the size of  
18 any lit sign, because it's on the residential side. So, that  
19 would be one compromise that the applicant could make to help  
20 with any adverse impact on the neighbors. And that would  
21 just be my thought.

22 CHAIRPERSON HILL: Okay. We can come back to it  
23 then. Okay. Outside of the sign question, does anybody have  
24 any other comments on the conditions?

25 MEMBER HART: Just to kind of understand this

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1 again. The trash issue was one that was kind of raised. And  
2 I'm just trying to kind of make sure I understand that. And  
3 the hours of operation.

4 There was some letters that talked about the hours  
5 shouldn't be any later than 9:00 p.m., because it's a  
6 restaurant. And, 9:00 p.m. on weekdays, and I think 11:00  
7 p.m. on Friday and Saturday. But those are the two things  
8 that I'm still trying to kind of grapple with a little bit.  
9 Where did you say that the trash would be removed from?

10 MS. STEADMAN: Okay. So currently the trash would  
11 be stored inside. And then the trash would be removed from  
12 the side door on Randolph Place.

13 MEMBER HART: To the, to just the sidewalk?

14 MS. STEADMAN: No. It will be removed directly  
15 to the trash truck.

16 MEMBER HART: Oh, I see what you're saying. Okay.  
17 And, but you were saying something about the alley?

18 MS. STEADMAN: Right. If I can get that three  
19 feet easement that I have, I can store the trash at the back.  
20 And then, there's an access to the trash through the alley.

21 MEMBER HART: Okay.

22 MS. HOLLIDAY: I think that the, part of the issue  
23 was where would the trash truck go, okay. And neighbors were  
24 concerned that the trash truck not be located in such a way  
25 that it would block traffic, okay. So, that's why the

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1 neighbors proposed the idea of, if it were going to be  
2 outside, putting the trash dumpster in the easement.

3 The alternative would be a compactor. And I don't  
4 know anything about compactors. I don't know if they even  
5 need trash trucks, you know.

6 CHAIRPERSON HILL: Okay. Commissioner, I just  
7 have a quick question for you. And then -- Oh, sorry. Vice  
8 Chair Hart?

9 MEMBER HART: It was just the time issue. I mean,  
10 there were neighbors that were saying that because it's a  
11 restaurant, that most restaurants have, they close at 9:00  
12 p.m. I mean, I could understand that. The 11:00 p.m. I  
13 think was okay. But they were more concerned, on the weekend  
14 they were okay. But the 9 o'clock on the week was more of  
15 an issue.

16 MS. STEADMAN: Right.

17 MEMBER HART: It was raised by a couple of people.  
18 I know that.

19 MS. STEADMAN: So, yes, it was raised by a couple  
20 of people. But when we had the meeting they were, we took  
21 a vote on it. And most of the neighbors that was at the  
22 meeting was in agreeance that they want us to remain  
23 competitive as a business, with other business in our area.

24 And they disagree with the neighbors that wanted  
25 9 o'clock. They thought that they weren't being fair to us.

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1 And they weren't allowing us to be competitive. So, we  
2 agreed to, in both papers that we have noted, we agreed to  
3 12 o'clock. Kitchen will close. Last seating would be at  
4 10:00 p.m. And the kitchen will close at 12:00 a.m. And  
5 that was the consensus at the meeting.

6 CHAIRPERSON HILL: And so, Ms. Steadman,  
7 Commissioner, I'll get back to you, okay. Ms. Steadman,  
8 again, this is all in the conditions that you guys went  
9 through already with the ANC, and everybody signed off on,  
10 correct?

11 MS. STEADMAN: Correct.

12 CHAIRPERSON HILL: Okay. And so, Commissioner,  
13 the only, I mean, for me, and I was trying to get a little  
14 bit. So, we had a full hearing the last time we were here,  
15 right? I mean, like, we took testimony. There were people  
16 here that were, you know, that were witnesses from the  
17 community.

18 I mean, you guys have been an outstanding member  
19 of the community for a long time. You've been here in that  
20 location for a long time. I mean, you already are operating  
21 as a restaurant, right? And so, you know, now this was an  
22 opportunity for the community again to come forward and  
23 participate in whether or not there --

24 You know, again, we don't know what's going to  
25 happen at this point. But whether or not there was going to

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1 be conditions involved, right? And so, Commissioner, you  
2 went through this extensive process to go ahead and get  
3 conditions made, right.

4 And so, and you've spent your time coming down  
5 here today, and being here. And you spent your time coming  
6 down here the last time today and being here, right. So,  
7 from my standpoint, as far as the conditions are concerned.

8 I was trying to find clarity. And I'm giving my  
9 opinion on this. I was trying to understand the clarity of  
10 the conditions that were put forth. The last question I have  
11 for you, Commissioner, is in terms of this --

12 Because now all of a sudden there's just letters  
13 that are coming into the record. And they're not here. You  
14 know, we're going, or maybe they are. We're going to see  
15 what's happening with the conditions in a second. But, you  
16 know, a letter pops into the record. And then there's  
17 something that we start talking about.

18 So, you know, you're the ANC Commissioner. You're  
19 the, you're here representing the ANC. Was there a  
20 discussion about lit signage? You can just go --

21 MS. HOLLIDAY: At ANC?

22 CHAIRPERSON HILL: Yes.

23 MS. HOLLIDAY: No.

24 CHAIRPERSON HILL: Okay.

25 MS. HOLLIDAY: I mean, that --

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1 CHAIRPERSON HILL: I'm not saying we're not going  
2 to necessarily talk about it. Because now the Board is here  
3 trying to --

4 MS. HOLLIDAY: No. I'm just saying --

5 CHAIRPERSON HILL: -- determine --

6 MS. HOLLIDAY: No. There was no --

7 CHAIRPERSON HILL: Okay. All right. Okay.

8 MS. HOLLIDAY: -- discussion about signage.

9 CHAIRPERSON HILL: All right. Does the Board have  
10 any other questions for anybody here about the conditions?

11 MEMBER MAY: I have question about the trash. I  
12 mean, how is trash handled right now?

13 MS. STEADMAN: Right now we have alley access.  
14 So, the trash is placed at the back of the building, and is  
15 picked up through the alley.

16 MEMBER MAY: So your, the rear of your property  
17 right now, where you are right now butts right up against a  
18 public alley?

19 MS. STEADMAN: Well, it's not -- Where we're at  
20 right now actually have a back yard. So, we put the trash  
21 in the back, and they access it through the alley.

22 MEMBER MAY: Okay. But the rear of the yard  
23 itself faces a public alley?

24 PARTICIPANT: No.

25 MS. STEADMAN: No. Also, there's an easement to

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1 come in --

2 PARTICIPANT: On the alley.

3 MS. STEADMAN: -- from the alley.

4 MEMBER MAY: So, you go through that three foot --

5 MS. STEADMAN: Easement.

6 MEMBER MAY: -- easement to access the alley where  
7 the trash truck picks it up?

8 MS. STEADMAN: Correct.

9 MEMBER MAY: And because you have a rear yard, you  
10 don't have that addition on the back. That's why you can put  
11 the trash into the rear yard --

12 MS. STEADMAN: Exactly.

13 MEMBER MAY: -- until it's picked up.

14 MS. STEADMAN: Yes.

15 MEMBER MAY: Okay. Thank you. I appreciate  
16 clarifying that. So, I still remain very concerned about the  
17 terrace. And, I mean, it's, I don't believe that shrubbery  
18 is going to do much to mitigate that. I mean, I have studied  
19 acoustics a little bit, and know that the, you know, there's  
20 some effect. But it's not very much.

21 And I'm not really sure what you're talking about  
22 in terms of any kind of further sound insulation from sound  
23 that would travel from that terrace. Because I think that's  
24 a very serious issue. And you're going to wind up with  
25 complaints from neighbors. Certainly the immediately

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1 abutting neighbors are going to be very concerned about it.

2 I mean, have you looked at, I mean, are you  
3 actually thinking about doing some sort of an enclosure on  
4 that space, so that you could put in that kind of insulation  
5 that you talked about earlier, whatever it was?

6 MS. STEADMAN: Well, everything is optional right  
7 now. I haven't done anything concrete, because I was waiting  
8 for BZA to make a decision. So, if later on, when, if there  
9 is a noise issue, if there is a noise concern --

10 Like the Chairman said, we have been in business  
11 for 20 years. And we're responsible business owner. We care  
12 about the community. I'll be living in the neighborhood as  
13 well.

14 So, if there is a concern I don't see us not  
15 addressing the concern, or just saying that it's not an  
16 issue, we don't care, just live with it. It will be  
17 addressed. I've been in the community for 20 years. And as  
18 you can see, there's not a lot of issue or complaints from --

19 MEMBER MAY: I would disagree with that statement.  
20 Because we do have some immediate neighbors who are very  
21 unhappy about this.

22 MS. STEADMAN: I have five letters of opposition,  
23 with a 200 yard limit --

24 MEMBER MAY: No. It doesn't matter necessarily  
25 the quantity. It's a matter of the nature of the complaint

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1 and the concern, right. And so, if you lived across the  
2 street from a business that conflicted with your ability to  
3 use your property, I mean, wouldn't you be, you know isn't  
4 that an important consideration that we should be taking into  
5 our decision making process?

6 I mean it's, again, it's not so much about the  
7 quantity, it's about the nature of the complaints.

8 PARTICIPANT: It's, well, I don't think you have  
9 anything --

10 CHAIRPERSON HILL: Wait. I'm sorry --

11 (Simultaneous speaking.)

12 MS. HUTCHINSON: Okay. I'm just saying, I don't  
13 think you have any letter there from any neighbor across the  
14 street.

15 MEMBER MAY: There's a letter from somebody at 12  
16 Randolph Street. That's across the street, right? Number  
17 12 Randolph is across the street.

18 MS. STEADMAN: And again, when we was still in the  
19 first process I didn't, we went to 12 Randolph, and we spoke  
20 with her. And initially she said she didn't have an issue.

21 MS. HUTCHINSON: Right.

22 MS. STEADMAN: And we didn't hear from 12 Randolph  
23 until yesterday.

24 MS. HUTCHINSON: Right.

25 MS. STEADMAN: So, if she had a problem, we've

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1 been dealing with this since November. And when we went to  
2 get our petition signed we spoke with her. She gave us her  
3 support. She didn't put a letter in. And then a letter  
4 popped up yesterday. I don't know if she -- And whenever she  
5 developed the issue, if it is an issue --

6 And that goes to what I'm saying, you know. Doing  
7 business issues going to come up. We can't foresee right  
8 now. But I'm letting you know that from our record we're a  
9 responsible business owner. And we'll address it and deal  
10 with it.

11 MEMBER MAY: Okay.

12 CHAIRPERSON HILL: Okay.

13 MS. STEADMAN: Because issues are always going to  
14 come.

15 CHAIRPERSON HILL: Okay. Just let me get, so  
16 right. So, there was a question about the sound again from  
17 the terrace. So, does anyone else have any questions right  
18 now about the sound from the terrace, in terms of the  
19 mitigation that has been currently proposed by the applicant  
20 and the ANC?

21 Okay. All right. Okay. Let me, we're going to,  
22 we'll come back around here. Okay, I'm sorry. Go ahead Mr.  
23 --

24 MEMBER HART: So, I mean, this is not related to  
25 sound. But it does to the bigger picture of conditions,

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1 right. And this is something that also showed up in letters.  
2 But it's also something that we have done regularly, which  
3 is to put a time limit as a way of testing this.

4 So, that the relief that's granted is granted for  
5 period of three years, or five years, or something like that.  
6 And so, that in five years they have to come back and  
7 demonstrate that in fact they have been the good neighbors  
8 and good business people that the applicant claims to be at  
9 this point.

10 But, you know, actually operating an outdoor café  
11 is a little bit different from the current operations. And  
12 so, you know, putting a time limit of three or five years on  
13 this relief may be an appropriate way of making sure that in  
14 fact everything is being done properly. And if not, that  
15 there's an opportunity to add further conditions that address  
16 neighborhood concerns.

17 CHAIRPERSON HILL: Okay. So, another thought now  
18 that Commissioner May is proposing is, and I haven't thought  
19 about it just yet, I mean, now, is a time limitation on the  
20 order. My, I guess, I don't know, my concern, like, my  
21 concern more with the time limitation on this particular  
22 order is the amount.

23 If this order were to go through, is the amount  
24 of effort that the applicant would need to move forward, in  
25 order to get this establishment the way that they seem to be

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1 planning to do it, which would then put the applicant in  
2 jeopardy, I think, if they were to come back again in five  
3 years about the use, if that's what would happen?

4           If we're talking about just sound, or noise, or  
5 the terrace, then I can understand coming back, and seeing  
6 whether or not they, you know, are meet -- Or, you know, are  
7 these conditions, we're coming back to renew the conditions,  
8 and looking at the conditions?

9           I would be comfortable with that. I wouldn't be  
10 comfortable necessarily putting a time limit on the use,  
11 and/or, the more the variance issues, for the reason, and I  
12 don't know where we're going to get to. But again, for the  
13 reason that I think it puts the applicant in jeopardy in, you  
14 know, five, ten years that they'd have to come back for that.

15           MEMBER MAY: Well, let me just clarify. First of  
16 all, I'm only talking about the conditions on the external  
17 uses of the property, so the terrace and the outdoor café.  
18 I mean, in the past I don't, I mean, I don't know if we have  
19 done a time limit that was only applicable to the conditions,  
20 or a requirement that the conditions must be revisited and  
21 renewed within a period of time.

22           I mean, I guess that's something that the Board  
23 can consider. It is a little bit unusual I think. And yes,  
24 I mean, it's, I would not suggest that if the Board were to  
25 approve the variance on the second floor, the second floor

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1 use, that that would be in jeopardy after five years.

2 CHAIRPERSON HILL: All right. I'm just  
3 clarifying.

4 MEMBER MAY: But simply --

5 CHAIRPERSON HILL: All right. So, you're --

6 MEMBER MAY: It's just simply the exterior.

7 CHAIRPERSON HILL: Your suggestion at this point,  
8 or we'll say that would be for a, you know, a time limit on  
9 the -- Can you clarify that again? What's your --

10 MEMBER MAY: With regard to the exterior uses of  
11 the property. So, if in fact they go ahead and start doing  
12 the outdoor café, and then the terrace seating, that those --

13 CHAIRPERSON HILL: Okay.

14 MEMBER MAY: That use might not be permitted after  
15 five years if they don't, if the conditions are not effective  
16 in mitigating any potential impact.

17 CHAIRPERSON HILL: Okay. So, that's another thing  
18 that now is kind of on the table here. So, what does the  
19 Board think about the -- So, what's being, if you, proposed  
20 again, is again just kind of like, you know, us as a Board,  
21 it's very difficult for us to say you're going to, you know,  
22 obviously again, we're already here.

23 The track, as I've said before, the track record,  
24 the ANC is here. It's more kind of like what we've done in  
25 the past for things that maybe we didn't know how the relief

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1 requested might affect the neighborhood in the long run, or  
2 not. So, it would be just for the outdoor café and the  
3 terrace.

4 You would have to come back here at, you know,  
5 whatever term limit we think is good to test the waters, as  
6 to whether these conditions are actually mitigating the  
7 adverse impact or not. So, like say five year, ten years,  
8 whatever, you know, three years, whatever is being kind of  
9 proposed.

10 So, before I move to the applicant, because the  
11 applicant will be like, I'm not interested in that anyway.  
12 So, the Board here, what do you think on a term limit for the  
13 use that is being proposed by Commissioner May?

14 MEMBER HART: I would be in support of it. I  
15 think that it's actually probably a good thing to do.

16 CHAIRPERSON HILL: Okay. How long a term limit  
17 for the proposed use?

18 MEMBER HART: This is the use, the outside stuff?

19 CHAIRPERSON HILL: The outdoor café or terrace.

20 MEMBER HART: I think that probably a three year.  
21 Because that will, what that would do would be, you'd  
22 understand what was happening in that period of time.

23 PARTICIPANT: Yes.

24 CHAIRPERSON HILL: Yes. I'd be, so I'd be, well,  
25 I mean, I'd be voting for a five year. I mean, they'd have

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1 to come back probably again in three years.

2 MEMBER HART: I understand. I'm just saying that  
3 that's, that would be, it's one of these things that you  
4 could give longer at the, you know, in the future. But right  
5 now this is not in existence at this moment. The restaurant  
6 is, the outdoor uses are not. And so --

7 CHAIRPERSON HILL: Okay. So, three years for the  
8 outdoor use? That's where the, currently on the table is  
9 three years for the outdoor use, in terms of a condition.  
10 Does anyone else have any thoughts?

11 PARTICIPANT: Sorry.

12 MEMBER HART: Just also, I mean, I'm okay, I would  
13 be in support of three years. If you want to do five, I  
14 don't have a problem with that either. I'm just saying that  
15 I think the three years are probably more appropriate for  
16 this. But I'd be supportive of three or five.

17 MEMBER WHITE: Yes. Well, I can understand why  
18 you might want to have somewhat of a time limit. But I do  
19 have a little concern about consistency, in terms of placing  
20 time limits on businesses that have outdoor eating areas.  
21 I don't know if we do that across the board with all of our  
22 applications.

23 And for me, unless the ANC or the community has  
24 specifically asked for some kind of time limit, I don't see  
25 necessarily the benefit for adding a time limit, since the

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1 applicant has a very good reputation in the community.

2 CHAIRPERSON HILL: Okay.

3 MEMBER WHITE: But that's just my --

4 CHAIRPERSON HILL: Okay.

5 MEMBER WHITE: -- two cents.

6 CHAIRPERSON HILL: Okay. You get a vote. So, Ms.  
7 John.

8 MEMBER MAY: I just want --

9 CHAIRPERSON HILL: Okay. Sorry. Go ahead.

10 MEMBER MAY: I just want to interject one thing.  
11 I mean, the Office of Attorney General just whispered in my  
12 ear that it may be a difficult thing to try to figure out a  
13 condition that would apply only to that outdoor use. And  
14 he's not totally convinced that can be done.

15 So, I think that's something that we might, we can  
16 discuss. But probably can't decide until OAG's had some time  
17 to think about whether in fact we could do that, or how we  
18 might do that. So, I'm just throwing that into the mix.

19 CHAIRPERSON HILL: OAG, so what are you trying to  
20 say?

21 MR. RITTING: Mr. May's proposed limitation on the  
22 time limit condition, I'm not sure if I can do it.

23 CHAIRPERSON HILL: Right. For the outdoor --

24 MR. RITTING: Right.

25 CHAIRPERSON HILL: I mean, we've done time

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1 limitations on orders.

2 MR. RITTING: Right. Right.

3 CHAIRPERSON HILL: That's what I'm speaking of.  
4 That's what I got confused about, okay.

5 MR. RITTING: Right.

6 CHAIRPERSON HILL: And so, time limitations on  
7 just this one particular use, right, for the outdoor café.  
8 And so, okay, so you're not sure? Okay. Boy, I'm earning  
9 my money today. Okay. So --

10 MEMBER JOHN: Mr. Chairman.

11 CHAIRPERSON HILL: Yes, sure. Go ahead.

12 MEMBER JOHN: I am sure that I would not support  
13 any time limits.

14 CHAIRPERSON HILL: Okay. Ms. Steadman, can you  
15 explain to me again the outdoor, the, how big is the terrace?  
16 How many tables are we talking about?

17 MS. STEADMAN: Sure. Maybe four tables.

18 CHAIRPERSON HILL: Four four tops?

19 MS. STEADMAN: Yes, four tops.

20 CHAIRPERSON HILL: Okay.

21 MS. STEADMAN: Three to four tables.

22 CHAIRPERSON HILL: Okay. You hear that restaurant  
23 lingo, four four tops, when I was waiting tables? Okay. All  
24 right. All right. So, four four tops. Okay. And then  
25 again, back to the Commissioner. And the Commissioner, there

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1 wasn't any discussion about the terrace necessarily, other  
2 than the sound?

3 I mean, again, by the way, bushes I don't think  
4 are going to do a whole lot either, okay. But like, you  
5 know, you telling people to be quiet, that's a whole other  
6 thing, right.

7 But like, sound mitigation, you know, it was  
8 again, the sound mitigation, however, you know, this has been  
9 like now spoken about. That was, the ANC was comfortable  
10 enough with what that condition was, correct?

11 MS. HOLLIDAY: Yes.

12 CHAIRPERSON HILL: You have to push the button,  
13 please.

14 MS. HOLLIDAY: Yes. The idea of an insulated  
15 walls was actually one that --

16 CHAIRPERSON HILL: Yes. But we don't know, they  
17 haven't proposed that at this point. But that's something  
18 you, so that's --

19 MS. HOLLIDAY: No, I --

20 CHAIRPERSON HILL: I'm sorry.

21 MS. HOLLIDAY: I haven't finished my --

22 CHAIRPERSON HILL: Sure. I'm sorry.

23 MS. HOLLIDAY: The idea of the insulated wall was  
24 one that was derived from another Bloomingdale restaurant.  
25 And that was a condition that was set on it for its rooftop

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1 terrace by ABRA I believe. So, that's where that idea came  
2 from.

3 CHAIRPERSON HILL: I got you. And just now, the  
4 way again that I have the condition currently written was  
5 just, you know, sound insulation mitigation on the second  
6 floor terrace, second floor rooftop terrace on the sides of  
7 the terrace facing homes. I mean, that's the way it's  
8 written currently. And that's the way the ANC was  
9 comfortable with it.

10 MS. HOLLIDAY: I think it was insulated walls.  
11 Did we use the -- Let me see.

12 CHAIRPERSON HILL: Okay. All right. That's okay.

13 MS. HOLLIDAY: I think it's insulated walls on  
14 those sides of the terrace that were facing neighbors.

15 CHAIRPERSON HILL: Okay. I'm, if we get past  
16 this, I'm comfortable with the way the ANC has written the  
17 condition. And that the applicant will work with the  
18 community on that issue. I would also be fine with a, if we  
19 could have done it, a time limit for the outdoor rooftop  
20 terrace. I mean, we're getting held up here now for four  
21 tables. And so, sure, Ms. Commissioner.

22 MS. HOLLIDAY: Yes. I do want to remind the Board  
23 that this will be a restaurant. There is, I believe, an  
24 intention to get a liquor license. So, between the licensing  
25 as a restaurant, and the licensing for service of liquor

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1 there will be, you know, those license are for specific time  
2 periods.

3 And especially in terms of ABRA licensing, which  
4 I'm much more familiar with, it is I believe for a three or  
5 four year period. They have hearings. You can protest.

6 CHAIRPERSON HILL: Right, sure. Okay.

7 MS. HOLLIDAY: You know, the whole thing.

8 CHAIRPERSON HILL: All right. Okay. All right.

9 MS. HOLLIDAY: So this is kind of a done, you know  
10 --

11 CHAIRPERSON HILL: Yes. I mean, I'm just trying  
12 to get through my day --

13 MS. HOLLIDAY: Yes.

14 CHAIRPERSON HILL: -- you know, but right.

15 MS. HOLLIDAY: I understand.

16 CHAIRPERSON HILL: So, right. So, but ABRA, and  
17 so, okay. I think we're, where we are we can't probably do  
18 it anyway. So, the condition that I currently have right now  
19 is again, sound insulation mitigation on the second floor  
20 rooftop terrace, on the sides of the terrace facing  
21 residential homes. And that's just what I have at this  
22 point.

23 So, okay. Outside of all this discussion that  
24 we've had, is there any new discussion anybody wants to bring  
25 up? Okay. I don't know why I'm turning to the Office of

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1 Planning. Because I don't think there's anything new the  
2 Office of Planning is going to tell me. But, you're shaking  
3 your head. But do you have anything to add, Office of  
4 Planning?

5 MR. KIRSCHENBAUM: Jonathan Kirschenbaum for the  
6 Office of Planning. Good afternoon, Chair Hill, and Members  
7 of the Board. We have no objection to the conditions of the  
8 ANC, applicant, and neighbors devise. And we don't have, and  
9 we will defer to the Board for any further stipulations or  
10 conditions they may choose to impose. Thank you.

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

13 MS. STEADMAN: No, sir.

14 CHAIRPERSON HILL: Okay. All right. So, I'm  
15 going to turn to the audience and see if there's anybody here  
16 who wants to provide testimony either in support or  
17 opposition to the conditions that we've been talking about  
18 with this new continued hearing.

19 Is there anyone here who would like to speak in  
20 support of the application? Is there anyone here who would  
21 like to speak in opposition to the application? If you could  
22 please come forward?

23 MS. McDANIEL: Good afternoon.

24 CHAIRPERSON HILL: Good afternoon. If you'd  
25 please introduce yourself for the record?

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1 MS. McDANIEL: My name is Betsy McDaniel, and I  
2 reside in the square where this is located. And if you'll  
3 indulge me for one second, I promised I'd tell my son, Happy  
4 Birthday.

5 CHAIRPERSON HILL: Okay. Great. If you guys  
6 could turn off your microphones for me, just for a minute?  
7 Thanks. So, Ms. McDaniel, I know you've been here before.  
8 And so, I'm going to go ahead and put three minutes on the  
9 clock for your testimony.

10 What, and I don't know exactly what testimony you  
11 have for us. I mean, it was for a continued hearing, meaning  
12 we are supposed to be hearing testimony on all of the  
13 testimony that you've been given, or you've seen today in  
14 terms of the conditions. But I'm going to go ahead and put  
15 three minutes on the clock, and just let you have your  
16 testimony. And we'll see where we get.

17 MS. McDANIEL: Okay. So, I'm the person who  
18 submitted testimony that mentioned the signs. So, did you  
19 read my written testimony I submitted?

20 MEMBER MAY: You were, there was more than one on  
21 signs.

22 MS. McDANIEL: Oh, okay. Well, I would be happy  
23 to read my entire testimony, if you did not --

24 CHAIRPERSON HILL: You can do whatever you want  
25 with your three minutes, Ms. McDaniel.

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1 MS. McDANIEL: Okay. So, let me, to explain about  
2 the signs, it did not come up at the second neighborhood  
3 meeting. But there were, the meeting went for hours, like  
4 the first meeting had done. And so, the hours, I mean, the  
5 signs were an item on the survey that was conducted on the  
6 block.

7 And I know the ANC Commissioner had the results  
8 of the survey. So, the issue of the sign, which was well  
9 supported, was in that survey, as well as a condition that  
10 there would be no outdoor use at all on the outdoor terrace  
11 on the second floor. That was well supported by the  
12 neighbors in the survey.

13 So, I have to say, there were only three neighbors  
14 there. So, when you hear most, or a consensus, it was two  
15 of the neighbors supported everything. And I unfortunately  
16 was the one who didn't support everything. And I was trying  
17 to present the outcome of the survey. And I didn't get  
18 around to doing all of that.

19 I, what are the main points? So, the question of  
20 the, you know, that outdoor space, whether it's permitted or  
21 not. And I thought the Office of Planning strongly opposed  
22 having that, using that space, granting a variance for that  
23 space.

24 Yes. I mean, you're in the position of, yes, I  
25 support plantings, and whatever for that space. But that

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1 does not mean that you support the space at all, you know.  
2 You can't wait until, I mean, we can't wait until you decide  
3 on the variance whether you approve it or not, and then  
4 discuss the conditions. So, you're in the position of  
5 discussing conditions for something you don't even support.  
6 So, I want to make that clear, that --

7           So, and as far as the sign goes, I mean, I'd like  
8 to remind you that this, the Randolph Place side is, you  
9 know, is a solid residential street. It's, the square's due  
10 north, due south, due east, due west, those are all  
11 residential squares.

12           And so, you don't, that's not something you see  
13 on a row house very often is a lighted sign. And North  
14 Capitol is the address. And the more commercially oriented,  
15 even though it is a RF-1. So, I'm just not sure what else  
16 to say in addition to my testimony, except --

17           Oh, sorry, the hours. Until the meeting, the last  
18 meeting, it was never mentioned that they wanted to be open  
19 on Sundays. It was never mentioned that they wanted to be  
20 open on, for breakfast. And all the hours that had been  
21 discussed before were shorter. It didn't include Sunday.

22           And that was totally out of the blue at the  
23 meeting where only three neighbors were present. And so, and  
24 that was not discussed. It wasn't, it's in the OP report.  
25 It's in an exhibit they submitted. The hours didn't include

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1 Sunday or breakfast. And I think it's a major concern for  
2 parking and traffic.

3 And I think if those hours are allowed that DDOT  
4 should look at this project again. Because it's right off  
5 North Capitol. People, unfortunately it's commuter route.  
6 It's the first exit going south off North Capitol. And when  
7 people get backed up in traffic on North Capitol they turn  
8 on to Randolph.

9 And that's when it's a problem with illegal  
10 parking at the corner. Because it makes it difficult for  
11 people to turn. And that's why there was also concern about  
12 deliveries, and trash that, impeding -- Not that I wouldn't  
13 mind closing off Randolph Place to any commuter traffic.

14 But, as I thought of this yesterday it really  
15 creates a problem. When someone gets mad -- Someone parallel  
16 parked yesterday to go into Jam Doung. And when, it takes  
17 a moment. This person was really good at parallel parking.  
18 But it takes a moment.

19 And so, by the time they were parked, the car  
20 waiting behind them at North Capitol floored it to go down  
21 Randolph Place. This is a residential street that has some  
22 baby boom going on. It's, you know, it causes, it increases  
23 the danger on the block. So --

24 CHAIRPERSON HILL: Okay.

25 MS. McDANIEL: That's, thank you. I appreciate

1 you let, not interrupting me when I went over my --

2 CHAIRPERSON HILL: Oh, that's all right. Thank  
3 you, Ms. McDaniel. All right. Does anybody have any  
4 questions for Ms. McDaniel?

5 MEMBER HART: Just one quick question. The  
6 funeral home? Is that sign illuminated?

7 MS. McDANIEL: I think it is. That funeral home's  
8 been there forever. And it was a little controversial --

9 MEMBER HART: Yes. I just was, I was just  
10 curious. Because it's hard to tell. Because, you know, if  
11 you look at like, you know, on maps or anything online, it's  
12 just, it's a little difficult to figure out.

13 MS. McDANIEL: It's an --

14 MEMBER HART: I just didn't know if it is or  
15 isn't.

16 MS. McDANIEL: It's an existing business, not  
17 seeking a variance.

18 MEMBER HART: I wasn't saying that. I was just,  
19 I was trying to understand what was already there. And I  
20 just didn't know if it --

21 MS. McDANIEL: Yes. The funeral home was  
22 originally where, at 1724, where Jam Doung is moving to. So,  
23 the funeral home was originally there. But they moved across  
24 the street many, many years ago. So, there's --

25 MEMBER HART: They were there before the

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1 hairdresser?

2 MS. McDANIEL: Mm hmm.

3 MEMBER HART: Okay.

4 MS. McDANIEL: So yes. They were there. Then  
5 they moved across the street, and --

6 MEMBER HART: Thank you.

7 CHAIRPERSON HILL: Okay. Give me a second. Give  
8 me a second. So, yes. You had a question?

9 MS. STEDMAN: Yes. I was just wondering, like,  
10 Betsy lives approximately 1,000 yards from the restaurant.

11 CHAIRPERSON HILL: Ms. McDaniel.

12 MS. STEDMAN: Ms. McDaniel.

13 CHAIRPERSON HILL: Okay.

14 MS. STEDMAN: So, I was just, I don't, I guess I'm  
15 wondering how she's --

16 CHAIRPERSON HILL: Anybody can --

17 MS. STEDMAN: I thought it was at 200 yards.

18 CHAIRPERSON HILL: Anybody can testify. Anybody  
19 can testify, no matter where they are in the city, actually.  
20 So --

21 MS. STEDMAN: Okay.

22 CHAIRPERSON HILL: So, okay. So, but anyway,  
23 okay. I guess you can answer, sure.

24 MS. McDANIEL: I'm not good at distances. I'd say  
25 it's 400 feet. I'm on the same block. And the people who

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1 have testified at the last hearing were nowhere near that  
2 block. So --

3 CHAIRPERSON HILL: Okay, yes. I don't know.  
4 Okay. All right. Thanks, Ms. McDaniel. All right. Anyone  
5 else? Okay. All right. Thanks, Ms. McDaniel.

6 MS. STEADMAN: I would like to say that --

7 CHAIRPERSON HILL: Wait. Give me one second.

8 MS. STEADMAN: Okay. Ms. McDaniel --

9 CHAIRPERSON HILL: All right. Ms. Steadman, what  
10 were you going to say?

11 MS. STEADMAN: I would like to say, Ms. McDaniel  
12 was at both meetings. And she did bring up her concerns at  
13 the meeting. And she was outvoted at the meetings. Because  
14 what we did was we, everyone had an opportunity to put their  
15 concerns on the table.

16 And at the end of the four hour meeting we took  
17 a vote. And she was outvoted. And the stipulations that was  
18 put forth, and everyone at the meeting agreed on, that's what  
19 we submit to the records.

20 CHAIRPERSON HILL: Okay. So now you got to bring  
21 this up again. Ms. McDaniel, do you want to come back up?  
22 Do you have any response? You don't have to yell. If you  
23 have any response, just come back up. Ms. Steadman, this is  
24 how it goes. You say something, they say something. They  
25 say something, you say something.

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1 MS. McDANIEL: Thank you. I believe I stated  
2 earlier, I don't remember how many people were at the first  
3 meeting. There were eight neighbors. I don't know. This  
4 last meeting there were three neighbors. Two who had not  
5 participated in the previous meeting. I was the only one who  
6 --

7 CHAIRPERSON HILL: Okay. But the ANC Chair was  
8 there.

9 MS. McDANIEL: Yes. She facilitated both  
10 meetings.

11 CHAIRPERSON HILL: Okay.

12 MS. McDANIEL: And the second meeting was  
13 basically wordsmithing the conditions from the first meeting,  
14 except to extend, greatly extend the hours.

15 CHAIRPERSON HILL: Okay. Okay.

16 MS. McDANIEL: And, but there were two neighbors  
17 --

18 CHAIRPERSON HILL: Okay.

19 MS. McDANIEL: -- there who voted in support. And  
20 I voted in opposition.

21 CHAIRPERSON HILL: Okay. All right. Okay.

22 MS. McDANIEL: So --

23 CHAIRPERSON HILL: There was three people. Okay.

24 MS. McDANIEL: Yes, three.

25 CHAIRPERSON HILL: Okay, great. All right. Thank

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1 you. Okay. Ms. John, you have a question?

2 MEMBER JOHN: Yes. What kind of sign do you have  
3 on the restaurant now? Is it, what's the size of the sign?  
4 And is it lit?

5 MS. STEADMAN: Currently I have two lit signs now.  
6 One is the open sign. I'm not sure what size it is. And I  
7 have another lit sign that say curry chicken and jerk  
8 chicken. It's not very big. But I don't know the size. So,  
9 those are currently the only two lit signs that I have.

10 MEMBER JOHN: Thank you.

11 MEMBER WHITE: There's actually a picture of it  
12 in the, I think in the record, if you wanted to see it. And  
13 it's lit I think. Yes.

14 CHAIRPERSON HILL: Okay. I have a question for  
15 the applicant, real quick. And I forget, I was kind of going  
16 through your drawings again. So, on the second floor, how  
17 many customers could you have on the second floor?

18 MS. STEADMAN: Well, I'm waiting --

19 CHAIRPERSON HILL: Not counting the terrace.

20 MS. STEADMAN: I'm waiting for DCRA to let me know  
21 how many customers I can have on the second floor. But I  
22 believe it's somewhere between, I don't think it's more than  
23 seven tables on the second floor.

24 CHAIRPERSON HILL: Okay. Do you know how many  
25 people? That doesn't tell me.

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1 MS. STEADMAN: Maybe it will be 20 people.

2 CHAIRPERSON HILL: Okay.

3 MS. STEADMAN: I'm not sure.

4 CHAIRPERSON HILL: And that's on the second floor.

5 MS. STEADMAN: That's on the --

6 CHAIRPERSON HILL: So, the terrace is going to  
7 give you an additional like 12 --

8 MS. STEADMAN: Twelve.

9 CHAIRPERSON HILL: -- 16?

10 MS. STEADMAN: Yes. And the first floor is even  
11 less. Because the first floor I have three --

12 CHAIRPERSON HILL: All right. Okay.

13 MS. STEADMAN: -- tables.

14 CHAIRPERSON HILL: Okay. So, and Commissioner,  
15 thanks for hanging out here this long. So, the, I guess, and  
16 I'll just kind of throw this out for the Board before we get  
17 to anything.

18 And, Ms. Steadman, again, what you're here for is,  
19 you're actually here for, you know, a variance that actually  
20 is something that is difficult to attain. So, that's kind  
21 of what the big discussion is, right.

22 Then after that we're getting into all of these  
23 conditions, okay, as if you're going to get the variance.  
24 That's why, you know, that's why we're going through all  
25 this. Because we did have kind of a discussion the last

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1 time.

2           And so, I guess I'm just trying to point out to  
3 you is that, you know, if you don't get a lit sign, and you  
4 get the variance, that's still good.

5           MS. STEADMAN: Yes.

6           CHAIRPERSON HILL: Okay. So, you know, but let  
7 me just, let me -- I'm going to take a break, okay. I'm  
8 going to take a five minute break, okay. Because I need a  
9 five minute break. And then, I will come back in five  
10 minutes. Okay.

11           (Whereupon, the above-entitled matter went off the  
12 record at 12:26 p.m. and resumed at 12:31 p.m.)

13           CHAIRPERSON HILL: We then had another hearing now  
14 where we went through all the conditions, right? Or had  
15 discussion about all the conditions. I would propose that  
16 we go ahead and close the hearing.

17           We're going to ask any final questions we may have  
18 about any of the conditions and then close the hearing. And  
19 then we'll schedule it for deliberation at a later time after  
20 we've had a little bit of time to kind of like think about  
21 these conditions a little bit.

22           So does the Board have any further questions for  
23 the Applicant? My quick question is, and this is the only  
24 thing -- these are kind of the sticking points for me in  
25 terms of these conditions, that just as you can see, and

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1 again thankfully the, and I use thankful, that the  
2 Commissioner, the ANC Commissioner, is here.

3 So, I mean, the ANC Commissioner is speaking on  
4 behalf of the ANC. So it makes it easier for us to get a  
5 little bit more feedback. But the, the lit sign, and this  
6 is the only thing that I'm -- even I'm confused about, you  
7 know? I don't know how to figure it out either in terms of  
8 how big or little.

9 I mean, it's not saying you can't have a sign. It's  
10 saying, you can't have a lit sign, right? So does the -- I'm  
11 just kind of giving you a chance to provide some feedback  
12 because we're going to end up doing whatever we think we need  
13 to do, right?

14 You don't know what to say, right? I mean, like  
15 you would like to just keep the option open. But also if you  
16 get a chance to have a sign, it's just not lit, you still  
17 have a sign.

18 So do you have an opinion on having a sign there  
19 on -- particularly on a road -- Randall Place? Thanks so  
20 much. On Randall Place not being lit?

21 MS. STEADMAN: Well if I cannot have a lit sign  
22 and have a decision today, I'd go with that.

23 CHAIRPERSON HILL: Okay. So that's good. That's  
24 all right. That helps me. You're not getting a decision  
25 today, but we'll get a decision quickly, okay? But that

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1 helps me in terms of the lit sign thing, okay?

2 Does anybody have any questions with the Applicant  
3 anymore before we close the hearing? Okay, all right. So  
4 then we're going to go ahead and close the hearing. We're  
5 going to go ahead and set it for decision.

6 You seem to indicate that you'd like a decision  
7 sooner rather than later, right? And so can you tell me why  
8 you need it sooner rather than later? There's some financial  
9 things going on?

10 MS. STEADMAN: Well it's kind of confusing because  
11 when I listened to the last decision hearing I heard you guys  
12 said that -- I'm just a little confused. When I look at the  
13 last decision hearing I heard you guys said that you was  
14 going to approve except for Mr. Peter May.

15 So I thought I heard that you was going to approve  
16 with the stipulation that we're putting forward here today.

17 CHAIRPERSON HILL: Okay, I understand. So I  
18 appreciate that clarity that you're trying -- that you're  
19 providing. Anyway, we never made a motion on anything,  
20 right? I doubt anything's necessarily changed. We just do  
21 have to go.

22 But I can't -- anyway, I'm sorry to throw this out  
23 at you right now because it just, it causes you not to be  
24 able to sleep as easily. So, but nonetheless we'll try to  
25 get back here with a decision as quickly as possible, okay?

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1           A motion has to be made, conditions have to be  
2 made, that's when it's official, okay? And so we're going  
3 to have, again, the opportunity to deliberate on those  
4 issues, which include the -- the release that you're  
5 requesting, okay? So when can we come back here?

6           MS. CAIN: Sort of depends on how much time the  
7 Board thinks they need to deliberate. Next week, March 13th  
8 would work. The 20th would also work. I would not recommend  
9 the 22nd.

10          CHAIRPERSON HILL: Okay. Well, I have a Board  
11 member here kind of nodding for next week. So, I mean, we  
12 can figure it out and come back and have a deliberation and  
13 a discussion next week?

14          MEMBER WHITE: No, not next week.

15          CHAIRPERSON HILL: You're going to come back?  
16 Okay. When's the -- hold on. So then the week after that  
17 is what?

18          MS. CAIN: March 20th.

19          CHAIRPERSON HILL: March 20th. How busy are we  
20 are on -- I guess it doesn't matter. It is what it is.  
21 Okay. But Commissioner May, you are back again at some  
22 point, if I'm --

23          MEMBER MAY: On April 3rd.

24          CHAIRPERSON HILL: Yes, but there was something  
25 else that was happening, right? No.

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1 MEMBER MAY: I don't have any -- I don't, I'm not  
2 seeing anything else. No, not until the 3rd.

3 CHAIRPERSON HILL: Okay.

4 MEMBER MAY: I mean, on the 20th I could do it but  
5 I wouldn't be able to do it until like middle of the day.

6 CHAIRPERSON HILL: All right. We'll just do next  
7 week. We'll just do next week and Ms. White can submit an  
8 absentee. Okay? So we're going to put this on the calendar  
9 for deliberation next week.

10 All right. So other than that, I'm closing the  
11 hearing. We're done. You guys have a nice day. Yeah, you  
12 guys don't have to be here, by the way. Just to let you  
13 know. You can watch on the computer.

14 No, no. It's next Wednesday. We come back here.  
15 We only have to come back here one day a week, thank  
16 something. All right. Only have to come back here one day  
17 a week. All right. Okay. Thank you all so much.

18 MS. CAIN: You have parties to the table for  
19 Application Number 19899 of Christopher Turner and Elisabeth  
20 Repko. This is captioned as advertised for a special  
21 exception under Subtitle E, 205.5, and Subtitle E 15201 for  
22 the rear addition requirements of Subtitle E 205.4 to  
23 construct a two-story rear addition to an existing attached  
24 principal dwelling unit in the RF-1 zone at premises 1322 D  
25 Street Southeast, Square 1041, Lot 812.

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1 CHAIRPERSON HILL: Okay. All right. So let me  
2 think. So could you please introduce yourself for the  
3 record?

4 MS. FOWLER: Good afternoon. I'm Jennifer Fowler  
5 with Fowler Architects.

6 MS. REPKO: Elizabeth Repko, homeowner, 1322 D  
7 Street Southeast.

8 MR. TURNER: Chris Turner, other homeowner at that  
9 address.

10 CHAIRPERSON HILL: Okay, great. Ms. Fowler, are  
11 you going to present to us?

12 MS. FOWLER: Yes.

13 CHAIRPERSON HILL: Okay. If you could walk us  
14 through your presentation in terms of -- oh, wait. So first  
15 of all, there is a preliminary matter, and I will talk to it  
16 in one moment. But after I do, if you could walk us through  
17 your presentation and what you're trying to accomplish. And  
18 then also the standard in which you are meeting for us to  
19 grant that relief.

20 There was a preliminary matter which was the  
21 withdrawal of party status. And so, you know, I'm fine with  
22 people withdrawing their party status. Do you guys have any  
23 problem with somebody withdrawing their party status?

24 Commissioner May, you got any problem with the  
25 party status withdrawal? Okay. All right. So we're going

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1 to go ahead. Ms. Fowler, you can begin whenever you like.  
2 If we could put 15 minutes on the clock, please? Thank you  
3 so much.

4 MS. FOWLER: Okay. Thank you. I'm glad that was  
5 the preliminary matter that you were speaking of. So this  
6 is a rear two-story addition on the north side of a row  
7 dwelling on Capitol Hill, 13th and D, 1322 D.

8 We were -- originally started with a larger  
9 addition. I don't know if you noticed in the filing we had  
10 a 20-foot rear addition. We're asking for relief for the 10-  
11 foot setback regulation.

12 After filing and working with the neighbors --  
13 adjacent neighbors, the ones that had filed for party status,  
14 ultimately we worked with them to come up with a solution and  
15 we've reduced the addition to 13 feet.

16 So the filing you see in front of you is for a 13-  
17 foot rear addition, three feet beyond the kind of maximum 10-  
18 foot build-out at the rear. The lot occupancy is very low  
19 at 42.3 percent. The existing is 30.6. So again we're  
20 staying well below the maximum lot occupancy for this zone.

21 Again, the 13-foot addition mitigated the concerns  
22 of the neighbor at 1320. They had concerns about the light  
23 and air effect on their yard and their plantings. They also  
24 have an addition at 1318 D, adjacent to them that was built  
25 several years ago. And that one is at 13 feet as well. So

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1 that is where we landed on this number -- this specific  
2 number.

3           So we did go to the ANC with the revised plans and  
4 they were supportive of the project. We had unanimous  
5 support from them. We also have the Restoration Society's  
6 support. And again, we have neighbor support from both  
7 sides.

8           There is a sun study that we did that's in the  
9 record, I believe it's Exhibit 40, where we've shown --  
10 because the addition's on the north side there was just very  
11 minimal impact to the adjacent properties. Small amount of  
12 impact to each, to 1320 in the morning hours, and then  
13 somewhat to 1324 in the afternoon.

14           However, definitely well within the typically  
15 approved additions. The impact is very undue. And again,  
16 we were able to get support from those neighbors.

17           So again, it's a very simple two-story addition.  
18 We're proposing wood siding. There are no windows on the  
19 sides facing the adjacent properties. So as far as privacy  
20 there will be no impact. The windows are all facing the  
21 rear.

22           And we also have a small covered porch at the back  
23 that is extending beyond the 10 feet as well. But it's not  
24 enclosed space so it's not triggering relief. So I'll leave  
25 it at that. I know you've had a long morning. So just leave

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1 it open to questions. Thank you.

2 CHAIRPERSON HILL: Okay. Does anybody have any  
3 questions for the Applicant?

4 MEMBER WHITE: Just one question. So this is  
5 1322?

6 MS. FOWLER: Correct.

7 MEMBER WHITE: D Street. Can you give me just  
8 some color on the position of the neighbors at 1324 and 1320?

9 MS. FOWLER: Okay.

10 MEMBER WHITE: Because basically with the  
11 addition, you know, it's going to impact their view a bit.

12 MS. FOWLER: Right. So 1324 signed a letter of  
13 support. It's in the record. And they actually supported  
14 the 20-foot addition. So -- but they have been alerted to  
15 the fact that we've reduced the addition as well.

16 And 1320 D was the neighbor that had actually  
17 filed for party status. And we met with them. They had --  
18 actually my clients had multiple discussions with them, and  
19 we were able to come up with a resolution by reducing the  
20 depth of the addition. So they withdrew their status, but  
21 they also submitted a letter of support.

22 To the north of 1322 D there's a community of --  
23 senior housing. And it kind of wraps around. And that, it  
24 takes up a big chunk of that square. And there's some houses  
25 on 12th Street that have very deep backyards, as did this

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1 one. So there really is no impact to neighbors beyond these  
2 two adjacent neighbors.

3 MEMBER WHITE: Yes, thank you.

4 MEMBER HART: Just not necessarily a question.  
5 But I think it's helpful to have gone through this process  
6 in some ways. So in terms of having the original design kind  
7 of rethought, or at least relooked at -- and so I guess part  
8 of what the zoning regulations are there for is to kind of  
9 spur some of that on so that there is that, maybe we should  
10 think about what it is that we really want to have. And  
11 possibly have somebody that may be in opposition come not be  
12 in opposition.

13 So I think it was a -- that was helpful to see  
14 that. I didn't have any particular questions on it. But I  
15 just wanted to kind of point that out.

16 MS. FOWLER: Thank you.

17 MEMBER MAY: So you made reference to the small  
18 covered porch in the back.

19 MS. FOWLER: Yes.

20 MEMBER MAY: As not requiring any relief?

21 MS. FOWLER: Correct. My understanding is that  
22 the 10-foot setback regulation they apply to condition -- the  
23 rear wall of the condition.

24 MEMBER MAY: Condition space.

25 MS. FOWLER: Yes. So anything open as far as

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1 decks or open porches.

2 MEMBER MAY: I mean, it would affect things like  
3 lot occupancy.

4 MS. FOWLER: Yes.

5 MEMBER MAY: But you're not seeking relief in that  
6 area?

7 MS. FOWLER: Correct.

8 MEMBER MAY: Okay.

9 MS. FOWLER: It does factor into our lot occupancy  
10 number.

11 MEMBER MAY: Yes, okay. I just want to be clear  
12 on that because as soon as you said covered porch I  
13 immediately started thinking about --

14 MS. FOWLER: Yes.

15 MEMBER MAY: -- those other zoning regulations.  
16 All right. Thank you.

17 CHAIRPERSON HILL: Okay. I'm going to turn to the  
18 Office of Planning.

19 MS. THOMAS: Good afternoon, Mr. Chair, members  
20 of the Board. Karen Thomas with the Office of Planning. The  
21 Applicant has met their burden of proof for what they're  
22 requesting, and for their modest addition. And we will stand  
23 on the record of our report.

24 CHAIRPERSON HILL: Okay. Does anybody have any  
25 questions for the Office of Planning? Does the Applicant

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1 have any questions for the Office of Planning?

2 MS. FOWLER: No thank you.

3 CHAIRPERSON HILL: Okay.

4 MS. FOWLER: I just want to thank them for the  
5 time.

6 CHAIRPERSON HILL: Okay. Just so the audience  
7 knows, we're probably going to take lunch after the next  
8 case. So for whatever that's worth, just letting you all  
9 know. Is there anyone here wishing to speak in support? Is  
10 there anyone here wishing to speak in opposition? Is there  
11 anything else you'd like to add at the end, Ms. Fowler?

12 MS. FOWLER: No. Thank you.

13 CHAIRPERSON HILL: Okay. I'm going to go ahead and  
14 close the hearing. Is the Board ready to deliberate? Okay.  
15 I can start. I thought that in the record the Applicant has  
16 met their burden of proof.

17 I thought that the analysis -- I would agree with  
18 the analysis of the Office of Planning, who was in support,  
19 as well as that of ANC 6B who were in support, 10-0-0. DDOT  
20 had no objection. And I will be voting in favor of this  
21 application. Does anyone have anything else that they'd like  
22 to add?

23 MEMBER WHITE: My only comment, which is helpful,  
24 is that the adjacent neighbors to the project are supportive  
25 of the Applicant's proposed addition. So again, I also agree

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1 that they've met the criteria for the rear yard addition for  
2 special exception relief. So I would be in support.

3 CHAIRPERSON HILL: Okay, thank you. Anyone else?

4 MEMBER HART: Only that I, you know, just  
5 reiterate that I think that it's helpful to have the process  
6 that the Zoning Commission put forward for us, which is  
7 anything over 10 feet there kind of has to have a special  
8 exception. And through that process these folks have kind  
9 of -- they've started with a design, they've modified that  
10 design so that that could address some of the concerns that  
11 were raised during the process.

12 So I think that the process has worked in this  
13 case. And I think it's helpful to have kind of gone through  
14 this. And I appreciate the design that the Applicant and Ms.  
15 Fowler has put forward. So I'd be in support of it.

16 CHAIRPERSON HILL: Okay. I'll go ahead and make  
17 a motion to approve Application Number 19899 as captioned and  
18 read by the Secretary and ask for a second.

19 MEMBER HART: Second.

20 CHAIRPERSON HILL: Motion made and seconded. All  
21 those in favor say aye.

22 (Chorus of aye.)

23 CHAIRPERSON HILL: All those in opposition? The  
24 motion passes, Ms. Cain.

25 MS. CAIN: Okay. Staff will record the vote as

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1 five to zero to zero on the Motion of Chairman Hill to  
2 approve the application for relief as requested. Seconded  
3 by Vice Chairman Hart. Also in support were Members White,  
4 John, and Mr. Peter May. Motion carries.

5 CHAIRPERSON HILL: Okay, great. Thank you. Thank  
6 you.

7 MS. FOWLER: Can we request a summary order?

8 CHAIRPERSON HILL: Yes, that's okay. So now, Ms.  
9 Fowler, we are no longer able to take requests from people.  
10 So after the hearing's over I get together with the Office  
11 of Zoning. And if we can do a summary order, we try to do  
12 a summary order.

13 So you can also go ahead and also check with the  
14 Secretary at the break if you want to, but -- as to when  
15 you'll know about that. Okay? Thank you.

16 MS. CAIN: Can I have parties to the table for  
17 Application Number 19908 of New District Development, LLC.  
18 This is as amended for a special exception under Subtitle C  
19 1504 from the penthouse setback requirements of Subtitle C,  
20 Section 1502. And pursuant to Subtitle X, Chapter 10 for a  
21 use variance from the use restrictions of Subtitle U, Section  
22 201.1 to construct a new eight-unit apartment house in the  
23 R2 zone at premises 4442 B Street Southeast, Square 5350,  
24 Lots 11 and 12.

25 CHAIRPERSON HILL: Okay, great. Thank you. Could

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1 you please introduce yourselves from my right to left for the  
2 record? Or either way?

3 MR. GIANNIOTIS: Spiro Gianniotis, Alphatec PC.

4 MR. OHANYERENWA: Chiwuba Ohanyerenwa, CEO and  
5 half-owner of New District Development.

6 MR. UMO: Idongesit Umo, working as the attorney  
7 for New District Development.

8 CHAIRPERSON HILL: Okay. Can you spell your last  
9 name, sir?

10 MR. UMO: Umo, U-M-O.

11 CHAIRPERSON HILL: Okay, that's easy. And that was  
12 Hine? Is that correct, Hine is your name, sir? H-I-N-E?  
13 What was your last name?

14 MR. OHANYERENWA: Ohanyerenwa.

15 CHAIRPERSON HILL: Could you spell it for me?

16 MR. OHANYERENWA: O-H-A-N-Y-E-R-E-N-W-A.

17 CHAIRPERSON HILL: Okay. I'm going to be talking  
18 to Mr. Umo a lot. Okay. All right. And your last name,  
19 sir?

20 MR. GIANNIOTIS: Gianniotis, G-I-A-N-N-I-O-T-I-S.

21 CHAIRPERSON HILL: Okay, great. Thank you. All  
22 right. So Mr. Umo, you're going to be presenting to us?

23 MR. UMO: I can, yes.

24 CHAIRPERSON HILL: Okay. So if you'd go ahead and  
25 kind of walk us through what you're trying to do and how

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1 you're meeting the criteria, again for us to grant the relief  
2 that you're requesting. There was -- and I have to kind of  
3 look at it in terms of the ANC report.

4 I know there was a letter from one of the  
5 Commissioners. If you can kind of like talk to your outreach  
6 with the ANC and let us know where you are with that. There  
7 was also three long-term bicycle spaces that DDOT was talking  
8 about. And I didn't know whether those were actually in the  
9 plans somewhere, and you can speak to that as well.

10 So I'm going to go ahead and put 15 minutes on the  
11 clock. Ms. Cain, if you wouldn't mind. And then you can  
12 begin whenever you like.

13 MR. UMO: Sure. I will start with addressing the  
14 burdens for the use variances. And Spiro will talk to -- Mr.  
15 Gianniotis will talk to the bicycle placements. Okay.

16 So for -- we're looking essentially to build on  
17 an unused site right now under the Vacant to Vibrant DC  
18 project which allows DC inventory to be used to build  
19 affordable housing and other things for the workforce in the  
20 area. And also to preserve the green space in the area.

21 So we're looking to erect an eight-unit  
22 multifamily residential apartment building. The current area  
23 zoned under R2 for just simple residences, either detached  
24 or semidetached. We're looking for a use variance from that  
25 to erect this eight-unit apartment building.

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1           Our neighbors both to the left and right are also  
2 apartment buildings, multi-unit residences. To the right,  
3 I believe, is a six-unit apartment. And then to the  
4 immediate left is another eight-unit apartment. And then  
5 down the street on the same block is also a 40-unit apartment  
6 building.

7           Because of this site, the square footage is about  
8 6,250 feet in combined lot spaces of Lot 11 and 12. And just  
9 because of the size of the lot in terms of kind of a return  
10 on the investment made on the lots and the process that we're  
11 going through, it seemed more feasible -- actually not more  
12 feasible, but a little bit more reasonable to erect a  
13 multifamily unit to kind of help with providing ownership  
14 opportunities for people in the District of Columbia as  
15 opposed to the constant cycle of renting in the area.

16           As I just stated, the site was unused for a  
17 significant period of time. I believe until at least 2005,  
18 this site has been vacant. I'm sure that the property owners  
19 here will understand that it's been an eyesore to just have  
20 a vacant lot there with nothing on it, just collecting trash  
21 and things.

22           Since the owner has taken over the project, the  
23 lot has been cleaned up. Debris has been cleared, the trees  
24 have been cleared. And we're looking to proceed with  
25 building, with your support.

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1           In terms of the current nature of the  
2 neighborhood, like I said it's currently mixed use. So it's  
3 residential apartments and also residential buildings. I  
4 believe in the 2006 Map Amendment that area was rezoned from  
5 R8 to R2. So that's why we're here today, seeking the use  
6 variance.

7           The eight-unit structure will not in any way  
8 hinder or dampen the neighborhood, the color of the  
9 neighborhood -- because it's, as I just stated, there are  
10 other apartment buildings on the block, along the same  
11 street, and then also across the street. And, let's see if  
12 there's anything else.

13           In going to our outreach to the ANC we had several  
14 communications with ANC Tate, who is the ANC member over that  
15 area. We got her letter of support for it. We went to a  
16 meeting in November of 2018 with certain members of the  
17 community there. And also the ANCs of the 7E District, the  
18 Chairperson, and two other ANCs were there as well.

19           We didn't actually perform a vote on it. We had  
20 a discussion with the community members. And at the end of  
21 the discussion we asked them if they would be in support of  
22 our proposed building. They all stated yes. There were no  
23 objections.

24           We also provided our contact information to allow  
25 them to reach out to us at any point in time if they were to

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1 have objections coming up. The ANCs also gave their support.  
2 Unfortunately we were unable to receive the Chairpersons and  
3 the other ANCs because they not over that District. So we  
4 received the ANC support specifically from ANC Tate who, kind  
5 of, governs that area.

6 We will have any other further outreach that's  
7 necessary to the ANCs and the community. As I stated, we  
8 gave them our contact information. And so if anything were  
9 to come up we would be able to address that with them.

10 So we don't see this as burdening community in any  
11 way. So we're just looking for support. Spiro -- I'm sorry  
12 -- Mr. Gianniotis is going to speak to the bicycle setback.

13 MR. GIANNIOTIS: For the bicycle long-term storage  
14 we're going to propose three vertical covered racks on the  
15 northeast side of the building. And these racks shall be  
16 less than 100 feet from the main entrance. The exact  
17 dimension linearly is 77 feet.

18 MEMBER MAY: Where are they located again?

19 MR. GIANNIOTIS: The northeast corner.

20 MEMBER MAY: Is it shown in the plan somewhere?

21 MR. GIANNIOTIS: It is not shown in the plan. We  
22 can amend the plan to submit and show.

23 MEMBER MAY: If you just can just describe it  
24 again. Northeast corner at the rear?

25 MR. GIANNIOTIS: On the east side of the facade.

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1 MEMBER MAY: Okay.

2 MR. GIANNIOTIS: The north corner of the east side  
3 of the facade. And that is not impeding in any windows or  
4 access ways of the facility.

5 MEMBER HART: And Mr. Umo, with regard to the ANC.  
6 So they had a discussion about it but they chose not to vote  
7 on it? Typically what we get is the ANCs will have their ANC  
8 meeting and then they will have -- it's kind of on their  
9 agenda. And then it is voted on at some point.

10 And it just seems as though you've kind of gone  
11 through a lot of the process, or at least some of the  
12 process, but just not having one is a little bit strange to  
13 me. And I just don't know why they would have not done that,  
14 because it is helpful to do that.

15 It sounds like you may have gotten the Single  
16 Member District's kind of support through the letter that we  
17 have on the record. I just was curious as to, I don't know,  
18 why they wouldn't have actually taken a vote if they -- it  
19 sounded like they were just about there to take it but they  
20 ended up not doing it.

21 MR. UMO: Right. Well, I can speak to that.  
22 While we were there, we were informed that we would present  
23 on our proposed unit and we will allow the community members  
24 to have any discussions they wanted to with us about it, if  
25 they had any objections.

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1           We weren't actually told that there would be a  
2 vote at that meeting. So it was never on their agenda to have  
3 a vote. The agenda stated that we will present what we were  
4 trying to do with the area.

5           And the community, residents of the community, did  
6 come out to voice their support for the project. And then  
7 any questions they had, they delivered it to us directly at  
8 that time. And we stated them and gave them answers during  
9 that meeting.

10           We were unaware that a vote was required  
11 specifically at that meeting. We garnered the support -- at  
12 least in our minds, we garnered the support of both the  
13 members and the ANCs as a whole, because there were several  
14 ANCs -- this was right after their new election. So there  
15 were actually several other ANCs onboard during that meeting.

16           MEMBER HART: There's just one ANC. You're just  
17 saying that there were other --

18           MR. UMO: Other --

19           MEMBER HART: Persons from the same --

20           MR. UMO: Yes, from the district.

21           MEMBER HART: From the same -- okay.

22           MR. UMO: Yes, yes.

23           MEMBER HART: So -- God I had one question. Wow.  
24 I'm just like blanking on the question that I wanted to ask.  
25 Yes, I am getting old. Thank you.

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1 MR. UMO: It's okay, so.

2 MEMBER HART: No, no. This was --

3 MR. UMO: Why they didn't take the vote, I'm not  
4 clear on. We were there, we were waiting. And the meeting  
5 ended after we took questions and answered questions from the  
6 residents of that neighborhood.

7 MEMBER HART: And this was an ANC meeting? This  
8 was not a meeting that you all convened?

9 MR. UMO: No.

10 MEMBER HART: You --

11 MR. UMO: Yes. We did not convene the meeting.

12 MEMBER HART: Okay.

13 MR. UMO: This was an ANC meeting, yes.

14 MEMBER HART: Okay. Thank you.

15 CHAIRPERSON HILL: Sure.

16 MEMBER MAY: Yes. While we're on that topic. So  
17 have you developed other properties in the District?

18 MR. UMO: No, we have not.

19 MEMBER MAY: Okay. So I think this is a learning  
20 opportunity. Because, I mean, typically if you're going to  
21 build anything in any community you want to be talking to the  
22 ANC and you want to go to a monthly meeting of the  
23 Commission, not just a meeting with a Single Member District  
24 person, but the Commission, and seek a vote.

25 And then get the vote. And get that done in

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1 advance. If you have to have any kind of proceeding like  
2 this or, you know, I don't know who else you might be  
3 involved. But, you know, if it's going to come before the  
4 Board of Zoning Adjustment you want to get that vote in  
5 advance of when you come before us.

6 And most ANCs understand the process pretty well  
7 and can, you know, can accommodate you. But they have many  
8 things on their agenda. So you need to make sure you do it  
9 well enough in advance to make sure you get that clearance  
10 from them.

11 Because again, typically we would have a letter  
12 in the record that says, this has been reviewed by the entire  
13 ANC and the vote, you know, it's a duly noticed meeting on  
14 this date. And the vote was seven to zero to zero in  
15 support, something like that. That makes it a lot easier for  
16 us.

17 I mean, it doesn't sound like there's any great  
18 controversy associated with this. You talked to the ANC  
19 about it. We don't have hordes of people who are coming here  
20 to protest it. So that's all helpful for you.

21 But just so you know if you're going to continue  
22 to do this, that's the process. And make sure you talk to  
23 them early and get their support on the record.

24 CHAIRPERSON HILL: Okay. So just to clarify. So  
25 you didn't present before the whole ANC. You only presented

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1 for a few Commissioners? I don't understand.

2 MR. UMO: We presented in front of the entire ANC  
3 for that -

4 CHAIRPERSON HILL: Okay. And they just didn't  
5 happen to take a vote?

6 MR. UMO: Exactly.

7 CHAIRPERSON HILL: Okay, all right. Okay. Anyone  
8 else? Okay. I'm going to turn to the Office of Planning.  
9 Sorry, Ms. White?

10 MEMBER WHITE: No questions.

11 CHAIRPERSON HILL: Okay. I'm going to turn to the  
12 Office of Planning.

13 MS. BRANDICE ELLIOT: Good afternoon, Mr.  
14 Chairman, members of the Board. I'm Brandice Elliot  
15 representing the Office of Planning. The Office of Planning  
16 is recommending approval of the requested relief. I'll go  
17 ahead and stand on the record of our report, but I'm happy  
18 to answer any questions you have.

19 MEMBER WHITE: Sorry.

20 CHAIRPERSON HILL: Sure, of course.

21 MEMBER WHITE: I know you're standing on the  
22 record and I did read your report. But just for purposes of  
23 the fact that we're taking testimony. Can you just go  
24 through your analysis with respect to why you think they met  
25 the variance standard? I'm clear on the special exception

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1 portion but I just wanted to hear it from you since it was  
2 a very good report.

3 MS. ELLIOT: The Office of Planning would not  
4 typically support an apartment house in an R2 zone, just for  
5 the record and to lay that out there for anyone who's  
6 thinking about doing that. But in this case we felt that the  
7 context was actually crucial to the justification of the  
8 relief.

9 We have a situation where the, you know, the  
10 property was sort of, well it was rezoned in 2008. But the  
11 way it was rezoned was sort of a broad brush approach. So  
12 these properties where an apartment, especially on this block  
13 where it was predominately apartment houses, was rezoned for  
14 single-family housing. And that may not have been, you know,  
15 the best, may not be the best use for that lot.

16 So we understood in this context, and particularly  
17 since the property has been vacant for so long, that there  
18 are marketing concerns. And that an apartment house would  
19 be an appropriate use for this lot.

20 I think we also, because this was purchased  
21 through the Vacant to Vibrant program and there are certain  
22 program requirements, we also felt that that was part of the  
23 justification for that relief.

24 CHAIRPERSON HILL: Okay. Does the Applicant have  
25 any questions for the Office of Planning?

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1 MR. UMO: No, just thank you.

2 CHAIRPERSON HILL: Okay. Is there anyone here who  
3 wishes to speak in support? Is there -- sure, please. Come  
4 forward. Did you get sworn in earlier?

5 MR. SPIER: I did.

6 CHAIRPERSON HILL: Okay. Could you please give us  
7 your name for the record?

8 MR. SPIER: Yes. My name is Thomas Spier. I'm  
9 the owner of the property to the left of 4438 B Street.

10 CHAIRPERSON HILL: Okay.

11 MR. SPIER: It's a six-unit apartment building  
12 that I've owned for six or seven years.

13 CHAIRPERSON HILL: Okay. Mr. Spier, just real  
14 quick. So as a member of the public, and you're going to get  
15 three minutes to speak. Ms. Cain, if you can put that up  
16 there for me? And the clock is to your left and the right.  
17 And you can begin whenever you like.

18 MR. SPIER: I'm going to be very quick. I am here  
19 to say that I am in support of the project. This lot has  
20 been vacant ever since I've owned the property to the left  
21 of it. And has been nothing but a dumping ground for  
22 mattresses and all sorts of large things that have been a  
23 nuisance to the neighborhood.

24 And I appreciate the fact that the property is now  
25 going to be developed and be used for multifamily use. Most

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1 buildings on the block, as the member of the Office of  
2 Planning indicated, there's a predominance of multifamily  
3 buildings on the block as it is.

4 And so I'm in support of that. I'm in support of  
5 the lot no longer being vacant. I also appreciate the fact  
6 that the developers are looking to encourage home ownership  
7 in the District of Columbia.

8 CHAIRPERSON HILL: Okay. Anyone have any questions  
9 of the witness?

10 MEMBER WHITE: How long have you owned the six-  
11 unit apartment house?

12 MR. SPIER: I think it's maybe five years. 2014,  
13 I think I bought it. And I've had trouble with the lot next  
14 door being vacant with a lot of trash and large debris being  
15 left there. And I've even been fined by the City for things  
16 that were left on that lot, which that's a whole other  
17 question. But anyway.

18 MEMBER WHITE: Thank you.

19 MR. SPIER: Thank you.

20 CHAIRPERSON HILL: All right, great. Thank you Mr.  
21 Spier. Thanks for coming down. All right. The Applicant  
22 doesn't have any comments to Mr. Spier's comments correct?

23 MR. UMO: No.

24 CHAIRPERSON HILL: Okay, great. Do you have  
25 anything else you'd like to add at the end here? I'm sorry,

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1 you're right. Is there anybody here to speak in opposition?  
2 Okay. I was so shocked by support I didn't know where to go.  
3 Okay. So do you have anything else you'd like to add at the  
4 end?

5 MR. UMO: No, just thank you for your time. And  
6 anything that is requested after this, we will be more than  
7 happy to provide.

8 CHAIRPERSON HILL: Okay. I'm actually still kind  
9 of stuck, and just we can kind of figure out in terms of the  
10 drawings for the bikes. I mean, I don't know. You know,  
11 typically we need to see a drawing as to where the bicycles  
12 are. But if Mister -- and I am going to have a hard time  
13 here, but you are an architect, correct? Gianniotis?

14 MR. GIANNIOTIS: Yes, sir. I'm the project  
15 manager for this development.

16 CHAIRPERSON HILL: Okay. And so Ms. Cain, I know  
17 at times we have submitted things, like we might go to lunch.  
18 You can draw where the bicycles parking's going to be.  
19 Submit that into the record. And then we could have a  
20 discussion about it or -- whereas, I mean, that's fine with  
21 me. So whatever the Board has to say. You seem to have an  
22 opinion?

23 MEMBER MAY: What made you think that? Yes. I  
24 don't think it really matters. I mean, this is a requirement  
25 that they have to meet. And, you know, if they can't meet

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1 it on the property then they're not going to get the building  
2 permit, right? So then I don't think it has to be spelled  
3 out on the drawing exactly where it is.

4 CHAIRPERSON HILL: Okay.

5 MEMBER MAY: Is what it comes out to in the final  
6 --

7 CHAIRPERSON HILL: That's fine with me as well in  
8 terms of that discussion. Does anyone have any disagreement  
9 to Commissioner May's comments?

10 MEMBER HART: No, I don't. I was just trying to  
11 understand if -- no, no. I was wondering if DDOT was  
12 conditioned their approval on that, or not? I don't think  
13 they did.

14 MS. CAIN: It wasn't in their report as a  
15 condition. It was just sort of a statement that they made.

16 MEMBER HART: Okay. That's fine. I'm fine with  
17 it then.

18 CHAIRPERSON HILL: Okay. All right. So that being  
19 the case I'll go ahead and close the hearing. Would someone  
20 like to deliberate?

21 MEMBER MAY: Mr. Chairman?

22 CHAIRPERSON HILL: Yes? Please.

23 MEMBER MAY: Sorry. Okay. So this is the -- it's  
24 a use variance and the reasons for granting use variance here  
25 I think are very slim. I'm not saying I'm opposed to it, but

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1 at this point, you know, it's basically we're said, well they  
2 bought the property and made this deal with DHCD that they're  
3 going to do an eight-unit apartment.

4           So what? It's not zoned for that. DHCD doesn't  
5 get to override Zoning. And it was zoned in 2008 and it was  
6 a broad rezoning of properties in that part of the City. It  
7 was one of a couple of efforts where there was, in effect,  
8 a down-zoning. But it was very carefully done and very  
9 thoughtfully done.

10           It didn't necessarily take into consideration  
11 every single condition. I mean, I think that, you know, what  
12 it adds up to at this moment from the Office of Planning is  
13 sort of weak support. And I certainly don't think that the  
14 fact that the context around it is apartment buildings is a  
15 justification for granting a variance, a use variance.

16           It is a, I mean, it might be a rationale for  
17 rezoning the property. But it's not really a rationale for  
18 a use variance. So I am not particularly pleased that we're  
19 faced with this decision because I don't think it's, I mean,  
20 I think we're put in, you know, between a rock and a hard  
21 place because, you know, the Vacant to Vibrant program is  
22 important to the City in some ways. And, you know, we  
23 certainly don't want to be opposing programs like that.

24           But then again, programs like that shouldn't be  
25 dictating zoning. So let me just say I'm not enthusiastic

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1 about it.

2 CHAIRPERSON HILL: You're not enthusiastic.

3 MEMBER MAY: But I'm not adamantly opposed.

4 CHAIRPERSON HILL: But you would agree with the  
5 argument, you would hesitate but agree with the argument  
6 that's being put forward by the Applicant and the Office of  
7 Planning as well?

8 MEMBER MAY: Well, I'm kind of looking for the  
9 rest of the Board to help me get over the hump here. So if  
10 anybody feels very strongly that this is a basis for a  
11 variance.

12 CHAIRPERSON HILL: I am not going to deny this  
13 application, you know. I mean, I think that, you know, I  
14 think that --

15 MEMBER MAY: I need to understand why, that's all.

16 CHAIRPERSON HILL: No, I'm not necessarily, again,  
17 disagreeing with you, okay, in terms of the analysis that  
18 you're providing and in terms of the rationale for having a  
19 discussion. However, that is not enough for me to  
20 necessarily vote against this project.

21 I mean, I think that the analysis that the Office  
22 of Planning have provided, however weak that it might be in  
23 your opinion, is enough for me to support it. And also I  
24 think that, again, the, I mean, we can have the discussion  
25 again as to whether or not it was -- if it was a project all

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1 about condominiums and where they're going to be, you know.  
2 Then it might be a different discussion.

3           The Office of Planning might not have been in  
4 favor, is what you're trying to kind of somewhat speak to.  
5 And so I don't know, you know. So I'm in agreement with the  
6 Office of Planning. Does anyone else want to, like, chime  
7 in?

8           MEMBER WHITE: Yeah. I'm in support of the use  
9 variance. I don't think that OP's report was weak. But I  
10 know that the standards are very high. And just looking at  
11 the standard of review, I think I can make an argument that  
12 they did meet the test, you know, by reason of an exceptional  
13 situation or condition in the property.

14           I mean, I could make an argument that that  
15 particular standard was met, given the history of that and  
16 the configuration of that site. And it certainly, for me,  
17 would not be a negative to the community in terms of being  
18 a detriment to the public good.

19           I mean, it's obviously going to be a property  
20 that's going to add value to the community. So unless I can  
21 be convinced otherwise, I think that the use variance  
22 standard under Subtitle X 1000.1 and 1002.1, I believe was  
23 met.

24           MEMBER HART: Yeah, and I understand where  
25 Commissioner May is coming from. I find that it is a, as we

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1 all have said, that, you know, of course the variance test  
2 is a more restrictive test. And the information that has  
3 been provided to us through the Office of Planning and  
4 through the Applicant, it is not kind of typical what we get  
5 for this type of use.

6 I understand that it is not -- I don't necessarily  
7 think that it's a strong argument as well. But I also  
8 understand what it is that they're looking to do here. I  
9 would be in support of it. And I think it's because they  
10 have, I saw this somewhere in here.

11 I think it is because of the kind of the uses that  
12 are existing on the street. And I think that it would not  
13 be detrimental to the public good. I think this is kind of  
14 in keeping with some of that.

15 I understand that when the rezoning went forward  
16 that you, of course, can't look at every lot. And maybe this  
17 lot needed to be a different zone, I'm not exactly sure --  
18 or this area needed to be. Yeah, it's, as I have read  
19 through this, it seems as though there is -- that I kind of  
20 would want more on the justification for it.

21 But I understand what it is that they're putting  
22 forward. I don't have a whole lot to add to it. I'm sorry,  
23 maybe it's before lunch. Maybe that's the issue.

24 MEMBER JOHN: Just a couple of thoughts.

25 I agree with Mr. Hart that the context, and I was really

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1 happy to have the explanation from the Office of Planning  
2 because I, too, was wavering about whether or not the  
3 Applicant had met the test for exceptional condition.

4 But, you know, this lot is surrounded by six-,  
5 four-, and 12-unit apartments and a 40-unit apartment. And  
6 when I was reading through the record it did seem to me to  
7 be sort of an anomaly to have this one little lot stuck  
8 between all these apartment buildings.

9 And I believe there was something in the record  
10 about resale value and what was possible in this  
11 neighborhood. So I thought that on balance the Applicant met  
12 the test for the variance based on those factors all coming  
13 together. I guess the term is confluence of factors. But  
14 I would think in this particular case, while I would not  
15 ordinarily be ecstatic about the variance, I can go with it  
16 here.

17 CHAIRPERSON HILL: Okay. I'm going to make a  
18 Motion to Approve Application Number 19908 as captioned and  
19 read by the Secretary, and ask for a second.

20 MEMBER WHITE: Second.

21 CHAIRPERSON HILL: Motion made and seconded. All  
22 those in favor say aye. Aye.

23 GROUP: Aye.

24 CHAIRPERSON HILL: All those opposed?

25 MEMBER MAY: No.

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1 CHAIRPERSON HILL: The Motion passes.

2 MS. CAIN: Staff will record the vote as four to  
3 one to zero on the Motion of Chairman Hill to approve the  
4 Application for Relief as requested. Second by Board Member  
5 White. Also in support Board members Hart and John. In  
6 opposition Commissioner May. Motion carries.

7 CHAIRPERSON HILL: Thank you. Thank you,  
8 gentlemen. Whoops. So we're going to take a lunch break.  
9 And so we should be back here -

10 (Whereupon, the above-entitled matter went off the  
11 record at 1:17 p.m. and resumed at 2:09 p.m.)

12 MS. CAIN: Can we have parties to the table for  
13 Application Number 19910 of 5935 Colorado Avenue, Associates  
14 LLC. The application is as amended pursuant to 11 DCMR  
15 Subtitle X Chapter 9 for special exceptions under the new  
16 residential development requirements of Subtitle U Section  
17 421.1. And under Subtitle C Section 1001.2E3 for the  
18 inclusionary zoning bonus density adjustments of Subtitle C  
19 Section 1002.2.

20 And pursuant to 11 DCMR Subtitle X Chapter 10 for  
21 area variances from the lot occupancy requirements of  
22 Subtitle F Section 304.1, and from the side yard requirements  
23 of Subtitle X Section 306.1. And from the inclusionary  
24 zoning requirements of Subtitle C Section 1005.1 to raise the  
25 existing building and construct a new five-unit apartment

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1 house in the RA1 zone at premises 5835 Colorado Avenue  
2 Northwest, Square 2937, Lot 832.

3 CHAIRPERSON HILL: Okay. Good afternoon. If you'd  
4 please introduce yourself for the record?

5 MR. CASU: Good afternoon. My name is Bruno Casu,  
6 owner of 5835 Colorado Avenue, Associates.

7 MS. FERREIRA: Catarina Ferreira, principal at  
8 Archi-Textual. We are the architect.

9 CHAIRPERSON HILL: Mr. Casu, could you spell your  
10 last name for me?

11 MR. CASU: C-A-S-U.

12 CHAIRPERSON HILL: That's what I thought, okay.  
13 And Ms. Ferreira, I guess you're going to be presenting to  
14 us, correct? If you could go ahead and walk us through the  
15 plans of what you're trying to accomplish. And then if you  
16 could speak to all of the different criteria with which you  
17 are satisfying the standards so that we can grant or deny  
18 this relief.

19 I'm going to put 15 minutes on the clock, Ms.  
20 Cain, just so I know where I am. Whether or not that goes  
21 longer I don't know because there's a lot of different things  
22 I think that we're working through. But you can begin  
23 whenever you like.

24 MS. FERREIRA: Thank you. Good afternoon. Thank  
25 you for your patience, first of all, in hearing this case and

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1 following the documentation. It has evolved, as you know,  
2 over time. And it has evolved out of the desire to meet the  
3 ANC request for affordability for one of the units and also  
4 in response to Office of Planning comments along the same  
5 lines, to make the development into an inclusionary zoning  
6 development.

7 As a result we revised the proposal entirely from  
8 what it was initially in order to make the building more  
9 efficient and accommodate the same number of units within a  
10 smaller building envelope. And try to incorporate an IZ  
11 unit, even within the smaller footprint.

12 Going through the relief requested as revised or  
13 as amended, we are requesting two special exceptions. One  
14 is for a new residential development in the RA1 zoning  
15 district. And the other is for opting into IZ, given that  
16 we are providing only five units and not 10, which would  
17 immediately trigger that requirement.

18 In addition we are also requesting three separate  
19 variances. And the variances are for lot occupancy  
20 requirement, number one. And number two is side yard  
21 requirements. And number three is from the inclusionary  
22 zoning proportionality requirement of Subtitle C 1005.1

23 The project is located at 5835 Colorado Avenue  
24 Northwest, which is at the tip of a residential district, RA1  
25 district immediately adjacent to a mixed used district along

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1 Georgia Avenue Northwest. And that is the, first and  
2 foremost the primary exceptional condition at the site. In  
3 addition to the fact that despite being in that zoning  
4 district and adjacent to a mixed use district, it is a very  
5 small lot compared to all other lots along that block which  
6 range in size from 8,000 square feet down to 2325.

7 As you can see on the site plan, that is the GIS  
8 site plan that is on the screen, we are at the tip of what  
9 is a triangular shaped block, basically, with the exception  
10 of the multi-unit building to the north. So that establishes  
11 basically a very small lot size for our project. And that  
12 is what we consider to be exceptional condition number one.

13 Because of that small lot size it would be very,  
14 very difficult to build anything, you know, resembling what  
15 we are proposing in terms of number of units. As a matter  
16 of fact, even the existing house that currently exists  
17 already exceeds the lot occupancy.

18 So that small lot dimension also predisposes the  
19 need for relief from the lot occupancy because in order to  
20 make this an inclusionary zoning development, in addition to  
21 building a multi-unit building there, getting anywhere near  
22 the bonus density that would be triggered by IZ, or that is  
23 available to us by opting into IZ, would be nearly impossible  
24 without an increase in lot occupancy. What we are proposing  
25 is an increase from 40 percent to 45 percent, for the record.

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1           We are also proposing reducing the side yard along  
2 the alley side from the required eight feet to three feet.  
3 But I would clarify that, and I'll flip through the plans,  
4 I would clarify that the three feet is to the edge of an  
5 exterior stair. This is the wrong set, apologies.

6           Just make sure this is the correct one. No. I'll  
7 just pull out the case record and open it from there. My  
8 apologies. Somehow we have the wrong file in the drive.  
9 Almost there.

10           Okay. Now that we have the correct file on the  
11 screen. As I was mentioning previously, the three-foot side  
12 yard is actually to the edge of an exterior stair that's  
13 being provided along the side of the building in order to  
14 meet the egress requirements. We need to provide two means  
15 of egress for a building this many units and this many  
16 stories.

17           So the actual setback to the building face, to the  
18 building wall is three additional feet. So it's six feet.  
19 So it's a reduction from eight feet to three feet,  
20 technically. However, three feet of the building mass is  
21 actually just an exterior stair and not enclosed space.

22           The geometry of the building has been, as I said,  
23 substantially revised from what it was previously, as has the  
24 arrangement of the units in order to gain efficiency by  
25 providing entrances to the units from -- to two of the units

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1 from the side, eliminating the need for double circulation  
2 inside the building itself, which allowed us, again, to keep  
3 the building as narrow as possible.

4           Even though we do have that exterior stair it is  
5 still less massive than an enclosed stair would be. We have  
6 two duplex units at the lower levels followed by two one-  
7 bedroom units at the second level, one at the front and then  
8 one at the rear that is actually a duplex unit. And above  
9 that is another duplex unit, which is actually also the  
10 penthouse of the building. So there are a total of five  
11 units, three of which are two bedrooms and two of which are  
12 one bedrooms.

13           Going back to the site plan and the particular  
14 constraints. I think this illustrates how the existing  
15 building sits on the site currently. It is being raised,  
16 given its condition. And there is currently a side yard  
17 between that building and the adjoining property to the  
18 south.

19           We are proposing attaching to the property to the  
20 south, because that is something that does not require  
21 relief. And again allows us to have a proper building on the  
22 site, which otherwise would be 16 feet wide.

23           In terms of height, we are in compliance with the  
24 regulations. So there's no relief requested for that. We  
25 do have a penthouse level, as I mentioned. We have reviewed

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1 the penthouse set that's proposed with the Office of the  
2 Zoning Administrator and it has been confirmed that what is  
3 proposed complies with the regulations.

4           So going into a little bit more detail about the  
5 exceptional condition and practical difficulty. I've touched  
6 upon them already but really it comes down to lot size and  
7 our inability to accommodate a building in that lot that  
8 would one, be more than perhaps one or two family, and  
9 certainly would not be able to accommodate the IZ unit or any  
10 type of affordable unit as requested by the ANC and the  
11 Office of Planning.

12           So it's basically a compounding effect. I know  
13 we are asking for a lot of relief. There are various  
14 sections involved. However, one triggers the other. We  
15 cannot have an IZ development on this property without  
16 increasing the lot occupancy. We are not requesting relief  
17 from the FAR, which we were previously.

18           The other variance requested is regarding IZ  
19 proportionality. And this has to do, again, with the  
20 diminutive size of the building. In order to meet the  
21 proportionality rule we would have to make one of the two  
22 bedroom units the IZ unit. And given that this is a five-  
23 unit development instead of the normal 10 units that an IZ  
24 development with the -- it was particularly, I guess,  
25 particularly challenging for my client to make one of the two

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1 bedroom units a one bedroom unit - that an IZ unit, given  
2 that we only have three two bedroom units in the building.  
3 Just in terms of the economic feasibility of the project.

4           Along those lines we have identified, you know,  
5 that the IZ unit is the duplex that I mentioned, it's labeled  
6 Unit Four. And that is actually the larger of the one  
7 bedrooms proposed in the development. So it meets the size  
8 criteria in that sense.

9           It has been identified by the Office of Planning  
10 in their report that that unit would have to be offered at  
11 50 percent MFI because of the contribution of the penthouse  
12 square footage towards the IZ unit's square footage.  
13 However, my client would like to evaluate the possibility of  
14 leaving the option of reconsidering that at the time that the  
15 fee that would have to be paid into the Housing Development  
16 Fund can be determined. And then he can make that decision  
17 at that time, whether to offer it at 50 percent or to offer  
18 it at 80 percent, which would be the norm, as I understand  
19 it.

20           MS. FERREIRA: I should also mention --

21           MEMBER MAY: Can I just clarify that? So you're  
22 suggesting you want to have the option of either doing it at  
23 50 percent, or at 80 percent plus, making it a contribution  
24 to the --

25           MS. FERREIRA: Correct.

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1 MEMBER MAY: -- trust fund?

2 MS. FERREIRA: Correct. And --

3 MEMBER MAY: You just don't know how much that is?

4 MS. FERREIRA: We don't know how much that is  
5 today --

6 MEMBER MAY: Right.

7 MS. FERREIRA: -- which is why we would rather  
8 leave that open because we have, you know, this has been a  
9 moving target on this project so a lot of things have changed  
10 rather rapidly.

11 As I mentioned, the project was completely  
12 redesigned, so this has come to light only recently and it  
13 has not been fully evaluated.

14 We don't want it to, of course, you know, be, you  
15 know, an inheritance in any way, but it's something that my  
16 client has not had the opportunity to fully evaluate. But  
17 it does appear to have a significant impact in terms of the  
18 potential value of that unit.

19 And, again, given that this is a five-unit  
20 building, we kindly ask for that consideration to be given.  
21 Especially because there is a proposed text amendment being  
22 considered to eliminate the proportionality rule for a  
23 smaller development, as I'm sure you're aware.

24 So I touched upon the exceptional condition and  
25 practical difficulty. The third prong on the variance test

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1 is no substantial detriment to the public good or the  
2 integrity of the zone plan.

3           We feel that the proposed development will be in  
4 harmony with the general purpose and intent of the zoning  
5 regulations and zoning maps. As I stated previously, the  
6 project does meet the constraints of the zoning regulations  
7 in every other aspect other than the relief being requested.

8           In addition, the majority of the relief is  
9 triggered by the intent to build a new inclusionary zoning  
10 development, as I stated previously. And doing so in a very  
11 small lot is a difficult task.

12           The building height is by right. I've mentioned  
13 the exterior stair and, again, we've made that an exterior  
14 stair in order to create as much openness as we possibly can,  
15 while accommodating the program and the requirements.

16           So, again, I think that shows the intent to not  
17 impinge upon the polychrome any more than we have to. In  
18 terms of the architecture, a Mansard roof is employed as a  
19 mechanism to try to reduce the scale of the building as seen  
20 from the exterior in comparison with adjacent buildings.

21           And in order to gain the square footage that we  
22 need on the interior to create the dwelling units that we  
23 proposed here, we have employed this mechanism of staggered  
24 bay windows that allows to manipulate interior spaces in a  
25 way that does not go outside of the zoning regulations,

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1 because we are still within the front setback requirement.

2 And, as a matter of fact, because of the size of  
3 the building to the north, which is a very large multi-unit  
4 building, the front setback along this lot has a bit of  
5 flexibility. But, even so, we are not coming forward from  
6 the body set by the front porches along that street.

7 And I could flip through some photos of existing  
8 conditions. As you can see, you know, basically the same  
9 type of dwelling marches down the street, almost all the way  
10 down to the end of the block where there is another multi-  
11 unit building.

12 So it's a series of smaller buildings sandwiched  
13 by two larger multi-unit buildings on either end of the  
14 block, the largest of which is to the north and is  
15 substantially larger. It's really quite large in comparison  
16 to this particular block.

17 So what we're proposing is something that is  
18 trying to bridge the scale between the two. But even so we  
19 are not maxing out the allowable height in terms of how far  
20 up we could go, especially if you are to consider that the  
21 penthouse will have to go up to 12 feet, as illustrated in  
22 this diagram.

23 We believe, too, the proposed development will not  
24 tend to affect grossly the public good for the following  
25 reasons. Two parking spaces are included in the proposed

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1 development, as required for up to six dwelling units given  
2 the property's proximity to the Georgia Avenue transportation  
3 corridor.

4           The reduction of side yard on alley side to three  
5 feet to the edge of the exterior stair and six feet to the  
6 primary exterior wall of the building along that side, will  
7 be an improvement upon the existing condition because no side  
8 yard exists currently. The building is literally on the  
9 property line along the alley.

10           And also, low panels exist on the adjoining  
11 property to the south. No windows exist along that exterior  
12 wall. Therefore, we do not feel that we are imposing in any  
13 way on that property in terms of access to light or air.

14           And care will be taken during construction to  
15 ensure that attaching to that building is properly done, and  
16 that construction issues that go along with that are  
17 addressed.

18           The length of the proposed building is roughly the  
19 same as that of the existing building and similar to the  
20 building next door. The building next door used to have an  
21 enclosed porch at the rear that has been removed, so it's  
22 actually a few feet shorter but it's certainly within the  
23 range.

24           As you can see here, we are coming five foot three  
25 past the rear wall of that building. So, again, no impact

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1 on light and air in that sense because we are not building  
2 any farther really than what we're allowed. We're actually  
3 building less in terms of building length.

4           Again, these drawing revisions, I know, are  
5 significant from what you originally saw. I know that the  
6 relief is also significantly different.

7           I just want to emphasize that this has been done  
8 out of our desire to have, you know, a team effort here that  
9 reflects what the ANC is trying to accomplish, of course what  
10 my client is trying to accomplish, and also the Office of  
11 Planning's concerns, so that we could arrive at something  
12 that is a win-win for everyone involved.

13           And with that in mind, I kindly request your  
14 approval of our request for relief.

15           CHAIRPERSON HILL: Okay. Thank you. Does the  
16 Board have any questions for the applicant?

17           MEMBER HART: Just a couple of kind of clarifying  
18 things. Is this lot narrower than the other lots on the  
19 block? I heard you say that it was smaller, but is it  
20 narrower?

21           MS. FERREIRA: I don't believe that it is narrower  
22 than the standard, but they do vary a bit. As you can see  
23 in this image, some of them are wedge-shaped and they're not  
24 the same width throughout.

25           It is the same width as the majority of the lots,

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1 and I can probably zoom in here. But because it is on a  
2 wedge-shaped lot and it's at the tip, it is shorter.

3 And in terms of square footage, actually in my  
4 analysis I did list exactly, you know, the square footages  
5 of that lot with relation to the lot next door, for example,  
6 and, you know, culminating with an 8,000 square foot lot at  
7 the end. So you can see that they gradually increase as you  
8 head south.

9 MEMBER HART: So that this is a smaller lot in  
10 terms of the depth than the other lots on at least along  
11 Colorado Avenue?

12 MS. FERREIRA: Correct. On that particular side  
13 of the street. Yes.

14 MEMBER HART: Okay. And you said that you are  
15 having to put in the exterior stair because of the number of  
16 units that you have --

17 MS. FERREIRA: Yes.

18 MEMBER HART: -- for egress parking reasons?

19 MS. FERREIRA: Yes. In the strict interpretation  
20 of egress requirements, a building that has four units or  
21 more needs to have two means of egress. And we have five  
22 units. And that --

23 MEMBER HART: So --

24 MS. FERREIRA: -- go ahead.

25 MEMBER HART: No, no. So because you're going up

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1 to five units that it's kind of triggering this, but if you  
2 went back to four units, not back, but if you went to four  
3 units then you wouldn't necessarily have to have that. Would  
4 that mean that you wouldn't have to have the relief for the  
5 side yard?

6 MS. FERREIRA: No, actually.

7 MEMBER HART: It seems like it's just that stair.  
8 I'm just trying to understand --

9 MS. FERREIRA: It's not just a stair. The stair  
10 is only part of it.

11 MEMBER HART: Okay.

12 MS. FERREIRA: The stair allows us -- having the  
13 stair on the exterior allows us to reduce the width of the  
14 building further. But we still have an additional two feet  
15 that we're putting into the building itself. So the  
16 requirement is eight feet. What we are proposing is a six  
17 foot --

18 MEMBER HART: Six. Okay.

19 MS. FERREIRA: Yes.

20 MEMBER HART: I read that when I was looking at  
21 it earlier I just thought I saw eight that was there. Okay.  
22 So that's six. So there are two feet that's actually part  
23 of the building?

24 MS. FERREIRA: Right.

25 MEMBER HART: Okay. I think that was it. There

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1 was another question about IZ. No, no. Okay. I'm fine.  
2 Thank you.

3 MS. FERREIRA: I also should mention that we have  
4 received unanimous support from the ANC. We do have support  
5 from the Office of Planning. And we also have support from  
6 the neighbors immediately to the north and south.

7 MEMBER HART: The ANC's support is conditional?

8 MS. FERREIRA: Correct.

9 MEMBER WHITE: And you agreed to all those  
10 conditions?

11 MS. FERREIRA: We did.

12 MEMBER WHITE: Okay.

13 MEMBER MAY: Just a couple other questions. So  
14 if I understand it correctly, the two lowest units are  
15 accessed from a side entrance --

16 MS. FERREIRA: Correct.

17 MEMBER MAY: -- along the alley. And is there,  
18 I mean, what's the treatment of that three foot wide space  
19 going to be?

20 MS. FERREIRA: Pervious pavers with entrances.  
21 And I can show you that exterior elevation. I'm not sure I  
22 have a 3D view showing that side, but here's the exterior  
23 elevation along the alley side of the building.

24 MEMBER MAY: Yes.

25 MS. FERREIRA: So we have some steps coming up

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1 front door number one and front door number two.

2 MEMBER MAY: So it won't actually be flush with  
3 the alley surface?

4 MS. FERREIRA: No, no.

5 MEMBER MAY: And there'll be -- is there some sort  
6 of curb all the way along that to keep cars from driving up  
7 the steps or something?

8 MS. FERREIRA: Well, right now we are not  
9 proposing that. What we're proposing is basically an edge  
10 of pervious pavers that's going to be actually six feet wide  
11 because, as you recall, the --

12 MEMBER MAY: Yes. Right.

13 MS. FERREIRA: -- you know, three feet of that is  
14 the exterior stair and it's an extension of the alley  
15 surface. On a previous design we had shown a fence along  
16 that edge, but we have since pulled that fence back to just  
17 a parking area so that there's a more welcoming entrance  
18 condition to those units. And also to not create additional  
19 narrowness along the alley than what's required.

20 So there will be a line, there will be a managed  
21 right between, you know, the pervious pavers and the alley  
22 pavement itself.

23 MEMBER MAY: Yes. I mean, you may actually want  
24 to consider having a curb of some sort because of the fact  
25 that people will wind up driving on that surface.

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1           Now, in your drawings, these are very complex  
2 drawings and a little difficult to figure out exactly what's  
3 going on. But why are you calling out the attic in the  
4 section drawings? I mean, is there actually a floor level  
5 that is --

6           MS. FERREIRA: Sure.

7           MEMBER MAY: -- an attic? Or is it just how you  
8 describe the space between the --

9           MS. FERREIRA: That is a mechanism that we  
10 employed in order to conceal our penthouse level as much as  
11 possible from the street view. So it's an architectural  
12 choice to extend the Mansard roof out those additional few  
13 feet because we were still well within the maximum building  
14 height allowable.

15           And on the 3D views you can see from the street  
16 view as a result, you know, what we see of the penthouse is  
17 really just a sliver at the top.

18           MEMBER MAY: So the area that you're calling  
19 attic, again, specifically along the side wall --

20           MS. FERREIRA: Yes.

21           MEMBER MAY: -- where it's partially imbedding the  
22 penthouse --

23           MS. FERREIRA: Right.

24           MEMBER MAY: -- I mean, what is that space? Where  
25 is it?

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1 MS. FERREIRA: Storage.

2 MEMBER MAY: And it's accessible from the  
3 penthouse or something?

4 MS. FERREIRA: Right.

5 MEMBER MAY: Okay. All right. So I think the  
6 other question I had is about the IZ unit itself where you  
7 have a -- if you look at the floor plan for it -- so it's  
8 Unit 4 and there's a full bath, it looks like kind of under  
9 the stair space --

10 MS. FERREIRA: Okay.

11 MEMBER MAY: -- and that's part of the living  
12 space, and then the bedroom is the level above that?

13 MS. FERREIRA: Correct.

14 MEMBER MAY: I mean, is it actually an enclosed  
15 bedroom or is it more like a --

16 MS. FERREIRA: It's a one-bedroom apartment so,  
17 I mean, the choice to put a door on there or not, that's  
18 something we haven't --

19 MEMBER MAY: Yes. Okay.

20 MS. FERREIRA: -- you know, debated but we could.

21 MEMBER MAY: Yes. Okay. The one thing that  
22 concerns me about this is that you really don't want to have  
23 to go down the stairs to go to use the restroom in the middle  
24 of the night. And I think one of the things that we look for  
25 in IZ units is doing something that is comparable to what you

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1 would get in any other apartment.

2 MS. FERREIRA: Yes.

3 MEMBER MAY: And I think, you know, I would not  
4 want to make compromises on the quality of that apartment,  
5 such as not having a bathroom on the same floor where the  
6 sleeping space is.

7 MS. FERREIRA: Sure.

8 MEMBER MAY: If it were, you know, sometimes if  
9 it's a loft that's, you know, that's part of the charm of a  
10 loft is, I guess, going up and down the stairs all the time.  
11 But I really think that the bathroom has to be on the same  
12 floor as the bedroom.

13 MS. FERREIRA: Okay. I think that's something we  
14 can change.

15 MEMBER MAY: You think that's possible?

16 MS. FERREIRA: Yes.

17 MEMBER MAY: Yes.

18 MS. FERREIRA: It might change the square footage  
19 of the unit slightly, although we can certainly try to avoid  
20 that. I appreciate that.

21 MEMBER MAY: I was going to ask the Office of  
22 Planning about that, too, because it's such an unusual thing  
23 to see that. I don't know how common it is in any kind of  
24 unit, but certainly not a unit that I would ever want to live  
25 in, unless I was like in college or something.

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1 MS. FERREIRA: These are fairly compact units  
2 and they are all different and I'm not being argumentative  
3 by any means.

4 MEMBER MAY: Yes.

5 MS. FERREIRA: Your point is well taken.

6 MEMBER MAY: Yes. They are unusual units.

7 MS. FERREIRA: They're all different. They're all  
8 different.

9 MEMBER MAY: Yes. And I appreciate that. A lot  
10 of the stuff is, you know, interesting and inventive and I  
11 appreciate the three-dimensional thinking that you had to go  
12 through to make this all work.

13 MS. FERREIRA: Yes. It wasn't easy to fit these  
14 units into this footprint, for sure.

15 MEMBER MAY: Yes. But I do think that not having  
16 a bathroom on that floor is a problem.

17 CHAIRPERSON HILL: Okay. I'll turn to the Office  
18 of Planning.

19 MS. BROWN-ROBERTS: Good afternoon, Mr. Chairman  
20 and members of the Board BZA. Maxine Brown-Roberts for the  
21 record. The applicant has submitted application for two  
22 special exceptions and three variances.

23 Regarding the variance for the new residential  
24 development in the R1A zone, it's outlined and in the  
25 analysis we think that they have met all the requirements of

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1 Section 421.

2           Regarding the upped-in into the inclusionary  
3 zoning, the Office of Planning was supportive of this.  
4 Whenever we can get an inclusionary zone is something that  
5 we look forward to doing. In addition to that, the applicant  
6 has met the requirements concerning the upped-in.

7           Regarding the variance, as applicant said we think  
8 that the shape and size of the building is a restricting  
9 factor and an exceptional situation, and especially for this  
10 zone.

11           And we believe that they have demonstrated that  
12 if they were to meet the regulations, that the size of the  
13 units would be reduced and would maybe result in some  
14 inefficient and impractical layouts.

15           We do not think that from the variance requests,  
16 especially from the lot occupancy and the side yard, that  
17 granting a variance would be a detriment to the public good.  
18 As demonstrated, we have shown that the light and air to the  
19 adjacent buildings will not be significantly impacted.

20           And that, again, the requirements for the zoning  
21 regulation is to minimize the impacts on light and air and  
22 privacy, and we think that these are met and, therefore,  
23 there's no harm to the zoning regulations.

24           Regarding the variance for the IZ, the  
25 proportionality, the Office of Planning is supportive of

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1 that. Again, there is some regulations being considered to  
2 delete that requirement.

3 In this case, the applicant has, when we spoke  
4 they were recommending and we were supportive of, well, we  
5 by the regulations that they required a 50 percent MFI. The  
6 applicant is asking for having 80 percent with a buy-in into  
7 the IZ program off-site. That is not something that we had  
8 considered, but, you know, so long as -- I'm not sure what  
9 was the ANC's recommendation regarding the IZ if it was at  
10 that level also.

11 So that's something that, I mean, we would have  
12 to take a second look at. And we think that the variance for  
13 having the proportionality rule would not be substantial harm  
14 to the zoning regulations.

15 Regarding Mr. May's question about having the  
16 bathroom on the second floor separated from the bedroom, I  
17 think that's something that we agree with and would like to  
18 see that, we're supportive of having that changed.

19 So overall we are in support of the request that  
20 was submitted by the applicant, and I'm available for  
21 questions.

22 CHAIRPERSON HILL: Does the Board have any  
23 questions for the Office of Planning? Okay. Does the  
24 applicant have any questions for the Office of Planning?

25 MS. FERREIRA: We do not.

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1 CHAIRPERSON HILL: Okay. I guess I have a  
2 question for the Office of Planning. So when you were saying  
3 that the 50 percent versus the 80 percent AMI and the buy-in  
4 to the housing trust, what is it that you were saying that  
5 you wanted to look at again?

6 MS. BROWN-ROBERTS: Well, I just heard about the  
7 request --

8 CHAIRPERSON HILL: Just now. Right.

9 MS. BROWN-ROBERTS: -- just now.

10 CHAIRPERSON HILL: So you don't have an opinion  
11 on it yet?

12 MS. BROWN-ROBERTS: Right. Yes.

13 CHAIRPERSON HILL: Right. Sure. Okay.

14 MS. BROWN-ROBERTS: We didn't evaluate it.

15 CHAIRPERSON HILL: You haven't had a chance to  
16 look at the ANC report to see if they're --

17 MS. BROWN-ROBERTS: Right. I don't remember what  
18 the ANC report had said, if there was a particular AMI that  
19 they had recommended. Because I think it was a 60 percent  
20 that they recommended. I'm not sure.

21 CHAIRPERSON HILL: I think it was 80. Is it 80  
22 percent?

23 MS. FERREIRA: If I can add to that?

24 CHAIRPERSON HILL: Sure. Please respond.

25 MS. FERREIRA: I don't recall a specific target

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1 being mentioned. Their concern was that we provide an  
2 affordable unit. There was no specific target that was  
3 discussed in my recollection. We can verify that --

4 CHAIRPERSON HILL: Well, I think it says 80  
5 percent or less.

6 MS. FERREIRA: Yes. Typically it's a range of 60  
7 to 80 percent. For ownership units it's 80 percent, which  
8 is what my client was anticipating. So the 50 percent came  
9 to him as a bit of a surprise and we thought we would bring  
10 it up today, you know, while we still had the opportunity to  
11 do so.

12 CHAIRPERSON HILL: Okay. I'm just trying to  
13 understand if we need anything more from the Office of  
14 Planning then. And so I would need supplemental perhaps, if  
15 that's what we were going to do. You would need more time  
16 to look at that?

17 MS. BROWN-ROBERTS: We would have a response  
18 pretty soon. I mean it's --

19 CHAIRPERSON HILL: Okay. That's all right. Okay.  
20 All right. Let's see, do you have any questions for the  
21 Office of Planning?

22 MS. FERREIRA: No. I do not.

23 CHAIRPERSON HILL: Okay. Is there anyone here who  
24 wishes to speak in support? Is there anyone here who wishes  
25 to speak in opposition? Okay. Does anybody have any more

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1 questions for the opposition?

2 I guess what I'm trying to understand -- oh,  
3 you're raising your hand. Would you like to speak in support  
4 or opposition or neither one? You can go ahead and come  
5 forward. I'm sorry, ma'am, you can't talk from there. You  
6 can come on forward.

7 Did you get sworn in earlier? Okay. You can go  
8 ahead and sit down. You can sit down. It's okay. That's  
9 all right. And then sit down and just turn on the  
10 microphone. And first go ahead and introduce yourself and  
11 give your home address.

12 MS. JIMENEZ: My name is Bella Jimenez. And I  
13 live in 5833 Colorado Avenue for 21 years. And the next door  
14 I'm glad that they want to build in, but I'm not agree with  
15 the wall. I don't want anything close to my wall. That's  
16 it. That's all I want to say.

17 I not agree with it, you know, because I don't  
18 want anything close to my wall. They can build in whatever  
19 they want the same size as the house already, but I don't  
20 want anything in my --

21 CHAIRPERSON HILL: Right, so you are the immediate  
22 next door neighbor?

23 MS. JIMENEZ: Yes.

24 CHAIRPERSON HILL: Correct?

25 MS. JIMENEZ: Yes. Mr. Bruno.

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1 CHAIRPERSON HILL: Okay. Sure. And did you,  
2 first of all did you get sworn in today? Did you take the  
3 oath administered by the Secretary at some point today?

4 MS. JIMENEZ: No.

5 CHAIRPERSON HILL: Okay. If you wouldn't mind  
6 standing up and just getting sworn in by the Secretary here?  
7 You just have to stand up and raise your right hand.

8 MS. JIMENEZ: Okay.

9 CHAIRPERSON HILL: And if anybody else is here who  
10 wants to testify that hasn't gotten sworn in. Okay.

11 MS. CAIN: Do you swear and affirm that the  
12 testimony that you're about to present in this proceeding is  
13 the truth, the whole truth and nothing but the truth?

14 MS. JIMENEZ: Yes.

15 MS. CAIN: You are sworn in.

16 CHAIRPERSON HILL: Okay. So basically, I mean,  
17 Ms. Jimenez, I mean you have three minutes on the clock here  
18 even though I don't know what other -- I'll go ahead and give  
19 three minutes to testify. And so you can just repeat what  
20 I think you said, but you're saying you don't have any  
21 objection to the project, but you don't want it up against  
22 your home.

23 MS. JIMENEZ: Yes. We already made a big dent on  
24 the community center and they talk about they go on  
25 construction. Right? And it's okay for me but soon they

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1 not, how do you say? Building close to my wall because every  
2 property, when something's close, it's lost value. Right?

3 If they can construct on the same side but not  
4 close to my wall. That's what I -- all the time, I think I  
5 already told them but they say they can doing whatever they  
6 want because they are the owner for the property.

7 CHAIRPERSON HILL: Right. They can build up --  
8 they're not here asking for relief to do that. They can do  
9 that by right. They can go ahead and build up against your  
10 wall by right.

11 I mean, the thing that I wondered and sometimes  
12 we've had people do this -- I don't know if there's any  
13 concerns about property or construction or things like -- is  
14 that in terms of like when they've -- where we've done, when  
15 people have done work next door to people's homes, is that,  
16 like, they've added them on to their insurance policy if  
17 there's any kind of things like that.

18 I don't know if you talked to Ms. Jimenez?  
19 Jimenez?

20 MS. JIMENEZ: Yes. Jimenez.

21 CHAIRPERSON HILL: Jimenez about that or not. Did  
22 Ms. Jimenez express any concerns about that, and did you guys  
23 ever talk about something like that?

24 MS. FERREIRA: At the original hearing date, which  
25 was two weeks ago, I met Ms. Jimenez and her daughter and

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1 some other family members in the hallway, and they expressed  
2 this concern to me at that time.

3           That was the first time that we heard that concern  
4 but, of course, you know, the building has been redesigned  
5 and it's no longer the same building that they originally saw  
6 when we met with them at the community meeting.

7           However, we did copy Ms. Jimenez's daughter on  
8 correspondence with the design updates. The one where the  
9 ANC, they were kept informed along the process. But I did  
10 also express to them two weeks ago that I would speak with  
11 the property owner about offering them, you know, his  
12 consideration during construction, to make sure that things  
13 are done properly and that there's open communication between  
14 them.

15           And I did express that, yes, this is as a matter  
16 of right we are allowed to attach to the building wall  
17 because the property does go all the way to their building  
18 wall. And it's not something that we're seeking relief for.

19           I think there was some confusion on your part  
20 about that because the original proposal did not attach. And  
21 the reason for that was that we were proposing an alteration  
22 initially. But given the condition of the building, it has  
23 been determined that a raze is really, you know, the only  
24 thing that makes sense.

25           So the project parameters have changed in that

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1 sense, and in our attempts to comply with the zoning  
2 regulations as much as possible from the other side is where  
3 we have to provide a setback.

4 We are reducing that setback to three feet, but,  
5 you know, the only other option would be to push the building  
6 up against the alley again. So I told them at that time that  
7 that is not an option that we are considering.

8 CHAIRPERSON HILL: Just curious. You understand  
9 that they just don't want it to happen? I mean --

10 MS. FERREIRA: I understand.

11 CHAIRPERSON HILL: -- I understand that. And by  
12 right you can do what you're going to do. So I'm just trying  
13 to see if there was any other concerns that the, they need  
14 a next door neighbor and they could have come in and wanted  
15 a party status and a whole bunch of things that they could  
16 have done. Right?

17 Okay, Ms. Jimenez. Does anybody have any  
18 questions for Ms. Jimenez?

19 MEMBER WHITE: No, but I did want to ask a  
20 question whether or not there could be consideration to add  
21 Ms. Jimenez on the insurance policy in the event there's any  
22 damage during construction? Since she is the adjacent  
23 homeowner.

24 CHAIRPERSON HILL: So would you be amenable to  
25 adding Ms. Jimenez to your insurance policy?

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1 MR. CASU: I can certainly talk to our insurance  
2 provider and I'll be open to that.

3 CHAIRPERSON HILL: Okay. All right. Well, I  
4 think we might need a new drawing anyway if we're going to  
5 find out about the bathroom getting put into the IZ unit up  
6 by the bedroom, so we're going to have to come back here  
7 anyway. So you can submit something into the record in terms  
8 of that. Okay?

9 All right. Does anybody have any more questions  
10 for Ms. Jimenez? Okay. Ms. Jimenez, thank you very much.

11 Okay. So I guess we would like to see in the  
12 record, I guess, Mr. Casu, if you can go ahead and talk to  
13 Ms. Jimenez and just see if you can do something in terms of  
14 adding her to your insurance policy and just submit something  
15 into the record to that.

16 And then also, I guess, Ms. Ferreira, if you could  
17 go ahead and redesign the plans again that shows the bathroom  
18 in the bedroom of the IZ unit, because we can't take a vote  
19 on it without that.

20 And so, let's see, am I missing anything? Sure.  
21 Go ahead. All right, Jacob.

22 MR. RITTING: There is a discussion of a request  
23 for added flexibility to pursue different IZ option to do 80  
24 percent plus a contribution, and it would be helpful to see  
25 that in writing from the applicant so we could assess it

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1 before the meeting, and also so the Office of Planning could  
2 provide a supplemental report with an opinion about that.

3 CHAIRPERSON HILL: Thank you. Thank you. So if  
4 the applicant can go ahead and submit what the Office of the  
5 Attorney General just requested and, therefore, then we can  
6 get a supplemental report from the Office of Planning  
7 concerning that flexibility that you're looking for.

8 And so then that would be added as a condition  
9 that we would be doing in addition to the conditions that you  
10 had already agreed to at the ANC.

11 As far as actually, just so it's all in one place  
12 when you put the exhibit together, if you could put the four  
13 conditions in there that you had agreed to at the ANC, as  
14 well as the condition concerning the 50 percent and the 80  
15 percent AMI with the flexibility for the housing trust fund.

16 And then, let's see, the plans for the bathroom.  
17 All right? And then also the supplemental record in terms  
18 of the insurance policy with the next door neighbor.

19 Let's see, and then, Ms. Cain, when should we get  
20 that in order to then get the Office of Planning's time to  
21 do a supplemental report and then get it back here for a  
22 decision?

23 MS. CAIN: Ms. Ferreira, how long do you think it  
24 will take to get that information together?

25 MS. FERREIRA: Twenty-four hours. We are very

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1 much interested in moving this project along, so we will do  
2 it as quickly as we can.

3 MS. CAIN: If we could get the revised information  
4 in let's say by this Friday, which is the 8th, Office of  
5 Planning, how long would you need? A week? Two weeks?

6 MS. BROWN-ROBERTS: No. We can have it by Monday.

7 MS. CAIN: All right.

8 MS. BROWN-ROBERTS: Yes. If we get her stuff in  
9 on Friday, we can have something to them Monday or Tuesday.

10 MS. CAIN: In that case then, we could schedule  
11 it for next Wednesday, the 13th.

12 CHAIRPERSON HILL: Okay. So we want OAG to have  
13 time to look at it, but we also want to have time to look at  
14 it. So if you got your stuff into -- wait a minute. I'm  
15 saying we put this up for decision in two weeks. Okay?

16 So if you're going to put it up for decision in  
17 two weeks, then if you want to work backwards if we had  
18 everything in the record by Friday, that previous Friday,  
19 that would give us the weekend to look at everything.  
20 Wednesday -- I'm looking at my calendar.

21 MS. CAIN: So if you put it on for Wednesday, the  
22 20th --

23 CHAIRPERSON HILL: I'm saying Wednesday, the 20th,  
24 we put it on for decision. So we'd want everything in the  
25 record by the 15th. And that would be the supplemental

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1 report as well that we'd get by the 15th. So that means if  
2 you got everything to us, I mean, you can get everything to  
3 us by Tuesday, the 12th. Okay. Or you can get it to us as  
4 soon as you want to.

5 I mean, like, the Office of Planning's  
6 supplemental report we'll get on the 15th, and then we'll  
7 have -- actually, why don't you just get everything into the  
8 record by the 13th, which is that Wednesday, and that way if  
9 there's anything from the ANC that they wanted to submit to  
10 us they'd have a week. Okay?

11 So all you guys will give us everything from --  
12 well, now I'm going to take another step back because gives  
13 me one more day. If you get us everything by the 12th.  
14 Okay?

15 MS. FERREIRA: Yes.

16 CHAIRPERSON HILL: Then the 15th we'll get the  
17 Office of Planning's supplemental report and then we can put  
18 it on for decision for the 20th. Okay?

19 MS. FERREIRA: So the new hearing date would be  
20 the 20th?

21 CHAIRPERSON HILL: Or the decision date will be  
22 the 20th. This record is now closed, except for the items  
23 that we've requested from the applicant.

24 MS. FERREIRA: Understood.

25 CHAIRPERSON HILL: And so you understand

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1 everything that we've requested from you?

2 MS. FERREIRA: Yes.

3 CHAIRPERSON HILL: Okay. Great. And since Mr.  
4 Hill -- Ms. Mianuzay (phonetic) can talk to you right now.  
5 Okay. All right. Do you have any further questions?

6 MS. CASU: No. We don't.

7 CHAIRPERSON HILL: Okay. All right. Well, thank  
8 you all very much. Now I'm repeating myself again. The  
9 hearing is closed except for the information that we've  
10 requested from the applicant, and everybody knows the  
11 deadlines that we're meeting on. And then we'll put this on  
12 decision for the 20th. Okay. Thank you.

13 MS. CAIN: Can I have applicants to the table for  
14 Application No. 19924 of William Eubanks? This is captioned  
15 as advertised pursuant to 11 DCMR Subtitle X, Chapter 9, for  
16 special exceptions under Subtitle E, Section 5201 from the  
17 non-conforming structural requirements of Subtitle C, Section  
18 202.1, and from the rear yard requirements of Subtitle E,  
19 Section 306.1 and under Subtitle E, Sections 205.5 and 5201  
20 from the rear addition requirements of Subtitle E, Section  
21 205.4, pursuant to Subtitle X, Chapter 10, for a variance  
22 from the lot occupancy requirements of Subtitle E, Section  
23 304.1, to construct a rear addition to an existing semi-  
24 detached principal dwelling unit in the RF1 zone at premises  
25 4210 Arkansas Avenue Northwest, Square 2697, Lot 74.

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1 CHAIRPERSON HILL: Okay. Great. Thank you. Good  
2 afternoon. If you could please introduce yourselves for the  
3 record from my right to left.

4 MR. CAMPBELL: Ulysses Campbell, ANC, 4C03.

5 MS. EUBANKS: Elizabeth Eubanks, homeowner.

6 MR. CARTER: Patrick Carter, architect.

7 MR. EUBANKS: William Eubanks, co-owner.

8 CHAIRPERSON HILL: Okay. Great. So, Mr. Carter,  
9 you're going to be presenting to us?

10 MR. CARTER: Yes.

11 CHAIRPERSON HILL: Okay. And Commissioner, you're  
12 just here to represent the ANC?

13 MR. CAMPBELL: Yes. And to answer any questions,  
14 if the Board happens to have any --

15 CHAIRPERSON HILL: Okay.

16 MR. CAMPBELL: -- based on the circumstances of  
17 the ANC approval.

18 CHAIRPERSON HILL: Okay. Great. Let's see. Did  
19 you get sworn in, Commissioner?

20 MR. CAMPBELL: I did not, actually.

21 CHAIRPERSON HILL: Okay. If you wouldn't mind  
22 standing and taking the oath from the Board Secretary to the  
23 left? Anyone else that didn't get sworn in?

24 MS. CAIN: Do you swear or affirm that the  
25 testimony you are about to present in this proceeding is the

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1 truth, the whole truth and nothing but the truth?

2 MR. CAMPBELL: I do.

3 MS. CAIN: You're now officially sworn in.

4 CHAIRPERSON HILL: Okay. Great. Thank you. So,  
5 Mr. Carter, if you want to go ahead and walk us through the  
6 application and what you're trying to achieve, including how  
7 you're meeting the standards for the different areas of  
8 relief that you're requesting relief from.

9 I'm going to put 15 minutes on the clock. Ms.  
10 Cain, if you wouldn't mind, so I just know where we are. And  
11 then you can begin whenever you like.

12 MR. CARTER: Thank you very much. Thanks for your  
13 time today. I was asked by the Eubanks to take a look at  
14 their property in consideration of handicap access for ailing  
15 parents.

16 And considering the configuration of their lot,  
17 one being the smallest lot within the square, and two given  
18 the topography of the house sits roughly 20 to 25 feet above  
19 the road, gaining an at grade access was somewhat difficult.  
20 So we looked at the existing rear deck that encompasses the  
21 entire rear yard, or what we would consider a rear yard since  
22 it's an irregular shaped lot.

23 We looked at that as the opportunity to extend the  
24 basement, which is at grade on the alley to gain an access  
25 that could come straight off from the alley into the basement

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1 level, as well as incorporate into that addition for that  
2 access a full bathroom that could be accessible at grade.

3           Actually, since we made our application to DCRA  
4 and Office of Planning, that time line may have been  
5 accelerated from just a visitor to actually a parent moving  
6 in with them for full-time care, so time is a bit of the  
7 essence on this application.

8           So what we looked at was -- what we felt would be  
9 reasonable would be to take the existing deck, which is  
10 already covering the entire rear yard, and excavating  
11 underneath and creating a basement addition where we can  
12 accomplish the egress and the bathroom.

13           And then take the opportunity on top of that to  
14 create a screened porch that encompasses the footprint of the  
15 existing deck, and put a Mansard roof on it to limit the  
16 light and ventilation implications from the neighboring  
17 properties.

18           The variance for the lot occupancy, the house  
19 already does not meet the lot occupancy because of the  
20 irregular shape, so we're asking for a variance on the lot  
21 occupancy from the existing of 61 percent up to 78 percent.

22           And then the special exception for the rear yard,  
23 which, again, is non-conforming, 20 is required. The  
24 existing house is at 14, but if you include the elevated deck  
25 there is actually zero rear yard.

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1           And then the extension of what the screened porch  
2 would be beyond the rear of the existing house, being beyond  
3 ten feet. There are existing retaining walls around the rear  
4 yard that are supporting the deck that are elevated above  
5 grade, and we're not actually raising, in order to get the  
6 basement level we're not actually raising those walls very  
7 much higher. So we thought that that would be a reasonable  
8 request.

9           And then the final special exception would be just  
10 the expansion of a non-conforming structure, because there  
11 is, other than height, no aspect of this existing drawing  
12 that meets the current zoning regulations.

13           So because of the triangular shape of the lot, the  
14 adjacency to the alley and the front road and the hill, the  
15 only opportunity to expand the basement is to include the  
16 area underneath the deck. So that's where we thought the  
17 most reasonable application would occur.

18           CHAIRPERSON HILL: There's been a request for a  
19 break, so we're going to take a quick break. Okay? And then  
20 we're going to be back here in hopefully less than five to  
21 ten minutes.

22           (Whereupon, the above-entitled matter went off the  
23 record at 3:03 p.m. and resumed at 3:10 p.m.)

24           MS. CAIN: The Board is now back in session.

25           CHAIRPERSON HILL: Okay. So I was asking a

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1 question of the Office of the Attorney General, and so it  
2 looks as though there's a possibility, and I'm not exactly  
3 sure whether or not -- so reasonable accommodation is  
4 something that someone else actually can define for me a  
5 little bit better -- but you want to be available under this  
6 relief for reasonable accommodation to try to make this home  
7 accessible for what you're trying to do. Right?

8           And so there's a chance that you might be able to  
9 do this in a different way that's either more efficient or  
10 you might want to come back over here -- or you might want  
11 to proceed in this manner that you're going about to get the  
12 relief you've requested.

13           Across the hall in the Office of Zoning, Allison  
14 Meyers is over there. If you just want, we were going to --  
15 and I'm sorry, the Commissioner is here -- I can actually,  
16 maybe we could take the testimony of the Commissioner if you  
17 want.

18           But I was going to say we could go ahead and pause  
19 this hearing for a little while. You can go over. I'll hear  
20 the next case. You can talk with Allison at the Office of  
21 Zoning over there and see what, just so she can explain a  
22 little bit your different options. Okay?

23           And then if it turns out, in fact, this is still  
24 the most expeditious way, then you can come back over here.  
25 Okay? But since Commissioner, I don't think there's a need

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1 for you stay here after that point, but since you did come  
2 down would you like to give us your testimony or any  
3 thoughts?

4 MR. CAMPBELL: Well, if it will move things along  
5 quicker, I mean, I realize you have another case and if the,  
6 you know, resident here is going to Ms. Meyers anyway, I  
7 don't mind hanging around at this point if I'm needed.

8 CHAIRPERSON HILL: Okay. That's fine. You can,  
9 if you want, I mean, there's only one more case after this  
10 and so we're going to keep this open in order for us to find  
11 out where we are.

12 So we're going to hold this case, we're just going  
13 to recess with you guys right now and let you have a chance  
14 to talk to the Office of Zoning. And then afterwards just  
15 come back over here. Okay?

16 So we're going to recess this case and we're going  
17 to call up our next case. So give me one second though, Ms.  
18 Cain. Okay. Thank you guys.

19 MS. CAIN: Would the parties come to the table for  
20 Application No. 19928 of David Glaudemans, pursuant to 11  
21 DCMR, Subtitle X, Chapter 9, this is an application for a  
22 special exception under Subtitle E, Sections 206.2 and 5203.3  
23 from the upper floor addition requirements of Subtitle E,  
24 Section 206.1A to construct a third-story addition to an  
25 existing two-story attached principal dwelling unit in the

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1 RF1 zone at premises 918 7th Street Northeast, Square 857,  
2 Lot 848.

3 MR. GLAUDEMANS: Good afternoon.

4 CHAIRPERSON HILL: Okay. Good afternoon. Would  
5 you introduce yourself, please, for the record?

6 MR. GLAUDEMANS: My name is David Glaudemans. I  
7 live at 918 7th Street Northeast. I'm the homeowner, with  
8 my wife.

9 CHAIRPERSON HILL: Okay. Great. So Mr.  
10 Glaudemans, I'm just trying to figure whether or not I have  
11 anything from the Office of Planning that's something that  
12 I can kind of follow along with.

13 And so what I'm going to ask you to do is go ahead  
14 and since I have a little bit of time I think here from the  
15 last hearing, if you want to go ahead and tell us about your  
16 project, what you're trying to accomplish and how you think  
17 you're meeting the standards for us to grant the relief  
18 requested.

19 And then we can turn to the Office of Planning and  
20 see where they are. Or we might even want to jump to the  
21 Office of Planning right away. But I'll go ahead and let you  
22 go ahead and tell us about your project.

23 MR. GLAUDEMANS: Obviously, since we're at the end  
24 of a long day, me and my wife are trying to build a third-  
25 story addition to accommodate our family.

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1           As part of the permit application with DCRA, the  
2 zoning administrator informed us that his interpretation of  
3 the relevant codes were such that we had to build the third-  
4 story addition three feet set back from our existing property  
5 because of the overhang roof.

6           He interpreted it as an architectural element and  
7 so to, quote-unquote, protect that architectural element, he  
8 was requiring us to build three feet back. He allowed us the  
9 opportunity to obviously come before you to seek relief from  
10 that three foot requirement.

11           In the course of that process and in communicating  
12 with the Office of Planning and the ANC and a couple of other  
13 folks, they brought to our attention that everyone was fine  
14 with us not building three feet back, but that they would  
15 prefer that we keep the roof overhang.

16           So you'll see in the case file I've submitted an  
17 alternate kind of front and side long section plan that keeps  
18 the existing architectural overhang. I can kind of give it  
19 to you here. I would strongly prefer to not keep that  
20 overhang.

21           I don't think it necessarily meets the definition  
22 in the code of an architectural element, such as a dormer,  
23 cornice, turret or tower, but my primary concern is not  
24 having to go three feet back from my existing property with  
25 the addition, if that makes sense.

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1           Sorry. I'm slow.

2           CHAIRPERSON HILL: I'm just wondering if you could  
3 click on the alternative drawing.

4           MR. GLAUDEMANS: So this is the alternative,  
5 which, as you can see, maintains the existing false roof  
6 while building up. And then I can do our --

7           CHAIRPERSON HILL: So the Capital Hill Restoration  
8 --

9           MR. GLAUDEMANS: The Restoration Society --

10          CHAIRPERSON HILL: Right. So they're in  
11 opposition to your moving the Mansard roof?

12          MR. GLAUDEMANS: Yes. And I believe that's the  
13 position of the OP as well, but they're both in support of  
14 our request to not set back the --

15          CHAIRPERSON HILL: When you say they're both in  
16 support, you don't have anything in the record from -- I'm  
17 just curious. Right? The Capital Hill Restoration Society  
18 to say that they are now in support?

19          MR. GLAUDEMANS: I'm just looking at -- so I guess  
20 in their letter, I'm just looking at it now because it was  
21 submitted yesterday -- reflects only half of the discussion  
22 we had with the Restoration Society, and we're not in the  
23 Historic District.

24                 I don't, they reached out to me right away. The  
25 conversation I had with them at their meeting was, again,

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1 twofold. I would prefer, my biggest concern is to not be  
2 required to build three feet back.

3 I would strongly prefer not to keep the Mansard  
4 roof, but if we have to keep the Mansard roof that's not  
5 important to the design of what I'm trying to achieve, which  
6 is to add a second bedroom for my son. So --

7 CHAIRPERSON HILL: That's all right. And the  
8 drawings that you have now, the drawings that are in the  
9 record right now, actually keep the Mansard roof?

10 MR. GLAUDEMANS: I've added, as you can see, I  
11 think Exhibit 29a1 and a2 as the options preferred by the  
12 Office of Planning and I'm assuming the Capital Hill  
13 Restoration Society. Our original drawings, and I'm trying  
14 to find them --

15 CHAIRPERSON HILL: That's right. Your original  
16 drawings are going to have the three-foot setback. Correct?

17 MR. GLAUDEMANS: No. They do not. I'm pulling  
18 up the original drawings here. The original drawings get rid  
19 of the Mansard roof.

20 CHAIRPERSON HILL: Okay. That was the other  
21 thing. All right.

22 MR. GLAUDEMANS: Sorry. You can see it here.

23 CHAIRPERSON HILL: Okay.

24 MR. GLAUDEMANS: Does that make sense?

25 CHAIRPERSON HILL: Yes. It does.

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1 MR. GLAUDEMANS: Sorry. I'm new to this process.

2 CHAIRPERSON HILL: That's okay. Can you go back  
3 to the alternate drawings, if you don't mind?

4 MR. GLAUDEMANS: Yes. Is that it? Yes. That's  
5 probably the easiest --

6 CHAIRPERSON HILL: That's fine. That's fine.  
7 Okay. I want to quickly turn to the Office of Planning real  
8 quick. If you don't mind, Office of Planning?

9 MR. MORDFIN: Good afternoon. I'm Stephen  
10 Mordfin. Excuse me. The Office of Planning supports the  
11 application of the applicant with the revised drawings  
12 showing the full Mansard roof remaining on the property  
13 without the third floor being set back three feet, because  
14 it doesn't affect the Mansard roof because that is attached  
15 to the front of the house.

16 So we find that with the applicant just  
17 maintaining that roof and building straight up that that  
18 would meet the intent of the provision and, therefore, we  
19 support this request.

20 MEMBER HART: And so are you also saying that  
21 it's, I mean, this is somewhat different than, of course, the  
22 neighbors, what the neighbors have. So it is, I know they're  
23 allowed to have the height, but it still is fairly different  
24 and many times we see the setback as something that helps to  
25 kind of keep a, you know, front facade.

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1           You're saying that that is not something that you  
2 necessarily think is necessary in this case?

3           MR. MORDFIN: Well, in this case, there's only one  
4 other house that has that same full Mansard roof, but it also  
5 has like a different porch, so I don't see where this would  
6 be interrupting a row of houses that all have the same  
7 features going from one side of the block to the other.

8           The houses are varied along this block and I think  
9 that by this applicant adding on to the third floor as he  
10 proposes that that's not going to change the symmetry of that  
11 row.

12           MR. GLAUDEMANS: Commissioner, may I make a note  
13 in response to that? Your concern is something we took to  
14 heart at the very beginning of this process in reaching out  
15 to our neighbors. Our goal is to live here forever and this  
16 will be our forever home, and so we made a conscious decision  
17 to design, as you can see from the front of the addition, a  
18 sloping, with a dormer, but a sloping addition so it kind of  
19 recedes from the street in a way as to minimize the  
20 obtrusiveness, perhaps if you will, of the addition.

21           And my view, again, just from a homeowner's  
22 perspective, is my concern is with a three-foot setback I  
23 would be forced, just from an interior layout dimension  
24 standpoint, to what I would describe as a Lego block approach  
25 of just putting something on that would be readily knowable

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1 that has never been there, whereas I feel like the approach  
2 we've taken has tried to accommodate a more gradual and  
3 aesthetically pleasing and consistent with the rest of the  
4 neighborhood approach. If that makes sense.

5 MEMBER HART: No. It makes sense. I was just  
6 wondering where the Office of Planning was with that.

7 MR. GLAUDEMANS: Sure.

8 MEMBER HART: Thank you.

9 CHAIRPERSON HILL: Okay. Now I just want to be  
10 clear because kind of didn't hear that discussion clearly  
11 enough. The Office of Planning is in approval of the  
12 alternate drawings.

13 MR. MORDFIN: That is correct.

14 CHAIRPERSON HILL: Okay. And they're not in  
15 approval of the other drawings?

16 MR. MORDFIN: Correct.

17 CHAIRPERSON HILL: Okay. All right. Does the  
18 Board have any further questions for the Office of Planning?

19 MEMBER WHITE: Just to make sure I'm clear. So  
20 the revised drawings do not have a setback or they do?

21 MR. GLAUDEMANS: They do not. None of the  
22 drawings that we've proposed include the setback.

23 MEMBER WHITE: Okay. Okay.

24 MR. GLAUDEMANS: They were not in any of the  
25 original drawings we submitted to DCRA for round 1. This is

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1 an issue that was identified in round 2, and so they've never  
2 been part of the drawings. If you guys want to see what that  
3 looks like, I can have my architect --

4 CHAIRPERSON HILL: No. That's okay.

5 MEMBER WHITE: And it doesn't have the Mansard  
6 roof either, or it does?

7 MR. GLAUDEMANS: What I've submitted to DCRA does  
8 not have the Mansard roof, but I've submitted for your  
9 consideration because I wanted to expedite this project.  
10 I've been in permits since November of 2017.

11 I submitted an alternate set of drawings that show  
12 what it would look like with the Mansard roof and we would  
13 proceed, obviously, with that design, based on your decision.

14 MEMBER WHITE: Okay.

15 CHAIRPERSON HILL: What is it that you ended up  
16 presenting to the ANC, and when did you present it?

17 MR. GLAUDEMANS: We presented to the ANC -- I  
18 don't have my phone with me -- at the PZE meeting. We did  
19 not, we talked about the Mansard roof. I presented the  
20 designs without the Mansard roof because the Office of  
21 Planning hadn't approved that.

22 We talked extensively about the roof. Their  
23 interpretation was because the street, this is not an  
24 architecturally significant element of the street. It's not  
25 like every other house has this. My neighbor has a similar

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1 version, but nothing else does.

2           So they were completely comfortable removing it  
3 and being consistent in their recommendation on a number of  
4 applications that they said they'd received for this type of  
5 exception.

6           So their, I think, letter is a little different  
7 than OP's and the Historical Society's in that they support  
8 it without the condition of keeping the Mansard roof.

9           Again, at this point, I've been in permits for 15  
10 months. My first consideration is maintaining the, getting  
11 rid of the three-foot setback.

12           CHAIRPERSON HILL: Oh, I see. I got you. I'm  
13 with you. All right. Right. Does anybody have any  
14 questions from the Office of Planning? Okay. Does the  
15 applicant have any questions for the Office of Planning?  
16 Okay.

17           Is there anyone here who wishes to speak in  
18 support? Is there anyone here who wishes to speak in  
19 opposition? All right. Mr. Glaudemans -- how do you  
20 pronounce your last name? Sorry.

21           MR. GLAUDEMANS: Glaudemans.

22           CHAIRPERSON HILL: Glaudemans. Do you have  
23 anything --

24           MEMBER MAY: Mr. Chairman, I'm sorry. I do have  
25 one more question. I'm just trying to understand exactly

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1 what we're seeing in the elevation that you had submitted  
2 that you had submitted.

3 So what you're showing is the Mansard roof  
4 essentially retained as it is, and then you have a shingled  
5 facade with a dormer projecting in front of that? So you're  
6 going to have a Mansard like this and then another Mansard  
7 that's a little bit steeper?

8 MR. GLAUDEMANS: The slope of the addition --

9 MEMBER MAY: Yes.

10 MR. GLAUDEMANS: -- and maybe --

11 MEMBER MAY: It's not the same as the slope of the  
12 Mansard.

13 MR. GLAUDEMANS: No. I think the geometry gets  
14 a little awkward, according to my architect, about making it  
15 exact. But I think the idea would be -- and this is one of  
16 the things the ANC actually reflected on was because the  
17 geometry is a little funky, that it actually looks a little  
18 cleaner from an aesthetic standpoint if we get rid of the  
19 existing Mansard.

20 But let me see if I can't pull up the front on  
21 view. Now it's all screwed up.

22 MEMBER MAY: That's okay. It's the one I'm  
23 looking at. I know what you're talking about.

24 MR. GLAUDEMANS: Okay. Does that sort of address  
25 -- you're talking about --

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1 MEMBER MAY: Yes. I wanted to understand what the  
2 angles were because it wasn't totally clear.

3 MR. GLAUDEMANS: Okay.

4 MEMBER MAY: I mean, first of all, I should  
5 clarify that the Mansard roof feature on this row house is  
6 absolutely one of the features that the Zoning Commission had  
7 in mind when we wrote this text that protects them.

8 MR. GLAUDEMANS: Okay.

9 MEMBER MAY: So that is a feature that we are  
10 looking to preserve.

11 MR. GLAUDEMANS: Okay.

12 MEMBER MAY: And --

13 MR. GLAUDEMANS: It's not listed, so that's --

14 MEMBER MAY: That's correct. It's not explicitly  
15 listed.

16 MR. GLAUDEMANS: Okay.

17 MEMBER MAY: However, it was, you know, you can't  
18 write down every single thing that it might apply to. It's  
19 just any significant architectural feature so it applies to  
20 porches, it applies to any number of different things that  
21 may not be explicitly listed.

22 I mean, I would not necessarily assume that  
23 pushing it back three feet would have been a bad thing  
24 architecturally because I've seen some reasonable versions  
25 of that.

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1           Did you actually try to pursue that? I mean,  
2 because that would have been a matter of right. Right? Or  
3 is that not correct?

4           MR. GLAUDEMANS: Yes. Well, it's a matter of  
5 right, I guess, with the interpretation. Yes. Like, it  
6 makes the interior dimensions very difficult for what we want  
7 to do, which we have a kind of one son right now.

8           We have another child on the way, and so we want  
9 to add a bedroom and then an office for my wife to work from,  
10 and so it just starts to cramp everything relatively  
11 significantly.

12           Can we make it work? Yes. I don't know what  
13 value I get as a neighborhood or as a community from those  
14 three feet.

15           MEMBER MAY: It would just look better, that's  
16 all.

17           MR. GLAUDEMANS: Well, that's a matter of  
18 subjective interpretation.

19           MEMBER MAY: Correct.

20           MR. GLAUDEMANS: I live there so --

21           MEMBER MAY: Yes. I know. So do we. So does  
22 everybody, you know, we all live in the city and we all, I  
23 mean, the Zoning Commission all lives in the city. We make  
24 these decisions and try to protect the -- this is a big  
25 issue. The treatment of RF1 properties and what the

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1 guidelines are. There was a substantial uproar with a number  
2 of buildings that were getting popped up, popped back --

3 MR. GLAUDEMANS: Yes. I think there's one on  
4 Kennedy Street right now that's getting a lot of publicity.

5 MEMBER MAY: They're all over the place. Right?

6 MR. GLAUDEMANS: Right.

7 MEMBER MAY: And there was an uproar about that  
8 so --

9 MR. GLAUDEMANS: Yes.

10 MEMBER MAY: -- so the Zoning Commission steps  
11 into that breach and tried to address it without trying to  
12 make the whole place --

13 MR. GLAUDEMANS: Sure.

14 MEMBER MAY: -- the whole city subject to design  
15 review. Right?

16 MR. GLAUDEMANS: Right.

17 MEMBER MAY: Which is what some people wanted to  
18 do. So it's how do you do that?

19 MR. GLAUDEMANS: Sure.

20 MEMBER MAY: I mean, I don't think what you're  
21 proposing is completely unreasonable, but I have seen better  
22 versions of this that actually do set it back three feet.  
23 I've also seen better versions of it that are right up  
24 against it. But it is subjective.

25 CHAIRPERSON HILL: All right. Anyone else? Okay.

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1 Anything else you'd like to add in conclusion? All right.  
2 All right. I'm going to close the hearing. Is the Board  
3 ready to deliberate?

4 All right. I'm going to do mine real quick here  
5 then. So I'm going to go ahead and say that I'm able to  
6 agree with the recommendations of the Office of Planning and  
7 also that of the ANC 6C that has, you know, six to zero to  
8 zero vote in support.

9 DDOT had no objection. There are three letters  
10 in support. I would be in agreement with the analysis, or  
11 not analysis, the argument the applicant is providing for the  
12 new design that was in -- or the revised designs, I should  
13 say -- that they have put forward, and I would be voting to  
14 approve. Does anyone else have anything they'd like to add?

15 MEMBER WHITE: Well, the only thing I'd like to  
16 add or to at least get clarification on is whether or not  
17 we're approving the design with the Mansard roof.

18 CHAIRPERSON HILL: Yes.

19 MEMBER WHITE: We are. So I would be in support  
20 of the application as well.

21 MEMBER MAY: I think my thoughts on this are  
22 pretty clear. I mean, this is not the -- I think it is  
23 important to save the Mansard roof, so I think in this  
24 circumstance you might have been able make a case that it  
25 actually was not going to be the best looking version of

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1 this. That, you know, it might have better, particularly if  
2 we saw more of a context of the block to understand what was  
3 going on.

4 But I'm okay with what's proposed, with what the  
5 Office of Planning supports, even if it's not what I would  
6 consider the absolute best version of it.

7 CHAIRPERSON HILL: Okay. I'm going to make a  
8 motion to approve Application No. 19928, as captioned and  
9 read by the Secretary, with the revised drawings that were  
10 provided by the applicant with the Mansard roof. And I'd ask  
11 for a second.

12 MEMBER JOHN: Second.

13 CHAIRPERSON HILL: Motion made and seconded. All  
14 those in favor say aye.

15 (Chorus of aye.)

16 CHAIRPERSON HILL: All those opposed? The motion  
17 passes. And Ms. Cain?

18 MR. GLAUDEMANS: Thank you.

19 MS. CAIN: Staff would record the vote as five to  
20 zero to zero on the motion of Chairman Hill to approve the  
21 application for relief requested. Seconded by Board Member  
22 John. Also in support, Board Members Hart, White and  
23 Commissioner May. Motion carries.

24 CHAIRPERSON HILL: Okay. Great. Thank you, Ms.  
25 Cain. Could you call our case back up again when you get a

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1 chance?

2 MS. CAIN: Can we have applicants back to the  
3 table for Application 19924. It's the application of William  
4 Eubanks, which was temporarily recessed by the Board and is  
5 now back in session.

6 CHAIRPERSON HILL: Okay. Could you please  
7 reintroduce yourselves for the record?

8 MR. CAMPBELL: Ulysses Campbell, ANC 4C03.

9 MS. EUBANKS: Elizabeth Eubanks, homeowner.

10 MR. CARTER: Patrick Carter, architect.

11 MR. EUBANKS: William Eubanks, co-homeowner.

12 CHAIRPERSON HILL: Okay. So Mr. Carter, I think  
13 I know where we're going to be with this, but so you guys are  
14 just wanting to continue moving forward in the way that you  
15 have this presented to us. Correct.

16 MR. CARTER: Yes. And thank you for the  
17 opportunity to speak with Ms. Meyers.

18 CHAIRPERSON HILL: Sure.

19 MR. CARTER: We did start to pursue that path  
20 earlier on and due to the configuration of the bathroom  
21 meeting fair housing specifications we decided --

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

23 MR. CARTER: -- to go this route.

24 CHAIRPERSON HILL: Sure. That's fine. That's  
25 fine. Okay. I do believe you've given us your testimony.

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1 I can't remember whether you turned to the Office of Planning  
2 or not, so I'm going to turn to the Office of Planning now.

3 MS. FOTHERGILL: Good afternoon. I'm Anne  
4 Fothergill with the Office of Planning. And the Office of  
5 Planning does recommend approval of the three special  
6 exceptions and the variance request for this application.

7 And we find that it meets the review criteria for  
8 the special exceptions and meets the variance test, as was  
9 discussed of the subject properties, the sub-standard  
10 irregular shaped lot, and it's the smallest lot in the  
11 square, which creates practical difficulties to complying  
12 with the zoning regulations, and we found that it met the  
13 test and we rest on the record in support of the application.

14 CHAIRPERSON HILL: Okay. Great. Does anybody  
15 have any questions for the Office of Planning?

16 MR. CARTER: No.

17 CHAIRPERSON HILL: Okay. Does the applicant have  
18 any questions for the Office of Planning? Or did you just  
19 say no?

20 MR. CARTER: I'm sorry. Yes, I thought you were  
21 speaking to me.

22 CHAIRPERSON HILL: I was asking if the Board had  
23 any questions for the Office of Planning. No. Does the  
24 applicant have any questions for the Office of Planning?

25 MR. CARTER: No, sir.

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1 CHAIRPERSON HILL: No. Does the ANC Commissioner  
2 have any questions for the Office of Planning?

3 MR. CAMPBELL: I do not. Thank you.

4 CHAIRPERSON HILL: Okay. All right. So, Mr.  
5 Carter -- does anybody here wish to speak in support? Is  
6 there anyone here who wishes to speak in opposition? Okay.  
7 Mr. Carter, do you have anything you'd like to add in the  
8 end?

9 MR. CARTER: No. Thank you.

10 CHAIRPERSON HILL: Okay. Or at the end here?  
11 ANC, is there anything you'd like to add at the end?

12 MR. CAMPBELL: No. Everything is in our report,  
13 and we are fully in support of the application.

14 CHAIRPERSON HILL: Okay. Great. Thank you,  
15 Commissioner. I will say one thing real quick. This was a  
16 beautiful, sunny day when you took these photos. I just felt  
17 like the summer. I have to tell you.

18 In fact, if you can scroll down for me right now?  
19 Just keep scrolling down. Keep scrolling. Right there.  
20 Just stay right there for me. Okay. I appreciate that. All  
21 right. Okay. Any final questions for anyone? No? All  
22 right.

23 I'm going to go ahead and close the hearing. Is  
24 the Board ready to deliberate? Okay. I can start. Again,  
25 I would agree with the Office of Planning and their analysis.

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1 I also do appreciate that the Commissioner has come down here  
2 to lend their support as was the ANC in support with no  
3 issues or concerns. DDOT had no objection.

4 And so I would believe and agree with the burden  
5 of proof provided by the applicant that they are meeting the  
6 standards for us to grant their relief that's being  
7 requested, and I will be voting to support. Does anyone else  
8 have anything they'd like to add? Okay.

9 I'm going to make a motion to approve Application  
10 No. 19924 as captioned and read by the Secretary, and ask for  
11 a second.

12 MR. HART: Second.

13 CHAIRPERSON HILL: Motion made and seconded. All  
14 those in favor say aye.

15 (Chorus of aye.)

16 CHAIRPERSON HILL: All those opposed? The motion  
17 passes, Ms. Cain?

18 MS. CAIN: Staff would record the vote as five to  
19 zero to zero on the motion of Chairman Hill to approve the  
20 application for relief as requested. Seconded by Vice-  
21 Chairman Hart. Also in support, Board Members White, John  
22 and Commissioner May. Motion carries.

23 CHAIRPERSON HILL: Okay. Great. Thank you.  
24 Thank you all very much. Ms. Cain, is there anything more  
25 in front of the Board today?

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1 MS. CAIN: Nothing from staff.

2 CHAIRPERSON HILL: Okay. Great. Then we stand  
3 adjourned. Thank you all.

4 (Whereupon, the above-entitled matter went off the  
5 record at 3:35 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: 03-06-19

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.

*Neal R Gross*

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Court Reporter

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