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

PUBLIC HEARING AND MEETING OF  
THE BOARD OF ZONING ADJUSTMENT

9:42 a.m. to 4:12 p.m.  
Wednesday, May 17, 2017

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

OLENDER REPORTING, INC.  
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1 Board Members:

2 FREDERICK HILL, Chairperson

3 CARLTON HART, Vice Chairperson

4 LESYLLEE WHITE, Board Member

5 PETER MAY, Zoning Commission

6 CLIFFORD MOY, BZA Secretary

7

8 Office of Attorney General

9 MARY NAGELHOUT, Esq.

10 SHERRY GLAZER, Esq.

11

12 Office of Planning

13 ELISA VITALE

14 STEVEN COCHRAN

15 MATTHEW JESICK

16 STEPHEN MORDFIN

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

2 CHAIRPERSON HILL: All right. The hearing  
3 will please come to order. Good morning, ladies and  
4 gentlemen. We're located in the Jerrily R. Kress  
5 Memorial Hearing Room at 441 4th Street Northwest.  
6 This is the May 17th, 2017 public hearing of the Board  
7 of Zoning Adjustment of the District of Columbia.

8 My name is Fred Hill, Chairperson. Joining me  
9 today is Carlton Hart, Vice Chair Person, Lesyllee  
10 White, Board Member, and representing the Zoning  
11 Commission is Peter Shapiro.

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

17 Accordingly, we must ask you to refrain from  
18 any disruptive noises or actions in the hearing room.

19 When presenting information to the Board, please turn  
20 on and speak into the microphone, first state your  
21 name and home address.

22 When you're finished speaking, please turn off  
23 your microphone so that your microphone is no longer  
24 picking up sound or background noise. All persons  
25 planning to testify either in favor or opposition must

1 have raised your hand and been sworn in by the  
2 secretary. Also, each witness must fill out two  
3 witness cards. These cards are located on the table  
4 near the door and on the witness table. Upon coming  
5 forward to speak to the Board, please give both cards  
6 to the reporter sitting to the table at my right.

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

14           The order of procedure for special exceptions,  
15 variances, and appeals is also in the bin to my left  
16 as you walk into the door, walk into the hearing room.

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

23           After the record is closed, no other  
24 information shall be accepted by the Board.

25           The District of Columbia Administrative

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

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

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

1 such a matter.

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

4 MR. MOY: Good morning, Mr. Chairman, members  
5 of the Board. Staff does have one, but that can be  
6 addressed as the first case in the meeting session,  
7 sir.

8 CHAIRPERSON HILL: Okay. If anyone is here  
9 wishing to testify, if you could please stand so that  
10 the secretary can administer the oath?

11 MR. MOY: Good morning.

12 [Oath administered to the participants.]

13 CHAIRPERSON HILL: Okay, great. Just so  
14 everyone here in the audience knows, we're going to be  
15 following the public meeting agenda and the hearing  
16 agenda, except for there's just a couple of changes  
17 we're going to make.

18 In the meeting agenda, the first case is  
19 Appeal No. 19441 of Richardson Place Neighborhood  
20 Association. We need one other commissioner to be  
21 here, and he's going to be here at 1:00, so that's  
22 been moved to 1:00, and I think we did mention that,  
23 actually, when the hearing was last week.

24 And then also, the last case in the hearing  
25 docket, which is Application 19491 of Jurassic

1 Properties, that's also going to be, whether we get to  
2 it -- you know, whenever we get to it, but it will be  
3 at least until 1:00 because that's when, again, we  
4 need the zoning commissioner. So, that's it for that.

5 Mr. Moy, you can go ahead, I guess, and call  
6 the preliminary matter.

7 MR. MOY: Yes, sir. Thank you. That would be  
8 Case Application 19504 of CHS Bold PAC, or P-A-C, as  
9 you see in the filing in your case record, there is a  
10 request from the applicant to waive the 40-day notice  
11 requirement. This because of their need to add an  
12 additional variance relief to the application.

13 The hearing itself is scheduled for June 7th,  
14 2017.

15 CHAIRPERSON HILL: Okay. Thank you. Even  
16 though this did come in just the other day, I did have  
17 an opportunity to review this. Is the Board ready to  
18 talk about this, or look at this?

19 So, I, after looking at it again and realizing  
20 that the request, it still seems that the variance, or  
21 what they are asking for was what was presented at the  
22 May 2nd ANC meeting, as well as what was presented at  
23 the Capitol Hill Restoration Society Zoning Committee  
24 Meeting. And the 40-day notice, they were five days  
25 short.



1           And so, I don't have an issue with granting  
2 the waiver. Does the Board have anything they'd like  
3 to discuss?

4           MS. WHITE: No, I agree with you, Mr.  
5 Chairman. I don't have an issue with the waiver as  
6 well.

7           CHAIRPERSON HILL: Okay. Then I'll go ahead  
8 and just -- I guess, can I just consent, may just  
9 consent, the Board consent issue?

10          MR. MOY: Yes, you may, sir. Yes.

11          CHAIRPERSON HILL: Consent to grant the  
12 waiver.

13          MR. MOY: Yes, sir.

14          CHAIRPERSON HILL: Okay.

15          [Pause.]

16          CHAIRPERSON HILL: All right, Mr. Moy, you can  
17 call our first meeting case.

18          MR. MOY: Yes, sir. I believe that is Case  
19 Application No. 19464 of Dennis Medvedev. The Board  
20 last convened in a decision session on May 10th, 2017,  
21 and as you recall, this was amended for special  
22 exception relief under the penthouse requirements,  
23 Subtitle C, 1500.4, as well as the Uniform Closure  
24 Height requirement of Subtitle C, 1500.9. The Board  
25 requested the applicant to submit revised drawings,

1 which is in your case record under, I believe, Exhibit  
2 67. And, depending on how the Board votes on that  
3 revised drawing, then it would go to the relief of  
4 penthouse setback requirements of Subtitle C, Section  
5 1502.1(b) and 1502.1(c).

6 CHAIRPERSON HILL: Okay, great. Thank you,  
7 Mr. Moy. Is the Board ready to deliberate?

8 Okay. So, we did go through the hearing and  
9 the last, I guess it was just last week wherein the  
10 Office of Planning, in their analysis, after working  
11 with the applicant, was unable to see how they met the  
12 standards for the north setback. And so, the  
13 applicant did withdraw that request.

14 And then we needed, or the Board had asked for  
15 supplemental drawings and I guess those are in Exhibit  
16 65, 66, and 67. So, after seeing those, I'm actually  
17 comfortable with moving forward and granting the  
18 relief. Does the Board have any comments?

19 MR. HART: Just, I also reviewed the new  
20 documents and appreciate the applicant's effort to  
21 deal with that north setback issue that OP wasn't able  
22 to agree with. And I think that they have shown, in  
23 the new documentation, specifically Exhibit 67, that  
24 they are now setback from the railing from the north  
25 area, and I would be in approval of the application as

1 well, or support of, I guess I should say.

2 CHAIRPERSON HILL: Okay. Then, I'll go ahead  
3 and make a motion to approve Application No. 19464 of  
4 Dennis Medvedev. Looking for a second.

5 MR. HART: Second.

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

8 [Vote taken.]

9 CHAIRPERSON HILL: The motion passes, Mr. Moy.  
10 And I apologize for just butchering that last name,  
11 I'm sure.

12 MR. MOY: Staff would record the vote as  
13 three, to zero, to two. This is on the motion of  
14 Chairman Hill to approve the application for the  
15 relief requested based on the submittal of the revised  
16 drawings as to the penthouse requirement. Seconding  
17 the motion, Mr. Hart, Vice Chair Hart. Also in  
18 support, Ms. White. We have a seat vacant. We had  
19 one member participating but although I had an  
20 absentee ballot back on May 10th, but with these  
21 changes I'm not going to record his vote. So, the  
22 motion carries, three, zero, two.

23 CHAIRPERSON HILL: Okay, great. Thank you,  
24 Mr. Moy. Can we do a summary order?

25 MR. MOY: Yes, sir.

1 CHAIRPERSON HILL: Great. Thank you.

2 MR. MOY: Okay. I believe the next case  
3 application for decision is No. 19404 of Bellview  
4 Development, Inc. This was a request for variances  
5 from the lot area requirements of Subtitle E, Section  
6 201.1; lot occupancy requirements, Subtitle E, Section  
7 504; and the rear yard requirements, Subtitle E,  
8 Section 506. This would permit the construction of a  
9 three-story flat, RF-3 Zone, at premises 434 3rd  
10 Street Northeast, Square 755, Lot 816.

11 CHAIRPERSON HILL: Okay. Is the Board ready  
12 to deliberate?

13 Okay. I guess this, to me, you know, I had a  
14 chance to review the --

15 MS. BURRIS: Can I say something? I just  
16 wanted to mention over on two --

17 CHAIRPERSON HILL: I'm sorry. Actually, hold  
18 on a second. Okay. Go ahead and --

19 MS. HOGAN-BURRIS: Okay, we have come to --

20 CHAIRPERSON HILL: Okay, that's okay. That's  
21 okay. Give me one second. If you could please just  
22 introduce yourself?

23 MS. HOGAN-BURRIS: Oh, I'm Valeria Hogan-  
24 Burris. I'm the owner of 436 3rd Street Northeast,  
25 and I was --

1 CHAIRPERSON HILL: Okay. That's okay. Give  
2 me one second. All right.

3 And I believe the attorney here for the  
4 applicant is present, if you could please come  
5 forward?

6 MS. HOGAN-BURRIS: Okay. Okay.

7 MR. SULLIVAN: Thank you, Mr. Chairman. Marty  
8 Sullivan on behalf of the applicant.

9 CHAIRPERSON HILL: Okay. I appreciate you  
10 being here. It wasn't really what I had thought was  
11 going to happen. So, if you could please explain why  
12 you've come forward?

13 MS. HOGAN-BURRIS: We've come forward because  
14 we've come to an agreement and we are going to  
15 withdraw our application this afternoon. He's going  
16 to send in a letter this afternoon. We've come to an  
17 agreement.

18 CHAIRPERSON HILL: Okay. Okay. So, you're  
19 going to withdraw your party status. Okay. And, Mr.  
20 Moy, maybe I need to understand how this works. I  
21 mean, I would have to have that into the record first  
22 before we'd be able to do anything in terms of summary  
23 orders versus full orders.

24 MR. MOY: Yes, it's good to have the  
25 documentation.

1 CHAIRPERSON HILL: Okay.

2 MR. MOY: Even though we heard the oral --

3 CHAIRPERSON HILL: Okay.

4 MR. MOY: -- position. Unless OAG believes  
5 otherwise.

6 MS. GLAZER: Well, I think the representation  
7 on the record would be sufficient, but you might want  
8 to hear from the applicant's counsel on this issue.

9 CHAIRPERSON HILL: Okay. So, Mr. Sullivan, I  
10 suppose the question is, is that enough for the  
11 applicant and also can you submit it to the record  
12 right away?

13 MR. SULLIVAN: Submit the withdrawal letter,  
14 or submit a copy of the agreement?

15 CHAIRPERSON HILL: Sorry. Submit the copy of  
16 the agreement and I guess if you could submit the  
17 withdrawal letter.

18 MS. HOGAN-BURRIS: I'll do that today.

19 CHAIRPERSON HILL: Okay. And when you say  
20 today, when would that be today?

21 MS. HOGAN-BURRIS: I guess it's what, 10:00?  
22 I guess about 1:00 or 2:00.

23 CHAIRPERSON HILL: Okay. All right. Would  
24 that be all right with the applicant?

25 MR. SULLIVAN: Yeah, that's fine. Whatever --

1 I don't know how the Board wants to handle that. Can  
2 they make a decision based on the oral representation?

3 I think they have in the past, and just pending the  
4 paperwork coming in.

5 CHAIRPERSON HILL: Okay. Okay. So, it's Ms.  
6 Burris, correct?

7 MS. HOGAN-BURRIS: Yes.

8 CHAIRPERSON HILL: And so, Ms. Burris, please  
9 do get that into the record this afternoon, all right?

10 MS. HOGAN-BURRIS: I will.

11 CHAIRPERSON HILL: Okay, great. Thank you so  
12 much. All right, well, that's wonderful. Okay.

13 Then, in that case the Board is -- unless the  
14 Board had any other questions for the applicant or the  
15 counsel?

16 [No audible response.]

17 CHAIRPERSON HILL: Okay. All right. Then,  
18 we're continuing the deliberation.

19 I'm very happy that the applicant and the  
20 party status individual were able to come to an  
21 agreement. That was something that I know that we as  
22 a Board were looking into quite a bit in terms of, you  
23 know, the hearings that we had with this application.

24 After reviewing the record again with the analysis  
25 that the Office of Planning has provided, as well as

1 the considerations that the ANC 6C was in approval as  
2 well as the Department of Transportation with their  
3 one condition that we did go ahead and the applicant  
4 did agree to and change, I would be in favor of moving  
5 forward with this application. Does the Board have  
6 any other thoughts?

7 MS. WHITE: My only thought is that I'm glad  
8 they came to an agreement and I'm prepared to move  
9 forward and approve the application.

10 MR. HART: And, Mr. Chairman, just so that  
11 we're clear on it, the Office of Planning had several  
12 conditions. One of them had to do with the --  
13 actually, several of them had to do with a trellis and  
14 the roof deck issues. I don't think those issues are  
15 issues any longer because they have shown the --  
16 they've provided drawings that show that the roof deck  
17 is now set back from the back and from the east, I  
18 guess. So, I'm assuming that those conditions are not  
19 necessary any longer, that OP was putting forward.

20 CHAIRPERSON HILL: Thank you. Yes, I believe  
21 that's correct.

22 MS. GLAZER: Mr. Chair, just on that point, if  
23 -- there was a submission, Exhibit 48, which details  
24 how the applicant tried to meet those concerns.

25 CHAIRPERSON HILL: Yeah, and I think also the



1 DDOT condition, correct? Yeah. So, I think we're  
2 good with the conditions, but thank you, Mr. Hart.

3 All right. With that, then, I'll go ahead and  
4 make a motion to approve Application No. 19404 of  
5 Bellview Development.

6 MS. WHITE: Second.

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

9 [Vote taken.]

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

11 MR. MOY: Staff would record the vote as  
12 three, to zero, to two. This is on the motion of  
13 Chairman Hill to approve the application as it stands.  
14 Seconding the motion, Ms. White. Also in support,  
15 Vice Chair Hart. Member not participating, not  
16 voting. Board seat vacant. The motion carries.

17 CHAIRPERSON HILL: Thank you, Mr. Moy. Do a  
18 summary order.

19 MR. MOY: Yes, sir.

20 CHAIRPERSON HILL: Thank you.

21 [Pause.]

22 CHAIRPERSON HILL: All right. Mr. Moy, if you  
23 want to call our first hearing case?

24 MR. MOY: Yes, sir, with pleasure. I believe  
25 it is Case Application No. 19400 of Alabama Avenue,

1 LLC, captioned and advertised for a special exception  
2 relief under the RA Use requirements, Subtitle U,  
3 Section 421.1. This would allow construction of a 30-  
4 unit apartment building in the RA-1 Zone at premises  
5 2495 Alabama Avenue Southeast, Square 5730, Lots 13,  
6 15, 17, 19, 21, 23, and 913.

7 CHAIRPERSON HILL: Okay, thank you. And, Mr.  
8 Hart, I'm really happy to have you here with us, I  
9 want to say, but I really do miss Mr. Hinkle. I  
10 thought that he was an outstanding member.

11 MR. HART: Yes. And as do I.

12 CHAIRPERSON HILL: All right. If you could  
13 please just go ahead and introduce yourself?

14 MR. CLEVELAND: Hi, my name is --

15 CHAIRPERSON HILL: Yeah, you need to, yeah  
16 there. Move the microphone down.

17 MR. CLEVELAND: Will Cleveland, architect  
18 representing Alabama Avenue, LLC.

19 CHAIRPERSON HILL: All right, Mr. Cleveland.  
20 All right, you're the only person here with us today?

21 [No audible response.]

22 CHAIRPERSON HILL: All right. Well, Mr.  
23 Cleveland, I guess that you know, we've looked through  
24 the record and reviewed the record, but I guess there  
25 are still quite a few items that are missing. And

1 when I say that, like you're aware of that the Office  
2 of Planning is currently not thinking that you're  
3 meeting their standards or their requirements.

4           And then also, I don't have anything from ANC  
5 8B, so -- we don't, I should say. And so, I guess,  
6 you know, during your presentation, if you just kind  
7 of can address the issues that the Office of Planning  
8 is raising, as well as kind of explain where you are  
9 with the ANC.

10           MR. CLEAVELAND: Okay.

11           CHAIRPERSON HILL: And so, I'm going to go  
12 ahead and just put 10 minutes on the clock, Mr. Moy,  
13 if that's okay. Just so I know where we are. And you  
14 can begin whenever you'd like.

15           MR. CLEAVELAND: Okay. We began this project  
16 as a raze application for an existing vacant structure  
17 on Alabama Avenue. In the process of doing that raze,  
18 we considered several options for development.

19           The first option incorporated an existing curb  
20 cut that allowed access to the site and consolidated  
21 the lots directly from Alabama Avenue.

22           We developed that site plan, scheduled a  
23 preliminary meeting with, not only with the Zoning  
24 Administrator but also with the Office of Planning and  
25 DDOT to determine the special exception requirements.

1 At that meeting, we were directed by Department of  
2 Transportation to include as part of our project,  
3 development of a paper alley that is adjacent to this  
4 property. Essentially, we were disallowed use of a  
5 new curb cut on Alabama Avenue.

6 Because of this new requirement, the site plan  
7 that we proposed no longer made sense, and if you can  
8 follow that through the plans, you can see the access  
9 to the site on the application that was considered by  
10 the Office of Planning was via Alabama Avenue.

11 The revised application that we since  
12 submitted to the Zoning Administrator and uploaded to  
13 the record includes access to the site from the back.

14 The intriguing thing about this little caveat  
15 is that we were now able to retain the existing  
16 structure. And retaining the existing structure  
17 allows us to proceed with this project as a matter-of-  
18 right. So, we did submit those drawings to Zoning  
19 Administrator and received that letter of approval.

20 The reason we are here today is really to ask  
21 the Board if we can tear down that existing structure.

22 We are more than willing to proceed with the matter-  
23 of-right project with the understanding that there is  
24 merely an ease of construction to tearing down that  
25 existing building. There is also some advantage to

1 meeting Fair Housing Act requirements by allowing us  
2 to build new construction in that cellar space  
3 adjacent to the street. So, that's the main reason  
4 why we -- otherwise, we would have withdrawn the  
5 application.

6           There's several other site plans that happened  
7 during the course during January and February, after  
8 we also approached the Office of Planning. They  
9 suggested that they would be in favor of an up zone to  
10 the is project in addition to additional lots that we  
11 would procure or partner with the AME Church across  
12 the street. We approached them. We actually designed  
13 this site for a 70-unit building, and an up zone, but  
14 the church was not amenable at that time, at this  
15 time, to that project.

16           So, essentially why we're here, and we wanted  
17 to maintain our court case, is to -- or BZA case, was  
18 to have the Board consider the condition of the  
19 existing structure, and the relative ease with which  
20 we would be able to execute this project if we tear  
21 down essentially what are three walls of an empty  
22 shell. Short of that approval, we feel that we have  
23 the letter from the Zoning Administration to support  
24 our by-right project for a 32-unit building.

25           That's the project in a nutshell.

1           CHAIRPERSON HILL: Okay. Can you clarify  
2 again for me. I'm sorry, I know you just did go over  
3 this, but the difference between the by-right and what  
4 you're trying to do again.

5           MR. CLEVELAND: So, the difference between  
6 the by-right and what we're trying to do are, they're  
7 virtually the same project. One retains an existing  
8 shell. And if you look at the photographs, you can  
9 see the condition of that shell. There are no floors,  
10 there are no roofs, they're essentially four walls  
11 standing there, which we, if required, we would  
12 preserve. We would have to underpin them. We would  
13 have to design some sort of temporary structure to  
14 sure that during construction.

15           We, again, the project started by -- with the  
16 idea to raze that structure. We have completed the  
17 raze permit application. I have that in hand now, so  
18 we're ready to tear that down. But again, that's kind  
19 of our toe hold on a by-right project because the way  
20 the subtitle reads is that if it's an addition to an  
21 existing structure it is no longer a matter of special  
22 exception.

23           CHAIRPERSON HILL: Okay. And what happened at  
24 the ANC meeting?

25           MR. CLEVELAND: The ANC meeting, we did

1 present to the ANC, just before Thanksgiving of 2016.

2 We presented a plan that was similar to the one that  
3 OP reviewed with the exception that we corrected their  
4 comments on side yard. Their concerns were for  
5 affordable of the units that we're building. And we  
6 did speak with them about that and followed up that we  
7 are a market rate development. And I've amended the  
8 burden of proof, that we will comply with the IZ  
9 requirements and take the bonus FAR accordingly. But  
10 that as a market rate development, all of the units in  
11 this development will meet the 80 percent AMI  
12 requirement, and many of the units will meet the 50  
13 percent AMI requirement.

14 CHAIRPERSON HILL: Okay. And so, what  
15 happened? Did they take a vote at the ANC? I mean, I  
16 don't understand why we don't have anything from the  
17 ANC.

18 MR. CLEVELAND: They did not take a vote that  
19 I am aware of. I wasn't quite sure of what their  
20 procedure was, or policy was in terms of how they  
21 followed up with that. We did follow up with Ms.  
22 Watson with several e-mails.

23 Their conclusion was that they wanted to meet  
24 with the owner of the property. That was the only  
25 conclusion that I heard conclusively at that meeting.

1           CHAIRPERSON HILL: Okay. So, you presented  
2 and then nothing happened, you're saying, at the end?  
3 Okay? Because I mean, I know -- I don't know about  
4 the rest of the Board, but I mean, I'll have a very  
5 difficult time kind of moving forward without  
6 something from the ANC letting us know kind of where  
7 they are in terms of this project.

8           But unless the Board -- or, if the Board has  
9 any further questions for the applicant then I was  
10 going to go ahead and turn to the Office of Planning.

11          MR. HART: Yeah, just --

12          CHAIRPERSON HILL: Go on, please.

13          MR. HART: -- if you could, can you talk a  
14 little bit about just the site? I mean, I guess  
15 there's some confusion by, I guess either -- well, OP  
16 and DDOT about things like parking and bike spaces,  
17 and all this other stuff. So --

18          MR. CLEVELAND: Right.

19          MR. HART: -- I think the issue really is not  
20 what it is that you've -- the issue is, what is it  
21 that you are proposing before us so that we have a  
22 clear understanding of what that is. And I'm just not  
23 sure if we have that clear understanding at this  
24 point.

25          MR. CLEVELAND: Okay. I think the exhibit



1 that most closely resembles what we're wanting to do  
2 now is the one that's listed as the by-right option  
3 under the exhibits on the record. And that's  
4 accompanied with the letter from the Zoning  
5 Administration, or Zoning Administrator.

6 CHAIRPERSON HILL: Okay. Mr. Moy, you had a  
7 comment?

8 MR. MOY: Yes, sir. I just wanted to alert  
9 the Board that moments ago we received, the office  
10 received a fax from the single-member district person,  
11 by the name of Paul Trantham. And under the new rules  
12 and procedures, on the morning of the hearing I'm not  
13 allowed to exhibit this letter. So, I just wanted to  
14 put the Board on notice.

15 CHAIRPERSON HILL: Okay. But it's from the  
16 SMD?

17 MR. MOY: Apparently, yes.

18 CHAIRPERSON HILL: Okay.

19 MR. MOY: According to what I have in my hand.

20 CHAIRPERSON HILL: Okay.

21 MR. MOY: I don't see any reason why --

22 CHAIRPERSON HILL: Okay, because I'd like to  
23 see it, you know, and so I'm sure the Board would like  
24 to see it, if it's from the SMD. And so, if you know,  
25 and I guess maybe OAG can let me know, but you know,

1 I'd like to allow it into the record. So, OAG is  
2 letting me know that that's all right to do.

3 And then maybe, Mr. Moy, if you could share  
4 that with the applicant?

5 MR. MOY: Yes, I'll have to make real quick  
6 copies for everyone.

7 CHAIRPERSON HILL: Okay. Can you make copies  
8 maybe first, real quick? And then we'll turn to the  
9 Office of Planning and see where we are with them,  
10 because I still have -- and Mr. Hart has a question.  
11 But I still have, you know, the Office of Planning's  
12 report which is currently in denial.

13 So, go ahead, Mr. Hart.

14 MR. HART: Yeah. If you could -- I'm sorry  
15 about trying to find out the actual images. Are you  
16 talking about Exhibit 39, that are the drawings that  
17 we're supposed to be looking at? Because you said  
18 that they are --

19 MR. CLEVELAND: I believe so, yes.

20 MR. HART: You said that they are the by-right  
21 option, and I just don't see the --

22 MR. CLEVELAND: Okay.

23 MR. HART: Something that says, this is the  
24 by-right option. And so, it's hard to kind of  
25 discern, well, is this one it, or is another one it?

1 And I would just like to make sure that we're kind of  
2 literally on the same page.

3 If you look on the bottom right-hand side of  
4 the document that you've submitted, it actually says  
5 which exhibit they are. I think it's 39, but I don't  
6 know that for sure. That's the most recent -- those  
7 are the most recent plans that we have.

8 MR. CLEVELAND: That's it.

9 MR. HART: Okay.

10 CHAIRPERSON HILL: Yeah, 39.

11 MR. HART: And is it supposed to say that they  
12 are the by-right option? I just don't know where you  
13 -- you referred to it, I just don't know if there was  
14 something that was on --

15 MR. CLEVELAND: That was the name of the file  
16 when it was uploaded. I'm not sure what happens as  
17 its processed through IZIS, but that's the name of the  
18 file that was uploaded.

19 Is there any way that this can go on the  
20 screen?

21 CHAIRPERSON HILL: Yes.

22 MR. HART: Just hold on a minute, I guess.

23 CHAIRPERSON HILL: Someone will come out there  
24 and help you. It won't be me.

25 [Pause.]

1 MR. SHAPIRO: So, while we're -- Mr. Chair, if  
2 I may?

3 CHAIRPERSON HILL: Sure.

4 MR. SHAPIRO: While we are looking at the  
5 technical issues, counsel, just a quick question for  
6 you.

7 [Pause.]

8 MR. SHAPIRO: I'm at a bit of a loss as to  
9 exactly what it is that you're asking for us. What I  
10 can tell, what you're asking us to do is to approve a  
11 raze permit?

12 MR. CLEVELAND: No, no. We're asking for the  
13 special exception to develop a new apartment house in  
14 accordance with the RA-1 District, Zoning District.

15 MR. SHAPIRO: And the backup that we have for  
16 that is what you're trying to get online now, and  
17 that's all that we would have.

18 MR. CLEVELAND: What I'm going to put on the  
19 Board is, because of the site plan and constraints  
20 given to us, dictated to us by DDOT, we went back and  
21 site planned the property to include retaining the  
22 existing structure. Retaining the existing structure  
23 makes it an addition to an existing apartment house,  
24 not a new apartment house. The special exception only  
25 applies to a new apartment house.

1           So, like I said, we would be happy to withdraw  
2 the application, but we're really here to ask the  
3 board is, can we just go ahead and tear down that  
4 structure now and proceed with virtually exactly the  
5 same building.

6           MR. SHAPIRO: But that's what confuses me. I  
7 mean, if what you're saying to us is, you're going to  
8 come to us with what's essentially a new project, then  
9 I think that you come to use with a new project.

10          MR. CLEVELAND: Okay.

11          MR. SHAPIRO: Because I'm at a loss as to why  
12 exactly we would -- I don't even know what us giving  
13 you a raze permit --

14          MR. CLEVELAND: No, no, no, I'm not asking  
15 you. We have a raze permit. I'm not asking the board  
16 for a raze --

17          MR. SHAPIRO: So you're asking us to basically  
18 substitute one project for another project because  
19 they're almost the same.

20          MR. CLEVELAND: What we're asking, for a  
21 special exception to develop a 30-unit apartment house  
22 in this site.

23          MR. SHAPIRO: Okay. Thank you.

24          CHAIRPERSON HILL: All right. I'm going to  
25 turn to the Office of Planning and they can also

1 hopefully clarify Commissioner Shapiro's question,  
2 which is a good question.

3 MS. VITALE: Good morning, Mr. Chair, members  
4 of the Board. For the record, Elisa Vitale with the  
5 Office of Planning.

6 I'm not certain I provide much additional  
7 clarity. Office of Planning is still unable to  
8 recommend approval. I think this has been a bit of a  
9 moving target. Unfortunately, the most recent plans  
10 that were submitted are for the matter-of-right  
11 project, and that contemplates a 32-unit building with  
12 retention of a portion of the existing structure.  
13 Those were submitted late into the record. We  
14 haven't, you know, had a chance to fully review those.

15 So, at this point I think we would maintain  
16 the position that we provided in our May 5th, 2017  
17 memo to the Board. I'm happy to answer questions if  
18 possible, at this time.

19 MR. HART: Yeah, one of the questions that I  
20 had was around the side yard relief. The applicant, I  
21 thought I heard him say that they had addressed the  
22 side yard relief previously. But it sounds like  
23 you're saying that there isn't, and I don't know if  
24 it's because of some of the other drawings that they  
25 had are no longer being, you know, used so that it is

1 unclear as to kind of where they are or what your  
2 position is on this proposal that's before us now.

3 MS. VITALE: Yeah, like I said, I think we  
4 need to understand what project and what drawings the  
5 applicant is proposing if they are in in fact planning  
6 to proceed under Subtitle U, 421, which is the special  
7 exception review for a new residential development in  
8 the RA-1 District.

9 I think we would need detailed plans and a  
10 survey showing that proposal in the record in order to  
11 be able to fully evaluate that and determine if there  
12 is a need for side yard relief, or if they met the  
13 zoning requirements.

14 MR. HART: Thank you.

15 CHAIRPERSON HILL: Mr. Cleveland, you look  
16 confused. Do you understand what the Office of  
17 Planning is asking for?

18 MR. CLEVELAND: I do, exactly. And that's  
19 what I was saying. When we met with the ANC we did  
20 correct your concerns about the side yard for the dog-  
21 leg option when we presented to the ANC. So, that's  
22 you know --

23 MS. VITALE: It would need to be submitted  
24 into the record in IZIS and clearly, you know,  
25 identified on the plans. We weren't a party to that

1 ANC presentation.

2 CHAIRPERSON HILL: Mr. Cleveland, they don't  
3 go to all the ANC meetings and follow along.

4 Just give me a second. I think, actually, did  
5 you get a copy of this letter yet?

6 MR. CLEVELAND: I did not, no.

7 CHAIRPERSON HILL: Okay. If you wouldn't mind  
8 walk up here to the secretary, he can give you a copy  
9 of the letter here from the SMD, and if you could just  
10 give us all a minute?

11 [Pause.]

12 CHAIRPERSON HILL: Okay. So, just as far as  
13 the letter goes, I guess the regulation that we don't  
14 take anything electronically is Y-206.3, at the time  
15 of the meeting. However, I guess it doesn't say  
16 anything about faxes. However, it is something that,  
17 you know, again we are looking at and I guess the  
18 Board is interested in hearing from in terms of the  
19 SMD since there's nothing from the ANC. This is kind  
20 of all I have in front of me right now. And so,  
21 pursuant to 101.9, again, of that same section, we can  
22 waive 206.3. So, I'm going to go ahead and proposed  
23 that we do that and accept this because if the person  
24 were here, then we would hear the testimony.

25 I'm a little -- so back over here for the



1 Office of Planning real quick, Mr. Cleveland.

2 So, I guess, you know, there is some more  
3 information that they're going to need if you did want  
4 to pursue this, rather than the matter-of-right,  
5 right?

6 So, because currently they're in denial of  
7 this because they don't have the information. They  
8 may be able to get to approval. I don't know, right?

9 I mean, so I would say that you definitely still need  
10 to work with them. There is this, the SMD here, it  
11 looks like, Paul Trantham. Did you meet with him?

12 MR. CLEVELAND: We did meet with Paul.

13 CHAIRPERSON HILL: Okay. And it sounds like  
14 in the letter they're still looking for a little bit  
15 further clarification about some of the stuff. I know  
16 you haven't had a chance to look at the letter yet.

17 MR. CLEVELAND: I wasn't aware of any action  
18 that was taken by the ANC. We were not directed to  
19 any correspondence to follow up with anything.

20 CHAIRPERSON HILL: Okay. The last ANC meeting  
21 that you presented, it was before Thanksgiving?

22 MR. CLEVELAND: Yeah, it was just before  
23 thanksgiving.

24 CHAIRPERSON HILL: Okay. Okay. So, what I  
25 would again suggest to you is going back -- again, it

1 sounds to me like I understand where you're at now.  
2 You have the matter-of-right option. You did work  
3 with the Zoning Administrator, and it seems as though,  
4 you know, the underpinning and the keeping enough of  
5 the building so that you can proceed as a matter of  
6 right, there might be some cost issues, I'm sure, or  
7 ease issues for you, but you still have to jump  
8 through the hoops that you have to jump through in  
9 order for you to get this Board's understanding of  
10 what you're asking for.

11 So, I would definitely say that in order for  
12 us to move forward we would need another report from  
13 the Office of Planning. So, you would have to go back  
14 to the Office of Planning, work with them in order so  
15 that they could get their questions answered in a way  
16 that they could give a supplemental report to us. And  
17 then also, go back to the ANC and get something from  
18 the ANC for us, you know, approval, denial, a letter,  
19 something that indicates what it is that they're  
20 looking for because again, as far as the SMD, he's  
21 asking -- you know, he would be here in opposition if  
22 he were here.

23 So, that's kind of my thoughts in terms of the  
24 applicant. Does the Board have any other questions or  
25 comments?

1 MS. WHITE: No. Again, it's clear that we  
2 just need to have you work directly with the Office of  
3 Planning so that they're on board with what you're  
4 doing. And obviously, as a district resident member  
5 on the board, I'm very interested in the ANC's  
6 feedback as well, because it's fairly large project,  
7 very attractive, but it's fairly large. So, there are  
8 some community impacts that we'll need to flesh out.

9 CHAIRPERSON HILL: So, Mr. Cleveland, I guess  
10 you understand now you'd have to go back, work with  
11 the Office of Planning, get us something from the ANC.  
12 It looks like you can reach back out to the SMD here  
13 and see what other feedback we can get from them.

14 And then, do you know how much time you think  
15 you might need, and we'll bring this back on for a  
16 continued hearing?

17 MR. CLEVELAND: At this time, we'd rather not  
18 do that. We'd rather not bring it back for a hearing  
19 and we're just going to proceed with our by-right  
20 option.

21 CHAIRPERSON HILL: Okay. So, you are  
22 withdrawing your application?

23 MR. CLEVELAND: Is there any problem with  
24 getting a for record motion by the Board?

25 CHAIRPERSON HILL: I can't do -- we can't make

1 a -- you'd just be withdrawing your application as far  
2 as I understand.

3 MR. MOY: That's correct, Mr. Chair. If the  
4 applicant has made a decision to withdraw, then you  
5 could state that orally, which you've done, and then  
6 if you could submit something into the record that  
7 you're withdrawing the application, that would close  
8 out the --

9 CHAIRPERSON HILL: I understand what you just  
10 asked. We as a Board -- I mean, I, myself, I don't  
11 have enough information to make a decision, even to  
12 deny you.

13 MR. CLEVELAND: Even to deny. Okay. I don't  
14 have authorization to withdraw the application today.

15 CHAIRPERSON HILL: Okay. Well, you don't have  
16 to withdraw it today. I mean, you can withdraw it at  
17 any time.

18 So, for us, either you can go back and work  
19 with the Office of Planning, go work with the ANC or  
20 the SMD and get something, right? And in that case,  
21 we will put you -- we'll just put you on the calendar  
22 here. You can make this decision with your client  
23 later. We'll put you on the calendar for a  
24 supplemental hearing, and then if you withdraw your  
25 application before that supplemental hearing then you

1 just won't come back.

2 MR. CLEVELAND: Okay.

3 MR. MOY: So, hearing that, Mr. Chair, and  
4 then I could set a continued hearing for June 7th.

5 CHAIRPERSON HILL: June 7th.

6 MR. CLEVELAND: June 7th. Sounds good.

7 CHAIRPERSON HILL: Okay. All right.

8 MR. SHAPIRO: Maybe this is just a procedural  
9 question about how -- we don't have the authority to  
10 deny it because we don't -- there is a case before us,  
11 we don't have enough information, we could deny it.

12 I mean, I would want to see where my  
13 colleagues are on this because I don't really have a  
14 strong opinion about it one way or the other.

15 CHAIRPERSON HILL: I suppose, I don't know  
16 why. I mean, I guess I would kind of rather they  
17 withdraw the application in this case, just because I  
18 have kind of like information from the SMD and the  
19 ANC. I don't know. I guess it could be denied. I  
20 guess I just am more leaning towards, I'd rather they  
21 withdraw their application than us go ahead and make a  
22 motion to deny. But if you did -- if somebody wanted  
23 to make a motion to deny, I'm sure that it would just  
24 get denied.

25 MR. SHAPIRO: I would move that we deny the

1 application.

2 MR. CLEAVELAND: Just to add, that that part  
3 of our decision making is -- comes within mind that we  
4 just received correspondence from the ANC, just this  
5 morning, I believe. It's been an ongoing difficultly  
6 communicating with the ANC and we presented to the ANC  
7 as we're required to, for on the zoning regulations.  
8 I don't think that we have an interest in doing that  
9 again.

10 CHAIRPERSON HILL: Okay. All right. So, the  
11 motion has been made.

12 MS. WHITE: Second.

13 CHAIRPERSON HILL: Motion has been made and  
14 seconded. All those in -- I'm sorry. Sure, go on.

15 MR. HART: Yeah, just out of curiosity. I  
16 mean, can we do this without having -- we haven't  
17 asked if anybody was in opposition or if anybody was  
18 in support of this.

19 CHAIRPERSON HILL: That's true. We didn't go  
20 through the -- we'll go through right now. You're  
21 exactly correct, Mr. Hart. Vice Chair has spoken.

22 All right. So, is the ANC here? All right.  
23 Is there anyone here wishing to speak in support of  
24 the application? Is there anyone here wishing to  
25 speak in opposition to the application?

1 [No audible response.]

2 CHAIRPERSON HILL: All right. So, the  
3 applicant doesn't have anything further to add, I  
4 assume?

5 MR. CLEVELAND: We would just like the Board  
6 to consider that this is a special exception. We have  
7 DDOT approval. The threshold for an RA-1 is a very  
8 low threshold. You would be helping a developer with  
9 ease of construction to complete a 32-unit market rate  
10 project that provides affordable housing in Ward 8.  
11 And we would like approval for that special exception.  
12 If the Board can't do it we certainly understand.

13 CHAIRPERSON HILL: Okay. Well, Mr. Cleveland,  
14 you just earned your money. So, that's great. There  
15 you go with your completing statement.

16 Does the Board have any questions from the  
17 applicant? Would anyone like to make a motion?

18 MR. SHAPIRO: I move denial.

19 CHAIRPERSON HILL: Motion has been made.

20 MS. WHITE: Second.

21 CHAIRPERSON HILL: Motion has been made and  
22 seconded.

23 [Vote taken.]

24 CHAIRPERSON HILL: The motion passes for  
25 denial.

1 MR. MOY: Staff would record the vote as  
2 three, to zero, to two. This is on the motion of Mr.  
3 Shapiro to deny the application. Seconding the  
4 motion, Ms. White. Also in support, Chairman Hill,  
5 Vice Chair Hart is abstaining from the vote. The  
6 motion carries.

7 CHAIRPERSON HILL: Thank you, Mr. Moy. Is  
8 that a summary order? Is that how that works? Oh,  
9 that's just a denial.

10 MR. MOY: It's a full order.

11 CHAIRPERSON HILL: Oh, full order. Thank you.  
12 I'll share.

13 Mr. Moy, if you wouldn't mind calling our next  
14 case?

15 MR. MOY: With pleasure. That would be Case  
16 Application No. 19465 of Nicholas Burger. This  
17 application is captioned and advertised for special  
18 exception relief under Subtitle E, Section 5201; from  
19 the lot occupancy requirements of Subtitle E, Section  
20 304.1, to add a two-story addition to an existing one-  
21 family dwelling. This is in the RF-1 Zone at premises  
22 1336 E Street Southeast, Square 1042, Lot 828.

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

25 MR. BURGER: Nick Burger, the owner of the



1 property.

2 MS. ERWIN: And, I'm Stephanie Erwin. I'm  
3 representing the architect.

4 CHAIRPERSON HILL: Okay. All right, great.  
5 Did you guys get sworn in this morning? Did you guys  
6 get sworn in this morning?

7 [No audible response.]

8 CHAIRPERSON HILL: Okay.

9 MR. BURGER: Yes.

10 CHAIRPERSON HILL: Okay, great. So, I guess,  
11 Ms. Erwin, or whoever is going to present to us, we've  
12 gone ahead and looked over obviously everything that's  
13 in the record. I would like to have a brief  
14 presentation, I guess, highlighting the work. I don't  
15 have a bunch of specific questions. However, if you  
16 would just go over, I guess, what it is you're trying  
17 to accomplish and then again the standard as to why we  
18 should grant the relief.

19 And then also, speaking to your work, I guess,  
20 with the ANC 6B. And so, I'm going to go ahead and  
21 put, unless the Board has any more specific questions  
22 for the applicant during the presentation, if you  
23 could go ahead, Mr. Moy, and put 10 minutes on the  
24 clock just so I know where we are? And you can begin  
25 whenever you'd like.

1 MS. ERWIN: Okay. The application is for 1336  
2 E Street Southeast, which is located at Square 1042,  
3 Lot 828. It's a single-family home located in the RF-  
4 1 Zone. The lot size is 2,001 square feet, and the  
5 current footprint occupies 31.6 percent of the lot.

6 The applicant is requesting a two-story  
7 addition to the east of the existing home, which will  
8 increase the lot occupancy to 63 percent. We're  
9 requesting relief for lot occupancy under Subtitle E,  
10 304.1. The addition is an addition to the subject  
11 property, which is located at the end of a row of  
12 rowhouses. The addition would be located adjacent to  
13 an alley in a commercial parking lot across the alley.

14 The proposed work has been reviewed and has  
15 been approved by the ANC and also received full  
16 support from them. And I have information that's  
17 already in the record if you want me to go through  
18 that as well, just -- okay.

19 So, up on the screen are photos of the  
20 existing house. This is the front yard, and the  
21 addition is going to be going where the fence is, on  
22 the righthand side. This is the view from the  
23 opposite side to show where the addition would be.  
24 And this is the picture of the rear of the house where  
25 the addition would be located. And I'll pull up the

1 plat so you can get a clear picture.

2 The existing house is in gray, and the  
3 proposed addition is hatched.

4 And so, as I mentioned, we're asking to  
5 increase the lot occupancy to 63.36 percent. I know  
6 OP will go ahead and go through their report, but we  
7 don't believe this will have any adverse effects.

8 CHAIRPERSON HILL: Okay.

9 MS. ERWIN: As discussed in the OP report.

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

12 MR. HART: Just one kind of minor question.  
13 There's a really old tree that's there, that's in the  
14 back. Is that going away? Being removed?

15 MR. BURGER: Absolutely not. We love the  
16 tree. It is actually a mulberry, so if anything, I  
17 think the city would prefer we take it away, but we  
18 will not be taking it away. It's a cherished part of  
19 our property.

20 MR. HART: Thank you.

21 CHAIRPERSON HILL: Why would the city want you  
22 to get rid of a mulberry tree?

23 MR. BURGER: They don't necessarily want to  
24 get -- but there are protected trees under the Great  
25 Trees requirements, but a mulberry, along with a

1 couple other species, are exempted from that. I don't  
2 know exactly why that is.

3 MR. SHAPIRO: I jokingly said to the Chair,  
4 they're often considered weeds.

5 MR. BURGER: Yeah.

6 CHAIRPERSON HILL: Oh, okay. All right.  
7 Learn something new.

8 Does the Board have any questions for the  
9 applicant, further questions?

10 I'm going to turn to the Office of Planning,  
11 please.

12 MS. FOTHERGILL: Good morning. I'm Anne  
13 Fothergill with the Office of Planning and we rest on  
14 the record in support of the application, and I'm  
15 happy to take any questions.

16 CHAIRPERSON HILL: Okay, great. Does anybody  
17 have any questions for Ms. Fothergill?

18 All right. Does anybody have any more  
19 questions for the applicant? Did that already.

20 Is there anyone here from the ANC wishing to  
21 speak? Is there anyone here from -- is there anyone  
22 here wishing to speak in support of the application?  
23 Is there anyone here wishing to speak in opposition to  
24 the application?

25 All right. With that, I'm going to turn back

1 just for -- actually, I was curious, you didn't speak  
2 to it. How did the ANC meeting go? I guess you have  
3 10, to zero, to zero approval?

4 MR. BURGER: So, I'm also the ANC  
5 Commissioner. Obviously, I was not participating in  
6 the vote on this case, but the ANC did support it.  
7 And it is 10-zero only because we placed it on a  
8 consent agenda, which I did vote for, but I did not  
9 vote in the committee meeting on the case, again, for  
10 obvious reasons.

11 CHAIRPERSON HILL: I was going to save that  
12 until the end. I was just a little curious. I was  
13 like, is the Commissioner's house that's being --

14 MR. BURGER: This is the Commissioner's house.  
15 That's correct.

16 CHAIRPERSON HILL: I see. That's great.  
17 Lovely house.

18 MR. BURGER: Thank you.

19 CHAIRPERSON HILL: All right. With that,  
20 then, I'm going to go ahead and close the hearing. Is  
21 the Board ready to deliberate?

22 All right. So again, after reviewing the  
23 record and also noticing that it was one of the  
24 Commissioner's homes, so I thought that was  
25 interesting, but nonetheless, the Office of Planning

1 has -- I agree with the analysis that the Office of  
2 Planning has provided, and also am glad to see that  
3 they did obviously work with the ANC in terms of  
4 gaining their support, as well as DDOT. So, I would  
5 go ahead and make a motion unless the Board has any  
6 other comments, to approve Application No. 19465 as  
7 read by the secretary.

8 MS. WHITE: Second.

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

11 [Vote taken.]

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

13 MR. MOY: Staff would record the vote as four,  
14 to zero, to one. This is on the motion of Chairman  
15 Hill to approve the application for the relief  
16 requested. Seconding the motion, Ms. White. Also in  
17 support, Mr. Shapiro and Vice Chair Hart. We have a  
18 board seat vacant. The motion carries, sir.

19 CHAIRPERSON HILL: Okay. Great. Thank you,  
20 Mr. Moy. Summary order?

21 MR. MOY: Yes, sir.

22 CHAIRPERSON HILL: Thank you. Thank you all  
23 very much.

24 MR. BURGER: Thank you.

25 CHAIRPERSON HILL: I'm sorry, do you want to

1 go ahead and speak into the microphone?

2 MS. ERWIN: I'm doing the next case as well.  
3 Do you want me to go back to my seat and wait for you  
4 to call that?

5 CHAIRPERSON HILL: No, you can stay there.  
6 That's all right.

7 MS. ERWIN: Okay.

8 CHAIRPERSON HILL: All right, Mr. Moy.  
9 Whenever you're ready.

10 MR. MOY: The next case application is No.  
11 19487 of Chris Cox, special exception under Subtitle  
12 E, Section 5201; from the lot occupancy requirements,  
13 Subtitle E, Section 304.1. This would construct a  
14 one-story rear addition to an existing one-family  
15 dwelling, RF-1 Zone, premises 328 8th Street  
16 Southeast, Square 924, Lot 827.

17 CHAIRPERSON HILL: Thank you. If you could  
18 please introduce yourself for the record?

19 MS. ERWIN: My name is Stephanie Erwin and I  
20 work for the architect.

21 CHAIRPERSON HILL: Okay. And so, you're the  
22 only one here today for -- okay. Is this client also  
23 a commissioner, an ANC commissioner?

24 MS. ERWIN: No, he is not.

25 CHAIRPERSON HILL: It would make your job a

1 lot easier if they all were ANC commissioners.

2 MS. ERWIN: It would.

3 CHAIRPERSON HILL: All right. So, Ms. Erwin,  
4 again, I thought that this was also pretty straight  
5 forward. I mean, I'm interested in hearing more, I  
6 guess, about kind of the Office of Planning and kind  
7 of like filling in of doglegs. But if you could give  
8 us, again a brief high-level presentation as to what  
9 you're trying to accomplish, as well as the standard  
10 in which you believe the relief should be granted.  
11 And then, your community outreach in terms of HPRB and  
12 the ANC.

13 Does the Board have any other specific  
14 questions they'd like to hear from the applicant  
15 during their presentation?

16 Okay. All right. Then again, I'm going to  
17 put 10 minutes in the clock, Mr. Moy, if you wouldn't  
18 mind. Just so I know where we are. And, Ms. Erwin,  
19 you can begin whenever you'd like.

20 MS. ERWIN: Okay. This project is for 328 8th  
21 Street Southeast, Square 924, Lot 827. This is a  
22 single-family home located in the RF-1 Zone. The lot  
23 size is 1,894 square feet. The current footprint  
24 occupies 62.2 percent of the lot occupancy, and we are  
25 requesting a one-story rear dogleg fill-in, which



1 would add approximate 90 square feet and would  
2 increase the lot occupancy to 66.9 percent.

3           We're requesting relief for lot occupancy  
4 under Subtitle E, 304.1. The addition has been  
5 reviewed and has received support from the ANC, as  
6 well as the zoning arm of CHRS. The neighbor at 330  
7 8th Street Southeast has also provided a letter of  
8 support for the project, which is in the documents.  
9 The design has also been reviewed by historic staff  
10 and because this is a rear addition that won't be  
11 visible from public space, they can do a staff level  
12 approval.

13           CHAIRPERSON HILL: Great.

14           MS. ERWIN: The photos that I have up, this  
15 gives you an idea of where the dogleg fill-in is going  
16 to be. This is the rear of the house. And that is  
17 where the single story to the left in the photo, along  
18 the fence line, that is where the single-story dogleg  
19 is going to be going.

20           And here is a copy of the proposed plat as  
21 well, which I can zoom in on. Maybe.

22           CHAIRPERSON HILL: Okay. Does the Board have  
23 any questions for the applicant?

24           All right. Then I'm going to turn to the  
25 Office of Planning.

1 MS. MYERS: Hello, Crystal Myers for the  
2 Office of Planning. The Office of Planning is  
3 recommending approval and I rest on the record of the  
4 staff report.

5 CHAIRPERSON HILL: All right, great. Ms.  
6 Myers, I was curious of something. So, like there has  
7 been other times when the Office of Planning has been  
8 opposed to filling in the doglegs. Is there a reason  
9 why sometimes they're opposed -- I mean, I'm just  
10 trying to understand it, why sometimes they're  
11 opposed. I know each individual case is different,  
12 but why sometimes they're opposed and sometimes  
13 they're not. I mean, can you give me a little bit of  
14 more thoughts on your reasoning for filling in the  
15 dogleg?

16 MS. MYERS: Well, in this particular case it's  
17 in the RF-1 Zone. There is no side yard requirement  
18 in the RF-1 Zone, as well as you have the neighbor  
19 next door that is in support of the project. It's  
20 just one story, and it, you know, it has very little  
21 impact. In the rear, there's a garage. You can't  
22 even see it. So, in this particular case we did not  
23 have any problem with it.

24 CHAIRPERSON HILL: Okay. All right. Again,  
25 the case-by-case, right? Okay, great.

1 Does the Office of Planning -- I mean, does  
2 the Board have any questions for the Office of  
3 Planning? Please.

4 MR. SHAPIRO: Thank you, Mr. Chair. So, in  
5 our notes that OP is recommending approval, but also  
6 noting that relief from C-202.2 is also needed?

7 MS. MYERS: Yes.

8 MR. SHAPIRO: Due to the property's  
9 nonconforming lot occupancy. Is that something that  
10 we need to be --

11 MS. MYERS: Yes. This is a pretty standard  
12 recommendation. A lot of times this is overlooked,  
13 but the lot occupancy currently is nonconforming. The  
14 maximum requirement is 60 percent, and the current lot  
15 occupancy is 62.2 percent. So, we are also  
16 recommending that C-202.2 also be approved in this  
17 case.

18 CHAIRPERSON HILL: So, Ms. Erwin, are you  
19 comfortable with adding that to your application?

20 MS. ERWIN: Sure, I'm comfortable with that.

21 CHAIRPERSON HILL: Okay. And that's good  
22 enough in terms of orally amending it here with -- OAG  
23 is nodding yes, so I can move forward. Thank you,  
24 Commissioner Shapiro, for pointing that out.

25 All right. Anything else from the Board?

1 [No audible response.]

2 CHAIRPERSON HILL: Okay. Then, I'm going to  
3 go ahead and turn to the audience. Is there anyone  
4 here from the ANC? Is there anyone here wishing to  
5 speak in support? Is there anyone here wishing to  
6 speak in opposition?

7 [No audible response.]

8 CHAIRPERSON HILL: All right. Then I'm going  
9 to turn just back to the applicant. Do you have  
10 anything else you'd like to add?

11 MS. ERWIN: No, I don't.

12 CHAIRPERSON HILL: All right. Then, I'm going  
13 to go ahead and close the hearing. Is the Board ready  
14 to deliberate?

15 All right. So, again, after reviewing the  
16 record, in particularly the recommendation, or I  
17 should say the report from the Office of Planning, I  
18 would agree with their analysis. I did have some  
19 questions as to terms of why the dogleg was being  
20 approved, and again, I am comfortable with the  
21 analysis provided by the Office of Planning, as well  
22 as glad to see that the ANC 6B was in approval  
23 unanimously, and I didn't have any issues with it.  
24 I'm glad to see that, again, they have worked with  
25 HPRB as well as Capitol Hill Historic District. So,

1 unless the Board has any further comments, I'm going  
2 to go ahead and make a motion to approve Application  
3 No. 19487 as read by the secretary and amended by the  
4 applicant.

5 MR. HART: Second.

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

8 [Vote taken.]

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

10 MR. MOY: Staff would record the vote as four,  
11 to zero, to one. This is on the motion of Chairman  
12 Hill to approve the applicant for the relief  
13 requested. Seconding the motion, Vice Chair Hart.  
14 Also in support, Mr. Shapiro, Ms. White, a board seat  
15 vacant. Motion carries.

16 CHAIRPERSON HILL: Great. Thank you. Summary  
17 order, Mr. Moy.

18 MR. MOY: Thank you.

19 CHAIRPERSON HILL: Okay. And, thank you. And  
20 we're going to take a quick five-minute break, okay,  
21 just so everybody knows.

22 [Off the record from 10:47 a.m. to 10:57 a.m.]

23 CHAIRPERSON HILL: Let's all get back started  
24 here. And, Mr. Moy, if you could call our next case?

25 MR. MOY: Thank you, sir. So, we're moving

1 ahead as cases are listed on the docket, in order on  
2 the docket, as shown on the docket.

3 CHAIRPERSON HILL: Yeah, we're just going to  
4 follow the docket. We're going to follow the agenda.

5 MR. MOY: All right. So, next up is  
6 Application No. 19490 of Logan-Shaw Childcare. This  
7 is advertised, captioned for special exception under  
8 Subtitle U, Section 513.1(n), N as in November. This  
9 is for a daytime care use not meeting the requirements  
10 of Subtitle U, Section 512.1(c); establishing a  
11 daytime care use for 51 children in the ARTS-2 Zone,  
12 premises 1700 7th Street Northwest, Square 419, Lot  
13 39.

14 CHAIRPERSON HILL: Okay, great. Good  
15 afternoon. Or good morning.

16 If you could, please introduce yourself from  
17 my right to left and tell us your home address?

18 You need to push the light until the green  
19 light comes on.

20 MR. DORSEY: Good morning. I'm Thomas Dorsey.  
21 I live at 5216 Astro Place Southeast, Washington,  
22 D.C.

23 MS. TESFAYE: Hi. My name is Arnsale Tesfaye.  
24 I am the owner of Logan-Shaw Childcare.

25 CHAIRPERSON HILL: Okay. I'm sorry. How do

1 you pronounce your last name again?

2 MS. TESHAYE: Tesfaye.

3 CHAIRPERSON HILL: How do you spell it?

4 MS. TESHAYE: T-E-S-F-A-Y-E.

5 CHAIRPERSON HILL: Great. Thank you. Okay.

6 So, Ms. Tesfaye, are you going to be presenting to us?

7 MS. TESHAYE: Sure.

8 CHAIRPERSON HILL: Okay. All right. Okay.

9 All right. So, I guess, you know, we have had an  
10 opportunity to review the record and there are some  
11 questions that I have in terms of the presentation,  
12 while you're doing your presentation, I suppose.  
13 Again, during your presentation if you could just  
14 again, tell us what you're trying to do, what you're  
15 proposing, and how you're meeting the standard for the  
16 exception.

17 And then, also, I'm kind of curious again as  
18 far as like your work with the ANC in terms of where  
19 we are with that because as of now, unless I'm  
20 mistaken, I don't have an ANC report or letter, which  
21 apparently you have there. Okay.

22 So, before I get to that, and there's also  
23 some conditions that the Office of Planning had  
24 recommended. And so, they're the same ones that I  
25 think that you had before. Well, we can get through

1 those with the Office of Planning. So, if you want to  
2 go ahead -- did you make copies of that letter there  
3 for us? If you could maybe give those to the  
4 secretary, and then the secretary can distribute them?

5 MS. TESHAYE: [Speaking off microphone.]

6 CHAIRPERSON HILL: Okay, I'm sorry. Could you  
7 just say that again into the microphone?

8 MS. TESHAYE: It was just emailed to me so I  
9 went next door and printed it.

10 CHAIRPERSON HILL: Okay. So, we need to make  
11 copies. So, while we're doing that you can go ahead  
12 and give your presentation. And then we'll also turn  
13 to the Office of Planning and have an opportunity,  
14 then, to look at the ANC letter. So, begin whenever  
15 you'd like.

16 MS. TESHAYE: Okay. So, I am doing an  
17 application for a special exception for a childcare  
18 located at 1700 7th Street Northwest, Lot 37, Square  
19 419, Zone ARTS-2.

20 When we started the project it was under the  
21 old zoning code and there was no restriction. By the  
22 time we submitted everything we found out there was a  
23 restriction. We can only do 20 children. So, we're  
24 asking for an exception to do 51 children. And we've  
25 worked with the ANC and got all the votes in favor,



1 six votes in favor, zero denial. And we've also  
2 worked with Office of Planning. From what I read, I  
3 didn't know there was any conditions, so.

4 CHAIRPERSON HILL: That's okay. I'll turn to  
5 the -- and the ones that I have, the maximum number of  
6 children shall be 51. The maximum number of staff  
7 shall be 21. Hours of operation shall be from 7:00  
8 a.m. to 6:00 p.m. Monday through Friday. Those were  
9 the conditions.

10 MS. TESFAYE: That's perfect. That's --

11 CHAIRPERSON HILL: Okay. So, you agree with  
12 all those. All right.

13 Does the Board have any questions for the  
14 applicant at this time? All right.

15 Then I'm going to go ahead and turn to the  
16 Office of Planning.

17 MS. VITALE: Good morning, Mr. Chair, members  
18 of the Board, Elisa Vitale with the Office of  
19 Planning. I am standing in for Bryan Golden, the case  
20 manager for this case. But I will rest on the record  
21 in support of the requested special exception relief  
22 subject to the conditions that the Chair just stated  
23 and that the applicant indicated they were amenable  
24 with. Thank you.

25 CHAIRPERSON HILL: All right, great. Thank

1 you. My computer just came online and it's taken a  
2 while for it to do so. But I can see, right, this is  
3 -- it's in the ground floor of the office building.  
4 Is that correct?

5 MS. TESFAYE: Of an apartment building.

6 CHAIRPERSON HILL: Of an apartment building.  
7 Okay.

8 Does the Board have any questions for the  
9 Office of Planning?

10 MR. SHAPIRO: One question, Mr. Chair.

11 CHAIRPERSON HILL: Yes, please. Go ahead.

12 MR. SHAPIRO: Just for my edification and it  
13 might actually even be for the applicant. But when we  
14 say that the condition is for no more than 51  
15 children, does that mean that there will be no more  
16 than 51 children at any time in the room? Is that the  
17 idea? It's not related to the number of clients they  
18 may have. It's about room occupancy. Is that right?

19 MS. VITALE: I'm actually not sure. I think  
20 that would be just total in maximum enrollment in  
21 terms of clients, actually. I don't know that that's  
22 at a time. But I can certainly get an answer to that  
23 and clarify if the Board is interested.

24 MR. SHAPIRO: I am interested. I'm not sure  
25 that would affect my decision one way or another on

1 this case, I'm just more curious about how that's  
2 defined.

3 Thank you, Mr. Chair.

4 MS. WHITE: Did you have an understanding of  
5 what that requirement meant, just to --

6 MS. TESFAYE: I mean, I can say how I applied  
7 for it and that's how it was approved, which is 51  
8 children total I can have enrolled.

9 MS. WHITE: Enrollment.

10 MS. TESFAYE: Enrollment wise. I cannot go  
11 above that capacity based on the square footage of the  
12 space.

13 MR. SHAPIRO: But is it the number of children  
14 that can be in the room, or the number total that you  
15 can have enrolled in your program? Because I assume  
16 some kids are out on some days.

17 MS. TESFAYE: Yeah, in the room. So, I cannot  
18 go above 51 at any given time.

19 MR. SHAPIRO: So, in the room.

20 MS. TESFAYE: I can have more enrollment if I  
21 have part-time students.

22 MR. SHAPIRO: Okay.

23 MS. TESFAYE: As long as I don't go over that  
24 51 in any day.

25 MR. SHAPIRO: So, that's your understanding of

1 it?

2 MS. TESHAYE: Yes.

3 MR. SHAPIRO: Right? And I would say from  
4 OP's -- I'm just curious about how that's applied.

5 MS. VITALE: I would have to look into that  
6 and get back to you.

7 MR. SHAPIRO: Thank you. Thank you, Mr.  
8 Chair.

9 CHAIRPERSON HILL: Okay. So, this might need  
10 some clarification now because in the ANC letter it  
11 does say, "Serving up to 51 children." And so, I'm  
12 just trying to -- we might need a little bit further  
13 clarification, I mean, whether or not that means  
14 there's 51 children enrolled, or 51 children allowed  
15 on site at any one time. And so, that might be where  
16 there might be a little clarification. But we can see  
17 how we go ahead.

18 I do see the letter here from the ANC. And I  
19 do see that they were in support, six, to zero, to  
20 zero. And again, in the letter it says, "Special  
21 exception to allow a childcare facility serving up to  
22 51 children where zoning allows 20 children, and to  
23 communicate that support in writing to the Board of  
24 Zoning Adjustment."

25 Does the Board have any further questions of

1 the applicant?

2 [No audible response.]

3 CHAIRPERSON HILL: Okay. All right. Then,  
4 I'm going to go ahead and turn to the audience here.  
5 Is there anyone here from the ANC? Is there anyone  
6 here wishing to speak in support of the application?  
7 Is there anyone here wishing to speak in opposition to  
8 the application?

9 All right. If you could please go ahead and  
10 come forward, please?

11 Okay. If you could please -- did you guys get  
12 sworn in this morning?

13 MS. WATSON: Yes.

14 CHAIRPERSON HILL: Okay, great. If you could  
15 please again, you push the button until the green  
16 light is on, and then if you could state your name and  
17 where you live? And then also, we're going to give  
18 you each three minutes to go over the points that you  
19 have in opposition.

20 So, first, could you state your name, please?

21 MS. WATSON: I'm sorry. I stutter when I  
22 talk.

23 CHAIRPERSON HILL: That's okay.

24 MS. WATSON: So, I'm a little nervous. I'm  
25 nervous, but my name is Annetta Watson.

1 CHAIRPERSON HILL: Watson.

2 MS. WATSON: Annetta Watson.

3 CHAIRPERSON HILL: Okay. Thanks.

4 MS. WATSON: And I reside at 1710 7th Street  
5 Northwest, Apartment 75, right next door to where they  
6 were --

7 UNIDENTIFIED SPEAKER: Over top.

8 CHAIRPERSON HILL: Okay.

9 MS. WATSON: No, over the top of the daycare.

10 CHAIRPERSON HILL: I see. Okay. Thanks, Ms.  
11 Watson. And you are?

12 MS. UNDERWOOD: Hi. Good morning. My name is  
13 Janice Underwood and I also reside at 1710 7th Street  
14 Northwest.

15 CHAIRPERSON HILL: Okay. So, you both are in  
16 the building where the daycare center would be  
17 located.

18 MS. UNDERWOOD: Yes.

19 CHAIRPERSON HILL: All right. Okay. Give me  
20 one second there, Ms. Watson. Okay. Did you fill out  
21 your witness cards?

22 MS. WATSON: Yes, we did.

23 MS. UNDERWOOD: Yes.

24 CHAIRPERSON HILL: Okay. Great. All right.  
25 So, Ms. Watson, I'll go ahead and start with you. I'm

1 going to put three minutes on the clock. You can see  
2 the clock on either side there, and just begin  
3 whenever you'd like.

4 MS. WATSON: Okay. I would just like to say,  
5 I just moved to 1710 on December, and we live in a  
6 non-smoking building, and we have to sit outside at  
7 the tables and smoke, and I don't think that that's  
8 fair for the kids to see us outside smoking and doing  
9 whatever else that we choose to do because we are  
10 adults.

11 And we have a bunch of drug dealers that hang  
12 around at that building so much that the police is  
13 there constantly. And then, I'm trying to figure out  
14 where are these parents going to park at.

15 And that's all I have to say. I pass.

16 CHAIRPERSON HILL: All right, Ms. Watson.  
17 Thank you so much.

18 MS. WATSON: Thank you.

19 CHAIRPERSON HILL: Ms. Underwood, I'm going to  
20 -- let me reset the clock there for you. Thank you.  
21 And then begin whenever you'd like.

22 UNIDENTIFIED SPEAKER: Okay, my concern --  
23 well, I'm a longtime Shaw resident. I grew up in the  
24 area. My concern is we already have two daycares on  
25 that block, one on each side of the street. And also,

1 for our apartment complex, we only have 13 parking  
2 spaces, and we have like 80 units in the building.  
3 So, okay, where are they going to park, and also the  
4 subway station is like right beside, behind the  
5 daycare. And that's a lot of traffic for you to be  
6 having kids in that area.

7           And like Ms. Watson also said, we have mental  
8 challenged people that comes and sit at our benches.  
9 And I mean, it's just a lot. And I mean, I'm not  
10 trying to knock nobody's business down, but my concern  
11 is with the kids. And it's like the summer time, the  
12 Shaw area is building, it's changing, but it still has  
13 a lot to go.

14           Oh yeah, and we're trying to, because we're  
15 building a tentative -- so we are trying to like clear  
16 the drug use from around there, but I mean, as anybody  
17 knows, it's hard. But like I said, my biggest concern  
18 is for the safety. And these kids, where is their  
19 playground going to be?

20           MS. WATSON: No, the only thing --

21           CHAIRPERSON HILL: Would you like to add  
22 anything else?

23           MS. WATSON: Yes, sir. The space, because we  
24 can see inside the windows because there's nothing up.  
25 I really don't see where 51 kids can fit inside that



1 space. I personally don't see it. How about you? I  
2 don't see it.

3 MS. UNDERWOOD: Well, my other concern was  
4 that -- and this is with the ANC. We, as the  
5 residents, wasn't informed of the ANC meeting about  
6 this, or none of it.

7 CHAIRPERSON HILL: Okay. Did you guys get a  
8 chance to go to the ANC meeting?

9 MS. UNDERWOOD: No, we wasn't informed when --

10 MS. WATSON: No, we didn't know about it. We  
11 didn't --

12 MS. UNDERWOOD: We didn't know about it.

13 MS. WATSON: The only thing that we've seen  
14 was that little notice on the building which --

15 MS. UNDERWOOD: Saying about the zone hearing.

16 MS. WATSON: Saying about the zone hearing  
17 today. That's all we ever knew about. That's why  
18 we're here.

19 CHAIRPERSON HILL: Okay. Okay. All right.  
20 Yeah, the ANC meetings, I mean, they -- you know, this  
21 might be another reason to go to them more regularly.

22 You know, I mean, I go to mine and you know, they do  
23 announce, they do have an agenda. It's every month at  
24 the same day.

25 MS. UNDERWOOD: Okay.

1 CHAIRPERSON HILL: So, just for future, you  
2 know, knowledge for the ANC. But does the Board have  
3 any questions for the witnesses?

4 MR. HART: Both of you, thank you very much  
5 for coming out.

6 MS. WATSON: Yes, sir.

7 MR. HART: I know it's hard. It's time and  
8 all that but we do appreciate hearing -- excuse me,  
9 hearing from you. Both of you brought up issues about  
10 parking.

11 MS. WATSON: Yeah.

12 MR. HART: And so, you said that there are  
13 parking -- there's parking associated with the  
14 building but there isn't parking -- you're just  
15 concerned that the cars that are coming to drop off  
16 the children, and people dropping off children, will  
17 cause some problems with that. Can you explain a  
18 little more?

19 MS. UNDERWOOD: Yes. We have three, it's like  
20 three complexes all together in that one block. And  
21 right now we're having problems with just the tenants  
22 getting parking space. And we're saying, even if  
23 they're dropping the kids off, this is such a  
24 congested area. It's I mean, I could see  
25 complications going to pop up.

1 MS. WATSON: And then too, sir, like I had  
2 stated, we can't smoke in our building, so we have to  
3 go outside. And I don't think it's fair the kids that  
4 don't see their parents smoke or whatever, have to sit  
5 and see us sitting out there doing -- you know,  
6 smoking.

7 MS. UNDERWOOD: Our building is a nonsmoking  
8 building.

9 MS. WATSON: It's nonsmoker, so we have to go  
10 outside every day, every time.

11 MR. HART: And so, you're saying the area that  
12 you'd be doing that would be --

13 MS. UNDERWOOD: It's like --

14 MR. HART: -- in view of the kids watching  
15 that.

16 MS. UNDERWOOD: Right.

17 MS. WATSON: Yes, because it's right on the  
18 side. It's on the side. And then we have the little  
19 young drug dealers just be everywhere.

20 MS. UNDERWOOD: And then if it's raining, we  
21 stand under, which is directly in front of the  
22 daycare.

23 MS. WATSON: Yes. So, we can smoke our  
24 cigarettes.

25 MR. HART: Thank you.

1 CHAIRPERSON HILL: Okay. Does the Board have  
2 any other questions?

3 Okay. So, thank you all very much. And thank  
4 you for the testimony, and again giving us some idea  
5 as to what is around where you're going.

6 I guess I would kind of, so my thoughts, I  
7 suppose, you're not necessarily opposed to the --  
8 well, you're not -- I mean, you want something to go  
9 there. You know, you don't want it vacant because  
10 it's better off for your building for there to be  
11 something.

12 MS. WATSON: Yes.

13 CHAIRPERSON HILL: And from what I understand  
14 the concerns are again, it's kind of like where you  
15 would be able to go ahead and you know, the area in  
16 which you go outside and people hang out to smoke and  
17 such. And so --

18 MS. WATSON: We have a lot of homeless people.

19 CHAIRPERSON HILL: And then the different  
20 things that kind of like the children would be exposed  
21 to.

22 MS. WATSON: Yes. Yes.

23 CHAIRPERSON HILL: However, I don't know if  
24 necessarily any of that is within the Board's purview,  
25 I just want to say, as far as like, you know, the

1 homeless situation or, you know, obviously the issues  
2 that you're having there with narcotics. So --

3 MS. WATSON: And the gang wars and the  
4 fighting.

5 CHAIRPERSON HILL: So, well, I hope your  
6 building gets, you know --

7 MS. WATSON: No, it's not our building. It's  
8 right there on the corner.

9 CHAIRPERSON HILL: Right.

10 MS. WATSON: It's like, it's the area around  
11 it.

12 CHAIRPERSON HILL: Right.

13 MS. WATSON: It's not --

14 CHAIRPERSON HILL: Well, the center might  
15 help, you know. The center might help. But I'm just  
16 going to turn to the applicant now.

17 So, as far as like some of the comments that  
18 you've heard, and you know, I know that you've gone  
19 through the process again of working with the Office  
20 of Planning and working with the ANC, and I don't know  
21 whether the ANC had voiced any of these concerns  
22 before, whether you had any thoughts about like the  
23 issue with you know, where the outdoor area is for the  
24 children and kind of the smoking and things like that.  
25 Do you have any thoughts about what you've now heard

1 from the people here, kind of giving you different  
2 ideas as to what's there in the area?

3 MS. TESFAYE: Yes. So, you know, this issue  
4 is not just in that area. It's in a lot of other part  
5 of D.C. However, there is a huge shortage of  
6 childcare in D.C., so it has to be filled one way or  
7 another.

8 We have another location on Capitol Hill, we  
9 have 200 people on our waiting list. There is a huge,  
10 huge need for childcare. So, we're just going to have  
11 to work through this, whether it will be working with  
12 the neighbors to call the cops so we can clean up the  
13 area, whatever it might be, we're going to have to  
14 work through it.

15 In terms of, the kids will be able to see  
16 people sitting out there smoking, I mean, we can't  
17 prevent that. The kids are going to see that  
18 everywhere they go, whether it's at a restaurant,  
19 anywhere that's outside of our control.

20 In terms of play area, we do take them outside  
21 when the weather permits. There is a playground  
22 walking distance from there, at the rec center. We  
23 will be using that. There is a little, very tiny  
24 playground that the center next door uses that we'll  
25 be sharing because the center next door and our center

1 will be -- the landlord is the same landlord. I  
2 believe that's the building there at 1710, that's  
3 where the childcare is right now. We're in 1700. So.

4 CHAIRPERSON HILL: Okay. So, I appreciate and  
5 understand that -- it's okay, you guys. I'm sorry.

6 MS. WATSON: All right.

7 CHAIRPERSON HILL: I appreciate and understand  
8 that you're talking about the need for childcare and I  
9 agree with that. So, but you would be obviously then,  
10 from your statements, trying to work with the  
11 neighbors in order to do what you needed to do in  
12 terms of calling the police or anything like that.

13 As far as like, I don't know the exact  
14 locations now. At least I can't picture it, where the  
15 children will be playing, but if there were a lot of  
16 areas where there was a lot of smoke, you wouldn't  
17 have the children over in that area is what --

18 MS. TESFAYE: Absolutely not.

19 CHAIRPERSON HILL: Okay. All right. So, does  
20 the Board have any other questions for the applicant?

21 MS. WHITE: I mean, obviously this is D.C.,  
22 it's an urban environment. You know, but there are  
23 things that you can do to kind of put plans in place  
24 to provide for safety for the children.

25 I'd like to kind of hear a little bit about

1 maybe what your thoughts are in terms of providing  
2 adequate safety for the children, as well as how you  
3 plan on, or if there is any plan in place to deal with  
4 the extreme parking issues, to prevent problems with  
5 parking, since there appears to be obviously limited  
6 parking in that area.

7           But the main issue for me is safety, you know.  
8    If there is -- if you have experience in putting  
9 together something in place to make sure that the kids  
10 are protected.

11           MS. TESHAYE: Sure. I mean, the kids are most  
12 of the time, indoor, under our protection with people  
13 who have thorough background checks. You know, they  
14 are not going to be with anybody, any stranger.

15           We have separate entrance. They're not going  
16 to be entering the same way with the tenants. We're  
17 going to have key cards, so when they are outside,  
18 they are with our staff. We do one-to-three ratio, so  
19 it will be one staff for every three children wherever  
20 they go, whether it's with, you know, the big size  
21 strollers. So, they're always going to be staff with  
22 them protecting them. It's not, you know, there will  
23 never be a time where they will mix with the tenants,  
24 or even use the same entrance as the tenants. It will  
25 be a totally separate area where the children are



1 going to be.

2 MS. WHITE: Any thoughts on the parking?

3 MS. TESFAYE: So, in terms of parking, it's  
4 really just dropping off. So, our drop-off time is  
5 going to be between 7:00 and 9:00. So, basically  
6 people trickle in. They don't all come at the same  
7 time, and our experience from where we are right now  
8 is that most people take the Metro because we are  
9 close to the Metro and Capitol Hill. And we're going  
10 to be providing this service to the neighbors, so most  
11 neighbors either walk, take a bike, take a Metro. And  
12 the ones that are driving, they trickle in since it's  
13 7:00 to 9:00. And same, pick-up is 4:00 to 6:00 p.m.

14 And we have three parkings that were given  
15 inside during our operation time, for drop-off and  
16 pick-up. So that's how we're going to do it.

17 And in terms of parking for our staff, we do  
18 encourage our staff by giving them incentives, we give  
19 them Metro cards so that they could take the Metro.  
20 So, right now where we are, we don't have any staff  
21 that does not take the Metro. They all take the Metro  
22 and we hope to do the same thing here. That's what  
23 we're going to push for.

24 CHAIRPERSON HILL: Okay. Does the Board have  
25 any other questions? Okay. All right.

1 I would again just go ahead and encourage you  
2 to continue to work with your neighbors. Obviously,  
3 you will because you want to have a good relationship  
4 with them. And as you've heard some of the concerns,  
5 particularly if they get their tenant association  
6 going and everything, working with them. So, that  
7 being the case, I'll go ahead and do you have anything  
8 further to add?

9 MS. TESFAYE: No, just that there are two  
10 child cares right there too. So, I will work with  
11 them as well to try to see what they are doing.

12 CHAIRPERSON HILL: Okay. Okay. All right.  
13 Then, I'm going to go ahead and close the hearing. Is  
14 the Board ready to deliberate?

15 Okay. All right. Then I'm going to start  
16 off. I guess I was mostly lacking the input from the  
17 ANC, and I wasn't clear as to, you know, the outreach  
18 that they had done. I do appreciate the people that  
19 have come down here from the building and in the area,  
20 and then hopefully now, you know, they have met you,  
21 seen, you and can like, you know encourage some  
22 communications with the tenant association if it does  
23 kind of get going and everything.

24 But I am leaning on the analysis from the  
25 Office of Planning and their recommendation of

1 approval. I do agree with the analysis that they've  
2 provided. And now that I have -- and then also the --  
3 that the applicant has agreed with the conditions.

4 So, I would be comfortable with the conditions  
5 the way that they have been outlined with the Office  
6 of Planning. And so, I would go ahead and make a  
7 motion to approve Application No. 19490 as advertised.

8 As read by the secretary.

9 MS. WHITE: Second.

10 CHAIRPERSON HILL: The motion has been made  
11 and seconded.

12 [Vote taken.]

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

14 MR. MOY: Staff would record the vote as four,  
15 to zero, to one. This is on the motion of Chairman  
16 Hill, and that includes the attached three conditions  
17 to the motion.

18 CHAIRPERSON HILL: Yes.

19 MR. MOY: Yes. Thank you. And seconded the  
20 motion, Ms. White. Also in support, Mr. Shapiro, Vice  
21 Chair Hart, and a board seat vacant. Motion carries.

22 CHAIRPERSON HILL: Okay, great. We can do a  
23 summary order.

24 MR. MOY: Yes, sir.

25 CHAIRPERSON HILL: Okay. And, you know,

1 again, encourage you guys to work with the neighbors  
2 and the community, okay? So, thank you all for coming  
3 down.

4 MS. UNDERWOOD: Thank you.

5 CHAIRPERSON HILL: Thank you.

6 [Pause.]

7 MR. MOY: I believe the next case application  
8 is 19494 of Nike USA, Inc. as captioned and advertised  
9 for a special exception under Subtitle C, 1504.1; from  
10 the penthouse setback requirements of Subtitle C,  
11 Section 1502.1 to allow screening for mechanical  
12 equipment on an existing two-story, plus cellar  
13 attached building, MU-24 Zone at premises 507 2nd  
14 Street Northeast, Square 754, Lot 31.

15 CHAIRPERSON HILL: All right, great. Thank  
16 you. Good morning, still. If you could please  
17 introduce yourself and give us your address?

18 MR. TEASS: Good morning. My name is Will  
19 Teass. I'm a principal with Teass/Warren Architects,  
20 representing Nike in this matter.

21 I would like to add that I was here a little  
22 bit late and was not sworn in.

23 CHAIRPERSON HILL: Okay, great. So, Mr.  
24 Teass, if you could go ahead and stand up and get  
25 sworn in to tell the truth?

1 Oh, everybody. Yeah, I'm sorry, and if  
2 there's anybody here that missed the swearing in  
3 earlier this morning, if you could please stand up so  
4 we can be sure you're not going to lie.

5 [Oath administered to the participants.]

6 SOROR PRESIDENT WALKER: Thank you, Mr. Moy.  
7 All right, Mr. Teass.

8 So, everybody is against you, as you've  
9 noticed. You know, there is the Office of Planning  
10 has recommended denial. The ANC 6C has recommended  
11 denial, and you're the only one here. Is that  
12 correct?

13 MR. TEASS: Yes, that's correct.

14 CHAIRPERSON HILL: So, for the entire Nike  
15 corporation you are the one sole representative?

16 MR. TEASS: Correct.

17 CHAIRPERSON HILL: Okay. All right. Great.  
18 So, I'm going to give you 10 minutes on the clock to  
19 kind of make your presentation. And you can speak to  
20 obviously the analysis of the Office of Planning.  
21 We've all read the record. We know the situation that  
22 you're in, and then the work that you've done with ANC  
23 6C, and anything else you'd like to add. Would 10  
24 minutes be enough? You need a little bit more time?

25 MR. TEASS: Ten minutes would be more than

1 enough, thank you.

2 CHAIRPERSON HILL: Okay, great. Thank you.  
3 So, you can begin whenever you'd like, unless the  
4 Board has any other -- okay. All right, great.  
5 Please. Thank you.

6 MR. TEASS: Thank you, and good morning. As  
7 you are familiar with the case I will focus on the  
8 elements, particularly those outlined in the OP report  
9 and the ANC report.

10 We're here today to discuss a penthouse  
11 screen. The penthouse screen as you're seeing on  
12 slide 8 of our presentation, which is included in the  
13 photographs that were submitted as part of the case,  
14 illustrate the condition in the upper left-hand  
15 corner. We have a large rooftop mechanical unit.  
16 Behind that unit is what's called an energy recovery  
17 module. This is a LEED Silver project. The energy  
18 recovery module was something that was added for our  
19 LEED application, and the energy recovery module  
20 features prominently in the image on the righthand  
21 side here, where you're seeing our existing penthouse  
22 screen, you're seeing that energy module behind that  
23 screen.

24 The two views in the lower left are taken from  
25 the alleyway behind the property and illustrate the

1 extent to which the rear wall or the east wall of the  
2 penthouse screen, and its relationship to the roof  
3 edge.

4           So, I think that we're here, as we outlined in  
5 our statement, the contractor that built this project  
6 is not a contractor that's based here in D.C. The  
7 project was actually managed by their corporate real  
8 estate group out of Oregon, and neither of which  
9 understood the very detailed nature of D.C. zoning and  
10 the requirements with regard to this penthouse screen.

11   So, unfortunately the contractor put the screen up  
12 and we were not made aware of this until after the  
13 work was done, and quite frankly it came up with the  
14 project did not pass a zoning check.

15           So, I think that one of the things -- we  
16 looked, we evaluated the special exception criteria,  
17 and we felt at the time that it was an appropriate  
18 case to bring before the Board and to argue that this  
19 particular instance would be amenable to special  
20 exception relief.

21           There are several, there's six different  
22 elements. I think I would like to focus on the two I  
23 think that the Office of Planning had the most concern  
24 with. One, the cost. At this point, our estimate to  
25 relocate the unit, remove the screen, install a new

1 screen, and the associated duct work and penetrations  
2 and whatnot, would exceed a cost of about 26 -- or 26  
3 to \$27,000.

4 We are stipulating, that is prohibitively  
5 expensive. We understand that this is a cost that we,  
6 or the team incurred because of their failure to  
7 comply with the drawings. However, we're asking that  
8 the Board evaluate that as part of this.

9 Roughly, the screen is approximate three and a  
10 half feet back, so we're talking about moving the  
11 screen an additional three feet, so it's about 8,000,  
12 9,000 a foot to move the screen.

13 The second element that we wanted to focus on  
14 in the OP report was a discussion that we had  
15 initially with the Commission of Fine Arts and HP  
16 staff. One of the items of discussion was if -- and  
17 this came up as a point of discussion from the Zoning  
18 Administrator, was that if you had built a penthouse -  
19 - I'm sorry, a parapet wall and move a penthouse  
20 screen, that that parapet wall could be built to a  
21 height of less than four feet, and that parapet wall  
22 could be built at the building edge, and that would  
23 function -- it would, from a zoning perspective would  
24 meet the intent of screening the mechanical equipment.  
25 When we spoke to the historic CFA and HP staff, they



1 both indicated a preference for us proceeding with the  
2 BZA application in lieu of proposing a parapet  
3 extension.

4 I think the Office of Planning makes an  
5 analysis that this is a false argument because the CFA  
6 or HP staff would never approve this parapet  
7 extension. We don't know that for a fact. We  
8 haven't, you know, taken the discussion any further  
9 than to say, of the two situations what would be your  
10 preference. And their preference was that they would  
11 be supportive of a BZA application.

12 What we'd also like to introduce this morning  
13 is, we were starting to work on an exhibit and I've  
14 got an exhibit on the screen. I've actually got hard  
15 copies that I would be more than happy to circulate to  
16 the Board, that illustrate on the righthand side, the  
17 existing condition as it stands today. We were  
18 starting -- we wanted to understand if the screen were  
19 moved back, what it might look like on the left-hand  
20 side. But it also raised the possibility that may be  
21 more apparent in section, which is if we were to lower  
22 the height of the existing screen so that it met the  
23 one-to-one setback. We believe it's possible that we  
24 would still achieve the same visual effect of  
25 screening the mechanical unit.

1           So, this is a section through the building,  
2 the red dashed line would be the line of sight from  
3 the alleyway. And what you're seeing here is if that  
4 structure were lowered, we believe that it's very  
5 likely that we would be able to screen the mechanical  
6 unit, which is the purpose, the primary function of  
7 that penthouse wall.

8           So, what you're seeing on the righthand side  
9 is that the darker shape behind the screen is the  
10 energy recovery module. You can obviously see some  
11 skylight between the top of the module and the top of  
12 the screen. And so, the view on the left-hand side,  
13 it -- the view on the left shows that condition at a  
14 lower stance.

15           It's our understanding that if we were to  
16 pursue this option, that we would still need zoning  
17 relief because it's our understanding that the height  
18 of the screen wall needs to be the height of the  
19 equipment. And if we were to leave the equipment in  
20 place and simply lower the wall, the height of the  
21 penthouse screen would actually be lower than the  
22 wall. So, it would be a different form of relief, but  
23 it would be relief required nonetheless.

24           And so, I think we wanted to at least engage  
25 the Board in a conversation this morning if possible,

1 as to whether or not if they didn't feel that granting  
2 the original request was warranted, whether or not  
3 they would consider evaluating a secondary or an  
4 additional request with regard to the height.

5 I would like to note for the record that not  
6 everyone is against us. We've reached out to both  
7 adjacent neighbors. We've explained the situation and  
8 met with them, and showed them what -- obviously  
9 what's built, and what was originally permitted. Both  
10 of them indicated their support for the project.  
11 We've filed those letters of support on file.

12 In addition, we went before Capitol Hill  
13 Restoration Society, as they tend to review all zoning  
14 applications in this area, and they felt that their  
15 letter of support, which is also included, I think  
16 yesterday, indicated their support for the project.

17 CHAIRPERSON HILL: Mr. Teass. It's  
18 pronounced, Teass, correct?

19 MR. TEASS: Teass. Yes.

20 CHAIRPERSON HILL: Teass. Could you pass out  
21 the hard copy that you have, if you wouldn't mind,  
22 to --

23 MR. TEASS: Yes.

24 CHAIRPERSON HILL: -- Mr. Moy?

25 [Pause.]

1           MR. HART: So, Mr. Teass, you're looking --  
2 when you were talking about lowering the screen, you  
3 were talking about the entire screen around the entire  
4 penthouse.

5           MR. TEASS: Correct.

6           MR. HART: So, it would be like lowering one  
7 wall or --

8           MR. TEASS: That's correct. It would be a  
9 uniform reduction in height.

10          MR. HART: And by how much, did you say?

11          MR. TEASS: We think it would be about two and  
12 a half to three feet. I think part of this we would  
13 do a similar, what we do in historic projects, which  
14 would be a flag test or a mock up to make sure that  
15 the amount that we were lowering it was sufficient  
16 enough to screen the mechanical equipment as well as  
17 meet the one-to-one setback from roof edge to the top  
18 of the screen. This is a relatively recent  
19 development, so we haven't had a chance to do that  
20 work yet.

21          MR. HART: And so six -- it would go from --  
22 the one-to-one would be that it would have to be a  
23 three and a half foot -- sorry. Three-foot, three-  
24 inch.

25          MR. TEASS: That's correct.

1 MR. HART: Height.

2 MR. TEASS: Height.

3 MR. SHAPIRO: Mr. Chair.

4 CHAIRPERSON HILL: Yeah, sure.

5 MR. SHAPIRO: So, the pictures that I'm  
6 looking at, on the right is the existing condition.  
7 On the left is -- I'm a little confused. On the left,  
8 is that what you were proposing as a compromise, or is  
9 the left what it would look like if you actually took  
10 it out and rebuilt it to standard?

11 MR. TEASS: The image on the left would --  
12 represents a compromise, where we would still need  
13 zoning relief because the top of the screen would be  
14 lower than the height of the equipment on the roof, if  
15 it were taken purely at a two-dimensional section.  
16 But its visual appearance from the ground would be --  
17 the mechanical equipment would still be screened.

18 MR. SHAPIRO: And do you have any kind of --  
19 is there anywhere else, what it would look like if you  
20 actually met the requirements?

21 MR. TEASS: In our application we have the  
22 approved drawings that show it as a two-dimensional  
23 line drawing.

24 MR. SHAPIRO: I mean, play with me on this a  
25 little bit, because we're all looking at the same

1 picture. What would it look like if it were --

2 MR. TEASS: We believe --

3 MR. SHAPIRO: -- built to code?

4 MR. TEASS: -- it would look very -- the  
5 height of the wall would be very close to what you're  
6 seeing on the left-hand side.

7 MR. SHAPIRO: Okay. Thank you. Thank you,  
8 Mr. Chair.

9 CHAIRPERSON HILL: All right. I'm going to  
10 turn to the Office of Planning unless the Board has  
11 any other further questions for the applicant at this  
12 point.

13 [No audible response.]

14 CHAIRPERSON HILL: All right. Office of  
15 Planning, could you please help us out with your  
16 thoughts?

17 MR. COCHRAN: Certainly, Mr. Chair. Just for  
18 the record, Steve Cochran, Office of Planning.

19 This is the first time I've seen the drawing  
20 so I'm really not prepared to speak to it, especially  
21 without having talked to our HPRB staff. If the  
22 applicant wishes to proceed this way we'd be happy, if  
23 they want to ask for a rescheduled hearing, we'd be  
24 happy to reanalyze things.

25 But as it stands, we're recommending against

1 it. Primarily because they so clearly don't meet  
2 Section C-1504.1(v). Every effort has not been made  
3 for the housing of the mechanical equipment, stairway,  
4 and elevator penthouse to be in compliance with the  
5 required setbacks.

6 Yes, they definitely received HPRB approval.  
7 They received building permit approval based on  
8 compliance. They built it without compliance, and  
9 it's an ex post facto request from a not small  
10 applicant.

11 So, we would recommend against what they've  
12 asked for, but we would be happy to reanalyze things  
13 if this is what they want to propose again.

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

16 [No audible response.]

17 CHAIRPERSON HILL: Yeah, I mean, my thought  
18 again, or I guess it's not even necessarily for the  
19 Office of Planning, but is just that the you know, the  
20 after-the-fact kind of issue is what I'm kind of  
21 struggling with.

22 And so, would the applicant -- does the  
23 applicant have any questions for the Office of  
24 Planning right now, or and also do they want to see if  
25 they can work with the Office of Planning to, with

1 this new idea?

2 MR. TEASS: I think the answer to your first  
3 question is, not at this time.

4 But in terms of the second question, I think  
5 that if we were to propose a compromise solution, I  
6 don't know that if we went back to the ANC that we  
7 would garner their support. I think we would still be  
8 before you for zoning issue. And if there's any  
9 indication at this point that the Board would say, you  
10 know, we would consider this compromise pending, you  
11 know, further review, further input from the Office of  
12 Planning, HP staff, I think we would certainly be  
13 willing to do that if you're of the mind that it's  
14 because of the ex post facto situation that no zoning  
15 relief will be granted for this issue, then I think  
16 that's -- we would like to get a sense one way or the  
17 other this morning if possible.

18 CHAIRPERSON HILL: Sure. Yeah, Mr. Teass. I  
19 don't know, and I'll let the other board members kind  
20 of speak to their thoughts. I mean, again for me,  
21 it's kind of the precedent in terms of that this was  
22 something that had been built, and if you could get  
23 around to where -- I mean, I know for me, getting  
24 around to where the Office of Planning could  
25 understand your newest proposal and possibly get on



1 board, and then you're still kind of without the ANC,  
2 I suppose to an certain extent, again having someone  
3 who has gone through this process, I mean, \$26,500,  
4 you're already spending that by being here. You know,  
5 some of that. Meaning that it doesn't seem like --  
6 you will incur more cost to continue to do this.

7           And so, I can't exactly what I would think  
8 because I don't have any of the information really  
9 ahead of me. I mean, I still think that there is an  
10 issue with, you know, after-the-fact getting  
11 permission for this and that the costs in my  
12 impression, are not particularly high to fix the  
13 solution so that it's not a precedent. So, I don't  
14 know if the Board has any other thoughts that they'd  
15 like to add, in order to help the applicant come to a  
16 decision as to how to move forward.

17           MS. WHITE: I would feel more comfortable  
18 having you work with the Office of Planning to at  
19 least get their weigh in on your new proposal and new  
20 drawings before kind of directing you in terms of  
21 which way -- what you would need to do in order to get  
22 our approval. I think I would need to get the  
23 technical expertise of OP in order to feel comfortable  
24 with moving forward with the application.

25           MR. SHAPIRO: Mr. Chair. Yeah, I'm

1 respectfully, I'm in a probably a slightly different  
2 place than that, which is I think it's going to be a  
3 pretty high bar to pass. And, you know, it's possible  
4 that you might find some -- I mean, you know, you  
5 know, you want my advice, I'm not sure OP is -- I'm  
6 not sure where OP is going to be on this. I'm not  
7 sure you're going to find a whole lot of compromise.  
8 It's clearly ex post facto. I think that's hard for  
9 us to approve.

10 And so, it feels to me like eat it and correct  
11 it. You know, that's one person's opinion. I don't  
12 know where we are as a commission, as a board. But  
13 that's how I feel about this, is that it does set a  
14 precedent that I'm not comfortable setting.

15 CHAIRPERSON HILL: Okay. Does the applicant  
16 have any -- oh, I'm sorry. Mr. Hart, do you have  
17 anything -- does the applicant have anything to add,  
18 ask? I'm going to go through the rest of the hearing.

19 MR. TEASS: No, I think if we could request a  
20 continuance on this matter.

21 CHAIRPERSON HILL: Sure.

22 MR. TEASS: And then have an opportunity to  
23 chat with the Office of Planning and come to some  
24 conclusion about moving forward.

25 CHAIRPERSON HILL: Okay.

1 MR. TEASS: Before withdrawing the case, if  
2 that's where we end up.

3 CHAIRPERSON HILL: Yeah. Okay. I think that  
4 would be a good idea. I'm going to go ahead and see  
5 those, is there anybody here from the ANC? Is there  
6 anyone here wishing to speak in support? Is there  
7 anyone here wishing to speak in opposition? Okay.  
8 All right.

9 So, that, we've gone through that. I guess,  
10 Mr. Moy, is there a time that we can have a  
11 continuance and give the applicant an opportunity to  
12 work with the Office of Planning and decide whether or  
13 not they would even like to move forward with this?

14 MR. MOY: Okay, I think -- excuse me. We  
15 would seat the board, it would be continued hearing  
16 scheduled for June 7th. So, the applicant can do it's  
17 coordination with OP within that timeframe that would  
18 work for the Board.

19 Is the Board asking for any --

20 CHAIRPERSON HILL: I don't think, I mean,  
21 we're asking for a supplemental report from Office of  
22 Planning if in fact they do get to that point. And  
23 the applicant is going to go ahead and work with the  
24 Office of Planning.

25 I am, again, sympathetic to where the

1 applicant is and what they are trying to do. However,  
2 I think that the Board is at least giving you a very  
3 good idea as to where you are. And so, I know what I  
4 would do. But I think June 7th is good.

5 MR. MOY: Okay, June 7th.

6 CHAIRPERSON HILL: If it's all right with the  
7 applicant, June 7th.

8 MR. TEASS: June 7th would be fine. Thank  
9 you.

10 MR. MOY: Okay. And then if Office of  
11 Planning has a supplemental would June 1st be fine?  
12 That's a Thursday.

13 And this s a continued hearing, correct?

14 CHAIRPERSON HILL: Yes.

15 MR. MOY: Okay, that's it.

16 CHAIRPERSON HILL: Okay, great. Thank you  
17 very much.

18 MR. TEASS: Thank you for your time.

19 [Pause.]

20 CHAIRPERSON HILL: All right, Mr. Moy.  
21 Whenever you'd like.

22 MR. MOY: Sorry, Mr. Chairman. I see the  
23 parties to the table. This is Application No. 19495  
24 of Eric and Susan Meyers, captioned and advertised for  
25 a special exception under Subtitle C, Section 1504.1;

1 from the penthouse setback requirements under Subtitle  
2 C, Section 1502.1; special exceptions under Subtitle  
3 K, Section 813; penthouse height requirements under  
4 Subtitle K, Section 803.3; the 45-degree angle setback  
5 requirements of Subtitle K, Section 803.4; and the  
6 rear yard requirements of Subtitle K, Section 805.1,  
7 to construct a seven-story retail and residential  
8 building. This is in the ARTS-3 Zone, premises 1341  
9 and 1345, 14th Street Northwest, Square 242, Lots 840  
10 and 831.

11 CHAIRPERSON HILL: All right, great. Thank  
12 you. If you could please introduce yourself?

13 MS. BROWN: Good morning. My name is Carolyn  
14 Brown. I'm with the law firm of Donohue and Stearns  
15 on behalf of the applicant.

16 MS. SHILEY: Hi. I'm Megan Shiley. I'm with  
17 Bonstra/Haresign Architects.

18 MR. McCLENNAN: Rob McClennan, also with  
19 Bonstra/Haresign Architects.

20 CHAIRPERSON HILL: Okay. Ms. Brown, are you  
21 going to be presenting for us today? Or start at  
22 least?

23 MS. BROWN: I'm sorry?

24 CHAIRPERSON HILL: Or at least start the  
25 presentation?

1 MS. BROWN: Yes, I'm going to start the  
2 presentation, and based on the support that we have  
3 from the Office of Planning, DDOT, ANC, and other  
4 neighbors in support, I was going to propose a limited  
5 presentation.

6 CHAIRPERSON HILL: Sure. Yeah, no, that's  
7 okay.

8 MS. BROWN: And then focus on a couple issues.  
9 One, I just want to clarify or make sure that you  
10 understand the interrelatedness between the two  
11 properties that are the subject of this application,  
12 and then address two concerns -- raise two issues  
13 related to the property owner to the north, and the  
14 property owner to the south.

15 CHAIRPERSON HILL: Okay. Yeah. I mean, in  
16 specifically towards your presentation, I again, we've  
17 all gone through the record. We all understand what's  
18 happening. And I don't need to drill too far down  
19 into it. But I would like to get an overall  
20 understanding of what you're trying to propose and how  
21 you're meeting the standards in terms of for us to  
22 grant the relief. And then you can go ahead and touch  
23 on the points that you are speaking of.

24 Is there any other things specifically that  
25 the Board would like to hear from the applicant?

1           Okay. So, Commissioner Shapiro is interested  
2 in hearing a little bit more about how the barrel is  
3 going to remain. And now that we're being very frank  
4 about stuff, I thought the application was really kind  
5 of -- you know, Eric and Susan Meyers, I thought we  
6 were going to get a deck, you know, or like, you know,  
7 or there's a nice little house happening. It's not.

8           MS. BROWN: No. No.

9           CHAIRPERSON HILL: Yeah. Yea. So, you can go  
10 ahead and was that intentional actually? Is that how  
11 you did that?

12           MS. BROWN: Actually, there is an LLC being  
13 formed and it just hasn't been transferred yet --

14           CHAIRPERSON HILL: Okay.

15           MS. BROWN: -- so it's in the --

16           CHAIRPERSON HILL: Okay. All right. Just  
17 curious. Right. All right. So, you can go ahead and  
18 start whenever you'd like. I'm going to go ahead and  
19 put 10 minutes on the clock. While Mr. Moy is gone  
20 I'll keep 10 minutes in my head running, so please go  
21 ahead and start whenever you'd like.

22           MS. BROWN: First housekeeping matter, I just  
23 want to quality the architects as experts in  
24 architecture for the record. You have Mr. McClellan's  
25 resume at Exhibit No. 13, and -- 13. And Ms. Shiley's

1 at Exhibit 36D. I believe Mr. McClellan has been  
2 qualified before as an expert.

3 MR. McCLENNAN: I have not.

4 MS. BROWN: Oh, neither has been qualified  
5 before the BZA as experts.

6 MR. SHAPIRO: It was --

7 MS. BROWN: 36D and 13.

8 CHAIRPERSON HILL: Okay. I had a chance to  
9 look at the resumes and I know this is kind of -- if  
10 you wouldn't mind just telling us a little bit about  
11 yourself and your background? Both of you, actually,  
12 that would be great.

13 MS. BROWN: And I'm sorry, I wasn't sure if  
14 Mr. McClellan was going to be speaking today, but as  
15 long as he's here, he needs to be sworn in and maybe  
16 Mr. Moy can help with that.

17 CHAIRPERSON HILL: Okay. Great. Mr. Moy, if  
18 you would swear in Mr. McLellan (sic).

19 MR. McCLENNAN: McClennan.

20 CHAIRPERSON HILL: McClennan. I'm sorry.

21 MR. MOY: Would you stand, please, sir?

22 [Oath administered to the participant.]

23 MR. MOY: Thank you. You may be seated.

24 CHAIRPERSON HILL: Okay, Mr. McClellan (sic),  
25 you can just tell us a little bit about your



1 background, please, as to why we should admit you as  
2 an expert?

3 MR. McCLENNAN: Well, I've been an  
4 architect --

5 CHAIRPERSON HILL: You need to turn on your  
6 microphone there in the -- thank you.

7 MR. McCLENNAN: I've been in the architect  
8 profession since 1987, have received an undergraduate  
9 from (indiscernible) Virginia. Also went to  
10 University of Maryland for grad school. Specifically,  
11 I've been doing multifamily mixed-use projects for the  
12 last 10 years, with Torti Gallas Partners, and also  
13 with Bonstra/Haresign Architects.

14 So, this building is kind of in my wheelhouse,  
15 so to speak. I have not presented in front of BZA,  
16 but I've done multiple HPRB hearings and that sort of  
17 thing.

18 CHAIRPERSON HILL: Okay. Does the Board have  
19 any questions?

20 Okay. So, after looking at your resume, and  
21 thank you for clarifying for the record, your  
22 experience. I don't have a problem regarding you as  
23 an expert witness. Does the Board?

24 [No audible response.]

25 CHAIRPERSON HILL: Okay. So, we'll go ahead

1 and allow you as an expert witness. If you could  
2 please do the same thing, Ms. --

3 MS. SHILEY: Shiley.

4 CHAIRPERSON HILL: Shiley. Thank you.

5 MS. SHILEY: Sorry, allergies. I have been  
6 working in architecture for about 10 years. I have a  
7 Bachelor and a Master's degree in architecture from  
8 Catholic University. I've worked on many multifamily  
9 housing projects. I was with WDG Architecture prior  
10 to joining Bonstra/Haresign Architects. And I think  
11 that should do it.

12 CHAIRPERSON HILL: Okay, thank you. Again,  
13 does the Board have any questions? I've reviewed your  
14 resume now and thank you for adding that to the  
15 record. I don't have any issue with using -- allowing  
16 you as an expert witness. Does the Board?

17 [No audible response.]

18 CHAIRPERSON HILL: Okay. Then, we'll now add  
19 you to the book and you won't have to do this again.

20 So, all right, Ms. Brown, we'll go ahead and  
21 Mr. Moy is here. If you could put 10 minutes on the  
22 clock, Mr. Moy? And then you can go ahead and start  
23 whenever you'd like.

24 MS. BROWN: Great. Thank you. In our  
25 prehearing statement we fully addressed how we met the

1 standards for special exception relief for the four  
2 areas. Ms. Shiley will go through that more  
3 specifically so you can see them.

4           The issues that I wanted to raise were I  
5 wanted to -- I'm sorry. When she does her  
6 presentation, we will make sure that you understand  
7 the interrelatedness between the Barrel House site and  
8 the property at the corner, the Lustine property.

9           The Lustine property is proposing renovations  
10 to their building and regardless of what this BZA  
11 application gets granted, but assuming it does, they  
12 would like the flexibility to proceed with those  
13 matter of right renovations, regardless of the  
14 drawings that might be approved as a part of this  
15 application. So, we would like that as a condition of  
16 the order.

17           Don't understand what -- okay.

18           CHAIRPERSON HILL: No, you can keep going. I  
19 understand what you're asking for. We'll see what  
20 happens. So, we can just go ahead.

21           MS. BROWN: Okay. So, I just wanted to put  
22 that on the record.

23           CHAIRPERSON HILL: Yeah. Sure. Okay.

24           MS. BROWN: And then, I also wanted to let you  
25 know that we have been working with our neighbor to

1 the south. We started discussions with them probably  
2 back in December with, related to the Historic  
3 Preservation Review, and then more recently since  
4 February/March on building code issues. And I just  
5 wanted to put on the record that we are continuing  
6 those discussions. We know that they are not zoning  
7 issues, that they are issues that will be resolved at  
8 DCRA and in particular the fire-rated windows between  
9 the properties, how we're going to address that,  
10 underpinning and other construction related issues.

11 My understanding is that they're not opposed  
12 to our application, but we did want to put that on the  
13 record, that we are continuing to work with them on  
14 the building code issues and we would like flexibility  
15 in any approved order to address those building code  
16 issues, plus any historic, final historic preservation  
17 approvals.

18 And for your convenience, I think Mr. Moy is  
19 handing out draft conditions. If you so choose to put  
20 those into the order, we're requesting them, but  
21 obviously it's your decision on A., whether to approve  
22 our application, and B., whether the conditions you  
23 feel are appropriate.

24 CHAIRPERSON HILL: Thank you.

25 MS. BROWN: With that, I will turn it over to

1 Ms. Shiley to walk through the project.

2 MS. SHILEY: Okay. Thank you. We appreciate  
3 you taking the time to hear our case today. As Ms.  
4 Brown stated, this is the Barrel House project at 1341  
5 14th Street Northwest, and you'll be happy to know, we  
6 are keeping the barrel.

7 So, our site is located on the corner of 14th  
8 and Rhode Island Avenue. We are in the ARTS-3  
9 District. We have an alley to the northeast of our  
10 site, and at the centerline of that alley is where the  
11 RA-2 Zone begins. So, our site butts up against that  
12 zone.

13 There are currently two lots on the site and  
14 each has an existing building on it. The Lustine  
15 building is on lot 830, and the Barrel House is on Lot  
16 841.

17 We will be -- the Lustine building will be  
18 renovated under separate ownership and a separate  
19 permit. They will be maintained as two separate tax  
20 lots. The Barrel House, we will be saving the  
21 existing façade on 14th Street, and demoing the  
22 building behind that. We'll then be building a new  
23 seven-story residential building with ground floor  
24 retail.

25 So, the first area we're requesting relief is

1 for the residential entrance, which would be in our  
2 rear yard setback on the ground floor only. So, there  
3 is a horizontal plane 25 feet above grade where the  
4 rear yard is measured from the building face above  
5 that line, and below that line it's measured from the  
6 centerline of the alley to the building face.

7           So, below that line we are requesting, for  
8 relief from that rear yard setback requirement to  
9 provide this residential entrance. Due to the unusual  
10 shape of our building, we've had to locate the lobby  
11 back behind the retail space. Since we're keeping the  
12 existing façade on 14th Street, the frontage on Rhode  
13 Island Avenue is the real valuable retail frontage.

14           And so, to get the most out of that and  
15 provide the most flexible best retail space we can, we  
16 needed to get the lobby off of that face. And so, it  
17 would enter on the alley. We feel that providing this  
18 enclosure will enhance the safety. It also continues  
19 the street wall along Rhode Island Avenue, which we  
20 feel is a benefit.

21           MS. BROWN: It's not in the alley, it's  
22 adjacent to it.

23           MS. SHILEY: I'm sorry. Adjacent to the  
24 alley, yes.

25           MR. McCLENNAN: One other two minor points.

1 We are proposing to add 18 inches to the width of the  
2 alley. It's a 10-foot alley right now and you can see  
3 there's damage on the buildings surrounding it. So,  
4 we're proposing to opening it up a little bit.

5 And as Megan said, we do think that having  
6 this there decreases the visual, you know, being able  
7 to see into the alley, which is basically a service  
8 alley.

9 MS. SHILEY: Okay. And on the second floor  
10 the building steps back again so that we are meeting  
11 the rear yard setback requirement starting at the  
12 second floor.

13 On the fifth floor, we cantilever out over  
14 that existing listing building and you can see where  
15 the old property lines are there in gray.

16 The other two areas that we are requesting  
17 relief are for the rail at the penthouse and the  
18 elevator overrun, which would be within the one-to-one  
19 setback requirement for the penthouse. In order to  
20 provide elevator access to our penthouse, we need to  
21 provide an overrun, and we've located the elevator in  
22 a central location for the building. But again, due  
23 to the odd shape of the site, and the setbacks that  
24 occur along that alley side, by the time we get up to  
25 this level, we're not within that one-to-one setback

1 on the east side only for that overrun.

2           We don't feel that it's negatively affecting  
3 the neighbors. You can't really get back far enough  
4 to see it along the alley. Also, we are requesting  
5 relief for the rail. It's a very small amenity  
6 terrace and setting the rail back would make it even  
7 smaller. And we feel that, again, this doesn't really  
8 affect the neighbors adversely. We're going to  
9 provide a glass rail to still allow light to come  
10 through, and we don't feel that you can get back far  
11 enough to see this from any public way.

12           So, this shows all of the areas that we are  
13 requesting relief for. You can see the residential  
14 entrance on the ground floor, the rail at the  
15 penthouse, and the elevator overrun.

16           MS. BROWN: Ms. Shiley, what is the dimension  
17 of the relief that is needed for the guardrail?

18           MS. SHILEY: 2.5 feet, two and a half feet.

19           MS. BROWN: And what is the relief requested  
20 for the penthouse?

21           MS. SHILEY: One foot, eight inches.

22           MS. BROWN: And would you consider that modest  
23 relief?

24           MS. SHILEY: Yes.

25           MS. BROWN: Thank you.



1           MR. McCLENNAN: This final image just shows  
2 the one-story residential entrance, and I think you  
3 can see the character of it. This represents the 18-  
4 inch -- we've provided a planter here, and again,  
5 we've widened the alley by 18th inches. And again,  
6 this restricts the visual access to the rear of the  
7 alley.

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

10           MR. SHAPIRO: Quick question. Just, I just  
11 want to make sure I understand, does what you're  
12 proposing in any way restrict the use of the alley for  
13 anybody else?

14           MS. SHILEY: No.

15           MR. SHAPIRO: Okay. And if I'm correct,  
16 what's to the left of that? And you said that you  
17 can't step far enough back to see what's on the roof.  
18 Those are townhomes on the left, right, because  
19 they're --

20           MS. SHILEY: That's correct.

21           MR. SHAPIRO: Okay.

22           MS. BROWN: Mr. Shapiro, we have two letters  
23 of support from those neighbors along Rhode Island  
24 Avenue that were submitted to the record, I think  
25 yesterday. It's for 1320 Rhode Island Avenue, and

1 1316 Rhode Island Avenue.

2 MR. SHAPIRO: Great. Thank you. Thank you,  
3 Mr. Chair. That's all the questions I have.

4 CHAIRPERSON HILL: Thank you. I was curious,  
5 can you show me the penthouse again?

6 MS. SHILEY: You want to see the section?

7 CHAIRPERSON HILL: Yeah, no, that's all right.  
8 I'm just kind of curious. It's a one-bedroom  
9 penthouse?

10 MS. SHILEY: Yes.

11 CHAIRPERSON HILL: Yeah. All right. Okay.  
12 Go ahead, turn to the Office of Planning.

13 MR. JESICK: Thank you, Mr. Chair and members  
14 of the Board. My name is Matt Jesick. The Office of  
15 Planning can rest on the record in support of the  
16 application, but I'd be happy to take any questions.  
17 Thank you.

18 CHAIRPERSON HILL: Okay, great. Thank you,  
19 Mr. Jesick. Does the Board have any questions for the  
20 Office of Planning?

21 MR. SHAPIRO: I do, Mr. Chair. I'm trying to  
22 make sense of the -- what we have in front of us, the  
23 applicant's proposed conditions of approval and I am  
24 at a loss as to what even the intent of this is and  
25 I'm wondering actually, I would actually be with OP if

1 you have any -- if you've seen this, if you have any  
2 thoughts about this. And then I would ask the  
3 applicant the same question. I'm really, I'm not  
4 quite sure I'm getting it.

5 MR. JESICK: Do you have a specific question  
6 about number one or number two, or both, or --

7 MR. SHAPIRO: Well, I mean, my quick read on  
8 this is it seems to suggest that there's a course of  
9 action that we are agreeing to in advance of a future  
10 case.

11 MR. JESICK: Well, I think the Historic  
12 Preservation aspect of it is you know, somewhat common  
13 where a project is going through both HPRB and BZA.  
14 HPRB, I think in this case, still wants to look at the  
15 materials a little more closely. So, I think it's  
16 typical that an applicant might seek that sort of  
17 flexibility for --

18 MR. SHAPIRO: So, no concerns about one,  
19 really, from your side?

20 MR. JESICK: Not for HPRB. I think it's the  
21 language that they've proposed, you know, that they  
22 can respond to building code issues, provided that the  
23 modifications do not increase the area of zoning  
24 relief granted or create new areas of zoning relief.  
25 I think that's good. The Board might want to consider

1 an extra clause such as -- you know, or does not also  
2 change the design or design intent of the you know,  
3 plans submitted at Exhibit 36A, you know, or something  
4 along those lines.

5 Just so, if they need to make little tweaks  
6 for code reasons, that's fine, as long as it doesn't  
7 change the overall design of the --

8 MR. SHAPIRO: Thank you. That's helpful. And  
9 number 2?

10 MR. JESICK: Yes, the Lustine property is  
11 technically part of this application and I believe, I  
12 don't have all the exhibits in front of me but I  
13 believe the floorplans included may be very schematic  
14 plans for the Lustine building. But, it sounds like  
15 from what the applicant has testified today, that  
16 there may be other internal changes to the building.  
17 My guess is, from speaking with HP staff, that that  
18 building would not change very much externally, and  
19 maybe the applicant can confirm that, but --

20 MR. SHAPIRO: But is that -- I'm confused  
21 because is that building in front of us right now or  
22 not?

23 MR. JESICK: It is part of the application,  
24 yes.

25 CHAIRPERSON HILL: And now I'm also confused.

1 So --

2 MS. BROWN: I'm happy to explain.

3 CHAIRPERSON HILL: As we kind of move forward  
4 here with the question. I mean, I personally, again,  
5 we haven't gotten to the discussion. I understand the  
6 first condition. The second condition to me is a  
7 little bit even kind of --

8 MS. BROWN: I'd be happy to --

9 CHAIRPERSON HILL: I'm kind of confused as to  
10 why it's before us. So, I don't necessarily know if I  
11 would be on board with it anyway. But how this is  
12 part of your application, you could provide further  
13 clarification, that would be great. Thank you.

14 MS. BROWN: Sure. So, the Barrel House site  
15 with the iconic Barrel House façade is on one lot that  
16 fronts on both streets. The corner, obviously is the  
17 Lustine building.

18 As part of our project for the seven-story  
19 residential building, it will overhang, project over  
20 that corner Lustine building. Because of that we had  
21 to include it into the application and we will also  
22 need to subdivide the two properties into a single lot  
23 of record for zoning purposes.

24 So, that is the connection with the Lustine  
25 building. Independently they are pursuing interior

1 renovations of the building. They, right now, they  
2 can -- you know, I think they're in for permit to do  
3 some interior work. Their concern was, if this  
4 project is approved, the drawings that get approved  
5 with it, you get locked into them.

6           While there is, I think pretty good  
7 flexibility already in Subtitle A, Section 304.10 for  
8 the zoning administrator, they wanted sort of belts  
9 and suspenders to know that they are allowed to  
10 proceed with those matter-of-right changes to the  
11 building. Whether or not we build our building, so  
12 that the BZA drawings may be out there approved, we  
13 may not go forward, but the project is still alive and  
14 they want to at least get started on their matter-of-  
15 right changes. That's what they want the flexibility  
16 to do, regardless of whether we go forward.

17           CHAIRPERSON HILL: Yeah. And we can have that  
18 discussion, I guess, as the Board, as to whether or  
19 not we would want to do that or add that as a  
20 condition. But I understand that's what you're asking  
21 for.

22           MS. BROWN: Yes. And we already have a  
23 confirmation from the Zoning Administrator that it's  
24 his long-standing practice that he can -- that that is  
25 acceptable to do that. Like I said, the Lustine

1 building owners just wanted --

2 CHAIRPERSON HILL: Okay. Okay. That's all  
3 right. We can have that discussion --

4 MS. BROWN: -- extra assurances.

5 CHAIRPERSON HILL: -- when we get there. But  
6 do you have any further questions for that issue?

7 Okay. All right. Does anyone have any more  
8 questions for the Office of Planning? All right.

9 Then I'm going to turn to the audience. Is  
10 there anyone here from the ANC? Okay, please come  
11 forward.

12 MR. GRAHAM: Good afternoon, now. I'm Alex  
13 Graham, Commissioner for ANC 2F-03. This property is  
14 within my specific single-member district.

15 CHAIRPERSON HILL: Okay, great. Well, Mr.  
16 Commissioner, thank you for coming down here. Thanks  
17 for staying here for the day. Did you get sworn in  
18 earlier?

19 MR. GRAHAM: Yes.

20 CHAIRPERSON HILL: Okay, great. I guess,  
21 please, go ahead and provide your testimony. Well,  
22 I'll give you -- you have up to five minutes. I don't  
23 know if you'll need it or not, but you're welcome to  
24 use it if you'd like.

25 MR. GRAHAM: Of course. Thank you. So,

1 overall the community and the ANC supports this  
2 application with all the variances or special  
3 exceptions they've requested. I have to also commend  
4 Scott, Mr. Pannick, and the larger group for their  
5 outreach to the residents of Alley 242, which will be  
6 mostly directly impacted by this project. They are  
7 all largely on board. You know, you have obviously  
8 letters of support from most of those neighbors in  
9 there, and also one of the leading sort of leaders of  
10 1322, which is the building that directly abuts the  
11 construction site. And they're really looking forward  
12 to the expanded alley as has been mentioned in some  
13 earlier testimony. That alley is a service corridor  
14 for a lot of the restaurants that abut 14th Street,  
15 and the wider alley is really a good addition to help  
16 kind of control the, let's just say, rambunctious  
17 drivers of trash vehicles that go down that pretty  
18 narrow alley as it is today.

19 CHAIRPERSON HILL: I'm going to use the word  
20 rambunctious. I'm going to remember that for -- thank  
21 you, that helps me out some day in the future.

22 And okay, but again, and the Barrel House,  
23 it's empty now, right? Or is it vacant now? It's  
24 been vacant for a while?

25 MR. GRAHAM: It is empty and it is boarded up



1 as of this moment.

2 CHAIRPERSON HILL: How long has that been that  
3 way? It hasn't been that long, has it?

4 MR. GRAHAM: I'd say almost a year, year and a  
5 half. Maybe two years.

6 CHAIRPERSON HILL: Has it been that long?

7 MR. GRAHAM: Yeah.

8 CHAIRPERSON HILL: Wow.

9 MR. GRAHAM: At least it feels that way to be  
10 honest.

11 CHAIRPERSON HILL: Yeah.

12 MR. GRAHAM: We would love to see it again.

13 CHAIRPERSON HILL: Sure. Sure. Okay. Does  
14 anyone have any questions for the Commissioner?

15 Okay, great. Well, thanks for coming down.

16 MR. GRAHAM: Of course. And thank you.

17 CHAIRPERSON HILL: And thanks for providing  
18 testimony, and I'm sure the applicant is happy to have  
19 you here.

20 Is there anyone here wishing to speak in  
21 support other than the ANC? Is there anyone here  
22 wishing to speak in opposition? All right.

23 Then, you would like to speak in opposition?  
24 You have to come forward. I'm sorry. You can just  
25 take a seat over there to the right, perhaps.

1           If you just, when you get a chance, you have  
2 to make sure the green light is on and then just state  
3 your name and address. It would be wonderful. Thank  
4 you.

5           MR. CRAWFORD: Certainly. Thank you, Mr.  
6 Chair. My name is Mark Crawford. I'm an attorney.  
7 My address is 2111 Wilson Boulevard in Arlington,  
8 Virginia, 22201. We've provided cards with that  
9 information to the clerk earlier.

10           CHAIRPERSON HILL: Okay. Great. Thank you.  
11 And I'm sorry, and your name?

12           MR. CRAWFORD: I am here on behalf of my  
13 client, Jacqueline Reed.

14           MS. REED: Hi. I'm the owner next door.

15           CHAIRPERSON HILL: Okay.

16           MR. CRAWFORD: Ms. Reed is the neighbor to the  
17 south at 1339, on the 14th Street side, facing 14th,  
18 from 14th Street.

19           CHAIRPERSON HILL: Okay.

20           MR. CRAWFORD: 1349 14th Street Northwest.

21           CHAIRPERSON HILL: Okay. And so, you're both  
22 going to get three minutes each. Okay? If you want  
23 to go ahead and do that, you're welcome to tell us  
24 your thoughts and concerns.

25           MR. CRAWFORD: Sure. And just to be clear,

1 we're not here in opposition to the requested special  
2 exceptions. Since there were some statements on the  
3 record as to the adjoining properties and ongoing  
4 discussions between the owners of those properties, I  
5 just wanted to first see if I could look at a copy of  
6 the conditions that were provided. Ms. Brown showed  
7 this to me briefly in the hall, so it's not as  
8 though --

9 CHAIRPERSON HILL: Sure.

10 MR. CRAWFORD: -- I haven't seen this, but I  
11 didn't --

12 CHAIRPERSON HILL: Sure.

13 MR. CRAWFORD: -- really have a chance to look  
14 at them in detail. I did not know that they were  
15 going to be asked to be attached as an exhibit to any  
16 order that the Board were to enter here.

17 And I guess, from my perspective as  
18 representative for the neighboring owner, I don't have  
19 any issue with this because it's designed, as I read  
20 it, specifically to accommodate ongoing discussions  
21 that we might have. There's issues that relate to the  
22 properties that aren't zoning issues, per se, having  
23 to do with construction, party walls, and the like.  
24 There are some issues with windows on the proposed  
25 building that will be developed. There's some

1 inconsistency between what was in the drawings that  
2 the HPRB reviewed and the drawings as they exist now  
3 in terms of windows that would face my client's  
4 property.

5           This is all -- these are all matters that are  
6 under construction. We've got a, I believe, a good  
7 working relationship and I'm optimistic that these  
8 will all be issues that we can resolve between  
9 ourselves.

10           And I don't -- as you noted earlier, Mr.  
11 Chair, I don't know that these are really even  
12 necessary to be a part of the zoning record, since  
13 these aren't zoning issues as I see them. But I just  
14 wanted to be on record as far as first of all, I  
15 wanted to see a copy of the proposed order and have a  
16 chance to read it, and take my time and look at it,  
17 the attachment. And just to be on record --

18           CHAIRPERSON HILL: Okay.

19           MR. CRAWFORD: -- in accord with what was said  
20 earlier at the outset, and Ms. Brown's preliminary  
21 comments.

22           CHAIRPERSON HILL: Okay.

23           MR. CRAWFORD: That's all.

24           CHAIRPERSON HILL: Okay. No, I appreciate it.  
25 And before we go over to Ms. Reed, if she would like

1 to add anything or not. I mean, again, I'm just  
2 trying to clarify in my mind what it is you're trying  
3 to do, which is, you're not in opposition or you're  
4 here to get on the record noting that you're in  
5 negotiations for some issues that you hope to get  
6 resolved.

7 MR. CRAWFORD: Correct. To the extent, I  
8 don't know that it's necessary or not, but in an  
9 abundance of caution we want to be clear that we're  
10 not here in opposition to the requested zoning relief,  
11 but by not opposing the requested zoning relief we  
12 don't intent for that to be implied as acquiescence or  
13 agreement with any other aspect --

14 CHAIRPERSON HILL: Okay. I understand.

15 MR. CRAWFORD: -- the proposed plan as it  
16 relates to issues that may impact our property, which  
17 are matters that are under discussion between the  
18 parties now.

19 CHAIRPERSON HILL: I understand.

20 MR. CRAWFORD: That's it.

21 CHAIRPERSON HILL: Okay. Ms. Reed, would you  
22 like to add anything further?

23 MS. REED: No, that's why I pay him.

24 CHAIRPERSON HILL: Okay. All right. That's  
25 good. I love it. Very good.

1 MR. CRAWFORD: That's all I had, unless the  
2 Board had any questions for me. We appreciate a  
3 couple moments of your time.

4 CHAIRPERSON HILL: Sure. No, I appreciate  
5 that. Does the Board have any questions for Mr.  
6 Crawford? Oh, sorry.

7 MS. WHITE: So, again, the address for your  
8 property is, you said, 1339 14th Street?

9 MR. CRAWFORD: That's correct, ma'am.

10 MS. WHITE: So, that's adjacent to the --

11 MR. CRAWFORD: As you look at the Barrel, it's  
12 to the right.

13 MS. WHITE: Okay. Thank you.

14 MR. CRAWFORD: Thank you.

15 CHAIRPERSON HILL: Ms. Reed, have you had that  
16 property for a while?

17 MS. REED: Yes, since 2000.

18 CHAIRPERSON HILL: 2000. Oh, okay. All  
19 right. Yeah. The Barrel, it's a -- the Barrel has  
20 been around a long time. Yeah.

21 So, let's see. The only comment I have, I  
22 suppose is that I guess to continue to work with the  
23 neighbor in terms of moving forward with this. Okay.  
24 So, is anyone else here in -- all right. So, I did  
25 support, opposition, no one else. All right. Yes,

1 please, you can go ahead and leave. Thank you for  
2 coming down.

3 Does the Board have any final questions for  
4 the applicant? Okay. Does the applicant have  
5 anything else they'd like to address?

6 MS. BROWN: No, sir. We rest on the testimony  
7 that you heard this morning and our written  
8 submissions.

9 CHAIRPERSON HILL: Okay. Great. All right.  
10 Then, I'm going to close the hearing. Is the Board  
11 ready to deliberate? Okay. I can go ahead and start.

12 I mean, I have -- I thought that the project  
13 was very interesting. I mean, I really did. And I  
14 think that it's great that, you know, whether or not  
15 you're being forced to or not, it's great that you're  
16 keeping the barrel. And I think that it's going to  
17 be, you know, it's going to add something. It's going  
18 to continue to add something to that street, to that  
19 neighborhood, and I'll be very interested to see, if  
20 this does move forward, how the retail kind of plays  
21 out with that location there.

22 I, after again reviewing the record and taking  
23 note of the reports that have come from the Office of  
24 Planning, I would agree with their analysis in terms  
25 of how they believe that you're meeting the standard.

1 I also would agree with the applicant in terms of how  
2 they are meeting the standard.

3 As far as the conditions go, I don't have an  
4 issue with the first condition. The one where the  
5 applicant shall have the flexibility to modify the  
6 design to address final design comments from the  
7 Historic Preservation Review Board, or respond to  
8 building code issues, provided that the modifications  
9 do not increase the area of zoning relief granted or  
10 created, or create new areas of zoning relief.

11 I'd also like to add the one comment from the  
12 Office of Planning, which was, "Or does not change the  
13 design or design intent of the building." And so  
14 that's kind of my thoughts.

15 But I am going to actually, now that I think  
16 about it, I might reopen the record to ask the  
17 applicant their questions on that.

18 I'm not -- I find it very odd to kind of like,  
19 if somebody can do something about matter-of-right, I  
20 don't really want to get involved with adding a  
21 condition. If it's their matter-of-right then it's  
22 their matter-of-right. So, that's kind of where my  
23 thoughts are with the conditions. Does anyone have  
24 any thoughts on those, or anything else, before I do  
25 reopen the record?



1           Actually, I'm going to just really quickly do  
2 this. I'm going to reopen the record to ask the  
3 applicant about the addition that the Office of  
4 Planning had spoken about, which was the, "Or does not  
5 change the design or design intent."

6           MS. BROWN: My only concern is that I think  
7 that's very typical for a Zoning Commission PUD case.  
8 I'm not sure that it's typical for a BZA and if for  
9 some reason we find, and I can't imagine what it would  
10 be, that they need to fix an entire tier of units, and  
11 it cuts into it, I don't know how you make the  
12 determination, whether that's major or minor, and I  
13 think it really -- if we can just leave it in the  
14 hands of HPRB --

15           CHAIRPERSON HILL: Sure. Well --

16           MS. BROWN: -- I would be happier.

17           CHAIRPERSON HILL: Okay. I would be, I guess  
18 in all -- I can turn to the Office of Planning as to  
19 what they think of that. I mean, again, what we have  
20 in the past, I just -- it's always the design that --  
21 I'm kind of more the design intent, if we were to  
22 leave any language in there. However, if the Office  
23 of Planning doesn't have a whole lot of thought with  
24 that portion of the language, but is still happy with  
25 the language that was originally proposed by the

1 applicant, I'm also fine with that. Does the Office  
2 of Planning have any thoughts?

3 MR. JESICK: Yeah, I think we'd be fine with  
4 the original language if the Board is uncomfortable  
5 with adding anything.

6 CHAIRPERSON HILL: Okay.

7 MR. JESICK: There are a lot of eyes looking  
8 at this project, including PRB. So, it's --

9 CHAIRPERSON HILL: Okay. Does the Board have  
10 any thoughts on that? Okay. Then I'll go ahead and  
11 stick with the original condition that was proposed by  
12 the applicant. So, I'm going to reclose the record.  
13 We're back in deliberations, and so that -- my thought  
14 is the original condition, which was again the one  
15 that was proposed by the applicant, would be where I  
16 am in terms of this, and I could vote to approve.  
17 Does the Board have any thoughts?

18 MR. HART: The only thought was really  
19 agreeing with you in terms of the second condition,  
20 proposed condition, because I just think that that's  
21 again, if they could do it as a matter-of-right, they  
22 don't have to have us. We don't need to kind of  
23 reiterate that. So, it just doesn't seem like it  
24 would be necessary at all.

25 The first condition, I don't have any concerns

1 about, after, you know, hearing from the Office of  
2 Planning so, I'd be in support of that.

3 MS. WHITE: Yeah, I agree with you, Mr.  
4 Chairman. I'm on board with the first condition as  
5 amended. Condition number 2, I don't think that's  
6 necessary to include, so and I wanted to sort of stay  
7 away from discussion with respect to the other part of  
8 the site.

9 CHAIRPERSON HILL: Okay, great. Then I'll go  
10 ahead and make a motion to approve Application No.  
11 19495 as read by the secretary, including the number  
12 one condition that was proposed by the applicant.

13 MS. WHITE: Second.

14 CHAIRPERSON HILL: Motion has been made and  
15 seconded.

16 [Vote taken.]

17 CHAIRPERSON HILL: Motion passes, Mr. Moy.

18 MR. MOY: Staff would record the vote as four  
19 to zero to one. This is on the motion of Chairman  
20 Hill to approve the application for the relief  
21 requested with one condition. Seconding the motion,  
22 Ms. White. Also in support, Mr. Shapiro, Vice Chair  
23 Hart, board seat vacant. The motion carries.

24 CHAIRPERSON HILL: Okay, thank you.  
25 Congratulations. So, that's going to be just some

1 crazy bachelor pad on the penthouse level? Or  
2 bachelorette pad? Oh, all right, there you go.

3 MS. GLAZER: Did you say summary order?

4 MR. MOY: Yeah, I was going to get to that.

5 CHAIRPERSON HILL: Oh, I'm sorry. We're just  
6 going to take a quick three-minute break. Three-  
7 minute break.

8 MR. MOY: Mr. Chair.

9 CHAIRPERSON HILL: Yes.

10 MR. MOY: Mr. Chair, just for the record --

11 CHAIRPERSON HILL: Yes.

12 MR. MOY: -- did the Board waive the  
13 requirement for a summary order?

14 CHAIRPERSON HILL: Oh, yeah. I'm sorry.  
15 Thank you. Summary order. Thank you, Mr. Moy.  
16 Sorry.

17 [Off the record from 12:21 p.m. to 12:27 p.m.]

18 CHAIRPERSON HILL: Mr. Moy, if you could go  
19 ahead and call -- let's get back together please, here  
20 people, if you could. And then if you could call our  
21 next case. And then also, just let the audience know  
22 how we're going to do this moving forward, we have --  
23 there are two cases at the end of the day that we were  
24 waiting for another commissioner, Commissioner Hood to  
25 arrive. And so, we are going to do those last, and I

1 made that announcement at the beginning. And then  
2 we're going to go through these next two cases that we  
3 have, and then we're going to take a quick break to  
4 kind of like grab a tiny bit of something to eat,  
5 which we're not going anywhere. It's like 15 minutes,  
6 10 minutes or so.

7 So, just to let you know, we're going to power  
8 through all this as best we can. So, Mr. Moy, if you  
9 could call our next case, please?

10 MR. MOY: All right. I believe that would be  
11 application, case Application No. 19455 of Wacap, W-A-  
12 C-A-P, LLC, advertised and captioned for a special  
13 exception relief under Subtitle F, Section 5201; lot  
14 occupancy requirements, Subtitle F, Section 304.1 to  
15 permit the addition to an existing three-story  
16 condominium building in the RA-2 Zone at premises 2464  
17 Ontario Road Northwest, Square 2563, Lot 850.

18 CHAIRPERSON HILL: Okay, great. If you could  
19 please introduce yourselves?

20 MR. SULLIVAN: Good afternoon, Mr. Chairman  
21 and members of the Board. My name is Martin Sullivan  
22 on behalf of the applicant.

23 MR. CAPETANAKIS: My name is John --

24 CHAIRPERSON HILL: I'm sorry, you need to push  
25 the button there and speak into the microphone.

1 MR. CAPETANAKIS: My name is John Capetanakis,  
2 2116 South Kent Street, Arlington, 22202.

3 And I'm the managing member of the owner of  
4 the property that's under question right now.

5 CHAIRPERSON HILL: Okay, great. Thank you.  
6 Mr. Capetanakis, did you get sworn in this morning?

7 MR. CAPETANAKIS: No.

8 CHAIRPERSON HILL: Okay. Mr. Moy, if you  
9 could swear in Mr. Capetanakis, please?

10 MR. MOY: Yes, sir. With pleasure. If you  
11 could stand for a moment, sir, I appreciate it.

12 CHAIRPERSON HILL: Oh, yeah, if there's anyone  
13 else who missed being sworn in -- wow, I really --  
14 okay, so if you get -- just please, get sworn in,  
15 thank you.

16 MR. MOY: Well, Mr. Chairman, that clearly  
17 means that people are watching our live cam.

18 [Oath administered to the participants.]

19 CHAIRPERSON HILL: Okay. I'm sorry. Yeah,  
20 right. What I was saying is that I can't believe that  
21 we kept doing it, but then what was pointed out is  
22 many people are watching the live cam and they're  
23 timing things well. That's great.

24 All right. So, Mr. Sullivan, I assume you're  
25 going to be presenting to us, correct?

1 MR. SULLIVAN: Correct.

2 CHAIRPERSON HILL: And I guess, I don't have a  
3 lot of questions, I suppose. I mean, I would like to  
4 hear again a little bit about the project, what it is  
5 you're trying to do, and also the standard to which  
6 you believe you meet the request. Then of course,  
7 would like to hear about your experience with outreach  
8 with the ANC, and other than that, that's basically it  
9 for me.

10 Does anyone have specifics they'd like to hear  
11 from the applicant, other than that?

12 Okay. So, Mr. Sullivan, I'm going to put 10  
13 minutes on the clock for you, just so I know, and you  
14 can begin whenever you'd like.

15 MR. SULLIVAN: Thank you, Mr. Chairman and  
16 members of the Board. Again, my name is Martin  
17 Sullivan with the law firm of Sullivan and Barros, on  
18 behalf of the applicant. With me here is John  
19 Capetanakis, a managing member of the principal of the  
20 applicant.

21 So, I can summarize information that's already  
22 in the record in our submissions and the Office of  
23 Planning report. We're here as a result of an  
24 architect making an error and believing that the bay  
25 window was in public space, so he originally did not

1 count it in lot occupancy. And then, when the  
2 building was built, and a wall check was done, it was  
3 found that it was 1.6 percent over lot occupancy.

4 So, we're here to ask -- and of course, the  
5 mistake doesn't matter to the Board. This is a de  
6 novo request for the Board to consider it under the  
7 special exception criteria, which is effectively the  
8 light and air and privacy test that considers whether  
9 or not granting relief of 1.6 percent in lot occupancy  
10 would have a substantially adverse effect on the light  
11 and air and privacy of adjoining neighbors.

12 In regard to that, we have submitted a shadow  
13 study. It's Exhibit 46 in the record, that shows  
14 there's a tiny amount of shadow attributed to the  
15 additional 1.6 percent, as you would expect. There's  
16 only one time of day for each season because there was  
17 no effect otherwise, other than the times that you see  
18 in the study.

19 And also, as the Office of Planning notes,  
20 there's the building steps down in the back, in the  
21 area which would be the additional 1.6 percent. And  
22 it's four stories at that point, and there's no  
23 windows on either side facing the adjacent property.  
24 So, no issue with privacy.

25 And I think that summarizes the key elements



1 of the special exception test. We're happy to answer  
2 any questions about that. And regarding the ANC,  
3 excuse me, the ANC is in support. Their concern was  
4 that they didn't want to be seen as endorsing an  
5 approval as a result of a mistake. And I assured  
6 them, and I think I can assert here that the mistake  
7 really is not part of your consideration. We would  
8 have to prove the special exception criteria whether  
9 there was a mistake or not. And there wouldn't be any  
10 precedent because the decision itself would consider  
11 the impact of the 1.6 percent additional lot  
12 occupancy, and not how we came about to ask for that.

13 CHAIRPERSON HILL: Okay. Does anybody have  
14 any questions for the applicant? Okay.

15 I'm going to turn to the Office of Planning.

16 MR. MORDFIN: Good afternoon. I'm Stephen  
17 Mordfin and the Office of Planning continues to  
18 support this application and stands on the record, and  
19 is available for questions. Thank you.

20 CHAIRPERSON HILL: Okay. Does the Board have  
21 any questions for the Office of Planning?

22 Okay. I'm going to turn to the audience. Is  
23 there anyone here from the ANC? Is there anyone here  
24 wishing to speak in support? Is there anyone here  
25 wishing to speak in opposition?

1           Please come forward.  If you could please  
2 state your name and address?

3           MR. GAMBRELL:  Sure.  Alan Gambrell, 1648  
4 Argonne Place, Washington, D.C.

5           CHAIRPERSON HILL:  All right, Mr. Gambrell,  
6 I'm going to go ahead and put three minutes on the  
7 clock for you and you can begin whenever you'd like.

8           MR. GAMBRELL:  Sure.  And, I should have  
9 waited for you to ask whether there was anybody here  
10 who was undeclared, because that's really what my  
11 position is here out of the situation which I believe  
12 has been created here, and I would not want to sit up  
13 here and subject the people who bought these  
14 properties to rejection by this Board.  I just want to  
15 state that up front because people have bought these  
16 and moved in already.  Due to a series of mistakes.

17           I think what you're being asked to do here is  
18 -- this is a situation where the Board is being asked  
19 -- people are asking for forgiveness instead of  
20 permission, because this project has already happened.

21           And I'm just going to start with the core issue,  
22 which is the lot occupancy and the architect, and  
23 perhaps a question which you can pose to the applicant  
24 is, is there any documentation by the architect on  
25 record about this mistake?  I don't believe there is

1 anything like that.

2           You know, frankly, not that I'm going to  
3 challenge somebody's honesty, but I have a hard time  
4 believing that an architect would draw a building in  
5 the wrong place. That's just an initial comment I  
6 wanted to make.

7           I wanted to wrap up by pointing out a number  
8 of issues that are effectively not before this Board,  
9 except for one thing. And that has to do with the  
10 Office of Planning's report on page 3, where they  
11 state, "With the exception of lot occupancy it would  
12 conform to all other zoning requirements of the RA-2  
13 Zone."

14           And just in quick summary, it should come as  
15 no surprise coming from me, the question about the  
16 lower level in terms of its FAR. It's possible that  
17 the FAR may be a basement in the back. I don't know  
18 if there's anything that's been verified on that  
19 basis.

20           A second point is, there is a retaining wall  
21 in the front which I believe may be in violation of  
22 413.5 under the 1958 regulations in terms of its  
23 height and relation to the other retaining walls on  
24 the block, and be in excess of four feet. There is  
25 possibly a nonconforming court on the side, and

1 possibly in violation of the 1958 regulations under  
2 406. There is, in the back, there's a parking space.  
3 However, there are, I guess air handling units which  
4 appear to be where the parking space may be.

5 So, I think these are issues that raise into  
6 question the Office of Planning's assertion that this  
7 project is fully in compliance with the zoning  
8 regulations. Thank you.

9 CHAIRPERSON HILL: Okay. Does anyone have any  
10 questions for the witness? Okay. Mr. Gambrell, where  
11 do you live in regards to the project?

12 MR. GAMBRELL: Probably about four blocks  
13 away.

14 CHAIRPERSON HILL: Oh, okay. So, you're kind  
15 of close. So, you mentioned a lot of things there at  
16 the end and so, I don't know, Mr. Mordfin, what parts  
17 of those you might have any kind of comments on. I am  
18 just kind of curious. I have some other comments in  
19 terms of what you brought up, but I was curious what  
20 the Office of Planning has to say concerning those  
21 items that were mentioned.

22 MR. MORDFIN: Well, the relief that's  
23 requested is a special exception, and whether this had  
24 come in before they had built it or after they had  
25 built it, I think that our analysis would have been

1 the same because it's just that one part. It's a 61.6  
2 percent lot occupancy. You can go up to 70 percent by  
3 special exception. So, we find that the only relief  
4 that's required for this is the lot occupancy, which  
5 is why it doesn't conform.

6 From the application, we understood that the  
7 FAR was in compliance. I think the applicant can  
8 address that more to find out if it's not in  
9 compliance. The retaining wall in the front, I don't  
10 have any information on that as to whether or not  
11 there's any additional violation there.

12 The only violation that we were aware of that  
13 came from DCRA was that the property did not conform  
14 to lot occupancy.

15 CHAIRPERSON HILL: Okay. And I guess, Mr.  
16 Gambrell, like the -- I mean, I know that the Board is  
17 very much hesitant to do things after the fact, and  
18 so, you know, the way that I think even, you know, we  
19 were looking at this was this was -- whether or not  
20 this was here or not is whether or not they are  
21 meeting the criteria.

22 Now, from the ANC's point of view, or at least  
23 what it seems to be from the report, it was that they  
24 would rather not have taken a stance because it was  
25 actually already there. However, if you were here for

1 an earlier one also, like you know, there was an  
2 earlier case where something had been built that was a  
3 mistake that we were unable to move -- I guess what  
4 I'm trying to let you know is, the Board is aware of  
5 the precedent and making sure that this isn't  
6 something where people are coming in and getting  
7 something around us, type of thing.

8 But, does anyone have -- and I asked this  
9 already, but does anyone have any questions for the  
10 applicant? I mean, I'm sorry, for the witness? No?  
11 Okay.

12 Thank you, Mr. Gambrell.

13 So, Mr. Sullivan, I guess the FAR issue, I'm  
14 just kind of curious, I mean, you're in compliance  
15 with everything, correct?

16 MR. SULLIVAN: Correct. And it's self-  
17 certified. There was an FAR issue prior to us filing  
18 the application that was resolved.

19 CHAIRPERSON HILL: Okay. All right. Does  
20 anyone -- and I do know that that's an issue with the  
21 community, in terms of the basement levels.

22 So, is there anyone else here wishing to  
23 speak?

24 [No audible response.]

25 CHAIRPERSON HILL: Okay. Does the applicant

1 have anything else they'd like to add?

2 MR. SULLIVAN: No, we don't. Thank you.

3 CHAIRPERSON HILL: Okay. All right. Does the  
4 Board have any final questions for the applicant?

5 Okay. I'm going to close the hearing then.  
6 Is the Board ready to deliberate? Okay. I can go  
7 ahead and start.

8 I was understanding of why the ANC didn't want  
9 to take -- you know, again, what they're saying is  
10 they're not endorsing it, nor are they objecting to  
11 the relief requested. I do think that, you know, it's  
12 a small amount of relief in terms of the request. I  
13 was a little hesitant, I suppose, with approving  
14 something after it was built. However, I can see as  
15 far as like the bump out, considering whether or not  
16 it was going to be in public space or not, I don't  
17 really get the impression that the architect or the  
18 owner is trying to get around us as a board, because  
19 that would have been a really big risk for them to try  
20 to do that.

21 So, I am comfortable with relying on the  
22 analysis of the Office of Planning as well as the fact  
23 that they have done some outreach to the ANC, and they  
24 didn't get a flat our rejection from them as well as  
25 there is some port from some of -- there are some

1 letters in support.

2 Does anyone else have anything to add?

3 [No audible response.]

4 CHAIRPERSON HILL: Okay. Then, that being the  
5 case, I'll go ahead and make a motion to approve  
6 Application 19455 of Wacap, LLC as read by the  
7 secretary.

8 MR. SHAPIRO: Second.

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

11 [Vote taken.]

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

13 MR. MOY: Staff would record the vote as four,  
14 to zero, to one. This is on the motion of Chairman  
15 Hill to approve the application for the relief  
16 requested. Seconding the motion, Mr. Shapiro. Also  
17 in support, Ms. White and Vice Chair Hart. We have a  
18 board seat vacant. Motion carries, sir.

19 CHAIRPERSON HILL: Great. Summary order, Mr.  
20 Moy.

21 MR. MOY: Thank you.

22 CHAIRPERSON HILL: Thank you. Thank you,  
23 gentlemen.

24 MR. SULLIVAN: Thank you.

25 [Pause.]



1 CHAIRPERSON HILL: Mr. Moy, if you could call  
2 the next case, please? Thank you.

3 MR. MOY: Yes, sir. I believe the next case  
4 application is 19480 of Ilya Zusin as captioned and  
5 advertised for special exceptions from the accessory  
6 building lot occupancy requirements, Subtitle E,  
7 Section 5003.1; accessory building rear yard  
8 requirements, Subtitle E, Section 5004.1; and under  
9 Subtitle E, Section 5201, from the lot occupancy  
10 requirements of Subtitle E, Section 304.1 to construct  
11 and accessory two-story garage house for use as  
12 covered parking and an office, in an RF-1 Zone, 202  
13 9th Street Southeast, Square 944, Lot 814.

14 And the last time the Board heard this for  
15 preliminary matters, if I recall, was on April the  
16 19th.

17 CHAIRPERSON HILL: All right, great. Thank  
18 you, Mr. Moy.

19 If you could please introduce yourselves from  
20 my right to left?

21 MR. ZUSIN: My name is Ilya Zusin, I live at  
22 202 9th Street Southeast.

23 MR. GLASGOW: I'm Norman M. Glasgow, Jr. with  
24 the law firm of Holland and Knight.

25 MS. HOTALING-EIG: Emily Hotaling-Eig with EHT

1 Traceries.

2 MR. WALTERS: Maurice Walters with Maurice  
3 Walters Architect.

4 CHAIRPERSON HILL: All right, great. Thank  
5 you. Mr. Glasgow, are you going to be presenting to  
6 us?

7 MR. GLASGOW: Yes, sir.

8 CHAIRPERSON HILL: Okay, great. So, I think  
9 you know some of the concerns from the immediate  
10 neighbors, right? And I do see that you have gone  
11 ahead and done a lot of your due diligence in terms of  
12 working with the ANC, and also Capitol Hill  
13 Restoration Society. So, I don't have a whole lot  
14 specifically. I would like to hear again about the  
15 project and what you're trying to accomplish and how  
16 you're meeting the standards.

17 I'm going to go ahead and put 10 minutes on  
18 the clock because I think that as this hearing  
19 proceeds we'll get to see other things might flesh  
20 out.

21 And does the Board have anything specific  
22 they'd like to hear?

23 [No audible response.]

24 CHAIRPERSON HILL: Okay. So, Mr. Glasgow,  
25 whenever you'd like to start, you can go ahead.

1 MR. GLASGOW: All right. I think it will be  
2 helpful if Mr. Zusin gives a background statement as  
3 to where he is, how he's -- the interaction with the  
4 neighbor.

5 CHAIRPERSON HILL: Sure.

6 MR. GLASGOW: And I will save any legal  
7 argument on case law and everything with respect to  
8 rights of adjoining property owners when there's a  
9 window that's at risk, which I think the law in the  
10 District of Columbia is very clear on that part.

11 But we have stated that we think that the  
12 Office of Planning's proposed resolution is one that  
13 is reasonable and met with some certain ability with  
14 respect to having a cap on costs, and having a cap on  
15 the time frame with which Ms. Gill can accept that,  
16 that Mr. Zusin is prepared to forward on that basis to  
17 address that concern. And we think technically we  
18 meet the burden of proof in any event as it's laid out  
19 in our statement of applicant, and as discussed in  
20 detail in the Office of Planning report.

21 So, with that, I'd like to call Mr. Zusin.

22 MR. ZUSIN: Hello. Dear members of the Board,  
23 I appreciate the opportunity to speak to you today  
24 concerning a special exception application involving  
25 my private residence.

1           I have been happy to live at our house for the  
2 past five years while raising my family, and I look  
3 forward to many more years on Capitol Hill. I am  
4 pleased that during this process I have been able to  
5 work with the ANC, the Capitol Hill Restoration  
6 Society, the Historic Preservation Review Board, and  
7 the Office of Planning to secure their support for my  
8 application.

9           Unfortunately, I have not been able to work  
10 out an agreement with my abutting neighbor, Ms. Gill.  
11 Even though I am amenable to proceeding with the  
12 concepts set forth in the Office of Planning report to  
13 pay for the design, materials, and labor for the  
14 insulation of a clear or translucent glass in the  
15 existing door on the west side of Ms. Gill's property,  
16 and the conversion of the door's fixed transom to an  
17 operable transom, with a reasonable cost cap and time  
18 period for Ms. Gill to accept that proposal.

19           There is no doubt that Ms. Gill's window is an  
20 at-risk window for which no building permit has been  
21 located, and the window is vinyl clad, and from  
22 photographic documentation it is clear that it is not  
23 of the design character original to the carriage house  
24 structure, which first showed up in the city on other  
25 maps from the 1890s.

1           In addition, review of the survey shows that  
2 Ms. Gill's south wall is actually a party wall that  
3 encroaches approximate five inches on to my property.

4       So, it appears that not only the opening but also  
5 part of the actual window is on my property.

6           Lastly, I think that my wife would agree that  
7 we are disheartened and disappointed about the events  
8 that have transpired during the past months. We have  
9 been called names, disparaged, and had rumors spread  
10 about our intent regarding our home.

11           The form letters with misrepresentation being  
12 distributed have been very upsetting and embarrassing  
13 to my family. We moved to Capitol Hill over eight  
14 years ago. My wife and I fell in love with the  
15 neighborhood and decided to buy this house five years  
16 ago. This is our forever home, our son is enrolled in  
17 Capitol Hill day school where his sister will follow.

18       We have friends and family here, and we have found  
19 our community.

20           We're here for the long-haul. This is our  
21 home. This is not an investment, this is not a place  
22 of business. This is our family home.

23           We empathize with our neighbor's concerns, but  
24 we also have real concerns and experiences from our  
25 property being broken into from the rear. We

1 previously had a seven-foot fence separating our  
2 property from the alley, and on several occasions had  
3 break-ins from fence jumpers, resulting in stolen  
4 property and involving police. A carriage house built  
5 to both property lines will provide added security.

6 We also have privacy issues. When we're in  
7 our back yard, it is not inviting to have a neighbor's  
8 window at eye level looking into that space,  
9 particularly when that window was originally  
10 constructed without a building permit and clearly does  
11 not meet code. It is an unprotected window within  
12 three feet of our property line.

13 Again, we have accepted what we believe is a  
14 reasonable compromise as suggested by the Office of  
15 Planning, but regrettably Ms. Gill has rejected that  
16 offer.

17 In summary, I believe that we meet all the  
18 requirements for granting the special exception as set  
19 forth in detail in the statement and has been  
20 submitted to the record by the applicant and discussed  
21 in the report for the Office of Planning; by the  
22 Office of Planning.

23 CHAIRPERSON HILL: Okay. Great. Thanks. I  
24 actually didn't realize the party status people were  
25 here. Are the party status people here?

1           Okay, if you could please also come forward?  
2 How many of them are you? Just more than I have  
3 chairs. Okay. I'm sorry, you have to speak into the  
4 microphone. Just, whoever the party's -- let me just  
5 take two of the party status people right now, if  
6 that's okay.

7           UNIDENTIFIED SPEAKER: Can I be on the end?

8           CHAIRPERSON HILL: I'd rather keep you all  
9 together if I could. So, maybe if you scoot over,  
10 we'll see you there.

11          MS. OPPER-WEINER: But only Ms. Gill is --

12          CHAIRPERSON HILL: Just wait one second, I'm  
13 sorry.

14          MS. OPPER-WEINER: In terms of the party --

15          CHAIRPERSON HILL: Okay. Okay. Hold on a  
16 second, then. Whoever is the party status person is  
17 who I'm looking for. Okay, great. Okay. And so, you  
18 can -- let's take the party status person first.  
19 Okay? And then you may sit down if you'd like.

20          Yeah. I just need to get everybody on the  
21 record. And so, if you could please state your name  
22 and home address?

23          MS. GILL: Candice Gill. I live at 905  
24 Independence Avenue Southeast, Washington, D.C.

25          CHAIRPERSON HILL: Okay. And your name,

1 please? You need to speak on the microphone.

2           Sorry. I'm Ellen Oppen-Weiner. I'm an  
3 attorney and I'm representing Ms. Gill. My office is  
4 at 3 Bethesda Metro Center, Suite 700 in Bethesda.  
5 But I'm also a resident within 200 feet --

6           CHAIRPERSON HILL: Okay.

7           MS. OPPEN-WEINER: -- of the subject property.

8           CHAIRPERSON HILL: Okay. Now I remember you  
9 guys, also, from the party status.

10           So, what's going to happen is you'll have an  
11 opportunity to cross-examine, so they're going to go  
12 ahead and make their presentation. You'll have an  
13 opportunity to cross-examine, then afterwards you'll  
14 have an opportunity to present, they'll have an  
15 opportunity to cross-examine you. Okay?

16           So, I do want to just kind of mention and  
17 point out, we all have read the record. We understand  
18 what's going on. We understand that it's a very  
19 personal and sensitive issue, right? It's somebody's  
20 window and it's somebody's house, right? So, it's  
21 both somebody's house.

22           So, I guess what I'm trying to get at is, you  
23 know, I'd really like to try to keep this as civil as  
24 possible. So, you know, whatever has happened before  
25 and whatever is going to happen in the future, that's



1 fine. But today we're here just to kind of calmly  
2 discuss the issues and the regulations and flesh  
3 things out so the Board can come to a decision.

4 So, that being the case, Mr. Zusin, you just  
5 finished and I assume that you guys were listening  
6 during the presentation for any kind of cross-examine  
7 you might have afterwards.

8 So, we're going to go ahead and go all the way  
9 down the line. And I've kind of lost track of my time  
10 thing, so that's all right. We're just going to work  
11 through this however we do.

12 But Mr. Glasgow, you, I think you were going  
13 to -- you're leading this. Are you up next or how  
14 would you like to proceed?

15 MR. GLASGOW: I would like to have Mr.  
16 Walters, the architect, explain the three areas of  
17 relief and the special exceptions.

18 CHAIRPERSON HILL: Okay. And actually, Mr.  
19 Moy is gone. All right, because the party status  
20 people get the same amount of time as the applicant.  
21 So, I'm just trying to keep track. You guys have been  
22 going 10 minutes or so right now. So, we'll just go  
23 ahead please, sir.

24 MR. WALTERS: Maurice Walters, 623  
25 Constitution Avenue Northeast. The site between

1 Independence, 9th and 10th, and the carriage house is  
2 on the alley. The alley runs north/south through the  
3 block.

4           The three areas of relief that Chip, Mr.  
5 Glasgow mentioned, one is for the overall lot  
6 occupancy of the site. So, with the proposed carriage  
7 house we would be at 68.9 percent lot occupancy versus  
8 the 60 percent allowable. So, we need relief for 8.9  
9 percent.

10           The second area of relief is in the new  
11 regulation for the accessor structure. You are  
12 allowed a 450 square foot footprint for the accessory  
13 structure. Our proposal is for 566 square feet of  
14 footprint, so 116 square feet we're asking for. Part  
15 of that is a function of the size of the lot. The lot  
16 is quite wide. It's 23 feet and change wide, and  
17 we're aligning it with the adjacent buildings.

18           The last area of relief is for the rear  
19 setback. The new zoning code requires a 12-foot  
20 setback from the centerline of the alley. We have a  
21 20-foot alley and a fair amount of the existing  
22 structures in the alley align with the property line.  
23 So, we want to do the same. So, that would then  
24 require us to get a relief for two foot of setback for  
25 that section.

1 MR. GLASGOW: And, Mr. Walters, all of that  
2 has been approved by the Historic Preservation Review  
3 Board?

4 MR. WALTERS: That's correct. Should I go  
5 through the design or --

6 CHAIRPERSON HILL: Yeah. Yeah, you're good.  
7 It's their presentation.

8 MR. WALTERS: Okay.

9 CHAIRPERSON HILL: He can ask -- you can --  
10 yeah, that's how it works.

11 MS. OPPER-WEINER: Thank you.

12 CHAIRPERSON HILL: You're welcome. Okay. Go  
13 ahead.

14 MR. WALTERS: Okay. This is a view directly  
15 behind -- the left is a view behind Ilya and Deborah's  
16 house, looking south. So, you can kind of get a sense  
17 of the character of the alley. There are a lot of  
18 structures back there. A lot of them are two stories.  
19 A lot of them are right on the alley line. Some of  
20 them do set back a foot or so, and some are one story,  
21 but it's a fairly intense alley usage.

22 On the right is a corner with the neighbor to  
23 the south, right where that telephone -- or that  
24 utility pole is, and then where the garbage cans are,  
25 and the car is, that is the subject site at 202 9th.

1           On the left is a view from within 202 9th's  
2 back yard, looking at the structure at 905  
3 Independence. And then, on the right is an image  
4 directly behind 202 9th, the parking pad for the most  
5 part corresponds to the footprint of the proposed  
6 carriage house. And then on the right you see the 905  
7 Independence. And you can see above the blue car, the  
8 window that's being discussed.

9           A site plan of the vicinity, you can see the  
10 proposed carriage house which is actually shown in  
11 white, to distinguish it. We're lining it up with 905  
12 Independence on the alley. The east side and the west  
13 side. And then it's running the full width, 23 feet  
14 and change, from north to south. And then there will  
15 be a back yard and then the primary structure to the  
16 front.

17           MR. GLASGOW: And, Mr. Walters, with respect  
18 to this lot size, this lot size is over 2,300 square  
19 feet. Is that correct?

20           MR. WALTERS: Yes.

21           MR. GLASGOW: And the normal RF-1 lot area is  
22 approximate 1800 square feet?

23           MR. WALTERS: Yes, 18 by 100.

24           MR. GLASGOW: So this lot area and size  
25 contributes to the 566 square foot footprint of the

1 carriage house?

2 MR. WALTERS: That's correct. Another thing  
3 that's on this map, you can see, as you go down the  
4 alley you get a sense of a lot of the structures  
5 aligning with the public alley right of way. Again,  
6 there are a few that set back, but you can see where  
7 probably the majority of them in this area hold tight  
8 to that line, as we're proposing to do.

9 Just a more detailed plan. Again, you can see  
10 the east and the west walls aligning with the 905  
11 Independence and also the one-story garage to the  
12 south is on the property line. You see the function  
13 of the carriage house to parking spaces on the ground  
14 floor. A stair leading to the upstairs space. The  
15 stair will be accessed primarily through the back yard  
16 of the residence. Really, the only thing we have is  
17 an overhead door facing the alley.

18 There will be two doors into the carriage  
19 house. It's a very symmetrical composition.  
20 Upstairs, living space. The stair up there, a  
21 kitchenette, and a bathroom up there.

22 And then on the roof we will have an area of  
23 green roof to comply with the new pervious surface  
24 regulations. We'll have a condenser for the ac, and  
25 then there will be a chimney for the outdoor

1 fireplace, rising up above the parapet.

2           Some three-dimensional views looking from the  
3 northeast. Independence is on the south, there. You  
4 can see 905 facing Independence. And you can see how  
5 we've kind of aligned the proposed carriage house with  
6 that so that it kind of extends the massing.

7           Let's see if I can do both of these at the  
8 same time. Okay.

9           905 Independence, and then the proposed  
10 carriage house, you know, the garage door, the windows  
11 above, and the green roof.

12           So, the point I was trying to make is we're  
13 just -- we're extending the massing of 905. Okay.  
14 Some cutaway sections just showing the structure, the  
15 stair up, the alley, the outdoor fireplace in the rear  
16 yard. And then again, you see the relationship to 905  
17 Independence, very similar in massing.

18           A cutaway section looking the other way.  
19 Along the alley again you see where we have aligned  
20 with 905 to the north. A section through the site.  
21 You can see the main structure of the house, the back  
22 yard, and then the back structure. And then the 20-  
23 foot building height.

24           Just a detail, again, 20-feet of building  
25 height from the measuring point up to the high point

1 of the roof.

2           The rear elevation facing the alley, a simple  
3 garage door with a steel lentil over it, brick  
4 cladding, a three-bay window pattern, two-over-two,  
5 continuing the window patterns from the front, and then  
6 a very simple cornice with a series of corbeled brick  
7 courses and a metal coping on the top. You do see the  
8 parapet and the backyard beyond, the condensing unit,  
9 and the chimney for the fireplace rising above.

10           The view from the rear yard, the outdoor fire  
11 -- very symmetrical composition. The outdoor  
12 fireplace is the centerpiece, two windows, and then  
13 two doors on the façade. And again, brick cladding,  
14 the cobbled brick cornice, and the chimney. And then  
15 some three-dimensional studies. The upper left  
16 showing the existing condition looking from  
17 Independence of 905. There it is in our model, and  
18 then you can see we then filled the model of the  
19 proposed carriage house.

20           However, within the alley, a view looking to  
21 the north where the truck is the 202 9th property, and  
22 then a view with the model. Again, you can see the  
23 proposed carriage house and the 905 and the little  
24 one-story garage next door.

25           Just some views within the back yard, again

1 showing the back façade. There's 202 9th, and then a  
2 view of the primary structure.

3 One last set of three views. On Independence,  
4 looking through the kind of gap with 905 there, you  
5 can see -- here it is in our model without the  
6 proposed carriage house. And there it is, we've  
7 dropped the carriage house in. So, there's a series.  
8 905 has an existing chimney right here, and then you  
9 can see the proposed chimney for 202 9th.

10 And then last, just some details of the  
11 outdoor fireplace in the back yard.

12 So, that concludes the presentation.

13 MR. GLASGOW: And then I would like to have a  
14 couple of redirect for Mr. Walters who has previously  
15 been accepted as an expert witness by this Board, and  
16 as has, Ms. Eig.

17 Mr. Walters, as a result of the design work  
18 that you've done on this building, is it your  
19 conclusion --

20 MS. OPPER-WEINER: Excuse me, Mr. Hill. I'd  
21 like a clarification on procedure. There has been no  
22 cross-examination in order to require redirect.

23 CHAIRPERSON HILL: Okay, Ms. -- how do you say  
24 --

25 MS. OPPER-WEINER: Opper-Weiner.



1 CHAIRPERSON HILL: Oppen-Weiner.

2 MS. OPPEN-WEINER: It's Oppen Weiner, yes.

3 CHAIRPERSON HILL: Oppen-Weiner. So, Ms.  
4 Oppen-Weiner, they're presenting right now. He's  
5 showing his witness, he's giving us his witnesses, and  
6 we're taking in testimony. He's just giving his  
7 presentation.

8 So, afterwards, you 'll also have an  
9 opportunity to give your presentation and bring in  
10 your witnesses, so that we can also hear what you have  
11 to say.

12 MS. OPPEN-WEINER: Well, he titled it  
13 redirect, which is --

14 CHAIRPERSON HILL: Okay. Well, that's okay.  
15 I don't know what -- so, he has an opportunity to --  
16 he has an opportunity as part of his presentation.  
17 And I'm keeping a clock going so that you'll have the  
18 same amount of time.

19 And after this, you'll have an opportunity to  
20 cross-examination the witnesses and the testimony  
21 that's been taken, pertaining to the testimony that  
22 we've heard. So, that's where we are right now. But  
23 I do appreciate you asking the question about  
24 procedure, because I want you to know what's going to  
25 happen next.

1 MS. OPPER-WEINER: Thank you for the  
2 clarification.

3 CHAIRPERSON HILL: Okay.

4 MS. OPPER-WEINER: I appreciate it.

5 MR. GLASGOW: All right. Mr. Walters, in your  
6 view as an expert witness, with respect to that the  
7 applicant is supposed to demonstrate and as a result  
8 of your testimony and going through the plans, that  
9 the proposed addition or accessory structure shall not  
10 substantially adversely affect the use and enjoyment  
11 of any abutting or adjacent dwelling or property. Is  
12 that your testimony as a result of your explanation  
13 and testimony here today?

14 MR. WALTERS: Yes.

15 MR. GLASGOW: And you have looked at the  
16 window on the south side of the building, and is it  
17 your view that that building -- that that window is  
18 not a code compliant window?

19 MR. WALTERS: Yes, given the current  
20 regulations, you're not allowed to place a window in a  
21 property line right on the property line.

22 MR. GLASGOW: Okay. Next, is it your  
23 testimony that the privacy and enjoyment and use of  
24 neighboring properties shall not be unduly compromised  
25 by the virtue of this addition?

1 MR. WALTERS: Yes.

2 MR. GLASGOW: Okay. And that the addition or  
3 accessor structure, together with the original  
4 building as viewed from the street or alley shall not  
5 substantially or visually intrude upon the character,  
6 scale, or pattern of houses along the subject street  
7 frontage, or the alley frontage?

8 MR. WALTERS: Yes.

9 MR. GLASGOW: Okay. Then, I would like to  
10 call Ms. Eig with respect to, there have been  
11 statements made as to the time period of the  
12 construction of the window of the south side of the  
13 building. Do you have any view on that? Ms. Eig has  
14 also been accepted previously as an expert.

15 MS. HOTALING-EIG: I'm Emily Eig, and I am an  
16 architectural historian. And we conducted research  
17 into the issue of the window being on that property  
18 line. We first visually, it's clearly a new window, a  
19 contemporary window. It is not a window that was  
20 historically there. But we provided a report that you  
21 have as an exhibit that shows that even if the -- it  
22 shows that the opening itself is not historically  
23 there. There are examples of other windows on that  
24 building that have a sill and lentil that are distinct  
25 or similar, as opposed to this, which is just punched

1 through.

2           And there is also, we know that there was a  
3 carriage house that was on the site that was at the  
4 property line, that this window would have not been  
5 able to see anything, historically, if that carriage  
6 house was still in place, so that there is no question  
7 in my mind that this is not a historic window, a  
8 window that would have been built within the period of  
9 significance of Capitol Hill, nor even in the -- all  
10 that long distant past.

11           MR. GLASGOW: Mr. Chairman, that concludes the  
12 applicant's direct presentation.

13           CHAIRPERSON HILL: Okay, great. Thank you.  
14 Before I go to cross-exam, actually, does the Board  
15 have any questions for the applicant?

16           MS. WHITE: I had one question. Do you have a  
17 picture of the actual window at issue?

18           MS. HOTALING-EIG: It's also in the report  
19 that we submitted.

20           MS. WHITE: Yeah, I was looking for it on the  
21 computer.

22           CHAIRPERSON HILL: Do you know which exhibit  
23 that is?

24           MR. SHAPIRO: For us, it's 106-A3.

25           CHAIRPERSON HILL: 106-A3?

1 MR. SHAPIRO: And there's a picture of the two  
2 cars in the carport, and the window is above the blue  
3 car.

4 MS. WHITE: Okay. So, the carriage house  
5 would sit --

6 CHAIRPERSON HILL: I do remember seeing also  
7 there was photographs, I thought, from the inside as  
8 well.

9 MS. WHITE: Thank you. Thank you.

10 CHAIRPERSON HILL: Okay, great. All right.  
11 So, Ms. Oppen-Weiner (sic). So, if you want to go  
12 ahead, you have an opportunity now to cross-examine  
13 the witnesses and the testimony. And then afterwards,  
14 you'll have an opportunity to present your case, and  
15 also bring up any witnesses. So far, it's around 20  
16 minutes is how long they've taken. And so, you will  
17 also have that same amount of time for your  
18 presentation and witnesses. And then they'll have an  
19 opportunity to cross-examine the testimony that you  
20 guys are presenting as well.

21 So, at this point, do you have any questions  
22 for the testimony that was given just over the past 20  
23 minutes?

24 Okay. You can go ahead and ask your  
25 questions. And make sure your light is on there, if

1 you would.

2 MS. OPPER-WEINER: Yes, it's on. Thank you.

3 CHAIRPERSON HILL: Okay, great. Thank you.

4 MS. OPPER-WEINER: Are you ready?

5 CHAIRPERSON HILL: Sure.

6 MS. OPPER-WEINER: Yeah, Mr. Zusin, when did  
7 you ever discuss the proposed solution with Ms. Gill?

8 MR. ZUSIN: We sent multiple e-mails.

9 MS. OPPER-WEINER: When did you ever speak to  
10 -- did you ever make a proposal within the multiple e-  
11 mails?

12 MR. ZUSIN: Yes, absolutely.

13 MS. OPPER-WEINER: Okay. And when was that?

14 MR. ZUSIN: Right after the ANC meeting, right  
15 before the staff report came out, and then after the  
16 staff report came out we reiterated it.

17 MS. OPPER-WEINER: Okay. And what happened?  
18 What did Ms. Gill do?

19 MR. ZUSIN: You sent an e-mail rejecting the  
20 proposal.

21 MS. OPPER-WEINER: Okay. Thank you. You say  
22 there were rumors and misrepresentations. Who sent  
23 these -- what are these rumors you're talking about?

24 MR. ZUSIN: I can answer. You know, you put  
25 together a form letter for neighbors to sign the

1 form --

2 MS. OPPER-WEINER: Excuse me for point of  
3 information, I did not put together a form letter for  
4 neighbors to sign.

5 MR. ZUSIN: There is a form letter that was  
6 circulated to neighbors, a lot of them are in the  
7 record.

8 MS. OPPER-WEINER: Okay. And what were those  
9 rumors and misrepresentations?

10 MR. ZUSIN: Insinuated that we were going to  
11 be using the carriage house for commercial purposes.

12 MS. OPPER-WEINER: Okay. But that was --  
13 isn't it a fact that that was in the original  
14 application, the preliminary statement that was  
15 submitted in this case?

16 MR. ZUSIN: And the commercial purposes were  
17 directly as a result of my profession, being in real  
18 estate.

19 MS. OPPER-WEINER: For the record, Mr. Hill  
20 and Board members, the original submission of the  
21 preliminary statement asked for permission to have the  
22 garage used as an eating and drinking establishment.  
23 The person who discovered that happens to be me. And  
24 I presented it at an ANC meeting. I was shocked. So,  
25 that wasn't a false rumor.

1 MR. GLASGOW: Mr. Chairman, I object.

2 MS. OPPER-WEINER: Yeah, he --

3 CHAIRPERSON HILL: Okay. Okay. Hold on, hold  
4 on. So, I'm just, I understand the statement that  
5 you're making, Ms. Oppen-Weimer (sic), Weiner, and I  
6 remember that that was an error that they have taken  
7 off of their application. Now, so, I'm just --

8 MS. OPPER-WEINER: It's been revised, yes,  
9 that's true.

10 CHAIRPERSON HILL: Yeah. Okay, so --

11 MS. OPPER-WEINER: But they were saying there  
12 were rumors.

13 CHAIRPERSON HILL: Okay, that's fine. I mean,  
14 we don't have to stay on the rumors thing and the, you  
15 know, and the whole -- I mean, and maybe that  
16 shouldn't have come in in the beginning of his  
17 testimony. I'm trying to take again -- we really are  
18 trying to listen to the zoning issues and the  
19 questions, and it's all just about zoning that we're  
20 talking about here.

21 MS. OPPER-WEINER: All right. Well, let's  
22 move on that.

23 CHAIRPERSON HILL: Okay.

24 MS. OPPER-WEINER: Mr. Walters' testimony.

25 Mr. Walters, on page A-302 of your submission,



1 the --

2 CHAIRPERSON HILL: Which exhibit are you in?  
3 Do you know?

4 MS. OPFER-WEINER: Yes, it's the architect's.  
5 I'm sorry. It's Number A-302. And it's the BZA --  
6 well, it's a resubmission on May 9th. It's an updated  
7 version of the --

8 CHAIRPERSON HILL: The drawings, you mean.

9 MS. OPFER-WEINER: The drawing. It's called  
10 building section, and it's Number A-302. Do you all  
11 have that?

12 CHAIRPERSON HILL: Okay. Just give me one  
13 second.

14 MS. OPFER-WEINER: Sure. Oh, yes. Can  
15 everyone see it? Okay, thank you.

16 On this drawing, Mr. Walters, you testified  
17 that it was going to be 20 feet high. However, this  
18 drawing seems to appear to have the extension of 3-  
19 feet, three and one-eighth's inches above 20 feet. So,  
20 could you -- isn't that true?

21 MR. WALTERS: I have the section from the  
22 zoning code, 308.3, for the rules of measurement of  
23 building height in the R-4 Zone. And the height of a  
24 building with a flat roof shall be measured from the  
25 BHMP, Building Height Measurement Point, to the

1 highest point of the roof, excluding parapets and  
2 balustrades, not exceeding four feet in height.

3           So, I think -- and the building height  
4 measuring point being the grade at the front of the  
5 primary structure, as is defined elsewhere, which  
6 actually happens to be the grade in the alley too.  
7 So, we are measuring the 20 feet from the building  
8 height measuring point, to the height of the --  
9 there's a very gentle one-quarter-inch per foot slope,  
10 so we are measuring to the highest point of the roof,  
11 excluding the parapets.

12           MS. OPPER-WEINER: Is that what B-308 -- could  
13 you -- what's a BHMP?

14           MR. WALTERS: Building Height Measurement  
15 Point.

16           MS. OPPER-WEINER: Okay. And you quoted  
17 308.3?

18           MR. WALTERS: 308.3. Yes, that's correct.

19           MS. OPPER-WEINER: And it says, at the high --  
20 from the highest point of the roof, excluding  
21 parapets. And what is the highest point of this roof?

22           MR. WALTERS: It would be the -- where the  
23 roof slopes up from the alley and where it meets the  
24 front parapet right there, which is where we measured  
25 the 20 feet to.

1 MS. OPPER-WEINER: But isn't that 24 feet?  
2 Isn't it 23 feet there?

3 MR. WALTERS: No.

4 MS. OPPER-WEINER: It says three -- there's  
5 three feet and three-eighths, and one-eighth inch to  
6 the left --

7 MR. WALTERS: That's --

8 MS. OPPER-WEINER: And that -- yes.

9 MR. WALTERS: That's the parapet, and 308.3  
10 excludes parapets that are less than four feet in  
11 height.

12 MS. OPPER-WEINER: So, it can be more than --  
13 so, it's not really 20 feet. It's more than 20 feet.  
14 Isn't that true?

15 MR. WALTERS: No, I disagree per the zoning  
16 definition. It's 20 feet.

17 MS. OPPER-WEINER: Okay.

18 CHAIRPERSON HILL: Ms. Oppen-Weimer (sic), I  
19 heard what you said. We can get to the Office of  
20 Planning when we get to that point if you want to ask  
21 them further questions as to how they're measuring the  
22 height.

23 MS. OPPER-WEINER: Correct. Because there's  
24 another part of the zoning code, which is D-5002.1,  
25 which tells how to measure the highest point of the

1 roof.

2 CHAIRPERSON HILL: Okay. We can get to that  
3 with the Office of Planning if you like.

4 MS. OPFER-WEINER: Okay. And there's  
5 another --

6 CHAIRPERSON HILL: So, what other question?

7 MS. OPFER-WEINER: -- maximum height issue.  
8 Okay. We'll move on.

9 Okay, Mr. Walters, you made a comment that the  
10 opponent, party opponent, Ms. Gill, that there would  
11 be no negative impact on her. Did you ever speak to  
12 her about that, if the window was covered over?

13 MR. WALTERS: No, I haven't spoken directly  
14 with her.

15 MS. OPFER-WEINER: Okay. Did you ever measure  
16 any of the garages that are on the alley, so that you  
17 could make a statement that they're all similar to the  
18 size of the one that you're proposing?

19 MR. WALTERS: We've measured them from the  
20 survey data, her structure, and from city maps. We've  
21 measured the adjacent structures.

22 MS. OPFER-WEINER: Okay. Well, you made a  
23 statement about that this is similar in the alley.  
24 Isn't that true, that -- the question is, did you ever  
25 measure any of the other houses and properties,

1 because you made a statement that the normal size is  
2 1,800 square feet. How do you know that?

3 MR. WALTERS: The 1958 zoning regulations  
4 required a minimum 1,800 square foot lot. It had to  
5 be a minimum of 18 feet wide. So, it is kind of the  
6 theoretical common lot size in the District. My  
7 townhome is 18-foot-wide lot.

8 MS. OPPER-WEINER: Okay. My townhome is a 20-  
9 foot-wide lot. I happen to live on the same street,  
10 as I said, I live on 10th Street, and the statement  
11 you made is untrue because you don't really know what  
12 the size --

13 MR. GLASGOW: Mr. Chairman, I want to --

14 CHAIRPERSON HILL: Okay.

15 MR. GLASGOW: -- impose an objection. She's  
16 arguing with the witness.

17 CHAIRPERSON HILL: Okay. Wait. Yeah, I've  
18 got to get back also to, I'm just trying to get to  
19 what your point was. So, you disagree with his  
20 statement. I understand that.

21 MS. OPPER-WEINER: I do.

22 CHAIRPERSON HILL: Okay. So, now let's -- I'm  
23 trying to get to your presentation in a minute. So --

24 MS. OPPER-WEINER: There's a burden of proof  
25 that they have to show what it is that they're saying,

1 and that they're trying to say something that is  
2 inaccurate and not factual.

3 CHAIRPERSON HILL: Okay. Okay.

4 MS. OPPER-WEINER: And so, I'm asking for the  
5 factual data, which they apparently haven't done. I  
6 happen to be very familiar with this street, because  
7 I've lived there since 1980.

8 CHAIRPERSON HILL: Okay.

9 MS. OPPER-WEINER: Anyway. So, also with  
10 regard to the number of garages that were two stories  
11 on this alley, which runs from Independence to C  
12 Street Southeast, how many are two-story garages?

13 MR. GLASGOW: I think Mr. Zusin answered that  
14 question.

15 MR. WALTERS: There's 11. Approximate 11.

16 MS. OPPER-WEINER: And how many garages are  
17 there on that block?

18 MR. WALTERS: I don't know that exact answer.

19 MS. OPPER-WEINER: There's many more than  
20 that.

21 CHAIRPERSON HILL: Okay. Okay.

22 MS. OPPER-WEINER: Okay? I mean, all right.  
23 So, now in terms of the width of the lot being 23  
24 feet, the other -- did you measure the garage of the  
25 abutting neighbor to the south?

1 MR. WALTERS: Not exactly. We just know the  
2 setback, that it's about a three-foot setback from the  
3 -- as you can see in the image here. It sits back  
4 away from the property line. So, it's about two to  
5 three feet less than the full width of the lot.

6 MS. OPPER-WEINER: Okay. And isn't it true  
7 that you said that this was an abutting property?

8 MR. WALTERS: I'm not sure I understand that  
9 question.

10 MS. OPPER-WEINER: Does 204 abut on 202?

11 MR. WALTERS: It is an adjacent property.

12 MR. GLASGOW: We will stipulate that it's --  
13 yes, that it's an abutting property.

14 CHAIRPERSON HILL: Okay. All right, Ms.  
15 Oppen-Weimer (sic), I'm going to give you two more  
16 questions, okay? And then I want to hear your  
17 presentation.

18 MS. OPPER-WEINER: Yes, we'll get there.

19 CHAIRPERSON HILL: Okay.

20 MS. OPPER-WEINER: In terms of Ms. Eig, the  
21 window, what -- how do you know that it wasn't -- the  
22 window, how do you know when the window was installed?

23 MS. HOTALING-EIG: Visually, I can tell that  
24 it is a contemporary window. It is not a window that  
25 was installed a long time ago. I do not know the

1 exact date. I have all the permits that were  
2 accessible to us, which would take it -- means that if  
3 a permit was filed for, it would have been outside of  
4 the period of significance for this property, but I do  
5 not have the more recent permits if in fact it was  
6 permitted.

7 CHAIRPERSON HILL: Okay.

8 MS. HOTALING-EIG: But visually, it is  
9 obviously the way it is constructed, and in my report  
10 I fully describe the differences of the historic  
11 windows that are in fact on the property versus this  
12 window.

13 CHAIRPERSON HILL: Ms. Oppen-Weimer (sic), we  
14 saw that in her report.

15 MS. OPPER-WEINER: Okay. And the -- but it's  
16 in a historic district. Isn't that correct?

17 MS. HOTALING-EIG: Yes, it is.

18 MS. OPPER-WEINER: And it likely existed prior  
19 to the formation of the Capitol Hill Historic  
20 District. Isn't that true?

21 MS. HOTALING-EIG: What, the window?

22 MS. OPPER-WEINER: Yes.

23 MS. HOTALING-EIG: No.

24 MS. OPPER-WEINER: You say it probably wasn't  
25 true?



1 MS. HOTALING-EIG: I do not believe that it  
2 existed before the creation of Capitol Hill Historic  
3 District, no.

4 MS. OPPER-WEINER: Okay.

5 MS. GILL: Ms. Eig, would you be able to put a  
6 more clear date on that in regard to the decade,  
7 because you're saying it's after 1976. You said it  
8 was contemporary, and you also said that it was not of  
9 that long distant past.

10 MS. HOTALING-EIG: The Capitol Hill Historic  
11 District has a period of significance that ends, I  
12 believe, in 1949.

13 MS. GILL: And you are dating the window to  
14 when?

15 MS. HOTALING-EIG: There would have -- there  
16 was a garage or carriage house that was adjacent to  
17 this building, that was on 202, the property at  
18 question. There was a frame building there. And to  
19 have put the window in would have been putting it  
20 immediately against the wall of this garage prior to  
21 1960. So, it post-dates 1960.

22 MS. OPPER-WEINER: And when was it -- isn't it  
23 true you don't know when this garage was demolished?

24 MS. HOTALING-EIG: I know it was still there  
25 until the 1960s.

1 MS. OPPER-WEINER: And how do you know that?

2 MS. HOTALING-EIG: From the maps. I can tell  
3 that. And there was no demolition permit that was  
4 located for it.

5 MS. OPPER-WEINER: So, you really don't know,  
6 isn't it true that you don't know when it was  
7 demolished?

8 MS. HOTALING-EIG: I do not know exactly when  
9 it was demolished, that is correct.

10 CHAIRPERSON HILL: Okay. Do you have any more  
11 cross, because I want to get to your presentation?  
12 I'm sorry, OAG, were you saying something? No. I  
13 thought you were going to say something. Okay. All  
14 right.

15 So, I'm going to go ahead and give you guys 20  
16 minutes now to make your presentation, and then we can  
17 also take your witnesses at that time.

18 Mr. Moy, if you could put 20 minutes on the  
19 clock?

20 MS. OPPER-WEINER: I need to get my bottle.

21 CHAIRPERSON HILL: Sure. Sure, of course.

22 All right, Ms. Oppen-Weimer (sic), and again,  
23 you know, I know that in terms of focusing or trying  
24 to help, I mean, I understand that what is really at  
25 issue here is the light and air of this -- your

1 client, right? And so, you know, the standards with  
2 which we review this issue and how the Office of  
3 Planning has put forward that issue for us to review,  
4 I'm kind of putting that forward to help you frame  
5 your discussion. However, you know, you have 20  
6 minutes to give it any way you like.

7 MS. OPPER-WEINER: Okay. Now, I have another  
8 question. Is Mr. Cochran going to testify from the  
9 Office of Planning?

10 CHAIRPERSON HILL: Yes.

11 MS. OPPER-WEINER: Okay. And that will be  
12 after we do our presentation?

13 CHAIRPERSON HILL: Yes. So, you'll go ahead  
14 and do your presentation. They'll have an opportunity  
15 to cross. Then we will go ahead and take testimony  
16 from the Office of Planning. The Office of Planning  
17 then will have -- you will have -- the applicant, as  
18 well as yourself, will have an opportunity to ask  
19 questions of the Office of Planning.

20 MS. OPPER-WEINER: Okay. Are we going to do  
21 this before lunch?

22 CHAIRPERSON HILL: We're doing this all before  
23 lunch. We're doing this all before I have to get  
24 somewhere to make sure my sofa moves.

25 MS. OPPER-WEINER: Okay. I get that.

1 CHAIRPERSON HILL: Okay.

2 MS. OPPER-WEINER: Okay. Ms. Gill, I want to  
3 speak with her, she's the party here.

4 CHAIRPERSON HILL: Sure. I mean, I'm just  
5 letting you know, I'm starting the clock now, so this  
6 is your presentation. You can do it any way you'd  
7 like.

8 MS. OPPER-WEINER: Okay.

9 CHAIRPERSON HILL: Okay.

10 MS. OPPER-WEINER: Oh, also, is there any way  
11 to display the exhibits, because I'm a novice at this.

12 CHAIRPERSON HILL: Which exhibits are you  
13 trying to display?

14 MS. OPPER-WEINER: Our -- we have exhibits of  
15 photographs that we filed.

16 CHAIRPERSON HILL: Are they in the record?

17 MS. OPPER-WEINER: They're in the record.

18 CHAIRPERSON HILL: Do you know which record --  
19 do you know which item they are in the record?

20 MS. OPPER-WEINER: I have it all ready.

21 CHAIRPERSON HILL: You can just tell us which  
22 item they are in the record and we can plumb up right  
23 here.

24 MS. OPPER-WEINER: 107 to 115.

25 CHAIRPERSON HILL: Okay, just cite the exhibit

1 number when you're speaking about it and we can pull  
2 them up right here.

3 MS. OPPER-WEINER: Okay, well -- okay. So,  
4 all right.

5 Ms. Gill --

6 CHAIRPERSON HILL: Mr. Moy, can you start the  
7 clock for me? Thank you.

8 MS. OPPER-WEINER: Yeah, I'm ready to start.  
9 Yeah.

10 CHAIRPERSON HILL: Okay.

11 MS. OPPER-WEINER: I want you to -- I'm  
12 calling up Exhibit No. 107. No -- yes, 107. And I'd  
13 like Ms. Gill to identify these photographs. Are they  
14 going to be up there?

15 CHAIRPERSON HILL: No, they're not. We have  
16 them up here.

17 MS. OPPER-WEINER: Oh, you do have them?

18 CHAIRPERSON HILL: Yeah. We have them up  
19 here. I'm looking at the kitchen window right now,  
20 from the inside.

21 MS. OPPER-WEINER: I really do have to learn  
22 how to do that.

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

24 MS. OPPER-WEINER: Okay, Ms. Gill, can you  
25 identify those, please?

1 MS. GILL: Okay. Thank you so much. This is  
2 the kitchen window that is above my kitchen sink.

3 MS. OPPER-WEINER: This is 107. Well, no, I  
4 guess this is part of 107.

5 MS. GILL: And of the window, this is one of  
6 three windows that are on the lower level. In the  
7 front of the house there are two windows, so I really  
8 do need the window for cross-ventilation. It is  
9 small, but it is appropriate for my house because the  
10 lower level is only 433 square feet.

11 The next exhibit, I believe this is No. 2,  
12 where you can see the washer/dryer, the stove, and  
13 then again the sink. To the far right there is a door  
14 that holds the utility pieces of the air conditioner.  
15 And then on the other side of that there is a wall.  
16 That is where the proposed storm door --

17 MS. OPPER-WEINER: You'll have a chance to see  
18 it.

19 MS. GILL: Okay. So, that next one where the  
20 above stained glass is, that's the door. If there  
21 were a glass window there, or a door, there wouldn't  
22 really be any extra light into the kitchen because of  
23 that wall.

24 MR. HART: Ms. Gill. Can you sit back a  
25 little bit from the mic?

1 MS. GILL: Oh, sorry.

2 MR. HART: It was just -- it's easier for the  
3 folks to hear, and actually for our transcribers to  
4 hear that.

5 MS. GILL: Okay.

6 MR. HART: But you can continue. Thank you

7 MS. GILL: All right. So, I was sharing about  
8 the proposal to have the storm door there. It really  
9 wouldn't help because of the wall, so there really  
10 wouldn't be extra light into the kitchen. This is  
11 just another look, so you can see in the corner where  
12 the water tank is, although the way that it's  
13 situated, it's probably a one-foot space. So, it  
14 would be a smaller area if there were going to be a  
15 window there, which is something that had been  
16 proposed before.

17 And these are just more pictures of the window  
18 where you can see it's dark, with the blind. So,  
19 there is a significant decrease in the light.

20 MR. HART: It's page 5 on the --

21 MS. GILL: All right. Exhibit No. 5.

22 MR. HART: Yeah, and it's actually page 5. It  
23 is Exhibit No. 107. And I only say that because when  
24 we have to go back and think about it, I don't want  
25 people going to the wrong exhibit because we called

1 them exhibits for the items that are submitted to us.

2 MS. GILL: So, then this would be Exhibit 6?

3 MS. OPPER-WEINER: Page 6.

4 MS. GILL: Page 6. And that, again, is just  
5 showing the side view, so you're able to see the sink,  
6 the window, the water tank, and where the utility  
7 closet is. And then that is with it open.

8 MS. OPPER-WEINER: Can you describe for the  
9 Board -- I'm sorry.

10 CHAIRPERSON HILL: Yeah, thanks.

11 MS. OPPER-WEINER: Can you please describe for  
12 the Board what the loss of the window will mean to you  
13 and your daughter?

14 MS. GILL: It's significant because we love  
15 having the light. We really enjoy getting the air.  
16 My daughter is 11, she has asthma, so we need the  
17 ventilation within the property on the lower level.

18 MS. OPPER-WEINER: What were your expectations  
19 when you bought the house?

20 MS. GILL: I thought I was going to be in a  
21 single-family home with lots of community support, and  
22 being able to enjoy my property.

23 MS. OPPER-WEINER: Are there any solutions  
24 that you would entertain to the proposal of the  
25 applicant?



1 MS. GILL: On Exhibit C of the tracery that  
2 Mr. Zusin presented, and Ms. Eig has been using, the  
3 Sanborn maps and the based maps show that there was a  
4 pathway or an alley behind my house that was three and  
5 a half feet, and they are on all of the maps. So,  
6 that would be one solution, would be to honor that  
7 space again.

8 The other solution could be to have a smaller  
9 garage, which is in line with other people's garages.  
10 Approximate 17 feet.

11 There is a picture also in his exhibit where  
12 it shows the dual cars on the carport, where there was  
13 a fence, and behind the carport there was a fence.  
14 But then the window is not covered. So, if the garage  
15 were to start at that point and be built, it would not  
16 block my window. Nor would it depreciate the value of  
17 my house based on a projection for March 2018. My  
18 house will be changed from a single-family home to a  
19 semi-detached home, thus devaluing it. And that is  
20 also in the documents. The tax record.

21 MS. OPPER-WEINER: Yeah, how do you know that  
22 the house has been devalued?

23 MS. GILL: From the projected tax statement  
24 that I received in March of this year.

25 MS. OPPER-WEINER: And that shows on Exhibit

1 113, the current assessment and the proposed  
2 assessment. The current assessment for 2017 and the  
3 proposed assessment for 2018. And it clearly shows  
4 that there's been a reduction in the value, the  
5 assessed value of her house which may be the only one  
6 in the neighborhood that has had that kind of  
7 assessment.

8 CHAIRPERSON HILL: But is that due to the  
9 proposed development?

10 MS. GILL: It is, sir. It just so happens  
11 that the Office of Tax Assessment went out, all of  
12 their appraisers, in February, and went through all of  
13 the Capitol Hill area and did these projections. I  
14 called and spoke to Darryl Broadus. That's also in  
15 the record.

16 CHAIRPERSON HILL: Okay. And I'll ask some  
17 further questions on that because I'm just -- whether  
18 or not the project was actually devalued on the  
19 property or not. Okay. Please continue.

20 MS. OPPER-WEINER: Well, there was a -- there  
21 are permits that exist because they're working on the  
22 main house. So that --

23 CHAIRPERSON HILL: We can ask. That's okay.  
24 I'll ask. I'll ask.

25 MS. OPPER-WEINER: Okay, sorry.

1 CHAIRPERSON HILL: That's all right.

2 MS. OPPER-WEINER: At any time did the  
3 drawings for this project change?

4 MS. GILL: The project has changed repeatedly  
5 over and over again. And most recently, this most  
6 recent one, that really doesn't depict what the house  
7 looks like. It's not flush to my roof. It's going to  
8 dwarf the property by at least -- it was two feet. It  
9 looks now like it's six feet because the line is going  
10 to go to the highest point of the main property. The  
11 main property, which was supposed to be two stories is  
12 now three stories. So, they're not basing it on the  
13 two-story height, it's going to be based on the three-  
14 story height.

15 So, the carriage home is going to end up being  
16 really, really large.

17 MS. OPPER-WEINER: How tall is your house?  
18 Are you aware?

19 MS. GILL: My height on my house is 18-feet.

20 MS. OPPER-WEINER: And this proposal, as we  
21 know, is 20 feet.

22 MR. SHAPIRO: Mr. Chair, can I -- let me  
23 interrupt a quick second.

24 CHAIRPERSON HILL: Sure, please. Go ahead.

25 MR. SHAPIRO: Before I forget, I wanted to ask

1 you a question before because it may be similar to  
2 your question, Mr. Chair, but I didn't understand this  
3 issue around the devaluing of the house and when you  
4 understood it to be a single-family detached, versus  
5 semi-detached, and the record, and just play that out  
6 again for me again, briefly.

7 MS. GILL: Sure, no problem. The designation  
8 of my home changed. It said something about the  
9 category at the top of the tax page. It changed from  
10 a 1 to a 3, and the designation is from a single-  
11 family detached, to a semi-attached, because when the  
12 building is built it is going to be directly on my  
13 property.

14 MR. SHAPIRO: When did that -- when did you  
15 hear about that?

16 MS. GILL: It was in March, sir.

17 MR. SHAPIRO: Okay. Thank you.

18 MS. GILL: You're welcome.

19 MS. OPPER-WEINER: And did you speak to the  
20 person from the Office of OTR?

21 MS. GILL: I did.

22 MS. OPPER-WEINER: Yes. And that's where you  
23 got -- is that where you got your information from?

24 MS. GILL: It is.

25 MS. OPPER-WEINER: Okay. Did the Office of

1 Planning speak to you about the applicant's offer?

2 MS. GILL: They came and took pictures and  
3 visited, measured the window. I can't remember what  
4 the date was. But in doing that, when Mr. Cochran was  
5 on the inside of my home, he said he could understand  
6 why I didn't want to have that window, because it  
7 wasn't going to make a difference.

8 MS. OPPER-WEINER: You mean in the door?

9 MS. GILL: The door.

10 MS. OPPER-WEINER: Okay, but --

11 MS. GILL: The storm window that is --

12 MS. OPPER-WEINER: In Mr. Cochran's initial  
13 report had he spoken to you about this proposal?

14 MS. GILL: No.

15 MS. OPPER-WEINER: Okay. Were you trying to  
16 reach out to the various city agencies with regard to  
17 the applicant's proposal before you retained me?

18 MS. GILL: I did. I contacted everybody I  
19 could think of contacting in order to get assistance  
20 with this because I was looking for some resolution.

21 MS. OPPER-WEINER: Did you attend ANC  
22 meetings?

23 MS. GILL: I went to three ANC meetings. I  
24 had been going to ANC meetings since December, and  
25 most of what I am explaining or saying was ignored.

1 In many of the records, I am either not on the record  
2 or I am on the record as my mother as someone else.  
3 That was true for the January and February.

4 MS. OPPER-WEINER: And how would you  
5 categorize your treatment at the ANC?

6 MS. GILL: It was horrible. They were really  
7 really horrible to me, in terms of not listening, in  
8 terms of solutions being presented and them going  
9 ignored, because in regards to the alleyway solution  
10 that was presented at the March ANC meeting. And I  
11 was told no, that's not a reasonable solution.

12 MS. OPPER-WEINER: Okay. One last question  
13 is, on the plats, is that where you saw the pathway  
14 between your house and the 202 9th Street property?

15 MS. GILL: Yes.

16 MS. OPPER-WEINER: And how far back do those  
17 pathways go? Do you know?

18 MS. GILL: It looked like they began 1903. It  
19 may have been earlier than that.

20 MS. OPPER-WEINER: Okay. Again, Mr. Hill,  
21 forgive me. You want me to call the rest of the  
22 witnesses?

23 CHAIRPERSON HILL: Yeah, this is your time for  
24 your presentation for witnesses.

25 MS. OPPER-WEINER: Okay. Ms. Gill. Yeah, Dr.

1 Gill, I should say. All right.

2 DR. GILL: I'm Wanda Gill, 807 Manor House  
3 Drive up in Marlborough, Maryland, 20774. My previous  
4 address, when my husband and I bought this property,  
5 was 12901 Cabbadin (phonetic) Drive, Upper  
6 Marlborough, Maryland, 20774.

7 My husband and I bought this property because  
8 we had two daughters who love the District, wanted to  
9 be in the District, and my husband had worked with the  
10 previous owner's daughter-in-law for many, many years,  
11 and when it became available I expressed an interest  
12 and we bought the property and we renovated it.

13 In the course of the renovation, all of the  
14 windows were exactly what they -- as they were. I am  
15 really here, frankly, because I'm very concerned that  
16 you guys have misinformation in the EHT Traceries  
17 report, specifically.

18 If you go down to the very last paragraph on  
19 page 1, sometime in the '90s the current owner of 905  
20 made alterations to the building. The entire  
21 paragraph is erroneous. I was the owner, my husband  
22 and I, not my daughter who is the current owner.

23 Secondly, we did not touch any of the windows.  
24 The windows were, and are, as they were when we found  
25 them. In fact, at the time of settlement Sears had a

1 major, a lien against that property and the previous  
2 owners didn't benefit from the sale because they had  
3 to pay Sears for windows that were put in, and hence  
4 the new quality of the windows or whatever was  
5 referenced to, which was probably made frankly in the  
6 '50s or '60s.

7           In addition, I pulled the permits that were  
8 listed in that report by EHT Traceries. And one of  
9 the permits is, I just noticed it today so I have to  
10 apologize to all of you. On the permit dated July  
11 24th, 1988, there is a line which is line number 25,  
12 "Are there any bay windows?" The word "one" was  
13 written in, and then crossed out.

14           I strongly believe that that one is indeed the  
15 window in question. I raise that because at the last  
16 ANC meeting, one of two that I attended, one of the  
17 commissioners indicated that she -- because the plain  
18 of claims, they claim that it was shoddily constructed  
19 window. And I assured them at the time that I did not  
20 do shoddy construction.

21           At that point one of the commissioners said, I  
22 have just such a window that was in the original  
23 structure. So, I do want to put this actual permit.  
24 You have references to permits so that you can see  
25 that the one was actually crossed out.



1 CHAIRPERSON HILL: Okay, wait. Give me one  
2 second.

3 So, if you would like to submit that into the  
4 record we have to have some copies made for everybody.

5 DR. GILL: All right.

6 CHAIRPERSON HILL: And so, I guess --

7 DR. GILL: I don't have copies, actually.

8 CHAIRPERSON HILL: That's okay. That's okay.  
9 We can let Mr. Moy do that.

10 DR. GILL: Okay.

11 CHAIRPERSON HILL: Before you move forward  
12 again, the report that you're citing, do you know  
13 which exhibit it is again?

14 DR. GILL: The EHT Traceries.

15 CHAIRPERSON HILL: Yeah.

16 DR. GILL: Mine doesn't have one on here, a  
17 number.

18 CHAIRPERSON HILL: Three?

19 DR. GILL: They submitted it.

20 MR. HART: 34-C.

21 CHAIRPERSON HILL: 34-C.

22 DR. GILL: All right. So, the first page of  
23 that is completely erroneous. The only thing that's  
24 correct is that we did in fact do a glass block  
25 window. And the reason had to do with security. One

1 of the workmen parked his truck, the day when he was  
2 out there, all of his tools were stolen. When he came  
3 back a couple of days later, his truck was stolen.  
4 So, that had to do more with privacy and security in  
5 terms of the glass block window that was put in.

6           Additionally, as you actually pull the  
7 permits, rather than citing what they say, you will  
8 find errors in what's written here. For instance, in  
9 one, two, the third paragraph down, beginning on July  
10 24th, 1888, the quote is actually --

11           MR. HART: Ms. Gill. Ms. Gill.

12           DR. GILL: -- quote, "no stable entrance and -  
13 -"

14           MR. HART: Mrs. Gill.

15           DR. GILL: I'm sorry.

16           MR. HART: Yes. I'm sorry. You're reading  
17 from something and we're not exactly sure what you're  
18 reading from.

19           DR. GILL: I'm sorry. All right. Under  
20 purpose of the EHT Tracerics report --

21           MR. HART: Okay.

22           DR. GILL: -- count down one, two, past the  
23 diagram, third, fourth paragraph.

24           MR. HART: Got you.

25           DR. GILL: All right? In that paragraph.

1 MR. HART: Okay.

2 DR. GILL: All right? They have in there, a  
3 section that talks about openings. All right? That's  
4 another one. That's actually a second one.

5 But anyway, there were two things in there  
6 that are absolutely incorrect. I want to also say for  
7 the record, at no point did anyone from EHT Tracerics  
8 contact me before writing that paragraph about the  
9 owner.

10 CHAIRPERSON HILL: Can you tell me -- are you  
11 talking about the one that's starting on July 24th?

12 DR. GILL: Okay, on --

13 CHAIRPERSON HILL: Okay.

14 DR. GILL: All right. On July 24th --

15 CHAIRPERSON HILL: All right, 1888.

16 DR. GILL: Right. Right.

17 CHAIRPERSON HILL: Okay.

18 DR. GILL: All right. He did the red brick  
19 stable. Okay. They got the measurements. Tin flat  
20 roof. And was to have -- this is what I'm objecting  
21 to. In quotations they wrote, "No interest to the  
22 stable on the building line," end quote. There is no  
23 such quote in the permit. The permit quote is, quote,  
24 "No stable entrance," end quote.

25 Again, you know, they have stacked these

1 reports so that it, you know, presents a case that  
2 they would like to present.

3           The other thing I want to allude to is their  
4 own diagram showing 905 Independence Avenue, and you  
5 can actually see the strip behind the house. On  
6 theirs it measures 3.2 feet that runs the full length  
7 of my daughter's property, and the one at 200 9th  
8 Street.

9           All of a sudden, that is no longer relevant to  
10 this case. All of a sudden, we have a problem with  
11 this gentleman saying that my daughter's house is on  
12 five inches of his property, which is nonsense. I  
13 don't know when anyone changed any property line, but  
14 even on their diagram you can see the discrepancy.

15           In terms of -- I'm going to finish this really  
16 quickly. But in terms of this whole issue, it has  
17 been adversarial. Not on our part, but on the part of  
18 the builder. At no point was my daughter notified  
19 until after, just before hiring Ellen, it wasn't long  
20 before that. So, all this about, you know, in  
21 community involvement is nonsense.

22           But more importantly, those aren't the only  
23 discrepancies in these reports that this group  
24 submitted.

25           CHAIRPERSON HILL: Okay. Can I just --

1 DR. GILL: So I suggest you just throw it out.

2 CHAIRPERSON HILL: Can I just -- well, first  
3 of all, we're not throwing out anything.

4 DR. GILL: All right.

5 CHAIRPERSON HILL: And secondly, we're going  
6 to do our best not to accuse anybody of being any  
7 particular way.

8 DR. GILL: All right.

9 CHAIRPERSON HILL: All right? So, I  
10 appreciate the testimony you've given. Is there  
11 anything else from you?

12 DR. GILL: One thing. On the permits are now  
13 at the National Archives, and that Martin Luther King  
14 Jr. Memorial Library is closed for construction. So,  
15 the permits had to be looked at, at the National  
16 Archives.

17 CHAIRPERSON HILL: Okay.

18 DR. GILL: All right? Thank you.

19 MS. OPPER-WEINER: I'd like to call Mr. Ken  
20 Ringle.

21 CHAIRPERSON HILL: You can push the microphone  
22 there.

23 MS. OPPER-WEINER: Mr. Ken Ringle, who is the  
24 abutting neighbor --

25 CHAIRPERSON HILL: Okay.

1 MS. OPPER-WEINER: -- who lives at 204 9th  
2 Street.

3 And first question is, Mr. Ringle, how long  
4 have you lived there?

5 MR. RINGLE: Since 1974, almost half a  
6 century.

7 MS. OPPER-WEINER: And what year did you move  
8 in? Oh, 1974. At the time that you moved in, did you  
9 observe a window, the window that we're talking about  
10 at 905 Independence Avenue?

11 MR. RINGLE: Yes, the previous owner,  
12 Nathaniel Jones, was a friend of mine. I was over at  
13 his house frequently. I've been looking at that  
14 window since 1974, because I see it from my kitchen.

15 MS. OPPER-WEINER: Okay. In terms of your  
16 garage, is it a two-story garage?

17 MR. RINGLE: It's a one-story garage.

18 MS. OPPER-WEINER: And is there -- oh, isn't  
19 it true that there is a walkway between the garage and  
20 the property at 202 9th Street?

21 MR. RINGLE: Well, it's kind of weed-choked  
22 now, but it used to be a walkway, and it's my  
23 understanding that those were fairly standard in a lot  
24 of the buildings. My garage, whenever it was built,  
25 probably in the '40s, did not extend to the property

1 line of 202. So, it still has that three-foot runway  
2 there, that went all the way back to the alley.

3 MS. OPPER-WEINER: Okay. And did you come to  
4 write an article about Mr. Jones who was the prior  
5 owner of 905 Independence Avenue?

6 MR. RINGLE: I did. It was published in the  
7 Washington Post as an eulogy for the heart of our  
8 neighborhood because the previous owner of that house  
9 was a man who brought us all together. And though I  
10 have no animus towards Mr. Zusin, his tactics in  
11 building this building and this garage have gone the  
12 other way.

13 MS. OPPER-WEINER: That article appears at  
14 Exhibit No. 114 for the Board's information.

15 The fence that was built in 2008, do you have  
16 -- are there photograph -- did you take some  
17 photographs?

18 MR. RINGLE: I did and I've furnished those to  
19 you. It shows a wooden fence. I built -- had that  
20 fence built, splitting the cost with the previous  
21 owner of 202.

22 MS. OPPER-WEINER: Okay. And I don't know how  
23 this is numbered, but we numbered it. It shows up  
24 here on Exhibit No. 112. The photographs of what the  
25 back yard looked like at 202, as taken by Mr. Ringle.

1 There are three of them; three photographs.

2 MR. RINGLE: They show the extensive greenery  
3 and the light and air in that yard.

4 MS. OPPER-WEINER: And from your understanding  
5 of the proposed project, will there be a lot of  
6 greenery and open space in that back yard?

7 MR. RINGLE: I can't speak to that. I can  
8 speak to the fact that the size of the garage has  
9 changed several times. Even as the size of the house  
10 has changed several times since it was first informed  
11 of it. And it is now going to dwarf the whole  
12 standard of the alley and most of our neighborhood.

13 It also goes back further, it's deeper than my  
14 garage and while I have no problem with Mr. Zusin  
15 having a normal sized garage, say 400 square feet or  
16 whatever, there is no need for his garage to be as  
17 wide as he wants, or for that matter, as high.

18 MS. OPPER-WEINER: Are you aware of the  
19 fireplace? Did you know about that being proposed?

20 MR. RINGLE: I was informed of the fireplace.  
21 I didn't think it significant until later when I saw  
22 the drawings.

23 MS. OPPER-WEINER: And, do you have any  
24 concerns about that?

25 MR. RINGLE: I do now, now that I've seen the



1 chimney and the whole expanse of it.

2 MS. OPPER-WEINER: So, what is your request  
3 with regard to this proposal for a special exception?

4 MR. RINGLE: Well, I don't think there should  
5 -- there needs to be an exception. I don't understand  
6 why he needs 68 percent occupancy of his lot rather  
7 than 60 percent.

8 And as I say, the scale of the whole  
9 neighborhood has been dwarfed by the house project,  
10 and will also be additionally dwarfed by this garage.

11 With all due respect to the architect and even to Ms.  
12 Eig, they don't live there. I live next door. I have  
13 to live with it.

14 MS. OPPER-WEINER: Do you know how large your  
15 garage is? Have you checked the measurements?

16 MR. RINGLE: I think it's 355 square feet.  
17 It's 21 by -- didn't we figure that? Twenty-one by  
18 17.

19 MS. OPPER-WEINER: Yes.

20 MR. RINGLE: Yeah.

21 MS. OPPER-WEINER: It's 21-6 deep.

22 MR. RINGLE: Seventeen-eight -- oh, 21-6 deep  
23 and 17-8 wide, yeah. I don't suggest he ought to have  
24 one as small as mine. Don't get me wrong. Mine is a  
25 pretty decrepit garage.

1 MS. OPPER-WEINER: But, can you fit a full-  
2 sized vehicles in it?

3 MR. RINGLE: Yes, I can fit two cars in mine.

4 CHAIRPERSON HILL: Okay, Ms. Oppen-Weimer  
5 (sic), and I want to make sure I'm pronouncing it  
6 correctly.

7 MS. OPPER-WEINER: Weiner.

8 CHAIRPERSON HILL: Oppen-Weiner (sic).

9 MS. OPPER-WEINER: It's an N, not an M. But  
10 it's okay.

11 CHAIRPERSON HILL: MS. Oppen-Weiner (sic).

12 MS. OPPER-WEINER: As long as you spell it  
13 right, I don't care.

14 CHAIRPERSON HILL: Ms. Oppen-Weiner (sic).

15 MS. OPPER-WEINER: Yeah.

16 CHAIRPERSON HILL: I just am kind of aware of  
17 the clock, and I know that we have a lot of things to  
18 go through, as well as the Board have some questions.  
19 Is there any further witnesses after this witness?

20 MS. OPPER-WEINER: Yes.

21 CHAIRPERSON HILL: How many other witnesses do  
22 you have?

23 MS. OPPER-WEINER: Well, one was -- oh, she's  
24 here. Okay. I have two.

25 CHAIRPERSON HILL: Okay. Now, are these

1 people that are going to testify in opposition or  
2 support, or they're actually going to be witnesses?

3 MS. OPPER-WEINER: They're all going to be  
4 opposition.

5 CHAIRPERSON HILL: No, no, no, but so they're  
6 going to come up again, supposedly, for testimony in  
7 opposition. Do you know whether -- did you submit  
8 everybody's name as witnesses?

9 MS. OPPER-WEINER: I did not.

10 CHAIRPERSON HILL: Okay.

11 MS. OPPER-WEINER: Actually, I tried -- yeah.  
12 Well, I did not.

13 CHAIRPERSON HILL: Now, Office of the Attorney  
14 General, I forget how this works with the witness  
15 list.

16 MS. NAGELHOUT: I'll have to look it up, but  
17 they can testify as persons in opposition.

18 CHAIRPERSON HILL: Okay. Okay. So, what I'm  
19 going to do --

20 MS. OPPER-WEINER: I can call Ms. Myers to ask  
21 her just how it worked, because there was nothing in  
22 the rules.

23 CHAIRPERSON HILL: Okay. I'm trying to work  
24 through. And believe me, we'll hear from everybody.  
25 Everybody will get an opportunity to speak, I just

1 want to do it in a way that we're supposed to do it.

2 So, I am going to let you -- now, how many  
3 witnesses do you think you have?

4 MR. RINGLE: Mr. Hill, can I ask, when you say  
5 witnesses, are you talking about people dealing solely  
6 with the window issue?

7 CHAIRPERSON HILL: People that the counsel  
8 would like to ask questions of on the record.

9 MS. OPPER-WEINER: I have two more.

10 CHAIRPERSON HILL: Okay. So, I would like you  
11 to go ahead. Now, we're already five minutes over.

12 MS. OPPER-WEINER: Oh.

13 CHAIRPERSON HILL: So, I'm going to go ahead  
14 and let you bring up your other two witnesses, and I'm  
15 going to give you another three minutes for those two  
16 witnesses.

17 MS. OPPER-WEINER: Okay.

18 CHAIRPERSON HILL: Okay? And then I think  
19 we'll have an opportunity that people can speak in  
20 support and opposition as well, later.

21 MS. OPPER-WEINER: Thank you.

22 CHAIRPERSON HILL: Okay? So, you can bring up  
23 your other two, your last two witnesses.

24 MS. OPPER-WEINER: All right.

25 CHAIRPERSON HILL: If the last two witnesses

1 could come forward, please?

2 [Pause.]

3 CHAIRPERSON HILL: Okay. So, go ahead. If  
4 you could please introduce yourself?

5 MS. GILMO: My name is Daphne Gilmo. I have  
6 lived on the Hill for almost 40 years now, two years  
7 on 9th Street across from the building in question.

8 CHAIRPERSON HILL: Okay.

9 MS. GILMO: And the rest of the time within  
10 200 feet of the building in question.

11 CHAIRPERSON HILL: And, Ms. Gilmo, I'm sorry.  
12 What's your address?

13 MS. GILMO: 215 10th Street Southeast.

14 CHAIRPERSON HILL: Okay. And did you both get  
15 sworn in today?

16 MS. MEMOLO: I did.

17 CHAIRPERSON HILL: Okay.

18 MS. GILMO: Oh, you did?

19 MS. MEMOLO: I did.

20 CHAIRPERSON HILL: Okay. You haven't been  
21 sworn in. Okay. If you could stand up so the  
22 secretary could swear you in?

23 MR. MOY: Is there anyone else?

24 CHAIRPERSON HILL: Yeah, is there anyone else  
25 who hasn't been sworn in? Just go ahead and stand up.

1 Sure. Why not?

2 [Oath administered to the participants.]

3 MR. MOY: Thank you.

4 CHAIRPERSON HILL: Okay, great. So, again, as  
5 I said, Ms. Oppen-Weiner (sic), I'm going to go ahead  
6 and give you three minutes for your two witnesses  
7 here, and then we're going to move on to cross, and  
8 then we have to go to the Office of Planning and then  
9 we still have to do support and testimony. I mean,  
10 there's a lot to still go through. So, go ahead.

11 MS. OPPER-WEINER: I'm hungry.

12 CHAIRPERSON HILL: Well, you're going to be  
13 hungry a lot longer I think, I'm afraid. So, go ahead  
14 and if you could ask the questions of your witnesses.

15 And, Mr. Moy, if you could just put three minutes on  
16 there?

17 MS. OPPER-WEINER: Okay, Ms. Gilmo, would you  
18 describe what your concerns are about this proposed  
19 project?

20 MS. GILMO: I think my major concern, given  
21 the time constraint is the precedent setting nature of  
22 the size and the request for the exemption, because I  
23 too have a little, a three-foot walkway next to my  
24 house. I also have a small house and I'm pretty sure  
25 that this precedent setting nature will impact air,

1 light, and livability of our neighborhood, just by the  
2 size. And I'm also concerned about what this does to  
3 the future of Capitol Hill and the place that we like.

4 MS. OPPER-WEINER: You, on your walkway, are  
5 there any buildings that have windows?

6 MS. GILMO: Yes. The neighbor actually has  
7 four windows on this walkway.

8 MS. OPPER-WEINER: And is it -- okay. The  
9 two-story garages, it was said that all kinds of -- do  
10 you have a two-story garage?

11 MS. GILMO: No, I do not. Just one story.

12 MS. OPPER-WEINER: Does 213 have -- 213 10th  
13 Street have a two-story garage?

14 MS. GILMO: No, it has a smaller one-story  
15 garage.

16 MS. OPPER-WEINER: Okay. The size of the --  
17 the outdoor fireplace, do you have any concerns about  
18 that?

19 MS. GILMO: Yes, I do. I don't think there's  
20 a precedent for that size, fireplace or chimney on the  
21 hill, and there has been no discussion of what that  
22 fireplace is going to be used for. If it's used for  
23 outdoor cooking there will be an odor issue in the  
24 neighborhood. If it's constantly burning wood there  
25 will be a particulate issue in the neighborhood. I'm

1 concerned about our air quality related to that  
2 fireplace.

3 MS. OPPER-WEINER: Okay. And so, what about  
4 impervious surfaces?

5 MS. GILMO: Well, that goes back to my concern  
6 for open space, and the fact that with all the  
7 development that's going on on the Hill right now, we  
8 are losing our open space. Almost every building  
9 that's going in is diminishing the amount of open  
10 space. And even on our alley we actually have  
11 wildlife habitat established, and we have racoons and  
12 opossums, and the more that these megabuildings are  
13 going in, or the McMansions, the less open space and  
14 greenery we're having.

15 CHAIRPERSON HILL: Ms. Oppen-Weiner (sic)  
16 you've only got a minute left, so you go ahead and get  
17 to your other witness?

18 MS. OPPER-WEINER: Oh, I only have one --

19 CHAIRPERSON HILL: The clock is right there.

20 MS. OPPER-WEINER: Oh, I wasn't paying any  
21 attention --

22 CHAIRPERSON HILL: That's okay.

23 MS. OPPER-WEINER: -- obviously. Sorry.  
24 Okay. Please introduce yourself.

25 MS. MEMOLO: My name is Rosina Memolo. I live



1 at 219 10th Street Southeast.

2 Basically, my concern is I feel like Mr. Zusin  
3 is building a whole other home out back that is  
4 literally --

5 CHAIRPERSON HILL: Okay. Now, I'm sorry.  
6 Now, I do need to --

7 MS. OPPER-WEINER: Okay.

8 CHAIRPERSON HILL: You need to ask questions.  
9 This is an opportunity for --

10 MS. OPPER-WEINER: [Speaking off microphone.]

11 CHAIRPERSON HILL: No, no, I'm just letting --  
12 it's an opportunity for the attorney to ask questions  
13 to specify what they'd like us to know from your  
14 testimony.

15 MS. OPPER-WEINER: Sorry. Okay. Did there  
16 come a time that you took photographs of the alley?

17 MS. MEMOLO: Yes, I took the pictures that you  
18 used.

19 MS. OPPER-WEINER: And also the photographs of  
20 Ms. Gill's home?

21 MS. MEMOLO: Yes.

22 MS. OPPER-WEINER: Okay. And are they a fair  
23 -- could you describe the alley to the Board members,  
24 giving your impression of it?

25 MS. MEMOLO: Our alley is a quaint historic

1 alley which we spend a lot of time getting renovated  
2 so that it would be very walkable, very livable, and  
3 we could enjoy an alley rather than the pits and holes  
4 we had before.

5 MS. OPPER-WEINER: And the size of the garage  
6 that is proposed, are you aware of any other garage on  
7 the alley that's that large?

8 MS. MEMOLO: I've never seen one that large,  
9 and I feel that it is a whole extra home being built  
10 on the alley and I don't know that we need another  
11 building or another family living on the alley as we  
12 have many. And I feel that it will dwarf Ms. Gill's  
13 house.

14 MS. OPPER-WEINER: Did you give your address  
15 when you introduced yourself?

16 MS. MEMOLO: Yes, I did.

17 MS. OPPER-WEINER: Okay. And how long have  
18 you lived at that home?

19 MS. MEMOLO: Thirty-five, probably going on 36  
20 years now.

21 MS. OPPER-WEINER: Okay. And is there  
22 anything else you'd like the Board to know about the  
23 photographs you took, and you kind of use the alley a  
24 lot, I know?

25 MS. MEMOLO: We do use the alley. It is quite

1 an asset. I think that's pretty much --

2 CHAIRPERSON HILL: Okay. Okay, great. Thank  
3 you. All right. So, I'm going to let the applicant  
4 ask cross questions of the party status.

5 MS. OPPER-WEINER: Okay. But can they stay,  
6 or you want them to go?

7 CHAIRPERSON HILL: It doesn't matter. They  
8 can sit there if you'd like or you can let Ms. Gill  
9 come back up.

10 MS. OPPER-WEINER: Yes, may I give this to Mr.  
11 Moy, which is the copy of the --

12 CHAIRPERSON HILL: Oh, the addition to the  
13 record? Yeah, Mr. Moy, if you could make copies of  
14 this and let the applicant also have copies of it?

15 Sure, please. Yeah, go ahead.

16 So, I think that, just to let everyone know  
17 here what's going to happen, we're probably going to  
18 take a lunch break after this case. And so, and then  
19 we'll come back.

20 So, I'm trying to give everyone kind of a  
21 rough idea. I don't know. I'm saying, we're going to  
22 take 20 minutes for lunch when this is over. So, you  
23 can watch it online if you want to try to figure it  
24 out, but we're going to take 20 minutes for lunch  
25 after this case, and then we'll come back for our

1 final two cases. So, that's just to help out other  
2 people in the audience.

3 MS. OPPER-WEINER: Are you going to make a  
4 decision today?

5 CHAIRPERSON HILL: I don't know to be quite  
6 honest. I don't know where we are with that, so we'll  
7 just have to see. But we're going to get through your  
8 case.

9 MS. OPPER-WEINER: Well, okay.

10 CHAIRPERSON HILL: So, we'll see. Okay?

11 So, go ahead if you'd like, with the  
12 applicant, for any kind of cross questions you might  
13 have.

14 MR. GLASGOW: All right. Thank you, Mr.  
15 Chairman.

16 Ms. Gill, how many other windows do you have  
17 in your house, besides the kitchen window?

18 MS. GILL: Thirteen.

19 MR. GLASGOW: And are you aware whether or not  
20 that kitchen window is required by the building code  
21 to be there?

22 MS. GILL: No.

23 MR. GLASGOW: Okay. With respect to the  
24 three-and-a-half-foot pathway that you described in  
25 the EHT report, that's Exhibit 34C, you stated that

1 that shows a three-and-a-half-foot walkway between the  
2 carriage house, or your building at 905 Independence  
3 Avenue, 200 9th Street, and 202 9th Street? Was that  
4 your testimony?

5 MS. GILL: Yes, it is, sir.

6 MS. OPPER-WEINER: Oh, yes, but show her what  
7 you're referring to, please?

8 MR. GLASGOW: It's page 1 of Exhibit 34C.  
9 There is a plat that she testified to. And so, it's  
10 your testimony that where lot --

11 MS. OPPER-WEINER: You have to have her see it  
12 and I don't have my fingers on it right this second.

13 MR. GLASGOW: I need my copy. See if we can  
14 give her another copy.

15 MS. GILL: Thank you.

16 CHAIRPERSON HILL: Is that the report from  
17 Traceries?

18 MR. GLASGOW: Correct.

19 MS. OPPER-WEINER: [Speaking off microphone.]

20 CHAIRPERSON HILL: Okay. That's okay.

21 MR. SHAPIRO: And you're looking at Figure 1?

22 MR. GLASGOW: Yes, Figure 1. Yes. And so, do  
23 I have the wrong Ms. Gill that I'm testifying. I  
24 thought you testified to this today.

25 MS. GILL: We probably both said it.

1 MR. GLASGOW: I think you did.

2 MS. GILL: Yes.

3 MR. GLASGOW: Okay. And so, you're testifying  
4 that the yellow colored buildings on Lot 24 and 23 do  
5 not abut each other, but that there was a three and a  
6 half foot walkway between the two?

7 MS. GILL: Yes.

8 MR. GLASGOW: Okay. Now, turning to your tax  
9 assessment, you stated that that Office of Tax and  
10 Revenue came in February.

11 MS. GILL: Yes.

12 MR. GLASGOW: To inspect the properties. Do  
13 you know that that's what's known as the lookout date  
14 for the assessment?

15 CHAIRPERSON HILL: You can just say you don't  
16 know.

17 MS. GILL: I don't know.

18 CHAIRPERSON HILL: Unless you know, because I  
19 wouldn't know.

20 MR. GLASGOW: Okay. All right. And then with  
21 respect to that, you're stating that the tax -- that  
22 the Office of Tax and Revenue takes into account  
23 future construction when they are inspecting and  
24 assessing properties.

25 MS. GILL: That was my understanding what was

1 explained to me, yes.

2 MR. GLASGOW: Okay. Then that's your answer.

3 All right.

4 Next, with respect to the total of your tax  
5 assessment between years 2017 and 2018, is that  
6 difference a little bit over one percent of the  
7 decrease?

8 MS. GILL: I don't know the percentage. I  
9 just know the amount is less.

10 MR. GLASGOW: Okay. The amount is -- was the  
11 amount \$5,000 less on an assessment of over \$400,000?

12 MS. GILL: That sounds right, sir, but it's  
13 the first time ever since I've lived in the house in  
14 19 years that there's ever been a decrease of any  
15 sort.

16 MR. GLASGOW: And I think I've got a couple  
17 questions for Ms. Wanda Gill.

18 MS. GILL: All right, we'll switch.

19 MR. GLASGOW: Okay.

20 DR. GILL: Creature of habit.

21 CHAIRPERSON HILL: Okay, I'd like to remind  
22 everybody, we're going to calmly answer the questions,  
23 and then we're going to just get over to the Office of  
24 Planning. It's a simple, ask a question, answer the  
25 question.

1 MR. GLASGOW: You testified on the July 19 --  
2 I mean, 1888 permit, line 25 talking about bay  
3 windows.

4 DR. GILL: Correct.

5 MR. GLASGOW: Do you know what a bay window  
6 is?

7 DR. GILL: I do.

8 MR. GLASGOW: Okay.

9 DR. GILL: And my impression of number 25 is  
10 that the person who wrote in 1 realized that it was  
11 not a bay window and that they had inadvertently  
12 written the wrong thing down and scratched it out.

13 But I'm so glad you called me back because I  
14 know you have another question based on --

15 MR. GLASGOW: Can I ask that question?

16 CHAIRPERSON HILL: Yeah. Hold on. Go ahead.  
17 Yeah, just let him ask his questions, thank you.

18 MR. GLASGOW: Thank you. With respect to the  
19 permit that you mentioned.

20 DR. GILL: Uh-huh.

21 MR. GLASGOW: And can we get copies of that to  
22 the Board members?

23 DR. GILL: Uh-huh.

24 CHAIRPERSON HILL: Is that what we're waiting  
25 on?



1 DR. GILL: Yes.

2 MR. GLASGOW: Yes, that was, it says, no  
3 stable entrance on building line. It's stated that on  
4 the permit that was issued, it's Permit No. 152, dated  
5 July, looks like 24th, 1888. As was correctly stated  
6 in the EHG report.

7 DR. GILL: The misleading part in my opinion,  
8 sir, is that number 28 is a different question. As is  
9 number 30. Hence, they are not connected in terms of  
10 a direct quote because they are two separate questions  
11 that were answered by the person who filled the  
12 application out.

13 MR. GLASGOW: And I guess there's just a  
14 disagreement on that, given the nature of the  
15 questions --

16 CHAIRPERSON HILL: Okay.

17 MR. GLASGOW: -- that were there and what that  
18 response is.

19 CHAIRPERSON HILL: Okay.

20 MR. GLASGOW: All right.

21 CHAIRPERSON HILL: All right, Mr. Glasgow, do  
22 you have anything else?

23 MR. GLASGOW: With respect -- let me --

24 CHAIRPERSON HILL: Sure.

25 MR. GLASGOW: Let me look at my notes real

1 quickly, please.

2 MS. OPPER-WEINER: Can I say one other thing?

3 CHAIRPERSON HILL: No, one second. I'm sorry,  
4 you can't.

5 MS. OPPER-WEINER: All right.

6 [Pause.]

7 MR. GLASGOW: I have no other questions.

8 MS. OPPER-WEINER: It's kind of --

9 CHAIRPERSON HILL: Okay. All right.

10 MS. OPPER-WEINER: It's kind of related to his  
11 questions.

12 CHAIRPERSON HILL: No, no, it's okay. It's  
13 his opportunity to ask questions. You had your  
14 opportunity to provide testimony, and now we're going  
15 to kind of continue to work through. But you can ask  
16 the attorney, perhaps later she can bring something up  
17 if you'd like to, with the Office of Planning, as we  
18 kind of work through it, if there's something you want  
19 to have her ask.

20 Okay. So, I'm going to turn to the Office of  
21 Planning, and I guess before -- let's see. So, we've  
22 all looked at your report, and obviously please state  
23 your name for the record. But we've looked at your  
24 report and there's been a lot of discussion, and feel  
25 free to elaborate on any part of the discussion that

1 you've heard thus far. And obviously then we'll have  
2 questions. Thank you.

3 MR. COCHRAN: Thank you, Mr. Chair. And  
4 there's certainly some parts of the discussion I'd  
5 prefer not to elaborate on.

6 I'd like to help the Board get some focus  
7 here. We're talking about a special exception case.  
8 We're not talking about a variance. A special  
9 exception is permitted as long as you meet certain  
10 criteria. It's not a question of, does someone need  
11 something, should someone be entitled to something.  
12 It's a question of, is there going to be an adverse  
13 impact? Do they meet or not meet the criteria that  
14 are specified for a special exception?

15 OP is recommending that the special exception  
16 requests be approved because we believe they do meet  
17 the criteria specified for the special exceptions.

18 The second thing is, we're at the Board of  
19 Zoning Adjustment, not at the Historic Preservation  
20 Review Board. There are a lot of things that have  
21 come up today that I think are fascinating, having to  
22 do with the Historic Preservation, and whether or not  
23 that window existed at a particular time or not.

24 What we do know is a fact that relates to  
25 zoning as opposed to historic preservation, is that

1 that window is on a property line. It's an at-risk  
2 window. It's called an at-risk window because that  
3 means that it's at risk of being blocked up by some  
4 other structure, if somebody wants to construct on  
5 that property line. That's why they're discouraged  
6 and I'm not suggesting that anyone in this room had  
7 anything to do with that window ever getting put in.  
8 We don't know when it was put in.

9           The third thing is that we're also looking  
10 only at the accessory structure, not at the total  
11 development on the site. Regardless of what one might  
12 think about the overall development of the principle  
13 structure in conjunction with the accessory structure,  
14 the only thing before the Board today is the accessory  
15 structure.

16           With respect to that -- to the impact on the  
17 property to the north, OP has no question but that  
18 there would be a substantial impact on the light and  
19 air available to the kitchen at 905 Independence  
20 Avenue.

21           OP does not believe that that light would be  
22 in the phrase used in Section E-5201.3(a), that it  
23 would be unduly affected. And that's because, as has  
24 been established, it's a nonoriginal at-risk window.  
25 The applicant could come in right now and put up a

1 seven-foot high fence all along that property line and  
2 that window would be blocked, and that would be  
3 permitted under the zoning regulations.

4           While other aspects of the case clearly  
5 require special exception relief, the proposed  
6 construction on the lot line does not require relief,  
7 even though it would block that at-risk window.

8           And we've also noted in our report, some of  
9 the things that the applicant has agreed they would be  
10 willing to do to ameliorate this unfortunately, but in  
11 OP's opinion, still permitted impact on the light and  
12 air available to the kitchen. And, you know, there  
13 are 43 letters in opposition. There are seven  
14 individual letters of support. The ANC 6B and the  
15 Capitol Hill Restoration Society Committee have voted  
16 to recommend support for the application.

17           There are a couple of things, because I think  
18 the record is going to be examined, that I do need to  
19 correct. There are some internal inconsistencies in  
20 our report.

21           The applicant is requesting a special  
22 exception for the rear yard depth of the accessory  
23 structure, as we noted on page --

24           MS. OPPER-WEINER: Just --

25           MR. COCHRAN: Okay. These are very minor

1 things, but I'm just wanting to be sure that we are  
2 absolutely consistent within our report.

3           On pages 1 and 4, we said that the applicant  
4 is requesting a special exception for the rear yard  
5 depth of the accessory structure. Unfortunately, on  
6 page 5, we said accessory structure and principle  
7 dwelling. Forget it. It's just for the accessory  
8 structure.

9           And finally, that's on page 5. Page 1 and  
10 4 --

11           CHAIRPERSON HILL: Excuse me. I'm sorry. You  
12 are going to have to speak in your microphone if you  
13 do ask a question.

14           MS. OPPER-WEINER: I'm sorry.

15           CHAIRPERSON HILL: And at the same time, and I  
16 understand you're trying to follow along. So, there  
17 will be a chance to ask questions of the Office of  
18 Planning. At some point, you will have an opportunity  
19 to ask questions of them.

20           MS. OPPER-WEINER: But I can't if I don't hear  
21 what he's --

22           CHAIRPERSON HILL: But Mr. Cochran --

23           MR. COCHRAN: These are -- sorry.

24           CHAIRPERSON HILL: Mr. Cochran, if you can go  
25 a little bit slower?

1 MR. COCHRAN: I'd be happy to.

2 CHAIRPERSON HILL: And point out the page  
3 number so that Mrs. Oppen-Weimer (sic) --

4 MR. COCHRAN: I was just trying to help Mrs.  
5 Oppen-Weimer (sic) get to lunch.

6 CHAIRPERSON HILL: Sure. No, that's okay.

7 MR. COCHRAN: Okay. On page 1 and page 4, we  
8 note that there is a request for a special exception  
9 from the rear yard depth of the accessory structure.  
10 Unfortunately, on page 5, we said also that they were  
11 asking for a special exception from the principle  
12 structure. That's incorrect. It's just what's on the  
13 first page and what's in the table on page 4.

14 I'm saying these things, and normally I would  
15 skip over them, but I think this record is going to be  
16 closely examined so I want to be sure that you  
17 understand that we know we made an error in our  
18 report.

19 And that the rear yard relief request is for a  
20 two-foot reduction, as we note again on page 1 and  
21 page 4, not for a six-foot reduction as we said on  
22 page 7.

23 CHAIRPERSON HILL: Okay. So, Mr. Cochran,  
24 again, that doesn't change the report.

25 MR. COCHRAN: Not at all.

1           CHAIRPERSON HILL: All right. Okay. So,  
2 thank you for clarifying those. So, does the Board  
3 have questions now of Mr. Cochran?

4           MR. HART: Just a, and I'm not sure if you  
5 even know this answer, but because we've been talking  
6 about the report that the applicant put forward, the  
7 Traceries report, the only thing that's kind of  
8 curious and I don't know if you have a response for  
9 it, and I'm going to ask Traceries as well, but  
10 there's this three-foot, you know, I'm not even sure  
11 what to call it. Because there are building there,  
12 you're not going to have a pathway, so can you give  
13 any illumination as to what that might be, or why that  
14 would be --

15           MR. COCHRAN: This would be better answered by  
16 someone in our Historic Preservation Office staff. I  
17 can only say that I've looked at base maps and Sanborn  
18 maps from the early part of the 20th Century. There  
19 does appear to be an abutting adjacent structure up  
20 against the wall, up against the property line,  
21 presumably against the rear wall of 905 Independence  
22 Avenue.

23           However, as I saw those structures, they were  
24 not -- the structure that was torn down on the  
25 applicant's property was not necessarily quite as deep



1 as the structure at 905. So, it's conceivable.  
2 That's all I can say is it's conceivable that at some  
3 point that the window, the so-called at-risk window,  
4 may have looked out on to something as opposed to just  
5 been looking right at a party wall.

6 But that has nothing to do with the three-foot  
7 opening that I couldn't see on the map.

8 MR. HART: Thank you.

9 CHAIRPERSON HILL: Sure, go ahead.

10 MS. WHITE: Just one question. So, when you  
11 have an at-risk window at issue, and you're trying to  
12 meet the special exception requirement. Is it OP's  
13 position that the expectation of light and air and  
14 privacy is no longer there?

15 MR. COCHRAN: Well, the point -- one of the  
16 points of the zoning regulations, and one of the  
17 principle points, is to protect what's legally allowed  
18 by zoning. Unfortunately, an at-risk window isn't  
19 something that's legal. You know, somebody -- you can  
20 imagine any number of scenarios where someone might  
21 construct something that isn't legal, and then come  
22 back in and say, hey, this is going to have a negative  
23 impact on that. And you just have to say, I'm sorry.  
24 It is going to have a negative impact. What can we  
25 do to help ameliorate that?

1           But whether you did it, somebody did it 50  
2 years ago, it's still at-risk and that's just the way  
3 the law works and the zoning regulations work.

4           So, we've tried to sort of go the extra mile  
5 for a -- to help ameliorate something that's actually  
6 not even allowed to be there, and that's why we did  
7 make the suggestion that the applicant might want to  
8 pay for the, putting glass in the door, making the  
9 transom operable, et cetera, to get some cross-  
10 ventilation. I've been in Ms. Gill's property at  
11 their invitation, and it is small. There would  
12 clearly be an impact from that window, and we're just  
13 looking for something that would ameliorate that and  
14 still allow what it looks like Mr. Zusin can legally  
15 do, which is construct something on the party line.

16           CHAIRPERSON HILL: Okay. I had a question for  
17 you, Mr. Cochran.

18           So again, I understand you know, again, you  
19 could put a fence up there and the window would be  
20 blocked. But as far as the standards and how we're  
21 going about approving the special exception, can you  
22 kind of walk me through, I guess, how you got to kind  
23 of like unduly affected in terms of the light and air,  
24 like just -- I mean, you went there. And so, if you  
25 can just kind of walk me through why you feel it's

1 unduly affected?

2 MR. COCHRAN: Actually, this is going to sound  
3 a little bit like, you know, it depends on what the  
4 definition of is, is. I'm sorry. If anybody  
5 remembers that incident.

6 There's a difference between being  
7 substantially impacted and unduly affected. This is  
8 clearly substantially impacted. There will be less  
9 light in that kitchen. Unduly affected refers to  
10 whether you are affected in a way for which the law  
11 allows you to be protected. And the law doesn't allow  
12 you to be protected in this case because the window is  
13 not a legal window. So, that's the distinction that  
14 the Office of Planning is making.

15 CHAIRPERSON HILL: Okay. Okay. Okay, great.  
16 All right. Does anybody have any more questions for  
17 Mr. Cochran? Okay.

18 Does the party in opposition have any  
19 questions for Mr. Cochran? Okay. You need to put the  
20 microphone on again.

21 MS. OPPER-WEINER: I'm sorry.

22 CHAIRPERSON HILL: That's all right.

23 MS. OPPER-WEINER: I do --

24 CHAIRPERSON HILL: Sure.

25 MS. OPPER-WEINER: -- feel like I'm getting

1 married again.

2 CHAIRPERSON HILL: Oh, I do. Oh, sorry. I  
3 didn't get it.

4 MS. OPPER-WEINER: Mr. Cochran -- yeah, sorry.

5 CHAIRPERSON HILL: I was like complete -- I  
6 was like, is the microphone on? I was like, was there  
7 a microphone at your wedding? Okay. Right. Right.  
8 Okay.

9 MS. OPPER-WEINER: Couldn't help it.

10 CHAIRPERSON HILL: Sure, that's all right.  
11 Hey, might as well, yeah.

12 MS. OPPER-WEINER: Yeah. Mr. Cochran, do you  
13 define -- does the Office of Planning define a request  
14 for a special exception as a matter of right?

15 MR. COCHRAN: No, it's something that is  
16 permitted as long as you meet certain criteria.

17 MS. OPPER-WEINER: I understand. And it --

18 MR. COCHRAN: By right means you can do it  
19 without having to go before a review body.

20 MS. OPPER-WEINER: I understand. Okay.

21 MR. COCHRAN: For at least the BZA or the  
22 Zoning Commission.

23 MS. OPPER-WEINER: And what is the Office of  
24 Planning's position about the preexisting structures  
25 that are now in the Capitol Hill Historic District?

1 MR. COCHRAN: I'm sorry, I don't understand  
2 your question.

3 MS. OPPER-WEINER: Isn't it true that the  
4 properties in the Capitol Hill Historic District, what  
5 existed was grandfathered when the District was formed  
6 in 1976? Isn't that true?

7 MR. COCHRAN: A building's lot occupancy, rear  
8 yard, et cetera, yes. They were all grandfathered in.

9 MS. OPPER-WEINER: Okay, and a window?

10 MR. COCHRAN: No.

11 MS. OPPER-WEINER: A window is not  
12 grandfathered?

13 MR. COCHRAN: It's not something that -- an  
14 at-risk window is not something that's --

15 MS. OPPER-WEINER: Where is that written?

16 MR. COCHRAN: -- regulated by zoning.

17 MS. OPPER-WEINER: Where is that written, Mr.  
18 Cochran?

19 MR. COCHRAN: If it's not regulated by the  
20 zoning regulations, it couldn't be either  
21 grandfathered or not grandfathered in.

22 MS. OPPER-WEINER: Okay, well, I think that's  
23 what the definition of what is is. I'm not going to -  
24 - you mentioned the CHRS, Capitol Hill Restoration  
25 Society's support. Did you read that letter?

1 MR. COCHRAN: Actually, it was only the zoning  
2 committee, not the full Capitol Hill Restoration  
3 Society that supported it.

4 MS. OPPER-WEINER: Did you read that letter?

5 MR. COCHRAN: Yes, I did.

6 MS. OPPER-WEINER: Okay. It has the wrong  
7 address. It's supporting a different property. This  
8 is at, let's see -- and by the way, isn't it true that  
9 their normal procedure, because I've been through it  
10 myself, is for the Board to vote on this, not just the  
11 zoning committee?

12 But we're talking about Exhibit No. -- I'm  
13 trying to find it.

14 [Pause.]

15 MS. OPPER-WEINER: Ninety-five. And it  
16 addresses a different address. It's not 202 9th  
17 Street Southeast.

18 CHAIRPERSON HILL: Ninety-five?

19 MS. OPPER-WEINER: Yes, Exhibit No. 95. And  
20 it says, "Letter of support from Gary Peterson on the  
21 Zoning Commission of the Restoration Society."

22 MR. COCHRAN: You're correct. It says in the  
23 line that says --

24 CHAIRPERSON HILL: I'm waiting for it to open.

25 MR. COCHRAN: Sorry.

1 CHAIRPERSON HILL: Just give me one second.

2 [Pause.]

3 MR. COCHRAN: Say when. Okay, the subject  
4 line says, it regards BZA 19480 at 202 9th Street --

5 CHAIRPERSON HILL: Okay, I've got it.

6 MR. COCHRAN: -- Southeast. And then the  
7 first line of the body of the letter refers to a  
8 different case, 19462 316 G Street Northeast.

9 MS. OPPER-WEINER: So, isn't it true that  
10 that's not a very valuable document since it's not  
11 clear as to what it's referring to?

12 MR. COCHRAN: I would agree that it's not that  
13 clear.

14 MS. OPPER-WEINER: Okay, thank you.

15 CHAIRPERSON HILL: Okay.

16 MS. OPPER-WEINER: All right.

17 CHAIRPERSON HILL: No, that's interesting.

18 MS. OPPER-WEINER: I made my point.

19 CHAIRPERSON HILL: Okay.

20 MS. OPPER-WEINER: Well, I read everything,  
21 so --

22 CHAIRPERSON HILL: Oh, that's good. We all do  
23 as well, but you found that. Okay.

24 MS. OPPER-WEINER: Yeah, no. And it's easy to  
25 pass something by.

1 I have an awful lot of questions on your  
2 report.

3 CHAIRPERSON HILL: I'm going to let you have  
4 two more, okay?

5 MS. OPPER-WEINER: I can't do that, Mr. --

6 CHAIRPERSON HILL: Well, I'm sorry, you're  
7 going to have to because we have a report, we have the  
8 record, he's given his testimony --

9 MS. OPPER-WEINER: But there's inaccuracies in  
10 here in addition to the ones that -- let me start and  
11 you stop me.

12 CHAIRPERSON HILL: What is it that you are --  
13 I'm trying to think. We have a record from the Office  
14 of Planning. We've read the record from the Office of  
15 Planning. You are now saying that there are errors in  
16 that record.

17 MS. OPPER-WEINER: I am saying that, yes.

18 CHAIRPERSON HILL: Okay. All right. Before I  
19 get to the errors that you're having in the Office of  
20 Planning, are there any other questions that you have,  
21 other than the errors for the -- other than the  
22 errors, which are in the report from the Office of  
23 Planning, do you have any other questions for the  
24 Office of Planning?

25 MS. OPPER-WEINER: No.



1 CHAIRPERSON HILL: Okay. All right. So, go  
2 ahead, please, tell me where you think the errors are.

3 MS. OPPER-WEINER: Okay. On page 2 there is a  
4 -- it's very unclear about the adjacent properties in  
5 the second box of the diagram on the top. And it  
6 says, "A semi-detached two-story house is on the  
7 corner." And then, and on a separate lot --

8 CHAIRPERSON HILL: Where are you? I'm sorry.  
9 You're on page 2.

10 MS. OPPER-WEINER: Sorry.

11 CHAIRPERSON HILL: That's all right.

12 MS. OPPER-WEINER: Page 2. There is adjacent  
13 properties box, and then there's a description to the  
14 north.

15 CHAIRPERSON HILL: Okay.

16 MS. OPPER-WEINER: And it says, a semi -- you  
17 know how to read. It's a two-story house on the  
18 corner of 9th. And on a separate lot to the east, at  
19 the corner of Independence Avenue and the north/south  
20 alley, a carriage house residence formally part of the  
21 property to the west. On what do you base that, Mr.  
22 Cochran?

23 MR. COCHRAN: I was going back through old  
24 base maps.

25 MS. OPPER-WEINER: And?

1 CHAIRPERSON HILL: That's the answer.

2 MS. OPPER-WEINER: That's the answer?

3 MR. COCHRAN: Yes.

4 MS. OPPER-WEINER: And you don't say whether  
5 it's detached or semi-detached, or any kind of  
6 description there.

7 MR. COCHRAN: With respect to detached and  
8 semi-detached there have been several ways of  
9 interpreting that over the years. At one point the  
10 DCRA would refer to a property such as Ms. Gill's as  
11 semi-detached because it was built to one of the  
12 property lines.

13 Currently, they are now referring to that as a  
14 detached house because there is no wall. It would  
15 then, under the current interpretation, become a semi-  
16 detached house were there a carriage house constructed  
17 to the south that had -- that shared a wall with it.

18 MS. OPPER-WEINER: So, right now it's  
19 detached. Is that correct?

20 MR. COCHRAN: That's correct.

21 MS. OPPER-WEINER: Okay.

22 CHAIRPERSON HILL: Okay, Ms. Oppen-Weimer  
23 (sic), actually, I am going to stop -- Ms. Oppen-  
24 Weiner (sic), I am going to stop you, because I am  
25 taking the Office of Planning's report at face value

1 and I -- you know, does the Board have any questions  
2 concerning the Office of Planning report? Right.

3           So, if you want to -- I can't go have a lesson  
4 as to how the Office of Planning has done their job,  
5 you know. Like, you know, if you want to sit with the  
6 Office of Planning and they can explain how they came  
7 up with each issue and, you know, I mean, I just don't  
8 think that serves your case. I understand what we're  
9 here for. There's a window that's a problem, right?  
10 And that's what we're trying to get to.

11           So, let me think about how to go back about if  
12 you want to provide a list of questions and the Office  
13 of Planning can maybe respond to that in some fashion.  
14 I just don't want to spend all of our time going over  
15 all your questions --

16           MS. OPPER-WEINER: I'm willing to --

17           CHAIRPERSON HILL: -- all your questions on  
18 how the Office of Planning does their job.

19           MS. OPPER-WEINER: No, no, this is what's in  
20 the report and I have gone through it very carefully.  
21 And I have questions about the content. One thing  
22 is, they talk about 68.9 percent. In one of the  
23 documents we received it was 69.8 percent. We've had  
24 a situation here where the plans have changed.  
25 There's no mention in here of a brick fireplace.

1 There's no mention in here of brick walls. There's no  
2 mention in here of a basement. Well, that's the main  
3 house, so I take that back.

4           So, and then on page 2 itself, there's a  
5 picture of the proposed accessory structure which  
6 looks like it goes over the line of 204 9th Street  
7 Southeast. That's how I see it.

8           The at-risk window issue is crucial here  
9 because they're asking for something that is above the  
10 requirement of 450 square feet. If they do it at 450  
11 square feet they don't have to block Ms. Gill's  
12 window. That's a choice that they make.

13           But the frustration that I'm feeling, and that  
14 my client is feeling, is that they're asking for  
15 something that will do harm, do harm in a historic  
16 house that's been there since 1882 or 1888.

17           CHAIRPERSON HILL: We understand what you're  
18 asking. And I've got to let you know, like we  
19 understand what's happening, right? And no one wants  
20 their window taken away, okay? And so, that's not --  
21 whether that's our job or not is not necessarily what  
22 we're looking at.

23           As he said, they could build a fence right  
24 against that proper line and take your window away.  
25 Like, that's their right to do that. And so, you

1 know, I'm now trying to get --

2 Well, first, I'm going to ask Mr. Cochran if  
3 he can answer any of those questions that were pointed  
4 out. However, what we might have to do is, I have to  
5 kind of think about it a little bit. Maybe you're  
6 going to have to submit a list of questions. The  
7 Office of Planning can respond to those questions, and  
8 then we can come to a decision.

9 MS. OPPER-WEINER: There's a limit on the --

10 CHAIRPERSON HILL: I'm not sure --

11 MS. OPPER-WEINER: -- size of the fence, the  
12 height of fences in our neighborhood.

13 CHAIRPERSON HILL: No, I don't want to get  
14 into the fence thing. I'm sorry. So, does Mr.  
15 Cochran, do you have some response at this point, to  
16 all those questions?

17 MR. COCHRAN: Sorry, the one question I heard  
18 as a question sort of, was the illustration on page 3,  
19 and that's just a case of our own geographic  
20 information systems. When you lay on the buildings on  
21 top of the property lines, they don't always match.  
22 We use the best information available from a  
23 combination of departments in the District Government.

24 You can see where the property line is in  
25 green.

1 CHAIRPERSON HILL: Okay, actually, I'm going  
2 to stop you.

3 MR. COCHRAN: It's very possible that the  
4 extra line I put in scaled up incorrectly in the final  
5 version.

6 CHAIRPERSON HILL: Okay. I'm going to stop  
7 you. I think what we're going to have to do is,  
8 you're going to have to submit a list of questions  
9 that you have for the Office of Planning.

10 So, I'm going to go back to you, Mr. Glasgow.  
11 Do you have any questions for the Office of Planning?

12 MR. GLASGOW: No questions.

13 CHAIRPERSON HILL: Okay. I'm going to turn to  
14 the audience here and see if there's anybody else that  
15 would like to submit any kind of testimony. Is there  
16 anybody here from the ANC? Is there anybody here  
17 wishing to speak in support? Is there anybody here  
18 wishing to speak in opposition?

19 [No audible response.]

20 MS. OPPER-WEINER: Anyone else.

21 CHAIRPERSON HILL: Is there anyone else here  
22 wishing to speak in opposition? Okay. All right.

23 So, I'm going to go ahead and let you do any  
24 kind of conclusion that you'd like to. And then what  
25 I think also, Mr. Glasgow, I mean, in the interest of

1 time, I mean, the Board has a bunch of questions. I  
2 want to get to the Board's questions if they have any  
3 questions. But I know that there now is -- I don't  
4 want to go again through a list of things that you  
5 have in terms of concerns or questions with the Office  
6 of Planning's report. So, you can go ahead and submit  
7 your questions. The Office of Planning can respond to  
8 those questions and then we can look at them as a  
9 board.

10 Now again, if you'd like to go ahead, Ms.  
11 Oppen-Weiner (sic) and provide any concluding  
12 testimony, or conclusions to your presentation?

13 MS. OPPER-WEINER: I think Mr. Ringle wanted  
14 to say something in addition. He's a --

15 CHAIRPERSON HILL: Okay. I did ask -- I'll  
16 let you come forward. I did ask if there was any  
17 additional support or opposition. You did actually  
18 already come forward and provide -- you can come on up  
19 and we'll listen to what you have to say. But you did  
20 have an opportunity to be questioned by the attorney.

21 But please, go ahead and what would you like to add?

22 MR. RINGLE: This is just very quick. I just  
23 want to emphasize my opposition to the garage.  
24 Irrespective of the window question.

25 CHAIRPERSON HILL: Okay.

1 MR. RINGLE: It's force impact on me as the  
2 south abutting neighbor at 204 9th Street.

3 CHAIRPERSON HILL: Okay. Okay.

4 MR. RINGLE: Okay?

5 CHAIRPERSON HILL: All right. Thank you. All  
6 right. So, let's see. Okay. Back to the Board now.  
7 Oh, I'm sorry. Would you like to present anything in  
8 terms of conclusion testimony?

9 MS. OPPER-WEINER: Yes, I would. When would  
10 you like those questions? Is there a time?

11 CHAIRPERSON HILL: I'll get to it at the end,  
12 or you'll have time to do that.

13 I'm going to give you three minutes for a  
14 concluding testimony -- I mean, for your summary.

15 MS. OPPER-WEINER: Okay. I just want to say  
16 that I have never been involved in such a contentious  
17 kind of case where the attorneys refuse to speak to me  
18 on the phone, where the ANC representative who happens  
19 to be mine has an ethics violation in my opinion with  
20 the applicant, and participated in the case on the  
21 ANC, and voted in favor of the application. That's  
22 very troubling since he's my single-member district  
23 person as well.

24 That Mr. Zusin has filed a lawsuit against me,  
25 a strategic lawsuit against public participation,



1 which is a slap suit. Unbelievable. As soon as I got  
2 involved in this case, that's happened to me. And  
3 there's a complaint filed in D.C. Superior Court.

4           The other thing is the ANC's participation.  
5 They really did not reach out to us. Many of us were  
6 not contacted. I mean, there was a screw-up. Mr.  
7 Hagadorn (Phonetic), who is the SMD person, said he  
8 stopped talking to me after I got involved in this  
9 case. And so, this has been very disruptive, very  
10 unsettling, and very unhappy making. People were  
11 making decisions for her. Nobody reached out to Ms.  
12 Gill. She was treated so poorly at the ANC meetings  
13 from her description. I was not involved then.

14           When we went to the meeting differently, we  
15 got a hearing. But there's something really wrong  
16 here and that's one of the reason I stepped up to  
17 represent her.

18           There was a proposal to have meditation. Mr.  
19 Zuzin only said he'd -- we had a volunteer local  
20 neighborhood person who would have done it for free.  
21 I happen to know him, and I disclosed that. But they  
22 said they didn't want to. Okay.

23           Then he would only do it if she paid for half  
24 the fee. Well, unfortunately she's not able to. So,  
25 we haven't had mediation, we haven't had

1 conversations, the lawyers send me e-mails saying,  
2 only talk to us by e-mail. And there is -- I have a  
3 philosophy that there's a resolution to every problem.

4 We're proposing that they do not have to block her  
5 window under any circumstances. Or if they insist on  
6 extending that garage, that walkway solution is  
7 something that has been discussed with, we mentioned  
8 it to Mr. Cochran when he came over to see the house.

9           So, those are two possibilities. They do not  
10 require -- they are not required to do harm to this  
11 woman in this matter. If they do 450 square feet they  
12 can have the two-car garage that they want, and the  
13 second floor above it.

14           I have a second story, by the way, on my  
15 garage, and I came to BZA to get it. I have a 17-foot  
16 deep garage, and I keep a full-sized vehicle in it.  
17 So, I just think that there's been some very peculiar  
18 things happening here, but we've not been  
19 communicating at all. Mr. Zusin and I have never  
20 spoken. Mr. Glasgow and I have never spoken, and Mr.  
21 Gaon and I haven't spoken in many, many weeks. I was  
22 retained on April 5th.

23           So, I'm troubled by this, that anyone would  
24 want to do this to this woman, who has been there, who  
25 loves her home, who loves the District. She's a

1 teacher at Eastern High School. I mean, and I do  
2 understand that there are zoning rules. But here's  
3 one asking to go beyond it. And they made the choice  
4 to extend the size of their main dwelling. And  
5 they're planning to add an outdoor trellis. I mean,  
6 the lot coverage that they're talking about is only  
7 not the garage. They want to have 68.9 inches, or  
8 maybe it's -- excuse me, feet, 69.8 feet. Whatever it  
9 is, we keep getting bait and switch proposals about  
10 this project and it's very difficult to have  
11 confidence and trust in what they propose to us and  
12 what's going to happen.

13 First time I saw the brick, they're going to  
14 put brick walls on both sides of the yards.

15 CHAIRPERSON HILL: Okay, I'm just trying to  
16 get you back on time here. So, is that the end of  
17 your conclusion?

18 MS. OPPER-WEINER: Yes. And therefore, I  
19 believe that you should deny the -- as I said in my  
20 report, have you seen my statement that was done for  
21 Ms. Gill that I filed yesterday, unfortunately? It  
22 wasn't on -- I've said what I think is okay, to deny  
23 the two special exceptions for the lot occupancy and  
24 for the size of the garage. And we didn't have any  
25 position --

1 CHAIRPERSON HILL: Okay.

2 MS. OPPER-WEINER: -- on the other --

3 CHAIRPERSON HILL: Okay. All right. We do  
4 have that in the record.

5 So, I'm going to let the applicant also have  
6 three minutes in conclusion. And then I think that  
7 the Board will have some questions. I know I have  
8 some questions. I just wanted to kind of get through  
9 everything so we could get up to the questions.

10 And, Ms. Oppen-Weiner (sic), again, like you  
11 know, we are here every week, week in and week out,  
12 and we do this in terms of what the regulations state  
13 for us that this is special exception. We look  
14 through the Office of Planning. We analyze what's  
15 going on, and there is nobody who is trying to do  
16 anything to anyone, right? And there is nothing that  
17 this is, other than what is within the regulations and  
18 how we move forward on an applicant trying to do  
19 something with their property. I'm just being clear  
20 that we look at the same thing in many different  
21 cases, we look at it the same way each and every time.

22 So, I just wanted to kind of let you know that  
23 the system, again, there is an ANC process. There is  
24 the Office of Planning. There is the Board of Zoning  
25 Adjustment. There is a process and it's done in the

1 public. And so, you know --

2 MS. OPFER-WEINER: We were there. We were at  
3 the meeting when they voted.

4 CHAIRPERSON HILL: So, yeah. And so, I'm just  
5 saying like, you can lose but like, there is an open  
6 process. So, but I'm just giving you my --

7 MS. OPFER-WEINER: But the definition of --

8 CHAIRPERSON HILL: I'm just making a comment.

9 MS. OPFER-WEINER: -- unduly and  
10 substantially, which is the crux of this case --

11 CHAIRPERSON HILL: Right.

12 MS. OPFER-WEINER: -- as you know, is up to  
13 you to make that judgement, obviously.

14 CHAIRPERSON HILL: Right. Okay. Thank you.  
15 Mr. Glasgow, you want your three minutes?

16 MR. GLASGOW: All right. Thank you, Mr.  
17 Chairman. First of all, with respect to the three-  
18 and-a-half-foot walkway as that's come up several  
19 times, we submit the trakeries report is accurate as  
20 to how that occurred. And we would submit that in a  
21 plain reading of the based atlas plat in Exhibit 34C,  
22 there was no three-and-a-half-foot walkway that went  
23 from the alley to the street out on 9th Street.  
24 That's just clear reading of that figure from the 1893  
25 map.

1           And then there was other testimony and other  
2 plats that showed that in the traceries report. It  
3 goes through historically, the different pages of that  
4 report. It's plain as can be. There was no three-  
5 and-a-half-foot walkway there, as has been asserted by  
6 the opposition.

7           It also shows the structure that was pre-  
8 existing there, that carriage house going through  
9 several iterations and being shown on the base atlas  
10 plats, and the Sanborn map through 1960.

11           With respect to the window and the law in the  
12 District of Columbia, because I think that that's -- I  
13 don't think it's open for interpretation. There have  
14 been very interpretation -- various interpretations  
15 give here today. It's the District of Columbia Court  
16 of Appeals decision in *Hafassi v. Stigletts*  
17 (phonetic). It's 862 Atlantic Second, 901. We will  
18 be submitting a copy of that for the record.

19           It plainly states that --

20           MS. OPPER-WEINER: What's the date of that?

21           MR. GLASGOW: The date of that decision is  
22 2004.

23           "An easement in an unobstructed passage of  
24 light and air cannot be acquired by prescription.  
25 That's what they're asking for. They're saying things

1 are grandfathered, they have a right to it."

2 "American courts have wisely refused to allow  
3 the acquisition by prescription of easements of light  
4 and air. In fact, this is the rule now established in  
5 all American states, with a single exception,  
6 Delaware. This rule flows from the basic principle  
7 that the actual enjoyment of the air and light by the  
8 owner of the house is upon their land only, and that  
9 the owner of the adjoining lands has submitted to  
10 nothing which actually encroached upon his rights.  
11 Thus, one may obstruct his neighbor's windows at any  
12 time and no action can be maintained for obstructing a  
13 view."

14 That's a D.C. Court of Appeals decision from  
15 2004. And as I said, we would like to have the record  
16 left open for the submission of that Court of Appeals  
17 decision.

18 MS. OPPER-WEINER: And I would like to be able  
19 to --

20 CHAIRPERSON HILL: Sure, that's fine.

21 MS. OPPER-WEINER: -- provide a response.

22 CHAIRPERSON HILL: You have a copy there of  
23 the -- you would like to submit that now? Okay, so  
24 there's a copy here.

25 MR. GLASGOW: We believe that our submission

1 in the Office of Planning report and the testimony of  
2 the Office of Planning and the witnesses have  
3 established that the special exception criteria have  
4 been met in this case, and that there is no undue  
5 adverse impact because the law is clear that the  
6 window can be blocked up. It's not that we're not  
7 unsympathetic and that's why Mr. Zusin has agreed to  
8 the things to ameliorate the issue as proposed by the  
9 Office of Planning. We thought that that was a  
10 reasonable solution.

11 And so, we think there is a way to proceed  
12 forward and there is a way to get some light and air  
13 into the kitchen, but it's not by impinging upon Mr.  
14 Zusin's ability and what it is that he can do on his  
15 site. And as we said, the three-and-a-half-foot  
16 walkway there, that's just incorrect. And the plats,  
17 and the historical plats of the District of Columbia,  
18 not one plat, but many plats, that were prepared and  
19 used by researchers show that that's not the fact.

20 CHAIRPERSON HILL: No, I'm sorry, this is his  
21 conclusion.

22 MS. OPPER-WEINER: Okay, I --

23 CHAIRPERSON HILL: Is that it?

24 MR. GLASGOW: Yes, sir.

25 CHAIRPERSON HILL: Okay.



1 MR. GLASGOW: That concludes my statement.

2 CHAIRPERSON HILL: Okay, great. Thank you.  
3 So, all right. Does the Board have some questions?

4 MS. WHITE: I guess my only question is, I  
5 mean, you guys are going to be living next to each  
6 other so -- you're not. But, well, I mean, the houses  
7 are going to be next to each other, so I guess my main  
8 question is whether or not there is any room for you  
9 know, coming up with an agreement that works for both  
10 of you. I know that's not a legal question, but --

11 MS. OPPER-WEINER: Well, we certainly --

12 MS. WHITE: -- it was something I'm just  
13 curious about.

14 MS. OPPER-WEINER: It's very difficult when  
15 there's no communication, verbal communication or  
16 effort.

17 Certainly, there is -- I really believe that.  
18 And you know, that we can come to some solution, but  
19 you can't do it if someone is not talking. You know,  
20 if both sides --

21 MR. GLASGOW: Mr. Chairman, I'd like to  
22 respond since that's been raised a couple times now.

23 After I saw the e-mail correspondence where  
24 the ANC representative said to Ms. Oppen-Weiner (sic)  
25 that I'm sorry, when I talk with you things get

1 misconstrued, things are misunderstood, I can only --  
2 I only want to communicate with you through e-mail.  
3 That was in a correspondence with the ANC. I saw  
4 that.

5           Then when my associate, Mr. Gaon, was accused  
6 of having unethical conduct with respect to  
7 attorney/client matters, I said, I am very concerned  
8 about all of this. All this happened before I was  
9 getting more directly involved in the case, and I  
10 said, I think that the only way to proceed here is  
11 that we can converse through e-mail, and then take it  
12 from there.

13           CHAIRPERSON HILL: Okay. Okay. So, no, no,  
14 we are asking our questions real quick. Just, you've  
15 had a long --

16           MS. OPFER-WEINER: I've --

17           CHAIRPERSON HILL: We have stayed very quiet  
18 for about an hour and a half, okay?

19           MS. OPFER-WEINER: I am very --

20           CHAIRPERSON HILL: And so, now, you know, you  
21 also accused them of doing things as well, as like  
22 they're not --

23           MS. OPFER-WEINER: I have evidence, they  
24 don't.

25           CHAIRPERSON HILL: So, it just doesn't matter.

1 So, I don't know how -- I mean, Ms. Gill, again, I  
2 understand your situation, right? We understand your  
3 situation, and we're not going to make a decision  
4 today because we, at the very least, are going to have  
5 a little bit more information submitted into the  
6 record. You, Ms. Oppen-Weiner (sic) are going to have  
7 an opportunity to submit questions to the Office of  
8 Planning. The Office of Planning will have an  
9 opportunity to present those questions.

10 However, Ms. Gill, I'm kind of asking you  
11 again like, I don't know what or how -- and you can do  
12 this through e-mail because that seems to be the best  
13 way at this point, to communicate with the applicant,  
14 is if there is some -- I guess I've heard a variety of  
15 solutions, right? I mean, I don't know if any of  
16 those work for you, Mr. Zusin, in terms of like, you  
17 know, the project you're trying to do, and the, you  
18 know, to me it seems like -- I don't know exactly how  
19 you would have to build the garage differently so that  
20 it would help Ms. Gill in terms of her window.

21 I think that there is, you know, perhaps some  
22 discussions that can still take place, and there's at  
23 least going to be, again, a little bit of time here  
24 before we come back for a decision if there is any way  
25 to come to any kind of a, you know, agreement in terms

1 of some way to help her, knowing that again, these  
2 windows are at-risk windows. You know? And so, I  
3 believe they're at-risk windows.

4 And so, I don't know -- you know, we can go  
5 back and the Board is going to end up deliberating in  
6 terms of what exactly the basis is of the decisions  
7 from the Office of Planning. But if you can, in these  
8 next couple weeks, whatever it is that we end up  
9 having to do before we can come back here, communicate  
10 via e-mail with the applicant attorneys, right, and  
11 see if there is some kind of, you know, something you  
12 can get to.

13 Now, I don't know -- and I do want -- this is  
14 a question to Mr. Zusin. So, what is it that was  
15 suggested in terms of -- you seem to be in agreement  
16 of something, and I wasn't clear as to what that was.  
17 It was a suggestion from the Office of Planning.

18 MR. ZUSIN: Correct. So, the suggestion from  
19 the Office of Planning, and we actually made the  
20 proposal to do the same thing before that report came  
21 out with the same suggestion, but there is, if you  
22 take a look at the three pages we gave you with the  
23 pictures, there's a door that's kind of right around  
24 the corner from the at-risk window that's currently a  
25 solid door from pictures that we saw of her kitchen,

1 open you know, faces the kitchen, opens up into the  
2 kitchen.

3 Our proposal was to install some light in that  
4 door or replace that door with a glass door.

5 CHAIRPERSON HILL: That's the one that goes  
6 out into the alley.

7 MR. ZUSIN: No, it doesn't.

8 CHAIRPERSON HILL: No?

9 MR. ZUSIN: No, it goes out into their  
10 separate area.

11 CHAIRPERSON HILL: All right. Okay, I see it.

12 MR. ZUSIN: And actually, the Office of  
13 Planning brought a historic specialist out to the  
14 site, and she said that Historic Preservation would be  
15 -- well, I'll let Steve speak to that, but they would  
16 be amenable to having --

17 CHAIRPERSON HILL: That's fine.

18 MR. ZUSIN: -- that and a glass door.

19 CHAIRPERSON HILL: So, but that again is the  
20 place that you were last at. Right? Okay. I just  
21 wanted to be clear.

22 So, does the Board have any other questions?

23 MR. HART: Yeah, Mr. Chairman, this is for Ms.  
24 Eig. I'm sorry, I need to get -- I'm just so, not  
25 confused. I just want to know a little bit more about

1 this.

2 MS. HOTALING-EIG: Perplexed. Right.

3 MR. HART: And really what I'm talking about  
4 is that kind of, we keep on talking about a three and  
5 a half foot. Whatever that passage, whatever the  
6 dotted line is supposed to actually describe.

7 MS. HOTALING-EIG: All right.

8 MR. HART: Because I know about, you know,  
9 building restriction lines. I understand that. This  
10 one is not that, but it is something else because they  
11 wouldn't have continued to keep it in all of the  
12 drawings. So, I would like to understand what that  
13 is. If you could --

14 MS. HOTALING-EIG: I would be happy to explain  
15 that to you.

16 MR. HART: Because I think this also gets to  
17 the -- well, it could, get to the window issue. But  
18 if you could explain it?

19 MS. HOTALING-EIG: Well, the -- I'm going to  
20 try to make this clear because as Mr. Zusin has said,  
21 don't confuse the Board with this. But in 1864 a  
22 subdivision of 48 lots, all 20-feet wide except for  
23 the two end lots on either side of the alley, and I  
24 have a report that we can submit to that. One of the  
25 end lots is Lot No. 24, which is the corner lot on

1 which at one time 200 9th Street in its entirety, and  
2 the house that Ms. Gill lives in now, which was a  
3 carriage house, all were on one lot, Lot 24.

4 202 9th Street, which was probably built at  
5 exactly the same time as 200, because there was a  
6 grocer in the corner of the building.

7 MR. SHAPIRO: Wait, I need to interrupt you  
8 because I lost that a bit. I'm looking at the  
9 diagram, at one of the base maps. You're saying 24  
10 and 23 were originally one lot?

11 MS. HOTALING-EIG: No, they were two different  
12 lots. Twenty-three and 24 were two different lots.  
13 Okay.

14 And if you look, the -- I don't have the --

15 MR. HART: You're saying that 24 actually  
16 extended --

17 MS. HOTALING-EIG: To the alley, yes.

18 MR. HART: -- from -- to the alley.

19 MS. HOTALING-EIG: To the alley.

20 MR. HART: So, from --

21 MS. HOTALING-EIG: Twenty-four extended to the  
22 alley.

23 MR. HART: -- 9th Street --

24 MS. HOTALING-EIG: Okay.

25 MR. HART: I think I'm right.

1 MS. HOTALING-EIG: It was 21 and a half feet  
2 wide.

3 MR. SHAPIRO: I see. Thank you.

4 MS. HOTALING-EIG: Lot 23, where Mr. Zusin's  
5 house, was only 20 feet wide. However, to a grocery  
6 store, which looks like a house, and a house were  
7 built on 23 and 24. The grocery store was on 24, the  
8 adjacent house was on 23. However, it was built --

9 MR. HART: And the adjacent --

10 MS. HOTALING-EIG: -- three and a half feet  
11 over Lot 24, so that the house didn't follow its  
12 proper lot line, because they were built by the same  
13 party. He built the two houses and he probably didn't  
14 measure properly.

15 This was determined, and that in the map that  
16 you have, that you're seeing, that lot line is right  
17 through a part of Mr. Zusin's house. That's because  
18 Mr. Zusin's house is across the lot line onto Lot 24.  
19 So he's all of Lot 23, plus Lot 24.

20 And if you notice that there's a little piece  
21 of open space at the bottom of that, well, that's  
22 where his house was supposed to be shifted over by  
23 three and a half feet from where it was actually  
24 built.

25 But then what happened, at some point they



1 realized that this was a mistake, so the maps are  
2 recording this line showing the actual -- where the  
3 actual house is going over here. And what they do is  
4 that in 1924, a survey is taken and Lot 24 is  
5 subdivided into three parts. It is subdivided into  
6 Lot 63, which is essentially the house at 200, plus a  
7 big addition that was built on it. And 64, which is  
8 the lot that Ms. Gill owns. And then a very tiny lot,  
9 three and a half feet wide, approximately, by 105 feet  
10 deep, that is actually made Mr. Zusin's household. So  
11 that he had all of Lot 23. Not he, but the previous  
12 owner had all of Lot 23, plus this little tiny of 24  
13 lot, so that it was all together.

14           It took until 1924 because before it was  
15 actually subdivided. That's on record. There's a  
16 picture of it here in that report. And we also know,  
17 I went as far back as 1960, which shows that the  
18 property that is known today as 202 is formed of Lot  
19 23, plus this tiny of 24 Lot, that they are one  
20 property. So there never was any space. It was just  
21 a mistake in where they built the house. And I can  
22 see why they might have misunderstood what that meant.

23       But we went back and looked at it really carefully to  
24 understand exactly what happened over time.

25           So, that there was never an open space. And

1 you might notice that if you look at page 3, that Lot  
2 23, the frame, which is that yellow, the carriage  
3 house that's behind Mr. Zusin's house, was behind Mr.  
4 Zusin's house, it is extends from Lot 24 -- I'm sorry,  
5 lot 23, through the entire lot 23, and captures that  
6 three and a half feet.

7           So, at some point they figured out, oh wait,  
8 we didn't line these up properly, and the Lot 22 house  
9 is on the proper lot line. So, it was corrected by  
10 the time the few years later when Lot 22 was  
11 developed.

12           CHAIRPERSON HILL: Okay. Okay.

13           MR. HART: I appreciate it, thank you.

14           CHAIRPERSON HILL: Mr. Hart.

15           MS. HOTALING-EIG: Okay. I hope I didn't  
16 confuse you. I hope it did clarify this situation.

17           MR. HART: I understood that, thank you.

18           MS. HOTALING-EIG: Thank you.

19           CHAIRPERSON HILL: Okay. Does the Board have  
20 anything else to add? Okay. So, I guess where we are  
21 right now is that Ms. Oppen-Weiner (sic), if you could  
22 submit your questions to the Office of Planning that  
23 you had about their report, and then there seems to be  
24 a couple of -- all this additional material that has  
25 been handed to us over the past hour and a half, if

1 you could make sure it gets submitted into the record,  
2 okay? Everything that gets submitted into the record.

3 I suppose, Mr. Cochran, if you could answer the  
4 questions from Ms. Oppen-Weiner (sic) and then I'd  
5 like to have, unless the Board -- I'm kind of walking  
6 through this now. What my thoughts were, is that then  
7 the -- I would let the applicant and the party status  
8 people supply a, you know, a supplemental report that  
9 basically speaks to everything that's been added, as  
10 well as the Office of Planning's answers to Mrs.  
11 Oppen-Weiner's (sic) questions. And so, that would  
12 mean that I have to get your questions first, Mrs.  
13 Oppen-Weiner (sic) --

14 MS. OPPER-WEINER: Sure.

15 CHAIRPERSON HILL: -- to the Office of  
16 Planning. The Office of Planning has to have time to  
17 respond. And then you and the applicant have an  
18 opportunity to provide a supplemental report on all  
19 the new information. And then we would get to a  
20 hearing case.

21 So, I'm sorry, meeting case. Thank you.

22 And so, Mr. Moy, if you followed that, what  
23 would be good in terms of timing?

24 MR. MOY: Okay, Mr. Chair. I'm going to work  
25 backwards and I think that starting with a -- I'm

1 guessing, you'll correct me, that this is going to be  
2 a decision date, and staff would suggest June 7th,  
3 okay?

4 CHAIRPERSON HILL: June 7th is getting very  
5 popular, Mr. Moy.

6 MS. OPPER-WEINER: I'm going to be out of the  
7 country until -- I'm leaving next Tuesday until  
8 through June 4th, so I will be -- and I have other  
9 cases.

10 CHAIRPERSON HILL: Okay. Well, I mean, we're  
11 not going to need anybody for the decision part. I  
12 just need you to get your questions to the Office of  
13 Planning.

14 MS. OPPER-WEINER: Those I can get, but the  
15 supplemental summary that I would like to do after I  
16 review the case, I have an emergency, and then I'm  
17 leaving Tuesday. So, I need a little more time.

18 CHAIRPERSON HILL: Okay.

19 MS. OPPER-WEINER: I'm a sole practitioner.

20 CHAIRPERSON HILL: That's all right. Ms.  
21 Gill, I remember you now, you know. I'm sorry, Ms.  
22 Gill. Ms. Oppen-Weiner (sic), I remember you now.  
23 Right? We were trying to schedule stuff with you  
24 earlier, the last time. And so, so the week after the  
25 7th is what, the 14th then?

1 MR. MOY: Yes.

2 CHAIRPERSON HILL: Okay. So, will the 14th be  
3 good?

4 MS. OPPER-WEINER: That will be -- yes.

5 CHAIRPERSON HILL: Okay.

6 MS. OPPER-WEINER: [Speaking off microphone.]

7 CHAIRPERSON HILL: Okay. No, no, no, I just  
8 remember going -- I'm sorry. I just, I haven't had  
9 lunch, blood sugar is low, you know, right, just  
10 trying to get us to where we're all together.

11 So, the -- right. So, the 14th. So, work  
12 back from the 14th, Mr. Moy.

13 MS. OPPER-WEINER: That's a meeting date.

14 CHAIRPERSON HILL: That's a meeting date.

15 MS. OPPER-WEINER: Okay.

16 MR. MOY: Okay, so decision meeting on the  
17 14th, that's deliberation among the Board, and the  
18 supplemental reports from the two -- from the party  
19 and the applicant, due let's say, a week prior, June  
20 7th.

21 MS. OPPER-WEINER: It's going to be very  
22 difficult for me. Could I have the end of the --  
23 Monday, maybe? Is that too late for you all? Does  
24 that not give you --

25 MR. MOY: I'll leave it up to the Board.

1 CHAIRPERSON HILL: We can do Monday.

2 MR. MOY: Okay.

3 CHAIRPERSON HILL: We can do Monday.

4 MR. MOY: Okay. So, then that would be --

5 MS. OPPER-WEINER: That would be great. Thank  
6 you.

7 MR. MOY: -- June 12th. Monday. All right?  
8 And let's see, where am I? OP's response to Ms.  
9 Oppen-Weiner's (sic) questions due -- when would you  
10 be able to provide --

11 MS. OPPER-WEINER: Well, the questions I could  
12 probably get in tomorrow. I mean, you know, because I  
13 have --

14 MR. MOY: Okay.

15 CHAIRPERSON HILL: No, good. Good. That's  
16 great. Okay.

17 MR. COCHRAN: That's great.

18 CHAIRPERSON HILL: So, then you'll have them  
19 from tomorrow.

20 MS. OPPER-WEINER: Yeah.

21 MR. MOY: Then, Office of Planning can reply  
22 by Monday? Do you want to make it also June --

23 MR. COCHRAN: No, sir.

24 MR. MOY: -- June 12th? Or sooner?

25 CHAIRPERSON HILL: Well, when can you get back

1 the answers, if you get them tomorrow?

2 MR. COCHRAN: Wednesday.

3 MR. MOY: Wednesday.

4 CHAIRPERSON HILL: Okay.

5 MR. MOY: Okay, Wednesday, May 24th.

6 CHAIRPERSON HILL: We can give you more time  
7 if you'd like. I was just --

8 MS. OPPER-WEINER: I'll be gone, but --

9 CHAIRPERSON HILL: Yeah. You need to -- yeah,  
10 there you go. Thanks.

11 MR. MOY: And I think, what I'd like to do, if  
12 I may, Mr. Chair, I can reach out to the CRHS for a  
13 corrected letter, if you don't mind.

14 CHAIRPERSON HILL: That would be great. Thank  
15 you so much for mentioning that.

16 MR. MOY: So we have a complete record. And I  
17 believe that's it, unless I'm missing something.

18 MR. GLASGOW: And I understand that the  
19 responses are going to be just to the supplemental  
20 materials and not reargument of the case.

21 CHAIRPERSON HILL: The responses are going to  
22 be to the supplemental material, exactly, and whatever  
23 answers come from the Office of Planning, not a  
24 reargument of the case. So, it's just to what was  
25 added into the record, because we have everyone else's

1 argument. And so, just what is added into the record  
2 and what the Office of Planning is responding to your  
3 questions. Okay?

4 And before we do let you go, again, I just  
5 can't stress enough, like if there's any way that you  
6 guys can kind of figure out how -- because again, the  
7 Board is very sympathetic to the situation. It is  
8 very sympathetic to the windows.

9 Again, as someone who lives in a very dense  
10 area, as you know, we've all been city residents for a  
11 very, very long time, and know how things kind of  
12 happen, and it's very unfortunate that neighbors -- I  
13 mean, it's not unfortunate. It just is what it is,  
14 also.

15 I mean, you know, but if you can send some e-  
16 mails to the attorneys and see if you can come to some  
17 kind of an agreement, maybe you can offer something  
18 more that you haven't offered. You know, I mean, I  
19 don't know, maybe it's a really nice door, you know?  
20 I mean, air conditioning unit over the top. I don't  
21 know. You know, I mean, something that adds to the  
22 possibility of helping because no one wants to lose  
23 their window, right?

24 So, okay. So, that's what I have. Does the  
25 Board have anything else to add? Okay. Then thank



1 you all very much. Thank you all very much. And  
2 we're going to take a lunch break, as I had mentioned  
3 before. And so, well hold on. Actually, I don't know  
4 what we're going to do. Hold on one second.

5 [Pause.]

6 CHAIRPERSON HILL: So actually, we're just  
7 going to -- we're going to take a fast break. So,  
8 we're going to take 15 minutes. We're going to take  
9 15 minutes, so whoever is here for the last two cases,  
10 we're going to take 15 minutes and be right back.  
11 Thank you.

12 [Off the record from 3:03 p.m. to 3:26 p.m.]

13 CHAIRPERSON HILL: Mr. Moy, if we can get  
14 settled back in we have a new commissioner with us.  
15 Commissioner Hood is joining us for the afternoon  
16 round.

17 And you can go ahead and call the next  
18 continued hearing case when you have an opportunity.

19 MR. MOY: Thank you, Mr. Chairman. All right.  
20 So, this would be Case Application No. 19491 of  
21 Jurassic Properties, Inc. Once again, this is a  
22 request for a special exception relief from the rear  
23 yard requirement, Subtitle G, Section 405.2, which  
24 would construct a restaurant in the MU-4 Zone at  
25 premises 2009, 18th Street Northwest, Square 2557, Lot

1 19.

2 CHAIRPERSON HILL: Okay, great. Thank you.  
3 And I think there was a person here that was in  
4 opposition. If you would like to come forward as  
5 well.

6 Did you get sworn in earlier today?

7 [No audible response.]

8 CHAIRPERSON HILL: Oh, okay, great. All  
9 right. Okay. So, if you could just introduce  
10 yourselves from my right to left? Please, go ahead.

11 MR. ROTH: Alan Roth, 1845 Vernon Street  
12 Northwest.

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

15 MS. SANCHEZ: Cynthia Sanchez.

16 CHAIRPERSON HILL: I'm sorry, you've got to  
17 speak into one of the microphones there.

18 MS. SANCHEZ: Cynthia Sanchez, applicant.

19 MR. SANCHEZ: Jimmy Sanchez, applicant.

20 CHAIRPERSON HILL: Okay. And was everyone  
21 sworn in? I don't remember whether you guys were  
22 sworn in or not.

23 [No audible response.]

24 CHAIRPERSON HILL: Okay. Okay. Mr. Moy, this  
25 is a record for you, I think, the number of swearings

1 ins. If you could please swear in the two people here  
2 that were wishing to testify.

3 Yeah, and if there's anyone else who would  
4 like to testify, please go ahead and stand if you want  
5 to be sworn in. Okay.

6 MR. MOY: Good afternoon.

7 [Oath administered to the participants.]

8 MR. MOY: Thank you. You may be seated.

9 CHAIRPERSON HILL: Okay. So, we went ahead  
10 and looked at the -- we had a hearing, and I think we  
11 did a pretty full hearing. I can't recall whether I  
12 went through the ANC, Mr. Moy, or not, and the  
13 opposition or support. Did I go through everybody?

14 MR. MOY: You did.

15 CHAIRPERSON HILL: Okay, all right. So, then  
16 we had a pretty full hearing and then we went ahead  
17 and asked for some further information to be submitted  
18 into the record. And then if we had any questions we  
19 were going to ask of the applicant and/or there was a  
20 party in opposition, and we had -- if there was any  
21 questions.

22 So, does the Board have any questions for the  
23 applicant or what was submitted, or the opposition, it  
24 looks like you would like to say something?

25 MR. GAON: I just want to say that we spoke to

1 the party in opposition this morning and we think  
2 we've come up with a decent solution to alleviate some  
3 of his concerns, and I can read them to you. I have  
4 them written down here. It would be widening the  
5 loading berth to a minimum of 15 feet, and providing a  
6 turning radius sufficient to allow box trucks, at  
7 least 18-feet in length, to back into and exit from  
8 the loading berth when entering and leaving the alley  
9 from and to Florida Avenue Northwest.

10 So, he had some concerns about larger box  
11 trucks actually backing into the loading berth, and  
12 we're going to provide a wider berth and --

13 CHAIRPERSON HILL: Okay.

14 MR. GAON: -- sufficient turning radius so  
15 they can --

16 CHAIRPERSON HILL: Okay. Okay.

17 MR. GAON: -- back into that berth.

18 CHAIRPERSON HILL: Great. Great. Does the  
19 Board have any questions on anything?

20 MR. HOOD: Yeah, I do, Mr. Chairman.

21 CHAIRPERSON HILL: Sure.

22 MR. HOOD: We did get a supplemental and I'm  
23 having some --

24 CHAIRPERSON HILL: Yeah, sure.

25 MR. HOOD: -- difficulties here. But I'm not

1 sure what the exhibit number is, but we got something  
2 from DDOT. And they espoused -- exposed, I mean,  
3 talked about a lot of that, including the widening the  
4 berth. Did you all review that? Have you seen that?

5 MR. GAON: Yes.

6 MR. ROTH: Yes, sir.

7 MR. HOOD: All right. All right. That's all  
8 I needed to know.

9 CHAIRPERSON HILL: Okay, thank you. So, let's  
10 see. Then what I would need -- so, does anybody have  
11 any more questions for anybody? Okay.

12 So, what we would need is drawings, okay?

13 MR. GAON: That's what I was going to submit.

14 CHAIRPERSON HILL: And so, if you want to go  
15 ahead and submit the drawings concerning the two items  
16 that you just mentioned? And then also, if you could  
17 submit -- I think you did, but just kind of the  
18 conditions that you were requesting? You were looking  
19 for flexibility to vary the exterior design of  
20 materials of the building in order to respond to HPRB  
21 comments, and then flexibility to vary the location  
22 and configuration of the parking spaces.

23 So, just if you could again submit that --

24 MR. GAON: Of course.

25 CHAIRPERSON HILL: -- into the record in terms

1 of conditions that you would like the Board to  
2 consider for the order?

3 MR. GAON: Of course.

4 CHAIRPERSON HILL: And then we can go ahead  
5 and put this on a decision meeting. And so, that  
6 would be -- when do you think I can get that; we can  
7 get that? The architect.

8 MR. GAON: I just want to --

9 CHAIRPERSON HILL: Sure.

10 MR. GAON: Monday.

11 CHAIRPERSON HILL: Okay. So, then if we get  
12 those Monday, Mr. Moy, and do people have to have  
13 seven days after that? I always am unclear.

14 MS. GLAZER: Well, there are no other parties  
15 to this proceeding. I believe Mr. Roth was a person  
16 in opposition.

17 CHAIRPERSON HILL: Uh-huh.

18 MS. GLAZER: So --

19 CHAIRPERSON HILL: So, I don't have to give  
20 seven days is what I'm asking.

21 MS. GLAZER: Well, the ANC was a party, or is  
22 an automatic party, but I don't know that they have  
23 participated in this.

24 CHAIRPERSON HILL: Okay. So, I don't have to  
25 give seven days?

1 MS. GLAZER: Well, this is not --

2 CHAIRPERSON HILL: Okay. All right.

3 MS. GLAZER: -- post-hearing submission.

4 You're going to continue this?

5 CHAIRPERSON HILL: No, this is it.

6 MS. GLAZER: Just set it for a meeting.

7 CHAIRPERSON HILL: Decision, yeah.

8 MS. GLAZER: You mean for a response?

9 CHAIRPERSON HILL: Oh, yeah, we're off anyway.  
10 Right. Okay. So, no, no, no. So, and now I'm just  
11 having a -- I can have this discussion off-line, I  
12 suppose, because there was something I was curious of  
13 what the regulations in terms of allowing seven days  
14 to, if anything comes into the record, but maybe  
15 that's just I'm a little confused about things.

16 MS. GLAZER: Well, the regulations do provide  
17 for that if by other parties. But it doesn't appear  
18 that there are any other parties. Correct me if I'm  
19 wrong.

20 CHAIRPERSON HILL: Okay. Okay. So,  
21 regardless, now that I think about it anyway, we're  
22 not here the following Wednesday. So, we -- the  
23 earliest we could come to a decision is the Wednesday  
24 after that. And I don't have a calendar in front of  
25 me.

1 MR. GAON: May 31st.

2 CHAIRPERSON HILL: The 31st. Thank you. So,  
3 could we -- is that -- oh, you've got stuff on the  
4 31st? The 7th then?

5 MR. MOY: The 31st docket is -- it's quite  
6 full, Mr. Chair.

7 CHAIRPERSON HILL: Okay. So, the 7th? We're  
8 going to go to a decision in the 7th.

9 MR. GAON: Okay.

10 CHAIRPERSON HILL: Okay?

11 MR. HOOD: Mr. Chairman, I'll be back on the  
12 14th, but you know, like I came back this week. If  
13 you don't need me here I think I'll be fine with a  
14 proxy.

15 CHAIRPERSON HILL: Right. I think you'd be  
16 fine with a proxy, Chairman Hood. Thank you so much.  
17 You're here for the next one, right? So, yeah.

18 Okay. And you were here for this one too.  
19 You're correct.

20 So, all right. So, we're closing the hearing.  
21 You're going to give the Board new drawings, and  
22 we'll put this on for decision on the 7th of June.

23 MR. GAON: That's correct.

24 CHAIRPERSON HILL: Okay, great. Wonderful.

25 MR. GAON: Thank you.



1 MR. MOY: And if you can make your filings by  
2 May 31st, how does that sound?

3 MR. GAON: I thought we were filing Monday.

4 MR. MOY: Oh, Monday. That's right. I'm  
5 sorry. I'm slow today. Thank you.

6 CHAIRPERSON HILL: Yeah, you can --

7 MR. GAON: If you want it May 31st, I can do  
8 it May 31st.

9 CHAIRPERSON HILL: No, Monday is good because  
10 I don't -- the seven days is still better than not.

11 MR. GAON: Yeah.

12 CHAIRPERSON HILL: So, go ahead and do the  
13 Monday.

14 MR. GAON: I'll submit it Monday.

15 CHAIRPERSON HILL: Right. Okay. Great. All  
16 right. Well, I'm sorry you had to wait around for so  
17 long for that. Actually, I'm not really sorry. Okay.  
18 Thank you. Thank you. Thank you.

19 MR. ROTH: Thank you, Mr. Chairman.

20 MR. SANCHEZ: Thank you.

21 CHAIRPERSON HILL: Thank you.

22 [Pause.]

23 CHAIRPERSON HILL: Whenever you're ready, Mr.  
24 Moy.

25 MR. MOY: Oh, I'm ready, sir. This is your

1 decision on Appeal No. 19441 of Richardson Place  
2 Neighborhood Association. This is the appeal of the  
3 decisions made on September 27th, 2016 and October 20,  
4 2016 by the Zoning Administrator, Department of  
5 Consumer and Regulatory Affairs to issue building  
6 permits No. B-1611469, and B-1611470 to permit the  
7 construction of two adjacent flats in the R-4  
8 District, 410 and 412 Richardson Place Northwest,  
9 Square 507, Lots 101 and 102. And as the Board will  
10 recall, this is a continued decision from its decision  
11 date of May 10th.

12 CHAIRPERSON HILL: Okay, great. Thank you,  
13 Mr. Moy. There are a few preliminary matters that the  
14 Board, we need to walk through a little bit.

15 So, this is what I was speaking of earlier,  
16 trying to figure out earlier. So, why 602.3 allows  
17 for responses for the appellant to respond to the  
18 record so we can waive Y-602.3 if the Board had wanted  
19 to. And again, this is for -- and I'm going to take a  
20 step back.

21 The Board had asked for information from DCRA,  
22 and we had only asked for information from DCRA.  
23 After the information was submitted from DCRA, the  
24 appellant submitted something to the information that  
25 was submitted to DCRA. And that is, again, now the

1 part of the new regulations which is why 602.3, in  
2 terms of allowing them -- so, allowing the applicant  
3 to respond to the information that was asked for.

4           After speaking with the Office of the Attorney  
5 General it seems as though, you know again, the Board  
6 can waive that and then would be pulling the  
7 information from the record in terms of the response  
8 from the appellant. However, I think that would just  
9 be a larger -- like there are criteria to discuss in  
10 terms of waiving that.

11           And so, I would not go through that exercise.  
12 And then after that, there was the motion to strike.  
13 That which was submitted by the applicant. I'm  
14 sorry, by the appellant.

15           So, I'm sorry. Go ahead.

16           MS. GLAZER: The motion to strike was filed by  
17 DCRA.

18           CHAIRPERSON HILL: Thank you. The motion to  
19 strike was filed by DCRA, and what they were striking  
20 was the response from the appellant. And so, I would  
21 make a motion to deny the motion to strike rather than  
22 deny the appellant the opportunity to respond to  
23 DCRA's information.

24           MR. HOOD: I'll second that, Mr. Chairman,  
25 because I thought all that personally was taken off

1 the table. But if it's still on the table I will  
2 second your motion.

3 CHAIRPERSON HILL: Okay. So, the motion has  
4 been made to deny the motion to strike. The motion  
5 has been seconded.

6 [Vote taken.]

7 CHAIRPERSON HILL: Okay. So, the motion to  
8 strike has been denied, okay?

9 So, then now we get to the motion of  
10 timeliness.

11 MS. GLAZER: [Speaking off microphone.]

12 CHAIRPERSON HILL: Sorry. Go ahead.

13 MS. GLAZER: Does the Board want to call the  
14 vote on that?

15 CHAIRPERSON HILL: We did, I'm sorry. Oh, I'm  
16 sorry, I did -- did I not do that? So, the motion has  
17 been made and seconded.

18 [Vote taken.]

19 CHAIRPERSON HILL: So that motion passes to  
20 strike.

21 MR. MOY: Staff would record the vote as four,  
22 to zero, to one. This is on your motion, Chairman  
23 Hill, seconded by Mr. Hood. Also in support, Ms.  
24 White and Vice Chair Hart.

25 CHAIRPERSON HILL: Okay. Thank you. So then,

1 that brings us to the timeliness motion.

2 So, is the Board ready to deliberate on the  
3 timeliness motion? All right. So, with regard to  
4 timeliness in Section, again, Y-302.6, the Board is  
5 able to extend the 60-day time period if the appellant  
6 demonstrates that there were exceptional circumstances  
7 outside of its control that substantially impaired its  
8 ability to file the appeal, and the extension of time  
9 will not prejudice the parties to the appeal.

10 Yes?

11 MS. GLAZER: Before the Board gets to the  
12 exceptional circumstances, I thought the Board needed  
13 to get into what the administrative decision that was  
14 being appealed from was. That was an issue that came  
15 before the exceptional circumstances.

16 There was a revision and two initial permits.  
17 The Board needs to address that first.

18 CHAIRPERSON HILL: Sure. Okay. Does the  
19 Board have an opinion?

20 Can you remind me again, Sherry, what are the  
21 two -- I think it was the -- it was the latest one is  
22 what I'm trying to think of.

23 MS. GLAZER: Well, the appeal was taken by the  
24 appellant from the revision permits, which were issued  
25 in, let's see, September and October of 2016. And

1 it's critical in this case because the initial permits  
2 were issued back in 2011 and 2012. So, the timeliness  
3 question depends in part on what the decision is.  
4 That was an argument made, that the Board needs to  
5 address.

6 CHAIRPERSON HILL: So, the most recent date  
7 that you have for me is which date?

8 MS. GLAZER: There were two building permits  
9 that were issued August 31st, 2011 and April 20th,  
10 2012, and then revision permits that were issued  
11 September 27, 2016 and November -- excuse me, October  
12 10th, 2016. The appeal was filed on December 16,  
13 2016. So, depending on which date the Board  
14 determines is the decision being complained of, that  
15 will determine whether it was timely or not.

16 MR. HOOD: Can I ask a clarifying question,  
17 Mr. Chairman? So, we're looking at the building  
18 permits from 2011/2012, versus the latter two permits.  
19 And I think through the hearing -- well, through the  
20 appeal process -- well, from what I heard, the  
21 appellant mentioned that when they reasonably should  
22 have known, right? So, you're going back -- we're  
23 going back now and looking at the 2011/2012, but the  
24 later ones are, which were done in what, 2016? So,  
25 you're saying, we need to decide which --

1 administratively, which ones we are looking at.

2 MS. GLAZER: Well, the 60-day period as you  
3 know, runs from the date of the administrative  
4 decision complained of, and as I recall, the argument  
5 in its simplest form by the owner and DCRA, was that  
6 the initial permits reflect the decision approving two  
7 two-family dwellings, whereas -- and that the later  
8 permits were revision permits which changed minor  
9 things, but essentially reaffirmed the decision.

10 Now that is of course not what the appellant's  
11 contention was. And there was testimony on that.

12 MR. HOOD: Their intention -- they're saying  
13 it was misrepresented, the way I took it. Yeah. And  
14 they're saying it's misrepresented in 2011 --

15 MS. GLAZER: Yeah, so that they wouldn't have  
16 known, or shouldn't have known.

17 MR. HOOD: And I think the facts show that  
18 they were misrepresented. I'm not sure what others  
19 feel.

20 CHAIRPERSON HILL: I mean, we were going to  
21 get to that discussion. We're trying to figure out I  
22 guess -- the earliest one then, Sherry, is the date  
23 that we're speaking -- I mean, Ms. Glazer, is the date  
24 that we're speaking from. So, that's what I would say  
25 is the date we're working from.

1 MS. GLAZER: That's up for the Board to  
2 decide.

3 CHAIRPERSON HILL: Okay. No, and so, can you  
4 tell me that first date again?

5 MS. GLAZER: The two earlier dates were  
6 September 27, 2016, and October 10th, 2016. The later  
7 dates were not -- I'm sorry, those were the later  
8 dates. The earlier dates were August 31, 2011 and  
9 April 20th, 2012. These are the dates that the  
10 permits were issued.

11 CHAIRPERSON HILL: I would say we're going  
12 back to 2011 as the Board. Now we're just having a  
13 discussion. If that's the one where they, the  
14 applicant, wouldn't -- I'm sorry, the appellant would  
15 not have known the intent of the what was actually  
16 being proposed. And so, that then again takes me to  
17 my discussion, which is that I didn't think that -- I  
18 thought that it was an exceptional circumstance. In  
19 order for us to get to the merits of the case, and if  
20 you know, please, everyone can chime in here, that the  
21 appellant was not aware of this co-living start-up,  
22 you know, if we get to the merits, until October of  
23 2016.

24 And so, therefore, I would say that if the  
25 extension of time does not prejudice the parties to



1 the appeal, that we would go ahead and allow the Board  
2 to extend the 60-day time period so that the appellant  
3 could file the appeal. And where I'm getting in terms  
4 of the extension of time will not prejudice the  
5 parties to the appeal is that, that is what was going  
6 to be built anyway, meaning the flats were going to be  
7 built anyway. It's not changing what was going to be  
8 built. Now it is at issue then is whether or not the  
9 Zoning Administrator has issued the certificate of  
10 occupancy accurately as per what is being planned.

11 MS. GLAZER: Correct.

12 CHAIRPERSON HILL: So, do you all have any  
13 thoughts as to whether or not to extend the 60-day  
14 time period and agree that -- agree with me that the  
15 appellant would not have known and the exceptional  
16 circumstances, they would not have known what was  
17 going to be proposed until October of 2016?

18 MS. WHITE: Mr. Chairman, I would agree with  
19 you that the extension is necessary because the  
20 appellant would not have known until 2016.

21 CHAIRPERSON HILL: Okay. So, that's two.

22 MR. HOOD: I would agree, Mr. Chairman. I  
23 think it's right in line with Section 302.6. I think  
24 you cited that earlier. So, I would agree with 302.6,  
25 in this case with the extension.

1 CHAIRPERSON HILL: Okay. Then, I would make a  
2 motion to deny the motion to dismiss as untimely, and  
3 ask for a second.

4 MR. HOOD: I'll second it.

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

7 [Vote taken.]

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

9 MR. MOY: Staff would record the vote as four,  
10 to zero, to one. This is on Chairman Hill's motion to  
11 deny the motion to dismiss on timeliness. Seconded  
12 the motion, Mr. Hood. Also in support, Ms. White and  
13 Vice Chair Hart. Board seat vacant.

14 CHAIRPERSON HILL: Okay. So, now we're to the  
15 merits of the case. Okay? Is the Board ready to  
16 deliberate? Okay.

17 So, I'm going to go through kind of my  
18 thoughts, and then would like to hear what the Board  
19 has to say. I have been pretty conflicted with this  
20 in terms of the information that was given. I think I  
21 know where I might end up but I want to kind of talk  
22 through some things with the Board.

23 The merits of the case seem to hinge on, did  
24 the ZA err from DCRA's argument, Subtitle X, Section  
25 1102.1? In all appeals and applications the burden of

1 proof shall rest with the appellant or applicant. If  
2 no evidence is present in opposition to the case, the  
3 appellant or applicant shall not be relieved of this  
4 responsibility.

5 DCRA continues to, I think, kind of you know,  
6 hang its hat on the definition of dwelling and family.

7 Dwelling, two-family -- a dwelling used exclusively  
8 as a residence for two families living independently  
9 of each other. A two-family dwelling is a flat.  
10 Family one, one or more persons related by blood,  
11 marriage, or adoption, or not more than six persons  
12 who are not so related, including foster children,  
13 living together as a single house, keeping unit --  
14 single housekeeping unit, using certain rooms and  
15 housekeeping facilities in common, provided that the  
16 term family shall include a religious community having  
17 not more than 15 members.

18 I agree with DCRA's definition and how they  
19 applied that. The part that I was having a little bit  
20 of difficulty with in terms of the appellant was the  
21 independently of each other.

22 The property has sworn an affidavit stating  
23 that each family unit will have a maximum occupancy of  
24 six residents per family. So that again goes to the  
25 DCRA argument.

1           I wouldn't have any conflict, I suppose, if  
2 the two flats were controlled by different  
3 organizations, whether families were living  
4 independently of each other. I would not have a  
5 problem with the definition. I'm not certain they are  
6 living completely independently of each other, since  
7 controlled by one entity. However, how would this be  
8 any different from any property owner who has multiple  
9 group homes and a common management company with  
10 maintenance personnel. So that's again, where I'm  
11 having the struggle.

12           Again, then, going to -- and this is kind of  
13 open for discussion. Like, I'm just kind of laying  
14 out a bunch of stuff here, because I'm not sure where  
15 I am and I'd like to hear from the Board. But I see  
16 also that how the zoning -- and again, since this is  
17 an appeal and the appeal has a very high burden, and  
18 that burden lies with the appellant, that I don't  
19 necessarily at the same time see that the zoning  
20 administrator erred in their definition of a -- erred  
21 in the way they applied the definition.

22           I don't know if -- and you know, there is the  
23 zoning -- you know, someone from the Zoning Commission  
24 is here. I don't know what niche this seems to be  
25 falling into that I'm having difficulty with in terms

1 of, you know, how there are some similarities between  
2 the different flats, however the definition still  
3 remaining the same concerning families.

4 DCRA claims the certificate of occupancies  
5 were properly issued for two family flats for several  
6 reasons. The proposed use is not an apartment house,  
7 rooming or tenement house. The approval of the  
8 certificate of occupancies was not an arbitrary or  
9 capricious decision as claimed by the appellant. The  
10 owner represented it will not -- the owner represented  
11 that it will not allow more than six unrelated  
12 residents into each unit. Accordingly, DCRA alleges  
13 that the appellant has not met their burden of proof.

14 For me again, the -- I tend to lean toward  
15 agreeing with DCRA's interpretation. And I'm kind of  
16 saying that outright. At the same time, however, I am  
17 struggling with the independent nature of the business  
18 enterprise.

19 And so, that's where I kind of am, as we have  
20 this discussion. I would like to also thank Chairman  
21 Hood for coming back because I know this isn't your  
22 day. And we were going to do this when it was your  
23 day, and I appreciate you being here because you know,  
24 you have had decades more experience than we have, at  
25 your advanced age. And so, I look for your wisdom,

1 you know. And I don't mean to throw you on that. I  
2 really don't. But so, I really am, this is kind of  
3 where I am and so I'd like to hear from the Board.

4 MR. HART: Yeah, Mr. Chairman. Thank you very  
5 much for starting us off.

6 In thinking about this, I think it definitely  
7 has to do with kind of definitions of some terminology  
8 that was kind of put before us. And you brought up  
9 the issue about dwelling, and also the issue of  
10 family. And it seems as though you were saying that  
11 the living independently piece was a difficult part of  
12 this for you to -- shouldn't say difficult. It is a -  
13 - you were trying to understand whether or not this  
14 was supposed to be independent or not. If these units  
15 are independent or not.

16 And, you know, in the definition of family  
17 they do talk about six persons who are not so related,  
18 including foster children, living together as a single  
19 housekeeping unit, using certain rooms and  
20 housekeeping facilities in common. And it seems as  
21 though that these, if you look at what the owner, let  
22 me call them, is doing, they are kind of allowing that  
23 to happen. While they are -- while it is under the  
24 same management of a organization, these are -- I  
25 would contend that they are living independently of

1 each other.

2           Because I see them as being one six-family  
3 unit that has -- or a six-person unit that has a  
4 common room, they have independent rooms, and they  
5 have a shared kitchen, and then a whole other unit  
6 that has the same piece. And so, I think that the  
7 separation is evident in that, in that aspect.

8           I don't think that -- it seems as though there  
9 are quite a number of you know, housing in D.C. that  
10 has a similar type of arrangement. You have, you  
11 know, six kind of nonrelated people or groups of  
12 nonrelated people that live together. I think that  
13 the -- I don't want to say unique, but the different  
14 part about this is that typically you have a kind of a  
15 building owner that is separating their house into  
16 different, you know, units so that somebody can come  
17 and live and they can rent out to, you know, to  
18 whomever that is.

19           In this case there is kind of an organization  
20 that is doing the same thing. And so, it is a  
21 separate piece, I think, that is kind of causing that  
22 hesitation, you know. And I just think that there is  
23 -- that the information that was provided -- and I  
24 would like to thank all of the groups for submitting  
25 the information and diligently going through this.

1 It's a lot of information to kind of crunch through.

2 But I think that you know, DCRA was within  
3 their bounds when they were deciding to issue the  
4 building permits in, what is that, September 27th and  
5 October the 10th, for the units. So, I think all  
6 told, I think I would be more in support of this than  
7 -- sorry. Not support of the appeal. I would be okay  
8 with the building permits and DCRA's interpretation of  
9 the code, the zoning regulations to be able to, like I  
10 said, be in support of the owners interpretation as  
11 well.

12 CHAIRPERSON HILL: Okay, great. Thank you.  
13 Yeah. I mean, so, I'm going to keep going down the  
14 line here and see what anyone has to add. Please, Ms.  
15 White?

16 MS. WHITE: Well, I mean, I kind of struggled  
17 with this as well. I mean, I think DCRA did meet  
18 their burden in terms of proving that these units,  
19 these various units did constitute families, if you  
20 look at the strict definition if the D.C. Municipal  
21 Regulation.

22 My just my common-sense approach is that I  
23 looked at it and to me it was almost like an apartment  
24 building. You know, because you had two units.  
25 You're probably going to have 12 people at least, in



1 each unit. They're all under separate contracts,  
2 similar to those that were signing contracts for  
3 apartment buildings, but they have shared facilities.

4 But I think if you look at the regulations  
5 strictly, that they met the parameters of the  
6 definition of a flat for those two buildings, even  
7 though you know, my common sense tells me that  
8 together you're looking at, you know, 24 units there.

9 But I struggled with it, but I know I've got  
10 to look at the strict definition of family and  
11 dwelling. I will say that in the event that this is  
12 approved, that it will be up to common to closely  
13 follow the rules and regulations of the District so as  
14 to not get outside of the definition of a flat.

15 So, those are some of my initial comments.

16 MR. HOOD: All right. I'm coming from a  
17 different angle. I think the appellant has brought up  
18 a good argument. It goes back to what I think Board  
19 Member Hart mentioned about the definitions, because  
20 this is what this is about more or less.

21 Actually, the way I see it, as we all know the  
22 dwelling is a two-family. A dwelling used exclusively  
23 as a residence with two families living independently  
24 of each other, a two-family dwelling is a flat. And I  
25 don't have to read it, and we know about the whole

1 issue with the -- and I think I brought this up at the  
2 hearing, with the Fair Housing Act, and about the six  
3 persons being unrelated; related by blood, marriage,  
4 and adoption.

5 But, when we start talking about the use of  
6 the oak -- it's not an oak tree. Not an oak tree.  
7 Okay. Whatever the name -- I must be thinking about  
8 the club.

9 But anyway, Oak Commons, obviously the use for  
10 me is the issue. And I think that the Zoning  
11 Administrator has erred because for me as a Zoning  
12 Commission, this changes in an R-4 Zone, the zone  
13 plan, for me. And I know this is maybe not part of  
14 the appeal, but this actually is getting ready to  
15 change the character of a neighborhood, and we're  
16 doing it under the auspices of definitions.

17 So, for me, I'm having a problem getting  
18 there. I think the appellant has made their case, and  
19 this definitely is -- first of all, what's being  
20 proposed for the most part, the way I see in the  
21 evidence, is not a matter of right in the R-4 Zone.  
22 So, unless I'm missing something, I think the  
23 appellants are right on target and I don't want to --  
24 I have to be very careful of what I say because  
25 everything I say gets printed.

1           So, then I want to make sure I'm correct. I  
2 don't want to make any accusations, because that will  
3 get printed. Or it will get tweeted by some people.  
4 I don't mean to call anybody out, so I have to be very  
5 careful. But what I'm saying is, I want to make sure  
6 that the Zoning Administrator is not first of all,  
7 changing the zone plan. And I think proceeding with  
8 this and allowing this, I think he does that here.

9           So, that's just my two cents. It sounds like  
10 everyone else is going to maybe deny the appeal. I'm  
11 not speaking for you, but I would be voting in favor  
12 to uphold this appeal. That's what I had. We can  
13 finish discussing it more if you want to.

14           CHAIRPERSON HILL: Okay. Yeah, again, so I  
15 think this is why we deliberate in public and I was  
16 confused. I appreciate, Chairman Hood, you being a  
17 little bit more clear in terms of your opinion on the  
18 information. I again, had been, as I do think, you  
19 know, Board Member White is kind of indicating, but  
20 also, I don't know, I mean, like I've been on the  
21 fence with it as I said, in terms of the strict  
22 application of the regulations via the definition, and  
23 also then, even if you looked at the strict  
24 applications of the definition, where it is the  
25 independently part is where again, I said I was having

1 trouble with, insofar as there was in the record,  
2 there's one person in one of the flats that is going  
3 to be responsible for the maintenance in all the other  
4 flats. And so, that to me connected, that to me  
5 connected the different units. Even if that weren't  
6 the case, I still don't feel as though these are truly  
7 independent of each other.

8           And so, I don't know.

9           MS. WHITE: I'm struggling with that part as  
10 well.

11           MR. HART: Well, I think that part of this  
12 too, is I mean, you know, Chairman Hood, you bring up  
13 an issue that is really around -- well, I know we  
14 don't want to reopen necessarily the zoning  
15 regulations in whole, but there may be an issue here  
16 about how to deal with kind of a, I don't want to say  
17 emerging, but something that was not necessarily  
18 foreseen in the zoning regulations, or when the zoning  
19 regulations were, you know, more recently being  
20 updated. And maybe this is something that talks to  
21 giving a little bit more clarity around that issue  
22 because, you know, it seems as though this, what's  
23 being proposed is somewhat in the middle of a lot of  
24 different things, which is why I think folks are kind  
25 of struggling with it.

1           And it's not like I, you know, think that this  
2 is clear cut. I think that this definitely has the  
3 issue about having this co-living -- I'm not really  
4 sure what you call it. But this type of living  
5 arrangement, maybe that is something that needs to be  
6 more clearly understood or discussed in the zoning  
7 regulations so that it is you know, clear for the  
8 public what is being allowed or not allowed in certain  
9 areas.

10           MS. WHITE: Mr. Hood, can you just restate  
11 part of your rationale again for your thinking, if  
12 that's okay, Mr. Chairman?

13           MR. HOOD: Well, let me go to the bottom line.  
14 The bottom line when I look at all the facts, I  
15 looked at the owner, I looked at what DCRA said, and I  
16 looked at what the appellant, the Richardson  
17 Neighborhood Organization, I looked at what they  
18 mentioned, and for me the bottom line through all of  
19 that is changing the character of a neighborhood.  
20 That's kind of where I kind of fall down. That's  
21 where I have some issues.

22           And I think the Chairman, when he mentions  
23 about the independence, I think to me, that's another  
24 evidence that goes towards my point of view. But let  
25 me go first, and I want to get to Board Member Hart.

1 Even in the '58 regulations, from my time here, there  
2 were things that we had to do further clarification.  
3 So, going into ZR-16 we knew that there were going to  
4 -- we have a laundry list now and I think we change it  
5 every quarter. We have a -- we came up with a  
6 standard of when we want to make the changes, to try  
7 to do exactly what you stated. And I'm going to see  
8 if we can add this to the list. I don't know if we  
9 can refine it. We just need to maybe do some more  
10 discovery on it.

11 But as these issues come up we try to make  
12 sure we clarify them. So, but back to this issue,  
13 Board Member White. Let me see if I can pull my sheet  
14 up here.

15 For me, though, you know, like I think all of  
16 us said, it gets down to the definitions. And maybe  
17 I'm looking at the definitions a little differently,  
18 and I'm looking at the outcomes. I think that the  
19 Richardson Neighborhood Association -- no, I'm sorry,  
20 the Richardson's Place Neighborhood Association make a  
21 valid point. Even with the time limits for me, when  
22 they should have reasonably known. And to me I think  
23 this whole thing -- and I just think that the ZA, this  
24 is an example of the ZA's interpretation, which I  
25 think is wrong. That's where I am.

1           Like I said, I will be voting to uphold it.  
2   And the reason being, I think this changes the  
3   character of that neighborhood under the R-4 Zone,  
4   which this is not necessarily a matter-of-right.  
5   That's where I am.

6           CHAIRPERSON HILL:   Okay.   Well, Chairman Hood  
7   again, appreciate your thoughts, and I agree with you.  
8   I am agreeing with your -- the statements that you  
9   made.   Again, for me, whether -- it's not what I think  
10  the definition clearly states in terms of  
11  independence.   And it's not that there is one person  
12  there that's looking at all of the entities.   It's  
13  that one entity is controlling four places in a small  
14  area.

15           So, I would be on the side now to, you know,  
16  uphold the appeal.   Meaning, I would be voting to  
17  uphold the appeal.

18           Is there anything else we have to talk about?  
19   Okay.   All right.   Then, I'm going to make a motion.  
20   We're going to have it, and make a motion to grant  
21  the appeal of No. 19441 of Richardson Place  
22  Neighborhood Association.

23           MR. HOOD:   I'll second it.

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

1 [Vote taken.]

2 CHAIRPERSON HILL: Motion passes, Mr. Moy.

3 MR. MOY: Staff would record the vote as  
4 three, to one, to one. This is on the motion of  
5 Chairman Hill to grant the appeal. Seconded the  
6 motion, Mr. Hood. Also in support, Ms. White.  
7 Opposed to the motion is Vice Chair Hart. And we have  
8 a board seat vacant.

9 CHAIRPERSON HILL: Motion passes, Mr. Moy.

10 MR. MOY: Yes, sir. Full order.

11 CHAIRPERSON HILL: Full order, Mr. Moy. All  
12 right. Thank you all.

13 I think we're -- right? Do we have anything  
14 else, Mr. Moy?

15 MR. MOY: Just a minor, on the staff side.  
16 Although I've done this before, I noticed this before,  
17 but you know, I like to be redundant.

18 One of the appeals that were originally  
19 scheduled for today had been rescheduled to June 14th  
20 at the applicant's request. And that's Appeal No.  
21 19485 of the Chain Bridge Road Preservation Committee.  
22 And that's it.

23 CHAIRPERSON HILL: Okay. And then going to go  
24 ahead and make a, I guess an announcement. I don't  
25 know what it is. We're going to do summer dress is



1 what I've been told it is, after Memorial Day, which  
2 means that we don't have to wear ties. That's all I  
3 thought was --

4 MS. WHITE: What does that mean for me?

5 CHAIRPERSON HILL: I don't know what it means  
6 for the ladies, but for women, I don't know how that  
7 works, to be quite honest. But so, there you go.

8 MR. HOOD: You can adopt the language that I  
9 usually use.

10 CHAIRPERSON HILL: What is that?

11 MR. HOOD: You have to watch it on -- you have  
12 to stream it.

13 CHAIRPERSON HILL: Oh, is that how it works?  
14 Okay. All right.

15 So, that being the case, so there's nothing  
16 else before the Board, Mr. Moy?

17 MR. MOY: That's correct, sir.

18 CHAIRPERSON HILL: All right. Thank you.  
19 Then, we stand adjourned. Thank you.

20 [Whereupon, at 4:12 p.m., the public hearing  
21 and meeting were adjourned.]

22

23

24

25