

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

+ + + + +

BOARD OF ZONING ADJUSTMENT

+ + + + +

PUBLIC HEARING

+ + + + +

WEDNESDAY

FEBRUARY 7, 2018

+ + + + +

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

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

FREDERICK L. HILL, Chairperson  
CARLTON HART, Vice Chairperson  
LESYLLEE M. WHITE, Board Member

ZONING COMMISSION MEMBER PRESENT:

ROBERT MILLER, Commissioner

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

SHERRY GLAZER, ESQ.

OFFICE OF PLANNING STAFF PRESENT:

BRANDICE ELLIOTT  
CRYSTAL MYERS  
STEPHEN MORDFIN  
MAXINE BROWN-ROBERTS  
STEVEN COCHRAN  
MATT JESICK

The transcript constitutes the minutes from  
the Public Hearing held on February 7, 2018.

## C-O-N-T-E-N-T-S

## PAGE

WELCOME:

Frederick Hill, Chairperson . . . . . 3

PRELIMINARY MATTERS:

C&S DEVELOPMENT, LLC  
APPLICATION NO. 19684 . . . . . 8

MEENAKSHI KANKANI  
APPLICATION NO. 19644 . . . . . 9

APPLICATION NO. 19646 - Claude and Kira Vol  
Vote . . . . . 26

APPLICATION NO. 19666 - Caryn Schenewerk  
Vote . . . . . 33

Application No. 19651 - House of Ruth, Inc.  
Vote . . . . . 34

Application No. 19679 - MYS Land Investment, LLC . . 103

Application No. 19682 - Tom Henneberg and Lisa Hayes  
Vote . . . . . 104

Application No. 19671 - Patrick's Pet Care . . . . . 117

Update on Application No. 19679 . . . . . 133

Adjourn . . . . . 134

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

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

(9:30 a.m.)

CHAIRPERSON HILL: The hearing will please come to order. Morning ladies and gentleman, we are located in the Jerrily R. Kress Memorial Hearing Room at 441 4th Street, N.W. This is the February 7th public hearing of the Board of Zoning Adjustment of the District Columbia. My name is Fred Hill, Chairperson.

Joining me today is Carlton Hart, Vice Chairperson; Lesyllee White, Board Member; and representing the Zoning Commission is Rob Miller. Copies of today's hearings, agenda, are available to you located on the wall bin near the door.

Please be advised that this proceeding is being recorded by a court reporter and is also webcast live. Accordingly, we must ask you to refrain from any disruptive noises or actions in the hearing room.

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

All persons planning to testify either in favor or in opposition must have raised their hand and have been

1 sworn in by the Secretary. Also each witness must fill  
2 out two witness cards. These cards are located on the  
3 table near the door and on the witness table.

4           Upon coming forward to speak to the Board,  
5 please give both cards to the Reporter, to the table  
6 sitting on my right. If you wish to file written  
7 testimony or additional supporting documents today, please  
8 submit one original and 12 copies to the Secretary for  
9 distribution.

10           If you do not have the requisite number of  
11 copies, you could reproduce copies on an office printer in  
12 the Office of Zoning located across the hall.

13           The order for procedures for special  
14 exceptions, variances, and appeals, which is also located  
15 in the bin as you enter into the room. The record shall  
16 be closed at the conclusion of each case except for any  
17 materials specifically requested by the Board.

18           The Board and the staff will specify at the end  
19 of the hearing exactly what is exactly expected and the  
20 date when the persons must submit the evidence to the  
21 Office of Zoning.

22           After the record is closed, no other  
23 information shall be accepted by the Board. The District  
24 of Columbia Administrative Procedures Act requires that  
25 the public hearing on each case be held in the open before

1 the public pursuant to Section 405(b) and 406 of that Act.

2 The Board may, in consistence with its rules,  
3 procedures, and the act, enter into a close meeting on a  
4 case for purposes seeking legal counsel on a case pursuant  
5 to D.C. Official Code, Section 2-575(b)(4) and/or  
6 deliberating on a case pursuant to D.C. Official Code  
7 Section 2-575(b)(13), but only after providing the  
8 necessary public notice and in the case of an emergency, a  
9 close meeting after taking a roll call vote.

10 The decision of the Board must be based  
11 exclusively on the public record to avoid any appearance  
12 to the contrary. The Board requests that persons present  
13 not engage the members of the Board in conversation.

14 Please turn off all beepers and cell phones at  
15 this time so as it does not disrupt the proceedings.  
16 Preliminary matters are those which relate to whether a  
17 case will and should be heard today, such as request for a  
18 postponement, continuance, or withdrawal, but whether  
19 proper and adequate notice of the hearing has been given.

20 If you're not prepared to go forward with a  
21 case today or you believe that the Board should not  
22 proceed, now is the time to raise such matter.

23 Mr. Secretary, do we have any preliminary  
24 matters?

25 MR. MOY: Good morning, Mr. Chairman, members

1 of the Board. I do have a very quick announcement related  
2 to today's docket. First, case application number 19683  
3 of Brian and Carolyn Wise, has been postponed/rescheduled  
4 to February 21st of 2018.

5 And, let's see, and there are some preliminary  
6 matters to specific cases, staff would suggest that the  
7 Board address those when that case is called.

8 CHAIRPERSON HILL: Okay. Thank you, Mr. Moy.  
9 If anyone is here planning to testify, if you could please  
10 stand and take the oath administered by the Secretary to  
11 my left.

12 MR. MOY: Good morning. Do you solemnly swear  
13 or affirm that the testimony you are about to present in  
14 this proceeding is the truth, the whole truth, and nothing  
15 but the truth? Ladies and gentleman, you may considered  
16 under yourselves under oath.

17 THE WITNESSES: I do.

18 CHAIRPERSON HILL: Okay. Good morning  
19 everybody. Just to let you all know, we are going to  
20 follow the agenda. So, there's no changes that are taking  
21 place. So, you know, whatever you picked up there in the  
22 bin, as you kind of walk in, is the order in which we're  
23 going to go.

24 And so Mr. Moy, you can call our first hearing  
25 case whenever you have an opportunity?

1           MR. MOY: Yes, thank you, sir. It turns out  
2 the first preliminary matter for the day is a request for  
3 a postponement and that is Case Application No. 19684 of  
4 C&S Development, LLC. That request is in the case records  
5 under Exhibit 34.

6           And this has been captured and advertised for a  
7 special exceptions pursuant to the inclusionary zoning  
8 dimensional modifications of Subtitle C Section 1002.2,  
9 and under Subtitle E Section 5201 from the rear addition  
10 requirements, Subtitle E Section 205.5 to subdivide the  
11 existing lot into three new lots and construct three flats  
12 in the RF-1 Zone at 2610 4th Street N.E. (Square 3551, Lot  
13 801).

14           CHAIRPERSON HILL: Thank you. Is the applicant  
15 here? If you could please come forward. If you could  
16 please introduce yourself.

17           MS. WILSON: Good morning. Alex Wilson from  
18 Sullivan and Barros on behalf of the applicant.

19           CHAIRPERSON HILL: All right, Ms. Wilson. I  
20 guess the, we got your request for postponement, but it  
21 hadn't been the seven days. The seven days hadn't passed  
22 in order for us to take care of this administratively.

23           And so, could you tell us a little bit about  
24 why you need the postponement and what your plan is moving  
25 forward?



1 MS. WILSON: Yes. So, we went to the ANC  
2 meeting in January but we needed to attend two meetings  
3 prior to that ANC meeting. And so we've been rescheduled  
4 for the February ANC meeting and need to go to a small  
5 community meeting before that.

6 And so, we are now requesting that we be moved  
7 to February 28th.

8 CHAIRPERSON HILL: Okay. Mr. Moy, does  
9 February 28th work for the Board?

10 MR. MOY: Yes, sir.

11 CHAIRPERSON HILL: Okay. You know, we would  
12 not really be able to hear this right now because we don't  
13 have a lot of information in the record in order to do so.  
14 So, unless the Board has any issues, I'd go ahead and  
15 postpone this until February 28th.

16 Okay. All right. Thank you, Ms. Wilson.

17 MS. WILSON: Thank you.

18 MR. MOY: All right. The next case  
19 application, Mr. Chairman, is the application number  
20 19644. This is of Meenakshi Kankani. This application,  
21 Mr. Chair, was captured and advertised for a special  
22 exceptions under Subtitle D, Section 5201 from the rear  
23 yard requirements of Subtitle D, Section 306.2.

24 Side yard requirements Subtitle D Section  
25 307.1, and pursuant to Subtitle X Chapter 10, for a

1 variance from the lot occupancy requirements of Subtitle D  
2 Section 304.1.

3 This would construct a rear deck addition to an  
4 existing one-family dwelling, R-1-B zone, 1315 Delafield  
5 Place N.W. (Square 2808, Lot 30).

6 I would ask the applicant to confirm the relief  
7 being requested because my understanding is that variance  
8 from the lot occupancy requirements has been  
9 revised/changed to a special exceptions.

10 And I think there is supporting documentation  
11 that the applicant is going to be presenting for the Board  
12 for that to happen.

13 CHAIRPERSON HILL: Okay. Thank you, Mr.  
14 Secretary. Let's see. If you could please just introduce  
15 yourself and just push that microphone there.

16 MS. DAVIS: My name is Beth Davis and I'm here  
17 representing the applicant.

18 CHAIRPERSON HILL: All right, Ms. Davis.  
19 So, I guess, a couple of things. One, we'll give you a  
20 little time to tell us about the project, and then the  
21 relief that you're requesting as well as if you could tell  
22 us a little bit about how you're meeting the standards for  
23 us to grant the relief.

24 There was some clarification that was needed in  
25 terms of the request, the relief that you're asking for,

1 as well as if the revised documentation has been provided  
2 for that relief.

3 So, if you kind of walk us through that a  
4 little bit, I guess first, and then you can go ahead and  
5 tell us about the project.

6 MS. DAVIS: Absolutely. So, initially we were  
7 seeking a variance for lot occupancy but after working  
8 with Ms. Myers in the Office of Planning, we have reduced  
9 the size of the deck. So, now we're seeking a special  
10 exception for the side yard, the rear yard, and the lot  
11 occupancy.

12 Currently, the project is an existing  
13 nonconforming property within the R-1-B zone and the deck  
14 was initially going to be 51.39 percent lot occupancy. We  
15 have reduced it now to below 50 percent.

16 CHAIRPERSON HILL: Okay. And as you're going  
17 through your presentation, if you could, I guess, kind of  
18 talk about the condition that was asked about for the  
19 lattice wall.

20 So, I'm going to go ahead and put ten minutes  
21 on the clock for you, just so I know where we are. And  
22 you can start whenever you'd like.

23 MS. DAVIS: Not a problem. So, the existing  
24 property has a three-foot side yard. That three-foot side  
25 yard is existing, it's now, and so, we are looking to

1 increase the nonconformity with this deck, and we  
2 understand that for privacy concerns, that a deck, you  
3 know, a deck overlooking, it's an elevated deck.

4 So, it's on the first story, there's a story  
5 below. So, we understand that there is a privacy concern  
6 overlooking that next door neighbor's yard. And so, we  
7 would put closed lattice up that first --

8 CHAIRPERSON HILL: Excuse me, Ms. Davis. I'm  
9 sorry to interrupt you. It seems as though you had like  
10 some paperwork with you there also.

11 MS. DAVIS: I do.

12 CHAIRPERSON HILL: And is that the revised  
13 self-cert in there as well?

14 MS. DAVIS: It is the revised self-  
15 certification.

16 CHAIRPERSON HILL: Could you pass that up to  
17 the Secretary?

18 MS. DAVIS: Absolutely.

19 CHAIRPERSON HILL: Thank you. Just give us a  
20 minute. Okay, you can go ahead. Thank you.

21 MS. DAVIS: Not a problem. You can see on the  
22 revised numbers that the existing lot occupancy, not the  
23 existing, the revised project shows the lot occupancy  
24 below 50 percent.

25 We also increased the rear setback by two feet

1 from what we were initially requesting and there was a lot  
2 of back and forth with looking at the property and seeing  
3 where best to take away space on the deck.

4 We had initially thought setting it back  
5 further to the side was going to work, but actually -- the  
6 property was built with a door almost all the way up to  
7 the three-foot setback.

8 So, I mean, there's a door that would be  
9 blocked off if we had pulled the side yard, the five feet  
10 that we were originally talking about. So, we had to  
11 discuss it with the Office of Planning in having that  
12 lattice, because of the way the property is built.

13 Does that make sense? I think you can see that  
14 in the pictures of the back of the, the pictures that were  
15 in the case documentation show the rear of the house and  
16 there's actually an existing door that walks out onto the  
17 deck, and that is on, I guess, it's on the right side of  
18 the property.

19 It's the left side if you're looking at the  
20 back of the house. And that's where that three-foot side  
21 yard is.

22 CHAIRPERSON HILL: All right, Ms. Davis. I'm  
23 sorry. Your self-cert was just pointed out to me again  
24 that it needs to be completed by an attorney or an  
25 architect. Are you either one?

1 MS. DAVIS: I am not, however, the architect  
2 has the self-certification and I can upload it to the  
3 record. She's been out with the flu the last two weeks,  
4 so.

5 CHAIRPERSON HILL: Okay. Can you make sure you  
6 have that submitted to the record. Okay. All right,  
7 please continue.

8 MS. DAVIS: So, the lattice that we discussed  
9 putting on the side yard with the three-foot setback, that  
10 is the right side yard, it will be a closed lattice that  
11 will extend up to the second, well, it will extend up one  
12 story to prevent any privacy concerns with the next door  
13 neighbor.

14 VICE CHAIRPERSON HART: And these are in the  
15 documents that you just handed to us which was the  
16 surveyors plat with the drawing on it? That is showing  
17 what exactly? I know it's showing the deck but is it also  
18 showing something else on there? The stairs.

19 MS. DAVIS: The stairs are, which stairs are  
20 you talking about?

21 VICE CHAIRPERSON HART: Yes, there is a set of  
22 stairs on the left-hand side, I guess on the --

23 MS. DAVIS: Oh, it's the access stairs for the  
24 deck.

25 VICE CHAIRPERSON HART: Yes.

1 MS. DAVIS: Yes.

2 VICE CHAIRPERSON HART: But the lattice that  
3 you're talking about is --

4 MS. DAVIS: The lattice will be on the other  
5 side.

6 VICE CHAIRPERSON HART: Is it shown on any plan  
7 or --

8 MS. DAVIS: It is shown on the new plans that  
9 will be submitted to the record by the architect.

10 VICE CHAIRPERSON HART: Oh, so, those are not -  
11 -

12 MS. DAVIS: The elevation, no. No. We were  
13 told to bring the new plat but the plans are still in  
14 process.

15 VICE CHAIRPERSON HART: Okay. And when are we  
16 going to see the plans?

17 MS. DAVIS: I hope the architect is feeling  
18 better and she can get them to us this week.

19 VICE CHAIRPERSON HART: Okay. So --

20 CHAIRPERSON HILL: Yes, okay.

21 MS. DAVIS: No, that's fine. If we need to  
22 move this to the next --

23 CHAIRPERSON HILL: No, no. Sure. That's okay.

24 MS. DAVIS: That's fine. We understand.

25 CHAIRPERSON HILL: Sure.

1 MS. DAVIS: This was a lot of back and forth in  
2 a very short amount of time.

3 CHAIRPERSON HILL: Sure.

4 MS. DAVIS: To get the project --

5 CHAIRPERSON HILL: Okay. All right. Are you  
6 done?

7 MS. DAVIS: I am.

8 CHAIRPERSON HILL: Okay. Does the Board have  
9 any, I mean, we're going to have to see the plans and so,  
10 I don't think we're going to be able to make a decision  
11 today. But does the Board have any questions for the  
12 applicant?

13 MEMBER WHITE: Yes. I was going to, but I  
14 think I'll just wait for the plans as well. I also know  
15 that there didn't appear to be any community feedback at  
16 all in the record unless I missed something.

17 But I'm wondering if you could share some  
18 information regarding feedback that you've gotten from the  
19 adjacent neighbors, the community.

20 MS. DAVIS: The applicant has discussed the  
21 project with their next door neighbor and I was under the  
22 impression that they had spoken with the ANC regarding it,  
23 but I can check back with them.

24 But the next door neighbor, directly on the  
25 three-foot setback side, was supportive of the applicant.



1 CHAIRPERSON HILL: Okay. As normally, you  
2 know, so you guys didn't present to the ANC?

3 MS. DAVIS: That was left in the hands of the  
4 applicant. I was not involved with that so, I will have  
5 to check with them.

6 CHAIRPERSON HILL: Okay. So, if you could find  
7 out from the applicant what they had done with the ANC,  
8 and if you can get anything to us from the ANC, that would  
9 be helpful.

10 And then just let us know what that outreach  
11 was like. And then also anything for the record that has  
12 to do with the next door neighbors and the community  
13 outreach. Anything else for the applicant?

14 MS. GLAZER: A proper self-certification form.

15 CHAIRPERSON HILL: Yes. And then obviously the  
16 one that needs to be signed by somebody who is not you,  
17 all right.

18 VICE CHAIRPERSON HART: Yes. Just one  
19 question. Ms. Davis, you were describing a door that  
20 needed, that couldn't be moved. Can you describe where  
21 that door is?

22 MS. DAVIS: Absolutely. So, if you're looking  
23 at the rear of the property, in the front of the property,  
24 you're looking at it, it's the right-hand side yard, that  
25 three-foot side yard.

1           If you're looking at the back of the house,  
2   it's on the left-hand side. It's about a foot in. So,  
3   moving the deck over would put the flashing of the house,  
4   the post of the deck, right in the middle of that doorway.

5           And I can include additional pictures into the  
6   record, if that would be helpful. I thought that they  
7   were already in the record.

8           VICE CHAIRPERSON HART: Yes. I mean I see a  
9   photograph.

10          MS. DAVIS: No, no, okay.

11          VICE CHAIRPERSON HART: I see one photograph  
12   that's Exhibit 9 of the existing conditions but that's  
13   about three or four feet, there's a door that goes to the  
14   back?

15          MS. DAVIS: It is the door that goes into the  
16   back. And additionally, underneath, there is an alcove.

17          VICE CHAIRPERSON HART: Yes.

18          MS. DAVIS: That's set back. So, the door that  
19   I'm talking about is up one story. It's on the, it's  
20   above.

21          VICE CHAIRPERSON HART: Got you.

22          MS. DAVIS: So, I can get additional photos if  
23   that's helpful.

24          VICE CHAIRPERSON HART: Yes.

25          MS. DAVIS: But yes, it's strangely positioned.

1 It has a gate around it now for safety, obviously.

2 VICE CHAIRPERSON HART: Yes.

3 MS. DAVIS: But it was built, the house was  
4 basically built for a deck to be there.

5 VICE CHAIRPERSON HART: No, no. I see that. I  
6 just, I was just trying to understand the kind of  
7 dimensionality that you were talking about. It seems like  
8 the door is actually a couple of feet from the side of the  
9 house.

10 MS. DAVIS: Okay. They --

11 VICE CHAIRPERSON HART: It looks like it's  
12 about three, it looks like the door is as far as away from  
13 the side of the house as it is wide. So, the door is  
14 probably, I don't know, 36 inches, something around that.

15 MS. DAVIS: Okay.

16 VICE CHAIRPERSON HART: So, you're talking  
17 probably about three feet. That's what I was trying to  
18 understand. If there was another door that I was missing.

19 MS. DAVIS: No, no. And the way that that  
20 alcove is situated on the basement level, moving the deck  
21 over causes strange issues with that alcove with the way  
22 that the drainage would be and water going into that  
23 space.

24 It's just, the homeowner was not wanting to put  
25 the deck, they wanted to keep it flush with the house to

1 prevent all of those issues that would come with it.

2 VICE CHAIRPERSON HART: And I could understand  
3 that. I just wanted to make sure that I was hearing  
4 correctly what you were talking about. But I understand  
5 what you're saying. Thank you.

6 MEMBER WHITE: So, looking at the back of the  
7 house, you're saying that the neighbor to the left, if I'm  
8 facing the back of the house is --

9 MS. DAVIS: If you're looking at the back, yes.

10 MEMBER WHITE: -- is supportive?

11 MS. DAVIS: Correct.

12 MEMBER WHITE: Okay.

13 MS. DAVIS: And that would be the neighbor that  
14 would be on the side with the privacy lattice.

15 MEMBER WHITE: Right. Okay.

16 CHAIRPERSON HILL: Okay. So, Ms. Davis, so  
17 you're the contractor, is that who you are?

18 MS. DAVIS: I'm a friend of the owners who  
19 deals with this kind of thing all the time.

20 CHAIRPERSON HILL: Oh, you're a good friend.

21 MS. DAVIS: I am a good friend. Put that on  
22 the record, right.

23 CHAIRPERSON HILL: It's on the record now.  
24 Let's see, so, if you could like give us the plans so we  
25 can see the plans. If you can get a correctly signed

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 self-certification. And if you can provide, I don't know  
2 Mr. Hart, I guess we don't need any additional  
3 photographs.

4 And then if you could provide something into  
5 the record concerning the outreach with the ANC, because  
6 we don't have a report from the ANC.

7 I mean, normally we want a report from the ANC.  
8 So, we'll see what the Board thinks at the end of this  
9 case in terms of how we're going to proceed. But we need  
10 those items. And I'm going turn to the Office of  
11 Planning.

12 VICE CHAIRPERSON HART: And if you, I know you  
13 said that the homeowner has spoken to the next door  
14 neighbors, just kind of, if they have --

15 MS. DAVIS: You want us to get a letter from  
16 them?

17 VICE CHAIRPERSON HART: A letter, email.

18 MS. DAVIS: Not a problem.

19 VICE CHAIRPERSON HART: Something that kind of  
20 says that they are, you know, where they are with this. I  
21 would've assume they would have sent something in if they  
22 already had an issue with it, but it's helpful for us to  
23 have that on the record. Thank you.

24 CHAIRPERSON HILL: Great. Now the Office of  
25 Planning.

1 MS. MYERS: Good morning. Crystal Myers for  
2 the Office of Planning. The Office of Planning is  
3 recommending approval of this project. But in our report  
4 we did note that final plans would have to be submitted by  
5 the time of the BZA hearing.

6 So, our report was contingent on that. We also  
7 include a condition in our report saying that the  
8 inclusion of a screened wall, such as a closed lattice  
9 wall, between the deck and the neighboring property to the  
10 east, the applicant has agreed to this condition.

11 Otherwise, I will stand on the record of the  
12 staff report.

13 CHAIRPERSON HILL: All right, Ms. Davis. Could  
14 you be sure, you know, that you show that in the plans in  
15 terms of the lattice wall.

16 MS. DAVIS: Absolutely.

17 CHAIRPERSON HILL: Okay. Does anybody have any  
18 questions for the Office of Planning?

19 VICE CHAIRPERSON HART: Just so that I'm clear  
20 on this. If they don't provide the drawings, then are you  
21 saying that you'd be a disapproval? You'd recommend  
22 disapproval?

23 Because you're saying that you're contingent  
24 upon actually seeing the drawings. We haven't had the  
25 drawings. So, just wanted to make sure I understood.

1 MS. MYERS: Well, the only condition that we  
2 have is about the screened wall. So, that is more, I  
3 guess, correct with saying is contingent on the fact that  
4 you have to have the screened wall.

5 But in order to approve with the screened wall,  
6 you would have to, well, we would expect it to be seen and  
7 as well with the Office of Planning, we review the  
8 project, it's part of the same sketch that you're looking  
9 at now is what we had.

10 So, we had asked the applicant to provide final  
11 sketches so that it will be more of an official  
12 understanding of what the project would be. But the  
13 relief that's being requested would not be sufficient  
14 enough for the original plans anyway.

15 So, if would make, be technically, I guess,  
16 could approve it without the official plans but it would  
17 be cleaner to have the official plans in the record.

18 CHAIRPERSON HILL: Okay, great. Thank you.  
19 Anyone else for the Office of Planning? Okay. Does the  
20 applicant have any questions for the Office of Planning?

21 MS. DAVIS: No. It is understood that we will  
22 provide those plans and that everything is contingent on  
23 those plans.

24 CHAIRPERSON HILL: Okay. Is there anyone here  
25 from the ANC? Is there anyone here wishing to speak in

1 support? Is there anyone here wishing to speak in  
2 opposition?

3 Okay. Ms. Davis, I'm going to go back to you,  
4 I'm not sure whether we're going, are we going to need,  
5 kind of Mr. Moy or Ms. Glazer, I mean, like whether we do  
6 this as a continued hearing or decision.

7 MS. GLAZER: I would suggest a continued  
8 hearing. You may have questions about the evidence.

9 CHAIRPERSON HILL: Okay. All right. Well,  
10 there you go. So, Ms. Davis, when do you think you can do  
11 all this?

12 MS. DAVIS: I would give the architect at least  
13 two weeks. So, I don't know what the Board's schedule is.

14 CHAIRPERSON HILL: Sure. All right.

15 MR. MOY: Mr. Chair, given that and I'm not  
16 clear of when the applicant will be able to secure a --

17 CHAIRPERSON HILL: When is Mr. Miller back? Is  
18 he not back for a while?

19 MR. MOY: March. March, sometime in March.  
20 Maybe the second.

21 CHAIRPERSON HILL: Okay.

22 MR. MOY: The second week of March.

23 CHAIRPERSON HILL: Okay.

24 MR. MOY: I have a listing for beyond a certain  
25 point. I think --

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)



1 CHAIRPERSON HILL: It doesn't, I mean it's not

2 --

3 MR. MOY: It's the 28th.

4 MS. DAVIS: I was going to say.

5 CHAIRPERSON HILL: The 28th.

6 MS. DAVIS: I just pulled my calendar out.

7 Yes, the 28th works for --

8 CHAIRPERSON HILL: Of March.

9 MS. DAVIS: I was looking at the 28th of  
10 February.

11 CHAIRPERSON HILL: Okay. Right, no. That's --  
12 It's doesn't matter. I shouldn't say it doesn't matter.  
13 We'll, figure out -- so, then -- what were you starting to  
14 say, Mr. Moy?

15 MR. MOY: I was going to say that if the  
16 applicant can submit all the materials by February 21st,  
17 then the Board can do a continued hearing on the 28th,  
18 and we can do that as the first case of the day.

19 CHAIRPERSON HILL: The 28th, you said?

20 MR. MOY: If we're aggressive, we can do that.

21 CHAIRPERSON HILL: Right. So, then someone may  
22 have to read in if Mr. Miller is not here. So, that's a -  
23 -

24 MR. MOY: That's possible.

25 CHAIRPERSON HILL: Okay. All right. Okay,

1 let's go ahead and do the 28th.

2 MR. MOY: Okay. So, February 28th continued  
3 hearing and if the applicant can submit all the required -  
4 -

5 MS. DAVIS: We understand we need to submit all  
6 the required material by February 21st.

7 MR. MOY: -- by the 21st.

8 MS. DAVIS: Yes.

9 CHAIRPERSON HILL: All right, Ms. Davis. Okay.  
10 Thank you.

11 MR. MOY: All right. If I can have parties to  
12 the table to application number 19646. This is of Claude  
13 and Kira Vol, V-O-L. Captured and advertised for special  
14 exceptions under Subtitle D Section 5201. This is from  
15 the side yard requirements Subtitle D Section 307.1,  
16 nonconforming structure requirements, Subtitle C Section  
17 202.2.

18 This would construct a third-story rear  
19 addition to an existing one family dwelling, R-1-B Zone,  
20 1729 Upshur Street, N.W. (Square 2644, Lot 67).

21 CHAIRPERSON HILL: All right. Great. Thank  
22 you, Mr. Moy. Could you please introduce yourself?

23 MS. DAVIS: Hello, I am Beth Davis, and I am  
24 representing the applicant.

25 CHAIRPERSON HILL: Ms. Davis, you have a lot of

1 friends. You have two friends. You have two friends  
2 that are going through the BZA. You don't have the  
3 microphone on, I'm sorry.

4 MS. DAVIS: I was saying it's not a mistake  
5 it's both on the same day because they were both going  
6 through the same --

7 CHAIRPERSON HILL: Sure.

8 MS. DAVIS: -- nonconforming --

9 CHAIRPERSON HILL: But they're not here.

10 MS. DAVIS: They are not here.

11 CHAIRPERSON HILL: You are here representing  
12 them.

13 MS. DAVIS: I am.

14 CHAIRPERSON HILL: As a friend.

15 MS. DAVIS: As a friend.

16 CHAIRPERSON HILL: Yes, good friend. Okay.

17 Let's see. So, I don't have a lot of questions per se  
18 because the last time this kind of got pushed back because  
19 it was kind of a question about an affidavit of posting.

20 MS. DAVIS: Yes.

21 CHAIRPERSON HILL: Which I believe now has all  
22 been cleared up.

23 MS. DAVIS: It has been.

24 CHAIRPERSON HILL: So, if you want to go ahead  
25 and again, tell us about the project --

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 MS. DAVIS: Absolutely.

2 CHAIRPERSON HILL: -- as well as the standard in  
3 which you're meeting the relief for us to grant the  
4 request. I'm going to put ten minutes on the clock just  
5 so I know where I am.

6 MS. DAVIS: Okay.

7 CHAIRPERSON HILL: And you can begin whenever  
8 you'd like.

9 MS. DAVIS: Not a problem. Mr. and Mrs. Vol  
10 have actually, this is the second BZA that they've needed  
11 to get on this property for this exact problem. It's an  
12 existing nonconforming structure.

13 We're looking for side yard relief. It's a  
14 duplex. It requires eight-foot setbacks on both sides.  
15 Obviously as a duplex, that's not possible. On this  
16 project, the increase of the nonconformity is on the third  
17 floor.

18 They are changing the pitch of the roof and  
19 increasing the square footage on the third floor. There  
20 was a note that I wanted to speak to in the record from  
21 the Office of Planning asking about the face, and they  
22 were asking whether it would better if the face was brick.

23 And I spoke with the architect and I actually  
24 entered something into the record yesterday for this one.  
25 And the architect and the homeowner both agree that

1 removing or changing it to a brick face would actually  
2 change the character of the property.

3 And it being a duplex, they're trying to keep  
4 it as identical in look on both sides. And they can paint  
5 the siding that they're proposing putting in to match the  
6 existing slate, and if they were to put brick on, that  
7 slate would look strange.

8 And felt like they would have to remove the  
9 slate and they felt like that would really change the  
10 character of the building. So, I just wanted to speak to  
11 that because that was something I had spoken to Mr.  
12 Cochran about, so.

13 CHAIRPERSON HILL: Okay. All right, Ms. Davis,  
14 is that it? You still have the microphone on.

15 MS. DAVIS: I apologize. If there are any  
16 questions, I'm happy to answer them.

17 CHAIRPERSON HILL: Okay. Does the Board have  
18 any questions for the applicant?

19 MEMBER WHITE: Similar to the question I had  
20 previously from the last case. Can you just give us some  
21 feedback in terms of what the adjacent owners have said  
22 about the project. Are they on board, do they have  
23 privacy concerns, light and air concerns.

24 I just need to ensure that they've given some  
25 feedback regarding their interests.

1 MS. DAVIS: Absolutely. So, the neighbors are  
2 very good friends of the owner of the house. They have  
3 had no concerns about this. I believe about 18 months  
4 ago, an addition was put. It was, I believe, 18 months  
5 ago.

6 An addition was put on the rear of the house  
7 extending the footprint of the house to where the deck was  
8 initially. And this is an increase over that area. So, I  
9 mean, we've gone through the BZA process for this property  
10 on multiple occasions.

11 MEMBER WHITE: Yes.

12 Just because of this existing nonconformity in  
13 the property. And the owners next door, I know that the  
14 owners went to the ANC meeting. I believe the ANC sent a  
15 letter that was entered into the record.

16 And I believe that the next door neighbor  
17 actually went to the ANC meeting with the owners. So,  
18 they are very supportive. This has been an ongoing issue  
19 for this homeowner because of the nature of the property  
20 and the zoning.

21 VICE CHAIRPERSON HART: Ms. Davis, yes. I'm  
22 looking at the ANC letter and they said that Exhibit 28  
23 says that the ANC noted that the applicants had consulted  
24 with their neighbors regarding the project and contacted  
25 all residents within 200 feet.

1                   And there was no objection to their  
2 application. I mean, they're saying that this is what  
3 they encountered, which is why the ANC voted seven to zero  
4 to support the application, seven to zero to zero.

5                   CHAIRPERSON HILL: Okay. Anybody have any more  
6 questions for the applicant? All right. I'm going to  
7 turn to the Office of Planning.

8                   MR. COCHRAN: Thank you, Mr. Chair. OP is  
9 recommending approval of the requested side yard special  
10 exception. We're also suggesting that you might want to  
11 just give approval on the expansion of a nonconforming  
12 structure.

13                   It's not something that the applicant asked  
14 for, but it is usually something that out of an abundance  
15 of caution, we recommend be dealt with less the person be  
16 held up at DCRC without that kind of approval.

17                   We had not recommended any conditions as Ms.  
18 Davis said. We'd suggested looking at different facing  
19 materials for the side. We've looked at both Exhibits 32  
20 and 34, and think that they've addressed that fine.

21                   And so, we recommend approval of the requested  
22 special exception and that additional one on the  
23 nonconforming structure.

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

1 the applicant have any questions for the Office of  
2 Planning?

3 MS. DAVIS: I do not.

4 CHAIRPERSON HILL: Okay. The nonconformity, is  
5 that C202.2? Yes? Okay. That was in the caption,  
6 correct? Yes, okay. All right.

7 Okay. So, you understand what the Office of  
8 Planning is speaking to and you agree with that?

9 MS. DAVIS: Absolutely.

10 CHAIRPERSON HILL: Okay. All right. Is there  
11 anyone here from the ANC? Is there anyone here wishing to  
12 speak in support? Is there anyone here wishing to speak  
13 in opposition?

14 All right. Ms. Davis, we'll turn back to you.  
15 Is there anything else you'd like to say in conclusion?

16 MS. DAVIS: No, but thank you.

17 CHAIRPERSON HILL: Okay. Does the Board have  
18 any final questions? No. All right. We're going to go  
19 ahead and close the hearing. Is the Board ready to  
20 deliberate?

21 Okay. I can begin. I don't have a lot of  
22 questions or thoughts, I suppose, in terms of the record.  
23 I think the record is complete. I think that the  
24 applicant has made a good case as to how the standards  
25 have been met to grant this application.



1 I also agree with the Office of Planning in  
2 terms of including the nonconforming structure addition in  
3 C202.2. So, I would be in favor of the application. Does  
4 anyone have anything they'd like to add?

5 MEMBER WHITE: I would just add that I agree  
6 with your comments. In addition to the fact that ANC, for  
7 a submitted letter that Vice Chair Hart noted that also  
8 supported the project, and indicated that the community  
9 and the neighbors were in favor.

10 So, I would be in support of the special  
11 exception relief as well.

12 CHAIRPERSON HILL: Okay. Great. Now I'll go  
13 ahead and make a motion to remove application number  
14 19646, pursuant to 11DCMR Subtitle X Chapter 9 for special  
15 exception under Subtitle D5201, from the side yard  
16 requirements of Subtitle D307.1 and from the nonconforming  
17 structure requirements from Subtitle C202.2 to construct a  
18 third story rear addition to an existing one family  
19 dwelling in the R-1-B zone at premises 1729 Upshur Street  
20 N.W. (Square 2644, Lot 67) and ask for a second?

21 MEMBER WHITE: Second.

22 CHAIRPERSON HILL: Motion was made and  
23 seconded, and all those in favor?

24 (Chorus of aye.)

25 CHAIRPERSON HILL: All those opposed?

1 (No audible response.)

2 CHAIRPERSON HILL: Motion passed. Mr. Moy.

3 MR. MOY: Staff would record the vote is four  
4 to zero to one. This is on a motion of Chairman Hill to  
5 approve your application for the relief being requested  
6 including the amendment to add the Subtitle C, Section  
7 202.2.

8 Seconded motion, Ms. White. Also in support,  
9 Mr. Robert Miller, Vice Chair Hart, we have a Board seat  
10 vacant, motion carried, sir.

11 CHAIRPERSON HILL: Thank you. Summary order,  
12 Mr. Moy?

13 MR. MOY: Yes, sir.

14 CHAIRPERSON HILL: Thank you. Thank you, Ms.  
15 Davis. Give me one second, Mr. Moy.

16 All right, Mr. Moy, whenever you'd like.

17 MR. MOY: Thank you, Mr. Chairman. So, this is  
18 a case application number 19666 of Caryn Schenewerk. I'm  
19 going to read into the record what's been amended and  
20 captured and advertised for public notice. This is for a  
21 special exceptions from the use provisions of Subtitle U  
22 Section 301.1(c)(2).

23 The alley width requirements of Subtitle U  
24 Section 301.1(g), under Subtitle E Section 5201 from the  
25 accessory building lot occupancy provisions of Subtitle E

1 Section 5003.1, and from the accessory building rear yard  
2 requirements Subtitle E Section 5004.1.

3 This would construct a second floor addition to  
4 an existing carriage house, RF-1 Zone at premises 1209  
5 Park Road NW Square 2839, Lot 119.

6 Mr. Chair, staff would ask that the applicant  
7 confirm the leaping requested, primarily because I think  
8 there was evidence in the record as to some other opinions  
9 for the relief, and I'll leave at that.

10 CHAIRPERSON HILL: Okay, great. So, if you  
11 can, please introduce yourselves from my right to left or  
12 left to right, or whoever would like to go.

13 MS. SCHENEWERK: Good morning, Caryn  
14 Schenewerk, I'm the applicant.

15 MR. HURTT: Good morning, Eric Hurtt, from Hill  
16 and Hurtt Architects, the architect.

17 MS. MOLDENHAUER: Good morning. I'm Meredith  
18 Moldenhauer from law firm of Cozen O'Connor, land use  
19 counsel for the applicant.

20 MS. BIGLEY: Good morning. Alyssa Bigley, also  
21 of Cozen O'Connor.

22 CHAIRPERSON HILL: Okay. Ms. Moldenhauer, I  
23 guess, are you going to present to us?

24 MS. MOLDENHAUER: Yes.

25 CHAIRPERSON HILL: Okay. So, I mean, I'll go

1 ahead and put some time on the clock, and we can go  
2 through this. I mean, there's a lot of, there seems to be  
3 a difference of opinion as to what it is that you should  
4 be here for.

5           You can clarify what that is. I think you know  
6 that the Office of Planning and the Zoning Administrator  
7 believe it's something different, which would be a  
8 variance and that might set us to be doing a different  
9 thing.

10           So, anyway, I'll let you go ahead and present  
11 your case, but you could speak to what I just spoke to  
12 first I suppose, as well. And then, well let's see if we  
13 can get through that first.

14           MS. MOLDENHAUER: So, there are just a couple  
15 of preliminary matters. One, I believe the Secretary,  
16 Mr. Moy, indicated there was a discrepancy in the  
17 numbering sequence between what the Office of Zoning's  
18 website shows on its website page for the areas of relief  
19 and what the DCMR show.

20           It's a difference of whether it's U,  
21 301.(2)(1) or 301.(c)(d). As you can tell, the C-D, seems  
22 odd, but that is the official regulations. So, that is  
23 for the expansion of the accessory building to permit a  
24 dwelling.

25           And we just want to make sure that the relief

1 that we're asking for is accurate. And then the same is  
2 for then Section U, 301.1(c)(d)(3). And that is for  
3 permission to access the structure.

4 That is a situation where we have argued and  
5 presented, I think, sufficient legal requirements for  
6 either a special exception relief or a variance. Office  
7 of Planning has indicated that the relief is for a  
8 variance relief.

9 We obviously left that up to the Board to  
10 evaluate and look at the regulations to determine whether  
11 it is a special exception or a variance relief.

12 We have articulated in our pre-hearing  
13 statement both standards and believe that we satisfied  
14 both standards and have OP's support on the variance, the  
15 higher level of standard for that relief and we have the  
16 ANC support for that.

17 So, I can go into more detail as to why we  
18 believe that it's a special exception standard, but I  
19 believe that it has been fully briefed to the Board in our  
20 submission, and that we have also, kind of in the  
21 alternative, specified how we satisfied the variance test.

22 Then the other two areas of relief that I think  
23 are fairly straightforward.

24 CHAIRPERSON HILL: Can you just repeat again  
25 for me, I'm sorry. That first thing, it was 301.1 --

1 MS. MOLDENHAUER: C-D.

2 CHAIRPERSON HILL: And then what was the second  
3 one, again?

4 MS. MOLDENHAUER: C-D-3.

5 CHAIRPERSON HILL: Okay. All right. Continue,  
6 I'm sorry.

7 MS. MOLDENHAUER: Sure. And then we are asking  
8 for two straightforward special exceptions which is E,  
9 5003.1 and then E, 5004.1, which there is no discrepancy  
10 there as to the requested relief.

11 Then the last question is Section E 5002.1, and  
12 this is a question of the height. This is where there may  
13 be question really more for the Board. The applicant does  
14 indicate in our pre-hearing statement, we believe that if  
15 it is necessary, out of an abundance of caution, we've  
16 included that.

17 We also have included a letter, a supplemental  
18 letter from the ANC indicating that we have articulated  
19 this to the ANC. The plans have not changed from the date  
20 that we first filed the application in regards to the  
21 height.

22 This is a question of, in the RF Zone, the  
23 higher zone that we are in for this project, the height  
24 requirements under 5002.1, simply state that it has to be  
25 20 feet.

1           They do not provide any clarification in the RF  
2 section as to how the height of an accessory structure  
3 should be measured.

4           Thus, it is our position that you would measure  
5 it then as the general standards under the new zone and  
6 regulations articulate, which would be from the center  
7 point of the eave, which is what our plans show.

8           In that situation, we are compliant with the 20  
9 feet. Office of Planning and the Zoning Administrator,  
10 which this Board can overrule and determine that relief is  
11 not necessary if they so choose, indicates that they  
12 should read into the RF language, language that is in the  
13 R Zone or lower zone, which includes more specific  
14 clarification under the height regulations for an  
15 accessory dwelling which states that you should measure  
16 the accessory dwelling structure not from the general  
17 standards requirement but rather from the portion of the  
18 structure that faces the internal, the rear faces the  
19 internal portion of the house.

20           In that situation, we would require relief and  
21 as indicated, out of an abundance of caution, if this  
22 Board finds that that language should be read into a  
23 section where the language does not exist, then we will  
24 ask for that relief.

25           We believe that we satisfy the relief and, as I

1 said, OP has found that we satisfied variance relief, the  
2 ANC has supported it as well. And we can articulate that  
3 more, but that kind of concludes the questions of relief  
4 and the areas that we're requesting.

5 MS. GLAZER: Mr. Chair.

6 CHAIRPERSON HILL: Sure.

7 MS. GLAZER: OAG has thoughts about two of the  
8 issues raised and that is that two of the items that are  
9 requested are really asking for advisory opinions from the  
10 Board. One, the height, and with the height relief, the  
11 Board is not going to, should not be able to give an  
12 advisory opinion.

13 And there's also the other factor of notice.  
14 Either the applicant has to amend its application and  
15 advertise for height relief if it thinks it's needed, this  
16 is a self-certified application or not.

17 With respect to the other issue, deciding  
18 whether a variance or special exception is needed, that's  
19 really an issue that would need decided on an appeal. And  
20 it would be as if the Board were deciding an appeal ex  
21 parte without the Zoning Administrator here to present  
22 their argument.

23 So, OAG's advice is that neither of those items  
24 should be taken up today. That the Board --

25 CHAIRPERSON HILL: Okay. Okay. Sorry, I got



1 it. I got it. I'm sorry. I'm just wondering if Ms.  
2 Davis is still here and maybe she'd come back.

3 Okay. So --

4 MS. MOLDENHAUER: Could I just respond to that?

5 CHAIRPERSON HILL: Sure, of course. Go ahead.

6 MS. MOLDENHAUER: So, I mean, I would  
7 understand as the Zoning Commissioner, I would ask that  
8 the Zoning Commissioner look at this language. I think  
9 that this is a single family homeowner who is trying to  
10 provide an accessory dwelling structure.

11 This is a lot of relief that I don't think is  
12 necessary if, that maybe if there's clarification in order  
13 to simplify this case --

14 CHAIRPERSON HILL: Okay, Ms. Moldenhauer. I'm  
15 just going --

16 MS. MOLDENHAUER: We'll ask for a variance.

17 CHAIRPERSON HILL: Right. I know. That's what  
18 I just didn't understand to begin with, like, you know,  
19 the variance is the harder standard. Everybody seems to  
20 be on board with you having a variance.

21 You're now here, we're going to go through this  
22 whole process where at the end of the day, you're going to  
23 get something that the Zoning Administrator is going to go  
24 say no to, which means that we might be back here on an  
25 appeal, which seems like this is all just a huge --

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1           So, the problem that I see that you guys have  
2 now, is that you have to repost for the height and/or you  
3 have to repost for the variance.

4           MS. MOLDENHAUER: We wouldn't have to do that.  
5 We've already requested a variance in our application. We  
6 had posted for the variance. So, the Board has the legal  
7 right to waive that requirement because we posted for a  
8 variance --

9           MS. GLAZER: For the height?

10          MS. MOLDENHAUER: We posted for a variance and  
11 the question -- the Board has the authority as long as we  
12 posted for the variant standard, that the Board can waive  
13 the requirements.

14          It's really a question I know that the board  
15 has in other situations if we repost for a special  
16 exception and have not then posted for a variance that  
17 they require us to go back and repost.

18          However, since we posted for both, a special  
19 exception and a variance, and that has been part of the  
20 record, and the ANC has acknowledged, in a written letter  
21 before the Board, that they understand that this is a  
22 variance and they understand that we're asking for height,  
23 that the Board has the authority to waive that requirement  
24 and move forward today.

25          VICE CHAIRPERSON HART: So, Ms. Moldenhauer, I

1 understand what you're saying. I'm also looking at what  
2 we have on our, like what we've posted, not posted, we  
3 provided for the public, it does not have variant in it.

4 MS. MOLDENHAUER: The, so --

5 VICE CHAIRPERSON HART: I understand that you  
6 may have had on your building, but and I could be wrong,  
7 but I'm just looking at what we have in front of us and  
8 what we have in front of us does not have the word  
9 variance in it.

10 And this is application number 19666 of Caryn  
11 Schenewerk, and it talks about the special exceptions, and  
12 I'm just -- like I said, I do not see that in there, and I  
13 don't know how --

14 I understand that you may have posted it, but  
15 maybe it's something that we need to get from --  
16 clarification from the OAG. But that part of it I think  
17 is somewhat difficult, because if we don't have it, then  
18 it's, these two things seem to be at odds to me.

19 And I don't know how to kind of deal with that.  
20 But again, maybe one of the other board members has or the  
21 OAG can weigh in on that.

22 CHAIRPERSON HILL: Now, so, wait a minute, Ms.  
23 Moldenhauer. Mr. Moy, can you help clarify this a little  
24 bit. Like, what I understood is that, and this is the  
25 problem, is the reposting.

1           MR. MOY: Yes. Ms. Glazer's correct. And  
2 we've had past incidences where the Board has waived that  
3 requirement if the applicant proves that relief for a  
4 variance has been explored with all the parties, which  
5 includes the ANC.

6           I don't recall whether or not the OP report, if  
7 the OP report has evaluated the application for the  
8 variance relief or not. You could ask Mr. Jesick about  
9 that.

10          CHAIRPERSON HILL: Okay, wait a minute. I'm  
11 just, I'm not going to get, we're going to go slowly  
12 through this because what you're doing is going from a  
13 special exception to a variance, not from going from a  
14 variance to a special exception, okay.

15          So, that's where the problem is for me, okay.  
16 So, you know, everybody can be in agreement but I've had,  
17 we, as a Board, have gotten into complications in terms of  
18 procedurally how we move through things.

19          And so, I'm going to make sure that we do this  
20 in a way that is not going to get us in a situation later.  
21 And so, I still don't understand, Mr. Moy, in terms of the  
22 posting.

23          If you could articulate with me again. If they  
24 were to repost, what would they need to do?

25          MR. MOY: Well, typically then, it would be the

1 posting with the sign and where we give public notice  
2 through the papers as to the change in the relief.

3 MS. GLAZER: Mr. Chair, I'm not sure I'm clear.  
4 I don't know if everybody is. Are we talking about the  
5 height variance now or are we talking about the change  
6 from a special exception to a variance? Which one are we  
7 are talking about?

8 MS. MOLDENHAUER: Both.

9 MS. GLAZER: All right. But I believe that  
10 there was a statement that with respect to the latter that  
11 there was a request in the alternative for a special  
12 exception or a variance. I think that's what the  
13 applicant is saying.

14 With the height, I don't believe there is any  
15 request that has been made except in the latest statement.

16 CHAIRPERSON HILL: Yes. That's what I  
17 understood as well. And so, we can go through, I mean --  
18 It's not clean and it's not in a way that I think I'm  
19 going to be able to go through this. We can continue to  
20 move forward and we can hear what the Office of Planning  
21 has to say and where the, the Board can chime in any way  
22 they like.

23 I mean, if I can figure out how to get through  
24 this in a way that is not going to put us in jeopardy  
25 later, then, you know, I'd be willing to hear from the

1 rest of the board members. But until then, I guess I'll  
2 just move over to the Office of Planning or does any other  
3 board members have any comments?

4 MEMBER WHITE: My comment is that, you know, I  
5 agree with you that it needs to be clean, and if there is  
6 some amended relief that is being added in here that the  
7 public was not aware of, I'm more comfortable with the  
8 reposting of this, and hearing at a later date.

9 MS. MOLDENHAUER: Commissioner White, can I  
10 just, that's the one thing that's actually very positive  
11 about this case. It is very clean. We have 14 letters of  
12 support. We went to the ANC. We told them about the  
13 variance.

14 We asked them for the height relief. We even  
15 have a letter from the ANC acknowledging that they  
16 understand that there's a variance, understanding that  
17 they're asking for height relief, and that, and stating in  
18 the record so that the Board is completely protected, that  
19 they're supportive.

20 We have 14 letters of support. This project  
21 has been fully noticed. The community is fully behind it.  
22 And this is a homeowner who has, you know, obviously the  
23 desire to move forward on a project for their family in  
24 order to have a second bathroom and room above their  
25 garage.

1           It's an accessory structure and we believe that  
2 while, yes, there have been unfortunately some  
3 discrepancies on how the zoning regulations were written  
4 because it's a new area of the law for accessory dwelling  
5 structures, that there was some confusion.

6           And this applicant is the first kind of  
7 applicant out of the gate on some of these issues so there  
8 were some conversations that we had to have with the  
9 Zoning Administrator. But we don't think that this  
10 application is in a situation where the Board should not  
11 potentially be in a position to waive their requirements  
12 as, you know, they have the authority to.

13           We would like to, if you'd like, we can present  
14 the full application and go through the rest of the case  
15 for the Board if they'd like.

16           COMMISSIONER MILLER: Thank you, Mr. Chairman.  
17 I would like to hear the case today, but I'll defer to the  
18 Chairman and any other board members on that. But it's  
19 clear, not having talked to Mr. Jesick yet directly, but  
20 it's clear that we need some clarification in the  
21 numbering system in the zoning regulation generally about  
22 whether a special exception was intended in this case.

23           I personally think it was but, I don't know if  
24 my fellow commissioners would think that. So, we  
25 obviously have to do some clean up. I'm sure Mr. Jesick

1 in working with OAG can help the Zoning Commission do  
2 that. I'm sorry we, for whatever responsibility we have  
3 in putting you and the Board in this gray area, and the  
4 applicant.

5 So, I apologize on behalf of the Zoning  
6 Commission for that lack of clarity. But this particular  
7 accessory dwelling issue was a big issue. I mean, this  
8 was one of the big things we wanted to facilitate.

9 So, anything we can do to facilitate this case  
10 and the issue generally, I think is an important part of  
11 the CR 16 regulations.

12 On the height, what height would you have, I'm  
13 not sure I -- What height will you have under the more  
14 restrictive measuring, how far above 20 would you be? I  
15 don't know if I saw anything in the record on that.

16 MS. MOLDENHAUER: I'll turn to the architect to  
17 walk through and show the point of the eave where it is  
18 measured.

19 COMMISSIONER MILLER: I mean, I don't know if  
20 we are going to get into all these issues today. But I  
21 was just curious what that height is.

22 MR. HURTT: Sorry, real quickly. So, the  
23 height as shown in the drawings is measured at the  
24 midpoint of the roof between the two eaves at the alley,  
25 and that's at 20 feet.



1 COMMISSIONER MILLER: Right.

2 MR. HURTT: So --

3 COMMISSIONER MILLER: For the other  
4 measurement, what would it be?

5 MR. HURTT: The question today on the interior  
6 side, so the yard side, the height at the high point is 22  
7 feet.

8 COMMISSIONER MILLER: 22 feet.

9 CHAIRPERSON HILL: Okay. Hold on. Give me a  
10 second. Now we're going completely all over the place.  
11 Even the Office of Planning wants to say something now.

12 So, Ms. Moldenhauer, clean means I'm not  
13 talking a lot, okay. Right. So, easy means I'm not  
14 talking a lot, okay. So, I'm just saying that I'm talking  
15 a lot. So, it's not clean or easy, right.

16 As far as the applicant goes, and you seem kind  
17 of stressed. Everyone is on board with you. We're just  
18 trying to figure out how to get this done and whether or  
19 not it happens today, I don't know yet, okay.

20 So, that being the case, you don't need to say  
21 anything, but we'll ask some questions. That being the  
22 case, I saw we go ahead and hear the case. You can tell  
23 us about what the issues are in terms of as you can help  
24 us point out the difference between the special exception  
25 and the variance.

1           You can talk about the height. Whether we get  
2 to reposting or not, I don't know. But you can go ahead  
3 and go through the case. Mr. Miller seems to try to, you  
4 know, and I'm confused, you know, to a certain extent.

5           So, in terms of just what is being captioned  
6 here. What's been captioned, and what then the public has  
7 had notice of. So, I guess, you know, in your placard,  
8 whatever you can tell me, what was posted, that's fine.

9           And I don't think height was posted and so, but  
10 I'll let you go through your proposal. Okay, I'm sorry,  
11 your presentation. I'm going to go ahead and throw 15  
12 minutes on the clock for you and we'll see where we get.  
13 Oh, Ms. Glazer.

14           MS. GLAZER: Mr. Chair, I just want to point  
15 out one thing. We revised self-certification, Exhibit  
16 49(a), does not contain anything in the variance boxes,  
17 either area variance or use variance. So, I don't  
18 interpret this as a request for a variance. Let alone a  
19 request that's been advertised.

20           CHAIRPERSON HILL: Okay. Okay. So, there you  
21 go, Ms. Moldenhauer. I'm still going to put 15 minutes on  
22 there for you and you can walk us through there as best  
23 you can.

24           MS. MOLDENHAUER: Thank you, Chairman Hood.  
25 The property --

1 CHAIRPERSON HILL: I'm Hill. I'm not Hood.

2 That's okay.

3 MS. MOLDENHAUER: I'm sorry.

4 CHAIRPERSON HILL: I'm really different  
5 looking.

6 MS. MOLDENHAUER: Commissioner Hill, as you can  
7 see the property is located in the RF 1 zone. The  
8 property has had a carriage house located on the rear  
9 portion of the site since 1919 as shown on the basemap.

10 What I'm going to do, I'm going to now turn it  
11 over to the property owner to quickly go through the  
12 project.

13 MS. SCHENEWERK: Good morning, Chairman Hill.  
14 So, my name is Caryn Schenewerk, as I previously stated.  
15 And I'm looking to do a project on the home that I've  
16 owned since 2005. So, I've been in this neighborhood for  
17 a long time.

18 I know all my neighbors. I'm pleased to report  
19 as I will in subsequent slides on the support that has  
20 already been mentioned. So, what we'd like to do is we'd  
21 like to renovate and expand the existing garage that's on  
22 the back of the lot.

23 I have a large family. I have five stepchildren  
24 who are hitting teenage and 20-something years. And  
25 they're coming home with their significant others and we

1 simply don't have enough space in our home.

2           So, we would like to expand that and we decided  
3 that this project in talking with our neighbors and  
4 looking at the properties around us, would be a less  
5 cumbersome and a less noticeable project than going up on  
6 our home, particularly to our own home, right.

7           We also thought that it would be a little bit  
8 easier than as you're seeing it's turning out to be, and  
9 it's becoming quite expensive before we even break dirt.  
10 So, the goal is to retain the existing parking garage and  
11 go up a level on that parking garage to add essentially an  
12 efficiency space that we could use for office and for  
13 guest space for our family.

14           I think I've already mentioned that we've lived  
15 in the house since 2005. We are a single family house  
16 with an apartment building to the right of the property.  
17 We have good relations with that apartment, with the  
18 owner, and the residents of that building.

19           And we're good friends with our neighbors on  
20 the other side of the building. They were hoping to be  
21 here. When we started this project, they were willing to  
22 represent us and support us, yet they've recently  
23 relocated to London for work.

24           So, we have new neighbors next door. They did  
25 not sell the property. They're renting it. And they have

1 expressed their support as well. And then, as you can  
2 see, the properties near us have also been expanded.

3 There are a number, when I bought my house, it  
4 was all residential, single family owners other than the  
5 apartment building, and now we have a number of multiunit  
6 buildings further down Park Road towards 13th Street.

7 You can see a picture of the carriage house if  
8 you go back one, please. It's a picture of the carriage  
9 house. That's the existing house. We'll be retaining the  
10 look of that structure. The brick, the windows, the door  
11 will remain the same, as you see there and we'll got up  
12 from there.

13 Our architect has designed, as you will see,  
14 something that fits within the view and the style of the  
15 house and the area. All right. Next slide, thank you.

16 So, this is the alley behind us. There are a  
17 number of lots. So, the picture to the right is if you're  
18 standing in our garage and you're looking at the back of  
19 our neighbor's house. As again mentioned, we have support  
20 from those neighbors as well as the neighbors to the left  
21 and to the right of the property.

22 And then the picture to the left is a view if  
23 you're standing with your shoulder to our garage and  
24 looking towards 13th Street, you could see the other very  
25 large apartment building that is behind us for whom we

1 also have support from the owner and knows many of the  
2 residents.

3 So, one of the points of discussion is the  
4 distance from our property to the 13th Street entrance.  
5 Our property, as noted here, enters onto an alley that is  
6 15 feet wide where we are, but narrow down to ten feet.

7 And that's 159 feet distance. The city garbage  
8 trucks, city utilities, I've even seen an 18-wheeler  
9 moving truck in this alley. So, it is easily accessible  
10 from 13th Street and is regularly accessed by various D.C.  
11 entities.

12 So, as noted, we have 14 letters of support.  
13 Those include neighbors in various ranges around us. We  
14 received unanimous support from our ANC including the  
15 letter that was recently entered into the record showing  
16 that all aspects of what we're talking about and despite  
17 the confusion that Mr. Miller pointed out with regard to  
18 the need for clarifications, numbering system.

19 We explained all of that, discussed it all  
20 thoroughly with our ANC, whether it was a special  
21 exception or variance, full support there. No objections  
22 from the D.C. Department of Transportation.

23 And as the Office of Planning is represented  
24 here today, I think that they note that they proposed  
25 support with certain conditions. And their conditions,

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1 I'd be interested as a homeowner, a longtime homeowner, to  
2 discuss, particularly given the use of the property.

3 I'm not sure if we're even get to that point  
4 today so I don't want to waste anybody's time including  
5 mine and my lawyers. But if we need to get to that  
6 discussion, I would welcome the opportunity to explain why  
7 I think that perhaps it's a little bit onerous for a  
8 homeowner to engage in these conditions.

9 CHAIRPERSON HILL: The condition being getting  
10 a statement from FEMS?

11 MS. SCHENEWERK: To my understanding, it that  
12 when we go through the permitting process for the property  
13 and that this will be addressed and that FEMS, and I'll  
14 defer to my attorneys who have more experience in advising  
15 clients on this topic area.

16 But it's a challenge to actually go and get  
17 them to write a letter whereas they will be part of the  
18 process of reviewing the plans. If that is not a  
19 challenge, this is my first time ever doing this kind of  
20 project.

21 Again, I've lived in the District since 1998.  
22 I've never had to go through this process. So, if for  
23 some reason that is not hard to do, I'm more than willing  
24 to do anything, on my own, to try and expedite this  
25 process because it's been less than easy so far.

1                   And then the other is the sprinkler system. As  
2 we plan to use this as guest space and not rent it out on  
3 a full time basis, and given that that is not a  
4 requirement as I understand it in the building permits,  
5 nor is it something that the builder that I would like to  
6 use for residential property has experience doing, I would  
7 request that that requirement be waived. Yes, sir.

8                   CHAIRPERSON HILL: No, I wasn't going to say  
9 anything.

10                  MS. SCHENEWERK: Okay. So, as I said, I'm more  
11 than willing to get into the fact that I think that that  
12 is an over expense given the access in the alley, the  
13 proximity, the fact that the, my understanding is that  
14 there is some question of whether there's a 300, we're  
15 within 300 feet, which is generally in some zones allowed.

16                  Again, this is not my legal expertise. So, the  
17 look on your face says that you have something to say,  
18 though, sir.

19                  CHAIRPERSON HILL: No, I'm just thinking. I'm  
20 sorry. I'm just, Ms. Schenewerk, the Office of Planning  
21 has two conditions for you, right? One of them was to  
22 get, and I haven't heard anybody object to getting a  
23 statement from FEMS before, and so I am trying to kind of  
24 walk through that a little bit.

25                  And then I'll get the Office of Planning in



1 terms of the second condition. So, as of now, you are  
2 opposed to both conditions at this point if you don't need  
3 them. And that's what I understand.

4 And then the other thing that I just want to  
5 point out, and I know you also look, again you look  
6 concern --

7 MS. SCHENEWERK: I'm very concerned.

8 CHAIRPERSON HILL: -- earlier, and again I'm  
9 just pointing out that of my time here, and it's only been  
10 two and a half years, but it has been long enough that  
11 everyone seems to be trying to help you out as best as  
12 they can.

13 And you're sounding as though you think that  
14 you don't realize that. I'm just letting you know that  
15 you're in a better spot than most people.

16 MS. SCHENEWERK: I appreciate that. I don't  
17 think that has sunk in yet.

18 CHAIRPERSON HILL: Yes. Well, you can ask your  
19 attorney just where you are and that if this takes a  
20 little bit more time or there's a couple of more hoops  
21 that need that need to go through, you still are better  
22 off than most.

23 But --

24 MS. SCHENEWERK: I appreciate those  
25 reassurances.

1 CHAIRPERSON HILL: -- just want to kind of  
2 point that out, just kind of want to point that out. So,  
3 is that your portion?

4 MS. SCHENEWERK: I think so.

5 CHAIRPERSON HILL: Okay. Does the Board have  
6 any questions for the homeowner? Okay. Ms. Moldenhauer.

7 MS. MOLDENHAUER: We can then just, in two  
8 minutes, and I will flip through the architectural slides  
9 so the Board has an understanding of what the proposal  
10 structure will look like.

11 MR. HURTT: Thanks. This is a north facade.  
12 It's the alley facing elevation. The garage doors that  
13 are shown are actually within the existing masonry  
14 opening. The person door to the right of the garage door  
15 is actually the portion of new construction at the first  
16 floor level at the alley level.

17 So, it's basically taking the existing masonry  
18 and expanding upward. Obviously, its siding above the  
19 existing masonry, but the intention is to do something  
20 which is in concert or in keeping with the idea that this  
21 was a historic carriage house and still retains that look.

22 This is actually the east side elevation.  
23 Adjacent to this is a little parking area for the  
24 apartment building. And as you can see, it's a monoslope  
25 roof going up to the high side which is the interior

1 facing side.

2 And then this is the opposite side which  
3 essentially mirrors the prior side. And then this is the  
4 rear yard facing elevation. It's a south elevation. So,  
5 at the first floor level, the door and windows that are  
6 show, those are the existing masonry openings. Just  
7 replacing those in kind.

8 And then the new construction above.

9 MS. MOLDENHAUER: And can you just quickly, for  
10 the Board, articulate what the practical difficulty would  
11 be if you were to maintain the 20 feet all the way across  
12 and the rationale for why we're asking for that extra two  
13 feet.

14 MR. HURTT: Sure. We took the height  
15 measurement as going from the mid-point of the roof at the  
16 alley. So, at the public face. And at that point, it's  
17 20 feet and then sloping down to a lower point within the  
18 alley, we're maintaining seven feet as a minimum height  
19 within the unit.

20 And then rising up towards the interior side  
21 which allows us to put high glass and get ample light in  
22 from the south elevation.

23 MS. MOLDENHAUER: And you're proposing no  
24 windows on either side of the property to protect privacy  
25 from the other owners, is that why you need the additional

1 light and air on the internal side of the property?

2 MR. HURTT: Yes, that's correct. There are no  
3 side windows. I mean, the east side elevation would sit  
4 on the property line so that in essence acts as a party  
5 wall. So, no windows on that side and there's also no  
6 windows opposite.

7 So, it protects the privacy of both sides. And  
8 then by having the higher windows on the south side as  
9 well as the windows on the north side, we were able to get  
10 light and ventilation through.

11 MS. MOLDENHAUER: Thank you. And so, now I'll  
12 just, I'll take -- it might go faster. So, as we said,  
13 we're asking for a special exception relief, the relief  
14 from the expansion of an accessory dwelling structure as a  
15 special exception.

16 And then the requested relief from permissible  
17 access from a 15-foot wide alley. This is relief where if  
18 it was a 15-foot wide alley, we are within the 300 feet  
19 from the public street, we're actually less, almost half  
20 of that, about 115 feet.

21 But because the street is 15 feet where the  
22 property is but narrows to ten feet, that's where we  
23 require relief. We had showed that under lower zones, the  
24 R zone, it specifically articulates that you can get  
25 special exception relief from this.

1           And in our filing we show where commissioners,  
2 I think Commissioner May, had a conversation with Office  
3 of Planning staff where they confirmed that that would be  
4 an area of special exception.

5           That is why we had asked for it in the  
6 alternative. Based on our conversation today, to simplify  
7 matters, we're asking now for a variance on that so it  
8 would be a variance because we cannot obviously expand the  
9 alley width.

10           And that it would be a practical difficulty to  
11 not allow an accessory structure here just because the  
12 alley narrows. The alley is 15 feet at the site of the  
13 property and we are within the distance to provide a fire  
14 hose, and that is the distance why they create the 300  
15 feet.

16           And we believe that from that regard, we would  
17 satisfy a variance standard under the access from a 15-  
18 foot wide alley, under U, 303.C(d)(3).

19           Then, the next areas are special exceptions for  
20 lot occupancy and rear yard. And we've gone through the  
21 relief here, the special exception relief, we believe that  
22 the property is in harmony and that there is no adverse  
23 effect on the neighboring properties and we comply with  
24 the specific conditions.

25           The property is in harmony because we are

1 providing a dwelling unit. In order to provide a kitchen  
2 as in part of accessory dwelling, it has to be identified  
3 as a flat but the intent is to continue it and to maintain  
4 it as a single family home as you've heard from the  
5 applicant today.

6 And we believe that that is in harmony with the  
7 intent of the Zoning Commission and the purpose and intent  
8 of this section. There is no adverse impact on the use of  
9 the neighboring properties on the special exceptions given  
10 that the carriage house is at its current location,  
11 obviously since over 1919.

12 The relief does not have any change in the  
13 neighboring properties use and that it will continue to be  
14 used for parking, storage, and then residential use, and  
15 will not have an adverse impact on traffic, noise or  
16 light.

17 The areas we've highlighted in blue here are  
18 the areas that we're requesting relief from. Again, this  
19 is the no expansion or addition will be made on an  
20 accessory dwelling unit without special exception and the  
21 access requirement from 15 feet.

22 Here, we're asking for a variance from that  
23 lower section because it would be practically difficult to  
24 comply with A, which would require them to partially  
25 demolish part of the building because the building is

1 built from side yard to side yard in order to provide an  
2 8-foot wide open to the sky.

3 And that, I articulated earlier, from a  
4 variance perspective, there's no ability without practical  
5 difficulty to comply with the 15-foot wide alley  
6 requirement. The special exception conditions under this  
7 section, they actually provide specific subsections that  
8 any potential increase of shadow will be minimal given  
9 this property's location and its relationship to the sun,  
10 and the air, and light, that there'll be no or minimal  
11 impact on shadow.

12 The sustained use of the accessory building,  
13 the property will not be impaired as well. We also heard  
14 from the architect, talking about windows, will not be  
15 located on the adjacent properties to reduce the windows  
16 and impact on those properties.

17 We have provided photos and we will obviously  
18 be lower than the 60 percent lot occupancy for the  
19 project. This is the variance standard. We believe that  
20 the property is unique based on a confluence of factors.  
21 The property is a large size lot.

22 It actually would be able to be converted to  
23 three units by special exception if requested as has been  
24 done by some other properties on the block, but the intent  
25 here is to keep to keep it as a single family for the

1 applicant.

2           It is one of the only three non-apartment  
3 buildings of similar size on the block. And it is located  
4 next to an apartment building with windows facing the  
5 property as you saw in the image. That apartment building  
6 goes all the way to the depth of the property.

7           So, you have a lot of lack of privacy and so it  
8 would be practically difficult to provide any other  
9 alternative style of an addition such as a rear addition  
10 because of the privacy aspects of it.

11           So, the request to have the relief from the  
12 variance from either the access point or the height, we  
13 believe, is satisfied based on that and creates a  
14 practical difficulty.

15           That concludes our case and we will be open for  
16 questions.

17           CHAIRPERSON HILL: Yes. No, you're great on  
18 time. I'm just trying to work through this as best as we  
19 can, obviously. Does the Board have any questions for the  
20 applicant or the attorney?

21           VICE CHAIRPERSON HART: If you could, Ms.  
22 Moldenhauer or Mr. Hurtt, if you could go through the  
23 height variance one more time? That aspect of it I'm -- I  
24 understand that you are trying to, you said that you  
25 wanted to go a minimum of seven feet on the alley side and



1 then kind of raise it up to the, I guess, to the house  
2 side because you wanted to have southern exposure.

3 But can you explain that a little bit more.  
4 I'm still trying to figure out, I mean, why couldn't you  
5 just do a flat roof?

6 MR. HURTT: Well, I mean part of this is that  
7 we were, you know, working to comply with the height, the  
8 height is as measured to the midpoint of the roof. And  
9 then sort of working from that point and keeping what  
10 would be a minimum standard for the interior ceiling  
11 height at the alley, and sort of working within those  
12 points.

13 It's actually only a two and 12 slope so, it's  
14 a very modest slope as it is. I think it looks more  
15 extreme on the side elevation than what it actually is in  
16 reality.

17 And we did also want to really give the  
18 opportunity to bring a lot of light in without using other  
19 means such as skylights which could have, you know, long  
20 term, you know, they can break down and you can have more  
21 water impact.

22 So, we wanted to have a continuous slope.

23 VICE CHAIRPERSON HART: So, do you have a  
24 section?

25 MR. HURTT: I don't think we have a section.

1 No, I mean, essentially you can --

2 VICE CHAIRPERSON HART: What I'm trying to  
3 understand is, you're saying that the -- I understand what  
4 you're saying about the slope of the roof and you know,  
5 that can look off, whatever.

6 But I still don't know why you're not doing a  
7 flat roof? I mean we have flat roofs all over this area.

8 MR. HURTT: Sure.

9 VICE CHAIRPERSON HART: So, why is that not an  
10 option in this case? You can still do that and, I mean,  
11 people still do that all over the city. They have light  
12 just coming into their houses. Why is this different?  
13 You're adding a slope roof for a reason and I'm trying to  
14 understand why.

15 MS. SCHENEWERK: As the applicant, may I speak  
16 to my request of my architect.

17 VICE CHAIRPERSON HART: Sure.

18 MS. SCHENEWERK: So if you look at the photo  
19 of the, they're two aspects. One was to minimize the  
20 alley side of it, right. So we have less windows on the  
21 alley side. It also went to maximizing the internal space  
22 of the unit.

23 And then also wanting to maximize the light  
24 coming in and then the look of the actual carriage house  
25 from our backyard. So, as you could see, this is the

1 alley view that you're seeing.

2           And then if you flip to the yard view, it gives  
3 us nice light through that front. So what we'd like to  
4 do in that space, because we want to be able to use it for  
5 an office space, my husband works from home quite a bit,  
6 as well as for guest space, is that we've designed it, the  
7 exterior to fit the needs and the uses of the interior  
8 including things like I'm having a kitchenette but also a  
9 full bath as well as a trundle bed so that we can have it  
10 be an office space or have it be a guest space with the  
11 built-in bed units.

12           So, we've designed that around the outside  
13 walls so the kitchen at the back and then the stairwell  
14 along one side. The size of it allows us to run the stairs  
15 straight up which is a significant design aspect of it.

16           And then it allows us to install that, not  
17 trundle bed but Murphy bed, excuse me, Murphy bed on that  
18 far wall and have enough height to accommodate both the  
19 bed and some window units. And then have that nice, have  
20 the light coming in on the front side of it so that we're  
21 maximizing the windows.

22           So, we're maximizing the non-windowed sides  
23 with the stairwell and with the Murphy bed installed, and  
24 then having the light, being able to maximize the light in  
25 the salon in the front. Does that answer the question? I

1 think --

2 VICE CHAIRPERSON HART: No. I do understand  
3 that.

4 MS. SCHENEWERK: One of the other goals was  
5 also for run off, right. So, this allows us to maintain  
6 the slope of the yard. So, one of the things that I had  
7 to invest significantly in the house, as do many D.C.  
8 residents by many friends that I've heard this from, is  
9 addressing the actual slope and the runoff from the yard.

10 And so the way that my yard had to be  
11 completely rebuilt was to raise the, so my basement would  
12 stop flooding when I bought the house, was to slope it  
13 back towards the alley, right. And so, this also feeds  
14 into that idea that you're keeping the runoff controlled  
15 towards the alley instead of more into the yard.

16 I have issues as do many residents with water  
17 issues. So, I'm trying to maintain those. I don't know  
18 if that's pertinent, but it is a fact.

19 VICE CHAIRPERSON HART: No, I understand that.  
20 What I was trying to get to was, you could still do this  
21 with a, what I was trying to understand was the necessity  
22 to have the slope roof.

23 What you're saying is that you're doing that  
24 because you wanted to minimize the elevation along the  
25 alley and to minimize that elevation to the smallest

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 portion that you could, which would allow for a seven-foot  
2 roof, seven foot ceiling on the, toward the alley side.  
3 That would, you didn't want to have a seven-foot ceiling  
4 the entire way.

5 MS. SCHENEWERK: Correct.

6 VICE CHAIRPERSON HART: So, you know, to deal  
7 with that then you had a slope roof to allow for a higher  
8 facade, I guess, on the house side.

9 MR. HURTT: I'm sorry. If I could just  
10 interject. I mean, it's not to just to have a higher  
11 facade. It's also to provide a more, you know, commodious  
12 and spacious interior. So, the existing garage is about  
13 ten feet on the alley side to its roof.

14 And we were looking at this as essentially  
15 building up from that point. And so, you know, we're  
16 minimizing the impact on the alley side which is,  
17 essentially a public face. And then, you know, but using  
18 the slope to still gain this more commodious ceiling  
19 height within the space.

20 The stair also rises from the alley. To access  
21 the new unit, the stair would rise from the alley and up.  
22 So, that when you come up the stair, rather than coming up  
23 into an area which is a low ceiling height, you're coming  
24 up into the proportion of the space that has the higher  
25 ceiling height.

1 VICE CHAIRPERSON HART: And the reason for the  
2 HardiePlank? Why are you not doing --

3 MS. SCHENEWERK: It matches the back of the  
4 house, on our house as well as on our neighbors' houses.  
5 So, our house and the two houses to our west, both have  
6 brick at the base and then HardiePlank on the second level  
7 at the back of the house.

8 And so, we're using a material that matches  
9 ours exactly.

10 CHAIRPERSON HILL: Okay.

11 VICE CHAIRPERSON HART: Thank you.

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

14 MR. JESICK: Thank you, Mr. Chairman and  
15 Members of the Board. The Office of Planning is  
16 supportive of the application and recommends approval of  
17 all the areas of relief.

18 I did want to touch on the topic of height  
19 which was just discussed. The Office of Planning believes  
20 the application conforms with the height as noted in our  
21 report. So, we think it conforms with the height as the  
22 rules are stated in the RF-1zones.

23 It would be up to the applicant to just make  
24 sure that the Zoning Administrator agrees at the time of  
25 the building permit. We don't see an issue with the

1 height ourselves.

2 I guess questions were raised about the  
3 conditions of approval. The alley width requirements were  
4 put in place, you know, working with FEMS, and those are  
5 the widths that they stated they needed for access.

6 Relief can be granted and we feel that the  
7 applicant has met the variance test. But there's the  
8 lingering concern of can FEMS adequately serve this unit.  
9 So, that's why we propose those conditions of approval for  
10 the safety of the residents of the unit as well as the  
11 safety of adjacent buildings.

12 So, that's why those are in there. But I'd be  
13 happy to take any questions. We felt that the relief was  
14 fairly straightforward, I guess. You know, it's a lot of  
15 different relief, but we felt that they met the test for  
16 each one.

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

19 VICE CHAIRPERSON HART: Yes, Mr. Chairman. Mr.  
20 Jesick, regarding the height issue. So, you said that you  
21 believe that they meet the regulations for RF zone. Did  
22 you have a conversation or did someone from the Office of  
23 Planning have a conversation with the ZA about or the DCRA  
24 about that issue?

25 MR. JESICK: Yes, I've been told that on

1 occasion, I'm not -- I don't have an explanation for it.  
2 But apparently the rules of measurement from the R zones  
3 have been used in the RF zones. And in the R zones, it  
4 specifically says it is measured to the highest point of  
5 the roof.

6 As Ms. Moldenhauer explained, there is no such  
7 rule in the RF zone. So, I guess the Office of Planning's  
8 interpretation is that it reverts back to the general rule  
9 for measurement in Subtitle B which says you measure to  
10 the midpoint of the slope.

11 VICE CHAIRPERSON HART: But in this particular  
12 case, you didn't have a conversation with the ZA. You're  
13 just saying in the past you've had an understanding that  
14 the DCRA's office does this for some reason, uses the R  
15 zone instead of the RF zone for measuring height?

16 MR. JESICK: My conversation was in the context  
17 of this case but it wasn't specifically looking at the  
18 plans and saying, this plan is nonconforming. It's just  
19 in the past this has happened.

20 VICE CHAIRPERSON HART: Thank you. And also  
21 with regard to the, you said with regard to the relief  
22 that the applicant is seeking and there's a lot of relief  
23 in terms of, there was some change in how the relief was  
24 being sought.

25 So, at one point it was just all special



1 exceptions and then there's this kind of variance relief  
2 for the, what was it, the applicant is asking for the  
3 height aspect of it, but also the distance from the, for  
4 the alley issue as well. And you said that you're okay  
5 with all of that?

6 MR. JESICK: We're okay with all -- our  
7 understanding was that the applicant was not actually  
8 requesting relief from height. If they are today, that  
9 would be new and that's fine. In terms of the alley,  
10 special exception or variance, it seemed clear from the  
11 record that, you know, we understood that it should be a  
12 variance.

13 It seems like the neighborhood understood that  
14 it could be a variance and you know, the project itself  
15 was not changing whether it's a special exception or a  
16 variance. I think the neighbors understood, you know, the  
17 scope of the project and weren't necessarily concerned  
18 about the type of relief that was being granted.

19 VICE CHAIRPERSON HART: Thank you.

20 MEMBER WHITE: Was there ever a concern about  
21 the height of the project with the neighbors or with OP or  
22 anyone?

23 MR. JESICK: OP does not have a concern about  
24 the height. I can't speak for the neighbors but it sounds  
25 like from the most recent letters submitted by the ANC,

1 that they're aware of the questions surrounding the height  
2 and they were okay with it.

3 COMMISSIONER WHITE: I just had one question,  
4 Mr. Chairman. So, on your condition on the, obtaining a  
5 statement from FEMS, you would be okay if that condition  
6 read, which they often do, prior to the issuance of a  
7 building permit or certificate of occupancy, that FEMS  
8 shall sign off, you know, on which they do as the  
9 architect pointed out, they do as part of their building  
10 permit review.

11 MR. JESICK: Yes, that's fine. It's up to DCRA  
12 to interpret how they would want to implement that  
13 condition. If they are fine just having that as part of  
14 the normal building permit review, that's fine with us.  
15 If the applicant can get something in advance of their  
16 building permit application, that's fine also.

17 COMMISSIONER MILLER: I mean, that is kind of  
18 the standard language that we use for conditions prior to  
19 the issuance of the permit or the CO.

20 CHAIRPERSON HILL: Okay. So, just from  
21 following up with Mr. Miller's question. So, in terms of  
22 the condition, the condition could be that prior to  
23 receiving the certificate of occupancy, the applicant will  
24 have gotten something from FEMS?

25 MR. JESICK: I think that'll be fine. Although

1 for single family dwellings, I'm not sure there is a  
2 certificate of occupancy. So, maybe it might be before a  
3 building permit is issued.

4 CHAIRPERSON HILL: Okay. Building permit,  
5 okay.

6 All right. Okay. Does the applicant have any questions  
7 for the Office of Planning?

8 MS. MOLDENHAUER: Just two points of  
9 clarification. OP believes that the eave is the proper  
10 measuring point and that the plans are at 20 feet?

11 MR. JESICK: We agree with the applicant that  
12 the measuring point is to the midpoint of the eave.

13 MS. MOLDENHAUER: Midpoint.

14 MR. JESICK: Ultimately that decision is up to  
15 the ZA, obviously.

16 MS. MOLDENHAUER: Yes.

17 MR. JESICK: But that's our interpretation.

18 MS. MOLDENHAUER: And then the second question  
19 is, does the Office of Planning second point or condition  
20 is the accessory building is equip with sprinklers and  
21 Office of Planning understands that sprinklers are  
22 actually not required in single family homes under current  
23 building code requirements.

24 MR. JESICK: I was not aware of that but --

25 MS. MOLDENHAUER: This would be an extra burden

1 put on the homeowner to install sprinklers when building  
2 codes do not require them.

3 MR. JESICK: I'm willing to delete that  
4 condition if that would go against the current building  
5 code.

6 MS. MOLDENHAUER: Thank you. No other  
7 questions.

8 CHAIRPERSON HILL: Okay. Let's see. Is there  
9 anyone here from the ANC? Is there anyone here wishing to  
10 speak in support? Is there anyone here wishing to speak  
11 in opposition?

12 Okay. We're going to take a quick break and  
13 then will come back. Three minutes. Thank you.

14 (Whereupon, the above-entitled matter went off  
15 the record at 11:07 a.m. and resumed at 11:17 a.m.)

16 CHAIRPERSON HILL: So, this is kind of where I  
17 am. And the Board, please chime in with what's going on.

18 And Ms. Moldenhauer, I'm going to kind of ask  
19 you to help us a little bit in terms of what we're doing  
20 here. I mean, the caption that we have is from your 49A  
21 in terms of the things that you've asked for.

22 Now, it seems as though the Office of Planning  
23 and the ANC, and even the Board, I think, through the  
24 record and the presentation would, and I don't know, we'll  
25 get to deliberations, but be leaning towards, you know,

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 the approval of the variances that you have been -- that  
2 you have in the record and that you've stated and that you  
3 made a case for, as well as the special exceptions.

4           Again, where I'm coming back to, is all of the  
5 procedural matters with your request. The height it  
6 seems, and I'm a little confused as to this part, because  
7 the Office of Planning seems to think that the height  
8 isn't necessary.

9           And I can assume that maybe the Zoning Admin --  
10 I mean, or you -- the height was never -- and we don't  
11 have anything in the record concerning the request for  
12 height in terms of posting or in your self-cert.

13           So, I definitely would need -- this is kind of  
14 my discussion with the Board as well, a revised self-cert  
15 as to what it is you're requesting.

16           It seems as though through this process, and I  
17 wasn't necessarily thinking we were going to get this far  
18 through this case right now. But through this process,  
19 the Office of Planning seems to be in agreement that the  
20 sprinklers are not necessary.

21           And that this statement in terms of a condition  
22 being that we will get, and I would have to look at the  
23 condition again. And maybe you could propose a condition  
24 in terms of that you will get something from FEMS prior to  
25 submitting for your permit.

1           And that could be something that could be in  
2 the conditions. But I'm really unclear as to what it is  
3 you're -- like I want a revised self-cert that clarifies  
4 what it is you're asking for.

5           If you are asking for the height, then that's  
6 another -- a variance from the height, then that's another  
7 discussion that you can clarify with me right now.

8           Because that might actually require -- I mean,  
9 the -- to go from the special exception to the variance  
10 would be, you know, 15 days reposting and then 40 days  
11 notice. And -- as I understand it.

12           And perhaps we could, as a Board, and I forget  
13 in the regulations where it is, I think it's 400, 402. So  
14 we could possibly get around the variance request, but not  
15 for the height I don't think.

16           Because we haven't seen it before. Yeah,  
17 402.1. Because I think that most people so far from all  
18 the testimony, and what's in the record, the ANC  
19 understands the project.

20           However, the height -- so first of all, I  
21 guess, why is it that you're requesting the height?

22           MS. MOLDENHAUER: It was a conversation that  
23 the Applicant had with OP. There was a dialogue about  
24 whether there was a situation where maybe they would read  
25 in, as OP indicated in their testimony, the language in

1 Section R, Section RF, as we articulated in our cert.

2 And we don't believe that that would be  
3 appropriate because the language is clear that there -- it  
4 does not include that additional language on measuring  
5 requirements for the height.

6 So we would believe that we would comply. We  
7 were looking for, I think we've heard clarification from  
8 the Office of Planning that they confirm that, that we  
9 comply.

10 And given that obviously, you know, it's before  
11 the Board. The Board could opine if they wanted to.  
12 Counsel's obviously provided other opinions on that.

13 But if that's the case, we would then obviously  
14 be willing to withdraw that since it seems like it's very  
15 clear the regulations do not have that obligation. The  
16 regulations would then revert back to the general rules.

17 And so then that would not be necessary.

18 CHAIRPERSON HILL: That's fine. So the only  
19 problem you -- the only problem you might have, or what  
20 you would be concerned with is possibly the Zoning  
21 Administrator.

22 MS. MOLDENHAUER: And now as long as the order  
23 indicated that obviously that was -- that height was not  
24 part of the application, then I don't think that there  
25 would be an issue.

1 CHAIRPERSON HILL: Okay. All right, so then I  
2 would be interested in seeing a revised self-cert for what  
3 it is you're asking for. All right?

4 Including if it's from a special exception to a  
5 variance. I guess in terms of the waiving of the  
6 requirements, I think --

7 MS. MOLDENHAUER: So Section Y 101.1 allows the  
8 Board -- sorry, 101.9, Y 101.9 allows you to waive all of  
9 the requirements in Section 402.

10 Which would be the posting, the two hundred  
11 foot notice. Obviously the Board has that authority to do  
12 so as long as there is good cause shown and no adverse  
13 impact on parties.

14 Here there are no parties other than the ANC.  
15 The ANC has indicated that there would be no adverse  
16 impact.

17 And we would obviously request the Board, based  
18 on their authority to do so, would do so.

19 CHAIRPERSON HILL: Ms. Glazer, do you have any  
20 thoughts on that? That why --

21 MS. GLAZER: I have to go -- yeah, I believe  
22 that Section does give the Board that authority. But  
23 requirements are we waiving?

24 I'm still not clear, is there a variance  
25 request pending for height?



1 MS. MOLDENHAUER: No. There is not.

2 CHAIRPERSON HILL: That's going to be  
3 withdrawn.

4 MS. GLAZER: That's withdrawn.

5 MS. MOLDENHAUER: That's been withdrawn.

6 MS. GLAZER: Okay. So I think that counsel has  
7 a good point. And also 402, I think .11 allows the Board  
8 even if it finds that there's a defect in the notice  
9 requirements, to take into consideration various factors  
10 on whether to hold the hearing.

11 Obviously you did hold part of the hearing.  
12 And I think that could be met -- satisfied by subsection  
13 (a), which says that there's actual notice to parties and  
14 people in the community.

15 And it seems that that could be based upon the  
16 OP testimony that there was an understanding in the  
17 community of the nature of the project. Even if the  
18 terminology was -- might have been incorrect.

19 CHAIRPERSON HILL: Okay. Would anybody need --  
20 would anyone else need anything from the Applicant?

21 VICE CHAIRPERSON HART: No. I think, I mean, I  
22 know that we're -- Mr. Chairman, I know that you had asked  
23 for a revised self-cert.

24 I mean, are we looking for having a decision  
25 next week? Are we looking for two weeks?

1 CHAIRPERSON HILL: I would say, you know, --

2 VICE CHAIRPERSON HART: And I guess it's also  
3 the weighing of the, you know, of this notice. But I  
4 don't know if that's, you know, if Ms. Glazer would like  
5 to opine on that.

6 MS. GLAZER: Well, you don't have to waive all  
7 of them with this requirement. You could ask that some  
8 notice be provided and that the revised self-cert be  
9 served on the parties and posted.

10 But you would waive the 40-day time period  
11 requirement for instance.

12 CHAIRPERSON HILL: Okay. What about the 15 --  
13 so there's a 15-day reposting?

14 MS. GLAZER: I think that you're talking about  
15 waiving. So you can modify some of those time lines.

16 CHAIRPERSON HILL: Okay. I mean, I'm uncomfort  
17 -- it's -- we're back to the very beginning of this  
18 discussion.

19 Which is, you know, what we're as a Board -- I  
20 mean, what as a Board we're willing to do in terms of  
21 waiving?

22 I think that the Applicant has made a good case  
23 in terms of why everyone has been notified and why  
24 everyone knows what's going on. However, I would like  
25 some kind of notice to happen.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1           And so, I'd like -- well, a revised self-cert  
2 for certain, or certainly. And then I'd need at least a  
3 week to take a look at everything after seeing the revised  
4 self-cert.

5           In terms of the posting, does the Applicant  
6 have any suggestions for posting?

7           MS. MOLDENHAUER: Again, I think that I don't  
8 believe that we would need to do anything. I think that  
9 the Board would have the authority.

10          If the Board would like us, we can, you know,  
11 maintain the poster on the property. And make sure that  
12 the poster on the property includes the proper relief,  
13 take a picture of that.

14          And then show an affidavit between now and next  
15 -- this coming Tuesday. Which would be -- I don't know  
16 what that date would be.

17          CHAIRPERSON HILL: The 14th.

18          MS. MOLDENHAUER: Wednesday. Wednesday. I  
19 always get confused. You guys move from Tuesday to  
20 Wednesday.

21          CHAIRPERSON HILL: It's Valentine's Day.

22          MS. MOLDENHAUER: Valentine's Day.

23          CHAIRPERSON HILL: So, okay. If you could do  
24 that, that would be great. So go ahead and change the --  
25 keep the poster up.

1 Change the poster for the relief now that  
2 you're requesting. Take a photograph of it. Submit it to  
3 the record.

4 And then a revised self-cert. And --

5 VICE CHAIRPERSON HART: Mr. Chairman?

6 CHAIRPERSON HILL: Yes?

7 VICE CHAIRPERSON HART: Just one little point  
8 of clarification. Not clarification.

9 Could you make sure that the photos that you've  
10 taken are actually very clear so we can actually see the -  
11 - they were just a little bit distorted.

12 It's hard to -- you could see the posting, but  
13 you couldn't really see anything on it.

14 MS. BIGLEY: Yes. We'll make sure that the  
15 lettering is bold and underlined.

16 VICE CHAIRPERSON HART: That would be very  
17 helpful. Thank you.

18 CHAIRPERSON HILL: Ms. White, you had  
19 something?

20 MEMBER WHITE: So, just so I'm clear. They're  
21 going to do a revised self-certification, maintain a  
22 posting with any of the modifications that we've  
23 discussed.

24 Upload the photos into the record. And are we  
25 also dealing with the FEMS issue? Or is that going to be

1 incorporated once we set the case for a decision?

2 COMMISSIONER MILLER: I think the Chairman  
3 suggested that the Applicant maybe suggests the revised  
4 language based on the dialogue that we had.

5 MEMBER WHITE: Um-hum.

6 COMMISSIONER MILLER: So, that would be  
7 something that we would look forward to, I think, from the  
8 Applicant to get.

9 MEMBER WHITE: Okay.

10 COMMISSIONER MILLER: I'm glad you raised that.

11 MEMBER WHITE: Okay. Thank you. And just  
12 delete the sprinkler condition all together.

13 COMMISSIONER MILLER: That was my  
14 understanding.

15 CHAIRPERSON HILL: Okay.

16 COMMISSIONER MILLER: Were you looking -- we're  
17 looking to deliberate in one week? Or are we deliberating  
18 -- when are we deliberating?

19 CHAIRPERSON HILL: We do -- we're deliberating  
20 next week.

21 COMMISSIONER MILLER: Are we deliberating right  
22 now?

23 CHAIRPERSON HILL: No. We deliberate next  
24 week.

25 MS. GLAZER: Mr. Chair, if you put it on the

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1 hearing calendar then you could be free to ask questions.

2 And you can still deliberate afterwards if you choose.

3 CHAIRPERSON HILL: Mr. Miller, do you need a  
4 continue --

5 COMMISSIONER MILLER: Well, I think the  
6 previous case is two weeks. And so maybe it would be  
7 better to have it in two weeks.

8 CHAIRPERSON HILL: Oh, because you're going to  
9 come back with us?

10 COMMISSIONER MILLER: I can come back whenever  
11 you want me to.

12 CHAIRPERSON HILL: No. That's when -- that's  
13 when -- where you're coming back for that. I didn't know  
14 you were going to come back for that case.

15 COMMISSIONER MILLER: Yeah. I don't know if I  
16 was. Because that was very late and it was very late in  
17 this one.

18 CHAIRPERSON HILL: Right. So now if we put  
19 another one on, then now you have a reason to come in.

20 COMMISSIONER MILLER: Now I've got two cases.

21 CHAIRPERSON HILL: Right.

22 COMMISSIONER MILLER: So, if you can combine  
23 it.

24 CHAIRPERSON HILL: Okay.

25 COMMISSIONER MILLER: In two weeks.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 CHAIRPERSON HILL: So we're going to put it on  
2 the 28th.

3 COMMISSIONER MILLER: I think that might be  
4 better for the public notice too.

5 CHAIRPERSON HILL: The 21st? When's the -- I  
6 have to look at a calendar.

7 MS. GLAZER: The 21st?

8 CHAIRPERSON HILL: Oh, the 21st.

9 MR. MOY: The other case was the 28th. So if  
10 you're shifting the Applicant it's the 21st.

11 CHAIRPERSON HILL: All right. We'll do it on  
12 the 21st.

13 MR. MOY: You want to do it on the 21st?

14 CHAIRPERSON HILL: Uh-huh. And now I'm going  
15 to ask it. So, let's see. Ms. Schenewerk?

16 MS. SCHENEWERK: Perfect.

17 CHAIRPERSON HILL: Yeah.

18 MS. SCHENEWERK: Perfectly said.

19 CHAIRPERSON HILL: Thank you. I just continue  
20 -- I just wanted to clarify. We're trying to work here  
21 with you.

22 MS. SCHENEWERK: Yeah. Absolutely.

23 CHAIRPERSON HILL: And so I need to ask you and  
24 the attorney as well, we're trying to work through dates  
25 here. And so Mr. Miller is going to be back here on the

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1 28th.

2 Will the 28th harm you in any way in terms of  
3 the financing or your project, knowing that currently it  
4 seems like you're going to get away with the 40 days?

5 MS. SCHENEWERK: If my understanding is that we  
6 would come back on the 28th, and you know, seemingly  
7 receive a decision and be able to move on from there, we  
8 can wait until the 28th.

9 CHAIRPERSON HILL: Okay. All right, so we're  
10 going to come back on the 28th then Mr. Moy. So go ahead  
11 --

12 MS. MOLDENHAUER: Can I clarify. Is that --  
13 that's for a decision though, correct?

14 CHAIRPERSON HILL: That's for a decision.

15 MS. MOLDENHAUER: Okay. Not a continued  
16 hearing.

17 CHAIRPERSON HILL: Mr. Miller?

18 MS. MOLDENHAUER: A decision.

19 CHAIRPERSON HILL: What would you like? You're  
20 --

21 COMMISSIONER MILLER: Whatever you decide Mr.  
22 Chairman.

23 CHAIRPERSON HILL: I'm fine with a decision.  
24 I'm fine with a decision. Okay. All right. So we're  
25 going to do a decision on the 28th.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701



1           So give us please, a revised self-cert. And  
2 can you repeat everything so I know you know what we're  
3 asking for?

4           MS. MOLDENHAUER: Absolutely. So by the 21st,  
5 which is in two weeks from today, we will provide copies  
6 of revised self-certs. We will also, as of probably this  
7 afternoon, as early as possible, we will update the  
8 poster.

9           We will take pictures of the poster so they are  
10 clear to be able to be read. Not just the image, but also  
11 the wording that is being revised.

12           We will provide maintenance of that. And file  
13 a maintenance affidavit on the 21st, before the hearing.

14           We will clarify our proposed language for FEMS.  
15 And that is it.

16           CHAIRPERSON HILL: Okay. And just to be clear  
17 for the Board. You know, we're waiving the time  
18 requirements. Because we believe that all the parties  
19 have been notified.

20           Everyone is aware of the project and what --  
21 and nothing is necessarily changing. And so they're not  
22 requesting height. Which was something that had never  
23 been requested before.

24           So that's why we're waiving the time  
25 requirements.

1 COMMISSIONER MILLER: Except it still will be a  
2 three-week posting notice.

3 CHAIRPERSON HILL: It will be three weeks.

4 COMMISSIONER MILLER: Not a new relief then.

5 CHAIRPERSON HILL: Correct. That much is true.  
6 It's not completely.

7 MS. GLAZER: But I believe the height request  
8 has been withdrawn.

9 CHAIRPERSON HILL: Yeah. The height request  
10 has been withdrawn. Exactly. So, okay. Which is why I'm  
11 saying we're going to get to do this.

12 So all right, then I guess we've done  
13 everything except for say goodbye. So, okay we'll see you  
14 on the 28th. Thank you.

15 MR. MOY: All right. If I can have parties to  
16 the table for Case Application Number 19651 of House of  
17 Ruth, Inc. This Application is captured and advertised  
18 for a special exception under Subtitle U, Section  
19 203.1(g).

20 This would replace an existing child  
21 development center with a new facility. And increase the  
22 number of children from 76 to 88, and the number of staff  
23 from 21 to 25 persons in the R-1-B and R-3 Zones.

24 This is at 2910 and 2916 Pennsylvania Avenue  
25 S.E., Square 5546, Lots 800, 5, 6, 7, and 8.

1 CHAIRPERSON HILL: Good afternoon. Good  
2 morning, good morning, good morning. If you could please  
3 introduce yourselves.

4 MS. BROWN: Good morning Mr. Chair and Members  
5 of the Board. I'm Carolyn Brown with the law firm of  
6 Donohue and Sterns on behalf of the Applicant.

7 MS. JACKSON: Good morning. My name is Sandra  
8 Jackson. I'm the Executive Director for The House of Ruth  
9 in Washington, D.C.

10 MR. STOIBER: My name is Jeff Stoiber with  
11 Stoiber and Associates Architects. I'm the architect for  
12 the project.

13 CHAIRPERSON HILL: Great. Ms. Brown, I assume  
14 you're going to present to us?

15 MS. BROWN: Yes, sir. I think we actually do  
16 have a clean case here for you today.

17 And we're very happy to be here and to be --  
18 I'm very pleased myself to be associated with such a  
19 wonderful project, a child development center for kids of  
20 The House of Ruth residents.

21 And as you know House of Ruth is an  
22 organization that provides housing to women abused -- that  
23 are victims of violence. We -- go ahead.

24 CHAIRPERSON HILL: No, that's fine. No, that's  
25 great. Thank you for mentioning those things. We also

1 think it's a wonderful organiz -- or I think it's a  
2 wonderful organization.

3 The -- if I guess you could kind of talk  
4 through as you're giving your presentation, kind of the  
5 ANC and some of things that they kind of spoke about. As  
6 well as some of the comments that DDOT had raised.

7 And then I guess it's something about a pick up  
8 and drop off plan. And I guess that just, as you kind of  
9 go through your presentation if you kind of touch on those  
10 and where you are with that.

11 I'm going to go ahead and put ten minutes on  
12 the clock for you. Just so I kind of know where we are.  
13 And Mr. Moy, if you would.

14 And then you can start whenever you like.

15 MS. BROWN: Thank you. We do believe that we  
16 have a very good case here before you that's -- and the  
17 record's complete in this.

18 As you note, the ANC 7B brought a two and a  
19 half page letter in support of this project. And we have  
20 the support of the Office of Planning and DDOT subject to  
21 conditions. And we agree to those conditions.

22 So, with that we'll give you a shorter  
23 presentation then we normally would in order to speed  
24 things up. I know you had a full morning this morning.

25 So with that I'll turn it over to Ms. Jackson.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 MS. JACKSON: Good morning Chairman and the  
2 other Members of the Board. House of Ruth is a long-  
3 standing organization in the Washington, D.C. area.

4 We've been here over 42 years serving women,  
5 and women and their children. Help them to build safe,  
6 stable, and independent lives with a goal of ensuring each  
7 woman and their children have the confidence and skills  
8 that eliminate domestic violence and homelessness.

9 And we serve them in a multitude of ways. One  
10 through our service enriched housing. And also through  
11 our domestic violence counseling center. And the more  
12 specific area that we're here to talk about this morning,  
13 through our child development center.

14 Many of the women who come to us, come to us  
15 with children. So, in addition to providing for them and  
16 helping them to move on in their lives, they need to have  
17 a safe and stable place for their children to attend while  
18 they are either in training programs, or they're doing job  
19 training programs, or they're actually working in career  
20 fields.

21 Children -- the children that we serve are  
22 children that have experienced homelessness over a period  
23 of time. And some of them present with developmental  
24 delays.

25 So our child development center, which is a

1 very state of the art therapeutic center, provides those  
2 therapeutic services that those children need in order for  
3 them to be able to develop and to mitigate some of those  
4 developmental delays. And be ready to move forward to go  
5 to school and learn.

6 So we're very excited about this particular  
7 project. We've been in the Ward 7 community for over 20  
8 years in the site that we are going to replace the new  
9 center with.

10 Obviously the center that we were providing  
11 services out of, while they were quality services, the  
12 facility was not equipped to deal with the number of the  
13 therapeutic services that we wanted to provide for our  
14 children.

15 And therefore, we are looking to build this  
16 brand new start of the art center that will provide the  
17 adequate space that we need. And also be able to house  
18 all of the quality services that we provide.

19 Ward 7 is an area where there is a great need  
20 for child develop -- quality child development centers.  
21 And it's an area where there are limited child development  
22 centers in that area.

23 And we're certainly poised to be able to  
24 provide this in an area that's much needed.

25 CHAIRPERSON HILL: Thanks Ms. Jackson. Does

1 anyone have any questions for Ms. Jackson?

2 (No response)

3 CHAIRPERSON HILL: Ms. Jackson, really we wish  
4 you the best in terms of the work that you guys are doing.  
5 Yeah.

6 Ms. Brown?

7 MS. BROWN: Yes. Our architect is here to  
8 answer questions, as is Jami Milanovich, our traffic  
9 consultant. But I thought I would just go straight to the  
10 conditions that were with the OP Report and DDOT.

11 And say on the record that we agree with them.  
12 And that the conditions we believe should be in the Order  
13 are, number one, the number of student and faculty staff  
14 shall be determined by the Office of the State  
15 Superintendent of Education up to a maximum of 88  
16 children.

17 And that's an increase over 76. And the number  
18 of faculty/staff at 25. And that's over the existing of  
19 21.

20 Number two, the hours of operation shall be  
21 between 7:00 a.m. and 6:00 p.m., Monday through Friday.  
22 And number three, the Applicant shall establish a pick  
23 up/drop off plan on P Street that includes an extension of  
24 the sidewalk from its current terminus eastward, subject  
25 to DDOT approval.

1           There was another condition that DDOT had  
2 mentioned, which is the inclusion of the long term  
3 required bike spaces inside the building. We will be  
4 providing those.

5           We didn't think it was necessary to include it  
6 as a condition since it's a requirement of the zoning  
7 regulations.

8           CHAIRPERSON HILL: That's great Ms. Brown.  
9 You're doing my job for me. Okay.

10          All right. Anybody have any questions for the  
11 Applicant?

12          VICE CHAIRPERSON HART: And so you do have a --  
13 you did submit an updated drawing showing the drop off  
14 area?

15          MS. BROWN: No. Those are now being worked  
16 out. We were at the Public Space Committee last week, and  
17 when that -- it was raised, I guess, the day before the  
18 Public Space Committee hearing.

19          So we're now presently working on that  
20 condition. So, I think we have that as a written  
21 condition that it's approved through DDOT. I think that  
22 should be sufficient.

23          VICE CHAIRPERSON HART: And do you expect to  
24 have that -- you said you're going through the Public  
25 Space Committee. When is that --



1 MS. BROWN: Oh, I'm sorry. We had the hearing.

2 VICE CHAIRPERSON HART: You had it already?

3 MS. BROWN: On, I think it was January 27.

4 VICE CHAIRPERSON HART: Okay. And when do you  
5 expect to have the actual drawings available?

6 MR. STOIBER: We should have the revised  
7 drawings within the next few weeks.

8 VICE CHAIRPERSON HART: Okay.

9 CHAIRPERSON HILL: All right, great. Anyone  
10 else?

11 (No response)

12 CHAIRPERSON HILL: Okay. Going to turn to the  
13 Office of Planning.

14 MS. BROWN-ROBERTS: Good morning Mr. Chairman  
15 and Members of the BZA. Maxine Brown-Roberts from the  
16 Office of Planning.

17 The Office of Planning will stand on the  
18 record. We are in support and recommend approval of the  
19 requested special exception for the child development  
20 center.

21 And as Ms. Brown said that we also included two  
22 conditions for the number of students and also for  
23 operations. And we'll rest on the record for that. Thank  
24 you.

25 CHAIRPERSON HILL: All right. Great. Does

1 anyone have any questions for the Office of Planning?

2 (No response)

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

5 MS. BROWN: No, sir.

6 CHAIRPERSON HILL: All right. Is there anyone  
7 here from the ANC?

8 (No response)

9 CHAIRPERSON HILL: Is there anyone here wishing  
10 to speak in opposition?

11 (No response)

12 CHAIRPERSON HILL: Is there anyone here wishing  
13 to speak in support?

14 (No response)

15 CHAIRPERSON HILL: All right. We'll turn back  
16 to the Applicant. Is there anything you'd like to say Ms.  
17 Brown?

18 MS. BROWN: No, sir. We've met the special  
19 exception standards for the child development center. And  
20 we respectfully request a decision today if you would be  
21 so inclined.

22 CHAIRPERSON HILL: Okay, great. Thank you.  
23 Okay. Does the Board have any questions or comments for  
24 the Applicant?

25 MEMBER WHITE: One comment. First comment is

1 this is an exceptional project. So --

2 MS. JACKSON: Thank you.

3 MEMBER WHITE: The reputation of the House of  
4 Ruth is nationally known. One question that I have is the  
5 ANC considerations.

6 I wonder if you could just kind of restate what  
7 some of those discussions have been regarding the design  
8 considerations. There were also some discussions about  
9 adopting some community benefits, provisions.

10 MS. JACKSON: Yes. I can speak to some of  
11 those.

12 MEMBER WHITE: That would be great.

13 MS. JACKSON: Sure. We have a wonderful  
14 working relationship in this community. As I said, we've  
15 been in the community for more than 20 years.

16 We've met with the ANC over a number of times,  
17 attended their meetings. And actually met with them  
18 separately.

19 Once they did ask about some modifications and  
20 changes, and was able to adapt those. The initial one was  
21 about the coloring.

22 We at first were looking at a very bright color  
23 on the outside. They asked us to modify that somewhat.  
24 Because, you know, they wanted a little more muted color.

25 And that was fine. And we were able to do

1 that. And that's fine.

2 The other comment that you're mentioning, they  
3 asked about community space for meetings in the site.  
4 Which we are very much open to that and have agreed to  
5 that.

6 We will have a large open room that they will  
7 be able to have meetings there. So we have -- we've met  
8 those conditions as well.

9 And we intend to have an additional, you know,  
10 working with them, working relationship with them. We  
11 even have a public playground.

12 We have several playgrounds on the facility.  
13 One of those playgrounds will be open to the community so  
14 that they will be able to use that playground even when  
15 we're not actually in session if you will.

16 Those were the major pieces that I recall.

17 MEMBER WHITE: Thank you.

18 CHAIRPERSON HILL: Okay, great. Anyone else?

19 COMMISSIONER MILLER: I just wanted to add my -  
20 - join my colleagues in commending the House of Ruth --

21 MS. JACKSON: Thank you, sir.

22 COMMISSIONER MILLER: For the work that you do  
23 and the services that you provide.

24 MS. JACKSON: Thank you.

25 VICE CHAIRPERSON HART: So I should, I guess,

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 do that as well. I'm kidding.

2           Actually, I do think that your organization is  
3 a very -- it does a lot of very good job in the city and  
4 around the area. And I thought that you -- that the  
5 project met the zoning regulation requirements and  
6 criteria.

7           I, you know, listened to the Office of Planning  
8 testified today, as well as their -- read through their  
9 report. And would be supportive of the application.

10           MS. JACKSON: Thank you.

11           VICE CHAIRPERSON HART: And I wish you well.

12           MS. JACKSON: Thank you.

13           CHAIRPERSON HILL: Okay, great. All right,  
14 then I'm going to go ahead and close the hearing.  
15 Obviously we're ready to deliberate it sounds like. Okay.

16           So, I can go ahead and start. Again, as Mr.  
17 Hart just mentioned, you know, I thought that the  
18 Applicant had put forward a very good application.

19           And I think the record is complete in terms of  
20 how they are meeting the standard for the relief that is  
21 requested. I also think that the Office of Planning did a  
22 very good job with their report in terms of their analysis  
23 as to how they're meeting the standards.

24           In addition, you know, they do have the support  
25 of the community. ANC 7D voted four to zero. And DDOT's

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1 also in support of the application.

2 So, does the Board have anything else to add  
3 before I make a motion?

4 VICE CHAIRPERSON HART: Just one quick note  
5 that the -- since the Applicant has actually met with DDOT  
6 regarding the drop off area through the public space  
7 committee, I think that that is helpful for us to know.

8 That's also why I would be in support of the  
9 application.

10 CHAIRPERSON HILL: Okay, great. So I'll go  
11 ahead and make a motion to approve Application 19651 as  
12 captioned and read by the Secretary, including the  
13 conditions that the Applicant agreed to.

14 Which was number of students and faculty staff  
15 shall be determined by the Office of the State  
16 Superintendent of Education up to a maximum of 88  
17 children, 76 existing, 25 faculty/staff, 21 currently  
18 existing.

19 The hours of operation shall be between 7:00  
20 a.m. and 6:00 p.m., Monday through Friday. The Applicant  
21 shall establish pick up/drop off plan on P Street that  
22 includes an extension of the sidewalk from its current  
23 terminus eastward, and subject to DDOT approval.

24 And I ask for a second.

25 VICE CHAIRPERSON HART: Second.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 CHAIRPERSON HILL: Motion is made and seconded.

2 All those in favor?

3 (Chorus of ayes)

4 CHAIRPERSON HILL: All those opposed?

5 (No response)

6 CHAIRPERSON HILL: The motion passes. Mr. Moy?

7 MR. MOY: Staff would record the vote as four  
8 to zero to one. This is on the motion of Chairman Hill to  
9 approve the Application for the relief being requested  
10 along with the conditions as cited.

11 And the Chair stated the motion of Vice Chair  
12 Hart. Also support, Mr. Robert Miller, Ms. White, and we  
13 have a Board seat vacant. The motion carries.

14 CHAIRPERSON HILL: Okay. Summary Order Mr.  
15 Moy.

16 MR. MOY: Thank you.

17 CHAIRPERSON HILL: Thank you. Thank you all  
18 very much.

19 MR. MOY: All right, I believe the next case  
20 before the Board is Application Number 19679 of MYS Land  
21 Investment, LLC.

22 As amended for variances from the lot width and  
23 lot area requirements of Subtitle E, Section 201.1, and  
24 from the side yard requirement, Subtitle E, Section 307.3,  
25 to construct a new one family dwelling, RF-1 Zone at 4932

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1 Nannie, N--A-N-N-I-E, Helen Burroughs Avenue, N.E., Square  
2 5179, Lot 92.

3 CHAIRPERSON HILL: All right. Would the  
4 Applicant come forward. Okay.

5 MR. MOY: Wait, I suggest we come back to this  
6 at the end of the day.

7 CHAIRPERSON HILL: Okay. Let's put it at the  
8 end of the day. And see --

9 MR. MOY: The Applicant stepped out for a  
10 moment.

11 CHAIRPERSON HILL: That happens.

12 MR. MOY: In that case, next is Application  
13 Number 19682 of Tom Henneberg and Lisa Hayes. Caption  
14 advertised for special exceptions under Subtitle D,  
15 Section 5201 from the side yard requirements of Subtitle  
16 B, Section 307.1, non-conforming structure requirements,  
17 Subtitle C, Section 202.2(b).

18 This would construct a two-story rear addition  
19 to an existing one family dwelling, R-1-B Zone at 2608  
20 36th Street, N.W., Square 1935, Lot 24.

21 CHAIRPERSON HILL: Okay. Let's see, if -- I'll  
22 let you all get settled in. If you could please just  
23 introduce yourselves from my right to left.

24 And then push the button and when the glowing  
25 red dot is on, speak into the microphone.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701



1 MR. HENNEBERG: I'm Tom Henneberg, the property  
2 owner along with my wife, Lisa Hayes. And school was  
3 delayed this morning, and so we have compensated in this -  
4 -

5 MS. HAYES: We just wanted to have a friend.  
6 So Sheridan Henneberg, she's with us.

7 MR. HENNEBERG: This is our daughter.

8 VICE CHAIRPERSON HART: She has to say  
9 something. She has to say something.

10 MR. HENNEBERG: Just introduce yourself.

11 CHAIRPERSON HILL: Ms. Henneberg, that's all  
12 right. We'll come back around to you Ms. Henneberg.  
13 That's all right.

14 You're -- you need intro -- so did you all  
15 introduce yourselves? Did I miss that? No.

16 MS. SHEPHARD: I'm sorry. I'm Elizabeth  
17 Shephard with Case Design. I'm the architect on this  
18 project.

19 CHAIRPERSON HILL: Your last name, please?

20 MS. SHEPHARD: Shephard.

21 MR. O'HEARN: And I'm Michael O'Hearn, also  
22 with Case Design.

23 CHAIRPERSON HILL: Can you spell your last  
24 name, please? I'm sorry.

25 MR. O'HEARN: O'Hearn. O- apostrophe, H-E-A-R-

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 N.

2 CHAIRPERSON HILL: And I'm sorry, ma'am. Your  
3 name was?

4 MS. HAYES: Lisa Hayes, Mr. Chairman.

5 CHAIRPERSON HILL: Okay, great. Thanks. Who's  
6 going to be presenting to us?

7 MS. SHEPHARD: I'll give a quick graphic of the  
8 project. And then everybody else.

9 CHAIRPERSON HILL: Okay. Have you all been  
10 sworn in?

11 MS. SHEPHARD: Yes.

12 CHAIRPERSON HILL: Okay. Okay, let's see. So,  
13 I'm going to go -- I didn't really have a lot of questions  
14 for you in terms of the Application.

15 MS. SHEPHARD: Okay.

16 CHAIRPERSON HILL: If you wanted to go, I think  
17 it was kind of a brief presentation. I think the record  
18 is pretty full.

19 But please, if you tell us --

20 MS. SHEPHARD: If you don't need anything from  
21 us, we're much --

22 CHAIRPERSON HILL: If you can go -- you can go  
23 ahead and tell us a little bit about the Application.  
24 Including the standard in which you believe we can grant  
25 the Application, the relief requested.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1 I'm going to put ten minutes on the clock just  
2 so I know where we are.

3 MS. SHEPHARD: Okay.

4 CHAIRPERSON HILL: And you can begin whenever  
5 you like.

6 MS. SHEPHARD: Okay. So the house is mid-block  
7 on 36th Street.

8 CHAIRPERSON HILL: You need to put that  
9 microphone a little closer to you. Sorry.

10 MS. SHEPHARD: I'm sorry about that. And we're  
11 requesting a special exception to and use -- pardon me,  
12 trying to compute and talk at the same time. To have a  
13 side yard variance of less than the required eight feet.

14 We'd like a three-foot setback. This is a plan  
15 of the existing structure. We are requesting to remove  
16 the existing laundry room, which is really just an  
17 enclosed porch.

18 And magically build the bright blue square,  
19 which is a 12 foot by 12 foot addition, two-story with the  
20 three-foot setback along the side yard line.

21 The house to the north, or the property to the  
22 north is setback almost 20 feet from the property line.  
23 So there should be minimal impact on light and air for  
24 them.

25 And that's the front of the house. And a

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 vision of the rear of the house with the addition we're  
2 proposing comes off and be rebuilt.

3 This photo shows the view of the neighbor to  
4 the north. And the addition we're proposing to remove.  
5 So you can see this base between them is nice and  
6 generous.

7 Here's a sketch up model of what the addition  
8 would like. And finally, another view from the other  
9 side. So you can see what the neighbors would see on the  
10 north side.

11 VICE CHAIRPERSON HART: Just one question, Ms.  
12 Shephard.

13 MS. SHEPHARD: Certainly.

14 VICE CHAIRPERSON HART: With regard to the  
15 siding, it looks like you have brick around the entire  
16 house. But you're looking at plank --

17 MS. SHEPHARD: Yeah, our fiber-cement siding  
18 with a five to eight inch exposure. I don't think we've  
19 finalized that choice yet.

20 VICE CHAIRPERSON HART: Is it -- do you have  
21 that siding somewhere on the house that I'm missing? I  
22 didn't -- it seems like the entire house was brick.

23 MR. O'HEARN: It's on the existing structure  
24 that's there now, covering the addition in the back.

25 VICE CHAIRPERSON HART: So you're just using

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 that same -- you're saying that because it's the same  
2 material, you wanted to just continue with that same  
3 material.

4 MR. O'HEARN: Correct.

5 MS. SHEPHARD: Yes.

6 VICE CHAIRPERSON HART: And you're adding a  
7 floor.

8 MS. SHEPHARD: Yes.

9 MR. O'HEARN: Correct.

10 VICE CHAIRPERSON HART: Because it's only one  
11 floor there. And it's a brownish color?

12 MS. SHEPHARD: The renderings show it to be a  
13 brown-gray. I am not sure that that decision has been  
14 reached.

15 VICE CHAIRPERSON HART: That's fine. It's not  
16 a --

17 MS. SHEPHARD: But maybe the homeowners know.

18 VICE CHAIRPERSON HART: It's not a huge thing.  
19 I just was -- I was just curious.

20 MS. HAYES: That's probably my department, Mr.  
21 Vice Chairman. I'm all the way on this side of the table.

22 VICE CHAIRPERSON HART: Okay.

23 MS. HAYES: But we are still talking about the  
24 colors and making sure it's consistent with the  
25 neighborhood. There's also siding on an existing dormer

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 that you can just see peeking out above the addition on  
2 this drawing.

3 So, it will be matching the siding that's on  
4 that dormer, just so it's consistent down the back.

5 VICE CHAIRPERSON HART: And then what's above  
6 that in the -- on the addition, right above where the  
7 windows are, that part in there, I don't know what you  
8 call that.

9 MS. SHEPHARD: Oh, that's also a fiber-cement  
10 product probably painted the same color. It's more to  
11 look like shingles.

12 VICE CHAIRPERSON HART: Yeah. Yeah, yeah.

13 MS. SHEPHARD: Cedar shingles.

14 VICE CHAIRPERSON HART: Okay. I just was  
15 trying -- it looked like it was different. And that's why  
16 I was like, oh, what is that.

17 MS. SHEPHARD: It's a different texture. Same  
18 material.

19 VICE CHAIRPERSON HART: And the kind of bay  
20 window?

21 MS. SHEPHARD: Yes. That projects one foot and  
22 doesn't go down to grade. And it's just on the first  
23 floor.

24 VICE CHAIRPERSON HART: And that's wood or  
25 what?

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 MS. SHEPHARD: A wood structure. Yes.

2 VICE CHAIRPERSON HART: I mean, wood -- that's  
3 a wood exterior? Or are you still deciding that?

4 MS. SHEPHARD: I'm still -- we're still  
5 deciding. I would assume that has PVC and some other  
6 materials that look just like wood, but don't rot.

7 VICE CHAIRPERSON HART: Yeah. That's always an  
8 issue, isn't it.

9 MS. SHEPHARD: Low maintenance.

10 VICE CHAIRPERSON HART: And the -- is there a  
11 balcony? What is that on the -- this paper drawing?

12 MS. SHEPHARD: That was -- this is an early  
13 design. And I'm not sure that that railing is still in  
14 play.

15 MR. HENNEBERG: That -- they've referred to  
16 that as a Juliet Balcony.

17 VICE CHAIRPERSON HART: Yes.

18 MR. HENNEBERG: And when we found out the cost  
19 of that addition, now it will just be windows. Once we  
20 realized how much extra that was going to cost.

21 In the early days it had so --

22 VICE CHAIRPERSON HART: No Juliet. It's --

23 MR. HENNEBERG: No Juliet.

24 VICE CHAIRPERSON HART: Understood. Thank you.

25 CHAIRPERSON HILL: Okay. Anyone else?

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 MEMBER WHITE: Just one question. It looks  
2 like there's a lot of space between the houses.

3 But, are there any privacy or light or air  
4 concerns that have been communicated to you from the  
5 adjacent -- well, the neighbor next door? On the left if  
6 you're looking at the back of the house.

7 MR. HENNEBERG: Yes. So located at the back to  
8 the left, on the north is the Serbian Military Attache.  
9 He's an 06 in the Serbian Army. So, Colonel Dragan.

10 I went to him already with the proposal that  
11 there -- that we were not adding windows on that side of  
12 the house anyway.

13 MEMBER WHITE: Right.

14 MR. HENNEBERG: And you can kind of see, we're  
15 not actually adding windows.

16 MEMBER WHITE: Right.

17 MR. HENNEBERG: But he didn't even raise it or  
18 address it. And his stance was, do whatever you want.  
19 It's not an issue for us.

20 So, that property was inherited, if you will,  
21 to the Serbians from Yugoslavia when it was still a  
22 country. So, it has -- it is a very long-term property  
23 owner that turns over as they get the new job.

24 And there was no concern whatsoever.

25 MS. HAYES: In addition, we have put no windows

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701



1 on the north side of the addition. So that there's  
2 additional privacy.

3 Just all the windows will either be facing into  
4 our backyard or facing towards our southern neighbor. So,  
5 we will not be peering right into the windows of the  
6 neighbor on our north even if they were closer to the  
7 property line than they are.

8 MEMBER WHITE: And what about the neighbor to  
9 the -- what, is that south?

10 MR. HENNEBERG: South.

11 MEMBER WHITE: Yeah. Well, south. What's the  
12 feedback that you've gotten? I know you've got a lot of  
13 letters supporting. So, I just wanted to ask.

14 MR. HENNEBERG: Yeah, and she's one of them.  
15 She's -- it's a couple. But one of them is -- and we  
16 talked to both of them.

17 But one of them is actually a real estate  
18 developer. So she was quite savvy in this area.

19 MEMBER WHITE: Um-hum.

20 MR. HENNEBERG: And so we had brought all our  
21 plans and whatnot. And she didn't express concerns either  
22 regarding it.

23 MEMBER WHITE: Okay.

24 MR. HENNEBERG: And she spent more time asking  
25 about that porch, which is not part of the special

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1 exception today. It's certainly part of the plans.

2 MEMBER WHITE: Um-hum.

3 MR. HENNEBERG: But with respect to this  
4 special exception, she had no concern.

5 CHAIRPERSON HILL: Okay. Mr. Miller, did you?  
6 Okay. I'm going to turn to the Office of Planning.

7 MS. ELLIOTT: Thank you Mr. Chairman. Good  
8 afternoon Members of the Board. I'm Brandice Elliott  
9 representing the Office of Planning.

10 We are recommending approval of the special  
11 exception that's been requested for a side yard. The  
12 Applicant has demonstrated that they're -- the proposed  
13 addition would not create an adverse impact or negatively  
14 impact the privacy of neighbors.

15 There are also several letters of support in  
16 the record from the neighbors. And then also a very  
17 complementary letter from the ANC supporting the relief as  
18 requested.

19 So, we'll go ahead and leave it at that. But  
20 I'm happy to answer any questions you may have.

21 CHAIRPERSON HILL: All right. Does anybody  
22 have any questions for the Office of Planning?

23 (No response)

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

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 MS. SHEPHARD: No.

2 CHAIRPERSON HILL: Okay. Is there anyone here  
3 from the ANC?

4 (No response)

5 CHAIRPERSON HILL: Is there anyone here wishing  
6 to speak in support of the Application?

7 (No response)

8 CHAIRPERSON HILL: Is there anyone here wishing  
9 to speak in opposition of the Application?

10 (No response)

11 CHAIRPERSON HILL: All right. I'm going to  
12 turn back to the Applicant again. Is there anything you'd  
13 like to say in conclusion?

14 MR. HENNEBERG: No.

15 CHAIRPERSON HILL: Okay. You don't want to say  
16 anything?

17 MS. SHEPHARD: It's your last chance.

18 CHAIRPERSON HILL: Okay. All right. That's  
19 okay. You're good. I was just asking. I wanted to make  
20 sure you had a chance.

21 All right. Then I'll go ahead and close the  
22 hearing. Is the Board ready to deliberate?

23 VICE CHAIRPERSON HART: Yes.

24 CHAIRPERSON HILL: Okay. I can start. I think  
25 that again, the -- as I was saying earlier that I believe

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 the record is full.

2 I think that the Applicant has made a very good  
3 case in terms of how they are meeting the standard in  
4 order to grant the relief requested. I also would  
5 acknowledge the Office of Planning's report and their  
6 analysis, and agree with it.

7 In addition, ANC 3C is also in approval. As  
8 well as they do have support of the neighbors. And so I  
9 don't really have any comments.

10 Does anyone have anything else to add?

11 (No response)

12 CHAIRPERSON HILL: Okay. I'll go ahead and  
13 make a motion to approve Application Number 19682 as  
14 captioned and read by the Secretary and ask for a second.

15 MEMBER WHITE: Second.

16 CHAIRPERSON HILL: Motion was made and  
17 seconded. All those in favor?

18 (Chorus of ayes)

19 CHAIRPERSON HILL: All those opposed?

20 (No response)

21 CHAIRPERSON HILL: The motion passes. Mr. Moy?

22 MR. MOY: The staff would record the vote as  
23 four to zero to one. This is on the motion of Chairman  
24 Hill for the relief being requested.

25 Seconding the motion, Ms. White. Also support,

1 Mr. Robert Miller and Vice Chair Hart. We have a Board  
2 seat vacant. Motion carries.

3 CHAIRPERSON HILL: Great. Thank you. Summary  
4 Order.

5 MR. MOY: Thank you, sir.

6 CHAIRPERSON HILL: Thank you. Thank you all  
7 very much.

8 MR. HENNEBERG: Is this your recording? Or did  
9 one of the lawyers leave a recorder here from the prior --

10 CHAIRPERSON HILL: No. I think that's the  
11 transcriber's.

12 MR. HENNEBERG: Okay.

13 CHAIRPERSON HILL: But thank you. Thank you.

14 MR. MOY: All right. Next up Mr. Chair, is  
15 Application Number 19671 of Patrick's Pet Care as amended  
16 and captioned and advertised for special exception under  
17 the animal care use requirements of Subtitle U, Section  
18 513.1(m).

19 This would permit the animal care and boarding  
20 facility in the MU-4. This is at premises 3509 12th  
21 Street, N.E., Square 3928, Lot 45.

22 CHAIRPERSON HILL: Okay. Good afternoon.

23 MR. FLYNN: Good afternoon.

24 CHAIRPERSON HILL: If you could introduce  
25 yourself.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1 MR. FLYNN: Yes. My name is Patrick Flynn and  
2 I'm the Applicant.

3 CHAIRPERSON HILL: All right. Mr. Flynn,  
4 let's see, so I assume you're presenting to us. And let's  
5 see, so there were some questions in terms of procedurally  
6 what we needed from you in terms of, you know, who the  
7 authorized agent was.

8 MR. FLYNN: Um-hum.

9 CHAIRPERSON HILL: And I believe that has all  
10 been worked through. Correct?

11 MR. FLYNN: Correct.

12 CHAIRPERSON HILL: And so I guess I'm going to  
13 go ahead and let you give your presentation as to what you  
14 are, the relief that you're requesting from us.

15 MR. FLYNN: Yep.

16 CHAIRPERSON HILL: And how you believe you're  
17 meeting that standard for us to grant the relief. And  
18 I'll just start at that.

19 So, I'm going to put ten minutes on the clock  
20 so I know where I am.

21 MR. FLYNN: Sure.

22 CHAIRPERSON HILL: And you can start whenever  
23 you like.

24 MR. FLYNN: Great. Thank you. I'm hoping that  
25 the record in this case will be seemingly full. I'm

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1 hoping that what we're proposing is relatively  
2 uncontroversial.

3 I am proposing to operate a boutique boarding -  
4 - dog boarding establishment in an MU-4 zone, on a ground  
5 floor, single floor storefront in the Brookland  
6 neighborhood of D.C.

7 Initially because I am not able to self-  
8 certify, I was given a letter of auth -- a letter from the  
9 Zoning Administrator stating I needed to apply for a  
10 variance.

11 I appealed that decision. And the nature of  
12 the relief requested was changed to that of a special  
13 exception. And so that's why I amended my burden of proof  
14 statement to apply for a special exception.

15 And that's where we're at here at. The ANC is  
16 in support. The Office of Planning is in support. The  
17 neighborhood civic association is in support. And the  
18 neighbors immediately adjoining the property are either in  
19 support or wholly indifferent.

20 And I'm happy to answer any questions that the  
21 Board may have.

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

24 (No response)

25 CHAIRPERSON HILL: All right. I'm going to

1 turn to the off -- oh, sorry, Ms. White?

2 MEMBER WHITE: No question.

3 CHAIRPERSON HILL: Okay. I'm going to turn to  
4 the Office of Planning.

5 MR. MORDFIN: Good morning chairman and Members  
6 of the Board, I'm Stephen Mordfin. And the Office of  
7 Planning is in support of the Application as it meets the  
8 criteria for approval and stands on the record. Thank  
9 you.

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

12 (No response)

13 CHAIRPERSON HILL: All right. Does the  
14 Applicant have any questions of the Office of Planning?

15 MR. FLYNN: I do not.

16 CHAIRPERSON HILL: Okay. Is there anyone here  
17 from the ANC?

18 (No response)

19 CHAIRPERSON HILL: Is there anyone here wishing  
20 to speak in support?

21 (No response)

22 CHAIRPERSON HILL: Is there anyone here wishing  
23 to speak in opposition?

24 (No response)

25 CHAIRPERSON HILL: Okay. Let's see, Ms. White,



1 you have some questions?

2 MEMBER WHITE: Yeah. I just -- I mean, I love  
3 pets. So, just for the record. But, there's also some  
4 specific criteria that you have to meet in order to  
5 establish an animal care type of facility.

6 MR. FLYNN: Um-hum.

7 MEMBER WHITE: So, I just wanted to hear from  
8 you, just for the record, what type of steps that you're  
9 taking to ensure that neighbors aren't negatively  
10 impacted?

11 Whether it's, you know, having fencing. Or  
12 making sure that the area stays, you know, relatively  
13 clean.

14 MR. FLYNN: Sure.

15 MEMBER WHITE: And those kinds of things. So,  
16 I mean, I have dogs. So I understand the amount of work  
17 involved in that.

18 MR. FLYNN: Sure. I think --

19 MEMBER WHITE: So, -- yeah. So, if you could  
20 comment on that, that would be great.

21 MR. FLYNN: Absolutely. Not being a burden to  
22 the neighbors or anyone else a very, very important to me  
23 as a business owner.

24 I think that it's very, very important. And I  
25 recognize that there are certain conditions required by

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1 the special exceptions standard in order to operate this  
2 establishment.

3 I would start by mentioning that the building,  
4 as it stands, has no second floor, no residential uses in  
5 the vicinity of it. And is made of concrete, concrete  
6 cinderblocks. So it's pretty sound proof.

7 And the animal boarding use, I'm required to  
8 make sure that it takes place entirely within a closed  
9 building. It does take place entirely within the closed  
10 building.

11 And the construction that we're proposing for  
12 the interior of the space will be in complete compliance  
13 with the standards set forth in Section 513.1(m). Which  
14 requires that the windows and doors be of a solid core.

15 And any doors facing residential use, be a  
16 solid core. I'm sorry, that the doors be kept closed and  
17 that they be of a solid core.

18 That no animals used on any external yard of  
19 premises. There is no yard in the -- and there won't be  
20 any. And that animal waste will be placed in closed  
21 containers and be collected weekly.

22 And that we will use an air control system  
23 similar to the facility that we already operate. That  
24 will absolutely effectively control odor and air quality.

25 And that the finishes used in the interior from

1 the floor up to the 48 inches will be impervious and  
2 washable.

3 And we are more than happy to submit to any  
4 other further requirements that the Board may deem  
5 appropriate.

6 CHAIRPERSON HILL: Okay. I also am a dog  
7 owner. So, I saw the back -- the back of the building.  
8 I'm just curious, what are you doing with the back?

9 Is that where you -- where you going to -- how  
10 are you going to let the animals out? Are you doing  
11 something in the back? Are you going out the back there?

12 MR. FLYNN: We're probably actually going to do  
13 walks. So, there inevitably will be animals, you know,  
14 that go to the bathroom inside. That can happen.

15 We have every care and attention toward making  
16 sure that it stays clean. And then part of my business is  
17 a brick and motor daycare boarding operation. The other  
18 half of my business is dog walking.

19 So, because it's a very boutique size building  
20 and we're not going to have a lot of animals there, I  
21 don't think that there will be a significant impact by  
22 exercising the dogs on a walk basis around the building.

23 CHAIRPERSON HILL: Okay. Yeah, no, I didn't  
24 think there was an impact. I was just curious as to what.

25 MR. FLYNN: Oh, yeah. Well, it's very

1 important to me. Right?

2 CHAIRPERSON HILL: Yeah. And I mean --

3 MR. FLYNN: I want the dogs to get out and get  
4 exercise.

5 CHAIRPERSON HILL: Okay. All right. Anybody  
6 have anything else for the Applicant? Sure. Of course.

7 COMMISSIONER MILLER: Thank you Mr. Chairman.  
8 So, just my only question was, the -- this is your second  
9 location as you mentioned.

10 Has there been any concerns with the first  
11 location upon 11th Street, N.W., that have arisen, that  
12 have went through a BZA process as well?

13 MR. FLYNN: And I'm very proud of the fact that  
14 it has been in a residential neighborhood and it does not  
15 bother anyone.

16 COMMISSIONER MILLER: Yeah. That's great. And  
17 is that in Columbia Heights?

18 MR. FLYNN: 11th and Lamont. Columbia Heights,  
19 yep. MU-4 as well.

20 COMMISSIONER MILLER: Okay. Thanks.

21 CHAIRPERSON HILL: All right. Great. So I'm  
22 going to go ahead and close the hearing. Is the Board  
23 ready to deliberate? Okay. All right.

24 MS. GLAZER: Mr. Chair?

25 CHAIRPERSON HILL: Sure.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 MS. GLAZER: I'm sorry to interrupt.

2 CHAIRPERSON HILL: That's all right.

3 MS. GLAZER: I should have stated this earlier.  
4 I believe there's some confusion at least in the record,  
5 about who the owner is. And who the Applicant is.

6 CHAIRPERSON HILL: But I thought that had been  
7 clarified.

8 MS. GLAZER: And who the agent is. I was just  
9 looking at the updated authorization. Which says Warner  
10 Capital represents Catherine Hottel Van Sickler.

11 But then it says contact Joseph Borger with  
12 questions. And then it says Borger Management, agent for  
13 Catherine Hottel Van Sickler.

14 So, I'm a little confused about these entities.  
15 And who really has the capacity to bring this Application.

16 CHAIRPERSON HILL: All right Mr. Flynn, I'm  
17 sorry. I thought -- that was the first question I had for  
18 you. So I thought that this was what I was referring to.

19 That there had been extra -- or there had been  
20 added items to the record that clarified who was here. So  
21 can you clarify any of this?

22 MR. FLYNN: I would hope so. The Applicant is  
23 a legal entity called Warner Capital, LLC. I am the sole  
24 owner and proprietor of Warner Capital, LLC.

25 The owner of the property is the an 85 year old

1 woman in Florida whose name is Catherine Hottel Van  
2 Sickler. Initially, we thought it was appropriate that,  
3 and sufficient that the property management company that  
4 represents her in all matters regarding the property, be  
5 sufficient to empower me to represent to the Board.

6 After hearing of your concerns and looking at  
7 the stipulation of the law, yesterday we had the  
8 additional signature added by Ms. Van Sickler herself,  
9 authorizing me to represent her before the Board and my  
10 capacity as the owner of Warner Capital, LLC.

11 CHAIRPERSON HILL: Okay. I see that. It just  
12 didn't clarify that you were the sole owner of Warner  
13 Capital, LLC. Your name's not mentioned anywhere.

14 MR. FLYNN: Yes.

15 CHAIRPERSON HILL: So that's why it's, you  
16 know, we wouldn't know that. And you now have just stated  
17 that onto the record.

18 And I'm comfortable with that. It's the final  
19 exhibit, Ms. Glazer. It's 39.

20 (Off mic comments)

21 CHAIRPERSON HILL: I'm sorry, I can't hear you  
22 Ms. Glazer.

23 MS. GLAZER: It's dated April 2017. And --

24 CHAIRPERSON HILL: And then there's the  
25 additional signature there from Catherine Van Sickler,

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 February 6, 2018.

2 MS. GLAZER: I'm not sure this document  
3 complies with the requirements. I'm still -- I can't  
4 really tell who the owner and the agent is.

5 CHAIRPERSON HILL: Okay. So what the Applicant  
6 is testifying to, and you know, I'm going to follow along  
7 with what we're allowed to do as the Board and what the  
8 Office of the Attorney General is also stating, but if  
9 this would satisfy the regulations, the Applicant is  
10 stating that he is the sole proprietor of Warner Capital,  
11 LLC.

12 MS. GLAZER: No. Proprietor is -- is that the  
13 owner?

14 CHAIRPERSON HILL: He's the owner of Warner  
15 Capital, LLC. Catherine Van Sickler is the owner of the  
16 property. And she is authorizing Warner Capital, LLC to  
17 represent her.

18 MS. GLAZER: Then who is Patrick's Pet Care?

19 MR. FLYNN: Also in the record is the trade  
20 name registration of Warner Capital, LLC, which owns the  
21 trade name, Patrick's Pet Care.

22 MS. GLAZER: But the owner is not -- so the  
23 Application is being brought by an agent of the owner? Or  
24 the Agent? Or the owner?

25 MR. FLYNN: Um --

1 MS. GLAZER: The Application must be brought by  
2 the owner.

3 MR. FLYNN: Or the own -- you're the Attorney  
4 General, I don't mean to be disrespectful, but or the  
5 owner's agent. And I have been through this letter, made  
6 the owner's agent.

7 Or the --

8 MS. GLAZER: Correct. But the -- the agent can  
9 represent the owner at the hearing. But the name of the  
10 Application, I believe, should be in the owner's name.

11 CHAIRPERSON HILL: So the Application isn't --  
12 the Application is currently in Warner Capital, LLC's  
13 name. Well, that's a que -- I'm sorry, Patrick's Pet  
14 Care.

15 VICE CHAIRPERSON HART: So, you're talking  
16 about Form 120? I'm asking Cliff.

17 CHAIRPERSON HILL: Mr. Moy?

18 VICE CHAIRPERSON HART: The Application itself?

19 MR. MOY: I was looking at the letter itself,  
20 which was filed -- filed yesterday under Exhibit 39. So  
21 you're asking me about Form 120?

22 VICE CHAIRPERSON HART: Yeah.

23 MR. MOY: Okay. Let me pull that up.

24 VICE CHAIRPERSON HART: Which is Exhibit 1.

25 MS. GLAZER: It states that Catherine Van

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701



1 Sickler is the owner of the property.

2 VICE CHAIRPERSON HART: Yes. That's why I'm  
3 asking. If that's sufficient to --

4 CHAIRPERSON HILL: Right. So Catherine Van  
5 Sickler is the owner of the property. She has authorized  
6 --

7 VICE CHAIRPERSON HART: Warner --

8 CHAIRPERSON HILL: Thanks. Trying to remember  
9 the name. Warner LLC in Exhibit 39. And the Applicant is  
10 testifying that he is the owner of Warner Capital, LLC.  
11 Warner -- I've got to look this up.

12 MS. GLAZER: My point is very simple. The  
13 Application should be in the name of the person -- the  
14 entity that owns the property.

15 CHAIRPERSON HILL: Yeah. But that's what I'm -  
16 - that's what we're trying to clarify. It is in the name  
17 of the person who owns the property.

18 MS. GLAZER: It would be -- according to the  
19 Application that would be Ms. Van Sickler.

20 CHAIRPERSON HILL: Yes.

21 MS. GLAZER: It's not in that. It's in the  
22 name of Patrick's Pet Care.

23 CHAIRPERSON HILL: And I guess --

24 MS. GLAZER: Ms. Van Sickler can then designate  
25 an agent.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 CHAIRPERSON HILL: No, I understand. We're  
2 just trying to also follow along. That I thought --

3 MS. GLAZER: We just need to amend the  
4 Application to reflect the name of the property owner.

5 CHAIRPERSON HILL: And the Application is in  
6 the name of the property owner. Form 120 -- and just so  
7 the Applicant understands, also if we have to do something  
8 different, Catherine Van Sickler is on Form 120 as the  
9 owner of the property.

10 MS. GLAZER: Then why is the caption of this  
11 Patrick's Pet Care?

12 CHAIRPERSON HILL: Give us a second, Mr. Flynn.

13 MS. GLAZER: Okay. Staff for OZ has just  
14 stated that this could be remedied. That as long as the  
15 Application says Catherine Van Sickler as the owner, the  
16 caption can be changed.

17 CHAIRPERSON HILL: Okay. So who needs to  
18 change the caption?

19 MS. GLAZER: It can be done internally.

20 CHAIRPERSON HILL: Okay. The staff can do it  
21 internally.

22 MS. GLAZER: As long as the agent  
23 representative states that that's the --

24 MR. FLYNN: I would wish that amendment to take  
25 place.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 MS. GLAZER: Yes.

2 CHAIRPERSON HILL: Okay. All right. See Mr.  
3 Flynn, it wasn't as easy as you thought. Never know.

4 But, I mean, it's your problem. You've got  
5 like three different names over here. You know, trying to  
6 figure out what you -- right.

7 Okay. So then you're going to amend that. Or  
8 I'm sorry, the staff is going to amend the Application as  
9 just stated onto the record.

10 And I'm going to close the hearing. And now is  
11 the Board ready to deliberate? Okay. So, I believe that  
12 the record is complete in how we can determine whether or  
13 not to grant this relief based upon the regulations.

14 I also would concur with the analysis of the  
15 Office of Planning. It is helpful, and that the ANC has -  
16 - is in approval of this project.

17 It was at one point a variance request that  
18 they were in approval of as a variance. And so I don't  
19 see how there's any difference with them now being  
20 approved as a special exception, because they're going  
21 down in terms of the level of, you know, the intensity, in  
22 terms of how the standards are being met.

23 So I'm comfortable with the application. And  
24 moving forward and granting it. And also DDOT had no  
25 objection.

1 Does the Board have any comments before I make  
2 a motion?

3 (No response)

4 CHAIRPERSON HILL: Okay. So I'd go ahead, and  
5 this is where I'm a little unclear. I'm going to have to  
6 see if -- then I'm going to make a motion with the amended  
7 Application.

8 So, you make a motion to approve Application  
9 Number 19671, which would be amended to Catherine Van  
10 Sickler, pursuant to 11 D.C. MR, Subtitle X, Chapter 9,  
11 for a special exception under the animal care use  
12 requirements of Subtitle U, 513.1(m), to permit an animal  
13 care and boarding facility in the MU-4 at premises 3509  
14 12th Street, N.E., Square 3928, Lot 45, and ask for a  
15 second.

16 VICE CHAIRPERSON HART: Second.

17 CHAIRPERSON HILL: Motion is made and seconded.  
18 All those in favor?

19 (Chorus of ayes)

20 CHAIRPERSON HILL: All those opposed?

21 (No response)

22 CHAIRPERSON HILL: The motion passes. Mr. Moy?

23 MR. MOY: Staff would record the vote as four  
24 to zero to one. This is on the motion of Chairman Hill,  
25 which includes the revised caption title.

1           Seconded the motion by Vice Chair Hart, also  
2 supported Mr. Miller, Ms. White. We have a Board seat  
3 vacant. The motion carries.

4           CHAIRPERSON HILL: Okay. Summary Order Mr.  
5 Moy.

6           MR. MOY: Thank you.

7           CHAIRPERSON HILL: Thank you. Thank you, sir.

8           MR. FLYNN: Thank you.

9           CHAIRPERSON HILL: So we have a no show today?

10          MR. MOY: Yes. Yeah, we have one other point  
11 of business, Mr. Chair. I want to give you an update.

12          When I called the case of Number 19679 of MYS  
13 Land Investment, LLC, apparently as we've learned in the  
14 past hour, the -- there had been a request from the ANC  
15 for additional time because of the ANC meeting.

16          Which would take place, I can't recall whether  
17 it was yesterday or today. So, that properly led to a  
18 miscommunication as to whether this case had been  
19 rescheduled.

20          So, after having said that, I think my advice  
21 would be to postpone and reschedule this to next Tues --  
22 next Wednesday. If the Board agrees.

23          CHAIRPERSON HILL: Okay. Does the Board have  
24 any issues with that?

25          (No response)

1 CHAIRPERSON HILL: All right, Mr. Moy, so let's  
2 go ahead and do that.

3 MR. MOY: Thank you sir.

4 CHAIRPERSON HILL: Do we have anything else  
5 before us today Mr. Moy?

6 MR. MOY: No. That's it from the staff.

7 CHAIRPERSON HILL: Okay. Then we're adjourned.  
8 Thank you.

9 (Whereupon, the above-entitled matter went off  
10 the record at 12:22 p.m.)  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: Public Hearing

Before: DC BZA

Date: 02-07-18

Place: Washington, DC

was duly recorded and accurately transcribed under  
my direction; further, that said transcript is a  
true and accurate record of the proceedings.

  
-----  
Court Reporter

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)