

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

+ + + + +

BOARD OF ZONING ADJUSTMENT

+ + + + +

PUBLIC HEARING

+ + + + +

WEDNESDAY

FEBRUARY 14, 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 10:30 a.m., Frederick Hill, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

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

ZONING COMMISSION MEMBER PRESENT:

ANTHONY HOOD, Chairperson

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

MARY NAGELHOUT, ESQ.  
HILLARY LOVICK

OFFICE OF PLANNING STAFF PRESENT:

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

HARRIET TREGONING, DIRECTOR  
BRANDICE ELLIOT  
CRYSTAL MYERS  
STEPHEN MORDFIN  
KAREN THOMAS  
MATT JESICK

The transcript constitutes the minutes from  
the Public Hearing held on February 14, 2018.

## CONTENTS

Application No. 19581 . . . . .	4
Application No. 19657 . . . . .	31
Application No. 19647 . . . . .	86
Application No. 19648 . . . . .	131
Application No. 19668 . . . . .	161
Application No. 19679 . . . . .	178
Application No. 19665 . . . . .	186
Application No. 19636 . . . . .	192
Nominations for Board Elections . . . . .	204
Adjourn . . . . .	206

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

10:33 a.m.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

CHAIRPERSON HILL: All right Mr. Moy, if we can get started again.

SECRETARY MOY: Thank you, Mr. Chairman. The time is about approximately 10:33, fully reconvene, and the first case in the hearing session is Application No. 19581, of Latin American Montessori Bilingual Charter School, caption, advertise for a special exception under Subtitle U, Section 205.1(a). This would establish a public charter in the R-16 zone at premises 5000 14th Street, N.W., square 2711, lot 802. As the Board will recall, at its public meeting on January 24, the Board reconvened and scheduled a date for a limited scope hearing, public hearing for additional information, and that date is today.

CHAIRPERSON HILL: Okay could the parties please come to the table?

SECRETARY MOY: Mr. Chair?

CHAIRPERSON HILL: Yes?

SECRETARY MOY: We may have a few individuals who just walked in that may need to be sworn in.

CHAIRPERSON HILL: Okay, if anyone hasn't been sworn in yet to testify, either for this case or anything that might be coming down the line today, if you wouldn't mind standing and taking the oath administered by the

**NEAL R. GROSS**

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

1 secretary to my left.

2 SECRETARY MOY: Ah good, wonderful. All right,  
3 that's terrific. Do you solemnly swear or affirm that the  
4 testimony you're about to present in this proceeding is the  
5 truth, the whole truth, and nothing but the truth? Thank  
6 you, you may be seated.

7 CHAIRPERSON HILL: Okay, if you could please  
8 introduce yourselves from my right to left, and then speak  
9 into the microphone and give your name and address.

10 MR. RHANI: Good morning, my name is Rami Rhani,  
11 I reside at 1505 Emerson Street, N.W.

12 MR. UQDAH: Taalib-Din -- pardon me. Taalib-Din  
13 Uqdah, U-Q-D-A-H, 1373 Jefferson Street, N.W.

14 MS. THOMPSON: Doreen Thompson, 1510 Emerson  
15 Street, N.W.

16 MR. STRAND: Good morning, John Strand, 1501  
17 Emerson Street, N.W.

18 MS. BARRY: Good morning, Maria Barry, 1409  
19 Abraham Street, N.W.

20 MR. ZAYET: Jerry Zayet, the applicant.

21 MR. KADLECEK: Cary Kadlecek from Wilson & Stores,  
22 land use counsel for the applicant.

23 MS. COTTMAN: Diane Cottman, land applicant.

24 CHAIRPERSON HILL: Okay, so Mr. Kadlecek and Mr.  
25 Uqdah, I guess just, you know, what happened last time. So

**NEAL R. GROSS**

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

1 we were set -- and I'm just kind of reviewing for myself as  
2 well as everyone here and so for the Board -- we were here  
3 for a decision meeting last time, and what I was trying to  
4 do was provide some clarifying information for the Board in  
5 order to just get, again, just some clarity on a few of the  
6 conditions and a few of the items that were submitted by the  
7 applicant. And so I asked those -- I asked the applicant to  
8 come forward, and I asked who I thought were singled out to  
9 come forward, because I saw people were in the audience. And  
10 so I think that what ended up happening was I ended up --  
11 basically it started to get turned into a hearing. And so  
12 there were people from the opposition who hadn't even been  
13 here before until that time as I recall, and so they were  
14 basically providing brand new testimony. So in order to be  
15 as judicious and out of an abundance of caution you had, Mr.  
16 Uqdah, filed a motion to reopen the hearing, and so we went  
17 ahead and approved that motion so that we can get to this  
18 point, so that we're not going to do anything that's going  
19 to get us in a situation where we might be, you know again,  
20 for the applicant's benefit or anybody's benefit, in kind of  
21 an appeal situation or anything like that. So what I wanted  
22 to hear from you, Mr. Uqdah, and I see that you gave us some  
23 more information, and I haven't had a chance now -- was this  
24 submitted earlier before or are you just giving this to us  
25 now? You just have to push the button, I'm sorry.

**NEAL R. GROSS**

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

1 MR. UQDAH: And I apologize for my voice, but just  
2 now.

3 CHAIRPERSON HILL: That's okay, Mr. Uqdah. I'm  
4 a little surprised, I've heard your voice many times before,  
5 and it's usually very strong and powerful. So I don't know  
6 -- well I'll go ahead and let you tell us about the testimony  
7 that you just put in. I mean again, Mr. Uqdah, I wasn't --  
8 we weren't reopening this whole case again to hear all over  
9 again and you know, we've heard hours and hours of testimony.  
10 There's 180 or 160 some-odd things in there. The thing that  
11 would be curious -- and I'll let you speak to this and then  
12 the applicant can go ahead and speak to whatever -- did the  
13 applicant just get this as well I suppose?

14 MR. ZAYET: Yes, we just received it.

15 CHAIRPERSON HILL: Okay, and so you can tell us  
16 what this is, and then really what I'm interested in Mr.  
17 Uqdah, and I'll let the Board speak for themselves as well,  
18 is really those -- the conditions that I originally brought  
19 everybody back for was the 90 days versus the 30 days in  
20 terms of going forward for the application to move to 600  
21 from the 300 people and from the zoning administrator. I  
22 think -- I'm sure you watched the hearing? Okay, and then  
23 also there was a question that I had about the family member  
24 that you wanted in -- that your organization wanted into the  
25 committee, I can't remember what the word was for, from the

**NEAL R. GROSS**

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

1 SMD rather than just the -- so if you can speak to those two  
2 items, and then you can tell us what this is about, that  
3 would be great.

4 MR. UQDAH: This that you have in front of you is  
5 about that.

6 CHAIRPERSON HILL: Okay.

7 MR. UQDAH: We set it down by the condition  
8 number. So we'll be addressing it as condition number 12 and  
9 condition number 30, which we understood was what this Board  
10 wanted to deal with. But I'm going to have Ms. Doreen  
11 Thompson to read it; I don't want you all to have to struggle  
12 through my voice. Thank you.

13 MS. THOMPSON: Good morning.

14 CHAIRPERSON HILL: Good morning.

15 MS. THOMPSON: You asked about the 30 to 90 days  
16 as well as a parent serving on the LCC. Frankly, neither of  
17 those changes matter to us. They are not protective of the  
18 community. It's almost sort of like fiddling while Rome is  
19 burning, whether we get 90 days notice in a scenario where  
20 we are deprived of the venue that we need to speak to the  
21 impact on the community. And so this document that Mr. Oqdah  
22 refers to is speaking on those issues, that in essence we  
23 were here at a hearing some -- a decision-making hearing, and  
24 what you'll see is this document starts with one of the  
25 concerns that was expressed at that hearing, which was the

**NEAL R. GROSS**

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



1 statement by Commissioner Hood as to that this Board was  
2 making decisions on conditions, and yet at the same time the  
3 applicant would not have to return to the BZA. So I would  
4 like to read Mr. Ugdah's comments. We start with , we remind  
5 the Board that Mr. -- Commissioner Hood stated at that  
6 hearing that this would be the first time in his tenure of  
7 putting something in place where you don't have to return,  
8 but you depend on a condition. He says, that's my  
9 hesitation, I think the community needs a venue. And this  
10 is what has been bothersome to us, so we'd like to explore  
11 those two thoughts, this relying on conditions and not  
12 presenting a venue where we feel we can be heard.

13 CHAIRPERSON HILL: Okay let me -- Ms. Thompson,  
14 I understand what you're asking about or what you wanted to  
15 kind of comment on, and so my initial reaction -- I'm just  
16 trying to process this myself -- is that was comments that  
17 Mr. Hood had made during a decision meeting, and so now  
18 you're kind of speaking about them, and so I guess I'm kind  
19 of interested in just hearing your first thought, which I  
20 think you articulated, which is that the 30 and the 90 days  
21 you don't think matters, and I guess the -- what was the  
22 thought on the SMD person?

23 MS. THOMPSON: The SMD essentially, we're on a  
24 committee where we're treated no differently from West  
25 Elementary, which is not a party to this proceeding and

**NEAL R. GROSS**

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

1 raised no zoning standards. In other words, there's no vote,  
2 the LCC is a lands committee. Essentially, you guys will  
3 have us, if you adopt that, go to the applicant and beg them  
4 to address issues that already identified in the application  
5 as negative issues.

6 CHAIRPERSON HILL: So again, I'm sorry, as far as  
7 the SMD person, you still would like that is what you were  
8 saying?

9 MS. THOMPSON: I'm not sure --

10 CHAIRPERSON HILL: Or maybe --

11 MS. THOMPSON: -- in other words, you're throwing  
12 -- it doesn't matter to us.

13 CHAIRPERSON HILL: Okay. Ms. Thompson, Mr. Oqdah,  
14 I just want to be very clear as to what I understand, and I  
15 want to be really -- you guys are against this, okay. I am  
16 not confused at all that you're against this, okay. You  
17 don't want this to happen, okay. So we had a full hearing,  
18 we heard everybody, we've had a lot of testimony and you  
19 know, the Office of Planning has weighed in, the ANC has  
20 weighed in, you've gotten to go to the ANC meetings. There  
21 are, you know, 30-odd some conditions; I guess what I'm just  
22 trying to get, I know you all's position, right, it is you  
23 don't want this, okay. And so I don't think that I'm trying  
24 -- or we, the Board are trying to do anything that confuses  
25 that, you know. And so I reopened this or we reopened this

**NEAL R. GROSS**

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

1 because there was a motion made to reopen the hearing because  
2 we could possibly have been doing something that put you not  
3 in jeopardy -- I'm trying -- it was unfair, right. And so  
4 I agreed with that, and the Board agreed with that, so we  
5 reopened so that you could address the issues that were  
6 brought up at that last hearing, and I suppose you know, Mr.  
7 Hood or any one of us had spoken to that, so I understand why  
8 you're bringing up, you know, comments that they had made or  
9 that you had heard. So -- and I'm going to let -- I mean we  
10 do have your testimony here, and I guess now you wanted to  
11 go speak to the issues that Mr. Hood -- I mean, are you going  
12 to now re-argue the case is what I'm trying to get at?

13 MS. THOMPSON: I don't think it's re-arguing the  
14 case. I actually think it's clarifying. The impression I  
15 got, and I was one of the persons who did not initially  
16 testify, was that you were deliberating for these issues.  
17 What struck me -- and I guess this is testimony as it is --  
18 what struck me was that the deliberation never mentions --  
19 never mentioned the R-16 overlay. You know, there was no  
20 mention that there are regulations that specifically say the  
21 applicant, the non-residential use has to comply with  
22 specific requirements in the regulations. And so it is --  
23 we viewed this as an opportunity to point out that when we  
24 go to these agencies in the future to beg them to pay  
25 attention to us, who will be enforcing those regulations?

**NEAL R. GROSS**

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

1 CHAIRPERSON HILL: Okay. All right. Okay. All  
2 right. Does the Board have any questions for the witness?

3 ZC CHAIR HOOD: I just want a clarification, Mr.  
4 Chairman. Mr. Ferguson, Ms. Lupe, you're against the  
5 process, I mean what's before us; you're not against the  
6 school in totality. Maybe I'm confused; I thought it was  
7 against the scenario and the way things were perceived is  
8 what I think you're against; am I wrong?

9 MS. THOMPSON: I think you're partially correct.  
10 We're not against the school; the school seems to have a good  
11 reputation. We also negotiated with the concept of a smaller  
12 footprint for the school. That was what we were doing when  
13 we negotiated those conditions. So to an extent, what you're  
14 saying is partially correct.

15 ZC CHAIR HOOD: Okay, all right. Thank you. You  
16 know something else I was thinking, Mr. Chairman, is we were  
17 looking at this case, and this might have already been done,  
18 and I don't know if it's been done. A lot of times, I know  
19 on the Commission, we ask the zoning administrator can he do  
20 these things. I don't know, has that been done or was that  
21 done? I don't know, I'm looking to -- Mr. Kadlecek, was that  
22 done?

23 MR. KADLECEK: It was, Mr. Hood. You may recall  
24 -- it's been a while I know -- when Ms. Brown-Roberts  
25 testified, she did testify that she had spoken to Mr.

**NEAL R. GROSS**

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

1 Woodbrant --

2 ZC CHAIR HOOD: And he can deal with that.

3 MR. KADLECEK: Yes, and if you may recall, he was  
4 actually here the day of the first hearing.

5 ZC CHAIR HOOD: Yes, I remember him being here.

6 MR. KADLECEK: And he testified to that as well,  
7 yes.

8 ZC CHAIR HOOD: All right. Thank you.

9 CHAIRPERSON HILL: Okay, Mr. Kadlecek, so with --  
10 again as I've kind of gone through this, we got to this point  
11 again because I started to clarify some questions concerning  
12 the conditions that were put forth, and now you've heard some  
13 testimony. Do you have any comment or any -- yes, comments  
14 on the testimony you just heard?

15 MR. KADLECEK: Just a couple of quick thoughts.  
16 One is I think that our understanding of what today was  
17 supposed to be about was similar to what you articulated, M.  
18 Hill. That is, it was basically confined to what had already  
19 been heard, and so I guess we're a little concerned that this  
20 testimony is new, and we haven't had a chance to review it.  
21 So that's just an overriding concern on our behalf, but that  
22 said, I think that we need it clear when we are having the  
23 discussion at the decision meeting, which I understand was  
24 a decision meeting so I'll just state it again, and that was  
25 that the school is willing to agree to the 90 days of notice

**NEAL R. GROSS**

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

1 to Sindila in terms of the application materials for the  
2 certificate of occupancy. That was something they were  
3 comfortable doing if it made the Board more amenable to  
4 agreeing to that condition. In terms of the SMD, we stated  
5 before but I'll say it again, the reason that we had asked  
6 for that parent to be a member of the ANC as opposed to the  
7 SMD was simply because there may not at any given time be  
8 enough parents who live in the SMD to be able to sit on the  
9 board, and so we expanded it to the full ANC for that reason.  
10 Now, that's not a critical item; if it makes the Board more  
11 comfortable that the parent is a member of the SMD, we're  
12 agreeable to that as well.

13           But to respond to the testimony a little bit more,  
14 in terms of this idea that there's no venue, I think we take  
15 a little objection to in the terms of the fact that there has  
16 now been this process going on for seven, eight months that  
17 has been thoroughly vetted with the community. I think  
18 there's been a very clear venue for all parties to have their  
19 opportunities to be heard, and the school is committed to  
20 hearing and working with the community, that's why this  
21 committee was set up. I think that the notion that Sindila  
22 or any member of the community would have to beg to be heard  
23 I think is just not fair and not accurate; the whole purpose  
24 of the community -- or sorry, the committee that was  
25 established was to allow for an open dialogue, and it is

**NEAL R. GROSS**

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

1 certainly not the intent of the school to close off any  
2 voices or to foreclose any ideas from being brought forth to  
3 them. That's the whole purpose of a committee is to make  
4 sure that issues are being addressed, but -- because  
5 remember, if the Board does adopt the conditions that are  
6 proposed, the onus is on the school to prove that they've  
7 been in compliance with the conditions, so it is in their  
8 interest to work with the community to make sure that those  
9 conditions are being complied with before they seek a  
10 certificate of occupancy to increase the student enrollment.

11           The last thing I just want to mention is it has  
12 always been, from the day that this application was filed in  
13 June of last year, the proposal has always been 600 students.  
14 That has been well known for over six months to the  
15 community, and so that has always been the premise under  
16 which we have been operating, and the conditions were crafted  
17 with that understanding. If there was an understanding that  
18 the school would have to come back to the BZA, I think these  
19 conditions would have turned out differently; certainly they  
20 wouldn't have been as onerous or extensive. The reason the  
21 school was able to agree to such extensive and onerous  
22 conditions was because of this premise of 600 students being  
23 approved now, with the pathway that we've outlined in the  
24 conditions.

25           CHAIRPERSON HILL: Okay. All right. So does

1 anybody have any questions for the applicant?

2 MEMBER WHITE: My question is if you don't meet  
3 the conditions, you don't get the C of O?

4 MR. KADLECEK: That's correct, that is how  
5 condition number 30 is written.

6 MEMBER WHITE: Right, so there are specific checks  
7 and balances in place that make sure that the Lamb School is  
8 complying with the set of conditions that are set forth. You  
9 also have to comply with the PMP, which captures a lot of the  
10 transportation metrics?

11 MR. KADLECEK: That's correct. So there's sort  
12 of two checks; one is the traffic data in the PMP. That's  
13 verified by DDOT, that's not a self-reporting mechanism. The  
14 school reports their data to DDOT, but it's DDOT who actually  
15 makes the determination whether the school is in compliance  
16 with the PMP. The second is the school is reporting to the  
17 zoning administrator on the other conditions that are  
18 separate from the PMP. Provided all of those conditions are  
19 in compliance, then that allows the zoning administrator to  
20 grant the certificate of occupancy to increase the enrollment  
21 of the school.

22 MEMBER WHITE: So without the -- without either  
23 compliance of those conditions, the Lamb School would not be  
24 able to get to the 600 number?

25 MR. KADLECEK: Correct, unless they came back to

**NEAL R. GROSS**

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



1 the BZA.

2 CHAIRPERSON HILL: Mr. Uqdah, just one second.

3 MR. UQDAH: I'm sorry.

4 CHAIRPERSON HILL: Mr. Uqdah?

5 MR. UQDAH: That is not --

6 CHAIRPERSON HILL: Mr. Uqdah?

7 All right, does anyone have a question for the  
8 applicant?

9 MEMBER WHITE: One question. Would the Lamb  
10 School have to return back to the BZA to complete the gym  
11 design?

12 MR. KADLECEK: Yes, one of the conditions we've  
13 proposed, I forget which one it is -- sorry, I forget which  
14 condition it is, but it is one of the 30 conditions proposed  
15 that the school would return to the BZA for design review for  
16 the gym. Yes, thank you. It's condition number 22 proposed.

17 MEMBER WHITE: So you would have to comply with  
18 the conditions with both DDOT and with the ZA in order to  
19 increase the enrollment at the Lamb School?

20 MR. KADLECEK: That's right, yes. So that the  
21 school initially would have an enrollment of 310 students;  
22 at the point at which it wants to increase its enrollment  
23 beyond that, it would have to go through this process of  
24 complying with DDOT, proving to the zoning administrator that  
25 they're in compliance with all the other conditions, which

**NEAL R. GROSS**

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

1 would then allow the zoning administrator to grant a  
2 certificate of occupancy to increase the student enrollment.

3 MEMBER WHITE: That's all I have.

4 CHAIRPERSON HILL: Okay. Does anyone have any  
5 questions?

6 ZC CHAIR HOOD: I'm just curious, and maybe I've  
7 been here a while but maybe I just missed something. Does  
8 the BZA do design review? The proposal --

9 CHAIRPERSON HILL: That must be an Office of the  
10 Attorney General question because it is not me.

11 ZC CHAIR HOOD: That's all right, I can find out  
12 later if we don't know, but do they do design review?

13 MS. NAGELHOUT: No, it would be reviewed for no  
14 adverse impacts and if any --

15 ZC CHAIR HOOD: But they're -- you all are  
16 proposing a design review. I know what a design review is.

17 CHAIRPERSON HILL: I think the way it's intended  
18 is, you know, does the construction of the gym create an  
19 adverse impact. It's a modification.

20 ZC CHAIR HOOD: So we need to change that, because  
21 design review, we know what the regulations of design -- the  
22 zoning commission does design reviews, okay. Yes. So that  
23 -- well it went; I'm not going to go off on a soapbox. Yes,  
24 we need to change that.

25 CHAIRPERSON HILL: Okay. All right, so no more

**NEAL R. GROSS**

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

1 questions for the Board? So just to be clear, what -- and  
2 Ms. Nagelhout doesn't have any question I suppose, or Mr. Moy  
3 in terms of procedure, what I had thought we were doing again  
4 was that we had a full hearing, and the reason why I'm asking  
5 Ms. Nagelhout is to, you know, what is kind of process, or  
6 Mr. Moy, I see a lot of people here in t-shirts and we had --  
7 and I'm just trying to be clear to everybody that's in the  
8 room -- we had had a full hearing, we've taken hours of  
9 testimony, we had gone through everyone who was in support,  
10 we had gone through everyone that was in opposition, and we  
11 heard everything in terms of everything that the applicant  
12 had presented, as well as the opposition, as well as the ANC,  
13 and the Board had gone through and asked all of their  
14 questions. Then we had set ourselves up for a decision  
15 meeting, wherein we actually don't take testimony from the  
16 public, because we had received all the testimony the Board  
17 needed in order to make a decision. And so what I had done  
18 -- and this is where I will not do this again -- is I had  
19 sought some clarification on a few of the conditions, and  
20 when those -- and the applicant came up to ask those  
21 conditions, the opposition I thought were here, and Mr. Uqdah  
22 you were not, but the opposition was here -- well, what I  
23 thought was the opposition was here, Sindila, because I asked  
24 if anyone from Sindila was here, and they raised their hands,  
25 and so the Sindila people came forward and then we ended up

**NEAL R. GROSS**

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

1 taking additional testimony because those people had not been  
2 here. So I guess what I'm trying to find out from OAG or Mr.  
3 Moy is that, you know, is this now -- out of an abundance of  
4 caution, I'm trying to understand where we are in terms of,  
5 you know, opening this up now again to testimony from the  
6 public and how that might affect this process.

7 MS. NAGELHOUT: My understanding is that you  
8 reopened the record for a limited purpose, and you've done  
9 that, and otherwise the record is closed.

10 CHAIRPERSON HILL: Okay. All right. So I  
11 apologize for the people that have come down here if you  
12 thought that we were going to go through public testimony  
13 again and the three minutes and et cetera, but everyone seems  
14 -- the majority of you are shaking your head no, so you're  
15 not dying to get to the microphone. So that being the case,  
16 I mean I don't have anything else for the -- unless the Board  
17 has any other questions from the applicant or the opposition,  
18 I personally -- I guess given that there are 30 conditions  
19 again, and there was one where again, there was clarity that  
20 we had asked for in terms of the 90 days versus the 30 days  
21 and also the representative from the SMD rather than the ANC,  
22 as well as I think a condition that Ms. White just brought  
23 up, I'd like to again just kind of take a look at this, and  
24 set this for decision I guess as soon as possible. And then  
25 I know -- and Mr. Kadlecek, you're about to say something,

**NEAL R. GROSS**

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

1 but I was going to I suppose ask, everyone wants the decision  
2 today, and so given that we just got something else from  
3 Sindila, and that I'd like to review -- and the Board can  
4 speak up; if the Board is ready to go today, then we can just  
5 go ahead and try to do this today, but I'd like to take a  
6 look at the conditions at least one more time to get my head  
7 around it again, given that we've been now been provided  
8 clarifying information from both parties. An Mr. Kadlecek,  
9 you were going to say something?

10 MR. KADLECEK: With all due respect, Mr. Hill, the  
11 challenge with more time for the school is that -- I'm sure  
12 the Board can understand, schools operate on set calendars  
13 and the more the decision gets delayed, it creates a bigger  
14 hardship for the school to meet its target of being able to  
15 occupy the building in August of this year, and so you know,  
16 we're getting to the point now where weeks are actually  
17 critical in terms of the whole process of allowing that to  
18 happen. So of course, you know, we don't want to force --

19 (Simultaneous speaking.)

20 CHAIRPERSON HILL: Okay, okay. So would next week  
21 be that much of a burden?

22 MR. KADLECEK: Yes, we're at a pretty bad position  
23 is my understanding in terms of where -- we filed this  
24 application in June, and so it's getting difficult now for  
25 the school to be able to meet some deadlines in terms of

**NEAL R. GROSS**

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

1 being able to build out the space if the Board were to  
2 approve this.

3 MR. UQDAH: But Mr. Chair, we weren't informed  
4 about this application until the end of August, so whether  
5 they filed it in June or not, the neighborhood was not told.  
6 We did not receive letters from the BZA until August 28 I  
7 believe.

8 CHAIRPERSON HILL: Okay, all right, all right.  
9 So Mr. Kadlecek, I'm going to give me a week, okay. We'll  
10 come back here -- Mr. Hood, can you provide something to us  
11 next week one way or the other?

12 ZC CHAIR HOOD: I may try -- can we put this  
13 first?

14 CHAIRPERSON HILL: Sure.

15 ZC CHAIR HOOD: Okay, I'm going to do my best to  
16 come, but I would like for -- Mr. Kadlecek, if you all could  
17 make sure you re-address that -- and I'm sorry I missed that,  
18 if you all could re-address that condition about design  
19 review, because I know specifically what design review means  
20 on the zoning commission, and it's a very limited issue, and  
21 we don't want these problems to come up later on if this is  
22 approved.

23 CHAIRPERSON HILL: Yes, I mean --

24 ZC CHAIR HOOD: I know what you might think what  
25 it is or somebody else might think, but we need to make it

**NEAL R. GROSS**

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

1 clear so there's no misunderstanding for whoever is sitting  
2 up here, try to make stuff as clear and predictable as  
3 possible.

4 CHAIRPERSON HILL: Yes, and we're agreeable to  
5 that if the Board wants to just do that --

6 ZC CHAIR HOOD: Because when I see design review,  
7 that takes me to a whole another zoning case.

8 CHAIRPERSON HILL: Yes, what we were trying to  
9 avoid is the gym being a proxy to re-discuss the whole  
10 school. You know, what we intend that condition to be is  
11 review of the adverse impacts of the gym, not of the entire  
12 school.

13 ZC CHAIR HOOD: Okay, well can we just say that  
14 or --

15 CHAIRPERSON HILL: Yes, absolutely.

16 ZC CHAIR HOOD: -- something except for design  
17 review, because design review comes with a whole, another --  
18 the way I look at it -- comes with a whole another set of  
19 things that you look at.

20 MR. UQDAH: Commissioner Hood, I stand to be  
21 corrected, but under the R-16, there are special rules in  
22 place for how a property can be designed, so it's not just  
23 under the normal zoning regulations. You have to meet  
24 certain criteria in an R-16 zone that you may not have to  
25 meet in other zones.

**NEAL R. GROSS**

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

1 ZC CHAIR HOOD: Are you referring to the overlay  
2 for that area? Is that what you're --

3 MR. UQDAH: Yes sir, I am.

4 ZC CHAIR HOOD: Now you know that overlay now  
5 exists all over the city as well. I'm not sure if we kept --  
6 what's the name of your overlay?

7 MR. UQDAH: It's now R-16, but it was --

8 ZC CHAIR HOOD: Yes, so that applies to the entire  
9 city.

10 MR. UQDAH: -- it was SH-2, 16th Street Heights.

11 ZC CHAIR HOOD: 16th Street Heights, I remember  
12 that one. Okay. Okay, and those rules now apply; what we  
13 did was broaden them all across the city as well. Some of  
14 those same functions that happened in 16th Street Heights --  
15 and I remember that, I specifically remember that one -- it  
16 now applies to a lot of things in the city, and that was the  
17 wisdom of the Office of Planning, so I got it. I got you.

18 MR. UQDAH: All right, thank you.

19 CHAIRPERSON HILL: And certainly if there are any  
20 design elements that are required in that zone, the gymnasium  
21 would comply with them.

22 ZC CHAIR HOOD: You know what, Mr. Chairman,  
23 whatever they decide, maybe when I'm looking at the zoning  
24 commission's design review and I'm mixing it all up, because  
25 I know what that means, and I just want to make sure that

**NEAL R. GROSS**

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



1 there's clarity when the BZA -- that's why I asked does the  
2 BZA do design review, because maybe I'm mixing all that up.

3 CHAIRPERSON HILL: Okay well Chairman, we can --  
4 I mean we'll be setting the conditions, so we'll go ahead and  
5 take a look at those when we're doing our deliberation as to  
6 the wording in terms of if we get to that point during the  
7 deliberations. All right, so does the Board have any other  
8 questions for anyone?

9 MR. KADLECEK: Mr. Hill, may I just make a quick  
10 statement? So as part of this application, we have to submit  
11 a building permit application, but before the zoning  
12 administrator can even look at that, there's an OAG review  
13 period that has to happen before the order is published.  
14 We're pretty confident that if we have to take another week  
15 out, we're probably going to miss the submission, and as a  
16 result, the school may not even get in in August, but may  
17 actually have to skip a whole year, which may actually cause  
18 this application to die all entirely because we think that  
19 the seller may not even hold on for another year. I mean,  
20 that's just the circumstance that we're in right now.

21 MR. UQDAH: Mr. Chair, I don't think that's a  
22 circumstance --

23 CHAIRPERSON HILL: Mr. Uqdah --  
24 (Simultaneous speaking.)

25 CHAIRPERSON HILL: Mr. Uqdah, I'm sorry that

**NEAL R. GROSS**

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

1 you're not on the Board. I wish you were some days, you  
2 know.

3 MR. UQDAH: Me too.

4 CHAIRPERSON HILL: Yes well, I'm sure there's a  
5 way to get you on there. So Mr. -- and I've forgotten your  
6 name -- you're telling me that this week you're going to lose  
7 this project if you don't get a decision today?

8 MR. KADLECEK: With all realistics, I mean timing,  
9 I think the OAG is going to need at least 90, maybe even 120  
10 days, which means we can't get our renovation permit in until  
11 July. With an extra week, I mean it's -- we're at a point  
12 where we're going to have to beg the OAG's office to review  
13 this before June, assuming this goes forward. I mean, we're  
14 going to have literally six weeks to renovate the school.  
15 Six weeks to get the school --

16 CHAIRPERSON HILL: Yes, I hear what you're saying.

17 MR. KADLECEK: I appreciate that. Thank you.

18 CHAIRPERSON HILL: I'm just thinking whether we  
19 can do this again at the end of the day. Like I've never  
20 done this before; you know, at least we can go and read and  
21 take a little time, and then come back at the end of the day.  
22 And I don't know, Mr. Moy if we've ever done that or you've  
23 ever done that?

24 SECRETARY MOY: Yes, previous Boards have done  
25 that.

**NEAL R. GROSS**

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

1 CHAIRPERSON HILL: Okay.

2 SECRETARY MOY: Come back at the end of the day.

3 CHAIRPERSON HILL: Okay. So what I would offer  
4 to the Board is we can take a look at -- we'll take a break  
5 at some point for lunch or something and so we can all take  
6 a look at this and then at the end of the day again, come  
7 back to this, and if we as a Board feel that we're ready to  
8 deliberate, move forward and if not, then we'll postpone it.

9 ZC CHAIR HOOD: So you mean we, I don't --

10 CHAIRPERSON HILL: No, Chairman Hood, I'm sorry.

11 ZC CHAIR HOOD: I understand, I just don't like  
12 when I hear that my back is up against the wall. A week, if  
13 we need to write a letter to Mr. Racine or whoever to try get  
14 them -- because here's the thing. If this is voted on today  
15 and goes down, so where do you stand then?

16 MR. KADLECEK: No, at some point -- I mean I guess  
17 the other thing may be if -- assuming the Board approves  
18 this, any assistance in getting the order out a little faster  
19 would actually be the biggest help I think. So I think --

20 (Simultaneous speaking.)

21 CHAIRPERSON HILL: I appreciate the years of  
22 experience that Mr. Hood has had and can offer, so I'm back  
23 to we're just doing this next week, okay, and we'll try to  
24 fix it for you or do whatever we can, and that's if it  
25 happens. I mean, if you get denied, then you're back to

**NEAL R. GROSS**

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

1 denial anyway, you know. So you're acting as though you're  
2 going to get approved, so that's what's going to happen  
3 today, right? I don't know that that's the case, and after  
4 lunch you might get denied, and you won't have to worry about  
5 it again as well. So you know, so thank you Chairman Hood  
6 for that help, and we'll put this back on decision next week;  
7 we'll have time to read through it and determine -- because  
8 I don't know where everybody is, right? I mean, the fact  
9 that I don't know where I am, that's why I'm trying to  
10 postpone it.

11 MR. KADLECEK: Yes, and we appreciate that, and  
12 I apologize, we don't want to make any of you feel like your  
13 back is against the wall.

14 CHAIRPERSON HILL: Okay.

15 MR. KADLECEK: We just wanted to make sure that  
16 the urgency was understood.

17 CHAIRPERSON HILL: Okay. Mr. Moy?

18 SECRETARY MOY: Sorry for this, Mr. Chair. Just  
19 for transparency, I did receive from the ANC on behalf of Mr.  
20 Aaron McGovern, a letter of support. So given the parameters  
21 of this limited scope hearing, I'm just asking the Board  
22 whether or not you wanted to permit this into the record or  
23 not.

24 CHAIRPERSON HILL: I don't think we're going to  
25 put that into the record, Mr. Moy, because if we do that,

**NEAL R. GROSS**

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

1 then we have to go through the whole like letting everybody  
2 talk about it and it's going to get us -- I just want to know  
3 whether we're going to approve this or not by next week,  
4 okay. And so -- and we had a limited scope hearing, and  
5 gain, the reason why we're back here is because I asked some  
6 questions at the decision meeting last week, week before  
7 last, three weeks ago, oh three weeks ago. Okay. All right.  
8 So okay, so then we'll be back -- well, you guys can watch,  
9 you know. You all definitely don't need to come for the  
10 decision meeting with the t-shirts, that is. So -- but so  
11 we'll be back here for a decision meeting and Mr. Hood if you  
12 can come, that'll be great.

13 ZC CHAIR HOOD: I think I need to be here for this  
14 one.

15 CHAIRPERSON HILL: Okay. All right.

16 ZC CHAIR HOOD: So I'll just come every week until  
17 --

18 CHAIRPERSON HILL: Okay. You're welcome every  
19 week. You're welcome every week, Mr. Hood. If that's the  
20 case, then you can take over my job. All right, so Mr. Moy?  
21 Okay, thank you all very much. I'm going to close the  
22 hearing, we're done, and we'll come back for a decision next  
23 week.

24 MR. KADLECEK: Thank you.

25 CHAIRPERSON HILL: All right, Mr. Moy. Whenever

**NEAL R. GROSS**

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

1 you're ready, Mr. Moy, you can call the next case.

2           SECRETARY MOY: Thank you, Mr. Chair. That would  
3 be case Application No. 19657 of Mala Mahmood, -- -A-H-M-  
4 double O-D, caption advertised for a special exception under  
5 the residential conversion regulation, Subtitle U, Section  
6 320.2, which would construct a rare addition and convert an  
7 existing one-family dwelling into a three-unit apartment  
8 house, RF-1 zone at 1135 Morse Street NE, Square 4070, Lot  
9 145.

10           CHAIRPERSON HILL: Hello, good afternoon or good  
11 morning. It feels like the afternoon already. Ms. John, I  
12 promise it's very important work that we do, it's not usually  
13 always intense, you know. Okay. If you could please go  
14 ahead and introduce yourself.

15           MS. MAHMOOD: Mala Mahmood, owner of the property.

16           MR. PETYAK: Ryan Petyak, architect, 3877.

17           MR. SHOVE-BROWN: David Shove-Brown, architect,  
18 3877.

19           CHAIRPERSON HILL: Okay. Ms. Mahmood, I guess you  
20 guys were here last time, right, and so I guess you're going  
21 to present to us; is that correct?

22           MS. MAHMOOD: Yes, that's correct.

23           CHAIRPERSON HILL: Okay. So I know that  
24 originally, there wasn't -- you didn't have any support,  
25 right, in terms of the Office of Planning, you were going to

**NEAL R. GROSS**

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

1 have to work with the Office of Planning. So if you can kind  
2 of tell us what happened from the last time in terms of the  
3 efforts that you made working with the Office of Planning,  
4 and then also I guess kind of the community outreach that  
5 you've done and -- but more specifically, just speak to the  
6 project. I see you're pulling up a slide presentation, but  
7 just speak to the project, what you're trying to do, and then  
8 also how you're meeting the standard so that we can grant the  
9 special exception, and I'm going to go ahead and put 15  
10 minutes on the clock just so I know where we are, Mr. Moy,  
11 and you can begin whenever you like.

12 MS. MAHMOOD: Okay, great. Thank you so much.  
13 I'm the owner of the property, and we initially had proposed  
14 an addition of about 40 feet back from the 10-foot -- from  
15 the rear of the adjacent property, and we are -- we have  
16 worked a lot with Office of Planning and also with our  
17 neighbors, and we are now requesting much less, and ever  
18 since our last meeting, we have made significant changes to  
19 our plans, and our architect over here will discuss those  
20 changes. And so since the last meeting, we have  
21 significantly revised our plans. We wanted to maintain  
22 family-sized units, but we also wanted to really reduce the  
23 size and the bulk of the addition. It was very important to  
24 us to maintain the aesthetic look of the neighborhood from  
25 the front and the rear in the alley because it's, you know,

**NEAL R. GROSS**

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

1 that was an important point for us from the very get-go. We  
2 decided very early on not to have an addition in the front  
3 that would -- that you could see from the street so you could  
4 maintain like the aesthetic consistency on the block.

5           Since our last meeting, we have reduced our  
6 addition substantially, about 50 feet, 50 percent of the top  
7 floor has been cut off, and at the bottom we have reduced 38  
8 percent of the overall bulk and size of the addition. And  
9 the reason as you know from the last meeting is even though  
10 there was not a large shadow impact, we have continued to cut  
11 that back a lot, and with the Office of Planning's support  
12 and recommendation, we have stepped back our addition so it's  
13 not just like a box in the back, it steps back from being the  
14 smallest on the top floor and then goes down substantially.  
15 And then the basement unit is the one that's requesting the  
16 full 30 feet back from the allowable 10-foot rule, and that  
17 won't be visible from the street or the alley because it's  
18 sort of submerged under the fence anyways. So yes, since  
19 then we have -- we had our ANC meeting yesterday, and we  
20 presented -- I presented these changes, and we also added --  
21 sorry, I forgot to mention -- we added two more car parking  
22 spots, so these are three units, but there's four parking  
23 spots. We have a very large back yard, so it's two tandem  
24 spots, and so we don't have a car, but in case tenants have  
25 cars, we have two spots each for two units. So yes, that was

**NEAL R. GROSS**

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



1 important to us and important to the neighborhood. And we're  
2 maintaining our green space as well.

3 CHAIRPERSON HILL: How did the ANC meeting go?

4 MS. MAHMOOD: Oh, the ANC meeting went just as it  
5 had last time; there was no support, they want it to remain  
6 a single family house.

7 CHAIRPERSON HILL: The vote was the same?

8 MS. MAHMOOD: The same, yes.

9 CHAIRPERSON HILL: 4 to zero to 2?

10 MS. MAHMOOD: 5 to zero to 1 I think. Yes.

11 CHAIRPERSON HILL: Okay.

12 MS. MAHMOOD: Yes.

13 CHAIRPERSON HILL: When we're having a full  
14 hearing, I'll bring everybody up again just so you know.  
15 Everybody will get a chance today. I know this wasn't a  
16 continued -- this wasn't like the same one, but okay. All  
17 right. Continue please, I'm sorry.

18 MS. MAHMOOD: Yes, and as you recall from the last  
19 meeting, you asked u to go back to the ANC, so we did, but  
20 we also were requested by our ANC Commissioner to go to a  
21 Single-Member District meeting, so we did that on Thursday,  
22 and that went -- you know, I presented the plans and I took  
23 questions, and I reiterated that we have really significantly  
24 pulled back and tried to maintain family-sized units while  
25 reducing the bulk of the addition. So we think we meet the

**NEAL R. GROSS**

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

1 burdens of the special exception, but the SMD, the Single-  
2 Member District meeting also resulted in like more questions  
3 about it, and I answered as much as I could. And that's  
4 about it. Yes.

5 CHAIRPERSON HILL: Okay, let's see. Well Ms.  
6 Mahmood, I remember that you mentioned that you had not done  
7 this before the last time, and that you were -- you're doing  
8 fine, okay. I mean, it's too bad people aren't in your  
9 favor, but you're doing fine.

10 MS. MAHMOOD: But I have nine letters of support  
11 --

12 CHAIRPERSON HILL: Okay.

13 MS. MAHMOOD: -- nine individual letters of  
14 support as was submitted into the record, our next door  
15 neighbor has submitted a letter in support, and the neighbor  
16 next door to us, although she hasn't submitted a letter in  
17 support, she does not oppose the project, and furthermore,  
18 we have -- I mean we understand there's going to be  
19 opposition on the block for stuff like this, but we want to  
20 show that we're very different compared to other plans that  
21 have been presented before you, because we've worked with the  
22 neighborhood, we've wanted to understand what our neighbors  
23 wanted, you know. This is something that's really important  
24 to me, and I think we've done something very different  
25 compared to the other plan that you have seen I think earlier

**NEAL R. GROSS**

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

1 this morning.

2 CHAIRPERSON HILL: And just, can you refresh my  
3 memory again how far back are you going?

4 MS. MAHMOOD: Yes so the lowest floor, the  
5 basement floor, which visually if you can -- there's some  
6 photographs that I think might be helpful, this one in  
7 particular. Can you see that one?

8 CHAIRPERSON HILL: Yes.

9 MS. MAHMOOD: So we were also -- we really wanted  
10 to provide a good visual understanding of what this means,  
11 that addition means, so we superimposed what the proposed  
12 addition would look like. And as you can see, it's -- we are  
13 taking the photograph from the top floor of the existing  
14 large building to give you a sense of how far back that went,  
15 and where we are going to be compared to that with our new  
16 changes. So the basement unit is not going to be visible  
17 from -- if you're looking at it from either side, because of  
18 the privacy fences, and the upper -- so we're going 30 foot  
19 back on the basement unit, 25 on the first and second, and  
20 just 20 feet back on the top floor. So for all intents and  
21 purposes -- sorry -- it's a request to go back 20 feet from  
22 the top floor, which is the floor that has the most shadow  
23 impact.

24 CHAIRPERSON HILL: I'm sorry, you're going 20 feet  
25 back from the --

**NEAL R. GROSS**

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

1 MS. MAHMOOD: The top floor.

2 CHAIRPERSON HILL: -- from the top floor, and on  
3 the first floor?

4 MS. MAHMOOD: And on the first floor, it's 25,  
5 the second floor was 25, and the basement unit is 30 feet,  
6 but that would have no visual impact because of privacy  
7 fences and also because it's relatively submerged.

8 CHAIRPERSON HILL: Okay. Can you show me the  
9 basement level?

10 MS. MAHMOOD: The inside or the exterior look?

11 CHAIRPERSON HILL: No, that's fine.

12 MS. MAHMOOD: Okay.

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

15 VICE CHAIRPERSON HART: Not a question per se, but  
16 just understanding. You still have the four-foot one court  
17 on the east side; is that right?

18 MS. MAHMOOD: Yes.

19 VICE CHAIRPERSON HART: And were the decks the  
20 same size as they were proposed on the back?

21 MR. PETYAK: The decks are taking the space of the  
22 units below. So for example, the level one deck is slightly  
23 larger than it was before because it's absorbing the five-  
24 feet set back from the basement, and then as it goes up, the  
25 same thing happens again on level three.

**NEAL R. GROSS**

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

1           VICE CHAIRPERSON HART: Okay, and I think that  
2 your -- can you talk about what's happening on the front?  
3 You had a elevation from the east elevation

4           MR. PETYAK: The East elevation?

5           VICE CHAIRPERSON HART: Yes, that one. Is this  
6 the east one?

7           MR. PETYAK: Yes.

8           VICE CHAIRPERSON HART: So you have -- what I was  
9 looking at was the front facade, and then this elevation so  
10 the image that's up in the upper right-hand corner of this  
11 drawing, and then the bottom drawing. So what I'm reading  
12 is that the roof kind of cants a little bit, and then there  
13 is a flat portion on the front facade that would be pushed  
14 back from the -- if you could just explain that to me.

15           MR. PETYAK: So what we're looking at doing is two  
16 different approaches. On the third floor, what we're doing  
17 -- the floor plan level three, we've carved out a spot for  
18 a small powder room at the front, with a door access to the  
19 front roof deck of that unit. We use that area in relation  
20 to both the chimney as well as the overall depth of the  
21 addition, as well as the sloped pitch floored roof is to  
22 avoid a sight line for more street itself, so we've really  
23 carved out that area towards our allowable footprint. And  
24 then secondly, there is a-what we're looking at doing is  
25 trying to create a two-story kind of a higher ceiling level

**NEAL R. GROSS**

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

1 in bedroom one on the second floor, so we've actually popped  
2 up the roof slightly behind the architectural mansard roof  
3 element to provide a much grander second floor master bedroom  
4 ceiling height.

5 VICE CHAIRPERSON HART: Okay, and I understood  
6 that, I was just trying to figure out what I was looking at  
7 for the elevation; I couldn't figure out why I was seeing  
8 more roof on the front elevation on the left hand side, east  
9 side, than I was, but I understand that now. You pushed that  
10 back so that the roof doesn't start until later, so you don't  
11 actually see as much --

12 MR. PETYAK: Right, exactly.

13 VICE CHAIRPERSON HART: -- and you don't actually  
14 bring the roof down to, you know, so that they're even, so  
15 that they're kind of two different planes here you're talking  
16 about.

17 MR. PETYAK: Right.

18 VICE CHAIRPERSON HART: I get that, I just was --  
19 I was missing it as I was looking at the elevation, but I  
20 appreciate the explanation. And you're saying that you're  
21 putting in the -- this radius because there's an existing  
22 chimney that is a active chimney; I'm assuming DCRA has kind  
23 of said that you need to have some -- the distance, the  
24 regulations are that you need to have the distance from that  
25 chimney, and you're providing a deck to be able to provide

**NEAL R. GROSS**

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

1 that distance?

2 MR. PETYAK: That's correct. Any built element  
3 taller than the chimney itself needs to be 10 feet away.

4 VICE CHAIRPERSON HART: And so you've moved all  
5 that away from it to provide that set back and it also  
6 provide a deck for use?

7 MR. PETYAK: Living.

8 VICE CHAIRPERSON HART: Thank you.

9 CHAIRPERSON HILL: I was looking -- can you show  
10 the -- I guess I'm just trying to understand how the basement  
11 looks, or I was looking to see if the plans, you know, it's  
12 going back 30 feet; like visually, what does it look like  
13 from the outside? Do you see it? Is it all underground?

14 MS. MAHMOOD: It's not all underground, but it is  
15 -- the privacy fence is on either side, so --

16 CHAIRPERSON HILL: Can you show me what it looks  
17 like somewhat, just --

18 MS. MAHMOOD: Yes. And so that -- that drawing  
19 would --

20 CHAIRPERSON HILL: I see. Okay.

21 MS. MAHMOOD: Yes, the dotted lines --

22 CHAIRPERSON HILL: I see. I see. And the fence  
23 is the --

24 MS. MAHMOOD: Six feet, yes.

25 CHAIRPERSON HILL: Okay.

**NEAL R. GROSS**

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

1 MS. MAHMOOD: And additionally, the shadow impact,  
2 as mean as you can imagine when we look at the shadow studies  
3 which are at the end, have -- they have a much smaller shadow  
4 impact because of the smaller top floor.

5 VICE CHAIRPERSON HART: And you have an almost 67-  
6 foot distance between -- a little more than 67 -- excuse me,  
7 62 feet between the back of the majority of the -- no,  
8 between the back of the building, even at the pavement at the  
9 basement level, to the property line in the rear?

10 MS. MAHMOOD: Exactly, it's a really large lot.

11 VICE CHAIRPERSON HART: And so you have the two  
12 cars, which would be about 20 foot -- 40 feet of that would  
13 be used for --

14 MS. MAHMOOD: Yes.

15 VICE CHAIRPERSON HART: For the where the cars are  
16 supposed to be?

17 MS. MAHMOOD: Right, 36 I believe?

18 MR. PETYAK: It's 19 foot deep for the first spot,  
19 and then 18 feet for the second spot, so it's 37 feet in  
20 total depth for parking.

21 VICE CHAIRPERSON HART: So that would be two  
22 standard and two --

23 MR. PETYAK: Well it's two standard, two compact.

24 VICE CHAIRPERSON HART: Yes, okay.

25 ZC CHAIR HOOD: Ms. Mahmood, how do you pronounce

**NEAL R. GROSS**

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



1 your name, I'm sorry?

2 MS. MAHMOOD: That's fine.

3 ZC CHAIR HOOD: Oh that's fine? Okay. You  
4 mentioned in your testimony that you did something different;  
5 I'm trying to understand, you may have recited it but maybe  
6 I -- it lost me, but how did you -- what different did you  
7 do to enhance and keep the character? What did you do?

8 MS. MAHMOOD: So we did a number of things, and  
9 this was from the very start. We decided not to pop up in  
10 the front because we think that has the most visual impact  
11 on the character of our neighborhood. The by right option,  
12 for example, would allow the front to pop up essentially just  
13 right behind the mansard roof, and so that was one thing that  
14 we really valued and we decided not to go for from the very  
15 start, and that maintains the historically accurate look,  
16 even though it's not a historic street, of Morse Street. So  
17 wherever you look at the house from Morse Street, you can't  
18 see it being different, and that was very important to us.  
19 We also maintained the front porch, we've changed our design  
20 to maintain that. We're also going to add like brick columns  
21 to match the -- one of the neighbors that has brick columns  
22 on the porch. We -- on the back side of the property, on the  
23 alley side, as you can see from our presentation, we're  
24 trying to create something interesting looking rather than  
25 a box in our updated plans, and thank you to the Office of

**NEAL R. GROSS**

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

1 Planning for working with us and helping us come to this  
2 place, because we have an interesting architectural feature  
3 in the back that I think they can talk better about. Does  
4 that answer your question, or do -- so the step back of the  
5 addition being three different levels is also something that  
6 we think is very different from the other plans, as well as  
7 our openness to provide some sort of green wall or a mural  
8 wall on our west side. You know, these are things we're open  
9 to talking with the community about; if one of our neighbors  
10 wants that, we, you know, we're very open to working with our  
11 neighbors on the final colors and elements like that.

12 ZC CHAIR HOOD: Okay.

13 CHAIRPERSON HILL: Ms. White?

14 MEMBER WHITE: Can you go to the slide right  
15 before that one, 20? That one I'm still, I mean it still  
16 seems big, and I'm just trying to get a sense of why it was  
17 necessary to have that much of a rear addition. I can see  
18 the plans internally, but this is on Morse Street, I know  
19 this is also the Trinidad neighborhood as well, so I'm just  
20 trying to get my head around why it was necessary to have  
21 that much of a rear addition for that particular development.

22 MS. MAHMOOD: So this -- maybe it would have been  
23 helpful to show the size of the lot in this rendering, as  
24 well as the other additions on the block continue down, but  
25 we sort of sit somewhere in the middle of the size of our

**NEAL R. GROSS**

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

1 addition, if we were to look at the back of Morse Street on  
2 the 1100 block, if you bear with me I can pull up pictures  
3 of the back; would you -- would that be helpful? Of the  
4 alley?

5 MEMBER WHITE: Sure.

6 MS. MAHMOOD: Okay, are you sure? Okay.

7 MEMBER WHITE: I'm just looking at that particular  
8 slide, so I mean that --

9 CHAIRPERSON HILL: Ms. White, I'm sorry, your mic  
10 is not on.

11 MEMBER WHITE: That particular slide caught my eye  
12 because it was -- it did stand out quite a bit so, but if  
13 there's something else that helps explain the rationale  
14 behind it, that's fine.

15 MS. MAHMOOD: Yes, so that's of the rationale of  
16 our internal space, we would have -- we would be able to fit  
17 three bedrooms with this design, and three true bedrooms, not  
18 two bedrooms and dens, each bedroom would have logical window  
19 placement and be able to fit furniture, so that was one of  
20 our reasons, as well as anything else --

21 MR. PETYAK: It's also important to note on the  
22 these two slides, 22A and then -- so I got 22A. This is what  
23 Mala was saying, is that we fall about the median down the  
24 block in terms of rear additions. As you can see on the top  
25 portion at 1139 Morse Street, they have an 18-foot rear

**NEAL R. GROSS**

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

1 addition from the back of the main structures, and then  
2 further down at 1125, they have a 54-foot rear addition. So  
3 ultimately, in terms of Morse itself, it falls about to the  
4 median of the footprints of rear additions.

5 CHAIRPERSON HILL: Could you go back two slides,  
6 a few slides. Keep going back, we may keep going back I want  
7 to look and see. There was something that had -- looked like  
8 you were looking down above at the whole block. Maybe it was  
9 forward then from that point. Is your -- which exhibit are  
10 you in?

11 FEMALE SPEAKER: That was 52.

12 CHAIRPERSON HILL: Okay. That ought to get it,  
13 right there.

14 MS. MAHMOOD: The solar studies?

15 CHAIRPERSON HILL: Yes, thank you.

16 VICE CHAIRPERSON HART: Just out of curiosity, are  
17 these four shortened? They seemed collapsed or truncated to  
18 me. They don't seem to be, I don't know, they seem to be  
19 like they are kind of squished.

20 MR. PETYAK: It's the perspective in which the  
21 view is being taken. So it's being taken at a 30-degree  
22 angle above the property line, so therefore, just from a re-  
23 elevation standpoint, pulled up to see the true shadow  
24 placement. So visually I guess it does look shortened, but  
25 they're modeled appropriately.

**NEAL R. GROSS**

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

1           VICE CHAIRPERSON HART: Yes, no I wasn't asking  
2 whether or not they were modeled appropriately, I mean this  
3 is kind of -- I was just trying to, as I was looking at them  
4 I was -- it was somewhat striking to me that they looked a  
5 little bit -- like I said, I don't know how to -- but they  
6 look like they are like collapsed or shrunken, squished I  
7 guess would the -- maybe a technical term, as you're showing.  
8 Each of them, they all look the same, they all have that same  
9 look and I was just curious as to why they did.

10           CHAIRPERSON HILL: And just to clarify, 1133 was  
11 the one who had the letter in support, and 1137 was the --  
12 no, the other way around? So you have the 1137 you have the  
13 support, and 1133, you notified them but they didn't get a  
14 letter either way?

15           MS. MAHMOOD: Yes.

16           CHAIRPERSON HILL: Okay.

17           MS. MAHMOOD: We've been communicating, yes.

18           VICE CHAIRPERSON HART: And for 1131, which is two  
19 to the west --

20           MS. MAHMOOD: Yes.

21           VICE CHAIRPERSON HART: -- that has a -- is that  
22 a solar?

23           MS. MAHMOOD: Yes, there's a solar panel to the  
24 front of the property, and as you can tell from this option,  
25 it's not impacted even on the --

**NEAL R. GROSS**

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

1           VICE CHAIRPERSON HART: No, I appreciate you  
2 putting it in there, I was just making sure that --

3           MS. MAHMOOD: Yes, we want to obviously show  
4 everything that's on the block, to the point where if you  
5 look at the other properties, you can see sort of, I mean to  
6 the best of our abilities, being able to show how far each  
7 house goes back.

8           CHAIRPERSON HILL: Uh huh. And 1131, what were  
9 their -- I care to know for the record if there was anything  
10 from 1131?

11          MS. MAHMOOD: I believe there's a letter of  
12 opposition -- oh, he has signed on to a letter of opposition  
13 from the neighborhood.

14          CHAIRPERSON HILL: Okay, good. Thank you. Okay,  
15 anyone else? All right, I'm going to turn to the Office of  
16 Planning.

17          MEMBER ELLIOT: Good morning Mr. Chair, members  
18 of the Board. I'm Brandice Elliot representing the Office  
19 of Planning. First of all, I want to make one quick  
20 clarification; our report is filed at Exhibit 51; the  
21 applicant's revised exhibit is 52, so it actually was  
22 technically filed after OP's report, but I just want to make  
23 sure that it's clear that those are the plans that were  
24 reviewed, and those are the plans on which our recommendation  
25 is made. So just in case there's any questions about the

**NEAL R. GROSS**

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

1 order in which things were filed.

2           So in our first report, OP was supportive of the  
3 conversion, but we expressed some concerns regarding the  
4 addition, and we were not recommending approval of the waiver  
5 for the rear yard addition. However, since the last hearing,  
6 I think we've come a long way with the applicant. We think  
7 that the design choice in the rear yard has improved  
8 significantly, so rather than having a mass that's 40 feet  
9 long on all floors, as the applicant has described, it's  
10 actually stepped back, and we think that that makes a huge  
11 impact on the design -- well, on the rear addition visually,  
12 but also we think that it has a more positive impact on the  
13 surrounding properties. The shadow study that's been  
14 provided by the applicant, so what we found is that the  
15 shadowing is roughly the same, maybe a little bit more with  
16 the proposed rear addition, but it's sort of shifted the  
17 shadowing so that it has less impact at the front of the  
18 houses, and it certainly has less -- most of the impact is  
19 on the properties that are immediately adjacent that are  
20 actually in support of the proposal. So it doesn't really  
21 extend as far as say a by right addition would because it's  
22 not pushed up as forward as a by right scenario would allow.

23           So also the other thing that we found in our  
24 analysis is that there are several additions along the block,  
25 and they do range in length, and what we found is that they

**NEAL R. GROSS**

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

1 go up to about 20 feet, except for the larger condo addition  
2 on the north end of Morse Street, that's also been the  
3 subject of much discussion here. So we found that the 25-  
4 foot addition on the first and second floors of this proposal  
5 is actually within character for what's been established  
6 along that alley side, so and the basement, while it does  
7 extend 30 feet beyond the adjacent rear walls, we don't think  
8 that that's really going to have much visual impact on the  
9 rear alley side, and it certainly wouldn't cause any  
10 additional shadowing of neighboring properties, so we have  
11 changed our recommendation, and OP is now recommending  
12 approval of the conversion and the waiver that's been  
13 requested for the rear addition. So, I'm sure there are  
14 questions and I'm happy to answer them.

15 CHAIRPERSON HILL: Okay. Just a quick one again,  
16 and maybe the applicant can answer this. So from what is  
17 existing, or actually even from -- yes, from what is existing  
18 as to how far back the lot goes, do you know how many feet  
19 back it goes?

20 MS. MAHMOOD: 145.

21 CHAIRPERSON HILL: 145 feet, and -- okay. And I  
22 don't know if OP can tell me this, because I'm kind of  
23 curious. Had the regulation not changed, how far back could  
24 they have gone?

25 MEMBER ELLIOT: Well without the change in

**NEAL R. GROSS**

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



1 regulation that limited the by right scenario to 10 feet,  
2 they could just cover 60 percent of their lot. So I'm not  
3 sure what that amounts to offhand, but they could certainly  
4 go back further than where they're at now, or even further  
5 than what was initially proposed at 40 feet.

6 CHAIRPERSON HILL: Yes the 60 percent I know,  
7 there was the lot occupancy of 60 percent that was adjusted.  
8 Okay. Does anyone have any questions for the Office of  
9 Planning?

10 ZC CHAIR HOOD: Yes. Ms. Elliot, did I get your  
11 name right? Okay.

12 MS. ELLIOT: You're doing great.

13 ZC CHAIR HOOD: That's an inside joke. Okay I'm  
14 thinking that the reason, the rationale for the adjustment  
15 in the back, which makes it different for the Office of --  
16 well, at least why you all are supporting it now as you  
17 stated is because what it is on the lower level, you came  
18 further back; the second level you went further and a stepped  
19 in process on the way up. So is that going to be a standard  
20 recommendation or something the Office of Planning is going  
21 to work out with other people who come in? I'm just trying  
22 to rationale my thinking behind this whole pop back process.  
23 Is that going to be a rationale that something the Office of  
24 Planning -- do you see the Office of Planning supporting  
25 something like that in the future? I mean, just keep

**NEAL R. GROSS**

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

1 supporting that?

2           MEMBER ELLIOT: So in all of these instances,  
3 we're looking for a design that creates the least amount of  
4 impact on surrounding properties, and certainly stepping the  
5 addition back as the applicant has in this case produces the  
6 kind of results that we're looking for. It's been  
7 recommended in more than one case up until now, and there's  
8 certainly more discussion in our office about how it could  
9 be implemented, or if it should be codified for future cases.  
10 So I know that we are reviewing the regulations per your  
11 request, and that is something that could become part of it.

12           ZC CHAIR HOOD: Okay. All right, thank you.

13           CHAIRPERSON HILL: Can you clarify for me when  
14 you're talking about, and you mentioned character in the back  
15 as to why do you think the character is -- why do you think  
16 this upholds to the character in the back?

17           MEMBER ELLIOT: So we are concerned about the --  
18 just to clarify, we're concerned about the character in the  
19 front as well as the character along the rear. The alley way  
20 is still very active, you know, it's adjacent to mixed use  
21 so certainly there's some pedestrian activity going on down  
22 there, and so when we were reviewing this case, we were  
23 concerned about maintaining that character. And you know,  
24 the original proposal having a 40-foot rear addition we found  
25 to be disruptive. So when we were working with the applicant

**NEAL R. GROSS**

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

1 to reduce the size of the rear addition, we did take a look  
2 at some of the existing development along this block. And  
3 I mean what you can see from the images that have been  
4 provided is that the rears of the dwellings, they're not  
5 flush. There have been a series of additions over time,  
6 additions of varying lengths, and so some of those additions  
7 are only five feet, some of them are 10, others are about 20  
8 feet. And so we think that the 25-foot rear addition that's  
9 been proposed on the first and second floor is within that  
10 character because it doesn't, you know, create as much  
11 separation between the rear dwellings as the 40-foot did.  
12 So we still think it's within character of what's already  
13 there.

14 CHAIRPERSON HILL: And the basement, the fact that  
15 the fence I guess is covering the whole basement, that's why  
16 you just don't think that the 30 feet matters?

17 MEMBER ELLIOT: Well I mean it matters, but it is  
18 partially submerged, and then it is screened by the existing  
19 fence, and so it's really not going to be as much of a --  
20 it's not going to be as visible as the first and second  
21 floors will be.

22 CHAIRPERSON HILL: And just for the applicant, I'm  
23 curious, and since you have this photo up. Is there --  
24 there's a chain link fence on the other side of you?

25 MS. MAHMOOD: Yes, on the east side, which is the

**NEAL R. GROSS**

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

1 neighbor that has the letter of support, that's a chain link  
2 fence on -- yes, and that's going to be -- technically, we're  
3 going to replace it and put wood, and that's something that  
4 we have discussed and has been preferred by the neighbor  
5 anyway.

6 CHAIRPERSON HILL: Okay. Anyone else have  
7 anything for the Office of Planning?

8 MEMBER WHITE: My main question is, you know, I'm  
9 having a hard time with consistency with these types of  
10 cases, especially if you're talking about the same community,  
11 and I know each fact is different, but how do you get around  
12 the whole issue of this being in character with the  
13 community, or is that something you don't look at?

14 MEMBER ELLIOT: Well the special exception  
15 criteria actually requires that we consider the impact that  
16 additions will have on the character of the community, so I  
17 think we have put a lot of thought into that and yes, we do  
18 have a couple of competing developments on this street, and  
19 -- but we look at each one individually and on its own  
20 merits, and I think in this case, you know, we did provide  
21 an analysis showing or explaining that there are a series of  
22 additions along the rear, and that you know, those range in  
23 lengths from five to 20 feet, and this coming within 20 feet  
24 we feel is maintaining that -- the existing character along  
25 the rear of the lots. The applicant has maintained the front

**NEAL R. GROSS**

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

1 facade, the third floor is being pushed back nearly 20 feet,  
2 so we really don't expect it to be visible from Morse Street,  
3 and the applicant has also had discussions with our Historic  
4 Preservation Office to you know, decide what materials should  
5 be used on the building, although it's not in an historic  
6 district, you know, they're trying to ensure that the  
7 additions that -- you know, that the materials they use are  
8 historically accurate for the neighborhood. So I think that  
9 all those things considered, it is maintaining the character  
10 of the neighborhood.

11 CHAIRPERSON HILL: Okay, anyone else? Okay, does  
12 the applicant have any questions for the Office of Planning?

13 MS. MAHMOOD: No, thank you for bringing up the  
14 historic push, and I think I've forgotten half the work I've  
15 done on this already.

16 CHAIRPERSON HILL: Okay.

17 MS. MAHMOOD: But yes, we are going to use  
18 historically appropriate materials and to the color of the  
19 choice of our neighbors; we're happy to work with our  
20 neighbors on what color they prefer for the addition if that  
21 helps.

22 CHAIRPERSON HILL: Okay, all right. Great. Let's  
23 see, so is there anyone here from the ANC? Oh, could you  
24 please come forward. Okay, if anyone is going to speak that  
25 hasn't been sworn in and are going to testify today, if you

**NEAL R. GROSS**

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

1 could please stand and take the oath which is going to be  
2 administered by the Secretary to my left.

3 SECRETARY MOY: Do you solemnly swear or affirm  
4 that the testimony you're about to present in these  
5 proceedings is the truth, the whole truth, and nothing but  
6 the truth?

7 MALE SPEAKER: I do.

8 SECRETARY MOY: Thank you.

9 CHAIRPERSON HILL: Okay great, thank you. If you  
10 could just introduce yourselves for the record, please?

11 MR. LEE: Good morning, Clarence Lee, the chairman  
12 of ANC 5D.

13 MS. BUGGS: Good morning, Yvonne Buggs, Single  
14 Member District 5D-06.

15 CHAIRPERSON HILL: All right Chairman Lee,  
16 Commissioner Buggs, I remember seeing you guys the last time,  
17 so you know -- Mr. Moy, I guess so you'll each get five  
18 minutes to speak, and Mr. Moy, the clock says it's 10:30; is  
19 it 10:30? So it's 11:30, because I've got to let you know  
20 when I realized that, it really bummed me out. It was just  
21 like, you know -- okay. All right, so we're going to go  
22 ahead and put five minutes for each of you, and you can go  
23 ahead and begin whenever you like.

24 MR. LEE: Okay, good morning again. We're still  
25 opposed to anything beyond by right. Come the -- we had a

**NEAL R. GROSS**

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

1 meeting last night, and we did vote not to support this  
2 issue. We had a new neighbor that came who has purchased two  
3 houses on Morse Street, one for himself and one for his  
4 mother-in-law, and he likes the character of being able to  
5 have a yard, to have -- to create -- he's starting his family  
6 already, bringing back young people with families looking for  
7 a neighborhood, not a block of condos and individual  
8 apartments. You know the Trinidad area has plenty of four-  
9 unit buildings that multi-families could live in and purchase  
10 and renovate. We just -- and then we're even having  
11 infrastructure issues, what we thought that as we continue  
12 to build these places with multiple bathrooms, our  
13 infrastructure is 100 years old, and so -- and then with  
14 extra power use, the power drainage that it's going to cause,  
15 but you know, you young people with computers and games and  
16 big screen TVs, we have power outages now.

17           And like I said, I'm a 30-year resident, never  
18 lost power on my block, but my block is not as expanded as  
19 these other blocks, but every summer we hear about the power  
20 outages in the neighborhood, and those blocks in particular,  
21 so they must be on different transformers than I'm on. So  
22 as we want to work -- we want families; it doesn't seem to  
23 meet the character of the neighborhood on the front, and  
24 we're not -- I'm not opposed to any frontage, I'm not  
25 requiring her to historic preservation, I think that's a

**NEAL R. GROSS**

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

1 personal choice of a homeowner, but I would like for at least  
2 -- and we also have someone, another developer who's coming  
3 in who has pretty much told us that he's just going to demand  
4 his expansion beyond the 10 feet. That's what the lawyer  
5 said to us last night. He's not willing to work with us  
6 anyway, so we want to stop this precedent right now with this  
7 one property, because we're going to be back with you again  
8 on Morse Street, and again on Morse Street, and again on  
9 Morse Street for the same issue, because this is a hot block,  
10 money could be made, and I think nothing's being said about  
11 this is a financial gain. It's not a home gain, it's a  
12 financial gain.

13           If you have additional rental properties that you  
14 can earn income, rent, you have people paying \$1,000 a month  
15 that share a house. We have young people coming in, and  
16 they're paying for rooms, six or seven people in a house  
17 paying \$1,000 a month. So we never talk about the money  
18 aspect of it, but be real; this is about making money, and  
19 it's not about providing a home; it's about being to have a  
20 financial gain. We missed the opportunity because with the  
21 other homes that have already been done, we missed that  
22 opportunity because that was by right. So we simply ask you  
23 just to support us, and support the by right. If the  
24 regulations change back to something else, then we'll have  
25 to testify on that, but right now as the regulations stand,

**NEAL R. GROSS**

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



1 there was a reason why they were made to go from 60 feet --  
2 60 percent of the lot occupancy to the 10-foot rule, and I  
3 think the Board should stick with that, and we shouldn't have  
4 to keep coming back going back and forth on a regulation that  
5 if the ANC doesn't support it, then we should have backing  
6 from the BZA. So that's all I have to say.

7 CHAIRPERSON HILL: Okay thank you, Mr. Lee, or  
8 Chairman Lee I should say. Commissioner Buggs?

9 MS. BUGGS: I did do a single member district and  
10 invited Ms. Mahmood back on February 8, when she came back  
11 and shared her amendments with us. It didn't quite move  
12 anybody from where we had already stood, and then last night  
13 we invited her back to the ANC meeting, and the Commission  
14 voted 6-0-1 to oppose, and we also had, like Chairman Lee  
15 stated, we had the resident that came in, and he -- I think  
16 one of the neighbors had the letter that he wrote, and I  
17 think it may even be on the BZA case thing. So he was  
18 explaining to us what he expected when he purchased his home  
19 and his mother-in-law's home, and he just moved there just  
20 recently. You can just imagine what the residents that have  
21 been there since 1960 or earlier, 30 years earlier, that are  
22 feeling about these pop ups that's coming up. Even if, you  
23 know, some of them go back far, they are just changing, and  
24 not only is this one changing, but there are more coming, and  
25 if we approve one, then they're going to expect that they

**NEAL R. GROSS**

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

1 should be approved as well. So we just stand firmly on  
2 opposing this project, and we hope that you can understand  
3 where we are with it. I understand Ms. Mahmood said she  
4 wanted to bring in her family, but she still is going up and  
5 back as far as you would allow her to.

6           So -- and then we also had a gentleman there last  
7 night from the solar panels, and he was telling us that --  
8 one neighbor asked what happens if five years later, she  
9 decides to put up solar panels, where would she be if she got  
10 pop ups next door to her? And he said she would be out of  
11 luck, because it wouldn't allow for her to have solar panels  
12 at that time. So if she comes in and put up her pop up, and  
13 then someone next to her wants to do solar panels, then we  
14 can't do it because she's changed the look, the building.  
15 So we stand firmly on opposing. Thank you.

16           CHAIRPERSON HILL: Okay. Well Chairman Lee and  
17 Commissioner Buggs, first of all thanks so much for coming  
18 down, I mean we definitely always like to hear from the ANC,  
19 and I know you guys were here the last time, and I don't know  
20 if you were here for the deliberations for the earlier one  
21 on your block or -- okay, well at least one of you were, and  
22 so -- and Chairman Lee, I mean I remember I think you brought  
23 this up last time, I don't recall, but I -- you know, it  
24 really does unnerve me to hear people are like coming in and  
25 saying they're going to demand something from the BZA, or

**NEAL R. GROSS**

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

1 that they -- I think you did say that you know, people are  
2 using it as a threat, meaning by right versus what they think  
3 they might be able to do. I think I did say, and I've been  
4 a little bit of time in terms of that, that I don't think  
5 there's anything wrong with people saying what they can do  
6 by right, and then the community having an opportunity to  
7 kind of like look into that and weigh that, and whether or  
8 not -- and unfortunately then they might say okay, I'm going  
9 to be able to do this, but then the community has an  
10 opportunity I suppose to think okay, is that really  
11 reasonable, meaning sometimes people are saying they're going  
12 to be able to do it, but it wouldn't possibly financially  
13 work unless they got the special exception or whatever, you  
14 know, they might be going for the BZA.

15           So I mean I'm just saying that's something that  
16 you have to weigh on the ANC level as to whether or not they  
17 can or can't do something by right. But I'm sorry if you're  
18 having people coming forward saying that they're going to get  
19 something. And so you know if that person comes forward  
20 again, you're more than welcome to come down and let us know  
21 that they are the people that were going to get something.  
22 So I do have a couple of questions, and I'll let the Board  
23 also -- but I mean as far as I -- because people wanted to  
24 comment on this, this is an easy one. I mean, if you were  
25 here for -- we were a split vote on something that was a

**NEAL R. GROSS**

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

1 similar request for your street, and what I -- and I was one  
2 of the people that was kind of struggling more with the terms  
3 of that this is something that is allowed as a special  
4 exception. I mean, that's kind of why there isn't a hard,  
5 fast, you know, the 10 feet and that's it, right, so that's  
6 why the people do come here, that the property owners have  
7 an opportunity to express themselves and try to get this  
8 special exception of they meet the criteria, which I assume  
9 you've had a chance to kind of look at what the standards are  
10 in terms of us granting those, and you've had a chance to  
11 kind of look at the Office of Planning's concerns. So one  
12 of the things that I was curious about, so you guys think  
13 that -- have you had a chance to kind of look at the design  
14 a little bit, in the rear primarily?

15 MR. LEE: Yes.

16 CHAIRPERSON HILL: Okay. So you think that that  
17 would substantially affect the character of the way -- and  
18 I know you do, so I'm just trying to understand, articulate  
19 why you think that that would change the character on that  
20 alley side if this were to move forward with this design the  
21 way it is?

22 MR. LEE: Well since the previous buildings were  
23 bought under -- were under regulation at 60 percent rule,  
24 that's what really caused the opposition because no one  
25 thought you could do that, and by right they could do that

**NEAL R. GROSS**

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

1 so that's where those buildings were expanded that way. So  
2 is the character now -- well that's exactly the question.  
3 Is the character now --

4 CHAIRPERSON HILL: No I'm sorry, just -- and maybe  
5 you can't speak exactly to this, but you know, I'm talking  
6 about this particular project with this particular new  
7 design, the back of it, can you articulate why you think  
8 that's not in character with kind of the alley and the other  
9 buildings in that block?

10 MS. BUGGS: This -- I don't think it's in  
11 character, I mean, even if this goes up, if you allow this  
12 to go up. In that alley, it's almost like the people who've  
13 been there for years, they're now in pockets because the pop  
14 ups and the pop backs, they're going back and they're almost  
15 sort of like dwarfing the homes that were there. I've been  
16 there in the neighborhood since the '60s. I know that's  
17 dating me a little bit, but it --

18 CHAIRPERSON HILL: Well I like that Chairman Lee  
19 was calling us young people up here a little while ago. I  
20 just wanted to make sure that was for me.

21 MS. BUGGS: It's just that, you know, when you  
22 drive down that alley and you now see all the pop ups and the  
23 pop backs, and then you see the homes who are still trying  
24 to have their lot, which is what they moved there for, the  
25 lots, the long yards, you know, so they can wave at the

**NEAL R. GROSS**

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

1 neighbors down the road, they could watch each other's homes,  
2 make sure everything is good and it's just -- it's all just  
3 changing the character, even if she's going back 30 feet and  
4 not 60.

5 CHAIRPERSON HILL: Okay, all right.

6 MR. LEE: Can I?

7 CHAIRPERSON HILL: Sure, of course.

8 MR. LEE: And when you say character, I do say  
9 it's not because we -- I want the character to go back to a  
10 neighborhood with families. And historically, you know, we  
11 went through -- my kids grew up through the drug years, so  
12 now it's an opportunity for us to have a neighborhood again.  
13 And when you -- when I sit out on back of my deck, I have my  
14 neighbor to the right and my neighbor to the left; we all  
15 have expansions on the back, but I can pass a hamburger over  
16 this side, I can pass a hamburger over to this side. So when  
17 we're back there, we're neighbors. We're communicating,  
18 we're talking to each other, and I'm one of the older  
19 neighbors, but like I said my other neighbor has a little boy  
20 about six years old, my other neighbor's parents are pushing  
21 them to have children, but as we -- you know, this is the  
22 kind of Washington I grew up in. I grew up in a family  
23 Washington, and when you -- like I said, because it's  
24 Trinidad, when we have our four-unit buildings where multiple  
25 families, I'm even trying to put my multiple elders in a

**NEAL R. GROSS**

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

1 four-unit building. You know, so when we talk about the  
2 character, its' a character of family and I think multi-  
3 generational families, you should be in a home where I can  
4 walk downstairs and see my mother if she's staying with me,  
5 not have to go outside. So when we talk -- so if you were  
6 doing something like that, I'm all for it. But when you talk  
7 separate units, and that means you have separate rental  
8 properties, and I've been in some of the homes in Trinidad  
9 over the years; one home had three bathrooms in it, and they  
10 rented the basement, they rented the upstairs, but you all  
11 walked into the front door, and everybody had to split up in  
12 that time. Some of the houses are still designed that way.  
13 So when we talk about this multi-family and trying to do the  
14 characteristic of a family, you can't have walls in between.

15           And that's the characteristic, because it has  
16 always been multi-families. I have a stove in my basement,  
17 and you know and it's been there for 50 years. So right, it  
18 might be illegal now, but it's a stove in the basement. So  
19 -- and that's the thing when we say that, so that's the kind  
20 of character. My parents started off in Trinidad, and they  
21 tell me about how it was and the family and everything, and  
22 my wife grew up during -- we were married during the drug  
23 years and those things, how we lost that. So now is the  
24 opportunity for us to go back and build a community for  
25 families; we have two excellent schools in the neighborhood.

**NEAL R. GROSS**

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

1 So when you build these things, these aren't people that are  
2 going to have children and put roots in and --

3 CHAIRPERSON HILL: Chairman, I hear what you're  
4 saying, we've heard all this before. I mean, I don't know  
5 who's going to be in there and whether they're going to be,  
6 you know, put roots in, I mean it's hard to say in those kind  
7 of things. And even the by right thing, you know, they still  
8 could do this, it just couldn't go back as far, I mean they  
9 would have to come for a conversion. So -- but we weigh all  
10 -- I mean, I'm not disagreeing with what -- I understand  
11 everything you'd like to say. But let me just ask the Board  
12 if they have other questions of the Commissioner.

13 ZC CHAIR HOOD: So let me ask you this Chairman  
14 Lee and first of all, I may need to move next door to you  
15 since you're passing out hamburgers, but the other thing is  
16 you all heard the step down -- and I think this is where the  
17 Chairman was going -- the progressive step back as you go up.  
18 Have you ever thought about -- how does that sound to you?

19 MR. LEE: The only thing really I'm against it  
20 because we're just opening the door for other developers.  
21 That's really the problem here is that you know, that we're  
22 just opening the door for other developers. They see the  
23 block, they see the large lots, they see money, dollars and  
24 cents.

25 ZC CHAIR HOOD: Yes, yes.

**NEAL R. GROSS**

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



1           MR. LEE: Now Ms. Mahmood says she's going to live  
2 in the house, but the rest of the homes, they're developers,  
3 and so that's the problem with, you know, and I can't control  
4 it. It's a capitalistic society, I can't control who buys  
5 the building.

6           ZC CHAIR HOOD: Right, right.

7           MR. LEE: But --

8           ZC CHAIR HOOD: Let me ask you this; I think I  
9 asked you this once before. When we heard those hours of  
10 testimony about pop ups, pop backs, pop arounds, did you all  
11 participate?

12          MR. LEE: Oh, no.

13          ZC CHAIR HOOD: Okay. The reason why I'm asking  
14 because it seems like it's more now, this -- the birth of all  
15 this came from Northwest, and it seems like now it's all  
16 happening over here on Morse Street. So I'm just trying to  
17 figure -- I guess it worked out, the regulations that we put  
18 in place, and I guess what you all are saying is if we put  
19 -- I'm not putting words in your mouth, these are actually  
20 what I said in other cases -- if we put regulations in place  
21 one week, why do we waive them the next week? Is that a fair  
22 assessment?

23          MR. LEE: Yes.

24          ZC CHAIR HOOD: Okay.

25          MS. BUGGS: Very.

**NEAL R. GROSS**

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

1 ZC CHAIR HOOD: Okay, thank you.

2 CHAIRPERSON HILL: Okay, anyone else? All right,  
3 thank you Commissioners. Is there anybody here in support?  
4 Anybody here in support? Okay, is there anybody here in  
5 opposition? Okay, Commissioners if you don't mind just  
6 giving up your spots there, we're going to have some people  
7 speak in opposition. You all can just come over here to the  
8 right. Well welcome back, I remember seeing some of you the  
9 last time as well. So if you could just please introduce  
10 yourselves, and actually you can pull that microphone ma'am,  
11 over there to your right. Yes, and then if you could just  
12 introduce yourselves from my right to left.

13 MR. JAMES: Cedric James, I live at 1131.

14 MS. WARD: Doretta Ward, 1141.

15 MS. ROGERS: Frances Rogers, 1116 Morse.

16 CHAIRPERSON HILL: Okay great, thank you. Mr.  
17 James, I'm going to start with you, and so as a member of the  
18 public, you have three minutes to speak, the clock is there  
19 on either side, and so you can begin whenever you like.

20 MR. JAMES: Okay. One point I want to bring up  
21 is I'm one with the solar panels. I didn't get a chance to  
22 do my study, but I do know that Solar Solution, who installed  
23 my panels, I found out that I can get a copy of their study.  
24 When I first met her, we talked about her property, and she  
25 wanted a pop up, I said I've got solar panels, so Mala

**NEAL R. GROSS**

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

1 decided that she was going to not pop up the front. But when  
2 I start watching the sun, this pop up that she's going to do  
3 on the rear is also going to affect my solar panels, okay.  
4 I think the study was done back in July, but when it came up  
5 here like in December and January, and I started looking  
6 where the sun was rising, between the hours of 8 to 12, my  
7 panels won't get any sun because of that third level pop up.  
8 And I just -- it's just -- it's out of control, man. The pop  
9 ups, it just looks horrible, I can't -- last night when we  
10 left the ANC meeting, I was able to come out my door and look  
11 down to watch her go in the house. If this pop up and pop  
12 back is to happen, I won't be able to say oh Doretta, you got  
13 in the house okay. That's not going to be -- it's not -- I  
14 been in my house -- I was born in my house. My grandmother  
15 bought that house in 1947. I was born there, and it's just  
16 -- the change of these pop ups is just out of control,  
17 especially on Morse Street. You know, it's all about money.  
18 It's just out of control. That's all I have to say. But I  
19 -- that problem about blocking my solar panels, I don't think  
20 that's right. I definitely don't.

21 CHAIRPERSON HILL: All right. Okay. Thank you,  
22 Mr. James. Ms. Ward?

23 MS. WARD: Hi, I was here the last hearing. I  
24 don't really have a whole lot to add, I really copy what  
25 Chairman Lee said and Yvonne said about, you know, the

**NEAL R. GROSS**

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

1 situation with our neighborhood. I echo what they stated.  
2 I live three doors from where Ms. Mala bought the property,  
3 and although they say it's not a large impact of the sun  
4 because of her changes, but there's still an impact. It may  
5 not be as large, but it's still there. And I do oppose, I  
6 still oppose the design and all. Thank you.

7 CHAIRPERSON HILL: Okay thank you, Ms. Ward. Ms.  
8 Rogers?

9 MS. ROGERS: Hi. I have very little to say.

10 CHAIRPERSON HILL: That's okay. If you can just  
11 move the microphone a little bit closer to you, thank you.

12 MS. ROGERS: Okay. I have a problem with pop ups  
13 and pop outs because of changing the character, but I have  
14 a problem with changing a single family home into a three-  
15 unit apartment. That's overcrowding the street, it's  
16 overcrowding the neighborhoods. And Mala, I think she's done  
17 a lot of readjusting and trying to comply with OP mainly, and  
18 the neighbors somewhat, but I'm still opposed to pop ups and  
19 changing single family -- on that street, there are several  
20 families that the parents raised the children, the children  
21 bought on the street, and it's just a family, and you will  
22 be seeing more cases about this. And years ago, I did go to  
23 meetings up on Northwest about pop ups then, and the  
24 consensus was from the panel that was holding it is that oh,  
25 the Government is just letting folks do -- letting the

**NEAL R. GROSS**

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

1 developers do whatever they want to do. So you did put in  
2 the new regulations that took effect in 2016 to control some  
3 of that pop ups and pop outs and whatever, and I just kind  
4 of think we should stay as matter of right. That's all. I  
5 thank you.

6 CHAIRPERSON HILL: Thank you, Ms. Rogers. I just  
7 have a quick question. Mr. James, which building are you?  
8 Which unit are you again?

9 MR. JAMES: I'm 1131. I'm the only one with the  
10 solar panels.

11 CHAIRPERSON HILL: Okay I see it now, I got you.

12 MR. JAMES: Okay.

13 CHAIRPERSON HILL: Okay, thank you.

14 MS. ROGERS: And that's just one --

15 MR. JAMES: Yes, that's right, it's just one slide  
16 of it.

17 CHAIRPERSON HILL: Okay. Does anyone have any  
18 questions for the witnesses?

19 MEMBER WHITE: The only question I have is you  
20 know, because they're coming to the Zoning Adjustment to get,  
21 you know, an adjustment to the 10-foot rule. So my question  
22 is are you just totally against anything beyond 10 feet, or  
23 do you have some wiggle room in terms of what you would find  
24 acceptable, especially the gentleman with the solar panels,  
25 because it looks like you would -- you could potentially have

**NEAL R. GROSS**

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

1 some impact.

2 MR. JAMES: So you're saying the 10-foot rule  
3 would be from the original roof up 10 feet?

4 MEMBER WHITE: In terms of the rear addition.

5 MR. JAMES: The rear addition going back?

6 MEMBER WHITE: Yes.

7 MR. JAMES: Well let me say it like this. My  
8 grandmother put an addition on the back of my house.  
9 Originally, you have a brick wall, and they were -- they had  
10 a six-foot back porch. My grandmother extended it six more  
11 feet, which made it 12 feet. To me, that's just about  
12 everybody has done 12 feet on my side of the street. But the  
13 pop ups has just gone -- just took it to another level. But  
14 I'm not -- the 10-foot rule is fine, okay, but when you're  
15 going 35, 40, you know, that's just -- that's a little --  
16 that's overkill to me. Did I answer your question?

17 MEMBER WHITE: Yes, thank you.

18 MR. JAMES: Okay.

19 CHAIRPERSON HILL: Okay, anyone else? All right.  
20 Okay thank you all very much. Okay Ms. Mahmood, sorry Ms.  
21 Mahmood. So I guess I don't know where we are, I'm going to  
22 see whether the Board has any questions. Would you have  
23 anything you'd like to add or respond to?

24 MS. MAHMOOD: Sure. I'm sure that you are able  
25 to see from our solar study that we are not impacting Mr.

**NEAL R. GROSS**

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

1 James' solar panels at any point in the year except  
2 fractionally in December at sunrise, and that too is sunrise,  
3 not 8 a.m., 9 a.m., 10 a.m. It progressively gets completely  
4 off of the panels, so I mean by noon it's completely off.  
5 So -- and he's not our adjacent neighbor, and we've been told  
6 that usually means we don't have to take it into account, but  
7 we do take it into account because it matters to us. And the  
8 fact that we've haven't, you know, not maybe even five  
9 percent impact at that time of year and at that time of the  
10 day, we just wanted to point that out, that that's something  
11 that exists. Yes, I think that's about it.

12 CHAIRPERSON HILL: Okay, great. Okay, well I do  
13 appreciate everybody that came down from the community, ANC  
14 members and Ms. Mahmood, I do appreciate all the work that  
15 you've done and you know, I know that you're trying to do  
16 what you're trying to do, and so you've gone through the  
17 process as best you can. I would be -- I hate to do this in  
18 terms of like -- I don't know if the Board is ready to make  
19 a decision today. The reason why I say that is that I would  
20 like our new Board member to have an opportunity to kind of  
21 take this in a little bit and read the material and get a  
22 little bit more comfortable with it and understand better  
23 some of the regulations and the standards that we're looking  
24 at before being able to make a decision. You guys were here  
25 at the first one, the first one that was on this street, were

**NEAL R. GROSS**

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

1 you here for the discussion? No?

2 MS. MAHMOOD: Not this morning.

3 CHAIRPERSON HILL: Not this morning? You weren't  
4 here this morning?

5 MS. MAHMOOD: I watched it on my phone.

6 CHAIRPERSON HILL: Oh, okay. Well then as long  
7 as you've seen it, that's helpful then. So the only thing  
8 I was kind of interested in is if you could provide a  
9 rendering of the block again, I mean I don't even know if  
10 this sun study is enough, I mean you had mentioned something  
11 like about -- I'm looking at kind of like the character of,  
12 or do you have something already in there that kind of shows  
13 the whole block?

14 MS. MAHMOOD: Yes, so we've taken multiple  
15 photographs, we walked all the way down --

16 CHAIRPERSON HILL: Right, I see this one, you've  
17 shown me this one before.

18 MS. MAHMOOD: Not this one, sorry, it's in our  
19 justification statement; at the end of the statement, I'm so  
20 sorry I don't have the --

21 (Simultaneous speaking.)

22 MS. MAHMOOD: I can pull it up on my computer if  
23 you would like. There's multiple photographs of the block  
24 from the rear alley. As you know, as Office of Planning just  
25 mentioned, we are -- we share the alley with a zone that's

**NEAL R. GROSS**

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



1 commercial, and so those --

2 VICE CHAIRPERSON HART: This is Exhibit 53. The  
3 updated justification --

4 MS. MAHMOOD: -- yes, and the photographs towards  
5 the end of it.

6 CHAIRPERSON HILL: Yes, yes.

7 MS. MAHMOOD: So there's a lot of -- in the  
8 alley, just on the 1100 block of our street, so you can see  
9 both the north and the south side of that alley and how many  
10 non-flush houses there are, and how many structures there are  
11 within the yard. Do you guys see that?

12 CHAIRPERSON HILL: Yes, actually I understand.  
13 I did look through these before, and I'm not going to take  
14 any more testimony.

15 MS. MAHMOOD: Sorry, I should have probably  
16 mentioned this earlier.

17 CHAIRPERSON HILL: That's all right.

18 MS. MAHMOOD: But those garage structures, those  
19 structures, other structures have blocked the sight lines as  
20 well, as well as on the south side of the alley, which is the  
21 Florida Avenue alley side, there are properties that are  
22 built on probably 100 percent of lot occupancy, so they go  
23 all the way from Florida to the very back of the alley. So  
24 talking about consistency of the alley, and the character of  
25 the alley, we really wanted to understand does this look like

**NEAL R. GROSS**

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

1 a consistent, flush alley, and it does not by any standard  
2 on the south side, but on the north side also there were a  
3 lot of structures and a lot of additions and garages, so just  
4 to give you a view of what the alley really looks like, we  
5 walked up and down and took a lot of photographs if that's  
6 helpful.

7 CHAIRPERSON HILL: Okay then I don't, I mean that  
8 was all that I was kind of interested in. I don't know does  
9 the Board need any -- if the Board doesn't need any  
10 additional information, then I just want to have a little  
11 time to look through everything again and allow everyone to  
12 thoroughly look through the record. Yes sure, go ahead.

13 MEMBER WHITE: One more question. Looking at that  
14 slide and looking at I forget the gentleman's name with the  
15 solar panels.

16 MS. MAHMOOD: Mr. James.

17 MEMBER WHITE: Mr. James. Can you explain to me  
18 why it was necessary to go out as far as you did, why you  
19 couldn't stay in line with kind of like the addition that Mr.  
20 James did? Why was it necessary to pop back that far or go  
21 back that far? Does that totally take away from your  
22 development needs? I'm just curious.

23 MS. MAHMOOD: Yes, I mean yes, it does make our --  
24 the internal space a lot smaller and -- well yes, it takes  
25 away from our renovation significantly in terms of bedrooms

**NEAL R. GROSS**

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

1 and in terms of the size of the living room, where you know,  
2 these are not large spaces inside. Our unit, that's the  
3 upper unit, is already condensed a lot; our living space has  
4 been split by half, and we, you know, we're really excited  
5 to have a large living space and a dining room, but we've  
6 taken out our dining room so it would take away a lot more  
7 than we --

8 MEMBER WHITE: So if you were flush with Mr.  
9 James' house, you -- it wouldn't be a livable space in terms  
10 of being able to have the --

11 MS. MAHMOOD: I wouldn't say not livable because  
12 that's like really dramatic, but it would be less for what  
13 we really wanted to do. I mean it's already less than what  
14 we wanted to do, but it would be something we wouldn't be  
15 happy with.

16 MEMBER WHITE: So you -- on each level you have  
17 how many bedrooms?

18 MS. MAHMOOD: So it's three, three, and then the  
19 upper is also going to end up being three.

20 MEMBER WHITE: Three bedrooms?

21 MS. MAHMOOD: Yes.

22 MEMBER WHITE: And two baths?

23 MS. MAHMOOD: No, it's three, two and a half is  
24 probably what we'll end up with, and then -- we can show the  
25 drawing.

**NEAL R. GROSS**

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

1 MEMBER WHITE: Sorry guys, I just want to make  
2 sure I was clear.

3 MS. MAHMOOD: Sorry. And then the top floor.

4 MALE SPEAKER: The basement is 3/3, first floor  
5 is 3/3, top floor is 3/3.5.

6 MS. MAHMOOD: Three and a half, that's right, if  
7 we fit that powder room without changing the sight line on  
8 Morse Street at the very front.

9 MEMBER WHITE: So three and a half --

10 MS. MAHMOOD: On the top.

11 MEMBER WHITE: -- baths?

12 MS. MAHMOOD: Yes. Three beds.

13 MEMBER WHITE: And three beds?

14 MS. MAHMOOD: Yes. We -- yes. And then three and  
15 three on the bottom.

16 MEMBER WHITE: Okay. So reducing it to two  
17 wouldn't work for you?

18 MS. MAHMOOD: No, it wouldn't. It wouldn't work  
19 for us; it would be -- it wouldn't work for us.

20 MEMBER WHITE: Thank you, I'm just trying to  
21 clarify what's actually in that space to require that it pop  
22 back that far.

23 CHAIRPERSON HILL: Okay, does anyone have anything  
24 else they want from the applicant?

25 VICE CHAIRPERSON HART: Just one really -- this

**NEAL R. GROSS**

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

1 is a pretty minor question. On the site plan, it said A10  
2 of 50 -- yes, this one. Do you have a divider between the --  
3 is it the backyard? Is that actually two different back  
4 yards, and then where the parking area is?

5 MS. MAHMOOD: Yes. So the back yard, we wanted  
6 to have as much green space as we could, so we want to sort  
7 of create a little bit of a short fence between the two so  
8 that the first and second unit can have almost their own  
9 backyard space, and it would be -- and each could access at  
10 tandem spots from their own backyard, if that makes sense.  
11 And then one of our parking spots is not paved fully so that  
12 we can have more green space and more permeability.

13 VICE CHAIRPERSON HART: No I understood that, I  
14 was just trying to figure out why there was like two -- what  
15 do call them -- the two sidewalks I guess next to one another  
16 to do that. I mean, it's not a huge thing, I just was -- it  
17 was more of a curiosity.

18 MS. MAHMOOD: Yes, it would be a small garden  
19 fence, I'm not sure if it's like a two or three-foot, what  
20 garden fence height is, but that's --

21 VICE CHAIRPERSON HART: That's fine. Thank you.  
22 It doesn't show up on your -- on any other drawing except for  
23 this one, and that's why it was more of a curiosity if I was  
24 reading it correctly. Thank you.

25 MS. MAHMOOD: Sure.

**NEAL R. GROSS**

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

1           CHAIRPERSON HILL:   Okay then, other than time,  
2 does the Board need anything?   Okay, so then we're going to  
3 put this off for decision, and the -- well I kind of wanted  
4 to make a couple of comments.   I mean if you saw the earlier  
5 discussion, I think there are some similar points to what the  
6 Board's position seems to be.   I guess I did want to and I  
7 would love for Chairman Hood if he wants to comment on  
8 anything in terms of -- I guess for particularly the chairman  
9 of the ANC and also the other commissioner that was here, you  
10 know, we the Board are looking at the standards with which  
11 we're supposed to review things that are in the Zoning Code.  
12 And so the special exception is there, and that's why we're  
13 looking at it.

14           And so I'm kind of pointing that out because  
15 whether -- and everyone gets their opinion as to whether or  
16 not they think the standards are being met for that  
17 particular special exception, but that's how we get to where  
18 we are here.   And so just to let you know, that's what we're  
19 looking at in order to make a decision on this, that's why  
20 if it wasn't something that would be a special exception that  
21 the property owner has a right to come and ask for, we  
22 wouldn't be here.   So I just wanted to clarify that -- and  
23 it seems as though Ms. Mahmood, you know is trying to --  
24 whether or not this goes forward I don't know, I'm just  
25 saying that you seem to be trying to do right by your

**NEAL R. GROSS**

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

1 application, by the community, and I kind of mention that in  
2 that they're -- the property owners are trying to do what  
3 they are allowed to ask for, and so that's why they're here,  
4 and I know that I was not around for all of the testimony  
5 that took place for the Zoning Commissions, where this whole  
6 discussion really took place, you know, that the -- and I  
7 know that I've seen the pop backs and the pop ups and the  
8 ones that were done by right were just something is there now  
9 60 percent lot occupancy that that was by right.

10 I mean, you were allowed to do that, and so I  
11 guess that is where if I had seen all that discussions, these  
12 all seem like similar arguments, and I guess why I'm pointing  
13 that out to the members of the public that are here is that  
14 this argument had -- did take place before at the Zoning  
15 Commission level, and now we're here talking about the  
16 special exception, which is what the Zoning Commission had  
17 intended that it was a discussion. It wasn't just a hard  
18 line you know, although they did go 10 feet back in terms of  
19 by right, it wasn't like, you know, 20 feet back, 30 feet  
20 back by right, whatever they decided. This was the  
21 discussion that was supposed to take place. I wish that it  
22 could have been easier for us, and I guess easier for you all  
23 as well and everybody that is buying property and deciding  
24 what they can do for it, but then the attorneys in the  
25 audience wouldn't make any of their money. So but I'm just

**NEAL R. GROSS**

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

1 kind of sharing that, and I don't know Chairman if you've got  
2 anything to add, I just wanted to kind of put that out there  
3 in terms of how or why we're here.

4           ZC CHAIR HOOD: I don't really have anything to  
5 add, I know that there's some things that continue to be  
6 looked at. As Ms. Elliot mentioned, the Office of Planning  
7 is looking at some stuff, I'm thinking of some things, I did  
8 hear something different today for my first time about the  
9 step back as you progress up, I did hear that and that is  
10 something that I will keep open. But I want to again,  
11 unfortunately you may not have been here for the earlier  
12 discussion, but I'll leave it at that, because I still want  
13 to think about it and contemplate what my position is.  
14 Here's the other thing. And I don't like to pull this trump  
15 card because it causes sometimes bad blood between the BZA  
16 and the Zoning Commission. The Zoning Commissioner has the  
17 right to *sua sponte* -- and I hate to use that word, because  
18 I think you all are great, but if -- and I'll have to work  
19 with my colleagues to see where we come -- but we do have the  
20 right to *sua sponte*, so whatever decision you make, we can  
21 take it and re-look at it. I know that doesn't go over well  
22 when people say that, and I just wanted to say that because  
23 that may be an option if we get to that point. Okay.

24           CHAIRPERSON HILL: Yes, Chairman Hood you can *sua*  
25 *sponte* at all if you want without any problem.

**NEAL R. GROSS**

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



1           ZC CHAIR HOOD: And let me just say this though,  
2 Mr. Chairman. You are working within what was given. There  
3 was some problems that, you know, but that was the compromise  
4 we had. When we had this hearing, we had -- I think we had  
5 more than two nights, I can't remember. Ms. Elliot, do you  
6 remember how many nights it was? I know there were -- I  
7 think they were long nights.

8           MEMBER ELLIOT: I don't know off hand, but I know  
9 that it was --

10          ZC CHAIR HOOD: It was quite a bit. Yes, we have  
11 more than one night, I know that, and catching the last train  
12 home is rough sometimes, but I can tell you that there's  
13 still some stuff that I think we need to tighten up, and I  
14 agree with your comments, Mr. Chairman.

15          CHAIRPERSON HILL: Okay, thank you. So I will  
16 turn to the applicant for one further question in terms of  
17 like the timing of this. And so what -- there's separate  
18 cases, but there's kind of similar things that are going on,  
19 so this -- the last one got pushed back three weeks in terms  
20 of a decision, okay. And then it's the same discussion --  
21 well they're different cases, and I think they're different  
22 cases also, and so I'm kind of curious as to what three weeks  
23 might do to your timetable, whether -- I mean and I don't  
24 know if it's yes or no, so do you know what three weeks might  
25 do to your timetable in terms of getting a decision?

**NEAL R. GROSS**

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

1 MS. MAHMOOD: So we bought the house in August,  
2 so we've been holding on to it for that long, and it's just  
3 been sitting here, so we would like to move as fast as  
4 possible to get to renovation. So as soon as you guys can  
5 meet and we can move forward with this would be ideal, but  
6 three weeks if that's the soonest, then that's -- we're okay  
7 with it.

8 CHAIRPERSON HILL: Okay, I think you have your  
9 best chance at having a fully thought out process one way or  
10 the other in three weeks because there's more time for again,  
11 our new Board member who might be re-thinking the job to kind  
12 of like, you know, read in. But so okay, so I appreciate  
13 that, so we'll go ahead and put this back on for decision,  
14 Mr. Moy, in three weeks.

15 MS. MAHMOOD: Would that be March 7 or 8? 7th?  
16 Okay.

17 MALE SPEAKER: March 7th.

18 CHAIRPERSON HILL: March 7th. I don't think there  
19 was anything else. Anything else from --

20 MS. MAHMOOD: So that was a decision hearing?

21 CHAIRPERSON HILL: A decision hearing.

22 MS. MAHMOOD: Okay, thank you so much.

23 CHAIRPERSON HILL: Thank you, and thank you very  
24 much, we're going to close the hearing. We actually are  
25 going to take a break; I don't know -- we won't break for

**NEAL R. GROSS**

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

1 lunch just yet, so we'll do five, 10 minutes if that's --  
2 we'll five, 10 minutes and we'll come right back. Thank you.

3 MS. MAHMOOD: Thank you all so much and Happy  
4 Valentine's Day.

5 CHAIRPERSON HILL: All right, Mr. Moy. If you  
6 want to get started whenever you'd like.

7 SECRETARY MOY: Thank you, Mr. Chairman. If I can  
8 have parties to the table to Case Application Number 19647  
9 of Potomac Electric Power Company, PEPCO, captioned and  
10 advertised for special exceptions under Subtitle X, Section  
11 900.3, to expand a utility use; and under Subtitle A, Section  
12 207.2, this would extend the MU-4 zone regulations to a 35-  
13 foot portion of the site zoned RF-1; and pursuant to Subtitle  
14 X, Chapter 10, for variances from the vehicle parking  
15 requirements, Subtitle C, Section 701.5; bicycle parking  
16 requirements, Subtitle C, Section 802.1; loading  
17 requirements, Subtitle C, Section 901.1; and from the  
18 pervious surface requirements, Subtitle E, Section 204.1, to  
19 modernize and expand the existing electrical substation, MU-4  
20 and RF-1 zone. This is at 1001 Harvard Street, N.W., Square  
21 2852, Lots 33 and 807.

22 CHAIRPERSON HILL: Okay, great. Thank you, Mr.  
23 Moy. Will you please introduce yourselves from my right to  
24 left?

25 MS. FISHER: Sure. Okay. My name is Sandy

**NEAL R. GROSS**

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

1 Fisher. I am the Vice President of the Transmission  
2 Substation Group at PEPCO Holdings, the applicant.

3 MS. SHIKER: Good afternoon. My name is Christine  
4 Shiker with the law firm of Holland & Knight, land use  
5 counsel for PEPCO.

6 MR. WANG: Good afternoon, Mr. Chair. My name is  
7 Erik Wang. I'm from McKissack McKissack. We are the  
8 architect for the project.

9 CHAIRPERSON HILL: Okay. Ms. Shiker, I guess  
10 you're going to present to us. Okay. So I don't have a lot  
11 of particular questions. I mean, you know, as we were going  
12 through the record, it seemed relatively full to me.  
13 However, there is a lot of relief that you guys are asking  
14 for, so if you could go through each item of the relief that  
15 you're asking for and also how that standard is being met in  
16 order for us to grant or deny the relief, in your case grant  
17 the relief, and if you could go ahead -- and does the Board  
18 have any other questions other than that, just please let me  
19 know. Otherwise, I'm going to go ahead and put 15 minutes  
20 on the clock just so I know where I am, and you can begin  
21 whenever you like.

22 SECRETARY MOY: Mr. Chair, just a reminder there  
23 are four names that the applicant has requested for expert  
24 status on their Exhibits 33C. Yes, all in Exhibit 33C.  
25 These are new persons that have not previously been a group

**NEAL R. GROSS**

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

1 or granted party status.

2 CHAIRPERSON HILL: I did see all those people.  
3 And I suppose maybe if we get to each one of those people,  
4 we can talk through them in terms of them being experts in  
5 their field. I think, as of now, unless the Board has any  
6 questions and if you had an opportunity to review everything,  
7 I don't have any issues with them all being admitted as  
8 experts for their testimony. Does the Board have any other  
9 comments? Okay.

10 Then, again, they've been now admitted. However,  
11 if we get to them, we'll get to them, so when you think you  
12 might need them in order to give your testimony. But at this  
13 time I'm going to go ahead and put 15 minutes on the clock  
14 and you can begin whenever you'd like.

15 MS. SHIKER: Thank you, Chairman, members of the  
16 Board. I do have a quick question. Would you like  
17 background about the Capital Grid project for which we are  
18 here? I'm happy to incorporate that into our presentation,  
19 or do you really just want me to address the areas of relief  
20 and how we meet the standard?

21 CHAIRPERSON HILL: You can go ahead and give us  
22 a little background as well.

23 MS. SHIKER: Okay, great. Thank you. Again, good  
24 morning, or good afternoon. I'm Christine Shiker with the  
25 law firm of Holland & Knight. We are here, this is the first

**NEAL R. GROSS**

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

1 of two cases that you're going to hear today for substations  
2 that are going through modernization as part of the Capital  
3 Grid project. This is a very important project in the  
4 District of Columbia right now to make sure that PEPCO is  
5 enhancing, renovating, and expanding substations to make  
6 electric power reliable in the District of Columbia.

7           We will walk through each of the areas of relief  
8 in just a moment. I will say that we have had extensive  
9 community and District outreach on this project. We're very  
10 pleased to have OP's support for the application. We are  
11 very pleased to have DDOT's support for the application. We  
12 are going to talk to you a little bit about our community  
13 outreach just very briefly. But we do, for the first  
14 substation, which is Harvard which we're talking about, have  
15 both the ANC 1A, which is the ANC within which we are  
16 located. We have support from them for the project, as well  
17 as the ANC that's across the street which is now an affected  
18 ANC.

19           As you can see on the slide before you, the first  
20 substation is located 1001 Harvard Street, N.W. It consists  
21 of two zones, and it's split zoned to MU-4 and RF-1. The  
22 site is improved with a historic landmark that was designated  
23 just about two weeks ago. We'll talk to you a bit about that  
24 preservation. That is one of the leading reasons why we have  
25 a practical difficulty in achieving compliance with some of

**NEAL R. GROSS**

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

1 the zoning regulations.

2 I will note that HPRB has reviewed the design, and  
3 they did grant concept approval for the proposed preservation  
4 and design at their February 1st meeting.

5 With that, I'd like for Ms. Fisher to briefly  
6 introduce you to the Capital Grid project, and then I'll walk  
7 through the standards of relief.

8 MS. FISHER: Okay. So the two projects that are  
9 presenting to you today, Harvard and Champlain, they're part  
10 of our overall ten-year long-term project called the Capital  
11 Grid. There's a slide that shows where we are building and  
12 upgrading our various substations.

13 So this is an efficient iterative long-term  
14 strategy to mitigate multiple needs in the Capital region.  
15 Specifically, this project is addressing aging  
16 infrastructure. We have some increased pockets of load  
17 growth. And it also provides the added benefit of converting  
18 a radio transmission system into a network transmission  
19 system to increase resiliency.

20 So this project is proposing a network system to  
21 restore electricity faster to areas experiencing an outage  
22 and lessen any impact from severe weather events or any other  
23 unexpected events that would cause an outage via ten miles  
24 of new underground transmission. This project is also  
25 rebuilding three of our existing substations to address the

**NEAL R. GROSS**

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

1 aging infrastructure and one new substation to accommodate  
2 increased load growth.

3 Two of the three substations that we propose to  
4 rebuild that we'll be talking about today are Harvard and  
5 Champlain. Harvard was built back in 1907, and Champlain was  
6 built back in the 1930s. Although these are well maintained,  
7 the equipment in these substations is reaching the end of  
8 their useful life, and we must replace and modernize them to  
9 meet the needs of customers in the future.

10 So this Capital Grid project will allow PEPCO to  
11 update our aging infrastructure, increase capacity, and to  
12 network the system to create flexibility and enhanced  
13 resiliency. So making these necessary upgrades to these  
14 substations is critical for the success of the project.

15 The overall anticipated timeline for the Capital  
16 Grid project is ten years. The project will be accomplished  
17 in a few phases. For the first phase, PEPCO filed a notice  
18 of construction with the D.C. Public Service Commission back  
19 in May of 2017. This type of application typically takes 9  
20 to 12 months for it to be reviewed and approved by the PSC,  
21 and we anticipate gaining approval in the main time frame of  
22 this year.

23 For phase one, the Takoma substation, which is  
24 located in Maryland, will be built first. And then  
25 subsequently here in the District, load will be transferred

**NEAL R. GROSS**

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



1 off of the Harvard substation to two of our other substations  
2 in the District by 2019 to allow the Harvard substation to  
3 be rebuilt and re-supplied by the Capital Grid in 2022. A  
4 little complex. Load will then be transferred from Champlain  
5 to the rebuilt Harvard substation to allow Champlain to be  
6 rebuilt and resupplied by the Capital Grid by 2026. The  
7 construction for the 230kV underground transmission will  
8 start at the end of this year.

9           We acknowledge that this project is going to have  
10 an impact on the community, and we're committed to  
11 communicating and engaging all of our stakeholders. To date,  
12 we have held over 80 community meetings about the project in  
13 the communities especially nearest to the substations. We've  
14 had civic association community events and stakeholder  
15 meetings. PEPCO has hosted four open houses for residences  
16 impacted by construction at both Champlain and Harvard.  
17 We've held two retailer breakfasts on Georgia Avenue and  
18 Riggs Road. We've delivered fact sheets and other documents  
19 to residents in the impacted areas, and we've attended a  
20 number of advisory neighborhood commission, or ANC, meetings  
21 specifically in 1A and 1C.

22           A few weeks ago, we hosted a supplier forum for  
23 diverse contractors in the District of Columbia at the  
24 Gallaudet University. We've hosted ward-specific leadership  
25 forums for ANC leadership and stakeholders in the impacted

**NEAL R. GROSS**

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

1 areas. We're committed to the community and all of our  
2 stakeholders and we'll continue these types of engagement  
3 throughout the life of the project.

4 MS. SHIKER: With that background, so you  
5 understand, generally, that this is a very interconnected  
6 project for the PEPCO substations, let's get right into the  
7 areas of relief. The first area of relief is a special  
8 exception to permit the utility use. In both the MU-4 and  
9 the RF-1 zone, this is a special exception to be granted by  
10 the BZA subject to requirements for setbacks, screening, and  
11 any other requirements the BZA believes is necessary for the  
12 protection of the neighborhood.

13 I will note, under 058, substations were permitted  
14 in the old C2A, which is the old MU-4. But under ZR-16,  
15 substations are now a special exception in anything but a PDR  
16 use in a PDR zone.

17 So the front half is, as you can see on the  
18 screen, MU-4. And then the back half is RF-1, which has  
19 always required a special exception. I will point out for  
20 this special exception standard, we are within the  
21 requirements for the height. We have provided setbacks and  
22 screening to the residential uses to the north. PEPCO has  
23 done extensive preservation for the historic 1907 structure  
24 at the corner of Sherman and Harvard. There will be  
25 streetscape improvements, including sidewalks and street

**NEAL R. GROSS**

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

1 trees. And so, therefore, the special exception use, I  
2 believe, is satisfied with those different elements that have  
3 been incorporated into it. As you note, this is an existing  
4 substation use. It is simply being upgraded and  
5 reconstructed in a new building, but it does require the full  
6 review. It is in harmony with the zone plan, especially  
7 given that it is meeting the heights and the lot occupancy  
8 and most other requirements in terms of the size and scale  
9 for sitting within the District. And there is no adverse  
10 impact to the neighboring properties, as we have reviewed  
11 this very fully with many of the neighbors and have that ANC  
12 support from both ANCs.

13 The second area of relief is -- there we go. I'm  
14 going to keep going. Can you get to that one with the --  
15 is that we are going to move the zone boundary line 35 feet.  
16 This is a special exception that's allowed when you have a  
17 split zone site. Originally, this relief was not needed  
18 because we were able to fit everything in the MU-4 portion,  
19 stepping down at the 50-foot height and then stepping down  
20 to the 35-foot height and meeting the lot occupancy and the  
21 FARs.

22 When the designation came forward for the corner  
23 piece, and you can see it's outlined here in the, and you can  
24 see the picture of it right in this at the bottom. The prime  
25 corner of the substation that's in the MU-4 more dense, more

**NEAL R. GROSS**

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

1 height zone is now a landmark. And so we have to preserve  
2 that and we cannot add any height or density to it. As a  
3 result, we need to be able to add a bit more density into the  
4 central portion of the site, so that is why we have elected  
5 to go forward with this special exception.

6 In this case, we're only using the special  
7 exception for two reasons: one, for the FAR; and, two, to  
8 extend so that we have the 1.5 FAR going back further into  
9 the site and two for pervious surface, which I'm going to  
10 talk to you about in just a minute. We are not extending it  
11 for height, so, at the original MU-4 zone line, that is where  
12 the height steps from 50 to 35 to make sure that the  
13 substation is transitioning into the community. We are  
14 meeting all other requirements, such as lot occupancy, rear  
15 yard, GAR; and so, therefore, if you look at the four prongs  
16 of that special exception, we have met them because it is  
17 simply for those two purposes of pervious surface and for  
18 FAR.

19 As part of this special exception, the BZA may  
20 impose any other design requirements. Again, this project  
21 has gone through HPRB for the concept approval. Also, we're  
22 enclosing all of the equipment. We're doing a vegetated  
23 screen wall on the north and a setback to ensure that there  
24 is separation from the residential properties to the north.  
25 There is extensive historic preservation going on on this

**NEAL R. GROSS**

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

1 site and the streetscape will be reconstructed for a very  
2 pedestrian-friendly streetscape; and, therefore, we don't  
3 believe that there are any other conditions that the Board  
4 would need to evaluate as part of that special exception.

5           We then have four areas of variance relief. And  
6 the practical difficulty that comes, excuse me, the  
7 exceptional condition that results and leads to this  
8 practical difficulty is primarily related to the location of  
9 this historic building being here at the corner and really  
10 dictating how we're going to construct the rest of the  
11 substation.

12           This picture on the screen shows you that when you  
13 preserve this building you then must push everything back  
14 closer to the RF-1 portion of the building, portion of the  
15 zone. The building works so much better for a substation if  
16 it is a large rectangle. Having different heights and  
17 preservation makes it difficult to put in large electrical  
18 equipment; so, therefore, the equipment must be pushed a bit  
19 further to the north, leaving us with less space for parking,  
20 loading, and bike parking. That really results from this  
21 pushing everything to the north. It is a small site.  
22 Originally, PEPCO acquired additional land to the north,  
23 which was going to be used as a temporary lay down station  
24 for the equipment when this designation came forward. We now  
25 have to use a portion of that for the actual substation

**NEAL R. GROSS**

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

1 itself. And, again, just the importance of the modernization  
2 and the difficulty of putting a substation on a site in a  
3 neighborhood and trying to keep it well contained.

4           Those are the practical difficulties that lead us  
5 not to be able to provide the parking, the loading, or the  
6 bike parking. There is no harm to public good. With respect  
7 to parking, it is an unmanned substation. PEPCO personnel  
8 come to the substation two to four times a month. There is  
9 plenty of space to pull those cars off street into the open  
10 space at the north part of the substation and so, therefore,  
11 wouldn't be taking up off-street parking spaces. In the  
12 event of an emergency, which would be every 10 to 15 years  
13 or hopefully not even that often, we have space for up to six  
14 cars that could fit in there. And based on the information  
15 and past history of unmanned substations, that hasn't been  
16 necessary.

17           Bike parking is not necessary because PEPCO  
18 personnel are required to come in PEPCO vehicles. They're  
19 not allowed to ride their bikes to the substation, nor are  
20 there visitors to the substation. So short-term bike parking  
21 is not needed.

22           After construction, loading is not a typical use  
23 at a substation. It's only when equipment is being  
24 transferred out, which typically happens every five to ten  
25 years.

**NEAL R. GROSS**

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

1           The final area of relief that was required is a  
2 variance from the pervious surface requirements. In the RF-  
3 1, you are required to have 50 percent pervious surface. The  
4 substation in the RF-1 portion has 46 percent. Pretty much  
5 all the area that could be maintained in a pervious surface  
6 configuration has been done. But given that there's a large  
7 amount of space that is taken up by transformers, you can't  
8 put pervious surface in that area because it has to be built  
9 for containment underneath. You don't want, in the event of  
10 an emergency, water going into the soil, so there are  
11 containments built underneath these large transformers you  
12 see at the top. And so everything to the north of that  
13 basically, the 25 feet or so, has been established for  
14 pervious surface in order to get to that 46 percent.

15           I will note that with the extension of the zone  
16 boundary line, 35 feet, we are satisfying all GAR  
17 requirements for the larger portion. So in discussions with  
18 the Department of Energy and Environment, they had no  
19 concerns with the variance is what they told us, so long as  
20 we are meeting those GAR requirements, which we are.

21           And with that, I'd be happy to answer questions.  
22 We do have Mr. Wang here who can answer any questions about  
23 the building, the design. We have a large PEPCO team,  
24 including civil engineers, electrical engineers. We have Dr.  
25 William Bailey here from Exponent who can talk to you about

**NEAL R. GROSS**

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

1 impacts from the substation. So with that, we would turn it  
2 over to the Board for questions.

3 CHAIRPERSON HILL: Okay, great. Thank you. Does  
4 the Board have any questions for the applicant at this time?

5 VICE CHAIRPERSON HART: Yes, Mr. Chairman. Ms.  
6 Shiker, do you have an image that shows what the north  
7 elevation looks like? The elevation that's closest to where,  
8 I mean, because you're kind of moving the building closer to  
9 the north. And is there some place I should be looking?

10 MS. SHIKER: Page 14. It's not in our PowerPoint  
11 presentation, but it is on page 14 of the original plan set,  
12 and I can give you the exhibit number.

13 VICE CHAIRPERSON HART: In 10, number 10, Exhibit  
14 10?

15 MS. SHIKER: That sounds right. Yes, it is.

16 VICE CHAIRPERSON HART: I didn't see any updated  
17 plans, so I just wanted to make sure.

18 MS. SHIKER: No, the plans didn't change from  
19 filing.

20 VICE CHAIRPERSON HART: And, Ms. Fisher, why did  
21 you say that there, I understood that you said that you're  
22 trying to improve the service or making, I guess, a network  
23 now. I mean, at some point, this was, you're adding this  
24 infrastructure now because you are upgrading the type of  
25 transmission lines that are coming into the city?

**NEAL R. GROSS**

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



1 MS. FISHER: That's one of the reasons, correct.

2 VICE CHAIRPERSON HART: And these are all below-  
3 grade transmission lines which will be installed at some  
4 point to connect up to this or are they kind of adding onto  
5 existing --

6 MS. FISHER: No, they will be new underground  
7 transmission lines.

8 VICE CHAIRPERSON HART: Okay. And, yes, I knew  
9 there was another question on this. I was trying to think  
10 of the other question. With regard to the zoning line  
11 change, kind of pushing the line to the north -- this is for  
12 Ms. Shiker -- the light blue line, I guess, that you have --  
13 what is this? Slide number 13, I guess. The light blue line  
14 that you show in this slide on Exhibit 39, your PowerPoint,  
15 you're just saying that the line is moving on your property,  
16 it's not actually going off the, you're not proposing  
17 something off the --

18 MS. SHIKER: No, no, it --

19 VICE CHAIRPERSON HART: -- because it looks like  
20 that, and I was trying to figure out why would you --

21 MS. SHIKER: This is not a great exhibit, I will  
22 tell you that as I'm looking at it because this was an  
23 existing conditions image from before. The orange just north  
24 of that line is an old building that has been demolished.

25 VICE CHAIRPERSON HART: Okay. I was wondering

**NEAL R. GROSS**

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

1 about that one, too.

2 MS. SHIKER: Yes, so this is the, red dashes is  
3 the extent of the property line and the building that will  
4 be saved is at the corner fronting on Harvard Street.  
5 Everything else will be demolished and the new facility  
6 constructed.

7 VICE CHAIRPERSON HART: And that image that we  
8 were just looking at is not actually accurate? I know you  
9 said -- the placement of where that line is.

10 MS. SHIKER: The placement of where the line is  
11 is accurate. That is, this small orange box is on lot 807,  
12 excuse me, lot 33, which is -- it's lot 807, excuse me, which  
13 is owned by PEPCO. We are going to subdivide this into a  
14 single record lot. At the time the drawing was made and we  
15 filed the application, the building had not been demolished  
16 yet, and so, therefore, it was shown on the existing  
17 conditions plan.

18 VICE CHAIRPERSON HART: Thank you. The only  
19 reason I was asking that was because the actual building with  
20 where the transformers are, it looks like that line would  
21 actually go through where those buildings are.

22 MS. SHIKER: Yes, that is --

23 VICE CHAIRPERSON HART: So it doesn't, it's not  
24 at the northern building line. This is actually going  
25 through the building itself.

**NEAL R. GROSS**

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

1 MS. SHIKER: That is correct. So there is still  
2 a portion of property that PEPCO will be constructing on that  
3 is RF-1, and we are meeting the RF-1 standards, including the  
4 35-foot height, the rear yard setback for that section. The  
5 only relief we're requesting is the pervious surface which  
6 applies to RF-1.

7 VICE CHAIRPERSON HART: Okay. Thank you.

8 CHAIRPERSON HILL: Okay. Anyone else? All right.  
9 I'm going to turn to the Office of Planning.

10 MEMBER MYERS: Good afternoon. Crystal Myers for  
11 the Office of Planning. The Office of Planning is  
12 recommending approval of this project and stands on the  
13 record of staff report.

14 CHAIRPERSON HILL: Okay, thank you. Does the  
15 Board have any questions of the Office of Planning? Okay.  
16 Does the applicant have any questions of the Office of  
17 Planning?

18 MS. SHIKER: I do not.

19 CHAIRPERSON HILL: All right. Is there anyone  
20 here from the ANC wishing to speak? Is there anyone here  
21 wishing to speak in support of the application? Is there  
22 anyone here wishing to speak in opposition of the  
23 application? If you could please come forward. If you can  
24 just go ahead and speak, you can speak into the microphone.  
25 You can sit on this side there. Okay. I'm sorry. You still

**NEAL R. GROSS**

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

1 need to speak in the microphone.

2 SECRETARY MOY: Mr. Chairman, if I could intervene  
3 for a moment. I just wanted some clarity whether or not Mr.  
4 Becker is speaking on this application on Harvard Street or  
5 the application on Champlain Street.

6 MR. BECKER: Okay. I'll be speaking on Champlain.

7 CHAIRPERSON HILL: Okay, okay. Give me one  
8 second. Let me go through this process here and first figure  
9 out where we are, okay? Because we're on Harvard Street  
10 right now. That's why, so I just can understand. Okay. So,  
11 first, well, I guess you don't have to introduce yourself if  
12 you're not going to be providing testimony to this case.  
13 Will you be providing testimony to this case?

14 MR. BECKER: Not this case.

15 CHAIRPERSON HILL: No. Okay. Then we'll wait  
16 till the next one for you. Sir, if you could please  
17 introduce yourself.

18 MR. OTTEN: Yes, hi. My name is Chris Otten. I'm  
19 here representing a group called DC For Reasonable  
20 Development. I'm one of the co-facilitators.

21 CHAIRPERSON HILL: Okay. Did you get sworn in,  
22 Mr. Otten?

23 MR. OTTEN: Not yet.

24 CHAIRPERSON HILL: Okay. If you could stand and  
25 take the oath administered by the Secretary. And if there's

**NEAL R. GROSS**

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

1 anybody else here that's going to testify, if you haven't  
2 been sworn in yet, if you could stand and please take the  
3 oath administered by the Secretary. Thank you.

4 (Whereupon, the witnesses were sworn.)

5 CHAIRPERSON HILL: Okay. Mr. Otten, as a member  
6 of a community group, you'll get five minutes to testify, and  
7 I'll put the time in on the clock and you can begin whenever  
8 you'd like.

9 MR. OTTEN: Okay. Thank you, Chair. Again, Chris  
10 Otten, for the record, with DC For Reasonable Development.  
11 I'm here to speak on both cases, but this is the Harvard  
12 station case, 19647. And I'll submit my testimony, as well.  
13 I was not able to do that electronically, so I have a hard  
14 copy version.

15 We're just kind of hearing about these cases.  
16 This is a surprise to us. Why is it a surprise? It's  
17 something that, you know, on its face, sounds like we all  
18 want. We all want reliable electrical service. Why would  
19 I be here opposing this? Well, this whole thing is  
20 predicated on the approval of the Public Service Commission.  
21 It's a \$1 billion project, and the Public Service Commission,  
22 on the record, and I didn't hear it on the applicant's  
23 presentation, but they are having trouble with it. The  
24 center of the applicant's request for these exceptions and  
25 variances is that this is a needed modernization, and that's

**NEAL R. GROSS**

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

1 exactly what the PSC is actually discussing right now with  
2 them is whether or not it really is needed.

3           They have expert study on the record so far to the  
4 application that was submitted in May as to those issues,  
5 whether this is something that's needed. I guess Mr. Becker  
6 will go into more detail on that, but the point of this is  
7 it just seems premature. The PSC will get into some of the  
8 issues about the impacts. I mean, this substation now is  
9 going to be brought very close to a senior building which is  
10 right there right behind it. And so there's very real issues  
11 of EMF, electromagnetic frequencies, electrostatic issues,  
12 which particularly affect seniors who are vulnerable to these  
13 types of environmental impacts. There's noise issues, and  
14 there's obviously the likelihood of a bigger catastrophic  
15 accident as this it heavies up, as they're saying.

16           So as you bring it closer to residential uses, the  
17 land use conflict here I think becomes very apparent. And  
18 I think this body, this regulatory body, would be behooved  
19 to receive the analysis of the Public Service Commission far  
20 before having it be entertained now. So I'm just putting  
21 that on the record. We believe this is premature.

22           For example, if the PSC says this is not a needed  
23 project and we're not going to spend a billion dollars and  
24 we're not going to make the rate payers pay for this project,  
25 it will actually make all of this time and energy and money

**NEAL R. GROSS**

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

1 spent by the city right now in these processes moot and a  
2 waste. And I'm sure we have other projects to be looking at  
3 if this won't be approved by the PSC.

4           So, again, I just want to point out on the two  
5 minutes I have left, you know, the purpose of zoning  
6 fundamentally is about protecting people from land use  
7 conflicts such as this. This is a very institutional and  
8 industrial use. It's being put right next to residential  
9 uses. The analysis of that needs to be a lot more acute, and  
10 that's according to, you know, the basics of zonings, D.C.  
11 Code 6-6401, 641.02, as well as the stability of the whole  
12 surrounding area which is 11-DCMR-101.2. And right now  
13 there's nothing on the record really that does an acute  
14 analysis of how this might impact the surrounding neighbors,  
15 particularly the seniors that live there.

16           And we have members of our group that live in the  
17 areas around these sites. We believe the ANCs have not done  
18 the studies either, but we don't see that as part of the ANC  
19 reports in terms of impact studies. As far as we're  
20 concerned, HPRB did not review these things, so in their  
21 approvals they did not review impact studies.

22           And, you know, we heard in the presentation from  
23 the applicant that they anticipate approval from the Public  
24 Service Commission this year. Everything I'm reading on the  
25 Public Service Commission record shows actually pushback to

**NEAL R. GROSS**

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

1 the point where they've hired an expert to review it and  
2 understand whether it's even needed. And so we're going  
3 through a significant regulatory process right now that may  
4 be pointless if the PSC actually continues this path that  
5 they need to have started.

6           They've said they had 80 meetings, four open  
7 houses. I've went to a few of those. I mean, the  
8 fundamental questions remain unanswered at this point, and  
9 these are questions about protecting the surrounding  
10 neighborhood vis-à-vis their request for relief. And so  
11 that's the center purpose, as I understand the BZA, is to  
12 understand these impacts when they're granting relief. That  
13 is not the case as it is in the record right now. And we'd  
14 ask you to actually send this back until the PSC does that  
15 evaluation and can bring that to your record so you can  
16 review that in terms of impacts. Thank you.

17           CHAIRPERSON HILL: Okay, great. Thank you. And  
18 I'm sorry. So you actually didn't introduce yourself, but  
19 this gentleman, Mr. Otten, just mentioned that you were going  
20 to testify. Are you testifying on this case or no?

21           MR. BECKER: I'm going to testify on the Champlain  
22 case.

23           CHAIRPERSON HILL: Okay, okay. So I just wanted  
24 to be clear as to whether or not I need to give you any time.  
25 Does anybody have any questions for the witness?

**NEAL R. GROSS**

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



1           MEMBER WHITE: My only question is do you have any  
2 substantive or back-up information that proves any of the  
3 risk, or are you speaking on behalf of the Public Service  
4 Commission? I'm still kind of new to what your role is, so  
5 I just want to kind of get a sense of what kind of evidence  
6 you have of some of the items that you listed in your  
7 testimony.

8           MR. OTTEN: I think we're relate our testimony to  
9 Mr. Becker's presentation where he highlights a lot of the  
10 health issues that are associated with sites like this,  
11 industrial sites like this, institutional sites. And you  
12 have California just issued recent rulemaking about concerns  
13 regarding cell phone radiation, which is also a form of EMF.  
14 You can walk by these substations and hear the electricity  
15 flowing through the buildings and around them, and it's  
16 clear, as this gets heavied up, I think on its face it's  
17 clear that there's going to be serious impacts, potential  
18 environmental impacts here. Noise, EMF, health issues. I  
19 think, on its face, that's the case.

20           The burden, though, is not on myself or the  
21 neighbors to present that. The burden in asking this relief  
22 is on the applicant to show that it won't impact the  
23 surrounding neighbors, and so we're just speaking to what  
24 we've seen on the record for PSC. Their expert says this is  
25 not needed, and we're speaking to basic impacts that we see

**NEAL R. GROSS**

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

1 as derived through the comprehensive plan when, you know,  
2 when they talk about these types of land use conflicts.

3 ZC CHAIR HOOD: Mr. Otten, when is the PSC  
4 supposed to do the final vote or when are they going to take  
5 this up?

6 MR. OTTEN: That's a great question, Chairman  
7 Hood. I'm not sure. They said they have a 12-month time  
8 line. I mean, if that was submitted in May -- the recent  
9 documents I saw go back to, I think they were sometime in the  
10 fall is when they hired the expert to do the analysis of  
11 whether this is even a needed project and whether rate payers  
12 like us are going to have to foot the bill for a billion  
13 dollar heavy-up project that may not even be needed.

14 I mean, we have to also recognize, and I know you  
15 know this on the Zoning Commission, we're moving towards  
16 dispersed energy modalities now, so solar batteries, you  
17 know, specific to buildings or specific to blocks, not this  
18 kind of giant corporation that's sending us electricity from  
19 Delaware or Maryland or wherever. We're moving away from  
20 that because it is quite vulnerable at a time of climate  
21 change. These wires and everything like that, the heavy  
22 storms that we're seeing around the planet, all that  
23 heightens this. And that's part of what this expert  
24 discusses, as far as I recall, in the PSC record. So that  
25 speaks to also some of the need in there.

**NEAL R. GROSS**

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

1 I mean, we would like to see alternatives. We  
2 want to see these buildings undergrounded, like actually put  
3 underground. And there's ways to do that, but, you know,  
4 again, we've asked that of them at these public meetings,  
5 we've asked for alternatives, we have asked for discussion  
6 around the environmental impacts. We've been promised a lot  
7 of reports, but we've never seen them.

8 ZC CHAIR HOOD: Okay. Thank you.

9 CHAIRPERSON HILL: Okay. I guess I just had a  
10 couple of questions. You mentioned that you went to a few  
11 of the meetings, and then you also mentioned that you hadn't  
12 had enough notice. So you're saying you went to a few of the  
13 meetings about the Public Service Commission stuff but you  
14 didn't know about this case?

15 MR. OTTEN: Well, what I meant by that is they're  
16 flipping it around. This is why we're saying it's premature.  
17 During the hearings, you know, it was made clear that they  
18 have to get the okay from the PSC before proceeding on this  
19 project, period. But, yet, here we are before you asking for  
20 a variance in special exceptions before even the PSC has  
21 signed off whether or not --

22 CHAIRPERSON HILL: No, I understand. I'm just  
23 trying to figure out that the meetings that you're talking  
24 about --

25 MR. OTTEN: That's the surprising part, that we're

**NEAL R. GROSS**

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

1 at the BZA already.

2 CHAIRPERSON HILL: The meetings that you were  
3 talking about that you all had been to, those were the Public  
4 Service meetings?

5 MR. OTTEN: No, that was PEPCO held the public  
6 forums.

7 CHAIRPERSON HILL: About what?

8 MR. OTTEN: About this Capital Grid project  
9 overall.

10 CHAIRPERSON HILL: I see. Right, okay.

11 MR. OTTEN: And, you know, it's all on their  
12 website. They show all the fancy drawings and everything.  
13 And everything sounded good, but there were fundamental  
14 questions that came from the audience --

15 CHAIRPERSON HILL: Okay. And so but your group  
16 didn't go to either one of the other ANC meetings for this  
17 project?

18 MR. OTTEN: We had people at the ANC-1C meeting,  
19 and, in their -- you know, again, they're being pitched that  
20 this is needed, so the ANCs are not going to oppose a utility  
21 that might be needed. But, however, my ANC, 1C, did vote for  
22 an environmental impact.

23 CHAIRPERSON HILL: No, I'm sorry, Mr. Otten. This  
24 one is the ANC-1A and the ANC-1B.

25 MR. OTTEN: No, I understand that. But you're

**NEAL R. GROSS**

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

1 asking me what ANC, I belong to --

2 CHAIRPERSON HILL: No, I was asking whether you  
3 all went to this ANC meeting about this project.

4 MR. OTTEN: Oh, no, I did not go to this ANC.

5 CHAIRPERSON HILL: Okay.

6 MR. OTTEN: And I don't know what was discussed  
7 by this ANC, but I don't see anything on the record attached  
8 with the reports, because I looked at both records, saying  
9 they studied the impacts, they looked at these fundamental  
10 questions of health impacts as it gets closer to the senior  
11 building. You can see how far away the existing substation  
12 is now from the surrounding community.

13 CHAIRPERSON HILL: Okay, okay, okay. All right.  
14 I mean, as far as I understood it as far as the issues that  
15 you're talking about, it's not about zoning for us. Like,  
16 we're here for the zoning issues, so whatever the public, the  
17 PSC is supposed to do, it wouldn't stop us from doing what  
18 we're supposed to do, and that's what I understand. I mean,  
19 as far as, like, that's what we're here for.

20 MR. OTTEN: Well, there's nothing on the record  
21 to help you make your decision about relief.

22 CHAIRPERSON HILL: Well, I mean, the PSC is a  
23 different track. It doesn't have to do with us in terms of  
24 getting the -- we're just here for the zoning.

25 MR. OTTEN: Yes, but the PSC would do all the

**NEAL R. GROSS**

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

1 ground fundamental studies that you might need for your  
2 understanding of the relief. You're granting relief, and you  
3 have to understand the impacts in that relief.

4 CHAIRPERSON HILL: Okay, okay, all right.

5 MR. OTTEN: I mean, have I misstated that?

6 CHAIRPERSON HILL: No, I understand.

7 MR. OTTEN: Okay.

8 VICE CHAIRPERSON HART: One question, Mr.  
9 Chairman. Mr. Otten, one of the things that you raised was  
10 that you didn't have, Board Member White asked you whether  
11 or not, kind of the background information. You didn't  
12 provide any additional background information, and I  
13 understand that your point is that that's not, the burden of  
14 proof is not yours, and I get that. But you did kind of  
15 reference that the gentleman that's sitting next to you might  
16 have some other, you know, information. Unfortunately, we  
17 haven't, one, heard that, and, two, it's not actually a  
18 record as part of this case so we can't infer that, we can't  
19 bring that into this case because it's not something that is  
20 before us.

21 MR. OTTEN: That's why I'm saying it's premature.

22 VICE CHAIRPERSON HART: No, no, no. Excuse me.  
23 Hold on. What I'm saying is that the person that's next to  
24 you is going to be talking about some information in another  
25 case, so that case has not been before us, which is also on

**NEAL R. GROSS**

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

1 today. But that case isn't before us, so we can't  
2 incorporate that information from another case because it's  
3 not been presented to us in this particular case. So I'm  
4 just making that point. That's all.

5 MR. OTTEN: Well, I have it in my testimony. I'll  
6 be glad to submit that. But, Commissioner, as you might have  
7 heard, these are obviously very interrelated cases. This is  
8 all one project.

9 CHAIRPERSON HILL: Okay. Wait a minute. And this  
10 is -- I have your testimony. It's in the record. But I am  
11 confused still, again, now about -- Mr. Becker, can you  
12 introduce yourself since you're right there and we're talking  
13 about you?

14 MR. BECKER: Sure. I'm Eddie Becker. I live  
15 nearby in Adams Morgan.

16 CHAIRPERSON HILL: Okay. So you were here to  
17 speak about the other case.

18 MR. BECKER: I'm here to speak about the other  
19 case, but I think they're all interrelated.

20 CHAIRPERSON HILL: Okay. So if you think they're  
21 all interrelated and since we've talked about your name like  
22 three times about this case, why don't I go ahead and put  
23 three minutes on the clock here and you can give your  
24 testimony so we understand what's that going to be in  
25 relationship to this case.

**NEAL R. GROSS**

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

1 MR. BECKER: Sure.

2 CHAIRPERSON HILL: Okay.

3 MR. BECKER: All right. So it has to do with the  
4 heavy-up. And, basically, what we're talking about is  
5 increasing the capacity of these power plants by about ten  
6 times. And so what's the consequences of adding that much  
7 juice into a place? What sort of heat is produced? What  
8 happens with the air around the transformers? What actually  
9 is being emitted from these places? What impact and  
10 detrimental impact might that have? And, I mean, you're in  
11 a very hard position because none of these people have gone  
12 and submitted an environmental impact statement. There's no  
13 independent way of determining whether they say it is going  
14 to have no impact on the surrounding community based upon  
15 what they submitted.

16 So I went about, as a researcher, to try to figure  
17 that out. And, basically, you know, what they submit is that  
18 they have these very modern new transformers that don't emit  
19 any kind of radiation and that, mainly, these gas insulated  
20 transformers that are produced in one company, Siemens, which  
21 may be the company they use. And so I went to the German  
22 authorities and got the information from them on how they  
23 would deal with a power plant that's built next to a school.  
24 This wraps around this power plant. If we were to put this  
25 USB on, you would see that it's right next door. And the

**NEAL R. GROSS**

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



1 Germans are very concerned about this, and they would never  
2 have located such a large facility next to a school for good  
3 reason because there's no way of them to guarantee the  
4 containment of those sorts of magnetic radiological ionized  
5 air particles. You know, it's open for a reason. They have  
6 to cool this thing, and they have to circulate air around it.  
7 And that basically charges the air around it.

8           They're right next door, a large apartment  
9 building, condo, and another place. So these are sort of  
10 whoever is down-drafted with this are going to be subjected  
11 to this kind of impact. So that's my concern.

12           The gas that's used inside of these transformers  
13 is super toxic once they get super-heated, and they're also  
14 one of the most potent greenhouse gases that exists. So  
15 these are the sort of environmental concerns. You're not  
16 able, I'm not able to really judge this. This should have  
17 gone to and they should have submitted environmental impact  
18 statements. Someone should come in there and look at it  
19 because this is going to have a tremendous impact if they're  
20 wrong.

21           CHAIRPERSON HILL: Okay. And, Mr. Becker, I  
22 understand your concerns, but do you have a background in  
23 this area or are you just concerned about these issues?

24           MR. BECKER: I mean, I have, I've made my living  
25 in Washington, D.C. doing primary research for investigations

**NEAL R. GROSS**

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

1 for court lawyers, so I only tried to figure out who would  
2 know, who would have the best information about these gas  
3 insulated transformers, and that's why I went to the Germans  
4 because they oversee the people who make the transformers  
5 that PEPCO, I think, intends to install. And so that's my  
6 approach. So my approach was that because there's very few  
7 places in the country that would locate a power plant right  
8 next to a school. I mean, and this is a major facility.  
9 Whenever you see them, they're in the middle of, like, an  
10 open area where there's like a 500-foot, 500-meter perimeter  
11 around them. Here, they're putting it right in the most  
12 densest part of the community, which is getting even more  
13 dense.

14 CHAIRPERSON HILL: Okay, okay. Does the Board  
15 have any questions for Mr. Becker? Okay. All right. Thank  
16 you all very much. Okay. Let's see. So does the Board have  
17 any questions for the applicant? Okay. Just, Ms. Shiker,  
18 I guess I am kind of curious now about two things. I guess  
19 one was the environmental studies that one of the witnesses  
20 brought up and then the other is if you can kind of speak to  
21 the Public Service, the PSC, and what that process is.

22 MS. SHIKER: Yes, thank you. The Public Service  
23 Commission does have this request pending before it. As Ms.  
24 Fisher testified, it was filed in May of 2016. The standard  
25 that the -- excuse me. I apologize. Thank you. May of

**NEAL R. GROSS**

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

1 2017. Not in 2018 yet. The standard that the Public Service  
2 Commission looks at is safety, need, and reasonableness of  
3 a request. In this case, there are multiple approvals that  
4 PEPCO must have before it can go forward with the project.  
5 One is the Public Service Commission. Without the full  
6 evaluation and approval, the project cannot go forward. Two,  
7 we need the BZA. Three, we need Historic Preservation  
8 because we're a landmark. And then, four, we need our  
9 permits. So each of those processes must be complete before  
10 PEPCO can go forward with the project.

11 Because the timeline is for starting construction  
12 in June of 2019, we cannot do those approvals sequentially.  
13 We have to do them at the same time, understanding that if  
14 we don't get one of the four approvals then we can't go  
15 forward. But it is very important, given the timeliness of  
16 this project, that we move forward simultaneously.

17 CHAIRPERSON HILL: Okay, okay.

18 MS. SHIKER: I will note that we do have expert  
19 witnesses here if there are questions of the Board of any of  
20 the environmental issues. Those issues are reviewed in terms  
21 of the safety factor of the Public Service Commission. And  
22 when this board considered a substation back in 2015, the  
23 Board decided that it did not have the expertise like the  
24 Public Service Commission to evaluate those environmental  
25 impacts, and so it deferred for those issues to be reviewed

**NEAL R. GROSS**

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

1 by the Public Service Commission and that the Board would  
2 review those standards set forth in the utilities special  
3 exception, which include setbacks, screenings, and other  
4 requirements with respect to the building, which is typically  
5 the things that Zoning is looking at. And so I will put that  
6 forward.

7           In terms of environmental reports, these projects,  
8 through the permitting process, will be required to do the  
9 environmental impact screening forms which is part of any  
10 kind of DCRA permitting. And PEPCO will comply with all of  
11 those requirements to make sure that those evaluations are  
12 done. And with that, does that answer the question?

13           CHAIRPERSON HILL: Yeah, it does. Okay.

14           ZC CHAIR HOOD: Back to Ms. Shiker, let me just  
15 ask this question back to what Mr. Otten was mentioning. And  
16 I do recall, and I think it was with a cell tower issue or  
17 the antennas, something we did, we did bring somebody in at  
18 that time to give us additional information because, as he  
19 mentioned, part of our charge is to protect the safety of the  
20 residents of the city, residents and businesses, as well.  
21 But I can't remember what those conclusions were. I just  
22 remember we did ask for a specialist to come in and talk to  
23 us as we made our decision, and I just can't remember what  
24 the significance at that time was. But at that time, I  
25 think, if I'm not mistaken, they gave us a record of there

**NEAL R. GROSS**

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

1 was no evidence. That's what I remember. There was no  
2 evidence of any harmful impacts of any waves or anything, and  
3 I never said I bought that, but I think we did have somebody  
4 come in, as he alluded to, and I want to make sure that all  
5 of our bases are covered if it's within our jurisdiction as  
6 we make our decision. So those are just my comments.

7 MEMBER WHITE: My one comment was that there was  
8 a potential expert that you had and environmental --

9 MS. SHIKER: Dr. Bailey is here, and, if you would  
10 like to hear from him for a couple of minutes, I could invite  
11 him up and he could talk to you about the studies that  
12 they've done, if that's what the Board would like.

13 MEMBER WHITE: I'll defer to the Chair.

14 CHAIRPERSON HILL: That's fine. If you'd like to  
15 bring up Doctor --

16 MS. SHIKER: Dr. Bailey.

17 CHAIRPERSON HILL: Dr. Bailey.

18 MEMBER WHITE: And he's not in the -- we included  
19 him. Okay, good, good.

20 MS. SHIKER: He was identified previously.

21 CHAIRPERSON HILL: Sir, if you could just  
22 introduce yourself, and then, I mean, Ms. White, is there any  
23 particular question or just a little bit of a report in terms  
24 of the environmental impact?

25 MEMBER WHITE: Well, obviously, we're, you know,

**NEAL R. GROSS**

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

1 concerned about potential health impacts that these stations  
2 pose to the public. So if you could address that or if  
3 you've had any contact with the Public Service Commission  
4 with respect to this issue, that would be helpful, as well.

5 DR. BAILEY: Sure. Let me first introduce myself.  
6 I'm Dr. William Bailey. I've spent the last, more than 30  
7 years in the field of bioelectromagnetics, which involves  
8 looking at interactions between electric and magnetic fields  
9 in the environment or in our bodies with the environment and  
10 with organisms. I trained at City University of New York,  
11 the University of Chicago, Rockefeller University. And  
12 because of my background and expertise, I've been an advisor  
13 to many state, federal, and international agencies that are  
14 concerned with electric and magnetic fields.

15 I think it's important to recognize that electric  
16 and magnetic fields cover a wide range of frequencies, so  
17 this visible light here in the room is an electromagnetic  
18 field at very high frequency. We have the Earth's static  
19 field, which has a, it doesn't oscillate in time so it has  
20 a frequency of zero hertz. That is an electromagnetic field.  
21 And then, of course, we have electromagnetic fields from  
22 anything that is connected to our electricity system, so  
23 wherever electricity is carried or used electric and magnetic  
24 fields are present.

25 So this substation that we're talking about, the

**NEAL R. GROSS**

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

1 Harvard substation, is an existing substation, and  
2 substations like this are found throughout the District and  
3 everywhere that we use electricity because we need them in  
4 order to step down the voltage from a higher voltage to a  
5 lower voltage so it can be distributed and used to community.  
6 That means that such substations need to be located near the  
7 populations that they serve. It's not efficient to have  
8 them, you know, so far away that a lot of the electrical loss  
9 occurs before it gets to the customer.

10 So these fields from the substations and the  
11 cables connecting them are present everywhere in the  
12 District. There are standards that have been recommended by  
13 the World Health Organization for compliance. One is from  
14 the International Commission on Non-Ionizing Radiation  
15 Protection in Europe, and another one is the International  
16 Committee for Electromagnetic Safety here in the U.S. I'm  
17 a member of the latter committee. And the substations and  
18 the lines would meet the guidelines of these two agencies for  
19 exposure of the general public to electric and magnetic  
20 fields.

21 The World Health Organization itself has taken the  
22 lead in addressing this topic for countries around the world.  
23 They had an international EMF program for a number of years,  
24 which is concluded. And their conclusion, you can read on  
25 their website, is that the current scientific evidence does

**NEAL R. GROSS**

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

1 not support the existence of health consequences from  
2 exposure to low-level electromagnetic fields.

3 So, in summary, that's sort of what the status of  
4 the science is. And I'd be happy to answer other questions.

5 ZC CHAIR HOOD: So that's kind of the same kind  
6 of scenario that I heard some years ago when it comes to  
7 waves and stuff and affecting human beings. So I guess I'm  
8 sure research has been done, but we still end up kind of in  
9 the same place. There's never been no evidence. Is that a  
10 correct assessment?

11 DR. BAILEY: As you said, there's a lot of  
12 research that has gone on, but that research with regard to  
13 the types of fields that we're dealing with from our  
14 electrical system have not, despite all this research, have  
15 not been found to have adverse effects on our health.

16 ZC CHAIR HOOD: Okay, all right. Thank you.  
17 Thank you, Mr. Chairman.

18 CHAIRPERSON HILL: Okay. Thank you. Does the  
19 Board have any other further questions? Okay. Does the  
20 applicant have anything they'd like to add?

21 MS. SHIKER: We would just submit that, in the  
22 filings and in the testimony today, we have met the burden  
23 of proof for the areas of relief. I would also indicate  
24 again that, while the concept design has been approved by  
25 HPRB, final approval has been delegated to the Historic

**NEAL R. GROSS**

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



1 Preservation Office staff. And so to the extent that the  
2 Board move forward with approving this, we would ask for  
3 flexibility for any type of final facade changes, you know,  
4 detailing in the Historic Preservation to be as approved by  
5 the Historic Preservation Office. And with that, we would  
6 ask the Board to consider this at its earliest convenience.  
7 Thank you.

8 CHAIRPERSON HILL: Okay, great. I'm going to go  
9 ahead and close the hearing. Is the Board ready to  
10 deliberate? Okay. I can go ahead and start.

11 So after hearing the testimony, I would actually  
12 agree with the analysis that was provided by the Office of  
13 Planning in terms of all the different kinds of relief that  
14 the applicant has been requesting. I think that the report  
15 actually goes into quite a bit of detail in terms of how the  
16 standard has been met. I thought that also, in addition to  
17 that, the different ANCs that were involved, ANC-1A voted six  
18 to zero to zero, as well as ANC-1B, 11 to zero to zero in  
19 support. Those two ANCs straddle the applicant.

20 And I didn't have any concerns, and I would be  
21 able to move forward with this. Does the Board have any  
22 other questions or thoughts?

23 VICE CHAIRPERSON HART: Yes, only that the, I  
24 would actually agree with your assessment, as well. As I was  
25 looking through what the applicant was requesting for relief

**NEAL R. GROSS**

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

1 from, special exceptions on enlargement of use and extension  
2 of the MU-4 zone regulations, and the variances were vehicle  
3 parking, bicycle parking, loading, and then pervious surface.  
4 Those variances don't have anything to do with distance or  
5 kind of setback. Actually, none of the relief that's being  
6 requested is really looking at that.

7           And the reason I bring that up is that some of the  
8 testimony that we heard was about, you know, where this  
9 building, new building was going to be placed, and it just  
10 didn't seem that there was some way of saying, well, you  
11 can't move this, the zoning regulations don't give us the  
12 ability to say for this particular case you can't do this and  
13 you have to, you know, provide a 30 or 50-foot setback from  
14 residential areas. That's not something that we have. And  
15 I think, because of that, it makes it, we're really looking  
16 at what the zoning regulations are requesting and asking for  
17 and telling us that we need to look at.

18           I just, I think that what the applicant has  
19 provided is within what the zoning regulations allow for the  
20 special exceptions and kind of reasonable enough and that the  
21 variances are, they've made the case as to how they are  
22 meeting the three problems for the variances. The Office of  
23 Planning has also, in support, as you have noted, Mr.  
24 Chairman, for the variances and the special exception relief  
25 and, because of that, I think I'd be in support of the

**NEAL R. GROSS**

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

1 application, as well.

2 CHAIRPERSON HILL: Okay. Anybody else?

3 ZC CHAIR HOOD: I'd agree with what my colleagues  
4 have mentioned. I think the special exception and the  
5 variances are within this jurisdiction of this Board as a  
6 result to what the opposition has mentioned in other forums,  
7 as Ms. Shiker has mentioned, where some of the other things  
8 can be addressed because if they fail in those other areas  
9 then it's a done deal.

10 So I think some of the issues, especially hearing  
11 from the doctor that some of the issues that I know I was  
12 concerned about some years ago about greater activity to  
13 humans and everything, and it always seems to fall back on  
14 the same result. There seems to be not enough information.  
15 I can tell you one time in this city that we thought that  
16 certain things were happening. A lot of the young kids that  
17 were being born in the city were accumulating a lot of asthma  
18 because of some of the things that were going on in some of  
19 the industrial areas, and that turned out to be kind of true.  
20 There was some truthfulness to that. But I think the  
21 research, I would have to stand on the side of the research.  
22 I know there's some other forums in which this body is going  
23 to have to go to for some approvals, especially in front of  
24 the Public Service Commission.

25 But I think I'll attest that we have a special

**NEAL R. GROSS**

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

1 exception to variance, and I think they've made the case for  
2 that. Thank you, Mr. Chairman.

3 MEMBER WHITE: I would concur with Commissioner  
4 Hood that the standard was met. I mean, I did, Mr. Otten did  
5 kind of put the fear of God in me when he was talking about  
6 some of the health concerns or risks that could potentially  
7 impact the community. So I was very appreciative for getting  
8 that information, as well as getting information from Dr.  
9 Bailey to kind of provide some feedback based upon some of  
10 the research and information that he's read.

11 And I guess one of the other things that popped  
12 up was whether or not they would be able to move forward  
13 without the Public Service Commission. So the Public Service  
14 Commission, from what I'm understanding, I'm just trying to  
15 understand the process here with these types of substations,  
16 they still have to approve this in order to move forward with  
17 the process. So they also will be looking at the potential  
18 adverse health impacts that this particular type of  
19 development could pose, as well.

20 But just strictly looking at the standards under  
21 special exception and variance, I think that they've met the  
22 criteria.

23 CHAIRPERSON HILL: Okay. Ms. John, do you have  
24 something to say?

25 MEMBER JOHN: Yes, Mr. Chair.

**NEAL R. GROSS**

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

1 CHAIRPERSON HILL: You need to just speak in the  
2 microphone.

3 MEMBER JOHN: Yes, Mr. Chairman. I'm also  
4 inclined to support the application, and that's primarily  
5 based on the testimony of the applicant and the  
6 recommendation of the Office of Planning, giving great weight  
7 to the recommendation and analysis of the Office of Planning.  
8 I was particularly persuaded by the report from DDOT as to  
9 the necessity for parking and loading and so on. And so I  
10 am prepared to go forward.

11 CHAIRPERSON HILL: Okay. And I'm going to go  
12 ahead and make a motion to approve Application Number 19647,  
13 as captioned and read by the Secretary, and ask for a second.  
14 Motion has been made and seconded. All those in favor? Aye.  
15 All those opposed? Motion passes. Mr. Moy?

16 SECRETARY MOY: Mr. Chair, in your motion, did it  
17 address the --

18 CHAIRPERSON HILL: I'm sorry. I'll remake the  
19 motion, yes. So I'm going to go ahead and ask, I'm going to  
20 make a motion to approve Application 19647, as captioned and  
21 read by the Secretary, including some flexibility with design  
22 as determined by HPRB and ask for a second. Motion made and  
23 seconded. All those in favor? Aye. All those opposed?  
24 Motion passes. Mr. Moy?

25 SECRETARY MOY: Staff would record the vote as

**NEAL R. GROSS**

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

1 five to zero to zero. This is on motion of Chairman Hill to  
2 approve the application for the relief being requested, as  
3 well as the additional language in the motion. Seconded the  
4 motion, Vice Chair Hart. Also in support, Mr. Hood, Ms.  
5 White, and Ms. John. The motion carries.

6 CHAIRPERSON HILL: A summary, Mr. Moy?

7 SECRETARY MOY: Yes, thank you.

8 CHAIRPERSON HILL: Thank you.

9 SECRETARY MOY: All right Mr. Chair, we're moving  
10 into the second PEPCO case. This is Application No. 19648,  
11 again of Potomac Electric Power Company, caption advertised  
12 for special exception under Subtitle X, Section 900.3 to  
13 expand an existing utility use and pursuant to Subtitle X  
14 Chapter 10, variances for the vehicle parking requirements  
15 of Subtitle C Section 701.5, bicycle parking requirements  
16 Subtitle C Section 802.1, building requirements Subtitle C  
17 Section 901.1, and from the side yard requirements Subtitle  
18 X Section 705.1 to modernize and expand the existing  
19 electrical sub-station in RFC-3 Zone. This is at 2119  
20 Champlain Street NW, Square 2562 Lot 97.

21 CHAIRPERSON HILL: Okay, could you introduce  
22 yourselves, please, from my right to left?

23 MS. FISHER: I'm Sandy Fisher, Vice President of  
24 Transmission and Substations for the applicant.

25 MS. SHIKER: I'm Christine Shiker with the law

**NEAL R. GROSS**

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

1 firm of Holland & Knight as counsel for the applicant.

2 MR. WANG: Erik Wang, architect.

3 DR. BAILEY: William Bailey from Exponent.

4 CHAIRPERSON HILL: Okay, great. All right, Ms.  
5 Shiker, I guess you're going to be presenting to us again.  
6 It is so quiet in here today; I don't know whether it's  
7 Valentine's Day or what it is, or people haven't bought their  
8 gifts. I can just feel it in the room; I don't know what is  
9 going on today.

10 Yes, so I just needed that. Whether you all  
11 needed it or not, I needed it, okay.

12 So Ms. Shiker, go ahead and please give us your  
13 testimony or applicant's testimony. I didn't have a lot of  
14 particular questions, again, other than as before, which is  
15 that it is a fair amount of relief that you all seem to be  
16 asking. If you can walk us through each item of relief that  
17 you're asking for and how that standard is being met and how  
18 we should grant that relief. And then if you want to give  
19 us, again, a brief overview as you did before, that is also  
20 welcome because this is obviously a separate case. And you  
21 can begin. I'm going to put 15 minutes on the clock so I  
22 know where we are, and you can begin whenever you like.

23 MS. SHIKER: Yes, good afternoon.

24 CHAIRPERSON HILL: Excuse me, sir; is it Mr.  
25 Becker?

**NEAL R. GROSS**

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

1 MR. BECKER: Yes.

2 CHAIRPERSON HILL: We'll call you up to the front  
3 when it's your time to talk. Thank you.

4 MS. SHIKER: Thank you. Good afternoon; Christine  
5 Shiker with the law firm of Holland & Knight. As we noted  
6 in the previous case, there are two sub-stations that the  
7 board has been considering which are part of the larger  
8 capital grid project; it is a project to enhance reliability  
9 and resiliency of the PEPCO Electric grid in the District of  
10 Columbia. I would like to incorporate by reference the  
11 testimony of Ms. Fisher from Case 19467, if the board will  
12 accept that, and then move forward with describing the sub-  
13 stations since that was the background for the project.

14 CHAIRPERSON HILL: That's fine. Thank you.  
15 That's helpful.

16 MS. SHIKER: Thank you. So the project is located  
17 on Champlain Street; front Champlain on its west side,  
18 Ontario on its east, and Old Morgan School for the northern  
19 boundary. It's located just north of Florida Avenue and  
20 there's a residential building that is constructed  
21 immediately to the south. The project is also improved with  
22 a historic landmark that was designated by the Historic  
23 Preservation Review Board on February 1st. The HPRB  
24 considered the project and commented favorably upon the new  
25 construction; however, because there will be what is defined

**NEAL R. GROSS**

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



1 as demolition under the Historic Preservation Act, it will  
2 be going to the mayor's agent later this spring for  
3 consideration of that demolition. But the new construction  
4 has been commented favorably upon by the Historic  
5 Preservation Review Board.

6           This application includes a variety of areas of  
7 relief, and I'm going to walk you through each of those. The  
8 first is a special exception for the utility use; this is an  
9 existing sub-station that's been in place since 1931. As  
10 such, under the zoning regulations it is considered a  
11 conforming use; to the extent that it will be expanded,  
12 however, it comes before the board for a special exception.  
13 Utility uses are permitted under that special exception when  
14 the board evaluates back-screenings and other requirements  
15 that might be necessary for the protection of the  
16 neighborhood. In this case the majority of the existing  
17 equipment is located outside, so one of the primary benefits  
18 of this new design is that the equipment will be enclosed and  
19 no longer visible for people as they're walking or from their  
20 homes on either side. The project is fully within the height  
21 and density as permitted by the RC-3 district. It also  
22 includes extensive historic preservation, including really  
23 bringing back the west facade and the windows to their  
24 original Art Deco glory. The overall design has been  
25 commented favorably on by the HPRB, subject to the mayor's

**NEAL R. GROSS**

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

1 agent approving the demolition, and this project will include  
2 significant pedestrian streetscape improvement, especially  
3 along the north side on Old Morgan School. The project is  
4 in harmony with the zone plan because it does meet all the  
5 basic zoning requirements with respect to height and density  
6 and lot occupancy and it will not adversely impact the  
7 neighboring properties based on the actual overall design  
8 that's been incorporated.

9           In addition, there are four areas of variance  
10 relief that we are requesting. There is an exceptional  
11 situation or condition that exists on the site and they are  
12 two-fold; one is it is an unusual shape -- if you'd go back  
13 to that one right there, thank you -- it's an unusual shape,  
14 you see it has this tail coming out towards Ontario. Sub-  
15 station buildings like to be rectangular; they do not like  
16 to have different, lots of angles and changes and shifts and  
17 we have some many diagonal lines on this. Therefore, the  
18 shape of the site leads to practical difficulties in  
19 complying. I would also note that there is the historic  
20 landmark of which there are several historic elements on the  
21 interior side, so on the south side of the existing building  
22 they are these buttresses that you can see in the top picture  
23 here. There are currently six buttresses; in close  
24 coordination with Historic Preservation, PEPCO will be saving  
25 two of the buttresses, but as such, they must set back their

**NEAL R. GROSS**

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

1 building and not be able to meet their original front facade.  
2 Again, this is a unique condition that really leads to some  
3 practical difficulties.

4           And then finally, the importance of modernizing  
5 the site. So it leads to practical difficulties in complying  
6 with different regulations. First, we have a practical  
7 difficulty in complying with parking, loading and bicycle  
8 parking. As you can see, in order to make sure that the sub-  
9 station fits within a single building on the site, there is  
10 very limited space for zoning compliant parking, and  
11 therefore that's unable to be provided. Again, there is no  
12 space for zoning compliant loading and bicycle parking  
13 there's no location for appropriate bike parking. For those  
14 three area variances there is no adverse impact because, one,  
15 this is an unmanned sub-station; therefore, PEPCO personnel  
16 are only expected to come to the sub-station two to four  
17 times a month. And as you can see, on the southern line,  
18 there is space for those cars to come into the open area.  
19 Those are not zoning compliant spaces, but it's places for  
20 the PEPCO vehicles to be parked and to be off the street and  
21 not to take parking away from the neighbors. In the event  
22 that there was an emergency, there is sufficient space for  
23 the number of PEPCO personnel that would need to come.

24           Again, no bike parking is necessary because PEPCO  
25 personnel are required to come to the site in PEPCO

**NEAL R. GROSS**

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

1 authorized vehicles, not on bicycles. And again, there are  
2 not visitors to the site since it is a sub-station. After  
3 construction there is no traditional loading and unloading  
4 at the site, there would only be equipment replacement, and  
5 that can be accommodated in the green areas that you see  
6 where you can bring a truck off the street and replace the  
7 equipment as needed. And again, that loading is not done  
8 very often; every five to ten years is what typically is seen  
9 for replacement of equipment.

10           The final area of relief is somewhat unique under  
11 016; it is a side yard variance, and I'm going to point it  
12 out. It's at the top along Old Morgan School and you see  
13 it's in purple and dark green at the very top. Under ZR-16  
14 there is a provision in Subtitle K Section 705.1 that says  
15 any portion of a building that is set back from a side lot  
16 line shall be considered a side yard and not a court, because  
17 our front is Ontario, our rear is Champlain. That becomes  
18 non-compliant side yard, even though it's just a setback from  
19 the street. Had it been a court under 058, it would have  
20 complied because you would have measured parallel to the  
21 street. But in this case a technical reading of the zoning  
22 regulations is that that would be a side yard, and because  
23 it is a diagonal property line, it does not meet the minimum  
24 dimension of 6 feet 8 inches. But again, no adverse impact  
25 on that because it really is just bringing the building, A,

**NEAL R. GROSS**

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

1 not building the building wall at a diagonal; and B, setting  
2 it back from the street so that there's just more open green  
3 space. So there's no adverse impact with that.

4 I would note that in this application a waiver has  
5 been requested as well and this is permitted under Subtitle  
6 Y when it says the board may for good cause waive certain  
7 provisions of Subtitle Y and that waiver is for the time  
8 period that if the board does approve the sub-station we  
9 would request that the BZA order be good for a period of five  
10 years instead of the typical two years, and that is because  
11 as Ms. Fisher testified, this project will take place in  
12 steps. Champlain sub-station could not be constructed until  
13 the load from Champlain can be moved to the Harvard sub-  
14 station, so it cannot go forward until after Harvard is  
15 reconstructed. Therefore, it wouldn't be possible to go  
16 forward with building permits for Champlain within two years.  
17 And therefore, we'd ask the board to waive that requirement  
18 and to allow it to be for a five-year period of time.

19 CHAIRPERSON HILL: Can you just repeat that for  
20 me again?

21 MS. SHIKER: Yes.

22 CHAIRPERSON HILL: The reason why.

23 MS. SHIKER: We're asking for -- because when  
24 Champlain goes to be constructed, they'll need to transfer  
25 the load, the electrical load to another sub-station. Part

**NEAL R. GROSS**

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

1 of the project is that they will transfer it to the Harvard  
2 sub-station and they cannot transfer that until Harvard is  
3 reconstructed to accept that load. So therefore, it must be  
4 constructed after Harvard. The intent is that December 2019  
5 -- excuse me 2019 -- is when they would go forward with  
6 Harvard, 2022 is when they would go forward with Champlain.  
7 However, given that they're interconnected as part of the  
8 overall grid project, we're here to get approval for them at  
9 the same time and request for a longer period for the special  
10 exception.

11 CHAIRPERSON HILL: Okay, thank you.

12 MS. SHIKER: And with that we have many witnesses,  
13 we're happy to answer any questions that you have. I will  
14 note, again, that we have OP and DDOT support. The ANC did  
15 vote unanimously last week to not object to the application.  
16 They submitted a letter into the record this morning. It  
17 also requested that an EISF be completed; as we testified in  
18 the previous case those types of reviews are done through the  
19 permitting process and PEPCO will comply with those  
20 requirements as they go through a permitting process.

21 Thank you.

22 If I may -- one other item -- as I noted, this  
23 project will be going to the mayor's agent for final approval  
24 of the demolition and it will likely be delegated to staff,  
25 to Historic Preservation office staff for final approval of

**NEAL R. GROSS**

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

1 the exterior design. The Historic Preservation Review Board  
2 would ask staff to look at the rhythm and kind of design  
3 elements along Old Morgan School, and that will take place  
4 after the mayor's agent hearing. And therefore, similar to  
5 the Harvard sub-station we would ask flexibility for any type  
6 of design, refinements that come out of the Historic  
7 Preservation Review process to be approved as flexibility in  
8 the event that the board would approve the Champlain station.

9 Thank you.

10 VICE CHAIRPERSON HART: Ms. Shiker, I had a  
11 question on something -- what was that -- oh, you said the  
12 ANC report; they actually sent an EIS but I think that they  
13 were talking about an EISF. An EIS is with the,  
14 Environmental Impact Statement is something that you do for  
15 an EPA which you don't have to do for a district project.  
16 And so I think that they were meaning the Environmental  
17 Intake Screening Form that the district has.

18 This is the ANC report, so that's --

19 MS. SHIKER: No, I wasn't at the ANC meeting, so  
20 I was just making sure that that is exactly what that meant.

21 VICE CHAIRPERSON HART: I was just reading it,  
22 that's all.

23 MS. SHIKER: So PEPCO will comply with the  
24 environmental reports that they're required to provide. They  
25 are not subject to EPA.

**NEAL R. GROSS**

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

1 Thank you.

2 CHAIRPERSON HILL: Okay. Does anyone have any  
3 additional questions for the applicant at this time?

4 All right, I'm going to turn to the Office of  
5 Planning.

6 MEMBER MYERS: Good afternoon, Crystal Myers for  
7 the Office of Planning. The Office of Planning is  
8 recommending approval of this case and stands on the record  
9 of the staff report.

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

12 Does the applicant have any questions?

13 MS. SHIKER: We do not.

14 CHAIRPERSON HILL: Okay. Is there anyone here  
15 from the ANC?

16 Is there anyone here wishing to speak in support?

17 Is there anyone here wishing to speak in  
18 opposition?

19 Okay, if you could please come forward.

20 Just one second sir; why don't you go ahead and  
21 first speak into the microphone, and then I'll see what --

22 MR. BECKER: I'd like to pull up a graphic.

23 CHAIRPERSON HILL: Sure. Let me just -- let me  
24 get -- oh, I guess you can do it right there. Great.

25 I was going to say the secretary might be able to

**NEAL R. GROSS**

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



1 --

2 Sir, if you can go ahead and just introduce  
3 yourself for the record.

4 MR. BECKER: My name is Edward Becker.

5 CHAIRPERSON HILL: Sir, I'm sorry. Actually, I  
6 was speaking to the other witness. But that's okay, since  
7 you're already pulled up there, that's great. I'm going to  
8 go ahead and give you three minutes to, as a member of the  
9 public, and again, if you could restate your name and address  
10 for the record, and then you can begin whenever you like.

11 MR. BECKER: Edward Becker. 1844 Mintwood Place,  
12 Washington DC. I'm pulling up a graphic of the Champlain  
13 sub-station it's called, and wrapped around it -- you'll see  
14 it's in the center -- wrapped around it is the Marie Reed  
15 Elementary School. The spokesperson for PEPCO mentioned that  
16 there's no detrimental effect from our electromagnetic  
17 radiation, that's like basically your home and that's pretty  
18 true within a distance. But this will be, have the capacity  
19 of up to 5 to 600,000, 600 million amp volts. That's going  
20 to be able to power downtown, they plan to power downtown and  
21 Georgetown with it, as well as the neighborhoods in the  
22 center part of Washington DC. So it's going to be a  
23 tremendous electromagnetic system that can be picked up from  
24 space. It's not exactly like the idea that it's just like  
25 a main -- it's much more powerful than what you'd find with

**NEAL R. GROSS**

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

1 an antenna. It's huge; it's a huge amount and so there's  
2 going to be some kind of a -- they have to mitigate the  
3 impact of what's being produced. And I don't think they've  
4 made a case for that; they've basically said don't worry what  
5 we're doing. There's no independent Environmental Impact  
6 Statement; that's the main thing.

7 Let me show you the next graphic. If I can go  
8 backwards in time here.

9 So you see the power station, you see where the  
10 existing building is, Marie Reed. There's a playground. The  
11 effect is cumulative, so in order to measure the impact,  
12 it's dosimeters. It will take over time, the flow and flux  
13 in the building, and basically it puts out both magnetic and  
14 electromagnetic radiation heat and charged particles. The  
15 question is how much of an impact will that have on the kids  
16 at the school. I mean, this is a basic question. If they  
17 wanted to -- there aren't that many communities anywhere in  
18 the country that have allowed such a close proximity to a  
19 school. It's not like a little distribution transformer;  
20 this is a major, huge power plant. This isn't like the kind  
21 of thing that's giving you 110 volts in your house; this is  
22 supplying most of the city with its energy.

23 I don't know -- I'm just -- you have to take that  
24 into consideration when you approve this. It's next to a  
25 school. So what sort of impact could it have? I mean,

**NEAL R. GROSS**

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

1 there's a lot of studies out there, lots of questions. It's  
2 a little like global warming now, it's a little like what  
3 tobacco was with the studies, competing studies. It would  
4 be good to have some objective analysis rather than them  
5 saying no problem. It's just like the electricity from a  
6 hair dryer.

7 All right, so that's up to you. I mean, this is  
8 a hard thing. You have to determine the impact and whether  
9 you're getting the full story and whether it's an objective  
10 story. I mean, is it objective? Is there an incentive for  
11 them to sell this? Is there a lot of money involved in this  
12 whole thing? Is there -- I mean, I think an adversarial  
13 relationship is good because it gets them sharper, right, and  
14 you have to get sharper to deal with it. And you have to  
15 demand that there will be no consequences and no impact on  
16 the neighboring community. They're going to show you yes,  
17 but what proof do they have?

18 CHAIRPERSON HILL: All right. Thanks, Mr. Becker.

19 Okay, thank you.

20 If you can please introduce yourself and -- would  
21 you please introduce yourself for the record?

22 MR. OTTEN: Sure, this is Chris Otten and I'm  
23 testifying now on behalf and as a member of Adams Morgan for  
24 reasonable development. Not on behalf of Adams Morgan for  
25 reasonable development, so I'm here just testifying as an

**NEAL R. GROSS**

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

1 individual member.

2 CHAIRPERSON HILL: Okay. So Mr. Otten, as you  
3 know, then you have three minutes as an individual member to  
4 go ahead and -- we're not that tight with it all, but that's  
5 -- I'm going to put it on the clock there, so please go ahead  
6 and give your testimony whenever you like.

7 MR. OTTEN: Okay, I appreciate that. So my home  
8 is on Exhibit 10 in this record. I live about half, less  
9 than half a block away from this site.

10 CHAIRPERSON HILL: I'm sorry; your home is which  
11 ---

12 MR. OTTEN: Exhibit 10 in the record.

13 CHAIRPERSON HILL: Okay.

14 MR. OTTEN: And it's visible on the record. I'll  
15 be directly impacted by this project daily by the  
16 construction and then the subsequent operation. I'm  
17 sensitive to electromagnetic fields, I have health issues  
18 because of it. Right now if you were to go over near the  
19 existing Champlain sub-station, you could hear the  
20 electricity and the noise pouring off of that. There was a  
21 reason why -- really what I wanted to speak to is not to  
22 perpetuate the environmental racism that this sub-station  
23 actually represents. So when it was built in the 30's this  
24 was largely a black community and there was a reason why they  
25 put it there next to the school. And so here we are; we're

**NEAL R. GROSS**

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

1 going to perpetuate this problem now by heavy upping it.

2           Okay, the standards as I recall -- I haven't been  
3 to the BZA in a while -- but in granting relief, one, you  
4 have to determine it won't harm the surrounding community;  
5 and two, they have to show the fundamental need. I've  
6 presented already and I would like to ask Mr. Moy to also  
7 include my testimony from the last case to be on this record  
8 as well, and I've put citations on that first page. But I've  
9 cited the fact that the PSC is actually saying that this is  
10 not needed, so they have not proven there's a need for this.  
11 Second, in terms of the harm of the surrounding community,  
12 there's not fundamental, basic evaluations of the impacts of  
13 this project on the surrounding community. We heard the  
14 expert talk about just some generalization about how this is  
15 okay and safe. He does not acknowledge with any specifics  
16 about how these new PEPCO buildings are being built closer  
17 and the heavy up to surrounding residential and school uses  
18 where my children may go. I'm going to have a child pretty  
19 soon and they will go to this school.

20           Additionally, I'm considering tendering for a unit  
21 in a condo just to the south; it's a brand new condo there.  
22 They're squeezing side yard there. I have no sense of the  
23 fire and emergency access to the space around the site which  
24 they're squeezing together. But again, OP has failed us and  
25 has failed this commission. There's no noise studies,

**NEAL R. GROSS**

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

1 there's no light and air studies, the emergency access  
2 studies are not there. OP has not ensured the evaluation by  
3 the applicant or themselves on the record which would lead  
4 to an arbitrary decision here. You know, and the special  
5 exceptions utility use slide of the applicant, you can see  
6 how close this is going to be to people, to kids. Kids are  
7 very vulnerable to these types of impacts. There was a  
8 reason why before the condo built just next to it wasn't a  
9 condo; it was actually a parking garage. And there's also  
10 a reason why just south it's a storage facility. The reason  
11 is it's not residential use right there because of this, when  
12 they built the garage and when they built the storage  
13 facility, they saw hey, we can build that sort of land use  
14 next to a sub-station. If you look at the building itself,  
15 the building has quite thick concrete walls; they also did  
16 that to their credit at the time because they knew the kids  
17 were going to be subjected to these types of impacts. They  
18 built the walls thick at Marie Reed school. That doesn't  
19 mean now, though, this heavy up ain't going to affect them,  
20 and it certainly going to affect these condo owners which I  
21 may be one day, pretty soon. I'm looking to tender something  
22 there.

23           Again, just want to conclude this is not proven  
24 to be a needed modernization, so they have not proven that.  
25 And they have not proven that it will not harm the

**NEAL R. GROSS**

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

1 surrounding communities, have not met the problem, relevant  
2 agencies haven't weighed in. This will directly impact my  
3 life and my future life in my neighborhood of 20 years.

4 Thank you.

5 CHAIRPERSON HILL: Okay. Thank you, Mr. Otten.  
6 I see your exhibit, or I don't know if it's your exhibit or  
7 not, Exhibit 10. Was it your exhibit?

8 MR. OTTEN: Exhibit 10 is the applicant's notice  
9 required.

10 CHAIRPERSON HILL: Okay, I got it. So you're  
11 within the 200 feet?

12 MR. OTTEN: I'm not within 200 feet; I'm just  
13 outside.

14 CHAIRPERSON HILL: Oh, okay.

15 MR. OTTEN: Just to the north of the school.

16 CHAIRPERSON HILL: What's your address again?

17 MR. OTTEN: 2203 Champlain.

18 CHAIRPERSON HILL: Okay. Does the board have any  
19 questions for either witness?

20 VICE CHAIRPERSON HART: Just kind of a quick  
21 question; are either of you against the sub-station that's  
22 there now or are you against what they are proposing?  
23 Because some of this issue that you're raising is about the  
24 EMF fields and the impact from the EMF fields, but the EMF  
25 fields should be there now. Regardless if they are stronger

**NEAL R. GROSS**

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

1 or not, they are still existing. So are you against them  
2 locating in the district at all? Because you're going to  
3 find fairly difficult to be able to put these in areas that  
4 really don't have, that you have --

5 MR. BECKER: That's a very good question because  
6 now they say they have safer equipment, they say they have  
7 these gas insulated transformers. The ones that are there  
8 now aren't, so does that mean they're less safe? Have there  
9 been measurements? Do they track this?

10 None of that is done. They don't pay attention  
11 to that. But according to them, the equipment they have  
12 there is less safe.

13 MR. OTTEN: I can answer that as well. I think  
14 it's tough to say whether you're for or against the utility.  
15 I mean, the utility exists there, it's been there. There was  
16 a reason why we were concerned by the placement of the condo  
17 just next to it, although there was no studies done on that  
18 BZA case either, as I understand. But these are fundamental  
19 land use impact issues and we want the studies done, and  
20 that's where the PSC could do a lot of the studies for us in  
21 this case, but without them on the record it is an arbitrary  
22 decision. We want alternatives; we asked for that during the  
23 open public forums. We asked for an alternative that would  
24 underground this site, put it underground. We've been asking  
25 as a community for that for years because of the direction

**NEAL R. GROSS**

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



1 of the kids right catty-corner across the way in the public  
2 realm.

3 MR. BECKER: One other thing; children are  
4 vulnerable from low frequency, high voltage to leukemia.  
5 They're suspect, and no study has been done of children in  
6 Marie Reed about whether there's been leukemia. There's no  
7 way of tracking that, so we don't know if kids get leukemia.  
8 The German study's showing an increase amount of leukemia;  
9 they think it's caused by some sort of electromagnetic  
10 radiation in the study you have. We can't track that here.

11 CHAIRPERSON HILL: Okay, I just got one question  
12 for both of you actually. So did you all go to the ANCLC  
13 meeting when they talked about this?

14 MR. BECKER: Yes, and they made the  
15 recommendation, look, we don't know. We need to have some  
16 kind of independent study to know what exactly the adverse  
17 impact might be.

18 CHAIRPERSON HILL: Okay. No, I'm just curious.  
19 So you did testify at that hearing. And Mr. Otten?

20 MR. OTTEN: I was at some of the committee level  
21 meetings, not the ANC as a whole.

22 CHAIRPERSON HILL: Okay.

23 MR. OTTEN: So where the committee was discussing  
24 it. And I don't know how to get across to ANC when the  
25 applicants come to ask ANC to approve relief requests, that

**NEAL R. GROSS**

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

1 they deserve to have these studies as well, because otherwise  
2 they're also making decisions in the dark. There's no light  
3 of information to guide them to this. So they just said, "We  
4 don't object." They didn't say, "We support," and they're  
5 actually asking for an environmental study. These are the  
6 basics; this should be basic Zoning 101 at this point. I'm  
7 really sorry to hear that we're not there yet with the Office  
8 of Planning or the applicant.

9 MR. BECKER: When we ask how much radiation will  
10 these transformers put out, they say we don't know until it's  
11 built.

12 CHAIRPERSON HILL: Okay. So I mean, the reason  
13 why I'm asking again is like, again, at the ANC level as you  
14 all know or at least some of you know, that's where a lot of  
15 the vetting happens in terms of the recommendations we get,  
16 in terms of I mean those are the people in your neighborhood,  
17 that is your neighborhood that is determining whether or not,  
18 so that's why we take that into great weight.

19 All right, does anyone have any other questions  
20 for the witnesses?

21 Okay. Thank you, gentlemen very much.

22 Ms. Shiker, let's see; does anybody have any  
23 questions for Ms. Shiker?

24 I have a little bit now. We've gone back to this  
25 environmental stuff, so I am kind of curious, if you can kind

**NEAL R. GROSS**

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

1 of just walk me through a little bit again as far as like all  
2 of the how one is supposed to be reasonably sure that -- I  
3 mean, Dr. Bailey obviously is going to be able to testify,  
4 but that this is a safe thing. The station's already there  
5 now, right, and as far as different things that are brought  
6 up, I don't have any expertise in terms of childhood leukemia  
7 or anything like that, so can you speak to that a little bit?

8 MS. SHIKER: Well, that's why we brought experts,  
9 so I certainly can have Dr. Bailey talk through, again, the  
10 safety we will incorporate by referencing his testimony in  
11 Case 19647. Dr. Bailey can testify to maybe some of these  
12 additional questions that you have. I do want to note,  
13 though, that the testimony that we were squeezing the side  
14 yards next to these buildings, I just wanted to clarify to  
15 the board; the only relief that we're requesting on a side  
16 yard is on Old Morgan Place where we would be permitted as  
17 a matter of right to construct up to the property line.  
18 Instead we set back from the property line and based on the  
19 new provision that became a non-compliant side yard. We are  
20 meeting all of the required distances from the building to  
21 the south.

22 CHAIRPERSON HILL: Okay.

23 MS. SHIKER: I just wanted to make sure that was  
24 clear on the record. And with that, I would turn to Dr.  
25 Bailey.

1 DR. BAILEY: One thing to recognize is that we use  
2 the term "EMF" to refer to electromagnetic fields or  
3 separately electromagnetic fields, but these fields at  
4 different frequencies have very different properties. So the  
5 Earth's magnetic field, the field from our hair dryers and  
6 the sub-station are different from cell phones. So we can't  
7 look at studies about cell phones and talk about sub-stations  
8 or talk about the Earth's magnetic field. So I just wanted  
9 to just clarify that.

10 In terms of the comments that have been raised,  
11 research has been going on for electromagnetic fields at  
12 these frequencies associated with our electrical system for  
13 hundreds of years. Basically since the beginning of  
14 electricity, scientists and physicians have been looking for  
15 potential biological effects of electromagnetic fields, in  
16 the early days particularly for potential therapeutic  
17 purposes. And this research has continued on in the 1990's  
18 Congress appropriated/directed the National Institute of  
19 Environmental Health Sciences to conduct a national EMF  
20 research program to determine whether the kinds of questions  
21 that have been raised by the interveners have any scientific  
22 merit. And they spent over \$50 million supporting studies  
23 and issued their reports in 1998 and 1999. They reported  
24 that there was some statistical associations that it appeared  
25 some of the studies, but they were not supported by any

**NEAL R. GROSS**

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

1 evidence that there was a mechanism that would explain how  
2 very low level magnetic or electric fields would have any  
3 effect on health, and there was no confirming evidence from  
4 animal studies.

5           And I'd point out that the kinds of studies that  
6 have been looked at have involved animals of different  
7 species being exposed over their entire lifetime to levels  
8 of magnetic fields that are up to 50,000 times higher than  
9 what you would find around a typical home; studies that have  
10 been done by the National Institute of Environmental Health  
11 Sciences, studies have been done in Tokyo, studies have been  
12 done in Canada and other places in the world, and none of  
13 these studies have reported that there's any consistent  
14 evidence that the animals who have had life-long exposure to  
15 these very high levels of fields have any different rates of  
16 tumors in their bodies than animals that were not exposed.

17           So I would point out that you can go to the  
18 National Cancer Institute website and they comment there's,  
19 "No consistent evidence for an association between any source  
20 of non-ionizing EMF and cancer has been found." So yes there  
21 have been statistical associations that have been reported  
22 in studies from time to time. The most recent studies and  
23 largest studies that have been done, for instance, in the  
24 U.S. and in Europe have not found this association. So for  
25 example, there was a study that was done in 2005 that

**NEAL R. GROSS**

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

1 reported an association in the UK. They continued studying  
2 the population over time and what they discovered after they  
3 enlarged the study to include more and more power lines, and  
4 all of Wales and all of Scotland they discovered that the  
5 association that had been originally reported had completely  
6 disappeared. So over this period of time that they had been  
7 looking at, there's obviously been a growth in electricity  
8 and power lines, we have more electrical devices around us,  
9 but the original association that had been reported had  
10 disappeared.

11 And so I think when I was talking about the  
12 conclusions of the World Health Organization, they have  
13 weighed in on this recently, the committee of the European  
14 Commission in 2015 issued their comprehensive review which  
15 basically agrees with the World Health Organization. Health  
16 Canada has reviewed this issue, the Netherlands and other  
17 countries as well and there's pretty broad consensus that the  
18 levels of exposure that we have to electromagnetic fields are  
19 not associated with health effects.

20 CHAIRPERSON HILL: Okay. Thank you, Dr. Bailey.  
21 Does the board have any questions for Dr. Bailey?

22 MEMBER WHITE: I'm just curious; so in your expert  
23 opinion, is this sub-station safe for kids?

24 DR. BAILEY: I'm sorry; is it --

25 MEMBER WHITE: In your expert opinion, is this

**NEAL R. GROSS**

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

1 sub-station located on Champlain near Marie Reed school,  
2 safe? Will it be safe for children?

3 DR. BAILEY: Well, safety is --

4 MEMBER WHITE: That's just a magical question.

5 DR. BAILEY: No, I understand. It's a perfectly  
6 reasonable question. I can say as a scientist, there's some  
7 things that I know are risky, some things may be risky, and  
8 down at the bottom of the spectrum are electromagnetic fields  
9 at these frequencies that we don't have scientific evidence,  
10 that in fact there is a health problem, and that's what the  
11 World Health Organization was telling us. And basically, the  
12 ability to make statements about safety is not something for  
13 scientists like myself. That is a conclusion to be drawn by  
14 health and governmental agencies as to whether that risk, if  
15 any exists, is acceptable or not. And that's what safety is,  
16 the definition is, because face it, everything you do in life  
17 has some potential risk associated with it. We all think our  
18 homes are safe places, and yet you look at the statistics and  
19 we find out that homes are not very safe places.

20 So safety is something that is regarded as the  
21 acceptability of risk. And so from a scientific point of  
22 view, this among the lowest risk kinds of activities that we  
23 investigate and that the types of exposures that people at  
24 schools and residential areas will have around sub-stations  
25 is not going to be very different from what people have from

**NEAL R. GROSS**

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

1 other sources and what they have today.

2 CHAIRPERSON HILL: Okay. All right, does anyone  
3 have any more questions for Dr. Bailey?

4 Okay, I just want to make one question here; if  
5 the board has any questions for the applicant concerning the  
6 five-year to two-year waiver? Any questions about that?

7 Okay. All right, so Ms. Shiker, is there anything  
8 else you would like to add?

9 MS. SHIKER: No, we would just suggest that we  
10 have met the burden of proof for the different areas of  
11 relief and we'd ask the board to take this under  
12 consideration at its earliest convenience.

13 Thank you.

14 CHAIRPERSON HILL: Okay. I'm going to go ahead  
15 and close the record. Is the board ready to deliberate?

16 Okay. I mean, based upon again the zoning issues  
17 that are before us in terms of the standards that have been  
18 presented, I do again tend to agree with the Office of  
19 Planning and the analysis that they have provided. I was  
20 interested in learning more about, from the expert witness,  
21 Dr. Bailey, in terms of the safety or what the standards  
22 were, the science has been towards some of the concerns that  
23 were brought up during testimony and I feel satisfied with  
24 what has been presented to us. Also, the applicant is going  
25 to have to go through the proper protocol with which to get

**NEAL R. GROSS**

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



1 the permits as they're going forward. I am comfortable with  
2 approving the application.

3 Does anyone have anything they'd like to add?

4 Okay, then I'm going to go ahead and make -- oh,  
5 and also I'm fine with the waiver. I mean, that was  
6 something that I know it made sense in terms of what the  
7 applicant had presented. Does the board have any comments  
8 on the waiver?

9 CHAIRPERSON HOOD: I think you did a great  
10 justification for why they needed that waiver, so I'm  
11 inclined to vote in support of that.

12 CHAIRPERSON HILL: Okay. All right, so I'm going  
13 to go ahead and make a motion to approve Application No.  
14 19648 as captioned and read by the secretary, including some  
15 flexibility to work with HPRB as they're moving forward with  
16 the design. And then also approve the five-year waiver for  
17 the application, and ask for a second.

18 ZC CHAIR HOOD: Second.

19 CHAIRPERSON HILL: Motion made and seconded. All  
20 those in favor?

21 (Chorus of aye.)

22 CHAIRPERSON HILL: Aye. All those opposed?

23 Motion passes. Mr. Moy?

24 SECRETARY MOY: Staff would record the vote as 5-  
25 0-0, a motion Chairman Hill to approve the application for

**NEAL R. GROSS**

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

1 the relief being requested, as well as the additional  
2 statement in the motion. Seconded the motion, Mr. Hood, Ms.  
3 White, Vice Chair Hart and Ms. John. The motion carries.

4 CHAIRPERSON HILL: Thank you. Summary, Mr. Moy?

5 SECRETARY MOY: Yes, sir.

6 CHAIRPERSON HILL: Okay, thank you. We're just  
7 going to take a quick break. Okay, three or five minutes.

8 (Whereupon, the above-entitled matter went off the  
9 record at 2:32 p.m. and resumed at 2:48 p.m.)

10 CHAIRPERSON HILL: All right. Mr. Moy, whenever  
11 you'd like.

12 SECRETARY MOY: Thank you, Mr. Chairman. If we  
13 can have parties to the table to Case Application No. 19668  
14 of Manley Science and Technology Center. This application  
15 was captioned and advertised for special exception under the  
16 use provisions of Subtitle U Section 203.1G. This would  
17 permit a child development center for 30 children in R2 Zone  
18 at 4628 H Street Southeast, Square 5359 Lot 328. And Mr.  
19 Chair, there is an ANC7E letter in the record that was  
20 submitted yesterday.

21 CHAIRPERSON HILL: Okay, great. Thank you. If  
22 you could please introduce yourselves from my right to left,  
23 or left to right. It doesn't matter. You just have to push  
24 -- there you go.

25 MS. MANLEY: Good evening. My name is Victoria

**NEAL R. GROSS**

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

1 Manley; I'm the owner and director of Manley Science and  
2 Technology Center.

3 MR. ALLEN: Good evening, Chairman. My name is  
4 Ebben A. Allen; I'm Commissioner Chair of 7E.

5 CHAIRPERSON HILL: Oh, goodness. Have you been  
6 down here all day, commissioner?

7 MR. ALLEN: Yes, sir.

8 CHAIRPERSON HILL: Okay, you need to point that  
9 out next time. Although, I don't know if we'll be able to  
10 buy you much time today, to be quite honest.

11 MR. ALLEN: That's all right.

12 CHAIRPERSON HILL: And so let's see; a couple of  
13 things -- well, first of all, welcome. Did you all get sworn  
14 in?

15 MR. ALLEN: Yes, sir.

16 CHAIRPERSON HILL: You got sworn in at the  
17 beginning of the day?

18 MR. ALLEN: Yes, sir.

19 CHAIRPERSON HILL: You said good evening; I hope  
20 we're not that close.

21 MR. ALLEN: Good afternoon.

22 CHAIRPERSON HILL: We're pretty close.

23 MR. ALLEN: Yes, sir.

24 CHAIRPERSON HILL: So Ms. Manley?

25 MS. MANLEY: Yes.

**NEAL R. GROSS**

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

1 CHAIRPERSON HILL: How do you say it? I'm sorry.

2 MS. MANLEY: It's Man-ley.

3 CHAIRPERSON HILL: Manley. So I guess you're  
4 going to be presenting to us, correct?

5 MS. MANLEY: Yes.

6 CHAIRPERSON HILL: Okay. So I didn't really have  
7 a lot of questions. The real question was we did have an ANC  
8 report and I was kind of curious how the community outreach  
9 went. So I suppose, I think it's fairly straightforward to  
10 me what you're trying to do, but if you could please tell us  
11 about the application in terms of what you're trying to do.  
12 And then if you could walk us through the standard as to why  
13 we should grant the relief requested. Also, then we'll take  
14 the testimony -- I mean, Mr./Commissioner Allen, you're just  
15 here for testimony, is that correct?

16 MR. ALLEN: Yes, sir. For testimony. Yes, sir.

17 CHAIRPERSON HILL: Okay, we'll get around to the  
18 testimony if --

19 MR. ALLEN: Sure.

20 CHAIRPERSON HILL: And Commissioner, you seem kind  
21 of amused by today. I saw you over there kind of smiling  
22 every now and again. Have you enjoyed yourself today?

23 MR. ALLEN: I really enjoyed myself today.

24 CHAIRPERSON HILL: Oh, that's good. I'm glad you  
25 enjoyed yourself, because I could tell you seem to be

**NEAL R. GROSS**

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

1 enjoying yourself over there.

2 All right. Ms. Manley, I'm going to put ten  
3 minutes on the clock and you can start whenever you like.

4 MS. MANLEY: Okay, it's not going to take me ten  
5 minutes. But I'm asking to grant relief to permanently  
6 continue my services as a provider. The first time I came  
7 I asked for permission for 15 children, and then I saw a  
8 great need; I left nursing to go into childcare. Now, if I  
9 had known how much money it would cost, and I probably would  
10 have changed my mind, but there was a great need. There was  
11 an education gap. My children weren't going to quality  
12 childcare centers unless I sent them way uptown, so I wanted  
13 to make a difference. I started in my basement and I got so  
14 many requests, but the government don't allow you to have but  
15 so many. So it's like okay, let me try -- I think I want to  
16 say I was the first one to do the expansion. I was a little  
17 hesitant because I didn't know where my career was going, but  
18 I knew we needed quality childcare in my community.

19 Going to school, like I said about the achievement  
20 gap, I wanted to do something, I wanted to make a difference.  
21 I learned that children learn at an early age, really, really  
22 early. Now from experience, I know. And I wanted to make  
23 sure that the children were getting not only a provider but  
24 an educator as well. So I went back to school, educated  
25 myself, got an associates in early childhood education and

**NEAL R. GROSS**

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

1 I got my bachelors in human development. However, I had an  
2 opposition when I came the first two times and it was older  
3 lady; she don't want me to change the neighborhood. She  
4 didn't want any -- you all say pop in, pop out, pops up --  
5 I didn't know at the time, now I know. Rest her soul, she  
6 died two weeks ago. But I promised her that I would not  
7 change the way that our neighborhood looks. I only wanted  
8 an evacuation ramp and a handicap ramp because now I'm  
9 looking at children with disabilities that can typically  
10 learn or be inclusive with the children. And I did not; I  
11 did not do anything. And I went to her afterwards because  
12 she's older and I promised her, hey, I just want this ramp.  
13 And that's what I did; if you look at my photos, I have an  
14 evacuation ramp going all the way around. That's it.

15 So it is important to me now that I'm older to not  
16 change the look of the neighborhood when there's so many  
17 people there, been there prior to me. So I've been operating  
18 and there were times that I wanted to just quit. It's a lot  
19 of work. My parents were like, "No, don't. What are we  
20 going to do?" I'm 23 hours, so the parents that have jobs  
21 at night have somewhere to take their children. I make sure  
22 that they know the children are safe. I also keep it as a  
23 home environment, we're talking about babies; however,  
24 getting to their intellects and what they learn and what they  
25 know and what they are born to do well, I try to tap into

**NEAL R. GROSS**

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

1 that; singers and some dancers, and sometimes instead of you  
2 saying, "A, B, C," I'm saying, "A-B-C-D" and you've got kids  
3 that will learn from that. So I was happy that in school I  
4 learned that. I was really proud of my parents last night  
5 because I was like, "Hey," and Ward 7 and 8 you get very  
6 little support. They don't understand how support impacts  
7 what happens in the neighborhood, but they came out walking,  
8 they came out happy. And so it was a good time. So I'm  
9 asking the board -- I mean, you guys to permanently let me  
10 keep the home as a daycare center. The changes that I had  
11 to make with fire, I had to make construction changes, I made  
12 them. So to live there would be a lot because we've got all  
13 this open space with all these pool stations and suppression  
14 systems, it would be a lot to live there. So I'm not going  
15 to change my mind; I'm going to continue to do childcare.  
16 And I'm just asking to grant the permission to permanently  
17 have it as a daycare center.

18 CHAIRPERSON HILL: Okay, great. Ms. Manley, so  
19 you know that there were seven conditions originally and the  
20 one that you're trying to strike is just the first one. So  
21 you're still fine with the other six conditions?

22 That's okay. In the original order there were six  
23 conditions and those were, "Enrollment shall not exceed 30  
24 children from 2 months to 6 years of age. And the maximum  
25 number of teachers and staff shall not exceed eight."

**NEAL R. GROSS**

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

1 MS. MANLEY: Okay, I see the conditions. That  
2 still stands. I don't even normally get to 30.

3 CHAIRPERSON HILL: That's okay. And you don't  
4 have to walk through; I'm just saying you're not asking for  
5 any of the other ones to change.

6 MS. MANLEY: Okay.

7 CHAIRPERSON HILL: So all you have to do is just  
8 say yes, if you don't mind, so I can go through the first  
9 one.

10 MS. MANLEY: Yes.

11 CHAIRPERSON HILL: The second one is, "The center  
12 shall operate for 23 hours a day Monday through Friday, 8:00  
13 a.m. to 7:00 a.m."

14 MS. MANLEY: Correct.

15 CHAIRPERSON HILL: "Most children shall be dropped  
16 off between 8:00 a.m. and 10:00 a.m. and picked up between  
17 3:00 p.m. and 6:00 p.m. Other drop-off and pick-up times  
18 shall be tailored to fit the needs of the families served."

19 MS. MANLEY: Correct.

20 CHAIRPERSON HILL: You can just say correct, if  
21 you don't mind. "The staff shall help the children to and  
22 from the center during drop-off and pick-up."

23 MS. MANLEY: Correct.

24 CHAIRPERSON HILL: "Two parking spaces shall be  
25 provided on-site for teachers and staff and employees shall

**NEAL R. GROSS**

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



1 be prohibited from parking on the street in front of or  
2 adjacent to the property where the center is located."

3 MS. MANLEY: Correct.

4 CHAIRPERSON HILL: "Trash from the child  
5 development center shall be collected at least once weekly  
6 by a commercial contractor."

7 MS. MANLEY: That's correct.

8 CHAIRPERSON HILL: Okay, great. Before I turn to  
9 any questions; we should have started with you first because  
10 the energy would have been better.

11 (Laughter.)

12 CHAIRPERSON HILL: And so, but does anybody have  
13 any questions of the applicant?

14 Okay. All right, I'm going to turn to the Office  
15 of Planning.

16 MS. THOMAS: Yes. Good afternoon, Mr. Chairman  
17 and members of the board. Karen Thomas at OP. We are in  
18 support of this application and stand on the record of our  
19 report, Ms. Manley has been at this location for ten years  
20 now and we see no need to have her come back in. We have  
21 heard no records of complaint and we fully support her  
22 application.

23 Thank you.

24 CHAIRPERSON HILL: Okay, great. Thank you, Ms.  
25 Thomas. Yes, sir?

**NEAL R. GROSS**

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

1 CHAIRPERSON HOOD: Ms. Thomas, is this the change  
2 -- the Zoning Commission just made a change -- but I know the  
3 need for childcare centers. Was this part of the change that  
4 we just made?

5 MS. THOMAS: I believe that's what Ms. Brown-  
6 Roberts is seeking to do, to sort of remove the --

7 CHAIRPERSON HOOD: The time limit, yes so it would  
8 be easier.

9 MS. THOMAS: The time frame, yes. The time  
10 limits, yes.

11 CHAIRPERSON HOOD: I didn't know if this was a  
12 result of that or not. But I thought we already approved  
13 that?

14 MS. THOMAS: No, this --

15 CHAIRPERSON HOOD: I think we did eventually --  
16 I don't know, can only remember so much.

17 MS. THOMAS: I don't know, but this is part of the  
18 situation.

19 CHAIRPERSON HOOD: I do know the need. We heard  
20 a lot of testimony exactly what you said, so I'm definitely  
21 in favor of this application. So thank you, Ms. Thomas.

22 MS. THOMAS: Thank you.

23 CHAIRPERSON HILL: Okay. Anybody got any  
24 questions for the Office of Planning?

25 Ms. Manley, you have any questions for the Office

**NEAL R. GROSS**

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

1 of Planning?

2 MS. MANLEY: No.

3 CHAIRPERSON HILL: Okay. So at this point we turn  
4 to the ANC. Commissioner Allen?

5 MR. ALLEN: Yes. My name is Ebben A. Allen, ANC7E  
6 Chair and Advisor Neighborhood Commissioners, SMD 7003 in  
7 which the Manley Science and Technology Center is located.  
8 I grew up in the Marshall Heights and Bennett Heights  
9 community as a young male; growing up in Ward 7 my peers and  
10 I were deprived of strong educational resources in the  
11 community. As I returned to my community in Bennett Ridge,  
12 our kids and our families are still fighting for stronger  
13 educational resources. I come to you today to testify that  
14 my ANC colleagues and myself are in strong support of getting  
15 a special exception for the Manley Science and Technology  
16 Center located on 4628 H Street Southeast.

17 I recently met Ms. Victoria Manley and she  
18 provided me with an awesome tour of the Manley Science and  
19 Technology Center. I observed all of her kids engaged in  
20 learning and having strong interactions with Ms. Manley's  
21 staff. Taking a tour of the Manley Science and Technology  
22 Center, I was so impressed that I would have my 2-month old  
23 son in the care of Ms. Manley and her staff. I believe that  
24 the Manley Science Technology Center will open so many  
25 avenues for our children to excel from an early age. If

**NEAL R. GROSS**

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

1 private corporations are building more penitentiary based  
2 upon minority's 3rd grade test scores, I believe more centers  
3 such as the Manley Science and Technology Center will curve  
4 those statistics. I request you to please grant Ms. Victoria  
5 Manley's special exception for the Manley Science and  
6 Technology Center.

7 We are working towards not building a pipeline to  
8 prison, but a pipeline to college and knowledge. I would  
9 even suggest that you visit the Manley Science and Technology  
10 Center.

11 Thank you for your time.

12 CHAIRPERSON HILL: Thank you. Does anybody have  
13 any questions for the commissioner?

14 All right. Well, Mr. Commissioner, thanks for  
15 coming down. It was a long time to wait to say what you had  
16 to say. Thank you, really -- it really means a lot for  
17 people to, particularly the ANC's to come forward and tell  
18 us what's going on here.

19 Have you been a commissioner for a while?

20 MR. ALLEN: I was sworn in, in 2017.

21 CHAIRPERSON HILL: Okay, so a little bit.

22 MR. ALLEN: My term ends December of 2018.

23 CHAIRPERSON HILL: I see. So you've seen a lot  
24 of meetings?

25 MR. ALLEN: A lot.

**NEAL R. GROSS**

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

1 CHAIRPERSON HILL: Okay, so you were entertained  
2 today, is what you're saying?

3 MR. ALLEN: I enjoyed myself. Thanks for having  
4 me.

5 CHAIRPERSON HILL: Okay.

6 CHAIRPERSON HOOD: So may I ask; you're the  
7 chairman now?

8 MR. ALLEN: Yes, sir. I'm the chairman now.

9 CHAIRPERSON HOOD: Congratulations.

10 MR. ALLEN: Thank you very much.

11 CHAIRPERSON HOOD: Do you plan on staying after  
12 2018?

13 MR. ALLEN: That question still remains.

14 CHAIRPERSON HOOD: Okay. Well, you got a lot more  
15 exciting work ahead of you. Congratulations as well.

16 MR. ALLEN: Thanks a lot.

17 CHAIRPERSON HILL: Congratulations. All right,  
18 is there anybody here wishing to speak in support?

19 Is there anybody here wishing to speak in  
20 opposition?

21 All right. Ms. Manley, I'm going to turn it back  
22 to you. Is there anything else you'd like to add before you  
23 conclude?

24 Okay. All right, I'm going to go ahead and close  
25 the hearing. Let's see; is the board ready to deliberate?

**NEAL R. GROSS**

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

1 SECRETARY MOY: Excuse me, Mr. Chair?

2 CHAIRPERSON HILL: Sure, of course.

3 SECRETARY MOY: I just want to set the record; I  
4 don't know if I mis-spoke earlier, so I thought there was an  
5 ANC letter on the record. I looked and I don't see it, so  
6 I may have confused it with another application.

7 Since the chairman's here, maybe he can testify  
8 whether or not you had submitted an ANC letter?

9 MR. ALLEN: No, we will submit an ANC letter. Ms.  
10 Manley came to our ANC meeting last night and did an awesome  
11 presentation to the community, so we will submit a letter to  
12 you. Just to inform you, when it's the deadline I can submit  
13 the letter to you, sir.

14 CHAIRPERSON HILL: All right. Commissioner Allen,  
15 if you just go ahead and submit it into the record, that will  
16 be fine. And the Office of Zoning across the hall can help  
17 you with that if you need it or not.

18 Okay, so with that being the case, is the board  
19 ready to deliberate?

20 Okay. Again, I didn't have any questions or  
21 thoughts, but the real thing I was kind of curious was the  
22 additional conditions that were being proposed -- not  
23 additional, the remaining conditions -- I don't have an issue  
24 removing the conditions, the three-year issuance of the  
25 order. So I will be in approval of this, and I'm sure others

**NEAL R. GROSS**

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

1 would like to comment, but I think Ms. Manley's sounds like  
2 a lovely facility and I wish her all the best of luck.

3 MEMBER WHITE: I kind of wish I was young enough  
4 to attend, but those days are over. I just wanted to say  
5 that I really take my hat off to you; this is an awesome idea  
6 that you've put together because young people are our future,  
7 right. I'm kind of curious why you call it the Science and  
8 Technology Center?

9 MS. MANLEY: Because during the time I was going  
10 to school -- technology -- I'm always into science. My  
11 grandmother had a garden and we ate healthy. There was a  
12 curriculum from New York called "Bank Street;" "Bank Street"  
13 dealt with the environment and I kind of wanted those kids  
14 in the curriculum. ASI had the create curriculum, the norm;  
15 I was outside the norm. And then technology was booming.  
16 Ten years ago I was like, "Wow, what are we going to need?"  
17 Because there was always a cell phone change or your apple --  
18 so I have an app called "Bright Wheel," or they're in an app  
19 called "Bright Wheel." And "Bright Wheel" my parents get to  
20 go in there and get to communicate without calling; they can  
21 see a child's picture, video, when they go to the bathroom,  
22 when they wake up, what they eat, pictures of what they eat.  
23 We do that all day; me and parents are all day on "Bright  
24 Wheel." Even their observations are on "Bright Wheel."

25 Say this child Monday, his first walk, got it on

**NEAL R. GROSS**

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

1 my phone. I have videotape to send to the parent. Oh, my  
2 goodness. So we have computers; they're from Hatch and Hatch  
3 has computers where the child 2 or 3 years old can touch  
4 their picture and maybe yellow or green will pop up. And so  
5 the computer they have headphones on, "Is this yellow or  
6 green?" So what the computer do is put them on a curriculum  
7 where they are assessed, so if the child gets on and does  
8 this, kicks them right off. This child needs two more weeks  
9 to get back on the computer. However, if they master say  
10 like social/emotional or creative development, one of those,  
11 if they master it, then it'll kick to my computer. I don't  
12 have to stand there and look over them; it comes to my  
13 computer, guess what. And then in the back of the computer  
14 they get an award for whatever goal that they were learning  
15 for that day, which I found was cool.

16           So yes, I spent a lot of money to make sure that  
17 whoever came into the daycare center was going to get quality  
18 care, the babies were going to get the nurturing they need  
19 or they -- so like I say, 30, I don't normally have 30  
20 because I like space. I don't want them packed up because  
21 it's not a money thing for me; it's from my heart. So Manley  
22 Science and Technology came from the technology, all that  
23 good stuff.

24           MEMBER WHITE: Great, I can see how enthusiastic  
25 you're are. Mr. Chair, I'm supportive of this application,

**NEAL R. GROSS**

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



1 especially with OP and the ANC Commissioner's support, and  
2 the fact she's accepted the conditions. So I'm 100 percent  
3 on board with the application.

4 CHAIRPERSON HILL: Okay, great. Thank you.  
5 Anybody else?

6 VICE CHAIRPERSON HART: Yes. Just thank you, Mr.  
7 Chairman. I'd like to echo the comments made so far, Ms.  
8 Manley. And I want to correct something; you said that you  
9 spent a lot of money; I say that you actually made an  
10 investment. And so I think it's a fantastic thing. I think  
11 that you are definitely as enthusiastic about each day as the  
12 last, and probably the next. And I would just commend you  
13 for the work that you've been doing and just wish you the  
14 best. And I do support your application as well.

15 MEMBER JOHN: Mr. Chairman, I support the  
16 application as well.

17 CHAIRPERSON HILL: Okay, all right. Then I'll go  
18 ahead to approve Application No. 19668 as captioned and read  
19 by the secretary, and ask for a second.

20 MS. NAGELHOUT: Second.

21 CHAIRPERSON HILL: Motion made and seconded. All  
22 those in favor?

23 (Chorus of aye.)

24 CHAIRPERSON HILL: Aye. All those opposed?

25 Motion passes. Mr. Moy?

**NEAL R. GROSS**

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

1 MS. NAGELHOUT: Mr. Chair, did you specify the  
2 conditions that you wanted?

3 CHAIRPERSON HILL: Yes, we read through them and  
4 the applicant agreed to all the conditions that we --

5 MS. NAGELHOUT: As proposed by OP?

6 CHAIRPERSON HILL: As proposed by the Office of  
7 Planning, with the exception that there's no time limit now.  
8 So motion made and seconded. All those in favor, aye. All  
9 those opposed. Motion passes, Mr. Moy.

10 SECRETARY MOY: The staff will record the vote as  
11 5-0-0. This is a motion Chairman Hill to approve the  
12 application for the relief. This was the six conditions.  
13 Second the motion Mr. Anthony Hood, Ms. White, Vice Chair  
14 Hart and Ms. John. Motion carries.

15 CHAIRPERSON HILL: Summary order, Mr. Moy?

16 SECRETARY MOY: Thank you, sir.

17 CHAIRPERSON HILL: Okay. Thank you all very much,  
18 thank you for coming by. Thank you.

19 Thank you.

20 (Pause.)

21 CHAIRPERSON HILL: Hello. Mr. Moy, whenever you'd  
22 like.

23 SECRETARY MOY: Okay, the next Case Application  
24 is No. 19679 of MYS Land Investment LLC as amended for  
25 variances from the lot width and lot area requirement,

**NEAL R. GROSS**

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

1 Subtitle E Section 201.1, side yard requirement Subtitle E  
2 Section 307.3 to construct a new one-family dwelling, RF-1  
3 Zone at 4932 Nannie Helen Burroughs Ave. Northeast, Square  
4 5179, Lot 92.

5 CHAIRPERSON HILL: All right, sir, if you could  
6 just introduce yourself, please.

7 MR. SECK: Yes, good afternoon, Chairman and board  
8 members. My name is Oumar Seck, O-U-M-A-R. Last name S-E-C-  
9 K.

10 CHAIRPERSON HILL: Okay. And Mr. Seck, I guess  
11 you're the only one here so you'll be presenting to us. And  
12 hopefully you're the only one here.

13 MR. SECK: Yes.

14 CHAIRPERSON HILL: Let's see; what I'd like to  
15 know, I guess, if you can go through your presentation and  
16 what you're trying to accomplish and the relief that you're  
17 asking. I mean, there are variances that you're asking for,  
18 so you do know that you have to kind of walk us through a  
19 standard, as the three-pronged tasks as to how you're meeting  
20 the relief in order for us to grant -- I'm sorry, meeting the  
21 standard in order for us to grant the relief. One of the  
22 questions that I had, I guess, was that whether or not there  
23 was an affidavit of posting, and also a letter of  
24 authorization? I guess if you're the applicant, I don't know  
25 if there needs to be a letter of authorization. Mr. Moy,

**NEAL R. GROSS**

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

1 maybe you can provide clarity onto that as well.

2 But I'm going to go ahead and -- then, one, I  
3 guess we did get an ANC report and they were in opposition;  
4 you are aware of that, correct?

5 MR. SECK: Yes.

6 CHAIRPERSON HILL: Okay. So if you can walk us  
7 through, again, your application, the relief that you're  
8 requesting, why we should grant that relief. And then also,  
9 if you want to speak to the affidavit posting and also the  
10 ANC as to how that meeting went and what their concerns were.

11 I'm going to put ten minutes on the clock there  
12 just so I know where I am. The clock's over to the left.  
13 And you can begin whenever you like.

14 MR. SECK: Yes. Thank you, Mr. Chairman.  
15 Basically this variance we're asking for is in reference to  
16 the zoning RF-1 which requires 3,000 square feet of lot. And  
17 this particular lot is shy of 269 square feet. And the front  
18 width is the 19.5 but the rear is pretty large, over I think  
19 32 linear feet. And it basically is an end unit to six  
20 houses that we're building, five of which we already have the  
21 permit and construction has started. This is an end fill lot  
22 that we will like to improve and provide parking in the rear.  
23 The variances sits basically on three items which is the lot  
24 size and also the side yard requirement in RF-1 of setback  
25 that with this townhome end unit we will not be able to meet

**NEAL R. GROSS**

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

1 by reducing the house by I believe it's 5 feet. I can double  
2 check that.

3 Right, 5 feet. And this house basically will be  
4 exactly the same as the other five, 19.5 in width, 40 feet  
5 deep, three-level break front, and it's a pretty good selling  
6 item in the neighborhood. We built quite a few of these in  
7 the area. And the fact that the third condition is there for  
8 the side yard to the left is because there's an existing old  
9 structure which is called a key shop, one-story key shop that  
10 eventually, I'm not sure, would be developed. But the  
11 requirement is that when you build on an end, on a property  
12 line, you have to abut it against an existing structure,  
13 which in this case is not possible because the building sits  
14 further away by a few feet. And again, it's a very old,  
15 historic type of structure which I don't know what the fate  
16 of it would be, but eventually what I could estimate is it  
17 will be torn down and developed, maybe into a row house for  
18 that block.

19 And that law the Office of Planning had  
20 introduced, from what I know, is actually being discussed  
21 with the Office of Zoning and to be removed soon, hopefully.  
22 When you build on a property line, there's no existing house  
23 to connect to. We did the posting to answer that other  
24 question on January 15th in the neighborhood and I did attend  
25 two ANC meetings, one of them was their board meeting with

**NEAL R. GROSS**

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

1 the commissioners only. Their main concern and their reason  
2 of opposition is that they want to make Nannie Helen  
3 Burroughs like H Street Northeast, more commercial condo  
4 apartment with retail at the bottom. Now, we're not  
5 commercial builders and this particular zoning is not fit for  
6 that; it is an RF-1 residential. So I presented the case a  
7 couple of times, the second one was on February 8th their ANC  
8 meeting with the neighbors. A few neighbors didn't have any  
9 problem with it, but the commissioners I know they wanted to  
10 actually have the zoning itself changed. So that's why  
11 they're opposed to it. And they were telling me to consider  
12 changing this which we're already in the game with those  
13 other five houses. They didn't want to see basically  
14 residents there, and that's not our call to make it  
15 residential, and would like to ask that the board consider  
16 the granting of the variance.

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

19 MEMBER WHITE: So you're saying that the ANC was  
20 not supportive because they were hoping that you were going  
21 to develop something commercial?

22 MR. SECK: Yes, they actually on the executive  
23 board meeting, one of the commissioner -- I don't recall her  
24 name -- did tell me we want like a Safeway or something like  
25 that. Now, I'm not a Safeway builder and that zoning is not

**NEAL R. GROSS**

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

1 for that. And they brought in another builder whose property  
2 sits in another zoning regulation. I forgot what the R name  
3 is for that and he's building an apartment complex with  
4 retail, but it's not the same. It's on the same street but  
5 further down.

6 MEMBER WHITE: Okay, thank you.

7 VICE CHAIRPERSON HART: Mr. Seck, you're actually  
8 building matter-of-right on Lots 91 through 97?

9 MR. SECK: Yes.

10 VICE CHAIRPERSON HART: I mean, those are already  
11 -- that stuff's already under construction. So really all  
12 we're talking about -- I know we're only talking about it  
13 now, anyway, but even if they wanted you to do that, you're  
14 just building it on that one lot. You could only do that on  
15 that one lot because you're already constructing on the other  
16 lots?

17 MR. SECK: Yes.

18 VICE CHAIRPERSON HART: So yes -- I mean, I  
19 understand the desire to have mixed use construction, but  
20 anyhow. It's not for you -- I wasn't asking any question;  
21 I was just making a statement.

22 MR. SECK: I understand, thank you.

23 CHAIRPERSON HILL: Okay, I'm going to turn to the  
24 Office of Planning.

25 MR. MORDFIN: Good afternoon. I'm Stephen Mordfin

**NEAL R. GROSS**

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

1 and the Office of Planning supports this application to  
2 change the lot from a row house lot into a semi-detached lot  
3 so that the applicant can they build a semi-detached  
4 structure. However, at the same time the applicant wants to  
5 build detached structure lot line to lot line, so therefore  
6 Office of Planning also supports the variance to the side  
7 yard from 5 feet to 0 feet for this lot, which is unusual  
8 because it's the end unit, they don't have control over the  
9 next lot. And so we find that because of that, the property  
10 is unique because of its shape, because of the adjoining  
11 property and it is not wide enough to actually build the  
12 semi-detached structure on it, so the Office of Planning  
13 supports this application.

14 Thank you.

15 CHAIRPERSON HILL: Okay. Anybody have any  
16 questions for the Office of Planning?

17 All right, does the applicant have any questions  
18 for the Office of Planning?

19 MR. SECK: No.

20 CHAIRPERSON HILL: Okay, I'm going to ask, is  
21 there anyone here from the ANC?

22 Is there anyone here wishing to speak in support?

23 Is there anybody here wishing to speak in  
24 opposition?

25 Okay, does the board have any further questions

**NEAL R. GROSS**

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



1 for the applicant?

2 All right, does the applicant have anything  
3 further they'd like to add?

4 MR. SECK: No, Mr. Chairman.

5 CHAIRPERSON HILL: Okay, I'm going to go ahead and  
6 close the hearing. Is the board ready to deliberate?

7 Okay, I am actually comfortable with the  
8 application. I think that it's very clear in my mind that  
9 the standards have been met. Also, the report from the  
10 Office of Planning helps to clarify that, it's disappointing  
11 that the ANC was looking for retail, but that's not  
12 necessarily our place here. But I would be comfortable  
13 moving forward with the application. Does the board have any  
14 other thoughts before I -- does the board have any other  
15 thoughts?

16 Okay, then I'll go ahead and make a motion to  
17 approve Application No. 19679 as captioned and read by the  
18 secretary, and ask for a second.

19 MEMBER WHITE: Second.

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

22 (Chorus of aye.)

23 CHAIRPERSON HILL: Aye. All those opposed?

24 The motion passes. Mr. Moy?

25 SECRETARY MOY: The staff will record the vote as

**NEAL R. GROSS**

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

1 5-0-0, the motion of Chairman Hill to approve the application  
2 for the relief requested. Seconded the motion is Ms. White,  
3 also support Mr. Hood, Vice Chair Hart, Ms. John. Motion  
4 carries.

5 CHAIRPERSON HILL: Okay. Now, we have to do a  
6 full order, correct?

7 SECRETARY MOY: Yes.

8 CHAIRPERSON HILL: All right, so we have to do a  
9 full order, Mr. Moy?

10 All right. Thank you, sir. Thank you.

11 (Pause.)

12 CHAIRPERSON HILL: All right, I got all excited;  
13 I thought we were finished. Mr. Moy, you want to keep moving  
14 along here whenever you get a chance?

15 SECRETARY MOY: Yes, sir. That would be Case  
16 Applicant No. 19665 of DistrictProperties.com Inc. as amended  
17 for a special exception under the new residential development  
18 provisions, Subtitle U Section 421.1 and pursuant to 11DC MAR  
19 Subtitle X Chapter 10 for the variance for the side yard  
20 requirement, Subtitle F Section 306.3 to construct six new  
21 one-family dwellings in RA-1 Zone at premises 18 to 28  
22 Brandywine Street Southeast, Square 6170, Lots 58, 59, 60,  
23 61, 62 and 63.

24 CHAIRPERSON HILL: Okay, thank you. I got all  
25 excited because there's nobody else here, it's Valentine's

**NEAL R. GROSS**

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

1 Day. Like, I'm ready to go.

2 All right, if you could introduce yourself,  
3 please.

4 MR. SECK: Yes, Mr. Chairman. Good afternoon,  
5 board members. My name is Oumar Seck, O-U-M-A-R, last name  
6 S-E-C-K.

7 CHAIRPERSON HILL: All right, Mr. Seck, if you  
8 could walk us through your application and what you are  
9 proposing to do, as well as how you're meeting the standard  
10 for us to grant the application. There was some question I  
11 remember here the last time in terms of OSSE and DPR. I  
12 don't think we've heard from any of them at this point, but  
13 they've had the proper notice, is that correct, Mr. Moy?

14 SECRETARY MOY: Yes, sir. In addition to that,  
15 I personally contacted each of them, one where I left a  
16 detailed voice message and the other I had a conversation,  
17 and I suspect that conversation with the Department of Parks  
18 and Recreation, I believe there would be some follow-up in  
19 written form.

20 CHAIRPERSON HILL: Okay. And to clarify, I just  
21 wanted to make sure that they have the right amount of time.  
22 But Mr. Seck, you can go ahead and begin. I'll put ten  
23 minutes on the clock just so I know where I am or we are.

24 And you can begin whenever you like.

25 MR. SECK: Yes, Mr. Chairman. I'll just take a

**NEAL R. GROSS**

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

1 couple of minutes to make it short. It's Valentine's Day,  
2 as you said.

3           These six townhomes, I was here on January 17th  
4 I believe and you did hear a case and there was a motion to  
5 dismiss, I believe it was the variance or some kind of form  
6 that was applied for. And you did send me back to the ANC  
7 and do the posting for the variance. Now, we did that the  
8 next day and we did the posting and I reached out to the  
9 commissioners involved and sent them an email with the  
10 decision that was made that day. The ANC in our previous  
11 meetings in December, a couple of times I met them and they  
12 did support the special exception. And the variance, I  
13 brought it up during the meeting, as I said, but it was not  
14 something I was requesting. But when you made mention of it  
15 and we needed to have it from them, so we did the posting and  
16 I did hear from Ms. Mobley, Commissioner Mobley who is the  
17 actual commissioner of that area where the townhomes are  
18 going to be built. She did support it, she had a meeting  
19 last night with the other commissioners, and she called me  
20 as a matter of fact late, about 9 o'clock, 9:30, that they  
21 were not able to issue the letter of support for variance  
22 because they want to do it in public with the neighbors, for  
23 the record. But they said that they have a hearing on the  
24 22nd and they will issue a letter of support for a variance.

25           I already have the letter of support for a special

**NEAL R. GROSS**

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

1 exception to build those townhomes. When I reached out to  
2 the commissioners, I didn't get response --

3 CHAIRPERSON HILL: Wait Mr. Seck, just to be  
4 clear. I'm sorry -- you had, I remember this -- you had  
5 presented your application to the ANC, the ANC approved the  
6 application. However, there was the variance you didn't know  
7 was supposed to be there. So the project didn't change at  
8 all, it's just that they were now approving the variance.  
9 But they want to do it in public, but you're on the record  
10 testifying that they would also approve the variance because  
11 the project hasn't changed?

12 MR. SECK: That's correct.

13 CHAIRPERSON HILL: Okay. All right. Is this now  
14 -- I'm having trouble pulling up my documents -- is this the  
15 same development?

16 MR SECK: No, this is Brandywine street.

17 CHAIRPERSON HILL: Okay. All right, does the  
18 board have any questions for the applicant?

19 All right, I'm going to turn to the Office of  
20 Planning.

21 MS. THOMAS: Good afternoon, Mr. Chairman and  
22 members of the board again. Karen Thomas with OP and we will  
23 stand on the record of approval for the site variance relief  
24 on the side yard requirement as requested and for the special  
25 exception to permit the new residential development, the six

**NEAL R. GROSS**

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

1 townhomes in the RA zone.

2 Thank you. I'd be happy to take any questions.

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

5 All right. Okay, is there anyone here from the  
6 ANC?

7 Is there anyone here wishing to speak in support?

8 Is there anyone here wishing to speak in  
9 opposition?

10 Mr. Seck, do you have anything else you'd like to  
11 add?

12 MR. SECK: Just would like to have this variance  
13 granted, Mr. Chairman. That's all.

14 CHAIRPERSON HILL: Okay. You're a busy guy, Mr.  
15 Seck. Do you have a bunch of other projects going on or  
16 these are the only things?

17 MR. SECK: No, I do/cover DC and Virginia as well.

18 CHAIRPERSON HILL: I see. Do they all require  
19 variances or special exceptions?

20 MR. SECK: No.

21 CHAIRPERSON HILL: Okay. All right. Okay, I  
22 don't have any further questions. Does the board?

23 Go ahead and close the record. Is the board ready  
24 to deliberate?

25 Okay. The last time we were here, again -- well,

**NEAL R. GROSS**

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

1 one of the big issues was the variance that was needed, and  
2 the applicant has gone back and rectified that situation.  
3 I do think that I would believe the testimony of the  
4 applicant in terms of the ANC being supportive of the  
5 variance because they were supportive of the special  
6 exceptions. But I would, if you could, Mr. Seck, make sure  
7 they get something on the record to us concerning that  
8 variance once the approval takes place.

9 I didn't have questions for -- I'm sorry; I didn't  
10 have any concerns and based upon the report from the Office  
11 of Planning which I thought was very detailed in terms of how  
12 the standard had been met, I would be moving towards  
13 approval. Does anyone else have anything they'd like to add?

14 I'll go ahead and make a motion to approve  
15 Application No. 19665 as captioned and read by the secretary  
16 and ask for a second.

17 MEMBER JOHN: Second.

18 CHAIRPERSON HILL: Motion made and seconded. All  
19 those in favor?

20 (Chorus of aye.)

21 CHAIRPERSON HILL: Aye. All those opposed?  
22 The motion passes. Mr. Moy?

23 SECRETARY MOY: The staff would record the vote  
24 as 5-0-0, this is a motion for Chairman Hill to approve the  
25 application for relief being requested. Seconded the motion,

**NEAL R. GROSS**

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

1 Ms. John, also in support Mr. Hood, Ms. White, Vice Chair  
2 Hart. The motion carries.

3 CHAIRPERSON HILL: Okay, thank you. Summary  
4 order, Mr. Moy?

5 SECRETARY MOY: Yes, sir.

6 CHAIRPERSON HILL: All right. Thank you, Mr.  
7 Seck.

8 MR. SECK: Thank you very much, Mr. Chairman and  
9 all board members. Happy Valentine's Day.

10 CHAIRPERSON HILL: Thank you, you too.

11 (Pause.)

12 CHAIRPERSON HILL: All right. Mr. Moy, whenever  
13 you'd like.

14 SECRETARY MOY: The next case application is 19636  
15 of Scott Yurchenson, I believe. Caption advertised for  
16 special exception under Subtitle E, Section 5201 from the lot  
17 occupancy requirement, Subtitle E 304.1, and under Subtitle  
18 C Section 1504 from the penthouse requirements of Subtitle  
19 C Section 1500.4, and from the penthouse setback  
20 requirements, Subtitle C Section 1502.1. This would  
21 construct a roof deck and expand an existing rear deck on an  
22 existing flat, RF-1 Zone. This is at 26 Q Street Northeast,  
23 Square 3520 Lot 118.

24 CHAIRPERSON HILL: All right, great. Thank you.  
25 Could you introduce yourselves, please, for the record?

**NEAL R. GROSS**

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



1 MR. YURCHENSON: Scott Yurchenson, I'm the owner  
2 of 26 Q Street No. 2 with my wife. We have neighbors  
3 downstairs, this is a two-unit pop-up condo. I'm just  
4 supposed to introduce myself, so I'm Scott Yurchenson.

5 CHAIRPERSON HILL: That's fine, great. Thank you.  
6 I wouldn't use the word "pop-up," by the way.

7 MR. BLAKE: I was going to say that -- strike  
8 that. My name's Michael Blake; I'm the architect on the  
9 project.

10 CHAIRPERSON HILL: All right. Have you guys both  
11 been sworn in?

12 MR. YURCHENSON: No.

13 CHAIRPERSON HILL: Okay, if you could please stand  
14 and take the oath administered by the secretary to my left.

15 SECRETARY MOY: Do you solemnly swear or affirm  
16 that the testimony you're about to present in this proceeding  
17 will be the truth, the whole truth and nothing but the truth?

18 MR. YURCHENSON: Yes.

19 SECRETARY MOY: Thank you.

20 CHAIRPERSON HILL: Okay, so Mr. Blake, you  
21 presented last time to us, correct?

22 MR. BLAKE: Correct.

23 CHAIRPERSON HILL: So I'm just curious; you guys  
24 just got here, right?

25 MR. YURCHENSON: Right.

**NEAL R. GROSS**

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

1 CHAIRPERSON HILL: So how did you know to get here  
2 kind of the right time?

3 MR. YURCHENSON: I've been here all day.

4 CHAIRPERSON HILL: Oh.

5 MR. YURCHENSON: I was back in the conference room  
6 that your colleagues were nice enough to let me use.

7 CHAIRPERSON HILL: I see, so you were watching.

8 MR. YURCHENSON: I was watching and I hope this  
9 goes as well as Ms. Manley's, because that was kind of a  
10 switch where everything took off from there in a positive  
11 direction.

12 CHAIRPERSON HILL: Yes, unless you're helping out  
13 kids in need, this ain't going to be as happy.

14 All right, let's see; Mr. Blake, I'm going to go  
15 ahead and give you time to present. I mean, I'd like to hear  
16 what changes and what took place since the last time you were  
17 here. And also, if you could speak to, I guess, what you're  
18 doing, what you're trying to do. I mean, obviously Mr. --  
19 how do you say you last name, again?

20 MR. YURCHENSON: Yurchenson.

21 CHAIRPERSON HILL: Yurchenson. Mr. Yurchenson,  
22 also testify if he likes, as to what it is you're trying to  
23 accomplish. I know we can get through some of it, but go  
24 ahead on what you're trying to accomplish and also the  
25 standards in which we grant the relief requested. And then

**NEAL R. GROSS**

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

1 also, I guess, there was a question we can get to maybe the  
2 Office of Planning, and also whether you need Seat 202, but  
3 I can find out more about that when we get to the Office of  
4 Planning.

5           So I'm going to go ahead and give you ten minutes  
6 on the clock there. Mr. Moy, thank you. And you can start  
7 whenever you like.

8           MR. BLAKE: Okay, thank you. The project is to  
9 enlarge two existing rear yard decks off of the 1st floor and  
10 2nd floor of this upper flat and to add a roof deck above  
11 those two, access from an exterior stair on the top deck.  
12 The relief is, there's a few of them; the first one is for  
13 lot occupancy to increase from 63 percent to 70 percent, and  
14 that has to do with the rear yard decks that we are proposing  
15 to push back to the rear lot line. And then the rest of them  
16 relate to the penthouse itself, first one is being able to  
17 do a penthouse on a flat structure in the zone, in any zone,  
18 really. And then also for the one-to-one setback from the  
19 rear, exterior wall which is what we had been working to  
20 address with the Office of Planning and the supplemental  
21 report.

22           CHAIRPERSON HILL: Okay, can you move through the  
23 slide deck just a little bit there, then whenever, so we can  
24 look at something.

25           Thanks.

**NEAL R. GROSS**

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

1 MR. BLAKE: Sure. So this is the existing rear  
2 yard facade with the two decks off of the back that we're  
3 proposing to enlarge. The first floor deck will not be  
4 enlarged. This is the existing and proposed roof plan, and  
5 you can see the extent of the roof deck here and the enlarged  
6 decks below.

7 And here are the elevations. So you can see in  
8 this drawing here, this is the last request for special  
9 exception which has to do with the one-to-one setback off of  
10 the side lot line.

11 I'm going to jump down to --

12 CHAIRPERSON HILL: If you could also, when you get  
13 to the whole issue about the setback from the penthouse that  
14 the Office of Planning had concerns with the first time.

15 MR. BLAKE: Sure. The initial Office of Planning  
16 report denied the request for -- the rear yard setback they  
17 approved for the circular stair but not for the railing.  
18 They wanted to see that had a one-to-one setback, so we did  
19 that, we modified the design to accommodate that in  
20 consultation with Mr. Hedrick and we're, as the supplemental  
21 report shows, we're able to get their approval.

22 And then I do want to just point out, we had some  
23 additional information, some 3D drawings really to try and  
24 show here that the existing alley there are alley structures,  
25 several of the neighbors have alley structures run on the lot

**NEAL R. GROSS**

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

1 line, so visibility of the roof deck will be minimal. And  
2 I think that the development, you can see 24 Q Street here  
3 is 100 percent, here at 20 --

4 MR. YURCHENSON: That's 22.

5 MR. BLAKE: Sorry 22 is at 100 percent, 24 and 30  
6 have the garages right at the rear line. So really we're  
7 trying to show in these 3D drawings that from the perspective  
8 of a pedestrian in the alley the roof deck will be minimal  
9 and we feel that it doesn't negatively impact the character  
10 of the alley.

11 CHAIRPERSON HILL: Okay. Does the board have any  
12 questions for the applicant at this point?

13 All right, we're going to turn to the Office of  
14 Planning.

15 MR. JESICK: Thank you, Mr. Chairman and members  
16 of the board. My name is Matt Jesick. Following the  
17 submission of the revised plans, the applicant eliminated the  
18 need for one special exception that the Office of Planning  
19 had concerns about. And we continue, however, to recommend  
20 approval of the other special exceptions, so we're fully in  
21 support of the case at this time.

22 Thank you.

23 CHAIRPERSON HILL: Mr. Jesick, can you clarify;  
24 what is it that you're opposed to and how do they resolve it?

25 MR. JESICK: We had concerns about the rear

**NEAL R. GROSS**

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

1 railing when it was flush up against the back wall of the  
2 building, they set that back at a one-to-one ratio now.

3 CHAIRPERSON HILL: Okay, but you're okay with that  
4 railing that's right there as the spiral stairwell hits it?

5 MR. JESICK: We were okay where the stair comes  
6 up, yes.

7 CHAIRPERSON HILL: Okay. I'm just curious; if you  
8 were opposed to that, there would be no way you could do it?

9 MR. BLAKE: That's true.

10 CHAIRPERSON HILL: Okay, just curious. Okay, does  
11 the applicant have any questions for the Office of Planning?

12 MR. YURCHENSON: No, but can I just mention a few  
13 words?

14 CHAIRPERSON HILL: Sure.

15 MR. YURCHENSON: I didn't come last time, but I  
16 was asked by Michael to come today. We've owned the place  
17 three years, and I'll keep this real quick, we only have  
18 three more minutes -- but I just wanted to kind of talk about  
19 a couple things that have happened with this place. We  
20 bought the house, my girlfriend and I three years ago, and  
21 since then we have been working diligently and gone through  
22 some other things with a previous developer. And I think you  
23 had maybe, Mr. Hill, mentioned last time when you had asked  
24 something about the decks being made smaller; that was before  
25 our purchase of the house. So we're doing some other

**NEAL R. GROSS**

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

1 significant work on this and we have put our initial offer  
2 on the place with those bigger decks that initially were  
3 there. They had to be made smaller and now we're trying to  
4 go back and get those bigger decks, because as you can see  
5 from the pictures, there's not a whole lot we can do out  
6 there except stand and have a quick chat.

7           So this is really important to us, we've been  
8 working real hard, we've been trying. And I think Michael  
9 said last time, we tried to get a way to make it work from  
10 the inside to eliminate any of those setback requirements,  
11 but it just wouldn't work without really messing around with  
12 the interior and causing a lot more work to be done. So we  
13 found this was the best idea. And I'm happy to address any  
14 kind of concerns or questions you guys have. There's a lot  
15 to it, but happy to answer anything.

16           CHAIRPERSON HILL: Okay. No, I don't have any  
17 questions. Does the board have any questions for the  
18 applicant?

19           One thing, I guess, is do we need Mr. --

20           MR. JESICK: Jesick.

21           CHAIRPERSON HILL: Thank you, Mr. Jesick. Sorry,  
22 I went blank in here at the end of the day.

23           The C202, does that need to be added?

24           MR. JESICK: I did not see that on their self-  
25 certification, so it might need to be added.

**NEAL R. GROSS**

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

1 CHAIRPERSON HILL: Okay, so was it in addition to  
2 a non-conforming use?

3 MR. JESICK: Non-conforming structure.

4 CHAIRPERSON HILL: Non-conforming structure.  
5 Thank you, use/structure. And would the Office of Planning  
6 be in support of that?

7 MR. JESICK: Yes, they have met the standard for  
8 relief of that.

9 CHAIRPERSON HILL: Do you understand what is --?

10 MR. BLAKE: If you can just clarify what the non-  
11 conforming structure is?

12 CHAIRPERSON HILL: Mr. Jesick, could you clarify?

13 MR. JESICK: Sure. The existing structure is at  
14 63 percent lot occupancy which is over the 60 percent limit  
15 and whenever you expand a non-conforming structure you need  
16 that area of relief.

17 Thank you.

18 CHAIRPERSON HILL: So the question is, would you  
19 want to add that to your relief being requested?

20 MR. BLAKE: Yes, please.

21 CHAIRPERSON HILL: Okay. All right. All right,  
22 does -- if no one has anything else -- did I go through --  
23 okay, is anyone here from the ANC?

24 Is there anybody here wishing to speak in support?

25 Is there anyone here wishing to speak in

**NEAL R. GROSS**

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



1 opposition?

2 All right, how did that ANC meeting go?

3 MR. YURCHENSON: It went well. Michael presented  
4 to the ECA, the Eckington Civic Association, we received  
5 support from them. I presented to the ANC and it was 9-0 and  
6 I think one abstention.

7 CHAIRPERSON HILL: Right, I saw it on the record.

8 MR. YURCHENSON: Yes, so that went well.

9 CHAIRPERSON HILL: Why did they abstain?

10 MR. YURCHENSON: The one person?

11 CHAIRPERSON HILL: Uh-huh.

12 MR. YURCHENSON: I didn't get a chance to ask  
13 them.

14 CHAIRPERSON HILL: Okay, just curious.

15 MR. YURCHENSON: I was frustrated at the time.

16 CHAIRPERSON HILL: Okay. All right. Nobody has  
17 any more questions. Does the applicant have anything further  
18 you'd like to add?

19 MR. BLAKE: Just wanted to add that we have gotten  
20 signatures from several of the neighbors, including the ones  
21 most directly adjacent to the property in support of the  
22 project. That's all on the record.

23 CHAIRPERSON HILL: Okay, great. All right, I'm  
24 going to close the hearing. Is the board ready to  
25 deliberate?

**NEAL R. GROSS**

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

1           Okay, I can begin. I do think that after they  
2 have been there -- since we have continued this, there has  
3 been further clarity concerning the application and I would  
4 be in agreement with the recommendations from the Office of  
5 Planning as well as the analysis, as well as adding C202 as  
6 the applicant has requested to their application. Does the  
7 board have anything else they'd like to add?

8           Okay, I'm going to make a motion to approve  
9 Application No. 19636 as captioned and read by the secretary,  
10 including C202, and ask for a second.

11           MEMBER WHITE: Second.

12           CHAIRPERSON HILL: Motion made and seconded. All  
13 those in favor?

14           Aye. All those opposed?

15           The motion passes. Mr. Moy?

16           SECRETARY MOY: Staff would record the vote 5-0-0,  
17 this is the motion from Chairman Hill to approve the  
18 application for the relief -- I would say the amended relief  
19 -- seconded the motion, Ms. White. Also in support, Mr.  
20 Hood, Vice Chair Hart and Ms. John. The motion carries and  
21 Mr. Chair's staff will hold the order until we receive the  
22 revised self-certification.

23           CHAIRPERSON HILL: Thank you. So if you guys can  
24 submit or revise self-certification to the C202. Then, was  
25 there anything else -- no, that was it. Yes, then other than

**NEAL R. GROSS**

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

1 that, Mr. Moy, can we do a summary order?

2 SECRETARY MOY: Yes, sir. Thank you.

3 CHAIRPERSON HILL: Okay, and I guess you can check  
4 and get that in right away.

5 Okay, thank you all very much.

6 MR. YURCHENSON: Thank you.

7 (Pause.)

8 CHAIRPERSON HILL: All right. Mr. Moy, we still  
9 have something else to do, right?

10 SECRETARY MOY: Yes, there is one other  
11 administrative matter before the board.

12 CHAIRPERSON HILL: Okay, and I'm -- so board  
13 members, so we're going to go through elections now, correct?

14 And I can't recall the process the last time, that  
15 we open this up for nominations --

16 SECRETARY MOY: Yes.

17 CHAIRPERSON HILL: Okay, might I begin by saying  
18 I'm opening this up for nominations for Vice Chair. Would  
19 anyone like to make a nomination?

20 MEMBER WHITE: Yes, Mr. Chair. I'd like to make  
21 a nomination to nominate Vice Chair Carlton Hart to continue  
22 to serve as Vice Chair.

23 CHAIRPERSON HILL: Okay, and then I guess I ask  
24 for a second, is that correct?

25 CHAIRPERSON HOOD: I'll second that, Mr. Chair.

**NEAL R. GROSS**

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

1 CHAIRPERSON HILL: Okay, so the motion has been  
2 made and seconded. All those in favor?

3 (Chorus of aye.)

4 Aye. All those opposed?

5 The motion passes. Mr. Moy?

6 SECRETARY MOY: Yes, staff will record that as 5-  
7 0-0.

8 CHAIRPERSON HILL: Okay, great. So there's a  
9 summary order or anything like that?

10 SECRETARY MOY: I don't know if you want to fool  
11 with it.

12 CHAIRPERSON HILL: No, I don't want either one.  
13 Congratulations, Vice Chair Hart, for another year. I  
14 suppose now I would also ask, does anyone have any  
15 nominations for chair?

16 CHAIRPERSON HOOD: Mr. Chairman, I would like to  
17 nominate Mr. Fred Hill. I think he's Chair and the Vice  
18 Chair, actually doing his job and moving things forward on  
19 the Board of Zoning Adjustment, along with their colleagues,  
20 Board Member White and soon-to-be -- well, also now Board  
21 Member John. So I would nominate yourself, Mr. Chairman, as  
22 continuing the spot as the Chairman on the Board of Zoning  
23 Adjustment.

24 MEMBER WHITE: And I would gladly second that  
25 motion.

**NEAL R. GROSS**

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

1 CHAIRPERSON HILL: Thank you, Chairman Hood.  
2 That's very kind of you.

3 CHAIRPERSON HOOD: Since it's you, Mr. Chairman,  
4 let me carry that motion. We move and second. Any further  
5 discussion?

6 All those in favor?

7 (Chorus of aye.)

8 CHAIRPERSON HOOD: Aye. Any oppositions?

9 Not hearing. Mr. Moy, would you record the vote?

10 I always wanted to do that.

11 (Laughter.)

12 SECRETARY MOY: The staff would record the vote  
13 as 5-0-0. This is a motion of Mr. Hood, seconded by Ms.  
14 White, all the board members in support. Motion carries.  
15 Congratulations, Chair and Vice Chair.

16 CHAIRPERSON HILL: Thank you. Again, without our  
17 fellow -- we have our new fellow board member, so we have a  
18 full five now. And also without the help of the staff,  
19 obviously, this job would truly suck. So thank you very much  
20 and Happy Valentine's Day to all, and we are adjourned.  
21 Correct, Mr. Moy?

22 SECRETARY MOY: Yes, sir.

23 CHAIRPERSON HILL: All right, thank you.

24 (Whereupon, the above-entitled matter went off the  
25 record at 3:46 p.m.)

**NEAL R. GROSS**

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

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: 02-14-18

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