

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

+ + + + +

BOARD OF ZONING ADJUSTMENT

+ + + + +

PUBLIC HEARING

+ + + + +

WEDNESDAY

JUNE 5, 2019

+ + + + +

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

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

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

ZONING COMMISSION MEMBER PRESENT:

MICHAEL TURNBULL ZONING COMMISSIONER

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary
JOHN NYARKU, Zoning Specialist

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

MARY NAGELHOUT, ESQ.

OFFICE OF PLANNING STAFF PRESENT:

BRANDICE ELLIOT
ANNE FOTHERGILL
MATTHEW JESICK
CRYSTAL MYERS
KAREN THOMAS

The transcript constitutes the minutes from the
Public Hearing held on June 5, 2019.

A-G-E-N-D-A

Case No. 20018 of Mt. Sinai Baptist Church	4
Case No. 20023 of Matthew Oppenheim	17
Case No. 20024 of DC Department of General Services . .	28
Case No. 19991 of James Anderson	45
Case No. 19983 of DistrictProperties.com	51
Case No. 19985 of DistrictProperties.com	61
Case No. 19988 of Rupsha 2011 LLC	129

NEAL R. GROSS

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

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

10:02 a.m.

1
2
3 MR. MOY: All right, if we can have parties to the
4 table for case application number 20018 of Mt. Sinai Baptist
5 Church, captioned and advertised for a special exception
6 under the use provisions of Subtitle U Section 320.1(b).

7 This would operate a community service center on
8 two floors of an existing building. This is in the RF-1 zone
9 at premises 1646 3rd Street NW, square 520, lot 109.

10 I believe, Mr. Chair, under exhibit 31 there's an
11 affidavit of posting which I believe is late meeting the 15
12 days and filing for that. I don't believe there's an
13 affidavit of abeyance in the record. At least as I checked
14 this morning.

15 CHAIRPERSON HILL: Okay, good morning. If you
16 could please introduce yourselves for the record from my
17 right to left. You need to push the button.

18 MR. SAWYER: My name is Maurice Sawyer, chairman
19 of trustee board at Mt. Sinai Baptist Church.

20 MS. JOYNER: Good morning, my name is Rose Joyner.
21 I'm the operations manager of Washington Literacy Center.

22 MR. WILLIAMS: Good morning. My name is Jimmy
23 Williams. I'm the president and executive director of the
24 Washington Literacy Center.

25 CHAIRPERSON HILL: Was that Williams? I'm sorry.

NEAL R. GROSS

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

1 MR. WILLIAMS: Williams.

2 CHAIRPERSON HILL: Williams, thank you.

3 MR. SULLIVAN: Good morning, Mr. Chairman, members
4 of the board. My name is Marty Sullivan with Sullivan &
5 Barros on behalf of the applicant.

6 CHAIRPERSON HILL: Okay, great. Did you guys all
7 get sworn in earlier? Okay. So Mr. Sullivan, I assume
8 you're going to be presenting to us?

9 MR. SULLIVAN: Yes.

10 CHAIRPERSON HILL: Okay. So just in terms of the
11 preliminary matters was your affidavit of posting late?

12 MR. SULLIVAN: I'm not aware that it was. The
13 posting wasn't late and I think the affidavit was filed on
14 Friday. I think it's in the record.

15 CHAIRPERSON HILL: I see the affidavit. I'm
16 sorry, I see the affidavit of posting. I don't see the
17 affidavit of maintenance.

18 MR. SULLIVAN: I'm not sure. I thought we filed
19 those.

20 CHAIRPERSON HILL: Okay.

21 MR. SULLIVAN: I'm being told that they were filed
22 too by my assistant.

23 CHAIRPERSON HILL: Well, I'm just looking --
24 they're not in the record.

25 MR. SULLIVAN: Can I ask if we can clear that up

NEAL R. GROSS

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

1 after the -- or ask for a waiver.

2 CHAIRPERSON HILL: You're asking for a waiver I
3 guess of the affidavit of maintenance, correct?

4 MR. SULLIVAN: Yes, we would just since the
5 record's not clear on that.

6 CHAIRPERSON HILL: okay. And so can you tell us
7 when -- you posted on time?

8 MR. SULLIVAN: Yes. I have the affidavit of
9 maintenance here. It's not filed. I was told it was filed.
10 But I can come --

11 CHAIRPERSON HILL: Okay. You can file that with
12 the secretary afterwards. And so again, you're just giving
13 testimony that it was maintained.

14 MR. SULLIVAN: Posted on May 21.

15 CHAIRPERSON HILL: Okay and it was maintained
16 since then?

17 MR. SULLIVAN: Maintained on May 24, May 29 and
18 June 3.

19 CHAIRPERSON HILL: Okay. All right. Okay, well
20 I'm comfortable with that. And you've already gone through
21 the ANC, correct?

22 MR. SULLIVAN: Yes.

23 CHAIRPERSON HILL: Okay. So unless the board
24 objects I would be comfortable with waiving the affidavit of
25 maintenance. Okay, all right. So we'll go ahead and waive

NEAL R. GROSS

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

1 the affidavit of maintenance. However, if you would submit
2 that to the secretary for the record that would be great.

3 Outside of that I don't have any specific
4 questions unless the board does. And so I'm going to go
5 ahead and let you walk us through your presentation in terms
6 of what you're trying to do as well as how your client is
7 meeting the standards for us to approve the application.

8 I'm going to put my 15 minutes on the clock, Mr.
9 Moy, so I know where we are. And Mr. Sullivan, you can begin
10 whenever you like.

11 MR. SULLIVAN: Thank you, Mr. Chairman and members
12 of the board.

13 So this is for Mt. Sinai Baptist Church. They own
14 a property located at 1646 3rd Street which is zoned RF-1.

15 It was a building that was built after 1958 and
16 it was approved as a Sunday school with administrative
17 offices which was a matter of right use. So it was
18 constructed as a matter of right building.

19 But the church has never really fully utilized it.
20 And so they've been looking to occupy the space with a use
21 that would be permissible.

22 And there is a special exception which is what
23 we're applying for for a community service center use. And
24 that use has some specific requirements and specific criteria
25 and I'll go through that.

NEAL R. GROSS

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

1 The church desires to lease two floors of the
2 building and a portion of the basement to the Washington
3 Literacy Center.

4 The requirements of Section U 320.1(b) for a
5 community service center, the main requirement is that a
6 community service center is permitted provided that the
7 organization is, quote, "created for the purpose of improving
8 the social or economic well-being of the residents of the
9 neighborhood in which the center is proposed to be located
10 which may include but not be limited to centers for job
11 training, family counseling, consumer cooperatives and such
12 other facilities as are similar in nature and purpose."

13 And we believe that the Washington Literacy Center
14 fits that well.

15 And I'm going to ask Mr. Williams to speak about
16 that and give some more details on the operation of the
17 Washington Literacy Center.

18 The specific criteria for the special exception,
19 first, the service center shall be located so that it is not
20 likely to become objectionable to neighboring properties
21 because of noise or other objectionable conditions.

22 The subject property has plenty of parking spaces
23 10 of which will be used by WLC and it's located within a
24 half mile of the Metro and unlikely to increase traffic
25 conditions in the neighborhood.

NEAL R. GROSS

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

1 The average class size is relatively small,
2 between 8 and 10 students, 3 or 4 classes a day.

3 I want to clarify the hours of operation. It's --
4 there's staff there during the day, but there are some
5 classes in the evening as well. So the hours of operation --
6 till 8 p.m.

7 CHAIRPERSON HILL: Mr. Sullivan, those hours of
8 operation, those were clarified with the ANC as well?

9 MR. SULLIVAN: Yes. That's how it was expressed
10 in all our public meetings.

11 CHAIRPERSON HILL: Okay, great.

12 MR. SULLIVAN: We had several public meetings.
13 And the use shall be reasonably necessary or convenient to
14 the neighborhood in which it is proposed to be located.

15 We're located in Ward 5 which has the third
16 highest illiteracy rate in the city. And so the majority or
17 not the majority but a large number of the WLC students
18 reside in Ward 5.

19 And then the board has approved other cases under
20 this relief too that -- it's not exclusively related to just
21 the immediate neighborhood, but also the wider area of the
22 District.

23 The next requirement is that the service center
24 shall not be organized for profit, and of course Washington
25 Literacy Center is a non-profit organization.

NEAL R. GROSS

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

1 So now I would turn it over to Mr. Williams to
2 tell you a little bit about WLC.

3 MR. WILLIAMS: Thank you. The Washington Literacy
4 Center was founded in 1963 so we've been operating well over
5 56 years.

6 We're founded as a non-profit exclusively to teach
7 reading. We've evolved, now we teach reading, math,
8 workforce skills, but our primary focus is adults who operate
9 or function at the basic level.

10 We operate as a school with workforce occupational
11 literacy as I mentioned earlier. But the concept between
12 Washington Literacy Center is educational, fully educational.

13 We are community-based. We do serve all eight
14 wards within the city.

15 In terms of numbers we really work with a lot of
16 -- approximately 150 students. Currently we're operating at
17 a low ebb. We don't have that large number in the building
18 at one given time.

19 We are also located in a very similarly situated
20 area. Right now we're currently located in the Thurgood
21 Marshall Building, 1816 12th Street which is a very similar
22 area to this. Residential with a non-profit in a similarly
23 shaped building.

24 We -- our object is to really meet the needs of
25 the District residents. There are approximately 90,000

NEAL R. GROSS

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

1 adults who are functioning at the basic level in Washington,
2 DC which is where we operate.

3 The problem is that we're moving because we're no
4 longer able to meet the demands of the District of Columbia.
5 We're operating on a much smaller scale.

6 So this allows us to continue to operate in a
7 similar neighborhood, similar building and also serve a
8 larger capacity.

9 I don't know if there's any questions but I just
10 wanted to give you a brief overview of what we do.

11 CHAIRPERSON HILL: Thank you, Mr. Williams. I'm
12 sure if the board has any questions at the end we'll ask them
13 of all of you.

14 MR. WILLIAMS: Okay.

15 MR. SULLIVAN: Thank you. And I also have a
16 representative of Mt. Sinai Church here if you have any
17 questions for the church, for the owner.

18 We've attended and gotten the support of the Bates
19 Area Civic Association, ANC 5E. I have nothing further so
20 if the board has any questions. Thank you.

21 CHAIRPERSON HILL: Okay, great. Does the board
22 have any questions of the applicant?

23 MEMBER JOHN: Just one quick question. How many
24 participants do you currently have and how many do you
25 anticipate having at this new site?

NEAL R. GROSS

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

1 MS. JOYNER: We currently have about 80
2 participants, but I have a backlog of at least 300 or more
3 that are waiting to get into the program. But we just don't
4 have enough space to accommodate them.

5 MEMBER JOHN: Okay, thank you.

6 VICE CHAIRPERSON HART: What is the -- and I'm not
7 sure who this question is going to so whomever has the
8 response.

9 So Mr. Sullivan, you said that this area has the
10 third highest illiteracy in the District. Did I hear that
11 correctly?

12 MR. WILLIAMS: That's -- I can answer it.

13 (Simultaneous speaking)

14 MR. WILLIAMS: Yes, that's correct.

15 VICE CHAIRPERSON HART: Okay. And so you're
16 looking at -- moving to this location will help to be a more
17 central location, is that what you're thinking?

18 MR. WILLIAMS: Well, one there is space. It
19 provides more space. We're currently located in a basement
20 level roughly on about 2,000 square feet.

21 And secondly it's actually an easy to access area.
22 It's not too far from where we're currently located.

23 VICE CHAIRPERSON HART: Okay. And one other
24 question. You have one facility in DC currently.

25 MR. WILLIAMS: That's correct.

NEAL R. GROSS

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

1 VICE CHAIRPERSON HART: And this will be -- this
2 is the one that you're moving to.

3 MR. WILLIAMS: This will be our primary location,
4 yes.

5 VICE CHAIRPERSON HART: Thank you.

6 MEMBER WHITE: I have one question. What kind of
7 feedback have you gotten? I see that the ANC approved it and
8 Bates approved it, but when you presented to them what kind
9 of feedback did you get from the neighbors regarding the
10 program? I don't know if Mr. Williams can answer it, but I'm
11 sure that you've all had some response back from the
12 neighbors.

13 And this just goes to the special exception
14 criteria with respect to it not being objectionable. But I'm
15 sure you can provide some positive feedback.

16 MR. WILLIAMS: I can. Actually at two of the
17 hearings we had two of the neighbors they made contributions
18 in supporting the organization. We had a third that was
19 familiar with the organization that actually referred someone
20 to it.

21 If your question is about negative feedback I
22 personally have not received negative feedback. The only
23 questions I've received is concerns about wanting to know do
24 we serve in the community and is there access for people who
25 are in the surrounding community and the answer is yes.

NEAL R. GROSS

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

1 MEMBER WHITE: I wasn't necessarily looking for
2 negative feedback, but I'm always interested to see what kind
3 of feedback that you have received for purposes of just doing
4 the analysis.

5 MR. WILLIAMS: Yes. It's been very positive.

6 MEMBER WHITE: Great.

7 MR. SAWYER: And as well being a part of the
8 community for over 100 years we have people that have seen
9 the church, they've seen when the building was built and so
10 they -- when we were in front of the civic organization and
11 the ANC they spoke very highly of it because they were very
12 glad that we were continuing our non-profit status and
13 bringing community-based non-profit help into the community.

14 So that's one of our missions, that we stay in
15 that area and continue to serve the area. So that goes along
16 with everything that we've been doing. So they were very
17 favorable of it.

18 MEMBER TURNBULL: Where are you located now?
19 Where are you currently located?

20 MR. WILLIAMS: We're currently at 1816 12th
21 Street. That is the historic YMCA building. Thurgood
22 Marshall Trust Building.

23 MEMBER TURNBULL: Okay, great. Thank you.

24 CHAIRPERSON HILL: Okay. We're going to turn to
25 the Office of Planning.

NEAL R. GROSS

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

1 MS. THOMAS: Good morning, Mr. Chairman and the
2 board. The Office of Planning is recommending approval of
3 this application on the basis of the applicant having met the
4 standards for relief for which the Washington Learning Center
5 would occupy two floors and the basement of the building at
6 this location.

7 Based on our review of its operations we don't
8 anticipate an undue impact on the neighborhood based on its
9 hours of operation nor due to traffic or noise or trash.

10 The regulations anticipate this -- a community
11 service center use within neighborhoods that are targeted to
12 the neighborhoods and to the District as a whole.

13 And with that I'll stand on the record of our
14 report. Thank you.

15 CHAIRPERSON HILL: Okay, great. Thank you. Does
16 the board have any questions for the Office of Planning?
17 Does the applicant have any questions for the Office of
18 Planning?

19 MR. SULLIVAN: No, thank you.

20 CHAIRPERSON HILL: Is there anyone here wishing
21 to speak in support? Is there anyone here wishing to speak
22 in opposition? Mr. Sullivan, is there anything you'd like
23 to add at the end?

24 MR. SULLIVAN: No, thank you.

25 CHAIRPERSON HILL: Does the board have any final

NEAL R. GROSS

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

1 questions of anyone? Okay, I'm going to go ahead and close
2 the hearing. Is the board ready to deliberate? I can go
3 ahead and start.

4 I didn't really have a lot of questions to be
5 quite honest about this. I think that, you know, it sounds
6 like an organization that has been doing just wonderful work
7 for a long time and now they have the ability to kind of
8 expand those abilities to a larger population.

9 I'm sorry to hear that there continues to be such
10 a need. But in terms of the standard with which we're
11 supposed to review the application I believe that they've met
12 all the criteria.

13 In addition to that I would agree with the
14 analysis of the Office of Planning as well as they have the
15 support of the ANC. And I'll be voting in support of the
16 application.

17 Is there anything anyone would like to add?

18 MEMBER WHITE: My only comment is that I agree
19 that they have met the criteria under Subtitle U 320.1. I
20 think it's going to be an added benefit to the community.
21 There's obviously a need.

22 You've got strong neighborhood support with ANC
23 as well as Bates Civic Association. I would strongly support
24 this application.

25 CHAIRPERSON HILL: Okay. I'm going to make a

1 motion to approve application number 20018 as captioned and
2 read by the secretary and ask for a second.

3 MEMBER WHITE: Second.

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

6 (Chorus of ayes)

7 CHAIRPERSON HILL: All those opposed. The motion
8 passes, Mr. Moy.

9 MR. MOY: Staff would record the vote as 5-0-0.
10 This is on the motion of Chairman Hill to approve the
11 application for the relief requested. Seconding the motion
12 Ms. White. Also in support Ms. John, Vice Chair Hart and
13 Zoning Commissioner Michael Turnbull.

14 CHAIRPERSON HILL: Great. Thank you. Thank you
15 all very much. Good luck to you all. Thank you very much.

16 MR. MOY: Before I call the next case, Mr.
17 Chairman, I just want to add to my introductory statement
18 earlier. There's another application that was scheduled for
19 today that has been postponed and rescheduled and that is
20 case number 19984 Rupsha 2011 LLC. That is rescheduled to
21 July the 10th.

22 So with that if I can call parties to the table
23 to case application number 20023 of Matthew Oppenheim. And
24 this is amended for special exceptions under Subtitle E
25 Section 5201 from the lot occupancy requirements Subtitle E

NEAL R. GROSS

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

1 Section 304.1 minimum rear yard setback requirements Subtitle
2 E Section 306.1 and from the non-conforming structure
3 requirements Subtitle C Section 202.2 to enclose an existing
4 second story rear porch and to convert an existing flat to
5 a semi-detached principal dwelling unit, RF-1 zone.

6 This is at 1005 P Street NW, square 337, lot 30.

7 CHAIRPERSON HILL: Okay, great. If you could
8 please introduce yourself for the record.

9 MR. OPPENHEIM: Hi, my name is Matthew Oppenheim
10 and I'm one of the owners of 1005 P Street NW.

11 CHAIRPERSON HILL: Okay, Mr. Oppenheim. Let's
12 see. So, if you could just basically walk us through what
13 you're trying to do. And then if you could also kind of
14 speak to the standard with which you are meeting the criteria
15 for us to grant the special exception.

16 I'm going to put 15 minutes on the clock so I know
17 where we are, Mr. Moy. And the clocks, Mr. Oppenheim, are
18 located above your head there to the left and the right. And
19 you can begin whenever you like.

20 MR. OPPENHEIM: Thank you. I am proposing to
21 rebuild and enclose the top portion of the screened in porch.
22 The bottom deck will be rebuilt and utilized in its current
23 manner.

24 This allows for reasonable interior room
25 dimensions and the ability to achieve a family friendly

NEAL R. GROSS

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

1 three-bedroom home.

2 Existing lot occupancy is currently at 70 percent.
3 Strict interpretation of zoning law would not allow for the
4 deck to be replaced as it is non-conforming in both lot
5 occupancy and rear setback.

6 With the proposed addition I am requesting zero
7 change to existing lot occupancy.

8 The adjacent property to the east currently is at
9 100 percent lot occupancy. Directly to the west is an
10 alleyway serving properties located on P, 11th and 10th
11 Street.

12 I'm also needing to request a variance to rear lot
13 setback. Rear lot setback will be at 12 feet 10 inches.

14 CHAIRPERSON HILL: Actually, Mr. Oppenheim, I
15 don't mean to interrupt you. I don't think it was a
16 variance. You can go ahead and keep continuing with your
17 discussion. We can help you work this out.

18 MR. OPPENHEIM: For rear lot setback it is a
19 variance I think because it's -- I'm not proposing any
20 changes.

21 CHAIRPERSON HILL: That's okay. Go ahead and read
22 through what you were reading through there and then when I
23 get to the Office of Planning we'll kind of like figure out
24 a couple of things. But just go ahead and continue. I'm
25 sorry to have interrupted.

NEAL R. GROSS

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

1 VICE CHAIRPERSON HART: And you only have to --
2 just press it once, the button once, and then you can take
3 your hand off. You don't have to keep it on there.

4 MR. OPPENHEIM: Thanks. The proposed improvement
5 of replacing the existing deck and porch with an attractive
6 addition will be an improvement for the neighborhood and
7 direct neighbors.

8 Applying strict application of the zoning
9 regulations would not allow for the replacement of the
10 existing porch and balcony as non-conforming in both lot
11 occupancy and rear lot setback.

12 The proposal will be in harmony with the general
13 use and intent of the zoning regulations and zoning maps.
14 It will not adversely affect the use of neighboring
15 properties.

16 Support from the neighbors including immediate
17 neighbors are included with this submission. We have also
18 received unanimous ANC support.

19 An applicant for special exception under this
20 section shall -- oh sorry. The light and air to the
21 neighboring properties shall not be unduly affected. The
22 privacy, use and enjoyment of neighboring properties shall
23 not be unduly compromised.

24 Sorry, going back to the light and air of
25 neighboring properties shall not be unduly affected. We

NEAL R. GROSS

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

1 provided drawings to immediate neighbors to demonstrate there
2 is no adverse effect to their property. Both neighboring
3 properties already have decks of similar size.

4 And in regards to use and enjoyment of neighboring
5 properties drawings will be provided to the owners of the
6 immediate neighboring properties to demonstrate there is no
7 adverse effect to their property.

8 The addition and accessory dwelling shall not
9 visually intrude upon the character, scale and pattern of
10 houses along the subject street frontage.

11 The drawings provided along with the description
12 demonstrate that the proposed addition was placed in such a
13 manner to respect the scale and character of neighboring
14 properties and views from the alley.

15 I think that's all the conditions. I'm happy to
16 answer questions at this point, kind of go through the
17 drawings and address any questions.

18 CHAIRPERSON HILL: Go ahead, Ms. White.

19 MEMBER WHITE: Just a quick question. You said
20 you had unanimous support from the ANC. Can you give me a
21 little bit more information on that because I didn't see
22 anything in the record unless I'm missing it.

23 MR. OPPENHEIM: We presented to the -- I
24 personally presented to the ANC twice. And there was zero
25 opposition.

NEAL R. GROSS

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

1 CHAIRPERSON HILL: They took a vote?

2 MR. OPPENHEIM: Yes.

3 CHAIRPERSON HILL: They took a vote. You just
4 know that there's not a report in the record.

5 MR. OPPENHEIM: I emailed them a dozen times
6 asking for them to provide that to me. But I can assure you
7 --

8 CHAIRPERSON HILL: Okay, you're testifying before
9 us that it was unanimous.

10 MR. OPPENHEIM: It was unanimous support, yes.

11 CHAIRPERSON HILL: Okay, anyone else?

12 MEMBER TURNBULL: I just had a question. Did your
13 next door neighbor sign off on anything for you?

14 MR. OPPENHEIM: No. They didn't sign. It's an
15 absentee owner right there. They rent it out. And I haven't
16 been able to get in touch with the direct owner.

17 But they're at 100 percent lot occupancy as well
18 there. As you can see the current condition of the house is
19 poor. It's in really poor condition.

20 So I think -- everyone I've spoken with on the
21 street and in the area is going to be happy to see -- this
22 is a -- it's a really pretty street, great area within the
23 city. I think they just are looking forward to it not being
24 an eyesore.

25 MEMBER TURNBULL: I just want to point out that

NEAL R. GROSS

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

1 in your statement of intended use you point out that it's a
2 semi-attached residence. It's really attached residence
3 because it goes from lot line to lot line. Just because you
4 have an alley on one side doesn't make you semi.

5 MR. OPPENHEIM: That's true.

6 MEMBER TURNBULL: Okay.

7 CHAIRPERSON HILL: Anyone else? Okay. Mr.
8 Oppenheim, are you developing this for sale?

9 MR. OPPENHEIM: Yes, sir.

10 CHAIRPERSON HILL: Office of Planning.

11 MS. FOTHERGILL: Good morning. I'm Anne
12 Fothergill with the Office of Planning. The Office of
13 Planning rests on the record in support of the special
14 exception relief.

15 And just to clarify the applicant has requested
16 three special exceptions in form 135 which is a self-
17 certification form.

18 The rear yard relief that the applicant is
19 requesting would be a special exception and not a variance
20 is our understanding.

21 CHAIRPERSON HILL: Thanks for clarifying.

22 MS. FOTHERGILL: And I'm happy to take any
23 questions. Thanks.

24 CHAIRPERSON HILL: Yes, we didn't think you'd
25 care, Mr. Oppenheim.

NEAL R. GROSS

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

1 MR. OPPENHEIM: My architect told me it was a
2 variance because we were exceeding a certain --

3 CHAIRPERSON HILL: That's okay. This is better.
4 Office of Planning.

5 VICE CHAIRPERSON HART: So I'm assuming it's
6 because it's a preexisting condition. Like it's a
7 preexisting non-conformity I guess. Is that right?

8 MS. FOTHERGILL: Well, Subtitle E 5201 allows for
9 a special exception for yards for lot occupancy up to 70
10 percent which they are doing and for expansion of a non-
11 conforming which is C 202.2.

12 So they have requested special exceptions for all
13 three.

14 VICE CHAIRPERSON HART: And this is --

15 MS. FOTHERGILL: You're correct though, they are
16 not expanding any of those.

17 VICE CHAIRPERSON HART: Yes. Okay, thank you.

18 MEMBER TURNBULL: Ms. Fothergill, you point out
19 that this is in the Shaw Historic Zone.

20 MS. FOTHERGILL: Yes.

21 MEMBER TURNBULL: Was the applicant required to
22 go before Shaw?

23 MS. FOTHERGILL: I will defer to the applicant on
24 that. I don't see a note in my report.

25 MR. OPPENHEIM: Say that again?

NEAL R. GROSS

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

1 MEMBER TURNBULL: Shaw Historic Zone. You're in
2 a historic --

3 MR. OPPENHEIM: Yes --

4 MEMBER TURNBULL: Did you go to HPRB?

5 MR. OPPENHEIM: Yes, we've spoken with Brendan
6 Meyer about it. He has zero -- he's in favor. He is in
7 favor of the project.

8 MEMBER TURNBULL: But you have no correspondence
9 from them at all. Or anything that would --

10 MR. OPPENHEIM: I believe we do have written --
11 we do have written correspondence with Brendan Mayer.

12 MEMBER TURNBULL: Let me check the record. Thank
13 you.

14 MR. OPPENHEIM: I don't know if that's been -- I
15 don't know if that's been uploaded. I don't know if we were
16 required to do that based on it being in existing condition
17 right now.

18 MEMBER TURNBULL: Okay. I'm just curious because
19 you're also doing some renovation to the front of the house.
20 You're adding a porch. Aren't you doing something?

21 MR. OPPENHEIM: Right, yes.

22 MEMBER TURNBULL: That's in the space -- you have
23 to go before Department of Transportation to get --

24 MS. FOTHERGILL: Commissioner Turnbull, can I?
25 So I apologize, I didn't include it in the report but I did

NEAL R. GROSS

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

1 speak to both the historic preservation staff and the public
2 space staff about this project. And can confirm that they
3 support it. It will go through public space if needed. And
4 I apologize that I didn't include it in the report.

5 MEMBER TURNBULL: We'll let you go this time.
6 Okay, thank you.

7 CHAIRPERSON HILL: I have a question for OP. So
8 the site to the east is at 100 percent lot occupancy. Do you
9 know how it got to 100 percent lot occupancy?

10 MS. FOTHERGILL: I do not.

11 MR. OPPENHEIM: I asked the same question.

12 CHAIRPERSON HILL: Okay. You asked the same
13 question of who?

14 MR. OPPENHEIM: The people --

15 (Simultaneous speaking)

16 MR. OPPENHEIM: -- who aren't -- yes.

17 CHAIRPERSON HILL: They're probably just going to
18 stay quiet anyway.

19 MR. OPPENHEIM: Yes.

20 CHAIRPERSON HILL: Okay. All right. Anybody
21 else? Okay.

22 Is there anybody here wishing to speak in support?
23 Is there anyone here wishing to speak in opposition? Mr.
24 Oppenheim, is there anything you'd like to add at the end?

25 MR. OPPENHEIM: No, sir.

NEAL R. GROSS

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

1 CHAIRPERSON HILL: Okay. All right. I'm going
2 to close the record. Is the board ready to deliberate?

3 Okay. I thought it was a really interesting
4 design to be quite honest. I thought it was kind of
5 interesting how they were able to do what they were able to
6 do and actually get three bedrooms out of it.

7 I did think that they met the requirements set
8 forth in E 5201.1 -- I'm sorry, E 5201 and so I don't have
9 any issues with the standards. I'm glad to see -- or at
10 least the applicant's testimony that they got approval from
11 the ANC. I don't see why the ANC wouldn't particularly
12 approve this. The place looks like it needs to be done
13 anyway.

14 And so I will be voting in support of the
15 application because I think that they meet the criteria as
16 well as the Office of Planning's analysis I would agree with.
17 And does anyone else have anything they'd like to add?

18 Okay. Then I'll make a motion to approve
19 application number 20023 as captioned and read by the
20 secretary and ask for a second.

21 VICE CHAIRPERSON HART: Second.

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

24 (Chorus of ayes)

25 CHAIRPERSON HILL: All those opposed. The motion

NEAL R. GROSS

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

1 passes, Mr. Moy.

2 MR. MOY: Staff would record the vote as 5-0-0.
3 This is on the motion of Chairman Hill to approve the
4 application for the relief requested. Seconding the motion
5 Vice Chair Hart. Also in support Ms. John, Ms. White and Mr.
6 Mike Turnbull. Thank you.

7 CHAIRPERSON HILL: Thank you very much.

8 MR. OPPENHEIM: Thank you.

9 MR. MOY: If we could have parties to the table
10 to case application number 20024 of DC Department of General
11 Services.

12 This application is captioned and advertised for
13 a special exception under Subtitle C Section 703 from the
14 minimum parking requirements Subtitle C Section 701.5.

15 This would make several improvements to an
16 existing public park in the R-1-B zone at 3950 37th Street
17 NW, square 1905, lot 802.

18 CHAIRPERSON HILL: Great. Thank you, Mr. Moy.
19 Could you please introduce yourselves for the record from my
20 right to left.

21 MR. GHAHRAMANE: Good morning. My name is
22 Shahrokh Ghahramane. I'm representing DC Department of
23 General Services.

24 MR. WHEELER: Good morning. My name is Tom
25 Wheeler. I'm with CGS Architects. We're the design firm for

NEAL R. GROSS

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

1 the project.

2 MS. MAZO: Samantha Mazo with the law firm of
3 Cozen O'Connor and we are zoning counsel for the applicant.

4 MR. ANDRES: Good morning. Erwin Andres with
5 Gorove Slade Associates.

6 CHAIRPERSON HILL: Okay, great. Thank you. Ms.
7 Mazo, I assume you're going to be presenting to us?

8 MS. MAZO: Sure.

9 CHAIRPERSON HILL: No, I was just asking. So, I
10 guess I don't have anything particular that I wanted to hear
11 about. I mean, there's some things that DDOT has kind of
12 thrown out in terms of your TDM and loading management plan
13 just in terms of -- if you could speak to that in terms of
14 if you're in agreement with using those conditions.

15 And then other than that if you want to just kind
16 of walk us through what your client is proposing as well as
17 how you're meeting the standard for us to grant the relief
18 requested.

19 And I'm going to put 15 minutes on the clock again
20 just so I know where we are. And you can begin whenever you
21 like.

22 MS. MAZO: Sure. Thanks very much. We're here
23 today on behalf of the Department of General Services and we
24 are seeking some minor special exception relief for parking
25 associated with the pool house that will be constructed as

NEAL R. GROSS

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

1 part of the Hearst Park pool renovation.

2 Here with me today is Tom Wheeler and he is going
3 to very briefly provide an overview of the pool house design
4 and of the park design.

5 And then also we've got Erwin Andres and he will
6 very briefly describe the public transportation options
7 around the site as well as the onsite parking conditions.

8 Again, this application has ANC support, OP
9 support, DDOT support and the applicant agrees to the
10 conditions proposed by DDOT.

11 So with that we'll move very quickly through the
12 presentation and be here to respond to any questions. Also
13 with me today is a representative of DGS if there are any
14 specific operational questions about the pool or the pool
15 house.

16 MR. WHEELER: Okay. So the site that we're
17 dealing with is the existing Hearst Park. It's about 4.4
18 acres.

19 What's interesting about the site is that it is
20 heavily forested. The site was constructed as a park in the
21 late thirties.

22 And you can see as you look around the edges of
23 the park are heavily forested. What's not readily apparent
24 is that there are significant grades on the site.

25 This picture that's on the screen now is one of

NEAL R. GROSS

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

1 the stairs that comes down from 37th Street into the site.
2 It's an almost 20 foot drop across there. So that's
3 presented a number of problems and challenges as we've sought
4 to develop the site.

5 We worked with the community and presented a
6 variety of different locations for the pool house. And
7 ultimately they wanted to retain the existing soccer field
8 which we'll be renovating.

9 So that brought the pool house and pool and tennis
10 courts down to the south end of the site.

11 Also of note on the site is sort of an L-shaped
12 band of what are known as heritage trees running left to
13 right, east to west along the south part of the site
14 separating the area that we're developing from the soccer
15 field.

16 And then there's another line of trees that runs
17 up the east side. They're all trees that we want to
18 maintain. We've been working with UFA and our arborists to
19 make sure that we don't impact those.

20 VICE CHAIRPERSON HART: These trees here?

21 MR. WHEELER: Yes, correct. And so we've worked
22 to hold our development back from that.

23 So you can see from the plan that it's significant
24 grades all the way around. The pool house is in the lower
25 lefthand corner.

NEAL R. GROSS

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

1 And what we've done in order to maximize the site
2 is push the building into the ground. So it's essentially
3 flush with the ground except for a small entry structure that
4 pops up and comprises a second floor.

5 A view from the street is basically going to be
6 a stone wall and some fencing that encloses the site.

7 And so here's a detailed plan. As I mentioned
8 we've got entrance on the lefthand side on 37th Street.
9 There are 14 bike racks there, 7 located on Idaho Avenue to
10 the east.

11 And then we have the entrance into the property.
12 And then to accommodate deliveries and getting trash out of
13 the building we actually have a material lift that is placed
14 along Quebec Street so that we can get it in and out.

15 Yes, that's right. So as Samantha was noting
16 there's really no vehicular access to the site. The grade
17 change from Quebec down to the pool deck and building level
18 is 16 feet. And then even over along Idaho is 5 to 10 feet
19 of grade change.

20 We explored getting a service drive in, but it
21 really just wasn't feasible. It took up a lot of space that
22 would otherwise be used for program space.

23 And so this is what the residents will see from
24 the corner. We've brought the building up flush with the
25 grade at the corner to create a pocket park, a little amenity

NEAL R. GROSS

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

1 where people can sit, patrons can wait for pickup and
2 whatnot, and then reconstituted a lot of the landscaping
3 around the site. We're cleaning out scrub trees and putting
4 in a lot of new trees and plants.

5 This is an aerial view.

6 CHAIRPERSON HILL: Ms. White had a question.

7 MR. WHEELER: Yes.

8 MEMBER WHITE: Could you explain to me again why
9 parking is not practical for this particular site? And if
10 you have a way for loading trucks to come through or is that
11 something that's not available as well.

12 MR. WHEELER: Sure. Samantha, would you go back
13 to that plan?

14 So you can see on this plan that's on the screen
15 here 37th is to the right -- or to the left, I'm sorry. And
16 then Idaho is to the right and then Quebec along the bottom.

17 And so in early designs we explored bringing the
18 service in and it required a huge retaining wall to retain
19 the earth along Quebec Street.

20 Likewise the three parking spaces would take up
21 a space of let's say -- well, we'd need ADA so approximately
22 40 by 20.

23 Additionally, trying to get that access onto the
24 site would impact a lot of the existing trees and take up a
25 lot of space.

NEAL R. GROSS

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

1 And so the neighbors were really focused on
2 program as opposed to parking. And so if we had put the
3 parking on it would have impacted the tennis courts in all
4 likelihood, the pool deck which is about as tight as it can
5 be.

6 So, from the standpoint of grading as well as
7 meeting the program requirements it just wasn't really
8 feasible to get the parking in.

9 MEMBER WHITE: And the neighbors weren't in favor
10 of having parking.

11 MR. WHEELER: No, they were not. They really
12 wanted as much green space and amenity space as possible.

13 MEMBER WHITE: Okay. I just wanted to clarify.

14 MR. WHEELER: And the trees.

15 MEMBER WHITE: Okay.

16 MR. WHEELER: Yes.

17 MEMBER TURNBULL: What percentage of trees are you
18 saving do you think?

19 MR. WHEELER: You know, I'm sorry, I don't have
20 that number. I can tell you that we're retaining all the
21 heritage trees. And then we are -- there is a landscape plan
22 in the package. If you keep going.

23 MS. MAZO: Sorry, I'll get to the landscape plan
24 in a second.

25 MR. WHEELER: So we're taking out sort of invasive

NEAL R. GROSS

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

1 trees. And so you can see the solid lines are the new trees.
2 The ones with the double lines are I think existing trees.
3 So we are keeping the heritage trees along the east side and
4 along the south, and then the hillside that separates the
5 park from 37th is filled with a lot of scrub, what I call
6 scrub trees. So we're going to thin those out.

7 And then I think we're planting over 100 trees.
8 Yes, over 100 trees on the site.

9 MEMBER TURNBULL: Thank you.

10 MS. MAZO: Just real quickly. Tom, can you just
11 use this site -- sorry, use this image just for orientation
12 to make clear where 37th Street, where Quebec Street and
13 where Idaho Avenue are?

14 MEMBER JOHN: Thank you. I was about to ask you
15 to show us how this park relates to the rest of the
16 neighborhood. I believe I saw another slide. So where is
17 Sidwell High School for example? And as you go through the
18 discussion can you show us where the patrons will park?
19 Thank you.

20 MR. WHEELER: Okay. So here's an aerial view of
21 the general area. North is up. So Sidwell Friends is to the
22 left which would basically be to the west. You can see their
23 play field and the football field and track which is over top
24 of the gymnasium.

25 MEMBER JOHN: My left.

NEAL R. GROSS

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

1 MR. WHEELER: Yes, that's right. So that's
2 Sidwell Friends. And then to the north is Eaton -- I'm
3 sorry, not Eaton. Hearst Elementary School. We're working
4 on Eaton right now.

5 So circled to the north is Hearst Elementary.
6 This aerial shot shows it under construction but it's
7 actually complete and occupied.

8 So between Sidwell and the site is 37th Street on
9 the lefthand side of the site. Quebec is coming across the
10 south of the site. There you go. And then Idaho runs
11 diagonally up the east side of the site.

12 And then there's actually a DDOT right of way that
13 comes from the north on the east side by the school and
14 there's a walking trail that comes down on the east side that
15 separates our site from the neighborhood to the east.

16 MEMBER JOHN: Can you talk about where patrons
17 will park?

18 MR. WHEELER: Yes, sorry. So -- okay, I'll let
19 Erwin address that.

20 MR. ANDRES: Good morning. For the record, Erwin
21 Andres with Gorove Slade Associates.

22 In response to your question, Board Member John,
23 what is shown on the screen are essentially the surrounding
24 parking restrictions.

25 So the purple and the yellow are essentially the

NEAL R. GROSS

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

1 non-RPP sections. They're non-RPP sections of 37th Street.
2 That would allow for visitors parking here.

3 In addition to that to the south of the parking
4 pool both on Quebec and Idaho are sort of those green
5 segments that are adjacent to the site which are RPP.

6 There are a couple of things here that I wanted
7 to bring up because it was in the package, but we just wanted
8 to make sure the board was aware of.

9 The first is that this is an outdoor pool, and
10 it's an outdoor pool that's only open between Memorial Day
11 and Labor Day.

12 What's also important is this is the only outdoor
13 -- DPR outdoor pool in Ward 3. Interestingly enough, all
14 seven of the other wards have outdoor pools and many of them
15 have multiple ones. Ward 3 currently has none.

16 So this in essence is considered a neighborhood
17 serving pool and we anticipate that a lot of people, a lot
18 of the residents in Ward 3 that choose to come here are Ward
19 3 residents so in essence they could park in RPP spaces.

20 In addition to that there's a lot of non-RPP
21 parking that's adjacent to Sidwell on 37th Street that would
22 be available on the weekends when we believe that this
23 facility will be most fully occupied.

24 So, after Memorial Day and until DC public schools
25 sort of is out of session, there's a period of roughly three

NEAL R. GROSS

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

1 weeks. During that three-week period this facility is
2 actually going to be open only on weekends.

3 So in that sense we believe that this is actually
4 very complementary use to a lot of the other institutional
5 uses in the area.

6 And in addition to that the Metro is -- this site
7 is actually close to two Metro stations, both Tenleytown and
8 Cleveland Park, and they're approximately 7/10 of a mile
9 which is roughly a 14-minute walk.

10 But as I said before -- and there's bus lines on
11 Wisconsin Avenue. So, as I mentioned before given that it's
12 serving Ward 3 and it's the only facility in Ward 3 we
13 believe people using this are essentially neighbors.

14 MEMBER WHITE: One question. You're probably
15 going to have a lot of school kids there too because that's
16 two schools, at least two or three schools in that
17 surrounding area.

18 MR. ANDRES: Yes. We believe there's going to be
19 school kids here because they essentially live in the area
20 as well. So we anticipate that not having the curb cut
21 serving the parking was supported by DDOT because they didn't
22 want to essentially break up the pedestrian path to the park.

23 MEMBER JOHN: Thank you. I just disagree with
24 you. I think residents from all over will go to that pool
25 as they do now for the Wilson indoor pool.

NEAL R. GROSS

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

1 So don't assume that you won't have residents from
2 other areas. Unless you did a study.

3 MR. ANDRES: Well, currently as I mentioned the
4 Wilson School, their demand is actually relatively
5 significant because they have competition there.

6 When we actually did the analysis for the Wilson
7 School and the peak traffic demands were actually associated
8 with a lot of the competition.

9 Given that this is an outdoor pool and given that
10 it is a -- it's a pool only open between Memorial Day and
11 Labor Day we anticipate that the demands are going to be
12 closer in because it's not a competition pool like Wilson
13 School.

14 CHAIRPERSON HILL: Okay, anyone else?

15 MR. ANDRES: And I guess one other item. Chairman
16 Hill, when you I guess raised questions regarding DDOT's
17 conditions.

18 With respect to DDOT conditions there are
19 essentially two conditions that they've highlighted which are
20 conditions relative to their recommendation of approval.

21 The first is the implementation of a
22 transportation demand management plan which we agree with,
23 and the implementation of a loading management plan.

24 And given that we are performing some offsite --
25 excuse me, on-street loading for both trash and deliveries

NEAL R. GROSS

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

1 given that we're not providing any curb cuts this provides
2 us an opportunity to satisfy DDOT's comment.

3 CHAIRPERSON HILL: Okay. And you're talking about
4 the TDM plan in exhibit 27E.

5 MR. ANDRES: Yes, that's correct.

6 CHAIRPERSON HILL: Okay. Okay, anyone else? All
7 right. I'm going to turn to the Office of Planning.

8 MS. ELLIOTT: Thank you, Mr. Chairman. Brandice
9 Elliott representing the Office of Planning.

10 The Office of Planning is recommending approval
11 of the special exception -- I'm sorry, I'm just noting on my
12 report that it says variance. This is special exception
13 relief just to clarify.

14 The special exception relief for parking has a
15 whole list of criteria that the applicant can meet and
16 they're only required to meet one of those criteria.

17 They've actually met a few just due to the unique
18 features of the lot. It is impractical to provide parking
19 on the lot because of the grading, because there are no
20 existing curb cuts, and then because of the existing ring of
21 trees including heritage trees around the lot certainly
22 putting in a driveway would eat up a lot of space on the lot
23 and would really disrupt the programming.

24 As described by the applicant the property is
25 transit accessible. The TDM plan has been worked out with

NEAL R. GROSS

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

1 DDOT which includes way-finding and also additional bicycle
2 parking spaces, and then ensuring that trash pickup and
3 loading are -- do not conflict with school drop-off.

4 So OP supports the requested relief and I'm happy
5 to answer any questions you have.

6 CHAIRPERSON HILL: All right. Does the board have
7 any questions for the Office of Planning? Does the applicant
8 have any questions for the Office of Planning?

9 MS. MAZO: No, thank you.

10 CHAIRPERSON HILL: Okay. Is there anyone here
11 wishing to speak in support? Is there anyone here wishing
12 to speak in opposition?

13 How do you say it, Ghahramane?

14 MR. GHAHRAMANE: Ghahramane.

15 CHAIRPERSON HILL: Ghahramane. So when is it
16 going to be done if this is approved?

17 MR. GHAHRAMANE: The plan is to complete by next
18 Memorial weekend. So a year from now.

19 CHAIRPERSON HILL: Okay. DGS couldn't find a pool
20 consultant in DC?

21 MR. GHAHRAMANE: Unfortunately there are not many.

22 CHAIRPERSON HILL: Really. St. Louis. St. Louis,
23 Missouri.

24 MR. GHAHRAMANE: Yes.

25 CHAIRPERSON HILL: Okay. There has to be some A/V

NEAL R. GROSS

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

1 consultants in DC. So, all right. Let's see. Anybody got
2 any more questions?

3 VICE CHAIRPERSON HART: Just one.

4 CHAIRPERSON HILL: Sure.

5 VICE CHAIRPERSON HART: One comment. And this is
6 for Mr. Ghahramane. Just as a reminder DGS projects should
7 be submitted to NCPC for review and we have not seen this.
8 So I'm just making sure that you're aware of that.

9 And you're not being -- I try to tell all the DGS
10 projects as they come through that they should be doing this
11 and we're just finding it -- again, this is just a reminder.

12 MR. GHAHRAMANE: Thank you.

13 VICE CHAIRPERSON HART: Thank you.

14 CHAIRPERSON HILL: Okay. Anybody? Okay.
15 Anything else from the applicant?

16 MS. MAZO: Just very briefly. For the reasons
17 that are stated in the record and stated today at the hearing
18 this pool -- the requested three car space relief associated
19 with the pool house satisfies the special exception standards
20 as set out in the zoning regulations and that the anticipated
21 pool operations will not cause any adverse effect on the
22 surrounding neighbors.

23 All the special exceptions for the special
24 condition under Subtitle 7(c) as Office of Planning
25 identified we satisfy more than one of the requirements to

NEAL R. GROSS

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

1 the extent that it's not physically possible to put parking
2 on the site due to the -- really the grade change and the
3 trees.

4 It is well served by transit. There is a presence
5 of healthy and mature canopy trees.

6 Further Subtitle C 703.3 is satisfied as well as
7 703.4 that we include a transportation management plan
8 approved by DDOT.

9 Also as indicated in the record there's been
10 substantial multiple years of continued community outreach
11 on this project and on the park renovation project.

12 Starting in 2016 there's been outreach to the
13 community. 2017, 2018, 2019 as shown on this slide and also
14 included in the record.

15 The community is very well aware of the park, of
16 the pool. They've been very invested in the project as Mr.
17 Wheeler identified.

18 This particular application is supported by the
19 ANC, OP and DDOT. And for these reasons we would hope that
20 the BZA would also approve and support this application.
21 Thank you.

22 CHAIRPERSON HILL: Okay, great. Thank you, Ms.
23 Mazo. All right, I'm going to go ahead and close the record.
24 Is the board ready to deliberate? Okay, I can start.

25 I did think again that the applicant has met the

NEAL R. GROSS

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

1 criteria for us to approve this application. I would also
2 agree with the analysis that was provided by the Office of
3 Planning.

4 I'm glad to see that again the ANC has no issues
5 or concerns to this. I think that -- I actually know that
6 little area and it's kind of a cute little area that's going
7 to get developed.

8 And so I would be in support of this as it has met
9 the criteria and also with the conditions of DDOT with the
10 implementation of the applicant's TDM plan in exhibit number
11 27E and a loading management plan.

12 Does anyone else have anything they'd like to add?
13 Okay, I'll go ahead and make a motion to approve application
14 number 20024 as captioned and read by the secretary including
15 the conditions from DDOT which was again the implementation
16 of the applicant's TDM plan from exhibit 27E and their
17 loading management plan and ask for a second.

18 VICE CHAIRPERSON HART: Second.

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

21 (Chorus of ayes)

22 CHAIRPERSON HILL: All those opposed. The motion
23 passes, Mr. Moy.

24 MR. MOY: Staff would record the vote as 5-0-0.
25 This is on the motion of Chairman Hill to approve the

NEAL R. GROSS

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

1 application for the relief requested along with the
2 conditions. Seconding the motion Vice Chair Hart, also in
3 support Ms. John, Ms. White and Mr. Michael Turnbull.

4 CHAIRPERSON HILL: Okay, great. Thank you. Thank
5 you all very much.

6 We're going to take a quick 10-minute break and
7 then we'll be back. Thank you.

8 (Whereupon, the above-entitled matter went off the
9 record at 10:56 a.m. and resumed at 11:13 a.m.)

10 CHAIRPERSON HILL: All right, Mr. Moy, whenever
11 you like.

12 MR. MOY: Thank you, Mr. Chairman. And the board
13 is back in session. The time is about 11:15.

14 So, if I can call parties to the table to
15 application number 19991 of James Anderson. This application
16 is captioned and advertised for a special exception under
17 Subtitle E Section 5301 from the lot occupancy requirements
18 of Subtitle E Section 304.1 and the rear yard requirements
19 Subtitle E Section 306.1 which would construct a two-story
20 rear addition and convert an existing attached principal
21 dwelling unit into a two-unit flat. RF-1 zone at 318 Seton
22 Place SE, square 3567, lot 42.

23 CHAIRPERSON HILL: Okay, great. Thank you, Mr.
24 Moy. Good morning still. Could you please introduce
25 yourselves for the record?

NEAL R. GROSS

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

1 MR. ANDERSON: Good morning. My name is James
2 Anderson.

3 MS. ANDERSON: Good morning, I'm Lesa Anderson.

4 CHAIRPERSON HILL: Okay, great. Welcome. Which
5 one of you will be presenting to us first?

6 MR. ANDERSON: James Anderson.

7 CHAIRPERSON HILL: All right, Mr. Anderson. Okay,
8 Mr. Anderson, I guess -- I know this was on the expedited
9 review it looks like at one point and now it's back with us
10 here for the full hearing.

11 If you could just kind of walk us through the
12 project of what you're trying to do and then also tell us a
13 little bit about how you believe you're meeting the criteria
14 for us to grant the special exception.

15 And then if you also -- you could also speak to
16 kind of the work that you've done with the ANC. And I'm
17 going to put 15 minutes on the clock. That is up there on
18 the ceiling on your left and right. And you can begin
19 whenever you like.

20 MR. ANDERSON: Good morning, Chairperson and
21 members. We're asking for a special exception. The addition
22 is visually consistent with the character of the neighborhood
23 and with the scale and pattern of the properties nearby.

24 The original facade which faces the street remains
25 unchanged and in keeping with the character of the

NEAL R. GROSS

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

1 neighborhood.

2 Regarding a perspective from the alleyway rear
3 addition is becoming the norm rather than the exception in
4 the immediate surrounding area. Several homes nearby have
5 additions of similar size including adjacent properties.

6 We're asking for a special exception for rear yard
7 setback and occupancy. And we have -- the OP has gave us a
8 good standing that it meets the criteria. And the ANC gave
9 us a unanimous vote that said that it was okay. And the
10 civic association as well as we have letters from the
11 surrounding neighbors and mostly all of the neighbors in the
12 neighborhood that we downloaded to the website.

13 CHAIRPERSON HILL: Okay, Mr. Anderson. Does the
14 board have any questions for Mr. Anderson?

15 VICE CHAIRPERSON HART: Not a question per se.
16 I just wanted to let you know that we were -- I remember when
17 this case came through and the questions that we had were
18 primarily because there was -- in the original drawings it
19 wasn't clear as to -- I was looking at the photographs and
20 looking at the drawings and they didn't -- they were not
21 connected. They were different.

22 And so it was hard to figure out well, were these
23 drawings the ones that we were looking at, or were they new
24 drawings.

25 But I appreciate the fact that you've submitted

1 drawings that are now consistent with the photographs that
2 we have, and that we have a photograph of the back. I think
3 it was the basement door that was a concern. There was I
4 think the back door may have changed in the original plans
5 to what was actually built and now the plans have it so that
6 it actually shows where that is.

7 And that's very helpful because it just -- when
8 it starts becoming inconsistent it becomes a question as to
9 well, what are we approving exactly. And so that was the
10 problem with the expedited review.

11 We couldn't give a good review of it because we
12 weren't sure if what we were -- and I think we realized that
13 what we were seeing in the images were existing conditions
14 after it had been built. And so that was the kind of
15 confusion that we had during that process.

16 But I appreciate the drawings that you have
17 submitted in exhibit I guess it's 48. And then you updated
18 one to I think show the back door. The elevation in the back
19 was changed. So I appreciate all that because I think it's
20 helpful for us to be able to note that and see that.

21 And you did a good job with your presentation so
22 it was fine. Thanks.

23 CHAIRPERSON HILL: Okay. Does anyone have any
24 questions for the applicant? Okay, I'm going to turn to the
25 Office of Planning.

NEAL R. GROSS

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

1 MS. FOTHERGILL: Good morning. I'm Anne
2 Fothergill with the Office of Planning and the Office of
3 Planning rests on the record in support of the application
4 and the special exception relief. And I'm happy to take any
5 questions. Thanks.

6 CHAIRPERSON HILL: Does anyone have any questions
7 for the Office of Planning? Does the applicant have any
8 questions for the Office of Planning?

9 MR. ANDERSON: No, sir.

10 CHAIRPERSON HILL: Okay. Is there anybody here
11 wishing to speak in support? Is there anyone here wishing
12 to speak in opposition?

13 Mr. and Mrs. Anderson, is there anything you'd
14 like to add at the end?

15 MR. ANDERSON: No, sir. Thank you for your time.

16 CHAIRPERSON HILL: Thank you. Thank you both for
17 coming here. I'm going to close the hearing. Is the board
18 ready to deliberate? Okay, I can start.

19 I didn't have any real questions or concerns with
20 the application. I thought that they are -- that the
21 applicant has done a good job of showing how they're meeting
22 the criteria for us to grant this special exception.

23 I also agree with the Office of Planning's
24 analysis concerning their support as well as I'm glad to see
25 that the ANC 5E was in support with no issues or concerns.

NEAL R. GROSS

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

1 I'm going to be voting in favor of this. Is there
2 anything that anyone else would like to add?

3 VICE CHAIRPERSON HART: Nothing beyond what I
4 already added, but I'd be in support of it as well.

5 MEMBER TURNBULL: Yes, I don't have anything to
6 add other than the fact that I would agree with Mr. Hart that
7 the issue we had last time I think was a drawing issue,
8 things not being reflected accurately.

9 So now that that's done I would be voting in favor
10 of it also.

11 CHAIRPERSON HILL: Okay. I'm going to go ahead
12 and make a motion to approve application number 19991 as
13 captioned and read by the secretary and ask for a second.

14 MEMBER WHITE: Second.

15 CHAIRPERSON HILL: Motion made and seconded. All
16 those in favor say aye.

17 (Chorus of ayes)

18 CHAIRPERSON HILL: All those opposed. Motion
19 passes, Mr. Moy.

20 MR. MOY: Staff would record the vote as 5-0-0.
21 This is on the motion of Chairman Hill to approve the
22 application for the relief requested. Seconding the motion,
23 Ms. White. Also in support Ms. John, Vice Chair Hart and Mr.
24 Michael Turnbull. The motion carries, sir.

25 CHAIRPERSON HILL: Great, thank you. Thank you

NEAL R. GROSS

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

1 all very much. Bye bye.

2 MR. MOY: Sorry about that, Mr. Chairman. I was
3 conversing with our counselor. Okay. If I can call to the
4 table representatives to case application number 19983 of
5 DistrictProperties.com captioned and advertised for area
6 variances from the lot dimension and lot width requirements
7 Subtitle D Section 302.1 and the side yard requirements
8 Subtitle D Section 303.1 to construct a new detached
9 principal dwelling unit R-2 zone. This is at 2028 Jasper
10 Street SE, square 5848, lot 4.

11 CHAIRPERSON HILL: Okay, could you please
12 introduce yourself for the record?

13 MR. DAVIS: Adam Davis, District Properties.

14 CHAIRPERSON HILL: All right, Mr. Davis. I don't
15 have any specific things right away other than I didn't see
16 an ANC report. So that's one thing you'd kind of speak to
17 during your presentation.

18 The other was there was a discussion with the
19 Office of Planning about a 3 foot side yard and that there
20 should have been drawings in the record that indicate the 3
21 foot side yard. But I don't know if I have seen those.

22 So you could speak to those two issues. And then
23 also go ahead and speak to the application itself as well as
24 how you're meeting the criteria for us to grant the
25 application.

NEAL R. GROSS

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

1 I'm going to put 15 minutes on the clock, Mr. Moy,
2 just so we know where you are. And you can begin whenever
3 you like.

4 MR. DAVIS: Good morning, board. Yes, we are
5 desiring to build a new home, attached home at 2028 Jasper
6 Street.

7 This lot is 24 feet wide -- I mean 24 feet 10
8 inches wide. Excuse me, 23 feet 11 inches wide. Our
9 principal home, the home that we're desiring to build is 17
10 feet 10 inches wide by 41 feet 6 inches long therefore
11 requiring a side yard variance.

12 In the architectural plans that we have uploaded
13 the site plans should show that -- the dimensions show that
14 we are allowing for 3 feet of side yard. But other than that
15 that's the only variance that we are asking for.

16 This project does have full ANC support. If you
17 notice the last exhibit that has been uploaded is an email
18 from the ANC chair. I did get a letter of support from them
19 but it was written incorrectly and so they made some changes
20 and I asked them to send me a PDF copy of it. But they
21 didn't, they just sent me the email.

22 So I just uploaded what they sent me. But I do
23 have full support from the SMD, the executive committee and
24 from the ANC.

25 VICE CHAIRPERSON HART: So I had one question on

NEAL R. GROSS

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

1 that, Mr. Chairman. So in the letter they said that the
2 developer has asked for no special requests and/or variances
3 for this project. And I don't understand that. What is it
4 that they're -- I understand that they were in support, or
5 said that they were in support, but the email doesn't -- it
6 doesn't say that there was anything that you all were looking
7 for. So I'm not really sure what you presented to them and
8 then what they understood was the project.

9 MR. DAVIS: I explained to them that there was the
10 3 foot side yard variance that we were asking for. I
11 explained that to them.

12 And like I told them that they wrote it
13 incorrectly and I asked them if they could amend it and send
14 an email to me. And I checked my email this morning, they
15 had not. So I just uploaded what I had to show that they are
16 in full support. But I represented the project to them
17 correctly.

18 VICE CHAIRPERSON HART: No, no, I'm just trying
19 to -- we have to give great weight to the ANC report. This
20 is not an ANC report. It is an email that says what their
21 intention was.

22 And I understand what you've said. I was just
23 trying to -- I guess they may have just erroneously put that
24 in there. I'm not exactly sure what that is.

25 You expect them to have a report in to us?

NEAL R. GROSS

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

1 MR. DAVIS: I do. Yes.

2 VICE CHAIRPERSON HART: And when do you expect
3 that to occur?

4 MR. DAVIS: I expected it last night or this
5 morning so I'm going to give them another call and hopefully
6 they will have it as soon as possible. So hopefully in the
7 next day or two. That's when I'm expecting it.

8 VICE CHAIRPERSON HART: And I see that you said
9 you submitted a landscape plan that shows the 3 foot setback.

10 MR. DAVIS: Yes.

11 VICE CHAIRPERSON HART: Okay. And that's exhibit
12 36 now. Okay. All right. Thank you.

13 MEMBER TURNBULL: But you didn't resubmit
14 architectural plans to show it. I mean, the existing
15 architectural plans still show 2 and a half feet. Only the
16 landscape plan has been upgraded.

17 MR. DAVIS: Oh, I didn't notice that. Okay. So,
18 would you mind --

19 MEMBER TURNBULL: Well, I just -- I'm looking --
20 if I'm correct the last architectural plans are exhibit 6.
21 I think it's exhibit 6. And the site plan on that shows you
22 at 23'11 for the overall lot, but 2 and a half feet for the
23 side yards.

24 So although the landscape plans show that the
25 Zoning Administrator is going to be looking at your other

NEAL R. GROSS

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

1 plans too. So they should be consistent.

2 MR. DAVIS: Oh, I wasn't aware of that. They
3 should both be. So I can make those corrections.

4 MEMBER TURNBULL: Okay.

5 VICE CHAIRPERSON HART: That's a good catch. They
6 still show it being 19 feet in the rest of the plans. And
7 so while we have the landscape plan showing the 3 foot side
8 yard and 17'10 as the building the rest of the plans don't
9 show that. So it's kind of a confusion as to which one are
10 you following. Are you following this or are you following
11 this.

12 So it is helpful to have consistency and we were
13 just talking about the last case. Consistency in drawings
14 helps us understand what is being -- and everyone understand
15 what's being proposed. And right now it's kind of well, is
16 it 19 or 17. Honestly, I'm not exactly sure how anybody
17 would come down on that. So, I would suggest that we have
18 updated plans that show all of the architectural plans
19 showing the 17'10.

20 MR. DAVIS: Absolutely. Okay.

21 MEMBER WHITE: I just want to clarify. So ANC was
22 in full agreement with the 3 foot side yard.

23 MR. DAVIS: Yes.

24 MEMBER WHITE: So we just have to get that in
25 writing.

NEAL R. GROSS

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

1 MR. DAVIS: Yes.

2 MEMBER WHITE: I just wanted to make sure I was
3 clear.

4 MR. DAVIS: Sure.

5 MEMBER WHITE: So there was no neighborhood
6 opposition with respect to that?

7 MR. DAVIS: No, there was not.

8 MEMBER WHITE: Okay.

9 CHAIRPERSON HILL: Okay, so we're going to work
10 through this a little bit more but I don't know what to do
11 now. So again we have the plans. There's the landscape
12 thing that says 3 foot side yard and then the plans have the
13 plans with 2 and a half foot side yard.

14 And so they might submit the 2 and a half foot
15 side yard plans and then I don't know what would happen next.

16 So I'm going to turn to the Office of Planning and
17 the board can think about what we're going to do next.

18 MR. JESICK: Thank you, Mr. Chairman and members
19 of the board. My name is Matt Jesick. The Office of
20 Planning appreciates the applicant's submittal of the new
21 site plan showing the 3 foot side yard. But we fully support
22 the board's direction in requesting revised set of plans.

23 But with that we can fully recommend approval.
24 Thank you.

25 CHAIRPERSON HILL: Okay. Mr. Davis, do you have

NEAL R. GROSS

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

1 any questions for the Office of Planning?

2 MR. DAVIS: No, thank you.

3 CHAIRPERSON HILL: Okay. Is there anyone here
4 wishing to speak in support? Is there anyone here wishing
5 to speak in opposition? Okay.

6 I don't know what to do. We have plans.

7 VICE CHAIRPERSON HART: I think what we end up
8 doing --

9 CHAIRPERSON HILL: And so we've got to wait.

10 (Simultaneous speaking)

11 CHAIRPERSON HILL: All right. So I guess the only
12 reason why, Mr. Davis, I know Mr. Davis you've been here a
13 bunch of times and you're slowly trying to figure out how
14 this works, right.

15 But we -- I think the last time you all were here,
16 and I don't even remember, but I think it was mentioned to
17 you that we needed new plans to reflect the 3 foot side yard.

18 So what you guys did was you just did a
19 landscaping plan reflecting a 3 foot side yard, but the plans
20 itself don't show a building that fits with a 3 foot side
21 yard. So it doesn't help us.

22 And so we can't vote on this today. And so you
23 guys are going to add to my docket again to another time.

24 And so I know it was Mr. Seck that sometimes is
25 here?

NEAL R. GROSS

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

1 MR. DAVIS: Seck.

2 CHAIRPERSON HILL: Mr. Seck. Mr. Seck. And so
3 if we could get this as tidy as possible before you all come
4 here it's beneficial to everybody.

5 So, and so we're going to put this off for a
6 decision. We're going to leave the record open for plans,
7 architectural plans that reflect the 3 foot side yard.

8 MR. DAVIS: Okay.

9 CHAIRPERSON HILL: Okay? And an email --

10 VICE CHAIRPERSON HART: We need the ANC report.

11 CHAIRPERSON HILL: Well, see all -- so you -- they
12 want an ANC report that specifies that they're approving
13 something with a 3 foot side yard. And that I guess they're
14 approving something with the area variances, the lot
15 dimensions, lot width. Something that says -- because in the
16 email it says that you guys haven't asked for any relief.
17 I'm just saying that's what it says in the email.

18 And so there's a lot of confusion in there as
19 well. I mean, basically again for us we're looking for
20 something from the ANC that says these plans are exactly what
21 we've seen and this is what we're in agreement of.

22 This relief that is captioned and explains what
23 the relief is we are approving that relief. And then the
24 Office of Planning, they'll take care of themselves.

25 And so but, so when do you think you can get

NEAL R. GROSS

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

1 something from the ANC? I know you don't know for sure, but
2 when do you think you might be able to get something from the
3 ANC and when do you think you might be able to get us revised
4 architectural plans?

5 MR. DAVIS: I can have both of those I think by
6 the end of business tomorrow.

7 CHAIRPERSON HILL: From the ANC you think by the
8 end of business tomorrow and then revised architectural
9 plans.

10 MR. DAVIS: Yes.

11 CHAIRPERSON HILL: Okay. So then if that's the
12 case then we can put this on for decision next week. Okay.

13 MR. MOY: The applicant I believe said you can
14 submit this into the record this Friday?

15 MR. DAVIS: Well, by the end of business --
16 definitely I should have both of those by the end of business
17 on Friday, yes.

18 MR. MOY: Okay.

19 VICE CHAIRPERSON HART: And when did you meet with
20 the ANC? When was your meeting with the ANC?

21 MR. DAVIS: It was Monday. Monday evening.

22 VICE CHAIRPERSON HART: So the issue in some ways
23 is just that it's fairly recent that they had the meeting.
24 And so I mean, I wish you luck trying to get it by Friday.
25 But that's one of the things that we're really looking for

NEAL R. GROSS

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

1 just because it's a little unclear as to what they heard at
2 their meeting.

3 CHAIRPERSON HILL: All right. So Mr. Davis, if
4 you're going to -- so we're going to try to put it on for
5 decision for next week.

6 If you don't have both of those things you're
7 going to have to ask for a postponement. Can you ask for a
8 postponement on a decision?

9 MR. MOY: You can ask the board to delay its
10 decision by another week or two, whatever the case might be.

11 CHAIRPERSON HILL: Okay. So --

12 MR. MOY: The board can do that on your own
13 motion.

14 CHAIRPERSON HILL: Okay. So we'll see what
15 happens. There's so many cases and so many things going on
16 before we go away on holiday at the end of July. So I just
17 wanted to get as much stuff processed one way or the other
18 in either denial or acceptance, whatever it is as quickly as
19 we can before the end of the summer.

20 So if you can get us again an ANC report that
21 reflects what it is you're asking for and then again revised
22 plans -- I'm sorry, revised architectural drawings that are
23 reflective of a 3 foot side yard.

24 So we're going to close the record other than
25 those two things that I've asked for unless the board wants

NEAL R. GROSS

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

1 anything else? Okay. And we'll put it on for decision next
2 week, Mr. Moy.

3 MR. MOY: That's correct, sir.

4 CHAIRPERSON HILL: Okay, great. All right. Thank
5 you very much, sir.

6 MR. DAVIS: Thank you.

7 CHAIRPERSON HILL: All right, Mr. Moy.

8 MR. MOY: Thank you, Mr. Chairman. Okay, so this
9 is case application number 19985 of DistrictProperties.com
10 captioned and advertised for area variances from the lot
11 dimension and lot width requirements Subtitle D Section
12 302.1, side yard requirements Subtitle D Section 307.1 to
13 construct a new detached principal dwelling unit R-2 zone at
14 419 57th Street NE, square 5228, lot 14.

15 CHAIRPERSON HILL: Okay, great. Thank you. If
16 you can please introduce yourself for the record.

17 MR. DAVIS: Adam Davis, District Properties.

18 CHAIRPERSON HILL: Okay, great. Is the ANC here?
19 Is the ANC here? ANC commissioner here for this ANC? Could
20 you please come forward? Okay, Commissioner, how are you
21 doing today?

22 MS. GAFFNEY: Wonderful.

23 CHAIRPERSON HILL: Good morning. Good. Is it
24 still good morning? If you can please introduce yourself for
25 the record.

NEAL R. GROSS

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

1 MS. GAFFNEY: I'm Mary Gaffney, ANC 7C.

2 CHAIRPERSON HILL: Okay, great, Commissioner.
3 Commissioner, so you all are here actually in support, is
4 that correct?

5 MS. GAFFNEY: No.

6 CHAIRPERSON HILL: No. Well then I'm looking at
7 the wrong thing. Okay. Okay, Commissioner, I'll let you --
8 I'm a little confused here by your letter so I'll kind of
9 like figure that out as we kind of go through here.

10 The reason why I brought you up is again so being
11 an ANC you're a party. And so you can go ahead and
12 participate as any other party during the course of the
13 hearing.

14 And so I'm going to go ahead and go through this
15 in terms of like the applicant can go ahead and give his
16 presentation. And then you'll have an opportunity to
17 question if you have any questions during that presentation.

18 And then you'll have an opportunity to give your
19 presentation. And then the applicant will have an
20 opportunity to question any of your presentation.

21 And then we're going to go back and have Office
22 of Planning. You'll get a chance to kind of talk about the
23 Office of Planning. And then if there's any rebuttal at the
24 end the applicant will have a chance to rebut anything that
25 comes up and then we'll have conclusions.

NEAL R. GROSS

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

1 But I just kind of wanted to walk through a little
2 bit of that with you.

3 MS. GAFFNEY: Okay. I noticed that there is
4 someone else opposing this.

5 CHAIRPERSON HILL: Okay, got it. Sure. So the
6 ANC is only -- the person who's here as a party. Any public
7 figures, anybody who is in the public, they get to testify
8 either in support or opposition during the public testimony
9 portion of the hearing. And that will happen at some point.

10 But you being an ANC commissioner and representing
11 the ANC, you get to participate as a party. You are here
12 representing your ANC, correct?

13 MS. GAFFNEY: Yes.

14 CHAIRPERSON HILL: Okay, great. All right, so
15 that being said Mr. Davis, I'm going to go ahead and put 15
16 minutes on the clock here. So you can again explain what
17 you're trying to do and how you're meeting the criteria for
18 us to grant this application. Okay? And you can go ahead
19 and start whenever you like.

20 MR. DAVIS: Okay, good morning. Yes, District
21 Properties. We own parcel 5228 lot 14 at 419 57th Street.

22 CHAIRPERSON HILL: I'm sorry. Commissioner, if
23 you could just turn off your microphone. If more than one
24 microphone is on it kind of feeds back up here. Thank you
25 so much.

NEAL R. GROSS

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

1 MR. MOY: Mr. Chairman, if I may I believe the
2 relief was amended by the applicant so it's now a special
3 exception as opposed to a variance.

4 CHAIRPERSON HILL: Okay.

5 MR. MOY: Can we double check that?

6 CHAIRPERSON HILL: Okay. So are you, the
7 applicant, you have revised your application so you're no
8 longer seeking area variance?

9 MR. DAVIS: Chapter 2 Subtitle 206.2 area variance
10 for side yard. Because there was a change in terminology I
11 think.

12 CHAIRPERSON HILL: Mr. Moy, can you help clarify
13 this?

14 MS. NAGELHUT: I believe it was originally
15 variances for lot dimension and lot width and side yard. And
16 he's amended it so that the only relief pending now is side
17 yard.

18 MR. DAVIS: Yes, only side yard.

19 MR. MOY: Okay, I just wanted to double check.
20 Just the side yard.

21 CHAIRPERSON HILL: Can you say that again, OAG?

22 MS. NAGELHUT: Originally he was asking for three
23 area variances, lot width, lot area and side yard. The first
24 two were not needed so they were withdrawn. The only relief
25 that's pending is a variance for the side yard.

NEAL R. GROSS

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

1 CHAIRPERSON HILL: Right, so the variance for the
2 side yard. So lot dimension and lot width is now withdrawn.

3 MS. NAGELHUT: Correct.

4 CHAIRPERSON HILL: Okay. But it's still a
5 variance for the side yard.

6 MS. NAGELHUT: Yes.

7 CHAIRPERSON HILL: Okay. All right. Go ahead,
8 Mr. Davis.

9 MR. DAVIS: Okay, thank you. Yes, we own this
10 lot. It's a 25 foot wide lot on 419 57th Street where we're
11 proposing building a 19 foot wide house, our typical standard
12 model home, 19 feet wide by 41 feet 6 inches long.

13 It'll leave the 3 feet of side yard on our parcel
14 land between the two adjacent properties. So we meet all the
15 R-2 criteria except for that side yard variance.

16 VICE CHAIRPERSON HART: You can go ahead.

17 MR. DAVIS: Oh, okay. So yes, we're providing 3
18 feet of side yard and so this is again our typical model home
19 and we don't plan on disturbing any -- we don't foresee any
20 traffic patterns, or we're not planning on disturbing any of
21 the existing properties, adjacent properties which are
22 adjacent to us.

23 And so we're just asking the board for side yard
24 variances as we've asked for other projects in the past.

25 VICE CHAIRPERSON HART: And can you talk about how

NEAL R. GROSS

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

1 you are meeting the variance test? There are three prongs
2 to the variance test. You're requesting a variance.

3 MR. DAVIS: Yes.

4 VICE CHAIRPERSON HART: Okay. So a special
5 exception has criteria that are set forth in the zoning
6 regulations that say this is how you meet a special
7 exception.

8 For the variance test you have to meet three
9 prongs of the -- the three specific items under Subtitle X
10 1000.1 and Subtitle X 1002.1.

11 And it really talks about why you believe that you
12 should be -- we should be granting the variance. So you're
13 going outside of what's allowed under zoning. That's what
14 I'm asking you to talk about.

15 MR. DAVIS: Okay. Well still, our 19 foot -- with
16 the existing criteria of an 8 foot wide side yard, that would
17 only allow us to have like a 7 foot wide house and that would
18 be hard to do.

19 And so therefore with a 3 foot side yard that
20 still allows for enough area for people to walk through or
21 to bring a lawnmower through and still have enough privacy
22 for our adjacent neighbors.

23 VICE CHAIRPERSON HART: And so you're saying that
24 because the shape of the existing lot which is a fairly
25 narrow shape --

NEAL R. GROSS

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

1 MR. DAVIS: Yes.

2 VICE CHAIRPERSON HART: -- that you have -- to be
3 able to be in compliance with the 8 foot minimum side yard
4 on both sides that would mean that the house that you would
5 be able to build would be a much narrower house which is not
6 something that you want -- that you think is a viable option.

7 MR. DAVIS: Yes. With the existing requirements,
8 yes, that would not be a viable option for us. So that's why
9 we're requesting variance, side yard variance.

10 VICE CHAIRPERSON HART: Okay. And with regard to
11 the -- this not being a substantial detriment to the public
12 good and without substantially impairing the intent, purpose
13 and integrity of the zone plan, that's the other part of the
14 variance test that we need to understand.

15 MR. DAVIS: Yes. Yes. As I said, this is not
16 going to disturb the lots to the right nor to the left during
17 construction nor habitation. Even though this off-street
18 parking, there's plenty of off-street parking spaces on 57th
19 Street so it's not going to inhibit traffic, the flow of
20 traffic or cause any unnecessary increase in traffic.

21 VICE CHAIRPERSON HART: And what about the impacts
22 on the adjacent neighbors?

23 MR. DAVIS: So, during our studies we've found
24 there's still plenty of space. Even though it's 3 foot side
25 yard we're not going to disrupt their property during

NEAL R. GROSS

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

1 construction phase nor during -- so our house is still 3 feet
2 from the property line so we're not going to disturb the
3 privacy nor during construction phase we're not going to
4 disturb their privacy.

5 VICE CHAIRPERSON HART: Okay.

6 MEMBER WHITE: So there was a lot of opposition
7 and looking at it in the file. Some of them are adjacent,
8 some of them aren't, but a lot of them are on the same block.
9 And they expressed a number of concerns of which Vice Chair
10 Hart talked about a little bit.

11 But so can you tell me how close would the house
12 be from the adjacent house?

13 MR. DAVIS: Well, from -- okay, from Ms. Daniels'
14 house, the large yellow house on the left it would be
15 approximately 11 feet -- hers comes up to the 8 foot setback.

16 She also has stairs on the side of hers which come
17 to about 3 feet so those stairs come to about 5 feet to the
18 setback. And so altogether our house and her house would be
19 about 11 feet from her house which is basically on that same
20 kind of adjacency.

21 Now over the fence on the other side that's
22 approximately 13 feet. They have a driveway between their
23 house and the property line so that's 3 feet plus the 10
24 feet, so on the right side approximately 13 feet and on the
25 left side approximately 11 feet.

NEAL R. GROSS

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

1 MEMBER WHITE: Thank you.

2 CHAIRPERSON HILL: Anyone else from the board?
3 Okay. Commissioner Gaffney, do you have any questions on the
4 presentation? Or would you just like to make your
5 presentation? You need to push the microphone.

6 MS. GAFFNEY: Yes, there are some questions
7 because number one, he mentioned the distance between the
8 current house and the property that he plans to build.

9 It is too small. The path is too narrow.

10 CHAIRPERSON HILL: Okay. Commissioner, can you
11 pull the microphone just a little bit closer to yourself?
12 And then I'm sorry. So I'm just trying to help clarify.

13 At this point we're asking questions of the
14 applicant and what he made. So whatever you do you just have
15 to make it a question concerning what was just presented.

16 You will also have an opportunity now to present.
17 So I'm just saying like there's a difference between asking
18 a question as to what he asked versus what you're going to
19 now present on.

20 So, do you have any questions as to what he's
21 presented? And you can ask -- you can ask your question do
22 you think there's too little space on either side. I'm just
23 trying to make sure that you're asking questions of what he
24 just said.

25 MS. GAFFNEY: Okay. Understood.

NEAL R. GROSS

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

1 CHAIRPERSON HILL: Okay.

2 MS. GAFFNEY: Right. Do you think that space is
3 enough? Is that enough space distance between the two
4 houses?

5 MR. DAVIS: Yes, I do. In some of our older
6 neighborhoods in Northeast I see that there is a lot of
7 narrow lots with 3 foot side yards. And that's what we based
8 our model off of. And so a number of homes that we've looked
9 at in older residential neighborhoods have like 6 feet of --
10 like 6 feet in between them.

11 And so the way that we've designed this house was
12 11 feet side yard on one side and 13 feet side yard. To make
13 sure that the privacy wasn't an issue we made sure that
14 windows do not line up. And so basically there's still room
15 enough --

16 CHAIRPERSON HILL: Mr. Davis, I kind of lost --
17 you've got a 3 foot side yard on either side. You're not 11
18 foot or 13 foot. You have 3 foot, correct?

19 MR. DAVIS: Three foot side yard on our property,
20 yes, but altogether between the two houses.

21 CHAIRPERSON HILL: I see. So your answer is you
22 think there's enough space.

23 MR. DAVIS: I do feel that, yes.

24 CHAIRPERSON HILL: Okay. Commissioner, do you
25 have another question?

NEAL R. GROSS

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

1 MS. GAFFNEY: No.

2 CHAIRPERSON HILL: Okay. All right. So
3 Commissioner, you also have 15 minutes to go ahead and give
4 your presentation in terms of what you'd like to have the
5 board think about. And you can begin whenever you like.

6 MS. GAFFNEY: Thank you very much. We have had
7 several meetings with District Properties. The neighbors
8 came out and heard his presentation and the community gave
9 him their verdict of not accepting the variance.

10 Because of the small lot, the lot is too small and
11 the 3 footage is too small.

12 There wasn't any line drawn that we could actually
13 see the distance between the two houses. There wasn't
14 anything marked off.

15 On the right side there is a fence that divides
16 that particular lot and the other house. And it seems like
17 it would be very destructive when you start digging and
18 whatnot to that next -- to the house on the left, the yellow
19 house, which is there already existing.

20 And it was very much discussion. The citizens
21 that came back outside went with him and they all look at the
22 lot and discussed it. And they came back inside and made a
23 verdict that they oppose granting him the variance and
24 building a house there.

25 And the design that we saw is not characteristic

NEAL R. GROSS

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

1 for the community. It's appalling that this particular
2 builder always come into a neighborhood especially in our
3 neighborhood trying to find a small space and want to build
4 there.

5 And thinking that the board does not -- how should
6 I say this -- listen carefully to the community's concern.
7 And it seems that they're depending on the board to approve
8 whatever they are presenting. And that's the impression that
9 I have received from the board.

10 This isn't my first time dealing with all of these
11 small variances and what have you and the board granting them
12 permission to build.

13 It's very unfortunate that they do this. So we --
14 we just deny the variance because it is too small for the
15 community. It's too small for that spot and it's not enough
16 space between the two houses. Three feet isn't enough. It's
17 just a little pathway or something. You can just barely walk
18 through.

19 CHAIRPERSON HILL: Okay, Commissioner, thank you.

20 MEMBER TURNBULL: Commissioner Gaffney, I'm just
21 curious. On the other side of the street it appears that
22 there's a lot of other smaller lots than that one. I'm just
23 curious.

24 I'm looking at a plan that shows a lot of smaller
25 lots across the street.

NEAL R. GROSS

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

1 MS. GAFFNEY: Vacant lots?

2 MEMBER TURNBULL: I don't know if they're vacant.
3 I'm assuming there's something on them.

4 MS. GAFFNEY: There are vacant lots across the
5 street.

6 MR. DAVIS: May I answer that?

7 MEMBER TURNBULL: Yes.

8 MR. DAVIS: And so those houses are -- they're
9 rowhouses. That's rowhouses across the street. So they all
10 are contiguous rowhouses with party walls on the property
11 line.

12 MEMBER TURNBULL: How wide are those?

13 MR. DAVIS: Each of those are approximately 20
14 feet each, those lots.

15 MEMBER TURNBULL: Those lots are about 20 feet.

16 MR. DAVIS: Yes. And that's already three or I
17 can't remember what -- but those are all attached single
18 family homes on the other side.

19 MEMBER TURNBULL: All right. The drawing that you
20 have on file that shows the front elevation of the house, is
21 that similar to any of the homes across the street or nearby
22 or what?

23 MR. DAVIS: No, it is not. That's our model. And
24 so no. All the homes pretty much in that area are pretty
25 much single family attached rowhomes or the ones that

NEAL R. GROSS

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

1 directly to the left which is the one, the larger house that
2 Ms. Daniels owns is a larger, a very large single family home
3 built like 15 years ago or something like that.

4 MEMBER TURNBULL: I was just going to say it looks
5 fairly new. It doesn't look that old.

6 MR. DAVIS: Yes. That was new, yes.

7 MEMBER TURNBULL: All right, thank you.

8 MEMBER JOHN: I have a question about -- you say
9 this is your model, your model home. And you built this
10 house in every neighborhood pretty much? This model.

11 MR. DAVIS: This is one of our standard model
12 homes. The 19 foot wide model for lots of this size. We
13 have several different models, but for this 25 foot wide
14 narrow lot this is the typical home that we use.

15 MEMBER JOHN: Okay. I just needed to clarify that
16 it was just for this size lot.

17 MR. DAVIS: Yes.

18 MEMBER JOHN: And did you consider varying the
19 front so that it fits in more with the neighborhood? Do you
20 ever change the look of the front of the building?

21 MR. DAVIS: If asked to, like for instance, on one
22 of our other projects like on Girard Street the ANC
23 specifically asked that we -- it's a row of A frame houses
24 and so they asked us to amend our design to fit the A frame
25 model, or A frame shape of the existing houses.

NEAL R. GROSS

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

1 And so we can -- that's not the feedback we got
2 for this house so that's why we did not. And so to the
3 immediate right and to the immediate left there's the new
4 larger house and to the left is an attached very like
5 nineteen seventies type of thing. So it was hard to kind of
6 fit into the neighborhood vernacular architecturally of the
7 existing buildings.

8 MEMBER JOHN: Thank you.

9 CHAIRPERSON HILL: Okay. Oh, sorry.

10 VICE CHAIRPERSON HART: Just one quick question.
11 Do you know if the -- we'll probably ask the neighbor as
12 well, but do you know if the neighbor tried to purchase this
13 lot?

14 MS. GAFFNEY: Yes. The neighbor when she built
15 that house she asked to purchase the lot but the gentleman
16 would not sell it to her. She said she was trying when she
17 was purchasing that lot and they wouldn't sell it to her.

18 And then all of a sudden, you know, District
19 Properties purchased it. It's where we are today.

20 VICE CHAIRPERSON HART: Okay, thank you.

21 CHAIRPERSON HILL: Mr. Davis, just to kind of
22 follow up on that question, do you know when that yellow
23 house was purchased and when -- when did you guys purchase
24 the lot?

25 MR. DAVIS: I'm not sure when we purchased the

NEAL R. GROSS

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

1 lot. I'm going to assume maybe a year or two ago. It's been
2 fairly recent.

3 I think the existing house to the left, I think
4 that's, what, about 15-20 years old. I'm not sure.

5 CHAIRPERSON HILL: Okay, we'll figure it out.
6 That's all right. We're just kind of asking questions. I
7 was just kind of curious. Maybe it looks like there's some
8 testimony here from somebody that can give a little bit more
9 clarity on that just because we have some questions I guess.

10 Commissioner, do you have any questions -- I'm
11 sorry. Mr. Davis, do you have any questions about the
12 commissioner's testimony?

13 MR. DAVIS: No, I do not.

14 CHAIRPERSON HILL: Okay. All right, Commissioner,
15 let me think. So Commissioner Gaffney, I know you've been
16 down here several times. And I can't remember whether -- I
17 don't think they were all District Properties things. Oh,
18 they were all these -- you need to keep the microphone on.

19 MS. GAFFNEY: I'm sorry.

20 CHAIRPERSON HILL: That's all right. Mostly they
21 were, is that what you just said?

22 MS. GAFFNEY: Yes. They have one right on the
23 corner also.

24 CHAIRPERSON HILL: Okay. And I don't really know
25 where we're going to get with this or what's going to happen

NEAL R. GROSS

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

1 I suppose. But I guess what I always -- and we've had this
2 with other commissioners come down here.

3 I guess I'm always a little bit -- I get stuck
4 sometimes which is like what's supposed to happen to that
5 lot. So that lot's just supposed to be empty.

6 That's the part that I -- and I don't think the
7 applicant has necessarily made a great argument for the
8 variance, but I think that the variance argument is there in
9 that the variance is supposed to be there so that something
10 can be done with the property.

11 And so the community or your community just wants
12 it to be left alone, correct?

13 MS. GAFFNEY: Yes. Because the owner of the house
14 takes care of that property. She has been cleaning that
15 property for years.

16 CHAIRPERSON HILL: Right.

17 MS. GAFFNEY: This property for years. And with
18 the intention she hoped that she would have been able to
19 purchase it but the gentleman did not allow her to purchase
20 it.

21 CHAIRPERSON HILL: Now, when you say the gentleman
22 again, you mean the one when she first bought the place 15
23 years ago?

24 MS. GAFFNEY: I forgot how many years ago, but she
25 did when she was trying to buy it. When she built over there

NEAL R. GROSS

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

1 she was trying to get the rest of the property.

2 CHAIRPERSON HILL: Got it. So she did know there
3 was a lot there when she built the property. She tried to
4 buy it.

5 MS. GAFFNEY: Yes.

6 CHAIRPERSON HILL: So she does know that there was
7 a lot there.

8 MS. GAFFNEY: Yes.

9 CHAIRPERSON HILL: I'm just trying to understand
10 the community. And I understand you would rather not it be
11 there, but the community just expects that lot to be left
12 alone.

13 MS. GAFFNEY: Yes, because it's always clean in
14 compliance with the neighborhood. She cleans it all the
15 time, cuts the grass. It looks beautiful. Complements her
16 house.

17 CHAIRPERSON HILL: Okay. All right. Okay, but
18 it's owned by somebody else.

19 MS. GAFFNEY: Yes.

20 CHAIRPERSON HILL: Right, okay. All right. Does
21 anybody have any questions for the commissioner? Anybody?
22 Okay, I'm going to turn to the Office of Planning.

23 MS. MYERS: Hello, Crystal Myers for the Office
24 of Planning. The Office of Planning is recommending approval
25 of the side yard variance.

NEAL R. GROSS

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

1 As there is a discussion about this and I know
2 opposition I'll just point out that the Office of Planning
3 is recommending approval based off the fact that the lot is
4 a recorded lot. It's a narrow lot. And in order to develop
5 a practical sized house they need a bit of a variance relief.

6 Three feet side yards on both sides we thought was
7 reasonable for maintenance of their own property as well as
8 light and air. And so we felt that it was a reasonable --
9 reasonable to support a variance relief for this project.

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

12 MEMBER WHITE: Yes. So it seems like the side
13 yard is kind of an issue in terms of how it will impact the
14 adjacent property.

15 We've heard testimony that it's narrow, the side
16 yard would be very narrow. But was there anything in the
17 analysis that told you that it would not have a negative
18 impact on the light and the air or any other adverse impacts
19 to the adjacent property owner? To kind of help me make that
20 case or not make the case.

21 I'm just trying to get your position on that.

22 MS. MYERS: No. I mean, 3 feet, we've seen 3 feet
23 side yards in a variety of places in the District. It's
24 something that has occasionally been either existent many,
25 many years ago or has required relief in the past, but it's

NEAL R. GROSS

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

1 not unusual -- or I wouldn't say unusual, but it happens in
2 a variety of cases where a narrow side yard is necessary
3 because of the width of the lot and still an adequate house
4 is developed and there's no issues with maintenance, et
5 cetera.

6 In this particular case on this particular
7 property we looked at -- and in all cases really we look at
8 not just what's going on with this property but what's going
9 on with the adjacent properties, the fact that these two
10 other adjacent properties are developed with single family
11 detached houses and they have their own side yards as the
12 applicant has pointed out, over 10 feet on both sides when
13 you include the current property's 3 foot side yard would
14 conclude that that is more than enough space for light and
15 air for the neighbors and to provide some level of privacy.

16 And as I was mentioning earlier the 3 feet on each
17 side on this particular property allows for the applicant to
18 maintain their own property.

19 You may have noticed in my report I did mention
20 there's a by right option as well where they could have done
21 semi-detached. But in that particular case they would have
22 an at-risk wall and they would not be able to maintain their
23 own property as well in that situation.

24 So Office of Planning actually is more supportive
25 of this being with the 3 feet side yards than with having a

NEAL R. GROSS

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

1 house that is built up to the property line on one side.

2 MEMBER TURNBULL: And the other option would be
3 matter of right.

4 MS. MYERS: It would be, but it would be an at-
5 risk wall situation.

6 MEMBER TURNBULL: Right. Okay, thank you.

7 CHAIRPERSON HILL: And that property line, which
8 side is it? It's not the yellow house. It's on the other
9 side. The south side.

10 MS. MYERS: I'm sorry --

11 CHAIRPERSON HILL: So you could build it to the
12 property line on the south side.

13 MS. MYERS: I think it could be either. They
14 haven't built anything yet. It's a vacant lot. So if they
15 were to develop this lot with one wall to the property line
16 on either side --

17 CHAIRPERSON HILL: They can do that by matter of
18 right.

19 MS. MYERS: They could, but they would have the
20 issue of their wall being on the property line.

21 CHAIRPERSON HILL: If it was an all brick wall.
22 Okay. Anyone else for the Office of Planning?

23 So the one thing I've got just for the Office of
24 Planning is again we've seen this a lot. We have seen this
25 model, business model that is from this particular developer

NEAL R. GROSS

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

1 now quite a few times.

2 And I guess there was something about it being a
3 tax lot versus a record lot that turned into a discussion
4 that we had on a previous issue. I think that was it.

5 And so the fact that -- so the Office of Planning
6 previously, I mean they didn't have any -- and again they're
7 different cases, but they didn't have any issue with it.

8 If this were a tax lot or a record lot it would
9 not have necessarily mattered to the Office of Planning in
10 this case.

11 MS. MYERS: Well, looking at all the factors, it
12 being a record lot, looking at the width of it. It's a whole
13 combination of factors that we consider for it.

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

16 MR. DAVIS: No, thank you.

17 CHAIRPERSON HILL: Does the commissioner have any
18 questions for the Office of Planning?

19 MS. GAFFNEY: No.

20 CHAIRPERSON HILL: You need to push the
21 microphone, Commissioner.

22 MS. GAFFNEY: I'm sorry.

23 CHAIRPERSON HILL: That's all right.

24 MS. GAFFNEY: My concern -- it's not a question,
25 but my concern is that these houses are coming to the

NEAL R. GROSS

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

1 neighborhood and you all are approving all of it. And which
2 the community has to live with these funny designed houses
3 in the community not in compliance and not characteristic of
4 what's in there.

5 And we did ask him to redesign that little house
6 that he normally threw up in people's neighborhoods. And
7 it's odd in the neighborhood. And he's going to have an odd
8 one around the corner also.

9 It's time for something to happen that -- I don't
10 know what's the process and procedures, but if you all would
11 look at -- if you had a chance to go and look at this space,
12 look at the houses there and see if you would like to have
13 one of those houses right next to you in your neighborhood.

14 It's getting very taxing. It is. And I just hope
15 that this project will not be approved to build in this
16 community.

17 CHAIRPERSON HILL: Okay. And the only thing I
18 have for one question for you, Commissioner. I get what you
19 guys are talking about.

20 We're here to try to figure out whether or not
21 this should be granted within the regulations or not. Not
22 whether or not we like it or not. I mean, I'm just letting
23 you know how it works for us.

24 If it meets the criteria which we're supposed to
25 grant it within the regulations then we're supposed to grant

NEAL R. GROSS

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

1 it. It's not that we can say that we don't like it.

2 But I do want to point out one thing in terms of
3 what the Office of Planning has pointed out was that by
4 matter of right they could build up to one of the lot lines.

5 So, they could have a side yard that would be big
6 enough on one side so that they could build all the way up
7 to one of the lot lines and then have a brick wall. And they
8 could do that as a matter of right on one or the other sides
9 if I'm not mistaken. So that's done matter of right.

10 They don't have to be here. They don't have to
11 ask for permission. They don't have to ask for any
12 permission from the ANC.

13 So the Office of Planning has said rather than
14 doing that this is something that we think we could get in
15 support of which we also think would be better for the
16 community.

17 You can still be opposed to it. I'm just trying
18 to let you know kind of where we are trying to figure out our
19 analysis. Okay?

20 MS. GAFFNEY: Okay.

21 CHAIRPERSON HILL: Okay. Let's see. All right.
22 So is there -- sure, of course.

23 MEMBER WHITE: I want to get your feedback on
24 that. What's your position in terms of as opposed to just
25 having the side yard just building to the lot line. You're

NEAL R. GROSS

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

1 opposed to that as well. Or would you board more open to
2 that type of scenario?

3 MS. GAFFNEY: First of all, the structure or the
4 display of the house, the type that he wants to build, the
5 characteristic of that house that's going to be sitting in
6 the neighborhood, it's odd.

7 I mean you could go in many neighborhoods and you
8 can tell who built that house because of the characteristic.

9 I think it's time for -- it is time to have a
10 breathing room between some of these small houses or these
11 lots that need variance. Just because it need variance I
12 don't think they should be granted all the time to build.

13 And this is exactly what has been happening with
14 this particular builder. They come into the neighborhood and
15 they try to I guess find all of these small lots because
16 they're coming down here and you're going to approve it.

17 So what way does the ANC have and the community
18 when we give you all our concerns and whatnot and nothing
19 happens. That's why a lot of them doesn't come down here
20 anymore because they said they're going to do what they want
21 to do anyway so they're wasting their time.

22 And it's getting very monotonous about this now.

23 CHAIRPERSON HILL: Okay. So Commissioner, I'm
24 trying to figure this out also. You guys come down here and
25 sometimes -- everybody is always -- and we're just kind of

NEAL R. GROSS

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

1 having a discussion a little bit I suppose which is that we
2 have seen a lot of ANCs and we listen to the ANC a lot
3 actually. And we do whatever we can within whatever the
4 recommendations are of the ANCs.

5 Where we're again our hands are tied is again
6 whatever the regulations say that we're supposed to be
7 looking at.

8 Now, there is some flexibility on things. And the
9 things that I keep trying to talk about. And you might be
10 down here again. This particular company has found a
11 particular thing, right.

12 And so, but I'm also stuck. I keep saying that
13 lady can take care of that yard all she wants. It's not her
14 property. And so what are we supposed to also do.

15 And so I mean within the regulations I can read
16 through the variance test for you and you've read through the
17 variance test as to whether or not this lot is exceptional.
18 It's a tiny lot.

19 And so you know, but one question that I do have
20 for you I suppose, you keep talking about design and that you
21 were maybe working with the building. Is there a kind of a
22 design that you think the community would have been more --
23 well, two things I suppose.

24 One, do you think there was a design that the
25 community would have been more -- you're talking about the

NEAL R. GROSS

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

1 front of the building in some way that could have been
2 changed in some way that would have made it better.

3 MS. GAFFNEY: Yes.

4 CHAIRPERSON HILL: And did you speak to that with
5 the applicant?

6 MS. GAFFNEY: Sure.

7 CHAIRPERSON HILL: And what did the ANC say that
8 they thought would make it better?

9 MS. GAFFNEY: They told him to try to build --
10 have a design within the compliance of what's there,
11 especially the yellow house. Even though the yellow house
12 is much larger than his property.

13 But have it in compliance or some characteristic
14 of what's in the neighborhood already. What he showed us,
15 that's not in the neighborhood.

16 CHAIRPERSON HILL: Okay. So Mr. Davis, did you
17 guys go back to your architect and try to figure out if there
18 was some way to make it more characteristic of whatever the
19 ANC thought was the neighborhood?

20 MR. DAVIS: We looked at the characteristic
21 rowhouses and the house -- well, the house to the right like
22 I said, it's a semi-attached property, semi-detached house
23 that was done in like the nineteen seventies or something
24 like that.

25 And then like I said the house to the left is a

NEAL R. GROSS

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

1 very large house that was built fairly recently that that
2 doesn't really fall into the character of the existing homes.

3 And so we didn't know what --

4 CHAIRPERSON HILL: You looked at it and you
5 couldn't figure out what to do is what you're saying.

6 MR. DAVIS: We couldn't figure out the context
7 which they were trying to.

8 CHAIRPERSON HILL: Okay. So that's fine. So
9 maybe there should have been or could have been more
10 discussion. I don't know. I've seen your designs before.
11 The design of the front of this house looks like the front
12 of the house in all the other designs.

13 MR. DAVIS: It does.

14 CHAIRPERSON HILL: Okay. All right. Anybody have
15 other questions before we bring in the public? Okay. Is
16 there anybody here wishing to speak in support? Is there
17 anyone here wishing to speak in opposition? If you could
18 please come forward, sir. Commissioner, thanks so much.

19 All right, so if you could just go ahead and state
20 your name and address for the record, please.

21 MR. DANIELS: Marvin Daniels, 425 57th Street NE.

22 CHAIRPERSON HILL: All right, Mr. Daniels, where
23 do you live with regard to the property?

24 MR. DANIELS: Well, the property is my mother's
25 property. I'm her son. So I'm coming out here to represent

NEAL R. GROSS

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

1 her.

2 CHAIRPERSON HILL: That's fine. Which property
3 is your mother's property?

4 MR. DANIELS: 425. The yellow house.

5 CHAIRPERSON HILL: Oh, the yellow house.

6 MR. DANIELS: Yes, sir.

7 CHAIRPERSON HILL: Okay, great. All right. Okay.
8 So Mr. Daniels, you'll have three minutes to give your
9 testimony as a member of the public. And then we'll probably
10 have some questions for you. And so you can begin whenever
11 you like.

12 MR. DANIELS: Okay, thank you. First and foremost
13 I've had discussions with Mr. Davis and ANC Ms. Gaffney.
14 She's correct in what she was explaining to the board that
15 it's one thing that I did want to touch on that wasn't
16 discussed in the street and the parking.

17 We've had several discussions and that's a great
18 concern not only to myself but also to members in the
19 community.

20 Just a quick backdrop. I grew up in the
21 community. The 20 foot lots that's across the street, I was
22 born and raised in one of those homes and my mother, she
23 purchased the lot across the street to have a house built.

24 She tried to purchase -- 20 years ago she tried
25 to purchase the adjacent lot but for whatever reason the

NEAL R. GROSS

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

1 owner at the time was ill and he just wasn't able to
2 consummate the sale. They were in discussions.

3 But nevertheless I'm the person that's maintaining
4 the side lot. And I do understand that there's a new owner
5 now and so on.

6 But sir, the issue is that there's going to be
7 nowhere to park on that street. There's a business already
8 across the street from 425 57th Street. That's a funeral
9 home.

10 There's properties that's already under
11 construction further up the street. And I believe photos
12 were submitted on two different homes that's being built,
13 developments.

14 Just last week, sir, a fire truck couldn't even
15 get down that street. He had to actually turn around and go
16 back, and go back the other way to circle to get to the
17 emergency. The street is too narrow.

18 I had discussions with Mr. Davis is there a
19 possibility of road enhancements or improvements. He said
20 that was out of the question.

21 I explained to him that from my life experience
22 I don't pretend to be an expert, but I do know modifications
23 can be made to drawings to include parking.

24 We're not against growth. But this is simply that
25 area, that street, that lot itself is just simply too small.

NEAL R. GROSS

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

1 We now as residents as it stands right now have to park on
2 the 57th Street side which you have to drive past your home,
3 make a left or a right to park just to walk back to your
4 home.

5 Everything that I'm discussing with the board I
6 discussed with Mr. Davis on two different occasions. Mr.
7 Davis promised me that he would visit the issues not only of
8 myself but the community, the owner, and himself and the
9 owner would come back to discuss our concerns on the second
10 meeting in reference to the parking and the congestion of the
11 street and the size of the street not being able to handle
12 any more congestion or homes.

13 And he didn't. He came back to the second meeting
14 pretty much with the same information he had in the first
15 meeting.

16 And that's just not sufficeable for us to accept
17 because again, we're not against growth, but it has to make
18 sense.

19 I understand the laws. I understand the
20 variances. I understand why we're all here. But at the end
21 of the day the house that's being built it's just not
22 suitable for the neighborhood at this particular time with
23 the drawings that he's presented.

24 It's just counterproductive of the neighborhood
25 right now.

1 Again, I do understand everything. I understand
2 the variance issues and everything. I understand he need
3 qualifications, the builder. But as a community we do have
4 a say because we have to live there.

5 We asked him about changing the design. That was
6 discussed. We were told that the design would be re-
7 discussed, revisited.

8 Again, the parking would be re-discussed and
9 revisited. Nothing had taken place. Basically it was just
10 like this is what we have, you know, you have to accept it.
11 That's the way the community felt.

12 So we felt disrespected. We felt as if it was a
13 condescending situation when Mr. Davis came in and basically
14 told us what his boss was going to do.

15 Nothing against Mr. Davis, but I'm just explaining
16 to the board exactly how the meeting went. And it's a thing
17 whereas though as I explained to him we're taxpayers too.
18 We should have a voice.

19 Again, we're not against growth. Growth is a
20 beautiful thing. But at the same time our voices should be
21 heard. It's our community. It's where we have to live.

22 And again I'm very familiar with this street
23 because I was born and raised there. I grew up there all my
24 life. I don't live there now currently, but I'm always in
25 the neighborhood. I'm always there.

NEAL R. GROSS

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

1 So I mean that's pretty much all I really wanted
2 to say about that. Again I just wanted to touch back on it.
3 The parking, the street is just way too narrow. Emergency
4 vehicles, fire trucks can't even get down the street as it
5 is existing.

6 And kind of look at this property, this house, it
7 goes outside of the neighborhood, it's a fine neighborhood,
8 and including the house I grew up in.

9 I do understand the argument that okay, this house
10 was built and this doesn't look like the other homes in the
11 neighborhood. But this house was purchased 20 years ago.
12 This house was built 20 years ago.

13 And efforts were made to acquire the side lot.
14 They were. It just didn't take place for whatever reason.
15 I understand that too.

16 But sir, the community and not only my mother has
17 some serious concerns about the way this property is being
18 built, the presentation that was given. And we just don't
19 agree with it.

20 We're asking that modifications be made to the
21 drawing. We talked about elevation. He said well maybe a
22 garage or something, you know, a drive port or something for
23 off-street parking. We discussed that in meeting one. And
24 Mr. Davis said that he would talk to the owner in reference
25 to that. But when he came back in meeting two he didn't have

NEAL R. GROSS

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

1 any information in reference to that. So that was a concern.

2 So it's kind of like a thing whereas though we're
3 just simply trying to find something that's going to work not
4 only for the builder but for the community as well because
5 as you see in the letters of opposition it's not just a one
6 or two person thing. That's a pretty nice amount of people
7 that's opposing this being built.

8 And we're open to the builder modifying the
9 drawings. And Mr. Davis said that he would talk to the
10 builder, his boss, the owner. But he came back empty-handed
11 in reference to that.

12 So the community, we felt slighted. So that's
13 pretty much my take.

14 CHAIRPERSON HILL: Okay. Thank you, Mr. Daniels.
15 Just to Mr. Davis real quick and I'll open it up to the board
16 with any questions.

17 You guys aren't asking for parking relief anyway,
18 right? There's no parking relief.

19 MR. DAVIS: No, we're not.

20 CHAIRPERSON HILL: And so, and I guess you don't
21 have a curb cut there now so you'd have to request for a curb
22 cut to get a driveway anyway, correct?

23 MR. DAVIS: Yes, we would.

24 CHAIRPERSON HILL: And Office of Planning, there's
25 no parking relief required or asked for, correct?

NEAL R. GROSS

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

1 MS. MYERS: No. I also want to just point out
2 that there's an unimproved alley in the back. So they don't
3 have an alley.

4 MEMBER TURNBULL: What is it? Is it just grass?

5 MS. MYERS: Yes. I mean, on the drawings, on the
6 maps it's unimproved alley. So that's why parking isn't
7 required.

8 CHAIRPERSON HILL: Okay. And then as far as like
9 -- and I'm saying DDOT doesn't usually approve curb cuts.
10 So no is the shaking of the head by the Office of Planning.

11 So, I'm trying to also understand just what -- so
12 you all have read the Office of Planning's report I assume.
13 Right, okay.

14 And I'm just going to read right in front of --
15 this is where I'm kind of stuck also even though -- I mean,
16 Commissioner, you've been down here before. You're going to
17 probably be down here again. And I'm trying to just let you
18 know that we're hearing you, we're trying to figure it out.
19 But I don't know exactly what to figure out at this point.

20 I mean, I'm going to read right from the report
21 of the Office of Planning. A matter of right semi-detached
22 residential building could be developed on this site with one
23 8 foot side yard and a 17 foot wide house. That means that
24 they could build all the way to one side and then have a 17
25 foot wide house by right. They wouldn't have to be here.

NEAL R. GROSS

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

1 And so that could be all the way up against either
2 your mother's property or I guess all the way up against the
3 other property. And that would be up to them as to which
4 property they decided to build a wall up against. And so
5 that's by right.

6 However, this option is not as practical because
7 there is no opportunity to attach a neighboring building.
8 Both adjacent properties have their side yards along the
9 property line so a semi-detached building on this side would
10 mean creating an at-risk wall that would be a challenge to
11 maintain because it would require accessing the neighbor's
12 property in order to maintain the side wall.

13 So I'm just kind of throwing that out in terms of
14 another thing that we kind of are taking a look at in terms
15 of the Office of Planning's report.

16 Now, as far as Mr. Davis, I mean you know, you've
17 been here now a bunch of times. And actually recently got
18 rejected on one which -- you got rejected on one.

19 So you all have tried to figure out if there's any
20 kind of changes you can do to appease the ANC in some fashion
21 with the way that -- and I don't know what it is to be quite
22 honest, right, in terms of like whether you guys have had
23 enough discussions to be like if there's something that you
24 can help to appease the ANC in terms of the design.

25 And there was nothing that you guys came up with,

NEAL R. GROSS

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

1 is that correct?

2 MR. DAVIS: That is correct. I did not know
3 previous to today about the semi-detached thing so that is
4 something that we can look at if we want to build to one side
5 or the other side. Because there is a driveway. Because the
6 other side comes up to a driveway. So if we want to create
7 that at-risk wall and then possibly make 7 feet wide that's
8 something that we can look at, that I'm willing to look at
9 if that would make the neighborhood a little happier.

10 CHAIRPERSON HILL: Right. So, I do not want to
11 be here giving you, Mr. Davis, any new ideas. And so but the
12 -- no offense to you, Mr. Davis, I'm just saying.

13 So, but to the ANC, right, and now you can talk
14 to the whole ANC. I'm just trying to clarify, Commissioner,
15 that I would imagine the ANC would rather have something like
16 this as opposed to something built -- I don't think they're
17 necessarily going to do it anyway, but built up against to
18 a side yard. Would that be a fair statement? You don't
19 know. You don't know. Okay.

20 Does anybody have any questions for the witness
21 or the ANC or the applicant?

22 MEMBER JOHN: Yes, a question for Mr. Daniels,
23 right?

24 MR. DANIELS: Yes, ma'am.

25 MEMBER JOHN: What kind of design would you like

NEAL R. GROSS

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

1 to see? Why is this design not satisfactory?

2 MR. DANIELS: Well, as discussed with Mr. Davis,
3 ma'am, if the opposition was going to give not accepted and
4 the property and that house is going to be allowed to be
5 built we preferably would like the house to be either the
6 brick front or siding front such as it would match basically
7 the house that's already existing, my mother's house at 425.

8 And with also the 425 residence, it has a
9 driveway. So we would just like some uniformity. If nothing
10 can be done to prevent the building. I understand where the
11 law is. Again, I totally understand that.

12 Basically I'm here because one, I'm speaking on
13 behalf of my mom who can't make it. But for two, I'm just
14 trying to look for a little flexibility from this builder.
15 We just don't feel as though we should be forced to accept
16 what he presents.

17 And I'm coming to the board humbly and asking you
18 all can you have them make some kind of amendments to this
19 project to appease the community. So that's the answer to
20 my question.

21 MEMBER JOHN: So the chairman explained to you
22 that, and I think you get it that if the application meets
23 what the law allows then we don't really have any discretion
24 not to grant it.

25 MR. DANIELS: I understand.

NEAL R. GROSS

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

1 MEMBER JOHN: So in this case the developer has
2 options, but none of them are good. The developer could in
3 my view -- you know, I can't give you advice, but you would
4 have that at-risk wall and your mom could have an 8 foot side
5 yard. So that would work for her but it would not work as
6 well for the developer.

7 And if the lot is not developed it really is
8 wasted space. And it's a record lot. That means -- when you
9 say it's a record lot it means that the size of the lot is
10 approved for residential use in this case.

11 So we can't not allow the project to go through
12 if it meets the regulations.

13 The other thing is as the chairman explained there
14 is no alley. Sometimes in a case like this the developer
15 will put in a parking pad or something because there's access
16 through the alley. In this case there is no access.

17 The other issue is he could put in a curb cut to
18 allow parking in the front like the neighbor. But DDOT does
19 not like to allow new curb cuts because the community would
20 lose approximately two parking spaces on the street. That's
21 why they're not able to put in a curb cut.

22 So, and he's not required to provide parking. So
23 the only issue where I see there's some give is you just said
24 that the neighbors would like brick front, a brick front
25 residence. And the rendering that we see here has a brick

NEAL R. GROSS

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

1 front. So Mr. Davis wanted to say something. Is that your
2 intention to put in a brick front?

3 MR. DAVIS: Yes. Most of our houses, they do have
4 the brick facade and siding all the way around. Now, what
5 I've noticed Ms. Daniels' house is siding all the way around
6 and all the existing houses are brick all the way around.

7 So if Mr. Daniels is suggesting that you want
8 either one material or the other I'm sure my owner would be
9 willing to do that. Because yes, most of our houses it just
10 has the brick front and just siding all the way around. But
11 if you want either one or the other to match the uniformity
12 of the existing structures we can look into that.

13 MEMBER JOHN: Does that mean you would do brick
14 all the way around?

15 MR. DAVIS: I'm going to lean towards siding
16 because that's a little less expensive. I would say probably
17 siding all the way around in the front also.

18 MR. DANIELS: Can I ask a question? Okay. I
19 understand the builder meets the variance request. What
20 about the community safety standards? Should that be also
21 a part of the ruling from the board?

22 As I explained when I first sat down emergency
23 vehicles have a difficult time getting down that street. Is
24 there any consideration that can be made in reference to
25 that?

NEAL R. GROSS

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

1 I know you can't ask the builder to expand the
2 street. I get that. But if you look at the houses, right
3 now there are currently 425 and there's two other homes.
4 There's 425, a lot and two other homes beside the proposed
5 site.

6 All three of those homes have driveways. They
7 have driveways for a reason because of that street. The
8 plans that this builder is proposing doesn't allow again for
9 parking.

10 And that does to this day even without the house
11 being built there poses a public safety issue. It just does.
12 As I said, just last week a fire truck had to circle back out
13 and go up and come back around to get to their emergency.

14 So my question to the board is is there something
15 that can be -- I know you can't make the builder do anything.
16 I get that. After he satisfies and meets his criteria.

17 But is there something that could be put in place
18 or requested or as a publicly approvable that could help for
19 public safety in reference to that street?

20 Because it's really a problem there as far as with
21 the current access of the property right now. You can't --
22 there's no parking on that street. That's why you have over
23 like 15 signatures, people signing off on this in opposition
24 because of this reason.

25 CHAIRPERSON HILL: I was just going to ask Office

NEAL R. GROSS

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

1 of Planning, EMS and all that, how does that work?

2 MS. MYERS: Fire and rescue. They have the
3 opportunity to review plans. They didn't speak on this
4 project. But I would say that perhaps a conversation with
5 DDOT or FEMS would be appropriate if the community wanted to
6 make contact with them.

7 CHAIRPERSON HILL: That would be the ANC.

8 MS. MYERS: I'm sorry, the ANC. Maybe that would
9 be appropriate as to -- outside of this case just bring up
10 that this particular street has some issues that the ANC has
11 concerns with and talk with the District on those issues.

12 CHAIRPERSON HILL: The ANC would ask about DDOT
13 and EMS as to the issues with the street. But that would be
14 outside of our purview. Okay. Mr. Davis.

15 MR. DAVIS: Yes. I have visited the site. Last
16 time I uploaded exhibit 44 about the 57th Street photographs.
17 I did want to -- I wanted to see how congested the street
18 actually was like during peak like residential hours when
19 people were home.

20 And I know like Mr. Daniels said there's the
21 elementary school across the street. There's the funeral
22 home across the street. So I just wanted to get a --

23 CHAIRPERSON HILL: Mr. Davis, I'm just going to
24 interrupt you just one second because I'm just trying to
25 process through some of this anyway.

NEAL R. GROSS

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

1 Like you guys, I'm just trying to see where we
2 are. And I'll turn to the Office of Planning again. In
3 terms of the variance test there's the three prongs. And the
4 only prong that seems to be kind of of any kind of argument
5 is relief can be granted without substantial detriment to the
6 public good and without substantially impairing the intent,
7 purpose and integrity of the zone plan as embodied in the
8 zoning regulations and map.

9 And the Office of Planning does not think that
10 this project violates prong three. And how so or why? Could
11 you just elaborate a little bit?

12 MS. MYERS: Certainly. So we feel that it does
13 meet the public good and zoning regulations, the public good
14 portion of it. As I was mentioning earlier having a 3 foot
15 side yard allows the applicant to maintain their own
16 property.

17 It also allows for this lot -- developing a vacant
18 lot is, we generally consider it to be part of the public
19 good. And then as I pointed out having a 3 foot side yard
20 allows the applicant not to impact the neighbor's properties.
21 So that would benefit public good.

22 As for substantial harm to the zoning regulations,
23 developing a house on a lot that's a recorded lot for
24 actually R zone tends to promote single family detached
25 houses. So this is consistent with the zoning regulations,

NEAL R. GROSS

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

1 the intent of the zoning regulations.

2 And the 3 foot side yard allows for less of an
3 impact to the neighbors, the maintenance of the property,
4 light and air flow. So for those reasons we felt that it was
5 compatible with the R zone, or the -- I believe it to be R-2
6 zone and did not substantially harm the zoning regulations.

7 CHAIRPERSON HILL: Okay, thank you. Mr. Davis,
8 I've got a question for you. So, the design that you guys
9 have. And I'm even going to look at exhibit 45 where there's
10 a rendering of 45.

11 And so I see the rendering has a brick front and
12 siding, gray siding on the side. And then there's three
13 windows. Do those windows line up with any other windows of
14 the adjoining property?

15 MR. DAVIS: No, they do not.

16 CHAIRPERSON HILL: Okay. And so Mr. Daniels, I
17 don't know if you've looked at exhibit 45 yet or not in terms
18 of the rendering. Have you had a chance?

19 MR. DANIELS: No, sir.

20 CHAIRPERSON HILL: Okay. So it's got a brick
21 front. I'm sorry? You need to push the button.

22 MR. DAVIS: That's the one I showed you at the
23 meeting. That's the one I uploaded.

24 CHAIRPERSON HILL: Okay. So it has a brick front
25 and siding on the side. And so I'm just trying to understand

NEAL R. GROSS

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

1 what it is that you think is in better character. You're
2 saying that you thought that it's in better character if it
3 had siding all the way around it like your mother's house?
4 I'm just trying to understand.

5 MR. DANIELS: Well, not per se like my mother's
6 house per se, sir. It's more so in likeness of the house,
7 425. But there's also two homes on the other side of the
8 proposed site that has a brick front.

9 So, he could go with -- I prefer either brick all
10 the way around or siding. I understand the builder -- brick
11 would be a little more costly.

12 CHAIRPERSON HILL: So I'm just trying to
13 understand. I mean like again, normally design is not
14 something that's within our purview. We're just trying to
15 figure out zoning relief one way or the other.

16 But normally the board always encourages brick in
17 terms of -- because in terms of on the front, in terms of --
18 and on the siding. So, I don't think that the board would
19 be thinking of -- and also I can't just even from the
20 rendering understand necessary how they're going to make it
21 look like -- I mean all the houses are kind of different a
22 little bit in that area. It's not like they all are of a
23 similar design also.

24 And so I'm just trying to -- I'm trying to figure
25 out what to throw back to the -- what the ANC would if they

NEAL R. GROSS

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

1 were working with the builder what they would necessarily
2 want to try to hope for in terms of a design. But sorry, you
3 can go ahead.

4 MR. DANIELS: Yes, sir.

5 CHAIRPERSON HILL: Go ahead, Mr. Davis.

6 MR. DANIELS: Oh okay, I'm sorry.

7 CHAIRPERSON HILL: That's all right.

8 MR. DANIELS: Sir, the ANC is trying to work with
9 the builder. The builder is not trying to work with the ANC.

10 CHAIRPERSON HILL: I don't know, Mr. Davis, I've
11 got to tell you I don't know if I necessarily agree with
12 that. I understand that like what the ANC wants and what you
13 guys don't want -- this is what I would not want. I don't
14 want something there. Right. I want my little lot to be
15 nice and empty and just keep it there and mow the lawn and
16 have it the way it was. Right. That's what you want, right?

17 What I'm telling you they can do without coming
18 here is they can build something and build it all the way to
19 one of the lot lines. And so that's what they can do without
20 being here.

21 And so I'm just trying to tell you -- and then we
22 have -- the commissioner now, because you guys go back to the
23 ANC. And I know you all say oh, the BZA doesn't listen, or
24 the BZA isn't going to whatever and that's just not the case.
25 We've been here for two hours, right okay.

NEAL R. GROSS

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

1 And what we do is we look at the variance test,
2 whether they meet the variance test, whether they meet the
3 special exception test. And then it's not whether I like it
4 or not because if I lived in that street I wouldn't want it
5 either. Okay. No offense to Mr. Davis. Mr. Davis, you can
6 go ahead. Sure.

7 MR. DANIELS: Thank you.

8 CHAIRPERSON HILL: By the way, you're not a
9 member. That's okay. Go ahead, Mr. Daniels.

10 MR. DANIELS: Okay, thank you. And this is
11 something that I discussed with Mr. Davis. And I keep
12 referencing back to that because I don't want the gentleman
13 thinking I'm kind of blindsiding him here.

14 But if this property is allowed to be built, and
15 I understand it meets the criteria.

16 CHAIRPERSON HILL: It may meet the criteria. We
17 don't know that yet, Mr. Daniels. But okay.

18 MR. DANIELS: Okay. So there's still hope. The
19 gentleman, I discussed with him because the closeness of the
20 proximity of this property to the existing home 425 I asked
21 him repeatedly about the potential of damage to that home as
22 new construction is being built.

23 CHAIRPERSON HILL: You're worried about the fence.
24 You're talking about the fence or just in general?

25 MR. DANIELS: No, sir, I'm talking about

NEAL R. GROSS

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

1 structural damage that can occur and a lot of times does
2 occur.

3 CHAIRPERSON HILL: Well, that's all insurance and
4 that's all people have to take -- we can figure out that if
5 that's something that you're concerned about.

6 MR. DANIELS: But that doesn't fall under one of
7 the three prongs that you --

8 CHAIRPERSON HILL: No.

9 MR. DANIELS: -- said that you were concerned.
10 It may have some wiggle room as far as --

11 CHAIRPERSON HILL: It's not -- I know this is
12 where I always get kind of confused. This is all permitting.
13 This all gets under permitting and like people can't build
14 stuff and somebody else's house gets damaged. They have to
15 have insurance so that if something happens that person's
16 house gets fixed. It has nothing to do with zoning. That's
17 all in permitting. So that's not within us.

18 And I'm just saying like if you again, if the
19 essence of this, you don't want this to happen. Okay, right.
20 And so you're just trying to figure out what things you can
21 say that could make it -- that's not necessarily true. I
22 shouldn't say that.

23 So, but I understand about the damage. You would
24 be -- how does the insurance work with the builder there?

25 MR. DAVIS: I'm not sure, but I'm sure if we

NEAL R. GROSS

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

1 caused some damage to Mr. Daniels' house then I mean we would
2 have to pay for it I'm sure. But we've been building houses
3 like this for years and we've had a good record of not
4 damaging other people's houses.

5 CHAIRPERSON HILL: So Mr. Davis, so we don't ask
6 for or have put construction management plans in the -- as
7 a condition. But we do sometimes like to see a construction
8 management plan.

9 And that's something that would speak to like
10 insurance and whether or not you can put somebody on as an
11 insured I think it's rider. Or something that you can kind
12 of take a look at that perhaps.

13 And then also a construction management plan as
14 to how you're going to build and take care of things as
15 you're going through this process. Have you seen
16 construction management plans before?

17 MR. DAVIS: I have not. That's another side of
18 our company and so maybe.

19 CHAIRPERSON HILL: Okay, so maybe you can talk
20 about a construction management plan. And then also figure
21 out -- I don't know. I don't know what to do with us. What
22 do you all think?

23 VICE CHAIRPERSON HART: Well, actually, I don't
24 know if Mr. Davis was -- if you all are at all considering --

25 CHAIRPERSON HILL: Can you guys turn off your

NEAL R. GROSS

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

1 microphones? I'm sorry.

2 VICE CHAIRPERSON HART: At all considering the
3 matter of right option. No, I'm asking if you are -- is that
4 something that you would consider.

5 MR. DAVIS: It is something that we can consider,
6 yes.

7 VICE CHAIRPERSON HART: The reason I'm asking is
8 that if you are considering it then maybe we are not -- maybe
9 this is something we have a discussion in a couple of weeks
10 on after you all figure out if that's something you want to
11 do or not.

12 MR. DAVIS: So you want me to go back to my owner
13 and say should we consider this.

14 VICE CHAIRPERSON HART: I don't know. Because I
15 think that's somewhat unresolved that may be helpful to at
16 least understand that more.

17 I understand that the -- some of the issues that
18 have been raised by Mr. Daniels regarding the parking issue
19 may be somewhat difficult to kind of deal with. Because
20 there's no alley. Literally a parking space that would be
21 partially in public space if you were looking to do that.
22 And so I just don't know how that would work.

23 But it might work if you have a 8 foot side yard.
24 You might be able to have the ability to have some parking
25 or something on one side. But I don't know that.

NEAL R. GROSS

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

1 And so it's -- well, you know. Yes. I don't know
2 if they'll need a curb cut. That's the other issue. Well,
3 it's because there is a driveway that is on your south side
4 that is not on your property but it is a driveway. So there
5 may be a possibility of being able to access your lot by
6 getting some sort of easement from them to be able to do
7 that. I don't know.

8 But I'm just saying that I don't know if there are
9 some other things that are just out there to be able to kind
10 of alleviate some of the issues. I'm not exactly sure where
11 we are with all of this.

12 CHAIRPERSON HILL: Sorry, go ahead.

13 MEMBER TURNBULL: Mr. Chair, could I ask one
14 question of Ms. Myers? Do you know how wide 57th Street is?

15 MS. MYERS: Just checking to see if it's on the
16 plat at all.

17 MEMBER TURNBULL: I mean, what I'm getting back
18 is this whole safety thing. I'm looking at exhibit 44 which
19 is photographs of 57th Street I believe. I'm not sure. I'm
20 confused by Mr. Daniels' concern about something not getting
21 down the street.

22 This looks like it's at least 35 feet or more
23 across the street. Two rows of cars and parking easily. And
24 it looks like there's 25 to 30 feet between the cars. At
25 least 25 feet between the cars. It looks like it's a fairly

NEAL R. GROSS

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

1 wide street.

2 I mean, there's some streets on Capitol Hill that
3 are only 25 feet wide and there's parking on both sides. Two
4 cars can barely get by them. This doesn't look like the
5 case.

6 MS. MYERS: Unfortunately I don't have the width
7 of the street in front of me. But DDOT did submit a report
8 on this case and I believe they had no objection to it. So
9 I would assume, conclude from that that they thought that the
10 situation was --

11 MEMBER TURNBULL: I don't want to call it an
12 arterial street, but it looks like it's fairly significantly
13 wide. I'm just confused.

14 MR. DANIELS: I understand your concern, sir. And
15 I was hoping that we could have the pictures on the screen.
16 But I'm asking Mr. Davis for the picture. That's okay.

17 CHAIRPERSON HILL: Hold on one second. Give me
18 one second. Commissioner, did you have a question?

19 MS. GAFFNEY: Yes, may I say something? Maybe
20 it's good if we can go back --

21 CHAIRPERSON HILL: Mr. Daniels, can you turn off
22 your microphone for a second? That's okay.

23 MS. GAFFNEY: Maybe the commissioner could go back
24 with the builder and reconstruct something and come back.
25 Maybe that would help us. We would then able to revisit

NEAL R. GROSS

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

1 whatever we're talking about --

2 CHAIRPERSON HILL: Okay. I think -- this was a
3 suggestion that I was going to make regardless. Which was
4 this. Mr. Daniels, so if you could go ahead and go back and
5 go ahead and try to work with the ANC and see if there's
6 anything you can do to work with them with the design. So
7 that's the first thing.

8 The second thing is I guess somebody was in here
9 -- Commissioner, if you could turn off your microphone. I'm
10 sorry.

11 The second thing is if you could take a look at
12 I guess we've often asked for what the matter of right option
13 is. And so you can give us a very simple design. You don't
14 have to take a lot of time as to what the massing would be
15 for a matter of right option. Okay?

16 And then I guess -- I would be interested in a
17 construction management plan, seeing what a construction
18 management plan would look like to appease the neighbors to
19 your left and right in terms of you can look up any kind of
20 different construction management plans that we've had in
21 terms of like it's usually like time of day. I know you're
22 going to do it within the time of day that you're allowed to
23 do it, but kind of like reiterating the time of day, having
24 maybe a contact information for a person in terms of like if
25 they need to call, if there's any issues.

NEAL R. GROSS

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

1 And then also looking to see about putting the
2 neighbors on a rider for your insurance policy. I'm just
3 curious about it. I'm not saying you have to do it, I just
4 want to hear what you have to say about in terms of a
5 construction management plan.

6 So I'm leaving the record open for a construction
7 management plan. And then a matter of right option. And
8 then also going back to the ANC as well as the neighbors and
9 seeing if there's anything you can do to try to work with
10 them with the design.

11 MR. DAVIS: Because I've gone back to them and I
12 don't know any of this that they don't like. I don't know
13 exactly what the ANC wants. I don't know --

14 CHAIRPERSON HILL: It's all right. And you guys
15 are here now, the commissioner and Mr. Daniels. And you've
16 heard everything that we've talked about. You understand
17 where we are in terms of the board.

18 So just, I mean Mr. Davis, you might come right
19 back here with the same design. And that's your prerogative.
20 And also you might come back here with -- there's only three
21 things we're asking for.

22 Go back to the ANC and your neighbors and try to
23 see if there's something you can do in terms of the design
24 that they might find more appealing.

25 And then also -- because the ANC, perhaps they'd

NEAL R. GROSS

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

1 have to vote again I suppose. But the ANC -- we'll see what
2 happens as we talk through this a little bit.

3 But if there's a way to kind of work with the ANC
4 as I said. Then a construction management plan. And then
5 just at least the massing of what kind of a matter of right
6 option might be. Okay?

7 And so Mr. Daniels, I appreciate you coming down
8 here. I really do. But I just want to let you know you've
9 just been here as a member of the public. And so you don't
10 really have an opportunity to really ask questions and
11 everything.

12 However, you actually could probably apply for
13 party status because you're right on the -- you're the
14 adjacent lot. And if you had applied for party status you'd
15 have the same status as the ANC which is you would have been
16 able to testify and do all that.

17 But I'm just letting you know. I'm not trying to
18 cut you off. I'm just pointing out that we've been very
19 accommodating in terms of allowing you to participate in the
20 way that you have.

21 That being said you seem as though you had one
22 other thing to say. What was that?

23 MR. DANIELS: I just wanted to address Mr.
24 Turnbull.

25 CHAIRPERSON HILL: Sure.

1 MR. DANIELS: The photograph that's in this
2 picture, this photograph is taken during times when
3 individuals that live on the street -- again, I'm very
4 familiar with this street -- are at work.

5 Mr. Turnbull, if this picture was taken like say
6 after 4 o'clock it would look very different, the street.

7 If you look at the picture, in the very rear of
8 this picture there's an elementary school. The staff at this
9 elementary --

10 CHAIRPERSON HILL: Mr. Daniels, I'm just going to
11 cut you off for one second because now Mr. Davis said he's
12 going to have something to say.

13 As far as the EMS stuff and DDOT, DDOT has already
14 signed off on this project. And so that traffic on that road
15 is not something that we would necessarily look at.

16 I'm just letting you know. That's the ANC going
17 to talk to DDOT or EMS and saying that you shouldn't build
18 anymore homes on that road and so because they can't handle
19 emergency vehicles.

20 I'm just saying that's not something that's our
21 area. So, you can talk with your ANC commissioner there
22 who's right next to you and she can reach out to DDOT or EMS
23 if she has any concerns about any further development to that
24 road.

25 But you can look at the DDOT report as to whether

NEAL R. GROSS

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

1 or not they think -- the division to whatever DDOT -- and
2 they think that this road is capable of handling this
3 development.

4 Ms. Davis, you had a question?

5 MS. GAFFNEY: Gaffney.

6 CHAIRPERSON HILL: Gaffney, sorry.

7 MS. GAFFNEY: That's okay.

8 (Simultaneous speaking)

9 MS. GAFFNEY: Next week is our last meeting before
10 the summer, next Thursday. So we have to do a lot of work
11 within the ANC because it's our last meeting.

12 CHAIRPERSON HILL: Gotcha.

13 MS. GAFFNEY: But if we have to have a special
14 meeting we might, but we don't want --

15 CHAIRPERSON HILL: Gotcha. Nobody wants to have
16 a special meeting. So Commissioner, so Mr. -- I guess right
17 now you all can talk right after this and just see if there's
18 a way to schedule any meeting or whatever you think you need
19 to go back to your owners or bosses about.

20 Because again what we want to see is something
21 from you guys working with the ANC, or just seeing if there's
22 anything that could have been done.

23 And then if you could submit something to us,
24 Commissioner, that says you've reached out to the ANC -- I'm
25 sorry, the builder. The builder says this, that and the

NEAL R. GROSS

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

1 other. Something from the ANC that says something one way
2 or the other.

3 And then again a massing for the matter of right
4 as well as any construction management plan that you might
5 want to submit.

6 And so do you have any questions, Mr. Davis?

7 MR. DAVIS: No.

8 CHAIRPERSON HILL: Okay. So as far as the board
9 is concerned am I missing anything as the board is concerned?
10 Okay.

11 So then that means the ANC's meeting is next
12 Thursday. And so if you did have anything to talk about with
13 the ANC one way or the other that would be on the 13th.

14 And then so then we would, Mr. Moy. So this would
15 be a continued hearing, right?

16 MR. MOY: I was going to ask about that because
17 I didn't mean to cut you off.

18 CHAIRPERSON HILL: That's all right.

19 MR. MOY: If this would be a continued hearing I
20 would suggest July 17.

21 CHAIRPERSON HILL: Okay, July 17 for a continued
22 hearing. Mr. Davis? No, you have questions about that one?

23 MR. DAVIS: Oh no, I just -- I think we had a
24 number of -- no, we don't. I was thinking about the 10th.
25 I think we have -- District Properties is very busy, so.

NEAL R. GROSS

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

1 CHAIRPERSON HILL: Right. That's okay. So that
2 is by the way quite a while away, Mr. Moy. Is that going to
3 cause any issues with the developer?

4 MR. DAVIS: It should not but obviously the sooner
5 the better. Because like I said if the ANC is on, what, the
6 13th?

7 CHAIRPERSON HILL: Right. So you're going to hear
8 back something. I mean, I really don't think this is going
9 to take a long time, Mr. Moy, in terms of -- I mean we can
10 almost even make it a decision if we got all the information
11 we wanted. I mean, I don't really think I'm going to have
12 a lot of questions necessarily.

13 Unless it can be -- I mean, we're going to get
14 like the massing of matter of right. You're going to get
15 kind of whatever construction management plan we may or may
16 not get. And then we're going to get any kind of feedback
17 that we may or may not get from the ANC.

18 So we could have it as a decision and then if we
19 had any questions and thought we needed to reopen the record
20 we could do so.

21 MEMBER JOHN: And would the applicant be sharing
22 the matter of right option with the ANC? I would recommend
23 that.

24 CHAIRPERSON HILL: Yes, I would think so. So, if
25 you can get the matter of right option to the ANC before that

NEAL R. GROSS

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

1 meeting. Commissioner, you think you can get them on the
2 agenda?

3 MS. GAFFNEY: Oh yes.

4 CHAIRPERSON HILL: Okay. You need to push the
5 microphone, Commissioner.

6 MS. GAFFNEY: I'm sorry.

7 CHAIRPERSON HILL: That's all right.

8 MS. GAFFNEY: Yes, we can get them on the agenda.

9 CHAIRPERSON HILL: Okay, great. So, Mr. Davis,
10 you have one more shot at this. Okay, right. And so go
11 ahead and present to the ANC, see whatever you can figure out
12 with the ANC. And then let's just go ahead and make it a
13 continued hearing and if we don't have any questions we don't
14 have any questions. Mr. Moy?

15 MR. MOY: Given what I'm hearing in this
16 conversation now we can have a continued hearing on June 26.
17 June 26. No? You don't want that one? I can put in another
18 date but we have appeals.

19 CHAIRPERSON HILL: That's all right. I'm not here
20 on the 26th. I don't know if I'm necessary.

21 MR. MOY: Okay, then we can do June 19.

22 CHAIRPERSON HILL: Is there an appeal on June 19?

23 MR. MOY: Yes. But you said this one was going
24 to be quick, right?

25 CHAIRPERSON HILL: How big is the -- what about

NEAL R. GROSS

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

1 July 3?

2 MR. MOY: July 3.

3 CHAIRPERSON HILL: Is there an appeal on July 3?

4 MR. MOY: No.

5 CHAIRPERSON HILL: Let's do July 3. We don't get
6 any holidays, Mr. Turnbull. I don't know about the Zoning
7 Commission. July 4, that's just a fiction of imagination
8 considering we don't even own it anymore. Okay. All right.
9 Let's see.

10 So we'll see you guys back here on the 3rd. Mr.
11 Davis, try to button it up a little bit. Like you know, just
12 you know, right.

13 Construction management plan should not be
14 difficult. Construction management plan should not be
15 difficult. Discussion about insurance and riders for the
16 people next door. That should not be difficult in terms of
17 a discussion you can have with your boss.

18 And then the matter of right option, that
19 shouldn't take very long also. And then just talking to the
20 ANC and the neighbors. And you can maybe do that today.
21 Then for like 15 minutes. Or whatever you all want to do.
22 I mean, this is all I've got. And then we'll see you back
23 on the 3rd.

24 MR. MOY: If I may, Mr. Chair. If the applicant
25 can submit his filings by Monday, June the 24th. Is that

NEAL R. GROSS

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

1 doable?

2 MR. DAVIS: The three --

3 CHAIRPERSON HILL: Whatever you end up having.
4 And so that would mean we'd also need something from the ANC
5 by the 24th.

6 MR. MOY: Yes.

7 CHAIRPERSON HILL: All right. So we want
8 everything from everybody by the 24th.

9 MS. GAFFNEY: All right.

10 CHAIRPERSON HILL: Okay?

11 MS. GAFFNEY: All right.

12 CHAIRPERSON HILL: Okay. Mr. Daniels?

13 MR. DANIELS: Yes, sir. Mr. Hill, it's something
14 that you said that caught my attention and I just wanted to
15 make sure I'm on the same sheet of music here.

16 CHAIRPERSON HILL: Sure.

17 MR. DANIELS: Okay. When I discussed the
18 emergency personnel you said that that is -- that's did you
19 say DDOT department?

20 CHAIRPERSON HILL: I think it's -- I don't know
21 who looks at -- it's EMS, emergency medicine services, right.
22 And then DDOT is like the people that look at whether or not
23 any transportation issues. District Department of
24 Transportation.

25 MR. DANIELS: Okay. And the reason that I'm

NEAL R. GROSS

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

1 asking that question is because I heard you say something
2 that caught my attention and correct me if I'm wrong. But
3 did you say that they can override the ability for the
4 builder to build on that lot if they deem that the street as
5 an emergency condition? Like you can't build anymore.

6 CHAIRPERSON HILL: Yes, I mean I'm looking at the
7 Office of Planning. I've got to tell you it's just outside
8 of our purview. And I doubt they're going to do that.

9 (Simultaneous speaking)

10 CHAIRPERSON HILL: How does that? Do you know,
11 Office of Planning?

12 MS. MYERS: The only thing I would just say is
13 that Department of Transportation reviewed this project just
14 as Office of Planning did and you know, to be fair to the
15 applicant they do it at the time period that we're in. With
16 the situation, their understanding of their analysis they
17 decided that they had no objection to it.

18 But in the future if changes were to be made on
19 your street perhaps in the future there may be some I guess
20 changes to the District's way of doing or having other
21 additional development. I don't know.

22 The zoning requirements are the way they are right
23 now and like in this case you have a record lot. And so
24 there are other probably vacant record lots in the area which
25 means that they have a right to develop their property.

NEAL R. GROSS

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

1 But anyway, that's all future situations. Where
2 we are right now we have to kind of stay within the
3 constraints of the law.

4 MR. DANIELS: All right, I'm just, I'm trying.

5 CHAIRPERSON HILL: No, you're doing a good job.
6 And so, okay.

7 VICE CHAIRPERSON HART: Just so we can get it
8 cleared up. The ANC report actually says two different
9 things. It says it supports and then it says does not
10 support. If we could just -- I'm really looking at right now
11 it says with all seven commissioners in attendance our
12 commission voted 7-0 to support for an area variance for the
13 side yard requirements of Subtitle D 206.2. And this is for
14 case number 1999 -- excuse me, 19985.

15 At the very end of this, of the ANC report it says
16 that the Northeast Boundary Civic Association did not support
17 the request thus ANC 7C does not support the variance for
18 this applicant.

19 So in the same thing it says that you either do
20 support it or don't support it. Just -- and I think it just,
21 it may have been a typo. And so if you could just make sure
22 that that's corrected. It would be very helpful.

23 CHAIRPERSON HILL: Yes, whatever you end up with
24 after your meeting just clarify as to what the ANC -- because
25 what I got confused by, it says here supporting -- it says

NEAL R. GROSS

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

1 you're supporting it unless that other organization -- I
2 turned off my computer. It says you're supporting it. It
3 says you're -- well, I'm a little bit confused. It says
4 you're supporting it unless the Northeast Boundary Civic
5 Association does not support it.

6 And so the Northeast Boundary Civic Association
7 did not support it and therefore you're saying you're not
8 supporting it.

9 So, basically if you could just kind of -- it's
10 a little bit confusing, actually. It sounds as though you
11 were in support, your ANC was in support unless this
12 Northeast Boundary Civic Association was not in support.

13 And so the Northeast Boundary Civic Association
14 was not in support. And so therefore now you're saying
15 you're not in support. So it's a little confusing.

16 MS. GAFFNEY: Yes, I'm just seeing this now.

17 CHAIRPERSON HILL: Okay. Okay, so you'll clarify.

18 MS. GAFFNEY: Yes.

19 CHAIRPERSON HILL: Okay, great. So we'll get all
20 that by -- what was the date again, Mr. Moy?

21 MR. MOY: Monday, June the 24th.

22 CHAIRPERSON HILL: Okay. My birthday. All right.
23 So, let's see. Do we have any questions for anybody? Okay,
24 so we're going to get all that stuff by June 24.

25 We're going to then be back here on July 3 to have

NEAL R. GROSS

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

1 a continued hearing. To have a continued hearing. I just
2 want to have a continued hearing. But we're just going to
3 have a continued hearing.

4 We're going to do it first thing to accommodate
5 Mr. Turnbull if you're going to come back and join us. And
6 Commissioner Turnbull will come back. We're going to do it
7 first thing in the morning. So if I were you I'd -- never
8 mind. So first thing in the morning.

9 And then I was going to say you should put all
10 your property things there at the same time on that day but
11 we'll see how that goes.

12 So, first thing in the morning we'll go with this
13 as a continued hearing and -- but only, we're only going to
14 talk about the things that we have asked about just to let
15 you all know.

16 We're not going to go back into any of this other
17 stuff. So the hearing is closed. I've done support and
18 opposition for everybody. We'll probably do support and
19 opposition but only on the three or four things that you come
20 forward with. Okay? All right, anybody got any questions?
21 Okay. All right. Thank you so much. Thank you.

22 I know, Mr. Davis, you have one more but we're
23 going to call you real quick. Mr. Moy?

24 MR. MOY: Yes, sir. That would be --

25 CHAIRPERSON HILL: If you all want to just hang

NEAL R. GROSS

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

1 out Mr. Davis is only going to be here for about five minutes
2 and then he'll be free to talk to you guys again if you want
3 to chat. Figure it out. Mr. Moy, go ahead and call it.

4 MR. MOY: Yes. I'm calling this case, Mr.
5 Chairman, because the applicant requested a postponement.
6 So this is to application number 19988 of Rupsha 2011 LLC.
7 And for the record I want to read that this was captioned and
8 advertised for area variances from the lot dimension and lot
9 width requirements Subtitle D Section 302.1, side yard
10 requirements Subtitle D Section 307.1 to construct a new
11 detached principal dwelling unit R-2 zone at 4417 Foote, F-O-
12 O-T-E Street NE, square 5131, lot 40. And let's see what
13 else was I going to say. Yes, and this request from the
14 applicant is under exhibit 35.

15 CHAIRPERSON HILL: Okay. Could you please
16 introduce yourself for the record?

17 MR. DAVIS: Adam Davis, Rupsha.

18 CHAIRPERSON HILL: Okay, Mr. Davis. So you're
19 requesting for a postponement, correct?

20 MR. DAVIS: Yes. Yes, I am.

21 CHAIRPERSON HILL: Okay. And one thing that OAG
22 kind of noted is that -- and maybe OAG can help me clarify.
23 The board should require the applicant to submit the correct
24 authorization for Rupsha 2011 LLC instead of District
25 Properties. Can you help me understand?

NEAL R. GROSS

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

1 MS. NAGELHUT: The applicant here is Rupsha. But
2 there's a letter, I think it's exhibit 9. It purports to be
3 a letter of authorization but it doesn't mention Rupsha, it
4 mentions District Properties.

5 CHAIRPERSON HILL: Okay.

6 MS. NAGELHUT: So we would just need it corrected.

7 CHAIRPERSON HILL: Okay. So we need a letter of
8 authorization now from you guys that you're representing
9 Rupsha.

10 MR. DAVIS: Okay.

11 CHAIRPERSON HILL: Okay? And if you can put that
12 into the record.

13 MR. DAVIS: Okay.

14 CHAIRPERSON HILL: Okay? Because right now you're
15 saying that you represent District Properties and your
16 application is in Rupsha's name.

17 MR. DAVIS: Yes. Okay.

18 CHAIRPERSON HILL: And then you still don't have
19 the ANC or anything from the ANC. And so that's hopefully
20 something you're trying to clarify during the postponement.

21 MR. DAVIS: Yes.

22 CHAIRPERSON HILL: When did you want the
23 postponement -- it looks like July 17 is what has been
24 requested from you. Is that correct?

25 MR. DAVIS: Yes. The ANC meeting is on June 11

NEAL R. GROSS

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

1 so even if sooner than that would be great.

2 CHAIRPERSON HILL: Okay. So then July 17, Mr.
3 Moy, does that still work? Okay, so we're going to postpone
4 you to July 17, all right, Mr. Davis?

5 MR. DAVIS: Sure.

6 CHAIRPERSON HILL: Okay, great. So does the board
7 have anything else? Otherwise I'm going to close the hearing
8 on this particular issue. Okay, we'll close the hearing on
9 this particular issue.

10 Mr. Moy, do we have anything else before us?
11 Thank you very much, Mr. Davis.

12 MR. MOY: No, sir.

13 CHAIRPERSON HILL: Okay, great. We're adjourned.

14 (Whereupon, the above-entitled matter went off the
15 record at 1:06 p.m.)

16

17

18

19

20

21

22

23

24

25

C E R T I F I C A T E

This is to certify that the foregoing transcript


In the matter of: Public Hearing

Before: DCBZA

Date: 06-05-19

Place: Washington, DC

was duly recorded and accurately transcribed under my direction; further, that said transcript is a true and accurate record of the proceedings.



Court Reporter

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701