

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

+ + + + +

BOARD OF ZONING ADJUSTMENT

+ + + + +

PUBLIC HEARING

+ + + + +

WEDNESDAY

NOVEMBER 6, 2019

+ + + + +

The Regular Public Hearing convened in the Jerrily R. Kress Memorial Hearing Room, Room 220 South, 441 4th Street, N.W., Washington, D.C., 20001, pursuant to notice at 10:00 a.m., Frederick L. Hill, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

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

ZONING COMMISSION MEMBER PRESENT:

PETER MAY, Commissioner

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary
JOHN NYARKU, Zoning Specialist

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

MARY NAGELHOUT, ESQ.
JACOB RITTING, ESQ.

OFFICE OF PLANNING STAFF PRESENT:

ANNE FOTHERGILL
CRYSTAL MYERS
KAREN THOMAS
ELISA VITALE

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

CONTENTS

Application No. 20137 of WH Development 4

Application No. 20114 of 3569 Warder LLC 13

Application No. 20138 of Joyce Cowan 48

Application No. 20139 of 716 L ST SE LLC 54

Application No. 20140 of Todd Vassar and Bryant Hall . 63

Appeal No. 20072 of Marybeth and Ken DeGrave 72

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

10:07 a.m.

1
2
3 CHAIRPERSON HILL: All right, Mr. Moy, you can
4 call our first hearing case when you have an opportunity.
5 By the way, everybody, we're just following through the
6 agenda, so however it's listed is how we're going through it.

7 APPLICATION NO. 20137 OF WH DEVELOPMENT

8 MR. MOY: Thank you, sir. That would be
9 Application No. 20137 of WH Development, captioned and
10 advertised for special exception under the residential
11 conversion requirement, Subtitle U, Section 320.2, to convert
12 an existing semi-detached principal dwelling unit to a
13 three-unit apartment house, RF-1 zone. This is at 3518 13th
14 Street, Northwest, Square 2834, Lot 846.

15 CHAIRPERSON HILL: Okay, great, thank you, Mr.
16 Moy. Good morning. If you could please introduce yourselves
17 for the record.

18 MR. MEEKINS: Bert Meekins, project designer.

19 MR. CROSS: Michael Cross, architect.

20 CHAIRPERSON HILL: Sir, could you spell your name
21 or say it again? I'm sorry, I didn't hear what you said.

22 MR. MEEKINS: Bert Meekins, B-E-R-T
23 M-E-E-K-I-N-S.

24 CHAIRPERSON HILL: B-E-R-T --

25 MR. MEEKINS: M-E-E-K-I-N-S.

1 CHAIRPERSON HILL: Okay, great, thank you. Mr.
2 Cross, are you going to be presenting to us?

3 MR. CROSS: Mr. Meekins will present today.

4 CHAIRPERSON HILL: Okay. All right, Mr. Meekins.
5 If you could walk us through, I suppose, what you're trying
6 to do, and then how you believe you're meeting the standard
7 for us to grant the relief requested. There was some
8 discussion about -- Mr. Cross could probably help out with
9 this also in terms of the penthouse setback and the
10 one-to-one roof deck and whether or not you guys need that
11 relief or not. Because currently, you don't have it list.
12 We can kind of talk through that, I suppose. You can begin.
13 I'm going to put 15 minutes on the clock, Mr. Moy, and you
14 can begin whenever you like.

15 MR. MEEKINS: Thank you. We're seeking relief for
16 a three-unit conversion in the RF-1 zone, pursuant to
17 Subtitle U-320.2. Our proposal is at 3518 13th Street,
18 Northwest, which is on the west side of the block between
19 Otis and Monroe.

20 The project creates three family-size units, one
21 2 bedroom, two bath, roughly 1,100 square feet, one 3
22 bedroom, two and a half bath, about 1,400, and one 3 bedroom,
23 three and a half bath, about 1,500 square feet. The project
24 largely keeps the entire structure as is and proposes no rear
25 expansion. The proposed addition is limited to the rear half

NEAL R. GROSS

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

1 of the existing third story, and we will provide two
2 off-street parking spaces. The proposed construction is
3 conforming with all development standards, as well as the
4 requirements of U-320.2 and is seeking no additional waivers.

5 The ANC has voted unanimously to support this
6 project. The Office of Planning is recommending approval,
7 and we have a signed letter of non-opposition from the
8 adjoining neighbor at 3520 13th Street, Northwest. That's
9 pretty much it. We're happy to answer any questions.

10 VICE CHAIRPERSON HART: Could you address the
11 question that we asked about the railing? OP had asked the
12 question, and we're trying to understand where you guys fall
13 with them. There are new drawings. We'll ask OP where they
14 are, but we'd like to hear from you as well.

15 MR. CROSS: It's not our intention to seek relief
16 for the roof deck guardrail that's currently shown. We plan
17 to work with the Office of the Zoning Administrator to come
18 up with a design that is conforming as a matter of right.

19 VICE CHAIRPERSON HART: And if you are unable to
20 do that, then you would be coming back to us for requesting
21 relief.

22 MR. CROSS: That's correct, sir.

23 CHAIRPERSON HILL: Does anybody else have any
24 questions for the Applicant?

25 (No audible response.)

NEAL R. GROSS

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

1 CHAIRPERSON HILL: The ANC seems to be here, is
2 that correct?

3 (No audible response.)

4 CHAIRPERSON HILL: Would you like to come forward,
5 Commissioner?

6 MR. BOESE: Good morning.

7 CHAIRPERSON HILL: Good morning. Please introduce
8 yourself for the record.

9 MR. BOESE: Kent Boese, ANC 1A. In honesty, this
10 was the lesser of the two cases I'm here for.

11 CHAIRPERSON HILL: Oh. Commissioner, I'm sorry.
12 I didn't realize that you're here for two. Since you are
13 here and the ANC is a party -- and that's why I called you
14 to the table -- is there anything you'd like to add?

15 MR. BOESE: I'll just avail myself to any
16 questions you may have. What I will say is this is an
17 incredibly easy one for ANC 1A to support. It's a large
18 structure. It provides the off-street parking. It does not
19 compromise any of the architectural integrity. There's
20 absolutely no impact from the street that anyone will see.
21 The only addition, as far as we understand it, is just
22 extending I believe on the third floor to conform with the
23 same footprint on the lower floors. To us, this is extremely
24 straightforward.

25 CHAIRPERSON HILL: All right, Mr. Commissioner.

NEAL R. GROSS

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

1 Does the Board have any questions for the commissioner?

2 (No audible response.)

3 CHAIRPERSON HILL: All right, I'm going to turn
4 to the Office of Planning.

5 MS. MYERS: Good morning. Crystal Myers with the
6 Office of Planning. The Office of Planning is recommending
7 approval of the case. We did just put a note here in our
8 report saying that we questioned if the project was complying
9 with the one to one setback requirement for the rooftop deck
10 and guardrail.

11 We were still in support of the project; we just
12 questioned that and said the Applicant should confirm with
13 DCRA to make sure that they don't need additional relief.
14 We did mention this to the Applicant, as well, but I think
15 they wanted to work with DCRA first, before adding any new
16 relief. They weren't against it. I think they actually
17 think that they are compliant. So we just put it in our
18 report that this may be an issue, but we are in support of
19 the project.

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

22 COMMISSIONER MAY: I have one. So I recall
23 reading in your report -- and I'll try to find the exact
24 paragraph -- the indication that -- there's a statement that
25 the project does not include an addition. And I'm looking

NEAL R. GROSS

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

1 for exactly what it would be. I mean, you reviewed this
2 understanding that there was a third-floor addition, right?

3 MS. MYERS: Yes.

4 COMMISSIONER MAY: Okay. I'm trying to find the
5 spot where I saw this.

6 MS. MYERS: I mean, if we did say that in the
7 report, then that's a staff report error.

8 COMMISSIONER MAY: All right. I'll try to find
9 it. If I do, I'll just flag it for you. Just to be clear,
10 you knew exactly what was being reviewed, right?

11 (No audible response.)

12 COMMISSIONER MAY: Thanks.

13 CHAIRPERSON HILL: Okay, great, thank you. Does
14 the Applicant have any questions for the Office of Planning?

15 MR. MEEKINS: No, sir.

16 CHAIRPERSON HILL: Does the ANC have any questions
17 for the Office of Planning?

18 (No audible response.)

19 CHAIRPERSON HILL: Okay. Is there anyone here
20 wishing to speak in opposition?

21 (No audible response.)

22 CHAIRPERSON HILL: Is there anyone here wishing
23 to speak in support?

24 (No audible response.)

25 CHAIRPERSON HILL: Is there anything else, Mr.

NEAL R. GROSS

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

1 Meekins, you'd like to add at the end?

2 MR. MEEKINS: No. Thank you.

3 CHAIRPERSON HILL: Okay, go ahead and close the
4 record. Is the Board ready to deliberate? I can start.
5 After reviewing the record, I would also agree with the
6 analysis that was provided by the Office of Planning, as well
7 as that of ANC 1A. I think we talked through the whole one
8 to one penthouse setback issue, and I do believe that they've
9 met the criteria for us to grant this application. I'm going
10 to be voting in approval. Is there anything else anyone
11 would like to add?

12 VICE CHAIRPERSON HART: Yes, just noting that the
13 Applicant is seeking the special exception for residential
14 diversion. They are -- that is all the relief that they're
15 requesting. I did see the -- Mr. May was looking up the OP
16 report. It looks like they did have a piece that -- page 3,
17 I think it was, at the very bottom, it says no chimney would
18 be impacted by the proposed addition. I think that -- is
19 that the -- anyhow, it doesn't matter. I would be in support
20 of the application. I understood what the Applicant remarked
21 regarding the railing relief -- or not relief, they're
22 describing that they'll work with the DCRA. And that's it.
23 I'll be in support as well.

24 CHAIRPERSON HILL: Anyone else?

25 MEMBER JOHN: Mr. Chairman, I just have a question

NEAL R. GROSS

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

1 with regard to the guard rail. I guess I could ask the
2 Office of Planning. If it's in the drawing and we're
3 approving these drawings and they don't comply in the
4 drawings, then are we not saying we're approving that?

5 VICE CHAIRPERSON HART: No, this is a
6 self-certified application.

7 MEMBER JOHN: That's it; thank you.

8 VICE CHAIRPERSON HART: And because it's a
9 self-certified application, then they are accepting that they
10 are meeting the relief. They have requested a particular
11 aspect of the relief; we are granting only that aspect of the
12 relief. If they need more relief, then they will have to
13 come back to us. While it is in the drawings and we are
14 approving the drawings, we are saying that this is what they
15 are requesting, and they'll have to keep that responsibility
16 for themselves if they need further relief.

17 MEMBER JOHN: Thank you, Mr. Vice Chair.

18 VICE CHAIRPERSON HART: That's my understanding.

19 COMMISSIONER MAY: I just wanted to point out the
20 spot that threw me off in the Office of Planning's report,
21 which is on page 4, in response to Condition I(1), the second
22 paragraph. It says in the second sentence, the required
23 parking spaces would also be provided, and the building is
24 not proposed to be enlarged. You see where I'm talking
25 about?

NEAL R. GROSS

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

1 MS. MYERS: Yes. That would be an error. There's
2 a slight increase in the building, so I would correct myself
3 on the record on that.

4 COMMISSIONER MAY: It was just -- I was confused.
5 I wanted to make sure it was clear what was being reviewed;
6 that's all. Thanks.

7 CHAIRPERSON HILL: I'm going to make a motion to
8 approve Application No. 20137 as captioned and read by the
9 secretary and ask for a second.

10 VICE CHAIRPERSON HART: Second.

11 CHAIRPERSON HILL: Motion made and seconded. All
12 those in favor say aye.

13 (Chorus of ayes.)

14 CHAIRPERSON HILL: All those opposed.

15 (No audible response.)

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

17 MR. MOY: Staff would record the vote as 4-0-1.
18 This is on the motion of Chairman Hill to approve the
19 application for the relief requested. Seconding the motion
20 is Vice Chair Hart. Also in support is Ms. John and Zoning
21 Commissioner Peter May. No other members present. Motion
22 carries, sir.

23 CHAIRPERSON HILL: Great. Thank you, Mr. Moy.
24 Mr. Moy, I think the commissioner -- the ANC commissioner was
25 here. I think they're here also for the 20114 case. If

NEAL R. GROSS

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

1 that's the case, let's go ahead and do that next, so we can
2 try to make this as efficient as possible.

3 APPLICATION NO. 20114 OF 3569 WARDER LLC

4 MR. MOY: Thank you, Mr. Chairman. That would be,
5 as you've just said, Case Application No. 20114 of 3569
6 Warder, W-A-R-D-E-R, LLC, captioned and advertised for a
7 special exception under the residential conversion portions
8 -- provisions, rather, of Subtitle U, Section 320.2, with
9 waivers from the chimney and external vent requirement of
10 Subtitle U, Section 320.2(f), and the rooftop architectural
11 element requirement, Subtitle U, Section 320.2(h), and a
12 special exception under Subtitle C, Section 703.2, from the
13 minimum parking requirement, Subtitle C, Section 701.5 to
14 convert an existing two-story, semi-detached principal
15 dwelling unit into a five-unit, semi-detached apartment
16 building, RF-1 zone, at 3569 Warder Street, Northwest, Square
17 3035, Lot 820. This was last heard, Mr. Chairman, as you'll
18 recall, on October 9th.

19 CHAIRPERSON HILL: Okay, great, thank you, Mr.
20 Moy. Could you please introduce yourselves for the record
21 from my right to left?

22 MR. BOESE: Sure, Kent Boese, ANC 1A.

23 MR. CROSS: Michael Cross, architect.

24 MR. LEE: Matt Lee, architect.

25 CHAIRPERSON HILL: Okay. Mr. Cross, are you going

1 to be presenting to us?

2 MR. CROSS: I believe so, yes, sir.

3 CHAIRPERSON HILL: Okay. Well I guess why don't
4 you start with what happened since the last time we were
5 here, and walking through, again, your project, and again,
6 how you're meeting the standards for us to grant the relief?
7 I'm going to go ahead and let you start whenever you like.

8 MR. CROSS: Thank you, sir. Just to recap, we're
9 seeking a five-unit conversion in the RF-1 zone, subject to
10 U-320.2. As stated, this project is at 3569 Warder Street,
11 Northwest, south side of the block, between Newton and Otis.
12 We are seeking two exceptions or two waivers from the
13 requirements of U-320.2.

14 One of those is the parking relief waiver, where
15 we are asking to reduce the parking requirement from three
16 spaces to two spaces. If you recall, that's actually so that
17 we can still provide three spaces, but only one of them be
18 compact, in lieu of a full size. And the second waiver we're
19 seeking is the reason we're back here today. It's the
20 architectural rooftop element provision. On this project,
21 we are seeking that in order to remove and replace the
22 existing front porch. We believe it to not be original to
23 the house and not be consistent with the character -- the
24 original character of the property. And so we had worked
25 with the ANC to develop a new rooftop -- a new porch that was

NEAL R. GROSS

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

1 more conforming and was desired by the neighborhood. It was
2 contested by OP. I'm not sure if that's the right word, but
3 OP did not support it.

4 CHAIRPERSON HILL: I understand, right. Yes.

5 MR. CROSS: We took the feedback and the image
6 that came in very late, prior to the last hearing, and have
7 developed a new solution here today, which OP, I believe, has
8 subsequently supported and we're here to discuss.

9 CHAIRPERSON HILL: Okay. And then Mr. Cross, I
10 think we talked about this, but I'm not sure if we did or
11 not, in terms of the raising of the chimney for the neighbor
12 and that probably we would adapt that as a condition, so that
13 prior to a permit, the Applicant would obtain the issuance
14 of a building permit for 3567 Warder Street, Northwest to
15 extend the chimney or otherwise comply with the requirements
16 of Subtitle U-320.2(f). You're aware of the need to raise
17 that chimney, correct?

18 MR. CROSS: We are aware of that code section.
19 We're aware of that requirement.

20 CHAIRPERSON HILL: That's fine. I'm just letting
21 you know. Does the Board have any questions for the
22 Applicant?

23 COMMISSIONER MAY: I appreciate the fact that you
24 took another look at the porch. I feel like maybe you didn't
25 look quite long enough. I understand that the Office of

NEAL R. GROSS

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

1 Planning has approved it, but in particular what I'm
2 concerned about is the size of the columns. And I'm
3 wondering why you are proposing what looked like very large,
4 even built up columns that are square in section, as opposed
5 to a turned column, which seems to be what was there
6 originally based on that historic photo.

7 MR. CROSS: We have looked at this photo a great
8 bit. And to be honest, I am not convinced that they are
9 turned columns.

10 COMMISSIONER MAY: So which house is it in that
11 photo?

12 MR. CROSS: It's this house here. Is that visible
13 to you?

14 COMMISSIONER MAY: Yeah, so it's slightly screened
15 by the tree.

16 MR. CROSS: That is correct.

17 COMMISSIONER MAY: If you look at the center
18 column there, don't you see two kind of indentations in the
19 column?

20 MR. CROSS: In that middle column, there are two
21 shadows, but it's hard to say whether those are part of the
22 column because the columns at the end do not have similar
23 shadows in those areas.

24 COMMISSIONER MAY: There's stuff in the
25 background, too. It's a little hard to see. The ones on the

NEAL R. GROSS

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

1 left and the right, the houses on the left and the right also
2 have turned columns, don't they?

3 MR. CROSS: I would agree with that.

4 COMMISSIONER MAY: Do you understand the period
5 of architecture that you're looking at and what the
6 predominant styles were?

7 MR. CROSS: I'm not trained as a historic
8 preservationist.

9 COMMISSIONER MAY: Okay, I don't think you need
10 that training, but you're an architect.

11 MR. CROSS: I am trained as an architect, yes,
12 sir.

13 COMMISSIONER MAY: I don't want to make too big
14 a deal of this. I'm hoping that we all learn something from
15 this. But the kind of column that you're proposing is
16 appropriate for certain styles of porch roof, but I'm not
17 sure that it's the right one here. I'm not going to raise
18 an objection because the Office of Planning, whose expertise
19 we are relying upon, is -- they're supporting it now, but I
20 think that you're -- the design approach here is a bit off.
21 It looks rather awkward to have such large columns, such
22 large square columns. I mean even if they were just a bit
23 smaller in their section -- because they look like they're
24 eight by eights or something like that, or they're built up.

25 MR. CROSS: They are. We took a fair amount of

NEAL R. GROSS

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

1 time to study this photograph and try to gauge the scale.
2 And we compared that scale against the classical orders, and
3 we did find that to have the orders match this, the scales
4 that seem to be relevant in this photo, and acknowledging
5 that this photograph is taken from the opposite block, clear
6 across the elementary school, that an eight by eight columns
7 is possibly the appropriate size of this column, based on the
8 photographic evidence.

9 COMMISSIONER MAY: We'll agree to disagree. I'll
10 go with the Office of Planning's judgment. Thanks.

11 CHAIRPERSON HILL: Anyone else have any questions?

12 (No audible response.)

13 CHAIRPERSON HILL: Would the commissioner like to
14 comment?

15 MR. BOESE: You have no idea how I'd like to
16 comment. I actually also submitted a subsequent request to
17 be considered an expert in historic architecture, which
18 hopefully can be dealt with. I was not at the first hearing
19 when this was dealt with, but having watched the hearing, I
20 was dissatisfied with some of the conversation. I also have
21 growing concerns with how aesthetics are being discussed as
22 part of zoning and the Office of Planning's ability to deal
23 with that. I think, moving forward -- because this is not
24 the only case where, in my opinion, the Office of Planning
25 has missed.

NEAL R. GROSS

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

1 There was a recent case, I believe it was 20107,
2 on Quebec Place, where they completely dismissed our concern
3 that it was a composed row for the additions. I think now
4 that there's been bleed into zoning of aesthetics, that we're
5 going to have a more active role moving forward, or we would
6 like to have a more active role moving forward, and we would
7 like our experience recognized.

8 CHAIRPERSON HILL: All right, Commissioner, you
9 said you put something in the record to be considered an
10 expert in historical. Is that correct?

11 MR. BOESE: I believe to the original ANC
12 submission, they were subsequently ordered -- whatever the
13 original number was -- as A and B.

14 MR. MOY: Mr. Chairman, I believe that's 31B.

15 CHAIRPERSON HILL: Thank you. Commissioner, I'm
16 just trying to get through the first thing first. Am I to
17 understand you're asking to be admitted as an expert in --

18 MR. BOESE: Historic architecture, or at least
19 styles.

20 CHAIRPERSON HILL: Before I get to what the Board
21 -- this is the first time, Commissioner, that this has
22 happened in this particular way. So I don't know --- I guess
23 I would look to OAG to ask: how is it that this -- the Board
24 would necessarily analyze this request?

25 MS. NAGELHOUT: I'm wondering the same thing

NEAL R. GROSS

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

1 myself. Is this person a witness or is he a person in
2 support? All the expert testimony requests I've seen in the
3 past have been witnesses proposed by parties. But basically
4 the regulations you're looking at are Y-203.9 and 10, where
5 it says the individual has to provide written evidence to the
6 Board of expertise, including educational attainment,
7 licensing, accreditation, and examples of relevant or
8 comparable work and employment.

9 CHAIRPERSON HILL: Okay, I understand. The thing
10 that I would assume, again, is that if the commissioner did
11 want to, they are a party, so therefore he could be a witness
12 for testimony that was being given, whether it's in this case
13 or in future cases. And commissioner, I'm sorry, could you
14 turn off your microphone there? It just gets feedback up
15 here.

16 So it is Exhibit 31B, in terms of the resume from
17 the commissioner. And I'm just trying to, I guess --- I mean
18 you've raised a couple of points, Commissioner, so I'm just
19 trying to say -- the first one, I guess, is whether or not
20 -- so you would continue -- I guess I'm asking. You would
21 like us to determine, at this point, whether or not you are
22 going to be considered an expert in -- and could you repeat
23 it again, historical --

24 MR. BOESE: I'd say architectural styles,
25 historic styles, historic aesthetics. I think in watching

NEAL R. GROSS

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

1 the hearing the first time, there was an issue of the porch
2 and the design. And I think there may have been some
3 assumptions to conversations that I may have had with the
4 owner, in my position, which weren't 100 percent accurate.
5 But it all came down to: who are you going to believe, the
6 ANC or the Office of Planning? And so if it's going to come
7 down to that value judgment, I would like all of us to be
8 recognized for the experiences we have.

9 CHAIRPERSON HILL: Okay. I'm just trying to
10 understand aesthetics, an expertise in historical aesthetics.
11 I'm just trying just trying to understand what the context
12 -- it's not like architecture. It's easier for me to
13 understand, in terms of expertise. I'm not disagreeing with
14 you; I'm just trying to understand what it is that --

15 MR. BOESE: Well so historic architectural styles.
16 I have a master's in design history. I've authored, as of
17 last Thursday, 15 landmark nominations that have been
18 successfully added to the D.C. inventory of historic places.
19 I think if you were to talk to members of the Historic
20 Preservation Office, they would say that I do know what I'm
21 doing. I think that should be recognized.

22 CHAIRPERSON HILL: Okay. Let me get through this
23 one step at a time. As for reviewing the resume of the
24 commissioner and what he's asking to be considered an expert
25 on, we've granted expertise in a variety of different ways

NEAL R. GROSS

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

1 over -- architecturally, traffic, all these different
2 specifics.

3 This is the new kind of specific for me, but in
4 general we haven't gone into great questioning, in terms of
5 there hasn't been a lot of Q&A that's gone on with whether
6 somebody is considered a witness. From the testimony that
7 the witness has given in terms of this expertise, I'd be fine
8 with him being considered an expert in this.

9 I guess that would be just, again, then, what that
10 -- I don't see how that -- the testimony, again, is weighted
11 I guess somewhat differently when we do take expert
12 testimony. However, at the same time -- so I'd be fine
13 moving forward with that. So what do you all think?

14 COMMISSIONER MAY: In what, though?

15 CHAIRPERSON HILL: I guess it seems to be what the
16 Applicant is saying is historic architectural styles. And
17 so I'm not clear as to what that means, I suppose, or what
18 category that necessarily falls in, but it seems as though
19 that is what is being put forward by a party, which an ANC
20 is. So the ANC is putting forth -- that's correct,
21 Commissioner, right? You're putting yourself forward as a
22 witness, and you, as a party, meaning the ANC, so you would
23 like to be considered -- your witness, which is you, would
24 like to be considered an expert in historical architectural
25 styles. And that's what is on the table before the Board

NEAL R. GROSS

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

1 currently.

2 COMMISSIONER MAY: I want to ask a couple
3 questions. So the submission of your resume was not part of
4 the first hearing.

5 MR. BOESE: It was not.

6 COMMISSIONER MAY: Okay. So it was added. Somehow
7 it got added into 31B, which is very strange, because I
8 thought everything was sequential. And one of the things
9 that's sort of odd to me is that the ANC is already -- it
10 already has great weight. I'm not sure what the advantage
11 is of having the expertise. I mean, certainly I want to hear
12 what you have to say. And certainly you have an impressive
13 resume for what it is, but it's an odd -- we've never -- I
14 don't think we've ever qualified anybody here, or on the
15 Zoning Commission, for historic architectural styles. We've
16 done historic preservation. We've done architecture. But
17 this is a completely different area of expertise.

18 CHAIRPERSON HILL: Right, but we have done --
19 there are historians that come forward to us and present
20 stuff as historians.

21 COMMISSIONER MAY: We've accepted historians.

22 CHAIRPERSON HILL: And so the witness here is --
23 it's not necessarily a historian --

24 COMMISSIONER MAY: Would you consider yourself an
25 architectural historian?

NEAL R. GROSS

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

1 MR. BOESE: I am not professionally employed as
2 such, but I think that based on my work in landmark
3 nominations and the history I do, I mean, in order to
4 successfully get some PEPCO substations nominated, I didn't
5 just focus on the building; I essentially did the research
6 and developed an entire architectural history of PEPCO from
7 1900 to present so that we figure out the phases of
8 development and what was going on.

9 And in those hearings, when one of the
10 Preservation Review Board members asked who the expert was
11 in this area, the HPO staff deferred to me in saying you're
12 talking to him. So yes, I'm also a professional librarian.
13 I know how to do research. I'm really tight with what I do.
14 You can pretty much bank on it.

15 COMMISSIONER MAY: So I wouldn't have any objection
16 to --- I mean ---

17 (Simultaneous speaking.)

18 COMMISSIONER MAY: No. It seems strange to invent
19 a category. Architectural historian is someone that -- is
20 a category that we've used before. And based on what's in
21 the record and the testimony from the commissioner, I
22 wouldn't have any problem with calling him -- saying that
23 he's an expert in architectural history.

24 CHAIRPERSON HILL: Okay. Again, this hasn't come
25 up with me before, so I don't know the categories that we

NEAL R. GROSS

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

1 have in our book in terms of expertise. So I'm fine with
2 that one as well, or discussing this. We're putting the
3 brakes on this thing now as we kind of go through this one
4 hoop first. So go ahead, Mr. Hart.

5 VICE CHAIRPERSON HART: The only question I had
6 was trying to understand if you would be representing the
7 ANC, or would you be representing yourself? I'm not exactly
8 sure where that fits. Usually someone comes in and they're
9 -- and this is why we're having this difficulty is because
10 it's an Applicant, and the Applicant brings an expert with
11 them to do that. In this case, you have kind of two hats.

12 And I'm not sure if you'd be giving us your
13 architectural historian hat or the ANC hat. I'm not exactly
14 sure if the ANC would be -- are they giving you the ability
15 to do this, to speak for them? Again, I just -- I don't know
16 if we need to get that for each case that you'd come in for.
17 Because this is not just for this case; you're saying in the
18 future to do this. And I guess it's more of a question for
19 the Board how we -- or maybe OAG -- if we need to have
20 something from the ANC that says Mr. Boese is going to be
21 given this ability to do this, which I can understand, and
22 I agree that you have quite a lengthy resume. That's fine.
23 It's just operationally, how do we do this?

24 CHAIRPERSON HILL: I'm just answering -- and OAG
25 can speak up. The way I see this right now is that -- and

NEAL R. GROSS

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

1 I don't know if there is -- in the future if there's
2 something that is necessary in the record. And now I am
3 asking OAG, I guess, in the future, if there would be
4 something necessary in the record -- which I think there is
5 -- in that if you're going to provide witnesses or experts,
6 or just witnesses, you have to have the list of witnesses
7 that you're going to present.

8 Therefore, the ANC would have presented
9 Commissioner Boese as a witness in architectural history, and
10 that is the testimony that they would then have the authority
11 to give, in addition to the commissioner being here
12 representing the ANC. Is that correct, OAG?

13 MS. NAGELHOUT: That seems to be what they're
14 asking, yes. The person has to be authorized to represent
15 the ANC. The ANC is basically asking for this person to be
16 recognized as an expert. I'm not sure how that interplays
17 with the great weight requirement. And there are filing
18 requirements that if you're going to offer expert testimony,
19 you're supposed to say so in advance.

20 CHAIRPERSON HILL: Okay. So I'm just trying to
21 -- first, let's do this. Does anyone have any issues with
22 -- I was going to say not mention commissioner, but Mr. Boese
23 being admitted as an expert in architectural history?

24 (No audible response.)

25 CHAIRPERSON HILL: No? Okay, fine. Commissioner,

NEAL R. GROSS

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

1 we're going to go ahead and allow you to be admitted now as
2 an expert in architectural history, and you will now be in
3 the book, wherever this book is. Sometimes I never know.
4 That's that.

5 After that, I guess in the future, just in terms
6 of making it clear, if you were to come give testimony in
7 architectural history for your ANC, submit something that
8 says you're going to do so in advance, and then also that
9 you'll be speaking as a witness for that, in addition to I
10 guess just being -- representing the ANC, okay? After that's
11 been said, then I believe you stated some other thoughts as
12 to how we should possibly move forward. And the Board has
13 heard those thoughts. Was there anything else you'd like to
14 add?

15 MR. BOESE: I'm primarily here to talk about the
16 front porch because I know there was quite a discussion about
17 it last time. I was troubled that a lot of deference was
18 given to the Office of Planning and that there seems to be
19 an assumption that there were deep and meaningful
20 conversations with the Historic Preservation Office, which
21 based on everything I've been able to answer, whether it's
22 reaching out to Ms. Myers or reaching out to people in the
23 Preservation Office, meaningful conversations did not happen.
24 I'm concerned that -- I understand that the hipped roof is
25 the correct form if you want to be historically accurate for

NEAL R. GROSS

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

1 this, but to Mr. May's comments, I think that what's being
2 proposed today as the solution that everyone seems willing
3 to support is an inferior solution to the previous proposal,
4 which though not 100 percent historically accurate was more
5 aesthetically in line, even if it was a little heavy-handed
6 than what's being proposed today.

7 I think that we should be careful in presuming
8 that the Office of Planning is always accurate. Getting back
9 to the error that was identified in the last case that Mr.
10 May found. In this case, they claimed that the house is
11 built 15 years after it was actually built. They got the
12 date wrong, so how you can start doing an architectural
13 analysis if you can't even get the right decade?

14 To the house being built, the one in question
15 today was built at the same time, with the same builder as
16 the one to the south. In the historic photograph, the middle
17 house and the one to the right, they both had permits pulled
18 December 28, 1892. They were both built by the same builder.
19 It's clear that you can see, to the house on the right, that
20 it does have turned posts. It's easy to presume that both
21 of them had the same -- even though one's a little shorter,
22 it's easier to see that they both had the same hipped roof.
23 They probably had the same turned columns. They both
24 probably had pierced and decorative corbels. There's a lot
25 of things that should be there if we're really concerned

NEAL R. GROSS

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

1 about aesthetics.

2 Traditionally, zoning is not about aesthetics, but
3 it's clear that with ZR-16 and a lot of other things that
4 have happened, architectural defining features, more and more
5 aesthetics are creeping into zoning. And so if that's the
6 way it's going to be, we need to start getting it right, and
7 we need to be able to provide good guidance. The initial
8 guidance we gave the Applicant was in June, before they even
9 purchased the property, saying -- it was more of a heads up
10 that this was closer to what the house historically looked
11 at, and we would be more supportive of any development of
12 this property if you could at least get the façade correct
13 or closer to correct because we don't want to destroy the
14 character of our neighborhood.

15 And that's as far as that discussion went. We
16 never got into details at a very fine level. So that's my
17 way of saying that if the trade-off of a hipped roof to get
18 everyone to sign off on that feature is these big clunky
19 square columns, then I think we should all pat ourselves on
20 the back in supporting an inferior solution. That really
21 shouldn't be what happens in this process. It was vetted in
22 the community. It was vetted through the ANC. We're trying
23 to get it closer to where it was. And if anyone would visit
24 the structure in question, there's no architectural or
25 historic integrity left of the existing roof.

NEAL R. GROSS

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

1 If you were there on site, you would see that you
2 cannot find any original material. There might be some
3 original framing inside, but the roof, over time, has been
4 altered. The materials are different. They're newer. The
5 columns are missing. So if we're going to be trying to get
6 it right, let's at least try to encourage a good choice of
7 materials if you're bringing it back.

8 So that's a long-winded way of saying that the
9 flat roof wasn't right. The roof that's currently there
10 isn't right. I don't think anyone is more egregious or
11 impactful than the other. But if we're going to use this
12 process to get the correct roof on it, great, but let's get
13 something under it that makes it worthwhile that we actually
14 put a hipped roof back on this building. Otherwise, why are
15 we bothering?

16 CHAIRPERSON HILL: Okay. Commissioner, I just
17 want to comment on a couple things, then I'll let the Board
18 members go ahead. We hear a bunch of cases each week, and
19 design elements and things don't normally get brought into
20 what we do. Every now and again, it seems to be, sometimes,
21 these elements get put into discussion. When you say right,
22 how do I know if you're right or the Office of Planning is
23 right? That's where it turns into a different -- we've
24 totally stopped this now to try to get through this process
25 because I'd also like whatever seems to be the appropriate

NEAL R. GROSS

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

1 process -- and I can talk to OAG and learn a little bit more
2 about it in terms of how design elements get washed through.

3 Again, you know how this works. Whether the ANC
4 is right, whether the Office of Planning is right, it's not
5 that easy to just say yes or no one way or the other. I'm
6 going to turn to the Office of Planning in a second. We'll
7 see just what they have to say, in terms of how they ended
8 up getting to where they've gotten to now, or today.
9 However, is there any other questions that the Board has for
10 this witness?

11 COMMISSIONER MAY: Chairman Boese, you're still
12 chairman, right?

13 MR. BOESE: Yes.

14 COMMISSIONER MAY: Chairman Boese, if I understand
15 what you're saying, you would essentially be happier about
16 the current proposed design if they actually had done turned
17 columns.

18 MR. BOESE: Yes. If the current design solution,
19 the major change that everyone's signing off on is that it's
20 a hipped roof, which we all agree was probably original, then
21 if we're going to make that kind of effort, then they should
22 be turned columns. There should be a very simple ballast
23 right underneath, and there should definitely be light, thin,
24 pierced corbels that are more decorative. There are examples
25 like that within a three-block radius of houses of the same

NEAL R. GROSS

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

1 age. That would be the correct way to go.

2 COMMISSIONER MAY: This is not a historic
3 district, so it's not subject to HPRB review in the first
4 place. That's what I was most concerned about because what
5 I was seeing was essentially a version of a craftsman-style
6 porch or a Wardman-style porch on something that was more of
7 a Queen Anne-style or Italianate-style building. And so
8 that's why I was supportive of the Office of Planning's
9 objections.

10 We did, I guess, assume that they were talking to
11 the historic preservation staff. We'll find out more about
12 that in a second. And I --- well, I'll wait to hear more
13 from them, but I'm glad to hear that you're essentially
14 confirming some of the concerns that I had initially. I
15 understand how the ANC wound up here.

16 I would also say that just to be clear, the fact
17 that Zoning and BZA is stepping into this question about
18 whether something is architecturally appropriate is a result
19 of the attempt to deal with popups. It all goes back to that
20 issue and the changes that were happening in RF-1
21 neighborhoods. One of the considerations, when you're
22 looking at whether such additions are appropriate, is what
23 does it do to the front of the house? What does it do to
24 existing features, whether it's a little bit of a mansard
25 roof or a turret or porches or things like that? That's why

NEAL R. GROSS

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

1 we went into this in the first place. I think it was -- as
2 I recall going into this, a lot of this was happening in Ward
3 1 to begin with.

4 And that's what pushed us into even taking up the
5 case to begin with. And it got separated out from the zoning
6 rewrite in order to take this up separately. There were a
7 lot of people trying to push us further into architectural
8 review, and I think we went somewhat far into it. And I also
9 would welcome the prospect that ANCs would want to bring
10 something to the design conversation when it comes to this
11 particular form of relief, which specifically relates to
12 design. So I'm very happy to hear that; glad that there's
13 expertise in the ANCs that we can rely on, as well.

14 MEMBER JOHN: Mr. Chairman --

15 CHAIRPERSON HILL: Sure, go on.

16 MEMBER JOHN: -- may I ask a question?

17 CHAIRPERSON HILL: Of course.

18 MEMBER JOHN: The only reason we're having this
19 discussion, as I understand it, is because this is a
20 conversion, and there's the requirement not to change any
21 architectural element. And so we're trying to be as close
22 to it as we can get. Because if it's not a historic
23 district, I think we shouldn't get too far into these design
24 elements. That's just my question.

25 CHAIRPERSON HILL: We're up here talking. I was

NEAL R. GROSS

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

1 just asking OAG to help me with some of the regulations here
2 again. So a waiver has been requested. And under
3 U-320.2(i), any addition shall not have a substantial adverse
4 impact on the use or enjoyment of any abutting or adjacent
5 dwelling or property, in particular: 1) the light and air
6 available to neighbors' property shall not be unduly
7 affected; 2) the privacy of use and enjoyment of neighboring
8 properties shall not be unduly compromised; and 3) the
9 conversation and any associated additions, as viewed from the
10 street, alley, and other public ways shall not substantially
11 visually intrude upon the character, scale, and patterns of
12 houses along the subject street or alley.

13 So we're now into this discussion of I guess
14 character, pattern of houses along the subject street or
15 alley. Again, how this process is not perfect, some days we
16 have expertise on the Board that has questions about things
17 that are going on with the design, and some days we don't
18 have expertise on the Board. I think that turning to the
19 regulations are what we are tasked with looking at, and then
20 listening to, again, the great weight given by the ANC, as
21 well as the Office of Planning. And I don't know if I
22 answered your question or not.

23 MEMBER JOHN: Well yes and no. Because if this
24 was not a conversion, would we have this discussion? If this
25 was just an addition to add more room to a single family

NEAL R. GROSS

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

1 home, would we have this discussion?

2 CHAIRPERSON HILL: We'd be having the discussion
3 because of the waiver from the rooftop architectural element.
4 That's what we're talking about. We're just talking about
5 the rooftop architectural element waiver now that seems to
6 be bringing all of this up. So if there weren't any waiver
7 being asked about, then we would be just with the other
8 relief that was being requested and not the rooftop
9 architectural element.

10 Unless anybody has anything else right now, I'm
11 just going to turn to the Office of Planning because the
12 Office of Planning is the person -- or sorry, the office that
13 originally we were giving great weight to in denial of the
14 waiver from the rooftop architectural element. Could the
15 Office of Planning please comment?

16 MS. MYERS: Hello. Crystal Myers for the Office
17 of Planning. I just wanted to note, before I get into it,
18 that yes, we are reviewing this because of a special
19 exception for a conversion of a row house to an apartment
20 building, but also the RF-1 zone does have a requirement to
21 not remove rooftop architectural elements. And that would
22 be matter of right. If you do do it, it would kick you into
23 having to go through special exception review. We would have
24 had to discuss this issue even if they were not doing a
25 conversion. Anyway, so we originally recommended approval

NEAL R. GROSS

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

1 of this case, but we did not support the waiver request for
2 the removal of -- for the porch roof.

3 And the reason why we didn't support it is because
4 the Applicant argued that the reason why they were removing
5 the porch roof is because they wanted to replace it with the
6 one that was originally proposed. We did not believe that
7 the one originally -- I'm sorry. Let me back up a little bit
8 and say they wanted to replace it with the one originally
9 proposed because the one originally proposed would be more
10 historic or more historically accurate.

11 And we did not believe that the one being proposed
12 was more historically accurate. We actually thought the
13 design and the argument that it was more historically
14 accurate, we thought it was not as good as even the one
15 existing on the house. Even though we did not think that the
16 porch roof existing on the house was great, we didn't think
17 that the one being originally proposed was better.

18 So we recommended denial of the waiver, but still
19 recommended approval of the conversion project. So at the
20 meeting, the Board asked the Applicant to redesign and have
21 us look at it again. I will say that we did talk to our
22 historic preservation experts, first time and the second
23 time, but this is not in a historic district. When reviewing
24 this, one of the main things we were looking at was the shape
25 of the porch roof. When we looked at it again with the

NEAL R. GROSS

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

1 Applicant's new design, the internal decision was that this
2 was good.

3 This was not, perhaps, the same rigorous review
4 that a historic preservation project would require if it was
5 in a historic district, but for the key thing we thought were
6 necessary to be a little bit more historically accurate,
7 better designed, we thought this was better. We were
8 comfortable with recommending approval of the waiver of it.

9 The additional discussion about the columns, et
10 cetera, we're not opposed to any other changes, but for our
11 key issues, we were satisfied with what the Applicant's
12 proposing. Because it's not a historic district, we did not
13 go further in more rigorous review of the porch roof. So
14 with that, the Office of Planning's recommending approval of
15 the waiver.

16 CHAIRPERSON HILL: I just have a quick question,
17 then I'll turn to my fellow Board members. In terms of the
18 Office of Planning and the people in the Office of Planning,
19 who are the historic experts? What does that mean?

20 MS. MYERS: We have a whole historic preservation
21 staff. So when originally looking at this project -- usually
22 whenever there's a project that comes up that's in a historic
23 district, we will talk to particular point people, the
24 historic preservation staff member for that district. But
25 because there wasn't one in this case, talked to actually one

NEAL R. GROSS

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

1 or two staff members, as well as looked at in development
2 review. We did talk to our historic preservation staff
3 members about this. And they significantly objected to the
4 original porch roof.

5 CHAIRPERSON HILL: Okay. The reason why I'm
6 asking, or just trying to understand, it's not that we go
7 through -- we're not HPRB. That's what I just didn't
8 understand. Whenever there is an architectural -- this makes
9 sense, and I assume I guess this is what's happening.
10 Whenever there's an architectural rooftop element waiver
11 being requested, there is a historic review process that the
12 Office of Planning goes through.

13 MS. MYERS: No, because it's not always about
14 being historically accurate. We look at it -- we also have
15 designers on staff. So sometimes, in some cases -- not just
16 porch roofs, but other elements on the rooftop -- we may talk
17 to them, but in this case, because the argument was more
18 historic based, we talked to our historic preservation staff.
19 Again, since it's not a historic district, we don't put the
20 same level of rigorous review and requirements that we would
21 if it were in a historic district.

22 CHAIRPERSON HILL: What are those rigorous review
23 requirements if it's in -- I'm just curious what the
24 difference is then?

25 MS. MYERS: For one thing, we don't have a

NEAL R. GROSS

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

1 historic preservation staff member on the case. They don't
2 review the whole --

3 CHAIRPERSON HILL: But if it were in a historic
4 district, then they would.

5 MS. MYERS: Exactly. When it's a historic
6 district -- I was doing a case recently, the historic
7 district staff member had already told me that case has
8 already been filed. And so we work together. I don't review
9 a case for historic preservation purposes, but I do flag
10 certain things for the Applicant if there may be some issues
11 that may happen in HPRB.

12 And HPRB will also flag things for the Applicant
13 if there may be some issues with development review. And if
14 there's something that's a really significant issue, we'll
15 even put it in our staff report that at this time, this case
16 has not been approved by HPRB, but we are aware that --
17 you've seen, in our staff report, we usually have a sentence
18 or two saying there's a major historic preservation issue.
19 Sometimes an Applicant will redesign what they're doing
20 before it gets to the final plans for development -- for
21 Board of Zoning Adjustment because they know that they're
22 having -- they have to amend some things for HPRB. And so
23 for you to have a more accurate final version of the project,
24 they will update it before it gets to the Board.

25 CHAIRPERSON HILL: Okay. And I'll let my

NEAL R. GROSS

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

1 colleagues ask questions, but I'm just trying to follow
2 through this a little bit, in that -- so there's not a way
3 currently that the ANC necessarily works with the Office of
4 Planning, in terms of design.

5 MS. MYERS: Well development review for BZA review
6 cases, we don't do a lot with design. I agree with that.
7 I know with HP, the ANC does work with HP or historic
8 preservation staff people. But when it comes to design
9 issues, the ANC obviously can submit a letter and come to the
10 BZA meetings. But when it comes to our review, usually
11 visual character is something that we do consider.

12 And in the rooftop element situations, we do
13 consider it, but we usually don't take a strong stand on
14 design issues because when it comes to zoning review, design
15 isn't usually a high concern of ours. But in this case,
16 because there was this element of the -- I guess the porch
17 roof, the rooftop element at issue and the design we felt was
18 significantly -- the original design was significantly an
19 issue, we did oppose the waiver.

20 CHAIRPERSON HILL: Okay. I'm just trying to talk
21 this through, and then I will turn it over to my colleagues,
22 which is that there's a difference of opinion, it seems like,
23 between the ANC and what the ANC thought was more accurate
24 versus where the Office of Planning is. And that's what is
25 before us, somewhat, in this discussion. So does --

NEAL R. GROSS

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

1 MS. MYERS: Can I just say one thing?

2 CHAIRPERSON HILL: Sure.

3 MS. MYERS: It actually sounds like we may, I
4 guess, be on the same page. It sounds like the ANC is saying
5 that they are okay with the hipped roof of the porch roof.
6 They would like the columns changed. And Office of Planning
7 is not against that.

8 CHAIRPERSON HILL: I'm just trying to figure out
9 how we -- I don't see how we're involved in this right now
10 and how this has taken an hour and a half. I'm just trying
11 to make sure we don't do this again. Does anybody have any
12 other questions for the Office of Planning?

13 COMMISSIONER MAY: I have one question. So who
14 on the historic preservation staff did you talk to, do you
15 recall?

16 MS. MYERS: Yes, I think, at the time, Brendan
17 Meyer was actually the historic preservation planner on, I
18 guess, information counter. Talked to him because he was the
19 one that was available at the time. And so he looked at it
20 twice. And again, didn't go through a whole review of his
21 -- his main thing was more the rooftop issue, but I would not
22 say that he would be against the columns either. And I could
23 have talked to multiple other historic preservation staff
24 members; it's just that he was the one that was available at
25 the time.

NEAL R. GROSS

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

1 COMMISSIONER MAY: And you talked to other design
2 staff as well from OP?

3 MS. MYERS: Internally, and more development
4 review staff people. Again, it was just one or two key
5 issues that we thought needed to be changed on the porch
6 roof, but we did not emphasize the full historic review on
7 it.

8 COMMISSIONER MAY: Okay. Thank you.

9 CHAIRPERSON HILL: Okay, I'm going to turn to the
10 commissioner a second to see if you have any questions for
11 the Office of Planning. I'm confused as to how this is
12 going. The architects and the Applicant are just sitting
13 there.

14 I don't want to be part of making the camel, you
15 know, the joke where, oh, camels, something that's a horse
16 made by a committee. I just don't understand. Now, we're
17 having a discussion about this porch with the ANC and the
18 Office of Planning. Does the ANC have any questions for the
19 Office of Planning?

20 MR. BOESE: More of a comment. And as some back
21 story, I did reach out to Ms. Myers by email following the
22 last hearing. And in a series of back-and-forth emails, I
23 asked, three separate times, who the HPO staff was that
24 reviewed it, so thank you, Mr. May, for finally getting that
25 answer because that was never willingly given. And had that

NEAL R. GROSS

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

1 happened, I could have had a conversation with that staff
2 member to find out what that process was.

3 CHAIRPERSON HILL: Yeah, Commissioner Boese, I
4 don't know whether they give out names or not. I'm just
5 trying to figure out how this process would work. Again,
6 it's a difference of opinion. I don't even know -- it
7 doesn't sound like there is a difference of opinion anymore,
8 and that's what I'm confused about because I don't want to
9 approve something that apparently is a square clunky column
10 thing if that's not what the ANC wants either. And I'm not
11 an expert. So your question -- you made a comment. There
12 you go. Does the Applicant have any questions for the Office
13 of Planning?

14 MR. CROSS: No. I guess can the Office of
15 Planning confirm that the RF-1 regulations only restrict the
16 rooftop element, not the columns?

17 MS. MYERS: That's a good point. It does say
18 porch roof. So when it comes to the architectural elements,
19 the waiver itself, it says porch roofs, so we would not be
20 able to go further on the columns.

21 CHAIRPERSON HILL: Mr. Cross, I'm just curious on
22 that. So do you like your columns?

23 MR. CROSS: I guess I'm suggesting that the path
24 forward may be easier if the roof is established here today,
25 we could work with the ANC and the Zoning Administrator to

NEAL R. GROSS

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

1 get the columns right.

2 CHAIRPERSON HILL: Okay. Well that's at least a
3 moving forward suggestion. Whether or not this solves our
4 problem in the future, I haven't figured out yet. Does
5 anybody -- that sounds like a good idea to me, Mr. Cross.
6 Does anyone have any other thoughts of anything before I ask
7 to hear from members of the public?

8 (No audible response.)

9 CHAIRPERSON HILL: Okay, great. Thanks, Mr.
10 Cross. All right. Is there anybody here wishing to speak
11 in support?

12 (No audible response.)

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

15 (No audible response.)

16 CHAIRPERSON HILL: Is there anything else either
17 one of you would like to add at the end?

18 MR. CROSS: No, sir. Thanks.

19 CHAIRPERSON HILL: Okay, great. All right. I'm
20 going to close the hearing. Is the Board ready to
21 deliberate?

22 PARTICIPANT: Sure.

23 CHAIRPERSON HILL: On the merits of the zoning
24 issues, I am comfortable with the Applicant and what has been
25 put forward in terms of the conversion, as well as the

NEAL R. GROSS

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

1 architectural rooftop element waiver. I would agree with the
2 Office of Planning.

3 I think that we internally might have to figure
4 out how this doesn't turn out to be something that we are
5 involved in at this lengthy process. However, I do
6 appreciate that the Applicant has put forward the
7 clarification that the rooftop element is what is being
8 discussed, as I went through, again, the regulation as to
9 what we're actually looking for.

10 And that if there are specifics in terms of the
11 columns, they can work with the ANC about it, it sounds as
12 though they're willing to do so, and I'd be comfortable with
13 that moving forward. So therefore, I would again agree with
14 the burden -- I would then also agree, again, with the
15 application and with the arguments that the Applicant has
16 made, as well as the analysis of the Office of Planning, and
17 actually that of the ANC, and be voting to approve. Is there
18 anything anyone else would like to add?

19 COMMISSIONER MAY: Mr. Chairman, I would say I
20 would agree with your summary. I have a gut reaction against
21 simply saying that we're only talking about the roof, and not
22 the columns, but I understand that it may not be something
23 that's really clear in the zoning regulations as they were
24 written. So I'm happy to move forward on that basis that we
25 are not explicitly approving the columns and leaving that to

NEAL R. GROSS

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

1 further discussion with the ANC and the designer and DCRA and
2 anybody else who gets involved, but not us. So I'm fine with
3 that.

4 I understand that this has not necessarily been
5 the easiest discussion for the BZA to undertake, but I do
6 think it is very important to understand that this is a
7 critical part of -- the architectural aspect of this is a
8 critical part of maintaining neighborhood character, and
9 that's why it has been written into the zoning regulations
10 this way. So I'm ready to move forward and vote to approve.

11 CHAIRPERSON HILL: Okay, anyone else?

12 VICE CHAIRPERSON HART: The only aspect that I
13 wanted to bring up again was the condition that you stated
14 earlier and just make sure that condition regarding the --
15 to extend the chimney was added to the order, but I would be
16 in support of the order for the reason that you all have
17 already explained.

18 MEMBER JOHN: I'm in support of the application
19 with the new roof design. And I agree that the regulations
20 specifically address the rooftop architectural element and
21 not the columns, and so that's all we're approving.

22 CHAIRPERSON HILL: Okay. I'm going to make a
23 motion to approve Application No. 20114, as captioned and
24 read by the secretary, with the condition, as mentioned,
25 prior to the issuance of a building permit authorized by the

NEAL R. GROSS

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

1 order, the Applicant shall obtain the issuance of a building
2 permit for 3567 Warder Street, Northwest to extend the
3 chimney or otherwise comply with the requirements of Subtitle
4 U-320.2(f) and ask for a second.

5 VICE CHAIRPERSON HART: Second.

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

8 (Chorus of ayes.)

9 CHAIRPERSON HILL: All those opposed.

10 (No audible response.)

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

12 MR. MOY: Staff would record the vote as 4-0-1.

13 And that's on the motion of Chairman Hill to approve the
14 application for the relief requested, as well as the
15 condition that has been stated in the motion. Seconding the
16 motion, Vice Chair Hart. Also in support, Ms. John and
17 Zoning Commissioner Peter May. No other members present.
18 Motion carries.

19 CHAIRPERSON HILL: Okay, great, thank you Mr. Moy.
20 Thank you all very much. And we're going to take a break,
21 everybody.

22 (Whereupon, the above-entitled matter went off the
23 record at 11:11 a.m. and resumed at 11:28 a.m.)

24 CHAIRPERSON HILL: Let's start again. Mr. Moy,
25 if you could just call our next case when you get a chance.

NEAL R. GROSS

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

1 APPLICATION NO. 20138 OF JOYCE COWAN

2 MR. MOY: Thank you, Mr. Chairman. The Board is
3 back in session, and the time is about 11:27, to be exact,
4 at least by my clock. So I believe, Mr. Chairman, we're back
5 at the top of the batting order. And that would be
6 Application No. 20138 of Joyce Cowan, C-O-W-A-N, captioned
7 and advertised for a special exception under use permissions,
8 Subtitle U, Section 301.1(g), and under Subtitle E, Section
9 5201 from the lot occupancy requirements of Subtitle E,
10 Section 404.1 from the accessory building lot occupancy
11 requirements, Subtitle E, Section 5003.1 from the accessory
12 building rear yard setback requirements, Subtitle E, Section
13 5004.1 from the non-conforming structure requirements,
14 Subtitle C, Section 202.2 to construct a second story
15 addition to an existing accessory structure that would be
16 used as a studio, garage, and second-floor dwelling unit,
17 RF-2 zone. This is at 1436 S Street, Northwest, Square 207,
18 Lot 49.

19 CHAIRPERSON HILL: All right. Thank you, Mr. Moy.
20 Could you please introduce yourselves for the record?

21 MR. SULLIVAN: Thank you, Mr. Chairman and members
22 of the Board. My name is Marty Sullivan, with Sullivan &
23 Barros, on behalf of the Applicant.

24 MR. BEIDLER: My name is Michael Beidler, the
25 architect, Trout Design Studio.

1 CHAIRPERSON HILL: Can you spell your last name
2 for me, sir?

3 MR. BEIDLER: B-E-I-D-L-E-R.

4 CHAIRPERSON HILL: Beidler?

5 MR. BEIDLER: Beidler.

6 CHAIRPERSON HILL: Okay, great. Mr. Sullivan, if
7 you could please go ahead and kind of tell us again what your
8 Applicant is trying to do and how you believe you're meeting
9 the standard for us to grant the relief. I don't have a lot
10 of specific questions on this, other than I think others
11 might comment.

12 I thought the design was very nice, Mr. Beidler,
13 although there's architects on here that have differences of
14 opinion, perhaps. I don't know; we'll see. And so you can
15 go ahead and walk us through that. I'm going to put 15
16 minutes on the clock, and you can begin whenever you like.

17 MR. SULLIVAN: Thank you, Mr. Chairman. This is
18 1436 S Street, Northwest. I think I'll start off with this
19 slide because it's the best one to describe exactly what's
20 going on. You can see the existing and proposed here. The
21 proposal is to add a second story to the existing accessory
22 building, and then to convert that carriage house to a second
23 principal dwelling unit. And the first relief -- there's
24 five areas of relief, but they all relate to just that
25 addition of 515 square-foot addition on top of the carriage

NEAL R. GROSS

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

1 house. First of all, use as a second principal dwelling
2 unit, of course, is permitted in the RF-1 zone, but it's only
3 permitted in an accessory building under certain conditions.

4 One of those conditions is that the accessory
5 building cannot be expanded for residential use without
6 special exception relief, so that's the first area of relief
7 that we're requesting. And the criteria for approval of that
8 is just the general requirements under X-901. That expansion
9 also then requires lot occupancy relief. And the lot
10 occupancy essentially leads to three areas of relief. One
11 is the lot occupancy for the carriage house, for the
12 accessory building itself. It's limited to a 450 square-foot
13 footprint. The additional footprint is 515. The overall lot
14 occupancy on the second level is over 60 percent and extends
15 over that, so we're asking for relief for that.

16 And then because we're expanding a non-conforming
17 condition, we ask for relief for that. Then finally it's
18 relief from the center alley line setback provision because
19 we are building up on the existing level and the expansion
20 of that requires relief. So I'll turn it over to Mr. Beidler
21 to explain the project.

22 MR. BEIDLER: Thank you. As you can see, it's a
23 fairly simple addition. We're not adding any lot coverage
24 to the property. We're just adding a very small addition
25 onto the existing carriage house. As you can see the massing

NEAL R. GROSS

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

1 there in the second -- in the lower half of the slide, the
2 shadow in the background is the adjacent property to the
3 east.

4 I can go through the plans. This is the existing
5 first floor of the proposed building. The garage is
6 existing. This floor plan won't change except we're adding
7 the stair to the second level. This is the second plan --
8 second level of the building that we're adding, simple large
9 one bedroom with a sitting area, a bathroom, and a closet.
10 The roof is planned to have a full solar array on it. Rear
11 elevation, we kept the elevation very simple, one over one
12 windows. That's characteristic in the context not only
13 across the alley, but also in other two-story dwellings in
14 the alley. The north side is more glassy on the additional
15 level to provide really nice north light into the dwelling
16 unit, and then a skylight over the stair going down.

17 The first floor, as it appears, is existing.
18 There's no change there. Site elevations, again, you can see
19 the dotted lines show the existing roof lines and the
20 existing walls, same thing on this side, and then some axons
21 of the proposed project with the addition on it. You can see
22 the scale of our building related to the other buildings on
23 the alley. In this context, across the alley, we've got much
24 taller apartment building. At the end of the alley is 15th
25 Street with a very large building there. And then our

NEAL R. GROSS

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

1 neighbor directly to the east you can see looming on the
2 right side of the slide.

3 This is a shot from 15th Street looking at our
4 building. These are just some axons that show the addition.
5 You can see, in the back, the buildings across the alley in
6 context. At the back of this project -- the presentation,
7 there's existing context photos.

8 CHAIRPERSON HILL: Okay, Mr. Beidler, I'm going
9 to interrupt you just for a second. Does the Board have any
10 questions for the Applicant?

11 PARTICIPANT: No.

12 CHAIRPERSON HILL: Okay, I'm going to turn to the
13 Office of Planning. Good morning, Mr. Chair, members of the
14 Board, Elisa Vitale with the Office of Planning. And we'll
15 rest on the record in support of the requested special
16 exception relief. I'm happy to answer any questions that you
17 might have. Thank you.

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

20 (No audible response.)

21 CHAIRPERSON HILL: Does the Applicant have any
22 questions for the Office of Planning?

23 MR. SULLIVAN: No, thank you.

24 CHAIRPERSON HILL: Mr. Beidler, I'm curious, is
25 that solar that they -- there's solar panels on top?

NEAL R. GROSS

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

1 MR. BEIDLER: Yes.

2 CHAIRPERSON HILL: Okay, great. Is there anybody
3 here wishing to speak in support?

4 (No audible response.)

5 CHAIRPERSON HILL: Is there anyone here wishing
6 to speak in opposition?

7 (No audible response.)

8 CHAIRPERSON HILL: Mr. Sullivan, is there anything
9 you'd like to add at the end?

10 MR. SULLIVAN: No, thank you.

11 CHAIRPERSON HILL: Okay, go ahead and close the
12 hearing. Is the Board ready to deliberate?

13 (No audible response.)

14 CHAIRPERSON HILL: After reading the record, I
15 didn't have any issues with the application. I would agree
16 with the analysis that was provided by the Office of
17 Planning, as well as ANC 2F in terms of their support. There
18 were three letters in support. DDOT had no objection. I
19 saw, through the shadow studies -- I also thought that it was
20 a nice design, but the shadow studies helped, in terms of my
21 analysis, in terms of effect on the property. Is there
22 anything else anyone would like to add?

23 (No audible response.)

24 CHAIRPERSON HILL: Go ahead and make a motion to
25 approve Application No. 20138 as captioned and read by the

NEAL R. GROSS

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

1 secretary and ask for a second.

2 VICE CHAIRPERSON HART: Second.

3 CHAIRPERSON HILL: Motion has been made and
4 seconded. All those in favor say aye.

5 (Chorus of ayes.)

6 CHAIRPERSON HILL: All those opposed.

7 (No audible response.)

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

9 MR. MOY: Staff would record the vote as 4-0-1.
10 This is on the motion of Chairman Hill to approve the
11 application for the relief requested. Seconding the motion
12 is Vice Chair Hart. Also in support, Ms. John and Zoning
13 Commissioner Peter May. No other members present. Motion
14 carries, sir.

15 CHAIRPERSON HILL: Great, thank you, Mr. Moy.
16 Thank you, gentlemen.

17 MR. SULLIVAN: Thank you.

18 APPLICATION NO. 20139 OF 716 L ST SE LLC

19 MR. MOY: If we can have parties -- the Applicant
20 to the table to Case Application 20139 of 716 L Street,
21 Southeast, LLC, captioned and advertised for a special
22 exception under Subtitle A, Section 1200.1 from the ground
23 floor use requirements of Subtitle H, Section 1101.1, to
24 construct an addition to the existing detached building and
25 convert it into an 18-unit apartment house, NC-6 zone, at 716

NEAL R. GROSS

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

1 through 718 L Street, Southeast, Square 906, Lot 16.

2 CHAIRPERSON HILL: Okay, great, if you could
3 please introduce yourself for the record.

4 MR. SULLIVAN: Marty Sullivan, with Sullivan &
5 Barros, on behalf of the Applicant.

6 MR. WARREN: Charles Warren, Teass Warren
7 Architects, on behalf of the Applicant.

8 CHAIRPERSON HILL: Okay, Mr. Sullivan, are you
9 going to be presenting to us?

10 MR. SULLIVAN: Yes. I have a technological issue
11 with the PowerPoint, but I believe you have it in front of
12 you. And the analysis doesn't really rely on the design, so
13 much. And I don't know if there's anybody here that needs
14 to see it. I can solve it if we -- if I had five minutes.

15 CHAIRPERSON HILL: That's okay. We can pull it
16 out in a second. I guess if you want to go ahead and walk
17 us through your application, in terms of what you're trying
18 to do, or your client is trying to do, as well as how you're
19 meeting the standard for us to grant the relief requested.
20 There are a bunch of conditions that DDOT had put forward,
21 if you could speak to those. And you can begin whenever you
22 like.

23 MR. SULLIVAN: Thank you. The relief being
24 requested is a special exception relief. There's a
25 requirement that 50 percent of the ground floor be used for

NEAL R. GROSS

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

1 non-residential use. And we're asking for relief from that.
2 It is a special exception, so I'll have the architect go
3 through the project.

4 MR. WARREN: So this project is located in the
5 southern boundary of the Capitol Hill historic district,
6 716-718 L Street. It's just across the street from the Blue
7 Castle Car Barn building and just north of the historic Navy
8 Yard gates. That's 8th Street to the east, and that's the
9 Barracks Row neighborhood. The lot is around 4,000 square
10 feet.

11 The existing building is considered a contributing
12 structure to the historic district, as built in 1925, and has
13 been vacant for decades, as far as we can tell. The proposed
14 project is a rear and vertical addition to create a four
15 story plus habitable penthouse space, 18-unit multi-family
16 building, as Mr. Sullivan had noted. The building will have
17 generally four units per floor over the ground through the
18 third floors. We are underpinning and digging out the cellar
19 for three units down there. The three units on the fourth
20 floor addition would be duplexed into the penthouse habitable
21 space. From a material standpoint, we're really restoring
22 the existing façade, repointing the brick. We are proposing
23 to reintroduce the historic show windows that were original
24 to the building and replacing all the windows in the existing
25 structure with six over one configuration double-hung

NEAL R. GROSS

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

1 windows.

2 The addition generally would be clad in metal.
3 We're really trying to make a clear distinction between the
4 addition and the historic contributing structure and really
5 make a clean break in knowing exactly what's going to be new
6 and what's old. There is a GAR requirement as part of this
7 project.

8 We are primarily reaching that through green roofs
9 on the building. That's pretty much it for the building.
10 I'm happy to answer any questions you may have about the
11 architectural piece, but I'll turn it back over to Mr.
12 Sullivan to discuss the zoning relief. Thank you.

13 CHAIRPERSON HILL: Thank you.

14 MR. SULLIVAN: Thank you. So there are several
15 requirements for the special exception approval, the first
16 being that the accepted use will substantially advance the
17 stated purposes of the NC zones. As the Office of Planning
18 found, this being all residential still does advance that
19 stated purpose, which is to encourage neighborhood-serving
20 retail and mixed-use development near the Navy Yard. The
21 architectural design shall enhance the urban design features
22 of the immediate vicinity. This, of course, is still going
23 to be reviewed by HPRB. It was reviewed under a different
24 scheme in this design, or close to this design, a couple
25 years ago, but it has to go back for additional review.

NEAL R. GROSS

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

1 There need to be exceptional circumstances which
2 exist that justify the exception. In this case, the
3 exceptional circumstances are the disconnection of this
4 property from the main 8th Street retail core, which is north
5 of the freeway. The freeway interrupts or stops at the
6 retail core, and we're on the other side of that.

7 Also, it's not on one of the designated roadways
8 in the NC-6 zone. The next requirement is vehicular access
9 and egress are located in the design so as to encourage safe
10 and efficient pedestrian movement. There is no access onto
11 the property, and there's no parking, no parking required.
12 Parking and traffic conditions associated with the operation
13 shall not adversely affect adjacent or nearby residences.

14 We believe that the project shows that's not the
15 case. Noise associated with the operation project will
16 adversely affect adjacent or nearby residents. Since it's
17 just a residential use, we don't expect to generate noise
18 levels that would adversely affect adjacent or nearby
19 properties. The BZA may impose requirements.

20 CHAIRPERSON HILL: Okay. I was a little confused.
21 I understand what you're here for, Mr. Sullivan --
22 Applicant's here for. I didn't understand any of that ground
23 floor retail space. What is in that area there that --
24 you're putting back those windows, and then what's behind
25 those windows?

1 MR. WARREN: It's a unit in the lobby. Behind the
2 new show windows is just the ground-floor unit.

3 CHAIRPERSON HILL: Does the Board have any
4 questions for the Applicant?

5 COMMISSIONER MAY: I didn't hear you address the
6 DDOT conditions. Did you talk to that?

7 MR. SULLIVAN: Yes. I'll pull those up.

8 CHAIRPERSON HILL: Mr. Sullivan, while you pull
9 them up, I'm going to turn to the Office of Planning. Office
10 of Planning.

11 MS. FOTHERGILL: Good morning. I'm Anne
12 Fothergill with the Office of Planning. We rest on the
13 record in support of the application. We found that it met
14 the specific criteria of Subtitle H-1200.1, and I'm happy to
15 take any questions.

16 CHAIRPERSON HILL: Does the Board have any
17 questions for the Office of Planning?

18 (No audible response.)

19 CHAIRPERSON HILL: Does the Applicant have any
20 questions for the Office of Planning?

21 MR. SULLIVAN: No, thank you.

22 CHAIRPERSON HILL: Did you find those DDOT
23 conditions, Mr. Sullivan?

24 MR. SULLIVAN: I'm trying to pull up the report
25 right now.

NEAL R. GROSS

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

1 CHAIRPERSON HILL: There's seven conditions. Have
2 you walked those conditions through with your client?

3 MR. SULLIVAN: We have, yes, and we don't have any
4 issue with (Simultaneous Speaking).

5 CHAIRPERSON HILL: With any of the conditions,
6 right. Okay. Is there anyone here wishing to speak in
7 support?

8 (No audible response.)

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

11 (No audible response.)

12 CHAIRPERSON HILL: Mr. Sullivan, the only thing
13 about that last condition, I guess, on DDOT transportation
14 coordinator will submit a letter to the zoning administrator,
15 I think we're going to go ahead and strike the Office of
16 Zoning because there's no one here that necessarily gets one
17 of those letters. Then it will still be transportation
18 coordinator will submit a letter to the zoning administrator,
19 DDOT, and Go D.C. every five years, demonstrating compliance
20 with the transportation and TDM conditions in the order. I'm
21 just clarifying that's we're going to state with that No. 7
22 condition. I won't necessarily read through all of them if
23 we do get to the point where we're approving this. Is there
24 anything else you'd like to add, Mr. Sullivan?

25 MR. SULLIVAN: No, thank you.

NEAL R. GROSS

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

1 CHAIRPERSON HILL: Okay, going to close the
2 hearing. Is the Board ready to deliberate?

3 (No audible response.)

4 CHAIRPERSON HILL: I can start. I did, after
5 reviewing the record, agree with the analysis that was
6 provided by the Office of Planning, as well as the burden of
7 proof provided by the Applicant, as well as the ANC 6B's
8 analysis -- I should say support. I did mention the one
9 item, in terms of DDOT's conditions.

10 I don't have any issues with DDOT's conditions and
11 would be in favor of incorporating those into the order.
12 Those would be Conditions 1 through 7 in Exhibit 32, with the
13 exception, as I mentioned, of canceling the Office of Zoning
14 receiving one of those letters. Is there anything else
15 anyone would like to add?

16 COMMISSIONER MAY: Mr. Chairman, I would just
17 note, I think the connection between DDOT's conditions and
18 the requirements for a TDM plan are tenuous. Certainly, TDM
19 makes great sense in this circumstance, given that there's
20 no on-site parking and there's undoubtedly going to be people
21 who would be parking in the neighborhood and there'll be
22 traffic that'll be generated by the project, and DDOT says
23 as much.

24 But the relief that's being requested only barely
25 touches the question of traffic impacts. It's one of the

NEAL R. GROSS

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

1 prongs you have to look at when you're taking out -- or
2 rather seeking a special exception from the requirement for
3 50 percent retail on the first floor. That being said, I
4 appreciate the fact that the Applicant has agreed to it.

5 I understand that there's maybe just barely enough
6 of a connection to make it worth doing, so I'm not going to
7 push back on that. It would have been helpful, I think if
8 DDOT, in their report, were to explain more clearly how the
9 TDM that they requested actually related to the relief that
10 was being requested. But I do appreciate the Applicant
11 agreeing to it all because it is the right thing to do.

12 CHAIRPERSON HILL: Anyone else?

13 (No audible response.)

14 CHAIRPERSON HILL: I'm going to go ahead and make
15 a motion to approve Application No. 20139, as captioned and
16 read by the secretary, including the conditions that DDOT had
17 in Exhibit 32, minus -- as I said, striking the Office of
18 Zoning receiving a letter in Item No. 7 and ask for a second.

19 VICE CHAIRPERSON HART: Second.

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

22 (Chorus of ayes.)

23 CHAIRPERSON HILL: All those opposed.

24 (No audible response.)

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

NEAL R. GROSS

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

1 MR. MOY: Staff would record the vote as 4-0-1.
2 This is on the motion of Chairman Hill to approve the
3 application for the relief requested, including adding the
4 conditions as stated in the DDOT report. Seconding the
5 motion, Vice Chair Hart. Also in support, Ms. John and
6 Zoning Commissioner Peter May. No other board members
7 present. The motion carries, sir.

8 CHAIRPERSON HILL: All right, thank you, Mr. Moy.
9 Thank you, gentlemen.

10 MR. SULLIVAN: Thank you.

11 APPLICATION NO. 20140 OF TODD VASSAR AND BRYANT HALL

12 MR. MOY: The next case before the Board is No.
13 20140 of Todd Vassar and Bryant Hall, captioned and
14 advertised for special exception under Subtitle D, Section
15 5201, from the rear yard requirements of Subtitle D, Section
16 306.1, to construct a two-story rear addition to an existing
17 detached principal dwelling unit, R-1B zone. This is at 3020
18 Courtland Place, Northwest, Square 2103, Lot 49.

19 CHAIRPERSON HILL: Okay, great. If you could
20 please introduce yourselves for the record from my right to
21 left.

22 MR. HALL: Bryant Hall, one of the applicants.

23 MR. VASSAR: Todd Vassar, also applicant.

24 MR. SULLIVAN: Marty Sullivan, with Sullivan &
25 Barros, on behalf of the Applicant.

NEAL R. GROSS

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

1 MR. SMITH: Alex Smith, with Thomson & Cooke, on
2 behalf of the Applicant.

3 CHAIRPERSON HILL: Mr. Sullivan, I assume you're
4 going to presenting to us.

5 MR. SULLIVAN: Yes.

6 CHAIRPERSON HILL: Mr. Sullivan, are you here for
7 the appeal, as well? I can't recall.

8 MR. SULLIVAN: No.

9 CHAIRPERSON HILL: Okay, are you sure? You want
10 to stay for the appeal?

11 MR. SULLIVAN: I'd love to.

12 CHAIRPERSON HILL: Okay.

13 MR. SULLIVAN: I don't have anything better to do.

14 CHAIRPERSON HILL: You seem to be here the whole
15 day with us. If you could go ahead and walk us through the
16 application, Mr. Sullivan, and what your client is trying to
17 achieve. There might be a question concerning a discrepancy
18 in the plan set, in terms of the rear yard distance, between
19 the Office of Planning and your application, but we can kind
20 of get to that as we get to the Office of Planning and/or if
21 you'd like to comment on it. Other than that, if you could
22 speak to, again, the standard as to why you believe we should
23 grant the relief requested. I'll let you begin whenever you
24 like.

25 MR. SULLIVAN: Thank you, Mr. Chair. I'll do a

NEAL R. GROSS

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

1 brief introduction and turn it over to the architect to
2 describe the project. We're asking for special exception
3 relief from the rear yard requirement. R-1B zone requires
4 a 25-foot rear yard setback. There's an existing one-story
5 addition right now, which encroaches into the rear yard a
6 couple feet.

7 And we're asking for a couple more feet of relief,
8 so it would be a total of about three and a half feet, or
9 about four feet -- I have a total rear yard of 20.94, I
10 believe -- for a two-story addition. There's no side yard
11 relief being requested. The criteria, of course, is that no
12 substantial impact on negative -- on neighboring properties
13 as a result of undue effect of light and air or privacy. We
14 believe we meet that standard, and I'll have the architect
15 describe the project for you.

16 MR. SMITH: We are located at 3020 Courtland
17 Place. This is in the Woodley Park area of Northwest D.C.
18 The house in question was built in 1927. It is a traditional
19 masonry center hall Colonial. Under previous ownership,
20 there was an expansion off the rear with a one-story
21 addition.

22 We're proposing to remove this one-story addition
23 off the rear and replace it with a more appealing two-story
24 addition that extends slightly further into the rear yard
25 setback. The current one-story addition is non-conforming,

NEAL R. GROSS

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

1 extending into the required 25-foot rear yard.

2 We currently have the approval of the Office of
3 Planning and the local ANC, and this is the main façade that
4 we are dealing with, with this proposal. I welcome the
5 opportunity to answer any questions and hopefully get your
6 approval on the process. Thank you.

7 MR. SULLIVAN: Regarding the rear-yard discrepancy
8 -- and I may end up agreeing with the Office of Planning --
9 I think it's because we have an arced rear property line.
10 I was looking for the site plan. I don't know if we have it
11 on here or if I'll pull it up and see what exhibit it is.

12 VICE CHAIRPERSON HART: Mr. Sullivan, I think the
13 issue is that when you -- when you filed your self-cert, you
14 said it was a certain distance. Then later, you say that
15 it's -- in the drawings, it actually has another distance,
16 but neither of those numbers actually -- I don't think they
17 comport with the number that you actually had in your
18 self-cert. There were several measurements from the rear
19 yard that aren't included in the drawings, but they just
20 didn't seem to be the same. It's not a huge distance. It's,
21 I don't know, I think less than an inch or something, if I
22 recall, or less than a few inches, but it's -- it was still
23 just a minor discrepancy. That's all.

24 MR. SULLIVAN: I can clear it up if -- I'm going
25 to pull up the plat. The plans are in Exhibit 6, although

NEAL R. GROSS

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

1 we may have submitted revised plans. Updated plans are
2 Exhibit 30A.

3 CHAIRPERSON HILL: All right, Mr. Sullivan, why
4 don't you kind of work through that. I'm going to turn to
5 the Office of Planning.

6 MS. THOMAS: Good morning, Mr. Chair, members of
7 the board, Karen Thomas for the Office of Planning. We will
8 rest on the record of our report in support of the
9 application. To answer your question, I do believe we got
10 it from -- with respect to the rear-yard measurement, we got
11 it from the table in the revised plans in Exhibit 30A. If
12 you would recall, Mr. Sullivan, I did ask that question.

13 MR. SULLIVAN: I think we're all in -- the plans
14 in the updated plans show 21.46. That's what we have on the
15 plans in the zoning table, but I think we needed to update
16 -- maybe we did not update Form 135, so that's what we need
17 to fix. It's 21.46.

18 VICE CHAIRPERSON HART: I think that the
19 Applicant's statement also has the same number as the
20 self-certification. I think that's why they were looking at
21 (Simultaneous Speaking).

22 MR. SULLIVAN: We can file a cover letter and a
23 revised Form 135.

24 CHAIRPERSON HILL: If you would, Mr. Sullivan, if
25 we do get to that point, that would be good. Does anybody

NEAL R. GROSS

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

1 have any questions for the Office of Planning?

2 (No audible response.)

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

5 MR. SULLIVAN: No, thank you.

6 CHAIRPERSON HILL: Is there anyone here wishing
7 to speak in support?

8 (No audible response.)

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

11 (No audible response.)

12 CHAIRPERSON HILL: Mr. Sullivan, is there anything
13 you'd like to add at the end?

14 MR. SULLIVAN: No, thank you.

15 CHAIRPERSON HILL: Okay, go ahead and close --
16 (Simultaneous Speaking.)

17 VICE CHAIRPERSON HART: One question.

18 CHAIRPERSON HILL: Sure.

19 VICE CHAIRPERSON HART: Did you talk about the --
20 there is letters in opposition from some of the neighbors.
21 Can you just talk a little bit about that?

22 MR. SULLIVAN: Yes, it's one neighbor. We did do
23 shadow studies. It's the neighbor on the right, here, as you
24 look at this. It's the neighbor to the southeast of the
25 property. The sun -- of course, we're not asking for side

NEAL R. GROSS

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

1 yard relief, so we don't go in that direction.

2 The way their house is situated, none of our
3 additional shade goes in that direction anywhere near that
4 property. We don't think there's any impact to them. I
5 think they're focused on the view or some other factors,
6 maybe, that don't apply to light and air.

7 VICE CHAIRPERSON HART: Were they also looking at
8 privacy issues?

9 MR. SULLIVAN: I don't know if they mentioned
10 that, but it wouldn't impact them at all because as we go
11 back towards the rear yard, that doesn't impact them. In
12 fact, the only portion of this that is near them is only one
13 story. You see the left elevation is what faces them.
14 That's not any closer than -- that's more than eight feet
15 away.

16 VICE CHAIRPERSON HART: You're saying this piece,
17 here. This is the one story that -- kind of a piece of it
18 on top of that --

19 MR. SULLIVAN: Yes, one story with a bay on top
20 of it.

21 VICE CHAIRPERSON HART: Thank you.

22 CHAIRPERSON HILL: Okay, anyone else for the
23 Applicant?

24 (No audible response.)

25 CHAIRPERSON HILL: All right, I'm going to close

NEAL R. GROSS

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

1 the hearing. Are we ready to deliberate?

2 PARTICIPANT: Yes.

3 CHAIRPERSON HILL: Okay. I am comfortable with
4 the application and what has been put forward by, again, the
5 Applicant, in terms of their burden of proof, as well as the
6 analysis that was provided by the Office of Planning. I
7 would be in agreement with that, also the letters of support.
8 Actually, did I -- I'm going to re-open the record again for
9 a second. Mr. Sullivan, was the ANC -- maybe I missed it.
10 What happened at the ANC?

11 MR. SULLIVAN: They just filed last night that
12 they supported it. They unanimously supported it.

13 VICE CHAIRPERSON HART: Exhibit 37. They didn't
14 have any comments on it.

15 CHAIRPERSON HILL: Got it. I just want to look
16 at it.

17 MR. SULLIVAN: Yes, I guess technically, it was
18 no comment.

19 VICE CHAIRPERSON HART: They voted to have no
20 objection.

21 CHAIRPERSON HILL: We got that -- that was last
22 night?

23 PARTICIPANT: Mm-hm.

24 CHAIRPERSON HILL: All right. I'm closing the
25 record again. As I began to speak about it, I was going to

NEAL R. GROSS

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

1 be -- I was in agreement with the analysis of the Office of
2 Planning, as well as the burden of proof that has been
3 provided by the Applicant. I am glad to see that we did get
4 some feedback from the ANC. I will be voting to approve.
5 Is there anything else anyone would like to add?

6 PARTICIPANT: No.

7 CHAIRPERSON HILL: Going to go ahead and make a
8 motion to approve Application No. 20140, as captioned and
9 read by the secretary, and ask for a second.

10 VICE CHAIRPERSON HART: Second.

11 CHAIRPERSON HILL: Motion made and seconded. All
12 those in favor say aye.

13 (Chorus of ayes.)

14 CHAIRPERSON HILL: All those opposed.

15 (No audible response.)

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

17 MR. MOY: Staff would record the vote as 4-0-1.
18 This is on the motion of Chairman Hill to approve the
19 application for the relief requested. Seconding the motion
20 is Vice Chair Hart. Also in support, Ms. John and Zoning
21 Commissioner Peter May. No other members present. The
22 motion carries, sir.

23 CHAIRPERSON HILL: Thank you, Mr. Moy. Thank you,
24 gentlemen.

25 MR. SULLIVAN: Thank you.

1 CHAIRPERSON HILL: All right, Mr. Moy, you can
2 call our last case and see where we get with it and if we
3 have to take lunch or not.

4 APPEAL NO. 20072 OF MARYBETH AND KEN DEGRAVE

5 MR. MOY: Thank you, Mr. Chairman. That would be
6 Appeal No. 20072 of Marybeth and Ken DeGrave, captioned and
7 advertised as an appeal from the decision made on March 11,
8 2019, by the zoning administrator, Department of Consumer and
9 Regulatory Affairs, to issue Building Permit No. B1903685,
10 revising Building Permit No. B1803293, to construct a new
11 three-story addition to an existing attached principal
12 dwelling unit. This is in the RF-1 zone, at 2202 1st Street,
13 Northwest, Square 3122, Lot 24. A couple things, Mr.
14 Chairman. This was last heard in July 24, 2019, as well as
15 October 9, 2019. Also, a very quick preliminary matter
16 before the Board is the -- let me see. Back in the last time
17 on this case, the Board requested filings from the property
18 owner and the Appellant -- no, forget what just said.

19 Anyway, the preliminary matter, Mr. Chair, is that
20 the DCRA had recently made a filing yesterday, November 5th,
21 as well as filing -- let's say November 5th and November 6th.
22 These are late filings. I believe they served the parties,
23 so the issue is, I suppose, in reference to timing, as well
24 as, perhaps, reasons for the improvised drawings.

25 CHAIRPERSON HILL: Okay, thank you, Mr. Moy. All

NEAL R. GROSS

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

1 right. If we could please introduce yourselves for the
2 record from my right to left.

3 MS. LORD-SORENSEN: Good afternoon, Chairman Hill
4 and members of the Board, Adrienne Lord-Sorensen, assistant
5 general counsel with the D.C. Department of Consumer and
6 Regulatory Affairs.

7 MR. GUZSE: Lynwood Guzse, owner of 2202 1st
8 Street, Northwest.

9 MR. DEGRAVE: Good afternoon, Chairman Hill and
10 members of the Board, Ken DeGrave, co-owner 2204 1st Street,
11 Northwest.

12 MS. DEGRAVE: Marybeth DeGrave, co-owner 2204 1st
13 Street, Northwest.

14 CHAIRPERSON HILL: Okay. Mr. and Ms. DeGrave,
15 welcome back. There were some things that we were looking
16 for after we adjourned the last time. I want to speak to
17 some of that, in terms of what we've gotten from the parties.
18 I suppose, first of all, I'd go ahead -- and we can speak --
19 the Board can speak to this, but DCRA, can you explain what
20 you are requesting, in terms of your late motion?

21 MS. LORD-SORENSEN: Chairman Hill, the last time
22 we were here, the Board had asked for additional information.
23 I believe the DeGraves had made a representation that they
24 were unaware of, I guess, whether or not the November 2018
25 building permit was moving forward because they had observed

NEAL R. GROSS

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

1 a stop work order. Since there were all these outstanding
2 questions, I went back and I pulled the relevant documents,
3 provided the Board with a timeline of what transpired.

4 When you look at the motion to supplement the
5 record, you'll find, for example, the neighbor notification
6 -- a copy of the neighbor notification was sent out in
7 February 2018 to the DeGraves, as well as a copy of their
8 technical objections from early 2018, and then, of course,
9 the subsequent building permit was issued on November 14,
10 2018. Then it talks about the stop work order that the
11 DeGraves had mentioned the last time we were here. When you
12 look at the motion, you sort of learn that on December 11,
13 2018, DCRA had posted --

14 CHAIRPERSON HILL: Ms. Lord-Sorensen, I'm sorry
15 to interrupt you. Which exhibit are you in with the
16 timeline?

17 MS. LORD-SORENSEN: No. 41. It was filed last
18 Wednesday, I believe.

19 CHAIRPERSON HILL: The plans came in yesterday.

20 MS. LORD-SORENSEN: That was a separate filing.

21 CHAIRPERSON HILL: The 41 supplement, right?

22 MS. LORD-SORENSEN: Yes.

23 CHAIRPERSON HILL: That's the initial one that we
24 had -- I forget when we got that. When did we get that?

25 MS. LORD-SORENSEN: This was filed last Wednesday.

NEAL R. GROSS

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

1 CHAIRPERSON HILL: Where they had the timeline.

2 MS. LORD-SORENSEN: That's correct. Then
3 yesterday I filed a compare and contrast. The last time we
4 were here, Board Member Hart asked for a side by side. I was
5 able to -- I was trying to wait for the approved plans.
6 However, I needed to get the submission in. What I did
7 provide when I did the plan comparison was the original,
8 first, second, and the unapproved third revised plans. I
9 expect that the plans will be issued -- excuse me, the permit
10 should be issued today because as of this morning, it had
11 passed -- it was approved by all the various disciplines.

12 CHAIRPERSON HILL: I see the side by side. That's
13 where it talks about that overhang.

14 MS. LORD-SORENSEN: That is correct.

15 CHAIRPERSON HILL: Which exhibit -- that's in the
16 -- is it Exhibit 45A?

17 MS. LORD-SORENSEN: What I can do, I can pull it
18 up, if you just give me a moment.

19 CHAIRPERSON HILL: That's okay. Let's see where
20 we get to. Okay, that's fine. I guess my --

21 PARTICIPANT: Sorry.

22 CHAIRPERSON HILL: Sure. I guess what I'm trying
23 to figure out is whether or not we're approving the waiver.
24 The issue that I'm having with it is we're getting stuff from
25 last night. Also, even just speaking where I wanted to hear

NEAL R. GROSS

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

1 about what the DeGraves -- the Appellant, the things that I
2 was struggling with with the Appellant was, again, in terms
3 of the timeliness of this appeal.

4 However, just so I'm clear with DCRA, to look at
5 stuff that we got last night to try to figure it out right
6 now, I don't think that's necessarily fair to the Board, nor
7 is it fair to the Appellant. Now, whether or not I think
8 that this is going to make this drag on if I can't get to,
9 even, whether or not this is timely, that's what I'm trying
10 to kind of struggle with here from the Board. Does the
11 Appellant have any -- since this is your appeal, do you have
12 any thoughts on, again, the late filings?

13 MR. DEGRAVE: Chairman Hill, members of the Board,
14 I do have some additional thoughts on that. There's exhibits
15 to such. One of the things we requested was to provide lists
16 of contradictions and inconsistencies. I thought that was
17 the Board's instruction from last time.

18 CHAIRPERSON HILL: That was one of the
19 instructions from last time. The other, I thought, though,
20 was in terms of -- I thought, Mr. DeGraves, as to whether or
21 not you thought this was timely, once you understood what we
22 were talking about, in terms of which permit was actually at
23 play here. Did you have any thoughts to that?

24 MR. DEGRAVE: I do have some thoughts to that.
25 It's sort of a re-read of what I've had before, but Exhibit

NEAL R. GROSS

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

1 44 might be helpful, as well. The Board seems -- forgive me,
2 DCRA seems to focus on historic preservation as the reason
3 for the issues here, but there was a zoning order about a
4 week before the stop work order. Based on DCRA's verb tense,
5 it looks as if nothing's approved, just based on that
6 exhibit.

7 CHAIRPERSON HILL: Okay. I'm just trying to take
8 this one step at a time, first of all, Mr. DeGraves. In
9 terms of the late filings, what were your thoughts on the
10 late filings?

11 MR. DEGRAVE: It's a paragraph that I can re-read
12 in a different fashion. I'll just go ahead. Are
13 non-compliant plans which don't conform to setback,
14 occupancy, ten-foot popback, addition to non-conforming
15 structure provisions, and no top measuring point, no bottom
16 BHMP, building height measuring point, no area way
17 dimensions, plus a pending request from a neighbor for height
18 measurements point, count as first writing?

19 CHAIRPERSON HILL: Again, you're speaking to your
20 appeal and/or the -- I'm just trying to get past the -- you
21 don't have any thoughts on the late filings. Do you --

22 MR. DEGRAVE: From there, you mean?

23 CHAIRPERSON HILL: Yes, exactly.

24 MR. DEGRAVE: I don't want to come here again.

25 CHAIRPERSON HILL: All right. Does the Board have

NEAL R. GROSS

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

1 any questions about -- I expressed my opinion about the late
2 filings. The argument that we're going to get to in the
3 discussions I'm going to have is the timeliness of this
4 appeal. Does the Board have any questions about the late
5 filings, in terms of allowing them into the record?

6 (No audible response.)

7 CHAIRPERSON HILL: Let's go ahead and allow them
8 into the record. Ms. Lord-Sorensen, I know you guys are
9 really busy over there and you have a lot of stuff going on.
10 This really is difficult for us, or for me. These are plans
11 that we're trying to take a look at. Again, my first
12 discussion or issue is going to be the timeliness issue. You
13 understand what I'm saying.

14 Just try to get it in on time. We're going to
15 allow them into the record because I think we need them.
16 We're going to allow them into the record. Now, what I
17 believe Commissioner May was questioning a little bit, can
18 you go ahead and walk through that timeline again?

19 MS. LORD-SORENSEN: Certainly.

20 CHAIRPERSON HILL: Which exhibit, again, was it,
21 again? I'm sorry.

22 MS. LORD-SORENSEN: (Simultaneous Speaking)
23 Exhibit No. 41.

24 CHAIRPERSON HILL: Thank you.

25 MS. LORD-SORENSEN: When you look at the

NEAL R. GROSS

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

1 attachment, first, what you see is the neighbor notification
2 that the property owner sent to the DeGraves on February 18,
3 2018, and then also included, as the next exhibit, is
4 DeGraves' objection to the proposed construction.
5 Specifically, it was their technical objections. When the
6 Board reviews the technical objections, it's clear that their
7 objections are substantially similar to the matters on appeal
8 before the Board today. When you look at their objections,
9 they object to the third-floor addition with respect to the
10 distance of the addition to their chimney, the BHMP, the
11 height of the building, which is essentially what's pending
12 before the Board today.

13 Then the next exhibit shows -- in the timeline,
14 excuse me, after they submitted their technical objections,
15 November 14, 2018, the first building permit was issued.
16 Between November 14, 2018 and December 11, 2018, it was
17 brought to the Agency's attention that the November 14, 2018
18 permit was not reviewed by the HPRB, which is the Historic
19 Preservation Review Board.

20 What we did, we sent an inspector out. That's
21 included as the following exhibit. We sent an inspector out
22 and, on December 11, the inspector posted a stop work order
23 because it came to the Agency's attention that the permit was
24 issued without approval from the Historic Preservation Review
25 Board.

NEAL R. GROSS

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

1 After we posted the stop work order, the owner
2 pretty much -- pretty quickly submitted -- filed a stop order
3 compliance review request. That's basically asking the
4 Agency what does he or she need to do in order to come into
5 compliance. Pretty much the same day they submitted that,
6 and that document is also included as part of the Agency's
7 exhibit. On December 19th, DCRA issued what's called the
8 stop work order appeal compliance conditions form. It pretty
9 much told the owner that he needed to obtain approval from
10 the Historic Preservation Review Board. Then the temporary
11 hold was lifted, so that way, they can submit the plans and
12 apply for the revised building permit. On March 11, 2019,
13 the revised building permit was issued, which also addressed
14 the second-floor overhang.

15 COMMISSIONER MAY: Can I ask a question?

16 MS. LORD-SORENSEN: Certainly.

17 COMMISSIONER MAY: It had to -- they were stopped
18 on December 19th because they had to get HPRB review, and
19 then a new permit was issued -- or rather the revised
20 building permit was issued on March 11th, but was there a
21 visit to HPRB between that?

22 MS. LORD-SORENSEN: Yes. Just to clarify, we
23 posted on December 11th, and then before the permit was
24 issued on March 11th, it received HPRB approval.

25 COMMISSIONER MAY: But that's not indicated in

NEAL R. GROSS

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

1 here at all.

2 MS. LORD-SORENSEN: No, it was one of the
3 requirements in order for the revised permit to be issued.

4 COMMISSIONER MAY: All right.

5 MEMBER JOHN: One quick question. Was the stop
6 work order removed on December 18th? What day would it show
7 up on the premises that the stop work order was lifted?

8 MS. LORD-SORENSEN: According to the notes, it
9 would have been lifted as of December 26, 2018. Now with
10 respect to whether the physical notice was removed, that's
11 something that the owner would have to speak to whether or
12 not they took it down or they left it up while they were
13 still going through the process.

14 Because sometimes what our Agency does, we'll just
15 send you an email -- because you're not allowed to remove the
16 stop work order without prior approval. So what we would do
17 is sometimes just you an email saying you're authorized to
18 remove the stop work order, but I don't know if they
19 physically took it down on that day.

20 MEMBER JOHN: That email would have been December
21 -- what was the date?

22 MS. LORD-SORENSEN: It would have been around
23 December 26, 2018.

24 MEMBER JOHN: Okay, thank you.

25 COMMISSIONER MAY: I'm confused again. Between

NEAL R. GROSS

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

1 December 19th and December 26th they got an HPRB approval?
2 Because if they did, that was pretty miraculous.

3 CHAIRPERSON HILL: Okay, Mr. DeGrave, I'm going
4 to turn over to you. What I'm trying to work through, again,
5 first, is the timeliness issue. I think that's what we spoke
6 to the last time. You don't have anything new to add with
7 that regard, correct?

8 MR. DEGRAVE: No, Chairman Hill, that's not
9 correct.

10 CHAIRPERSON HILL: Okay, what would you like to
11 add?

12 MR. DEGRAVE: I have my Exhibit 42 response to
13 DCRA's submittal, and also the new information that there was
14 a zoning notice issued December 4th and that this process was
15 driven primarily by zoning, and not by historic preservation.

16 CHAIRPERSON HILL: I'm still trying to get past
17 what -- how you think that from the 11/9/2018 permit that
18 there is anything new that -- I remember your last argument
19 as to why this is not untimely. You referred me to your
20 exhibit, so I'm going to go back to your exhibit there. Do
21 you have any questions of DCRA's testimony that they just
22 gave?

23 MR. DEGRAVE: I have no knowledge of any of that,
24 other than it seems to focus on historic preservation, as
25 opposed to the December 4th notice. Based on verb tense, it

NEAL R. GROSS

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

1 sounds as if it's something ongoing. I can read it, or you
2 all can read it.

3 CHAIRPERSON HILL: I'm sorry; did you have a
4 specific question for DCRA?

5 MR. DEGRAVE: What is the significance of the
6 December 4th date and the verbiage do not approve the final
7 inspection without approval from the zoning administrator,
8 deputy zoning administrator, or supervisory zoning
9 technician. A zoning compliance concern has been raised and
10 must be reviewed by zoning. Property needs to submit
11 revisions, to include HPRB review and to address the
12 non-conforming three-foot overhang. What's the significance
13 of December 4th and that notice is my question?

14 CHAIRPERSON HILL: Ms. Lord-Sorensen.

15 MS. LORD-SORENSEN: Based on the notification --
16 of course, I would have to defer to Matt LeGrant, but on or
17 around December 4th, it was brought to the Agency's attention
18 that this particular permit, the November 14, 2018 permit,
19 was not reviewed by HPRB.

20 So zoning sent out an inspector to post a stop
21 work order at the property. That's what it did. In general,
22 when we talk about a final inspection, we're talking about
23 a building final. Regardless, zoning is just -- zoning put
24 a notation in the system that the permit did not go through
25 HPRB review.

NEAL R. GROSS

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

1 CHAIRPERSON HILL: Okay. Mr. DeGrave, do you have
2 any other questions?

3 MR. DEGRAVE: Just the 12/4, that's not really
4 what it says. It's do not approve the final inspection
5 without approval from zoning. Historic is just mentioned as
6 a passing afterthought. I don't know the significance of it
7 but the focus on historic preservation was just a means to
8 get the stop work order.

9 CHAIRPERSON HILL: I'm just trying -- do you have
10 another question for DCRA?

11 MR. DEGRAVE: I do have one more question.

12 CHAIRPERSON HILL: For DCRA.

13 MR. DEGRAVE: DCRA.

14 CHAIRPERSON HILL: Based upon the testimony they
15 just gave.

16 MR. DEGRAVE: Not the testimony they just gave.

17 CHAIRPERSON HILL: Sure. Hold on. Commissioner
18 May, you have a question?

19 COMMISSIONER MAY: Yes, for Mr. DeGrave. I'm
20 reading the notice that you filed the 12/14/2018 notice. It
21 cites -- the last sentence says property needs to submit plan
22 revisions to include HPRB review and to address a
23 non-conforming three-foot overhang. The non-conforming
24 three-foot overhang is a zoning issue, is it not?

25 MR. DEGRAVE: Correct. It is confirmed by this

NEAL R. GROSS

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

1 on the December 4th date, which is prior to the stop work
2 order.

3 VICE CHAIRPERSON HART: The point that you're
4 getting to over here is to say that the November permit was
5 not actually active. Is that what you're trying to get to?
6 Are you stating that March is when they had the first permit?
7 Is that what you're trying to get to?

8 MR. DEGRAVE: That's been my understanding all
9 along. This phrasing is part of my reason for that. I'm not
10 saying I'm correct, but that was my reaction to the December
11 4th notice.

12 VICE CHAIRPERSON HART: We don't really have any
13 kind of -- I understand what you're bringing up, it's just
14 we don't have a -- we're not in DCRA. They could put down
15 -- I don't exactly know why they wrote it this way. They
16 have a permit number.

17 If something is included in the -- as a permit
18 from November of 2018, Permit No. B1803293 is a permit that
19 they got, so we do have a permit from November. I understand
20 that this language may seem to be that they may not have a
21 permit, but I, again, don't know how the DCRA operates, but
22 it seems like they have a number that is associated with this
23 property from November.

24 MR. DEGRAVE: That could well be. I'm just
25 sharing with you my understanding. I'd like to go through

NEAL R. GROSS

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

1 my timeline once.

2 CHAIRPERSON HILL: Where's your timeline, Mr.
3 DeGrave?

4 MR. DEGRAVE: It's Exhibit 42.

5 CHAIRPERSON HILL: Okay, go ahead.

6 MR. DEGRAVE: An expansion of a very narrow part
7 of the timeline provided by DCRA might assist the Board in
8 its evaluation. It goes as follows. Confirming the
9 neighborhood notification letter. At that point, I did
10 address my concern about height with no response from the
11 Applicant. I sent them the neighborhood notification letter,
12 as they indicated. Because of the height issue, I asked for
13 those measurements and 30 days to review such plans.

14 No response. I'm not able to determine the height
15 because the building height measuring point is missing and
16 the top point is missing. The plans are approved without a
17 top measuring point or a bottom measuring point and
18 additional issues. In November, I did write the zoning
19 administrator to inform him of such.

20 There were zoning issues and the permit for March
21 reads, in its description, reduce, what's that called,
22 ellipsis for zoning requirements. The March plans are
23 approved for the first time with the building height
24 measuring point, still no top measuring point, which I asked
25 for the previous year. We filed an appeal two months later.

NEAL R. GROSS

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

1 One of the issues is height.

2 Just last month there's new plans, with a new
3 building height measuring point, still no top measuring
4 point. The new building height measuring point has moved
5 about seven feet from a slightly elevated sidewalk to the
6 front yard grade, yet the measurement doesn't change even one
7 eighth of an inch. Even though the building height measuring
8 point is significantly moved, the Applicant's do not revise
9 their dimensions. To be clear, the Applicant is providing
10 a top measuring point to what appears to be the mid-point of
11 the existing joist subfloor at the façade, which is
12 meaningless for RF-1 zoning.

13 Can the Board request that the Applicant provide
14 a top measurement point and a height measurement of the
15 planned addition to assist in determining the height of the
16 addition? Also, an approximate seven-foot move of the
17 building height measuring point from sidewalk to grade seems
18 unlikely to yield the exact same measurement. Is there a way
19 to check? Then I list the height rules and the top point
20 measuring situation.

21 CHAIRPERSON HILL: Okay. Ms. Lord-Sorensen, I'm
22 going to let you ask any questions, and we're going to ask
23 some questions, I think, of the Applicant. I had a question
24 that I had thought of now. If this comes out to be when
25 you're doing -- if this is above 35 feet, then the Applicant

NEAL R. GROSS

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

1 will have to come back to us for a special exception,
2 correct?

3 MS. LORD-SORENSEN: If it exceeds the height
4 requirement, yes.

5 CHAIRPERSON HILL: When would that be clear to the
6 Applicant or DCRA?

7 MS. LORD-SORENSEN: If you look at the PowerPoint
8 presentation that was submitted, the height requirements --
9 excuse me, the building height measurement point is actually
10 notated on the plans. To be clear, the plans that were
11 submitted as part of the PowerPoint presentation were also
12 provided to the DeGraves on, I believe, October 23rd.

13 COMMISSIONER MAY: Which version of the -- which
14 PowerPoint are you talking about? I'm looking at one that
15 -- it's a little murky, if you can help explain that.

16 MS. LORD-SORENSEN: It was yesterday's filing.
17 Would you like for me to pull it up, Commissioner May?

18 COMMISSIONER MAY: If you could, or if you just
19 tell me the number --

20 CHAIRPERSON HILL: Pull up on the -- bring it over
21 to the PowerPoint. I saw that the zoning administrator has
22 arrived. Mr. Zoning Administrator, if you would please stand
23 and get sworn in by the secretary.

24 MR. MOY: Good afternoon. Do you solemnly swear
25 or affirm that the testimony you're about to present in this

NEAL R. GROSS

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

1 proceeding is the truth, the whole truth, and nothing but the
2 truth?

3 MR. LEGRANT: I do.

4 MR. MOY: Thank you.

5 CHAIRPERSON HILL: Okay.

6 MR. LEGRANT: Good afternoon, Board. I apologize
7 for my tardiness.

8 CHAIRPERSON HILL: It's all right. Could you
9 please introduce yourself for the record?

10 MR. LEGRANT: Yes, Matthew LeGrant, zoning
11 administrator, DCRA.

12 CHAIRPERSON HILL: Mr. May had a question for Ms.
13 Lord-Sorensen. You're trying to pull up the PowerPoint, is
14 that correct?

15 MS. LORD-SORENSEN: That is correct, to show the
16 building height measurement point. I'd like to direct your
17 attention -- this is A0008, the third revision that's
18 currently under review and should be approved. If you look
19 to the far right, you'll see a series of measurements.

20 From grade to the top, which is right here, the
21 height of the building is 34 feet 4 inches. Then when you
22 look at the next dimension, which, again, is from grade, but
23 like to the ceiling, it is 33 feet 7 inches, so the height
24 of this proposed construction is less than 35 feet.

25 COMMISSIONER MAY: Which set of rules apply for

NEAL R. GROSS

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

1 the measurement? The rules for height of measurement in
2 residential structures has changed. The Appellant is saying
3 that it's the building height measuring point to the top of
4 the roof and not to the underside of the structure, which is
5 what you're pointing out.

6 MR. LEGRANT: Commissioner, you're correct. The
7 height limitation is from the BHMP to the roof, which is the
8 dimension that I believe Ms. Lord-Sorensen mentioned is the
9 34'4" from the measuring point, BHMP, at the middle of the
10 front of the building to the roof level.

11 COMMISSIONER MAY: Which slide number are you
12 looking at there?

13 MS. LORD-SORENSEN: This is Slide 15 of 15.

14 COMMISSIONER MAY: If you zoom in on that, you can
15 see that the 34 feet 4 inches is tagged to the middle of the
16 structure. That's one of the other points that the DeGraves
17 made. I'm not sure -- you're saying that it should be to the
18 top of the roof, correct?

19 MR. LEGRANT: Yes.

20 COMMISSIONER MAY: Would the top of the roof be
21 the top of what we see in section there? I'm not talking
22 about the dormer portion, but wouldn't it be to the peak of
23 that peaked roof?

24 VICE CHAIRPERSON HART: Commissioner May, I had
25 the same question on this because it was -- they've measured

NEAL R. GROSS

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

1 -- throughout this, they've measured it to different points.
2 Early on -- I had to do a little matrix to figure this out.
3 In the original permit, the one from November, it was 39'4
4 1/8" because it measured to -- actually, I think it was the
5 dormer that they were looking at, which is kind of -- which
6 is fine. It was actually -- yes, I think it was actually --
7 I can't draw on this really well. I'm not going to try that.
8 Then on the first revision, it was also 39'4", not until the
9 second revision do we get to the 34'4", which is what you see
10 here. But in this one, it's kind of like the middle of the
11 rafter. I was trying to figure out why it's in the middle
12 of the rafter. Why not in the top of the rafter? I don't
13 know.

14 It just seemed -- then I started trying to think
15 of is it because -- is there something -- is this a flat
16 roof, or it should be measured to the middle of the pitched
17 roof? Because I know we use that, as well, during
18 measurements for this, as well.

19 Then I started trying to figure out -- I'm not
20 exactly sure what that measurement is supposed to be. I
21 think part of it is because it's just a little sloppy. It
22 really should be very clear that it is to the top rafter that
23 they're looking at, as opposed to some other point that is
24 very unclear. I'll let DCRA respond to that.

25 MR. LEGRANT: If I may, right, at the very front

1 of the building, to the right, you'll see the dormer aspect.
2 Arguably --

3 CHAIRPERSON HILL: Mr. LeGrant, can you use the
4 little machine there that you can point -- you can't?

5 VICE CHAIRPERSON HART: He's not -- you're saying
6 this. That's the dormer.

7 MR. LEGRANT: Yes, that's the dormer.

8 CHAIRPERSON HILL: You can use the cursor.

9 MR. LEGRANT: Yes, the cursor that is being
10 circled by Ms. Lord-Sorensen. One could argue that is over
11 35 feet. That's the pre-existing condition. But if you look
12 at what's being proposed in the gray, that is the addition,
13 any addition has to be within the 35-foot height limit.

14 If they wanted to take that dormer level, let's
15 say, that was arguably over 35 feet and extend that in a
16 horizontal plane, that would not be permissible. But if you
17 build an addition that's compliant within the 35-foot plane,
18 and then -- which is noted.

19 There's a note here top of joist in subfloor.
20 That's how it's called out to the 34 foot inch dimension.
21 It was my office's assessment that the addition is less than
22 35 feet. It's compliant with the height limitations that are
23 subject to this zone.

24 VICE CHAIRPERSON HART: Because it doesn't
25 actually go to the -- this line is not really that straight

NEAL R. GROSS

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

1 of a line that connects to the top of here. Is that just an
2 error in the drawings, or is that okay with you? It's not
3 a huge change that you're talking about, but it is a
4 difference, so that it makes it a little bit -- the problem
5 that you run into is when there are small errors, then there
6 may be other errors, so it makes you start thinking that
7 there are -- looking for other things. I'm just -- it just
8 makes it a little harder to get huh, I wonder what this
9 actual measurement is?

10 MR. LEGRANT: Yes, because of the note, again, top
11 of joist in subfloor is keyed to the dimension, that's what
12 I think -- my office will rely on that as the representation
13 that this is the level at which the roof is at, and then that
14 the addition -- the rearward addition will be built at.

15 I think the note is significant in that regard as
16 to yes, how that intersects with the -- on the drawing, I'll
17 have to leave it to the property owner and his architect. I
18 don't know if his architect is here today to respond, but the
19 representation to my office is that the height is measured
20 from the BHMP to the top of the joist in the subfloor is that
21 dimension.

22 MEMBER JOHN: Mr. LeGrant, was this notation on
23 the original permit?

24 MR. LEGRANT: We will pull that up and take a
25 look.

1 CHAIRPERSON HILL: Okay, Mr. DeGrave, you had a
2 -- let's get through this whole thing, I guess, maybe, first,
3 and then ask questions.

4 MS. LORD-SORENSEN: If you look at Slide 13, on
5 the left-hand side, you'll see the original permit, the Plan
6 A008. You'll see that the height marked here is 39'4 1/8",
7 and it goes all the way to the top, well above this addition.
8 This is the original plan.

9 CHAIRPERSON HILL: Right, as we're looking at
10 that, that's over 35 feet, and you're measuring it from that
11 one stair, from the middle of the step?

12 VICE CHAIRPERSON HART: Again, it just gets to
13 this -- when you have drawings that are just a little off,
14 it starts to make you wonder about what else is wrong.

15 CHAIRPERSON HILL: Just so I'm clear again, and
16 I'm going to DCRA with this, they have a permit that is --
17 there's a permit already for them to build this now, meaning
18 they don't have to come -- according to DCRA, this is not
19 over 35 feet, and, therefore, there is a permit for them to
20 build this this way.

21 So there's no need for -- there's nothing -- if
22 this were actually over the 35 feet, they would have had to
23 come to us for a special exception. But what I'm saying
24 might -- my clarifying question is that they have a permit
25 right now to build this, correct?

NEAL R. GROSS

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

1 MS. LORD-SORENSEN: As of right now, the permit
2 that they have is this permit that I've just pulled up, which
3 is Slide 14. Here are the dimensions, which are the same
4 dimensions on the pending plans.

5 CHAIRPERSON HILL: Right. The measurement that
6 you're taking, again, to get the 34'4", that is to the roof
7 -- not the roof -- the ceiling of the addition, correct?

8 MS. LORD-SORENSEN: According to the plans, yes.

9 CHAIRPERSON HILL: Meaning that triangle there is
10 a pre-existing condition right now. They're just expanding
11 back from that roof line. Mr. LeGrant -- because we've had
12 a long story with this BHMP stuff. If you think there's an
13 issue here, please let us know. You're stating that you're
14 measuring it from that point because they're building the
15 addition back farther from that point; therefore, you're not
16 measuring to the top of the roof.

17 MR. LEGRANT: Let me clarify. The BHMP is a point
18 on the ground in which you start the measurement vertically.
19 The depiction of the BHMP, building height measuring point,
20 which, arguably, in the original permit and the second
21 permit, there was a lack of clarity, so we insisted that the
22 property owner and his architect clarify and specify very
23 clearly the BHMP.

24 The image is coming up now, the third revised
25 under review permit shows the placement of that point, BHMP,

NEAL R. GROSS

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

1 both in elevation, and then in plan. We've been looking at
2 plan. Here's, now, we're pulling up the elevation. We've
3 highlighted, in yellow, the placement of that. Once that's
4 fixed, then you go up and, of course, the -- you depict the
5 height of the, in this case, this existing building. You
6 look at what's proposed, the addition to the rear. That
7 height is 34 foot 4 inches. You put it against the test of
8 the height limit that's applicable to the district, 35 feet,
9 to see if it complies. I don't know if that explanation was
10 helpful.

11 CHAIRPERSON HILL: Okay. Does the Board have
12 continued questions on the measurement? We're now discussing
13 what the Appellant was bringing up. I'm -- anyway, does the
14 Board have any more questions for the zoning administrator
15 with regard to this issue of the BHMP?

16 MEMBER JOHN: I have a question about the
17 three-foot overhang because that's been coming up. I believe
18 that was the only difference between the first permit and the
19 second revised permit. Am I correct in that? The permit and
20 the first revised permit.

21 MS. LORD-SORENSEN: Yes, (Simultaneous Speaking)
22 that correction.

23 MEMBER JOHN: Could you explain -- I know we're
24 getting into the meat of the appeal, but I'm just confused
25 about that.

1 MR. DEGRAVE: If I may, there was another
2 difference. The first --

3 MS. LORD-SORENSEN: Board Member John, as you
4 mentioned, originally, the plans were approved, and then we
5 noticed that there was an overhang. I'm trying to pull that
6 up. They made the correction -- if you look at Slide 7 of
7 15, on the left, you'll note the original permit. This
8 measurement right here reads 8 feet 11 inches. Then they
9 were supposed to adjust and make the correction for the
10 overhang. When you look at the first revised permit, to the
11 right, the new measurement is noted as 6 feet 2 11/16 inches.

12 Then what happened is we noted for the Board last
13 week, when they got their second revised permit, the error
14 returned. Instead of the six-foot measurement, it was
15 reading 8 feet 11 inches. However, the property owner has
16 since made the correction. On the pending plans, it reads
17 6 feet 3 inches. They've made the correction. That's,
18 again, Slide 9 of 15.

19 VICE CHAIRPERSON HART: You can see the overhang,
20 actually, in Slide 13, in section. It's a little easier to
21 -- that's actually -- the original is on the left.

22 MS. LORD-SORENSEN: That's correct.

23 VICE CHAIRPERSON HART: And that overhang, which
24 is here, is actually much easier to see than the rest. There
25 was some discrepancy in that rear addition in the original

NEAL R. GROSS

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

1 and the first revision, but the third revision -- sorry, the
2 second and third revisions actually have it -- it seems like
3 they got it correct.

4 I'm serious; I had to do a matrix to try to figure
5 out when this stuff was changed because it was very difficult
6 to try to figure out. Part of it is because the drawings are
7 inconsistent within their own drawing set, so then it becomes
8 did that change then, or did that change in the next set?
9 It was helpful to do this to figure out when these actual
10 changes were made. I think that the Applicant, sorry
11 Appellant brought up an issue about the basement. I guess
12 there are footings that are down there. There's a plan that
13 actually has it as six feet -- that rear addition is 6 feet
14 3 inches here. There's another plan that says that it was
15 6.25 feet.

16 I really those are actually the same measurement,
17 but this actually has -- where these footers are, this
18 changes to 6 feet 2 inches, even though it had a different
19 measurement that was an inch longer in other drawings. All
20 of this -- these changes make it very difficult to understand
21 where the -- what is being proposed under which revision.

22 Since there's so many of these revisions, like I
23 said, it starts to make you wonder how accurate all of the
24 drawings are consistently with each other internally. I
25 think I've understood this. I understand about the building

NEAL R. GROSS

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

1 height measuring point aspect of this now because that still
2 wasn't -- there's another aspect of this because it's -- the
3 building is not actually 34 feet.

4 It's just that the addition is 34 feet, 34'4".
5 That was just a little unclear because it seemed like you
6 were talking about the building being that high. In reality,
7 it is not that. It is actually taller than that, but you're
8 not expanding anything to the top. You're expanding it to
9 the back, which is how you got the rationale for that.
10 That's it.

11 CHAIRPERSON HILL: All right. Mr. DeGraves,
12 there's been a bunch of stuff that's been kind of thrown
13 around here now. And, again, what we ended up getting into
14 was more of the meat of the appeal, in terms of what you all
15 have put forward. I don't know where we're -- we're just
16 having kind of an open discussion, as you can see. Do you
17 have any questions about any of the comments that DCRA has
18 just made -- any questions for the testimony that DCRA just
19 made?

20 MR. DEGRAVE: I do have questions, as well.
21 Exhibit 5 and 7 indicate the height of floors one and two at
22 10-foot, seven, while the newer plans changed this to 10-
23 foot, 5 inches, with no explanation. We could see this on
24 DCRA's PowerPoint, right there, but they cut off the height
25 from the original A008.

NEAL R. GROSS

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

1 CHAIRPERSON HILL: I'm just trying to understand.
2 What was your question, again?

3 MR. DEGRAVE: Why are the heights changed from --

4 CHAIRPERSON HILL: Which heights?

5 MR. DEGRAVE: I have my exhibits here. It would
6 be seen on the exhibits up there, but it's cut off. The
7 heights of floors one and two are indicated at 10-7 in
8 Exhibits 5 and 7 of the original plans, while the newer plans
9 changed this to 10-foot, 5. Why --

10 CHAIRPERSON HILL: Ms. Lord-Sorensen, do you have
11 an answer for that?

12 MS. LORD-SORENSEN: I'm sorry, all on Plan A0008?
13 Which plan are you --

14 MR. DEGRAVE: Correct. If you go to the original
15 one, which is in the slideshow or PowerPoint, but the
16 dimensions are cut off all the way to the left, if that is
17 the original one. The floor heights aren't indicated because
18 they're cut off. That view is available elsewhere. You can
19 use my Exhibit 5 or 7.

20 MS. LORD-SORENSEN: I just pulled up the original
21 plan for A0008.

22 MR. DEGRAVE: Okay, floors one and two are
23 indicated at 10-foot, 7. Top floor is indicated at 10 feet
24 on this one, but there's a 9-foot measurement to ceiling for
25 the top floor. The Applicant intends to put on R49 in a

NEAL R. GROSS

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

1 standard method, plus the slope of the roof takes it near to
2 10-6.

3 And this measurement to top joist in subfloor is
4 meaningless in RF-1. You need to measure to the highest
5 point of the flat roof, including the slope. It appears that
6 there's additional slope, as well, there, on the existing
7 structure, which is taking it up another 2 to 3 inches.

8 VICE CHAIRPERSON HART: You're basically saying
9 that the building is -- you're saying the building is too
10 tall, but this is an existing building, and they're not
11 adding on -- you're not -- the building -- for what they're
12 looking at -- I shouldn't be answering DCRA. I'll let DCRA
13 let you know what they're looking at. My understanding is
14 that they're looking at the extent of the -- what is being
15 proposed is at a certain height. So that building, the part
16 that they're expanding onto is to the rear.

17 If they were looking to expand up, then they would
18 have to deal with the building height measuring point of 35
19 feet. Anything above that would be a zoning matter. But
20 they're saying underneath that, there isn't a particular
21 issue, even though the building is taller than that. The
22 aspect that is expanding is not taller than that.

23 MR. DEGRAVE: It only appears that way because
24 they're measuring to the top of joist and subfloor, instead
25 of -- you've got to build the roof with the slope, with all

NEAL R. GROSS

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

1 the insulation in it. It's about a foot and a half taller
2 than the 9-foot interior dimension of the third floor. The
3 third floor height isn't indicated anywhere on the plans.

4 COMMISSIONER MAY: How tall do you think the
5 building is?

6 MR. DEGRAVE: Using the proper measurement point,
7 it's almost 40 feet. Using the Applicant's measuring point,
8 it's between 35 feet, six inches, and 36 feet.

9 COMMISSIONER MAY: That's based on the
10 measurements in this drawing?

11 MR. DEGRAVE: Well, there's no measurement given
12 for the top floor. Somebody has to build it. It has to
13 start out with a nine-foot --

14 COMMISSIONER MAY: There is an existing -- there
15 is an existing top floor, and they're extending that.

16 MR. DEGRAVE: The extension needs to be measured
17 to determine whether or not it's --

18 (Simultaneous speaking.)

19 COMMISSIONER MAY: The extent of the extension is
20 that 10 feet, right?

21 MR. DEGRAVE: Right, but how tall is it? We've
22 got a nine-foot --

23 COMMISSIONER MAY: Right but that's what I'm
24 asking you, is how tall is that, at that point?

25 MR. DEGRAVE: It's about 10-1/2 feet.

NEAL R. GROSS

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

1 COMMISSIONER MAY: Above the floor of the lower
2 level.

3 MR. DEGRAVE: Yes, because you've got a 9-foot
4 ceiling. You've got to put R49 and a slope.

5 COMMISSIONER MAY: You're saying it's -- I'm
6 sorry, how -- 10-6.

7 MR. DEGRAVE: About -- we can build it together.
8 You start out with a 2 by 10 at 9-1/4, you throw on your
9 ceiling.

10 COMMISSIONER MAY: I know how to build.

11 MR. DEGRAVE: It's tedious.

12 COMMISSIONER MAY: I understand that. I'm asking
13 what you think it is. I just needed the summary level is 10-
14 6.

15 MR. DEGRAVE: Ish.

16 COMMISSIONER MAY: Right. Then that's to the top
17 floor. The measurements that you're citing in the back, 10-
18 7, 10-7, plus a floor thickness -- no, plus about a foot,
19 right, because the 10-7 string and the 10-0 -- no, that's
20 actually the same one.

21 MR. DEGRAVE: Just add about 4 feet from wherever
22 the cellar/basement thing is and just add up the math.

23 COMMISSIONER MAY: It's 3 feet, 1, is what they
24 said.

25 MR. DEGRAVE: There's a 3-foot 7-1/2 indication

NEAL R. GROSS

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

1 on a plan. It'll take me some time to find it, but I'll
2 look.

3 COMMISSIONER MAY: That's all right.

4 MR. DEGRAVE: But this also ignores the building
5 height measuring point. Under Zoning Case 1718, there's
6 instructions on how to handle an area way and how to get to
7 the building height measuring point, on Page 40 and 41 of
8 Exhibit 15. And it tells us we need to go to the bottom of
9 the area way, no matter where the midpoint hits it. So you
10 don't have to sort out the midpoint or the building height
11 measuring point.

12 COMMISSIONER MAY: That's conditioned on how big
13 the area way is.

14 MR. DEGRAVE: Correct, and the area way goes over
15 5 feet. Five-foot, 7 is indicated on the plans. Once it
16 goes over 5-foot, 7, anywhere on the façade --

17 COMMISSIONER MAY: Of width.

18 MR. DEGRAVE: It's much easier to explain the area
19 way than it is to build the addition inch by inch, when it
20 only is going over by, like, 6 inches-ish.

21 COMMISSIONER MAY: The thing that I struggle with
22 is that I understand the circumstance of the front of this
23 house. And the intention there was to not have a very large
24 deep area way, as opposed to one that's under your front
25 stoop. Right? The extent of the area way is shown in the

NEAL R. GROSS

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

1 outline there, give or take a few inches. It's not even
2 dimensioned, so it doesn't really matter.

3 The point of the Zoning Regulations was to prevent
4 scooping out the entirety of the front house, the front of
5 a building, and then still trying to measure from where the
6 grade is beyond that, which is something that happens from
7 time to time.

8 It's not intended to cause the building height to
9 be measured from the bottom of an area way like this. I
10 don't know what it -- how the words compare to this actual
11 circumstance, but that's not the intention, because the
12 perceived height is the height from that grade, as opposed
13 to -- we don't perceive how deep the area way is. Anyway,
14 I'll look more carefully at what the words say. And you
15 measured it at 5-7?

16 MR. DEGRAVE: The Applicant measured it at 5-7.

17 COMMISSIONER MAY: Where is that shown in the --
18 is that shown in the plans here that we have?

19 MR. DEGRAVE: It is. It might take me some time
20 to find it.

21 COMMISSIONER MAY: It's okay. Yes or no's fine
22 for now. We'll find it. And that's the dimension -- which
23 dimension is that?

24 MR. DEGRAVE: The deepest dimension of the area
25 way.

NEAL R. GROSS

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

1 COMMISSIONER MAY: So you're including the
2 stairway.

3 MR. DEGRAVE: No, it's about 6-foot, 2 if you
4 include to the face of the riser.

5 COMMISSIONER MAY: Six-two to the face of the
6 riser.

7 MR. DEGRAVE: The Zoning Administrator, I believe,
8 determined the 5-7 measurement.

9 COMMISSIONER MAY: All right, thank you.

10 CHAIRPERSON HILL: Okay, it seemed as though --
11 well, does the Board have any questions for DCRA?

12 MEMBER JOHN: Yes, can we go back to that
13 sectional again and please explain what is existing, in terms
14 of the height of the building, and where the addition is.
15 This whole discussion has confused me thoroughly, in terms
16 of what the Applicant is actually doing. It seems to me
17 there's a pre-existing height.

18 There's an existing height here, right? And the
19 owner is adding on to this. If you could just explain that.

20 MR. LEGRANT: Board Member John, yes --

21 CHAIRPERSON HILL: Mr. LeGrant, if you could also
22 point out as to why -- again, the building height measuring
23 point, which we've gone through several times before, but if
24 you can explain why you're taking it from the point that
25 you're taking it from, as opposed to the area way.

NEAL R. GROSS

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

1 MR. LEGRANT: Yes. We'll take the cursor down to
2 the BHMP. So it's my interpretation of the Regulations that
3 the BHMP is fixed at the middle of the front of the building,
4 where the front wall meets the grade. Now, there is an area
5 way here. That point, which in a moment, we'll pull up the
6 front elevation to illustrate, the BHMP does not land within
7 the area way. We're getting the drawing up. So the area way
8 is not a factor, and we've highlighted -- if you circle right
9 at the BHMP. You can see the BHMP is to the left of the area
10 way.

11 CHAIRPERSON HILL: Why isn't that taken, again,
12 from the area way? I'm sorry.

13 MR. LEGRANT: Because the definition of BHMP, is
14 BHMP is located the middle from the building. Regulations
15 further state if there is an area way that is at that point,
16 in that vertical plane -- I don't think the code uses those
17 words -- and if said area way was greater than 5 feet in
18 depth from the face of the building, you no longer use the
19 grade that's surrounding said area way, but you go down to
20 the bottom.

21 CHAIRPERSON HILL: Got it, okay, thank you.

22 MR. LEGRANT: It's my view that it's just
23 inapplicable here. The area way is inapplicable.

24 CHAIRPERSON HILL: Because it's not in the center
25 of the building.

NEAL R. GROSS

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

1 MR. LEGRANT: Correct. Then, going back to the
2 other drawing, as I testified earlier, you have the --

3 CHAIRPERSON HILL: I'm sorry. And if it were in
4 the center of the building, it's still not beyond five feet
5 deep.

6 MR. LEGRANT: Well, the area way varies in depth
7 from the face of the building. And I believe the overall
8 area way is -- we'll bring that up, as well.

9 So you can see, at the cellar level, at the top
10 right-hand corner, is said area way. There's different
11 dimensions. There's one dimension of 5-foot, 7 right there,
12 from the corner of the building, coming out to the retaining
13 wall. Then in line with the steps is a further distance.
14 Then as you get down to the edge of the area way, at the
15 bottom, 2 feet and a few inches. Although this area way
16 varies in depth, it's not relevant to the BHMP, as I
17 testified earlier.

18 CHAIRPERSON HILL: Okay, please continue. Thank
19 you.

20 MR. LEGRANT: Now I'll go back to the section.
21 We have a starting point of BHMP. We have the 34-foot, 4
22 inch to the top of the joists of the subfloor, which I have
23 accepted as the depiction of the existing roof level of this
24 building, in terms of the addition. There are portions of
25 this building that, in earlier permit applications, indicated

NEAL R. GROSS

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

1 39 feet. Circle that area there. Right here.

2 That height in excess of the 35 feet cannot be
3 extended in a horizontal plane, as Chairman Hill noted
4 earlier, without coming before this Board to get special
5 exception relief. So the only addition here is the gray area
6 to the rear. It must be within the 35-foot height limit.
7 The Applicant has represented it's at that roof level of 34
8 feet, 4 inches and is therefore compliant. Board Member
9 John, I don't know if that explanation reaches to what you
10 were looking for.

11 MEMBER JOHN: Thank you. That's helpful.

12 CHAIRPERSON HILL: Okay. Does anybody have any
13 more questions of DCRA? Okay.

14 MR. DEGRAVE: I would like to read in Pages 40 and
15 41 of DCRA's PowerPoint, which address how it doesn't matter
16 where the building height measuring point is in the case of
17 an area way, where it exceeds over 5 feet in any dimension
18 or any part of the façade, rather.

19 CHAIRPERSON HILL: Mr. DeGrave, I'm sorry, you'd
20 like to read in, you said?

21 MR. DEGRAVE: I'm not sure of the term. It just
22 explains how DCRA's PowerPoint says to address the situation.

23 CHAIRPERSON HILL: I'm sorry, I'm just trying to
24 understand. What's the exhibit you're referring to, again?

25 MR. DEGRAVE: Zoning Case 1718.

NEAL R. GROSS

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

1 CHAIRPERSON HILL: Is that somewhere --

2 MR. DEGRAVE: It's public record. You go to --

3 CHAIRPERSON HILL: All right. So there's a bunch
4 of things that are happening here, and I just want to make
5 sure that you have your opportunity to get everything -- I'm
6 just trying to make this as thorough as possible. Again, I'm
7 still, and will be, discussing the timeliness of this. We've
8 gone way past the timeliness. We've talked about all the
9 building height measuring point stuff, actually, as if we
10 were actually going through the appeal. And so you've seen
11 all the questions that we've asked of DCRA. I do believe
12 you've had an opportunity to give your testimony. What I'm
13 now just going to finally maybe make sure that I understand
14 with DCRA, in terms of, actually, the merits of the case,
15 just so I understand what's going on, this slide that you
16 have up, Ms. Sorensen, if you can just raise it a little bit
17 so I can see a little bit more of the BHMP.

18 This is to the property owner, I suppose. This
19 is the way the existing façade is, correct?

20 MR. GUZSE: Correct.

21 CHAIRPERSON HILL: Meaning that roof -- and this
22 is just where I just want to understand -- and this is even
23 -- I don't know if, Mr. LeGrant, you wanted to -- if that
24 roof were torn down and replaced again, would you then have
25 to take that as the new building height measuring point?

NEAL R. GROSS

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

1 MR. LEGRANT: Let me understand your question.

2 CHAIRPERSON HILL: If the peaked roof were torn
3 down, removed, and it was replaced exactly with what was
4 there, would that, then, now be the new building height
5 measuring point, the new top?

6 MR. LEGRANT: Short answer is no.

7 CHAIRPERSON HILL: Okay, that's fine. I just want
8 to know, because I just want to understand this. So this is
9 what you have -- this is what is there, just so I understand
10 how this all is, again, if we get to the merits of the case.
11 The building height measuring point -- and I understand how
12 you got to the building height measuring point, which is what
13 you are putting before us. By the way, the drawings were a
14 mess.

15 No offense to whoever drew the drawings, but the
16 one step -- I understand why the Applicant is like we don't
17 know where anything is. But this is what I just want to
18 understand now. The 34-4 is from the building height
19 measuring point to the existing ceiling. The reason why you
20 -- I'm sorry, the existing -- yes, the existing ceiling of
21 that top floor.

22 And the reason why you're getting that continuing
23 to be the top, is because you're just building back farther,
24 and that's why that is now the top and not -- you're not
25 measuring to the angled roof because that's already a

NEAL R. GROSS

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

1 pre-existing condition. That's already there.

2 MR. LEGRANT: Just to clarify, it's not to the top
3 of the ceiling, it's to the top of the joists and subfloor,
4 which I interpreted as the roof slab because there is the
5 thickness that is, I believe, indicated -- the 33 feet, 7
6 inches is the top, the ceiling.

7 CHAIRPERSON HILL: Okay, I got you. Thank you for
8 the clarification. Top of the joists and subfloor, that's
9 also what I meant. That is just what's getting added on to
10 in the back.

11 MR. LEGRANT: That's correct.

12 CHAIRPERSON HILL: Does the Board have any
13 questions on -- does the Board have any questions for anyone?
14 Then I'd like to discuss the timeliness issue. Okay. Before
15 we get to the timeliness issue --- go ahead.

16 COMMISSIONER MAY: I'm sorry, I do have a
17 question.

18 CHAIRPERSON HILL: Sure, go on.

19 COMMISSIONER MAY: I'm sorry. As I understand
20 DCRA, your testimony, there was a permit that was in place
21 from November 14th until December 11th or something like
22 that. No, sometime in December, right?

23 MS. LORD-SORENSEN: The permit was issued, and
24 then we posted a stop work order in December.

25 COMMISSIONER MAY: Is that considered -- let's

NEAL R. GROSS

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

1 think about the 60-day clock. It starts in November, and
2 then it ends in December when the stop work order is issued,
3 or does it continue in force, even though there's a stop
4 work?

5 MS. LORD-SORENSEN: DCRA would argue that 60-day
6 clock did not stop, that it continued once the permit was
7 issued, because the stop work order -- it doesn't
8 automatically revoke the permit or anything like that. The
9 permit holder still has the opportunity to come into
10 compliance, and that's exactly what the property -- submitted
11 revised plans.

12 COMMISSIONER MAY: So why are you not arguing that
13 the -- typically, in cases like this, we get a strong
14 argument from DCRA that the application or the appeal is not
15 timely. We don't have that in this case.

16 MS. LORD-SORENSEN: The circumstances have
17 changed. The last time we were here, I did not have the
18 entire timeline. The DeGraves had made the representation
19 that they didn't know. They saw the stop work order posted,
20 and they didn't see any work being done, so they thought that
21 everything had stopped until they observed, I guess, the
22 March -- until they became aware of the March 2019 permit,
23 and hence they filed their appeal.

24 But in light of the information, the fact that
25 they were aware of the construction since February/March of

NEAL R. GROSS

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

1 2018, they submitted technical objections about the same
2 issues as pending before this Board today, and they knew
3 about the November 2018 permit, and they were also aware of
4 the stop work order, they had ample opportunities to actually
5 file a timely appeal. So this Board should actually find
6 that their appeal is untimely.

7 COMMISSIONER MAY: You do understand why they
8 might be confused about this, given that they don't deal in
9 appeals all the time, and the fact that it was -- they had
10 raised these issues, and they thought that DCRA was acting
11 to address them, including the stop work order. So they
12 wouldn't necessarily know, until it was resolved, whether,
13 in fact, there was an issue with the stop work order -- that
14 they still have issues that are worthy of an appeal. In
15 other words, they don't know if they really need to appeal
16 until after the dust settles and your re-examination as a
17 result of the stop work.

18 MS. LORD-SORENSEN: I guess one could make that
19 argument, but it's a hard argument to swallow, in light of
20 the fact that -- assuming that everything was done in
21 accordance with the Regulations, they should have been
22 provided with a complete set of plans, and they should have
23 followed and been diligent and make sure that they were
24 observing what was going on next door, because they are the
25 next-door neighbor, and filed any sort of timely appeal once

NEAL R. GROSS

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

1 they saw that any sort of construction was going on. Because
2 it's my understanding that they observed construction at some
3 point before the stop work order was posted.

4 MR. DEGRAVE: Definitely not the case. No
5 construction began until July of this year, maybe.

6 COMMISSIONER MAY: Okay, thank you, both.

7 CHAIRPERSON HILL: This is what I propose, I
8 guess. I can go ahead and let -- again, what I am talking
9 with my colleagues here is that we basically heard, I think,
10 the -- I think we've basically heard the appeal. Okay?
11 However, I don't know if the appeal is timely or not. So
12 what I'd like to do is give the DCRA an opportunity to
13 provide a conclusion, as well as the Appellant, and then I
14 believe we should deliberate as to whether or not we think
15 it's timely, and then if we did think it's timely, I think
16 we have enough information to deliberate as to whether or not
17 we think this appeal is in error. But I'm going to give DCRA
18 an opportunity to conclude. Ms. Sorensen, you can have a few
19 minutes there to do so.

20 MS. LORD-SORENSEN: Okay, so as stated earlier,
21 the Board should find that the Appellant's appeal wasn't
22 timely filed because they have had adequate notice about the
23 proposed construction. As stated earlier, the DeGraves were
24 provided with notice of the proposed construction back in
25 early 2018. They even provided technical objections.

NEAL R. GROSS

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

1 The Board should have a copy, of course, their
2 technical objections, because that was put -- made part of
3 DCRA's motion to supplement the record, where they went into
4 detail and they talked about the building height measurement
5 point, the distance of the proposed construction from their
6 chimney and vent, the lot occupancy. Pretty much, they go
7 into detail. Then subsequent to that, to the technical
8 objections that they submitted, the November 2018 permit was
9 issued. It's my understanding that the DeGraves, along with
10 their neighbor -- I think his name is Levesque (phonetic) or
11 something like that. I may be butchering his name -- they
12 were in constant communication with the Agency about the
13 proposed construction. Now, whether or not they were
14 confused when the stop work order was issued, that's a
15 possibility.

16 However, the regulations are clear that once --
17 that you have 60 days to file an appeal from the first
18 writing. And since they were aware that this proposed
19 construction was about to occur, given that they had the
20 plans, then they should have taken the necessary steps to
21 preserve their rights and file a timely appeal before this
22 Board.

23 With that being said, if this Board decides that
24 there was some sort of confusion on the parts of the DeGraves
25 and the first writing is really from the March 2019 first

NEAL R. GROSS

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

1 revised permit, again, I find that the -- I find that most
2 of their arguments are either moot, at this point, or should
3 be dismissed as untimely, as well.

4 With respect to the roof deck, as the Board has
5 seen from the plans, the roof deck has since been removed.
6 With respect to the building height measurement point, you
7 heard testimony from the Zoning Administrator as to how the
8 building height measurement point was calculated and how the
9 proposed construction actually satisfies the height
10 requirement for this particular zone. All the other
11 arguments that are raised by the Appellants are moot, in
12 light of the plans presented before the Board.

13 CHAIRPERSON HILL: Okay, thank you. Mr. DeGrave?

14 MS. DEGRAVE: I'm going to chime in here, instead.

15 CHAIRPERSON HILL: Sure.

16 MS. DEGRAVE: It's just our belief that that
17 December permit was effectively revoked. We had no way --
18 with the stop work order issuance. We had no way of knowing
19 that the stop work order was lifted. It was indicated today
20 that DCRA usually sends an email, but they didn't send it to
21 us to let us know that stop work order had been lifted. And
22 when a new permit number under the revised Permit 1 came up,
23 that was the one that we were appealing.

24 We figured that it was effectively revoked, as
25 there was a new permit number. All of the points in our

NEAL R. GROSS

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

1 appeal, as of that new permit number, the first revised or
2 the second permit, however you want to look at it, are not
3 moot because we're still arguing about the BHMP. She's right
4 about the other points. The roof deck is gone, and the
5 overhang is gone. Those were two of the major points, but
6 there's still the BHMP.

7 MR. DEGRAVE: I have something to add here. DCRA
8 had all but admitted that the plans were issued in error, the
9 roof deck removal, the only question is how many errors. At
10 this point, can we just get a refund? They've already
11 admitted they made an error.

12 CHAIRPERSON HILL: A refund of what?

13 MR. DEGRAVE: Our appeal fee.

14 CHAIRPERSON HILL: Mr. DeGrave, I'm just giving
15 your conclusion. Is that your conclusion?

16 MR. DEGRAVE: I think my wife handled the other
17 part.

18 CHAIRPERSON HILL: All right, great. Okay. Oh,
19 yes, the property owner also gets to give -- the property
20 owner, I guess what I'm trying to figure out now -- normally,
21 the way that I go through with the -- does the property owner
22 get the last conclusion? Anyway, you can give a conclusion,
23 sir.

24 MR. GUZSE: I just want to say with 25 years of
25 law enforcement, ignorance of the law is never a defense.

NEAL R. GROSS

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

1 Thank you.

2 CHAIRPERSON HILL: Okay. That's your conclusion.
3 Okay. I'm going to close the hearing, right? Then let's
4 talk about whether or not we think this is timely, and/or
5 whether or not we want to go through the merits of the
6 appeal. I continue to think this isn't timely. I continue
7 to think that even though I understands why the DeGraves
8 would think that permit is gone, as even just mentioned at
9 the very end -- I think this permit was issued on 11/9/2018.
10 We've had this issue before, in terms of the 60 days and
11 whether or not it's within the first writing. And that was
12 the first writing.

13 I don't know if there's some other way to go back
14 and look at this, so that people are a little bit more clear
15 as to if a permit has now been revoked, or there's a new
16 permit. I don't think there was any substantial changes from
17 the original design to what is before us from the 11/9/2018
18 permit. I just think it's untimely.

19 Now, I will go ahead and speak to the building
20 height measuring point issue, which I guess there was more
21 clarity -- I'm just going to speak to this, and then we can
22 see where everybody else is. I don't think the ZA erred.
23 I don't think that it was necessarily -- we've had a lot of
24 discussion about building height measuring point. I think
25 that the drawings were not helpful.

NEAL R. GROSS

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

1 I think that I completely understand why the
2 neighbors were confused. However, this is a building that
3 is already existing the way it's existing. I understand how
4 the Zoning Administrator got to the building height measuring
5 point because it's the back of that floor that is being
6 extended. They're not extending -- if, again, as we spoke
7 to, they had gone up to the top of that pre-existing
8 condition, the roof, the triangular roof, and then built
9 backwards, that would then be above the 35 feet, which then
10 would have brought them back to us here as a -- sorry, as a
11 Board of Zoning Adjustment issue, in terms of a special
12 exception.

13 I'm kind of speaking to all that, just so the
14 Appellant knows where I was even on the appeal issue.
15 However, I still think that it's untimely, and I think that
16 it's something that we haven't, in the past, been able to
17 remove lightly, in terms of the 60 days for the appeal. So
18 I'll let anyone else go next.

19 VICE CHAIRPERSON HART: I would be in agreement
20 with you, in terms of the timeliness issue. I understand
21 that -- I understand that the permit was issued in November
22 of 2018 and there have been revisions since then. We have
23 been fairly consistent with the first writing. That first
24 writing is that building permit, that initial building
25 permit. DCRA, they always put a new number on the permit as

NEAL R. GROSS

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

1 they move forward with revisions.

2 I understand that everybody doesn't know that, but
3 I do understand that we have an original building permit that
4 is from November that we have to -- we can't just ignore.
5 It seems as though, through this process, there has been a
6 lot of changes to the drawings, our official drawings for the
7 project. And that's unfortunate that there were so many
8 inconsistencies internally with the drawing set. This is
9 exactly some of the problems that you run into, is what are
10 the drawings actually telling me when they don't seem to add
11 up, when different aspects seem to measure higher or not as
12 high? Or, the floor numbers don't add up. This
13 inconsistency has led to a lot of confusion in this case.

14 That's really unfortunate because I think that in
15 many ways, the revision that we're under now, the third
16 revision, has brought us to a point that we understand that
17 there isn't a roof deck anymore. The building owner, Mr.
18 Guzse, and his family have decided to not move forward with
19 that. There is no roof deck access door anymore.

20 The rear addition issue has been -- the rear
21 addition of the third floor has been -- that's understood.
22 That said 10 feet. The second floor rear addition that
23 seemed a little bit strange, it had different numbers
24 associated with it, but that's now clear that it is 6 feet,
25 3 inches. There is, no more, a roof overhang on the back,

NEAL R. GROSS

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

1 on the first and second floor -- I guess on the second floor.

2 I understand what the Zoning Administrator is
3 saying, in terms of the building height measuring point. I
4 think that that clarification today has been helpful and that
5 this is not intended to go above where that is. I kind of
6 get back to the timeliness issue. I think that it was
7 untimely filed. I don't know. I think that's where we have
8 to kind of draw the line for the case.

9 MEMBER JOHN: Mr. Chair, I agree that the appeal
10 was untimely filed. I also appreciate that the Appellant
11 might have thought that the stop work order meant that the
12 permit was revoked, but the rules are fairly clear that even
13 though there's an administrative process that's being
14 pursued, then that still doesn't stop the 60-day time limit
15 for filing an appeal after the first writing.

16 I think the first permit is still properly the
17 first writing because the changes in the subsequent permit,
18 the removal of that third-floor, two-point-something-inch
19 overhang, was not a substantial enough change to create a new
20 writing. For that reason, I would think that the appeal is
21 untimely.

22 I also think that, just to complete the record,
23 I would dismiss the appeal as to the building height
24 measuring point because, as everyone else has noted, the
25 building exists as it is. There's no change to that portion

NEAL R. GROSS

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

1 that exceeds the 35-foot limit.

2 All the homeowner is doing is extending that
3 portion along the same roofline at the top of the joist.
4 There is no increase in the height of the building that's
5 there now. It would be different if the building was being
6 raised from the front. And we see those applications a lot,
7 where these go straight up or slightly back and you have a
8 new roof line. That's not what's happening here. They're
9 just basically going back several feet from the existing top
10 of the joist. As to the building height measuring point,
11 which is really a very significant issue, I would say that
12 the appeal was not sustained, and I'll just associate myself
13 with the other comments so far.

14 COMMISSIONER MAY: Just to be clear, we're really
15 just debating the timeliness question here, right? That's
16 all I'm going to talk about.

17 I disagree with my fellow board members, and my
18 rationale is this. I do not believe that the drawings, upon
19 which the November 2018 permit was based, were sufficiently
20 clear to demonstrate what was going to be built. It was
21 clearly riddled with errors, errors that seem to exist even
22 to this day with the set that has now been approved once
23 again. Many things changed.

24 The drawings are just sloppy, in terms of where
25 the dimensional lines connect to. Those dimension lines,

NEAL R. GROSS

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

1 when they show up like that, typically are automatically
2 dimensioned. If you're drawing it 6 inches short of where
3 it should be, the computer is going to put in a dimension
4 that says 6 inches short. So I still think there are
5 problems with these drawings.

6 I think that it is not reasonable for us to expect
7 that an outside party looking at this can reasonably
8 understand exactly what's happening with this. It was only
9 in March where it got nailed down enough that the DeGraves
10 decided that they had to appeal the case. I understand that
11 it wasn't -- it doesn't have to do with the specifics of the
12 relief that was requested. It's less about the stop work
13 order. I understand how that contributes to the confusion.
14 But the only basis upon which we can really say that the
15 March permit is the one that counts is the fact that it was
16 a mess beforehand, and it finally got settled. That's why
17 I believe that this permit actually is filed timely.

18 CHAIRPERSON HILL: We're going to keep talking
19 then. So you think that this is filed timely. And it's
20 important because we can get -- if you all want to switch,
21 we can then talk about -- because we've heard the appeal.
22 And this is important for later, just in terms of timeliness,
23 because you think that there was enough of a change from that
24 11/9 permit to the March permit, because you think it was
25 sloppy? I just want to understand -- in terms of timeliness,

NEAL R. GROSS

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

1 because --

2 COMMISSIONER MAY: That's the shorthand for it.
3 It's a lousy set of drawings, it has many inconsistencies in
4 it, they don't even know what they're looking at to
5 understand what is being permitted here, if it's being --

6 CHAIRPERSON HILL: They, meaning a layman.

7 COMMISSIONER MAY: They, yes, the outside party.

8 CHAIRPERSON HILL: They, meaning a layman.

9 COMMISSIONER MAY: The Appellant, in this case.
10 I don't think that it could reasonably be understood exactly
11 what was happening with it. It was not clear until the
12 drawing changes were made. Even then, there's still -- it's
13 still not great, but at least they understood enough to be
14 able to make the appeal.

15 CHAIRPERSON HILL: I'm just having the discussion
16 to make sure I understand that it is -- this is where -- I'm
17 not an architect, but to me, it seems that there wasn't a lot
18 of architectural substantial changes. It's just that it was
19 messy. You didn't know, necessarily --

20 COMMISSIONER MAY: The important thing has to do
21 with the dimensions that were on it.

22 CHAIRPERSON HILL: In terms of the building height
23 measuring point, in terms of whether or not you think that
24 it would be --

25 COMMISSIONER MAY: That's the remaining basis of

NEAL R. GROSS

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

1 their appeal anyway, at this point, but yes, that's one of
2 the things where it's not -- it was not clear at that time.
3 In fact, what was on the drawings seemed, on its face, to be
4 inconsistent with the zoning regulations. I think that there
5 -- when that change was made to the way the building height
6 was measured, that's when they realized oh, no, we still have
7 a disagreement with that. I just don't -- I think it's too
8 messy. The whole thing is too messy. It didn't get nailed
9 down until March.

10 CHAIRPERSON HILL: Okay. What do you all think?

11 MEMBER JOHN: I understand all of that, but the
12 regulations don't say, if the drawings are messy, then it's
13 a substantial change. That's my only issue. I know it was
14 confusing, and I know, as lay people, many of us don't
15 understand the regulations, but the rules are pretty clear.
16 It's 60 days from the first writing. To me, that's notice.
17 The fact that they're messy doesn't mean that there's a
18 substantial change. That's what the rules say.

19 COMMISSIONER MAY: Maybe I should clarify. Messy
20 is my shorthand for it. Okay? The problem I have with it
21 is that the drawings were incomplete and inconsistent.
22 Therefore, an outside party did not have a reasonable basis
23 to understand that. Therefore, it is not a valid first
24 writing. So I think it was only in March that we had a valid
25 first writing of the permit, because it was based on

NEAL R. GROSS

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

1 reasonably accurate information that was presented in the
2 drawing set.

3 VICE CHAIRPERSON HART: I'll just add -- and
4 again, I told you I had to do a matrix on this. I did it
5 because I needed to understand what the difference is from
6 the drawings that I could see, the ones that -- the drawing
7 set that -- I do appreciate that, Ms. Lord-Sorensen. That
8 was very helpful, because then I could track where some of
9 this stuff was changing.

10 So between November 2018 and March 2019, the only
11 change was that there wasn't a 2 to 3-foot rear porch
12 overhang. Everything else was the same. They both had roof
13 decks. They both had the access door. They both had the
14 rear addition on the third floor. They both had the
15 second-floor roof, which was 8 feet, 11 inches.

16 They both had the same building height, and they
17 both had the same building height measuring point. All that
18 stuff was the same. There's only one change. The big change
19 was between March and October of 2019, with the second
20 revision, in October, I think, 2nd of 2019, the second
21 revision is when you took off the roof deck. There was no
22 more roof deck access door.

23 They took out the door. They put in a window.
24 The second floor roof was actually set at 6-foot, 3 inches
25 consistently on the drawings. The same with that rear

NEAL R. GROSS

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

1 addition question. I think this is one of the questions that
2 you raised, Commissioner May, at the last point was there was
3 some inconsistency. Then the building height measuring point
4 went to the top of the roof and the building height was
5 changed to 34 feet, 4 inches. To me, the big change was
6 actually the October one, but I still think that the changes
7 that happened were actually less.

8 So the biggest issue, to me, was there were issues
9 to kind of -- and I agree with you -- I will wholeheartedly
10 agree with you about the drawing set, but they did actually
11 include that there was a 39-foot height in November of 2018,
12 in which case that would be the more egregious, oh, this is
13 an issue to kind of have to deal with. And so I understand
14 your point on it, that the drawings were really not helpful
15 because of their inaccuracies.

16 I just think that November 2018 was the point that
17 we have to start looking at it and being able to say, this
18 is when that -- when the drawings were at their worst, in
19 some ways, to be able to say yes, I have a lot of issues with
20 this, to be able to then issue the appeal. I was not
21 planning on changing my opinion on -- or, where I think I am
22 with the motion to dismiss as untimely -- or, I guess, the
23 timeliness issue. I guess it wasn't a motion, per se.

24 CHAIRPERSON HILL: Since we're having a discussion
25 here, again, I -- to use, again, the shorthand version,

NEAL R. GROSS

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

1 whatever, messy, inconsistencies with the drawings, I'm
2 still, now -- and I appreciate the discussion for both of
3 Commissioner May, as well as my fellow Board members,
4 including Ms. John, in that Ms. John has pointed out, again,
5 what the Regulations state and how I, as a layperson, not an
6 architect, am having to kind of look at this. It kind of --
7 we are going to be here every week, and we get a different
8 Zoning commissioner every week.

9 What I meant by this being -- that I was concerned
10 that it's a slippery slope, is that someone could come in and
11 say, again, this wasn't clear enough to me that this is what
12 was being built, and therefore, the 60-day clock should be
13 extended. Then that gets into a point where okay, how
14 informed does that Appellant need to be to understand what's
15 going on as to whether or not that 60-day clock is actually
16 starting or not?

17 And so for me, I would be uncomfortable -- that
18 brings into an expertise that I don't have, which is, again,
19 are the drawings as inaccurate as has been stated. Unless
20 anyone's opinion has changed, and, Mr. May, unless you have
21 anything else you'd like to add at the end --

22 COMMISSIONER MAY: Yes, I would say I wouldn't
23 worry about the slippery slope. I'm not arguing that
24 confusion about what's in the plans is a basis for it. It's
25 particular to this circumstance and whether the argument

NEAL R. GROSS

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

1 that's being made here is a reasonable basis for judging this
2 particular case. I'm not -- I appreciate the fact that you
3 deal with different people in this chair every week, but when
4 it comes to an appeal case like this and the particular facts
5 that are presented and what the Appellant is -- may know or
6 may be expected to know, it is an individual judgment each
7 time. I don't think that -- I would not argue that simply
8 being confused about the drawings is a basis for making a --

9 CHAIRPERSON HILL: And this has been a day of just
10 deliberations up here on the dais, which has just gone on
11 tremendous amount of time. I'm going to -- since I get to
12 have the last word, it is a slippery slope for me, in that,
13 again, I don't know the ability of the Appellant to
14 understand the drawings one way or the other or what's going
15 to happen.

16 Then they could come forward with -- it might be
17 an environmental issue, where they're bringing up some kind
18 of environmental concerns. It is, actually, something, for
19 me, that is just not as specific as it is for you, but I
20 appreciate your opinion and understand.

21 So I'm going to go ahead and make a motion to
22 dismiss Appeal No. 20072, as captioned and read by the
23 Secretary, as untimely, and ask for a second.

24 VICE CHAIRPERSON HART: Second.

25 CHAIRPERSON HILL: The motion has been made and

NEAL R. GROSS

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

1 seconded. All those in favor say aye.

2 (Chorus of aye.)

3 CHAIRPERSON HILL: All those opposed.

4 COMMISSIONER MAY: No.

5 CHAIRPERSON HILL: Mr. Moy, I believe the motion
6 passes.

7 MR. MOY: That's correct, sir. The Chairman
8 making a motion to dismiss the appeal as untimeliness.
9 Seconding is Vice Chair Hart. Also in support of that
10 motion, Ms. John. Opposed to that motion is Commissioner
11 Peter May. Your motion would carry, sir.

12 CHAIRPERSON HILL: Okay, thank you, Mr. Moy.
13 Thank you all very much. Mr. Moy, is there anything else
14 before the Board today?

15 MR. MOY: Not from the staff, sir.

16 CHAIRPERSON HILL: Okay, thank you. We stand
17 adjourned.

18 (Whereupon, the above-entitled matter went off the
19 record at 1:38 p.m.)

20

21

22

23

24

25

C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: Public Hearing

Before: DC BZA

Date: 11-06-19

Place: Washington, DC

was duly recorded and accurately transcribed under my direction; further, that said transcript is a true and accurate record of the proceedings.



Court Reporter

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701