

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

+ + + + +

BOARD OF ZONING ADJUSTMENT

+ + + + +

REGULAR PUBLIC MEETING

+ + + + +

WEDNESDAY

SEPTEMBER 11, 2024

+ + + + +

The Regular Public Meeting of the District of Columbia Board of Zoning Adjustment convened via Videoconference, pursuant to notice at 9:30 a.m. EDT, Frederick L. Hill, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

FREDERICK L. HILL, Chairperson  
CARL BLAKE, Member  
CHRISHAUN SMITH, Member

ZONING COMMISSION MEMBERS PRESENT:

ROBERT MILLER, Vice-Chairperson

OFFICE OF ZONING STAFF PRESENT:

KEARA MEHLERT, Secretary  
PAUL YOUNG, A/V Production Specialist

OFFICE OF ZONING ATTORNEY ADVISORS PRESENT:

MARY NAGELHOUT, ESQ.  
CARISSA DEMARE, ESQ.  
CHLOE SELLERS, ESQ.  
JORDANE WONG, ESQ.

The transcript constitutes the minutes from the Regular Public Meeting held on September 11, 2024.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1716 14TH ST., N.W., STE 200  
WASHINGTON, D.C. 20009-4309

(202) 234-4433

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

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

	Page
I. BOARD ACTION: Deliberation and. . . . .	7
Action on Special Exception Relief	
Application No. 20411 of Marcel and	
Stacey Clarke	
 II. CONSENT CALENDAR: Expedited Review. . . . .	13
Application No. 21176 of Natalia	
Banulescu-Bogdan	

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1716 14TH ST., N.W., STE 200  
WASHINGTON, D.C. 20009-4309

(202) 234-4433

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

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

(9:34 a.m.)

CHAIRPERSON HILL: Good morning, ladies and gentlemen, the Board of Zoning Adjustments, September 11th Public Hearing will please come to order.

My name is Fred Hill, Chairman of the District of Columbia Board of Zoning Adjustment. Joining me today are Board Members Carl Blake, Chrishaun Smith, and Zoning Commissioner Rob Miller.

Today's meeting and hearing agenda are available on the Office of Zoning's website. Please be advised this proceeding is being recorded by a court reporter. It is also webcast live via Webex and YouTube Live. The video of the webcast will be available on the Office of Zoning's website after today's hearing.

Accordingly, everyone who is listening on Webex or by telephone will be muted during the hearing. Also, please be advised that we do not take public testimony at our decision meeting sessions. If you're experiencing difficulty accessing Webex or with your telephone call-in, then please call our OZ hotline number at (202) 727-5471 to receive Webex call-in instructions.

At the conclusion of a decision meeting session, I shall, in consultation with the Office of Zoning, determine whether a full or summary order may be

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1716 14TH ST., N.W., STE 200  
WASHINGTON, D.C. 20009-4309

(202) 234-4433

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

1 issued. A full order is required when the decision it  
2 contains is adverse to a party, including affected ANC. A  
3 full order may be needed if the Board of Zoning's decision  
4 differs from the Office of Planning's recommendation.  
5 Although the Board favors the use of summary orders  
6 whenever possible, an applicant may not request the Board  
7 to issue such an order.

8 In today's hearing session, everyone who is  
9 listening to Webex or by telephone will be muted during  
10 the hearing, and the only persons who have signed up to  
11 participate or testify will be unmuted at the appropriate  
12 time. Please state your name and home address before  
13 providing oral testimony or your presentation. Oral  
14 presentations should be limited to a summary of the most  
15 important points. When you're finished speaking, please  
16 mute your audio so that your microphone is no longer  
17 picking up sound or background noise.

18 All persons planning to testify either in favor  
19 or in opposition should have signed up in advance.  
20 They'll be called by name to testify. If this is an  
21 appeal, only parties are allowed to testify. By signing  
22 up to testify, all participants completed the oath or  
23 affirmation as required by Y 408.7.

24 Requests to enter evidence at the time of an  
25 online virtual hearing, such as written testimony or

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1716 14TH ST., N.W., STE 200  
WASHINGTON, D.C. 20009-4309

(202) 234-4433

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

1 additional supporting documents -- other than live video,  
2 which may not be presented as part of the testimony -- may  
3 be allowed pursuant to Y 103.13, provided that the persons  
4 making the request to enter an exhibit explain, A, how the  
5 proposed exhibit is relevant; B, the good cause that  
6 justifies allowing the exhibit into the record, including  
7 as to why the requester did not file the exhibit prior to  
8 the hearing pursuant to Y 206; and C, how the proposed  
9 exhibit would then -- would not unreasonably prejudice any  
10 parties. The orders of -- the order of procedures for  
11 special exceptions and variants is pursuant to Y 409.

12 At the conclusion of each case, an individual  
13 who was unable to testify because of technical issues may  
14 file a request for leave to file a written version of  
15 planned testimony to the record within 24 hours following  
16 the conclusion of public testimony in the hearing. If  
17 additional written testimony is accepted, the parties will  
18 be allowed a reasonable time to respond as determined by  
19 the Board.

20 The Board will then make its decision at its  
21 next meeting session, but no earlier than 48 hours after  
22 the hearing. Moreover, the Board may request additional  
23 specific information to complete the record. The Board  
24 and staff will specify at the end of the hearing exactly  
25 what is expected and the date when persons must submit the

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1716 14TH ST., N.W., STE 200  
WASHINGTON, D.C. 20009-4309

(202) 234-4433

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

1 evidence to the Office of Zoning. No other information  
2 shall be accepted by the Board.

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

15 Madam Secretary, do we have any preliminary  
16 matters today?

17 MS. MEHLERT: Good morning, Mr. Chairman,  
18 Members of the Board. I hope you all had a nice recess.

19 In terms of scheduling changes for today,  
20 Application Number 20417A of NARAYANSWARUP, Incorporated,  
21 has been postponed to December 11th, 2024.

22 Appeal Number 21057 of ANC 6C has been  
23 postponed to December 11th, 2024.

24 Appeal Number 20921 of 1501 Erie Street  
25 Construction, LLC, has been withdrawn.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1716 14TH ST., N.W., STE 200  
WASHINGTON, D.C. 20009-4309

1           And Application Number 21098 of 4711 Ellicott  
2           Street Northwest, LLC, has also been withdrawn.

3           And then, any other preliminary matters will be  
4           noted when the case is called.

5           CHAIRPERSON HILL:    Okay.    All right.    Okay.  
6           Welcome, everybody.   Good to see you all.   And I don't  
7           know.   Anyway, it's 9/11.   So we're back here.

8           Madam Secretary, could you please call our  
9           first case?

10          MS. MEHLERT:    The first case in the Board's  
11          meeting session is Application Number 20411 of Marcel and  
12          Stacey Clarke.    This is a self-certified application  
13          pursuant to Subtitle X, Chapter 10, for an area variance  
14          from the minimum rear yard requirements of Subtitle E,  
15          Section 306.1; and pursuant to Subtitle X, Chapter 9, for  
16          special exceptions under Subtitle C, Sections 1500.4 and  
17          1504 to allow penthouses on the flats not meeting the  
18          setback requirements of Subtitle C, Section 1502.1(a)  
19          through (c).

20          This is for the subdivision of an existing  
21          record lot into two new record lots and construction of a  
22          new semi-detached building on each lot.   This is located  
23          in the RF-1 Zone at 2600 4th Street, Northeast, Square  
24          3551, Lot 1.   And I'll note that the Board voted on this  
25          case on April 28th, 2021, to deny the requested area

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1716 14TH ST., N.W., STE 200  
WASHINGTON, D.C. 20009-4309

(202) 234-4433

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

1 variance. However, the Board did not deliberate on the  
2 requested special exceptions, which is why this case is  
3 back before the Court today. Chairman Hill and Board  
4 Member Smith participated in the original hearing and  
5 vote, and I believe Board Member Blake has read into the  
6 record to participate today.

7 CHAIRPERSON HILL: Thank you.

8 Board Member Blake, is that correct?

9 MEMBER BLAKE: It's a record, and I am prepared  
10 to deliberate on the special exception relief.

11 CHAIRPERSON HILL: Great. Thank you. So, as  
12 --

13 COMMISSIONER MILLER: Mr. Chairman, I also --  
14 I also have read into the record and reviewed the previous  
15 deliberations.

16 CHAIRPERSON HILL: Thank you, Commissioner  
17 Miller.

18 So, in 20411, we did discuss the variance  
19 argument criteria. And the Board was not persuaded that  
20 the Applicant had met the -- its burden of proof, and we  
21 denied that variance, which, at the time, we thought made  
22 the other requests moot. However, upon further review, we  
23 would like to talk about the special exception.

24 I mean, the special exceptions, there were two  
25 requirements. One, that the penthouse is not more than 10

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1716 14TH ST., N.W., STE 200  
WASHINGTON, D.C. 20009-4309

(202) 234-4433

www.nealrgross.com



1 feet tall, and that 30 feet of ancillary space is all  
2 that's being used. They did meet that criteria.

3           However, the penthouse was not going to have  
4 setbacks on three sides, and they did not meet those  
5 setback requirements. I mean, I don't -- I didn't see  
6 anything in the record or from the testimony that would  
7 lead me to believe that I would be able to vote in favor  
8 of those requirements being relieved. And so, like, you  
9 know, the three sides -- the three-side issue is what I  
10 would have a problem with, and I would be voting in -- to  
11 deny the special exception relief.

12           Mr. Smith, welcome back. Do you have anything  
13 you'd like to add to that?

14           MEMBER SMITH: No, Chairman Hill. I agree with  
15 your testimony that you provided regarding this particular  
16 case. There isn't anything in the record that would lead  
17 me to be comfortable with us approving these special  
18 exceptions. And the special exceptions are, you know,  
19 again, tied to the area variance request. So I agree with  
20 your statement and will be voting to deny the special  
21 exception.

22           CHAIRPERSON HILL: Thank you.

23           Commissioner Miller?

24           COMMISSIONER MILLER: Thank you, Mr. Chairman.

25           Yeah, I agree with you, Mr. Chairman, and Board

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1716 14TH ST., N.W., STE 200  
WASHINGTON, D.C. 20009-4309

(202) 234-4433

www.nealrgross.com

1 Member Smith. The variance request which was previously  
2 denied was for to have no rear yard and to have two flats  
3 there. And it's the building configuration that the  
4 variance request would have allowed that requires the --  
5 that kind of dictates the special exception request for  
6 the penthouse setback, which wouldn't be necessary if  
7 there was a different building configuration or different  
8 situation on the lot.

9 So, the only other thing I would note is that  
10 this Board and the Zoning Commission have been fairly  
11 strict in interpreting the penthouse setback requirements  
12 in the RF flat zones. And so, to have no setback -- to  
13 have the -- to not meet the setback on three sides is  
14 problematic. So I'm prepared to deny the special  
15 exception request that's related to the variance request  
16 that was previously denied.

17 CHAIRPERSON HILL: Thank you.

18 Board Member Blake?

19 MEMBER BLAKE: Mr. Chair, interestingly enough,  
20 I have a slightly different take on this. I've obviously  
21 read into the case record, including the transcript from  
22 the hearing. I've looked at the Applicant's statements as  
23 well as the plans and illustrations provided by the  
24 Applicant. I've also reviewed the written reports of the  
25 respective Government agencies. And I have to say, I

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1716 14TH ST., N.W., STE 200  
WASHINGTON, D.C. 20009-4309

1 concur with the Board's finding about the Applicant did  
2 not meet the requirements for the variance request.  
3 However, I think the Applicant did meet the burden of  
4 proof granted for the special exception request.

5           Clearly, it is, in my opinion, a moot issue  
6 because the design is not -- the variance wasn't granted.  
7 However, if you look at this on its surface, I think that  
8 the Applicant has met the burden of proof for the special  
9 exception requested. We don't have a written opinion from  
10 the Office of Planning, but I find the Applicant's  
11 argument presented in Exhibit 28A fairly persuasive as it  
12 demonstrates that the proposal complies with the  
13 regulations, pursuant to X 901.2, under Subtitle C 1500.4  
14 and 1504.

15           I think that meeting the one-to-one setback  
16 requirements would result in an extremely inefficient  
17 interior design, and it would also -- could also result in  
18 a fairly -- a design that's inconsistent with the building  
19 code. And certainly, allowing the waiver would prevent a  
20 design that would be more efficient, less visually  
21 intrusive, and consistent with the building code.

22           So, for that reason, I would say that granting  
23 the special exception request would be in harmony with the  
24 Zoning Regulations and not tend to adversely affect these  
25 neighboring properties. So I would be in support of the

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1716 14TH ST., N.W., STE 200  
WASHINGTON, D.C. 20009-4309

(202) 234-4433

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

1 special exception. Although, I understand it is really a  
2 moot issue because, without the variance, it can't be  
3 done. But on the surface, I'd look at the special  
4 exception as being -- the criteria being met. So I would  
5 actually be voting in favor of the special exception  
6 request, even though I think this is a done deal.

7 CHAIRPERSON HILL: Okay. All right. Well,  
8 we'll see if that changed anybody's mind, Mr. Blake, and I  
9 do appreciate your thoughtful review of the case.

10 I'm going to make a motion to deny the special  
11 exception request for 20411 and ask for a second.

12 Commissioner Miller?

13 COMMISSIONER MILLER: Second.

14 CHAIRPERSON HILL: Then, Mr. Smith?

15 MEMBER SMITH: Yes.

16 CHAIRPERSON HILL: Oh, wait. I'm sorry. It's  
17 been so long, I forgot how this works.

18 So, Ms. Mehlert, all right. A motion has been  
19 made and accepted. Would you please find out what the  
20 vote is?

21 MS. MEHLERT: Please respond to the Chair's  
22 motion to deny the special exception request.

23 Chairman Hill?

24 CHAIRPERSON HILL: Yes.

25 MS. MEHLERT: Mr. Smith?

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1716 14TH ST., N.W., STE 200  
WASHINGTON, D.C. 20009-4309

1 MEMBER SMITH: Yes.

2 MS. MEHLERT: Commissioner Miller?

3 COMMISSIONER MILLER: Yes.

4 MS. MEHLERT: Mr. Blake?

5 (No audible response.)

6 MS. MEHLERT: The staff will record the vote as  
7 three to one to one to deny the special exceptions in  
8 Application 20411 on the motion made by Chairman Hill and  
9 seconded by Commissioner Miller.

10 CHAIRPERSON HILL: Okay. Thank you, Ms.  
11 Mehlert. And you may call our next one.

12 MS. MEHLERT: The next case in the Board's  
13 meeting session is an expedited review case for  
14 Application Number 21176 of Natalia Banulescu-Bogdan.  
15 This is a self-certified application pursuant to Subtitle  
16 X, Section 901.2, for special exceptions under Subtitle D,  
17 Section 5201, from the rear yard requirements of Subtitle  
18 D, Section 207.1, and the lot occupancy requirements of  
19 Subtitle D, Section 210.1.

20 This is for a new, two-story, rear addition and  
21 rear deck addition to an existing two-story, detached  
22 principal dwelling. The project is located in the R-1B  
23 Zone at 6629 Piney Branch Road, Northwest, Square 2972,  
24 Lot 17.

25 CHAIRPERSON HILL: Okay. Thank you.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1716 14TH ST., N.W., STE 200  
WASHINGTON, D.C. 20009-4309

1 All right. So, you guys, I've reviewed the  
2 record. And so, this is an expedited review. And at this  
3 point in time, we haven't gotten any report or feedback  
4 from the Office of Planning because of the issue with the  
5 project being in public space -- or part of the project  
6 being in public space. The ANC is in support. DDOT is in  
7 support, but there is some conditions that I think we'd  
8 have to kind of talk through.

9 At this point of time, I don't think that this  
10 is ready or right for us. And what I would do is ask  
11 that, if the Board were to agree with me, that we would  
12 send this applicant back to public space first and working  
13 with the Office of Planning and postpone this to, I think,  
14 maybe for -- even, I think, postpone as a hearing so that  
15 we can kind of talk about what more might have come of  
16 this discussion with public space and set it for -- out  
17 for a farther date.

18 Mr. Smith, what do you think of my suggestion?

19 MEMBER SMITH: I agree, Chairman Hill. This  
20 isn't ready because there's just some outstanding issues  
21 regarding what's occurring in the public space. So I do  
22 agree with your recommendation for them to go back to the  
23 Public Space Committee, in conjunction working with the  
24 Office of Planning, and set this aside for a future date.

25 CHAIRPERSON HILL: Thank you.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1716 14TH ST., N.W., STE 200  
WASHINGTON, D.C. 20009-4309

1 Commissioner Miller?

2 COMMISSIONER MILLER: I concur with each of  
3 your assessments. Thank you.

4 CHAIRPERSON HILL: Thank you.

5 Board Member Blake?

6 MEMBER BLAKE: I agree as well, sir. We don't  
7 have a plausible plan before us, and I would be -- I  
8 believe, from an efficiency standpoint, it would be best  
9 to postpone this until we have a plausible plan.

10 CHAIRPERSON HILL: Thank you.

11 Ms. Mehlert, how far out do you think we should  
12 put this, or when do you think would be a good time?

13 MS. MEHLERT: I would recommend the December  
14 18th hearing. From what I've heard from DDOT, they have  
15 some significant issues to work through on the public  
16 space, and they would still need to submit an application  
17 to be put on the Public Space Committee docket. So I  
18 think that could take a while, so I think putting it  
19 pretty far out would be best.

20 CHAIRPERSON HILL: Okay. What date did you  
21 say? I'm sorry.

22 MS. MEHLERT: December 18th. It'd be the last  
23 hearing before the holiday break.

24 CHAIRPERSON HILL: Oh, my gosh. Okay. Great.  
25 Meaning I can't believe there's a holiday break discussed

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1716 14TH ST., N.W., STE 200  
WASHINGTON, D.C. 20009-4309

1 already. Okay. All right. That sounds good to me.

2 Let's go ahead and do that.

3 MS. MEHLERT: Okay.

4 CHAIRPERSON HILL: Okay. All right. You may  
5 call our next one.

6 (Whereupon, the above-entitled matter went off  
7 the record at 9:50 a.m.)

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25



C E R T I F I C A T E

This is to certify that the foregoing transcript


In the matter of: Regular Public Meeting

Before: DC BZA

Date: 09-11-24

Place: teleconference

was duly recorded and accurately transcribed under  
my direction; further, that said transcript is a  
true and accurate complete record of the  
proceedings.

  
-----  
Court Reporter

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1716 14TH ST., N.W., STE. 200

WASHINGTON, D.C. 20009-7831

(202) 234-4433

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