

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

+ + + + +

BOARD OF ZONING ADJUSTMENT

+ + + + +

PUBLIC HEARING

+ + + + +

TUESDAY

JANUARY 6, 2004

+ + + + +

The Public Hearing convened in Room 220 South, 441 4th Street, N.W., Washington, D.C. 20001, pursuant to notice at 4:27 p.m., Geoffrey H. Griffis, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

GEOFFREY H. GRIFFIS, Chairperson  
CURTIS ETHERLY, JR., Vice Chairperson  
RUTHANNE MILLER, Board Member  
DAVID ZAIDAIN, Board Member, NCPC

ZONING COMMISSION MEMBER PRESENT:

ANTHONY J. HOOD, Commissioner

COMMISSION STAFF PRESENT:

CLIFFORD MOY, Deputy Secretary  
BEVERLEY BAILEY, Zoning Specialist  
JOHN NYARKU, Zoning Specialist

D.C. OFFICE OF CORPORATION COUNSEL:

SHERRY GLAZER, ESQ.

OFFICE OF PLANNING STAFF PRESENT:

ARTHUR JACKSON, Office of Planning

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

<u>AGENDA ITEM</u>	<u>PAGE</u>
PRELIMINARY ITEMS . . . . .	6
TO CONSIDER THE FOLLOWING:	
No. 17098, ANC-3C, Application of Maret School, Inc. . . . .	11
No. 17097, ANC-5A, Application of Hamilton and Georgia McGraw . . . . .	21
ADJOURN . . . . .	34

P R O C E E D I N G S

4:27 P.M.

CHAIRMAN GRIFFIS: Good afternoon, ladies and gentlemen, I do appreciate everyone's patience. Of course, I'd like to call the afternoon session to order.

This is the 6th of January Public Hearing of the Board of Zoning Adjustment of the District of Columbia. My name is Geoff Griffis, Chairperson. Joining me is Mr. Etherly, the Vice Chair, also Ms. Miller. Representing the National Capital Planning Commission is Mr. Zaidain and representing Zoning Commission is Mr. Hood.

Copies of today's agenda are available and located at the door you entered into the hearing room.

Please be aware that the proceedings are being recorded by the court reporter. We are also being broadcast on the web so that there is actual live coverage of this.

Accordingly, we ask that everyone refrain from any disruptive noises or actions in the hearing room. I would also ask that everyone please turn off their cell phones and beepers at this time so we don't have any disruptive noises. I will give instruction, but you should be well aware in order to be on the

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 record for our deliberation to establish the record,  
2 you will to speak into a microphone. That microphone  
3 needs to be one. You just touch the button on the  
4 base of the microphone and it will turn on. The red  
5 light will be in front of you. We ask that when you  
6 end your talking temporarily, that you turn off the  
7 microphone so that we don't have any sort of feedback.

8 All persons planning to testify are going  
9 to need to fill out witness cards. Witness cards are  
10 located at the door, the table near the door you  
11 entered into, also the table in front of us where you  
12 will give testimony. Two witness cards go to the  
13 recorder who is sitting on the floor to my right,  
14 prior to coming forward to speak to the Board.

15 The order of procedure today for special  
16 exceptions and variances will be first, statement of  
17 witnesses of the Applicant; second, will be Government  
18 reports attendant to the application; third would be  
19 the report from the Advisory Neighborhood Commission;  
20 fourth would be parties or persons in support of the  
21 application; fifth would be parties or persons in  
22 opposition to the application; sixth, finally, closing  
23 remarks by the Applicant.

24 Pursuant to Section 3117.4 and 3117.5 the  
25 following time constraints will be maintained. I'm

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 actually going to skip that for today's session so  
2 that we move on a little bit. I don't imagine  
3 granting an hour of each sides of witnesses. So let's  
4 continue on. Individuals, of course, are afforded  
5 three minutes to give testimony in every case. If  
6 there is a need for that, I will address it.

7 The record will be closed at the  
8 conclusion of each hearing on a case except for any  
9 material that's specifically requested by the Board  
10 and we will be very specific or try to be, as to what  
11 material is to be submitted, when it is to be  
12 submitted into the Office of Zoning.

13 The Sunshine Act requires that the Board  
14 hear all cases in the open and before the public. The  
15 Board may, however, consistent with the Sunshine Act,  
16 and its rules of procedure, enter into Executive  
17 Session. That would be for the purposes of reviewing  
18 or deliberating on a particular case. The decision of  
19 this Board in contested cases must be based  
20 exclusively on the record, therefore we do ask that  
21 anything you want us to deliberate be said on the  
22 record and also we ask that people present today not  
23 engage Board Members in conversation so we don't give  
24 the appearance of not deliberately solely on the  
25 record.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

1 I do again appreciate everyone's patience  
2 this morning, this afternoon. We had an incredible  
3 morning.

4 I am going to make every attempt to finish  
5 the afternoon session by 6 o'clock.

6 At this time I think we can entertain any  
7 preliminary matters. Preliminary matters are those  
8 which relate to whether a case will or should be heard  
9 today such as requests for postponements, continuance  
10 or whether a case has been properly and adequately  
11 advertised. If you believe the Board should not hear  
12 a case today, or you are not prepared to go forward  
13 with the case today, I would ask that you come forward  
14 and have a seat at the table as an indication that you  
15 have a preliminary matter.

16 First, let me check with staff if they  
17 have any preliminary matters that they're aware of for  
18 our attention.

19 MS. BAILEY: Mr. Chairman and to the  
20 Members of the Board, good afternoon. There is a  
21 preliminary matter. It has to do with the second case  
22 of the afternoon, Cecilia and Lorenz Wheatley. There  
23 is a request from ANC-5A to postpone this hearing to  
24 give the ANC an opportunity to meet and vote on the  
25 application, sir.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 CHAIRMAN GRIFFIS: Okay. And that's all  
2 you have?

3 MS. BAILEY: The others may be case  
4 specific and probably are better dealt with at the  
5 time they are called.

6 CHAIRMAN GRIFFIS: Let's go about that.  
7 Do you want to swear everyone in that's going to  
8 testify first, Mr. Bailey?

9 MS. BAILEY: I certainly may.

10 CHAIRMAN GRIFFIS: Anyone giving testimony  
11 today, if they would please rise and give their  
12 attention to Ms. Bailey, you will be sworn in.

13 MS. BAILEY: Please stand. Raise your  
14 right hand. Do you solemnly swear or affirm that the  
15 testimony that you will be giving this afternoon will  
16 be the truth, the whole truth and nothing but the  
17 truth?

18 (The witnesses were sworn.)

19 CHAIRMAN GRIFFIS: Good, thank you very  
20 much. If you wouldn't mind also just and for  
21 everyone's understanding when first addressing the  
22 Board if you would not mind just giving your name and  
23 your address for the record?

24 Yes sir?

25 MR. BOWSER: My name is Joseph Bowser.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 I'm the Vice Chairperson of ANC 5A. I reside at 4809  
2 7th Street, N.E. in Washington, D.C. And I'm also the  
3 Single Member District representative for 5-A04.

4 I am requesting before the Board that we  
5 postpone this case until the 28th of January so that I  
6 can properly take a vote on it with my ANC  
7 Commissioner. I have conferred with Mr. Wheatley, the  
8 application. Our Commission has been on leave in  
9 December and we haven't had a meeting in December and  
10 I can't properly present the facts to my  
11 Commissioners. So this is our request, while we are  
12 asking for and I have a letter submitted from the  
13 Chairperson signed by the Chairperson.

14 CHAIRMAN GRIFFIS: Asking for a  
15 continuance?

16 MR. BOWSER: Yes.

17 CHAIRMAN GRIFFIS: Very well. Yes sir?

18 MR. WHEATLEY: My name is Lawrence  
19 Wheatley, I'm the Applicant for Case No. 17096. I  
20 would agree with this continuance as long as within a  
21 reasonable amount of time, not knowing what your  
22 scheduling is like, I understand that you have quite a  
23 full calendar three months in advance and --

24 CHAIRMAN GRIFFIS: We like to keep it  
25 interesting.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MR. WHEATLEY: And so I'm in agreement  
2 with the --

3 CHAIRMAN GRIFFIS: Okay, let's do this.  
4 The ANC is asking to postpone this until well after  
5 January 28th. How does that affect your schedule?

6 MR. WHEATLEY: Not knowing in terms of  
7 when --

8 CHAIRMAN GRIFFIS: I'll set it for the day  
9 they can get a report in.

10 MR. WHEATLEY: That's fine.

11 CHAIRMAN GRIFFIS: That's February 3rd.

12 MR. WHEATLEY: Excellent.

13 CHAIRMAN GRIFFIS: You can get usa report  
14 by February 3rd?

15 MR. BOWSER: Yes, I can.

16 CHAIRMAN GRIFFIS: Promise?

17 MR. BOWSER: We'll vote on it on the 28th,  
18 the 29th I can have the report.

19 CHAIRMAN GRIFFIS: Can you turn your  
20 microphone on, please.

21 MR. BOWSER: Excuse me. I said we can  
22 vote on it on the 28th and I can have a report on it  
23 on the 29th, yes, we can do that.

24 CHAIRMAN GRIFFIS: It's not uncommon for  
25 us to show up and the ANC says we didn't have to

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 draft, get it signed and sent in.

2 MR. BOWSER: Well, I wouldn't ask for this  
3 continuance if I wasn't going to do that.

4 CHAIRMAN GRIFFIS: Excellent.

5 MR. BOWSER: I'm the Vice Chairperson of  
6 the Commission, so I have some say that it will get  
7 typed up and processed.

8 CHAIRMAN GRIFFIS: First case in the  
9 afternoon on February 3rd.

10 MR. BOWSER: Okay, thank you.

11 CHAIRMAN GRIFFIS: Thank you very much.

12 MR. WHEATLEY: Is that a.m. or p.m.

13 CHAIRMAN GRIFFIS: First case in the  
14 afternoon, yes. So we should start our afternoons  
15 usually at 1 o'clock. Right.

16 Next?

17 MR. TUMMONDS: Mr. Chairman, my name is  
18 Paul Tummonds from the law firm of Shaw Pittman. I  
19 guess a preliminary matter, we have -- we are now  
20 scheduled for the -- this is the Application of the  
21 Maret School, 17098. It is now scheduled, I guess,  
22 the second case on the afternoon agenda. I have two  
23 witnesses here that need to move quickly to a meeting.

24 I understand that other people have been waiting all  
25 afternoon. Due to the fact that this is a case that

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 we think is kind of a minor nature --

2 CHAIRMAN GRIFFIS: You want us to call you  
3 right now?

4 MR. TUMMONDS: If you take us right now, I  
5 promise you --

6 CHAIRMAN GRIFFIS: What time do you have  
7 to leave?

8 MS. TALBOTT: I should be back at school  
9 around 5 o'clock, if possible.

10 CHAIRMAN GRIFFIS: Of course, our  
11 afternoon schedule was until 6. You were the last  
12 case in the afternoon.

13 Is there any strong objection? This is an  
14 uncontested case. It looks like it will go very  
15 quickly by the Applicant that you would be moving in  
16 front of. You're okay with that? Let's move, let's  
17 call the Maret School Case 17098.

18 MS. BAILEY: Application of the Maret  
19 School, Inc., No. 17098, pursuant to 11 DCMR 3104.1,  
20 for a special exception to allow the placement of five  
21 temporary administrative office and classroom modular  
22 trailers on an existing private school campus under  
23 section 206, and a special exception to locate a  
24 portion of the required number of parking spaces at an  
25 off-site location during the construction activity

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 under subsection 2116.5. The property is located in  
2 the R-1-B District at premises 3000 Cathedral Avenue,  
3 N.W., also known as Square 2113, Lot 843.

4 Mr. Chairman, the witnesses have been  
5 sworn in. There is two requests for party status,  
6 however, they are proponents.

7 CHAIRMAN GRIFFIS: That's correct. Are  
8 they present today, George and Teresa Bren or Craig  
9 Edder. Not present? I think we can take their  
10 application and submission as positive testimony in  
11 support of the application.

12 Mr. Tummonds, do you disagree?

13 MR. TUMMONDS: I agree. In fact, in  
14 looking at the forms they filled out, it appeared that  
15 they misunderstood what that letter was for because  
16 one of the people specifically said I support, but I  
17 don't want to come down and talk.

18 CHAIRMAN GRIFFIS: Right. Okay.

19 VICE CHAIR ETHERLY: Mr. Chair, just as a  
20 preliminary matter, I initially thought of this  
21 perhaps as a matter for recusal, but I'll just note it  
22 as a disclosure and maybe have some brief discussion  
23 on it.

24 I do serve as a member of the Advisory  
25 Council for the Horizons Program which, as I

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 understand the application, has no bearing or  
2 connection to the application or the requested relief.

3 I have not had occasion to discuss this matter at any  
4 length with any of my fellow members of the Horizons  
5 at Maret Advisory Council, but I want to make that  
6 disclosure to my colleagues.

7 I do believe that I would be able to sit  
8 on this case and rule impartially, perhaps because it  
9 does appear to be a relatively quick issue and not a  
10 contested case. I am perhaps more inclined to make  
11 that disclosure to my colleagues and see whether or  
12 not there would be any concern at my continued  
13 participation.

14 CHAIRMAN GRIFFIS: I appreciate that. Is  
15 there any question from the Board?

16 MEMBER MILLER: I'm sorry, I don't really  
17 understand what the Horizons Council is in relation to  
18 this case.

19 VICE CHAIR ETHERLY: The Horizons at Maret  
20 Program, if I have this correctly, is essentially --  
21 I'll refer to it as an adjunct program that is done in  
22 conjunction with Maret. It's a summer program, but  
23 also does have something of an academic component that  
24 does continue through the year where the school and  
25 its personnel do partner with the local elementary

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 school. So there is use on behalf of the Horizons  
2 Program of facilities at Maret, but it is best thought  
3 of as a separate, stand alone program. But it does  
4 receive support in the form of facilities assistance  
5 and personnel assistance from Maret.

6 And I serve as a member of the Corporate  
7 Advisory Council for that program. Once again, based  
8 on what I know of the project and of course, based on  
9 familiarity with the Horizons Program, in no way does  
10 any way have any bearing on this particular  
11 application. I don't think it calls into question any  
12 of the relief that's being brought forth.

13 CHAIRMAN GRIFFIS: Any other questions  
14 from the Board? Does the Applicant or Applicant's  
15 representative have any objection to Mr. Etherly  
16 hearing the case?

17 MR. TUMMONDS: No objection.

18 CHAIRMAN GRIFFIS: Okay, let's go. Mr.  
19 Tummonds, I'm going to ask you to summarize very  
20 briefly, we do have the full filing and I think the  
21 issue before us is fairly clear. So if you wouldn't  
22 mind?

23 MR. TUMMONDS: Absolutely, basically the  
24 purpose of today's application is to allow for the  
25 construction activity on the site to effectuate this

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Board's approval of additions and renovations to the  
2 campus in 1998. So as Ms. Bailey stated, we are  
3 proposing to place five temporary modular  
4 administrative trailers on the site and to remove  
5 temporarily the parking spaces that are provided on  
6 site as required by the 1998 BZA order and place them  
7 at an off-site location. I think this was noted.  
8 This application has the unanimous support from the  
9 community, the ANC, Office of Planning is supportive  
10 of that and we would rest on the record and our pre-  
11 hearing statement.

12 If you have any questions, Marjo Talbott,  
13 head of school is here to answer any questions, as is  
14 Darwin Walker, the business manager of the school.

15 CHAIRMAN GRIFFIS: Good, the first  
16 preliminary question that I have is, of course, this  
17 is being advertised and requested as temporary  
18 changes. What's the time frame that's actually being  
19 discussed?

20 MS. TALBOTT: Our hope is to begin this  
21 summer and be finished by the fall of 2005, September  
22 of 2005.

23 CHAIRMAN GRIFFIS: Okay, so give me --  
24 clearly, if this was approved in a bench decision or  
25 what have you, it may well have a condition. That

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 condition would be the amount of time that these five  
2 temporary administrative offices and classroom modular  
3 trailers could be existence, what would be the time  
4 that you would suggest?

5 MS. TALBOTT: Earliest June of 2004 and  
6 hopefully be out by the fall of 2005. I don't know if  
7 that's September 1st or September 30th.

8 MR. TUMMONDS: Truly, these trailers, we  
9 don't need the trailers until fall of next year when  
10 classes start. Obviously, when construction is  
11 occurring this next summer, summer 2004, school is not  
12 in session, we don't need the trailers. So we need  
13 the trailers for truthfully the 2004, 2005 school  
14 year, if that helps you.

15 CHAIRMAN GRIFFIS: September 2005. So an  
16 order that might expire December 2005 would cover that  
17 time frame, is that correct?

18 MS. TALBOTT: Yes.

19 CHAIRMAN GRIFFIS: Okay, any other  
20 questions of the Board at this time?

21 (No response.)

22 We've got to make up something, don't we?

23 (Laughter.)

24 Okay, if there's no other questions, then  
25 let's go to Mr. Tummonds, if there are any summary

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 remarks that you want to make at this time? I'll  
2 obviously allow you at the end of this --

3 MR. TUMMONDS: I think it would be tough  
4 for me to summarize what I've already said.

5 CHAIRMAN GRIFFIS: Indeed. Okay, let's  
6 move on. Mr. Tummonds has clearly outlined. The  
7 Office of Planning did put in Exhibit 27, a  
8 recommendation for approval. They also outlined in a  
9 great diagram the area where the trailers would be.  
10 We have the diagrams here before us for the trailers  
11 and locations and the parking that would be removed.

12 If there's no questions or clarifications  
13 point to be brought up on that, we can move on from  
14 Board and go to the Applicant, whether they had any  
15 cross examination of this. I would anticipate that no  
16 member being here momentarily --

17 MR. TUMMONDS: I have no cross  
18 examination.

19 CHAIRMAN GRIFFIS: ANC has also noted, 3-  
20 C, which is Exhibit No. 25 has recommended approval.  
21 Do Board Members feel that this qualifies for the  
22 great weight?

23 MEMBER MILLER: It doesn't. We note that  
24 the ANC supports the application. I don't think great  
25 weight is really an issue in this case because it

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 doesn't really raise issues of concern that we need to  
2 address. But I think the ANC has come a long way in  
3 their reports, but we have certain requirements and  
4 this one doesn't show exactly the notice or the exact  
5 -- it doesn't show the notice, how they notified the  
6 community.

7 CHAIRMAN GRIFFIS: Okay.

8 MR. TUMMONDS: So we'll take it lightly?

9 CHAIRMAN GRIFFIS: That's right. I don't  
10 have any other submissions for government reports or  
11 the ANC which we've just noted. Is anyone here  
12 regarding this application that would like to give  
13 testimony, 17098?

14 Not noting anybody to give testimony, at  
15 this time let us move on.

16 A question, Mr. Tummonds, is it your  
17 understanding that this is a temporary modification to  
18 the previous order 16163?

19 MR. TUMMONDS: That is correct.

20 CHAIRMAN GRIFFIS: Okay. Any final words?  
21 Sounds ominous, doesn't it?

22 MR. TUMMONDS: No final words. We just  
23 request your approval and a bench decision, I believe,  
24 would be appropriate for this case.

25 CHAIRMAN GRIFFIS: Very well. Board

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Members, any questions of the Applicant at this time?

2 Clarifications?

3 (No response.)

4 I would move approval of Application  
5 17098, the Maret School, Inc., that is pursuant to the  
6 special exception to allow the placement of five  
7 temporary administrative offices and classroom modular  
8 trailers on an existing private school campus which is  
9 under Section 206 and special exception to locate the  
10 portion of required parking spaces at an off-site  
11 location during the construction activity under  
12 subsection 2116.5 at the premises of 3000 Cathedral  
13 Avenue and it would be a motion to approve with single  
14 condition that this would expire and revert back to  
15 the full order 16313 at December 2005. Is that what I  
16 said? Okay.

17 Is there a second?

18 MEMBER MILLER: Second.

19 CHAIRMAN GRIFFIS: Thank you very much.  
20 Any further discussion? I think -- well, I think the  
21 file is very clear on this in making the test which is  
22 kind of odd. I think if we had more time we would ask  
23 Mr. Tummonds why, in fact, this is here, but not  
24 having that time, the addressing of the requirements  
25 for the special exception for the private school under

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 205 is complete, with, as noted, the Office of  
2 Planning's recommendation of approval and the ANC's  
3 and I would ask for the Board's support.

4 Are there any other comments, deliberation  
5 on this motion?

6 (No response.)

7 Very well. I'd ask for all in favor,  
8 signify by saying aye.

9 (Ayes.)

10 Opposed?

11 (No response.)

12 CHAIRMAN GRIFFIS: I don't see any  
13 difficulty with doing a bench decision on that or a  
14 summary order on that if we can include the condition.

15 I just need to be advised whether that's possible,  
16 but we'll get to that.

17 MS. BAILEY: Calling the vote, Mr.  
18 Chairman?

19 CHAIRMAN GRIFFIS: Thank you.

20 MS. BAILEY: The vote is 5-0-0 to approve  
21 the application. Mr. Griffis made the motion. Ms.  
22 Miller seconded. Mr. Hood, Mr. Etherly and Mr.  
23 Zaidain are in support of the motion and it is  
24 approved with the condition as stated.

25 CHAIRMAN GRIFFIS: Good, thank you very

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 much. Thank you all very much.

2 Let's call the next case in the afternoon,  
3 please.

4 MS. BAILEY: Next case, Mr. Chairman?

5 CHAIRMAN GRIFFIS: Yes, please.

6 MS. BAILEY: Application No. 17097 of  
7 Hamilton and Georgia McGraw, pursuant to 11 DCMR  
8 3104.1, for a special exception to allow a two-story  
9 rear addition to a single-family dwelling under  
10 section 223, not meeting the side yard requirements,  
11 that is section 405. The site is located in the R-1-B  
12 District at premises 5240 Sherrier Place, N.W., also  
13 known as Square 1415, Lot 815.

14 Mr. Chairman, just a very brief  
15 technicality.

16 CHAIRMAN GRIFFIS: Yes, 53.2? I'm sorry,  
17 go ahead.

18 MS. BAILEY: The property was posted for  
19 14 days. As you know, 15 days are required. But I  
20 think the Applicant took today as one of the posting  
21 days and it's 15 days prior to today, but just based  
22 on that misunderstanding I think we should be okay.

23 CHAIRMAN GRIFFIS: Okay. Why don't I have  
24 the Applicant introduce themselves for the record.

25 MR. MCGRAW: Yes sir, my name is Hamilton

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 C. McGraw. I live at 5240 Sherrier Place, N.W.

2 CHAIRMAN GRIFFIS: Okay.

3 MS. MCGRAW: Georgia McGraw. I also live  
4 at 5240 Sherrier Place.

5 CHAIRMAN GRIFFIS: Fabulous. Thank you  
6 very much and good afternoon to you.

7 Was that your understanding in terms of  
8 the posting that you were counting today as part of  
9 the time period?

10 MS. MCGRAW: It was my understanding. It  
11 wasn't clear. It didn't say the day of the hearing,  
12 it just said posted before the hearing and that was my  
13 understanding that it was why I included today.

14 CHAIRMAN GRIFFIS: Okay. Well, this is a  
15 strong and harsh reprimand never to do that again.  
16 However, noting the fact that this went to the ANC,  
17 was properly noticed to the ANC, was also properly  
18 noticed through letters to the adjoining properties  
19 and the 200 foot radius and noting the fact that we  
20 don't have the hearing room full with opposition which  
21 may have given us light that we should have advertised  
22 it for longer so that people could understand that  
23 this application was coming, I think we can waive our  
24 rule of one day, the timing, and continue and hear  
25 this case.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1           With that, I'm going to go to you just for  
2 a quick and brief walk through of your application  
3 which is a 223 application and I'm sure you're well  
4 aware of the regulations and the standards of which we  
5 need to look at it and I will assist you, if not.

6           MS. MCGRAW: We're here today to request  
7 approval for a two-story addition that's designed and  
8 maintains the turn of the century charm that's in  
9 keeping with the demographics of the Palisades. We  
10 are faced with the practical difficulty of the  
11 existing conditions in that there is no way to  
12 increase the size of this dwelling without continuing  
13 the existing semi-detached design. Our proposed  
14 addition does not affect the front of the house at  
15 all. Therefore the streetscape will not be affected.

16 All building will be done inside our fence, five feet  
17 out the side toward the back and 20 feet, 22 feet at  
18 the rear which faces the trolley right of way and  
19 national park land. There are no neighbors, therefore  
20 the current amount of air and light will not be  
21 affected.

22           CHAIRMAN GRIFFIS: Short, succinct.  
23 Fabulous. One of the pieces that we did not have, we  
24 have obviously have been delivered today is the  
25 requirement of 223.2 is the drawings that clearly

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 outline what was being proposed. As we have those in  
2 front of us, I'll give the Board some time to take a  
3 look at that.

4 Let me ask you, you've addressed the light  
5 and air available to neighboring properties would not  
6 be unduly affected and that's your testimony today.  
7 How about privacy, use and enjoyment of adjacent  
8 properties? Do you have any evidence or are aware of  
9 anything that would unduly compromise that?

10 MR. McGRAW: No sir.

11 CHAIRMAN GRIFFIS: No? Okay. You've  
12 talked about the visual impact and how that might be  
13 an intrusion or not. Okay, are there any questions  
14 from the Board at this time?

15 (Pause.)

16 The drawings are showing 5240 and 5238.  
17 You're not doing work on 5238, is that correct?

18 MR. McGRAW: We are not.

19 CHAIRMAN GRIFFIS: That's excellent. That  
20 gives some context.

21 VICE CHAIR ETHERLY: And just to confirm,  
22 at Exhibit No. 8 there was reference to the petition.  
23 The property owner of 5238 is indeed a signature on  
24 the petition that you submitted.

25 MR. McGRAW: Correct.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 VICE CHAIR ETHERLY: Thank you, Mr. Chair.

2 CHAIRMAN GRIFFIS: Okay, if the Board  
3 doesn't have any questions of the Applicant, let's  
4 move on then to government reports. We do have a  
5 report from the Office of Zoning in the record.

6 Office of Planning, the Office of Planning  
7 representative is with us, I do believe.

8 Yes, how are you?

9 MR. JACKSON: Good afternoon. My name is  
10 Arthur Jackson of the D.C. Office of Planning and I'm  
11 going to summary the Office of Planning's report this  
12 afternoon. For the sake of brevity I will stand on  
13 the record, but I will note that the application meets  
14 the requirements for Section -- for approval of a  
15 request to essentially extend a nonconforming southern  
16 side yard setback of zero feet under Section 223 and I  
17 also note that the Applicant is correct in the fact  
18 that the rear of the property is adjacent to two  
19 public easements, neither one of which is developed,  
20 so the Office of Planning doesn't think this would  
21 have an appreciable effect on properties to the rear  
22 or to the north.

23 We would note, however, that the existing  
24 extension of the wall that would be part of this --  
25 the abutting wall that would be part of this addition

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 might have the tendency, the potential to reflect  
2 additional light into the rear of the adjacent  
3 property, so we would just suggest as the only  
4 condition is that the exterior facade not include any  
5 windows or doors, door openings that would look out  
6 onto the adjacent property, the abutting property to  
7 the south and that the Applicant discuss the use of  
8 exterior wall materials with his neighbor.

9 Other than that, we think this proposal  
10 meets the requirements of the regulations and should  
11 be approved, and I remain available to answer  
12 questions and that concludes my report.

13 CHAIRMAN GRIFFIS: Good. Two quick  
14 questions. Well, two. The abutting neighbor you're  
15 talking about, 5238.

16 MR. JACKSON: Yes.

17 CHAIRMAN GRIFFIS: So on that elevation  
18 you're asking that no fenestration be provided?

19 MR. JACKSON: Correct.

20 CHAIRMAN GRIFFIS: And is there evidence  
21 that that -- you talk about reflected light?

22 MR. JACKSON: Essentially, this is just an  
23 observation. When we -- because of the way the plans  
24 are oriented, it is somewhat -- it's not really --  
25 it's more difficult to show it at this point, but if

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 you look at the site with the true north-south arrow,  
2 it appears that the orientation of the addition is  
3 such that the sun coming over from the east to the  
4 west would tend to reflect light at the rear of the  
5 house. It was just an observation that there is a  
6 possibility that there should be some attention,  
7 particular attention paid to the materials used on the  
8 exterior wall along that side, just so that is not --  
9 turn out to be a problem later on.

10 CHAIRMAN GRIFFIS: That's a property line  
11 wall, is it not?

12 MR. JACKSON: Yes, so it's unlikely there  
13 would be an openings at any rate, but just to make  
14 sure.

15 CHAIRMAN GRIFFIS: Are you proposing any  
16 windows on that side?

17 MR. McGRAW: Zero windows on that side  
18 facing 5138.

19 MR. JACKSON: I should note the windows  
20 really goes more to the issue of privacy for the  
21 abutting property, but the wall materials would really  
22 be the issue relating to the reflection.

23 CHAIRMAN GRIFFIS: I see, okay. And what  
24 is the proposed material or that?

25 MR. McGRAW: On that side, certainly more

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 appealing than what's facing us at the moment which is  
2 block wall. Probably hardy siding of one type or  
3 another.

4 CHAIRMAN GRIFFIS: So it's going to  
5 reflect that adjacent side elevation in some sort of  
6 wood siding?

7 MR. McGRAW: Wood, cement, board.

8 CHAIRMAN GRIFFIS: It will look like  
9 clapboard siding?

10 MR. McGRAW: Correct.

11 CHAIRMAN GRIFFIS: As opposed to one of my  
12 favorite, anodized metal panels which I guess would  
13 reflect some light.

14 (Laughter.)

15 MR. JACKSON: I believe so.

16 CHAIRMAN GRIFFIS: It would be a nice,  
17 contemporary side. Nonetheless, okay, then Mr.  
18 Jackson, if I'm understanding the testimony that we've  
19 just heard and your comments, the conditional approval  
20 would be removed and in fact, OP is standing on  
21 recommending approval.

22 MR. JACKSON: The condition about the  
23 windows?

24 CHAIRMAN GRIFFIS: Yes.

25 MR. JACKSON: Again, the only reason there

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 was a condition was because the Applicant did not have  
2 an elevation that shows that, but of course, if that's  
3 part of the public record, then the OP condition is  
4 removed.

5 CHAIRMAN GRIFFIS: Okay. And of course,  
6 they run into building code issues with -- potentially  
7 building code issues, the separation of any sort of  
8 fenestration.

9 MR. JACKSON: That would be the  
10 assumption, yes.

11 CHAIRMAN GRIFFIS: Yes, okay. And you  
12 testified and we'll take that as part of the record  
13 and part of the drawings that, in fact, it is not of  
14 similar material. Okay.

15 Any Board Member questions of Office of  
16 Planning? Any questions?

17 Does the Applicant have any cross  
18 examination of the Office of Planning?

19 Do you have the report?

20 MR. McGRAW: No, we don't.

21 CHAIRMAN GRIFFIS: Have you seen it at  
22 all?

23 MR. McGRAW: No.

24 CHAIRMAN GRIFFIS: Well, do you want a  
25 moment to take a look at it.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MR. MCGRAW: I don't have a copy of it.

2 (Pause.)

3 MR. MCGRAW: Thank you so much.

4 CHAIRMAN GRIFFIS: No problem at all.  
5 Let's go to the ANC. The ANC report was not available  
6 to us.

7 Did you meet with the ANC at all?

8 MR. MCGRAW: Yes, we did.

9 CHAIRMAN GRIFFIS: Do you recall when?

10 MS. MCGRAW: I might have it in my  
11 Daytimer. We --

12 CHAIRMAN GRIFFIS: I'm sorry to interrupt  
13 you. Did we get a late filing on the ANC report in  
14 this application?

15 Okay, OP did note in their report that the  
16 3D did vote unanimously recommending approval. You  
17 were present for the vote?

18 MR. MCGRAW: We were.

19 CHAIRMAN GRIFFIS: Okay, so we can believe  
20 that as fact as it's been triangulated with our  
21 sources. Okay, that being said, I don't have any  
22 other government reports. ANC -- I don't have any  
23 other submissions into the record at this point.  
24 Having no one else in the hearing room for this  
25 application, I don't assume that anyone is here to

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 give testimony either for or against the application.

2 Then I think we can move on to -- I'm sorry, the  
3 submission of a petition was signed by the neighbors,  
4 all in support. It is Exhibit No. 8 which I assume  
5 you passed around? Is that correct?

6 Can you turn the microphone on?

7 MS. MCGRAW: I took the plans and the sign  
8 up sheet, whatever you call it, to each neighbor, yes.

9 CHAIRMAN GRIFFIS: Okay, excellent. Are  
10 you aware of anything else that was submitted into the  
11 record that I haven't identified?

12 MS. MCGRAW: Not that I know of, I don't  
13 think so. You should have everything.

14 CHAIRMAN GRIFFIS: Then let me turn it  
15 over, back to you for any closing remarks that you  
16 might have.

17 MS. MCGRAW: I don't really have any  
18 closing remarks. I just would really appreciate  
19 having this new addition. We're totally out of space.

20 CHAIRMAN GRIFFIS: Indeed. Okay. Very  
21 well, if there's no further closing remarks by the  
22 Applicant I would move approval of Application 17097,  
23 pursuant to a special exception to allow a two-story  
24 rear addition of a single family dwelling under  
25 Section 223 which was not meeting the side yard

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 requirements, Section 405, at premises 5240 Sherrier  
2 Place, N.W. and ask for a second.

3 MEMBER MILLER: Second.

4 CHAIRMAN GRIFFIS: Thank you very much. I  
5 think it's fairly clear and laid out in the record  
6 before us and the testimony that we've heard today,  
7 it's in compliance with Section 223 as there is no  
8 opposition. There's support recommending approval of  
9 the ANC, Office of Planning. I don't believe there's  
10 any reason not to deny this as it fulfills all the  
11 requirements as set forth in the special exception  
12 regulations.

13 Other discussion, deliberation on the  
14 motion?

15 MEMBER ZAIDAIN: I agree, Mr. Chair.

16 CHAIRMAN GRIFFIS: Good, thank you very  
17 much.

18 It's been an awfully long day. And it's  
19 still early, but there it is. We have a motion before  
20 us and it's been seconded. Let me ask for all those  
21 in favor signify by saying aye.

22 (Ayes.)

23 Opposed?

24 (No response.)

25 Any abstaining?

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 (No response.)

2 Very well. I don't see any difficulty in  
3 making this a summary order, unless others object.  
4 That being said, Ms. Bailey?

5 MS. BAILEY: The Board has voted 5-0-0 to  
6 approve Application No. 17097. Motion made by Mr.  
7 Griffis; Ms. Miller, seconded; Mr. Zaidain, Mr.  
8 Etherly and Mr. Hood are in support.

9 CHAIRMAN GRIFFIS: Good. Thank you very  
10 much. Again, I absolutely thank you for your  
11 patience. I know you probably didn't think you'd be  
12 here until 5, but I'm glad we got you out of here in  
13 time for dinner.

14 Have a great afternoon and enjoy your  
15 addition as it gets built.

16 MS. McGRAW: Thank you very much.

17 CHAIRMAN GRIFFIS: Certainly.

18 MR. McGRAW: Thank you so much.

19 CHAIRMAN GRIFFIS: Okay, before we close  
20 the record, first of all there are several things that  
21 I need to accomplish that are attendant to actually  
22 our morning session, two fold. I've taken it as a  
23 consensus in Executive Session that we will postpone  
24 the Board's elections of which are required to happen  
25 today until next week, at which they will be

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

1 advertised on the schedule and we will comment with  
2 that.

3 The second -- oh, minutes -- minutes will  
4 also be taken up at the next meeting.

5 MEMBER ZAIDAIN: Thank you, Mr. Chair.

6 VICE CHAIR ETHERLY: No objection, Mr.  
7 Chair.

8 CHAIRMAN GRIFFIS: Yes, yes.

9 VICE CHAIR ETHERLY: That will give him  
10 time to correct my last name.

11 CHAIRMAN GRIFFIS: Right. Is there  
12 anything else that the Board needs to deal with?

13 MS. BAILEY: No sir.

14 CHAIRMAN GRIFFIS: Thank you very much.  
15 Then let me adjourn the afternoon session of the 6th  
16 of January.

17 (Whereupon, at 5:05 p.m., the public  
18 hearing was concluded.)

19

20

21

22

23

24

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701