

GOVERNMENT OF
THE DISTRICT OF COLUMBIA

+ + + + +

BOARD OF ZONING AND ADJUSTMENT

+ + + + +

PUBLIC HEARING

+ + + + +

TUESDAY

March 23, 2004

+ + + + +

The Public Hearing was convened in Room 200 South, 441 4th Street, N.W. Washington, D.C. 20001, pursuant to notice at 10:15 a.m., Geoffrey H. Griffis, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

GEOFFREY H. GRIFFIS	Chairperson
RUTHANNE G. MILLER	Vice Chairperson
JOHN A MANN II	Board Member (NCPC)

ZONING COMMISSION MEMBERS PRESENT:

ANTHONY HOOD	Vice Chairman
--------------	---------------

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY	Acting Secretary, BZA
BEVERLY BAILEY	Zoning Specialist
JOHN K. A. NYARKU	Zoning Specialist

OTHER AGENCY STAFF PRESENT:

ARTHUR JACKSON	Office of Planning
JOEL LAWSON	Office of Planning
KAREN THOMAS	Office of Planning

OFFICE OF CORPORATION COUNSEL STAFF PRESENT:

JANICE SKIPPER, ESQ.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

WARD SIX

Application of Mary Johnson
347 Tennessee Avenue, N.E. 8

WARD THREE

Application of Kenneth H. Bailey, Jr.
4414 Albermarle Street, N.W. 30

WARD SIX

Application of James Brady and Neysa Rich
407 11th Street, S.E. 38

WARD FIVE

Application of V. Jerome Walker
163 Adams Street, N.W. 87

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

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

10:15 a.m.

CHAIRPERSON GRIFFIS: I call to order the public hearing of the Board of Zoning Adjustment of the District of Columbia. This is still the 23rd of March, 2004. My name is Geoff Griffis. I am chairperson. Joining me today is Ms. Miller who is the vice chair. Representing National Capital Planning Commission with us, our new member Mr. Mann, so we're going to be nice to him today and only today. We are being joined by Mr. Anthony Hood who is representing the Zoning Commission with us today.

Again, copies of today's hearing agenda are available for you on the wall where you entered into the hearing room.

I do thank you all for your patience as we get going on our morning hearing and also bring to your attention that all public hearings before the Board of Zoning Adjustment are recorded. They are recorded in two fashions. First of all, the court reporter sitting to my right is creating a transcript. Everything said that will be part of the record will be recorded. Secondly, we are being broadcast live on the Office of Zoning website. So neighbors, friends all over the world are now watching you, but don't 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

1 nervous. It won't be that difficult.

2 Again, attendant to that though there are
3 several very important things. First of all, as I've
4 said earlier this morning, I'd ask that everyone turn
5 off cell phones and beepers so we don't disrupt people
6 that are giving testimony.

7 You will also need to fill out two witness
8 cards. Witness cards are available at the door where
9 you entered into and also at the table in front of us.
10 Those two witness cards need to be filled out prior to
11 coming forward and given to the reporter who's sitting
12 to my right. That way we will be able to give you the
13 credit of all the important things that you state on
14 the record before us.

15 The order of procedure for special
16 exceptions and variances will be first we'll have the
17 applicant and statement of witnesses. Second would be
18 any Government reports attendant to the application
19 such as the Office of Planning's report or DDOT, if
20 there is one, submitted. Third would be the Advisory
21 Neighborhood Commission report. Fourth would be
22 parties or persons in support of the application.
23 Fifth would be parties or persons in opposition to the
24 application. And sixth, finally, we'll have closing
25 remarks by the applicant.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Cross examination of witnesses is
2 permitted by the applicant or parties in the case.
3 The ANC within the property is located is
4 automatically a party in the case and therefore will
5 be able to cross examine any witnesses. There is
6 nothing that precludes this Board from placing
7 reasonable restrictions on cross examination
8 questions, times or giving direction. I don't
9 anticipate that being utilized this morning, but it's
10 important to say.

11 The record would be closed at the
12 conclusion of the hearing on a case, except for any
13 material that is specifically requested by the Board
14 and that's very important to understand. We are
15 creating a record here before us today of which the
16 Board will only and solely deliberate on. Therefore,
17 anything that you want said into the record should be
18 presented either in writing or orally.

19 Secondly, if we close a hearing today, but
20 the Board asks for additional information, it's
21 important to get that information into the Office of
22 Zoning on time and in the parameters of what we've set
23 up, but we will be very specific on what we request if
24 we request any additional information.

25 The Sunshine Act requires that this Board

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 conduct all proceedings in the open and before the
2 public. This Board may, however, consistent with the
3 Sunshine Act, and its rules of procedure, enter into
4 executive session. Executive session is used by the
5 Board in order to review records or to deliberate on
6 cases. You've seen a good example of the utilization
7 of the executive session this morning.

8 The decision of the Board in contested
9 cases must be based exclusively on the record, which
10 is why I say that two or three times in my opening.
11 It must be based exclusively on the record. So you
12 need to get all the information you want into the
13 record and also we ask that people not engage Board
14 members today in conversation so that we do not give
15 the appearance of receiving information outside of the
16 record created before us.

17 The Board will now consider any
18 preliminary matters. Preliminary matters are those
19 which relate to whether a case will or should be heard
20 today. Such as requests for postponements,
21 withdrawals or continuances or whether proper and
22 adequate notice of the application has been provided.
23 If you are not prepared to go forward with a case
24 today or you believe the Board should not proceed with
25 one of the cases on its agenda, I would ask that you

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 come forward and have a seat at the table as an
2 indication of having a preliminary matter.

3 I will first ask staff if they have any
4 preliminary matters for us and also say a very good
5 morning to Ms. Bailey who is sitting to my very far
6 right and representing the Office of Zoning, and also
7 Mr. Moy representing the Office of Zoning.

8 Ms. Bailey, any preliminary matters for
9 us?

10 MS. BAILEY: Mr. Chairman, good morning.
11 No, sir, staff has none.

12 CHAIRPERSON GRIFFIS: Very well. Then I
13 would ask that everyone here today who is going to
14 testify before the Board to please stand and give your
15 attention to Ms. Bailey as she is going to administer
16 the oath.

17 (The witnesses were sworn.)

18 MS. BAILEY: First case, Mr. Chairman, is
19 Application Nr. 17131 of Mary Johnson, pursuant to 11
20 DCMR 3104.1, for a special exception to allow a two-
21 story rear addition to a single-family row dwelling
22 under section 223, not meeting the lot occupancy
23 requirements (section 403) and rear yard requirements
24 (section 404). The property is located in the R-4
25 District at premises 347 Tennessee Avenue, N.E.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 (Square 1032, Lot 14).

2 Is Mary Johnson here?

3 CHAIRPERSON GRIFFIS: Good. If you're
4 ready, why don't you come forward and have a seat at
5 the table?

6 Excellent. What I'm going to do, and I
7 don't know if I said in my opening, sometimes I skip
8 over some important parts, I'm going to ask you just
9 to introduce yourselves and when you introduce
10 yourself, I need your name and your address for the
11 record. And why don't you just tell me who's in front
12 of us in this panel and then we'll get right into it.

13 MS. JOHNSON: Mary Johnson --

14 CHAIRPERSON GRIFFIS: And another
15 technical problem. You need to turn on your
16 microphone. You just touch the base there. There,
17 the light will come on. And then I'd also ask, if you
18 have all three microphones at once, we're going to get
19 terrible feedback. So we'll just keep it a little bit
20 monitored and I'll jump in when we start getting it.
21 I should stop talking probably now. Go ahead.

22 MS. JOHNSON: Mary Johnson, 347 Tennessee
23 Avenue, N.E.

24 MR. FEENEY: William Feeney, 4519
25 Chesapeake Street, N.W., Washington, D.C.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MS. PARADIES: Kristin Paradies, 1628 19th
2 Street, N.W.

3 CHAIRPERSON GRIFFIS: Okay. And, Ms.
4 Johnson, you're going to present the case?

5 MS. JOHNSON: No, sir.

6 CHAIRPERSON GRIFFIS: Okay.

7 MS. JOHNSON: Mr. Feeney is.

8 CHAIRPERSON GRIFFIS: Mr. Feeney. And
9 your role in this application is?

10 MR. FEENEY: I'm an architect.

11 CHAIRPERSON GRIFFIS: Indeed. And
12 hopefully the architect on this project, is that
13 correct?

14 MR. FEENEY: Yes.

15 CHAIRPERSON GRIFFIS: Okay. Good. As has
16 been announced and you well know, this is a section
17 223, which is a special exception and you are looking
18 to -- why don't you open up and just walk through the
19 case very briefly and then I will jump back in?

20 MR. FEENEY: The property is an R-4 zone
21 and it has a lot coverage of 60 percent maximum and
22 there's a special exception in place that would allow
23 up to 70 percent, an additional 10 percent for that,
24 and that's one of the aspects of the variance we're
25 applying for.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 And then the second aspect of this
2 variance was the rear yard setback. Because the rear
3 yard setback is 20 feet typically on this block, the
4 rear yard alley or rear yard property line and the
5 front yard property line are not parallel. So by the
6 time you get down to this end of the block at 347, we
7 don't actually have 20 feet from the alley to the back
8 of the existing property.

9 CHAIRPERSON GRIFFIS: Right. Well what's
10 your understanding in terms of calculating the rear
11 yard? You obviously have two different dimensions.
12 How do you calculate those distances rear yard? If
13 you take the 17'6" and the 13 --

14 MR. FEENEY: Do you mean the distance from
15 the rear yard?

16 CHAIRPERSON GRIFFIS: Yes.

17 MR. FEENEY: I mean, the distance has to
18 be measured parallel from the alley.

19 CHAIRPERSON GRIFFIS: Okay. But did you
20 take an average on the eschewed property line in the
21 back?

22 MR. FEENEY: No, you know, the blue -- I'm
23 pointing to the board. The blue parallelogram, that
24 20 foot is highlighted in the blue, which is parallel
25 with the alley.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 CHAIRPERSON GRIFFIS: Okay.

2 MR. FEENEY: So the vertical dimensions of
3 17' 6" or 13' 4" really don't have any bearing.
4 Basically it tells you what is left over if the
5 proposed addition is granted.

6 CHAIRPERSON GRIFFIS: I know. But let's
7 say this existing condition, what's the rear yard?
8 What's the distance of the rear yard?

9 MR. FEENEY: On the short side, it's about
10 20 feet exactly. On the long side, it's 23' 10".

11 CHAIRPERSON GRIFFIS: Okay. So what's
12 your rear yard dimension? I'll be direct. I think
13 you can take an average depending on the segment in
14 which you get one dimension. You don't have two
15 dimensions for one rear yard. But that being said,
16 it's okay. We can move ahead.

17 Let me ask also quickly, did you submit
18 those plans, the board that you're holding up now,
19 SK1, into the record?

20 MS. JOHNSON: (Off microphone.)

21 CHAIRPERSON GRIFFIS: Okay. Do the other
22 board members have those?

23 VICE CHAIRPERSON MILLER: No.

24 COMMISSIONER HOOD: I don't have that, Mr.
25 Chairman.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MS. PARADIES: Letters of support have
2 also been submitted.

3 CHAIRPERSON GRIFFIS: You what?

4 MS. PARADIES: Letters of support have
5 also been submitted with this application.

6 CHAIRPERSON GRIFFIS: Yes, okay. Let's go
7 over the first one first. No, I don't have it. Did
8 you submit it with your initial filing? You don't
9 happen to have copies of those, do you?

10 MR. FEENEY: We're looking for that.

11 CHAIRPERSON GRIFFIS: Okay. This is going
12 to be sufficient and I think the record was fairly
13 clear on what was going to be added. Of course one of
14 the requirements for under 223 a special exception is
15 that proper documentation and graphic representation
16 be made. So, the Board, I was noting, all have big
17 notes on their files that we don't have drawings.
18 We'll have this copied and submitted into the record
19 of course. I'm not sure why it didn't make it in
20 there, but we'll get it in there.

21 Let's then talk, I'll pass this down to
22 the Board, if you can just speak to, what's the
23 material on the addition in the rear?

24 MR. FEENEY: Building code-wise I need a
25 non-combustible material. We've represented brick,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 which is probably the first choice, but we haven't
2 gone down the path with a contractor yet necessarily
3 to understand what the cost difference is. It would
4 be -- if it's cost prohibitive, but at this point it
5 has be non-combustible. So --

6 CHAIRPERSON GRIFFIS: What are your
7 alternatives if you find that it's not cost effective
8 to do brick?

9 MR. FEENEY: There's stucco, there's metal
10 side, there's other alternatives. I mean, they're not
11 the most desirable alternatives, but I just haven't
12 closed the door on those alternatives.

13 CHAIRPERSON GRIFFIS: Right.

14 MR. FEENEY: I mean, if you look at the
15 photographs, almost all of the existing sleeping
16 porches on the adjacent properties have all been
17 filled in with vinyl siding.

18 CHAIRPERSON GRIFFIS: Right.

19 MR. FEENEY: And probably non-code
20 compliant things. So --

21 CHAIRPERSON GRIFFIS: Yes, vinyl siding
22 doesn't seem to be a great option.

23 MR. FEENEY: No, I --

24 CHAIRPERSON GRIFFIS: Of course, I mean,
25 you could use a cementious board and things like that.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MR. FEENEY: Yes.

2 CHAIRPERSON GRIFFIS: Which would be
3 grand. Okay. That being said then, anything else
4 that you want to draw the Board's attention to
5 specifically in terms of the drawings that you've just
6 presented?

7 MR. FEENEY: The main thing would be that
8 basically all these houses had sleeping porches
9 originally and they got filled in either by permanent
10 or -- not by permanent, but --

11 CHAIRPERSON GRIFFIS: We'll get to them.

12 MR. FEENEY: We're attempting to do this
13 the correct way and, unfortunately with our lot,
14 because of the non-parallel condition with the alley
15 on Tennessee Avenue, we are at the vertex of the two
16 alleys coming together. So the biggest hardship is
17 that we have exactly 20-foot rear yard.

18 CHAIRPERSON GRIFFIS: Okay. Let's be
19 clear. This is a special exception, first of all.
20 There's no hardship involved in the test requirement.
21 Can you tell me, if this was granted and built, would
22 it tend to unduly impair the light and air coming to
23 the adjacent properties?

24 MR. FEENEY: My feeling is it would not
25 and one of the reasons is because our proposed project

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 is only going to come out 6' 4" and most of the
2 sleeping porches that are out there now protrude out
3 about 10 feet. So if anything, they're creating more
4 shadow than we would.

5 CHAIRPERSON GRIFFIS: Okay. There's an
6 adjacent property that has a one-story addition to the
7 back that actually has fenestration looking into this
8 property.

9 MR. FEENEY: Yes.

10 CHAIRPERSON GRIFFIS: That would be
11 covered by this addition, is that correct?

12 MR. FEENEY: Yes, it would.

13 CHAIRPERSON GRIFFIS: And that window is
14 on the property line, is that right?

15 MR. FEENEY: Yes.

16 CHAIRPERSON GRIFFIS: Of the adjacent?

17 MR. FEENEY: Yes.

18 CHAIRPERSON GRIFFIS: I see. Okay.

19 And --

20 COMMISSIONER HOOD: Excuse me.

21 CHAIRPERSON GRIFFIS: Yes.

22 COMMISSIONER HOOD: I just want to follow
23 up on that. Did you get a letter of support from
24 them?

25 MR. FEENEY: Yes, we did.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 COMMISSIONER HOOD: They supported the
2 project?

3 MR. FEENEY: Yes.

4 MS. PARADIES: We got letters of support
5 from neighbors on both sides adjacent to the property.

6 CHAIRPERSON GRIFFIS: Okay. And if this
7 was approved would the privacy use and enjoyment of
8 the neighboring properties be impacted negatively?

9 MR. FEENEY: I don't feel so, no.

10 CHAIRPERSON GRIFFIS: Okay. And then what
11 you're representing to us is that the addition in
12 terms of the material and in terms of the detailing
13 would obviously remain in character with the original
14 structure, is that correct?

15 MR. FEENEY: Yes.

16 CHAIRPERSON GRIFFIS: Okay. And certainly
17 that we now have and will be submitted in smaller form
18 proper documentation that graphically represents this.
19 Do you believe that this would impair the intent and
20 integrity of the zone plan in any way?

21 MR. FEENEY: No, sir.

22 CHAIRPERSON GRIFFIS: Okay. And do you
23 believe that this might somehow impair the intent of
24 the public good?

25 MR. FEENEY: No, sir.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 CHAIRPERSON GRIFFIS: Okay. Any questions
2 from the Board? Follow up? Anything? Very well.
3 I'm going to run through very quickly now in terms of
4 the other Government reports and all the six steps.
5 Of course, I'll return to you for any closing remarks
6 that you might have.

7 Let's go to the Office of Planning that
8 has submitted as -- you know, it's becoming
9 commonplace to get great reports by the Office of
10 Planning, so I don't take enough time to note the fact
11 of how well done they are, especially with the graphic
12 representations which actually help this particular
13 application. But let's go to the Office of Planning
14 for their presentation of the report.

15 MS. THOMAS: Good morning, Mr. Chairman,
16 members of the Board. I'm Karen Thomas with the
17 Office of Planning and we will stand on our record
18 today.

19 CHAIRPERSON GRIFFIS: Excellent. Thank
20 you very much. Of course the Office of Planning is
21 recommending approval of this application. It is
22 Exhibit 25. Does the applicant have any cross
23 examination of the Office of Planning? Do you have
24 any questions of them?

25 MR. FEENEY: No.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 CHAIRPERSON GRIFFIS: Do you have their
2 report?

3 MR. FEENEY: I don't. No.

4 CHAIRPERSON GRIFFIS: Have you seen it?

5 MS. PARADIES: We did expect it from Karen
6 Thomas from the Office of Planning.

7 CHAIRPERSON GRIFFIS: Okay.

8 MS. PARADIES: She did say she would go
9 ahead and forward it to Office of Zoning.

10 CHAIRPERSON GRIFFIS: Excellent.

11 MS. PARADIES: And we have not received it
12 in the mail yet.

13 CHAIRPERSON GRIFFIS: Okay. I'm sure it's
14 on its way. While you're here, you may well just pick
15 one up. I mean, they're well worth having in terms of
16 documentation in the assessment of the property.
17 Certainly the property owner would want to keep it on
18 file. It will be part of the official record. Does
19 the Board have any questions of the Office of
20 Planning? Yes?

21 MS. THOMAS: Yes, just for clarification,
22 I did e-mail it to Kristin Paradies.

23 CHAIRPERSON GRIFFIS: Oh, I see.

24 MS. THOMAS: The report.

25 MS. PARADIES: Okay. It was not received.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MS. THOMAS: Yahoo? Are you at yahoo.com?

2 MS. PARADIES: I am.

3 MS. THOMAS: Yes.

4 kristinparadies.yahoo.com.

5 MS. PARADIES: When was that?

6 MS. THOMAS: Just the same time we were
7 having the conversation on the phone. I e-mailed it
8 while we were having the conversation.

9 MS. PARADIES: I can check.

10 MS. THOMAS: Okay.

11 CHAIRPERSON GRIFFIS: Well, we'll track
12 that down. Just pick up a hard copy on your way out.

13 MS. PARADIES: Okay.

14 CHAIRPERSON GRIFFIS: And there it is.
15 Okay. The Capitol Historic District. Is anyone here
16 from the Capitol Hill Restoration Society? Nobody is
17 here. Oh, that was a particular interest in this
18 case. This is going for HPRB review, historic
19 presentation review?

20 MR. FEENEY: No, it's not.

21 MS. PARADIES: It's not in the historical
22 district.

23 CHAIRPERSON GRIFFIS: What am I looking a
24 then? This isn't within the Capitol Hill Historic
25 District?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MR. FEENEY: No, it's not.

2 CHAIRPERSON GRIFFIS: Well, that's good to
3 know. Okay. Well, the Capitol Hill Restoration
4 Society did submit something in accordance with this
5 application 17131. So you must have presented it to
6 them. Is that correct?

7 MR. FEENEY: No.

8 COMMISSIONER HOOD: Mr. Chairman, for
9 clarification, why would they comment on it if it
10 wasn't?

11 CHAIRPERSON GRIFFIS: Did you know that
12 the Capitol Hill Restoration Society was looking at
13 this?

14 MR. FEENEY: No, I didn't. And we haven't
15 heard anything from them, so I don't even --

16 CHAIRPERSON GRIFFIS: Well, you will be
17 happy to know that the Capitol Hill Restoration
18 Society Zoning Committee held a meeting on 11th of
19 March, 2004 and considered your case, among others.
20 The Committee voted unanimously to support it. BZA
21 17131 involves the addition to the rear of 347
22 Tennessee Avenue, N.E. Is that your property?

23 MR. FEENEY: Yes, it is.

24 CHAIRPERSON GRIFFIS: Okay. And they also
25 said the applicant needs a special exception to

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 increase the lot occupancy to 69 percent. Committee
2 vote unanimously to support the application. Darn
3 efficient bunch. Didn't even have you come down.

4 MR. FEENEY: Okay.

5 CHAIRPERSON GRIFFIS: Okay. In subsequent
6 applications you may want to be well aware to check
7 the public record that is established in the Office of
8 Zoning. I say this as mostly to the architect. If
9 you're working on other projects, you might want to
10 just check in and see who has filed. Conceivably you
11 won't know everything that's filed. In fact, if
12 opposition was to have come in, they may not have made
13 you aware of that, but would have submitted something
14 into the record. So it's always good to check it at
15 periodic times and certainly as we get close.

16 Did you present to the ANC, ANC 6-A?

17 MR. FEENEY: Yes, I did.

18 CHAIRPERSON GRIFFIS: Okay. Then is there
19 anyone here representing the ANC this morning? Not
20 seeing any indication of that. And of course they did
21 also recommend approval of the application. It's
22 Exhibit 24 in the record. Anything to highlight on
23 that?

24 Very well. That is all the attendant
25 Government reports that I have with this application.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 We do have letters of support. I will note Exhibit 21
2 from a Rush family, Ettleman and Terry. Those are
3 inclusive of the adjacent property owners. Is that
4 correct?

5 MS. PARADIES: Yes.

6 CHAIRPERSON GRIFFIS: Very well. Is there
7 anything else that you're aware of that was to be
8 submitted into the application that I have not
9 specifically noted?

10 MR. FEENEY: No, sir.

11 CHAIRPERSON GRIFFIS: Okay. That being
12 said, Board, final questions? Clarifications?

13 MR. FEENEY: May I ask a question, sir?

14 CHAIRPERSON GRIFFIS: Sure.

15 MR. FEENEY: First of all, is this
16 Restoration Society, is this part of their
17 jurisdiction then, just for clarification's sake. I
18 was told that there was no historic component to this,
19 so I didn't pursue it. So I'm just curious just maybe
20 I'll call down there later and figure it out.

21 CHAIRPERSON GRIFFIS: You know, it's a
22 question that we can't answer.

23 MR. FEENEY: Okay.

24 CHAIRPERSON GRIFFIS: I'm not sure what
25 their boundaries or their jurisdictions are. I'm not

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 sure that they are just defined around the historic
2 district.

3 MR. FEENEY: Okay.

4 CHAIRPERSON GRIFFIS: So well worth doing
5 and they're excellent folks down there, which I'm sure
6 you are aware of. So that would be a good question.

7 MR. FEENEY: Okay. And one other
8 clarification question. You had asked me earlier
9 about whether or not this addition would be in keeping
10 with the existing context of the row house properties
11 and I guess I want to clarify whether or not we have
12 options on the siding material for this, brick versus
13 siding, considering that almost every house -- rear
14 yard in that block has some kind of siding material on
15 the sleeping porches that are existing, as opposed to
16 brick. I just want to know whether or not I'm bound
17 by the brick or if I have options on material. I
18 guess I'm not sure what's appropriate necessarily.

19 CHAIRPERSON GRIFFIS: That's a good
20 question. Yes, I think you do have flexibility.
21 Obviously, we're not -- first of all, let me try and
22 get quickly through this. We're obviously a zoning
23 board, not a design review board. Clearly, we have
24 jurisdiction over design in certain circumstances of
25 this being limitedly one. I think it's important and

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 what the Board always recommends is that you do the
2 highest quality of course of finishing materials that
3 would be in keeping. Part of the special exception,
4 if approved today, is based on the fact that this
5 would, "together with the original building, as viewed
6 from the street or alley," and I'm reading the text
7 actually, "and any other public way shall not
8 substantially visually intrude upon the character
9 scale and pattern of houses along the subject street
10 frontages."

11 Based on the documentation that you've
12 submitted, the massing is in keeping and I think in
13 terms of the fenestration and the entrance. It is all
14 in keeping. Certainly a brick addition with some
15 detail at the roof level would be perhaps not only in
16 keeping, but actually benefit the overall area. I
17 think the realities of the cost of brick is well known
18 to the Board and I think we'd make a strong
19 recommendation that you find, if it was to be an
20 alternative, some alternative that was in keeping with
21 the character of the building, as would be required.
22 So, that in a nutshell, gives you about as much
23 specificity as I think the Board is going to go,
24 unless others have additional comments on that.

25 MR. FEENEY: Thank you.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 CHAIRPERSON GRIFFIS: Right. Okay. Yes?

2 UNIDENTIFIED SPEAKER: We were looking at
3 the historic map to see --

4 COMMISSIONER HOOD: She just --

5 CHAIRPERSON GRIFFIS: Okay. We actually
6 have a Historic Preservation District map here, just
7 for quick clarification. What we're going to do is
8 just provide it to you and you can assess whether
9 you're in or not. Obviously, it would be a very
10 important piece. We have differing opinions up here,
11 so I don't think it would preclude us from continuing
12 in processing this, but --

13 (Whereupon, at 10:42 a.m. off the record
14 until 10:44 a.m.)

15 CHAIRPERSON GRIFFIS: Okay. It seems
16 according to the map that you're correct. We're not
17 sure why that all happened and frankly it's not
18 meeting our intention in this matter. What is the
19 intention is more clarity of what my past statement in
20 terms of materials and specifically indirectly
21 anything that's submitted into the record or the plans
22 that would be approved if this goes for approval would
23 in fact be the required materials to be built, in that
24 we're approving plans that you will then go down for
25 permitting and the basis of all our deliberation,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 approve or denial is based on the submissions into the
2 record of which the plans are one.

3 I believe the Board, unless I hear any
4 differing of opinions, would lend itself to some
5 flexibility in the exterior material with great
6 direction to go with the brick material or some other
7 sort of cementitious siding of some sort, not vinyl.

8 Is that appropriate to say for the Board's
9 opinion? Excellent. Okay. Any other clarifications
10 or questions from the Board at this time? Very well.
11 Any last comments?

12 MR. FEENEY: No, sir.

13 CHAIRPERSON GRIFFIS: Okay. I think we
14 have before us clearly a special exception under 223.
15 It has gone through the entire outline of the test.
16 In addition, based on the Office of Planning's report
17 and recommended approval, the ANC's approval and also
18 the Capitol Hill Restoration Society, which also
19 weighed in on this application, it's appropriate to
20 move approval of Application 17131 for 347 Tennessee
21 Avenue, N.E. and that is application does not meet the
22 lot occupancy requirements under 403 and the rear yard
23 requirements under 404 in the R-4 District (Square
24 1032, Lot 14). I'd ask for a second.

25 VICE CHAIRPERSON MILLER: Second.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 CHAIRPERSON GRIFFIS: Thank you, Ms.
2 Miller. Any deliberation, further deliberation, that
3 is? Comments? If not, then I'd ask for all those in
4 favor of the motion to signify by saying aye. Aye.

5 VICE CHAIRPERSON MILLER: Aye.

6 COMMISSIONER HOOD: Aye.

7 MEMBER MANN: Aye.

8 CHAIRPERSON GRIFFIS: Opposed?

9 MS. BAILEY: The Board has voted 4-0-1 to
10 approve the application. Mr. Griffis made the motion,
11 Mrs. Miller second, Mr. Mann and Mr. Hood are in
12 support and Mr. Etherly is not present today.

13 CHAIRPERSON GRIFFIS: Excellent. Thank
14 you very much. And again, just to remind you, in fact
15 before you leave, if you could, provide the copies of
16 the plans into the record and that way we don't have
17 to try and fit that board into a blue binder and you
18 can have the board back once we get the copies of it.
19 Understood?

20 MR. FEENEY: Yes, sir.

21 CHAIRPERSON GRIFFIS: Good.

22 MR. FEENEY: If we don't have everything
23 that's on those boards as a copy of that, can we just
24 send them, or --

25 CHAIRPERSON GRIFFIS: Yes.

1 MR. FEENEY: Okay. We do have a copy of
2 everything on that board.

3 CHAIRPERSON GRIFFIS: Yes.

4 MR. FEENEY: Okay.

5 CHAIRPERSON GRIFFIS: So your instruction
6 is to make it all in and then we won't have the board
7 as the official exhibit into the record.

8 MR. FEENEY: Yes.

9 CHAIRPERSON GRIFFIS: Anything else
10 procedurally?

11 MR. FEENEY: One last thing would be, my
12 next step would be to actually prepare construction
13 documents for a building permit. I assume that I have
14 to have a letter from the Board of Zoning to submit
15 with the building application and I just wanted to
16 know when I would expect or how I would expect that to
17 be able to set a time table for applying for a
18 building permit.

19 CHAIRPERSON GRIFFIS: What do you think?
20 November, December?

21 VICE CHAIRPERSON MILLER: Summary order.

22 CHAIRPERSON GRIFFIS: I'm sure we can
23 issue a summary order on this. Summary orders right
24 now in terms of the Office of Zoning are coming out
25 often the day of, so it could be done today.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MR. FEENEY: Okay.

2 CHAIRPERSON GRIFFIS: That's not a promise
3 or anything of that nature. What you need to do is
4 coordinate with the Office of Zoning. You can call
5 them and see. Don't bug them. Ask them once. If you
6 haven't seen it in two weeks, and that is our official
7 decision, the official order would then be issued.
8 Copies of that would be provided right to you.

9 Ms. Bailey, anything to add on that?

10 MS. BAILEY: No, sir.

11 CHAIRPERSON GRIFFIS: Okay. So the best
12 coordination is with the office and you might want to
13 stop in. They may be able to give you an indication
14 of when they anticipate getting it out. Anything else
15 procedurally?

16 MR. FEENEY: No. Thank you.

17 CHAIRPERSON GRIFFIS: Very well. Thank
18 you all very much. Appreciate your patience this
19 morning with us.

20 And let's call the next case of the
21 morning.

22 MS. BAILEY: Application Nr. 17135 of
23 Kenneth H. Bailey, Jr., pursuant to 11 DCMR 3104.1,
24 for a special exception to allow the construction of
25 a roof canopy over an existing stair areaway in the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 side yard of a single-family detached dwelling under
2 section 223, not meeting the side yard requirements
3 (section 405). The property is located in the R-1-B
4 District at premises 4414 Albermarle Street, N.W.
5 (Square 1590, Lot 54).

6 (Whereupon, at 10:49 a.m. off the record
7 until 10:49 a.m.)

8 CHAIRPERSON GRIFFIS: Good morning.

9 MR. BAILEY: Good morning, Mr. Chairman.
10 I'm Kenneth Bailey of 4414 Albermarle Street, N.W. I
11 have a short prepared statement and I have extra
12 copies, which I can give to everyone here.

13 CHAIRPERSON GRIFFIS: Excellent. If you
14 wouldn't mind just providing to staff on the far
15 right.

16 MR. BAILEY: Shall I proceed? I am
17 Kenneth Bailey, the owner of the property at 4414
18 Albermarle Street, N.W. I am appearing before you
19 today to request a special exception allowing me to
20 build a roof canopy above an existing basement
21 stairwell at the side of my house. The purpose of the
22 canopy is to limit the amount of rain falling into the
23 stairwell. There's a drain at the bottom of the
24 stairwell that functions effectively. However, it has
25 been my experience that about once in every three or

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 four years there is a rainstorm of such intensity, a
2 cloudburst of several inches of rain falling within a
3 short time, that the drain is overwhelmed. On such
4 occasions, water accumulates at the bottom of the
5 stairwell faster than the drain can dispose of it,
6 causing water to rise to the bottom basement door and
7 leak into the basement. By limiting the amount of
8 rain falling into the stairwell, I expect to eliminate
9 this problem.

10 The proposed canopy will project 36 inches
11 into the side yard which will make it even with the
12 outer edge of the stairwell. I am advised by my
13 architect Dixon Carroll that under section 2505.2 I am
14 allowed a roof projection of 24 inches as a matter of
15 right. Therefore, this request for a special
16 exception is to allow an additional 12 inches of
17 projecting roof. I should note that the existing lot
18 area in width is substandard with a distance of 14
19 feet, six inches between my house and the neighbors'
20 house.

21 I have received and submitted to you a
22 letter from the neighbors who own the house adjacent
23 to the stairwell stating that they have no objection
24 to the construction of the canopy. I also submitted
25 to the Advisory Neighborhood Commission 3E a letter

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 from the owner of the house across the street. The
2 proposed canopy would be visible from this neighbor's
3 house.

4 CHAIRPERSON GRIFFIS: Can I interrupt you
5 briefly? Can you clarify something for me? This
6 right now this application for special exception
7 relief under 223 is just for the canopy.

8 MR. BAILEY: Exactly.

9 CHAIRPERSON GRIFFIS: Just for the stair
10 cover?

11 MR. BAILEY: Exactly. Nothing else.

12 CHAIRPERSON GRIFFIS: You're anticipating
13 an addition onto this building, is that correct?

14 MR. BAILEY: Yes, there's an addition
15 which is within the zoning and --

16 CHAIRPERSON GRIFFIS: So it doesn't need
17 any remedy?

18 MR. BAILEY: It's not an issue, right.

19 CHAIRPERSON GRIFFIS: Okay. Then, you
20 know what? Let's keep moving. I think your providing
21 the written statement in this is absolutely sufficient
22 and goes above and beyond. It's very well stated.
23 You've actually, as you would continue reading through
24 this, you would go through the actual tests of section
25 223 and I think we can rely on that as part of the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 record at this point.

2 So with your indulgence, I'd like just to
3 move ahead. Excellent. Let's go to the Office of
4 Planning then that has submitted a report on this
5 canopy and they can present their report. I must say,
6 did you do the graphic representation of the canopy in
7 the report?

8 MS. THOMAS: Mr. Chairman, no. This is
9 not my report.

10 CHAIRPERSON GRIFFIS: I see.

11 MS. THOMAS: I'm standing in for John
12 Moore today.

13 CHAIRPERSON GRIFFIS: Okay. But it was
14 done by the Office of Planning?

15 MS. THOMAS: Yes.

16 CHAIRPERSON GRIFFIS: I bring it up to
17 note only because it is fairly helpful in terms of
18 looking at the massing and the dimensions of it.

19 MS. THOMAS: Yes, I think the graphics guy
20 did it.

21 CHAIRPERSON GRIFFIS: Okay. And of course
22 we'd go to the architectural drawings to see the
23 actual detail of it which is very well done.

24 MR. BAILEY: On page 2, yes.

25 CHAIRPERSON GRIFFIS: Indeed. Which is

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 quite in keeping with the character of the building.
2 So, let's go to the presentation of the Office of
3 Planning's report. Were you going to stand on the
4 record?

5 MS. THOMAS: We're standing on the record.

6 CHAIRPERSON GRIFFIS: Excellent. Very
7 well. Thank you. Any questions from the Board at
8 this point? The Office of Planning recommends
9 approval of the requested special exception. Does the
10 applicant have any questions of the Office of Planning
11 and their report?

12 MR. BAILEY: No questions on my part.

13 CHAIRPERSON GRIFFIS: And if you don't
14 have a report, of course, you will pick one up on the
15 way out because it is well worth having in your
16 records.

17 I don't have any other attendant
18 Government reports. The ANC did submit Exhibit 20 at
19 their properly-noticed public meeting of the 12th of
20 February with a quorum present, voted to approve the
21 application.

22 Any clarification needed from the Board in
23 that respect? Not noting any, then I have -- is there
24 anyone here attendant to application 17135 to provide
25 testimony either in support or in opposition this

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 morning? Not seeing an indication, we will note the
2 letters of support from 4410 Albermarle Street, N.E.
3 It's Exhibit 7. That's an adjacent neighbor, is that
4 correct?

5 MR. BAILEY: Yes.

6 CHAIRPERSON GRIFFIS: And it's the
7 adjacent neighbor of which the side of the canopy is
8 being proposed?

9 MR. BAILEY: That's correct.

10 CHAIRPERSON GRIFFIS: Okay. Are you aware
11 of anything else that I have not -- oh, we also have
12 a letter --

13 VICE CHAIRPERSON MILLER: No, it's the
14 same letter. I think that you said 4410 and I read it
15 as 4414 Albermarle.

16 CHAIRPERSON GRIFFIS: No, that's the
17 applicant's property address.

18 VICE CHAIRPERSON MILLER: Oh, I'm sorry.
19 Excuse me.

20 CHAIRPERSON GRIFFIS: Okay. And so are
21 other submissions that you're aware of to the Board
22 that I haven't specifically exhibited?

23 MR. BAILEY: No, sir, you have them all.

24 CHAIRPERSON GRIFFIS: Okay. Excellent.
25 In which case, let's go toward any Board questions.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Clarifications? Mr. Bailey, do you have any closing
2 remarks?

3 MR. BAILEY: No remarks. Thank you.

4 CHAIRPERSON GRIFFIS: Very well. I would
5 move approval of Application 17135, Kenneth H. Bailey,
6 Jr., pursuant to a special exception to allow the
7 construction of a roof canopy over an existing stair
8 area in the side yard of the single-family detached
9 dwelling under section 223, not meeting the side yard
10 requirements under section 405 at the premises of 4414
11 Albermarle Street.

12 COMMISSIONER HOOD: Second.

13 CHAIRPERSON GRIFFIS: Thank you. It's
14 northwest, is it not?

15 MR. BAILEY: Northwest, yes.

16 CHAIRPERSON GRIFFIS: I'm sorry. Because
17 I have something else that is actually northeast.
18 Very well. Thank you very much, Mr. Hood. I think
19 the special exception section 223 was made
20 specifically for a case like this and frankly our
21 previous cases and I won't go into my normal statement
22 of that in order to save time. But the test is
23 clearly made for the special exception and section 223
24 in this application and the record adequately reflects
25 that. I'll open it up for any other deliberation of

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 the Board.

2 If there are no other comments, then I'd
3 ask for all those in favor of the motion to signify by
4 saying aye. Aye.

5 COMMISSIONER HOOD: Aye.

6 VICE CHAIRPERSON MILLER: Aye.

7 MEMBER MANN: Aye.

8 CHAIRPERSON GRIFFIS: And opposed?
9 Abstaining? Why don't we record the vote?

10 MS. BAILEY: The vote is recorded as 4-0-1
11 to approve the application. Mr. Griffis made the
12 motion, Mr. Hood second, Ms. Miller, Mr. Mann are in
13 agreement and Mr. Etherly is not present today.

14 CHAIRPERSON GRIFFIS: Excellent. Thank
15 you very much. And we can issue a summary order on
16 this. Any questions? Procedures?

17 MR. BAILEY: Is there some report I should
18 pick up today?

19 CHAIRPERSON GRIFFIS: Probably not today.
20 But you can check in with the Office of Zoning on when
21 they anticipate perhaps that the order would be
22 issued.

23 MR. BAILEY: Thank you.

24 CHAIRPERSON GRIFFIS: Good. Thank you
25 very much and appreciate you coming down here.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Let's call the last case in the morning
2 then.

3 MS. BAILEY: Application 17130 of James
4 Brady and Neysa Rich, pursuant to 11 DCMR 3104.1 for
5 a special exception to allow the construction of an
6 accessory garage serving a single-family row dwelling
7 under section 223, not meeting the lot occupancy
8 requirements (section 403) and pursuant to 11 DCMR
9 3103.2, a variance from the alley centerline setback
10 requirement for an accessory garage under subsection
11 2300.2(b). The site is located in the R-4 District at
12 premises 407 11th Street, S.E. (Square 972, Lot 7).

13 CHAIRPERSON GRIFFIS: Good morning.

14 MR. BRADY: May it please you, Mr.
15 Chairman, good morning. My name is Jim Brady and I'm
16 here with my wife Neysa Rich, who's seated in the
17 first row and with our architect of record, Judith
18 Capen who's immediately to my right. It's our
19 pleasure to be with you this morning.
20 Congratulations, Mr. Mann, on taking your new seat.

21 Let me first, Mr. Chairman, characterize
22 the alley for you. The alley runs generally north and
23 south. On the north end is D Street. On the south
24 end, as it turns to the east, it goes back to 11th
25 Street The frontage on the south is Pennsylvania

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Avenue. The alley is informed by, or the character of
2 the alley is informed by both residential traffic of
3 those persons living on the alley, as well as
4 commercial traffic which uses the alley principally to
5 access the rear of the buildings which are on
6 Pennsylvania. There are three -- strike that. There
7 were three existing garages on the alley. One of
8 those has recently been demolished and is going to be
9 replaced by a glass curtain wall addition to the rear
10 of the historic building which is on Pennsylvania,
11 leaving two garages which are immediately catty-corner
12 to the south of the proposed location.

13 I have provided to Ms. Bailey this morning
14 copies of letters which were submitted to the ANC from
15 our neighbors on either side which support the
16 application. It's also our understanding that with
17 the amendment which we have made to our application
18 that our neighbor immediately on the other side of the
19 alley now supports the application.

20 This is basically an application which
21 seeks to have 10-foot setback from the centerline of
22 the existing alley as opposed to the seven-and-a-half-
23 foot setback we originally sought. We also seek
24 permission to have 64 percent coverage. In our
25 original application it was 64.5 percent coverage.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 The design of the garage is such that from the alley
2 view one would see the historic character which is
3 demonstrated by the materials and use of multiple
4 variations in the uses of material and perhaps Ms.
5 Capen will explain that to you in a moment.

6 Our primary motivation was based upon the
7 fact that we travel a great deal and we've had some
8 incidents over the course of our 12, or 13 years, I
9 guess, of ownership of the property. We're looking
10 for a little more security and I'm looking for a place
11 that I can make a mess and take it from my upstairs
12 and bring it down and I perhaps won't have as many
13 complaints about the mess as I do today with my paints
14 and stuff.

15 And now, if you would allow me, I'd like
16 to ask Ms. Capen just to run through the design for
17 you. I think she's done an excellent job,
18 particularly to add something of a positive influence
19 to the alley. Thank you.

20 MS. CAPEN: Hello, I'm Judith Capen,
21 architect, practicing on Capitol Hill in the historic
22 district.

23 As far as the zoning relief that we're
24 going for under the special exception, as Mr. Brady
25 said, we're going up to 64 percent of lot occupancy

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 and also we're asking for relief from the requirement
2 of 12 feet from the center line of an alley to the
3 face of the garage.

4 CHAIRPERSON GRIFFIS: And what is the
5 setback now as proposed?

6 MS. CAPEN: As proposed, it's 10 feet.
7 We filed an amendment to our original request. Our
8 original request, as Mr. Brady, said was seven-and-a-
9 half feet. We were going to build right on the
10 property line on the alley.

11 CHAIRPERSON GRIFFIS: Right.

12 MS. CAPEN: But we went to the ANC-6B
13 zoning committee meeting, then to ANC-6B. At the
14 zoning committee meeting they suggested maybe we could
15 sort of split of the different and pull the garage
16 back a little bit. We were reluctant to pull it all
17 the way back to the 12 feet because as you can see
18 from this drawing here, the occupancy on this lot is
19 such that a lot of their uncovered area is in this
20 kind of narrow passageway to the side and so pulling
21 the garage all the way the 12 feet from the center
22 line makes the backyard kind of small. So we pulled
23 it in two feet, so we're at 10 feet from the center
24 line and we also reduced the size of the garage by six
25 inches so that we weren't impinging in the backyard

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 quite so much, which also reduced our request for the
2 special exception from 64.5 percent to 64 percent.

3 We have some pictures of another --

4 CHAIRPERSON GRIFFIS: What's the height of
5 the garage?

6 MS. CAPEN: The height of the garage,
7 we're also tweaking that, is 14 feet on the house
8 side. The zoning code allows it to be 15 feet on the
9 house side. So we've --

10 CHAIRPERSON GRIFFIS: And how many stories
11 is it?

12 MS. CAPEN: Oh, it's only one story. It
13 has a storage loft. However, Mr. Brady -- with a
14 pull-down ladder. I mean, it is clearly a loft. Mr.
15 Brady plans to paint up there. So it is only one
16 story.

17 CHAIRPERSON GRIFFIS: You mean it's an
18 attic space in the garage?

19 MS. CAPEN: No, it's a loft. It's like a
20 balcony above the garage. And we submitted working
21 drawings for this project.

22 CHAIRPERSON GRIFFIS: Oh, I understand.

23 MS. CAPEN: And I think that --

24 CHAIRPERSON GRIFFIS: That's what we're
25 looking at.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MS. CAPEN: Okay. An there's a building
2 section.

3 CHAIRPERSON GRIFFIS: How is that not a
4 story?

5 MS. CAPEN: How is it not a story

6 CHAIRPERSON GRIFFIS: Yes.

7 MS. CAPEN: Well, actually under the
8 zoning code, there are provisions for lofts.

9 CHAIRPERSON GRIFFIS: Like what?

10 MS. CAPEN: That you can have them. And
11 if they don't -- and it's -- and I'm sure you know the
12 zoning code better than I do, but --

13 COMMISSIONER HOOD: We all start equally
14 here.

15 MS. CAPEN: If it doesn't --

16 CHAIRPERSON GRIFFIS: And hopefully get to
17 --

18 MS. CAPEN: -- go over the entire area of
19 the floor below --

20 CHAIRPERSON GRIFFIS: You mean a
21 mezzanine?

22 MS. CAPEN: Yes. I'm sorry. I guess I
23 should have said a mezzanine.

24 MR. BRADY: Mr. Chairman, if I might.

25 CHAIRPERSON GRIFFIS: Please.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MR. BRADY: This is a mezzanine. I
2 believe it's an allowable use. We were also informed
3 that an artist's studio is allowed by a matter of
4 right. I don't claim necessarily to be an artist,
5 although I have designed some sculptures and I paint.
6 We understand that is a permissible use.

7 CHAIRPERSON GRIFFIS: I think what you're
8 referring to is section 2500 and I'll pull it out what
9 it says. And it's "Accessory Uses in Buildings" is
10 what that -- the chapter is "Miscellaneous Zoning."

11 I would go to, oh, where the heck is that?
12 "In an R-1A or R-1B District only, an accessory
13 parking garage may have a second story used for
14 sleeping or living quarters of domestic employees of
15 the family occupying the main building."

16 MR. BRADY: We're not relying on that.
17 There are no sleeping arrangements. There's no --
18 well, there's electric, but there's no kitchen
19 facilities. There's no water. There's no sewer.
20 This is simply a mezzanine that sits out, I forget how
21 many feet, eight feet or something.

22 MS. CAPEN: Eleven.

23 MR. BRADY: Eleven feet out from the wall
24 which is facing the house.

25 VICE CHAIRPERSON MILLER: I found the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 definition for mezzanine in our regulations and tell
2 me if that falls within that. It says "a floor space
3 within a story between its floor and the floor or roof
4 next above it and having an area of not more than one-
5 third of the area of the floor immediately below. A
6 mezzanine shall not be considered a story in
7 determining the maximum number of permitted stories."

8 MR. BRADY: That's our understanding that
9 we're proceeding under that provision.

10 VICE CHAIRPERSON MILLER: So it falls
11 within those dimensions?

12 MR. BRADY: Yes.

13 CHAIRPERSON GRIFFIS: What is the
14 dimension on it?

15 MS. CAPEN: It's not.

16 MR. BRADY: It doesn't? Oh, I thought it
17 did.

18 MS. CAPEN: No. It will.

19 CHAIRPERSON GRIFFIS: When?

20 MS. CAPEN: Our next step, if this
21 variance is granted, is we go back to the permitting
22 department and we will resubmit, we will submit a new
23 set of drawings.

24 CHAIRPERSON GRIFFIS: Okay. For
25 clarification of course, you may have heard me say it

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 in the past application, but it's a little bit more
2 simple than this one, but anything we have in front of
3 us is what we're approving or denying. So what we're
4 going to need to do is if that is in fact the case
5 what you're trying to do is say that this is a
6 mezzanine, not a two-story garage structure in an R-4
7 District.

8 MS. CAPEN: Right.

9 CHAIRPERSON GRIFFIS: Then we're going to
10 need documentation on that. What is one-third of the
11 area in order for this to comply with a mezzanine?

12 MS. CAPEN: Well, the garage is now 20'
13 6", so a third of that would be close to seven feet,
14 but a little less.

15 MR. BRADY: We will conform to the
16 regulations and supplement the record accordingly, Mr.
17 Chairman.

18 CHAIRPERSON GRIFFIS: Right. Understood.
19 Okay. So we're going to need to keep the record open
20 for that. Drawings re: mezzanine. Okay. Now you've
21 made one other clarification that I think we needed in
22 terms of the height which you're maintaining under 15
23 feet, which is the requirement measured on the
24 principal structure side.

25 MS. CAPEN: Right.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 CHAIRPERSON GRIFFIS: Okay. And you've
2 reduced essentially the amount of relief needed under
3 the setbacks. And my understanding is that you're
4 indicating in terms of the relief from the center line
5 setback of the alley of 12 feet. You're trying to
6 balance maximizing the open space of the rear yard and
7 actually the usable amount of the rear yard. Of
8 course that goes clearly with the intent of the
9 regulations for lot occupancy of we're coming in under
10 64 percent at this time. Okay. What else would you
11 like to point our attention to?

12 MS. CAPEN: If you want to see, we do have
13 some pictures of some other garages like what we are
14 proposing. This particular one that we're holding up
15 now is a similar garage also designed by me on a 20-
16 foot wide alley. So all --

17 CHAIRPERSON GRIFFIS: Lucky it wasn't
18 somebody else's, right?

19 MS. CAPEN: What? I'm sorry. Yes,
20 somebody else's garage.

21 CHAIRPERSON GRIFFIS: No, I was trying to
22 make a joke, which didn't work very well. It was
23 lucky you designed it and you didn't find that someone
24 else designed it.

25 MS. CAPEN: Right.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 CHAIRPERSON GRIFFIS: Okay.

2 MS. CAPEN: No.

3 CHAIRPERSON GRIFFIS: Yes, we can put that
4 in the record, if you'd like.

5 MS. CAPEN: And this is an example, but it
6 shows you what the garage will look like and it also
7 shows you an example of really a whole alley's worth
8 of garages that are 10 feet from the center line and
9 apparently working okay.

10 CHAIRPERSON GRIFFIS: Right.

11 MS. CAPEN: So we'd like to submit that
12 to --

13 CHAIRPERSON GRIFFIS: Well, it's
14 interesting that the adoption of our 1950 zoning
15 regulations precludes in many areas of R-4, which is
16 a row house type development any sort of garage
17 structure based on the lot occupancy, which flies in
18 the face of what actually was originally built. In
19 fact, this photograph shows incredibly well my point.
20 They're actually carriage houses.

21 MS. CAPEN: Right.

22 CHAIRPERSON GRIFFIS: Two-story carriage
23 houses back there.

24 MS. CAPEN: Exactly.

25 CHAIRPERSON GRIFFIS: You know, in this

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 day and age in the city we're all complaining about in
2 every neighborhood parking and yet our zoning
3 requirements make it difficult to provide covered and
4 secured parking. That's what keeps me up at night,
5 frankly.

6 Now, I think the importance of the setback
7 from the center of the alley is a good one, however,
8 and I think you fully understand it.

9 MS. CAPEN: Yes.

10 CHAIRPERSON GRIFFIS: I mean, in terms of
11 just being able to have turning radiuses in a 10-foot
12 alley. That's one aspect. Getting in and out of your
13 own garage and not taking off the corner of your car
14 in a garage is an important one. The other is of
15 course that's where services all take place.

16 MS. CAPEN: Right.

17 CHAIRPERSON GRIFFIS: And in terms of
18 putting your trash cans out, if you put your trash
19 cans out in alley and the neighbors across the alley
20 have their garage to the alley and they all put their
21 trash cans, well the garage truck's not coming down,
22 let alone anybody else. So it is appropriate.
23 Whether it's excessive to do the 12 feet, my personal
24 opinion is I tend to think that it is. Two feet seems
25 to give you that kind of clearance to, one,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 accommodate the turning radius. But then I don't
2 write the regulations. So they're just given to me to
3 look at.

4 Let's move ahead then. What else would
5 you like to point our attention to?

6 MR. BRADY: I would like to call your
7 attention to the Office of Planning report dated March
8 16th, 2004.

9 CHAIRPERSON GRIFFIS: Okay. And we're
10 going to get to that. They'll present it. You just
11 give me what you want us to note.

12 MR. BRADY: We concur with its findings
13 and recommendations.

14 CHAIRPERSON GRIFFIS: Very well. And did
15 you present to the Capitol Hill Restoration Society?

16 MS. CAPEN: We did.

17 CHAIRPERSON GRIFFIS: Okay.

18 MS. CAPEN: We presented to ANC-6B Zoning
19 Committee, to the ANC-6B meeting and the Capitol Hill
20 Restoration Society Zoning Committee meeting.

21 CHAIRPERSON GRIFFIS: Right.

22 MS. CAPEN: And they all approved.

23 CHAIRPERSON GRIFFIS: I'll run through
24 them all. Not worry.

25 MS. CAPEN: Okay, as amended.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 CHAIRPERSON GRIFFIS: Okay. That being
2 said, any questions from the Board? Yes, Ms. Miller?

3 VICE CHAIRPERSON MILLER: I just have one
4 concern that's reflected in the OP report, page 2. It
5 says, "The side walls of the garage appear to be
6 centered on the property lines. The application does
7 not include a statement from neighbors permitting this
8 encroachment." And this goes to also your statement
9 that you think that one of the neighbors is supportive
10 now, but you had an understanding that since you
11 amended the application, this is what I heard today,
12 I believe, that the neighbor how supports the
13 application. I don't know that we have anything in
14 the record showing that the neighbors -- or do we?

15 MR. BRADY: Both the neighbors on either
16 side support and I have given Ms. Bailey and asked her
17 to incorporate into your record today --

18 VICE CHAIRPERSON MILLER: Today?

19 MR. BRADY: -- letters which we had
20 submitted earlier to the ANC and thought they were
21 brought forth, but we have incorporated them today and
22 I believe that the observation by the Office of
23 Planning is a cautionary observation. We're aware of
24 it, accept it. We expect, as Ms. Fraker and Mr.
25 Graver who was our neighbor to the, wait, north, they

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 have suggested in their letter that they intend to
2 probably do the same kind of improvement and that's
3 the parti-wall. Ms. Truex to the south has also put
4 her thoughts in writing and she supports the
5 application.

6 VICE CHAIRPERSON MILLER: Thank you.

7 MR. BRADY: I refer to the neighbor across
8 the alley who was concerned about one of the remarks
9 that the chair made and that is the turning radius
10 coming out. She's now satisfied.

11 VICE CHAIRPERSON MILLER: Does she
12 indicate that in any way? We don't have a letter from
13 her, or do we?

14 MR. BRADY: No, we thought she e-mailed to
15 the Restoration Society and didn't copy us. We were
16 informed by the Restoration Society that it had gotten
17 that. We can, I suppose, get it from the neighbor or
18 the Restoration Society and supplement your record
19 with it.

20 VICE CHAIRPERSON MILLER: Okay. Thank
21 you.

22 COMMISSIONER HOOD: Also, I just wanted to
23 piggyback on the fire department. Are they in
24 agreement now with this larger setback? Have they had
25 something to --

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MR. BRADY: I understand from the Office
2 of Planning, they had an initial comment that they
3 were concerned about the -- our seven-and-a-half feet.
4 I don't think we've had a comment from them since the
5 amendment.

6 COMMISSIONER HOOD: Okay.

7 MR. BRADY: If we have, I'm not aware of
8 it.

9 COMMISSIONER HOOD: Okay. I'll ask that
10 when we go to Office of Planning.

11 MS. CAPEN: If I can comment also, the two
12 garages that are still standing on the other side of
13 the alley are both setback about what ours is. So,
14 there --

15 CHAIRPERSON GRIFFIS: The test for the
16 variance first of all is going to really establish
17 some sort of uniqueness to this property. The second
18 is going to be what out of that uniqueness practical
19 difficulty is created. So that may inform you as how
20 further you present what you were just talking about.
21 So, anything else on that? Any other questions?

22 MEMBER MANN: Mr. Chairman?

23 CHAIRPERSON GRIFFIS: Yes, Mr. Mann?

24 MEMBER MANN: I have a question. Is it
25 possible to build a shorter garage?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MS. CAPEN: You mean shorter than the
2 20.5?

3 MEMBER MANN: That's right.

4 MS. CAPEN: No, the -- if you look at the
5 garage standards that all of our friends who live in
6 the suburbs have, the standard is about 22 feet of
7 depth. So we are already of course less than that.
8 However, one of the early things that we did, that I
9 did with the clients is we measured their car, which
10 is 14' 8", and it's been my experience with these
11 other garages I've done on the Hill, that where
12 there's a will, there's a way. And when people want
13 to park their garages, we can squeeze it less than the
14 standard, but -- and we did. We knocked six feet off
15 of what we had hoped for. But I would like not to
16 take a lot more off. We have concrete block
17 construction on --

18 CHAIRPERSON GRIFFIS: Well, let's be a
19 little bit specific here. First of all, this Board,
20 maybe I'll say it humorously, we don't really care
21 what the standard in the suburbs are. We're living in
22 the city and one the greatest cities in the country.

23 The issue is the dimension of the garage
24 that you have is exterior to exterior, is that
25 correct?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MS. CAPEN: That's correct.

2 CHAIRPERSON GRIFFIS: And it's just under
3 20 feet, is that correct?

4 MS. CAPEN: No, it's just over 20.

5 CHAIRPERSON GRIFFIS: I mean, just over.
6 Twenty-and-a-half feet. And there's a required one-
7 space parking in this structure, is that correct, in
8 the R-4 single-family use?

9 MS. CAPEN: I don't believe. Correct me
10 if I'm wrong. I don't believe R-4 -- maybe it does
11 after the fact, but for new construction, but I don't
12 think we're required to provide parking in R-4.

13 CHAIRPERSON GRIFFIS: Okay. I'll correct
14 you.

15 MS. CAPEN: Okay.

16 CHAIRPERSON GRIFFIS: One parking space is
17 required for single-family use in a R-4 District. So
18 what you're looking at here is actually providing what
19 is required. Now you could have made the case to
20 exempt from the parking. We're not going there.

21 MS. CAPEN: Right. Right.

22 CHAIRPERSON GRIFFIS: But what you're
23 doing is coming into full compliance with your
24 required spot. Now in the zoning regulations, the
25 space size is delineated. It's actually enumerated

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 and it's required. Is that correct?

2 MS. CAPEN: I'm sure it is.

3 CHAIRPERSON GRIFFIS: Yes.

4 MS. CAPEN: The thing I don't --

5 CHAIRPERSON GRIFFIS: Good. So if we go
6 to the fact of trying to provide the structure of what
7 you're doing and also trying to maximize -- minimize
8 lot occupancy, maximize the exterior space, what I'm
9 seeing here is out of the particularly uniqueness,
10 first of all, of the existing structure and how far
11 back it extends in the courtyard that it creates, you
12 have a practical difficulty in diminishing the lot
13 occupancy and providing a structured parking garage.
14 Is that a correct understanding?

15 MR. BRADY: Yes, it is.

16 CHAIRPERSON GRIFFIS: Thank you. And if
17 you, as Mr. Mann is going, and I'm going to turn it
18 back over to him, because I think he has some great
19 concern, as I hear him stating, he's saying, "Well,
20 why not just make it small and comply with the alley
21 setback?" But aren't you then bumping up into what
22 the required space dimension is?

23 MS. CAPEN: Probably.

24 MR. BRADY: It would be difficult to --
25 first of all, I think in that case you would

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 essentially eliminate the mezzanine opportunity
2 because you'd be cutting by a third. Secondly, it's
3 been my experience, and I do a little of this
4 professionally, that 20 feet for adequate parking
5 space when you've taken eight inches because of the
6 thickness of the concrete block out of the front and,
7 excuse me, the back, because your garage door is going
8 to be to the inside of the block construction, you've
9 effectively cut down your parking area inside by 16
10 inches. And then you have essentially no maneuvering
11 room front to back once you've got into that narrow
12 space.

13 CHAIRPERSON GRIFFIS: You have a nine by
14 19 space in there now?

15 MS. CAPEN: You mean are we proposing?
16 Well, we have clear width about slightly under 18 by
17 slightly over 18 and I've known people on Capitol Hill
18 who will put two cars in that space. But as far as
19 conforming to the zoning regulations, I don't know
20 what they say about required space within a parking
21 garage and of course surface parking, you have all of
22 those provisions for a certain percentage of compact
23 spaces and full size spaces and so forth and so on.
24 But, I can't really speak to what the zoning says, how
25 many cars we really have in terms of space of here.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 CHAIRPERSON GRIFFIS: I'm not concerned
2 about how many. I'm looking at one. Mr. Mann,
3 follow-up questions? Clarifications?

4 MEMBER MANN: Is it possible as a
5 different alternative then to move the garage two feet
6 closer to the house as the garage size, as proposed?

7 MS. CAPEN: IT's possible and -- but we
8 feel not desirable because this is the extent of the
9 little backyard and we're trying to keep it as large
10 as possible.

11 CHAIRPERSON GRIFFIS: What's the practical
12 difficulty of moving the structure back closer to the
13 house?

14 MS. CAPEN: I guess the only practical
15 difficulty is just the reduction of the open space at
16 the back of the house.

17 CHAIRPERSON GRIFFIS: Oh, my gosh.

18 MS. CAPEN: I don't know if the
19 configuration of the existing house, if we can call on
20 that, seeing it's an existing structure and an
21 existing historic structure and because of its
22 somewhat uncharacteristic configuration relative to
23 lot occupancy patterns on Capitol Hill which are
24 usually dog legs and this one's sort of an inverted
25 dog leg with the dog leg well toward the front. I

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 don't know. I think you can probably advise me on
2 this, if that constitutes practical difficulty.
3 Because of course it's because of this inverted dog
4 leg thing that we don't have such a large backyard.

5 CHAIRPERSON GRIFFIS: Right, I think the
6 graphic represents that exactly. There's a uniqueness
7 to the shape of the structure that's existing on the
8 site. In that areaway, actually those courts that are
9 created, it appears that the existing structure
10 projects much further out than the adjacent
11 properties, meaning it's occupying a different amount
12 in a different way the lot itself and therefore, going
13 into looking at what is then available for the open
14 area of the rear yard of which a garage, accessory
15 garage structure is allowed to be within the rear
16 yard, but in looking at the rear yard, obviously one
17 of the one regulations you bump up against is the
18 practical difficulty in providing this garage is the
19 lot occupancy and you're clearly trying to balance
20 that, as I understand the application, balance the lot
21 occupancy open space and that which would actually be
22 useable open space in the rear yard.

23 MR. BRADY: May I add something to the
24 Chair's remarks?

25 CHAIRPERSON GRIFFIS: Of course.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MR. BRADY: If we encroach further into
2 the courtyard, we also encroach into the visual zone
3 of our neighbors, both of whom would then be looking
4 at a building closer to them as they come from their
5 rear exits outward.

6 CHAIRPERSON GRIFFIS: Oh, that's an
7 excellent point.

8 MR. BRADY: We think this is a fair
9 compromise.

10 CHAIRPERSON GRIFFIS: So what you're
11 saying is it may in fact increase the impact of light
12 and air on the neighboring properties?

13 MR. BRADY: Yes, sir. We'd be moving
14 closer to them.

15 CHAIRPERSON GRIFFIS: Interesting point.
16 Further questions? Clarifications? Okay. I think we
17 can revisit this, if needed, as we move along. Is
18 there anything else you want to draw our attention to
19 at this immediate point before we go on to the
20 Government reports?

21 MR. BRADY: Mr. Chairman, I could down
22 each one of the criteria mentioned by Office of
23 Planning, but I think by adopting the office's report,
24 I've done that for you.

25 CHAIRPERSON GRIFFIS: Okay. Very well.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Why don't we do that and of course you'll have an
2 opportunity to cross examine the Office of Planning,
3 if needed, and then I will, after we go through all of
4 this, turn it back over to you for any conclusion that
5 you might have.

6 So with that, let's go to the Office of
7 Planning which is recommending approval of the
8 application based on the modified plans and I imagine
9 based on the now-requested modified plans, Exhibit 22.

10 MR. LAWSON: Mr. Chairman, members of the
11 Commission, my name is Joel Lawson. I'm a employee
12 with the D.C. Office of Planning.

13 Very briefly, this property is currently
14 developed with this two-story-plus basement row house
15 with row houses on either side. The rear of the site
16 facing the alley is currently a paved parking area.
17 Tall fences and accessory building on the adjacent lot
18 are along the side lot lines.

19 The owners wish to construct a two-car
20 detached garage accessed from the rear alley. It
21 would require a lot occupancy special exception and a
22 garage setback variance. As the applicant has stated,
23 they've amended the original application to reduce the
24 amount of both of these requests and OP supports those
25 amendments.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Under the amended proposal, the garage
2 would be located about two-and-a-half feet from the
3 edge of the alley paving, which is generally in
4 character with other fences and garages along the
5 alley.

6 The proposal would also require a special
7 exception for lot occupancy. At 64 percent it would
8 be greater than that permitted for this form of
9 development in the R-4 Zone, but less than the 70
10 percent permitted by special exception.

11 OP has been advised by the applicant
12 that the ANC has indicated support for the amended
13 request. As the subject property is within the
14 Capitol Hill Historic District, the garage will also
15 require historic preservation review. The Department
16 of Parks and Recreation has indicated no concern with
17 this application. The District Department of
18 Transportation and the fire and emergency medical
19 services department support the larger setback to
20 support a larger setback to increase maneuverability
21 along the alley. I should that DDOT has specifically
22 responded to the revised application which included
23 the two-and-a-half-foot setback. The fire department
24 has not responded to that, but their original
25 indication was that they wanted to see a setback from

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 the alley paving, which is what the applicant has now
2 provided. The water and sewer authority has noted no
3 concern provided neither water nor sewer pipes are
4 installed in the garage.

5 In summary, OP feels that the revised
6 proposal adequately meets the zoning regulations test
7 and would not impair the integrity or the intent of
8 these regulations. The proposed garage location would
9 be in character with other development and would not
10 impede accessibility through the alley. As such, OP
11 recommends approval and I am of course available for
12 questions. Thank you.

13 CHAIRPERSON GRIFFIS: Questions from the
14 Board?

15 COMMISSIONER HOOD: Mr. Chairman.

16 CHAIRPERSON GRIFFIS: Yes, Mr. Hood?

17 COMMISSIONER HOOD: I think we're asking
18 for some updated plans. I think the revised updated
19 plans, we're asking for that. I would also like for
20 us to ask for a statement from the fire department of
21 whether or not this is sufficient because they did
22 raise a concern and while DDOT, I understand, agrees
23 to the two-and-a-half-foot setback, the fire
24 department has not commented one way or the other.

25 CHAIRPERSON GRIFFIS: Okay. I think

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 that's appropriate. Did you contact them after the
2 modifications?

3 MR. LAWSON: I sent the revised
4 applications out.

5 CHAIRPERSON GRIFFIS: Okay.

6 MR. LAWSON: But didn't hear anything
7 back.

8 CHAIRPERSON GRIFFIS: Okay. Then can we
9 obligate you to make further communication with them?

10 MR. LAWSON: Of course.

11 CHAIRPERSON GRIFFIS: Good. I don't think
12 that will be a difficult piece to get their feedback
13 on that. Okay. Other questions, Board?

14 Does the applicant have any cross
15 examination of the Office of Planning?

16 MR. BRADY: No cross examination for the
17 Office. Thank you, Mr. Chairman.

18 CHAIRPERSON GRIFFIS: Okay. And again, we
19 should thank the Office of Planning for doing an
20 excellent report on this and I imagine they worked
21 fairly closely with you on pulling this together and
22 looking at this as noting all the information and also
23 the modifications.

24 To note also, I wanted just to reference
25 because I made a statement before and cited section

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 2500, I want to also cite section 2300.3 where an
2 artist studio shall be a permitted use in either a
3 private garage that is an accessory building located
4 in a residential district and I think that's what you
5 were referring to in terms of a matter of right use of
6 artist studio and there's provisions that go to that
7 on what makes that a matter of right.

8 But that being said, then let's move on.
9 The Office of Planning had noted several of the
10 Government agency reporting.

11 Historic Preservation, where are you in
12 that process?

13 MR. BRADY: We make that application after
14 coming from this Board.

15 CHAIRPERSON GRIFFIS: Okay.

16 MR. BRADY: Hopefully with a positive
17 recommendation.

18 CHAIRPERSON GRIFFIS: Right. The fire
19 department, we will have additional submission from
20 them and also DDOT was noted. ANC-6B did hear this
21 and I believe we have their report of the 22nd of
22 March, not noting anyone representing the agency here
23 with us this morning. They were recommending
24 favorable approval, is that correct? Do we have that
25 report? Do you have a letter from the ANC?

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 MR. BRADY: I don't. I did have the
2 report from our architect who was there. Same with
3 respect to the Historic Restoration Society.

4 CHAIRPERSON GRIFFIS: So we don't have
5 anything official from ANC-6B in terms of their action
6 vote, a motion and a vote taken on their application,
7 is that correct?

8 MR. BRADY: I don't have it in with me.

9 CHAIRPERSON GRIFFIS: Okay.

10 MR. BRADY: I thought the Office of
11 Planning had that. No? Mr. Lawson's saying no.

12 CHAIRPERSON GRIFFIS: No, the ANC
13 indicated that you had advised them that the ANC did
14 not -- I'm sorry. The Office of Planning indicated
15 that you had advised them that the ANC did not object
16 to the lot occupancy special exception.

17 MS. CAPEN: At the meeting.

18 CHAIRPERSON GRIFFIS: At the meeting.

19 MS. CAPEN: At the ANC meeting. No, wait.
20 They deliberated, right?

21 UNIDENTIFIED SPEAKER: The Zoning
22 Commission met first and then (off microphone) met.

23 MS. CAPEN: So, we got a verbal approval.
24 Do you want us to try and --

25 CHAIRPERSON GRIFFIS: From the full

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 committee?

2 MS. CAPEN: -- chase down -- no, from the
3 ANC-6B itself.

4 UNIDENTIFIED SPEAKER: (Off microphone.)

5 MS. CAPEN: Yes. And we assumed there
6 would be some paper work finding its way to your guys.
7 So do you want us to try and chase it down?

8 CHAIRPERSON GRIFFIS: Yes, I think. We're
9 keeping the record open for the submission of that.

10 MS. CAPEN: Okay. Fine.

11 CHAIRPERSON GRIFFIS: So we might as well
12 just fill the record out with that, not getting any
13 indication that it would be otherwise. Very well. We
14 do have the letter from the Capitol Hill Restoration
15 Society, which is Exhibit 21 that does indicate that
16 you had agreed to move the garage 30 inches from the
17 rear property line making it 10 feet from the center
18 line. Based upon the representation, the committee
19 voted unanimously to support the application.

20 Okay. And we had the two letters
21 submitted in. They don't have exhibit numbers yet as
22 they've just come in. They'll be given exhibit
23 numbers and it is from 405 11th Street, S.E. and also
24 409 11th Street, S.E. Those are the two --

25 MS. CAPEN: Those are the two immediately

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 adjacent neighbors, right.

2 CHAIRPERSON GRIFFIS: Right. Good. Can
3 we just pass that back to Ms. Bailey for the record?

4 Anything else that I'm missing that I
5 haven't enumerated in this application that was
6 submitted?

7 MR. BRADY: Thank you for your time and we
8 also appreciate the Office of Planning's well-formed
9 report.

10 CHAIRPERSON GRIFFIS: Good. Questions?

11 VICE CHAIRPERSON MILLER: Well, with
12 respect to what's coming in, it's not required, but I
13 think that you made reference to possibly submitting
14 a letter from your neighbor across the alley, which
15 would certainly help the case.

16 MR. BRADY: I have that noted as a
17 supplement to your record.

18 VICE CHAIRPERSON MILLER: Okay. Great.

19 CHAIRPERSON GRIFFIS: Okay. Any other
20 clarifications or questions at this time? Very well.
21 Unfortunately, we obviously won't be able to do a
22 bench decision on this as we have the supplemental
23 documents that have been requested. What's the time
24 needed for you to submit those into the Office of
25 Zoning?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MS. CAPEN: May we have one week?

2 CHAIRPERSON GRIFFIS: You can have as much
3 as time as you'd like.

4 MS. CAPEN: Okay. Because I would like to
5 -- you have working drawings there in front of you and
6 what I will do is adjust those same drawings, the
7 working drawings, which then will go through the
8 permitting process. So I would adjust it to reflect
9 the things we've talked about, the 14 feet, the one-
10 third, the setback, the two-and-a-half-foot setback.

11 CHAIRPERSON GRIFFIS: Okay.

12 MS. CAPEN: And a week would let me do
13 that.

14 CHAIRPERSON GRIFFIS: Ms. Bailey, might we
15 set this for our public meeting on the 6th?

16 MS. BAILEY: Of April, Mr. Chairman?

17 CHAIRPERSON GRIFFIS: Yes.

18 MS. BAILEY: Certainly. Would you be able
19 to file the documents that the Board asked for by next
20 Wednesday?

21 MS. CAPEN: Yes, we could.

22 MS. BAILEY: That's the 31st of March.

23 MS. CAPEN: Yes.

24 MS. BAILEY: Okay. Mr. Chairman, the
25 submissions then will be due the 31st of March and the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Board will consider a decision on April the 6th.

2 CHAIRPERSON GRIFFIS: Excellent.

3 MS. CAPEN: And, Mr. Chairman, do you want
4 us to be here for that meeting?

5 CHAIRPERSON GRIFFIS: The public meeting?

6 MS. CAPEN: On the 6th.

7 CHAIRPERSON GRIFFIS: Right. Let me
8 clarify, okay? What we're going to do is have you
9 submit all your documentation in a week. That gives
10 it enough time for it to be distributed to the Board
11 for our deliberation. The first Tuesday of every
12 month, of course, our morning session is a public
13 meeting. That's deliberations only. So there's no
14 new testimony, there's nothing in terms of increasing
15 the record that we would receive. It would just be
16 the Board deliberating on what you saw perhaps a small
17 part of a special public Meeting which we had to
18 decide today.

19 So, that being said, you're not required
20 to be here on the 6th of April, but you're certainly
21 welcome to be and you'll obviously hear the discussion
22 of the Board and then its final decision on that. And
23 that's when the decision will in fact be made from the
24 bench.

25 MS. CAPEN: Okay. Thank you, sir.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 CHAIRPERSON GRIFFIS: You're welcome.

2 MS. CAPEN: I think that the owners have
3 a conflict, so they won't be able to come and then
4 decide if they want me to come.

5 CHAIRPERSON GRIFFIS: Okay. Very well.
6 Anything else I can answer, clarify?

7 MR. BRADY: Thank you.

8 CHAIRPERSON GRIFFIS: Thank you all very
9 much. Appreciate you coming down and being patient
10 with us this morning.

11 Ms. Bailey, is there anything else for the
12 Board?

13 MS. BAILEY: I just wanted to say, Mr.
14 Chairman, although we didn't specifically asked the
15 Office of Planning for their coordination assessment
16 with the fire department, that's kind of understood,
17 I'm assuming that that would be also due on the 31st
18 of March, if possible, Mr. Lawson.

19 CHAIRPERSON GRIFFIS: Right. Excellent.
20 Also, in terms of not being able to be of course at
21 the public meeting on the 6th, but at any public
22 meeting, or in fact a hearing, if you wanted, you
23 could watch on the web of the Office of Zoning of
24 course if it's convenient to do that and you can see
25 the Board deliberate on this case and all the others

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 that will be attendant to it.

2 Okay. If there is nothing else then for
3 the Board at this time, I believe we can adjourn the
4 morning session of the 23rd of March, 2004.

5 (Whereupon, the hearing was recessed at
6 11:36 a.m. to reconvene at 1:00 p.m. this same day.)

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

A-F-T-E-R-N-O-O-N S-E-S-S-I-O-N

1:08 p.m.

CHAIRPERSON GRIFFIS: Good afternoon, ladies and gentlemen. Let me call to order the 23rd March, 2004 public hearing of the Board of Zoning Adjustment of the District of Columbia. My name is Geoff Griffis, chairperson and joining me today is vice chair, Ms. Miller. Representing the Zoning Commission with us this afternoon is Mr. Hood and representing the National Capitol Planning Commission is Mr. Mann.

Copies of today's hearing agenda are available for you where you came into the hearing room. Please pick one up. You can see where you are on the agenda this afternoon.

Please be aware that we are recording all public hearings and sessions before the Board of Zoning Adjustment in two fashions. First, we have the record being established by the court reporter who's sitting on the floor to my right. There several things attendant to that I will go through. The second is we are pleased to let everyone know that all our hearings and meetings are broadcast live on the zoning website. So attendant to that, several things. First, I would ask that everyone please refrain from

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 making any disruptive noises or actions in the hearing
2 room. Secondly, when coming forward, you will need to
3 speak into a microphone and that microphone should be
4 on in order for you to be part of the record that's
5 created before us. I would also ask that people turn
6 off all their cell phones and beepers at this time so
7 that we don't have additional disruptive noises for
8 those who are providing testimony before the Board.

9 Also in coming forward, make yourself
10 comfortable. I will need you to fill out two witness
11 cards prior to coming forward. The witness cards are
12 available at the table where you entered into and also
13 the table in front of us where you will provide
14 testimony. Those two witness cards are to be filled
15 out and given to the recorder sitting to my right.

16 The order of procedure this afternoon in
17 our public hearing for special exceptions and
18 variances will be first, we will have statement and
19 witnesses of the applicant. Second will be an
20 Government reports attendant to the application.
21 Third would be the Advisory Neighborhood Commission
22 report. Fourth would be persons and parties in
23 support of the application. Fifth would be persons
24 and parties in opposition to the application. And
25 sixth finally we have closing remarks or any rebuttal

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 testimony by the applicant. Cross examination of
2 witnesses is permitted by the applicant and parties in
3 the case. The ANC within which the property is
4 located is automatically a party in the case and
5 therefore would be available to conduct cross
6 examination. Nothing prohibits this Board from
7 placing reasonable restrictions, that being in terms
8 of content and in time on a cross examination.

9 The record of these proceedings will be
10 closed at the conclusion of the hearing. Except for
11 any material that would be specifically requested by
12 the Board, the record would be closed at the
13 conclusion of the hearing. The Board will be very
14 specific on what additional material should be
15 submitted into the Office of Zoning and when it should
16 be submitted into the Office of Zoning. After that
17 material is received, it should go without saying that
18 the record would then be finally and officially closed
19 and no other information would be accepted into the
20 record.

21 The Sunshine Act requires that this Board
22 conduct all its hearing and procedures in the open and
23 before the public. This Board may, however, enter
24 into executive session either during or after hearings
25 on a case and that would be as is allowed under the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Sunshine Act and its rules of procedure and it would
2 be for reviewing the record and/or deliberating on any
3 specific case. The decision of this Board in
4 contested cases must be based exclusively on the
5 record that is created before us today, so we ask
6 people that are present today not engage Board members
7 in any type of conversation so that we do not give the
8 appearance of receiving information outside of the
9 record.

10 At this time, the Board will consider any
11 preliminary matters. Preliminary matters are those
12 which relate to whether a case will or should be heard
13 today such as requests for postponements, continuances
14 or a withdrawal, or whether proper and adequate notice
15 of the case has been provided. If you are not
16 prepared to go forward with a case today or you
17 believe the Board should not proceed with a case, I
18 would ask you to come forward and have a seat at the
19 table in front of us as an indication of having a
20 preliminary matter. Let me also say a very good
21 afternoon to Ms. Bailey who sits to my far right
22 representing the Office of Zoning and Mr. Moy closer
23 to me also with the Office of Zoning. Ms. Skipper
24 with the corporation counsel is our attorney on the
25 afternoon cases.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Ms. Bailey, are you aware of any
2 preliminary matters for the Board?

3 MS. BAILEY: Mr. Chairman and members of
4 the Board, good afternoon. Yes, Mr. Chairman, it has
5 to do with Application 17133, El Tamarindo Restaurant.
6 That property, we do not have the affidavit indicating
7 that the property was posted in the file.

8 CHAIRPERSON GRIFFIS: Okay. Is the
9 representative from El Tamarindo here? If you
10 wouldn't mind coming forward for a moment. Just have
11 a seat at the table.

12 And would you just turn on the microphone?
13 You just touch the base. There's a button on the base
14 of it. Excellent. Can you give me your name and your
15 address please?

16 MR. VIANET: Yes, my name is Fausto
17 Vianet. I live at 57 Midline Court, Gaithersburg,
18 Maryland, 20879.

19 CHAIRPERSON GRIFFIS: I see. And you're
20 the architect of this, is that correct?

21 MR. VIANET: Right. Yes.

22 CHAIRPERSON GRIFFIS: Okay. Was the
23 property posted? Were the placards put on the
24 property?

25 MR. VIANET: There is a sign, but I don't

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 believe there is a orange sign that is supposed to be
2 there.

3 CHAIRPERSON GRIFFIS: What sign is there
4 outside of "El Tamarindo. Come eat here?"

5 MR. VIANET: I'm sorry?

6 CHAIRPERSON GRIFFIS: Nothing. That's a
7 joke. A bad one, but you said there's a sign on the
8 property?

9 MR. VIANET: Yes. Yes.

10 CHAIRPERSON GRIFFIS: What is the sign?

11 MR. VIANET: The sign, I believe, is
12 related to the case, but it's not the orange sign. I
13 don't believe -- I don't recall signing any affidavit.

14 CHAIRPERSON GRIFFIS: Okay. So you think
15 that perhaps the owner created their own sign?

16 MR. VIANET: No, I'm not saying that. No,
17 I'm not saying that.

18 CHAIRPERSON GRIFFIS: No?

19 MR. VIANET: I know I saw the sign there
20 related to the case.

21 CHAIRPERSON GRIFFIS: But not one of the
22 big orange ones?

23 MR. VIANET: No.

24 CHAIRPERSON GRIFFIS: Right.

25 MR. VIANET: No.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 CHAIRPERSON GRIFFIS: Okay. Is there a
2 reason why it wasn't posted that you're aware of?

3 MR. VIANET: I'm not aware, no. I'm not
4 aware. In fact, when I came here, I didn't -- you
5 know, I wasn't told about the sign that was supposed
6 to be posted here. So I guess it was in the letter.

7 CHAIRPERSON GRIFFIS: Yes. Okay. So you
8 weren't aware that it was actually a requirement to
9 post it?

10 MR. VIANET: Right.

11 CHAIRPERSON GRIFFIS: Okay. Here's the
12 concern that the Board has. That's one of the most
13 important ways that we announce to the public that
14 this is coming to a public hearing.

15 MR. VIANET: Okay.

16 CHAIRPERSON GRIFFIS: I mean, we certainly
17 have other ways. We obviously write a letter to the
18 ANC and the adjacent property owners and all that.
19 But the difficulty is that we have found in our
20 experience that people often don't read those letters
21 or they don't pay any attention. What gets attention
22 is these orange signs.

23 MR. VIANET: Right.

24 CHAIRPERSON GRIFFIS: Which is probably
25 why they make them orange.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MR. VIANET: Yes.

2 CHAIRPERSON GRIFFIS: And the Board has
3 been inclined in other circumstances to waive its
4 requirement for posting when the exact number of days
5 of posting haven't been met and when it went to all
6 public hearings and all of that.

7 Let me ask you, did you present this to
8 the ANC?

9 MR. VIANET: Yes, we have met with the ANC
10 about three times.

11 CHAIRPERSON GRIFFIS: Did they hold a
12 public meeting and did they take a vote?

13 MR. VIANET: Yes, they have.

14 CHAIRPERSON GRIFFIS: Do you have a letter
15 of their --

16 MR. VIANET: No, I spoke to Mr. Travis
17 Parker.

18 CHAIRPERSON GRIFFIS: Right.

19 MR. VIANET: And I replied to him in a
20 letter telling him that we have met with the ANC.
21 They definitely took the vote, but he was supposed to
22 reply to me, telling me what action they took and what
23 recommendation he was giving to the Board.

24 CHAIRPERSON GRIFFIS: Oh, I see. Okay.

25 MR. VIANET: I hope you have the letter.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 CHAIRPERSON GRIFFIS: So you were the
2 thinking the ANC would actually contact the Office of
3 Planning?

4 MR. VIANET: Right.

5 CHAIRPERSON GRIFFIS: I see. Okay. Ms.
6 Bailey, the proper time for posting is how many days?

7 MS. BAILEY: Fifteen days, Mr. Chairman.

8 CHAIRPERSON GRIFFIS: Right. Okay. I'll
9 hear from other Board members, but unfortunately, and
10 believe me, I don't like doing this because we have
11 you on the schedule today and we can accommodate that,
12 but my initial reaction to this is we need to post the
13 property.

14 MR. VIANET: Okay.

15 CHAIRPERSON GRIFFIS: And it sounds like
16 we need at least a delay to get the ANC report and
17 there may be other things attendant to that. I think
18 I'm very hesitant to go ahead today with this without
19 having at least one day of posting.

20 MR. VIANET: Okay.

21 CHAIRPERSON GRIFFIS: Let alone the
22 required 15.

23 MR. VIANET: I see.

24 CHAIRPERSON GRIFFIS: Is there anyone else
25 that has a differing opinion? In which case, I think

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 we're going to have to continue this and we're going
2 to look to -- who works in the -- while Ms. Bailey
3 also looks at the schedule with me to get a date for
4 this, who else in the community have you met with, any
5 sort of other meetings or anything of that nature?

6 MR. VIANET: You mean the Board meeting or
7 the ANC?

8 CHAIRPERSON GRIFFIS: No, just you and the
9 owners of El Tamarindo. Have you met with, you know,
10 adjacent property owners? Have yo met with a council
11 member? Have you met with anybody else?

12 MR. VIANET: We did meet with a number of
13 people including Mrs. Veracali and a lady named Diane,
14 Charles Main and Steve Whalen.

15 CHAIRPERSON GRIFFIS: Who are these folks?

16 MR. VIANET: These people are from the
17 ANC.

18 CHAIRPERSON GRIFFIS: I see.

19 MR. VIANET: Including Mr. Chepperpark,
20 Stephen Watley, Charles Lowry and some other people.

21 CHAIRPERSON GRIFFIS: Okay. Ms. Bailey,
22 what would you suggest for a date?

23 MS. BAILEY: May 11th in the afternoon.
24 We know absolutely for sure that the case that's
25 scheduled for that time will not go forward, so that's

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 a possibility, Mr. Chairman.

2 CHAIRPERSON GRIFFIS: May 11th, that case
3 will not go?

4 MS. BAILEY: Sidwell Friends.

5 CHAIRPERSON GRIFFIS: Okay. Interesting
6 news.

7 MS. BAILEY: Something earlier than that,
8 Mr. Chairman, if you have the latest schedule in front
9 of you that's dated March 17th, I would need your
10 assistance.

11 CHAIRPERSON GRIFFIS: What about the
12 afternoon of the 20th?

13 MS. BAILEY: Certainly. The last case of
14 the day?

15 CHAIRPERSON GRIFFIS: I would put it
16 first.

17 MS. BAILEY: First?

18 CHAIRPERSON GRIFFIS: Assessing those, I
19 would think that this would be much quicker than
20 those.

21 MS. BAILEY: Okay. So that April 20th
22 first case in the afternoon and I'm not quite sure if
23 you were told, but before you leave you may just want
24 to go next door and they'll give all the information
25 you need to have the property posted.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MR. VIANET: Okay.

2 MS. BAILEY: So when you come back you'll
3 be ready.

4 MR. VIANET: So this is going to be the
5 20th? April the 20th?

6 MS. BAILEY: April 20th in the afternoon.

7 MR. VIANET: Okay.

8 CHAIRPERSON GRIFFIS: Are you available
9 that day?

10 MR. VIANET: Yes. Yes, I will.

11 CHAIRPERSON GRIFFIS: Okay. Why don't we
12 do that? We'll get the posting done properly. At
13 that point, when you get the ANC letter, you can also
14 put it into the record.

15 MR. VIANET: Okay.

16 CHAIRPERSON GRIFFIS: I imagine they're
17 going to be sending it to you, so I would take
18 responsibility for picking up a copy if they would
19 create one.

20 MR. VIANET: Okay. I'm supposed to
21 receive a letter from the ANC?

22 CHAIRPERSON GRIFFIS: I would call them
23 and ask them for a copy of it.

24 MR. VIANET: Oh, okay.

25 CHAIRPERSON GRIFFIS: Yes.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MR. VIANET: Okay.

2 CHAIRPERSON GRIFFIS: I'm not sure that
3 they would absolutely send it automatically to the
4 Office of Planning. They may send it in here, but I
5 think you'd want to see a copy of it.

6 MR. VIANET: Okay. Because also I was
7 supposed to receive a letter from Mr. Parker, Travis
8 Parker.

9 CHAIRPERSON GRIFFIS: Know him well.

10 MR. VIANET: Suggesting a recommendation
11 to the Board.

12 CHAIRPERSON GRIFFIS: Exactly and I think
13 you can pick that up also. He's sitting behind you.
14 And he'll give you a copy of the Office of Planning's
15 memo.

16 MR. VIANET: Okay.

17 CHAIRPERSON GRIFFIS: For you to review in
18 the meantime. And I'm sure he'd be open for further
19 conversation with you if you had questions about his
20 report. It's very thorough and quite frankly an
21 excellent report. It's also recommending approval.
22 I'm putting you on the first of a very busy afternoon
23 of the April 20th and my assessment of this case is
24 that this won't take very long.

25 MR. VIANET: Yes.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 CHAIRPERSON GRIFFIS: So I'm hoping that
2 everything comes in and continues in that case. So
3 with that, also make sure that you get all of the
4 explicit instructions for the posting of the property.
5 Of course you will have to file an affidavit that it
6 as done correctly.

7 MR. VIANET: Right.

8 CHAIRPERSON GRIFFIS: And we'll be looking
9 for that and hopefully we won't be in this situation
10 again.

11 MR. VIANET: All right.

12 CHAIRPERSON GRIFFIS: Good. Is there
13 anything else I can answer for you?

14 MR. VIANET: I just want to thank you for
15 the opportunity and the sign's supposed to be posted
16 15 days before the --

17 CHAIRPERSON GRIFFIS: Before the hearing.

18 MR. VIANET: -- the hearing?

19 CHAIRPERSON GRIFFIS: Yes. What they're
20 going to do is they'll fill it out now with the new
21 published public hearing date and the like.

22 MR. VIANET: Right.

23 CHAIRPERSON GRIFFIS: And they'll give you
24 two at least.

25 MR. VIANET: Okay.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 CHAIRPERSON GRIFFIS: Good. Thank you
2 very much.

3 MR. VIANET: Thank you. Have a good
4 afternoon.

5 CHAIRPERSON GRIFFIS: I apologize for not
6 being able to proceed with this today.

7 In that case, if there's nothing further
8 on 17133, why don't we call the next case for the
9 afternoon?

10 MS. BAILEY: And that is Application 17134
11 of V. Jerome Walker, pursuant to 11 DCMR 3103.2, for
12 a variance from the lot occupancy requirements under
13 section 403, a variance from the rear yard
14 requirements under section 404, and a variance from
15 the nonconforming structure provisions under
16 subsection 2001.3, to allow the construction of a two-
17 story rear enclosed porch addition to a single-family
18 row dwelling in the R-4 District at premises 163 Adams
19 Street, N.W., (Square 3125, Lot 15).

20 Please stand to take the oath all those
21 persons who will be testifying this afternoon.

22 CHAIRPERSON GRIFFIS:

23 (The witnesses were sworn.)

24 CHAIRPERSON GRIFFIS: Good afternoon.

25 MR. WALKER: Good afternoon.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 CHAIRPERSON GRIFFIS: If you wouldn't mind
2 just giving me your name and your address for the
3 record.

4 MR. WALKER: My name is V. Jerome Walker.
5 I reside at 3644 Warder Street, N.W., Washington,
6 D.C., 20010.

7 CHAIRPERSON GRIFFIS: Good. Thank you,
8 Mr. Walker. And who's with you today?

9 MR. WALKER: I have before me to my right
10 is Mrs. Gayle Patrick who is the architect of record.

11 CHAIRPERSON GRIFFIS: Very well. Now my
12 understanding is that you've revised the application,
13 is that correct?

14 MR. WALKER: That is correct.

15 CHAIRPERSON GRIFFIS: Okay. So no longer
16 are we looking at a variance from the rear yard
17 requirements under 404 or a variance from the non-
18 conforming structure under 2001.3, but rather a
19 special exception under 223, is that correct?

20 MR. WALKER: That is correct.

21 CHAIRPERSON GRIFFIS: Looks like we'll
22 have a more pleasant afternoon then. Very well. Why
23 don't I turn it over to you and tell us what we need
24 to know.

25 MR. WALKER: Again, good afternoon,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Chairperson and Board. I am here before you asking
2 the permission to proceed with the construction of a
3 two-story sunroom at my proposed residence 163 Adams
4 Street. Specifically, I lived there for basically all
5 of my life and the porch right now is in irreparable and
6 it has no function at this point. In addition, the
7 porch is a necessity because of the fact -- because of
8 the new construction, there is no other location
9 within the structure of the property to place
10 mechanicals such as the furnace room, the water
11 heater, air-conditioning units and things of that
12 nature. So therefore, I'm before you asking your
13 acceptance of the proposed drawings. If you have any
14 questions, Mrs. Gayle Patrick will be presenting to
15 you for that approval.

16 CHAIRPERSON GRIFFIS: Good. Thank you
17 very much. The first question that we do have is we
18 have a submission on the March 10th, 2004 and attached
19 are the drawings that I'm assuming are reflecting the
20 change to the 70 percent lot occupancy?

21 MR. WALKER: That's correct. I filed with
22 the office the revised plans as pursuant to the
23 section.

24 CHAIRPERSON GRIFFIS: Okay. So I just
25 want to make sure that we're looking at the correct

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 piece and the documents are dated 2/13/04. In
2 calculating the lot occupancy, I note that on the
3 first floor the proposed addition stops just shy of
4 the entrance of the stairs going up. Is that a
5 correct assessment?

6 MS. PATRICK: Yes.

7 MR. WALKER: That's correct.

8 CHAIRPERSON GRIFFIS: If you mind, just
9 turn your microphone on. And it appears, where did I
10 see, so the second level no longer projects over the
11 stairs?

12 MS. PATRICK: No, it does not.

13 CHAIRPERSON GRIFFIS: So it's all in line.
14 That's the addition.

15 MS. PATRICK: It's all in line.

16 CHAIRPERSON GRIFFIS: Okay. And did you,
17 in looking at this and evaluating the zoning and the
18 applicable relief required, find that the space left
19 over, that basically the space from the addition to
20 the property line, is that an open court, in your
21 understanding?

22 MS. PATRICK: The rear yard?

23 MR. WALKER: The rear, are you speaking
24 of?

25 CHAIRPERSON GRIFFIS: No, it would be --

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MR. WALKER: -- or the front?

2 CHAIRPERSON GRIFFIS: The rear yard will
3 start at the extent of the addition. So assuming the
4 way these are oriented, let's call it the rear yard
5 happens north of the addition. There's a small area
6 adjacent to the addition where the stairs are.

7 MS. PATRICK: Yes, that's not really a
8 court because that's open space and there's no other
9 structure next to it. This little space right in
10 here. Next to it is an open wood deck.

11 CHAIRPERSON GRIFFIS: You need to speak
12 into a microphone.

13 MS. PATRICK: Next to it is the open wood
14 deck of the adjacent house, so it really isn't an
15 enclosed court like the use space that some of the
16 town houses in the District have.

17 CHAIRPERSON GRIFFIS: Right.

18 MS. PATRICK: All of these existing
19 buildings have, which were originally built, a two-
20 story porch wooden porch.

21 CHAIRPERSON GRIFFIS: Yes. The problem
22 with our zoning regulations is they often fly in the
23 face of common sense. I think that definition is
24 absolutely correct. It's open. It's not really a
25 court. But the difficulty is in the regulations as

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 defined "closed court." "The court surrounded on all
2 sides by a exterior walls of a building or by exterior
3 walls of a building in a side or rear lot lines, or by
4 an alley line where the alley is less than 10 feet."

5 So, it doesn't appear to be a closed court. But an
6 open court is a court opening onto a street, yard or
7 alley not less than 10 feet wide. And the court's
8 going to be defined by an unoccupied space not a court
9 niche open to the sky on the same lot with the
10 building which is bounded on two or more sides by
11 exterior walls of a building or by two or more
12 exterior walls, lot lines or yards. The court may
13 also be bounded by a single curved wall of a building.

14 So it seems to me in this case we do have
15 two exterior walls and a property line and it's
16 opening onto a yard.

17 MS. PATRICK: That's correct.

18 CHAIRPERSON GRIFFIS: Okay. So, going to
19 chapter 400, we're going to look at courts very
20 quickly. We're going to need -- a compliant court is
21 going to be four inches per foot of height of court,
22 but not less than six feet. What's the dimension on
23 the court that's created there? What's the dimension
24 from the proposed addition to the property line?

25 MS. PATRICK: I have 19.3 and then there's

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 14. I have 5' 3". I have 5' 3" from the property
2 line to that porch wall.

3 MR. JACKSON: Mr. Chairman?

4 CHAIRPERSON GRIFFIS: Yes?

5 MR. JACKSON: Point of qualification. Is
6 the property width about 20 feet wide?

7 CHAIRPERSON GRIFFIS: Yes.

8 MR. JACKSON: And the deck is 14 feet?

9 MS. PATRICK: The deck is 14 feet.

10 MR. JACKSON: Okay. But, Mr. Chairman,
11 are you thinking that the dimension should be taken
12 from the deck or from the steps?

13 CHAIRPERSON GRIFFIS: From the deck.

14 MR. JACKSON: Okay.

15 MS. PATRICK: Well, actually --

16 MR. JACKSON: Then that's six feet wide.

17 MS. PATRICK: Then it's six feet from
18 property line to property line. It's 20.54 feet and
19 14 feet for the deck.

20 CHAIRPERSON GRIFFIS: I see. Okay.
21 Because the stairs, as I understand, that are serving
22 the first floor, that would be an allowable structure
23 and open yard and the court would be -- I believe
24 would fall underneath that in which case they could
25 fill the courtyard, which means we would not dimension

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 off of that. Could be wrong with that.

2 Okay. Ms. Patrick, you're saying the
3 property line itself, they are parallel? The 20.54 is
4 actually the dimension off of the plat?

5 MS. PATRICK: Yes, it is.

6 CHAIRPERSON GRIFFIS: Okay. Then taking
7 14 feet off of that, of course, would leave us with
8 over six feet. Okay. In which case, about how high
9 is the addition? What's the height of it?

10 MS. PATRICK: About 19 feet. Eighteen --
11 about 18 feet, two floors. That's from the first
12 floor, right? Yes.

13 CHAIRPERSON GRIFFIS: Good. I think we
14 can put that to rest. It appears to be a conforming
15 open court that's created with the addition. Unless
16 anyone else sees differently, I think we can proceed
17 in that fashion. Very well. Sorry for the small side
18 steps there, but making sure everything's up and
19 ordinary.

20 MR. WALKER: I understand.

21 CHAIRPERSON GRIFFIS: Let's continue on
22 then. If you wouldn't mind just walking us through
23 the special exception test and any sort of other
24 details that we might need to understand in terms of
25 the proposed addition. Go ahead.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MR. WALKER: I guess each step that we --
2 under the special exceptions you mean?

3 CHAIRPERSON GRIFFIS: Yes.

4 MR. WALKER: Okay. Well at this point,
5 Section A asks about whether or not it would impair
6 light and air. We see no impact on the light and air
7 flow as a result of the deck erection. And then
8 Section B asks about neighborhood privacy. It does
9 not impair nor does it extend itself to the point that
10 it cuts off the privacy or extends any violation of
11 privacy.

12 CHAIRPERSON GRIFFIS: Okay. And to that,
13 you have submitted I think today a petition of the
14 owners 200 feet from the proposed construction
15 property.

16 MR. WALKER: That's correct.

17 CHAIRPERSON GRIFFIS: And the adjacent
18 neighbors have signed on in support of the application
19 and the addition?

20 MR. WALKER: There has been discussion
21 with the adjacent neighbors. The adjacent neighbors
22 were not present when I went by there, but we had had
23 a prior meeting and discussion was had with the
24 adjacent neighbor and clarification in terms of our
25 intent was given.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 CHAIRPERSON GRIFFIS: Okay. And on both
2 sides east and west?

3 MR. WALKER: That's correct. The west
4 side was -- no, the east side was not available each
5 time I visited, but the west side we visited.

6 CHAIRPERSON GRIFFIS: Okay. Good. And
7 the addition in context of the existing building you
8 feel would not be adverse in terms of architectural
9 character or materials or anything of that sort?

10 MR. WALKER: Do not.

11 CHAIRPERSON GRIFFIS: Okay. Any other
12 questions from the Board? Clarifications? There's a
13 statement from your submission that describes this as
14 a "lightweight structure that does not have solid
15 appearance, let light flow through to avoid blocking
16 the neighbors' yard." I don't know, did you write
17 that?

18 MS. PATRICK: Yes, I did. What he's
19 making is a sunroom. It's not a solid enclosure and
20 what he's making is a sunroom on each level such that
21 would have almost floor to ceiling glass. So it's not
22 a solid mass.

23 CHAIRPERSON GRIFFIS: I see.

24 MS. PATRICK: And as you can see on this
25 diagram, these are things that are existing and you

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 can see some of them have taken almost a whole --
2 like, this was probably built back in the late 1900s
3 when it came because that's a solid masonry wood. But
4 this has glass around it such that he's using it as a
5 sunroom.

6 CHAIRPERSON GRIFFIS: Yes.

7 MS. PATRICK: And right now what exists --
8 what came with the house are open wood porches, you
9 know. And he's using a wood siding for this to give
10 it the same kind of effect. And right now what exists
11 is a wood porch that looks very much like this without
12 glass from the side.

13 CHAIRPERSON GRIFFIS: Right.

14 MS. PATRICK: And he's doing the same
15 thing by putting glass top to bottom around here. So
16 it becomes like a little -- it's a sunroom and that's
17 really what he's making. It's not a solid enclosure.

18 CHAIRPERSON GRIFFIS: Right. And what did
19 you say the exterior material is?

20 MS. PATRICK: We're going to use vertical
21 wood siding.

22 CHAIRPERSON GRIFFIS: Okay.

23 MS. PATRICK: And that would be keeping in
24 the same texture and color of what's already out there
25 and that particular area is heavily wooded with trees

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 and all.

2 COMMISSIONER HOOD: Mr. Chairman, do we
3 have something in the record, I don't know what my
4 colleagues are looking at, that actually shows the
5 relationship of what's proposed in relationship how it
6 fits in there? And I'm looking, I'm searching for
7 that while it -- to those of us who have been trained,
8 it may be easy for you to understand, but I need
9 something to point me right to that and show me. I
10 saw that. That's the rear.

11 CHAIRPERSON GRIFFIS: Yes.

12 COMMISSIONER HOOD: Yes. Okay. I just
13 like to see it sitting in there. You know, sometime
14 you --

15 CHAIRPERSON GRIFFIS: Like a prospective?

16 COMMISSIONER HOOD: -- on a CAD or
17 whatever you call it. Yes, a prospective.

18 CHAIRPERSON GRIFFIS: Yes. Okay. Yes, I
19 didn't see that submitted. You didn't create a
20 prospective of this, did you?

21 MS. PATRICK: No, I just have this.
22 That's the rear of the house.

23 COMMISSIONER HOOD: Yes, I saw that.

24 MS. PATRICK: And that's how it looks
25 without the porch and this is with it.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 COMMISSIONER HOOD: Now let me ask this.
2 Your adjoining neighbors on the side to the proposal,
3 one of the sides you said you weren't able to get in
4 touch with someone.

5 MR. WALKER: Right. The one on the east
6 side.

7 COMMISSIONER HOOD: On the east?

8 MR. WALKER: However, the adjoining
9 neighbor I had communicating with he had given a
10 letter earlier that should be a reflection of the
11 record as well.

12 COMMISSIONER HOOD: Yes. Okay.

13 MR. WALKER: That he had no objection.

14 COMMISSIONER HOOD: And you got the ANC's
15 support, I see?

16 MR. WALKER: We have ANC support. We also
17 met with the Office of Planning as well.

18 COMMISSIONER HOOD: All right.

19 MR. WALKER: There was a meeting held I
20 think February the 14th, which they -- we presented
21 the same facts to them and it was unanimously voted to
22 proceed.

23 COMMISSIONER HOOD: Okay. All right.

24 Thank you. Thank you, Mr. Chairman.

25 CHAIRPERSON GRIFFIS: Thank you, Mr. Hood.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Other questions from the Board? This stays open
2 below, is that correct, on the cellar or basement
3 level, or this addition doesn't go all the way down to
4 the ground?

5 MR. WALKER: No, just --

6 MS. PATRICK: No, it's open below the same
7 as existing.

8 MR. WALKER: It's open.

9 CHAIRPERSON GRIFFIS: Okay. I'm sure
10 you're going to put lots of insulation in that floor.
11 Good. Okay. Nothing else from the Board? Anything
12 else at this time?

13 MR. WALKER: No, there isn't.

14 CHAIRPERSON GRIFFIS: Okay. We're move on
15 to Office of Planning. I'll go through all the
16 Government reports, other submissions in the
17 application. Then I'll turn it over to you for any
18 conclusion that you want to summarize for us and then
19 we'll see where we go.

20 MR. WALKER: Very well.

21 CHAIRPERSON GRIFFIS: Excellent. Let's
22 welcome Mr. Jackson from the Office of Planning at
23 this time to present the planning's position. Section

24 MR. JACKSON: Thank you, Mr. Chairman. My
25 name again is Arthur Jackson with the D.C. Office of

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Planning. You have the report before you concerning
2 this application. Office of Planning will stand on
3 the record with regard to this report, but we wanted
4 to add a couple of additional details. When we talked
5 about the existing use, the applicant in their
6 statement mentioned that there's going to be a use
7 change and that they'll be creating an apartment in
8 the basement. In other words, they'll be creating
9 this -- it's going from a single-family -- a one-
10 family dwelling which is a row house to a one-family
11 -- a row flat. But Office of Planning would note that
12 this is an allowed use in R-4 the zoning regulations,
13 so this would still be a consistent use, a use that's
14 consistent with the zoning regulations for the zoning
15 district.

16 I would also note that the relief from the
17 provisions with regard to courts under 406 is allowed
18 under section 233.1. So the Office of Planning would
19 state that we would support that additional relief if
20 it's determined by the BZA that the applicant needs
21 that relief for this proposal.

22 We also note that the applicant was kind
23 enough to reconsider their original proposal for the
24 higher lot occupancy and to see whether or not a
25 change to 70 percent would work with their initial

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 desires with regard to adaptable use of this
2 dilapidated dwelling. They did find that it was
3 useful and decided to go with the 223 because it met
4 their desires with the ability to reuse the property
5 and get adequate space on the interior.

6 With that, we note that they appeared to
7 meet all the regulations -- all the conditions of
8 approval under section 223, so the Office of Planning
9 enthusiastically recommends support and we stand
10 available to answer any questions.

11 CHAIRPERSON GRIFFIS: Thank you, Mr.
12 Jackson and thank you for your excellent report. It
13 certainly lays it out for your discussions with the
14 applicant in bringing it in which I think was fairly
15 wise to come under 223 rather than the variances that
16 would have been additionally needed for relief.

17 Mr. Jackson, in looking at this did you
18 look at the east side of the property? It appears
19 that the addition sets off the property line.

20 MR. JACKSON: I'm looking to the actual
21 plan right now.

22 CHAIRPERSON GRIFFIS: Yes. I think sheet
23 A-4 is probably the most illustrative of that.

24 MR. JACKSON: Well, there's no dimensions
25 shown, so I'm not sure if that's the case. It appears

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 that the addition is in line with the fence, but I'll
2 verify that with the architect.

3 CHAIRPERSON GRIFFIS: Is the addition
4 going to sit on the property line, or is it set off
5 the property line?

6 MS. PATRICK: It's slightly off the
7 property line.

8 CHAIRPERSON GRIFFIS: What is --

9 MS. PATRICK: Just enough to get
10 foundation work in there.

11 CHAIRPERSON GRIFFIS: So what is slightly
12 off? The exterior wall is how far off the property
13 line?

14 MS. PATRICK: Six inches. We need six
15 inches to get footings without going over that line
16 and to still stay within the court on the other side.

17 MR. JACKSON: And I would also note that
18 if they build it right on the property line, would
19 they be allowed to have glass in that wall, or would
20 that have to be a solid wall?

21 CHAIRPERSON GRIFFIS: Is that rated glass
22 that's being put in there?

23 UNIDENTIFIED SPEAKER: (Off microphone.)

24 CHAIRPERSON GRIFFIS: It is? Fire rated?

25 MR. WALKER: Well, you are -- we haven't

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 gotten into specific UL. Did we get the specific UL
2 on this?

3 MS. PATRICK: No, not yet. But it
4 wouldn't be fire rated. I don't know if you --

5 CHAIRPERSON GRIFFIS: Are you going to
6 have a separation? This is a code issue, so we're not
7 going to go too far into it, but are you going to have
8 a fire separation between the properties?

9 MS. PATRICK: Well, we would have to -- if
10 you put it right that close, we would have to look
11 into that because --

12 CHAIRPERSON GRIFFIS: I think it's
13 probably a good thing to look into.

14 Mr. Jackson, to answer your question on
15 the property line, the fenestration of the property
16 line, it is conceivable you can do it. My
17 understanding is of course there's another building
18 code compliance issue. It would be at your own risk
19 if the building adjacent was to put up a common
20 property line wall, then it would fill out those
21 windows.

22 MR. JACKSON: Okay. Thanks for
23 clarifying.

24 CHAIRPERSON GRIFFIS: But in terms of the
25 zoning, you know, just looking at this setting off six

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 inches creates a non-conforming court, does it not,
2 Mr. Jackson?

3 MR. JACKSON: Yes, that would.

4 CHAIRPERSON GRIFFIS: And you're saying
5 that under 2001.3, which comes under 223.1 and also
6 the provision of the court, which is section -- I was
7 just thee, four-something. We can look at this 406.
8 Thank you, Mr. Hood. We can look at this under the
9 special exception?

10 MR. JACKSON: Yes.

11 MS. PATRICK: Well, it could go on the
12 property line. The footing would just have to be
13 designed differently, which isn't a problem. It would
14 just have to be an L-shaped type footing to keep from
15 being on the other property.

16 CHAIRPERSON GRIFFIS: Right, if you
17 brought it down and turned it in?

18 MS. PATRICK: Yes.

19 CHAIRPERSON GRIFFIS: And you're digging
20 out the basement, is that correct?

21 MS. PATRICK: Yes.

22 CHAIRPERSON GRIFFIS: When you say digging
23 out the basement, you're dropping the floor level of
24 the basement, aren't you?

25 MS. PATRICK: We dropped the floor level

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 of the basement, yes.

2 VICE CHAIRPERSON MILLER: I have a
3 question just to follow up.

4 MS. PATRICK: But actually, for this porch
5 we're talking about post footings.

6 CHAIRPERSON GRIFFIS: No, that I
7 understand. But I was just thinking if you were down
8 -- you're going to be -- well, that would make sense.
9 The basement's not going to come out underneath this
10 addition.

11 MS. PATRICK: No, the basement's not going
12 to affect this at all.

13 CHAIRPERSON GRIFFIS: No. No. That's
14 understood. Okay. Yes?

15 VICE CHAIRPERSON MILLER: Is the eastern
16 side of the porch that we're talking about, does it
17 follow the eastern side of the house or it set in
18 somewhat? Is it on the same line?

19 MS. PATRICK: I have it set in six inches.

20 VICE CHAIRPERSON MILLER: You have it set
21 in six inches?

22 MS. PATRICK: Yes.

23 VICE CHAIRPERSON MILLER: Okay.

24 MS. PATRICK: But if that's a violation,
25 if this six inches is going to be construed as another

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 court --

2 CHAIRPERSON GRIFFIS: See, you get caught
3 up every which way you turn around here.

4 MS. PATRICK: Well, it can just go on the
5 property line.

6 CHAIRPERSON GRIFFIS: All right. I think
7 the most expeditious way of doing this, we don't want
8 to be cumbersome, but we want to be precise and exact.

9 MS. PATRICK: Okay.

10 CHAIRPERSON GRIFFIS: So, I think
11 everything is covered under 223. So we're going to
12 proceed. We don't need to amend the application. I
13 would note that the Board would give some flexibility
14 to the exact placement of that wall as it doesn't
15 diminish the other dimension of the other side, the
16 conforming six feet and figure out how you want to do
17 it and depending if you have other restrictions in
18 terms of co-compliance for that exterior wall whether
19 it's set off six inches for the foundation, or whether
20 it's set on the property line. So with that, I think
21 we can continue.

22 If there aren't any other questions from
23 the Board, then does the applicant have any questions
24 of the Office of Planning and their report?

25 MR. WALKER: Not at this time.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 CHAIRPERSON GRIFFIS: Okay. And you did
2 receive a copy of their report?

3 MR. WALKER: Yes, I did.

4 CHAIRPERSON GRIFFIS: Excellent.
5 Excellent. Okay. Then let's move ahead. I have also
6 attendant to this application the ANC-5C. Is there
7 anyone here representing ANC-5C today?

8 Not noting any, we have Exhibit 22, which
9 the ANC voted unanimously to recommend approval of the
10 application and the report was timely filed. Any
11 questions from the Board or clarification by the ANC?

12 If not, I'll go to the applicant. If they
13 had anything in addition to add about the ANC? No?

14 MR. WALKER: No further comments.

15 CHAIRPERSON GRIFFIS: Okay. Good. In
16 which case, that is all of the Government and ANC
17 reports attendant to this application that I have
18 notes on.

19 Are you aware of anything else that was
20 submitted into the application?

21 MR. WALKER: Not to my knowledge?

22 CHAIRPERSON GRIFFIS: Okay. We'll take
23 note of the petition that was submitted and also the
24 testimony of the applicant and conversations were
25 conducted with the adjacent property but they were

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 unavailable for the actual signature on the petition,
2 but we have quite a few signatures of course from the
3 surrounding area of those.

4 Is anyone here attendant to this
5 application 17134 either in support or in opposition
6 that would like to provide testimony for the Board
7 today? Now would be the time for persons to give
8 testimony.

9 Not seeing anybody charge the table to
10 give testimony, I'm assuming no one else is here to
11 give testimony regarding 17134. We can move on then.

12 Any closing remarks you might have?

13 MR. WALKER: We'd just like to move
14 forward and we would appreciate your vote, but no
15 further.

16 CHAIRPERSON GRIFFIS: Excellent. Thank
17 you very much. Board members, last questions?
18 Clarifications? Okay.

19 I think is appropriate to discuss and
20 deliberate under a motion. That motion should be an
21 approval of Application 17134 for the special
22 exception under 223 for -- well, we'll enumerate all
23 the rest of this, to allow the construction of a two-
24 story enclosed porch addition to the single-family row
25 dwelling at 163 Adams Street, N.W. and I would ask for

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 a second.

2 VICE CHAIRPERSON MILLER: Second.

3 CHAIRPERSON GRIFFIS: Thank you very much,
4 Ms. Miller. I think it's fairly clear in terms of
5 meeting the 223 requirements and the special exception
6 requirements, all that has been met and the record
7 would surely reflect that. It's is interesting we
8 didn't get into it in terms of direct deliberation in
9 the presentation of the case today, but there is the
10 existing structure that was spoken of briefly and also
11 the photographs that were done. What this does
12 somewhat look like is a contemporary utilization of
13 perhaps a past use of outside porches and I think it's
14 very appropriate and in fact 223 was created for such
15 circumstances like this.

16 I think we've exhausted the court and the
17 analysis on the back and the placement of this. We
18 have lended some flexibility to it. I was encouraged
19 to see that the exterior materials were actually
20 changed. I believe that there was some indication of
21 other exterior materials in the application and I
22 think the Board will note that the vertical wood
23 siding will be provided on the exterior. I think that
24 will make that a much more unobtrusive, but much more
25 in character and I think you'd be much more happy with

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 it in that type of situation and the use of that
2 material. I think that's all that needs to be said on
3 my part. I'd open it up to anyone else on the Board
4 for further deliberation. Ms. Miller?

5 VICE CHAIRPERSON MILLER: I just want to
6 comment that with respect to our concern about the six
7 inches on the eastern side, it looks to me as if
8 2522.1(c) allows for deviations up to 12 inches for a
9 court, and so this six inches, so I think it's covered
10 by that.

11 CHAIRPERSON GRIFFIS: And that's of course
12 the minor flexibility afforded the zoning
13 administrator. Are you saying that we're taking over
14 the zoning administrator's role in granting that
15 flexibility, or are you saying that in terms of a
16 direction as they start their permit processing that
17 they might want to mention that to the zoning
18 administrator as they process this through?

19 VICE CHAIRPERSON MILLER: I think it could
20 be both because I think we're often in a position
21 where we're reviewing zoning administrator's decisions
22 or we're making a judgment that the zoning
23 administrator would make and the Board has granted
24 that authority to make the same decisions.

25 CHAIRPERSON GRIFFIS: I think it's an

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 excellent point to bring up. You might want to note
2 the section in case there is some incumberances, but
3 obviously the Board has looked at and that viewed it
4 and felt that it fell within the special exception
5 criterion under 223. We've noted some flexibility in
6 terms of the exact placement of that side of the wall
7 based on the potential of code requirements for that
8 wall and any sort of fire rating that may be required,
9 if so, and also in terms of the use.

10 So, I think well said in terms of that
11 section and noting it and note that the Board has
12 actually looked at it also.

13 Okay. Anything else then? Nothing else
14 from the Board? We have a motion before us. It's
15 been seconded. It is for the approval of 17134. I'd
16 ask for all those in favor to signify by saying aye.
17 Aye.

18 COMMISSIONER HOOD: Aye.

19 VICE CHAIRPERSON MILLER: Aye.

20 MEMBER MANN: Aye.

21 CHAIRPERSON GRIFFIS: And opposed?
22 Abstain? Very well. Why don't we record the vote?

23 MS. BAILEY: The vote is recorded as 4-0-1
24 to approve the application. The motion made by Mr.
25 Griffis, seconded by Ms. Miller. Mr. Mann and Mr.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Hood are in support. Mr. Etherly is not present
2 today. And that is to amend the application to grant
3 relief under section 223 including the open court
4 requirement.

5 Summary order, Mr. Chairman?

6 CHAIRPERSON GRIFFIS: Yes, the summary
7 order is in order. Very well. Anything else I can
8 answer for you?

9 MR. WALKER: Not at this time. I want to
10 take this opportunity to thank the Chairman and the
11 Board for moving forth on this proposal.

12 CHAIRPERSON GRIFFIS: Very well. It's our
13 pleasure and good luck with that and enjoy the sun in
14 the sunroom.

15 MR. WALKER: Thank you.

16 CHAIRPERSON GRIFFIS: Good. Thank you,
17 all. Is there anything else for us this afternoon,
18 Ms. Bailey?

19 MS. BAILEY: No, Mr. Chairman.

20 CHAIRPERSON GRIFFIS: It seems kind of
21 shocking for me to say that at such an early hour.
22 However, then if there's no other business for the
23 Board at this time, I think we can adjourn the
24 afternoon session of the 23rd of March.

25 (Whereupon, the hearing was concluded at 1:55 p.m.)

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701