

GOVERNMENT OF THE DISTRICT OF COLUMBIA

BOARD OF ZONING ADJUSTMENT

+ + + + +

PUBLIC HEARING

+ + + + +

TUESDAY

JUNE 20, 2000

+ + + + +

The Board met in the Zoning Commission Hearing Room, Suite 220, 441 4th Street, N.W., Washington, D.C. 20001 at 9:30 a.m. Sheila Cross Reid, Chair, Presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

| | |
|-------------------|--------------|
| SHEILA CROSS REID | Chair |
| RODNEY MOULDEN | Board Member |
| ANNE RENSHAW | Board Member |
| ROBERT SOCKWELL | Board Member |

ZONING COMMISSION MEMBERS PRESENT:

| | |
|--------------|--------------|
| JOHN PARSONS | Commissioner |
|--------------|--------------|

OFFICE OF ZONING STAFF PRESENT:

| | |
|-----------------|--|
| SHERI PRUITT | Secretary to the Board of Zoning Adjustment |
| BEVERLEY BAILEY | Office of Zoning |
| PAUL HART | Office of Zoning |
| JOHN HYARKU | Office of Zoning |

OTHER GOVERNMENT STAFF PRESENT:**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

DAVE COLBY
ELLEN MCCARTHY

Office of Planning
Office of Planning

D.C. OFFICE OF CORPORATION COUNSEL:

Marie Sansone, Esq.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

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

| <u>Agenda Item</u> | <u>Page</u> |
|--|-------------|
| PRELIMINARY MATTERS | 6 |
| | |
| <u>APPLICATION OF MARTIN E. HARDY:</u> | |
| <u>16573 ANC-1C</u> | |
| GLADYS HICKS | 17 |
| Gladys Hicks and Associates 7710 Merrick Lane Landover, MD 20785 | |
| | |
| <u>WITNESSES</u> | |
| MARTIN HARDY | 19 |
| MICHAEL VALLEN | 23 |
| JAMES F. SMITH | 54 |
| JOHN RUTOWSKY | 115 |
| ELAINE MORRIS | 118 |
| BOSHURA HANNA | 130 |
| | |
| <u>APPLICATION OF HOLIDAE HAYES:</u> | |
| <u>16580 ANC-2E</u> | |
| RUSSELL SIERS | 180 |
| | |
| <u>APPLICATION OF 912 F STREET ASSOCIATES, L.P.:</u> | |
| <u>16581 ANC-2C</u> | |
| NORMAN GLASGOW, ESQ. | 196 |
| Wilkes, Artis, Hendricks and Lane | |
| | |
| <u>WITNESSES</u> | |
| ANNE ADAMS | 200 |
| PETER SELERUD | 207 |
| CHRIS BRUEH | 212 |
| THEODORE A. SEALE | 215 |

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

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

| <u>Agenda Item</u> | <u>Page</u> |
|--|-------------|
| <u>APPLICATION OF CHARLES A. SISSON:</u> | |
| <u>16521 ANC-3D</u> | |
| PATRICK BROWN, ESQ. | 233 |
| Greenstein, Delorme and Luchs | |
| ALLISON PRINCE, ESQ. | 238 |
| STEVEN SHER, ESQ. | |
| Wilkes, Artis, Hendricks and Lane | |
| <u>APPLICATION OF MARK A. AND JUDITH S. SIEGEL:</u> | |
| <u>16563 ANC-1D</u> | |
| CHRISTOPHER COLLINS | 262 |
| <u>WITNESSES</u> | |
| JUDITH SIEGEL | 265 |
| ROBERT SCHWARTZ | 279 |
| CRAIG ELLIS | 308 |
| <u>WITNESSES</u> | |
| CARTER HILLS | 339 |
| JOAN HILLS | 343 |
| <u>APPLICATION OF BERTHA TUCKER/TUCKER DAY CARE:</u> | |
| <u>16570 ANC-8E</u> | |
| JOEL ANDERS, ESQ. | 316 |
| <u>WITNESSES:</u> | |
| MELVIN SIMMS | 317 |
| BERTHA TUCKER | 320 |

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

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

(9:37 a.m.)

MS. REID: Good morning. The meeting will please come to order.

Ladies and gentlemen, this is the June 20th public hearing of the Board of Zoning Adjustment of the District of Columbia. My name is Sheila Cross Reid, Chairperson. Joining me today is Robert N. Sockwell, Anne Renshaw, Rodney Moulden representing the National Capital Planning Commission, and representing the Zoning Commission is John Parsons.

Copies of today's hearing agenda are available to you. They are located to my left near the door. All persons planning to testify either in favor or in opposition are to fill out two witness cards. These cards are located on each end of the table in front of us.

When coming forward to speak to the Board, please give both cards to the reporter who is sitting to my right. The order of procedure for special exception of variances is, one, statement and witnesses of the applicant, two, government reports including Office of Planning, Department of Public Works, et cetera, three, report of the Advisory Neighborhood Commission, four, parties and persons in

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 support, five, parties and persons in opposition,
2 closing remarks by the applicant.

3 Cross examination of witnesses is
4 permitted by the applicant or parties. The ANC in
5 which the property is located is automatically a
6 party in the case. The record will be closed at the
7 conclusion of each case except for any materials
8 specifically requested by the Board, and staff will
9 specify at the end of the hearing exactly what is
10 expected.

11 The decision of the Board in these
12 contested cases must be based exclusively on the
13 public record. To avoid any appearance to the
14 contrary, the Board requests that persons who are
15 present not engage the members of the Board in
16 conversation. Please turn off all beepers and cell
17 phones at this time so as not to disrupt these
18 proceedings.

19 The Board will now consider any
20 preliminary matters. Preliminary matters are those
21 which relate to whether a case will or should be
22 heard today such as requests for postponement,
23 continuance or withdrawal or whether proper and
24 adequate notice of the hearing has been given.

25 If you're not prepared to go forward with

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 a case today or if you believe that the Board should
2 not proceed, now is the time to raise such a matter.

3 Are there any preliminary matters?

4 (No response.)

5 MS. REID: Does the staff have any
6 preliminary matters?

7 MS. PRUITT: No, Madam Chair.

8 MS. REID: Okay, then we'll proceed with
9 the first case of the morning.

10 MS. PRUITT: Good morning. The first
11 case of the morning is application 16573, application
12 of Martin Hardy, pursuant to 11 DCMR 3103.2 for
13 variances for the construction of two flats from
14 Section 402.4 from the maximum floor area ratio
15 required for the structure, Section 403.2 from the
16 permitted percentage of lot occupancy requirement for
17 the structure and Section 404.1 from the minimum
18 depth in rear yard requirement, Section 406.1 from
19 the minimum width of area in closed court
20 requirements in a DCOD/5-R-B District at 1821 and
21 1823 Florida Avenue, N.W., Square 2556, Lots 808 and
22 812.

23 All those planning to testify, would you
24 please stand and raise your right hand? Do you swear
25 or affirm that the testimony you're going to give

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 today is the truth?

2 (Witnesses sworn.)

3 MS. PRUITT: Please proceed. Madam
4 Chair, I'd just like to note for the record that you
5 do have three requests for party status, Hanna
6 Associates, Lothrop House and Elaine Morris. And I
7 believe Ms. Morris has a proxy for someone to
8 represent her, Ms. Hayland?

9 MS. MORRIS: No, I don't have a proxy --

10 MS. PRUITT: Is it Ms. Morris?

11 MS. MORRIS: No, I represent --

12 MS. REID: Okay, can you please come
13 forward? All three persons who are requesting party
14 status.

15 MS. PRUITT: Two can sit here and one sit
16 right there until we --

17 MS. REID: Okay, there are three requests
18 for party status and you're saying that you represent
19 two of those three requests, is that what I
20 understand you to say?

21 MS. MORRIS: Yeah, the Lothrop House
22 condominium is a corporation and I'm the president of
23 the corporation. We request party status. And I,
24 myself am a property owner at 1822 Vernon Street. I
25 have certain separate issues from the condominium

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 association as a whole and I request party status.

2 MS. REID: And you're Elaine Morris?

3 MS. MORRIS: I'm Elaine Morris, yes.

4 MS. REID: Okay. Now, Ms. Morris, when
5 you say that you have separate issues that are not
6 germane to the issues of the Lothrop House
7 Association, what are they?

8 MS. MORRIS: The only thing that I'm
9 referring to is that the Lothrop House Condominium
10 Association maintains the common elements. So they
11 have -- the condominium association has a few
12 additional issues, such as the retaining walls, that
13 I personally do not have. My personal property.

14 MS. REID: Okay. But still it seems to
15 me that if you're representing the association, even
16 if it's just the common elements, that your concerns
17 can be addressed along with that -- combined with
18 that of the condominium association.

19 MS. MORRIS: Yes. I don't mean to make
20 two separate presentations.

21 MS. REID: Exactly. Okay, so you're
22 going to -- you're representing both just for the
23 record but basically your questions -- you want to
24 cross-examine?

25 MS. MORRIS: Yes.

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 MS. REID: And you're going to just ask
2 questions that are going to be blanket for both?

3 MS. MORRIS: Oh, yes.

4 MS. REID: Okay. All right. That's all
5 I needed to find out. And those concerns that are
6 peculiar or unique to that particular case that are
7 unusual and different from those that the type of
8 impact that this particular development would have on
9 the other surrounding people who live in the
10 community is what?

11 MS. MORRIS: Are particular --

12 MS. REID: Uh-huh.

13 MS. MORRIS: Yes, well, we are actually
14 abutting the subject property on three sides. The
15 property is irregular --- two garages are very
16 irregularly shaped in the back. And three sides --
17 in fact we share a party wall with a garage, so we
18 are more particularly affected than any others in the
19 neighborhood other than my neighbors at 1818 Vernon.
20 They are basically in the same situation -- a
21 similar situation.

22 MS. REID: I don't see her letter.

23 MS. PRUITT: Madam Chair, if you look at
24 Exhibit 37 and 38, those are the written requests for
25 party status from the Lothrop House and Ms. Morris

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 which outlines her concerns, and there's also a plat
2 attached.

3 MS. MORRIS: In other words, the rear and
4 side borders of the subject property do not abut any
5 public space. They abut private space. Part of it
6 is our private space, the Lothrop House, and myself,
7 and part of it is Hanna Associates' private space.

8 MS. REID: Okay. And basically you're
9 saying that the three parking spaces are in the rear
10 and that these spaces will be -- that your spaces
11 will be in the way of falling bricks and other debris
12 during construction?

13 MS. MORRIS: Yes. But also the concrete
14 area surrounding the parking spaces are Lothrop House
15 private property. So we're abutting this
16 construction, so we're more particularly affected
17 than somebody three houses away. Plus we're more
18 affected because this building would go up right in
19 front of our windows and block out our light. So
20 compared to somebody across the street or down the
21 street, we're more directly affected.

22 MS. REID: Okay. Is there any opposition
23 to this particular application for party status from
24 Ms. Morris?

25 MS. MORRIS: And in fact our building is

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 in the picture there.

2 MS. REID: What number?

3 MS. MORRIS: Our building is right in the
4 center.

5 MS. REID: Okay. All right, then, Ms.
6 Morris, the Board members have no objection to
7 granting you party status.

8 MS. PRUITT: I mean, could you take a
9 vote so I can record, please? Can I get a motion,
10 please, to accept party status for Ms. Morris and
11 Lothrop House?

12 MS. REID: If you feel it's necessary.

13 MR. PARSONS: So moved.

14 MS. PRUITT: Thank you, Mr. Parsons.

15 MS. RENSCHAW: Second.

16 MS. REID: All in favor?

17 THE MEMBERS: Aye.

18 MS. REID: Opposed? Aye. Opposed?

19 (No response.)

20 MS. PRUITT: Staff will record the vote
21 as five to zero to grant party status to Lothrop
22 House and Mrs. Morris, who will be representing both.

23 MS. REID: Okay.

24 MS. RENSCHAW: Madam Chair, did you
25 oppose? Would it be four to one?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MS. REID: No, un-un.

2 MS. RENSHAW: Sorry.

3 MS. REID: No, I have no objection.

4 MS. RENSHAW: Sorry.

5 MS. PRUITT: I believe we also have
6 another request for party status from Mr. -- from
7 Hanna Associates, correct?

8 MR. HANNA: That's correct.

9 MS. REID: Okay, uh-huh.

10 MR. HANNA: We are opposing on three
11 grounds. Basically this property used one time to be
12 part of --

13 MS. REID: We need your name, sir, and
14 the address.

15 MR. HANNA: Sure. My name is Boushra
16 Hanna. I'm the president of Hanna Association and
17 the address of the property we own is 1818 Vernon
18 Street, which is the property directly behind --
19 looking at that picture, the one on the right hand
20 side that's directly behind the garages. And at one
21 time, I would like to make this statement, that Lot
22 812, which is the proposed lot for construction, used
23 to be part of Parcel Lot 24 and it was separated.

24 So the fact that this shape is unique, it
25 was created because of the separation between the two

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 lots -- or broken down between the two lots. And no
2 doubt that there is some other lots in that
3 neighborhood have those kind of unique shapes.

4 The fact that this lot is not effectively
5 used -- because it's currently in use. It is being
6 used as garages, so nothing to prevent -- there's no
7 hardship in here on using this space. They are
8 useful garages and they can be basically cleaned as
9 they are and continue to be used as garages.

10 We're going to be directly affected
11 because it's going to be blocking light and air and
12 view of approximately about 35 windows and is going
13 to cause great hardship in our property. And we're
14 glad -- the one -- may I approach?

15 MS. REID: I did see it. Your concerns
16 are approximately the same as Ms. Morris in regard to
17 the light and air, the deprivation of light and air,
18 if in fact the application is approved?

19 MR. HANNA: That's correct.

20 MS. REID: Because your letter is --
21 basically the wording is the same.

22 MR. HANNA: And view.

23 MS. REID: Yes. And view.

24 MR. HANNA: And view.

25 MS. REID: Okay. Well, Board members,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 the same basic issues. Are you going to make a
2 motion?

3 MS. PRUITT: Excuse me, Madam Chair, just
4 to note for procedural, this filing is late so you
5 would have to waive filing for the written notice.

6 MR. SOCKWELL: How much late?

7 MS. PRUITT: It came in on the 14th.

8 MS. HICKS: The proponent, Mr. Hardy,
9 objects if it's proper at this point because of
10 untimely filing of the request for party status of
11 Mr. Hanna and Hanna Associates.

12 MS. REID: Just one second, please.

13 MR. SOCKWELL: Madam Chair?

14 MS. REID: Uh-huh.

15 MR. SOCKWELL: Because the Board
16 routinely will waive rules under certain
17 circumstances to allow late filings and for the fact
18 that the person requesting party status is
19 particularly affected by the proposed development, I
20 would request that we waive the rules and allow the
21 filing to be accepted.

22 MS. RENSHAW: Second.

23 MS. REID: All in favor?

24 THE MEMBERS: Aye.

25 MS. REID: Opposed?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 (No response.)

2 MS. PRUITT: Staff would record the vote
3 as five to zero to, one, waive the fee and grant
4 party status to Hanna Associates, motion made by Mr.
5 Sockwell and seconded by Ms. Renshaw. Madam Chair,
6 that concludes staff's preliminary issues on this
7 particular case.

8 MS. REID: Okay. All right, now, thank
9 you very much. You can have your seats, take your
10 seats back. Those are the only requests for party
11 status, correct?

12 MS. PRUITT: Right.

13 MS. REID: Right. So now we will proceed
14 with the case.

15 MS. MORRIS: Do we use our seats --

16 MS. REID: No, have a seat back there and
17 then when it's the proper time, then you'll be called
18 up.

19 MS. MORRIS: Do we fill out --

20 MS. REID: You do fill out witness cards
21 and they should be given to the recorder. Okay.

22 MS. HICKS: My name is Gladys Hicks. I'm
23 a zoning consultant with Gladys Hicks and Associates,
24 which is located at 7710 Merrick Lane in Landover,
25 Maryland. Zip code is 20785.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 I'm appearing on behalf of Mr. Martin E.
2 Hardy, the owner of the subject property, which is
3 located at 1821 and 1823 Florida Avenue NW. The lots
4 are 808 and 812 and they're located in Square 2556.

5 The property consists of a one-story
6 existing dilapidated garage which covers more than 60
7 percent of the lot and has no rear yard. It is
8 bounded on side lot -- it goes from side lot line to
9 side lot line, face on some walls, and it also has
10 party walls on some of the sides. It's a small and
11 irregular 1,045 square feet lot. Subject property is
12 located in the DCOD/R-5-B residential zone.

13 Residential uses which are permitted as a
14 matter of right are single family dwellings, two-unit
15 flats and apartment houses. The type of construction
16 which is proposed is a two-unit flat. The maximum
17 height allowed is 50 feet and there's no limit on the
18 number of stories. There is no side yard setback
19 requirement if the proposed construction is designed
20 to go face on-line or is constructed in a party wall
21 fashion.

22 One off-street parking space is required
23 for each two units. The maximum allowed FAR is 1.8.

24 The maximum allowed lot occupancy is 60 percent and
25 the rear yard setback required is 15 feet minimum.

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. Hardy is requesting four areas of
2 relief. He is proposing to also construct an
3 addition to an existing facility and is seeking
4 relief through area variances. The legal test for an
5 area variance requires a showing of unique condition
6 inherent in the property or other exceptional
7 condition related to the property that will cause
8 exceptional difficulties or unique hardship on the
9 property owner if the zoning regulations are strictly
10 applied.

11 In addition, a showing of no public harm
12 is required. Through testimony to be presented by
13 the property owner, Mr. Hardy, Mr. Vallen, an
14 architectural designer, and Mr. Jim Smith, who runs a
15 permit and development company in the District of
16 Columbia, we will demonstrate that the subject
17 application fully meets the requirements of this
18 legal test.

19 In addition, an alternative floor plan
20 has been prepared showing what the consequences would
21 be on a structure if it's set back any from the rear
22 lot line. And this will be presented and shown
23 through models and also exhibits. Also, we have
24 exhibits showing the existing conditions.

25 We hope with our models and exhibits and

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 words that we will present to you and clearly
2 demonstrate that no public harm will result in the
3 area variances that we are seeking to grant.

4 In closing, one off-street parking space
5 is provided for the two-unit flat using an existing
6 curb cut. There is another wide curb cut which will
7 be closed and which will allow the addition of two
8 on-street parking spaces.

9 The exceptional condition related to the
10 small and irregular lot size and the existing
11 structure and the present practical difficulties and
12 hardship are inherent with the property and are those
13 which Mr. Hardy is trying to overcome with this
14 proposed project.

15 The proposed two-unit flat will improve
16 the last eyesore left in the 1800 block of Florida
17 Avenue. No public harm will result in the area
18 variances granted and there will be no adverse impact
19 on the neighborhood. I might add also in conclusion
20 that the ANC supports the application.

21 I would like to question Mr. Hardy.

22 MS. HICKS: Mr. Hardy, would you please
23 state your name, home address and occupation?

24 MR. HARDY: My name is Martin Hardy. My
25 address is 871 Dolley Madison Boulevard, McLean,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Virginia. And my occupation is retired. Until last
2 October I was a staff member of the International
3 Monetary Fund and a bureaucrat by day and a hobbyist
4 by night, working on properties. Now, I guess this
5 is more of a full time occupation but I wouldn't call
6 myself a developer by any means.

7 MS. HICKS: Mr. Hardy, can you describe
8 how you came to purchase the properties located at
9 1821 and 1823 Florida Avenue Northwest?

10 MR. HARDY: Well, as I say, while I was
11 working at the IMF, I was doing some real estate work
12 on the side. And I became aware of a property right
13 opposite those garages, which was 1812 Florida
14 Avenue, which was a group of three dilapidated houses
15 that were for sale and it was an estate sale. And I
16 bought 1812 and I remodeled that during my so-called
17 spare time during 1997 to 1999.

18 Working on 1812, which is exactly
19 opposite those garages, it was obvious to me looking
20 -- all I could see was these broken down garages and
21 it seemed to be a situation that was crying out to be
22 fixed.

23 So I learned from the person who sold me
24 1812 that these were also part of the same estate,
25 and I bought the garages from the estate of Bernard

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 Myzell (phonetic).

2 MS. HICKS: Mr. Hardy, can you describe
3 the existing condition of the site and existing
4 structures?

5 MR. HARDY: Well, I think if you look at
6 the first picture, it speaks for itself. These
7 garages have been separated from the properties
8 behind for more than 70 or 80 years, if I'm not
9 mistaken. They're extremely rundown and dilapidated.
10 They are the last real eyesore on that 1800 block of
11 Florida Avenue.

12 They are the rear back yard of properties
13 that abut on Vernon Street. And it seemed to me that
14 Florida Avenue really needs something different than
15 this. And it seemed such an obvious need to make
16 something that faces onto Florida Avenue to improve
17 the entire block of Florida Avenue. So I just
18 thought that the obvious thing to do with these
19 garages would be to build a townhouse facing on
20 Florida Avenue.

21 MS. HICKS: Mr. Hardy, did you ever have
22 second thoughts last year about the project after you
23 signed a contract to purchase and why?

24 MR. HARDY: Well, as I say, it seemed to
25 me something that would be very obvious and I really

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 didn't anticipate any opposition to my project. I
2 was quite surprised after I had signed the contract
3 to purchase the garages, when I walked to look at the
4 garages and I walked up behind where that white truck
5 is parked, that a gentleman came out, who I later
6 learned to be Mr. Morris who's the owner of the 1822
7 condominium and the husband of Elaine Morris, came
8 out and asked me what I was doing on his property.

9 I said I was looking at the garages. He
10 said, "Are you a professional developer?" I said,
11 "No, I'm not." He said, "Well, I'm warning you I'm
12 going to block this and make your life whatever."
13 I'm not quite sure what he said. But it kind of gave
14 me very much second thoughts and I actually went back
15 to the lawyer who was handling the Myzell (phonetic)
16 estate and asked to drop out of the contract because
17 I didn't anticipate really having a lot of problems.

18 And she said, "No, I would lose my deposit on that
19 if I did that." So I did have second thoughts
20 because I didn't really anticipate an opposition like
21 this.

22 MS. HICKS: Mr. Hardy, what will be the
23 consequences if the requested area variances are not
24 granted for the proposed construction?

25 MR. HARDY: Well, I think if the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 variances are not granted these properties are
2 condemned to remain as garages and will continue to
3 be an eyesore and wrecking the entire block.

4 MS. HICKS: Mr. Hardy, why are you
5 proposing to convert the garages into a two-unit
6 flat?

7 MR. HARDY: Well, I considered what could
8 be done reasonably with that property from the point
9 of view of the economics as well as the aesthetics
10 and the impact on the neighbors.

11 Of course, under the zoning, a 50-foot
12 apartment building could be constructed. There are
13 other considerations which need to be remembered.
14 There are party walls. The property behind, in 1818
15 and 1822 Vernon Street, is at least ten feet higher
16 than the garages. And therefore, all of the walls on
17 the east and north sides of the garages are retaining
18 walls. So that they will need restructuring and
19 buttressing, which adds a lot of cost to the project.

20 Also, the garages don't have any
21 utilities, so we'll have to bring all new utilities
22 to it, which adds to the cost. So there's a very
23 heavy fixed cost involved in the project. So as a
24 kind of -- as a best compromise between impinging on
25 the height and finding an economic solution, I

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 thought that a two-family flat was the most economic
2 and most rational solution.

3 MS. HICKS: Mr. Hardy, on the model,
4 could you show the existing structure as it relates
5 to the height.

6 MR. VALLEN: This is the existing
7 building.

8 MS. HICKS: Okay, this is Mr. Vallen.

9 MR. VALLEN: Mr. Vallen, right.

10 MS. HICKS: He's the architectural
11 designer.

12 MR. VALLEN: This is the existing
13 building right there, the existing garage, taking up
14 this space.

15 MS. HICKS: Which is one store.

16 MR. VALLEN: And on the photograph here,
17 it's this. This is a side view looking east on
18 Florida, northeast. This is standing up in this area
19 here looking down over the rooftops, and then this is
20 looking at the side view of the garage from here, to
21 give you an idea of what it looks like in its current
22 condition.

23 MR. HARDY: I might also point out that
24 the land behind is ten foot higher than the garages
25 and these are all retaining walls on the far side of

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 this garage.

2 MR. VALLEN: Right.

3 MR. HARDY: And that same applies to the
4 Lothrop House on the other side. It's about ten feet
5 higher than the grade of the garages. So by building
6 up, at least one has to remember that one floor, at
7 least, is down below grade, as far as the buildings
8 behind are concerned.

9 MS. HICKS: On the model, could you
10 please show the proposed new construction?

11 MR. VALLEN: The new construction?

12 MS. HICKS: Well, you can show what it
13 would look like if we built up to a maximum 50 feet
14 in height, how it would obstruct light area and
15 ventilation.

16 MR. VALLEN: That's the maximum allowed.

17 MS. HICKS: That would be the maximum
18 allowed.

19 MR. HARDY: That would be a 50 foot
20 building.

21 MS. REID: That's a matter of right?

22 MR. VALLEN: That's a matter of right.

23 MS. HICKS: As a matter of right, yes.

24 MR. VALLEN: Okay.

25 MS. HICKS: And next, could you show what

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 has been proposed?

2 MR. HARDY: We proposed a building that's
3 31 feet high from the ground level on Florida Avenue.

4 MR. SOCKWELL: Would you place the two
5 envelopes side by side?

6 MR. VALLEN: Sure. The 50 foot?

7 MR. SOCKWELL: Yes.

8 MS. HICKS: To get a better idea as to
9 how it affects your lighting.

10 MR. SOCKWELL: Now, the reason I ask is
11 that the 50 foot is in fact not a matter of right in
12 terms of bulk, just a matter of right in terms of
13 height.

14 MS. HICKS: It's height, yes.

15 MR. SOCKWELL: It would still require
16 variances in order to achieve --

17 MS. HICKS That's right.

18 MR. SOCKWELL: -- the construction volume
19 that you've shown there. So when you say matter of
20 right, it's relative to only one aspect of the
21 project.

22 MS. HICKS: That's right.

23 MR. SOCKWELL: So it's not matter of
24 right. Say, achieves the allowable height but not as
25 a matter of right.

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 MS. REID: So you're saying that that's a
2 possibility given getting the correct variances.

3 MS. HICKS: Right, which would be a
4 density of FAR variance and other variances that
5 would be required.

6 MS. REID: Okay, now, move that one.

7 MS. HICKS: My question --

8 MS. REID: Okay, I'll wait. I'll let you
9 just get down with that part and then I'll ask my
10 questions that pertain specifically to that. Okay,
11 all right.

12 MS. HICKS: Okay, Mr. Hardy, have you
13 noticed a vector control problem on your property and
14 adjoining properties?

15 MR. HARDY: Yes. In fact, I think if
16 you've read -- members of the Board, if you've read
17 many of the letters that are being written that are
18 in support of my proposal, the neighbors complain
19 that the garages -- people urinate on the garages,
20 that undesirables tend to congregate around it.

21 There are rats -- certainly there are
22 rats in the back. And that's an area which
23 unfortunately cannot be accessed because the
24 neighbor, Mr. Morris, has constructed a chain link
25 fence and locked off access from the alleyway to get

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 onto the rear yard of Mr. Hanna's property, 1818. So
2 I'm afraid those rats are living in a good deal of
3 comfort up on the top of that ten foot retaining
4 wall.

5 MR. VALLEN: So the wall, this chain link
6 fence goes around the back, up the side and out and
7 then actually cantilevers out over this other
8 retaining wall out here. So the entire back of this
9 has a seven-foot high chain link fence right on the
10 property line.

11 MS. HICKS: Mr. Hardy, is there any other
12 pertinent information that you wish the Board of
13 Zoning Adjustment to know about the proposed project?

14 MR. HARDY: Well, I'd point out that I
15 have tried to contact the neighbors within a 200-foot
16 radius and I have had very strong support, with the
17 two exceptions who are here today. But almost all of
18 the neighbors have signed a petition and many have
19 written letters in support of my proposal.

20 The other point I'd like to mention is
21 what we just mentioned, which is that there is a
22 problem of access from the back of those buildings
23 because of the fact that the Lothrop House, the
24 Morris property, has closed the alley and made --
25 there's no public alley and they consider it to be a

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 private alley with no public access. And to the
2 point that they have constructed a chin link fence to
3 prevent access to the garages from that side, and the
4 fence is on my property in certain parts.

5 There is also a problem of drainage from
6 the parking area of the Lothrop House. It is
7 constructed in such a way that the water is being
8 channeled into the backs of the garages which is
9 causing structural damage and that is something I
10 wanted to mention.

11 MS. HICKS: Thank you. Thank you, Mr.
12 Hardy. Does the Board have any questions of Mr.
13 Hardy?

14 MS. RENSHAW: Madam Chair, if I may?

15 MS. REID: Sure.

16 MS. RENSHAW: Mr. Hardy, you acquired
17 these properties last year?

18 MR. HARDY: Yes. I settled in 1999. I
19 think it was September 1999.

20 MS. RENSHAW: September of 1999. And
21 were the properties rented at that point? In other
22 words, do you have tenants for those garages?

23 MR. HARDY: They used to be rented and
24 I've continued to rent them to waiters who work at
25 the Hilton Hotel and they use the garages for their

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 cars.

2 MS. RENSHAW: All right. But you have
3 not sought to improve those garages at all?

4 MR. HARDY: No, not really.

5 MS. RENSHAW: You have not put anything
6 into --

7 MR. HARDY: No. I was hoping to have a
8 clear way to go before I get involved in doing it.

9 MS. RENSHAW: All right. Thank you.

10 MS. REID: Let's see. I have -- did you
11 wish to -- in regard to the issues that have been
12 raised that you've heard from those who requested
13 party status, and seeing the concern was primarily in
14 regard to light and air, circulation, I did not hear
15 in your presentation or from Ms. Hicks, what was your
16 response to that, to those raising those issues?

17 MS. HICKS: Those issues will be taken
18 care of by Mr. Vallen --

19 MS. REID: Okay.

20 MS. HICKS: -- the architectural designer
21 if we may continue.

22 MS. REID: Very well.

23 MS. HICKS: Okay. Mr. Vallen, for the
24 record, would you please state your name, home
25 address and occupation?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MR. VALLEN: My name is Michael Vallen.
2 I live at 1305 -- occupation, architectural designer.
3 I live at 1305 Fairmont Street, Columbia Heights.

4 MS. HICKS: Mr. Vallen, would you explain
5 the design concept from the exhibits for the proposed
6 two-unit flat.

7 MR. VALLEN: The proposed flat is
8 basically configured so that it uses the entire --
9 almost the entire space available on the current lot.
10 And it actually would be built on top of these
11 walls with a new wall being built across along the
12 lot line in the front on Florida Avenue, along here.
13 There's no impinging on public space in this
14 particular proposal. This existing retaining wall
15 has been there for as long -- probably as long as the
16 garages.

17 The way the project works is that there's
18 a flat at the ground level, which is raised up about
19 two foot six inches off the street or off the
20 sidewalk level. And there's a garage, single car,
21 for the unit above.

22 Both units are entered in recessed doors
23 off the sidewalk and outside public space, one going
24 -- one entrance going in towards a staircase in the
25 back to take you up and the other going in to take

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 you into the ground unit.

2 This use of the light well, or the well
3 or court as it's called, is for several reasons. (A)
4 to get light and air into a bedroom and also as a
5 means of egress in case of an emergency as required
6 by building codes. So that's what this niche is for.

7 The next move up to the second floor,
8 it's a basic configuration of a townhouse with
9 kitchen, dining, two bedrooms. Staircase takes you
10 back up to the third level which has two bedrooms,
11 utilities and such. The light court continues all
12 the way up. And then finally up on the roof, you end
13 in a roof deck.

14 And the thing to understand is that the
15 design is shifted. The floors don't align between
16 this area and this area. And that's why the
17 staircase is placed in the way that it is and you
18 actually pass through the staircase to get over to
19 the other side of the building.

20 So that this is lower -- the floors are
21 lower by two foot six inches on this side, which then
22 allows you when you're on the roof to have a lowered
23 roof deck, which kind of shows in this model. So the
24 roof deck isn't at the highest point it could be.
25 It's about two foot six inches lower and then would

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 have the required three foot six inch -- four feet,
2 excuse me, by the time everything is done.

3 MS. REID: I'm not sure, Mr. -- is it
4 Vallen or Vallens?

5 MR. VALLEN: Vallen.

6 MS. REID: Mr. Vallen, that you answered
7 my question sufficiently.

8 MR. VALLEN: Okay, well --

9 MS. REID: The question pertains
10 specifically to addressing the concerns of the
11 persons who have raised the issue regarding adverse
12 impact as to light and air. Now, I can understand
13 that --

14 MR. VALLEN: I'll talk to -- I can talk
15 to that.

16 MS. HICKS: Well, we have exhibits.

17 MR. VALLEN: Yeah.

18 MS. HICKS: The exhibit at the end --

19 MS. REID: Okay, so in other words --

20 MS. HICKS: -- which we're on our way to
21 it. That's part of his testimony, yes.

22 MS. REID: You're not done with the --

23 MS. HICKS: No, not yet.

24 MR. VALLEN: No, not at all.

25 MS. REID: Okay, fine. Fine, I'll wait.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MS. HICKS: We're not through with the
2 testimony yet.

3 MS. REID: I'll wait, thank you.

4 MS. HICKS: Okay, Mr. Vallen, would you
5 please explain the exhibit pertaining to sunlight?

6 MR. VALLEN: Yeah. What I did is I use
7 pretty sophisticated computer modeling programs and
8 rendering packages, and I do this all the time
9 studying light. You don't really study air, per se,
10 but you study light and light patterns with this
11 software. And the software, just for the record, is
12 AutoCAD made by AutoDesk, release 14. And the
13 software that allows me to do the light studies is
14 called AccuRender, version 3.

15 So what I did is I built models of the
16 Morris house, the Lothrop house -- excuse me.

17 UNIDENTIFIED SPEAKER: The Hanna House.

18 MR. VALLEN: Hanna House, pardon me. The
19 building immediately next door, and then our
20 proposal. And what I wanted to show was what effect
21 this proposal has on all of these structures at six
22 different times during the year.

23 So I picked the winter solstice and the
24 summer solstice, or the longest and the shortest days
25 of the year to demonstrate what would happen as the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 sun tracks across the sky during the day.

2 Now, the software uses real world
3 coordinates to establish where your model is in real
4 world space, which means that where I've drawn this
5 building and told it it is, it actually is in the
6 computer's eye in that place. I've told it the city,
7 I've told it the day, the date, the time of day, et
8 cetera, and then the computer simulates sunlight.
9 It's not an exact representation but it's a
10 simulation of sunlight.

11 So I picked -- at the beginning here is
12 December the 20th at 9:00 a.m., and what this is --
13 and I can bring this closer if you need to be able to
14 see it. At 9:00 a.m., the sun is at about a five
15 degree --

16 MS. REID: Excuse me, Mr. Vallen. The
17 Board members would like for you to bring it closer.

18 MR. VALLEN: Sure.

19 MS. REID: And also can you all see that
20 well? Okay, bring it closer.

21 MR. VALLEN: It's worth coming to -- can
22 you get that, thank you. What's the best place to
23 put -- where's the best place to put this so --

24 MS. REID: That's good, and if you don't
25 mind coming around, and then you can kind of get an

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 idea as he's explaining it.

2 MR. VALLEN: Is that good?

3 MS. REID: Yes, that's fine.

4 MR. VALLEN: Okay. So on December 20th
5 at 9:00 a.m., the sun is about five degrees above the
6 horizon, okay? And it's tracking to the south --
7 coming up from the southeast. So it's rising up and
8 really it's hitting the face of these buildings, the
9 sides of these buildings almost dead on.

10 And as you can see, all shadows are being
11 cast well actually towards the northwest in this
12 direction. So there's really no incursion on any of
13 the Hanna building at 9:00 o'clock in the morning on
14 December the 20th. There is some at the bottom two
15 units, this window and this window of the Morris.
16 Excuse me, there's one below that you can can't see.
17 It's this window and this window.

18 If we move to December the 20th at 12:00
19 p.m. so at the highest point -- close to the highest
20 point of light in the daytime, this is the point
21 where you start to see some shadow being cast on the
22 lower unit, this unit right here, of the Hanna
23 building. And some shadowing on the bottom of this
24 window.

25 And then finally December 20th at 4:00

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 p.m., when the sun's at about 15 degrees but swung
2 over in the other side of the sky and it's very late
3 in the day, it's almost dark, you're starting to get
4 shadows across the bottom, these two windows and
5 portions of these two windows.

6 MR. HARDY: But those come from the other
7 building.

8 MR. VALLEN: And you're getting a
9 significant amount of shadow anyways from this
10 building. So as the sun is over here, it's actually
11 -- if this building isn't here, this window has its
12 sunlight blocked December 20th at 4:00 p.m. anyways.

13 Any questions about the wintertime?

14 MR. HARDY: In summary, in wintertime
15 even the lowest window receives some --

16 MR. VALLEN: Yeah, there is some impact
17 but it's not a complete blocking of all light at all
18 times. It's a blocking of light in the middle of the
19 day and the later part of the day and that's in
20 December at the point when the sun is lowest in the
21 sky.

22 So you have to remember that as the dates
23 change, the sun is rising higher each day, and so
24 slowly you get more and more light.

25 MS. REID: Well, what I'm trying to --

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MR. VALLEN: Okay.

2 MS. REID: What I'm trying to figure out,
3 Mr. Vallen, was looking at your presentation with the
4 shadowing simulation, is that -- is this building
5 right here appears to be --

6 MR. VALLEN: This one.

7 MS. REID: This large building.

8 MR. VALLEN: Yes.

9 MS. REID: I don't know what that
10 building is.

11 MR. VALLEN: Okay.

12 MS. REID: That building --

13 MR. HARDY: It's 1825 Florida.

14 MS. REID: Uh-huh.

15 MR. VALLEN: This right here.

16 MS. REID: Yeah, that building appears to
17 already have, you know, quite an impact as far as the
18 shadowing is concerned in and of itself.

19 MR. VALLEN: Right.

20 MS. REID: But the addition of this
21 building -- and maybe Mr. Sockwell can help me with
22 this. I'm trying to figure out with adding that
23 building further exacerbate that shadowing of that
24 large building, because you have the shadowing
25 already there and we don't have -- we don't have a

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 simulation of its existing effect right now.

2 MR. VALLEN: No, we don't.

3 MS. REID: And then to compare that to
4 putting that building, the new building, right there
5 in the midst of those three tall buildings like that,
6 how much -- you know, the differential, I guess.

7 MR. VALLEN: Yeah, yeah.

8 MS. REID: Impact, uh-huh.

9 MR. VALLEN: I understand what you're
10 saying and it's easy for me to say what I --

11 MS. REID: Okay.

12 MR. VALLEN: -- what I can about it, but
13 the proof is really in the pudding, I guess, and the
14 images, so it's hard for me to actually be completely
15 accurate. But I believe that late in the day at the
16 lowest point, when the sun is at its lowest point in
17 the sky, this building would be casting -- you can
18 see the line here. Casting some shadow. It would go
19 over the garage and come probably covering this
20 window here and a portion of this window here.

21 I doubt, because of this angle, as you
22 can see how it goes, that it's really going to get
23 over to these two. So this is adding some shadowing,
24 but it's very late in the day and it's --

25 MS. REID: It's negligible.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MR. VALLEN: And I think what you see is
2 that if we look at the summer, in the summertime
3 right about this time of year, there's virtually no
4 time when this building will cast a shadow on anyone.

5 MS. REID: What's this supposed to be
6 here?

7 MR. VALLEN: So I'll take -- let me walk
8 you through this bottom part, just like I did the
9 top. So if we start June 20th, the summer solstice,
10 9:00 a.m., the sun's -- at 9:00 a.m., the sun is
11 already 35 degrees in the sky, so it's almost like
12 this.

13 MS. REID: Uh-huh, okay.

14 MR. VALLEN: And as it's coming up from
15 the east, it's casting a shadow on this building.
16 It's going to cast a shadow over in this area.

17 MS. REID: Uh-huh.

18 MR. VALLEN: And then as it tracks
19 around, the sun is so steep by noon, it's 68 degrees
20 up in the sky, there's almost no shadows being cast
21 at all. In fact, this shows that there's virtually
22 none. There are some. I mean, obviously there has
23 to be. It shows the sun's not straight overhead.

24 And then by 4:00 in the afternoon, at the
25 same time as the wintertime, the sun is way back

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 behind the buildings coming down across and it's
2 starting to cast shadows out on the street but it's
3 not casting shadows or blocking light from any of
4 these buildings.

5 MS. REID: Okay.

6 MR. VALLEN: Any questions?

7 MS. RENSHAW: Just a question on your
8 roof deck. On your model, the roof is open. Is it a
9 sunken deck down in there?

10 MR. VALLEN: Yeah, it's slightly
11 depressed.

12 MS. RENSHAW: Slightly depressed.

13 MR. VALLEN: That's why this floor line -
14 - it kind of shows in this. The level of the windows
15 are shifted. This side of the building is lower.
16 The floor lines are lower than this side of the
17 building, to allow the roof deck a little bit of --
18 to be lowered a little bit down into the roof.

19 MS. RENSHAW: But you built up the side
20 so that it gives privacy?

21 MR. VALLEN: Well, yeah, but this
22 wouldn't be solid. The model is just a
23 representation of massing, really. All of this is
24 just a representation of massing and not
25 architectural design at this point. And it's really

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 going to be some sort of a screen element. What
2 exactly it is, it could be glass, it could be
3 pickets, anything really at this point.

4 MS. RENSHAW: Is the roof to be used by
5 both flats or just one?

6 MR. VALLEN: No, only one.

7 MS. RENSHAW: The top flat?

8 MR. VALLEN: Only the top flat has access
9 to the roof.

10 MS. REID: I was just trying to
11 ascertain, and this is rather difficult, I guess, to
12 determine -- when you speak of the air circulation
13 and deprivation of air, we're looking at it and, you
14 know, there is space between that -- between the two
15 buildings and I guess when the witnesses have a
16 chance to come up here, then we can have a further
17 discussion about that so that they could further
18 clarify for us the concern about the air.

19 MR. VALLEN: I don't think -- we're not
20 touching any other building.

21 MS. REID: Uh-huh.

22 MR. VALLEN: The only thing we're
23 touching are our retaining walls are touching parking
24 areas.

25 MS. REID: What's the square -- what's

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 the linear footage between --

2 MS. HICKS: We have a site plan which
3 will shows the distance, which is over to the lower -
4 -

5 MR. VALLEN: Yeah.

6 MS. HICKS: -- lower right.

7 MR. VALLEN: Let me grab that real quick.

8 MS. HICKS: There are measured distances.

9 MR. VALLEN: Yeah, I'll go -- this shows
10 you right here.

11 MS. REID: Yeah. Yeah, you do. When
12 they get done. When they get done.

13 MR. SOCKWELL: When we're finished.

14 MS. REID: When the Board members are
15 finished questioning, then it's your opportunity to
16 question.

17 MR. VALLEN: May I?

18 MS. REID: Sure.

19 MR. VALLEN: Okay. What these diagrams
20 show, again, is massing only and relationships of
21 heights. We're looking at this in perspective, so
22 perspective foreshortens things. The things in the
23 distance appear shorter than they really are. So to
24 augment that, I put the actual -- or we didn't go out
25 and actually measure. We counted bricks. But fairly

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 close approximations of the heights of the two
2 buildings in question and then our proposal and of
3 the retaining wall down here.

4 So you get a 54 foot high building that's
5 ten feet off of the curb line of Florida Avenue. Our
6 building's 31 foot three inches. The Lothrop House
7 is 51 feet high but it's ten feet up.

8 As far as the question you asked, is
9 distances. From this point of the rear wall, our
10 property, to this point -- so from the rear of this
11 piece here to the corner of this building here is 31
12 feet three inches.

13 From that same rear wall of this part of
14 the garage to the face of this chimney stack is 25
15 feet. Excuse me, not the chimney stack. To this
16 structure here, the small one-story windowless
17 structure here is 25 feet. The area where we're
18 asking for the greatest variance obviously is behind
19 our proposal in relationship to this building here.
20 And currently if we build directly on top on the
21 outside face of our property or on the line of our
22 property, we're ten foot seven inches away from this
23 building. Does that answer all the questions about
24 distances? Is it clear?

25 MR. SOCKWELL: Are you aware of the fact

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 that you are looking at a zero fire separation
2 distance for building code purposes?

3 MR. VALLEN: No.

4 MR. SOCKWELL: Okay. That will affect
5 the viability of any fenestration that you put on the
6 rear.

7 MR. VALLEN: There is none right now.

8 MR. SOCKWELL: Okay, there is none.

9 MR. VALLEN: No. I was aware, I just --
10 the question caught me -- no, there's no rear
11 fenestration at all. Currently the proposal is a
12 solid wall going up the two floors above the
13 retaining wall.

14 MS. REID: Ten feet -- you said ten feet
15 seven inches?

16 MR. VALLEN: Uh-huh.

17 MS. REID: At its most narrow point --

18 MR. VALLEN: Yes.

19 MS. REID: -- basically. And so there is
20 no -- there's no alleyway back there or anything?

21 MR. VALLEN: No, this is the raised --
22 let's see where it's best. If I can just take this
23 down so you can see for a second.

24 MS. REID: So no cars have to enter back
25 there to park?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MR. VALLEN: It's this area here, which
2 is approximately ten feet high. Okay, so that's the
3 area. It's an inaccessible area completely, unless
4 you scale this wall or climb over the fence.

5 MR. SOCKWELL: Or unless you're on the
6 property behind.

7 MR. VALLEN: Or if you come out their
8 back down and go down and --

9 MR. SOCKWELL: Exactly. So it's not
10 inaccessible. It's merely inaccessible from Florida
11 Avenue.

12 MR. VALLEN: Right. And just to
13 reiterate the condition that that's kept in, it's not
14 an occupied space. It's not a garden. It's not a
15 place where people put patio tables. It's basically
16 unused space at this point. From our observations.
17 I can't say what people do.

18 MS. REID: Okay, thank you very much.

19 MR. VALLEN: Did you have any other
20 questions about it?

21 MS. REID: Ms. Hickman?

22 MR. SOCKWELL: Hicks, Hicks, Hicks.

23 MS. REID: Ms. Hicks, excuse me. How
24 many more witnesses do you have?

25 MS. HICKS: Only Mr. Smith.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MS. REID: Okay.

2 MS. HICKS: He'll be brief.

3 MS. REID: Okay. Then did you want to
4 ask Mr. Vallen now?

5 MS. HICKS: I'll just have a few more
6 questions of Mr. Vallen.

7 MR. SOCKWELL: I might as well ask him.

8 MS. REID: Okay. Yeah, okay.

9 MR. SOCKWELL: Mr. Vallen, what was the
10 specific purpose for showing the 50 foot non-matter
11 of right massing? Because the taller that you make
12 the building, the less economical the building
13 becomes because with this type of site and the
14 circulation issues, vertical circulation for fire
15 egress and things like that, your core factor goes up
16 exponentially and the building would not have been
17 viable in the shape that you showed. So I just want
18 to know why it was shown?

19 MR. VALLEN: If it were possible to do --

20 MR. SOCKWELL: But it isn't.

21 MR. VALLEN: But that's the reason why it
22 was shown.

23 MS. REID: Well, just as a purpose of
24 illustration?

25 MR. VALLEN: It was --

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MS. HICKS: It was the purpose -- the
2 purpose was illustration to show theoretically and
3 under the current zoning regulations what the maximum
4 is allowed.

5 MR. SOCKWELL: Yeah, well you showed it
6 as a maximum height but you showed it as a bulk that
7 was not matter of right, and the two actually didn't
8 make a good example at all.

9 MS. HICKS: Well, it did illustrate
10 height and that's what we were mainly going for, to
11 demonstrate height.

12 MS. REID: Okay. Well, we've already
13 scaled that hurdle.

14 MS. HICKS: More so than bulk.

15 MS. REID: Any other questions?

16 MS. HICKS: Mr. Vallens --

17 MS. REID: If you could choose, unless
18 you had the architect who's right here and answering
19 questions.

20 UNIDENTIFIED SPEAKER: Okay, we can wait.

21 MS. REID: Okay, he'll wait. All right,
22 the witness is --

23 MS. HICKS: Okay, Mr. Vallen, will you go
24 over the alternative exhibit?

25 MR. VALLEN: Yes.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MS. HICKS: Showing at least how the
2 building would look if -- and an attempt to provide
3 at least a minimum rear yard setback from the
4 retaining wall.

5 MR. VALLEN: What we did is we put
6 together an alternative plan and massing for a
7 building that is shorter by two feet and for a
8 building that does not go to the full extent of the
9 lot in the rear at the point of greatest concern. So
10 I'll explain it. First of all, the plan -- because I
11 think that's important to understand, at least, how
12 the building works.

13 It's similar in concept in the sense that
14 there's a garage -- can you see? Is this okay?
15 There's a garage, however there's provisions for
16 utilities within this garage to service both
17 properties which allows us to capture a little more
18 space on the inside.

19 The units are -- we're using some of the
20 public space for projections, and using those
21 projections to have bay and entrances into the
22 property. So that allows us to move everything
23 forward by a few feet. Our units still go up to a
24 second level unit, and the first floor unit is at the
25 base.

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 By making it more of a studio-type
2 arrangement rather than a one-bedroom unit, it allows
3 us to eliminate the court so that sleeping would
4 occur in the front, you have your second way out, and
5 you also have your front door, and you have air and
6 light going into a sleeping area, and then put the
7 utilities in the back.

8 The upper unit is fairly similar to the
9 other, except that we're able to take advantage of
10 some of these projections to capture some space. But
11 what we do here is that we step the building back at
12 the second level three feet away from the property
13 line, so that that rear back area increases from ten
14 foot seven to thirteen foot seven. So we're trying
15 to give back a little bit more light, air, et cetera.

16 And then finally up at the top is
17 bedrooms and then a small staircase up to a roof
18 deck, which isn't quite as recessed as the other but
19 similar in configuration to the other building. And
20 then this just shows the amount of projection
21 approximately. This might be slightly large and
22 there could be some refinements to this.

23 As far as what the massing appears like,
24 this model represents it relatively well with the
25 exception that these are set back, the entrances are

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 set back away from the sidewalk. You walk up a
2 couple of steps. There's more of a sense of entry
3 into the building. And this image here shows that
4 setback and underneath the projecting bays.

5 Other than -- really the effect on
6 shadowing is minimal although you get a little bit
7 less. When I did it, I didn't print all the tests.
8 But you get a little bit less at the worst times of
9 year because the building is set back slightly and
10 that's really -- that's probably all I need to say
11 about it at this point.

12 But we are -- what we wanted to show is
13 that there are attempts being made to try to mitigate
14 some of the concerns of the people that live around
15 this and to make it so that this is a little bit more
16 of a manageable and livable sort of a project.

17 MS. REID: Okay. Thank you, Mr. Vallen.

18 Mr. Hardy?

19 MR. HARDY: Just briefly, what we've done
20 in the second model is to move the second and third
21 floors forward by three feet from the back. And also
22 lowered the height of the building from 31 feet to
23 about 29.

24 MR. VALLEN: It's 29, yeah.

25 MR. HARDY: So this was in an effort to

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 address the concerns of the neighbors who will be
2 speaking today about projection in terms of height
3 and also how close we are to the - particularly to
4 the Hanna building.

5 MS. REID: So the -- what are you
6 proposing? The first model and in the alternative
7 the other? I'm not -- is that what you're doing, Ms.
8 Hicks?

9 MS. HICKS: Yes. The one plan, the first
10 plan that was submitted with the Board of Zoning
11 Adjustment application, had comments from the ANC
12 that if feasible we should try to at least mitigate
13 some of the concerns of the adjoining property owners
14 by at least trying to give a rear yard.

15 There's not much to be given on this
16 small lot, but we're at least trying to show that
17 there is some attempt through an alternative plan.
18 And we want to show also on a floor plan basis, and
19 also bulk basis, what the building would look like.

20 MS. REID: Understood. But my question
21 is what are we voting on? What are you presenting
22 for us to vote on ultimately? Or did you want us to
23 make that decision? I'm not clear.

24 MS. HICKS: Yes, whether you want the
25 first submitted plan or the alternative --

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MS. REID: Okay, all right.

2 MS. HICKS: -- that the ANC suggested
3 that we try to work out to mitigate the situation.

4 MS. REID: Okay, I understand.

5 MS. HICKS: So there is a little
6 flexibility here. Not much, but a little bit.

7 MS. REID: All right, go ahead.

8 MS. HICKS: Mr. Vallen, would you please
9 discuss any design challenges and obstacles related
10 to the project?

11 MR. VALLEN: The biggest challenge are
12 the condition of the walls. Because of the water
13 incursion over many, many years, they're weakened in
14 several areas. The rear wall of -- this wall here is
15 actually bowed rather significantly.

16 There's a significant amount of water
17 damage in this building here because of a pooling of
18 water at the upper level here. It's not graded
19 properly so it's not draining into the drain
20 provided. It's actually pooling and draining into
21 this building. It's pretty clear that that's where
22 the water is coming from.

23 And there's a similar condition in the
24 rear of this garage. So there's going to be a lot of
25 work just getting these walls up to an acceptable

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 level so that they can be built on. And this rear
2 one will almost definitely have to be shored with
3 steel beams to brace it back to here.

4 MR. SOCKWELL: Is that wall on your
5 property or --

6 MR. VALLEN: Yes.

7 MR. SOCKWELL: It's on your property.

8 MR. VALLEN: Yes, it's all on ours.
9 Other issues are obvious in the sense that there's
10 very little area for staging of construction. We
11 would have to have public space permission for
12 dumpsters. We will have great difficulties now that
13 the Morris folks have built the fence surrounding the
14 rear. We'll basically have to build from the inside
15 -- build our exterior wall from the inside of the
16 building up, and probably forcing us to use a type of
17 construction that will allow us to do that.

18 One of the issues that we have also
19 looked at was the parking. There's currently a curb
20 cut here and a curb cut here to go into this garage,
21 and we're only keeping this curb cut. We're
22 providing a space in the garage for the dwelling.
23 We're eliminating this curb cut which will give us
24 back approximately two spaces on the street, which
25 currently they don't have. So we're trying to

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 balance -- do a balancing act with the parking so
2 that there's no loss of parking. That's all.

3 MS. HICKS: Okay. Mr. Smith is next.
4 Thank you, Mr. Vallen. Mr. Smith, for the record,
5 would you please state your name, home address and
6 occupation?

7 MR. SMITH: Yes, Gladys. My name is
8 James F. Smith. I live at 6 Logan Circle NW, here in
9 the District, and I own and operate a company known
10 as Mr. Permit.

11 MS. HICKS: Okay. Mr. Smith, can you
12 explain the type of consulting you provide in the
13 District of Columbia?

14 MR. SMITH: Yes, we give code analysis
15 and some waiver analysis for building projects. We
16 look at zoning ramifications and we help facilitate
17 engineering and architecture through the District of
18 Columbia system.

19 MS. HICKS: Mr. Smith, can you briefly
20 tell us about your development experience in Adams
21 Morgan?

22 MR. SMITH: Yes, I'd be happy to. In
23 fact, the particular block of Florida Avenue that's
24 in question is the largest amount of activity that my
25 company has had.

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 This is Vernon Street out here and I have
2 done quite a bit of work. 1806 Vernon Street, which
3 is also 1807 Florida was a dilapidated office
4 building for a not-for-profit. And I worked with the
5 developer this last year to change it into a three-
6 story office building and a beauty shop that's been
7 very positive to the neighborhood.

8 I've also just represented Franklin's
9 Coffee House who just got a liquor license this last
10 Friday. I represented the Duplex Diner in its quest
11 for a sidewalk cafe next door to that. Next door to
12 that, I represented Sicado (phonetic), which just got
13 their piano bar liquor license.

14 And I was before this body in about 1995
15 or 1996 with Thomas Moore Jarue (phonetic) down here
16 at 19th and Florida Avenue to do a small inn that was
17 an eyesore rooming house. It's a very modern
18 building catty corner from the Hilton. You might --
19 you probably know it when you see it.

20 And we changed it into an inn, and the
21 impact has been so soft it's rented to Aeroflot
22 Airlines and they use it as a place where their
23 airline pilots and stewardesses stay when they have
24 to stay overnight from Reagan National. And then we
25 had this project.

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 It's not any surprise to me that most of
2 my projects have been coming from 19th Street and
3 Dupont Circle and because they're over at 18th
4 Street, there was never any activity in the center of
5 the block. And the reason why there wasn't any
6 activity in the center of the block, in my opinion,
7 is that we have these dilapidated garages that just
8 look awful.

9 In fact, if Mr. Hardy applied for a
10 building permit because it's a nonconforming use as a
11 principal use as a garage, and there's no certificate
12 of occupancy, we doubt that we could even do anything
13 substantial except painting the graffiti. And I
14 think that Mr. Hardy's notion when he bought them was
15 to do some kind of a development.

16 It also is my opinion that the design has
17 been substantially mitigated due to the hardship due
18 to the nature of the configuration of the lot by
19 pushing the envelope down as much as possible on
20 either proposal, by eliminating a lot of windows,
21 especially in the first alternative which would be a
22 brick wall. Because it's right on the property line,
23 we can't put windows in it. So that if they have a
24 sense that noise is coming from this unit, it won't
25 be because it's a sheer wall.

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 In the second proposal, there's a couple
2 of windows for kitchens and stuff like that but we
3 have the right to do that because we set it back
4 sufficiently for zoning to allow us to do that.

5 We also discuss having a roof deck that's
6 fairly far removed. The building is designed to be
7 outward toward Florida Avenue and in no way, except
8 for the fact that there's a wall here, interfere with
9 this problem.

10 The alternatives also are better for the
11 perception of safety. Should we push this
12 development down one floor, then there would only be
13 about a six foot or so high wall, because of the
14 height of 13 feet at this level going up, so that
15 someone could climb into the top and break into the
16 house, so that we tried to make it tall enough so
17 that it would deter anybody from breaking and
18 entering into the house, such as this -- even though
19 it's not accessible, this retaining wall here does
20 keep this building a little safer because people
21 can't break into it.

22 Now, if there's a fire, they're going to
23 have a hard time getting out of it, but currently
24 they can't break into it very easily except from that
25 viewpoint.

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 So I think that -- I think that there's
2 been a lot of pains taken in the whole concept. I've
3 been involved in the project since just before he
4 filed with your body. And we came up with
5 alternative designs and stuff like that because we
6 think that by designing a building that is
7 principally fronting on the outward place -- the
8 outward space, and by limiting its massing and by
9 pushing it down, that we've actually come up with a
10 project that causes very few impacts, if any, on the
11 surrounding neighborhood.

12 We also have retained three parking
13 spaces because we can give back two parking spaces by
14 curb cuts. And I don't know if you've ever gone to
15 eat over there. Fortunately I bicycle because I can
16 find a parking space. So it will help the
17 neighborhood by increasing the parking load by this
18 proposal as well and will eliminate an eyesore.

19 MS. HICKS: Mr. Smith, how will the
20 proposed development of a two-unit flat at the
21 premises benefit and improve the 1800 block?

22 MR. SMITH: Well, I think it's pretty
23 obvious. If you want to have this, then that's what
24 you have right now. And we need to figure out what
25 we can do with it that's constructive. I think that

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 there's a hole in the center from this building right
2 here -- there's only backs of buildings until you get
3 practically to Vernon Street, and it's a very ugly
4 urban landscape.

5 We have numerous curb cuts. They're
6 illegal curb cuts, by the way, because I've done a
7 lot of curb cut work on that street and they don't
8 allow new curb cuts to bend, although they allow
9 existing ones to bend at an angle, so that most of
10 the parking that's back there isn't even permitted.

11 But it's not an attractive urban
12 landscape. Across the street, there are some
13 buildings all in a row and they have some promise of
14 being redeveloped and stuff like that. As Mr.
15 Hardy's indicated, he's already done three of them.
16 But there's still quite a few buildings in the center
17 of the block that will benefit from having something
18 like this eliminated -- something like the garages
19 eliminated in exchange for a nice, very unobnoxious,
20 single-family residence with a rental apartment.

21 MS. HICKS: Thank you. This concludes
22 our testimony.

23 MS. REID: Okay. Thank you very much,
24 Ms. Hicks.

25 MS. HICKS: You're welcome.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MS. REID: All right, Board members? Mr.
2 Parsons?

3 MR. PARSONS: Thank you. Mr. Hardy and
4 company, I'm trying to determine -- or ask you for
5 more information as to why the first level apartment
6 is necessary. I understand from Mr. Smith it was a
7 safety issue. I understand you to say that it's
8 maybe needed economically. But if you could give us
9 a little more information as to why a two-story
10 building, a single family home at less height, what
11 are the factors that bring you to the need for a flat
12 below that?

13 MR. HARDY: Well, certainly economic
14 considerations must be kept in mind. There are
15 factors in this lot that should be noted. The
16 particular situation that we're building, we have to
17 use retaining walls around a large portion of it
18 because they're retaining ten feet of soil behind.
19 This means the walls will have to be strengthened and
20 maybe even underpinned. That's going to be a big
21 expense.

22 Secondly, the utilities will have to be
23 brought in. In fact, most of the -- I mean, the
24 sewer runs down Florida Avenue. I'm not sure whether
25 we can have access except it's going to be very deep,

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 and there's no electricity and water. And I believe
2 on Vernon Street and also near the south side of
3 Florida, I knew the sewers run in the alleys, so
4 we're going to have quite -- a lot of expenses to
5 defray in developing these garages.

6 This is the reason why the economic use
7 would be to have a single family house with a rental
8 unit besides. Also, remember that it doesn't have
9 yards and gardens, so there's certain lack of
10 amenities which would need to be handled, too.

11 MR. PARSONS: I'm sorry, I didn't
12 understand that.

13 MR. HARDY: Well, I think if you're
14 thinking in terms of saleable single family house,
15 most of the houses in the neighborhood would have
16 back yards and gardens. We have to overcome that by
17 having a roof deck and also by having a rental unit
18 to improve its marketability.

19 MR. PARSONS: And, Mr. Smith, I didn't
20 understand the safety issue. You seemed to be
21 claiming that you needed a flat beneath so that
22 people wouldn't break into the unit.

23 MR. SMITH: No, sir. My comment was that
24 if we go up to the top side of the lot, which is back
25 up here, that that is 13 feet above where the garage

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 starts in the front. And his floor splits. It's not
2 -- the second floor level doesn't start at the 13
3 foot level. It actually starts about ten feet, and
4 there's three feet of the second floor still
5 underground where it touches the Lothrop and the
6 Hanna property.

7 So that if we built just a two-story
8 building, it would only be about six feet or seven
9 feet above the grade of their area. It would enable
10 several factors. It would enable more visibility to
11 the roof deck.

12 It would give a sense of -- I think, for
13 a person wanting to buy in the neighborhood, seeing
14 the condition of the parking lots and the stuff
15 around them, that it would just be another factor
16 that would be a more difficult marketing technique
17 and also be a perception that the building isn't as
18 safe because it is accessible. You can climb up and
19 climb into somebody's roof deck.

20 MR. PARSONS: Okay, thank you. This
21 second alternative that you've shown us today -- and
22 I don't see it in our record, by the way. Those
23 drawings weren't submitted. Seem to be dependent on,
24 I guess, getting some kind of a public space permit,
25 is that correct?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MR. VALLEN: Yes.

2 MR. PARSONS: And have you had any
3 discussions with those authorities? I mean, what
4 wisdom would there be in us dealing with this
5 alternative here if indeed there's a problem with a
6 public space issue?

7 MR. VALLEN: Well, we're allowed two
8 projecting bays over the length of the building.
9 It's 35 feet. We're allowed 13 feet in a 24-foot
10 width, and then six inches for every foot beyond
11 that. So if we have 35 feet, it allows us 17 feet
12 six inches of projection, not to exceed more than
13 four feet into public space. So our projections are
14 three feet. One goes out a little bit beyond that.
15 And the overall footage is less than 17 and a half
16 feet.

17 MR. PARSONS: So I guess what you're
18 saying is that --

19 MR. VALLEN: I don't foresee any --

20 MR. PARSONS: -- you feel confident
21 you'll get that.

22 MR. VALLEN: Yeah, yeah. And the plan is
23 flexible enough that if we're incursing into public
24 space too much, we can change it. We can remold it
25 and reshape it slightly to not exceed what the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 maximum allowable is.

2 MR. PARSONS: And what is the reduction
3 in FAR for this second alternative?

4 MR. VALLEN: It's actually the same.

5 MR. PARSONS: 2.61?

6 MR. VALLEN: No, it's 2.74, I think.
7 Yeah.

8 MR. PARSON: I think your --

9 MR. VALLEN: It's whatever is on -- yeah,
10 it's the same.

11 MS. HICKS: It's 2.6.

12 MR. VALLEN: Yeah, it's the same.
13 Because the tradeoff was by eliminating the light
14 court and -- we eliminate the light court so we gain
15 that space back. We pull our building back by three
16 feet across the whole rear. Our projections don't
17 count except for the parts that are within our
18 property line. So when you do all the math, it's
19 actually within a few feet of being identical, so the
20 FAR would remain the same.

21 MR. PARSONS: So I'm not sure what the
22 different in relief is between these two
23 alternatives, from our standpoint.

24 MR. VALLEN: Well, the one is shorter, so
25 in this --

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MR. PARSONS: But you're not asking for
2 any kind of relief from height, are you?

3 MR. VALLEN: No, we're not, but we're
4 trying to make a gesture. We're taking --

5 MR. PARSONS: Oh, I understand, but I
6 mean as far as we're concerned --

7 MR. VALLEN: Right.

8 MR. PARSONS: -- and the action you're
9 asking from us, I don't see the difference in relief
10 you would receive from us.

11 MR. VALLEN: Okay.

12 MR. PARSONS: The FAR's the same, the
13 setbacks are the -- everything's the same, right?

14 MR. VALLEN: Yes.

15 MR. PARSONS: Except maybe this court, is
16 that correct?

17 MR. VALLEN: Right, yes.

18 MR. PARSONS: Is the --

19 MR. VALLEN: The court's eliminated in
20 the alternative.

21 MR. PARSONS: So you don't need that
22 relief.

23 MR. VALLEN: Right.

24 MR. PARSONS: All right. Thank you.

25 MS. REID: Mr. Parsons?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MR. PARSONS: That's it, thank you.

2 MS. REID: Okay.

3 MR. MOULDEN: This question is to the
4 architect. One thing I wasn't clear on in the rear,
5 have you checked with the authorities, particularly
6 the fire department and police about emergency access
7 in the rear? Are there any requirements? Have you
8 talked with the authorities to clear up that there
9 would be no access required even though there isn't
10 any now?

11 MR. VALLEN: No, we haven't, but there
12 isn't. And what access there was was recently
13 blocked off by the Morrisses with their fence.

14 MR. MOULDEN: Yeah, well, that may be a
15 problem itself there. I mean, it could be.

16 MR. VALLEN: Yeah, it could be, but it's
17 not -- it's really their issue because they built the
18 fence on their property, so we can't --

19 MR. MOULDEN: But that's something you're
20 going to check into further.

21 MR. VALLEN: Yes, absolutely.

22 MR. MOULDEN: Okay. From just a general
23 use standpoint, I commend you for trying to provide
24 more housing in the city. But also the whole design
25 and just the whole layout just seems to be so

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 congested and tight, you know.

2 I know you have several alternatives. Is
3 this housing going to be an interference or just
4 totally out of sync of the character of the area? I
5 mean, is there anything similar to this in the city
6 or nearby? It seems to be totally sort of out of
7 character.

8 MR. VALLEN: Well, because of the site,
9 it's extremely difficult to make a comparison
10 directly. There are many, many single family homes
11 with a rental flat. I mean, I own two of them myself
12 so I think -- and they make a lot of economic sense
13 because they really allow people to buy properties in
14 neighborhoods that otherwise they couldn't because
15 obviously the rental income counts for you when you
16 go to purchase.

17 So I think there are examples to a point
18 of it, and there are many, many -- and it's actually
19 a more popular way of renovating the older houses and
20 saving them, because the costs are so exorbitant to
21 save them, you almost have to have a unit.

22 And maybe this is the best way, I think,
23 to -- my personal opinion, to keep the densities a
24 little bit lower instead of -- I mean, you know,
25 perhaps we could have come in here with three units

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 and come up with some magical way to do it, you know,
2 which would increase densities from a lot of
3 different perspectives in not necessarily good ways,
4 I think.

5 So this to me is the best way from an
6 economic perspective and from a purely community and
7 urban perspective to make -- to me it's better to
8 have people living facing the street seeing what's
9 going on, watching and being a part of the community,
10 than to have three garage doors and graffiti and the
11 kind of ugliness that's there now. So I hope I -- I
12 tried to answer your question the best I could.

13 MR. HARDY: Can I add -- I mean, as far
14 as out of character, the intention is very much to
15 build something in character architecturally. These
16 are simply diagrams, but the facade has not been
17 worked out yet. And this building is a three-story
18 building. All of the buildings on the south side of
19 Florida Avenue are between two and three story
20 buildings, so it's very much in character with
21 Florida Avenue.

22 And this is the issue, that this section
23 of Florida Avenue is really an eyesore because it
24 sees is the back side of buildings on Vernon Street
25 and garages, and this will really improve the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 landscape on Florida Avenue very substantially.

2 MS. REID: Ms. Renshaw?

3 MS. RENSHAW: I just wanted to ask you to
4 put the first model beside the alternative model, if
5 you would, please?

6 MR. VALLEN: This one?

7 MS. RENSHAW: Uh-huh.

8 MR. VALLEN: Beside it?

9 MS. RENSHAW: Just beside it.

10 MR. VALLEN: Okay.

11 MS. RENSHAW: Right. Okay, thank you.

12 MR. VALLEN: Sure.

13 MS. RENSHAW: No questions.

14 MR. HART: Can we look at it on the same
15 level?

16 MS. REID: Okay, cross examination. Ms.
17 Morris?

18 MS. MORRIS: Am I going to have a chance
19 to make my own presentation?

20 MS. REID: Yes.

21 MS. MORRIS: Okay. To Mr. Vallen --

22 MS. REID: Excuse me --

23 MS. PRUITT: Ms. Morris, you have to turn
24 your mike on, please.

25 MS. MORRIS: Sorry.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MS. REID: Cross examination is limited
2 just to the testimony --

3 MS. PRUITT: You have to turn on your
4 mike.

5 MS. REID: The cross examination is
6 limited to the testimony here today and you can't
7 testify during cross examination, so just basically
8 pose your questions in the form of a question and go
9 ahead and ask whatever you'd like to ask.

10 MS. MORRIS: Mr. Vallen, will you be
11 supervising -- is that your name? I'm sorry? My
12 name is Elaine Morris and I'm the president of the
13 Lothrop House Unit Owners Association. I'm also a
14 property owner. I own several units, plus the three
15 parking units which are separate lots within the
16 condominium. I also represent three individual unit
17 owners who are interested and couldn't be here today.

18 Will you be -- Mr. Vallen, will you be
19 supervising the construction of this project?

20 MR. VALLEN: Mr. Hardy's only contracted
21 with me to design and do construction documents at
22 this point in time. I'm not a contractor, so I
23 wouldn't be supervising in that capacity, but I would
24 imagine that as with most of the projects I do I
25 would have some relationship continuing well into the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 construction until the day someone moves in,
2 answering questions, clarifications, et cetera.

3 MS. MORRIS: But there are some
4 architects, are there not, that actually supervise
5 the construction?

6 MR. VALLEN: It all depends on the
7 contract that you have with your client. There's no
8 obligation to do that.

9 MS. MORRIS: Have you done supervising of
10 construction?

11 MR. VALLEN: I have done my own
12 construction, yes.

13 MS. MORRIS: You've mentioned party walls
14 and you've mentioned -- I think what you said, our
15 wall or Mr. Hardy's wall. Can you identify on your
16 plat exactly which ones are party walls and which are
17 entirely Mr. Hardy's walls?

18 MR. VALLEN: According to the plat, the
19 party wall is this wall here. And it's believed that
20 this wall and this wall are also party walls. The
21 plat shows the property line a distance behind this
22 rear wall. I can't tell you what that distance is.
23 To me it looks like it's about eight inches, and
24 that's according to the license survey of the
25 property. Face on line. This is face on line.

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 Yeah, right, so it's -- right, so it's not a party
2 wall.

3 So really the only party wall is the
4 middle wall, which is on this piece of wall right
5 here.

6 MS. MORRIS: And the others, you're
7 saying the face of the garage wall is on the party
8 line -- is on the property line?

9 MR. VALLEN: Yeah, it says face of
10 building on party -- on property line. Along here,
11 along here, and this is not on the line at all.

12 MS. MORRIS: Okay. I don't know, where
13 does it say that the property line is not on the -- I
14 mean, the wall is not on the property line? It just
15 has a measurement of ten feet seven and a half
16 inches.

17 MR. VALLEN: These are markers. These
18 are corner markers. And clearly the wall is drawn
19 behind the corner markers and the line extended as
20 the property line. And it clearly points out on the
21 drawing that the face of building on property line
22 everywhere where the face of building is on a
23 property line.

24 MS. MORRIS: It doesn't actually point
25 out which is the property line on that small northern

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 side, does it?

2 MR. VALLEN: No, it doesn't, but that
3 would be an easy enough clarification from the
4 surveyor to get it if that needed to be done. Would
5 you like to see this?

6 MS. REID: Continue, Ms. Morris.

7 MS. MORRIS: Yeah. After we finish, can
8 I ask my colleagues to take a look at it or allow my
9 colleagues to take a look at it?

10 MS. REID: Sure.

11 MS. MORRIS: And, Mr. Vallen, you made
12 some remark about the chain link fence preventing
13 emergency fire access. What exactly are you talking
14 about?

15 MR. VALLEN: If an emergency vehicle had
16 to come and get down here, this is their only way in.
17 They can't get up over the wall, the ten foot wall,
18 without a ladder. They were able to go -- they could
19 stop here and get into that area, but there's now a
20 fence with a gate and a padlock preventing anyone
21 from crossing over into that space. Not just
22 emergency vehicles but anybody.

23 MS. MORRIS: Well, are you disputing that
24 the fence is not on private property?

25 MR. VALLEN: No. All I'm saying is that

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 fence is there.

2 MS. MORRIS: Okay. And when you build a
3 building, the building will prevent people from
4 getting up there from Florida Avenue, right?

5 MR. VALLEN: Up where from Florida?

6 MS. MORRIS: Well, you're assuming that
7 anybody and everybody would want to cross our private
8 property or have a right to cross our private
9 property, is that right?

10 MR. VALLEN: I made no assumptions of
11 that kind.

12 MS. REID: Ms. Morris, you cannot be
13 argumentative.

14 MS. MORRIS: All right. Have you
15 examined plats of that block from Vernon Street to
16 Florida Avenue from 18th to 19th in preparation of
17 drawing your plans?

18 MR. VALLEN: Uh-huh.

19 MS. MORRIS: Okay. Is there an alley
20 that goes to your property or Mr. Hardy's property at
21 all?

22 MR. VALLEN: No.

23 MS. MORRIS: Okay. There's no right of
24 Mr. Hardy to cross the area behind the garages, is
25 that correct?

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. VALLEN: No.

2 MS. MORRIS: Are you a computer expert of
3 any kind?

4 MR. VALLEN: Yes.

5 MS. MORRIS: Can you describe how you
6 are, in what way?

7 MR. VALLEN: I'm a architect who uses a
8 computer.

9 MS. MORRIS: Okay.

10 MR. VALLEN: I've taught myself. My
11 work's been published from a rendering perspective.
12 I'm very good at it. I don't know how else to call
13 myself an expert. No one's certified me as one, but
14 I think I'm known around town as being good at it.

15 MS. MORRIS: But can you testify as to
16 the scientific correctness of your computer model?

17 MR. VALLEN: Well, I built it. I used
18 real dimensions, real sizes of things.

19 MS. MORRIS: No, I'm sorry. I'm
20 referring to the light study.

21 MR. VALLEN: Can I testify --

22 MS. MORRIS: Can you testify as to the
23 scientific accuracy of the light study?

24 MR. VALLEN: I'm not -- no, I can't.

25 MS. MORRIS: And who publishes that

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 particular program?

2 MR. VALLEN: It's the largest
3 manufacturer of Computer Aided Design software in the
4 world, AutoCAD.

5 MS. MORRIS: Okay. Are there any ambient
6 light studies that you could have performed?

7 MR. VALLEN: There are many, many
8 different kinds of light studies that I could do.
9 I'm only doing one kind.

10 MS. MORRIS: That's direct sunlight.

11 MR. VALLEN: Direct sunlight, right.

12 MS. MORRIS: Okay, but there is such a
13 thing as ambient light.

14 MR. VALLEN: There's an ambient light
15 everywhere --

16 MS. MORRIS: Okay.

17 MR. VALLEN: -- that just exists in the
18 world, and it's different every place you go.

19 MS. MORRIS: Right.

20 MR. VALLEN: There's ambient light in
21 this room.

22 MS. MORRIS: Right. But if I put a
23 curtain around you --

24 MR. VALLEN: There's reflective light.

25 MS. MORRIS: -- you wouldn't get any --

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 you know, you would guess ambient light, isn't that
2 correct?

3 MR. VALLEN: Less, yeah, uh-huh.

4 MS. MORRIS: So there may be an effect on
5 the ambient light of your project on the buildings
6 behind, isn't that correct?

7 MR. VALLEN: There may be an effect of
8 reflected light. I wouldn't say there'd be any
9 effect on ambient light. Ambient light is not coming
10 from a source in particular. It's light that just
11 exists.

12 MS. MORRIS: How far is -- what is the
13 measurement between the northwest corner of the large
14 garage -- no, the other northwest corner, and our
15 building on Vernon Street?

16 MR. VALLEN: This building?

17 MS. MORRIS: Well, there's a one-story in
18 addition to our building.

19 MR. VALLEN: The windowless one-story
20 building?

21 MS. MORRIS: Right.

22 MR. VALLEN: From the corner, it's about
23 one foot three inches, I believe.

24 MS. MORRIS: Okay. And how -- have you
25 measured how far it is to the window above that?

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. VALLEN: To this window?

2 MS. MORRIS: Right.

3 MR. VALLEN: Yes. It was -- hang on a
4 second. To the window from that, it's approximately
5 12 feet.

6 MS. MORRIS: What are the back and side
7 walls of the project going to be constructed of?

8 MR. VALLEN: That's up in the air at this
9 point. It will most likely be masonry and probably a
10 mass of masonry that can be built from the inside
11 out.

12 MS. MORRIS: I'm sorry, was it you who
13 testified that the fence would prevent somehow or
14 alter the plans for building those walls, the chain
15 link fence?

16 MR. VALLEN: They just make it a little
17 more difficult, but certainly not impossible.

18 MS. MORRIS: Okay. How so would they
19 make it more difficult?

20 MR. VALLEN: Reaching around. They're
21 kind of right there on the line. So, you know, the
22 masons will scrape their hands a little bit when
23 they're putting their blocks in.

24 MS. MORRIS: Now, brick laying is not a
25 very neat process, is it?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MR. VALLEN: It depends on the mason.

2 MS. MORRIS: Okay.

3 MR. VALLEN: I work with very neat
4 masons. No slobs.

5 MS. MORRIS: Can you guarantee that those
6 neat masons will be hired on this project?

7 MR. VALLEN: I can't guarantee anything
8 like that.

9 MS. MORRIS: Because in effect, the
10 mortar is very likely to fall off onto the private
11 property outside the footprint of Mr. Hardy's space.

12 MR. VALLEN: Certainly.

13 MS. MORRIS: Do you envision how he would
14 clean that up, or would he clean it up?

15 MR. VALLEN: Of course, he'd clean it up
16 and it would have to be done as they're working.
17 That's the only way this construction can be done.

18 MS. MORRIS: But the fence, you weren't
19 contemplating actually building the wall from the
20 private property behind that, were you?

21 MR. VALLEN: No. I'm not building the
22 project too, by the way, so I can't really testify
23 100 percent accurately as to how it will be built or
24 who will build it.

25 MS. MORRIS: Also, to the Board, I'd

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 appreciate and ask if you would strike the particular
2 model that Mr. Sockwell referred to as it's very
3 misleading because the proponents testify that that
4 model is available as a matter of right. And as Mr.
5 Sockwell observed, they're only talking about one
6 aspect of it. Otherwise, it still meets the
7 variance.

8 MS. REID: Well, Ms. Morris, we were very
9 clear as to the aspect of that particular model that
10 pertained to what was a matter of right. I think Mr.
11 Sockwell very succinctly explained it as such. I
12 think that we understand that and we're very clear on
13 it so it's --

14 MS. MORRIS: Okay.

15 MS. REID: It's moot.

16 MS. MORRIS: Isn't there also a
17 requirement for side courts. I don't know if they
18 are called closed courts or open courts.

19 MR. VALLEN: Not on this.

20 MS. MORRIS: None whatsoever?

21 MR. VALLEN: No, not on this kind of
22 building.

23 MS. MORRIS: I guess I'll have to ask
24 Mrs. Hicks that.

25 MS. HICKS: Under the zoning regulations

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 in the R-5-B zone construction is permitted to go
2 from side lot line to side lot line, face on wall,
3 either party line construction is permitted, unless
4 you get into a building code issue, which would be
5 setback of a court niche or court for light to get
6 into the structure or for an ingress/egress issue.

7 MS. MORRIS: May I ask Ms. Hicks briefly
8 a question before I go back to Mr. Vallen.

9 MS. REID: Sure.

10 MS. MORRIS: Ms. Hicks, I'm just going to
11 show you part of Mr. Hardy's application where it's
12 apparently the building department. It says his
13 notes and computations, and it says at the bottom,
14 "Required, closed courts have to be a minimum width
15 of 15 feet and a minimum area of 350 square feet."
16 Can you tell me what that's referring to?

17 MS. HICKS: If a closed court is
18 provided, in the R-5-B residential zone for a two-
19 unit flat, the requirement is for a 15 foot minimum
20 width and a minimum area of 300 feet. The nature of
21 the relief sought in item number four was for a
22 variance from the open court and the closed court
23 area requirement.

24 In one of the models, the court is not
25 provided, and the initial submission a three minimum

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 court niche is provided to give some light, and
2 there's some windows on the side of the building.
3 And it also is there to give an egress or a way of
4 getting out of the building in case there's a fire.
5 It doesn't have to be there.

6 MS. MORRIS: It doesn't have to be there.

7 MS. HICKS: No.

8 MS. MORRIS: All right. Then to Mr.
9 Vallen again, the stairs that you show in your plan,
10 are those common stairs to the two units? There is a
11 stairway. Is it common to the two units?

12 MR. VALLEN: In which? The first
13 submitted drawings or in the alternate?

14 MS. MORRIS: Well, I've never seen the
15 alternate drawings, so I can only refer to the
16 submitted drawings.

17 MR. VALLEN: Okay. And your question is
18 are the stairs common? Which stairs are you
19 referring to?

20 MS. MORRIS: Well, I think there's just
21 one set of stairs, isn't there?

22 MR. VALLEN: Yeah, this staircase is not
23 common.

24 MS. MORRIS: It's not common.

25 MR. VALLEN: No. There are steps up, a

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 short staircase into the lower unit from the street.

2 MS. MORRIS: And the air conditioning
3 units or heat pumps are on the roof?

4 MR. VALLEN: The condensers would be on
5 the roof in a screened area back here.

6 MS. MORRIS: Okay. If there are not
7 common stairs --

8 MR. VALLEN: They're recessed. Right,
9 they're recessed.

10 MS. MORRIS: If there are not common
11 stairs for both units, how will both condensers be
12 serviced?

13 MR. VALLEN: The basement is -- not the
14 basement, excuse me. The lower unit is a rental.
15 Therefore, service people would be going through the
16 owner's house to get to those condensers.

17 MS. MORRIS: Okay. Do you know whether
18 this building -- proposed building could be turned
19 into a condominium with separate ownership of the two
20 units?

21 MR. VALLEN: I can't really answer that.
22 It's not designed as such, so --

23 MS. MORRIS: Are there any exhaust fans
24 or exhaust pipes on the rear facade?

25 MR. VALLEN: No.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MS. MORRIS: How --

2 MR. VALLEN: Everything is going to go
3 through the roof.

4 MS. MORRIS: Okay.

5 MR. VALLEN: Of the building

6 MS. MORRIS: And how will the roof drain?

7 MR. VALLEN: It'll drain through the
8 front.

9 MS. MORRIS: The front?

10 MR. VALLEN: It'll drain to the front of
11 the building.

12 MS. MORRIS: Onto the street?

13 MR. VALLEN: No, into the storm sewer, or
14 the sanitary sewer, whichever.

15 MS. MORRIS: Right. So in fact, that is
16 the way any area should be draining, into the storm
17 sewer or the sanitary sewer or whatever. Is there
18 any fire escape on any of the rear or side facades?

19 MR. VALLEN: No.

20 MS. REID: Ms. Morris, how many more
21 questions do you have?

22 MS. MORRIS: I'd just like to ask Mr.
23 Smith one or two questions.

24 MS. REID: Okay.

25 MR. VALLEN: Are you finished with me?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MS. MORRIS: Yes, thank you.

2 MR. VALLEN: Okay, thanks.

3 MS. MORRIS: Mr. Smith, you were
4 testifying that this proposal would give back two
5 parking spaces to the community, is that correct?

6 MR. SMITH: Yes, that's correct.

7 MS. MORRIS: And what would happen to the
8 people that are renting the garages right now as
9 parking?

10 MR. SMITH: I have no idea.

11 MS. MORRIS: They'd be looking --
12 logically they'd be looking for street parking as
13 well, isn't that true?

14 MR. SMITH: Yes.

15 MS. MORRIS: Do you know anything about
16 the chain link fence that Mr. Hardy and his -- and
17 Mr. Vallen were referring to?

18 MR. SMITH: Well, I do know that we're
19 investigating it today to see if you have a permit to
20 put up that fence.

21 MS. MORRIS: Okay. Well, now that you
22 mention it, I'd like to ask you if this permit looks
23 official to you?

24 MR. SMITH: It seems to be a --

25 MS. RENSHAW: Madam Chair, is this

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 something that was shown to the Board? The permit
2 for the fence?

3 MS. REID: No, it was not. And, excuse
4 me, it has not been, and this line of questioning
5 pertains to Mr. Smith's testimony regarding the -- he
6 made some mention of the fence that was there. And
7 she -- Mrs. Morris is asking -- I guess asking him to
8 verify whether or not that permit looks like it's
9 authentic, which is okay, but we should look at the
10 permit as well.

11 MS. MORRIS: Uh-huh, sure.

12 MS. REID: Yes, please. Give it to
13 staff, please, Mr. Smith, and then we'll take a look
14 at it as well, because he's basically being asked to
15 verify in his opinion whether he thinks it looks
16 authentic, correct?

17 MS. MORRIS: Yeah, okay. That's all
18 right. I mean, there's an allegation that the fence
19 is illegal.

20 MS. REID: Un-un-un. You can't testify.

21 MS. MORRIS: All right.

22 MS. REID: When you -- at the time when
23 you are given the opportunity to testify, Mrs.
24 Morris, you can then go ahead and express whatever
25 you want to, but not at this point.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MS. MORRIS: Very well.

2 MS. REID: Uh-huh.

3 MR. SMITH: Can I answer the question?

4 MS. REID: Nope. You cannot ask a
5 question of her.

6 MR. SMITH: No, I was going to answer her
7 questions.

8 MS. REID: Oh, I'm sorry. I thought you
9 said: "Can I ask a question."

10 MR. SMITH: No, ma'am. I did not.

11 MS. REID: Sure, go ahead.

12 MR. SMITH: Okay. Based upon my
13 experience, having pulled many fence permits, it
14 seems to be authentic to me.

15 MS. REID: So then we'll just make a
16 copy?

17 MS. MORRIS: Yes, I'd like to introduce
18 that as an exhibit if you'd like.

19 MS. REID: You can do that when you --

20 MS. MORRIS: That's fine.

21 MS. REID: -- have your time to testify.

22 MS. MORRIS: Okay, do I know where it is
23 now so I'll take it back and --

24 MS. REID: Making a copy of it. They're
25 making a copy of it.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MS. MORRIS: Oh, I see. In that case --
2 sorry, I guess they're not finished.

3 MR. SMITH: I'm sorry, could you repeat
4 the question?

5 MS. REID: Did you have another question?

6 MS. MORRIS: No, I don't have another
7 question. I just wanted my permit back.

8 MS. REID: Oh, okay. So that concludes
9 your cross.

10 MS. MORRIS: Of Mr. Smith, yes.

11 MS. REID: All right.

12 MS. MORRIS: I would like to question Mr.
13 Hardy as well.

14 MS. REID: Okay, all right. Thank you,
15 Mr. Smith. Ms. Morris, I was under the impression
16 that those were your concluding questions. You have
17 more?

18 MS. MORRIS: Well, Mr. Hardy is the
19 applicant.

20 MS. REID: I understand that. Again, how
21 many more questions do you have? Because this is
22 coming to be quite lengthy.

23 MS. MORRIS: Well, this is an important
24 issue for us so I was --

25 MS. REID: I understand that.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Nonetheless, we still have -- also still we have time
2 constraints. We did not limit your time but
3 nonetheless we just ask that you --

4 MS. MORRIS: Yes, I'll try to be as brief
5 as I can with Mr. Hardy.

6 MS. REID: Please. Thank you. And this
7 is what you said that your colleague wanted to see
8 this, is the surveyor's --

9 MS. MORRIS: Yes, please.

10 MS. REID: -- rendering of the subject
11 site. and I think it belongs to Mr. Vallen, so
12 please return it to him.

13 MS. MORRIS: Mr. Hardy, you purchased
14 your garages, what was it? Six months ago or so?

15 MR. HARDY: That's when I settled on it,
16 yes.

17 MS. MORRIS: Have you received -- let me
18 ask you this. You say you tried to get out of the
19 contract and were unable to.

20 MR. HARDY: Uh-huh.

21 MS. MORRIS: Did you receive any offers
22 to purchase the garages as is?

23 MR. HARDY: I understand that both --
24 well, I might have to ask you that. But I think --
25 I've been led to believe that both you and the Hanna

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 would be interested in purchasing those properties.

2 MS. MORRIS: And what did they cost you?
3 What did you pay for them?

4 MR. HARDY: Am I supposed to answer these
5 questions?

6 MS. REID: You don't have to. That is
7 not within the purview of this particular proceeding.

8 MR. HARDY: I think that's a matter
9 between --

10 MS. REID: You may answer just in that --
11 you know, in that manner, that you prefer not to
12 disclose.

13 MR. HARDY: I prefer not to, I think.
14 They cost a substantial amount of money.

15 MS. MORRIS: Mr. Hardy, you are alleging
16 that it's not economic for you to repair the garages,
17 are you not?

18 MR. HARDY: I am stating that the best
19 use of those properties is not as garages.

20 MS. MORRIS: Then you're not saying that
21 it would be impossible for you to fix up the garages
22 to be used as garages.

23 MR. HARDY: I understand that I cannot
24 get a certificate of occupancy as separate garages.
25 They don't have a certificate of occupancy right now.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MS. MORRIS: In fact, you paid a fairly
2 modest amount of money for the garages, isn't that
3 correct?

4 MR. HARDY: That depends on your point of
5 view.

6 MS. MORRIS: Well, you paid about \$38,500
7 for them, right?

8 MR. HARDY: That seems to be in the
9 record, yes.

10 MS. MORRIS: Okay. And in fact, didn't
11 Hanna Associates offer to pay you \$10,000 more than
12 you bought it for and with the idea that they would
13 fix them up and use them as garages?

14 MR. HARDY: No, I never received any
15 offer with a figure.

16 MS. MORRIS: Well, if I were to make that
17 offer to you today, would you sell it to me with a
18 \$10,000 profit?

19 MS. REID: I'm not sure that this is the
20 proper forum for that type of discourse. I think
21 that, Mrs. Morris, those discussions you can have
22 outside of this particular proceeding. But this
23 particular proceeding only pertains to the
24 application before us.

25 MS. MORRIS: I understand that, Ms.

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 Cross-Reid. But in his application, he claims that
2 it's not economic to continue a garage use.

3 MS. REID: Exactly, but remember also
4 that the variance that we are now considering does
5 not take into consideration the economic aspects of
6 this particular transaction.

7 MS. MORRIS: Well --

8 MS. REID: We look only at the variance -
9 - the test as it pertains to obtaining a variance,
10 and that is the things that have been presented here
11 today. So that that does not have any bearing on our
12 decision. And as such, that discussion can be better
13 had outside of this particular hearing room.

14 MS. MORRIS: Okay. Let me just say one
15 other thing, Ms. Cross-Reid. Part of the tests for
16 practical difficulties or undue hardship is whether
17 the applicant can make a reasonable return on his
18 investment. That's according to the D.C. Court of
19 Appeals.

20 MS. REID: Well, that's not according to
21 the zoning regulations.

22 MS. MORRIS: That is in the law.

23 MS. REID: Well, first of all, let me
24 explain something. It is not an undue hardship.
25 This is an area variance, correct?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 UNIDENTIFIED SPEAKER: Yes, area
2 variance.

3 MS. REID: And as such, the test is a
4 practical difficulty. Okay, that's different. Now,
5 a use variance requires the demonstration of undue
6 hardship. This is an area variance and this is
7 practical difficulty. And as such, practical
8 difficulty only requires that it will cause -- that
9 there is a practical difficulty for the applicant to
10 be able to comply with the existing zoning
11 regulations. This is his only test. That's the only
12 thing he has to do here. It has no -- we don't look
13 at economic considerations at all in this particular
14 variance.

15 MS. MORRIS: Well, I'd like to state for
16 the record that in Palmer vs. Board of Zoning
17 Adjustment for the District of Columbia, the D.C.
18 Court of Appeals has said a variance cannot be
19 granted where property conforming to the regulations
20 will produce a reasonable return but if put to
21 another use will yield a greater return. Now, that's
22 a matter of law.

23 MS. REID: Well, what you're -- again,
24 you're getting like apples to oranges. An area
25 variance and a use variance are two different things.

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 MS. MORRIS: I understand that.

2 MS. REID: And as such, that particular
3 case that you just cited, if I heard it correctly,
4 did not specify. It simply said a variance, and then
5 we have to go into what type of variance, and then
6 you get into a legal issue. And if you then do that,
7 then I have to defer to code counsel because I just -
8 - you know, to be correct on that. Ms. Sansone,
9 would you respond?

10 MS. SANSONE: Madam Chair, my
11 recollection is Palmer involves a use variance and
12 not an area variance.

13 MS. REID: Okay, Ms. Morris, you see
14 that's a different type of variance.

15 MS. MORRIS: Well, it distinguishes
16 practical difficulties. And under the section of
17 practical difficulties, that is the quote. And I
18 also would like to say that in Rumel vs. D.C. BZA and
19 Carliner vs. D.C. BZA, it was stated that the
20 property owners could make a reasonable return by
21 selling it to adjoining owners and therefore a
22 variance must not be granted in that case. But I'd
23 like to go on because--

24 MS. REID: Yeah, please do, because that
25 then gets ensnarled into a legal argument and that is

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 not the purpose of this particular body. The only
2 thing we do is look at whether or not the application
3 before us complies with the regulations as it
4 pertains to an area variance, and then we apply the
5 regulations under which -- the sections of the
6 regulations under which they are coming before us.

7 MR. SOCKWELL: Ms. Morris?

8 MS. MORRIS: Yes.

9 MR. SOCKWELL: In the cases that you
10 cited, was the word reasonable defined in specific
11 dollar terms per square foot, dollar terms per square
12 foot per year --

13 MS. MORRIS: Not at all.

14 MR. SOCKWELL: -- dollar terms per square
15 foot per unit time?

16 MS. MORRIS: No, not at all.

17 MR. SOCKWELL: Then it's not relevant
18 unless you can quantify it, as far as I'm concerned.

19 And if you can't quantify it, I think we should
20 leave the subject. It would be based on any specific
21 piece of property in any specific location with
22 specific criteria applied to it for specific terms,
23 time, circumstances. You cannot quantify any of that
24 for us today, can you?

25 MS. MORRIS: No, but if this is --

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MR. SOCKWELL: Thank you. Then we will
2 leave it.

3 MS. MORRIS: I'll take this up with my --

4 MR. SOCKWELL: We will leave it.

5 MS. MORRIS: Okay. Mr. Hardy, do you
6 believe that you have a right to use our concrete
7 parking area for any use?

8 MR. HARDY: I have looked at the surveys
9 and it's clear that this is a closed-off alley. I do
10 like to be a good neighbor and I would find it would
11 be much more convenient, certainly, to have access
12 but I certainly don't have any right.

13 MS. MORRIS: And are you alleging that
14 somehow we closed off an alley illegally?

15 MR. HARDY: I'm not alleging that. Some
16 of the neighbors feel that way but I'm not alleging
17 that.

18 MS. MORRIS: But you say you've looked at
19 the surveys.

20 MR. HARDY: I have indeed.

21 MS. MORRIS: And what do the surveys
22 indicate to you?

23 MR. HARDY: Private alley.

24 MS. MORRIS: A private alley. And
25 belonging to who?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MR. HARDY: To 1822 Vernon Street.

2 MS. MORRIS Okay. Then is there anything
3 illegal about that?

4 MR. HARDY: No. I just said there's
5 nothing illegal about it.

6 MS. MORRIS: Now, there will be a garage
7 door in your proposed building, is that correct?

8 MR. HARDY: These proposals are not
9 expressed to the last detail, but, yes, the idea
10 would be to have a garage door, yes.

11 MS. MORRIS: Okay. I'd like to show you
12 a picture of some garages around the corner in the
13 alley and ask you if there's any -- if your garage
14 door will look anything like these. And I'll show it
15 to --

16 MS. RENSHAW: Madam Chair, we need to see
17 what Mr. Hardy is looking at.

18 MS. REID: Mr. Hardy, please give it to
19 staff and then they'll just pass it up to us.

20 MS. RENSHAW: What is the purpose of
21 this?

22 MR. SOCKWELL: If I might state, I
23 believe that in terms of elevations and final
24 details, the designer stated that his designs were
25 merely conceptual and not final, and it would be very

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 difficult to place a value on a photograph without
2 having something to compare it to that would be
3 considered a final drawing.

4 MS. SANSONE: Madam Chair, I'd also like
5 to add that these photographs and other materials
6 being handed to the witnesses should be made part of
7 the record.

8 MS. REID: Okay. Well, I didn't --

9 MS. MORRIS: Yes, please, I'd like them
10 to.

11 MS. REID: Once it comes up to us, then
12 we -- we don't give it back. It has to become part
13 of our record. I didn't say that. Thank you, Ms.
14 Sansone.

15 MS. MORRIS: Mr. Hardy, did you make any
16 estimates of replacing the garage doors and fixing
17 the roof and cleaning up these garages?

18 MR. HARDY: I have applied to the zoning
19 board for zoning variances to construct a two-family
20 flat. That has always been, to me, the most
21 aesthetic as well as economic way of developing the
22 properties. So I have not looked at other
23 alternatives at this point.

24 MS. MORRIS: Okay. So then you're saying
25 that you haven't actually made an economic analysis

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 of fixing up the garages to be used as garages?

2 MR. HARDY: I've said many times I don't
3 think that garages enhance Florida Avenue. Therefore
4 I have applied for a variance.

5 MS. RENSHAW: If I may, Madam Chair, this
6 business of alternatives was not part of the
7 testimony. And you have to -- Ms. Morris, you have
8 to restrict your questions to exactly what was asked.

9 MS. MORRIS: Okay.

10 MS. RENSHAW: Or what the testimony was
11 before the board.

12 MS. MORRIS: Okay. Mr. Hardy, will you
13 be supervising your construction?

14 MR. HARDY: I'm not certain on that.

15 MS. MORRIS: And have you decided what
16 the rear walls and side walls will be made of?

17 MR. HARDY: No. I shall need
18 professional advice on all those things.

19 MS. MORRIS: Okay.

20 MR. HARDY: I'd just like to say that I
21 intend to cooperate with all of the neighbors to make
22 sure that this is a building that is in keeping with
23 the architecture of the neighborhood.

24 MS. MORRIS: All right, thank you. I'll
25 make other comments on my own testimony.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MS. REID: Thank you. All right, Mr. --
2 okay, give your name. It's Mr. Hanna, right?

3 MR. HANNA: My name is Boushra Hanna,
4 representing Hanna Association.

5 MS. REID: Okay.

6 MR. HANNA: And I'd like to ask the
7 architect a couple of questions, please.

8 MS. REID: Mr. Hanna, all we ask is that
9 they not be repetitive or redundant.

10 MR. HANNA: No, ma'am.

11 MS. REID: Okay.

12 MR. HANNA: It's not going to be. I can
13 appreciate your concern about having the windows
14 viewing the streets for our proposed building. What
15 about consideration for all of the existing 35
16 windows that you're now going to be blocked their
17 view, so you cannot very much in favor of that but
18 without no consideration to existing conditions that
19 will be directly affected.

20 MR. VALLEN: What we did try to show in
21 the -- well, in both of these proposals or
22 alternatives is that we aren't blocking -- I don't
23 think it's 35 windows directly. And again, like I
24 said, this is a perspective view. It's not a
25 straight elevation, so the buildings in the back are

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 shorter than they actually are. In reality, we're
2 blocking one window from a frontal perspective
3 completely, and half of the window above it in 1818
4 Vernon. We're blocking no windows in 1822.

5 And in fact, from the perspective of this
6 perspective, looking towards the west -- the
7 northwest, you're still able to see past this
8 building out to the street from the worst case, which
9 is this lower window in the west corner of 1818
10 Vernon.

11 MR. HANNA: Can I ask you to put that
12 perspective back again, please?

13 MR. VALLEN: Sure.

14 MR. HANNA: And I would like to mention
15 the fact that this perspective is taken with a top
16 view kind of like an angle.

17 MR. VALLEN: It's taken at 30 feet above
18 grade.

19 MR. HANNA: Okay. So it is not --

20 MR. VALLEN: So that you're looking
21 straight across at 30 feet from -- we're not -- the
22 camera and the target of the camera are in the same
23 elevation. And the reason why that was done was
24 because there's a distortion in perspective when you
25 stand at -- what I would normally do is stand at five

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 foot six, look up at about 24 feet. You see the
2 entire building, but that's done for the effect of
3 looking at the entire building that we're designing.

4 Not showing the true effect of the buildings in back
5 of --

6 MR. HANNA: Exactly.

7 MR. VALLEN: -- and related to it.

8 MR. HANNA: Exactly, and you just made
9 the point. With this kind of presentation, it is not
10 showing exactly the effect on the building in the
11 back because it's showing with a top view angle which
12 is going to cast --

13 MR. VALLEN: Well, what we're actually
14 trying to do is to show it from as many different
15 perspectives --

16 MR. HANNA: Right.

17 MR. VALLEN: -- in still frame
18 renderings. had I the time and the equipment to do,
19 I would have created an animation for you that could
20 have shown you anything you wanted to see. But one
21 of the things that I did so -- the whole effort here
22 is to not be deceptive. And I think that's really
23 critical that we state that, because we're not trying
24 to deceive anyone about anything we're doing. And so
25 we do do a shot of the building from street level.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 If I'm standing in the middle of Florida
2 Avenue, I'm five foot six high, my eye level, and I'm
3 looking up 24 feet, this is what I'm going to see.
4 This is the lower windows at 1818 Vernon from the
5 corner, and these are the upper windows at 1822
6 Vernon, so --

7 MR. HANNA: Please understand that I'm
8 not indicating that you are directly trying to show
9 something different. It can be -- just happened to
10 be that way.

11 MR. VALLEN: Right.

12 MR. HANNA: And it is going to be a lot
13 of windows from the front as well as from the sides
14 and not -- going back to the air circulation and
15 light, I understand that you were examining the light
16 as far as shadows. Have you examined the light as
17 far as the reflective? You know, the fact that light
18 can be reflective. If you completely cast an element
19 in front of it, you're preventing from not only
20 creating a shadowing but you're also creating it
21 light not to reach another element to reflect it
22 back, so --

23 MR. VALLEN: I think that's an issue that
24 -- I'm sorry, go ahead.

25 MR. HANNA: I happen to be a professional

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 electrical engineer as well. I do study and have
2 professional knowledge of lighting too, and I
3 understand all of the electrical and so on. And I
4 believe that the shadowing issue is more severe than
5 what was presented.

6 MS. REID: Mr. Hanna?

7 MR. HANNA: Yes, ma'am.

8 MS. REID: Again, you cannot testify.

9 MR. HANNA: Okay. I apologize.

10 MS. REID: You will have an opportunity
11 to testify and when you do, you certainly can bring
12 forth any information you like, but not at this
13 point.

14 MR. HANNA: Intentionally, I couldn't
15 help it so --

16 MS. REID: It slipped out.

17 MR. HANNA: Yes. Other things concerned
18 about the utility and the costs that was brought up
19 that is going to be an added cost to bring in
20 utility. If you approach any utility company, they
21 are obligated to bring it to the property line for no
22 additional cost, so I would like to point this out
23 that there is no cost impact --

24 MS. REID: Is there a question here?

25 MR. HANNA: Yes. The cost impact that

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 was posed regarding the utility, whether you build
2 one or two or three is kind of like a fixed cost.
3 What is that cost? Has that been quantified?

4 MR. VALLEN: It hasn't been quantified,
5 no.

6 MR. HANNA: Okay. Well, I recommend that
7 you research that further because the utility company
8 will bring it to you at no cost to the property.

9 MR. VALLEN: Not in the District. That's
10 not true.

11 MS. REID: Mr. Hanna, if you continue to
12 testify, then we're going to have to stop your cross
13 examination.

14 MR. HANNA: Okay. As far as the egress,
15 is there a mention for a second mean of egress being
16 that this is more than two family -- two or more
17 family units, you're required to put a second mean of
18 egress. Are you required to put a second mean of
19 egress?

20 MR. VALLEN: Well, we have more than one
21 way out.

22 MR. HANNA: Can you show that to us,
23 please?

24 MR. VALLEN: Well, the ground floor of
25 this unit has its door and windows and court as ways

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 out. The upper unit has its door in the garage.
2 There's two ways out. It also has the court from the
3 second floor, okay?

4 MR. HANNA: Okay. In the second floor,
5 the door and garage are using the same common stair.

6 MR. VALLEN: No.

7 MR. HANNA: So they qualify to come down.

8 MR. VALLEN: Oh, right, right.

9 MR. HANNA: Yes. So the qualified second
10 mean of egress will be the court.

11 MR. VALLEN: Yes, from the bedroom,
12 right.

13 MR. HANNA: Okay. Do you realize that
14 this court facing a driveway that could be blocked?

15 MR. VALLEN: Right.

16 MR. HANNA: Is that makes it a qualified
17 egress?

18 MR. VALLEN: Right now, it is. In
19 future, if someone could build on that adjoining
20 property, there would be an issue.

21 MR. HANNA: Are you saying that you're
22 restricting us from building by putting that?

23 MR. VALLEN: No.

24 MR. HANNA: Because your situation would
25 be an existing condition.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MR. VALLEN: It doesn't matter.

2 MR. HANNA: How many parking garages are
3 you talking away? How many parking garages are you
4 putting back?

5 MR. VALLEN: We're keeping one
6 essentially and we're eliminating two, but we're
7 giving back two spaces on the street, so there's no
8 net loss or gain.

9 MR. HANNA: And how many losses being
10 getting away from the use of the garage?

11 MR. VALLEN: I'm sorry?

12 MR. HANNA: How many parking space will
13 be directly affected for the use of those garage
14 right now that they are currently used?

15 MR. VALLEN: Two.

16 MR. HANNA: All right.

17 MR. VALLEN: There's three using it
18 currently. There's three garage spaces.

19 MS. HICKS: I'd like to point out that
20 the current garages have no certificates of
21 occupancies. They're located in an R-5-B residential
22 zone. So the use isn't permitted as a matter of
23 right, so the three cars there now are not legitimate
24 parking spaces.

25 MR. HANNA: If this is the case, why it's

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 being used and rented if there's no certificate of
2 occupancy?

3 MR. VALLEN: I'm not the owner. I can't
4 answer that question.

5 MS. HICKS: Well, it's something that's
6 been existing there prior to Mr. Hardy owning the
7 property and he'd like to make the use a use that's
8 permitted as a matter of right in the R-5-B
9 residential zone going from a nonconforming use
10 that's not documented into a documented confirming
11 use.

12 MR. HANNA: May I ask you to remove that
13 easel or adjust the perspective to just demonstrate
14 or ask you about the referred to in the back.

15 MR. VALLEN: Oh, sure. Is that good?

16 MR. HANNA: In addition to the four bays,
17 do you believe there is an additional parking space
18 such as a car parking in front of it which is within
19 the property line, not in a public space? How many
20 parking possibly can be handled in this existing --

21 MR. VALLEN: I've actually never analyzed
22 it so it's an assumption at this point for me to make
23 which I don't -- I really can't answer that question
24 accurately.

25 MR. HANNA: Okay. I very much want more

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 things about what is your expertise on analyzing air
2 and circulations in this kind of area as far as air
3 circulation and making sure there is no stagnant air
4 is being created?

5 MR. VALLEN: Our proposal isn't creating
6 any area that's completely enclosed. We are not
7 enclosing anything on more than -- we're only adding
8 a wall on one side that would affect a building
9 directly, and that's the ten foot seven area on your
10 property. So I don't see that there is -- but it's
11 personal opinion.

12 You know, the wind blows from the north
13 down to the south and it's going to blow right
14 through that court and might increase in velocity
15 slightly as it's moving through there. In the
16 summer, the air is stagnant everywhere.

17 So I mean I really don't know that I can
18 tell you quantitatively how that this will actually
19 affect the air moving behind those buildings.

20 MR. HANNA: Well, by the same token, you
21 cannot say it's not going to affect in your expert
22 opinion.

23 MR. VALLEN: I can't say one way or the
24 other.

25 MR. HANNA: Thank you.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MS. REID: All right. Thank you very
2 much, Mr. Hanna. Ms. Hicks, before you leave, I had
3 a question regarding the type of relief that was
4 requested. I have in my file a letter from the
5 Zoning Administrator, Michael Johnson.

6 MS. HICKS: Yes.

7 MS. REID: And I have a self-
8 certification application that was filled out by a
9 Brian Cass (phonetic) signed by -- who is the agent
10 for, I guess, Mr. Hardy. I don't understand.
11 Typically we have one or the other and in this
12 instance we have both.

13 MS. PRUITT: Madam Chair, I may be able
14 to shed some light on that.

15 MS. REID: Okay.

16 MS. PRUITT: A lot of times we get self-
17 certifications in, and because of the responsibility
18 of the onus put on the owner to make sure that the
19 zoning certification is correct, and particularly in
20 a case like this where a lot of relief is requested,
21 sometimes we ask the Zoning Administrator to give us
22 a letter also.

23 MS. REID: Oh, okay.

24 MS. PRUITT: And it's more of a safeguard
25 so that -- you know, the responsibility for self-

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 certification is that the owner takes all that
2 responsibility. If it's wrong, they go back through
3 the system again.

4 MS. REID: I understand.

5 MS. PRUITT: Because of our tight
6 schedule, trying not to add an additional hardship to
7 not only the Board but the owner, if we catch it
8 early enough we are now trying to get the Zoning
9 Administrator to sort of confirm that the self-
10 certification is correct.

11 MS. REID: Oh, well, thank you. I wasn't
12 aware of that. That sounds -- that's good.

13 MS. HICKS: Yes, it's been done for at
14 least, I think about two years.

15 MS. PRUITT: And we've been trying more
16 and more to work with the Zoning Administrator's
17 office when we find self-certs that -- unfortunately
18 we can't catch all of them because, one, it's not our
19 job to do the interpretation. But when we do the
20 advertisement --

21 MS. REID: Okay.

22 MS. PRUITT: -- if we think that there's
23 some question or we want to verify.

24 MS. REID: Okay, now, and the other
25 question then becomes -- maybe Ms. Pruitt you can

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 answer or Ms. Hicks -- the relief of the sections
2 that are indicated in the self-certification and
3 those that are in the Zoning Administrator's letter
4 differ somewhat.

5 For example, in the Zoning
6 Administrator's letter and in the self-certification,
7 they both stipulate Sections 402.4 and 403.2 and
8 404.1, however then in the Zoning Administrator's
9 letter it says 406.1 and that's not in the self-
10 certification application. But on the self-
11 certification application, we have 405.9 and 2003.1.

12 MS. PRUITT: That's precisely why we
13 sometimes refer it to the Zoning Administrator
14 because sometimes people ask for zoning relief that's
15 unnecessary or the wrong relief. And we advertise
16 based on the Zoning Administrator's letter, who is
17 the interpreter of the zoning regs and who indicates
18 actually what relief is required.

19 MS. REID: Okay. Then in the notice, Ms.
20 Pruitt, the notice reflects that that has been
21 specified by the Zoning Administrator only.

22 MS. PRUITT: Correct.

23 MS. REID: Okay. So basically that
24 usurps the self-certification?

25 MS. PRUITT: Yes. I mean, it's -- uh-

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 huh. Because basically at the end, the zoning
2 Administrator -- after self-certification, the Zoning
3 Administrator, after the Board has, you know,
4 determined -- theoretically if the Board approves a
5 project that has been self-certified, when the person
6 goes to get their building permit, the Zoning
7 Administrator then verifies that they have been --
8 have certified or requested correct zoning relief.

9 MS. REID: Okay.

10 MS. PRUITT: So it still has to be
11 checked off by them either at the beginning or the
12 end.

13 MS. REID: Okay. All right, fine. Thank
14 you. All right, now, we move now to -- thank you
15 very much, Ms. Hicks.

16 MS. HICKS: Okay, you're welcome.

17 MS. REID: And we move now to the Office
18 of Planning report. Is there an Office of Planning
19 report on this? Okay. Then the ANC in which the
20 application site -- the ANC that has jurisdiction
21 over this particular site, which is 1C and 2B. We do
22 have a letter from ANC-1C but --

23 MS. PRUITT: There is no representative.

24 It was called --

25 MS. REID: No representative here?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MS. PRUITT: They will not be here but
2 they did send a letter in support, and there's also a
3 letter from the single member district.

4 MS. REID: All right, thank you. Ms.
5 Renshaw, do you have the letter that you could kind
6 of --

7 MS. RENSHAW: Yes, I do. The letter from
8 ANC-1C is dated June 13, 2000. And ANC-1C met on
9 June 7th, 2000. They had a voice vote and a quorum
10 present, and 1C voted to support the efforts of Mr.
11 Hardy in building on this irregular lot at 1821 and
12 1823 Florida Avenue. And state that filling in the
13 site with a well-designed building is highly
14 desirable.

15 And mentioned the detailed alternative
16 plans are desirable to ascertain the most feasible
17 development of the property to result in the most
18 minimal intrusion into desired separation at the rear
19 from the property behind it.

20 And that is signed by Linda Softli, the
21 chair, and Peter Schot, the vice chair.

22 MS. REID: And also, Mrs. Renshaw, they
23 do indicate that in their view the alternative plans
24 that were presented are more desirable to ascertain
25 the most feasible development of the property to

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 result in the most minimal intrusion into a desired
2 separation at the rear from the property behind it.

3 MS. RENSHAW: Yes.

4 MS. REID: Now, I must note here that
5 while it is -- they do refer to the alternative plan,
6 they do not condition their approval --

7 MS. RENSHAW: That's correct.

8 MS. REID: -- on the alternative plan.
9 So there is a difference there. All right, thank you
10 very much. They will be given the great weight to
11 which they're entitled. We now go to any other
12 government reports, which I don't think we have any.

13 Then persons and parties in support of the
14 application. Is there anyone else here, Ms. Hicks,
15 that want to testify in support of the application?

16 (No audible response.)

17 MS. REID: All right. Then, Ms. Hicks,
18 now your presentation is done so if you'd kind of
19 take a seat back and --

20 MR. RUTKOWSKY: This is going to be
21 short.

22 MS. HICKS: This is Mr. Rutkowski.

23 MS. REID: All right.

24 MR. RUTKOWSKY: Yes, my name is John
25 Rutkowski and I actually developed 1812 Vernon Street

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 and across the street at 1930 and 1918, and 1806 and
2 1808 Florida Avenue and I'm for him changing this
3 use, get the garages off the street. And that's all
4 I have to say. I'm just --

5 MS. REID: All right. Thank you, sir.

6 MR. RUTKOWSKY: I still have 18 units,
7 you know, across the street.

8 MS. REID: Okay. We also have for the
9 record three letters that came in in support of the
10 application, from a Mr. -- a Jennifer Campbell and
11 Vincent Walsh and a Troy Tebone (phonetic) in support
12 of. All right, thank you very much.

13 MS. PRUITT: Excuse me, Madam Chairman.
14 Before the applicant steps away, could we please have
15 reduced copies of your alternative plans and all the
16 shadow studies for our record, please? And do you
17 have the shadows studies?

18 MS. REID: Give them to the staff,
19 please.

20 MS. PRUITT: If you can get us copies of
21 it. You don't have --

22 MR. VALLEN: I will.

23 MS. PRUITT: Okay, thank you very much.

24 MS. REID: Mr. Hardy, did you have a
25 comment?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MR. HARDY: There are more letters than
2 that. There's a letter by Mr. William Carter.

3 MS. REID: I noted Mr. Carter's letter.

4 MR. HARDY: And Mr. Burch.

5 MS. REID: Oh, I'm sorry, there's a
6 petition. Right, there is a petition that has --

7 MR. HARDY: There is a petition.

8 MS. HICKS: Several pages.

9 MS. REID: -- several pages. I just saw
10 one page. Petition in support of --

11 MS. HICKS: There are also more than
12 three letters of support in the folder.

13 MS. REID: You're right.

14 MS. HICKS: I think there was more like
15 seven or eight.

16 MS. REID: There was another letter from
17 a Mr. Burch. I have four --

18 MS. HICKS: Okay.

19 MS. REID: -- and the petition. If you
20 have others, then you can submit them into the
21 record. I only have four plus the petition. The
22 petition is signed by approximately -- looks like
23 about 20 or 25 people in support. 22 persons on the
24 petition. Okay, all right, now we'll take that into
25 the record, Mr. Smith.

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 Okay, now, persons or parties in
2 opposition. Okay, come up, please. How many people?
3 Just the three of you? Okay, come up in a panel.
4 Mrs. Hicks, can you allow all of them to sit up now,
5 please? Okay, parties in opposition have five
6 minutes. If you want to consolidate, you can
7 consolidate.

8 MS. MORRIS: No, I don't think we want to
9 consolidate it in five minutes.

10 MS. REID: All right, okay, well --

11 MS. MORRIS: Then I have five minutes for
12 the Lothrop House and five minutes for myself.

13 MS. REID: Well, I mean, basically if you
14 can consolidate that part.

15 MS. MORRIS: Well, this is an important
16 issue for us. Once it's built, there's nothing we
17 can do about it.

18 MS. REID: Okay. Excuse me one second.

19 (Discussion among Board members.)

20 MS. REID: Okay, I understand. Thank
21 you, Ms. Pruitt. Ms. Morris, we did -- typically we
22 try to balance the time out between the applicant and
23 the persons or parties in opposition together to make
24 their presentation.

25 And Ms. Pruitt was reminding me that you

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 don't have a time, just to go ahead and make your
2 presentation, since we didn't stipulate in the
3 beginning. And just try to, you know -- since this
4 has taken so long, try to accelerate it as much as
5 you can but not in such a way that it in any way
6 compromises what you have to say here today.

7 MS. MORRIS: Thank you. As I said, my
8 name is Elaine Morris. I'm the president of the
9 Lothrop House Condo Association consisting of 16
10 units plus three legal parking spaces. I own several
11 of the units and others, of course, own other units.

12 I specifically represent Gertrude Ding, Johan
13 Hayland (phonetic), and Jose Coroga. And Ms. Ding
14 and Mr. Coroga also wrote separate letters.

15 As a few quick preliminary matters. One
16 of the individuals who signed Mr. Hardy's petition is
17 the owner of unit 302 in our building and he has just
18 gone into a contract to sell his unit, so his
19 signature is relatively moot. His property will be
20 sold within the next ten days.

21 Also, the letter from Mr. Hardy's
22 application from Mr. Carter, again at the end of that
23 letter it makes the scandalous accusations that we
24 have basically taken the public alley for our own use
25 which is totally untrue. There's a deeded right of

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 way from our property to the alley, and of course our
2 property is our property. In this country there
3 still is a notion of private property, I hope.

4 Also the ANC, I appreciate that they do
5 have concerns for the property owners behind. I went
6 to a meeting in May, beginning of May, and it wasn't
7 taken up. I didn't know when it was going to be
8 taken up, this particular petition. And in fact I
9 asked somebody.

10 The meeting ran over in May and I asked
11 one of the Commissioners, a Mr. Miztek (phonetic),
12 whether he recalled this project being discussed and
13 he said he believed it was already discussed and the
14 ANC approved it, so I just thought that was a *fait*
15 *accompli*. I believe the ANC really didn't hear from
16 us. Whether that was our fault or their fault, I
17 don't know. They didn't hear from Hanna Associates
18 or Lothrop House.

19 And I'd also like to says that the great
20 weight that the Board should accord to the ANC views
21 means that the Board should come to grips with
22 everything that the ANC brings up, every concern and
23 every issue, not that the ANC's opinion should
24 persuade the Board. And that's in Wolf vs. District
25 of Columbia BZA. And I will be happy to give copies

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 of these cases that I'm referring to. I know you
2 didn't want me to discuss them before but I really
3 think they're important and I'd like to put them in
4 the record.

5 Let me go on to say that the garages, as
6 Mr. Hardy said, were originally part of multi-family
7 buildings on Vernon Street. Both Mr. Hanna's, the
8 large garage, and us, the smaller garage. And as
9 such, they were accessory parking garages that are
10 permitted, still permitted, as a matter of right.

11 But this structure would affect us
12 substantially. Mr. Hardy and I believe Mr. Vallen
13 were talking about our short chain link fence, which
14 I have a picture of, would cause danger for people
15 trying to run -- I'm not sure where he was saying
16 they would be running, from Mr. Hanna's building to
17 ours or from ours to Mr. Hanna's building -- in the
18 case of a fire.

19 But in fact building a structure on the
20 footprint of the garage would almost completely
21 eliminate any possibility of getting through that
22 area because the corner of the garage and our
23 building are one foot apart. So if you're being
24 chased by a fire, I think you can perhaps climb a
25 short chain link fence but you can't get through a

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 brick building. So I'd like to put in that
2 particular photo as an exhibit.

3 But, again, our lot is private property.
4 There is no right of access from our lot into Mr.
5 Hanna's and from Mr. Hanna's into ours, and I think
6 we both recognize that. Although there is a gate on
7 here and some of the neighboring property owners can
8 get through the gate and we're very happy to give Mr.
9 Hanna the right to get through it as well. Hanna
10 Associates, excuse me.

11 But we're concerned about our security as
12 well as Mr. Hardy concerned about his potential
13 security of his building, because if this monolithic
14 wall goes up, it's much more easy for criminals to
15 hide behind that wall and break into units in Mr.
16 Hanna's building and units in our building.

17 Right now, as you see, the backs of our
18 buildings are visible from Florida Avenue. We get
19 the street lights. And when there's a wall there,
20 it's going to be very close and easily a good place
21 for criminals to hide. We won't get that street
22 light at night either.

23 And also I don't think the architect has
24 addressed the units and the apartments in the
25 courtyards there between the two buildings. Many of

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 them, and especially Ms. Gertrude Ding, currently has
2 light that she sees over the garages and she has --
3 many of us have a view of the Washington Monument,
4 which in many cases will be cut off. And I also have
5 a photo taken from the unit just above Ms. Ding's
6 that I'd like to submit.

7 Again, this particular property was not
8 an undeveloped lot, as I said. It was cut off by a
9 predecessor in title and it was used as an accessory
10 garage -- they were used as accessory garages.
11 Again, these buildings would cut off our light and
12 air, make it less safe for windows in the back.

13 It would add parking -- burden parking to
14 the neighborhood because these waters that are now
15 parking on Mr. Hardy's property would be parking in
16 the street. And, of course, we didn't discuss what
17 he's charging for parking but certainly many of the
18 residents in the neighborhood would be happy to pay
19 for parking.

20 And I'd like to refer to Exhibit No. 3 of
21 Mr. Hardy's. At the very end, he said without
22 variances the property would be condemned to remain
23 as storage space/garages. As such, it would likely
24 remain an eyesore spoiling the entire 1800 block of
25 Florida Avenue. As this type of use cannot justify

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 cost of renovation.

2 So as I said before, Mr. Hardy introduced
3 the economics of it when he said this type of use
4 would not justify the cost of renovation, and we
5 don't have any figures about what the cost of
6 renovation is, are, or how they would be added to the
7 price that he paid and make it uneconomic.

8 Again, we're concerned about the physical
9 support of our retaining walls. If Mr. Hardy's plans
10 go through, we don't know yet who's supervising. I'd
11 also like to say that there's a drain in our concrete
12 parking lot and it drains into the sanitary sewer,
13 just like it's supposed to. Mr. Morris, who they
14 referred to, my husband, is a licensed master plumber
15 in the District of Columbia and he's taken care that
16 all our plumbing and all our storm runoff is
17 according to code.

18 So my feeling is that the petition cannot
19 be granted without substantial detriment to the
20 public good, in fact the immediate neighbors. Now,
21 many people signed the petition who live across the
22 street or down the street or around the corner, and I
23 understand that it doesn't look attractive. They
24 would prefer to see a building there.

25 Well, it's really not supposed to be a

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 vote as to what's the most attractive use. It's what
2 can the project conform to the existing zoning
3 regulations. If everything were to be judged on
4 what's the most attractive use, then you don't need
5 zoning regulations.

6 And, again, I'd like to refer you to
7 Rumel vs. District of Columbia BZA, Barber vs.
8 District of Columbia BZA, Carliner vs. District of
9 Columbia BZA, where it said if a use can be made --
10 and they are talking about area variances. I used
11 the word use, but an occupation -- you know, you make
12 use of property, whether it's a use variance or not.

13 If a use can be made consistent with the zoning
14 regulations, a variance must not be granted.

15 And in fact these garages can be fixed
16 up. You know, Mr. Hardy's application says they're
17 not economic but we don't have any evidence as to why
18 that's not economic and he can also --

19 MS. SOCKWELL: Ms. Morris?

20 MS. MORRIS: Yeah.

21 MR. SOCKWELL: If you don't mind, you've
22 referred to enough cases, X plus Y versus the BZA,
23 and you've excerpted specific phrases that you think
24 are beneficial to your case. And without knowing the
25 specifics of such cases, what you're saying is really

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 irrelevant.

2 MS. MORRIS: Well --

3 MR. SOCKWELL: It is really irrelevant.
4 And as much as -- and I'm sure it sounds very good to
5 say all those little snippets of whatever, they're
6 not balanced with anything that makes us on this
7 Board know one way or the other the validity of the
8 references nor the specificity of the references.
9 And I think that you've used enough of them to have
10 just burdened me at this point with words that are
11 meaningless.

12 And if you're not going to give us
13 something that is more specific and more relevant,
14 it's not of any value toward proving your part of
15 this case.

16 MS. MORRIS: Well, of course, the
17 petitioner has the burden of proof.

18 MR. SOCKWELL: Well, in your case, you
19 have the burden of representing your constituents
20 effectively.

21 MS. MORRIS: Right.

22 MR. SOCKWELL: And I think you can do
23 better at it.

24 MS. MORRIS: Well, I'm sorry you feel
25 that way. Again, that's why I wanted to give the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 whole --

2 MR. SOCKWELL: And so am I, believe me.

3 MS. MORRIS: Again, I would like to put
4 the whole case into the record so that whoever your
5 legal counsel is could review that. But what I'm
6 trying to say is the petitioner does have the option,
7 as in these other cases where the BZA refused to
8 grant variances similar to this.

9 He does have the option of selling the
10 units at a profit to Hanna Associates who already
11 offered to buy it and to us, and we would return them
12 to accessory garage use which are permitted as a
13 matter of right in the zoning regulations. And I
14 have to emphasize that that's very important, and
15 I'll leave that for your consideration.

16 Again, I had a picture of garages around
17 the corner that certainly look neat and tidy, and
18 that sort of garage door could be put on these
19 garages and the roof repaired and made to look just
20 like anybody else's garages. In fact, there would be
21 a garage door in the proposed plan and they would
22 look similar to that. We'd be willing to do it and
23 so would Hanna Associates.

24 Again, as I said, Mr. Hanna has -- I
25 mean, Mr. Hardy has letters and a petition but those

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 people have nothing really at stake other than that
2 they look at something that's not attractive -- and I
3 agree it's not attractive. And I believe it could be
4 fixed up to look like very ordinary and attractive
5 garages, just like part of the proposal will be if
6 it's granted.

7 And we're also, of course, concerned,
8 they couldn't give us any specific statements about
9 what the walls will be that immediately about our
10 property. Some of them are, of course, party walls
11 and some of them just off the walls are our private
12 property.

13 We have legal parking spaces which will
14 be in use during construction and we really have no
15 way of knowing whether we'll be able to use our
16 parking spaces or whether bricks will be falling and
17 mortar will be falling on our yard and our parking --
18 on our cars and mortar to be washed into our storm
19 sewer and perhaps harden up.

20 Now, I would like to -- and if -- you
21 know, please tell me if I'm able to. I'd like to get
22 Mr. Hanna's testimony that he made an offer to
23 purchase the garages and convert them to accessory
24 garage use. If you don't want me to do that, I'll
25 defer to Mr. Hanna.

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 MS. REID: You'd like to do what now?

2 MS. MORRIS: I'd like to get Mr. Hanna's
3 testimony on the record that he's willing to purchase
4 the units or I'll let him do that himself.

5 MS. REID: But what I don't understand,
6 Ms. Morris, that doesn't have any bearing on this
7 case.

8 MS. MORRIS: I really think it does, as a
9 matter of law. If the property can be returned to
10 use conforming with the zoning regulations, then this
11 type of extreme variance cannot be granted. But I'll
12 just leave that in the record. And I also would like
13 to say the extreme nature of this -- the variances,
14 you know, in the proposal -- the original proposal
15 which is actually in the record is no rear yard.

16 Now, I'm not exactly sure whether you'd
17 be considering that or considering a partial rear
18 yard, but no rear yard or a three foot rear yard is
19 really a tremendous burden on us as the adjoining
20 property owners, as well as the height because in
21 effect it makes us provide Mr. Hardy with a rear
22 yard.

23 Now, he has to -- or the person who buys
24 from him, the only way they can get to their rear
25 wall is to come on our property, and I don't believe

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 that's fair. It's sandwiching a narrow shallow
2 building into surrounding multi-family buildings
3 which all have rear yards. And it's too much of a
4 burden on us.

5 I'd also like to say that there are other
6 garages in the neighborhood, and if Mr. Hardy can
7 convert a garage into a townhouse, then as a matter
8 of due process I would imagine that other people can
9 convert garages into townhouses and you'd have these
10 little shallow properties, you know, sticking up all
11 over the place perhaps.

12 Again, I think in the beginning you asked
13 Mr. Hardy or you asked the architect, are there
14 similar examples. I'm really -- again, I haven't
15 taken a survey but I doubt if there are any or many
16 houses with no -- that are built almost completely on
17 their property, no rear yard or three-foot rear yard,
18 no side setbacks, no front setbacks. I just believe
19 that's too burdensome to the surrounding owners.
20 Thank you very much.

21 May I also put in my exhibits?

22 MS. REID: Yes. Thank you, Ms. Morris.
23 One moment, do you have any questions of Ms. Morris?

24 MR. SOCKWELL: Ms. Morris, with regard to
25 the rear yard issue, the existing garages that are on

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 property provide how much rear yard now?

2 MS. MORRIS: They provide zero, but
3 they're on the level with our rear yard. Their roofs
4 are basically on the same level as our rear yard.

5 MR. SOCKWELL: But they do provide a zero
6 rear yard.

7 MS. MORRIS: Because originally they were
8 --

9 MR. SOCKWELL: Just yes or no?

10 MS. MORRIS: Yes.

11 MR. SOCKWELL: Thank you.

12 MS. REID: Okay, thank you. Mr. Hanna?

13 MR. HANNA: I'm going to try to keep it
14 brief. I understand the time constraints. No doubt
15 that there is going to be a direct effect on and a
16 hardship on our property, and this was admitted
17 during the presentations that Mr. Hardy and his
18 associate has made. It's just a matter of what is
19 the extent.

20 It was admitted that there is going to be
21 some shadowing. It is going to be admitted there's
22 going to be some blocking to the view, and we feel it
23 is more than the extent that was presented.

24 If this is going to go, it's going to add
25 a big burden on not just one family, two families,

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 three families. It is going to be a major effect on
2 almost 50 percent of our property directly and maybe
3 more indirectly. Not to mention again I need to
4 emphasize not only the effect on lighting, air and
5 view, but there is also direct effect on parking
6 spaces.

7 This issue has been brought up but I
8 wanted to bring something else for your
9 consideration, that in order for this to go on
10 blocking this common driveway, we have to introduce a
11 driveway for our space, so that's an added more
12 burden. We calculated it based on what's been seen.

13 There is a possibility of five cars can be parked as
14 it is right now.

15 If the proposed structure goes, it was
16 giving back one parking in the premises and will give
17 two parking in the street, so that will be a balance
18 of five minus three will be two. But it will also
19 add a need for additional parking because of the
20 tenants introduced to the space. We feel like a two-
21 family house unit will be an average of three
22 parking.

23 So that's again going back to a deficit
24 of five parking, plus we have to cut a driveway in
25 the street is going to take two more parking. So if

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 this will go, it will create a deficit of seven
2 parking spaces, which is very critical to this kind
3 of neighborhood because parking space is a commodity.

4
5 And I would need to emphasize again and
6 need to say that we're willing, ready and able to
7 purchase the property, clean it up and just for the
8 record, and fix it up and maintain it as a garage,
9 and will be aesthetically appealing to the community,
10 and we're very sensitive to that as well.

11 MR. SOCKWELL; You're Mr. Hanna?

12 MR. HANNA: Yes, sir.

13 MR. SOCKWELL: I have a question about
14 the parking. Would you show me specifically on the -
15 - can you show me on those drawings access to the
16 parking spaces that you're speaking of?

17 MR. HANNA: Yes, sir. This parking space
18 is -- there's two parking spaces in the property. I
19 can show it better in this plat if I wanted to --

20 MR. SOCKWELL: All right.

21 MR. HANNA: -- present it as an exhibit
22 here.

23 MR. SOCKWELL: And the street access to
24 those parking spaces is from where?

25 MR. HANNA: Is using that common driveway

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 in here.

2 MR. SOCKWELL: Show me where the common
3 driveway is.

4 MR. HANNA: It's right here.

5 MR. SOCKWELL: All right. Which means
6 that from that common driveway one has to drive along
7 the sidewalk and then into your parking spaces, which
8 is an illegal access to parking spaces under any
9 circumstances.

10 You are not allowed to drive a four-
11 wheeled automobile along the public sidewalk for any
12 length. You are allowed to cross directly on a 90
13 degree angle straight driveway or you are allowed a
14 circular drive or in certain circumstances a slightly
15 angled drive. But what you are showing is an illegal
16 access to what is therefore illegal parking.

17 MR. HANNA: All right.

18 MR. SOCKWELL: It is not --

19 MR. HANNA: Okay.

20 MR. SOCKWELL: -- existent.

21 MR. HANNA: All right, if you --

22 MR. SOCKWELL: It's there but it doesn't
23 exist. Just as the representation of parking on Mr.
24 Hardy's property, which is with -- perhaps within
25 garages that are not occupiable, although the aprons

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 may not fall under quite the same regulations. But
2 your parking is illegal.

3 MR. HANNA: Okay. I'll take this into
4 consideration, but even if you strike this --

5 MR. SOCKWELL: No, there's nothing to
6 consider. It's illegal, trust me.

7 MR. HANNA: That's fine. We've been
8 using them without no knowledge on that. But --

9 MR. SOCKWELL: Right. Because you know
10 you've -- have you ever seen anyone driving
11 horizontally along a sidewalk in the District of
12 Columbia legally?

13 MR. HANNA: It's not intended to drive in
14 it. To just pull in.

15 MR. SOCKWELL: I know, but you understand
16 what I'm saying.

17 MR. HANNA: Yes, sir.

18 MR. SOCKWELL: And I realize that it
19 doesn't support your case but if you're an
20 intelligent man, as I assume you to be, you know
21 exactly what I'm saying and exactly what I mean and
22 it is exactly correct, is it not, sir?

23 MR. HANNA: Correct.

24 MR. SOCKWELL: Thank you.

25 MR. HANNA: And if I might state that the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 calculation would be rather than a seven parking
2 deficit, it will be a five parking deficit.

3 MS. REID: I didn't hear that.

4 MR. HANNA: It's going to be five parking
5 spaces that are being created as a deficit to the
6 space. I'm striking the seven used but is going to
7 take away five spaces, or is going to take away --
8 introducing a burden of five more parking more spaces
9 to the neighborhood as it is right now.

10 MR. SOCKWELL: And you're making those
11 representative of the spaces that are on Mr. Hardy's
12 property?

13 MR. HANNA: It's basically one, two,
14 three, four and two cars within the property makes it
15 five are currently in use. By building a new
16 structure, you're taking away all of these five with
17 exception of giving back one, and giving back the two
18 spaces in here, but you're also introducing a tenant
19 in here that would require more additional spaces.

20 MR. SOCKWELL: And those five spaces that
21 are being removed from Mr. Hardy's property have been
22 characterized as being illegally occupied as well.
23 So now we are subtracting zero from zero and getting
24 zero because none of the spaces that you speak of are
25 being occupied legally. Yours, the two that you

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 initially represented, have no legal access so they
2 are not legal spaces.

3 Mr. Hardy's spaces, per the
4 characterizations of I think Ms. Morris, are illegal
5 because the garages are not properly issued
6 certificates of occupancy. And the spaces on the
7 apron may or may not be considered legal if the
8 property itself is not occupiable because the garages
9 comprise the only structures on the property and the
10 aprons are part of the garages. And therefore I
11 think none of it's legal at this point.

12 MR. HANNA: The fact is --

13 MR. SOCKWELL: So we're not losing
14 anything.

15 MR. HANNA: That's fine. But the fact is
16 it has been -- it was legal at one point or another
17 and this condition was created. Why cannot we
18 reinstate it back and making it legal, that's the
19 point I would like to make.

20 MR. SOCKWELL: Okay, and that I can
21 accept.

22 MR. HANNA: It can be easily made legal
23 and that will be a benefit to the community.

24 MR. SOCKWELL: That I can accept.

25 MS. MORRIS: Mr. Sockwell, I didn't --

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MS. REID: Thank you, Mr. Hanna.

2 MS. MORRIS: I didn't make any allegation
3 about this parking not being legal or a certificate
4 of occupancy.

5 MR. SOCKWELL: Oh, I thought --

6 MS. MORRIS: In fact if he needed a
7 special exceptions, which I think he can get a
8 special exception for --

9 MR. SOCKWELL: Okay. Well, maybe I
10 misrepresented what you said but I know that someone
11 made a representation to the lack of certificate of
12 occupancy on the garages.

13 MS. MORRIS: I think --

14 MR. SOCKWELL: And maybe it was applicant
15 himself.

16 MS. MORRIS: I believe so. I believe so.
17 And we would support a special exception if he
18 wanted to fix it up and continue running it as a
19 garage.

20 MS. REID: All right, thank you. Ms.
21 Hicks, did you have any cross examination questions
22 of these --

23 MS. HICKS: No, I was just signaling that
24 the applicant made the --

25 MS. PRUITT: Ms. Hicks, you need to speak

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 from the mike, please.

2 MS. HICKS: Oh, I'm sorry.

3 MS. PRUITT: Thank you.

4 MS. HICKS: I was signaling to the Board
5 that the applicant made the allegation that no
6 certificate of occupancy could be found.

7 MR. SOCKWELL: Call it assertion?

8 MS. HICKS: Assertion made, yes.

9 MS. REID: Ms. Hicks, wait. This is the
10 time to cross examine these witnesses, and if you
11 don't have questions for them, then we will then have
12 closing remarks by the applicant, at which time then
13 you can proceed with what you're saying to us right
14 now. But you can't do it until you -- until we are
15 done with this segment.

16 MS. HICKS: Okay.

17 MS. REID: Do you have any questions?

18 MS. HICKS: We have questions, yes.

19 MS. REID: Okay.

20 MS. HICKS: We'd like to introduce floor
21 plans of the condominiums that allege that they will
22 be affected and we'd like to ask some questions of
23 Ms. Morris and Mr. Hanna.

24 MS. REID: I'm not following you. Is
25 this in keeping with the testimony from them here

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 today?

2 MS. HICKS: Yes. They are claiming that
3 light and ventilation would be affected on certain
4 units, and they're also representing individuals of
5 x-number of units.

6 MS. REID: So you have a question? In
7 other words, you have -- okay.

8 MS. HICKS: We have layouts of each floor
9 of the condominium that Mr. Smith has.

10 MS. REID: To use as the basis for a
11 question pertaining to their testimony.

12 MS. HICKS: Yes.

13 MS. REID: Okay.

14 MR. SMITH: We have only an exhibit right
15 now but we can get you a copy for the record.

16 MS. REID: Into the mike, please, Mr.
17 Smith.

18 MR. SMITH: We have a copy of the plat
19 and plans of condominium of Lot 26, Square 2556, and
20 we don't have an extra copy but we can get one to the
21 record today. Mrs. Morris, you've told us that you
22 represent Gertrude Ding. Can you tell us -- you can
23 use my laser pointer if you would like -- which unit
24 is owned by Mrs. Ding?

25 MS. MORRIS: You may have to tell me --

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. SMITH: Just push the red button.

2 MS. MORRIS: Yes, that's -- I'll get it
3 eventually. 201. Ms. Ding owns 201.

4 MR. SMITH: For the record, she's
5 pointing to the front of the building along Vernon
6 Street and a unit facing mostly Vernon Street and
7 Unit 201. You've also told us that you represent
8 Jose Coroga, I think. is that how you say his name?

9 MS. MORRIS: Coroga, I think.

10 MR. SMITH: Coroga?

11 MS. MORRIS: I'm not sure.

12 MR. SMITH: Can you show us for the
13 record where his units are on this plat, 306?

14 MS. MORRIS: Yes. Here and here as well.
15 It's a two-unit -- two floor building on the third
16 and fourth.

17 MR. SMITH: Okay. 306. Can you show us
18 on the model? Can you come and show the Board on the
19 model where these units are located, both Mrs. --

20 MS. MORRIS: I'll try.

21 MR. SMITH: Unit 201. Where's Unit 201
22 located?

23 MS. MORRIS: Well, you're not showing it
24 because it's back here in the corner.

25 MR. SMITH: Okay. And about what level?

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 MS. MORRIS: Second floor.

2 MR. SMITH: Where's the second floor on
3 this model?

4 MS. REID: Mr. Smith and Ms. Morris,
5 you're blocking --

6 MR. SMITH: I'm sorry.

7 MS. REID: You're blocking the view from
8 the very body that you wish to present it to.

9 MR. SMITH: My apologies.

10 MS. MORRIS: Well, it's really hard
11 because there's no windows showing exactly where the
12 units are.

13 MR. SMITH: But you would characterize it
14 as being in the front block on the second floor.

15 MR. SOCKWELL: I think we can assume --

16 MS. REID: Okay.

17 MR. SOCKWELL: I think we can assume that
18 the windows can be carried around from the front of
19 the building or the back of the building to the side
20 at the same level, so that whatever windows show, the
21 windows on the side would align with those windows.
22 So you can pretty much just chart a course.

23 MS. REID: Okay, so it's back in the
24 back.

25 MS. MORRIS: You know, it's the second

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 floor.

2 MR. SOCKWELL: So it's deep in there.

3 MS. REID: I see. And where's the other
4 one?

5 MS. MORRIS: Well, 201 has double
6 windows. That's her bedroom, 201.

7 MR. SMITH: At the end of the court.

8 MS. REID: Okay. And where's Mr. 30 -- 3
9 something.

10 MR. SMITH: 306.

11 MS. MORRIS: 306 is these two windows and
12 these two windows.

13 MR. SMITH: So you're saying that there's
14 this fire escape, one of these windows right here and
15 maybe the one above it or part of that unit?

16 MS. MORRIS: Exactly, yes.

17 MR. SMITH: Okay. And it's your argument
18 that they have a problem with their light and
19 ventilation due to this project?

20 MS. MORRIS: Ms. Ding does. Mr. Coroga --

21 MS. PRUITT: Excuse me, Ms. Morris. You
22 have to be on the mike so we can get you.

23 MS. MORRIS: At least Mr. Smith --

24 MR. SMITH: Here, I'll share mine.

25 MS. MORRIS: Of course, Mr. Coroga wrote

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 his own letter stating that -- I don't remember what
2 he said verbatim but he said partially the light,
3 partially the view and his sense of -- I think he
4 said the sense of privacy because of the rooftop
5 deck. And he's a professor at George Washington
6 University and he does research and studies from his
7 unit. And also the view. I mean, he has a view of
8 Florida Avenue.

9 MR. SOCKWELL: Mr. Smith, would you move
10 that one block out of the way. Thank you. You've
11 got one that's suppose to be there. Leave it there,
12 of course.

13 MS. MORRIS: And he has a view of Florida
14 Avenue.

15 MR. HANNA: This is alternate.

16 MR. SOCKWELL: Beg your pardon? Yeah,
17 that's the alternate.

18 MR. HANNA: You want the alternate?

19 MR. SOCKWELL: Yes.

20 MR. SMITH: Is that okay?

21 MR. SOCKWELL: Uh-huh. Now, place the
22 other one in the position with the alternate.
23 Replace the two. Set it down. It's not quite in
24 place. We wouldn't want you to have a --

25 MS. REID: And Mrs. Morris, indicate for

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 us where your unit is.

2 MS. MORRIS: Well, I have several.

3 MS. REID: The one that you live in.

4 MS. MORRIS: The one that I live in is
5 back here -- oops, I'm going to knock everything
6 over. Here. And I have windows on the side as well.

7 MR. SOCKWELL: And the others that you
8 own?

9 MS. MORRIS: Yes, the first floor under
10 Ms. Ding, the third floor over Ms. Ding.

11 MR. SOCKWELL: Uh-huh, which has windows
12 on the front and into the courtyard?

13 MS. MORRIS: Yes. The bedrooms on that
14 section just -- the bedrooms on that section just
15 have windows out to the courtyard.

16 MS. REID: Mr. Hanna?

17 MR. HANNA: Yes.

18 MS. REID: Where is your unit?

19 MR. HANNA: Okay.

20 MS. MORRIS: I have others.

21 MS. REID: I'm sorry, you said -- go
22 ahead.

23 MS. MORRIS: And also 103, which are
24 these two windows and these two windows. And almost
25 -- especially LL1, which is actually terrace level,

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 back here, that's a glass door.

2 MR. VALLEN: That is storage space.

3 MS. MORRIS: Pardon me?

4 MR. VALLEN: That is storage space.

5 MS. MORRIS: No, that's the door on the
6 right. The door to the left. I believe you knocked
7 on their door at one point. That's LL1.

8 MS. REID: Right there?

9 MS. MORRIS: Yes.

10 MS. REID: Over there?

11 MS. MORRIS: Yes.

12 MS. REID: Okay.

13 MS. MORRIS: This first floor building is
14 partially storage and it's partially the kitchen of
15 LL1. It has a skylight. And, of course, some of the
16 building would cast a shadow on the skylight as well.

17 MS. REID: And where is Mr. Hanna?

18 MR. HANNA: Okay. More than one unit
19 will be -- I have to remove this model to see it.

20 MR. SOCKWELL: That's all right. That's
21 fine.

22 MR. HANNA: So this model here you can
23 see it. So basically right in here is perfectly in
24 front, this unit here. And this unit in here. This
25 is partially in back.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MS. RENSHAW: Which one do you live in?

2 MS. REID: Those three are all --

3 MS. RENSHAW: Which one do you live in,
4 Mr. Hanna?

5 MR. HANNA: I don't live in here but the
6 tenant that I have in here --

7 MS. REID: Where do you live? Where do
8 you live?

9 MR. HANNA: I live in Richmond, Virginia.
10 I have my associate lives nearby the property.

11 MS. REID: Okay.

12 MR. HANNA: In addition to that --

13 MS. REID: Mr. Hanna --

14 MS. PRUITT: You've got to speak into the
15 mike so the recorder can pick you up, please.

16 MR. HANNA: Okay, thank you. As I said
17 before, those two windows and part of that window
18 will be directly affected. Also not to mention once
19 you put this back to illustrated, now there are some
20 windows throughout the entire side. And as you can
21 tell, there's a change in elevation.

22 So the tenant that lives in that level is
23 very much dependent on them windows for light because
24 this is their only source of light and view, is on
25 this side, because the units are divided some units

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 in here some units in here.

2 So they don't have any other alternative
3 for any light or views, and then the elevation is
4 high as you can tell from this photo --

5 MS. REID: Give it to staff, please.

6 MR. HANNA: Sure. There is a lot of
7 windows being affected on the side, not to mention
8 the one up in front.

9 MS. REID: Is it only that -- with that
10 particular unit, is just that window that is germane
11 to that unit or is it both of the units -- I mean,
12 both of the lights on the front? Both of the window
13 lights on the front?

14 MR. HANNA: It's the window -- actually
15 this is going to be affected also --

16 MS. REID: No.

17 MR. HANNA: These windows.

18 MS. REID: No. That window there. I'm
19 asking are both of those windows for the same unit?

20 MR. HANNA: No, ma'am. Two separate
21 units.

22 MS. REID: All right.

23 MR. HANNA: And those on other units are
24 also, depending on where is the south heading, this
25 can also cast some shadow in here. But the direct

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 effect on the view happening in here and happening in
2 all of the units that viewing from the side because
3 it's a direct obstruction here.

4 MS. REID: Okay.

5 MR. HANNA: As well as light.

6 MR. SMITH: Mr. Hanna, while you're here,
7 can I ask you a question to point out on this model?
8 Where is the southernmost portion of your lot and
9 show us how your lot is configured on this model to
10 show your boundary lines, where it comes? Does your
11 boundary come up to Florida Avenue?

12 MR. HANNA: Yes. The boundary line comes
13 this way --

14 MS. PRUITT: The microphone.

15 MR. HANNA: The boundary line, we already
16 got some setback on the side so the boundary line is
17 right in here. And I'm continuing with my pen all
18 the way to Florida this way, that way, that way and
19 on. And there is a surveyor in here and I took the
20 moment to share it and read it.

21 MS. REID: We have it. That's the
22 survey. We have that already in our -- in the file.
23 We have it.

24 MR. HANNA: This one, our lot, which is
25 not in -- this I'm just presenting it today. That

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 shows the extent of our Lot 24.

2 MS. REID: Okay, it's the --

3 MS. PRUITT: Similar survey. It's just
4 that it's marked differently than what you have in
5 your file.

6 MS. REID: Okay.

7 MR. SMITH: So for the record you were
8 indicating that your lot continues for a substantial
9 distance along Florida Avenue next to the garages
10 that are the subject of this discussion. How many
11 units do you have in your building, sir?

12 MR. HANNA: We have a total of 18.

13 MR. SMITH: Ms. Morris, can you come up
14 and show us on this model where your back yard goes
15 to? I want to make sure that everyone understands
16 the extent of their property. Can you just sort of
17 show us where it goes?

18 MS. MORRIS: Okay. Actually it borders
19 this proposed building and then straight down onto
20 Florida Avenue, then back up around 1825 to here. So
21 basically this whole flat area is our back yard.
22 Plus this, yes. That's why I said borders down to
23 Florida Venue.

24 MR. SMITH: Can you also please show us
25 on your condominium plat where your property lines go

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 to for your condominium common ownership and -- your
2 limited common ownership and your private ownership.

3 MS. MORRIS: That's sort of a compound
4 question. The outline of both the Lothrop House
5 again borders the west side and part of the north
6 side of the garages, straight down to Florida Avenue,
7 down 7.54 feet and back up along this line. That's
8 the common area. These are the three parking spaces.

9 MR. SMITH: So it's a fair
10 characterization to say that your back yard is much
11 more substantial than just the distance between the
12 two buildings in question which is this one story
13 addition and then this garage property, is that
14 correct? Your back yard is substantially larger.

15 MS. MORRIS: I guess the plat speaks for
16 itself. I don't know.

17 MR. SMITH: Okay, thank you.

18 MS. RENSHAW: If I could ask Ms. Morris
19 since Ms. Morris is right here. The building that's
20 right behind you on the model, was that building
21 built after you took ownership of the Lothrop House?

22 MS. MORRIS: Are you talking about this
23 building?

24 MS. RENSHAW: That right there.

25 MS. MORRIS: Yes, it's always been there

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 as far as I know.

2 MS. RENSHAW: So when you moved in, that
3 building was there?

4 MS. MORRIS: Oh, yes.

5 MS. RENSHAW: Oh, all right. Thank you.

6 MS. REID: Okay. Any further questions?

7 Okay, Ms. Hicks, then now closing remarks for the
8 applicant? Closing remarks?

9 MS. HICKS: We have set forth today to
10 submit two proposals. The first proposal was
11 submitted with the Board of Zoning Adjustment
12 application and the second submission was submitted
13 on suggestion by the ANC to try to mitigate the rear
14 yard setback, even if it's minimum at best.

15 The current use of the property is a
16 nonconforming, non-legal use. We cannot document it
17 on an issued certificate of occupancy. In order to
18 establish the use in an R-5-B residential zone, we
19 would need Board of Zoning Adjustment relief so we
20 would be back here again with probably some of the
21 same arguments, even if we wanted to renovate the
22 existing properties.

23 But Mr. Hardy feels like he could put it
24 to a better use, a more beneficial use, and clear up
25 the eyesore that's existing there. And he's trying

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 to do it with minimal impact to his adjoining
2 neighbors. And he's providing one off-street parking
3 space which is required under the zoning regulations
4 for the two units.

5 Parking to the front of the structure is
6 not allowed in an R-5-B residential zone. He
7 proposes to leave one curb cut open, close the widest
8 curb cut and try to restore two off-street parking
9 space.

10 Height, we've tried to keep the building,
11 especially in the alternative, as low as we could
12 possibly get it in order to get some reasonable use
13 out of the building.

14 We feel like we've demonstrated that
15 there is a practical difficulty and a hardship with
16 the lot constraints. It's not a parallel lot. It's
17 an irregular lot. It has an existing building on it
18 that has no rear yard, which covers more of the lot
19 than would be allowed under the current zoning
20 regulations. And that's basically all I have to say.

21 Mr. Hardy, do you have any comments in closing?

22 MR. HARDY: No, just to comment that I
23 would hope to work towards developing something that
24 is very harmonious with the neighbors. I would like
25 to be on good relations with my neighbors. I feel

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 that some of the interest that has been expressed
2 today is the interest of the immediate neighbors who
3 would have liked to have purchased the property
4 themselves and I think that that speaks for itself,
5 but I think it's not really something that's at issue
6 before the Board. What's at issue before the Board
7 is a use for the property which maximizes the benefit
8 to the city as well.

9 And I think for the city what we're
10 proposing here is an enormous improvement on a block
11 which is marred by this dilapidated derelict
12 structure which has been there -- when I first moved
13 to Washington, which was 36 years ago and I lived on
14 18th and S Streets, it was there then and it's been
15 there since before that time. And what I'm trying to
16 do is clean up the mess and put something that'll be
17 nice for the neighbors.

18 MS. REID: Thank you, Mr. Hardy. Ms.
19 Hicks, I just have one question.

20 MS. HICKS: Yes.

21 MS. REID: In regard to Ms. Morris'
22 assertion that there could be accessory parking
23 spaces put on this lot as a matter of right, can you
24 address that as to the reason why Mr. Hardy is
25 preferring to go the variance route to have his

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 application approved?

2 MS. HICKS: Could you repeat --

3 MS. REID: Okay, the practical hardship
4 aspect of it pertains to a practical hardship in not
5 being able to comply with the existing zoning
6 regulations. If in fact the existing zoning
7 regulations would allow the accessory parking lots,
8 then how do you then respond to that?

9 MS. HICKS: In the R-5-B zone, it would
10 take Board of Zoning Adjustment approval to establish
11 commercial parking.

12 MS. REID: So are you saying either way
13 you still have to come to the BZA?

14 MS. HICKS: Either way. Whether -- since
15 the use is not documented on an issued certificate of
16 occupancy --

17 MS. REID: Uh-huh.

18 MS. HICKS: -- it's considered a -- it's
19 not considered a legal commercial usage. The
20 property has been used that way, and in order to get
21 it legally established, even to get a building permit
22 to upgrade the existing structure as a commercial
23 garage, he would need for zoning adjustment approval.
24 It would never be issued without a certificate of
25 occupancy.

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 MS. REID: So you're saying that that is
2 not correct. That it's not permissible under the
3 current zoning to put in the accessory parking lots.

4 MS. HICKS: Well, the private garage has
5 not been used as -- to my knowledge as accessory
6 parking. To me, it's my understanding that over the
7 years it's been used for commercial usage. Those
8 spaces have been leased or rented out. In order to
9 get that use legitimate --

10 MS. REID: Well, that's a legal. I mean,
11 we know that.

12 MS. HICKS: It would need Board approval.
13 If the spaces were maybe owned by the Lothrop House
14 or someone else, they could combine the lots and use
15 them as accessory parking for their structures.

16 MS. PRUITT: Excuse me, Madam Chairman.

17 MS. REID: Oh, so you're saying -- excuse
18 me one second. Yes?

19 MS. PRUITT: I was going to say it may
20 get cleared up on the fact that this lot has been
21 subdivided a long time ago. And at one time this
22 parking structure -- this lot was part of the lot
23 before it. 808, I believe, was part of Lot 26, and
24 812 was part of Lot 24 a long time ago. And these
25 structures would have been existing at that time,

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 which would have been an accessory to those
2 buildings.

3 MS. REID: Okay.

4 MS. PRUITT: I don't know if that's true
5 but that's an analogy -- or that could be how they
6 got where they are.

7 MS. REID: Okay. All right, that
8 clarifies to me my area of confusion.

9 MR. SOCKWELL: I have several potential
10 issues but I will get to the one that has been most
11 important to me and since Ms. Pruitt brought it up,
12 it has been characterized -- this property has been
13 characterized as a lot. In fact, this property is
14 actually two lots, not one individual lot that has
15 specific properties of shape that make it an unusual
16 lot.

17 And generally in order to satisfy the
18 requirements for variances, there has to be an
19 exceptional narrowness, shallowness shape or specific
20 -- of a specific piece of property, and this is two
21 specific pieces of property, when only as a combined
22 lot would they actually provide this particular
23 nonconformity, and yet you are coming to us as if the
24 lots exist in the condition that they must for a
25 building permit to be issued for the particular

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 structure that you propose.

2 And I have problems with that because one
3 cannot create a nonconformity for the purpose of
4 coming before the Board.

5 MR. HARDY: Could I answer --

6 MR. SOCKWELL: Please.

7 MR. HARDY: -- on that issue. This
8 property was sold to me as a single property.

9 MR. SOCKWELL: It's in single ownership
10 but it's two separate lots and cannot be built upon
11 as 800 lot numbers. And believe me, I know Ms. Hicks
12 will certainly attest to that.

13 MS. HICKS: These are --

14 MR. HARDY: As a result of that, I have
15 filed for a new subdivision plat and they have been
16 combined, legally combined, and that's already been
17 approved, so they are now a single lot.

18 MR. SOCKWELL: And that information was
19 not conveyed to the Board.

20 MR. HARDY: No, I'm afraid that's an
21 oversight, but it was finished about a week ago.

22 MS. HICKS: Right, initially the
23 application came in as two taxation and assessment
24 lot numbers, which are 800-series lot numbers.

25 MR. SOCKWELL: Absolutely.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MS. HICKS: In order to get a
2 construction permit issued by the Department of
3 Consumer and Regulatory Affairs, you must combine the
4 two lots.

5 MR. SOCKWELL: As you know, I well know.

6 MS. HICKS: Yes, yes.

7 MR. SOCKWELL: We don't have any question
8 about either your or my knowledge of the system, I
9 don't believe.

10 MS. REID: Okay, that having been
11 established, let's move on.

12 MR. SOCKWELL: But so the issue is: What
13 is the new lot number?

14 MR. HARDY: I'll have to tell you
15 afterwards but I do have it.

16 MS. REID: You'll provide it. You'll
17 provide, okay.

18 MR. HARDY: But I do have the plat.

19 MS. REID: All right.

20 MS. HICKS: Yes, Mr. Hardy will provide
21 that information.

22 MS. REID: Okay, any further questions by
23 the Board members?

24 MR. SOCKWELL: But again, the issue still
25 is not necessarily satisfied in my mind as to whether

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 or not the subdivision itself creates a lot that is
2 therefore valid for consideration under the specific
3 requirement for variances.

4 That is the question that I raise,
5 because if we create a lot that in fact creates the
6 circumstance by which the zoning ordinance is to be
7 applied, then we are stepping away from one of the
8 principal elements that establishes specific
9 conditions for the use of the variance procedure and
10 that is where I am concerned because we've had this
11 come up before.

12 And the situation is that while I
13 certainly think that certain parts of your proposal
14 can be looked at certainly on merit -- for example,
15 some of the light and ventilation issues are handled
16 by the fact that there is at certain times a large
17 truck that parks directly at the mouth of the court
18 between the two existing apartments buildings.

19 That truck takes out all the necessary
20 view of anyone in the LL and anyone on the first
21 floor of those condominiums. And this building,
22 while if it is built becomes permanent, it certainly
23 replaces a typical condition that is intermittent but
24 existing.

25 The alternative scheme to me seems to

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 have more merit than the primary scheme --

2 MS. REID: Well, what I --

3 MR. SOCKWELL: But there again --

4 MS. REID: Excuse me, Mr. Sockwell.

5 MR. SOCKWELL: -- that's an issue but I -

6 -

7 MS. REID: Yeah, that would be better
8 discussed --

9 MR. SOCKWELL: Could be better discussed-
10 -

11 MS. REID: -- when we go to
12 deliberations.

13 MR. SOCKWELL: Yeah, if we deliberate.
14 But the issue that I am raising specifically is the
15 applicability of the variance to a created condition.

16 MS. RENSHAW: I'd like to -- Madam Chair,
17 I'd like to ask Mr. Sockwell what he is proposing.
18 Are you proposing to suspend or to postpone until you
19 see the new plot and --

20 MS. REID: Well, I --

21 MS. RENSHAW: But that information, I
22 don't understand.

23 MR. SOCKWELL: I'm proposing that we
24 withhold a decision on this matter until we can
25 confer with corporation counsel and discuss the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 specific issues of application of this ordinance in
2 this case.

3 MS. REID: Okay, I think that given the
4 fact that we do have parties in opposition that it
5 would not be able to be decided upon today at any
6 rate and so it would have to be at our next regularly
7 scheduled meeting date, which would be on July 5th.
8 Ms. Pruitt? July 5th, I'm almost certain. That
9 morning. Right? July 5th?

10 MS. PRUITT: Yeah, I was just going to
11 make a suggestion that maybe we can get corp counsel
12 to write us an opinion on how subdivided lots --

13 MS. REID: Yes.

14 MS. PRUITT: Or, yeah, lots that have
15 been combined.

16 MS. REID: Right, and to address the --

17 MS. PRUITT: Mr. Sockwell's concerns.

18 MS. REID: Mr. Sockwell's concern whether
19 or not once it is combined and then presented to us
20 as a single lot, if that has any bearing on the
21 manner in which we treat this particular application.

22 And corp counsel will give us a reading on that, Mr.
23 Hardy will present us with the plat that reflects the
24 actual --

25 MS. PRUITT: The new lot.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MS. REID: -- new lot number. And we'll
2 have all that before us before our next meeting, in
3 which time we will be able to do the deliberations on
4 this particular case.

5 MS. PRUITT: And I'd like to -- well, I
6 just wanted to run through some dates with you, if
7 possible, for the July 5th meeting, and so we are all
8 clear for the record what needs to be submitted. We
9 will have the exhibits of the alternative plans,
10 which you've given me, but also the shadow studies,
11 and all the stuff that you've provided today, along
12 with the new combined lot.

13 And if you -- both parties and the
14 applicant can submit a draft order, if they'd like,
15 by the 26th of June. Excuse the short turnaround
16 time but because of the holiday, we're -- you know,
17 everybody's a little crunched.

18 MS. REID: Also, in regard to the actual
19 construction, typically when we have large
20 developments, we ask for a construction management
21 plan. In the absence of a huge unnecessarily, you
22 know, detailed construction management plan, I'd like
23 for you to identify for us the contractor and how are
24 you -- how are you going to manage the property, the
25 construction. And particularly in regard to some of

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 concerns raised here today pertaining to the
2 brick laying and how the mortar is going to be
3 handled and things that are of concern to your
4 neighbors.

5 If you could basically summarize
6 something for us to kind of address those issues and
7 to give some -- give the neighbors some sense of
8 comfort that these things are being considered and
9 that you take their concerns very seriously, we'd
10 appreciate that as well.

11 MS. RENSHAW: And, Madam, Chair, if I
12 might add, since you have asked for some construction
13 information, if the architect would give us some
14 detail as to whether or not you're going to be
15 putting in a basement and whether or not you are
16 going to be requiring any blasting on this site.

17 MS. REID: And that information would be
18 due when, Ms. Pruitt?

19 MS. PRUITT: That's what I was trying to
20 say. All of that information would be due 6/23, by
21 Friday. That's, I mean, unfortunately short
22 turnaround.

23 MS. REID: That's next week.

24 MS. PRUITT: This week.

25 MS. REID: This week?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MS. PRUITT: Well, if you want to make a
2 decision --

3 MS. REID: Oh, right, right.

4 MS. PRUITT: -- before the holiday with
5 the holiday weekend, yes, I'm sorry, that's the
6 concern.

7 MS. REID: Is that possible?

8 MS. PRUITT: That's a lot of information
9 but --

10 MS. REID: Is that doable? Because that
11 would allow us to be able to put you on the calendar
12 at our next scheduled meeting date and not have to
13 delay it until after our recess which is in August.
14 It would have to be in September.

15 MR. SOCKWELL: Another thing that I would
16 like to request of the architect or the designer is
17 that he get a second opinion on his solar angles for
18 the District of Columbia because they don't conform
19 to what I know. And rather than specifically state
20 what my difference is, an AutoCAD program with the
21 additional whatever it is -- which one you were
22 using, I've forgotten.

23 You were using 14 with AccuRender version
24 3.0. I think there's a discrepancy between the
25 AccuRender, especially in the summer -- actually the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 summer and the winter angles don't match what I
2 understand them to be for the district of Columbia,
3 and they're off a significant number of degrees, and
4 I would want you to get either a U.S. Weather Service
5 reading on that or another qualified source. And, if
6 necessary, you can input that to your drawings and
7 make a correction. And I would want that. Thank
8 you.

9 MS. REID: Okay? Thank you very much.

10 MS. PRUITT: Excuse me, Madam Chair, just
11 because we've gone through a couple of more things,
12 can I just reiterate for the record so everybody's
13 straight, particularly myself. For the 23rd, which
14 is this Friday, we'll have the additional alternative
15 designs, the shadow studies, the new combined lot,
16 information concerning construction and construction
17 management. And from the architect a second opinion
18 on the shadows, possibly from -- I'm sorry, you said
19 U.S. Service, Mr. Sockwell?

20 MR. SOCKWELL: Yes. Weather Service.

21 MS. PRUITT: U.S. Weather Service or
22 equally qualified source.

23 MR. SOCKWELL: Yes.

24 MS. PRUITT: And then draft orders would
25 be due the following Tuesday, which is the 27th.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MS. SANSONE: Madam Chair, I'm concerned
2 if we have new evidence coming in with the second
3 opinion and the construction practices that the
4 parties in opposition have a chance to review that
5 and perhaps submit rebuttal information.

6 MS. REID: Okay.

7 MS. PRUITT: All right. So if that was
8 the case, it still puts us on this same very tight
9 timeline. Draft orders and any rebuttal would be due
10 the same day, which will be the 27th. If you have --
11 please come to the mike.

12 MS. MORRIS: I'm not sure how we can
13 review something and get a second opinion on the very
14 same day that it's being submitted.

15 MS. PRUITT: No, it'd be submitted on the
16 26th -- I mean, excuse me, 23rd, Friday.
17 Unfortunately, you would have to submit your rebuttal
18 and draft on the following Tuesday.

19 MS. MORRIS: I don't see how that can
20 logically happen.

21 MR. SOCKWELL: A comparison of the
22 existing presentation of the shadow drawing could be
23 made if you get a copy of that from the applicant.
24 And then you can very quickly see the differences, if
25 there are differences, in the solar angles. It would

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 not be something that would take any study at all.
2 You could look at it, you could see it, you would
3 know what the differences were. It's not brain
4 surgery here when you're just looking at pictures.

5 MS. REID: Ms. Morris, also, you were to
6 submit for the record today the copies of the cases
7 that you were citing.

8 MS. MORRIS: I believe I did.

9 MS. REID: You did? Okay. That also we
10 would like to have included in the packages that come
11 out prior to that meeting so that we could look at
12 that information.

13 MS. PRUITT: They're part of the record
14 so we'll mail it to you.

15 MS. REID: Okay.

16 MS. PRUITT: I mean, she's already
17 submitted it today.

18 MS. REID: Okay.

19 MS. PRUITT: And also just a reminder,
20 please serve all information on the parties.
21 Sometimes we forget that. But make sure that both
22 Ms. Morris and Mr. Hanna get copies that you serve us
23 on the Board. Thank you.

24 MS. REID: All right. All right, then
25 that would then conclude this morning's session. We

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 know we're running behind. This case took
2 considerable more time than what had been allotted.
3 But nonetheless, we don't have any control over that.
4 We're going to just take a short lunch, 30-minute
5 lunch, and resume back at -- let's say 1:20 to take
6 up the other two cases of the morning and try to get
7 through the afternoon cases.

8 We do have a continuation, do we not, Ms.
9 Pruitt?

10 MS. PRUITT: Just one.

11 MS. REID: One continuation for one of
12 the cases this afternoon, which clears our calendar
13 somewhat so that we don't have to wait too long.

14 MS. MORRIS: Ms. Reid, didn't you say
15 that we could make a summary as well?

16 MS. REID: No, no, no. Only the
17 applicant has an opportunity at the end to -- excuse
18 me, excuse me, excuse me. Wait a minute. Excuse me.
19 We have not yet completely adjourned for the
20 morning.

21 The applicant has the ability or
22 opportunity to come at the end and give closing
23 remarks, but the opposition unfortunately they don't
24 have that opportunity. That is not something that is
25 afforded them.

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 MS. PRUITT: Mrs. Morris, you can include
2 your information in your draft order. You know, you
3 can propose a draft order when you do your findings
4 of facts and conclusions of law and include your
5 opinions and stuff in that part.

6 MS. REID: And on disk, please. The
7 draft order.

8 MS. PRUITT: That would be helpful if you
9 can.

10 MS. REID: Please, if you can.

11 MS. PRUITT: If not --

12 MS. MORRIS: What format? Word Perfect?
13 Word?

14 MS. PRUITT: Word.

15 MS. MORRIS: Word.

16 MS. PRUITT: Yeah, we use Microsoft
17 Office 2000 Word. Microsoft Word.

18 MS. MORRIS: I may have a slightly older
19 version.

20 MS. PRUITT: That's okay.

21 MS. MORRIS: A copied disk, you're
22 talking about. Not CD, I hope.

23 MS. PRUITT: No.

24 MS. MORRIS: Thank you.

25 MS. REID: Okay?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MS. PRUITT: Of you can even e-mail us if
2 that's possible, too.

3 MS. MORRIS: Could I get the e-mail
4 address?

5 MS. REID: All right, we can do that
6 after. That concludes this morning's session. We
7 will resume at 1:20.

8 (Whereupon, a luncheon recess ensued from
9 12:58 p.m. until 1:37 p.m.)

10 MS. REID: Good afternoon. The hearing
11 will please come to order. Ladies and gentlemen,
12 this is the June 20th public hearing of the Board of
13 Zoning Adjustment of the District of Columbia. My
14 name is Sheila Cross Reid. Joining me today is
15 Robert N. Sockwell and Anne Renshaw, who is not in
16 the room right now but she'll be here shortly. And
17 representing the Zoning Commission is John Parsons.

18 Copies of today's hearing agenda are
19 available to you. They are located to my left near
20 the door. All persons planning to testify either in
21 favor or in opposition are to fill out two witness
22 cards. These cards are located on each end of the
23 table in front of us.

24 When coming forward to speak to the
25 Board, please give both cards to the reporter who is

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 sitting to my right. The order of procedure for
2 special exception of variances is, one, statement and
3 witnesses of the applicant, two, government reports
4 including Office of Planning, Department of Public
5 Works, et cetera, three, the ANC in which the site is
6 located, parties and persons in support, parties and
7 persons in opposition, and lastly closing remarks by
8 the applicant.

9 Cross examination of witnesses is
10 permitted by the applicant or parties. The ANC
11 within which the property is located is automatically
12 a party in the case. The record will be closed at
13 the conclusion of each case except for any materials
14 specifically requested by the Board, and staff will
15 specify at the end of the hearing exactly what is to
16 be expected.

17 The decision of the Board in these
18 contested cases must be based exclusively on the
19 public record. To avoid any appearance to the
20 contrary, the Board requests that persons who are
21 present not engage the members of the Board in
22 conversation. Please turn off all beepers and cell
23 phones at this time so as not to disrupt these
24 proceedings.

25 The Board will make every effort to

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 conclude the public hearing as near as possible to
2 6:00 o'clock p.m. If the afternoon's cases are not
3 completed by 6:00 o'clock p.m., the Board will recess
4 until they can complete the pending case or cases
5 remaining on the agenda. And we will, by all means,
6 attempt to be done by 6:00 o'clock.

7 At this time the Board will consider any
8 preliminary matters. Preliminary matters are those
9 which relate to whether a case will or should be
10 heard today or requests for postponement, continuance
11 or withdrawal or whether proper and adequate notice
12 of the hearing has been given.

13 If you're not prepared to go forward with
14 a case today or if you believe that the Board should
15 not proceed, now is the time to raise such a matter.

16 Are there any preliminary matters? I think that we
17 did have a preliminary matter and request for a
18 continuation for Dumbarton and also for --

19 MS. PRUITT: Yes. Madam Chair, the
20 Dumbarton is actually an announcement. The Board
21 made that decision awhile ago --

22 MS. REID: Okay.

23 MS. PRUITT: -- to continue it but it was
24 actually scheduled for today. I just --

25 MS. REID: Oh, by mistake?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MS. PRUITT: No, it was scheduled for
2 today but you continued it prior. And in case -- it
3 just needs to be announced here in case not everyone
4 got to know that it was -- we don't renotece
5 everybody when we reschedule.

6 MS. REID: I see. Okay.

7 MS. PRUITT: So it's just more of an
8 announcement.

9 MS. REID: Okay. Then the case No. 16555
10 for Dumbarton Oaks, there was a request for
11 postponement to October 24th. We were able to
12 accommodate that date?

13 MS. PRUITT: Yes, we've already
14 rescheduled it --

15 MS. REID: Okay.

16 MS. PRUITT: -- and it's been on the
17 agenda.

18 MS. REID: Okay.

19 MS. PRUITT: We just wanted to publicly
20 announce to anyone who may show up today.

21 MS. REID: And anyone here who's --
22 anyone who came today for this particular case, we're
23 notifying you that this case will not be heard today.
24 It has been postponed to October 24th. All right,
25 thank you.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Now, there was another one with regard to
2 -- what was the case number for Sisson?

3 MS. PRUITT: Case No. 16521.

4 MS. REID: 16521.

5 MS. PRUITT: You received it today. I'm
6 sorry, you received -- it's a request from the ANC.

7 MS. REID: Okay. And is there anyone who
8 is affiliated with Case No. 16521 here? Please come
9 forward.

10 MS. PRUITT: This request is from the
11 ANC.

12 MS. REID: Uh-huh.

13 MS. PRUITT: Do you have a copy?

14 MS. REID: Okay. Is the ANC also here?
15 Okay. All right, there is a request from the ANC
16 that says basically that -- and I'll read in
17 pertinent part, "although a hearing is scheduled for
18 June 20th by the BZA, we urge the BZA to suspend any
19 consideration of any remedial variance until" --
20 remedial is in quotes -- "until the appeal to the
21 District of Columbia court of Appeals of the BZA
22 order 16521 has been concluded."

23 "Any other action would discourage
24 settlement and prompt resolution of the case.
25 Further consideration of this matter by the BZA while

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 appeal is pending also undermines enforcement of
2 the overlay district and the finality of the BZA
3 orders." And that's what's before us today.

4 So Board Members, do we have a motion in
5 regards to this particular request from the ANC. And
6 as you well know, with the ANCs who are accorded
7 great weight, we try to accommodate them where
8 possible, particularly in instances where it's a very
9 complicated application, as this one is with Sisson.

10 A motion?

11 MR. SHER: Madam Chair, may I address
12 something?

13 MS. REID: I'm sorry, I'm sorry. Yes,
14 please.

15 MR. SHER: For the record, my name is
16 Steven E. Sher. I'm the director of zoning services
17 with the law firm of Wilkes Artis. We represent Mr.
18 Sisson. My colleague, Allison Prince, is the one
19 who's been handling the case as the lawyer involved,
20 and I'm the planner --

21 MS. REID: Exactly.

22 MR. SHER: -- but nonetheless here I am.
23 This case has been before the Board on many
24 occasions and has been postponed and postponed and
25 postponed. Not at the applicant's request because

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 we've been prepared to go forward.

2 MS. REID: Right.

3 MR. SHER: We are again prepared to go
4 forward today.

5 MS. REID: Is their attorney here to
6 actually be able to put on the case?

7 MR. SHER: Well, we're the last case of
8 the day, so --

9 MS. REID: I understand that.

10 MR. SHER: -- that's why they're -- I
11 didn't know of this frankly and I'm not sure that I'm
12 prepared to address it particularly. But all I know
13 is we're prepared to go forward today.

14 MS. REID: Mr. Sher, you were not served
15 with this request from the ANC? It was dated June
16 the 13th.

17 MR. SHER: Mrs. Prince may have it. I
18 have not seen it until just now.

19 MS. REID: All right.

20 MR. SHER: I know she was at the ANC
21 meeting that night. There was not a quorum present.
22 There was -- as I think Mrs. Huer's (phonetic)
23 letter indicates, there was some discussion that went
24 on and I don't know whether the A -- in fact, I think
25 I would have to say in the absence of a quorum I

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 don't think the ANC itself could have made this
2 request. But notwithstanding that, we're prepared to
3 go forward with the case today and I believe that we
4 would prefer to have the Board do that.

5 MS. REID: All right. Well, Mr. Sher, I
6 don't think that -- in order for that request to be
7 considered by this body, I think it would have to be
8 done by the attorney who's representing the
9 applicant. I don't think that that --

10 MR. SHER: Well, I'm happy to have you do
11 that if we could defer that until Mrs. Prince gets
12 here. I mean, I don't think anybody anticipated
13 that, given the way the morning calendar worked, that
14 you were going to take these matters up now.

15 MS. REID: Well, preliminary matters are
16 generally taken up at the beginning of the afternoon
17 session or the beginning of the morning session. And
18 as such, we were getting the preliminary matters out
19 of the way.

20 MR. SHER: Well, I --

21 MS. PRUITT: Madam Chair?

22 MS. REID: Yes.

23 MS. PRUITT: My understanding is that
24 Wilkes Artis is authorized to represent Mr. Sisson,
25 the firm itself.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MR. GLASGOW: Right. Madam Chair?

2 MS. PRUITT: So I believe Mr. Sher or Mr.
3 Glasgow could stand in for Ms. Prince.

4 MR. GLASGOW: Yeah, I believe the law
5 firm is authorized to represent the applicant.

6 MS. REID: The law firm -- and I'm sorry,
7 Mr. Glasgow, my understanding was that the law firm
8 had -- I mean, I'm sorry, that the applicant in the
9 letter of authorization had specified which attorney
10 for the law firm. Was it just the law firm itself?
11 Okay.

12 MR. GLASGOW: Yeah, it's the law firm.

13 MS. REID: All right, fine. Well, what
14 we'll do, you're saying Mrs. Prince is coming?

15 MR. SHER: Yeah, we're prepared to put
16 the case on this afternoon.

17 MS. REID: All right. Well, whether
18 she's here -- if you're representing the law firm ,
19 them whether -- if she's here or not, we could still
20 take a vote or we could wait until she gets here --

21 MR. SHER: Well, I'm --

22 MS. REID: -- to take a vote.

23 MR. SHER: I guess what I'm saying is
24 this case -- you have a report from the ANC that
25 opposed this application many months ago. There was

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 a hearing scheduled for last month, at which there
2 was some question raised about a survey.

3 We produced the survey. The survey was
4 given to the attorney for the opposing neighbor who
5 lives next door. The survey was given to the ANC.
6 We went to the ANC meeting which was supposed to
7 occur on Monday the 12th. They did not have a
8 quorum, so we're prepared to go forward today.

9 I don't know how many more opportunities
10 it is going to take before we can actually get to
11 hear this case, but I also really sort of wonder how
12 you could have a request from the ANC for a
13 postponement when the ANC didn't have a proper number
14 of members present to take an action requesting a
15 postponement.

16 MS. REID: Well, it does --

17 MR. PARSONS: Madam Chairman, it seems to
18 me we ought to get on with the morning session.

19 MR. SHER: that's fine with me.

20 MS. REID: All right, okay. We'll do
21 that. We'll just wait until the other attorneys come
22 in and then we can make a decision. Okay. All
23 right, thank you.

24 The first case of the afternoon, if there
25 aren't any more preliminary matters --

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MS. PRUITT: Actually, it's the second
2 case of the morning.

3 MS. REID: Oh, right, right. Okay.
4 Right, I forgot that. Second case of the morning.

5 MS. PRUITT: Application 16580,
6 application of Holidae Hayes pursuant to 11 DCMR
7 3104.1 for a special exception of Section 403 under
8 Section 223 to exceed and increase the allowable
9 percentage of lot occupancy requirements for a
10 dwelling and the refurbishing and enclosing of an
11 existing rear sundeck and the renovation and
12 enlargement of an existing second floor bathroom in
13 an R-3 District at 3114 N Street, N.W., Square 1208,
14 Lot 875.

15 All those planning to testify, would you
16 please stand and raise your right hand. Do you swear
17 or affirm the testimony you're going to give today is
18 the truth?

19 (Witness sworn.)

20 MS. PRUITT: Please be seated. Madam
21 Chair, originally you had one request for party
22 status from Mr. William C. and Jane Evans Ramsay.
23 Earlier this morning he actually gave me a little
24 handwritten note. It stated, "I am William Ramsay
25 and I am canceling my request to testify in this

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 case," so it appears that we have on here to testify
2 in opposition or in support.

3 MS. REID: Okay. Well, then that's very
4 good for you.

5 MR. SIERS: Thank you.

6 MS. REID: As such, generally when we
7 don't have opposition, persons in opposition, then we
8 will allow you to expedite your case and basically
9 you can stand primarily on the record, and we have
10 read your case.

11 MR. SIERS: Okay.

12 MS. REID: And given the fact that we are
13 running so behind today, then if you can just quickly
14 summarize for us the merits of your case. Like I had
15 said before, we have read it. And if the Board
16 members have questions, we can do that, and then
17 proceed on and hopefully wrap this very quickly.

18 MR. SIERS: Okay. My name is Russell
19 Siers. I live at 3287 D Sutton Place, N.W., and I'm
20 representing Holidae Hayes. And as you've stated,
21 we're here to seek special exemption from the 40
22 percent lot occupancy, to increase it up to 51
23 percent.

24 Primarily the area of concern, or my
25 client's concern, is that the rear of her property,

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 she really doesn't have any views of her back yard
2 from the family room. She's got a fireplace and two
3 door openings, and thus we wanted to be able to enjoy
4 the rear of the property by maybe enclosing the
5 porch, making it a little bit bigger and enclosing it
6 with a glass structure which you've seen the
7 elevations for and so forth. And thus because of
8 this requirement, we also can't enclose a exercise
9 room up on the second floor, which you've also seen.

10
11 All these things have already been
12 approved through the Old Georgetown Board and, as I
13 said, we have letters in support from the three
14 adjacent neighbors. And to tell you the truth, I was
15 a little bit intimidated after this morning's
16 hearing. I didn't know what to expect so, I mean, I
17 guess to make it short, that's really all. I'm here
18 just to see if the Board will grant this special
19 exemption. And we have the full support of the ANC
20 and the Old Georgetown Board and the three adjacent
21 neighbors.

22 MS. REID: And you're in compliance with
23 Section 403 and Section 223 --

24 MR. SIERS: Correct.

25 MS. REID: -- of the regulations? Just

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 one moment.

2 MR. SIERS: If I may add one more thing
3 which my client wrote a letter, it was prior to the
4 submittal, that there used to be an existing
5 structure here and consequently several weeks ago the
6 granddaughter of the lady who owned the property came
7 by and talked to the contractor and then gave us a
8 photograph -- an old photograph, which I have here
9 which I can submit to you, that shows that there used
10 to be actually a big masonry structure in place of
11 this, and we're actually not going to be as big, so
12 I'll submit that.

13 MS. REID: Give it to staff, please.

14 MS. PRUITT: Excuse me, you have to give
15 it to me through them. Yeah, I'm sorry, it's just
16 procedurally.

17 MS. REID: Okay, now, in the meantime
18 these pictures that you have, can you just basically
19 indicate for us what they are in your exhibit?

20 MR. SIERS: They've also -- I submitted a
21 package for each board member that had a color
22 photograph and these are basically the same
23 depictions and they're each noted in the submittal.
24 I think I submitted four sets of copies of
25 photographs describing each thing.

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 Hello? Hello? That's it? Okay. Maybe
2 what I'll do is I'll bring this a bit closer to you,
3 because they're small photographs, I apologize. This
4 is the rear of the property right here and we have an
5 existing deck here, okay. Do you have photographs
6 there?

7 Oh, thank you, thank you. It's my first
8 time presenting. Right here? Okay, this here shows
9 the existing structure with a wood deck behind there.

10 What we're proposing is to add to that deck an extra
11 three feet towards the pool and enclose with a glass
12 and wood structure around there.

13 If I can show you this wall down here,
14 this is an existing on-line wall which was part of
15 the previous structure of this -- there used to be an
16 addition behind the house. We're not going all the
17 way to the end. We're going five feet back from
18 there and that will be the end of our structure, and
19 we're going up two feet above that line.

20 This was a compromise that we came up
21 with the neighbors. The originally approved Old
22 Georgetown Board was four foot six above this masonry
23 wall. And between going back with the ANC
24 commissioners and mediation, we all agreed that we
25 can go up to two foot high wall, compromising my

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 client's design but allowing us to move ahead in that
2 respect. And we tried to stay somewhat in a style
3 that was somewhat pleasing to the board.

4 And then the other thing is that
5 unfortunately the -- I'll show you here on the site
6 plan over in the distance here, we have a -- our
7 house is a semi-detached house, and that's what
8 limited us to a 40 percent lot occupancy. Well, the
9 neighbor next door has the same -- basically, I
10 guess, had the same house with the same pools, pool
11 house, everything, and they -- what they did, I
12 guess, several years ago is they built to the
13 property line, which thus then allowed them to build
14 the 60 percent lot coverage.

15 And in the beginning of this process, in
16 my oversights, I looked at this building and we had a
17 deck there. I read the code; I didn't read it
18 thoroughly enough, and I oversighted that I'm a semi-
19 detached row dwelling which I'm limited at 40
20 percent.

21 And on top, also the Zoning
22 Administration also had oversight at the same time
23 that I was approved to continue. So both of us kind
24 of made a mistake but we've gone back and rectified
25 that and tried to work with the neighbors and so

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 forth. And I'm in the hopes that you find my project
2 or our project in compliance with the intent.

3 MR. SOCKWELL: You say your neighbor
4 built to the property line at some point?

5 MR. SIERS: Yes. A long time ago, this
6 structure -- they built that structure right there
7 that allowed them then to touch both property lines,
8 making them -- I think to make them a row dwelling,
9 like an attached, because it goes from property line
10 to property line.

11 MR. SOCKWELL: Yeah, but that doesn't
12 make it a row dwelling just because it's -- unless
13 it's attached to something else. And if they did it
14 with a building permit, just fine. Without, then not
15 so fine.

16 MR. SIERS: Because their lot occupancy
17 is 60 -- I'd say about 60 percent by just the massing
18 of it. They have a structure there and it's bigger
19 than ours. And then this property next to us, which
20 was the area that was of concern because our addition
21 was on that, that existing property line right there,
22 on-line wall that we have, they were the people that
23 had the concern with the height of our addition.

24 MR. SOCKWELL: Uh-huh.

25 MR. SIERS: And the thing is you can see

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 on this on-line wall, you can still see where the
2 stud -- where the floor joists were and you can see
3 footings and so forth, but we didn't -- we're not
4 using that case for -- to make a case or whatever, so
5 --

6 MS. REID: All right. And in regard to
7 the relief that you're requesting for the special
8 exception under 403 which pertains to lot occupancies
9 which you're asking for the special exception from,
10 as well as under 223 which, just for the record,
11 speaks primarily about the adverse impact aspect, and
12 it says that you're dwelling unit should not have a
13 substantially adverse effect on the usage of any
14 abutting or adjacent dwelling or property owners.
15 Have you had any complaints or any opposition. I
16 think we had one letter from --

17 MR. SIERS: Yes. The one person that we
18 did was the gentleman that was here earlier, and
19 they're ones that we've been working with, some of us
20 --

21 MS. REID: Okay.

22 MR. SIERS: -- with ANC. And it was an
23 issue that the height of it did have an impact on the
24 shadow onto their property and so forth. So as a
25 compromise, we lowered our wall down two foot six and

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 going for glass -- mostly a transparent structure, in
2 the spirit of cooperation.

3 MS. REID: And the rest of it pertains to
4 just what you said, light and air available to
5 neighboring properties, privacy of use and enjoyment
6 of neighboring properties in addition and together
7 with the original building as viewed from the street,
8 alley and other public ways shall not substantially
9 visually intrude upon the current scale and pattern
10 of houses along the subject street frontage.

11 MS. SIERS: Yeah.

12 MS. REID: And lastly -- well, last and
13 (d), and demonstrating compliance with paragraphs
14 (a), (b) and (c) of this subsection, applicant shall
15 use graphical representations such as plans,
16 photographs and elevation and section drawings
17 sufficient to represent the relationship of the
18 proposed addition to the adjacent buildings and view
19 from public ways -- from the public ways, and which
20 you've done there.

21 The lot occupancy of the dwelling
22 reflect, together with the addition, shall not exceed
23 50 percent, and so we talked about that in your
24 request for relief. And the Board may require
25 special treatment in the way of designs creating

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 exterior lighting, building materials and other
2 features.

3 Okay, so that then presents to us the
4 relief which you're requesting. The Board members
5 don't have any questions. We could move now to
6 office of Planning report. I don't think we had one
7 on this case. ANC is not here, however, Ms. Renshaw
8 is --

9 MS. PRUITT: And, Madam Chair, I'd just
10 like to say --

11 MS. REID: Yes.

12 MS. PRUITT: -- the report is late so you
13 need to waive the filing time.

14 MS. REID: Yes, okay. Ms. Renshaw, do
15 you have that copy of the ANC report?

16 MS. RENSHAW: Yes, I do.

17 MS. REID: First of all, let us take up
18 the issue of the fact that has been filed late and
19 they request a waiver of time for the submission of
20 their report and I have no problem with it. If there
21 aren't any objections from any of my colleagues, then
22 we move now to the ANC report.

23 MS. RENSHAW: All right. This is ANC-2E.
24 it is a letter dated June 16th, 2000 and it's signed
25 by Peter Pulsifer, the Chair. And the ANC met on May

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 30th, 2000, a regularly scheduled meeting. It was
2 duly noticed and all eight, 100 percent, of the
3 commissioners were present. And ANC-2E supports the
4 modified design in the agreement concerning 3114 N
5 Street and urges its approval by the Board of Zoning
6 Adjustment on the 20th of June on the basis that the
7 Old Georgetown Board administrator will work out the
8 details. And that is the extent of Peter Pulsifer's,
9 the chair's, letter to the Board of Zoning
10 Adjustment.

11 MS. REID: And as such, they will be
12 accorded the great weight to which they're entitled.

13 In regard to the agreement, the modified design
14 agreement, did you enter an agreement with the ANC?
15 A written agreement or was it verbal?

16 MR. SIERS: There was a letter between my
17 client and the next door neighbors about limiting the
18 height of that masonry wall to two feet. I think --

19 MS. REID: Do we have a copy of that?

20 MR. SIERS: I believe so, yeah.

21 MS. REID: Okay. We do?

22 MR. SIERS: It was submitted last week.
23 And the Old Georgetown Board has also reviewed this
24 drawing and they had a special meeting to approve
25 this revised drawing.

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 MS. REID: It is in the record you said,
2 Mr. Parsons?

3 MR. PARSONS: Yes, it is.

4 MS. REID: Okay, all right. All right,
5 then persons and parties in support? There are none.
6 Or the persons and parties in opposition? There are
7 none. So closing remarks by the applicant.

8 MR. SIERS: Closing? Just to be brief, I
9 hope that we have met -- if there's a burden, that we
10 met all the lights and air quality and privacy issues
11 here by getting support from all three surrounding
12 neighbors and the ANC and the Old Georgetown Board as
13 far as aesthetics. And I'm in the hopes that you
14 will allow this project to move ahead so that we can
15 go file for a permit and make my client happy.

16 MS. REID: Are you asking for a bench
17 decision summary order?

18 MR. SIERS: Sorry?

19 MS. REID: That means that you receive
20 the decision today.

21 MR. SIERS: I would like that. That way
22 -- because unfortunately I applied for this project
23 way back in August of last year and I had zoning
24 approval and then we had the Old Georgetown Board
25 approve us by February, I believe, and then we found

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 out we had to go to the zoning after in reverse. The
2 whole process was in reverse.

3 And my client is just -- this is
4 basically holding up all our exterior work and my
5 client would like to move into her house. She's now
6 living in the basement with all her furniture all
7 scattered around the house. And I would appreciate
8 it if you could make a motion now so that we could
9 proceed hopefully.

10 MS. REID: Okay. Board members?

11 MR. SIERS: Thank you.

12 MS. RENSHAW: Madam Chair, I urge that
13 the BZA support application No. 16580 for the
14 modified design of Holidae Hayes --

15 MS. REID: Okay, Ms. Renshaw, you want to
16 word that as I move --

17 MS. RENSHAW: -- pursuant to

18 MS. REID: I mean, I move that --

19 MS. RENSHAW: I move.

20 MS. REID: -- the BZA approve.

21 MS. RENSHAW: All right, I move that the
22 BZA approve the application --

23 MS. REID: Okay.

24 MS. RENSHAW: -- of Holidae Hayes,
25 Application No. 16580 pursuant to 11 DCMR 3104.1 for

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 a special exception of Section 403 under Section 223
2 to exceed and increase the allowable percentage of
3 lot occupancy requirements for a dwelling and the
4 refurbishing and enclosing of an existing rear
5 sundeck and the renovation and enlargement of an
6 existing second floor bathroom in an R-3 District at
7 the premises 3114 N Street, N.W., Square 1208, Lot
8 875.

9 MS. REID: Okay. And do you feel that
10 they have met their burden of proof?

11 MS. RENSHAW: Yes, they have met the
12 burden of proof.

13 MS. REID: And what about in regard to
14 the issue of any detriment to the public good?

15 MS. RENSHAW: There is no detriment to
16 the public good and we have --

17 MS. REID: What about the impact that it
18 would impair the integrity or the intent of the
19 zoning regulations in map?

20 MS. RENSHAW: It does not impair the
21 integrity of the zoning regulations in map and there
22 is no opposition.

23 MS. REID: All right. And I would second
24 it. All right, are there any further discussions?

25 MR. SOCKWELL: Yes. I have one question.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 The proposed side yard versus the existing side yard
2 is what?

3 MR. SIERS: The proposed side yard of --

4 MR. SOCKWELL: You're showing expansion
5 and renovation of an existing bathroom.

6 MR. SIERS: Correct. We're building on
7 top of an existing structure. We're not increasing
8 the perimeter of the existing structure. We're
9 building above it.

10 MR. SOCKWELL: So the existing side yard
11 would --

12 MR. SIERS: Will remain the same.

13 MR. SOCKWELL: Do you know what that
14 dimension is?

15 MR. SIERS: It's 5.03, I believe.

16 MR. SOCKWELL: All right. I would add to
17 the motion the amendment that the side yard for the
18 proposed structural modifications not be reduced to
19 less than 5.03 feet.

20 MS. RENSHAW: I accept that amendment.

21 MS. REID: Okay. All in favor?

22 BOARD MEMBERS: Aye.

23 MS. REID: Opposed?

24 (No response.)

25 MS. PRUITT: Okay. Staff will record the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 vote as four to zero to approve that the amendment
2 made by Mr. Sockwell that the structural -- I'm
3 sorry, can you repeat that just so I can --

4 MS. RENSHAW: Just the side yard
5 modification.

6 MR. SOCKWELL: That structural
7 modifications not reduce the side yard to less than
8 5.03 feet.

9 MS. PRUITT: Okay.

10 MS. REID: Okay.

11 MS. PRUITT: By a vote of four to zero,
12 motion made by Mrs. Renshaw, seconded by Mrs. Reid,
13 amended by Mr. Sockwell.

14 MR. SIERS: Thank you for a pleasant
15 experience.

16 MS. PRUITT: Summary order?

17 MS. REID: Thank you. Summary order, and
18 you should have your decision in approximately two
19 weeks. Okay, thank you.

20 MR. SIERS: Thank you very much.

21 MS. RENSHAW: By the way, Mr. Siers, is
22 Ms. Hayes here?

23 UNIDENTIFIED SPEAKER: I'm her mother.

24 MR. SIERS: Her mother is here.

25 MS. RENSHAW: Oh, your mother.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MR. SIERS: No, not my mother. Her
2 mother.

3 MS. RENSHAW: Her mother. How do you do?

4 UNIDENTIFIED SPEAKER: My mom was here
5 earlier.

6 MS. REID: Okay, next case please, Mrs.
7 Pruitt?

8 MR. SIERS: Thank you.

9 MS. PRUITT: Last case of the morning
10 agenda is 16581, application of 912 F Street
11 Associates LP, pursuant to 11 DCMR 3103.2, for a
12 variance from the floor area ratio for a historic
13 landmark and to construct a twelve-story tower by
14 incorporating portions of building 910, 912 and 914 F
15 street into a hotel and the site of 916 F Street
16 which would provide a public entrance to the hotel
17 under Subsection 1707.4. The building will be joined
18 with the tower by way of glass atrium in a DD/C-4A
19 District at 910, 912, 914 and 916 F Street, N.W.,
20 Square 377, Lots 847, 848, 828 and 829.

21 All those planning to testify, would you
22 please stand and raise your right hand? Do you swear
23 or affirm that the testimony you're going to give
24 today is the truth?

25 (Witnesses sworn.)

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 MS. PRUITT: Please be seated.

2 MS. REID: Okay. Is there anyone here in
3 opposition to this case? What about persons in
4 support. So basically, Mr. Glasgow, it's just the
5 witnesses that are involved in putting on your case
6 for your application.

7 MS. PRUITT: Ms. Reid, do you want us to
8 time this?

9 MS. RENSHAW: Yes.

10 MS. REID: No.

11 MS. PRUITT: Okay.

12 MS. REID: Now, what I was about to say
13 was, first of all, let me apologize on behalf of the
14 Board for the delay in your case this -- which was
15 supposed to be this morning, but this afternoon.
16 Nonetheless, we'll try to make it up to you in that
17 we have read -- Mr. Glasgow, we have read your case
18 and we are well aware of the merits of the case. You
19 don't have any opposition here today?

20 MR. GLASGOW: That's correct.

21 MS. REID: And as in previous cases that
22 you've presented before us, this is an opportunity to
23 expedite, and if you could basically give us the
24 salient points of your case quickly, but state on the
25 record as much as possible, and we should be able to

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 wrap this up relatively quickly.

2 MR. GLASGOW: All right. Thank you,
3 Madam Chair. For the record, my name is Norman M.
4 Glasgow, Jr., of the law firm of Wilkes & Artis,
5 representative of the applicant 912 F Street
6 Associates.

7 Here with me today I have Ms. Anne Adams,
8 architectural historian, Mr. Peder Selerud, the
9 architect, Mr. Christopher Brueh of Donahue
10 Construction, Mr. Ted Seale of Thorne Consultants.
11 They are consultants in hotel economics and
12 feasibility. And Mr. Steve Sher with land planning.

13 I think what we will do is I will offer
14 Ms. Adams, Mr. Selerud, Mr. Brueh, Mr. Seale and Mr.
15 Sher as experts. Mr. Adams and Mr. Sher have been
16 accepted as experts previously by this Board. Mr.
17 Selerud was accepted as an expert in architecture at
18 the Historic Preservation Review Board hearing before
19 the Mayor's Agent hearing. And Mr. Seale and Mr.
20 Brueh's curricula vitae I'll submit for the record.

21 I don't plan on calling all of those
22 witnesses. I just want the Board members to be aware
23 that they are here --

24 MS. REID: Okay.

25 MS. GLASGOW: -- in case you have any

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 questions that deal with their respective areas of
2 expertise. I understand you have a copy of the
3 statement of applicant.

4 We are seeking an FAR variance from 6 FAR
5 to 7.17 FAR. We have been to the Mayor's Agent. I
6 assume that you all have had an opportunity to read
7 the Mayor's Agent's order. It was obviously quite
8 complimentary of the project and notes at page 8,
9 "The Mayor's Agent further concludes that the
10 granting of this application is necessary in the
11 public interest as described in the relevant part of
12 DC Code Section 5-1001B, nothing that this project
13 will contribute to the existing character of the
14 historic district as an adaptation of the site for
15 current use and that both -- note, and that both the
16 proposed alteration of the existing structures and
17 the proposed new construction are each compatible
18 with the current character of the historic district."

19 We have been through a fairly lengthy
20 process before the historic preservation review board
21 and the Mayor's Agent, we have been to the ANC, and
22 we are very pleased to receive the report of the
23 Office of Planning yesterday which also is supportive
24 of the project. We are not aware of any opposition
25 to the project.

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 We believe that the statement of
2 applicant at pages 5 through 13 goes through the
3 burden of proof that we have as does the report of
4 the Office of Planning to the three-part test with
5 respect to the granting of the variance that is
6 requested.

7 We also note that we have testimony that
8 could be submitted that shows that the volume of this
9 building at 7 FAR is the same as a 6 FAR office
10 building, so that with respect to the height and the
11 bulk of the building, if it were a different use,
12 would be the same size. But with less FAR, we would
13 hope that the Board would be encouraging the use of
14 this site as a hotel and grant the variance that has
15 been requested.

16 We have setbacks that are about three
17 times what are proposed in many projects in the
18 historic district. We're a 67 foot setback. We're
19 able to do that because of the depth of the lot, so
20 the depth of the lot does cause us a number of
21 issues. But in this case, we have used it to create
22 significant setbacks.

23 We also have a slope in the lot that's 13
24 to 14 foot change in grade so that we have parking
25 and loading, which is counted in FAR in this site.

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 That is we try to avoid that in almost any other case
2 that we have. That's about a 4500 square foot
3 penalty. The atrium is another 1600 square foot.
4 That's separation that we normally would not have in
5 many projects, particularly on a lot this size.

6 So that the conditions on the site also
7 cause us to increase the FAR and is part of the need
8 that we have for the variance. And if there are no
9 preliminary questions, we are either ready to turn to
10 the witnesses that we have or answer questions to the
11 Board -- from the board as a panel, whatever your
12 desire would be.

13 MS. REID: Go ahead and proceed with your
14 witnesses, Mr. Glasgow. And, again, we would like
15 for you just to basically summarize and you don't
16 have to -- you can submit for the record your
17 testimony but just give us the highlights of your
18 particular testimony.

19 MR. GLASGOW: All right. I'd like to
20 call the first witness, Ms. Anne Adams, architectural
21 historian.

22 MS. ADAMS: Good afternoon, Madam Chair
23 and commission members. My name's Anne Adams. I'm
24 an architectural historian. I would like to show you
25 a few slides to get you oriented to our site and I

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 will try and be brief.

2 MS. REID: How many slides do you have?
3 Because I think that everyone on this Board is very
4 familiar with those sites -- with that site on F
5 Street --

6 MS. ADAMS: That's fine.

7 MS. REID: -- for many, many years.

8 MS. ADAMS: It's been sitting there
9 looking less than wonderful for a long time.

10 MS. REID: Right. All right, is there
11 any Board member -- Ms. Renshaw, are you familiar
12 with the site?

13 MS. RENSHAW: I would like to see one
14 photograph of the site. Also I'd like to see the
15 property from the rear.

16 MR. GLASGOW: Ms. Renshaw, in Tab D, the
17 third page, and the fourth page of that exhibit also
18 show photographs of the site from the rear.

19 MS. ADAMS: Can you see that?

20 MS. RENSHAW: Uh-huh.

21 MS. ADAMS: I'll show you maybe two
22 slides that will help with this. Our site is a mid-
23 block site on the south side of F Street, 910 to 916.
24 The four small buildings that you see there
25 sandwiched between the Riggs Bank Building, which is

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 at the corner of 9th and F, and the National Union
2 Insurance Building, which is the tall dark sandstone
3 building. I'll get to the buildings themselves. I'm
4 sorry.

5 MR. GLASGOW: Why don't you just tab --

6 MS. ADAMS: All right.

7 MR. GLASGOW: Yeah.

8 MS. ADAMS: What you can see used to be
9 Sonny's Surplus. On the left side of the side where
10 it says Optical is 910. The entrance to Sonny's
11 Surplus is 912. 914, those are the three
12 contributing buildings in the historic district. And
13 that is 916 F Street, the noncontributing building.

14 MR. GLASGOW: You can use Exhibit D.
15 Second page.

16 MS. ADAMS: Exhibit D, second page has a
17 picture that shows all of the buildings. I don't
18 have slides of the back, but the next page in Exhibit
19 D does show the rear of the buildings with many of
20 their twentieth century additions. Is that
21 sufficient?

22 MS. RENSHAW: Yes, thanks.

23 MS. ADAMS: Thank you. The buildings
24 have been altered significantly in not very
25 appropriate ways, and this project that you're going

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 to see will allow for their retention and restoration
2 incorporated into a project the likes of which we
3 actually haven't seen in a long time. This is not a
4 facade project. This is actually a preservation
5 project. We are saving all of the original fabric
6 and mass of 914 F Street and restoring its oriole
7 window which has been lost over the years. And the
8 main blocks of 910 and 912.

9 We have been to the Mayor's Agent for
10 approval to remove the rear wings of those two
11 buildings, which was granted as consistent with the
12 purposes of the Act. So we have an unusual situation
13 here where we have three buildings which will be
14 incorporated into a new hotel. The noncontributing
15 building at 916 will be demolished and the entrance
16 to the hotel will be put there. And that in and of
17 itself, with its design that is compatible with the
18 historic district, and linking to the hotel tower in
19 the back, well do better things for the historic
20 district than what that building does right now.

21 Sandwiched between the two taller
22 buildings that you saw, the hotel -- the new
23 construction in the back actually will be not visible
24 from -- it'll be not visible much at all. We have a
25 very deep site which actually presents problems but

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 it also presents opportunities to basically limit the
2 visibility of the hotel.

3 The site -- we've done a lot of research
4 on the buildings. They are -- the contributing
5 buildings were built approximately 1875. They've
6 been commercial for most of their histories. We have
7 an unusually shaped lot. We have a large nineteenth
8 century sewer running through the lot which actually
9 presents interesting archeological opportunities
10 which will be included as part of this project.

11 As I said, this is a significant
12 departure from what we've been -- what the Historic
13 Preservation Review Board and the Mayor's Agent has
14 been looking at and we think this is a very positive
15 thing.

16 The whole building retention, the
17 significant facade restoration, the retention and
18 restoration and incorporation of the second floor
19 front room of 914 which is basically the only room
20 that has any significant original fabric left, it's
21 all there, and that will be used to be a very special
22 hotel room, something that we can take advantage of.

23 The hotel use is an easy fit for these
24 buildings in terms of the upper floors being rooms
25 and lower floors having public access for public

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 spaces associated with the hotel. This is a very
2 good adaptive use project.

3 The atrium allows for additional setbacks
4 from the historic building so that because of the
5 deep lot and because of the nature of how you do a
6 hotel, it allows us to have the main bulk of the
7 construction set way back from the street and allows
8 the retained buildings to read very much as they
9 would have originally as small scale whole buildings.

10 As I mentioned, we will be doing
11 archaeology, and the new construction and the
12 alterations have been deemed compatible with the
13 character of the historic district.

14 In terms of the zoning issues, and I sort
15 of stay away from these things, because I think what
16 you have to do to get a good preservation project is
17 look at each site and look at the buildings and
18 figure out what works on the site and what works for
19 the buildings. It's not necessarily a project of 3
20 FAR or 6 or 7.19.

21 What we have here is an unusual
22 circumstance where a building with slightly greater
23 FAR than is allowed will actually reap much better
24 preservation benefits than we would have otherwise,
25 because it allows for a viable hotel project that can

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 incorporate all these preservation aspects and let
2 this project go forward to allow these buildings to
3 contribute to the historic district and to the very
4 important F Street streetscape in a way that
5 maximizes their potential in essence and maximizes
6 the preservation aspects of the project.

7 We usually think of bigger is not better,
8 but in this case because of the site and the
9 peculiarities of the site and the possibilities of
10 the site, bigger is better in this instance I
11 believe.

12 This is an unusually positive
13 preservation project. And, as the Mayor's Agent
14 noted in his decision on the demolition of the two
15 rear wings, which he did allow as consistent with the
16 purposes of the Act, he also noted that, quote, the
17 proposed alteration to the existing structures and
18 the proposed new construction are each compatible
19 with the current character of the historic district,
20 unquote.

21 I very much hope this project can go
22 forward so that these buildings can help re-establish
23 F Street in the midst of all the ongoing work that's
24 happening down there in a very positive way. And if
25 you have any questions, I will try and answer them.

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 MS. REID: Thank you. Ms. Renshaw, do
2 you have a question?

3 MS. RENSHAW: Yes. Ms. Adams, you stated
4 that you were doing archaeology. Would you expand
5 upon that, please?

6 MS. ADAMS: As par of our review by the
7 Historic Preservation Review Board, the issue of
8 archaeology came up. We have consulted with the
9 staff and we will be developing an appropriate scope
10 of work for the site to investigate the rear yards
11 and possibly the basements of some of these
12 buildings. We haven't done that yet but we will be
13 working with Nancy Kasner (phonetic).

14 MS. RENSHAW: So there will not be any
15 blasting on this project if you're doing archaeology.

16 MS. ADAMS: We would do the archaeology
17 certainly before any construction goes forward, and
18 as far as I know there's no blasting in any event.
19 But archaeology would be done prior to construction.

20 MS. RENSHAW: About how long is that
21 going to take you?

22 MS. ADAMS: I don't know because we
23 haven't finalized what work will be done.

24 MS. RENSHAW: Uh-huh. What I'm trying to
25 get at here is how extensive your archaeology is

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 going to be.

2 MS. ADAMS: Basically we will be doing
3 what the Preservation Office requires us to do.

4 MS. RENSHAW: Okay.

5 MS. REID: Thank you very much. Thank
6 you.

7 MR. GLASGOW: I'd like to call the next
8 witness, Mr. Peder Selerud. And Mr. Selerud, if you
9 could summarize your testimony and hit the high
10 points. Thank you.

11 MR. SELERUD: Again, my name is -- is
12 this on?

13 MR. GLASGOW: Yes.

14 MR. SELERUD: Okay. My name is Peder
15 Selerud. I am a registered architect, senior
16 designer, with the firm of Grennen, Bier, Gormon &
17 Monk here in Washington, D.C.

18 I will run very quickly through some of
19 the site constraints that Anne alluded to. One of
20 the key issues is that this site is located on F
21 Street between two high-rise -- or two very tall
22 landmark historic buildings, the Riggs Bank Building,
23 about a ten-story building to the east, the National
24 Union Trust Building, an eight-story building to the
25 west.

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 That places two very strong bookends, if
2 you will, on the site, with large blank walls. So
3 immediately our window line on any development on the
4 site regardless of building type is rather severely
5 limited to the north and south or inward.

6 In addition, as mentioned, we have the
7 three historic buildings that we are retaining on the
8 rather narrow facade along F Street. It's 88 feet
9 wide in total. The new -- the infill area is about
10 27 feet wide. Access to the site is by way of a 15-
11 foot alley on the west side of the Union Trust
12 Building that leads into the main east-west alley at
13 the rear of the site which is a 30-foot alley. This
14 alley drops about 13 to 14 feet from F Street to the
15 alley at the rear.

16 The site is also affected -- the planning
17 of the site is also affected by an odd little notch
18 in one corner. And then Anne mentioned the
19 nineteenth century sewer line that runs through. And
20 this is not a modest little pipe of any kind. This
21 is an eight-foot wide vaulted structure that comes
22 through the site. It is, from all indications, still
23 in use.

24 Things have been modified somewhat in
25 other locations, but as it goes through this portion

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 of the block it presents a formidable obstacle in
2 terms of planning and careful design so to avoid any
3 damage to that structure.

4 The response -- the design response to
5 all of these constraints, not the least of which were
6 the historic buildings, has resulted in an evolution
7 of a project through a series of meetings with the
8 NCPC and -- not NCPC. HPRB and their staff, in which
9 we have placed the main portion of the hotel at the
10 rear of the site. This is a section if you were
11 looking towards the east. The front of the site
12 leaves those historic buildings intact separated by
13 an atrium. The width of the atrium varies depending
14 on the depth of the building.

15 These dashed lines indicate site lines
16 from across the street on F Street to indicate that
17 you will really see about the top four stories of the
18 building plus a little bit of the top of the
19 penthouse. So the visibility of the -- the
20 visibility for this building is really out on F
21 Street, which is the construction of an entrance
22 building to the hotel that is similar in scale but
23 not mimicking directly the existing three buildings.

24 I show you these drawings a little bit
25 hesitantly in that the design will continue to evolve

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 and some of the details will not -- or already have
2 changed. If you look at the elevations, some of the
3 details will have been modified and will continue.
4 These are preliminary concept drawings in that way.

5 The height of this building was in
6 response, again, to HPRB staff and the HPRB
7 themselves saying they would like to see a bit taller
8 building. We initially had it lower. There's some
9 significant scarring on the side of the National
10 Trust Building as a result of previous demolition.

11 Moving quickly as I was prompted to do, I
12 just want to touch very briefly on the plans of the
13 building because the zoning of the site I think is an
14 important part of this concept as well, in that it is
15 not quite what you usually see in a hotel design. In
16 that, I mean we have -- the front almost half of the
17 site is really devoted to public functions.

18 Frequently when you go into a hotel now,
19 you immediately are confronted by the registration
20 desk and whatever. We are really identifying the
21 renovated buildings, the restored buildings as a
22 public kind of function, a restaurant or retail that
23 has as much relationship to the street as it does to
24 the hotel, as well as the public functions of the
25 hotel and the lobby and atrium kinds of spaces. All

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 of the rear of the site is then the registration
2 desk, the access to the rooms, all of those kinds of
3 things.

4 As we move up through the building very
5 quickly, show a diagram of how these historic
6 buildings may be used. We add some additional hotel
7 rooms in that entrance piece to the -- this new
8 entrance piece. The rear block for the hotel itself
9 is really designed to be a very compact efficient
10 hotel plan and to keep it as small as we can within
11 the requirements for a hotel.

12 The rooms are pretty much what is
13 accepted within the standards within the industry
14 now, which is a room width of 12 to 13 feet and a
15 depth of 27, 28 feet. So we are staying within those
16 kinds of guidelines in the initial planning of this
17 hotel. In the center, there's a rather large --
18 proportionately a rather large core because of the
19 needs for the elevators, stairs and other services.

20 The elevation of the building, we have --
21 as I mentioned at the beginning where we have these
22 strong bookend historic buildings on either side, the
23 attempt was not to create another landmark building
24 in between them but rather to create a background
25 building that relates to these in its scale and

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 texture but is really truly treated as a background
2 building.

3 I don't have anything more to add right
4 now.

5 MR. GLASGOW: All right. Thank you, Mr.
6 Selerud. I'd like to call the next witness Mr.
7 Christopher Brueh, Donahue Construction. If you'd
8 please summarize your testimony.

9 MR. BRUEH: I'll be very brief. Good
10 afternoon, Madam Chair and members of the Board. My
11 name is Chris Brueh. I'm vice president with the
12 Donahue companies where I've been employed for 13
13 years.

14 I've actually worked on three projects
15 with the applicant before you today over the past 12
16 years, and all three have in fact involved a
17 substantial degree of historic preservation,
18 including the Riggs Bank Building, Hotel Conversion
19 at 900 F Street, which is adjacent to the site you're
20 considering today.

21 I'm here today though to speak to the
22 construction premiums associated with the development
23 of the F Street Hotel project. The premiums are
24 estimated at total access of \$1 million and relate
25 primarily to major issue areas First, preservation

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 issues, and second, site constraints.

2 Speaking of preservation issues, which
3 have been discussed previously, 910, 12 and 14, there
4 are premiums associated with the facade, retention of
5 those buildings, and the restoration, not just the
6 front elevation but also the rear of the three
7 buildings.

8 There are elements that involve interior
9 restoration and something we haven't touched on, but
10 structural remediation such that to bring these
11 historic structures up to current codes and unloading
12 requirements.

13 The other component I spoke of are site
14 constraints. There are a number of inefficiencies of
15 construction that are going to occur on this site,
16 predominantly staging is expected to take place from
17 the F Street elevation where two-thirds of the
18 available frontage is obstructed by existing
19 buildings that are slated to remain.

20 The site is basically a boxed-in site
21 from a construction standpoint, and the proportion
22 with a two-to-one depth to width ratio is somewhat
23 challenging from a construction point of view. It's,
24 of course, an interior lot with limited access.

25 The 88 feet of frontage on F Street only

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 yields actually about 27 feet of construction access
2 due to the preservation of 910 through 914. The
3 alley width is limited, of course, to 15 feet between
4 the structures, which limits our ability to work from
5 the south elevation. And last but not least, the
6 large capacity nineteenth century sewer line which is
7 still active today traverses the rear corner of the
8 site.

9 To wrap up here, I know you're pressed
10 for time, in summary the project has a substantial
11 preservation component that occurs in a critical
12 staging area along F Street. The preservation
13 requirements, the three buildings, coupled with the
14 site constraints, that is the inefficiencies, the
15 limited access, the active sewer line, all contribute
16 to driving these construction phase premiums to costs
17 in excess of \$1 million.

18 In the interest of time, I will wrap up
19 and wait for comments and questions.

20 MR. GLASGOW: Thank you, Mr. Brueh. I'd
21 like to call the next witness, Mr. Theodore Seale.

22 MR. SEALE: Chair and members of the
23 Board, my name is Theodore Seale. I'm with Thorne
24 consultants testifying before you today regarding the
25 hotel market and economic feasibility. I have over

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 16 years of experience in the Washington, D.C.
2 lodging market.

3 Very briefly, in my opinion, the project
4 with 115 rooms will be very difficult to finance
5 because it will not generate sufficient cash flow to
6 cover its development costs, which would range about
7 \$200 to \$220,000 a room. Spreading that risk over
8 146 units begins to bring development costs down to
9 something that would be likely to be financed,
10 between \$170,000 and \$175,000 a key.

11 In addition, there was a study done by
12 the accounting firm, Deloitte Touche, in regards to
13 the new convention center that indicated a need for
14 4,000 additional hotel rooms in the city to support
15 the expansion of the convention center.

16 This property at 115 keys would not
17 likely be helpful in that because the hotel
18 management would likely take transient business only
19 and not take convention delegates. At 146 keys, the
20 possibility for the hotel manager to allow a room
21 block of 30 to 40 rooms would be much more likely and
22 could take some of the city-wide business that would
23 be right up the street from its location. Thank you.

24 MR. GLASGOW: I'd like to call --

25 MS. REID: Thank you, Mr. Seale.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MR. GLASGOW: I'd like to call the last
2 witness, Mr. Steven Sher.

3 MR. SHER: Good afternoon, Madam Chair
4 and Members of the Board. For the record, my name is
5 Steven Sher, the Director of Zoning Services with the
6 law firm of Wilkes Artis. I believe staff has handed
7 you my analysis of this case. I'm going to go right
8 to the bottom line which is compliance with the
9 variance that we've asked for.

10 Just to put one comment that Ted made in
11 context, we're asking for a hotel of 146 rooms in
12 7.17 FAR. His reference to 115 rooms is the number
13 of rooms you could accommodate if you were limited to
14 the 6 FAR which is what normally applies. So that
15 was the understanding of where we are versus where we
16 would be.

17 In terms of the compliance with the
18 variance standards, as the Board knows, we have to
19 demonstrate an exceptional or extraordinary situation
20 or condition, and we believe that this site is
21 affected by a combination of things which create that
22 situation or condition:

23 The change in grade from the F Street
24 measuring point down to the alley at the back results
25 in a substantial portion of the base -- what would

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 otherwise be a cellar level being a basement and
2 being charged against FAR, the proportion of the
3 width to the length, the nature of the interior lot,
4 presence of existing buildings on both sides, lot
5 lines affects areas where windows could be
6 constructed on the site and how you actually arrange
7 the site, and Mr. Selerud has talked about that, the
8 presence of the sewer line crossing the southeast
9 portion of the property, the retention of all of the
10 significant -- historically significant fabric of the
11 three buildings which contribute to the character of
12 the historic district, we believe the entirety of
13 those four points creates the exceptional situation.

14 Practical difficulty is involved with the
15 cost related to the historic preservation activities.

16 The inability to spread the density across
17 properties which are not limited to 6 FAR. As the
18 Board may be aware, we have had other projects where
19 we have sites which are both limited to 6 FAR in part
20 and not. And when you have that ability to spread
21 that density across properties that are not limited
22 to 6 FAR, it significantly affects the ability to
23 proceed.

24 And the last point is that the hotel
25 program requires the minimum of about 150 rooms to

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 cover the infrastructure and operating costs of a
2 newly constructed hotel with these constraints.

3 The last part of the variance clause
4 requires that the Board find there be no detriment to
5 the public good. Both Ms. Glasgow and Ms. Adams have
6 referenced the Mayor's Agent's findings about the
7 project and I won't repeat those.

8 The high bulk and use are consistent with
9 surrounding properties, but probably most importantly
10 approval of the variance allows for an economically
11 viable hotel use with emphasis on the word hotel, as
12 opposed to office use or some other use of this
13 property, hotel use being identified as one of those
14 critically important land uses for downtown.

15 The bulk of this project is essentially
16 the same as the volume that would be associated with
17 an office building at 6 FAR. If you compare 12
18 stories at eight feet eight inches floor-to-floor or
19 ten stories at 11 feet or ten foot six or ten foot
20 eight floor-to-floor, you get essentially the same
21 envelope occupied by a 7.17 hotel as you would be a 6
22 FAR office building.

23 On the top of page 6, I have cited out of
24 the regulations the Commission's goals and policies
25 in setting the 6 FAR limitation, and I believe that

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 this project is consistent with all those goals and
2 policies. And as a result, I believe we have met the
3 test for the granting of an FAR variance and suggest
4 that the Board should approve the application. Thank
5 you very much.

6 MS. REID: Thank you, Mr. Sher. That was
7 really quick. Thank you. Okay, I think that
8 completes your presentation, Mr. Glasgow?

9 MS. GLASGOW: Yes, it does, Madam Chair.

10 MS. REID: Okay. The Office of Planning
11 report?

12 MR. COLBY: My name is David Colby. The
13 Office of Planning is represented here today by Ellen
14 McCarthy and myself.

15 In the interest in assisting the
16 Commission in getting through the agenda today and
17 since you have our report, I would just refer to that
18 as part of the record and only note that our only
19 concern -- and I think it's a concern the applicant
20 would mitigate anyway, is that there be at least
21 front entrance to the retail and that it not be
22 entered only from the hotel, in the interest of
23 maintaining an active pedestrian-oriented downtown
24 retail corridor. And with that, we would recommend
25 the approval of this application.

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 MS. REID: Thank you, Mr. Colby. The ANC
2 report?

3 MS. RENSHAW: Yes, Madam Chair, we have a
4 report from ANC-2C, and the report is dated December
5 the 14th, 1999, and it is signed by Norma Davis, the
6 vice-chair of ANC-2C.

7 They had a regularly scheduled meeting on
8 December the 1st. It was a public meeting at which
9 time a quorum was present and the ANC voted four to
10 zero to support the project. And they are mind --
11 the ANC is mindful of the support of the Historic
12 Preservation Review Board for the height and massing
13 of the building. And the ANC received and reviewed a
14 copy of the staff report on the project.

15 There was not undue pressure on historic
16 buildings due to the permitted FAR. The letter spoke
17 about parking pushed further to the southern end of
18 the site resulting in FAR utilized for parking. And
19 again they stated at the end of the letter that they
20 supported the project. Therefore. I request that
21 this ANC-2C be given great weight.

22 MS. PRUITT: Madam Chair, just for the
23 record, you need to waive this in. It was submitted
24 to our office on Jan -- excuse me, June 15th. So you
25 need just to waive the filing time.

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 MS. REID: Unless there's any objection,
2 I would so waive. And they will also be accorded the
3 great weight which they are entitled. Also in regard
4 to the OP report, we also need to waive the rules to
5 accept your report late and I will so waive unless
6 there are any objections by any of the Board members.

7 And there's no one here testifying in
8 support and no one here to testify in opposition. I
9 don't think there was any opposition. I don't think
10 there was even any letters of opposition. We didn't
11 see any in the file. As such, Mr. Glasgow, your
12 closing remarks.

13 MS. RENSHAW: Madam Chair, do we have a
14 short chance for a few questions?

15 MS. REID: I'm sorry. I thought that you
16 --

17 MS. RENSHAW: No, I just --

18 MS. REID: -- just didn't ask questions.

19 MS. RENSHAW: No, we were zipping right
20 along and we did not want to hold up the train, so to
21 speak.

22 MS. REID: All right, sure. Sure.

23 MS. RENSHAW: But in any case, just a few
24 questions --

25 MS. REID: Okay.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MS. RENSHAW: -- for whoever would like
2 to speak about this. This project has a great deal
3 of eye appeal in a very narrow section of the street.

4 And I noted in the OP report that -- and also on your
5 boards here that you're planning for or suggesting a
6 restaurant. And so I would like to know whether your
7 thinking is to have some kind of an outdoor
8 restaurant activity and whether that would ruin the
9 look of this historic front of the hotel. So if
10 someone could address that.

11 And I'd also like someone to tell us
12 whether or not there's going to be a cut for taxis so
13 as not to hold up traffic along the street.

14 MS. REID: Well, wait now, Ms. Renshaw.

15 MS. RENSHAW: Yes.

16 MS. REID: In the interest of time, the
17 questions that --

18 MS. RENSHAW: They're very quick
19 questions.

20 MS. REID: -- the Board members ask
21 should be germane to the zoning issues.

22 MS. RENSHAW: I know.

23 MS. REID: And the taxi cabs and as well
24 as the outdoor cafe, there's no testimony to that
25 effect today. So the assumption is that there would

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 not be. So I would like to keep moving.

2 MS. RENSHAW: Could someone answer the
3 questions though, Madam Chair?

4 MS. REID: There is no -- the point I'm
5 making is that that is not a zoning issue and the
6 questions should be germane to zoning. In the
7 interest of time, I would like to continue to move on
8 because that is not -- that is not something that is
9 pertinent to the relief which they're requesting
10 today.

11 MS. RENSHAW: Well, I'll abide by what
12 the Chair said but I would still request that there
13 be some answers to those two very short questions for
14 the record.

15 MS. REID: I have no problem with them
16 submitting an answer in writing or something like
17 that, but I would not like to stop for those
18 questions to be responded to today.

19 MS. RENSHAW: Well, we could have an
20 answer by now, but we'll let it go at that and
21 request something in writing.

22 MS. REID: Mr. Parsons?

23 MR. PARSONS: I'd like the applicant to
24 respond to the suggestion of the Office of Planning
25 about the retail.

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 MS. REID: The entrance?

2 MR. GLASGOW: We agreed to that. The
3 plans that we have for the retail I believe we have
4 three retail entrances.

5 MS. PRUITT: Mr. Glasgow, is that --

6 MR. PARSONS: These are the plans that
7 were submitted to us or this is a new plan?

8 MR. GLASGOW: I believe those are in the
9 plans that were submitted.

10 MR. PARSONS: Our are dated June 6th.

11 MR. GLASGOW: This would be the same as
12 what is submitted to you.

13 MR. PARSONS: What is up here is simply
14 reformatted and printed out larger. The intent is to
15 retain or to restore the storefronts to an early
16 nineteenth or twentieth century.

17 MR. GLASGOW: Exhibit J.

18 MS. REID: Okay, does that answer your
19 question?

20 MR. PARSONS: Yes.

21 MS. REID: Okay. Thank you, Mr. Glasgow.
22 Oh, I'm sorry, Mr. Sockwell.

23 MR. SOCKWELL: I need to be brief, but
24 Mr. Brueh deserves a question or two. I'm sure he
25 wouldn't want to present himself before this Board

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 and not have to atone for his -- Mr. Brueh, since you
2 represent the construction side of this, could you
3 give us any brief statement regarding how the
4 construction phase will be managed in that there are
5 active projects using the alleys?

6 And, of course, F Street has come back
7 alive primarily with the hotel to the east, and the
8 active club activities to the west and north, and the
9 completion is coming of the new building across the
10 street that is being appended to the original
11 Garfinkel or whatever it is Building that's on the
12 corner.

13 Give us some idea how you intend to work
14 within an active block in a constrained situation to
15 produce a good product in a reasonable period of
16 time.

17 MR. BRUEH: Okay. Actually, I think
18 we're in actually a very good position to --

19 MS. REID: Again, excuse me. Again, I'm
20 trying to keep this on track and that is not a
21 question that is necessarily germane to the
22 application before us today, Mr. Sockwell.

23 MR. SOCKWELL: Well, actually it is.
24 It's the only application we're talking about and
25 it's the only thing they're going to build.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MS. REID: Mr. Sockwell, I don't think
2 that -- I don't think that that is a question that we
3 need to be concerned about and that is not something
4 in keeping with the relief that is requested here
5 today.

6 MR. SOCKWELL: All right. Then we'll
7 dispense with that question and I'll ask another one.

8 MS. REID: All right.

9 MR. SOCKWELL: Mr. Brueh, you're off the
10 hook. The question would be then with regard to the
11 overall massing and the impact of the new project
12 visually with regard to the existing facades just --
13 and perhaps the architect can just briefly tell us
14 how that massing relationship is most effective
15 visually in maintaining the streetscape.

16 MR. SELERUD: I think that these drawings
17 help describe the relationship better than looking at
18 the straight elevation in that one can see that we
19 will be maintaining the scale of the buildings along
20 F Street, particularly in restoring those three
21 buildings, adding the fourth as the entrance to the
22 hotel, then stepping back more than 60 feet before we
23 begin the tower portion of the hotel, the major new
24 construction.

25 When standing at the corner of F and 9th,

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 one will only see a small portion of the building.
2 It really is going to be seen primarily from longer
3 distances than experienced from the street. What one
4 will see from the street is really those facades
5 which are really three-story facades. Does that
6 answer your question?

7 MR. SOCKWELL: And signage, you're
8 providing a marquee at the entrance.

9 MS. SELERUD: We would have a marquee at
10 the entrance to make it clear where the hotel
11 entrance is.

12 MR. SOCKWELL: And somewhat diminutive
13 signage to relate to what previously would have
14 existed in a quality environment?

15 MS. SELERUD: Yes, the -- do you want to
16 say anything about the restoration of the
17 storefronts? That issue has come up a couple times.

18 MS. ADAMS: With respect to the
19 storefronts and signage, we have a fair amount of
20 information, not many drawings but some photographs,
21 of the buildings around the turn of the century. We
22 will be going back to probably circa 1910
23 storefronts. The signage will all be reviewed as
24 part of HPRB review to be compatible with those
25 restored storefronts in the historic district.

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. SOCKWELL: Okay, thank you.

2 MS. REID: Thank you. Mr. Glasgow.

3 MR. GLASGOW: Madam Chair, if there are
4 no further questions of any of the members of the
5 panel, if we could, we would like to have a bench
6 decision and an expedited or summary order with
7 respect to this project. We felt that we have met
8 the burden of proof.

9 We're pleased to be able to be here
10 before the Board today but we have been through an
11 extensive review process before we got here of going
12 to the Historic Preservation Review Board, the
13 Mayor's Agent, we've been to the ANC, and we look at
14 this as the culmination of the process and would like
15 to get an approval today if we could and move on with
16 this important project.

17 And I'm sure you saw the photographs of
18 the before and the drawings of after, and we think we
19 have a lot to contribute with respect to the further
20 development of F Street with this project moving
21 forward. Thank you.

22 MS. REID: Board members, I would
23 recommend approval of this project, the application.

24 I feel that the applicant has demonstrated and met
25 the burden of proof and that there is obviously a

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 practical difficulty in this particular site in
2 attempting to comply with existing zoning
3 regulations.

4 They have demonstrated the various
5 constraints as pertaining to the site itself and the
6 FAR, and that there does not seem to be any adverse
7 impact in that we have heard from anyone in the
8 community any opposition to this case. There are no
9 letters of opposition in regard to parking, light,
10 traffic, noise or otherwise. Any other further
11 discussion?

12 MS. RENSHAW: Yes, Madam Chair. I
13 brought up the matter about the narrowness of the
14 project and the fact that had the question about the
15 outdoor cafe. And I would really like to condition
16 the order that we not mar -- or the applicant not mar
17 the front of that building because it is going to be
18 such a historic eye appeal structure with an outdoor
19 cafe, and I'd like to have that as a condition.

20 MS. REID: You know, Mrs. Renshaw, I'm
21 not sure if we can condition -- that's a historic
22 preservation issue. Excuse me, please, Mr. Sockwell
23 and Mrs. Sansone. In regard to that condition, my
24 thinking is that that's historic preservation and
25 they would have -- or they would make any kinds of

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 conditions as it pertains to the facade or the
2 exterior.

3 MS. PRUITT: Also, Madam Chair, they'd
4 also have to get a public space permit so it's not
5 like they could just put it up.

6 MS. REID: So they couldn't -- they could
7 not just do that, Mrs. Renshaw.

8 MS. RENSHAW: And it has --

9 MS. REID: And they would be constrained
10 by --

11 MS. RENSHAW: And it would have to go --

12 MS. REID: -- other entities that would -
13 -

14 MS. PRUITT: Other governmental --
15 District government entities. They'd have to be
16 reviewed.

17 MS. RENSHAW: All right. And if they had
18 to get a public space permit for the outdoor cafe, it
19 would have to go back to the ANC.

20 UNIDENTIFIED SPEAKER: Yes.

21 MS. RENSHAW: Yes.

22 MS. PRUITT: Yes.

23 MS. RENSHAW: It would have to.

24 MS. REID: Just as a practical matter, it
25 would have to.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MS. PRUITT: Correct, and then of course
2 under the SHIPO or State Historic Preservation, there
3 are a lot of requirements there and that really is
4 not our jurisdiction. It's the Board's jurisdiction
5 to make those determinations and actually determine
6 what can and cannot be done to the facades and
7 interior.

8 MS. RENSHAW: I thank you for clarifying.

9 MS. REID: Okay, thank you. All in
10 favor?

11 MEMBERS: Aye.

12 MS. REID: Opposed?

13 (No response.)

14 MS. PRUITT: Staff will record the vote
15 as four to zero to approve motion made by Mrs. Reid,
16 seconded by Mr. Parsons, a summary order and the
17 record's closed.

18 MS. REID: All right, you should have
19 your order in about two weeks, Mr. Glasgow. Good
20 luck. That should be a great improvement to that
21 strip of town there on F Street.

22 Okay, next case.

23 MS. PRUITT: Madam Chair, I've noticed
24 that both Ms. Prince and Mr. Brown for the Sisson
25 case has come in, and since we are actually starting

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 on the afternoon agenda, you may want to take up that

2 --

3 MS. REID: First, okay.

4 MS. PRUITT: -- preliminary item that we
5 had deferred.

6 MS. REID: Okay, okay. Okay.

7 MS. PRUITT: Although I believe Ms.
8 Prince stepped out of the room for one second.

9 MS. PRINCE: No, I'm here.

10 MS. PRUITT: Oh, she's here, I'm sorry.
11 I couldn't see her.

12 MS. REID: Okay, then, we are -- that
13 completes the morning session even though we already
14 opened the afternoon session, but you know it's been
15 that kind of day. Nonetheless, a preliminary matter
16 in regard to Mr. Sisson.

17 If both attorneys could please come
18 forward, Mr. Brown and Ms. Prince, to discuss the
19 latest request from the ANC to delay this particular
20 matter. Are you both familiar with the request? Ms.
21 Prince, were you aware?

22 MS. PRINCE: Yes.

23 MS. REID: Okay, because some of the
24 other representatives of your company was not aware
25 of it. Mr. Brown?

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. BROWN: I am aware of it.

2 MS. REID: Okay.

3 MR. BROWN: Good afternoon, Madam Chair,
4 members of the Board. Patrick Brown from Greenstein,
5 Delorme & Luchs, counsel for Mildred R. Crary.

6 MS. PRINCE: Allison Prince from Wilkes
7 Artis, counsel for the applicant, Mr. Sisson.

8 MS. REID: All right. Either one of you
9 can make your comments. What's before us, just to
10 reiterate that for the record, is that we received a
11 request from the ANC to postpone this case again due
12 to their -- it's basically their unreadiness for it
13 to go forward, and you can both give us your
14 comments.

15 MR. BROWN: Madam Chair, can I -- and the
16 ANC acted and filed the letter requesting a
17 postponement. Also, the Board had on May 24th
18 pending before it and went to great lengths to leave
19 my motion to dismiss to deny the application pending,
20 to defer action on that. This morning, I renewed
21 that motion.

22 What has occurred is several
23 developments. On May 24th, the Board instructed the
24 applicant to prepare an as-built survey. That was
25 prepared. It was, through no fault of anybody's,

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 late in arriving. The ANC got it the night of their
2 meeting. They did not have a quorum and were not
3 able to take official action but expressed their
4 great interest in the matter, longstanding interest.

5 The important development, and adding to
6 all our frustrations, is that I raised an issue, even
7 though I was out of town, as to the validity of that
8 survey having to do with the side yard issue and the
9 nature of the measurements.

10 Lo and behold, on the 15th -- dated the
11 15th, received last Friday the 16th, the applicant
12 provided yet another revised as-built drawing that
13 you have in the package I filed this morning showing
14 that in fact the side yard was different, less than
15 what had been shown on the earlier survey and less
16 the minimum five-foot required.

17 So that -- and Ms. Prince and I met with
18 Mr. Johnson yesterday morning, 11:00 o'clock, and in
19 fact at noon today heard from him by phone. We have
20 not received his written comments as to the various
21 outstanding issues.

22 But the great frustration is that, you
23 know, at 12:00 noon on the day of a 1:00 o'clock
24 hearing, we're still trying to fight over the zoning
25 relief required for this case, and made more

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 difficult by the fact that there's a constant
2 fluctuation of the information for which Mr. Johnson
3 has to make his decisions, I need to view the case,
4 the ANC needs to review the case, and ultimately this
5 Board.

6 So it's out of enormous frustration that
7 I renewed my motion to dismiss. Again, it's always
8 the applicant's burden to file an appropriate and
9 complete application and prosecute that forward.
10 We're now on the fifth hearing date in this case. I
11 dare say we're probably not a whole lot closer to
12 going forward than we were October 19th of 1999 when
13 this case was first filed.

14 MS. REID: Okay, Mr. Brown, the question
15 before you is the issue in regard to postponement.
16 We have not gotten to the issue regarding your motion
17 to dismiss.

18 MR. BROWN: Sure. I'm trying to put some
19 context. Certainly, at a minimum -- and I know the
20 ANC. It's my home ANC. Their interest in this case
21 is enormous and ongoing.

22 MS. REID: Right.

23 MR. BROWN: And they've stuck in. And
24 the fact that they were not able to take up this
25 matter and also were not able to take up the matter

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 with what is now the latest survey before them which
2 raises other important issues, as well as none of the
3 parties yet have the zoning computations from Mr.
4 Johnson, the Zoning Administrator's Office.

5 MS. REID: I thought that that was --
6 that it had been provided. My understanding it was --
7 -

8 MS. PRUITT: Madam Chair, may I just help
9 maybe clarify?

10 MS. REID: Yes.

11 MS. PRUITT: Yesterday I met with Mr.
12 Johnson and Mr. Nunley and we discussed this. In
13 fact staff is going to find out where they are. We
14 were told that there would be somebody here today.

15 MS. REID: That was my understanding.

16 MS. PRUITT: And that at that time they
17 would have looked at the revised survey and would
18 then be able to qual -- to certify whether or not the
19 correct zoning relief has or has not been requested.
20 Were you able to get in touch with either one of
21 them.

22 MS. PRINCE: I can shed some light on it.

23 MS. PRUITT: And so we were expecting to
24 see somebody here today.

25 MS. PRINCE: They're on call. Mr. Nunley

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 asked that I call him when I felt this matter was
2 about to come pursuant to a conference call that pat
3 and I had with both Mr. Nunley and Mr. Johnson this
4 afternoon at 12:00. And I simply haven't called him
5 yet because there are several cases ahead of ours.

6 MS. REID: Were they supposed to have
7 submitted something to us to give us some guidance?

8 MS. PRUITT: They didn't say they would
9 submit. They actually said they'd be here. Mostly
10 because they just got it yesterday so I don't know if
11 there was time for them to actually do a written
12 report. But it was my understanding that they were
13 going to come here to testify.

14 MS. REID: Okay.

15 MS. PRUITT: Or maybe in lieu of that,
16 then either submit something, fax it to us, I'm not
17 sure, but my understanding is that they were going to
18 come.

19 MS. REID: Okay.

20 MR. BROWN: But I certainly think the ANC
21 issue is one that probably comes first because of
22 their importance in this process and their interest.

23 And the fact that while Ms. Prince and I -- Allison
24 and I and Mr. Johnson, have been working overtime on
25 this matter, they're out of the loop about where we

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 are now in this case, and I think it's changed
2 substantially since they met. And certainly they
3 didn't have a quorum and the ability to act in any
4 official way that would be given the great weight
5 they're entitled to.

6 So I think certainly at the base level of
7 the ANC, a postponement is appropriate. I might add
8 that my client, Mrs. Crary, is not here. She had --
9 and I have a letter from her. She had prepaid, pre-
10 arranged plans to attend a writer's conference. She
11 is in fact a writer. That's how she made her living.

12 That's how she's now spending her retirement down in
13 Georgia, attending a professional writer's conference
14 and meeting with agents.

15 So her absence here is an enormous
16 handicap to the Board's ability to hear a case that,
17 you know, up until noon today no one quite knew what
18 it is and we still don't have the information before
19 us. so I think the ANC postponement is, at a
20 minimum, appropriate.

21 MS. REID: Thank you, Mr. Brown.

22 Ms. Prince?

23 MS. PRINCE: Good afternoon, members of
24 the Board. I'm here today, I think now for the third
25 time, simply trying to get a hearing. That's all I

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 want is to be able to go forward with the hearing
2 today.

3 I got some homework when were last
4 postponed. I was given three tasks and I have worked
5 very hard to accomplish all three of those tasks, and
6 they have in fact been accomplished.

7 MS. REID: What were they? Can you
8 reiterate them for us?

9 MS. PRINCE: Yes. First, I was asked to
10 secure an as-built survey. The moment we left the
11 hearing, we made contact to secure an as-built
12 survey.

13 As you know, in the current building
14 climate, that is not easy to secure but we did in
15 fact get one by one of the few surveyors that are
16 registered to do wall checks in the District of
17 Columbia because we felt it was important not to go
18 with any surveyor but one on the designated D.C.
19 list. The survey was in fact prepared and made
20 available to the Zoning Administrator, Mr. Brown and
21 this Board on June 8th.

22 Second, I was asked to go to ANC-3D. The
23 ANC has considered this property no less than six
24 times. I spent the entire evening of June 12th at
25 the ANC meeting, and despite the fact that 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 did not have a quorum they considered quite a lengthy
2 discussion of the application by me and by Janine
3 Rustad (phonetic) from Pat's office.

4 I feel there was a very fair opportunity
5 to air the issues at the meeting. This question
6 about the discrepancy in the survey because of the
7 thickness of the siding of the house, a 1.68 inch
8 issue, was in fact aired at the ANC meeting, and I
9 believe that although the ANC didn't have a quorum
10 their letter speaks for itself. They are opposed to
11 a front yard variance and we're willing to live with
12 the ANC's opposition even though it wasn't taken --

13 MS. REID: Which letter are you referring
14 to, Ms. Prince?

15 MS. PRINCE: The request for postponement
16 states the ANC's general sentiment against the grant
17 of variances from the Wesley Heights setback
18 requirement.

19 MS. PRUITT: That's Exhibit 50?

20 MS. PRINCE: And as I said, the ANC has
21 considered this property no less than six times.
22 Third, Pat Brown --

23 MS. REID: No, no, no. Before you go
24 there --

25 MS. PRINCE: Yes.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MS. REID: I need to understand where in
2 the ANC letter does it indicate that they are in
3 opposition to this particular case?

4 MS. PRINCE: The second paragraph of the
5 letter states that ANC-3D has consistently and
6 repeatedly opposed any course of action which
7 undermines the force and effectiveness of the zoning
8 regulations, and in particular the Wesley Heights
9 overlay.

10 Pat and I are in full agreement that we
11 need a variance from the setback requirement of the
12 Wesley Heights overlay district.

13 MS. REID: Well, wait, excuse me. That's
14 not my interpretation. The interpretation that you
15 just gave me was specific to the -- anything that
16 undermines the force and effectiveness of the zoning
17 regulation in the Wesley Heights overlay, I did not
18 garner what you just read to me that they were
19 opposing this application per se.

20 MS. PRINCE: They have not taken any
21 specific action --

22 MS. REID: That's what I thought.

23 MS. PRINCE: -- on this application
24 because they lacked a quorum. They have longstanding
25 opposition to the property in the previous appeal.

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 MS. REID: Then, why are they asking for
2 a -- I don't understand then the request for a delay,
3 because that being the case they could simply say
4 that we just oppose it. that they would not ask for
5 a delay in order to be able to consider the matter
6 and to come to some resolution. I'm not fully clear.

7 MS. PRINCE: I had the benefit of
8 attending the entire ANC meeting. I unfortunately
9 was not able to glimmer any possibility of support of
10 this application from the meeting. There was not
11 discussion at the meeting of requesting a
12 postponement so I can't shed light on that.

13 MS. REID: Again, it would appear to me
14 they would just simply send a letter of opposition,
15 period.

16 MS. PRINCE: One would think, but I --

17 MS. REID: And not ask for a delay for
18 consideration and also to try to come to some
19 resolution. That's what gives me pause.

20 MS. RENSHAW: Well, Madam Chair, if I
21 may?

22 MS. REID: Yes.

23 MS. RENSHAW: The business of the ANC
24 opposing or approving this application would have to
25 be done with a quorum present, and a quorum was not

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 present at this particular meeting, and a vote was
2 not taken at this meeting, although the vice-chair
3 who signed the letter, Ann Huer (phonetic), could in
4 her capacity send the BZA a letter asking what she
5 has asked for, a suspension of consideration of any
6 remedial variances, et cetera. That can be done
7 without a quorum present. But if you are going to
8 vote, you have to have a quorum present.

9 MS. PRINCE: I simply would like to note
10 there was no quorum. So if there was no quorum,
11 there was no quorum to request a postponement, there
12 was no quorum to state opposition, there was no
13 quorum to state support.

14 I was at the meeting. It would not be in
15 my interest to suggest that something happened at the
16 meeting that didn't happen. I did not find the
17 meeting to be a friendly exchange. I sensed
18 longstanding opposition to the existing improvements
19 on my client's property and I see no benefit in a
20 seventh appearance before this ANC to discuss this
21 property when this case has in fact already been
22 postponed five times.

23 MS. REID: Well, be that as it may, Mrs.
24 Prince, it also says in the ANC letter that until the
25 Zoning Administrator resolves what variances are

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 actually required, the ANC is not in a position to
2 make any specific recommendation in this matter.

3 Accordingly, we urge the BZA to continue
4 this matter to give the parties an opportunity to
5 meet with the Zoning Administrator for the parties to
6 then appear again before the ANC so that we may make
7 a meaningful recommendation regarding the necessary
8 variances in this case.

9 Now, what I gleaned from the tone of the
10 ANC letter from Mrs. Huer (phonetic) is this, that
11 apparently there is still an unreadiness on the part
12 of the ANC, and there has not been an official
13 position taken because of the unreadiness.

14 Now, because of no official position
15 being taken, there's not been a forum, there's not
16 been a vote taken to give us a signal from what in
17 fact they would like this Board to do, and to give
18 them the great weight to which they're entitled, then
19 in the absence of that, then Ms. Huer (phonetic), as
20 the vice-chair is asking for a postponement so that
21 the ANC can get to a point of readiness.

22 So before this Board then is simply a
23 matter of -- without a vote they would be given great
24 weight but -- I mean, with a vote they would be given
25 great weight and a quorum present. And they did not

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 have a quorum present and did not have a vote on this
2 matter and it's a -- I guess it's a request from the
3 ANC vice-chair for us to simply take into
4 consideration a request to delay so that they can
5 become ready. And as such, they don't have to have a
6 quorum to make that request. They can request so
7 that they can have a quorum present and it's a matter
8 of --

9 MS. PRINCE: I would --

10 MS. REID: Excuse me. It's a matter of
11 whether or not we feel that we should afford them that
12 accommodation to allow them to be able to do so.

13 MS. PRINCE: Can I continue with my third
14 piece of homework that we followed up on diligently -
15 -

16 MS. REID: Sure.

17 MS. PRINCE: -- and at great cost and a
18 very time-consuming exercise. Pat and I were finally
19 able to meet with the Zoning Administrator yesterday.
20 Our first meeting was scheduled for June 8th.
21 Because I was unable to provide Mr. Brown with a copy
22 of the survey until immediately prior to that
23 meeting, we had no choice but to postpone it.

24 Mr. Brown was then on vacation for
25 several days, so we had no choice but to postpone it

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 until his return.

2 We met with the Zoning Administrator
3 yesterday. Both parties had an opportunity to fully
4 air all of their issues with respect to the property.

5 Mr. Johnson informed us that his office was inclined
6 to stand by their original zoning memorandum which
7 was in fact the one before the BZA -- I'm sorry,
8 before the ANC, and he contacted us in a conference
9 call at 12:00 o'clock today to express, number one,
10 his office's opposition to a continuance, number two,
11 his office's position that they stand by their
12 original memorandum, number three, that the 1.68 inch
13 discrepancy in the side yard measurement that came
14 about as a result of the thickness of the siding that
15 was added to the house sometime between 1975 and
16 1994, as a result of that discrepancy he would simply
17 exercise his discretion under Section 2622 to allow
18 the project, the application, to go forward without a
19 side yard variance that would otherwise be required
20 absent his exercising that discretion.

21 Therefore, we were asked to do three
22 things. We did all three things at considerable time
23 and expense. I have to ask: In the event that the
24 case is postponed, what additional information can we
25 provide to this Board that will further clarify he

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 information that is before you? We have an as-built
2 survey, there is agreement, I believe, among the
3 parties as to the accuracy of the survey.

4 In fact, when there was an issue raised,
5 we immediately had the issue clarified, the thickness
6 of the siding issue, a zoning nuance if ever I saw
7 one. The ANC has considered this property six times.

8 The Board is -- the applicant is fully prepared to
9 proceed on the assumption that the ANC is not going
10 to support this application.

11 If the board would like to keep the
12 record open for the ANC's definitive position on the
13 project, I welcome you to do so. However, to send us
14 back to the Advisory Neighborhood Commission for a
15 seventh time seems a little burdensome under the
16 circumstances.

17 MS. REID: Ms. Prince, I don't remember
18 this Board sending you to the ANC seven times.

19 MS. PRINCE: No, the ANC --

20 MS. REID: I think that the last meeting
21 we did --

22 MS. PRINCE: The ANC has considered the
23 application six times. I'm sorry, they've considered
24 the property. As you'll recall, the existing
25 improvements were the subject of an appeal, and that

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 appeal was before the ANC five times.

2 MS. REID: Well, that within itself is
3 irregular. The fact that an ANC meeting on the same
4 issue that many times is still not going to be able
5 to come to any kind of resolution?

6 MS. PRINCE: No, they did, and they
7 strongly supported the appeal which Mr. Brown's
8 client filed and the Board in fact granted the
9 appeal.

10 MS. REID: You're referring to the entire
11 --

12 MS. PRINCE: And in granting the appeal

13 MS. REID: Over the whole life of this
14 case, okay.

15 MS. PRINCE: Right. And we were invited
16 by the Board when they granted the appeal to come
17 back and file for a variance to rectify the
18 situation.

19 MS. REID: Uh-huh.

20 MS. PRINCE: So this is a property with
21 which the ANC has a tremendous amount of familiarity,
22 a tremendous amount of background. And if we're
23 quibbling over whether the ANC had before it at the
24 June meeting the correct variances, I can now tell
25 you today yes they did because Michael Johnson has

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 confirmed that no new variance relief is required.

2 So I strongly urge you to allow us to go
3 forward. Otherwise, I know we're looking at a delay
4 till October. I'm realistic, I've been through this
5 before, and I don't -- I am not aware of any
6 additional information, unfortunately, that I can
7 provide you with that will either bring the parties
8 closer together or will shed further light on the
9 issues that are before you.

10 I think there comes a time when every
11 case simply needs a hearing. And the further
12 postponement of this hearing will not provide any
13 additional information to this Board, but it will be
14 a tremendous prejudice to my client who has been
15 seeking a hearing since December.

16 MR. BROWN: Madam Chair, can I interject
17 very quickly. Certainly as it relates to the ANC,
18 and they made it very clear in their letter, they
19 said in the second page at the top, "This ANC has not
20 had an opportunity to review and comment on a
21 properly prepared case before it comes before the
22 BZA."

23 The zoning computations we still haven't
24 seen from Mr. Johnson and his office. But as to the
25 two agreed-upon variances, the front yard and lot

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 occupancy, both those -- the quantity of those
2 variances are different. The front yard is almost
3 twice as large a variance required as earlier
4 believed to be.

5 And certainly for the ANC considering, as
6 well as this Board considering a variance, the fact
7 that it's a foot or five feet is critical.

8 As to lot occupancy, the lot occupancy
9 variance is larger than originally believed. And,
10 again, the ANC who don't have the luxury of making
11 this their livelihood, have asked to have all the
12 information they need to judge this application, and
13 I think they're entitled to it.

14 And I think, quite frankly, the Board,
15 Mr. Sisson, and certainly my client is entitled to
16 that as part of the process.

17 MS. REID: Okay, thank you, Mr. Brown.
18 Board members, could I get a motion in regard to this
19 matter?

20 MR. PARSONS: I just have one question.
21 Ms. Prince, you say the ANC has considered this six
22 or seven times.

23 MS. PRINCE: Yes.

24 MR. PARSONS: Have you ever gotten a
25 position, a vote, position on this 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 MS. PRINCE: Yes. The ANC participated
2 heavily in the appeal case and was always, always
3 unanimously in opposition to my client's position.
4 They have never taken a position in support of my
5 client's position on any aspect of this project at
6 any time.

7 MR. PARSONS: Of the seven times, then,
8 how many times did they take a position in writing?

9 MS. PRINCE: Oh, I really -- I mean, I
10 have the pleading files. I could pull it out for you
11 and address it, but they certainly are on the record
12 in opposition to the appeal. And as I said, I mean,
13 they did not have a quorum on the 12th but I did have
14 the benefit of sitting through the entire meeting and
15 I did not walk out of that meeting with even a
16 glimmer of hope that they would be taking a position
17 in support of my client. They certainly stated on
18 the record that they will, whenever possible, defend
19 the Wesley Heights overlay, and this is a case that
20 involves a variance from the setback requirement of
21 the Wesley Heights overlay.

22 So to provide the ANC with another
23 opportunity to say that is a futile exercise.

24 MR. BROWN: See, I disagree that that's a
25 futile exercise.

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. PARSONS: Well, I didn't ask for a
2 debate here. Wait a minute.

3 MR. BROWN: All right.

4 MR. PARSONS: So we have no position of
5 the ANC in this case however, do we?

6 MS. PRINCE: Not on this variance
7 request.

8 MR. PARSONS: Request, okay. So I can't
9 imagine how you would see us proceeding when the only
10 message we have from the ANC on this particular case
11 is a request for a delay. And to say, "Oh, we know
12 what they're going to say," and blow them off, I
13 can't agree with that. I understand your
14 frustration, certainly.

15 MS. PRINCE: I mean, the entire and
16 probably the fundamental reason why the case was
17 postponed the last time, as you'll recall, was
18 because we had not appeared before the ANC. I called
19 the ANC the next day, I made every arrangement
20 possible to appear at that meeting. I appeared at
21 the meeting and for the first time in two years that
22 ANC lacked a quorum.

23 Had they had a quorum, I have little
24 question what the position would have been. And to
25 lose three months, now to wait for what I fear is an

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 inevitable position when the record can be left open,
2 is simply what we're asking.

3 MR. BROWN: Madam Chair, can I interject?

4 I think you shortchanged Mr. Sockwell because one of
5 his critical points on the 24th was the absolute need
6 for the as-built drawings.

7 So the last time we met, I think -- and
8 if I could briefly indicate that Mr. Sockwell didn't
9 feel he had the information necessary or the others
10 participating. So it was more than just an exercise
11 in going back to the ANC. It was going back to the
12 ANC with the parties fully educated as well as the
13 Board.

14 MS. REID: How did I shortchange Mr.
15 Sockwell?

16 MR. BROWN: No, no, no. I didn't want to
17 --

18 MS. REID: Oh, Ms. Prince.

19 MR. BROWN: Yes, because I mean --

20 MS. REID: Oh, I thought you said -- oh,
21 I see. I thought you meant --

22 MR. BROWN: No.

23 MS. REID: And I was, like, I don't
24 remember doing that to my colleagues.

25 MR. BROWN: No, no, no. My apologies,

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 Madam Chair, and I was trying to focus in on an
2 important part of what the Board did last time which
3 is Mr. Sockwell who -- you know, who's got a very
4 strong background in these matters said, "I can't
5 make any sense of it, how can anybody else." And I
6 think it was a point well taken and important
7 information was produced.

8 MS. REID: Okay. I think we need to move
9 forward on this issue. We'll take a vote and just
10 let the chips fall where they may. All right, may I
11 have a motion?

12 MR. SOCKWELL: Madam Chair, since we've
13 aired this on one side, I just want to say that while
14 I'm fully aware of the need for us to have accurate
15 information and for the Advisory Neighborhood
16 Commission to have its positive or negative say, we
17 may have gotten to a point where the information --
18 we have sufficient information to go forward, that we
19 could leave the record open for the ANC to make its
20 report, but it might be just pushing our own schedule
21 deeper and deeper into a negative condition by
22 continuing to push this case further and further
23 back.

24 MS. RENSHAW: Madam Chair, I disagree
25 with Mr. Sockwell's point. I would like to suggest

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 that -- or I could even make a motion at this point
2 that we continue this case to another suitable date
3 to allow the ANC to once and for all vote on this
4 because both parties have met with Michael Johnson,
5 the Zoning Administrator, and that was a point
6 brought up in the ANC's letter. And the as-built
7 survey has been supplied. And if you would -- or if
8 we would or however we communicate with the ANC, that
9 they have another, one last opportunity to vote on
10 this to get a quorum together and to get its vote in
11 to the BZA as of a certain date.

12 MR. PARSONS: Second.

13 MS. REID: All in favor?

14 MR. PARSONS: I think we ought to get a
15 certain date here. I don't think we ought to --

16 MS. RENSHAW: Put a date certain on it.

17 MS. REID: Well, okay. Before we vote
18 yes or no?

19 MR. PARSONS: Well, I wanted to discuss
20 that a little bit.

21 MS. REID: Okay.

22 MS. PRUITT: Just for the record based on
23 your schedule right now, it appears that the first
24 available reasonable hearing date would be October
25 17th.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MS. RENSHAW: Okay.

2 MS. PRUITT: Unless you'd like to meet in
3 August.

4 MS. REID: Can't meet in August.

5 MR. PARSONS: Well, that would certainly
6 give the ANC an opportunity --

7 MS. RENSHAW: That gives the ANC plenty
8 of time.

9 MS. REID: All right. And also just in
10 light of the fairness of this whole matter, can we
11 stipulate that this would be the last time we would
12 send for the ANC?

13 MS. RENSHAW: Yes.

14 MS. REID: Give them all due time. And
15 after this, there will be no more accommodations or
16 no more -- we will not allow any more delays, any
17 more postponements. The 17th and that's it. Can we
18 amend --

19 MR. PARSONS: That's fine.

20 MS. REID: Who's motion was it?

21 MR. PARSONS: Ms. Renshaw's.

22 MS. RENSHAW: It's my motion.

23 MS. REID: Amend Ms. Renshaw's motion to
24 October 17th being the last and final delay and
25 postponement, period.

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 MS. PRUITT: And, Madam Chair, would you
2 like to add that the ANC report should be in by
3 October 10th, which is seven days in advance?

4 MS. REID: In a timely fashion. In a
5 timely manner.

6 MS. PRUITT: Which would be October 10th
7 so they'll have a date certain.

8 MS. REID: This is more than enough time
9 for them to be able to do so.

10 MS. RENSHAW: Madam Chair, I'd like to
11 know how we are going to -- or how the ANC is going
12 to get a report from Michael Johnson concerning his
13 remarks to the two of you?

14 MS. REID: Ms. Pruitt, would you ask --

15 MS. RENSHAW: How is that done?

16 MS. REID: -- that he supply both the
17 Board and --

18 MS. PRUITT: Certainly we will ask.

19 MS. REID: -- all parties --

20 MS. PRUITT: We have asked and --

21 MS. REID: -- with whatever new
22 information or new position or whatever --

23 MS. PRUITT: Certification or either new
24 zoning or certification, that the relief that is
25 requested is correct.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MS. REID: Because the danger here is
2 that the hearing is being set that they've taken this
3 position or that position and we don't have anything
4 in writing nor are they here. So we have to have
5 something to authenticate whatever their position is.

6 MS. PRUITT: We will certainly request in
7 writing that they provide us with that.

8 MS. REID: Okay. Thank you so much.

9 MS. PRUITT: Uh-huh.

10 MS. REID: All right.

11 MS. PRUITT: So just -- I'm sorry.

12 MS. REID: Go ahead.

13 MS. PRUITT: You wanted to call the vote?

14 MS. REID: I did.

15 MS. PRUITT: Just for the record, I'd
16 just like to note the motion was made by Ms. Renshaw
17 and seconded by Mr. Parsons that this case be
18 postponed to October 17th with no more postponements
19 after that, with the ANC report due on October 10th,
20 which is the timely filing, and that staff will
21 request in writing from the zoning Administrator a
22 verification of the zoning required for this
23 particular project.

24 MS. RENSHAW: Also, can a letter get to
25 be sent to 3D informing them of this?

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 MS. PRUITT: Yes.

2 MR. SOCKWELL: The Zoning Administrator
3 will receive all documentation provided to the Board,
4 correct?

5 MS. PRUITT: Excuse me?

6 MR. SOCKWELL: The Zoning Administrator
7 will be receiving all information being provided to
8 the Board so that he'll have all the numbers that
9 we're supposed to be getting.

10 MS. PRUITT: All documentation from --

11 MR. SOCKWELL: In other words, if we're
12 using a new plat and new numbers and all that, the
13 Zoning Administrator is going to need that in order
14 to know what he's talking about.

15 MS. PRUITT: Correct, the parties are --
16 all right, the parties are to serve that on them.

17 MR. SOCKWELL: All right.

18 MS. PRUITT: Or the applicant and parties
19 are to serve. I'm sorry, excuse me.

20 MR. BROWN: And I believe he has been
21 provided.

22 MS. PRUITT: Yeah, I didn't think that
23 was a problem.

24 MS. REID: In the meantime, it would be
25 great if you all could come to a settlement.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MR. BROWN: Madam Chair, we're working on
2 it. Allison and I are working on it.

3 MS. REID: All right. I'd like to see
4 that happen. I think everyone would be happy if that
5 could take place. Okay, thank you very much.

6 MR. BROWN: Thank you.

7 MS. REID: All right, the first case --
8 would it be the first case of the afternoon? Didn't
9 we vote?

10 MS. RENSHAW: Did vote but it wasn't read
11 back to us for the record.

12 MS. REID: We did vote but you didn't
13 read the vote back to us.

14 MS. PRUITT: No, actually you didn't
15 vote. I just did first and second. That's what I
16 was asking you for.

17 MS. REID: Oh, okay.

18 MS. PRUITT: Please vote.

19 MS. REID: Oh, okay. All in favor? I
20 thought we did vote.

21 MEMBERS: Aye.

22 MS. REID: Opposed?

23 MS. PRUITT: Four to zero.

24 MS. PRUITT: Okay, the first case on the
25 afternoon agenda, just for an update, we've already

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 continued Case 16555, application of Harvard
2 University Trustees/Dumbarton Oaks. That's been
3 continued to October 24th.

4 So the first case on our afternoon agenda
5 is actually 16563, application of Mark and Judith
6 Siegel pursuant to 11 DCMR 3103.2 for a variance
7 under Subsection 2001.3 subsections (a), (b) and (c)
8 to allow for the construction of an addition to an
9 existing nonconforming single-family dwelling under
10 Section 403.2 from the maximum allowable lot
11 occupancy, Section 404.1 from the minimum rear yard
12 setback requirements in an R-3 District at 2134 Leroy
13 Place, Square 2531, Lot 18.

14 All those planning to testify, would you
15 please stand and raise your right hand? Do you swear
16 or affirm that the testimony you're going to give
17 today is the truth?

18 (Witnesses sworn.)

19 MS. PRUITT: Madam Chair, on this
20 particular case, we have two requests for party
21 status. One from Carter H. and J. Hills, and one
22 from Marie Drissel, so you need to make a
23 determination on those. Ms. Drissel is not here.
24 She did leave me a voice mail that said -- my
25 understanding is she no longer has any opposition to

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 case.

2 MS. REID: She basically rescinded her
3 opposition?

4 MS. PRUITT: That's what she said on the
5 phone. Great, because I don't have anything in
6 writing but I did speak with her. If you could --
7 thank you.

8 MS. REID: All right. Mr. Ellis?

9 MR. ELLIS: Good afternoon. My name is
10 Craig Ellis and I represent the Hills. They are the
11 neighbors directly to the west of the Siegels --
12 excuse me, to the east of the Siegels at 2132 and
13 they would be directly impacted by the construction
14 that is proposed. So we're seeking party status
15 based on the fact that they are directly impacted by
16 this proposed variance relief being sought.

17 MS. REID: Okay. And how -- just for the
18 record, tell us how they're impacted?

19 MR. ELLIS: One, it affects their view.
20 Two, it affects their privacy in that there is a deck
21 that would be built around the property, and (e) it
22 would affect their light because the light would be
23 coming from the west. There's an effect from the
24 western light by this construction into a garden to
25 the rear of their home that has several camellia

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 trees and a magnolia to the rear.

2 MS. REID: Okay. Unless any of the Board
3 members have objection, let's vote on whether or not
4 to accept the Hills to give them party status? I'd
5 move to grant the party status of the Hills.

6 MS. RENSHAW: Second.

7 MS. REID: All in favor?

8 MEMBERS: Aye.

9 MS. REID: Opposed? All right.

10 MR. ELLIS: Thank you.

11 MS. REID: Okay, Mr. Brown?

12 Mr. Collins, I'm sorry.

13 MR. COLLINS: Morning, Madam Chair and
14 members of the Board. My name is Christopher
15 Collins, and seated to my right is Judy Siegel, who
16 is the owner with her husband of the property which
17 is the subject of this application. And to my far
18 right is Mr. Robert Schwartz, who is an architect and
19 recently elected as a fellow of the American
20 Institute of Architects.

21 This is an application for variance
22 relief for an addition of a small kitchen breakfast
23 area to the rear of the Siegels' home. This
24 application was scheduled for hearing, as you may
25 recall, on April 5th. When the case was called there

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 was -- as a preliminary matter, there was an issue
2 raised about insufficient notice. Mrs. Siegel was
3 here and requested and was granted a postponement in
4 order to make things right with regard to the notice,
5 and Mrs. Siegel will talk about that in a little bit.

6 At the time, the Board granted a
7 postponement. I believe it was you, Madam Chair, who
8 suggested that the parties try and get together and
9 seek some accommodation. During that time, Mr. and
10 Mrs. Siegel did obtain input from their neighbors and
11 instructed their architect to redesign the addition
12 to address those issues.

13 As you will see during the presentation,
14 the addition is smaller, it's lower and it has
15 greater setbacks than the original design which was
16 presented for the public hearing in April. There is
17 a letter from the applicants which addresses this
18 matter. Mrs. Siegel will provide some background.
19 At this point, after which time, Mr. Schwartz will
20 address the design of the new revised plans.

21 MS. REID: Mr. Collins, with the revision
22 of the plans, did you get any closer to a resolution
23 of the issues?

24 MR. COLLINS: Yes. As you will see, I --

25 MS. REID: Is there a settlement?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MR. COLLINS: I certainly am not here to
2 testify, Madam Chair, but during the course of the
3 presentation you will obtain letters of support from
4 those who otherwise were in opposition or had
5 conditions or concerns last time.

6 MS. REID: Okay.

7 MR. COLLINS: It's my understanding that
8 the Hills still have some opposition based upon what
9 Mr. Ellis said here today, but I believe that we can
10 demonstrate in a very objective way how we address
11 those concerns.

12 MS. REID: Yeah, but basically the
13 opposition here today is the Hills.

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

15 MS. REID: So my question was: had you
16 sought for -- were you able to obtain prior to today
17 some type of agreement with them? And you didn't --

18 MR. COLLINS: It was tried and --

19 MS. REID: Not yet?

20 MR. COLLINS: Again, I am not here to
21 testify.

22 MS. REID: You're still trying?

23 MR. COLLINS: And during the course of
24 the hearing, you will hear about that.

25 MS. REID: Okay.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MR. COLLINS: But the other parties who
2 did express opposition or concerns over issues have
3 been satisfied.

4 MS. REID: Okay.

5 MR. COLLINS: Ms. Drissel, who requested
6 party status, has given us a letter of support
7 indicating her issues are resolved. Mr. Chapin, who
8 lives across the alley, who expressed some concerns
9 and issues, now is very pleased. And, again, I don't
10 want to testify or pre-empt the witnesses what you
11 will hear during the course of the hearing.

12 MS. REID; I understand. I think that
13 given the time aspect, we can basically -- you can
14 stand primarily on your submission. We have read it.
15 We are familiar with it. And I would ask that you
16 give us the highlights of your case but particularly
17 address the issues raised by the Hills because I
18 think that is what we would like most to see today is
19 that -- how close we can get to that -- you know,
20 some resolution of those issues.

21 MR. COLLINS: Good.

22 MS. REID: Thank you.

23 MR. COLLINS: All right, thank you.
24 Unless there's any questions at this point, I'd like
25 to go directly to Ms. Siegel.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MS. REID: Please.

2 MS. SIEGEL: Okay. Hi, I'm Judy Siegel.

3 Let me first explain -- I'm sorry. Hi, nice to be
4 back. Let me explain that my husband's mother is
5 undergoing surgery as we speak and he is not here and
6 we're sorry about that and I don't even know her
7 condition, I wish I did. She's at Suburban Hospital.

8 Secondly, and we worked hard to work with
9 our neighbors. I'll try to tell you about that as
10 quickly as I can. I do have, if I can give them to
11 you, a few letters. Okay, I have copies for -- let
12 me keep one for me. Okay. You'll be getting this
13 handout. It's four letters.

14 The first is a letter from Maurilice
15 Carter, the ANC Commissioner, expressing her personal
16 support as a neighbor and as an ANC Commissioner
17 recommending approval of the plans, and you see the
18 details of that letter.

19 She, I believe, faxed it to you this
20 morning so perhaps you have it in your files. In
21 addition, as Mr. Collins told you, we have a letter
22 that we just got last night from Christopher Chapin
23 expressing -- I think you'll see it's not an
24 exaggeration, very strong support of the reviewed
25 plans and he's quite pleased with them and he thinks

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 it will add to the neighborhood, add to our home, et
2 cetera.

3 We have a letter from Mrs. Drissel, who I
4 think originally had planned to be here then had
5 other business, saying that she believes the Siegels
6 have taken great steps to compromise with the
7 neighbors. The new drawings solved my problems with
8 the initial plans. And this letter is in support.
9 It's actively in support.

10 We have a letter from the next neighbor,
11 Chris Manion and H.P. Goldfield, which was on the
12 record the last time, a similar letter to the last
13 one, expressing no position. So those you would have
14 had.

15 I think you want me to tell you what has
16 happened since? Or the contest or -- okay, just
17 very, very briefly, last time in addition to what Mr.
18 Collins told you, we weren't working with him at the
19 time.

20 There was a great deal of confusion. We
21 had been given an incorrect -- we had been given an
22 incorrect date, and then when we corrected it. We're
23 new to -- well, we lived in the District awhile ago.
24 We're new to the District within the last year.

25 We bought the house about 14 months ago.

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 We had worked with Robert Schwartz before on a house
2 in the area. As soon as we saw it before we bought
3 it, we knew that it had to have a new kitchen. The
4 current kitchen is the former butler's pantry. It's
5 very teeny, doesn't work with the house, doesn't work
6 with our family.

7 We didn't see it as a big issue in terms
8 of buying the house. We said, "Oh, we can -- no
9 problem, we can expand over the driveway." You know,
10 we just saw it -- and Bob did tell us at the time,
11 "Well, you'll need to get a variance," and we said,
12 "Fine, we'll get a variance."

13 Bought the house, moved in. Bob drew up
14 some wonderful -- we thought wonderful plans that
15 again -- and I have to say for someone who fancies
16 herself pretty sophisticated, I really wasn't
17 thinking about -- I didn't know anything about the
18 legal issues of the percentage of the lot that we
19 were using. I had spent most of my adult life in a
20 suburban house with land around it and, you know, a
21 few feet here or there were not consequential.

22 So Bob came up with these plans.
23 Basically it was an issue of cost. Could we afford
24 them? We and he advised us to hire someone who would
25 get us permits, We thought, you know, that that

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 might be something hard to navigate. We hired this
2 guy, his name is on the record. Not permits, rather
3 applications, you know.

4 He put through the paperwork. There was
5 some dispute at our last hearing about whether -- he
6 did give you all the right addresses for our
7 neighbors. Some of our neighbors claimed that they
8 hadn't been notified about the hearing. In view of
9 all that, I asked you to postpone it because it was
10 kind of confusing.

11 As we were approaching the last hearing,
12 let me tell you briefly what happened. I can't
13 recall, I'm trying to search my memory, why, but I
14 know that we were contacted let's say about two
15 months before the last hearing by the Sheridan
16 Kalorama Historical Association.

17 We had not filed anything. We were
18 pretty open when talking with our neighbors about
19 renovation. We were contacted, my husband went
20 before this association. We have, as you'll see in
21 some of the pictures, a very beautiful wrought iron,
22 two small balconies at the back of the house, very
23 beautiful.

24 We actually had no specific plans about
25 the edging of the deck in Bob's plans but Mark, my

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 husband, came back from the hearing, said they were
2 concerned about how the deck will look. They'd like
3 us to make the deck wrought iron to be
4 architecturally consistent. We said, "Great idea,"
5 and then they gave us -- he agreed to that and they
6 gave us approval.

7 I also got a phone call at that time from
8 Linda Bombalo who I gather was then the head of the
9 ANC asking us to come to an ANC meeting. We agreed
10 to come, of course. Right before the meeting, she
11 called me, and I don't have notes on what she said,
12 but it was something like, "There's no need to come,
13 you know, the ANC doesn't need to review this." I
14 said, "Fine."

15 That's how I found out, by the way, that
16 I had the wrong date because we actually had almost a
17 war of words. She said, "your hearing on whatever
18 date," and I said, "No, it's on that." So I called
19 you guys, I got the right date of the hearing.

20 I was very nervous about the date of the
21 hearing 'cause it had been messed up by whatever
22 reason. So about -- the hearing, I believe, was on a
23 Wednesday. The Friday before the hearing, I looked
24 at my calendar, I decided because I'm kind of a
25 nervous Nellie, to call your office and make sure

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 that finally I had the right date. I spoke to a
2 helpful staff person. I said, "Well, you know, good,
3 we have the right date. Is there anything I can do
4 to help my case?"

5 As hard as it will be for you to believe,
6 I didn't know how to approach this. They said,
7 "well, if you could get letters of support from your
8 neighbors, that would help you." So this was a
9 Friday afternoon. As I recall, we called our
10 neighbors, including the Hills, and they knew we were
11 doing a renovation. And we said, "You know, can you
12 support this plan," and we showed them the plan.

13 And at that point, a few days before the
14 hearing, people focused on it, and they -- some of
15 our neighbors had various problems with it.

16 We asked for letters of support. Two of
17 the letters, I don't know if they used the word
18 support. They were sort of weak support at best from
19 Chris Chapin and Chris and Carol -- well, it was just
20 from Chris Chapin and from Marie Drissel, had some
21 concerns which have been addressed. I'll tell you
22 about them. And, of course, the Hills had some
23 concerns.

24 Came to the hearing, the Hills were here,
25 Marie Drissel was here. In view of everything that

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 happened, you gave us an extension and you said,
2 "Can't you work it out," which is what I wanted to
3 do. It's only a kitchen. It's not a -- you know, a
4 person or -- so the three neighbors who had the
5 concerns are the Chapins -- Drissel is Mr. -- Dr.
6 Bristol is her husband. They're Drissel-Bristol, so
7 Dr. Bristol didn't have any concerns. And the Hills.

8 We spoke with and or met with each of
9 them. In the case of he Hills, my husband met with
10 Mr. Hills. In the case of Marie Drissel, I spoke
11 with her. In the case of Chris Chapin, I think my
12 husband and I both spoke with him.

13 We summarized their concerns. We went
14 back to Bob Schwartz. At this time, we hired Mr.
15 Collins to help us. WE went back to Bob Schwartz, we
16 laid out the concerns, we had a meeting, I guess,
17 three or four weeks ago when everyone fully aired
18 their concerns. The meter was running at this
19 meeting but we had Mr. Collins at the meeting with
20 the architect to make sure we were really addressing
21 all the concerns.

22 Let me summarize the concerns and how we
23 responded to them in the interest of time. The
24 concerns as I understood them. What I'm reading from
25 is a personal note that I sent to my neighbors, not

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 something that you have. There's something I'm
2 leaving out here. Let me tell you very briefly, and
3 you'll see it in what was submitted.

4 When we made the original plans, which
5 were really wonderful plans that had a larger kitchen
6 which would be nicer for us, we based these plans --
7 and you can see this on the third page of what we
8 sent to you if you look at the photos.

9 MR. COLLINS: This is the June 6th letter
10 that Mr. and Mrs. Siegel submitted to the Board.

11 MS. SIEGEL: This was submitted to the
12 Board within the dates and the guidelines and
13 whatnot. if you look at the first page, you'll see
14 the front of our house. The second page shows you
15 the beautiful wrought iron that I told you about.
16 The third page shows you two shots of the alley. The
17 fourth page shows you more shots of the alley. On
18 the fourth page on the left you see Mr. and Mrs.
19 Chapin's kitchen.

20 When Bob Schwartz made up these plans,
21 they were, as far as we could tell, exactly analogous
22 to many, many of the houses on the alley, which if
23 you look at them have pulled either a kitchen, a
24 small deck, in one case a garage, absolutely to the
25 complete limits of the space, and that's what our

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 plan did. Actually our plan did not use all of the
2 space even though Bob entertained with us the
3 possibility of an addition that would extend behind
4 the dining room too. For architectural reasons, we
5 didn't want to do that. We care about the
6 architectural integrity of the house.

7 So when we came up with these plans --
8 when Bob came up with them, we maybe -- I think not
9 naively, I think honestly understood these to be
10 absolutely consistent with our neighbors' houses. In
11 the case of Mr. Chapin's house, and if he were here,
12 he and I have talked about this, he would tell this
13 to you.

14 That's on the fourth page on the left,
15 the white garage with the white addition above it.
16 One hundred percent of his space is used for this
17 addition. So we really thought we were doing
18 something that was rather routine in the
19 neighborhood.

20 In any event, back to where I digressed
21 from. So we summarized their concerns, and basically
22 let me tell you what I think they were and how we
23 addressed them.

24 We knew that the Hills were concerned
25 about light that would go into a small garden that

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 they have next to our driveway. It's blocked off.
2 It's not something we see. It's blocked off by a
3 very large tree and by a fence.

4 At that time, we thought they were mostly
5 concerned with light and with their view from their
6 kitchen which is in the rear. We thought they --
7 they told us that they were concerned with their
8 view, that they found the trees that they looked at
9 to be pleasing, and we support that. We want to keep
10 the trees. We'll be able to keep most of the trees
11 that they care about. And the issue of light for the
12 garden and I guess light for their house.

13 The matter of the railing on the deck,
14 which I've already addressed, we've committed, as you
15 see in the submission -- we're happy to commit to
16 have a new railing fabricated that matches exactly
17 the railing for reasons of aesthetics and
18 architectural integrity.

19 MR. COLLINS: And whose issue was that?

20 MS. SIEGEL: That issue was a number of
21 issues. That was the Kalorama Sheridan Board and
22 that was Marie Drissel's issue. So we've agreed to
23 that and we're happy to do that.

24 On the matter of what Mr. Chapin told us
25 conversationally that the mass of the addition, we

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 first cut as much as we could off the top of it. The
2 addition comes out only one floor in what is in
3 effect a four-story house. Because in the back of
4 the house, you enter at the ground level, so it
5 occupies what from the back is a second floor, not
6 the third and the fourth. It occupies, Bob can
7 confirm this, in both instances less than half of the
8 width.

9 We cut as much as we could off the top.
10 That I think was Chris Chapin's request. We cut the
11 size of the addition, in terms of square feet, the
12 calculation I did was 47 percent. We cut it back by
13 almost 50 percent from the previous plans. I'm
14 talking about the size that extends out.

15 Because of the Hills' concern about
16 light, we did a number of light studies. Bob
17 Schwartz will tell you that in any event the plan has
18 minimal impact on the light. But because of their
19 concern about the extension on the common wall, we
20 actually changed the plans that we developed at the
21 second meeting.

22 We had a plan to have the revised
23 addition come out about six feet. Bob is a man -- I
24 don't know if you know him -- of enormous integrity
25 and imagination. And he said, "Look, if they really

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 want light, six feet is not going to do it." So he
2 came up with a design that's very inventive. On the
3 Hills' side, it extends only three feet before you
4 actually see the addition, thereby letting in even
5 more light.

6 The side of the deck, I hear from their
7 attorney that they're concerned about privacy. The
8 deck on the side of the Hills is not really a deck.
9 It's a very narrow balcony. We have no intention to
10 use it. It's not really useable. What you'll see
11 there is -- my husband is something of a gardener.
12 You'll see pots of attractive plants there.

13 It's not -- if we use the deck at all,
14 it's not -- you know, it's not exactly a private
15 space in the alley to say the least. But if we use
16 it at all, we will be sitting on the side other than
17 the Hills' house. We reduced the height.

18 Also, Ms. Drissel was quite concerned
19 about if you look at the plans -- and Bob Schwartz
20 will tell you this a little bit more. The way the
21 alley is configured, trucks come in from Leroy Place,
22 they come down an alley which is banked by my house
23 and the Chapin's house, they make a left turn to go
24 down the long alley. And she was concerned about the
25 trucks swaying and hitting the railing of the deck.

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 Bob Schwartz will tell you more about
2 this. He was never really concerned about that. He
3 said he took that in mind when he made the plans.
4 Nonetheless, we cut it back. She asked -- you know,
5 I said, "Marie, how much do you want it cut back?"
6 She said, "Another foot." We can cut it back another
7 -- we can cut it back 21 inches rather -- it was cut
8 back 12 inches. Bob will explain why he can cut it
9 back to 21 inches. Marie Drissel was satisfied with
10 that. So that's basically how we accommodated that
11 concern.

12 And in the interest of time, I know that
13 some other of our neighbors, let me say, are
14 concerned and I know there's a letter on the record
15 about the way the alley is used. We completely
16 support that. We completely support the addition of
17 any -- an additional one-way sign. That's not
18 something frankly that our addition has anything to
19 do with, so that really is a non-issue. Anything we
20 can do in that regard, we'll help.

21 So the remaining -- so as you'll see, all
22 of our neighbors support this. As far as the Hills
23 are concerned, they're concerned about the view as
24 you'll see and -- well, Bob can address these issues.
25 But the view, we've done careful studies, won'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 changed at all. What you'll see is their magnolia
2 tree as you see it now.

3 We angled -- another thing that Bob did
4 was angle the addition. Mr. Hills was concerned
5 about what he thought was a -- what he thinks is a
6 pleasant view actually of the Drissel-Bristol house.
7 The new addition is at a sharp angle, a 45-degree
8 angle, so that the view of the Drissel house is
9 unobstructed.

10 Basically what we were looking for -- Bob
11 just told me now, I was pretty shocked, while we were
12 waiting for you, the kitchen isn't getting too much
13 bigger. It really isn't. You know, it needs to be
14 bigger than what we're asking for but what we wanted
15 most of all we do get in this very modest addition.
16 it's a very modest architecturally attractive
17 addition. What we get is a small table where we can
18 sit with our family and have breakfast. So have I
19 covered everything? Okay.

20 MR. COLLINS: Unless there's any
21 questions at this point, we'll just go to the
22 architect.

23 MS. REID: Thank you. Members, do you
24 have any questions of Mrs. Siegel? Okay, go ahead.

25 MR. SCHWARTZ: My name is Bob Schwartz.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 I'm an architect in the District. I'd like to go
2 over the plans with you, and I've arranged them so
3 that we see the before and the after on each one of
4 these.

5 This is just -- is this working? This is
6 showing the before, the original plan that we had,
7 and the after, above. And you have plans of this but
8 I've just marked them up with red here so you can see
9 the difference.

10 The other one came out along the property
11 lines with the Hills, so the Hills are at the bottom
12 of the page here, even though that's to the east.

13 MR. COLLINS: It's actually I think --

14 MR. SCHWARTZ: Yeah, it's to the east of
15 them. And the property, it's a rectangle that comes
16 out with a bay that comes right to the edge of the
17 property line. What we did was cut it back so that
18 the addition now comes out three feet, then goes back
19 three point six feet, and then comes out three feet
20 something, like three-seven, I think it is, and then
21 has a bay at the end.

22 And what Mrs. Siegel was talking about
23 was this light and view from their house. Their
24 house steps back a little bit, and I think it's shown
25 on some of the other plans. So that's just in

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 general. This is the alley where people were talking
2 about a turning of a truck.

3 Right now, there's a retaining wall which
4 is actually slightly off their property, which is out
5 into the alley, and then there's a tree which is
6 beyond that. So a lot of the difficulty of trucks
7 and all the rest of that has nothing to do with their
8 property. It's really something which is in the
9 alley that's off their property.

10 So these plans show before and after
11 also. One shows that we would be -- originally have
12 been building a wall all the way along and a brick
13 pier out here to support the addition above, which
14 was this big. And now we're going to have smaller
15 steel columns and we have a brick wall that's only
16 three feet long along the property line.

17 Now, this is the before and this is the
18 after. And before it came out fourteen foot nine.
19 It was about twelve foot four to here and then it had
20 this two foot six bay. And now what we've done is
21 come out three feet, then we go back, and come out
22 and have a bay. And this is designed to have their
23 breakfast table.

24 It's constrained on -- first of all, the
25 size, you need three feet around a table so you have

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 to be able to get out and get around it. And we
2 can't go any further in this direction because of the
3 windows in the dining room, so we're constrained on
4 this side. So this is sort of the minimal size for
5 this table.

6 And then we did the wall here. And here
7 is the kitchen, the kitchen that they would have now.

8 This is the kitchen that they were going to have.
9 This was 36 lineal feet of countertop and appliances
10 and so on. This is 26 lineal feet, so they've given
11 up ten lineal feet of kitchen. So they have a lot
12 less kitchen. I think Mrs. Siegel knew that but she
13 didn't know exactly how much and that's what I just
14 told her.

15 And this is designed to make the view --
16 here's the wall of the Hills' house back here. So in
17 the existing condition, before any addition, the
18 Hills' house is here, then there's a blank wall
19 that's a party wall, and then this is the back of the
20 Siegels' house. So the addition we're talking about
21 is on the edge of that.

22 Now, this is showing the elevations
23 before and after. And here we had a brick wall with
24 a bay in it and it was all glass. And the bay and
25 glass on this side, but basically blank on the other

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 side. it was a party wall.

2 So we changed that and we came to make
3 this smaller addition. This is the size of the
4 addition, which is the size of the bay. And this is
5 where that three foot wall is. So this is an
6 elevation of the site from their deck. And you can
7 see, in talking about the deck, this is the area
8 where they would be sitting. The Hills' house is
9 back here.

10 This part of the deck is really as Mrs.
11 Siegel described. It's for putting plants on it.
12 You couldn't put a table there. You couldn't put
13 chairs there. You could walk there, but the whole
14 idea is if you have windows here you want to have
15 some planting out in front of it. So now --

16 MR. COLLINS: Excuse me, Bob, before you
17 go on, using the plan that's closest to me that shows
18 the side view of the addition, can you describe
19 approximately how much lower the new addition is
20 using that side elevation?

21 MR. SCHWARTZ: Yes, it's three feet
22 lower.

23 MR. COLLINS: Would you point to the
24 plans that I'm talking about there on the side?

25 MR. SCHWARTZ: Yeah. If you take this

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 height, which was the party wall that was going all
2 along their property line, this was a little over 22
3 feet high, and we've moved it down to 19 feet. So we
4 took three feet off.

5 MR. COLLINS: And that's from the ground,
6 not from the --

7 MR. SCHWARTZ: From the ground.

8 MR. COLLINS: -- the first floor.

9 MR. SCHWARTZ: Right. Yeah, not from the
10 first floor. That's from the ground up. There's an
11 existing wall, low wall that's about eight feet high,
12 between the property all the way along anyway. So
13 the new one -- see, this one had clear story windows,
14 high windows above the door and windows. This one
15 does not. This one has, you know, a normal -- just
16 windows where the ceiling is. So we lowered it down
17 pretty much as much as we could.

18 This is a drawing which actually the
19 Hills requested that we did. It's from their yard.
20 And so it shows -- this part of it is the existing
21 site of the Siegels' house. This is the brick wall
22 and this is where the Hills' house comes. This is
23 the three foot we're adding and this is the existing
24 wall. So the part we're adding is this.

25 In addition, if you step back, you can

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 see this is where the Siegels' addition is, which is
2 back three feet and then sloped 45. And this is this
3 handrail that, you know, matches the historic
4 handrail.

5 Also, I'd like to show you these
6 photographs, which I have copies of, to give to
7 everyone. yeah, thank you. When you talk -- we've
8 done -- I'm going to show you some light studies
9 showing where the sunlight comes, because that's one
10 of their main concerns. But these light studies are
11 done without the effect of the trees. And there is a
12 very large magnolia tree right at the edge of this
13 property in between the two properties.

14 A magnolia tree, I'm sure you're aware,
15 is in leaf all year long. This is not a deciduous
16 tree. And that's this tree here. Now, if you look
17 at these photographs and you look at this elevation,
18 you can see that there's two windows. The upper
19 window and then the lower window. And then below it
20 is where our addition is. And if you look at the
21 trees, you can see where the upper window is and you
22 can see the line, I hope, where the second windows
23 are.

24 These trees are up above where this
25 addition really is right now. And they are on this

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 property line. So I'm going to show you exactly the
2 effect of our addition without these trees, but right
3 now these trees keep the yard pretty much in shade
4 from this side, the west side, which is the setting
5 sun side.

6 That doesn't mean they get no sunlight
7 because the sun, you know, is revolving around and
8 there is some from the south. They also have a tree
9 on the south but, you know, I think the whole
10 question about the sunlight and their garden I think
11 is somewhat mitigated. In the drawing we tried to
12 ghost in roughly where this magnolia tree is. It's
13 somewhat mitigated by the existing situation.

14 Now, I'm going to put up these shadow
15 drawings and it's going to look confusing at first
16 but I hope not too confusing. What this is is a set
17 of drawings for the before addition and a set of
18 drawings for the after where we changed to show what
19 is the difference on the effect of the light.

20 Now, the first thing I'd like to point
21 out is that what this is -- the way we did this was
22 these are like little snapshots of where the sun is
23 as it revolves around. And, of course, when the sun
24 is coming from the east in the morning and to the
25 south, there isn't much effect of our building so we

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 haven't drawn that.

2 What we've done is at noon, which is when
3 the sun is due south, and then we have at 3:00
4 o'clock a snapshot and at 5:00 o'clock. So what
5 you're seeing is noon, 3:00 and 5:00 as the sun goes
6 around in the sky.

7 And as the sun goes around in the sky, it
8 gets lower as the evening comes, obviously. And also
9 in the summer and the winter, at June 12th the sun's
10 about 72 degrees and -- at June 21st I guess, not
11 12th. June 21st it's at its highest. And then at
12 March and September it's in the middle. And then in
13 December it's at its lowest. It's about 27 degrees.

14 So what we've done is June, March and
15 September and December to show what are the effects
16 over the course of the year of this addition on this
17 shadows. And, remember, this is done without any
18 tree shadows. This is as if they all died.

19 Well, first off, you can see that the
20 conditions in the alley are such that there's no
21 difference in the shadows whether they build or not
22 for all these drawings.

23 That is, in December it doesn't change
24 anything because they're in shadow all the time.
25 They're in shadow either from the houses across the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 street or, as the sun goes around, from the end.
2 Now, they may get some light in some of the time.
3 Remember this is snapshots of only half the day. But
4 for the part of the day where we are concerned, they
5 don't get any light.

6 And the same is true for the evening of
7 both June and September and March. You don't get any
8 light. also the setting of the sun changes its
9 position. In June it's way far around to the west.
10 In December it's much closer to south. So the time
11 that there is an effect is in these four drawings.
12 June at noon, June at 3:00 o'clock and March and
13 September at noon and March and September at 3:00
14 o'clock.

15 And what I've done here is I've darkened
16 in the actual additional shadow compared to the
17 shadows that would have happened on their yard based
18 on the existing condition. And this one is for the
19 previous addition. And this one is for our new
20 addition.

21 Now, we've improved things. They get
22 more sunlight. You can see that these are much
23 smaller areas. So here at June 21st at noon there's
24 a shadow which is about a foot and a half by three
25 feet long, bigger than if there wasn't any addition

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 there at all.

2 Here, there's a shadow that comes -- now,
3 this is right where the magnolia is, but if it wasn't
4 there there'd be an additional shadow. It's -- I
5 didn't write down what it was but it looks to me like
6 it's maybe six feet long. And for this time of day,
7 that part of the shadow would be towards the outside
8 edge of their property.

9 And here there's a little triangle and an
10 even smaller triangle. So this one is close to this
11 size. You know, about a foot and a half by three.
12 This one is a triangle six and a half feet on one
13 side and three and a half on the other that is going
14 to fall in this area on their yard.

15 So I think the sunlight is better. I
16 think it has more impact. What we've done will have
17 more impact on perhaps their sense of openness.
18 That's what's really changed here. This sunlight, I
19 don't think there has really been any appreciable,
20 you know, change with either of the additions in the
21 amount of sunlight and the relation to their garden.

22 I also have here -- my associate is a
23 garden nut and so he has given me something to show
24 you that camellias like to have shade.

25 MR. COLLINS: Excuse me, Bob. May I just

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 ask you a question. These shadow studies, the ones
2 on the left show the shadows that would exist with
3 the redesigned addition and without the trees. If
4 those trees were fully accounted for in the shadow
5 studies on the left, representing the new design
6 addition, what would be -- what type of shadows would
7 be cast on the property from the new addition?

8 MR. SCHWARTZ: There wouldn't be any
9 additional shadow on the property if the trees stay.

10 MR. COLLINS: From any of these times
11 that you have?

12 MR. SCHWARTZ: At any time of day.

13 MR. COLLINS: All right, thank you.

14 MR. SCHWARTZ: Because you can look at
15 the tree photos and see that the trees are taller
16 than the addition would be. So, you know, right now
17 they get less light anyway.

18 So, now, if you want me to I could review
19 the criteria for granting a variance and why I think
20 they should get it or --

21 MR. COLLINS: May I just ask you another
22 question? I'm sorry, I just -- in looking at the
23 photos that you submitted numbered 1, 2 and 3 that
24 show a view of the back of the Siegel residence and
25 the back area of the Hills' residence, and given the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 placement of these trees, the magnolia and the other
2 tree that's in that location, those are the trees
3 that would block the sunlight that would -- that are
4 blocking the sunlight to the Hills' rear yard, is
5 that correct?

6 MR. SCHWARTZ: Right, there's --

7 MR. COLLINS: The one that you just
8 talked about.

9 MR. SCHWARTZ: Right.

10 MR. COLLINS: Looking at it from the
11 other way and looking at these photos, would you --
12 would a person reasonably be able to see any of the
13 Siegels' addition from this vantage point?

14 MR. SCHWARTZ: Well, one of these trees
15 on the property line is a deciduous tree and I
16 assume, you know, if the leaves fell off of that, you
17 could see part of the addition when the leaves fell
18 off of that, or if that tree was gone, which may very
19 well be.

20 The magnolia tree is going to be there,
21 you know, we're sure.

22 MR. COLLINS: Which one of these trees is
23 the more -- is the larger of the two?

24 MR. SCHWARTZ: The magnolia's the bigger
25 tree and covers a big area, but the other tree is on

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 our property and I don't think it's going to survive
2 the construction. I think that part of this small
3 ledge here -- and I think if you look at the
4 pictures, you can see there's two trees. The one
5 magnolia's much bigger. The magnolia's the one
6 that's out further. The problem with this is --

7 UNIDENTIFIED SPEAKER: And that's on
8 somebody else's --

9 MR. SCHWARTZ: But, see, this is in back.

10 UNIDENTIFIED SPEAKER: The magnolia's on
11 somebody else's property?

12 MS. SIEGEL: The magnolia is on the
13 Hills' property and that will stay, of course. The
14 magnolia is what you're primarily looking at, and
15 that will stay. It's the Hills'.

16 MR. SCHWARTZ: Right. That's not on our
17 property and that's why it won't be affected by the
18 construction, whereas -- and they have another tree
19 which you can see from this picture which is noted
20 three which is in their back yard also but it doesn't
21 affect us and it's to the south of their property.
22 So they're getting some shade from that.

23 Not that there's anything wrong with
24 that. I mean, it's a deciduous tree and in the
25 summer you want some shade and in the winter it'll

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 lose its leaves so I'm sure that's nice in their back
2 yard. That'll stay.

3 MS. REID: In answer to your question
4 regarding the variance relief and how it --

5 MR. SCHWARTZ: Yes.

6 MS. REID: Yes, you may discuss that
7 somewhat.

8 MR. SCHWARTZ: Okay, thank you. First, I
9 think their property is an odd size and it's much
10 smaller -- let me see if I've -- if you look at the -
11 - just the layout of the street you can see that
12 LeRoy goes straight and the alley slopes. So as you
13 get further away from the Siegels' house, the lots
14 get bigger and bigger. They have the smallest lot.
15 I don't know if it's the smallest lot in the
16 neighborhood but certainly the smallest lot in this -
17 -

18 MS. REID: Okay, point out Ms. -- point
19 out the Siegel house. I don't see it, actually 18 on
20 here.

21 MR. SCHWARTZ: It's got the number 18 on
22 it. And it's right next to the alley.

23 MS. REID: Okay, I see.

24 MR. SCHWARTZ: Yeah.

25 MS. REID: You're saying it's the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 smallest lot in this line of properties.

2 MR. SCHWARTZ: Yeah. I think that the --

3 MS. REID: Uh-huh, I see.

4 MR. SCHWARTZ: The one, number 48, the
5 Chapins, might be smaller. But if you look at all
6 the other lots, they're quite a bit bigger and have a
7 lot more room.

8 MS. REID: 19 is the Hills'.

9 MR. SCHWARTZ: 19's the Hills.

10 MR. SOCKWELL: Some of the lots become
11 smaller in width although they become deeper and
12 there may be some balancing factor.

13 MR. SCHWARTZ: Right.

14 MS. REID: Okay, go ahead. We can see
15 that. It's smaller, it's irregular shaped.

16 MR. SCHWARTZ: It's irregular shaped and
17 so I think it's an unusual situation. In terms of
18 their hardship, if you look at the plan of the house,
19 this is a plan with very -- it's a building with
20 strong, good architectural character, as are many in
21 the neighborhood. and you can see that it's got this
22 structure where there's these three rooms in a row
23 all with fireplaces. It's got, you know, an axial
24 opening with a set of axial windows at the end of the
25 axis.

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 And as Mrs. Siegel described, there was a
2 pantry in this corner and the kitchen evidently was
3 in the basement. And that was because they had
4 servants and they'd bring the stuff up and serve it
5 here. So you've got these great rooms and then
6 you've got this tiny little space. So then the
7 question is well it's -- this is inappropriate. It
8 doesn't work in this. What can you do about it?

9 Well, you don't want to have it on a
10 different floor like they used to have because they
11 don't have servants and we don't live like that
12 anymore anyway, most people. The second thing is you
13 can see that if you tried to do anything appreciably
14 in this dining room, it would make a dining room
15 which is not very workable but it would also destroy
16 a lot of this character.

17 The strength of this building comes in
18 part from seeing and feeling this strong row of rooms
19 here. And if you really wanted to do this without
20 doing this, you can see that, you know, how much more
21 kitchen would you get? You'd have to go in here and
22 take half the dining room. And pretty soon, you
23 couldn't even sit in the dining room. So it really
24 doesn't make sense. Not only that, structurally it's
25 fairly difficult to do this, although that's not a

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 big deal.

2 So it is really a hardship for them to
3 try to put this what they want to do anywhere else.
4 They'd be destroying the very thing that charmed them
5 about buying the house.

6 The third thing is adverse effect. I
7 think they've, I believe, gone way out of their way
8 to try to work with all their neighbors. I am sorry
9 to see that the Hills are still not happy, but all
10 the other people who they've talked to in the
11 neighborhood who had concerns, I think they've, you
12 know, done everything they can to respond to them.
13 And we have tried to do everything, I think I've
14 illustrated, within our ability to respond to the
15 Hills' requirements also.

16 MS. SIEGEL: If I may? May I, just for a
17 second? In fairness to the Hills, the Hills probably
18 have the greatest -- the Hills and the Chapins
19 probably have the greatest interest. So the Hills,
20 you know, have a greater stake in this than other
21 neighbors maybe who are happy. So I don't want to
22 leave the impression that everyone else has been
23 taken care of and, you know, maybe one family is not
24 happy.

25 We cared the most about the Hills because

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 they're our next door neighbors. And in terms of the
2 three issues that they'll be talking about, view,
3 privacy, light, camellias as a subset of the light,
4 we care about the magnolia tree a lot. It's
5 beautiful. It will stay. And it's their tree that
6 will ironically address their issues, I think.

7 MS. REID: Okay, all right.

8 MS. SIEGEL: Okay.

9 MS. REID: Thank you. Mr. Ellis, did you
10 have any cross examination questions of these
11 witnesses?

12 MR. ELLIS: Mr. Schwartz, when you were
13 saying that the rear of the Hills' home, the view,
14 and you were pointing out in your three pictures that
15 you gave to the Board, can you locate or do you know
16 where their kitchen is in the pictures that you've
17 provided?

18 MR. SCHWARTZ: No, I don't know where
19 their kitchen is but I --

20 MR. ELLIS: You have to be on a
21 microphone, Mr. Schwartz.

22 MR. SCHWARTZ: Oh. I don't know where
23 their kitchen is. I haven't been in their house. I
24 assume, just looking at this, that it's in the far
25 end, the far side. So if this is just --

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MS. REID: that's okay, Mr. Schwartz.
2 You don't know. Let's move along.

3 MR. SCHWARTZ: Yeah, I don't really know.

4 MS. REID: Don't assume. Let's just move
5 forward. Thank you.

6 MR. ELLIS: All right. You've made a
7 statement that their view would not be affected in
8 any way by the addition that's being added. From
9 what perspective are you taking that position?

10 MR. SCHWARTZ: I don't think that their
11 view wouldn't be affected at all because, as I said,
12 there's a thin sliver on the edge where there's a
13 tree that's on the Siegels' property that will
14 disappear. And I think that they will definitely see
15 there's a three-foot wall on the side that goes up.
16 Essentially there's an eight-foot wall that exists.
17 This three foot wall will go up one story above that.
18 You know, it's going up to 19 feet so it goes up
19 another 11 feet. They're going to see that.

20 And then if they swiveled out or walked
21 out into their yard and looked straight at the edge,
22 they'd see the edge of the property -- the edge of
23 the addition. They may not -- I'm not sure exactly
24 where the magnolia hits, but for instance the bay
25 part might not be visible. But they will see some of

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 addition.

2 MR. ELLIS: All right. I direct your
3 attention to your picture number 3 that you provided
4 to the Board, and I will note on the picture number 3
5 on the far right hand side of the page hat's
6 partially cut off, you see a slightly pitched roof
7 that's coming out there? Do you see that, Mr.
8 Schwartz?

9 MR. SCHWARTZ: Yeah.

10 MR. ELLIS: And do you see that there is
11 the edge of a window that -- your picture ends at the
12 edge of the window that's right there.

13 MR. SCHWARTZ: Right.

14 MR. ELLIS: And assuming that there's a
15 window just around the corner, which there is, on
16 that outcropping that's there, would not that view
17 from that window be affected by the addition that's
18 going to be constructed?

19 MR. SCHWARTZ: yes, it would.

20 MR. ELLIS: It'd be directly impacted by
21 that construction that's being proposed, would it
22 not?

23 MR. SCHWARTZ: Sure, you'd be able to see
24 that wall, yeah.

25 MR. ELLIS: All right. Now, from that

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 window, that window now, if looking that direction,
2 would have an unimpeded view towards the other houses
3 towards the end of the block across the Siegels'
4 property, would they not?

5 MR. SCHWARTZ: If the trees weren't there
6 they would, yeah.

7 MR. ELLIS: The tree is there but the
8 tree doesn't totally block a view.

9 MR. SCHWARTZ: Well, I think the pictures
10 speak for themselves. I think they're pretty dense
11 and --

12 MR. ELLIS: Well, do you have a picture
13 from the perspective of that window that's there?

14 MR. SCHWARTZ: Yes, if you look at
15 pictures number 1 and 2, even though they aren't from
16 that window, you can see that the trees come right to
17 the edge of the existing -- the Siegels' house. The
18 Siegels' house is white on the back and then brick
19 color so you can see the corner of it if you look at
20 that. And then one shows the windows and the Hills
21 and so you can sort of see the corner there.

22 So I think that's generally showing the
23 view, you know, in that direction.

24 MR. ELLIS: So you're saying that from
25 the Hills' house, that they can't see across the back

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 of the Siegels' house because the tree blocks their
2 view completely.

3 MR. SCHWARTZ: Yeah, it looks -- sure,
4 pretty much.

5 MR. ELLIS: All right.

6 MR. SCHWARTZ: I've been there and I
7 haven't been able to look into their -- I haven't
8 tried to look in their property, I suppose. But I
9 haven't been able to see into their yard in any way.

10 MR. ELLIS: Now, you've heard Mrs.
11 Siegel's testimony earlier in reference to the -- you
12 built a large deck and a part of the deck wraps
13 around along the edge of the party line fence that's
14 about three feet wide?

15 MR. SCHWARTZ: Yeah.

16 MR. ELLIS: All right. Now, what is the
17 purpose of that three-foot extension -- that three-
18 foot section? That looks right over into the Hills'
19 yard, does it not?

20 MR. SCHWARTZ: Yes. There's two reasons.
21 One is that they want to have plants outside their
22 windows so that they can look at them. The other one
23 is that their structure -- there has to be structure
24 there to support the addition that we're doing.
25 Otherwise it would be floating over -- their driveway

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 is underneath there, so you cant' put a column
2 directly below there. so we have to have some
3 structure there.

4 MR. ELLIS: Okay.

5 MR. SCHWARTZ: So even if you don't put
6 decking on it, you've got a structure there. So it
7 would like nicer just to have some plants there.

8 MR. ELLIS: When you say structure there,
9 the garage on the property -- on the Siegel property,
10 is further away from the Hills' property at the lower
11 level, is that not correct?

12 MR. SCHWARTZ: Right.

13 MR. ELLIS: It is actually the structure
14 that's necessary to support the addition that you're
15 talking about.

16 MR. SCHWARTZ: Absolutely.

17 MR. ELLIS: But the decking there that's
18 going to be around actually still looks right over
19 into the Hills' yard -- I mean, or into the -- yeah,
20 into the Hills' yard.

21 MR. SCHWARTZ: Well, maybe you're
22 misunderstanding me. Let me go up and --

23 MR. ELLIS: I'm not misunderstanding.

24 MR. SCHWARTZ: Yes, the garage is on this
25 side of the property.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MR. ELLIS: Correct.

2 MR. SCHWARTZ: But you need structure
3 over here to span from this wall over to whatever
4 structure we're doing. And the way we've got this,
5 you have to span all the way across here. You can't
6 stop here because you can't use their driveway and
7 you can't have access to their house if you put this
8 structure down there.

9 So we have to have a structure that
10 starts here on the Hills' side even though the garage
11 is on the other side. You got what I mean?

12 MR. ELLIS: Now, in terms of this
13 particular house, and you're talking about the
14 variance, how many square feet is within this house?
15 Do you know?

16 MR. SCHWARTZ: I don't know.

17 MR. ELLIS: Okay, okay. That's all
18 right. I deal with that. All right, no further
19 questions at this time.

20 MS. REID: Okay, thank you. Board
21 members, any questions? Okay. Sir? No, if you have
22 questions, please.

23 MR. SOCKWELL: I have a couple of
24 questions. I guess they're in a -- I'm not sure to
25 whom they should be addressed. But the minimum lot

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 area in an R-3 is approximately 2,000 square feet.
2 And your lot is less than that. And the minimum
3 width in an R-3 district is 20 feet. Your lot is
4 28.22 feet, which is greater than that.

5 Percentage of lot occupancy in an R-3
6 district is 60 percent at a minimum lot size that
7 would yield a house of approximately 1200 square
8 feet. And I would say that your house is a semi-
9 detached, and does that break you down to less than
10 that or does that leave you at 60 in an R-3?

11 I'd have to look at something, but based
12 on just the recommended minimum percentage of lot
13 occupancy, your house occupies 68 percent of what
14 would be a standard minimum lot, even though your lot
15 is smaller than a standard minimum lot.

16 And the minimum rear yard in an R-3 is 20
17 feet and you have less than 20 feet rear yard in a
18 lot that's less than minimum size.

19 MS. REID: Is there a question in here,
20 Mr. Sockwell?

21 MR. SOCKWELL: My questions were actually
22 designed around your original proposal which was for
23 almost 300 square feet of addition. And from what I
24 understand in looking at this, your current square
25 foot is 98 square feet plus or minus total of

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 addition based on the drawing and that would be your
2 plan.

3 MS. REID: So what is the question?

4 MR. SOCKWELL: Yeah, is it 98 feet?

5 MS. SIEGEL: Yes. Yes, sir, the addition

6 --

7 MR. SOCKWELL: 98 square feet on
8 enlargement of --

9 MS. SIEGEL: Is 98 feet.

10 MR. SOCKWELL: Okay. Okay, that's --
11 okay.

12 MS. SIEGEL: As Mr. Schwartz told you, it
13 was designed simply to fit a table into it.

14 MR. SOCKWELL: So you reduced by about
15 two-thirds what you were proposing originally.

16 MS. SIEGEL: Yes.

17 MR. SCHWARTZ: I don't think it was
18 reduced that much. Sorry to throw --

19 MR. SOCKWELL: Beg your pardon?

20 MR. SCHWARTZ: I don't think it was
21 reduced that much.

22 MR. SOCKWELL: I think the original -- I
23 wanted to --

24 MS. SIEGEL: There's a confusion -- I
25 think there's a confusion between two pieces of the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 proposal. One is the deck and one is the addition.
2 The interior part of it.

3 As I said in my statement, the interior
4 part of it was reduced, I believe, by 47 percent. I
5 did it with a calculator. The deck -- when we talk
6 about the deck, I guess I'd like to say it's a deck
7 but it's not a deck. It's a balcony. It's not
8 something we're planning to use a lot. The side on
9 the Hills' side, as Bob Schwartz told you, is just
10 for some plants.

11 In redesigning it to accommodate our
12 neighbors -- and one thing Bob didn't spend as much
13 time on, I know we're kind of pressed for time, we
14 designed it to be as attractive as possible. You'll
15 see in Mr. Chapin's letter that he's very pleased
16 with the way that it looks.

17 So even if some of our ne -- you know,
18 one of the things I guess I want to say is if you're
19 looking out of a window, whether it's a kitchen or
20 any other window, and you're looking at it, I would
21 submit it's as pretty as anything else you'd be
22 looking at, and it's pretty small.

23 One of the things that hasn't been
24 mentioned in the record that Bob mentioned informally
25 that we'd be happy to do is you'll see that the back

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 of our is white. If people would be happy for us to
2 paint it white, that might be more appealing. It's
3 an appealing thing to look at, so I guess I want to
4 say that we're not just plopping something on that's
5 an eyesore.

6 If you're looking at Mr. Chapin's kitchen
7 or you're looking at ours, they're both pretty nice
8 looking I think.

9 MS. REID: Okay. There is an ANC. Did
10 anyone from the ANC come in? 1D? ANC-1D come in?

11 MS. RENSHAW: Madam Chair, are you
12 referring to Maurilice Carter, June 19th, 2000?

13 MS. REID: Yes. This is not the ANC --
14 full ANC report.

15 MS. RENSHAW: No.

16 MS. REID: And this is basically the
17 Sheridan Kalorama Historical Review Board that that -
18 - I'm sorry, we don't have letter from the ANC. And
19 typically when we don't have a letter from the ANC,
20 we assume that they have no opposition to the case
21 because if they did they would certainly let us know.

22 MS. SIEGEL: She told me that, yeah.

23 MS. REID: The Sheridan Kalorama
24 Historical Review Board did send a letter approving
25 the application. Okay, there are no persons here to

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 testify in support of the application and there are
2 no persons here other than the Carters -- I mean, did
3 the Hills wish to testify?

4 MR. ELLIS: Yes, ma'am.

5 MS. REID: Okay. Testify in opposition.

6 So please come forward. And in regard to letters in
7 support, we did have several letters in support, two
8 of which were from previous neighbors who had
9 originally opposed and then they rescinded their
10 opposition. And then we did have a letter from the
11 American Gold Star Mother's Inc. in support.

12 Now, in this letter -- I meant to mention
13 this. This letter says something about a one-way
14 designation and a parking restriction be enforced.
15 Is anyone familiar with that? I don't know if we can
16 do that. I don't know if we -- okay, all right. I
17 don't think that's something that we can do. Okay,
18 all right, go ahead, Mr. Ellis.

19 MR. ELLIS: Again, good afternoon. My
20 name is Craig Ellis and I'm here as counsel for the
21 Hills. I've already submitted the requisite
22 documentation. I'd like to point out there are
23 several letters in the file also in opposition.
24 There's one from Bob Hamaday (phonetic) and
25 Hildegarde Stevens.

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 MS. REID: Okay.

2 MR. ELLIS: There's another one from
3 Clark Swain, M.D. (phonetic).

4 MS. REID: Okay.

5 MR. ELLIS: Saywin (phonetic), I'm sorry.
6 Saywin, M.D. And so those are --

7 MS. REID: In the record?

8 MR. ELLIS: They were submitted.

9 MS. REID: Let me look.

10 MR. ELLIS: They were submitted. Maybe
11 they haven't caught up with your file but they have
12 been submitted. We do have -- I don't have enough --
13 I have -- I don't have enough for all.

14 MS. REID: Mr. Ellis, I don't have those.
15 I have three or four letters with --

16 MR. ELLIS: I will provide them.

17 MS. REID: Okay. All right, go ahead,
18 Mr. Ellis.

19 MR. ELLIS: I'm going to address some
20 legal points and then I'll have my clients deal with
21 some personal points.

22 MS. REID: Okay.

23 MR. ELLIS: With the variances that are
24 requested, there are three variances here. One was
25 from Section 2001.3(a), (b) and (c) to allow a

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 nonconforming structure devoted to a conforming use
2 in an R-3 residential zone.

3 Specifically, it says that enlargements
4 or additions may be made to a structure provided that
5 the structure shall conform to the percentage of lot
6 occupancy requirements. That's subsection (a). This
7 structure does not comply with the lot occupancy
8 requirements.

9 I have just provided to the Board a
10 tabulation of the properties that are on the even
11 side, that these are the properties next to -- these
12 are like row properties going down the block in the
13 2100.

14 You will note in the -- not the last.
15 That's the year the property was built, but the
16 second and third to last columns on this property,
17 one has marked at the top interior and the other one
18 has square foot. That with the exception for some
19 reason lot number 21, 28 is sort of split and has
20 like two square footages that you have to put
21 together. It comes up to, like, 1265, but for some
22 reason they have it listed as 511 and then 754. But
23 looking at that sheet, you will note --

24 MS. BAILEY: Mr. -- excuse me. The Board
25 members haven't received the submission that you're

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 addressing. We're making copies of it.

2 MR. ELLIS: I submitted enough copies for
3 the Board.

4 MS. BAILEY: Oh, is that --

5 MR. ELLIS: I submitted five copies.

6 MS. BAILEY: Oh, okay. We thought it was
7 just one. Okay, I'll make sure they get it. Okay.

8 MR. ELLIS: I'm sorry. I assumed you had
9 it. Has the Board -- anyway, I'll move to -- while
10 that's coming back. There's no problem with the fact
11 that the addition shall conform to the use
12 requirements, the structure requirements.

13 Subsection (c), the addition or
14 enlargement itself shall not increase or extend any
15 existing nonconformity aspect of the structure and
16 shall not create any new nonconformity of the
17 structure and addition combined.

18 As Mr. Sockwell pointed out, this
19 property is less than the minimum lot size in the RJ-
20 3 zone, that which requires 2,000 square feet. This
21 property, the Siegel property, has 1,681. Assuming
22 that it had 2,000, there's a lot occupancy of 60
23 percent. 60 percent would mean that they could
24 occupy 1,200 square feet. They occupy already 5,000
25 -- well, I'm sorry, I misread that. I'm sorry. Bear

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 indulgence.

2 MR. COLLINS: Madam Chair, we don't
3 dispute the fact that we need a variance, and that's
4 why we here.

5 MR. ELLIS: Okay.

6 MR. COLLINS: What I do dispute is the
7 numbers on this. I don't know where they came from.
8 I don't know if there's anyone here to back up these
9 measurements, but I certainly dispute the need to go
10 through, you know, each of the individual variances.
11 We're here for a variance. We know we're here for a
12 variance. It's been advertised. We've asked for a
13 variance and we've presented a case for a variance.

14 MR. ELLIS: But the variance -- Your
15 Honor, I want to make it clear that when we're
16 dealing with a variance, there are sometimes when a
17 person comes in and says, "Look, my property is small
18 and had my property been the right size I could go up
19 to 1200 square feet." But this is a property that
20 already exceeds the amount of lot occupancy that they
21 would be allowed to have even if the lot was full
22 size.

23 It's one thing to say, "I can come up to
24 because my lot is smaller than everybody else's lot,
25 and I can come up to everybody else's size." But

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 it's different when you say, "My lot is already
2 smaller and I now already exceed the lot occupancy
3 and I want to keep on going on size." I want to make
4 that distinction clear, that that's what we're doing
5 here. We're not bringing it up compatible with the
6 other lots.

7 What we're doing is we're making it
8 bigger than what the other properties, because I want
9 to point out this lot is not the smallest on the
10 block as what was said earlier. It is the ninth
11 smallest of approximately 12 lots. so it is not
12 unique. It is not the smallest of the group.

13 So we're here talking about a lot that is
14 not the smallest that they want to enlarge that as
15 not -- as we sit, it's already bigger than many of
16 the others. It is the fifth largest piece of
17 property on that block in terms of total square
18 footage.

19 MS. REID: Wait a minute, Mr. Ellis.
20 Let's look at the Sandborn (phonetic) map again. All
21 right, now, you're saying that these lots on Leroy
22 Place -- can you just point out to me which lots are
23 larger?

24 MR. ELLIS: The lots that are larger -- I
25 don't have the Sandborn map here, I'm sorry. The

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 lots --

2 MS. REID: Well, I do, and I'm looking at
3 the lots.

4 MR. ELLIS: The lots that are larger is
5 the lot for 2110 LeRoy Place, if they have addresses
6 on your Sandborn map there.

7 MS. REID: Un-un.

8 MR. ELLIS: It's the lot all the way at
9 the end of the block to the east.

10 MS. REID: Let me get something --

11 MR. ELLIS: Which would be -- which would
12 be the -- I'm sorry, I'd have to see your Sandborn
13 map.

14 MS. REID: Okay. Because we have to see
15 the proximity of these that you have brought to our
16 attention and --

17 MR. ELLIS: They've all --

18 MS. REID: -- the ones on the Sandborn
19 that shows --

20 MR. ELLIS: These are all the --

21 MS. REID: -- the siting.

22 MR. ELLIS: Madam Chair, so you're clear,
23 the numbers that I provided you from 2110 to 2130 are
24 all on the same side of the street.

25 MS. REID: Where is 2110 and 2130?

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 MS. PRUITT: I don't know.

2 MR. ELLIS: These are all on the same
3 side of the street adjoining the subject property.
4 They're all the properties that are joining the
5 subject property.

6 MS. REID: Wait one second, Mr. Ellis.

7 MR. ELLIS: Okay.

8 MS. REID: Let us try to --

9 MR. COLLINS: May I address that point?

10 (Pause while Board examines maps.)

11 MR. COLLINS: Madam Chairman, may I
12 address that point, the issue about the variance
13 about the size of the lot?

14 MS. REID: Could you put a pin in it for
15 just one second because we have a problem. Germane
16 to the case is subsequent to your case today and what
17 we're going to have to do is to -- they have to leave
18 and we're going to have to continue that case.

19 So I'm going to ask your indulgence to
20 allow us to attend to that matter, to continue that
21 case because they have to be out of here by 5:00
22 o'clock. Just -- I'll only need a couple of minutes,
23 and then to resume with your case, which will be then
24 the last case of the afternoon. Okay? All right,
25 thank you.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Now, persons who -- Sheri, can you call
2 them up, please?

3 MS. PRUITT: Yes. All those involved
4 with application 16570 to discuss a continuance,
5 could you please come forward.

6 MS. REID: Come forward, please, those
7 who are involved with this case. We were
8 anticipating being able to conclude your case today
9 because we had committed ourselves to being here --
10 being here to at least 6:00 o'clock. And with this
11 present case being wrapped up and we anticipated it
12 wrapping up in a few minutes, it gave time for us to
13 continue -- I mean, to complete your case today and
14 this is what we were moving toward.

15 However, it's been brought to my
16 attention that you have some logistical problems as
17 far as timing is concerned and that key people have
18 to leave by 5:00 o'clock or before 5:00 o'clock,
19 which gives us no choice but to try to accommodate
20 you otherwise.

21 And when you come down for these cases,
22 we don't have any control over how long a case is
23 going to go, but you can anticipate that if you're on
24 for the afternoon, especially if you have the agenda
25 and you see that you're for the last case, that it's

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 probably going to go around 4:00, 5:00, 4:30, 5:00
2 o'clock at least to start.

3 And so that being the case, I just wanted
4 you to come up so that we could see what we could do.

5 And we do apologize. We apologize on he one hand,
6 but on the other hand too it is not our fault that
7 you have to leave at 5:00 o'clock. So tell us what
8 you'd like for us to do.

9 MR. ANDERS: I'll be the spokesperson. I
10 am Joel --

11 MS. PRUITT: Sir, can you put your mike
12 on. Please be seated so you can be heard an push the
13 button. You don't have to stand.

14 MR. ANDERS: Hello, I'm Joel Anders. I'm
15 here as attorney for Tucker Day Care. Because of the
16 architect's need to take an examination, her
17 testimony being intrinsic to this hearing, I have a
18 client waiting in my office who's facing some rather
19 serious criminal charges in Arlington County Circuit
20 Court tomorrow morning. He needs a quotient of my
21 attention.

22 For these reasons, I would respectfully
23 request the next available hearing date. I've got my
24 calendar and I would solicit as early a date as you
25 all can afford us.

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 MS. REID: Did you have something to say,
2 sir?

3 MR. SIMMS: Yes. I'm Melvin Simms. I'm
4 from the ANC appointed in this case. I will give Ms.
5 Tucker all the time that she needs, preferably
6 sometime in October or November. I will be agreeable
7 to that so I yield to their request.

8 MR. ANDERS: Needless to say, if an
9 earlier date were available, sometimes justice
10 delayed is justice denied. So that if an earlier
11 date were in all of your needs, that would be much
12 appreciated.

13 MS. REID: Okay. Let us look at our
14 calendar and see. Mrs. Pruitt, what is the earliest
15 date that you can get them on the calendar?

16 MS. PRUITT: October 17th.

17 MS. REID: Now, how does that -- we
18 understand this is a day care case. And typically we
19 know that school starts around in September -- or I
20 don't know if it's before and after care or just day
21 care or whatever, and how does that -- what bearing
22 does that have on your case?

23 MR. ANDERS: Well, quite obviously, if
24 school begins in September on or about Labor Day, the
25 request being to expand the capacity of the school,

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 to reconvene in October delays the start of school.
2 Nonetheless, I've calendared many cases before and
3 if that's the next available date then we're all
4 bound by it, but I would solicit an August date if an
5 August date were available.

6 MS. REID: The only thing about that is
7 that we're on recess in October (sic).

8 MS. PRUITT: August.

9 MS. REID: I'm sorry, in August. In
10 August.

11 MR. ANDERS: Would you all forgive me and
12 indulge me, I'm being tugged at by Ms. Tucker.
13 Excuse me one moment.

14 (Pause for discussion between parties.)

15 MS. REID: Ms. Pruitt, what's that date,
16 July 11th in the afternoon? There seems to be a
17 little space on the calendar.

18 MS. PRUITT: You have a Foreign Missions
19 and an appeal.

20 MS. REID: Not that afternoon.

21 MS. PRUITT: You have the Potter appeal,
22 that's going to be controversial. And East of the
23 River, which is also a big case.

24 MS. REID: But still we only have two?

25 MS. PRUITT: Yes, you do, but my point is

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 in the morning you have Azer Baijan, a Foreign
2 Missions case, which we're getting controversy over.

3 Washington Ethical Society, which is up the street
4 from JPDS, which I assume will probably have some
5 same people who came for JPDS. So I think that the
6 morning agenda may fall into the afternoon.

7 MS. REID: Uh-huh.

8 MS. PRUITT: And then in the afternoon,
9 you have East of the River, which is a big project,
10 and the Potter appeal. Appeals usually take at least
11 twice as long as regular cases.

12 MS. REID: What's the Potter appeal?

13 MS. PRUITT: It's a new case, you've not
14 seen it. It's an appeal of a Zoning Administrator's
15 determination.

16 MS. REID: Let me see that calendar for a
17 minute, please.

18 MS. PRUITT: Ms. Reid, you don't have a
19 copy? You should.

20 MS. REID: I do but I don't know --

21 MS. PRUITT: Do you need one?

22 MS. REID: It's ensnarled in some of
23 these papers right now and I just couldn't get my
24 hands on it immediately.

25 MR. ANDERS: For the record, counsel

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 would be available the afternoon of July 11th or
2 whatever general time you designate.

3 (Pause while Board discusses scheduling.)

4 MS. REID: Okay, here's what we are going
5 to do. On July the 11th, even though our calendar is
6 pretty full, we're going to put you on the afternoon
7 at the first case.

8 MS. TUCKER: Is there any way -- my
9 architect is here and I have a lot of my supporters
10 here this afternoon, from nine to ten? It's no way
11 we can be heard this afternoon? Is it any way
12 possible?

13 MS. REID: Well, I have no problem with
14 you being heard this afternoon, ma'am. The reason
15 why we are having this discussion is because there
16 was a request that you not be heard, that you be
17 rescheduled, from your attorney.

18 MS. TUCKER: Well, we wouldn't like to
19 reschedule, you know, but really didn't have to, you
20 know. But he was saying, you know, he have to leave
21 at a certain time, but if we go ahead on with it then
22 he could stay then, you know, leave. So that's why I
23 was just saying is there any way possible that you
24 can go ahead and hear us.

25 MS. REID: Okay, I am confused. What do

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 you want to do?

2 MR. SOCKWELL: Mrs. Siegel, it's ten to
3 5:00 now.

4 MS. REID: What do you want to do? We
5 suspended our case that we had before us to try to
6 accommodate you because you had to leave to give you
7 -- to try to work out some kind of scheduling for you
8 to be able to reschedule. And then after ten minutes
9 you say that you don't need to reschedule? I mean,
10 what is the point of this?

11 MS. TUCKER: Well, they was telling me
12 that they didn't want to reschedule, so that's why I
13 said it.

14 MR. SOCKWELL: See, the question that --
15 what we're trying to do is accommodate your -- Ms.
16 Tucker, what we're trying to do is accommodate your
17 attorney on what sounds like a very serious problem
18 with a client which --

19 MS. REID: But nonetheless, Mr. Sockwell
20 --

21 MR. SOCKWELL: -- we've gone forward on
22 and now that we've looked at the schedule, you'd
23 rather do it another way.

24 MS. REID: Right. I mean, we've come to
25 a solution to the problem only to find out that you

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 want to go ahead without your attorney, is that what
2 you're saying?

3 MS. TUCKER: No.

4 MS. REID: Well, Ms. Tucker -- Ms.
5 Tucker, if your attorney has to leave and you want to
6 go forward, then it means that you want to go forward
7 --

8 MS. TUCKER: Okay, go ahead and
9 reschedule then.

10 MS. REID: -- forward without your
11 attorney.

12 MS. TUCKER: Go ahead and reschedule.

13 MR. SIMMS: Madam Chair, this would be
14 the second time that we have postponed this hearing
15 at the request of the attorney. I'm going to ask
16 that July 11th not be scheduled because I would like
17 to go on vacation. And no one have given me
18 consideration in these postponements at all. So if
19 you could schedule it after that, I would like to
20 take vacation. I really would.

21 MS. REID: Okay, there is no -- we don't
22 have any other date. First of all, let me find out
23 this. Now, you're okay with rescheduling, Ms.
24 Tucker. Okay, one. Two, sir, your name? Your name,
25 sir? Counsel?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MR. ANDERS: Joel Anders.

2 MS. REID: Okay, Mr. Anders, will you be
3 available on that date?

4 MR. ANDERS: Yes, I'm available the
5 afternoon of July 11th.

6 MS. REID: That's okay, two. The ANC, if
7 you cannot be present, can't another representative
8 come and to bring your report and give your report on
9 that date?

10 MR. SIMMS: We have a very limited ANC
11 and I'm the only one versed in this case.

12 MS. REID: Well, the only other
13 alternative, sir, would be that we would have to
14 reschedule them until October --

15 MR. SIMMS: that's what I --

16 MS. REID: -- which would then be moot
17 because then that nullifies the need for them to be
18 before us in the first place.

19 MS. PRUITT: Excuse me, sir. Could you
20 submit your ANC report in writing?

21 MR. SIMMS: I have re --

22 MS. REID: Because generally that --

23 MS. PRUITT: Well, first of all do you
24 have a quorumed ANC report?

25 MR. SIMMS: Yes, it's on file.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MS. PRUITT: Okay, so then we have an
2 official ANC report done at a quorum in a duly
3 noticed meeting.

4 MS. REID: That's all we need.

5 MS. PRUITT: Because that's what the
6 board can give great weight to. Otherwise it's just
7 testimony, sir.

8 MS. REID: If you have some testimony,
9 sir, that you'd like to submit, then you can submit
10 it in writing and it could be read into the record if
11 you like.

12 MR. SIMMS: I could submit additional
13 testimony to you?

14 MS. REID: Sure.

15 MS. PRUITT: Yes, until the record is
16 closed, you can submit anything in writing.

17 MR. SIMMS: Okay.

18 MS. REID: Sure.

19 MR. SIMMS: So July 11th?

20 MS. REID: Sure.

21 MR. SIMMS: Okay.

22 MS. REID: Thank you very much. We
23 appreciate your indulgence.

24 MR. SIMMS: You're welcome, sure.

25 MS. REID: Okay, all right. That's it

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 then.

2 MS. PRUITT: I just wanted to verify,
3 please, that we have rescheduled this to July 11th.
4 We're going to put you on as the first case in the
5 afternoon.

6 MS. REID: Now, understand, please, Mr.
7 Anders and Ms. Tucker, that day is a full calendar so
8 we're going to have to try to -- we're putting you in
9 and so try to be as efficient and as compact as
10 possible so we can get through that with relative,
11 you know, swiftness, okay? This is a major
12 accommodation because, like I said before, it is a
13 very full calendar that day.

14 MR. ANDERS: Madam Chair, let me -- if I
15 may respond to representations made by the ANC.
16 Counsel did endeavor to call to the Board's attention
17 a client conflict that I myself have. Nonetheless I
18 was also speaking for our architect whose testimony
19 is intrinsic to this proceeding.

20 MS. REID: Okay.

21 MR. ANDERS: Cross examination being
22 reserved.

23 MS. REID: Okay.

24 MR. ANDERS: And she's advised me that
25 she has an exam scheduled which would dramatically

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 compromise her if she missed it.

2 MS. REID: Mr. Anders, we understood that
3 and she will be able to be here on the 11th without -
4 - oh, that's you. Okay, you will be able to be here.

5 Fine, so we're all on the same page on board with
6 this. So thank you very much. Now, I have to
7 proceed with the case that I interrupted in order to
8 be able to reschedule you. Thank you very much.

9 MR. ANDERS: Thank you, Madam Chair, and
10 my apology to the case that was interrupted.

11 MS. REID: Okay. Okay, Mr. Ellis, where
12 were we?

13 MR. ELLIS: I want to clear up one thing,
14 Your Honor.

15 MS. REID: Okay.

16 MR. ELLIS: I said that the existing lot
17 of the Siegels presently has a lot occupancy of
18 1,368.70 or 1,369. The additional 98 square feet
19 would take them right about 1,450 some square feet,
20 which means that they are larger. They would only be
21 -- if the lot was -- the actual minimum lot size for
22 an R-3 zone, they could only go up to 1,200 anyway.
23 So they already, right now at 1,368, they already
24 exceed the size of a lot.

25 MS. REID: Okay, but isn't that what

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 they're here for.

2 MR. ELLIS: They're here for the --

3 MS. REID: For the variance?

4 MR. ELLIS: But I'm -- there's a critical
5 distinction I'm trying to make and I want to make
6 sure the Board understands it. Typically you have a
7 house or a building that sits on a lot. And when
8 you're saying that a special -- I mean, that a
9 variance is needed because my lot is small here and I
10 want to increase it, it's because as in this case if
11 this house was the minimum size which would be 1,008
12 because of its size, 60 percent of the actual lot
13 area which is 1,681 would render a house on that lot
14 would only be 1,008.

15 But now they wanted to increase the size
16 up to the 1200, and it's because their lot is so
17 small topographically because of, you know, in the
18 neighborhood, then they would come in and seek a
19 variance to going up to the 1200.

20 But now we're not talking about this.
21 We're talking about some people who have a small lot
22 who now want to go to -- who already have a house
23 bigger than the size it would be if their lot was
24 larger. They want to get even bigger.

25 MS. REID: Well, wait a minute, Mr.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Ellis. You're saying that their area, their lot size
2 is already smaller than that that is allowed, number
3 one.

4 MR. ELLIS: That's correct.

5 MS. REID: Okay, number one.

6 MR. ELLIS: Uh-huh.

7 MS. REID: And then 60 percent of that
8 lot occupancy --

9 MR. ELLIS: Would only be 1008.6 square
10 feet of their small lot. But if it was the regular
11 size, 60 percent would be 1,200.

12 MS. REID: Okay, but here's where I'm
13 having some difficulty. In a situation where -- I
14 mean, can you apply those same ratios in a situation
15 where the lot size itself is already nonconforming,
16 it's irregular, it's already small? I mean, can you
17 still apply that same rationale?

18 MR. ELLIS: Well, what happens is I want
19 to make it clear -- but the lot -- okay, this lot, we
20 keep talking about it being small and irregular. But
21 the lot may be small and irregular but it already
22 contains a building that's larger than the building
23 that would be on a lot if it was full size.

24 MS. REID: Exactly, okay. Exactly.
25 That's what I'm saying. Exactly. Mr. Sockwell?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MR. COLLINS: Sir, isn't that why we're
2 here. Madam Chair --

3 MS. REID: Just hold one second. I'd ask
4 my colleague to weigh in on this because it gets a
5 little too complicated. I'm having some difficulty
6 grasping what both of you are saying.

7 MR. SOCKWELL: The actuality of this
8 situation, to me, is that based upon the location of
9 the house on the lot currently, this existing
10 building appears to abut the front property line of
11 this lot. And I think there is no disagreement on
12 that fact. As well, with the addition currently
13 proposed, there is only a 98 square foot addition to
14 the building, enclosed portion of the building let's
15 say, with the kitchen addition.

16 Once one adds the deck, which is greater
17 than four feet above the finished grade, primarily to
18 allow access to the car parking underneath, you now
19 approach approximately 100 percent lot occupancy give
20 or take three or four percent for the angles. And it
21 might even be less than that.

22 And with the recently submitted evidence
23 that this is quite a large house and as I had already
24 determined in my own investigations that the
25 percentage of lot occupancy for this house on a

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 minimum 2,000 square foot lot would be approximately
2 68 percent of such a lot if this lot met those size
3 requirements.

4 Then it appears to me that with the
5 smaller lot, we're pushing the envelope even further
6 and we are requesting close to 100 percent lot
7 occupancy which is something that becomes a radical
8 variance from the ordinance, as opposed to a minor
9 variance from the ordinance or even a moderate
10 variance from the ordinance.

11 And that is to say specifically that
12 there isn't as great a justification when the
13 property itself is being over-utilized as a standard
14 lot and greatly over-utilized as a substandard lot.

15 So all we're doing is taking a lot that's
16 been built out gratuitously and adding more to it
17 without seeing -- at least I don't see any particular
18 hardship in the current occupancy of the lot and it
19 makes it more apparent when one sees the full square
20 footage of the house. But the full square footage of
21 the house is irrelevant to this case. It's strictly
22 a lot occupancy minimum rear yard et cetera
23 situation.

24 As well, the house is a semi-detached
25 house and as a semi-detached house it would normally

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 be restricted to somewhat less occupancy than a row
2 house. And it really has generous proportions now
3 and I think that's where we are.

4 MR. COLLINS: May I just make a
5 correction and observation, If I can. It is not a
6 semi-detached house. It is a row dwelling. It meets
7 the definition of a row dwelling. A semi-detached
8 house would have one side yard and this does not --

9 MR. SOCKWELL: Okay, this does not have a
10 side yard at all.

11 MR. COLLINS: May I just point out the
12 test for variance relief in Section 3103.2?

13 MS. REID: Uh-huh.

14 MR. COLLINS: How we meet it and let's --
15 rather than talk about theoreticals, I'd rather talk
16 about the existing facts of the case. Section 3103.2
17 states that where by reason of exceptional
18 narrowness, shallowness or shape of a specific piece
19 of property at the time of the original adoption of
20 the regulations or by reason of exceptional
21 topographical conditions or other extraordinary or
22 exceptional situation or condition of a piece of
23 property. I think that we demonstrated that.

24 First of all, this lot existed -- has
25 existed since 1911. The building permit application

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 is part of the submission, dated 1911, shows Lot 18,
2 which is the same Lot 18 that exists now. I think
3 the Board can take administrative notice of the fact
4 that 1911 was well before the adoption of the zoning
5 regulations. So the fact that this house does not
6 comply with the zoning regulations is no surprise,
7 nor is it true to say that this Board is not
8 permitted to grant variances for nonconforming
9 structures. We're here to seek a variance from them.

10 Another fact is that the topography of
11 the site. If this was not a sloping site, if the
12 elevation at the rear of the property was the same as
13 the elevation at the front, then the deck would not
14 count in lot occupancy. A deck that is no more than
15 four feet above grade may occupy any open space.

16 MR. SOCKWELL: Absolutely.

17 MR. COLLINS: Okay. So because of the
18 topography, we're further penalized by this. We're
19 adding 98 square feet of a building at one level.
20 Some of the letters of opposition have indicated that
21 this is a two-story addition. It is really a one-
22 story addition that's one level above grade because
23 of the slope of the site.

24 We are here seeking a variance. There's
25 nothing in the regulations that precludes us from

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 seeking a variance because the lot is nonconforming,
2 because the property's nonconforming, and that's why
3 we're here.

4 MR. SOCKWELL: We're extending the
5 nonconforming aspects.

6 MR. COLLINS: Exactly and that's what a
7 variance is all for. That's how we show the three-
8 part test.

9 MR. SOCKWELL: And yet here again one
10 might want to think that any piece of property could
11 just as easily qualify for 100 percent lot occupancy
12 if it has some flaws. In this case, the flaw in the
13 property has not restricted occupancy of the lot to
14 any less than that which a minimum standard sized lot
15 would accommodate.

16 In fact, this lot does have even more
17 generous occupancy. Albeit rezoning ordinance, it's
18 occupied to a higher degree than would any of its
19 neighbors that might have 2,000 square feet or more.

20 So under those circumstances, the property hasn't
21 been encumbered by its size in the amount of building
22 that can be put on it from a square footage lot
23 occupancy footprint standpoint. And yet on the basis
24 of property where the restriction has prevented and
25 equitable use of the land as compared to its adjacent

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 neighbors, zoning relief would be most appropriately
2 considered.

3 In this case, I am having difficulty
4 seeing the hardship as a real hardship but more as --
5 I'm having an easy time seeing it as a condition, but
6 I'm not having a good time trying to find the
7 hardship portion.

8 MR. COLLINS: Well, I guess the answer to
9 that is that the hardship is not the test. The test
10 is practical difficulty. Hardship is the test for
11 use variance, and this is an area variance. The test
12 would be practical difficulty.

13 I think that Clark Waggaman, as brilliant
14 an architect as he was in the early part of the
15 century, you know, could not have had the foresight
16 to know that 60 years later, 50 years later, the
17 zoning commission would have adopted a new set of
18 zoning regulations which would have made his designs
19 nonconforming. He probably could not have had the
20 foresight to know that lifestyles change, that
21 properties change, that people's tastes change, such
22 that everyone doesn't have servants anymore.

23 And I think it's also -- the Board could
24 take official notice of the fact that it would be
25 very difficult to demolish a portion of this house

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 which would be demolition under the Historic
2 Preservation law to allow for the reconfiguration of
3 the house to provide for a modest 98 square feet of
4 kitchen addition.

5 The addition has been designed in such a
6 way -- it's been redesigned in such a way it's been
7 pushed away from the Hills, it's behind their tree.
8 I think the photos speak for themselves. Little or
9 none of the addition will be readily visible through
10 the trees even from the windows that are facing that
11 direction.

12 If you look at the photos that were
13 submitted into the record, you'll see that there are
14 buildings all around on all sides that no matter
15 which direction you look at you see buildings.

16 MR. SOCKWELL: Mr. Collins, I just don't
17 see the need for all of what's there as a hardship
18 extension to the property. And unfortunately, yes,
19 it does encompass some issues, but as far as I'm
20 concerned, it's a complete giveaway of the things
21 that the ordinance attempts to stand for, and I'm not
22 sure that I can accept that in my own way of
23 thinking, the way I see the documented numbers,
24 that's all.

25 MS. REID: I think that what we're

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 getting away from is Mr. Ellis putting on his case in
2 regard to the opposition. And while I appreciate
3 your comments and your take on this particular
4 situation, we do have to allow Mr. Ellis to continue.

5 MR. ELLIS: As Mr. Collins brought up,
6 they have to meet the test for the variance. As you
7 know, the test for a variance is the property suffers
8 from exceptional narrowness, shallowness or shape
9 from exceptional topographical conditions or other
10 extraordinary or exceptional situation or condition.

11 Even assuming -- and I disagree with the
12 statement by Mr. Collins about the topographical.
13 This is a four-story townhouse. It's four stories.
14 I mean, there's nothing -- there's no rolling hill
15 here that's causing stuff to be moved here. It's a
16 four-story townhouse. It's straight up and down,
17 four stories.

18 And this house has a strange lot but it
19 doesn't warrant total -- as Mr. Sockwell pointed out,
20 when you essentially look at what's being done here,
21 there is total lot coverage or nearly total lot
22 coverage here by the proposal when you take in the
23 deck and the structure being added with it.

24 The deck is above four feet over the
25 ground. It is that way so you can get the car in the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 garage. The property in of itself does not warrant
2 the kind of relief that's being requested here.

3 These exceptional -- number two is these
4 exceptional circumstances result in a peculiar
5 exceptional practical difficulty to the owners unless
6 he or she can obtain a variance.

7 What it's saying here is, "We want a
8 larger kitchen, we want to sit down and eat." I
9 mean, these are all nice things, but we're not saying
10 that the family can't eat somewhere else in the
11 house. I mean, there is a dining room here. They
12 just want an eat-in kitchen.

13 It doesn't fit. There are lots of people
14 -- and I mean I -- there are lots of people who live
15 in the District of Columbia who don't have eat-in
16 kitchens and, I mean, that doesn't make a fatal flaw
17 in the house. And to say that it's a peculiar --
18 because now we -- you know, we can't have an eat-in
19 kitchen, I find some difficulty with that rationale.

20 And number three, the variance relief
21 will not create a substantial detriment to the public
22 good or substantially impair the intent, purpose and
23 integrity of the zone plan is embodied in the zoning
24 regulations.

25 As Mr. Schwartz pointed out, there are

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 going to be pillars that are going to be put pretty
2 much towards the edge of the property to support.
3 The pillars are smaller because they're going to be
4 metal, but there is a problem there.

5 The city is investing a large amount of
6 money in brand new garbage trucks. When there is
7 snow, those alleys are hard to manipulate -- maneuver
8 through them. any sliding and you hit that pedestal
9 does pose a possibility of some type of liability.
10 And it gets to be difficult in that alley. The alley
11 -- we will show a picture shortly when my clients
12 testify, this alley when it makes that turn narrows.

13 And it makes it just that much more difficult for
14 that truck to make that turn.

15 So, no, it would not be in the public
16 good. That's my position on behalf of my clients on
17 the legal issues. Now, I'm going to have them
18 address -- I'm going to have Mr. Hills address for a
19 second. There was a couple things that was brought
20 to the board that their views would not be affected.

21
22 Can you tell us, Mr. Hills, looking out
23 of your kitchen, can you see across the Siegel
24 property as we speak? Can you tell us what you see
25 from your kitchen?

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. HILLS: This --

2 MS. REID: Into the mike.

3 MR. HILLS: Oh, yes.

4 MR. ELLIS: And can you identify
5 yourself, first.

6 MR. HILLS: My name is Carter Hills and
7 I'm a retired foreign service officer and living on
8 LeRoy Place with my wife. Can I get up and speak
9 here?

10 MR. ELLIS: Yes, you have to take the
11 microphone right there in front of Mr. Collins.

12 MR. HILLS: The perspective that you
13 describe is not accurate. The magnolia tree is on
14 this -- right alongside of the -- right alongside of
15 the outward wall on the street and it sticks there.
16 The stock of the tree goes right up here. So
17 everything on the other side of it is our garden,
18 which you can see here. There's the magnolia right
19 smack against the corner lot there.

20 This is part of our garden which we've
21 worked very hard on. This is a tree in the Siegel's
22 property going up, which he would plan to cut down in
23 order to impose the deck and the glassed in enclosure
24 for a new breakfast room.

25 We have a wrought iron -- a deck with

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 wrought iron steps going down. Here's the wrought
2 iron deck and here's me looking at it. Here's the
3 small extension that our kitchen is in, which Mrs.
4 Siegel and her husband were guests and that's where
5 they got the idea.

6 Well, ours is a pretty modest operation.

7 And while in principal I'm entirely in support of
8 helping the Siegels obtain whatever they want,
9 there's a certain problem with our view, our
10 perspective, the impact of the sun.

11 Now, our gentleman astronomer here, I
12 also studied astronomy. The sun, as I pointed to my
13 wife sitting here, it comes over this way in the
14 morning and hits these plants. In the afternoon --
15 camellia trees. In the afternoon, it comes this way
16 and impacts on the sun there -- or excuse me, on the
17 camellia plants and the other parts of the garden
18 there.

19 I was afraid that - well, first of all,
20 Mr. Siegel came to me and said to me, "Now, we want
21 to build a deck from three feet from the end of this
22 wall," which means three feet from the alley. And I
23 walked out there with him -- or I mean, I walked out
24 on the wall to see just what it would do, what it
25 would be like. And it wouldn't -- nothing's going to

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 hurt this magnolia tree because it's over there.
2 What it does do is completely -- and he agreed that
3 12 feet was too much and he brought it back to three
4 feet.

5 And he gave the verdict on three feet
6 because I got out there and I measured how far we
7 could go to have a structure adjoining which would
8 still allow me to see the houses down the alley,
9 Marie Drissel's house. I took great pleasure as a
10 neighbor in seeing her washing her dishes. Well,
11 that would go. And it sounds corny, but, you know,
12 as sometimes -- you know, sometimes things are corny
13 but they are meaningful.

14 MS. HILLS: That picture is taken from
15 our kitchen.

16 MR. ELLIS: You have to put your name and
17 --

18 MS. HILLS: Sorry.

19 MR. HILLS: You want a microphone, too?

20 MS. HILLS: No, that's all right.

21 MR. HILLS: Okay. And then this is the
22 alley and there's only one house which has a
23 projection similar to what's being proposed, and
24 that's this house, the Saywins (phonetic). They have
25 sent a letter opposing this because it's on the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 corner. And the statement about the difficulty of
2 the garbage trucks getting around was understated,
3 because I go out every morning here and make sure
4 that they don't drop these things all over the place
5 and I put the garbage back -- of put the top of the
6 cans back on.

7 When they get to the corner, they can
8 barely go around. And now there are two trucks that
9 cannot go around. So what happens is they're parked
10 out on LeRoy Place and I'm helping them out there
11 making sure that everything of ours is done right.
12 And they have two -- there are two guys that do it.
13 Two bins this high, and they pick up all the garbage
14 from the houses around here and they dump it in. And
15 then they walk it out and around the corner.

16 So this is just to say that whoever of
17 you suggested there might be a problem on the corner
18 is genuine and extent.

19 At the same time, while I originally felt
20 that three feet was all I felt that we could continue
21 to have our view down the alley on the right to Marie
22 Drissel's house and all the others on the left and
23 discovering that if we didn't as the proposal is now,
24 all we have is to look straight ahead through the
25 magnolia tree to two houses which are red brick and

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 back of red brick going all the way up to the top.

2 Now, that's the dismal difference between
3 seeing up the alley to houses on both sides, the
4 Drissel house and the Chapin house and watching Marie
5 at her homework or housework.

6 At the same time I want to be as
7 accommodating as I can to our neighbors because (a)
8 they're neighbors. As my wife says, we have to get
9 along with them, and they're nice people. For that
10 reason, I didn't protest when Joan was ready to go
11 along with what they're doing. She did suggest that
12 if -- I mean, what it would do though is definitely
13 block out any view of the alley on the right. And I
14 said that to Marie Drissel and she said, "Pfft," like
15 that.

16 So that is something that we would have
17 to forego, which is a pleasure in our life to see up
18 the alley from our deck. I haven't said it so far,
19 that your presentation was correct from your
20 perspective but you weren't in our back yard so you
21 didn't see what the true perspective is. That is in
22 the corner and we're looking out from our deck here,
23 and we can see all the way at present up the alley to
24 the Chapin house, to the Drissel house, to the next
25 house, whoever's living there, and the next two.

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 With the construction, we're only going
2 to be straight ahead. On the other hand, my wife
3 being kind of the good neighbor that she is, she
4 said, "Well, if they can knock off the deck on this
5 side of their glassed-in structure so that nobody
6 comes to watch me when I'm gardening in my shorts or
7 we're giving a dinner party in our patio, that would
8 seem to be a reasonable thing to do."

9 Now, I took that up this morning and
10 yesterday with Mr. Siegel when he telephoned me and
11 asked me to be constructive. And that's one that he
12 said that he's already spent so much money on the
13 plans that he didn't want to undertake any such
14 change. But if that is the case --

15 MS. HILLS: This picture was taken in the
16 snow.

17 MR. SOCKWELL: Speak into the microphone.

18 MS. HILLS: This picture was taken in the
19 snow. The alleyway is right here. And it shows the
20 bend in the -- you're coming up right here, you can't
21 because the tree is there, but there's a lot of snow
22 there and it shows the wall right there. And I think
23 it gives a very good perspective.

24 And this picture here shows our view.
25 I'm not a very good photographer, but that actually

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 is Mrs. Drissel's window. But it's taken from our
2 kitchen.

3 MR. HILLS: Our --

4 MS. HILLS: It's actually not. It's
5 taken from inside our kitchen. And it shows that we
6 will not have the view that we would like to have,
7 and that the addition will block off a certain amount
8 of view.

9 MS. RENSHAW: Excuse me. I'm asking Mrs.
10 Hill, is that the Siegels' home?

11 MS. HILLS: This is the Chapins' home
12 here.

13 MS. RENSHAW: This is the Chapins' home.
14 Is your home on any one of these pictures?

15 MS. HILLS: This is the Chapins. And
16 this addition was put up illegally. This is Mr. and
17 Mrs. Chapin there. That's their house there.

18 MS. RENSHAW: All right.

19 MS. HILLS: And they're -- this is the
20 Siegels' house. I mean, you can't see it. It would
21 be right here.

22 MS. REID: Okay, let me ask you
23 something. Intuitively, it appeared to me that I
24 heard some -- in this presentation that I heard a
25 proffer of some kind of compromise and a concession.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 If that is the case then, can we do that, and then
2 we can just put this --

3 MR. ELLIS: I'm sorry, can I hear?

4 MS. SIEGEL: May I?

5 MR. ELLIS: Wait a minute.

6 MS. REID: Wait one second.

7 MR. ELLIS: Let me hear what the chair.

8 MS. REID: I heard in this discussion
9 when Mr. Hill was showing some of the pictures and he
10 kind of proffered -- Mr. Hill?

11 MR. ELLIS: He is not --

12 MS. REID: But he's talking so I'm
13 speaking about something that I heard him say --

14 MR. ELLIS: He's already told me what the
15 agreement was, Your Honor, so that's what -- and if
16 you're saying that they --

17 MS. REID: Do you have something?

18 MR. ELLIS: Well, Mr. Collins and I --

19 MS. REID: Do you want to recess for
20 about five or ten minutes because --

21 MR. ELLIS: No, wait a minute. Mr.
22 Collins and I -- we don't want to take up any more of
23 your precious time. Mr. Collins and I just spoke.
24 The structure -- and the architect and I also spoke.
25 The structure that is on the side of the Hills'

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 house looking over into their yard, if that's done
2 away with, my clients have informed me that they
3 don't have any problems with this.

4 MS. RENSHAW: Now, can somebody point it
5 out?

6 MR. SOCKWELL: Are you talking about
7 something like this?

8 MR. ELLIS: Yes. Mr. Sockwell is holding
9 -- where Mr. Sockwell's finger is at the bottom of
10 the page, that section of -- if that is done way with
11 --

12 MS. RENSHAW: No, no.

13 MR. SOCKWELL: Yes, this area right here.
14 How much do you want --

15 MR. ELLIS: No, it's this right here.

16 MS. REID: Okay, we're going to recess
17 for about five minutes. Okay?

18 (Whereupon, a brief recess ensued.)

19 MS. REID: Now, Mr. Ellis and Mr.
20 Collins, if in fact you all have come to some
21 resolution or meeting of the minds, then can we just
22 -- can you submit it for the record? Just tell us
23 briefly what you have come to. And then even if it's
24 written in hand -- you know, handwritten, that's
25 okay, and signed by both and done -- okay.

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. COLLINS: What we have, Madam Chair -
2 - Chris Collins from Wiles Artis. We have a revised
3 site plan which I'd like to submit for the record.
4 It's labeled revised plan 62000 signed by all the
5 parties.

6 MS. REID: Okay.

7 MR. COLLINS: It eliminates the deck area
8 on the east side of the Siegel property all the way
9 around approximately to the westernmost window of the
10 bay, and I'll submit it and you can make copies of
11 it. And it goes at an angle to match the angles, so
12 it's more symmetrical. But it is agreed to by all
13 the parties.

14 MS. REID: Okay.

15 MR. COLLINS: If I may submit it this way
16 and you can pass it on down so everybody can see it.

17 MS. REID: Okay. Thank you very --
18 actually, Ms. Renshaw, you have to give that back to
19 Mr. Collins.

20 MS. RENSHAW: Oops.

21 MR. COLLINS: Oh, yes, I sure will.

22 MS. REID: Mr. Collins, has to give it to
23 staff. You have to do it procedurally. Okay. All
24 right, great. So then, Mr. Ellis, let's see, you
25 were putting on your case and there is no one here in

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 opposition. I'm sorry, you were putting on your
2 case. Then the opposition was Mr. and Mrs. Hill.
3 There's no one here in support. Closing remarks.

4 MR. COLLINS: By me?

5 MR. ELLIS: We support the resolution
6 that has just been reached and we have no problem
7 this matter moving forward.

8 MS. REID: And you ask for?

9 MR. ELLIS: That's his obligation.

10 MS. REID: Oh, I'm sorry. Wrong
11 attorney, I'm sorry. I'm sorry. Boy, I'm sorry.
12 Please excuse me. Mr. Collins.

13 MR. COLLINS: Madam Chair --

14 MS. REID: Now, closing remarks.

15 MR. COLLINS: Based upon the evidence of
16 record, the fact that the only party in opposition
17 and the applicant have come to a resolution, mutually
18 agreeable resolution in this case, based on the fact
19 that the applicant believes that we have met the
20 burden of proof and that we have letters of support
21 from the single member district commissioner of the
22 ANC although not a full ANC report, we have letters
23 of support from the other two most immediately
24 abutting neighbors, based upon the photos, the
25 evidence of record, the plats, the plans, the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 testimony, we respectfully request approval of this
2 case at your earliest possible date. And if you so
3 choose to grant a bench decision, we'd ask for a
4 summary order.

5 MS. REID: Okay.

6 MR. COLLINS: Thank you.

7 MS. REID: Thank you. And a couple of
8 things. First and foremost -- well, Mr. Sockwell,
9 you missed the fireworks. You missed the grand
10 finale.

11 MR. SOCKWELL: Oh.

12 MS. REID: First and foremost, I'd like -

13 -

14 MR. SOCKWELL: Could you repeat that?

15 MS. REID: I'm sure that my colleagues
16 join me in commending you for working out a
17 resolution to this particular issue which appeared to
18 me was something that was very doable and possibly
19 inevitable. It is that kind of working together that
20 I think this city is all about.

21 And as neighbors, I'm glad to see that
22 both sides were willing to try to bend some to try to
23 make it work because I know that you don't want to
24 live in a contentious relationship with a neighbor
25 because a neighbor is someone who you never who you

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 might need at an important time in life. Neighbors
2 are very important, and that's what this city is all
3 about.

4 And that's what also the regulations --
5 just wanted to mention that the regulations, we all
6 know have their problems in that they were written
7 during an era in 1958 in which current lifestyles
8 were not taken into consideration with some of the
9 architectural structures and layouts of some of the
10 buildings in Washington.

11 And our Board serves to be the body to
12 give relief from the strict application of the
13 regulations when sometimes it just does not fit, and
14 to also allow the residents here in Washington to be
15 able to enjoy some of the things that, you know, they
16 would not otherwise have unless they lived in the
17 suburbs.

18 So I am so glad that we came to a
19 resolution of this and I again commend you most
20 highly for having done so. Thank you very much.

21 And as such, can I have a motion? I'm
22 sorry, I forgot, Mr. --

23 MR. PARSONS: Madam Chair, I move we
24 approve this application based on the new diagram
25 just provided to us.

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. SOCKWELL: I would second that.

2 MS. RENSHAW: Oh, I would, too.

3 MS. REID: We feel that they have met
4 their burden of proof and that they have not -- they
5 don't have any -- there are no adverse impacts. And
6 given the fact that the opposition -- a party in
7 opposition has now rescinded their status in
8 opposition that allows us to then grant a summary
9 order bench decision.

10 MR. SOCKWELL: I have two requests. One,
11 that the documentation of square footages and
12 percentage of lot occupancy be provided to the Board
13 for the record, and that should be simple enough to
14 do. And second, that the Hills be certain to be
15 invited to sit in the Siegels' breakfast room as the
16 idea was conceived in the Hills' breakfast room.

17 MS. SIEGEL: That was my line. We'll
18 invite all of you.

19 MS. REID: Okay. And that this granting
20 of this relief would not impair the integrity or
21 intent of the zoning regulations or map. Okay.

22 MS. RENSHAW: We have to vote.

23 MS. REID: All in favor?

24 MEMBERS: Aye.

25 MS. REID: Mr. Parsons, did you want to -

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 - did you say aye?

2 MS. RENSHAW: Mr. Parsons, did you put
3 your aye on the record?

4 MR. PARSONS: Yes.

5 MS. RENSHAW: Oh, all right.

6 MS. REID: Okay. All in favor, aye. All
7 opposed?

8 (No response.)

9 MS. PRUITT: Staff would record the vote
10 as four to zero to issue a summary order based on the
11 revised floor plan submitted by -- and signed both by
12 applicant and party. And that the applicant will
13 submit for the record revised -- documentation of the
14 revised square footages for the record.

15 MS. REID: Okay, all right.

16 MS. PRUITT: And Mr. Collins, would we be
17 able to get that within a week so we will know about
18 closing the record? Just so we have some time
19 certain.

20 MS. REID: Okay.

21 MR. COLLINS: Yes, the architect is
22 indicating we can.

23 MS. PRUITT: How about if we say before
24 the 4th of July, to give you a break.

25 MR. SCHWARTZ: Sure.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MR. COLLINS: Yes.

2 MS. PRUITT: I mean, that way we can
3 still get your summary order out but --

4 MS. REID: Okay, that concludes today's
5 hearing. Thank you very much.

6 MS. SIEGEL: Thank you, Your Honor.

7 MS. REID: Great to end on such a nice
8 note.

9 (Applause.)

10 MS. REID: Thank you, I love that. I
11 love a happy ending.

12 MS. RENSHAW: Yes, that was the best.

13 (Whereupon, the meeting was concluded at
14 5:42 p.m.)

15

16

17

18