

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

+ + + + +

BOARD OF ZONING ADJUSTMENT

+ + + + +

PUBLIC HEARING

+ + + + +

TUESDAY,  
SEPTEMBER 14, 2010

+ + + + +

The Regular Public Hearing  
convened in Room 220 South, 441 4th Street,  
N.W., Washington, D.C., pursuant to notice at  
9:30 a.m., Meridith H. Moldenhauer,  
Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

MERIDITH H. MOLDENHAUER, Chairperson  
NICOLE C. SORG, Vice Chair, Board Member  
JEFF HINKLE, Board Member (NCPC)

ZONING COMMISSION MEMBER PRESENT:

MICHAEL G. TURNBULL, Commissioner

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary  
BEVERLEY BAILEY, Sr. Zoning Specialist

**NEAL R. GROSS**

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

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

SHERRY GLAZER, ESQ.

OFFICE OF PLANNING STAFF PRESENT:

STEPHEN MORDFIN

KAREN THOMAS

MAXINE BROWN-ROBERTS

This transcript constitutes the minutes from the Public Hearing held on September 14, 2010.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

TABLE OF CONTENTS

AGENDA ITEM	PAGE
WARD TWO	
18094, ANC-2B, APPLICATION of LAURIOL PROPERTIES LLC Cactus Cantina: . . . . .	.9
STATEMENT BY APPLICANT:	
GUILLERMO RUEDA: . . . . .	13
OFFICE OF PLANNING:	
KAREN THOMAS. . . . .	24
WITNESS IN SUPPORT:	
THOMAS TYCZ: . . . . .	27
CLOSING REMARKS:	
GUILLERMO RUEDA . . . . .	29
WARD TWO	
18098, ANC-2F, APPLICATION OF JOHN P. STORZ: .	31
STATEMENT BY APPLICANT	
JOHN P. STORZ. . . . .	. . .32
CONTINUED SINE DIE: . . . . .	44
WARD TWO	
18097, ANC-2F, APPLICATION OF ROBERT GERBER: .	45
STATEMENT BY APPLICANT	
ROBERT GERBER. . . . .	. . .46
CONTINUED TO OCTOBER 26, 2010: . . . . .	68
WARD SIX	
18082, ANC-6A, APPLICATION OF ANGIE AND SCOTT TRUESDALE: . . . . .	69
STATEMENT OF APPLICANT	
ANGIE TRUESDALE. . . . .	. . .70
OFFICE OF PLANNING:	
STEPHEN MORDFIN . . . . .	80
CLOSING REMARKS:	
ANGIE TRUESDALE: . . . . .	88
SET FOR DECISION ON SEPTEMBER 21, 2010: . . .	90

**NEAL R. GROSS**

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

## TABLE OF CONTENTS (Continued)

AGENDA ITEM	PAGE
AFTERNOON SESSION . . . . .	.91
WARD FIVE	
18095, ANC-5A, APPLICATION OF RONALD McDONALD HOUSE CHARITIES OF GREATER WASHINGTON, D.C.: STATEMENT OF APPLICANT	95
SISTER THEOTOKOS. . . . .	
. . . . .	96
OFFICE OF PLANNING:	
MAXINE BROWN-ROBERTS. . . . .	.103
CLOSING REMARKS:	
MARTIN SULLIVAN:. . . . .	.108
WARD EIGHT	
18096, ANC-8B, APPLICATION OF VISIONS OF VICTORY CDC: . . . . .	.111
OPENING STATEMENT BY APPLICANT	
LaRUBY MAY. . . . .	.122
OFFICE OF PLANNING	
MAXINE BROWN-ROBERTS. . . . .	.124
ADJOURN PUBLIC HEARING . . . . .	126

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22

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

(10:32 a.m.)

CHAIRPERSON MOLDENHAUER: This hearing will please come to order.

Good morning, ladies and gentlemen. This is the September 14th, 2010 Public Hearing of the Board of Zoning Adjustments for the District of Columbia.

My name is Meridith Moldenhauer, Chairperson. Joining me today, to my left is Vice Chair Nicole Sorg and to my right Mr. Jeff Hinkle, representative of the National Capital Planning Commission. And again, to my left, two over, we have a representative of the Zoning Commission, Mr. Michael Turnbull.

Copies of today's agenda are available to you and are located to my left in the wall bin near the door. Please be advised this proceeding is being recorded by a court reporter and is also being webcast live. Accordingly, we must ask you to refrain from any disturbing noise or actions in the hearing

**NEAL R. GROSS**

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

1 room.

2 When presenting information to the  
3 Board, please turn on and speak into your  
4 microphone, first stating your name and home  
5 address. When you are finished speaking,  
6 please turn off your microphone so that your  
7 microphone is no longer picking up sounds or  
8 background noise.

9 All persons planning to testify,  
10 either in favor or in opposition are to fill  
11 out two witness cards. These cards are  
12 located to my left on the table near the door  
13 and on the witness tables.

14 Upon coming forward to speak to  
15 the Board, please give both cards to the court  
16 report to my right.

17 The order of proceeding for a  
18 special exception of variance is as follows:  
19 One, statement and witnesses of the applicant;  
20 two, government reports, including the Office  
21 of Planning and Department of Public Works;  
22 three, reports of the ANC; four, parties and

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 persons in support, parties and persons in  
2 opposition; and then closing remarks by the  
3 applicant.

4           The Sunshine Act requires that the  
5 Public Hearing on each case be held in the  
6 open before the public. The Board may,  
7 consistent with the rules and procedures of  
8 the Sunshine Act, enter into executive session  
9 during or after a public hearing on a case for  
10 purposes of reviewing or recording or  
11 deliberating on the case.

12           The decision of the Board in these  
13 contested cases must be based exclusively on  
14 the public record. To avoid any appearance to  
15 the contrary, the Board requests that persons  
16 present not engage Members of the Board in  
17 conversation.

18           Please turn off all cell phones  
19 and beepers at this time. The Board will now  
20 consider any preliminary matters. Preliminary  
21 matters are those which relate to whether a  
22 case will or should be heard today, such as a

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 request for postponement, continuance or  
2 withdrawal or whether proper, adequate notice  
3 was given for the hearing.

4 If you are not prepared to go  
5 forward with your case today or you believe  
6 the Board should not proceed, now is the time  
7 to raise such matters.

8 Mr. Secretary, are there any  
9 preliminary matters?

10 MR. MOY: Good morning, Madam  
11 Chairperson.

12 There is, but staff would suggest  
13 that since it's attendant to the first hearing  
14 case, Application 18094, that the Board  
15 address that at that time.

16 CHAIRPERSON MOLDENHAUER: Thank  
17 you very much.

18 In addition to that, let me  
19 provide specific information regarding time  
20 constraints. Pursuant to Section 3117.4 and  
21 3117.5, the following time constraints will be  
22 maintained.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1                   Applicants and persons and  
2 parties, except in ANC and support, will be  
3 provided 60 minutes collectively. Appellees,  
4 persons and parties in opposition, including  
5 witnesses, will be provided 60 minutes  
6 collectively. And individuals who are  
7 testifying as witnesses will be provided three  
8 minutes.

9                   These time restraints do not  
10 include cross-examination or questions from  
11 the Board. Cross-examination of witnesses is  
12 permitted by the Applicant or parties. The  
13 ANC, within which the property is located is  
14 automatically a party in a special exception  
15 or variance case.

16                   Nothing prohibits the Board from  
17 placing reasonable restrictions on cross-  
18 examination, including time limitations and  
19 limitation of the scope of cross-examination.

20                   The record will be closed at the  
21 conclusion of each case except for materials  
22 specifically requested by the Board. The

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Board and the staff will specify at the end of  
2 the hearing exactly what is expected and the  
3 dates when the persons must submit the  
4 evidence to the Office of Planning. After the  
5 record is closed, no other information will be  
6 accepted.

7 At this time, all individuals  
8 wishing to testify, please rise and take the  
9 oath.

10 (Whereupon, the witnesses were  
11 sworn.)

12 CHAIRPERSON MOLDENHAUER: Thank  
13 you very much, Ms. Bailey. I think we'll call  
14 the first case.

15 LAURIOL PROPERTIES LLC CACTUS CANTINA  
16 APPLICATION NO. 18094, ANC-2B

17 MS. BAILEY: Madam Chairman, good  
18 morning.

19 CHAIRPERSON MOLDENHAUER: Good  
20 morning.

21 MS. BAILEY: The first case is  
22 Application 18094. It's the application of

**NEAL R. GROSS**

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

1 Lauriol Properties LLC Cactus Cantina, and  
2 it's pursuant to 11 DCMR, Section 3104.1 for  
3 a special exception to allow a rear addition  
4 to an existing one-family row dwelling under  
5 Section 223, not meeting the lot occupancy  
6 requirements of Section 43. The property is  
7 zoned R-5-B. It's located at 1778 T Street,  
8 N.W. Square 152, Lot 62.

9 CHAIRPERSON MOLDENHAUER: Thank  
10 you very much, Ms. Bailey.

11 Will the parties please step  
12 forward to the table. If the ANC is present,  
13 they can also come forward. Please start off  
14 by turning on your microphone and stating your  
15 name, going right to left, your name and  
16 address for the record.

17 MR. RUEDA: Good morning. My name  
18 is Guillermo Rueda. I'm an architect with Sir  
19 Architects here in D.C. My home address is  
20 2912 18th Street, N.W., Washington, D.C.  
21 20009.

22 MR. SANCHEZ: Good morning. I am

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Raul Sanchez. My address is 2924 Cleveland  
2 Avenue, and I am the owner of the property  
3 that --

4 CHAIRPERSON MOLDENHAUER: Thank  
5 you very much.

6 Mr. Rueda, I believe that the  
7 first thing we would like to address is the  
8 letter of authorization. The letter that we  
9 have in our record is actually a letter of  
10 authorization for the subdivision of a lot,  
11 which is our Exhibit No. 7. It's titled,  
12 "Authorization for Subdivision Filing."

13 This would not be sufficient,  
14 since we obviously need authorization for you  
15 to be present here today for this purpose, for  
16 representing before BZA matter.

17 What we can do is, as I indicated  
18 before, we can leave the record open for you  
19 to provide a written, signed authorization  
20 form Mr. Sanchez can sign on your behalf  
21 specifically relating to authorizing you to  
22 testify here today on behalf of the applicant.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1                   So, that being said, I think we  
2                   can move forward so long as you'll supplement  
3                   the record following the hearing today.

4                   MR. RUEDA: I will.

5                   CHAIRPERSON MOLDENHAUER: Thank  
6                   you. Then, at this point in time, you can do  
7                   -- additionally, we faxed over -- we received  
8                   a letter of opposition yesterday. We faxed it  
9                   to your office. Did you receive that?

10                  MR. RUEDA: I did receive a copy  
11                  via email at six o'clock last night.

12                  CHAIRPERSON MOLDENHAUER: I know  
13                  it was late. We got it late as well. I just  
14                  want to make sure that you've actually had a  
15                  chance to review it and address some of the  
16                  issues.

17                  MR. RUEDA: I did -- I did review  
18                  it. I guess I was worrying if it would be  
19                  accepted for the record.

20                  CHAIRPERSON MOLDENHAUER: It will  
21                  be accepted for the record, based on the fact  
22                  that there was good cause shown that they

**NEAL R. GROSS**

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

1 would not be able to attend the hearing today.

2 It will, though -- we will only  
3 accept it as to the elements that are relevant  
4 to a 223 standard.

5 MR. RUEDA: Okay.

6 CHAIRPERSON MOLDENHAUER: There  
7 are issues that are in here, and you're  
8 probably aware of that, that are not  
9 specifically associated with how we review 223  
10 in regard to construction issues. We don't  
11 address those.

12 MR. RUEDA: That's right.

13 CHAIRPERSON MOLDENHAUER: So, you  
14 know, tailor your comments in this -- in  
15 regards to addressing this opposition only to  
16 those issues that are relevant before us.

17 MR. RUEDA: I will try.

18 CHAIRPERSON MOLDENHAUER: Thank  
19 you. That being said, I will turn it over to  
20 you to present your case.

21 MR. RUEDA: Thank you, Madam  
22 Chair.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1                   Basically, the application we  
2                   presented should stand on its own merit. We  
3                   are asking for relief under 223 for lot  
4                   occupancy. The lot, subject property is at  
5                   1778 T Street, N.W. It's located in R-5-B  
6                   zone, Square 152, Lot 62, and it comprises  
7                   part of a row of circa 1860 row houses that  
8                   sort of predate a lot of the modern building  
9                   code standards.

10                   The applicant wishes to modernize  
11                   the house, bring it up to sort of more modern  
12                   standards, as part of that, to get a little  
13                   more space to basically be property that will  
14                   increase the value of the property and also  
15                   the enjoyment of the -- of the owner.

16                   The addition contemplated will set  
17                   back an additional five feet to the existing  
18                   addition -- well, the portion that sticks out  
19                   beyond. We will be filling in what would have  
20                   been an open court, if there was another  
21                   property next to it, and raising the rear roof  
22                   line such that it will only extend -- it's an

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 actual 25-inch raising, but from the front you  
2 only -- it's only -- it's a net gain of one  
3 foot, basically.

4 I guess if there are any other  
5 questions on this -- you want me to address  
6 the letter specifically right now? I'm not  
7 sure.

8 CHAIRPERSON MOLDENHAUER: Yes. If  
9 you have specific responses to the letter. I  
10 think some of my main concerns were her  
11 reference to the harmony and the historic  
12 facades and detailing of some of the other  
13 homes.

14 If you can articulate, from an  
15 architectural standpoint, what comprises the  
16 nature and character of the other homes on the  
17 block, and then how your design is going to  
18 conform with that.

19 MR. RUEDA: Certainly. The house  
20 is going to be actually restored on the -- on  
21 the street side, on T Street, to have  
22 basically the same elements, you know, only

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 new -- new windows, replacement of any trim  
2 that may be deteriorated over time, basically  
3 restoring the facade.

4           The addition in the back is  
5 contemporary design, bent very much to  
6 separate itself as, you know, not being part  
7 of the original construction, sympathetic to  
8 the elements of the rear facades which have a  
9 lot of -- well, the facades themselves are  
10 simple, but the massing of the facades have  
11 some three-dimensionality, which we seek to  
12 maintain through our design.

13           To that end, we have a second-  
14 story little balcony within the front --  
15 within the facade of the rear addition. We do  
16 have a patio element between the existing  
17 garage and the house, and we have endeavored  
18 to create some green elements on the party  
19 wall that faces the parking lot at Royal Plaza  
20 Restaurant, but more to the idea that the  
21 property is visible from the corner of 18th  
22 and T Street.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1           As you proceed down T Street, the  
2 property, or the addition is visible due to,  
3 you know, trees and other elements of the  
4 house. You do have a small window from the  
5 corner that you can get a sense of the length  
6 of the property.

7           I guess that will be it.

8           CHAIRPERSON MOLDENHAUER: Let me  
9 open up the floor to any Board questions. I  
10 guess, one of my question is, looking at the  
11 plans, which is our Exhibit No. 10, your A0.0.  
12 It's hard to see because it's in black and  
13 white.

14           And then flipping to A3.0, you  
15 illustrate that you're actually going to  
16 replace and repair exterior trim, you know, to  
17 tie -- and by your drawing it looks as though  
18 you're going to be doing a very extensive  
19 facade improvement in regards to the detail.

20           But, I'm just trying to see -- is  
21 that -- are you going to do more than what  
22 currently exists on the building? I just

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 can't tell because it's a black-and-white  
2 image.

3 MR. RUEDA: The detailing is  
4 actually intact and so the idea would be to  
5 strip the paint to the extent, and if there is  
6 any sort of deterioration of the wood, the  
7 idea would be to replicate it.

8 If it looks like it's in pretty  
9 good shape, the flashings are all intact --  
10 you know, right now the paint is not fresh and  
11 at the base of the facade, because of the way  
12 that the property is all along this -- well,  
13 at least at this end of the row, are more  
14 sunken. They are actually below the street  
15 level.

16 So, there is some deterioration  
17 due to water that has been standing there  
18 which would be addressed, obviously, in any  
19 construction.

20 CHAIRPERSON MOLDENHAUER: So, it's  
21 more of a restoration of the existing facade  
22 and detailing, rather than a replacement?

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MR. RUEDA: Right.

2 CHAIRPERSON MOLDENHAUER: Is that  
3 an accurate statement?

4 MR. RUEDA: Correct. It's very  
5 much with the idea of preserving what's there.

6 CHAIRPERSON MOLDENHAUER: And I  
7 guess some of my other questions were, we have  
8 no ANC report in our file. What discussions  
9 have you had with the ANC and with other  
10 neighbors?

11 MR. RUEDA: We have presented the  
12 project, both to the Dupont Circle Conservancy  
13 and to the ANC. We have conceptual approval.  
14 We've worked with HPO staff since last year to  
15 come up with a project which -- I believe that  
16 their report should be part of the record. I  
17 thought I saw it.

18 So, we have -- we have been in  
19 discussions with the community. We do have  
20 conceptual support with the idea that we would  
21 present the project again before we received  
22 final approval for being an historic district.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1                   CHAIRPERSON MOLDENHAUER: So, what  
2                   -- do you know the dates of what meetings you  
3                   attended with the ANC?

4                   MR. RUEDA: We presented this for  
5                   historic review in January. I believe that we  
6                   met with the ANC in March.

7                   CHAIRPERSON MOLDENHAUER: And  
8                   their general consensus was supporting the  
9                   application?

10                  MR. RUEDA: We heard no  
11                  opposition. There were people that had  
12                  concerns about operations and things that had  
13                  nothing to do with this, but we, as a general  
14                  summary, felt that there was a lot of support  
15                  for the project. People were excited that the  
16                  house would be sort of re -- you know,  
17                  restored and sort of reinvigorated as a house  
18                  along that row.

19                  CHAIRPERSON MOLDENHAUER: Okay. I  
20                  have no additional questions of the applicant.  
21                  I'll open it up to any questions from any  
22                  other Board Members.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 COMMISSIONER TURNBULL: Thank you,  
2 Madam Chair.

3 Mr. Rueda, I've just got a  
4 question. The footprint shows two existing  
5 chimneys which don't look like they're on your  
6 property. It looks like you may share flues  
7 in that. I'm not sure.

8 MR. RUEDA: The chimneys are -- do  
9 cross the property line, and the adjoining lot  
10 is a parking lot.

11 COMMISSIONER TURNBULL: And so  
12 that's a construction issue. It's a building  
13 permit. I mean, I'm assuming you've got  
14 permission from the other owner to remove  
15 those other chimneys.

16 MR. RUEDA: It is the same owner,  
17 but --

18 COMMISSIONER TURNBULL: Same  
19 owner.

20 MR. RUEDA: It is the same owner.

21 COMMISSIONER TURNBULL: Same  
22 owner. Let me ask you: Your -- you know, in

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 looking at this, I can't tell, it looks like  
2 from the back of the property that the house  
3 adjacent to it on the other side -- you come  
4 out past the end of their building. I'm just  
5 worried about privacy. You really can't --  
6 can you look back into their -- into that  
7 window?

8 Your -- the plans don't really  
9 show the exact relationship, I don't think.

10 MR. RUEDA: I do have a color  
11 version of the addition that's in the packet  
12 that you have, if you'd like to pass it  
13 amongst yourselves or if it would provide more  
14 detail for you.

15 CHAIRPERSON MOLDENHAUER: Yes,  
16 please.

17 MR. RUEDA: Sure.

18 CHAIRPERSON MOLDENHAUER: I can  
19 provide it down to Ms. Bailey, and she'll --

20 MR. RUEDA: In response to your  
21 question, though, it's --

22 COMMISSIONER TURNBULL: It looks

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 like the other house is five feet back from  
2 the addition.

3 MR. RUEDA: Correct.

4 COMMISSIONER TURNBULL: Okay. I  
5 can see --

6 MR. RUEDA: So, as a matter of  
7 looking back, I don't -- I don't know how you  
8 would really do that.

9 COMMISSIONER TURNBULL: Okay.  
10 You're putting a deck on the ground floor?

11 MR. RUEDA: Yes.

12 COMMISSIONER TURNBULL: On level  
13 grade, I'm assuming, or --

14 MR. RUEDA: It's a patio. It's --  
15 I mean, you know, I'm saying, it's not  
16 elevated in any way.

17 COMMISSIONER TURNBULL: Okay.  
18 Just concerned, worried about drainage. Any  
19 water going to the neighboring properties?

20 MR. RUEDA: There -- I mean, we  
21 will handle any drainage issues, for sure.

22 COMMISSIONER TURNBULL: Okay.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MR. RUEDA: There is no -- it's  
2 fairly flat back there. In fact, I think  
3 things drain pretty much to our property.

4 COMMISSIONER TURNBULL: Yes. I  
5 just wanted to have it on the record. One of  
6 the issues we're always concerned about is the  
7 impact of -- of an addition or anything on the  
8 adjacent property, so we just want to make  
9 sure that from the standpoint of impact,  
10 light, air, water, those kinds of issues are  
11 addressed and are understood that none of  
12 those will be the one -- especially the water,  
13 anything draining back to another property.

14 MR. RUEDA: Well, that's -- sorry.

15 COMMISSIONER TURNBULL: Lights.  
16 Lighting directed down, not on the adjacent  
17 property.

18 MR. RUEDA: Right.

19 COMMISSIONER TURNBULL: Okay. I  
20 just -- just wanted to make that for the  
21 record, that we understand that the impact on  
22 the adjacent properties is minimal.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MR. RUEDA: One of the things that  
2 we are showing, and are -- have the intention  
3 of pursuing would be to have some green roof  
4 elements which, as you know, will, you know,  
5 reduce -- minimize the amount of water runoff,  
6 you know, and --

7 COMMISSIONER TURNBULL: Well, I  
8 see on the lower portion of the one roof at  
9 the back.

10 MR. RUEDA: Correct. And we're  
11 also contemplating doing that over the garage  
12 as well.

13 COMMISSIONER TURNBULL: Oh, okay.  
14 Okay. Have you talked at all to the owner,  
15 the other owner adjacent?

16 MR. RUEDA: And he is present  
17 today, yes.

18 COMMISSIONER TURNBULL: He is  
19 present today. Okay. And no issues?

20 CHAIRPERSON MOLDENHAUER: We'll  
21 have an opportunity for parties in support or  
22 in opposition.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 COMMISSIONER TURNBULL: Okay.

2 CHAIRPERSON MOLDENHAUER: And  
3 obviously, if he's present, we would encourage  
4 him to come forward and provide his testimony.

5 MR. RUEDA: I don't have any that  
6 have been expressed to me.

7 COMMISSIONER TURNBULL: Okay.  
8 Thank you.

9 CHAIRPERSON MOLDENHAUER: If  
10 there's no additional questions from Board  
11 Members, then at this time, we'll move forward  
12 and we'll turn to the Office of Planning for  
13 their report.

14 MS. THOMAS: Good morning, Madam  
15 Chair, Members of the Board. Karen Thomas  
16 with the Office of Planning.

17 The Office of Planning is  
18 recommending approval of the special exception  
19 relief. We don't see any issues related to  
20 light and air, nor privacy, and we would  
21 accept the proposal a submitted. Thank you.

22 CHAIRPERSON MOLDENHAUER: Thank

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 you very much, Ms. Thomas.

2 Does the applicant have any  
3 questions for the Office of Planning?

4 MR. RUEDA: No. Thank you very  
5 much.

6 CHAIRPERSON MOLDENHAUER: Do any  
7 Board Members have an specific questions of  
8 the Office of Planning?

9 (No response.)

10 CHAIRPERSON MOLDENHAUER: I think  
11 that there is none. Then, at this point in  
12 time we'll turn to letters of support from the  
13 ANC. Is the ANC present today? We've already  
14 indicated that we don't have a letter of  
15 support in our file, but the applicant has  
16 testified that they did go to a March meeting.

17 At this point in time we'll turn  
18 to any parties in support or in opposition.

19 I'm sorry. Yes? You need to turn

20 --

21 MR. RUEDA: Can I provide that to  
22 the -- as part of the open record when I

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 submit my authorization, because I'm sure I  
2 have records of that.

3 CHAIRPERSON MOLDENHAUER: Yes. If  
4 there's actually a record of the meeting. If  
5 -- they have to actually provide a letter of  
6 support which satisfies our requirements which  
7 would mean that they would have had a vote in  
8 support of it, it was a duly-noticed meeting,  
9 there was a quorum present, and then it was  
10 signed by the ANC, in general, not just the  
11 single member ANC.

12 So, if you want to try to obtain  
13 that we can leave the record open for that.  
14 However, there's a -- they will probably  
15 require a greater period of time. If you  
16 want, it would be great, though, if you could  
17 provide -- you just have an agenda, a copy of  
18 the agenda which shows that you did attend  
19 that meeting, that would also be helpful.

20 It won't receive great weight, but  
21 it would be something that we can leave the  
22 record open for.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MR. RUEDA: I also have a similar  
2 thing from Dupont Circle Conservancy.

3 CHAIRPERSON MOLDENHAUER: That  
4 would be great. I would appreciate that. We  
5 will leave the record open for both of those,  
6 then.

7 MR. RUEDA: I thought they were  
8 there. Sorry.

9 CHAIRPERSON MOLDENHAUER: Then, at  
10 this point in time, we'll turn to any  
11 individuals in support or in opposition. I  
12 believe that there's a gentleman. If you can  
13 come forward and turn on your microphone and  
14 state your name and address for the record.

15 MR. TYCZ: Good morning. I am  
16 Thomas Tycz, T-y-c-z. I live at 6521 Valley  
17 Court in Falls Church, Virginia. I am the  
18 owner of the property at 1776 T Street.

19 And generally, I'm in favor of  
20 this project. The building next to me has  
21 been vacant for some time, and it has been --  
22 needed restoration for many years. I've owned

**NEAL R. GROSS**

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

1 the property for over -- what's 1978. -- over  
2 30 years.

3 The only concern I really have is  
4 with respect to the roof line and the chimney.  
5 We share a chimney in the back. I just want  
6 to make sure that the property is well-built  
7 so that I don't get any leakage issues or  
8 things of that nature.

9 But I don't know if that's an  
10 issue for the zoning or if it's for a building  
11 permit. So -- but, in general, I think the  
12 property acts as a buffer between my property  
13 and the restaurant that Mr. Sanchez owns, and  
14 would provide an additional improvement to the  
15 overall area of the community. So, that's  
16 kind of where I'm coming from.

17 In terms of air and light, I --  
18 I'm not sure I understand the standard to --  
19 I don't feel qualified to say anything about  
20 the air and light issues that you apparently  
21 address. That's kind of my statement for this  
22 morning. Thank you.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 CHAIRPERSON MOLDENHAUER: Thank  
2 you very much.

3 Do any Board Members have any  
4 questions?

5 (No response.)

6 CHAIRPERSON MOLDENHAUER: Seeing  
7 none, thank you very much for coming down and  
8 testifying today.

9 Are there any other individuals in  
10 the audience in support or in opposition for  
11 this case?

12 (No response.)

13 CHAIRPERSON MOLDENHAUER: Seeing  
14 none, then, at this time, we will turn back to  
15 the applicant for any closing remarks.

16 MR. RUEDA: Thank you, Madam  
17 Chair.

18 The only closing remarks I would  
19 offer is that we hope you see to accepting the  
20 application as it stands. Obviously, we have  
21 support. The letter that we received --  
22 really, any issue that relates to the 223, I

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 think, is addressed in our application, and  
2 also with the Office of Planning's report.

3 CHAIRPERSON MOLDENHAUER: Thank  
4 you very much. Then, at this point in time  
5 we're going to close the hearing, and what I  
6 will do is, I will leave the record open for  
7 the following documents: One, for a revised  
8 letter of authorization; two, for any letters  
9 from or showing that you attended an ANC  
10 meeting; and then, three, any documentation  
11 from the Dupont Circle --

12 MR. RUEDA: Conservancy.

13 CHAIRPERSON MOLDENHAUER: --  
14 Conservancy. Thank you.

15 And so that being it, what do you  
16 think your time frame to obtain that -- those  
17 documents and get that into our office?

18 MR. RUEDA: I can try to get it to  
19 you by tomorrow, if not by end of business  
20 today.

21 CHAIRPERSON MOLDENHAUER: Okay.  
22 Well, why don't we leave the record open,

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 then, until, let's say, Thursday, the 16th.

2 And, Mr. Moy, do we have room to  
3 put this on the calendar for decision on the  
4 21st?

5 MR. MOY: Yes. We can make room  
6 for that, Madam Chair.

7 CHAIRPERSON MOLDENHAUER: Okay.  
8 So then, this will be set for decision on the  
9 21st, and we will be waiting to receive those  
10 documents no later than the 16th.

11 MR. RUEDA: Any specific time?  
12 Just any day -- okay. Thanks.

13 CHAIRPERSON MOLDENHAUER: At any  
14 time prior to the 16th. Obviously, if you  
15 provide it earlier, always the better. Thank  
16 you very much.

17 What we're going to do is, I think  
18 the next case is -- is Storz, but what we're  
19 going to do before we call that Ward is to  
20 take a five-minute break, so we'll reconvene  
21 at eleven o'clock. Or, a four-minute break  
22 and reconvene at eleven o'clock.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 (Whereupon, the foregoing matter  
2 went off the record at 10:59 a.m. and went  
3 back on the record at 11:07 a.m.)

4 CHAIRPERSON MOLDENHAUER: We're  
5 going to go ahead and get back and get started  
6 here. I think the -- if we can call the next  
7 case for the morning public hearing.

8 JOHN P. STORZ

9 APPLICATION NO. 18094, ANC-2F

10 MS. BAILEY: Madam Chair, the next  
11 case is Application 18098 of John Storz, and  
12 it's pursuant to 11 DCMR, Section 3104.1 for  
13 a special exception to allow a rear addition  
14 to an existing one-family row dwelling under  
15 Section 223, not meeting the lot occupancy  
16 requirements of Section 403, rear yard  
17 requirements, Section 44 and court  
18 requirements, Section 406. The property is  
19 zoned R-4. It's located at 914 P Street,  
20 N.W., Square 366, Lot 814.

21 CHAIRPERSON MOLDENHAUER: Thank  
22 you. Will the applicant please step forward

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 to the table and introduce themselves with  
2 their name and home address.

3 MR. KEYS: David Keys, 14000  
4 Westbrook Place, Chantilly, Virginia 20151.  
5 I'm here working with the homeowner,  
6 representing him.

7 MR. STORZ: Yes. And I'm John  
8 Storz, reside at 914 P Street, N.W.,  
9 Washington, D.C. 20001.

10 CHAIRPERSON MOLDENHAUER: Thank  
11 you both very much.

12 Before we get started with your  
13 statement of the application, I want to talk  
14 to you about the -- what you're requesting and  
15 exactly what the standards are.

16 I'm assuming you've gotten a copy  
17 of the Office of Planning report. If you can  
18 actually acknowledge on the record.

19 MR. KEYS: Yes, we did.

20 CHAIRPERSON MOLDENHAUER: Okay.  
21 So, you see that, even though this was a ZA  
22 referral and that he recommended a 223 relief,

**NEAL R. GROSS**

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

1 because of the percentage of relief that  
2 you're seeking, you're seeking over 70  
3 percent. You're seeking 71.3 percent of lot  
4 occupancy, anything over 70 percent would  
5 actually be considered a variance, not a  
6 special exception.

7           So, because of that, we really  
8 have -- have two potential courses of action  
9 that we can go down. One, you can determine  
10 that you maybe want to modify the plans and  
11 reduce the plans in some way so that it would  
12 still qualify, if possible, under 223,  
13 reducing it to a 70 percent lot occupancy.

14           Or, you can -- we can move forward  
15 and you can then have to actually renotice the  
16 application under a variance standard because,  
17 when these applications are notified and you  
18 post a notification, if it's a special  
19 exception, a special exception is a lower  
20 standard versus a variance, and we need to  
21 notify the public that this is actually a  
22 project that requires greater relief.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1                   And so, you would then need to  
2                   renotify the project under a variance standard  
3                   and then we can reschedule another hearing and  
4                   you'd have to go through and maybe provide us  
5                   another statement of the applicant where you  
6                   try to articulate the different standards of  
7                   a variance and show us how potentially your  
8                   project is exceptional or unique and then how  
9                   that will create undue hardship for you to  
10                  just have it for the variance standards.

11                  Based on that, one, do you have  
12                  any questions? And then, two, have you had  
13                  this discussion already with all this  
14                  planning, and do you know how you'd like to  
15                  proceed?

16                  MR. KEYS: Yes. We have actually  
17                  spoken with Steve Mordfin in depth about this  
18                  situation, and it's actually -- it was a  
19                  little confusing because the certification  
20                  letter that we received from the Office of  
21                  Planning stated that -- and they had the same  
22                  information we had stated, that it was below

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 the exception level.

2 So, when -- because we were kind  
3 of caught off-guard with this, and so the  
4 actual survey, the certified survey, that  
5 letter and Mr. Mordfin's numbers all were  
6 coming up different. And so, it kind of  
7 seemed a little confusing there.

8 But I believe we would like to  
9 proceed with the addition as proposed. I  
10 think the hardships don't really change  
11 whether it's 70 percent or 71.3, just due to  
12 what we're -- the property we're dealing with.

13 CHAIRPERSON MOLDENHAUER: That's  
14 fine. If you potentially want to challenge  
15 the numbers and indicate that you're -- I'm  
16 not sure. I realize that there is a  
17 distinction in the numbers but, you know, that  
18 I think would need some additional -- we'd  
19 need additional documentation and  
20 supplementing the record in that regard.

21 If you do -- you do want to go  
22 forward, as I said, and maintain the

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 application as it is, based on what I see,  
2 that would mean that it would be a variance  
3 application, and you'd have to renotice the  
4 project.

5 And are you okay with that?

6 MR. STORZ: If that's what it  
7 requires, yes.

8 CHAIRPERSON MOLDENHAUER: Okay.  
9 And then, what you would need to do is provide  
10 us with a statement of facts. And obviously  
11 you have Office of Planning, Mr. Mordfin's  
12 statement indicating, in his report, which is  
13 our Exhibit No. 23, that they are currently  
14 not -- not recommending approval, based on  
15 that, that they don't find the property to be  
16 exceptional or unique.

17 So, you would need to address  
18 those issues, and we would provide you time to  
19 supplement the record in that regard.

20 MR. KEYS: Okay. That sounds  
21 good.

22 CHAIRPERSON MOLDENHAUER: Okay.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Then, Mr. Moy, can we look at the calendar --  
2 yes. Mr. Moy, while you're looking at the  
3 calendar to see what the time frame would be  
4 for notification and rescheduling the hearing,  
5 one of the Board Members has a question.

6 VICE CHAIR SORG: Thank you, Madam  
7 Chair.

8 I just wanted to ask two questions  
9 for clarification. Have you since, in your  
10 discussions with the Office of Planning or  
11 anyone else, figured out what your number is  
12 at? Is there any clarity on that?

13 MR. KEYS: I believe the numbers  
14 are very close in line with what he came up  
15 with.

16 VICE CHAIR SORG: Okay.

17 MR. KEYS: So, you know, we're not  
18 opposing the number.

19 VICE CHAIR SORG: Okay.

20 MR. KEYS: It would just -- you  
21 know, at the time when we got the information  
22 everything was processed through, so we

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1       figured we'd, you know, meet with you guys and  
2       find out where to go from here.

3                   VICE CHAIR SORG:   And -- okay.  
4       That's good.  Also, so you -- have you also  
5       had discussions about the difference in the  
6       standards between a special exception and a  
7       variance?

8                   MR. KEYS:   I'm aware of those,  
9       yes.

10                  VICE CHAIR SORG:   Okay.  All  
11       right.

12                  COMMISSIONER TURNBULL:  I just had  
13       one question.  You had said that you thought  
14       you were under 70 percent?

15                  MR. STORZ:   Yes.  Initially we  
16       were given the indication that it was, you  
17       know, below 70 -- 70 percent or below.

18                  COMMISSIONER TURNBULL:  Right.

19                  MR. STORZ:   And that it would  
20       therefore be a special exception as opposed to  
21       a variance.

22                  COMMISSIONER TURNBULL:  Right.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MR. STORZ: Which is why we filed  
2 everything as a special exception. Subsequent  
3 to that we were told that it's just over 70  
4 percent, now requiring a variance. So, it's  
5 all been changed.

6 CHAIRPERSON MOLDENHAUER: And just  
7 for the record, and you agree -- I think I  
8 just heard your architect, Mr. Keys, indicate  
9 that you agree predominantly with the  
10 calculations that Mr. Mordfin came across, so  
11 you agree that it is over 70 percent?

12 MR. KEYS: I do agree. We  
13 couldn't really -- Steve and I could not quite  
14 figure out where these numbers were arrived  
15 from. This is the paperwork from the -- you  
16 know, the original survey --

17 CHAIRPERSON MOLDENHAUER: From the  
18 ZA, yes.

19 MR. KEYS: So, we really couldn't  
20 figure out what that was based on and just --  
21 it's pretty straightforward, so I think we're  
22 in agreement on that at this point.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 CHAIRPERSON MOLDENHAUER: Okay.

2 So you are in agreement that it's over 70  
3 percent?

4 MR. KEYS: Yes.

5 CHAIRPERSON MOLDENHAUER: Okay. I  
6 wanted to make sure that we're all on the same  
7 page. I appreciate that.

8 When -- we're going to schedule a  
9 new date. Are there any persons or  
10 individuals that want to be a party to this  
11 application? Can you come forward and  
12 introduce yourselves so we know who would be  
13 attending the next hearing, a subsequent  
14 hearing, and we can confirm that any dates  
15 would be acceptable to all parties. If you  
16 could introduce yourself for the record.

17 MR. FIES: Good morning. My name  
18 is Mark Fies. I live at 1533 Churchill Place  
19 in Reston, Virginia. I manage the day-to-day  
20 operations of the design firm that provided  
21 the plans.

22 May I address what your question

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 was earlier, Mr. Turnbull?

2 When we originally did the  
3 calculations and submitted for variance, our  
4 calculations were at 66.7 percent. When we  
5 received the letter from the Office of Zoning  
6 Administration on February 3rd, their  
7 calculations were 68.6 percent.

8 And therein lies the confusion,  
9 when we actually got to the eleventh hour  
10 before this hearing, then it was a  
11 disagreement on whether it was going to be  
12 over 70 percent or not.

13 And Mr. Keys is helping  
14 representing the homeowner to do some  
15 background research so that we could provide  
16 whatever the hearing was going to require as  
17 far as additional information, however, I'm  
18 not clear on the discrepancy between the  
19 numbers that Stephen had compiled and what the  
20 -- we originally received as written  
21 documentation from the city.

22 CHAIRPERSON MOLDENHAUER: Okay.

**NEAL R. GROSS**

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

1 So, you're indicating that initially you  
2 submitted paperwork to the ZA with your plans  
3 showing that it was going to be a lot  
4 occupancy of 66.7 percent. The ZA came back  
5 and indicated that they were going to have it  
6 at a 68.6 percent?

7 MR. FIES: Yes, ma'am, and I have  
8 a copy of that if it helps.

9 CHAIRPERSON MOLDENHAUER: And now  
10 obviously Mr. Mordfin calculated them at over  
11 70 percent, so I think the 71.3 percent.

12 COMMISSIONER TURNBULL: It sounds  
13 like the ZA and you are close.

14 MR. FIES: Yes. Yes, sir.

15 CHAIRPERSON MOLDENHAUER: Why  
16 don't we do this? I don't think that we're  
17 going to be able to determine -- this is  
18 really a technical issue where, you know, your  
19 architect, your design staff -- and I'm happy  
20 that you've stepped forward. I appreciate  
21 that.

22 You need to sit down with the

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 numbers, look at that, work with Mr. Mordfin,  
2 work with the Office of Zoning staff and what  
3 we're going to do, then, is actually -- I'm  
4 going to do a to-be-determined date in the  
5 future. I'm not going to actually set a date  
6 right now.

7           What we'll do is we'll work with  
8 the staff and once we have a clarification of  
9 what the relief is, what we'll do is -- I'm  
10 going to give you -- do you think two weeks  
11 will be sufficient to come together with the  
12 numbers?

13           MR. FIES: That works for us.

14           CHAIRPERSON MOLDENHAUER: That  
15 works for you. Mr. Mordfin, do you think that  
16 would be sufficient?

17           MR. MORDFIN: Yes.

18           CHAIRPERSON MOLDENHAUER: Okay.  
19 So, in two weeks what we're going to do is,  
20 once you've confirmed the numbers and we know  
21 whether we're under 70 percent or over 70  
22 percent, we'll then identify a date for a

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 future hearing at that time.

2 That way, we're not providing a  
3 notification date from today, and it's going  
4 to take time to make sure that whatever  
5 notification is given is actually the accurate  
6 and correct notification.

7 So, Mr. Moy, then what we'll do  
8 is, on September 28th, we'll put a little note  
9 on our calendar that at that point in time  
10 we'll -- and you guys can look at the webcast,  
11 you know, log onto the webcast and then at  
12 that date we'll identify when the formal  
13 hearing will be for this case.

14 And we'd ask that you guys provide  
15 additional supplemental information to the  
16 Office of Zoning and the staff to let them  
17 know what type of notification is going to be  
18 submitted for this case.

19 Does everybody understand the  
20 course of action we're taking from here on  
21 out?

22 MR. FIES: But the actual number

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 is -- just so I'm clear. I'm sorry. The  
2 actual numbers would have to come from  
3 Stephen, correct?

4 CHAIRPERSON MOLDENHAUER: They  
5 would have to come from the applicant.  
6 Obviously, however, Mr. Storz, however you  
7 work that, either with your design staff, with  
8 Mr. Keys. They don't have to come from  
9 Stephen.

10 What you need to do is, you need  
11 to work with the Office of Planning, review  
12 their analysis, make sure that you confirm  
13 their analysis and that you, as the applicant,  
14 are submitting figures that are  
15 correct.

16 But I think that it is going to be  
17 a need to work with Office of Planning in  
18 detail to make sure -- because lots of times  
19 there are very nuance factors as to what is  
20 considered part of a lot occupancy, what is  
21 not considered part of lot occupancy, and  
22 sometimes that's what's overlooked.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1                   And so, I would just say, make  
2                   sure to work with Mr. Mordfin to make sure  
3                   that the numbers are accurate.

4                   Is there anything else you'd like  
5                   to add?

6                   MR. STORZ: No. I don't think --

7                   CHAIRPERSON MOLDENHAUER: Okay.  
8                   Well, with that being said, then I think we  
9                   have -- we'll put this on the calendar for --  
10                  if you can get us -- let me just look at this  
11                  calendar.

12                  If you can provide us with  
13                  documentation by the 24th, if the applicant  
14                  can provide us documentation by the 24th,  
15                  letting us know what the final calculations  
16                  are and whether they are going to be seeking  
17                  either a special exception or a variance, and  
18                  then on the 28th we will identify a new date.

19                  If it's going to be, obviously,  
20                  changing the application to a variance, there  
21                  will be a new date for that hearing and that  
22                  will then provide you -- the office, the

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 staff will provide you with the time frame  
2 you'll need in order to submit additional  
3 supplemental documentation and provide posting  
4 to the community. Okay? Thank you very much.

5 COMMISSIONER TURNBULL: If you're  
6 under 70, this makes it very easy for us.

7 CHAIRPERSON MOLDENHAUER: Okay.  
8 Easier, I guess.

9 Okay. If we can call the next  
10 case, please.

11 ROBERT GERBER

12 APPLICATION NO. 18097, ANC-2F

13 MS. BAILEY: Madam Chair, the next  
14 case is the application of Robert Gerber, and  
15 it's Applicant No. 18097, and it's pursuant to  
16 11 DCMR, Section 3103.2 for a variance from  
17 the lot occupancy requirements under Section  
18 403, a variance from the rear yard  
19 requirements under Section 404, a variance  
20 from the court requirements under Section 406,  
21 and a variance from the nonconforming  
22 structure provisions under Subsection 2001.3,

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 to allow a rear addition to a row dwelling in  
2 the R-4 District. The property is located at  
3 916 P Street, N.W., Square 366, Lot 813.

4 CHAIRPERSON MOLDENHAUER: If the  
5 applicant can please step forward to the table  
6 and introduce themselves.

7 MR. KEYS: I'm David Keys. I'm at  
8 14000 Westbrook Place, Chantilly, Virginia  
9 20151.

10 MR. GERBER: Robert Gerber 916 P  
11 Street, N.W., Washington.

12 CHAIRPERSON MOLDENHAUER: Okay.  
13 Mr. Keys, and this is an application that is  
14 for -- it's a variance application and we have  
15 the adequate notice. If you'd like to present  
16 your case.

17 MR. KEYS: Thank you very much.  
18 It's a pretty straightforward project. We're  
19 looking to modernize the home and make it more  
20 appealing to a single family with, you know,  
21 a larger kitchen and eat-in space and with a  
22 home office to, you know, work with the modern

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 day -- a lot of people, commuting -- working  
2 at home, reducing traffic.

3 And it is on the rear of the  
4 house, which is not seen from the front, so  
5 it's kind of keeping the facade and everything  
6 looking original. And, other than that, the  
7 application covers everything.

8 CHAIRPERSON MOLDENHAUER: Okay.  
9 If you -- I mean, you've reviewed the Office  
10 of Planning's report?

11 MR. KEYS: Yes, I have.

12 CHAIRPERSON MOLDENHAUER: If you  
13 can actually touch upon that, and their, I  
14 guess, counter-analysis indicating that they  
15 don't believe that this application satisfies  
16 the first prong of exceptional circumstances,  
17 you can touch on that.

18 MR. KEYS: Yes, ma'am. In  
19 discussions with Stephen on this, we have  
20 talked about that, and I guess where my  
21 confusion comes in is that it -- the code  
22 doesn't say anything about having to be

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 unique, compared to the neighbors, the city or  
2 anything.

3 It just says if there's exceptions  
4 which, in this case, their lot is clearly much  
5 smaller than the minimum-sized lot required  
6 today. So, if the lot was actually the  
7 minimum size, they would actually be under the  
8 requirements for most of these codes.

9 So, I'm not sure where the  
10 uniqueness comes into play.

11 CHAIRPERSON MOLDENHAUER: Well,  
12 I'm just going to just kind of provide you --  
13 we have a lot of these cases, and one of the  
14 things that -- and obviously, I'm a single  
15 Board Member. We have a group of Board  
16 Members. But, just to try to provide you with  
17 some perspective on this.

18 I personally do not believe that  
19 if the property was built prior to the zoning  
20 regs that that actually, in and of itself,  
21 provides an exceptional circumstance or  
22 unique aspect of the property in order to

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 satisfy this prong.

2 Typically what we look for is we  
3 look for if a lot is so narrow that it would  
4 not allow -- it would create such a hardship  
5 that it would not allow a reasonable building  
6 to be built.

7 Earlier today we talked about a  
8 lot that was so narrow that if you actually  
9 applied the standards today you would have a  
10 nine-foot-wide house, which obviously doesn't  
11 provide for a staircase. I mean, it really  
12 creates a very -- a very clear issue of  
13 hardship.

14 We've had other lots which are  
15 potentially, you know, trapezoidal shape, or  
16 maybe even a triangular shape. So, in order  
17 to provide side yards and to provide a basic  
18 sized home creates challenges in regards to  
19 satisfying the standards of side yards or rear  
20 yards or setbacks in the front, based on the  
21 style of the home and the actual size of the  
22 lot.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1                   We have other cases in which  
2 topography becomes -- satisfies that  
3 exceptional circumstance where, because of  
4 grading issues it becomes so difficult to  
5 potentially grade a home or potentially to  
6 excavate an area to a degree where you could  
7 not then use that portion of the lot, and then  
8 that would be something that we would consider  
9 potentially.

10                   Those are just some examples of  
11 things which we look at in regards to  
12 satisfying that first prong. Those would be  
13 the types of illustrations -- and typically,  
14 we have had a lot of other cases in which we  
15 do compare -- and this is a debate back and  
16 forth at times between Board Members, Office  
17 of Planning, applicants, what do you compare  
18 it with in regards to exceptional  
19 circumstances.

20                   Is it the square, is it the  
21 community, is it the one block, if the square  
22 is larger than one block. Those are things we

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 look to the applicant to present an argument  
2 for indicating that whether maybe if the  
3 Office of Planning looks at the square, maybe  
4 the applicant will look at a larger  
5 demographic to indicate that this is smaller  
6 than the surrounding community.

7 Those are things that the  
8 applicant will articulate for us in order for  
9 them to make their case regarding satisfying  
10 that first prong.

11 MR. KEYS: And I appreciate what  
12 you're saying, and I do -- and the code speaks  
13 to all those items you mentioned. One you  
14 left out was the shallowness, as far as  
15 exceptional circumstances, because I think, to  
16 me, the code -- and that's all I have to go  
17 with, is pretty straightforward.

18 It doesn't say anything about the  
19 uniqueness which seems kind of subjective to  
20 me which, you know, what is it unique to, is  
21 it the property next door, you know, those are  
22 the things that I'm -- I guess where I'm

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 confused is, based on the code for the  
2 variances and even on the application it  
3 clearly says, you know because of, you know,  
4 narrowness or shallowness, and then all the  
5 other items you mentioned.

6 I guess that's where I'm still  
7 just kind of not quite, you know,  
8 understanding where this uniqueness comes.  
9 And what Mr. Mordfin had mentioned to me was  
10 that was an interpretation that they were told  
11 to follow from some other department or  
12 something. I'm not sure.

13 CHAIRPERSON MOLDENHAUER: I think  
14 the term "exceptional circumstance" is the  
15 same in some -- in some regards. If that's  
16 the term, you know, whether it's an  
17 exceptional circumstance.

18 And, you know, "exceptional" has  
19 to be usually compared to other things. If  
20 it's exceptional, exceptional to what. You  
21 know, to the surrounding community, to the  
22 lot, the block, things to that effect.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1                   So, I just want to make sure,  
2                   based on that discussion, the back-and-forth,  
3                   you're confirming that, I guess, you're  
4                   presenting a case that this project is  
5                   exceptional based on its narrowness?

6                   MR. KEYS: Actually, its  
7                   narrowness is minimal. It's about -- I  
8                   believe it's a half a foot narrow, but it's  
9                   the depth of it that is the bigger problem.

10                  CHAIRPERSON MOLDENHAUER: Depth.

11                  MR. KEYS: Which that, based on  
12                  the look of it, then you just -- then after  
13                  that it's just the area. There's no specific  
14                  depth required. It's the amount of area for  
15                  the lot, which is 1800 square feet and we're  
16                  at 1435.

17                  COMMISSIONER TURNBULL: Mr. Keys,  
18                  and what's the square footage of your whole  
19                  property? I mean, of the building and  
20                  everything that you're putting on it?

21                  I mean, I'm looking at Exhibit No.  
22                  3, dated April 7th, 2010, and you say that

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 it's -- and maybe you've changed it since  
2 then, but it's building an addition on the  
3 porch is 1,007.

4 MR. KEYS: And I was -- again, I  
5 was basing it on the information that I have  
6 which is -- you guys have a copy of that -- is  
7 the certified plat plan that has the area and  
8 everything on there. So, I was just basing it  
9 on their numbers there.

10 So -- and what was your question  
11 again?

12 COMMISSIONER TURNBULL: Well, I  
13 guess what I'm trying to get at is similar to  
14 the other case just before this. You said --  
15 I mean, according to this letter you say it's  
16 70 percent.

17 And I think Mr. Mordfin would  
18 agree that if you're -- 70 percent is the  
19 magic number. That's the silver bullet.

20 MR. KEYS: Right.

21 COMMISSIONER TURNBULL: If you get  
22 this to 70 percent you can come in as a

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 special exception, and I think Mr. Mordfin  
2 would agree that is the easier route to follow  
3 based upon this particular circumstance.

4 So, I guess it's questioning how  
5 you developed your numbers and looking at how  
6 Mr. Mordfin developed it, and trying to get a  
7 meeting of the minds here on really what it  
8 is, and what would have to be done to massage  
9 this to -- to make it -- I mean, in one way,  
10 I think Mr. Mordfin's got it down at 71.2.

11 If -- with your number at 1007, or  
12 the number that was on that certified survey,  
13 whatever, that's -- yes, that that would put  
14 it at .7017, which would, in all intents and  
15 purposes be at 70 percent.

16 So, I'm -- I guess there is a way  
17 in how you add these numbers up that you get  
18 to this percentage. So, it might be something  
19 to look at.

20 MR. KEYS: Thank you very much.  
21 And actually, me and Stephen also, we went  
22 over this quite a bit and, you know,

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 originally the numbers that I was basing it on  
2 was what I had on the plat plan.

3 COMMISSIONER TURNBULL: Right.

4 MR. KEYS: But then the city came  
5 back with their numbers which were different,  
6 which I wasn't considering this at the time.  
7 I wasn't sure that that -- I didn't realize  
8 this was an official document when I had it.

9 But, so I figured this was the  
10 official document, the plat plan, but talking  
11 with Mr. Mordfin, we kind of did the math  
12 together and I kind of agreed with what he had  
13 come up with.

14 COMMISSIONER TURNBULL: Well, I  
15 guess one option was to perhaps look at your  
16 plan and see if there's a way to --

17 MR. KEYS: And there was  
18 discussions of reducing the size of it but --

19 COMMISSIONER TURNBULL: Right.

20 MR. KEYS: -- in talking with the  
21 homeowner, it really -- it's -- you know, he's  
22 kind of got it designed to really work with,

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 you know, the layout he was looking for to  
2 accommodate his, you know, his -- what he'd  
3 like to do.

4 But -- so, he'd like to pursue the  
5 variance and --

6 COMMISSIONER TURNBULL: Well, and  
7 I think, as the Chair was pointing out, the  
8 variance test is a lot more difficult to meet  
9 and get accepted than the special exception.

10 You really had -- I mean, the  
11 variance tends to -- it's a hard test.

12 CHAIRPERSON MOLDENHAUER: It's a  
13 very hard test, and I think Mr. Turnbull is  
14 right. One thing, just to make sure that  
15 everyone's aware of different things, we're  
16 trying to educate the public.

17 If we do go forward on this case,  
18 and I don't know what we're going to decide  
19 yet, but obviously, you know, we know the  
20 standards. We see a lot of these cases, and  
21 we decide to either deny the case, then you  
22 can't reapply for a year.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1                   If you withdraw and potentially  
2 determine to reevaluate your plans, you can  
3 then reapply in 90 days. So, it's just  
4 something -- one of the facts to consider.

5                   Something else just I want to  
6 point out to you and ask you a question on how  
7 you consider the property exceptionally --  
8 having exceptional depth or lack of depth in  
9 the property.

10                   I'm looking at Exhibit No. 6 and  
11 I'm just going to kind of show you. It's this  
12 document. And I'm looking at all of the lots  
13 on this square look to be -- you've got one,  
14 two, three, four, five, six other properties  
15 within this subdivision, it appears from  
16 probably years back off of P Street to be the  
17 exact same.

18                   I mean, these are rectangular lots  
19 that are identical to each other. So, my  
20 question to you would be how -- how does that  
21 satisfy, or how can you differentiate this lot  
22 from those to argue that it's exceptional.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1                   MR. KEYS: I guess it kind of  
2 comes back to I really can't -- you know, it's  
3 pretty obvious that they are the same size  
4 lot, so I can't say this -- these lots are  
5 unique to the other ones, because they are  
6 pretty much identical homes, identical size  
7 lots.

8                   And that is kind of where it was  
9 coming in with, you know, I guess, again, the  
10 uniqueness of this wasn't getting that from  
11 the code as far as having to compare, you  
12 know, my clients' lot with the neighbors or,  
13 you know, I just wasn't kind of --

14                  CHAIRPERSON MOLDENHAUER: You can  
15 look at old cases if you want, and you can  
16 look at, you know, Court of Appeals decisions  
17 that have either reviewed or assessed, you  
18 know, the determination of the Board.

19                  And so, we look at the code, but  
20 also we look at past precedent and past  
21 decisions, and it's a standard analysis that  
22 Boards have reviewed in regards to trying to

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 evaluate the exceptional circumstance of the  
2 property for the first prong of a variance  
3 test.

4 MR. KEYS: And then I actually  
5 have done some research and pulled up some of  
6 the old files, and this is all in discussion  
7 with Stephen and I even pulled up one recent  
8 one of his that had two identical properties  
9 next door to each other that were -- you know,  
10 I guess in this case it doesn't make either  
11 one of the lots unique because the one next to  
12 it is exactly the same.

13 So, you know, I guess to me that's  
14 going to set a precedent there, but I guess --  
15 you know, again, I'm not going to try to be  
16 argumentative or anything, I've just tried --  
17 you know, just based on what I've read in the  
18 code and everything, I just -- it seemed to me  
19 that because of the, you know, the small lot  
20 that they do have, that does propose a  
21 hardship that, you know, would fall under the  
22 guidelines.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1                   CHAIRPERSON MOLDENHAUER: I think  
2 we have one more Board question, and then we  
3 can -- we'll move on to the Office of  
4 Planning.

5                   VICE CHAIR SORG: Just also in the  
6 interested of helping to make sure that you  
7 are as knowledgeable as possible about this  
8 process, I think your last statement is  
9 important, and you want to, you know, go back  
10 to your research and see what you've seen, you  
11 know, with regard to the neighboring lots and  
12 how you are even -- how it's sounding to me  
13 like you're describing.

14                   You're using words like  
15 "identical" and things like that. And also  
16 the other thing that I was going to say I no  
17 longer can remember.

18                   CHAIRPERSON MOLDENHAUER: That's  
19 fine.

20                   Does the applicant have any other  
21 remarks they'd like to make at this time?

22                   MR. KEYS: Could you please give

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 us one second, and then we'll find out how we  
2 want to go from here?

3 CHAIRPERSON MOLDENHAUER: Not a  
4 problem.

5 (Off the record comments.)

6 MR. KEYS: What I was discussing  
7 with the homeowner, one of the things that he  
8 brought up is the fact that the surrounding  
9 homes do have lots that are in excess of the  
10 70 percent currently, with different  
11 structures --

12 CHAIRPERSON MOLDENHAUER: I'm  
13 going to jump in right here. Yes. It's -- we  
14 don't compare other projects. It's not  
15 something that we consider. We have to  
16 consider each property individually, and  
17 whether or not another project -- property  
18 right next door to you has something, we don't  
19 know whether that was done legally or  
20 illegally, and we can't use that as an  
21 example, or as something to support a case.

22 You could potentially use it to do

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 your own research to determine maybe how or,  
2 you know, if they did obtain it, you know,  
3 what their arguments were, but it's not  
4 something that we can specifically use, and we  
5 do not look to, "Well, my neighbor has it, why  
6 can't I have it?" That's just not an argument  
7 that we'll accept.

8 MR. KEYS: I appreciate that, and  
9 I believe these homes probably were -- these  
10 additions and things were put on prior to the  
11 code also, and I guess -- and again, I'm not  
12 wanting to be argumentative at all, but you  
13 just said, you know, we don't consider my  
14 neighbors but then in the previous section you  
15 all were comparing it to the lots next door.  
16 So, it almost seems like a double standard.

17 Whereas right -- if you understand  
18 what I'm saying, but --

19 CHAIRPERSON MOLDENHAUER: Yes. We  
20 consider the exceptional circumstance in  
21 comparison to other properties within the  
22 surrounding area. However, we do not look at,

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 well, this project has a back, you know,  
2 garage, so I want a back garage. That's -- it  
3 is a completely separate issue.

4 One is, in regard to satisfying  
5 the standard, we have to analyze one property  
6 in comparison to the others in the community,  
7 the same way we compare facades, does this  
8 facade -- does the addition -- is it in  
9 harmony with the local community. Is an  
10 addition in harmony with that community.

11 Those are the things we look at.  
12 Is this exceptional in this community, in this  
13 area, in this lot, in this square. That's the  
14 analysis that we do based on our standard.

15 COMMISSIONER TURNBULL: Just  
16 complementing you on -- but, you know, go a  
17 little bit further. Some of those items may  
18 not have been done illegally. They may have  
19 been done before the zoning regs were in  
20 effect. Like 1958 or --

21 CHAIRPERSON MOLDENHAUER: Yes.  
22 1958.

**NEAL R. GROSS**

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

1                   COMMISSIONER TURNBULL: 1958. So,  
2                   some of the -- I mean, some of those people  
3                   coming before us today would not be able to  
4                   have been -- to go ahead and get those, what  
5                   they had before 1958.

6                   So, that's the other thing we're  
7                   dealing with. And I know that sometimes it  
8                   seems unfair, but some things -- a lot of  
9                   things have gotten done which, you know, in  
10                  hindsight you'd look at and say, gee, that's -  
11                  - that is unfair. It's -- but, that's the way  
12                  the zoning regs are written.

13                 MR. KEYS: I appreciate that. I  
14                 think I did state earlier that I do believe  
15                 some of these homes were -- additions were  
16                 done prior to the code, so I understand  
17                 exactly what you're saying.

18                 CHAIRPERSON MOLDENHAUER: That  
19                 being said, does the Applicant have any other  
20                 remarks before we turn to the Office of  
21                 Planning?

22                 MR. GERBER: Yes. I just wanted

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 to run something by you, as another angle. If  
2 part of the proposed addition is putting back  
3 a structure that was originally part of the  
4 original house, such as the porch, is that an  
5 angle that we can look at?

6 CHAIRPERSON MOLDENHAUER: I'm a  
7 little confused as to -- do you mean that it -  
8 - even if it was part of an original, has it  
9 already been demolished?

10 MR. GERBER: Yes.

11 CHAIRPERSON MOLDENHAUER: Okay.  
12 Even if it's part of an original structure, it  
13 still goes to the issue of lot occupancy, and  
14 we have to look at the total lot occupancy.

15 As Mr. Turnbull was saying  
16 earlier, really, the number is 70. If you get  
17 your lot occupancy below 70 you are under a  
18 special exceptions standard, which is a 223,  
19 which is a much less stringent standard.

20 If you are above 70, then you're  
21 under the variance arena which is what we are  
22 discussing now, which is a much harder and

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 more stringent standard.

2           So, if one of the things that  
3 you're doing is, you're potentially replacing  
4 an older historic aspect of a porch, it's not  
5 something that we can specifically look at,  
6 but if you can bring in documentation of  
7 historic photographs, in other cases we have  
8 considered that in regards to elements that  
9 contribute to our analysis.

10           So, it's something that we would  
11 consider. It still may not satisfy that first  
12 prong, because that would be more towards an  
13 issue of maybe the second or the third prong.  
14 You know, is this going to hurt or is it going  
15 to be detrimental to the zoning plan, and  
16 obviously, if this is replacing a portion of  
17 a prior existing structure, we would look at  
18 that and then analyze that, but it still is --  
19 the major thing that I see on the merits of  
20 this case is the issue of the first prong and  
21 what is the exceptional aspect of this  
22 property.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 VICE CHAIR SORG: Can I jump in  
2 for a second, Madam Chair?

3 CHAIRPERSON MOLDENHAUER: Sure.

4 VICE CHAIR SORG: I agree with you  
5 absolutely that I'm not sure that this angle  
6 would go towards satisfying a prong of  
7 uniqueness but, I mean, looking at the filings  
8 here, the building looks like it was built in  
9 the 1980's and it is in an historic district.

10 So, I'm not an expert on this, but  
11 perhaps there is an avenue to pursue where  
12 this can be looked at as restoring a historic  
13 structure and that, I think, is perhaps  
14 another thing to look at if you're considering  
15 amending your application.

16 CHAIRPERSON MOLDENHAUER: And we  
17 do. We look -- just another example, we had  
18 a project where an individual was seeking an  
19 application because of the disrepair of an  
20 historic structure. We reviewed that and we  
21 considered that to be exceptional because it  
22 was so historic, and it was also in disrepair,

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 that there were certain basic needed repairs  
2 that had to be done and because of the code  
3 requirements those required additional lot  
4 occupancy above and beyond what would be  
5 permitted by the code.

6 And so, that, in conjunction with  
7 some other factors -- and there are cases  
8 which permit us to look at a confluence of  
9 factors. So, that being said, I guess we can  
10 move on to the Office of Planning's report,  
11 but I'm thinking that maybe you may want to  
12 request a continuance to supplement the record  
13 and continue this at another date.

14 I'm not trying to put words in  
15 your mouth. I'm just seeing if that's  
16 something that you'd like us to do because  
17 then, potentially, the Office of Planning may  
18 modify or amend their report based on  
19 additional information you submit.

20 Is that something that you would  
21 be requesting?

22 MR. KEYS: That sounds like it

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 would be a good plan, yes.

2 CHAIRPERSON MOLDENHAUER: Then,  
3 what we're going to do is -- how much time do  
4 you think that you would need in order to  
5 adequately research this and provide a  
6 supplement?

7 MR. KEYS: I believe that two  
8 weeks would be -- work good as the previous  
9 case we worked on.

10 CHAIRPERSON MOLDENHAUER: Okay.  
11 So then, what we'll do is we would ask that  
12 you provide any -- any additional supplemental  
13 documentation to the Office of Planning by  
14 September 30th.

15 Mr. Mordfin, how long would you  
16 need, then, after that additional information  
17 should get us a potential supplemental report?

18 MR. MORDFIN: We would need to  
19 file the report one week prior to whenever the  
20 hearing is, so I would like --

21 CHAIRPERSON MOLDENHAUER: So how -  
22 - a week, or do you need two?

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MR. MORDFIN: I think two weeks  
2 would be--

3 CHAIRPERSON MOLDENHAUER: Okay.  
4 That's what I need to know. Thank you. So  
5 then, that's the 30th, and then two weeks from  
6 then would be, then, the 14th.

7 And then we could have the meeting  
8 on October 19th, Mr. Moy, if that's available.  
9 Let me pull up my calendar as well.

10 It looks like the afternoon  
11 session, potentially, or maybe a little tight.

12 MR. MOY: Yes. We do have a --

13 CHAIRPERSON MOLDENHAUER: In the  
14 morning?

15 MR. MOY: We do have an appeal  
16 case in the afternoon. We could do it in the  
17 morning. I --

18 CHAIRPERSON MOLDENHAUER: How  
19 about the morning, or --

20 MR. MOY: I --

21 CHAIRPERSON MOLDENHAUER: We can  
22 put it on the 26th. There's only two on the

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 morning there.

2 MR. MOY: I would prefer the 26th.

3 CHAIRPERSON MOLDENHAUER: Okay.

4 So the --

5 MR. MOY: Well, actually, it's set  
6 to the Board's --

7 CHAIRPERSON MOLDENHAUER: Well,  
8 let's do it on the 26th in the morning. So,  
9 you'll be third in the morning on the 26th,  
10 with your submittal due by September 30th, and  
11 then that obviously provides some additional  
12 time, potentially, for some more discussion  
13 back and forth between the applicant and OP to  
14 get the final report in.

15 Yes?

16 MS. GLAZER: If I may just --

17 CHAIRPERSON MOLDENHAUER: Are you  
18 on the--

19 MS. GLAZER: I believe I'm on the  
20 mic. I'm just going to offer this as a  
21 suggestion that the Board might want to make  
22 to the applicant, and that is to work with the

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 staff of OP and also OZ staff, since there  
2 appear to be some legal issues here, and the  
3 Board really is not a body that gives advisory  
4 opinions, but the applicant might want to work  
5 with OZ staff in sorting some of the legal  
6 issues out.

7 CHAIRPERSON MOLDENHAUER: Thank  
8 you. I definitely agree with that, and I  
9 appreciate those comments. Obviously I think  
10 the applicant heard those remarks.

11 You know, we cannot provide any  
12 advice. We're just simply trying to educate  
13 the public in some of our comments today, but  
14 you do have the availability of the OZ staff.  
15 They are a great resource. I would recommend  
16 that you use them during the time frame that  
17 you have to prepare any supplemental  
18 information.

19 MR. KEYS: I do appreciate that  
20 and they've actually been very great to work  
21 with, so --

22 CHAIRPERSON MOLDENHAUER: Well,

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 thank you. Wonderful. Well, then, I think we  
2 have new dates and schedules for this case.  
3 So, thank you very much for coming down today,  
4 and we'll move on to our next and last case  
5 for the morning hearing.

6 ANGIE AND SCOTT TRUESDALE

7 APPLICATION NO. 18095, ANC-6A

8 MS. BAILEY: Madam Chair, the last  
9 case of the morning was continued from the  
10 July 13th public hearing. This is the  
11 application of Angie and Scott Truesdale.  
12 It's Application No. 18082, and it's pursuant  
13 to 11 DCMR, Section 3103.2, for a variance  
14 from the lot occupancy requirements under  
15 Section 403, a variance from the rear yard  
16 requirements under Section 404, and a variance  
17 from the nonconforming structure provisions  
18 under Subsection 2001.3, to allow a rear deck  
19 addition serving a one-family row dwelling.  
20 The property is zoned R-4. It's located at  
21 1019 Florida Avenue, N.E., Square 956, Lot 39.

22 CHAIRPERSON MOLDENHAUER: Come on

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 down and introduce yourself for the record.

2 MS. TRUESDALE: I'm Angie  
3 Truesdale, and I reside at 1019 Florida  
4 Avenue, N.E.

5 CHAIRPERSON MOLDENHAUER: Okay.  
6 We've received some of your additional  
7 submissions and we have them in our record,  
8 along with the additional supplemental report  
9 from the Office of Planning. Have you  
10 received all of those documents?

11 MS. TRUESDALE: I have.

12 CHAIRPERSON MOLDENHAUER: Okay.  
13 So, if you want to start with your statement  
14 of the applicant.

15 MS. TRUESDALE: Thank you. We did  
16 request additional time to work with the  
17 Office of Planning and attempted to explore an  
18 initiative that Commissioner Hood had  
19 mentioned, with the Office of Planning.

20 Through that process, I think you  
21 can see in the email chain we were just simply  
22 directed back to Section 223, so that

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 initiative that Commissioner Hood requested us  
2 to look at didn't pan out the way we had  
3 hoped.

4 After -- after the email chain  
5 with the Office of Planning and some  
6 conversations with OZ staff, assume that we  
7 are being encouraged to scale-down our  
8 project. That was really the only option we  
9 had at that point.

10 And, as a guide, I guess, the  
11 Office of Planning provided us with a case  
12 that he characterized as "similar." That was  
13 another R-4 case. The R-4 case that was given  
14 to us as a precedent for us to study had a  
15 much bigger lot, remarkably. Even though ours  
16 is still being characterized as nonunique, the  
17 lot in the sample case was extraordinarily  
18 larger.

19 And in that case they were able to  
20 scale-down their proposal from 78 -- from a  
21 variance level to a 70 percent, and got their  
22 case approved under a special exception.

**NEAL R. GROSS**

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

1 I'm not sure how we would fit that  
2 bill, considering we're coming to this at 78  
3 percent of existing lot occupancy. But again,  
4 we took the message as being to scale it down,  
5 so we worked with the architect to scale it  
6 down, to just a 10 percent growth and lot  
7 occupancy, which was 88 percent.

8 The Office of Planning is further  
9 debating that number, based on a -- I think a  
10 four-foot walkway that would need to be a  
11 five-foot walkway to meet 88 percent.

12 At this point, the deck -- and the  
13 architect has confirmed that the deck is as  
14 scaled-down as it possibly can be to still  
15 accommodate a parking space down there. But  
16 if we narrowed it to meet that five-foot, then  
17 we would no longer be able to park there  
18 because of the pillars. So, we are as small  
19 as we can be at this point.

20 The Office of Planning is still  
21 arguing that we are not unique or  
22 extraordinary, and points to a 70 percent of

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 lots in our square that -- that they say are  
2 smaller than ours.

3 I think that Office of Planning is  
4 limited in not being able to consider the  
5 front yards as part of the lot size, and the  
6 side yards, and our square. If you look at  
7 their original -- the map from their original  
8 report, most of the properties in our square  
9 have a substantial front yard.

10 And it's not -- apparently, it's  
11 city property and not part of lot occupancy  
12 officially, but these people fenced those  
13 yards. They can use those yards and we have  
14 nothing of the sort. We have a city sidewalk  
15 in front of our home, and a major, very busy  
16 street.

17 So, I understand the Office of  
18 Planning can't take that space into their  
19 consideration when they're calculating these  
20 numbers, but they are very real factors in  
21 what these -- these homeowners can use as --  
22 as residential recreational space, and we just

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 simply don't have that.

2 I think I understood the previous  
3 case to be making an argument that has been a  
4 long source of frustration for us in this  
5 process, is that for the standard of  
6 uniqueness there's really no -- no standards  
7 set, other than it must be unique.

8 Nobody says it's not set in the  
9 statute whether or not it's unique to the  
10 surrounding properties, whether it's unique to  
11 the square, whether it's unique to the zoning  
12 district, whether it's unique to the Ward.

13 And, as we've gotten -- we've  
14 gotten support from our ANC. Our single-  
15 member district came and testified for us.  
16 Now, Ward Six Council Member has also  
17 supported us and each one of them say it's  
18 unique compared to other properties in their  
19 Ward, ANC single-member district and so on.

20 It's only Office of Planning that  
21 -- I can't keep up with whether we're being  
22 compared to the immediate two properties next

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 to us or the square. But, in both cases I  
2 believe that, you know, if you are able to  
3 take into consideration the front yards, the  
4 city property that is available to those  
5 homeowners to fence and use, we -- we are  
6 still unique.

7 CHAIRPERSON MOLDENHAUER: Thank  
8 you. One thing I'd like to ask in regards to  
9 responding, you said that you're being  
10 supported by all these different individuals.  
11 We did receive a copy of a letter, because we  
12 had asked about the fact that it was a very  
13 tight vote from the ANC.

14 Typically, we see things where  
15 they're -- there's not as, I guess, small of  
16 a margin in regards to the vote. And so, I  
17 think it was something Mr. Hood and --  
18 Chairman Hood had brought up, and we received  
19 a letter of dissent articulating those points.

20 Obviously, that won't receive  
21 great weight. The letter of support will  
22 receive great weight. But I just want to kind

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 of see what your response is from the concerns  
2 that were addressed in that letter.

3 MS. TRUESDALE: That was not  
4 provided to me.

5 CHAIRPERSON MOLDENHAUER: That was  
6 not provided to you. I can give you a quick  
7 summary of that. It just indicated that, you  
8 know, they, too, agreed with the Office of  
9 Planning that there was nothing unique about  
10 this specific lot, and that their concern was  
11 that, you know, if individuals purchase  
12 property, they should purchase them knowing  
13 the constraints on their lot and that, by  
14 providing a variance to this project would  
15 reduce the standard in which we hold a  
16 variance test to, such as finding something  
17 that is exceptional about a specific lot, and  
18 that was the rationale in which those three  
19 ANC commissioners dissented on the case.

20 So, based on that quick summary,  
21 if you can just provide your response or --

22 MS. TRUESDALE: I think if I had

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 gotten that in a timely manner, I would have  
2 provided the transcript from the ANC meeting  
3 where the arguments that were presented  
4 against it were actually completely different  
5 from that.

6 That there was concern by two ANC  
7 Chairs that that -- that basically it would  
8 impact the relationship with this body, that -  
9 - you know, that the ANC had a great  
10 reputation with you guys and putting something  
11 forth with support that had near 100 percent  
12 lot occupancy would jeopardize their  
13 credibility with this Board, and arguments  
14 such as that.

15 So, again, if I had seen the  
16 letter I would have pulled some sections from  
17 the transcript and probably asked our ANC  
18 Commissioner to reappear. But all I can say  
19 is, we did win the vote, and those weren't the  
20 arguments that were presented during the  
21 actual consideration.

22 CHAIRPERSON MOLDENHAUER: I

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 appreciate that. I don't have any other  
2 specific questions for the applicant. Do any  
3 other Board Members have any questions?

4 (No response.)

5 CHAIRPERSON MOLDENHAUER: Seeing  
6 none, --

7 VICE CHAIR SORG: Oh, I'm sorry.  
8 I would ask one. I know that sometimes the  
9 issue, as you, I think, correctly stated, of  
10 uniqueness or the exceptional condition can be  
11 sticky and actually I think in relationship to  
12 the last case the Chair mentioned something  
13 about sometimes we do consider a confluence of  
14 factors in terms of uniqueness, or as  
15 contributing to it.

16 And one question I have -- we may  
17 have gone over this a little bit the last time  
18 that you were here, but is -- maybe you -- you  
19 can talk about how useable the rear yard is  
20 now for the purposes that you want to use it  
21 for, and why those purposes are critical to  
22 you.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MS. TRUESDALE: Well, it's  
2 currently used as a parking spot. It's a  
3 gated parking spot from a permitted gate.  
4 Again, all from the previous owner. They  
5 paved it as a parking pad and gated it as a  
6 parking pad.

7 I was informed last time that you  
8 -- that this body cannot take into account  
9 crime statistics, so my hands are kind of tied  
10 at telling you why -- why we prefer to use it  
11 that way, but it really is for the safety of  
12 our property and to deal with what is  
13 definitely a transitional area in the city  
14 currently, and to keep our car safe, plus I'm  
15 four weeks away from delivering a baby and  
16 having the car close to the house and not  
17 toting car seats and strollers back and forth  
18 is certainly a very real issue for us, even if  
19 safety were or not.

20 So, having the parking behind the  
21 house is a priority for us. I think it's  
22 consistent with how most of our neighbors who

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 have the ability to use the alley, to enter  
2 their property through the alley, use their  
3 back lots, however a lot of them have much  
4 deeper lots than we do, so they can park on  
5 it, and have some recreational space in  
6 addition.

7 VICE CHAIR SORG: How many square  
8 feet is the rear yard? I'm just not seeing it  
9 here currently?

10 MS. TRUESDALE: The rear yard,  
11 let's see. We updated the -- we updated this  
12 form with the new plans. And that should be  
13 in the package that we submitted. I mean, our  
14 whole lot is only 1200 square feet, which  
15 according to the Office of Zoning staff it is  
16 uniquely small. The fact that it's already at  
17 78 percent lot occupancy of 1200 square feet  
18 doesn't leave much of a rear yard.

19 CHAIRPERSON MOLDENHAUER: I  
20 believe the rear yard is 18.

21 VICE CHAIR SORG: So, 18.

22 MS. TRUESDALE: Yes, it's 18 feet,

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 two.

2 VICE CHAIR SORG: Yes. Okay.

3 CHAIRPERSON MOLDENHAUER: Ms.

4 Sorg, do you have any other questions for the  
5 applicant?

6 VICE CHAIR SORG: No, that's all.

7 Thank you.

8 CHAIRPERSON MOLDENHAUER: Seeing  
9 no other questions, if the applicant is  
10 completed with her statement, then what we'll  
11 do is move on to the Office of Planning for  
12 their report.

13 MR. MORDFIN: Good morning. I'm  
14 Stephen Mordfin with the Office of Planning.

15 And in this case, although the  
16 applicant has revised the application, the  
17 Office of Planning still views it as not a  
18 unique situation.

19 Looking at it from the properties  
20 that are on either side, you have similar lots  
21 that are similar in area and width and with  
22 similar structures constructed upon them, or

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 built upon them.

2           So, it doesn't lend to the fact  
3 that, you know, this property is unique.  
4 There are other properties in the lot, when we  
5 expanded it just to see what else was going on  
6 in the square, and most of the lots within the  
7 square are smaller, although many of them do  
8 have front yards or side yards as the  
9 applicant has indicated.

10           But we still don't see that  
11 there's anything unique about this because,  
12 when you look at the properties on either  
13 side, and right around that property, they are  
14 pretty much the same lot with the same  
15 structures, same alley access.

16           So, because we were unable to find  
17 a finding of uniqueness in this -- and that is  
18 the first test, therefore, we could not  
19 recommend approval of the request for the  
20 variance.

21           CHAIRPERSON MOLDENHAUER: Mr.  
22 Mordfin, I just -- as I said, I guess, earlier

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 today, there's a lot of differences.  
2 Sometimes we look at just simply the  
3 properties adjacent. Lots of times we look at  
4 the actual square and, you know, on your  
5 report on page number two, I'm looking at the  
6 whole square here.

7 Don't you -- would you consider  
8 the front portion and the rear -- the extended  
9 rear access to a majority of these lots -- I  
10 mean, it looks like there's not as many lots  
11 that have direct frontage on the sidewalk.  
12 Would you consider that as something that  
13 would lead to its exceptional circumstances?

14 MR. MORDFIN: Well, there are  
15 other lots there that -- well, the ones along  
16 Florida Avenue that pretty much front right up  
17 to the sidewalk. But, as you go to the east  
18 towards 11th Street then what happens also is  
19 then those lots lose their alley access.

20 So, you know, there's different  
21 things that are affecting the different  
22 properties. Some of them, you know, they may

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 not -- they may have more of a rear yard, but  
2 they don't have the alley access which then  
3 affects things like parking.

4 So, it's hard to determine, you  
5 know, what makes it unique, you know, and  
6 maybe they are all unique in different ways,  
7 or they all have different issues that affect  
8 them, but I think that because -- you know,  
9 especially the ones on either side have the  
10 same alley access, the same width, same house.

11 And then, as you go, you know,  
12 towards 10th Street, you have more of the same  
13 houses with the same alley access, same width  
14 and area that it is difficult to conclude that  
15 the subject property, then, is unique.

16 CHAIRPERSON MOLDENHAUER: But I'm  
17 also now looking at expanding my view. If I  
18 look to the east on 11th Street, on the east  
19 side of 11th Street, you know, those houses on  
20 the south side of that square, you know, all  
21 have fairly large front yards.

22 And then if you go to the west on

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 10th Street, the left side, you know, it looks  
2 to me as though that entire corner, both of  
3 those blocks have, you know, larger front  
4 yards or front access.

5 And comparing that, then, to all  
6 of those, you know, these few homes on Florida  
7 Avenue, wouldn't those be exceptionally  
8 different, and have more challenges applying  
9 the standards of the zoning requirements?

10 MR. MORDFIN: I think it's a  
11 little bit different. I mean, the ones on  
12 11th Street, some of them do have large rear  
13 yards that -- and some kind of front yard that  
14 is available to them from public space, but  
15 then, as you get -- go south below the east-  
16 west alley that runs parallel to K Street,  
17 then what happens is those lots also have  
18 almost no rear yard.

19 It's only the ones on K Street  
20 that have the -- that abut up to the large  
21 public space that's there that would then  
22 become available to them. They also then also

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 have small rear yards.

2 So, it's -- I guess it's how you  
3 look at it and what you want to determine is  
4 unique, but they have all got different  
5 issues. Most of the lots, I think, in the  
6 square are smaller than the subject property.

7 So, even though they might have  
8 public space that's available to them, that  
9 they would be able to use just because of the  
10 city -- you know, the way it abuts the street,  
11 most of these lots, you know, a lot of -- more  
12 lots are smaller than the subject property  
13 than are larger.

14 So, we were using that information  
15 to calculate, in this case, in the lot, 42  
16 percent of the lots are the same size as the  
17 subject property in terms of area, and 28  
18 percent are smaller, and 30 percent are  
19 actually larger than the subject property.

20 So, we were using those figures to  
21 determine whether or not, you know, is this  
22 one really unique or not. And because 70

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 percent of the lots are the same size or  
2 smaller than the subject property, we  
3 concluded that the subject property is not  
4 unique, then, even when you expand your scope  
5 to the entire square.

6 CHAIRPERSON MOLDENHAUER: And  
7 that's based on the entire square?

8 MR. MORDFIN: That's based on the  
9 entire square, those numbers that I just gave  
10 you.

11 CHAIRPERSON MOLDENHAUER: Okay. I  
12 have no other questions of the Office of  
13 Planning. Do any other Board Members have  
14 questions for the Office of Planning?

15 (No response.)

16 CHAIRPERSON MOLDENHAUER: Seeing  
17 none, does the applicant have any questions  
18 for the Office of Planning?

19 MS. TRUESDALE: Just to clarify,  
20 with that 70 percent, again, you're not taking  
21 into account the fenced use of city space, of  
22 public space.

**NEAL R. GROSS**

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

1 MR. MORDFIN: That is correct.  
2 We're not taking it into account.

3 MS. TRUESDALE: So all of that  
4 yellowie-tan area on the map is not taken into  
5 account with that 70 percent?

6 MR. MORDFIN: Well, on that map,  
7 the yellow is what's to the front of the  
8 houses. The yellow areas to the rear are  
9 included in the lot. Right. It's whatever is  
10 to the front between the front wall of the  
11 house and the street is the area that's not  
12 included in the area of a lot.

13 MS. TRUESDALE: Okay. So, no  
14 other front yards are included. And then the  
15 same colored space in the rear yards of the  
16 homes facing 10th and 11th, those really long,  
17 long lots, is that -- is that taken into  
18 account?

19 MR. MORDFIN: That is included.  
20 That is included.

21 MS. TRUESDALE: That is taken into  
22 account.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MR. MORDFIN: That is included in  
2 the lots.

3 MS. TRUESDALE: So those are the  
4 ones -- those are the only ones that are  
5 getting credit for being larger than ours on  
6 the same --

7 MR. MORDFIN: Right. Those are  
8 the ones that -- right. Correct. The yellow  
9 doesn't really indicate whether it's public  
10 space or private space on this map.

11 MS. TRUESDALE: But the fact that  
12 the front yards aren't taken into account in  
13 any way?

14 MR. MORDFIN: That's correct. In  
15 no case are the front yards included in the  
16 area of the lot.

17 MS. TRUESDALE: Okay. So, again,  
18 I would just -- I would just argue that that  
19 70 percent number is very deceptive in terms  
20 of useable -- I mean, people are fencing this  
21 in, claiming it as their own and putting patio  
22 furniture on it, so it's definitely their

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 recreational space.

2 CHAIRPERSON MOLDENHAUER: At this  
3 point in time the Office of Planning is  
4 concluded. And does anyone have any further  
5 questions for the Office of Planning?

6 (No response.)

7 CHAIRPERSON MOLDENHAUER: Seeing  
8 none, then what we would do is you would turn  
9 to any -- the ANC. The ANC was present at the  
10 prior hearing and their testimony is part of  
11 our full hearing information and we have, as  
12 I indicated, a letter of support, which does  
13 receive great weight, which is our Exhibit No.  
14 23.

15 We did receive an additional  
16 letter since the continuance, but that would  
17 not receive great weight. It would just be  
18 additional evidence that we'll consider.

19 That being said, are there any  
20 individuals in support or in opposition?

21 (No response.)

22 CHAIRPERSON MOLDENHAUER: Seeing

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 no one else in the audience, we'll move  
2 forward to any closing remarks by the  
3 applicant.

4 MS. TRUESDALE: I would just also  
5 add that we -- just to remind you that we do  
6 have support from our immediate surrounding  
7 neighbors for the project, and again, Council  
8 Member Wells.

9 CHAIRPERSON MOLDENHAUER: Thank  
10 you very much.

11 Do Board Members have any closing  
12 questions for the applicant?

13 (No response.)

14 CHAIRPERSON MOLDENHAUER: Seeing  
15 none, thank you very much.

16 I think what we're going to do is  
17 we're going to put this on the calendar for  
18 decision next week. That way it will provide  
19 us some additional time to review our records.

20 So, Mr. Moy, do we have time  
21 tomorrow -- next week in the morning?

22 MR. MOY: Absolutely, Madam Chair.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 CHAIRPERSON MOLDENHAUER:

2 Absolutely. Oh, good. Okay.

3 That way you can get a decision.

4 You don't need to be present. We will hear no  
5 additional testimony at the decision meeting.

6 You can attend if you'd like, or you can watch  
7 on the web, since the program is webcast live.

8 Okay. So, that's going to be,  
9 what, the twenty --

10 MR. MOY: The 21st.

11 CHAIRPERSON MOLDENHAUER: The  
12 21st. Okay. Thank you. So, this is set for  
13 decision on September 21st, and that concludes  
14 this case, and it also concludes the morning  
15 hearings. Thank you very much.

16 (Whereupon, the foregoing matter  
17 went off the record at 12:12 p.m. and went  
18 back on the record at 1:21 p.m.)

19

20

21

22

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

## 1 AFTERNOON SESSION

2 (1:21 p.m.)

3 CHAIRPERSON MOLDENHAUER: This  
4 hearing will please come to order. Good  
5 afternoon, ladies and gentlemen. This is the  
6 September 14th, 2010 Public Hearing of the  
7 Board of Zoning Adjustments for the District  
8 of Columbia.

9 My name is Meridith Moldenhauer,  
10 Chairperson. Joining me today, to my right is  
11 the representative of the National Capital  
12 Planning Commission, Jeff Hinkle. To my left  
13 is our Vice Chair Nicole Sorg, and to her left  
14 is Michael Turnbull, representative of the  
15 Zoning Commission.

16 Copies of today's agenda are  
17 available to you and are located to my left on  
18 the wall bin near the door. Please be aware  
19 this proceeding is being recorded by a court  
20 reporter and is also being webcast live.

21 Accordingly, I must ask you to  
22 refrain from any disturbing noise or actions

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 in the hearing room.

2 When presenting information to the  
3 Board, please turn on and speak into the  
4 microphone, first stating your name and home  
5 address. When you have finished speaking,  
6 please turn off the microphone so that your  
7 microphone is no longer picking up sounds or  
8 background noise.

9 All persons planning to testify,  
10 either in favor or in opposition are to fill  
11 out two witness cards. These cards are  
12 located to my left on the table near the door  
13 and on the witness tables. Upon coming  
14 forward to speak to the Board, please give  
15 both cards to the court reporter sitting to my  
16 right.

17 The order of procedure for special  
18 exception and variance is as follows: One,  
19 statement of witnesses of the applicant; two,  
20 government reports, including the Office of  
21 Planning and the Department of Public Works;  
22 three, reports of the ANC; four, persons and

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

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

4 Pursuant to Section 3117.4 and  
5 3117.5, the following time constraints will be  
6 maintained. The applicant/appellant, persons  
7 and parties, except in ANC in support,  
8 including their witnesses, will be given 60  
9 minutes collectively.

10 Appellees, persons, parties,  
11 except in ANC in opposition, including  
12 witnesses, will be given 60 minutes  
13 collectively. Individuals will be given three  
14 minutes. These time restraints do not include  
15 cross-examination or questions from the Board.  
16 Cross-examination of witnesses is permitted by  
17 the applicant or parties, and the ANC within  
18 which the property is located is automatically  
19 a party.

20 Nothing prohibits the Board from  
21 placing reasonable time restrictions on cross-  
22 examination, including time limits and

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 limitations on the scope of the cross-  
2 examination.

3           The record will be closed at the  
4 conclusion of each case, except for any  
5 materials specifically requested by the Board.  
6 The Board and the staff will specify at the  
7 end of the hearing exactly what is expected  
8 and the time when such persons should be  
9 providing such evidence to the Office of  
10 Zoning. After the record is closed, no other  
11 information will be accepted by the Board.

12           The Sunshine Act requires that a  
13 public hearing on each case be held in the  
14 open before the public. The Board may,  
15 consistent with its rules and procedures and  
16 the Sunshine Act, enter into executive session  
17 during or after a public hearing on a case for  
18 the purposes of reviewing the record or  
19 deliberating on the case.

20           The decision of the Board in these  
21 contested cases must be based exclusively on  
22 the public record. To avoid any appearance to

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 the contrary, the Board requests that persons  
2 present not engage Members of the Board in  
3 conversation.

4 Please turn off all beepers and  
5 cell phones at this time not to disturb these  
6 proceedings.

7 The Board will make every effort  
8 to conclude the public hearing as near as  
9 possible to six p.m. If the afternoon cases  
10 are not completed by six p.m., the Board will  
11 assess whether it can complete the pending  
12 case or cases remaining on the agenda.

13 At this time, the Board will  
14 consider any preliminary matters. Preliminary  
15 matters are those that relate to whether a  
16 case will or should be heard today such as a  
17 request for postponement, continuance or  
18 whether or not proper, adequate notice was  
19 given.

20 If you are not prepared to go  
21 forward with your case today, or you believe  
22 the Board should not proceed, now is the time

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 to raise such matters.

2 Mr. Secretary, are there any  
3 preliminary matters?

4 MR. MOY: Madam Chair, good  
5 afternoon. There are potential preliminary  
6 matters to each case. Staff would suggest  
7 that the Board address these items when the  
8 case is called.

9 CHAIRPERSON MOLDENHAUER: Thank  
10 you very much.

11 Then, at this time, will all those  
12 individuals wishing to testify before the  
13 Board, please stand to take the oath. Ms.  
14 Bailey will administer the oath.

15 (Whereupon, the witnesses were  
16 sworn.)

17 CHAIRPERSON MOLDENHAUER: Thank  
18 you. We can now call the first case for the  
19 afternoon.

20 RONALD McDONALD HOUSE CHARITIES OF  
21 GREATER WASHINGTON, D.C.  
22 APPLICATION NO. 18095, ANC-5A

**NEAL R. GROSS**

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

1 MS. BAILEY: The first case is  
2 Application 18085. It's the application of  
3 Ronald McDonald House Charities of Greater  
4 Washington, D.C. It is pursuant to 11 DCMR,  
5 Section 3104.1 for a special exception under  
6 Section 215, to operate a religious group  
7 residence for 96 persons under Section 215.  
8 The property is zoned R-1-B. It's located at  
9 the 1326 Quincy Street, N.E., Square 3968, Lot  
10 17.

11 CHAIRPERSON MOLDENHAUER: Good  
12 afternoon. Will the parties please introduce  
13 themselves.

14 MR. SULLIVAN: Yes. Good  
15 afternoon. My name is Marty Sullivan with  
16 Sullivan, Styles & Barros, representing the  
17 applicant.

18 SISTER THEOTOKOS: My name is  
19 Sister Theotokos. I am a member of the  
20 Servants of the Lord and the Virgin of Matara,  
21 Religious Sisters, asking for this special  
22 exception.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 CHAIRPERSON MOLDENHAUER: Okay.  
2 Mr. Sullivan, if you'd like to begin.

3 MR. SULLIVAN: Okay. Thank you.  
4 Good afternoon, Madam Chair, and  
5 Members of the Board. My name is Marty  
6 Sullivan with Sullivan, Styles & Barros. I  
7 represent the Ronald McDonald House and the  
8 Servants of the Lord and the Virgin of Matara,  
9 Inc.

10 With me is Sister Theotokos from  
11 the Order. I believe the Board has all the  
12 information in front of it to show that we  
13 meet the requirements of Section 215 and 3104,  
14 and if there's no preliminary questions, we  
15 are ready to present our testimony.

16 CHAIRPERSON MOLDENHAUER: I think  
17 that you are right there. This is a very full  
18 record, but I think we do have a couple of  
19 questions.

20 MR. SULLIVAN: Okay.

21 CHAIRPERSON MOLDENHAUER: And it  
22 may help assist you in focusing your

**NEAL R. GROSS**

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

1 testimony, and then we can move forward from  
2 there.

3           There was a discrepancy in the  
4 initial submission for your class for relief.  
5 Some of the sections indicate 96 sisters would  
6 be residing at the premises. Then, in one  
7 section it actually refers to a hundred. So,  
8 you can just really narrow down and make sure  
9 we understand the exact number.

10           MR. SULLIVAN: A hundred is a  
11 typo, then. It's 96.

12           CHAIRPERSON MOLDENHAUER: 96. The  
13 other thing is, under the section of -- let me  
14 reference the exact section. It talks about  
15 events that would be -- that would occur on  
16 the premises.

17           There was a reference to having  
18 Section 3 just hospitality and outreach on  
19 page three of your initial submission. It  
20 talks about the sisters will occasionally host  
21 weekend and day retreats for laypeople.

22           My question would be: What type

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 of events are these? How many people would  
2 attend? What would the traffic implications  
3 be? Things to that effect. So if maybe you  
4 can talk a little bit about that, that would  
5 be appreciated.

6 MR. SULLIVAN: Right. I don't  
7 think -- and I may have put in there more than  
8 I thought or assumed some, but there aren't  
9 planned events, but they do have certain types  
10 of events and I think Sister Theotokos can  
11 explain exactly the character of those.

12 SISTER THEOTOKOS: Principally, it  
13 would be to receive other sisters of our own  
14 community who are living in other convents.  
15 For example, the convents in North  
16 Philadelphia and Brooklyn and Harlem that we  
17 have occasional gatherings where they come  
18 together so that retreats or events given for  
19 us are -- take place in one location, and  
20 those are usually only one- or two-day events.

21 There's another special ceremony,  
22 new sisters taking the habit, where they would

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 come for one day and spend the night with us.  
2 The other sisters would -- for events with  
3 laypeople, it's very uncommon. It's not --  
4 it's a house for the sisters.

5 CHAIRPERSON MOLDENHAUER: Okay.  
6 For the events where other sisters would be  
7 coming from other homes, how many sisters  
8 would potentially be attending those  
9 additional events?

10 SISTER THEOTOKOS: That's one of  
11 the reasons for the number, so that even on  
12 those unusual occasions it would be within the  
13 range of 96.

14 CHAIRPERSON MOLDENHAUER: Okay.

15 SISTER THEOTOKOS: Most of the  
16 other convents house smaller numbers, like  
17 four sisters, three sisters. So only our  
18 houses of studies are such large  
19 concentrations of sisters, like the house  
20 we're asking for here. So, it would be to  
21 receive maybe 12 to 15, at the most 20 other  
22 sisters coming so that would always be under -

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 - it would be very difficult for us to be  
2 above 96.

3 CHAIRPERSON MOLDENHAUER: Okay.  
4 So, at no time, even with these additional  
5 events would you --

6 SISTER THEOTOKOS: Which is why  
7 the number is so high.

8 CHAIRPERSON MOLDENHAUER: -- be  
9 above 96?

10 SISTER THEOTOKOS: Yes.

11 CHAIRPERSON MOLDENHAUER: Okay.  
12 So, just that then leads me to the question,  
13 how many do you anticipate having on a day-to-  
14 day basis at this location?

15 SISTER THEOTOKOS: Initially it  
16 would be at 25.

17 CHAIRPERSON MOLDENHAUER: Okay.

18 SISTER THEOTOKOS: And most --  
19 yes. 25, and then with the women, young women  
20 who enter our community, it's a house of  
21 studies for them, so it's according to how  
22 many enter and continue their studies for that

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 period. So, 30, 40, if we are blessed with  
2 more young women coming, but we're 25,  
3 initially.

4 CHAIRPERSON MOLDENHAUER: Okay.  
5 Thank you. That information does provide some  
6 additional clarity to the application.

7 Do any of the Board Members have  
8 questions before there's a specific  
9 presentation?

10 (No response.)

11 CHAIRPERSON MOLDENHAUER: No. I  
12 think that, Mr. Sullivan, that this is a very  
13 full record. So, if you want to provide a  
14 certain testimony you can, but whatever you  
15 think is necessary.

16 MR. SULLIVAN: No, I think --  
17 we're happy to stand on the record if all the  
18 Board's questions are answered.

19 CHAIRPERSON MOLDENHAUER: Let's  
20 see here. I believe they are. I guess one  
21 question I always have, so even, let's say  
22 that if we have some sisters from three to

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 four different convents, do you think that  
2 there would still be sufficient parking  
3 provided at the facility for those events or  
4 for that time frame?

5 SISTER THEOTOKOS: I believe that  
6 it would still provide because the maximum  
7 that we're anticipating that matches the 96  
8 number is for eight 12-passenger vans. At  
9 this time, with the regular residency we would  
10 be expecting, we're at two vans, and so to  
11 receive the smaller communities that usually  
12 travel in appropriately-sized vehicles,  
13 whether they're sedans or minivans, even if  
14 two or three other minivans enter to what we  
15 have, we're still under eight 12-passenger van  
16 parking spots.

17 CHAIRPERSON MOLDENHAUER: I have  
18 no other questions. Do any other Board  
19 Members have any questions?

20 (No response.)

21 CHAIRPERSON MOLDENHAUER: Seeing  
22 none, then if -- if you've rested on the

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 record -- did I hear that correctly?

2 MR. SULLIVAN: That's correct,  
3 yes.

4 CHAIRPERSON MOLDENHAUER: Okay.  
5 Then, what we'll do is, we'll turn to the  
6 Office of Planning at this time.

7 MS. BROWN-ROBERTS: Good  
8 afternoon, Madam Chairman, and Members of the  
9 Board. I'm Maxine Brown-Roberts from the  
10 Office of Planning.

11 And I am going to rest on the  
12 record also, except to say two things, which  
13 I think was addressed here today, that we had  
14 similar questions regarding the number of  
15 events and the -- how many people would be  
16 coming, and we were satisfied with the answers  
17 that were given to us by Mr. Sullivan, and  
18 don't think that either the -- that the  
19 parking will be sufficient and won't cause any  
20 impacts, even with -- with the 96, and  
21 therefore, we recommend approval with the  
22 condition that there are no more than 96

**NEAL R. GROSS**

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

1 persons at a time on the property.

2 Thank you, Madam Chairman.

3 CHAIRPERSON MOLDENHAUER: Thank  
4 you very much.

5 Does the applicant have any  
6 questions for the Office of Planning?

7 MR. SULLIVAN: No.

8 CHAIRPERSON MOLDENHAUER: Do any  
9 Board Members have any questions for the  
10 Office of Planning?

11 COMMISSIONER TURNBULL: I just had  
12 one, Madam Chair.

13 I am assuming that the existing  
14 facility, then, will take care of the numbers  
15 that you're looking to have there?

16 MR. SULLIVAN: Yes, and that's the  
17 understanding of the Order, yes.

18 COMMISSIONER TURNBULL: Okay.

19 MR. SULLIVAN: It's currently  
20 approved for 58, but that --

21 COMMISSIONER TURNBULL: That's  
22 right.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MR. SULLIVAN: -- I think that  
2 might also include employees, and it's kind of  
3 a much more intensive sort of 58 than the 96.

4 And Sister Theotokos can talk more  
5 about, you know, how 96 nuns may get along  
6 within a certain space, but -- just because of  
7 their different life style. But, if you have  
8 any other questions about that.

9 SISTER THEOTOKOS: I'll address.  
10 One of the differences between our life style  
11 and that of the families that are being  
12 received currently at the number of 58 is, we  
13 tend to have less furniture than the families  
14 that have now, much fewer individual personal  
15 belongings and -- yes, fewer material  
16 possessions so that we make use of the space  
17 in a different manner, and we're also  
18 missionary sisters, so we try to prepare our  
19 sisters for difficult conditions, which can  
20 simply include being very generous with one's  
21 space and living in close, but appropriate  
22 settings.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MR. SULLIVAN: Okay. Thank you.

2 VICE CHAIR SORG: Just a quick  
3 follow-up. So, you do not anticipate doing  
4 any major renovations or additions to the --

5 MR. SULLIVAN: No. No renovations  
6 are planned. No.

7 VICE CHAIR SORG: Thanks.

8 CHAIRPERSON MOLDENHAUER: I just  
9 have one last question I thought of. Do you  
10 foresee any noise concerns of the neighborhood  
11 in regards to how you would be running the  
12 facility?

13 SISTER THEOTOKOS: Principally,  
14 it's a house of studies, so we do have young  
15 sisters who are there to study. Our main  
16 activities, however, are prayer, study and  
17 classes given at the location, so there's a  
18 back yard that extends all the way to the next  
19 street and is enclosed by -- as you probably  
20 know, enclosed by bushes all the way around  
21 the back.

22 So, the most noise I think the

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 sisters would make is if they go outside for  
2 some exercise where there's a basketball court  
3 already provided, but that's the most type of  
4 noise I think we would have.

5 CHAIRPERSON MOLDENHAUER: Thank  
6 you. I appreciate that being on the record.  
7 Thanks.

8 I don't think we have any other  
9 questions. Then, at this time, is the ANC  
10 Member present for this Ward?

11 (No response.)

12 CHAIRPERSON MOLDENHAUER: Not  
13 seeing them present, I will reference that we  
14 have our Exhibit No. 28, which is actually an  
15 ANC letter indicating that they had a special  
16 meeting on -- let's see here -- September 9th,  
17 2009 in which a quorum was present. It was a  
18 duly-noticed meeting, and they voted 5:3:0 to  
19 support the application for special exception.

20 They indicated that the support  
21 would be limited to ensuring that this is just  
22 simply 96 individuals to occupy the space and

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 that it would be focused on the relief that's  
2 being sought, which is for the religious  
3 purposes of a resident under 512.

4 In addition to that, we also just  
5 this afternoon received Exhibit No. 27, which  
6 was just another letter indicating that Mr.  
7 John Feeley, who is referenced as the  
8 representative for the ANC, was in support of  
9 this application in his capacity as the  
10 Commissioner for 5-A.

11 I'm assuming that that's because  
12 he potentially could not attend today. But,  
13 that letter will be given great weight and the  
14 support would be given great weight.

15 Next we would move on to any  
16 individuals in the audience in support or in  
17 opposition of the case.

18 (No response.)

19 CHAIRPERSON MOLDENHAUER: Seeing  
20 none, we'll move forward.

21 Any closing remarks by the  
22 Applicant?

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1                   MR. SULLIVAN: Just to request a  
2 bench decision and summary order. We have a  
3 timing issue and we need to get our  
4 certificate of occupancy fairly soon. So,  
5 other than that, we thank the Board for their  
6 time.

7                   CHAIRPERSON MOLDENHAUER: Thank  
8 you very much.

9                   Then at this point in time we'll  
10 close the hearing portion of this case, and  
11 we'll actually open up for a discussion.

12                   And I'll start us off by just  
13 indicating that I think that this record is  
14 exceptionally full, that any potential  
15 questions I may have had earlier have been  
16 resolved during the hearing and that I would  
17 incorporate the Office of Planning's analysis  
18 in this -- for this case into my analysis and  
19 I believe that the applicants do satisfy the  
20 requirements for Section 215 to provide a  
21 religious group of residents for 96 sisters at  
22 this location at 1326 Quincy Street, N.E.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 I think that they've addressed any  
2 concerns of parking, noise, traffic that would  
3 be impacted on the neighborhood. I was very  
4 happy and pleased to hear that they are  
5 actually simply most likely having about 25 or  
6 more sisters to start with and that the 96  
7 would be to accommodate events where there  
8 would be additional sisters from other  
9 convents around the U.S. and potentially  
10 around the world coming to visit them.

11 My recommendation would be to  
12 approve this application, limiting it to 96  
13 individuals and for a term of five years.

14 Does any other Board Members have  
15 any other comments or questions?

16 VICE CHAIR SORG: I would just add  
17 one more comment to your remarks, which I  
18 agree with, which is something that we just  
19 didn't have in the record today, and that is  
20 that, in terms of the use, it looks like  
21 there's at least four other similar --  
22 similarly-used institutional, religious

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 institutional properties in the surrounding  
2 blocks.

3 So, in terms of an accepted use  
4 among the community, I think that sounds good  
5 as well.

6 CHAIRPERSON MOLDENHAUER: Thank  
7 you. And also referencing the community, I  
8 appreciate those comments, Ms. Sorg, that the  
9 ANC has voted to support this application that  
10 would be given great weight.

11 MOTION TO APPROVE APPLICATION NO. 18095

12 CHAIRPERSON MOLDENHAUER: That  
13 being said, if there's no additional  
14 deliberation, then I'll submit a motion, a  
15 motion to approve Application No. 18095 for a  
16 special exception under 215 to permit a  
17 residential group -- a religious group  
18 residence for 96 sisters of the Order for  
19 purposes of religious housing.

20 And, having that motion, is there  
21 a second?

22 VICE CHAIR SORG: Second.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 VOTE TO APPROVE APPLICATION NO. 18095

2 CHAIRPERSON MOLDENHAUER: Motion's  
3 been made and seconded. All those in favor  
4 say aye.

5 (Chorus of ayes.)

6 CHAIRPERSON MOLDENHAUER: And that  
7 would be conditioned on a five-year term.

8 MR. MOY: Yes. Staff would record  
9 the vote as 4:0:1. This is on the motion of  
10 the Chairperson, Ms. Moldenhauer, to approve  
11 the special exception relief under Section  
12 215, seconded by Ms. Sorg, the Vice Chair. In  
13 support of the motion, Mr. Hinkle, and Mr.  
14 Turnbull.

15 Again, this is for 96 persons and  
16 for a term of -- a period of five years, and  
17 the vote is 4:0:1.

18 CHAIRPERSON MOLDENHAUER: Thank  
19 you. And, Mr. Moy, since there is no  
20 opposition, we would like to waive our  
21 requirements and ask for a summary order to be  
22 issued.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MR. MOY: Yes, indeed. Thank you.

2 CHAIRPERSON MOLDENHAUER: Thank  
3 you very much.

4 MR. SULLIVAN: Thank you.

5 CHAIRPERSON MOLDENHAUER: We can  
6 call the next case.

7 VISIONS OF VICTORY CDC

8 APPLICATION NO. 18096, ANC-8B

9 MS. BAILEY: The final case today,  
10 Madam Chair, is Application 18096. It's the  
11 application of Vision of Victory CDC, pursuant  
12 to 11 DCMR, Section 3104.1 for a special  
13 exception under Section 353, to allow the  
14 construction of a new ninety-one unit  
15 residential apartment building under Section  
16 353. The property is in the R-5-A District.  
17 It's located at premises 2513 through 2547,  
18 Alabama Avenue, S.E., Square 5730, Lots 38,  
19 923 and 924.

20 CHAIRPERSON MOLDENHAUER: Thank  
21 you very much, Ms. Bailey.

22 Will the applicant please state

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 their name for the record.

2 MS. MAY: Good afternoon, Madam  
3 Chair and the Board. My name is LaRuby May,  
4 and I am the executive director of the Vision  
5 of Victory Community Development Corporation.  
6 And I have with me Mr. Andy -- do you want him  
7 to introduce himself or --

8 CHAIRPERSON MOLDENHAUER: Yes,  
9 please.

10 MR. BOTTICELLO: Andy Botticello.  
11 I'm with the developer, with LaRuby and Vision  
12 of Victory. My home address is 4224 23rd  
13 Street North, Arlington, Virginia. Thanks.

14 MS. MAY: I'm sorry, Madam Chair.  
15 For the record, my address is 3216 11th Place,  
16 Southeast, Washington, D.C. 20032.

17 CHAIRPERSON MOLDENHAUER: Thank  
18 you very much. I think the preliminary matter  
19 for this case would be a letter of  
20 authorization from the property owner. That's  
21 something that we would require in order for  
22 you to be here to present on their behalf. Do

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 you have it?

2 MS. MAY: Yes, ma'am, I have a  
3 copy of it.

4 CHAIRPERSON MOLDENHAUER: Okay.  
5 If you can provide that to Ms. Bailey.

6 MS. MAY: Yes, ma'am.

7 CHAIRPERSON MOLDENHAUER: That  
8 would be great. Thank you. Yes, we'll need  
9 copies. Thank you, yes. If we could just get  
10 copies and have an exhibit number.

11 Okay. Ms. May, if you would like  
12 to present your case.

13 MS. MAY: Yes, ma'am. I'm here  
14 today on behalf of Application 18096, pursuant  
15 to 11 DCMR 3104.1 for a special exception  
16 under Section 353 to allow the construction of  
17 a new 91-unit residential apartment building  
18 under Section 353 in the R-5-A district. That  
19 premise is 2513 through 2547 Alabama Avenue,  
20 S.E.

21 Vision of Victory Community  
22 Development Corporation, in partnership with

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Allen Chapel AME Church, which is where we  
2 were -- we're an outreach ministry of the  
3 church, have been working together in order to  
4 provide affordable senior housing in Ward 8,  
5 east of the River, Anacostia.

6 We believe that the record is  
7 complete and would only ask if you have any  
8 questions of us, Madam Chair.

9 CHAIRPERSON MOLDENHAUER: Okay. I  
10 just have a couple of questions. One, we  
11 don't have an ANC report. Can you provide us  
12 with some, I guess, testimony in regards to  
13 what correspondence you've had with the  
14 neighbors and with the ANC.

15 MS. MAY: Yes, ma'am. I actually  
16 have the -- a copy -- well, I have a digital  
17 copy of the ANC resolution in support of our  
18 project, Madam Chair, which I can email to you  
19 or can get back to you for the record later.

20 But, throughout the course of the  
21 project we've met three times with the ANC AB  
22 with our chairman, Mr. -- Chairman Mitchell

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Hawkins. We've gone to the ANC, both  
2 initially to talk about our project to get the  
3 support, and then continuously we go to the  
4 ANC committee -- ANC meetings to let them know  
5 where we are on the status of the project.

6 And so, we've -- we've received  
7 unanimous support from ANC AB as it relates to  
8 our project. Initially, the ANC only had one  
9 concern and that was a parking concern, and  
10 which we resolved that issue with the ANC and  
11 also with the Office of Planning.

12 CHAIRPERSON MOLDENHAUER: Can you  
13 elaborate a little bit about the parking issue  
14 and how you've resolved that?

15 MS. MAY: So, although the ANC had  
16 never received any complaints, so -- the  
17 property is across the street from our church  
18 currently, so on Sundays there's a significant  
19 amount of street parking for members  
20 worshiping at the church.

21 And so, although the ANC has never  
22 received a complaint about the parking, there

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 was a concern about having the new unit plus  
2 the parking. And so, one of the things that  
3 we've done, because this project is a  
4 partnership program with the CDC and the  
5 church, is the parking space that will be a  
6 part of the building will be a shared parking  
7 space on Sundays, that allows for the  
8 worshipers in church on Sunday to use that  
9 parking space.

10 MR. BOTTICELLO: Can I just add  
11 also the initial proposal that was submitted  
12 to the ANC utilized an existing church parking  
13 lot for parking for the senior housing, and  
14 that's how we changed the plan.

15 So, there's no shared parking  
16 between the church and the senior housing on  
17 the existing church parking lot. So, there's  
18 no senior housing parking allowed in the  
19 church parking lot, and that was a concern  
20 they had, that they were -- the new project  
21 would, in fact, reduce the amount of parking  
22 available.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1                   And so, we turned that -- so now  
2                   there's actually more parking available. So,  
3                   we maintained the existing church parking lot  
4                   and added parking for the senior housing  
5                   project.

6                   CHAIRPERSON MOLDENHAUER: And what  
7                   is your staff estimate at the location? How  
8                   many staff do you think you'll have?

9                   MR. BOTTICELLO: Oh, the staff has  
10                  been -- this is not a -- this is an  
11                  independent living facility, so there's  
12                  probably not more than three people that are  
13                  permanently employed at the -- at the  
14                  facility.

15                  CHAIRPERSON MOLDENHAUER: So there  
16                  won't be any -- I just saw, you know, the  
17                  facility will have, you know, meeting rooms,  
18                  exercise room, game room, library, lounge,  
19                  wellness center, laundry, café.

20                  I assume that that would have been  
21                  staffed and it says, "providing for staff and  
22                  residents." So, there would be only three

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 individuals --

2 MR. BOTTICELLO: Right.

3 CHAIRPERSON MOLDENHAUER: --

4 staffing that entire facility?

5 MR. BOTTICELLO: That's how you do  
6 that, and then there's usually volunteers.  
7 That's the linkage with the church. So, if  
8 they're going to have an event in the café,  
9 someone would come over from the church and  
10 run the event.

11 If they are going to offer  
12 exercise classes, it would be a volunteer to  
13 come in and offer the exercise classes. So,  
14 it's not an on-site staffing situation.

15 CHAIRPERSON MOLDENHAUER: Okay.  
16 So, I guess, typically how we look at these  
17 things as a volunteer would then be considered  
18 a part-time staff member. How many volunteers  
19 would you typically estimate would be on the  
20 site per day?

21 MR. BOTTICELLO: At any one time?

22 CHAIRPERSON MOLDENHAUER: Yes.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MR. BOTTICELLO: I mean, not more  
2 than one or two. I mean --

3 CHAIRPERSON MOLDENHAUER: Okay.  
4 And how -- how do you anticipate these -- the  
5 staff or the volunteers getting to the site?  
6 Are you providing them with SmarTrip cards?  
7 Do they -- are they in the neighborhood? Do  
8 they walk? Do they drive?

9 MS. MAY: I'm sorry. The church  
10 is directly across the street.

11 CHAIRPERSON MOLDENHAUER: Is your  
12 microphone on?

13 MS. MAY: I'm sorry. The church  
14 is directly across the street from the  
15 project, and so we would anticipate -- we have  
16 a -- one of the things that we're really  
17 excited about this project is, it's just not  
18 a building in isolation, but it's a  
19 partnership between the housing project and  
20 the church.

21 And so, we anticipate, as  
22 currently we run programs that service between

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 75 to a hundred seniors, weekly, and so those  
2 volunteers would simply just walk across the  
3 street to the project.

4 CHAIRPERSON MOLDENHAUER: Okay. I  
5 just -- I'm mean, we have other projects  
6 similar to this where there's, you know, CDC  
7 at church, a school, and they're all combined,  
8 but the problem is, unfortunately, as far as  
9 the zoning, we have to look at each project  
10 separately --

11 MS. MAY: Yes, ma'am.

12 CHAIRPERSON MOLDENHAUER: -- for  
13 purposes of making sure that there's  
14 sufficient parking requirements.

15 So, I understand the benefit to  
16 the community of -- of kind of conflating the  
17 issue of parking back and forth between the  
18 church and this new development, but at the  
19 same time, it's important for us to separate  
20 them out and make sure there's sufficient  
21 parking on site for this.

22 And I think that you're assuming

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 25 parking spaces. You indicate in your  
2 application that most residents will not have  
3 automobiles. Are you going to limit that so  
4 that you will always have sufficient parking  
5 for the staff on site if necessary for those  
6 residents, or are you going to limit, you know  
7 --

8 MR. BOTTICELLO: Well, I think we  
9 don't want to overemphasize that part of it,  
10 because realistically, there's budget  
11 constraints to that kind of activity, even  
12 with volunteers.

13 So, the main purpose of this  
14 development is to provide affordable  
15 residential housing for seniors. The program  
16 activities are kind of a secondary nature.  
17 So, that's the -- that's what this facility's  
18 made to do. It's just made to provide  
19 independent living.

20 So, there's not going to be lots  
21 of staff coming, going, even volunteer staff.  
22 So, it's really just a property manager and

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 assistant and a maintenance person.

2 CHAIRPERSON MOLDENHAUER: Okay.

3 MR. BOTTICELLO: And sometimes  
4 maintenance people, you know, are not on site.  
5 They are just -- they just come between  
6 different projects.

7 When you're talking about less  
8 than a hundred units, you kind of share staff  
9 between projects.

10 CHAIRPERSON MOLDENHAUER: Okay.  
11 Well, I appreciate that, and I appreciate the  
12 additional testimony that you've provided.

13 I don't have any further  
14 questions. Do any of the Board Members have  
15 questions?

16 COMMISSIONER TURNBULL: Madam  
17 Chair, I just wanted to -- our Exhibit No. 26,  
18 which is a report from the District Department  
19 of Transportation. Have you seen that?

20 MR. BOTTICELLO: I don't think so.

21 CHAIRPERSON MOLDENHAUER: Ms.  
22 Bailey, can we get the -- Mr. Moy is jumping

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 in. Thank you.

2 COMMISSIONER TURNBULL: Now, just  
3 for the record, it's dated September 3rd,  
4 2010. I just want to -- on page two they  
5 reference that the applicant has agreed to the  
6 following four conditions. I can read them if  
7 you'd like.

8 CHAIRPERSON MOLDENHAUER: Yes.  
9 Please do.

10 COMMISSIONER TURNBULL: The public  
11 alley located to the south of the land use  
12 development will continue to function as a  
13 public alley. Is that your understanding?

14 MR. BOTTICELLO: Yes. That's  
15 correct.

16 COMMISSIONER TURNBULL: Okay.  
17 DDOT-approved lighting and illumination along  
18 the front of the land use upon complete build-  
19 out that will meet the city's lighting  
20 standards.

21 The Washington Globe lighting  
22 along the front of the completed building will

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 adhere to the established streetscape  
2 standards of the Hillcrest neighborhood.

3 MR. BOTTICELLO: Right.

4 COMMISSIONER TURNBULL: The  
5 proposed vehicle service lane as shown in the  
6 original plan shall be removed.

7 MR. BOTTICELLO: So, the plans you  
8 have show a service lane. That's been removed  
9 since those plans.

10 COMMISSIONER TURNBULL: Okay. And  
11 the proposed curb cut located on Alabama  
12 Avenue to access the service parking lot shall  
13 be regarded as a concept and will -- it will  
14 undergo final determination through the DDOT  
15 Public Space Committee.

16 MR. BOTTICELLO: Right.

17 COMMISSIONER TURNBULL: Okay.

18 CHAIRPERSON MOLDENHAUER: Yes. I  
19 would just ask if we can actually have a copy,  
20 if you can supplement the record, the copy of  
21 the updated plans. That would be appreciated.

22 MR. BOTTICELLO: Excuse me. How

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 many copies? Can I give you one copy now, or  
2 do you need multiple copies?

3 CHAIRPERSON MOLDENHAUER: We just  
4 need one copy.

5 MR. BOTTICELLO: Okay. I have one  
6 copy.

7 CHAIRPERSON MOLDENHAUER: That  
8 would actually be fabulous and you can provide  
9 that to Ms. Bailey.

10 Sorry, Mr. Turnbull. I didn't  
11 mean to interrupt.

12 COMMISSIONER TURNBULL: No. I  
13 just wanted to put that on the record. That's  
14 all I have, really.

15 CHAIRPERSON MOLDENHAUER: No other  
16 questions?

17 COMMISSIONER TURNBULL: No.

18 CHAIRPERSON MOLDENHAUER: Okay.  
19 Do any other Board Members have any other  
20 questions for the Applicant?

21 (No response.)

22 CHAIRPERSON MOLDENHAUER: Seeing

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 none, then at this point in time if the  
2 applicant is completed with their statements,  
3 which they're nodding affirmatively, we'll  
4 turn to the Office of Planning for their  
5 report.

6 MS. BROWN-ROBERTS: Again, Madam  
7 Chairman, Maxine Brown-Roberts from the Office  
8 of Planning. In this case I think I'm going  
9 to stand on the record also, and I think that  
10 this application has been fully vetted and  
11 have nothing additional to add, and would take  
12 your questions if there are any. Thank you.

13 CHAIRPERSON MOLDENHAUER: Thank  
14 you very much, Ms. Brown-Roberts.

15 Does the applicant have any  
16 questions for the Office of Planning?

17 MR. BOTTICELLO: No.

18 CHAIRPERSON MOLDENHAUER: Thank  
19 you.

20 Do any of the Board Members have  
21 any questions of the Office of Planning?

22 (No response.)

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1                   CHAIRPERSON MOLDENHAUER: I think  
2 your report was very comprehensive and I have  
3 no questions at this time.

4                   That being said, then, if there is  
5 -- what we'll do is, we'll turn to see if  
6 there's a report from the ANC, not seeing  
7 anybody present in the audience and no one  
8 from the ANC, we will move on.

9                   And we are still obviously, right  
10 now, as I indicated earlier, we don't have any  
11 record of any report from the ANC in our file,  
12 but we are going to get a copy from the  
13 applicant on that.

14                   Any persons or parties in support  
15 or in opposition?

16                   (No response.)

17                   CHAIRPERSON MOLDENHAUER: Again,  
18 seeing no one coming forward, we'll turn back  
19 to the applicant for any closing remarks.

20                   MS. MAY: Madam Chair, we  
21 appreciate your time and consideration of this  
22 application and would just request a bench

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 decision on our application.

2 CHAIRPERSON MOLDENHAUER: Since we  
3 are waiting for -- I'd like to see a copy of  
4 the ANC report. So, that being said, we'll  
5 have to wait to get a copy of that. But, what  
6 I will do is, I'll see if we can't schedule  
7 this -- I think this should be a fairly quick  
8 bench decision -- next week, and we'll  
9 schedule this for the morning tomorrow -- next  
10 week in the morning.

11 But, if you can provide that to  
12 this office this week, that will be great.  
13 We'll leave the record open for that document,  
14 and then we'll make a decision on this case  
15 next week.

16 MS. MAY: Thank you, Madam Chair.

17 CHAIRPERSON MOLDENHAUER: Thank  
18 you very much. That being said, the record is  
19 closed, except for leaving it open for any ANC  
20 report.

21 (Whereupon, the foregoing matter  
22 was concluded at 1:56 p.m.)

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701