

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

+ + + + +

BOARD OF ZONING ADJUSTMENT

+ + + + +

PUBLIC HEARING

+ + + + +

TUESDAY

July 23, 2013

+ + + + +

The Regular Public Hearing
convened in the Jerrily R. Kress Memorial
Hearing Room, Room 220 South, 441 4th Street,
N.W., Washington, D.C., 20001, pursuant to
notice at 9:44 a.m., Lloyd J. Jordan,
Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

LLOYD J. JORDAN, Chairperson
JEFF HINKLE, Board Member (NCPC)

ZONING COMMISSION MEMBER PRESENT:

ROBERT MILLER, District Resident

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary
JOHN NYARKU, 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.
MARY NAGELHOUT, ESQ.

OFFICE OF PLANNING STAFF PRESENT:

ARTHUR JACKSON
PAUL GOLDSTEIN
STEPHEN GYOR
STEPHEN MORDFIN
MAXINE BROWN-ROBERTS
MATT JESICK

The transcript constitutes the minutes from the Public Hearing held on July 23, 2013.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

T-A-B-L-E O-F C-O-N-T-E-N-T-S

AGENDA ITEM	PAGE
Call to Order, Chairperson Jordan5
APPLICATION NO. 18595 OF EVA R. SANCHEZ, ANC-6A.7
Continued to September 17, 2013	10
APPLICATION NO. 18514 OF ANDREW DALY AND PATTY JORDAN, ANC-6A.	10
Continued to September 24, 2013	13
APPLICATION NO. 18591 OF ADOLFO BRICENO, ANC-6A.	14
Granted party status.	15
APPLICATION NO. 18592 OF CRAIG MESKILL, ANC-5A.	16
Vote to approve 3-0	19
APPLICATION NO. 18593 OF GLENN M. ENGELMANN, ANC 2-B	20
Lyle Blanchard, Representative.	21
Arthur Jackson, Office of Planning.	30
Closing by the Applicant.	34
Vote to approve 3-0	37
APPLICATION NO. 18594 OF JOHN AND JULIE LIPPMAN, ANC-6E	38
Paul Goldstein, Office of Planning.	41
Rhona Bryson, Person in Opposition.	42
Vote to approve 3-0	53

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

APPLICATION NO. 18409 OF CAS RIEGLER COMPANIES, ANC-1A	54
Stephen Gyor, Office of Planning.	58
Vote to approve 3-0	62
APPLICATION NO. 18554 OF CATHERINE L. BENNETT, ANC-8B	62
Stephen Mordfin, Office of Planning	65
Vote to approve 3-0	67
APPLICATION NO. 18591 OF ADOLFO BRICENO, ANC-6A.	68
Maxine Brown-Roberts, Office of Planning.	89
Vote to approve 3-0	103
Adjourn, Chairperson Jordan	105

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

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

2 9:44 a.m.

3 CHAIRPERSON JORDAN: Good morning.

4 Would this meeting please come to order. We
5 are located at the Jerrily R. Kress Memorial
6 Hearing Room at 441 4th Street, N.W. Today's
7 date is July 23, 2013.

8 We are here for the public hearing
9 and meeting of the Board of Zoning Adjustment
10 of the District of Columbia. My name is Lloyd
11 Jordan, Chairperson. To my left is Robert
12 Miller, member of the Zoning Commission
13 sitting in as a member of the Board of Zoning
14 Adjustment. To my right, Jeffrey Hinkle,
15 member of the Board.

16 Please be advised that this
17 proceeding is being recorded by a court
18 reporter and also being webcast live.

19 Therefore, I'm going to ask you to refrain
20 from any disruptive noises here in the hearing
21 room.

22 If you are here to testify or

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 provide a statement to any case that's pending
2 before the Board, I need you to do two things.
3 Let me start with the second one first and
4 that is to complete two witness cards for each
5 person.

6 Prior to testifying give those
7 witness cards to the court reporter sitting to
8 my right and to your left. That's two witness
9 cards for each person who is going to provide
10 a statement or testimony to the Board.

11 Now, those same people who are
12 going to provide testimony or be a witness in
13 the case, I'm going to ask you to stand and
14 take the oath or affirmation being given by
15 the Board secretary. If you are going to
16 testify or provide any statement in any case,
17 please stand and take the oath being given by
18 the Board secretary.

19 MR. MOY: Good morning. Do you
20 solemnly swear or affirm that the testimony
21 you are about to present in this proceeding is
22 the truth, the whole truth, and nothing but

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 the truth?

2 ALL: I do.

3 MR. MOY: Ladies and gentlemen,
4 you may consider yourself under oath.

5 CHAIRPERSON JORDAN: Let's do a
6 couple of things. Are the parties -- is
7 anyone here from ANC-6A? Let's call case
8 18595. Can I have the representatives on case
9 18595 please come forward. Someone
10 representing the Applicant or the Applicant
11 and anyone representing ANC-6A, please come to
12 the witness table.

13 Sir, take a seat and identify
14 yourself. Let's be sure the microphone is on
15 and you gave the witness cards.

16 MR. TONO: I gave one.

17 CHAIRPERSON JORDAN: Your name?

18 MR. TONO: My name is Augusto
19 Tono. I'm representing Eva Sanchez.

20 CHAIRPERSON JORDAN: Is there
21 anyone here from ANC-6A? The representative
22 of ANC-6A?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 In this matter we had a request
2 from ANC-6A to continue this matter so that
3 they have the ability to deliberate on this
4 case. This is the first time this has been
5 set. We are inclined to allow that
6 continuance. Have you had a conversation with
7 ANC-6A?

8 MR. TONO: Yes. I think they
9 changed their chairman and that's one of the
10 reasons.

11 CHAIRPERSON JORDAN: You kind of
12 got caught in the shift and change. All
13 right. With that we are going to grant that
14 continuance.

15 Mr. Moy, do we have a date soon
16 that we can get this rescheduled to?

17 MR. MOY: To allow time I would
18 imagine the date for when the ANC meets.

19 CHAIRPERSON JORDAN: Let me ask
20 you do you have a date already set with them
21 to meet?

22 MR. TONO: Yes.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 CHAIRPERSON JORDAN: Okay. What's
2 your date you're meeting with the ANC?

3 MR. TONO: I don't have it off the
4 top of my head but I know it's going to be in
5 August.

6 CHAIRPERSON JORDAN: Okay. That
7 gives us some guidelines. Thank you.

8 MR. MOY: If it's in August, then
9 a date in September. Just give me a second,
10 Mr. Chairman because the docket is pretty
11 full.

12 CHAIRPERSON JORDAN: I know.

13 MR. MOY: I would recommend, Mr.
14 Chairman -- well, give or take a case, either
15 September 17th or the 24th.

16 CHAIRPERSON JORDAN: Which date?

17 MR. MOY: Either the 17th or the
18 24th of September. Either one will do. They
19 are both heavy anyway.

20 CHAIRPERSON JORDAN: Which date is
21 good for you?

22 MR. TONO: The 17th.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MR. MOY: The 17th is good.

2 COMMISSIONER MILLER: Mr.
3 Chairman, on this one I would like to request
4 that the Office of Planning review the merits
5 of the request and provide a revised report.

6 CHAIRPERSON JORDAN: Thank you.
7 We do need Office of Planning to weigh in
8 regarding the relief requested. We did read
9 the report that was submitted but we need to
10 take a look at whether or not this application
11 would meet the general standard for variance
12 period so we need you to weigh in -- Office of
13 Planning to weigh in on that. Thank you, Mr.
14 Miller.

15 With that, then we'll continue
16 this to September 17th.

17 MR. TONO: Thank you so much.

18 CHAIRPERSON JORDAN: Thank you.

19 Can I have the Applicant or
20 representative of the Applicant on Case 18514
21 come forward, please. And a representative
22 from ANC-6A if someone is the designated

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 representative for ANC-6A. 18514, the
2 Applicant or Applicant's representative please
3 come forward.

4 Please identify yourselves for the
5 record. Make sure your mic is on. Did you
6 complete witness cards?

7 MR. PETERSEN: Yes. My name is
8 Eric Petersen. I'm the architect.

9 CHAIRPERSON JORDAN: Make sure
10 your microphone is on.

11 MR. DALY: Andrew Daly, owner.

12 CHAIRPERSON JORDAN: And, again,
13 anyone from ANC -- any authorized
14 representative of ANC-6A. Again, we have a
15 request from ANC-6A requesting this matter to
16 be continued to allow them to meet. I have
17 seen some response from you, the Applicant,
18 saying that you tried to meet or you met
19 before. Can you explain that?

20 MR. PETERSEN: Yes. We contacted
21 them on a couple of occasions. Unfortunately,
22 with vacations and other matters we weren't

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealgross.com

1 able to physically meet with ANC.

2 CHAIRPERSON JORDAN: So there is
3 no time scheduled at this point?

4 MR. PETERSEN: No, but I was
5 unaware that was still a desire for them to
6 meet.

7 CHAIRPERSON JORDAN: They made a
8 request for that.

9 How does the Board feel? I'm
10 think we need to grant at least one time. I
11 think they made a request before to try to
12 meet. Are you aware of that? Did you try to
13 have a date set with them before and it got
14 continued or something?

15 MR. PETERSEN: No. We had some
16 modifications to the design prior to an
17 opportunity to meet with them. We had pushed
18 back this hearing several times to get our
19 drawings prepared. Over a month ago I did
20 deliver the drawings to the chairman of the
21 ANC.

22 CHAIRPERSON JORDAN: When did the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 drawings change?

2 MR. PETERSEN: They changed in
3 June, mid month.

4 CHAIRPERSON JORDAN: Okay. So
5 that would be sometime -- all right. We'll
6 grant the continuance. Please get with the
7 ANC and work with them.

8 Mr. Moy, you want to put this for
9 September 24th?

10 MR. MOY: I think that would be a
11 good idea.

12 CHAIRPERSON JORDAN: Okay.
13 September 24th. Please make an effort to do
14 so. If we can have the Office of Zoning be
15 sure to reach out to the ANC and let them know
16 the dates that we continue this to and how
17 important these things are, especially since
18 you changed the drawings.

19 MR. PETERSEN: I understand.

20 CHAIRPERSON JORDAN: Thank you.

21 MR. PETERSEN: Thank you.

22 CHAIRPERSON JORDAN: Case No.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 18591. Do we have a representative of Linden
2 Neighborhood Association as well as the
3 representative of the Applicant? Come
4 forward, please.

5 MR. LABBE: I have not turned in
6 my cards yet.

7 CHAIRPERSON JORDAN: Yes. Please
8 do. Please take a seat. Are you on the case
9 18591?

10 MR. LABBE: Yes.

11 CHAIRPERSON JORDAN: Okay. And
12 you are?

13 MR. LABBE: My name is Claude
14 Labbe. I'm one of the members of the
15 association although not the official
16 representative.

17 CHAIRPERSON JORDAN: Is the
18 official representative here? I need a
19 representative of the Applicant and a
20 representative of Linden Neighborhood
21 Association.

22 Come forward, please. That's

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 okay. Please identify yourselves. Make sure
2 your microphones are turned on. Push it and
3 you'll see a bright green light.

4 MR. LABBE: Bright green. That
5 works better. My name is Claude Labbe. I am
6 one of the members of the neighborhood
7 association.

8 CHAIRPERSON JORDAN: And you two
9 gentlemen?

10 MR. BRICENO: My name is Adolfo
11 Briceno. I am the owner of the restaurant.

12 MR. WILLIAMS: My name is Troy
13 Williams, partner, chef of the restaurant.

14 CHAIRPERSON JORDAN: Okay. There
15 was a party status request made by Linden
16 Neighborhood Association which we will grant,
17 I think, if there is not an issue with the
18 Board. We will grant the party status. In
19 the interim I'm going to ask that the Linden
20 Neighborhood Association meet with the
21 Applicant and have some discussion about your
22 concerns and see if anything --

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealgross.com

1 MR. LABBE: That's what we have
2 been doing.

3 CHAIRPERSON JORDAN: Okay. I'm
4 going to ask you to do it again today and see
5 if you can have a meeting of the minds on any
6 issues before we call it back for a hearing on
7 the matter. I want to ask you, please, to
8 step out and have that conversation.

9 MR. WILLIAMS: Okay.

10 MR. LABBE: Thank you very much.

11 CHAIRPERSON JORDAN: I think that
12 takes care of all our preliminary issues and
13 matters?

14 MR. MOY: I believe so, sir.

15 (Whereupon, at 9:56 a.m. off the
16 record until 10:05 a.m.)

17 MR. MOY: Yes. Thank you, Mr.
18 Chairman. That would be Application No.
19 18592. This is the application of Craig
20 Meskill, pursuant to 11 DCMR 3104.2 for a
21 special exception to allow an accessory
22 apartment in a one-family detached dwelling

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 under Subsection 202.10, in the R-2 District
2 at premises 4401 14th Street, N.E. Property
3 located in Square 3994, Lot 32.

4 CHAIRPERSON JORDAN: Parties for
5 18592 please come forward. Please identify
6 yourselves.

7 MS. KING: I'm Tamar King,
8 representative for the Applicant.

9 MR. MESKILL: Craig Meskill,
10 owner.

11 MR. GILBERT: John Gilbert, co-
12 owner.

13 CHAIRPERSON JORDAN: We have a
14 full file here which we believe based upon
15 your filing and representation from Office of
16 Planning and others that this matter is one in
17 which we can grant relief.

18 You haven't submitted a request
19 for a waiver of your hearing but you can make
20 an oral request to waive your hearing and we
21 can proceed on seeing that we think there is
22 more than enough here to give you the support

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealgross.com

1 and to grant the relief.

2 Otherwise, you go through the
3 hearing process. You certainly can ask us to
4 waive your hearing and we can proceed on with
5 a decision.

6 MR. MESKILL: We'll ask you to
7 waive the hearing.

8 CHAIRPERSON JORDAN: Good. Then
9 accepting that request for a waiver, the oral
10 request, subsequently I'm going to ask you to
11 fill out a form to say that you requested a
12 waiver but I think the record is substantial
13 enough.

14 With that, based upon the request
15 and the documents prepared to file, the
16 request for the accessory use special
17 exception of Section 202.10, and based upon
18 the documents that are already filed to date
19 in this file, and based upon the support given
20 by Office of Planning and support by the ANC,
21 then I would move that we grant the relief in
22 this matter.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealgross.com

1 MEMBER HINKLE: I'll second.

2 CHAIRPERSON JORDAN: Motion made
3 and seconded. Any unreadiness? Any
4 discussion? All those in favor of granting
5 the relief signify by saying aye.

6 BOARD MEMBERS: Aye.

7 CHAIRPERSON JORDAN: Those opposed
8 nay. The motion carries.

9 MR. MOY: Staff would record the
10 vote as 3-0. This is on the motion of
11 Chairman Jordan to approve the request for
12 structural exception relief for accessory use
13 under 202.10.

14 Seconding the motion Mr. Hinkle.
15 Also in support Mr. Miller. We have one
16 member not present and a Board seat vacant.
17 Again, the motion carries, Mr. Chairman.

18 CHAIRPERSON JORDAN: Thank you.
19 And a summary order, please.

20 MR. MOY: Yes, sir.

21 CHAIRPERSON JORDAN: Thank you
22 all. Sorry to make it that difficult.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MR. MOY: The next application is
2 Application No. 18593. This is the
3 application of Glenn M. Engelmann pursuant to
4 11 DCMR 3103.2, for a variance from the lot
5 occupancy requirements under Section 403, a
6 variance from the rear yard requirements under
7 Section 404, and a variance from the
8 nonconforming structure requirements under
9 Subsection 2001.3, to allow a rear deck
10 addition to an existing row dwelling in the
11 DC/R-5-B District at premises 1412 Hopkins
12 Street, N.W. Property located in Square 96,
13 Lot 93.

14 CHAIRPERSON JORDAN: Would you
15 please identify yourselves?

16 MR. ENGELMANN: Thank you. Glenn
17 Engelmann, the owner.

18 MR. BLANCHARD: Good morning.
19 Lyle Blanchard, representative of the owner.

20 CHAIRPERSON JORDAN: Your name
21 again? I'm sorry.

22 MR. BLANCHARD: Lyle Blanchard.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 CHAIRPERSON JORDAN: And?

2 MR. GUAY: Bernie Guay, architect
3 for the project.

4 CHAIRPERSON JORDAN: And we have
5 submitted witness cards to the court reporter.

6 All right. This is one that I
7 just need to get a couple things clear. I'm
8 trying to understand what you're claiming as
9 the exceptional condition or situation. Are
10 you saying that the decks on the neighbor's
11 property creates this situation for the
12 exceptional situation and condition to this
13 property?

14 MR. BLANCHARD: Good morning,
15 Chairman Jordan and members of the Board. I
16 would like to go through the unique aspects of
17 the property if I could as part of my initial
18 presentation.

19 CHAIRPERSON JORDAN: Answer my
20 question.

21 MR. BLANCHARD: All right. I
22 will. We see three factors that contribute to

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 the uniqueness of this property and create an
2 exceptional condition. The first is that the
3 rowhouse structure itself was built in 1840.
4 The date, of course, predates the current 1958
5 Zoning Regulations.

6 The existing rowhouse structure
7 occupies 1,105 square feet of a 1,424 square
8 foot lot. The construction of the original
9 rowhouse in 1840 created this nonconforming
10 lot occupancy of the property under the
11 current 1958 Zoning Regulations.

12 Secondly, the existing rowhouse is
13 sited on the lot such that the rear yard is
14 only 10.37 feet deep. The construction of the
15 rowhouse in 1840 created this nonconforming
16 rear yard as we would apply the 1958 Zoning
17 Regulations.

18 Secondly, the house is located
19 within the Dupont Circle Historic District.
20 The Historic District has controls under the
21 Historic Preservation Act which would prevent
22 -- I'm going to go into the practical

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealgross.com

1 difficulty aspect now.

2 The Historic Preservation controls
3 would prevent the owner absent a substantial
4 financial difficulty from either razing the
5 entire house or demolishing the rear of the
6 house to pull it back and create a conform
7 rear yard under the current zoning. The
8 Historic Preservation Review Board would not
9 allow the razing of this house.

10 CHAIRPERSON JORDAN: You made a
11 request for that?

12 MR. BLANCHARD: No, we have not.

13 CHAIRPERSON JORDAN: Oh, you mean
14 you're just assuming they would not.

15 MR. BLANCHARD: I'm assuming they
16 would not.

17 CHAIRPERSON JORDAN: All right. I
18 just want to make sure we're on the same page.

19 MR. BLANCHARD: No, we haven't
20 actually asked HPRB and they haven't actually
21 turned us down. But with all likelihood --

22 CHAIRPERSON JORDAN: You see,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 being the Devil that would mean I could make
2 that argument, but go ahead. Go for it.

3 MR. BLANCHARD: Right. That's
4 okay.

5 Then the third issue that we
6 believe contributes to the uniqueness of this
7 property is the concrete wall with a fence
8 above it, a solid concrete wall built face
9 online of the adjoining lot to the south.

10 This is the concrete wall that's
11 shown in the Applicant's application that
12 supports the deck of his neighbor to the
13 south. The fence is situated on top of it.
14 The concrete wall itself is about seven feet
15 tall. The fence on top of this wall is about
16 another seven feet tall so we're talking about
17 14 or 15 feet of wall.

18 Well, seven feet of solid wall,
19 concrete block wall, and another seven feet of
20 fence. Irrespective of whether that was
21 permitted properly or not, this wall
22 effectively blocks the light and air

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 circulation into our client's rear yard.

2 It's these three factors that
3 contribute and constitute what we believe is
4 the unique circumstances of this case that, in
5 turn, create a practical difficulty. If you
6 like, I could go into --

7 CHAIRPERSON JORDAN: I'm good.
8 One thing that we're not doing, we don't need
9 and song and dance. You've been very much on
10 point and we would like you to stay on point.
11 You answered my question. It's a confluence
12 of factors leading to your request here.

13 Thank you. We don't know but I
14 think there is that the wall here would be --
15 well, looking at the picture to the right it
16 may be an illegal construction. Did you have
17 any knowledge of that?

18 MR. BLANCHARD: That really has no
19 bearing on this case.

20 CHAIRPERSON JORDAN: Yes, but I
21 would just ask the question.

22 MR. BLANCHARD: As far as we

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 know --

2 MR. ENGELMANN: My next-door
3 neighbor said the deck was there when he
4 purchased the home. I'm not sure when it was.
5 I just bought the house a little over a year
6 ago.

7 CHAIRPERSON JORDAN: Are you
8 familiar that we did receive a letter from
9 someone that was in opposition to this saying
10 you would affect their light and air. Have
11 you had any conversation with that person?

12 MR. ENGELMANN: I just found out
13 about that yesterday so, no, I haven't been
14 able to speak with him directly. I did take
15 a picture last night from my kitchen window.
16 His house is several houses north of mine, in
17 fact. As you will see with the picture, he
18 doesn't have a deck. He has a backyard with
19 a high fence, some trees.

20 There are two decks immediately
21 adjacent to his house so from a privacy
22 perspective that would seem to me to be more

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 of an issue. It's the house with the
2 basketball hoop in front of it on the alley.

3 CHAIRPERSON JORDAN: Okay. And
4 your house is not in this picture?

5 MR. ENGELMANN: No, that's from my
6 kitchen window.

7 CHAIRPERSON JORDAN: Oh, gotcha.
8 Is this directly behind your house?

9 MR. ENGELMANN: No. It's further
10 down. I think there's a plot map.

11 CHAIRPERSON JORDAN: Okay, here.
12 I'm sorry.

13 MR. BLANCHARD: I've drawn an
14 error to indicate where the author of that
15 letter lives across the alley. The
16 Applicant's house is indicated by an orange
17 dot and shaded.

18 CHAIRPERSON JORDAN: I see.

19 MR. BLANCHARD: The letter was
20 written by a gentleman who lives across the
21 10-foot alley and two houses north on that
22 block.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 CHAIRPERSON JORDAN: Got it.

2 Thank you.

3 Does the Board have any other
4 questions they think they need to drill down
5 from this Applicant? Any issues or anything
6 they need to hear from the Applicant?

7 COMMISSIONER MILLER: No, I don't
8 have anything, Mr. Chairman. I wanted to note
9 that it is appropriate that -- you probably
10 were going to get to this next but, if it's
11 okay, I would note that the ANC-2B did submit
12 a letter approving this project unanimously by
13 a 9-0 vote at its April 10 meeting.

14 I would just comment that I tend
15 to agree with the statements of the ANC that
16 the deck -- they say patio but I think it's
17 more of a deck -- the deck will improve the
18 quality of air and light by raising the
19 exterior space above the neighboring concrete
20 wall that currently blocks light and air.

21 The project improves the equity of
22 the property because of neighboring patios

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealgross.com

1 similarly elevated and the project does not
2 incur additional hardship to the neighbors but
3 improves the aesthetic of the alley. I would
4 just make that comment.

5 CHAIRPERSON JORDAN: Turning back
6 to the Applicant, I believe the Board is
7 comfortable enough with the request for relief
8 and we don't necessarily need any other
9 presentation at this point.

10 Certainly if we proceed on, you
11 have the right to rebut if anything comes up
12 when we go to anyone in opposition. But I
13 think we are very comfortable at this point
14 with what we have in the file.

15 MR. BLANCHARD: Mr. Jordan, if I
16 could, I just wanted to -- our architect was
17 going to submit this as part of our
18 presentation but if you want to foreshorten
19 it, that's fine with us.

20 CHAIRPERSON JORDAN: You can do
21 what you want to do but understand where we
22 are now. You have the right to talk yourself

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 into something that's better or something
2 that's worse so it's up to you.

3 MR. BLANCHARD: We think this is
4 better. The design we submitted to Mr. Moy
5 just now for the Board's consideration shows
6 -- it complies with the ANC's letter as far as
7 moving the supporting column back.

8 CHAIRPERSON JORDAN: Give us a
9 second.

10 With that then, let's now turn --
11 if there's nothing else that you think you
12 need to present, let's now turn to the Office
13 of Planning to see if there is anything in
14 addition that they need to add to their
15 report.

16 MR. JACKSON: Good morning, Mr.
17 Chairman, members of the Board. The Office of
18 Planning's report basically outlines our
19 position. Essentially that there six
20 identical lots that all have the same issue
21 with regard to setback.

22 This is not a unique situation and

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 there is no practical difficulty meeting the
2 regulations. There is no practical difficulty
3 involved here because the status quo should be
4 maintained. That completes our report and we
5 are available to answer questions.

6 CHAIRPERSON JORDAN: Let me ask
7 you. The house next door with the deck, did
8 you find out whether that was legally
9 constructed or not legally constructed?

10 MR. JACKSON: We could find an old
11 building permit or any building permit issued
12 for that construction.

13 CHAIRPERSON JORDAN: Is there any
14 other patio or deck that's been illegally
15 constructed sitting next to another property
16 in this --

17 MR. JACKSON: Again, we can't
18 conclude it's been illegally constructed.
19 This structure itself may predate the
20 regulations. I will note that it is a poured
21 concrete structure so they have to put up
22 forms and actually pour it.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 That is pretty substantial
2 construction. In any case, we cannot conclude
3 it was illegally constructed but we could find
4 no permits for either the structure behind
5 1410 or the structure behind 1408.

6 CHAIRPERSON JORDAN: All right.
7 Anyone else on the Board have any questions
8 for the Office of Planning?

9 Does the Applicant have any
10 questions for the Office of Planning?

11 MR. BLANCHARD: Mr. Jackson, good
12 morning. So it's your understanding that this
13 was a substantially constructed wall because
14 it was poured concrete? Is that what you're
15 saying?

16 MR. JACKSON: I'm just describing
17 the wall. It's not cinder block. It
18 appears --

19 MR. BLANCHARD: Well, it's poured
20 concrete as opposed to block.

21 MR. JACKSON: At least from a
22 visual inspection --

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MR. BLANCHARD: Thank you.

2 MR. JACKSON: -- it appears to be
3 poured concrete. That's what I'm saying.

4 MR. BLANCHARD: That's my only
5 question, Mr. Chair.

6 CHAIRPERSON JORDAN: On the Board
7 any other questions?

8 Anyone from the Department of
9 Transportation? I do not believe we have a
10 rec from the Department of Transportation. I
11 don't think I have anything in the file from
12 the Department of Transportation and they're
13 not here.

14 Anyone here from ANC-2B? Anyone
15 from ANC-2B? As Mr. Miller has just
16 indicated, we did get a strong letter of
17 support which we will give great weight to
18 ANC-2B who voted 9-0 to support the requested
19 relief.

20 Is there anyone wishing to testify
21 in support of this application? Anyone
22 wishing to testify in support of the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 application? Anyone wishing to testify in
2 opposition to the application? Anyone wishing
3 to testify in opposition?

4 Then we would normally turn back
5 to -- we'll turn back to the Applicant for any
6 rebuttal statements or closing that you would
7 like to make.

8 MR. BLANCHARD: I would like to
9 make a short closing.

10 CHAIRPERSON JORDAN: Yes, please.

11 MR. BLANCHARD: In closing, Board
12 Members, there are the three exceptional
13 conditions that I mentioned in my introduction
14 so I won't repeat those. Those conditions
15 make it very difficult to comply either under
16 Historic Preservation or under existing
17 zoning.

18 The concrete wall with the fence
19 above it that's face online is a condition not
20 foreseen by the Zoning Regulations.
21 Therefore, applying the Zoning Regulations and
22 the restrictions on rear yard and lot

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 occupancy to the Applicant's application
2 creates a practical difficulty.

3 We do not believe that granting
4 the application would constitute any
5 substantial detriment under the Zoning
6 Regulations. With the requested variances the
7 proposed addition will be able to address the
8 practical difficulties that result from the
9 pre-1958 structure, inclusion in the Historic
10 District, and the oppressive concrete face
11 online wall and deck on the adjoining lot.

12 The proposed design is very light
13 and open and won't create similar conditions
14 for the adjoining lot to the north. We've
15 tried to mitigate everything as much as
16 possible. As indicated, the ANC supports
17 this. The issues raised by the neighbor
18 across the alley we don't believe have merit.

19 The prohibition in Section 201
20 against additions to buildings with
21 nonconforming lot occupancy would not be
22 compromised because of the unique conditions

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 in this property. That concludes my
2 presentation.

3 CHAIRPERSON JORDAN: Thank you.
4 Does the Board have any other questions? Then
5 we will conclude this hearing. Is the Board
6 ready to deliberate on this? Does anybody
7 have any thoughts?

8 COMMISSIONER MILLER: Mr.
9 Chairman, I would move that we approve the
10 request for variance relief from Section
11 403.2, 404.1, and 2001.3A and B in BZA Case
12 18593 for a proposed deck addition to the
13 three story dwelling located at 1412 Hopkins
14 Street, N.W. and ask for a second.

15 CHAIRPERSON JORDAN: Second. I
16 would also add for the sake of a finding that
17 your closing does meet everything I indicated
18 why this is an exceptional situation and adopt
19 that as the factors that leads to this
20 particular decision.

21 Any further unreadiness or
22 discussion? All those in favor of the motion

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 signify by saying aye.

2 BOARD MEMBERS: Aye.

3 CHAIRPERSON JORDAN: Those opposed
4 nay. The motion carries.

5 Mr. Moy.

6 MR. MOY: Yes, sir. Staff would
7 record the vote as 3-0. This is on the motion
8 of Chairman Jordan to approve the application
9 for the three requests for variance relief.
10 This is on the motion of Mr. Miller.

11 Seconding the motion is Chairman
12 Jordan. Also in support Mr. Hinkle. We have
13 a member not participating and a Board seat
14 vacant. The motion carries, Mr. Chairman.

15 CHAIRPERSON JORDAN: Summary
16 order.

17 Thank you very much.

18 MR. BLANCHARD: Thank you very
19 much.

20 MR. ENGELMANN: Thank you very
21 much.

22 MR. MOY: The next application, I

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 believe, should be Application 18594. This is
2 the Application of John and Julie Lippman.

3 CHAIRPERSON JORDAN: No, no. We
4 have 18591.

5 MR. MOY: That was continued.

6 CHAIRPERSON JORDAN: No, it's not
7 continued.

8 MR. MOY: It wasn't?

9 CHAIRPERSON JORDAN: No. I'll
10 tell you what. While we catch up with
11 ourselves, let's take a six-minute break and
12 come back.

13 (Whereupon, at 10:27 a.m. off the
14 record until 10:34 a.m.)

15 CHAIRPERSON JORDAN: We are going
16 to do a recall and do 18594. Is that right?
17 We saw you sitting at the table and I know Mr.
18 Moy and I had almost a snap. We fumbled our
19 snap in play calling.

20 MR. MOY: Okay. Then let's go
21 with 18594. This is the application of John
22 and Julie Lippman, pursuant to 11 DCMR 3103.2,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 for a variance from the nonconforming
2 structure provisions under Subsection 2001.3,
3 to allow an addition to an existing four unit
4 apartment house, not meeting the lot occupancy
5 under Section 403 requirements in the R-4
6 District at premises 471 M Street, N.W.,
7 Square 513, Lot 920.

8 CHAIRPERSON JORDAN: I review
9 these cases sometimes so far in advance and
10 have to go back and read my notes to stay with
11 all of it and see where we were.

12 Please identify yourselves.

13 MR. SULLIVAN: Good morning, Mr.
14 Chairman, members of the Board. My name is
15 Marty Sullivan with the law firm of Sullivan
16 and Barros here on behalf of the Applicant.

17 MS. LEMLEY: My name is Christina
18 Lemley and I'm one of the architects with
19 Studio CrowleyHall.

20 MR. LIPPMAN: I'm John Lippman.
21 I'm the owner with my wife.

22 MS. LIPPMAN: Julie Lippman,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 owner.

2 CHAIRPERSON JORDAN: And you've
3 turned in witness cards to the court reporter.

4 Mr. Sullivan, this is one I think
5 that we have enough in the record to support
6 the relief. We've reviewed the file. Office
7 of Planning has recommended approval. DDOT
8 has submitted a letter with no objection.

9 The ANC-6E has voted in support of
10 this application. We think the relief is not
11 substantial that it might be de minimis in
12 extent for granting relief. It's certainly up
13 to you if you want to do a presentation or
14 not.

15 MR. SULLIVAN: We're happy to
16 stand on the record and answer any questions
17 or respond to any comments.

18 CHAIRPERSON JORDAN: You also have
19 rebuttal if something comes up in opposition.
20 You certainly have the opportunity to use
21 rebuttal.

22 MR. SULLIVAN: Thank you.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 CHAIRPERSON JORDAN: Okay. Then
2 let's go to the Office of Planning to see if
3 there is anything in addition the Office of
4 Planning would like to add to their report.

5 MR. GOLDSTEIN: Good morning. For
6 the record, my name is Paul Goldstein with the
7 D.C. Office of Planning. OP has nothing in
8 addition to the submission that we made. We
9 are supportive of the relief and we are happy
10 to answer any questions that you may have.

11 CHAIRPERSON JORDAN: Anyone on the
12 Board have any questions for the Office of
13 Planning?

14 Does the Applicant have questions
15 for the Office of Planning?

16 MR. SULLIVAN: No, Mr. Chairman.

17 CHAIRPERSON JORDAN: Do we have a
18 representative of the Department of
19 Transportation here? For this case to be more
20 specific.

21
22 We do have a letter of no

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 objection from the Department of
2 Transportation.

3 Is there a representative of ANC-
4 6E? Any authorized representative of ANC-6E?
5 We do not have anyone from ANC-6E. However,
6 they submitted a letter in support of the
7 application of the relief be grated.

8 Is there anyone in the audience
9 wishing to speak in support of this
10 application? Anyone wishing to speak in
11 support?

12 Anyone wishing to speak in
13 opposition? Yes. Please come forward. Get
14 yourself comfortable and make sure the mic is
15 turned on for us.

16 MS. BRYSON: My name is Rhona
17 Bryson. I'm the next-door neighbor 473 N
18 Street.

19 CHAIRPERSON JORDAN: Ms. Bryson,
20 you have three minutes to give us your view
21 and your opinion on this place.

22 MS. BRYSON: My opinion and my

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 presence is such that I'm not fully aware of
2 the build and so my concerns are, quite
3 frankly, that it abuts to my property. It
4 certainly will bring a restriction of light
5 and air that already exist as it is.

6 I have some concerns about the
7 timing of the construction and what that means
8 is it abuts to my property so as they are
9 preparing to or planning to build upwards, as
10 their next-door neighbor I'm not quite sure
11 what that yields for my property.

12 I have an existing rainfall pipe
13 and some other things. I just need to know.
14 They are great neighbors. I want to say while
15 I filled out a card and it's to opponent, I
16 need a little more detail. I think they
17 welcome sharing that with me.

18 Unfortunately, I travel quite a
19 bit and don't see them frequently so here I am
20 having changed my travel schedule. Again,
21 those are my key concerns. The property as it
22 is we already have some challenges; access and

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealgross.com

1 access ways.

2 I have an existing concern already
3 as the owner of the property having an
4 easement that is clearly identified as my
5 easement but based on their structure, they
6 really have no access way to their backyard
7 except but to come onto my property.

8 Again, as far as this build is
9 concerned, it's going to abut my property and
10 I want to know what that looks like as far as
11 construction. My concerns right now are light
12 and air and timing of construction.

13 CHAIRPERSON JORDAN: Let me ask
14 you. Have you had a conversation with the
15 Applicant that they come over and talk to you
16 about what they're doing?

17 MS. BRYSON: Again, I travel
18 probably 80 percent of the time and while I
19 have family members there, I don't get to see
20 them so we see each other by happenstance on
21 the day that I'm cleaning the yard.

22 CHAIRPERSON JORDAN: I understand.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MS. BRYSON: I appreciate them as
2 neighbors but just haven't had a chance. I'm
3 willing to do that here and now if they are
4 willing to show what they are doing.

5 CHAIRPERSON JORDAN: Okay. Thank
6 you. We appreciate you coming down. A lot of
7 times that's one thing that really big for
8 this particular Board that applicants be sure
9 to meet with their neighbors and have
10 discussions about what they are trying to do,
11 as well as neighbors to reach out and let
12 people know their concerns and see if things
13 can be worked out prior to being here.

14 We thank you for your comments and
15 I'm sure as we proceed here and even after
16 that the Applicant would get with you to meet
17 with you and have discussions about what
18 they're doing. Let's turn back --

19 Anybody else in opposition wishing
20 to testify?

21 Then let's turn back to you, Mr.
22 Sullivan. Let me first ask a question. Has

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 there been outreach to the neighbors and --

2 MR. SULLIVAN: I think I'll let
3 Mr. Lippman talk about that.

4 CHAIRPERSON JORDAN: Yes, thank
5 you.

6 MR. LIPPMAN: Well, in addition to
7 the ANC we've walked around and talked to
8 people.

9 CHAIRPERSON JORDAN: Did you
10 specifically go to your next-door neighbor,
11 knock on the door, and say, "We want to
12 discuss these plans?"

13 MR. LIPPMAN: It's locked when
14 you're not there.

15 CHAIRPERSON JORDAN: The answer
16 is?

17 MR. LIPPMAN: The answer is we
18 tried.

19 CHAIRPERSON JORDAN: Okay.

20 MR. LIPPMAN: Several times.

21 CHAIRPERSON JORDAN: And you are
22 willing to meet with her today even after this

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 to have a discussion while you all are in the
2 same building?

3 MR. LIPPMAN: Yes.

4 CHAIRPERSON JORDAN: I know you
5 have your plans with you, etc., so you can
6 have that kind of conversation.

7 Does the Board have any other
8 questions that they need to ask the Applicant?

9 COMMISSIONER MILLER: Well, Mr.
10 Chairman, maybe just to address the neighbor's
11 issue about the access. Can you address the
12 issue about the access from the back? Do you
13 have to walk across the neighbor's property --
14 which is what I believe she testified -- to
15 get to the back access?

16 MR. SULLIVAN: My understanding,
17 and Mr. Lippman can add in after, is that is
18 how you enter and exit some of the units from
19 the side and there's an easement. It's been
20 that way since the building was built before
21 1958.

22 Regarding this application and

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 what we're doing, it won't change that at all
2 because we're not increasing the number of
3 units and we're not increasing the use of that
4 areaway. We can provide some more detail
5 about the juxtaposition of this in addition
6 next to this property if you'd like. I don't
7 think the easement is affected at all by the
8 requested relief or by the addition. It will
9 still be used the way it's been used since
10 1937.

11 COMMISSIONER MILLER: I think it
12 is a very modest addition, Mr. Chairman, as
13 per the Applicant's statement and the Office
14 of Planning notes in their report. It might
15 be useful to take maybe 30 seconds or a minute
16 to describe what this addition is and how it's
17 setback from the front just for the benefit of
18 the next-door neighbor and the public.

19 MR. SULLIVAN: Christina, if you
20 could pull up -- do you have A4?

21 MS. LEMLEY: Yes.

22 COMMISSIONER MILLER: It is the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 smallest house on the block apparently.

2

3 MR. SULLIVAN: It's setback nine
4 feet in the front and 11-and-a-half feet in
5 the back.

6 CHAIRPERSON JORDAN: Can we have
7 the lights? I think people are kind of
8 straining to look at that.

9 MS. LEMLEY: I can generally walk
10 you through. This is the existing building in
11 the brick and then the addition. After
12 talking with Historic they asked that we set
13 it back with a one-to-one footprint from M
14 Street.

15 This is the line of the addition
16 that we're asking for in the front, and this
17 is the end of it in the rear. There's a small
18 deck on the back. The adjacent property
19 aligns with the front here as well.

20 MR. SULLIVAN: Does the adjacent
21 property -- Christina, is there an open court
22 on the adjacent property in the area of the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 addition as well?

2 MS. LEMLEY: Yes. I can show you.
3 This is the second floor plan but it's the
4 same on the first floor. On this property
5 there is the open court here that is existing.
6 The adjacent property is down below this.

7 As you come from the court, you
8 walk next to the property on the adjacent
9 property to get out to the back. All of that
10 would stay. The adjacent property is setback
11 about three or four feet from their property
12 line to make that sidewalk.

13 MS. BRYSON: Are you speaking for
14 my property when you say adjacent property?

15 CHAIRPERSON JORDAN: Answer the
16 question but normally we don't have a give and
17 take. When you say the adjacent property, if
18 you give the property address that would be
19 good.

20 MS. LEMLEY: That address is 473 M
21 Street.

22 MR. SULLIVAN: Immediately to the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 west.

2 MS. LEMLEY: In the front of the
3 yard which is on the right side here, that's
4 where the properties actually share the party
5 wall on the property line. Then that property
6 steps back for the court.

7 COMMISSIONER MILLER: Do you have
8 a rendering that shows what it will look like
9 with the addition with the other properties
10 next door?

11 MS. LEMLEY: This one here. The
12 gray box up here show the addition. Because
13 it is setback, it doesn't look as large on the
14 street. You can see in relation to the
15 adjacent properties it sort of falls in line
16 with that height.

17 COMMISSIONER MILLER: Is it the
18 same height?

19 MS. LEMLEY: Yes.

20 MR. SULLIVAN: Actually, it's
21 lower.

22 MS. LEMLEY: Yes, it is lower

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 because 471 M Street you walk in from the
2 ground level. There are no steps up to get
3 into the entrance rather than having a
4 basement arrangement where the building is
5 propped up a few feet.

6 COMMISSIONER MILLER: Can you show
7 us A4?

8 MS. LEMLEY: Sure. The overall
9 volume of this with the addition is still ends
10 up being shorter than 473 M Street as well as
11 some of the other buildings.

12 COMMISSIONER MILLER: Thank you.
13 That's very helpful.

14 CHAIRPERSON JORDAN: Any other
15 questions to be addressed to the Applicant?

16 Construction timing is something
17 that this Board has no control over, the
18 construction management plan or scheduling.
19 We don't. The Zoning Commission does but we
20 don't. That is something that we don't
21 usually dwell in but I'm sure, and I'm going
22 to ask, that gets worked out with your

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 neighbors so there is no unnecessary
2 disruption that is mitigated as much as
3 possible.

4 Mr. Sullivan, any rebuttal or
5 closing?

6 MR. SULLIVAN: No, thank you, Mr.
7 Chairman.

8 CHAIRPERSON JORDAN: With that
9 then we would conclude this hearing. Is the
10 Board ready to deliberate? Does anyone have
11 a thought one way or the other about this
12 application?

13 Based upon the evidence deduced in
14 this matter in the record, I would move that
15 we grant relief, the relief requested.

16 COMMISSIONER MILLER: I second
17 that.

18 CHAIRPERSON JORDAN: Motion made
19 and seconded. Any further discussion? All
20 those in favor signify by saying aye.

21 BOARD MEMBERS: Aye.

22 CHAIRPERSON JORDAN: Those opposed

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 nay. Mr. Moy.

2 MR. MOY: Yes, sir. Staff would
3 record the vote 3-0. This is on the motion of
4 Chairman Jordan to approve the application for
5 the request from variance relief, 2001.3 not
6 meeting lot occupancy under Section 403.
7 Seconding the motion Mr. Miller. Also in
8 support Mr. Hinkle. We have a Board member
9 not participating and a Board seat vacant.
10 Motion carries 3-0.

11 CHAIRPERSON JORDAN: Thank you,
12 Mr. Moy. Let's have a summary order, please.

13 MR. MOY: Yes, sir. Thank you.

14 CHAIRPERSON JORDAN: Thank you
15 all.

16 Let's do 409.

17 MR. MOY: On deck is Application
18 No. 18409. This is the application of CAS
19 Riegler Companies, pursuant to 11 DCMR 3103.2,
20 for a variance from the off-street parking
21 requirements under Subsection 2101.1, for the
22 conversion of an existing flat into an

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 apartment housing containing five units in the
2 R-4 District at premises 1300 Park Road, N.W.,
3 Square 2843, Lot 824.

4 CHAIRPERSON JORDAN: Please
5 identify yourselves.

6 MR. KADLECEK: Good morning. My
7 name is Cary Kadlecek from the law firm of
8 Goldstein & Storrs on behalf of the Applicant.

9 MS. BETTAREL: My name is Robin
10 Bettarel. I'm representing the Applicant.

11 MR. ROSEN: My name is Sacha Rosen
12 with R2L:Architects representing the
13 Applicant.

14 CHAIRPERSON JORDAN: Give me one
15 second here.

16 I'm sorry. What's your name
17 again?

18 MS. BETTAREL: Robin Bettarel.

19 CHAIRPERSON JORDAN: Bettarel.
20 And you said you are representing the owner?

21 MS. BETTAREL: The owner, yes.

22 CHAIRPERSON JORDAN: I don't think

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 we have an authorization for you representing
2 the owner.

3 MR. KADLECEK: She's actually an
4 employee of the company, the developer.

5 CHAIRPERSON JORDAN: Okay. That's
6 an interesting question that we can deal with
7 later on. That's fine. Okay. Couple small
8 things here. Did we finally receive an ANC
9 letter? Did we receive an ANC letter?

10 MR. KADLECEK: There was an ANC
11 letter filed. It was back in September of
12 last year. As you recall, this case has been
13 continued a number of times as we were trying
14 to have the building restriction line removed.

15 That process, as you can see by
16 the timing that we are at now, was taking far
17 too long so the Applicant decided to abandon
18 those plans and proceed with a smaller project
19 that would build entirely within the building
20 restriction lines. We also reduced the number
21 of units from five to four.

22 CHAIRPERSON JORDAN: And did you

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 represent to the ANC?

2 MR. KADLECEK: We did. On July
3 11th. Is that correct? July 10th the
4 Applicant presented the revised plans to the
5 ANC.

6 CHAIRPERSON JORDAN: And the ANC
7 kept the remaining support. Would that be
8 correct? I need you to say for the record
9 what happened.

10 MS. BETTAREL: They didn't revote
11 but we did go and present in front of them and
12 there was no objection to the new plan.

13 CHAIRPERSON JORDAN: They didn't
14 revoke their previous approval?

15 MS. BETTAREL: They did not.

16 CHAIRPERSON JORDAN: Okay. I
17 believe, as you know, Mr. Kadlecek, we review
18 these files and spend at least eight to 10
19 hours on them before we have this hearing.
20 There is enough here to grant the relief on
21 your amended plans to go forward with this.
22 You certainly have the opportunity to present

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 any evidence that you feel you need to. It's
2 up to you but we believe there is enough here
3 for relief.

4 MR. KADLECEK: Thank you, Mr.
5 Chairman. We are comfortable resting on the
6 record. We are available to answer any
7 questions that the Board may have.

8 CHAIRPERSON JORDAN: Let me ask.
9 I didn't -- excuse me, Board. I didn't ask is
10 there any particular questions or any drill
11 down you need from the Applicant?

12 Then let's turn now to the Office
13 of Planning who has already written that they
14 support this project.

15 MR. GYOR: Good morning, Mr.
16 Chairman, and members of the Board. Stephen
17 Gyor with the Office of Planning. We rest on
18 the record. Thank you.

19 CHAIRPERSON JORDAN: Let me ask a
20 question, though. You had something in your
21 report "subject to the Zoning Administrator."
22 What is that?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MR. GYOR: As I understand it, the
2 Zoning Administrator would consider this a
3 conversion of an existing rowhouse and not a
4 new apartment building, not new construction.
5 The Applicant's application meets the
6 requirements of Section 401 which requires 900
7 square feet of lot area per unit. There
8 wouldn't be any relief necessary for that. We
9 don't believe that there's an issue. We just
10 include that as a note.

11 CHAIRPERSON JORDAN: True enough.
12 It may not need any relief but we'll just go
13 ahead and dot our i's and cross our t's on
14 this one.

15 Any questions from the Board of
16 OP?

17 Department of Transportation, we
18 have a letter of no objection.

19 Anyone here from ANC-1A? ANC-1A.
20 Anyone here wishing to speak in support of the
21 application? Anyone wishing to speak in
22 support of the application? Anyone wishing to

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealgross.com

1 speak in opposition to the application?

2 Anyone wishing to speak in opposition?

3 Then we would normally turn to the
4 Applicant for any rebuttal or closing but I
5 think it's something you are probably going to
6 waive. Right?

7 MR. KADLECEK: Yes, thank you. I
8 have nothing further to say.

9 CHAIRPERSON JORDAN: Okay. Thank
10 you.

11 Yes, Mr. Miller.

12 COMMISSIONER MILLER: I have one
13 question of the Applicant.

14 The property is currently vacant?

15 MR. KADLECEK: That's correct,
16 yes.

17 COMMISSIONER MILLER: And how long
18 has it been vacant?

19 MR. KADLECEK: Six or seven years.

20 COMMISSIONER MILLER: And the idea
21 is to create a four-unit building?

22 MR. KADLECEK: That's correct.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 It's a conversion of an existing building.

2 COMMISSIONER MILLER: Right. And
3 assuming you get approval when would this be
4 coming back online?

5 MS. BETTAREL: We're hoping to
6 start construction sometime this fall.

7 COMMISSIONER MILLER: Thank you.

8 CHAIRPERSON JORDAN: With that,
9 then we will close this hearing based upon the
10 record already deduced. Is the Board ready to
11 deliberate?

12 I would move that we grant the
13 relief requested.

14 MEMBER HINKLE: Second.

15 CHAIRPERSON JORDAN: Motion made
16 and seconded.

17 COMMISSIONER MILLER: And I would
18 support the motion. I think this is a very
19 good project which is supported by the
20 neighborhood to bring residential units back
21 online in the neighborhood.

22 CHAIRPERSON JORDAN: Motion made,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 seconded and third that we grant the requested
2 relief. All those in favor signify by saying
3 aye.

4 BOARD MEMBERS: Aye.

5 CHAIRPERSON JORDAN: Those opposed
6 nay. The motion carries.

7 Mr. Moy.

8 MR. MOY: Yes, sir. Staff would
9 record the vote as 3-0. This is on the motion
10 of Chairman Jordan to approve the application
11 for the relief requested. Seconding the
12 motion Mr. Hinkle.

13 Also in support Mr. Miller. We
14 have a member not present and a Board seat
15 vacant. For the record, the revised plans are
16 under Exhibit 25 in the record. The motion
17 carries, Mr. Chairman.

18 CHAIRPERSON JORDAN: Thank you.
19 And a summary order, please.

20 MR. MOY: Yes, sir.

21 CHAIRPERSON JORDAN: Let's call
22 18554.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MR. MOY: That would be
2 Application No. 18554. This is the
3 application of Catherine L. Bennett pursuant
4 to 11 DCMR 3104.1, for a special exception for
5 a rear deck addition to a one-family semi-
6 detached dwelling under Section 223, not
7 meeting the lot occupancy requirements under
8 Section 403, and rear yard requirements,
9 Section 404, in the R-3 District at premises
10 2456 Kyland Place, S.E., Square 5740, Lot 244.

11 CHAIRPERSON JORDAN: Very good.
12 Would you please identify
13 yourself? Is your mic on? Is there a bright
14 glow? Try it again.

15 MS. BENNETT: Catherine L.
16 Bennett, the owner.

17 MR. BURWELL: Andre Burwell,
18 designer/architect.

19 CHAIRPERSON JORDAN: We did get an
20 affidavit posting. Did you meet with the ANC?

21 MR. BURWELL: I did. I met with
22 Ms. Watson and the ANC on the 18th of last

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 month and they pledged their support to the
2 project.

3 CHAIRPERSON JORDAN: Am I missing
4 something? I don't see an ANC letter. Would
5 that be correct? You were there and it's your
6 testimony that they voted in support?

7 MR. BURWELL: Yes.

8 CHAIRPERSON JORDAN: Okay.

9 MR. BURWELL: I tried to reach Ms.
10 Watson last month to see if we were okay with
11 the letter but I haven't gotten a response.

12 CHAIRPERSON JORDAN: This is
13 pretty straightforward. You have letters of
14 support from the neighbors that you submitted
15 in Exhibit 10. Office of Planning has weighed
16 in and supports the project as well as --
17 well, the Department of Transportation issued
18 their no objection to the relief requested
19 letter. Pretty simple and straightforward.

20 It's not really asking for a lot
21 of relief. I think we have enough in this
22 file to grant the relief requested. Certainly

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 you've had the opportunity to present whatever
2 you may want to present to the Board if you
3 want to, but I think we're okay as you are.
4 It's certainly up to you.

5 MR. BURWELL: We'll rest on the
6 record.

7 CHAIRPERSON JORDAN: Does the
8 Board have any questions of the Applicant?

9 Then we will turn to the Office of
10 Planning and see if there is anything in
11 addition that they would like to ask.

12 MR. MORDFIN: Good morning. I'm
13 Stephen Mordfin with the Office of Planning.
14 We have nothing additional to add.

15 CHAIRPERSON JORDAN: Thank you,
16 Stephen.

17 Board, questions of the Office of
18 Planning?

19 Does the Applicant have any
20 questions of the Office of Planning?

21 MR. BURWELL: No.

22 CHAIRPERSON JORDAN: Anyone here

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 from the Department of Transportation wishing
2 to talk in this case? We already mentioned we
3 have a letter from DDOT recommending -- well,
4 no objection to the relief requested.

5 Any representative here from ANC-
6 8B? Any representative from ANC-8B? I don't
7 have a letter in the file but there has been
8 a representation made by the Applicant that
9 the ANC met and there was a presentation. Did
10 they take a vote?

11 MR. BURWELL: They didn't take a
12 vote but she said she --

13 CHAIRPERSON JORDAN: They are
14 aware of the project. You did a presentation.

15 MR. BURWELL: Right.

16 CHAIRPERSON JORDAN: Okay.

17 Does anyone here wish to testify
18 in support of this application? Anyone
19 wishing to testify in support of the
20 application? Anyone wishing to testify in
21 opposition to the application?

22 Then we would normally turn back

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 to the Applicant to put on a fierce rebuttal
2 and closing but I'm sure you want to waive
3 that.

4 MR. BURWELL: Yes, sir.

5 CHAIRPERSON JORDAN: Then we will
6 turn for deliberation. I would move that we
7 grant the relief requested.

8 COMMISSIONER MILLER: I would
9 second that, Mr. Chairman, and note that there
10 were letters submitted in support by the
11 adjacent neighbors to the east and to the west
12 for this very modest addition.

13 CHAIRPERSON JORDAN: All those in
14 favor of the motion signify by saying aye.

15 BOARD MEMBERS: Aye.

16 CHAIRPERSON JORDAN: Those opposed
17 nay. The motion carries.

18 Mr. Moy.

19 MR. MOY: Yes, sir. Staff would
20 record the vote as three to zero on the motion
21 of Chairman Jordan to approve the application
22 for the relief requested. Seconding the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 motion Mr. Robert Miller. Also in support Mr.
2 Hinkle. Board member not participating and
3 not present and a Board seat vacant. Motion
4 carries.

5 CHAIRPERSON JORDAN: Okay. Then
6 thank you very much.

7 MR. BURWELL: Thank you.

8 CHAIRPERSON JORDAN: Did I say
9 summary order? I didn't say that, did I?
10 Okay. Summary order.

11 MR. MOY: Thank you, sir.

12 CHAIRPERSON JORDAN: Whenever you
13 are ready, Mr. Moy.

14 MR. MOY: I believe the last
15 application on the docket today, Mr. Chairman,
16 is Application 18591. This is the application
17 of Adolfo Briceno, pursuant to 11 DCMR 3103.2.
18 This is for a variance from the floor area
19 ratio requirements under Subsection 771.2,
20 variance from the off-street parking
21 requirements under Subsection 2101.1, and a
22 variance from the loading requirements under

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Subsection 2201.1, for a proposed restaurant
2 in the HS-A/C-2-A District at premises 1255 H
3 Street, N.E., Square 1004, Lot 343.

4 CHAIRPERSON JORDAN: Okay. This
5 is a case where we earlier today granted party
6 status to the Linden Neighborhood Association
7 and I asked that the parties go out and have
8 a conversation to see if they can render any
9 resolution of issues.

10 Did we reach any resolution of any
11 issues? I take it by the stares that means
12 no.

13 MR. BELLO: Actually, yes. I was
14 going to leave it to Mr. Pittman.

15 CHAIRPERSON JORDAN: Go ahead.
16 Let's have you identify yourselves.

17 MR. BELLO: Mr. Chair, my name is
18 Toye Bello. I represent the Applicant in this
19 case.

20 MS. WILLIAMS: Good morning.
21 Yvette Williams, managing partner, Spot on H.

22 MR. WILLIAMS: Good morning.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Chef/partner, Spot on H.

2 CHAIRPERSON JORDAN: What's your
3 name?

4 MR. WILLIAMS: I'm sorry. Troy
5 Williams.

6 MR. BRICENO: Adolfo Briceno,
7 owner and manager.

8 MR. LABBE: Claude Labbe, one of
9 the members of the Linden Neighborhood
10 Association.

11 CHAIRPERSON JORDAN: Your name
12 again?

13 MR. LABBE: Claude Labbe, L-A-B-B-
14 E.

15 CHAIRPERSON JORDAN: Yes.

16 MS. MITCHELL: Good morning.
17 Cherie Mitchell. I'm a resident directly
18 behind the structure, as well as an officer of
19 the Linden Neighborhood Association and member
20 of the Linden Neighborhood Association.

21 MR. PITTMAN: Good morning, Mr.
22 Chairman, members and staff. I'm Bobby

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Pittman and I am an officer of Linden
2 Neighborhood Association and a resident in the
3 area.

4 CHAIRPERSON JORDAN: Welcome.
5 Thank you for coming.

6 Mr. Bello, you were saying?

7 MR. BELLO: I would say we had
8 extensive meetings with the neighbors even up
9 until last night. I think Mr. Pittman is
10 probably in a better place speaking to where
11 we stand with the neighbors.

12 CHAIRPERSON JORDAN: Mr. Pittman.

13 MR. PITTMAN: What I would like to
14 do -- thank you, Mr. Bello. What I would like
15 to do is to say this has probably been one of
16 those marathon processes and we have spent the
17 last seven days in a great deal of
18 communication, a number of us neighbors. I do
19 believe we've made progress. I think Ms.
20 Mitchell and Mr. Labbe will elaborate a little
21 bit more on that.

22 MR. LABBE: I think --

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 CHAIRPERSON JORDAN: What are the
2 outstanding issues? What are the outstanding
3 concerns? Let's see where we are.

4 MR. LABBE: I think the concerns
5 are we've had a lot of businesses move into
6 the area and we find that we're successful.
7 We've had a lot of them come in. They have
8 worked out well and some have not. We are
9 successful if we can up front define in
10 writing what our expectations are as well as
11 what the business owner's expectations are.

12 We clearly expect that to be fluid
13 because the way you move into business today
14 doesn't necessarily reflect the business
15 reality a year from now. We want the owners
16 to have the right to come back and say, "Just
17 because we promised something in July of 2013
18 doesn't mean we should be held to that for
19 eternity. That's not fair." That's how we're
20 going to get a good business.

21 Likewise, from our standpoint if
22 something is written and then things don't go

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 as planned, we can say, "Hey, this isn't what
2 we were expecting. It could have been what
3 they expected but it's not what we were
4 expecting," or vice versa.

5 I also think that for them if they
6 are engaged with the community, it gives them
7 some credibility and support when they are
8 working with the city. We definitely want
9 this to be in writing because right now we
10 don't have that. In the past two, three
11 months even things have changed.

12 At times changes have been because
13 of questions and challenges we've made and I
14 appreciate that change. On the other hand, if
15 they are in writing, then we start having a
16 baseline so that when we start thinking we
17 want to change again, we can get there.

18 CHAIRPERSON JORDAN: So where are
19 we on this process? The reason why I sent you
20 out and what we've learned is that when people
21 are working together, it's better than for us
22 to have to make decisions and somebody is

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealgross.com

1 going to get really upset by it.

2 More importantly when we're living
3 in the same neighborhoods or operating in the
4 same neighborhoods, we should try to have some
5 agreement and standard to do so.

6 MR. PITTMAN: I think we are
7 willing to move forward and we are willing to
8 ask you to say we'll support their request,
9 but we do want to have a written agreement in
10 place that we can come back and review.

11 CHAIRPERSON JORDAN: Let me offer
12 this. I'm thinking about passing this and
13 giving it one more setting and would like to
14 see you come back with something.

15 MR. PITTMAN: We don't need to do
16 that respectfully, sir. All we're asking --
17 I think we've all come and a number of us
18 talked to different neighbors but I think the
19 core of this is that we all agree that we want
20 any business that comes into our neighborhood
21 to be successful.

22 I think one of the sticking points

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 is the recommendations from DDOT. You asked
2 specifically where are we. Well, the DDOT
3 recommendation, and I'll say in my personal
4 opinion, was one that while technically is
5 sufficient, the reality is this is our most
6 affected neighbor and her house sits at the
7 rear of Mr. Briceno's establishment.

8 What would be best -- what we've
9 all agreed upon is what would be best for both
10 parties and then for the rest of us neighbors
11 is if DDOT could go back and revisit their
12 assessment and place a loading zoning sign or
13 place a loading zone designation on the south
14 side of 13th Street but north of the Linden
15 alley, the Linden north alley.

16 That would allow -- that not only
17 would create relief for this new business
18 coming in, but for several other businesses
19 that are adjoining. While we understand and
20 we were involved in the streetcar process and
21 the development of the H Street study and all
22 the things that happened before it got in the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 newspapers, the thing that is most important
2 is being able to co-exist between the
3 operations of the streetcar and H Street
4 Overlay, but also the zoning and the need for
5 the businesses to continue to be viable.

6 If they don't have that, it
7 impacts their ability to be successful and it
8 creates problems in the neighborhood.

9 CHAIRPERSON JORDAN: We cannot
10 control DDOT, as you know.

11 MR. PITTMAN: Right.

12 CHAIRPERSON JORDAN: However, I'm
13 seeing a head nod by the Applicant so you can
14 jointly make that request to DDOT as a unit to
15 try to get it done.

16 MR. PITTMAN: Yes.

17 CHAIRPERSON JORDAN: There has
18 been indication that will happen.

19 MR. PITTMAN: Yes.

20 CHAIRPERSON JORDAN: The request
21 will be made.

22 MR. WILLIAMS: The request has

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 been made. It's already been submitted.

2 CHAIRPERSON JORDAN: Okay. All
3 right.

4 MR. PITTMAN: The other issue, if
5 I may add, and my partners may add in here,
6 the issue of the parking. We have a condition
7 for that and the Applicant has met that
8 condition, has been willing to do that. As
9 Mr. Labbe has said, what we would want is for
10 all that we've said to be memorialized.

11 I believe -- I do believe that the
12 relationships that we have established over
13 the last few weeks is one such that we will be
14 able to go back and finalize those things.

15 CHAIRPERSON JORDAN: Mr. Miller.

16 COMMISSIONER MILLER: What is the
17 parking condition?

18 MR. PITTMAN: I'll defer to Mr.
19 Bello.

20 MR. BELLO: Thank you. One of the
21 reliefs that we're asking for is a waiver from
22 the required number of parking spaces. In

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 discussions with the neighbors I think the
2 resolution was that we have some offsite
3 facility where we can provide parking for the
4 staff.

5 Mr. Briceno actually owns the
6 property within four or five blocks that has
7 been granted permission as a parking lot that
8 would have 12 parking spaces and staff parking
9 would be accommodated at that location.

10 COMMISSIONER MILLER: I think I
11 read in your application that you were going
12 to encourage staff to use public
13 transportation.

14 MR. BELLO: Absolutely.

15 COMMISSIONER MILLER: That would
16 only be like as a last resort. Thank you.

17 MS. MITCHELL: It's also my
18 understanding from speaking with Mr. Briceno
19 and others there that they would encourage the
20 students who are participating in the training
21 program as well as the adults that would
22 accompany those students to use public

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 transportation.

2 Earlier on there was some mention
3 of them potentially providing transportation
4 waivers to those individuals. I'm not sure if
5 that's still on the table but I think that was
6 a corroborative move on their part to address
7 the parking issues.

8 CHAIRPERSON JORDAN: Okay. Are
9 you still going to be a party in opposition
10 where you have to put on evidence against what
11 they're doing and then cross-examine witnesses
12 and all that because I'm hearing that's not
13 where you are anymore.

14 MR. PITTMAN: We're not.

15 CHAIRPERSON JORDAN: Then we just
16 simply accept your statement and things that
17 you made in the record, which is kind of
18 outside of our normal procedure, but include
19 those as your comments as the Linden
20 Neighborhood Association for our record. We
21 really appreciate you working to get these
22 things done.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealgross.com

1 As well as the Applicant. Now,
2 you still have to go through our process.
3 We're not there yet but I always like to
4 encourage that kind of dialogue that you had
5 here today and where we all are trying to live
6 better as neighbors.

7 Now, Mr. Bello, regarding this
8 kind of transportation kind of management
9 plan, I'm using that lightly, so you're going
10 to agree that you are going to have some off-
11 site parking. Did you talk about the number
12 of spaces?

13 MR. BELLO: The site would
14 accommodate 12 parking spaces.

15 CHAIRPERSON JORDAN: Okay. The
16 off-site space? The other space that the
17 owner has that's in addition to? That spot
18 would hold 12 parking spaces?

19 MR. BELLO: Yes, sir.

20 CHAIRPERSON JORDAN: And that's
21 going to be for staff and students or
22 something, or everybody?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MS. WILLIAMS: More so just for
2 staff. We are going to provide the students
3 with transportation, public transportation to
4 the site.

5 CHAIRPERSON JORDAN: Okay.

6 MS. WILLIAMS: Vouchers. I'm
7 sorry.

8 CHAIRPERSON JORDAN: All right.
9 So the Applicant will provide off-site parking
10 for staff.

11 MR. BRICENO: If necessary. If
12 necessary. We try to encourage people to use
13 the public transportation. It's close to
14 Metro stops.

15 CHAIRPERSON JORDAN: If it's going
16 to be a condition that I may put in -- that we
17 may put in as a Board, hearing what they're
18 saying. You know if it's necessary or not,
19 whether you have the space and whether or not
20 they take the Metro or anything else.

21 COMMISSIONER MILLER: And the
22 streetcar will be stopping right in front of

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 there.

2 MR. BRICENO: Absolutely. Right
3 at the corner.

4 COMMISSIONER MILLER: Very soon.

5 CHAIRPERSON JORDAN: All right.

6 Let me ask you now because regarding relief
7 here, Mr. Bello, this is a school, is it not?
8 Are you training people on the location?
9 Educating people on the location? What are
10 you doing?

11 MS. WILLIAMS: This is a full
12 service restaurant.

13 CHAIRPERSON JORDAN: Okay, but
14 what is the school part about it?

15 MS. WILLIAMS: We're with an
16 organization called CCAP, Careers through
17 Culinary Arts Program. Right now we have 25
18 of our students in five star restaurants
19 across the D.C. area as we speak working.

20 CHAIRPERSON JORDAN: Hold on.
21 This is a restaurant. I know it's a
22 restaurant that is going to serve the public

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 coming in and out. Your application also
2 talks about a school and you keep using the
3 word students. School has been bantered
4 around this room since you sat down here
5 today. When you say our students, what do you
6 mean our students?

7 MS. WILLIAMS: It's not a school.
8 It's a training -- we're offering training for
9 our students.

10 CHAIRPERSON JORDAN: So it's a
11 school? It's a trade school. It sounds like
12 it.

13 MR. BELLO: No, it isn't.
14 Actually I think perhaps --

15 MR. WILLIAMS: It's a training
16 ground for future culinary. It's not a
17 school. It's a place where we will hold
18 trainings. Right now we hold our trainings at
19 various restaurants. Now once we have our
20 restaurant open, we can hold our trainings
21 which may be three times every quarter, or
22 three times a month.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 It's not an everyday thing. When
2 we have training sessions, when the students
3 come back from industry, we will be training
4 those students there. Before we send them out
5 into the industry, we'll have training for
6 those students.

7 CHAIRPERSON JORDAN: It sounds an
8 awful lot like a trade school to me.

9 MR. LABBE: If I can interject,
10 this is a big element of concern for the
11 neighbors because are you running a school or
12 are you running a business?

13 CHAIRPERSON JORDAN: Let me say
14 this. I appreciate your input but please
15 don't speak unless you've been acknowledged to
16 speak.

17 Yes.

18 MS. BROWN-ROBERTS: Maybe I can
19 help to clarify the issue about -- the
20 discussion about the school.

21 CHAIRPERSON JORDAN: Please.

22 MS. BROWN-ROBERTS: I think from

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 my experience the students are from high
2 schools around the District of Columbia and
3 Prince George's County who are in the culinary
4 programs within those schools. Therefore,
5 they need some training, some hands-on
6 training, so that's what they are going to be
7 providing.

8 CHAIRPERSON JORDAN: Now I
9 understand. So they are already students of
10 other places and you are just letting them
11 come in your place to learn.

12 MR. BRICENO: Yes.

13 CHAIRPERSON JORDAN: So you're not
14 doing a school.

15 MR. WILLIAMS: No, we're not doing
16 a school.

17 CHAIRPERSON JORDAN: You're
18 talking about schools throughout your
19 application and other issues which triggered
20 a whole other set of relief that's required.
21 You're just giving them places where they can
22 do OTJ training but they are not getting paid.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 Like internships or something.

2 MS. WILLIAMS: Correct.

3 CHAIRPERSON JORDAN: That's your
4 understand, too?

5 MS. BROWN-ROBERTS: Yes.

6 CHAIRPERSON JORDAN: Okay. That's
7 what I need to understand.

8 Mr. Labbe, did you have anything
9 else you wanted to add to what you're saying?

10 MR. LABBE: Yes. Actually, we got
11 the school taken care of. Thank you. We're
12 more clear now.

13 CHAIRPERSON JORDAN: Yeah, me too.

14 MR. LABBE: Going back a few
15 minutes ago we talked about off-site parking.
16 Where will that parking be?

17 CHAIRPERSON JORDAN: Well, we're
18 not at that point. We're not having that
19 conversation. That is not what -- we're
20 moving on. I gotcha. I understand. We'll
21 take care of that in our conditions and it
22 will be on the Applicant to find a place. I

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 understand from your report that you had a
2 place which is being designated as parking.
3 Is that correct, Mr. Bello?

4 MR. BELLO: That's correct, Mr.
5 Chairman.

6 CHAIRPERSON JORDAN: So they have
7 a designated spot and we'll work that out in
8 our order.

9 MR. LABBE: Okay.

10 CHAIRPERSON JORDAN: That's the
11 other issue here. You're requesting FAR
12 relief but you're not -- I think Office of
13 Planning has recognized, as well as -- well,
14 Office of Planning as recognized and I don't
15 disagree that you don't need any special FAR
16 relief other than what is being granted under
17 1323. That was my understanding. Is that
18 your understanding also?

19 MS. BROWN-ROBERTS: Correct.

20 CHAIRPERSON JORDAN: Mr. Bello.

21 MR. BELLO: I don't disagree. I
22 also understand it is the understanding of the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Zoning Administrator. I do not disagree.

2 CHAIRPERSON JORDAN: He also is on
3 board?

4 MR. BELLO: That's correct. I
5 think the Office of Planning checked with the
6 Zoning Administrator.

7 CHAIRPERSON JORDAN: I guess I've
8 drilled all my questions. I've hogged up
9 these questions from the Board. I'm sorry.

10 Any other Board members have
11 issues, questions, discussions? We need to go
12 through the regular process but I just want to
13 get these things out up front to kind of
14 wrestle down the issues and see where we need
15 to go.

16 Mr. Bello, you know as well as
17 anybody we hammer through these files and dot
18 the i's and cross the t's as you can see from
19 the questions we've already raised. We very
20 much know what's in your application.

21 Is there anything else that you
22 would like to present to us that you think is

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 necessary? Especially in light of the
2 neighborhood association actually having a
3 discussion and reaching some understanding.

4 MR. BELLO: We are glad to rest on
5 the record as well.

6 CHAIRPERSON JORDAN: Then we would
7 turn to Office of Planning and see if there is
8 anything the Office of Planning wishes to add
9 to the record.

10 MS. BROWN-ROBERTS: Good morning,
11 Mr. Chairman, and members of the Board. I
12 think I'm going to stand on the record except
13 to say that I would be supportive of the
14 condition regarding the parking. The ANC also
15 had some conditions and we'd be supportive of
16 those if you are --

17 CHAIRPERSON JORDAN: The ANC?

18 MS. BROWN-ROBERTS: Yes, ANC-6A.
19 We would also be supportive of those if you
20 want to consider those. Regarding the
21 loading, we are supportive of having it as
22 recommended by DDOT. However, since the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Applicant is working with them to maybe have
2 it on 13th Street, that's a consideration we
3 would leave for DDOT to address. Thank you.

4 CHAIRPERSON JORDAN: Thank you for
5 that.

6 Any Board questions of OP?

7 Does the Applicant have any
8 questions of OP?

9 MR. BELLO: No, Mr. Chairman.

10 CHAIRPERSON JORDAN: We do have --
11 well, is the Department of Transportation
12 here? I guess they're not.

13 MR. PITTMAN: Mr. Chair, may I be
14 recognized?

15 CHAIRPERSON JORDAN: Go ahead.

16 MR. PITTMAN: I'm sorry
17 procedurally. For the record, I wanted to
18 note that --

19 CHAIRPERSON JORDAN: State your
20 name and make sure --

21 MR. PITTMAN: I'm Robert Pittman,
22 Linden Neighborhood Association. In respect

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 to the Office of Planning's nice
2 recommendation and support, I would ask that
3 the Linden Neighborhood Association and the
4 neighbors are asking that the loading be on
5 13th Street.

6 I believe the ANC, which
7 respectfully has not been involved really, is
8 asking that the loading be at the rear of the
9 building so that might create a conflict.
10 That was the only reason I wanted to bring
11 that up.

12 CHAIRPERSON JORDAN: Thank you.
13 And you were saying?

14 MS. BROWN-ROBERTS: I was saying
15 that in my testimony I think I did examine the
16 loading and said that was something that they
17 would be working on with DDOT.

18 MR. PITTMAN: Yes, ma'am.

19 CHAIRPERSON JORDAN: They have to
20 work with DDOT to get that. All right.
21 Appreciate it. Thank you.

22 Anyone here from ANC-6A?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Representative of ANC-6A? We do have a letter
2 from ANC-6A where they voted 8-0 meeting our
3 great weight requirement in support of this
4 application. They proposed in that letter
5 some conditions which gives me some pause.

6 One, we cannot order in our
7 conditions whether or not you work it out with
8 the ANC subsequently or before that you are
9 required to have professional exterminators be
10 there on a monthly basis. Did you accept this
11 condition about the third floor being placed
12 to the southern part of the building? Did you
13 already agree to that with them?

14 MR. BELLO: In fact, that's the
15 design.

16 CHAIRPERSON JORDAN: Okay. So
17 that would be the other provision. I think I
18 had a note for three but I only said two. Was
19 there a third one that I missed? Rodent
20 control. That's the professional exterminator
21 which we don't control. The conditions then
22 you've worked out and had discussion with the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 ANC but these are not some of the conditions
2 that we would place.

3 Is there anyone here wishing to
4 speak in support of the application? In
5 support of the application other than
6 conversations we've already had?

7 Anyone wishing to speak in
8 opposition? Anyone wishing to speak in
9 opposition?

10 Then let's turn back to the
11 Applicant for rebuttal, but let me go through
12 these conditions so that we're straight. DDOT
13 had all loading and garbage pickup shall occur
14 at the rear of the building from the public
15 alley. There's a request that this be changed
16 to 13th Street. Is that my understanding?

17 MR. LABBE: Yes, sir.

18 CHAIRPERSON JORDAN: But we can't
19 order that without DDOT's input but I
20 understand there's a collective effort going
21 forward on that.

22 MR. BRICENO: Yes, sir.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 CHAIRPERSON JORDAN: Business
2 Operations on site should not block vehicular
3 traffic and access to the public alley other
4 than the loading and garbage pickup. The other
5 thing we're going to add is the Applicant will
6 make available staff parking offsite.

7 Was there anything else I missed
8 here? Okay. Are those the conditions that
9 you understand?

10 MR. BELLO: Yes, Mr. Chairman.

11 CHAIRPERSON JORDAN: And that you
12 are -- well, we can't make this part of our
13 formal conditioning but you will continue to
14 work with the Linden Neighborhood Association.

15 Yes.

16 MS. MITCHELL: I had something to
17 add in terms of the conditions that we
18 discussed with regard to the building. This
19 has to do with privacy, noise, and lighting.
20 I assume this is -- I'm not sure if this is
21 the appropriate forum for that.

22 CHAIRPERSON JORDAN: Tell me what

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 you're talking about.

2 MS. MITCHELL: What I'm talking
3 about is external speakers, live music, live
4 mics on the roof of the building. I'm 10 feet
5 away from it. That's specifically what I'm
6 talking about in terms of my privacy and
7 quality of life. That's what I've asked for.

8 CHAIRPERSON JORDAN: What are your
9 plans for those type of things?

10 MR. BRICENO: The building has
11 been designed so it will be 20 feet away and
12 a subwall blocking the alley that divides our
13 neighbors. I don't perceive any major noise.
14 The last part of the building goes high enough
15 and there are walls that are being
16 constructed. They are constructed with 2 by
17 6's to be able to insulate and to make those
18 walls more of a sound barrier.

19 CHAIRPERSON JORDAN: And you are
20 going to be subject to the District's noise
21 law requirements.

22 MR. BRICENO: Yes.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 COMMISSIONER MILLER: I would just
2 add that the Applicant's statement says there
3 will be no amplified music or sounds on the
4 roof terrace and no loud music within the
5 restaurant other than soft listening music for
6 the restaurant patrons.

7 CHAIRPERSON JORDAN: And that's in
8 the --

9 COMMISSIONER MILLER: That's in
10 the Applicant's statement, hearing statement
11 dated July --

12 CHAIRPERSON JORDAN: Read it back
13 to me because I'm going to make it a
14 condition.

15 COMMISSIONER MILLER: There will
16 be no amplified music or sounds on the roof
17 terrace and no loud music within the
18 restaurant other than soft listening music for
19 the comfort of the restaurant patrons is what
20 the Applicant's statement states.

21 MR. BELLO: Mr. Chair. Mr. Chair.

22 CHAIRPERSON JORDAN: One second,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 please.

2 MS. COLBERT: Mr. Chairman.

3 CHAIRPERSON JORDAN: We normally
4 don't do this kind of give and take. We
5 really don't. That's why when you guys have
6 your conversations --

7 Mr. Bello.

8 MR. BELLO: I just wanted to
9 qualify that because we had discussions with
10 respect to having television sets on the roof.
11 There certainly will be no amplified music.
12 The sound level of the television will not be
13 such that it will be considered obtrusive. I
14 just wanted to make that clarification.

15 CHAIRPERSON JORDAN: So that
16 condition would still hold that the Applicant
17 shall not have any amplified music on the roof
18 terrace or loud music other than soft music
19 for the patrons.

20 Yes, this is the last time we're
21 going to do this. I'm trying to give you some
22 deference.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 MS. COLBERT: Good day. Thank you
2 for entertaining me.

3 CHAIRPERSON JORDAN: Very quickly.

4 MS. COLBERT: I'm Vanessa Ruffin
5 Colbert. I'm a property owner in the 1200
6 block of Wiley Street, N.E. where several of
7 these have occurred where there were existing
8 building that were already --

9 CHAIRPERSON JORDAN: I'm going to
10 ask -- we've kind of gone through the party
11 status issue.

12 MS. COLBERT: One of the things
13 that concerns me is the televisions often
14 relate to sporting events and things where the
15 sound level of the crowd, which cannot be
16 controlled, occurs.

17 I'm here just giving experience as
18 to what we have already allowed with buildings
19 that were already constructed versus one that
20 is now asking for an exception to be in a
21 situation that within a community we have
22 somebody who checks the sound.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 I mean, it is a problematic
2 situation when buildings become too close to
3 residential areas. The other question I have,
4 and this was to the --

5 CHAIRPERSON JORDAN: We're not
6 asking questions.

7 MS. COLBERT: Okay.

8 CHAIRPERSON JORDAN: You're
9 talking to me and telling me your concerns.

10 MS. COLBERT: I'm concerned as to
11 what that rear section was actually being
12 utilized for, simply a staircase or an
13 addition to the building. Televisions on the
14 roof, yes, it sounds fine. The volume will be
15 turned down on the TV but when that touchdown
16 occurs or something happens, it's like
17 fireworks.

18 I just wanted to express that as a
19 condition that they will not be able to
20 control for us as neighbors in a developing
21 corridor. I'm very happy that the corridor is
22 developing.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 I'm a third generation individual
2 in that corridor so I'm talking about a long-
3 standing time and understanding the changes
4 and I want to see us develop but this is a
5 difficult situation for adjacent residents
6 with not only the things you've discussed, the
7 trash pickup and viral control but just the
8 sound level.

9 The sound level, I mean, when new
10 babies are born and residents are -- I mean,
11 once they have a child, they almost have to
12 move away because the conditions of the
13 neighborhood really do change.

14 CHAIRPERSON JORDAN: Thank you.

15 MS. COLBERT: Thank you.

16 CHAIRPERSON JORDAN: We can't
17 generally control that aspect because there
18 can be no noise. I mean, there could be no
19 television or anything and people -- however,
20 under the requirements of the District sound
21 and noise level, and I'm sure your neighbors
22 will probably call in.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 I know that DCRA has shut down
2 places before regarding that and you are
3 conscious of the decibel level and the
4 requirements. If you're not, you need to be
5 because, as you can hear, your neighbors are
6 cautiously guarded in moving forward and
7 taking back any opposition but you've got to
8 be good neighbors.

9 If there's nothing else, then we
10 would close this hearing based upon the record
11 deduced so far.

12 Is the Board ready to deliberate?
13 I would move that we grant the relief
14 requested by the Applicant pulling back the
15 FAR relief because it's inherent the FAR
16 relief will be granted upon the relief under
17 1323 so that the necessary need for FAR is
18 there.

19 I believe that you meet all the
20 other criteria necessary and that this
21 approval be subject to the conditions as we've
22 defined; that the loading and garbage pickup

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 shall occur at the rear of the building but
2 this may be modified with flexibility with
3 DDOT changing that to the 13th Street side.

4 Business operation of the site
5 shall not block vehicular traffic from the
6 public alley. Right now presently other than
7 for brief loading and garbage pickup. The
8 Applicant will make available staff parking
9 off-site.

10 The Applicant shall not have any
11 amplified music on the roof terrace or loud
12 music other than soft music for its patrons
13 inside the location. That would be my motion.

14 COMMISSIONER MILLER: I would
15 second that, Mr. Chairman, and just note that
16 this is an excellent project that supports the
17 H Street Arts and Entertainment Zoning
18 Overlay, a farm-to-table restaurant that will
19 be providing training for under-served high
20 school students in the District, 75 students,
21 although only 11 to 15 will be there at any
22 one time.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 I think that's an important
2 industry for the District of Columbia and
3 connecting our high school students with that
4 industry is very important. On the zoning
5 relief that is being requested, the parking
6 and loading, I would note the Applicant's
7 statement and the OP report clearly shows that
8 it meets the zoning variance test. I'm happy
9 to support this application.

10 CHAIRPERSON JORDAN: Any further
11 discussion? All those in favor of the motion,
12 signify by saying aye.

13 BOARD MEMBERS: Aye.

14 CHAIRPERSON JORDAN: Those opposed
15 nay. The motion carries.

16 Mr. Moy.

17 MR. MOY: Staff would record the
18 vote 3-0. This is on the motion of Chairman
19 Jordan to approve the application for the
20 relief requested, the three variance relief
21 and with the four conditions cited by the
22 Chairman.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealgross.com

1 Also in support Mr. Miller. Also
2 in support of the motion to approve Mr.
3 Hinkle. A Board member not participating and
4 a Board seat vacant. The motion carries 3-0.

5 CHAIRPERSON JORDAN: I think we
6 are now ready for a summary order. I really,
7 really want to say this for the record. I
8 appreciate the neighborhood association and
9 the Applicant for getting together and having
10 these conversations.

11 I understand you had them
12 beforehand, before today, but really getting
13 to the point, that you have continued dialogue
14 is always good. That is something they didn't
15 ask for, these ongoing conditions that we
16 couldn't impose, but I would recommend that
17 you set up some type of liaison so you can
18 have conversations with this neighborhood
19 association on a regular basis.

20 At least find out if your noise is
21 too loud or whatever it is on any particular
22 day they might get out of hand so they will

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealgross.com

1 know what that was and maybe avoid that kind
2 of situation. I really appreciate you all
3 coming down. Thank you a lot.

4 MR. BELLO: Thank you, Mr.
5 Chairman.

6 CHAIRPERSON JORDAN: Mr. Moy, any
7 other business to come before us today?

8 MR. MOY: Not today, Mr. Chairman.

9 CHAIRPERSON JORDAN: Okay.
10 Board, any other matter we need to
11 discuss?

12 Good. Then we are adjourned.

13 (Whereupon, at 11:38 a.m. the
14 hearing was adjourned.)

15

16

17

18

19

20

21