

GOVERNMENT OF THE DISTRICT OF COLUMBIA

+ + + + +

DISTRICT OF COLUMBIA BOARD OF ZONING ADJUSTMENT

+ + + + +
PUBLIC HEARING

+ + + + +

WEDNESDAY

JANUARY 21, 1998

+ + + + +

The Public Hearing convened in Room 220,
441 4th Street, N.W., Washington, D.C. 20001,
pursuant to notice at 9:46 a.m., Susan Morgan
Hinton, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

Susan Morgan Hinton, Chairperson
Sheila Cross Reid
Betty King

ZONING COMMISSION MEMBERS PRESENT:

Maybelle Taylor Bennett

BOARD OF ZONING ADJUSTMENT STAFF PRESENT:

Tracey Witten Rose, Acting Secretary
Beverly Bailey
Paul Hart

ZONING COMMISSION STAFF PRESENT:

Madeliene H. Dobbins, Director

OFFICE OF PLANNING STAFF PRESENT:

Beverly Bailey
John Nyarku

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

PRELIMINARY MATTERS 5

APPLICATION OF HAROLD SCHNEIBERG:

16301 ANC-1C 10

NORMAN GLASGOW, JR., Esq. 11
Wilkes, Artis, Hedrick and Lane

WITNESS

RAUL A. SANCHEZ 17

APPLICATION OF ANNIE B. FULLER:

16302 ANC-4B 24

WITNESS

LENORA FULLER 24
REYNALDO APARICIO 24

APPLICATION OF THE HEURICH FAMILY:

16303 ANC-2F 35

KELLY A. O'CONNOR, ESQ. 36
Sher and Blackwell
Suite 900
1850 M Street, N.W.
Washington, D.C.
(202) 463-2515

WITNESS

MICHAEL KOVALCIK43

APPLICATION OF THE ZION BAPTIST CHURCH OF

EASTLAND GARDENS: 16304 ANC-7D 45

WITNESS

JOHN BURNS 46
SMITH BANKS 53
GLADYS SCALES
JACQUELINE BANKS

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

APPLICATION OF ELSIE BROWN: 16305 ANC-1B75

WITNESS

HARRY NELSON 75

APPLICATION OF CAFRITZ COMPANY:
16306 ANC-3C & ANC-3F 96

BERNARD C. DIETZ96
1001 Connecticut Avenue, N.W.
Washington, D.C. 20036

WITNESS

BERNARD C. DIETZ96
MYONG-HUN SON

APPLICATION OF NATIONAL CHILD RESEARCH
CENTER: 16307 ANC-3C 113

WITNESS

MATTHEW WATSON 113
KAY STAFFORD 116

APPLICATION OF CORNELL ALLEN: 16308 ANC-5C 126

WITNESS

CORNELL ALLEN 127
GLENN W. TAYLOR 129

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

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

(9:46 a.m.)

CHAIRPERSON HINTON: The hearing will please come to order. Good morning, ladies and gentlemen. This is the January 21st, 1998 public hearing of the Board of Zoning Adjustment of the District of Columbia. I'm Susan Morgan Hinton, your Chairperson. Joining me today are Betty King, Sheila Cross Reid, and Maybelle Taylor Bennett reappraising the Zoning Commission.

Copies of today's hearing agenda are available to you. They're located to my left near the door. All persons planning to testify, either in favor or opposition, are to fill out two witness cards. These cards are located on the table in front of us. Upon coming forward to speak to the Board, please give both cards to the reporter who's sitting to my right.

The order of procedure for special exception and variance cases will be as follows. One is statement or witnesses of the applicant, 2) government reports including the Office of Planning, the Office of Zoning, the ANC and the Department of Public Works, 3) persons or parties in support, 4) persons or parties in opposition and 5) closing remarks by the applicant.

Cross examination of witnesses is

1 permitted for persons with a direct interest in the
2 case. The record will be closed at the conclusion
3 of each case except for any material specifically
4 requested by the Board. The staff will specify at
5 the end of the hearing exactly what is needed. The
6 decision of the Board in these contested cases must
7 be based exclusively on the public record. To avoid
8 any appearance to the contrary, the Board asks that
9 persons present not engage Board members in any
10 conversations.

11 At this time, the Board will consider
12 preliminary matters. Preliminary matters are those
13 which relate to whether a case will or should be
14 heard today such as request for postponement,
15 continuance or withdrawal or whether and adequate
16 notice of the hearing has been given. If you are
17 not prepared to go forward with a case or if you
18 believe the Board should not proceed, now is the
19 time to raise such a matter.

20 Does the staff have any preliminary
21 matters?

22 MS. ROSE: Yes, Madam Chair. With
23 regard to application 16302, Annie B. Fuller, the
24 affidavit of posting indicates that the property was
25 posted on January 14th rather than January 6th as
26 required by the Board's rules. Would the applicant

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 or someone who is familiar with this please come
2 forward.

3 CHAIRPERSON HINTON: We need your name
4 and home address for the record, please.

5 MS. FULLER: Lenora R. Fuller. 40
6 Longfellow Street, N.W., Washington, D.C. 20011.

7 CHAIRPERSON HINTON: You received signs
8 from this office to post at the site. Can you tell
9 us what day those signs were put up?

10 MS. FULLER: Oh, dear. They put the
11 signs up the day we received them. I think we got
12 our notification in the mail to come pick them up -
13 - let me see.

14 CHAIRPERSON HINTON: Is your microphone
15 on? Is there a little green light on?

16 MS. FULLER: I'm sorry. I'm trying to
17 see when I received the notification because we did
18 put them up that very day. Two weeks ago. It was
19 our understanding that the notices were supposed to
20 be posted for five working days. Actually they were
21 posted for a longer period of time.

22 MS. ROSE: They were supposed to be
23 posted for 15 days before the hearing.

24 MS. FULLER: Is it 15 days?

25 MS. ROSE: Fifteen days before the
26 hearing.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 MS. FULLER: Right. What we did was we
2 submitted a notarized statement indicating.

3 MS. ROSE: Okay. It may have been a
4 mistake because the date that you say that they were
5 posted is the same day that they were notarized.

6 MS. FULLER: Oh, no. Oh, no. We just
7 -- I guess I signed it for the Notary Public that
8 very day.

9 MS. ROSE: Okay.

10 MS. FULLER: Before just providing a
11 date.

12 MS. ROSE: And that's the same day that
13 they were --

14 MS. FULLER: Oh, no. They were posted -
15 -

16 MS. ROSE: Way before that?

17 MS. FULLER: Yes. Oh, yes.

18 MS. ROSE: Okay. It may have just been
19 a mistake.

20 MS. FULLER: They were up because
21 they're quite obvious.

22 MS. KING: Have you had any
23 conversations with any of the neighbors? I mean the
24 neighbors are aware and so forth that they --

25 MS. FULLER: Our neighbors, who have
26 been neighbors for a long time, are like extended

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 family and they wanted to know if they needed to
2 come down here and testify on behalf or in support
3 of what we wanted to do. I don't want to speak out
4 of order but also our ANC Commissioner said he would
5 do whatever he could to help us. It's been very,
6 very positive.

7 MS. KING: I move that we waive any
8 problem if one exists. Is that in order?

9 CHAIRPERSON HINTON: Yes. That's fine.
10 Let's make a determination that the signs were
11 posted relatively close to January 2nd, if that's
12 your recollection if they were up for the two weeks
13 that they should have been up and the affidavit is
14 incorrect.

15 MS. FULLER: I'm sorry. As I said, I
16 just signed -- I put a date on there by the
17 signature indicating that the Notary Public saw me
18 at an appropriate interval of time before I brought
19 that documentation down here, so I guess I put the
20 date in the wrong place.

21 CHAIRPERSON HINTON: That's fine. We'll
22 make a finding that the posting was adequate and
23 then we'll go ahead with your case second on the
24 agenda.

25 MS. ROSE: We'll call the case in turn.

26 And the next matter before the Board

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 would be case 16304. The affidavit of posting was
2 received on January 20th rather than the 16th and
3 the applicant would need a waiver of the Board's
4 rules to receive it late. 16304 is Zion Baptist
5 Church. The applicant would need to show good cause
6 for bringing it in late. CHAIRPERSON

7 HINTON: speak about the affidavit of posting, could
8 you give your name and home address for the record,
9 please.

10 MR. BURNS: I didn't hear you.

11 CHAIRPERSON HINTON: Can you speak about
12 when the affidavit of posting was turned into our
13 office?

14 MR. BURNS: Speak about the affidavit.
15 Yes.

16 CHAIRPERSON HINTON: Can we have your
17 name and home address for the record.

18 MR. BURNS: My name is John W. Burns,
19 4509 E Street, N.E., Washington, D.C.

20 CHAIRPERSON HINTON: The paper that
21 tell us when the signs were posted, that was brought
22 to the office four days late. We need to know why
23 it was late.

24 MR. BURNS: Okay. I came down Friday
25 and I called the office to let them know I was
26 around the corner trying to find parking and the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 person who answered the phone in the office who
2 handled this said that the office was closed --
3 would be closed by the time I got up here and that
4 for me to bring it -- I told her it had been
5 notarized and everything before the expiration. She
6 told me to bring it, she said Monday but at the time
7 she said that, she didn't realize that Monday was a
8 holiday. When I came down here Monday, I realized
9 it was closed so I came back Tuesday morning first
10 thing to bring it.

11 CHAIRPERSON HINTON: So you're asking
12 for a waiver?

13 MR. BURNS: Yes, ma'am.

14 CHAIRPERSON HINTON: Okay. And we'll
15 grant that waiver. Thank you. We'll call your case
16 when it comes up on the agenda.

17 MS. ROSE: We have no further matters
18 this morning, Madam Chair.

19 CHAIRPERSON HINTON: Does anyone in the
20 audience have a preliminary matter? No. Good.
21 Let's call the first case, please.

22 MS. ROSE: The first case on the agenda
23 today is application 16301 of Harold Schneiberg
24 pursuant to 11 DCMR 3108.1 for a special exception
25 under Section 214 to establish an accessory parking
26 lot in an R-5-B District at premises 1780-1782 T

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 Street, N.W. (Square 152, Lot 862). Would all
2 persons wishing to testify in this application
3 please rise to take the oath.

4 (THE WITNESSES WERE SWORN.)

5 MS. ROSE: Would the applicant please
6 come forward.

7 MR. GLASGOW: Good morning, Madam Chair,
8 members of the Board. For the record, my name is
9 Norman Glasgow, Jr. of the law firm of Wilkes,
10 Artis, Hedrick and Lane. Here with me today is Mr.
11 Paul Tummins seated behind me to my left, Mr. Raul
12 Sanchez, the owner of the lot, the operator of the
13 lot, and Mr. Guillermo Rueda, who is the architect
14 of the project. We also have a letter of
15 authorization for Mr. Sanchez to represent Mr.
16 Schneiberg as Mr. Sanchez has a 25 year ground lease
17 with an option to purchase property that's involved
18 in the application.

19 We also, with the permission of the
20 Board, would like to submit a revised Exhibit C to
21 our statement which is a lay out of the parking lot
22 which meets all the design and access requirements
23 of the regulations rather than the stacked parking
24 lay out that we have presently for the lot. With
25 the Board's permission, I'd like to submit that for
26 the record.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 CHAIRPERSON HINTON: Right. And we'll
2 waive the requirement to receive that 14 days in
3 advance.

4 MR. GLASGOW: Thank you.

5 With the permission of the Board, I'd
6 like to proceed with a brief opening statement. The
7 lot that's in question is lot 862. The lot that's
8 in question is Lot 862 in Square 152 which is
9 located at 18th and T Streets, N.W. You have to my
10 right on the boars a perspective elevation of the
11 new location for the Laurel Plaza Restaurant which
12 will be relocated to the site. That is not
13 specifically part of the application. It is an
14 accessory lot next door to its east on T Street
15 which is shown on the site plan.

16 CHAIRPERSON HINTON: Is that a new
17 building?

18 MR. GLASGOW: That will be a building to
19 be constructed. There is a -- presently on the site
20 is improved with a dilapidated liquor store which is
21 going to be demolished and a parking lot. That site
22 is zoned C-2A. Next door to it is the R-5-B portion
23 of the lot which is shown in the site plan which has
24 approximately 12 -- well, it has nine parking spaces
25 located on the revised layout. It also on its
26 eastern edge has a single family dwelling which is

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 not going to be used as part of the parking lot but
2 that is part of the property.

3 The application is supposed by the
4 Advisory Neighborhood Commission and we have several
5 letters of support in the file. We're unaware of
6 any opposition to this application. I believe the
7 Board members have a copy of the statement of
8 applicant which goes through the burden of proof and
9 how this application meets the burden of proof. We
10 are prepared to go in as much detail as the Board
11 members desire with respect to the testimony in the
12 case. We believe that the record is sufficiently
13 clear as to how it is that we meet the burden of
14 proof.

15 If there are any questions with respect
16 to the revised Exhibit C, we certainly are able and
17 in a position to answer those. If you look at the
18 existing Exhibit C in your statement, you will see
19 that some of the parking spaces do not have direct
20 access and we determined that it would be in our
21 benefit and to the benefit of the operation of the
22 lot to have the direct access to all the parking
23 spaces and not have the potential, since this will
24 be required accessory parking, for the new location
25 of the relocated Laurel Plaza Restaurant. We wanted
26 to make sure we were not in a position where the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 Zoning Administrator's office would come back and
2 say, well, you've got, depending upon how they
3 looked at that site plan that you have, four or more
4 parking spaces that did not have direct access. We
5 wanted to deal with that all right at this point in
6 time. We've had extensive communications with the
7 neighbors over a period of time, particularly with
8 respect to the relocation of the ABC license for the
9 establishment. Exhibit I is a voluntary agreement
10 that was entered into by certain representatives of
11 the community and the applicant and that was
12 followed up subsequently by the support letter from
13 the ANC and other letters in support of the
14 application.

15 If there are no preliminary questions,
16 we can proceed with the testimony of the witnesses
17 or as the Board desires with the application.

18 CHAIRPERSON HINTON: We read your
19 statement and it is pretty clear about how you did
20 the zoning test. So why don't I ask the Board
21 members, are there any questions that you have for
22 the applicant?

23 MS. KING: In somebody's letter to
24 Madeliene Dobbins, he refers to the existing curb
25 cut on 18th Street.

26 MR. GLASGOW: That's correct.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 MS. KING: Are they aware that you
2 intend to, I presume, close that curb cut and add a
3 curb cut on T Street?

4 MR. GLASGOW: Our understanding is is
5 that where application was submitted, we've made it
6 clear to everyone that we did not have direct
7 contact to them. There's a referral --

8 MS. KING: I understand.

9 MR. GLASGOW: We think the site plan is
10 clear. We assume that they looked at the site plan.
11 When we read that letter, we assumed that they were
12 talking about the -- making note of the existing
13 condition of the 18th Street curb cut.

14 MS. KING: I see. Okay. And the only
15 access to the parking lot will be from T Street, not
16 from the public alley. That public alley will be
17 closed. I mean the access to the parking lot from
18 the public alley will be closed.

19 MR. GLASGOW: That is correct. The
20 access to the loading berth pursuant to the
21 agreement with the community is to be from the
22 public alley.

23 MS. KING: Okay.

24 MR. GLASGOW: And then the access to the
25 lot itself is from T Street.

26 CHAIRPERSON HINTON: Ms. Bennett.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 MS. BENNETT: Thank you. The cross-
2 hatched area on the revised Exhibit C is the area
3 that is on which the new building will be located.

4 MR. GLASGOW: That is correct.

5 MS. BENNETT: And then the smaller
6 cross-hatched area is the 17 --

7 MR. GLASGOW: -- 78 T Street.

8 MS. BENNETT: What you trying to say,
9 Mr. Glasgow. I just can't see that one. Is that
10 the building that is referred to -- I'm going now to
11 the agreement. There's a building referred to in
12 the agreement regarding the appearance --

13 MR. GLASGOW: Yes.

14 MS. BENNETT: -- of the house at 1778.
15 What is the condition of the house as it stands and
16 the applicant owns that?

17 MR. GLASGOW: Yes.

18 MS. BENNETT: Is it a part of the
19 operation, the restaurant?

20 MR. GLASGOW: No. No, but when the
21 sites were acquired from the existing owner, Mr.
22 Schneiberg-- in fact, he still technically owns
23 them-- this was part of the property. And so when
24 we were negotiating with the community, they said
25 well, you own that site, too, now and the answer is
26 yes.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 MS. BENNETT: Fix it up.

2 MR. GLASGOW: Fix it up.

3 MS. BENNETT: Okay. And what is behind
4 that site? It is enclosed in dotted lines but it is
5 separate from the parking lot with some landscaping.
6 There's some landscaping that goes around the
7 perimeter of the parking lot.

8 MR. GLASGOW: Yes.

9 MS. BENNETT: What is behind that? Is
10 it a yard, a rear yard?

11 MR. GLASGOW: Yes, it's a rear yard.

12 MS. BENNETT: Anything happening in that
13 rear yard?

14 MR. GLASGOW: No.

15 MS. BENNETT: Any reason why it was not
16 included as a part of the --

17 MR. GLASGOW: We didn't need it for the
18 parking, we didn't need to use it for parking as a
19 part of this application.

20 MS. BENNETT: Okay. Any plans for the
21 use of that house in the future by the restaurant
22 operation?

23 MR. SANCHEZ: I would just have to
24 repair the house. The house inside is in a very
25 poor condition and my plans are to repair and rent
26 it.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 MS. BENNETT: I see.

2 MR. SANCHEZ: If I buy the lot, then I
3 would sell that house completely and get rid of it.

4 MS. BENNETT: Okay. Thank you.

5 CHAIRPERSON HINTON: Ms. Reid, do you
6 have any questions?

7 MS. REID: No.

8 CHAIRPERSON HINTON: I think that
9 probably answers everything that we have. If you
10 wouldn't mind, we'll go through the rest of the
11 hearing.

12 MR. GLASGOW: All right.

13 CHAIRPERSON HINTON: Let me go to
14 government reports. We've already talked about the
15 memo from DPW where they say they have no objection.
16 We've had a report from ANC-1C. They're in support
17 and their memo meets the requirements, so we'll give
18 great weight to it.

19 MS. REID: She didn't say that there was
20 a quorum here.

21 MS. BENNETT: I thought it said
22 something about it was unanimously --

23 CHAIRPERSON HINTON: Voted 7-0.

24 MS. BENNETT: Voted 7-0 which is the
25 vote.

26 CHAIRPERSON HINTON: We don't have a

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 report from either the Office of Planning or the
2 Office of Zoning. Are there any persons or parties
3 in support?

4 MS. BENNETT: Madam Chair, we do have a
5 report from the Adams Morgan Business Association--

6 CHAIRPERSON HINTON: We do. We have a
7 number of letters actually.

8 MS. BENNETT: -- which is in support.

9 CHAIRPERSON HINTON: Yes. And we've
10 received some other letters of support this morning.
11 Persons or parties in opposition and I'll note
12 there's no opposition in the record. Closing
13 remarks for the applicant.

14 MR. GLASGOW: Madam Chair, if it's the
15 desire of the Board, we'd like to get an approval as
16 soon as possible and get moving with the relocation
17 of the restaurant facility.

18 CHAIRPERSON HINTON: Normally with
19 parking lots, especially accessory ones, we put some
20 sort of time frame on those and that's generally so
21 that the Board has an opportunity to review the
22 application again in the future just to make sure
23 that it hasn't become a problem to the neighborhood
24 due to trash or debris or not being kept up. Is
25 there any time suggestion that the applicant will
26 make?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 MR. GLASGOW: Well, this situation is a
2 little bit different, used to be more common in the
3 past, is that this is going to be required accessory
4 parking for the lot for the facility, the Laurel
5 Plaza Restaurant. So if we -- that could cause us
6 some complications with financing and others. And
7 the community knows that this lot goes with the
8 restaurant. Otherwise, we could be in a position
9 where the restaurant is constructed and then we lose
10 our required parking.

11 MS. KING: Could we make it contingent
12 on the continued ownership of the property by the
13 present applicant? I mean I feel very uncomfortable
14 about granting perpetual approval to a parking lot
15 because so many things can change. I mean you
16 presently have a situation where it's a blight on
17 the community and for all Mr. Sanchez's good
18 intentions, the building may be sold. I mean
19 perpetuity is a long, long time. Sold over and over
20 again, there may be an occasion when one wants to
21 reexamine the situation and, if we granted perpetual
22 approval, we would never have an opportunity to
23 remedy what might become not due to anybody who is
24 here now.

25 MR. GLASGOW: Ms. King, I've talked with
26 Mr. Sanchez and I've also talked to my compatriot

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 here, Mr. Thomason. There was a 15 year limit, I
2 believe, put recently on a parking lot for Fannie
3 Mae. I think that would be acceptable.

4 CHAIRPERSON HINTON: Fifteen years.

5 MS. KING: Sounds good to me.

6 CHAIRPERSON HINTON: Okay. Board
7 members?

8 MS. BENNETT: Sounds good and, Madam
9 Chair, I would move approval of application 16301
10 with a 15 year length of time associated with it in
11 the conditions.

12 CHAIRPERSON HINTON: I'll second.

13 MS. BENNETT: And all of the standard
14 parking lot requirements for the type of impervious
15 surface and the type of -- the bumpers and all of
16 the things that we require normally for our parking
17 lots and I don't know. I understand that there's
18 an agreement into which the applicant has entered
19 with neighbors. I'm trying to remember how -- you
20 know, on the Zoning Commission side we have a
21 condition in there where we acknowledge that there
22 is an agreement and I'm wondering how we do it
23 usually here. Do we acknowledge the existence of
24 the agreement in the context of the order?

25 MS. ROSE: There are times when we do.
26 If this were to be a summary order, there's pretty

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 much a format for that. Nowhere in the summary
2 order, you know --

3 MS. BENNETT: Do we mention --

4 MS. ROSE: -- do we mention something
5 like that, but we don't make it an enforceable part
6 of the Board's order. There are times when the
7 Board does acknowledge it.

8 MS. BENNETT: All right. Well, I'm not--
9 - you know, this is something that has been entered
10 into separately by the applicant and his -- I guess
11 it's the across the street neighbors. Is that
12 correct?

13 MR. GLASGOW: That's correct. And it
14 also was submitted to the Alcoholic Beverage Control
15 Board as part of their process. That's part of
16 their approval process.

17 MS. BENNETT: All right. Well, that's
18 all I need.

19 CHAIRPERSON HINTON: And we will include
20 the two conditions. The one about landscaping will
21 be kept and the healthy growing condition and the
22 lot will be kept free of trash and debris.

23 MS. BENNETT: And debris.

24 CHAIRPERSON HINTON: Okay.

25 MS. BENNETT: There's one other. That
26 there's no other structure except the that usually

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 attends that.

2 CHAIRPERSON HINTON: No other structure
3 and the lot can't be used for any purpose other than
4 a parking lot.

5 MS. BENNETT: That's it.

6 MS. KING: Did we put stuff in about
7 lighting and so forth? Isn't that one of our
8 conditions as well?

9 CHAIRPERSON HINTON: We didn't receive a
10 lighting plan. Is there a plan to light the spot?

11 MR. GLASGOW: Yes. I believe we said
12 that although there's no lighting planned that all
13 direct rays for any lighting will be on the lot. I
14 believe that's your standard condition.

15 MS. KING: That's the standard.

16 CHAIRPERSON HINTON: Okay. All those in
17 favor.

18 (Ayes)

19 MS. BENNETT: Did it get a second?

20 CHAIRPERSON HINTON: I did.

21 MS. BENNETT: All right. Aye.

22 CHAIRPERSON HINTON: Opposed.

23 MS. ROSE: Staff will reflect the vote
24 is four to zero, Ms. Bennett, Ms. Hinton, Ms. Reid,
25 and Ms. King, to grant the application. Ms.
26 Richards not present, not voting.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 CHAIRPERSON HINTON: Thank you. Summary
2 order, please.

3 MR. GLASGOW: Thank you very much.

4 MS. KING: Congratulate you on having
5 dealt so successfully with your neighbors. We
6 always encourage people to do that. Good luck.

7 MS. ROSE: The next application is 16302
8 of Annie B. Fuller pursuant to 11 DCMR 3107.2 for a
9 variance from the side yard setback requirements
10 (Subsection 405.9) to allow an addition to an
11 existing detached single family dwelling in an R-1-B
12 District at premises 40 Longfellow Street, N.W.,
13 Square 3389, Lot 108). Would all persons planning
14 to testify in this application please rise to take
15 the oath.

16 (THE WITNESSES WERE SWORN.)

17 CHAIRPERSON HINTON: We're going to
18 start with your names and home addresses for the
19 record and then you can make your statement, please.

20 MS. FULLER: My name is Lenora R.
21 Fuller. I reside at 40 Longfellow Street, N.W.,
22 Washington, D.C. and the zip is 20011.

23 MR. APARACIO: Reynaldo Aparacio. I
24 reside at 2904 Nemets Lane, Bowie, Maryland 20716.

25 CHAIRPERSON HINTON: Okay.

26 MS. FULLER: I should clarify I guess

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 for the record. My mother has resided at 40
2 Longfellow Street, N.W. for 43 years since January,
3 1955. She's now about to turn 83 and, being a
4 senior citizen, she suffers from arthritis. And our
5 goal was to essentially place a bathroom on the
6 first floor of the house. In fact, what the
7 application shows is that it's an addition that
8 we're requesting to the house but really it's not so
9 much an addition because there's already a structure
10 at the rear of the house. What we're asking is to
11 convert part of that structure into a bathroom and
12 then just refurbish the existing remaining patio
13 area.

14 And when we submitted our application
15 back in the fall, I found out at that time that the
16 existing structure attached to the house was built
17 by my father, a former ANC Commissioner, and
18 evidently he had not gone through all the
19 appropriate procedures. But the structure has been
20 existing for the past 25 years in various forms. So
21 I just wanted to make that clear for the record that
22 there's already a structure, an addition to the
23 house if you will, and basically what we want to do
24 is renovate it.

25 MS. KING: That would become your
26 mother's bedroom and then the addition would be the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 bathroom. Is that correct?

2 MS. FULLER: The bathroom would take up
3 part of the area that we call the addition and then
4 the rest would just be room space.

5 MR. APARACIO: A patio.

6 MS. FULLER: A patio which is existing
7 now which we have photographs of.

8 MS. KING: Ms. Bennett, when you're
9 finished can I see the photographs?

10 MS. BENNETT: Sure.

11 MS. FULLER: I brought extras.

12 CHAIRPERSON HINTON: The structure that
13 is there that's existing, the white part, that's
14 going to stay. Is that what you're saying? And
15 you're just going to make some changes interior to
16 that space?

17 MS. FULLER: And basically refurbish
18 this structure that exists now.

19 CHAIRPERSON HINTON: What do you mean by
20 refurbish?

21 MS. FULLER: Well, put on --

22 MR. APARACIO: New screens.

23 MS. FULLER: -- new screens.

24 MR. APARACIO: Repaint.

25 MS. FULLER: And repaint it.

26 MR. APARACIO: And a new roof on top.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 CHAIRPERSON HINTON: But it's not going
2 to get any bigger?

3 MS. FULLER: Oh, no.

4 CHAIRPERSON HINTON: It's not going to
5 get taller.

6 MS. FULLER: No.

7 MS. KING: But in this, this says new
8 addition and that seems to go right over to the
9 property line and in the photograph there's a dot
10 between the screen porch that your father installed
11 and the property line. Am I misinterpreting it?

12 MS. FULLER: I think that's a
13 misstatement. I think that document is misleading
14 because there's already an existing addition. We
15 would not be adding an addition to the addition.

16 MS. KING: I wonder if you could come
17 forth and explain it to me with this photograph.
18 You see, it seems to me that this is the edge of
19 your property over here.

20 MS. FULLER: Yes.

21 MS. KING: And is this space not going
22 to be filled in?

23 MR. APARACIO: No.

24 MS. KING: In other words, this is
25 incorrect.

26 MR. APARACIO: Let me see. What is

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 this?

2 MS. FULLER: I don't know why he drew it
3 that way.

4 MS. KING: I mean you're not going --

5 MR. APARACIO: This is just a fence
6 line. Oh, this part here? Yes, we're not doing
7 that.

8 MS. KING: No. This part here that's
9 dark.

10 MR. APARACIO: That's already there.

11 MS. KING: That's already there.

12 MS. BENNETT: The cross-hatched part is
13 already there.

14 MR. APARACIO: This is two parts
15 actually. Looks like one piece.

16 MS. KING: This is the cross-hatched
17 part. Is that it?

18 MR. APARACIO: Right. Yes. And this
19 right here must be the projection of the roof that's
20 projecting out. The foundation stays. You know,
21 it's going to be in the same place with the rest of
22 the foundation there.

23 CHAIRPERSON HINTON: In order for a
24 variance to be granted, you need to identify unique
25 condition of your property that causes a hardship in
26 using it according to the zoning regulations. Have

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 you given any thought to that?

2 MS. BENNETT: Do you know when the house
3 was built?

4 MS. FULLER: I believe it was built back
5 in the 1920s.

6 MS. BENNETT: So it was built prior to
7 the promulgation of the existing regulations which
8 took place in 1958.

9 MS. FULLER: Oh, indeed.

10 MS. BENNETT: Your mother has been there
11 for 43 years.

12 MS. FULLER: Correct.

13 MS. BENNETT: So that when she moved
14 there, the house was already located on the lot the
15 way it is and it was located right smack up against
16 the alley with no side yard in the first place. Is
17 that correct?

18 MS. FULLER: Absolutely.

19 MS. BENNETT: So that the location of
20 the house on the lot was preexisting condition.

21 MS. FULLER: Yes.

22 MS. BENNETT: And there's no way to pick
23 up the house and move it so that it has a side yard
24 on that side. Is that correct? There's no way to
25 create a side yard there.

26 MS. FULLER: Not to my knowledge. No.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 MS. BENNETT: So what we have here
2 already existing is a nonconforming structure.

3 MS. KING: Erected 25 years ago
4 according to -- didn't you say it was about 25 years
5 old.

6 MS. BENNETT: Well, the house was
7 erected many more than that.

8 MS. FULLER: The house was erected in
9 the late '20s but the other structure was erected --

10 MS. KING: At least 25 years ago, more
11 or less, give or take. You don't remember. You're
12 too young to remember.

13 MS. FULLER: Thank you. I wasn't living
14 there at the time.

15 CHAIRPERSON HINTON: Ms. Bennett is
16 saying the original house had no side yard.

17 MS. BENNETT: That's exactly right.

18 CHAIRPERSON HINTON: Absent the
19 addition.

20 MS. BENNETT: That's correct.

21 CHAIRPERSON HINTON: The original house
22 had no side yard. So even -- let me explain
23 something to the applicants. In order to review
24 this application, we have to assume that the
25 addition isn't there, okay? which seems very strange
26 but you're asking us to approve it. Since it never

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 went through permitting zoning, we have to assume
2 it's not there and just think about whether we would
3 allow it to be built or not. And what Ms. Bennett
4 is saying is the house as the original house
5 existed, there was no side yard on that side so any
6 addition you would ask to put on would need a
7 variance because of the condition of the original
8 building.

9 MS. BENNETT: The lot was there and its
10 required width is 10' less than it should be, and
11 that is an existing condition. Likewise, the lot
12 area is smaller than it should be and that's an
13 existing condition so we have a substandard sized
14 lot for the existing zone and we have a house that
15 was put right up on the alley which is a
16 nonconforming condition, as well. So anything they
17 did would require variance. And those are
18 conditions that are unique to the property and arise
19 out of the land which is what we have defined.

20 CHAIRPERSON HINTON: And the practical
21 difficulty would come in the owner's use of the land
22 as a continued residence or use for someone who's
23 been there for 40 years.

24 MS. KING: As one who suffers herself
25 from terrible arthritis, I understand the condition
26 and the problem and I read with great interest your

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 letter to David Watts and I'm glad that you're here,
2 Ms. Bennett, because I understand the Zoning
3 Commission writes the rules for the Board of Zoning
4 Adjustment. We have two cases today of this kind of
5 hardship for elderly people and we've got to go
6 through a process that makes it possible for the
7 community to respond to things that are being done
8 in the community. But do you think that there's any
9 way that we could speed our process in cases like
10 this where there's a physical hardship for a long-
11 term resident?

12 MS. BENNETT: There probably is and it
13 could be the subject of a joint Zoning
14 Commission/BZA hearing.

15 MS. KING: I think it would be useful to
16 look at it.

17 MS. BENNETT: I thought you were going
18 to ask another question and that is we had a special
19 case that arose out of a request from the Board of
20 Zoning Adjustment which would have us make the test
21 for a single family like this not so difficult to
22 make. It's kind of a hybrid between a special
23 exception, which doesn't require a finding of a
24 practical difficulty, and an area variance and we
25 have had that hearing and I'm not exactly sure where
26 that is now.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 MS. KING: I understand it's going to be
2 published, the rule making will be published some
3 time in the near future. I've heard about that.
4 But this is sort of a humanitarian issue when an
5 elderly man or woman is -- might be forced out of
6 their house. I mean they might anyway if we denied
7 it but I mean the fact that they might be forced out
8 by the protracted process. Maybe we could discuss
9 that at some point how we could speed up the process
10 in cases where there was a humanitarian issue.

11 MS. REID: Yes, because normally with
12 the elderly, they're also handicapped.

13 MS. FULLER: I also failed to mention my
14 mother had a stroke.

15 MS. REID: No, it's in here.

16 MS. FULLER: The arthritis is the
17 condition I hear about just about every day,
18 especially when it's humid or cold.

19 MS. KING: Tell me about it.

20 MS. FULLER: The option I proposed to my
21 mother was to sell the house and move to a rambler
22 in probably the Maryland suburbs and because my
23 mother has lived in this neighborhood for so long
24 and because the neighbors are like extended family,
25 she'd rather suffer. And I thought let's go through
26 the process and see if we can do everything by the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 book, make certain everything is appropriate, and
2 try. But it is frustrating.

3 CHAIRPERSON HINTON: Let me just, if
4 that concludes the applicant's statement, we'll move
5 on with the other parts of the hearing. We don't
6 have a report from either the Office of Planning or
7 Office of Zoning. We have a response from the ANC.
8 Let me find that.

9 MS. BENNETT: I did not see one, Madam
10 Chair.

11 CHAIRPERSON HINTON: It should be
12 Exhibit Number 15. That's the letter to the ANC.
13 So we have no response from the ANC. Are there any
14 persons or parties in support? Persons or parties
15 in opposition? Seeing none. Closing remarks by the
16 applicant.

17 MS. FULLER: We would hope that we would
18 be able to allow my mother to remain in the house
19 that she and my father lived in for so long and she
20 could remain in the community that she loves so.
21 And it's our hope that we have done everything in
22 the appropriate way and I beg the indulgence of the
23 Board to allow us to do this because I really don't
24 want to consider the options. That's all.

25 CHAIRPERSON HINTON: Okay.

26 MS. FULLER: Thank you.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 CHAIRPERSON HINTON: Thank you. Board
2 members?

3 MS. BENNETT: Madam Chair, I move
4 approval of application 16302.

5 MS. KING: Second. I consider that
6 they've met the burden of proof and I suggest we
7 issue a summary order.

8 CHAIRPERSON HINTON: Very good. All
9 those in favor.

10 (Ayes)

11 CHAIRPERSON HINTON: Opposed.

12 MS. ROSE: Staff will record the vote as
13 four to zero, Ms. Bennett, Ms. Reid, Ms. King and
14 Ms. Hinton, to grant the application. Ms. Richards
15 not present, not voting.

16 Ms. Fuller, may we have your witness
17 cards, please.

18 MS. KING: I think it would be useful if
19 we could proceed. Tracey, the order will be ready
20 in 10 days.

21 MS. ROSE: It should be a couple of
22 weeks.

23 MS. KING: And then you can take it to
24 the Department of Consumer Regulatory Affairs and
25 get your permit.

26 MS. ROSE: The next application is

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 16303, the application of the Heurich Family,
2 pursuant to 11 DCMR 3107.2 for a variance from the
3 use provisions of Paragraph 1702.6(c) to allow use
4 as a commuter parking facility with 40 spaces
5 ancillary to an existing car rental business for
6 part of the first floor of an existing in a DD/C-3-C
7 District at premises 901 11th Street, N.W. (Square
8 343, Lot 825).

9 Would all persons planning to testify in
10 this application please rise to take the oath.

11 (THE WITNESSES WERE SWORN.)

12 MS. ROSE: Please come forward.

13 CHAIRPERSON HINTON: Good morning.

14 MS. O'CONNOR: Good morning. Madam
15 Chairwoman, members of the Board, my name is Kelly
16 O'Connor and I represent the Hertz Corporation.
17 Sitting to my right is Mike Kevalcik, Operations
18 Manager of the Hertz Corporation, Washington, D.C.
19 Facility. Hertz is the representative and lessee of
20 the Heurich Family which owns the subject premises
21 commonly known as 901 11th Street, N.W.

22 As representative of the Heurich Family,
23 Hertz is here today to request a variance from the
24 use provisions of Section 1702.6(c) to allow partial
25 use of 40 parking spaces as commuter parking. The
26 premises at 901 11th Street, N.W. currently has

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 occupying the entire premises a three story concrete
2 building which houses the Hertz Rental Car facility.
3 In essence, it is a parking garage.

4 To help orient the Board, I do have a
5 diagram of the subject premises which I'd like to
6 put on the easel, if I may. This is the premises
7 that we're speaking of.

8 MS. KING: Take the hand-held
9 microphone.

10 MS. O'CONNOR: Outlined in red is 901
11 11th Street, N.W. As you can see, it's situated on
12 the corner of New York Avenue and 11th Street with
13 two fairly busy commercial streets and the
14 surrounding area is also commercial in nature.

15 MS. KING: That square, is that the
16 Carnegie Library? That's the Carnegie Library.
17 Right?

18 MS. O'CONNOR: That's right.

19 MS. KING: And the site of the proposed
20 new convention center is just north of that.

21 MS. O'CONNOR: That's right. That's my
22 understanding.

23 MS. KING: I know where you are now.

24 MS. O'CONNOR: And this is the
25 convention center.

26 MS. KING: Right. I know exactly where

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 it is.

2 MS. O'CONNOR: We have submitted to the
3 Board a statement of applicant which sets forth both
4 the burden of proof and how Hertz meets this burden
5 of proof. We are prepared to offer the testimony of
6 Mr. Kovalcik but at this point, if the Board so
7 chooses, we'd be happy to entertain any questions
8 rather than recite what we've already stated in our
9 statement.

10 CHAIRPERSON HINTON: Okay. I have a
11 question. You said that the entire lot is taken up
12 by a parking garage.

13 MS. O'CONNOR: That's right. It's the
14 Hertz Rental Car facility which is a three story
15 parking garage.

16 CHAIRPERSON HINTON: Okay. And there's
17 nothing else on the lot.

18 MS. O'CONNOR: That's right.

19 CHAIRPERSON HINTON: But Hertz doesn't
20 own the lot.

21 MS. O'CONNOR: Hertz is leasing the lot
22 and the building which was there before Hertz.

23 CHAIRPERSON HINTON: The parking garage
24 was there.

25 MS. O'CONNOR: That's right. Hertz did
26 not construct that garage.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 CHAIRPERSON HINTON: So Hertz is leasing
2 the parking garage.

3 MS. O'CONNOR: That's right. They are
4 in a long-term lease with the Heurich Family.

5 CHAIRPERSON HINTON: Let me tell you
6 what my problem is. I have read your application
7 and maybe you can shed some light on this. My
8 understanding of case law for use variance is that
9 the hardship or practical difficulty needs to go to
10 the owner and not any lessee or potential lessee.
11 What's your view on that?

12 MS. O'CONNOR: Our view is in terms of
13 this proceeding, we are representing the Heurich
14 Family so we're standing in the shoes of the owner
15 and because we are in a long-term lease, we're
16 limited in what we can do with this unused space and
17 so it's causing a hardship on us not to be able to
18 use this space but to have to maintain it and pay
19 for it.

20 CHAIRPERSON HINTON: Could the owner set
21 up a lease so that only the portion of the garage
22 that Hertz needs would be rented to Hertz and then
23 the owner would then be able to request a use
24 variance if they so chose to do?

25 MS. O'CONNOR: I think they may, yes. I
26 think they may be able to do that although, as a

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 practical matter, it may be difficult logistically
2 to do. Hertz is operating the facility and so Hertz
3 is responsible for what goes on in that facility.

4 CHAIRPERSON HINTON: Because it's a
5 parking garage, it would be hard to separate.

6 MS. O'CONNOR: That's right and because
7 the space we're talking about was defined as and has
8 always been used as parking spaces and because of
9 the ramps and passageways throughout that garage,
10 there really isn't any other reasonable or
11 economically feasible use of this space.

12 CHAIRPERSON HINTON: Other than parking.
13 No, I understand that. That's pretty clear.

14 MS. KING: The family has authorized
15 Hertz to represent them in this issue so is it not
16 the family's application inferential?

17 MS. BENNETT: This is the application of
18 the owner as represented through the lessee.

19 CHAIRPERSON HINTON: That's right. But
20 the hardship has to be on the owner.

21 MS. BENNETT: On the owner.

22 CHAIRPERSON HINTON: And my only problem
23 is the way I read it it seems like the information
24 that's shown, the hardship on the lessee, the
25 hardship on the Hertz Corporation rather than the
26 hardship on the owner.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 MS. KING: Yes, but by extrapolation,
2 if the Hertz Corporation moves out and leaves them
3 with a three story garage building in that area of
4 town, they may have difficulty in --

5 MS. BENNETT: -- using it for anything
6 else except --

7 MS. KING: -- using it for anything
8 else.

9 MS. BENNETT: -- commuter auto storage.

10 MS. KING: I'm not sure that you can't--
11 I understand your point about case law but it seems
12 to me that it's clear on the face of the application
13 and in the letter from Donahoe Real Estate Services
14 that Hertz is representing the family in this and
15 that it would be in fact a terrible hardship on the
16 family if Hertz were to move out.

17 MS. BENNETT: Well, the other way to
18 look at it is -- and I'm not exactly sure when this
19 was built but for the family to put this facility to
20 any use, it is constrained by its structure. That
21 is the thing that is unique. I mean it's not like
22 you can take this structure and turn it into an
23 office building or some other DD/C-3-C permitted use
24 as a matter of right.

25 CHAIRPERSON HINTON: Well, now, there
26 are some kinds of parking that would be allowed as a

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 matter of right. The variance is for all day
2 commuter parking. I think that matter of right
3 parking would be short term parking for nearby
4 located retail or commercial uses.

5 MS. BENNETT: Right. One of the things
6 that they were saying is as an exceptional or unique
7 condition is that it is not located near merchants.

8 MS. O'CONNOR: That's right.

9 MS. BENNETT: For whom it could provide
10 short-term parking, commercial parking.

11 MS. O'CONNOR: That's right.

12 MS. BENNETT: And the location is
13 unconducive to residential parking which, in any
14 case, wouldn't necessarily be short-term.

15 MS. O'CONNOR: That's right.

16 MS. BENNETT: So part of its uniqueness
17 is its location.

18 CHAIRPERSON HINTON: So the Hertz
19 Corporation currently needs less than half of the
20 garage to run the facility that the have. There are
21 70 spaces and you need about 30.

22 MS. O'CONNOR: That's right.

23 CHAIRPERSON HINTON: In the event that
24 you would need more spaces, you would expand into
25 the -- I would think that you would expand into
26 those other 40 spaces.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 MR. KOVALCIK: Correct. It would be --
2 we would use the parkers as supplement and, if our
3 business grows, we cut back on that supplement.

4 CHAIRPERSON HINTON: Any other
5 questions? Okay. Well, why don't we contemplate
6 that and I'll go along with the rest of the reports.
7 We have a report from ANC-2F unanimously to support.
8 Very good. I don't believe we have a report from
9 TPW.

10 MS. BENNETT: I thought I saw it. They
11 did not have any objection. It's dated --

12 CHAIRPERSON HINTON: Here it is.

13 MS. BENNETT: Dated January 15th, 1968.
14 The bottom line is that approximately 20 vehicle
15 trips would be generated by the proposal during the
16 a.m. and p.m. peak hours and in their judgement this
17 level of generated traffic would have a negligible
18 impact on the surrounding street system.
19 Accordingly, DPW has no objection to the proposed
20 use.

21 CHAIRPERSON HINTON: Great. No
22 objection. And we don't have reports from either the
23 Office of Planning or the Office of Zoning.

24 MS. BENNETT: Right.

25 MS. KING: A number of letters of
26 support from local business people.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 CHAIRPERSON HINTON: If this were all
2 day commuter parking, would it also be available in
3 the evenings? Are you contemplating --

4 MR. KOVALCIK: They close at 7:00.

5 CHAIRPERSON HINTON: The garage closes?

6 MR. KOVALCIK: Yes.

7 CHAIRPERSON HINTON: So this is just day
8 time.

9 MR. KOVALCIK: Correct.

10 CHAIRPERSON HINTON: Okay. Are there
11 any persons or parties in support? Persons or
12 parties in opposition? Closing remarks by the
13 applicant.

14 MS. O'CONNOR: We respectfully request
15 that the variance be granted and that if it is the
16 Board's inclination to so grant a variance that it
17 be ordered summarily as quickly as possible. Thank
18 you.

19 CHAIRPERSON HINTON: Thanks.

20 MS. KING: Do you want me to make a
21 motion? I move that we grant the application. It
22 seems to me that leaving aside -- I mean I think
23 that we have discussed the issue that you raised and
24 that, although I respect your having raised it and I
25 think it's important that we have dealt with it,
26 that there would in fact be a significant hardship

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 on the owners of the property should we not grant
2 this variance so that that they have authorized the
3 Hertz Corporation to represent them is adequate to
4 make the presentation acceptable and I move that we
5 grant the application and issue a summary judgment.
6 Summary opinion.

7 CHAIRPERSON HINTON: I'll second. And I
8 agree. The application is from the owner and I
9 think that we've had adequate testimony that the
10 undue hardship would be to the owner if the
11 application weren't granted. So all those in favor.

12 (Ayes)

13 CHAIRPERSON HINTON: Opposed. Summary
14 order, please.

15 MS. ROSE: Who made the second?

16 CHAIRPERSON HINTON: I did.

17 MS. ROSE: Staff reports the vote is
18 four to zero, Ms. King, Ms. Hinton, Ms. Reid and Ms.
19 Bennett to grant the application. Ms. Richards not
20 present, not voting. We will issue a summary order.

21 CHAIRPERSON HINTON: Yes. You should
22 get it in about two weeks. It will be mailed.

23 MS. ROSE: The next application is 16304
24 of Zion Baptist Church of Eastland Gardens pursuant
25 to 11 DCMR 3108.1 for a special exception under
26 Section 205 to establish a child development center

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 for 75 children ages two to six years on the first
2 floor and basement of a church building at an R-1-B
3 District at premises 1234 Kenilworth Avenue, N.E.
4 (Square 5121, Lot 813).

5 Will all persons wishing to testify in
6 this application please rise to take the oath.

7 (THE WITNESSES WERE SWORN.)

8 MS. ROSE: Would the applicant please
9 come forward.

10 CHAIRPERSON HINTON: Okay. We need your
11 name and home address for the record, please.

12 MR. BURNS: John W. Burns.

13 MS. KING: Home address.

14 MR. BURNS: 4509 Ead Street, Washington,
15 D.C.

16 MR. BANKS: My name is Smith T. Banks.
17 Address is 4238 Southern Avenue, S.E., Washington,
18 D.C., zip 20019.

19 MS. SCALES: My name is Gladys Scales.
20 1017 Farrar Avenue, Cheltenham, Maryland 20623.

21 MS. BANKS: Jacqueline Banks, 4238
22 Southern Avenue, S.E.

23 CHAIRPERSON HINTON: And would you like
24 to go over your proposal for us.

25 MR. BURNS: Yes. In 1967 Zion Baptist
26 Church of Eastland Gardens had a day care center

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 operating on its site. The church was originally
2 built with the notion in mind to have a day care
3 center. The day care center was operated by an
4 outside entity and the church at that time decided
5 that they did not want that relationship and so they
6 somehow they stopped the day care center. In the
7 process, they failed to file whatever necessary
8 papers, notification down to the zoning and
9 everything that the day care center would be out of
10 function for a while.

11 Over the process, the minister passed
12 and we had another minister and so we now wanted to
13 reopen. In February of last year, 1997, I went down
14 and filled out the papers to open the day care
15 center, for a permit to operate the day care center.
16 And we paid \$100 fee and we were in the process of
17 thinking that we could just go ahead and open our
18 day care center and start. But in the process, the
19 area has been rezoned and because we did not have
20 back when they first built the church, they didn't
21 get the necessary documentation. The Zoning
22 Commission could not find evidence that we had ever
23 existed. I don't know the reason for that. We
24 bought the necessary paperwork to prove that we were
25 getting kids from the District. We had all that,
26 but they still said you've got to get a variance

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 because of this.

2 So they rejected my application and gave
3 my check back. And then they said I had to file a
4 new request over at the Zoning Commission for a
5 variance. So I did that and filled out all the
6 necessary papers and paid the fee which was 2,000
7 and some odd dollars and then we came -- we
8 developed the information from that time based on
9 what they told us to do. We posted the property.

10 I sent letters to the civic association
11 in September, 1997, September 22nd, asking them,
12 letting them know and informing them what the issue
13 was as well as the ANC Commission, Herman Green and
14 Irma Clay. And they had some subsequent meetings
15 but they had no opposition to it at the time. And
16 so we then waited for the hearing date.

17 In the mean time, after I read the
18 letter and talked with the people in Zoning, they
19 said well, you ought to check with them to make sure
20 that they're on board.

21 So I went back to the civic association
22 and they had a meeting and they tentatively approved
23 it but they had some questions and last night we met
24 with them at their meeting to answer the questions
25 that they had and the civic association unanimously
26 approved the variance.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 MS. KING: Do you have that in writing?
2 Did they write you a letter?

3 MR. BURNS: Well, this happened --

4 MS. KING: Did they write you a letter
5 to that effect?

6 MR. BURNS: No, they haven't yet but
7 they're going to. They're in the process of doing
8 that. Delton Howard, who is the President, I called
9 him last night and told him that I should have a
10 letter in writing and he said that he was going to
11 have someone from the civic association here this
12 morning. The one thing that you can't do is make
13 the civic association people do what you would like
14 for them to do.

15 MS. KING: Not in that neighborhood.

16 MR. BURNS: Say what?

17 MS. KING: I said particularly not in
18 that neighborhood.

19 MR. BURNS: So we are here. Also, the
20 representative ANC Commissioner was at that meeting
21 and he was -- his approval was dependent upon the
22 civic association approval. Once they approved it,
23 he said he had no problem with it. So we're here
24 this morning.

25 MS. KING: Were there any conditions
26 that the civic association asked you to impose upon

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 yourselves?

2 MR. BURNS: What they were concerned
3 about was -- and I have a letter here -- was the
4 parking. Not a letter.

5 MS. KING: They were concerned about the
6 occupancy of the parking.

7 MR. BURNS: They were concerned about
8 the parking and we assured them that #1, that the
9 Kenilworth side, as you can see in the pictures, our
10 church sits and then we have Kenilworth and then we
11 have 44th Street and so people bringing the children
12 will come to the Kenilworth side, park, come down,
13 bring their children, go back up and get in their
14 car and go to work. When they come back that
15 evening, they'll park, come and get the children and
16 go back out. So they would not be in the Eastland
17 Gardens residential street.

18 MS. BENNETT: Madam Chair, I guess what
19 I found lacking here in the application is kind of a
20 coherent description of what the operation is going
21 to look like. We have some numbers for children, I
22 believe, for staff but to give us a feel for how the
23 day care will operate which includes just what you
24 mentioned. Something about a drop off and pick up.
25 We have no layout of the premises so we don't see --
26 I think they talked about seven classrooms but we

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 don't see how they are arranged. The five
2 bathrooms, kitchen, nursing room.

3 We have a description, a brief
4 description of what the building will consist of but
5 nothing about the operations. When will you open?
6 When will you close? Where do your employees park?
7 All of those things have to do with the operations
8 of the day care center and it would be useful -- I
9 got that. That's what I'm looking at. Okay. But
10 normally we have a little more description about the
11 facility itself including all of the things that I
12 just mentioned. And I was wondering if in your
13 testimony you're able to provide us that
14 information.

15 MR. BURNS: Yes.

16 MS. BENNETT: Or, in lieu of that, if
17 there's something else that you might want to submit
18 into the record by way of a plan so we can see how
19 the classrooms are laid out and the like.

20 MR. BURNS: Okay. I can provide that if
21 I might. I was simply -- every station that I
22 stopped on the way to getting this done, I simply
23 tried to satisfy those people at that station. So -
24 -

25 MS. REID: Also, you have to demonstrate
26 to us how you comply with Section 205 of the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 regulation in regard to a child development center
2 because --

3 MR. BURNS: Regarding the what?

4 MS. REID: A child development center.
5 Your application basically was not informative
6 enough for us to be able to determine if in fact you
7 were able to be granted a special exception.

8 MR. BURNS: Okay. This is where my
9 problem is and I guess the reason why you don't have
10 that is I went over to the Day Care Board and when I
11 filled out my application, I had all of this
12 information was there. They asked me all of these
13 questions.

14 For instance, how many classrooms, how
15 many children. All of that was filled out. And then
16 when they discovered -- the lady that did it said
17 you got to go down to zoning and get that permit of
18 occupancy.

19 And when I went down there, they looked
20 in the records and then they discovered of course
21 that they couldn't verify because their records
22 didn't go back that far. So then when I went back
23 there, they gave me the top part of my application
24 back and they gave me my check back for the \$100.

25 So no one else asked me for that but I
26 can tell you that we have a large playground, as you

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 see in the picture. We have separate classrooms
2 located in the basement area which are already set
3 up and we have two separate large bathrooms. We
4 have a third bathroom in the basement for staff.

5 We have a subsequent bathroom on the
6 first floor level and we have -- we have two
7 bathrooms on the first floor level and we have a
8 hallway and an auditorium over the classroom which
9 will accommodate 300 people, and we're only talking
10 about 50.

11 Now, the numbers that you see in this
12 application, they office down here, when I told them
13 that if we have a child who would be in the day care
14 center and there was a person who like was in
15 kindergarten during school during the year and
16 wasn't in the center but during the summer months we
17 might want to have that after care program just for
18 the summer months, 10 weeks or so forth. And she
19 told me that I needed to use the figure 75.

20 But originally our numbers were based on
21 what the prior approved numbers for our church was
22 which was 50. And so but we really have -- I have
23 a--

24 MR. BANKS: While he's looking for it,
25 may I interject that also we also found out that we
26 couldn't give an accurate number until someone had

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 been out there inspecting like from the day care
2 people to inspect the building to tell us exactly
3 how many students that we could accommodate. So
4 it's been kind of a whirlwind where we've been kind
5 of going back and forth between the two agencies and
6 we really haven't been able to connect on all of the
7 things that we needed to get because we were getting
8 different conflicting information from one board or
9 the other.

10 CHAIRPERSON HINTON: Okay. So let me
11 try this if I can. You intend to have up to 50
12 students on a day to day basis in the day care. Up
13 to 50. Is that right?

14 MR. BURNS: To start out we're talking
15 about 36 children and then that overage cushion is a
16 cushion in case we might have one or two children
17 who are connected to a family.

18 CHAIRPERSON HINTON: You should tell us
19 the most that you think you will have because if we
20 put it at 50 and you want to have 51, you would have
21 to come back here.

22 MR. BURNS: I understand that. That's
23 what they told me.

24 CHAIRPERSON HINTON: Okay. So 50 day
25 care. Is that right?

26 MR. BURNS: Yes. Now, the other thing

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 they told me was that when I came in here that I
2 needed to have the 50 but the people over at the day
3 care center, you know, we're looking at a 67
4 observation that was 50 and the people over at the
5 day care association, I paid a \$50 inspection fee
6 and he's coming out to the site and if he says 25,
7 that's what we're going to have.

8 CHAIRPERSON HINTON: Yes. That's right.

9 MR. BURNS: We're going to do whatever
10 the law says do.

11 CHAIRPERSON HINTON: Right. I
12 understand. Can I just finish on this one train of
13 thought. You also want to have up to 25 in an after
14 school kind of general program.

15 MR. BURNS: No. We will not operate
16 after care unless in the summer we have the -- what
17 you call it? -- the day care. That's all we're
18 talking about. And they told us that --

19 MS. KING: So it will be day care.
20 Summer and winter it will be day care but winter it
21 will be not more than 50 and summer it will be not
22 more than 75. Is that what you're saying?

23 MR. BURNS: Right. Exactly.

24 CHAIRPERSON HINTON: Okay. Then we're
25 just going to make this simple and we're going to
26 say day care for up to 75.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 MR. BURNS: That's why we put that in
2 there was to cover that summer.

3 MS. KING: Or whatever is approved --

4 MR. BURNS: Or whatever it would be. It
5 might not even be that.

6 MS. KING: -- by the SFSD.

7 MR. BURNS: But she told me that if --
8 say, for instance, we had come here and we had said
9 10 and then the circumstances were that we needed
10 11. She said I would have to come back down here
11 and go through the whole process again.

12 CHAIRPERSON HINTON: And you don't want
13 to do that. So 75 children. What's your idea of
14 the number of staff that you will need if you have
15 75?

16 MR. BURNS: I have the staffing pattern
17 and I present it for the 34.

18 MS. BENNETT: So for the 34 it looks
19 like three teachers and three aides which is six
20 plus one roving which is seven.

21 MR. BURNS: Right.

22 MS. BENNETT: But that's for 34.

23 MR. BURNS: Right.

24 MS. BENNETT: That is not for the 75.

25 MR. BURNS: I understand that and once
26 we -- if we go to 35 -- when we go to open it and

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 get ready for the 35, we will have the staffing
2 pattern comparable to the 35. I mean that staffing
3 pattern would have to increase.

4 MS. BENNETT: Will double.

5 MR. BURNS: Yes.

6 MS. KING: Fifteen or 16 perhaps.

7 MR. BANKS: Fifteen or 16.

8 MR. BURNS: Yes.

9 CHAIRPERSON HINTON: So we're going to
10 say up to 15 staff. Okay. Up to 15. Now the
11 hours that you want to operate your day care.

12 MR. BURNS: From 6:00. Jackie, what is
13 it? 6:00 to 6:00.

14 MS. SCALES: 6:00 to 6:00.

15 MR. BURNS: 6:00 to 6:00. I think
16 that's the standard. So we won't leave the building
17 until the children are all safe.

18 MS. BENNETT: Well, that's something
19 because I'm not able to always get back to my
20 daughter and thank God they stay around.

21 MR. BURNS: We will not leave the
22 building until the children are safely there.

23 CHAIRPERSON HINTON: Now I think why
24 don't we go through the regulations under 205
25 because you'll be able to answer some more questions
26 that we have. Have you looked at 205 at all?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 MR. BURNS: Regulation 205.

2 CHAIRPERSON HINTON: 205.1. It's
3 permitted subject to conditions from the Board.
4 205.2. It says you have to be capable of meeting
5 all applicable code and licensing requirements. So
6 we're going to have to put a condition on here that
7 says that you meet all code and licensing
8 requirements. Since you can't show us today that
9 you do it, there'll be a condition.

10 MR. BURNS: Yes. We want you to do that
11 because we told the civic association and our
12 membership that we would comply with all
13 regulations as well as our insurance people.

14 CHAIRPERSON HINTON: Okay. 205.3. It
15 says the center shall be located and designed to
16 create no objectionable traffic condition and no
17 safe condition for picking up and dropping off
18 children. So what you've described is that there's
19 on street parking on Kenilworth.

20 MR. BURNS: On Kenilworth side. Yes.

21 MS. KING: For 15 staff people?

22 CHAIRPERSON HINTON: Well, this one is
23 just for drop off and pick up.

24 MR. BURNS: Drop off and pick up. Then
25 we have parking on the side of the church for about
26 15 cars, you know, so if someone comes to handle

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 some business, they do not have to be out on that
2 street.

3 CHAIRPERSON HINTON: The parking on
4 Kenilworth, is it road or avenue?

5 MR. BURNS: It's the service lane.

6 CHAIRPERSON HINTON: Is that generally
7 available in the morning hours and the evening hours
8 when the parents --

9 MR. BURNS: Twenty four hours.

10 CHAIRPERSON HINTON: -- would be
11 dropping off their children.

12 MR. BURNS: Yes.

13 CHAIRPERSON HINTON: It's plentiful. So
14 you don't see any problem. And you think that the
15 parents will park their car and get out and walk the
16 children into the building. Is that right?

17 MR. BURNS: Yes. They're instructed
18 they will park and walk down to the front door and
19 if it's handicapped, they will simply pull through
20 the alley on the side as you see in the picture.

21 CHAIRPERSON HINTON: Oh, right.

22 MR. BURNS: There's a side door right
23 there, and let the kids in and go right on.

24 CHAIRPERSON HINTON: Okay. The next
25 one, this is 205.4. The center shall provide
26 sufficient off street parking to meet the needs of

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 the teachers, employees, and visitors. And you're
2 telling us this is the off street parking that you
3 have.

4 MR. BURNS: Yes, on both sides of that
5 alley. See, we have parking here and then over
6 here. You can't see that.

7 MS. BENNETT: It's a long alley.

8 MR. BURNS: That's part of the alley.
9 The government don't want it. They said they didn't
10 want it. They don't use it for anything. We have
11 the upkeep.

12 MS. KING: Is it closed?

13 MR. BURNS: Yes.

14 MS. KING: I mean it still belongs to
15 the city.

16 MS. BENNETT: It's a public right of
17 way.

18 MR. BURNS: It's a public right of way.

19 CHAIRPERSON HINTON: What is this? What
20 road is this?

21 MR. BURNS: This is the alley that
22 you're looking at.

23 CHAIRPERSON HINTON: Is that the alley
24 still?

25 MR. BURNS: That's the alley. See, this
26 is the back of the church.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 CHAIRPERSON HINTON: Oh, here I see some
2 parking on the other side and this is actually sort
3 of perpendicular.

4 MS. BENNETT: How many cars can get in
5 that?

6 MR. BURNS: Ten.

7 CHAIRPERSON HINTON: Is that usually
8 used by the church?

9 MR. BURNS: Yes. As well as right in
10 front of our church. We use that, too. They're not
11 complaining about that. On our side of the street.

12 MS. KING: But the regulations are off
13 street parking. That's why we're dealing with this.

14 CHAIRPERSON HINTON: It appears to me --

15 MR. BURNS: And also, we own the house
16 next to the church and we have land in between the
17 church, all the way around.

18 MS. BENNETT: Madam Chair, I think, I
19 was just asking OZ staff what are the requirements,
20 to refresh my memory, and Tracey thinks one for
21 every four staff so it looks as though we've got
22 plenty.

23 MS. KING: There's plenty.

24 CHAIRPERSON HINTON: I think that
25 there's plenty and we will find that even though it
26 is in the alley so it's not technically off street,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 then I think it's available for the use of the
2 church.

3 The next one. The center, including any
4 outdoor play space, should be located and designed
5 so there's no objectionable impact on adjacent or
6 near by property due to noise or activity or any
7 other objectionable condition. This green space
8 that you have inside the fence, is that where the
9 children -- is that their outdoor play area or what
10 is your plan?

11 MR. BURNS: That's part of it. That's
12 what the old day care center, we had this space
13 here. It's still fenced in. But we have other
14 space on the left side of the church and in the rear
15 of the church that's not fenced off. Land space.

16 MS. KING: Again, that will go to the
17 SSFD requirements because they have some -- you
18 know, the code requires certain things for the
19 license for day care to have outdoor play space.

20 CHAIRPERSON HINTON: Okay. And what we
21 were looking at is there wouldn't be objectionable
22 conditions and it appears to me that there's plenty
23 of outdoor space that there would not be
24 objectionable conditions if you used.

25 MS. BENNETT: Right.

26 CHAIRPERSON HINTON: This one may

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 require special treatment in the way of design.
2 205.7 is any off site play area. Do you intend to
3 have the children play just on your property?

4 MR. BURNS: Have what?

5 CHAIRPERSON HINTON: The children will
6 be playing just on your property?

7 MR. BURNS: Yes.

8 CHAIRPERSON HINTON: So that one doesn't
9 apply. 205.8 talks about that the Board may approve
10 more than one child development in any square or
11 within 1,000 feet. Are there other child
12 development centers in the area that you know of?

13 MR. BURNS: There's one on Minnesota
14 Avenue but that's way down. There's none in
15 Eastland Gardens.

16 CHAIRPERSON HINTON: Nothing in the
17 surrounding blocks.

18 MR. BANKS: The only thing nearby is a
19 school.

20 CHAIRPERSON HINTON: And this is before
21 taking action, the Board should submit the
22 application to DPW, Department of Human Services,
23 and the Office of Planning. I didn't see a DPW in
24 here.

25 MS. KING: Did they submit it? We have
26 to submit it. We don't have to require that they --

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 Here it is. DPW, DHS, Child Care.

2 CHAIRPERSON HINTON: We did that.

3 MS. KING: We did have a response from
4 the Department of Consumer and Regulatory Affairs
5 Social Service Facility Division. That's the
6 licensing authority.

7 CHAIRPERSON HINTON: Okay. So we've
8 gone through the regs and we've gone through the
9 operating, the hours and staff. Ms. Bennett, did
10 that cover all of your questions?

11 MS. BENNETT: It did. Thank you.

12 CHAIRPERSON HINTON: Okay. And we
13 talked a little bit about how the interior space is
14 configured to support the facility. The letter from
15 DCRA says that you haven't gotten -- you haven't
16 shown them yet that you can comply with the
17 requirements. So they've asked us to put a
18 condition on our approval that you do that, and we
19 will do it. You would need to comply with them
20 anyway.

21 MS. KING: To get your license.

22 MR. BURNS: Oh, okay.

23 CHAIRPERSON HINTON: And then that's the
24 only condition.

25 MS. BENNETT: We don't require that they
26 show us any plans or anything like that. Is that

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 duplicative of what the licensing people will do?

2 CHAIRPERSON HINTON: Because this is an
3 existing building, I think that that's true. If it
4 were new construction, we would normally --

5 MS. BENNETT: We would need it.

6 CHAIRPERSON HINTON: -- the plans.

7 MS. KING: You know, they're not going
8 to get their license if they don't -- if the
9 existing structure doesn't comply with what's
10 required for 75 kids and 15 staff.

11 CHAIRPERSON HINTON: Okay.

12 MS. KING: Do we put the numbers of
13 students or children and staff and the hours of
14 operation on this condition?

15 CHAIRPERSON HINTON: We do.

16 MS. KING: Okay.

17 CHAIRPERSON HINTON: Let me move on just
18 through the rest of the hearing. We have no reports
19 from the Office of Planning or the Office of Zoning.
20 We've already talked about the report from DCRA and
21 we did not get a response from DPW. We didn't get a
22 response from ANC-7D. Is there anyone here in
23 support, any persons or parties? Any persons or
24 parties in opposition? Okay. Closing remarks by
25 the applicant. Is there anything else you need to
26 tell us?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 MR. BURNS: No.

2 CHAIRPERSON HINTON: Ladies, do you have
3 any other questions?

4 MS. KING: None.

5 MS. REID: I'd recommend approval for
6 the application, Madam Chair.

7 MS. BENNETT: I would second.

8 MS. KING: I feel that I approve it with
9 the conditions as so specified but I think that they
10 are in compliance with the regulation and there does
11 not appear to be any adverse impact. The building
12 was formerly a child development center at one time
13 and I think that it does not interfere with the
14 integrity of the zoning regulations. I think that
15 with the conditions as set forth.

16 MS. KING: Let's set thee conditions
17 forth. That there will be a cap of 75 students and
18 the cap of 15 staff, that the hours of operation
19 will not exceed 6 a.m. to 6 p.m. with the proviso
20 that they will not leave before the last student has
21 left but their official hours of operation will be
22 the 12 hours from 6 a.m. to 6 p.m. and that our
23 approval is contingent upon their successfully
24 applying to the Department of Consumer and
25 Regulatory Affairs for all necessary licenses and
26 permits.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 CHAIRPERSON HINTON: And can we just say
2 that they meet all code and licensing requirements
3 including 29 DCMR Chapter 3.

4 MS. KING: Okay.

5 CHAIRPERSON HINTON: Because there may
6 be some --

7 MS. KING: Exactly.

8 MR. BANKS: Is it appropriate to ask a
9 question?

10 CHAIRPERSON HINTON: Yes.

11 MR. BANKS: Will we get these conditions
12 so that we can track them, like a road map? Will we
13 get a --

14 MR. BURNS: Copy of them?

15 MR. BANKS: -- copy of those?

16 CHAIRPERSON HINTON: Yes. You'll get a
17 written order.

18 MS. KING: I suggest we do a summary
19 order.

20 MS. BENNETT: Colleagues, let me ask
21 whether or not you want to put a time on here.

22 CHAIRPERSON HINTON: Normally we do put
23 a time limit on child development centers so that
24 after a few years of operation, you come back to the
25 Board and we can hear whether there have been any
26 objectionable impacts to the community based on the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 facility.

2 MS. BENNETT: I'd like it to be a
3 lengthy time period so they don't have to come back
4 right away. I'd be looking at 10 years or so.

5 CHAIRPERSON HINTON: Ten years.

6 MS. KING: I second that.

7 CHAIRPERSON HINTON: For 10 years. And
8 then after 10 years you would need to come back to
9 the Board.

10 All right. Anything else? All those in
11 favor of the motion?

12 (Ayes)

13 CHAIRPERSON HINTON: Opposed.

14 MS. ROSE: Staff will report the vote as
15 four to zero.

16 MR. BURNS: We would like to thank you
17 and also the cooperation that we got from D.C.
18 government in getting this approved.

19 CHAIRPERSON HINTON: That's nice.

20 MS. ROSE: Staff would like to report
21 the vote as four to zero with Ms. Reid, Ms. Bennett,
22 Ms. King and Ms. Hinton to grant the application
23 with the conditions, Ms. Richards is not present,
24 not voting, and the issuance of a summary order.

25 CHAIRPERSON HINTON: Thank you.

26 That concludes our business for the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 morning.

2 Hearing is adjourned.

3 (Whereupon, the proceedings in the
4 above- mentioned matter were concluded at 11:12
5 a.m.)

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

CHAIRPERSON HINTON: Good afternoon, ladies and gentlemen. This is the January 21, 1998 hearing of the Board of Zoning Adjustment of the District of Columbia. I'm Susan Morgan Hinton, your Chairperson. Joining me today are Betty King and Sheila Cross Reid and we also expect Maybelle Taylor Bennett to represent the Zoning Commission.

Copies of today's hearing agenda are available to you. They're located to my left near the door. All persons planning to testify either in favor or in opposition are to fill out two witness cards. These cards are located on the table in front of us. Before coming forward to speak to the Board, please give both witness cards to the reporter who's sitting to my right.

The order of procedure for special exception and variance cases will be as follows. 1) statement of witnesses of the applicant, 2) government reports including the Office of Planning, the Office of Zoning, the ANC and the Department of Public Works, 3) persons or parties in support, 4) persons or parties in opposition, and closing remarks by the applicants. Cross examination of witnesses is permitted for persons with a direct

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 interest in the case.

2 The record will be closed at the end of
3 the hearing except for any materials specifically
4 requested by the Board. The Board and the staff
5 will specify at the end of the hearing exactly what
6 is needed.

7 The decision of the Board in these
8 contested cases must be based exclusively on the
9 public record. The Board requests that persons
10 present not engage the Board members in
11 conversation. The Board will make every effort to
12 conclude the public hearing as near as possible to 6
13 p.m. If the afternoon cases are not completed at 6
14 p.m., the Board will assess whether it can complete
15 the remaining items on the agenda.

16 At this time, the Board will consider
17 any preliminary matters. Preliminary matters are
18 those which relate to whether a case will or should
19 be heard today such as requests for postponement,
20 continuance or withdrawal or whether adequate notice
21 of the hearing has been given. If you are not
22 prepared to go forward with a case or if you believe
23 the Board should not proceed, now is the time to
24 raise such a matter. Does the staff have any
25 preliminary matters?

26 MS. ROSE: Yes, Madam Chair. Staff has

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 one preliminary matter with regard to application
2 16308 of Cornell Allen. The affidavit of posting
3 indicates that the property was posted on January
4 13th rather than January 5th as required by the
5 Board's rules.

6 MS. KING: Tracey, I can't hear you. On
7 what dates?

8 MS. ROSE: It was posted on January
9 13th. That's what the affidavit of posting
10 indicates.

11 MS. KING: And it was supposed to be
12 posted on?

13 MS. ROSE: January the 6th.

14 MS. KING: The 6th?

15 MS. ROSE: Yes. So it would be seven
16 days late.

17 CHAIRPERSON HINTON: Is the applicant
18 for the last case on the agenda here?

19 MR. ALLEN: Yes, I am.

20 CHAIRPERSON HINTON: Could you come
21 forward, sir, please. Would you have a seat at the
22 table. We need your name and home address for the
23 record.

24 MR. ALLEN: Beg your pardon?

25 CHAIRPERSON HINTON: We need your name
26 and home address for the record.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 MR. ALLEN: I'm Cornell Allen. 333 W
2 Street, N.E., Washington.

3 CHAIRPERSON HINTON: The signs that you
4 picked up from this office, the big orange signs,
5 when were they posted on the site?

6 MR. ALLEN: I don't recall the exact
7 date but it was a few days after I got the notice.
8 Then I had to get pictures made and I had to get
9 them developed before I put the sign. And I came
10 back with the pictures and the lady gave me this
11 poster to put up, the sign to put up in my yard.

12 CHAIRPERSON HINTON: Okay. You've
13 submitted an affidavit into the record that says
14 they were posted on the 13th. Is that accurate?

15 MR. ALLEN: Yes.

16 CHAIRPERSON HINTON: They were supposed
17 to be posted on the 6th so they were posted a week
18 late.

19 MR. ALLEN: They were posted -- I don't
20 know the exact date but they were posted before I
21 brought this back in here, but I had to get pictures
22 made and get them developed.

23 CHAIRPERSON HINTON: Right. We need to
24 know when the signs went up, not when you took the
25 pictures.

26 MR. ALLEN: I can't tell you the exact

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 date. It was a few days before I brought this back
2 in here to her.

3 CHAIRPERSON HINTON: Okay.

4 MR. ALLEN: Because I had to get
5 pictures made and get them developed.

6 CHAIRPERSON HINTON: Okay.

7 MS. ROSE: It was brought back on
8 January 13th so if it was posted before it was
9 brought back --

10 MR. ALLEN: It was posted before I
11 brought it back but I had to get pictures made and
12 get them developed.

13 CHAIRPERSON HINTON: Okay.

14 MR. ALLEN: Takes like three to four
15 days to get pictures made.

16 CHAIRPERSON HINTON: So it sounds like
17 the signs were posted reasonably close to the due
18 date of January 6th. Okay. Seeing no opposition
19 then, we're going to go ahead with the hearing and
20 we'll just -- do we need to grant a waiver?

21 MS. ROSE: Yes.

22 CHAIRPERSON HINTON: We'll grant a
23 waiver.

24 MS. ROSE: Just in case it wasn't
25 posted.

26 CHAIRPERSON HINTON: Okay. Thank you.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 Then we'll call your case in turn.

2 MR. ALLEN: Thank you.

3 CHAIRPERSON HINTON: Thanks.

4 Does anyone in the audience have a
5 preliminary matter? No. Okay. Let's go with the
6 first case, please.

7 MS. ROSE: First case on the afternoon
8 agenda is 16305, Elsie Brown pursuant to 11 DCMR
9 3107.2 for a variance from the minimum width of open
10 court requirements (Subsection 406.1) for an
11 addition to a single family row dwelling in an R-4
12 District at premises 742 Fairmont Street, N.W.
13 (Square 2884, Lot 111).

14 Would all persons wishing to testify in
15 this application please rise to take the oath.

16 (THE WITNESSES WERE SWORN.)

17 MS. ROSE: You may be seated.

18 CHAIRPERSON HINTON: We need your name
19 and home address for the record, please.

20 MR. NELSON: My name is Harry Nelson.
21 I'm at 338 Harry S. Truman Drive in Largo, Maryland.

22 CHAIRPERSON HINTON: Okay. You're here
23 for a variance. It appears that you are proposing
24 to put an addition on to a building and the addition
25 doesn't meet the open court requirement. Is that
26 right?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 MR. NELSON: Yes.

2 CHAIRPERSON HINTON: Can you tell us why
3 it doesn't meet those requirements?

4 MR. NELSON: Okay. When I applied --
5 I'm a contractor. When I applied for the permit,
6 they indicated that I should show them the drawing
7 at the house where I'm working on attached to
8 adjacent houses on both sides which are private
9 homes. This is about them also. I indicated to the
10 engineer in the Permits section that I can't attach
11 to the people's property. They said well, we
12 understand that but you've got to get as close as
13 you possibly can and provide room for the fence and
14 the cleaning and we did that and when the inspector
15 came, we showed it on the drawing in order to get
16 the permit that it was attached to the adjacent
17 property which we can attach, you know, nail to the
18 adjacent property, private home.

19 And when the inspector came out, he says
20 well, I can't pass this because you indicated on
21 your drawing that you attached to these houses. I
22 said well, we went through that and you issued me
23 the permit indicating I won't attach to the houses
24 but I'll get as close as I possibly can. Then when
25 he came out he said, well, you're less than an inch
26 off of one side and about an inch and a half off on

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 the other side. This is an addition. I said, well,
2 for an inch, it means take the walls out and move
3 this over an inch and a half and this over less than
4 an inch.

5 And I went back down to the engineer's,
6 he said well, we have to show that on the drawings
7 but we know you can't attach to the houses. So they
8 had their meeting.

9 MS. KING: Why not?

10 MR. NELSON: It's personal property. I
11 can't attach to the --

12 MS. KING: It's not a party wall. I
13 mean does their structure go right up to their
14 property line?

15 MR. NELSON: Yes. Right across. Well,
16 I don't know where the property line is but it's
17 right close to it. And I'm close enough. Less than
18 an inch on one side and an inch and a half on the
19 other side. And the inspector said, okay, you need
20 to go before the Board. This was back last summer.
21 He said, you probably won't get before the Board
22 until probably in October some time. It's extended
23 into now. And I said, well, it's an inch off on
24 this side and an inch off the other side which I
25 explained to the engineer before they issued me the
26 permit. He said, well, we understand you can't

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 attach to the house but you get as close as
2 possible. He says, well, the inspector says one
3 thing and the engineers, who gave me the -- they'd
4 already issued me a permit for the building and
5 says, they're saying one thing, he's saying another
6 thing. So he said, well, you're an inch off.

7 MS. BENNETT: Madam Chair, I don't
8 understand. I need to be walked through the
9 drawings, I think. I'm not understanding the issue.
10 I thought that there was a requirement for a space
11 that is not being met and that that is why Mr.
12 Nelson is here and I guess I'm not understanding the
13 drawings.

14 MR. NELSON: Requirements for the what?

15 CHAIRPERSON HINTON: I fear that we
16 don't have a drawing that is going to explain the
17 situation because the building plans don't show any
18 of the lot lines and the survey that we have only
19 shows the subject lot. It doesn't show the adjacent
20 lots and the adjacent structures. But the survey
21 drawing that we have shows that you're building an
22 addition and proposing to have 1.93' on one side
23 between the building and the lot line and 0.46' on
24 the other side between the building and the lot
25 line.

26 MS. KING: And they're required to have

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 6' on either side.

2 CHAIRPERSON HINTON: And that becomes an
3 open court. If there are buildings on the other
4 sides of those lot lines, it's an open court, and
5 that's required to be at least 6' wide.

6 MS. BENNETT: It's required to be 6'
7 wide from the face of the building to the face of
8 the other building or is it supposed to be 6' --

9 MS. KING: From the building to the
10 property line.

11 MS. BENNETT: -- from the building to
12 the property line.

13 MS. KING: I think.

14 MS. BENNETT: I guess it goes to the
15 question of if it's the court width, sounds like
16 building to building though.

17 CHAIRPERSON HINTON: Yes. I would
18 agree.

19 MS. BENNETT: As opposed to from the
20 property line to the wall.

21 CHAIRPERSON HINTON: Because that would
22 be a yard, not a court. Right?

23 MS. BENNETT: Right.

24 CHAIRPERSON HINTON: I think a court is
25 between the two buildings.

26 MS. BENNETT: That's right.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 MS. KING: The neighbors' buildings are
2 built right up to their property line?

3 MR. NELSON: The other buildings?

4 MS. KING: The neighbors on the other
5 side, are they built right up to their property
6 line?

7 MR. NELSON: Yes. It's row houses. All
8 the houses are right in a row and there are other
9 additions right there exactly like it, so I don't
10 know.

11 MS. KING: And they all have additions
12 such as the one --

13 MR. NELSON: All of them have additions
14 except for the property I'm doing and I'm just
15 putting on this on in between the two additions
16 that's already there.

17 CHAIRPERSON HINTON: Let me ask
18 something. Are you saying this addition is already
19 built?

20 MR. NELSON: Yes, it is.

21 CHAIRPERSON HINTON: So the way it
22 exists now on the site, there's an inch between the
23 two buildings.

24 MR. NELSON: Less on one side.

25 CHAIRPERSON HINTON: One side is an
26 inch.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 MR. NELSON: One side is an inch. The
2 other side is less than an inch.

3 CHAIRPERSON HINTON: Less than an inch
4 between the buildings.

5 MS. KING: Why does it say here almost
6 to--

7 CHAIRPERSON HINTON: Because that's what
8 this drawing says.

9 MS. KING: Oh, I see.

10 CHAIRPERSON HINTON: And the original
11 drawing showed the building going right up to the
12 lot line. That's how the permit got released
13 because there was no court shown. So it didn't need
14 any kind of zoning.

15 MR. NELSON: Right.

16 CHAIRPERSON HINTON: But it wasn't built
17 that way.

18 MS. KING: Oh, you've got it built and
19 now you want to --

20 MR. NELSON: It's already built. Yes.
21 Because they issued me a permit. I had the permit
22 for a long time. I had the permit. I built it and
23 they said I got to go through -- I started last
24 summer going through until I got here from Hayes
25 Street all the way up to here, this.

26 CHAIRPERSON HINTON: Why does the survey

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 that's in the record indicate that there's almost 2'
2 between the buildings if there's only an inch?

3 MR. NELSON: I had to get an independent
4 surveyor to do that. They reported it to the D.C.
5 government. This is an independent surveyor. They
6 told me I had to get an independent surveyor to come
7 out and do it and then send them a copy.

8 MS. KING: Who did this with your
9 signature on it?

10 MR. NELSON: Yes. That's --

11 MS. KING: But that one shows 1.93' on
12 one side and .46'. Half a foot on one side and
13 almost 2' on the other side.

14 MR. NELSON: That's from -- he's talking
15 about from house to house or from the property line.

16 CHAIRPERSON HINTON: That's not what's
17 shown.

18 MR. NELSON: They said it has to be
19 attached to the other houses or 6' in on both sides.
20 That wouldn't leave enough room to even do an
21 addition.

22 CHAIRPERSON HINTON: Ms. Bennett, does
23 that help clarify at all what we're looking at?

24 MS. BENNETT: No. Well, yes. I mean I
25 guess I'm confused. The data, the notes and
26 computations that we got from the Zoning

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 Administrator's office reflects what is drawn on the
2 surveyor sheet but, according to Mr. Nelson, these
3 do not comport with reality.

4 MR. NELSON: If you go look at it, no.

5 MS. BENNETT: So my problem is I'm not
6 clear what is then before us.

7 CHAIRPERSON HINTON: That's a problem.

8 MS. BENNETT: That is a problem. I mean
9 we have to know what relief we are granting.

10 MR. NELSON: What they're saying is --

11 MS. BENNETT: And what Mr. Nelson is
12 saying is that there is greater relief that is
13 needed than is being requested, according to these
14 data.

15 MR. NELSON: They're saying you got to
16 come in 6' on each side or go right out to the
17 property line. One or the other.

18 CHAIRPERSON HINTON: Right.

19 MR. NELSON: And if you come 6' on each
20 side, there won't be any kind of addition.

21 MS. BENNETT: I guess that's what I
22 don't understand. I thought that the 6' that is
23 required has to be from building to building which
24 would mean 3' from the property line on the west
25 side, 3' from the property line on the east side so
26 that there's--

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 MS. KING: Yes, but the people --

2 MS. BENNETT: Up on the line. Okay. I
3 understand. So that's where your 6' on either side
4 comes from. Okay. So you either have to create a
5 6' wide court one way or the other and since the
6 other buildings are right up on the property line,
7 he'd have to come in 6' and that would leave him
8 with no addition.

9 MR. NELSON: That's exactly right.

10 MS. BENNETT: Okay.

11 MR. NELSON: But I don't know. They
12 said well, when other places, when they build their
13 addition, the rules were changed or something. It
14 was different. Because that goes back to --

15 MS. REID: How long ago did you build
16 your addition? Last year. Last summer.

17 MS. KING: And you have a building
18 permit.

19 MR. NELSON: Oh, yes.

20 MS. KING: Because what's in our file is
21 an application and the letter from the Business and
22 Land Regulation Administration says "A review of
23 your plans for the proposed addition." This is
24 October 1, 1997.

25 MR. NELSON: That was before.

26 MS. KING: So I mean he'd already

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 gotten -- let me understand this. Mr. Nelson had
2 gotten a building permit from DCRA, had built the
3 structure, went for a certificate of occupancy and
4 at that point DCRA said it's wrong.

5 CHAIRPERSON HINTON: He didn't build it
6 to the approved plans.

7 MS. KING: Where are the approved plans?

8 CHAIRPERSON HINTON: We don't have them.
9 Do you have either the building permit that you were
10 issued or --

11 MR. NELSON: I hope I have it.

12 CHAIRPERSON HINTON: Do you have the
13 original plans that show the building --

14 MR. NELSON: Yes. I've got all that.

15 CHAIRPERSON HINTON: That's what we need
16 to see. That's what Ms. King is asking about.

17 MS. KING: Yes, because I mean, you
18 know, if DCRA said yes, you can build it and he
19 built it--

20 MS. BENNETT: It sounds to me like the
21 relief that should more properly be requested if
22 he's got it within an inch of one side and half inch
23 on the other or something that small, he basically
24 needs --

25 MS. KING: Ms. Bennett, if you look at
26 this, there's requirement of 6'.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 MS. BENNETT: Right.

2 MS. KING: And what he's got is half a
3 foot and two feet.

4 MS. BENNETT: On there.

5 MS. KING: He's not within an inch and a
6 half inch according to --

7 MS. BENNETT: That's what I'm saying.
8 According to that, there is less relief needed than
9 according to his own testimony. If you follow what
10 he's saying is actually built, there's less space
11 than what is what reported on the computation sheet.
12 We're talking about a hair's breadth.

13 MR. NELSON: That's why it took me so
14 long to get here because we went back and forth and
15 the inspector came out a couple of times. They
16 threw it out. Then they says no. All the plans and
17 stuff, I've got plans at home, too, in my office but
18 the plans, I don't have them. I didn't bring them
19 here. I only brought what I submitted to these
20 people, to the Board. But the plans and everything
21 were submitted. I had to submit those over there on
22 8th Street at the department upstairs in the
23 Department of Zoning, Mr. --

24 MS. KING: Yes, but let's go back to the
25 first time you went to DCRA when you say you got a
26 building permit.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 MR. NELSON: yes.

2 MS. KING: Do you have a copy of your
3 building permit?

4 MR. NELSON: I've got it. I haven't it
5 with me. I thought all this would be here. That's
6 why I didn't bring anything. Everything was
7 supposed to be here.

8 CHAIRPERSON HINTON: The only thing
9 that's here is what you put in the record.

10 MR. NELSON: Huh?

11 CHAIRPERSON HINTON: The only thing
12 that's here is what you put in the record.

13 MS. BENNETT: We have your application -
14 -

15 MR. NELSON: That's what I gave him.

16 MS. BENNETT: -- for the building
17 permit. We have that but we don't have the building
18 permit that was actually issued.

19 MR. NELSON: Okay. I've got a copy.

20 MS. BENNETT: And we don't have your
21 original plan.

22 MR. NELSON: Okay. I gave them all
23 that. I thought you had it and that's why I didn't
24 bother to bring anything with me. I've got all
25 that. I couldn't very well have an inspector come
26 out if I didn't have a building permit. And this

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 wouldn't have gotten that far if I didn't have a
2 building permit. Wouldn't have gotten before this
3 Board.

4 CHAIRPERSON HINTON: And I guess I would
5 suggest to the Board that we have a surveyor's sheet
6 that is showing us where the lot lines are and what
7 the dimensions are and I think we need to rely on
8 those dimensions. I mean the surveyor actually goes
9 out in the field and determines where the lot lines
10 are and takes a measurement. The addition is
11 existing.

12 MR. NELSON: Yes.

13 CHAIRPERSON HINTON: Was it existing in
14 August of '97?

15 MR. NELSON: We started it. Yes.

16 CHAIRPERSON HINTON: So it seems to -- I
17 mean I don't think that we can disregard what is on
18 here. These measurements ought to be the most
19 correct information that we have.

20 MS. KING: This was done after you built
21 the addition.

22 MR. NELSON: Yes, that's after the
23 addition.

24 MS. KING: After the addition.

25 MR. NELSON: Yes. As a matter of fact,
26 the D.C. government told me I had to get an

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 independent inspector because they didn't have the
2 manpower to send one of their inspectors. Had to
3 pay him 400 whatever to do that survey and submit
4 it to the Zoning Department.

5 MS. KING: This is 742. So they all
6 have adjoining walls. Up here you can see the
7 courts. Have the neighbors said anything about this
8 or the Advisory Neighborhood Commission or any of
9 the civic
10 -- I mean did you talk to any of these people about
11 it?

12 MR. NELSON: No.

13 MS. KING: There's no opposition.

14 MR. NELSON: There's no opposition to it
15 because I -- they sent out I don't know how many --
16 I guess you all sent all these letters to Zoning and
17 all the people within so many feet and I had to get
18 letters from here to notify you of all the whole
19 listing I think that you have there of the people
20 living within a 20' radius on all sides. They've
21 all been notified.

22 CHAIRPERSON HINTON: So I think those
23 measurements --

24 MS. BENNETT: -- are probably correct.
25 Yes, I'm thinking so, too, given what we see in the
26 photograph.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 MS. KING: Yes. That's no inch or half
2 inch.

3 MS. BENNETT: No. Well then, Madam
4 Chair, I guess that leads me to the next question
5 and that is the first test for an area variance.
6 Maybe my colleagues can help me. I'm looking for a
7 practical difficulty here.

8 MS. KING: Well, of course, the
9 practical difficulty is that if he can't attach it
10 to his -- well, if he can't attach it to his
11 neighbor's house
12 -- I mean that lot is overall how wide? It's a very
13 narrow lot.

14 CHAIRPERSON HINTON: Less than 18'.

15 MR. NELSON: It's just about the width
16 of an average row house. How many feet does it say
17 on the drawing there?

18 MS. KING: If he had 6' on either side,
19 he'd have a bowling alley.

20 MR. NELSON: That's exactly how I
21 explained it to the engineer. They understand it.
22 The people understand but they said, you know, it's
23 the D.C. government. I've got to go according to
24 the regulations because we have this all the time.
25 But I says, well, okay.

26 MS. KING: But the thing is I don't

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 understand how you got a building permit.

2 MR. NELSON: Well, that's something.
3 Why give me a permit, I go on and build it and then
4 they come out and say, you know. So that was my
5 argument with them. They just said, well, you go
6 get a surveyor and you have to pay them, which I
7 did. And the surveyor submitted it to the Zoning
8 over there. Then Zoning came back and the inspector
9 kept calling me. Went to the lady's house and left
10 me a note saying that well, it's okay with me but
11 it's not okay with down town. I said down town
12 issued me the permit.

13 MS. KING: I would like to ask Mr.
14 Nelson to provide us with a copy of the building
15 permit.

16 MR. NELSON: I can get that.

17 MS. KING: Because I think that there is
18 -- I mean there's a practical difficulty. If the
19 government of the District of Columbia gave him a
20 building permit, he in good faith built the
21 structure as they had approved it and now they come
22 and say well, you've got to slice 4' off one side
23 and 5' off the other and end up with a bowling
24 alley, that is a practical difficulty that's
25 surpasses almost any other one that's ever come
26 before us, so I would suggest that we need to see a

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 copy of that building permit--

2 MR. NELSON: Okay, I'll be happy to do
3 that.

4 MS. KING: -- and it behooves the
5 government, since there's no opposition and
6 everybody else in the neighborhood, according to Mr.
7 Nelson, has done the same thing.

8 MS. BENNETT: I'm there with you
9 although I guess I would take a different slant in
10 that let's assume for the purpose of argument that
11 the building permit was not issued, the structure is
12 not built.

13 MS. KING: Well, that's a different
14 kettle of fish .

15 MS. BENNETT: Well, it is but what I'm
16 looking for is kind of an original practical
17 difficulty and one of them, according to these notes
18 and computations, is that the lot is slightly
19 smaller than it should be anyhow so you're dealing
20 with a substandard lot. The second is that if the
21 structures on either side are built almost up to the
22 lot line, then whatever requirement existed for
23 there to have been an open court that was 6' wide
24 could not have resulted in anything except the
25 bowling alley if he were to follow the strict
26 requirements of the regulation.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 MS. KING: Exactly.

2 MS. BENNETT: And so you couldn't get a
3 substantial -- it would have been structurally
4 impossible to get a substantial addition trying to
5 create a court when the structures on either side,
6 which he can't move or tear down or in any other way
7 alter, were right up on the lot line. That's
8 something that wasn't in their control.

9 MS. KING: I agree with that.

10 MS. BENNETT: And in a way, they're
11 forced to do what they've done because of the siting
12 of the structures on the other lots that surround
13 them which create a difficulty from the get go, even
14 before there was any permission to move forward.
15 And that's practically difficult enough for me.

16 CHAIRPERSON HINTON: Well, it is and if
17 you look at the homes that are on either side, they
18 both have conditions in and of themselves that would
19 prevent this addition from being attached to them.

20 MS. BENNETT: That's right.

21 CHAIRPERSON HINTON: One is an open
22 porch and the other is an open deck and there's a
23 doorway that connects to the house. So there isn't
24 any way that this addition could be attached to
25 those units which means there would have to be a
26 court and if there has to be a court, it would have

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 to be 6' which would leave less than 5' for an
2 addition which is not buildable.

3 MS. BENNETT: That's right.

4 CHAIRPERSON HINTON: There isn't any
5 room. Well, a bathroom I guess, but I mean it's not
6 reasonable. If you also look at the size of the
7 house on the lot, the original house is very small.

8 MS. BENNETT: That's right.

9 CHAIRPERSON HINTON: And I think the
10 size of the addition is not unreasonable.

11 MS. BENNETT: That's right.

12 CHAIRPERSON HINTON: It's a very long
13 lot.

14 MS. KING: Oh, it's huge.

15 MS. BENNETT: It's 58' long so they've
16 got a 58.5' rear yard.

17 MS. KING: Rear yard and a 41' front
18 yard. I mean there's a huge amount of open space.

19 CHAIRPERSON HINTON: I think we're
20 probably better off going in that direction because
21 then we don't have to wait for the permit.

22 MS. KING: Okay. I buy that.

23 CHAIRPERSON HINTON: And if in any way
24 the construction wasn't built according to the
25 plans, then we can't claim that there was this
26 reliance on the District government. If it differs

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 at all, we kind of lose that argument. So this
2 actually I think would work out a little better if
3 we go that way.

4 Does that conclude your presentation?

5 MR. NELSON: Yes, ma'am.

6 CHAIRPERSON HINTON: We have no report
7 from the ANC, the Office of Planning, the Office of
8 Zoning or the Department of Public Works. Are there
9 any persons or parties in support? Persons or
10 parties in opposition? Closing remarks by the
11 applicant.

12 MR. NELSON: Thank you.

13 CHAIRPERSON HINTON: Okay, ladies.

14 MS. KING: I move that we grant the
15 application for the reasons that we have discussed,
16 the extraordinary narrowness of the lot and the fact
17 that the neighbors have built right up to their
18 property lines but there's plenty of open space in
19 front and in back of the building and there seems to
20 be no damage to neighborhood nor is there any
21 opposition, so I move that we not only grant the
22 application but also give a summary order.

23 MS. REID: I second.

24 CHAIRPERSON HINTON: All those in favor.

25 (Ayes)

26 CHAIRPERSON HINTON: Opposed.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 MS. ROSE: Staff will report the vote as
2 four to zero with Ms. King, Ms. Reid, Ms. Bennett
3 and Ms. Hinton to grant the application with
4 issuance of a summary order. Ms. Richards not
5 present, not voting.

6 CHAIRPERSON HINTON: Thank you.

7 MS. KING: You'll have your order within
8 what? Two weeks?

9 CHAIRPERSON HINTON: Couple of weeks
10 it'll be mailed.

11 MR. NELSON: Thank you.

12 CHAIRPERSON HINTON: We're ready for the
13 next case.

14 MS. ROSE: The next application is 16306
15 of the Cafritz Company pursuant to 11 DCMR 3108.1
16 for a special exception under Subsection 354.1 to
17 establish a dry cleaning pickup store in the
18 basement of an existing building as an adjunct to an
19 apartment building in an R-5-A District at premises
20 2800 Quebec Street, N.W. (Square 2225, Lot 802).

21 Would all persons wishing to testify in
22 this application please rise to take the oath.
23 Would you raise your right hand.

24 (THE WITNESSES WERE SWORN.)

25 MS. ROSE: You may be seated.

26 CHAIRPERSON HINTON: Hi. Give your name

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 and home address for the record, please.

2 MR. DIETZ: My name is Bernard C. Dietz.
3 I'm the attorney for the applicant. My address is
4 1001 Connecticut Avenue, N.W., Washington, D.C.
5 20036. I have with me Mr. Son on behalf of one of
6 the licensees.

7 This is an application for which I was
8 asked to present a revised form. I left out the
9 regulation citation. This is an application on
10 behalf of the owner of an apartment. Actually, two
11 apartment houses on Quebec Avenue. The Cafritz
12 Company is the owner of record and what the Cafritz
13 wishes to do is to have an operator come in and put
14 in a dry cleaning pickup store for the benefit of
15 the tenants. The store is located at the lower
16 level adjacent to the elevator core which means that
17 it is designed specifically for the tenants of the
18 two buildings north and south. There's no intention
19 to erect an exterior sign or in any way solicit
20 business from outside the two apartment buildings.

21 The premises themselves measure
22 approximately between 600 and 800 square feet to be
23 used solely as a pickup establishment. No dry
24 cleaning equipment or equipment of any other kind is
25 to be located in the space. It's simply to drop off
26 clothing, have them cleaned.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 MS. KING: It's a rental building, is it
2 not?
3 MR. DIETZ: Yes, it is.
4 MS. KING: No condominium or co-op.
5 MR. DIETZ: No. It's an apartment
6 house.
7 MS. KING: Is there a tenant
8 association?
9 MR. DIETZ: Not that we know of.
10 MS. KING: Okay.
11 MR. DIETZ: It's an apartment house with
12 typical one year leases. As far as I'm aware,
13 there's been no opposition of the ANC and the
14 adjoining tenants' association or anyone else in the
15 neighborhood.
16 CHAIRPERSON HINTON: That's interesting.
17 And I think in your application you go through all
18 the points of 354.
19 MR. DIETZ: Yes. That was my intention.
20 CHAIRPERSON HINTON: And you comply with
21 all of those requirements?
22 MR. DIETZ: Yes, we do.
23 MS. BENNETT: You mean your statement of
24 intended use?
25 MS. REID: He said he was going to
26 submit that. The record did not --

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 MS. BENNETT: There's a brief statement
2 of intended use, Madam Chair, and then there's a
3 plat and some photos. Then there's a lease.

4 MS. REID: Didn't you just state that
5 you were going to submit your conformance with the
6 regulation to the secretary?

7 MR. DIETZ: Pardon?

8 MS. REID: You said that you had --

9 MS. KING: No. His application with the
10 legal citation on it to the article number.

11 MR. DIETZ: Right. The header paragraph
12 of the application form was inadvertently left
13 blank.

14 MS. REID: Oh, I see. Okay. So no, he
15 does not. I do not see it in the file at all.

16 CHAIRPERSON HINTON: I thought I read
17 it.

18 MS. REID: That goes to my question as
19 to 351.1.

20 MS. KING: Well, it's all of this
21 agreement and rules and regulations and so forth.

22 CHAIRPERSON HINTON: No. That could be
23 right because what's in -- it talks about that the
24 use has to be located either on the main floor or
25 below, which it is. There is no direct entrance
26 from the outside of the building.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 MR. DIETZ: There are none.

2 CHAIRPERSON HINTON: No part of the
3 entrance is visible from the sidewalk.

4 MR. DIETZ: No, it's not.

5 CHAIRPERSON HINTON: No signs will be
6 used outside the building.

7 MR. DIETZ: No, they will not.

8 CHAIRPERSON HINTON: Okay. The
9 principal entrance is more than a quarter mile from
10 the nearest principal business street frontage of
11 any business district.

12 MR. DIETZ: I believe that Quebec Avenue
13 is removed.

14 MS. BENNETT: It's removed, but how far
15 from Connecticut? The largest business district is
16 Connecticut, wouldn't it be?

17 MR. DIETZ: But it would be the lower
18 part of Connecticut. I did not do a measurement.
19 I'm sorry.

20 MS. KING: How far? A quarter of a
21 mile? You're a quarter of a mile from Van Ness
22 which is --

23 MR. DIETZ: That's what I'm thinking.
24 It's got to be at least a quarter of a mile.

25 CHAIRPERSON HINTON: I think you're
26 right.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 MR. DIETZ: There's nothing else there.

2 CHAIRPERSON HINTON: What's the street
3 address?

4 MS. KING: 2800 Quebec. Upton and then
5 Van Ness is up here.

6 CHAIRPERSON HINTON: An inch equals 100'
7 so we would need about 12".

8 MS. KING: We've got more than that.
9 This must be Quebec.

10 CHAIRPERSON HINTON: Can you show us
11 where your property is on this map?

12 MS. KING: Is this Quebec? It's got to
13 be alphabetical. Somewhere up here has got to be
14 Quebec and the nearest -- this is park, residential.
15 Then you get up to Upton Street and Van Ness is the
16 nearest commercial area. What did you say we need?
17 Ten inches to make it 1,000'.

18 CHAIRPERSON HINTON: We need about 12".

19 MS. KING: Twelve inches. So it looks
20 to me as if it does comply.

21 CHAIRPERSON HINTON: You don't know
22 which lot on Quebec?

23 MS. BENNETT: It's 2225.

24 CHAIRPERSON HINTON: So where's the
25 building?

26 MR. DIETZ: The entrance is on Quebec.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 MS. KING: So it's probably here
2 somewhere.

3 MS. BENNETT: This is Porter Street.
4 Easily a quarter of a mile.

5 MR. DIETZ: See, that part of
6 Connecticut there is just residential.

7 CHAIRPERSON HINTON: Yes, we can see
8 that.

9 MR. DIETZ: That's what I did is I drove
10 up Connecticut.

11 MS. KING: And I know Tilden Street very
12 well. This is all residential and then this is
13 residential. This is where the Divine School is up
14 here. So UDC and Van Ness and so forth.

15 CHAIRPERSON HINTON: Okay. So it
16 appears that your proposal complies with all of the
17 parts of 354.

18 MR. DIETZ: Yes, it does.

19 CHAIRPERSON HINTON: This is a special
20 exception so we need to make sure that there isn't
21 going to be any adverse impact to the neighborhood
22 from this facility. What do you envision as far as
23 truck deliveries, drop off and pick up?

24 MR. DIETZ: There aren't. The
25 arrangement is that the work is done off site on a
26 daily basis in which the operator of the business

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 will personally take the clothing to be cleaned to a
2 cleaning plant that's located on Georgia Avenue in
3 the morning and then in the afternoon pick it up.
4 Again, this is strictly --

5 MS. KING: By van?

6 MR. DIETZ: Right. Is it a van or a
7 car? A van. The ground lease provides for a
8 parking space for that van. Again, this facility is
9 designed solely for the use of the tenants. These
10 are two buildings. And there will be no
11 solicitation of business outside that area. The
12 space itself, in fact, is so small that it could not
13 accommodate a large volume.

14 MS. KING: How many tenants are in 2800
15 Quebec?

16 MR. DIETZ: Our guess is that there are
17 approximately 1,000. The buildings are large enough
18 to --

19 MS. KING: And all of them are single
20 occupancy and they're professional people who
21 probably need dry cleaning. That's a good
22 clientele.

23 MR. DIETZ: Yes.

24 MS. KING: Your client is very lucky.

25 MR. DIETZ: Yes. Quite frankly, this is
26 the request of the building management. It's a

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 facility that the tenants have asked for. Something
2 that serves a need there. But it's not your typical
3 dry cleaners where work is solicited off premises or
4 a steamer in there or anything like that at all.
5 There will be racks to hang the clothing on. It's
6 expected to be dropped off on day one, cleaned on
7 day two, picked up either that day or the following
8 day.

9 CHAIRPERSON HINTON: So it's your
10 testimony that there won't be any adverse impacts to
11 adjacent property owners due to noise or traffic or
12 odors or anything else?

13 MR. DIETZ: Yes. There will be no
14 adverse impact.

15 MS. REID: And what are the hours of
16 operation anticipated?

17 MR. DIETZ: What are the hours of
18 operation?

19 MR. SAN: Monday through Fridays, 7:30
20 to 12:00 and then again 4:00 to 7:30. Saturdays
21 9:00 to 6:00.

22 MS. KING: Okay. Now that differs
23 slightly from the license agreement. It says 7:00
24 to 12:00 and 4:00 to 7:00 Monday through Friday,
25 9:00 to 6:00 on Saturdays. Which do you prefer that
26 we put in this order?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 MR. DIETZ: We'll conform to the terms
2 of the license agreement.

3 MS. KING: All right. So we need to go
4 and if you look on the first page of the license
5 agreement in paragraph #2, we probably need to go
6 with those times.

7 CHAIRPERSON HINTON: Okay. Any other
8 questions from the Board members?

9 MS. BAILEY: Madam Chair, I'm just
10 curious about something. The surveyor's plat shows
11 the lot as fronting on Williamsburg Lane -- I'm just
12 curious about that.

13 MS. KING: Williamsburg Lane?

14 MS. BAILEY: The plat shows the property
15 as fronting on Williamsburg Lane.

16 MS. KING: Yes.

17 MS. BAILEY: --

18 MR. DIETZ: May I approach? This is a
19 photograph showing the main entrance of the
20 apartment building and you'll notice that the
21 address is printed on the doorway as 2800 Quebec.

22 MS. BENNETT: That's the address of the
23 building.

24 MR. DIETZ: Of the building. So
25 apparently the building went up after the plat.
26 But that is the address of the building and that's

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 the address we --

2 MS. BENNETT: Well, the other thing that
3 I find interesting, Ms. Bailey, is that if I didn't
4 know any better, this plat doesn't look like it has
5 a whole lot of relationship to this property. The
6 shape of the lot itself looks different from the
7 shape of the lot. I'm looking at this.

8 CHAIRPERSON HINTON: That's not the
9 same.

10 MS. BENNETT: It's not the same thing.
11 Maybe it was mis-filed.

12 CHAIRPERSON HINTON: What was the square
13 number of this?

14 MS. BENNETT: 2225 is the square number.

15 CHAIRPERSON HINTON: And the lot number?

16 MS. BENNETT: And the lot number is 802.

17 CHAIRPERSON HINTON: Well, this is lot
18 #8.

19 MS. BENNETT: Okay. So that's
20 different.

21 CHAIRPERSON HINTON: This is square 2225
22 but it's lot 8.

23 MS. BENNETT: So the Williamsburg Lane
24 that Ms. Bailey is seeing and that I also had in my
25 packet is not --

26 MS. KING: It's not the right thing.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 MS. BENNETT: -- the right insertion
2 here. So your question is well put.

3 MS. KING: Williamsburg Lane is over
4 near -- what was the theoretical lots thing that we
5 reconsidered the other day?

6 MS. BENNETT: Redley Normanston?

7 MS. KING: No. Gracetown.

8 MS. BENNETT: Oh, Gracetown. Oh, no,
9 no, no.

10 MS. KING: You weren't here, sweetheart.
11 We did it the other day.

12 MS. BENNETT: I know and I count myself
13 fortunate. Thank you.

14 MS. KING: But isn't Williamsburg Lane
15 over there because that's where Duke Green lives so
16 it's not near here. I mean it's near here but it's
17 not contiguous to this property.

18 MR. DIETZ: Again, may I approach?

19 CHAIRPERSON HINTON: Well, this appears
20 to be the survey plat that you've submitted into the
21 record because it has the name Dietz and Dietz on
22 it.

23 MS. BENNETT: And at the top it says
24 Square 2225, Lot 8 and then it looks like there's
25 something else going to be added to it but it looks
26 as though it were cut off or erased or something.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 This is inaccurate.

2 CHAIRPERSON HINTON: What is it that you
3 have?

4 MR. DIETZ: I have the receipt from the
5 surveyor's office.

6 MS. KING: For the --

7 MR. DIETZ: Well, looking at it now,
8 what you'll see is that the surveyor's office
9 completed an order there for Lot 802 and then in red
10 ink it was scratched through and they put in an 8.

11 MS. BENNETT: But they gave you the
12 wrong lot.

13 CHAIRPERSON HINTON: You're saying you
14 didn't notice that this wasn't the property?

15 MR. DIETZ: I relied on them to give me
16 what I ordered.

17 CHAIRPERSON HINTON: But it didn't raise
18 a flag that they had changed the lot number?

19 MR. DIETZ: Quite frankly, I didn't pick
20 up on it until just now. I had no real problem with
21 the location there and when I ordered the plat I
22 ordered it for the purpose of filing it here and --

23 MS. BENNETT: They didn't give you any
24 reason why they changed that to eight?

25 MR. DIETZ: No. What we paid for was
26 802 and that's what I expected to pick up.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 CHAIRPERSON HINTON: And it's clearly
2 not the property in question so I think Ms. Bailey,
3 unless you have any other concern, we can just
4 disregard the information on the surveyor's plat.

5 MS. BAILEY: I have no questions.

6 CHAIRPERSON HINTON: Okay.

7 MS. BENNETT: Is there anything -- again
8 I'll turn to Office of Zoning staff. Is there any
9 requirement that before this is processed, an
10 accurate surveyor's plat must be filed before, for
11 instance, we can write an order? This goes back.
12 Do they have to have something that accurately shows
13 what lot we're talking about?

14 MS. ROSE: Probably. I think it is part
15 of the application process to provide an accurate
16 survey plat.

17 MS. BENNETT: Okay. Otherwise, it could
18 wreak havoc somewhere in the system. It may be
19 clear to all of us what's happening but down the
20 road we could really get into some trouble.

21 MS. KING: Yes. They may issue a permit
22 to open a pick up for dry cleaner on Williamsburg.
23 You won'[t be any better off than you are now.

24 MR. DIETZ: I appreciate the need for a
25 complete record.

26 CHAIRPERSON HINTON: I'm going to return

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 this since it's your original. Do we need a copy
2 for the record?

3 MS. BENNETT: I think we do.

4 CHAIRPERSON HINTON: Do you have a copy?

5 MR. DIETZ: Yes, I do.

6 CHAIRPERSON HINTON: Would you give us a
7 copy.

8 MS. BENNETT: I would stand on that.
9 I'd go back to that surveyor and -- I don't want to
10 say jack them up on the record, but I'd insist on
11 getting the correct information.

12 MR. DIETZ: I don't understand. This is
13 my file copy and they did not make the change at the
14 time I paid for it. You pay for them up front. I
15 order the surveyor's plat, pay for it and then in
16 about three weeks they call you and tell you it's
17 ready.

18 MS. KING: If you look at what we've
19 got, it looks as if somehow it was eight and somehow
20 it got -- it really looks as if the request, if
21 that's what it was, was a request for eight and so
22 somehow it got obliterated when you look at this
23 document.

24 MR. DIETZ: Right. But in all candor, I
25 ordered 802 and I thought I was picking up 802. I
26 really had no cause to examine it. Quite frankly,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 if I examined it I wouldn't know what I was looking
2 at anyhow.

3 CHAIRPERSON HINTON: Okay.

4 MR. DIETZ: But if the Board will simply
5 give me leave to supplement the records with a
6 correct plat, I'll order the plat first thing
7 tomorrow morning. It's after 3:00.

8 CHAIRPERSON HINTON: That's fine. Okay.
9 Are there any other questions from the Board
10 members? Let me just go through the rest of the
11 hearing then. We have no report from the ANC, the
12 Office of Planning, the Office of Zoning or the
13 Department of Public Works. Are there any persons
14 or parties in support? Persons or parties in
15 opposition? I saw no opposition in the record. Did
16 anyone else?

17 MS. BENNETT: I did not.

18 CHAIRPERSON HINTON: Closing remarks.

19 MR. DIETZ: We simply ask the Board to
20 consider the application. The application is in
21 compliance with the requirements of the regulations,
22 and we ask that once i have an opportunity
23 supplement the record that the application will be
24 approved.

25 CHAIRPERSON HINTON: Perhaps, ladies, we
26 could approve the application and make a condition

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 that a correct surveyor's plat be submitted into the
2 record. That way we could decide today.

3 MS. KING: I so move.

4 CHAIRPERSON HINTON: And I will second.
5 Any discussion?

6 MS. BENNETT: Not unless we want to
7 supplement the motion, Madam Chair, with conditions
8 that include the operating time for the facility to
9 comport with those as outlined in #2 of the license
10 agreement, page one.

11 CHAIRPERSON HINTON: And those would be?

12 MS. BENNETT: 7:00 to 12:00 noon Monday
13 through Friday and 4:00 to 7:00 in the afternoon.
14 Then on Saturday 9:00 to 6:00. And then the only
15 other thing that I could think of would include the
16 fact that the owner of the building will make a
17 parking space available for the van because it goes
18 to adverse impact.

19 CHAIRPERSON HINTON: And I would add a
20 condition that no signs would be placed on the
21 outside of the building, just to make it clear that
22 that should never happen, even though you don't plan
23 to do it right now. Okay. All those in favor.

24 (Ayes)

25 CHAIRPERSON HINTON: Opposed. Summary
26 order, please.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 MS. ROSE: Staff will report the vote as
2 four to zero with Ms. King, Ms. Hinton, Ms. Reid and
3 Ms. Bennett to grant, Ms. Richards not present, not
4 voting, the issuance of a summary order.

5 MR. DIETZ: Thank you.

6 MS. ROSE: The next application is 16307
7 of the National Child Research Center, pursuant to
8 11 DCMR 3108.1 and 3107.2 for a special exception
9 under Section 205 to establish a child development
10 center for 120 students ages 2 1/2 to five years and
11 28 staff in the basement through third floor of an
12 existing building and a variance from the provisions
13 of Section 2101 for off-street parking in an R-1-B
14 District at premises 3209 Highland Place, N.W.
15 [Square 2072, Lot 30 (855 and 866)].

16 Would all persons planning to testify in
17 this application please rise and take the oath.
18 Please raise your right hand.

19 (THE WITNESSES WERE SWORN.)

20 CHAIRPERSON HINTON: Hello.

21 MR. WATSON: My name is Matthew Watson.
22 Address is 1701 Q Street, N.W. With me is Kay
23 Stafford, and we'll testify on behalf of the
24 proponents. Notwithstanding the fancy name of the
25 institution, this is a nursery school. The school
26 has been operating in the same location and has

1 certificates of occupancy since 1930 which I think
2 predates us all. And we are requesting at this time
3 a change in the existing certificate of occupancy
4 which was issued in 1981. When it was issued in
5 1981, it was for a nursery school, kindergarten,
6 elementary school of 90 students. Currently what
7 we're asking for is merely to be a certificate of
8 occupancy as a nursery school for a larger number of
9 students which it is licensed by the city to have.
10 There's absolutely no construction being done.
11 There's no change in anything.

12 If you would like, we could have Ms.
13 Stafford testify to the operation and proceed, but
14 as I say, it's a technical change in that the use
15 has changed slightly during these years and the
16 issue is raised as to number of children because
17 they can have more children as a nursery school and
18 that's the request. It is in the historic district.
19 We have submitted from Historic Preservation the
20 designation that deals with regards to the waiver
21 and, in fact, the community has indicated they would
22 vigorously oppose it if we tried to change the
23 landscaping and put in parking spaces.

24 MS. KING: One of the prettiest streets
25 in the District of Columbia. If you all haven't
26 seen it, it's worth a trip.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 CHAIRPERSON HINTON: I just have a
2 question about that letter. Was the determination
3 that it's a landmark or that it's in the District
4 and contributes?

5 MR. WATSON: It's in the District and
6 contributes?

7 CHAIRPERSON HINTON: Okay. And,
8 therefore, there is no need for parking variance.
9 Is that right?

10 MR. WATSON: Correct.

11 CHAIRPERSON HINTON: So you're only here
12 for the special exception?

13 MR. WATSON: Well, we're here for the
14 special exception. It's not totally clear as to
15 whether you don't have to accept the letter to say
16 that it doesn't meet parking. So that's the reason
17 we requested.

18 CHAIRPERSON HINTON: Okay. Well, Ms.
19 Rose, it's my understanding that if a building is
20 either historic landmark or in an historic district
21 and contributing that there is no requirement for
22 additional parking regardless of the change of use.

23 MS. ROSE: I'm not sure on the
24 contributing nor really clear on --

25 MR. WATSON: I think you are correct on
26 the contributing, as well.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 CHAIRPERSON HINTON: I know that we've
2 made that determination previously, although I
3 wouldn't know exactly where in the regulations. But
4 actually, we need to make a determination because
5 there's no sense in us granting a variance that you
6 don't need. That would be really silly. Why don't
7 we get back to the special exception. We do
8 normally with child development centers, we like to
9 have the hours of operation and the number of staff
10 on the record. So could you address those two?

11 MR. WATSON: If you could the indication
12 of numbers of hours, the hours you operate as well
13 as the staffing.

14 MS. STAFFORD: Do you need my name and
15 address?

16 CHAIRPERSON HINTON: Yes.

17 MS. STAFFORD: I'm Kay Stafford. I'm
18 Acting Director of the National Child Research
19 Center. I reside at 709 N. Greenbriar Street in
20 Arlington, Virginia.

21 The hours of operation currently are
22 roughly 8:00 to 4:00. Children are on the premises
23 from 8:35 to 3:30. Staff is there from 8:00 to
24 4:00. The second question was?

25 CHAIRPERSON HINTON: The number of
26 staff?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 MS. STAFFORD: Twenty eight.

2 MS. KING: And how many students are you
3 asking for now?

4 MS. REID: One hundred and 20.

5 MR. WATSON: The original request for
6 student occupancy was at 120 which was previously
7 the number that was in the license. At present,
8 they have 108 students. We would like it for 120.

9 MS. KING: A hundred and 20.

10 CHAIRPERSON HINTON: The C of O that
11 you're currently operating under, did it have a time
12 frame associated with it?

13 MR. WATSON: The C of O currently has no
14 time frame, either times of day or length. It was
15 issued in 1981. I do have a copy.

16 CHAIRPERSON HINTON: We don't need a
17 copy. Was that approved by a Board order? Did that
18 also need a special exception?

19 MR. WATSON: I can not tell that from
20 the record.

21 CHAIRPERSON HINTON: Okay. Usually we
22 like to put sort of a time limit on these sorts of
23 cases so that every now and then it comes back in
24 front of the Board just in case something has
25 changed and there are some adverse impacts that the
26 neighbors would like to talk about and maybe find a

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 way to mitigate. So I would think since you've been
2 there since 1930 we could go with a reasonably long
3 time period of approval.

4 MR. WATSON: Could this be done --

5 CHAIRPERSON HINTON: Fifteen years.

6 MR. WATSON: How long?

7 CHAIRPERSON HINTON: Fifteen years.

8 Fine.

9 MS. KING: How many parking spaces are
10 there at present?

11 MR. WATSON: There are not parking
12 spaces on the property.

13 MS. KING: None at all?

14 MR. WATSON: No.

15 CHAIRPERSON HINTON: Off street parking
16 that is in front of the building and to the rear on
17 the property line is not residential zoned. In
18 other words, you don't have to have a residential
19 permit to park there?

20 MR. WATSON: No. There's no off street
21 parking on the --

22 MS. KING: On the property.

23 CHAIRPERSON HINTON: There is none.

24 MR. WATSON: And both the ANC and the
25 neighbors are opposed to any being put on because as
26 it is now, you can tell from the pictures, it looks

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 like the other residential houses on the block.

2 MS. KING: Whenever I have a visitor, I
3 always drive through there and say this is the
4 prettiest street in the District of Columbia and
5 I've never known that you have a day care center.

6 MR. WATSON: It's quite a street.
7 Nicholas Katzenbach, when he was Attorney General in
8 the Kennedy Administration, lived across the street
9 and -- lives across the street.

10 MS. BENNETT: I guess but do we not have
11 a problem in that because they're back before us and
12 because our child development center regs have
13 parking requirements, we really have to determine --

14 CHAIRPERSON HINTON: We have to find in
15 the regs -- it's in the parking regulations that
16 says if the building is an historic landmark or in
17 an historic district and is a contributing element,
18 that there would be no additional off street parking
19 requirement no matter what the proposed use is.

20 MS. BENNETT: We need to find that.

21 MR. WATSON: I can provide that citation
22 for you.

23 MS. REID: Would you?

24 CHAIRPERSON HINTON: Can you quickly? I
25 think we'd like to sort of finish up today.

26 MS. REID: We'd like to dispose of this

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 case today.

2 CHAIRPERSON HINTON: Why don't you look
3 and we'll look, too. Do you have the regs?

4 MR. WATSON: I don't have the regs with
5 me. If you can hand me a set of the regs.

6 MS. BENNETT: Okay. Here we are. Thank
7 you, Ms. Bailey. Once again, Ms. Bailey is right on
8 target. Chapter 21, off street parking
9 requirements, Section 2100.5. "No additional
10 parking spaces shall be required for an historic
11 landmark or a building or structure located in an
12 historic district which is certified by the State
13 Historic Preservation Officer as contributing to the
14 character of that historic district."

15 CHAIRPERSON HINTON: Which one was it?

16 MS. BENNETT: 2100.5.

17 CHAIRPERSON HINTON: Thank you.

18 MS. BENNETT: So what we have here is a
19 building in an historic district and it is deemed
20 contributing to that historic district. Is that
21 correct?

22 CHAIRPERSON HINTON: That's right.

23 MR. WATSON: And we have in the record
24 the certificate from the State Historic Preservation
25 Officer.

26 MS. BENNETT: That'll work.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 CHAIRPERSON HINTON: So we're going to
2 determine that due to 2100.5 the variance is not
3 needed and we'll need the special exception. So we
4 have your hours for the record. And since it's a
5 special exception, you need to tell us whether the
6 operation is or is expected to have any adverse
7 impact on the adjacent property owners.

8 MR. WATSON: It has not, we do not
9 believe, for the last 70 years and it will not in
10 the future.

11 MS. KING: Not 70 years.

12 MS. BENNETT: Sixty eight years.

13 CHAIRPERSON HINTON: Sixty eight years.

14 MR. WATSON: But we're not sure it
15 wasn't operating before the certificate of occupancy
16 was issued.

17 CHAIRPERSON HINTON: Any other questions
18 from the Board members?

19 MS. BENNETT: They happen to be in a
20 neighborhood that if there were some adverse impacts
21 we would have heard about it.

22 MS. KING: Oh, boy. Joe Mendelson isn't
23 so it must be okay.

24 MS. BENNETT: I know that's right.

25 MS. REID: If you refer to Section 205
26 in your testimony, the special exception.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 MR. WATSON: You mean the requirements
2 in 205? I believe there's no adverse impact, no
3 safety impact in traffic which it doesn't. It's a
4 quiet residential street. And it's located on over
5 an acre of ground which prevents there from being
6 any adverse impact from noise and children at that
7 age are generally well behaved.

8 CHAIRPERSON HINTON: What age is this?

9 MR. WATSON: Two and a half to five.
10 They're not junior high school students. They
11 actually still hold hands.

12 MS. KING: Their teachers are still
13 bigger than they are.

14 MR. WATSON: Yes.

15 MS. BENNETT: But Section 205, Madam
16 Chair, includes 11 or 12 little subsections and I
17 didn't know -- I think what Ms. Cross Reid is
18 wondering is if we have adequately documented just
19 for the record that both those --

20 MS. REID: -- have been met.

21 MS. BENNETT: -- have been met even
22 though we know that this is a long-established
23 facility.

24 MR. WATSON: It's a long-established
25 facility within 1,000 feet.

26 MS. BENNETT: This is a separate

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 proceeding.

2 MS. REID: Just for the record, I wanted
3 to make sure you were in compliance and -- negative
4 impact, adverse impacts so perhaps we'll take a look
5 at it.

6 MS. BENNETT: I think that's
7 appropriate.

8 CHAIRPERSON HINTON: I think so, too.

9 MS. KING: I looked over it and it
10 seems to me quite clear that they meet all the
11 criteria.

12 CHAIRPERSON HINTON: I think so, too.
13 Why don't you take a quick look at 205.

14 MR. WATSON: If we turn just for the
15 record, "The center should be capable of meeting all
16 applicable code and licensing requirements." It is
17 actually licensed by the District of Columbia.
18 "Center should be located in designated to create no
19 objectionable traffic condition and no unsafe
20 condition for picking up and dropping off children."
21 It does not. It actually has two street frontages.
22 Its address in the front of the building is on
23 Highland Place. The lot goes all the way through to
24 Ordway Street where there are also steps coming up.

25 "The center shall provide sufficient off
26 street parking" but that is waived because of the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 historical character. "The center, including any
2 outdoor play space provided, should be located and
3 designed so that no objectionable noise impacts on
4 adjacent or nearby properties due to noise or
5 activity or visual or other objectionable
6 conditions." As I indicated, it's 45,000 square
7 feet in the lot and it's surrounded by trees which
8 muffle any noise and sight.

9 "The Board may require treatment by way
10 of design screening." Nature has provided that for
11 us. "Any off site play area shall be located, not
12 result in endangerment to the individuals." There
13 is no off site play area used. "The Board may
14 approve more than one child development center in a
15 square or within 1,000' only if it finds a
16 cumulative effect." 1) there is no other child
17 development center in the square nor is there any
18 within 1,000' and I believe, because I have spoken
19 to Public Works and Human Services, Office of
20 Planning has been referred to and I believe we meet
21 all the requirements.

22 CHAIRPERSON HINTON: Thank you. Okay.
23 Are there any other questions from Board members?

24 MS. KING: No.

25 CHAIRPERSON HINTON: Does that conclude
26 your presentation?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 MR. WATSON: That concludes the
2 presentation.

3 CHAIRPERSON HINTON: Great. Let me just
4 take a look. -- from the ANC which is unusual. I
5 usually get one from -- but that's okay. We have no
6 reports from the Office of Planning or the Office of
7 Zoning or the Department of Public Works.

8 Are there persons or parties in support?
9 Are there persons or parties in opposition? I did
10 not see any opposition in the file.

11 MS. REID: Nor did I.

12 CHAIRPERSON HINTON: Okay. Closing
13 remarks.

14 MR. WATSON: We would request, since it
15 meets the requirements, that it be granted for the
16 15 year period.

17 CHAIRPERSON HINTON: Great.

18 MS. KING: I so move.

19 CHAIRPERSON HINTON: I will second.
20 Let's list the hours of operation in our conditions.
21 That would be the hours should not exceed 8 a.m. to
22 4 p.m. Monday through Friday.

23 MR. WATSON: Could I request that for
24 some ease of operation in case they do at some point
25 change slightly that it go to 5 p.m.?

26 CHAIRPERSON HINTON: Sure. 8:00 to

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 5:00. Does that work? 8:00 a.m. to 5:00 p.m. The
2 staff should not exceed 28. The number of students
3 should not exceed 120. An approval will be for a
4 period of 15 years. Any other conditions?

5 MS. REID: Summary order.

6 CHAIRPERSON HINTON: Summary order. All
7 those in favor.

8 (Ayes)

9 CHAIRPERSON HINTON: Opposed.

10 MS. ROSE: Staff will report the vote as
11 four to zero, Ms. King, Ms. Hinton and Ms. Reid, to
12 grant the application, Ms. Bennett will grant by
13 absentee vote and Ms. Richards not present, not
14 voting, and that an amended application to eliminate
15 the --

16 CHAIRPERSON HINTON: Yes. And can we be
17 clear in the summary. Would it be possible to be
18 clear that the Board determined there was no need
19 for a variance due to 2100.5.

20 MS. ROSE: Okay.

21 MR. WATSON: Thank you.

22 MS. ROSE: The last application is 16308
23 for Cornell Allen pursuant to 11 DCMR 3107.2 for a
24 variance from the maximum allowable lot occupancy
25 requirements (Subsection 403.2) and a variance from
26 the minimum rear yard requirements (Subsection

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 404.1) for an addition to a single family dwelling
2 in an R-4 District at premises 333 W Street, N.E.
3 (Square 3562, Lot 71).

4 Would all persons wishing to testify in
5 this application please rise to take the oath.
6 Would you raise your right hand.

7 (THE WITNESSES WERE SWORN.)

8 MS. ROSE: You may be seated.

9 CHAIRPERSON HINTON: We need your name
10 and home address for the record, please.

11 MR. ALLEN: My name is Cornell Allen and
12 address is 333 W Street, N.E.

13 CHAIRPERSON HINTON: And your
14 application would need two variances. Is that
15 right? Is that your understanding? They're both
16 area variances. Could you explain why you're
17 proposing to build the addition?

18 MR. ALLEN: Yes. Because of my wife's
19 health. On my upper level upstairs I have a full
20 bath. On the first floor I don't have a bath. In
21 the basement I have a partial bath. And my wife has
22 a heart condition and she's unable to travel back
23 and forward upstairs. Right now I have a port-a-
24 potty in the hallway between my kitchen and the
25 front door. And I wanted to extend the back end
26 just on the first floor so that I could put a

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 bathroom there. Last night she had to have heart
2 surgery at -- so that's the reason.

3 MS. KING: Have you been in touch with
4 your neighbors and do you have their approval and
5 the ANC and so forth?

6 MR. ALLEN: Two or three spoke to me
7 about it but not all of them within 200'.

8 MS. KING: What I'm particularly
9 concerned about is the neighbors on either side. I
10 mean no one is here in opposition but you've talked
11 to them about what you plan to do.

12 MR. ALLEN: My neighbor beside me
13 approved it. She wanted to put one in hers, an
14 extension on the back porch, but she wanted it on
15 the wrong side. She can't. It's too far from her
16 drain, sewer line.

17 CHAIRPERSON HINTON: It appears that
18 you're building right up to the property line.

19 MR. ALLEN: Beg your pardon?

20 CHAIRPERSON HINTON: Are you building
21 right up to the property line?

22 MR. ALLEN: Yes, I am.

23 CHAIRPERSON HINTON: And there's already
24 an addition on your neighbor's property.

25 MR. ALLEN: Yes, on both sides.

26 CHAIRPERSON HINTON: So are you going to

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 attach your building to their buildings?

2 MR. ALLEN: No. It won't be attached to
3 their buildings. I don't think it will.

4 MR. TAYLOR: My name is Glenn Taylor of
5 156 Todd Place, N.E. I think I have a detail where
6 we're going to go right beside it and insulate both
7 house and fire rate it and put a flashing on top of
8 it and she was all right with that.

9 CHAIRPERSON HINTON: This would be on
10 both sides.

11 MR. TAYLOR: On one side. The other
12 side of the house, the extension is too far away.
13 It's just going to be on one side we're going to
14 attach to. To the left side if you're standing in
15 the rear.

16 MS. KING: What are the --

17 MR. TAYLOR: They said we had to go
18 right to the property line.

19 CHAIRPERSON HINTON: I'm sorry.

20 MR. TAYLOR: Zoning said we had to go to
21 the property line.

22 CHAIRPERSON HINTON: Right.

23 MS. KING: So he needs a variance for
24 the rear yard. Is that right?

25 CHAIRPERSON HINTON: From the
26 photographs that I'm looking at, it appears that the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 houses on each side of your house already extend out
2 farther than yours does.

3 MR. TAYLOR: That's right.

4 CHAIRPERSON HINTON: Okay. So you're
5 saying on one side you're going to attach --

6 MR. TAYLOR: On the left side we're not
7 going to really attach to it. I'm just going to
8 insulate it.

9 MR. ALLEN: It's going to be very close.

10 MR. TAYLOR: So it can be fire rated.
11 So I'm going to put a wall right next to it to keep
12 the insulation fire rated so it pass code. I'm just
13 going to shoot that foam insulate through it and
14 seal it, flash it so water can't get in between the
15 two buildings. I won't take any of the material
16 off. If they decide they want to remove it, they
17 can remove it. It will not affect his.

18 CHAIRPERSON HINTON: Right. Okay. So
19 your addition will have its own walls.

20 MR. TAYLOR: Right.

21 CHAIRPERSON HINTON: And they'll be
22 separate from the other wall.

23 MR. TAYLOR: Yes. ma'am.

24 CHAIRPERSON HINTON: But then after you
25 build your wall, you're going to put some insulation
26 in between --

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 MR. TAYLOR: Yes.

2 CHAIRPERSON HINTON: -- which I'm
3 assuming is going to be a very small space.

4 MR. TAYLOR: About half an inch.

5 CHAIRPERSON HINTON: And then you're
6 going to put flashing over the top to make it like a
7 roof.

8 MR. TAYLOR: Right.

9 CHAIRPERSON HINTON: Or you're going to
10 put a roof over the top and flashing on the front so
11 it's sealed from the elements.

12 MR. TAYLOR: Yes. Yes, ma'am.

13 CHAIRPERSON HINTON: And so then there
14 won't be any open court which we don't want. But on
15 the other side of the property -- and is that
16 because your addition doesn't cover the whole back?

17 MR. TAYLOR: It covers the whole back.
18 The other side, the addition is like 6" away from
19 the property line.

20 CHAIRPERSON HINTON: Oh, so you're --

21 MR. TAYLOR: We're only allowed to go to
22 the property line.

23 CHAIRPERSON HINTON: So there'll be 6".

24 MR. TAYLOR: Right. About 6" to a foot
25 away from the property line.

26 CHAIRPERSON HINTON: But since you're

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 going to your property line, you're not creating a
2 court on your line.

3 MR. TAYLOR: No.

4 CHAIRPERSON HINTON: Or creating a court
5 on someone else's line.

6 MS. KING: Now, this is the existing
7 building. Is that correct?

8 MR. TAYLOR: Yes, ma'am.

9 MS. KING: And so you still have a front
10 yard?

11 MR. TAYLOR: The rear yard? Yes.

12 MS. KING: Is this the rear?

13 MR. TAYLOR: That's the rear.

14 MS. KING: This is the rear. So this is
15 the front yard.

16 MR. TAYLOR: Yes, ma'am.

17 MS. KING: Of course, on W Street. And
18 this is the alley. Okay. And the rear yard is
19 going to be 11.33' too narrow, too shallow.

20 CHAIRPERSON HINTON: Did anyone find the
21 calculation sheet? You did.

22 MS. KING: I did. Here it is. So this
23 is the front yard which is -- and the rear yard is
24 56.7 percent less than it needs to be. What you've
25 got is about five percent overall excess --

26 CHAIRPERSON HINTON: What I'm looking at

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 is on the Zoning Administrator calculation sheet it
2 says that the rear yard provided will be 8.67' and
3 the drawing we have is showing 14'.

4 MS. KING: This is the surveyor. Look
5 again at what -- How deep is the addition?

6 MS. REID: It's 8.5.

7 MR. ALLEN: It's 8'.

8 MS. KING: Well, that's what it says on
9 the survey, too.

10 MS. REID: How do we reconcile the
11 difference?

12 MS. KING: Whichever is right or wrong,
13 the required is 20' so it's a matter of degree, not
14 of whether or not there is a deficiency in the rear
15 yard according to the zoning regs.

16 CHAIRPERSON HINTON: Right. Either way,
17 the variance will be needed. It currently complies
18 with lot occupancy but the addition puts it over but
19 the difference is very small. It's 28.15 square
20 feet.

21 MS. KING: And if this is not 8' but is
22 14, that might mean that that wasn't necessary, if
23 you get my drift.

24 CHAIRPERSON HINTON: And the thing is
25 the 14' is to a fence line. Maybe they have the
26 property line in the wrong place there. I don't

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 know.

2 MS. KING: Maybe so.

3 CHAIRPERSON HINTON: It's a pretty big
4 discrepancy.

5 MS. KING: But it's a public alley.
6 Doesn't your property usually go right up to the
7 public alley?

8 CHAIRPERSON HINTON: It does. Okay.
9 The test for variance is that you have to identify a
10 unique condition of your property that causes you
11 not to be able to -- that causes a practical
12 difficulty on you using it according to the
13 regulations. So I'm --

14 MS. REID: It's a very narrow lot. It's
15 16 1/2' wide. It's a very small lot. Is Ms.
16 Bennett gone? She's out authority on what this. It
17 seems to me to be an inordinately small lot in terms
18 of the others.

19 CHAIRPERSON HINTON: We would have to
20 look at the lots in the area.

21 MS. BENNETT: Other properties in the
22 area. But it seems to me to be extraordinarily
23 small. The unusual difficulty is that suffered by
24 his wife. It's very like the case we heard earlier
25 today of physical hardship.

26 CHAIRPERSON HINTON: Right, and that

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 would go to the hardship but the condition has to be
2 at the property.

3 MS. BENNETT: I see. Okay. So the
4 applicant has to identify --

5 MS. BENNETT: Is your property smaller
6 than or more shallow than the existing properties,
7 the other properties on that particular --

8 MR. TAYLOR: By width or the rear yard?

9 MS. REID: The lot size itself or the --

10 MR. TAYLOR: All the houses except the
11 corner house are all the same size as far as width
12 and the rear yard is the same except for the last
13 two on the end by the alley. Their yard is a little
14 --

15 MS. KING: Is your rear yard less deep
16 than the other people on the block or are they all
17 the same?

18 MR. TAYLOR: All the same.

19 MR. ALLEN: They're all the same.

20 MS. REID: Is there anything about your
21 property that's uniquely different?

22 MR. ALLEN: Is there anything about my
23 property different from theirs? No, except mine is
24 not extended in the back. All of these houses are
25 -- it's mine and I think one other that's extended
26 out to where I'm trying to do. They're already

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 extended out.

2 MS. REID: So your property is unique in
3 that it's the only one that's not had an extension
4 put on.

5 MR. TAYLOR: Yes.

6 MR. ALLEN: Mine and one other. I think
7 the second from me.

8 MS. KING: The uniqueness is that
9 they're the only people on the block who haven't
10 done it.

11 MR. ALLEN: The distance from my house
12 out to the alley is the same as all of the houses
13 except for the extension that they already have out
14 there.

15 MS. KING: Both of your neighbors have
16 extensions?

17 MR. ALLEN: Yes, on both sides.

18 MS. REID: Well, we know that there's a
19 practical difficulty aspect of it.

20 MS. BENNETT: I'm looking for
21 uniqueness. So far, they're the only ones that
22 don't have an addition on back. I'm looking here at
23 the Sandborn.

24 MS. KING: And I looked at that, too,
25 but I didn't see that we could work it like that.

26 MS. BENNETT: Oh, I see. Yes. I

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 remember this. So to either side there's an
2 addition.

3 MS. KING: Well, no. Those six lots may
4 all be the same size but they're extraordinarily
5 small, are they not, in comparison to the other lots
6 in that block?

7 MS. BENNETT: They do look shorter.

8 MS. KING: Oh, I think considerably so.

9 MS. BENNETT: What is the --

10 MS. KING: I mean maybe two-thirds the
11 depth of the others because there's a sort of dog
12 leg alley that comes through there.

13 MS. BENNETT: Oh, yes.

14 MS. KING: So I think that perhaps a
15 uniqueness. I mean even if it's a uniqueness shared
16 with six lots, is that not unique enough? It kind
17 of pushes. Couldn't we make that unique?

18 MS. BENNETT: Elastic governors.

19 MS. KING: Look at the depth of the
20 others. They're all at least a third again as deep
21 or twice as deep. Those are some deep yards in
22 there.

23 MS. BENNETT: Let's also take a look at
24 the fact that and, you know, if you look at the
25 notes and computations, this is an R-4 zone district
26 and isn't our lot area much less than what it should

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 be?

2 MS. KING: It is a substandard lot.

3 MS. BENNETT: It is a substandard lot to
4 begin with.

5 MS. KING: Yes.

6 MS. BENNETT: So you're right. They're
7 supposed to have what? Eighteen hundred feet?

8 CHAIRPERSON HINTON: It's not filled in
9 on the chart so I don't know. I don't know why.

10 MS. BENNETT: In an R-4 zone.

11 CHAIRPERSON HINTON: I would think even
12 the width is substandard at 16 1/2'.

13 MS. BENNETT: A minimum lot area in the
14 -- thank you. You're so fast. I love it, Ms.
15 Bailey. R-4 zoned districts should have 1,800'.
16 They've got a little over half that. I mean this is
17 a tiny lot.

18 MS. KING: Right. There we are.

19 MS. BENNETT: Period. I don't even have
20 to go any further than that. The fact that the
21 other five are similarly substandard --

22 MS. KING: Doesn't take away from --

23 MS. BENNETT: -- does not take away from
24 the --

25 MS. KING: The uniqueness.

26 MS. BENNETT: That's right. Not in my

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 view. And also if you just look at the other lots
2 in the area as described by the Sandborn, if you
3 want to look at neighborhood conditions, these are
4 much smaller.

5 MS. KING: The whole neighborhood is.

6 MS. BENNETT: Yes. So they're laboring
7 under a handicap that is unique in this square.

8 CHAIRPERSON HINTON: Okay.

9 MS. KING: I agree.

10 CHAIRPERSON HINTON: So, does that
11 conclude your presentation?

12 MR. ALLEN: Yes.

13 CHAIRPERSON HINTON: Any other questions
14 from the Board members?

15 MS. REID: Just speak to us about
16 adverse impact in regard to if in fact you were to
17 be granted your application or your variance. Would
18 there be any problem as far as traffic or noise or
19 lights or parking or any of the other things that
20 may impact your neighbors?

21 MR. ALLEN: My neighbors?

22 MS. REID: Yes, negatively. Would there
23 be any concerns of your neighbors regarding
24 negatives or adverse impact of your being granted an
25 application?

26 MR. ALLEN: No.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 MS. REID: And we don't see any
2 opposition.

3 CHAIRPERSON HINTON: Well, in the burden
4 for a variance, what you need to show is that relief
5 can be granted without detriment to the public good
6 so adverse impacts or special exception. This is a
7 variance so we have to just look at without
8 substantial detriment to the public good or
9 impairing the intent, purpose or integrity of the
10 zone plan. So building your addition, in your
11 opinion, would that have any effect on the public
12 good?

13 MR. ALLEN: No. I don't think so.

14 CHAIRPERSON HINTON: Okay. And would it
15 impair the purpose of the zone plan?

16 MR. ALLEN: No.

17 CHAIRPERSON HINTON: With the zone plan
18 being a residential district and relatively dense
19 one at that in R-4.

20 MS. KING: No.

21 CHAIRPERSON HINTON: No. Because you
22 said earlier that the addition that you're proposing
23 is the exact same size as the additions on the
24 houses all around you.

25 MR. ALLEN: Exact same size only they're
26 all the way up. I'm just going the first floor.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 Just enough to get in the bathroom and everything
2 and keep my wife from having to go back and forward
3 upstairs.

4 CHAIRPERSON HINTON: Okay. We have no
5 report from the ANC or from the Office of Zoning or
6 Office or Planning or DPW. Is there any persons or
7 parties in support? Persons or parties in
8 opposition? There's no opposition in the record, so
9 closing remarks by the applicant.

10 MR. ALLEN: Thank you.

11 CHAIRPERSON HINTON: Ladies.

12 MS. KING: One second.

13 MS. REID: Due to the fact that we found
14 that the lot is substandard and -- cause undue
15 hardship in trying to comply with the existing
16 zoning regulations, also that there's no detriment
17 to the public good nor did it impair the intent of
18 the zoning regulations, I feel that we can grant the
19 application.

20 CHAIRPERSON HINTON: Okay. All those in
21 favor.

22 (Ayes)

23 CHAIRPERSON HINTON: Opposed. Summary
24 order.

25 MS. ROSE: Staff will record the vote as
26 four to zero with Ms. Reid, Ms. King, Ms. Bennett

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 and Ms. Hinton to grant the application, Ms.
2 Richards not present, not voting, and the issuance
3 of summary order.

4 CHAIRPERSON HINTON: Thank you.

5 MS. KING: I hope your wife will be
6 better.

7 MR. ALLEN: Thank you.

8 CHAIRPERSON HINTON: Hearing adjourned.

9 (Whereupon, the hearing was adjourned at
10 3:36 p.m.)

11

12

13

14

15

16

17

18

19

20

21

22

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

www.nealrgross.com