

1 GOVERNMENT OF THE DISTRICT OF COLUMBIA
2 ZONING COMMISSION

3
4 Public Hearing

5
6 19422
7 19435
8 19315A
9 19428
10 19386

11
12 Wednesday, March 1, 2017
13 11:06 p.m. - 11:40 pm

14
15 Jerrily R. Kress Memorial Hearing Room
16 Judiciary One Building
17 441 4th Street, N.W.
18 Suite 220 South
19 Washington, D.C. 20001

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21 Pages: 1 - 32
22 Reported By: Shaylah Lynn Burrill

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APPEARANCES

Board Members:

- FREDRICK HILL, Chairman
- CARLTON HART, Vice Chair
- ROBERT MILLER, Commissioner
- LESYLLEE WHITE, Commissioner

Office of Zoning:

- CLIFFORD MOY, Secretary

Office of Planning:

- MARIE BROWN-ROBERTS

District Department of Transportation

- EVELYN ISREAL
- JOEL LAWSON

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

2

3 CHAIRMAN: All right, Mr. Moy, if you could just
4 call it real quick.

5 MR. MOY: Yes, sir. Thank you, Mr. Chairman.
6 That would be application number 19422 of IMA Pizza
7 Store 17 LLC. Caption advertised for special
8 exception relief under the penthouse requirements of
9 Subtitle C. Section 1504.1. Which would allow the
10 installation and a full screening of rooftop
11 mechanical equipment. This is in the MU-4 zone.
12 Located at 1335 Wisconsin Avenue, Northwest, square
13 1232 lot 69.

14 The applicant was here. There he is. Sir, could
15 you sit it right here in the corner. My camera is
16 right here. Right in there would be perfect.

17 CHAIRMAN: Alright, sir. If you could just go
18 ahead and quickly introduce yourself.

19 MR. DZIERZANOWSKI: Sure, my name is Mateusz
20 Dzierzanowski. Principal of DZ Architecture. I/m
21 here on behalf of the client &Pizza, to discuss the
22 zoning relief for the Mechanical screenings.

1 CHAIRMAN: Okay, alright, great. So, Mr.
2 Dzierzanowski, you drew the short end of the stick in
3 terms of getting today as your day. But, I don't have
4 a lot of questions for you. I don't know if the board
5 has any questions in this particular case. I mean,
6 the record is very clear in my opinion. Does the
7 Board have any questions? Otherwise, I am going to
8 turn to the Office of Planning. Alright, Office of
9 Planning.

10 MS. BROWN-ROBERTS: Good afternoon, Mr. Chairman
11 and members of the board. For the record, I am Maxine
12 Brown-Roberts. The Office of Planning is supportive
13 of the relief that is requested. However, there is a
14 letter from the board that says the screening wall
15 should be five feet tall. The applicant has requested
16 - I think in the applicant's submissions, the walls
17 were taller than that five feet.

18 So, that would be the only concern I have,
19 because when they go to get the building permit, there
20 may be some conflict, but -

21 CHAIRMAN: Ms. Brown-Roberts, are you suggesting
22 something?

1 MS. BROWN-ROBERTS: We are in support.

2 CHAIRMAN: Are you suggesting something?

3 MS. BROWN-ROBERTS: I am not suggesting - I did
4 talk to the applicant and tell them they need to get
5 that resolved.

6 CHAIRMAN: All right, okay.

7 MS. BROWN-ROBERTS: But, we are in support.

8 CHAIRMAN: Okay, and you understand what's being
9 discussed?

10 MR. DZIERZANOWSKI: Yeah, correct.

11 CHAIRMAN: All right.

12 MR. DZIERZANOWSKI: If you did I could elaborate,
13 but it's been clarified.

14 CHAIRMAN: All right, does the board have any
15 questions for the Office of Planning? Alright, I'm
16 going to turn out to the audience.

17 Is anyone here from the ANC to speak out on this
18 case? Is anyone here wishing to speak in support of
19 this case? Is anyone here wishing to speak in
20 opposition of this case? Okay, I'm going to turn back
21 to the applicant. Is there anything else you want to
22 add?

1 MR. DZIERZANOWSKI: Nope.

2 CHAIRMAN: Alright, I am going to go ahead and
3 close this hearing.

4 Is the board ready to deliberate? I really -
5 again, I thought it was very clear cut, and I am glad
6 that you have spoken to the Office of Plaining and
7 understand their comment towards you. So, I would
8 definitely go ahead and advise you to follow through
9 on those. So, I am going to go ahead and approve the
10 motion to approve application number 19422, of IMA
11 pizza. The motion has been seconded. All those in
12 favor? Aye.

13 BOARD: Aye.

14 CHAIRMAN: All those opposed? Ms. White seconded
15 Mr. Moy.

16 MR. MOY: All right. Thank, you, Mr. Chair.

17 CHAIRMAN: The motion passes Mr. Moy.

18 MR. MOY: Staff would record the vote as four to
19 zero to one. This is on the motion of Chairman Hill
20 to approve the application for the relief requested.
21 Seconded the motion, Ms. White, also in support, Mr.

1 Miller, and Vice Chairperson Hart. We are a board
2 seat vacant. Motion carries.

3 CHAIRMAN: Thank you, Mr. Moy. Summary order?

4 MR. MOY: Yes, sir.

5 CHAIRMAN: And what is your name again sir?

6 MR. DZIERZANOWSKI: Mateusz, Mateusz
7 Dzierzanowski.

8 CHAIRMAN: Dzierzanowski, so, Mr. Dzierzanowski,
9 if you see me at your pizza place, you remember me.
10 Okay?

11 MR. DZIERZANOWSKI: Not a problem.

12 CHAIRMAN: Okay, We're going to go ahead and call
13 the next case

14 CHAIRMAN: All right. Mr. Moy, if you like to
15 call our first meeting case.

16 MR. MOY: Yes, sir. That would be application
17 number 19435, of Craig Gerson and Nancy Copeland. I
18 will read very quickly the caption. This was a
19 request for special exception relief under subtitle D
20 section 5201. From the Lot occupancy requirements of
21 subtitle D section 304.1. Rear yard requirement,
22 subtitle D, section 306.1. Side yard, Subtitle D,

1 307.1. And non-conforming structural requirements
2 subtitle C, section 202.2. Which would rebuild and
3 screen in a deck to the rear of an existing one-family
4 dwelling, R3 zone.

5 2651 Woodley Road, Northwest, Square 2108, Lot 4.
6 Participating -- Oh, this is actually about a review.
7 That's right. So, let me just leave it at that Mr.
8 Chairman.

9 CHAIRMAN: Okay, thank you, Mr. Moy. So, is the
10 board ready to deliberate? Okay, so, again, after
11 reviewing the record and OP the analysis of the office
12 of planning, who recommends approval? ANC 3C has no
13 objection via a voice vote. DDOT also had no
14 objection. And again the Office of Planning report
15 that spoke to the proposed deck replacing an existing
16 deck that will not be raised higher than what is
17 currently existing. So, after reviewing the record
18 again, and unless someone has any other thoughts I
19 would go ahead and make a motion to approve
20 application number 19435 as read by the Secretary.

21 MR. MILLER: Second.

1 CHAIRMAN: Motion has been made, and seconded.

2 All those in favor?

3 BOARD: Aye.

4 CHAIRMAN: Aye. All those opposed? The motion
5 passes, Mr. Moy.

6 MR. MOY: Staff would record the vote as 4 to 0 to
7 1. This is on your motion, Mr. Chairman, to approve
8 the application for the relief request. Seconded the
9 motion was Mr. Robert Miller. Also, in support is Ms.
10 White, Vice-Chair Hart. Board seat vacant. The motion
11 carries.

12 CHAIRMAN: Thank you, Mr. Moy. Summary order?

13 MR. MOY: Yes, that can be done.

14 MR. MOY. Next, is a request for, as advertised
15 for a minor mod/modification of consequence of
16 application number 19315A, of associated chat Catholic
17 Charities this was a request for minor mod of BZA
18 order number 19315. Now requesting a variance relief
19 from the size of parking space requirements under
20 section 2115.1 to construct three flats an R4
21 district. Premises where 611 through 617 Rhode Island
22 Avenue Northwest Square 442, lots 4 and 49 through 50.

1 CHAIRMAN: Okay, thank you. So the applicant is
2 requesting minor modification. After reviewing the
3 record and also the analysis from the office and
4 planning I don't think it's a minor modification. I
5 think that they are now asking for parking relief what
6 was not discussed as part of the original review of
7 the applicant, and I think that it is something that a
8 new application is needed. Does the board have some
9 comments? Does the board have some comments?

10 MS. WHITE: I agree with your comments.

11 MR. MILLER: Mr. Chairman?

12 CHAIRMAN: Hold on one second. All right, go
13 ahead.

14 MR. MILLER: I know that the OP recommended that
15 it be considered a modification of significance. Which
16 would require a public hearing. Or, that new
17 application be submitted. I think a modification of a
18 significance that would require a public hearing,
19 might be a little more sufficient. And would still
20 preserve the rights of interested parties in the
21 neighborhood. So, I thought it was an either, or
22 recommendation.

1 CHAIRMAN: I agree with Commissioner Miller. It is
2 late tonight. So, that sounds like a good idea to me.
3 I am at a loss as to what to do next.

4 MR. MILLER: Well, Mr. Moy can advise us, but if
5 we, by consensus we consider a modification of
6 significance, the next step would be it would have to
7 be scheduled for a public hearing.

8 MR. MOY: That's correct.

9 CHAIRMAN: Exactly, Mr. Miller. Is the applicant
10 here by any chance? Would they like to come forward?
11 Would you please state your name for the record
12 please?

13 MS. MAZO: Very quickly, Samantha Mazo, on behalf
14 of the applicant and just, again, very quickly we had
15 initially on January 30th filed an application for
16 request for modification of consequence. To be clear,
17 the situation here. It's not relief from parking. Its
18 relief form the parking space size requirements. The
19 plans that were shown throughout the process of the
20 underlying application, 19315 always showed sub-
21 standard parking space sizes and that relief was just
22 never requested.

1 CHAIRMAN: Okay.

2 MS. MAZO: It was just missed, and so we request a
3 modification of consequence we received a page reports
4 and then we subsequently did file a cover letter
5 requesting I mean in filing a modification of
6 significance. Also, I like to state for the board
7 that we went to the ANC on February 7th and actually
8 just today they have filed their reports in support of
9 the modification request so that should be in the
10 record, or if not I have it in my email.

11 CHAIRMAN: Okay, if you can make sure it's in the
12 record. When could I put a public hearing here? Mr.
13 Moy? In a way that is sufficient for us?

14 MR. MOY: Sufficient for the board? We can
15 schedule this for -- I am beginning to fill up April
16 5th now. So, I could always add another one to it.
17 But I think for comfort level I'm looking at April
18 12th.

19 CHAIRMAN: Okay. All right, you were going to say
20 something Ms. Mazo?

21 MS. MAZO: Is it possible to get it possibly on
22 March 29th or April the 5th?

1 CHAIRMAN: How many do we have on the 5th? I know
2 that 29th is really pretty --

3 MR. MILLER: Are there certain notice requirements
4 for the public hearing?

5 MR. MOY: For variance?

6 MR. MILLER: No, for the public hearing.

7 MR. MOY: For the public hearing?

8 CHAIRMAN: Public hearing.

9 MR. MOY: This has been noticed previously, so.

10 CHAIRMAN: So, you're comfortable with the 5th ?
11 I'm trying to now just get it on the schedule. So,
12 the 5th you think -- how busy are we on the 5th?

13 MR. MOY: We now have about 5 or 6. But we have
14 two sets of appeals, and we just moved today.

15 CHAIRMAN: Okay, and the other option was the 26th?

16 MR. MOY: Would be the following week, which would
17 be the 12th.

18 CHAIRMAN: The 12th. Ms. Mazo, the 12th doesn't
19 work for you guys and why?

20 MS. MAZO: We would like to just advance the ball
21 it is my understanding that there is a building permit
22 just sitting on zonings desk. And it's kind of all

1 the way through except for this issue, so we would
2 like to get some clarity. We thought we were going to
3 get some clarity on the modification of consequence
4 and since you've now moved it to a modification of
5 significance you know then by the

6 CHAIRMAN: Okay, okay, okay. So, let's do the 5th.
7 Okay, so well do April 5th.

8 MS. MAZO: We appreciate it, and if there is a 40
9 day notice. We would just ask that that be waived and
10 the applicant going forward would file a pre-hearing
11 statement 21 days in advance and post the property as
12 necessary 14 days in advance.

13 CHAIRMAN: I'm comfortable with that the board
14 have any comments? Is the board comfortable? Okay, I
15 hereby nods that they're comfortable. Okay, all
16 right, so then we're back here on April 5th.

17 MS. MAZO: Thank you very much.

18 CHAIRMAN: Thank you.

19 CHAIRMAN: Now, before we call our last case, our
20 second to last case. There's only two more left? I
21 think, right? Mr. Moy.

22 MR. MOY: Yes, sir

1 CHAIRMAN: I think the 2nd Street -- let's go
2 ahead and do the Second Street first

3 MR. MOY: Okay, all right. That would be
4 application number 19428 of 1937 2nd Street Northeast,
5 LLC. Caption as advertised for special exception
6 relief under the rooftop element requirements.
7 Subtitle E section 206.2, this would add an additional
8 unit to an existing 4-unit apartment house. RF1 zone
9 1937 2nd Street Northeast, square 3565, lot 55. This
10 was last heard at the board's hearing on February 22nd.

11 CHAIRMAN: Was that last week?

12 MR. MOY: February 22nd.

13 CHAIRMAN: Okay.

14 MR. MOY: A couple of weeks. Participating is of
15 course yourself, Ms. White, Vice-Chair Hart, and
16 Michael Turnbull, whom I have an absentee vote.

17 CHAIRMAN: Okay, yeah, no, that's great. It was
18 last week.

19 MR. MOY: Was it?

20 CHAIRMAN: Yeah, that's why. I was just trying --
21 I was just trying to remember because I remember this

1 case. So, is the board ready to deliberate? Okay. I
2 remember the case, and we had a full hearing.

3 The Office of Planning was in support, DDOT was in
4 support The ANC5U was in support. However, we did not
5 have a letter submitted by the ANC. Since then, we
6 wanted to wait until the letter had been entered into
7 the record. It was entered into the record. So, at
8 this time I feel comfortable resting on the analysis
9 of the Office of the Planning and putting forth motion
10 to approve application 19428 as read by the secretary.
11 Can I get a second?

12 MS. WHITE: Second.

13 CHAIRMAN: Motion has been made and seconded. All
14 those in favor?

15 BOARD: Aye.

16 CHAIRMAN: Aye. All those opposed? And then Mr.
17 Moy, I think you said there was an absentee from
18 commissioner Turnbull?

19 MR. MOY: I did and the winner is. Actually, his
20 absentee ballot vote is to approve the application
21 with any conditions that the board may impose. So
22 that would give a final vote to 4 to 0 to 1. This is

1 on your motion, Mr. Chairman, to approve the
2 application for the relief requested. Seconded the
3 motion was Ms. White. Also, in support Vice-Chair
4 Hart, and Mr. Turnbull. Board seat vacant, the motion
5 carries.

6 CHAIRMAN: Great Mr. Moy, thank you. Are we going
7 to do a summary order?

8 MR. MOY: Yes.

9 CHAIRMAN: All right, Mr. Moy, the last one of the
10 day.

11 MR. MOY: Okay, that was a summary order? Wasn't
12 it?

13 CHAIRMAN: Yes, it was a summary order.

14 MR. MOY: Just for clarification, Okay, so, this
15 would be case number 19386 of IREI 22nd Street LLC.
16 As amended for variance relief for the lot width and
17 lot area requirements. Subtitled D, section 302.1.
18 And a variance in the side yard requirements subtitled
19 D, section 307.1. To construct a new one family
20 dwelling, R1B zone. 3702 22nd Street Northeast,
21 Square 4226, Lot 42.

1 CHAIRMAN: Okay, is the board ready to deliberate?
2 All right, so, I will start. As I recall at the end -
3 - this was actually quite contentious. At the end of
4 opposition there was a lot of concern with the
5 neighbors. At the last hearing, we had asked for the
6 applicant at least two areas that I remember asking
7 for the applicant. One further clarification
8 concerning the construction management agreement.
9 Also, a more clear understanding of how the neighbors
10 were going to be -- there's going to be
11 indemnification for the neighbors and terms of any
12 kind of damage that might take place to their
13 property. I think, Commissioner Miller, I think you
14 had talked about the possible narrowing of the
15 property. But I didn't really see that in the record.
16 I did, and I can see that the applicant is actually
17 here. So, we could ask some questions of the
18 applicant and actually could you come up. If you could
19 introduce yourselves for the record.

20 MR. DEVERGER: Paul DeVerger, 1316 Wester Street,
21 Northeast. Washington DC.

22 MR. CHENG: Sam Chang, 1920 14th street Northwest.

1 CHAIRMAN: Okay, you guys are welcome. Either one
2 is welcome to answer you know, my question is that
3 there are two exhibits. One is number 61 that speaks
4 to the construction management agreement. And I guess
5 you actually speak to the revised plans. Are you
6 familiar with the Exhibit 61?

7 MR. DEVERGER: Yeah, yeah, I actually do see.

8 CHAIRMAN: Then the other is exhibit 63. Which
9 speaks to the insurance issue. So, again, for me and
10 you can answer whatever you have to answer in terms of
11 Commissioner Miller. But for the indemnification, and
12 then the construction management agreement that you
13 continued to discuss. I believe the immediate next
14 door neighbors -- can you tell me what happened?

15 MR. DEVERGER: Yes, so we just added the
16 indemnification clause to the construction management
17 agreement. That was presented back into the record.

18 CHAIRMAN: Okay, you are pro offering that?
19 Whether or not they withdraw their opposition of not?
20 Correct? That's there? That's in the record. The
21 indemnification is in the record, the construction

1 management plans are in the record. And you are now
2 testifying, did you both get sworn in?

3 MR. DEVERGER: I came late today.

4 CHAIRMAN: Could you both swear in for me? I'm
5 sorry Mr. Moy.

6 MR. MOY: No, worries. Do you solemnly swear or
7 affirm that the testimony that you about the present
8 in this proceeding is the truth, the whole truth and
9 nothing but the truth?

10 MR. DEVERGER: Yes.

11 MR. CHANG: Yes.

12 MR. MOY: Thank you.

13 CHAIRMAN: Commissioner Miller said it's still
14 Wednesday, but if I can drag it on for another 25
15 minutes I can get to another day. So, just the reason
16 I wanted to get you under oath is because I did want
17 to hear you tell me the truth. Which is that you plan
18 on honoring the construction management agreement.
19 The indemnification for the two immediate neighbors
20 and their property and concerns?

21 MR. DEVERGER: Yes, certainly. I mean all along
22 we have communicated with the neighbors that if

1 anything were to go wrong we would take care of it.
2 But obviously, that was not enough for the neighbors.
3 So, I think memorializing this in the agreement with
4 indemnification goes a long way to establish that.

5 CHAIRMAN: Okay, do think you might do future
6 development projects in the city?

7 MR. DEVERGER: Yes.

8 CHAIRMAN: Okay, the reason why I say that is
9 because you'll be back again, and if we hear that you
10 actually didn't do it. Again, whether or not somebody
11 lives up to their word is a difficult thing for us to
12 understand. So, I am comfortable with what has been
13 set forward with my concerns Mr. Miller, do you have
14 any comment?

15 MR. MILLER: Thank you, Mr. Chairman. I'll be
16 brief. I appreciate that the revised plans were
17 submitted that shows the one foot addition to the side
18 yard. A half foot on each side of 17 foot wide house.
19 I appreciate the photos and the photographs and other
20 documents provided that showed that, that is in line
21 with what's in line much with what's in the
22 surrounding neighborhood.

1 I did ask for a statement as to why it couldn't be
2 viable at a narrower width. Than even the 17? I
3 think it had mention that at 16 or 15 why it wasn't
4 viable. I realize it's not as marketable and not as
5 attractive for someone to live in. But, I did ask for
6 a statement as to why it wouldn't be viable and
7 instead we got the photographs and other
8 documentation. In keeping with what's in the
9 surrounding neighborhood, so, I'm somewhat conflicted
10 about going forward. From my own standpoint. With
11 that ANC opposition, and the adjacent neighbors
12 opposition. Even though we do have the Office of
13 Planning strong support. So that is why I am somewhat
14 conflicted. If you make a motion I might vote no.

15 CHAIRMAN: We can deliberate. I mean we haven't
16 gotten to the deliberations yet so?

17 MR. DEVERGER: I was under the impression that RR
18 conclude that information in the exhibit where we
19 described that the context of the neighborhood on the
20 majority of the Lots were 18 and 17 foot wide. I
21 thought he included like two bullets in there. I may
22 be mistaken, I know that he and I had conversations

1 about it. I know that one of the main reasons was the
2 existing context of the neighborhood then going to a
3 width below 17 would force us then to push the house
4 back, deeper in the lot. Which would again be out of
5 context and actually made encroach us on asking for
6 relief from rear yard setback.

7 MR. MILLER: Okay, well, I missed that part of it.
8 So, we don't have much time here to find it.

9 CHAIRMAN: We have plenty of time. I'm still
10 trying to get to Wednesday.

11 MR. MOY: Thursday.

12 CHAIRMAN: Thursday? And so you can submit that
13 into the record.

14 MR. DEVERGER: I know we definitely talked about
15 it, I know that he said he would include it in the
16 exhibit, but I don't have it in front of me right now.
17 But I thought I saw on the page that has the dots that
18 represent the widths of the existing homes. I believe
19 it was in that slide. Or that exhibit.

20 CHAIRMAN: Take your time commissioner Miller,
21 It's all right.

1 MR. MILLER: Well, I don't see it on the exhibit.
2 But, if you want to take a look at the exhibit. I'll
3 be happy to give it to you and if you can point it out
4 to me quickly.

5 CHAIRMAN: You have to speak into the microphone.
6 Then you're going to have to give it back to
7 Commissioner Miller.

8 MR. DEVERGER: Okay, well, I don't see it here it
9 looks like it may have been cut off. I believe it was
10 at the top of this page. But that is something that
11 we can provide into the record.

12 MR. MILLER: Yeah, that would be useful to have,
13 because that is what I wanted to have.

14 CHAIRMAN: Okay, I understand. That's all right.
15 We normally don't go out of order. Let's see what
16 happens at deliberation. But I would like those
17 submitted into the record if you can do that tonight,
18 first thing in the morning. Well, I guess we'll have
19 to see during the deliberations and if that is --

20 MR. MILLER: Could you state again, for the record
21 quickly Mr. DeVerger, what you say it verbally. We

1 don't have it on the exhibit. You say they would have
2 to encroach on the rear yard?

3 MR. DEVERGER: Absolutely, so the conversation
4 that we had were first that going below 17 would be
5 out of context with the neighborhood

6 MR. MILLER: I understand that part.

7 MR. DEVERGER: Secondly, it was that once we get
8 below 17, that forces us to reconfigure the restrooms
9 and things like that. Because now we are constricted
10 by the hallways, stairwell. Then that pushes the
11 building deeper and possibly forcing us to then
12 request relief from the rear yard setback.

13 MR. MILLER: And the only adjacent neighbor that
14 you had supporting you is the guy in the rear.

15 MR. DEVERGER: In the rear.

16 MR. MILLER: He might be upset about it.

17 MS. WHITE: He had a narrow house? Right?

18 MR. MILLER: Yeah. But he has the alley back
19 there, right?

20 MR. DEVERGER: Yeah, he is across the alley from
21 behind us. But right against the alley.

22 MR. MILLER: How far back?

1 MR. DEVERGER: From the rear yard.

2 MR. MILLER: So, whats the rear variety now? MR.

3 DEVERGER: Right now we have about 25 feet, I believe.

4 MR. MILLER: And how much would you have to go
5 back?

6 MR. DEVERGER: He didn't lay it out, but that was
7 just the initial conversation where we discussed
8 preparing the feedback to your question.

9 MR. MILLER: Okay. Thank you.

10 MR. DEVERGER: Yep.

11 CHAIRMAN: Okay, does the board have anything
12 else? Just before I move on since were going to keep
13 going I guess. Again, I know that the one neighbor
14 that was concerned about the windows. You all moved
15 the windows. And then also, there was an issue with
16 someone who was in the house with terms like their
17 particular health needs. Again, if this does get
18 approved, I just really want. I know that it was very
19 controversial, I know that there was a lot of
20 testimony provided that seemed as though there could
21 be a reason as to why you guys wouldn't want to be as
22 accommodating as I hope that you will be. I am just

1 being very straight forward, and I hope that you do
2 your best to work with those two neighbors. In
3 particularly, because one again was very concerned
4 about damage. The other was very concerned about the
5 privacy and the needs of somewhere there, particularly
6 during the construction and as such. Okay.

7 MR. DEVERGER: Yeah, I think we're going to do
8 what we can to work with the neighbors, and defiantly
9 accommodate them the best that we can. I mean, all a
10 long I don't think there has been any animosity
11 between us and the neighbors. I mean we've been
12 cordial between each other, and we have respected each
13 other's right to their opinions for protecting their
14 properties.

15 CHAIRMAN: Okay, all right. I am going to go
16 ahead, are we ready to deliberate?
17 Okay, I again, and we've spoken about this now. There
18 was a lot of controversy with this particular
19 application. We took a lot of testimony, and what I am
20 again kind of coming back to again is what I think are
21 -- what we are charged to do is if a lot is in need of
22 the relief, in order to make use of the lot. That's

1 what we're supposed to be here for. And I know that
2 the argument was that it is a really narrow lot, and
3 therefore it shouldn't be built on. I mean it is a
4 really narrow lot and therefore it needs a relief to
5 be built on.

6 And so, I feel confident that the people that are
7 going to do the construction are going to honor what
8 they said, and make sure if there is any damage that
9 the two immediate neighbors will be made whole through
10 this indemnification process and the construction
11 management agreement that has now been put in place on
12 the record. As well as I had stated before earlier.
13 Kind of the needs of one immediate neighbor in terms
14 of the health of one of their family members. Then
15 the need for privacy, so, I am in favor of this
16 application and would make a motion. But however, does
17 the board have any other further comments or
18 deliberations?

19 MR. HART: Only that I have also listened to the
20 testimony that we had last week, reading through the
21 various reports from the Office of Planning, as well
22 as the ANC report and understanding and also

1 appreciating the information that you provided. Now I
2 was actually able to get to it. It took me a little
3 bit. But understanding that the design that you are
4 proposing is actually pretty much in keeping with a
5 lot of the designs that are already going on in the
6 houses in the neighborhood. And I understand that
7 there are a lot of difficulties trying to deal with
8 that site.

9 I think that you have shown that there is a fairly
10 reasonable design that is - that tries to set back
11 from the side yards, or provide some sort of side
12 yard. Again, it's not ideal, but it is a fairly
13 narrow lot that you are having to try to deal with.
14 And I think with that I think I could support the
15 application as well.

16 CHAIRMAN: Speaking of Commissioner Millers
17 comments again about the home. I guess I think by it
18 going from, bringing it down to a 17 feet had given a
19 little bit more side yard relief, and I thought that
20 was a good suggestion on your part from the previous
21 testimony. I guess kind of my thoughts are another
22 foot. I don't know if another six inches, it makes it

1 a narrower home I suppose is where I kind of was in
2 terms of that discussion. But I do appreciate your
3 comment that has gotten us to a place where it is at
4 least a little bit bigger of a side yard. Does anyone
5 else have any other comments?

6 MR. MILLER: I don't disagree with anything that
7 you have said, or board member Hart. I want to see
8 this thought developed. But I might not be supportive
9 of the motion.

10 CHAIRMAN: Okay, then we'll see how it goes. I am
11 going to go ahead and well actually then well, I am
12 going to make a motion to approve application number
13 19386 of IREI and I ask for a second.

14 MR. HART: Seconded.

15 CHAIRMAN: Motion has been made and seconded. All
16 those in favor?

17 MR. HART: Aye.

18 CHAIRMAN: Aye.

19 MS. WHITE: Well, I will vote in favor of it
20 because it seems as though they are involved in
21 constant communication with the neighbors, and they
22 want to try to resolve the issue and indemnify them.

1 They revised the construction management agreement.
2 If they also provide them with copies of the
3 indemnification agreement I would definitely be in
4 favor of the motion.

5 CHAIRMAN: So, all those in favor Aye.

6 BOARD: Aye.

7 CHAIRMAN: All those opposed?

8 MR. MILLER: No.

9 CHAIRMAN: Mr. Moy, the motion passes.

10 MR. MOY: Staff would record the vote as three to
11 one to one. This is on the motion of Chairman Hill to
12 approve the applicant. Second the motion Vice-Chair
13 Hart. Also support Ms. White. Opposed is Mr. Miller.
14 We have a board seat vacant. The motion still carries.

15 CHAIRMAN: And I think it's a full order?

16 MR. MOY: It's a full order.

17 CHAIRMAN: All right. Thank you. Well, gentleman,
18 thank you for sitting around.

19 CHAIRMAN: Mr. Moy, do we have any other business
20 before the board?

21 MR. MOY: No.

22 CHAIRMAN: We stand adjourned.

1 This concludes the hearings at 11:40 p.m.

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