

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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PUBLIC MEETING

+ + + + +

WEDNESDAY

OCTOBER 25, 2017

+ + + + +

The Regular Public Hearing convened in the Jerrily R. Kress Memorial Hearing Room, Room 220 South, 441 4th Street, N.W., Washington, D.C., 20001, pursuant to notice at 9:30 a.m., Frederick Hill, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

FREDERICK L. HILL, Chair
CARLTON HART, Vice Chair
LESYLLEÉ M. WHITE, Board Member

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

CHRISTOPHER COHEN, ESQ.

The transcript constitutes the minutes from the Public Meeting held on October 25, 2017.

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

WELCOME:

Frederick Hill 3

PRELIMINARY MATTERS:

Meeting and Hearing Session Applications Rescheduled for
dates in November 6

TARA GUELG AND YURI HOWITZ:

APPLICATION NO. 19548 - ANC - 2E06: 8

For Decision

VOTE TO APPROVE 19548 (3-1-1): 16

GWC RESIDENTIAL LLC

APPLICATION NO. 19570 - ANC - 6B01: 17

For Decision

VOTE TO APPROVE 19570 (4-0-1): 22

1469 FLORIDA AVENUE:

APPLICATION NO. 19594 - ANC - 1B05: 23

For Decision

VOTE TO APPROVE 19594 (4-0-1): 29

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

9:42 a.m.

1
2
3 CHAIRPERSON HILL: All right. The hearing will
4 please come to order.

5 Morning, ladies and gentlemen. We are located in
6 the Jerrily R. Kress Memorial Hearing Room at 441 4th Street,
7 N.W. This is the October 25th public hearing of the Board
8 of Zoning Adjustment, District of Columbia. My name is Fred
9 Hill, Chairperson. Joining me today is Carlton Hart, Vice
10 Chair, Lesyllee White, Board Member. And representing the
11 Zoning Commission we have some absentee ballots for some
12 decisions that are going to be moving forward during the day.

13 Copies of today's hearing agenda are available to
14 you and are located in the wall bin near the door.

15 Please be advised that this proceeding is being
16 recorded by a court reporter and is also web cast live.
17 Accordingly, we must ask you to refrain from any disruptive
18 noises or actions in the hearing room.

19 When presenting information to the Board, please
20 turn on and speak into the microphone, first stating your
21 name and home address. When you're finished speaking, please
22 turn your microphone off so that your microphone is no longer
23 picking up sound or background noise.

24 All persons planning to testify in favor or in
25 opposition must have raised their hand and been sworn in by

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1 the Secretary. Also each witness must fill out two witness
2 cards. These cards are located on the table near the door
3 and on the witness table. Upon coming forward to speak to
4 the Board, please give both cards to the reporter sitting at
5 the table to my right.

6 If you wish to file written testimony or
7 additional supporting documents today, please submit one
8 original and 12 copies to the Secretary for distribution.
9 If you do not have the requisite number of copies, you can
10 reproduce copies on an office printer in the Office of Zoning
11 located across the hall.

12 The order of procedures for special exceptions and
13 variances as well as appeals is also located in the bin as
14 you walk into the door.

15 The decision of the Board in cases -- oh, I'm
16 sorry, the record shall be closed at the conclusion of each
17 case except for any material specifically requested by the
18 Board. The Board and the staff will specify at the end of
19 the hearing exactly what is expected and the date when the
20 persons must submit the evidence to the Office of Zoning.
21 After the record is closed no other information shall be
22 accepted by the Board.

23 The District of Columbia Administrative Procedures
24 Act requires that the public hearing on each case be held in
25 the open before the public pursuant to Section 405(b) and 406

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1 of that Act. The Board may, consistent with its rules of
2 procedure and the Act, enter into a closed meeting on a case
3 for purposes of seeking legal counsel on a case pursuant to
4 D.C. Official Code Section 2-575(b)(4) and/or deliberating
5 on a case pursuant to D.C. Official Code 2-575(b)(13), but
6 only after providing the necessary public notice and in the
7 case of an emergency closed meeting after taking a roll call
8 vote.

9 The decision of the Board in cases must be based
10 exclusively on the public record. To avoid any appearance
11 to the contrary, the Board requests that persons present not
12 engage the Members on the Board in conversation.

13 Please turn off all beepers and cell phones at
14 this time so as not to disrupt the proceedings.

15 Preliminary matters are those which relate to
16 whether a case will or should be heard today such as requests
17 for a postponement, continuance or withdrawal or whether
18 proper and adequate notice of the hearing has been given.
19 If you're not prepared to go forward with a case today or if
20 you believe that the Board should not proceed, now is the
21 time to raise such a matter.

22 Mr. Secretary, do we have any preliminary matters?

23 SECRETARY MOY: Good morning, Mr. Chairman,
24 Members of the Board. I do with regards for the record
25 application cases that with regard to today's docket as well

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1 as preliminary matters which would suggest that the Board
2 take up when a case is called.

3 But first, for the decision meeting session there
4 are two case applications that have been rescheduled. The
5 first one is application No. 19612 of Elizabeth Boison, B-O-
6 I-S-O-N, has been rescheduled for a decision to November 8th,
7 2017, and the application of 18878 of Alba 12th Street LLC;
8 this is a remand, has been rescheduled to November 1st, 2017.

9 While I have the microphone I'll go into the case
10 applications on the hearing session that have been
11 rescheduled. We have one, two, three, four, four case
12 applications rescheduled from today to November 8th, 2017.
13 These are application Nos. 19609, 19610, 19600, 19601.

14 We have two case applications rescheduled to
15 November 1st, 2017, which is next week. These two cases are
16 application No. 19608 of Jonathan Meyer and Phillip Lawrence,
17 and 19602 of Max Salas, rescheduled also to November 1st,
18 2017.

19 Finally, two case applications rescheduled to
20 November 15th, 2017. These cases are 19572 of SIM
21 Development LLC and 19564 of Tammika Thompson, both
22 rescheduled to November 15, 2017.

23 And I believe that's it from the staff, Mr.
24 Chairman.

25 CHAIRPERSON HILL: Okay. Thank you, Mr. Moy.

1 If anyone's here wishing to testify, if you would
2 please take the stand and take the oath that's going to be
3 administered by the Secretary?

4 SECRETARY MOY: Good morning. Do you solemnly
5 swear or affirm that the testimony you're about to present
6 in this proceeding is the truth, the whole truth and nothing
7 but the truth?

8 THE WITNESSES: I do.

9 SECRETARY MOY: Thank you. You may consider
10 yourselves under oath.

11 CHAIRPERSON HILL: Actually, sir, I'm sorry, we've
12 started the hearing. I suppose if you want to you can go
13 over and just ask a question of the Secretary. I have to
14 arrange some papers, so we'll just hang out here for a
15 second.

16 (Pause.)

17 CHAIRPERSON HILL: Okay. Also while that is going
18 on. So we're going to go -- just to let everyone know, we
19 are going to go in order to the agendas that are in the bin
20 there, so nothing's changed in terms of the orders of the
21 decisions or the hearings that are proceeding forward.

22 (Pause.)

23 CHAIRPERSON HILL: Okay. So actually, sir, we're
24 going to go ahead and get started. And then -- and just
25 we'll have -- there will probably be a break here in between

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1 the hearing and the meetings and then you'll be able to come
2 back out and talk with the Secretary.

3 SECRETARY MOY: Sorry, Mr. Chairman.

4 CHAIRPERSON HILL: That's all right. No, you're
5 okay.

6 So all right, let's see. So, Mr. Moy, if you want
7 to go ahead and get started?

8 SECRETARY MOY: Yes, sir. I believe the first
9 case for decision before the Board is Application No. 19548
10 of Tara Guelig and Yuri Howitz.

11 As the Board is aware, the Board continued its
12 decision meeting from October 18th, 2017 to today, October
13 25th with a request for additional information into the
14 record. And those filings are in the record file, Mr.
15 Chairman, from the Applicant as well as the opposition party.

16 We also have as a preliminary matter from the
17 Applicant, which was submitted late yesterday, a motion to
18 strike from the Applicant and a corresponding response
19 objecting to the motion to strike from the party opposition.
20 So that's before the Board.

21 CHAIRPERSON HILL: Okay. Well, first we have to
22 just I guess discuss the motion to strike. Is the Board
23 ready to deliberate or discuss that motion?

24 (No audible response.)

25 CHAIRPERSON HILL: Okay. So, after looking at the

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1 filings as well as the response to the Applicant's revised
2 plans, I thought that I was not in support of the motion to
3 strike. I mean, they -- I think that what had been submitted
4 was what was based upon kind of the discussions from the
5 Board and that the response from the party in opposition was
6 -- I didn't have an issue with the response, so I'm just
7 going to deny the motion to strike from the record Exhibit
8 91 unless there's an issue.

9 MEMBER WHITE: No, I agree with you, Mr. Chairman.
10 I think at this point that's the appropriate thing to do.

11 CHAIRPERSON HILL: Okay. So we're going to hold
12 out here a second.

13 (Pause.)

14 CHAIRPERSON HILL: So, Mr. Moy, we have discussed
15 the motion to strike and have decided to deny the motion to
16 strike.

17 SECRETARY MOY: Yes, sir. Okay. Is that --
18 (Simultaneous speaking.)

19 CHAIRPERSON HILL: Do we need to make a motion?
20 (Simultaneous speaking.)

21 CHAIRPERSON HILL: So we have -- I didn't -- so
22 I'm making a motion to deny the motion to strike from the
23 record Exhibit 91 and ask for a second.

24 MEMBER WHITE: Second.

25 CHAIRPERSON HILL: The motion has been made and

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1 seconded. All those in favor?

2 (Chorus of aye.)

3 CHAIRPERSON HILL: All those opposed?

4 (No audible response.)

5 CHAIRPERSON HILL: So I always get confused as to
6 what I -- we can do consensus and what turns into a motion.
7 And had I gone to law school that would have been easier for
8 me.

9 SECRETARY MOY: No, this is the appropriate
10 procedure, Mr. Chairman.

11 I do have an absentee ballot from Mr. Michael
12 Turnbull.

13 CHAIRPERSON HILL: On the motion to strike?

14 SECRETARY MOY: Well, he had reviewed the
15 record --

16 CHAIRPERSON HILL: Okay.

17 SECRETARY MOY: -- but for -- out of an abundance
18 of caution we'll move with how the Board just voted.

19 CHAIRPERSON HILL: Okay.

20 SECRETARY MOY: So I record the vote as 3 to 0 to
21 2.

22 CHAIRPERSON HILL: Okay.

23 SECRETARY MOY: Motion passes.

24 CHAIRPERSON HILL: Thank you, Mr. Moy.

25 All right. So now we're onto deliberations.

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1 Okay? Yes, is the Board ready to deliberate?

2 VICE CHAIRPERSON HART: Sure.

3 CHAIRPERSON HILL: Okay.

4 VICE CHAIRPERSON HART: Mr. Chairman, I -- I've
5 -- and read through the record and the additional filings
6 that the Applicant has proposed as well as the letters --
7 letter, excuse me, from the opposition party. And after
8 reviewing the proposed plans that actually call for something
9 that Commissioner Turnbull had requested, which was to kind
10 of shrink back the -- or reduce the size of the bay door that
11 was in the rear of the building so that it was flush with the
12 I guess setback or -- not setback, the wall -- the rear wall
13 of the proposed addition; so those are kind of now flush, I
14 see that as being a positive thing. I think that it is also
15 trying to reduce that -- the size if the building.

16 I was and have been in support of the application
17 as it was proposed originally and I continue to be in support
18 of it. I think that what is being proposed is a reasonable
19 sized room for the -- an addition for the building. It is,
20 as I said previously, a fairly narrow lot, and that lot width
21 will only allow you to make the addition in the rear a
22 certain size. And the reason that is is if you shrink that
23 addition on the rear, the master bedroom that is being
24 proposed would become, in my estimation, a fairly small room
25 and in some ways not really that usable or viable for the

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1 Applicant.

2 I felt that they provided sufficient information
3 as to how they would -- how they addressed the criteria that
4 are in the Zoning Regulations. And I understand that the
5 opposition party has submitted some information regarding an
6 additional relief that was -- that the opposition party felt
7 was maybe necessary. This is a -- as the Applicant's counsel
8 has mentioned and noted, this is a self-certified application
9 and if they do need additional relief, that they will have
10 to come to us at some point in the future.

11 So right now what we're looking at is I think a
12 reasonable addition to the project and to this building, to
13 this house, and I would be -- and I am -- continue to support
14 the application as filed and appreciate the Applicant's
15 willingness to make changes to address Commissioner
16 Turnbull's comments that he made at the previous meeting.
17 And that -- those are the comments that I have right now.

18 MEMBER WHITE: Thank you, Mr. Chairman. Last week
19 when I first spoke about the case, I was leaning -- obviously
20 based on my comments I was leaning towards approving the
21 application, but Mr. Turnbull had pointed out some things
22 that he wanted to see. And I think based upon the revisions
23 that the Applicant made that were resubmitted as part of the
24 record I've taken another close look at the revised plans
25 that were submitted.

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1 So again, looking at the record and the criteria
2 for meeting the special exception I believe -- and I concur
3 with Mr. Hart that I believe that the criteria under the
4 regulation was met for a special exception.

5 This is a very contentious case. It's always a
6 little uncomfortable when neighbors have disagreements about
7 changes that they want to make to their real estate, and I'm
8 very sensitive to that. But I paid particular attention to
9 Ms. Shafer's comments because she was an adjacent neighbor
10 that was directly impacted by all of this and -- but looking
11 at the criteria for special exception for the rear yard
12 requirements, I found that her light and air was impacted,
13 but I didn't find that it was unduly impacted under the
14 regulation.

15 And I also found that there were some privacy
16 issues as well because there's going to be a structure there
17 that wasn't there before. So obviously it has a direct
18 impact with respect to what she would like to see, but I was
19 convinced that some of the compromises that the Applicant
20 made to respond to Mr. Turnbull's concerns -- I felt as
21 though that they did make a compromise there with respect to
22 the relief that they were seeking.

23 So, Mr. Chairman, at this point I would support
24 this application as well.

25 CHAIRPERSON HILL: Okay. Great. Thanks.

1 So we had this deliberation last week. There was
2 some comments during the deliberation again that came from
3 the Board and there has been some changes made to the
4 Applicant based upon those discussions. I was really, again,
5 as I said last week as well, just kind of torn on the
6 application, and the fact that the ANC actually didn't even
7 -- they were also torn on the application, and that makes me
8 feel a little bit that it wasn't that easy.

9 And I don't think that from the discussions that
10 we had either last week or this week that we think that it
11 was necessarily an easy thing to think through, again
12 primarily because of just the regulation and kind of what --
13 it was hanging on the unduly affected nature of light and
14 air. And again, the opposition had strong feelings about
15 that as well as other neighbors in the area.

16 I wasn't that taken by the arguments from the
17 neighbors to the rear, however, again, obviously the adjacent
18 neighbor there was a lot of concern about -- from her side
19 in terms of the light and air and the unduly nature of the
20 build-out.

21 The part that I again continue to kind of struggle
22 with; and I just want to kind of talk it through a little bit
23 with us because this might come up again, is that the whole
24 10 feet beyond the adjacent property, this was already kind
25 of nonconforming to the -- it was already 10 feet plus to

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1 begin with, so it was like -- then the property owner who
2 owned the property wouldn't be able to build anything beyond
3 that because it was already nonconforming.

4 I guess that's the part of the regulation that I
5 find a little bit confusing. It was already beyond 10 feet
6 beyond the neighbor's property.

7 And so, I did also think about the fact that there
8 was the adjacent lot that was an empty lot that -- and then
9 the -- a lot next to that was also as far back, or much
10 further back even than what the Applicant was trying to do.

11 However, even from last week -- and so, just --
12 I went back and forth with it. I looked a lot on the new
13 changes, but still the fact that the way the regulation was
14 set up so that this was a special exception that the -- and
15 it's -- each case is different, but this one again was one
16 where I just had a harder time coming to like the unduly
17 affected side in terms of the neighbors. Now I don't know
18 whether -- however I would vote in a different case, but this
19 how it went down for me in this particular one.

20 So I'm still where I was before and we'll see what
21 happens now with this. If somebody wants to make a motion?

22 VICE CHAIRPERSON HART: Yes, I guess I'll be
23 making the motion at this point to approve Application No.
24 19548 of Tara Guelig and Yuri Howitz as read by the
25 Secretary.

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1 MEMBER WHITE: Second.

2 CHAIRPERSON HILL: Motion made and seconded. All
3 those in favor?

4 (Chorus of aye.)

5 CHAIRPERSON HILL: All those opposed? Nay.

6 SECRETARY MOY: Before I record the vote, Mr.
7 Chairman, as I said earlier I'm in receipt of an absentee
8 ballot from Michael Turnbull, and his absentee vote is to
9 approve the application with such conditions as the Board may
10 impose.

11 I'd like to read into the record his comments, if
12 I may, Mr. Chairman.

13 CHAIRPERSON HILL: Please, please.

14 SECRETARY MOY: This is very brief. He writes,
15 the Applicant has modified the plans to the rear addition
16 significantly from the time of the original submission.
17 Although there is still an impact to the neighbor next door,
18 the Applicant has made a genuine attempt to meet with
19 neighbors and address their concerns. The addition now
20 represents a design that I can support, end quote.

21 So I would read the vote as 3 to 1 to 1. This is
22 on your motion, Vice Chair Hart, to approve the application
23 for the relief requested. Seconded the motion, Ms. White.
24 Also in support of the motion, Mr. Turnbull. Chairman Hill
25 is opposed to the motion. We have a Board seat vacant, but

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1 the motion carries.

2 CHAIRPERSON HILL: All right. And it's a full
3 order, right?

4 SECRETARY MOY: Yes, sir.

5 CHAIRPERSON HILL: Okay. So full order, Mr. Moy.
6 And again, just I empathize with everyone who has
7 to -- had to go through all of this, but -- okay.

8 SECRETARY MOY: All right. I believe, Mr. Chair,
9 the next case application for a decision is GWC Residential
10 LLC. This is caption advertised for area variance from the
11 lot area requirements of Subtitle E, Section 201.4 to
12 construct an additional apartment in an existing 12-unit
13 apartment house in an RF-3 Zone at premises 220 2nd Street,
14 S.E., Square 762, Lot 8.

15 As the Board will recall, this application was
16 heard at a hearing date on September 27th, 2017 and the Board
17 went through its hearing procedures, closed the record,
18 requested additional information and scheduled its decision
19 for today, October 25th.

20 CHAIRPERSON HILL: Okay. Is the Board ready to
21 deliberate?

22 (No audible response.)

23 CHAIRPERSON HILL: Okay. All right. Let's see.
24 Okay. So we had a really full hearing on this as the Board
25 will recall and there was a -- and we granted party status

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1 in opposition. And there was a lot of discussion about a
2 construction management plan between the Applicant and the
3 party in opposition.

4 And as I recall during the -- at the beginning of
5 the hearing it seemed as though there was discussion again
6 that there was a construction management plan that it had
7 changed quite a bit and that we had hoped that the Applicant
8 and the opposition -- party in opposition could get together,
9 because I was just a little confused with the construction
10 management plan.

11 Again, this goes above and beyond what we look at
12 and the criteria that we look at in terms of determining
13 whether or not something is meeting the standard to approve
14 or deny.

15 So we had the full hearing and received the
16 testimony that we took from the Office of Planning and
17 looking at the ANC in terms of what their concerns and
18 thoughts were as to how again the standard was met, or at
19 least -- I'm sorry, the Office of Planning how the standard
20 was met. And then in addition there was like a letter in
21 support from an adjacent neighbor.

22 But back to the issues with the party status in
23 opposition, it seems as though they were unable to come to
24 an official CMP, but there was discussion about continued to
25 working together. I mean, the construction management plan,

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1 a lot of those issues are not within our purview, although
2 we do take them into consideration and hope that we're doing
3 our best to kind of like use the -- look at the standards in
4 which to -- within the regulation and which to, again as I
5 mentioned, approve or deny.

6 So I was able to look back, go back again with the
7 Office of Planning's report and the ANC's report and reviewed
8 the case. And so I do think that the Applicant has met the
9 standard in order to approve this. There were some
10 conditions that I -- that the Applicant had agreed to before,
11 which were that the trash receptacle shall be stored within
12 the building, that trash shall be taken out through the front
13 door of the building and the Applicant will schedule trash
14 pickup three times a week. And those were things that were
15 going to be added in as conditions.

16 If we were to actually approve this, depending
17 upon how this discussion goes, I would continue to ask the
18 Applicant to work with the party in opposition so that as
19 best as possible alleviate their anxiety or concerns about
20 the construction.

21 Does the Board have any comments?

22 MEMBER WHITE: Yes, Mr. Chairman. I concur
23 essentially with what you said. I think that they did meet
24 the area variance criteria. What they're trying to do is
25 construct an additional apartment in an existing 12-unit

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1 apartment house that's located on 220 2nd Street, S.E.

2 So after reviewing the record I think they met the
3 criteria. They're going to be constructing this additional
4 apartment in the basement level of this 3-story, 12-unit
5 apartment house. So this basement level apartment apparently
6 used to be the laundry room. And so that space is no longer
7 going to be utilized for that purpose because laundry
8 facilities are now in every unit. So there are no external
9 alternations that are going to be happening in the building,
10 so I think that was also supportive of their case, too.

11 The one question that I had was looking at the
12 concerns raised by the ANC. If we were to grant the relief,
13 the question is whether or not we could add a condition that
14 trash be stored indoors instead of outdoors. I don't know
15 if that's something that we should discuss, or if that's
16 something that they've definitely agreed to do. But that
17 appears to be something that was really raised as an
18 important issue because of some of the concerns.

19 Even the party that was granted status for this
20 particular case, Peter Waldron, he had some concerns about
21 rodents and construction and things like that. So I think
22 the whole indoor trash issue, even though there's no formal
23 construction management plan -- but I think the indoor trash
24 issue is more of an ongoing thing and not just related to the
25 construction.

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1 But I think just in terms of the criteria for a
2 variance if they're able to satisfy that particular
3 condition, I believe that they are not going to create any
4 kind of detriment to the public good. It's not going to
5 substantially harm the Zoning Regulations. And I think that
6 they've presented kind of an exceptional situation that
7 justifies them being able to utilize the space as an
8 additional apartment.

9 CHAIRPERSON HILL: Okay. Thank you, Ms. White.

10 VICE CHAIRPERSON HART: Yes, the only part that
11 I would add is; I would concur with my colleagues, I think
12 that the Applicant has provided sufficient information to
13 justify why the three prongs have been -- of the variance
14 relief have been met.

15 I think -- I agree with the Office of Planning's
16 report regarding the project and understand that conditions
17 that we require are -- it would be helpful if the Applicant
18 were to be okay with them, but we're requiring them because
19 we think that they are necessary as part of the Zoning -- the
20 regulations. So they're something that we were -- we would
21 be imposing on them. I -- whether or not they like them is
22 somewhat irrelevant, but I would agree with you that it's
23 always helpful because then we know that they have some
24 concurrence and they are likely to be following forward --
25 through with them.

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1 I don't doubt that they will be following through
2 with these. I think that they are definitely in favor of
3 these, so again, I don't have an issue with the application.
4 I would be in support of it. Thank you.

5 CHAIRPERSON HILL: Okay. Great.

6 So then again with that, I would take again Board
7 Member White's comments into account here as we read into the
8 conditions that I had mentioned before, and I'll read them
9 again, that the conditions that: (1) the trash receptacle
10 shall be stored within the building; (2) trash shall be taken
11 out through the front of the building; (3) the Applicant will
12 schedule trash pickup for three times a week.

13 With those conditions I'll make a motion to
14 approve Application No. 19570 as read by the Secretary.

15 VICE CHAIRPERSON HART: Seconded.

16 CHAIRPERSON HILL: Motion is made and seconded.

17 All those in favor?

18 (Chorus of aye.)

19 CHAIRPERSON HILL: All those opposed?

20 (No audible response.)

21 CHAIRPERSON HILL: Motion passes. Mr. Moy?

22 SECRETARY MOY: Before I read the final vote, Mr.
23 Chairman, I also have an absentee ballot from Michael
24 Turnbull who participated on this application, and -- I'm
25 sorry, Mr. Anthony Hood, who participated on this

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1 application, and his absentee vote is to approve with such
2 conditions as the Board may impose.

3 So that would give a final vote of 4-0-1. This
4 is on the motion of Chairman Hill to approve the application
5 with the three conditions as he has cited into the recorded.
6 Seconded the motion, Vice Chair Hart. Also in support Ms.
7 White and of course Mr. Hood. We have a Board seat vacant.
8 The motion carries.

9 CHAIRPERSON HILL: All right. Great. Thank you.

10 SECRETARY MOY: Full order.

11 CHAIRPERSON HILL: Full order. Thank you.

12 And then again, right, as I had mentioned, it
13 would be good if the Applicant could work with the party
14 status in opposition, try to again alleviate any anxieties
15 that might be concerns they might have from the
16 constructions.

17 And then we're ready to go on the next one
18 whenever you are, Mr. Moy.

19 SECRETARY MOY: Thank you, Mr. Chairman. The last
20 case application for decision making is Application No. 19594
21 of 1469 Florida Avenue. This application is a request for
22 a special exception under Subtitle F, Section 5201 from the
23 rear yard requirements of Subtitle F, section 305.1, to
24 construct an eight-unit rear addition to an existing three-
25 unit apartment house. This is an RA-2 Zone at premises 1469

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1 Florida Avenue, N.W., Square 26 -- 2660, Lot 864.

2 CHAIRPERSON HILL: Great. Is the Board ready to
3 deliberate?

4 (No audible response.)

5 CHAIRPERSON HILL: Okay. As we will recall, or
6 as you recall, at the September 27th hearing we heard
7 testimony in support of the application from ANC Commissioner
8 Ackerman and testimony from a neighbor indicating that he was
9 previously in opposition but neither supported nor opposed
10 the project.

11 We completed our hearing and then asked for final
12 drawings showing the planned revisions discussed,
13 clarification on deck lighting, trash and materials, email
14 from owner of Late 849, agreement from adjacent neighbor
15 regarding the wall and sound mitigation and HBR concept
16 approvals decisions.

17 We did get all of those except for an actual
18 agreement, but the emails -- the email chain seems to
19 indicate that there would be an agreement reached, and I
20 would agree with that based upon the email chain.

21 I thought that it was a very interesting project.
22 I mean, I -- just in terms of -- I mean, I just thought it
23 was an interesting project. And I thought it was an
24 interesting design. It was like backed up against that hill.
25 It made it so a lot of the light and air issues were going

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1 to be addressed just because there was a hill behind them.

2 But I was also in agreement with the analysis that
3 the Office of Planning had provided. They did have a
4 condition which I don't know whether we -- I don't know what
5 the Board thinks about the condition, but the Applicant shall
6 have flexibility to make minor changes to the final design
7 of the project in response to requests or instructions from
8 the Historic Preservation Office and/or the Historic
9 Preservation Review Board.

10 I mean, do we need that as a -- I'm just kind of
11 -- OAG, do we need that as a condition?

12 MR. COHEN: That's up to the Board --

13 CHAIRPERSON HILL: Okay.

14 MR. COHEN: -- if it's related to the Zoning Regs.

15 CHAIRPERSON HILL: Okay. All right. So I don't
16 have a problem putting it in as a condition, I guess. I
17 mean, it seems pretty self-explanatory though in terms of --
18 but, yes, they'd have minor -- they would be able to have
19 flexibility for the minor changes, so I would read that as
20 a condition. The Applicant shall have flexibility to make
21 minor changes to the final design of the project in response
22 to requests or instructions from the Historic Preservation
23 Office and/or the Historic Preservation Review Board.

24 So again, as far as my deliberations, I do think
25 that the standards and the criteria have been met. I do

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1 appreciate the analysis of the Office of Planning. I was
2 also glad to see again just them working with the neighbor,
3 particularly the one adjacent, that they pushed back that
4 railing and you can now see that the railing had been pushed
5 back on the drawings so that they couldn't look over into the
6 adjacent neighbor's property.

7 So I'd be in favor of this. Does anyone have any
8 other further thoughts or comments?

9 VICE CHAIRPERSON HART: Just that, Mr. Chairman,
10 I would concur that I do appreciate the Applicant's responses
11 to the concerns and questions I guess we raised at our last
12 meeting and would be in support of the application.

13 In looking at some of the plans I understand that
14 they have very limited space to put in -- I guess there was
15 a conversation we had about where the trash was going to be
16 located, and I appreciate them actually adding that in
17 because it's helpful to kind of see this. It is a very
18 confined area and I know that that's hard for them to be able
19 to put the trash in an area that is not so out in the open.
20 And it just seems like that's the one thing that I would have
21 liked for them to have kind of dealt with.

22 I'm not going to -- I would still be in approval
23 of the project. I would just continue to see if they could
24 -- or I would like for them to continue to think about where
25 that -- the trash in this case would be located. I'm not

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1 exactly sure if it's right there or if -- I don't know. I'm
2 just -- it's somewhat of an issue for me.

3 And I think that they've done a good job in
4 identifying where all this -- these different pieces are
5 going to go. I like what they are proposing for the roof and
6 the information that they've again submitted since we last
7 met. And I'll leave it at that. Again, I'm still in -- I
8 am in support of it. I would just ask them to kind of
9 continue to think about where that trash is -- storage is
10 located.

11 MEMBER WHITE: I basically agree with your
12 comments. I'll try not to be too repetitive.

13 One question that I had last week is I actually
14 wanted to proof that the other adjacent neighbor was able to
15 weigh in on her opinions and concerns about the project. And
16 based upon reading the record I'm comfortable. Even though
17 it's not an agreement, as Mr. Hill mentioned, there is an
18 email chain that indicates that the Applicant's attorney is
19 going to begin to have some discussions to be able to execute
20 some type of an agreement to address her concerns.

21 But I did have one question, and maybe you could
22 just kind of help me with this. I'm basically in support,
23 but there was one question that came up about the penthouse.
24 One of the items that Office of Planning mentioned was that
25 they were recommending that the -- each side of each wall of

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1 the penthouse would have to be the same dimensions, if I'm
2 not mistaken, the roof line as far as it would have to be
3 uniform height as required by the roof line. And that -- and
4 the proposal as I'm reading it right now it seems to have
5 varying heights. So I would just ask for some discussion
6 with respect to that because I wasn't quite clear on that.

7 VICE CHAIRPERSON HART: Yes, I mean, I think that
8 the Applicant, if they are not adhering to -- I think that
9 they would have to come back to us if this was something that
10 they are not meeting the Zoning Regulations, and that's up
11 to them to kind of make that decision and move forward with
12 what they feel is the relief that is necessary. I understand
13 the OP has brought that issue up, but --

14 MEMBER WHITE: Yes.

15 VICE CHAIRPERSON HART: -- it is their -- is the
16 Applicant's responsibility to kind of bring that forward.
17 Similar to a case -- the first case that we heard today --

18 MEMBER WHITE: Yes.

19 VICE CHAIRPERSON HART: -- the Applicant is --
20 self-certification is what it is.

21 MEMBER WHITE: Right.

22 VICE CHAIRPERSON HART: It's you are saying that
23 this is what you believe is the required relief or --

24 MEMBER WHITE: Yes.

25 CHAIRPERSON HILL: -- the needed relief.

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1 MEMBER WHITE: Right, but that relief would not
2 need to be included in the event we approve the application.

3 VICE CHAIRPERSON HART: If --

4 MEMBER WHITE: That relief would not need to be
5 included in the order?

6 VICE CHAIRPERSON HART: If we -- we are deciding
7 upon the relief that they have set forward. If that relief
8 is not -- if more relief is required of them, they will have
9 to come back to us. So it's --

10 MEMBER WHITE: Okay.

11 VICE CHAIRPERSON HART: -- up to them to kind of
12 make that determination. And right now that's where we are.

13 MEMBER WHITE: Okay.

14 CHAIRPERSON HILL: Okay. Great. All right. Well
15 with that then, I'll go ahead and make a motion to approve
16 Application No. 19594 as read by the Secretary and including
17 the condition that I read into the record.

18 VICE CHAIRPERSON HART: Seconded.

19 CHAIRPERSON HILL: Motion made and seconded. All
20 those in favor?

21 (Chorus of aye.)

22 CHAIRPERSON HILL: All those opposed?

23 (No audible response.)

24 CHAIRPERSON HILL: Motion passes. Mr. Moy?

25 SECRETARY MOY: Before I read the final vote, Mr.

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1 Chairman, we have another -- I have an absentee ballot from
2 Mr. Michael Turnbull who participated, and his absentee vote
3 is to approve with such conditions as the Board may impose.

4 He has written brief words I'd like to read into
5 the record, if I may.

6 He writes, quote, the additional documents that
7 were requested by the Board have been received: updated
8 plans, HPRB approval and neighbor emails. I have no issues
9 with the project and can support approval, end quote.

10 So that would give a final vote of 4 to 0 to 1.
11 This is on the motion of Chairman Hill to approve the
12 application with the one condition as he cited? Correct?

13 (No audible response.)

14 Seconded the motion, Vice Chair Hart. Also in
15 support Ms. White and of course Mr. Turnbull. The motion
16 carries.

17 CHAIRPERSON HILL: All right. Just real quick,
18 as he cited again. When you say the --

19 SECRETARY MOY: You read into the record --

20 CHAIRPERSON HILL: As I cited?

21 SECRETARY MOY: -- the one condition --

22 CHAIRPERSON HILL: The condition I cited, yes.

23 SECRETARY MOY: -- and put -- because I know that
24 there were other concerns that were raised by the other two
25 Board Members.

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1 CHAIRPERSON HILL: Sure. Sure, the condition was,
2 just to be clear again, the Applicant shall have flexibility
3 to make minor changes to the final design of the project in
4 response to requests or instructions from the Historic
5 Preservation Office and/or the Historic Preservation Review
6 Board.

7 SECRETARY MOY: Period.

8 CHAIRPERSON HILL: Okay.

9 SECRETARY MOY: Thank you, sir.

10 CHAIRPERSON HILL: Okay. So the motion passes.

11 Mr. Moy? Yes. Summary order?

12 SECRETARY MOY: Yes, sir. Thank you.

13 (Whereupon, the hearing was concluded at 10:26
14 a.m.)

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C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: Public Meeting

Before: DCBZA

Date: 10-25-17

Place: Washington, DC

was duly recorded and accurately transcribed under my direction; further, that said transcript is a true and accurate record of the proceedings.



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