

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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PUBLIC MEETING

+ + + + +

WEDNESDAY

JUNE 20, 2018

+ + + + +

The Regular Public Meeting 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, Chairperson
- LESYLLEE M. WHITE, Board Member
- CARLTON HART, Vice Chairperson (NCPC)
- LORNA JOHN, Board Member

ZONING COMMISSION MEMBER PRESENT:

- ANTHONY HOOD, ZC Chair

OFFICE OF ZONING STAFF PRESENT:

- CLIFFORD MOY, Secretary

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

- HILLARY LOVICK, ESQ.

The transcript constitutes the minutes from the Public Meeting held on June 20, 2018.

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

Case No. 19762  
Application of AMT-Varnum, LLC . . . . . 4

Case No. 19713  
Appeal of Isabelle Thabault . . . . . 14

Adjourn . . . . . 23

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

9:47 a.m.

1  
2  
3 ZC CHAIR HOOD: If anyone is here who wishes to  
4 testify, if you could please stand and take the oath  
5 administered by the secretary to my left.

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

10 ALL: I do.

11 SECRETARY MOY: Ladies and gentlemen, you may  
12 consider yourselves under oath.

13 CHAIRPERSON HILL: Okay. Let's see. So, Mr. Moy  
14 -- oh, okay. So we're going to follow the order basically  
15 in terms of the agenda, so if you -- whatever the agenda says  
16 over there, that's the order we're going to go in.

17 ZC CHAIR HOOD: Excuse me, Mr. Chairman.

18 CHAIRPERSON HILL: Yes, of course.

19 ZC CHAIR HOOD: I think -- I noticed that someone  
20 wanted to stand in order to take the oath, so I don't if you  
21 want to do that or wait until later. Somebody did miss the  
22 oath even though they were sitting here. I don't want to  
23 expose them --

24 CHAIRPERSON HILL: Okay.

25 ZC CHAIR HOOD: -- but if they want to -- however

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1 you want to do that.

2 CHAIRPERSON HILL: So let's do this all together  
3 again so that we don't single the person out that didn't  
4 stand before. Let's all stand again so the person doesn't  
5 stand out. So everybody stand up and please raise your right  
6 hand and get administered by the secretary to the left.

7 SECRETARY MOY: Thank you, Mr. Chairman. That's  
8 very kind.

9 Okay. Once again, do you solemnly swear or affirm  
10 that the testimony you're about to present in this proceeding  
11 is the truth, the whole truth and nothing but the truth?

12 ALL: I do.

13 SECRETARY MOY: Thank you. You may be seated.

14 CHAIRPERSON HILL: Okay. Thank you all very much.

15 All right. So, Mr. Moy, you can call our first  
16 meeting case whenever you get a chance. Well, I thought --  
17 well, actually now I guess -- well, let's see which one you  
18 call first, I guess.

19 SECRETARY MOY: Okay. I think I got this.

20 Okay. I believe that would be Case Application  
21 No.; this is for decision making, 19762 of AMT-Varnum LLC.  
22 And reading for the record this application was captioned  
23 advertised for a special exception under the residential  
24 conversion requirements of Subtitle U, § 320.2, which would  
25 construct a three-story rear addition and convert an existing

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1 principal dwelling unit to a three-unit apartment house, RF-1  
2 Zone, at premises 1521 Varnum Street, N.W., Square 2698, Lot  
3 47.

4 This was heard by the Board convened on June 6th,  
5 2018 and scheduled for today's decision.

6 The preliminary matter on this application, Mr.  
7 Chairman, is that there was a filing from ANC 4 requesting  
8 that the Board delay its decision to a future date to allow  
9 the ANC to respond, so that motion is before the Board for  
10 its action.

11 CHAIRPERSON HILL: Okay. Is the Board ready to  
12 deliberate on the preliminary matter?

13 (No audible response.)

14 CHAIRPERSON HILL: Okay. So we just recently got  
15 in something from, let's see, ANC 4C requesting a time  
16 extension. The ANC is requesting an extension of time  
17 designed for our response until Thursday, July 12th. ANC 4C  
18 commissioners did not have sufficient time to review the  
19 material in advance of the June 13th meeting. They are  
20 requesting for our decision to be delayed until after their  
21 July 11th meeting so that they can comment publicly on the  
22 matter.

23 I -- well, I was a little torn on this actually  
24 to be quite honest, but I think that I don't know if --  
25 anyway, I don't necessarily know what things would change

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1 based upon the material that had gotten submitted in the  
2 record, however, I also don't want to do anything, out of an  
3 abundance of caution, that keeps the ANC from being able to  
4 participate. And so definitely we can hear their public  
5 comments on the matter prior to our decision.

6 So I guess I would also then now be inclined to  
7 grant the motion to delay our decision until after they have  
8 had a chance to meet and publicly comment on the new material  
9 that has been submitted into the record.

10 Does anyone have any thoughts?

11 MEMBER WHITE: Mr. Chair, I would agree with you.  
12 While I think the record is full, there were some additional  
13 filings that were made, but this is a case that is very  
14 contentious. The neighbors have provided some information  
15 for the record and the ANC has weighed in with some of the  
16 previous information that was in the record. So out of an  
17 abundance of caution I would concur that we give ANC 4C an  
18 opportunity to respond to the supplemental material that was  
19 submitted into the record.

20 VICE CHAIRPERSON HART: Mr. Chairman, while I  
21 understand the need to give the ANC some more time, I guess  
22 to look at it, the information that was provided was not --  
23 it was kind of a supplement to what we had already seen. It  
24 wasn't necessarily a different design. The ANC previously  
25 took a 10-0 vote to oppose. I'm just not sure what we're

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1 gaining for another month -- waiting for another month. It  
2 seems as though it's -- it would be one thing if we had  
3 gotten some information that was they're changing the design,  
4 they're building something up, they're -- something, but I  
5 just didn't see where that was necessarily happening.

6           What I thought we were getting was -- and which  
7 we got, were information that helped to kind of clarify where  
8 the building that was in the rear of the site was going to  
9 be located, but that was more of a plan to understand where  
10 that building that had already received the permit was going  
11 to be located.

12           So I just -- I'm just not sure if I am supportive  
13 of delaying this because I think that it's -- I just don't  
14 think there's going to be a difference in the decision that  
15 the ANC has already reached. It would be one thing if they  
16 were a split decision and there may be some folks that were  
17 kind of on the edge, but we're at 10-0 decision that was done  
18 -- what is that, Exhibit 36, which was the first ANC report  
19 on this. So that's my two cents.

20           CHAIRPERSON HILL: Okay. Yes, and I'm going to  
21 let other members chime in here now. I was also kind of torn  
22 about it. I guess the only thing that perhaps we could wait  
23 -- I don't think anything is going to change in terms of  
24 their opinion, but if there were additional comments that --  
25 and I don't even necessarily know if -- well, if there were

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1 additional comments that they were making that the Board  
2 could take a look at before the decision, that's the only  
3 thing that kind of -- that was in their letter. But I'm also  
4 prepared to discuss it now.

5 I guess, Ms. John, do you have a thought?

6 MEMBER JOHN: I'm in two minds about this, Mr.  
7 Chairman. I think there are good reasons on both sides, and  
8 I know this is not very decisive. On balance, I would allow  
9 the ANC to weigh in even though I think the record is fairly  
10 full, but because we're required to give great weight to the  
11 recommendations of the ANC to the extent that they are  
12 relevant to zoning matters, I would be inclined to allow the  
13 ANC to weigh in.

14 CHAIRPERSON HILL: Okay. All right. So then  
15 we'll just -- we'll postpone then.

16 VICE CHAIRPERSON HART: Can I add --

17 CHAIRPERSON HILL: Sure.

18 VICE CHAIRPERSON HART: -- one thing then? If we  
19 could then have -- I mean, I don't know how we get this, but  
20 is there a way to ask the ANC to provide some -- a little bit  
21 more guidance if they -- if we were to approve this? Right  
22 now we don't have any conditions or anything or the things  
23 that they might want to see. Right now we have -- they are  
24 just kind of in -- they are denying -- they want us to deny  
25 this application. So I just didn't know if that was helpful

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1 to be able to ask for something like that.

2 CHAIRPERSON HILL: I guess the secretary can reach  
3 out to the ANC and see if there's any clarification that they  
4 might be able to provide us other than just another no, if  
5 that's where -- I guess -- I mean, I guess we're just -- I  
6 hear what you're saying, Mr. Hart, and I guess the secretary  
7 can reach out to the ANC and see if there's any kind of  
8 clarity that can be provided due to your comments.

9 So that being the case, Mr. Moy, when could we  
10 postpone this after July 11th?

11 SECRETARY MOY: The next available date for the  
12 Board to reconvene a decision on this case would be July the  
13 18th. That's possible.

14 I wanted to also add on Vice-Chair Carlton Hart's  
15 comment, yes, that's doable, but deferring to our counsel at  
16 OAG that might entail providing the applicant an opportunity  
17 to respond to the ANC if you're directing guidance on certain  
18 additional information.

19 CHAIRPERSON HILL: Well, the applicant then -- and  
20 I -- we can turn to OAG and -- Mr. Vice-Chair --

21 ZC CHAIR HOOD: Mr. Chairman?

22 CHAIRPERSON HILL: -- I mean, Chairman Hood?

23 ZC CHAIR HOOD: I'm not actually on this case, but  
24 I do know that I switched with the Zoning Commission Member  
25 who's on this case. I'll be back on the 18th. If I could

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1 suggest, I think he's coming on the 25th. I think Mr.  
2 Moy --

3 CHAIRPERSON HILL: I see.

4 ZC CHAIR HOOD: MOY: So that way you'll have the  
5 commissioner --

6 CHAIRPERSON HILL: I see.

7 ZC CHAIR HOOD: -- who participated on the  
8 case --

9 CHAIRPERSON HILL: Okay.

10 ZC CHAIR HOOD: -- as opposed to having me.

11 CHAIRPERSON HILL: Okay.

12 ZC CHAIR HOOD: Okay?

13 CHAIRPERSON HILL: All right.

14 ZC CHAIR HOOD: Just my suggestion.

15 CHAIRPERSON HILL: Sure. No, then what that would  
16 do -- I guess, I mean, I -- you're correct that the applicant  
17 then would have time to respond to anything that the ANC  
18 might submit, right? So if we did the 25th, then -- I mean,  
19 there's no way to get dates right now in terms of -- the ANC  
20 meeting is on the 11th, right? And so we would want to get  
21 something from them as soon as possible so that the applicant  
22 could then have time to respond, right? And then Chairman  
23 Hood's point is that it will be the 25th that we would now  
24 make a decision because then the commissioner will be back  
25 here again.

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1           The only thing -- yes, well, the only thing -- Mr.  
2 Moy, you were going to say something?

3           SECRETARY MOY: Yes, I was just going to say  
4 because it occurs to me since this was set for a decision  
5 today, the record was closed. But I understand the Vice-  
6 Chair's comment. I mean, it was -- allowed comment from the  
7 ANC, but if you're going to be more precise on additional  
8 comments or comments that you were looking for, the applicant  
9 is not here to respond to this, or any other parties. I  
10 don't think there were any other parties.

11           CHAIRPERSON HILL: So what are you saying?

12           MS. LOVICK: Well, I would suggest that you set  
13 a date that you'd like for the ANC to file something.

14           CHAIRPERSON HILL: Yes.

15           MS. LOVICK: And it's within your discretion about  
16 whether or not the applicant is allowed an opportunity to  
17 respond.

18           CHAIRPERSON HILL: Okay.

19           MS. LOVICK: The ANC can submit something at any  
20 time.

21           CHAIRPERSON HILL: Okay. So since Mr. Hart has  
22 now asked for something of the ANC -- so I think it would be  
23 only fair that --

24           VICE CHAIRPERSON HART: Well, I mean --

25           CHAIRPERSON HILL: -- the applicant would have an

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1 opportunity to respond.

2           VICE CHAIRPERSON HART: No, no, I understand that.  
3 I guess I'm also looking at it like this: If we're giving  
4 extra time for the ANC to be able to actually have their  
5 vote, they'd have to send us something anyway. So it wasn't  
6 like it was this -- whatever they're sending us. I just was  
7 looking for something other than just this is the vote which  
8 is -- you know, whatever the vote is going to be. And my  
9 assumption was that they would actually provide something  
10 with that, that vote itself. And we can decide when that is  
11 actually -- they need to actually have that in here, but they  
12 needed to -- we were holding off so that they -- so that we  
13 could receive something from them regardless. And I just  
14 wanted some -- if they could provide some clarity around  
15 that, it would be helpful.

16           MS. LOVICK: Okay. Yes, so I would just suggest  
17 setting a date after July 11th, the date that you'd like for  
18 the ANC to submit something. And then within seven days if  
19 you'd like for the applicant to have an opportunity to  
20 respond, the applicant could then respond. And you've  
21 clarified on the record that you would prefer that the ANC  
22 not just submit what their vote was, but actually provide  
23 some substantive information as to their issues and concerns  
24 if they have any.

25           CHAIRPERSON HILL: Okay.

1 VICE CHAIRPERSON HART: That's correct.

2 CHAIRPERSON HILL: So then if we could get  
3 something from the ANC by the 13th of July, Mr. Moy. And  
4 then that would give the applicant a week to respond by the  
5 20th. And then the 25th we would be able to do the decision.

6 SECRETARY MOY: Okay. That's a good timeline.

7 CHAIRPERSON HILL: And then the ANC can submit  
8 anything any time they want.

9 SECRETARY MOY: That's correct.

10 CHAIRPERSON HILL: So they can even respond --  
11 okay. So then we're going to put this on for the 25th.

12 Yes, the only thing I don't like about this, and  
13 I just don't know, just kind of to speak with my other  
14 colleagues here, is that now it's another month before  
15 they're going to get a decision. And so I know in this  
16 particular case this is a case that's gone on for a long time  
17 and there's a lot of moving parts and there's like appeals  
18 that are going on. So I don't think that this month is  
19 necessarily going to do anything perhaps because there has  
20 been a lot of -- this is a property that's gone through a lot  
21 of ups and downs or whatever.

22 But I guess I'm just speaking out loud now to  
23 everybody else here in terms of like in future things when  
24 this happens, like particularly if there was an applicant  
25 that came forward and it was like they were under a tight

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1 timeline for financial reasons or something was going on, and  
2 then we get a request like this. I would be even more  
3 inclined not to postpone. So, but I'm just kind of putting  
4 that out there for future discussion from the Board.

5 So, okay. Mr. Moy, is that good?

6 SECRETARY MOY: Yes, that's clear enough. I'll  
7 probably put a staff memo into the record, too, so the  
8 timeline is clear.

9 CHAIRPERSON HILL: Okay. All right. I'm not on  
10 the next one, so --

11 VICE CHAIRPERSON HART: Thank you, Mr. Chairman.

12 So if you could call the next case, Mr. Moy?

13 SECRETARY MOY: Thank you. Yes, that -- this is  
14 an appeal, Case No. 19713 of Isabelle Thabault, pursuant to  
15 11 DCMR Subtitle Y § 302, from the decision made on January  
16 16, 2018 by the Zoning Administrator, Department of Consumer  
17 and Regulatory Affairs, to refuse or revoke building permit  
18 No. G1712578, to construct a front addition to an existing  
19 one-family dwelling, R-2 Zone, at premises 3840 Legation  
20 Street, N.W., Square 1857, Lot 49.

21 VICE CHAIRPERSON HART: Thank you, Mr. Moy.

22 Is the Board ready to deliberate?

23 (No audible response.)

24 VICE CHAIRPERSON HART: I can start. So this  
25 appeal is about DCRA -- the Zoning Administrator's decision

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1 to not revoke a building permit issued on November 9th, 2017  
2 for a property located at 3840 Ligation Street, N.W. The  
3 appellant who is the only adjacent neighbor at 3838 Ligation  
4 Street -- sorry, the appellant is a next door neighbor.

5           The crux of this case in my view was whether or  
6 not the ZA made an error in not revoking the building permit  
7 which was issued pursuant to Subtitle B § 315.1(c). While  
8 the Zoning Administrator does have the authority to use their  
9 discretion in following the Zoning Regs, in this instance  
10 there really wasn't an interpretation in my mind of the regs  
11 at issue. Really this was the Zoning Administrator looking  
12 at the regs and saying this is what this means. We have  
13 definitions for these things. And it was a pretty  
14 straightforward case in that -- from what I understood.

15           And under this Subtitle B § 315.1(c), which at the  
16 time of issuance of the November 2017 building permit read  
17 as follows: that "A building -- a proposed building façade  
18 or structure facing the street line -- street lot line shall"  
19 -- and then, "The building façade of the interior lot  
20 attached building should not be further forward or further  
21 back than the building façade of one of the immediately  
22 adjoining buildings." I mean, this is fairly  
23 straightforward.

24           The issue that really -- the part of this that  
25 really becomes an issue is what does it mean by an interior

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1 lot attached building? So at first glance it may seem to be  
2 straightforward, which means that the house at 3838, which  
3 is the next door neighbor to this property, is attached to  
4 it, but the kind of wrinkle here is that on one side there  
5 is an attached house. On the other side is an alley. There  
6 is no building on the attached -- building attached on the  
7 west side.

8           And so the Zoning Administrator needed to look at  
9 whether or not this building was indeed an attached building.  
10 The definition of an attached building is one that abuts or  
11 shares a wall on both sides -- both side lot lines with other  
12 buildings on adjoining lots. To me it's clear that the  
13 building does not meet this definition as the only -- as the  
14 building only shares one side lot line with an adjacent  
15 building at 3840 Ligation. Excuse me, 3838 Ligation. The  
16 other side is an alley.

17           Therefore, while I understand and empathize with  
18 the appellant, I believe that the ZA determination not to  
19 revoke the building permit was the correct decision.

20           There's also an outstanding issue regarding a text  
21 amendment that the Office of Planning put forward during this  
22 time period between the issuance of the building permit,  
23 which was in November of 2017 and March of this year.

24           I understand that the Office of Planning in  
25 consultation with the ZA, the Zoning Administrator, realized

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1 after this building permit was issued that there seemed to  
2 be a lack of clarity around whether a semi-detached building,  
3 which is what this building is, should have been included in  
4 the Zoning Regulations in this particular text so that it  
5 would be both an attached building and a semi-detached  
6 building included in the definition.

7           So in order to clarify this issue the Office of  
8 Planning brought forward a zoning text amendment that  
9 included adding semi-detached in the language, and that is  
10 now what the actual language states. But that zoning text  
11 amendment took effect in March of this year, March 2nd, which  
12 was a month after -- a month-and-a-half after the ZA decision  
13 not to revoke this building permit in question and the -- and  
14 four months after the building was -- building permit was  
15 issued itself.

16           So the text amendment was necessary because of the  
17 text unintentionally maybe omitted the semi-detached  
18 buildings and the ZA did not have the authority to interpret  
19 that the semi-detached building was originally supposed to  
20 be intended to be included in this particular subtitle.

21           So I didn't think that the text amendment -- well,  
22 it could not be retroactive, so the ZA did issue the initial  
23 building permit correctly and decided later also correctly  
24 to not revoke the building permit because at the time of  
25 issuance the zoning text did not include the words "semi-

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1 attached" -- excuse me, "semi-detached," only "attached  
2 buildings." And that's it.

3 I mean, I think it's -- it was a little bit hard  
4 for I think the next door neighbor because they believed that  
5 the intent of the Zoning Regs was to include this language,  
6 but the language was actually not in there. And really the  
7 Zoning Administrator really had to look at the language that  
8 was there, not what language they wanted to be there or maybe  
9 should have been there. So I would be -- all that being  
10 said, I would be denying the appeal for this case. So that's  
11 it.

12 MEMBER WHITE: Thanks, Mr. Vice Chair. I'll go  
13 through some of my thinking as well. So pardon me if I'm  
14 being a little repetitive in terms of some of your thoughts.

15 So after reviewing the record and reviewing the  
16 additional information that we requested on April 6th,  
17 including the map addresses, photos from the property owner,  
18 the draft findings of fact, conclusions of law, the appellant  
19 is the adjacent property owner to 3870 Ligation and argues  
20 that the ZA's decision not to revoke is appealable and that  
21 the ZA's decision to issue a permit is also appealable.

22 The building permit allowed for the construction  
23 of the front addition to an existing one-family dwelling.  
24 The building permit was issued November 9th of 2017 and  
25 appellant learned of the permit November 18th, 2017. So the

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1 appellant is -- argues that the ZA erred in finding that the  
2 provision B § 315.1(c) regarding the front setbacks do not  
3 apply to the subject property. And the appellant argues the  
4 intent of the regs was to apply to semi-detached and attached  
5 buildings.

6 OP requested a text amendment for correction to  
7 clarify the provision and the text amendment was not  
8 effective at the time that the permit was issued. The text  
9 amendment was approved January 29th, 2018, I believe, and  
10 effective March 2nd, 2018. DCRA, however, argues that the  
11 permit was properly issued under the Zoning Regs in effect  
12 on the date of issuance and that DCRA correctly determined  
13 that B § 315.1(c) did not apply because the property didn't  
14 meet the definition of attached buildings, meaning share a  
15 wall on both sides. And the text amendment includes  
16 buildings attached on one or both sides.

17 The property owner argues that the decision to not  
18 revoke is not an appealable decision and concurs with DCRA  
19 that the building permit was correctly issued, so their  
20 position was that an error didn't occur by the Zoning  
21 Administration. So again, DCRA asserted that the ZA reviewed  
22 and approved the permit in accordance with the Zoning  
23 Regulations in effect on the date the permit was issued as  
24 required by A § 301.2, and they argue that the ZA correctly  
25 determined that the permit didn't meet the definition of an

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1 attached building as defined by § 110.2 in the 2016 Zoning  
2 Regulations and that it correctly interpreted the regulations  
3 in existence at the time the permit was issued rather than  
4 apply the text amendment retroactively.

5           So the appellant's position is that the two-story  
6 addition violated 315.1(c), which at the time of the adoption  
7 of the 2016 regs stated that building façades of an interior  
8 lot attached building shall not be further forward or further  
9 back than the building façade of one of the immediate  
10 adjoining buildings. And the appellant went on to state that  
11 when they learned that the permit had been issued that the  
12 -- that she petitioned DCRA to revoke the permit as being  
13 inconsistent with this provision.

14           While the petition was pending she went on to say  
15 that the Zoning Commission corrected 315.1(c) to clarify that  
16 the intent was to prevent pop-out additions of a sort at  
17 issue here, but declined to revoke the permit.

18           So that's all to say that in reviewing both sides  
19 of the argument, both DCRA's and the appellant's, as well as  
20 the property owner's position, based on strict reading of the  
21 rules and regulations the appellant hasn't met the burden of  
22 proof to justify granting the BZA appeal and that the ZA  
23 correctly issued the building permit B1712578 on November  
24 9th, 2017, and that the Zoning Administrator at that  
25 particular time correctly determined that the property was

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1 not subject to Title 11-B DCMR § 315.1. And those are my  
2 comments, Mr. Vice Chair.

3 VICE CHAIRPERSON HART: Anyone else want to --

4 MEMBER JOHN: Just briefly, Mr. Vice Chair. As  
5 has been noted, this is an appeal from a decision of the  
6 Zoning Administrator not to revoke a building permit to  
7 construct a front addition. And so there are two basic  
8 issues: The first is whether the DCRA correctly interpreted  
9 the term "attached building" as specified in the regulation.  
10 And as noted before, the definition did not apply to a  
11 building that was not attached on both sides.

12 And so subsequent to that issuance of the permit  
13 a text amendment was issued that became effective after the  
14 building permit was issued. And as issued the amendment did  
15 not have retroactive effect. So the first issue is whether  
16 the interpretation of attached building was correct. And the  
17 second issue is whether or not the text amendment should have  
18 been given retroactive effect.

19 And so in this case I find that DCRA's arguments  
20 are persuasive. The appellant has suggested different  
21 interpretations of the word "attached" invoking rules of  
22 statutory construction that are not relevant or persuasive  
23 in a case like this where the plain language of the  
24 regulation is clear and unambiguous on its face.

25 So given everything else that has been said and

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1 by my colleagues and based on the full record I would  
2 conclude that the Zoning Administrator did not commit error  
3 in issuing the permit in the first instance which was based  
4 on the regulation as it existed at the time that the permit  
5 was issued.

6 VICE CHAIRPERSON HART: Okay.

7 ZC CHAIR HOOD: Mr. Chairman, I won't add anymore.  
8 I will just say that -- I will just mention that the -- well,  
9 Mr. Vice Chairman, I will just mention that the Zoning  
10 Administrator operated as always on -- in this case  
11 specifically on the authority that he had at the time, as  
12 you've already so eloquently -- all you all have stated. And  
13 I would just think -- I would just say that the -- going  
14 forward for me; and the legislative history in this case I  
15 think speaks for itself, I've been on a lot of appeals and  
16 I think this appeal here is pretty straightforward with all  
17 the confluence of factors coming into play. So I would be  
18 -- I don't think the ZA erred with the regulations he had in  
19 place and I will be voting to deny this appeal.

20 VICE CHAIRPERSON HART: Thank you, Commissioner  
21 Hood, and everyone else.

22 So I think we're ready to vote, so I'll make the  
23 motion to deny appeal No. 19713 of Isabelle Thabault as read  
24 and captioned by the secretary. Do I have a second?

25 ZC CHAIR HOOD: Second.

1 VICE CHAIRPERSON HART: Hearing a second, all  
2 those in favor, say aye?

3 (Chorus of aye.)

4 VICE CHAIRPERSON HART: Any opposed?

5 (No audible response.)

6 VICE CHAIRPERSON HART: Mr. Moy?

7 SECRETARY MOY: Thank you. Staff would record the  
8 vote as 4 to 0 to 1. This is on the motion of Vice Chair  
9 Hart to deny the appeal or affirm the ZA decision. Seconding  
10 the motion, Mr. -- or Commissioner Hood. Also in support of  
11 the motion: Ms. White, Ms. John. Chairman Hill not  
12 participating on this appeal. The motion carries.

13 VICE CHAIRPERSON HART: Thank you, Mr. Moy. And  
14 I'll turn it back over to the Chairman.

15 CHAIRPERSON HILL: Okay. Thank you.

16 (Whereupon, the above-entitled matter went off the  
17 record at 10:20 p.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: DC BZA

Date: 06-20-18

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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