

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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PUBLIC MEETING

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WEDNESDAY

SEPTEMBER 26, 2018

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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, Board Member (NCPC)
LORNA JOHN, Board Member

ZONING COMMISSION MEMBER PRESENT:

ANTHONY HOOD, Zoning Commission Chairperson

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

HILLARY LOVICK, ESQ.
JACOB RITTING, ESQ.

The transcript constitutes the minutes from the Public Meeting held on September 26, 2018.

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9:45 a.m.

MR. MOY: Mr. Chairman, we have this first item before the Board for action there is a -- this is in reference to Appeal Number 19839 of ANC 8A which is an appeal that is originally scheduled for October 17.

However, in the record, there is a joint motion on the part of the property owner and DCRA to dismissal. And, (b) request a special meeting to address their motion.

And, that is on your case records, filed under Exhibit 22 dated September 12th.

And, there is a response by the Applicant who filed the motion for leave to file and to request a response filing to be able to make a response filing by September 28th. That's under Exhibit 23.

So, that's before the Board.

CHAIRPERSON HILL: Okay, is the Board ready to deliberate?

Okay, so, my thoughts were this was last week that this came forward to us in terms of the joint motion to dismiss the appeal. And there were -- we didn't have anything from the ANC by the seven-day time which was literally the day of the hearing last Wednesday.

And so, since then, they have -- the ANC has asked for a motion for leave to file their response to the motion

1 to dismiss the appeal as untimely.

2 And, my position would be, unless the Board thinks
3 differently, to go ahead and grant the ANC's motion for leave
4 so that we can hear from them by the 28th and then we could
5 also go ahead and schedule to decide the joint motion for
6 decision so I could decide the motion to dismiss at the
7 October 3rd meeting after taking the information from the ANC
8 on the 28th.

9 Does anyone have any thoughts?

10 MEMBER WHITE: I agree with you, Mr. Chair. So,
11 that the motion would be scheduled for October 3rd. So, that
12 will give the ANC an opportunity to file their information
13 and we would be able to make a decision and still be able to
14 hear the case, if necessary, on October 17th. So, I would
15 concur.

16 CHAIRPERSON HILL: Anyone else?

17 (NO RESPONSE)

18 CHAIRPERSON HILL: Okay.

19 Mr. Moy?

20 MR. MOY: I'm sorry, I was conferring with OIG.

21 We're good. The Board addressing the motion to
22 dismiss on October 23rd. The ANC would make their filing in
23 response by, actually would be this Friday, September 28th.

24 CHAIRPERSON HILL: Okay, so we're granting the
25 motion to leave for -- I mean, to leave to file?

1 MR. MOY: That's right.

2 CHAIRPERSON HILL: Okay.

3 MR. MOY: October 3rd.

4 CHAIRPERSON HILL: Yes, they're going to submit
5 by the 28th. And then, October 3rd, we'd hear -- we'd
6 deliberate on the motion on to dismiss for timeliness. Okay.

7 MR. MOY: Thank you.

8 All right, Mr. Chairman, we have two case
9 applications which is under the heading of Expedited Review
10 Cases.

11 The first is Case Application Number 19827 of Amy
12 and Jay Hariani, I hope I spoke that correctly.

13 But, anyway, so, for the record, this is a request
14 for a special exception under Subtitle E, Section 205.5 and
15 5201 from the rear addition requirements of Subtitle E,
16 Section 205.4 which would construct a rear addition to an
17 existing principle dwelling unit and convert it to a flat.

18 This is an RF-1 Zone at 60 Randolph Place,
19 Northwest, Square 3102, Lot 107.

20 CHAIRPERSON HILL: Okay, great. Thank you, Mr. Moy.

21 Is the Board ready to deliberate? Okay.

22 So, I, after reviewing the record, and then also
23 the report from the Office of Planning, I mean, I was a
24 little bit unclear as to what I thought about the nature of
25 the expedited review.

1 Although we don't need to hear from the ANC
2 directly, there wasn't a report from the ANC. However, the
3 Office of Planning had some issues concerning the removal of
4 the deck and that photos were submitted to the record
5 indicating that the deck had been removed and so that OP is
6 satisfied.

7 The -- I think that it is something that I could
8 get behind and based upon the information in the record, I
9 know that, Mr. Secretary, you did reach out -- I know that
10 the ANC has 30 days to respond and has been notified. And,
11 at this time, they have not responded.

12 But, we also asked you to try to reach out to the
13 ANC. Did you do so?

14 MR. MOY: Yes, sir, yes, sir, Mr. Chairman. I did
15 -- I tried to make a courtesy call and I've had no return
16 call with the message that I left for the ANC.

17 CHAIRPERSON HILL: Okay. And, in addition to
18 that, in this particular case, the neighbors on both
19 adjoining properties have submitted testimony supporting the
20 waiver from the 10-foot rules.

21 I mean, I guess, really, just for me, it was, you
22 know, reviewing the case in terms of whether or not I thought
23 the standard had been met, I did think the standard had been
24 met.

25 However, I would have preferred to have had a

1 little bit more feed in the record from the ANC. But, now,
2 after having the appropriate time pass for the ANC to have
3 submitted something and the Secretary taking the effort to
4 reach out in a courtesy call, I would be satisfied with
5 moving forward.

6 Does anyone have any thoughts?

7 MEMBER HART: Yes, I do, Mr. Chairman.

8 I -- after reviewing the record, I also would just
9 point out that in Exhibit 13, the Applicant has provided us
10 with a Statement of Public Outreach. And, they noted that
11 on June 16th, they had been in contact with the ANC
12 Commissioner, Katherine McClelland to inform her of the plans
13 and to add the rear addition to the home.

14 They said they also submitted the documents to
15 Katherine over email. The ANC did not discuss the
16 application at the June 23rd hearing and is not scheduled to
17 meet over the summer.

18 So, the ANC was definitely aware of this -- of the
19 project.

20 They also note further that on June 18th, she did
21 present the renovation -- the proposed renovation and
22 addition to their home to the Bloomingdale Civic Association
23 and she said they answered some questions from the community,
24 didn't say what the questions were, but she also noted that
25 no formal vote was taken on the application.

1 So, to me, it seems like there has been, you know,
2 definitely outreach to the community about the project.

3 I'll also note that the adjacent neighbors in
4 Exhibits 11 and 12 did support the application.

5 And, I just kind of wanted to note all of those
6 things because I think that they are -- they help to kind of
7 talk to some of the issues.

8 I mean, I was curious about the ANC contact as
9 well as the neighbors -- adjacent neighbors' contact just to
10 understand what they were kind of where they were on it.

11 While we don't have anything from the ANC, we did
12 -- it wasn't as though they didn't know about the project
13 back in June. This is now September, so that was several
14 months ago. And, if they had wanted to make that -- make
15 their comments known, they would have, I'm sure, have gotten
16 those comments to us at some point in that time period.

17 So, I felt that the applicant has, as you did,
18 that the applicant had provided sufficient information for
19 me to be able to support the application after reviewing the
20 OP report and looking through the record as well.

21 So, I'd be in support of the application, but I
22 just wanted to point those things out.

23 MEMBER WHITE: After reviewing the record, this
24 is a rear addition request, special exception request for a
25 property at 60 Randolph Place, Northwest.

1 And, again, I'm very sensitive to these rear
2 additions. This is an expedited review request. So, I had
3 to feel a level of comfort that the neighbors were not in
4 opposition for it and also that the adjacent neighbors were
5 supportive.

6 And, it's clear, the information that's in the
7 record that the neighbors on both sides are in favor of the
8 rear addition as well as the fact that there's no specific
9 information from the ANC that we have to give great weight
10 to with respect to any concerns that they have.

11 But, more -- also, which is also important to me,
12 I wanted to make sure the Applicant responded to the requests
13 from the Office of Planning in terms of the removal of the
14 deck.

15 And, there is information in the record that shows
16 that. So, I think with that information, and based upon the
17 fact that I think they met the special exception criteria,
18 I believe that I can support this application as well, unless
19 there is anything that I've missed.

20 ZC CHAIR HOOD: Mr. Chairman, I'm not going to
21 belabor the point, but I would agree. Normally, typically,
22 I have concerns when we don't hear from the ANC, but, as the
23 Vice Chair mentioned, I think we've -- they've done their due
24 diligence and I think they were aware of this ANC.

25 And, also, what gives me comfort level is the

1 Bloomingdale Association as well. Because, if they had a
2 problem, believe me, we would have heard from them.

3 I also want to associate myself with Board Member
4 White. I'm very sensitive to these rear additions and these
5 setbacks in the rear. But, I think this is one actually,
6 probably, about the first one I think I can really get my
7 arms around.

8 So, and this expedited -- so, I have no problems
9 moving forward.

10 Thank you.

11 MEMBER JOHN: Mr. Chairman, I concur with
12 everything my colleagues have said and I, too, am very
13 uncomfortable about these rear extensions. But, in this case,
14 I think this one merits approval and, based on the lack of
15 response from the ANC, and very thorough discussion in the
16 Office of Planning's report, I believe the Applicant has met
17 the burden of proof in this case. And I support the
18 application.

19 CHAIRPERSON HILL: Okay, great, thank you.

20 I'm going to go ahead and make a motion then to
21 approve Application Number 19827 as captioned and read by the
22 Secretary and ask for a second.

23 MEMBER HART: Second.

24 CHAIRPERSON HILL: Motion has been made and
25 seconded. All those in favor, say aye.

1 (CHORUS OF AYES)

2 CHAIRPERSON HILL: All those opposed?

3 (NO RESPONSE)

4 CHAIRPERSON HILL: Motion passes, Mr. Moy.

5 MR. MOY: Staff would record the vote as 5-0-0.

6 This is on the motion of Chairman Hill to approve the
7 application for the relief. Seconding the motion, Vice Chair
8 Hart. Also in support, Ms. White and Ms. John and Mr. Hood.

9 The motion carries, I'm sorry.

10 CHAIRPERSON HILL: Thank you.

11 MR. MOY: I was having a senior moment there.

12 CHAIRPERSON HILL: Thank you, that's all right.

13 Everyone was smiling over there and clapping like you guys
14 can stay for the whole day, like you know, we're going to be
15 here a while. You don't have to, you know, keep some of that
16 good energy in the room.

17 All right, okay.

18 MR. MOY: All right, thank you, Mr. Chairman.

19 The next case application that's on the expedited
20 review calendar is Case Application Number 19833 of Anthony
21 Jackson.

22 Again, this is a request for a special exception
23 under Subtitle D, Section 306.4 and 5201 from the rear
24 addition requirements of Subtitle D Section 306.3 which would
25 construct a rear addition to an existing principle semi-

1 detached dwelling unit in the R-2 Zone.

2 This is at 5048 11th Street, Northeast, Square
3 3989, Lot 41.

4 CHAIRPERSON HILL: Thank you, Mr. Moy.

5 Is the Board ready to deliberate? Okay.

6 I can start.

7 ZC CHAIR HOOD: Mr. Chairman?

8 CHAIRPERSON HILL: Sure?

9 ZC CHAIR HOOD: Before we get started, I'm going
10 to recuse myself from this case.

11 CHAIRPERSON HILL: Okay.

12 ZC CHAIR HOOD: I'll leave it at that.

13 CHAIRPERSON HILL: Okay.

14 ZC CHAIR HOOD: Thanks.

15 CHAIRPERSON HILL: Great.

16 So, the -- after reviewing the record, again, and
17 in particular, the Office of Planning's report, I think that
18 I could also get behind this special exception in -- oh, I'm
19 sorry, the -- for the 10-foot waiver.

20 It's a different provision, but still the same
21 relief that's being requested.

22 I think that the Office of Planning did have some
23 concerns and that they wanted some further information. But,
24 as I understand it, they did get the information they needed
25 and so they do remain in support.

1 And, I think that their analysis was actually
2 quite thorough.

3 In addition to that, in this case, we did get
4 something from ANC 5A that had unanimous support 5-0-0 with
5 no issues or concerns.

6 So, I didn't really have any particular issues
7 with this application.

8 Does anyone else have anything they'd like to add?

9 MEMBER HART: Only to concur with your comments.
10 I felt that they -- the Applicant had demonstrated that they
11 -- how they meet the criteria.

12 I didn't have any particular issue with anything
13 that was in the record. And, I would be voting in favor of
14 the application.

15 CHAIRPERSON HILL: Okay, anyone else?

16 (NO RESPONSE)

17 CHAIRPERSON HILL: Okay. I'm going to go ahead
18 and make a motion then to approve Application Number 19833
19 as captioned and read by the Secretary and ask for a second.

20 MEMBER HART Second.

21 CHAIRPERSON HILL: Motion made and seconded. All
22 those in favor say aye.

23 (CHORUS OF AYES)

24 CHAIRPERSON HILL: All those opposed?

25 (NO RESPONSE)

1 CHAIRPERSON HILL: Motion passes, Mr. Moy.

2 MR. MOY: The staff would record as 4-0-1. This
3 on the motion of Chairman Hill to approve the application for
4 the special exception relief. Seconding the motion, Vice
5 Chair Hart. Also in support, Ms. White and Ms. John and we
6 have one Member who has recused and, of course, not
7 participating. The motion carries.

8 All right, the next case for decision making is
9 the last in the public meeting session, is Appeal Number
10 19773 of John Stokes and ANC 4C.

11 This is an appeal from the decision made on
12 February 21st, 2018 by the Zoning Administrator, Department
13 of Consumer and Regulatory Affairs to issue building permit
14 number B1611940 to construct a new three-story flat RF-1 Zone
15 with was previously an RF-4 Zone.

16 This is at premises 1523 Varnum Street, Northwest,
17 Square 2698, Lot 46.

18 CHAIRPERSON HILL: Okay, great. Thank you, Mr. Moy.

19 Fellow Board members, I have been asked by a Board
20 member to delay this by a week so that they could have a
21 little opportunity to think a little bit more about it.

22 So, unless anyone has any opposition, I'd go ahead
23 and ask that we push this back a week for a decision.

24 MEMBER WHITE: That's fine, Mr. Chair, I agree
25 with that as well.

1 CHAIRPERSON HILL: Okay.

2 ZC CHAIR HOOD: Mr. Chairman, for full disclosure,
3 I was the one who asked. So, I greatly appreciate that, so
4 I appreciate you all giving me another week to decide on this
5 case.

6 CHAIRPERSON HILL: Okay, great.

7 All right, so, Mr. Moy, we'll go ahead and put
8 this off for decision until next week.

9 MR. MOY: Yes, sir. And, that date would be
10 October 3rd, 2018 --

11 CHAIRPERSON HILL: Okay.

12 MR. MOY: -- for the record.

13 CHAIRPERSON HILL: And, Chairman Hood, you'll be
14 able to join us for the deliberations?

15 ZC CHAIR HOOD: Yes, can we make this the first
16 on the agenda?

17 CHAIRPERSON HILL: Sure, certainly. Of course.

18 ZC CHAIR HOOD: Thank you. I don't want to run
19 your agenda, but it would be nice to be on first.

20 CHAIRPERSON HILL: That's all right. Well, you
21 are the Chairman of the Zoning Commission so --

22 ZC CHAIR HOOD: Well, thank you for your
23 indulgence.

24 (Whereupon, the above-entitled matter went off the
25 record at 10:04 a.m.)

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: 09-26-18

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.



Court Reporter

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