

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

JANUARY 9, 2019

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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
LORNA L. JOHN, Board Member

ZONING COMMISSION MEMBER PRESENT:

ROBERT MILLER, Vice Chairperson

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

HILLARY LOVICK, ESQ.

The transcript constitutes the minutes from the
Public Meeting held on January 9, 2019.

AGENDA

BZA Case No. 19899 - Application of Christopher Turner and Elizabeth Repko, 1322 D Street, S.E	7
BZA Case No. 17055A - Application of Studio Theater, 1501-1509 14th Street, N.W.	9

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

9:49 a.m.

CHAIRPERSON HILL: All right. The hearing will please come to order. Good morning, ladies and gentlemen. We're located in the Jerrily R. Kress Memorial Hearing Room at 441 4th Street, N.W. This is the January 9, 2019 public hearing of the Board of Zoning Adjustment of the District of Columbia.

My name is Fred Hill, Chairperson. Joining me today is Lorna John and Lesyllee White, Board members. And representing the Zoning Commission is Robert Miller.

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

Please be advised that this proceeding is being recorded by a court reporter and is also webcast live. And accordingly, we must ask you to refrain from any disruptive noises or actions in the hearing room.

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

All persons planning to testify either in favor or in opposition must have raised their hand and been sworn in by the Secretary. Also, each witness must fill out two

1 witness cards. These cards are located on the table near the
2 door and on the witness table. Upon coming forward to speak
3 to the Board, please give both cards to the reporter sitting
4 to the table at my right.

5 If you wish to file written testimony or
6 additional supporting documents today, please submit 1
7 original and 12 copies to the Secretary for distribution.
8 If you do not have the requisite number of copies, you can
9 reproduce copies on an office printer in the Office of Zoning
10 located across the hall. Please remember to collate your
11 sets of copies.

12 The order of procedures for special exceptions and
13 variances as well as appeals is also listed as you come
14 walking into the door.

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

22 The Board's agenda includes cases set for
23 decision. After the Board adjourns, the Office of Zoning,
24 in consultation with myself, will determine whether a full
25 or summary order may be issued.

1 A full order is required when the decision it
2 contains is adverse to a party, including an affected ANC.
3 A full order may also be needed if the Board's decision
4 differs from the Office of Planning's recommendation.
5 Although the Board favors the use of summary orders whenever
6 possible, an Applicant may not request the Board to issue
7 such an order.

8 The District of Columbia Administrative Procedures
9 Act requires that the public hearing on each case be held in
10 the open before the public pursuant to Section 405(b) and 406
11 of that act.

12 The Board may, consistent with its rules of
13 procedures and the Act, enter into a closed meeting on a case
14 for purposes of seeking legal counsel on a case pursuant to
15 D.C. Official Code, Section 2-575(b)(4) and/or deliberating
16 on a case pursuant to D.C. Official Code, Section 2-
17 575(b)(13), but only after providing the necessary public
18 notice, and in the case for an emergency closed meeting,
19 after taking a roll call vote.

20 The decision of the Board in cases must be based
21 exclusively on the public record. To avoid any appearance
22 to the contrary, the Board requests that persons present not
23 engage the members of the Board in conversation.

24 Please turn off all beepers and cell phones at
25 this time so as to not disrupt the proceeding.

1 Preliminary matters are those which relate to
2 whether a case will or should be heard today, such as
3 requests for a postponement, continuance, or withdrawal, or
4 whether proper and adequate notice of the hearing has been
5 given. If you're not prepared to go forward with the case
6 today or if you believe that the Board should not proceed,
7 now is the time to raise such a matter.

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

9 MR. MOY: Good morning, Mr. Chairman and members
10 of the Board. Happy New Year. Sorry for that pause there.
11 Where am I?

12 Oh, yes, I do. I have a few matters, very short,
13 for the record. As to today's docket, we have one case
14 application, which is 19774, of Philip Qiu and Associates,
15 LLC. That application has been withdrawn by the Applicant.

16 Other than that, we -- I have some other
17 preliminary matters. But I'll mention that when the case is
18 called.

19 CHAIRPERSON HILL: Okay, great. Thank you, Mr.
20 Secretary.

21 Okay. If anyone is here wishing to testify, if
22 you could please stand and take the oath administered by the
23 Secretary to my left.

24 MR. MOY: Good morning. Do you solemnly swear or
25 affirm that the testimony you're about to present in this

1 proceeding is the truth, the whole truth, and nothing but the
2 truth? Thank you.

3 CHAIRPERSON HILL: Okay, great. Well, thank you.
4 Well, welcome, everybody. Welcome back from our vacation.

5 Let's see. Just as far as the agenda today, as
6 you picked it up kind of in the bins as you walk through the
7 door, we are going to follow the meeting agenda in terms of
8 our deliberations.

9 And then, however, for the hearings, we're going
10 to mix it up just a little bit. If you want to take a look
11 with me, I can tell you how we're going to do that.

12 We're going to do the appeal 19877 and 19895
13 first. So first and second we're going to -- there's a
14 couple of issues there. Then we're going to follow that up
15 with Application 19890. And then we're going to go back to
16 the top, so top of the order. And then we'll work our way
17 through.

18 So, that being the case, Mr. Moy, you can call our
19 first case whenever you like.

20 MR. MOY: Thank you, Mr. Chairman. There are two
21 case applications for, in the meeting session of the hearing
22 today.

23 The first is attended, Case Application No. 19899
24 of Christopher Turner and Elizabeth Repko. This is a --
25 there's a motion for advance consideration of party status.

1 The caption as advertised is for a special exception under
2 Subtitle E, Section 205.5 and 5201 from the rear addition
3 requirements of Subtitle E, Section 205.4.

4 This would construct a two-story, rear addition
5 to an existing, attached principal dwelling unit in the RF-1
6 Zone at 1322 D Street, S.E., Square 1041, Lot 812. Again,
7 there's a request for advance consideration of party status.
8 The scheduled hearing date is February 27th. Thank you.

9 CHAIRPERSON HILL: Okay. Is the Board ready to
10 deliberate? Okay. I thought, you know, it was fairly
11 straightforward for me. I mean, in terms of the approving
12 the party status in opposition, I think that they, you know,
13 they're the immediate adjacent next-door neighbor. And so
14 I think that qualifies under Y 404.13 in terms of how I would
15 be able to justify granting the party status in opposition.
16 Does anyone have any other thoughts?

17 MEMBER JOHN: No, Mr. Chairman.

18 MEMBER WHITE: Mr. Chairman, yeah, I agree with
19 your assessment. I think they met the criteria under that
20 Subtitle Y that you just mentioned. So I would be in
21 agreement to grant advanced party status for this particular
22 application.

23 CHAIRPERSON HILL: Okay, great. Anyone else?
24 Okay. Then I'll go ahead, Mr. Moy, and we'll just grant by
25 consensus the party status request.

1 MR. MOY: Yes, sir. The next action before the
2 Board is, there's a request for a modification of
3 consequence. And this is attended to Case Application No.
4 17005A of Studio Theater.

5 Again, this is a modification of consequence to
6 the plans approved in BZA Order No. 17005 to allow additions
7 to existing buildings to allow for the building's use as a
8 legitimate theater in the ARTS-3 Zone. This is at 1501
9 through 1509 14th Street, N.W., Square 241, Lot 128.

10 CHAIRPERSON HILL: Okay, great. Thank you, Mr.
11 Moy. Is the Board ready to deliberate? Okay. All right.
12 I can start again. I guess the first issue that we had to
13 kind of, the threshold issue is whether or not we thought
14 that this was a modification of consequence or a modification
15 of significance.

16 And I think that after reviewing the record, as
17 well as the report from the Office of Planning, I didn't
18 think that the rear yard relief raised any new issues of fact
19 requiring a public hearing. So I think that it is something
20 that we could deliberate upon today. And so that's at least
21 my initial thought on that.

22 And then after going through the record, I would
23 again agree with the analysis that was provided by the Office
24 of Planning in terms of their approval of the modification
25 of consequence and how it addresses Criteria K18.1. In

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1 addition to that, the ANC 2F recommended approval of 5 0 0
2 citing no issues and concerns. DDOT had no objection.

3 I actually was kind of, again, somewhat struggled
4 with I suppose whether or not it was a modification of
5 consequence or significance, but in the end, did come to the
6 decision that I didn't think it was a modification of
7 significance. So I would be voting to approve this
8 modification. Anyone else?

9 MEMBER JOHN: Mr. Chairman, I also agree with the
10 Office of Planning's analysis that this is a modification of
11 consequence and meets the criteria. And based on that
12 determination, I believe that the changes are relatively
13 minor and also meet the regulations. So I would be in
14 support of the application.

15 MEMBER WHITE: Mr. Chair, I would be in support
16 of the application as well for the Studio Theater
17 application. I believe that the expanded rear yard relief
18 raises no new issues of fact and should be classified as a
19 modification of consequence. And again, with the full record
20 and the support of the Office of Planning and the ANC, I
21 would be in support of this particular application.

22 CHAIRPERSON HILL: Okay. Then I'll go ahead and
23 make a motion to approve Application No. 17005A and ask for
24 a second.

25 MEMBER JOHN: Second.

1 CHAIRPERSON HILL: The motion made and seconded.
2 All those in favor say aye.

3 (Chorus of aye.)

4 CHAIRPERSON HILL: All those opposed. The motion
5 passes, Mr. Moy.

6 MR. MOY: The staff would record the vote as four
7 to zero to one. This is on the motion of Chairman Hill to
8 approve the request for the modification of consequence,
9 seconded the motion, Ms. John, also in support, Ms. White and
10 Mr. Robert Miller. We have no other members present today.
11 So the motion carries four to zero to one.

12 CHAIRPERSON HILL: Okay, great. Thank you, Mr.
13 Moy.

14 (Whereupon, the above-entitled matter went off the
15 record at 10:00 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: 01-09-19

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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