

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

FEBRUARY 13, 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 L. Hill, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

FREDERICK L. HILL, Chairperson
LESYLLEE M. WHITE, Board Member
LORNA JOHN, Board Member

ZONING COMMISSION MEMBER PRESENT:

PETER SHAPIRO, Commissioner

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary
JOHN NYARKU, Zoning Specialist

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

HILLARY LOVICK, ESQ.

OFFICE OF PLANNING STAFF PRESENT:

The transcript constitutes the minutes from the Public Meeting held on February 13, 2019.

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

9:45 a.m.

CHAIRPERSON HILL: All right, the hearing will please come to order. We're located in the Jerrily R. Kress Memorial Hearing Room at 441 4th Street NW.

This is the February 13, 2019 public hearing of the Board of Zoning Adjustment.

My name is Fred Hill, chairperson. Joining me today will be Carlton Hart, vice chair, as well as Lorna John and Lesyllee White, board members, and representing the Zoning Commission is Peter Shapiro.

Copies of today's hearing agenda are available to you and located on the wall bin near the door. Please be advised this proceeding is being recorded by a court reporter and is also webcast live.

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 off your microphone 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.

1 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.

4 Upon coming forward to speak to the board please
5 give both cards to the reporter sitting to the table to my
6 right.

7 If you wish to file written testimony today or
8 additional supporting documents please submit 1 original and
9 12 copies to the secretary for distribution.

10 If you do not have the requisite number of copies
11 you can reproduce copies on an office printer in the Office
12 of Zoning located across the hall. Please remember to
13 collate your set of copies.

14 The order for procedures for special exceptions
15 and variances as well as the appeal or an appeal is also
16 listed as you come walking into the door.

17 The record shall be closed at the conclusion of
18 each case except for any materials specifically requested by
19 the board. The board and the staff will specify at the end
20 of the hearing exactly what's expected and the date when the
21 persons must submit the evidence to the Office of Zoning.

22 After the record is closed no other information
23 shall be accepted by the board.

24 The board's agenda includes cases set for
25 decision. After the board adjourns the Office of Zoning in

1 consultation with myself will determine whether a full or
2 summary order may be issued.

3 A full order is required when the decision it
4 contains is adverse to a party including an affected ANC.
5 A full order may also be needed if the board's decision
6 differs from the Office of Planning's recommendation.

7 Although the board favors the use of summary
8 orders whenever possible an applicant may not request the
9 board to issue such an order.

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

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

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

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

3 Preliminary matters are those which relate to
4 whether a case will or should be heard today such as requests
5 for postponement, continuance, or withdrawal, or whether
6 proper and adequate notice of the hearing has been given.

7 If you're not prepared to go forward with a case
8 today or believe that the board should not proceed now is the
9 time to raise such a matter.

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

11 MR. MOY: Good morning, Mr. Chairman, members of
12 the board. I have a few announcements as relate to today's
13 docket.

14 First of all there are two case applications that
15 have been postponed and rescheduled to February 27, 2019.
16 Those two applications are number 19913 of 57th Street Mews,
17 M-E-W-S, Inc., as well as 19918 of Solo Entertainment LLC.

18 Case application number 19872 of RUPSHA which is
19 R-U-P-S-H-A of 2011 LLC has been postponed, rescheduled to
20 March 20, 2019.

21 And finally, case application number 19922 of 1471
22 Girard Street Holdings LLC postponed and rescheduled to March
23 27, 2019.

24 Other than that, Mr. Chairman, we have other
25 preliminary matters but staff would suggest that the board

1 address those when I call the case.

2 CHAIRPERSON HILL: Okay. Thank you, Mr. Moy. I
3 think you had mentioned also there was a preliminary matter
4 concerning a motion for stay I think or something.

5 MR. MOY: That's right.

6 CHAIRPERSON HILL: We'll do that at the end. Just
7 so everybody knows.

8 So, let's see. First of all, sorry we're getting
9 started a little late. There was some issues with Metro.

10 And then secondly, if anyone's here wishing to
11 testify if you could please stand and take the oath
12 administered by the secretary to my left.

13 (Whereupon, the witnesses were sworn.)

14 CHAIRPERSON HILL: Okay. Just so everybody knows
15 we're basically going to follow the agenda as you saw it
16 basically for both of our decision cases as well as our
17 hearing cases from when you came walking in.

18 We might have to move some things around in the
19 hearing agenda, but we'll see how that goes as we move
20 through the day.

21 So therefore, Mr. Moy, please when you're ready
22 you can call our first hearing case -- or meeting case, I'm
23 sorry.

24 MR. MOY: Yes. Thank you, Mr. Chairman. We do
25 have one case application for decision-making. And that is

1 application number 19866 of Serengeti LLC as amended for
2 special exception under the inclusionary zoning bonus density
3 requirements of Subtitle C Section 1001.2(e)(3) and under the
4 new residential development requirements of Subtitle U
5 Section 421.1 and pursuant to Subtitle X Chapter 10 for
6 variance from the side yard requirements of Subtitle F
7 Section 306.2 and 306.3 to construct a new three-unit
8 apartment house in the R-A-1 zone.

9 This is at 1637 V Street SE square 5778 lot 165.
10 Participating on this deliberation and vote is Chairman Hill,
11 Ms. White, Ms. John and I think that's who are present today.

12 Other than that, Mr. Chairman, and OAG can weigh
13 in but I believe that because of the Zoning Commission action
14 as to the variance to the side yard under Subtitle F Section
15 306.3 is no longer needed.

16 MS. LOVICK: Well, there's a text amendment that
17 is scheduled to be published in the Register on February
18 22nd.

19 Right now that requirement still exists. So if
20 the board votes today that's perfectly fine. It'll vest and
21 that specific relief will be granted.

22 They do still need the relief as of today.

23 CHAIRPERSON HILL: Yes, sure.

24 (Simultaneous speaking)

25 CHAIRPERSON HILL: We're still going to deliberate

1 on the relief the way it's set forward in the application at
2 this point.

3 MS. LOVICK: Yes, that's what you should do,
4 please.

5 CHAIRPERSON HILL: Okay, great. All right. Is
6 the board ready to deliberate? Okay, I can start.

7 So we heard testimony back on February 13 from the
8 applicant, the Office of Planning and the ANC and we heard
9 testimony concerning all of the requested relief as just
10 announced and stated by the secretary and as was captioned
11 including the relief that's going to disappear later but has
12 not disappeared yet meaning the text amendment hasn't taken
13 effect. Or published in the Register I should say.

14 So, I'm still basing this deliberation on the
15 relief that has been requested.

16 The Office of Planning had provided their
17 testimony and also their analysis in terms of how the relief
18 should be granted.

19 They had some conditions which in the testimony
20 and the record that we have since then I believe those issues
21 have been addressed. And that was all in exhibit 55.

22 The ANC now seems to be in support with the new
23 plans that are also in exhibit 55.

24 I think that the conditions that were suggested
25 I do also believe that they have been addressed in the new

1 plans in exhibit 55 and I understand the reasoning that was
2 provided by the applicant in exhibit 56 as to why they're not
3 able to meet some of those conditions.

4 And the Office of Planning is also in -- is
5 comfortable with the reasoning as to why they can't meet
6 those conditions. And I also agree with what the applicant
7 has provided in their testimony in exhibit 56.

8 Based upon the testimony provided by the applicant
9 and the Office of Planning I think that the applicant has met
10 the standards for us to approve this application.

11 I guess I'm glad to see that the ANC seems more
12 satisfied with the design. I know that there was some
13 differences of opinion in terms of how the design was. I am
14 glad to see that the applicant has made some changes.

15 However, I also like the design as well the way
16 that it was. Nonetheless I'm glad that the ANC is satisfied
17 with some of the design changes and I believe that the
18 applicant has met the standard for us to grant the
19 application and so I'll be voting in favor.

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

21 MEMBER WHITE: I can add a few comments.
22 Hopefully I won't be too redundant.

23 Basically this was a hearing from January 9 that
24 we set for decision today. We wanted to wait for the ANC to
25 weigh in with respect to the revised plans addressing their

1 concerns including adding brick to the design, and also the
2 ANC wanted to minimize the appearance of the fence.

3 The relief requested includes a special exception
4 for residential development under U 421.1 to construct a new
5 residential development in R-A-1 zone comprised of all one-
6 family detached and semi-detached dwellings.

7 Also, they're requesting a special exception under
8 C 1001.2(e)(3) so they could use the bonus density. They're
9 increasing in this particular case the inclusionary zoning
10 unit that's going to be added here.

11 The applicant is also requesting a variance relief
12 from side yard requirements under F 306.2 and 306.3. And
13 they're asking for one 5 foot and 7.5 inch side yard and an
14 8 foot side yard requirement is needed in this particular
15 zone.

16 Finally, they were requesting a variance from
17 sharing a common division wall with another building.

18 The provision is being deleted as chairman
19 mentioned from the zoning regulations because the Zoning
20 Commission took final action on the side yard requirements
21 and those provisions are going to become effective on
22 February 22nd.

23 So the applicant won't have to have relief from
24 that regulation provision. That will no longer be in
25 existence.

1 In this case as I stated they did provide revised
2 plans and the ANC met on February 5 and submitted a second
3 report indicating that they voted unanimously to support the
4 application which you could find in the record in exhibit 58.

5 They support the revised plans where the applicant
6 is using the additional brick materials to achieve a better
7 visual harmony in the community as quoted in the ANC's
8 letter.

9 The ANC is also -- also indicated that they accept
10 the applicant's testimony that they can minimize the vent
11 appearance using colors and discreet building materials.

12 I looked at OP's report supporting the
13 application. They made some recommendations which you
14 mentioned.

15 The applicant responded favorably by stating that
16 they would do additional landscaping.

17 So overall I believe that they met the criteria
18 for special exception and the side yard variance relief.

19 I wanted to also note in the record didn't appear
20 to be any opposition filed in the record with respect to this
21 application as well.

22 So the final note is that I believe that they've
23 met their burden of proof with respect to the relief. The
24 applicant in my view has presented exceptional situation
25 resulting in a practical difficulty because the subject

1 property is long and narrow with a width of 16.5 feet and 26
2 feet wide for the rear and front halves respectively for this
3 particular lot.

4 So relief is needed in order to provide a
5 reasonable building with the interior space that can actually
6 be utilized. So I found that providing the variance relief
7 would not be a substantial detriment to the public good since
8 the alley would provide open space, light, air between the
9 buildings.

10 So, Mr. Chair, in my opinion I'm prepared to
11 support the application.

12 CHAIRPERSON HILL: Okay. So that being the case
13 I'll go ahead and make a motion to approve application number
14 19866 as captioned and read by the secretary based on the
15 plans in exhibit 55 and ask for a second.

16 MEMBER JOHN: Second.

17 CHAIRPERSON HILL: Motion made and seconded. All
18 those in favor say aye.

19 (Chorus of ayes)

20 CHAIRPERSON HILL: All those opposed? Motion
21 passes, Mr. Moy.

22 MR. MOY: Staff would record the vote as 3-0-2.
23 This is on the motion of Chairman Hill to approve the
24 application for the relief requested. Seconding the motion
25 Ms. John. Also in support Ms. White.

1 We have two members not participating so the
2 motion carries 3-0-2.

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

4 (Whereupon, the above-entitled matter went off the
5 record at 10:01 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: 02-13-19

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

NEAL R. GROSS

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