

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

APRIL 10, 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
CARLTON HART, Board Member (NCPC)

ZONING COMMISSION MEMBERS PRESENT:

ANTHONY J. HOOD, Chairperson
MICHAEL G. TURNBULL, FAIA, Commissioner (AOC)

OFFICE OF ZONING STAFF PRESENT:

TRACEY W. ROSE, Sr. Zoning Specialist

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

MARY NAGELHOUT, ESQ.
MAXIMILIAN TONDRO, ESQ.

The transcript constitutes the minutes from the Public Meeting held on April 10, 2019.

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Appeal No. 19938 of ANC 1C 3

Appeal No. 19441 of Richardson Place Neighborhood
Association 14

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

10:34 a.m.

1
2
3 BZA CHAIR HILL: I'm sorry. We're going to do the
4 decision cases now.

5 MS. ROSE: All right, the first case for decision
6 today is appeal number 19938 of ANC 1C pursuant to 11 DCMR
7 Subtitle Y Section 302 from the decision made on October 5,
8 2018 by the Zoning Administrator, Department of Consumer and
9 Regulatory Affairs, to issue building permits B1900300,
10 B1900301, B1900302 to renovate three existing attached
11 principal dwelling units in the RF-1 zone at premises 1630-
12 1634 Argonne Place NW, square 2589, lot 480.

13 BZA CHAIR HILL: Okay, thank you. Is the board
14 ready to deliberate? You can start.

15 VICE CHAIR HART: Yes, I think that one of the
16 things that has been -- that I felt like I was fairly clear
17 at the last meeting and then started kind of reviewing stuff
18 again.

19 And I guess I'm now at a point that I'm thinking
20 I may need some further clarification on some stuff, but --
21 I think what I'm asking for is really having something that
22 is written from the DCRA and if the other parties want to do
23 it as well.

24 And it's really around the -- whether or not the
25 subdivision has been -- was -- why wasn't it abandoned when

1 the project itself was abandoned. I think that that's kind
2 of a question that I'm still kind of grappling with.

3 I know that we've gotten some guidance from OAG
4 about some of this. And I don't know if there's a -- I think
5 if I understand that a little bit better, at least understand
6 where that was going I could make a decision on this.

7 But I think that right now I'm just trying to kind
8 of -- I've been grappling with that aspect of it.

9 I don't know where other folks are on it, but I
10 think if we have a little bit more information on that that
11 might be helpful to be able to do this. I don't know. I
12 know that's not a whole lot, but I think that finding out or
13 determining whether or not -- or determining kind of the
14 process that the DCRA went through, the ZA went through first
15 in determining that there was -- the 12-unit apartment
16 building, once that was abandoned then the subdivision really
17 should have gone along with that and it doesn't seem like
18 that happened.

19 And it seems like if that was no longer an issue
20 that some of this may kind of go by the wayside. It seems
21 like that's a sticking point in all of this.

22 So that's kind of where I am. I know that's not
23 necessarily that clear, but I think we need to have a little
24 bit more information. I don't know where the other board
25 members are on it.

1 BZA CHAIR HILL: Okay. All right, well thanks.
2 I'll say what I think I -- thanks for starting this
3 discussion off.

4 I'm a little also would like some further
5 information I suppose as well. I mean, we had the -- they
6 made one record lot, right, they made one record lot. And
7 then there were three tax lots. But the tax lots, they're
8 not the same thing as a record lot.

9 And so what you're asking, Vice Chair Hart, is
10 that clarification as to why when the apartment building was
11 abandoned, why it didn't just go back to three record lots
12 because it was tied to the project.

13 VICE CHAIR HART: And I know that the Office of
14 the Surveyor is included in this as well. And I think that
15 there may have been some issue with that -- with some process
16 with the Office of the Surveyor.

17 I think if I understand a little bit better from
18 the ZA what the -- why that subdivision wasn't abandoned as
19 well that would help me understand where I am on this case.

20 BZA CHAIR HILL: Okay. Any other board members?

21 MEMBER JOHN: Mr. Chairman.

22 BZA CHAIR HILL: Sure.

23 MEMBER JOHN: At the last hearing I was looking
24 at whether or not this was an alteration, therefore it did
25 not require a separate record lot for each building.

1 But after looking at the submissions again I am
2 back to the interpretation of Subsection A 301.3 and whether
3 or not that provision would require each building to be on
4 a separate record lot if in fact the work being done could
5 be construed as either construction or conversion.

6 It's fairly clear to me that it's not direction
7 because it's something new, but then why isn't it
8 construction or conversion from one use to the next.

9 And so I would like to have written clarification
10 as to that particular issue.

11 And I'm still not clear about the building
12 permits. It seems that there is a lot of inconsistency
13 between the permits and what they allow. So I would like
14 some clarification on that as well.

15 Because I'm sort of troubled by the ZA's
16 interpretation and the property owner's interpretation
17 because if we say that this is appropriate to do alterations
18 on a tax lot then I am not sure what that does to zoning and
19 notice and so on.

20 It seems to me that a new owner would not know
21 that there is such a limitation on the property. And I don't
22 think that that interpretation is reasonable.

23 So, additional clarification on how this complies
24 with A 301 or does not comply with A 301.3 would be helpful
25 to me. Thank you.

1 MEMBER WHITE: I would also concur. I mean
2 basically this is an appeal of DCRA's issuance of building
3 permits, three building permits to renovate three existing
4 attached principal dwelling units in the RF-11 zone located
5 at 1630-1634 Argonne Place NW.

6 So I would also be in favor of perhaps reopening
7 the record for a limited scope opportunity to receive
8 additional responses from the parties on the questions that
9 you outlined and the one question that I had was one of the
10 questions that we discussed with OAG and that was whether or
11 not the Zoning Administrator -- did the Zoning Administrator
12 approve the subdivision, consolidating the three existing
13 record lots into a new record lot 480 based on the abandoned
14 building permit application to convert the three row
15 dwellings into one apartment house.

16 And I think that that would at least help me kind
17 of complete some of my due diligence to try to determine
18 whether or not the ZA erred in this particular appeal.

19 BZA CHAIR HILL: Okay. Mr. Chairman, before you
20 go I guess just -- so what I'm hearing is -- I mean I kind
21 of think that I would rather even than have -- maybe have a
22 continued hearing to actually talk to people and ask them
23 questions.

24 Because rather -- and we'll ask for the
25 submissions that everyone seems to be asking for. And I'm

1 going to kind of ask Ms. John and Mr. Hart if you would just
2 to go over again what you think you might actually want into
3 the record and then we'd have a limited scope hearing on
4 those particular issues.

5 What I got even confused about I guess is I mean,
6 I understand how we kind of got to this point in terms of
7 again the one record lot and those buildings were there, and
8 they just -- they haven't changed the buildings themselves.

9 And so what do you do now once that has been
10 abandoned.

11 And so Mr. Turnbull?

12 MEMBER TURNBULL: I think all of you have touched
13 on some of the same issues that I had. This is -- it gets
14 a little bit confusing.

15 Right now there's two dwelling units on one record
16 lot which you can't have. There's three dwelling units on
17 one record lot which you can't have. You can only have two.

18 And then there's the whole issue of the
19 subdivision, whether the Zoning Administrator approved the
20 subdivision, consolidating.

21 There's so many issues around that subdivision and
22 how the ZA approved it or why it wasn't abandoned. It's very
23 confusing.

24 And I would agree that I think there's some real
25 issues here that need to be further clarified by the ZA and

1 maybe by the owner.

2 I'm just -- it's messy and I think there are some
3 problems with it. So we need further clarification.

4 BZA CHAIR HILL: Okay. Mr. Hart, could you repeat
5 again what you think you're looking for?

6 VICE CHAIR HART: Yes. Well, it's really when the
7 building permit for the 12-unit apartment building was
8 abandoned why did DCRA not abandon the subdivision as well.
9 Because they seem to have gone hand in hand. But one was
10 abandoned and the other one was not.

11 In particular, I guess it would be helpful to
12 understand the process that DCRA uses to determine that a
13 permit has been abandoned. That would be probably the lead-
14 up to why this subdivision wasn't abandoned as well. Maybe
15 there's something in the process that says okay, well, you
16 know, I don't know. I just don't know if there's something
17 that we're missing as part of this process.

18 But I just feel that we are not -- that we don't
19 have the sufficient information to be able to kind of -- to
20 be able to understand all of this well.

21 So the building permit was abandoned. Why was the
22 subdivision not abandoned as well and what's the process to
23 determine that a permit has been abandoned.

24 BZA CHAIR HILL: Okay. Ms. John, is there
25 anything specific?

1 MEMBER JOHN: Yes. Specifically I'm concerned
2 about the interpretation of A 301.3 and why this is not
3 either construction or conversion.

4 Because the extent of the -- I don't know how the
5 ZA interprets construction on a project like this where the
6 work is extensive and why wouldn't this be a conversion as
7 well because it's a change from a single family. There are
8 three units on one record lot. Why wouldn't that be a
9 conversion. I don't know and I would like additional
10 information on that.

11 Because at the hearing I was willing to -- or I
12 was leaning towards agreeing that this was just an alteration
13 of three buildings on a tax lot and that there was no major
14 change to the external -- to the building externally or to
15 the footprint. There was no addition. So I was willing to
16 say well maybe this is alterations on a tax lot.

17 But the more I look at A 301.3 the language makes
18 no sense if erection and construction all mean the same
19 thing. And I have to think that construction means something
20 else.

21 And I wonder how in the past the ZA has applied
22 the term construction in a situation like this. It's long
23 but I'm sure we can find a way to write that up. Thank you.

24 BZA CHAIR HILL: Okay. Mr. Turnbull.

25 MEMBER TURNBULL: Yes. Thank you, Mr. Chair. I

1 would agree with Ms. John. I think the owner's
2 interpretation that erection is sort of like a synonym for
3 construction. I mean, erection, construction, conversion,
4 three different terms. They're not synonyms. They stand
5 alone. They have their own meaning.

6 And construction doesn't simply mean new
7 construction, it can mean renovation. And I think the
8 owner's reliance on some of -- trying to imply that some of
9 these things are interchangeable is erroneous. I think he
10 needs to explain that.

11 I don't agree with that. I think there's three
12 separate definitions there and they all have separate
13 meanings. He's relying on that they're basically synonyms.

14 BZA CHAIR HILL: Okay. All right. Okay, I'm fine
15 with that.

16 So then again just in terms of when we do come
17 back for this. The community doesn't seem opposed to the
18 project. Like they didn't seem to -- they were I think at
19 one time concerned about the apartment building.

20 And so I was a little confused as to why this
21 appeal necessarily came forward and I do think it's kind of
22 a technical issue even though it wasn't necessarily argued
23 as such at the time.

24 But so then we're going to do a continued hearing.
25 And then on the -- limited scope continued hearing on what

1 we basically just were asking for.

2 Okay, so Ms. Rose then, I actually don't know or
3 even OAG, I don't know how the notice works or all that in
4 terms of doing a continued hearing now. What we need to do.

5 MS. ROSE: Mr. Chairman, we wanted to know how
6 long the parties need to produce what it is you're
7 requesting. And then we can establish a date from there.

8 Mr. Turnbull will be back on the 24th. That's
9 only two weeks. And so we have other dates, but he's
10 scheduled to be back in June. So if he's flexible, he said
11 he is, he can come for either May 1 or May 8.

12 BZA CHAIR HILL: I guess I would even ask now is
13 there an appeal on any of those dates so that at least the
14 Zoning Administrator has to be there for that day as well?

15 MS. ROSE: We have an appeal on May 8.

16 BZA CHAIR HILL: Okay. So May 8. So that's a
17 month from now. So we'll do it on the 8th. Let's see if we
18 can do it on the 8th and then -- because Ms. White's not
19 going to be with us on the 8th, but she will be with us on
20 the 15th. Is there an appeal on the 15th as well, Ms. Rose?

21 MS. ROSE: We have one appeal.

22 BZA CHAIR HILL: Okay. All right. Let's do it
23 on the 15th then.

24 MS. ROSE: Okay.

25 BZA CHAIR HILL: And so then in terms of getting

1 information from the -- I guess it's just the Zoning
2 Administrator, right. Information from the Zoning
3 Administrator and the property owner. You need to speak on
4 the microphone, I'm sorry.

5 MEMBER JOHN: Yes.

6 BZA CHAIR HILL: The property owner is for the A
7 --

8 MEMBER JOHN: For the A 301.3.

9 BZA CHAIR HILL: So the property owner is speaking
10 to A 301.3. The Zoning Administrator is going to give us the
11 information that we're asking for. And hopefully we can get
12 that in two weeks. Three weeks.

13 MS. ROSE: You want it by April 24?

14 BZA CHAIR HILL: All right, now I'm looking at my
15 calendar. So, we're now talking about the 15th of May.

16 MS. ROSE: Yes.

17 BZA CHAIR HILL: Okay. So if they have three
18 weeks to get information to us that's the 1st of May. And
19 then the 1st of May and then we'd have then how much time for
20 the parties to respond to anything that's in the record?
21 You'd give another week, like the 8th of May?

22 MS. ROSE: Eighth of May.

23 BZA CHAIR HILL: Okay. So, we're going to get
24 information from the Zoning Administrator and the building
25 owner by the 1st of May. Then any responses by the 8th of

1 May. And then we'll be back here to have a limited scope
2 hearing on the 15th of May.

3 MS. ROSE: All right, that's fine.

4 BZA CHAIR HILL: And then, Mr. Turnbull, you're
5 with us -- you can be with us on the 15th of May?

6 MEMBER TURNBULL: Yes.

7 BZA CHAIR HILL: Okay, all right. All right. So
8 that's that. Okay. So we're going to switch out
9 commissioners again.

10 Okay, just so the audience knows so we're going
11 to deliberate another case and then we're probably going to
12 take a break. We'll take a quick break and then we'll come
13 back.

14 And then I know that there's people here, I can
15 see commissioners and such, and so we're doing our best to
16 kind of get through this. This is what we all volunteered
17 for so we're all here. Not you, it's part of your job.

18 MS. ROSE: The next decision case is appeal number
19 19441 of Richardson Place Neighborhood Association. This is
20 a motion for reconsideration from the property owner of the
21 board's decision to grant the appeal of decisions made on
22 September 27, 2016 and October 20, 2016 by the Zoning
23 Administrator, DCRA, to issue building permits B1611469 and
24 B1611470 to permit the construction of two adjacent flats in
25 the R-4 district at premises 410 and 412 Richardson Place NW

1 square 507, lots 101 and 102.

2 BZA CHAIR HILL: Okay. Is the board ready to
3 deliberate? Okay. This is going to be messy so I'm going
4 to start the messiness.

5 Okay. So there is -- well, a couple of things.
6 One, the reconsideration one of which is timeliness for the
7 appeal. The other is then actually the merits of the appeal.

8 This thing was two years ago that we did this.
9 You know, I still am pretty disappointed with the project.
10 I mean, I don't really have an issue with the concept itself.
11 I think the concept is a great concept. You can have --
12 everybody lives together and there's old people, young people
13 living together. Everybody is -- but I think it's kind of
14 like a dormitory.

15 And so, however, the appeal -- or not the appeal
16 -- yes, the appeal was on the whole definition of what a flat
17 was and how a flat was determined.

18 And I've been here now for another two years after
19 I started doing that one two years ago and so I have more
20 experience than I had before. And so even though I might not
21 agree with the definition. I think it's a weird loophole.

22 I don't know, Commissioner, you're on the Zoning
23 Commission. I don't know if -- what your thoughts are on it.

24 Again, I don't have an issue with what is
25 necessarily being proposed, or what is actually there.

1 I guess the other issue I think is disappointing
2 is the board -- it's America. You can file an appeal and
3 keep moving along.

4 The board made a decision. They went ahead and
5 did what they were going to do anyway to the building. And
6 so that was that comment.

7 Let's see. So I can start to deliberate on some
8 of the timeliness issues first I think in terms of whether
9 or not we think it was timely.

10 I don't think we deliberated enough on that when
11 I went back and looked at the record as to the timeliness of
12 it. And I'll speak on my question about the timeliness right
13 now which is that I would have -- and whether or not we need
14 to reopen the record again to hear from the applicant or the
15 Zoning Administrator as to what were the original permits
16 that were back in 2011 and 2013.

17 You know, are the changes to the interior of the
18 building, is that -- we the board has ruled that that doesn't
19 reopen the 60 days in terms of the appeal in terms of the
20 administrative decision and the first writing rule.

21 So meaning that in the past even if some interior
22 items have been changed it doesn't necessarily change the
23 permit or open up the applicant for an appeal, another chance
24 to be appealed.

25 I'm leaning towards this was untimely. However,

1 I could also reopen it to talk about when and find out from
2 the Zoning Administrator since the Zoning Administrator is
3 going to be back here again on the 15th we can do this again
4 on the 15th and just have everything happen on the 15th.

5 But it's like when -- and this would be even
6 something that I'd be interested in in terms of like
7 training, but when something is triggered. When enough
8 change that has happened to the permit, whether or not that
9 necessarily triggers or opens up the possibility for an
10 appeal. Like I'm unclear as to when that necessarily
11 happens.

12 I think that -- and since I said the deliberations
13 are going to be a little messy, I think it's kind of unfair
14 to the community or the people. I mean, how do you know.
15 You have flats. They're going to be flats. You think
16 they're going to be flats. And then all of a sudden you see
17 that it's like you're advertising for what I think is kind
18 of a dormitory.

19 And again, I have no problem with the whole
20 concept. I just think that it doesn't seem like it's a
21 chance where the community would have -- the next door
22 neighbor wouldn't even know what it is until after it's
23 happening to them.

24 And so that's where this whole thing just gets --
25 so I'm going to open it up to whoever wants to go next.

1 VICE CHAIR HART: I'll just say that as you noted,
2 Mr. Chairman, this case has been with us for awhile.
3 Initially at the hearing I actually voted to -- I was the
4 lone person that voted to deny the appeal after determining
5 that the appellant had not proven their case.

6 Now one question that you just described which was
7 timeliness really hadn't been discussed during that original
8 permit.

9 And I'll just note that the original permit was --
10 and the first writing was really in 2011 when this permit was
11 issued. And then there were subsequent changes to that
12 permit, several of them, over a number of years.

13 And that use had not changed from the 2011 permit
14 to the 2016 permit when the appeal was first filed.

15 I do believe that there were some issues that got
16 conflated during this discussion. Timeliness and the use.
17 And the appellant was supposed to describe why the appeal was
18 submitted in a timely fashion and then describe how the ZA
19 erred in issuing the building permit.

20 I couldn't find an argument that was provided that
21 sways me to believe that the appeal was timely so again I
22 will be voting to deny the permit on grounds that it was not
23 submitted within the 60-day time frame given that the appeal
24 was filed several years after what was the first writing
25 which was 2011.

1 I know it's fairly succinct, but that's kind of
2 where I am.

3 MEMBER WHITE: Okay, I'm going to do a little
4 stream of consciousness too if it's okay.

5 So, upon further reflection I also think that the
6 appeal was not timely. There are a lot of issues involved
7 in this case that I had some opinions about, but just looking
8 at the strict rules and regulations with respect to
9 timeliness I didn't think that it was timely.

10 So again, this was a motion by the property owner
11 for reconsideration of BZA's decision to grant the appeal of
12 ZA's decision to issue the building permits that permitted
13 the construction of two adjacent flats in the R-4 District
14 zone located at 410 and 412 Richardson Place NW.

15 The appeal was really not related to use. We
16 granted the stay pending issuance of a written order on the
17 motion for reconsideration.

18 The order for the stay was issued on March 8,
19 2019. So again the first issue that I want to try to address
20 is the timeliness of the appeal.

21 In reviewing it I looked at the property owner's
22 pre-hearing statement in exhibit 32. I looked at DCRA's
23 exhibit filed in the record in exhibit 33.

24 And the property owner indicates an intent to
25 challenge the entire order on appeal including the issue of

1 timeliness which is the 60-day rule and the first writing
2 rule and the under roof rule.

3 Under Subtitle Y 302.5 a zoning appeal may only
4 be taken from the first writing that reflects the
5 administrative decision complained of to which the appellant
6 had notice. No subsequent document including a building
7 permit or a certificate of occupancy may be appealed unless
8 the document modifies or reverses the original decision, or
9 reflects a new decision under Y 302.5.

10 Upon further reflection a zoning appeal may only
11 be taken from the first writing that reflects the
12 administrative decision complained of to which the appellant
13 had notice.

14 My review of the record shows the first writing
15 that reflects the administrative decision of the ZA to allow
16 the construction of flats on the -- for this particular case
17 are the original building permits for 412 Richardson issued
18 on August 31, 2011. So that was six years before the actual
19 filing of the appeal.

20 And the original building permit for 410
21 Richardson was issued on April 22, 2013. That was three
22 years before the filing of the appeal both of which identify
23 the use of the properties as flats.

24 No subsequent documents modify or reverse the
25 original decision of the Zoning Administrator that the

1 building on the lots are flats and the authorization of
2 construction.

3 RPNA knew that the construction began at the
4 property in 2014. The certificate of occupancy didn't start
5 the time of the zoning decision because DCRA made no
6 additional zoning decisions when issuing the C of O.

7 The first writing rule has been consistently
8 applied in the board's decision and has been upheld by the
9 DC Court of Appeals in at least one case that we reviewed in
10 the record.

11 Ordinarily the building permit is the document
12 that reflects a zoning decision about whether a proposed
13 structure and its intended use as described in the permit
14 application conform to the zoning regulation.

15 So just not even looking at the merits of the
16 case, upon further reflection I wasn't even able to get to
17 the next phase of things. But looking at the timeliness
18 issue I don't think the appeal was timely.

19 ZC CHAIR HOOD: Mr. Chairman, I'm not going to be
20 as eloquent as Board Member White, but I will say she has --
21 I don't have all the dates. I just know that we started 2011
22 and '13.

23 Upon further reflection on this case -- first let
24 me just back up. I don't care whether they go to court or
25 whoever -- they can go see who they want to go see. That's

1 part of the process. I'm used to decisions that I make down
2 here on this commission, on the board going to court and
3 dealing with that. If that's the route they choose to take
4 then that's their right. We all have rights to do things.

5 But we also try to make the decisions in the best
6 interest of the city here on the board and the Zoning
7 Commission as well.

8 So upon further reflection I think when I look
9 back at how we dealt with it the first time we may have not
10 spent as much time as we should have on the timeliness issue.

11 I think there are two separate issues. Timeliness
12 is one thing and then the use.

13 From my standpoint I might have mixed it all
14 together and argued the points of use.

15 Now, there may be -- if it's done improperly there
16 may be another time that the ZA and everybody has another
17 crack if it's not done properly as far as the use.

18 But I think as far as timely I think this is
19 untimely and I will -- without being long-winded I will just
20 say that I'm going to be voting this as being untimely,
21 dismiss it for untimeliness.

22 But I do not take threats kindly. Thank you.

23 BZA CHAIR HILL: Okay. I'm happy to talk about
24 this a little bit more because we have been thinking about
25 this for a long time now, this particular issue.

1 So as far as the use. So, I guess now if this
2 were now -- the community could appeal the use, right, is
3 what I understand if this were deemed untimely. If this
4 appeal went away.

5 So, what we were talking about -- what Chairman
6 Hood just mentioned again was like the issue that was before
7 us was whether or not this was the building permit and not
8 what the use was.

9 I know some of the people are here in the audience
10 again, but the -- I just can't -- I'm just saying it for the
11 people that are putting forth the appeal that how do you know
12 what's going to happen next to your home until it starts to
13 happen.

14 And so again if they were two flats then you think
15 they're going to be two flats. And I'm just repeating myself
16 because I can -- and then now you have what you have, what
17 they're advertising it to be.

18 So I'm frustrated with the situation that I'm in
19 in terms of this particular vote, but it is what it is.

20 ZC CHAIR HOOD: Since you're wanting to talk about
21 it I will say that one thing that I do applaud the city,
22 everybody always finds things that we don't do right.

23 But one of the things that I think we do right is
24 if they do proceed, you proceed at your own risk. And even
25 if you're found to be out of compliance with what you're

1 supposed to be -- your use is then guess what. You're going
2 to have to pull it back or in some cases tear it down, stop
3 doing it, or redo it. So that's the assurance I have in
4 moving forward. And I think hopefully that will give the
5 Richardson Place neighbors some type of comfort level as this
6 process plays out.

7 So hopefully the process won't play out to where
8 they have to do that, but there is a tool and a mechanism to
9 where there are some things that could be detrimental to them
10 and even cost them a lot of money in their development and
11 make it for naught. That's kind of where I am with all of
12 this.

13 MEMBER WHITE: So basically in the event that
14 going forward that Richardson believes that the buildings are
15 not in fact being used as flats consistent with the zoning
16 regulations obviously as part of their due process they're
17 able to file another appeal, or take the case back through
18 the legal process.

19 But with respect to the timing aspect I still
20 stand firm that the appeal filed in the case that we're
21 talking about right now, I do not believe it was filed
22 timely.

23 BZA CHAIR HILL: Okay. All right. So I'm going
24 to go ahead and make a motion to dismiss application number
25 19441 as being untimely and ask for a second.

1 MEMBER WHITE: Second.

2 BZA CHAIR HILL: Motion made and seconded. All
3 those in favor say aye.

4 (Chorus of ayes)

5 BZA CHAIR HILL: All those opposed? Motion
6 passes, Ms. Rose.

7 MS. ROSE: Staff would record the vote as 5-0-0
8 to dismiss the appeal.

9 BZA CHAIR HILL: Now I'm confused.

10 MS. ROSE: Because you have a motion for
11 reconsideration. So we are granting the motion for
12 reconsideration.

13 BZA CHAIR HILL: We're granting the motion for
14 reconsideration.

15 MS. ROSE: And dismissing the appeal.

16 BZA CHAIR HILL: And dismissing the appeal as
17 being untimely.

18 MS. ROSE: Okay. So the vote is 4-0-1 and the
19 motion was made by Mr. Hill.

20 BZA CHAIR HILL: Yes.

21 MS. ROSE: Seconded by --

22 BZA CHAIR HILL: Ms. White.

23 MS. ROSE: -- Ms. White. With Mr. Hart and Mr.
24 Hood in support of the motion and Ms. John not present -- or
25 not participating.

1 BZA CHAIR HILL: Yes. And OAG, that's clean? I
2 don't have to repeat anything? Okay, all right. We're going
3 to take a break. Thank you.

4 (Whereupon, the above-entitled matter went off the
5 record at 11:14 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: DC BZA

Date: 4-10-19

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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