

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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PUBLIC HEARING

+ + + + +

TUESDAY

MARCH 17, 2015

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The Regular Public Hearing 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 10:07 a.m., Lloyd Jordan, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:
LLOYD JORDAN, Chairperson
MARNIQUE HEATH, Vice-Chairperson
JEFF HINKLE, Board Member (NCPC)

ZONING COMMISSION MEMBER PRESENT:
ROBERT MILLER, Commissioner

OFFICE OF ZONING STAFF PRESENT:
CLIFFORD MOY, Secretary
JOHN NYARKU, Zoning Specialist

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:
MARY NAGELHOUT, ESQ.

OFFICE OF PLANNING STAFF PRESENT:
STEVE COCHRAN
BRANDICE ELLIOTT
MEGAN RAPPOLT

The transcript constitutes the minutes from the Public Hearing held on March 17, 2015.

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

10:20 a.m.

VICE CHAIR HEATH: All right. Okay. So we'll move to our hearing cases.

So we'll proceed in order of the docket.

MR. MOY: Okay. That would be Application No. 18943. This is the application of Myrtle Avenue, LLC.

This application was advertised and noticed for a request for a variance from lot area requirements under Section 401.3 at premises 2608 Myrtle Avenue, N.E.

VICE CHAIR HEATH: All right.

Would the parties for this case please come to the front to the table?

Did you turn in your witness cards? Okay.

All right. If you all would introduce yourselves, please. Make sure your mics are turned on -- the bright green light.

MR. CLAY: Good morning. My name is Steven Clay.

VICE CHAIR HEATH: And you're with?

MR. CLAY: I reside at 2606 Myrtle Avenue, N.E.

MS. BREVARD: I'm Gail Brevard. I represent ANC 5C-1. I am the Advisory Neighborhood Commissioner.

MS. WILSON: I am Caroline Wilson. I live at 2619 Myrtle Avenue, N.E. I am within 300 feet of the property.

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MS. PRESSLEY: My name is Corrine Pressley. I'm at 2634 Myrtle Avenue, N.E.

MR. PRESSLEY: My name's John Pressley. That's my wife. We have the same address.

MR. NATHANIEL: My name is Gabriel Nathaniel. I'm a partner with the Myrtle Avenue LLC.

VICE CHAIR HEATH: So this is a case that would be rather straightforward, but we do have some concerns that we understand from the ANC. We received your letter.

Do we have a letter of authorization? Who owns the property here?

MR. NATHANIEL: My company does.

VICE CHAIR HEATH: Okay. And did you submit a letter of authorization?

MR. NATHANIEL: Yes.

VICE CHAIR HEATH: Okay. All right. So then we're fine with that issue.

So any other issues other than the ANC or anything else you want to drill down on?

CHAIR JORDAN: Yes. Let me ask a question.

You're contending that is an exceptional situation or condition in that this is a vacant lot that cannot be made to comply with the lot area. Is that my understanding?

MR. NATHANIEL: Yes, that's correct. Well, not --

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not by area but lot width.

VICE CHAIR HEATH: Right.

MR. NATHANIEL: Now, it could conform to lot width if we were to adjust a property line during -- through the subdivision process. But then it would make the other lot nonconforming.

CHAIR JORDAN: Got it. Okay.

VICE CHAIR HEATH: Okay.

CHAIR JORDAN: And this lot's been vacant forever, basically, at least before 1958, correct?

MR. NATHANIEL: Correct.

MR. CLAY: As a resident who resides next door to that property, I would say that's not --

CHAIR JORDAN: Wait, wait, wait. You are -- we're here doing what? What's your capacity? Are you just as a witness, a neighbor?

MR. CLAY: A neighbor.

CHAIR JORDAN: Then we're not talking to you.

The way we proceed is that the Applicant presents his case and has discussion with us. And then, witnesses or neighbors or people in support or in opposition have three minutes each to talk toward the end. It's not a dialogue going back and forth.

MR. CLAY: Okay. Thank you.

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CHAIR JORDAN: I know this is different.

VICE CHAIR HEATH: So we'll give you the opportunity later in the case.

All right. So to the Applicant, we don't have any real issues with this at this time. So you have the right to present as a part of your testimony. But we would advise, since we are okay, that you don't want to talk yourself into trouble. So you can either decide to present or stand on the record.

MR. NATHANIEL: I'll stand on the record, please. Thank you.

VICE CHAIR HEATH: Okay. Great. You'll have the opportunity for a rebuttal if any issues come up during the course of the case. All right?

So then we'll turn to OP.

MS. ELLIOTT: Thank you. Good morning.

For the record, I'm Brandice Elliott with the Office of Planning.

And initially, we did have some concerns regarding this case. And so, as you know, our first report actually recommended -- or was not able to support the subdivision of this property.

But the Applicant did provide us with additional information after we filed the report last week actually showing that the lots are existing. And because in this case,

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he would not actually be creating an additional nonconformity, we are in a position where we can support the relief that's been requested.

So that's where we stand and I'd be happy to answer any questions you may have.

VICE CHAIR HEATH: Okay. Thank you.

Any questions for OP?

(No audible response.)

VICE CHAIR HEATH: Okay. All right. Thank you.

Applicant, do you have any questions for OP?

MR. NATHANIEL: No.

VICE CHAIR HEATH: Okay.

MR. NATHANIEL: No, thank you.

VICE CHAIR HEATH: Thank you.

So we'll move to the ANC. ANC, do you have any questions for the Office of Planning?

MS. BREVARD: No, I don't.

VICE CHAIR HEATH: Okay. All right.

Is DDOT here? Anyone representing DDOT?

(No audible response.)

VICE CHAIR HEATH: No. So no one is here from DDOT, but we do have a letter of no objection from DDOT on this request.

We do have somebody here from the ANC.

MS. BREVARD: Yes.

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VICE CHAIR HEATH: 5C?

MS. BREVARD: Yes. That's correct.

VICE CHAIR HEATH: Are you the chairperson?

MS. BREVARD: No, I'm not.

VICE CHAIR HEATH: Okay. Have you been selected to represent the full ANC?

MS. BREVARD: Yes.

VICE CHAIR HEATH: Okay. All right.

So then we are ready to hear from you at this time, if you'd like to make a presentation.

MS. BREVARD: Okay.

VICE CHAIR HEATH: We do have your letter. But you're free to make a presentation.

MS. BREVARD: Okay. And it's basically what's in my letter that the -- I'm sorry -- okay.

The Commission is opposing this variance. For one, ever since the first house was built, we've had problems in our basement with water. Our sump pumps are going all day long. And an additional house on the property would displace that water even further.

The other thing is parking. Parking is limited at that end of the block. And the second house would not have a driveway. And mostly seniors are on that end of the block. The street ends at South Dakota Avenue. But there's no parking

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on South Dakota Avenue. So that would force the seniors to park further down the block and have to walk.

And it would be an inconvenience for them in that there's no grocery store in the neighborhood, no pharmacy, no dry cleaners. So these seniors would be carrying groceries and dry cleaning feet from their homes instead of being able to park in front of the home.

On February 18, we had a community meeting with Mr. Nathaniel. I invited him to the meeting to share with the community his plans for that property. He showed up with nothing -- absolutely nothing except that he wanted to build a house. And he didn't seem to care to us.

On March 1, we had another community meeting asking that the developer and -- well, I communicated with Mr. Nathaniel -- another community meeting and no one showed up from Myrtle LLC.

And the other concern is the destruction of vegetation and landscaping. I believe I included a photo of how close the building would be to a set of hedges -- a row of hedges that belongs to the neighbor -- the person next door. He is concerned that his landscaping would be disturbed or destroyed.

And I communicated that to Mr. Nathaniel. He indicated he will do what he can to prevent any damage to the vegetation.

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But if they are destroyed, he would compensate that neighbor. The neighbor would prefer to have his landscaping remain the same.

The second home on the lot would create a crowded feeling. I mean, there's this quaintness and charm of the community that would be destroyed or tampered with. And we want to continue that charm.

And these are the reasons that I am against the variance.

Thank you.

VICE CHAIR HEATH: Thank you.

CHAIR JORDAN: If I can ask a question.

So has the Applicant met with the community and sat down and discussed these concerns with them?

MS. BREVARD: Not at all.

CHAIR JORDAN: Okay. Was there an ANC meeting where the Applicant presented the request for relief?

MS. BREVARD: No. The first one was February 18. And I'm sorry?

CHAIR JORDAN: No. So there was a meeting with the full ANC?

MS. BREVARD: Yes, one meeting with the full ANC, and one single-member district meeting.

VICE CHAIR HEATH: But you said he came with no drawings.

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MS. BREVARD: Nothing.

VICE CHAIR HEATH: He just came to discuss the project.

MS. BREVARD: Yes.

CHAIR JORDAN: So the full ANC did take a vote?

MS. BREVARD: Yes.

CHAIR JORDAN: Okay. And so, he had no drawings. He just told you what he was going to do?

MS. BREVARD: Correct.

CHAIR JORDAN: No plan for how the trees or traffic flow -- none of that was discussed?

MS. BREVARD: Nothing. Nothing.

CHAIR JORDAN: Madam Chair?

VICE CHAIR HEATH: Yes.

ZC COMMISSIONER MILLER: I would offer that we should move this for 30 days or at least 30 days so that we put this back and let the Applicant do that which should happen with all these cases. Meet with the ANC, do a presentation of the drawings and what's going on with the floor plan so that the community knows what's going on.

Now, a lot of this problem comes about when people are not communicating with the neighborhood. It leaves things up in the air.

And we certainly encourage over and over and over again about applicants meeting with the community and certainly with

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the ANC and not just -- the community has to put their arms around it. A lot of times, applicants cause themselves more problems because they're not open and having those discussions.

And part of the variance process is that we also consider the effect upon a neighborhood and the harmony upon the zoning regulations, et cetera.

That's just my thought. I don't know if anybody had thought that way about it.

ZC COMMISSIONER MILLER: Mr. Chairman, I would agree that neighbors should be neighbors and talk to each other, and they're going to have to live with each other. So from the outset, there should be that dialogue.

I'd like to hear the Applicant's commitment to that kind of dialogue or what the explanation is for not being more forthcoming according to the ANC.

MR. NATHANIEL: We -- I believe we were forthcoming. We attended the February 18 meeting in front of the full Commission.

The vote was not taken at that meeting because the single-member district had not had a community meeting. And they asked that -- they actually scheduled a special meeting for March the 11th, I believe, for us to give us time to discuss with the single-member district.

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Between February 18 and March 11, we've made several attempts to meet with the community. And we settled on a date on a Sunday afternoon. And it just so happened to be snowing and sleeting that day. So I personally asked to cancel that meeting and postpone it for a couple of -- postpone it a couple of days further into the week.

I sent several emails, and there was -- there was no response.

Ultimately, the March 11 meeting was conducted. Several of my colleagues attended that meeting with presentation papers showing the -- the drawings and the plans and elevation of the building.

From my understanding, they weren't able to present. They were pretty much blindsided by members of the committee and their -- their discontent for the construction of the house.

In my dialogue with them back and forth, I think the -- the major issue is the idea of leaking basements and -- and water coming into the basements.

CHAIR JORDAN: Let's go back to something very much more fundamental.

So in front of the full ANC, you had no plans that you presented to the ANC or drawings, et cetera?

MR. NATHANIEL: No, I had plans.

CHAIR JORDAN: For the full Board of ANC?

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MR. NATHANIEL: The full Board -- well, keep in mind there were two ANC meetings. The first one I had plans with me. However, there was -- the attendance was very low. I believe there was only one member -- one neighborhood member in -- including the Board person at that meeting. And at that meeting, that's where we were postponed to the March 11th meeting.

CHAIR JORDAN: I'm slightly confused. I thought that there was an ANC meeting. And then the March 11th meeting was a single-district meeting. Am I incorrect? That was a different meeting?

MR. NATHANIEL: Right. That's not correct.

CHAIR JORDAN: So there was a second meeting on March 11 with the full ANC?

MR. NATHANIEL: Correct.

CHAIR JORDAN: And at that second meeting, you presented plans and everything at that meeting?

MR. NATHANIEL: I did not personally present plans at that meeting. My colleagues were there with plans. And they informed me that they were not able to present.

VICE CHAIR HEATH: So there was nothing presented at the first ANC meeting and no drawings presented at the first or the second?

MR. NATHANIEL: There were drawings present -- there

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were drawings at the first meeting. However, it was not presented because the Board felt that they needed time to -- we needed time to meet with the neighborhood.

VICE CHAIR HEATH: Okay.

MR. NATHANIEL: Now the second meeting, two of my colleagues are here today and they were present at that meeting where drawings were available and they were not able to present.

VICE CHAIR HEATH: Okay. I'm inclined to agree with my colleagues that we need to postpone this decision for 30 days, give you all time to communicate, for you to make a proper presentation to the ANC with full drawings and have discussions with ANC and the community.

Again, as the Chairman has said, this is really important, and you all have to live together in the same neighborhood.

So any other --

ZC COMMISSIONER MILLER: The only thought I had, Madam Chair -- Madam Vice Chair -- Madam Acting Chair -- was that maybe since there are some neighbors here today, will we get a chance to hear from them since they're here today?

CHAIR JORDAN: And I would generally agree with that. My only concern is that they have not -- to my knowledge -- had a chance to digest -- well, we can hear now -- but to digest

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the plans because I'm understanding it hasn't happened. But I just think that --

ZC COMMISSIONER MILLER: Because we're going to have another hearing anyway. We're not just having a decision meeting.

CHAIR JORDAN: Right. And let me say this. It's incumbent upon everybody to try to get involved. And I really appreciate everybody coming down.

But the burden is really on the Applicant to make it work. The community doesn't necessarily have to make it work, but I'll also turn to the community and say that we cannot be unreasonable and we have to make meetings and we have to let them present. You cannot just cut them out.

I'm not saying it happened. I'm just saying as Commissioner Miller said it's better if you work together and you have informed decisions whether you're going to support or be in opposition. And the Applicant has to be able to say that we've done everything we can do to meet.

Now this Board has gone on in the past if the ANC hasn't met or the ANC has drug things out or the community has not been responsive to the good faith attempt of the applicant to meet with the community, if we believe that was the case. And I'm not feeling it right now. I'm just not feeling it right now.

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I've got a lot of questions about the line of communications and what have you. And as Mr. Miller and Vice Chair said that this is probably one that needs to go back and make sure you schedule and have full dialogue about where you are. That's kind of my thought on it.

VICE CHAIR HEATH: All right. So then we'll delay this for 30 days.

MS. WILSON: May I please be allowed to speak less than three minutes?

CHAIR JORDAN: Yes, go ahead.

VICE CHAIR HEATH: Sure. You can speak.

MS. WILSON: As I stated, my name is Caroline Wilson and I am within 300 feet of the property.

But Vice Chair, Madam Acting Chair and the Chairman, your initial statement to the Applicant appeared to me -- and this is my first time ever attending this type of meeting -- I thought I heard you say you're inclined to do what you need so you really don't need to say anything, you might mess things up. Because at that very moment, I believed that we were just sitting here wasting our time. That's not what you meant?

CHAIR JORDAN: No, that's not what she meant.

What we do procedurally --

MS. WILSON: All right.

VICE CHAIR HEATH: What the communication actually was

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is that the file shows sufficient information for this Board to believe that, subject to something coming up in this hearing, that sufficient information is in this application and documents filed and all the --

MS. WILSON: I appreciate that. It's good.

CHAIR JORDAN: No, you're not being -- now?

MS. WILSON: Go -- go ahead. I just didn't want to waste your time.

CHAIR JORDAN: No, no, no. But others may not understand.

MS. WILSON: Thank you

CHAIR JORDAN: So that the file as we sit here -- we review all these files for the day. We spend probably eight to 12 hours on our own time going through these documents and files so we are abreast of what's in them before we sit here.

So the communication was simply based upon what's in the file -- based upon what we have already -- subject to what happens in the hearing, we believe that the relief can be granted. But it's always subject to what happens in this hearing as you heard as we got to the witnesses.

MS. WILSON: All right. Thank you very much.

VICE CHAIR HEATH: Mr. Moy, what date can we bring this back?

MR. MOY: Yes. The Board is looking at 30 days. And

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I'm assuming the Applicant is going to be meeting with the ANC at their meeting in April -- whenever that date is. But I'm sure they'll let the Board know because I think to continue the hearing could be heard on April the 21st.

VICE CHAIR HEATH: Does that give you enough time for another ANC meeting?

MS. WILSON: No, it doesn't.

VICE CHAIR HEATH: Okay.

MS. WILSON: That meeting is April 18th.

VICE CHAIR HEATH: Okay.

MR. MOY: The ANC's April meeting?

MS. WILSON: Yes.

VICE CHAIR HEATH: Okay.

MR. MOY: Okay. Then the next meeting then would be April 28th, Madam Chair --

VICE CHAIR HEATH: Okay.

MR. MOY: -- or Vice Chair Heath.

VICE CHAIR HEATH: Okay. Thank you. So we'll continue this on April 28th.

MR. MOY: April 28th.

VICE CHAIR HEATH: Okay. Thank you all for coming.

MS. WILSON: Thank you all.

CHAIR JORDAN: And again, for the Applicant to be sure to reach out to the ANC, the best way is also to communicate

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in writing so that you have the back-up documentation where you are.

Thank you, all.

VICE CHAIR HEATH: Mr. Moy, we'll call our next case.

MR. MOY: That would be Application No. 18946 of N Street Venture LLC.

This application was advertised and noticed for relief for a special exception from the historic resource parking requirements under Section 2120.6, at 1745 N Street, N.W.

VICE CHAIR HEATH: Okay. Good morning. Would you all introduce yourselves, please?

MS. MOLDENHAUER: Good morning. Good morning, Vice Chair, Members of the Board.

My name is Meredith Moldenhauer from the law firm of Griffin Murphy Moldenhauer and Wiggins. And I'll allow the Applicant to introduce himself and the rest of the members at the hearing.

MR. ROSENBERGER: My name is Russell Rosenberger. I'm President of Madison Homes. Madison Homes is a -- is the managing member of N Street Venture.

Our other partners in that venture are Innovative Development Group and the Resmark Companies.

My office is located at 1950 Old Gallows Road in Tyson's Corner.

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MR. PICHON: Good morning. My name is Sean Pichon. I'm with PGN Architects.

MR. ANDRES: Good morning, Vice Chair. Erwin Andres with Grove Slade Associates Transportation and Consultants.

VICE CHAIR HEATH: Okay. Thank you.

We've reviewed the full record. And it appears to me that the record is complete and we have all the information that we need to proceed.

Are there any questions from the Board?

CHAIR JORDAN: I do. What's the situation with RPP? Is this the RPP subject property?

MS. MOLDENHAUER: No, we are not. I'm sorry. Go ahead.

CHAIR JORDAN: No, you go ahead. No, you go.

MR. ANDRES: It is not an RPG subject property. There are no RPP properties on this block.

CHAIR JORDAN: Okay. And regarding the annual Bikeshare membership, I think you had in your initial application -- I mean, your TDM measures -- there were four TDMs, correct?

MR. ANDRES: Yes.

CHAIR JORDAN: You had, "Complimentary annual Capitol Bikeshare membership will be provided to the initial" -- I guess the initial tenants or something upon move in, is that

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right?

MS. MOLDENHAUER: The initial owners upon move in. But then, the Department of Transportation had asked for it to be for the first five years. And we were set to go with that.

This is going to be a condominium.

CHAIR JORDAN: Okay. For the first five years. All right.

So did I see anything where this was going to be part of the Condo docs?

MS. MOLDENHAUER: These would be recorded as part of the condominium documents in the bylaws and declaration.

CHAIR JORDAN: Okay. Maybe I missed that.

Okay. I'm good.

VICE CHAIR HEATH: Okay. Any other issues with TDM? (No audible response.)

VICE CHAIR HEATH: Okay. All right.

Well, you have the right to make a presentation.

MS. MOLDENHAUER: We will rest on the record. Thank you.

VICE CHAIR HEATH: Okay. Thank you.

So we'll turn to Office of Planning.

MS. RAPPOLT: Good morning. Megan Rappolt for the record.

And OP also stands on the record.

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VICE CHAIR HEATH: Okay. Thank you.

Any questions for Office of Planning?

(No audible response.)

VICE CHAIR HEATH: Applicant, any questions for Office of Planning?

MS. MOLDENHAUER: No questions. Thank you.

VICE CHAIR HEATH: Is there anybody here from DDOT on this case?

(No audible response.)

VICE CHAIR HEATH: Okay.

We do have a letter of no objection from the Department of Transportation.

Anybody here from the ANC?

(No audible response.)

VICE CHAIR HEATH: No ANC.

We do have a letter recommending approval from the ANC on this case.

So is there anyone here wishing to speak in support of this application? Anyone in support?

(No audible response.)

VICE CHAIR HEATH: Anyone wishing to speak in opposition? Going twice?

(No audible response.)

VICE CHAIR HEATH: No opposition? All right. Okay.

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Well, there's nothing to rebut.

MS. MOLDENHAUER: We then rest on the record --

VICE CHAIR HEATH: Okay.

MS. MOLDENHAUER: -- and conclude our presentation.

Thank you.

VICE CHAIR HEATH: Thank you. All right.

Well, then --

ZC COMMISSIONER MILLER: Madam Chair?

VICE CHAIR HEATH: Do you have any questions?

ZC COMMISSIONER MILLER: No, not questions. I just wanted to commend the Applicant for finally bringing this property to a point where it can be redeveloped and the historic preservations is all taken care of and get additional residential units. I think it was 39 residential units.

MR. ROSENBERGER: It's a total of 70 units, 39 new in the new tower, 31 in the historic building.

ZC COMMISSIONER MILLER: Right. And the property has been vacant for a long time, right?

MR. ROSENBERGER: Twenty-plus years, I think.

ZC COMMISSIONER MILLER: Yes. And this is a neighborhood that likes to be occupied. So I'm glad that we're finally getting this. And I commend you for --

MR. ROSENBERGER: Thank you.

VICE CHAIR HEATH: All right. Any other comments from

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the Board?

(No audible response.)

VICE CHAIR HEATH: Okay. Then I would move that we accept this request for a special exception.

CHAIR JORDAN: Just with the TDM measures as amended.

VICE CHAIR HEATH: So with the TDM measures as amended.

CHAIR JORDAN: Second.

VICE CHAIR HEATH: All right. Any further discussion?

(No audible response.)

VICE CHAIR HEATH: All in favor?

(A CHORUS OF AYES.)

VICE CHAIR HEATH: Any opposition?

(No audible response.)

VICE CHAIR HEATH: All right. Mr. Moy?

MR. MOY: Staff would record the vote as four to zero.

This is on the motion of Vice Chair Heath, seconded by Chairman Jordan, also in support Mr. Rob Miller and Mr. Jeffrey Hinkle. We have a Board seat vacant.

The motion carries.

And I also forgot to mention this also includes the TMP measures.

CHAIR JORDAN: TDM.

MR. MOY: TDM. TDM measures as --

CHAIR JORDAN: The measures. What the heck?

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VICE CHAIR HEATH: All right.

MS. MOLDENHAUER: We would request a summary order.

VICE CHAIR HEATH: Okay. A summary order, Mr. Moy.

MR. MOY: Thank you.

VICE CHAIR HEATH: Thank you.

So we are down to the last case.

Has the Applicant made it yet?

CHAIR JORDAN: Just call it. Just call it again.

VICE CHAIR HEATH: Okay. All right.

CHAIR JORDAN: Mr. Moy, do you want to call it?

MR. MOY: Yes. I'm going to call the case.

This would be Application No. 18952 of Daniel Fields.

And this is an application that was advertised for variance from the use provisions under 201.1 for a four-unit apartment house at premises 7100 Blair Road, N.W.

Staff would like to add that staff has reached out to the Applicant, and the Applicant says that he's running behind schedule and will arrive at hearing as soon as possible. So that's all I have for the moment.

I think he may have indicated that he would try to be here by 11:00 o'clock. But I'll leave that to a decision of the Board.

VICE CHAIR HEATH: Mr. Moy, we're going to put this on show cause. He's 30 or 40 minutes away according to Mr.

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Cochran.

All right.

CHAIR JORDAN: A 30-day show cause? Yes. Show cause why he's not here.

We start at 9:30, right?

VICE CHAIR HEATH: And we were late starting.

Okay.

MR. MOY: Okay. So --

VICE CHAIR HEATH: So for 30 days?

CHAIR JORDAN: Well, it has nothing to do with the fact that it's up for auction or anything like that. That's not before us. Every applicant has the responsibility for prosecuting their case. And so --

MR. MOY: Okay. I'll say the words.

So the Board is going to dismiss for --

VICE CHAIR HEATH: Show cause or dismissal.

MR. MOY: Okay. Thank you.

CHAIR JORDAN: If he doesn't show at the next setting

--

MR. MOY: Okay.

VICE CHAIR HEATH: We're going to delay this for 30 days.

MR. MOY: Got you. All right.

Okay. So let me give you a date then.

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So that would be --

ZC COMMISSIONER MILLER: I'm here April 14, I mean, according to the schedule. I can come another day as well. But I just throw that out there so you know that.

MR. MOY: Okay. April 14th would work with staff.

VICE CHAIR HEATH: Okay.

MR. MOY: If that's the Board's desire. April 14th.

VICE CHAIR HEATH: One second.

So, I apologize. We can't hear from you today. But as the Board Secretary has said, we'll postpone this until April 14th.

CHAIR JORDAN: We normally -- and the process is that an applicant has a responsibility of prosecuting. Then we have to give notice of our intent that we're going to dismiss it.

And so, that's what we're giving him -- the opportunity to show why we should not dismiss this. Was their excusable neglect or reason why he didn't appear before the Board?

So it's not continued in his favor. It's continued for show cause. He has to have a justifiable reason why he was not here for this hearing. Otherwise, it will be dismissed.

If you're commenting, make sure you're on the record. Come forward, please.

MR. SMITH: My original question was what's the

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rationale for postponing it?

VICE CHAIR HEATH: Can you introduce yourself again for the record?

MR. SMITH: Daniel Smith, 7124 Piney Branch Road, N.W., D.C.

VICE CHAIR HEATH: Okay.

CHAIR JORDAN: As I said, Mr. Smith, the Applicant has the responsibility of prosecuting their case. We have placed this on a show cause for dismissal for April 14th, meaning that he has to come and show -- he or she has to come and show that there was a justifiable reason why they did not appear here today or we'll dismiss the case.

If they provide us a justifiable reason, then at that time the Board would determine whether or not they want to go forward and actually hold a hearing.

MR. SMITH: Thank you.

MS. GREEN: But would you hold a hearing that day? I took off work to come here and would have to do that again. And then if you postpone it again, I'd have to come again.

I will be here because I care so much about this case. As I said, I can see it from my front porch.

CHAIR JORDAN: It would not be continued again.

MR. SMITH: So we would not be expected to be here on the 14th? That's just for --

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CHAIR JORDAN: Oh, no, no, no. You need to be here. You need to be here and be ready.

MR. SMITH: Oh, okay.

MS. GREEN: Okay.

VICE CHAIR HEATH: Just so you understand how your party status request works, this is a consolidated party status request. And so, we would hear from one of you as a representative of the party. So we encourage you all to be here and to participate. And we thank you for coming today. But if for some reason you're not able to be here at the next hearing, one of you will represent the party, and you should communicate all of your concerns to that one representative. Even if you're here, one person represents the party and will speak on behalf --

MS. GREEN: But I can't testify just as a neighbor as a witness?

CHAIR JORDAN: You can subsequently testify as a witness for three minutes. But you can't have the status as the --

MS. GREEN: Oh, got you.

CHAIR JORDAN: -- representative of the party status because during party status, it means you get to ask cross-examination. You get to put on evidence and et cetera, et cetera.

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MS. GREEN: Got you.

VICE CHAIR HEATH: Okay.

MR. CARLEY: May I ask a question? Andre Carley, ANC
4B.

How many bites of the apple does the Applicant have to
present his case?

CHAIR JORDAN: As I said a minute ago, April 14th is his
do or die day. Yes. Okay.

MR. CARLEY: Okay. Thank you very much.

VICE CHAIR HEATH: Thank you for coming.

Any other matters coming before the Board today, Mr.
Moy?

MR. MOY: Nothing for anything on the docket today.
But I just would like to also add another matter for the record
that Appeal No. 18980 that was scheduled for hearing on April
the 24th has been rescheduled to May 19, 2015.

That concludes the staff's status briefing on that
matter.

VICE CHAIR HEATH: Okay. Yes, thank you. Okay.

Well then, if there's no other business, then we'll
adjourn this hearing.

(Whereupon, at 10:50 a.m., the hearing was adjourned.)

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