

## GOVERNMENT OF THE DISTRICT OF COLUMBIA

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## BOARD OF ZONING ADJUSTMENT

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## PUBLIC MEETING

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TUESDAY,  
SEPTEMBER 29, 2015

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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., Lloyd Jordan, Chairperson, presiding.

## BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

LLOYD JORDAN, Chairperson  
MARNIQUE HEATH, Vice-Chairperson  
FREDERICK L. HILL, Board Member  
JEFF HINKLE, Board Member (NCPC)

## ZONING COMMISSION MEMBERS PRESENT:

ANTHONY HOOD, Zoning Chair  
MICHAEL TURNBULL, Zoning Commission Member

## OFFICE OF ZONING STAFF PRESENT:

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CLIFFORD MOY, Secretary  
JOHN NYARKU, Zoning Specialist

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

SHERRY GLAZER, ESQ.

OFFICE OF PLANNING STAFF PRESENT:

BRENDICE ELLIOTT  
KAREN THOMAS  
MAXINE BROWN-ROBERTS  
STEVEN COCHRAN

The transcript constitutes the minutes from the  
Public Meeting held on September 29, 2015.

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

9:38 a.m.

CHAIRPERSON JORDAN: Let=s come to order.

Good morning. We=re here for the Board of Zoning Adjustment of the District of Columbia meeting and hearing.

Today=s date is September 29<sup>th</sup>, 2015. My name is Lloyd Jordan, Chairperson. To my immediate right is Fred Hill, a member of the Board. To his right is Jeffrey Hinkle, a member of the Board. To my immediate left is Marnique Heath, vice-chair of the Board. To her left is Anthony Hood, chairman of the Zoning Commission, sitting in for part of this morning as a member of the Board of Zoning Adjustment.

We=re located at 441 4<sup>th</sup> Street, N.W., in the Jerrily R. Kress Memorial Hearing Room.

Today=s proceedings are being webcast live and also being recorded by a court reporter. So, therefore, I=m going to ask you to refrain from any disruptive noises here, in the hearing room, today. A good time to silence any device that might ring or buzz loudly.

If you=re going to present any testimony, make a statement to the Board, or basically, if you=re going to take a seat at this table, I only need you to do two things prior to doing that.

If you=re going to present any testimony, make a statement to the Board, read a letter, whatever you=re going

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1 to do, I'm going to need you to do two things. The first of  
2 which is to complete two witness cards per person. That's two  
3 witness cards per person, and prior to taking a seat at this  
4 table, to give those cards to the court reporter seated to my  
5 right.

6 The second thing B- so let's go back over that because  
7 it's really important. Complete two witness cards per person,  
8 and prior to taking a seat at this table B- you can do it at  
9 any time while we're proceeding B- give the cards over to the  
10 court reporter who's seated to my right.

11 The second thing I'm going to need you to do is to now  
12 stand and take the oath, which will be given by Mr. Moy,  
13 secretary to the Board.

14 MR. MOY: Those wishing to testify, please.

15 (Witnesses sworn, en masse)

16 MR. MOY: Ladies and gentlemen, you may consider  
17 yourselves under oath.

18 CHAIRPERSON JORDAN: Before I began, Mr. Moy, today's  
19 docket, I just want to say, announce, today's my last day on  
20 the Board after almost, what? four years or so on this Board,  
21 and serving in various capacities, serving as Chair. I'm going  
22 to miss being here. However, I'm not going to miss the 12 and  
23 14 hours that you have to put in before you take this seat.  
24 So I will get my Saturdays and Sundays back, and I don't know  
25 what I'm going to do for that insomnia.

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1           But anyway, today is my last day on the Board, and I=ve  
2           elected to not do any hold-over, et cetera, in regards to  
3           sitting here, which, you know, there=s another six months  
4           aspect to that. But I=m not doing that. But I really appreciate  
5           working with this Board, and I want to get this out before the  
6           room empties, because it=s important, I think everybody  
7           understands how hard this Board works, and I really appreciate  
8           the support this Board has always given me.

9           And this Board has worked hard to try to make this  
10          process more effective and efficient. Used to be a time that  
11          you had to bring lunch and dinner, and sleep in this room, and  
12          I think the Board has moved aggressively to change that, and  
13          to also be more efficient, but also be effective and able to  
14          Adrill down@ in to those issues that are really affecting the  
15          community and our zoning laws.

16          And I really appreciate that, and, you know, I think  
17          we=ve actually generated about 42 percent more efficiency in  
18          our operation, handling more cases, and et cetera, and getting  
19          so these cases are not lingering for a long period of time,  
20          and I know people appreciate getting home before midnight, and  
21          all that stuff.

22          And I appreciate the opportunity to work with the Zoning  
23          Commission and being part of the B- working with Office of  
24          Planning, and working with the zoning rewrite, which is so key,  
25          and so important as we go forward in this District.

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1           And I just want to recommend, continue to recommend to  
2 the Zoning Commission that the B- a couple of things are placed  
3 in that Final Order, and that is, one, that the B- that there=s  
4 a formal consent docket added for the Board of Zoning  
5 Adjustment. You know, we kind of did our own little bifurcation  
6 to get to one of those. But making sure that=s in the regs.  
7 And another I would strongly recommend, that there=s a  
8 provision that the Board of Zoning Adjustment can hoist cases  
9 up, or refer cases to the Zoning Commission, especially when  
10 those cases are, have such major policy impact upon the  
11 citizens, and the BZA almost begins to act like rulemaking,  
12 and in setting policy which is certainly within the purview  
13 of the Zoning Commission, and not with this Board. So I want  
14 to continue to push that.

15           And certainly I want to say before I go, too, that we,  
16 some kind of way, that we work collectively, everybody here  
17 work collectively, and Mr. Moy=s great idea, that we need some  
18 type of zoning advocacy, or a pro bono program with zoning  
19 professionals kind of helping some of the community groups,  
20 and et cetera, to deal with some of these zoning issues, because  
21 they generally can=t afford to hire folks to come in here, and  
22 Mr. Moy has a great idea of trying to recruit people to handle  
23 some cases pro bono, and I B- certainly, sign me up, whatever  
24 point, to help out in that.

25           Because we=ve seen it. We=ve often seen people come in

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1 and have real good issues, but get lost because they don=t have  
2 the real technical support. Someone is not there to help them,  
3 and they can=t afford to have, and it really impacts the  
4 community, as well as we=ve seen people who hold themselves  
5 out as professionals, zoning professionals, and we=ve added  
6 to the Web site, to be sure to find out who you=re hiring to  
7 come before this Board, because not only is it a disservice,  
8 that you might be paying somebody to do it, but some of the  
9 problems that are caused with our communities and our  
10 neighborhoods is because someone has improperly advised you  
11 about something that no way in heck could pass this Board, or  
12 completely against the zoning regulations, and the  
13 neighborhood is Aup in arms@ working to stop, had they talked  
14 to someone, you know, right up front.

15 But, again, I want to say that I certainly appreciate  
16 the support the Office of the Attorney General, and the Office  
17 of Planning, and certainly the director, Office of Zoning, and  
18 the staff here. I mean, it=s just been Asuper@ to work with  
19 in all these years, and lifted me up, and helping to move these  
20 things forward, and dealing with me, which is probably not an  
21 easy thing to do.

22 But I certainly B- and Mr. Moy has been Aabove and beyond  
23 the call of duty.@ I guess, Cliff, we talk on Saturday night  
24 sometimes, Sunday nights. I=m not talking about like 6:00  
25 o=clock or 7:00 o=clock. We might text each other. I might see

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1 something, looking at a case at 10:00 or 11:00 o'clock at night,  
2 say, Cliff, what is this? And he'll text right back, and give  
3 his input on that. But I certainly want to salute Mr. Moy, as  
4 well as the Zoning Commission.

5           You know, this Zoning Commission, I don't see how they  
6 do it. You know, they meet at least sometimes twice a week,  
7 and that's big dockets that they have to look at before to get  
8 together. They meet Monday and Thursdays, a lot of time,  
9 sometimes out in the community. Some of them B- some meetings,  
10 they have gotten out at 11:00 o'clock, 11:30, and then flip  
11 B- one of them will have to come here in the morning, and be  
12 here at 8:30, 9:00 o'clock in the morning for another docket  
13 of cases.

14           So I certainly appreciate working with the Zoning  
15 Commission because they work real hard. I know they don't get  
16 a lot of support, publicly, for some of the things they do,  
17 but they work really, really, really hard, and that's free  
18 work.

19 That, you know, contrary to popular belief, they don't get a,  
20 you know, any paycheck for all that prep work, and all the stuff  
21 that they do in that regard.

22           And Mr. Hood. I can't say enough about him. I think  
23 Chairman Hood has been a member of the Zoning Commission maybe  
24 B- over 15 years? 17 years, and counting. Before he's off, he's  
25 going to be close to 20 years on this Board, which I don't see

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1 how he does it, but we have to certainly, and I certainly  
2 appreciate his guidance and leadership in regards to the zoning  
3 regulations. And this Board, working with this team, has been  
4 really in a team before, and a previous Chair, people in the  
5 previous Zoning, Board of Zoning Adjustment Board members, I  
6 really appreciate working with them, and learned a lot from  
7 them myself. This zoning regulation is something we can all  
8 learn from on a regular basis. So this comes with it.

9 But again, I just wanted to say that before we proceed  
10 with the hearing.

11 MEMBER HEATH: Well, before you proceed, I just want to  
12 say thank you. We commend you for your service, and thank you  
13 for all of your time, and leadership, and energy. You=ve been  
14 a terrific asset to this Board for such a long time, and we=re  
15 going to miss you. Sorry to see you go. But do know that we=re  
16 going to still be calling on you. So you=re not officially gone.  
17 You may not be in this chair, but we do expect you to still  
18 participate with us behind the scenes, and help continue to  
19 guide us, because we=re going to need you.

20 CHAIRPERSON JORDAN: I appreciate it, and you always have  
21 my camaraderieship, going forward.

22 MEMBER HEATH: Thank you.

23 MEMBER HINKLE: Mr. Chair, if I might add. I mean, it=s  
24 been over four years we=ve worked together on the Board, and  
25 certainly I=ve learned a tremendous from you, and certainly

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1 your guidance and leadership has been valuable on this Board,  
2 and,  
3 and, you know, the changes and processes that you've helped  
4 implement for making both our lives easier, as well as the  
5 Applicants' lives easier, I think is truly invaluable, and you  
6 will be missed, certainly.

7 CHAIRPERSON JORDAN: Thank you. I appreciate that. Thank  
8 you.

9 ZC CHAIR HOOD: Okay. And Mr. Chairman, I'd just like  
10 to end up, on behalf of the Zoning Commission, we enjoyed  
11 working with you. I'm sure I can say this for all my colleagues.  
12 We enjoyed working with you. You brought a lot to the Board.  
13 You have definitely expedited the attendance, I'm sure. The  
14 Board members, as well as the residents of the city, and the  
15 Applicants, appreciate your efficiency. As you mentioned in  
16 your comments, no longer gone are the days where you stayed  
17 down here till 10:30, 11:00 o'clock at night.

18 So that's a tribute, a feather you can put in your cap.  
19 And also being a reformer. See, I know that you actually are  
20 a reformer coming to the city. When I first heard the name,  
21 Lloyd Jordan, I remember, I think you were associated with the  
22 Control Board, and I knew then, when you became a member of  
23 the Board of Zoning Adjustment, when then Mayor Grey mentioned  
24 that you were coming to the Board of Zoning Adjustment to me,  
25 I said, okay, well, we're going to have some reforms here too.

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1 And I think you have done an excellent job, a yeoman=s job,  
2 a stellar job, especially as far as moving cases along, not  
3 spending all day down here.

4 One thing that people don=t realize about some Board  
5 members and Commission members. We also too used to sit in the  
6 audience, and I remember, I recall, when I sat in the audience,  
7 and a former BZA Chair, years ago, in the >90s, and I sat here  
8 from eight B- I think we started about 9:00 or 9:30, and we  
9 used to meet on Tuesdays. And it was from 9:30 in the morning.  
10 I didn=t get out of here till 8:15, and, you know, and I sat  
11 in the chairs that people are sitting in today, all that time,  
12 and I think you have definitely reformed a lot of that here  
13 with the Board of Zoning Adjustment. You brought a lot of  
14 expertise, and I will tell you that this Board, and the city,  
15 has benefitted tremendously.

16 I don=t want nobody to know who I am. Leave that --

17 (Laughter)

18 ZC CHAIR HOOD: So you have been B- this city has  
19 benefitted tremendously because of your leadership on this  
20 Board, and you will be missed. But I=m sure your endeavors will  
21 carry you somewhere else in this city, that you=ll continue  
22 to do the good business that you do, and the good deeds that  
23 you do, in trying to make the city and the District of Columbia  
24 better as a whole.

25 So thank you. You=ll be missed and I=m sure you=ll stay

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1 in touch.

2 CHAIRPERSON JORDAN: Thank you. I appreciate that. And  
3 I paid everybody for those kind words. But no, I really  
4 appreciate it, and I mean it sincerely, and certainly I'm  
5 around, been around the District for a long time now, and  
6 putting my toe in, periodically, in government.

7 But with that, let's B- Mr. Moy, any announcements?

8 MR. MOY: Before that, Mr. Chairman, since you mentioned  
9 my name, if you can bear with me for 30 seconds. You're way  
10 too generous, using my name like that, because I have a great  
11 staff. If it wasn't for my great staff, I wouldn't be where  
12 I am today.

13 So I've learned a lot from you, and I hope that maybe  
14 you learned just a little tiny bit from me. So on behalf of  
15 the Office of Zoning, Sarah Barton, the director, and of course  
16 my BZA staff, and all the staff here at Office of Zoning, you  
17 will be missed.

18 CHAIRPERSON JORDAN: Thank you.

19 MR. MOY: Okay. With that, for the record, as to cases  
20 that are scheduled on the docket, the Application No. 19018.  
21 This is the appeal for decision of Colleen Slattery. That has  
22 been at the request of the Applicant per the Board's decision  
23 to November 17<sup>th</sup>. Also Appeal No. 19027 of Calderon and Sawicki.  
24 At the Appellant's request, the Board's decision has been  
25 deferred to October 27<sup>th</sup>.

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1 Appeal No. 19067 of ANC 4C. There was a motion to  
2 postpone the hearing by the appellee, and the Appellant has  
3 been notified. So that hearing has been rescheduled to October  
4 27<sup>th</sup>.

5 And finally, the cases, two cases that would not be heard  
6 today is Application No. 19074 and 19055. The first case to  
7 December 1<sup>st</sup>. The second case to October 20<sup>th</sup>.

8 That=s it, Mr. Chairman.

9 CHAIRPERSON JORDAN: Thank you. For 19027, I just want  
10 to add to the record, that not only did the Appellant ask to  
11 move it, but there was agreement among the parties in that case,  
12 and they=re talking about the resolution, and as you know, this  
13 Board has already encouraged some aspect of resolution.

14 Yes, please.

15 MR. GLASGOW: On 19027, we did not have any notice of this  
16 request.

17 CHAIRPERSON JORDAN: I believe the owner, there was a  
18 conversation with the owner today. Someone spoke --

19 MR. MOY: Yes. That was this morning, Mr. Chairman.

20 CHAIRPERSON JORDAN: Yes. So do we have that wrong, or  
21 --

22 MR. GLASGOW: I believe so.

23 CHAIRPERSON JORDAN: It=s my understanding that this --

24 (Off mic comment)

25 CHAIRPERSON JORDAN: Well, okay, let=s find out where we

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1 are, then.

2 MR. GLASGOW: Mr. Wexler, can you come up here. It=s been  
3 asserted that you agreed to the postponement.

4 CHAIRPERSON JORDAN: Well, who have we spoken to? Let=s  
5 make sure we=re straight. Please come up and give us your name  
6 and et cetera.

7 MR. WEXLER: Should I be sworn in?

8 CHAIRPERSON JORDAN: You should have been already. Yes,  
9 please.

10 MR. WEXLER: I wasn=t prepared --

11 CHAIRPERSON JORDAN: Yes, please get sworn in.

12 MR. MOY: Stand up.

13 (Witness sworn)

14 CHAIRPERSON JORDAN: Okay.

15 MR. WEXLER: Good morning. My name is Matt Wexler. There  
16 have been productive conversations and dialogue with the  
17 Appellants, and we have had discussions regarding a variety  
18 of issues. There hasn=t been any formal agreement regarding  
19 a postponement, to my knowledge, despite the fact that we=ve  
20 had good conversations over the last couple weeks.

21 CHAIRPERSON JORDAN: Okay. Maybe we got the information  
22 wrong. Did we --

23 MR. MOY: The Appellant, Mr. Sawicki, filed late last  
24 night to request the Board to defer its decision, so --

25 MR. GLASGOW: I haven=t received a copy of that.

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1 MR. WEXLER: Neither have I.

2 CHAIRPERSON JORDAN: Okay. So let=s do this. Let=s find  
3 out here B- yes, are you B-

4 MS. GOFFIN: I=m --

5 CHAIRPERSON JORDAN: Just come up and take the  
6 microphone, please and provide us your name.

7 MS. GOFFIN: Stacie Goffin.

8 CHAIRPERSON JORDAN: Make sure the microphone is turned  
9 on.

10 MS. GOFFIN: Thank you. Stacie Goffin. And one of the  
11 Appellants for the case in the matter. So to B- we learned,  
12 actually, late yesterday, that Mr. Moy had spoken with Mr.  
13 Sawicki, and I=ll provide the context for the background. That  
14 we have been B- we=re going to have this opportunity to submit  
15 this appeal and complete the proper paperwork, and are here  
16 this morning to learn what the results of that would be. We  
17 met with Mr. Wexler at an ANC-convened meeting on Monday of  
18 this B- a week ago, and at that meeting indicated as a part  
19 of a request by the ANC that we engage in good faith with the  
20 developers of the Carlyle around the possibility of finding  
21 common ground, and in that meeting proposed, now speaking to  
22 those of us are part of the Appellants, that we would be  
23 willing, in order to offer more space for that negotiation to  
24 take place, to postpone, to request a postponement around this  
25 appeal.

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1           And at that time Mr. Wexler expressed appreciation, as  
2 did the president of the ANC, and that they would find that  
3 a very helpful thing, to provide that space.

4           So we followed through.

5           CHAIRPERSON JORDAN: And so that leaves me B- I don=t  
6 know.    So I=m hearing that the owner is against the  
7 continuance; is that correct?

8           MR. WEXLER: May we have a minute to consult?

9           CHAIRPERSON JORDAN: Yes. Please go ahead.

10          We=ll call this case back. So let=s go --

11          (Pause for technical difficulties with a computer)

12          CHAIRPERSON JORDAN: Let=s go to our next decision case.  
13 Let=s go to 19023, Mr. Moy.

14          MR. MOY: Okay. This is Appeal No. 19023 of ANC 2A. As  
15 the Board will recall, this is the appeal of a determination  
16 by the Zoning Administrator, at property, 924 25<sup>th</sup> Street, N.W.

17          CHAIRPERSON JORDAN: Is the Board ready to deliberate on  
18 19023? I take it that we are. Okay. And I=ll take the lead,  
19 or if somebody wants to take it first.

20          But this is a case where initially, there was a question,  
21 a Motion To Dismiss for lack of jurisdiction by this Board,  
22 and the Board already ruled in, at that particular hearing,  
23 that we did have jurisdiction based upon  
24 the question raised by the Appellant, whether or not Zoning  
25 Regulation 350 is applicable, and 351, and their subparts, to

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1 their appeal.

2 We certainly B- and versus the opponents arguing that  
3 this is a case of public space, and therefore, since it=s a  
4 case of public space, the Board doesn=t have jurisdiction to  
5 entertain the appeal. And I think we=ve already discussed  
6 that the Board has found that it has jurisdiction, because the  
7 question that=s being asked by the Appellant is simply, Is 351,  
8 350.4 and 351.2, applicable to the action of the Zoning  
9 Administrator? So that=s clearly within the purview of this  
10 Board. It=s an interpretation of the zoning regulations, and  
11 so we=ve already talked about that. And I think we dealt with  
12 the issue then about the timeliness of the appeal. But if not,  
13 then let=s make sure the record=s clear, that the decisions,  
14 the prior decisions, underlying decisions from the Zoning  
15 Administrator, I would recommend B- is that claim still before  
16 us? We didn=t render that, did we? Okay. That there had not  
17 been prior notice to where the timeliness became an issue, and  
18 that this was timely filed, is what I would offer to the Board,  
19 from the sake of when the Appellant knew, or should have known,  
20 that it was an appealable decision on this case. How long is  
21 it going to last? That=s the question.

22 ZC CHAIR HOOD: I=m sorry, Mr. Chairman. Can you repeat  
23 the statement B-

24 CHAIRPERSON JORDAN: About the timeliness. There was  
25 also a question, a challenge to dismiss based upon timeliness,

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1 and I am offering to the Board that this appeal was timely,  
2 based upon what was presented to us by the evidence, that the  
3 Appellants really did not know, or have the ability to know  
4 that there was an appealable matter until, I think it was some  
5 time in January 2015, as I go back through my notes.

6 ZC CHAIR HOOD: Okay. I would concur, as one of the  
7 members on that case.

8 CHAIRPERSON JORDAN: And regarding the merits, I would  
9 offer this to the Board. You know, we had arguments B-

10 (Pause)

11 CHAIRPERSON JORDAN: Okay. I said some time afterwards,  
12 but it was timely within B- that=s why I say I have to refer  
13 to my notes. But it was after that period of time. I think it  
14 was B- yes. I think it was when it was B- February 13<sup>th</sup> is the  
15 date. That=s the date. I was incorrect. Yes. February 13<sup>th</sup> was  
16 the date when everything got posted to ABRA=s notice board,  
17 et cetera, on this property.

18 The other conversations that was held in between that  
19 period of time, I don=t find that it provided a proper basis,  
20 that the Zoning Administrator had made a appealable decision.

21 On the merits of the case, the Appellant argued that the,  
22 even though the cafe=s in public space, it still violated  
23 Section 350.4, and I think 351.2, the zoning regulations, and  
24 350.4 discusses a café expanding commercial adjunct space, and  
25 they argue that it wasn=t allowed within that because it was

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1 expanded commercial adjunct space, and under 351.2, they claim  
2 that the outside café, which is in public space, is visible,  
3 and therefore violates that regulation.

4 And there=s back and forth rebuttal. Then there was some  
5 presentation of cases by the Appellant, that said that  
6 regardless, that B- first, everybody admits that public space  
7 is regulated by the Public Space Committee.

8 The Appellant made an argument that the Board of Zoning  
9 Adjustment, or the zoning regulations are applicable to public  
10 space. Well, there are provisions B- well, the Appellant  
11 pointed out various provisions within the zoning regulation,  
12 I think gave us a little book about it, where public space is  
13 referred to in the zoning regulations, and that would be  
14 correct. However, in this particular matter, I would offer that  
15 the Board find that 350.4, nor 351.2, is applicable to this  
16 matter of whether or not the B- that the use of public space  
17 falls within those provisions.

18 The provisions are real clear as to what falls, and  
19 what=s to be considered by this Board in regards to commercial  
20 adjunct space, and what is visible. Public space is public  
21 space.

22 The property that the zoning regulation controls is that  
23 which is owned by the property owner within the confines, the  
24 walls of that building, or the land that may be out, but it=s  
25 not in to public space. The public space is owned by the public;

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1 right?

2           And the argument that other provisions B- I would offer  
3 the Board this. The other provisions that are in the zoning  
4 regulations, that refer to something about public space, deal  
5 with those provisions in and of itself, and under statutory  
6 construction, we have to assume that the legislature, which  
7 would be the Zoning Commission, has concluded that if there  
8 was a consideration for public space to be made within 350.4,  
9 351.2, they would have put it there, and said it should be  
10 considered in adjudicating commercial adjunct space.

11           Further, the other provisions which talk about  
12 public space are key to those provisions, and those provisions  
13 only, and I know you talk about the other aspects of statutory  
14 construction, about specifics versus general.

15           So I would offer to the Board, that 350.4 and 351.2,  
16 are not applicable to this matter. Public space is clearly  
17 defined within our laws in the District of Columbia within  
18 the Public Space Committee, within the regulations.

19           I do recognize that the Public Space Committee  
20 regulations do reference that a party seeking public space has  
21 to have a proper certificate of occupancy, but that means that  
22 whatever their primary use, their primary use is legitimate  
23 under the zoning regulations, but it doesn't B- we don't go  
24 outside in to public space to regulate it within the zoning  
25 regulations. That=s my offer to the Board, in my estimation

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1 of this case.

2 Others, please. Anyone?

3 MEMBER HILL: So I'm a little lost in that B- so public  
4 space vers B- what I thought was that it was an expansion of  
5 the commercial use of the hotel, and then another issue was,  
6 Is there an advertisement? I thought, of like, you know, is  
7 there something advertising the use? And I thought that the  
8 fact that it=s out in the public itself, it=s an advertisement.  
9 Like you can see it=s a café. You can take and come in there  
10 and so B- and so that=s kind of what I thought as far like it  
11 being an expansion of the hotel.

12 So when I'm saying I'm a little confused, there=s like  
13 there=s public space then, so that means that we don=t have  
14 control over that area?

15 CHAIRPERSON JORDAN: That would be my B- yes. That=s  
16 correct.

17 MEMBER HILL: Okay.

18 CHAIRPERSON JORDAN: Public space B- we don=t determine  
19 who can put up restaurants, or put up whatever they=re going  
20 to do in public space. That=s a whole >other department in the  
21 District of Columbia government. There=s a Public Space  
22 Committee, and one B- really B- and here=s the other thing.  
23 If we do this, we would start opening the door to everybody=s  
24 expansion of public space has to come before the Board of Zoning  
25 Adjustment. That=s not what this B- that=s what 350.4 and 351.2

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1 does.

2 Then if the argument is, Do we need a Public Space  
3 Committee if it=s all going to be absorbed in to Zoning? So  
4 yes, that=s B- it=s public space. The property, as was  
5 presented, the property line stops at a certain point, and  
6 everything within that, I would argue, is within 350.4 and  
7 351.2.

8 So if you could see the operation of the commercial  
9 adjunct space from within the hotel from outside, becomes a  
10 visibility issue, that is restricted by the zoning regulation.  
11 But this is within the four walls of that confine, or within  
12 the property owned by the property owner itself.

13 Here, we=re outside of property owned by the property  
14 owner.

15 MEMBER HINKLE: Mr. Chair, if I may.

16 CHAIRPERSON JORDAN: yes.

17 MEMBER HINKLE: I tend to disagree with your assessment.  
18 I think Section 350.4(e) does apply in this case, as well as  
19 351.2. As you stated, it doesn=t B- the sections don=t state  
20 that they do apply to public space, but they don=t state that  
21 they don=t as well.

22 And I certainly see that there=s a relationship between  
23 what=s being allowed, here, on the sidewalk, and what=s within  
24 the hotel.

25 You know, they use the same kitchens, the same hotel rest

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1 rooms, the same staff. They have the same management. You  
2 know, on down the line. So in my mind, this is certainly an  
3 expansion of the commercial use within the hotel, and within  
4 this zone, that is not allowed.

5 So I B- you know, I'm certainly in agreement with the  
6 Appellant=s argument. Now I don=t think 351.2(a) applies,  
7 which is the total area of the hotel should not be increased,  
8 because I don=t think it is. But I certainly think that 351.2(b)  
9 B- that states that there should be no direct entrance to the  
10 function rooms, exhibit space, and commercial adjuncts from  
11 the outside of the building.

12 I think that does apply, because certainly, to access  
13 the sidewalk café from the hotel is a door, and that goes out  
14 to the building. 351.2(c). It says no part of the adjunct to  
15 the entrance, to the adjunct, shall be visible from the  
16 sidewalk.

17 Well, certainly, the tables set out on a sidewalk=s  
18 visible. And then 351.2(d). No sign or display indicating the  
19 existence of the adjunct shall be visible from the outside of  
20 the building. Again, the tables are certainly an indication  
21 of the commercial use within the hotel.

22 CHAIRPERSON JORDAN: Did we have evidence presented that  
23 there was a function room right off the public space portion,  
24 the outside café?

25 MEMBER HINKLE: I don=t recall. We did get the floor plan

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1 that indicates a restaurant being, you know, in to the lobby.

2 CHAIRPERSON JORDAN: That=s adjacent to the outside  
3 café.

4 MEMBER HINKLE: Right. I mean, you access the restaurant  
5 through the hotel lobby, and then you access the tables out  
6 on the sidewalk through the hotel lobby.

7 CHAIRPERSON JORDAN: Yes. I don=t know. I don=t remember  
8 that in the record.

9 MEMBER HINKLE: It=s a floor plan that=s attached to one  
10 of the exhibits.

11 CHAIRPERSON JORDAN: The floor plan. Hold on.

12 MEMBER HINKLE: Exhibit 4-A, which is the determination  
13 letter by the Zoning Administrator.

14 CHAIRPERSON JORDAN: Exhibit 4-A? Okay. Pull that.  
15 That=s why we have these discussions.

16 You say Exhibit 4-A?

17 MEMBER HINKLE: 4-A. Yes.

18 CHAIRPERSON JORDAN: Okay. Where does it say? Oh, further  
19 down in the drawings, Okay.

20 MEMBER HINKLE: Yes. I=m looking at the drawings.

21 CHAIRPERSON JORDAN: Which one are you B- okay.

22 So that door that=s B- the door that=s right by, where  
23 the words, Aproperty line.@ Is that what you=re arguing?

24 MEMBER HINKLE: That=s correct. That=s the main door to  
25 the hotel, is my understanding. Goes straight to the lobby.

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1 CHAIRPERSON JORDAN: And the restaurant entrance is...?

2 MEMBER HINKLE: I believe you access the restaurant  
3 through the lobby.

4 CHAIRPERSON JORDAN: You access the restaurant entrance  
5 through B- where=s the restaurant entrance?

6 Well, what I see from the plans, it goes that the door  
7 actually goes in to the lobby, and the door doesn=t go in to  
8 the restaurant.

9 MEMBER HINKLE: That=s correct. But I would --

10 CHAIRPERSON JORDAN: Let me ask one other question. How  
11 do you access the res B- how do you access the, I=m going to  
12 say patio, the café, from the restaurant?

13 MEMBER HINKLE: Through the lobby doors.

14 CHAIRPERSON JORDAN: Back through the lobby?

15 MEMBER HINKLE: Correct.

16 CHAIRPERSON JORDAN: That=s what I=m saying. I see. Yes.  
17 But the lobby B- but you cannot B- the commercial adjunct space  
18 would be the restaurant, which is not visible from that point;  
19 right? Because you actually got to go through the lobby?

20 MEMBER HINKLE: That=s correct. But I would state that  
21 the tables, and any sort of menu, or anything that=s on the  
22 tables, is certainly visible from the outside.

23 CHAIRPERSON JORDAN: And I think --

24 MEMBER HINKLE: It does not meet the requirements of  
25 351.2(c) and 351.2(d).

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1 CHAIRPERSON JORDAN: Yes, I understand your argument,  
2 and I see where it=s B- yes, but --

3 MEMBER HILL: Mr. Chairman.

4 CHAIRPERSON JORDAN: Yes? Sure.

5 MEMBER HILL: But even from the sidewalk B- I mean, I=m  
6 looking at the drawings here B- it=s not like you have to go  
7 in to that main door. You can walk in to the tables, the café,  
8 from anywhere, from the sidewalk.

9 CHAIRPERSON JORDAN: Yes, but the argument, as I  
10 understand Mr. Hinkle=s making, is that that door opens the  
11 way to the restaurant, and that makes the adjunct space visible  
12 from the B- visible from the outside. But I=m saying the  
13 restaurant=s not visible from the outside. You know, this is  
14 B- because it=s not. What=s visible from the outside is the  
15 lobby space, and that then the things that are on the table,  
16 outside the restaurant, are again in public space. Isn=t that  
17 correct? Isn=t it public space?

18 MEMBER HILL: That is. Yes.

19 CHAIRPERSON JORDAN: Who wrote these zoning regulations?

20 (Laughter)

21 CHAIRPERSON JORDAN: I know, and that=s the difficulty  
22 here with this. The other part about this B- it opens the door  
23 for B- God.

24 MEMBER HILL: but I think it only opens the door for  
25 situations like this, where you have a, you know, grandfathered

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1 hotel use in the R-5 District. I don=t think it opens the door  
2 for the BZA to have to review every public space application  
3 for sidewalk café.

4 CHAIRPERSON JORDAN: I don=t think. I think B- well, all  
5 right. Anybody else?

6 ZC CHAIR HOOD: I would just agree with Mr. Hinkle=s  
7 assessment, especially in 351.2(c) and (d). And also looking  
8 at the schematic, I think that we B- a clear violation of those  
9 two regulations. So I would agree with the assessment, not be  
10 redundant, but the assessment, and I think the merits of this  
11 particular appeal go to this appeal, and I don=t think it=s  
12 opening the door for everybody to come running in, who=s doing  
13 whatever in open space. That=ll be for the open space BB but  
14 I think this is applicable to this particular case.

15 CHAIRPERSON JORDAN: All right. Anyone else?

16 (No response)

17 CHAIRPERSON JORDAN: Then someone should make a motion,  
18 so we can get this off center. Anyone can B- yes, because B-  
19 yes?

20 MEMBER HILL: My motion is that we uphold the appeal.

21 CHAIRPERSON JORDAN: Yes, let=s, for the sake of wording,  
22 what we=ve been trying to do, because we really want to say  
23 we would overrule the decision of the Zoning Administrator.

24 MEMBER HILL: I make a motion we overrule the decision  
25 of the Zoning Administrator.

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1 CHAIRPERSON JORDAN: Motion made and second. Any further  
2 discussion?

3 (No response)

4 CHAIRPERSON JORDAN: The motion is that we overrule the  
5 decision of the Zoning Administrator.

6 (No response)

7 CHAIRPERSON JORDAN: No further discussion. All those in  
8 favor of the motion, aye.

9 (Chorus of ayes)

10 CHAIRPERSON JORDAN: Those opposed, nay. Nay.

11 The motion carries. Mr. Moy.

12 MR. MOY: All right. Staff would record the vote as three  
13 to one, this on the motion of Mr. Fred Hill to, actually, to  
14 reverse the decision of the Zoning Administrator. Second to  
15 the motion, Mr. Hinkle. Also in support, Mr. Hood. Opposed to  
16 the motion, Mr. Jordan, Vice-Chairperson Heath not  
17 participating. The motion carries, three to one, sir.

18 CHAIRPERSON JORDAN: Okay.

19 ZC CHAIR HOOD: Let me just say. I don=t understand. I  
20 mean, that=s fine, I agree with the motion, but the whole appeal  
21 I think is the same as B- I don=t know what more, or what the  
22 difference is. Maybe offline, you all can educate me.

23 CHAIRPERSON JORDAN: One of the easiest things, what we  
24 normally do if we don=t agree with the Appellant, we say we  
25 deny the appeal. But we already have the appeal. We already

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1 processed the appeal. We B- you know. So it=s just kind of  
2 wording, either way. But what we=ve done now is to overrule  
3 the Zoning Administrator and support the appeal.

4 So you want to send back to the Zoning Administrator that  
5 you=ve overruled his decision, so he needs to change it. So  
6 we can talk about it later.

7 ZC CHAIR HOOD: Yes, we need to really talk about that,  
8 because I think B- you know, things do go back and forth around  
9 here some time, but I think when you uphold an appeal B- but  
10 anyway.

11 CHAIRPERSON JORDAN: Okay.

12 ZC CHAIR HOOD: I=m on the prevailing side, so I=ll leave  
13 it at that.

14 CHAIRPERSON JORDAN: All right. Yes?

15 (Pause)

16 CHAIRPERSON JORDAN: So let=s talk about it, so everybody  
17 understands. The question was do we need to take any further  
18 action regarding that, regarding the Zoning Administrator.  
19 The issue is that the ZA, then, would have to act in accordance  
20 with our overruling his decision. So I don=t think we B- unless  
21 you think there=s something else that needs to be said. But  
22 he needs to go back and undo what he=s done. Right? Wouldn=t  
23 that be it? Isn=t that the way we proceed? I don=t think we  
24 have to --

25 MS. GOFFIN: Mr. Chair, I think the Board has the

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1 discretion to step in to the shoes of the ZA, and make a decision  
2 in place of the ZA, or you could send it back to the ZA,  
3 whichever you prefer.

4 CHAIRPERSON JORDAN: I thought that=s what we did with  
5 the vote. We=re saying that B- yes, we send it back and said  
6 we=re not agreeing to what you=ve done, and so you need to take  
7 action accordingly.

8 MS. GOFFIN: Okay.

9 CHAIRPERSON JORDAN: I don=t think we tell him, at 3:00  
10 o=clock he needs to do it, or 4:00 o=clock, or something, but  
11 B- okay. That makes sense. So let=s call our next case, Mr.  
12 Moy.

13 Oh. We want to find out BB let=s go back again to the  
14 top of the order, talk to B-

15 MR. MOY: That would be the Appeal No. 19023 B- just a  
16 second. Appeal No. 19027 of Calderon and Sawicki.

17 CHAIRPERSON JORDAN: Okay. For the record again, just say  
18 your name so we have it.

19 MR. GLASGOW: Yes. My name=s Norman M. Glasgow, Jr., the  
20 law firm of Holland Knight, here on behalf of the property  
21 owner.

22 MR. WEXLER: My name is Matthew Wexler on behalf of the  
23 property owner.

24 MS. GOFFIN: Stacie Goffin --

25 CHAIRPERSON JORDAN: Make sure your mic is on, please.

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1 Should be a bright glowing green light.

2 MS. GOFFIN: Thank you. Sorry. Stacie Goffin, 1737 New  
3 Hampshire Avenue, N.W., an Appellant.

4 MR. GLASGOW: Mr. Chairman, we will agree to the  
5 postponement. We just got caught off guard.

6 CHAIRPERSON JORDAN: Okay. Gotcha. All right. We  
7 appreciate that, and I thought that we had a conversation with  
8 the owner. That=s what our records indicated. So Mr. Moy, the  
9 date then?

10 MR. MOY: October 27, sir.

11 CHAIRPERSON JORDAN: October 27. All right. Thank you.  
12 And good luck working it out. It=s best to work things out.  
13 In the words of that great philosopher, Rodney King: Can we  
14 all just get along? Do you believe he=s going to go down in  
15 history B- okay.

16 Mr. Moy, our next decision, please.

17 MR. MOY: If we go up to the top of the batting order,  
18 I believe it would be Application No. 19028, 19028 of Maria  
19 Sorto --

20 CHAIRPERSON JORDAN: No, no, no. No, no, no. That=s for  
21 Mr. Turnbull. We have another, 18991.

22 MR. MOY: Okay. Perfect. Thank you, sir. Appeal No.  
23 18991. This is the Appeal of John Stokes, again, appealing a  
24 decision of the Zoning Administrator=s decision to issue a  
25 building permit, B1503050, at Property 1521 Varnum Street,

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1 N.W.

2 CHAIRPERSON JORDAN: Is the Board ready to deliberate on  
3 this case. I'm not ready. But yes, I guess I am. Not going to  
4 get anything more than I can. I really just don't like this  
5 case. This is one of those things I wish the Zoning Commission  
6 could step in before we make a decision and take the case to  
7 the Zoning Commission to handle.

8 Does anyone want to get started on this, talk about this  
9 --

10 ZC CHAIR HOOD: Well, let's look at that. Ms. Glazer,  
11 I hate to put you on the spot. Is there a way that we can do  
12 that? I might have asked this question before, but my memory  
13 goes and comes sometime too. After 17 years, I deserve to be  
14 B- I deserve for it to go and come, because I get mixed up  
15 sometime. But is there a way B- and I may have asked this  
16 previously. This has been going on for a while.

17 Is there a way that the Zoning Commission can deal with  
18 this particular case, other than the way that I know?

19 MS. GLAZER: I'm not sure, the way you know. Are you  
20 referring to the sua sponte process?

21 ZC CHAIR HOOD: That's one way that I do know.

22 MS. GLAZER: That's the only way I know B- well, there  
23 are a couple of ways, on applications, the Zoning Commission  
24 can take referrals from the BZA.

25 CHAIRPERSON JORDAN: But I'm thinking, what Mr. Hood is

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1 asking, does sua sponte allow the case to be B- can they take  
2 the case, sua sponte --

3 ZC CHAIR HOOD: Prior.

4 CHAIRPERSON JORDAN: B- prior to decision?

5 MS. GLAZER: Under the regulations, the sua sponte  
6 process applies to a final decision of the Board.

7 ZC CHAIR HOOD: Okay. So there=s nothing B- okay. We=re  
8 hoping we can correct that. Okay. All right.

9 CHAIRPERSON JORDAN: Yes, yes, yes, yes. See, that goes  
10 to one example I talked B- yes, like you just said, Mr. Hood  
11 B- I talked about earlier. All right. Anyone, wants to start  
12 this thing, talk about this? It looks like you got B- well,  
13 let me just throw this out here, and just get this going,  
14 because we got to get it going.

15 This is a project which, you know, if I wasn=t sitting  
16 in as a member of this Board, I=d be fighting Atooth and nail@  
17 against. I don=t like the project. I don=t like what I think  
18 it=s going to do regarding the B- you know, how it situates,  
19 the whole shebang. I just wish there was some B- I don=t see  
20 a way that this Board can deny it, because the appeal process  
21 B- what is appealed, the basis for overruling the Zoning  
22 Administrator, I don=t see it because it is allowable under  
23 330.7. Let me say this. Let me go back a second.

24 With the new regulations that were amended June 26,  
25 2015, we would have an easier decision, because this would be

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1 completely outside the zoning reg B- it would be violating the  
2 zoning regulations. And June B- was it June 26, 2015? I  
3 believe it was, where we did the pop-up leg B- when the Zoning  
4 Commission did the pop-up legislation. It also included  
5 another subsection, 330.7, which only allows conversion from  
6 a non-residential building with all the other guidelines for  
7 that.

8 Here, we have a residential building that=s being B- a  
9 single family B- a family dwell B- a residential dwelling being  
10 converted to a 7-unit apartment building.

11 So every aspect of what was appealed by the Appellant  
12 is within the zoning regulation as we look at it, 330.3. The  
13 FAR. It meets within FAR requirements. The R-4. The rear yard  
14 is 21.5 feet, where 20 feet is required.

15 The side yard is 16 feet, I think, and 8 feet=s required.  
16 There=s a meaningful connection between the two buildings,  
17 because there=s actually a utilized stairway, and the  
18 entranceway to get in to both sides of this building, which  
19 is still there.

20 The adjacent finish grade is not improper, especially  
21 in light of you use the airways. And it comes to like B- I think  
22 it=s 3 feet, 7 inches. There is still a conversion, because  
23 B- I mean, I=m looking at the plans B- still a conversion of  
24 a building because there=s enough of the building will be  
25 remaining to consider that it=s still a building, even though

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1 it=s going to lose maybe, you know, a third, or maybe even  
2 as much as two-thirds of the building base. And the  
3 regulations are clear about what can be considered in regards  
4 to a conversion, because there=s still adequate vision of  
5 that building still remaining.

6 Penthouse. Everything in the penthouse is under four  
7 feet. I don=t know. That=s what I see. Board? Anyone,  
8 please.

9 MEMBER HINKLE: Yes, Mr. Chair, I tend to agree with you.  
10 I mean, this is, to be honest, a terrible project, and I think  
11 just terrible for the neighborhood, and, you know, I spent  
12 hours looking through the record, and looking at the zoning  
13 code, and it B- you know, I think at the end of the day, we  
14 have to support the decision of the Zoning Administrator on  
15 this one, because I think it does follow the regulations and,  
16 you know, I went through item by item, like you just did, and  
17 just came out B- find anything.

18 CHAIRPERSON JORDAN: Mr. Hill?

19 MEMBER HILL: Yes. I also looked over everything, quite  
20 extensively, and also just wanted to add B- I don=t want to  
21 leave you Ahanging out there.@ I mean, I=m disappointed with  
22 the project, on the whole, but I didn=t see anything that would  
23 say that the ZA erred. You know, like even the deviation was  
24 B- it was like 25 feet, less than 900 for that, you know,  
25 additional unit, and that additional unit doesn=t necessarily

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1 change the project.

2 CHAIRPERSON JORDAN: Yes. Mr. Hood?

3 ZC CHAIR HOOD: I would tend to disagree, and I understand  
4 where the Board is. As we stated earlier, sometime you have  
5 your B- you=re put in a tight spot and there=s no wiggle room,  
6 especially pertaining to the regulations. But when I look at  
7 101 and 330, which are in the regulations, which apply to  
8 anything that has an appeal, it specifically talks about some  
9 of the things I know, which is not in the Board=s purview, but  
10 it=s also in the regulations, and I think some of those areas  
11 should be looked at, including the FAR.

12 I=m not even talking about the minor flexibility. I=m  
13 talking about some of the things that I think should be  
14 attributed to the Zoning Administrator=s analysis, and when  
15 I look at 101 and 330, I=m not going to re-read them because  
16 they speak for themself and I see where the votes are going.  
17 But just let it be known that I will be continuing this on with  
18 the Zoning Commission, and I=ll leave it at that, for this time.

19 CHAIRPERSON JORDAN: That=s good to hear. Yes. I agree,  
20 because I looked at 101, and, you know B- well, with that B-  
21 and the Zoning Commission certainly has more flexibility to  
22 do these things than we do. So I would have to move that we  
23 deny, or overrule the appeal in this matter. That would be my  
24 motion.

25 (Seconded)

1 CHAIRPERSON JORDAN: Motion made and second. Any further  
2 discussion?

3 (No response)

4 CHAIRPERSON JORDAN: All those in favor of the motion,  
5 aye. Aye.

6 (Chorus of ayes)

7 CHAIRPERSON JORDAN: Those opposed, nay.

8 ZC CHAIR HOOD: Oppose.

9 CHAIRPERSON JORDAN: The motion passed. Mr. Moy.

10 MR. MOY: Which way did the Chairman vote?

11 (Simultaneous conversation)

12 CHAIRPERSON JORDAN: Yes. I'm bound by law. Wish it  
13 wasn't in this one.

14 MR. MOY: All right. So this is on the motion of Chairman  
15 Jordan to B- was it to deny the appeal or grant the appeal?

16 CHAIRPERSON JORDAN: Well, to deny the appeal and sustain  
17 the action of the Zoning Administrator.

18 MR. MOY: Okay. All right. I just want to be clear.

19 Second at the motion, Mr. Hinkle. Also in support, Mr.  
20 Hill. Opposed, Mr. Hood. And Chairperson Heath not  
21 participating. The motion carries, three to one.

22 CHAIRPERSON JORDAN: Yes. This is one we certainly would  
23 hope that as the Zoning B- the chairman has indicated, hoping  
24 that they will B- the Zoning Commission will pull this one,  
25 because this is a ugly project for this neighborhood. And I

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1 see where the Zoning Administrator=s hands were tied in regards  
2 to this, so B- all right. We=re leaving. Is that it for you?

3 ZC CHAIR HOOD: Let the record reflect I didn=t say it  
4 was ugly. I just think that B- again, I stay within the  
5 regulations, and I just see differently from my colleagues.  
6 So I don=t want the Applicant to think I said his project is  
7 ugly.

8 CHAIRPERSON JORDAN: As a project, not just what it  
9 looked like. Just how it=s going to fall in to that  
10 neighborhood.

11 ZC CHAIR HOOD: I=m just saying, I just want the record  
12 to reflect that It's specifically how I read the regulations.  
13 Okay. Thank you. And Mr. Chairman, again, au revoir. I think  
14 I said that correctly. If not, forgive me.

15 CHAIRPERSON JORDAN: We understand.

16 ZC CHAIR HOOD: See you around.

17 CHAIRPERSON JORDAN: Appreciate it. Thank you. Thank  
18 you, Mr. Hood. Is it time for our B- we=ll take our five minute  
19 pit stop and then we=re going to have the revolving chair of  
20 -- we=re going to have the revolving Zoning Commission come  
21 in.

22 (Off the record from 10:33 a.m. to 10:44 a.m.)

23 CHAIRPERSON JORDAN: Okay. Let=s call the top decision  
24 case. Or wait a minute. I think we have B- what case is B- which  
25 one are we calling? 53? Yes. Let=s call 53.

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1 MR. MOY: Okay. The application that was set for decision  
2 is B- the next one is No. 19053 of Ridge Lots. This is a property  
3 located at 452 Ridge Street, N.W.

4 CHAIRPERSON JORDAN: All right. And we had some other  
5 additions in to the record, that the Board requested on this  
6 case, that we get a parking study. We actually had a full  
7 hearing on this, and we wanted a parking study that was more  
8 expansive than one day that was done before, if my memory serves  
9 me correctly.

10 All right. So is the Board ready to deliberate in this  
11 case?

12 MEMBER HINKLE: Mr. Chair, I just want to note that I was  
13 not here for the hearing, but I did study the record and will  
14 participate.

15 CHAIRPERSON JORDAN: All right. I think the parking  
16 study, now that we see, doesn=t really change what we had  
17 before. But we certainly had to get comfortable with the fact  
18 that there=s not going to be any other impact. This is a case  
19 where the parking study certainly supports, and there=s  
20 adequate other traffic -- other transit means around this  
21 particular property, that will provide adequate support for  
22 those people who will be residents.

23 So I believe that the case was made for relief, that  
24 there=s not going to be B- in fact, if we grant the relief for  
25 these parking spaces, as requested B- is it under 2101.1? to

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1 allow the construction of four flats on four vacant lots. And  
2 so I would support the requested relief. Anyone else want to  
3 add in on this? Mr. Turnbull.

4 MEMBER TURNBULL: I would go along with you on that,  
5 Mr. Chair. I see no issues.

6 CHAIRPERSON JORDAN: Anyone else?

7 (No response)

8 CHAIRPERSON JORDAN: All right. With that, then, I would  
9 grant the relief in Case 19053.

10 MEMBER HEATH: And I'll second the motion.

11 CHAIRPERSON JORDAN: Motion made and second. Additional  
12 discussion?

13 (No response)

14 CHAIRPERSON JORDAN: All those in favor, aye?

15 (Chorus of ayes)

16 CHAIRPERSON JORDAN: Those opposed, nay.

17 The motion carries. Mr. Moy.

18 MR. MOY: Staff would record the vote as four to zero,  
19 this on a motion of Chairman Jordan to approve the application  
20 for the relief requested. Second the motion, Vice-Chairperson  
21 Heath. Also in support, Mr. Turnbull and Mr. Hinkle. No other  
22 members participating. The motion carries, four to zero.

23 CHAIRPERSON JORDAN: Okay. And that doesn't change the  
24 previous, any other previous conditions that we had granted  
25 in the previous other relief. So I just want to make sure --

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1 that=s for the record. All right.

2 Did we have any opposition on this? I don=t think we have  
3 any. Otherwise, I=d say we do a summary. Can we do a summary.  
4 As I said, I want to make sure the order contains that the  
5 previous designated conditions are applicable.

6 MR. MOY: Yes, sir.

7 CHAIRPERSON JORDAN: All right. So let=s do our next  
8 case, our next decision case.

9 Yes, Mr. Glasgow?

10 MR. GLASGOW: We had specifically submitted evidence and  
11 testimony, and said that we were B- that those conditions that  
12 we had before, that we couldn=t have RPP, that was specifically  
13 part of our case. That we would not be restricted in that  
14 fashion.

15 CHAIRPERSON JORDAN: Let me go back. Let me look at this  
16 --

17 MR. GLASGOW: Yes, that=s why we brought the new  
18 application and started afresh with the traffic report, and  
19 all of that.

20 CHAIRPERSON JORDAN: Yes. Okay. My error. So those  
21 conditions are not applicable. Let=s make B- I was in error.  
22 Thank you. Thank you for the correction.

23 All right. So let=s call our next case. Let=s call  
24 18801A.

25 MR. MOY: Applicant No. 18801A of Fort Lincoln. As the

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1 Board will recall, this is filing for a minor Modulo Systems  
2 on property located at the north side of Commodore Joshua  
3 Barney Drive, N.E.

4 CHAIRPERSON JORDAN: Okay. Is anyone here for this  
5 case? Please come forward.

6 MS. BATTIES: Good morning. Leila Batties with the law  
7 firm of Holland and Knight, on behalf of the Applicant.

8 MR. COLLINS: William J. Collins, manager of the  
9 Applicant.

10 CHAIRPERSON JORDAN: Good. This case is on for C- what  
11 you=re considering, a minor modification. I don=t know if this  
12 really fits our guidelines for minor modification. I think this  
13 is one where you=re going to have to set this B- this is my  
14 thought. We=re going to have to set this for a hearing, a  
15 modified hearing, as to the effect of what your modifications  
16 are going to do to the already-approved plan, or order, is what  
17 I=m thinking. Board, any other feel on that. Anybody? Mr.  
18 Turnbull.

19 MEMBER TURNBULL: I would concur. I mean, I think the end  
20 result as far as housing, the number of units may not change,  
21 but I think the significant architectural changes do merit a  
22 limited hearing on this, and the site planning changes do merit  
23 a limited hearing.

24 CHAIRPERSON JORDAN: Yes. I don=t see any other way  
25 around it, because I=d rather err on the side of being safe

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1 regarding that than to move forward as a minor modification.

2 So why don=t we set this for a hearing, Mr. Moy.

3 MR. MOY: Yes, sir. I think B- I just want to check with  
4 Mr. Turnbull=s schedule.

5 So I think the earliest we can set this, Mr. Chairman,  
6 would be October 20<sup>th</sup>.

7 CHAIRPERSON JORDAN: Okay. October 20<sup>th</sup> work for the  
8 Applicant? October 20<sup>th</sup>. Okay. So we=ll put it on for October  
9 20<sup>th</sup>.

10 MR. COLLINS: Thank you, sir.

11 CHAIRPERSON JORDAN: Well, 28 is next. 28.

12 MR. MOY: Applicant No. 19028 of Maria Sorto-Charon, I  
13 believe it=s pronounced. This is on the expedited review  
14 calendar, sir. Special exception relief under Section 223, at  
15 3250 15<sup>th</sup> Place, S.E.

16 CHAIRPERSON JORDAN: Okay. Do we have an affidavit of  
17 posting for this case? Is there an affidavit of posting?

18 MR. MOY: It, I believe, is Exhibit No. 19, sir.

19 CHAIRPERSON JORDAN: Okay. And what about the  
20 authorization? Do we have authorization in the record?

21 MR. MOY: Yes. Yes, sir.

22 CHAIRPERSON JORDAN: Okay. Well, let=s move forward.  
23 All right. Is the Board ready to deliberate on this case? Any  
24 issues with it? I think it meets the requirements for 223  
25 approval. It=s only asking, I think, one aspect of relief under

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1 403, lot occupancy, and I think we're going up by what? a point  
2 and a half or something.

3 MEMBER TURNBULL: It=s de minimis. I think it=s very de  
4 minimis.

5 CHAIRPERSON JORDAN: Okay. With that then, I move that  
6 we grant the relief in 19028.

7 (Seconded)

8 CHAIRPERSON JORDAN: Motion made and second. Any  
9 discussion?

10 (No response)

11 CHAIRPERSON JORDAN: All those in favor, aye.

12 (Chorus of ayes)

13 CHAIRPERSON JORDAN: Those opposed, nay.

14 The motion carries. Mr. Moy.

15 MR. MOY: Staff would record the vote as five to zero,  
16 this on a motion of Chairman Jordan to approve the application  
17 for the special exception relief requested. Second the motion,  
18 Mr. Hill. Also in support, Vice-Chairperson Heath, Mr. Hinkle,  
19 and Mr. Turnbull. The motion carries, sir.

20 CHAIRPERSON JORDAN: Summary, please.

21 MR. MOY: Thank you.

22 (Whereupon, at 10:53 a.m., the public meeting was  
23 adjourned.)

24

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