GOVERNMENT

OF

THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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SPECIAL PUBLIC MEETING

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TUESDAY

DECEMBER 19, 2000

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The Special Public Meeting convened in Room 220 South, 441 4th Street, N.W., Washington, D.C. 20001, pursuant to notice at 9:30 a.m., Robert N. Sockwell, Vice Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

ROBERT N. SOCKWELL	Vice Chairperson
ANN RENSHAW	Board Member

ZONING COMMISSION MEMBER PRESENT:

ANTHONY J. HOOD	Commissioner

OFFICE OF ZONING STAFF PRESENT:

Jerrily Kress,	Staff Director
Beverly Bailey,	Office of Zoning
Paul Hart,	Office of Zoning
John Nyarku,	Office of Zoning

OTHER AGENCY STAFF PRESENT:

Michael Johnson,	Rental Accommodations
Ellen McCarthy,	Office of Planning

D.C. OFFICE OF CORPORATION COUNSEL PRESENT:

Marie Sansone, Esq.

ALSO PRESENT:

Adrian Fenty, Ward 4 City Council Member (Elect)

C-O-N-T-E-N-T-S

AGENDA ITEM	PAGE
I. CASES TO BE DECIDED	4
Application of Medhane Alem Eritrean Orthodox Church 16632 ANC-4C	

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

(9:30 a.m.)

VICE CHAIRPERSON SOCKWELL: Good morning. The Special Public Meeting of the Board of Zoning Adjustment will now come to order. The Board apologizes for the delay in getting started, and we have one case before us. Mr. Hart.

MR. HART: Good morning, Mr. Vice Chair and Members of the Board. Before you this morning in a Special Public Meeting is Case Number 16632, the Application of Medhane Alem Eritrean Orthodox Church, pursuant to 11 DCMR 3103.2 for a variance from the parking requirements under Subsection 2101.1 for the proposed conversion of an existing structure to be used as a church seating 120 persons in a C-1 District, at premises 4700 - 14th Street, Northwest, at Square 2706, Lot 54.

This case was heard on November 20th, 2000. The Board completed hearing the case at the November 20th hearing, and determined that a decision would be made today.

The Board requested that Ms. Audrey Nwanze provide a map showing the commercial establishments in the 4700 and 4600 block of 14th Street, Northwest.

The map was supposed to be submitted to the Office of Zoning and to be served on the applicants by Monday, December 4th, and the applicant's response, if any, were due on Wednesday, December 13th. If there were findings of fact from the applicant, it was due on December 13th.

The board members who sat on the case were Mr. Sockwell, Ms. Renshaw, and Mr. Hood. This case is before you, Vice Chairperson.

VICE CHAIRPERSON SOCKWELL: Mr. Hart, just to make sure the record is correct, the hearing was held on the 28th of November. I believe you may have stated that it was the 20th.

MR. HART: I guess it is the accent thing. The 28th of November, sir.

VICE CHAIRPERSON SOCKWELL: I understand. All right. We received from the applicant a description of the adjacent commercial properties in the 4600 block of 14th Street, and the 4700 block of 14th Street.

The applicant has submitted a statement from the owner of property located on the opposite side of the street from the proposed church, and addresses 4224, 26, 18, 30 and 32 - 14th Street, which they have entered into tentative negotiations for acquiring the rear of the property as parking, which would accommodate approximately 7 of the 11 vehicles that it has stated would be the request for variance on the parking.

The other four spaces the applicant has proposed to submit to the District of Columbia for use of public space adjacent to the property, to the south side of the building, to use the parking area, i.e., area behind the public sidewalk, for such parking.

And which would, if handled in a valet manner,

complete the requirements for parking. But there is no assurance that the additional four spaces would be acquired in the effort with the District of Columbia, which would have to go before the public space committee apparently for approval.

We have the Office of Planning's report, which has been dealt with. The Office of Planning had recommended approval. However, there has been opposition to this from the neighboring community. Board Members, would you like to --

BOARD MEMBER RENSHAW: Mr. Vice Chair, at the outset, I want to ask again for the map. The community was to provide a map showing the locations of businesses along that corridor. We received a listing, but we do not have a map supplied by the community. At least it was not in my packet.

And also I would like to have some clarification on the public space proposed rental, and whether or not there are curb cuts to allow for parking along that site, or whether you have to access the site only from the public alley.

VICE CHAIRPERSON SOCKWELL: Ms. Renshaw, I believe that in the November 28th hearing that we discussed the access point as being the existing alley curb cut, and that no additional curb cuts -- well, first of all, the city wouldn't allow a curb cut within, I believe, 60 feet or 30 feet of the intersection.

It depends upon my recollections and someone else giving some guaranteed specifics on the city's requirements. But the understanding would be that the parking would be valeted from

the alley curb cut on to that public space strip.

BOARD MEMBER RENSHAW: Thank you for clarifying.

COMMISSIONER HOOD: Mr. Chair, may I just add something? I believe we have a letter her from Mr. Permit, which is asking us to reopen the record.

VICE CHAIRPERSON SOCKWELL: I think his name is Mr. Smith.

COMMISSIONER HOOD: Oh, well, I am looking her at the top. Well, Mr. Smith, Mr. Permit.

VICE CHAIRPERSON SOCKWELL: I prefer to use the gentleman's name.

COMMISSIONER HOOD: Okay. Well, I'm sorry, Mr. Smith. Well, we have a letter here from Mr. Smith asking us to reopen the record. There have been some changes, and I will be frankly honest, this is his decision making case.

I had some problems with the parking, and I still have problems with the parking, and the way it stands, I will be voting against this project. But they have asked us to reopen the record, and I think that -- I am not sure exactly how the BZA will handle that.

But I do think that we need to do that first, whether to accept his letter into the record or not first, and then I believe that we could discuss what I see in the additional proposal, because I have some further questions to whether or not this has been discussed with the ANC.

Because in the end of the letter, he is saying that he doesn't believe that the -- "we are anticipating that the ANC will support our use of the public parking area adjacent to the church property since they were concerned about the parking impact on the street."

This is submitted in lieu of even having any comment from the party, which is the ANC, and I have serious concerns about moving forward like that.

VICE CHAIRPERSON SOCKWELL: Well, if we step back to the initial application, the application is for a variance from the parking requirements, and that is the extent of the application, as the use is not disallowed in the zone.

The attempt to achieve the parking goal would be something that perhaps -- I mean, with regard to its impact, is strictly based upon the need to meet the requirements of the ordinance, and is in itself not something that I would think has a great deal of ANC input necessity, because it is strictly whether or not you are in conformance with the zoning ordinance.

The Advisory Neighborhood Commission could respond, but I don't see that if they meet a portion of the parking requirement that in itself it is a major issue for ANC discussion.

If they can't meet the parking requirement and need the relief that the issue becomes one of significance to this board. Now, they have not been able to provide 11 parking spaces.

They are in the process of negotiating for the larger portion of that parking. They are claiming to be able to move forward with public space for the District of Columbia for the possibility of using the strip adjacent to the sidewalk and adjacent to the building on the south side for parking.

That additional space is up in the air. There is no guarantee that the space would be approved, but there is precedent for such approvals to buy public space to allow for rental for the use of such areas as parking if there is access to it, and in this case there would be no additional curb cut.

The neighborhood's concerns are well documented that the preference is for commercial use, which would be compatible with, and would extend the developing commercial within the corridor.

It is well documented that the community is not in favor of another non-retail establishment in particular, another church in this case, which would remove that property from the potential of becoming commercial retail, and would provide a burden on existing parking in the neighborhood, and could impact the availability of parking for some of the businesses that are along 14th Street.

One of the things that appears to be an indication of some of the impact on the church, at least on Sundays, is the fact that currently a number of the businesses that were described

in the applicant's submission of 12/4 are either closed or do not have Sunday hours.

But that is a condition that cannot be called permanently, and it certainly is a condition that would only affect things as businesses not available on Sundays, or those businesses so choose not to hold Sunday hours.

Certain businesses don't or appear not to be major traffic generators, in terms of customer flow. But I found two businesses in the 4700 block that appear to have Sunday hours.

I as well found three businesses in the 4600 block that held Sunday hours, and because three businesses in the 4600 block were listed as closed, one did not list its hours apparently.

And in the 4700 block, one business was apparently empty, or two businesses were empty, two store fronts were empty, and one was undergoing renovations. A couple did not have hours posted.

So it is difficult to know what the long term impacts of the church might be on the neighborhood. However, it is the Board's responsibility to deal with the case on the merits of it not meeting the requirement for parking.

And while it is the number of persons that are proposed for the church that is one of the issues, as well as it is the fact that it is a non-retail, non-commercial establishment, that is another one of the issues.

And I would be -- what I don't have information on, and what the board doesn't have information on is what the likely posture of the public space would be with regard to the parking.

If public space is prone to approve such, and could demonstrate that under similar circumstances such parking would be routinely approved that there are specific requirements, inclusive of buffering and landscaping that would be required for such parking in public space, and that there is no underlying reason why that particular side space could not be applied to parking, then it would go a long way to resolve the specific issue, which is can they or will they meet the parking requirement.

Absent that, the board is charged with looking at a shortfall of four spaces, and in context with that, and only in context with that, the impact of that shortfall upon the use, and its negative impacts on the community.

So that is the area that I believe that we will have to come to some resolution as to how we discharge the case. I believe that to place the use itself in any other context than that of an allowed use might be an unfair representation.

So I believe that we have to orient ourselves for discussion on this matter to the parking and how this can be resolved, and if the applicant can meet the parking requirements, then the applicant really not need before this board anymore.

If the applicant cannot, then we will have to discharge the case as we see fit.

MS. SANSONE: Mr. Chairman, if I might just sort of follow on to something that you just mentioned. The applicant has asked for relief under Section 2101, which is the number of parking spaces, but the zoning regulations also regulate the location of parking spaces.

And because there is some effort underway by the applicant to meet the required number of spaces, but locate them other than on their own lot, the applicant should really be addressing to the board those provisions of the zoning regulations, and 2116.2 relating to location, and that may or may not require -- well, it probably would require zoning relief, possibly in the form of a special exception or a variance.

But it would seem like the applicant maybe needs some combination of relief here to address number and location, or perhaps just location if they can meet the number.

VICE CHAIRPERSON SOCKWELL: Well, we have had previous cases where we looked at parking to be provided remotely, and if you will continue with the particular section as I look it up, these spaces that are proposed would be quite approximate to the location of the proposed facility.

COMMISSIONER HOOD: Mr. Chair, I just still would go back to my initial question. It is written here in Mr. Smith's document that we have closed the record. These new combinations or whatever have been arranged have happened since we have closed the record.

So I think first that this Board needs to accept it or take a vote on whether or not we are going to reopen the record to even deal with it. I hear us talking about it, but we have not done that to reopen the record.

MS. KRESS: I agree with you.

VICE CHAIRPERSON SOCKWELL: On that basis then, having received the applicant's good faith effort to meet the parking requirements -- and since that is the only element that has changed with the applicant's case, I would move that we reopen the record to accept the documentation that has been provided.

COMMISSIONER HOOD: Is that open for discussion?

VICE CHAIRPERSON SOCKWELL: It certainly is, if there is a second on it.

MS. KRESS: Is there a second?

VICE CHAIRPERSON SOCKWELL: Ms. Renshaw, do you care to --

BOARD MEMBER RENSHAW: No.

VICE CHAIRPERSON SOCKWELL: You do not?

BOARD MEMBER RENSHAW: No.

MS. KRESS: It does not appear then that the record is reopened to take into account the letter dated December 12th from the applicant.

VICE CHAIRPERSON SOCKWELL: Then --

COMMISSIONER HOOD: May I finish now, Mr. Chair? My concern is again -- and I know that you stated about the

Community ANC, but I think we have a different proposal in front of us now, and I would like to afford the opportunity, as opposed to just opening the record and we make the decision, I would like to afford the opportunity for them to take this back to the neighborhood who are going to be affected, and deal with it from that standpoint, as opposed to us making the decision here.

And that's because they even mention in their letter that they are sure that they can get the support. Without that, and if it is not put back in, again, I will state that I will be voting against it.

And while I hate to do, this is in line with another project that I voted against and that I hated to vote against, but that project eventually came back, and it came back better than what it was, and it passed. So that's my position.

VICE CHAIRPERSON SOCKWELL: Then it would be your position that we reopen the case completely for -- go ahead.

COMMISSIONER HOOD: It looks to me, Mr. Chair, that this is a new case. I mean, I don't know what Mrs. Renshaw -- how Commissioner Renshaw, or Board Member Renshaw feels, but with this new information, and not providing the community an opportunity, I can't vote or can't go that way.

VICE CHAIRPERSON SOCKWELL: It would seem that this would still be a variance, but to the extent that counsel has suggested that it is also a special exception for the location of parking, then there would be a change in the requested relief, and

a reduction in the number of spaces requested, but a change in the specifics of the application. And on that basis would we have to renotice?

MS. KRESS: I would think that would be a good idea. You can, of course, on your own motion decide to rehear or open it up for further information and further hearings, which is probably the easiest way to do it.

And to request certain things of the applicant, and perhaps to go visit the zoning administrator and get appropriate referrals that now pertain to the new information that they are looking for. And just out of fairness to then readvertise it.

VICE CHAIRPERSON SOCKWELL: Well, it would seem that in fairness to the applicant, and to the community, especially Mr. Hood's feeling that the case dynamics have changed significantly, that a decision at this time might not be appropriate, and that the dynamics have changed.

I would entertain a motion that we reopen the case, and remand it back to the zoning administrator for the decision of what relief is required, and renotice the case for a hearing at a later date.

COMMISSIONER HOOD: I would also -- if my colleague doesn't mind, I would just like to hear if Ms. Renshaw has any views on it.

BOARD MEMBER RENSHAW: I would join Board Member Hood in wanting very much to reopen this case and have adequate

community input. The case has changed because we have been given maps showing two parking areas under proposal.

I want to note for the record that one of the parking locations which I understand is currently vacant and abandoned, is behind several closed establishments, which the community may be trying to reopen.

In other words, to stimulate some kind of retail activity in that location. So those parking spaces as wanted by the church may very much impact on whether or not those closed retail stores can come back to life, because those stores may need parking behind their building.

And yet if it is church parking and solely church parking, that would be eliminated. So I would want to give the community another opportunity to take a close look at this case, and to get the map from the community that we had requested.

And I agree with the proposal, the motion, to reopen the case and remand it back to the zoning administrator, and also to renotice the case.

COMMISSIONER HOOD: I do note that the applicant is in the audience, and I can assure you that you really have to come back with something strong, because from my standpoint -- and if you remember the discussions at the hearing, I had a problem with the parking up there to begin with.

And so this is just an opportunity from what I am seeing here in the letter addressed to Mr. Smith for you all to

resolve the issues. And not only to resolve them here, but to resolve them with the community.

So that's where I am on this, and I am hoping that you can come back with some something, with some resolution, because the way it stands now, I'm sorry, but I'm not just in favor of it.

VICE CHAIRPERSON SOCKWELL: And let me correct the record. Ms. Renshaw, not all of the businesses behind which the parking is being requested are closed. 4632 is an operating business called --

BOARD MEMBER RENSHAW: The carry-out.

VICE CHAIRPERSON SOCKWELL: It is somebody's restaurant. I can't read it, but it looks like Johanna's.

BOARD MEMBER RENSHAW: P-A-P-U-S-A-S Carry-out.

VICE CHAIRPERSON SOCKWELL: I'm sorry, I was looking at the wrong one.

BOARD MEMBER RENSHAW: And that is at 4632.

VICE CHAIRPERSON SOCKWELL: Correct.

BOARD MEMBER RENSHAW: However, it is stated that the proprietor, I suppose, did not speak English.

VICE CHAIRPERSON SOCKWELL: But that would not be --

BOARD MEMBER RENSHAW: So I wonder did he understand or she understand the impact of losing the parking area behind, even though it is not in use at the present time, or at

least it doesn't seem to be.

VICE CHAIRPERSON SOCKWELL: That wasn't the reason that I brought it up. I brought it up because you said that the businesses were closed.

BOARD MEMBER RENSHAW: 4626 to 4630 are closed.

VICE CHAIRPERSON SOCKWELL: But you said that they were all closed, and I corrected that.

BOARD MEMBER RENSHAW: Save the corner location. Thank you.

VICE CHAIRPERSON SOCKWELL: And we don't prejudice businesses because of non-English speaking ownership. So don't get the feeling that --

MR. FENTY: Mr. Chairman.

VICE CHAIRPERSON SOCKWELL: Yes, sir?

MR. FENTY: We would like to reopen the case as we have not had a chance to respond, and I think you are leaving the community out of responding to that.

VICE CHAIRPERSON SOCKWELL: Mr. Fenty, generally in a public meeting, as opposed to a public hearing, the audience is not allowed to speak and address the board.

MR. FENTY: You have a motion on the floor, and the application --

VICE CHAIRPERSON SOCKWELL: This is not a preliminary matter at this time. This is a public meeting for a decision on a case that has been fully heard, at which you did

make your representations before this board.

MR. FENTY: I understand that, Mr. Chair. This started out as a decision making meeting, but when the applicant filed their motion to reopen the case, that then became a preliminary matter before this board, which should --

VICE CHAIRPERSON SOCKWELL: The applicant did not file a motion to reopen the case.

MR. FENTY: But it should be considered as a motion.

VICE CHAIRPERSON SOCKWELL: The board is considering the motion and not the applicant. The board is considering making a motion to reopen the case. Once that is done, then it might be appropriate for you to make a statement, because the case would then be open. At this point, it isn't, and you can't.

MR. FENTY: You have a letter in the record which says that they would like to reopen the case. It is my understanding based on the testimony that the board has given today that that is a basis for reopening the case.

I think that the record clearly shows that that is a motion that is being considered by the chair, and I would like to have an opportunity to respond.

VICE CHAIRPERSON SOCKWELL: Okay. I will agree that it is -- and I apologize. That in paragraph 3 that I was looking more at the substance of the issue than the stated thing.

But --

COMMISSIONER HOOD: Can I just interject?

VICE CHAIRPERSON SOCKWELL: Sure, go right ahead.

COMMISSIONER HOOD: We have not yet said we were going to reopen.

VICE CHAIRPERSON SOCKWELL: No, we haven't.

COMMISSIONER HOOD: We have not agreed to reopen it, but being fair on both sides and due to their request, I would think -- and unfortunately we do not have anything in writing.

And I don't know if the ANC -- and that is one of the questions that I did want to ask, and I wanted to see if we were going to hear comments from both sides, because I wanted to know has this been discussed, because it was presented to us here today, but has this been thrown back out there to the community?

VICE CHAIRPERSON SOCKWELL: And it might be unfair for us to let you speak at this time because all parties involved might not be available to have access to, and respond to you.

Certainly the applicant's people are here, but I am not sure the Advisory Neighborhood Commission are all here, or that the community people who came are all here at today's public meeting.

And it would be more fair to them under those circumstances, but I believe that until we move to reopen that I would ask you to let us proceed with this part of it. And then once it is reopened, perhaps we can accept a statement from you if

you choose to give such.

MR. FENTY: I am going to go on record as objecting. If you hear testimony or consider opening a case based upon a motion by the applicant and don't give me an opportunity to respond, then you have only heard one side of the issue. So that after you --

VICE CHAIRPERSON SOCKWELL: But we would not be hearing the substantive issues of the case, Mr. Fenty. We would merely be remanding it back, and it would come back as a new case. Everyone would have their opportunity to respond to it.

MR. FENTY: It is a procedural issue, but you are going through the procedural posture of the case, and any motion that you hear with the applicant, and without hearing testimony from the other side, then what you are doing is that you are jeopardizing our rights under the procedure of the case.

We don't want this case reopened. We don't want any other testimony to come in. So if you don't hear that testimony on the record and you make a decision, then you have made a decision without hearing one side of the case.

VICE CHAIRPERSON SOCKWELL: So if the Board were to approve the case as it is, then you would be satisfied?

MR. FENTY: Actually, to be honest with you, I don't want to get into that. I want to speak on the merits of what is before us. But to be honest with you, it looks like you have got three Board of Zoning --

VICE CHAIRPERSON SOCKWELL: It is not your decision actually to be honest with me. It is your decision to accept the board's rulings on things, and then if we can do this in a fair and just manner, you will have your opportunity to speak.

I mean, I don't mind you having a point of view, Mr. Fenty. I don't mind you speaking. But I do mind you disrupting the process in a way that makes it more difficult for us to carry out our duties. That's all.

MR. FENTY: I just want to be on record as objecting to the fact that we have not had an opportunity to testify on the applicant's motion to reopen the case.

VICE CHAIRPERSON SOCKWELL: And that is duly noted. Thank you.

MS. KRESS: May I also point out that the motion failed to reopen the case for what the applicant put in their motion to do, which was to reopen the record. Not the whole case, but for the case be reopened to receive their record.

VICE CHAIRPERSON SOCKWELL: Exactly.

MS. KRESS: That motion you made and it failed.

VICE CHAIRPERSON SOCKWELL: Exactly. It did not get a second.

MS. KRESS: So the case is not being reopened to bring this in. That motion failed. So what you are talking about now is on your own motion deciding whether you want to reopen this for -- well, not reopen, the wrong words, but to have a rehearing

of the case.

VICE CHAIRPERSON SOCKWELL: A rehearing of the case, yes.

MS. KRESS: We should drop the words reopen.

VICE CHAIRPERSON SOCKWELL: Right.

MS. KRESS: But to have a remand and a rehearing that starts all over again from scratch.

VICE CHAIRPERSON SOCKWELL: Exactly.

MS. KRESS: I am not agreeing or disagreeing. I am just saying that is what I hear is on the table right now.

VICE CHAIRPERSON SOCKWELL: That is the direction that the board was discussing taking.

COMMISSIONER HOOD: Let me ask Ms. Sansone. Ms. Sansone, you have heard the discussion that just took place. Would we be out of step or not if we proceeded to rehear and not hear from both sides, or how would that work?

Because if not, if we vote on this case on what I have here in front of me, I would tell my colleagues that I would be voting against what I have in front of me.

MS. SANSONE: Yes. Mr. Chairman and Mr. Hood, with the proposed as articulated by Ms. Kress to actually have this case remanded to the zoning administrator, and give the applicant and the zoning administrator the opportunity to sort out what zoning relief exactly is required to put their case together, and then come back for a rehearing, we would be -- well, the board

could decide the scope of that rehearing.

You know, if you have a full rehearing, all the parties -- the applicant, the ANC, the community -- would have an opportunity to come in, and it would be as though it were a new hearing, because different relief is being sought.

VICE CHAIRPERSON SOCKWELL: We would be in a special exception case.

MS. SANSONE: Right.

VICE CHAIRPERSON SOCKWELL: And possibly only a special exception case should there be sufficient grounds to believe that the parking could be met. It would merely be a location issue.

MS. KRESS: I would also say the other way that you can go, not to exempt what you are talking about, but another option is to deny this case completely and allow the applicant to come back in with a new request for a new -- and in this case probably a special exception instead of a variance.

You do have options in front of you. I was just articulating the one that I heard you speaking to.

COMMISSIONER HOOD: Well, let me say this. Due to the fact that -- and I guess -- Mr. Chair, are you ready for some more discussion?

VICE CHAIRPERSON SOCKWELL: Yes. I would think that there are two ways to look at it. One is that in fairness to the community, the community needs to have the opportunity to

respond to a change in the dynamics of the case, because now it is a special exception.

And it might be only a special exception, and it might possibly be a special exception and a variance if it is remanded back. If we deny the case, then the applicant would still have the right to go through the same process of returning with a new case, having done all of the same things that would occur if we remand it back to the zoning administrator; the difference being that they would have to pay new fees.

And it might not be fair to the applicant to force them to do all of the same things and pay fees for something that we could send back without having to encumber them for new fees.

COMMISSIONER HOOD: You know, this is the problem. I just have a problem with the way that this was handled. We had a hearing on this, and there is major new developments, and now we have major changes, and I am trying to be fair.

We show up with this and from what I am hearing all parties have not had a chance to look at the new developments. So with that -- and I understand the fees. I don't know if we can waive fees or not.

But I just have a problem with the way that this is presented, and I want Mr. Smith to understand that I have a serious problem with the way that this was presented. I really do, because if you are going to make a major change, to me it is another case.

VICE CHAIRPERSON SOCKWELL: Ms. Renshaw.

BOARD MEMBER RENSHAW: Well, it certainly is the case that the community's voice has not been heard sufficiently on it. On one hand it has, because certainly the community has reacted to this initial application.

But with the changes that we now have before us, the community is mute, and needs to see what the applicant has proposed, and it is for us to decide whether we are going to -- and what has been suggested in part, whether we are going to deny, or whether we are going to vote to reopen the case --

MS. KRESS: Excuse me, but to rehear.

BOARD MEMBER RENSHAW: To rehear, thank you, but to rehear the case. So if those are the two options that we should be discussing right now so that we can move forward, and make a decision and not belabor the issue to this case.

It is unfortunate that so much has come in at the last moment to change the dynamics of the case. It is unfortunate that we don't have all of the information that we had requested -- i.e., specifically the map -- before us so that we could have that visual which is necessary.

But be that as it may, let us decide now whether we are going to deny or to rehear the case and settle that issue directly. Do you want to have a motion?

COMMISSIONER HOOD: What was your -- I'm sorry, Ms. Renshaw.

BOARD MEMBER RENSHAW: We have it seems two options; to deny the case, and then the applicant can come back in and have a new proposal before us. Or we can vote to rehear the case.

COMMISSIONER HOOD: Mr. Chair, I am going to make a motion to deny Case Number 16632, because we have not reopened he case, and in the way that it is presented, I think they are just going to have to come back to us with their proposal in a different case, because I think this is a new case.

And I am denying the original case that is in front of us, 16632.

BOARD MEMBER RENSHAW: I will second.

VICE CHAIRPERSON SOCKWELL: In a previous case that we heard, I believe that the Board made another decision in allow the applicant to come back with a proposal for parking, which had not been part of the original case.

And at that time we did not deny the case, and although the case was not approved even upon return, we afforded the applicant the -- what I think is the fairness of returning with a more complete proposal before the board without forcing them to remit additional fees as well.

It did not force the applicant into the posture of a long term lack of knowing of what their options might be. I believe in this case that the applicant has secured the property -- is it by lease or by purchase, whichever -- and I think that it

would not be fair to the applicant to force them through the long term.

It might not be fair to the community to give them the long term of uncertainly over the issue as well. And I believe that it would be more appropriate to send the case back and bring it before us with a renoticing. The time frame differences would be approximately what?

MS. KRESS: I would just say that one of the keys here, of course, is the information that we get from the zoning administrator. That is the only real problem.

I think the renoticing, basically we need almost 60 days from the time that we start to get it to the registrar, and to then have the time frame to get the date.

So we are basically talking 60 days either way from this moment, whether they come in tomorrow and file a new application, which I don't think they would be able to, because I would think they would want a meet with the zoning administrator in getting this straightened out first.

Or we could go ahead and schedule it right now for the 60 days, and then hope they can get this information from the zoning administrator during this time period.

COMMISSIONER HOOD: But also let me remind you, Mr. Chair, that there is a motion on the table that has been seconded, and I guess you just opened it for discussion.

VICE CHAIRPERSON SOCKWELL: Yes.

COMMISSIONER HOOD: There is a motion there that obviously is going to pass to deny, but again I understand it. But also the church had counsel, and they know that they have brought a different case in front of us.

And to sit here and try to go right through our system with whatever they want -- and they obviously know what they are doing, because they knew obviously from the case they presented from the way that I looked at it, that there were problems, and from what they heard previously at the previous hearing.

And to come back with this and not to even make an attempt to go over it with the ANC and the community that is impacted on that variance, and make an attempt before they even brought this down -- and from what I am hearing, even though I don't know if

we were supposed to hear that this morning or not -- that they have not even been served, or have the right to even respond.

I think we are going down the wrong road, and I was voting as previously stated on that case, because as far as I am concerned, this letter here, we didn't vote to reopen it, and so it doesn't exist.

VICE CHAIRPERSON SOCKWELL: All right. Then it is your feeling that it is better brought back as a brand new case?

COMMISSIONER HOOD: Well, we would have to do one or the other. We would have to -- and I am going back to counsel,

or I mean to the applicant's counsel, and I have problems with the way that this was presented.

There is one or two things that we can do. We can open this and then I do think we need to hear from some of the other parties; or we can deny it, and then have them come back and start all over again, because that is basically what they are doing.

So I understand where you are going, Mr. Chair, and I concur with you, but we have to look at what is in front of us. We did not open the record and this is not here.

Even though I am holding it in my hand, it doesn't exist, and I just want to put on the record that I have a problem with the way that was done.

BOARD MEMBER RENSHAW: I think we should call the question, Mr. Vice Chair.

VICE CHAIRPERSON SOCKWELL: All right. The motion is on the floor to deny; is that correct?

COMMISSIONER HOOD: Yes, a motion to deny.

BOARD MEMBER RENSHAW: The original case.

COMMISSIONER HOOD: The original case.

VICE CHAIRPERSON SOCKWELL: The original case, yes.

COMMISSIONER HOOD: And not necessarily t his here which doesn't exist.

VICE CHAIRPERSON SOCKWELL: Right.

MS. KRESS: And Ms. Renshaw made the motion and Mr.

Hood seconded the motion.

BOARD MEMBER RENSHAW: No, Mr. Hood made the motion and I seconded it.

VICE CHAIRPERSON SOCKWELL: Mr. Hood made the motion and Ms. Renshaw seconded.

BOARD MEMBER RENSHAW: Yes.

VICE CHAIRPERSON SOCKWELL: All in favor of the motion?

BOARD MEMBER RENSHAW: Aye.

VICE CHAIRPERSON SOCKWELL: Aye.

COMMISSIONER HOOD: Aye.

VICE CHAIRPERSON SOCKWELL: The case is thereby denied, and will have to be brought back before this board if the applicant chooses to continue with the approach that has been invisibly provided.

MR. HART: The staff records the vote as three to zero to deny Application 16632. Mr. Hood making the motion, and Ms. Renshaw and Mr. Sockwell voting in favor of the motion.

MS. KRESS: Thank you.

VICE CHAIRPERSON SOCKWELL: That concludes the special public meeting of the Board of Zoning Adjustment for today.

(Whereupon, the Special Meeting was concluded at 10:14 a.m.)