

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

+ + + + +

SPECIAL PUBLIC MEETING

+ + + + +

TUESDAY,

MAY 22, 2012

+ + + + +

The Special Public Meeting convened in the Jerrily R. Kress Memorial Hearing Room 220 South at 441 4th Street, N.W., Washington, D.C. 20001, pursuant to notice at 1:09 p.m., Lloyd J. Jordan, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

LLOYD J. JORDAN	Chairperson
NICOLE SORG	Vice Chairperson
RASHIDA MacMURRAY	Board Member
JEFFREY HINKLE	Board Member (NCPC)

ZONING COMMISSION MEMBER PRESENT:

MARCIE COHEN, Commissioner

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY	Secretary
JOHN NYARKU	Zoning Specialist

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

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Board of Zoning Adjustment
District of Columbia
CASE NO. Transcript
EXHIBIT NO. null

MARY NAGELHOUT, ESQ.

This transcript constitutes the minutes from the Special Public Meeting held on May 22, 2012.

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T-A-B-L-E O-F C-O-N-T-E-N-T-S

WELCOME:

Lloyd Jordan, Chairperson 4

FCP CHAMPLAIN, LLCAPPLICATION NO. 18330: 5

BOARD DELIBERATION: 8

Motion to Approve: 12

Vote: 5-0-0 to Approve: 17ADJOURN:

Lloyd Jordan, Chairperson 18

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

1:08 p.m.

CHAIRPERSON JORDAN: This meeting
will please come to order.

Good afternoon, ladies and
gentlemen. This is the Special Public Meeting
of the Board of Zoning Adjustment.

We are here located at the Jerrily
R. Kress Memorial Hearing Room at 441 4th Street,
N.W.

My name is Lloyd Jordan,
Chairperson. To the left of me, all the way
to the left is Marcie Cohen, Member of the Zoning
Commission. To her right is Nicole Sorg, Vice
Chair. To my right is Rashida MacMurray, Board
Member. And to her right is Jeffrey Hinkle,
Board Member.

Please be advised this proceeding
is being recorded by a court reporter and webcast
live. Accordingly, we must ask that you refrain
from making disruptive noises or actions in the
hearing room.

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1 Today's agenda is to render a
2 decision on cases that under the regulations
3 do not require -- well, have had hearings and
4 to make our determination.

5 Mr. Secretary, do we have any
6 preliminary matters or anything we need to
7 consider?

8 MR. MOY: Well, there is to the one
9 case that is for decision before the Board, but
10 I can tee you up on that when I call the case,
11 sir.

12 CHAIRPERSON JORDAN: Okay. Great.
13 You can call the case if there are no other
14 preliminary matters, please, do so.

15 MR. MOY: Yes. Good afternoon, Mr.
16 Chairman, Members of the Board. That
17 application for -- scheduled for the Special
18 Public Meeting is Application No. 18330. As
19 advertised, this is the application of FCP
20 Champlain, LLC, pursuant to 11 DCMR 3104.1 and
21 3103.2, for a variance from the floor area ratio
22 requirements under ' 402, and a special

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1 exception to allow an increase in building
2 height under ' 1403.

3 This is to permit the development
4 of a residential building in the RC/R-5-B
5 District at premises 2337 Champlain Street,
6 N.W., Square 2563, Lot 887.

7 As the Board will recall on May 15,
8 2012, the Board convened this application and
9 granted the applicant's request to reschedule
10 the Board's decision to May 22nd.

11 Apart from that, Mr. Chairman, there
12 are two filings in the record as a preliminary
13 matter. One filing is from the applicant dated
14 May 22, 2012 as well as a response from the party
15 in opposition, also of the same date. And
16 that's for the Board's consideration.

17 Other than that, then the Board is
18 then to act on the merits of the application.

19 That completes the staff's briefing, Mr.
20 Chairman.

21 CHAIRPERSON JORDAN: What was the
22 dates of those filings?

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1 MR. MOY: Both are dated today,
2 Monday, May 22nd.

3 CHAIRPERSON JORDAN: Okay. Those
4 filings will be considered out of time and,
5 therefore, not part of the record.

6 Okay. We have had testimony in this
7 particular matter, I think, on several different
8 dates and this matter has been before the Board
9 from our last setting of last week. There was
10 a request to continue this matter to this week
11 to allow the parties to have further dialogue
12 in an attempt to resolve any outstanding issues
13 between the parties.

14 It's my understanding that there was
15 no change in position, no change in the
16 resolution of any issues and so, therefore, this
17 is ripe for the Board to proceed to make a
18 decision.

19 With that, I'm going to open this
20 particular case up for Board deliberation and
21 ask the Board if anyone has anything they want
22 to say about this particular application. Yes?

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1 Okay. What we have here is a
2 request by the applicant to provide for a special
3 exception and a I believe there is also a
4 variance they are asking for, aren't they? And
5 a variance in this case.

6 We have had a party in opposition,
7 Erie Condominium, who are located right next
8 to the applicant's property.

9 The issues that were raised by the
10 party in opposition particularly was that the
11 view is being obstructed by the applicant, that
12 the request for relief did not satisfy the
13 requirements for the variance or special
14 exception, some of the evidence presented by
15 them stated that one value of the building --
16 their property was going to be lost or went down,
17 that the property was going to have an affect
18 upon their light, air and privacy and I think
19 that's pretty much where we were.

20 The opponents presented certainly
21 diagrams and some shadow studies indicating that
22 the light and air might be, in their view,

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1 affected.

2 I believe what the evidence showed,
3 and I would offer this as our findings, based
4 upon the record and based upon the evidence
5 submitted in the record and based upon the
6 testimony given here at the previous hearing,
7 that this site is very deep having a depth of,
8 approximately, 130 feet. The site is also
9 irregular in shape.

10 The topography of the shaping of the
11 lot creates a 9 foot difference in slope in the
12 property site, that the height is consistent
13 with other buildings and additional other
14 buildings in the area. It is consistent with
15 the additional height and the density.

16 The building is proposed as a total
17 of 3,740 square feet devoted to affordable
18 housing. That the Inclusionary Zoning allows
19 for a height up to 50 feet. There is some
20 exception that if there is affordable housing,
21 to allow for that, the applicant presented that
22 they are going to have 3,400 feet of affordable

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1 housing and, therefore, would meet the exception
2 for allowing the additional height relief.

3 The building is only 5 inches from
4 the top of the parquet of the Erie and the roof
5 of the building is only 2 feet 10 inches above
6 the roof of the Erie, as such is visible and
7 hidden from the ground.

8 The building is set back off the
9 street in order to align the building up with
10 the Erie and also it will provide the pedestrians
11 additional room to maneuver down the street.

12 The evidence also showed that there
13 was attempts to redesign this building in such
14 a way as not to require any particular zoning
15 relief and to do it in such a way that it would
16 not affect the Erie.

17 Those are some of the initial things
18 that I have found. Any other Board Member want
19 to add?

20 VICE CHAIR SORG: Thank you, Mr.
21 Chairman. I guess I would just add that for
22 me I agree with your findings and I also just

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1 briefly would note that to me the, you know,
2 confluence of the grade change and the depth
3 of the property with the necessity and
4 recommendation from DDOT to locate the parking
5 where it is, so that it counts in FAR, was one
6 of the convincing points in the applicant's
7 statements and testimony.

8 Also, I would note that I'm in
9 agreement with, I think you mentioned this, that
10 the building's design and use in this
11 application would be in keeping with the
12 Reed-Cooke/Adams Morgan Overlay.

13 Also, I think that the provision of
14 -- that the organization of the building and
15 its balance between providing light and air to
16 the units and to creating, you know, also of
17 course an efficient building for the applicant,
18 to me in this case, is sensible with regard to
19 the relief that is being requested.

20 That's all that I would add.

21 CHAIRPERSON JORDAN: Any other
22 Board Member? Any observations, Board Members?

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1 Yes?

2 MEMBER MacMURRAY: Chairman, I just
3 have one question for the parties.

4 I note that --

5 CHAIRPERSON JORDAN: Okay. Any
6 other notes from the Board?

7 VICE CHAIR SORG: Mr. Chairman, I
8 would make a motion if you find that to be
9 suitable?

10 CHAIRPERSON JORDAN: Let me do
11 this, so we make sure we are clear on this record
12 for OAG's purposes.

13 And I'll go with -- make a motion.

14 I'll make the motion. I would want to -- I
15 would offer that we find that a special exception
16 should be allowed for the height increase to
17 48.75, that this particular application meets
18 the requirements for a special exception, that
19 this particular building advances the purpose
20 of the Reed-Cooke Overlay in that there will
21 not be -- displace any existing residents.

22 But, in fact, will be aiding to the

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1 character of the Reed-Cooke area, that the
2 subject building provides new housing at an
3 ideal location near new and existing
4 residential. The buildings of various heights
5 are compatible with this particular use.

6 There will be no damage or effect
7 upon the traffic, traffic pattern based upon
8 what has been submitted and what we have gotten
9 by testimony and the building is only going to
10 be 5 inches from the top of the parquet of the
11 adjacent building, that vehicle access and
12 egress is minimized and minimizes conflicts and
13 there is no dangerous or objectionable traffic
14 conditions.

15 The building would provide all
16 access from existing north and south alley
17 abutting the east side of the building. The
18 building is set back for better pedestrian
19 situation, that the Department of
20 Transportation has stated that the property's
21 parking plan is acceptable to them.

22 The location of the access is

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1 consistent with the Department of
2 Transportation's policies for access. And DOT
3 actually approved the plans, that there is
4 adequate -- off-street parking shall be provided
5 for employees. Deliveries will be occurring
6 in the front, in a short time in the front --
7 for a short time.

8 Parking spaces -- there is a parking
9 space for a delivery van. There is 20 parking
10 spaces that are going to be provided. Again,
11 that the planning -- I mean, parking -- excuse
12 me.

13 The Department of Transportation
14 has approved this plan. There is no adverse
15 noise in the neighborhood. There was nothing
16 showing that. There is no outdoor processing
17 of garbage. Garbage is going to be collected
18 in a designed area set forth for garbage.

19 There is no adverse affect upon
20 adjacent property or nearby property or
21 detrimental to health, safety and welfare.
22 There was no evidence that there is any detriment

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1 shown to health, safety and welfare, but more
2 particularly, the use, size and design of the
3 building was made in such a way to accommodate,
4 that the penthouse structures are set back and
5 that there is restricted allowance for the use
6 of the applicant's penthouse area.

7 Although not required, it was set
8 back 18 feet from the north line and 13 feet
9 from the south line. There is, again, a 5 inch
10 difference between the levels of the building.

11 The penthouse terraces are not facing the
12 adjacent building. And they have restrictive
13 rails to prevent others from walking around.

14 And so therefore, they would meet
15 the criteria for a special exception.

16 For a variance, they are required
17 under a variance to show that there is an unusual
18 and exceptional condition of the site. I
19 believe, for that record, that that was shown
20 by the property being unique and an irregular
21 shape, that the significant change and the
22 incline or slope of the property from south to

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1 north is about a 9 foot difference, that this
2 property, because of the situation, imposes a
3 practical difficulty resulting that the
4 variance should be granted.

5 And that the parking needs to be
6 accessed from the rear of the building and raised
7 from the first level -- raise of the first level
8 would impose a burden upon the FAR. The
9 variance would not cause a substantial detriment
10 to the public or the Zoning Regulations.

11 For all those things I have already
12 talked about and for this reason, I move that
13 the relief requested by the applicant be
14 granted.

15 MS. COHEN: Mr. Chairman, I would
16 like to second that motion.

17 CHAIRPERSON JORDAN: The motion is
18 made and seconded that the relief requested by
19 the applicant be granted. Any further
20 discussion or unrest?

21 Seeing none, all those in favor
22 signify by saying aye.

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1 ALL: Aye.

2 CHAIRPERSON JORDAN: Those opposed
3 nay? The motion carries. Mr. Secretary?

4 MR. MOY: Yes, sir. The staff
5 would record the vote as 5-0-0. This is on the
6 motion of the Chairman Jordan to approve the
7 application for the variance and special
8 exception relief. Seconding the motion Ms.
9 Cohen. Also in support of the motion Ms. Vice
10 Chair Sorg, Ms. MacMurray and Mr. Hinkle.
11 Again, the final vote is 5-0-0.

12 CHAIRPERSON JORDAN: Thank you. I
13 would also like to request the applicant to
14 propose an order for the Board, in light of the
15 findings that were made by the Board today and
16 present it to the Office of Zoning to be
17 considered by the Board and modified, if
18 necessary.

19 Say, is two weeks enough? In two
20 weeks period of time.

21 With that, I will close this
22 particular Public Meeting, unless there is

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1 something else that needs to come before us for
2 this Public Meeting, Mr. Secretary.

3 MR. MOY: That would -- this would
4 conclude the Special Public Meeting, sir.

5 CHAIRPERSON JORDAN: Thank you.
6 Then we will adjourn this Public Meeting.

7 (Whereupon, the Special Public
8 Meeting was concluded at 1:24 p.m.)
9
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12

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