

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

+ + + + +

BOARD OF ZONING ADJUSTMENT

+ + + + +

SPECIAL PUBLIC MEETING

+ + + + +

TUESDAY

SEPTEMBER 11, 2012

+ + + + +

The Special 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 9:43 a.m., Lloyd Jordan,  
Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

LLOYD JORDAN, Chairperson  
NICOLE SORG, Vice-Chairperson  
JEFF HINKLE, Board Member (NCPC)

ZONING COMMISSION MEMBER PRESENT:

MICHAEL TURNBULL, Board Member

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary  
STEPHEN RICE, Zoning Specialist

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

MARY NAGELHOUT, ESQ.

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OFFICE OF PLANNING STAFF PRESENT:

JOEL LAWSON  
KAREN THOMAS  
MAXINE BROWN-ROBERTS  
ARTHUR JACKSON  
STEPHEN MORDFIN  
STEPHEN GYOR  
ELISE VITALE

The transcript constitutes the  
minutes from the Public Hearing and Meeting  
held on September 11, 2012.

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

## WELCOME:

Lloyd Jordan. . . . .4

PRELIMINARY MATTER (REQUEST TO EXPEDITE  
SCHEDULED PUBLIC HEARING): APPEAL NO. 18460 OF  
GINIA L. AVERY, ET AL.:

Approved by Consensus . . . . .7

PRELIMINARY MATTER (REQUEST TO EXPEDITE  
SCHEDULED PUBLIC HEARING): APPEAL NO. 18469 OF  
SUSAN LYNCH:

Approved by Consensus. . . . .10

PRELIMINARY MATTERS (REQUEST TO POSTPONE  
SCHEDULED PUBLIC HEARING AND PARTY STATUS  
REQUESTS): APPLICATION NO. 18398 OF KENNETH  
AND ELLEN MARKS:

Approved by consensus. . . . .12

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

9:43 a.m.

CHAIRMAN JORDAN: Good morning.

Will this meeting please come to order.

Good morning, ladies and gentlemen. We're here at the Jerrily R. Kress Memorial hearing room at 441 4th Street, N.W. Today's date is September 11th, 2012. We're here for a special public meeting of the Board of Zoning Adjustment for the District of Columbia. My name is Lloyd Jordan, Chairperson. To my left is Nicole Sorg, Vice Chair. To her left is Michael Turnbull, member of the Zoning Commission. To my right is Jeffrey Hinckle, Board Member.

Please be advised that this proceeding is being recorded by a court reporter and we are not being Web cast live today, but we are being recorded for future review. Accordingly, we must ask that you refrain from any disruptive noises or actions here in the meeting room today.

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1 Today's morning special meeting  
2 agenda has three matters on them which we will  
3 make our rulings in that regard without  
4 testimony.

5 Mr. Secretary, is there anything  
6 else that needs to come before us at this  
7 point?

8 MR. MOY: You're doing wonderfully  
9 this morning, Mr. Chairman.

10 CHAIRMAN JORDAN: I need to keep  
11 you around.

12 Would you call the first case,  
13 please?

14 MR. MOY: Yes, sir. The first of  
15 three cases for the special public meeting  
16 this morning -- by the way, good morning, Mr.  
17 Chairman and Members of the Board -- is a  
18 preliminary matter to application No. -- or  
19 rather Appeal No. 18460 of I guess it's Ginia  
20 L. Avery, et al., pursuant to 11 DCMR 3100  
21 and 3101 from a decision by the Department of  
22 Consumer and Regulatory Affairs, to issue a

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1 building permit (No. B1202925) allowing the  
2 construction of a retail store in the C-3-A  
3 District. This is at premises 5929 Georgia  
4 Avenue, N.W., property located in Square 2986,  
5 Lot 38.

6 In your case folders, Mr.  
7 Chairman, are two filings. The first is a --  
8 of course is the motion to expedite the  
9 scheduled public hearing, which is scheduled  
10 for December the 11th, 2012. That is  
11 identified as Exhibit 15 in your case folders.

12 The second filing in the case  
13 folder is a response in opposition to the  
14 motion to expedite. And that is a filing  
15 represented by the law office of G. Macy  
16 Nelson, LLC, identified in the case folders as  
17 Exhibit 16.

18 The Board is to act on the merits  
19 of the request to move the scheduled hearing  
20 date to an earlier date.

21 That completes the staff's  
22 briefing, Mr. Chairman.

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1 CHAIRMAN JORDAN: Good. Thank  
2 you, Mr. Moy.

3 We reviewed the record in this  
4 case, all the documents filed, and we're going  
5 to make -- we're going to go ahead and believe  
6 -- we believe that there's good cause shown to  
7 expedite this matter based upon the motion  
8 filed by the party owner and we will be moving  
9 this date to expedite this hearing. It will  
10 be moved to September 25th.

11 MR. MOY: Mr. Chairman, sir, the  
12 Board is I believe by consensus moving or  
13 granting the motion to expedite to September  
14 25th?

15 CHAIRMAN JORDAN: Actually, Chair  
16 was making a ruling.

17 MR. MOY: Oh, I'm sorry. I'm  
18 sorry.

19 CHAIRMAN JORDAN: But we can do it  
20 by consensus if you want. We would do it by  
21 consensus. Anybody else? That's September  
22 25th. I believe -- well, there's no prejudice

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1 to any parties or any person because they've  
2 already been previously noticed of the  
3 December date, and then there's ample notice  
4 of this particular matter.

5 MR. MOY: Okay. Very well, Mr.  
6 Chairman.

7 In that case, the second case,  
8 which has a similar preliminary matter, which  
9 is a request to expedite a scheduled public  
10 hearing, this one which is scheduled for  
11 December the 18th, 2012. This is the Appeal  
12 No. 18469 of Susan Lynch, pursuant to 11 DCMR  
13 3100 and 3101, from a decision by the  
14 Department of Consumer and Regulatory Affairs,  
15 to issue multiple building permits (RW1200113,  
16 RW1200111, B1207072, AND B1207074). This is  
17 to allow the construction of two one-family  
18 dwellings and one elevated platform structure  
19 (retaining wall) in the R-1-B District at  
20 premises 2338 and 2334 King Place, N.W.  
21 Property located in Square 1394, Lot 23 and  
22 Square 1394, Lot 24, respectively.

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1           The appellant filed its appeal on  
2           August 28th, 2012. Let's see. The request  
3           for the expedited public hearing is identified  
4           in the case folders, Mr. Chairman, and is  
5           identified as Exhibit 15. And I believe that  
6           was filed by the appellant. Right?

7           The Board is to act on the merits  
8           of the request, Mr. Chairman.

9           CHAIRMAN JORDAN: Did you say that  
10          the appellant filed the request?

11          MR. MOY: No, I stand corrected.

12          CHAIRMAN JORDAN: Okay.

13          MR. MOY: It's not the appellant.

14          CHAIRMAN JORDAN: Okay. We've  
15          reviewed this record and believe there's good  
16          cause shown for expediting this particular  
17          hearing. And so, if there isn't any  
18          objection, it would be our intent to -- by  
19          consensus to expedite this hearing date to  
20          September 25th. And September 25th won't  
21          affect anybody. It's already on the docket,  
22          is that correct?

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1 MR. MOY: That's correct, Mr.  
2 Chairman.

3 CHAIRMAN JORDAN: So by consensus,  
4 Mr. Secretary?

5 MR. MOY: Well, we're -- I'm  
6 sorry, Mr. Chairman. There's some logistics.  
7 While I have the mic, the date of September  
8 25th, we have a scheduled public meeting at  
9 1:00. Of course typically it's been in the  
10 morning, but that threw me a curve. But we  
11 can still hear these appeals in the afternoon.

12 CHAIRMAN JORDAN: What do we have  
13 in the morning? Is it just an afternoon  
14 docket?

15 MR. MOY: The new applications are  
16 scheduled in the morning of September 25th,  
17 which is a twist for the Board, because on  
18 this date we're -- the Board will be  
19 entertaining the public meeting in the  
20 afternoon at 1:00. So for the rescheduling of  
21 the two appeals, I just for the record would  
22 -- that we're scheduling hearing of the two

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1 appeals in the morning or in the afternoon.

2 CHAIRMAN JORDAN: Okay. What do  
3 we have in the morning?

4 MR. MOY: We have five cases. The  
5 fifth case is the appeal case.

6 CHAIRMAN JORDAN: But what's the  
7 makeup of the five cases?

8 MR. MOY: We have two special  
9 exceptions, three special exceptions and one  
10 area variance.

11 CHAIRMAN JORDAN: Okay. Let's  
12 just go ahead. Let's make them in the  
13 afternoon. The appeals for the afternoon.

14 MR. MOY: Okay. Very good, sir.

15 The third case, Mr. Chairman, is  
16 pertaining to application No. 18398 of Kenneth  
17 and Ellen Marks, pursuant to 11 DCMR 3103.2,  
18 for a variance from the lot occupancy (section  
19 403), rear yard (section 404), and  
20 nonconforming structure (subsection 2001.3)  
21 requirements to allow the construction of an  
22 addition to an existing one-family row

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1 dwelling in the R-3 District. This is at  
2 premises 2130 Bancroft Place, N.W. Property  
3 located at Square 2532, Lot 802.

4 The preliminary matter in this  
5 case, Mr. Chairman, is a request -- apparently  
6 this is a consent motion to postpone the  
7 scheduled public hearing which was scheduled  
8 for September 18th, 2012.

9 CHAIRMAN JORDAN: Good. Unless  
10 there is any opposition from the Board, we'll  
11 grant the consent motion to postpone this  
12 hearing. And I believe -- what's -- the  
13 October 16th date, Mr. Moy? Is that a good  
14 date?

15 MR. MOY: It is October 16th.

16 CHAIRMAN JORDAN: Then let's do it  
17 then.

18 MR. MOY: In the morning?

19 CHAIRMAN JORDAN: Where it fits  
20 and where it flows well. What do we have in  
21 the morning, Mr. Moy?

22 MR. MOY: We have five cases in

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1 the morning and then an appeal in the  
2 afternoon at 1:00.

3 CHAIRMAN JORDAN: Then let's do  
4 the afternoon.

5 MR. MOY: Okay. Very good.

6 CHAIRMAN JORDAN: We have five  
7 cases in the morning?

8 MR. MOY: That's right.

9 CHAIRMAN JORDAN: Okay.  
10 Yes, are you trying to -- yes?

11 MR. HITCHCOCK: Good morning, Mr.  
12 Chairman, Member of the Board. My name is Con  
13 Hitchcock. I represent many of the applicants  
14 for intervention in this case.

15 One of the adjacent neighbors has  
16 a conflict for the 16th as well as -- he's  
17 going to be out of town, as well as the prior  
18 Tuesday and later Tuesdays in October. So  
19 we're wondering if it might be possible to  
20 move it to the 25th or to October 2nd. I  
21 don't know what the calendar is, but I notice  
22 you just added two cases to the 25th.

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1 CHAIRMAN JORDAN: Now, you said  
2 there's a conflict for --

3 MR. HITCHCOCK: Yes, Ms. Deborah  
4 Carstens, who is the next door neighbor and an  
5 applicant for intervention in this case is  
6 going to be out of town from October 9th  
7 through the 30th, and she would like to  
8 testify, but she will not be here on the 16th.  
9 So we're wondering if it might be possible to  
10 schedule it either earlier or later. We would  
11 be available on the 25th if one of those cases  
12 could be moved to the October date.

13 MR. MOY: That date, Mr. Chairman,  
14 would be October 23rd.

15 CHAIRMAN JORDAN: October 23rd.

16 MR. HITCHCOCK: Same issue. She  
17 was unavailable from the 9th through the 30th  
18 of October. So the 25th of this month or the  
19 2nd we can -- you know, I don't see any  
20 conflicts.

21 MR. MOY: Yes, there's no hearing  
22 for October the 2nd, Mr. Chairman, so --

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1 CHAIRMAN JORDAN: Let's do October  
2 2nd. This is not --

3 MR. MOY: There is no hearing  
4 October 2nd.

5 CHAIRMAN JORDAN: Say it again?

6 MR. MOY: There's no scheduled  
7 hearing on October 2nd, or October 8th. Well,  
8 there is -- I'm sorry, bad morning for me.  
9 There is October 2nd.

10 CHAIRMAN JORDAN: It's good to  
11 know these things up front when the motions  
12 are filed. This is something that we're not  
13 going to continue just to entertain for  
14 anybody. We'll give an exception at this  
15 point.

16 MR. HITCHCOCK: Thank you, Mr.  
17 Chairman.

18 CHAIRMAN JORDAN: Is October 30th  
19 an available date?

20 MR. HITCHCOCK: No, October 30th  
21 has the same problem.

22 CHAIRMAN JORDAN: All right.

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1 November 7th.

2 MR. HITCHCOCK: November 7th?

3 Thank you, Mr. Chairman.

4 CHAIRMAN JORDAN: So if you'll  
5 correct that -- if you'll make that change for  
6 me, Mr. Moy?

7 MR. MOY: So for the record, Mr.  
8 Chairman, for application No. 18398, the Board  
9 granted the request to postpone to November  
10 7th in the morning.

11 CHAIRMAN JORDAN: Okay. Thank  
12 you. Is there any other business that's  
13 coming before us for this special meeting this  
14 morning?

15 MR. MOY: No, sir.

16 CHAIRMAN JORDAN: Then we will  
17 conclude this special meeting. We'll stand  
18 adjourned for the special meeting.

19 (Whereupon, at 10:00 a.m. off the  
20 record until 5:41 p.m.)

21 CHAIRMAN JORDAN: Again, for the  
22 record, we're going to move into another

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1 special public meeting.

2 And today is September 11th, 2012,  
3 and we're sitting here as the Board of Zoning  
4 Adjustment. Lloyd Jordan, Chairperson. To my  
5 left is Vice-Chair Nicole Sorg. To her left  
6 is Michael Turnbull, representative of the  
7 Zoning Commission. And to my right, Jeffrey  
8 Hinkle, Board Member.

9 We're going to open this  
10 particular meeting in order to address  
11 correction of dates from the earlier morning.  
12 And I'm going to turn to Mr. Moy to give us  
13 the dates regarding -- in those cases which we  
14 are going to decide.

15 MR. MOY: Yes, sir. Thank you,  
16 Mr. Chairman.

17 The two cases in question that  
18 appeared at the special public meeting was  
19 Appeal No. 18460 of Ginia L. Avery and Appeal  
20 No. 18469 of Susan Lynch. Originally the Board  
21 had scheduled a public hearing for September  
22 25th. It is now October the 16th at 1:00 p.m.

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1 CHAIRMAN JORDAN: Okay. So give  
2 me the dates again, please?

3 MR. MOY: The new public hearing  
4 date for Appeal No. 18460 and 18469 is now  
5 October 16th at 1:00 p.m.

6 CHAIRMAN JORDAN: Okay. And we're  
7 going to do proper notices to everybody.

8 MR. MOY: Yes, sir.

9 CHAIRMAN JORDAN: The ANC and  
10 everybody to know that the dates are changed.

11 MR. MOY: Absolutely. Staff will  
12 follow up with this.

13 CHAIRMAN JORDAN: Thank you very  
14 much.

15 Any other business that needs to  
16 come before us in this special, special public  
17 meeting?

18 MR. MOY: Not from the staff, sir.

19 CHAIRMAN JORDAN: All right. Then  
20 we stand adjourned. Thank you.

21 (Whereupon, the hearing was  
22 concluded at 5:43 p.m.)

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