

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

+ + + + +

PUBLIC MEETING

+ + + + +

TUESDAY

NOVEMBER 5, 2013

+ + + + +

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 10:00 a.m., Lloyd Jordan, Chairman, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

LLOYD JORDAN, Chairperson

S. KATHRYN ALLEN, Vice-Chairperson

JEFF HINKLE, Board Member (NCPC)

ZONING COMMISSION MEMBER PRESENT:

MICHAEL TURNBULL, FAIA, Commissioner
(AOC)

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

MARY NAGELHOUT, ESQ.

The transcript constitutes the minutes from the Public Meeting held on November 5, 2013.

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

9:48 a.m.

CHAIRMAN JORDAN: Good morning.

If you would please come to order. We are located here in Jerrily R. Kress Memorial Hearing Room at 441 4th Street, N.W. Today's date is November 5, 2013. We are hear for a meeting and hearing of the Board of Zoning Adjustment in the District of Columbia. My name is Lloyd Jordan, Chairperson to my right is S. Kathryn Allen, Vice chair, to her right, Jeffrey Hinkle, member of the board. To my left is Michael Turnbull, member of the zoning commission. We have a prerogative to thank the zoning commission for courtesies given me last night to testify. But I also want to say for the record the appreciation that I have and I'm sure the board has for the zoning commission and I hope others do. They stay late at night. They work jobs during the day. They stay late at night on Mondays and sometimes Tuesdays. This week

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1 they are holding hearings on the zoning re-
2 write. They left out of here last night
3 about 11:00. Michael Turnbull is back here
4 this morning. He still has a regular job to
5 go to and all the time and effort that they
6 put into doing their job. I think sometimes
7 we take for granite. So I just want to say
8 that as a representative for the zoning
9 commission, Mike you can take it back to your
10 other members.

11 ZC COMMISSIONER TURNBULL: I
12 certainly will. Thank you.

13 CHAIRMAN JORDAN: Please be
14 advised that the proceed is being recorded by
15 a court reporter and also being webcast live.

16 Therefore I am going to ask you to refrain
17 from any disruptive noises hear in the
18 hearing room. So with that if you can
19 silence your PDAs and etc. it would really be
20 appreciated. The board hearing procedures
21 and processes are contained in a pamphlet to
22 my left by the back door. So if you are not

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1 familiar with the board's method of operating
2 and rules and regulations, please feel free
3 to get that information.

4 If you are here to testify or
5 provide a statement on any case, I'm going to
6 ask you to do two things. I need you to do
7 two things if you are going to provide a
8 statement or to testify. The first being to
9 complete two witness cards per person.
10 That's to complete two witness cards per
11 person and prior to testifying give those
12 witness cards to a court reporter who is
13 seated to my right and to your left prior to
14 testifying. Let's do that again because we
15 missed that. Complete two witness cards per
16 person and prior to testifying give the
17 witness cards to the court reporter who is
18 sitting to my right, your left.

19 The second thing I need you to do
20 if you are going to provide a statement or
21 testify on any case today, I'm going to ask
22 you to rise and to take the oath or

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1 affirmation which is going to be given by the
2 board's secretary, Mr. Moy. So if you are
3 going to provide any statement to the board
4 or testify on any case, I need you to stand
5 up and be sworn by or take the oath of
6 affirmation by the board secretary, Mr. Moy.

7 MR. MOY: Thank you sir. Good
8 morning. Do you solemnly swear or affirm
9 that the testimony you are about to provide
10 is the truth, the whole truth and nothing but
11 the truth?

12 [I do].

13 MR. MOY: Ladies and gentlemen,
14 you may consider yourselves under oath.

15 CHAIRMAN JORDAN: Thank you. Mr.
16 Moy, let's do the public meeting portion.

17 MR. MOY: Yes sir. Before I do
18 that, if I may for the record some
19 housekeeping.

20 CHAIRMAN JORDAN: Sure, please.

21 MR. MOY: First of all, Mr.
22 Chairman, the staff is still an hour behind

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1 so looking at the clocks you have to imagine
2 actually its actually 9:46. Also Mr. Chair,
3 just to let you know there are two
4 preliminary matters with regards to request
5 for postponement. One is the appeal of
6 Avery, which is 18618 and the other is to
7 application 18633 of National Community
8 Church. And with that we can proceed as the
9 board desires.

10 CHAIRMAN JORDAN: Those motions
11 and requests for continuance have been
12 previously granted. So okay.

13 MR. MOY: Okay. Then the appeal
14 18618 of Avery, that would be granted to
15 April 29, 2014. The other application 18633
16 of National Community Church has been granted
17 the postponement to January 14, 2014. Okay,
18 so with that then --

19 CHAIRMAN JORDAN: Give me one
20 second.

21 MR. MOY: Okay.

22 CHAIRMAN JORDAN: Let's do, I

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1 think we have a party status case, do we not?

2 MR. MOY: Yes we do.

3 CHAIRMAN JORDAN: Would you call,
4 I think its 18651. We need a representative
5 from the applicant in 18651 to come forward
6 and any representative of any person or group
7 who seeks to be a party status in 18651 to
8 come forward. If you are seeking party
9 status in 18651, just come take a seat up
10 front. Would you please make sure your
11 microphone is on and identify yourself?

12 MR. BROWN: Good morning Mr.
13 Chairman, members of the board. Patrick
14 Brown from Greenstein DeLorme & Luchs on
15 behalf of the applicant.

16 CHAIRMAN JORDAN: Thank you Mr.
17 Brown.

18 MR. EISENBURG: Elliott --

19 CHAIRMAN JORDAN: Would you make
20 sure your microphone is on. You have to push
21 the button. Yes, there you go.

22 MR. EISENBURG: Elliott Eisenburg.

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1 I live at 321 A Street, directly behind the
2 proposed construction.

3 CHAIRMAN JORDAN: Thank you. Make
4 sure your microphone is on. Witnesses make
5 sure your microphone is turned on.

6 MR. STANSBERRY: My name is Brian
7 Stansberry. I own 308, 210, 312 Millers
8 Court and I'm also representing the interest
9 of my significant other, Phil Risinger who
10 owns 311 A Street NE. Jointly we own all the
11 buildings that are currently occupied in
12 Millers Court.

13 MR. HOLLINS: I'm John Hollins.
14 My wife, Sheila, and I own 325 and 327 A
15 Street, about 25 feet from the proposed
16 development.

17 MS. SCHMIDT: I'm Janet Schmidt.
18 I own 144 Street NE. My parking at the rear
19 and of my property is approximately 20 feet
20 from the subject property which you are
21 having a hearing on today. Thank you.

22 CHAIRMAN JORDAN: A couple of

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1 things. One, it is up to the board's
2 discretion whether or not we allow any of you
3 or to individually or to collectively a party
4 status. I believe based upon my quick
5 observation and well not quick, well read all
6 the stuff, is that you all probably qualify
7 but prior to making a determination there's
8 two things I'm going to ask you to do. Have
9 any of you have followed the practices of the
10 board, we ask that those who seek party
11 status as well as the applicant meet and
12 confer, to have dialogue before we call your
13 case for a hearing to see if there are some
14 differences that can be worked out prior to
15 us calling your case. As you sit here you
16 may not believe that can happen. But I've
17 seen it happen in some very strenuous
18 situations where you wouldn't think that ten
19 different party status requests end up
20 agreeing to work out some things with the
21 applicant. So prior to us calling your case
22 I'm going to ask you, Mr. Brown, you know the

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1 practice to meet and have, attempt to resolve
2 any issues that you may have. Additionally
3 if you cannot work those things out, I'm
4 going to ask those with party status to,
5 because you all have similar issues, to meet
6 and decide whose going to be the
7 representative of the party status and the
8 others can then also provide their statement,
9 but a three minute statement, not actually
10 serve in the capacity of party status. Your
11 issues are all similar in regards to your
12 party status request. If we put them in the
13 requirements in the regulations that the
14 board can consolidate party status or deny
15 them completely. So, I'm going to ask you to
16 do those two things. One, have conversation
17 with the applicant to see if we can resolve
18 on matters. And the applicant knows that its
19 always better to try to work things out than
20 for us to work it out for you. And the
21 second thing for party status to have
22 discussion among yourself to see who is best

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1 suited to discuss your issues is best to
2 prosecute your issues.

3 MS. SCHMIDT: Mr. Jordan may I
4 bring something to the attention of the DCA
5 which may go to its immediate jurisdiction to
6 hear this matter. This matter --

7 CHAIRMAN JORDAN: You can be
8 seated.

9 MS. SCHMIDT: Thank you Your
10 Honor. I'm sorry. Thank you Mr. Chairman.
11 This matter came before the ANC and it was
12 not properly noticed. The neighbors who are
13 here today were not notified of --

14 CHAIRMAN JORDAN: That is
15 something we will take with the case.

16 MS. SCHMIDT: Thank you.

17 MR. EISENBURG: Could I just bring
18 up a point. I've had lengthy discussions
19 with Mr. Jones and I'm okay with it. I'm not
20 here to object.

21 CHAIRMAN JORDAN: All right.
22 Well, we'll know when we call the case back

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1 up for status then. I appreciate it. Thank
2 you. Mr. Brown.

3 MR. BROWN: We were discussing in
4 the hallway before you opened the case and
5 we'll go back to the hallway and Ms. Schmidt
6 is now here so I think we have everybody
7 involved.

8 CHAIRMAN JORDAN: I appreciate you
9 doing that in advance but please do it now.
10 Thank you very much. Mr. Moy, I think
11 there's no other party status, correct? I
12 appreciate it thank you. Okay Mr. Moy, the
13 meeting.

14 MR. MOY: Okay, before the board
15 is there is a motion for a minor modification
16 of application 18426 of the National
17 Presbyterian Church. On October 22 the
18 applicant filed their request under Exhibit
19 40. Let's see, there is also revised site
20 building plans. Also, Exhibit 41 and Office
21 of Planning report under Exhibit 42.

22 CHAIRMAN JORDAN: On 18426 is for

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1 public meeting 1, which there is no hearing
2 but based upon the request for minor
3 modification the board would be, the board is
4 being asked to make a decision based upon a
5 filing. In 426, taking a look at this file,
6 I don't believe this matter is one which you
7 have. Do we need to set this hearing Mr.
8 Moy?

9 I would suggest we set it for hearing for
10 several reasons. One I'm not real clear, I
11 think there's some questions regarding the
12 relief that is being requested and to my
13 understanding what is being called minor.
14 But my initial review of it is that its
15 actually adding another building to the plans
16 and that's to me, on the face, is not minor
17 because it materially changes the plans. So
18 I believe we need to set it down, plus I
19 think we don't have any input from the ANC.
20 I would suggest that we get input from the
21 ANC. So my motion would be that we set this
22 for hearing. Second movement?

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1 VICE-CHAIR ALLEN: Second.

2 CHAIRMAN JORDAN: Motion made and
3 seconded. Any unreadiness or discussion?
4 All of those in favor of the motion signify
5 by saying aye.

6 [CHORUS OF AYES]

7 CHAIRMAN JORDAN: Opposed nay?
8 Motion carries. Mr. Moy.

9 CHAIRMAN JORDAN: Yes sir that's
10 on a vote of 4 to 0 the motion carries. I
11 think there is room on the docket to move
12 this for a public hearing on Tuesday,
13 November 19 sir.

14 CHAIRMAN JORDAN: Okay. That
15 would be fine. Be sure we notify the ANC.

16 (Whereupon the above-entitled
17 meeting was concluded at 10:02 a.m. and
18 hearing will convene immediately after.)
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