

GOVERNMENT OF  
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

+ + + + +

PUBLIC MEETING

+ + + + +

TUESDAY  
APRIL 29, 2014

+ + + + +

The Regular Meeting convened in Room 220 South, 441 4<sup>th</sup> Street, NW, Washington, D.C., 20001, pursuant to notice at 9:30 a.m., Lloyd J. Jordan, Chairman, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

LLOYD J. JORDAN Chairman  
MARNIQUE HEATH Member  
ANTHONY J. HOOD, Member, Zoning  
Commission

BOARD STAFF MEMBERS PRESENT:

CLIFFORD MOY, Secretary  
MARY NAGELHOUT, ESQ., Office of General  
Counsel  
JOHN NYARKO, Zoning Specialist  
ALLISON MYERS

OFFICE OF PLANNING STAFF PRESENT:

ARTHUR JACKSON  
STEPHEN MORDFIN

The transcript constitutes the minutes from the Public Meeting held on April 29, 2014

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P R O C E E D I N G S

BZA CHAIR JORDAN: Good morning.

We=re located in the Jerrily Kress Memorial Hearing Room at 441 4th Street, N.W. Today=s date is April 29th, 2014.

We=re here for the meeting of the Board of Zoning Adjustment, and hearings of the Board of Zoning Adjustment.

I=m chairperson of the Board, Lloyd Jordan. To my left is Marnique Heath, a member of the Board. To my right is Anthony Hood, chairman of the Board of Zoning. He=s chairman of the Zoning Commission.

[Microphone adjustments made]

BZA CHAIR JORDAN: Okay. And I think I was at the point--I think I just introduced Mr. Anthony Hood, chairman of the Zoning Commission.

But let=s go back on the record, Let=s start over again.

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

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1       hearings of the Board of Zoning Adjustment.

2               My name is Lloyd Jordan,  
3       chairperson. To my left is Marnique Heath,  
4       member of the Board. To my right is Anthony  
5       Hood, chairman of the Zoning Commission.

6               Please be advised that today=s  
7       proceedings are being recorded and Webcast  
8       live, and also being recorded by a court  
9       reporter who we know is in the room, sitting to  
10      my right, and so therefore I=m going to ask you  
11      refrain from any disruptive noises here in the  
12      hearing room.

13              So it=s a good time now to silence  
14      any devices you may have that may make noise.  
15      So let=s take a moment do to that, please.

16              The Board=s hearing procedures are  
17      contained in a document to my left, by the door  
18      to my left, so if you=re not familiar with how  
19      the Board operates, please feel free to go get  
20      the document.

21              If you=re going to provide any  
22      statement or testimony to the Board today, any

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1 statement or testimony, if you=re going to talk  
2 to the Board today I=m going to need you to do  
3 two things. The first of which I=m going to need  
4 you to complete two witness cards per person.  
5 That=s two witness cards per person, and give  
6 them to the court reporter prior to you  
7 testifying.

8 Two witness cards per person, give  
9 to the court reporter before you testify, or  
10 provide your statement.

11 The second thing I=m going to need  
12 you to do is if you would stand now and take the  
13 oath of affirmation, which will be given by the  
14 Board=s secretary, Mr. Moy.

15 So if you=re going to provide any  
16 statement or testimony, please stand now and  
17 take the oath from Mr. Moy.

18 MR. MOY: Good morning.

19 [Witnesses sworn en masse]

20 MR. MOY: Ladies and gentlemen, you  
21 may consider yourselves under oath.

22 BZA CHAIR JORDAN: All right. We

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1 have--Mr. Moy, do you want to call the case  
2 from--on the Public Meeting Docket, please. Or  
3 are there any other announcements you want to  
4 make first?

5 MR. MOY: Yes. Thank you, Mr.  
6 Chairman. Thanks for reminding me. For the  
7 record, I'd like to announce that the cases on  
8 the docket, specifically Case No. 18742, this  
9 is of the Northeast Holy Trinity Church, has  
10 been postponed and rescheduled to our May 13,  
11 2014 Public Hearing.

12 Also, the appeal of Ginia Avery,  
13 18618, that also has been postponed and  
14 rescheduled to September 16, 2014.

15 BZA CHAIR JORDAN: All right. Thank  
16 you. Would you call the Public Meeting case,  
17 please.

18 MR. MOY: Yes. That would be a  
19 request, or a motion of ANC-8E for  
20 reconsideration, and a rehearing of  
21 Application No. 18731 of Horizon Hill Ventures,  
22 as amended. On April 11th, 2014, ANC-8E filed

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1       this request and is an exhibit in your case  
2       folders under Exhibit 35. The only other--this  
3       would be a preliminary matter, Mr. Chairman,  
4       because the filing for reconsideration--

5                   BZA CHAIR JORDAN: I got it.

6                   MR. MOY: Okay.

7                   BZA CHAIR JORDAN: I can carry--let  
8       me carry the ball from here.

9                   MR. MOY: All right. The last thing  
10       I want to say, just to remind you, is that we  
11       did get a filing from the property owner.

12                   BZA CHAIR JORDAN: Right. Would the  
13       representative from ANC-8E, and the property  
14       owner come to the table, please.

15                   Please identify yourselves.

16                   MR. MUHAMMAD: I'm Commissioner  
17       Anthony Muhammad, the chair of ANC 8-E.

18                   BZA CHAIR JORDAN: Thank you.

19                   MS. RODDY: And I am Christine  
20       Roddy, the attorney with Gohlston Stores.

21                   BZA CHAIR JORDAN: Okay. I  
22       understand that we had some filings yesterday,

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1 and I just want to work through this, cause  
2 normally we don=t request any testimony on  
3 anything provided, regarding matters that=s on  
4 our Public Decision calendar, which is a motion  
5 for reconsideration.

6 It=s my understanding there  
7 may--there=s some tentative agreement worked  
8 out here on this matter, and it=s my view, and  
9 I understand that it has not been signed or  
10 executed. We have not gotten anything from ANC  
11 8-E, your ANC, that indicates that you want to  
12 pull this or--but I understand that you=re  
13 still having conversation. So I=m getting a  
14 thought that maybe you might want this  
15 continued until you have a document executed.

16 Is that--

17 MR. MUHAMMAD: Correct.

18 BZA CHAIR JORDAN: Okay. That would  
19 be what my thoughts would be on this matter.

20 And Ms. Roddy, I=m sure that=s okay  
21 with you?

22 MS. RODDY: Yes.

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1                   BZA CHAIR JORDAN:   Then I think  
2                   that=s probably the more prudent way of  
3                   handling this. So we will then schedule this for  
4                   another day. How much time is it going to take  
5                   you to get the document prepared and executed,  
6                   or reviewed?

7                   MR. MUHAMMAD:   As soon as possible.

8                   BZA CHAIR JORDAN:   Okay. So if we  
9                   reset this on--

10                  COMMISSIONER HOOD:   Next week  
11                  would be May the 6th, Mr. Chairman.

12                  BZA CHAIR JORDAN:   May the 6th.  
13                  Yes. And since we haven=t had any  
14                  deliberations--who=s our commissioner that  
15                  week?

16                  MR. MOY:   Ms. Cohen.

17                  BZA CHAIR JORDAN:   Okay. She can  
18                  still read the record--no, she=s not on--who  
19                  was on that case?

20                  MR. MOY:   We have no Zoning  
21                  Commissioner on the--

22                  BZA CHAIR JORDAN:   So we=d be okay.

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1 Okay. Very good. So then we would do this, move  
2 this to next week, give you--is that enough  
3 time?

4 MR. MUHAMMAD: Yes.

5 BZA CHAIR JORDAN: To get the  
6 document executed?

7 MR. MUHAMMAD: Yes.

8 BZA CHAIR JORDAN: Very good. Well,  
9 thank you. Then we will continue this then.

10 MR. MUHAMMAD: Thank you.

11 MS. RODDY: Thank you.

12 BZA CHAIR JORDAN: 18738. Let=s  
13 have the slide going on 18738.

14 Let=s call it. We=re not going to  
15 hear it but we have some preliminary matters  
16 with 18738, that we need to work through before  
17 we get to a hearing on this particular case. So  
18 Mr. Moy, why don=t we have the representatives  
19 of 18738. We have a party status request from  
20 Mr. Bemis, and we also have--is anyone here from  
21 the ANC on this matter? ANC 3-D?

22 MS. TROTTER: I am.

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1                   BZA       CHAIR       JORDAN:       The  
2       representative. Could you please come to the  
3       table, please.

4                   And    a   representative   of   the  
5       Applicant.

6                   Is Mr. Bemis here? Would you please  
7       come to the table, please.

8                   All right. All right. Please, would  
9       you identify yourselves, starting with you,  
10      Mrs. Sullivan, going my left to your right.

11                  MR.    SULLIVAN:   Thank   you,   Mr.  
12      Chairman. My name is Martin Sullivan of the law  
13      firm of Sullivan & Barros. I=m here on behalf  
14      of the Applicant, Mr. Kashani.

15                  BZA CHAIR JORDAN:   Okay.

16                  MR.  AJALLI:   My name is Ali Ajalli.  
17      I=m with Ajalli Architect. I=m the designer for  
18      the project.

19                  BZA CHAIR JORDAN:   Yes?

20                  MS.  TROTTER:   My name is Gayle  
21      Trotter. I am the chair of--

22                  BZA CHAIR JORDAN:   Sorry. Trotter?

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1 MS. TROTTER: Trotter.

2 BZA CHAIR JORDAN: Okay.

3 MS. TROTTER: I am the chair of ANC  
4 3-D, and this is also in my single member  
5 district 09.

6 BZA CHAIR JORDAN: Thank you.

7 MR. BEMIS: And I am Gerald Bemis,  
8 and I=owner of the property adjacent to the  
9 proposed building, construction.

10 BZA CHAIR JORDAN: Let me tell you  
11 what we have, preliminarily. One. We have a  
12 late-party status request by Mr. Bemis, which  
13 we need to deal with. And secondly, we have a  
14 request--I believe it=s a request from the ANC  
15 for a continuance, cause you asked for us to  
16 defer this matter until additional date. So I  
17 take that as a request for a continuance.

18 MS. TROTTER: Yes.

19 BZA CHAIR JORDAN: Would that be  
20 correct? Okay. And also there were some  
21 non-parties who made a request to continue this  
22 matter, but only parties can make that general

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1 request. But we take that as the ANC, in their  
2 representation to the Board, it did ask to defer  
3 this.

4 So let me first ask you, Mr.  
5 Sullivan, do you have any issues with granting  
6 Mr. Bemis party status?

7 MR. SULLIVAN: No issues with  
8 granting, other than the fact that I don=t--I  
9 haven=t seen the document, don=t know anything.  
10 But I checked the file last night, and it wasn=t  
11 in there, so--

12 BZA CHAIR JORDAN: Yes. We received  
13 that--I guess yesterday, was it? Or here=s the  
14 issue that I=m also having, Mr. Bemis. The  
15 request for party status wasn=t filed 14 days  
16 before the original setting of this matter, and  
17 that the original setting in this matter was  
18 April 15th. You subsequently did submit it--you  
19 submitted your request on April 14th, which  
20 would have been a day before the original  
21 setting which is B

22 MR. BEMIS: On the 29th.

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1                   BZA CHAIR JORDAN: Right. It=s well  
2 ahead, two weeks before April 29th setting, and  
3 the Board has operated, and it=s been our  
4 precedence that--and also under the case  
5 law--that it has to be 14 days before the  
6 original setting. So we do have your motion to  
7 waive the time line, so you can file it.

8                   Can you tell me why you didn=t file  
9 it before, 14 days before the first hearing.

10                  MR. BEMIS: Oh, simply because I  
11 thought it was based on the actual date of the  
12 hearing, which is--you know. So--you know what  
13 I mean?

14                  BZA CHAIR JORDAN: Ms. Trotter?  
15 She=s trying to help you, I guess.

16                  MS. TROTTER: My understanding,  
17 that the signs were not posted before the April  
18 15th hearing, so I would think that extend the--

19                  BZA CHAIR JORDAN: That=s right.  
20 That=s right. That=s right. There you go. So we  
21 have good cause, and without objection, we=ll  
22 add you to party status.

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1           I=m inclined to grant the request,  
2           and Mr. Bemis, you also had--well, let me say,  
3           unless the Board has any objection, I=m going  
4           to grant party status to Mr. Bemis, and the--and  
5           you also made a request that this matter gets  
6           continued. And in reading the file and the  
7           documents, it appears that, as you know, Mr.  
8           Sullivan, and as others here, this Board  
9           certainly wants cooperation, as much as we can,  
10          among Applicants with the neighbors in the  
11          communities.

12                 What I=ve read through the  
13          documents--and I don=t know if it=s true--but  
14          if it is true, it appears there=s not a lot of  
15          cooperation working here, and I would be  
16          inclined to grant this continuance, and in the  
17          interim period, that the Applicant--it would  
18          behoove the Applicant to meet with the ANC, and  
19          the--and Mr. Bemis as--with party status, and  
20          see if you can work out any differences and have  
21          this discussion.

22                 As you know, even when we don=t have

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1 a continuance, it=s been a practice of this  
2 Board to have the Applicant and anyone in party  
3 status have conversations, and try to work out  
4 any differences, as you know.

5 Here, we=re not going to set this  
6 for hearing. We=re going to move this  
7 particular date to another date. But in the  
8 interim, I cannot emphasize enough, that you  
9 have the conversation.

10 Mr. Moy, what would be a good date?

11 MR. MOY: Well, given what I=ve  
12 just--

13 BZA CHAIR JORDAN: You=ve got the  
14 record, right, Mr. Hood? So it=ll be a Mr. Hood  
15 date.

16 MR. MOY: Okay. Well, given what  
17 I=ve just heard, staff would suggest a date of  
18 June 3rd, which is still Aup for grabs@ for a  
19 zoning commissioner. So it=s open.

20 BZA CHAIR JORDAN: He said he=s  
21 fine.

22 ZC CHAIR HOOD: So June 3rd. We=ll

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1 put this to June 3rd.

2 BZA CHAIR JORDAN: Again, it=s  
3 incumbent upon the Applicant to be aggressive,  
4 to meet with the ANC and the community. It just  
5 does not work the other way, and we=ve gotten  
6 some of these, but we believe that there has to  
7 be community--the Applicant--the burden=s on  
8 the Applicant to reach out, as you know, Mr.  
9 Sullivan, and we need to really just get this  
10 straight. Okay. Appreciate it. So we move this  
11 to June 3rd. Thank you very much

12 MS. TROTTER: Thank you.

13 MR. MOY: Mr. Chairman, on time  
14 lines, is the Board expecting any additional  
15 filings in to the record?

16 BZA CHAIR JORDAN: No.

17 MR. MOY: Okay. I just wanted to  
18 double-check.

19 BZA CHAIR JORDAN: If you do this--

20 MR. SULLIVAN: I may need to file a  
21 response to the party status application. My  
22 understanding was it was filed yesterday. I

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1        didn=t understand it was filed--

2                    BZA CHAIR JORDAN:    It was actually  
3        filed April 14th.

4                    MR. SULLIVAN:    It was. Okay. Then I  
5        missed that in the file. Okay.

6                    BZA    CHAIR    JORDAN:        Yes.    It=s  
7        been--and it=s--I think it=s an administrative  
8        issue. However, I would find--hard-pressed not  
9        to grant the party status. I don=t know if you  
10       want to waste your time to do that.

11                   MR. SULLIVAN:    No. I=m notB

12                   BZA CHAIR JORDAN:    We=ve already  
13        done so.

14                   MR. SULLIVAN:    I=m not opposing the  
15        party status at all.

16                   BZA CHAIR JORDAN:    Okay. All right.

17                   MR. SULLIVAN:    Just if there was  
18        something substantively, or if we obviously  
19        come to an agreement or make changes, we would  
20        submit that.

21                   BZA    CHAIR    JORDAN:        You    have  
22        seen--well, you pull the document, and if you

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1 feel like you need to make a response to the  
2 substantive issues in there, outside the party  
3 status, then feel free to.

4 MR. SULLIVAN: Thank you.

5 BZA CHAIR JORDAN: Thank you.  
6 Appreciate it. Thank you.

7 BZA CHAIR JORDAN: Instead of  
8 holding people and playing with this docket, do  
9 we--is 18595--see if the person=s here.

10 MR. MOY: Okay. This would be  
11 Application No.--the application before the  
12 Board is Application No. 18595. This is the  
13 application of Eva R. Sanchez. As the Board will  
14 recall, this application=s been postponed  
15 numerous times. The last one was back on  
16 December 17, 2013. For the record, Mr.  
17 Chairman, there=s been no additional files in  
18 the record.

19 BZA CHAIR JORDAN: All right. This  
20 matter has been on the Board=s docket since  
21 September--on September 17, 2013, November 19,  
22 2013, December 17, 2013. This has been up for

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1 several show causes, and I would move that the  
2 Board dismiss this application.

3 ZC CHAIR HOOD: Second.

4 BZA CHAIR JORDAN: Motion made and  
5 seconded to dismiss this application. Any  
6 readiness discussion?

7 All those in favor of the motion,  
8 signify by saying aye.

9 [Chorus of ayes]

10 BZA CHAIR JORDAN: Those opposed,  
11 nay.

12 Motion granted.

13 Mr. Moy.

14 MR. MOY: The staff would record  
15 the vote as three to zero, this on the motion  
16 of Chairman Jordan to dismiss the application.  
17 Second the motion of Mr. Hood. Also in support,  
18 Ms. Heath. No other Board members  
19 participating today. Motion carries.

20 BZA CHAIR JORDAN: And for the  
21 record, just for an addition, the staff has also  
22 tried to contact this person, the Applicant,

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1 previously.

2 MR. MOY: Yes, sir.

3 BZA CHAIR JORDAN: Yes.

4 MR. MOY: Thank you.

5 (Whereupon, at 9:59 a.m., the  
6 meeting of the Board of Zoning Adjustment was  
7 adjourned)

8

9

10