

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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PUBLIC MEETING

+ + + + +

TUESDAY

JUNE 17, 2014

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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 9:38 a.m., Lloyd Jordan, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

LLOYD JORDAN, Chairperson
S. KATHRYN ALLEN, Vice-Chairperson
MARNIQUE HEATH, Member

ZONING COMMISSION MEMBER PRESENT:

PETER G. MAY, Commissioner (NPS)

OFFICE OF ZONING STAFF PRESENT:

TRACY ROSE, Secretary
JOHN NYARKU, Zoning Specialist
STEPHEN VARGA, Zoning Specialist

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D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

SHERRY GLAZER, ESQ.

OFFICE OF PLANNING STAFF PRESENT:

STEPHEN MORDFIN
MAXINE BROWN-ROBERTS

ALSO PRESENT:

SHANE DETTMAN, National Capital Planning
Commission

The transcript constitutes the
minutes from the Public Meeting held on June 17,
2014.

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

APPLICATION NO. 18638

Vote: Three, two, zero to approve 40

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

9:37 a.m.

CHAIRPERSON JORDAN: Good morning.

Will we please come to order?

We're here for the meeting of the Board of Zoning Adjustment of the District of Columbia. We're located at 441 4th Street, NW, at the Jerrily R. Kress Memorial Hearing Room.

Today's date is June 17, 2014. My name is Lloyd Jordan, Chairperson. To my right is Vice Chair S. Kathryn Allen. To her right is Shane Dettman from NCPC. To my left is Marnique Heath. And to her left is Peter May, a Member of the Zoning Commission.

Please be advised that this proceeding is being recorded by a court reporter who is seated to my right and also being webcast live. So therefore I'm going to ask you to refrain from any disruptive noises in the room today. So as I always say, it's a good time to turn off whatever's going to ring and buzz.

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If you're going to present testimony or a statement or talk to the Board in any way today, I'm going to need you to do two things. I'm going to need you to first complete two witness cards per person. If you're going to provide testimony or a statement to the Board today, I'm going to need you to do things. The first is to complete two witness cards per person, and prior to your testimony, give it to the court reporter to my right.

The second thing I'm going to need you to do is to now stand and take the oath which will be given by the Board secretary. Stand if you're going to provide any statement or testimony to the Board, please.

MS. ROSE: Please raise your right hand.

(Whereupon, the witnesses were sworn.)

CHAIRPERSON JORDAN: We're going to handle the public meeting docket today

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first. But let's go through the docket and remove those things agenda-wise so everybody can get the time.

So the cases that are removed from the docket today?

MS. ROSE: Yes. First would be the case from the meeting agenda. Staff would note that one case appeared on the expedited review calendar. That is Application 18782 of Fenton, 302/304 M Street, LLC. It has been removed and scheduled for a public hearing on June 24 at 9:30 a.m.

With regard to the public hearing, two applications have been postponed to September 9 at 9:30 a.m. They are Application No. 18780 of Alexander Memorial Baptist Church and 18770 of &pizza.

Also, one case had a problem with the affidavit of posting. It's application 18776 of Ann Campbell. This has been postponed to July 15 at 9:30 a.m.

CHAIRPERSON JORDAN: Thank you.

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Okay. Let's call our first decision case, please.

MS. ROSE: That would be Application No. 18638 of Rosebusch, LLC and Gregg M. Busch, as amended, pursuant to 11 DCMR Sections 3104.1 and 3103.2, for special exceptions from the roof structure requirements of Section 411 and roof structure Arts Overlay under subsection 1902.1(a) and 770.6, and variance relief from the off-street parking requirements under Section 2101.1, to allow the construction of a new residential building in the ARTS/C-3-A District at premises 1456 through 1460 Church Street, NW, Square 209, Lots 65, 66 and 67.

CHAIRPERSON JORDAN: I think -- and I just talked to Counsel about it -- this case has kind of gotten bifurcated because the Board granted relief on part of the request and then there it was reopened. And we also had an additional decision maker. Mr. Dettman will participate in this decision.

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However, in regards to the relief that you just read, at the last hearing, although there was not a written nor formal request to the Board to consider relief under 2101.6 as a special exception, the following documentation submitted by the Applicant asked for that relief. And during the hearing, as I said, the initial opening statement said that the Board could consider relief either way under as a variance and/or as a special exception. And I believe the Board can take that as a motion to amend, although there was not a formal filing of an amendment.

So I just wanted to add that to your list of relief as you read.

Is that the Board's understanding?
Any issues with that? Anyone?

(No audible response.)

CHAIRPERSON JORDAN: Then we will take the verbal as a motion to amend. But I think we need to be sure in the future always to keep these things in a more formal way so

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we're not jumping all around and so the record is clear. I just wanted that so the record is clear.

Okay. This matter has been before us a couple two, three, four times. As I said, it was placed back on the docket for a re-hearing with a substitution of the representative NCPC.

So with that, is the Board ready to deliberate on this case? Does anyone want to begin?

ZONING COMMISSIONER MAY: Okay. I'm glad we're finally at the point where hopefully we can get to a decision on this.

Speaking specifically to the relief requested for parking, it's clear to me that the property is unique. It's not possible to provide parking beyond four spaces or so given the size of the property and the existing structure.

And they are entitled to build a building of a certain size. Relief from

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everything else that was requested, other than parking, was de minimus. So the question is what's the appropriate relief for parking.

It's true the Applicant chose to build 37 units. They might have chosen to build fewer if a building fewer than 37 would have been what they wanted to do, what was profitable, et cetera. But I'm not sure that that really makes that much difference.

There's no evidence that any of these different proposals would result in less impact in the parking realm. In fact, it might actually lead to more impact.

Otherwise, this project frankly is a model project. It includes smaller units that are more affordable as such in not a very affordable neighborhood, obviously. And the costs are still fairly high. But it's a way of keeping the units more affordable. The parking, I believe, is appropriately mitigated by the restriction on residential parking permit use.

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The other efforts that went into the project -- bikeshare, carshare, zip car spaces, trash storage, modifications to the building, accommodation of four parking spaces, eliminating windows, treating the glass, dealing with guest parking, et cetera -- all of these things I think are strong mitigations for the impact of the project.

It's been stated in the course of this hearing that RPP limitations don't work. I do not know this for a fact right here. I've heard anecdotal things, but none of those seem to be based on actual fact.

There is a concern about enforceability of the provisions as the way it's been proposed. But I believe that RPP restrictions are a necessary tool for mitigation, and it's something that the Zoning Commission has used in past cases and I expect will be using in the future. And if there are issues with that working properly, they are on the administrative side of that solution, and

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those are things that must be fixed. Nonetheless, there are restrictions on leases here and provisional leases that I think will ensure that we do not have a parking problem that results from this building.

Generally speaking, I am personally a stickler when it comes to the Zoning regulations, and I try to stick very closely to the regulations and the relief that's allowed and appropriate. And I don't venture into unproven territory when it comes to granting relief. And I'm strict about granting relief within the bounds of the regulations.

And I'm never comfortable when the BZA I think goes too far and ventures into actually doing new zoning regulations in effect by some of the cases that have occurred. And I'm not saying that about this particular Board, but I've been on the Zoning Commission for almost ten years and so I've seen a lot of different cases.

In any case, I do not believe that

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granting this relief is going beyond the authority of the BZA. In fact, I think it's perfectly within it. I think that it is furthermore consistent with the intention of the zoning regulations -- that is this relief has been supported by the ANC, it has been supported by the Office of Planning.

And I think that the developers have been extraordinarily patient. And I believe that the developers worked hard to make the case.

I think this is a good project, and I think that the parking relief should be granted in this case.

CHAIRPERSON JORDAN: Thank you, Mr. May.

Mr. Dettman, I know you're Johnny-come-lately on this, but you've been a part of the first hearing and you reviewed the record. And I want to say that if you could make that declaration so we can put that on the record.

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MR. DETTMAN: Certainly, Mr. Chairman.

I have reviewed the record in its entirety including the available transcripts, and as you mentioned participated in the limited public hearing a few weeks ago.

CHAIRPERSON JORDAN: Okay. And your view on the matter?

MR. DETTMAN: I'm in agreement with Commissioner May. I think there are some extraordinary circumstances for this particular property. It's kind of arisen out of a confluence of factors -- its narrowness and shallow depth -- but also the existence of the historic resources that are on the property that are required to be retained to a certain extent. And I think that those particular factors do give rise to a practical difficulty.

I think that requiring the Applicant to limit the development to only that which would require four spaces would be unnecessarily burdensome. I think the

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dimension requirements for getting underground parking in terms of the ramp and the slope and the length of the ramp that you need and then the turning distance and the drive lanes as it was demonstrated by the Applicant previously, there's just not enough width there in order to get the parking in there. Or you're talking about several levels of underground parking even if you get a level there that would be required.

I also think that I agree with Mr. May that it would not have substantial detriment on the public good or the intent purpose in the integrity of the zone plan.

I think the site will give you four spaces. What's required is 19. And so in my mind, I asked myself would 15 additional cars on the street result in a substantial detriment to the public good in this neighborhood. And I don't think it would.

I think that there were several pieces of information presented during the

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public hearing that will help mitigate that. There's low-trip generation in this area, high transit availability. These apartments will be marketed to a certain demographic. And it's sort of a two-part thing there. There's the who will be marketing to and what's the demand there.

People who are told that they're not going to be getting a parking space and they can't park not only on the street but also in the Ward. As I understand RPP restrictions, they're not going to get a Ward sticker. Those are people who, if they have a car, they're going to want a car. And they'll walk away. Very high walkability in this area, low car ownership. And then there's also not something that exceptional to this property, but we're seeing a trend -- a social trend in people living in urban environments using transit wanting these types of residences. And so, there's also the conditions that are proffered by the Applicant.

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So I think that it does meet the three-prong test of the variance. And that's all I have.

CHAIRPERSON JORDAN: Anyone else?

(No audible response.)

CHAIRPERSON JORDAN: Well, let me say this. This case has been an uneasy case for me. In fact, I voted against it and for several reasons.

In its initial presentation to this Board, we had no evidence that supported whether or not alternatives were viable. And subsequently, those documents were submitted and we've had testimony each way. We've had certainly rebuttal evidence to the financials that were submitted by the Applicant and the rebuttal by the party opponent.

Additionally in our first hearing, there was no evidence presented to this Board -- and this kind of happens a lot and I hopefully sent the right signal that before you give us mitigation of issues, you need to tell us what

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the issue is going to be -- meaning, is there going to be an increase in traffic and not how we're going to handle the increase, but we need to know whether or not there's -- we believe that there is going to be 15 cars or 20 cars, and we think it can be handled by the mitigation -- not telling us that there's not going to be any cars which no one has yet proved to this Board that that exists. And so, those things were subsequently presented.

The other thing that made me uncomfortable, and it continues to make me uncomfortable -- and they kind of piggyback into what Mr. May said -- this Board, prior to my time and during my time, we've been presented with these mitigation plans and we have not seen concrete proof that the mitigation plans work. We talk about RPP, and we've actually had meetings with DMV and Transportation and everyone trying to get our arms around it because we really need to know. And this Board, as well as other Commissions -- the

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Zoning Commission, et cetera -- we do the best we can based upon the information that we have at the time. I just hope that at some point this stuff doesn't boil over and somebody says just like -- was it Dr. Spock that said whipping your children or something? And later on, people said that was some crazy idea -- whatever it was -- or vice versa, don't whip your children or do whip them -- whatever it was. Or now what they're saying about cholesterol, what did they say before -- stay away from stuff that brings cholesterol. But now they're saying well, there's some good cholesterol and you should take it in.

And this is really serious that it really affects people's lives. So I'm not going to even debate and have a discussion about the exceptional condition and the practical difficulty because I believe that has been proved over and over again. We talked about that even in regards to the other part of the relief that we granted.

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Where this thing comes down to me, and I mean, this is where I'm having really, really, really real issues with it is that whether or not we looked at this as a variance or whether we looked at this as a special exception, both tests require us to examine whether or not there's substantial detriment to the community or to the public good.

I come down on the side that there is impact. There's no way for any of us to say that it's not going to have -- whether it's two cars or three cars on the street -- in this area, it's going to have impact. There's no doubt. And no matter what you put up in saying by lease and what have you -- saying that people can't put their cars on the street -- well, they might park their cars some place else. But they're going to run out at some point, leave the car in front and they're going to run in and run out. But it's going to have impact.

But the question to me then becomes what is substantial impact. And then can the

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substantial impact be mitigated?

This is just a real difficult issue. And we don't define substantial in our regulations. What's a substantial impact? We just kind of throw some of these terms out there and say okay, let's see if it sticks.

So there's no doubt that this is going to have impact. However, the opponents actually really did not present anything that took me over the hump that there was substantial. It was all anecdotal in regards to the impact, which I will accept based upon the information even provided by the Applicant it's going to be impacted.

Outside of the fact that the Applicant argued to this Board -- I mean -- excuse me -- the opponent argued to this Board simply that well, the zoning regulations already take into consideration that some people are not going to drive. But we actually have to have some things concrete for this Board to sit on, to ponder and to decide which way we

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go.

And I really feel for the whole community. And this is another case which I wish that our zoning regulations allowed this Board to send things up to the Zoning Commission because we're required to look at the property and kind of in a singular fashion, although we can look into the community at large.

But you start giving relief to this building individually, you give relief to this building individually and relief to this building individually and they're all in the same block, at the end of the day that stuff adds up. I mean, that's just a practical matter of it all.

And so I'm just not comfortable with it. And I'm hearing where we are with this Board. But I can live with granting the relief provided that there are substantial mitigating factors here because the way I'm feeling here -- previous it was two to two. And Mr. Dettman's the new man on the block. And so, I'm

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seeing that it's going to be probably three in favor of this. So I'm concerned about the conditions that would be offered and how can we really truthfully get in and mitigate any situation that might arise.

The Applicant has proffered some conditions. I did not receive any possible changes to those conditions from the opponents. And that even makes it harder for us.

I guess when I try a case and submit it to the Courts, you go with your strongest case. But you say well, if it's not in my favor, then I'm going to look for these things if you're going to try to help with the landing. And we didn't get that from the opponent.

So here I would think that some of the conditions offered by the Applicant, that the Applicant shall -- well, I would require not only that the leases -- the tenants' lease -- but I think the Applicant does talk about at some point that we need to be sure that there's a covenant recorded on the land records, that

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there's a requirement that there's no RPP for this property under the penalty and for the tenants under the penalty of lease terminations. What I did not see from the Applicant is how violations will be actually treated.

And if I was in the building next door -- although the Applicant has tendered that they will get I think semi-annual reports about the tenants' RPP requests -- I would have some comfort in knowing that those people who violated the requirements would have their lease terminated.

So I would I would offer that the Applicant needs to give at least one warning and a failure for the tenant to remove themselves from the RPP would be termination of their lease. I would add that to that provision.

The Applicant has already said that they will receive from the new tenant an authorization form that would allow the Applicant to be able to go to the government for

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release of that information. And so, I certainly think that's good.

Now where I also have some concerns after having our seminars and meetings with DMV and Transportation and also reading the other jurisdictions who've actually completed their transportation studies, I'm concerned about us just saying that our Applicants are just going to give one-year carsharing, one-year bike membership. And after that, that's all they're doing.

I think impact is impact. If the people still live there beyond the first year, we're still concerned -- are we not, Board -- that there's no additional impact to the community. So just doing it for one year doesn't do anything for me.

So I would suggest that we have the Applicant provide the tenants annual membership to either a carshare or a bikeshare organization to each residential leaseholder. And as I said, the time period will begin upon

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the issuance of a Certificate of Occupancy for the building.

I'm certainly in agreement that the Applicant shall designate a transportation management coordinator for the implementation of the TDM plan and et cetera, and the strategies to encourage in the market that this building is not one in which you park.

Certainly I can agree with the provision that the limited use of the roof deck and et cetera from the time it's specified, and also those provisions that provide for how the ventilation of the trash facility is going to be in place and also that they said that they would use the same trash removal as either their two adjacent condominiums.

The Applicant has tendered that they will have those four parking spaces. They removed one that was going to be used for the building manager, I think they said. But they pulled that back. Two spaces are going to be reserved for guest parking. I think two spaces

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would be reserved for the carshare. And so, I can certainly live with that.

But I'm also concerned about how do you handle -- I mean, realistically, we know somebody is going to have a car. And so, I would think that we need to consider that the Applicant should seek to have at least five parking spaces at a reduced rate. Either they supplement the money or negotiate it upfront with one of the parking garages within two blocks that their tenants have if something has to have a car.

There might be a place in the District that a tenant absolutely cannot take public transportation to get there. And they might be working way out in the outskirts of Virginia or Maryland or something that they cannot take public transportation. That's just a reality. Everybody is not going to be working in the District or within a Metro line. Until recently, you would have to fight to get yourself out to Tysons. Whenever that opens

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up, that's going to change. But I mean, that's something where a lot of people do work in Tysons. And one of my offices are in Tysons, and I've been in that car traveling out there in that traffic.

So I would offer to the Board that we make that a condition that the Applicant negotiate within one or two blocks of this property -- five spaces that the tenant has the ability to rent from the owner of the parking garage but at some type of reduced rate whether or not the Applicant is successful in getting the garage to offer that price. And if not, then the Applicant should make an offset of at least 25 percent reduction of what market value would be. So a 75 percent market value is what they should pay. It gives them some encouragement to use this garage. We negotiated down the price for you. If you've got to have a car, then that's where you're going to put it.

But I think we're not being

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realistic to think that everybody in that building is going to take public transportation. I just think that's just nuts for us to think that. And I don't think the evidence bears that out.

That the Applicant shall install a minimum of 13 interior bicycle spaces. What was the other?

I think that's all I had as I looked at these things. So that's just my thought on the matter.

Anyone else, by the way? Ms. Allen?

VICE CHAIR ALLEN: Thank you, Chairman Jordan.

I was one of the two votes against the parking variance. Or is it a variance now? What is it? Whatever. And I am inclined to keep that vote primarily for many of the reasons that have been already stated, and I won't take the time to re-state them. But there is a reason that there are parking

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requirements in the zoning rules.

CHAIRPERSON JORDAN: Excuse me.
Every meeting about this time, we have --

VICE CHAIR ALLEN: I know. That's
why I don't even hear it anymore. I don't even
hear it.

I'm concerned about many of the
assumptions that we continue to make. I'm very
concerned about the detriment to the public
good.

What is significant? It hasn't
been defined. Is it 15 cars? Is it ten cars?
Is it five cars? I think we get on a slippery
slope when we decide arbitrarily well, that
won't have the impact.

I think your point is extremely well
taken that we do a little bit here, we do a
little bit here, we do a little bit here, and
at some point it all becomes significant
regardless.

I am enheartened. Is that a word?
I am --

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CHAIRPERSON JORDAN: We can add it.

VICE CHAIR ALLEN: -- thank you --
by the suggestion of your conditions. I think
that they at least recognize the concern that
certainly I continue to have about our
positions and the fact that RPP is up in the air
and we don't have any hard evidence on whether
it is working.

So given those conditions, if that
would be part of the motion, then I certainly
would be more inclined to support it. But
that's where I am right now.

CHAIRPERSON JORDAN: Anyone else?
Mr. May, please?

ZONING COMMISSIONER MAY: So I'm a
little bit confused because we have on the June
10 submission the latest version of the
Applicant's order. And it includes
conditions, some of which I think align with
what you were suggesting but others don't.

I mean, they were suggesting
leasing two spaces within two blocks for use by

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residents or visitors. They do have that provision that leases would prohibit tenants from obtaining RPP under penalty of lease termination, that the Applicant will have written authorization from the tenants to seek the necessary information from DMV to confirm that they've not applied for RPP.

There's a process for monitoring the RPP lease restriction. It'll be recorded in a covenant. For the life of the project, the Applicant shall provide a one-year membership to either a carshare or a bikeshare organization to each residential leaseholder. The time period will begin upon the issuance of the Certificate of Occupancy for the building. It's for the life of the project is what it says.

But it's everybody who comes in for one year, right? So anybody who walks in, they start out with initial tenants for one year. They move to one-year memberships for five years. And now, it's one year. I mean, it's not in perpetuity.

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But not necessarily everybody's going to need that or want that. I mean, on the scale of carshare and bikeshare offerings, this is on the more generous end of the spectrum in terms of the things that I've seen.

Anyway, I'm inclined to move approval of these conditions as they are stated. And in fact, I would like to go ahead and make that motion that we approve Application No. 18638 of Rosebusch, LLC and Gregg M. Busch for variance relief from the off-street parking requirements under section 2101, subject to the conditions that were in the Applicant's most recent order -- draft order.

Is there a second?

MR. DETTMAN: I'll second the motion.

CHAIRPERSON JORDAN: There's a motion made and seconded to approve the variance for parking as requested and that to be included in the motion were those matters which were listed by the Applicant as the TDM

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measures.

There's been a motion made and seconded. Any further discussion?

ZONING COMMISSIONER MAY: I would just add that there were other conditions that were already agreed to that I didn't mention specifically having to do with the bicycle spaces, et cetera, trash, and so on.

MR. DETTMAN: Yes. My unreadiness goes to what I said. I think we need to be sure that this is -- that I would still stay on board that we would add to that first one that to add some enforcement mechanism for what the Applicant is going to do if the tenant violates the lease information, that after a second violation that the lease would be terminated. I added to the -- well, we talked about the RPP.

And I stay on the fact that I believe that in addition to the two guest parking spaces for building tenants within a one- or two-block radius that they also negotiate or they provide for at least five parking spaces at a 25 percent

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market rate reduced amount at a local garage for their tenants. I stay on that.

So I think those things are important to mitigate ongoing and deal with what the evidence said. I mean, the evidence even presented that they know that they're going to have some people who are going to have cars.

And the other part of that was the requirement that the carshare and bikeshare is given every year. So I guess we just assume after year six or seven that all our issues about parking are going to go away and that these people are going to just do it on their own. So we need to make sure that the people who are going to do it on their own continue to have the use of bikeshare and membership. That's where I am. That was my unreadiness.

Any additional unreadiness or discussion?

ZONING COMMISSIONER MAY: Mr. Chairman, I understand that you like to

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increase the number two to number five, right?

CHAIRPERSON JORDAN: No, no.

ZONING COMMISSIONER MAY: You'd like to do five in addition?

CHAIRPERSON JORDAN: Well, because I thought under the two guest spaces --

ZONING COMMISSIONER MAY: Yes.

CHAIRPERSON JORDAN: -- I thought that was being paid for by the Applicant itself.

COMMISSIONER MAY: Right. Oh, I see. So in addition to that, five more -- no, you're right. Five more that would be negotiated at a discount rate.

CHAIRPERSON JORDAN: Or the owner can make a supplement to the tenant, whichever way, so that if they're going to have a car then they have the ability to park there and be encouraged to do that, not on the street.

ZONING COMMISSIONER MAY: And so then the second one was at least five. And already there's a provision in there that they would be subject to termination if they

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violated --

CHAIRPERSON JORDAN: Okay.

ZONING COMMISSIONER MAY: -- I'm not sure that's --

CHAIRPERSON JORDAN: Is that the first one? I just want to make sure that -- it says "subject to." Now come on. Is that going to happen? I just want to make sure it says that they will be -- I can live with it --

ZONING COMMISSIONER MAY: Okay.

CHAIRPERSON JORDAN: And that's why I said at least second violation kind of issue to give the Applicant some ability to maneuver.

ZONING COMMISSIONER MAY: Right. And then the last one is that you want to have everybody who lives in the building forever to have free carshare or --

CHAIRPERSON JORDAN: The one. Each unit.

ZONING COMMISSIONER MAY: Each unit --

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CHAIRPERSON JORDAN: Yes.

ZONING COMMISSIONER MAY: -- would have one carshare or bikeshare for the life of the project.

CHAIRPERSON JORDAN: As long as they're tenants.

ZONING COMMISSIONER MAY: Okay. All right.

Yes, I don't support that. I don't support continuing the case any further to get feedback from the Applicant. I would prefer to just vote on what's before us.

CHAIRPERSON JORDAN: Okay. All right. Any other unreadiness?

(No audible response.)

CHAIRPERSON JORDAN: All those in favor of the motion to approve the variance with the already-submitted conditions signify by saying aye.

(A CHORUS OF AYES.)

CHAIRPERSON JORDAN: All opposed nay.

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(A CHORUS OF NAYS.)

CHAIRPERSON JORDAN: Nay.

VICE CHAIR ALLEN: Nay.

CHAIRPERSON JORDAN: Would you poll the Board, please? I believe the motion passed though.

MS. ROSE: Yes. Call names. Mr. May, are you in support?

ZONING COMMISSIONER MAY: Yes.

MS. ROSE: Ms. Heath?

MS. HEATH: Yes.

MS. ROSE: Mr. Jordan?

CHAIRPERSON JORDAN: No.

MS. ROSE: Ms. Allen?

VICE CHAIR ALLEN: No.

MS. ROSE: Mr. Dettman?

MR. DETTMAN: Yes.

MS. ROSE: Okay. Staff would record the vote as three to zero to two with the motion passing. Mr. May --

CHAIRPERSON JORDAN: It's three --
actually it's three --

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MS. ROSE: Three to two to zero.
I'm sorry. Three to two to zero.

CHAIRPERSON JORDAN: I keep saying
at this last column that does not need to be
there. And that's not just you, Ms. Rose.
It's three to two.

MS. ROSE: Three to two. With Mr.
May, Mr. Dettman and Ms. Heath in support of the
motion; Mr. Jordan and Ms. Allen in opposition.

CHAIRPERSON JORDAN: That's
correct.

The motion carries.

I think we need to have a full order,
please?

MS. ROSE: Yes.

CHAIRPERSON JORDAN: I thank
everyone for participating in this. It's been
a long, tedious process as we go forward on
this. Thanks.

I think we're doing a hand off now,
aren't we?

We'll take five minutes.

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(Whereupon, at 10:14 a.m., the
meeting was adjourned.)