

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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PUBLIC MEETING

+ + + + +

TUESDAY

MARCH 10, 2015

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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 9:49 a.m., Lloyd Jordan, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

LLOYD JORDAN, Chairperson
MARNIQUE HEATH, Vice-Chairperson
JEFF HINKLE, Board Member (NCPC)

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary
JOHN NYARKU, Zoning Specialist

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

LAWRENCE FERRIS III, ESQ.

D.C. DEPARTMENT OF TRANSPORTATION STAFF PRESENT:

RYAN WESTROM

OFFICE OF PLANNING STAFF PRESENT:

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BRANDICE ELLIOTT
STEPHEN GYOR
KAREN THOMAS
ELISE VITALE

The transcript constitutes the minutes from the
Public Meeting held on March 10, 2015.

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

(9:50 a.m.)

CHAIR JORDAN: Good morning. We're here for the Board of Zoning Adjustments meeting and hearing. Today's date is March 10th, 2015. My name is Lloyd Jordan, Chairperson. To my right is Jeffrey Hinkle, Member of the Board, to my left Marnique Heath, a Member of the Board.

Today's proceedings are being webcast live and also being recorded by a court reporter. So therefore, I'm going to ask you to refrain from any disruptive noises in the hearing room. I think this is a good time for you to go ahead and silence anything that may ring or buzz loudly.

If you are going to testify or present any statements to the Board this morning, I'm going to need you to do two things. If you're going to provide any statement or testimony or address the Board in any manner, I'm going to need you to do two things, the first of which is to complete two witness cards per person. That's completing two witness cards per person, and prior to your testifying, give those witness cards to the court reporter who is seated to my right.

The second thing I'm going to need you to do today is to now stand. If you're going to present testimony or address the Board in any way, I'm going to need you to now stand and take the oath which will be administered by Mr. Moy, Secretary to the Board.

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1 MR. MOY: Good morning.

2 (Participants sworn)

3 MR. MOY: Ladies and gentlemen, you may consider
4 yourselves under oath.

5 CHAIR JORDAN: And I apologize for the late delay, but
6 until about 5:30 this morning, I was nursing 101 fever that
7 broke, and made it in. So it's going to be kind of, you may
8 see me disrupt our hearings for a minute or two, doing a nose
9 blow and et cetera. But again, it's not our pattern and
10 practice to be late in starting our hearings, and I just wanted
11 you to know that.

12 Let's call our first meeting case, please. Oh no,
13 excuse me, Mr. Moy. Announcements?

14 MR. MOY: Yes, very quickly, Mr. Chairman. For the
15 record, cases on the docket, for the record, first is that
16 Application number 18941 of Thomas and Patty Johnson
17 originally scheduled for the hearing today was heard as
18 expedite review calendar on February 24th, 2015. And finally,
19 Application number 18945 of Gertha Davis, after the Staff has
20 consulted with the Applicant, Mr. Chairman, Staff recommends
21 moving that --

22 CHAIR JORDAN: Correct.

23 MR. MOY: -- application to April 28th.

24 CHAIR JORDAN: No, no, no.

25 MR. MOY: No?

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1 CHAIR JORDAN: You need to give a substantial time to
2 work out the issues with that and that's just too soon, right?
3 If we put it on April, then I guess it would just be a, we could
4 put it on as not for a hearing, for a status. And because they
5 should have had the conversations before that, right?

6 MR. MOY: Yes. Yes.

7 CHAIR JORDAN: You know what, I feel more comfortable
8 moving that to May.

9 MR. MOY: In May?

10 CHAIR JORDAN: Yes.

11 MR. MOY: All right. Well, May is wide open so let's
12 put it for the end of May, the last May hearing for the BZA
13 is May the 19th. May the 19th for 18945.

14 CHAIR JORDAN: Okay.

15 MR. MOY: And that concludes the Staff's briefing, Mr.
16 Chairman.

17 CHAIR JORDAN: Thank you, Mr. Moy. First meeting case,
18 please.

19 MR. MOY: Okay, that would be Application number, well
20 actually Appeal number 18857 of Advisory Neighborhood
21 Commission 3D. And I believe, Mr. Chairman, in the case
22 folders, there is a motion, there is a DCRA Motion to Dismiss.

23 CHAIR JORDAN: The Board already deliberated in this
24 case. Because the Zoning Commission has actually ruled
25 directly in this matter on the particular issue in which the

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1 appeal went to, and has allowed for the modification of the
2 order that allows for the relief to, the previous relief that
3 was granted, this issue is moot.

4 And for this Board, we don't even have the power or
5 authority to overturn the Zoning Commission in the first place.
6 So I would move that we grant the Motion to Dismiss as this
7 matter being moot.

8 VICE CHAIR HEATH: I second the motion.

9 CHAIR JORDAN: Any other discussion? Motion made and
10 second. All those in favor, aye?

11 (Chorus of ayes)

12 CHAIR JORDAN: Those opposed, nay. We have an absentee
13 ballot, please?

14 MR. MOY: Yes, sir. Before I give a total vote, we do
15 have an absentee ballot from Mr. Hood who participated, and
16 his vote is to also grant the Motion to Dismiss. So that would
17 give a total vote of three to zero. The motion carries, sir.

18 CHAIR JORDAN: Okay. Our next case, please.

19 MR. MOY: That would be Application number 18898 of
20 Ingleside Presbyterian Retirement Community. The Board
21 allowed filings, and those have been filed in your case records
22 from the Applicant, Mr. Chairman. We do also have a letter
23 in opposition from Ms. Ann Renshaw under Exhibit 45.

24 The three other preliminary matters were filings
25 requesting reopening the record to allow their filings are

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1 under Exhibit 38, 39, 43 and 44, so I guess that's four letters.
2 And that's for the Board to handle in a preliminary matter.

3 CHAIR JORDAN: Reopen the record? We already had the
4 hearing on this. Okay. The motions to request to reopen the
5 record are denied, unless the Board has any opposition to that.
6 Is there another preliminary matter that I missed, Mr. Moy?

7 MR. MOY: No, I think that was it, Mr. Chairman.

8 CHAIR JORDAN: This matter, we've had a full hearing on
9 this matter with parties in opposition and et cetera. The
10 Applicant has worked with the ANC and the party in opposition
11 to get this matter resolved, which in the first place I believe
12 that they met the requirement for the relief requested.

13 There's an agreement, an executed agreement between the
14 Applicant and the ANC which would require the Applicant to meet
15 certain conditions and those agreements are actually backed
16 by the force of law and are enforceable by court.

17 There are certain conditions in which some of those
18 conditions in that agreement we will include in the order. But
19 I would like the order to reference the fact that there is an
20 agreement with the ANC, as well as there is an agreement with
21 Carnegie Institute, and I don't see anything on the Carnegie
22 Institute's agreement that actually relate to zoning and
23 zoning issues.

24 So let's, the conditions that I would offer that we
25 include in a motion to approve the Applicant's request in this

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1 case would be that Paragraphs 1C, 2E, 2F, 4A, 4F, 4G, 2A, 2C,
2 2D, 3E sub roman numeral VIII, 4B, and 4H. I think that does
3 it, doesn't it?

4 (Off microphone comment)

5 CHAIR JORDAN: If I didn't say 1E, then I want to say
6 1E. Okay. That would, if that's any other discussion on this
7 case? Okay, that would be my motion, that we approve the
8 relief requested with these conditions, and that the including
9 reference in the order to the ANC agreement with the Applicant
10 as well as the Carnegie Institute. That would be my motion.

11 VICE CHAIR HEATH: I'll second.

12 CHAIR JORDAN: Motion made and second. Additional
13 discussion? All those in favor of the motion, aye?

14 (Chorus of ayes)

15 CHAIR JORDAN: Those opposed, nay. Mr. Moy?

16 MR. MOY: Yes, sir. We also have an absentee ballot
17 from Mr. Hood who also participated, and his absentee vote is
18 to approve the application for the relief requested as well
19 as the conditions as cited by the Chair.

20 So that would give a final vote of three to zero. The
21 motion of Chairman Jordan to approve with the conditions as
22 cited, also in support Vice Chair Heath and Mr. Hood. Motion
23 carries, sir.

24 CHAIR JORDAN: Okay. I don't know. We had
25 opposition, they had an agreement. Make it summary.

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1 MR. MOY: Thank you, sir.

2 (Whereupon, the meeting in the above-entitled matter
3 was concluded at 10:00 a.m.)

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