

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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PUBLIC MEETING

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WEDNESDAY
APRIL 4, 2018

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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 9:30 a.m., Carlton Hart, Vice Chair, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

CARLTON HART, Board Member (NCPC), Vice Chair
LESYLLEE M. WHITE, Board Member
LORNA L. JOHN, Board Member

ZONING COMMISSION MEMBER PRESENT:

ANTHONY HOOD, Chairman

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

HILLARY LOVICK, ESQ.
MARY NAGELHOUT, ESQ.

OFFICE OF PLANNING STAFF PRESENT:

STEVEN COCHRAN
BRANDICE ELLIOTT
CRYSTAL MYERS
STEPHEN MORDFIN

The transcript constitutes the minutes from the
Public Meeting held on April 4, 2018.

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

9:45 a.m.

VICE CHAIR HART: Okay, good morning everyone.

The hearing will please come to order.

Good morning, ladies and gentlemen. We are located in the Jerrily R. Kress Memorial Hearing Room at 441 4th Street, NW. This is the April 4, 2018 public hearing of the Board of Zoning Adjustment of the District of Columbia.

My name is Carlton Hart, Vice Chairperson. Joining me today is Lesyllee White and Lorna John, Board members. And representing the Zoning Commission is Anthony Hood.

Copies of today's hearing agenda are available to you and are located in the wall bin near the door.

Please be advised that this proceeding is being recorded by a court reporter and is also webcast live. Accordingly we must ask you to refrain from any disruptive noises or actions in the hearing room.

When presenting information to the Board please turn on and speak into the microphone first stating your name and home address. When you are finished speaking please turn your microphone off so that your microphone is no longer picking up sound or background noise.

All persons planning to testify either in favor or opposition must have raised your hand and been sworn in

1 by the secretary. Also each witness must fill out two
2 witness cards. These cards are located in the table near the
3 door and on the witness tables.

4 Upon coming forward to speak to the Board please
5 give both cards to the reporter sitting at the table to my
6 right.

7 If you wish to file written testimony or
8 additional supporting documents today please submit 1
9 original and 12 copies to the secretary for distribution.

10 If you do not have the requisite number of copies
11 you can reproduce copies on an office printer in the Office
12 of Zoning located across the hall.

13 The order of procedure for special exceptions and
14 variances pursuant to subtitle Y 409 is on the table at the
15 back of the room to my left.

16 The order of procedures for appeal applications
17 pursuant to subtitle Y 507 is also located on the table at
18 the back of the room.

19 The record shall be closed at the conclusion of
20 each case except for any material specific requested by the
21 Board. The Board and staff will specify at the end of the
22 hearing exactly what is expected and the date when the
23 persons must submit the evidence to the Office of Zoning.

24 After the record is closed no other information
25 shall be accepted by the Board.

1 The District of Columbia Administrative Procedures
2 Act requires that the public hearing on each case be held in
3 the open before the public. Pursuant to subtitle 405(b) and
4 406 of that act the Board may consistent with its rules and
5 procedures and the act enter into a closed meeting on a case
6 for purposes of seeking legal counsel on a case pursuant to
7 D.C. Official Code subtitle 2-575(b)(4) and/or deliberating
8 on a case pursuant to D.C. Official Code subtitle 2-
9 575(b)(13) but only after providing the necessary public
10 notice and in the case of an emergency closed meeting after
11 taking a roll call vote.

12 The decision of the Board in contested cases must
13 be based exclusively on the public record. To avoid any
14 appearance to the contrary the Board requests that any
15 persons present not engage the members of the Board in
16 conversation.

17 Please turn off all beepers and cell phones at
18 this time so as to not disrupt these proceedings.

19 Preliminary matters are those which relate to
20 whether a case will or should be heard today such as a
21 request for postponement, continuance, or withdrawal, or
22 whether proper and adequate notice of the hearing has been
23 given.

24 If you are not prepared to go forward with a case
25 today or if you believe that the Board should not proceed now

1 is the time to raise such a matter.

2 Mr. Secretary, do you have any preliminary
3 matters?

4 MR. MOY: Good morning, Mr. Vice Chair, members
5 of the Board. I do very quickly. This is for the record.
6 As regards today's docket.

7 Case application number 18701-C of 1247 ESE LLC
8 has been postponed, rescheduled to April 18, 2018.

9 And finally case application number 19712 of
10 Newton Park Apartments Condominium Unit Owners Association,
11 it was formerly known as Serhat Akin. This has been
12 postponed rescheduled to May 16, 2018.

13 And that's it from the staff, Mr. Vice Chair.

14 VICE CHAIR HART: Thank you. All individuals
15 wishing to testify today please rise and take the oath. Mr.
16 Secretary, would you please administer the oath.

17 (Witnesses sworn.)

18 VICE CHAIR HART: Thank you, Mr. Secretary. I
19 guess we can start with the decision cases. You can call the
20 first one.

21 MR. MOY: Thank you. This is the first of two
22 cases for decision-making. The first is a request for --
23 this is case application number 1913902-A of McDonald's
24 Corporation. This is a request for a modification of
25 consequence.

1 VICE CHAIR HART: Mr. Secretary, can you call the
2 number again?

3 MR. MOY: Application number 13902-A. Is that
4 correct?

5 VICE CHAIR HART: Yes, I think you said 19, that's
6 why I was asking.

7 MR. MOY: Okay, well that wouldn't be the first
8 time I've done that.

9 VICE CHAIR HART: Good morning.

10 MR. MOY: Thank you. Once again 13902-A of
11 McDonald's Corporation. This is a request for a modification
12 of consequence to the conditions of BZA Order 13902 regarding
13 parking requirements.

14 This would permit a fast food restaurant in the
15 C-2-C district at premises 1916 M Street, NW, square 117, lot
16 82.

17 VICE CHAIR HART: Thank you, Mr. Secretary. So
18 are the Board members ready to deliberate on this case?
19 Excellent. I can start.

20 After reviewing the record and in particular
21 paying close attention to the Office of Planning report I
22 find that I can agree with the OP report first that this is
23 a modification of consequence. And I also agree that the
24 applicant has provided sufficient information to support the
25 request to remove the A-3 conditions from the zoning order

1 which was decided in 1983.

2 This really was around these parking spaces that
3 were not going to be on the premises itself but located in
4 a parking garage nearby. Because the current zoning doesn't
5 actually require these parking spaces the applicant was
6 looking to change their requirement.

7 And really there were three conditions on the
8 order from 1983. There were three parking spaces that were
9 required under that order and I believe that the application
10 can -- that I would support the Office of Planning report and
11 did not believe that they needed to have the conditions any
12 longer for that case.

13 I don't know if any of my other Board members want
14 to weigh in on this.

15 MEMBER WHITE: Mr. Vice Chair, I agree with your
16 assessment of that. As you stated the current zoning regs
17 don't require that these three parking spaces, this is for
18 McDonald's I believe on 19th Street.

19 So I think that it's appropriate to grant the
20 request for a modification of consequence after reviewing
21 OP's report, the ANC's report. So I also recommend granting
22 the application.

23 I also concur with OP's assessment that they only
24 continue to encourage the employees to use alternative forms
25 of transportation. So I'm onBoard with the request under the

1 regulation for modification of consequence being granted.

2 VICE CHAIR HART: Thank you. Anyone else?

3 MEMBER JOHN: Mr. Vice Chair, I also agree with
4 the assessment of the Office of Planning that it's
5 appropriate to grant the request for the modification of
6 consequence at this time because parking is no longer
7 required under the new regulations.

8 And I also give credit to the report of the ANC.
9 Nothing further.

10 VICE CHAIR HART: Thank you.

11 ZC CHAIRMAN HOOD: Mr. Chairman, in that case of
12 all the discussion and the record being complete I would move
13 that we grant the modification of consequence BZA case number
14 13902-A for 1719 M Street NW and ask for a second.

15 VICE CHAIR HART: Second. All those in favor say
16 aye.

17 (Chorus of ayes)

18 VICE CHAIR HART: Any opposed? Looks like the
19 motion carries. Mr. Moy.

20 MR. MOY: Yes, sir. Staff would record the vote
21 as 4-0-1. This is on the motion of Mr. Anthony Hood to
22 approve the request for a modification of consequence.
23 Seconding the motion Vice Chair Hart. Also in support Ms.
24 White, Ms. John and we have a Board member not present,
25 participating today. Motion carries.

1 VICE CHAIR HART: Summary order.

2 MR. MOY: Thank you.

3 VICE CHAIR HART: Thank you. I guess we can move
4 to the other case on the decision case that we have.

5 MR. MOY: All right, that would be case
6 application number 19684 of C&S Development LLC. This has
7 been since the last hearing of March 28, 2018 this
8 application has been updated, amended for special exception
9 pursuant to the inclusionary zoning dimensional modification
10 of subtitle C section 1002.2.

11 This would subdivide the existing lot into three
12 new lots and construct three flats in an RF-1 zone. This is
13 at premises 2610 4th Street NE square 3551 lot 801.

14 As the Board is aware in the case record there is
15 updated revised surveyor's plat as well as revised plans
16 under exhibit 48 and 49 and a revised self-certification to
17 that effect under exhibit 50.

18 VICE CHAIR HART: Yes. Thank you very much, Mr.
19 Moy.

20 So in this case the applicant had previously
21 requested relief from the 10 foot rear addition. That was
22 sought because of the building was going to be or one of the
23 buildings was going to be more than 10 feet past the next
24 door neighbor.

25 The applicant has -- and this was actually a

1 hearing that we had last week. The applicant has decided to
2 redesign the project so that it is no greater than 10 feet,
3 it's actually at 10 feet from the end of the adjoining
4 property to the south.

5 OP had recommended denial of the 10 foot rear
6 addition, the rear addition which was greater than 10 feet
7 but the Office of Planning was actually in support of the
8 rest of the relief that was sought which was the IZ
9 inclusionary zoning dimensional modification under subtitle
10 C 1002.2.

11 I will say that I agree with the recommendation
12 of the Office of Planning report and their recommendation.
13 I appreciate the applicant giving us a fairly full discussion
14 on this case.

15 They have proven that they meet the general
16 special exception criteria under subtitle X 901 that the
17 project be in harmony with the general purpose and intent of
18 the zoning regs and the zoning map and not to tend to
19 adversely affect the use of neighboring property in
20 accordance with the zoning regulations and the zoning map.

21 The Office of Planning report did condition its
22 approval for recommendation on the following, that the
23 applicant must demonstrate that the proposed IZ unit
24 satisfies the requirements of 11 DCMR subtitle C chapter 10.

25 While I understand the need for the applicant to

1 kind of prove this, but they're really proving this to DCRA.
2 I just thought it was outside of the BZA's purview for this
3 particular condition. I thought it was actually redundant.

4 So I was not looking to add the condition. I
5 would just have the application as it was submitted to us for
6 the relief that was submitted to us. But I would be in
7 support of the application because I felt that they met the
8 criteria.

9 Any other comments?

10 MEMBER JOHN: Mr. Vice Chair, I also support the
11 application as amended primarily for the IZ relief. And I
12 also agree that the condition to prove that the project would
13 meet the IZ dimensional standards should be left to DCRA to
14 determine.

15 VICE CHAIR HART: Ms. White?

16 MEMBER WHITE: Yes, I also applaud them for making
17 some modifications to this application so that we can approve
18 it. I do think that they met the criteria for special
19 exception.

20 But just as a comment I think it's also good that
21 they were able to keep the plans for incorporating the
22 inclusionary zoning aspect of this.

23 And really the purpose of this is really to kind
24 of increase the amount and expand the amount of affordable
25 housing to current and future residents in the District of

1 Columbia.

2 So while I also think that they met the other
3 criteria I do think it was very helpful that they maintained
4 that aspect of the project by improving the supply of
5 affordable housing in the District of Columbia.

6 VICE CHAIR HART: Okay, it sounds like we're ready
7 for a decision. So I would move that we approve application
8 19684 of C&S Development LLC as amended pursuant to 11 DCMR
9 subtitle X chapter 9 for a special exception pursuant to the
10 inclusionary zoning dimensional modifications of subtitle C
11 1002.2 to subdivide the existing lot into three new lots and
12 construct three flats in the RF-1 zone at premises 2610 4th
13 Street NE square 3551 lot 801. Do I have a second?

14 MEMBER WHITE: Second.

15 VICE CHAIR HART: Hearing a second all those in
16 favor say aye.

17 (Chorus of ayes)

18 VICE CHAIR HART: Any opposed? Looks like the
19 vote is three right now and I think we may have an absentee,
20 Mr. Moy.

21 MR. MOY: You're clairvoyant today, Mr. Vice
22 Chair. We do, we have an absentee ballot from Rob Miller and
23 his vote is to also approve the request for zoning relief.
24 So that would give a resulting vote of 4-0-1. This is on
25 your motion Vice Chair Hart, seconding the motion Ms. White,

1 also Ms. John and Mr. Robert Miller of course. And we have
2 a Board member not present not voting today. So that gives
3 a vote of 4-0-1. Your motion carries.

4 VICE CHAIR HART: Summary order, Mr. Moy.

5 MR. MOY: Thank you.

6 (Whereupon, the above-entitled matter went off the
7 record at 10:02 a.m.)

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C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: Public Meeting

Before: DC BZA

Date: 04-04-18

Place: Washington, DC

was duly recorded and accurately transcribed under my direction; further, that said transcript is a true and accurate record of the proceedings.



Court Reporter

NEAL R. GROSS

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