

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

SEPTEMBER 11, 2019

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The Regular Public Meeting convened in the Jerrily R. Kress Memorial Hearing Room, Room 220 South, located at 441 4th Street, N.W., Washington, D.C., pursuant to notice at 9:54 a.m., Frederick L. Hill, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

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

ZONING COMMISSION MEMBERS PRESENT:

MICHAEL TURNBULL

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary
JOHN NYARKU, Zoning Specialist

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

ALEXANDRIA CAIN, ESQ.

OFFICE OF PLANNING STAFF PRESENT:

ANNE FOTHERGILL
MATTHEW JESICK
CRYSTAL MYERS
KAREN THOMAS

The transcript constitutes the minutes from the
Public Meeting held on September 11, 2019.

C-O-N-T-E-N-T-S

	<u>PAGE</u>
Application No. 20096, Christophe Lucas and Jenny Chang (Withdrawn)	7
Application Nos. 20098, 20104, 20105, 20107 (Postponed & Rescheduled until 10/2/2019)	7
Application Number 20054, Rupsha 2011 LLC (Postponed & Rescheduled until 10/23/2019)	7
Application No. 19572 SIM Development, LLC	8

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

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9:42 a.m.

CHAIRPERSON HILL: Okay. Good morning, ladies and gentlemen. The Hearing will please come to order. We're located in the Jerrily R. Kress Memorial Hearing Room at 441 4th Street, N.W. This is September 11th, 2019, Public Hearing of the Board of Zoning Adjustment, District of Columbia.

My name is Fred Hill, Chairperson. Joining me today is Carlton Hart, Vice Chair, Lesyllee White, and Lorna John, Board members. And representing the Zoning Commission is Mike Turnbull.

Copies of today's hearing agenda are available to you and 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're 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 in opposition must have raised

1 their hand and been sworn in by the Secretary.

2 Also, each witness must fill out two witness
3 cards. These cards are located on the table near the door
4 and on the witness table. Upon coming forward to speak to
5 the Board, please give both cards to the reporter sitting at
6 the table to my right.

7 If you wish to file written testimony or
8 additional supporting documents today, please submit one
9 original and 12 copies to the secretary for distribution.
10 If you do not have the requisite number of copies, you can
11 reproduce copies on an office printer in the Office of Zoning
12 located across the hall. Please remember to collate your set
13 of copies.

14 The order of procedures for special exceptions and
15 variances, as well as appeals, is also listed as you come
16 into the room.

17 The record shall be closed at the conclusion of
18 each case except for any materials specifically requested by
19 the Board. The Board and the staff will specify at the end
20 of the hearing exactly what is expected, and the date when
21 the persons must submit the evidence at the Office of Zoning.
22 After the record is closed, no other information shall be
23 accepted by the Board.

24 The Board's agenda includes cases set for
25 decision. After the Board adjourns, the Office of Zoning,

1 in consultation with myself, will determine whether a full
2 or summary order may be issued.

3 A full order is required when the decision it
4 contains is adverse to a party, including an affected ANC.
5 A full order may also be needed if the Board's decision
6 differs from the Office of Planning's recommendation.
7 Although the Board favors the use of summary orders whenever
8 possible, an Applicant may not request the Board to issue
9 such an order.

10 The District of Columbia Administrative Procedures
11 Act requires that the Public Hearing on each case be held in
12 the open before the public pursuant to Section 405(b) and 406
13 of that Act.

14 The Board may, consistent with its rules and
15 procedures and the Act, enter into a closed meeting on a case
16 for purposes of seeking legal counsel on a case pursuant to
17 DC Official Code Section 2-575(b)(4) and/or deliberating on
18 a case pursuant to DC Official Code Section 2-575(b)(13), but
19 only after providing the necessary public notice and in the
20 case of an emergency closed meeting after taking a roll call
21 vote.

22 The decision of the Board in cases must be based
23 exclusively on the public record. To avoid any appearance
24 to the contrary, the Board requests the persons present not
25 engage the members of the Board in conversation.

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

3 Preliminary matters are those which relate to
4 whether a case will or should be heard today, such as
5 requests for postponement, continuance, or withdrawal, or
6 whether proper and adequate notice of the hearing has been
7 given.

8 If you're not ready to go forward with the case
9 today or believe that the Board should not proceed, now is
10 the time to raise such a matter.

11 Mr. Secretary, do we have any preliminary matters?

12 MR. MOY: Good morning, Mr. Chairman, members of
13 the Board, welcome. I suppose it now means that the Board
14 is back from its summer recess.

15 So short announcement with regards to today's
16 docket. Case Application Number 20096, Christophe Lucas and
17 Jenny Chang, has been withdrawn by the Applicant.

18 Application Number 20054, Rupsha 2011 LLC., has
19 been rescheduled to October 23rd, 2019. There are four case
20 applications that have been postponed and rescheduled to
21 October 2nd, 2019. They are Application Numbers 20098,
22 20104, 20105, and 20107.

23 And there were some preliminary matters, but staff
24 would suggest, as we always have, addressing those when I
25 call the case.

1 CHAIRPERSON HILL: Okay, great. Thank you, Mr.
2 Moy. All right, good morning, everyone. If anyone is here
3 wishing to testify, if you would please stand and take the
4 oath administered by the Secretary to my left.

5 (Witnesses sworn.)

6 CHAIRPERSON HILL: All right, thank you, Mr. Moy.
7 Thank you for welcoming us back, welcome everyone back from
8 the holiday. We will be here every Wednesday between now and
9 next August, except for holidays.

10 All right. If we would, go ahead and please call
11 our first meeting case today.

12 MR. MOY: Thank you, Mr. Chairman. As you've just
13 said, we only have one case application in the meeting
14 session. And that is Application Number 19572 of SIM, S-I-M,
15 Development, LLC. And I'm going to read the caption of this
16 case, although I believe there's going to be Board motion.

17 This application caption was, as amended, for
18 special exception under Subtitle C, Section 203.2, from the
19 parking requirements of Subtitle C, Section 201.5 and
20 pursuant to 11 DCM, or Subtitle F, Chapter 10, for variance
21 from the non-conforming structure requirements of Subtitle
22 C, Section 202, to add two stories containing 16 units to an
23 existing two-story, nine-unit, mixed use building in the MU-4
24 zone at premises 1916 15th Street SE, Square 5766, Lot 845.

25 And this application was approved by the Board on

1 January 24th, 2018.

2 CHAIRPERSON HILL: Okay, is the Board ready to
3 deliberate on this issue?

4 Okay. So it appears as though, again, this
5 application, as Mr. Moy just mentioned, was approved on
6 January 24th, 2018. And the participating members of this
7 at this point are Chairman Hood, who's not here, myself, Mr.
8 Hart, and Ms. White.

9 And so, I guess, it came to the, as the order was
10 being drafted, OAG seems to have raised some concerns about
11 some issues, or they would like further clarification in
12 helping the Board get to a draft order for the variance
13 relief from C202.

14 And so I guess it seems as though we might need
15 some more information. So what I would think is that we
16 would go ahead, and I'll just kind of take these through the
17 steps, I guess, is kind of rescind the prior approval of the
18 application and then open up the case again to have further
19 information being brought to us.

20 So what I would first go ahead and propose is that
21 I'll make a motion to rescind the prior approval of the
22 application based on questions about the required relief and
23 ask for a second.

24 VICE CHAIRPERSON HART: Second.

25 CHAIRPERSON HILL: The motion's been made and

1 seconded. All those in favor say aye?

2 (Chorus of aye.)

3 MEMBER JOHN: Aye, okay. So that's right, there's
4 only the three of us here. Let's see, so then I would like
5 to go ahead and make a second motion to reopen the record to
6 allow filings, from the parties and the Office of Planning,
7 providing additional explanation as to why C202 relief is
8 required and ask for a second.

9 MEMBER WHITE: Second.

10 CHAIRPERSON HILL: Motion is made and seconded.
11 All those in favor say aye.

12 (Chorus of aye.)

13 CHAIRPERSON HILL: Aye. All those opposed?

14 So that motion passes as well.

15 So then I guess there're some dates that I think
16 the Office of Planning, so parties in the Office of Planning
17 have two weeks. So they're going to be due on 9/25/19. But
18 there was another date that was coming up. Is that correct,
19 OAG?

20 MS. CAIN: No, so the filings are going to be due
21 on September 25th by 11:59 p.m. And then the case will be
22 taken up again by the Board the following Wednesday, which
23 is October 2nd.

24 CHAIRPERSON HILL: Okay. So September 25th, is
25 that what you said again?

1 MS. CAIN: Yes.

2 CHAIRPERSON HILL: I'm sorry. All right, so
3 everything will be due to us. And that means the parties
4 should provide their information, as well as the Office of
5 Planning, by 9/25/19 at 11:19, I'm sorry, 11:59 p.m.

6 And then we're going to go ahead, and the Board
7 will then have an opportunity to deliberate on the case again
8 on 10/2/19. Does that sound good with everyone in the room?

9 MEMBER WHITE: Yes.

10 (Simultaneous speaking.)

11 CHAIRPERSON HILL: Sure, of course.

12 MR. MOY: I'm sorry. Yes, I'm sorry, I didn't get
13 a chance to -- I forgot to coordinate with OAG. In terms of
14 the timeframe, the ANC 8A meets the first Tuesdays of the
15 month. So in this instance, the first Tuesday in October
16 would be October 2nd. So you can still proceed with the
17 dates that you've listed. Or you can make changes to allow
18 time for the ANC to meet at its monthly meeting on the 2nd
19 of October.

20 VICE CHAIRPERSON HART: Mr. Moy? They meet on the
21 first or the meet on the first Tuesday?

22 MR. MOY: The first Tuesday.

23 VICE CHAIRPERSON HART: I think it's the first,
24 October 1st. I didn't know if you meant on a Wednesday which
25 was October 2nd, or, it's still a very tight timeline.

1 MS. CAIN: I mean, the Board is free to extend it.
2 This was the recommendation of OAG to give the parties two
3 weeks to respond. And then another week for OAG to review
4 all the submissions for the record. If the Board wants to
5 extend that timeframe, that's fine.

6 CHAIRPERSON HILL: Yes, that's fine. So why don't
7 we go ahead and do that. Let's go ahead. And if they're
8 meeting on the first, the ANC, of October 1st, which is a
9 Tuesday, let's go ahead and do it, schedule it for the 9th
10 of October. So that'll give them another week to get
11 anything into us if they have any concerns, okay.

12 So again now, just to go over this, so the
13 deadline for the submission for the parties in the Office of
14 Planning will still be 9/25/19 at 11:59 p.m. expect for the
15 ANC who will have until, I guess, you know, if we can get
16 something before October 9th, that'll be helpful if they have
17 anything to add. Does that sound good?

18 MEMBER WHITE: Yes.

19 CHAIRPERSON HILL: Okay. All right, so I don't
20 have to do anything to end that, right? So like I say, we
21 just note that it's a procedural memo explaining the Board's
22 position in full as to what was the requested information.
23 So it will be uploaded to the record and sent to the parties
24 in the Office of Planning, okay.

25 Okay, fine, so then we're done with that, right,

1 Mr. Moy?

2 MR. MOY: Yes, sir. This works out.

3 CHAIRPERSON HILL: All right. Then in that case,
4 when you get a chance, you can call our first hearing case.

5 (Whereupon, the above-entitled matter went off the
6 record at 9:54 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: DCBZA

Date: 09-11-19

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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