

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

OCTOBER 2, 2019

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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., Frederick L. Hill, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

FREDERICK L. HILL, Chairperson
LORNA JOHN, Board Member
CARLTON HART, Board Member (NCPC)

ZONING COMMISSION MEMBER[S] PRESENT:

PETER SHAPIRO District Resident Appointee

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

PAUL GOLDSTEIN, ESQ.

The transcript constitutes the minutes from the
Public Meeting held on OCTOBER 2, 2019.

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

9:40 a.m.

CHAIRPERSON HILL: All right, good morning everyone. 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 the October 2nd public hearing of the Board of Zoning Adjustment of the District of Columbia. My name is Fred Hill, Chairperson. Joining me today is Carlton Hart, Vice Chair, Lorna John, Board Member, and representing the Zoning Commission is Peter Shapiro.

Copies of today's hearing agenda are available to you and are located on 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 off your microphone 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 their hand and been sworn in by the Secretary.

Also, each witness must fill out two witness cards. These cards are located on the table near the door

1 and on the witness table. Upon coming forward to speak to
2 the Board, please give both cards to the reporter sitting at
3 the table to my right. If you wish to file written testimony
4 or additional supporting documents today, please submit one
5 original and 12 copies to the Secretary for distribution.
6 If you do not have the requisite number of copies, you can
7 reproduce copies on an office printer in the Office of Zoning
8 located across the hall. Please remember to collate your set
9 of copies.

10 The order for procedures for special exceptions,
11 variances, and appeals are also listed as you come in through
12 the door. The record shall be closed at the conclusion of
13 each case, except for any materials specifically requested
14 by the Board. The Board and the staff will specify at the
15 end of the hearing exactly what is expected and the date when
16 the persons must submit the evidence to the Office of Zoning.

17 After the record is closed, no other information
18 shall be accepted by the Board. The Board's agenda includes
19 cases set for decision. After the Board adjourns, the Office
20 of Zoning in consultation with myself will determine whether
21 a full or summary order may be issued. A full order is
22 required when the decision it contains is adverse to a party,
23 including an affected ANC. A full order may also be needed
24 if the Board's decision differs from the Office of Planning's
25 recommendation.

1 Although the Board favors the use of summary
2 orders whenever possible, an applicant may not request the
3 Board to issue such an order. The District of Columbia
4 Administrative Procedures Act requires that the public
5 hearing on each case be held in the open before the public
6 pursuant to Section 405(b) and 406 of that Act.

7 The Board may, consistent with its rules of
8 procedures and the Act, enter into a closed meeting on a case
9 for purposes of seeking legal counsel on a case, pursuant to
10 D.C. Official Code Section 2-575(b)(4) and/or deliberating
11 on a case pursuant to D.C. Official Code Section 2-
12 575(b)(13), but only after providing the necessary public
13 notice and, in the case of an emergency closed meeting, after
14 taking a roll call vote.

15 The decision of the Board in cases must be based
16 exclusively on the public record. To avoid any appearance
17 to the contrary, the Board request that persons present not
18 engage the members of the Board in conversation. Please turn
19 off all beepers and cell phones at this time so as to not
20 disrupt the proceedings.

21 Preliminary matters are those which relates
22 whether a case will or should be heard today such as a
23 request for a postponement, continuance or withdrawal, or
24 whether proper and adequate notice of the hearing has been
25 given. If you're not prepared to go forward with the case

1 today or if you believe the Board should not proceed, now is
2 the time to raise such a matter. Mr. Secretary, do we have
3 any preliminary matters?

4 MR. MOY: Good morning Mr. Chairman, members of
5 the Board. I do have a slight announcement regarding the
6 cases on today's docket. First, Case No. 20008, this is the
7 application of Brighter Chapter, has been withdrawn by the
8 applicant. Case Application No. 19984 of 2908 N Street, S.E.
9 has been postponed and rescheduled to December 11th, 2019,
10 as well as Case No. 20053 of Mohammed Sikder also rescheduled
11 to December 11th, 2019.

12 There were other preliminary matters, Mr.
13 Chairman, but I would suggest that the Board address those
14 when I call the case.

15 CHAIRPERSON HILL: Okay, great. Thank you, Mr.
16 Moy. Hi. Good morning everybody. I'm sure everyone's just
17 excited about the Nats' win last night, and we're all just
18 ready here to stay a whole day together, at least the ones
19 that are going to be here until the end. And then if you are
20 planning on testifying, if you wouldn't mind standing and
21 taking the oath administered by the Secretary to my left.

22 [WITNESSES SWORN.]

23 MR. MOY: Thank you, ladies and gentlemen. You
24 may consider yourselves under oath.

25 CHAIRPERSON HILL: Okay. So if you pulled an

1 agenda, we are going to switch a couple of things around
2 because there are some Commissioners here, ANC Commissioners
3 here with us today and they have a little bit of a time
4 constraint. I don't know where one of them is going, but
5 maybe at a break I'll figure that out. So basically we're
6 going to go -- we're going to do our meeting cases, and then
7 we're going to start with 20097, followed by 20117, followed
8 by 20107.

9 And then we're going to jump to 20061, and then
10 20104, and there's a chance that's where we'll take a lunch
11 break, I'm not really sure. And then we're going to come
12 back onto the first page and get to 20105, followed by 20098,
13 and then the rest, okay? So Mr. Moy, you can start us off
14 with the meeting case.

15 MR. MOY: Thank you, Mr. Chairman. So that would
16 be Application No. 18471-B, that's B as in Bravo, of
17 Universalist National Memorial Church. This is a request
18 for a modification of consequence to Conditions No. 1 and
19 Condition No. 2. Then BZA Order No. 18471-A, in order to
20 permit an increase in the total number of performances
21 allowed per year and to modify the time limit of the order
22 from six years to ten years.

23 This is in an existing building, RA-8 zoned at
24 premises 1810 16th Street, N.W., Square 177-N, Lot 802.

25 CHAIRPERSON HILL: Okay. Is the Board ready to

1 deliberate? Okay. I wasn't sure where I was on this in
2 terms of whether or not I wanted to ask some questions of the
3 applicant, but I think I can discuss this with everybody and
4 we can see where we get. Because there was some -- well,
5 after viewing the record determining what I thought about the
6 modification of consequence, I guess they are upping it from
7 60 to 96 and they're trying to get from six to ten years, and
8 I thought it was a little bit of an increase that I had some
9 questions.

10 But then after reading the ANC report, and also
11 in addition to that the ANC report had a couple of conditions
12 themselves, one of which kind of dealt with parking, which
13 it seems as though the applicant did address in the record,
14 and so I would I guess be somewhat -- well I wouldn't be
15 comfortable. I would have liked, as I said, to have more of
16 an opportunity to ask more questions. But I don't think that
17 it's necessary to have a hearing unless the Board thinks
18 otherwise. And then there was also the, what was the other
19 condition? And so the parking, I guess, was kind of
20 addressed. So I guess overall after reading the ANC's report
21 as well as that with the Office of Planning, I could be in
22 favor of this application. But I would like to hear what my
23 colleagues have to say.

24 VICE CHAIRPERSON HART: Yeah. This case, actually
25 the ANC 2B report, Exhibit 10, they actually requested kind

1 of two things in the one condition I guess, or the issue that
2 they raised. One of them was about advertisements for events
3 that promote transit, walking, and biking. That's kind of
4 related to parking, and then there's one that's talking about
5 parking when parking is actually needed, to direct people to
6 where their parking, designated parking lot is located, so
7 that they would not take up on street parking spaces. So I
8 think that they are kind of related concerns that the ANC
9 raised.

10 It seems as though, as you're right, the applicant
11 provided some information, additional information regarding
12 how they are meeting -- how they are currently addressing,
13 kind of promoting transit and walking. They didn't really
14 have much about biking in there, but I think that they
15 actually probably listening to this, they can understand that
16 that may be something that they add to their existing website
17 in addition to what they already have there.

18 And again, the applicant has provided information
19 about parking and where parking is relative to where their
20 site is, and that's also some information that's provided on
21 the website as well. So when people kind of go, you know,
22 to the website they can find that.

23 And regarding the actual case itself, I didn't
24 think that we needed to have a hearing on it. I think that
25 it's fairly straightforward. They are asking for additional

1 time. Well, they're adding, they're asking for modifications
2 to their existing order so that they really can deal with,
3 better with certainty for leasing purposes for the tenant
4 that they have.

5 Also I guess there was some ADA funding that was
6 available from the D.C. government, and so they wanted to be
7 able -- and that funding was, I guess, also tied to this
8 request in somewhat of an indirect way. I just felt that
9 they have been in operation for a number of years now, and
10 I would not have a -- and I think that they have -- we
11 haven't gotten any objection from anyone and we do actually
12 have the ANC 2B approval, or at least the recommendation for
13 approval.

14 So I could be able to support this. I felt that
15 they met the criteria under the zoning regulations as well.
16 So that's where I stand.

17 ZC COMMISSIONER SHAPIRO: Thank you, Mr. Chair.
18 I agree. I don't see the need for a hearing, as long as just
19 to be clear that the modification that's being requested is
20 limited to the two specific conditions. There were a total
21 of ten conditions in the original BZA Order, and they're
22 looking for a modification of those two. As long as that's
23 clear, then I don't see a need for a hearing either. That's
24 all I have, Mr. Chair.

25 MEMBER JOHN: Mr. Chairman, I agree. I thought

1 that the applicant made a good case for extending the term
2 based on the need to have certainty in negotiating a new
3 lease with the theater company, and they also demonstrated
4 that getting this additional revenue is important for them
5 to remain financially viable and to obtain this grant that's
6 needed for the ADA improvements. I also agree that the
7 remaining conditions should be unchanged and only those two
8 conditions should be changed, and that they have made a good
9 argument that there's no parking impact because of their
10 relationship with the Masonic Temple. So I can support the
11 agreement, the application.

12 CHAIRPERSON HILL: Okay, all right. So then I'll
13 go ahead and make a motion to approve Application No. 18471-
14 B, as captioned and read by the Secretary for the change of
15 the two Conditions No. 1 and No. 2, which is that the
16 performance will increase from 60 to 96 annually, and that
17 the period will extend from six to ten years, and all the
18 remaining conditions will remain in place, and ask for a
19 second.

20 MEMBER JOHN: Second.

21 CHAIRPERSON HILL: The motion made and seconded.
22 All those in favor say aye?

23 (Chorus of aye.)

24 CHAIRPERSON HILL: All those opposed?

25 (No response.)

1 CHAIRPERSON HILL: The motion passes. Mr. Moy.

2 MR. MOY: Staff would record the vote as 4 to 0
3 to 1, this is on the motion of Chairman Hill to approve the
4 request for modification for the change in the two
5 conditions, as well as continuing the remaining conditions
6 on the BZA Order. Seconding the motion is Ms. John. Also
7 in support Vice Chair Hart and Zoning Commissioner Peter
8 Shapiro. We have no other Board members with us today.

9 CHAIRPERSON HILL: All right. Thank you Mr. Moy.

10 (Whereupon, the above-entitled matter went off the
11 record at 9:53 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: 10-02-19

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

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