

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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PUBLIC MEETING

+ + + + +

WEDNESDAY

NOVEMBER 13, 2019

+ + + + +

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 9:40 a.m., Frederick Hill, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

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

ZONING COMMISSION MEMBER[S] PRESENT:

ANTHONY HOOD, CHAIRPERSON

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

ALEXANDRA CAIN, ESQ.

The transcript constitutes the minutes from the Public Meeting held on November 13, 2019.

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

WELCOME:

Frederick Hill, Chairperson.. 3

PRELIMINARY MATTERS:

Application No. 20143 & Appeal No. 20141 were
Postponed to November 20, 2019.. 6

Application No. 20144 Postponed to January 15, 2020.. . 6

Application No. 20069 Postponed to January 29, 2020.. . 6

APPLICATION NO. 19572

SIM DEVELOPMENT, LLC:.. 7

Board Deliberation:

Frederick Hill, Chairperson.. 7

Carlton Hart, Vice Chairperson. 9

Anthony Hood, ZC Chairperson. 10

Motion to Approve the Application.. 10

Vote: 3-0-2 to Approve Application. 11

ADJOURN:

Frederick Hill, Chairperson.. 11

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

9:40 a.m.

1
2
3 BZA CHAIR HILL: All right. Good morning. The
4 meeting will come to order. We are located in the Jerrily
5 R. Kress Memorial Hearing Room at 441 4th Street, N.W. This
6 is the November 13, 2019 Public Meeting of the Board of
7 Zoning Adjustment of the District of Columbia.

8 My name is Fred Hill, Chairperson. Joining me
9 today is Carlton Hart, Vice Chair, and Lorna John, Board
10 Member. And representing the Zoning Commission is Anthony
11 Hood.

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

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

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

23 All persons planning to testify either in favor
24 or in opposition must have raised their hand and been sworn
25 in by the Secretary.

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1 Also each witness must fill out two witness cards.
2 These cards are located on the table near the door to your
3 right and give the witness cards to the reporter sitting at
4 the table to my right.

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

12 The order of procedures for variances, special
13 exceptions and appeals are also listed as you walk in the
14 door.

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

22 The Board's Agenda includes cases set for
23 decision. After the Board adjourns, the Office of Zoning in
24 consultation with myself will determine whether a full or
25 summary order may be issued.

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

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

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

19 The decision of the Board in cases must be based
20 exclusively on the public record. To avoid any appearance
21 to the contrary, the Board requests that persons present not
22 engage the Members of the Board in conversation.

23 Please turn off all beepers and cell phones, at
24 this time, so as to not disrupt the proceedings.

25 Preliminary matters are those which relate to

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1 whether a case will or should be heard today, such as
2 requests for a postponement, continuance or withdrawal or
3 whether proper and adequate notice of the hearing has been
4 given. If you are not prepared to go forward with a case
5 today or if you believe that the Board should not proceed,
6 now is the time to raise such a matter.

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

8 SECRETARY MOY: Good morning, Mr. Chairman,
9 Members of the Board. I do have a brief announcement with
10 regards to today's docket for the transcript.

11 First, there are two case applications that have
12 been postponed and rescheduled to November 20, 2019. These
13 two cases are Application No. 20143 of Grand Realty, LLC and
14 Appeal No. 20141 of Dorothy Douglas.

15 There is also Case Application No. 20144 of David
16 Barth and Lisa Kays postponed and rescheduled to January 15,
17 2020.

18 And Case Application No. 20069 of Deidra Barksdale
19 postponed and rescheduled to January 29, 2020.

20 Other than that, there is a few other preliminary
21 matters, Mr. Chairman, but staff would suggest that the Board
22 address those when I call the case.

23 BZA CHAIR HILL: All right. Thank you, Mr. Moy.
24 If there is anyone here that would like to testify, if you
25 could, please, stand and take the oath administered by the

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1 Secretary to my left?

2 SECRETARY MOY: Good morning.

3 Do you solemnly swear or affirm that the testimony
4 you are about to present in this proceeding is the truth, the
5 whole truth and nothing but the truth?

6 (Witnesses sworn)

7 SECRETARY MOY: Thank you. Ladies and gentleman,
8 you may consider yourselves under oath.

9 BZA CHAIR HILL: Okay. Mr. Moy, thank you. If
10 you could go ahead and call our first meeting case?

11 SECRETARY MOY: Okay. The first and only case for
12 decision making is Application No. 19572 of SIM, S-I-M,
13 Development, LLC, as amended for special exception under
14 Subtitle C, § 703.2 from the parking requirements of Subtitle
15 C, § 701.5 to add two stories containing 16 units to an
16 existing two-story nine-unit mixed-use building in the MU-4
17 Zone. This is at 1916 15th Street, S.E., Square 5766, Lot
18 845.

19 BZA CHAIR HILL: Thank you, Mr. Moy. Is the Board
20 ready to deliberate? Okay. I can start. So the applicant
21 submitted a revised statement and self-certified
22 certification withdrawing its request for C202 variance
23 relief.

24 The Office of Planning submitted a supplemental
25 report noting that it had confirmed that the ZA had no longer

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1 believed that the applicant required C202 relief, but
2 remained in support of the application.

3 The applicant is now seeking a special exception
4 from the minimum parking requirements of C701.5.

5 The Board previously found that the applicant met
6 the special exception criteria due to the existing
7 nonconformity building on the property. Providing parking
8 would require demolition.

9 The applicant again mentioned its proximity to
10 mass transit and other features which was reducing the need
11 for parking. The applicant also submitted a parking study
12 which confirmed again about the sufficiency of on-street
13 parking available to meet the needs of the project.

14 The applicant has also agreed to all the TD and
15 planning conditions proposed by DDOT in Exhibit 45 and DDOT
16 had no objection to the project and noted that it did not
17 expect the project to have an adverse impact on the
18 District's transportation network.

19 DDOT had no, again, problems with it provided that
20 the applicant was agreeing to the TDM measures or TDM plan
21 which it did.

22 In terms of the special exception criteria which
23 is under 703.2, under (b) the use or structure and
24 particularly well-served by mass -- I'm sorry. The use or
25 structure is particularly well-served by mass transit, shared

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1 vehicle or bicycle facilities. I believe that the applicant
2 has shown that that is the case.

3 And then land use for transportation
4 characteristics of the neighborhood minimize the need for
5 required parking spaces. I will also agree that the
6 applicant has shown that they are meeting that standard.

7 I think that I would agree with again the analysis
8 that was provided by the Office of Planning. I am
9 discouraged or disappointed, I should say, that the ANC was
10 concerned about the parking and they were in denial due to
11 their concern about the parking relief.

12 However, I think that what the applicant has put
13 forward shows that they still do meet the criteria for us to
14 grant the application under 703.2(b) and (c).

15 So I'm going to be voting in favor of the
16 application. Is there anything else anyone else would like
17 to add?

18 VICE CHAIRPERSON HART: Yeah, I would agree with
19 you, Mr. Chairman, on the information that you just provided.
20 I do -- would support the application and, you know, they are
21 now just seeking the parking relief.

22 I'll also note in addition to what you have
23 raised, the special exception criteria, the general criteria,
24 there is Subtitle X 901.2 about it being, the project being,
25 in harmony with the general purpose and intent of the Zoning

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1 Regs and Zoning Map.

2 I think that the applicant showed that they would
3 be in harmony with that and also the -- would not intend to--
4 would not tend to adversely affect the use of neighboring
5 property in accordance with the Zoning Regs and Zoning Maps.
6 I would agree with that as well.

7 Again, this is a building that already exists.
8 They were -- that has almost, if not, 100 percent lot
9 occupancy. They are seeking this zoning relief because --
10 to be able to provide the zoning, they would have to do some
11 sort of demolition on -- of the existing building. And I
12 just didn't think that was appropriate in this matter, given
13 that they have 100 percent lot occupancy.

14 So with all that, I would be in support of the
15 application as well.

16 ZC CHAIR HOOD: And I'll just add that while it
17 was mentioned about the ANC letter, I do take that into great
18 consideration.

19 I think that in other cases we always look for
20 ways to mitigate any issues or concerns and I think while the
21 ANC is not all the way there, I think that they will see that
22 the mitigations and the area being served by transit very
23 well will be sufficient for this to move forward.

24 So I will be voting in support of this.

25 BZA CHAIR HILL: Okay. Then I'll make a motion

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1 to go ahead and approve Application No. 19572 as captioned
2 and read by the Secretary and ask for a second.

3 VICE CHAIRPERSON HART: Second.

4 BZA CHAIR HILL: The motion has been made and
5 seconded.

6 All those in favor say aye.

7 ALL: Aye.

8 BZA CHAIR HILL: All those opposed? The motion
9 passes. Mr. Moy?

10 SECRETARY MOY: Staff would record the vote as 3-
11 0-2. This is on the motion of Chairman Hill to approve the
12 application for the relief requested. Seconding the motion
13 is Vice Chair Hart. Also in support is Zoning Commission
14 Chair Anthony Hood. No other Board Members participating.
15 The motion carries, sir.

16 BZA CHAIR HILL: Thank you, Mr. Moy. By the way,
17 everybody, we are just going to follow the agenda the way it
18 is as you came walking in the door.

19 (Whereupon, the Public Meeting was concluded at
20 9:50 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: Board of Zoning Adjustment

Date: 11-13-19

Place: Washington, D.C.

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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