

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

+ + + + +

BOARD OF ZONING ADJUSTMENT

+ + + + +

PUBLIC MEETING

+ + + + +

WEDNESDAY

FEBRUARY 12, 2020

+ + + + +

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 PRESENT:

MICHAEL TURNBULL, FAIA, Commissioner (AOC)

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

MARY NAGELHOUT, ESQ.
PAUL GOLDSTEIN, ESQ.
DANIEL BASSETT, ESQ.
ALEXANDRA CAIN, ESQ.

The transcript constitutes the minutes from the Public Meeting held on February 12, 2020.

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

9:38 a.m.

CHAIRPERSON HILL: All right. Good morning. The hearing will please come to order. We are located in the Jerrily R. Kress Memorial Hearing Room at 441 4th Street NW. This is the February 12th public hearing of the Board of Zoning Adjustment in the District of Columbia.

My name is Fred Hill, chairperson. Joining me today is Carlton Hart, vice chair, and Lorna John, Board member. Representing the Zoning Commission is Michael Turnbull.

Copies of today's hearing agenda are available located in the wall bin near the door. Please be advised 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 and background noise. All persons planning to testify either in favor or opposition must have raised their hand and been sworn in by the secretary.

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

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

12 The order of procedures for special exceptions,
13 variances, and appeals are also listed as you come walking
14 in through the door. The record shall be closed at the
15 conclusion of each case except for any materials specifically
16 requested by the Board.

17 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 evidence to the Office of Zoning. After
20 the record is closed, no other information shall be accepted
21 by the Board.

22 The Board generally includes cases set for
23 decision. After the Board adjourns, the Office of Zoning,
24 in consultation with myself, will determine whether a fuller
25 summary order is needed or issues -- or could be issued.

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 that of the Office of Planning.

5 Although the Board favors the use of summary
6 orders whenever possible, an applicant may not wish to -- may
7 not ask for this from the Board.

8 The District of Columbia Administrative Procedures
9 Act require that a public hearing on each case be held in the
10 open before the public, pursuant to Section 405(b) and 406
11 of the Act. The Board may, consistent with its
12 rules and procedures and the Act, enter into a closed meeting
13 on a case for purposes of seeking legal counsel on a case,
14 pursuant to D.C. Official Code Section 2-575(b)(4) and/or
15 deliberating on a case pursuant to D.C. Official Code Section
16 2-575(b)(13) that only after providing the necessary public
17 notice and in the case of emergency closed meeting after
18 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 of
21 the contrary. The Board requests that persons present not
22 engage the members of the Board in a conversation.

23 Please turn off all beepers and cell phones at
24 this time so as not to disrupt the proceedings. Preliminary
25 matters are those which relate to whether something will be

1 heard today or postponed subject to request for postponed,
2 continuance, or withdrawal or whether proper and adequate
3 notice of the hearing has been given.

4 If you're not prepared to go forward with the case
5 today or if you believe the Board should not proceed, now is
6 the time to raise such a matter.

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

8 MR. MOY: Good morning, Mr. Chairman, and members
9 of the Board. I do have a brief announcement regarding cases
10 scheduled for today. This is for the record.

11 Case Application No. 20168 of 50 F Street, LLC,
12 has been postponed to February 26th, 2020. Case Application
13 20206 of Tim Purdy, P-U-R-D-Y, postponed, rescheduled to
14 March 11, 2020.

15 Case Application No. 20198 of Mehmet Ogden
16 postponed, rescheduled to March 25th, 2020. Then there are
17 four case applications that have been postponed, rescheduled
18 to March 4th, 2020. They are Nos. 20204 of 1001 Bryant
19 Street, LLC, Case No. 20197 of Ihab Mogassbi, Diamond Ridge,
20 LLC. That's, again, Case No. 20197.

21 The third one is 20186 of Elizabeth Hando, H-A-N-
22 D-O, and finally Case Application No. 20203 of Congressional
23 1018 Bryant, LLC. All these -- these last four case
24 applications are scheduled to March 4th, 2020.

25 Other than that, Mr. Chairman, there are

1 preliminary matters to specific cases and staff would suggest
2 the Board addressing those when I call the case.

3 CHAIRPERSON HILL: Okay. All right. Good
4 morning, everybody. If you're here to testify either in
5 favor or opposition, if you could please raise -- if you
6 could please stand and raise your hand and take the oath
7 administered by the secretary to my left.

8 MR. MOY: Good morning. Do you solemnly swear or
9 affirm that the testimony you are about to present in this
10 proceeding is the truth, whole truth, and nothing but the
11 truth?

12 (Witnesses are sworn.)

13 MR. MOY: Ladies and gentlemen, you may consider
14 yourselves under oath.

15 CHAIRPERSON HILL: All right. Good morning,
16 everyone.

17 Let's see. We are going to basically follow
18 everything that is in the agenda in terms of the meeting --
19 I am sorry, the meeting cases and the hearing cases, and also
20 I am going to have to -- I am being called away at 11:30.
21 So if you're here after 11:30 you're going to have Mr. Hart,
22 which is probably better than me.

23 So, Mr. Moy, you can call your first meeting case
24 whenever you like.

25 MR. MOY: Thank you, Mr. Chairman.

1 There are two decision cases in the meeting
2 session and I am going to call this one first, Mr. Chairman,
3 which is Case Application No. 20163 of 719 6th Street LLC.

4 Yeah. So as captioned advertised for a special
5 exception under Subtitle E Section 205.5 and 5201 from the
6 rear additional requirements Subtitle E Section 205.4, which
7 would construct a three-story rear addition to an existing
8 attached principal dwelling unit, RF-1 zone.

9 This is at 719 6th Street, N.E., Square 859 Lot
10 121, and -- and there are motions attached to this, Mr.
11 Chairman, principally from the applicant, which is a request
12 to reopen the record and amend the application and, I
13 believe, continue the hearing.

14 CHAIRPERSON HILL: Okay. Great. Has the Board
15 had an opportunity to look at the motions and is ready to
16 talk about it?

17 Okay. So I have as well. The -- in Exhibit 65
18 the applicant has asked to reopen the record and they had
19 asked to reopen the record because I guess they -- they found
20 some new errors in the measurement that I suppose they
21 discovered while they were -- I guess between now and since
22 the hearing closed, and since we, you know, were going to
23 start deliberating upon it.

24 And so they've asked to reopen the record and
25 schedule, I guess, so they can -- I believe, and the Board

1 can help me with this, but, like, you know, repost and
2 basically go through the process again. The ANC is in
3 opposition to this and they have cited -- what they have
4 cited in I believe it is Exhibit 67.

5 My feelings about this is that in terms of
6 basically just efficiency I would go ahead and vote to reopen
7 the record, have the applicant go ahead and go through the
8 process.

9 So I believe they are going to have to repost.
10 They are going to have to go through the ANC again, and I
11 doubt very -- based upon what also the ANC has said I doubt
12 the ANC's position is necessarily going to change.

13 But at least then we don't -- as the Board, I
14 think it's going to be more efficient to do it in this manner
15 than to deny the motion to reopen.

16 Does anybody have any comments on that?

17 VICE CHAIRPERSON HART: Only that -- I would agree
18 with you, Mr. Chairman. I think that one of the issues that
19 the applicant has raised is that they have a new architect
20 that has kind of looked at some of the drawings and kind of
21 understood that there were some errors, and I'd rather have
22 the -- there seemed to be a lot of that going on with this
23 particular drawing set and I think that we do need to have
24 some just corrections for all of this, and I would rather
25 have that and have the applicant provide the information

1 that, you know, that we really need so that we can move
2 forward with that.

3 So I would be in support of the -- of, I guess,
4 reopening the record to amend and then have a continued
5 hearing.

6 CHAIRPERSON HILL: Okay. Anyone else?

7 COMMISSIONER TURNBULL: I would -- I would agree
8 with you and the vice chair, that there is enough information
9 in there for us to continue and reopen the record.

10 MEMBER JOHN: I agree that we should reopen the
11 record, based on the justification submitted by the
12 applicant.

13 CHAIRPERSON HILL: Okay, Mr. Moy. So we are going
14 to go ahead and do that. So do you want to make a motion or
15 can we --

16 MR. MOY: You could, or you could do it by
17 consensus.

18 CHAIRPERSON HILL: Okay. Well, we are going to
19 do it by consensus then. So by consensus we all seem to
20 agree that we are going to go ahead and reopen the record,
21 allow the application to be amended and the posting to
22 happen, and we will see this whenever we see this again. So
23 I guess you will kind of just let us know. Are you going to
24 -- you know that now?

25 MR. MOY: I would suggest, Mr. Chairman, since

1 there's a reposting and notice requirements I would recommend
2 to the -- for the moving the decision to the end of March.

3 CHAIRPERSON HILL: Continue hearing, you mean, Mr.
4 Moy?

5 MR. MOY: Yes, so that would be March 25th, if
6 that's good with Mr. Turnbull.

7 CHAIRPERSON HILL: Is that with Mr. Turnbull's
8 back?

9 COMMISSIONER TURNBULL: I didn't know I had that
10 much power. No, that's fine. That's fine. I'll be glad to
11 be here.

12 CHAIRPERSON HILL: Okay. Great. All right. So
13 we will do that again. Continued hearing on March 25th.

14 MR. MOY: In the meantime, Mr. Chairman, if
15 there's any timeline for submission of this I'll note that
16 in an OZ memo that I will upload into the record.

17 CHAIRPERSON HILL: Okay. And also, I am sure the
18 applicant is listening and I also see the attorney here in
19 the audience today, I guess there was, like, some
20 clarification, like, there was something about the sun
21 studies that we were a little bit -- seemed not consistent.
22 So just kind of whether -- some issues in the record that
23 seemed to refer to the sun studies. So just kind of pointing
24 that out to the applicant.

25 Okay. All right. Then we will do that. Continue

1 the hearing on March 25th. Thank you, Mr. Moy.

2 MR. MOY: All right. The next item on the agenda
3 before the Board, there was a filing for an advanced party
4 status to Case Application No. 20184 of the Fort Lincoln-
5 Eastern Avenue LLC, and for the record I'll read the -- how
6 this application is captioned.

7 This is special exceptions under the theoretical
8 lot, subdivision requirements, Subtitle C. Section 305.1 and
9 under the new residential development requirements Subtitle
10 U Section 421 and under the penthouse requirement, Subtitle
11 C Section 1500.4, and pursuant to Subtitle X Chapter 10 for
12 a variance from the vehicular access requirements Subtitle
13 C Section 305.3(b), which would allow a new residential
14 development project of 51 townhouses in the RA-1 and RA-4
15 zone.

16 This is at premises bounded between Eastern Avenue
17 N.E., Bladensburg Road N.E., and Fort Lincoln Drive N.E.,
18 Square 4325 Lots 802 and 44 and Parcel 0174/15. So, again,
19 this is a request for advance party status for an application
20 which is scheduled for hearing on February 26th, Mr.
21 Chairman.

22 And other than that, for you to know there is a
23 preliminary matter as well, which was a motion filed by the
24 requester for party status, the Board should address pending
25 the decision on the party status.

1 CHAIRPERSON HILL: All right. Okay. Thank you,
2 Mr. Moy.

3 Is the Board ready to deliberate on these issues?
4 Okay. Let's see. With regard to -- well, first of all, are
5 the -- and this is the weirdest part of this -- so you don't
6 even -- you can't come forward. That's the weird part.

7 So are the people here that are requesting party
8 status? Could you please raise your hands? And is the
9 applicant here also? Thank you very much.

10 And, Mr. Turnbull, since you're on the Zoning
11 Commission -- so, okay. So let's see. So Mr. Turnbull --
12 and I guess I am just trying to clarify this, so when we are
13 in the meeting case, which is -- and I am looking at you
14 because of the Zoning Commission -- when we are in the
15 meeting case and we talk about this and people come and yet
16 they are not allowed to come forward, if -- and they are
17 supposed to be here in order for us to actually just -- they
18 have to raise their hand, maybe the Zoning Commission can
19 change and so we can actually ask questions of them or bring
20 them forward in a way that's not awkward. So just kind of --
21 just a suggestion.

22 MR. MOY: I'll talk with OAG about that and --

23 CHAIRPERSON HILL: Oh. Great. Wonderful. There
24 you go.

25 All right. Okay. So as far as the party status

1 goes, so the party status was untimely to begin with in terms
2 of the advance party status request. And then in addition
3 to that, there is a request to postpone the hearing that I
4 believe is going to be on the 26th of this month.

5 I think that in terms of the -- I guess in terms
6 of the untimeliness, like, I would be willing to waive the
7 untimeliness of this due to the fact that it is an
8 association and that I think that they've made a case to be
9 a party because they do seem to have different issues than
10 the previous party that we gave party status to.

11 Okay. I mean, this is my thoughts. And so I
12 would be willing to waive the timeliness issue in terms of
13 them filing for advanced party status because the hearing
14 hasn't happened and the hearing is going to -- and this isn't
15 necessarily going to happen all the time.

16 But, again, we did have a -- I think we did have
17 a preliminary hearing where we didn't hear anything and, yet,
18 we postponed it over now till the 26th. And so since we
19 haven't heard anything yet, that's why I would also be in
20 favor of waiving it and that it was an association that is
21 trying to get advanced party status and that they have
22 different issues than the previous association that we had
23 granted party status to.

24 So that's my first thought on that. And then I'd
25 be in favor of granting the party status. In addition to

1 that, the applicant had not -- had not put anything in the
2 record to opposing the party status. So those are my two
3 things on that, before we get to the postponement question.

4 Do you all have any thoughts?

5 VICE CHAIRPERSON HART: Only that I -- I don't
6 have an issue with the party status request as well. I think
7 they've raised them, you know -- some concerns as well.
8 Didn't really have a lot to add to what you said. So I'd be
9 supportive of a -- of giving them party status and I guess
10 we can talk about the motion for -- to continue it or, you
11 know, push it off to --

12 CHAIRPERSON HILL: Ms. John?

13 MEMBER JOHN: I am also in agreement that we
14 should grant advance party status in this case because I
15 believe that the applicant has shown that there is good cause
16 and that they have a unique interest which is separate from
17 the other party to whom we granted party status. And so I
18 would agree with you.

19 CHAIRPERSON HILL: Okay. So Mr. Moy, we are going
20 to go ahead and waive the timeliness issue in terms of
21 requesting advance party status and then we are going to go
22 ahead and grant party status to Fort Lincoln -- thank you so
23 much -- Fort Lincoln Civic Association. So that's that.

24 So then they filed a motion to ask for
25 postponement. I read through the motion and I would not be

1 in favor granting the motion to postpone because I think we
2 still have two weeks before the hearing and we've now just
3 granted them the -- you know, untimeliness for the advance
4 party status request.

5 So I still think they have two weeks to get ready
6 for the hearing. So I would be in -- I would be voting to
7 deny the postponement.

8 What does the Board think?

9 VICE CHAIRPERSON HART: Yeah, these are always
10 kind of, I don't know, like, difficult at times just because
11 it's -- and I think we have given -- sometimes we have given
12 the continuance. Sometimes we have not continued the
13 hearing. We haven't actually had the hearing for this case.

14 I think that we do need to maintain. This was
15 actually scheduled to be heard, well, I think early January
16 or earlier in January, and we have kind of pushed this off.
17 And so I would rather have this heard on the 26th and if then
18 we need to continue after that we can -- we can decide to do
19 that. But I think we should just kind of start this process
20 and move from that point. But I would not want to move to
21 a new date. So I would be denying it as well.

22 MEMBER JOHN: Mr. Chairman, I would like to go a
23 different route. Just -- you know, we received this motion
24 I think this morning and just looking through it I noticed
25 that there is an allegation that there were some recent

1 filings, a 75-page prehearing submission and other documents
2 that the Fort Lincoln community is alleging to be
3 prejudicial, and I don't know if they will have enough time
4 to really, you know, prepare to oppose this case.

5 [Laughter.]

6 MEMBER JOHN: But I never like to not be
7 considerate about counsel's ability to, you know, try the
8 case. So --

9 CHAIRPERSON HILL: Yeah, that's fine. So and I
10 am sorry to interrupt you, Ms. John, because I need three and
11 there's only three here.

12 So OAG -- I forget now -- I can ask people to come
13 up if I want to, correct?

14 MS. NAGELHOUT: If you're discussing the motion
15 I would say yes.

16 CHAIRPERSON HILL: Okay. Could the players come
17 up, please, that are here for this particular motion? And
18 please introduce yourselves for the record.

19 I am sorry. You have to push the button there.

20 MR. PEARSON: My name is Roy Pearson, counsel for
21 the Fort Lincoln Civic Association.

22 MR. TUMMONDS: Paul Tummonds, Goulston & Storrs,
23 counsel for the applicant.

24 CHAIRPERSON HILL: All right, Mr. Tummonds. So
25 you've heard everything now. Do you guys have an issue with

1 postponement?

2 MR. TUMMONDS: We do not.

3 CHAIRPERSON HILL: Okay.

4 MR. TUMMONDS: And I think -- first, to address,
5 real briefly, Commissioner John's comments, the changes that
6 were made to this application in our 21-day prehearing
7 statement were changes that made the project more conforming
8 to the zoning regulations.

9 They are the exact type of modifications that
10 really the BZA process wants to encourage. An applicant
11 files its application. It hears concerns from the community,
12 from stakeholders, from the ANC, and then we hope that the
13 applicant will address some of those concerns.

14 We have addressed those concerns. That's why we
15 have removed two areas of zoning relief that are necessary
16 for this project -- the variance relief that was necessary
17 because we were proposing a 20-foot-wide vehicular ingress
18 versus the 24. We have changed that. We are doing the 24.

19 The second was the special exception relief for
20 the roof structures for the roof access for some of the
21 townhouses. We have removed that.

22 We believe that that -- so there are not major
23 modifications to this proposal.

24 CHAIRPERSON HILL: Okay. Mr. Tummonds, I
25 apologize. I am just going to interrupt you because I am

1 leaving here at 11:30. So --

2 MR. TUMMONDS: We will agree --

3 CHAIRPERSON HILL: Right.

4 MR. TUMMONDS: -- despite that --

5 CHAIRPERSON HILL: Okay.

6 MR. TUMMONDS: Despite that --

7 CHAIRPERSON HILL: No, that's great. So --

8 MR. TUMMONDS: -- we will agree to a postponement.

9 Mr. Pearson has noted that he would like the postponement to
10 be until at least March 25th.

11 The applicant is able to continue this case to
12 March 25th, April 1st, or April 15th. We believe that that
13 would provide the party in opposition plenty of time to
14 review the information. I will say it wasn't 75 pages. It
15 was four pages of text and then it was the updated plans.
16 It was not 75 pages.

17 CHAIRPERSON HILL: Got you. Okay.

18 Mr. Moy, what's our schedule looking like on those
19 dates?

20 MR. PEARSON: If I may, our requested actions for
21 --

22 CHAIRPERSON HILL: Sure. Mr. Pearson, one second.
23 I am sorry. What were -- what were you saying? I am sorry.

24 MR. PEARSON: Our requested action was for a
25 continuance alternatively for a stay and that was because

1 there were issues introduced into the case for the first time
2 that would require not only reposting but also requiring
3 another presentation before the ANC --

4 CHAIRPERSON HILL: Okay. We will go ahead and
5 give you the continuance. So we will go ahead and give you
6 a continuance. And so does March 25th work for you guys?

7 MR. PEARSON: A date after March 25th is what we
8 ask. So April 1st or April 19th --

9 MR. TUMMONDS: The 15th.

10 MR. PEARSON: The 15th --

11 CHAIRPERSON HILL: Mr. Moy, what do the days look
12 like? And by the way, Mr. Pearson, they are being pretty
13 accommodating to you. Like, we -- as you saw, I was voting
14 against the postponement, as was Mr. Hart -- thank you so
15 much. But Ms. John --

16 MR. PEARSON: I appreciate that.

17 CHAIRPERSON HILL: Yeah. So we can thank her.
18 But I am just -- yeah, but anyway, so they are being
19 accommodating is what I am trying to help. So if you guys
20 can talk today even on your way out to the elevator, that
21 would be great.

22 What time, Mr. Moy, or day?

23 MR. MOY: Mr. Chairman, I think of those three
24 dates that I've just heard, what is most accommodating for
25 the Board would be April 1st and this would be the tenth

1 case.

2 CHAIRPERSON HILL: The tenth case?

3 MR. MOY: Yeah. Well, it'd be better because on
4 March 25th we already have 14 unless you want to add another
5 one.

6 CHAIRPERSON HILL: No, thank you.

7 MR. MOY: Okay.

8 CHAIRPERSON HILL: And then on the one --

9 MR. MOY: Fifteenth of April.

10 CHAIRPERSON HILL: What does that got?

11 MR. MOY: Fifteenth of April, you said?

12 MR. PEARSON: Yes.

13 MR. MOY: Fifteenth of April is doable. But I've
14 scheduled an appeal for --

15 CHAIRPERSON HILL: No, thank you.

16 So, Mr. Tummonds, we are going to go -- you guys,
17 we are going to do it on April 1st, okay? So we will see you
18 guys on April Fools Day.

19 MR. PEARSON: Thank you very much.

20 CHAIRPERSON HILL: Okay. All right. Great.

21 Thank you.

22 All right, Mr. Moy. Let's continue on.

23 MR. MOY: Thank you, Mr. Chairman.

24 This is the last case item in the Board's meeting
25 session and it is Case Application No. 20189 of Ihab

1 Mogassbi--Diamond Ridge LLC as amended for special exceptions
2 under the general penthouse requirements Subtitle C Section
3 1500.4, Subtitle C Section 1504 from the penthouse enclosure
4 requirements, Subtitle C Section 1500.9, from the penthouse
5 setback requirements Subtitle C Section 1502.1, under
6 Subtitle E Section 5201 for the rear addition requirements
7 of Subtitle E Section 205.4, under Subtitle E Section 5203
8 from the rooftop, architectural element requirements of
9 Subtitle E Section 206.1(a) and, finally, from the
10 residential conversion requirements Subtitle U Section 320.2
11 to convert a currently vacant attached building to a three-
12 unit apartment house RF-1 zone. This is at 1422 Shepherd
13 Street, N.W., Square 2693, Lot 18.

14 CHAIRPERSON HILL: Thank you, Mr. Moy.

15 Is the Board ready to deliberate?

16 VICE CHAIRPERSON HART: Sure. Sure. Let's start.

17 CHAIRPERSON HILL: Would someone else like to
18 start? Thank you so much.

19 [Laughter.]

20 VICE CHAIRPERSON HART: Sure. Yeah, in this case
21 we closed the hearing on February 5th and we had really
22 looked to -- there was some question about the -- what was
23 happening with the rooftop architectural element and part of
24 that was what the rooftop was going to look like and I think
25 we did actually get -- understood from the applicant that

1 there was an eave, I guess, that they were looking to -- that
2 they were going to -- that was showing in the plans and the
3 question that we had was the actual drawings showed the eave
4 but the picture that we had actually didn't show that.

5 What they had actually built didn't show that
6 eave. And so -- but the drawings themselves actually
7 included it and those are what the DCRA will be looking to
8 I guess approve and move forward with.

9 And I understand that this project was already
10 constructed or a portion of already constructed and they were
11 trying to bring the building into compliance. The new owner
12 was trying to do that. The -- and so there was a lot of
13 construction that had already occurred, including the
14 penthouse -- there was a stair, I guess, that went up to the
15 penthouse.

16 While it was a little odd looking in that it was
17 hard to -- the stair itself came up from the roof of the
18 building and -- or the house and it had -- it was protruding,
19 I guess, onto the roof. It was a better front of the
20 building that was -- than was previously included in the --
21 or were designed for the building.

22 I think that the new owner did try to make the
23 front of the building more conforming to the rest of the
24 block than what they had purchased because, again, this
25 project had already been started.

1 I do believe that they had -- that this new design
2 better meets the -- kind of what's going on with the rest of
3 the block. Not an exact match, of course, what's going on
4 but it is more in keeping with it.

5 The Office of Planning is actually -- they were
6 supportive in their most recent report. They were supportive
7 of the application and they were recommending approval of all
8 of the relief that was being requested, and the -- Mr. Moy
9 has read off all of the -- there was a lot of relief that was
10 being requested for his for general penthouse, General
11 Regulations 1500 -- Subtitle C 1500.4, Subtitle C 1500.9,
12 also penthouse setbacks C 1502.1, and they have -- I think
13 that they have -- that the applicant has made their -- has
14 shown how they are able to either meet that, the regulations,
15 or that because they are -- they can't meet it that I would
16 -- and why they can't meet it, I would be in support of it.
17 So it's -- while I understand that they can't meet it, I
18 would be supportive of their request to get that penthouse
19 relief.

20 For Subtitle E 205.4 for the rear yard, I --
21 again, I think that the project did show that it was while
22 farther back than the -- than the building to -- in the next
23 door building I didn't feel that it was unduly impacting
24 anything.

25 I thought it was actually fine for that and I

1 think that the OP report laid out why we should be approving
2 this and I would agree with that. I think this was a fairly
3 difficult project in that because it had already been
4 constructed that we were trying to look at and we could
5 actually see what some of the impacts were as opposed to
6 being kind of a hypothetical, and while it is larger than
7 some of the next door adjacent buildings, I thought that they
8 did meet the requirements under the zoning regs and I would
9 be in support of it.

10 And that's it.

11 MEMBER JOHN: I am in agreement with what
12 Commissioner Hart just discussed, and I would just note that
13 the ANC now supports the application. It did before, but had
14 requested conditions, and those conditions were in Exhibit
15 27.

16 And now in Exhibit 52 it seems to me that the ANC
17 is not requesting those conditions because the developer has
18 agreed with ANC's request, and as we had mentioned in the
19 hearing, those conditions -- the Board would not include
20 those conditions in the order because they are not -- they
21 are beyond the scope of the Board's jurisdiction. So --

22 CHAIRPERSON HILL: Okay. Great.

23 I will agree with all of my colleagues. Thank you
24 so much for your analysis, Mr. Turnbull. You're not on this
25 one, correct? Right?

1 And also then yes, Ms. John, as you had mentioned,
2 we had spoken with the ANC when they were here and they had
3 said -- or we had spoken with the applicant, that the
4 applicant had agreed to the terms with the ANC but those are
5 things that we weren't able to necessarily enforce.

6 So we weren't going to put those in as conditions,
7 but I am glad that the ANC and the applicant has agreed to
8 those particular conditions.

9 So with that being the case, I'll go ahead and
10 make a motion to approve Application No. 20189 as captioned
11 and read by the secretary and ask for a second.

12 VICE CHAIRPERSON HART: Second.

13 CHAIRPERSON HILL: Motion made and seconded. All
14 those in favor say aye.

15 (Chorus of ayes.)

16 CHAIRPERSON HILL: All those opposed?

17 The motion passes, Mr. Moy.

18 MR. MOY: Mr. Chairman, before I read the final
19 vote count I am in receipt of an absentee ballot wrote from
20 Peter May, who participated on this application, and his vote
21 is cast to approve the application with any such conditions
22 as the Board may impose.

23 So that would give a final vote of 4 to 0 to one.
24 This is on the motion, Chairman Hill, to approve the
25 application for the relief requested. Seconded the motion,

1 Vice Chair Hart, also in support, Ms. John, and, of course,
2 Zoning Commissioner Peter May, and a Board member not
3 participating.

4 CHAIRPERSON HILL: All right. Thank you, Mr. Moy.

5 Mr. Moy, when you're ready we can have our first
6 hearing case.

7 [Whereupon, at 10:12 a.m., the above-entitled
8 matter concluded.]

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

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: 02-12-20

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

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701