

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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PUBLIC MEETING

+ + + + +

WEDNESDAY

APRIL 29, 2020

+ + + + +

The Regular Public Meeting convened by Video Teleconference, pursuant to notice at 9:30 a.m. EDT, Frederick L. Hill, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

FREDERICK L. HILL, Chairperson
LORNA JOHN, Board Member

ZONING COMMISSION MEMBER PRESENT:

ANTHONY HOOD, Zoning Commission Chair

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary
PAUL YOUNG, Zoning Data Specialist

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

ALEXANDRA CAIN, ESQ.

The transcript constitutes the minutes from the Public Meeting held on April 29, 2020.

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

I. DECISIONS

- 1) Application No. 20222 of Jack Spicer Properties
LLC 4
Approved 4-0-1 8
- 2) Application No. 20194 of Hamilton St. N.W., LLC8
Approved 4-0-1 10

II. CONSENT CALENDAR**A. Motion for Modification of Consequence**

Application No. 19466-A of Beresford Davis 11
Will be rescheduled

III. MOTIONS**A. Motion to Waive 40-Day Notice Requirement**

Application No. 20240 of Schmidt Development,
LLC 14
Dismissed

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

9:31 a.m.

BZA CHAIR HILL: The meeting will please come to order. Good morning, ladies and gentlemen. This is the April 29, 2020 public meeting for the Board of Zoning Adjustment for the District of Columbia. We are convened by video conference. My name is Fred Hill, Chairperson. Joining me today is Lorna John, Board Member. Representing the Zoning Commission is Anthony Hood.

Today's meeting agenda is available to you on the Office of Zoning website. We do not take any public testimony during the decision cases, which is all we're doing today. Please be advised that this proceeding is being recorded by a court reporter.

Does the staff have any preliminary matters that we need to discuss, Mr. Moy? You're on mute, Mr. Moy.

MR. MOY: I'm on what?

BZA CHAIR HILL: You were on mute. I'm sorry.

MR. MOY: I am? Okay.

BZA CHAIR HILL: No, now you're not on mute. We can hear you now.

MR. MOY: Oh, you can hear me now?

BZA CHAIR HILL: Yes.

MR. MOY: Okay. All right. Thank you.

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1 BZA CHAIR HILL: Do we have any preliminary
2 matters?

3 MR. MOY: I'm sorry?

4 BZA CHAIR HILL: Do we have any preliminary
5 matters?

6 MR. MOY: Yes, just very quickly for the record.
7 Case Application No. 20201 of DC Superpack LLC. That was
8 originally scheduled for today's meeting. It has been
9 administratively scheduled to May 6, 2020 which is next week
10 because of a lack of quorum of Board Members who are
11 participating on that case. That's going to be held next
12 week on May 6th. That's all from me, Mr. Chairman.

13 BZA CHAIR HILL: Okay. Thank you. Now I've lost
14 my paperwork so if you could give me just one moment, please.
15 Okay.

16 Mr. Moy, you can call our first case.

17 MR. MOY: Thank you, Mr. Chairman. I believe that
18 would be Case Application No. 20222 of Jack Spicer Properties
19 LLC. For the record I'll read the caption as advertised.
20 This was amended for special exception under Subtitle C,
21 Section 703.2 from the Minimum parking requirements of
22 Subtitle C, Section 701.5, and pursuant to 11 DCMR Subtitle
23 X, Chapter 10, for an area variance from the lot occupancy
24 requirements of Subtitle D, Section 302.1, to subdivide the
25 existing record lot into two separate lots of record and to

1 internally divide the existing detached principal dwelling
2 unit in two separate, semi-detached, principal dwelling units
3 in the R-2 Zone at premises 5104-5106 Jay Street, N.E.,
4 Square 5176, Lot 369.

5 As the Board will recall, this was heard in a
6 public hearing that was scheduled in March 2011. It was set
7 for decision on March 2018. Of course because of COVID-19
8 that was never held and the reason why this is now being
9 addressed by the Board today, April 29th.

10 BZA CHAIR HILL: Okay, great. Thank you.

11 Is the Board ready to deliberate?

12 MEMBER JOHN: Yes.

13 BZA CHAIR HILL: Okay. So we had the hearing on
14 3/7/20 and there was a public hearing and we requested some
15 updated drawings. Also some issues about DDOT conditions.
16 We did get an email. Well, actually, we waited to hear about
17 the TDM plan and the thoughts on the TDM plan. We did get
18 an email from DDOT, Exhibit 45(b), that the TDM plan is not
19 needed. We did get the drawings from the Applicant that kind
20 of clarified some of the issues that we had requested.

21 DDOT had some concerns about public space, but I
22 believe those issues are outside of the Board's purview. I
23 think we did get everything we needed. I didn't have any
24 particular issue with the application. I believe that they
25 met the standards with which we can approve this application.

1 I also was in agreement with the Office of
2 Planning in terms of their analysis. I do appreciate that.
3 Also that now that we have the clarification from DDOT that
4 the TDM plan is not needed and, again, I believe that their
5 conditions are not within our purview, I'm fine with all the
6 stuff that had to do with DDOT.

7 In terms of the ANC, ANC 7C, they did also agree
8 with the application in terms of it had met the standard for
9 which we can grant the relief requested. Does anyone have
10 anything else they would like to add?

11 MEMBER JOHN: Mr. Chairman, I would just add that
12 the issues raised by the ANC such as matters relating to
13 roofing, poor customer support on another or other newly
14 renovated homes, and outstanding DPW tickets are not within
15 the Board's jurisdiction so we did not give weight -- I did
16 not give great weight to those issues and concerns.

17 Other than that, I thought that you summarize the
18 relief requested and how the application meets the criteria
19 of the regulations. I also thought that this is a fairly
20 straightforward application now that we've received the
21 additional documents we requested and the DDOT determination
22 that no TDM plan is required for this parking relief.

23 The only other thing I would mention is that
24 because of the grading at the rear of the property the
25 Applicant was not able to provide parking on site and had to

1 remove the existing curb cut so there's no opportunity to
2 provide two required parking spaces. I thought OP did a
3 thorough analysis of the application and I can support it.

4 BZA CHAIR HILL: Thank you, Ms. John. Thank you
5 for your added comments.

6 Chairman Hood, do you have anything?

7 ZC CHAIR HOOD: I would agree with all the
8 comments I've heard from both of my colleagues. I think the
9 record in this case merits our approval. All the mitigation
10 comments were rationally thought out. I would agree with
11 Board Member John about the ANC but I'm just glad that she
12 was able to continue to work with the ANC. I think that's
13 very important. I think the analysis on this case merits an
14 approval.

15 BZA CHAIR HILL: Okay, thank you Chairman. I'm
16 going to go ahead and make a motion to approve application
17 No. 20222 and ask for a second.

18 MEMBER JOHN: Second.

19 BZA CHAIR HILL: The motion has been made and
20 seconded. All those in favor say aye.

21 (Chorus of aye.)

22 BZA CHAIR HILL: All those opposed? The motion
23 passes.

24 Mr. Moy.

25 MR. MOY: Mr. Chairman, before I give the final

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1 vote count, we do have an absentee vote from Carlton Hart who
2 also participated on this case. His absentee vote is to
3 approve the application for the relief requested. That would
4 give a final vote of 4-0-1.

5 That's on the motion of the Chairman to approve
6 the application for the relief requested. Seconding the
7 motion was Ms. John. Also in support is Zoning Commission
8 Chairman Mr. Hood and, of course, Vice Chair Mr. Hart. We
9 have a Board seat that is vacant. Again, the vote count is
10 4-0-1.

11 BZA CHAIR HILL: Okay great, thank you, Mr. Moy.
12 You can go ahead and call the next case when you get a
13 chance.

14 MR. MOY: Thank you, Mr. Chairman. So before the
15 Board is Case Application No. 20194 of Hamilton Street NW
16 LLC. This is advertised for a special exception under
17 Subtitle E, Section 205.5 and Subtitle E 5201 from the rear
18 yard -- rather, the rear addition requirements, Subtitle E,
19 Section 205.4.

20 This would construct a third story in a three-
21 story rear addition to an existing principal dwelling unit
22 and convert it to a flat in the RF-1 Zone at premises 752
23 Lamont Street N.W., Square 2892, Lot 45. Again, this
24 application was heard in a public hearing on March 11th. At
25 that time the Board scheduled the decision for March 25th.

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1 Of course, that never took place. Then it was rescheduled
2 for today's decision.

3 BZA CHAIR HILL: Is the Board ready to deliberate?
4 Okay. We heard that back on 3/11/20, as Mr. Moy mentioned,
5 we had asked for additional information from the Applicant
6 in terms of we wanted a set of drawings that were consistent
7 across the elevations and plans showing roof access,
8 consistency of the porch roof design and roof overhang.
9 Those are provided in Exhibits 45 through 46.

10 We also have a dated affidavit of maintenance
11 which is in Exhibit 44. We did receive all the information
12 that we requested. After going back and reviewing the record
13 again and the updated request for submission, I would agree
14 with the argument provided by the Applicant that it meets the
15 standard under Subtitle E 5201.3.

16 I didn't think the additional six inches would
17 have created an undue burden. I also would agree with the
18 analysis that was provided by the Office of Planning in
19 support, and the recommendations that we received from ANC
20 1A in support. DDOT was also in support and I thought that,
21 again, the argument that the Applicant had made was meeting
22 the standard with which we could grant this application so
23 I'll be voting in favor.

24 Is there anything else the Board would like to
25 add? All right. So then I'll go ahead and make a motion to

1 approve Application No. 20194 as captioned and read by the
2 secretary and ask for a second.

3 ZC CHAIR HOOD: I'll second it.

4 BZA CHAIR HILL: The motion has been made and
5 seconded. All those in favor say aye.

6 (Chorus of aye.)

7 Ms. John, I think you're on mute.

8 MEMBER JOHN: No, I'm not.

9 BZA CHAIR HILL: All right. All those opposed.
10 All right, Mr. Moy. The motion passes.

11 MR. MOY: Thank you Mr. Chairman. Before I give
12 a final vote count, once again Vice Chair Carlton Hart also
13 participated on this case. In his absence he did submit an
14 absentee ballot. His absentee ballot is to approve the
15 application for the relief requested.

16 That would give a final vote of 4-0-1. This is
17 on the motion of Chairman Hill to approve the application for
18 the relief requested. Seconding the motion was Zoning
19 Commissioner Chair Mr. Hood. Also in support Ms. John and,
20 of course, Vice Chair Hart. We have a Board seat that's
21 vacant. Again, the vote was 4-0-1.

22 BZA CHAIR HILL: Okay great, thanks. Thank you,
23 Mr. Moy.

24 Whenever you are ready you can call our next
25 decision case.

1 MR. MOY: Yes, thank you Mr. Chairman. This
2 action for the Board is a request for a modification of
3 consequence that was filed in the case record. This is
4 Application No. 19466-A, Beresford Davis. Again, this
5 request is for a modification of consequence, Subtitle Y
6 Section 704, the modification to the plans approved by BZA
7 Order No. 194266 to include a third story addition to the
8 approved three-unit apartment house in the RF-1 Zone. This
9 is at premises 1215 Holbrook Terrace, N.E., Square 4057, Lot
10 195.

11 BZA CHAIR HILL: Okay, thank you. Is the Board
12 ready to deliberate about this?

13 MEMBER JOHN: Yes.

14 BZA CHAIR HILL: All right. Okay. So I had, I
15 guess, an issue with this in that I didn't think it was a
16 modification of consequence. I believe that it's a
17 modification of significance based on the record and what is
18 in the record.

19 Based on the fact they are adding a third story,
20 I still think the Applicant would need to provide some kind
21 of an argument for U 320.2(e) through (i) which was not
22 previously considered in the original hearing. I do see that
23 the Office of Planning is in support, but they also seem to
24 be in support of it as a modification of significance. That
25 being the case, we would have to bring it back before us for

1 a public hearing.

2 There was also an ANC report on this saying they
3 are comfortable moving forward. However, I do think this
4 would be a limited scope hearing just on review of 320.2(e)
5 through (i). If the Applicant is watching, we would need
6 something in the record that addresses that.

7 Then also at the public hearing we would go ahead
8 and hear their arguments for that review of 320.2(e) through
9 (i) again. Then also if the Applicant would reach out, or
10 I would like the Applicant to reach out, to the ANC and get
11 something from them with regard to their project.

12 I did think that it was relatively straight
13 forward. However, I don't think that it's a modification of
14 consequence and it's actually one of significance. I would
15 like to pull that off of the Decision calendar and put it on
16 the Hearing.

17 Does the Board have any comments?

18 MEMBER JOHN: Mr. Chairman, I agree with your
19 analysis. I would be particularly concerned that the prior
20 application -- in the prior application there was no
21 discussion of how the third floor addition would impact light
22 and air and privacy of the adjacent neighbors, so I think
23 that type of analysis would be very important to have. I
24 also agree that we should hear from the ANC.

25 ZC CHAIR HOOD: I would agree as well, Mr.

1 Chairman. I think it takes only one of us to take it off,
2 but I think that this needs to be vetted and have a
3 discussion, as you stated. I would agree with your analysis
4 of moving forward.

5 BZA CHAIR HILL: Okay. Mr. Moy, when do you think
6 we might be able to put this on for the hearing?

7 MR. MOY: Mr. Chairman, unfortunately I cannot
8 give a specific hearing date just yet because we have not
9 "reopened" officially although we are open. In the sense
10 that open for convening public hearings in our hearing
11 chamber, once that takes place, then I can set a hearing date
12 for this and advertise it with a memorandum in the case
13 record. Of course, staff will contact all the parties. I
14 would suggest the Board set this for the very first public
15 hearing session when we begin, but that's the Board's desire
16 as well.

17 BZA CHAIR HILL: I appreciate that, Mr. Moy. As
18 I reviewing it and kind of having a chance to get to look,
19 I think it would be -- it's something that we might have been
20 able to deal with on the Decision calendar. I'm glad that
21 we can do it as quickly as we can. If I ask the question as
22 to when you know we can put this on the calendar, I was
23 thinking if you knew that answer, Mr. Moy, you would be a
24 very wise man. Okay. All right, Mr. Moy. That's great.
25 Just let the Applicant know.

1 Go ahead and call our last meeting case.

2 MR. MOY: Okay, Mr. Chair. This is a motion that
3 was filed by the Applicant and the motion is to waive the 40-
4 day notice requirement. He filed on March 6th of 2020 and
5 it's under Exhibit 35 in the case record. This case, if we
6 were able to hold it, which was originally scheduled for
7 April 1st and, of course, we all know that didn't take place.
8 What's before you is the motion to waive the 40-day notice.

9 BZA CHAIR HILL: Okay, great. Thank you, Mr. Moy.
10 I didn't hear you read it but you're talking about
11 Application No. 20240 of Schmidt Development, LLC.

12 MR. MOY: Yes, that's correct. Thank you for
13 following up on me. I didn't read the caption but, if you
14 want me to read it, I can do it. It's rather long.

15 BZA CHAIR HILL: As long as we don't need to read
16 the whole caption, that's fine. In terms of what I think the
17 waiver was requesting, it's actually now moot because of the
18 time that has already taken place. I don't think we need --
19 actually since OAG is on the call. I don't think we have --
20 it's just moot, right? We don't have to make a motion. The
21 time has already elapsed.

22 MS. CAIN: Yes, effectively the 40 days that they
23 were seeking has past and will continue to grow between now
24 and when it's eventually heard. The Office of Zoning will
25 have to re-notice in some form or another the hearing date

1 once that's finally scheduled.

2 BZA CHAIR HILL: All right. So I don't have to
3 make a motion. Okay, all right.

4 It's dismissed as moot, Mr. Moy. I guess that's
5 it. Right, Mr. Moy?

6 MR. MOY: That's all that is on your agenda for
7 today unless you have new business.

8 BZA CHAIR HILL: No. Okay, so I guess we're back
9 again next Wednesday. Correct, Mr. Moy?

10 MR. MOY: That's correct, sir.

11 BZA CHAIR HILL: Okay. Chairman Hood, you are not
12 with us next Wednesday or you are?

13 ZC CHAIR HOOD: Since it's so convenient, I may
14 just watch. No, I'm not with you next week.

15 BZA CHAIR HILL: It is convenient, isn't it? All
16 right. With that being the case then, we're going to go
17 ahead and adjourn this session -- hearing. Mr. Moy, we'll
18 see you next week then. Okay?

19 MR. MOY: Yes. Thank you very much everybody.

20 ZC CHAIR HOOD: Thanks, everyone. Bye.

21 MEMBER JOHN: Thank you.

22 (Whereupon, the above-entitled matter went off the
23 record at 9:53 a.m.)

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: DCZC

Date: 04-29-20

Place: teleconference

was duly recorded and accurately transcribed under
my direction; further, that said transcript is a
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