

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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VIRTUAL PUBLIC MEETING

+ + + + +

WEDNESDAY

JULY 8, 2020

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The Virtual Public Meeting of the District of Columbia Board of Zoning Adjustment convened via 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  
CARLTON HART, Vice Chair (NCPC)  
LORNA JOHN, Board Member

ZONING COMMISSION MEMBERS PRESENT:

ANTHONY HOOD, Chairman  
PETER SHAPIRO

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 Virtual Public Meeting held on July 8, 2020.

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

I. **DECISIONS**

Case Number: 20232 . . . . . 5  
Case Name: Appeal of ANC 6C

Case Number: 20255 . . . . . 19  
Case Name: Application of Mid City Builders, LLC

Case Number: 20262 . . . . . 22  
Case Name: Application of 741 Morton LLC

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

9:32 a.m.

BZA CHAIR HILL: The meeting will please come to order. Good morning ladies and gentlemen. We're convened and broadcasting this decision meeting by videoconference this July 8, 2020, Public Meeting Session of the Board of Zoning Adjustment, 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 Peter Shapiro. Other members as we move through the day. Peter May is also going to be with us and I'll name others as we get to any decisions where they come on board.

Today's meeting agenda is available to you on the Office of Zoning's website. Please be advised that this proceeding is being recorded by a court reporter and is also webcast live via Webex and YouTube live. The video will be available on the Office of Zoning website after today's hearing session.

Accordingly, everyone who is listening on Webex or by telephone will be muted during the meeting. We do not take any public testimony at our decision meetings unless the Board asks someone to come forward. If you're experiencing difficulty accessing Webex or a telephone, I'm going to give you a hotline number and I'm going to repeat it. It's (202)

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1 727-5471. If you're having any problems you can call (202)  
2 727-5471.

3 At the conclusion of this meeting session in  
4 consultation with the Office of Zoning to determine whether  
5 a full or summary order may be issued. A full order is  
6 required when the decision is adverse to a party including  
7 the affected ANC. A full order may also be needed if the  
8 Board's decision differs from the Office of Planning's  
9 recommendation.

10 Although the Board favors using summary orders  
11 when possible, an applicant may not require the Board to  
12 issue such orders. Preliminary matters relates to whether  
13 a case will and should be heard today such as a request for  
14 a postponement or if proper and adequate notice has been  
15 given.

16 Mr. Secretary, do we have any preliminary matters  
17 today? You're on mute, Mr. Moy.

18 MR. MOY: All right. That's my first one. Good  
19 morning, Mr. Chairman, members of the Board. I do not have  
20 any preliminary matters, but if one should develop, I'll  
21 mention it when I call the case.

22 BZA CHAIR HILL: Okay. Let's go ahead. Please  
23 call our first case. I'm going to give you an appeal first.  
24 We're going to go a little out of order from the agenda.

25 MR. MOY: Yes, sir. Thank you. That would be for

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1 decision making in Appeal Application No. 20232. This is the  
2 appeal of ANC 6C from the decision made on November 13, 2019  
3 by the Zoning Administrator, Department of Consumer and  
4 Regulatory Affairs, to issue Certificate of Occupancy  
5 CO2000481 permitting a non-residential FAR exceeding the  
6 maximum in the NC-10 Zone at premises 337 H Street NE (Square  
7 777, Lot 52). The Board heard this at its hearing on April  
8 8, 2020.

9           BZA CHAIR HILL: Okay, great. Is everyone ready?  
10 Okay. I can kind of start. I'm going to actually look to  
11 us to kind of all talk about it a little bit because I'm a  
12 little bit torn on this. I thought that, again, the .5 FAR,  
13 which is what they should have been allowed for commercial,  
14 and then, I guess, the .91 which is what they have.

15           The Zoning Administrator was saying that was kind  
16 of grandfathered in, right? Like, you know, they weren't in  
17 violation because it was in nonconformity and was  
18 grandfathered and that's how they got the 1,500 square feet.  
19 The appellant was saying that the Certificate of Occupancy  
20 only had, I think, five or whatever, even under the .5 FAR  
21 that they were allowed to use and that it was an increase in  
22 the nonconformity.

23           I guess I'm kind of just leaning a little bit with  
24 the Zoning Administrator's decision in that he, the Zoning  
25 Administrator, was saying that that 1,500 square feet was,

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1 again, grandfathered in because that's what was there before.  
2 The Certificate of Occupancy usually says like first floor  
3 retail and it doesn't necessarily break out the square  
4 footage. That is how he was looking at how this was  
5 nonconforming and it was grandfathered in there.

6 In terms of even what the Appellant had pointed  
7 out in terms of it was a gutted open space that you couldn't  
8 tell how much was there for retail or how much wasn't there.  
9 In my opinion it was like that is what retail would look  
10 like, you know, just be an open gutted space. That actually  
11 lended more to the fact that there was a nonconformity, it  
12 was the first store, and it was retail.

13 Whether or not -- and it kind of got a little  
14 convoluted because at one point the Certificate of Occupancy  
15 said one thing and then another point said something else and  
16 then another point said something else which kind of maybe  
17 lends to the fact that whoever was the person that was going  
18 out there making the inspection, I don't know, seemed to put  
19 down a number, or the applicant put down a number.

20 I'm not being terribly clear other than I think  
21 that -- I don't necessarily think the Zoning Administrator  
22 erred. I mean, I think there is some validity to what the  
23 Appellant is bringing up. If this was a different appeal  
24 wherein it was a much larger floor plate, I don't know how  
25 I would feel differently about it. Again, this is not

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1 specifically to the regulation because the .5 is what they  
2 are allowed and everything above that you're only supposed  
3 to be given .5.

4 I also was thinking about it in that it's a 1,500  
5 square foot plate. You've got -- if you did the math, I  
6 can't see what it was, you get such an awkward like small  
7 piece of retail, and then you would have residential that  
8 probably wouldn't have worked out either.

9 I mean, it just seemed like an odd use of that  
10 floor plate. Again, that's beside the point, I guess, in  
11 terms of like the regulation. I was just kind of thinking  
12 about that, you know, if it was a 10,000 square foot floor  
13 plate. I'm going to stop my initial discussion there and  
14 kind of go around the horn if I could.

15 I'll start with you, Mr. Hart.

16 VICE CHAIRPERSON HART: So, yeah, I think it was  
17 definitely a difficult decision in that there were -- there  
18 was a lot of -- we had to assume a lot of -- some things and  
19 be -- and I guess I look at it as for every appellant the  
20 burden is on them to demonstrate that there was some error  
21 that happened from the ZA or DCRA.

22 This error is about the ZA issuing a  
23 nonresidential FAR that was greater than what was allowed in  
24 the NC-10 Zone. I think that the -- I guess I understand  
25 that both the Appellant and DCRA are fairly consistent in

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1 thinking that it was not -- that the .5 FAR was for a  
2 residential -- sorry, .5 nonresidential FAR maximum was  
3 exceeded in this case. That's not in dispute.

4           The part that becomes the dispute is was there a  
5 part that was grandfathered and whether or not that -- and  
6 how you establish that grandfathering. Once that's been  
7 decided, then you have to look at whether or not the  
8 grandfathering has expired because of the use not being --  
9 the nonresidential use being vacated for a period of time for  
10 three years or more.

11           So that was the -- it's definitely not an easy  
12 decision in that the information, the documents that we  
13 received, kind of pointed in different directions. Mr.  
14 Chairman, you talked about how the FAR was kind of all over  
15 the place in past C of Os. There was one that said 1,500,  
16 there was another one that said -- I'm sorry.

17           There was one that said 2,000, on that said 250  
18 square feet, another one said 100 square feet. It becomes  
19 what is the validity of any of those. I think one or two may  
20 have said no square footage on the first floor. I think the  
21 most recent C of O, which was 1994 actually had a number of  
22 250 square feet.

23           Unfortunately that's all we have to go by. As we  
24 are looking at this, the burden of the Appellant to say where  
25 the actual error occurred I think has been met because both

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1 DCRA and the Appellant agree that -- well, they don't agree  
2 there was an error but they agree that there is a .5 FAR,  
3 nonresidential .5 FAR maximum for this site.

4           The ZA would really have to describe how it kind  
5 of determined that it was okay to exceed the .5  
6 nonresidential FAR. I know that they have provided us  
7 information. They basically are saying that they don't look  
8 at the FAR, or weren't looking at the FAR primarily back  
9 then. They were just looking at it being a floor.

10           I think that's probably the hardest part about  
11 this; how do we take the information that we have already  
12 received. Right now I'm still somewhat trying to figure that  
13 out. I think that's the hardest part in all of this. It  
14 doesn't -- I don't think that there has been strong  
15 documentation that it was -- what the square footage was used  
16 for nonresidential for the site.

17           I think that is somewhat problematic because the  
18 Appellant, I think, would have a stronger case than the  
19 Zoning Administrator because of this strong understanding as  
20 to whether or not -- how much square footage was used by  
21 nonresidential on that first floor. I understand why the  
22 Zoning Administrator decided that. It's just hard for me to  
23 point to a particular piece of document that we received that  
24 said, okay, I get it why they are saying the whole first  
25 floor.

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1           With regard to whether or not this is a  
2 nonconforming structure, I think there is -- it seems as  
3 though this was used at least in part, if not all, used for  
4 nonresidential use for a number of years. Actually, for  
5 decades it looks like. Now, whether or not that has expired  
6 is a different matter. Again, I'm not sure which side I'm  
7 going down on that. I would like to hear from my other Board  
8 Members about it because I think this is not a  
9 straightforward case.

10           I think the issues that we have before us are  
11 whether or not the Appellant made his case. I think they  
12 made the case in terms of showing that there is a 5 that was  
13 allowed or permitted, but the ZA allowed more than that and  
14 whether or not the ZA actually made their case in saying that  
15 this is the justification for allowing the greater than .5.  
16 I think that to me is the issue. I'm not fully convinced  
17 that the ZA has made that case. I know that was a lot.

18           BZA CHAIR HILL: That's all right. I'm going to  
19 let Ms. John go next but I did have a question. Mr. Shapiro,  
20 you have to leave at 10:00? Okay. We might end up tabling  
21 this. We'll see what happens.

22           Ms. John, you want to let Mr. Shapiro go next  
23 because he has to leave at 10:00?

24           MEMBER JOHN: Yes.

25           BZA CHAIR HILL: Okay. Mr. Shapiro, you want to

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1 go ahead?

2 MEMBER SHAPIRO: Sure. Yeah, you know, I'm  
3 connecting with a lot of what both of you have said. I think  
4 where I come away from this in my mind as I heard the  
5 conversations as I hear you all talk about is that there's  
6 a little bit of gray area here, that this is not black or  
7 white.

8 To your point, Mr. Chair, I think you said it --  
9 it might have been you, Mr. Vice Chair -- I don't think it's  
10 particularly disputed by anybody that this has been used as  
11 exclusively a commercial space for decades. There doesn't  
12 seem to be any disagreement about that. Even the Appellant  
13 alluded to it's never been anything but commercial.

14 The pieces that feel a little bit gray to me is  
15 the issue around the vacancy. At what point -- what is the  
16 word used? I think it was a three-year time period or  
17 whatever it was. That feels a little bit gray how you define  
18 that. I didn't get a clear answer about that. I think the  
19 other thing that feels a little bit murky is this whole piece  
20 around grandfathering the nonconforming use but it's linked  
21 to that.

22 The problem I have is that this all feels like  
23 this is how the Zoning Administrator practices. It doesn't  
24 feel like it rises to the level of an error by the ZA. It  
25 feels more like there's some gray area that needs to be --

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1 perhaps we refer this to OP and ask for some kind of rules  
2 that help clarify this a bit more.

3           To go from that and to say that -- what the  
4 Appellant is saying is that this is a clear error of the  
5 Zoning Administrator, that I don't agree with. I think it's  
6 not an error if they are deciding -- one of the ways they  
7 usually decide when there's some gray area so I think we need  
8 -- I think what this says to me and what the Appellant has  
9 done, which is probably helpful and instructive, has brought  
10 us something that we need to clear up a little bit in the  
11 future so it doesn't feel so gray if we get another case like  
12 this.

13           BZA CHAIR HILL: Okay.

14           MEMBER SHAPIRO: That's all I have.

15           BZA CHAIR HILL: Ms. John.

16           MEMBER JOHN: I'll just give a few thoughts. This  
17 is an appeal from a decision that the Zoning Administrator  
18 issued a Certificate of Occupancy for retail space on the  
19 first floor of the building located at 337 H Street NE.

20           The Appellant alleges that the C of O was issued  
21 in error because it violates the nonresidential FAR limit of  
22 0.5 allowed in that zone. Therefore, the C of O authorizes  
23 a nonconforming structure or, in the alternative, a  
24 nonconforming use exceeding the allowable FAR of 850 feet.

25           In response, DCRA and the property owner argued

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1 that there is no error because the first floor had been in  
2 continuous use of commercial space since the 1950s, first as  
3 a restaurant and then as a deli retail establishment.  
4 Historical review of the C of Os demonstrates the first floor  
5 has been used as a commercial space for decades. DCRA has  
6 no records demonstrating that the building's footprints have  
7 been either extended or contracted.

8 Appellant points to the applications for the C of  
9 O as evidence that the most recent C of O issued in November  
10 2019 was improperly issued for more than 0.5 as was allowed  
11 under current regulations. Appellant argued that the ZA  
12 should have relied on the most recent application from March  
13 1994 C of O that requested only 250 square feet.

14 The exhibits and testimony at the hearing show  
15 that all of the applications since March 1991 have been  
16 inconsistent ranging from 100 square feet in 1991 to 2,000  
17 square feet in 1993, and 250 square feet in 1994. None of  
18 the C of Os issued since 1995 contains any limitations on  
19 allowable square feet.

20 It simply allows a deli or restaurant use on the  
21 first floor with limitations on the number of seats. There  
22 is no evidence that the C of O was ever issued for any other  
23 use on the first floor. Written and oral testimony explains  
24 also that the term nonconforming structure does not apply  
25 here.

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1           When an FAR is used in Subtitle B 100.2, FAR looks  
2 at the ratio of the building to the size of the lot. Because  
3 there was no change in the building footprint, there would  
4 be no change in the FAR of the structure. The proper  
5 analysis is whether the C of O authorized a nonconforming  
6 use. I agree with the ZA's interpretation of that definition  
7 and the use in this particular case.

8           The ZA testified that he reviewed the prior C of  
9 Os to determine their allowable use and offered a list of C  
10 of Os in Exhibit 23 only to show the history of retail use.  
11 The C of Os continued that use which has existed since 1955.  
12 As noted earlier, there is no record of any residential use  
13 on the first floor.

14           The ZA also argued that the C of O authorizing  
15 retail use on the first floor was not abandoned even if the  
16 property was vacant as the Appellant argued. Because the use  
17 was conforming the principle of the discontinuance of the  
18 nonconforming use under Subtitle C 204.4 does not apply here.  
19 At least that's what I took from that testimony.

20           The ZA also admitted that the square footage in  
21 the application for this type of C of O is not germane to the  
22 issuance of the C of O unlike current procedures. I  
23 understood you to say that they were more careful in looking  
24 at the square footage allowed.

25           Based on my review of the full record, I believe

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1 that in these particular circumstances, as other Board  
2 members have said, the information stated on the C of O is  
3 what we should look at and I believe that information is  
4 controlling. I am persuaded that the only limitations on the  
5 C of Os throughout the years is related to seating; either  
6 less than 75 persons in 1955, no seats or 25 seats in 1955  
7 until the present. I believe on this record that I can deny  
8 the appeal.

9 BZA CHAIR HILL: Okay. All right. Then does  
10 anyone have anything they want to add?

11 MEMBER SHAPIRO: I do not, Mr. Chair.

12 BZA CHAIR HILL: Are you shaking your head no?  
13 Okay. I'm waiting for Ms. John to come back. I'll kind of  
14 summarize I suppose. I thought what Ms. John was done very  
15 well. I thought what Commissioner Shapiro also said was  
16 there's not a clear error which is what the appeal is  
17 supposed to be, right? And so, you know, in terms of the  
18 amount of square footage that had been, I believe, also  
19 approved at one point which was the whole first floor.

20 Still waiting for Ms. John. Okay, great. All  
21 right. Then I'm going to make a motion to deny appeal No.  
22 20232 as captioned and read by the secretary and ask for a  
23 second, Ms. John, since your microphone is on.

24 MEMBER JOHN: Second.

25 BZA CHAIR HILL: Mr. Moy, the motion has been made

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1 and seconded. Can you please take a roll call vote?

2 MR. MOY: Yes, thank you, Mr. Chairman.

3 When I call your name, if you would respond with  
4 yes, no, or abstain. This is to the motion to deny the  
5 appeal. The maker of the motion is Chairman Hill. Seconding  
6 the motion is Ms. John.

7 So Zoning Commissioner Peter Shapiro.

8 MEMBER SHAPIRO: Yes.

9 MR. MOY: Vice Chair Hart.

10 VICE CHAIRPERSON HART: No.

11 MR. MOY: Ms. John.

12 MEMBER JOHN: Yes.

13 MR. MOY: Chairman Hill.

14 BZA CHAIR HILL: Yes.

15 MR. MOY: Staff would record the vote as three to  
16 one to one. This is on the motion to deny the appeal made  
17 by Chairman Hill, seconded by Ms. John. In support of the  
18 motion to deny is Ms. John, Zoning Commissioner Peter  
19 Shapiro, and Chairman Hill. Opposed to the motion is Vice  
20 Chair Hart. We have one Board seat vacant. The motion  
21 carries 3-1-1.

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

23 Commissioner, yes. Go ahead.

24 MEMBER SHAPIRO: Thank you, Mr. Chair. I would  
25 suggest that we direct some of these questions about the gray

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1 areas to OP and ask for some clarification. You know, I'm  
2 trying to think of what the best things that we want to be  
3 asking for but how to clean up some of this gray area. I  
4 guess there's an issue around the grandfathering for the  
5 vacancy, right? That was one of the issues? What do we  
6 think? What are the two or three things that we want to see  
7 if we can get some clarification around?

8 MEMBER JOHN: I think the format of the C of O  
9 should be changed. Right now the C of O has a space for  
10 indicating if there's a particular seat that's allowed to be  
11 occupied on the face of the C of O. If the application  
12 limits the square footage, then that information should be  
13 put on the face of the C of O just like the information  
14 regarding what seat is occupied.

15 If this should come up again, the application  
16 would say -- the C of O would say x number of square feet,  
17 x number of seats, and for what seat. I know that's a major  
18 procedural change but something along those lines so that  
19 there is more attention paid to how much space is being  
20 occupied.

21 I think in this particular case if there's no  
22 other evidence that anything else -- any other use existed  
23 on that first floor since 1955 so this I see as a desire.  
24 I would recommend changes along the lines suggested.

25 VICE CHAIRPERSON HART: I think, Commissioner

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1 Shapiro, maybe there should be a limit that should be added  
2 to some of the zones so that buildings that are under a  
3 certain amount may not have to -- you know, that may not be  
4 an issue with them.

5           The .5 may not be the concern for them, but  
6 buildings over a certain amount, maybe it's 2,000, maybe it's  
7 5,000, I don't know, but I think that may be helpful to do  
8 so that you kind of focus on residential, if you're going to  
9 do that, or nonresidential uses in buildings that are over  
10 a particular square footage, a particular size.

11           BZA CHAIR HILL: I mean, I guess we could go back  
12 to OP and then go back to ZA. He was making his  
13 interpretation and there was a gray area in the  
14 interpretation in terms of -- you know, he might be able to  
15 tell you, okay, if you really want to clarify it, this is how  
16 you might make some changes.

17           MEMBER SHAPIRO: I think that's good advice as  
18 well.

19           BZA CHAIR HILL: Okay. Are you don, Mr. Shapiro?

20           MEMBER SHAPIRO: I am. Thank you all very much.

21           BZA CHAIR HILL: All right. Take care. Bye bye.

22           So we need another commissioner, Mr. Young. I  
23 don't know who that is.

24           VICE CHAIRPERSON HART: Commissioner Hood.

25           BZA CHAIR HILL: Okay, great.

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1 ZC CHAIR HOOD: All right. Ready to go.

2 BZA CHAIR HILL: Hi, Mr. Chairman. How are you  
3 today?

4 ZC CHAIR HOOD: Fine, thank you.

5 BZA CHAIR HILL: Good.

6 Mr. Moy, if you would call our next case.

7 MR. MOY: Thank you, Mr. Chairman. So this would  
8 be Case Application No. 20255 of Mid City Builders, LLC, as  
9 amended, for special exceptions under Subtitle E, Section  
10 5201 from the rear addition requirements of Subtitle E,  
11 Section 205.4, and under the Voluntary Inclusionary Zoning  
12 modifications of Subtitle E, Section 5206.2 from minimum lot  
13 width requirements of Subtitle E, Section 201.4, to subdivide  
14 the lot into two record lots with one plat on each lot in the  
15 RF-1 Zone at premises 3534 13th Street, NW (Square 2934, Lot  
16 167). This was last heard at the Board's hearing on April --  
17 July 1st.

18 BZA CHAIR HILL: Okay. Are we ready to  
19 deliberate? I didn't really have any issues with this  
20 particular case. I thought it was pretty straightforward.  
21 I thought the Applicant had met their burden of proof in  
22 terms of how they are meeting the standard for us to grant  
23 the application.

24 I also would agree with the analysis that was  
25 provided by the Office of Planning in their support, as well

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1 as the analysis of DDOT. The ANC did vote to approve as well  
2 and they were just basically making a note about the IZ unit  
3 and any impact there was going to be was minimal to any  
4 adjacent properties. I would be voting to approve.

5 Is there anything anyone would like to add? Mr.  
6 Hood, Ms. John?

7 MEMBER JOHN: No.

8 BZA CHAIR HILL: I'll make a motion to approve  
9 Application No. 20255 as captioned and read by the secretary  
10 and ask for a second, Ms. John.

11 MEMBER JOHN: Second.

12 BZA CHAIR HILL: The motion was made and seconded,  
13 Mr. Moy. If you could please take a roll call.

14 MR. MOY: Thank you, Mr. Chairman. When I call  
15 your name, if you would please respond with a yes, no, or  
16 abstain. This is to the motion made by Chairman Hill to  
17 approve the application. Seconded by Ms. John.

18 Zoning Commissioner Chair Anthony Hood.

19 ZC CHAIR HOOD: Yes.

20 MR. MOY: Vice Chair Hart.

21 VICE CHAIRPERSON HART: Yes.

22 MR. MOY: Ms. John.

23 MEMBER JOHN: Yes.

24 MR. MOY: Chairman Hill.

25 BZA CHAIR HILL: Yes.

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1 MR. MOY: Staff would record the vote as 4-0-1.  
2 Again, this was on the motion of Chairman Hill to approve the  
3 application for the relief requested. Seconding the motion  
4 was Ms. John. Also in support of the motion Zoning  
5 Commission Chair Anthony Hood, Vice Chair Hart and, of  
6 course, Ms. John and Chairman Hill. The motion carries, sir.

7 BZA CHAIR HILL: Thank you, Mr. Moy. Maybe we  
8 could talk about this at another break or something. I  
9 wonder if we can just do the same votes the way that we have  
10 done them in the past. Do we have to do a roll call? We  
11 could do ayes and nays. Just something to think about.

12 Please go ahead and call our next case, Mr. Moy.

13 MR. MOY: Thank you. That would be Case  
14 Application No. 20262 of 741 Morton LLC. Caption advertised  
15 was special exceptions under Subtitle U Section 320.2, and  
16 under Subtitle E Section 5201, from the side yard  
17 requirements of Subtitle E Section 207.3, to construct a  
18 third-story addition and a three-story rear and side addition  
19 to an existing semi-detached principal dwelling unit, and to  
20 convert it into a three-unit apartment house in the RF-1 Zone  
21 at premises 741 Morton Street NW (Square 2894, Lot 870).  
22 Again, this was last heard at the Board's hearing on July  
23 1st.

24 BZA CHAIR HILL: Okay, great. Are we ready to  
25 deliberate? Okay. I can start. Again, with this one, I

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1 didn't have a lot of issues with it. I thought that the  
2 Applicant had met its burden of proof in order for us to  
3 grant the application. I think that the analysis that was  
4 provided by the Office of Planning in terms of their support  
5 I would agree with.

6 Also, DDOT had no objection. The ANC was in  
7 approval and it had some conditions which I don't necessarily  
8 think were outside of our purview but they were things that  
9 they wanted to see in the design and in the plans. Those  
10 were support of the roof top waiver provided the turret and  
11 roof courts remain in the plans. Support of 10-foot rule  
12 waiver provide the plans maintain the installation of privacy  
13 screening material along the rear balconies.

14 Both of those are actually in the plans. Since  
15 we are approving those plans, I don't think we need to put  
16 them in as conditions because they're there and we are  
17 approving the plan. I would be in favor of granting this  
18 application.

19 Mr. Hart, do you have something to add?

20 VICE CHAIRPERSON HART: No, I do not.

21 BZA CHAIR HILL: Ms. John, you have something to  
22 add?

23 MEMBER JOHN: (Shaking head.)

24 BZA CHAIR HILL: Mr. Hood, you have anything to  
25 add?

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1           ZC CHAIR HOOD: I will say I would agree with you,  
2 Mr. Chairman. I think the Applicant has done a tasteful  
3 design. I'm not always in favor of these types of projects  
4 but I can tell you I think the merits of this case warrants  
5 it. I think, as you mentioned, if he follows the plans, that  
6 will kind of keep the community at a level that they can all  
7 live with it so I would agree with you, Mr. Chairman. Thank  
8 you.

9           BZA CHAIR HILL: Thank you.

10           Mr. Hart, if you'll turn off your microphone. Mr.  
11 Hood, if you'll turn off your microphone. I'm sorry, turn  
12 on your microphone, Chairman Hood.

13           ZC CHAIR HOOD: Okay.

14           BZA CHAIR HILL: Okay. So I'm going to make a  
15 motion to approve Application No. 20262 as captioned and read  
16 by the secretary and ask Ms. John to second.

17           MEMBER JOHN: Second.

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

20           MS. CAIN: Chairman, sorry. You have to take a  
21 roll call vote.

22           BZA CHAIR HILL: Alexandria, you're just going to  
23 ruin my fun.

24           (Laughter.)

25           ZC CHAIR HOOD: Mr. Chairman, what I learned

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1 yesterday is that you have to do a roll call vote. I learned  
2 that from the City Council yesterday. I do watch.

3 BZA CHAIR HILL: All right. Okay. All right.

4 Mr. Moy, the motion has been made and seconded.  
5 Can you please go ahead and make a roll call vote.

6 MR. MOY: Thank you, Mr. Chairman. So when I call  
7 your name, if you would each respond with a yes, no, or  
8 abstain to the motion made by Chairman Hill to approve the  
9 application for the relief requested. Seconding the motion  
10 is Ms. John.

11 Zoning Commissioner Chair Anthony Hood.

12 ZC CHAIR HOOD: Yes.

13 MR. MOY: Vice Chair Hart.

14 VICE CHAIRPERSON HART: Yes.

15 MR. MOY: Ms. John.

16 MEMBER JOHN: Yes.

17 MR. MOY: Chairman Hill.

18 BZA CHAIR HILL: Yes.

19 MR. MOY: Staff would record the vote as 4-0-1.

20 Again, this is on the motion of Chairman Hill to approve the  
21 application, seconded by Ms. John. Also in support of that  
22 motion is Vice Chair Hart and Zoning Commission Chair Hood  
23 and, of course, Ms. John and Chairman Hill. We have a Board  
24 seat vacant. The motion carries 4-0-1.

25 BZA CHAIR HILL: Okay, great. Chairman Hood,

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1 thank you so much.

2 ZC CHAIR HOOD: Thanks a lot. Take care.

3 BZA CHAIR HILL: Bye bye.

4 Mr. Hart, you're going to be leaving us as well  
5 for a little while? Okay. As you know, I'm going -- I'll  
6 wait until you come back and then I'll leave because I have  
7 that appointment I need to take care of.

8 VICE CHAIRPERSON HART: Sure. Not a problem.

9 BZA CHAIR HILL: Thank you for covering for me.

10 VICE CHAIRPERSON HART: Paul, you can move me down  
11 to the other list and then you can move up Marcel Acosta.  
12 Thank you.

13 (Whereupon, the above-entitled matter went off the  
14 record at 10:11 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: 07-08-20

Place: teleconference

was duly recorded and accurately transcribed under my direction; further, that said transcript is a true and accurate record of the proceedings.



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Court Reporter

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