

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

+ + + + +

PUBLIC MEETING

+ + + + +

WEDNESDAY

SEPTEMBER 30, 2020

+ + + + +

The Regular Public Meeting of the District of Columbia Board of Zoning Adjustment convened via Video Teleconference, pursuant to notice at 9:35 a.m. EDT, Frederick L. Hill, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

FREDERICK L. HILL, Chairperson  
LORNA JOHN, Board Member  
CHRISHAUN SMITH, Board Member

ZONING COMMISSION MEMBERS PRESENT:

ANTHONY HOOD, Zoning Commission Chair  
MICHAEL TURNBULL, Zoning Commission Member

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary

OFFICE OF PLANNING STAFF PRESENT:

MAXINE BROWN-ROBERTS  
CRYSTAL MYERS  
MATTHEW JESICK

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

DANIEL BASSETT, ESQ.  
ALEXANDRA CAIN, ESQ.

The transcript constitutes the minutes from the  
Regular Public Meeting held on September 30, 2020.

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

2 (9:35 a.m.)

3 CHAIRPERSON HILL: All right, the meeting will  
4 please come to order. Good morning ladies and gentlemen, we  
5 are convened -- I wanted to say we were located at -- we are  
6 convened and broadcasting this decision meeting by  
7 videoconference.

8 This is the September 30th, 2020 Public Meeting  
9 Session of the Board of Zoning Adjustments. My name is Fred  
10 Hill, Chairperson. Joining me today is Lorna John, Vice  
11 Chair and Chrishaun Smith, Board Member.

12 Representing the Zoning Commission will be  
13 Chairman Anthony Hood as well as Commission Michael Turnbull.  
14 Today's meeting Agenda is available to you on the Office of  
15 Zoning website.

16 Please be advised that this proceeding is being  
17 recorded by a court reporter and is also webcast via Webex  
18 and YouTube Live. The video of the webcast will be available  
19 on the Office of Zoning's website after today's meeting  
20 session.

21 Accordingly, everyone who is listening on Webex  
22 or by telephone will be muted during the meeting. We do not  
23 take any public testimony during our decision meetings.

24 If you're experiencing difficulty accessing Webex  
25 or with your telephone call in then please call our Hotline

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1 number. I will repeat it, I'll read it twice. Our OZ  
2 Hotline number is 202-727-5471. Once again, 202-727-5471 to  
3 receive WebEx login or call in instructions.

4 It is also listed on the screen there. At the  
5 conclusion of this meeting session, I will in consultation  
6 with the Office of Zoning, determine whether a full or  
7 summary order may be issued.

8 A full order is required when the decision it  
9 contains is adverse to a party, including an affected ANC.  
10 A full order may also be needed if the Board's decision  
11 differs from the Office of Planning's recommendation.

12 Other than the Board favors the use of summary  
13 orders whenever possible, an applicant may not request the  
14 Board to issue such an order. Preliminary matters are those  
15 whether a case should or could be heard today.

16 Such as request for a postponement, contingency  
17 or withdrawal or whether proper and adequate notice of the  
18 meeting has been given. Mr. Secretary, do we have any  
19 preliminary matters? You're on mute, Mr. Moy.

20 MR. MOY: Thank you, Mr. Chairman. Good morning.  
21 No, I don't have any preliminary matters at this point.

22 CHAIRPERSON HILL: Okay. Let's see then, if you  
23 want to, and Mr. Moy, I don't have the Agenda in front of me  
24 but let me see if I can pull it up. But if you want to go  
25 ahead -- if you want to go ahead and call our first meeting

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1 case.

2 MR. MOY: Yes. Thank you, Mr. Chairman. This  
3 first case for decision making in the meeting session is  
4 application number 20269 of a Harold Tran, T-R-A-N. This is  
5 a request for a special exception under Subtitle D, Section  
6 5201 for the Lot Occupancy Requirement Subtitle D, Section  
7 304.1 to add a one story rear deck addition to an existing  
8 detached principal unit.

9 R2 zone at 3000 10th Street Northeast where 3837  
10 lot 16, where the Board will recall the Board heard this case  
11 at its public hearing on September 23rd.

12 CHAIRPERSON HILL: Okay. We all ready? Okay.  
13 So, I can begin. I mean, I was more or less kind of  
14 comfortable with the application and the testimony that we  
15 took last week. I know that it would have been -- we had  
16 given another week for the ANC to add anything if they wanted  
17 to concerning this case.

18 There was the Single Member District  
19 representative gave testimony but not on behalf of the ANC,  
20 on his own merit but still he was the SMD. I thought that,  
21 and I don't think, Ms. Cain, we didn't, I didn't see even  
22 yesterday, the ANC has not submitted anything? Did they?  
23 Oh, they did?

24 MS. CAIN: It's at Exhibit 40 and the ANC is in  
25 support with no major concerns for it.

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1 CHAIRPERSON HILL: Okay. Well, thank you. Then  
2 I will pull that up as we continue to deliberate. But that  
3 then makes it even more tight in terms of the record being  
4 full. So, I thought that the Office of Planning did a good  
5 job in their analysis concerning the application.

6 DDOT also had no objection. There was letters in  
7 support from the neighbors and again, I believe that they met  
8 the case for us to grant the relief being request.

9 So, I'm going to voting in favor. If I could go  
10 around the screen, Chairman Hood, if you wouldn't mind  
11 beginning.

12 MR. HOOD: I would agree with you, Mr. Chairman.  
13 I think this application is noted under Subtitle D 304.1 Lot  
14 Occupancy. I believe that the applicant has come fully with  
15 good justification.

16 And I also would agree with the Office of  
17 Planning's report, which talks about no, the addition would  
18 not result in any undue effects in terms of light and air,  
19 which I think that this application is definitely straight  
20 forward.

21 And also, what is good, we also heard from ANC.  
22 Their letter did come, I believe yesterday as Ms. Cain has  
23 already mentioned so, I am in support of this application.  
24 Thank you.

25 CHAIRPERSON HILL: Great. Thank you. Mr. Smith.

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1 MR. SMITH: I agree with the statements from both  
2 you and Chairman Hood. I do believe that this is a fairly  
3 straight forward application. The applicant, I believe, has  
4 demonstrated that he has met the general special exception  
5 standards for us to grant this special exception.

6 And also to echo Mr. Hood, we did hear from the  
7 ANC and also, the neighboring property owners that will be  
8 most directly affected by this addition.

9 The property owner to the north and the property  
10 owner to the west were both in support of this application.  
11 So, I support this application, this special exception.

12 CHAIRPERSON HILL: Thank you. Vice Chair John.  
13 Ms. John, you're on mute.

14 MEMBER JOHN: This is a straight forward  
15 application and I support all of the comments so far. I can  
16 support the application.

17 CHAIRPERSON HILL: Okay, great. Thank you. I'm  
18 going to make a motion to approve application number 20269  
19 as captioned and read by the Secretary and ask for a second,  
20 Ms. John.

21 MEMBER JOHN: Second.

22 CHAIRPERSON HILL: Mr. Moy, the motion is made and  
23 seconded, if you could please take a roll call vote.

24 MR. MOY: Thank you, Mr. Chairman. When I call  
25 out your names if you would please respond with a yes, no or

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1 abstain to the motion made by Chairman Hill to approve the  
2 application as captioned and seconded by, this motion also  
3 seconded by Vice Chair John. Zoning Commission Chair Anthony  
4 Hood.

5 MR. HOOD: My vote is to approve the motion.

6 MR. MOY: Mr. Smith.

7 MR. SMITH: Yes, to approve.

8 MR. MOY: Vice Chair John.

9 MEMBER JOHN: Yes.

10 MR. MOY: Chairman Hill.

11 CHAIRPERSON HILL: Yes, to approve.

12 MR. MOY: Staff would record the vote as 4-0-1 and  
13 this is on the motion made my Chairman Hill to approve the  
14 application for the relief requested, second the motion is  
15 Vice Chair John.

16 Also in support by Mr. Smith and Zoning Commission  
17 Chair Anthony Hood. We have a Board seat vacant. The motion  
18 carries, 4-0-1.

19 CHAIRPERSON HILL: Thank you, Mr. Moy. All right.  
20 If we could have the next case read in please, Mr. Moy.

21 MR. MOY: Yes. That would be application number  
22 20266 of 3400 Connecticut Partners LLC. Captioned and  
23 advertised for a special exception under Subtitle C, 703.2  
24 for the minimum parking requirements, Subtitle C, Section  
25 701.5.

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1           This would construct a mix due to  
2 retail/apartments development in the NC3 zone at premises  
3 3400 Connecticut Avenue Northwest, where 2069 Lots 817  
4 through 821, as the Board would recall the last business they  
5 continued a decision session from August the 5th. The last  
6 public hearing was heard on July 29th.

7           CHAIRPERSON HILL: Okay. Is the Board ready to  
8 deliberate? Let's see everyone -- okay. As you will recall  
9 this was a pretty lengthy hearing and it was contentious in  
10 terms of the different opinions that we heard from the  
11 neighbors, the neighborhood, the ANC and then, you know, the  
12 applicant in terms of what they were trying to do and the  
13 relief they're requesting.

14           We'll kind of go over it a little bit, high level  
15 things and then I guess I'll kind of walk around the screen  
16 and see what everyone has to say including, beginning with  
17 the Zoning Commission if that would be all right.

18           I guess that the Office of Planning had provided  
19 their analysis of the project and how they believe that they  
20 have met the criteria for us to grant the application. The  
21 ANC now seems to be in support of the application.

22           And that is again, and I'll, if OAG, if there's  
23 anything that I'm incorrect on please interrupt and correct  
24 me. But there were a variety of conditions that during the  
25 hearing last time the applicant agreed to the conditions that

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1 the ANC had put forth.

2           After reviewing the conditions, I actually didn't  
3 have any issue with the conditions themselves and so, if we  
4 were to grant this, I would also be fine with the conditions.  
5 The special exception was C 703.2 to grant from a reduction  
6 in the number of required parking spaces.

7           The applicant has to demonstrate one of kind of  
8 the following or one of the exceptions, in order to qualify  
9 the applicant has to meet one of the criteria in C 703.2.

10           The one that I thought that the applicant had  
11 argued about, which I also believe they have met actually is  
12 B, that the use of structure is particular well served by  
13 mass transit, shared vehicle or bicycle facilities.

14           I guess that location is within 500 feet of the  
15 Metro station, so it's closer than, you know, .05 miles and  
16 also, the location is served by the L1 and L2 bus routes on  
17 Connecticut Avenue.

18           And the H3 and H4 routes that are less than a  
19 quarter mile from the property. There's the Capital bike  
20 share station that's adjacent to the property along  
21 Connecticut Avenue.

22           The Office of Planning indicates that their walk  
23 score is a very walkable, very good score and I think that  
24 they did meet that criteria. The other was that C, the land  
25 use or transportation characteristics of the neighborhood

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1 minimize the need for required parking spaces.

2           So, similar to what the applicant had stated,  
3 there are a lot of public transportation options in that area  
4 there as well as it is well served by other things that the,  
5 where one does not need to use a car.

6           Like there's a little grocery store there, there  
7 was a, you know, a Target nearby, there's even a public  
8 library that's there. And so, the opposition did state that  
9 the characteristics of the neighborhood, the fact that the  
10 Metro is there actually makes it more difficult to park.

11           Because people park and then take the Metro. I  
12 mean, that's the same thing for any Metro station. So I  
13 mean, I don't think that that necessarily was an argument as  
14 to why they're not meeting, the applicants not meeting the  
15 criteria for the relief that's being requested.

16           I also thought that the applicant met the Subtitle  
17 X 901.2, the general criteria in terms of the zoning  
18 regulations and the zoning maps. I didn't think they would  
19 adversely affect the neighborhood or the property for this  
20 relief.

21           I did, you know, there was some discussion, or I  
22 thought again about that, you know, anything that is done  
23 usually has some kind of an impact and I don't think that  
24 there is an adverse impact to this, to what has been put  
25 forward by this applicant.

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1 I would say actually I thought, and then I'm going  
2 to go around the screen here and see what others thought, I  
3 mean, that lot is actually a really big lot.

4 I mean, I thought that even the fact that they  
5 would, you know, remove that curb cut was actually going to  
6 make it safer for people to be walking around there, right.  
7 And that you would get an extra parking spot there on the  
8 street in terms of, you know, once they did remove the curb  
9 cut or maybe even two, I can't remember how many parking  
10 spots you kind of get out of the curb cut.

11 I thought that, you know, I thought that, I  
12 actually thought it was a nice project. I thought that I can  
13 support it and I did think that they met the regulations in  
14 order for us to support it.

15 And so, I'm comfortable moving forward. Chairman  
16 Hood, may I turn to you next?

17 MR. HOOD: Sure. Thank you, Mr. Chairman. I  
18 would agree. I will tell you that I went back and forth with  
19 this one and looking at the merits of the case.

20 And I really focused on the oppositions, like you  
21 mentioned in your analysis, I focused on the opposition's  
22 adverse impacts of neighborhood property.

23 And I looked at some of things that the  
24 neighborhood had mentioned about strollers and being able to  
25 walk and sometimes they have to walk in the street and they

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1 have to go back -- for me, that's pretty general of city  
2 life.

3           Sometimes we have to change the way we operate and  
4 the way we perceive. But I think for this case they meet all  
5 the relevant regulations and the relief requested from this  
6 Board.

7           But when I looked at, I really looked at the  
8 adverse impacts at the opposition and they brought up some  
9 good points. But those points are something that I think  
10 this Board and I know the Zoning Commission, we deal with  
11 every day.

12           And we have to try to adapt, so. Also, the next  
13 thing is, I think the ANC, I believe unless I'm mistaken, was  
14 in support all the way through with the conditions.

15           The only thing I will say about the conditions,  
16 one of them was, you know, and I don't like to put anybody  
17 on promise land and I hope the ANC understands that all the  
18 time, when they come to pick up the trash, they're not going  
19 to be able to do it at 11:00 all the time.

20           And that's the way I think, at least that's the  
21 way I interpret the condition. I think there needs to be  
22 some grace. Traffic could be a problem and that's the  
23 reality of it.

24           So, I do think there are impacts here but they're  
25 adverse with mitigations so I will be voting in favor of this

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1 project. I think all the necessarily relief requested can  
2 be mitigated or it can be minimized so, that's my position  
3 on this case, Mr. Chairman. And I would agree with your  
4 analysis.

5 CHAIRPERSON HILL: Thank you, Chairman Hood. Mr.  
6 Smith.

7 MR. SMITH: So first off I would like to state  
8 that I've read into this case and have been thoroughly  
9 briefed because it's beginning under my predecessor. I won't  
10 belabor the same points that Chairman Hood and you addressed.

11 In reading into the case, I do believe that in  
12 looking at the special exception criteria, I do believe that  
13 the applicant has sufficiently met the criteria for Subtitle  
14 C 703.2(b).

15 This is in a very urban and a dense neighborhood  
16 with a plethora of multi-mobile transportation opportunities  
17 for the residents. And also, the visitors of any of the  
18 retail that may be located at this site may take advantage  
19 of and looking and hearing the case, I echo Mr. Hood.

20 Many of the concerns of the citizens adjacent to  
21 the property, those concerns are essentially concerns of city  
22 living so, I believe that does not rise to a severe adverse  
23 impact. So, I'm comfortable with this case and I will  
24 support this request for a parking reduction.

25 CHAIRPERSON HILL: Thank you. Vice Chair John.

1           MEMBER JOHN: So, I agree with everything that's  
2 been said so far, which is the advantage of coming last.  
3 Just want to add that I also believe that the applicant meets  
4 the criteria under Section 703.2(a) because of the physical  
5 constraints of the property, which do not allow for the  
6 provision of the required parking spaces.

7           And based on current regulations, DDOT will not  
8 grant a curb cut on Connecticut Avenue and the existing  
9 parking lot does not comply with current regulations.  
10 Parking access from Newark Street is not feasible because of  
11 the topography of the site.

12           And underground parking is also not feasible  
13 because of the presence of the historic building, the Macklin  
14 apartment building as well as the proximity to the Metro as  
15 the applicant demonstrated at the virtual hearing and in  
16 Exhibits submitted to the record.

17           While the partisan opposition dispute that the  
18 applicant meets this criteria as well as 703.2(a). I give  
19 credit to the applicant's testimony and Exhibits as well as  
20 DDOT's analysis and recommendations.

21           And, you know, DDOT is the expert in this area in  
22 terms of traffic and parking impacts and so, where that  
23 analysis is reasonable and thorough I believe that I can rely  
24 on DDOT's recommendations.

25           I also should note that the regulations do not

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1 prevent the applicant from seeking parking relief where the  
2 project also qualifies for the 50 percent parking reduction  
3 allowed by proximity to Metro under Section 702.1(a) as the  
4 party in opposition argued.

5           Now the testimony in from the neighbors was sort  
6 of split and most of those impacts, as you all described,  
7 were with respect to parking and traffic and whether those  
8 impacts were so severe that they constituted or they rose to  
9 the level of an adverse impact that would cause the applicant  
10 not to qualify for the relief.

11           But DDOT also noted that these impacts are called,  
12 characterized them as minor potential impacts and I agree  
13 with that description as everyone has said so far. This is  
14 really city living.

15           And I also recall that the neighbors on Newark  
16 Street had driveways for the most part. So that should help  
17 with some of the parking impacts.

18           I thought that the ANC did a good job in working  
19 with the developer to make sure that there was an appropriate  
20 TDM plan and loading management plan, which actually was  
21 DDOT, ANC and the developers.

22           I thought that these minor impacts could be helped  
23 with the conditions in the those two plans and the applicant  
24 has agreed to those conditions.

25           I also agreed that based on the record the

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1 applicant also meets the general special exception criteria  
2 and with respect to the RPP restriction, I agree with  
3 Chairman Hood, Commissioner Hood that really, DDOT would  
4 enforce that.

5       And this is not something the Board would have  
6 jurisdiction over so, I am, I don't know what good that will  
7 do but I think if the parties have already agreed to that  
8 restriction I am fine with including it as part of the  
9 conditions. And so, I can support the application.

10               CHAIRPERSON HILL: Okay. Thank you, Ms. John.  
11 Yes, and I neglected to mention I guess that DDOT was in  
12 favor as long as the TDM and LMP plans were implemented and,  
13 Ms. John, you did just mention that and those were agreed to  
14 by the applicant.

15               I guess the conditions that the ANC had put  
16 forward, they are in Example 98. And I suppose what Chairman  
17 Hood has mentioned several times about the whole, people not  
18 being allowed to apply for RPP and the RPP programs.

19               I guess, you know, we've kind of gone back and  
20 forth as a Board as to whether or not those get included and  
21 the reason why that is, is that we haven't, there hasn't been  
22 a mechanism yet that I believe DDOT has implemented.

23               And actually can exclude a property from the  
24 applicant, from people's ability to apply for RPP. However,  
25 I know that the applicant has agreed to the condition and so

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1 I would go ahead and leave it in as a condition.

2           Meaning that the applicant I guess, when these  
3 projects are up for sale, people will be, you know, it'll be  
4 noted somewhere that you are not allowed to apply for RPP as  
5 per the conditions that, and the negotiations that went on  
6 with the ANC during the developmental process.

7           So, unless anyone has anything else they'd like  
8 to add, I would make a motion -- Chairman Hood?

9           MR. HOOD: Since, let me just take a personal  
10 appearance about the RPP. I've watched, I've seen it work,  
11 I've seen it not work so, I would agree with you about  
12 leaving it in. While I don't necessarily particularly think,  
13 and I think we have seen evidence both ways, I don't  
14 necessarily particularly think at times it works.

15           But I think it's a -- there if it works. I don't  
16 never like, I always say this, I don't like putting people  
17 on front man, but RPP, and this goes to what more of what  
18 Chairman Hill was saying, RPP, I've seen it work and I've  
19 seen it not work.

20           I've heard that we do have a mechanism in place.  
21 I've heard that we don't have a mechanism in place. So  
22 that's why I am where I am with this RPP. The question is  
23 does it work or does it not work.

24           And I guess I will be asking DDOT at a Zoning  
25 Commission meeting in the very near future to give me an

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1 update on whether it's working now because I've seen it both  
2 ways. Thank you.

3 CHAIRPERSON HILL: Okay, great. Thank you. Ms.  
4 John.

5 MEMBER JOHN: I forgot to add that the Office of  
6 Planning also supports the application and I have given that  
7 analysis and recommendation great weight.

8 CHAIRPERSON HILL: Thank you. All right. Okay.  
9 Then I'll go ahead and make a motion. I'll make a motion to  
10 approve application number 20266 as captioned and read by the  
11 Secretary including the conditions from the ANC in Exhibit  
12 98 and the conditions from DDOT in Exhibit 32A concerning the  
13 TDM and LMP management plans and ask for a second, Ms. John.

14 MEMBER JOHN: Second.

15 CHAIRPERSON HILL: The motion has been made and  
16 seconded, Mr. Moy, if you could go ahead and take a roll call  
17 vote, please.

18 MR. MOY: Thank you, Mr. Chairman. When I call  
19 your names if you would please respond with a yes, no or  
20 abstain to the motion made by Chairman Hill to approve the  
21 application for the relief requested.

22 Including the conditions as he cited in his  
23 motions that are contained in the DDOT and the ANC reports.  
24 Seconded the motion is Vice Chair John. Zoning Commission  
25 Chair Anthony Hood.

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1 MR. HOOD: Yes, to approve with the conditions and  
2 everything that's been noted.

3 MR. MOY: Mr. Smith.

4 MR. SMITH: Yes, to approve with the conditions.

5 MR. MOY: Vice Chair John.

6 MEMBER JOHN: Yes, to approve with conditions.

7 MR. MOY: Chairman Hill.

8 CHAIRPERSON HILL: Yes, to approve.

9 MR. MOY: Then staff would record the vote as 4-0-  
10 1 and this is on the motion by Chairman Hill to approve the  
11 application with the conditions cited, second motion Vice  
12 Chair John.

13 Also in support of the motion, Zoning Commission  
14 Chair Anthony Hood and Mr. Smith. We have a Board seat  
15 vacant. The motion carries 4-0-1.

16 CHAIRPERSON HILL: Okay. Thank you, Mr. Moy.

17 MR. HOOD: All right. You all have a good day and  
18 I'll tune back in. I'll try to catch you all about 8:00  
19 tonight so, I'll tune back in.

20 CHAIRPERSON HILL: All right, Chairman Hood. You  
21 have a good day now. Good morning, Commissioner Turnbull.

22 MR. TURNBULL: Good morning, Mr. Chairman. Am I  
23 on? Can you hear me?

24 CHAIRPERSON HILL: Yes. Mr. Moy, feel free to  
25 call our next case when you have an opportunity.

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1 MR. MOY: Thank you, Mr. Chairman. We're still  
2 in the meeting session of today's hearing. The next three  
3 cases, Mr. Chairman, are cases on the Expedited Review  
4 Calendar. The first is application number 20294 of Mark  
5 Herzog, H-E-R-Z-O-G.

6 This is request for special exception under  
7 Subtitle D Section 5201 for the minimum side yard  
8 requirement, Subtitle D Section 206.7, which would construct  
9 a front porch addition to an existing principal detached  
10 dwelling unit, R1B zone. This is at 4535 Alton Place  
11 Northwest, square 1566 lot 12.

12 CHAIRPERSON HILL: Okay. Is the Board ready to  
13 deliberate? Mr. Bassett, can you hear me?

14 MR. BASSETT: Yes.

15 CHAIRPERSON HILL: Did the affidavit of  
16 maintenance come in?

17 MR. BASSETT: Yes.

18 CHAIRPERSON HILL: Okay. Okay, great. All right.  
19 Let's see, so after reviewing the material I would agree that  
20 this is, this qualifies as an expedited review. I also would  
21 agree that they, the applicant has met the criteria for me  
22 to support the application.

23 I thought that the analysis that was given by the  
24 Office of Planning was concise and I didn't really have a lot  
25 of issues with it. I mean, the side yard relief is next to

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1 the alley so, I believe they meet the criteria and I'm going  
2 to be voting in favor. Commissioner Turnbull.

3 MR. TURNBULL: I would agree with you, Mr. Chair.  
4 This is really very minimal relief needed. And as you say  
5 it's next to an alley and so there's really no impact on any  
6 neighbor and I would be totally in support that this meets  
7 the special exception criteria.

8 CHAIRPERSON HILL: Mr. Smith.

9 MR. SMITH: I agree with both of you and within  
10 the OP report. The Office of Planning's determinations about  
11 impacts of light and air, privacy of use and enjoyment and  
12 visual intrusion. I believe that the design of the porch is  
13 in keeping with the neighboring properties. I had no  
14 concerns about this application so, I would support it.

15 CHAIRPERSON HILL: Vice Chair John.

16 MEMBER JOHN: I'm fine with this application for  
17 the reasons that everyone has stated so far. It's fairly  
18 straight forward and I agree with and give great weight to  
19 OP's analysis in terms of the visual impacts and I can  
20 support the application.

21 CHAIRPERSON HILL: Okay, great. Then I'll go  
22 ahead and make a motion to approve application number 20294  
23 as captioned and read by the Secretary and ask for a second,  
24 Ms. John.

25 MEMBER JOHN: Second.

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1 CHAIRPERSON HILL: Mr. Moy, the motion has been  
2 made and seconded. Can you please take a roll call?

3 MR. MOY: Thank you, Mr. Chairman. When I call  
4 you names, if you would please respond with a yes, no or  
5 abstain to the motion made by Chairman Hill to approve the  
6 application for the relief requested, seconded by Vice Chair  
7 John. Zoning Commissioner Michael Turnbull.

8 MR. TURNBULL: Oh, I'm sorry. Yes.

9 MR. MOY: Mr. Smith.

10 MR. SMITH: Yes.

11 MR. MOY: Vice Chair John.

12 MEMBER JOHN: Yes, to approve.

13 MR. MOY: Chairman Hill.

14 CHAIRPERSON HILL: Yes, to approve.

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

16 And this is on the motion made by Chairman Hill to approve  
17 the application, seconded by Vice Chair John. Also in  
18 support is Zoning Commissioner Michael Turnbull and Mr.  
19 Smith. Staff would record the vote then as 4-0-1, the one  
20 being a Board seat vacant. The motion carries.

21 CHAIRPERSON HILL: Okay, great. Thank you, Mr.  
22 Moy. Mr. Moy, feel free to call off our next one when you're  
23 ready.

24 MR. MOY: This would be application number 20309  
25 of David D. Do, D-0. Captioned and advertised for a special

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1 exception under Subtitle E 5201 from the lot occupancy  
2 requirements of Subtitle E Section 304.1 and from the rear  
3 yard requirements of Subtitle E Section 306.1.

4 This would add a second story rear deck addition  
5 to an existing attached flat RF-1 zone at 41 Quincy Place  
6 Northwest square 3101 lot 93.

7 And for the record, Mr. Chairman, just to remind  
8 you that the new rules require that there are no filings in  
9 the case record 24 hours prior to a hearing. And in this  
10 case there was a filing of a letter of support yesterday  
11 morning, so I wanted to make that for the record.

12 CHAIRPERSON HILL: Okay. And I'm actually going  
13 to now have a little bit of a discussion I guess, Mr. Moy,  
14 because I can't recall where we stood on this. I mean, the  
15 thing that I was really looking for was the affidavit of  
16 maintenance, which we did get.

17 Or at least one of the things to complete kind of  
18 the record in terms of our review. The letter of support,  
19 it came in within 24 hours, right? And so, the way that  
20 works is that people would have to apply to, or request the  
21 ability to have that entered into the record. Is that  
22 correct?

23 MR. MOY: Well this one's a little, I would yield  
24 to our OAG Counselor but in this event, if it was a public  
25 hearing they would bring it into the public hearing and

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1 announce that they had this filing but this is a decision  
2 meeting so, that's something that I would yield to Mr.  
3 Bassett.

4 CHAIRPERSON HILL: Because I guess before Mr.  
5 Bassett even gives their opinion, I mean, I just don't think,  
6 I mean, we have a rule the way it is and I don't want to  
7 necessarily, I mean, this happens to be a letter in support,  
8 you know, it could be a letter in opposition, it could be a  
9 whole bunch of other stuff.

10 I mean, like I don't think that, you know, if it  
11 comes in within the 24 hours, you know, Mr. Bassett, what's  
12 kind of our policy?

13 MR. BASSETT: I can take a look at that and back  
14 to you. Off the top of my head I'm not sure I can give you  
15 an answer to that right now.

16 CHAIRPERSON HILL: Okay. Well Ms. John and Mr.  
17 Smith and Commissioner Turnbull, like I'm not interested in  
18 allowing it into the record at this point unless there's  
19 something that you all need.

20 This is again where I think we need to have  
21 further clarity as to when something gets put into the record  
22 and we seem to have a debate. I mean, this is a decision  
23 meeting, it's not a hearing.

24 I mean, if it was a hearing it'd be a different  
25 matter because the person could actually be here and provide

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1 testimony. The fact that we don't take testimony for a  
2 decision meeting even makes it so I'm more uncomfortable to  
3 have let into the record.

4 And I guess I'll go around the screen. Mr.  
5 Turnbull.

6 MR. TURNBULL: Mr. Chairman, I would agree with  
7 your analysis. If it was a hearing it'd be a totally  
8 separate issue but since we're not having anyone speak, no  
9 applicant, I would agree that it should not be allowed.

10 CHAIRPERSON HILL: Mr. Smith.

11 MR. SMITH: I second Mr. Turnbull. This is a  
12 meeting, not a public hearing. So, I wouldn't include it  
13 with the record.

14 CHAIRPERSON HILL: Vice Chair John.

15 MEMBER JOHN: I'm fine with excluding it for the  
16 reasons that, you know, everyone's stated so far. This is  
17 the public meeting, it's an expedited application and, you  
18 know, we don't have the opportunity to question the person  
19 who is submitting the information so I would say we don't  
20 include it.

21 CHAIRPERSON HILL: Okay. So, Mr. Moy, we're not  
22 going to include it into the record and, Mr. Bassett, for the  
23 next time we all talk again, or Mr. Moy, if you could just  
24 again provide another refresher as to what our policy is for  
25 things that come in inside 24 hours.

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1           And whether or not they have to, you know, file  
2 a waiver or something to have it entered into the record or  
3 whatever we end up, have doing, let's just get to a process  
4 that is the same for everyone.

5           Because we're in this kind of weird virtual world,  
6 you know, as you mentioned, people could have shown up at the  
7 hearing if we were actually in person so, all right.

8           So, in terms of the deliberation, I actually would  
9 agree with the analysis that the Office of Planning has  
10 provided in terms of how they're meeting the criteria for us  
11 the application.

12           I also see that the ANC was in support as well as  
13 DDOT not having any objection. The thing that I would like  
14 to just kind of specify is that this is again for this second  
15 floor deck.

16           We're not talking about the third floor roof deck.  
17 That's another thing all together, whether or not DCRA has  
18 some issue with that or they have to, the applicant has to  
19 come back to us, we're not talking about the third floor roof  
20 deck.

21           We're only talking about the second floor deck.  
22 And I'm comfortable with the application, I'm going to be  
23 voting to approve the application. Mr. Turnbull.

24           MR. TURNBULL: I would agree with you, Mr. Chair.  
25 When you first look at this with the drawings it gets a

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1 little convoluted. You see all these separate decks and  
2 everything but you're right, we have to separate out what's  
3 actually asked for in this case.

4 And if you're looking only at the rear deck,  
5 second floor deck and separate all the other fluff and things  
6 that are going on with this project, I have no issue. I  
7 think it meets the requirements for the special exception and  
8 I would be voting in favor of this.

9 CHAIRPERSON HILL: Mr. Smith.

10 MR. SMITH: I second Mr. Turnbull. The Office of  
11 Planning has done a thorough analysis of this application and  
12 their recommendation is for approval and I give great weight  
13 to their recommendation in this particular case.

14 I would note that DDOT has no concerns and the ANC  
15 is in support and that the letters of support that we did  
16 receive from the adjacent property owners involves that third  
17 floor deck as you have said, that is not before us today.  
18 I just wanted to make that note.

19 But otherwise I am in support of this application  
20 and would support this approval.

21 CHAIRPERSON HILL: Back for clarity, Mr. Smith,  
22 you're talking about the second floor deck and we're not  
23 talking about the roof deck.

24 MR. SMITH: Yes, yes, yes. Correct.

25 CHAIRPERSON HILL: Okay. Ms. John.

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1 MEMBER JOHN: I agree with all the comments so far  
2 and that this application should be looked at only for the  
3 second floor deck, if that's what you're asking for. Not for  
4 the roof. Yes.

5 CHAIRPERSON HILL: Okay. All right. Then I'm  
6 going to make a motion to approve application number 20309  
7 as captioned and read by the Secretary and ask for a second,  
8 Ms. John.

9 MEMBER JOHN: Second.

10 CHAIRPERSON HILL: Motion has been made and  
11 seconded, Mr. Moy. Could you please take a roll call vote.

12 MR. MOY: Thank you, Mr. Chairman. When I call  
13 your names, if you would please respond with a yes, no or  
14 abstain to the motion made by Chairman Hill to approve the  
15 application for the relief requested, seconded by Vice Chair  
16 John. Zoning Commissioner Michael Turnbull.

17 MR. TURNBULL: Yes, to approve.

18 MR. MOY: Mr. Smith.

19 MR. SMITH: Yes, to approve.

20 MR. MOY: Vice Chair John.

21 MEMBER JOHN: Yes, to approve.

22 MR. MOY: Chairman Hill.

23 CHAIRPERSON HILL: Yes, to approve.

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

25 And this is on the motion made by Chairman Hill to approve

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1 the application, seconded by Vice Chair John.

2 Also in support, Mr. Smith and Zoning Commissioner  
3 Michael Turnbull. We have a Board seat vacant but the motion  
4 carries on a vote of 4-0-1.

5 CHAIRPERSON HILL: Thank you, Mr. Moy. All right.  
6 Let's see, why don't, I think we have, I guess we have to do  
7 something with this. So, do you want to call this, I guess,  
8 is it 20312?

9 MR. MOY: Yes, sir.

10 CHAIRPERSON HILL: Okay.

11 MR. MOY: So, next and last on the meeting agenda  
12 is application number 20312 District Department of General  
13 Services. Pursuant to, captioned and pursuant to, captioned  
14 for special exception under Subtitle F Section 4910.1 for the  
15 rear yard requirement.

16 Subtitle F Section 4906.1 to construct an ADA  
17 accessible elevator at the back of Ross Elementary School  
18 building. This is in the RA8 zone of premises of 1730 R  
19 Street Northwest square 155 lot 821.

20 And as the Chair of the Board will recall, this  
21 particular application, the issue is surrounding the criteria  
22 for expedited review and their Subtitle Y Section 401.2.

23 CHAIRPERSON HILL: Okay, great. So I can begin  
24 the discussion. I think that after reviewing the record, I  
25 didn't think that this necessarily qualifies for an expedited

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1 review under the Subtitle.

2 I think that this is substantial enough that it  
3 should be something that should be a hearing and I think that  
4 we could go ahead and move this to the hearing docket today.

5 I do believe that the applicant has been made note  
6 of this so they are prepared to also enable us to have a  
7 hearing with them today.

8 I don't think that it would prejudice any of the  
9 parties to move this to the hearing section because everyone  
10 had already been notified. The ANC actually, I mean the ANC  
11 has been notified. They actually are in support.

12 DDOT has been notified, they don't have any  
13 objection. I think that it is something again, that we would  
14 be able to hear today. I just don't think that it's  
15 something that I would feel comfortable doing as an expedited  
16 review.

17 And I would guess, I can go around the screen here  
18 and see if anybody has any objections to moving this to the  
19 hearing docket for today. Commissioner Turnbull.

20 MR. TURNBULL: Mr. Chairman, I have no issues and  
21 I would concur with your analysis and I'm quite ready to move  
22 it over to a hearing.

23 CHAIRPERSON HILL: Okay. Mr. Smith.

24 MR. SMITH: I concur with Mr. Turnbull's analysis  
25 and I would recommend moving it to the public hearing.

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1 CHAIRPERSON HILL: Ms. John.

2 MEMBER JOHN: I agree with the decision to move  
3 it to the public hearing.

4 CHAIRPERSON HILL: Okay. All right. Then, Mr.  
5 Moy, we're going to go ahead and move this to the hearing  
6 calendar.

7 MR. MOY: Okay. Is this by consensus or are you  
8 going to vote on this, Mr. Chair?

9 CHAIRPERSON HILL: I think I can just do it.

10 MR. MOY: Okay. Let's do it.

11 CHAIRPERSON HILL: Anybody can pull them at any  
12 time, so I'll go ahead and just pull it. Did you have a  
13 place to put it in the agenda? Do you just want to do it  
14 first?

15 MR. MOY: Yes. I think it would be ideal to put  
16 it on first on the public hearing agenda.

17 CHAIRPERSON HILL: Okay. It's up to you guys.  
18 We have a pretty light hearing docket. I mean, what I've  
19 been doing is I've been reading into the hearing and then  
20 we've been taking a break. Ms. John?

21 MEMBER JOHN: Just wanted to complete to the  
22 record, Mr. Chairman, before we move on. But I believe the  
23 real, another reason is that the requirement in the Y401 --

24 CHAIRPERSON HILL: Say it again, Ms. John. I'm  
25 sorry, you broke up there for a minute.

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1           MEMBER JOHN: Oh yes. The application does not  
2 meet the requirement of the Y 401.2 for an expedited hearing  
3 because that section under section C allows a park, a  
4 playground, swimming pool or athletic field pursuant to U  
5 203.2(d).

6           So, I agree with the decision to move it to the  
7 hearing calendar but for different reasons.

8           CHAIRPERSON HILL: Okay. Well, thank you very  
9 much for the clarification. Do you want to, do you all want  
10 me to read it and then we'll take a break or do you want to  
11 try to do a case?

12           MEMBER JOHN: We could take a break.

13           CHAIRPERSON HILL: Okay. All right. So, I'm  
14 going to read into, I'm just going to keep following along  
15 what I normally do then. I'm going to read into the hearing  
16 and then we'll take a quick break.

17           (Whereupon, the above-entitled matter went off the  
18 record at 10:21 a.m.)

19  
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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: 09-30-20

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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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