

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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REGULAR PUBLIC MEETING

+ + + + +

WEDNESDAY

FEBRUARY 3, 2021

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The Regular Public Meeting of the District of Columbia Board of Zoning Adjustment convened via videoconference, 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, Vice Chair
- CHRISHAUN SMITH, Board Member

ZONING COMMISSION MEMBER PRESENT:

- PETER MAY, Commissioner

OFFICE OF ZONING STAFF PRESENT:

- CLIFFORD MOY, Secretary
- PAUL YOUNG, Zoning Data Specialist
- SARA A. BARDIN, Director

OFFICE OF THE ATTORNEY GENERAL PRESENT:

- JOHN K. RICE, ESQUIRE

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The transcript constitutes the minutes from the
Regular Public Meeting held on February 3, 2021.

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

I. MOTIONS

Motion for Special Exception in Application No. 20398 -
Helen Serassio. 5

Motion for Party Status in Application No. 20313 of
FHD, LLC 8

II. DECISIONS

Application No. 20398, Helen Serassio 7

Application No. 20313, FHD, LLC 16

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

(9:42 a.m.)

CHAIRPERSON HILL: Okay. Let's go ahead. Mr. Young, do you want to start the recording?

Okay. The meeting will please come to order. And if you all want to mute your lines. The meeting will please come to order.

Good morning, ladies and gentlemen. We're convened and broadcasting this decision meeting by videoconference. This is February 3rd, 2021 public meeting session of the Board of Zoning Adjustment for the District of Columbia.

My name is Fred Hill, Chairperson. Joining me today is Lorna John, Vice Chair; Chrishaun Smith, Board Member; and representing the Zoning Commission is Peter May.

Today's meeting agenda is available to you on the Office of Zoning website. Please be advised this proceeding is being recorded by a court reporter and is also webcast live via Webex and YouTube Live. The video of the webcast will be available on the Office of Zoning's website after today's meeting 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. If you're experiencing difficulty accessing Webex or with your telephone call-in, then please call our OZ hotline number at 202-727-5471. Once again, 202-727-5471. It is also on

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1 the screen in front of you to receive Webex log-in or call-in
2 instructions.

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

9 Although the Board favors the use of summary orders
10 whenever possible, an applicant may not request the Board to grant
11 such an order.

12 Preliminary matters of those which relate to whether a
13 case will or should be heard today, such as a request for a
14 postponement, continuance or withdrawal, or whether proper and
15 adequate notice of the meeting has been given.

16 Mr. Secretary, do we have any preliminary matters today?

17 MR. MOY: Good morning, Mr. Chairman, members of the
18 Board. We do, but I think -- I would suggest it's more efficient
19 for the Board that I call the preliminary matters when I call a
20 specific case.

21 CHAIRPERSON HILL: Okay, great. Do you want to go ahead
22 and call our first meeting case?

23 MR. MOY: Yes, sir. That would be Case Application No.
24 20398 of Helen Serassio, that's S-E-R-A-S-S-I-O. This is an
25 (audio interference) review case. It is a request for special

1 exception from the lot occupancy requirement, Subtitle E, Section
2 304.1. The rear yard requirements of Subtitle E, Section 306.1.
3 This is pursuant to Subtitle E, Section 52.01 and Subtitle X,
4 901.2. This would construct a two-story rear addition to an
5 existing attached two-story principal dwelling unit in the RF-1
6 Zone. The address is 1015 Fairmont Street, Northwest, Square
7 2858, Lot 44.

8 CHAIRPERSON HILL: All right. Is the Board ready to
9 discuss this? All right.

10 I guess the first issue is there was a waiver from the
11 21-day filing deadline because the applicant -- (audio
12 interference).

13 (Lapse in audio for approximately 4 minutes.)

14 MS. JOHN: -- there is no adverse effect, so I can
15 support the application.

16 CHAIRPERSON HILL: Okay. Mr. Young, can you hear me?

17 MR. YOUNG: Yes, I can.

18 CHAIRPERSON HILL: Does it all seem broken up to you
19 like are you -- are people coming in and out and the sound is
20 going in and out or is it just me?

21 MR. YOUNG: It was a minute ago, but it seems fine now.

22 CHAIRPERSON HILL: Okay. It was really -- all right.
23 We'll see what happens. I mean, we won't be able to -- it'll be a
24 difficult day if this continues.

25 All right. I'm going to make the motion to approve

1 application No. 20398 as captioned and read by the Secretary and
2 ask for a second. Ms. John?

3 MS. JOHN: Second.

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

6 MR. MOY: Thank you, Mr. Chairman. When I call your
7 name, if you would please respond with a yes, no, or abstain to
8 the motion made by Chairman Hill to approve the application for
9 the relief requested? The motion was seconded by Vice Chair John.

10 Zoning Commissioner, Peter May?

11 MR. MAY: Yes.

12 MR. MOY: Mr. Smith?

13 MR. SMITH: Yes.

14 MR. MOY: Vice Chair John?

15 MS. JOHN: Yes.

16 MR. MOY: Chairman Hill?

17 CHAIRPERSON HILL: Yes.

18 MR. MOY: We have a Board seat vacant. Staff would
19 record the vote as 4 to 0 to 1, and this is on the motion made by
20 Chairman Hill to approve, seconded by Vice Chair John. Also in
21 support of the motion is Mr. Smith and Zoning Commissioner Peter
22 May. The motion carries on a vote of 4 to 0 to 1.

23 CHAIRPERSON HILL: Okay. All right. Mr. Moy, go ahead,
24 and when you get a chance, read the next case. I'm really
25 concerned about the technical issues. So we'll see what happens

1 throughout the day.

2 MR. MOY: All right. This case application before the
3 Board is Case Application No. 20313 of FHD, LLC. This is a motion
4 for party status that was filed in opposition. Participating on
5 this application are the Board members and Zoning Commissioner
6 Peter Shapiro.

7 For the record, I'll read the caption of the case as
8 amended for special exceptions under the RA Use requirements,
9 Subtitle U, Section 421.1, pursuant to Subtitle F, Section 52.01
10 from the side yard requirements of Subtitle F, Section 306.2 and
11 under the voluntary inclusionary zoning requirements, Subtitle F,
12 Section 5206.1. This would construct a three-story rear addition
13 and convert the semi-detached principal dwelling unit into a five-
14 unit apartment building, RA 1 Zone, at premises 4310 Second
15 Street, Northwest, Square 3318, Lot 811.

16 And again, Mr. Chairman, this is where the Board at its
17 last meeting session on January 13 reopened the record and before
18 you is the -- is to address the motion for party status in
19 opposition.

20 CHAIRPERSON HILL: Okay. So before the Board is a
21 couple issues. One is the party status motion from Taheerah El-
22 Amin and then also the applicant is opposed to the party status
23 request. And also the applicant has asked for a postponement
24 because they want to present revised plans to the ANC.

25 I guess -- and this is where I'm a little confused. Mr.

1 Rice, did we -- we heard everything from the applicant on this and
2 then also we did take testimony from the next-door neighbor about
3 the tree; is that correct?

4 MR. RICE: That's correct, sir. However, the applicant
5 has revised their plans and their plat due to a dialogue during
6 the meeting related to the tax record lot issue and they have
7 submitted an amended set of plans and an amended plat that
8 essentially changes the building height, changes the unit
9 composition, and a few other changes. So although the relief
10 remains the same, the Board will be considering essentially a new
11 application.

12 CHAIRPERSON HILL: Okay. Well, let's talk about the
13 prior -- well, I'm definitely in favor of the postponement because
14 we don't really have anything going on right now to kind of figure
15 out what we want to do.

16 But I guess let's talk about the party status. So
17 originally, I was going to vote in favor of the party status
18 because it's the immediate next-door neighbor as -- but then I was
19 going to limit the testimony from the party status as well as the
20 applicant to -- well, I was -- I mean, the party status person I
21 was kind of thinking about was for the tree issue.

22 But now that I guess the revised plans have changed
23 significantly, maybe we'll hear about everything from the party
24 status person, I don't know. I'm kind of now asking the Board
25 what their thoughts are.

1 So my question was again, approve party status but limit
2 it to the issues that the adjacent neighbor had concerning the
3 tree, or leave it open just for anything that, you know, we're
4 basically having a new hearing again. So the party status person
5 would have an opportunity to argue other issues I suppose.

6 MR. RICE: Mr. Chair, if I may.

7 CHAIRPERSON HILL: Go ahead, Mr. Rice.

8 MR. RICE: Mr. Chair, if I may, the applicant still
9 hasn't submitted its revised burden of proof or justification
10 statement. We assume that that's coming in the near future. So
11 when you guys determine whether to limit issues, you may want to
12 bear in mind that the party status applicant, you know, still
13 needs to have the opportunity to respond to any new issues or
14 changes that are raised in that justification statement.

15 In essences, right now, the party status applicant will
16 only be responding to the technical documents, such as the amended
17 plans and the amended plat. She doesn't actually have or -- she
18 does not actually have the justification statement of the
19 applicant to respond to.

20 CHAIRPERSON HILL: Okay. So based upon that comment, it
21 seems like just leave the party status open the way we normally
22 handle party status. And I wouldn't limit it to a scope of any
23 kind.

24 I'm going to go around the table and see what my fellow
25 Board members think. Commissioner May?

1 MR. MAY: Sorry, I'm not participating in this case.

2 CHAIRPERSON HILL: Oh, yeah, that's right, that's right.
3 Mr. Smith?

4 BOARD MEMBER SMITH: Being that she is the next-door
5 neighbor there may be some additional (audio interference)
6 something she may have in light of the fact that we may see a
7 revised set of plans for this application. I am comfortable with
8 granting the party status.

9 CHAIRPERSON HILL: Ms. John?

10 VICE CHAIR JOHN: Mr. Chairman, I am comfortable with
11 granting party status and I would just note that this is
12 essentially a new application because the applicant has reduced
13 the relief requested. The -- looking at the plans last night, the
14 plan is to move to a four-unit building instead of a five-unit
15 building and to request less yard relief.

16 So I'm fine with leaving it open for now and I would
17 proceed on that basis.

18 CHAIRPERSON HILL: Okay. All right. Mr. Moy, so then
19 if we went ahead and postponed -- if we granted party status to
20 Ms. El-Amin and then went back in terms of timing, and I'm going
21 to let you kind of take a look at your schedule. Like, if we
22 allowed a week for Ms. El-Amin to -- Ms. -- yeah, Ms. El-Amin to
23 file written opposition to the revised plans, outlining why relief
24 should not be granted, that would be a week. Do seven days after
25 the revised plans are filed. So I don't know when those revised

1 plans I guess are going to be filed.

2 Then a week for the applicant to respond to issues
3 raised by the opposition, again seven days after Ms. El-Amin's
4 opposition deadline. And then I guess a week for the ANC and OP
5 to respond to factual issues raised in the applicant and
6 opposition's filings. I guess when do you think we could do this?

7 MR. MOY: Well, yeah, Mr. Rice will jump in, but a lot
8 of this hinges on when the applicant can make their initial
9 filing. I'll turn -- you can set up the process, the process
10 timeline as you're describing and once I -- or once the staff
11 learns when the applicant can submit their filing, then I could
12 put the date timeline as a memo into the record; or the other
13 alternative is you could set that deadline for the applicant.

14 MR. RICE: Mr. Chair, I think -- we can -- might need
15 some clarification. The applicant has already filed the revised
16 plan, but you may want to wait until the applicant files its
17 amended or revised justification statement so that Ms. El-Amin is
18 responding to the applicant's full application so to speak.

19 So instead of setting those dates based upon the revised
20 plans that should've already been filed, you'll be basing them on
21 the revised justification statement which we're still waiting on
22 and which the Chair -- I'm sorry, which Secretary Moy is saying
23 they want us to adjust the signing date by which the applicant
24 needs to file that document.

25 CHAIRPERSON HILL: Well, Mr. Moy, I guess, you know, if

1 | you gave them a week to file that, right, if you gave them -- you
2 | know, today is Wednesday, I guess -- I would assume that you'd get
3 | it in by Friday, I don't know. Is that too soon?

4 | MR. MOY: Friday of next week?

5 | CHAIRPERSON HILL: No, I was going to say, I mean, I'm
6 | trying to get this -- I mean, the two ways to deal with this is
7 | either you can reach out to the applicant and find out when they
8 | can get the revised burden in, and then from that date, you can
9 | let Ms. El-Amin and all the parties know the timeline that I just
10 | kind of set out. I guess that would be the easier way.

11 | MR. MOY: Yeah, I would agree. I would agree. That's -
12 | - let's go by that. Let's go by that.

13 | CHAIRPERSON HILL: So then you'll let all the parties
14 | know about the deadlines and when this is back before us?

15 | MR. MOY: Yeah, I think that's the -- would be the way
16 | to go.

17 | CHAIRPERSON HILL: Okay. Because if they can get it and
18 | this is for, you know, the applicant I would imagine is listening
19 | as well as Ms. El-Amin, that you know, it may happen because I
20 | want to get this -- I want to be as efficient as possible, giving
21 | as much time to everyone that is required.

22 | So that if we did get the revised -- you know, if you're
23 | able to speak with the applicant again today or tomorrow or
24 | whatever, and if they're able to get their revised burden in by
25 | Friday, then you can do that timeline based off of, you know,

1 Friday, this Friday, this Friday and see when they get things in.

2 So I'll just let that be up to the Secretary there and
3 the staff, okay, in terms of when this is back before us.

4 MR. MOY: Yeah, let's do that.

5 VICE CHAIR JOHN: Mr. Chairman, the applicant also has
6 to present to the ANC. So I believe that process you've outlined
7 makes more sense.

8 CHAIRPERSON HILL: Okay. So the --

9 MR. RICE: As a point of -- I think as a point of
10 information, sir, the applicant in their postponement request, I
11 believe they stated that they intend to present to the ANC on
12 February 10th and that's why they were actually asking for that
13 postponement.

14 CHAIRPERSON HILL: I understand. No, I understand. I
15 saw that -- I'm sorry. I saw that the ANC for February 10th. And
16 so that's still -- you know, Mr. Moy, you can kind of like work
17 that out in terms of deadlines.

18 MR. MOY: Yes, sir, I'll do that. So tentatively, I'm
19 going to shoot for the applicant to make their -- to complete
20 their filing by this Friday, February 5th. Once I confirm that,
21 then I'll be able to set up the other timeline dates and I'll
22 notice that on an OZ memorandum in the case record.

23 CHAIRPERSON HILL: Okay. And you'll then let us know
24 when this will be back before us?

25 MR. MOY: Absolutely, yes, sir. Of course, naturally,

1 naturally the original date that you had set to read here this
2 case was for February 10th, so obviously that's been moved. I'm
3 just stating that for the record.

4 CHAIRPERSON HILL: Yeah, so we'll have to move it
5 according to whatever new dates you come up with the staff and the
6 applicant.

7 MR. MOY: That's correct, thank you, sir.

8 CHAIRPERSON HILL: Okay. And I don't think you -- do we
9 have to -- I mean, I'm just -- with consensus, you know, I guess
10 we can also take a vote then.

11 You know, I'm going to make a motion to approve the
12 party status of Ms. El-Amin, as well as the postponement that we
13 just kind of worked through that Mr. Moy will work with the staff
14 and the applicant to get to a date and ask for a second, Ms. John?

15 VICE CHAIR JOHN: Second.

16 CHAIRPERSON HILL: Mr. Moy, could you just take a roll
17 call on the two motions?

18 MR. MOY: Yes, sir. The motion of Chairman Hill, the
19 motion seconded by Vice Chair John. I'll also before I -- well,
20 yeah. Let's do the roll call vote.

21 So, Mr. Smith?

22 BOARD MEMBER SMITH: Yes.

23 MR. MOY: Vice Chair John?

24 VICE CHAIR JOHN: Yes.

25 MR. MOY: Chairman Hill?

1 CHAIRPERSON HILL: Yes.

2 MR. MOY: And this is the motion to grant the party
3 status request, as well as the request for a postponement. We do
4 have an absentee ballot by Zoning Commissioner Peter Shapiro. And
5 so my ask is whether or not the Board would want that to be
6 registered as part of the vote count?

7 CHAIRPERSON HILL: Yes, please.

8 MR. MOY: Mr. Shapiro's absentee vote is to grant both
9 the party status request and the postponement. So that would give
10 a resulting vote of 4 to 0 to 1. This is on a motion of Chairman
11 Hill, seconded by Vice Chair John, also in support of the motion
12 Mr. Smith and Zoning Commissioner Peter Shapiro. We have a Board
13 seat vacant. Motion carries 4 to 0 to 1.

14 CHAIRPERSON HILL: Okay. Great, thank you, Mr. Moy.

15 All right. So that's it for our meeting cases.

16 Mr. May, Commissioner May, are you back with us?

17 MR. MAY: Yes.

18 CHAIRPERSON HILL: Okay. Great, I was just checking if
19 your camera is working.

20 (Whereupon, the above-entitled matter went off the
21 record at 10:06 a.m.)

22

23

24

25

C E R T I F I C A T E

This is to certify that the foregoing transcript:

In the matter of: Public Meeting

Before: DCBZA

Date: 02-03-21

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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