

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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REGULAR PUBLIC MEETING

+ + + + +

WEDNESDAY

DECEMBER 1, 2021

+ + + + +

The Regular Public Meeting of the District of Columbia Board of Zoning Adjustment convened via Videoconference, pursuant to notice at 9:30 a.m. EST, Lorna John, Vice Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

LORNA JOHN, Vice Chair  
CARL BLAKE, Member  
CHRISHAUN SMITH, Member

ZONING COMMISSION MEMBERS PRESENT:

ROBERT MILLER, Commissioner

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary  
PAUL YOUNG, Zoning Data Specialist

The transcript constitutes the minutes from the Regular Public Meeting held on December 1, 2021.

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

(9:42 a.m.)

1  
2  
3 VICE CHAIR JOHN: Good morning, ladies and  
4 gentlemen.

5 The Board of Zoning Adjustments, December 1, 2021,  
6 public hearing, will please come to order.

7 My name is Lorna John. I am the vice chairperson  
8 of the District of Columbia Board of Zoning Adjustment.

9 Joining me today are board members Carl Blake and  
10 Chrishaun Smith, and Zoning Commissioners Anthony Hood and  
11 Rob Miller.

12 Today's meeting and hearing agendas are available  
13 on the Office of Zoning's website.

14 Please be advised that this proceeding is being  
15 recorded by a court reporter, and is also webcast live via  
16 WebEx and YouTube Live.

17 The video of the webcast will be available on the  
18 Office of Zoning's website after today's hearing.

19 Accordingly, everyone who is listening on WebEx  
20 or by telephone will be muted during the hearing.

21 Also, please be advised that we do not take any  
22 public testimony at our decision meeting session.

23 MR. MOY: Madam Chair, I think you accidentally  
24 muted yourself.

25 VICE CHAIR JOHN: Okay.

1 MR. MOY: Oh, better, better. You were halfway  
2 through, so.

3 VICE CHAIR JOHN: I was halfway through my  
4 decision meeting session.

5 MR. MOY: Yeah, sorry about that.

6 VICE CHAIR JOHN: Okay, and thank you for letting  
7 me know.

8 Also, please be advised that we do not take any  
9 public testimony at our decision meeting session.

10 If you experience difficulty accessing WebEx, or  
11 with your telephone call in, then please call our OZ hotline  
12 number at 202-727-5471 to receive WebEx login or call in  
13 instructions.

14 At the conclusion of a decision meeting, the  
15 chairman will, in consultation with the Office of Zoning,  
16 determine whether full or a summary order may issue.

17 A full order is required when the decision it  
18 contains is adverse to a party, including an affected ANC.

19 A full order may also be needed if the board's  
20 decision differs from the Office of Planning's  
21 recommendation.

22 Although the board favors the use of summary  
23 orders whenever possible, an applicant may not request the  
24 board to issue such an order.

25 In today's hearing session, everyone who is

1 listening on WebEx or by telephone will be muted during the  
2 hearing, and only persons who have signed up to participate  
3 or testify will be unmuted at the appropriate time.

4           Please state your name and home address before  
5 providing oral testimony or your presentation.

6           Oral presentations should be limited to a summary  
7 of your most important points.

8           When you have finished speaking, please mute your  
9 audio so that your microphone is no longer picking up sound  
10 or background noises.

11           Once again, if you experience difficulty accessing  
12 WebEx, or with your telephone call in, or if you have forgot  
13 to sign up 24 hours prior to this hearing, then please call  
14 our OZ hotline number at 202-727-5471 to sign up to testify  
15 and to receive WebEx login or call in instructions.

16           All persons planning to testify, either in favor  
17 or in opposition, should've signed up in advance. They will  
18 be called by name to testify.

19           By signing up to testify, all participants  
20 completed the oath or affirmation as required by Subtitle Y  
21 Section 408.7.

22           Request to enter evidence at the time of an online  
23 virtual hearing, such as written testimony or additional  
24 supporting documents -- other than live video, which may not  
25 be presented as part of the testimony -- may be allowed.

1           Subtitle Y, Section 103.13 provided that the  
2 person making the request and to the exhibit explains how the  
3 proposed exhibit is relevant, the good cause that justifies  
4 allowing the exhibit into the record, including an  
5 explanation of why the requester did not file the exhibit  
6 prior to the hearing, pursuant to Subtitle Y, Section 206,  
7 and how the proposed exhibit would not unreasonably prejudice  
8 any party.

9           The order of procedure for special exceptions and  
10 variances, pursuant to Subtitle Y, Section 409, will be as  
11 follows.

12           Preliminary and procedural matters, statement of  
13 the applicant, and the applicant's witnesses, report and  
14 recommendation from the DC Office of Planning, reports and  
15 recommendations from other public agencies, reports and  
16 recommendations from the affected Advisory Neighborhood  
17 Commission, and the ANC's witnesses, if any, for the area  
18 within which the property is located.

19           Parties in support of the application,  
20 individuals, and organization representatives in support of  
21 the application, parties in opposition to the application,  
22 individuals and organization representatives in opposition  
23 to the application, individuals and organizational  
24 representatives who are undeclared with respect to the  
25 application.

1 Rebuttal and closing arguments. Rebuttal and  
2 closing statements by the applicant.

3 Pursuant to Subtitle Y, Section 408.2 and 408.3,  
4 the following time constraints shall be maintained.

5 The applicant and all parties, except an affected  
6 ANC and support, including witnesses exclusive of cross-  
7 examination, the maximum time of 60 minutes collectively.

8 Persons and parties, except an affected ANC and  
9 opposition, including witnesses, collectively have an amount  
10 of time equal to that of the applicant and parties and  
11 support, but in no case more than 60 minutes collectively.

12 Individuals will have a maximum of three minutes.  
13 Organization representatives will have a maximum of five  
14 minutes.

15 These time constraints do not include cross-  
16 examination and/or questions from the board.

17 Cross-examination of witnesses by the applicant  
18 or parties, including the ANC, is permitted.

19 The ANC, within which the property is located, is  
20 automatically a party in a special exception or variance  
21 case.

22 Nothing prohibits the board from placing  
23 reasonable restrictions in cross-examination, including time  
24 limits and limitations on the scope of cross-examination,  
25 pursuant to Subtitle Y, Section 408.5.

1           At the conclusion of each case, an individual who  
2 was unable to testify because of technical issues may file  
3 a request for leave to file a written version of the planned  
4 testimony to the record within 24 hours following the  
5 conclusion of public testimony in the hearing.

6           If additional written testimony is accepted, then  
7 parties will be allowed a reasonable time to respond as  
8 determined by the board.

9           The board will then make its decision at its next  
10 meeting session, but no earlier than 48 hours after the  
11 hearing.

12           Moreover, the board may request additional,  
13 specific information to complete the record.

14           The board and the staff will specify at the time  
15 of the hearing exactly what is expected and the date when  
16 persons must submit the evidence to the Office of Zoning.

17           No other information shall be accepted by the  
18 board.

19           Once again, after the board adjourns the hearing,  
20 the Office of Zoning, in consultation with the BZA chairman,  
21 will determine whether a full or summary order may issue.

22           A full order is required when the decision it  
23 contains is adverse to a party, including an affected ANC.

24           A full order may also be needed if the board's  
25 decision differs from the Office of Planning's

1 recommendation.

2           Although, the board favors the use of summary  
3 orders whenever possible, an applicant may not request the  
4 board to issue such an order.

5           Finally, the District of Columbia Administrative  
6 Procedures Act requires that the public hearing on each case  
7 be held in the open before the public, however, pursuant to  
8 Sections 405B and 406 of that act, the board may, consistent  
9 with its rules and procedure in the act, enter into a closed  
10 meeting on a case for purposes of seeking legal counsel on  
11 a case pursuant to D.C. Official Code, Subsection  
12 2-575(b)(4), and/or deliberating on a case pursuant to D.C.  
13 Official Code, Subsection 2-575(b)(13), but only after  
14 providing the necessary public notice, and in the case of an  
15 emergency, a closed meeting after taking a roll call.

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

17           (No audible response.)

18           VICE CHAIR JOHN: Mr. Moy?

19           (No audible response.)

20           VICE CHAIR JOHN: Hello?

21           MR. MOY: Sorry, I'm here.

22           VICE CHAIR JOHN: Okay.

23           MR. MOY: Madam Vice Chair, members of the board,  
24 we do have preliminary matters.

25           And as always, what's more efficient for the board

1 that those specific preliminary matters are raised when I  
2 call the case.

3 Other than that, Madam Chair, I would like to  
4 state for the record the status of case applications that are  
5 not on today's docket.

6 Case Application Number 20551 of Justin Matthews  
7 has been continued and rescheduled to January 12, 2022.

8 Case Application Number 20549, which is the Appeal  
9 of ANC 6B, has been continued and rescheduled to March 30,  
10 2022.

11 Case Number 20554, which is the application of  
12 Sasha Bruce Youthwork, Inc., has been continued and  
13 rescheduled to April 6, 2022.

14 And finally, Case Number 20477 of Bentley  
15 Hamilton, has been withdrawn by the applicant.

16 And that's it for me, Madam Vice Chair.

17 VICE CHAIR JOHN: Okay, thank you, Mr. Moy. So,  
18 can you call your first meeting case?

19 MR. MOY: Yes, thank you. So there are two  
20 applications before the board and its decision meeting  
21 session.

22 The first one is an expedited review case,  
23 Application Number 20586 of Rosemary Harold.

24 And this is as amended for special exceptions from  
25 the lot occupancy requirements of Subtitle E, Section 504.1,

1 pursuant to Subtitle E, Section 5201, and Subtitle X, Section  
2 901.2, and the rear yard requirements of Subtitle E, Section  
3 205.4, pursuant to Subtitle E, Section 205.5, Subtitle E,  
4 Section 5201, and Subtitle X, Section 901.2

5           This would construct a second story rear addition  
6 to an existing attached two-story with basement, principal  
7 dwelling unit in the RF-3 zone.

8           That's it.

9           VICE CHAIR JOHN: Thank you, Mr. Moy. So, I see  
10 that there are some new filings. Are they already in the  
11 record?

12           I believe so. Exhibit 30 and Exhibit 31, which  
13 is a letter in support from CHRS, and an affidavit of  
14 maintenance.

15           MR. MOY: Yes, ma'am. Yes.

16           VICE CHAIR JOHN: All right, so can you -- okay,  
17 thank you.

18           So, are we ready to deliberate on this case? I  
19 can't see everyone. So I'll go ahead and start.

20           This is a request for expedited review of an  
21 application for special exception to construct a second-story  
22 sunroom over the first floor of an existing rear addition.

23           The 77 square foot sunroom addition exceeds the  
24 lot occupancy by 2.7 percent.

25           The addition would also extend 13.3 feet beyond

1 the rear of the property at 101 4th Street, Northeast, which  
2 is 3.3 feet more than the ten feet allowed by right,  
3 therefore the project meets both rear yard and lot occupancy  
4 relief.

5 The application is fairly straightforward.

6 The lot occupancy is already at 62.7 percent on  
7 the first floor, and the increase on the second floor to  
8 match is required to match the first floor, and as noted  
9 before, it is only a two percent increase, which is not  
10 substantial.

11 I agree with OP's analysis of the need for lot  
12 occupancy relief and will give great weight to OP's analysis  
13 and recommendation.

14 The ANC voted in support of the application, and  
15 I will also give great weight to the ANC's issues -- to the  
16 issues discussed by the ANC, but I agree with OP's analysis.

17 The architect of the capitol has no objection.  
18 DDOT is in support, and we just noted that there's a letter  
19 in support from CHRS at Exhibit 30.

20 So I'd like to go around the room and see if my  
21 board members would like to add anything to what I've said.

22 May I start with you, Mr. Miller?

23 COMMISSIONER MILLER: Thank you, Vice Chair John.

24 As usual, you've covered a lot of ground, which  
25 we appreciate, so we can say I concur with all of your

1 comments, and I'll just add we also have letters of support  
2 -- you may have mentioned this, I might've missed it --  
3 letters of support from adjacent property owners, and another  
4 neighbor, I think.

5           So I'm ready to move forward on this expedited  
6 review application, as well.

7           VICE CHAIR JOHN: Thank you, Mr. Miller. I did  
8 forget to mention the neighbors. So, Mr. Smith?

9           MEMBER SMITH: Yes, Vice Chair John, I do believe  
10 you and Mr. Miller have thoroughly discussed the merits of  
11 this case and the reasons why we can support this project.

12           So I am in agreement with both of you and I will  
13 vote in support of the expedite a special exception for this  
14 case.

15           VICE CHAIR JOHN: Mr. Blake?

16           MEMBER BLAKE: I would concur with those  
17 observations and will be prepared to support, as well.

18           VICE CHAIR JOHN: Thank you. And I'm also in  
19 support. I don't know if I said that explicitly.

20           So I'll make a motion then to approve Case Number  
21 20586, as captioned and read by the secretary, and ask for  
22 a second. Mr. Blake, you're up.

23           MEMBER BLAKE: Second.

24           VICE CHAIR JOHN: Mr. Moy, would you please take  
25 vote?

1 (No audible response.)

2 VICE CHAIR JOHN: Mr. Moy?

3 MR. MOY: Yes, thank you. When I call each of  
4 your names, if you would please respond with a yes, no, or  
5 abstain to the motion made by Vice Chair John.

6 To approve the application for the relief  
7 requested, the motion to approve was seconded by Mr. Blake.  
8 Zoning Commissioner Rob Miller?

9 COMMISSIONER MILLER: Yes.

10 MR. MOY: Mr. Smith?

11 MEMBER SMITH: Yes.

12 MR. MOY: Mr. Blake?

13 MEMBER BLAKE: Yes.

14 MR. MOY: Vice Chair John?

15 VICE CHAIR JOHN: Yes.

16 MR. MOY: We have one board member not present,  
17 not participating today.

18 Staff would record the vote as 4 to 0 to 1, and  
19 this is on the motion made by Vice Chair John to approve.

20 The motion to approve was seconded by Mr. Blake.

21 Also in support of the motion to approve, Zoning  
22 Commissioner Rob Miller, Mr. Smith, and of course Mr. Blake,  
23 and Vice Chair John. One member not present.

24 The motion carries on the vote of 4 to 0 to 1.

25 VICE CHAIR JOHN: Thank you, Mr. Moy. And when

1 you're ready, Mr. Moy, can you call the next meeting case?

2 MR. MOY: All right, the next and final case  
3 application in the board's meeting session is Case  
4 Application Number 19841B, as in Bravo, of Habitat for  
5 Humanity, in Washington, D.C.

6 This is a request to extend for an additional two  
7 years.

8 BZA Order Number 19841, pursuant to 11 DCMR,  
9 Subtitle X, Chapter 9 for a special exception, under Subtitle  
10 C, Section 305.1 from the subdivision regulations of Subtitle  
11 C, Section 302.2, and pursuant to 11 DCMR, Subtitle X,  
12 Chapter 10, for an area variance from the side yard  
13 requirements of Subtitle D, Sections 307.1 and 307.4 to  
14 replace two existing detached dwelling units with 17 new  
15 semi-detached and detached dwelling units on a single record  
16 lot, R-2 zone.

17 And again, this is a request for a time extension.  
18 And let's see.

19 It would be effective January -- which was  
20 effective January 27, 2019, extended until January 27, 2022  
21 by Order Number 19841A.

22 And let's see. I think that -- oh, and the  
23 property's located at 900 through 914 55th Street, Northeast,  
24 where 5204 Lot 22.

25 Thank you, madam vice chair.

1 VICE CHAIR JOHN: Thank you, Mr. Moy. So, I'll  
2 turn to my board members. Are we ready to deliberate?

3 Okay. So I'll start. I had a couple comments.

4 So, this is a straightforward case. The applicant  
5 must demonstrate the cause for the extension, and I believe  
6 the applicant has done that.

7 And the application details all of the financial  
8 hardships the applicant has experienced in trying to get  
9 financing, and to move the project forward.

10 And these conditions are largely due to the  
11 pandemic and inability to obtain finances.

12 So I'd like to go around to see if anybody has  
13 anything else to add.

14 Oh, I should also add that OP's in support, and  
15 I will give great weight to OP's analysis and  
16 recommendations.

17 So may I start with you, Mr. Smith?

18 MEMBER SMITH: Chair John, I don't have anything  
19 to add.

20 And I do agree with you, that I believe it's a  
21 fairly straightforward case, that has met the criteria for  
22 us to be able to grant the time extension to the originally  
23 granted BZA order, 19841A.

24 So with that, I agree with OP's analysis in this  
25 case, and I will support the time extension.

1           VICE CHAIR JOHN:    Thank you.    Mr. Miller --  
2 Commissioner Miller, I should say.

3           COMMISSIONER MILLER:    Thank you, vice chair,  
4 Acting Chair John.

5           Anyway, yes, I agree with your comments, vice  
6 chair, and Mr. Smith's, for the time extension in this case  
7 by Habitat for Humanity.

8           I think it's for 17 affordable homes. It's a very  
9 worthwhile project, and all the delays that you mentioned --  
10 the financing delays and other delays are pandemic-related,  
11 and I think we have -- and you may have mentioned this, or  
12 Mr. Smith might've been -- that there's an A and C letter in  
13 support of the time extension from 7C.

14           So I'm prepared to support the time extension.

15           VICE CHAIR JOHN:    Thank you.    Let me see.    Mr.  
16 Blake?

17           MEMBER BLAKE:    Yeah, the only thing I would add  
18 there is that there has been no substantial change in any of  
19 the material facts upon which the board based its original  
20 approval, as it relates to zoning regulations, surrounding  
21 specifics of the proposed project, so I would certainly also  
22 be in support acknowledging the OP's letter in support, ANC,  
23 as well.

24           VICE CHAIR JOHN:    Thank you, Mr. Blake.    That was  
25 an important omission.

1           So, I'd like to go around the room and take a roll  
2 call. Oh, I'm sorry. First I have to make a motion to  
3 approve the application.

4           19181B as captioned and read by the secretary, and  
5 I ask for a second, Mr. Blake.

6           MEMBER BLAKE: Second.

7           VICE CHAIR JOHN: Can you take a roll call, Mr.  
8 Moy?

9           MR. MOY: Yes, thank you, madam vice chair.

10           When I call each of your names, if you would  
11 please respond with a yes, no, or abstain, to the motion made  
12 by Vice Chair John, to approve the application, which is the  
13 request to extend for an additional two years.

14           The motion was seconded by Mr. Blake. Zoning  
15 Commissioner Bob Miller?

16           COMMISSIONER MILLER: Yes.

17           MR. MOY: Mr. Smith?

18           MEMBER SMITH: Yes.

19           MR. MOY: Mr. Blake?

20           MEMBER BLAKE: Yes.

21           MR. MOY: Vice Chair John?

22           VICE CHAIR JOHN: Yes.

23           MR. MOY: We have a board member not present, not  
24 participating today.

25           Madam vice chair and staff, we record the vote as

1 4 to 0 to 1, and this is on the motion made by Vice Chair  
2 John to approve.

3 The motion to approve was seconded by Mr. Blake.

4 Also in support of the motion to approve is Zoning  
5 Commissioner Rob Miller, Mr. Smith, Mr. Blake, and of course  
6 Vice Chair John.

7 Again the motion passes on a vote of 4 to 0 to 1.

8 VICE CHAIR JOHN: Thank you, Mr. Moy. So before  
9 we move into the hearing agenda, I wanted to see if any board  
10 member wants to take a quick break?

11 If not, we can move on to the first hearing case,  
12 and take a break later.

13 (No audible response.)

14 VICE CHAIR JOHN: Okay, I don't see any hands up.

15 (Whereupon, the above-entitled matter went off the  
16 record at 10:08 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: DC BZA

Date: 12-01-21

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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Court Reporter

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