

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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REGULAR PUBLIC MEETING

+ + + + +

WEDNESDAY

APRIL 27, 2022

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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 L. JOHN, Vice Chair (NCPC)
CARL H. BLAKE, Board Member
CHRISHAUN S. SMITH, Board Member

ZONING COMMISSION MEMBERS PRESENT:

ANTHONY HOOD, Chair
ROBERT MILLER, Vice Chair

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary
PAUL YOUNG, Zoning Data Specialist

OFFICE OF PLANNING STAFF PRESENT:

JOEL LAWSON
KAREN THOMAS
STEPHEN COCHRAN
MATT JESICK
ELISA VITALE

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

MARY NAGELHOUT, ESQ.

The transcript constitutes the minutes from the Regular Public Meeting held on April 27, 2022.

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

2 (9:37 a.m.)

3 CHAIRPERSON HILL: Okay. Good morning, ladies and
4 gentlemen. The Board of Zoning Adjustment. Today's date is
5 4/27/2022. Public Meeting will please come to order.

6 My name is Fred Hill. I'm Chairperson of the
7 District of Columbia, Board of Zoning Adjustment. Joining
8 me today is Lorna John, Vice Chair, Board Members Carl Blake
9 and Chrishaun Smith, and Zoning Commissioners Chairman
10 Anthony Hood and Rob Miller.

11 Today's meeting and hearing agenda are available
12 on the Office of Zoning's website. Please be advised that
13 this proceeding is being recorded by a court reporter and is
14 also webcast live via WebEx and YouTube Live. The video of
15 the webcast will be available on the Office of Zoning's
16 website after today's hearing.

17 Accordingly, everyone who is listening on WebEx
18 or by telephone will be muted during the hearing. Also,
19 please be advised that we do not take any public testimony
20 at our decision meeting session.

21 If you're experiencing WebEx or telephone call-in
22 issues, then please call our OZ Hotline, number 202-727-5471.
23 Once again, 202-727-5471.

24 At the conclusion of our decision meeting, I
25 shall, in consultation with the Office of Zoning, determine

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1 whether a full or summary order may be issued. A full order
2 is required when the decision that contains is adverse to a
3 party, including an affected ANC.

4 A full order may also be needed if the Board's
5 decision differs from the Office of Planning's
6 recommendation; although the Board favors the use of summary
7 orders whenever possible, an applicant may not request the
8 Board to issue such an order.

9 In today's hearing session, everyone who is
10 listening on WebEx or by telephone will be muted during the
11 hearing and only persons who have signed up to participate
12 or testify will be unmuted at the appropriate time.

13 Please state your name and home address before
14 providing oral testimony or your presentation. Oral
15 presentations should be limited to a summary of your most
16 important points. When you have finished speaking, please
17 mute your audio so that your microphone is no longer picking
18 up sound or background noise.

22 While persons planning to testify either in favor
23 or in opposition should have signed up in advance, you'll be
24 called by name to testify. If it's an appeal, only parties
25 are allowed to testify. By signing up to testify, all

1 participants completed the oath or affirmation, as required
2 by Subtitle Y, 408.7.

3 Requests to enter evidence on the time of virtual
4 hearing, such as written testimony or additional supporting
5 documents other than live video, which may not be presented
6 as part of the testimony, may be allowed, pursuant to
7 Subtitle Y, 103.13, provided that the persons making the
8 request and entering exhibits explaining how the proposed
9 exhibit is relevant, the good cause to justify allowing an
10 exhibit in the record, including an explanation of why their
11 questions were not filed prior to the hearing, pursuant to
12 Y 206, and how the proposed exhibit would not unreasonably
13 prejudice to any parties.

14 The order of procedures in a special exception and
15 variances are pursuant to Y 409. The order of appeals ---
16 well, we're not having an appeal today, pursuant to Y 507.

17 At the conclusion of each case, an individual
18 who's unable to testify because of technical issues may file
19 a request for relief by filing a written version of the
20 planned testimony to the record within 24 hours following the
21 conclusion of public testimony in the hearing.

22 If additional written testimony is accepted, then
23 parties will be allowed a reasonable time to respond as
24 determined by the Board. The Board will then make its
25 decision at its next meeting session, but no earlier than 48

1 hours after the hearing. Moreover, the Board may request
2 additional specific information to complete the record.

3 The Board and Staff will specify at the end of the
4 hearing exactly what is expected and the date when persons
5 must submit the evidence to the Office of Zoning. No other
6 information shall be accepted by the Board.

7 Finally, the District of Columbia Administrative
8 Procedures Act requires that the public hearing on each case
9 be held in the open before the public. However, pursuant to
10 Section 405(b) and 406 of that Act, the Board may, consistent
11 with its rules and procedures and the Act, enter into closed
12 meetings on a case, for purposes of seeking legal counsel in
13 a case, pursuant to D.C. Official Code, Section 2-575(b)(4),
14 and/or to delay a case, pursuant to D.C. Official Code,
15 Section 2-575(b)(13), but only after providing the necessary
16 public matters and in the case of emergency closed meeting
17 has taken the roll call vote.

18 All right, Mr. Secretary, I guess we have
19 preliminary matters, and then also if you'd like to proceed
20 with our day?

21 MR. MOY: Yes, sir. I don't have any other
22 preliminary matters, other than those to a specific case when
23 it's called. As you mentioned, before the Board opens or
24 convenes its meeting session, there is a preliminary matter
25 to Case Application Number 20645 of Equity Trust Company,

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1 Custodian fbo Richard Leavy IRA.

2 If you want to begin with that, I can read the
3 case?

4 CHAIRPERSON HILL: Yes, please. Go ahead and move
5 forward.

6 MR. MOY: Okay. Once again, this case application
7 is captioned as a self-certified application for special
8 exceptions, pursuant self-certified application for special
9 exceptions, pursuant to Subtitle D, Section 5201 and Subtitle
10 X, Section 901.2.

11 These are special exceptions from the side yard
12 requirements of Subtitle D, Section 206.3, and the lot
13 occupancy requirements of Subtitle D, Section 304.1. The
14 property is located at 212 57th Street, NE, Square 5248, Lot
15 23, and it is in the R-2 Zone.

16 And, as I just said, there is a request for a
17 postponement from ANC 7C, which is under Exhibit 35.

18 CHAIRPERSON HILL: Okay, great.

19 Mr. Sullivan, can you hear me?

20 MR. SULLIVAN: Yes, I can.

21 CHAIRPERSON HILL: Could you introduce yourself
22 for the record, please?

23 MR. SULLIVAN: Yes. Marty Sullivan from Sullivan
24 & Barros on behalf of the applicant.

25 CHAIRPERSON HILL: Great.

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1 Commissioner Holmes, can you hear me?

2 (No audible response.)

3 CHAIRPERSON HILL: Could you introduce yourself
4 for the record, please?

5 ANC COMMISSIONER HOLMES: Antoine Holmes, Chair
6 of ANC 7C.

7 CHAIRPERSON HILL: Okay. So, Commissioner Holmes,
8 you guys would like a postponement. Is that correct?

9 ANC COMMISSIONER HOLMES: That is correct.

10 CHAIRPERSON HILL: Okay.

11 And, Mr. Sullivan, you're okay with that?

12 MR. SULLIVAN: Yes, we are.

13 CHAIRPERSON HILL: Okay.

14 Mr. Moy, when do you think we can get them back
15 --- well, first of all, I guess I'll ask Mr. Sullivan or
16 Commissioner Holmes. Do you know when you think they would
17 have an opportunity to be back before us?

18 ANC COMMISSIONER HOLMES: Yes. They're first on
19 the schedule for our May 12th meeting, so, if possible, is
20 it possible for them to get maybe that following Wednesday,
21 the 18th? We should have our decision memo completed by the
22 end of the meeting.

23 CHAIRPERSON HILL: Okay.

24 Mr. Moy, what's the 18th looking like?

25 MR. MOY: On May 18th, the Board has on its docket

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1 nine cases and two expedited review cases.

2 CHAIRPERSON HILL: Okay.

3 Mr. Sullivan, have you had a chance to kind of
4 talk with the ANC and everything? Do you think things might
5 be moving smoothly?

6 MR. SULLIVAN: That's what we think, yes. We have
7 talked to them. We have some letters of support. It all
8 seems to be going in the right direction, yes.

9 CHAIRPERSON HILL: Okay.

10 All right, Commissioner, will you be very kind to
11 also put them on the agenda first and then also trying to get
12 them before us on the 18th, and so, we'll go ahead, Mr. Moy,
13 and postpone this until the 18th of May.

14 MR. MOY: Yes, sir. Done.

15 CHAIRPERSON HILL: Okay.

16 Commissioner Holmes, is that all you have with us
17 today?

18 ANC COMMISSIONER HOLMES: That's it today.

19 CHAIRPERSON HILL: Nice to see you, sir.

20 ANC COMMISSIONER HOLMES: See you, too.

21 CHAIRPERSON HILL: Okay.

22 ANC COMMISSIONER HOLMES: Take care, everyone.

23 MR. SULLIVAN: Thank you.

24 CHAIRPERSON HILL: Bye-bye, you guys.

25 All right, Mr. Moy, you can call our first ---

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1 yes, our decision case.

2 MR. MOY: Yes, sir. This would be Case
3 Application Number 20524 of Gregory Potts, P-O-T-T-S. This
4 application is requesting a relief and special exceptions
5 from the rooftop and upper floor alteration restrictions of
6 Subtitle E, Section 206.1(a), pursuant to Subtitle E, Section
7 206.4, Subtitle E, Section 5207, and Subtitle X, Section
8 901.2. The property is located at 521 Florida Avenue, NE,
9 Square 828, Lot 48. And the subject site is in the RF-1
10 Zone.

11 And I think I will leave it at that. Thank you.

12 CHAIRPERSON HILL: All right. Thank you, Mr. Moy.
13 Okay. So, I have had an opportunity to kind of look at this.
14 Also, I know we're here to deliberate a little bit more or
15 think about things a little bit more, but I've had an
16 opportunity to kind of think about this case.

17 And, then, also, I've been able to talk to some
18 of you individually and just kind of see where, what people's
19 thoughts are. What I'd like to do, and I think that there
20 are others who are interested in doing this, is go ahead and
21 reopen this case and kind of have some more questions
22 answered.

23 I think that what --- and I'm going to go around
24 the table and see if there's anything else that maybe people
25 might be --- well, first of all, good morning, everybody.

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1 Nice to see everyone. Good morning. Good morning. And then
2 go around the table and see if there's anybody who has
3 anything else.

4 I mean some of the concerns that I had, and I'll
5 just kind of talk about this a little bit, is that, you know,
6 had --- there was, you know, some controversy with this. We
7 had the commissioner from the ANC testify in opposition. The
8 ANC is in opposition.

9 The property had it been raised could have been
10 built a matter of right in this way. However, had it been
11 raised, it would have been built the way that the drawings
12 had originally, as the building had originally been designed,
13 which, I think, is a nice design.

14 The issues that I have with it, again, are that
15 mansard roof removal and that, I guess, the brick actually
16 is in different colors at that line, and, you know, it kind
17 of more goes to the regulations and character of the
18 neighborhood and, you know, that mansard roof being removed
19 and then that line of brick being different. They don't
20 match.

21 And, so, really, again, where I'm kind of stuck
22 with is that had the applicant done what they were supposed
23 to do in terms of raising the building, it would have been
24 a nice clean building that would have looked the way it's
25 supposed to look, and I believe would have fit in with the

1 character of the neighborhood regardless of whether or not
2 they would have been before us, meaning they would have been
3 able to do as a matter of right.

4 But the fact that they didn't raise it, the
5 Commissioner is correct, that they should have then been
6 before us for a special exception for the mansard roof, and
7 then who knows what would have happened with us, I mean,
8 whether or not we would have approved it, whether or not, you
9 know, we wouldn't.

10 So, what I'd like to see from --- I'd like to
11 hear, I guess, more of what my fellow Board Members may or
12 may not have an opinion of. I'd like to hear or see from the
13 applicant if there's a way to make the building more cohesive
14 in terms of how it fits in with the character of the
15 neighborhood in my opinion kind of how that there's the brick
16 --- there's like kind of a faux-brick covering that's to the
17 right of --- if you're facing the property, there's one to
18 the right that has kind of like a beige faux brick covering.

19 Maybe that's something that could be done to make
20 all the bricks the same or painting the brick, paint the
21 brick, you know, one particular color. And then, I don't
22 know whether we would want them to go back to the ANC and see
23 if there's something that the ANC might be willing to get
24 behind.

25 I understand that the Office of Planning is kind

1 of, you know, they seem kind of --- they approved the
2 project, but there was some hesitancy to it. And due to the
3 fact that perhaps the DCRA gave them permission to go ahead
4 and move forward with it and then the building --- and I
5 think others have comments on this is kind of like, you know,
6 what has also been pointed out to me is a little bit
7 disjointed.

8 You know, there's one window in that top-right
9 corner that's a different window, and so it just seems as
10 though there could be some cohesion that could be put forward
11 to help with the, again, character of the neighborhood and
12 how that mansard roof has been removed.

13 So, my proposal is bring them back before us. I'd
14 like to hear whether or not --- and you all can tell me which
15 you all think, and I'll go around the table --- and bring
16 them back before us, ask them, and I know they're listening,
17 to see if they can do something with painting the brick or
18 covering it with some kind of something like the thing that's
19 over to the right of the property or going before the ANC
20 again to see what the ANC might like to see because I do
21 think it is a little confusing in that if they did raise the
22 property, they could have built this, but again, they
23 wouldn't have built this exactly as they have it built right
24 now, so I'm a little torn with the whole thing in that
25 regard. Sorry.

1 So, to clarify. Bring them back before us, ask
2 for them to come before us either after talking with the ANC
3 again or/and coming before us with like a proposal for
4 painting the brick or making it more cohesive such that they
5 have removed, since they have removed that mansard roof, you
6 know, character and scale of the neighborhood.

7 Mr. Smith, do you have any thoughts?

8 MEMBER SMITH: I agree with the position that
9 you've stated, Chairman Hill. I understand the position of
10 the Office of Planning, but I'm just not there yet because
11 I do understand the ANC's concerns about the design of this
12 building in context of the character of the neighborhood, so
13 I would say that along this block there is a lot of change.

14 There's been a large amount of apartment buildings
15 that have been built to the north of Florida Avenue, the Dave
16 Thomas Circle, so there is going to be change there. And I
17 completely respect the fact that there will be change, but
18 I share those same concerns that you have about the design.

19 I am torn that if they had completely removed the
20 facade, they would be able to build it pretty much as it is
21 now, but right now, the design, and they kept the facade and
22 then added some additional facade for the third floor, it
23 completely just destroys it, so I am not prepared to support
24 it right now, but, you know, I do welcome additional
25 submissions by the applicant to rectify the issue.

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1 So, one of the examples that you brought up was
2 a different color brick. I would like to see if the
3 applicant --- and, like you said, I understand that they're
4 listening --- I want to see in a later submission to us how
5 they rectify that this jointed design of the facade, whether
6 it's painting, whether it's changing brick, I'm not going to,
7 you know, prescribe a fix for them, but it needs to read as
8 one facade.

9 Also, another facet of the facade on the third-
10 floor addition that they're putting it, they put a smaller
11 window than the other two windows. If you look at the facade
12 straight on, the window furthest to the right on the third
13 floor is a smaller window. It's a bathroom, so I get that
14 may be why they put in a smaller window in there.

15 In their design that they were supposed to build,
16 that was always going to be a bathroom with windows that
17 matched the historic facade, so same size. So, I want to see
18 a change in that window. It needs to read as one facade, and
19 it needs to match the historic window size that we see on the
20 first and second floor.

21 So, I'm with you. I want to reopen this record,
22 and I want to see additional redesign of this existing
23 facade. And I welcome --- if they want to have a
24 conversation with ANC, I welcome that, see where they can get
25 with the ANC. It seems like the ANC may not be inclined to

1 support it either way, but I welcome to them having that
2 dialog. So, do want to open it back up for additional
3 architectural drawing.

4 CHAIRPERSON HILL: Thank you.

5 Board Member Blake?

6 MEMBER BLAKE: Sure. Thank you, Mr. Chairman.
7 I, well, first of all, agree with both comments that you and
8 Board Member Smith made with regards to this project. I do
9 believe that the applicant's decision not to raise the front
10 of the building has resulted in something that was somewhat
11 a visually intrusive facade. And it's not just the cornice,
12 but mismatched brick and so forth, the third-floor window
13 trim, things of that sort actually do, I think, make it
14 somewhat visually intrusive.

15 The issue that bothers me with regards to this too
16 is that we've seen in past cases that people tend to as they
17 develop the block --- and I agree with Board Member Smith ---
18 there will likely be a lot of change on this block because
19 it's a very eclectic neighborhood if you look at it.

20 So, on Florida Avenue, a gas station across the
21 street, high rises across the street. There's a lot of
22 change that's going to take place in this area.

23 And when I look at this building, the thing that
24 concerns me is I see that historically people tend to mimic
25 other things, and they draw that for inspiration, so we're

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1 going to go off in a very different direction. And the
2 inspiration that we're using to do that should be at least
3 not visually intrusive, example.

4 So, for that reason, I too agree that I think it's
5 important that we have the applicant revisit this. There's
6 a lot of work that has gone into it. It looks like it's very
7 good quality work other than the facade.

8 And it's unclear about, you know, what came first,
9 chicken, egg, was it held up, but I can understand and
10 certainly sympathizes with the developer in terms of trying
11 to get things done timely.

12 And I would not want to see them set off at this
13 point to restart this process or something like that. And
14 I do think --- but I also don't think that the community
15 should live with something that I think is visually intrusive
16 and based on the comments that you and Board Member Smith
17 made, so I would agree with the assessments that you made and
18 would support that approach.

19 CHAIRPERSON HILL: Thank you.

20 Chairman Hood?

21 ZONING CHAIRMAN HOOD: Yes. Good morning, Mr.
22 Chairman. I would agree with the comments of Board Member
23 Blake from last week, and I would agree with the comments he
24 made again this week, and I also would agree with your
25 comments and Board Member Smith's comments as well thus far.

1 I would agree that change is coming. It would be
2 great to get closer with those in the community that ANC is
3 possible. While you may not always agree, you may not always
4 get 100 percent, but I do believe that, as Board Member Blake
5 has mentioned, this is going to change, but also, we want to
6 make sure that it's not intrusive.

7 So, I think we're going down the right path. I
8 know he mentioned it last week. I agreed with him last week,
9 and I continue to agree with him and everyone else this week,
10 so that's why I think we have a good plan moving forward, and
11 let's see what comes back. Thank you, Mr. Chairman.

12 CHAIRPERSON HILL: Thank you, Chairman.

13 Vice Chair John?

14 VICE CHAIR JOHN: Thank you, Mr. Chairman. I
15 don't have a lot to say so far. I think that the applicant
16 clearly made a mistake, but we do have OP supporting
17 approval, and we also have DCRA admitting that it made a
18 mistake, so that's what's going for the applicant, but I
19 agree that --- and let me say one more thing. I agree the
20 applicant could have built, you know, a new building from
21 scratch had he just done the raise or the zoning raise.

22 So, and I also agree that the, as built, it's
23 visually intrusive. And I'm mindful that this is not a
24 historic district or anything like that, but I agree with
25 everyone. It should look --- it should not be jarring, which

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1 is what we have now, so I would like to see some changes
2 made.

3 I looked at the windows again and the windows on
4 the first and the second floor are fine, even, you know, that
5 long window on the second floor, but the third floor is where
6 we have an issue, so I would like to see something that's
7 more consistent with the block come back, and so I'll wait
8 to see what the applicant provides us.

9 I'm not requiring that the applicant go back to
10 the ANC, but they can if they want to. I think the ANC is
11 pretty firm that the mansard roof should be replaced, but
12 when I think about that option, and the Chairman is correct,
13 Chairman Hill, if the applicant could have raised the
14 building, what's the point in telling the applicant to go
15 back and remove everything that you didn't take off?

16 Common sense tells me that's wasteful, so I'm
17 mindful that the applicant could have built what he has
18 there, but according to the plans that he had, which was a
19 very decent design, so that's where I come down, Mr.
20 Chairman.

21 CHAIRPERSON HILL: Okay.

22 Mr. Moy, can you hear me?

23 (No audible response.)

24 CHAIRPERSON HILL: You don't happen to know when
25 ANC 6C meets, do you?

1 MR. MOY: Yes. I believe it's May 13th, sir.
2 It's the second Wednesday of each month.

3 CHAIRPERSON HILL: The second Wednesday, so the
4 11th? Okay.

5 MR. MOY: Of May.

6 CHAIRPERSON HILL: So, let's go ahead and do this.
7 Let's --- what's the 25th of May look like?

8 MR. MOY: Twenty-fifth of May, the Board has
9 already scheduled eleven cases and two expedited cases.

10 CHAIRPERSON HILL: Okay. And you just told me the
11 18th we had nine and one expedited, so now we have ten and
12 one expedited?

13 MR. MOY: That's correct.

14 CHAIRPERSON HILL: And then, you're saying the
15 25th, we already have ten and two expedited?

16 MR. MOY: Eleven.

17 CHAIRPERSON HILL: Okay. Let's put this on the
18 18th, okay?

19 ZONING CHAIRMAN HOOD: Mr. Chairman?

20 CHAIRPERSON HILL: Chairman Hood?

21 ZONING CHAIRMAN HOOD: I would ask that you move
22 this to June. I would not even be able to provide a proxy.
23 I would pass on to someone else, but I will be unavailable
24 for two weeks, so if you could move to this June, it would
25 very helpful so I can participate in the discussions.

1 CHAIRPERSON HILL: Okay. How about June 1st?

2 ZONING CHAIRMAN HOOD: I will be returning the
3 night before, but I think I'll be okay.

4 CHAIRPERSON HILL: I'm sorry, Chairman Hood. Do
5 you think that'll be okay for you, June 1st?

6 ZONING CHAIRMAN HOOD: I'll be here after 12, so
7 I think I'll be all right. We'll see.

8 CHAIRPERSON HILL: Okay. We'll put it maybe later
9 in the day and so that might work better for your schedule.

10 ZONING CHAIRMAN HOOD: Thank you, Mr. Chair.

11 CHAIRPERSON HILL: Okay.

12 MR. MOY: Mr. Chairman?

13 CHAIRPERSON HILL: Yes.

14 MR. MOY: Actually, if you want to schedule it for
15 June 1st, it would be the first and only case for that day,
16 because you do not have a scheduled hearing for June 1st.

17 CHAIRPERSON HILL: Oh, because of Memorial Day?

18 MR. MOY: Yes, sir.

19 CHAIRPERSON HILL: Okay.

20 MR. MOY: Memorial Day is that Monday, two days
21 prior.

22 CHAIRPERSON HILL: Okay. Now, I'm looking at my
23 fellow Board Members, so that was our holiday. Well, meaning
24 the day that --- and so it would, I guess, I mean, I hope the
25 applicant is listening because this is definitely something

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1 we're doing as a favor to them.

2 I know that the applicant is disappointed that
3 this is continuing to go on and that there is money that has
4 been involved, and they'd like to get a decision, however,
5 this is the situation that we're currently in and that would
6 have been our holiday, so I would kick the meeting then to
7 the 8th of June, however, since it's one day, since it's only
8 one case, that might not be such a big deal.

9 Chairman Hood?

10 ZONING CHAIRMAN HOOD: Yes. I will either send
11 a proxy on the 18th if I'm not available, which I'm not sure,
12 I'm not sure where I'll be, but let me --- don't move that
13 around to June 1st for sure, not for one case. I don't want
14 to inconvenience everybody else because of my schedule.

15 CHAIRPERSON HILL: Okay. So, you think the 18th,
16 you might be able to give a proxy?

17 ZONING CHAIRMAN HOOD: Either a proxy --- it
18 depends on what comes in, so I'll either give a proxy or I
19 will ---

20 CHAIRPERSON HILL: Okay. Okay. So, let's go back
21 to the original, which is that we'll do it on the 18th. And
22 that means, Mr. Moy, if the ANC were to meet on the 11th of
23 May, can you help me with scheduling? So, what we want to
24 see from the applicant, and I know, again, the applicant is
25 listening, is something that --- I mean, if there was a way

1 to make the ANC get their buy-in and/or at least, and I know
2 the ANC is listening, somehow get the ANC's opinion on what
3 we're trying to achieve here, that might be helpful.

4 I mean, I'd like to see, again, and it sounds like
5 the Board, if I might summarize, would like to see some kind
6 of cohesion with that front facade and also that third story,
7 so that, you know, they remove that awkward window and
8 replace that window, they paint the whole thing so it's one
9 cohesive look from the front. It doesn't look disjointed.

10 And I'm going to ask whether anybody --- because
11 I'd like us to get to where we can at least discuss this, so
12 if I'm missing it, those are the two things that we'd like
13 to see. Also, reiterating that I do think this block also
14 will change.

15 Like, a lot of those homes will probably get
16 replaced with by-right product. And as Board Member Blake
17 mentioned, things tend to repeat, so, you know, making
18 something that we think is of character with the block that
19 then will be repeated. That's why, I think, we're also
20 having trouble with this.

21 So, I don't think I'm missing anything for the
22 applicant. Paint the building, make it cohesive, fix that
23 third window, talk to the ANC. Am I missing anything? If
24 anybody wants to raise their hand?

25 (No audible response.)

1 CHAIRPERSON HILL: Okay. Then, Mr. Moy, that
2 means if they wanted to go back to the ANC by the 11th, then
3 we would want submissions from them by the 10th. Is that
4 fair, of May? And then the ANC would have a week till the
5 17th to respond?

6 MR. MOY: Okay. So, under the timeline that
7 you're reciting then, Mr. Chairman, if assuming the ANC is
8 meeting on May 11th, then you're asking the applicant to make
9 their filing into the case record the day prior?

10 CHAIRPERSON HILL: Yes.

11 MR. MOY: Case record on May 10th, and then the
12 ANC then to make their filing after the meeting on May 11th,
13 maybe submit by Friday the 13th, and then the --- then, it
14 would be back before the Board. I'm assuming you're bringing
15 it back to a meeting session on May 18th?

16 VICE CHAIR JOHN: Yes.

17 CHAIRPERSON HILL: No. Yes, a limited scope
18 hearing.

19 VICE CHAIR JOHN: Okay.

20 MR. MOY: Oh, hearing, okay. So, we're --- you're
21 kicking it out of a meeting session and convene it for a
22 public hearing?

23 CHAIRPERSON HILL: Yes. Now, let me think about
24 it. So, Chairman Hood wouldn't be able to vote if it were
25 a meeting session, I'm sorry, a hearing.

1 Let's go ahead and make it a meeting session.
2 Let's see what we can get from people, okay? And then if we
3 don't like what we see, and we have to have a continued
4 hearing again, then we can have a continued hearing again.

5 MR. MOY: Okay. The applicant --- once again,
6 then the applicant files Tuesday, May 11th, the ANC makes
7 their filing ---

8 CHAIRPERSON HILL: Tuesday, May 10.

9 MR. MOY: Yes.

10 CHAIRPERSON HILL: And they can submit earlier if
11 they want. I mean, I'm just giving them till May 10th. I
12 mean, like, the sooner they submit something, the sooner
13 probably the ANC can give them some feedback and/or look at
14 them. And I would encourage them to talk to the ANC and see
15 what maybe the ANC would like to see happen and see if they
16 can get to some resolution.

17 I know what -- I think it's very clear what the
18 Board wants to see in terms of consistency of the facade and
19 that third floor with the windows. So, they can turn it in
20 any time before the 10th, no later than the 10th, and then
21 the ANC would meet on the 11th, and then ---- right, if we
22 can get anything from the ANC by Friday the 13th, that would
23 be wonderful.

24 MR. MOY: But you also want to allow the applicant
25 to respond to anything that the ANC files?

1 CHAIRPERSON HILL: Sure.

2 MR. MOY: Okay. Then, the applicant, if they
3 wish, can respond the following Monday, which would be
4 Monday, May 16.

5 CHAIRPERSON HILL: Okay.

6 Chairman Hood, you had your hand up?

7 ZONING CHAIRMAN HOOD: I think the 18th if you're
8 going to have a continued hearing, that will be fine. I'll
9 try to make myself available. If not, I will redirect it,
10 but again, don't change anything. One monkey don't stop no
11 show, so don't change anything for me.

12 CHAIRPERSON HILL: Okay. All right. Then, we're
13 going to do a continued hearing, okay, Mr. Moy?

14 MR. MOY: Okay. Hearing, okay.

15 CHAIRPERSON HILL: Have a continued hearing, okay,
16 limited scope hearing.

17 And I have Mr. Blake's hand up. Mr. Blake, you
18 have your hand up?

19 MEMBER BLAKE: Since I know the applicant is
20 listening, I just want to encourage him to go beyond the
21 minimum requirement in this to try to make this right.

22 CHAIRPERSON HILL: Clarify that a little bit more,
23 Mr. Blake.

24 MEMBER BLAKE: Well, I think that it's clear our
25 goal is to make sure that this is a visually attractive

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1 property. We're going to have some issues. ANC has some
2 concerns about the scale and character, so I think, you know,
3 if we simply paint the building, it would make it a uniform
4 facade, but it would not necessarily fully enhance it.
5 There's some ways you could actually do better, so I just
6 encourage the applicant to think as far into that as
7 possible. The design they had originally planned was not
8 unattractive.

9 CHAIRPERSON HILL: I'm just curious. What kinds
10 of things are coming to mind, Mr. Blake?

11 MEMBER BLAKE: I mean, you talked a little bit
12 about putting a faux facade on. There are some alignment
13 issues that are there that they could look at. I mean, I
14 just want to encourage them to --- and I understand what you
15 mean to give some more clarity on that, but I think there's
16 some modest ways you can do it.

17 For example, I can simply paint the building gray
18 and say, "I've done something," the window would be the same.
19 I think, as I said, the applicant is making an attempt to
20 address all the things that we talked about today. And I
21 think you made that very clear as well, and I'm just saying,
22 to do it as best they can.

23 CHAIRPERSON HILL: Yes, I know. I just don't want
24 to keep this thing going in circles, so I want the applicant,
25 who is listening, to understand all of our concerns, and so

1 when you say "alignment issues," Mr. Blake, what does that
2 mean exactly?

3 MEMBER BLAKE: Well, I was talking about the
4 windows.

5 CHAIRPERSON HILL: Okay. Okay. So, that's fine.
6 So, I mean, they need to get three votes, right? And, so,
7 if they don't get three votes, like, I mean, the windows
8 sound like something that everyone wants to get fixed, and
9 so the windows and the paint or a faux facade. Am I missing
10 anything?

11 (No audible response.)

12 CHAIRPERSON HILL: Mr. Blake, might as well help
13 them out.

14 MEMBER BLAKE: No, I know, but I want the --- I
15 think the applicant did a pretty good design in the original
16 rendering, and I think that that should be a good guide as
17 to what this project ultimately would look like.

18 CHAIRPERSON HILL: Okay. Again, get him as close
19 to that as what you're trying to say in order to maybe get
20 you satisfied with your vote. Okay. And, so I don't want
21 to run this around in circles, so that's why, you know, I
22 want the best thing to happen on the 18th so we can find out
23 one way or the other, and I'm sure the applicant also wants
24 to know on the 18th what's going to happen, so the applicant
25 is listening, so don't monkey around and give us what, you

1 know, take into consideration everything that's been said and
2 figure it out. Okay.

3 Vice Chair John?

4 VICE CHAIR JOHN: Mr. Chairman, is there any value
5 in circling back with the Office of Planning even though they
6 already approved? I don't know if they can be helpful ---

7 CHAIRPERSON HILL: If the Office of Planning wants
8 to submit a report, I guess, they can.

9 Mr. Moy, if the Office of Planning feels like
10 submitting a report, they're welcome to submit a report.

11 MR. MOY: Okay. So, their deadline would be the
12 same as the response, so that would be May 16th.

13 CHAIRPERSON HILL: Yes. I don't think they're
14 going to say anything, but they might. Okay. All right, so
15 we all have our dates.

16 Chairman Hood, is that it for you today?

17 ZONING CHAIRMAN HOOD: Have a good day.

18 CHAIRPERSON HILL: All right. You have a good day
19 as well, sir.

20 Okay. All right, Mr. Moy, you want to call our
21 first expedited review?

22 (No audible response.)

23 CHAIRPERSON HILL: And my planner was to get
24 through the expedited reviews and then take a break if that
25 would work for everybody?

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1 MR. MOY: Okay. So, the Board is still in its
2 meeting session. And the next case before the Board is
3 Application Number 20684 of Terry Carr, C-A-R-R, an expedited
4 review case. This is the applicant's amended self-certified
5 application for special exception, pursuant to Subtitle E,
6 Section 205.5, Subtitle E, Section 5201, and Subtitle X,
7 Section 901.2 from three years, I believe.

15 CHAIRPERSON HILL: Okay, great. Thank you, Mr.
16 Moy. So, after having an opportunity to review the record,
17 I would agree that the applicant is meeting the standard for
18 us to grant the relief requested. I would agree with the
19 analysis that has been provided from the Office of Planning,
20 as well as that of DDOT.

25 Mr. Smith, do you have any comments?

1 MEMBER SMITH: I agree with your analysis.

2 CHAIRPERSON HILL: Thank you.

3 MEMBER SMITH: I do not have any comments, and I
4 agree with your analysis.

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

7 Mr. Blake?

8 MEMBER BLAKE: I also agree with your analysis,
9 and I would be in support of the application.

10 CHAIRPERSON HILL: Thank you.

11 Commissioner Miller, welcome. Do you have any
12 thoughts?

13 ZONING COMMISSIONER MILLER: Chairman, I concur.
14 Thank you.

15 CHAIRPERSON HILL: Vice Chair John?

16 VICE CHAIR JOHN: Thank you, Mr. Chairman. I have
17 no additional comments.

18 CHAIRPERSON HILL: Okay. I'm going to go ahead
19 and make a motion to approve Application Number 20684 as
20 captioned and read by the Secretary and ask for a second.
21 Ms. John?

22 VICE CHAIR JOHN: Second.

23 CHAIRPERSON HILL: The motion made and seconded.

24 Mr. Moy, could you take a roll call?

25 MR. MOY: If you would please respond with a yes,

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1 no, or abstain to the motion made by Chairman Hill to approve
2 the application for the relief requested. The motion to
3 approve was seconded by Vice Chair John.

4 Zoning Commissioner Rob Miller?

5 ZONING COMMISSIONER MILLER: Yes.

6 MR. MOY: Mr. Smith?

7 (No audible response.)

8 MR. MOY: Mr. Blake?

9 MEMBER BLAKE: Yes.

10 MR. MOY: Vice Chair John?

11 VICE CHAIR JOHN: Yes.

12 MR. MOY: Chairman Hill?

13 (No audible response.)

14 MR. MOY: The Staff would record the vote as five
15 to zero to zero. And this is on the motion made by Chairman
16 Hill to approve. The motion to approve was seconded by Vice
17 Chair John.

18 Also, in support of the motion to approve, Zoning
19 Commissioner Rob Miller, Mr. Smith, Mr. Blake, and, of
20 course, Vice Chair John and Chairman Hill. Motion carries
21 on a vote of five to zero to zero.

22 CHAIRPERSON HILL: Thank you, Mr. Moy. Mr. Moy,
23 you're welcome to call the next when you get a chance.

24 MR. MOY: The next case is also an expedited
25 review calendar case. And this is Application Number 20694

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1 of Nina Wu and Jeremy Strauss. This is the applicant's self-
2 certified application for special exception, pursuant to
3 Subtitle D, Section 5201, and Subtitle X, Section 901.2.
4 This is from the lot occupancy requirements of Subtitle D,
5 Section 304.1. Yes, the property is located at 4419 Harrison
6 Street, NW, Square 1580, Lot 30. The property is located in
7 the R-2 Zone.

8 CHAIRPERSON HILL: Thank you, Mr. Moy. Okay.
9 Again, after having an opportunity to review the record, I
10 would agree that the applicant (audio interference) the
11 standard for us to grant the relief requested. I would agree
12 with the analysis that has been provided by the Office of
13 Planning and Support, as well as DDOT.

14 DDOT has a comment about the gate should not swing
15 out into the alley into public space. And I believe that the
16 applicant is aware of this, and so that's more just a comment
17 to the applicant. And that the ANC, and I appreciate, again,
18 Chairperson Bender for providing a report for us, was in
19 support of this application, as well as the adjacent
20 neighbors, and so I will be voting in support of this
21 application.

22 Ms. Smith, do you have any comments?

23 MEMBER SMITH: No comments. I agree with your
24 analysis.

25 CHAIRPERSON HILL: Mr. Blake?

1 MEMBER BLAKE: I will be in support of the
2 application.

3 CHAIRPERSON HILL: Thank you.

4 Chairperson Miller --- I'm sorry. Commissioner
5 Miller?

6 ZONING COMMISSIONER MILLER: Thank you, Mr. Chair.
7 I concur with your comments.

8 CHAIRPERSON HILL: Vice Chair John?

9 VICE CHAIR JOHN: Thank you. I have no comments.

10 CHAIRPERSON HILL: All right.

11 VICE CHAIR JOHN: I concur.

12 CHAIRPERSON HILL: Thank you. Thank you, Ms.
13 John.

14 So, I'll go ahead and make a motion to approve
15 Application Number 20694 as captioned and read by the
16 Secretary and ask for a second. Ms. John?

17 VICE CHAIR JOHN: Second.

18 CHAIRPERSON HILL: Motion made and seconded.

19 Mr. Moy, if can you take a roll call?

20 MR. MOY: If you would please respond with a yes,
21 no, or abstain to the motion made by Chairman Hill to approve
22 the application for the relief that's requested? The motion
23 to approve was seconded by Vice Chair John.

24 Zoning Commissioner Rob Miller?

25 ZONING COMMISSIONER MILLER: Yes.

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1 MR. MOY: Mr. Smith?

2 (No audible response.)

3 MR. MOY: Mr. Blake?

4 (No audible response.)

5 MR. MOY: Vice Chair John?

6 VICE CHAIR JOHN: Yes.

7 MR. MOY: Chairman Hill?

8 CHAIRPERSON HILL: Yes.

9 MR. MOY: Staff would record the vote as five to
10 zero to zero, and this is on the motion made by Chairman Hill
11 to approve. The motion to approve was seconded by Vice Chair
12 John. Also, in support of the motion is Zoning Commissioner
13 Rob Miller, Mr. Smith, Mr. Blake, Vice Chair John, and
14 Chairman Hill.

15 The motion carries on a vote of five to zero to
16 zero.

17 CHAIRPERSON HILL: Thank you, Mr. Moy. If you
18 could go ahead, Mr. Moy, and call the next one when you get
19 a chance?

20 MR. MOY: The next case before the Board is
21 Application Number 20695 of Maria Mercedes Mateo Diaz, D-I-A-
22 Z. This is the applicant's request for special exceptions,
23 pursuant to Subtitle D, Section 5201, and Subtitle X, Section
24 901.2, from the lot occupancy requirements, Subtitle D,
25 Section 304.1, and from the rear yard requirements of

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1 Subtitle D, Section 306.2. The property is located at 2046
2 37th Street, NW, Square 1301, Lot 864. And the property is
3 located in the R-3 Zone.

4 CHAIRPERSON HILL: Okay. Thanks, Mr. Moy. All
5 right. Again, after reviewing the record, I think that this
6 is actually kind of simple. I think it's a kind of simple
7 deck that's going to mask conditions of the neighboring
8 property.

9 I would agree with the analysis that has been
10 provided by the Office of Planning, as well as the argument
11 of the applicant as to how they're meeting the standard for
12 us to approve the relief requested. DDOT had no objection.

13 We didn't get anything from the ANC, but the ANC
14 has been notified, and I believe that this is a really pretty
15 simple, as I said, issue, and so perhaps the ANC just was not
16 concerned with this, so I'm going to go ahead and be voting
17 in support.

18 Mr. Smith, do you have anything to add?

19 MEMBER SMITH: No.

20 CHAIRPERSON HILL: Mr. Blake?

21 MEMBER BLAKE: I would be in support as well, and
22 I would concur with your analysis.

23 CHAIRPERSON HILL: Commissioner Miller?

24 ZONING COMMISSIONER MILLER: Thank you.

25 CHAIRPERSON HILL: Vice Chair John?

1 VICE CHAIR JOHN: I support the application. It's
2 fairly straightforward.

3 CHAIRPERSON HILL: Okay. I'm going to make a
4 motion to approve Application Number 20695 as captioned and
5 read by the Secretary and ask for a second. Ms. John?

6 VICE CHAIR JOHN: Second.

7 CHAIRPERSON HILL: Motion made and seconded.

8 Mr. Moy, if you can take a roll call?

9 MR. MOY: When I call your name, if you would
10 please respond with a yes, no, or abstain to a motion made
11 by Chairman Hill to approve. The motion was seconded by Vice
12 Chair John.

13 Zoning Commissioner Rob Miller?

14 ZONING COMMISSIONER MILLER: Yes.

15 MR. MOY: Mr. Smith?

16 (No audible response.)

17 MR. MOY: Mr. Blake?

18 MEMBER BLAKE: Yes.

19 MR. MOY: Vice Chair John?

20 VICE CHAIR JOHN: Yes.

21 MR. MOY: Chairman Hill?

22 CHAIRPERSON HILL: Yes.

23 MR. MOY: Staff would record the vote as five to
24 zero to zero, and this is on the motion made by Chairman Hill
25 to approve. The motion to approve was seconded by Vice Chair

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1 John. Also, in support the motion to approve from Zoning
2 Commissioner Rob Miller, Mr. Smith, Mr. Blake, Vice Chair
3 John, and Chairman Hill.

4 The motion carries on a vote of five to zero to
5 zero.

6 CHAIRPERSON HILL: Okay. Thanks, Mr. Moy. You
7 can call our next expedited review. And if the Board can
8 handle it, maybe we'll try one case before our break because
9 we have quite a few unless somebody yells at me.

10 Mr. Moy, you can go ahead and call our next one.

11 MR. MOY: This would be Application Number 20700
12 of Dr. Alice Bellis. And this is the applicant's amended
13 self-certified application for special exceptions, pursuant
14 to Subtitle E, Section 205.5, Subtitle E, Section 5201, and
15 Subtitle X, Section 901.2, from the lot occupancy
16 requirements of Subtitle E, Section 304.1. And I think
17 that's it.

18 There were three other areas that was withdrawn
19 from the applicant, and I believe there's a revised self-
20 certification in the record. And the property is located at
21 1415 Potomac Avenue, SE, Square 1065NE, Lot 21. And the
22 property is in the RF-1 Zone.

23 CHAIRPERSON HILL: Okay. There's a little bit of
24 preliminary matter, I think, in terms of some untimely
25 filings, including, I think, the revised self-cert. Unless

1 the Board has any issues, I'd like to allow all of the items
2 into the record. If not, raise your hand.

3 Seeing no one raising their hand, we're going to
4 go ahead and allow everything into the record, Mr. Moy. Give
5 me one second.

6 Okay. All right. After taking a look at the
7 record, again, I didn't have a whole lot of issues with this.
8 This took a little bit more time for me to kind of look
9 through, but I would agree with the analysis the Office of
10 Planning has provided in terms of how they're meeting the
11 requirements for us to grant the relief requested, as well
12 as the argument that the applicant has put forward for the
13 revised self-cert now just for the lot occupancy
14 requirements.

15 Also, the ANC has provided their support, as well
16 as CHRS. So, I don't have any real issues from this.

17 Mr. Smith, do you have anything to add?

18 (No audible response.)

19 CHAIRPERSON HILL: Mr. Blake?

20 MEMBER BLAKE: I will be in support of the
21 application. I would agree with your analysis and believe
22 the applicant has met the standard and give great weight to
23 the Office of Planning's analysis and report and
24 recommendation.

25 CHAIRPERSON HILL: Okay.

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1 Commissioner Miller?

2 ZONING COMMISSIONER MILLER: Chairman, I concur.

3 CHAIRPERSON HILL: Vice Chair John?

4 VICE CHAIR JOHN: I have nothing to add. I
5 believe it's fairly straightforward as amended.

6 CHAIRPERSON HILL: Okay. I'll make a note that
7 in Exhibit 38 there are some comments from DDOT. And I would
8 just ask the applicant to take a look at those comments.

9 I'm going to make a motion to approve Application
10 Number 20700 as captioned and read by the Secretary and ask
11 for a second. Ms. John?

12 VICE CHAIR JOHN: Second.

13 CHAIRPERSON HILL: Motion made and seconded.

14 Mr. Moy, if you can take a roll call?

15 MR. MOY: Would you please respond with a yes, no,
16 or abstain to the motion made by Chairman Hill to approve the
17 application for the relief that was requested. This motion
18 was seconded by Vice Chair John.

19 Zoning Commissioner Rob Miller?

20 ZONING COMMISSIONER MILLER: Yes.

21 MR. MOY: Mr. Smith?

22 (No audible response.)

23 MR. MOY: Mr. Blake?

24 MEMBER BLAKE: Yes.

25 MR. MOY: Vice Chair John?

1 VICE CHAIR JOHN: Yes.

2 MR. MOY: Chairman Hill?

3 (No audible response.)

4 MR. MOY: Staff would record the vote as five to
5 zero to zero, and this is on the motion made by Chairman
6 Hill. The motion was seconded by Vice Chair John also in
7 support. Also, in support of the motion, Zoning Commissioner
8 Rob Miller, Mr. Smith, Mr. Blake, Vice Chair John, and
9 Chairman Hill.

10 Motion carries in a vote of five to zero to zero.

11 CHAIRPERSON HILL: Thank you, Mr. Moy.

12 (Whereupon, the above-entitled matter went off the
13 record at 10:30 a.m.)

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In the matter of: Public Meeting

Before: DC BZA

Date: 04-27-22

Place: teleconference

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

Neal R. Gross
Court Reporter

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