

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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REGULAR PUBLIC MEETING

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WEDNESDAY

JUNE 15, 2022

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The Regular Public Meeting of the District of Columbia Board of Zoning Adjustment convened via Video Teleconference, pursuant to notice at 9:39 a.m. EDT, Frederick L. Hill, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

FREDERICK L. HILL, Chairperson
CARL BLAKE, Board Member
CHRISHAUN SMITH, Board Member (NCPC)

ZONING COMMISSION MEMBERS PRESENT:

JOSEPH S. IMAMURA, Architect of the Capitol Designee
ROB MILLER, Vice Chairperson

OFFICE OF ZONING STAFF PRESENT:

SARAH BAJAJ, Attorney Advisor
CLIFFORD MOY, Secretary
RYAN NICHOLAS, Attorney Advisor
PAUL YOUNG, Zoning Data Specialist

OFFICE OF PLANNING STAFF PRESENT:

STEPHEN MORDFIN

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

MARY NAGELHOUT, ESQ.

The transcript constitutes the minutes from
the Regular Public Meeting held on June 15, 2022.

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

9:57 a.m.

CHAIRPERSON HILL: Commissioner Miller, welcome.

ZC VICE CHAIR MILLER: Good morning.

CHAIRPERSON HILL: Good morning.

For the record, we have Commissioner Miller back with us.

Mr. Moy, if you wouldn't mind calling our first and only decision-making case.

MR. MOY: Yes. All right. The one decision-making case for the Board's meeting session is Application No. 20716 of 15th Street Alley, LLC. This is a sub-certified application for area variance pursuant to Subtitle X, Section 1002 from the new alley record lot requirements of Subtitle C, Section 306.1(a). The property is located in the RF-1 zone at Square 4564. Lot 95.

As the Board will recall, this was last heard on May 18, 2022. The only other addition I have for the Board is that yesterday there was a filing from the DC Fire EMS. If you can make a ruling if you would allow that because of the 24-hour block.

CHAIRPERSON HILL: Yes, Mr. Moy, if you could go ahead and allow that into the record because we must certainly want to hear from FEMS. I'm having difficulty pulling up -- I have all my notes, I'm just having a hard

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1 time pulling up the record. Okay. All right. Let's see.
2 I know that you guys have seen everything and I'm ready to
3 deliberate.

4 Also, I think that the office of planning is here.
5 Is that correct, Mr. Young? Am I on mute?

6 MR. MOY: My understanding, Mr. Chairman, is the
7 OP representative would be present.

8 CHAIRPERSON HILL: Okay. Is he here or we don't
9 know?

10 MR. MOY: I would defer to Mr. Young.

11 CHAIRPERSON HILL: See if you can find Mr.
12 Mordfin. Are you guys able to pull up your files on IZIS?
13 Are you doing it in a different way? Okay.

14 Mr. Mordfin, can you hear us? Can you introduce
15 yourself for the record, please?

16 MR. MORDFIN: I did it again. Yeah, I'm Stephen
17 Mordfin with the Office of Planning.

18 CHAIRPERSON HILL: Okay. Mr. Mordfin, the reason
19 why I thank you so much for being with us this morning, and
20 I was able to pull up the record, there was some discussion
21 the last time that you thought that if -- the Office of
22 Planning through that if FEMS might have a different outlook
23 to this project that the Office of Planning might have a
24 different analysis as well. Could you please let us know
25 your thoughts?

1 MR. MORDFIN: Yeah. Well, when we submitted our
2 supplemental, it was before the June 14th letter that came
3 in from FEMS. At the time we wrote our supplemental, FEMS
4 had opposition to the case. They had issues with the
5 application. What we wrote at the end of our report, it
6 says, "Unless the applicant is able to resolve this issue
7 with DC FEMS, OP continues to recommend denial.

8 As of yesterday, FEMS did submit a revised letter
9 to the file, or to the record, for this application and they
10 are no longer in opposition. They met on the site with the
11 applicant. Based on the revised letter from FEMS, the Office
12 of Planning is now in support of the application.

13 CHAIRPERSON HILL: Okay. Thanks, Mr. Mordfin.

14 Does the Board have any questions for the Office
15 of Planning since they're here? I don't see anybody. Okay.

16 Mr. Mordfin, you have a good day.

17 Mr. Young, you can please excuse Mr. Mordfin.

18 MR. MORDFIN: Thank you.

19 CHAIRPERSON HILL: Okay. I can start talking
20 about it. Tell me what you guys think. So there was -- I
21 mean, it was a pretty interesting case, I thought. There was
22 a lot of parties in opposition. There was a lot of parties
23 in support and that's just kind of what the community had,
24 the community-side aspect of it. The ANC, again, was in favor
25 of this particular application.

1 The project is an interesting project because it
2 kind of makes use of these alley lots that I know is
3 something that the Zoning Commission had been trying to
4 figure out to make work, as well as other players. I think
5 that given the criteria that is necessary for the alley lots,
6 I was comfortable now that FEMS is comfortable with it.

7 I do think in terms of the variance request, I
8 mean, I think it's a really weird lot. I mean, it's really
9 like a big space that I don't think the matter of right
10 options actually aren't useable given the size of the lot.
11 I think that what the developer has done is tried to really
12 work with the community, particularly the ANC -- the ANC is
13 in favor -- and try to work with this in a way that would be
14 of benefit to the community.

15 I mean, I kind of think from just an anecdotal
16 comment, that empty lot is more of a nuisance than anything
17 else. I mean, people are going to just try to live there,
18 camp out there. I don't know. I think it's a possible, you
19 now, dumping ground.

20 It's a possible place for all kinds of issues that
21 I think would be much better off with people living there in
22 order to have eyes in that area. I actually would agree with
23 the argument that the applicant presented in terms of why
24 they are meeting the different standards for the relief that
25 they are requested.

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1 Now that FEMS is on board, I was going to be a
2 little worried about the FEMS, to be quite honest. I was
3 going to kind of kick it down the road a little bit more
4 until we got a little bit clarity on that, but I'm glad that
5 FEMS was actually able to go there so I'm going to be voting
6 in favor.

7 May I go around the horn and start with you, Mr.
8 Smith?

9 MEMBER SMITH: Chairman Hill, I largely agree with
10 your assessment. I was, as you were, concerned about safety
11 issues that arose the last time we heard this case being that
12 FEMS and DC Police and Utilities had weighed in. Now we have
13 received comments back from all of them. All have stated
14 that this particular project would meet their various code
15 requirements, particularly FEMS. I was concerned about that
16 but being that they have gone out and taken a look at the
17 site, that has removed some of my concern.

18 Beyond that, I largely agree with you. This is
19 an unusually large alley lot. Commissioner Miller has spoken
20 of this at the last hearing that the Zoning Commission has
21 attempted to create some remedies to allow these alley lots
22 to be in way, shape, or form developable given that the city
23 is built up and there's a push from Mayor Bowser to create
24 additional housing needs within the city, especially portable
25 housing units and developing on these alley lots would start

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1 to advance that policy.

2 I do believe that the applicant has demonstrated
3 that they meet the partial test. They meet all three prongs
4 of the variance. I do think given the location of the lot,
5 size of it, it meets the first prong of the variance test.
6 I don't believe that, as you stated, Chairman Hill, that the
7 by-right options would be feasible to be able to develop this
8 lot given the size of the lot.

9 I do believe that the proposal would not be a
10 detriment to the public good. As a matter of fact, as we
11 heard from the surrounding community, they are concerned
12 about the crime that may be occurring within the alley. This
13 would put more eyes on the street and remove a large empty
14 field where some of this may be occurring.

15 You are putting more eyes on the street, more
16 people are looking to make sure that the community would be
17 safer. I don't believe that it would substantially meet the
18 intent, purpose, and integrity of the zone plan or the zoning
19 regulations. I do believe that they meet the variance test
20 and I will support the application.

21 CHAIRPERSON HILL: Thank you.

22 Commissioner Miller.

23 ZC VICE CHAIR MILLER: Thank you, Mr. Chairman,
24 and thank you to the Office of Planning, Mr. Mordfin, and the
25 applicant for reaching out again to DC Fire to review --

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1 reconsider their previous objection. I think they went out
2 to the actual site this week and saw that there is sufficient
3 width there for fire to do what it has to do which is very
4 important for public safety and emergencies.

5 We previously did have the non-objection comments
6 from other district agencies including DDOT, which reports
7 the turning radius is important for vehicles and DC Water,
8 that infrastructure, to get to this large -- and the DPW for
9 trash. This is a very large -- I agree with your comments,
10 Mr. Chairman, and those of Board Member Smith that this does
11 meet the three part variance test.

12 It is a uniquely large unimproved interior alley
13 lot. The existing zoning regulations still require that for
14 existing record lots that are less than 24 feet, and I think
15 this one ranges from 16 to about 20 feet in width -- I think
16 it is almost 20 feet adjacent to where the driveways or
17 entrances to the garages would be, the zoning regulations
18 would still require that existing record lots have the 24
19 width. For less than that they have to get a variance.

20 The Zoning Commission two years ago dealt with
21 this issue partially on the issue of converting tax lots to
22 record lots in alleys and allowed for less than 24-foot width
23 alleys in those conversion cases to be applied for to this
24 Board by special exception if they got sign off from DC Fire
25 and other agencies. The Zoning Commission and the Office of

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1 Planning are looking at extending that standard, that special
2 exception criteria, to this type of situation where there is
3 an existing record lot, not a conversion from a tax lot.

4 It was kind of an anomaly that we only dealt with
5 it that way because there were a large number of conversion
6 cases that have been coming before the Board -- this Board
7 that required a variance. The Board had been approving
8 almost all of them but it had a variance test which, as we
9 know, is a tough test.

10 In any case, in the future, hopefully not too long
11 in the future, this will be a special exception process but
12 it is today a variance process. We do have the sign-offs of
13 the appropriate agencies. I think it does meet -- it is a
14 uniquely large unimproved interior lot.

15 The whole purpose of that previous zoning
16 regulation and the one that is under review now by the Office
17 of Planning is, as Mr. Smith said, to reduce barriers to
18 housing production in the city where we have a problem with
19 supply and demand for reasonably priced housing.

20 In this case, I think for the variance test we
21 have the sign-offs from the Office of Planning, DDOT, and DC
22 Fire now and the other agencies. The ANC unanimously
23 supported this. ANC-6C, I think? The zoning committee and
24 the Capitol Hill Restoration Society supported.

25 There were neighbors in opposition. There were

1 neighbors in support. I think it's an attractively designed
2 development and will be a benefit to this neighborhood and
3 to the city. I'm prepared to support this application today.
4 Thank you.

5 CHAIRPERSON HILL: Thank you, Commissioner.

6 Thank you. It's ANC-6A.

7 ZC VICE CHAIR MILLER: Thank you. I was doing
8 that off the top of my head and I couldn't remember. Thanks.

9 CHAIRPERSON HILL: Thank you.

10 Mr. Blake.

11 MEMBER BLAKE: Yeah, I have nothing to add. I'll
12 be voting in support of the application.

13 CHAIRPERSON HILL: Okay.

14 Commissioner Miller, thank you for mentioning the
15 CHRS was in support. I would mention again that they have
16 been -- the applicant seems to be trying to work with the
17 community as best as possible. They have a construction
18 management agreement in place it seems like, or at least a
19 draft one. I would continue to encourage the developer to
20 work with the community.

21 I mean, I know that the attorney that the
22 developers worked with is an attorney that comes before us
23 often so, again, I would encourage the attorney to work with
24 the developer to make sure the community is apprised of
25 different issues that might come up during construction so

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1 that they can, to quote Chairman Hood, again, the good
2 neighbor policy, and go ahead and do their best to make this
3 as smooth a process as possible.

4 I would like to mention in terms of the trees and
5 such, I mean, I think they will be planting more landscaping
6 and I think that was something that was of concern in
7 discussion with the ANC. I think that will help with the
8 environmental factors that are going on there and hopefully
9 this is something that the community grows to like, those
10 that were opposed. Again, the ANC, as I mentioned, was in
11 favor.

12 Commissioner Miller, since this is one that you
13 guys, I think, find some passion in, would you like to make
14 the motion?

15 ZC VICE CHAIR MILLER: Sure. Thank you, Mr.
16 Chairman. I would move that the Board of Zoning Adjustment
17 approves Application No. 20716, Square 4564, Lot 95, to
18 permit the subdivision of one alley record lot into six alley
19 record lots for the construction of six row houses and ask
20 for a second.

21 CHAIRPERSON HILL: I will second.

22 Mr. Moy, the motion has been made and seconded.
23 If you could please take a roll call.

24 MR. MOY: When I call your name, if you'll please
25 respond with a yes, no, abstain to the motion made by Zoning

1 Commission Rob Miller to approve the application for the
2 relief requested. The motion was seconded by Chairman Hill.

3 Mr. Smith.

4 MEMBER SMITH: Yes.

5 MR. MOY: Mr. Blake.

6 Zoning Commissioner Rob Miller.

7 ZC VICE CHAIR MILLER: Yes.

8 MR. MOY: Chairman Hill.

9 We have no other Board members present. Staff
10 would record the vote as four to zero to one. This is on the
11 motion made by Zoning Commissioner Rob Miller to approve.
12 The motion to approve was seconded by Chairman Hill. Also
13 in support of the motion to approve is Mr. Smith, Mr. Blake,
14 and then, of course, Chairman Hill and Zoning Commissioner
15 Rob Miller. Motion carries on a vote of four to zero to one.

16 CHAIRPERSON HILL: Okay, great. Thank you.

17 Bye, Vice Chairman. Thank you so much. I hope
18 you have a lovely day.

19 ZC VICE CHAIR MILLER: Thank you. Enjoy the rest
20 of your day. Take care.

21 CHAIRPERSON HILL: Thank you.

22 (Whereupon, the above-entitled matter went off the
23 record at 10:16 a.m.)

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: DC BZA

Date: 06-15-22

Place: teleconference

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



Court Reporter

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