

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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REGULAR PUBLIC MEETING

+ + + + +

WEDNESDAY

SEPTEMBER 14, 2022

+ + + + +

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:

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

ZONING COMMISSION MEMBER[S] PRESENT:

ANTHONY HOOD, Chairman

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary
PAUL YOUNG, Zoning Data Specialist

OFFICE OF PLANNING STAFF PRESENT:

MAXINE BROWN-ROBERTS
STEPHEN COCHRAN
MATT JESICK
STEPHEN MORDFIN
KAREN THOMAS

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D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

MARY NAGELHOUT, ESQ.

The transcript constitutes the minutes from the
Regular Public Meeting held on September 14, 2022.

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

9:38 a.m.

VICE CHAIR JOHN: Good morning, ladies and gentlemen. The Board of Zoning Adjustment's September 14, 2022 public hearing will please come to order. My name is Lorna John, Vice Chairperson of the District of Columbia Board of Zoning Adjustments. Joining me today are Board Members Carl Blake and Chrishaun Smith, and Zoning Commissioner Anthony Hood. We will also be joined by Chairman Hill to discuss one case during the meeting session.

Today's meeting and hearing agendas are available under the Office of Zoning's website. Please be advised that 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 under Office of Zoning's website after today's hearing.

Accordingly, everyone who is listening on Webex or by telephone will be muted during the hearing. Also be advised that we do not take any public testimony at our decision meeting sessions. If you experience difficulty accessing Webex or with your telephone call-in, then please call our OZ hotline number at 202-727-5471 to receive the Webex log-in or call-in instructions.

At the conclusion of the decision meeting session I shall in consultation with the Office of Zoning determine

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1 whether a full or summary order will be issued. A full order
2 is required when the decision it 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 the only persons who have been signed up to
12 participate will testify -- I'm sorry, have been signed up
13 to participate or testify will be unmuted at the appropriate
14 time.

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

21 Once again, if you experience difficulty accessing
22 WebEx or with your telephone call-in, or if you have
23 forgotten to sign up 24 hours prior to this hearing, then
24 please call our OZ hotline number at 202-727-5471 and sign
25 up to testify and to receive WebEx log-in or call-in

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1 instructions.

2 All persons planning to testify either in favor
3 or in opposition should have signed up in advance. They will
4 be called by name to testify. If this is an appeal, only
5 parties are allowed to testify. By signing up to testify,
6 all participants completed the oath or affirmation as
7 required by Subtitle Y 408.7.

8 Request to enter evidence at the time of an online
9 virtual hearing such as written testimony or additional
10 supporting documents other than live video which may not be
11 presented as part of the testimony may be allowed pursuant
12 to Subtitle Y 103.13 provided that the person making the
13 request to enter an exhibit explains how the proposed exhibit
14 is relevant, the good cause it justifies allowing the exhibit
15 into the record including an explanation of why the requestor
16 did not submit it prior to the hearing pursuant to Subtitle
17 Y, Section 206, and how the proposed exhibits would not
18 unreasonably prejudice any party.

19 The order of procedure for special exceptions and
20 variances pursuant to Section 409 will be as follows:
21 Preliminary and procedural matters, statement of the
22 applicant and the applicant's witnesses, report and
23 recommendations from the DC Office of Planning, reports and
24 recommendations from other public agencies, reports and
25 recommendations from the affected ANC, and the ANC's

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1 witnesses, if any, for the area within which the property is
2 located. ANC is the Advisory Neighborhood Commission.

3 Parties in support of the application, individuals
4 and organization representatives in support of the
5 application, parties in opposition to the application,
6 individuals and organization representatives in opposition
7 to the application, individuals and organizational
8 representatives who are undeclared with respect to the
9 application, rebuttal and closing statements by the
10 applicant.

11 Pursuant to Subtitle Y, Section 408.2 and 408.3,
12 the following time constraints shall be maintained. The
13 applicant, appellant, and all parties except an affected ANC
14 in support, including witnesses exclusive of cross-
15 examination, maximum of 60 minutes collectively.

16 The appellee, persons and parties, except an
17 affected ANC in opposition, including witnesses, collectively
18 have an amount of time equal to that of the applicant and
19 parties in support, but in no case more than 60 minutes
20 collectively. Individuals, maximum of three minutes.
21 Organization representatives, maximum of five minutes. These
22 time restraints do not include cross-examination and/or
23 questions from the Board. Cross-examination of witnesses by
24 the applicant or parties including the ANC is permitted.

25 The ANC within which the property is located is

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1 automatically a party in special exception or variance cases.
2 Nothing prohibits the Board from placing reasonable
3 restrictions on cross-examination including time limits and
4 limitations on the scope of cross-examination pursuant to
5 Subtitle Y Section 408.5.

6 At the conclusion of each case, an individual who
7 is unable to testify because of technical issues may file a
8 request for leave to file a written version of the planning
9 testimony to the record within 24 hours following the
10 conclusion of public testimony in the hearing.

11 If additional written testimony is accepted, then
12 parties will be allowed a reasonable time to respond as
13 determined by the Board. The Board will then make its
14 decision at its next meeting session but no earlier than 48
15 hours after the hearing.

16 Moreover, the Board may request additional
17 specific information to complete the record. The Board and
18 the staff will specify at the end of the hearing exactly what
19 is expected and the date when persons must submit the
20 evidence to the Office of Zoning. No further information
21 shall be accepted by the Board.

22 Once again, after the Board adjourns the hearing,
23 the Office of Zoning in consultation with me will determine
24 whether a full summary order may issue. A full order is
25 required when the decision it contains is adverse to a party

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1 including an affected ANC. A full order may also be needed
2 if the Board's decision differs from the Office of Planning's
3 recommendation. Although the Board favors the use of summary
4 orders whenever possible, an appellant may not request the
5 Board to issue such an order.

6 Finally, the District of Columbia Administrative
7 Procedure Act request that a public hearing on each case be
8 held in the open before the Board. However, pursuant to
9 Sections 405(b) and 406 of that act, the Board may be
10 consistent with its rules of procedure in the act, enter into
11 a closed meeting on a case for purposes of seeking legal
12 counsel on a case pursuant to D.C. Office Code Section
13 2575(b)(4), and/or deliberating on a case pursuant to D.C.
14 official Section 2575(b)(1)(3), but only after providing the
15 necessary public notice in the case of an emergency closed
16 meeting after taking a roll call.

17 Mr. Secretary, are there any preliminary matters?

18 MR. MOY: Good morning, Madam Vice Chair, members
19 of the Board. It's the fall season. Amazing. Football
20 weather. Okay. So, to answer your question, I don't have
21 any general preliminary matters at this stage. When there
22 is a preliminary matter, I'll raise that for the Board when
23 I call a specific case.

24 VICE CHAIR JOHN: Okay. Thank you. So go ahead
25 and call the first case, please.

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1 MR. MOY: Okay. The first case -- all right. On
2 your docket in today's hearing, Madam Vice Chair, I've
3 included in the meeting session a matter for the Board to
4 clarify for the record, the Board's motion and decision, the
5 decision being on July 27, 2022. That is Application No.
6 20594 of Nezahat and Paul Harrison.

7 VICE CHAIR JOHN: Okay. Thank you, Mr. Moy.

8 So in Case No. 20594, as Mr. Moy noted, the Board
9 concluded the hearing on July 20th and considered the
10 application at its public meeting on July 27th. The
11 application requested two forms of relief, a special
12 exception under Subtitle C, 305.1 for theoretical subdivision
13 or, alternatively, an area variance from lot width
14 requirement.

15 The Board deliberated on both aspects of relief.
16 Based on that deliberation, it was clear that the Board was
17 not persuaded that the requirements for an area variance had
18 been met. However, in making the motion, the special
19 exception was mentioned, but the variance was not mentioned.
20 So I think that the Board needs to clarify its intent to
21 decide on the request for the variance. I'm going to look
22 at everyone and if any Board member wishes to have further
23 deliberation, we can do that. If not, I will proceed to make
24 a motion to clarify the Board's decision.

25 Hearing no one, I will then move that we deny the

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1 request for an area variance from the lot width requirements
2 of Subtitle D 502 for the reasons discussed in its July
3 deliberations noting that the Board's prior vote on the
4 special exception remains in effect.

5 MEMBER BLAKE: Second.

6 VICE CHAIR JOHN: Thank you.

7 So, Mr. Moy, could you take a roll call?

8 MR. MOY: Yes. Thank you.

9 When I call your name, if you would please respond
10 with a yes, no, or abstain to the motion made by Madam Vice
11 Chair.

12 Mr. Smith.

13 MEMBER SMITH: Yes.

14 MR. MOY: Mr. Blake.

15 MEMBER BLAKE: Yes.

16 MR. MOY: Zoning Commission Chair Anthony Hood.

17 ZC CHAIR HOOD: Yes.

18 MR. MOY: Vice Chair John.

19 VICE CHAIR JOHN: Yes.

20 MR. MOY: Staff would record the vote as four to
21 zero to one. This is on the motion made by Vice Chair John,
22 seconded by Mr. Blake. The motion carries, Madam Vice Chair.

23 VICE CHAIR JOHN: Thank you, Mr. Moy.

24 Please call the next case which, I believe, is the
25 expedited review.

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1 MR. MOY: Yes. Thank you. This is Application
2 No. 20790 of Maria Earley, E-A-R-L-E-Y. This is a self-
3 certified application for a special exception pursuant to
4 Subtitle F, Section 901.2, and Subtitle D, Section 5201 which
5 would allow an accessory structure not meeting the maximum
6 building area requirements of Subtitle D, Section 5003.1.
7 The property is in the R1-B zone and the address is 2211 31st
8 Street, SE. It is in Square 5652, Lots 44 and 45).

9 VICE CHAIR JOHN: Thank you, Mr. Moy.

10 I'll start with a few comments. I think that this
11 application meets the criteria for relief. It's a very large
12 lot. In terms of license, air, and privacy, I did not see
13 any adverse impact. The structure replaces an existing
14 smaller garage. The increase is not a significant expansion,
15 in my view, based on the size of the lot. So I agree with
16 OP's analysis and give great weight to its recommendation.
17 I'll just go around the room and see if anyone has any
18 comments.

19 Would you like to start, Mr. Blake?

20 MEMBER BLAKE: Sure, Madam Vice Chair. I agree
21 with your analysis of the situation. I do think that the
22 applicant has met the burden of proof and be granted the
23 special requested relief. I do agree with the Office of
24 Planning's analysis on how the applicant has met the
25 standards. I think this project is extensive and a very

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1 large space, as you pointed out. The structure itself will
2 not adversely affect the use of neighboring properties.

3 The one thing I'd add to your comments was that
4 the ANC-7B did vote unanimously in support of this
5 application and stated no issues or concerns. I will be
6 voting in favor of the application.

7 VICE CHAIR JOHN: Okay. Thank you.

8 Board Member Smith.

9 MEMBER SMITH: I have nothing to add beyond what
10 you and Board Member Blake have already stated. With that,
11 I will vote in support of the application.

12 VICE CHAIR JOHN: Thank you.

13 Commissioner Hood.

14 ZC CHAIR HOOD: I have nothing more to add. I'm
15 ready to vote. Thank you.

16 VICE CHAIR JOHN: Thank you. I'll make a motion
17 to approve Application 20790 as captioned and read by the
18 secretary and ask for a second.

19 MEMBER BLAKE: Second.

20 MEMBER SMITH: Second.

21 VICE CHAIR JOHN: Thank you.

22 Mr. Moy, would you please take the roll call.

23 MR. MOY: I had a dual response on that second.

24 MEMBER SMITH: You can give it to Mr. Blake.

25 MR. MOY: Very generous of you, sir.

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1 Okay. So when I call your name, if you would
2 please respond.

3 Mr. Smith.

4 MEMBER SMITH: Yes.

5 MR. MOY: Mr. Blake.

6 MEMBER BLAKE: Yes.

7 MR. MOY: Zoning Commission Chair Anthony Hood.

8 ZC CHAIR HOOD: Yes.

9 MR. MOY: Vice Chair John.

10 VICE CHAIR JOHN: Yes.

11 MR. MOY: Staff would record the vote as four to
12 zero to one. This is on the motion made by Vice Chair John,
13 seconded by Mr. Blake. We have a Board member not present
14 for this application. Staff would, again, record the vote
15 as four to zero to one. The motion carries in the
16 affirmative. Thank you, Madam Vice Chair.

17 VICE CHAIR JOHN: Thank you, Mr. Moy.

18 Do we have Chairman Hill?

19 MR. MOY: I've just quizzed the staff and I think
20 we are -- my understanding is that he was going to call in
21 at 10:00.

22 VICE CHAIR JOHN: Okay. Let's take a five-minute
23 break before we begin the hearing session -- I'm sorry,
24 before we go to that decision. Then we won't take a break
25 before the hearing session. Okay, thanks.

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1 MR. MOY: Thank you.

2 (Whereupon, the above-entitled matter went off the
3 record at 9:55 a.m. and resumed at 10:06 a.m.)

4 VICE CHAIR JOHN: Mr. Moy, can you call the next
5 decision case.

6 MR. MOY: Yes, Madam Vice Chair, with pleasure.
7 The next case application which is before the Board for
8 decision making is Application No. 20612 of Demetra Weir, W-
9 E-I-R. This application is a self-certified application
10 pursuant to Subtitle X, Section 901.2 for special exceptions.
11 Under Subtitle E, Section 5201 from the lot occupancy
12 requirements of Subtitle E, Section 304.1.

13 The rear additional requirements Subtitle E,
14 Section 205.4. And pursuant to Subtitle E, Section 206.4
15 from the roof top, architectural requirements of Subtitle E,
16 Section 206.1. The proper is in the RF-1 zone at 647 16th
17 Street, NE (Square 4540, Lot 293).

18 The Board last heard this case on July 27, 2022,
19 where the Board after testimony closed the record and
20 requested supplemental information. Participating is
21 Chairman Hill, Vice Chair John, Mr. Smith, Mr. Blake, and
22 Joint Commissioner Anthony Hood.

23 VICE CHAIR JOHN: Thank you, Mr. Moy.

24 As Mr. Moy noted, this case has been before the
25 Board several times. The Board requested additional

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1 information from the applicant concerning an abated
2 construction management plan to address the ANC's concerns.
3 The Board heard from the Applicant concerning his contact
4 with the ANC and an updated construction management plan
5 which addressed, in particular, the trash issues.

6 So I think I would like to go around the room to
7 see what folks think. I want to start -- see if Mr. Smith
8 would agree to start the discussion.

9 MEMBER SMITH: Sure. I'll start on this one. So
10 the request before us is for several special exceptions from
11 the lot occupancy, rear addition requirements, and roof top
12 architectural elements in order to grant the expansion of an
13 existing row home for a third story, and also rear additions
14 to that existing row home.

15 As Ms. John stated, we've heard this request a
16 couple times before the break, and I've listened to the
17 testimony that was provided at those hearings from the ANC,
18 and also from the applicant, and also looking at the
19 information in the staff reports on our record. Just
20 beginning and looking at the criteria for us to evaluate the
21 special exception request, we put the applicant is under the
22 criteria of E 3207.1, Subtitles A through C, analyzing those
23 criteria.

24 First in evaluating light and air, which is A.
25 While the applicant's proposed addition does have an impact

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1 on light at 649 16th Street, I do not believe it will have
2 an undue impact on that said property. Given that the vast
3 majority of the shadow would occur on that property given the
4 length of the building at 649 16th Street. I do believe the
5 shadow being cast is fairly negligible. I know that we've
6 spent a considerable amount of time at the last hearing
7 discussing the shadowing.

8 It seems there was some discussion amongst the ANC
9 and the applicant. Previous letters that we received from
10 the applicant before the break, before our last hearing, was
11 that she was willing to push it back five feet. In analyzing
12 the light and air impact, I feel like 5C would not be
13 necessary. The whole rear of that property would be in
14 shadow due to another property.

15 On the matter of impact on the adjacent
16 properties, the proposed use is generally similar to resident
17 uses that already occur along that block. There is a mixture
18 of uses along that block and the applicant is not proposing
19 to do anything that is completely out of character with what
20 is there. Lastly, the design of the proposed building is
21 generally compatible, again, with the surrounding residential
22 properties within the neighborhood.

23 As Ms. John stated, what this Board did request
24 was some additional information regarding construction
25 management. That was a major issue raised by the ANC. The

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1 ANC -- you know, a fair amount of their concern was based off
2 of outreach from the applicant, as well as trash. As Ms.
3 John stated, and other Board members stated at the previous
4 hearing, we cannot impact trash on another site. That is not
5 the subject of this special exception.

6 That was a major question that was raised and,
7 again, we cannot with this special exception address trash
8 on another site or trash that may have occurred on a previous
9 construction site. That is not the subject of this special
10 exception.

11 What we can impact is the management of the
12 construction to a certain degree because that is still
13 largely the realm of DCRA. The applicant has submitted a
14 construction management agreement. While I do agree that
15 it's fairly bare bones, I've seen more robust construction
16 management agreements from other applicants that we've heard
17 before this Board.

18 I will, again, state that, you know, the
19 Construction Management Agreement is not necessarily the
20 purview of the Board of Zoning Adjustment. It's more the
21 realm of DCRA. Within the construction management agreement
22 the applicant does reference that she would abide by the
23 construction management manual as outlined and enforced by
24 DCRA.

25 I would welcome that the ANC would go and take a

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1 look at their construction management manual and familiarize
2 themselves with that manual for the purpose of continuing
3 enforcement if the applicant is successful with receiving
4 this special exception, as well as a building permit. The
5 power will fall to you to ensure that the applicant -- that
6 you hold the applicant's feet to the fire on this particular
7 case.

8 With that, I would want to memorialize the
9 construction management agreement if we do grant this special
10 exception. In saying that, I believe the applicant has
11 proven that they have met the burden of proof to approve
12 these special exceptions. I rest on that. I will support
13 the application.

14 VICE CHAIR JOHN: Thank you, Mr. Blake -- Mr.
15 Smith.

16 Board Member Blake.

17 MEMBER BLAKE: I'm going to agree largely with
18 what Board Member Smith said. I gave a lot of thought to
19 this particular case. On the surface, at least from the
20 Zoning Commission, this appears to be a fairly
21 straightforward case. That being said, it's been complicated
22 by a variety of factors, many of which are beyond the scope
23 of this Board.

24 This Board is required to give great weight to the
25 recommendation of the Office of Planning. This Board is also

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1 required to give great weight to the issues and concerns
2 raised by the ANC. In this case, the ANC is in opposition.
3 Issues and concerns raised by the ANC include shadowing
4 effects on the adjacent neighbor's property.

5 The ANC has also stated issues concerning trash,
6 inadequate fencing, visual intrusion upon the character of
7 the neighborhood, the management and execution of
8 construction, and poor condition of adjacent property which
9 is also owned by the applicant. Finally, failure of the
10 owner to participate in the ANC process.

11 I will also note that the adjacent neighbor is
12 also now in opposition on account of concerns about shadow.
13 But the shadow studies provided by the applicant, Exhibit 40,
14 indicate that while there will be some additional shadowing
15 on the property to the north beyond the project, the Office
16 of Planning's analysis of the study determined that in most
17 cases the required rear yard of 20 feet would not be impacted
18 insuring sufficient access to light and air. She concluded
19 that the proposed rear addition should not undue the impact
20 on neighboring properties.

21 The concerns raised by the ANC regarding adjacent
22 properties, conditions, and project management are real, but
23 that project is not under consideration in the hearing and,
24 therefore, not the scope of this hearing. Moreover, the
25 applicant has agreed to work with the ANC and the community

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1 going forward and has provided a construction management unit
2 that would manage many of the potential trash and
3 maintenance-related issues.

4 I would also thank Board Member Smith for bringing
5 up the issue of the DCR Construction Manual because I think
6 adhering to that and for the ANC to enforce that, or to work
7 to make sure that it is enforced, will be of significant
8 value to them. Based on the case records including the
9 supplemental filings and the testimony provided by the
10 applicant, the ANC, the Office of Planning, I do believe the
11 applicant has met the burden of proof to be granted relief.

12 In respect to time, I'll note my previous comment
13 and credit the Office of Planning statement of how the
14 applicant has met the criteria for the relief requested.
15 I'll also agree with the Office of Planning that the
16 applicant has met the criteria of removal of an existing
17 canopy above the door gable, above the window, and cornice
18 element, with the exception of the request to meet the
19 standards of the R-1 zone and should not affect adversely the
20 neighboring property.

21 I give great weight to the Office of Planning's
22 recommendation and note that DDOT has no objection. I'll be
23 voting in favor of the application.

24 VICE CHAIR JOHN: Thank you, Board Member Blake.

25 Commissioner Hood, would you like to go now or

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1 should I go to Chairman Hill?

2 ZC CHAIR HOOD: I will yield to the Chairman.

3 VICE CHAIR JOHN: Chairman.

4 CHAIRMAN HILL: Hi everybody. Nice to see
5 everybody. I thought that we get put in this situation a
6 lot. It was a very long hearing. We heard a lot of
7 testimony from a lot of people. The items that we, the
8 Board, are supposed to look at are in the regulation, and I
9 think it's pretty straightforward what we're supposed to look
10 at.

11 We always have an opportunity to point to the
12 public. The Office of Planning Report I always find very
13 helpful. It very clearly showed the regulations and the
14 items that we're supposed to be looking at in terms of
15 whether or not it's meeting the criteria for this to be
16 approved.

17 I thought that it was upsetting and disconcerting.
18 Like, I mean, I went back and read a lot of testimony about
19 how the applicant had difficulty meeting with the ANC and
20 kind of some of the reasons why were even kind of hard to
21 understand per se as to why they weren't able to meet with
22 the ANC. It's interesting, and I thought about this as I was
23 preparing for this again that Chairman Hood is going to be
24 on this.

25 I don't know if the Zoning Commissioner -- I don't

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1 even necessarily know if I would advocate. I might come and
2 testify to the Zoning Commission as to if the Board of Zoning
3 Adjustment actually were able to have some kind of
4 construction management agreement that we'd be able to look
5 at necessarily. I don't even necessarily know if I would
6 advocate that the Board should be able to do these kind of
7 things also, meaning, you know, I think we're a very good
8 reasonable and understanding Board. Fifteen years from now
9 who knows, right?

10 What I'm trying to say is also the Zoning
11 Commission if the Board had different authority to actually
12 implement some of these things that come before us, that the
13 ANC brings before us, that we might be able to look at them
14 a little differently. I do mean this, Chairman Hood. I
15 don't really know what my opinion is on it. I'm just kind
16 of bringing this to light.

17 I know that you guys have had a long day, and I'm
18 leaving after this. We can reference the construction
19 management agreement. We can't even necessarily do it as,
20 you know -- I lost my words since we've been here so long.
21 Put it in the order as enforceable, right? A lot of things
22 that came up during this hearing were things that were like,
23 you know, the trash issue, the applicant working with the
24 ANC.

25 This is kind of the ANC's opportunity to also --

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1 and the community's opportunity to actually have some say as
2 to what's going on which is helpful in that this is something
3 that comes to light for the applicant. The community gets
4 to put some things forward and we get to try to help. Right?

5 In terms of the criteria, I thought that the
6 additional shadowing was not that undue, right? I mean, the
7 five feet pulling it back again I didn't think was going to
8 necessarily going to help the issue all that much. There is
9 additional shadowing, right? I don't think the privacy issue
10 -- I don't think there is going to be any undue privacy.
11 They are matching the length of the building to its right if
12 you're facing the front of the building.

13 I mean, I went back and I read the Office of
14 Planning's report, the original one at 43 and -- I'm sorry,
15 the original one at 33 and then supplemental at 43, and then
16 went back and looked at the study again in 40. I think that,
17 again, it's unfortunate the ANC is in opposition, but the ANC
18 came and brought all those issues to bare and we do have
19 something that we were able to mention to the applicant.

20 The applicant seems more aware of things and
21 hopefully the ANC will refer to what Mr. Smith mentioned, the
22 DCRA construction management -- I'm sorry, the DCRA
23 construction process. I guess, as I say, looking over all
24 the things we're supposed to be looking at, and referencing
25 back to the Office of Planning's report, I would agree with

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1 the Office of Planning's analysis and be voting in favor of
2 the application.

3 I would look to the Zoning Commission if we do
4 have an opportunity to maybe actually have some kind of
5 construction management or some other tool with which to do
6 things whether or not -- I don't know, whether there could
7 be a different tool for us. I don't know because Chairman
8 Hood is here. Again, I don't know whether I would vote in
9 favor of it because I don't know if like we should be looking
10 at design elements again.

11 Chairman Hood, you know all the things I'm talking
12 about. Nevertheless, I'm going to vote in favor and thank
13 you all for hearing me out.

14 I'll turn it back over to you, Madam Chairman.

15 VICE CHAIR JOHN: Thank you, Chairman Hood
16 -- Chairman Hill.

17 So Chairman Hood, are you ready?

18 ZC CHAIR HOOD: Yes. Thank you, Madam Chair.
19 I've listened to the discussion and I've thought this case.
20 Some of the things that Chairman Hill mentioned I've been
21 trying to deal with it for years and trying to figure out why
22 -- it's hard to go from -- I say this all the time.

23 It's hard to go from the Zoning Commission when
24 I'm looking on the BZA and I'm thinking I should be able to
25 deal with this. I'm dealing with it in the Zoning

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1 Commission. I should be able to deal with construction
2 management plans. I should be able to have final drawings.
3 When I go back and talk to legal counsel, they say this is
4 the reason this is done.

5 Then every so often I have to have that
6 refreshing. I was so ashamed of myself. Even though I think
7 this case from my perspective is incomplete, that's just me
8 but I'm not the regulation. I'm always looking at the
9 community working together.

10 It seems like the ANC didn't respond. I didn't
11 see where they said anything about a construction management
12 plan but in this case, it's good to even have it there.
13 That's kind of where I am. I would agree with Board Member
14 Blake and Board Member Smith, and also Chairman Hill.

15 When I look at the zoning, when I look at Subtitle
16 5201, rear addition, the roof top architects will require --
17 I think they meet the zoning but it's always a good neighbor
18 policy and I don't think that's happened. I think there was
19 some personality clashes between the applicant and the ANC
20 which we did not -- on the Zoning Commission we try to
21 resolve some of those things sometimes, but that's not within
22 the purview of the BZA.

23 I would like the BZA to have more purview but, in
24 this case, it doesn't. I think the applicants have made
25 their case, even though I don't necessarily like it. I still

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1 think it's incomplete but I think I have no other choice.
2 As the Board members have already mentioned, I think it meets
3 the test so I will be voting in favor. Good luck.

4 VICE CHAIR JOHN: Thank you, Commissioner Hood.
5 I'm also going to vote for the application. The one thing
6 that, you know, concerned me was the size of the addition.
7 The shadow studies were really helpful in getting to a
8 decision. I relied on the analysis by the Office of Planning
9 in terms of the impact of the additional shadow between the
10 matter of right option and the proposed design.

11 I'm going to go ahead and support the application
12 even though I think the addition could be shorter. As Board
13 Members Blake and Smith said, they do not think a five-foot
14 difference -- a five-foot reduction in the length of the
15 addition would create any lesser impact in terms of the
16 shadow study.

17 Having said all of that, I agree with the analysis
18 by my fellow Board members. I will also note that DDOT had
19 no objections so based on what I'm hearing, I'm going to make
20 a motion to approve Application 20612 as captioned and read
21 by the secretary and ask for a second, Mr. Blake.

22 MEMBER BLAKE: Second.

23 VICE CHAIR JOHN: Mr. Moy, could you take the roll
24 call, please.

25 MR. MOY: Yes. Thank you, Madam Vice Chair.

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1 When I call your name if you would please respond.

2 Mr. Smith.

3 MR. SMITH: Yes.

4 MR. MOY: Mr. Blake.

5 MEMBER BLAKE: Yes.

6 MR. MOY: Zoning Commission Chair Anthony Hood.

7 ZC CHAIR HOOD: Yes.

8 MR. MOY: Chairman Hill.

9 CHAIRMAN HILL: Yes.

10 MR. MOY: Vice Chair John.

11 VICE CHAIR JOHN: Yes.

12 MR. MOY: Staff would record the vote as five to
13 zero to zero. This is on the motion made by Vice Chair John
14 to approve the application for the relief requested. The
15 motion was seconded by Mr. Blake. Also in support of the
16 motion to approve is Mr. Smith, Chairman Hill, and Zoning
17 Commissioner Anthony Hood and, of course, Madam Vice Chair.
18 Again, the motion carries on a vote of five to zero to zero.

19 VICE CHAIR JOHN: Thank you, Mr. Moy.

20 Thank you, Chairman Hill, for joining us.

21 CHAIRMAN HILL: Thank you, Vice Chair John. Thank
22 you for accommodating me today. You all have a good day.

23 VICE CHAIR JOHN: And we'll see you next week.

24 CHAIRMAN HILL: See you next week.

25 VICE CHAIR JOHN: Okay.

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1 CHAIRMAN HILL: Bye-bye.

2 VICE CHAIR JOHN: Bye. Okay, Mr. Moy. When
3 you're ready just call the next one, please.

4 MR. MOY: Yes. So that concludes the Board's
5 meeting session.

6 (Whereupon, the above-entitled matter went off the
7 record at 10:27 a.m.)

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In the matter of: Meeting

Before: BZA

Date: 09-14-22

Place: Videoconference

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