

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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REGULAR PUBLIC MEETING

+ + + + +

WEDNESDAY

NOVEMBER 1, 2023

+ + + + +

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-Chairperson
CHRISHAUN S. SMITH, NCPC Designee

ZONING COMMISSION MEMBER[S] PRESENT:

ANTHONY J. HOOD, Chairperson
JOSEPH S. IMAMURA, PhD, AOC Designee

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary
PAUL YOUNG, A/V Production Specialist

OFFICE OF ZONING ATTORNEY ADVISORS PRESENT:

SARAH BAJAJ, ESQ.
COMETRIA COOPER, ESQ.
CARISSA DeMARE, ESQ.
RYAN NICHOLAS, ESQ.

The transcript constitutes the minutes from the
Regular Public Meeting held on November 1, 2023.

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

9:49 a.m.

BZA CHAIR HILL: Good morning, ladies and gentlemen, to the Board of Zoning Adjustment. Today's date is 11/1/2023. My name is Fred Hill of the District of Columbia Board of Zoning Adjustment. Joining me today is Vice Chair Lorna John, Board members Chrishaun Smith, Zoning Commissioners Anthony Hood and Dr. Joe Imamura.

Today's meeting and hearing agenda are available on the Office of Zoning's website. Please be advised this proceeding is being recorded by a court reporter and is also webcast live via Webex and YouTube Live. The video of the webcast will be available on the Office of Zoning's website after today's hearing. Accordingly, everyone who is listening on Webex or by telephone will be muted during the hearing. Also, please be advised that we do not take any public testimony at our decision meeting sessions.

If you're experiencing difficulty accessing Webex or with your telephone call-in, then please call our OZ Hotline number at 202-727-5471. Once again, 202-727-5471. It's also listed on your screen.

At the conclusion of our decision meeting session I shall, in consultation with the Office of Zoning, whether a full or summary order may be issued. A full order is 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 applicant may not request the
5 Board to issue such an order.

6 In today's hearing session everyone who is
7 listening on Webex or by telephone will be muted during the
8 hearing, and only persons who have signed up to participate
9 or testify will be un-muted at the appropriate time. Please
10 state your name and home address before providing oral
11 testimony or your presentation. Oral presentation should be
12 limited to a summary of your most important points. When
13 you're finished speaking, please mute your audio so that your
14 microphone is no longer picking up sound or background noise.

15 All persons planning to testify either in favor
16 or in opposition should have signed up in advance, they'll
17 be called by name to testify. If this is an appeal, only
18 parties are allowed to testify. By signing up to testify,
19 all participants agree to the oath or affirmation, as
20 required by Subtitle Y 48.7.

21 Requests to enter evidence at the time of an
22 online virtual hearing, such as written testimony or
23 additional supporting documents -- other than live video,
24 which may not be presented as part of the testimony -- may
25 be allowed pursuant to Subtitle Y 103.13. Provided that the

1 persons making the request to enter an exhibit explain, A,
2 how the proposed exhibit is relevant. B, the good cause that
3 justifies the exhibit into the record, including explanation
4 of why the requestor did not file the exhibit prior to the
5 hearing pursuant to Y 206, and how the proposed exhibit would
6 not unreasonably prejudice any parties.

7 The order of procedures for special exceptions and
8 variances are pursuant to Y 409. At the conclusion of each
9 case, an individual who is unable to testify because of
10 technical issues may file a request for leave to file a
11 written version of the planned testimony to the record within
12 24 hours following the conclusion of public testimony of the
13 hearing. If additional written testimony is accepted, then
14 parties will be allowed a reasonable time to respond, as
15 determined by the Board. The Board will then make its
16 decision at its next meeting session, but no earlier than 48
17 hours after the hearing.

18 Once again, after the Board adjourns -- oh, I'm
19 sorry. Finally, the District of Columbia Administrative
20 Procedures Act requires that the public hearing on each case
21 be held in the open, before the public. However, pursuant
22 to Section 405(b) and 406 of that Act, the Board may,
23 consistent with its rules and procedures and the Act, enter
24 into a case -- enter into a closed meeting on a case for
25 purposes of seeking legal counsel on a case pursuant to the

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1 D.C. Official Code Section 2-575(b)(4), and/or deliberate on
2 case pursuant to D.C. Official Code Section 2-575(b)(13).
3 But, only after filing necessary public notice in the case
4 of an emergency closed meeting, after taking a roll call
5 vote.

6 Mr. Secretary, do we have any preliminary matters?
7 (No audible response.)

8 BZA CHAIR HILL: You're on mute, Mr. Moy.
9 (Pause.)

10 MR. MOY: Okay, how's this one?

11 BZA CHAIR HILL: Yes.

12 MR. MOY: Okay, great. Okay, can you still hear
13 me?

14 BZA CHAIR HILL: Yes.

15 MR. MOY: Thanks, Mr. Chairman. Well, I guess it
16 was my turn.

17 BZA CHAIR HILL: I know.

18 MR. MOY: Oh, my goodness. November first. Okay,
19 all right. Let's get moving here. Okay, so quick
20 announcement. Number one, we have two case applications in
21 reference to today's docket that have moved. Application
22 Number 20970 of the Washington Ballet has been postponed,
23 rescheduled to December 6, 2023. Appeal Number 20889 of
24 Chukwuma Ewelike has been postponed, rescheduled to April 3,
25 2024.

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1 Finally, the Chairman has reviewed and granted
2 waivers to allow late filings into the applicable case
3 records. Pursuant to Subtitle Y Section 206.7, Subtitle Y
4 Section 103.13, any filings submitted to -- or, any late
5 filings today, during the course of the hearing, should be
6 presented, brought before the Board by the applicants and
7 parties when I call the case.

8 And I believe my last reminder to you, Mr.
9 Chairman, is that there are preliminary matters to two
10 applications. Application Number 20962 of Personable.com,
11 there are party status requesters. And finally, Application
12 Number 20969 of Daniel Blaise, on October 30 the applicant
13 filed a motion for continuance. And that's all I have for
14 you, Mr. Chairman.

15 BZA CHAIR HILL: Okay, that's great, Mr. Moy.
16 Let's see, Mr. Moy, you can call our first case, which I
17 think is with regards to Chairman Hood -- or, I think
18 Chairman Hood is on that one.

19 MR. MOY: Yes. This is before you for Board
20 action, and it is Case Application Number 20957 of Alade, A-
21 L-A-D-E, Interests, LLC. This is an application located --
22 the property is located at 722 Kenyon Street, Northwest,
23 Square 2891, Lot 116. And as the Board is aware, this was
24 heard and decided by the Board on October 18, 2023. And
25 participating is the Chairman and I believe the Vice Chair

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1 is participating, Mr. Smith and Zoning Commission Chair
2 Anthony Hood. And I'll leave the rest for you, Mr. Chairman.

3 BZA CHAIR HILL: Okay. Vice Chair John, I thought
4 you weren't on this one. Are you on this one?

5 VICE CHAIR JOHN: Yes, Mr. Chairman.

6 BZA CHAIR HILL: Oh, okay. Mr. Smith you're with
7 us, correct?

8 (No audible response.)

9 BZA CHAIR HILL: Mr. Smith?

10 (No audible response.)

11 BZA CHAIR HILL: Mr. Moy, Mr. Smith is on this
12 one, correct?

13 (No audible response.)

14 BZA CHAIR HILL: Oh, there we go, there's Mr.
15 Smith. Okay, great, never mind. I think he is with it,
16 anyway.

17 So, what had come to -- we're getting ready to --
18 the office was getting ready to look, or finalize the order,
19 and some questions came up during the review. And one of
20 them was whether or not it was really clear as to whether or
21 not they had 900 square feet per unit.

22 So what I would like to do is reopen the record,
23 and then asked for some proof from the applicant that -- and
24 I believe this is what OZ LD had been suggesting, and I'm
25 going to check this again -- but some proof from the

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1 applicant that they have the 900 square feet per unit. And
2 that they have 2,700 square feet, or was the issue -- and I
3 guess I'll ask OZ LD if they want to chime in -- that we
4 could, again put a condition in there that they have the
5 2,700 square feet.

6 Is that what we're trying to do? We don't need
7 anything further for the record, we can just put that in as
8 a condition. Is that what is happening, OZ LD?

9 VICE CHAIR JOHN: Mr. Chairman, my recollection
10 is that the issue is the condition; that we should not have
11 put a condition in. Because, the 2,700 square foot is a
12 requirement in order to convert the Lots.

13 BZA CHAIR HILL: Oh, so the whole point was --

14 VICE CHAIR JOHN: Condition is the issue, because
15 the record isn't complete. There's no proof in the record
16 that there is 2,700 square feet to meet the minimum 900
17 square foot per unit, I believe.

18 BZA CHAIR HILL: Okay. Can OZ LD chime in here?
19 I'm not clear as -- now, I'm a little bit uncertain as to
20 whether or not we're just supposed to remove the condition
21 or we still need proof.

22 MS. COOPER: This is Cometria Cooper from OZ LD.
23 The applicant is required to establish they have 900 square
24 feet per unit, so they need 2,700 just to move forward with
25 the application. And they don't have it or they haven't

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1 proven that, so we can't make a condition on a requirement.
2 They need proof to show that they have the 2,700 square feet
3 to be able to do the conversion as they've applied.

4 BZA CHAIR HILL: So, what's before the Board is
5 to remove the condition, Ms. Cooper?

6 MS. COOPER: What's before the Board is an
7 opportunity to reopen the record, or the hearing, and ask the
8 applicant to provide proof that they have the 900 square feet
9 for each unit that they're asking for a conversion.

10 BZA CHAIR HILL: Okay. Well then, I was mildly
11 clear. Okay, then what I would propose is we go ahead and
12 do that, we'll reopen the record so that the applicant can
13 provide something to the record that shows the Board that
14 they have the 900 square feet per unit. Does the Board have
15 any questions about that?

16 ZC CHAIR HOOD: Yes, Mr. Chairman. Yeah, let me
17 not add to it. Yeah, 900 square feet, I have no problem with
18 that. Thank you.

19 BZA CHAIR HILL: Okay. Then, Mr. Moy, when should
20 or how should we do this, in terms of getting further
21 information from the applicant? And then, when can we put
22 this back on for a decision?

23 MR. MOY: We -- we typically provide instructions,
24 an OZ memorandum into the case record. So, we will do that
25 for this, as well as share that with the applicant and all

1 the parties. Number two, I would recommend that the Board
2 set this hearing for December the -- December the 20th. That
3 would accommodate everyone who's participating on this, in
4 this case, December 20.

5 BZA CHAIR HILL: Okay. And can we do a decision?

6 (No audible response.)

7 BZA CHAIR HILL: I guess no, Vice Chair John is
8 shaking her head -- which, I love video. So then, do a
9 continued hearing, just in case they don't have it and we
10 have questions?

11 (No audible response.)

12 BZA CHAIR HILL: And now, other people are nodding
13 yes. Okay, great, wonderful. So, we'll go ahead and have
14 a continued hearing on this issue -- only on this issue, Mr.
15 Moy -- about the required square footage, and we'll have a
16 continued hearing.

17 MR. MOY: So now, I believe, sir, you would have
18 to vote on reopening the record, if I'm correct.

19 BZA CHAIR HILL: Okay. I'm going to make a motion
20 to reopen the record for all of the reasons that I just
21 stated, and asked for a second. Ms. John?

22 VICE CHAIR JOHN: Second.

23 BZA CHAIR HILL: A motion has been made and
24 seconded. Mr. Moy, if you could take a roll call?

25 MR. MOY: Thank you, Mr. Chairman. When I call

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1 your names, if you will please respond to the motion made by
2 Chairman Hill to reopen the record. The motion to reopen was
3 second by Vice Chair John. Mr. Smith?

4 MEMBER SMITH: Yes.

5 MR. MOY: Vice Chair John?

6 VICE CHAIR JOHN: Yes.

7 MR. MOY: Chairman Hill?

8 BZA CHAIR HILL: Yes.

9 MR. MOY: And Zoning Commission Chair Anthony
10 Hood?

11 ZC CHAIR HOOD: Yes.

12 MR. MOY: With no others participating, staff
13 would record the vote as four to zero to one. And this is
14 on the motion made by Chairman Hill to reopen. The motion
15 to reopen was second by Vice Chair John. Also in support of
16 the motion is Zoning Commission Chair Anthony Hood, Mr.
17 Smith, Vice Chair John, Chairman Hill. The motion carries,
18 sir, on the vote of four to zero to one.

19 BZA CHAIR HILL: Okay, great. Thank you, Mr. Moy.
20 All right. Thank you, Chairman hood, is that it for you
21 today?

22 ZC CHAIR HOOD: That's it for me. Thank you, and
23 you all have a great day.

24 BZA CHAIR HILL: You have a good day, also.

25 VICE CHAIR JOHN: Bye.

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1 BZA CHAIR HILL: Bye-bye.

2 VICE CHAIR JOHN: Have a good day.

3 BZA CHAIR HILL: Mr. Moy, I believe there was a
4 request for a postponement?

5 MR. MOY: Yes. Should I call -- do you want to
6 call that next?

7 BZA CHAIR HILL: Yeah. Could you go ahead and
8 call that next, please?

9 MR. MOY: All right. Sorry, I'm reshuffling my
10 cards here. Okay, so the preliminary matter, which is to
11 Case Application Number 20969 of Daniel Blaise. This is a
12 self-certified application, pursuant to Subtitle X Section
13 901.2, for special exception under Subtitle U Section 421 to
14 allow a new residential development. Property located in the
15 RA-1 zone at 357 Parkland Place, Southeast, Square 5988, Lot
16 79.

17 As I said, or noted, earlier, the applicant filed
18 and served a motion for a continuance on October 30th. And
19 as we all know, the response period would expire seven days
20 from that date, which would be November the 6th. And I think
21 that's all I have for you, other than what the applicant is
22 going to present. Thank you, sir.

23 BZA CHAIR HILL: Thank you. If the applicant is
24 here, can they hear me for the record? Or introduce
25 themselves, I'm sorry, for the record?

1 (No response.)

2 MR. MOY: That should be a Mr. Sullivan, sir.

3 BZA CHAIR HILL: Yeah, I don't know, maybe we
4 threw him because we moved it all up. But, since this was
5 a postponement, I don't know if Mr. Sullivan is there or not.

6 (No response.)

7 MR. MOY: His icon's on my screen --

8 BZA CHAIR HILL: Yeah, I know, I see that, too.
9 I don't know if Mr. Sullivan can hear me. Mr. Sullivan, can
10 you hear me?

11 (No response.)

12 MR. MOY: Let me check with my staff as well, sir.

13 BZA CHAIR HILL: Yeah, that's -- okay. Mr. Moy?

14 MR. MOY: Yes?

15 BZA CHAIR HILL: I just think we threw the
16 applicant because we moved it into a different place. So,
17 let's go ahead, and why don't you have staff to reach out to
18 the applicant, and when they get them we can bring them back
19 up real quick for the discussion about the postponement.

20 MR. MOY: Okay, very good.

21 BZA CHAIR HILL: And if you want to go ahead and
22 go to our next case, which I think is 20980, if I'm not
23 wrong.

24 MR. MOY: Yes, all right, I can do that. All
25 right, so if we can bring the parties to the table to case --

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1 no, this is a public meeting session. This is a expedited
2 review case, which is Case Number 20980 of Mary Siegel, S-I-
3 E-G-E-L. This is an application pursuant to Subtitle X
4 Section 901.2 for special exceptions, under Subtitle D
5 Section 5201, from rear yard requirements, Subtitle D Section
6 207.1; pervious surface requirements, Subtitle D Section
7 211.1; and accessory building rear yard requirements,
8 Subtitle D Section 5004.1(a), in the R-1B zone at 4550
9 Brandywine Street, Northwest, Square 1568, Lot 2.

10 And I think that's all I have for you, Mr.
11 Chairman. Yeah, thanks.

12 BZA CHAIR HILL: Okay, great, thank you. All
13 right, I've had an opportunity to review the record,
14 including the Office of Planning's report, the information
15 we received from the ANC. And as I looked it over, I believe
16 they're meeting the criteria for us to grant the relief
17 requested. I would also note that there were letters in
18 support, and their public outreach seems quite thorough. So,
19 I didn't really have any issues with the application. I'll
20 be voting in favor.

21 Mr. Smith, do you have anything you'd like to add?

22 MEMBER SMITH: I have nothing to add. I agree
23 with your assessment in this case and will support the
24 application, as well.

25 BZA CHAIR HILL: Dr. Imamura, do you have anything

1 you'd like to add?

2 COMMISSIONER IMAMURA: No, Mr. Chairman. I'm also
3 in agreement and prepared to support.

4 BZA CHAIR HILL: Thank you. Vice Chair John?

5 VICE CHAIR JOHN: I'm in support of the agreement
6 of the application, and I have nothing to add.

7 BZA CHAIR HILL: Thank you. All right, I'm going
8 to make a motion to approve Application Number 20980 as
9 captioned and read by the secretary, and ask for a second.
10 Ms. John?

11 VICE CHAIR JOHN: Second.

12 BZA CHAIR HILL: Thank you. Mr. Moy, if you could
13 take a roll call, please.

14 MR. MOY: Thank you, sir. When I call your name,
15 if you would please respond to the motion made by Chairman
16 Hill to approve the application for the relief requested.
17 The motion to approve was second by Vice Chair John. Zoning
18 Commissioner Dr. Imamura?

19 COMMISSIONER IMAMURA: Yes.

20 MR. MOY: Mr. Smith?

21 MEMBER SMITH: Yes.

22 MR. MOY: Vice Chair John?

23 VICE CHAIR JOHN: Yes.

24 MR. MOY: Chairman Hill?

25 BZA CHAIR HILL: Yes.

1 MR. MOY: With no others participating, staff
2 would record the vote as four to zero to one. And this is
3 on the motion made by Chairman Hill to approve. The motion
4 to approve was seconded by Vice Chair John. Members voting
5 to approve: Zoning Commissioner Dr. Imamura, Mr. Smith, Vice
6 Chair John, and Chairman Hill. Motion carries, sir, four to
7 zero to one.

8 BZA CHAIR HILL: Thank you, Mr. Moy. It seems
9 like, Mr. Moy, also there was an expedited review case that
10 I think there might be some issues on, and I think it's
11 21000. And if that's what you have listed next, perhaps you
12 can call it.

13 MR. MOY: Yes, sir. This is Case Application
14 Number 21000 of Casey Dlott, D-L-O-T-T, and Joel Schulman.
15 This is an expedited review case. It's self-certified
16 pursuant to Subtitle X Section 901 for special exceptions,
17 under Subtitle D Section 5201, from the side yard
18 requirements of Subtitle D Section 403.2. Property located
19 at 2726 Brandywine Street, Northwest, Square 2250, Lot 825.

20 In the case record, Mr. Chairman and Board
21 members, there is a letter from an abutting property owner
22 that filed a letter in opposition to this case.

23 BZA CHAIR HILL: Okay, one moment. Okay, all
24 right. So, there is a letter in the record -- I don't know
25 if you guys have had a chance to read it ye -- I assume you

1 have -- Exhibit 21, that is some comments from the abutting
2 property. And so I would rather have this as a hearing,
3 rather than an expedited review. And the letter makes some
4 comment about the interactions that the applicant has had
5 with their neighbor, and I wanted to have a hearing so that
6 we can hear what the neighbor's issues perhaps might be.

7 I would mention that the duty of the Board is to
8 look at zoning issues and how they apply to the request
9 that's being asked for. This, again, being a special
10 exception under D 502.5 -- sorry, 5201 from the side yard
11 requirements of D 403.2, for the third-story addition and
12 side additions to the property. So, what I would do is I
13 would ask the applicant to reach out to the neighbor and see
14 a little bit more about what their concerns may be about the
15 project. And then also ask, if the neighbor is watching, to
16 refer them to the case record. And then also to read the
17 Office of Planning's report in Exhibit 18 and the a ANC
18 report in Exhibit 20.

19 Mr. Moy, did you have something to say?

20 (No response.)

21 BZA CHAIR HILL: Okay. So, yeah. So, that's it.
22 So, I'd go ahead and do that. Mr. Moy, unless the Board has
23 any other questions about that, I'm going to go ahead and try
24 to schedule something. Okay, Dr. Imamura will probably not
25 be on this case. But when can we do this, Mr. Moy?

1 MR. MOY: Yeah, that's why my picture appeared on
2 your screen. So, my suggestion, Mr. Chairman, is that you
3 could reschedule this to either November 29th, where you have
4 eight cases and one mod of consequence, or to -- which would
5 be next week -- November the 8th, where you currently have
6 eight cases.

7 BZA CHAIR HILL: What did you say the 29th is,
8 again?

9 MR. MOY: November 29th, where you have eight
10 cases and one mod of consequence.

11 BZA CHAIR HILL: Yep.

12 MR. MOY: That would be November 29th. Or next
13 week, November the 8th, where you have eight cases.

14 BZA CHAIR HILL: Okay, let's do next week,
15 actually, because then we'll have a chance to hear what's
16 going on and see what our next steps are.

17 MR. MOY: Very good.

18 BZA CHAIR HILL: Okay. All right, did your staff
19 get in touch with that applicant for the postponement? You
20 don't know. Right, Mr. Moy?

21 MR. MOY: I got a note. He's going to be coming
22 on to Webex shortly. But that was at 10:11, so he -- I'm
23 assuming he's not there yet, he's not here yet.

24 BZA CHAIR HILL: Okay. All right, let's go ahead
25 and call our next case, then, which I believe is 20962. And

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1 if I could point out to the Board to take a look at the
2 record of this one again, there are some new items.

3 MR. MOY: Okay, I'm ready.

4 (Whereupon, the above-entitled matter went off the
5 record at 10:17 a.m.)

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C E R T I F I C A T E

This is to certify that the foregoing transcript


In the matter of: Public Meeting

Before: DC BZA

Date: 11-01-23

Place: videoconference

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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