

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

JANUARY 31, 2024

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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 9:30 a.m. EST, 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
CARL H. BLAKE, Member

ZONING COMMISSION MEMBER PRESENT:

TAMMY STIDHAM, NPS 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 January 31, 2024.

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

(9:46 a.m.)

BZA CHAIR HILL: Good morning, ladies, gentlemen.
Board of Zoning Adjustment. Today's date is 1/31/2024. Public
hearing will please come to order.

My name is Fred Hill, Chairman of the District of
Columbia Board of Zoning Adjustment. Joining me today is Vice
Chair Lorna John, board members Carl Blake and Kershawn
Smith, and zoning commissioners Tammy Stidham and Chairman
Anthony Hood. Today's meeting and hearing in general are
available on the office of Zoning's website.

Please be advised that this proceeding is being
recorded by a court reporter, 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 caller, then please call OZ hotline number at
202-727-5471 to receive Webex call and instructions. At the
conclusion of a decision meeting session, I shall, in
consultation with the Office of Zoning, to determine whether
a full or summary order may be issued.

1 A full order is required when the decision
2 contains its adverse to a party, including affected ANC. A
3 full order may also be needed if the board's decision differs
4 from the Office of Planning's recommendation. Although the
5 board favors the use of summary orders, whenever possible,
6 an applicant may not request the board to issue such an
7 order.

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

17 Once again, if you're experiencing difficulty,
18 please call our OZ hotline number 202-727-5471. All persons
19 playing to testify in their favor and opposition should have
20 signed up in advance. They'll be called by name to testify,
21 and this is an appeal only parties are allowed to testify.

22 By signing up to testify, all participants will
23 need the oath or affirmation as required by subtitle Y 408.7.
24 Request to enter evidence at the time of online virtual
25 hearing, such as written testimony or additional supporting

1 documents other than live video, which may not be presented
2 as testimony, may be allowed pursuant to Y 102.13, provided
3 that the person made the request to enter an exhibit, explain
4 (A) how the proposed exhibit is relevant, (B) the good cause
5 justifies lagging exhibit into the record, including an
6 explanation of why the requester did not file the exhibit
7 prior to the hearing pursuant to Y-206, and see how the
8 provost exhibit would not unreasonably prejudice any parties.
9 The order of procedures for special exceptions and variances
10 are in Y-409. Somebody might want to mute themselves if they
11 aren't muted. Just an FYI.

12 At the conclusion of each case, an individual who
13 is unable to testify because of technical issues may file a
14 request for leave to file a written version of planned
15 testimony to the record within 24 hours following the
16 conclusion of public testimony in the hearing. If additional
17 written testimony is accepted, then parties will be allowed
18 a reasonable time to respond as determined by the board. The
19 board will then make its decision at its next meeting
20 session, but no earlier than 48 hours after the hearing.

21 Moreover, the board may request additional
22 specific information to complete the record. The board of the
23 staff will specify at the end of the hearing, exactly what
24 is expected, and the date when person must submit the
25 evidence to the Office of Zoning. No other information shall

1 be accepted by the board.

2 Finally, the District of Columbia Administrative
3 Procedures Act requires that the public hearing on each case
4 be held in the open before the public. However, pursuing
5 section 405B and 406 of the act, the board may, consistent
6 with its rules and procedures and the act, enter at the
7 closed meeting on case for purposes of seeking legal counsel
8 on a case pursuant to DC official Code section 2-575 B4 and
9 deliberate on a case pursuant to DC official code Section
10 2575 B15, but only after providing the necessary public
11 notice in case of emergency closed meeting after taking roll
12 call vote.

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

14 MEMBER MOY: Morning, Mr. Chairman, members of the
15 board. Yes, I do have a very brief announcement regarding
16 today's docket.

17 First, Application No. 2072-0772 of
18 districtproperties.com, Inc., has been withdrawn by the
19 Applicant.

20 Also, we have preliminary matters on select cases
21 today, but I think it'd be more efficient if I bring that to
22 your attention when I call those cases. Other than that, for
23 the record, the chairman has reviewed and granted waivers to
24 allow late filings into the applicable case records pursuant
25 to Subtitle Y, Section 206.7 and Section 103.13.

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1 If there are any other late filings during the
2 course of today's live hearing, parties should bring that to
3 the board's attention when I call that case. Other than that,
4 I believe that's all I have for you, Mr. Chairman. Thank you.

5 BZA CHAIR HILL: Okay, great. Thank you, Mr. Moy.
6 All right, everybody. So again, I'm sorry, the computer, it's
7 so funny when you just keep pushing the button, it either
8 starts to work or it doesn't start to work. And so I am so
9 glad that it's starting to work, because I didn't think it
10 was going to be a good day to try to pull this off off my
11 phone.

12 So welcome, everybody. We have a couple of initial
13 public meeting session cases to hear, and then we'll have
14 Chairman Hood for a case, and then we'll be back with
15 Commissioner Stidham for the remainder of the day. So, Mr.
16 Moy, if you want to call our first case, please?

17 MEMBER MOY: All right, so in the board's public
18 meeting session, the first of two cases is Application No.
19 21045, of Jane Nobler and Roger Nobler. This is an expedited
20 review calendar case. It's a self certified application,
21 pursuant to Subtitle X, Section 901.2, for special exceptions
22 under Subtitle D, Section 520 1.1 from accessory building
23 requirements of Subtitle D, Section 5004.1A, accessory
24 building side yard requirements, Subtitle D, Section 5005.1.

25 Property's located in the R-2 zone at 3523 Border

1 Street, NW, Square 1957, Lot 113. And that's all I have for
2 you. I just want to check one other thing. Yes, that's all
3 I have. Thank you, sir.

4 BZA CHAIR HILL: Okay, thanks, Mr. Moy. So this is,
5 again, for the location of the building in a rear yard, and
6 then the accessory building side yard requirements of D
7 5005.1.

8 I've read through the record, and then also the
9 Office of Planning's report and also the ANC report of which
10 we need to give great weight towards. I didn't necessarily
11 see any issues with the light or air or privacy. It seemed
12 pretty straightforward to me. And then also there were no
13 windows on the accessory building, or the building that's
14 located in the rear yard, I should say, which would cause any
15 privacy issues as far as I was concerned. So I will be voting
16 in favor of this application, and also the abutting property
17 was in support.

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

19 MR. SMITH: Have anything to add? I agree with your
20 assessment of this case, and we'll support the application
21 as well.

22 BZA CHAIR HILL: Thank you. Mr. Blake?

23 MEMBER BLAKE: Yes, I've reviewed the application
24 as well, and I do believe it does meet the burden of proof
25 to be granted relief. I'll be voting in support of the

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1 application.

2 BZA CHAIR HILL: Thank you. Commissioner Stidham?

3 MEMBER STIDHAM: ... also and am prepared to
4 support as well.

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

6 VICE CHAIR JOHN: I'm in support. I don't know if
7 we received anything from the ANC.

8 BZA CHAIR HILL: We did receive the ANC report and
9 it was in support.

10 VICE CHAIRPERSON JOHN: All right. Thank you. So
11 I'm in support.

12 BZA CHAIR HILL: Thank you. Thank you, Vice Chair
13 John. All right. I'm going to make a motion to approve
14 Application No. 21045, as captioned read by the secretary and
15 ask for a second. Ms. John?

16 VICE CHAIR JOHN: Second.

17 BZA CHAIR HILL: Motion made and second. Mr. Moy,
18 if you take a roll call, please.

19 MEMBER MOY: Yes. Thank you, sir. When I call your
20 name, if you'll please respond to the motion made by Chairman
21 Hill to approve the application for the relief requested. The
22 motion to approve was second by Vice Chair John. Zoning
23 Commissioner Ms. Stidham?

24 MEMBER STIDHAM: Yes.

25 MEMBER MOY: Mr. Smith?

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1 MR. SMITH: Yes.

2 MEMBER MOY: Mr. Blake?

3 MEMBER MOY: Vice Chair John?

4 VICE CHAIR JOHN: Yes.

5 MEMBER MOY: Chairman Hill? Then staff would record
6 the vote as 5-0-0. And this is on the motion made by Chairman
7 Hill to approve. The motion to approve was second by Vice
8 Chair John, who also voted to approve the application, as
9 well as approval from Zoning Commissioner Stidham, Mr. Smith,
10 Mr. Blake, Vice Chair John and Chairman Hill.

11 Again, the motion carries are 5-0-0.0

12 BZA CHAIR HILL: Thank you, Mr. Moy. If you could
13 please call that next one when you get a chance.

14 MEMBER MOY: The next case in the board's meeting
15 session is a time extension case. This is Application No.
16 20618 A, of Christine and Michael Galano. This is a request
17 pursuant to Subtitle Y, Section 705.14, for a two year time
18 extension of the validity of the order approving Application
19 No. 20618. And that case was issued back in February 17,
20 2022. Property is located in the R-2 zone at 20916 Upton
21 Street, NW, Square 2235, Lot 87. Thank you.

22 BZA CHAIR HILL: Thank you. All right, so in terms
23 of the time extension, I have reviewed the record and also
24 have seen the applicant statement in Exhibit 3 as to how they
25 are arguing for the time extension. They speak of the

1 economic conditions, a change in the applicant's household
2 that impacted project financing, supply chain due to Covid,
3 the pandemic. And then also, they now seem to be in line now
4 for being able to get their financing and moving forward with
5 the project in 2024.

6 The Office of Planning did provide a report that
7 they had no issues. We did not hear anything from the ANC.
8 However, they had been notified for this time extension. I
9 am comfortable with the time extension. I'm going to be
10 voting in favor. Mr. Smith, do you have anything you'd like
11 to add?

12 MR. SMITH: I've also read the record and I am
13 comfortable with the information that's in the record,
14 providing a burden of proof for us to grant the time
15 extension, given the unique economic circumstances
16 surrounding the pandemic and the labor and material shortages
17 that occurred at that time. So stand on the record with that,
18 and we'll support the application.

19 BZA CHAIR HILL: Great. Thank you. Mr. Blake?

20 MEMBER BLAKE: Yeah. I agree with the assessments
21 you've made. The applicant has demonstrated good cause. I'll
22 be voting in favor of the application.

23 BZA CHAIR HILL: Thank you. Commissioner Stidham.

24 MEMBER STIDHAM: So, reviewed and agree and support
25 the time.

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

2 VICE CHAIR JOHN: I'm in support of the
3 application. And I would also add that there's no substantial
4 change in any of the material facts upon which the board
5 granted its original approval.

6 BZA CHAIR HILL: Thank you. All right, I'm going
7 to go ahead and make a motion then to approve application
8 number 20618A, as captioned read by the secretary and ask for
9 a second. Ms. John?

10 VICE CHAIR JOHN: Second.

11 BZA CHAIR HILL: Thank you. Motion made and second.
12 Mr. Moy to take a roll call.

13 MEMBER MOY: So when I call your name, if you'll
14 please respond to the motion made by Chairman Hill to approve
15 the application for the request for time extension. This
16 motion was second by Vice Chair John. Zoning Commissioner
17 Stidham?

18 MEMBER STIDHAM: Yes.

19 MEMBER MOY: Mr. Smith?

20 MR. SMITH: Yes.

21 MEMBER MOY: Mr. Blake?

22 MEMBER MOY: Vice Chair John?

23 VICE CHAIR JOHN: Yes.

24 MEMBER MOY: Chairman Hill? Then staff would record
25 the vote as 5-0-0. And this is on the motion made by Chairman

1 Hill. Motion was seconded by Vice Chair John. She also voted
2 to approve the application, as well as approval from zoning
3 Commissioner Stidham, Mr. Smith. Mr. Blake, Vice Chair John,
4 and Chairman Hill. The motion carries, sir, 5-0-0.

5 BZA CHAIR HILL: Great. Okay. Thank you, Mr. Moy.
6 You may call our first case when you get an opportunity.
7 Commissioner Stidham, we will see you afterwards, and we'll
8 welcome Chairman Hood.

9 (Whereupon, the above-entitled matter went off the
10 record at 10:01 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: 01-31-24

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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