

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,

MARCH 27, 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. EDT, Frederick L. Hill, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

FREDERICK L. HILL, Chairperson
CHRISHAUN S. SMITH, NCPC Designee

ZONING COMMISSION MEMBER PRESENT:

TAMMY STIDHAM, NPS Designee

OFFICE OF ZONING STAFF PRESENT:

KEARA MEHLERT,, Secretary
PAUL YOUNG, A/V Production Specialist

OFFICE OF ZONING ATTORNEY ADVISORS PRESENT:

SARAH BAJAJ, ESQ.
COMETRIA COOPER, ESQ.

The transcript constitutes the minutes from the Regular Public Meeting held on March 27, 2024.

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

9:36 a.m.

CHAIRPERSON HILL: Regular Zoning Board of Zoning Adjustment's March 27th 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 Board Members Chrishaun Smith and Zoning Commissioner Tammy Stidham. Today's meeting and hearing agenda are available on the Office of Zoning website.

Please be advised that this proceeding is being recorded by a court reporter and also webcast live via Webex and YouTube Live. The video broadcast 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 call in, then please call the OZ hotline number at 202-727-5471; once again, 202-727-5471 to receive Webex login or call in instructions.

At the conclusion of the decision meeting session, I shall, in consultation with the Office of Zoning, determine whether a full or summary order may be issued. A full order is required when a 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 that have signed up to participate
9 or testify will be unmuted 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 who are allowed to testify. By signing up to
19 testify, all participants completed the oath or affirmation
20 as required by Subtitle Y 408.7. Requests to enter evidence
21 at the time in online virtual hearings such as written
22 testimony or additional supporting documents other than live
23 video which may not be presented as part of the testimony may
24 be allowed pursuant to Subtitle Y 103.13 provided that the
25 persons making the request to enter an exhibit explain a) how

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1 the proposed exhibit is relevant; b) the good cause justifies
2 allowing the exhibit into the record including an explanation
3 of why the requester did not file the exhibit prior to the
4 hearing pursuant to Y 206; and c) how the proposed exhibit
5 would not unreasonably prejudice any parties. The order or
6 procedures for special exceptions and variances are pursuant
7 to Y 409. The order of the appeal is pursuant to Y 407.

8 At the conclusion of each case, an individual who
9 is unable to testify because of technical issues may file a
10 request for leave to file a written version of the planned
11 testimony to the record within 24 hours following the
12 conclusion of public testimony and the hearing. If
13 additional written testimony is accepted, the parties would
14 be allowed a reasonable time to respond as determined by the
15 Board. The Board will then make its decision at its next
16 meeting session but no earlier than 48 hours after the
17 hearing. Moreover, the Board may request additional
18 information, specific information to complete the record.
19 The Board and the staff will specify at the end of the
20 hearing exactly what is expected and the date when persons
21 must submit the evidence to the Office of Zoning. No other
22 information shall be accepted by the Board.

23 Finally, the District of Columbia Administrative
24 Procedures Act requires that the public hearing on each case
25 be held in the open before the public. However, pursuant to

1 405(b) and 406 of that Act, the Board may, consistent with
2 its rules of procedure and the Act, enter into a closed
3 meeting on a case for purposes of seeking legal counsel on
4 a case pursuant to D.C. Official Code Section 2-575(b)(4)
5 and/or deliberate on a case pursuant to D.C. Official Code
6 Section 2-575(b)(15) but only after filing necessary public
7 notice in the case of an emergency closed meeting after
8 taking a roll call vote.

9 Madam Secretary, do we have any preliminary
10 matters today?

11 MS. MEHLERT: Good morning, Mr. Chairman, members
12 of the Board, just a few. Application Number 21080 of
13 Aulona Alia was originally scheduled for today's hearing.
14 That's been rescheduled to the June 12, 2024 public hearing.

15 Also, the Chairman has reviewed and granted
16 waivers to allow late filings into the applicable case
17 records pursuant to Subtitle Y Section 206.7 and Section
18 103.13. Any other late filings during the course of today's
19 live hearing should be presented before the Board by the
20 applicant, parties, or the witnesses after the case is
21 called. Any other preliminary matters will be noted when the
22 case is called.

23 CHAIRPERSON HILL: Thank you. And I'd like to
24 welcome Keara Mehlert. She's going to be the new Secretary
25 now taking over for Cliff Moy. And, you know, we're happy

1 to have you with us and thank you for your service. Okay.
2 Why don't you go ahead and call our first case here if you
3 would?

4 MS. MEHLERT: The first case in the public meeting
5 session is for expedited review. This is Application Number
6 21078 of Inci Otker Revocable Trust dated June 5, 2014. This
7 application is pursuant to Subtitle X 901.2 for a special
8 exception under Subtitle D 5201.1 from the rear yard
9 requirements of Subtitle D 207.1 and the side yard
10 requirements of Subtitle D 208.1. This project is to
11 construct a one-story rear addition to an existing two-story
12 attached principal dwelling with an existing one-story
13 accessory structure in the rear yard. The project is located
14 in the R-1B Zone at 5504 33rd Street, NW, Square 2014, Lot
15 15. And I will note that last night a resolution in support
16 from ANC 34G was submitted to the record, and that's in
17 Exhibit 24.

18 CHAIRPERSON HILL: Thank you. All right. So I
19 have had a chance to review the record. I thought this was
20 relatively straightforward. I didn't have any issues with
21 the light and air or adverse impact on the neighboring
22 properties. I did note that the Office of Planning's report
23 recommended approval, and I would agree with their analysis.

24 This also is one where I was, up until we just
25 recently got somebody from the ANC, was concerned about the

1 outreach that had taken place. I appreciate that the
2 applicant had put forward something into the record about
3 their statement of outreach. However, in the future, if
4 there is someone from this applicant for expedited review and
5 actually any of the attorneys that work with the BZA on a
6 regular basis, particularly for expedited review, it's
7 helpful to see what kind of outreach has happened with the
8 ANCs more than just "we've referred this case." And the ANC,
9 you know, something that followed up saying we did hear back,
10 we did an opportunity -- we had an opportunity to hear from
11 them is just something that I would rather -- feel more
12 comfortable with knowing a little bit more about what's going
13 on with the ANC if it's an expedited review. Otherwise, it's
14 going to get pulled off the expedited review calendar, and
15 then it just takes more time for all of us if, in fact, it's
16 something that is something that could have been handled on
17 the expedited review calendar.

18 So that being all the items I have to mention for
19 it, I'm going to be voting approval of this application. Mr.
20 Smith, do you have anything you'd like to add?

21 MEMBER SMITH: (Audio interference.)

22 CHAIRPERSON HILL: Thank you, Mr. Smith. You're
23 kind of broken up or gargly just a little bit, Mr. Smith.
24 I did hear your comments, however. Commissioner Stidham?
25 Commissioner Stidham, can you hear me?

1 MEMBER STIDHAM: I don't think I heard you before.

2 CHAIRPERSON HILL: Okay. I'm saying do you have
3 any comments you'd like to add?

4 MEMBER STIDHAM: No. I agree with you, it's
5 pretty straightforward. I'm prepared to support as well.

6 CHAIRPERSON HILL: Okay. I'm going to make a
7 motion then to approve Application Number 21078 as captioned
8 and read by the secretary and ask for a second. Mr. Smith?

9 MEMBER SMITH: Second.

10 CHAIRPERSON HILL: That motion has been made and
11 seconded. Madam Secretary, if you can take a roll call,
12 please?

13 MS. MEHLERT: When I call your name, please
14 respond to the Chair's motion to approve the application.
15 Zoning Commissioner Stidham?

16 MEMBER STIDHAM: Yes.

17 MS. MEHLERT: Member Smith?

18 MEMBER SMITH: Yes.

19 MS. MEHLERT: And Chairman Hill.

20 CHAIRPERSON HILL: Yes.

21 MS. MEHLERT: Staff records the vote as 3 to 0 to
22 2 to approve Application 21078 on the motion made by Chairman
23 Hill and seconded by Mr. Smith with two Board members not
24 present or participating.

25 CHAIRPERSON HILL: Okay. Thank you. Ms. Mehlert,

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1 you can call the next when you get a chance.

2 MS. MEHLERT: Next in the meeting session, this
3 is an advance party status request of Application Number
4 21089 of 4711 Ellicott Street NW, LLC. Again, this is
5 advance consideration of a request for party status in
6 opposition from a group of neighbors called "The Ellicott
7 Street NW 200 Footers. This is to a self-certified
8 application pursuant to Subtitle X 1002 for a use variance
9 from Subtitle U Section 600.1 to allow a residential use on
10 an alley lot. This is located in the R-1B Zone at 4711
11 Ellicott Street, NW, Square 1540, Lot 62. And I believe
12 Andrea Ferster here is represent -- here to represent the
13 requester, and the public hearing for this case was
14 originally scheduled for April 10, 2024, and that has been
15 rescheduled to September 11, 2024.

16 CHAIRPERSON HILL: Okay. Ms. Mehlert, you do not
17 need to let in the party status person unless the Board has
18 questions for them. We're going to handle this, I guess, in
19 the meeting section of our case -- I'm sorry -- of our
20 docket. The applicant again is requesting for party status
21 for the group of people that are being represented by Ms.
22 Andrea Ferster.

23 And after looking over at where all of the
24 requesters are located, one of the people that is in the
25 group is actually adjacent to the subject property. And then

1 a variety of other members in the group are kind of
2 surrounding that property and the alley system. And so I
3 think that there are enough people in the group, particularly
4 the adjacent property owner and the ones that are kind of
5 across from that alley system to allow this group as a party
6 in opposition or allow them party status. And this
7 particular group, it seems, is being represented, or the
8 requester is at 4725 Ellicott Street, and that property
9 actually -- I don't know what I would have thought of that
10 property in terms of it having been uniquely affected on this
11 particular case, but I do think that the other ones
12 definitely would and, therefore, I would be in favor of
13 granting party status for this requester.

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

15 MEMBER SMITH: No. I agree with your analysis of
16 the different parties requesting party status in this -- in
17 the case, and I would be inclined to support it as well based
18 on your analysis.

19 CHAIRPERSON HILL: Thank you. Commissioner
20 Stidham?

21 MEMBER STIDHAM: I also agree and support giving
22 them party status.

23 CHAIRPERSON HILL: Thank you. Let's see now, I'm
24 going to make a motion to second. Ms. Mehlert, when is this
25 actually scheduled, or was there a postponement request that

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1 we processed? I can't recall.

2 MEMBER STIDHAM: Right. It was recently just
3 granted a postponement to September 11th of this year.

4 CHAIRPERSON HILL: Okay. Great. So I'm going to
5 make a motion to approve the advance party status application
6 of the applicant request by the group that seems to be -- not
7 seems to be -- that is a group of people that are following
8 with the filing of 4725 Ellicott Street and represented by
9 Ms. Andrea Ferster and ask for a second. Mr. Smith?

10 MEMBER SMITH: Second.

11 CHAIRPERSON HILL: Motion was made and seconded.
12 Ms. Mehlert, if you could take a roll call, please?

13 MS. MEHLERT: When I call your name, please
14 respond to the Chair's motion to grant party status in
15 opposition to the Ellicott Street, NW 200 Footers group.
16 Zoning Commissioner Stidham?

17 MEMBER STIDHAM: Yes.

18 MS. MEHLERT: Member Smith?

19 MEMBER SMITH: Yes.

20 MS. MEHLERT: And Chairman Hill.

21 CHAIRPERSON HILL: Yes.

22 MS. MEHLERT: Staff would record the vote as 3 to
23 0 to 2 to approve party status in opposition in Application
24 21089 on the motion made by Chairman Hill and seconded by Mr.
25 Smith. Two Board members are not present or participating.

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1 CHAIRPERSON HILL: All right. Thank you, Ms.
2 Mehlert. I would mention also to the applicant and the party
3 status requesters, I see -- I will note that the applicant
4 put something into the record that they did not have any
5 objection to the request for party status. And I would point
6 out that since this is a long time before we're going to
7 actually hear this, it won't even happen until after our
8 August break, that it would be helpful for the -- Ms. Ferster
9 and the representation over there at Sullivan and Barros to
10 communicate together to see if things can be worked upon
11 before they get back to us. So I'll just kind of mention
12 that and this is postponed until, all right, 9/11. Okay.

13 (Whereupon, the above-entitled matter went off the
14 record at 9:51 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: 03-27-24

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.



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