

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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REGULAR PUBLIC MEETING

+ + + + +

WEDNESDAY

MAY 15, 2024

+ + + + +

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
LORNA L. JOHN, Vice-Chairperson
CARL BLAKE, Member

ZONING COMMISSION MEMBERS PRESENT:

ROBERT MILLER, Vice-Chairperson

OFFICE OF ZONING STAFF PRESENT:

KEARA MEHLERT, Secretary to the BZA
PAUL YOUNG, A/V Production Specialist

OFFICE OF ZONING ATTORNEY ADVISORS PRESENT:

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

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The transcript constitutes the minutes from
the Regular Public Meeting held on May 15, 2024.

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

9:58 a.m.

MS. MEHLERT: Yes, so in the Board's meeting agenda, the first item is a Board action on a procedural order on remand in Application No. 20472-A of The River School. This is a remand of the Board's order granting special exceptions pursuant to Subtitle X, Section 901 under the daytime care use requirements, Subtitle U, Section 203.1(h), under the private school use provisions of Subtitle X, Section 104 and Subtitle U, Section 203.1(m), and under Subtitle C, Section 703.2 from the minimum parking requirements of Subtitle C, Section 701.5 to allow a new child development center and private school in the R-1-B Zone at 4220 Nebraska Avenue, Northwest, Square 1727, Lots 4 and 5.

CHAIRPERSON HILL: Okay. Thank you.

So what I would propose is there is a -- so this was sent back to the Board on remand. And there were a couple of issues that the Court had wanted us to take a look at. There might've actually only been one. It was the transportation and it seems like some issues with the shuttle bus services that the Board was taking into account.

And so what I would like to propose is that we go ahead and send out, again, a procedural order on remand to the participants and set up some dates to have a limited

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1 scope hearing. I'm not reopening the record for anything
2 that was before. Like, we're just going to be talking about
3 the item brought up on remand, and that will be all spelled
4 out in the draft procedural order or the procedural order I
5 should say. So does anybody have anything to add in terms
6 of what my intention is?

7 VICE CHAIR JOHN: No, Mr. Chairman. I'm fine with
8 your proposed solution. I think a limited scope hearing is
9 basically all we need on the specific questions raised in the
10 remand.

11 CHAIRPERSON HILL: Okay. Ms. Mehlert, do you know
12 what -- have you thought about a schedule for this?

13 MS. MEHLERT: So if the Board would like to have
14 a hearing, we could do that on June 26th with any
15 supplemental submission due on June 19th.

16 CHAIRPERSON HILL: Okay. That is probably going
17 to work for me. But yeah -- wait a minute. Okay. Let's go
18 ahead and do that. Do we have a -- we don't have a hearing
19 on, right, July 3rd?

20 MS. MEHLERT: We do have a hearing on July 3rd.
21 There's no hearing on July 10th.

22 CHAIRPERSON HILL: Oh, that's the one. Okay.

23 COMMISSIONER MILLER: Mr. Chairman.

24 CHAIRPERSON HILL: Yeah?

25 COMMISSIONER MILLER: I'm not -- did you say June

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1 26 as the date?

2 CHAIRPERSON HILL: Yeah.

3 COMMISSIONER MILLER: I think I have a medical
4 procedure scheduled then. Let me check.

5 CHAIRPERSON HILL: Or how about July 3rd? Like,
6 June 26th isn't necessarily my favorite date.

7 MS. MEHLERT: Sure, yeah. We can do it July 3rd.
8 We actually just had a withdrawal on that day. So we can
9 slide it in there if you'd like.

10 CHAIRPERSON HILL: Will that work for you, Vice
11 Chair Miller?

12 COMMISSIONER MILLER: Yes.

13 CHAIRPERSON HILL: Okay, great. Let's do that
14 then. And Vice Chair John, I might be asking a favor of you
15 on June 26th.

16 (No audible response.)

17 CHAIRPERSON HILL: I can't hear you, Vice --

18 (Simultaneous speaking.)

19 VICE CHAIR JOHN: I said, you will?

20 CHAIRPERSON HILL: It is possible.

21 VICE CHAIR JOHN: Let me look at June 26th to see
22 if it's possible for you to ask a favor.

23 CHAIRPERSON HILL: Okay. Well, June 24th is my
24 birthday. So I might go somewhere.

25 VICE CHAIR JOHN: Well, if you say it like that,

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1 I will keep June 26 open.

2 CHAIRPERSON HILL: Okay. All right. There you
3 go. All right. Okay.

4 So, please, Ms. Mehlert -- oh, I'm going to make
5 a motion to go ahead and release the procedural draft order
6 -- I'm sorry, the procedural order and include statements in
7 there so that the timing we can get back here for a limited
8 scope hearing on July 3rd and ask for a second.

9 Ms. John?

10 VICE CHAIR JOHN: Second.

11 CHAIRPERSON HILL: Ms. Mehlert, do you want to,
12 I guess, take a roll call?

13 MS. MEHLERT: Please respond to the chair's motion
14 to approve the issuance of procedural order on remand, No.
15 20472-A.

16 Chairman Hill?

17 CHAIRPERSON HILL: Yes.

18 MS. MEHLERT: Vice Chair John?

19 VICE CHAIR JOHN: Yes.

20 MS. MEHLERT: Mr. Blake?

21 (No audible response.)

22 MS. MEHLERT: And Commissioner Miller?

23 COMMISSIONER MILLER: Yes.

24 MS. MEHLERT: Staff will record the vote as 4 to
25 0 to 1 to approve the issuance of the procedural order on

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1 remand on the motion made by Chairman Hill and seconded by
2 Vice Chair John with one Board member not participating.

3 CHAIRPERSON HILL: Okay, great. Let's see. If
4 you want to call our next item before the Board when you get
5 a chance.

6 MS. MEHLERT: Yes, next in the meeting session is
7 an expedited review case. This is Application No. 21120 of
8 Megan Fowler and Sam Fruend. This is a self-certified
9 application pursuant to Subtitle X, Section 901.2 for special
10 exception under Subtitle D, Section 5201 from the building
11 area requirements for an accessory building under Subtitle
12 D, 5003.1 and the side yard requirements for an accessory
13 building under Subtitle D, 5005.1. This is to construct an
14 accessory structure in the rear yard of an existing detached
15 principle dwelling for use as an accessory apartment and
16 parking. Project is located in the R-1B zone at 1308 Perry
17 Street, Northeast, Square 3967, Lot 86.

18 CHAIRPERSON HILL: Okay. Thank you. One moment,
19 please. Let me open this file.

20 (Pause.)

21 CHAIRPERSON HILL: Okay. All right. I have read
22 the record, including the Office of Planning's report as well
23 as what seems to be input from perhaps the SMD but not the
24 ANC themselves. And so I would agree with the argument that
25 the applicant is making as to why they need the relief.

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1 Since it is a self-certified application, I don't actually --
2 and I took a look at the side yard requirements.

3 I don't have even an issue again approving the
4 side yard requirements. And the Office of Planning also
5 mentioned that if the Board felt like it was needed, I'm just
6 kind of thinking out of an abundance of caution we're leaving
7 that in as requested. And so I'm going to be voting in favor
8 of this application.

9 Mr. Blake, do you have anything you would like to
10 add?

11 MEMBER BLAKE: No, Mr. Chair. I agree with your
12 analysis of the application, and I agree to the Office of
13 Planning's recommendation for approval. Obviously, there's
14 no report from the ANC 5B. But I do acknowledge the comments
15 from the SMD and also acknowledge the fact that the ANC --
16 a request was made to the ANC on Exhibit 11 as well as there
17 were notifications to the existing neighbors in Exhibits 12
18 and 13 and that there were letters in the record or
19 statements in the record of opposition. So based on that,
20 I'll be in support of the application as well.

21 CHAIRPERSON HILL: Thank you.

22 Vice Chair Miller?

23 COMMISSIONER MILLER: I concur with each of your
24 comments.

25 CHAIRPERSON HILL: Thank you.

1 Vice Chair John?

2 VICE CHAIR JOHN: Thank you, Mr. Chairman. I also
3 agree with the comments so far and have no further comments
4 except that the project would maintain the massing and
5 footprint of the one-story structure that's in place.

6 CHAIRPERSON HILL: Okay, great. Thank you, Ms.
7 John. All right. I'll go ahead and make a motion to approve
8 Application No. 21120 as captioned and read by the Secretary
9 and ask for a second. Ms. John?

10 VICE CHAIR JOHN: Second.

11 CHAIRPERSON HILL: Motion made and seconded, Mr.
12 Mehlert. If you can take a roll call, please.

13 MS. MEHLERT: Motion to approve the application.
14 Chairman Hill?

15 CHAIRPERSON HILL: Yes.

16 MS. MEHLERT: Vice Chair John?

17 VICE CHAIR JOHN: Yes.

18 MS. MEHLERT: Mr. Blake?

19 MEMBER BLAKE: Yes.

20 MS. MEHLERT: And Commissioner Miller?

21 COMMISSIONER MILLER: Yes.

22 MS. MEHLERT: Staff will record the vote as 4 to
23 0 to 1 to approve Application 21120 on the motion made by
24 Chairman Hill and seconded by Vice Chair John with one Board
25 member not participating.

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1 CHAIRPERSON HILL: Okay, great. Thank you. Ms.
2 Mehlert, you can call our next item of bu.

3 MS. MEHLERT: Next is Application No. 20567-A of
4 Hillsdale College. This is a request pursuant to Subtitle
5 Y, Section 705.1, a two-year time extension of the validity
6 of the order approving Application No. 20567, which was
7 issued and final on May 3rd, 2022. This is to add a four-
8 story addition to an existing four-story attached building
9 for use as a library. The project is located in the MU-
10 4/CHC/CAP zone at 227 Massachusetts Avenue, Northeast, Square
11 756, Lot 49.

12 CHAIRPERSON HILL: Okay. Thank you. All right.
13 So this is for a time extension. And I went over the
14 argument and I think that it's reasonable in terms of the
15 reasoning that the applicant has put that it's beyond their
16 control concerning the building permit application that was
17 filed September 26th. And then delays in obtaining the
18 permit due in part the need to resolve some DOE stormwater
19 concerns.

20 And so I'm comfortable giving them the extension.
21 And I guess the validity date would be until May 3rd, 2026
22 because that's two years after when the order was issued.
23 And Mr. Blake, do you have anything you'd like to add?

24 MEMBER BLAKE: For the request for the extension
25 as well, the applicant has demonstrated good cause and has

1 properly noticed the ANC and so forth. And there have been
2 no substantial changes in material facts upon which the Board
3 has based its approval with regard to regulations,
4 developments, or change the plans presented by the applicant.
5 So I would be in favor of supporting the time extension.

6 CHAIRPERSON HILL: Thank you.

7 Vice Chair Miller?

8 COMMISSIONER MILLER: Thank you, Mr. Chairman.
9 Yeah, I support the time extension request. I think it is
10 based on a good cause. So I'm prepared to support it.

11 CHAIRPERSON HILL: Thank you.

12 Vice Chair John?

13 VICE CHAIR JOHN: Thank you, Mr. Chairman. I also
14 agree that the request is supported by good cause and that
15 the date should be the final date of April -- did we say May
16 3rd?

17 CHAIRPERSON HILL: May 3rd.

18 VICE CHAIR JOHN: May 3rd, yes. Thank you.

19 CHAIRPERSON HILL: Thank you, Vice Chair John.
20 All right. I'm going to make a motion to approve application
21 No. 20567-A for a time extension as captured and read by the
22 Secretary out till May 3rd, 2026 and ask for a second. Ms.
23 John?

24 VICE CHAIR JOHN: Second.

25 CHAIRPERSON HILL: Motion made and seconded, Ms.

1 Mehlert. If you can take a roll call.

2 MS. MEHLERT: Motion to approve the two-year time
3 extension until May 3rd, 2026.

4 Chairman Hill?

5 CHAIRPERSON HILL: Yes.

6 MS. MEHLERT: Vice Chair John?

7 VICE CHAIR JOHN: Yes.

8 MS. MEHLERT: Mr. Blake?

9 MEMBER BLAKE: Yes.

10 MS. MEHLERT: Commissioner Miller?

11 (No audible response.)

12 MS. MEHLERT: Staff will record the vote as 4 to
13 0 to 1 to approve Application 20567-A on the motion made by
14 Chairman Hill and seconded by Vice Chair John, one Board
15 member not participating.

16 CHAIRPERSON HILL: Thank you. Ms. Mehlert, you
17 can call our next witness.

18 MS. MEHLERT: Next is Application No. 20584-A of
19 King's Creek, LLC. This is a request pursuant to Subtitle
20 Y, Section 705.1 for a two-year time extension of the
21 validity of Board's order approving Application No. 20584,
22 which was issued and final on March 30th, 2022. This is to
23 construct a two-story addition to an existing two-story
24 building for use as a 33-unit apartment house. It is located
25 in the RA-2/RC Zone at 2329 Champlain Street, Northwest,

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1 Square 2563, Lot 113.

2 CHAIRPERSON HILL: Thank you. All right. So this
3 is for another time extension. I, again, reviewed the record
4 and the applicant's statement about there being a prior use
5 as a gas station. So the cleanup efforts were taking longer
6 as well as the applicant's raze permit is pending review.

7 The Office of Planning also recommended the
8 approval of the extension. We don't have anything from ANC
9 1-C. However, I know they had been notified as the
10 regulations. And I'm fine with taking it out to March 30th,
11 2026 which is, again, two years after the order was issued.

12 Mr. Blake, do you have anything you'd like to add?

13 MEMBER BLAKE: I don't have anything to add. And
14 I agree with your assessment. And I would be in support of
15 the time extension.

16 CHAIRPERSON HILL: Thank you.

17 Vice Chair Miller?

18 COMMISSIONER MILLER: Also, I agree with your
19 comments and support the time extension.

20 CHAIRPERSON HILL: Thank you.

21 Vice Chair John?

22 VICE CHAIR JOHN: I'm also in support of the time
23 extension.

24 CHAIRPERSON HILL: Thank you. All right. I'm
25 going to go ahead and make a motion to approve Application

1 No. 20584-A which relates to a time extension through March
2 30th, 2026 and ask for a second. Ms. John?

3 VICE CHAIR JOHN: Second.

4 CHAIRPERSON HILL: The motion has been made and
5 seconded. If you can take a roll call, please, Ms. Mehlert.

6 MS. MEHLERT: Motion to approve the two-year time
7 extension to March 30th, 2026.

8 Chairman Hill?

9 CHAIRPERSON HILL: Yes.

10 MS. MEHLERT: Vice Chair John?

11 VICE CHAIR JOHN: Yes.

12 MS. MEHLERT: Mr. Blake?

13 MEMBER BLAKE: Yes.

14 MS. MEHLERT: Commissioner Miller?

15 (No audible response.)

16 MS. MEHLERT: Staff will record the vote as 4 to
17 0 to 1 to approve Application 20584-A on the motion made by
18 Chairman Hill and seconded by Vice Chair John with one Board
19 member not participating.

20 CHAIRPERSON HILL: Okay, great. Ms. Mehlert, you
21 can call our next item of business.

22 MS. MEHLERT: Last case in the Board's meeting
23 session is Application No. 20649-A of Time Geishecker and
24 Andres Conseugra. This is a request pursuant to Subtitle Y,
25 Section 705.1 for a one-year time extension of the validity

1 of the order of approving Application No. 20649, which was
2 issued and final on April 11th, 2022. The project is to
3 construct a rear three-story deck addition to an existing
4 three-story attached residential building. It is located in
5 the RA-2 zone at 2316 20th Street, Northwest, Square 2540,
6 Lot 284.

7 CHAIRPERSON HILL: Thank you. All right. So
8 again, this is a for a time extension. And this one is only
9 for one year because they do believe that they are going to
10 get the final approval soon for the building permit. But
11 they were concerned that the order might expire before it
12 comes.

13 They were unable to secure government approvals
14 for reasons outside of the applicant's control. And so I
15 didn't have any issues with this particular time extension.
16 The Office of Planning was also in approval of this time
17 extension as that there are no changes to the relief
18 requested and the ANC has been notified. So I'm going to be
19 voting in favor.

20 May I ask for your comments, Mr. Blake?

21 MEMBER BLAKE: In support of this request. I may
22 actually not be necessary given the fact that the application
23 had -- the permit has been filed. But in case something goes
24 wrong, it probably does make -- going to be on the safe side
25 to do the extension. So I would be in support of the

1 extension for one year.

2 CHAIRPERSON HILL: Thank you. All right.

3 Vice Chair Miller?

4 COMMISSIONER MILLER: Thank you, Mr. Chairman.

5 I agree with each of your comments and analysis and support
6 the time extension.

7 CHAIRPERSON HILL: Thank you. Vice Chair John?

8 VICE CHAIR JOHN: Thank you. I agree with the
9 comments so far, and I'm also in support of the extension --
10 time extension.

11 CHAIRPERSON HILL: Thank you. All right. I'm
12 going to make a motion to approval Application No. 20649-A
13 for the time extension out until April 11th, 2025 as
14 captioned and read by the Secretary and ask for a second.
15 Ms. John?

16 VICE CHAIR JOHN: Second.

17 CHAIRPERSON HILL: Motion made and seconded. Ms.
18 Mehlert, if you could take a roll call.

19 MS. MEHLERT: Motion to approve the one-year time
20 extension to April 11th, 2025. Chairman Hill?

21 CHAIRPERSON HILL: Yes.

22 MS. MEHLERT: Vice Chair John?

23 VICE CHAIR JOHN: Yes.

24 MS. MEHLERT: Mr. Blake?

25 MEMBER BLAKE: Yes.

1 MS. MEHLERT: Commissioner Miller?

2 (No audible response.)

3 MS. MEHLERT: Staff will record the vote as 4 to
4 0 to 1 to approve Application 20649-A on the motion made by
5 Chairman Hill and seconded by Vice Chair John with one Board
6 member not participating.

7 CHAIRPERSON HILL: Thank you. All right. I guess
8 we'll just keep chugging along. If you want to just call our
9 next case, Ms. Mehlert.

10 (Whereupon, the above-entitled matter went off the
11 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: 05-15-24

Place: teleconference

was duly recorded and accurately transcribed under
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