

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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REGULAR PUBLIC MEETING

+ + + + +

WEDNESDAY

JANUARY 17, 2024

+ + + + +

The Regular Public Meeting of the District of Columbia Board of Zoning Adjustment convened via Video/Teleconference, pursuant to notice, at 9:47 a.m. EST, Frederick L. Hill, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

FREDERICK L. HILL, Chairperson
LORNA L. JOHN, Vice-Chairperson
CARL BLAKE, Member
CHRISHAUN S. SMITH, Member, NCPC Designee

ZONING COMMISSION MEMBERS PRESENT:

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

OFFICE OF ZONING STAFF PRESENT:

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

The transcript constitutes the minutes from the Regular Public Meeting held on January 17, 2024.

OFFICE OF PLANNING STAFF PRESENT:

SHEPHERD BEAMON
MAXINE BROWN-ROBERTS
MATT JESICK
MICHAEL JURKOVIC
JONATHAN KIRSCHENBAUM
KAREN THOMAS

OFFICE OF ZONING ATTORNEY ADVISORS PRESENT:

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

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

9:47 a.m.

BZA CHAIR HILL: Good morning, ladies and gentlemen, to the Board of Zoning Adjustment. Today's date is 1/17/2024. This public hearing will please come to order.

My name is Fred Hill, Chairperson of the District of Columbia Board of Zoning Adjustment.

Joining me today is Vice Chair Lorna John and Board Members Carl Blake and Chrishaun Smith. The Zoning Commissioner is Dr. Imamura and Zoning Commission Chairman Anthony Hood.

Today's meeting and hearing agenda is on the Office of Zoning's website.

Please be advised this proceeding is recorded by a court reporter and is also bring 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, everybody 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 session.

If you're experiencing difficulty accessing Webex or with your telephone call-in, then please call our OZ hotline number at 202-727-5471 to receive Webex or call-in instructions.

1 At the conclusion of the decision meeting, I shall
2 consult with the Office of Zoning to determine whether a full
3 or summary order may be issued. A full order is required
4 when the decision it contains is adverse to a party,
5 including an affected ANC. A full order may also be needed
6 if the Board's decision differs from the Office of Planning's
7 recommendation. Although the Board favors the use of summary
8 orders where possible, an applicant may not request the Board
9 to issue such an order.

10 In today's hearing session, everyone who is
11 listening on Webex or by telephone will be muted during the
12 hearing, and only persons who signed up to participate or
13 testify will be unmuted at the appropriate time.

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

20 Once again, if you are experiencing difficulty
21 accessing Webex or with your telephone call-in, or if you've
22 forgot to sign up in 24 hours, please call our OZ hotline
23 number at 202-727-5471.

24 All persons planning to testify either in favor
25 or opposition should have signed up in advance. They will

1 be called by name to testify. If there is an appeal, only
2 parties are allowed to testify. By signing up to testify,
3 all participants completed the oath or affirmation, as
4 required by Subtitle Y408.7.

5 Requests to enter evidence at the time in online
6 virtual hearings, such as written testimony and additional
7 supporting documents, other than live video which may not be
8 presented as part of the testimony, may be allowed pursuant
9 to Subtitle Y103.13, provided that the person making a
10 request to enter an exhibit explains (a) how the proposed
11 exhibit is relevant; (b) the good cause that justifies
12 allowing the exhibit into the record, including an
13 explanation of why the requester did not file the exhibit
14 prior to the hearing, pursuant to Y206, and how the proposed
15 exhibit wouldn't unreasonably prejudice any parties. The
16 order for special exceptions and variances are pursuant to
17 Y409.

18 At the conclusion of each case, an individual who
19 is unable to testify because of technical issues may file a
20 request for leave to file a written version of the planned
21 testimony to the record within 24 hours following the
22 conclusion of public testimony in the hearing. If additional
23 written testimony is accepted, then parties will be allowed
24 a reasonable time to respond as determined by the Board. The
25 Board will then make its decision at its next meeting

1 session, but no earlier than 48 hours after the hearing.

2 Moreover, the Board may request additional
3 specific information to complete the record. The Board and
4 staff will specify at the end of the hearing exactly what is
5 expected and the date when persons must submit the evidence
6 to the Office of Zoning. No other information shall be
7 accepted by the Board.

8 Finally, the District of Columbia Administrative
9 Procedures Act requires that the public case on each -- sorry
10 -- be held before the public. However, pursuant to 405(b)
11 and 406 of the Act, the Board may, consistent with its rules
12 and procedures and the Act, enter into a closed meeting on
13 a case for purposes of seeking legal counsel on a case,
14 pursuant to D.C. Official Code Section 2-575(b)(4), and/or
15 to deliberate on a case, pursuant to D.C. Official Code
16 Section 2-575(b)(15), but only after filing the necessary
17 public notice in the case for emergency closed meeting and
18 after taking a roll call vote.

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

20 MR. MOY: Good morning, Mr. Chairman and Members
21 of the Board. I do have a few announcements very briefly.

22 Regarding today's docket, there were two case
23 applications that were granted continuance and postponed and
24 rescheduled. The first case is 20976 of 1427 Shepherd
25 Street, Northwest, LLC, rescheduled to March 20th, 2024, and

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1 Case Application No. 17963-A of 4975 South Dakota Associates,
2 LTD, rescheduled to April 3rd, 2024.

3 Finally, for the record, the Chairman has reviewed
4 and granted waivers to allow late filings into the applicable
5 case records, pursuant to Subtitle Y, Section 206.7 and
6 Section 103.13. Specifically, to Application No. 21032,
7 there is the Applicant's updated PowerPoint presentation --
8 that is the application of DCDGS -- and three filings to Case
9 No. 20995, which consists of two letters in opposition, one
10 from a Dan Swain and a Seth Chard or Charde, C-H-A-R-D-E, as
11 well as the Applicant's updated PowerPoint slides.

12 And other than that, any other late filings during
13 the course of today's live hearing should be presented to the
14 Board by the applicant or other parties.

15 And that's all I have for your, Mr. Chairman.

16 BZA CHAIR HILL: Okay. Thanks, Mr. Moy.

17 Welcome back, everyone. Happy new year. Our
18 first hearing of 2024.

19 Let's see, Mr. Moy, if you wouldn't mind calling
20 the first item before the Board, please?

21 MR. MOY: Yes. Thank you, sir.

22 So, the first Board action is to Application No.
23 19689 of MIC9 Owner, LLC. This is regarding the remand, and
24 I'll read for the record the underlying caption to the
25 application. And this was for special exceptions from the

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1 private school regulations under Subtitle X, Section 104.1,
2 and from the bulk extension requirements -- regulations,
3 rather -- under Subtitle A, Section 207.2, which would
4 construct new office space and a 111-unit apartment house on
5 the campus of an existing adult private school in the RA-2
6 zone and RA-4 zones at premises 2300 16th Street, Northwest,
7 Square 2568, Lots 806, 808, and 809.

8 And I believe participating, Mr. Chairman, is
9 yourself, Chairman Hill; Vice Chair John, and Zoning
10 Commissioner Anthony Hood.

11 And I suspect -- I don't know whether or not Mr.
12 Blake or Mr. Smith have read into the record or not.

13 BZA CHAIR HILL: Yes, I think that I'm going to
14 check real quick. I know that Mr. Blake has, but I'll give
15 an opportunity to mention that, as well as I believe Chairman
16 Hood.

17 Ms. John I think I was on this case with me. Is
18 that correct, Ms. John?

19 VICE CHAIRPERSON JOHN: Yes, I was on the case.

20 BZA CHAIR HILL: Okay. Mr. Smith, are you
21 participating in this one?

22 MEMBER SMITH: I have read into the record and
23 will participate.

24 BZA CHAIR HILL: Oh, great. All right. Then,
25 join us, please.

1 Mr. Blake, are you --

2 MEMBER BLAKE: Yes, I, too, have into the record
3 and am prepared to participate in the deliberations.

4 BZA CHAIR HILL: Thank you.

5 Chairman Hood?

6 ZC CHAIR HOOD: I, too, I have reviewed the record
7 and will be participating, enough to participate.

8 BZA CHAIR HILL: Okay. Great. Thanks.

9 So, this was something that has come up over, I
10 guess, the past few months. There's been a lot of court
11 activity concerning this case. And what I think might be the
12 most prudent thing for the Board to do is ask for a remand,
13 so that the Board can ask the parties to address the
14 questions which were asked by the Court.

15 So, I had an opportunity to speak with the Office
16 of Zoning's Legal Division, and that, to me, seems like the
17 most prudent way for the Board to move through this, so that
18 there can be some resolution and that everyone can know where
19 they stand.

20 So, I guess I don't think I need to make a motion,
21 but I guess I will. Does anyone have any comments on
22 anything I just said?

23 Okay. Then, what I'm going to do is I guess I'll
24 make a motion that we ask for, again, a remand, so the Board
25 can ask the parties to address the questions that were asked

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1 by the Court, and ask for a second.

2 Ms. John?

3 VICE CHAIRPERSON JOHN: Second.

4 BZA CHAIR HILL: So, that motion has been made and
5 seconded. Mr. Moy, if you would take a roll call, please?

6 MR. MOY: Thank you, sir.

7 When I call your name, if you will please respond
8 to the motion made by the Chairman? And this motion was
9 seconded by Vice Chair John.

10 Zoning Commission Chair Anthony Hood?

11 ZC CHAIR HOOD: Yes.

12 MR. MOY: Mr. Smith?

13 MEMBER SMITH: Yes.

14 MR. MOY: Mr. Blake?

15 MEMBER BLAKE: Yes.

16 MR. MOY: Vice Chair John?

17 VICE CHAIRPERSON JOHN: Yes.

18 MR. MOY: Chairman Hill?

19 BZA CHAIR HILL: Yes.

20 MR. MOY: The staff would record the vote as
21 5-to-0-to-0, and this is on the motion made by Chairman Hill,
22 and the motion was seconded by Vice Chair John. Also in
23 support of the motion is Zoning Commission Chair Anthony
24 Hood, Mr. Smith, Mr. Blake, Vice Chair John, and Chairman
25 Hill.

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1 The motion carried. The motion carries, sir, on
2 a vote of 5-to-0-to-0.

3 BZA CHAIR HILL: Thank you. I believe we have two
4 more issues with Chairman Hood.

5 If you could call our next, Mr. Moy, please?

6 (Whereupon, the above-entitled matter went off the
7 record at 10:01 a.m. and resumed at 10:43 a.m.)

8 MR. MOY: This would be Board action to Case
9 Application No. 20963 of Thomas Schultz. This is,
10 specifically, to the ANC 2F's Motion to Reopen the Record.

11 I'll read for the record, for the transcript, that
12 this case is a self-certified application, pursuant to
13 Subtitle X, Section 901.2, for a special exception under
14 Subtitle C, Section 1501.1(c), from the penthouse height
15 requirements of Subtitle C, Section 1501.1(b)(2), and special
16 exception from the enclosing wall requirements of Subtitle
17 C, Section 1503.4, pursuant to Subtitle C, Section 1506.1,
18 and Subtitle X, Section 901.2. Property in the RF-1 zone at
19 1315 Corcoran Street, Northwest, Square 240, Lot 25.

20 And as I said, this is a motion filed by ANC 2F.

21 BZA CHAIR HILL: Okay. Great. So, I know you
22 guys have had a chance to look at this motion, and I guess
23 it's just Hill, John, and Hood participating on this
24 particular one.

25 I think, Mr. Smith, you are not on it, correct?

1 Correct. He's saying correct. Okay.

2 So, the ANC, and I appreciate what the ANC is
3 trying to do, is the application was amended and the ANC had
4 submitted their thoughts on the previous application.

5 As I recall, the amendment was a minor amendment
6 that didn't change the overall project on the whole. And so,
7 although we didn't have the great weight accommodation for
8 that portion of the hearing, when we were coming to talk
9 about the amended portion of the hearing, we did look at what
10 the ANC had said about the previous application. And I
11 remember thinking that it seemed close enough, that I didn't
12 think there was going to be necessarily a difference from the
13 ANC.

14 Now, unfortunately, what ended up happening is we
15 -- unfortunately meaning the ANC wants us to reopen the
16 record to add the amended request or amended great weight
17 into the record for completeness sake, or it seems to be for
18 the sake of completeness.

19 It would complicate things quite a bit, in that
20 the Applicant would have to come back, talk about any reasons
21 that they may or may not have with what the ANC had said, and
22 I think that even in this case, the ANC didn't necessarily
23 address the good cause as to why it would not prejudice the
24 Applicant to now reopen the record. And I think in this
25 case, since the ANC's decision is not changing between this

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1 and the amended application, I think it actually would have
2 harmed the Applicant to come back and have to go through the
3 process of speaking with us again.

4 So, I would be in favor of denying the motion to
5 reopen the record to add this into the application -- I'm
6 sorry -- the case file, but I do appreciate very much the ANC
7 trying to address this and provide a complete file. But I
8 think it would actually prejudice the Applicant at this
9 point.

10 Ms. John and/or Chairman Hood, do you have
11 anything you would like to add? Okay.

12 VICE CHAIRPERSON JOHN: Mr. Chairman, I agree that
13 reopening the record at this point would be prejudicial to
14 the Applicant. And the file was complete when the ANC issued
15 its letter of support with no issues or concerns. So, I
16 agree with your decision.

17 BZA CHAIR HILL: Okay. Thank you.

18 ZC CHAIR HOOD: I would agree with both of you.
19 I get where the ANC is trying to go, but I would agree at
20 this point I think it's moot, and I would agree with both of
21 you.

22 Thank you.

23 BZA CHAIR HILL: Thank you, Chairman Hood.

24 All right. Then, I'm going to go ahead and make
25 a motion to deny the request to reopen the record in

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1 Application No. 20963 and ask for a second.

2 Ms. John?

3 VICE CHAIRPERSON JOHN: Second.

4 BZA CHAIR HILL: That motion has been made and
5 seconded.

6 Mr. Moy, if you would take a roll call?

7 MR. MOY: Thank you, sir.

8 When I call your name, if you will please respond
9 to the motion made by Chairman Hill to deny the request to
10 reopen the record? The motion was seconded by Vice Chair
11 John.

12 Zoning Commission Chair Anthony Hood?

13 ZC CHAIR HOOD: Yes.

14 MR. MOY: Vice Chair John?

15 VICE CHAIRPERSON JOHN: Yes.

16 MR. MOY: Chairman Hill?

17 BZA CHAIR HILL: Yes.

18 MR. MOY: The staff would record the vote as
19 3-to-0-to-2. And this is on the motion made by Chairman Hill
20 to deny. The motion was seconded by Vice Chair John, who
21 also supports the motion. And the motion also was voted to
22 deny from Zoning Commission Chair Anthony Hood, and, of
23 course, Vice Chair John and Chairman Hill. Two other Board
24 members not participating.

25 The motion carries on a vote of 3-to-0-to-2.

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1 BZA CHAIR HILL: Thank you, Mr. Moy.

2 Chairman Hood, thank you for joining us today.

3 ZC CHAIR HOOD: That's it for me. Thank you.

4 You all have a great day.

5 BZA CHAIR HILL: Bye-bye.

6 VICE CHAIRPERSON JOHN: Thank you.

7 BZA CHAIR HILL: All right. Dr. Imamura, welcome.

8 MEMBER IMAMURA: Thank you.

9 BZA CHAIR HILL: Happy new year to you as well.

10 MEMBER IMAMURA: Happy new year.

11 BZA CHAIR HILL: And then, Mr. Moy, if you want
12 to call our next one?

13 MR. MOY: Okay. So, the Board is in its --

14 BZA CHAIR HILL: We're still in the meeting
15 session.

16 MR. MOY: Yes.

17 BZA CHAIR HILL: Or now we're back in the meeting
18 session.

19 MR. MOY: Yes. For the last case in the meeting
20 session, this is Case Application No. 21056 of Michael Segal
21 and Jennifer Mandel.

22 This is, again, an expedited review application
23 case. It's self-certified by the Applicant, pursuant to
24 Subtitle X, Section 901.2, for special exception under
25 Subtitle D, Section 5201.1 from the rear yard requirements

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1 of Subtitle D, Section 5004.1(a). Property located in the
2 R-1B zone at 3615 Cumberland Street, Northwest, Square 1979,
3 Lot 13.

4 BZA CHAIR HILL: Wait. Give me one second, you
5 guys.

6 Okay. This is before us for expedited review.
7 After looking through the record -- and I appreciate the
8 exhibits concerning community outreach that have been put
9 forward, as well as that of -- well, the Office of Planning
10 is in support.

11 And the Applicant is stating that they're -- hold
12 on one second.

13 Well, I do wish that we did have something from
14 the ANC. However, as I'm reviewing their plans and their
15 statement as to how they're meeting the criteria, first, to
16 grant the relief requested, I actually don't have any issue
17 with this application. But I'll hear what my fellow Board
18 members have to say.

19 Who would like to tell me what they would like to
20 say next?

21 Mr. Smith, you're always the -- you're so easy.
22 Do you have anything you would like to add, Mr. Smith?

23 MEMBER SMITH: No, I don't have anything to add
24 at this time. I agree with your assessment of this
25 particular case.

1 BZA CHAIR HILL: Okay. All right.

2 Mr. Blake?

3 MEMBER BLAKE: I agree with your assessment. I
4 would have nothing to add.

5 BZA CHAIR HILL: Okay. Dr. Imamura?

6 MEMBER IMAMURA: Nothing more to add, Mr.
7 Chairman.

8 BZA CHAIR HILL: Vice Chair John?

9 VICE CHAIRPERSON JOHN: Nothing to add, Mr.
10 Chairman.

11 BZA CHAIR HILL: All right. I'm going to make a
12 motion to approve Application No. 21056, as captioned and
13 read by the Secretary, and ask for a second.

14 Ms. John?

15 VICE CHAIRPERSON JOHN: Second.

16 BZA CHAIR HILL: The motion has been made and
17 seconded.

18 Mr. Moy, if you could take a roll call, please?

19 MR. MOY: When I call your name, if you will
20 please respond to the motion made by Chairman Hill to approve
21 the application for the relief requested? The motion was
22 seconded by Vice Chair John.

23 Zoning Commissioner Dr. Imamura?

24 MEMBER IMAMURA: Yes.

25 MR. MOY: Mr. Smith?

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1 MEMBER SMITH: Yes.

2 MR. MOY: Mr. Blake?

3 MEMBER BLAKE: Yes.

4 MR. MOY: Vice Chair John?

5 VICE CHAIRPERSON JOHN: Yes.

6 MR. MOY: Chairman Hill?

7 BZA CHAIR HILL: Yes.

8 MR. MOY: The staff would record the vote as
9 5-to-0-to-0, and this is on the motion made by Chairman Hill
10 to approve. The motion to approve was seconded by Vice Chair
11 John, who also supported to vote to approve, as well as
12 approval from Zoning Commissioner Dr. Imamura, Mr. Smith, Mr.
13 Blake, Vice Chair John, and Chairman Hill.

14 The motion carries, sir, 5-to-0-to-0.

15 BZA CHAIR HILL: Thank you, Mr. Moy.

16 If you want to call our next one when you get the
17 opportunity?

18 (Whereupon, the above-entitled matter went off the
19 record at 10:54 a.m.)

20

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22

23

24

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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: 01-17-24

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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