

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

JULY 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. 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:

ANTHONY J. HOOD, Chairperson
ROBERT MILLER, Vice-Chairperson

OFFICE OF ZONING STAFF PRESENT:

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

OFFICE OF ZONING ATTORNEY ADVISORS PRESENT:

SARAH BAJAJ, ESQ.
CARISSA DEMARE, ESQ.
MARY NAGELHOUT, ESQ.

The transcript constitutes the minutes from the Regular Public Meeting held on July 31, 2024.

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

2 (9:41 a.m.)

3 BZA CHAIR HILL: Good morning, ladies and
4 gentlemen, the Board of Zoning Adjustment. Today is 7-31-
5 2024. This public hearing will please come to order. My
6 name is Fred Hill, Chairman of the Board of District
7 Columbia.

8 Joining me today are board members Vice Chair
9 Lorna John, Carl Blake, sitting commissioners Rob Miller
10 and Anthony Hood. And today's meeting and hearing and
11 agenda are available on the Office of Zoning's website.

12 Please be advised that this proceeding is being
13 recorded by a court reporter, and it is also webcast live
14 via Webex and YouTube Live. The video of the webcast will
15 be available on the Office of Zoning's website after
16 today's hearing.

17 Accordingly, everyone who is listening on Webex
18 or by telephone will be muted during the hearing. Also,
19 please be advised that we do not take any public testimony
20 at our decision meeting session.

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

25 At the conclusion of the decision meeting

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1 session, I shall, in consultation with the Office of
2 Zoning, determine whether a full or summary order may be
3 issued. A full order is required when the decision it
4 contains is adverse to a party including an affected ANC.

5 A full order may also be needed if the board's
6 decision differs from the Office of Planning's
7 recommendation. Although the Board favors the use of
8 summary orders whenever possible, an applicant may not
9 request the Board 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
12 the hearing. And only persons who have signed up to
13 participate or testify will be unmuted at the appropriate
14 time.

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

21 Once again, if you're experiencing difficulty
22 accessing Webex or with your telephone call-in or if
23 you've forgotten to sign up 24 hours prior to this
24 hearing, then please call our OZ Hotline number at 202-
25 727-5471 to sign-up to testify and to receive Webex login

1 or call-in instructions.

2 All persons planning to testify in favor or in
3 opposition should have signed up in advance. They'll be
4 called by name to testify, if this is an appeal only
5 parties are allowed to testify.

6 By signing up to testify, all participants claim
7 the oath or affirmation is required by Y408.7. Requests
8 to enter evidence at the time of an online virtual hearing
9 such as written testimony or additional supporting
10 documents other than live video, which may not be
11 presented as part of testimony, may be allowed pursuant to
12 Y103.13 provided that:

13 The person made the request to enter an exhibit
14 explaining (a) how the proposed exhibit is relevant, (b)
15 the good cause which justifies allowing the exhibit in the
16 record including an explanation of why the requestor did
17 not file the exhibit prior to the hearing pursuant to
18 Y206, and (c) how the proposed exhibit would unreasonably
19 prejudice any parties. The order of procedures with
20 special exceptions and variances are pursuant to Y409.

21 At the conclusion of each case, an individual who
22 is unable to testify because of technical issues may file
23 a request for leave to file a written version of the
24 planned testimony to the record within 24 hours following
25 the conclusion of public testimony hearing.

If additional written testimony is accepted, then
parties will be allowed a reasonable time to respond as
determined by the board. The board will then make its
decision at its next meeting session but no earlier than
48 hours after the hearing.

6 Moreover, the board may request additional
7 specific information to complete the record. The board
8 and the staff will specify at the end of the hearing, when
9 it's expected, and the date when persons must submit the
10 evidence to the Office of Zoning.

Finally, District of Columbia Administrators
Procedures Act requires the public hearing on each case be
held in the open before the public. However, pursuant to
405b and 406 of that Act, the Board may, consistent with
its rules and procedures and the Act, enter into closed
meeting on a case for purposes of seeing legal counsel on
a case pursuant to D.C. Official Code Section 2-575(b)(4)
and/or deliberate on a case pursuant to D.C. Office Code
Section 2-575(b)(13) but only after providing necessary
public notice in the case emergency meeting, taking the
roll call vote.

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1 Madam Secretary, do we have any preliminary
2 matters?

3 MS. MEHLERT: Good morning, Mr. Chairman,
4 members of the board, in terms of scheduling changes for
5 today, application number 20837 of Howard University has
6 been postponed to September 25th. Application number
7 21156 of Richard Weinland and Sandra Novo has been
8 postponed to October 9th. And appeal number 21007 of 4865
9 MacArthur Landlord LLC has been withdrawn. In regards to
10 24-hour filings, the Chairman has reviewed and granted
11 waivers to allow late filings into the applicant's records
12 pursuant to subtitle Y, Section 206.7 and Section 103.13.
13 Any other late filings during the course of today's
14 hearing should be presented before the board by the
15 applicant parties or witnesses after the case is called.
16 And any other preliminary matters will be noted when the
17 case is called.

18 BZA CHAIR HILL: Okay. There seems to be an
19 issue with some of my board members' connections. I had
20 issues. I'm still having issues. We all have issues.
21 And I think Chairman Hood is with us on the first case.
22 Mr. Blake, can you hear us? No. Not yet. Good morning,
23 Chairman Hood.

24 ZC CHAIR HOOD: Good morning, Mr. Chairman,
25 board members, and staff. I feel like I'm in front of the

1 council. That's kind of what I say.

2 BZA CHAIR HILL: Yeah. Sorry. Not us. Let me
3 see. I know that -- Mr. Blake, can you hear us? Yeah.
4 Yeah. Great. Perfect. All right. I know that Chairman
5 Hood is in -- has some things he needs to take care of so,
6 Chairman Hood, I apologize for getting on late. I had
7 some difficulties.

8 ZC CHAIR HOOD: I appreciate you taking me
9 first. Thank you.

10 BZA CHAIR HILL: Sure. Ms. Mehlert, if you could
11 go ahead and call our first item.

12 MS. MEHLERT: Our first in the board's meeting
13 session is ward action on a procedural order on remand in
14 application number 19689-B of MIC9 Owner LLC. This is the
15 second remand of the board's order for any special
16 exceptions pursuant to Subtitle X, Section 901.2 in the
17 private school regulations under Subtitle X, Section 104.1
18 to allow an application limiting existing private school
19 plan and from the bulk exemption regulations under
20 Subtitle A, Section 207.2. The subject project is a new
21 apartment house with 111 units with space for an existing
22 private school for adults on the campus of an existing
23 private school. It's located in RA2 and RA4 zones at 2300
24 16th Street Northwest, Square 2568, Lot 806, 808, and 809.

25 BZA CHAIR HILL: Okay. I know we've all had an

1 opportunity to review the procedural order. I'm sorry
2 that Chairman Hood had to take time to come here for this
3 simple situation. But, however, I think that's okay. I'm
4 going to go ahead and make a motion that we issue the
5 procedural order for application 19689-A, which is the
6 second remand and ask for a second. Ms. John? Motion has
7 been made and seconded. Ms. Mehlert, can you take a roll
8 call?

9 ZC CHAIR HOOD: Mr. Chairman, I have question.

10 BZA CHAIR HILL: Sure.

11 ZC CHAIR HOOD: Should I do this again? I think
12 I've done this that I have read the record from the
13 previous case to the first remand and also I'm up to speed
14 on this case. I have to do that. I wanted to make sure
15 I'm in compliance with subtitle Y801.8. Thank you.

16 BZA CHAIR HILL: Thank you, Chairman Hood. Ms.
17 Mehlert, if can you take a roll call?

18 MS. MEHLERT: Sure. And would you just -- did
19 you want to clarify the hearing date and proposed -- or
20 proposed hearing date and deadline for requested documents
21 on the record?

22 BZA CHAIR HILL: Yeah. Sure. That's great.
23 When did we suggest those?

24 MS. MEHLERT: So for a continued hearing, we can
25 put it on October 23rd, and then any submissions from

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1 parties would be due on October 11.

2 BZA CHAIR HILL: Okay. So this hearing we're
3 going to do 10-23?

4 MS. MEHLERT: Yes.

5 BZA CHAIR HILL: And tell me again the documents?

6 MS. MEHLERT: October 11th.

7 BZA CHAIR HILL: Okay. Great. Thank you. Okay.

8 Now, you may take roll call.

9 MS. MEHLERT: Please respond to the chair's
10 motion to approve the procedural order on remand.
11 Chairman Hill?

12 BZA CHAIR HILL: Yes.

13 MS. MEHLERT: Vice Chair John?

14 VICE CHAIRPERSON JOHN: Yes.

15 MS. MEHLERT: Board member Blake?

16 MEMBER BLAKE: Yes.

17 MS. MEHLERT: Chairman Hood?

18 ZC CHAIR HOOD: Yes.

19 MS. MEHLERT: Staff will record the vote as 4 to
20 0 to 1 to approve the issuance of the procedural order on
21 remand for number -- case number 19689-B on the motion
22 made by Chairman Hill and seconded by Vice Chair John with
23 one board member not participating.

24 BZA CHAIR HILL: Okay. Great. Thank you.
25 Chairman Hood, I hope you have a nice August.

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1 ZC CHAIR HOOD: All right. Thank you all, and I
2 hope you all have a great day and enjoy your month off.
3 See you later.

4 VICE CHAIRPERSON JOHN: Enjoy.

5 BZA CHAIR HILL: Okay. Great. I think we have
6 Vice Chair Miller. Great. Welcome Chairman Miller --
7 Vice Chair Miller.

8 MR. MILLER: Good morning.

9 BZA CHAIR HILL: Good morning. All right. Ms.
10 Mehlert, you can call our next item.

11 MS. MEHLERT: Application number 20742-A of 1252
12 H Street Northeast LLC. This is a request pursuant to
13 Subtitle Y, Section 705.1 for a two-year time extension of
14 the order issued on June 27th, 2022, in application number
15 20742. This is for a third floor with penthouse addition
16 to an existing two-story attached mixed use building.
17 It's located in the NMU 4/H-A zone at 1252 H Street
18 Northeast, square 1003, lot 172.

19 BZA CHAIR HILL: Okay. Thank you. All right.
20 I've read the record on this, and I appreciate that the
21 applicant actually -- and I'd like to just acknowledge and
22 thank all the applicants that do these kinds of things in
23 a way that's easy for the board to review. So I did have
24 an opportunity to review the record. I would agree with
25 the reasoning in terms of the applicant for the additional

1 time needed to secure required approval and permits and
2 then market conditions have made it difficult for the
3 applicant to secure funding for this particular project.
4 I would note that the Office of Planning was in support of
5 the time extension as was the ANC. Therefore, the
6 applicant has made its outreach in the proper way. I
7 would note that the two years' time extension would be
8 from the validity of the order which would take it through
9 until June 27th, 2026, and I'm going to be voting in favor
10 of this time extension. Is there anyone -- is there
11 anything anyone would like to add, and if so please raise
12 your hand. Seeing no one raise their hand, I'm going to
13 make a motion to approve application number 20742A as
14 captioned and read by the secretary and ask for a second.
15 Ms. John?

16 VICE CHAIRPERSON JOHN: Second.

17 BZA CHAIR HILL: The motion has been made and
18 seconded. Ms. Mehlert, if you could please take a roll
19 call.

20 MS. MEHLERT: Please respond to the chair's
21 motion to approve the time extension. Chairman Hill?

22 BZA CHAIR HILL: Yes.

23 MS. MEHLERT: Vice Chair John?

24 VICE CHAIRPERSON JOHN: Yes.

25 MS. MEHLERT: Board member Blake?

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1 MEMBER BLAKE: Yes.

2 MS. MEHLERT: Vice Chair Miller?

3 (No audible response.)

4 MS. MEHLERT: Staff will record the vote as four
5 to 0 to 1 to approve application 20742-A on the motion
6 made by Chairman Hill and seconded by Vice Chair John with
7 one board member not participating.

8 BZA CHAIR HILL: Okay. Great.

9 (Whereupon, the above-entitled matter went off
10 the record at 9:54 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: 07-31-24

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.

Neal R. Gross
Court Reporter

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