

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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SPECIAL PUBLIC MEETING
ON THE APPLICATION OF BUNDY DEVELOPMENT CORP.
CASE NO. 16730 (ANC-2F)

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TUESDAY

JULY 10, 2001

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The Public Meeting convened in Room 220 South, 441 4th Street, N.W., Washington, D.C. 20001, pursuant to notice at 8:30 a.m., Sheila Cross Reid, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

SHEILA CROSS REID	Chairperson
ANNE MOHNKERN RENSHAW	Vice Chairperson
GEOFFREY GRIFFIS	Board Member

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COMMISSION STAFF PRESENT:

Beverly Bailey, Office of Zoning
Paul O. Hart, Office of Zoning

D.C. OFFICE OF CORPORATION COUNSEL:

Marie Sansone, Esq.

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

(8:48 a.m.)

CHAIRPERSON REID: Good morning. This is the Special Meeting of the Board of Zoning Adjustment for July 10, 2001. Mr. Hart?

MR. HART: Ms. Bailey.

CHAIRPERSON REID: Ms. Bailey?

MS. BAILEY: Madam Chair, there is a meeting this morning, Special Public Meeting as you have just stated, for Application #16730 of Bundy Development Corporation, pursuant to 11 DCMR § 3103.2 for variances from the floor area ratio requirements under Section 402, and the height limitations under section 400, to allow the construction of an apartment house in the R-5-C District at premises 1320 13th Street, N.W. (Square 243, Lot 26).

The Board heard this case on June 19, 2001.

The members participating at that time were Ms. Reid, Ms. Renshaw, Mr. Griffis. The Board had requested staff to submit the project to Advisory Neighborhood Commission 2-F for a response. These are the revised plans and the case is before the Board for a decision this morning.

CHAIRPERSON REID: All right. Board members, as you remember, this was a case involving a situation where the property in question at 1320 13th

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Street had been rezoned, and the Applicant had been operating under the assumption that the zoning was R-5-D, and had proceeded to get her permits and to set up her development accordingly, and in the interim she inadvertently discovered that the property had been down zoned, after it had been rezoned to R-5-C.

There had been a series of errors that had been made with the D.C. Government and with this office, and she had received improper information. She had gone to several civic association meetings, as well as the ANC meeting, and made presentations, and at no time was she informed that there had been a rezoning.

When she learned that there had been a problem, she immediately came in to try to remedy the situation by coming to the BZA to get a variance. She even agreed to reduce the height of the property from 75 feet to 68 feet, and there had been some question as to the position of the ANC, because the ANC at one point had registered approval of the application with, I think, Historic Preservation and later reversed itself, and we weren't really sure what happened because the person who came from the ANC to testify, was a new person and really wasn't familiar with the case.

So today, we have before us the decision as to whether or not we feel comfortable with granting her

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the variance, if she has met her three-prong tests, or if we need further discussion to open the floor.

VICE CHAIRPERSON RENSHAW: Madam Chair, I would like to recommend that we postpone the decision on this case to the last meeting of July, just two weeks from today, in order to allow the Office of Planning to get in a revised report. The report that we have in our file speaks to the height of 90 feet, which is the R-5-D.

And also, the ANC Meeting is tomorrow night, and I would recommend that we allow the extra time so that the ANC can properly bring this case before its constituents in a Public Meeting, and then respond to the BZA. And if we have that information in our files by the end of the month, we will be able to decide the case.

And, if that information does not come in, I think that we can cut it off at that point and vote. At least, we are allowing the parties to get in some supplemental information.

CHAIRPERSON REID: I'm sorry, was it reduced from 90 to 68 or 75 to 68?

VICE CHAIRPERSON RENSHAW: It was 90 down to 75 down to 68.

CHAIRPERSON REID: Okay.

MEMBER GRIFFIS: I believe 90 feet was the

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actual matter-of-right height.

VICE CHAIRPERSON RENSHAW: Exactly at R-5-D.

MEMBER GRIFFIS: The building was at 77 feet if I recall, then it was reduced before the Public Hearing to 68 feet.

CHAIRPERSON REID: Okay. All right.

MEMBER GRIFFIS: Being that we are three on the Board hearing this case, I think we also might want to have somebody read the record to bring on a fourth if we do postpone.

I think there's a very strong case. I think the OP report indicates that they are also in agreement that it's a strong case and sympathetic; however, they are constrained based on the zoning that was changed. But within their report, I find great strength to this case.

I would like to proceed with this, but I hear Member Renshaw's concern about getting in ANC, and frankly I hope and I would anticipate that there would be a strong support from the ANC coming in. I've noticed the new documentation that people have either changed their minds or dropped out of opposition. There is a strong petition with numerous names on it, over 23 as I can see.

CHAIRPERSON REID: 54, yes.

MEMBER GRIFFIS: Well over 23, so I would hope

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that the OP and the ANC would come in in strong support and that we could move on this in due time.

CHAIRPERSON REID: Yes, I would agree Mr. Griffis. I think that given the fact that this Office Director had proffered a letter to Mr. Stevens, the Chairperson of the ANC, asking them to weigh in on this, and then there was a correspondence from the Applicant Ms. Bundy in which she asserted that she had attended a meeting which six members of the Commission were there, four of which were in favor of this revised Application, and that they do have indicated in the petition another member who is weighing in in favor.

So unfortunately, and I really do say this regrettably, the ANC's Meeting is not until tomorrow, and there are only three people present. Ms. Renshaw feels strongly that she would like to see the official ANC letter, and also Mr. Griffis has indicated that the Office of Planning report does not specify their position as to the revised Application, unfortunately again.

See, this is a situation where we have citizens who are being [victimized] by bureaucracy, and this is not the type of image we like to present to the public, particularly when we have a Mayor who is going around the country lobbying to businessmen to do with the wealth of business.

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So, I hope that we were able to demonstrate to the community and to the citizens that, while there are errors made sometimes, that we are large enough to be able to correct them and to do the right thing.

So, rather than to take the vote today, I would concur with my colleagues that to give the Applicant the greatest possible opportunity to be able to make her case, given the other things that we need to have, that we would not make a decision today, and do so, did you say on the 31st, and allow the Office of Planning report to come in as well as the ANC report.

And Ms. Renshaw has stated that, even if the ANC does not ☐

VICE CHAIRPERSON RENSHAW: We ☐ will move ahead.

CHAIRPERSON REID: We ☐ will go ahead and move ahead.

VICE CHAIRPERSON RENSHAW: I ☐ will recommend that we move ahead.

CHAIRPERSON REID: We feel comfortable that we could move ahead accordingly.

VICE CHAIRPERSON RENSHAW: Madam Chair, I don't want to give the impression that the District of Columbia is the only jurisdiction that is perhaps causing some stress among developers. Across the country, there are as the newspapers have reported, many communities

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where developers get caught in smart growth and down zoning. So, unfortunately we have a case before us now, and we'll hopefully set it to rest the last meeting in July.

CHAIRPERSON REID: Well, I agree with you Ms. Renshaw. I think that knowing, not only the fact that all over the country there are situations where there are problems that occur due to bureaucratic snafus, but I think that the most important aspect of this is not the fact that there are mistakes made, it's how you recover from it.

VICE CHAIRPERSON RENSHAW: Yes.

CHAIRPERSON REID: And how you direct it.

VICE CHAIRPERSON RENSHAW: And how fast you can recover.

CHAIRPERSON REID: How fast you correct it. I think that's what people want to see. All right, any further discussion? Okay, with that, then would conclude. Mr. Lenslie Williams would like to say something, but you know, that is □

MR. WILLIAMS: A request.

CHAIRPERSON REID: Okay, all right come on. That's not typical, but we will □

MR. WILLIAMS: I understand.

CHAIRPERSON REID: □given the fact that we

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do know Mr. Williams and he has been a member of this Board.

MR. WILLIAMS: Madam Chair, the request today from myself [] my name is Lenslie Williams with the law firm of Holland & Knight, and I appeared as you may remember in the case in favor on behalf of the properties across the street, sometimes known as the KJTC Associates Limited Partnership.

And, my request is to ask whether you would like a letter from us to add to the correspondence or information you [] receive from the ANC and from OP.

Our testimony was built around the original case at 75 feet, and we never put anything in writing in on the revised plans. That [] the purpose of my question, to see whether you need any additional information from us.

CHAIRPERSON REID: I think that your submission, Mr. Williams, was quite succinct given the circumstances. Nonetheless, you [] are not a party in the case.

MR. WILLIAMS: No, I [] am not.

CHAIRPERSON REID: So it will not be required, however until we make a decision, the record is open and []

MR. WILLIAMS: So it would be open for my

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letter too.

CHAIRPERSON REID: If you would be so kind, that would be helpful because then that would be another proffer based on the revised submission by the Applicant showing the situation as it pertains to the 68 feet and how that affects the community. I think that would be great if you could. I'm not requiring it, but if you feel that you'd like to, then it certainly would be greatly appreciated. Anything further?

(No audible response.)

CHAIRPERSON REID: Then we will defer a decision until July 31st so as to give the Office of Planning, the ANC, and also the organization represented by Mr. Knight (sic) an opportunity to give us a revised submission, a submission based on the revised height of the property, okay? All right, thank you very much. That concludes this meeting for today.

(Whereupon, the above-entitled matter was concluded.)

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