

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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PUBLIC MEETING

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Tuesday,
June 18, 2002

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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
9:30 a.m., Geoffrey H. Griffis, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

GEOFFREY H. GRIFFIS	Chairperson
ANNE MOHNKERN RENSHAW	Vice Chairperson
DAVID A. ZAIDAIN	Board Member (NCPC)

COMMISSION STAFF PRESENT:

Sheri M. Pruitt	Secretary, BZA
Beverly Bailey	Office of Planning
John K.A. Nyarku	Office of Zoning

D.C. OFFICE OF CORPORATION COUNSEL:

Marie Sansone, Esq.

AGENDA ITEM

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APPLICATION OF HOWARD AND FRANCES PHIPPS (LUCINDA
CADY LEE HOUSE, 16878. 3

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

(9:41 a.m.)

CHAIRPERSON GRIFFIS: Good morning, ladies and gentlemen. Let me call to order the 18 June 2001 special public meeting. We have one case that is in our special public meeting which will mean we'll be deliberating on that and processing it and then I will go to call the public hearing for this morning in which case I will ask staff, and I will also do all introductions for the public hearing so that we can jump right into this deliberation.

MS. BAILEY: Mr. CHAIRPERSON, members of the Board, good morning.

CHAIRPERSON GRIFFIS: Good morning.

MS. BAILEY: The Special Public Meeting is Application number 16878 or Howard and Frances Phipps, the property has since been sold to the Forum for Youth Investment. This is the Cady Lee House. The project is pursuant to 11 DCMR 3104.1 for special exception to allow the use of an existing residential building by a non-profit organization under Section 217 in an R-5-A districted premises, 7064 Eastern Avenue, NW, Square 3351, Lot 808.

This project was heard on June 11th, 2002. At the conclusion of that hearing the Board requested that the project's architect, Karen Wood, provide documentation to verify the size of the building including the measurement of the exterior lower

1 level. The Board members participating on June 11th were Mr.
2 Parsons, Ms. Renshaw, Mr. Griffis, Mr. Zaidain and Mr. Etherly.
3 In addition, Mr. CHAIRPERSON, we have also received documentation
4 from the Department of Public Works that the Board had discussed
5 during the public hearing and the case is now before the Board
6 for a decision.

7 CHAIRPERSON GRIFFIS: Good, thank you very much.
8 Indeed, Board members, as you recall, this is regarding the Cady
9 Lee House up in Tacoma Park, which is a historic structure, so it
10 is coming under 217 and also for a special exception. We did --
11 let's just review the Department of Transportation's letter that
12 was submitted. It was, in fact, indicated that it was -- that
13 they supported the application and that a revised parking plan
14 had been submitted. That was an issue, in fact, of the Office of
15 Planning's report which recommended conditional approval. Their
16 condition, of course was the fact that they would work with the
17 Department of Transportation to design and implement an on-site
18 parking plan.

19 Let me -- is the applicant representative here? I
20 have a quick question and not to get any testimony at this point
21 but just for clarification. The revised parking plan that DDOT
22 letter is speaking about is a new revised submission?

23 MS. ZIGNER: I'll let Maria Irby from the Forum
24 speak to this. My name for the record is Jeanine Rustad Zigner.

25 CHAIRPERSON GRIFFIS: Thank you.

1 MS. IRBY: Yes, Maria Irby from the Forum for
2 Youth Investment, 104 Grant Avenue, Tacoma Park. We met with the
3 Department of Transportation last Wednesday and looked at the
4 plan that we had presented at this meeting and then -- and asked
5 them what they would specifically need for a detailed parking
6 plan and completed the measurements and detail for that plan and
7 submitted it to them the next day and we got the letter from them
8 on Friday.

9 CHAIRPERSON GRIFFIS: Okay. Well, we would ask
10 that that revised parking plan be submitted into the record.

11 MS. IRBY: Okay, and I had understood that they
12 were going to attach it to the letter, but we can submitted it
13 separately, thank you.

14 CHAIRPERSON GRIFFIS: That would be great.

15 MS. ZIGNER: We'll get it by the end of the day.

16 CHAIRPERSON GRIFFIS: They probably should have it.

17 And let me just for quick clarification on this piece, it is --
18 incorporates some of the items that were testified to; is that
19 correct --

20 MS. IRBY: Yes.

21 CHAIRPERSON GRIFFIS: -- in terms of the graphics
22 that we saw in terms of the trucks.

23 MS. IRBY: It builds on the graphic that you saw.
24 It also -- we also did a short presentation for them that showed
25 the pictures as well, but the graphic has the -- shows where the

1 sunken garden is, it shows where the mature trees are. It shows
2 where the shrubbery and landscaping is located as well as the
3 gazebo and the --

4 CHAIRPERSON GRIFFIS: Okay, and just for
5 reiteration of testimony, you're not planning to remove any trees
6 in order to accommodate parking?

7 MS. IRBY: Definitely not planning.

8 CHAIRPERSON GRIFFIS: You're putting in pavers that
9 can accommodate grass growing through it so --

10 MS. IRBY: Yes.

11 CHAIRPERSON GRIFFIS: -- that you can have hard
12 surface that actually is not seen?

13 MS. IRBY: That is correct.

14 CHAIRPERSON GRIFFIS: Okay, and the parking count
15 stays the same as it was.

16 MS. IRBY: That's correct, 10.

17 CHAIRPERSON GRIFFIS: Okay, great. Okay, Board
18 members, I think that clarifies that piece. We will get that
19 parking plan in. Thank you both very much. Let's go to the
20 other document that we asked to have submitted. Of course,
21 under 217, we are looking at a non-profit occupying a historic
22 structure. There are numerous requirements, one of which is that
23 the property be above 10,000 square feet. We do have
24 documentation by the Applicant's registered architect that, in
25 fact, the perimeter points of measurement are above four feet;

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1 therefore, it is documented that it is -- that this property has
2 a full basement. That would, of course, go to the gross floor
3 area which then counts towards the 10,000 square feet putting it
4 up and over the 10,000 square feet.

5 Oh, one other piece that we didn't get too involved
6 in and I think just frankly assumed from the testimony, from the
7 literature, but I would ask also the Applicant would submit a
8 certification of the non-profit status. My assumption is it's a
9 501-C-3. It talks about it in the submissions, in the questions
10 and answers of the organization itself. I do believe it meets
11 that test but I think we would like to have that official
12 documentation in the record.

13 And that is actually, one of the criterion, of
14 course, in 217.1 the use of the building and land by a non-profit
15 organization, that it would actually not adversely effect the use
16 of the neighboring property. Also, I think we had great
17 testimony from the surrounding neighbors, both property owners
18 and residences. Let me also just say as we go through some of
19 these other points, that it was clearly testified to and I think
20 it makes for a very strong case in terms of adverse effect to the
21 neighboring properties but also to the historic property, that
22 this group intends on maintaining the exterior which they have
23 to, of course, but also and in addition, the interior which we
24 have submitted photographs and they had testified to making
25 accommodations in terms of protection of certain areas and

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1 certain fixtures within the building.

2 And I think that is to be commended for a building
3 of this architectural stature and also size in the neighborhood.

4 That goes to, again, one of the requirements under 217, of
5 course, that modifications, additions to the building and
6 exterior will require any sort of approval. There were none
7 testified to and we don't anticipate any others.

8 I think the other substantive piece that we spent
9 lots of time on and in fact, is the parking spaces to be adequate
10 and minimizing any sort of traffic impact in the adjacent
11 neighborhood. This is an interesting one to have in 217 in that
12 you have, by definition, a historic structure and then you talk
13 about parking which the historic parking -- or the historic
14 structure is potentially waived from its current parking
15 requirements.

16 But clearly, we can't move away from it and I think
17 as we've just asked the parking plan to be submitted, there was
18 good testimony on that and I think there was a great
19 accommodation for making parking available, but frankly, hidden
20 within the site and not destroying the site. It's a very
21 picturesque landscape and siting of this impressive building.

22 The other piece of it is, of course, the
23 organization, numerous members of its employed staff live in
24 Tacoma Park and others live in the area. There was testimony in
25 terms of the low numbers of drivers to the workplace. Of course,

1 we can't factor in the fact that the employees won't change and
2 move, et cetera, but I was encouraged with the fact that -- I'm
3 not sure of their exact titles, I don't recall off the top, but
4 the top several folks live in Tacoma Park and it doesn't seem
5 that those would rotate as quickly as employees might, and so I
6 think we have certain amount of permanency to the local people
7 employed with the organization and therefore, I think it does, in
8 fact, limit the intensity, of course, of the driving of impact on
9 the neighborhood.

10 But I would give opportunity for others to speak on
11 this or to give us a direction.

12 VICE CHAIRPERSON RENSHAW: Mr. Chairman?

13 CHAIRPERSON GRIFFIS: Yes.

14 VICE CHAIRPERSON RENSHAW: We had testimony from
15 Daniel Meijer, who spoke out about the parking and the traffic
16 situation. I was -- I'm glad to hear that the Applicant has met
17 with DDOT in the hopes of getting its support, which it has
18 acquired, but I would just hope also that the Applicant
19 recognizing the situation of the limited street parking around
20 the site, if there are events going to be held at the Cady Lee
21 Mansion, people coming in for special meetings, if the Applicant
22 doesn't feel that the premises can accommodate the amount of
23 parking, that you look to direct the traffic to a lot or a
24 parking garage or perhaps rent busses from the metro site to
25 bring people to the home.

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1 But with that, I'm ready to support the
2 application, Mr. Chairman.

3 CHAIRPERSON GRIFFIS: Good, then I would move
4 approval of Application Number 16878 for the special exception to
5 use the existing residential building by a non-profit
6 organization, of course under Section 217, that premises at 7064
7 Eastern Avenue, NW, and I'd ask for a second.

8 VICE CHAIRPERSON RENSHAW: Second.

9 CHAIRPERSON GRIFFIS: Thank you. I think
10 additionally, in the discussion that we've evidenced, and in our
11 own -- the public hearing, I was -- I found that the submission
12 by the Applicant and specifically Mr. Netler to be compelling and
13 I, going through again in my deliberation, did not find any of
14 the reasonings for the test out of line. In fact, I was
15 persuaded by his reasoning and I would not have a problem,
16 actually adopting the legal reasoning submitted by Mr. Netler in
17 addition to our own deliberations as we're stating it here.

18 Others?

19 MEMBER ZAIDAIN: Well, just to speak on another
20 point, I think we did the right think in being overly cautious
21 about the measurements for the foundation or the foundation wall
22 in terms of determining whether or not it can be used in the
23 calculation. The submittal was an affidavit from an AIA
24 certified architect as well as a drawing and, you know, aside
25 from asking her to sign it in blood or something like that, I

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1 don't think we could have gotten anything more substantial.

2 And as far as the parking goes, I think that was
3 addressed well, but my take on that is that, you know, there is a
4 metro station in proximity and that's what the public system is
5 there for, so I hope that the Applicant encourages people to use
6 it. But I would vote in favor of the motion.

7 VICE CHAIRPERSON RENSHAW: And also, Mr. Chairman,
8 we just take note again, that the application was supported by
9 ANC-4B with a vote of let's see, it was -- I just had it in my
10 eyesight here, it was overwhelming with one abstained. Seven
11 commissioners voted yes and one abstained.

12 CHAIRPERSON GRIFFIS: Good, thank you. And also as
13 we did indicate, we had Historic Tacoma giving testimony and the
14 adjacent neighbors and influential folks of the neighborhood.

15 I know, Ms. Renshaw, you did mention the issue of
16 the opposition, I think brought some good -- well, frankly, I
17 found reiterated a lot of the questions that the Board members
18 were having and as Mr. Zaidain has indicated, it was a good idea
19 to take the time to verify but there was also the point of the
20 bike trail that came up and I think it was clearly stated that
21 our own jurisdiction in that matter is limited and I do believe
22 that it is an important aspect, certainly from what we heard from
23 Tacoma Park people and the neighborhood itself is interested in
24 multi-modes of transportation and would hope that the continuing
25 planning for bicycle travel would be encouraged. But clearly

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1 that is a point beyond the scope that in terms of our mission
2 with this application.

3 The last thing that I have, I was also encouraged
4 by the testimony by the Applicant when asked the question of
5 whether there was a plan for funding the upkeep of the building
6 which goes limitedly, but goes towards the historic structure
7 itself and the interior. They indicated that they did, in fact,
8 had the intention and the plan of having a fund developed or
9 maintained for the continued upkeep. That is what I have at this
10 point, unless there are others.

11 Very well, then I would ask for all those in favor
12 signify by saying "Aye".

13 (Aye)

14 CHAIRPERSON GRIFFIS: And opposed?

15 VICE CHAIRPERSON RENSHAW: Mr. Chairman, we have a
16 proxy.

17 CHAIRPERSON GRIFFIS: We should check indeed.

18 MS. BAILEY: Yes, Mr. Chairman, we have a proxy by
19 Mr. Parsons, a written proxy in support of the application
20 without conditions.

21 CHAIRPERSON GRIFFIS: Thank you.

22 MS. BAILEY: The vote is recorded as four, zero,
23 one to approve the application. Motion made by Mr. Griffis, Ms.
24 Renshaw second, Mr. Zaidain in support, Mr. Parsons in support.
25 Mr. Etherly is not present today and not voting and the Applicant

1 is to provide the revised parking plan that was submitted to DDOT
2 and in addition, provide documentation of your non-profit status.

3 Is there a summary order, Mr. Chairman?

4 CHAIRPERSON GRIFFIS: Was there a request for a
5 summary order on this? I recall that there was initially.

6 MS. ZIGNER: There had been a request at the
7 conclusion of the hearing for a summary order.

8 CHAIRPERSON GRIFFIS: And do you want to maintain
9 that request?

10 MS. ZIGNER: Yes, we do.

11 CHAIRPERSON GRIFFIS: Very well, then I don't see a
12 difficulty from our end doing that, in which case, we'll make a
13 summary order.

14 MS. ZIGNER: Thank you.

15 CHAIRPERSON GRIFFIS: Thank you very much. Good,
16 then I will conclude the special public meeting of 18 June 2002.

17 (Whereupon, at 9:50 a.m. the special public hearing
18 was concluded.)

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