

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

+ + + + +

PUBLIC MEETING

+ + + + +

TUESDAY,

APRIL 10, 2012

+ + + + +

The Regular Public Meeting convened in the Jerrily R. Kress Memorial Hearing Room 220 South at 441 4th Street, N.W., Washington, D.C. 20001, pursuant to notice at 9:30 a.m., Lloyd Jordan, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

LLOYD JORDAN	Chairperson
NICOLE SORG	Vice Chairperson
RASHIDA MACMURRAY	Board Member
JEFFREY HINKLE	Board Member (NCPC)

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY	Secretary
JOHN NYARKU	Zoning Specialist

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

MARY NAGELHOUT, ESQ.

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This transcript constitutes the minutes from the Regular Public Meeting held on April 10, 2012.

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T-A-B-L-E O-F C-O-N-T-E-N-T-S

WELCOME:

Lloyd Jordan, Chairperson 4

RODRIGO & SANDRA LOPEZ-QUIROGAAPPLICATION NO. 18353: 5

Additional Filings: 6

Motion to Grant Waiver: 7

VOTE: 4-0-1 to Grant Waiver: 8

Motion to Add ' 401.1 Relief: 9

VOTE: 4-0-1 To Grant Adding Relief: 9ANDREW SERFASSAPPLICATION NO. 18358: 10

Additional Filings: 11

Motion to Grant: 12

VOTE: 4-0-1 To Grant: 12GEORGE BOGUSLAWSKIAPPLICATION NO. 18361: 14

Additional Filings: 14

Party Status Request: 15

Motion to Deny Party Status: 16

VOTE: 4-0-1 to Deny Party Status: 16

Request for Continuance: 17

Request Granted by Consensus: 17

Rescheduled for May 15, 2012: 17

EMORY UNITED METHODIST CHURCHAPPLICATION NO. 17964: 18

Additional Filings: 19

Grant 303.9 Waiver by Consensus: 20

Motion to Grant Two-Year Extension: 21

VOTE: 4-0-1 to Grant Extension: 21CORCORAN GALLERY OF ARTBZA ORDER NO. 18227: 21

Additional Filings: 22

Motion to Set for Hearing: 24

VOTE: 4-0-1 to Grant Motion: 25ADJOURN:

Lloyd Jordan, Chairperson 26

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

2 9:36 a.m.

3 CHAIRPERSON JORDAN: Good morning.

4 Would the meeting, please, come to order?

5 Good morning, ladies and gentlemen.

6 We are located in the Jerrily R. Kress Memorial
7 Hearing Room at 441 4th Street. Today's date
8 is April 10, 2012. We are here for the Public
9 Meeting of the Board of Zoning Adjustment.

10 My name is Lloyd Jordan,
11 Chairperson. To the left of me is Nikki Sorg,
12 the Vice Chairperson, to the right of me is
13 Rashida MacMurray, who is a Board Member, and
14 to the right of her is Jeffrey Hinkle, Board
15 Member.

16 Please be advised that this
17 proceeding is being recorded by a court reporter
18 and also is being webcast live. Accordingly,
19 we must ask that you refrain from disruptive
20 noise and actions in the hearing room.

21 Today's agenda is for the Board to
22 render decisions on cases under the regulations

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1 that do not require hearings.

2 We will handle the preliminary
3 matters when the cases are called, so if we can
4 proceed. Mr. Secretary, could we call the first
5 case?

6 MR. MOY: Yes. Good morning, Mr.
7 Chairman and Members of the Board. The first
8 three cases before the Board are cases that are
9 on the expedited review calendar.

10 The first being Application No.
11 18353. This is of Rodrigo and Sandra
12 Lopez-Quiroga, pursuant to 11 DCMR 3104.1, for
13 a special exception to allow an addition to an
14 existing one-family detached dwelling under '
15 223 not meeting the lot occupancy, section 403,
16 rear yard, section 404, and nonconforming
17 structure, subsection 2001.3, requirements in
18 the R-1-B District. This is at premises 4220
19 45th Street, N.W. The property is located in
20 Square 1562, Lot 817.

21 Mr. Chairman, this application has
22 a preliminary matter regarding failure for

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1 posting notice of expedited review and, of
2 course, subsequently the Affidavit of Posting.

3 That letter that was filed by the applicant
4 that addresses this concern was submitted into
5 the office, yesterday, Monday, April 9, 2012.

6 And I believe that is Exhibit No.
7 29. With that, in your case folders there are
8 also two -- three other filings. The first
9 being a filing from the Office of Planning, which
10 is identified as Exhibit 28, a letter from ANC-3E
11 identified as Exhibit 27, and the last filing
12 is a letter from the Department of
13 Transportation dated March 5, 2012 identified
14 as Exhibit 26.

15 So with that, apart from the
16 preliminary matter, the Board is to act on the
17 merits of the application on the expedited
18 calendar and that completes the staff's
19 briefing, Mr. Chairman.

20 CHAIRPERSON JORDAN: All right.
21 Thank you. I do understand that there is a
22 request for a waiver of the Notice of Posting

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1 and the filing of the affidavit in this matter.

2 I think the Board has had a chance
3 to look at that and I believe the applicant has
4 made a request for the waiver based upon the
5 fact that the adjacent neighbors have all
6 received notice. In fact, he has letters of--
7 there are letters in support in the files from
8 the adjacent or neighbors, anybody who would
9 potentially be affected and also the ANC had
10 notice and had held a meeting and voted in
11 support of this application.

12 So I would be inclined to grant the
13 waiver. Anyone else?

14 VICE CHAIRPERSON SORG: I agree,
15 Mr. Chair.

16 CHAIRPERSON JORDAN: With that, I
17 would move that we grant the waiver as requested.

18 A second anyone?

19 VICE CHAIRPERSON SORG: Second.

20 CHAIRPERSON JORDAN: Motion made
21 and seconded.

22 All those in -- oh, Mr. -- do we just

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1 want to vote orally? That's fine.

2 All those in favor signify by saying
3 aye.

4 ALL: Aye.

5 CHAIRPERSON JORDAN: Those opposed
6 nay? The motion carries.

7 Next before us, I think we have had
8 the opportunity to look at the record and the
9 filings by the applicant seeking the relief from
10 ' -- well, let me go back a second.

11 The applicant asked for relief from
12 403, 404 and ' 2001.3. However, we also
13 believe, after taking a look at this and being
14 advised by counsel, that there is also a request
15 that needs to be made for relief from ' 401.1.

16 And so in rendering the relief
17 granted, I believe we can do that on our own
18 to add that as proper relief necessary for the
19 relief requested by the applicant.

20 That being said, based upon the
21 record, I would move the approval of the relief
22 requested in this applicant's request in

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1 addition to ' 401. And I would move that, unless
2 anyone has -- yes? I would move it.

3 VICE CHAIRPERSON SORG: If there is
4 a motion, then I will second that motion.

5 CHAIRPERSON JORDAN: Any
6 unreadiness? Anybody have any questions or
7 issues?

8 Seeing none, Mr. Secretary, do you
9 want to record the vote?

10 MR. MOY: Yes, yes. Thank you, Mr.
11 Chairman. The staff would record the vote as
12 4-0-1. This is on the Chairman's motion to --
13 on the Board's own motion to amend the
14 application to add relief from ' 401.1,
15 seconding the motion, Ms. Sorg, the Vice Chair.

16 Also in support of the motion Ms. MacMurray
17 and Mr. Hinkle. No other Members present, so
18 again the vote is 4-0-1.

19 CHAIRPERSON JORDAN: Well, let's
20 just make sure the record is clear. I didn't
21 move to amend. I just moved that we grant the
22 relief to include 401.

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1 MR. MOY: Ah, all right. Sorry.
2 Thank you for the clarification.

3 CHAIRPERSON JORDAN: Thank you, Ms.
4 Sorg.

5 MR. MOY: That would be
6 Application, the second case on expedited review
7 calendar, 18358. This is of Andrew Serfass,
8 pursuant to 11 DCMR 3104.1, for a special
9 exception to allow the installation of a roof
10 deck stair access. This is for a one-family
11 row dwelling under ' 223, not meeting the court
12 requirements under ' 406 and nonconforming
13 structure provisions under subsection 2001.3
14 requirements in an R-4 District at premises 643
15 Orleans Place, N.E., property located in Square
16 855, Lot 279.

17 In your case folders, Mr. Chairman,
18 you have the application submitted from the
19 applicant and that is identified. I don't have
20 that exhibit number before me, but it's in your
21 case folders.

22 You have two filings from the office

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1 of Planning and the ANC. ANC-6C report is
2 identified as 25 and the Office of Planning
3 report is identified as Exhibit 29. And
4 additionally, you have a report from the
5 Department of Transportation identified as
6 Exhibit 26.

7 So with that, the Board is to act
8 on the merits of the expedited review calendar
9 requirements under ' 3118 consisting of this
10 application for special exception relief under
11 ' 223.

12 CHAIRPERSON JORDAN: Thank you, Mr.
13 Secretary. I believe this record is pretty full
14 and meets the requirements necessary to grant
15 this relief.

16 Any other thoughts? Seeing no
17 questions and believing that this record is full
18 and that the applicant has met the requirements
19 to grant the special exception, I would move
20 the relief requested.

21 MEMBER MacMURRAY: Mr. Chairman, I
22 would second the motion.

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1 CHAIRPERSON JORDAN: Motion made
2 and seconded. Mr. Secretary, do you want to
3 poll, please?

4 MR. MOY: Has the Board taken their
5 roll call vote?

6 CHAIRPERSON JORDAN: Well, we are
7 just going to -- I was going to do it orally.

8 MR. MOY: Oh, do it orally?

9 CHAIRPERSON JORDAN: Have you do it
10 if you would? Well, we can just do it orally.

11 All those in favor signify by saying
12 aye.

13 ALL: Aye.

14 CHAIRPERSON JORDAN: Those opposed
15 nay? The motion carries.

16 MR. MOY: The Board -- the staff
17 would record the vote as 4-0-1. This is on the
18 motion of Chairman Jordan to approve Application
19 No. 18358. Seconding the motion Ms. MacMurray.

20 Also in support of the motion Ms. Sorg and Mr.
21 Hinkle. No other Board Members participating.

22 The final vote is 4-0-1. The motion carries,

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1 Mr. Chairman.

2 CHAIRPERSON JORDAN: What's the
3 one?

4 MR. MOY: The one? That we would
5 have the fifth Member on the Board. There is
6 a five Member Board.

7 CHAIRPERSON JORDAN: The one
8 usually means absentia.

9 MR. MOY: Absentia, yes.

10 CHAIRPERSON JORDAN: So it's 4-0-0,
11 not participating.

12 MS. NAGELHOUT: Those are recorded
13 as -- whether the person is not present, not
14 participating, recused, whatever, it's always
15 just recorded as 4-0-1, you know.

16 CHAIRPERSON JORDAN: I understand.
17 Okay. Let's talk about that. All right.
18 Thank you.

19 MR. MOY: The next and third item
20 on the expedited calendar is Application No.
21 18361. This is of George Boguslawski, pursuant
22 to 11 DCMR 3104.1, for a special exception to

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1 construct an accessory garage serving a
2 one-family row dwelling under ' 223, not meeting
3 the lot occupancy, ' 403, requirements in the
4 R-4 District. This is at premises 808 L Street,
5 N.E., property located in Square 51, Lot 908.

6 The application -- the applicant
7 filed on April 5, 2012 -- this would be the
8 preliminary matter, Mr. Chairman, requesting
9 that the Board postpone its decision. This is
10 under Exhibit 24 in your case folders.

11 Irrespective of that, there are
12 three other filings. One is a request for party
13 status identified as Exhibit 21, an Office of
14 Planning report under Exhibit 23 and the ANC-3G
15 report. There is no letter. However, they are
16 scheduled to have their ANC meeting on April
17 12, 2012.

18 And finally, there is a Department
19 of Transportation filing under Exhibit 22.

20 And that completes the staff's
21 briefing, Mr. Chairman.

22 CHAIRPERSON JORDAN: Thank you.

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1 There are two preliminary matters here, one of
2 which is the request for party status and I would
3 like to deal with that one first, so we can handle
4 that and then move to the request to postpone
5 it, to continue this.

6 And in regard to the party status,
7 reviewing the application, the application
8 appears, one, it's kind of confusing because
9 the party is asking to be a party status for
10 the sake of being a proponent or being in support
11 of the application, which would not be necessary
12 for party status.

13 And additionally, the other
14 requirements are 3106.2(e) was not met by the
15 party status. So I would be inclined to deny
16 that. Any other thoughts? Ms. Sorg?

17 VICE CHAIRPERSON SORG: I agree,
18 Mr. Chairman. The party status request seems
19 quite confusing and rather incomplete. And
20 since it's in support, I don't see it would
21 prejudice anything with regard to the merits.

22 CHAIRPERSON JORDAN: Yes.

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1 Especially since he has that he is a proponent,
2 he or she is a proponent. Anyone else? Okay.

3 Then I would move that we deny the
4 party status as requested.

5 VICE CHAIRPERSON SORG: Second.

6 CHAIRPERSON JORDAN: Motion is made
7 and seconded.

8 All those in favor signify by saying
9 aye.

10 ALL: Aye.

11 CHAIRPERSON JORDAN: Those opposed
12 nay. The motion carries. All those -- the
13 motion carries. Mr. Secretary, do you want to
14 call the -- oh, no, that's right. We're on the
15 next part.

16 The second part of this is that there
17 is a request for a continuance. I would
18 definitely be inclined to grant that. The
19 applicant has made the request based upon the
20 fact that there was no Affidavit of Posting filed
21 and that they are waiting for the ANC to render
22 a decision and that meeting is not going to be

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1 until after this meeting and we would really
2 appreciate the ANC's view on this matter.

3 Any other thoughts? Can we do that
4 by consensus, continue this matter?

5 MR. MOY: Yes, sir.

6 CHAIRPERSON JORDAN: Is that by
7 consensus? Good. Then that matter will be
8 granted by consensus.

9 MR. MOY: The date of the next
10 Board's public meeting, Mr. Chairman, is May
11 15th for the record.

12 CHAIRPERSON JORDAN: Okay. Thank
13 you.

14 MR. MOY: The first of two cases for
15 public decision meeting, the first being a
16 request for a two-year time extension for
17 Application No. 17964. This is of the Emory
18 United Methodist Church, pursuant to ' 3130 of
19 the Zoning Regulations.

20 If the Board will recall, the
21 original application was approved on February
22 23, 2010 and this was pursuant to 11 DCMR 3104.1

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1 and 3103.2, for a variance from the height
2 requirements under ' 770, a variance from the
3 floor area ratio requirements under subsection
4 771.2, a variance from the lot occupancy
5 requirements under ' 772, a variance from the
6 loading facility requirements under ' 2201, and
7 a special exception for multiple roof structures
8 and required setbacks under subsection
9 770.6(a), 777 and 411.11, to allow the
10 construction of a new building containing a
11 church, office, retail, residential and
12 recreation uses in the C-2-A District at
13 premises 6100 through 6120 Georgia Avenue, N.W.,
14 Square 2940, Lots 801, 802, 808 and 813.

15 On February 18, 2012, the applicant
16 made his filing. That document, Mr. Chairman,
17 is in your case folders under Exhibit 71. And
18 as you know from your case records, there is
19 a preliminary matter as to the expiration of
20 the order not meeting the 30 day requirement
21 under 3130.9.

22 There is also a filing in your case

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1 folders from the Office of Planning, that report
2 is identified as Exhibit 72. And there are no
3 other filings in the record.

4 So the Board is to act on the
5 preliminary matter and then on the merits of
6 the request. And that completes the staff's
7 briefing, Mr. Chairman.

8 CHAIRPERSON JORDAN: All right.
9 Thank you, Mr. Moy. I think that the, again,
10 filing in this matter is pretty full. And the
11 preliminary matter, the applicant has made, I
12 believe, a justification for filing late. And
13 the request that is filed in the record does,
14 indeed, support that.

15 And I would be inclined that we would
16 give them the waiver of 303.9 and let the statute
17 still be -- that the time period is tolled going
18 back to, I think the date would have been, March.

19 They would have had to file by February 3rd.

20 So we make this appear as a February 3rd filing.

21 And so I would be inclined to grant
22 this request. Anyone else? By consensus? By

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1 consensus, then we will grant that request.

2 Similarly, this is a very, very,
3 very full record. I think the record shows that
4 there has been a lot of diligence in trying to
5 obtain financing and due to economic times and
6 conditions, that they would need additional time
7 and they would meet the requirements for a
8 two-year extension and that the request is
9 proper.

10 So I would be inclined to grant it.

11 Anyone else? Okay. So I would so move that
12 we grant the two-year extension.

13 MEMBER MacMURRAY: Mr. Chairman, I
14 second the motion.

15 CHAIRPERSON JORDAN: Okay. Motion
16 made and seconded that we grant the two-year
17 extension.

18 All those in favor signify by saying
19 aye.

20 ALL: Aye.

21 CHAIRPERSON JORDAN: Those opposed
22 nay. The motion carries.

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1 MR. MOY: Staff would record the
2 vote as 4-0-1. This is on the motion of Chairman
3 Jordan to grant the two-year time extension,
4 second the motion Ms. MacMurray, also in support
5 of the motion Ms. Sorg and Mr. Hinkle. And as
6 the Chairman said, the motion carried.

7 The next and final item before the
8 Board is a request for a minor modification of
9 approved plans in BZA Order No. 18227 of Corcoran
10 Gallery of Art, pursuant to ' 3129 of the Zoning
11 Regulations.

12 The original application was
13 approved on June 21, 2011. And this was
14 pursuant to 11 DCMR 3104.1 and 3103.2, for a
15 variance from the floor area ratio requirements
16 under ' 531, a variance from the off-street
17 parking requirements under subsection 2101.1,
18 a special exception for office use under ' 508,
19 and a special exception from the roof structure
20 requirements under ' 411, to allow the
21 development of an office building as an addition
22 to an existing building in the SP-2 District

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1 at premises 1700 New York Avenue, N.W., property
2 located in Square 171, Lot 34.

3 The applicant filed and in your case
4 folders, Mr. Chairman, is their request for
5 minor modification identified as Exhibit 40.
6 There is also a filing from the Office of
7 Planning dated April 3, 2012 under Exhibit 42.

8 And with that, the Board is to act
9 on the merits of the applicant's request
10 pursuant to ' 3129 of the Zoning Regulations
11 and that completes the staff's briefing, Mr.
12 Chairman.

13 CHAIRPERSON JORDAN: Thank you, Mr.
14 Moy. Yes, we have looked at the record in this
15 matter and looked at the relief requested. And
16 I do not believe that this is a minor
17 modification, particularly because it is
18 changing a material fact of the request that
19 was -- the relief that was already granted.

20 Generally, the request for a minor
21 relief is those things dealing with the plans
22 that would operate within the already passed

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1 on relief. That being such, this wouldn't be
2 prime for us to be able to deal with this without
3 a Public Hearing, which I think will be required,
4 as it didn't meet the requirements of 3129.

5 Any other thoughts? And I would
6 believe that I would move then to request that
7 this be placed on for hearing and that the Office
8 of Zoning work with the applicant and schedule
9 a date and time.

10 MR. MOY: Yes. The -- yes,
11 assuming that the applicant files an application
12 for the relief and that's when the scheduling
13 would take place.

14 CHAIRPERSON JORDAN: Yes. And Ms.
15 Sorg just indicated and I believe it is
16 acceptable that we make the hearing be a limited
17 hearing in regards to the issues that we are
18 dealing just simply with the minor modification.

19 Okay.

20 So is there a second? Do we already
21 have a second?

22 MEMBER HINKLE: No.

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1 MR. MOY: No.

2 CHAIRPERSON JORDAN: I thought I
3 moved it. Well, I so move that we require this
4 to be set down or you just already just did it?

5 MR. MOY: I was waiting for a second
6 to the motion.

7 CHAIRPERSON JORDAN: Yes, waiting
8 for a second.

9 MEMBER HINKLE: I'll second.

10 CHAIRPERSON JORDAN: Thank you.
11 The motion made and being seconded that we
12 require this to be placed for a Public Hearing
13 on the limited basis as previously indicated.

14 All those in favor signify by saying
15 aye.

16 ALL: Aye.

17 CHAIRPERSON JORDAN: Those opposed
18 nay? The motion carries.

19 MR. MOY: Yes, that would be on a
20 vote of 4-0-1. The motion of Chairman Jordan,
21 seconding the motion Mr. Hinkle, also in support
22 of the motion Ms. Sorg and Ms. MacMurray.

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1 Again, as the Chair said, the motion carries.

2 Thank you, sir.

3 CHAIRPERSON JORDAN: Thank you.

4 Is there any other business that needs to come
5 before the Board today?

6 MR. MOY: Not today, sir.

7 CHAIRPERSON JORDAN: Okay. Then I
8 believe we can stand adjourned.

9 (Whereupon, the Public Meeting was
10 concluded at 9:58 a.m.)

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