

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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SPECIAL PUBLIC MEETING OF THE FMBZA

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TUESDAY

DECEMBER 20, 2005

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The Special Public Meeting convened in Room 220 South, 441 4th Street, N.W., Washington, D.C. 20001, pursuant to notice, at 10:00 a.m., Geoffrey H. Griffis, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

GEOFFREY H. GRIFFIS	Chairperson
RUTHANNE G. MILLER	Vice Chairperson
CURTIS L. ETHERLY, JR.	Board Member

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY	Secretary
BEVERLEY BAILEY	Sr. Zoning Specialist
TRACEY W. ROSE	Sr. Zoning Specialist

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

LORI MONROE, ESQ.

This transcript constitutes the minutes from the Special Public Meeting held on December 20, 2005.

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C-O-N-T-E-N-T-S

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

(10:03 a.m.)

CHAIRPERSON GRIFFIS: Good morning, ladies and gentlemen. Let me call to order the 20th of December 2005 Special Public Meeting of the Board of Zoning Adjustment of the District of Columbia.

My name is Geoff Griffis, Chairperson. Joining me today is Ms. Miller and Mr. Etherly on the Board.

We are before us this morning on a special public meeting regarding the application of the Embassy of the Republic of Moldova. And so in our constituted forum for decisionmaking we are the FMBZA.

So I must say a very good morning to Ms. Gallagher, representing the National Capital Planning Commission. And Mr. Parsons sat on the case, and I believe has made communication to the Board, which we will hear later, as he will not be able to be present due to an illness.

That being said, I am going to dispense with any other opening remarks for the special public meeting, and say a very good morning to Mr. Moy, and ask if you would -- and Ms. Bailey from my very far left, both with the Office of Zoning, if you would call the case for decision.

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1 SECRETARY MOY: Yes, sir. Good morning,
2 Mr. Chairman, members of the Board. The case before
3 the FMBZA is Application Number 17384 of the Republic
4 of Moldova, pursuant to 11 DCMR 1002, to permit the
5 replacement of wind -- the replacement of wood windows
6 with vinyl windows in the C-3-C District at premises
7 2101 S Street, N.W. That's in the Sheridan-Kalorama
8 Historic District, Square 2532, Lot 37.

9 On December 6, 2005, the Board completed
10 public testimony on the application and scheduled his
11 decision on December 20, 2005. The record is closed
12 except for the following from the applicant. That is
13 in your case folders identified as Exhibit 36.

14 The staff also notes for the Board that
15 this morning the office has received a supplemental
16 report from the District Office of Planning. That's
17 also in your case folders. Staff reminds the Board
18 that that would require a waivering of the rules,
19 since the record is closed.

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

22 CHAIRPERSON GRIFFIS: Excellent. Thank
23 you very much, Mr. Moy. I know that the Board has
24 received that last filing from the Director of the
25 Office of Planning, Ellen McCarthy. Is there any

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1 objection to waiving it in, taking it into the record?

2 VICE CHAIRPERSON MILLER: No objection.

3 CHAIRPERSON GRIFFIS: Excellent. Not
4 hearing any objection, we'll waive it in, and let us
5 open up for our deliberation. Of course, the Board is
6 very familiar, in constituting the FMBZA, Section
7 1002, the requirements of our review for these
8 applications.

9 We have, in many respects, reviewed
10 facilities that have a myriad of issues before us --
11 renovation, replacements, signage, even some use.
12 There are setbacks for special uses on first floors
13 and community openness, etcetera. This boiled down
14 into one specific issue, of which there was some great
15 concern expressed by the representative, the Mayor,
16 and the District's interest in historic preservation,
17 and that's the replacement of exterior windows.

18 I would make great note in the last filing
19 that we've just waived -- and I know we've taken and
20 read -- well, let me note two things. First of all,
21 the applicant's filing I think was tremendous in terms
22 of its completeness and specificity. One of the most
23 helpful, I thought, aspects was the photograph with
24 the numbered fenestration, which obviously we could
25 trace because we would be dealing with an option that

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1 is different based on the floor and the type of window
2 and treatment.

3 That being said, there was an additional
4 option for dealing with the -- there are a certain
5 number of windows on the second, third, and fourth --
6 rather, the third, fourth, and fifth levels that have
7 been dealt with -- rather, that have been replaced,
8 and now we're looking primarily at the second level,
9 and then perhaps the first level or basement level.

10 And what is being proposed at this point
11 is to replace in-kind the French doors with the
12 fenestration and the two divided lights and the curved
13 windows. We'll note that in the filing.

14 I have -- actually, I was very pleased to
15 see this option come in, and I think it's appropriate
16 to move ahead in our deliberation based on our
17 thoughts and concerns on what was now proposed by the
18 applicant, and whether or not we would disapprove or
19 not allow that to go forward.

20 To support that, of course, was the Office
21 of Planning's supplemental report. It is not 100
22 percent in support, but it certainly indicates that
23 this is rising to a good level of compromise. They
24 have, of course, indicated that retaining the original
25 windows on the first two floors of the building as a

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1 compromise solution could -- would continue to convey
2 much of the historic appearance of the building for
3 the general public.

4 It's interesting that -- I believe it was
5 Mr. Mlotek in his testimony was stating to us that, of
6 course, we are charged to review all of the different
7 elements, which we can go through very quickly, if
8 need be. However, he was also indicating that but we
9 need to define that what -- there is a lesser burden
10 under the FMBZA in compliance with historic
11 preservation in this specific case.

12 And the terminology, of course, in the
13 regulations and his testimony, and also the
14 applicant's testimony, was substantial compliance.
15 And, really, that puts us in -- obviously, in the seat
16 of judgment of whether there was substantial
17 compliance or not, and I think that was what was so
18 important about asking for the diagrams and drawings
19 of what is proposed for these windows.

20 To me, realistically, this compromised
21 option that comes in to deal with the first and second
22 floor certainly falls within substantial compliance
23 with the replacement of these windows. In terms of
24 the aspects that we would look to, or the Historic
25 Preservation Board would look at, it is materiality,

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1 which we've addressed, but also composition, size,
2 detail, all of these elements that had been brought up
3 previously.

4 That's my summation. At this time, I'll
5 open it up to any others that have any additional
6 comments.

7 VICE CHAIRPERSON MILLER: I just want to
8 concur basically with what you said. I think you've
9 covered it very thoroughly. I think that the
10 application does show substantial compliance, and that
11 our role is different than that of HPRB, and that we
12 look at this in a bigger picture and needed to be
13 assured that there was substantial compliance in this
14 case.

15 CHAIRPERSON GRIFFIS: Very well. Others?
16 Comments?

17 (No response.)

18 Very well. If there is no further
19 deliberation on this, I would move that the Board not
20 disallow but look favorably on this application, and
21 I would ask for a second.

22 BOARD MEMBER GALLAGHER: Second.

23 CHAIRPERSON GRIFFIS: Thank you very much.

24 I'm not going to run through all of the
25 criterion, of course, of which we're familiar with the

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1 strict criterion, and that is in terms of the
2 reciprocity and also security. That is in the record.
3 It did not, in my mind, in the elements that we were
4 looking at, they were not determinative factors in
5 assessing my decision and deliberation on this. And
6 I speak for myself, but I think that the record would
7 adequately reflect those elements.

8 Very well. I will open it up for any
9 other final comments, deliberation.

10 (No response.)

11 If there is no other, then we do have a
12 motion before us. It has been seconded. I would ask
13 for all those in favor, signify by saying aye.

14 (Chorus of ayes.)

15 Any opposed?

16 (No response.)

17 Abstaining?

18 (No response.)

19 Very well. Mr. Moy?

20 SECRETARY MOY: Staff would record the
21 vote as four to zero to zero, this on the motion of
22 the chair, Mr. Griffis, to not disapprove the
23 application, seconded by I believe Ms. Gallagher.
24 Also in support of the motion is Mr. Etherly and Ms.
25 Miller.

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1 Staff has also received, Mr. Chairman, an
2 absentee ballot from Mr. Parsons, which supports the
3 motion. Would the chair wish for staff to read Mr.
4 Parsons' comments?

5 CHAIRPERSON GRIFFIS: Yes.

6 SECRETARY MOY: Okay. His comments reads
7 as follows, "Conditions 1 through 3 in the second
8 paragraph of the third page of Ms. Frank's December
9 14th letter to the Board will rectify my concerns as
10 expressed at the hearing. I am also urging that the
11 Board consider wood panning versus the proposed vinyl
12 on the remaining windows."

13 This is in reference to Ms. Frank's
14 letter, which is Exhibit Number 36. So that would
15 give a resulting vote, Mr. Chairman, of five to zero
16 to zero.

17 CHAIRPERSON GRIFFIS: Excellent. Thank
18 you very much, Mr. Moy.

19 And I'll just take a note -- a quick note
20 on his last statement, and I think the Board,
21 obviously, and the city, as has been evidenced in the
22 record, would certainly support, if not urge, the
23 replacement of the rest of the windows above the
24 second level that have now currently been replaced at
25 some point, of which budget allows, to put back more

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1 of the original frame/sashes to the wood. And I
2 certainly would look forward to that.

3 I know the Board had limitedly talked
4 about that, and how we might be able to direct that
5 more strongly. And I think that we've landed at the
6 position that we are correctly and jurisdictionally,
7 and so I think we'll leave it at that. But we'll
8 applaud when all the rest are replaced, and we'll all
9 enjoy that from our public thoroughfares.

10 There it is. Anything else? Anything
11 else for us, Mr. Moy?

12 SECRETARY MOY: That completes the special
13 public meeting, Mr. Chairman.

14 CHAIRPERSON GRIFFIS: Excellent. Thank
15 you very much.

16 Thank you all very much. If there's no
17 further business for the Board in this special public
18 meeting, let's adjourn our special public meeting.

19 We want to thank Ms. Gallagher for being
20 with us on the hearing itself, and also for the
21 deliberation.

22 (Whereupon, at 10:14 a.m., the
23 proceedings in the foregoing matter were
24 adjourned.)

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