

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

+ + + + +

BOARD OF ZONING ADJUSTMENT

+ + + + +

PUBLIC MEETING

+ + + + +

TUESDAY

JANUARY 14, 2014

+ + + + +

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

LLOYD JORDAN, Chairperson
S. KATHRYN ALLEN, Vice-Chairperson

ZONING COMMISSION MEMBER PRESENT:

MARCIE COHEN, Commission Member

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary
JOHN NYARKU, Zoning Specialist
STEPHEN VARGA, Zoning Specialist

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

MARY NAGELHOUT, ESQ.

The transcript constitutes the minutes from the Public Meeting held on January 14, 2014.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

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

9:39 a.m.

CHAIRMAN JORDAN: Good morning.

Will you please come to order. We're here for the meeting and the hearings of the Board of Zoning Adjustment of the District of Columbia. We're located at the Jerrily R. Kress Memorial Hearing Room at 441 4th Street, N.W. Today's date is January 14, 2014.

My name is Lloyd Jordan, Chairperson. To my left is Marcie Cohen, a member of the Zoning Commission, sitting in as a member of the Board of Zoning Adjustment today. And to my right is Vice Chair S. Kathryn Allen.

Please be advised that these proceedings are being recorded by a Court Reporter and also being webcast live. So therefore I'm going to ask you to refrain from any disruptive noises here in the hearing room. It will be a good time now for you to silence your cell phones and other devices.

The Board's hearing procedures and

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 processes are contained in a document by the back
2 door to my left, so if you need to acquaint
3 yourself with how we operate, please feel free
4 to get that information.

5 If you're going to testify before
6 the Board today, or provide any statement in
7 front of the Board, I'm going to ask you to do
8 two things. The first thing I'm going to ask you
9 to do is complete two witness cards per person.
10 And prior to testifying, giving those cards to
11 the Court Reporter sitting to my right.

12 So if you're planing to testify or
13 provide a statement to the Board, I'm going to
14 need you to complete two witness cards per person
15 and give them to the Court Reporter sitting to
16 my right prior to you providing the statement to
17 the Board.

18 The second thing I need you to do is
19 to stand and take the oath or affirmation which
20 will be give by the Board secretary, Mr. Moy. So
21 If you're going to provide a statement and/or
22 testify, I need you to stand now and take the oath

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 or affirmation being given by the Board
2 secretary, Mr. Moy.

3 MR. MOY: Thank you sir. Good
4 morning. Do you solemnly swear or affirm that
5 the testimony you are about to present in this
6 proceeding is the truth, the whole truth and
7 nothing but the truth?

8 (Chorus of I Dos)

9 MR. MOY: Ladies and gentlemen you
10 may consider yourselves under oath.

11 CHAIRMAN JORDAN: Okay. Mr. Moy,
12 any preliminary -- are we ready to go or do we
13 need to wait a minute?

14 MR. MOY: Well good morning Mr.
15 Chairman and members of the Board. I do have a
16 few announcements for the record.

17 On cases for the docket for today,
18 the first announcement is that Application
19 Number 17696 of Liberty Property Trust, which is
20 a request for a time extension. There has been
21 a request by the Applicant to postpone and the
22 Board has rescheduled this application to

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 February 4, 2014.

2 Second, Application Number 18692 of
3 1717 E Street, similarly has been rescheduled to
4 March 4, 2014.

5 There are some other preliminaries,
6 but I think the Board can best handle that as the
7 case is called.

8 CHAIRMAN JORDAN: Okay. Then lets
9 move into those cases for decision. And you
10 want to call that first case, 18695.

11 MR. MOY: Yes sir. Thank you.
12 That would be the first of three cases on the
13 expedited review calendar. The first being
14 18695 of Barrett C. Evans. And of course, this
15 is a request for a special exception for an
16 addition under Section 223, not meeting the
17 non-conforming structure requirements under
18 2001.3.

19 In your case folders Mr. Chairman,
20 there is the file from the Applicant. Under
21 Exhibit 1, also affidavit of posting under
22 Exhibit 33 as well as filings from the ANC 1A and

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 the Office of Planning. Under Exhibits 28 and
2 32 respectively.

3 There's a DDOT filing under Exhibit
4 27. And two letters of support. And that
5 completes the status briefing Mr. Chairman.

6 CHAIRMAN JORDAN: Thank you Mr.
7 Moy. Is the Board ready to deliberate on 18695?
8 I don't see any issues. I think this case is
9 ready to receive the approvals if necessary.

10 The only think I want to note is that
11 the advertisement of the matter, it talked about
12 a one family row detached dwelling. So I don't
13 find that to be harmful in any way, but we don't
14 have one single family row detached dwelling,
15 but I think that's just a bloop.

16 Any other issues or anyone want to
17 say anything about this case?

18 MEMBER COHEN: Yes, Mr. Chairman I
19 was -- the photograph appearing in Exhibit 9 has
20 the first floor deck extended, what appears to
21 be beyond the house. So I was confused about
22 that issue.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 CHAIRMAN JORDAN: Okay.

2 MEMBER COHEN: And it obviously
3 would -- it may impact on the light and the air
4 or the courtyard of the building next door.

5 CHAIRMAN JORDAN: Well if you wish,
6 we can hold it for hearing so we can ask those
7 questions. I don't see any issue with it, but
8 I see what you're talking about. We can
9 certainly remove it from the expedited docket
10 and schedule it for a hearing if you like so we
11 can ask those questions to be certain. But the
12 dimensions, I didn't see them having that
13 effect.

14 MEMBER COHEN: Let me just quickly
15 look at the dimensions again then, because I
16 don't want to hold this up unnecessarily.

17 Yes, the dimensions do not pose a
18 problem. It's just the photograph. Maybe the
19 way it's taken. So I actually am ready to move
20 ahead.

21 CHAIRMAN JORDAN: Okay. If
22 there's no additional concerns or issue, then I

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 would move that we grant the relief requested in
2 18695.

3 VICE CHAIR ALLEN: Second.

4 CHAIRMAN JORDAN: Motion made and
5 second. All those in favor of the Motion,
6 signify by saying aye.

7 (Chorus of ayes)

8 CHAIRMAN JORDAN: Those opposed,
9 nay.

10 (No response)

11 CHAIRMAN JORDAN: The Motion
12 carries. Mr. Moy?

13 MR. MOY: Yes sir. Staff would
14 record the vote as three to zero. This on the
15 Motion of Chairman Jordan to approve the
16 application for the relief requested. Seconded
17 Motion of Vice Chairperson Allen, also support
18 Ms. Cohen. We have a seat vacant and a Board
19 member not present today. So the Motion carries
20 three to zero.

21 CHAIRMAN JORDAN: Okay, thank you.
22 Well we can call the next case. Oh, summary

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 order please.

2 MR. MOY: Thank you sir. The
3 second case on the expedited calendar is
4 Application Number 18703 of Thomas Maloney.
5 Again request for a special exception under 223,
6 not meaning lot occupancy, rear yard
7 requirements.

8 Let's see, there is a late filing
9 from ANC 6A Mr. Chairman that's in your case
10 folders under Exhibit 23. And a filing from
11 DDOT and Exhibit 22, and two letters in support
12 as well as a filing from the Office of Planning
13 under Exhibit 21.

14 CHAIRMAN JORDAN: Okay. Thank
15 you. Is the Board ready to deliberate on 18703?
16 I guess that means we are. So any issue or
17 discussion about 18703?

18 I know there was a discussion
19 whether or not the advertisement included the
20 deck. But I think that all the other references
21 in this case, this case file and the ZA's letter
22 particularly talked about the second floor

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 addition and the deck. And no one has filed any
2 objection to that. I don't know if there's
3 anyone here that had a concern about that. So
4 I would find that not to be harmful.

5 And I know there was another issue
6 raised that there wasn't a discussion about the
7 amount of what the depth of the rear yard was
8 going to be, but I found it to be 18 feet, which
9 is also what the Office of Planning has
10 indicated.

11 Any other issues on this or
12 discussion about this case? Then I would move
13 that we grant the relief requested in 18703.

14 MEMBER COHEN: I'll second.

15 CHAIRMAN JORDAN: A Motion made and
16 second. All those in favor of the Motion
17 signify by saying aye.

18 (Chorus of ayes)

19 CHAIRMAN JORDAN: Those opposed
20 nay.

21 (No response)

22 CHAIRMAN JORDAN: The Motion

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 carries. Mr. Moy?

2 MR. MOY: Yes sir. Staff would
3 record the vote as three to zero. It was on a
4 Motion of Chairman Jordan to approve the
5 application for the relief requested, second the
6 Motion, Ms. Cohen. Also in support, Vice
7 Chairperson Allen. And again, we have a Board
8 seat vacant. Mr. Hinkle absent. Motion
9 carries three to zero.

10 CHAIRMAN JORDAN: Thank you Mr.
11 Moy. 18704 please.

12 MR. MOY: Okay, the last of the
13 items on the calendar is Application Number
14 18704 of Richard and Robin Appia. And again,
15 this presented to 11 DCMR 3104.1 for a special
16 exception relief under Section 223.

17 Here again Mr. Chairman, there are
18 filings apart from the filing from the
19 Applicant, from ANC 4C and the Office of
20 Planning, Exhibits 24 and 27 respectively. The
21 ANC 4C letter, as in the previous case is
22 untimely, but this one by two days. And of

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 course a DDOT filing under Exhibit 25.

2 CHAIRMAN JORDAN: Okay. 18704,
3 for the ANC though it was a mailing wasn't it?
4 Don't they fit within the mailing guidelines?

5 MR. MOY: Yes.

6 CHAIRMAN JORDAN: Okay, so they're
7 not untimely adding the three day for mailing
8 exception. I do note in this file that the --
9 and the Board needs to address whether or not we
10 want to waive the failure to post for the
11 required period of time. If you calculate it,
12 they are two days short on the posting. I
13 haven't seen anything to indicate that anybody's
14 been harmed by it.

15 I know if anyone's here in
16 opposition of 18704? No. It was posted, it was
17 two days short. So seeing that there's no issue
18 with that, then I would think that the Board
19 would waive that. But say don't do it again.
20 And nobody else follow suit.

21 So then those are the only issues I
22 have with this. I think this is one that's very

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 straight forward. We had ANC support for this,
2 and Office of Planning supports this also.

3 So with that, I would move that we
4 grant the relief in 18704 and for the record,
5 waive the two days short on the posting.

6 VICE CHAIR ALLEN: Second.

7 CHAIRMAN JORDAN: Motion made and
8 second. All those in favor signify by saying
9 aye.

10 (Chorus of ayes)

11 CHAIRMAN JORDAN: Those opposed
12 nay.

13 (No response)

14 CHAIRMAN JORDAN: The Motion would
15 carry. Mr. Moy.

16 MR. MOY: Yes sir, staff would
17 record the vote as three to zero on the Motion
18 of Chairman Jordan to approve the application.
19 Seconding the Motion Vice Chairperson Allen.
20 Also in support Ms. Cohen. Again a Board seat
21 vacant, a member not present. The Motion
22 carries three to zero.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1
2
3
4
5
6
7
8
9
10
11
12
13

(Whereupon, the above-entitled proceeding was concluded at 9:51 a.m.)